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IN THE

COURT OF APPEALS

FIFTH DISTRICT OF TEXAS AT DALLAS

CAUSE NO. 05-18-00567-CV

DARLENE C. BALISTRERI-AMRHEIN, APPELLANT

VS.

ATTORNEY LENNIE BOLLINGER, ET AL, APPELLEES

Appeal County Court at Law # 6, # 5, # 2, # 366, # 380, Justice Court Precinct 1, Cause No. CC 006-02654-2017, Cause No. 005-02654-2017, Cause No. 002-02654-2017, Cause No. 002-02663-2017, Justice Court Precinct 1 No. 01-SC-16-00165. Court # 380 (unassigned)

Collin County, Texas Lower Courts

APPELLANT'S AMENDED BRIEF & AMENDED APPENDIX (#3)

Darlene C. Balistreri-Amrhein, Appellant, Pro Se,

112 Winsley Circle

McKinney, Texas 75071

Telephone – None

ORAL ARGUMENT REQUESTED WITH ACCOMMODATIONS

#3

COURT RECORD REFERENCES ARGUMENT IN 8 PACKETS

(Packet # 1 Court Record References) –CR, pgs. 1 – 19 itemized, costs & events;

2) Plaintiff's Original petition & Request for Discovery- CR pgs. 20 – 35;

3) Plaintiff's Motion to proceed in forma pauperis - CR pgs. 36 – 41;

4) Approved "indigent status" - CR pgs. 42;

5) Service of process by constable – CR pgs. 43-50;

6) Defendants Lennie Bollinger, et al Answers suit – CR pgs, 51 – 64;

7) Plaintiff's Motion For Leave To File Supplement Petition CR pgs. 65 – 69;

8) Plaintiff's Supplement Pleadings -CR pgs, 70 – 133 Exhibits A, B;

9) Plaintiff's Motion t. Recuse Judge Walker – CR, pgs, 134 – 139 Order transfer;

10) Defendants Motion to Dismiss & Rule 91a – CR, pgs. 140 – 158;

11) Plaintiff's Specific Facts Dismiss Rule 91 – CR. pgs. 159- 268 Exhibits, etc.; c

(Packet # 2 Court Record References.) Legal Ethics Safekeeping Property, etc.;

2) CR. pgs. 269- 383; Notice of hearing & Hospitalized, CR pgs. 384 – 385;

3) Plaintiff's Motion for Continuance CR. pgs. 386 -390;

4) Defendants' Attorneys First Amended Answer & Response, CR. pgs. 391- 408;

5) Plaintiff's Notice To Court & Attorney Stay Lawsuit- CR pgs, 409=422;

6) Defendants Response Objections to Stay & Continue Lawsuit-CR pgs. 423-428;

7) Judge Wilson denies ADA, Stay, Hearing Rule 91a "Orders" –CR pgs. 429-429;

8) Affidavit Attorney / Judge Wilson – CR pgs. 430- 433 Exhibits, Costs to 442;

9) New Supplements-CR. pgs. 452 –484 (Dad, Schroeder mug photo, arrest, etc.;

(Packet # 3 Cou Record References.) Plaintiff Waiving Client – Attorney . Privilege, Photo Damages, etc.– CR. pgs. 485 – 660;

2) Defendants' Attorneys response to Motion To Dismiss – CR pgs, 661- 678;

3) Plaintiff Second Motion To Stay & Continue Lawsuit- CR pgs. 679 – 687;

4) Plaintiff Response to Jan. 30, 2018 Order CR. pgs. 688 – 739;

5) Defendant Motion To Determine To Be " Vexatious Litigant & Security With Security – CR pgs. 740-784 – No Attached 5 Adverse Orders in 7 years, etc.;

(Packet # 4 Court Record Reference.) Exhibits A-2 -E-1 - CR pgs. 785- 1000;

(Packet # 5 Court Record Reference.) Exhibits E-2, G-2 – Tampered With Deposition, Witness, Court Reporter, Records, Costs to CR pgs. 1001- 1127;

2) Motion to Recuse Judge Wilson & Threats To Settle -CR. pgs. 1128 – 1156;

3) Threat Offer To Settle Lawsuit – CR. pg. 1134- 1134;

4) Order to Deny Recusal- CR. pg, 1157;

5) Plaintiff Notice , Objections & Illegal Activities – CR pgs 1158 -1184;

6) Plaintiff's First Amended Pleadings & 15 Notices (Crimes) - CR pgs 1185 – (1235 & 1236 blurred unreadable) & crimes to 1260;

(Packet # 6 Court Record Reference.) Order granting Rule 91a & Motion to Dismiss With Prejudice CR pgs. 1261 – 1262 Hearing / Hospitalized, Exhibits & Some Exhibit F (blurred & missing from Court Record to 1284;

2) Judge Wilson recuses self, report to U.S. Department of Justice CR pgs, 1285;

3) First Amend Motion Order "Vexatious Litigant" Hearing – CR. pg. 1286- 1287;

4) Judge Murphy transfer lawsuit to Judge Bender disqualified – CR pg. 1288;

5) Plaintiff Important Information – CR. pgs. 1289 – 1427, & Exhibits;

6) Judge Mary Murphy Conditions of Assignment & Stay – CR pgs. 1428- 1429;

7) Plaintiff's Notice & Objections of Judge Bender Transfer, Response by Bollinger's Attorneys – CR, pgs. 1430-1466;

8) Plaintiff's Updated Medical Information – CR. pgs 1467-1481;

(Packet # 7 Court Record Reference.) Defendant Response for hearing & Exhibits Comingle lawsuits with Prosperity Bank, et al - CR. pgs. 1482 – 1520;

2) Defendants to Plaintiff Response on Vexatious litigant & Security & use of Prosperity Bank, et al Federal Lawsuit in "conspiracy" & tampered with Deposition Court Records as invalid & past 7 years as 2009 to prejudice & discredit & still pending & active conspiracy between federal & Texas Courts – to rigged, Plaintiff, silence lawsuit & prevent no redress for any suits & denied

freedom of speech & redress for all damages, loss of property & no due process - CR, pgs. 1521- 1600 - 1899;

(Packet # 8 Court Record Reference.) Certificate of Service falsified claims filed in lawsuit, CR pg, 1900 signed by Carrie Johnson Phaneuf as many times;

2) Threats to settle lawsuit as refused, CR, pgs. 1901- 1902;

3) Plaintiff's Objections & Responses to Plaintiff Tertiary (Third Motion To Recuse in this case an incorrect Assigned disqualified trespasser with no jurisdiction & Exhibits - CR pgs. 1903 – 1932;

4) Judge Wheless Order denied Recusal of Judge Bender for his misconduct – CR pgs 1933;

5) Judge Bender Order declaring Darlene C. Amrhein "vexatious litigant," requiring Security & issuing a prefiling Order – CR. pgs. 1934 – 1935;

6) Letter from CME on Order Judge Bender Order declaring Darlene C. Amrhein "vexatious litigant," requiring Security & issuing a prefiling Order-CR 1936-1938;

7) "Conspiracy" with Federal Court & Texas Court, Orders – CR pgs. 1939-1959 found in Judge Bender Court file for their retaliations against Amrhein lawsuits;

8) Plaintiff Objections to Judge Bender for "good cause" – CR pgs. 1960 -2019;

9) Amended Order On Motion To Recuse Judge Bender- CR. pgs. 2020;

10) Letter on failed bond to dismiss lawsuit by Bollinger Attorney with prejudice – CR pgs. 2021- 2024;

11) Plaintiff Darlene C. Balistreri-Amrhein Sworn Affidavit – CR pgs. 2025-2052;

12) Plaintiff's Motion to Charge Sanctions , Reverse false Vexatious Litigant Refuse Dismissal of lawsuit, Service of Process to All Defendants For "Good Cause' Reasons & Medical Stay Objections- CR pgs. 2053 -2081;

13) Judge Bender Order Dismissal With Prejudice Prohibiting New Litigation by Plaintiff Without Judicial Approval – CR pg. 2082 (back dated);

14) Filed for Service of Process to all Defendants mailed May 11, 2018, File stamped May 15, 2018 & called clerk to not do this work,-CR pgs. 2083- 2089;

15) Plaintiff's Notice of Appeal & Docket Statement – CR. pgs. 2090- 2109;

16) Plaintiff's Request Finding of Fact & Conclusion of Law May 14, 2018 My 14,

2018, required.- CR. 2110 –2142 (Void Judgments & CPRC Chapter 11);

17) Danyelle Turner filed Notice of Appeal May 14, 2018 wrong date – CR pgs. 2143 – 2144;

18) Response by Defendants' Attorneys to Finding of fact & Conclusion of law – CR pgs. 2145 – 2147;

19) Communications with Court of Appeals – CR pgs. 2148=2151;

20) Collin County Court letter shows date of Court of Appeal to grant more time for Court Record By Danyelle Turner extension on Court Record for manipulation with no answers for finding of fact & Conclusion of Law – CR pgs. 2152;

21) Court Record Submitted – CR. pg. 2153;

22) Court Record Payment by In forma Pauperis approved by Collin County Court- CR 2154; (See Collin County Court Approval Pg. 42 in same lawsuit when filed & then refused by trespasser Judge Bender after filed Appeal to keep out of Court Record with no notice to Plaintiff / Appellant as not turned over to Court of Appeals into this Court Record in retaliation by criminal, corrupt, trespasser Judge Bender with no authority, treason against U.S. Constitution & Texas Constitution

23) Sensitive Data Court Records sealed, were not done – CR pgs. 2155 -2157; Known no payment as approved In Forma Pauperis in case, so false statement to Court of Appeals Court- CR pg. 2158 by Court Record Keeper, Danyelle Turner to mislead Court to blame Plaintiff for delays to tamper with Court Record in Appeal & known by Stacy Kemp;

24) Plaintiff files Response & Objections to Defendants Objection to finding of fact & Conclusion of Law - CR pgs. 2159 – 2191;

25) Court of Appeals communications – CR pgs. 2192-2195; Writ of Mandamus Memorandum Opinion - CR pgs. 2196 – 2197 – 2200;

26) Court of Appeals list & proof of some conspiracy parties. Judge Mazzant (federal) Courts & Cases missing in Judge Paul Raleeh Court, Judge Barnett Walker, First Regional Administrative Judge Mary Murphy, Prosperity Bank, et al are missing from list by Ms. Matz – CR pgs. 2198- 2199- 2201 – 2202;

27) Jennifer K. Corley Contest of Court Reporter – CR pg. 2203; Missing Court Order – CR. pg. 2204; Clerks Certificate for Appeal by Danyelle Turner & Stacy Kemp missing Court Records in all Courts- CR pg. 2205;

#3

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CAUSE NO. 005-02654-2017

DARLENE C. AMRHEIN, et al — COUNTY COURT AT LAW

Plaintiffs,

V. — NO. FIVE (5) JUDGE WILSON

ATTORNEY LENNIE F. BOLLINGER, AND
WORMINGTON & BOLLINGER LAW FIRM — COLLIN COUNTY, TEXAS
Defendants, et al — Defendants

PLAINTIFF'S WAIVING CLIENT-ATTORNEY PRIVILEGE, SO NO EXCEPTIONS WITH ATTORNEY LENNIE BOLLINGER, WORMINGTON & BOLLINGER LAW FIRM, SOME IMPORTANT NEW COURT FILINGS & COMMUNICATIONS REPRESENTING VIOLATIONS OF LAWS & FACTS TO ADDITIONAL AMEND PLEADINGS IN THIS LAWSUIT FOR SUBMISSION, STATED CLAIMS & ARGUMENTS WITH EXHIBITS

Darlene C. Balistreri-Amrhein, Plaintiff &
Trustee Representative for Deceased Balistreri
112 Winsley Circle
McKinney, TX. 75071
Telephone unlisted

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COUNTY COURT AT LAW
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STACEY KEMP
COUNTY CLERK
COLLIN COUNTY, TEXAS
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TABLE OF CONTENTS

Table of Contents.....i

Index & Authorities.....iii to iv

I. Plaintiff Notice of Medical Disability Claim Under American With Disability Act – Federal Laws.....1, 2

II. Plaintiff As Trustee, representing Deceased Balistreri & His Estate According To High Courts by Exhibits & Violations of Federal Laws by Stated Discriminations.....2,3

III. Stated Claims In Addition To Legal Malpractice, Sexual Assault.....3 to 7

IV. Defined Important Legal Stated Claims As Applies.....7 to 18

V. Defendants Acts & Some Stated Claims Of Legal Malpractice.....18 to 20

VI. Other Stated Claims In Lawsuit In Addition To Legal Malpractice.....20 to 24

VII. Additional Stated Claims Against Defendants.....24 to 30

VIII. Plaintiff's Exhibits & Some Proof.....30. 31

IX. 100 Stated Claims Against Defendants.....32 to 37

X. United States And Texas Constitutions.....36, 38

XI. In Conclusion & Prayer For Relief.....39 to 40

Verification.....v

Certificate of Service.....vi

See Index of Exhibits.....30 to 31

Exhibit A – Texas Back Institute – Dr. Kevin Ju Medical Report;

Exhibit A-1- Summary of Anthony Balistreri Abuses & Death Loss by W&B;

Exhibit A-2 –Medical & Evidence Held to Expire Statute of Limitations by W&B;

Exhibit B – Deceased Dad represented by Darlene U.S. Supreme Court;

Exhibit C – Deceased Dad represented by Darlene Court of Appeals Fifth Circuit;

Exhibit D - Deceased Dad represented by Darlene U.S. Eastern District Court;

Exhibit E – Probate Letters of Guardianship Disability – Darlene Appointment;

Exhibit 21 – Factual E-mail Messages to Defendants Violations & Malpractice.

INDEX OF AUTHORITIES

Case Law:

Aiken v. Hancock, 115 S.W.3d 26, 28 (Tex.App.--San Antonio 2003, pet. denied).....28

Akin, Gump, v. National Dev. & Research Corp, 299 S.W.3d 106, 119 (Tex. 2009).....25

Archer v. Medical Protective Co. of Fort Wayne, 197 S.W.3d 422 (Tex. App.—Amarillo 2006, pet denied.).....29

Beck v. Terry, 284 S.W.3d 416, 432 (Tex. App.--Austin 2009, no pet.).....28

Bradt v. West, 892 S.W.2d 56, 72 (Tex.App.–Houston [1st Dist.] 1994.....27

Burrow v. Arce, 997 S.W.2d 229, 246 (Tex. 1999).....27

Deutsch v. Hoover, Bax & Slovacek, L.L.P., 97 S.W.3d 179 (Tex. App.—Houston [14th Dist.] 2002, no pet.).....29

Duerr v. Brown, 262 S.W.3d 63, 70 (Tex.App. Houston [14th Dist.] 2008, no pet.).....27

Essex Crane Rental Corp. v. Carter, 371 S.W.3d 366, 382 (Tex.App.–Houston [1st Dist.] 2012, pet. denied).....38

Gibson v. Ellis, 126 S.W.3d 324, 330 (Tex. App.--Dallas 2004, no pet.).....27

Goffney v. Rabson, 56 S.W.3d 186 (Tex. App.—Houston [14th Dist] 2001, pet. denied).....28

Greathouse v. v McConnell, 982 S.W.2d 165, 172 (Tex.App.—Houston [1st Dist.] 1998, pet. denied.).....25

Guardia Life Ins. Co. of America v. Handel, 596 N.Y.S.2d 804 (1st Dep't 1993).....22

Hamdan v. Rumsfeld, 126 S. Ct. 2749 (2006).....38

Hughes v. Mehaney & Higgins, 821 S.W.2d 154 (Tex. 1991).....26

In Bulloch v. United States, 763 F.2d 1115, 1121 (10th Cir. 1985).....14

Intentional Misconduct - [42 USCS § 1791 (b) (8)]..... 20

Fraud Upon Court 13, 14

Obstruction of Justice.....12

Rehabilitation Act of 1973.....10, 11
Title 42, Chapter 21 of the U.S. Code.....11, 20

Texas Laws

Attorney-Client Privilege.....18

Attorneys Professional Code of Conduct.....16

Abuse of Process.....22

Cause of Action , Duty, Communications.....23, 24, 26

Damages.....25, 27

Fraud, Collusion, Malice, Common Law, Conversion.....20, 21, 28, 29

Torts.....21, 22

Fraud & Misrepresentations.....17, 18

Negligence, Fiduciary Duty.....24, 26, 27

Rule 8.4 of the Model Rules of Professional Conduct 16

Sexual Assault.....11, 12

100 Stated Claims.....32 to 36

Statute of Limitations.....15, Anthony Case

Texas Penal Code 37.9.....13, Exhibit 15

TRCP 91a.....13, 20, 1 to 40

Violations of DTPA.....24, 25

Conflict of Interest.....7, 8, 18

Bias, Prejudice, Bribery, Favoritism, Cronyism.....8. 9

Legal Malpractice .....1 to 40

18 U.S.C. § 1503.69 17

In re Frazin, 02-32351-BJH-13, 2008 WL 5214036 (Bankr. N.D. Tex. Sept. 23, 2008).28

Jampole v. Matthews, 857 S.W.2d 57(Tex. App.—Houston [1st Dist.] 1993, ...32

Johnston v. Kruse, 261 S.W.3d 895, 902 (Tex. App.—Dallas 2008, no pet.)...27

Kahlig v. Boyd, 980 S.W.2d 685 (Tex.App.- San Antonio 1998, pet. denied)...26

Kenner v. C.I.R., 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23.....14

Latham v. Castillo, 972 S.W.2d 66 (Tex. 1998).....39, 40

Malloy v. Hogan 378 U.S. 1 (1964).....38

Murphy v. Gruber, 241 S.W.3d 689, 693(Tex.App.-Dallas 2007,pet. denied)..26, 27

Nota Constr. Corp. v. Keyes Assocs., Inc., 694 N.E.2d 401, 405 (Mass. App. Ct. 1998).....39, 40

People v. Zajic, 88 Ill.App.3d 477, 410 N.E.2d 626 (1980).....14

Poole v. Hous. & T.C. Ry. Co., 58 Tex. 134, 137 (1882).....39, 40

Sledge v. Alsup, 759 S.W.2d 1 (Tex. App.- -El Paso 1988, no writ).....24

St. Louis v. Wilkinson Law Offices, P.C., 55 A.3d 443, 447 (Me. 2012).....39, 40

Sullivan v. Bickel & Brewer, 943 S.W.2d 477 (Tex. App.–Dallas 1995, writ denied)...29

Western Invs v. Urena, 162 S.W.3d 547, 550 (Tex. 2005).....25

Civil Rights & Federal Laws

Civil Rights.....10, 11

American With Disability Act - ADA Law.....10

Age Discrimination Act of 1975.....10

Civil Rights Act of 1964.....10
Civil Rights Act of 1991.....10
Civil Rights of Institutionalized Persons Act.....11
Civil Rights Act of 1866.....11
Civil Rights Act of 1964.....11
Civil Rights of Institutionalized Persons Act.....11
Disaster Relief and Emergency Assistance Act.....11
Discrimination.....9

Texas Constitution

Section 19 – Due Course of Law.....36

Section 29 – Bill of Rights.....36, 37

United States Constitution

U.S.C.A. Const. Amend 5.....37

U.S. Constitution 14th Amendment 37

U.S. Constitution 1 st Amendment.....37, 38

U.S. Constitution 5th Amendment.....37, 38

U.S. Constitution 6th Amendment.....37

U.S. Constitution 7th Amendment.....37

U.S. Constitution 8th Amendment.....37

U.S. Constitution 9th Amendment.....38

U.S. Constitution 10th Amendment.....38

U.S. Constitution 14th Amendment.....38

Case Law- Ivan V. v. City of New York, 407 U.S. 203 (1972).....38

In re Winship, 397 U.S. 358 (1970).....38

Palko V. Connecticut 302 U.S. 319(1937) 38

Some Exhibits

Exhibit A – Texas Back Institute – Dr. Kevin Ju Medical Report;

Exhibit A-1- Summary of Anthony Balistreri Abuses & Death Loss by W&B;

Exhibit A-2 –Medical & Evidence Held to Expire Statute of Limitations by W&B;

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Exhibit C – Deceased Dad represented by Darlene Court of Appeals Fifth Circuit;

Exhibit D - Deceased Dad represented by Darlene U.S. Eastern District Court;

Exhibit E – Probate Letters of Guardianship Disability – Darlene Appointment;

Exhibit 21 – Factual E-mail Messages to Defendants Violations & Malpractice.

VIII. PLAINTIFF'S EXHIBITS FOR SOME PROOF

No Attorney – Client Privilege as waived by Plaintiff Darlene Balistreri-Amrhein

Exhibits A to E & Exhibits 1 to 23

Exhibit A – Medical Excuse from back surgeon Jan. 19, 2018;

Exhibit B – United States Supreme Court Dad Representation by Darlene;

Exhibit C – Court of Appeals Fifth Circuit Dad Representation by Darlene;

Exhibit D – United States Eastern District Court Dad Representation by Darlene;

Exhibit E – Collin County Probate Court Incapacitated Balistreri Order;

I Schroeder Lawsuit:

1) **Copy of the Original Petition** in the Schroeder Lawsuit prepared by Attorney Lennie Bollinger. (Note incomplete, no values placed on items, wrong address of incident & home, no mention of assault, only conversion named by Attorney Lennie Bollinger, Wormington & Bollinger Law Firm;
2) Affidavit of Service To David Schroeder;
3) David Schroeder Mug Shot & Jail Detention;
4) McKinney Police Reporting Public Record For David Schroeder 2014 – 2017;
5) 80 Pages of Therapy after David Schroeder;
6) Attached Itemized List of Theft, Damages & Losses To Plaintiff Amrhein;
7) Medical Excuses for 2 surgeries & Medical Care 2017;
8) Damages Schroeder did to Shower, walls & floor with repair bill;
9) Microwave Oven, Wood Tables Damage by Schroeder for revenge & left;
10) Schroeder burns large 10 x 12 Carpet at Plaintiff's home;
11) Plaintiff files for Jury Trial when Attorney Bollinger withdrew;
12) Justice Court Order denying Schroeder case as in wrong court due to amount;
13) New Case filed in County Court at Law by advice of Justice Court;
14) County Court at Law Dismisses Schroeder case as no ruling by Justice Court;

15) Laws violated by David Schroeder;

18) Acid Damage in front of home by Schroeder Old Auto;

19) Arrest Warrant of David Schroeder & 6 Months in Jail Unknown to Plaintiff;

* David Schroeder paid no rent, no utilities, no food, no services for 5 months with promises each week, while having 4 sources of income, causing me property tax penalties, then steals my property, falsely accuses Plaintiff of stalking because I sent demand letters to avoid a lawsuit & assaults for a lark with other abuses, after lying to Plaintiff with sob stories, frauds & with intent to take & home scam as his;

* Assault charges with McKinney Police Dept. Detective to investigate.

II. Probate Court Orders On Incompetence & Incapacity Balistreri As Disabled

16) Collin County Probate Court April 6, 2006 Anthony Balistreri's(Dad) Death

17) Anthony Balistreri Trust Certificate & Darlene as trustee;

* Dad was Incompetence & Incapacity Balistreri As Disabled & destroyed his lawsuit;

III. Defendant Attorneys Wormington & Bollinger Law Firm, et al:

No Attorney – Client Privilege as waived by Plaintiff Darlene Balistreri-Amrhein

20) Plaintiff's Case File of Schroeder Evidence Defendants refused to examine;

21) 2 e-mails on Nov. 29, 2016 & May 11, 2017 to Defendant Bollinger, et al

22) Text Message to Attorney Lennie Bollinger about his misconduct & errors, since December 2015 meeting at his office; (May 11, 2017 2 pages from Plaintiff)

23) Defendants, et al Motion To Withdraw for Lack of Communication & refused $200 Schroeder deal for $20,208.00 value lost due to his theft, scam & abuses deal with this unknown ex-con by Defendant Attorneys calling this a "moral standard;"

IV. Anthony J. Balistreri Lawsuit Case:

Exhibit A-1 Summary Outline Damages & Contacts 39 pages Defendants receive;

Exhibit A-2 Photos of Balistreri Case File & Medical Records June, 2015 & held until Nov. 23, 2015 past Statute of Limitations knowingly by Defendants et al;

**Never opened anything in suitcases from June 2015 to Nov. 23, 2015 & held. No Communication Response when I called 6 times & went to office twice. Defendants engaged in unlawful acts & Legal Malpractice while discriminated against Plaintiffs by age, gender & disabilities. More than scintilla of evidence.

original

CAUSE NO. 005-02654-2017

DARLENE C. AMRHEIN, et al — COUNTY COURT AT LAW

Plaintiffs,

V. — NO. FIVE (5) JUDGE WILSON

ATTORNEY LENNIE F. BOLLINGER, AND
WORMINGTON & BOLLINGER LAW FIRM — COLLIN COUNTY, TEXAS
Defendants, et al — Defendants

PLAINTIFF'S WAIVING CLIENT-ATTORNEY PRIVILEGE, SO NO EXCEPTIONS WITH ATTORNEY LENNIE BOLLINGER, WORMINGTON & BOLLINGER LAW FIRM, SOME IMPORTANT NEW COURT FILINGS & COMMUNICATIONS REPRESENTING VIOLATIONS OF LAWS & FACTS TO ADDITIONAL AMEND PLEADINGS IN THIS LAWSUIT FOR SUBMISSION, STATED CLAIMS & ARGUMENTS WITH EXHIBITS

To Honorable Court & Judge Dan Wilson:

Comes Now, Plaintiff, Darlene C. Balistreri-Amrhein Waiving Client – Attorney Privilege, So No Exceptions With Defendants Attorney Lennie Bollinger, Wormington & Bollinger Law Firm, Some Important New Court Filings & Communications Representing Violations of Laws & Facts To Additional Amend Pleadings In This Lawsuit For Submission, Stated Claims & Arguments With Exhibits consist of Defendants' Attorneys Maria Wormington, Ed Krieger, David Benford & Lennie F. Bollinger liabilities. Just a few examples of communications between Plaintiff and Defendants that are the basis of this lawsuit as attached with other issues raised to on Defendants' Motion To Dismiss argued by Plaintiff :

I. PLAINTIFF NOTICE OF MEDICAL DISABILITY CLAIM UNDER AMERICANS WITH DISABILITIES ACT – FEDERAL LAWS

Attached is Exhibit A – Dr. Kevin Ju Texas Back Institute note as second spine surgeon seen since January 16, 2018 to January 19, 2018 & third specialist to be consulted with in days at Texas Back Institute with testing & medical plans that needs to be considered since December 26, 2017 with first emergency medical care

at Baylor, Scott & White Hospital & Medical Center of Plano on January 4, 2018 as it affects this lawsuit, Plaintiff's court filed responses, unavailable, disabilities, limited times, restrictions, pain as disadvantage & prejudicial to Plaintiff Amrhein for pleadings, which is objectionable & violations of Federal Law ADA as timely notice was given to the Court, Attorneys & parties in this lawsuit as order of denial is received & will be Appealed & or transferred to United States Federal Court. Plaintiff is not required to ask for permission & advice on medical care & treatments and it must be accepted as it stands from December 26, 2017 to the present dates & as filed with notice from 3 professional medical physicians as provided in this case that have prescribed narcotics as a part of the treatments, altering this lawsuit, filings, demands, timelines causing prejudice to me & suit;

II. PLAINTIFF AS TRUSTEE REPRESENTING DECEASED BALISTRERI & HIS ESTATE ACCORDING TO HIGH COURTS BY EXHIBITS & VIOLATIONS OF FEDERAL LAWS BY STATED DISCRIMINATIONS

Attorney Bollinger, et al can't figure out how to open a suitcase of evidence timely in the Balistreri lawsuit & return it before September 24, 2015. Attorney Bollinger, et al can't place truthful advertising about his law firm. Attorney Bollinger, et al can't figure out how to file a Schroeder lawsuit in proper jurisdiction with correct Court for the correct amount, so it is right to ignore his statements about laws & Plaintiff's pro se representation of Deceased Anthony Balistreri & his estate as he was abused & drugged to death as a defenseless nursing home resident.

United States Supreme Court allowed pro se Plaintiff Amrhein to proceed on behalf of Anthony J. Balistreri twice based on his statements made before death, signed & notarized as presented to this Court, which is superior to these Defendants' & their Attorneys; – Exhibit B

Fifth Circuit Court of Appeals in New Orleans allowed pro se Plaintiff Amrhein to proceed on behalf of Anthony J. Balistreri twice based on his statements made

before death, signed & notarized as presented to this Court, which is superior to these Defendants' & their Attorneys; – Exhibit C

Court of Appeals of Texas at Dallas allowed pro se Plaintiff Amrhein to proceed on behalf of Anthony J. Balistreri twice based on his statements made before death, signed & notarized as presented to this Court, which is superior to these Defendants' & their Attorneys; – Exhibit D

Collin County Probate Court allowed pro se Plaintiff Amrhein to proceed on behalf of Anthony J. Balistreri based on his statements made before death, signed & notarized as presented to this Court, which is superior to these Defendants' & their Attorneys; – Exhibit E

Plaintiff Amrhein acted on behalf of Dad Anthony J. Balistreri from 2006 to Sept 24, 2013 Death & once he died trust documents are irrevocable by law, so to try to change trustee capacity is unlawful, especially by incompetent Defendants & their Attorneys in this lawsuit, who never raised any issues before his death;

Anthony J. Balistreri was an incompetent & incapacitated person declared by the Probate Court in April 2006 by Judge Copeland & his trust was prepared, written & signed in 2005 by Texas Licensed Attorneys as stated; Exhibit E

Defendants Bollinger & Wormington & Bollinger were informed of Plaintiff Balistreri's incapacity & Plaintiff Amrhein's trustee capacity in June, 2015 with no objections to act, so to raise objections now is an excuse to obstruct justice & mislead this Court by his attorneys as officers of the Court by "Fraud Upon The Court," to get their clients off by a false dismissal & self-interest to collect money as the above Courts are far superior to their opinion of representation laws;

This is another case of violations of discrimination by age, gender & disability (ADA) by Defendants Bollinger, et al & their own Attorneys in violation of federal laws that will need to be addressed in Federal Court, in addition to the purposeful discriminations against Plaintiff Amrhein for age, gender & disability (ADA) as stated below in Point Section Number III contained within this court filing.

III. STATED CLAIMS IN ADDITION TO LEGAL MALPRACTICE:

There are other things that went on that had nothing to do with his non - medical professional service of Attorney Lennie Bollinger, Wormington & Bollinger, et al. If rule 91a claims a meaningless "cause of action" in laws & facts with no evidence

examined by use of Plaintiff's medical disability, then lets argue the following after Wormington & Bollinger, et al was hired to represent Plaintiff in David Schroeder lawsuit Plaintiff began to notice no accountability for any actions, errors or his verbal insulting degrading statements & cover up for sexual assault, etc. as Plaintiff began to notice a "conflict of interest," bias & prejudice by Attorney Bollinger, while he began to favor com man, Mr. David Schroeder. Some Examples stated:

1) When Plaintiff had surgery & continuance was needed a demand from the doctor was made, but when Schroeder did not show up during a trial date set months prior there was no discussion & upset by Attorney Bollinger, who did the work to cover for Mr. Schroeder, who was not his attorney of record.

2) Plaintiff Amrhein did not receive this Order & had to call for Court Order;

3) When the Order of Mediation was given, Attorney Bollinger complained about mediator fees, so Plaintiff found a mediation service for $99.00 1/2 half day & he objected to that claiming he would take care of mediation & never did as it did not suit the schedule of Schroeder & him no matter the flexible days;

4) When Mr. Schroeder called Attorney Bollinger he wanted to know when & what was said by him & Cathy, as inquired of Cathy in front of Plaintiff Amrhein;

5) Whenever Plaintiff stated something it was ignored by Attorney Bollinger as though his plan was to withdraw all along right before trial;

6) When Plaintiff Amrhein called it was excuses, no messages passed on & no return contact from December 2016 to May, 2017, by email & phone calls, so who was the party not communicating as falsely stated in his filed withdrawal;

7) Attorney Bollinger refused Plaintiff's right to a jury trial to protect Schroeder.

8) December 2016 meeting in Attorney Bollinger's office I took pictures of some of damages Schroeder did before leaving my home that involved my wood tables, microwave, coffee bar, complaints of bathroom damages, tile, floor & walls;

9) Attorney Bollinger made excuses for those damages protecting Schroeder, which indicated he had talked to Schroeder at great length knowing things I had not told him, so how else would he have this same information, but through Mr. Schroeder;

10) Pictures of damages was just claimed to be shadows by Attorney Bollinger, who claimed he would not add my property damages to any Amended Pleadings that he refused to do to protect Mr. Schroeder;

11) According to Schroeder he claimed he could buy anyone off as he had serious connections & money talks for him as stated & by actions taken as possible bribe;

12) Cathy was in the room for awhile & then got up & left the room at meeting when he made his threat to me & sexual assault statements for retaliation as he did not want a witness present as very corrupt;

13) The biggest shock came when Attorney Bollinger claimed I should settle with poor Mr. Schroeder for $200.00, when I told him about the sexual assault to be added, which was ridiculous & retaliation against Plaintiff client Amrhein;

14) Attorney Bollinger smiled, claimed he would not file that & it was below his moral standards as stated in this December 2016 meeting;

15) Attorney Bollinger agreed with disrespect of women, sexual assault & was almost supportive of Schroeder's sexual assault against me, not knowing any details about the incident, which appeared to discussed with Defendant Schroeder;

16) Good old boy network of male superiority was shown by Attorney Bollinger;

17) Police reports were made while Mr. Schroeder was in my home & after he left along with sexual assault described in writing with signature to be turned over also to the victim's unit, assigned an assault id & Detective with McKinney Police Department, yet Attorney Bollinger had no interest in adding this to Pleadings;

18) Plaintiff was in abuse therapy sessions for months & had a record of this, which Attorney Bollinger refused to examine along with all other evidence against

Mr. Schroeder & only one claim of conversion on a $20,000.00 lawsuit filed in the wrong jurisdiction in Justice Court & no stated values to cover up these damages;

19) I was dealing with a "male chauvinist" Attorney Bollinger agreeing with such disgusting assault misconduct, by this narcissist con man, who he was protecting; **(A man who believes in and proclaims the superiority of men over women.)**

20) Attorney Bollinger who approved of Mr. Schroeder assault behavior, acted as he felt superior & protective of Schroeder as no problem at all as demonstrated;

21) This was a concentrated effort to minimize Plaintiff's damages & complaints & assault by Attorney Bollinger & the Wormington & Bollinger Law Firm;

22) Plaintiff was so disappointed & hurt that my own attorney had that bias & prejudice attitude about sexual assault, as if I deserved it & that it was not according to his "moral standards," making me feel violated all over again. Sick !

23) Attorney Bollinger asked no questions & showed no concern about the sexual assault, that if known I would have never hired him & his law firm;

24) Attorney Bollinger then threatened me with take $200.00 offer or he would withdraw as attorney of record, which was "retaliation" for lawsuit & complaints;

25) I told him I would not take that offer. I wanted the Amended Pleadings as I stated from December, 2016 to May, 2017 with "no response" from him for months until his withdrawal, as he falsely claims lack of my communication & agreement;

26) It is against the law to file a false document with the Courts as Defendants did;

27) This was a cover up & conspiracy for the sexual assault by con man David Schroeder by Attorney Bollinger & Wormington & Bollinger Law Firm discussed;

28) When Plaintiff informed Attorney Bollinger Schroeder had burned holes in carpet there was no concern by him or even a verbal statement mentioned or filed;

29) As far as Balistreri lawsuit goes with the suitcase of records held against my will & not returned timely as demanded, based on false promises, false statement

& false advertising past "statute of limitations" was an intentional harm caused on a lawsuit that would have been won based on the facts & evidence of the case, which is automatic Malpractice by Defendants as Texas licensed Attorneys;

30) I do not believe Attorney Bollinger's conduct falls under only legal Malpractice for professional services rendered, so these are not fractured claims as an excuse to dismiss with demonstrated discriminations & cover up sexual assault;

31) Defendants, et al "conflict of interest," bias, prejudice, retaliation, cover up & conspiracy, Frauds, false advertising, "Obstruction of Justice" & "Fraud Upon the Court" by officers of the Court to mislead this Court & Judge, which has no place in the legal system, by Practicing Texas Licensed Attorneys covering up crimes & is not a case of service for just Malpractice by fractured claims, as falsely stated to warrant any dismissal in this lawsuit with agreement that hidden forced sexual assault is OK moral standard & filing false documents with Court as acceptable;

32) Are we suppose to ask criminals if they want to be sued ? Not looking at evidence is self-serving, objectionable, cover up, conspiracy & speculation of laws & facts that do not apply in this lawsuit, which will be appealed or removed to federal court for violations of ADA laws & discriminations as not intent of Rule 91a to dismiss this lawsuit.

IV. DEFINED IMPORTANT LEGAL STATED CLAIMS AS APPLIES:

33) **Conflict of Interest** is a situation in which a person or organization is involved in multiple interests, financial or otherwise, one of which could possibly corrupt the motivation or decision-making of that individual or organization. The presence of a conflict of interest is independent of the occurrence of impropriety. A conflict of interest exists if the circumstances are reasonably believed (on the basis of past experience and objective evidence) to create a risk that a decision may be unduly influenced by other, secondary interests, and not on whether a particular individual is actually influenced by a secondary interest.

"**A conflict of interest is a set of circumstances** that creates a risk that professional judgement or actions regarding a primary interest will be unduly

influenced by a secondary interest." Primary interest refers to the principal goals of the profession or activity, such as the protection of clients, the health of patients, the integrity of research, and the duties of public officer. Secondary interest includes personal benefit and is not limited to only financial gain but also such motives as the desire for professional advancement, or the wish to do favours for family and friends. These secondary interests are not treated as wrong in and of themselves, but become objectionable when they are believed to have greater weight than the primary interests. **Goal & interest** here was no lawsuit, no valid pleadings, no communications, no mediation, no jury trial to disadvantage & take advantage of Plaintiff by multiple legal professionals like Mr. Schroeder with threats, retaliation to cover up Schroeder crimes & sexual assault, who was a legal researcher for attorneys for 3 years & bribes, so he is not returned to jail;

34) Bias –The term *bias* refers to the tendency of a person to favor one thing, idea, or person over another. In a legal context, bias can lead an individual, such as a judge or juror, to treat someone unfairly, in spite of the fact that hearings and trials are designed to be *unbiased* assessments of the facts of a case. Bias requires disqualification of individuals, lawyers, judges & jury in lawsuit when bias exists. Biases can be learned implicitly within cultural contexts. People may develop biases toward or against an individual, an ethnic group, a sexual or gender identity, a nation, a religion, a social class, a political party, theoretical paradigms and ideologies within academic domains, or a species.[1] Biased means one-sided, lacking a neutral viewpoint, or not having an open mind. Bias can come in many forms and is related to prejudice and intuition.

35) Bribery - Bribery is the giving of money, goods or other forms of recompense to in order to influence recipient's behavior.[65] Bribes can include money, tips, goods, rights in action, property, privilege, emolument, gifts, perks, skimming return favors, discounts, sweetheart deals, kickbacks, funding, donations, campaign contributions, sponsorships, stock options, secret commissions ,or promotions.[66] Expectations of when a monetary transaction is appropriate can differ from place to place. Political campaign contributions in form of cash are considered criminal acts of bribery.

36) Favoritism - Favoritism, sometimes known as in-group favoritism, or in-group bias, refers to a pattern of favoring members of one's in-group over out-group members. This can be expressed in evaluation of others, in allocation of resources, and in many other ways.[67][68]This has been researched by psychologists especially social psychologists, and linked to group conflict and prejudice.

37) Cronyism is favoritism of long-standing friends, especially by appointing them to positions of authority, regardless of their qualifications.[69]

38) Prejudice -Bias and prejudice are usually considered to be closely related. Prejudice is prejudgment, or forming an opinion before becoming aware of the relevant facts of a case. The word is often used to refer to preconceived, usually unfavorable, judgments toward people or a person because of gender, political opinion, social class, age, disability, religion, sexuality, race / ethnicity, language, nationality, or other personal characteristics. Prejudice can also refer to unfounded beliefs and may include "any unreasonable attitude that is unusually resistant to rational influence." Attorney Bollinger verbal statement of "moral standard" on topic & refusal of filing for sexual assault against Mr. Schroeder;

39) Sexism - Sexism is discrimination based on a person's sex or gender. Sexism can affect any gender, but it is particularly documented as affecting women and girls.[137] It has been linked to stereotypes and gender roles, and may include the belief that one sex or gender is intrinsically superior to another.

40) Retaliation – Retaliation is revenge or reprisal. Retaliation means to get even or to take revenge.
To do something in response to an action done to oneself or an associate, especially to attack or injure someone as response to hurtful action as Defendants in lawsuit.

41) Threats - Spoken or written words tending to intimidate or menace other. Statutes in a number of jurisdictions prohibit the use of threats and **Unlawful Communications** by any person. Some of the more common types of threats forbidden by law are those made with an intent to obtain a pecuniary advantage or to compel a person to act against his or her will. In some states, it is an offense to threaten to (1) use a deadly weapon on another person; (2) injure another's person or property; or (3) injure another's reputation.

42) Discrimination –In human social affairs, **discrimination** is treatment or consideration of, or making a distinction in favor of or against, a person based on the group, class, or category to which the person is perceived to belong rather than on individual attributes. This includes treatment of an individual or group, based on their actual or perceived membership in a certain group or social category, "in a way that is worse than the way people are usually treated".[1] It involves the group's initial reaction or interaction going on to influence the individual's actual behavior towards the group leader or the group, restricting members of one group from opportunities or privileges that are available to another group, leading to the exclusion of individual or entities based on logical or irrational decision making.

Both Plaintiffs were discriminated against by age, gender & disabilities by these Defendants in this lawsuit & as whistleblower has the right to report all frauds.

43) ADA Law- The ADA is the civil rights law for persons with disabilities in the United States. It provides protection from discrimination for individuals on the basis of disability. The ADA extends civil rights protections for people with disabilities to employment in the private sector, transportation, public accommodations, services provided by state and local government, and telecommunications relay services. The significance of this legislation is no less than the civil rights acts in the 1960's for minorities.

44) A person with a disability is anyone with a physical or mental impairment (has a history of such a condition, or perceived by others to be disabled) that substantially impairs or restricts one or more major life activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. The term physical or mental impairment includes, but is not limited to: speech, hearing, visual, and mobility impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, diabetes, heart disease, AIDS, mental retardation, emotional illness, and specific learning disabilities such as perceptual handicaps, brain injury, dyslexia, minimal brain dysfunction, and developmental aphasia. Plaintiff notified all parties of disabilities & needed treatments that were ignored to proceed in this lawsuit without stay & continuance.

45) Civil Rights – Civil rights laws guarantee rights for individuals to receive equal treatment and prohibits discrimination in a number of settings, including education, employment, housing, lending, voting, and more. Below is a list of federal civil rights laws. (Note: Many states have civil rights laws of their own which mirror those at the federal level, so your state may have its own laws that are very similar to those identified below. In addition, municipalities like cities and counties can enact ordinances and laws related to civil rights.)

- Age Discrimination Act of 1975 Prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.
- Americans with Disabilities Act (ADA) Protects persons with disabilities from discrimination in many aspects of life, including employment, education, and access to public accommodations.
- Civil Rights Act of 1964 Prohibits employment discrimination based on race, color, religion, sex, and national origin.
- Civil Rights Act of 1991 (Intentional Employment Discrimination) To amend the Civil Rights Act of 1964 to strengthen and improve Federal civil rights laws, to provide for damages in cases of intentional employment discrimination, to clarify provisions regarding disparate impact actions, and for other purposes.

- Civil Rights of Institutionalized Persons Act Protecting persons in institutions (including residents in government-run nursing homes, and prisoners) from unconstitutional conditions.
-
- Disaster Relief and Emergency Assistance Act Provides for equitable and impartial relief operations, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status.
- Rehabilitation Act of 1973 Protects disabled individuals from discrimination by employers and organizations that receive federal financial assistance.
- U.S. Code Title 42, Chapter 21 -- Civil Rights Title 42, Chapter 21 of the U.S. Code prohibits discrimination against persons based on age, disability, gender, race, national origin, and religion (among other things) in a number of settings -- including education, employment, access to businesses and buildings, federal services, and more. Chapter 21 is where a number of federal acts related to civil rights have been codified -- including the Civil Rights Act of 1866, Civil Rights Act of 1964, and the Civil Rights of Institutionalized Persons Act.
- The U.S. Constitution | Articles | Amendments The U.S. Constitution, ratified in 1789, outlines the role and operation of government in the United States. Includes links to all articles and amendments, with annotations.

United States Civil Rights Laws have evolved over many years. These laws protect individuals at the federal, state, and local level. If you believe that you have been treated unfairly on the basis of your race, nationality, disability, or some other protected characteristic, then you should talk to an experienced attorney, which Plaintiff Amrhein is in process of doing in this lawsuit.

46) **Sexual Assault** –Sexual assault is any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Falling under the definition of sexual assault are sexual activities as forced sexual intercourse, forcible sodomy, child molestation, incest, fondling, and attempted rape according to the United States Department of Justice.

Sexual Assault is an act in which a person sexually touches another person without that person's consent, or coerces or physically forces a person to engage in a sexual act against their will.[1] It is a form of sexual violence which includes rape(forced vaginal, anal or oral penetration or drug facilitated sexual assault), groping, child sexual abuse or the torture of the person in a sexual manner.[1][2][3]

11.

- Rape – both stranger and acquaintance
- Date rape
- Attempted rape
- Inappropriate touching or fondling
- Incest
- Child sexual abuse
- Vaginal, anal, or oral intercourse
- Exhibitionism
- Voyeurism
- Obscene phone calls
- Sexual harassment

In general, most state sexual assault laws assume that a person did not consent to sexual contact if they were threatened, unconscious, drugged, mentally disabled, or a minor. Any sexual act or contact that makes you feel uncomfortable, afraid, or intimidated could fall in the category of sexual assault.

Sexual Assault takes many forms including attacks such as rape or attempted rape, as well as any unwanted sexual contact or threats. Usually a sexual assault occurs when someone touches any part of another person's body in a sexual way, even through clothes, without that person's consent.

Sexual Assault is a serious criminal violation of Texas state law. Sexual assault, commonly known as rape, occurs when a defendant -- intentionally and knowingly -- commits any of a number of prohibited sexual activities listed under Texas' sexual assault law without the victim's consent. The following chart includes the details of Texas sexual assault charges, potential defenses, and penalties.

Defendants. et al intent was to save Mr. Schroeder from additional jail time for conviction of two to 25 years in jail as licensed attorneys violating Texas & Federal laws, which is not a so called fractured claim of service leading to Malpractice as stated by Cobb, Martinez Woodland Attorneys in this lawsuit.

47) Obstruction of Justice-

An attempt to interfere with the administration of the courts, the judicial system or law enforcement officers, including threatening witnesses, improper conversations with jurors, hiding evidence, or interfering with an arrest. Such activity is acrime.

A criminal offense that involves interference, through words or actions, with the pr oper operations of a court or officers of the court.

The integrity of the judicial system depends on the participants' acting honestly and without fear of reprisals. Threatening ajudge, trying to bribe a witness, or

encouraging the destruction of evidence are examples of obstruction of justice. Federal and state laws make it a crime to obstruct justice.

Texas Penal Code 37.9 goes toward obstruction of justice.
U.S. Constitutional Code 1505 outlaws obstruction of justice.

Cobb, Martinez Woodland Attorneys in this lawsuit have tried to mislead the Court by false claims of fractured claims of only Malpractice & attempted to prevent the examination of all evidence in the "bad faith" attempt of TRCP 91a as not the intended use as a "meritless cause of action" lawsuit.

48) Fraud Upon Court – Fraud on the Court, or Fraud upon the Court, is where a material misrepresentation has been made to the court, or by the court itself. The main requirement is that the impartiality of the court has been so disrupted that it can't perform its tasks without bias or prejudice.

Some examples of fraud on the court include:

- Fraud in the service of court summons (such as withholding a court summons from a party)
- Corruption or influence of a court member or official
- Judicial fraud
- Intentionally failing to inform the parties of necessary appointments or requirements, in efforts to obstruct the judicial process
- "Unconscionable" schemes to deceive or make misrepresentations through the court system

It's important to note that fraud on the court only involves court officials or officers of the court, such as judges or court-appointed attorneys. The fraud must be directed at the "judicial machinery" itself. Fraud on the court generally does NOT mean:

- Fraud between the two opposing parties
- Submission of fraudulent documents
- Perjury or false statements by witnesses

Fraud on the court is one of the most serious violations that can occur in a court of law. If fraud on the court occurs, the effect is that the entire case is voided or cancelled. Any ruling or judgment that the court has issued will be void. The case will usually need to be retried with different court officials, often in an entirely different venue.

For the official who acted in fraud upon the court, they may very well be required to step down from their position and may even be subjected to criminal consequences like a fine or a jail sentence. It could also result in other serious consequences, such as an attorney being disbarred, or a judge being removed from service.

If a court official is found to be biased or prejudiced even before fraud occurs, they are required to excuse themselves from the case, and a different official must be appointed. In some jurisdictions, a trial tainted by fraud on the court will be vacated or set aside for a certain time period (such as two years), to be "reopened" at a later date.

Fraud on the Court occurs when the judicial machinery itself has been tainted, such as when an attorney, who is an officer of the court, is involved in the perpetration of a fraud or makes material misrepresentations to the court. Fraud upon the court makes void the orders and judgments of that court.

A judge is an officer of the court, as well as are all attorneys. A state judge is a state judicial officer, paid by the State to act impartially and lawfully. A federal judge is a federal judicial officer, paid by the federal government to act impartially and lawfully. State and federal attorneys fall into the same general category and must meet the same requirements. *A judge is not the court.* People v. Zajic, 88 Ill.App.3d 477, 410 N.E.2d 626 (1980).

"**Fraud upon the court**" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." Kenner v. C.I.R., 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

"**Fraud upon the court**" makes void the orders and judgments of that court.

In Bulloch v. United States, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. ... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function -- - thus where the impartial functions of the court have been directly corrupted."

Cobb, Martinez Woodland Attorneys in this lawsuit have tried to mislead the Court by false claims of fractured claims of only Malpractice & attempted to prevent the examination of all evidence in the "bad faith" attempt of TRCP 91a as not the intended use as a "meritless cause of action" as they try to apply to this lawsuit.

49) **Criminal Conspiracy** exists when two or more people agree to commit almost any unlawful act, then take some action toward its completion. The action taken need not itself be a crime, but it must indicate that those involved in the conspiracy knew of the plan and intended to break the law. One person may be charged with and convicted of both conspiracy and the underlying crime based on the same circumstances. Defendants throwing 2 lawsuits, destroy "Statute of Limitations," filing in wrong Court, refusal to work, false court filings, aiding crimes of Mr. Schroeder, bribery of $3,000 to drop case, use of TRCP 91a to hide & prevent evidence, discriminations by age, gender, disabilities against Plaintiff & prevent federal laws & Civil Rights as some parts of their conspiracies with aid of each other & Cobb, Martinez Woodland, et al, which is much more than 2 people.

The "Agreement" Requirement - You might be wondering how exactly the agreement between two co-conspirators actually takes place. First, the agreement does not need to be expressly conveyed. The agreement may be implicit or shown by the action of "two or more guilty minds," as required under common law. Examples of evidence of an implicit agreement can include the appearance of the co-defendants at transactions and negotiations in furtherance of the conspiracy such as a planning meeting.

The Element of "Intent" As with other specific intent crimes, your intention means everything. But that's not the only intent the court will care about. Not only does one other individual in the conspiracy need to intend to agree, all parties must intend to achieve the outcome. Simply put, knowledge of a crime isn't enough to get you thrown behind bars.

Penalties - A conspiracy conviction can yield some pretty tough penalties depending on the underlying crime. You can be punished for both the conspiracy and the actual crime itself if, it were completed.

Defendants allowed & aided in Mr. Schroeder's sexual assault of Plaintiff, theft & damages to her property, theft of owed rent, conversion of property, emotional distress, losses, harms, damages through their "bad acts, negligence, avoidance, omissions, intent, concealment, etc. & destruction of Plaintiff Balistreri & estate loss of "Statute of Limitations," knowingly with intent on a winnable case of abuses, drugging leading to his death.

50) <u>Attorneys Professional Code of Conduct :</u>
Rule 8.4 of the Model Rules of Professional Conduct contains the following statements on attorney's misconduct:

It is professional misconduct for a lawyer to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or in duce another to do so,or do so through the acts of another;

(b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyerin other respects;

(c) Engage in conduct involving dishonesty, **<u>Fraud</u>**, deceit or misrepresentation;

(d) Engage in conduct that is prejudicial to the administration of justice;

(e) State or imply an ability to influence improperly a government agency or official;

(f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conductor other law.

Besides issuing these general statements, the model rules set down many specific requirements for attorney conduct indifferent situations as they are not above the law.

Because of an attorney's special relationship to the law, he or she is held to a special stan dard of conduct before the law, asthe ABA asserts in its *Lawyers' Manual on Professional Conduct*:

As members of the bar and officers of the court, lawyers are beneficiaries of the privilege of the practice of lawand also are subject to higher duties and responsibilities than are no lawyers. A lawyer's fiduciary duties arisefrom his status as a member of the legal professi on and are expressed, at least in part, by the applicable rulesof professional conduct.

The word *fiduciary* in this quotation comes from the Latin word *fiducia*, meaning "trust"; as a fiduciary, then, the attorney actsas the trusted representative of the client. Trust is thus a defining element of the legal profession, and without it, the practiceof law could no t exist. For that reason, the legal profession has created strict rules of conduct regarding t he attorney's relationship with the client as Plaintiff Amrhein:

<u>Some Examples</u> of such misconduct that is not considered just Malpractice include: discovery violations; improper contact with witnesses, defendants, judges or jurors; improper behavior during hearings or trials; prosecuting cases not supported by probable cause; harassing or threatening defendants, defendants' lawyers or witnesses; using improper, false or misleading evidence; displaying a lack of diligence or thoroughness in prosecution; and making improper public statements about a pending criminal matters. In applying the grounds for discipline stated in the lawyer codes, many decisions have concluded that lawyer involvement in any serious criminal activity satisfies the third predictive element by indicating that the lawyer has a professionally inappropriate

attitude toward illegal conduct. The lawyer committed in the course of representing a client, but in which the lawyer's activity was clearly wrongful. Many of the included offenses involve crimes directed against the lawyer's own client, a situation in which it would be difficult to propound a reason for giving special protection to lawyers. The offense is particularly objectionable because it is committed by a fiduciary against a person, the client, who is both the singular object of the lawyer's fiduciary duty and is highly vulnerable to being victimized as Plaintiffs. The offense, as stated in 18 U.S.C. § 1503,69 applies to the actions of a person who "corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice." **Penalties are reprimand, suspension, disbarment for Defendants for lack of professional conduct & not maintaining the integrity of the profession.**

51) **Fraud & Misrepresentations** - Lawyers may be sued for fraud or negligent misrepresentation by adversaries in litigation, as where, for example, they are alleged to have knowingly misrepresented material facts in negotiations.5 Second, transactional practice is such that business lawyers are natural targets of fraud and negligent misrepresentation claims by third parties based on alleged false statements and failures to disclose information. Third, clients may sue their own lawyers for alleged fraud and misrepresentation in appropriate cases. In fact, fraud and misrepresentation are common theories of liability in suits against lawyers by both clients and third parties.

Fraud Claims support punitive damage awards in cases where punitives would not otherwise be recoverable, or open the door to discovery that a court might refuse if only the lawyer's professional negligence was in dispute.Because the presence of fraud normally is a question of fact, well-pleaded fraud claims are difficult for defendants to defeat at the motion to dismiss stage. Similarly, "[a] claim for negligent misrepresentation is ordinarily one for a jury, unless the undisputed facts are so clear as to permit only one conclusion," thus devaluing a motion to dismiss as a defense tactic in many cases. Again, because fraud and negligent misrepresentation claims are fact intensive, a plaintiff may be able to avoid summary judgment, and by forcing the defendant to contemplate the risk of trial. Fraud and negligent misrepresentation claims are particularly valuable to plaintiffs who cannot establish the existence of an attorney-client relationship with a lawyer-defendant because they avoid the general requirement of privity for liability based on professional negligence, which is not the case in this lawsuit between Plaintiffs Amrhein & all listed Defendants in the Wormington & Bollinger Law Firm.

UNDERSTANDING FRAUD AND MISREPRESENTATION Plaintiffs suing lawyers or law firms for alleged misrepresentations or omissions may pursue several theories of recovery, including: (a) common law fraud, also referred to as actual fraud or intentional

misrepresentation; (b) fraudulent concealment, also described as fraud by silence or silent fraud; (c) constructive fraud; and (d) negligent misrepresentation. Depending on the case and cause of action, plaintiffs may attempt to use rules of professional conduct to define the standard of care or conduct against which a defendant's duty is measured, or establish key elements required for liability. A misrepresentation may be either oral or written.

V. DEFENDANTS ACTS & SOME STATED CLAIMS OF LEGAL MALPRACTICE

52) Defendants violated attorney-client privilege: Your lawyer may not talk about your personal details or share the details of your case, or your private documentation with any unauthorized person. Sometimes, clients may agree to allow lawyers to share information with co-counsel working on the case with him or her. Otherwise, your attorney must keep your information completely confidential. Defendants shared Plaintiffs' information with David Schroeder without Plaintiffs' permission that is basis of this lawsuit.

53) Defendants had a conflict of interest: Let's say your lawyer is a close friend or family member of the opposing side of your case. In some cases, this could create a conflict of interest. Or, maybe your lawyer is part owner of a business that you're suing or is suing you. If your lawyer is in a position that could jeopardize his or her loyalty to you, your lawyer must disclose that conflict of interest to you and potentially resign from representing you in the matter. Defendants never disclosed the conflict of interest, so no written permission was ever given as basis in lawsuit.

54) Defendants agreed to a settlement that you did not authorize: Your lawyer must communicate with you about all information that develops surrounding your case. Also, you must agree and provide authorization for any kind of settlement agreement that your lawyer enters on your behalf. If you did not consent to a settlement, and your lawyer agreed, it's possible that the lawyer breached his or her fiduciary obligation to act in accordance with your best interests. Defendants ridiculous offer of $200.00 for lawsuit of $20, 208.00 was never agreed to & so the threat against Plaintiff was made December, 2016 to go against her will by threat that is a basis of this lawsuit.

55) The client-attorney privilege belong to Plaintiff & that is why Plaintiff has waived that right to expose all crimes, frauds & tort actions committed by these listed Defendants that are the basis of this Schroeder lawsuit & Balistreri case, so no exceptions apply to allow these Defendant Attorneys to escape prosecution.

56) Other Actions by a Lawyer Can Lead to a Malpractice Claim :

- **Holding Himself Out as Specialist** – If a lawyer holds himself out as an specialist in a particular field of law and does not possess the necessary knowledge to qualify as an expert, he could be liable for malpractice.
- **Ignoring Client's Requests** – If a lawyer ignores the requests, demands, or desires of his client which results in a case settling in a manner you did not approve, you might have a malpractice claim against that lawyer.
- **Failing to File Claim** – If a lawyer fails to file your claim in a timely manner, causing you to lose a chance to win your case, if you can prove that you would have won the case if it had been filed on time, then you should be able to recover damages.
- **Failing to Disclose a Settlement** – Lawyers cannot settle cases without a client's approval unless the client had already given the lawyer specific instructions about future settlement offers.
- **Conduct Business with Client** – A lawyer should not conduct business transactions with a client, benefit from a client's loan or credit, or guarantee, or acquire a financial interest in a client as he fronted all costs & refused to discuss his financial interest in lawsuit.
- **Defense is knowledge given to client & written consent to act in their behalf** was never given by Plaintiff's that is basis of this lawsuit.
- **Code of Ethics, not returning client file, incompetence, failing to communicate, etc.**
-
- **Missed deadlines** that caused unexpected outcomes in litigation or did not allow the litigation to move forward
- **An attorney's failure in discovery** when he or she did not enlist appropriate experts or did not dig deep enough into available evidence
- **A lawyer's failure to disclose** that he or she lacked proficiency in a particular area of the law that caused a bad decision to be made such as settling inappropriately
- **An attorney's breach of standard of care** involving fees or other professional issues
- **An attorney's conflict of interest that compromised** his or her ability to represent you in a particular case and could have a serious impact on the legitimacy of a claim
- As it applies to Wormington & Bollinger Defendants for the above leading to malpractice in this lawsuit.

57) Legal malpractice happens frequently and goes undetected. That's because most legal clients aren't familiar with their rights, and lawyers tend to be skilled at covering their tracks. If you suspect that your lawyer has taken advantage of you, or committed negligence that resulted in your harm, you may want to take a long hard look at whether legal malpractice has occurred like withdrawal before trial, no

communications, conflicts of interest, bribery, TRCP Rule 91a & violated Civil Rights & Discriminations with conspiracy & all other violations of laws & rights.

58) Plaintiff Amrhein is in process of hiring 1 of 6 Attorneys examining Plaintiff's file as faxed to them within days for this Lawsuit against Defendants Wormington & Bollinger Law Firm for all claims made against them in both cases of Amrhein v. Schroeder & Balistreri violated & destroyed knowingly "Statute of Limitations" which is Automatic Malpractice.

59) Plaintiff Amrhein has a right to sue Defendants for all alleged claims & presented evidence in this lawsuit as stated within this Court filing today with attached evidence within the entire Court Record;

VI. OTHER STATED CLAIMS IN LAWSUIT IN ADDITION TO LEGAL MALPRACTICE

1. Intentional Misconduct - Intentional misconduct means the conscious or willful disregard of the rights and safety of another. The term "intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person [42 USCS § 1791 (b) (8)] by these listed Defendants in this lawsuit as it applies to Wormington & Bollinger Defendants.

2. Fraud - Plaintiffs suing lawyers or law firms for alleged misrepresentations or omissions may pursue several theories of recovery, including: (a) common law fraud, also referred to as actual fraud or intentional misrepresentation; (b) fraudulent concealment, also described as fraud by silence or silent fraud; (c) constructive fraud; and (d) negligent misrepresentation. Depending on the case and cause of action, plaintiffs may attempt to use rules of professional conduct to define the standard of care or conduct against which a defendant's duty is measured, or establish key elements required for liability. A misrepresentation may be either oral or written as it applies to Wormington & Bollinger Defendants.

3. Collusion - is an agreement between two or more parties, sometimes illegal–but always secretive–to limit open competition by deceiving, misleading, or defrauding others of their legal rights, or to obtain an objective forbidden by law typically by defrauding or gaining an unfair market advantage. It is an agreement among firms or individuals to divide a market, set prices, limit production or limit opportunities.[1] It can involve "wage fixing, kickbacks, or misrepresenting the independence of the relationship between the colluding parties". In legal terms, all acts effected by collusion are considered void as it applies to Wormington & Bollinger Defendants.

4. **Malice-** The intentional commission of a wrongful act, absent justification, with the intent to cause harm to others; conscious violationof the law that injures another individual; a mental state indicating a disposition in disregard of social duty and tendency toward malfeasance as it applies to Wormington & Bollinger Defendants.

In its legal application, the term malice is comprehensive and applies to any legal act that is committed intentionally without Just Cause or excuse. It focuses on the mental state that is reckless disregard of the law in general and of the legal rights of others & Tort as it applies to Wormington & Bollinger Defendants.

5. **Bad Faith** - Bad faith refers to dishonesty or fraud in a transaction, such as entering into an agreement with no intention of ever living up to its terms, or knowingly misrepresenting the quality of something that is being bought or sold. It may involve an intent to deceive or mislead another in order to gain some advantage. It is often related to a breach of a the obligation inherent in all contracts to deal with the other parties in good faith and with fair dealing as it applies to Wormington & Bollinger Defendants.

6. **Common Law Fraud/Conversion** - A conversion is the unauthorized assumption of the right of ownership over the personal property of another to the exclusion of the owner's rights. The tort of conversion is an intentional exercise of dominion and control over a chattel which so seriously interferes with the right of another to control it that the actor may justly be required to pay the other the full value of the chattel..Thus, conversion is the deprivation of another's right of property in or use or possession of a chattel or other interference therewith without the owner's consent and without lawful justification. A conversion may be committed by unreasonably withholding possession from one who has the right to it. The elements of conversion are:

- the plaintiff's ownership or right to possession of the property;
- the defendant's conversion by wrongful act inconsistent with the property rights of the plaintiff; and damages as it applies to Wormington & Bollinger Defendants.

7. **Torts** - A **tort**, in common law jurisdictions, is a civil wrong[1] that causes someone else to suffer loss or harm resulting in legal liabilityfor the person who commits the tortious act.The person who commits the act is called a **tortfeasor**. Although crimes may be torts, the cause of legal action is not necessarily a crime, as the harm may be due to negligence which does not amount to criminal negligence. The victim of the harm can recover their loss as damages in a lawsuit. In order to prevail, the plaintiff in the lawsuit, commonly referred to as the **injured party**, must show that the actions or lack of action was the legally recognizable cause of the harm. The equivalent of tort in civil law jurisdictions is delict. **Legal injuries** are not limited to physical injuries and may include

21.

emotional, economic, or reputational injuries as well as violations of privacy, property, or constitutional rights. While many torts are the result of negligence, tort law also recognizes intentional torts, where a person has intentionally acted in a way that harms another, and in a few cases (particularly for product liability in the United States) "strict liability" which allows recovery without the need to demonstrate negligence.Tort law is different from criminal law in that: (1) torts may result from negligent as well as intentional or criminal actions and (2) tort lawsuits have a lower burden of proof such as preponderance of evidence rather than beyond a reasonable doubt as it applies to Wormington & Bollinger Defendants.

8. Misuse of the legal system & Abuse of Process - **Abuse of process** is a cause of action in tort arising from one party making misusing or perversion of regularly issued court process (civil or criminal) not justified by the underlying legal action. It is a common law intentional tort. It is to be distinguished from malicious prosecution, another type of tort that involves misuse of the public right of access to the courts. The elements of a valid cause of action for abuse of process in most common law jurisdictions are as follows: (1) the existence of an ulterior purpose or motive underlying the use of process, and (2) some act in the use of the legal process not proper in the regular prosecution of the proceedings.[1] Abuse of process can be distinguished from malicious prosecution, in that abuse of process typically does not require proof of malice, lack of probable cause in procuring issuance of the process, or a termination favorable to the plaintiff, all of which are essential to a claim of malicious prosecution.[2] "Process," as used in this context, includes not only the "service of process," i.e. an official summons or other notice issued from a court, but means any method used to acquire jurisdiction over a person or specific property that is issued under the official seal of a court.[3]Typically, the person who abuses process is interested only in accomplishing some improper purpose that is collateral to the proper object of the process and that offends justice, such as an unjustified arrest or an unfounded criminal prosecution. Subpoenas to testify, attachments of property, executions on property, garnishments, and other provisional remedies are among the types of "process" considered to be capable of abuse as it applies to Wormington & Bollinger Defendants.

9. One instance of deceit is enough to sustain liability. *Guardia Life Ins. Co. of America v. Handel*, 596 N.Y.S.2d 804 (1st Dep't 1993) (insurance carrier stated Section 487 Deceit is the intentional act of misleading a person of ordinary prudence by giving false impression. If a person knowingly or recklessly misrepresent a fact to another he is said to deceit the other. Tortuous liability can be imposed on a person who falsely represents a fact with the intention to make another person detrimentally rely and act upon it. The four elements of the tort of deceit are:

False representation of a fact.

Representation made with the knowledge that it is false.

Intention to make the plaintiff to act upon the belief that the fact is true.

Proof of damage sustained by the plaintiff upon acting on the false information.

Deception may involve dissimulation, distraction, camouflage, concealment, propaganda, or sleight of hand as it applies to Wormington & Bollinger Defendants.

10. Duty To Foreseeable Outcome – The Facility to perceive, know in advance , or reasonably anticipate that damage or injury will probably ensue from acts or omissions. In the law of **Negligence**, the foreseeability aspect of proximate cause-the event which is the primary cause of the injury—is established by proof that the actor, as a person of ordinary intelligence and circumspection, should reasonably haveforeseen that his or her negligent act would imperil others, whether by the event that transpired or some similar o ccurrence,and regardless of what the actor surmised would happen in regard to the actual event or the manner of causation of injuries as it applies to Wormington & Bollinger Defendants.

11. Lack of Communication - While it could fall into a communication error, returning phone calls effectively is not a plausible reason to file a malpractice claim. However, this could be a sign of looming trouble. To figure out why your lawyer may not be returning your calls, try and deal with the situation by writing them a letter or email or even faxing their office explaining your issues with the current—or lack thereof–communication and asking for a phone call or a meeting to restore your relationship.The longer your lawyer doesn't communicate with you about your case, the more likely it is to eventually amount to malpractice as it applies to Wormington & Bollinger Defendants as waived attorney-client privilege to prove some stated claims.

12. Incompetence Representation -Your attorney is responsible for whatever monetary damages you are owed, had you won the case by an attentive attorney as it applies to Wormington & Bollinger Defendants. Plaintiff & attorneys plan to call expert witnesses.

13. A Cause of Action, in law, is a set of facts sufficient to justify a right to sue to obtain money, property, or the enforcement of a right against another party. The term also refers to the legal theory upon which a plaintiff brings suit (such as breach of contract, battery, or false imprisonment). The legal document which carries a claim is often called a **Statement of Claim** in English law, or a **Complaint** in U.S. federal practice and in many U.S. states. It can be any communication notifying the party to whom it is addressed of an alleged fault which resulted in damages, often expressed in amount of money the receiving party should pay/reimburse. To pursue a cause of action, a plaintiff pleads or alleges facts in a complaint, the pleading that initiates a lawsuit. A cause of action generally encompasses both the legal theory (the legal wrong the plaintiff

claims to have suffered) and the remedy (the relief a court is asked to grant). Often the facts or circumstances that entitle a person to seek judicial relief may create multiple causes of action. Although it is fairly straightforward to file a Statement of Claim in most jurisdictions. There are a number of specific causes of action, including: contract-based actions; statutory causes of action; torts such as assault, battery, right of privacy, fraud, , slander, negligence, intentional infliction of emotional distress; and suits in equity such as unjust enrichment and quantum meruit. The points a plaintiff must prove to win a given type of case are called the "elements" of that cause of action. For example, for a claim of negligence, the elements are: the (existence of a) duty, breach (of that duty), proximate cause (by that breach), and damages. If a complaint does not allege facts sufficient to support every element of a claim, the court, upon motion by the opposing party, may dismiss the complaint for failure to state a claim for which relief can be granted.

VII. ADDITIONAL STATED CLAIMS AGAINST DEFENDANTS

Legal malpractice/negligence;

Breach of fiduciary duty;

Frauds;

Breach of contract;

Violations of DTPA;

"Nothing is to be gained by fracturing a cause of action arising out of bad legal advice or improper representation;"

Sledge v. Alsup, 759 S.W.2d 1 (Tex. App.- -El Paso 1988, no writ)

Statute of Limitations As All Filed Timely Against Defendants

Negligence – 2 years

Breach of fiduciary duty – 4 years

Fraud – 4 years

Breach of contract – 4 years

Stated Claims That Defendants Caused Damages to Plaintiffs:

Negligence – actual;

Exemplary for gross negligence;

Breach of fiduciary duty – actual, exemplary, fee forfeiture;

Fraud – actual, exemplary;

Breach of contract – actual, attorneys' fees;

DTPA – actual, mental anguish, treble damages;

Negligence - whether the legal representation was adequate;

What type of claim is available under the facts pled is a question of law;

(1) a legal duty;

(2) a breach of that duty;

(3) actual damages that are (4) proximately caused by the breach of duty;

Western Invs v. Urena, 162 S.W.3d 547, 550 (Tex. 2005)

When a professional negligence claim arises from representation in prior litigation, the plaintiff must show that they would have won and been entitled to judgment;

Greathouse v. v McConnell, 982 S.W.2d 165, 172 (Tex.App.—Houston [1st Dist.] 1998, pet. denied.)

Actual Damages Recoverable - P must prove amount of damages it would have recovered if the suit or appeal had been properly litigated Collectible - Also must prove damages would have been collectible;

"[T]he general rule as to recovery of attorneys' fees from an adverse party in litigation does not bar a malpractice plaintiff from claiming damages in the malpractice case for fees it paid its attorneys in the underlying suit;"

May recover additional attorneys' fees proximately caused by attorney's negligence;

No recovery if caused by plaintiff's negligence;

Cannot recover fees for pursuing legal malpractice claims;

Akin, Gump, v. National Dev. & Research Corp, 299 S.W.3d 106, 119 (Tex. 2009

Exemplary Damages P must prove "gross negligence" by clear and convincing evidence ;

Mental Anguish Not recoverable if consequence of economic loss;

Must show injury is more personal in nature (e.g., loss of liberty);

Interest, Prejudgment and post judgment, Court costs;

"**A cause of action for legal malpractice** accrues when the client sustains a legal injury or, in cases governed by the discovery rule, when the client discovers or should have discovered the facts establishing the elements of a cause of action; "

Hughes v. Mehaney & Higgins, 821 S.W.2d 154 (Tex. 1991).

Case of non-medical professional as a party to this lawsuit for proximate cause or injuries to Plaintiff Darlene Balistreri-Amrhein:

1. Lennie F. Bollinger - YES
2. Maria Wormington - YES
3. Ed. Krieger - YES
4. David Bedford – YES

Stated Claims of Negligence General Examples:

Giving an erroneous legal opinion or advice;

Delaying or failing to handle a matter entrusted to the attorney's care; and/or

Not using ordinary care in preparing, managing, and prosecuting a cases;

Allowing "Statute of Limitations" To Expire knowingly is automatic Malpractice;

Murphy v. Gruber, 241 S.W.3d 689, 693 (Tex.App.-Dallas 2007, pet. denied).

Plaintiff alleged the lawyers failed to properly advise, inform, and communicate with them about the case;

Sued for breach of fiduciary duty and fraud;

Court found client's complaint was about quality of representation - legal malpractice;

Barred by 2 year limitations. Plaintiff filed before 2 year statute of limitations.

Murphy v. Gruber, 241 S.W.3d 689, 698-99 (Tex. App.--Dallas 2007, pet. denied)

Claim was for negligence because complaint was quality of lawyer's representation;

Kahlig v. Boyd, 980 S.W.2d 685 (Tex.App.- San Antonio 1998, pet. denied)

"When the facts of a case support claims against a lawyer for something other than professional negligence," the claims may be allowed; –

Murphy v. Gruber, 241 S.W.3d 689, 695 (Tex.App.--Dallas 2007, pet.denied)

"The plaintiff must present a claim that goes beyond what traditionally has been characterized as legal malpractice;"

Duerr v. Brown, 262 S.W.3d 63, 70 (Tex.App. Houston [14th Dist.] 2008, no pet.)

Fiduciary Duty:

(1) fiduciary relationship;

(2) the defendant breached its fiduciary duty to the plaintiff; and

(3) the defendant's breach resulted in: (1) injury to the plaintiff or (2) benefit to the defendant;

Johnston v. Kruse, 261 S.W.3d 895, 902 (Tex. App.—Dallas 2008, no pet.)

"Breach of fiduciary duty by an attorney most often involves the attorney's failure to disclose conflicts of interest, failure to deliver funds belonging to the client, placing personal interests over the client's interests, improper use of client confidences, taking advantage of the client's trust, engaging in self-dealing, and making misrepresentations."

Gibson v. Ellis, 126 S.W.3d 324, 330 (Tex. App.--Dallas 2004, no pet.).

Some Stated Claims of Damages Caused by Defendants:

Jury decides fact issues as filed;

Court decides if and how much;

Only available only if a plaintiff has proven a "clear and serious" breach of a duty, determined by the Court;

Damages are necessary to prevail;

Burrow v. Arce, 997 S.W.2d 229, 246 (Tex. 1999).

Representation involved will contest;

Plaintiff alleged breach of fiduciary duty;

Attorney did not properly prepare for trial;

Attorney misled clients into believing case had been properly prepared for trial;

Attorney abandoned client at trial ;

Court found these allegations constitute no more than a claim for legal malpractice

Goffney v. Rabson, 56 S.W.3d 186 (Tex. App.—Houston [14th Dist] 2001, pet. denied)

Alleged lawyer was not prepared for trial, did not tell client expert witness was not prepared;

Asserted DTPA violations, breach of fiduciary duty, breach of contract and legal malpractice;

Only claim available was for legal malpractice as many other claims attached;

Aiken v. Hancock, 115 S.W.3d 26, 28 (Tex.App.--San Antonio 2003, pet. denied)

Frauds, Breaches & Malpractice Committed:

Misrepresented the quality of work the attorneys would perform;

Promised but did not deliver heavy involvement in the appeal;

Misrepresented that they would or did carefully review the record;

Although the claims fell into the category of "misrepresentations," they are "so closely related to issue of work quality as to be claims for professional negligence..."

In re Frazin, 02-32351-BJH-13, 2008 WL 5214036 (Bankr. N.D. Tex. Sept. 23, 2008)

An independent "breach-of-fiduciary-duty" claim for "failure to disclose" Terry's [the attorney's] "alcohol and substance abuse addictions" or any other antecedent condition bearing on the Terry Defendants' competence would merely fracture a professional negligence claim, permitting separate submissions (and liability) regarding whether the Terry Defendants breached the standard of care and the reasons why they breached it.

Beck v. Terry, 284 S.W.3d 416, 432 (Tex. App.--Austin 2009, no pet.)

Medical malpractice claim against a doctor;

Jury verdict against client (reversed on appeal);

Doctor sued insurer and lawyer for refusal to settle underlying claim against her;

No liability for negligence because of reversal;

Stated breach of fiduciary duty claims;

Archer v. Medical Protective Co. of Fort Wayne, 197 S.W.3d 422 (Tex. App.—Amarillo 2006, pet denied.)

Lawyer sued client for unpaid attorneys' fees;

Counterclaim for failure to advise regarding conflicts and to withdraw;

Gives rise to breach of fiduciary claim;

Directed verdict on fee forfeiture claim was error, jury to decide fact issues;

Deutsch v. Hoover, Bax & Slovacek, L.L.P., 97 S.W.3d 179 (Tex. App.—Houston [14th Dist.] 2002, no pet.)

Breach of Contract:

A valid, enforceable contract exists;

The Plaintiff performed, tendered performance, or was excused from performing their own obligations under the contract;

The Defendant breached the contract;

The Defendant's breach caused the plaintiff injury;

Fraud :

A material, false, and knowing or reckless misrepresentation of facts; or failure to disclose material facts in face of duty to do so and knowledge other party ignorant of or unable to discover the facts;

Intent that other party act or refrain from acting;

The Plaintiff relied on the misrepresentation or non-disclosure, and it caused the Plaintiff injury;

Claim related to billing practices;

Stated claim for fraud;

Subject to 4 year statute of limitations;

Sullivan v. Bickel & Brewer, 943 S.W.2d 477 (Tex. App.–Dallas 1995, writ denied).

VIII. PLAINTIFF'S EXHIBITS FOR SOME PROOF

No Attorney – Client Privilege as waived by Plaintiff Darlene Balistreri-Amrhein

Exhibits A to E & Exhibits 1 to 23

Exhibit A – Medical Excuse from back surgeon Jan. 19, 2018;

Exhibit B – United States Supreme Court Dad Representation by Darlene;

Exhibit C – Court of Appeals Fifth Circuit Dad Representation by Darlene;

Exhibit D – United States Eastern District Court Dad Representation by Darlene;

Exhibit E – Collin County Probate Court Incapacitated Balistreri Order;

I Schroeder Lawsuit:

1) **Copy of the Original Petition** in the Schroeder Lawsuit prepared by Attorney Lennie Bollinger. (Note incomplete, no values placed on items, wrong address of incident & home, no mention of assault, only conversion named by Attorney Lennie Bollinger, Wormington & Bollinger Law Firm;

2) Affidavit of Service To David Schroeder;

3) David Schroeder Mug Shot & Jail Detention;

4) McKinney Police Reporting Public Record For David Schroeder 2014 – 2017;

5) 80 Pages of Therapy after David Schroeder;

6) Attached Itemized List of Theft, Damages & Losses To Plaintiff Amrhein;

7) Medical Excuses for 2 surgeries & Medical Care 2017;

8) Damages Schroeder did to Shower, walls & floor with repair bill;

9) Microwave Oven, Wood Tables Damage by Schroeder for revenge & left;

10) Schroeder burns large 10 x 12 Carpet at Plaintiff's home;

11) Plaintiff files for Jury Trial when Attorney Bollinger withdrew;

12) Justice Court Order denying Schroeder case as in wrong court due to amount;

13) New Case filed in County Court at Law by advice of Justice Court;

14) County Court at Law Dismisses Schroeder case as no ruling by Justice Court;

15) Laws violated by David Schroeder;

18) Acid Damage in front of home by Schroeder Old Auto;

19) Arrest Warrant of David Schroeder & 6 Months in Jail Unknown to Plaintiff;

* David Schroeder paid no rent, no utilities, no food, no services for 5 months with promises each week, while having 4 sources of income, causing me property tax penalties, then steals my property, falsely accuses Plaintiff of stalking because I sent demand letters to avoid a lawsuit & assaults for a lark with other abuses, after lying to Plaintiff with sob stories, frauds & with intent to take & home scam as his;

* Assault charges with McKinney Police Dept. Detective to investigate.

II. Probate Court Orders On Incompetence & Incapacity Balistreri As Disabled

16) Collin County Probate Court April 6, 2006 Anthony Balistreri's(Dad) Death

17) Anthony Balistreri Trust Certificate & Darlene as trustee;

* Dad was Incompetence & Incapacity Balistreri As Disabled & destroyed his lawsuit;

III. Defendant Attorneys Wormington & Bollinger Law Firm, et al:

No Attorney – Client Privilege as waived by Plaintiff Darlene Balistreri-Amrhein

20) Plaintiff's Case File of Schroeder Evidence Defendants refused to examine;

21) 2 e-mails on Nov. 29, 2016 & May 11, 2017 to Defendant Bollinger, et al

22) Text Message to Attorney Lennie Bollinger about his misconduct & errors, since December 2015 meeting at his office; (May 11, 2017 2 pages from Plaintiff)

23) Defendants, et al Motion To Withdraw for Lack of Communication & refused $200 Schroeder deal for $20,208.00 value lost due to his theft, scam & abuses deal with this unknown ex-con by Defendant Attorneys calling this a "moral standard;"

IV. Anthony J. Balistreri Lawsuit Case:

Exhibit A-1 Summary Outline Damages & Contacts 39 pages Defendants receive;

Exhibit A-2 Photos of Balistreri Case File & Medical Records June, 2015 & held until Nov. 23, 2015 past Statute of Limitations knowingly by Defendants et al;

**Never opened anything in suitcases from June 2015 to Nov. 23, 2015 & held. No Communication Response when I called 6 times & went to office twice. Defendants engaged in unlawful acts & Legal Malpractice while discriminated against Plaintiffs by age, gender & disabilities. More than scintilla of evidence.

Alleged that shortly before settlement of a personal injury case, attorney changed the fee deal;

Found actions related to fees were subject to longer limitations under fraud and breach of contract;

Jampole v. Matthews, 857 S.W.2d 57 (Tex. App.—Houston [1st Dist.] 1993, writ denied)

Focus is whether attorney engaged in a false, misleading or deceptive act or practice;

Express misrepresentation of material fact;

Failure to Disclose known information;

Unconscionable action;

Breach of express warranty;

Selling or illegally promoting contracts by false advertising;

Basis of suit may not be attorney's advice, judgment or opinion;

Clients sued attorney who failed to timely file medical malpractice action within statute of limitations;

Court found some evidence that attorney affirmatively misrepresented to clients that medical malpractice action was timely filed;

Texas Supreme Court reversed directed verdict in favor of attorney on DTPA claims;

May recover damages for mental anguish;

Latham v. Castillo, 972 S.W.2d 66 (Tex. 1998)

IX. PLAINTIFF'S 100 STATED CALIMS AGAINST THESE LISTED DEFENDANTS, et al

Lawsuit Amrhein V. David Schroeder Case No. 01-SC-16-00165;

Lawsuit Anthony J. Balistreri for Medical Malpractice Against Others;

1) Attorneys' Negligence, Negligence per se, Gross Negligence In 2 Cases;
2) Attorneys' Conflict of Interest In 2 Cases;
3) Attorneys' Bias In 2 Cases;

32.

4) Attorneys' Prejudice In 2 Cases;

5) Attorneys Retaliation In 2 Cases;

6) Attorneys Malice In 2 Cases;

7) Attorney Concealment in 2 Cases;

8) Attorneys Omissions in 2 Cases;

9) Attorneys Incompetence in 2 Cases;

10) Attorneys Refused to Work in 2 Cases;

11) Attorneys Refuse Directive To Amend Pleadings in Schroeder Lawsuit;

12) Attorneys Refused To Mediate Timely in Schroeder Lawsuit;

13) Attorneys Lawsuit Filed in Wrong Court & Jurisdiction For Schroeder Case;

14) Attorneys' Refused Substantive Legal Work For Months in 2 Cases;

15) Attorneys' Various Frauds In 2 Cases;

16) Attorneys' Misrepresentations in 2 Cases;

17) Attorneys' Negligent Misrepresentations in 2 Cases;

18) Attorneys Acted in "Bad Faith" in 2 Cases;

19) Attorneys Violated Client -Attorney Privilege in Schroeder Case;

20) Attorneys Violated Texas Rules of Professional Conduct In 2 Cases;

21) Attorneys Violated Known Statute of Limitations in Balistreri Case;

22) Refused To Examine Anthony Balistreri's Medical Records in 30 Days As Claimed;

23) Attorneys Did Reckless Work & Attitude in 2 Cases;

24) Attorneys' Age, Gender & Disability Discriminations For Plaintiffs In 2 Cases;

25) Refused To Share Information With Accuracy & Clarity Timely In 2 Cases;

26) Attorneys Refused To Follow Texas Rules of Civil Procedure In 2 Cases;

27) Attorneys' Refused Examination of All Evidence In 2 Cases;

28) Attorneys' Refused To Add Indispensable Parties In Schroeder Case;

29) Attorneys' Threats Made To Plaintiff In Schroeder Case;

30) Attorneys' Representation & Protection of Defendant Schroeder;

31) Attorneys' Refused To Correct Errors & Mistakes In Schroeder Case;

32) Attorneys' Cover up In 2 Cases;

33) Attorneys' Conspiracy With Others In 2 Cases;

34) Deal Making With Defendant Schroeder & Others;

35) Sexual Assault Attitude & Refusal To Add To Pleadings In Schroeder Case;

36) Attorneys' Obstruction Of Justice In 2 Cases;

37) Attorneys Fraud Upon The Court As Officers of The Court To Mislead In 2 Cases;

38) Attorneys Various Types of Fraud in 2 Cases;

39) False Advertising In 2 Cases That Plaintiff Relied Upon Causing Losses & Damages;

40) Medical Specialties The Attorneys Did Not Have As Plaintiff Experienced In 2 Cases;

41) Attorneys False Representations As Medical Doctors & Nurses Would Examine Medical Record of Anthony J. Balistreri Within 30 Days;

42) Attorneys Filed False Court Documents In Schroeder Case;

43) Goal & Interest Contrary To Plaintiff & Self-serving Attorneys In 2 Cases;

44) Attorney Bribery In Schroeder Case;

45) Attorneys Sexism & Moral Standard Threat In Schroeder Case;

46) Attorneys Favoritism In Schroeder Case;

47) Violated Plaintiffs Civil Rights In 2 Cases;

48) Breach of Implied & or Expressed Contract & Warranty That Existed In 2 Cases;

49) Attorneys Breach of Fiduciary Duty in 2 Cases;

50) Abuse of Process In Judicial System In Schroeder Case;

51) Attorneys Caused Mental Anguish in 2 Cases;

52) Attorneys Engaged in & Violated Deceptive Trade Practices Act in 2 Cases Requiring Treble Damages;

53) Attorneys Lack of Communication On Part of Attorneys Timely In 2 Cases;

54) Attorneys Foreseeable Outcome Ignored In 2 Cases;

55) Lack of Specialty As Attorneys For 2 Lawsuit Cases;

56) Attorneys False Reporting of Facts in 2 Cases;

57) Attorneys False Reporting of Laws in 2 Cases;

58) Bad Faith Intent & Attitude In 2 Cases;

59) Deceit Against Plaintiffs in 2 Cases & Deception;

60) Caused Emotional Distress In 2 Cases;

61) Giving An Erroneous Legal Opinion Or Advice In 2 Cases;

62)Delaying or failing to handle a matter entrusted to the attorney's care in 2 cases;

63) Breach of Standard of Care As Texas Licensed Attorneys In 2 Cases;

64) Intentional Misconduct In 2 Cases;

65) Collusion With Defendant Schroeder In Case;

66) Common Law Fraud In 2 Cases;

67) Conversion Of Plaintiffs' Property & 2 Lawsuits;

68) Torts & Tort Act Violated In 2 Cases;

69) Legal Injuries In 2 Cases Against Plaintiffs;

70) Reporting & Representation Knowing Falsities In 2 Cases;

71) Representations Made With Intent For Plaintiff To Act Causing Injuries In 2 Cases;

72) Breach of Legal Duty In 2 Cases;

73) Failing To Disclose In 2 Cases;

74) Failing To Mediate In Schroeder Case;

75) Failing To Conduct Discovery in Plaintiff's 2 Cases;

76) Violated Code of Ethics In Texas In 2 Cases;

77) Missed Deadlines In 2 Cases;

78) Financial Self-Dealing & Financial Interest In 2 Cases;

79) Refused To Discuss Attorney Fees In Schroeder Case;

80) Engaged in Legal Malpractice In 2 Cases;

81) Damages, Losses & Harms Caused in 2 Cases;

82) Express misrepresentation of material facts In 2 Cases;

83) Failure to Disclose known information In 2 Cases;

84) Attorneys' Unconscionable Actions In 2 Cases;

85) Attorneys' Breach of Express Warranty In 2 Cases;

86) Attorney misled into believing case had been properly prepared for trial;

87) Attorney Refused To File For Jury Trial As Instructed By Plaintiff In Schroeder Case;

88) Attorneys Withdrew Right Before Jury Trial in Schroeder Lawsuit;

89) Attorneys' Refused to Follow Basic Procedures & Correct Basic Errors;

90) Attoneys' Falsely Claimed Only One Person In Law Firm of 4 Attorneys;

91) Attorneys' Filed TRCP 91a to Escape Prosecution On Plaintiffs 2 Claims;

92) Attorneys Tried To Discredit Plaintiff As Trustee In A Valid Irrevocable Trust;

93) Attorneys Refusal Of Plaintiff's Medical Condition & Disabilities;

94) Attorneys Filed Schroeder Case In Wrong Jurisdiction Exceeding Values;

95) Attorneys Refused To List Values In Schroeder Lawsuit;

96) Attorney Caused Loss of Balistreri's Claim For Death & His Killing;

97) Attorney Caused Loss of Plaintiff's Case & Property in Schroeder Lawsuit;

98) Attorneys Did Not Safeguard Against Claims of Legal Malpractice;

99) Attorney's Discriminated Against Plaintiff Amrhein in 2 Cases;

100) Attorneys Owed A Duty, Breached the Duty, Causing Damages & Losses In 2 Cases As Texas Licensed Attorneys Committing Legal Malpractice With Insurance.

X. TEXAS AND UNITED STATES CONSTIUTIONS

Texas Constitution – Section 19. Due Course of Law. - No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of law of the land.

Section 29. "Bill of Rights" Inviolate. - To guard against transgressions of the high powers being delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provision shall be void.

[Scope of protection afforded under state constitutions vis a vis the United States Constitution: The United States Supreme Court determines the minimum level of constitutionally protected rights that accused persons have in the criminal justice system (federal and state court proceedings) throughout the United States. It is is important to know that the supreme courts of the individual states may each choose to grant greater protection in their state courts to the criminal defendant by interpreting protective provisions of their state constitutions more liberally than the United States Supreme Court. In most instances, state courts construe the level of protection as coextensive with that protected by the Federal Constitution, but this is not always true.]

Note: Many of the individual rights contained in Article 1 of the Texas Constitution are also contained in Chapter 1 of the Texas Code of Criminal Procedure, e.g., due course of law, right to counsel, searches and seizures, right to bail, habeas corpus, cruelty prohibited, jeopardy, right to jury, liberty of speech and press, public trial, confrontation by witnesses, etc. Be sure to consult the TCCP when such rights are at issue. If you are objecting to a violation, cite the relevant federal and /or state constitutional provision, as well as the applicable statute.

United States Constitution - Article III of the U.S. Constitution - Section 1

U.S.C.A. Const. Amend. 5.....1 to 36

U.S. Constitution 14th Amendment Equal Protection Clause.....1 to 36

1st	Prohibits Congress from making any law respecting an establishment of religion, impeding the free exercise of religion, abridging the freedom of speech, infringing on the freedom of the press, interfering with the right to peaceably assemble or prohibiting the petitioning for a governmental redress of grievances.
5th	Sets out rules for indictment by grand jury and eminent domain, protects the right to due process, and prohibits self-incrimination and double jeopardy.
6th	Protects the right to a fair and speedy public trial by jury, including the rights to be notified of the accusations, to confront the accuser, to obtain witnesses and to retain counsel.
7th	Provides for the right to trial by jury in certain civil cases, according to common law.
8th	Prohibits excessive fines and excessive bail, as well as cruel and unusual punishment.

37.

9th	Protects rights not enumerated in the Constitution.
10th	Reinforces the principle of federalism by stating that the federal government possesses only those powers delegated to it by the states or the people through the Constitution.
14th	Defines citizenship, contains the Privileges or Immunities Clause, the Due Process Clause, the Equal Protection Clause, and deals with post–Civil War issues.

First Amendment

Congress shall make no law respecting an establishment of **religion** (1), or prohibiting the free exercise thereof; of abridging the freedom of **speech** (1), or of the press (1); or the right of the people peaceably to **assemble** (1), and to **petition** (1) the Government for a redress of grievances.

Fifth Amendment

Selectively incorporated: *Malloy v. Hogan*, 378 U.S. 1 (1964) (1)], nor be deprived of life, liberty, or property, without **due process of law** * [See *Hamdan v. Rumsfeld*, 126 S. Ct. 2749 (2006)]

Fourteenth Amendment

No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without **due process of law** ** *Palko v. Connecticut*, 302 U.S. 319 (1937) (1); *Adamson v. California*, 332 U.S. 46 (1947) (1); *Rochin v. California*, 342 U.S. 165 (1952) (1); *Griswold v Connecticut*, 381 U.S. 479 (1965) (1); *In re Winship*, 397 U.S. 358 (1970) (1) & *Ivan V. v. City of New York*, 407 U.S. 203 (1972) (1) (requirement of proof beyond a reasonable doubt of every fact necessary to constitute the crime charged) nor deny to any person within its jurisdiction the **equal protection of the laws** (1).

* The Fifth Amendment due process clause applies in the federal system.
** The Fourteenth Amendment due process clause applies to the states.

38.

XI. IN CONCLUSION AND PRAYER FOR RELIEF

It is impossible to claim two meaningless cases with Anthony being beaten & medicated to death as a defenseless incompetent, incapacitated senior citizen by nursing home & their staff, including Medicare Fraud, which Defendants never looked at to destroy "statute of limitations" is unfairness & injustices on all levels.

To allow David Schroeder to steal, abuse & sexually assault Plaintiff with no Defendants' work, little communication, conflicts, bias & prejudice, breaching contract & duty by attorneys is not meaningless as Defendants Attorneys try to pull a fast one at expense of this Court & your honor by stating you can't look at any evidence. Sounds like their worried & guilty & that amounts to Obstruction of Justice & Fraud Upon the Court at expense of Plaintiff's serious spine shifting needing surgery. The tactic to free them from their illegal activities & frauds at all costs, no matter what for their Attorney fees. Plaintiff has over $100,000 in medical bills, so good luck with long debt line. This is no fairness & not "due process!"

You can't beat the very words & pictures as offenders in this so called meaningless lawsuit that will be appealed by Attorneys for abuses of discretion & cover up for Attorneys against several settled existing laws as contained within pleading filed.

Fraud Claims are meant to be heard, so why did Wormington & Bollinger file in wrong court, wrong amount exceeding jurisdiction with a judge who can't hear fraud claims in the Schroeder lawsuit, which is incompetence as a Texas licensed attorney & actions leading to Malpractice as "professional negligence" & other specific violations of laws, rights & facts contained within this plead court filing.

Courts have held that an attorney "will not be heard to deny his liability" for the damages caused by his participation in a "fraudulent scheme" with his client, as "such acts are entirely foreign to the duties of an attorney." Poole v. Hous. & T.C. Ry. Co., 58 Tex. 134, 137 (1882); Essex Crane Rental Corp. v. Carter, 371 S.W.3d 366, 382 (Tex.App.–Houston [1st Dist.] 2012, pet. denied) (holding that attorneys were not immune from claims that they knowingly assisted their clients in evading a judgment through a fraudulent transfer or any other fraudulent misconduct.). Cure to put it upon Judge Dan Wilson to decide. Plaintiff was in hospital from December 26, 2017 to January 9, 2018 & soon will be going back, so glad I lined up an attorney, who has examined most filings. And Courts of Appeals have identified examples of attorney conduct that, even if it occurred during a lawsuit, would be "actionable," because it does not involve provision of legal services and would thus fall outside scope of client representation. See, e.g., Bradt v. West, 892 S.W.2d 56, 72 (Tex.App.–Houston [1st Dist.] 1994, writ denied) When lawyers allegedly err in course

of clients' representations, or, worse, allegedly engage in deliberate misconduct, aggrieved clients may sue for these Defendants' professional negligence, commonly described as legal malpractice, or for breach of fiduciary duty with other violations as "officers of the Court. This is more than scintilla of evidence!

A lawyer who treats a client dishonestly may face liability on either, lawyers may be sued for fraud or negligent misrepresentation by adversaries in litigation, as where, example, they are alleged to have knowingly misrepresented "material facts" in negotiations & failures to disclose information. Fraud / misrepresentation are common theories of liability in suits against lawyers that is not fracture claims.

Fraud, etc. is not dispute, so this is a question of facts & laws violated too serious to dismiss as offender does not want to be sued. Negligent misrepresentation is one for a jury, unless the undisputed facts are so clear as to permit only 1 conclusion," fact intensive issues, thus devaluing motion to dismiss as defense tactic in 2 cases. *Nota Constr. Corp. v. Keyes Assocs., Inc., 694 N.E.2d 401, 405 (Mass. App. Ct. 1998); St. Louis v. Wilkinson Law Offices, P.C., 55 A.3d 443, 447 (Me. 2012)* ("Whether a party made a misrepresentation and whether opposing party justifiably relied on misrepresentation as questions of fact.") Offenders written words are fact!

The words & actions assembled in this court filing was painful days of work, while I could not sit, stand or walk, because of my spine, but would crawl, if necessary to get this information to Judge Wilson for an informed decision. Any type errors are due to 2 pain medications & believe I would trade places with anyone to have this back surgery not done with metal plates & screws, while at high risk as diabetic. Life is not fair, so all I can do is my best & try, hoping someone hears me as to these truths. To dismiss without examination is speculation to protect offenders. Dad & I deserved better, but not everyone feels that way. Schroeder was a ex con man unknown to me with a scheme to take my home & assault me. Never thought my own Attorneys would not protect me from these harms, damages & losses. There is so much to this case proving it is not meaningless in your court. My doctor informed me I need to get any attorney & I have, but she is waiting & praying like me that you do not dismiss this lawsuit as a legal malpractice attorney. I, Darlene, thank you for your time & services. It seems so wrong that one rules would void out all other rules, laws, statutes & our U.S. & Texas Constitutional Rights here. If this is so important then why can it be reversed on Appeal, which affects everyone's reputations & credibility for violators of laws by misconducts.

Plaintiff prays for God's guidance & illness Darlene C. Balistreri-Amrhein

Respectfully submitted, Darlene C. Balistreri-Amrhein, Plaintiff

1/21/2018

40.

VERIFICATION / AFFIDAVIT

CAUSE NO. 005-02654-2017

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Plaintiff, Darlene C. Balistreri-Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Plaintiff, Darlene C. Balistreri-Amrhein Waiving Client – Attorney Privilege, So No Exceptions With Defendants Attorney Lennie Bollinger, Wormington & Bollinger Law Firm, Some Important New Court Filings & Communications Representing Violations of Laws & Facts To Additional Amend Pleadings In This Lawsuit For Submission, Stated Claims & Arguments With Exhibits.

This information as referenced and stated within is true and correct and of Darlene C. Balistreri-Amrhein's own personal knowledge to best of her ability & documented. This state and or federal filing is for purpose of "due process," fairness, Justice under State and Federal Laws & presented in applicable Court attached as sited for this Court filing.

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON JAN. 22, 2018 to Certify which witness my hand and official seal.

SEAL:

EMMANUEL VELAZQUEZ
Notary ID #131061768
My Commission Expires
March 27, 2021

EMMANUEL VELAZQUEZ RAMIREZ

Notary Public of Texas (Printed Name)

Notary Public of Texas (Signature)

Commission Expires MARCH 27 2021

vi.

Darlene Amrhein
Female DOB 07/18/1946 60003 Ins: United Healthcare Medicare Solutions Grp 99951

01/19/2018 - Internal Other: Doctor's Medical Report and Work Status Form
Provider: Kevin Ju MD
Location of Care: Texas Back Institute - Plano

Doctor's Medical Report and Work Status Form

Name: Darlene Amrhein
Patient will report to Dr. Ju for further treatment.

ADDITIONAL COMMENTS: Patient has been seen here today for evaluation of spine pain, she is getting a work up and plan is pending. If we can be of further assistance please contact our office, 972-608-5000.

SIGNED: Kevin Ju MD DATE: 01/19/2018

Electronically signed by Elizabeth Palos MA on 01/19/2018 at 10:42 AM

Exhibit H

original

RECEIVED
SEP 14 2015
OFFICE OF THE CLERK
SUPREME COURT, U.S.

CASE NO. 14 M86

IN THE SUPREME COURT OF THE UNITED STATES

DARLENE C. AMRHEIN ET AL AND ANTHONY J. BALISTRERI ET AL (DECEASED), Petitioners

V.

JERRY RIECHERT, ET AL, Respondents

PETITIONERS' OBJECTIONS & MOTION FOR COURT TO DIRECT CLERKS & COURT STAFF TO ACCEPT & FILE THIS LATE PETITION FOR WRIT OF CERTIORARI, APPENDIX & SEPARATE COURT RECORD EXCERPTS AS PREVIOUSLY FILED AND OBJECTIONS FOR "GOOD CAUSE" REASONS ON MULTIPLE JUDICIAL ERRORS AS DISCOVERED TO MODIFY, CORRECT & VACATE FEBRUARY 23, 2015 ORDER.

TO HONORABLE COURT AND JUSTICES OF SAID COURT:

COMES NOW, Petitioner Darlene C. Amrhein, Pro Se Petitioner & Trustee Representative for Deceased Anthony J. Balistreri (Estate) to file Petitioners' Objections & Motion For Court To Direct Clerks & Court Staff To Accept And File This Late Petition For Writ of Certiorari, Appendix & Separate Certified Court Record Excerpts As Previously Filed And Objections And "Good Cause" Reasons With Multiple Judicial Errors As Discovered To Modify, Correct and Vacate Feb 23, 2015 Order. Petitioners offer following Objections and "Good Cause" Reasons on serious issues as only above case number given to Petitioners. No valid Orders, no timely reply, approximately 184 days later invalid unsigned Order, deleted Balistreri, violations of federal rules of civil procedures, Rule 77 et seq., all applicable laws & record tampering 18 U.S.C.A. § 2071 and 18 U.S.C.A. § 2076. It's unfair, silence, no "due process," miscarriage & **No Justice.**

Exhibit B

No. 14-M86

IN THE
SUPREME COURT OF THE UNITED STATES

DARLENE C. AMRHEIN AND
ANTHONY J. BALISTRERI (DECEASED)
Petitioners,

V.

JERRY RIECHERT, ET AL
Respondents,

PETITIONERS MOTION FOR COURT TO DIRECT COURT CLERK TO ACCEPT AND FILE THIS LATE PETITION FOR WRIT OF CERTIORARI, APPENDIX AND SEPARATE COURT RECORD EXCERPTS AS ATTACHED

TO THE HONORABLE COURT AND JUSTICES OF SAID COURT:

COMES NOW, Petitioners Darlene C. Amrhein, Pro Se Petitioner, Trustee Representative for Deceased Anthony J. Balistreri to file Petitioners Motion For Court To Direct The Court Clerk To Accept And File This Late Petition For Writ of Certiorari, Appendix And Separate Court Record Excerpts As Attached for the following "good cause" reasons:

1) Petitioners received wrong date for the 90 day filing in this Honorable Court;
2) Petitioner had no intention or "bad faith" to file late in this Court after working hard for seven weeks in compliance with all the rules & $400.00 worth of costs;

Exhibit B

IN THE

UNITED STATES COURT OF APPEALS FIFTH CIRCUIT

CASE NO. 13-10450

U.S. COURT OF APPEALS
RECEIVED
NOV 04 2014
FIFTH CIRCUIT

DARLENE C. AMRHEIN, Appellant Pro Se
ANTHONY J. BALISTRERI, Deceased Appellant
V.
JERRY RIECHERT, ET AL, Appellees

APPELLANTS' MOTION FOR STAY OF MANDATE ISSUED OCT. 27, 2014 AS RECEIVED ON OCT. 30, 2014 FOR "GOOD CAUSE" REASONS, OBJECTIONS & RECALL MANDATE

TO THE COURT AND JUSTICES:

COMES NOW, Darlene C. Amrhein Appellant Pro Se, and as legal representative trustee for Deceased Appellant Anthony J. Balistreri to file Appellants' Motion For Stay of Mandate Issued Oct. 27, 2014 as Received On Oct. 30, 2014 For "Good Cause" Reasons, Objections & Recall Mandate by Justices Prado, Owen & Graves as follows:

I. RULE OF LAW, OBJECTIONS & RECALL OF MANDATE

1. Rule 41 & specific case law dictates proper mandate & an improper invalid mandate. A recall of this mandate is necessary because the court clerk claimed that the time for filing for the Oct 17, 2014 Order was 10 days without counting the actual date of this order, so Appellants responses were due on October 28, 2014, mailed from post office October 27, 2014 & was prior to same day mandate by disqualified Justices Prado, Owen & Graves;

Exhibit C

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DARLENE C. BALISTRERI-AMRHEIN, ANTHONY J. BALISTRERI, DECEASED	§	
	§	
	§	Civil Action No. 4:16-CV-112
v.	§	(Judge Mazzant/Judge Nowak)
	§	
DONALD VERRILLI, JR., UNITED STATES SOLICITER GENERAL, ET AL.	§	

MEMORANDUM OPINION AND ORDER

Pending before the Court is Plaintiffs' Motion to Recuse & Mandatory Disqualifications of Judges Amos Mazzant III & Magistrate Christine Nowak for Timely "Good Cause Reasons" ("Motion to Recuse") (Dkt. #142). Having considered the relevant pleadings, the Court finds Plaintiffs' Motion to Recuse (Dkt. #142) should be denied.

Plaintiffs[1] filed the Motion to Recuse on August 7, 2017, seeking to recuse the Court[2] under 28 U.S.C. § 455 and various Texas statutes (*see* Dkt. #142). Construing the Motion to Recuse liberally, the Court discerns *pro se* Plaintiffs allege four bases for recusal: (1) the Court withheld service in this case pending judicial screening under 28 U.S.C. § 1915(e); (2) the Court has once warned Plaintiff Darlene C. Amrhein that repeated filings in a closed case may result in sanctions; and (3) the Court's decisions in this matter are motivated not by the law but by the Court's "favor[] for friends" who appear as Defendants in this matter, namely "Defendant Attorney General Paxton" (Dkt. #142 at 3, 5, 14-15).

[1] The Court has previously dismissed Plaintiff Anthony J. Balistreri from this lawsuit, as Mr. Balistreri predeceased this lawsuit and Plaintiff Darlene C. Amrhein failed to proffer evidence showing she had authority to proceed on his behalf *pro se*. Because Darlene C. Amrhein continues to refer to "Plaintiffs," however, the Court refers to "Plaintiffs" for ease of reference in this Order.

[2] Specifically, Plaintiffs seek recusal of the undersigned and the United States Magistrate Judge assigned to this case. The Court refers hereinafter and collectively to both judges as the "Court."

Exhibit D

FILED
OCT 4 2017
Clerk, U.S. District Court
Texas Eastern

IN THE

UNITED STATES COURT EASTERN DISTRICT COURT

SHERMAN DIVISION TIMELY FOR 5TH CIRCUIT COURT OF APPEALS

CASE NO. 4:16-CV- 00223-ALM-CAN

DARLENE C. AMRHEIN et al, Plaintiffs,

V.

UNITED STATES of AMERICA, et al, Defendants,

PLAINTIFFS' REQUEST FOR ALL COURT RECORDS TO BE TRANSFERRED TO APPROPRIATE COURT OF APPEALS IN THIS LAWSUIT FOR APPEAL BRIEF

Comes Now, Plaintiffs Darlene C. Amrhein and (Deceased Dad) Anthony J. Balistreri to file Plaintiffs' Request For All Court Records To Be Transferred To Appropriate Court of Appeals In Lawsuit For Appeal Brief. "This applies at no costs as current granted in forma pauperis status:"

1. Plaintiff Amrhein was granted In Forma Pauperis status in the United States Court Eastern District Court Sherman Division by Magistrate Christine Nowak as Ordered in 2016 & no costs;

2. There was no service process to these listed Defendants in this lawsuit, which was incomplete Prejudicial Court Business contrary to Federal Rules of Civil Procedure & U.S. Constitutional Rights as a Matter of Law, under Color of Law & Rule of Law in the United States of America;

3. There was no Court Hearings, no Court Reporters, no Court Transcripts & no Defendants' Answers, Prejudicial, against "Due Process" & Judicial Process contrary to U.S. Federal Courts;

4. Plaintiff Amrhein Requests All Court Record Filings from February 16, 2016 to present of this lawsuit prior to due date of Appeal Brief in appropriate Court of Appeals assigned to case;

5. Plaintiff requests Complete Court Record transferred & filed timely for Appeal Briefing, name of responsible person(s) work & full copy to Plaintiff Amrhein, so not withheld & denied;

6. Plaintiff sent request on all Court Records & all Orders to Karen_sessions@txed.uscourts.gov

7. Plaintiff's request all Court Docket Sheets, all Court Memos, all Instructions, all Court Orders & all United States Eastern District Court Records in 2016 and 2017 copy timely. Thank you!

Respectfully submitted,

Darlene C. Balistreri-Amrhein, et al

Darlene C. Amrhein, Plaintiff, Pro Se, Representative for Deceased Dad) Anthony Balistreri

10/3/2017

Exhibit D

LETTERS OF GUARDIANSHIP

PB-001-5038-06

THE STATE OF TEXAS **PROBATE COURT NO 1**

COUNTY OF COLLIN **COLLIN COUNTY, TEXAS**

IN THE MATTER OF THE GUARDIANSHIP OF

ANTHONY J. BALISTRERI, AN INCAPACITATED PERSON.

DARLENE C. BALISTRERI-AMRHEIN *Guardian*	**PERSON ONLY** *Scope of Guardianship*	**APRIL 4, 2006** *Effective Date of Letters*
APRIL 4, 2006 *Date Guardian Qualified*	**JUNE 4, 2007** *Annual Report Filing Deadline*	**AUGUST 4, 2007** *Date Letters Expire*

IT IS HEREBY CERTIFIED the above-named person was duly appointed permanent guardian of the person as shown above of the incapacitated person named above. Thereafter, a bond filed by the guardian was approved by the court; and the guardian qualified on the date shown above.

These letters, the effective date of which is shown above, indicate the guardian has the powers and privileges granted by the **attached court order**. Those powers and privileges and these letters shall expire on the date shown above. The guardian must file a report of the condition of the person of the incapacitated person by the deadline shown above.

Insofar, as my records show, the said guardian is still acting in the capacity shown herein.

WARNING: PLEASE NOTE THE EXPIRATION DATE OF AUGUST 4, 2007.

Witness my hand and seal of office at McKinney, Texas this

6TH day of **APRIL** A. D. **2006.**

Brenda Taylor, Clerk
County Courts and Probate Court
Collin County, Texas

By: Barbara Ashworth
Deputy County Clerk

Exhibit B

Filing reviewed on 4/26/2016 by Ashley Gidney

CAUSE NO. 01-SC-16-00165

DARLENE AMRHEIN	§	**IN JUSTICE OF THE PEACE**
	§	
vs.	§	**PRECINCT 1**
	§	
DAVID SCHROEDER	§	**COLLIN COUNTY, TEXAS**

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCOVERY

COMES NOW, Plaintiff **DARLENE AMRHEIN,** hereinafter referred to as "Plaintiff," complaining of **DAVID SCHROEDER,** hereinafter referred to as "Defendant."

I.
DISCOVERY CONTROL PLAN

Plaintiff requests that this cause be governed by a discovery control plan whereby discovery is conducted under Level 1.

II.
PARTIES

Plaintiff resides in Collin County, Texas and is a citizen of Texas.

Defendant DAVID SCHROEDER resides in Dallas County, Texas and may be served with process at his place of business located at 2001 Bryan Street, Suite 150, Dallas, Texas 75201.

III.
FACTS

Defendant moved into Plaintiff's residence, located at 100 Winsley Circle, McKinney, Texas, in November of 2014. Defendant agreed to pay Plaintiff the sum of $200 per month, from month to month, for rent, utilities, and other miscellaneous expenses. Defendant failed to pay the agreed upon $200 from November, 2014 – February, 2015.

Exhibit 1

Plaintiff owned and possessed the following personal property:

1. Ray ban sunglasses;
2. Silver cross and chain;
3. GO Bible and quilted case;
4. St. Jude Medal;
5. Personal pictures;
6. Andrea Bocelli concert tickets;
7. Two ties;
8. Two shirts;
9. Sweat suit;
10. Brown jacket;
11. Nicoderm patches;
12. Various bottles of wine;
13. Picture frame;
14. Blue lunch bag; and
15. Blue thermos.

Defendant wrongfully exercised dominion or control over the property to the exclusion of and inconsistent with Plaintiff's rights. Plaintiff has demanded return of the property and Defendant has refused to return said property.

IV.
CAUSES OF ACTION AGAINST DEFENDANT

Plaintiff would show that at the time and on the occasion complained of, Defendant agreed to pay Plaintiff the sum of $200.00 per month for rent, utilities, and other miscellaneous expenses. Defendant has failed to pay Plaintiff for four months as described above.

Exhibit 1

Plaintiff would show that at the time and on the occasion complained of, Defendant converted Plaintiff's personal property for his own use and has failed to return said property despite demand.

Each of these acts and omissions, singularly or in combination with others, constituted failure to pay rent and conversion which proximately caused the occurrence made the basis of Plaintiff's action and Plaintiff's damages.

V.
DAMAGES

Plaintiff alleges that as a direct and proximate result of the conduct and/or acts and/or omissions of the Defendant listed above, Plaintiff is entitled to recover at least unpaid rents in the amount of $800.00 and damages for conversion of her personal property in an amount of at least $1,500.00.

VI.
VENUE

Venue is proper in Collin County, Texas as the events giving rise to this suit occurred in Collin County, Texas.

VII.
REQUEST FOR DISCLOSURES

Pursuant to TRCP 194, Defendant herein is requested to disclose, within 50 days of the service of this Petition and request, the information and/or material described in Rule 194.2(a) through (k).

VIII.
REQUEST FOR ADMISSIONS

Pursuant to Rule 198 of the Texas Rules of Civil Procedure, Plaintiff serves the following Request for Admissions to Defendant. Defendant is requested to respond fully, in writing, and in

accordance with Rule 198 of the Texas Rules of Civil Procedure. The admissions requested are to be responded to fifty (50) days after service of this request. The failure to answer within the prescribed period may result in the Admissions being deemed admitted by the aforementioned Court. If you fail to admit a matter upon which Plaintiff later has to prove at her expense, you may have to pay for the costs of such proof if you do not have good cause for admitting the request when such request was served.

ADMISSION NO. 1: Admit you agreed to pay Plaintiff $200.00 per month in rent.

XIII.
PRAYER

WHEREFORE, Plaintiff prays that Defendant be cited to appear and answer, and that on final trial, the Court render judgment in favor of Plaintiff, consisting of:

a. Damages, actual, special, and otherwise;

b. Punitive and/or exemplary damages;

c. Costs of court;

d. Both pre-judgment and post-judgment interest at the maximum legal rate;

e. For such other and further relief both general and special, at law and in equity, to which Plaintiff may be justly entitled.

Dr. Armstrong (ER) (972) 547-8000 – Cancer & Diverticulis 8/13/13 – 8:30 PM

Dr. Siddique - Internal Medicine – (972) 562-1018 (Cancer- No testing) 8/15/13 6:00 PM- Twice & wanted to know what Dr. Ravi stated. Would make Dad comfortable.

Dr. Ravi – GI & Colon Specialist (972) 562-8383 (Cancer & Diverticulis – No testing) 8/15/13 – 11:00 AM. Claimed to just make Dad comfortable & send him back to Wysong for discharge to a nursing home for skilled nursing care.

Josell RN, Case managers Michelle & Brittney & complained to Hospital Administration.

August 22, 2013 to August 28, 2013

Wysong – Medical Center of McKinney "Psychiatric Services"

Chrisla – Wysong Hospital Administrator – Staff meeting about August 23, 2013.

Nancy Jensen – Case Manager on 5th Floor – Staff meeting about August 23, 2013 August 26, 2013& I am informed by Jenson 24 hours to get nursing home transfer or sent to state facility. Telephone 972) 548-5413

Dr. Carson- Psychiatrist – Staff meeting about August 16, 2013 claimed danger to self & me, then on August 19, 2013 Monday claimed Dad is OK for release, stable & discharge with access to telephone & told him to call me against certified letter & my verbal restrictions of no calls to harass & threaten me.

Certified Wysong Demand #7012 0470 0000 6638 2804 stop harassing telephone calls.

August 28, 2013 to Sept. 23, 2013 at 4:30 PM

Doctors Healthcare And Rehabilitation
9009 White Rock Trail
Dallas, TX. 75238-3347
Telephone (214) 355-3300 & Lighthouse Nurses Station – (214) 355-3344

Certified Letter # 7012 0470 0000 6638 2941 (Sept 7, 2013 about no or little care)

After Death * Certified # 7012 0470 0000 6638 2965 (Oct. 10, 2013) - Demand Letter

Complaint Letters mailed & faxed to corporation – Diversicare & Nursing Home

Certified Letter # 7012 0470 0000 6638 2941 Sept 9, 2013 & signed Sept 10, 2013

After Death*Oct. 10, 2013 - Demand Letter & Questions answered within 10 days.

Exhibit A-1

Pat / Patricia floor RN claimed she saw Dad on 9/23/13 & he was fine on that Monday before going to hospital & discharged. (Wanted out before he died.)

Sharon at Nurses Station 9/20/13 Tape recordings of nurses & especially on 9/22/2013 when they refused Dad hospitalization & refused my demands he be sent to hospital.

Doctors' Health care & Rehab either would not answer phones or it could ring more than 20-30 times.

Dr. Campbell Psychiatrist – Never heard from Dr. Campbell after multiple requests to call me. Will not give his first name & no contact at all from Aug 28, 2013 to Sept 23!

Campbell First conversation Oct. 14, 2013 & did not know Dad died as claiming visit Oct. 15, 2013.) Claimed no medical records, did not know prior history, claimed mild dementia, funny & nice man with it & aware, not like other dementia patients. (Knows Dr. Doyle Carson, but never talked to him about Dad & his medical care, etc.

Research found on Dr. Andrew Campbell :
400 S. Zang Blvd.,
Dallas, TX. 75208,
Telephone # (214) 941-8020

Spoke to Dr. Andrew Campbell on Oct 14, 2013 who did not know my Dad had died & talked about him in the presence.

Dr. Campbell claimed he would check on Dad on Oct. 15, 2013 & his records & call me back.

Dr. Campbell claimed placing a person in a wheel chair & forced to stay there drugged all day is against the law & the state would be all over that.

Dr. Campbell claimed Dad had mild dementia, some calm, some ragging, but knew he had no prior history of mental treatment, which is what he thought after meeting Dad.

No medical records from Wysong & Dr. Carson (prior psychiatrist), so did not know what medications he was on prior to Doctors' Healthcare & Rehab, claimed Dad pleasant & funny at times, was with it & was not like other dementia patients.

He saw Dad once or twice or may look at chart & would be called if any events, did not know Dad's prior or current medications, on tape recording for event, my diary & history by Dr. Campbell.

Evidently death, abuses, cuts, bruises, torture, deprived food, water, ragging, can't hold telephone, no speech, screaming, edema & death is not an event to call Dr. Campbell & no need to consult Dr. Carson or me about his prior medical history.

Ms. Mikens claimed denied medical care & hospitalization was wrong & would speak to Doctors' acting Administrator Tony on Sept. 23, 2013 at 9:30 AM immediately.

They made Dad suffer until hospitalization at 4:30 PM at Presbyterian on Sept 23, 2013 when should have been hospitalized days before due to his medical conditions.

Kelly Furgeson as case manager refused to transfer Dad's medical records with my signed requests on Sept 20, 2013, left me a voice mail message, I called immediately & got her voice message with strong demand to transfer all Dad's medical records to these three named nursing homes immediately about 12:30 PM.

Acting Administrator at Doctors Healthcare - Tony Ojejide up to Sept 30, 2013.

CFO at Corporation Diversicare – Ms. Bodi claimed she would talk to Tony about investigating my complaints about the treatment of my Dad, but no responses.

Sept 23, 2013 to Sept 24, 2013 (Tuesday Dad Died)

Presbyterian Hospital of Dallas
8200 Walnut Hill Lane
Dallas, TX. 75231
Telephone (214) 345-6789

Mimi Reyes RN – Hospice (Contact was Scott on Sept 24, 2013 after Dad's death)
(214) 345-8774

Dr. Bruce Wall (Kidney) Recommended to make Dad comfortable as in bad condition.
13154 Coit Road, Suite # 100
Dallas, TX. 75240-5787
1-877-654-3639- (214) 579-6989 or (214) 502-2692 – Met Sept 24, 2013 about 9:30 AM

Dr. Anthony Ortegon (Pulmonary - ER)
8220 Walnut Hill Lane # 408
Dallas, TX. 75231
Telephone # (214)361-9777 – Met Sept 24, 2013 about 9:30 AM & wants to make Dad comfortable as his treatment & to many medical conditions to extend his life.

Spoke to Mistyrie ER Nurse Presbyterian Hospital of Dallas Sept 23, 2013 6:00 PM

Informed of Dad as following: (On tape recordings for my diary & history.)

Bed Sores,
Nasty Dirty Conditions
Bearded, Hairs growing out of nose.
Red Bleeding Penis
Swelling & Infection / Toxic / Septic

Exhibit A-1

Could not walk, sit or stand, very weak
Bladder ready to burst & should have been in hospital much sooner.
Dehydrated
Malnutrition
Cut his T shirt off him & in a diaper
Very Sick & Terrible Condition
Very Dirty & Transferred to ICU

- **October 3, 2013 Pat / Patricia supervisor at Doctors informed me that the food I sent to my Dad on Sept 1, 2013 and Sept. 18, 2013 was taken away & thrown out. Appoximately $75.00 of meat, cheese, nuts, fruit, juices, cookies, candy, juice, etc. (Dad Dehydrated & Malnutrition Conditions.)**

Lendale Fortenberry- Adult Protective Services
901 N. McDonald Suite # 800
McKinney, TX. 75069
Telephone (972) 569-1998
Cell (214) 364-2685

Hot Line for Reporting (Dad for protection.) 1-800-252-5400 on date of my intake.

Sept 21, 2013 Lendale informed me another person was assigned to my Dad for his protection...a lady, but could not tell me her name due to privacy. Would be contacted, but never was.

Complained about it that no one was protecting Dad. Lendale asked who owned my home & I responded I did as deed shows this for years. (Not his business.)

Lendale manager called & left messages while out of state to bury Dad & on or about Oct 2, 2013 claimed she was closing this case without any investigation.

Hopes Door Therapy for Upset & Fears from Sept. 10, 2013 to present.
Plano, TX. (Tuesdays at 1:00 PM each week)

Dr. John Duncan - Cardiologist for Dad Dec. 3, 2009 - 6 stents — Heart Place
1640 Coit Road, Plano, TX 75075, Telephone # (972) 985-8838 Fax (972) 596-1724

Agencies Called With Complaints Prior To Dad's Death

Aged Health
1-888-337-6377

North Central Agency of Aging
1-800-272-3921

Exhibit A-1

Texas Health & Human Services
1-800-436-6184

HHSC Headquarters
512-424-6500

Senior Living – 1-866-614-6716

Insurance Plan Complaint – 1-800-950-9355

Office of Inspector General – Fraud & Abuses – 1-800- 447-8477

Texas – Frauds – 1-800-436-6184

North Texas Assistance Center (972) 422-1850 & 1-800-272-3921

Optim Behavior Health – Complaint 1-800-524-4574 Tracking # 201308225552 - Steve

Ombudsman (Susana & Ms. Mckens or Ms. Mickens) (214)-823-5700 – (214)-394-5022 -1-888-388-6332 or 512-438-4313 or 1-800-548-1877 **The Senior Source**

Explanation of Benefits from United Healthcare / Well Med Medicare. Still some not received as of October 7, 2013. Called 9/13/2013 & 9/20/2013. Claimed would evaluate Dad's false stable medical condition on Sept 17, 2013 & call me back, but never did. FDiled complaints & received a letter on Oct. 10, 2013 claiming my complaint was not filed timely within 60 days since July 28, 2013.

United Healthcare Claimed Case #(s) MBR-67087 with response within 30 days from received grievance.
Telephone – 1-952-202-1459, Fax: 1-888-517-7113
Address : United Healthcare
P.O. Box 6106
Mailstop CA 124-0157
Cypress, CA 90630-9948

Pharmacy Bills Senior Care Pharmacy Amount as of 10/7/13 - $ 69.53 (unknown)
3001 Summit Ave. Suite 200
Plano, TX. 75074-7225 Telephone (469) 277-1511 Accounting & Pharmacist

Medicines ordered by Dr. Perijoc 16 days after Dad entered the nursing home per Senior Care Pharmacy & ordered medications under Dad's name on Sept. 23, 2013.

Medicines ordered day he was transferred to Presbyterian Hospital Dallas in his name. Double Laskic's caused Dad's renal failure as Dr. Perijoc claimed on Sept 19, 2013 & as recorded for my diary of events & accurate history.

Exhibit A-1

On Sept. 19, 2013 Dr. Perijoc informed me she was treating my Dad all wrong medically & did not know about his medical conditions & continued to treat him wrong with medicines even after receiving names & phone numbers of all his prior physicians to consult with.

Dr. Perijoc informed me that she had not spoken to Dr. Campbell, Dad's Physiatrist about Dad's Dementia & she does not treat dementia when in fact she was ordering dementia medications for my Dad, per Senior Care Pharmacy & as billed & received through mail.

Nursing Home Interviews & Previews

4 pages (49 per page & called most except Arlington & Fort Worth) – Dr. Shore's Office

Baybrook – Denied
8300 El Dorado Pkwy
McKinney, TX. 75070
(972) 899-4234

Signature Point on the Lake – Denied 8/23/13 – per Heather
14655 Preston Road
Dallas, TX.
Telephone (972) 726-7575

Orchard Park – Need for Hoyer Lift – Denied
3392 Medical Center Dr. – Eileen Rians/ Linda Craun Exective Director – Manager
McKinney, TX. 75069
(972) 351-8888 & Cell (972) 809-0308

North Park – McKinney – Diana Brenes Vacation - Partner Holly 9/22/13 (10:00 AM)
1720 N. McDonald Street
McKinney, TX.
(972) 542-2367 (972) 562-7969

Rockwall N.H. - Iris
206 Storrs
Rockwall, TX. (972) 771-5000

Highland Springs / Fountain View – Molly Mann –Interview Sept 22, 2013 – 12:00 PM
7910 Frankford Road
Dallas, TX. 75252
(972) 656-3434 Fax (972) 885-4923

Avalon - Matthew Grider (Director) – Denied as only private pay
1625 N. Stemmons Frwy Jo Tipton Arranged tour & meeting – (972) 880-9280
Dallas, TX. 75207
(214) 752-7050 or (469) 774-3144 Matt

10.

Exhibit A-1

n) Would not answer telephone calls & would ring 20 to 30 times;

o) Medications were ordered in Dad's name after transfer to hospital;

p) No appropriate medications or increased dosage to cause kidney failure;

q) Did not know Dad died & demanded his will on Oct. 3, 2013;

r) Called police to escort into nursing home & had to wait hours then police objected to escort, but then stood there;

s) Contacted Dallas Police several times 5 times over various days with no response on abuses & death of my Dad & even called police chief too;

t) Spoke to Dr. Campbell (Psychiatrist at Doctor's Healthcare) claimed Dad was a nice guy on October 14, 2013 & was going to see him in a few days, did not know he died & when asked about condition knew nothing as was never treating Dad as misrepresented & could not tell me his meds; (tapped twice) After knowledge of death of Dad, doctor rants & is nasty;

u) Sept. 19, 2013 speaking to Dr. Perijoc & told to get doctor's names & telephone numbers as never received his medical records, but when given within 30 minutes they were refused by her office & Doctor's Healthcare nursing home; (No consultations for Dad's care.)

v) Doctor Perijoc is not psychiatrist yet prescribing medication, no testing & lack of medical care caused additional complications, pain & suffering for my Dad while in this nursing home with no skilled care;

w) Dad can't walk, has swollen legs and ankles, testing done on 2 days & no results given to me as power of attorney, guardian, next of kin;

x) Spoke to Ombudsman Ms. Mickens about abuses & she claimed would speak to administrator but nothing was done as they held Dad against my will & his will for medical care at Presbyterian Hospital of Dallas until late on Sept. 23, 2013, when he died within hours the next day;

y) On or about Sept. 9, 2013 Adult Protective Services are called for myself & Dad, they did nothing, & wanted to know who owned my house; (Lendale Fortenberry & his manager;

z) Dad..... for federal government is called & they do nothing about abuses of Dad & claim investigation with no issues on or about January, 2014 after death;

aa) On or about Sept. 9th, 2013 Doctor's Nursing Home called me to inform me they would dump my Dad on my front porch; (Police Report made in McKinney

bb) Dad is wrapped in rubber mat with just a dirty t-shirt (cut off) & diaper, kept his personal item (dentures & never returned to me.)

cc) I observed bump on head, skull, bruised eye, glaze over eye, unable to speak, swollen legs, no urine output, cut on nose, dried blood under nose & mustache; (Multiple Pictures)

31) I speak to AARP United Healthcare & Wellness about Dad from August until September 17, 2013 & told they would pay for Dad's care then drop Dad's care all while falsely claiming Dad is stable; (Then never called me back to update status & no insurance, denied medical care, & moved when not appropriate causing risk to his life .); (Max Boyd representative & his managers Amanda & Ty Sanchez.)

32) Presbyterian Hospital of Dallas was giving Dad Tylenol for pain & withheld the Morphine until 10:30 AM on Sept. 24, 2013 hours before his death at 2:38 PM;

33) ER Nurse Mistyrie claims Dad's true medical condition (Taped) then later tries to change some of the details as cover up when tapped a second time;

34) Dad is bleeding around penis, bed sores, nasty dirty conditions, beard & hair growing out of nose, swelling, infection, toxic, septic, could not walk, sit or stand, very weak, Dehydrated, malnutrition, very sick, terrible condition. Very dirty & transferred to ICU;

35) Dr. Ortegon & Dr. Wall claim Dad has cancer with no proof & too many medical problems & should not try to keep him alive;

36) Requested answers to my question from each person & went unanswered, refused & or denied, so called for all medical records & found out falsities & diagnoses never told to me to make any informed decisions as power of attorney, fiduciary, guardian & POA;

This is reckless, illegal acts, violations of laws & Constitutional Rights, personal endangerment, loss of life, pain & suffering, cover up, conspiracy, threats, retaliation, assaults, battery, abandoned, use of medications causing harms to organs, negligence, medical malpractice, holding against will, prevention of needed medical care, multiple frauds, misrepresentations, negligent misrepresentations, misconduct, breaches, personal injury, abuses, beating into compliance, intentional acts, elder abuse, drugging, losses, dereliction of duty, & causing my Dad's death by extreme circumstances, breach of fiduciary duty, denied quality of life, infliction of emotional distress, pain & suffering, etc. by all named participants from July 28, 2013 to Sept. 24, 2013 in death of Anthony J. Balistreri & against efforts of Darlene C. Balistreri as Court Appointed Legal Guardian, Power of Attorney, Representative of Advanced Medical Directives & as Next of Kin.

Filing reviewed on 5/13/2016 by Ashley Gidney

AFFIDAVIT OF SERVICE

CAUSE NO: 01-SC-16-00165

DARLENE AMRHEIN	**IN THE JUSTICE COURT**
VS	**PRECINCT 1**
DAVID SCHROEDER	**COLLIN COUNTY, TEXAS**

Documents: **CITATION; PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCOVERY**

Received on: 5-5-16 at 12:00 A.M. / P.M. the above documents to be delivered to:

DAVID SCHROEDER
2001 BRYAN STREET SUITE 150, DALLAS, TEXAS 75201

I, Ann Wilson, the undersigned, being duly sworn, depose and say, that I am duly authorized to make delivery of the document(s) listed herein in the above styled case. I am over the age of 18, and am not a party to or otherwise interested in this matter. Delivery of said documents were attempted in the following manner:

By delivering to: DAVID SCHROEDER

(Title / Relationship): DEFendant

Address of Service: 3609 Shire Blvd Richardson TX 75082

Date of Service: 5/9/16 **Time of Service:** 6:15 pm

Type of Service:

☒ **PERSONAL SERVICE:** Individually and personally to the above named recipient.

☐ **NOT FOUND / NOT DELIVERED:** for the following reason:

"I declare under penalties of perjury that the information contained herein is true and correct"

Signature PS#: 343
Exp: 10/31/17

Subscribed and sworn to before me, a notary public on 5-16, 2016

Notary Public in and of the State of Texas

MARCUS PARKER
MY COMMISSION EXPIRES
December 8, 2018

© Copyright 2010-2015 Calendar Court, Inc.

Exhibit 2

Filing reviewed on 5/13/2016 by Ashley Gidney

Cause No. 01-SC-16-00165

DARLENE AMRHEIN	§	**IN THE JUSTICE COURT**
VS.	§	**PRECINCT 1**
DAVID SCHROEDER	§	**COLLIN COUNTY, TEXAS**
2001 BRYAN STREET SUITE 150		
DALLAS TX 75201		

THE STATE OF TEXAS TO **DAVID SCHROEDER**, DEFENDANT, in the hereinafter-styled and numbered cause:

You have been sued. You may employ an attorney to help you in defending against this lawsuit. But you are not required to employ an attorney. You or your attorney must file an answer with the court. Your answer is due by the end of the 14th day after the day you were served with these papers. If the 14th day is a Saturday, Sunday, or legal holiday, your answer is due by the end of the first day following the 14th day that is not a Saturday, Sunday, or legal holiday. Do not ignore these papers. If you do not file an answer by the due date, a default judgment may be taken against you. For further information, consult Part V of the Texas Rules of Civil Procedure, which is available online and also at the court listed on this citation.

This citation is issued pursuant to a petition filed by the above-named plaintiff on April 25, 2016.

Your answer may be filed with this court, located at 2300 Bloomdale Rd., Suite 1164 McKinney Texas 75071.

Signed: 4/29/2016 03:07 PM

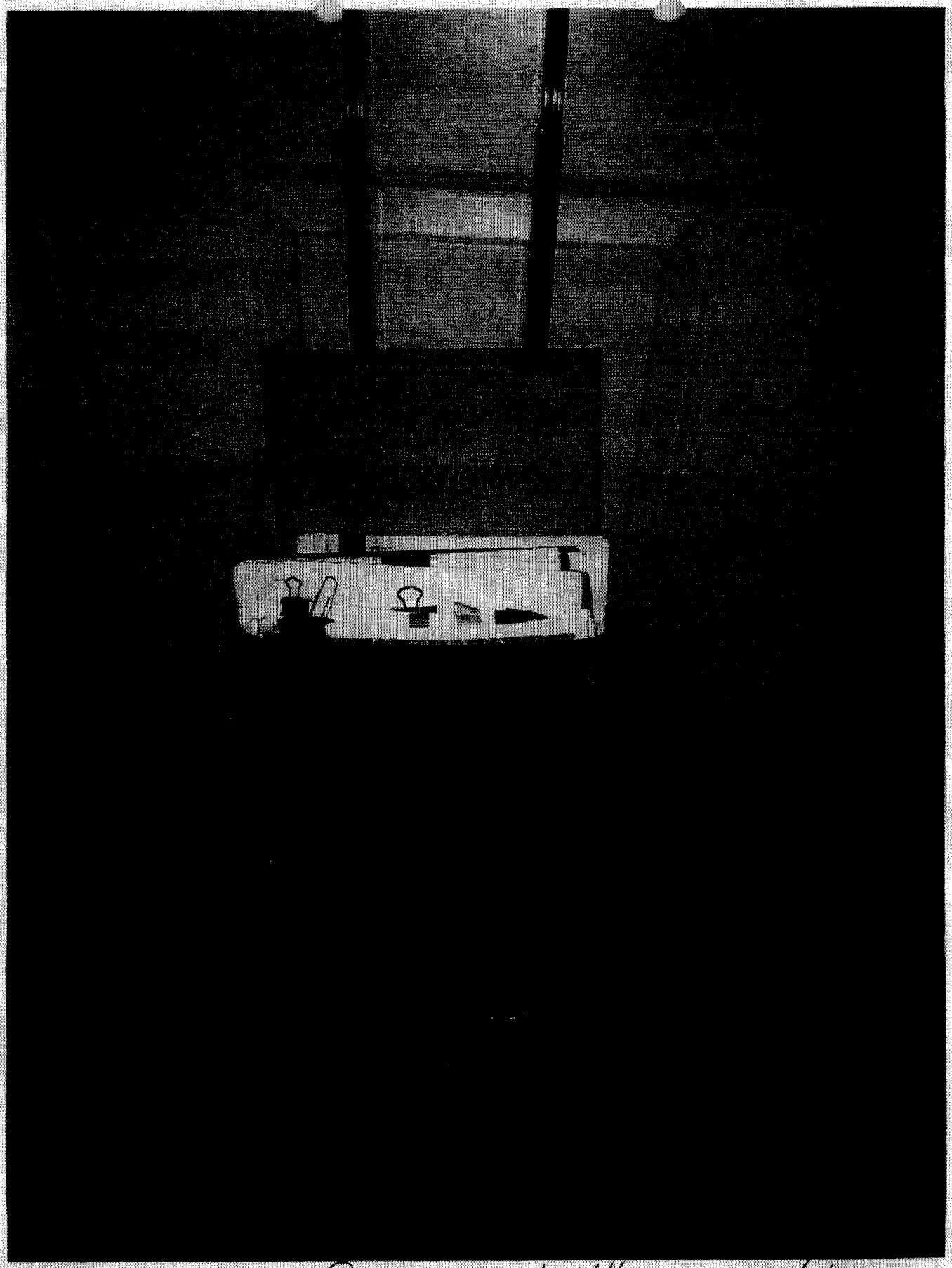
ISSUED this the 29th day of April, 2016.

Judge Paul M. Raleeh
Justice of the Peace,
Precinct 1
Collin County, Texas

Signed: 4/29/2016 03:07 PM

JUSTICE COURT PRECINCT 1 COLLIN COUNTY, TEXAS

Exhibit 2



Records Delivered to Attorneys Exhibit 2

Records Delivered to Attorney. Exhibit #2

Just Mugshots

SEARCH

Home / Texas / Dallas / May 7, 2010 / David Schroeder

0

Remove Your Online Information

Arrest Report

Name:	David Schroeder
Detention Date:	May 7th, 2010
Location:	Dallas, TX
Age:	62
Charges:	driving while intoxicated
Previous Arrests:	View Criminal History »

(888) 823-5241
Call Now
Remove Your Online Information

David Schroeder's Criminal History

Does David Have a Criminal Record?

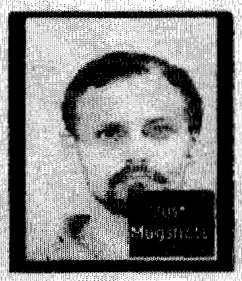
Name	State	Full Report
David Schroeder	TX	

Click Here To Search Someone Else

Advertisement

Exhibit 3

Other Booking Events Near Dallas, TX



ONR-P0008864-060116

REQUEST FOR PUBLIC RECORDS

MAY 31 2016 RCVD

☑ COMPLETED

CONTACT: Records & Information Coordinator, 972-547-2793

FORM SUBMISSION:

- Complete the form then save it to your computer.
- For faxing or mailing, print the completed form from your computer.
  - **E-MAIL:** orr@mckinneytexas.org
  - **FAX:** (972) 547-2792
  - **MAIL:** McKinney Police Department
    2200 Taylor Burk Drive
    McKinney, TX 75071

Date: May 31, 2016

Name: Darlene Balistreri-Amsheir

Address: 112 Winsley Circle

City: MC Kinney **State:** TX **Zip Code:** 75071

Phone: 972-547-0448 **E-mail address:** dbalistreri@tx.rr.com

Information requested under the Texas Open Records Act, Texas Government Code, Chapter 552. Please be specific or clarification will be required.

Case #: _____ **and/or Call For Service #:** _____

1. December 25, 2014 - call report on David Allen Schroeder (112 Winsley Circle)
2. ? October 15 or 16, 2015 - In person complaint about 7PM about 112 Winsley Circle, David Allen Schroeder
3. ? Oct 16 form filled out for surveillance of home at 112 Winsley Circle McKinney Fear of David Allen Schroeder (online McPolice form)

verified

Copies will be $.10 for each page up to 50 pages. For 50 or more pages, the charge shall be $.10 for each page plus personnel time. (Standard size copies, nonstandard size copies are more) (Per Texas Administrative Code; General Services Commission, Chapter 111, Subchapter C, Rule §111.63)

- Active records must exist; no compiling or creation will be made.
- Information requiring extensive research will be charged $15.00 per hour.
- Do you wish to be notified of the estimated time for research? Yes ☒ No ☐
- Are you willing to pay for the necessary time to research this request? Yes ☐ No ☐; if no, please explain: Don't know. Depends on time + amount of payment

The McKinney Police Department will strive to furnish all information that is approved within ten (10) working days depending upon the workload of employees and complexity of items requested.

For Office Use:

Approved by: _____ **Date:** _____

Date available for review or pickup _____ **Notified** _____ **AGO Request** _____

Copies picked up by: _____ **on** _____ **Cost: $** _____

Exhibit 4

BUSINESS RECORDS AFFIDAVIT

THE STATE OF TEXAS
COUNTY OF Collin

I, Gilbert D. Holguin, Custodian of Records for
(Custodian of Records Printed Name)
Hope's Door, 860 Ave F. Ste. 100, Plano, Tx, 75074
(Provider or Facility Printed Name) (Provider or Facility Printed Address)
Plano, Texas, do hereby certify that I am of sound mind,
(Provider or Facility Printed City)
capable of making this affidavit, and personally acquainted with the facts stated herein.

Attached hereto are 80 pages of records from the above listed provider or facility. The said pages were kept by the above listed provider or facility in the regular course of business, and it was the regular course of business for me and any employee or representative of the above listed provider or facility with knowledge of the act, event, condition, opinion, or diagnosis recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter.

The record attached hereto is the original or exact duplicate of the original and no other documents exist on the file for Darlene Amrhein,
(Printed Patient Name)
Medicaid recipient #: N/A for the time period N/A.
(PCN) (Admission and Discharge Date)

(Affiant's Signature)

SWORN TO AND SUBSCRIBED before me on this the 21 day of June, 2016.

CHRISTINA MIRANDA
Notary Public, State of Texas
My Commission Expires
November 24, 2018

SEAL

Christina Miranda
(Notary Public, State of Texas)

Christina Miranda
(Notary's printed name)

My commission expires: November 24, 2016

Exhibit 5

ATTACHED ITEMIZED LIST OF DAMAGES & LOSSES

Relief With Itemized List for David Schroeder Owed Bills, Damages, Actual Damages, Treble & Punitive Damages, Civil Penalties Under Available Laws:

Rent.....$1,000.00

Certified Mail.....$ 90.00

Wine Bill.....$600.00

Utilities x 5 Water, Electric, Gas, Heat $1,150.00

Cash.....$ 200.00

His Concert Ticket.....$100.00

Shower Repairs & Floor Damage.....$ 400.00

*Burned Rug.....$ 95.00

Meal Tickets.....$60.00

Movie Ticket & Dinner.....$42.00

Sofa Table & Furniture Damages.....$200.00

Sun Glasses $140.00

Parking & Wine $40.00

Silver Cross & Chain.....$60.00

Go Bible & Case.....$60.00

Picture Frame.....$10.00

Pictures.....$500.00

Sweat Suit.....$30.00

Blue Lunch Bag.....$ 20.00

Blue Thermos.....$ 25.00

Grandchildren Christmas.....$ 100.00

3 Shirts.....$120.00

3 Ties.....$90.00

Exhibit 6

St Jude Medal.....$40.00

Nicoderm Returned.....$ 28.00

Damaged Winter Jacket.....$28.00

Extra Security Locks.....$95.00

Emotional Distress.....Jury Decision On Amount.....$ 2,000.00

Fear.....Jury Decision On Amount.....$5,000.00

Counseling & Medical Treatments, Medications.....$2,000.00

Time for Lawsuit & Supplies.....$300.00

Damage to Front of House & Garage Door.....$100.00

Damages to Reputation.....$1,000.00

Damage to Credit.....$1,000.00

Tax Penalties.....$ 72.00

Loss of Time.....$ 2,000.00

Specialty Requested Foods.....$38.00

Wi fi.....$75.00

Gasoline.....$100.00

Certified Court Records.....$25.00

Future Medical Bills.....Jury Decision On Amount...unknown as incomplete

Private Investigator Stanul.....$1,175.00

Interest on Owed Money for 30 Months at 4% rate - Theft Conversion, etc. until paid in full / settlement by David A. Schroeder, plus Court Costs, Attorney Fees & any other relief to which Plaintiff is entitled as a senior citizen over 65 years;

Total – $ 13,208.00 + 7000.00 (Jury Decisions) = **$ 20,208.00**

Plaintiff does not speculate on Jury Decisions because it could be more or less based on presented evidence/ testimony in lawsuit, but before Court at **$20,208.00.**

Exhibit b

Darlene Amrhein
Female DOB: 07/18/1946 60003 Ins: United Healthcare Medicare Solutions Grp
99951

08/08/2017 - Internal Other: Doctor's Medical Report and Work Status Form
Provider: Stephen H Hochschuler MD
Location of Care: Texas Back Institute - Plano

Texas Back Institute®

Doctor's Medical Report and Work Status Form

Name: Darlene Amrhein
Patient will report to Dr. Hochschuler for further treatment.

ADDITIONAL COMMENTS: Patient under the care of Dr. Hochschuler

SIGNED: Stephen H Hochschuler MD DATE: 08/08/2017

Electronically signed by Tonya Edwards MA on 08/08/2017 at 11:16 AM

Exhibit 7

HeartPlace®
Plano Dallas Cardiology

January 30, 2017

RE: DARLENE AMRHEIN (07/18/1946) MRN: 263045

To Whom so ever concerned:

This letter is to certify that Mrs. Amrhein is under my care and has lifestyle limiting symptoms with bilateral lower extremity venous insufficiency which hampers her day-to-day normal activities. She is currently in the process of getting venous ablation given failure of conservative therapy and will have total of 4 procedures over the next several weeks.

She has had prolonged recovery with the first procedure and expected the same with other procedures. Kindly call me at 972-985-8838 with any questions.

Sincerely,

B.G. Reddy

Electronically Authenticated by: Gautam B Reddy MD

3801 W 15th Street Ste 320 Plano, TX 75075-7767 Phone: (972)985-8838 Fax: (972)596-1724

Exhibit 7

FAXED 2-1-17 568 80

Grout Tile
Bathroom

Grout Tile
Bathroom

Exhibit #8

395515

Statement

DATE 10-5-16. TERMS

DARLENE ARMHEIM.
112 Winsley CIR.
McKinney, TX 75076.

ACCOUNT WITH

WORK TO BE COMPLETED 12-16-16

	BATHROOM FLOOR Clean COLOR + Color Sealant.	100	00		
	HAYSTACK.				

Paid

grout WORKS of Dallas
(972) 841-3495

5720

CURRENT	OVER 30 DAYS	OVER 60 DAYS	TOTAL AMOUNT	$100	00

395514

Statement

DATE 10-5-16 TERMS

TO DARLENE ARMHEIM.
112 Winsley CIR.
McKinney, TX 75071.

IN ACCOUNT WITH

ICA	SHOWER, New Grout, caulking color sealant.	350	00		
	HAYstack				

CURRENT	OVER 30 DAYS	OVER 60 DAYS	TOTAL AMOUNT	$350	00

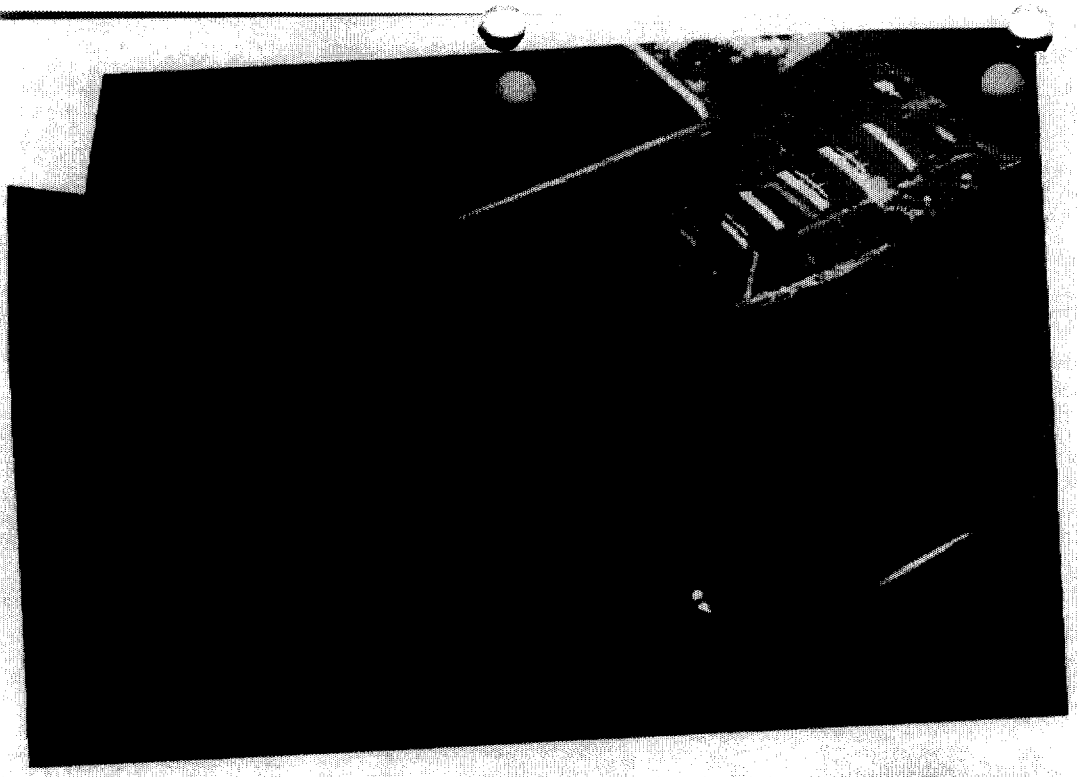


Exhibit 29

Exhibit 10

JUSTICE COURT
PRECINCT 1
COLLIN COUNTY, TEXAS

PLAINTIFF	**DEFENDANT**
Darlene Amrhein	David Schroeder
112 Winsley CIR	PO Box 803093
McKinney, TX 75071	Dallas TX 75380
Plaintiff Attorney:	***Defendant Attorney:***

01-SC-16-00165

TRIAL BY JURY

In accordance with the Texas Rules of Civil Procedure, you are hereby notified to appear before the Justice Court, Precinct 1, at **1:00 PM on the 13th day of October, 2017** for a trial on the above cause filed in this Court.

This trial will be held in the Courtroom at:
2300 Bloomdale Rd, Suite #1148 McKinney, TX 75071

Most Pre-Trial motions will be heard the day of trial. If the motion is denied, please be prepared to move directly in trial.

This court appearance is a serious matter and appropriate attire is demanded. Business casual is accepted.

If you have further questions, please contact the Court Clerk at the number listed below.

Witness my official signature this 1ST DAY OF AUGUST, 2017.

JoAnn Harrison
Civil Clerk
972-548-4126

Exhibit 11

Cause 01-SC-16-00165

Ex Parte Order	§	**IN THE JUSTICE COURT**
	§	
Darlene Amrhein	§	**PRECINCT 1**
Vs.	§	
David Schroeder	§	**COLLIN COUNTY, TEXAS**

ORDER DENYING CAUSE OF ACTION

IN THIS COURTS dismissal order dated October 16th 2017, ex parte sanctions were imposed on the Plaintiff, Darlene Amrhein in which she was to seek approval by the Court before filing further actions against Defendant, David Schroeder.

Pro se plaintiff filed a request to re-plea her cause of action and asked the court to allow her to do so.

After reviewing the pleadings plaintiff is asking for an award in an amount beyond the jurisdictional limits of the Court [$13,208.00]. The Court of Criminal Appeals in El Paso Texas 2004 was clear when it wrote, "Lack of subject matter jurisdiction arrest a cause at any stage of the proceedings; therefore, if it becomes apparent at any point during the proceedings that the trial court lacked jurisdiction, the cause must be dismissed". Manuel Garza, Sun City Cab Vs. Hugo Chavarria. Further, it is not appropriate to reduce actual damages so is would fit into the Courts jurisdictional limits.

Plaintiff's motion is hereby **DENIED**.

SIGNED this the 18th day of October, 2017.

P.M. RALEEH
JUDGE PRESIDING

Exhibit 12

COLLIN COUNTY

Stacey Kemp, County Clerk
2100 Bloomdale Road, Suite 12165
McKinney, Texas 75071
972-548-6423
www.collincountytx.gov

October 27, 2017

David Schroeder
P. O. Box 803093
Dallas, TX 75380

New Case Number with County Court at Law: 002-02663-2017
Old Case Number with Justice of the Peace: 01-SC-16-00165

DARLENE AMRHEIN VS.DAVID SCHROEDER

Dear David Schroeder,

The above referenced case has been appealed from the Small Claims or Justice Courts and has been filed in the County Court at Law 2 on October 27, 2017. Please make note of the new case number and refer to this on any new filings.

Also, be advised that in accordance with Rule 751 of the Texas Rules of Court, it is necessary for the defendant to file a written answer to the court if he/she did not in the Justice Court. This answer must be filed within eight days from the date the transcript was filed. Failure to do this could result in a default judgment.

Please call if we can be of any further assistance.

Sincerely,

Signed: 10/27/2017 10:48:03 AM

Martha Melgar, Deputy Clerk for County Court at Law

COUNTY COURT AT LAW #2 COLLIN COUNTY, TEXAS

CC: Darlene Amrhein
112 Winsley Circle
McKinney, TX 75071

CC: Justice Of The Peace, Pct. 1
Attn: Civil Clerk
2300 Bloomdale Rd., Suite 1164
McKinney, TX 75071

Exhibit
13

CAUSE NO. 002-02663-2017

DARLENE AMRHEIN,	§	IN THE COUNTY COURT
	§	
PLAINTIFF,	§	
	§	
VS.	§	AT LAW NUMBER TWO
	§	
DAVID SCHROEDER,	§	
	§	
DEFENDANT.	§	COLLIN COUNTY, TEXAS

ORDER OF DISMISSAL

BE IT REMEMBERED that on the 14th day of December, 2017 came to be considered Defendant's Plea to the Jurisdiction. After hearing arguments of the parties, and reviewing the documents filed in this cause, the Court finds that the Defendant's Plea should be GRANTED.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Plaintiff's case is dismissed for want of jurisdiction. Costs taxed to Plaintiff.

SIGNED this 14th day of December, 2017.

Barrett Walker

JUDGE PRESIDING

GRANTED

PENAL CODE CHAPTER 31 - THEFT

§ 31.01. DEFINITIONS. In this chapter:

(1) "**Deception**" means:

(A) creating or confirming by words or conduct a false impression of law or fact that is likely to affect the judgment of another in the transaction, and that the actor does not believe to be true;

(B) failing to correct a false impression of law or fact that is likely to affect the judgment of another in the transaction, that the actor previously created or confirmed by words or conduct, and the actor does not now believe to be true;

(C) preventing another from acquiring information likely to affect his / her judgment in transaction;

(D) selling or otherwise transferring or encumbering property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, whether the lien, security interest, claim, or impediment is or is not valid, or is or is not a matter of official record; or

(E) promising performance that is likely to affect the judgment of another in the transaction and that the actor does not intend to perform or knows will not be performed, except that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

(2) "**Deprive**" means:

(A) to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner;

(B) to restore property only upon payment of reward or other compensation; or

(C) to dispose of property in a manner that makes recovery of property by owner unlikely.

(3) "**Effective consent**" includes consent by a person legally authorized to act for the owner. Consent is not effective if:
(A) induced by deception or coercion;

(B) given by a person the actor knows is not legally authorized to act for the owner;

Exhibit 15

(C) given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable property dispositions;

(D) given solely to detect the commission of an offense; or

(E) given by a person who by reason of advanced age is known by the actor to have a diminished capacity to make informed and rational decisions about the reasonable disposition of property.

(4) "**Appropriate**" means:

(A) to bring about a transfer or purported transfer of title to or other nonpossessory interest in property, whether to the actor or another; or

(B) to acquire or otherwise exercise control over property other than real property.

(5) "**Property**" means:

(A) real property;

(B) tangible or intangible personal property including anything severed from land; or

(C) a document, including money, that represents or embodies anything of value.

(6) "**Service**" includes:

(A) labor and professional service;

(B) telecommunication, public utility, or transportation service;

(C) lodging, restaurant service, and entertainment; and

(D) the supply of a motor vehicle or other property for use.

(7) "**Steal**" means to acquire property or service by theft;

(10) "**Elderly individual**" has meaning assigned by Section 22.04(c). Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 914, ch. 342, § 9, eff. Sept. 1, 1975; Acts 1985, 69th Leg., ch. 901, § 2, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 165, § 30.237, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 432, § 1, eff. Sept. 1, 2003.

Exhibit 15

§ 31.02. CONSOLIDATION OF THEFT OFFENSES. Theft as defined in Section 31.03 constitutes a single offense superseding the separate offenses previously known as theft, theft by false pretext, conversion by a bailee, theft from the person, shoplifting, acquisition of property by threat, swindling, swindling by worthless check,embezzlement, extortion, receiving or concealing embezzled property, and receiving or concealing stolen property. Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

§ 31.03. THEFT. (a) A person commits an offense if he unlawfully appropriates property with intent to deprive the owner of property.
(b) Appropriation of property is unlawful if:

(1) it is without the owner's effective consent;

(2) the property is stolen and the actor appropriates the property knowing it was stolen by another; or

(3) property in the custody of any law enforcement agency was explicitly represented by any law enforcement agent to the actor as being stolen and the actor appropriates the property believing it was stolen by another.

(c) For purposes of Subsection (b):

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by actor's plea of not guilty;

(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with the actor, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Chapter 501, Transportation Code) that the property has been previously stolen from another if the actor pays for or loans against the property $25 or more (or consideration of equivalent value) and the actor knowingly or recklessly:

§ 31.04. THEFT OF SERVICE:
(a) A person commits theft of service if, with intent to avoid payment for service that he knows is provided only for compensation:

Exhibit 15

(1) he intentionally or knowingly secures performance of the service by deception, threat, or false token;

(2) having control over the disposition of services of another to which he is not entitled, he intentionally or knowingly diverts the other's services to his own benefit or to the benefit of another not entitled to them;

(3) having control of personal property under a written rental agreement, he holds the property beyond the expiration of the rental period without the effective consent of the owner of the property, thereby depriving the owner of the property of its use in further rentals; or

(4) he intentionally or knowingly secures the performance of the service by agreeing to provide compensation and, after the service is rendered, fails to make payment after receiving notice demanding payment.

(b) For purposes of this section, intent to avoid payment is presumed if:

(1) the actor absconded without paying for the service or expressly refused to pay for the service in circumstances where payment is ordinarily made immediately upon rendering of the service, as in hotels, campgrounds, recreational vehicle parks, restaurants, and comparable establishments;

(2) the actor failed to make payment under a service agreement within 10 days after receiving notice demanding payment;

(3) the actor returns property held under a rental agreement after the expiration of the rental agreement and fails to pay the applicable rental charge for the property within 10 days after the date on which the actor received notice demanding payment; or

(4) the actor failed to return the property held under a rental agreement:

(A) within five days after receiving notice demanding return, if the property is valued at less than $1,500; or

(B) within three days after receiving notice demanding return, if the property is valued at $1,500 or more.

(c) For purposes of Subsections (a)(4), (b)(2), and (b)(4), notice shall be notice in

writing, sent by registered or certified mail with return receipt requested or by telegram with report of delivery requested, and addressed to the actor at his address shown on the rental agreement or service agreement.

Exhibit 15

(d) If written notice is given in accordance with Subsection

(c) it is presumed that the notice was received no later than five days after it was sent.

(e) An offense under this section is:

(1) a Class C misdemeanor if the value of the service stolen is less than $20;
(2) Class B misdemeanor if value of the service stolen is $20 or more but less than $500;

(3) a Class A misdemeanor if value of service stolen is $500 or more but less than $1,500;

(4) ** a state jail felony if value of service stolen is $1,500 or more but less than $20,000;

(5) felony of third degree if value of service stolen is $20,000 or more but less than $100,000;

(6) felony of the second degree if value of service stolen is $100,000 or more but less than $200,000; or

(7) a felony of the first degree if the value of the service stolen is $200,000 or more.

VII. FRAUDS

Fraud - In law, **fraud** is deliberate deception to secure unfair or unlawful gain, or to deprive a victim of a legal right. Fraud itself can be a civil wrong (i.e., a fraud victim may sue the fraud perpetrator to avoid the fraud or recover monetary compensation), a criminal wrong (i.e., a fraud perpetrator may be prosecuted and imprisoned by governmental authorities) or it may cause no loss of money, property or legal right but still be an element of another civil or criminal wrong. The purpose of fraud may be monetary gain or other benefits, such as obtaining a driver's license or qualifying for a mortgage by way of false statements.

A hoax is a distinct concept that involves deliberate deception without the intention of gain or of materially damaging or depriving a victim.

Civil Wrong - In common law jurisdictions, as a civil wrong, fraud is a tort. Requisite elements of fraud as a tort generally are the intentional misrepresentation or concealment

Exhibit 15

of an important fact upon which the victim is meant to rely, and in fact does rely, to the harm of the victim.

Proving fraud [each and every one of the elements of fraud must be proven, that the elements include proving the states of mind of the perpetrator and the victim.
The remedies for fraud may include rescission (i.e., reversal) of a fraudulently obtained agreement or transaction, the recovery of a monetary award to compensate for the harm caused, punitive damages to punish or deter the misconduct, and possibly others. Fraud may serve as a basis for a court to invoke its equitable jurisdiction.

Criminal Offence - In common law, criminal offence, fraud takes many different forms, some general (e.g., theft by false pretense) and some specific to particular categories of victims or misconduct. The elements of fraud requisite elements of perhaps most general form of criminal fraud, theft by false pretense, are the intentional deception of a victim by false representation or pretense with the intent of persuading victim to part with property and with victim parting with property in reliance on representation or pretense and with the perpetrator intending to keep the property from the victim;

VIII. NEGLIGENT MISREPRESENTATIONS

Negligent Misrepresentations –Evidence to false claims written, verbal or conduct.

IX. STANDARDS OF PROOF

Some evidence, reasonable indications, reasonable suspicion, reasonable to believe, Probable cause, credible evidence, substantial evidence, Preponderance of the evidence, balance of probabilities, clear and convincing evidence, more probable to be true, beyond reasonable doubt as Plaintiff will provide at jury trial.

Exhibit 15

LETTERS OF GUARDIANSHIP

Cause No. 001 5038-06

THE STATE OF TEXAS
COUNTY OF COLLIN

PROBATE COURT NO. 1
COLLIN COUNTY, TEXAS

IN THE MATTER OF THE GUARDIANSHIP OF
ANTHONY J BALISTRERI, INCAPACITATED PERSON

DARLENE C BALISTRERI-AMRHEIN *Guardian*	**PERSON ONLY** *Scope of Guardianship*	**MAY 27, 2009** *Effective Date of Letters*
APRIL 06, 2006 *Date Guardian Qualified*	**JUNE 06, 2010** *Annual Report Filing Deadline*	**AUGUST 06, 2010** *Date Letters Expire*

IT IS HEREBY CERTIFIED the above-named person was duly appointed permanent guardian of the person, **ANTHONY J BALISTRERI** an incapacitated person. Thereafter, a bond filed by the guardian was approved by the court; and the guardian qualified on **April 06, 2006.**

These letters, with an effective date of **May 27, 2009,** indicate the guardian has the powers and privileges granted by the attached court order. Those powers and privileges and these letters shall expire on **August 06, 2010.** The guardian must file a report of the condition of the incapacitated person by the deadline, **June 06, 2010.**

Insofar, as my records show, the said guardian is still acting in the capacity shown herein.

WARNING: PLEASE NOTE THE EXPIRATION DATE OF August 06, 2010

Witness my hand and seal of office at McKinney, Texas **on this the 2nd day of November, 2009.**

Stacey Kemp, County Clerk
Collin County, Texas

By: Brenda Langford Deputy

Exhibit 16

583

original

CAUSE NO. 001 503806

IN THE MATTER OF GUARDIANSHIP OF	IN THE PROBATE COURT NO. 1
ANTHONY J. BALISTRERI	COLLIN COUNTY, TEXAS

ORDER NUNC PRO TUNC APPROVING GUARDIAN'S ANNUAL REPORT AND CONTINUING GUARDIANSHIP

The annual report covering April 6, 2008 to April 6, 2009 was filed by Guardian, Darlene C. Balistreri-Amrhein, on May 20, 2009 and was considered by the Court. The Court is satisfied that the facts stated in the report are true, correct and complete and that this report should be approved. The Court, based on the report, makes it's annual determination that the Guardianship should continue for twelve more months due to the incompetence and incapacity of Anthony J. Balistreri.

IT IS THEREFORE ORDERED, ADJUGED AND DECREED that the annual report is approved and that letters may be renewed in accordance with the statutory plan for renewal of Letters.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that letters shall be renewed with an expiration date of August 06, 2010.

SIGNED THIS 2 DAY OF June, 2009

Weldon Copeland, Judge Presiding
Probate Court No. 1

A TRUE AND CORRECT COPY
OF ORIGINAL INSTRUMENT AS
FILED IN COLLIN COUNTY
CLERKS OFFICE

COUNTY COURT OF COLLIN COUNTY, TEXAS

~~Exhibit A~~ Exhibit 16

THE STATE OF TEXAS

COUNTY OF COLLIN

I, Stacey Kemp, County Clerk of Collin County and Clerk of the County Courts at Law and Probate Court within and for Collin County, Texas, hereby certify that the foregoing is a true and correct copy of the following:

1. Order Nunc Pro Tunc Approving Guardian's Annual Report and Continuing Guardianship

In re: In The Guardianship OF ANTHONY CHALISTREBRI, ANTINOA PACITATED PERSON

File No. 001-5038-06 as the same appears of record in the Probate records of Collin County, Texas.

Given under my hand and seal of office, on this the 2nd day of November, 2009.

Stacey Kemp, County Clerk
Collin County, Texas

By Brenda Lansford
Brenda Lansford, Deputy

Exhibit A Exhibit 1b

LETTERS OF GUARDIANSHIP

Cause No. 001 503806

THE STATE OF TEXAS
COUNTY OF COLLIN

PROBATE COURT NO. 1
COLLIN COUNTY, TEXAS

IN THE MATTER OF THE GUARDIANSHIP OF
ANTHONY J BALISTRERI, INCAPACITATED PERSON

DARLENE C BALISTRERI-AMRHEIN *Guardian*	**PERSON ONLY** *Scope of Guardianship*	**May 06, 2008** *Effective Date of Letters*
April 06, 2006 *Date Guardian Qualified*	**June 06, 2009** *Annual Report Filing Deadline*	**August 06, 2009** *Date Letters Expire*

IT IS HEREBY CERTIFIED the above-named person was duly appointed permanent guardian of the person, **ANTHONY J BALISTRERI** an incapacitated person. Thereafter, a bond filed by the guardian was approved by the court; and the guardian qualified on **April 06, 2006.**

These letters have the effective date of **May 06, 2008,** indicate the guardian has the powers and privileges granted by the attached court order. Those powers and privileges and these letters shall expire on **August 06, 2009.** The guardian must file a report of the condition of the incapacitated person by the deadline, **June 06, 2009.**

Insofar as my records show, the said guardian is still acting in the capacity shown herein.

WARNING: PLEASE NOTE THE EXPIRATION DATE OF August 06, 2009

Witness my hand and seal of office at McKinney, Texas **on this the 7th day of May, 2008.**

Stacey Kemp, County Clerk
Collin County, Texas

By: Gwen Johnson Deputy

Exhibit 16

Cause No. 001 5038-06

GUARDIANSHIP OF	§	IN THE PROBATE COURT
	§	
ANTHONY J BALISTRERI	§	NO. 1
	§	
AN INCAPACITATED PERSON	§	COLLIN COUNTY, TEXAS

ORDER APPROVING GUARDIAN'S ANNUAL REPORT AND CONTINUING GUARDIANSHIP

The annual report covering **April 06, 2007** to **April 06, 2008** was filed by the Guardian, **DARLENE C BALISTRERI,** on **April 23, 2008,** and was heard and considered by the Court. The Court is satisfied that the facts stated in the report are true, correct and complete and that this report should be approved. The Court, based on the report, makes it's annual determination that the Guardianship should continue for twelve more months.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the annual report is approved and that letters may be renewed in accordance with the statutory plan for renewal of Letters.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that letters shall be renewed with an expiration date of **August 06, 2009**.

SIGNED THIS 6 DAY OF May, 2008

Weldon Copeland, Judge Presiding
Probate Court No. 1

THE STATE OF TEXAS
COUNTY OF COLLIN

I, Stacey Kemp County Clerk, Collin County, Texas
Do hereby certify that the foregoing instrument of writing is a true and correct copy of the instrument as filed for record in my office the ____ day of _____, 20____.

By _____

Witness my hand and official seal at my office in McKinney, Texas, this ____ day of _____, 20____.

Stacey Kemp Collin County Clerk
Collin County, Texas

By _____ Deputy

Exhibit 16

LETTERS OF GUARDIANSHIP

PB-001-5038-06

THE STATE OF TEXAS **PROBATE COURT NO 1**

COUNTY OF COLLIN **COLLIN COUNTY, TEXAS**

IN THE MATTER OF THE GUARDIANSHIP OF

ANTHONY J. BALISTRERI, AN INCAPACITATED PERSON.

DARLENE C. BALISTRERI-AMRHEIN *Guardian*	**PERSON ONLY** *Scope of Guardianship*	**APRIL 4, 2006** *Effective Date of Letters*
APRIL 4, 2006 *Date Guardian Qualified*	**JUNE 4, 2007** *Annual Report Filing Deadline*	**AUGUST 4, 2007** *Date Letters Expire*

IT IS HEREBY CERTIFIED the above-named person was duly appointed permanent guardian of the person as shown above of the incapacitated person named above. Thereafter, a bond filed by the guardian was approved by the court; and the guardian qualified on the date shown above.

These letters, the effective date of which is shown above, indicate the guardian has the powers and privileges granted by the **attached court order**. Those powers and privileges and these letters shall expire on the date shown above. The guardian must file a report of the condition of the person of the incapacitated person by the deadline shown above.

Insofar, as my records show, the said guardian is still acting in the capacity shown herein.

WARNING: PLEASE NOTE THE EXPIRATION DATE OF AUGUST 4, 2007.

Witness my hand and seal of office at McKinney, Texas this

4TH day of **APRIL** A. D. **2006.**

Brenda Taylor, Clerk
County Courts and Probate Court
Collin County, Texas

By: Barbara Cochworth
Deputy County Clerk

Exhibit 16 588

CASE NO. PB 001-5038-06

COLLIN COUNTY PROBATE COURT

ANTHONY J. BALISTRERI, Declarant

ORDER

On this 4 day of April, 2006 this Court came to consider the Appointment and Certification Request of Anthony J. Balistreri making Darlene C. Balistreri-Amrhein, Aka: Darlene C. Amrhein as his permanent legal guardian for his person and estate due to his age and age related physical abilities.

After consideration of Anthony J. Balistreri's Application, Affidavits, Petition and Darlene C. Balistreri-Amrhein Affidavit of Acceptance per Certification of this Court, it is this Court's Order that Darlene C. Balistreri-Amrhein shall be certified and approved as Anthony J. Balistreri's permanent legal guardian with~~out any~~ ~~surety~~ bond ~~or any other bond until the end of Anthony J. Balistreri's life.~~ This certification is without limitations and Darlene C. Balistreri-Amrhein may legally act in Anthony J. Balistreri's best interests for his person and ~~estate.~~ Not as RECIPIENT PAYEE OF ALL MONTHLY INCOME.

percent of $50.00

Signed this 4 day of April, 2006

The Honorable Judge Presiding

A TRUE AND CORRECT COPY OF ORIGINAL INSTRUMENT AS FILED IN COLLIN COUNTY CLERK'S OFFICE.

COUNTY COURT OF COLLIN COUNTY TEXAS

589

Certificate of Trust

The undersigned Trustors and Trustees hereby certify the following:

1. This Certificate of Trust refers to the DARLENE C. BALISTRERI-AMRHEIN TRUST dated July 18, 2005 under an irrevocable trust agreement executed on July 18, 2005 by DARLENE C. BALISTRERI-AMRHEIN as Trustor.

2. The Trustees are ANTHONY J. BALISTRERI and DARLENE C. BALISTRERI-AMRHEIN. If either dies or becomes incapacitated, then the survivor of them shall serve as sole Trustee. If neither is able or willing to serve, then STUART B. KALB shall serve as Successor Trustee or a corporate fiduciary appointed by STUART B. KALB shall serve as Successor Trustee.

3. The trust has not been revoked and there have been no amendments limiting the powers of the Trustee(s) over trust property.

4. No person or entity paying money to or delivering property to any Trustee shall be required to see to its application. All persons relying on this document regarding the Trustees and their powers over trust property shall be held harmless for any resulting loss or liability from such reliance. A copy of this Certificate of Trust shall be just as valid as the original.

5. The Trustee is specifically vested with the power and authority to retain, buy, sell, invest or reinvest in, exchange, manage, control, repair, improve and lease any and all trust property that may come under its control. Each Trustee may delegate to the other Trustee all of their powers, duties and responsibilities granted or imposed by the Trust. Each initial Trustee has the power to transact any and all trust powers, duties and responsibilities granted or imposed by the Trust without the joinder or consent of the others. Any third party relying on this Certificate of Trust shall be held harmless and indemnified by the Trustees, Trustors and Beneficiaries for any actions taken by them at the instructions or request of any Trustee.

6. No person dealing with the Trustee shall be obligated to see to the application of any money or property delivered to the Trustee or to inquire into the Trustee's authority with regard to or the propriety of any transaction. Only the Trustee shall be fully liable for any improper or unauthorized act, and shall indemnify and hold harmless any person relying upon such Trustee's authority.

7. None of the powers given the Trustee herein are given by way of limitation, and each is supplementary to the powers granted elsewhere in the Trust Agreement, or otherwise by law. Furthermore, the Trustees or Successor Trustees shall have all the powers granted under the Texas Trust Code, as it now exists or may hereafter be amended.

Exhibit 17

8. Should any Trustee or Successor Trustee named above die, resign, or otherwise become unable to serve as Trustee, any third party in regards to ascertaining or determining the authority of any Successor Trustee to act as Trustee need only rely upon the presentation by such Successor Trustee of a copy of this Certificate of Trust along with a copy of one or more of the following documents:

a. A death certificate of any predecessor Trustee; or

b. A resignation certificate of any predecessor Trustee; or

c. The affidavits of at least two physicians who have examined a Trustee or Successor Trustee, and who have determined that such Trustee or Successor Trustee is unable to attend to or handle the responsibilities of serving as Trustee of the Trust; or

d. Letters of Guardianship which have been issued by a court of law and which indicate that a Guardian has been appointed on behalf of a Trustee or Successor Trustee due to the incompetency or incapacity of such Trustee or Successor Trustee.

BE IT FURTHER KNOWN that anyone dealing with any of said Trustees or Successor Trustees shall have the right to assume that said Trustees or Successor Trustees are acting within the scope of their authority as Trustees, and that it shall not be necessary for them to review the entire Trust Agreement.

The undersigned certify that the statements in this Certificate of Trust are true and correct and that it was executed in the County of Dallas, Texas on July 18, 2005.

Darlene C. Balistreri-Amrhein

DARLENE C. BALISTRERI-AMRHEIN, Trustee

STATE OF TEXAS)
) SS
COUNTY OF DALLAS)

BEFORE ME, the undersigned authority, on this day personally appeared DARLENE C. BALISTRERI-AMRHEIN, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

This instrument was acknowledged before me on July 18, 2005.

Witness my hand and official seal.

Laurie S. Peck

Notary Public in and for the
State of Texas

LAURIE S. PECK
MY COMMISSION EXPIRES
July 29, 2006

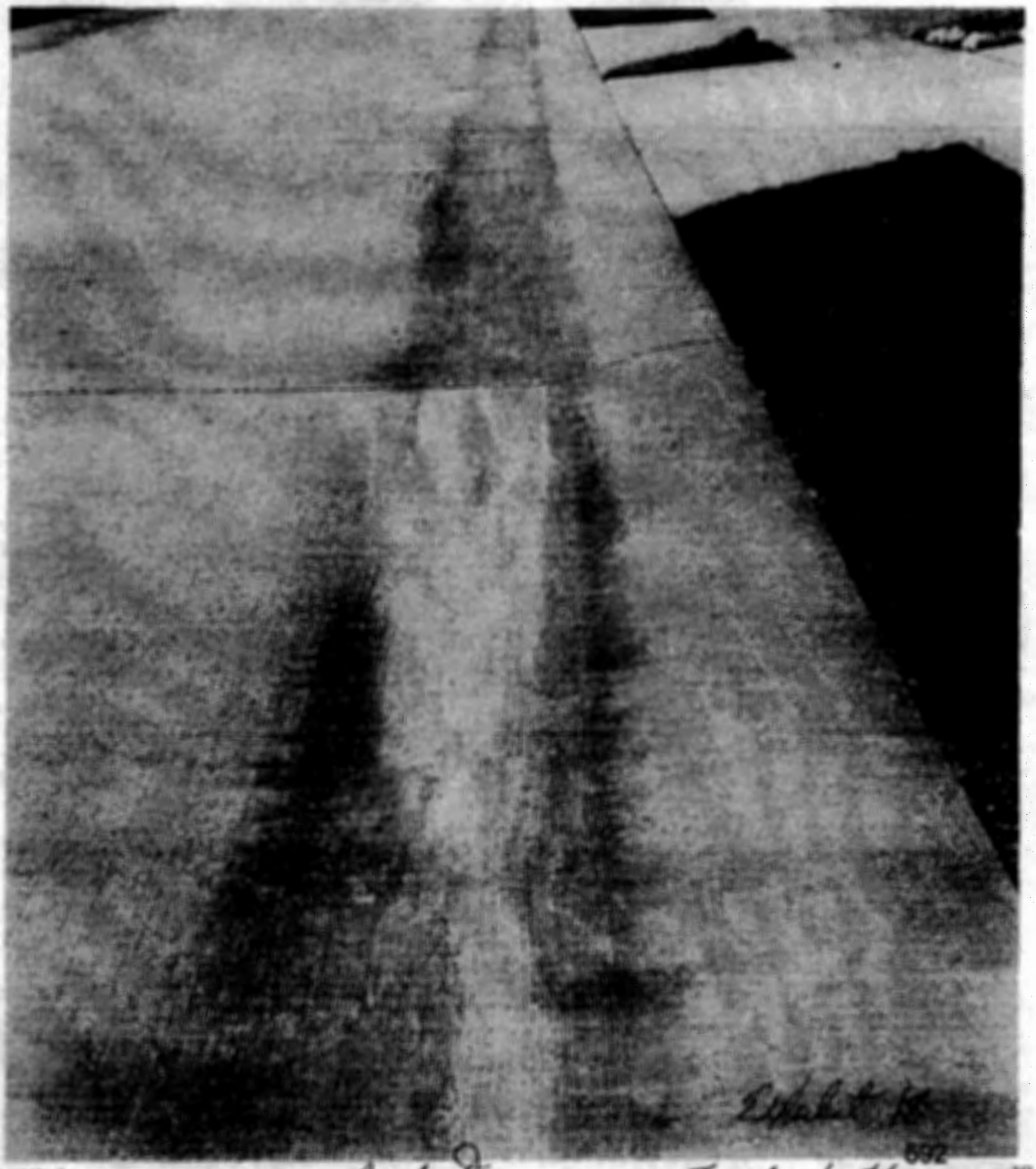
Exhibit 17

Subject: [No Subject]

From: Darlene Ballstreri-Armhein (winsley112@yahoo.com)

To: winsley112@yahoo.com;

Date: Friday, December 22, 2017 11:35 AM



Acid Damage in Front of House

****
05/07/10 0043 DALLAS POLICE DEPARTMENT
****

** W A R R A N T O F D E T E N T I O N **
DALLAS COUNTY, TX MB1057349 F
WARRANT NUMBER

SERVICE#: 0125751X
ARREST#: 10-027138

SCHROEDER DAVID ALLEN

FILED
JOHN F. WARREN, COUNTY CLERK
MAY 07 2010
DALLAS COUNTY, TEXAS
BY _____ DEPUTY

********** OWI **********
IN THE NAME OF THE STATE OF TEXAS TO ANY SHERIFF OR OTHER PEACE OFFICER OF THE STATE OF TEXAS: GREETINGS:

YOU ARE HEREBY COMMANDED TO TAKE THE BODY OF: COUNTY CRIMINAL COURT

SCHROEDER,DAVID,ALLEN

HEREINAFTER CALLED THE ACCUSED, AND HIM SAFELY KEEP SO THAT HE MAY BE DEALT WITH ACCORDING TO LAW; AND TO HOLD THE ACCUSED TO ANSWER TO THE STATE OF TEXAS FOR AN OFFENSE AGAINST THE LAWS OF THE SAID STATE, NAMELY

OWI MB 10.04 0125751X

OF WHICH MISDEMEANOR OFFENSE HE IS ACCUSED BY WRITTEN COMPLAINT, MADE UNDER OATH, THAT HAS BEEN PRESENTED TO ME, AND THIS IS BY THIS REFERENCE INCORPORATED HEREIN FOR ALL PURPOSES.

WITNESS MY SIGNATURE THIS 07 DAY OF MAY 2010

Hal Turley
MAGISTRATE

****

ADMINISTRATIVE DATA

STATE OF TEXAS VS: SCHROEDER,DAVID,ALLEN ARREST STATUS:
RACE: W SEX: M DOB: [illegible] HT: 5'10" WT: 200 HAIR COLOR: BROWN
EYE COLOR: GREEN RESIDENCE ADDRESS: 04280 TRINTYMILLS 908
CITY: DALLAS STATE: TX ZIP CODE: 75287
BUSINESS ADD/NAME:
COMPLAINANT: @CITY OF DALLAS DATE OF OFFENSE: 05/06/10
ARREST WARRANT ISSUED TO: DPD/DSO DRIVERS LIC: 01782956
****

FEES

ARREST-----$4.00
COMMITMENT-----$2.00
RELEASE-----$2.00
APPROVE BOND-----$6.00
MILEAGE-----$
OTHER-----$
TOTAL-----$

****
RETURN

CAME TO HAND THE 06 DAY OF May, A.D. 2010, AND EXECUTED THE 07 DAY OF May, A.D. 2010, BY ARRESTING AND DETAINING ABOVE NAMED AND ACCUSED AND By Virtue of Dallas County Capias

BY: Anthony W. Hale 6490 Dallas PD

LOW WARRANT

TRUE AND CORRECT COPY OF ORIGINAL FILED IN DALLAS COUNTY CLERK'S OFFICE

Exhibit 19

CAUSE NO. M[illegible]

THE STATE OF TEXAS
VS.
DAIVD ALLEN SCHROEDER

IN THE COUNTY CRIMINAL COURT 5
DALLAS COUNTY, TEXAS

JUDGEMENT ON NEGOTIATED PLEA OF GUILTY OR NOLO CONTENDERE
BEFORE: ☒ PRESIDING JUDGE / ☐ MAGISTRATE
COMMUNITY SUPERVISION GRANTED

DATE OF JUDGEMENT: 09/16/11 TERM: JULY 2011

JUDGE PRESIDING / MAGISTRATE: ETTA J. MULLIN

ATTORNEY FOR STATE: TERRANCE BOWMS
ATTORNEY FOR DEFENDANT: SHELLY GOODMAN

OFFENSE CONVICTED OF: DWI

CLASS: B MISDEMEANOR DATE OFFENSE COMMITTED: 05/06/10

CHARGING INSTRUMENT: INFORMATION PLEA: GUILTY / NOLO CONTENDERE

FINDING OF COURT: GUILTY

TERMS OF NEGOTIATED PLEA BARGAIN: PLEA BARGAIN AGREEMENT FOLLOWED: *YES / NO*
(IN DETAIL) 180 DYS CONFINEMENT, 24 MONTHS PROBATION & $1000 FINE

DATE SENTENCE IMPOSED: 09/16/11 COST: YES

PUNISHMENT AND PLACE OF CONFINEMENT:
180 DAYS CONFINEMENT IN THE DALLAS COUNTY JAIL AND A FINE OF $1000.00
DATE TO COMMENCE: FINE PRORATED: NO

CREDIT FOR TIME SERVED:

TX C.C.P. COUNSELING FEE, IF APPLICABLE: $ NOT TO EXCEED $500.00

TERMS OF COMMUNITY SUPERVISION: 24 MONTHS

RESTITUTION / REPARATION: YES IF YES, NAME OF VICTIM: HARVEY KEIL
ADDRESS OF VICTIM OR AGENCY TO COLLECT PAYMENTS: BY CRIMINAL DIVISION

AFFIRMATIVE FINDING OF FAMILY VIOLENCE, IF APPLICABLE: NO

CASE TO RUN: CONCURRENT WITH ALL OTHER CASES

On this [illegible] named pleadings and announced ready for trial. [illegible] **intelligently, and voluntarily waived the right to representation by counsel.**

Having been admonished of the right to a jury trial, the Defendant waived the right to a jury trial in writing and in open court with the consent and approval of the Judge or Magistrate, the Defendant [illegible] of record in the minutes of this court before the Defendant [illegible]

[illegible] the Defendant [illegible] the Judge / Magistrate [illegible] such agreement. It clearly appears to the Judge / Magistrate that **Defendant is mentally competent and said plea free and voluntary, the said plea is accepted by the Judge / Magistrate and is now entered of record as the plea of the** Defendant. After hearing all facts offered, the Judge / Magistrate finds the Defendant guilty of the offense as shown above and that the offense was committed **by said** Defendant on the date set forth above.

In the event that a pre-sentence investigation was required by statute, said pre-sentence investigation was done according to the applicable statute. If a pre-sentence report was made, the Defendant authorized, in writing, the Judge / Magistrate to inspect the report. Where the Defendant requested that a pre-sentence investigation not be made if a Judge / Magistrate agreed to this request.

☒ *It is Therefore, ordered and decreed by the Judge or* ☐ [illegible] by the Magistrate that said Defendant be adjudged guilty of the offense as shown above on the date as shown above, and that **said defendant is sentenced to a term of imprisonment or fine or both, as set out above, and shall be confined for the above named term in accordance with the provisions by the court appointed attorney or public defender in this cause.** If any, and restitution or reparation, if any, as set forth above. The Judge / Magistrate finds that [illegible] the Defendant to pay said costs in the amount ordered.

☒ *It is further ordered, adjudged and decreed by the Judge or* ☐ [illegible] by the Magistrate that the imposition of sentence be **suspended for a period of time as shown above. The Defendant is hereby placed on community supervision for a period of time as shown above and subject to the terms and conditions of community supervision imposed this day by law and by the Judge / Magistrate and served upon the Defendant.**

If the Magistrate has heard this plea, the Judge has reviewed the findings, actions, and recommendations of the Magistrate in this cause. Finds that the terms of the negotiated plea agreement in this cause have been fulfilled and hereby adopts all findings, actions and recommendations of the Magistrate in this cause. The Defendant is hereby adjudged guilty of the offense as set out above and ordered punished in accordance with the recommendations of the Magistrate. This judgment as shown above is hereby in all things approved and confirmed and ordered enforced this offense. The Court approved the finding of the Magistrate that the Defendant has the financial resources to enable the Defendant to offset any fines, court costs, expenses of legal services and restitution or in the amount ordered.

Conditions of community supervision attached hereto are incorporated for all purposes as a part of the judgment. Said conditions of community supervision include the terms of any fee payment pursuant to the Texas Code of Criminal Procedure, if applicable. Following the expiration of this cause, the Defendant's fingerprint was placed upon a Certificate of Fingerprint. Said certificate is attached hereto and is incorporated by reference as a part of this judgment.

COMMUNITY SUPERVISION EXPIRES ON THIS 16 DAY OF SEPTEMBER, 2013
SIGNED AND ENTERED THIS 16 DAY OF SEPTEMBER, 2011

SID:
TRN: 9175299711
TRS: A001

JUDGE ETTA J. MULLIN, COUNTY CRIMINAL COURT 5
DALLAS COUNTY, TEXAS

TRUE AND CORRECT COPY OF ORIGINAL FILED IN DALLAS COUNTY CLERK'S OFFICE

FORM M-340 REVISED 11-11-2003

5

Exhibit 19

CAUSE NO. MB1057349-F

THE STATE OF TEXAS
VS.
DAIVD ALLEN SCHROEDER

IN THE COUNTY CRIMINAL COURT 5
DALLAS COUNTY, TEXAS

JUDGEMENT ON NEGOTIATED PLEA OF GUILTY OR NOLO CONTENDERE
BEFORE: ☒ PRESIDING JUDGE / ☐ MAGISTRATE
COMMUNITY SUPERVISION GRANTED

DATE OF JUDGEMENT: 09/16/11 TERM JULY 2011

JUDGE PRESIDING / MAGISTRATE: ETTA J. MULLIN

ATTORNEY FOR STATE
TERRANCE DOWNS

ATTORNEY FOR DEFENDANT:
SALLY GOODMAN

OFFENSE CONVICTED OF: DWI

CLASS B MISDEMEANOR DATE OFFENSE COMMITTED: 05/06/10

CHARGING INSTRUMENT: INFORMATION PLEA: GUILTY / NOLO CONTENDERE

FINDING OF COURT: GUILTY

TERMS OF NEGOTIATED PLEA BARGAIN PLEA BARGAIN AGREEMENT FOLLOWED: *YES / NO*
(IN DETAIL) 180 DYS CONFINEMENT, 24 MONTHS PROBATION & $1000 FINE

DATE SENTENCE IMPOSED: 09/16/11 COST: YES

PUNISHMENT AND PLACE OF CONFINEMENT:
180 DAYS CONFINEMENT IN THE DALLAS COUNTY JAIL AND A FINE OF $1000.00
DATE TO COMMENCE: FINE PROBATED: NO

CREDIT FOR TIME SERVED:

TXDC CJP COUNSELING FEE, IF APPLICABLE $ NOT TO EXCEED $500.00

TERMS OF COMMUNITY SUPERVISION: 24 MONTHS

RESTITUTION / REPARATION: YES IF YES, NAME OF VICTIM: HARVEY KOHL
ADDRESS OF VICTIM OR AGENCY TO COLLECT PAYMENTS: DA CHECK DIVISION

AFFIRMATIVE FINDING OF FAMILY VIOLENCE, IF APPLICABLE: NO

CASE TO RUN: CONCURRENT WITH ALL OTHER CASES

On this day, set forth above, the above styled and numbered cause was called for trial. The State of Texas and Defendant appeared by and through the above named attorneys and announced ready for trial. Defendant [illegible] knowingly, intelligently, and voluntarily waived the right to representation by counsel.

Having been admonished of the right to a jury trial, the Defendant waived the right to a jury trial in writing and in open court with the consent and approval of the Judge or Magistrate, the Defendant's attorney, if any, and the prosecuting attorney [illegible]. The consent and approval of Defendant's jury waiver and consent of record in the minutes of the court before the [illegible]

The Defendant [illegible] If a defendant [illegible] plea bargain agreement, the Defendant was informed as to whether or not the Judge or Magistrate would follow or reject such agreement. It plainly appears to the Judge / Magistrate that Defendant is mentally competent and said plea free and voluntary, the said plea is accepted by the Judge / Magistrate and is now entered of record as the plea of the Defendant. After hearing evidence offered, the Judge / Magistrate finds the Defendant guilty of the offense as shown above and that the offense was committed by said Defendant on the date set forth above.

In the event that a pre-sentence investigation report is required [illegible] If a pre-sentence report was made, the Defendant authorized, in writing, the Judge / Magistrate to inspect the report. Where the Defendant requested that a pre-sentence investigation not be made the Judge / Magistrate agreed to that request.

☒ *It is therefore ordered, adjudged and decreed by the Judge* or ☐ *[illegible] by the Magistrate* that the Defendant is adjudged guilty of the offense as shown above on the date as shown above and that said Defendant is sentenced to a term of imprisonment or fine or both, as set out above, and shall be confined for the above named term in accordance with the provision by the court appointed attorney or public defender in this cause, if any, and restitution or reparation, if any, as set forth above. The Judge / Magistrate finds that the Defendant has the financial resources to enable the Defendant to offset said costs in the amount ordered.

☒ *It is further ordered, adjudged and decreed by the Judge* or ☐ *[illegible] by the Magistrate* that the imposition of sentence be suspended for a period of time as shown above. The Defendant is hereby placed on community supervision for a period of time as shown above and subject to the terms and conditions of community supervision imposed this day by law and by the Judge / Magistrate and served upon the Defendant.

If the Magistrate has heard this plea, the Judge has reviewed the findings, actions, and recommendations of the Magistrate in this cause, finds that the terms of the negotiated plea agreement in this cause have been followed and hereby adopts all findings, actions and recommendations of the Magistrate in this cause. The Defendant is hereby adjudged guilty of the offense as recited above and ordered punished in accordance with the recommendations of the Magistrate. The judgment as shown above is hereby in all things approved and confirmed, and is hereby ordered into effect. The Court approves of the finding of the Magistrate that the Defendant has the financial resources to enable the Defendant to offset any fines, court costs, expenses of legal services and restitution or in the amount ordered.

Conditions of community supervision attached hereto are incorporated for all purposes as a part of the Judgment. Said conditions of community supervision include the terms of any fee payment pursuant to the Texas Code of Criminal Procedure, if applicable. Following the conclusion of this cause, the Defendant's fingerprint was placed upon a Certificate of Fingerprint. Said certificate is attached hereto and is incorporated by reference as a part of this Judgment.

COMMUNITY SUPERVISION EXPIRES ON THE 16 DAY OF SEPTEMBER, 2013
SIGNED AND ENTERED THIS 16 DAY OF SEPTEMBER, 2011

SID:
TRN: 9175299712
TRS: A001

JUDGE ETTA J. MULLIN COUNTY CRIMINAL COURT 5
DALLAS COUNTY, TEXAS

TRUE AND CORRECT COPY OF ORIGINAL FILED IN DALLAS COUNTY CLERK'S OFFICE

FORM M-340 REVISED 11-11-2003

5

Exhibit A

DA

DEFENDANT Schroeder, David Allen W M 09051947 CHARGE DWI

AKA:

ADDRESS 4280 Trinity Mills #908, Dallas, Tx LOCATION DSO

FILING AGENC TXDPD0000 DATE FILED May 14, 2010 COURT 5

COMPLAINANT Foster, A MB1057349 T VT#: 55555

C/C

SERVICE NO. 0125751X ARREST NO. I. D. NO. 1124689

AFFIDAVIT

In the Name and by the Authority of the State of Texas.

PERSONALLY APPEARED before me the undersigned authority this affiant, who after being by me duly sworn, deposes and says your Affiant has good reason to believe and does believe that one

Schroeder, David Allen

hereinafter styled Defendant, heretofore, on or about the 6th day of May A.D., 2010

in the County of Dallas and State of Texas, did unlawfully

then and there unlawfully operate a motor vehicle in a public place, while intoxicated, in that the defendant did not have the normal use of his mental and physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, and any other substance into defendant's body.

Against the peace and dignity of the state.

Sworn to and subscribed before me this the 19 day of May A.D., 20 10

Assistant Criminal District Attorney of Dallas County, Texas

Affiant

PINK

TRUE AND CORRECT COPY OF ORIGINAL FILED IN DALLAS COUNTY CLERK'S OFFICE

Exhibit 19

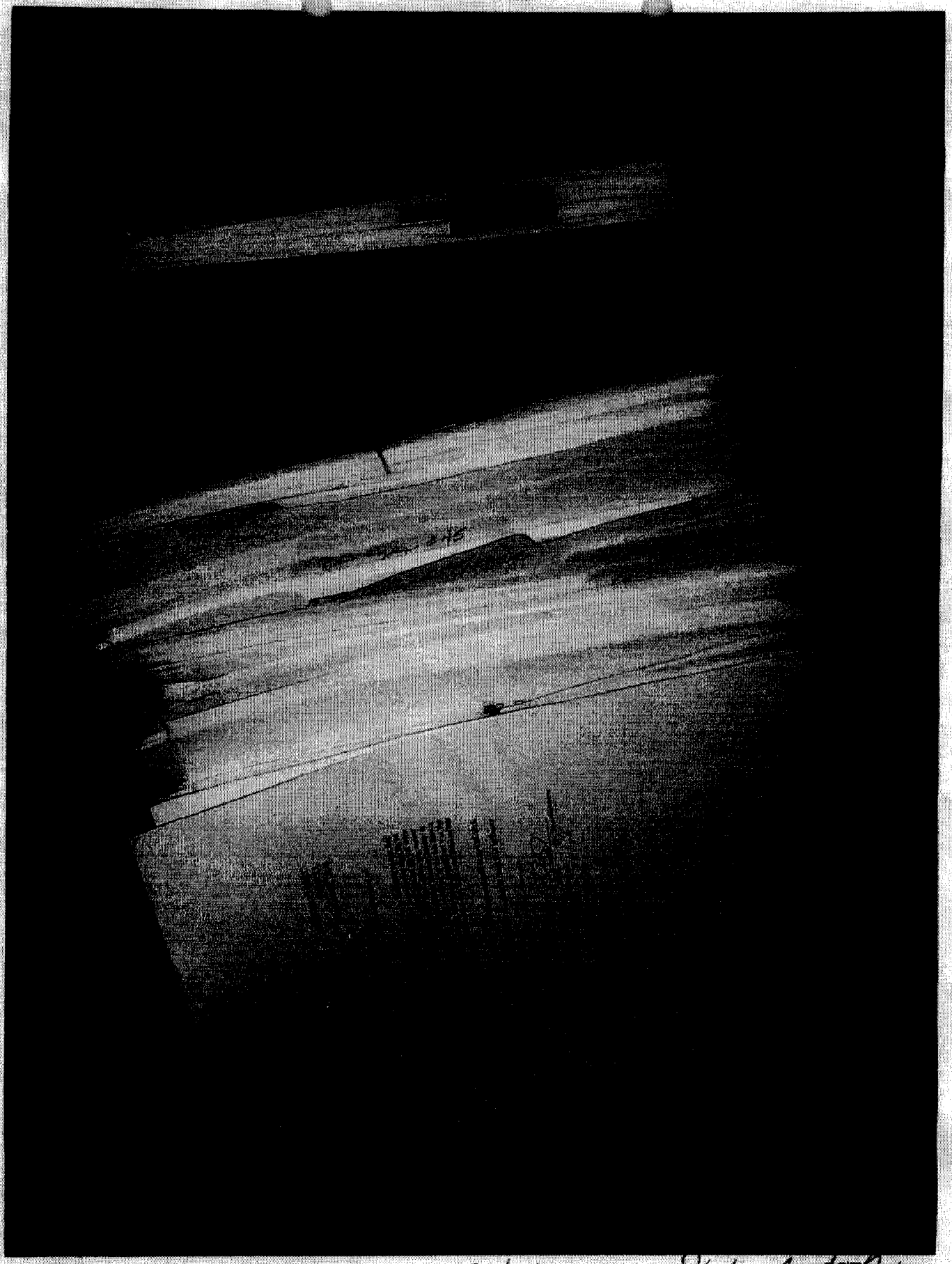


Exhibit 20 Defendants' Response

Subject: Amrhein v. Schroeder Case # 01-SC-16-00165

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Tuesday, November 29, 2016 5:04 AM

Dear Lennie,
Have not heard anything about my case in months.
Have been waiting for the mediation date with Mr. Schroeder,
which he agreed to per your email & Kathy's staements at the office.
Have spoken to Kathy at your office, who indicated you are
going out of town & she has not scheduled the mediation, yet
weeks ago.
I explained I needed to schedule 2 surgeries , but still no dates.
I have been in pain & need an update of the case & for this pending trial.
Since you are going out of town, what date do you want to meet
before trial of December 14, 2016 to prepare?
I am concerned that we have plead no denial of Mr. Schroeder's
false statements / claims in his answer months ago.
I am also concerned that all my claims have not been presented
to the court in Amended Pleadings in my case with denials of his
false claims before the court.
The judge's impression from Mr. Schroeder's last filing, Motion For
Continuance was due to scheduling of mediation & his preparation.
He claimed he had not been contacted about by us to prepare with
more evidence against me, leaving the court with a bad impression.
The judge has been left with false impression of mediation, when there
has been none after waiting more than 2 months before Dec. 14, 2014.
I do not want to go to trial unprepared & don't want another continuance
as this has been very difficult physically & financially.
Why have we had no discovery with Mr. Schroeder?
Has there been any mediation scheduled to date?
I have a doctor's appointment this morning at 9AM, but will be home this
afternoon or you can send me an email message for the update.
If you are traveling please have Kathy send me an email with update.
Thanks,
Darlene Amrhein

Exhibit 21

Subject: Amrhein v. Schroeder

From: Darlene Balistreri-Amrhein (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Thursday, May 11, 2017 7:23 AM

Lennie,

I make a demand request for all filed documents with this Court & Judge in the above case known as, Amrhein v. Schroeder, which you represent to date & refuse to turn over for clear communication.

These court records can be sent by your assistant Cathy today to my email at Winsley112@yahoo.com.

The last time we met you gave me false information, which you refuse to act upon since Dec. 2016 to date & intimidation with intent to not perform your duty & denied facts within this lawsuit.

You have a "fiduciary duty," legal skills to know the rules of civil procedure & exact legal guidelines as claimed in your bio on the internet under your name or is this false as follows:

Mr. Bollinger represents clients in cases involving personal injury, medical malpractice, pharmaceutical and drug device litigation, business disputes, truck wrecks, product liability, premises liability, and multi-district litigation.

He is widely respected in the legal community for the consistently favorable results he delivers to the individuals, businesses and families he represents. Among his clients, he is known as a personable and professional guide and advocate. Among his colleagues, he is recognized as a formidable courtroom opponent with exceptional legal skills and an effective style of protecting his clients' interests.

Mr. Bollinger prides himself on the relationship he develops with each client and his accessibility. Clients are not passed off to an assistant but instead are always able to reach Mr. Bollinger. This is important because the foundation of his success is built by understanding every aspect of the issue the client hired him to resolve. With millions of dollars in verdicts and settlements, his efforts have made a positive impact on countless families who have suffered from the negligent or unconscionable actions of others.

Mr. Bollinger earned a degree Cum Laude in Finance and a Juris Doctorate Magna Cum Laude from Southern Methodist University. He is rated "Superb" by AVVO, the highest possible rating, and consistently receives the AVVO Clients' Choice Award for exceptional client satisfaction. He is also a recipient of the Frank Branson Trial Advocacy Award.

Paraphrased :Advocate, professional guide, exceptional legal skills, effective style of protecting his clients interest, access ability & understanding each aspect of issue to resolve the negligent & unconscionable actions of others.

My multiple clear emails you claimed sat in your spam folder for months with "no responses & no action."

Your demand for "Settlement Offer" for Mr. Schroeder was false as you refuse to make all issues to be resolved in this lawsuit.

You have kept timely information from this Court for a month or longer in preparation of this lawsuit from this Judge.

You refuse to address & file the Mr. Schroeder false stalking claims as he filed in the court as apart of his answer in this lawsuit
falsely claiming a response on my part is not necessary according to the laws & rules of civil procedure.

It appears by your conduct that you are refusing to filed "Plaintiff's Amended Pleadings" in this case without identifying all negligence & unconscionable acts of Mr. David Schroeder for any resolution in this lawsuit as required as a licensed attorney, who represents your
law firm of Wormington & Bollinger, McKinney Texas. .

You want to address me without proof of your conduct & that is why I get a few lines with no action emails with a demand for personal

Exhibit 21 599

meeting at your office making me questio[illegible]ur legal skills & true representation.

It appears that you could care less about the negligent & unconscionable issues in this case with full knowledge of the facts with
proof as sent to you throughout this lawsuit.

My responses have been timely, clear with numerous requests for legal skills, facts, Orders & requests by rules of civil procedure.

You have ignored this all, while representing the interest of Mr. David Schroeder against our agreement, which may mean you made
some sort of deal with him to throw this case, which would be illegal & highly offensive by this conduct.

I have asked about all conversations with Mr. David Schroeder, you have denied all & making a demand that I accept one month of
rent for a settlement in this case, while suffering multiple injuries, frauds, theft, property damages, threats, attempts to extort money
over 5 months, etc. is ridiculous, so it is up to a jury to decide.

It appears the only interest is your interest to not work, refuse to do your job & take the easy way out for the benefit of you & Mr. David Schroeder without fairness, due process, no legal remedy, no Justice & no legal skills as you claim.

You claimed Mr. David Schroeder admitted to you having my property over two years ago, which he took & yet you refuse to do anything
about all clear facts, which you refuse to be placed before this Court is unbelievable.

False filed claims & omissions to the Court is illegal & does not protect my interest as your client as precious time is being wasted.

If this is your intention I will file formal complaints & a lawsuit for all such actions, misconduct, breaches, so this is a chance for your to
correct all errors now with a "Plaintiff's Amended Pleadings," demanded Court Records, Orders & Jury Trial as ordered months ago sent
by emails with full knowledge.

Cover up, conspiracy, collusion, special interest & Obstruction of Justice is not legal skills by Texas Rules of Civil Procedure.

If this is not correct then you have until May 20, 2017 to resolve all outstanding issues by "fiduciary duty"as a Texas licensed attorney required.

You know I have proof of all my claims in this lawsuit with my demand of a jury trial, which you refuse to provide proof of that Order with this Court & any other Orders, since Dec. 2016.

You have caused me upset, affected my health & used precious time to avoid the Rule of Law & Civil Procedures that could have been spent doing your job in this lawsuit as time is running out.

You have been informed timely with updates of my health, so you have full knowledge of my serious medical conditions & care with a letter
from one of many physicians.

It is your choice to decide if you will represent this lawsuit by laws or you & Mr. Schroeder's interests against my interests.

I can assure you this determination will determine my conduct to protect my interests in the future if this lawsuit is not completely resolved
based on all the facts, negligence, damages, risks & harms caused by Mr. David Schroeder, etc.

Darlene Amrhein

Exhibit 21

Subject: Amrhein v. Schroeder

From: Darlene Balistreri-Amrhein (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Thursday, May 11, 2017 12:39 PM

Lennie,

You can file for a "Continuance" in this case as standing alone due to my medical conditions & other questions in preparation for trial. Procedures now are dependent upon results, potential surgery & recovery, plus preparation for a jury trial, which you must Order in the filed continuance.

After Court Order designated Continuance date:

As far as withdrawal that is your choice in this case & I want a clear court record on this matter for future litigation.

I object because of all things I have expressed in all emails to date for which there must be a hearing after June 10, 2017 due to my medical condition, questions about this case & lack of documents not received by you & your office through no fault on my part.

After June 10, 2017 is between procedures, before surgery, up to June 19, 2017, at which time on June 20, 2017 I am unavailable again medically.

Any other issues brought up before granted continuance may affect Courts decision & they should participate in your untimely decision to withdraw before this current jury trial date, as a result of your delays for months, numerous emails for action with no responses & refusing my Amend Pleadings & Settlement Offer as you later suggested back in December, 2016.

Your refusal to work this case, refused Order on current jury trial, follow Rules of Civil Procedure, Constitutional Rights, my interests, harms & injuries by Mr. Schroeder & others, as a result for redress.

You delayed this Plaintiff's Amended Pleadings & Settlement Offer in an unethical manner as a licensed Officer of the Court & the Court needs to be part of clear record for filed malpractice lawsuit on all these breaches.

You falsely claim I asked you to file merit less documents when I offered to present all my evidence to you & it was refused, so how would you know what is merit less? This is your excuse like the spam folder for months that was never checked. Facts lead to injuries.

Your December, 2016 meeting was done not for information & disclosure, but intimidation to not work this case & take the easy way out, while representing the interests of Defendant David Schroeder as improper.

You can't determine a Settlement Offer if all issues are not addressed clearly to Mr. Schroeder with incomplete pleadings, wrong address & poor quality work.

You also refused to deny Mr. Schroeder's false claims in his answer & you & your office (Cathy) claimed this was not necessary. You can't claim anything unless it is plead & you know that is the rules.

Exhibit 21

I have a right to ask for a jury trial according to local rules, Civil Rules of Procedure & my U.S. & Texas Constitutional Rights for redress with these exact detailed harms, losses & injuries caused to warrant this lawsuit.

Months of your stress, delays & upset has affected my health, so your nice words do nothing in this case, which will require a new attorney & his time to get up to speed, while affecting the outcome of this case because of your ongoing misconduct claimed now too close to trial date.

Your attorneys fees have to be addressed also into the court record clearly.

I never heard legal representation & clients interests without all facts & all evidence is an ethical manner for any attorney, according to ethical standards & practices per State Bar of Texas for which a formal complaint will be made in both cases.

You don't have the luxury to speculate, refuse to work, refuse to engage with me, hide evidence, prevent facts, cause delays, mislead the Court & Obstruct Justice.

Judicial practices is not leaving this judge in dark & handicapped in this lawsuit for an unfair, unjust outcome & my redress resolutions, which involves you & your law firm.

Keep me posted with proof timely of your actions with the Court & my approval before filing as you can send to my email address within 48 hours of filing.

Darlene Amrhein

Exhibit 29

Subject: Amrhein v. Schroeder Lawsuit

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Wednesday, November 2, 2016 10:01 AM

Hi Lennie,

The additional charges for the new pleadings are:

Burnt rug - $ 109.00 (piece of carpet for evidence)

Damages to bathroom shower quotes $250.00 to $400.00 (Pictures of damages)

Address should be 112 Winsley Circle on new pleadings.

Is there a deadline to file if trial is Dec. 14, 2016?

Has there been a mediation date?

Hope all is well.

Thank you.

Darlene Amrhein

Exhibit 22

Subject: Re: Darlene Amrhein v. David Schroeder Case

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: LB@Wormingtonlegal.com;

Date: Tuesday, November 22, 2016 9:29 PM

I forgot. I am also worried that he will you his answer against me since we filed no denial of his false charges. He is slick.
Darlene

On Friday, September 30, 2016 4:17 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Darlene,

The court moved the trial date to December based on a filing by Mr. Shroeder. Attached is the order. He did not provide us a copy of the filing as required so I am not sure what he said to get the court to move the trial date. We are still trying to get a mediation scheduled. I will let you know when we've narrowed down mediators and dates. Thanks.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
972-569-3930 (office)
972-547-6440 (fax)
214-202-1104 (cell)
214-580-8298 (direct fax)
www.wormingtonlegal.com

CONFIDENTIALITY NOTICE: This communication is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, you are notified that any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error,please immediately notify us by return email or telephone at 972-569-3930.

From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Tuesday, September 6, 2016 9:55 PM
To: Lennie Bollinger
Subject: Re: Darlene Amrhein v. David Schroeder Case

That is good. Maybe a family mediator, who understands relationships?
Could you not do it at the law firm?

Exhibit 22

On Tuesday, September 6, 2016 8:53 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

604

I spoke with him to inquire if he was agreeable to mediation. He is. I have been thinking to myself who is a good mediator for this type of case. We don't need court approval for anything related to mediation.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
972-569-3930 (office)
972-547-6440 (fax)
214-202-1104 (cell)
214-580-8298 (direct fax)
www.wormingtonlegal.com

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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Tuesday, September 6, 2016 8:40 PM
To: Lennie Bollinger
Subject: Re: Darlene Amrhein v. David Schroeder Case

Through Court or talking to him personally? Does Court have to rule on it ?

Thanks,

Darlene

On Tuesday, September 6, 2016 8:11 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

We are trying to schedule a mediation.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
972-569-3930 (office)
972-547-6440 (fax)
214-202-1104 (cell)
214-580-8298 (direct fax)
www.wormingtonlegal.com

Exhibit 22

CONFIDENTIALITY NOTICE: This communication is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient, you are notified that any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have

received this communication in error,please immediately notify us by return email or telephone at 972-569-3930.

From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Thursday, August 25, 2016 5:06 PM
To: Lennie Bollinger
Subject: Darlene Amrhein v. David Schroeder Case

Hi Lennie,

Can you give me an update?

Has Mr. Schroeder refused mediation?

Thanks for your help.

Darlene Amrhein

Exhibit 22

Subject: Re: Mediation Arrangements December 7, 2016 at 1:30 PM

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: calhounjennifer@sbcglobal.net;

Date: Wednesday, November 30, 2016 2:19 PM

Case No. 01-SC-16-00165 for Dec. 7, 2016 at 1:30 PM

Darlene Amrhein v. David Schroeder

Thought you might need case number for mediation.

Darlene Amrhein

On Wednesday, November 30, 2016 2:05 PM, Jennifer Calhoun <calhounjennifer@sbcglobal.net> wrote:

Received. We will get the scheduling letter out today.

From: winsley112@yahoo.com [mailto:winsley112@yahoo.com]
Sent: Wednesday, November 30, 2016 1:55 PM
To: partiesinformation@gmail.com
Subject: Mediation Arrangements December 7, 2016 at 1:30 PM

Dispute Mediation Services,

I would like to reserve December 7, 2016 at 1:30 PM of Mediation.

Plaintiff - Darlene Amrhein
Attorney Lennie Bollinger of Wormington Law Firm

Defendant - David A. Schroeder, Pro Se

Judge Raleeh - Collin County Small Claims Court.

If an questions please let me know at Winsley112@yahoo.com or call 972-547-0448

Thank you,

Darlene Amrhein

Looking forward to your confirmation.

Exhibit 22

Subject: December 14, 2016 Mediation at 1:30 PM

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: partiesinformation@gmail.com;

Date: Wednesday, November 30, 2016 4:37 PM

Plaintiff Darlene C. Amrhein
112 Winsley Circle
McKinney, TX. 75071
Telephone (972) 547-0448
Email - Winsley112@yahoo.com

Amrhein Attorney
Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
972-569-3930 (office)
972-547-6440 (fax)
214-202-1104 (cell)
214-580-8298 (direct fax)

Defendant - David A. Schroeder
Will be contacted by Attorney Bollinger for Mediation Time & Date.

Thank you,

Darlene Amrhein

Exhibit 22

Subject: RE: Mediation December 14, 2016 1:30 PM

From: Jennifer Calhoun (calhounjennifer@sbcglobal.net)

To: winsley112@yahoo.com; partiesinformation@gmail.com;

Date: Thursday, December 1, 2016 3:30 PM

Darlene I will send out the mediation scheduling letter in a few minutes

From: winsley112@yahoo.com [mailto:winsley112@yahoo.com]
Sent: Thursday, December 1, 2016 1:05 PM
To: partiesinformation@gmail.com
Subject: Mediation December 14, 2016 1:30 PM

Hi Jennifer,

Could I request a mediator for relationship, divorce, family

issues & debt division for this case ?

Thanks,

Darlene Amrhein

Exhibit 22

Subject: Re: Mediation December 14, 2016 1:30 PM Not available

From: Lennie Bollinger (LB@Wormingtonlegal.com)

To: winsley112@yahoo.com;

Cc: Cathy@Wormingtonlegal.com;

Date: Thursday, December 1, 2016 8:25 PM

Schedule your surgery and we can schedule the mediation around it?

Sent from my iPhone
Lennie F. Bollinger
Wormington & Bollinger
212 East Virginia Street
McKinney, Texas 75069
972 569 3930
214 580 8298 (direct fax)
972 547 6440 (fax)
Lb@wormingtonlegal.com
www.wormingtonlegal.com

On Dec 1, 2016, at 8:24 PM, "winsley112@yahoo.com" <winsley112@yahoo.com> wrote:

Please let me know because I am in pain & need this surgery.

Thanks,

Darlene

On Thursday, December 1, 2016 8:18 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

We will confirm tomorrow. Let us handle scheduling.

Sent from my iPhone
Lennie F. Bollinger
Wormington & Bollinger
212 East Virginia Street
McKinney, Texas 75069
972 569 3930
214 580 8298 (direct fax)
972 547 6440 (fax)
Lb@wormingtonlegal.com
www.wormingtonlegal.com

On Dec 1, 2016, at 8:06 PM, "winsley112@yahoo.com" <winsley112@yahoo.com> wrote:

Exhibit 22

On Thursday, December 1, 2016 3:13 PM, Jennifer Calhoun <calhounjennifer@sbcglobal.net> wrote:

I just booked the 14th at 1:30 to 3 p.m. for a small matter. They cannot come in the morning.
You can come at 3 pm and we can work until 7 on the 14th or we have the 13, 20,21,22 and 23rd in the afternoon available.. I also have December 7th morning and afternoon available.
Please advise.
Jennifer

From: winsley112@yahoo.com [mailto:winsley112@yahoo.com]
Sent: Thursday, December 1, 2016 1:05 PM
To: partiesinformation@gmail.com
Subject: Mediation December 14, 2016 1:30 PM

Hi Jennifer,

Could I request a mediator for relationship, divorce, family issues & debt division for this case ?

Thanks,

Darlene Amrhein

Exhibit 22

Subject: Re: Schroeder

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: LB@Wormingtonlegal.com;

Date: Thursday, December 1, 2016 9:27 PM

19th is OK !

On Thursday, December 1, 2016 9:12 PM, "winsley112@yahoo.com" <winsley112@yahoo.com> wrote:

Make it for 19th or 20th. I will get surgery before or after those dates.

Thanks,

Darlene

On Thursday, December 1, 2016 9:04 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

I am out of town Dec. 3-10. Defendant is out of town Dec. 12-16. Dec. 19 is the only date he is available and I am available before Christmas.

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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Thursday, December 1, 2016 8:38 PM
To: Lennie Bollinger
Subject: Re: Schroeder

Exhibit 22 612
6/2

I will get on Doctor's Surgery schedule & when I know the date
I will let you know immediately tomorrow.

I would like to finish mediation before Christmas.
He may never agree to any dates, so be prepared.

He knew the 14th so he should have planned to be off from work.

Can we go to trial without him if he is never available?

Darlene

On Thursday, December 1, 2016 8:28 PM, "winsley112@yahoo.com" <winsley112@yahoo.com> wrote:

That's our trial date. Was he not going to make that?

On Thursday, December 1, 2016 8:22 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Defendant isn't available on the 14th.

Sent from my iPhone
Lennie F. Bollinger
Wormington & Bollinger
212 East Virginia Street
McKinney, Texas 75069
972 569 3930
214 580 8298 (direct fax)
972 547 6440 (fax)
Lb@wormingtonlegal.com
www.wormingtonlegal.com

On Dec 1, 2016, at 7:53 PM, "winsley112@yahoo.com" <winsley112@yahoo.com> wrote:

Yes for Dec 19th, but Dispute Mediation blocked out Dec 14th.

Why the change ?

Darlene

On Thursday, December 1, 2016 6:16 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Everyone is available Dec. 19 at 2:30. Are you?

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street

Exhibit 22

McKinney, Texas 75069
972-569-3930 (office)
972-547-6440 (fax)
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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Wednesday, November 30, 2016 2:15 PM
To: Lennie Bollinger
Subject: Re: Schroeder

The lady's name at Dispute Mediation Services is
Jennifer Calhoun at 469-831-3994 for Dec. 7, 2016 at 1:30 PM
for $100.00. Received her email.

On Wednesday, November 30, 2016 2:09 PM, "winsley112@yahoo.com" <winsley112@yahoo.com> wrote:

Sent email to Dispute Mediation for reservation to hold space.

Darlene

On Wednesday, November 30, 2016 1:50 PM, "winsley112@yahoo.com" <winsley112@yahoo.com> wrote:

SOS Lennie ,
Dispute Mediation Services $100.00
Telephone 469-831-3994
Dec. 7, 2016 at 1:30 PM
We must call to reserve today. Payment at time of service.
Booked but was a cancellation.

Thanks Darlene

On Wednesday, November 30, 2016 10:01 AM, "winsley112@yahoo.com" <winsley112@yahoo.com> wrote:

Hi Lennie,

Thank you for the updates on each item, since new at this.

Exhibit 22

I have requested a Thumbtack search for mediator with quotes between McKinney & Dallas, which I should receive within 48 hours.

I agree as to the $100.00 fee, due to small claims & money I don't have due to all the damages.

Within a few days I will need to schedule at least one surgery if possible.

As soon as I get some quotes & names I will email you back for set up.

Thanks,

Darlene

On Tuesday, November 29, 2016 10:46 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Darlene,

I have received your emails. Below are my comments:

1. You have nothing to be concerned about regarding him "using your words against you from mediation." Mediation is confidential. What is said at mediation cannot be discussed at trial.

2. You have nothing to be concerned about us not filing a written answer to his counter claims. Texas Rule of Civil Procedure 92 states, "When a counterclaim or cross-claim is served upon a party who has made an appearance in the action, the party so served, in the absence of a responsive pleading, shall be deemed to have pleaded a general denial of the counterclaim or cross-claim." This means we have a general denial without filing anything. He cannot take a default against you for the counter claim.

3. Because the amount of your damages and to limit costs, we filed your case in small claims court. In small claims court you must ask the judge to serve written discovery. I can do so but we must file a motion to tell the judge what discovery we need and why. I do not believe we need any discovery. All the issues in your case involve verbal agreements, not written agreements.

4. My delay in scheduling mediation is that I am trying to find a good mediator for our case at a low cost. The cheapest I have found so far is $300/person. Given the amounts in dispute in this case I would like to find someone to mediate the case for $100/person. Do you have any mediators in mind who charge in the $100 range? Are you willing to pay $300 to a mediator? If we can get mediation details arranged I would like to schedule it the week of trial and move trial by 30 days. The judge should have no issue moving the trial date if a mediation is scheduled.

I look forward to hearing from you and I hope you're doing well.

Lennie F. Bollinger
Wormington & Bollinger
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McKinney, Texas 75069
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Exhibit 22

Subject: Re: Amrhein v. Schroeder

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: LB@Wormingtonlegal.com;

Date: Friday, December 2, 2016 10:00 AM

Hi Lennie,

General nature for surgery is legs injuries, stints & burning of veins to increase blood flow to heart.

Dates aren't known until later this afternoon according to doctor's office due to their preparations, scheduling, doctor's availability & insurance companies approval.

If the Judge sets a date we will have to work the surgery around the hearing.

Thanks,

Darlene

On Thursday, December 1, 2016 11:46 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Please let me know the general nature of your surgeries and dates.

Sent from my iPhone
Lennie F. Bollinger
Wormington & Bollinger
212 East Virginia Street
McKinney, Texas 75069
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972 547 6440 (fax)
Lb@wormingtonlegal.com
www.wormingtonlegal.com

On Dec 1, 2016, at 11:35 PM, "winsley112@yahoo.com" <winsley112@yahoo.com> wrote:

Hi Lennie,

I do not want us to set up any mediation with Mr. Schroeder.
I found out something tonight that would make mediation impossible & "bad faith."
I do not want to waste the $100.00 & it would sicken me to deal with him.
Let the Judge know we need a trial reset, mediation was not possible & I am having 2 surgeries. 30 days is sufficient depending on the court's schedule.
I do not want Mr. Schroeder to con me or anyone else any longer.
If Mr. Schroeder contacts you then tell him I cancelled all mediation.
Trial is the only resolution in this case.

Thanks for your efforts,

Exhibit 22

Darlene Amrhein

Exhibit 22

Subject: Amrhein v. Schroeder

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Friday, December 2, 2016 3:22 PM

Lennie,

Still waiting for doctor's office & I called 3 times.

We could still do the 14th & if he is not there it is his problem.

I will tell them dates after that for surgeries.

I would be ready.

He had one continuance & knew of trial.

Darlene

Exhibit 22

Subject: Amrhein

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: lb@worningtonlegal.com;

Date: Friday, December 2, 2016 4:21 PM

Lennie,

Just heard from doctor's office.
They will not be able to do the procedure in December at all as some in line ahead of me.

January is most likely & they don't have the schedule prepared yet for January, 2017 as it is done on certain days based on doctors & availability.

To get a doctor's not I would have to come in & they close in 9 minutes.

So there we are. It approved, so I am available for all of December.

Thanks,

Darlene

Exhibit 22

Subject: Re: Amrhein & Schroeder

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: LB@Wormingtonlegal.com;

Date: Saturday, December 3, 2016 1:28 PM

My first choice is Dec. 14, 2016 trial date set by Judge's Order.
Second choice any other trial date in December, 2016.
What do we need to do to increase my damages & value of this case to include other damage?

What has Mr. Schroeder told you about his position & this case?

I will be fully prepared for January 14, 2016, so you can announce "Ready for Trial."

Thanks

Darlene Amrhein

On Friday, December 2, 2016 7:45 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Darlene,

I think your case is one that really would be best to mediate before trial. Please reconsider the continuance and mediation.

Lennie F. Bollinger
Wormington & Bollinger
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Exhibit 22

Subject: Amrhein

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Monday, December 5, 2016 6:57 PM

Correct meant December 14, 2016 not January 14, 2016.

I am preparing questions for Schroeder to use at trial.

When you get back I will have all exhibits & issues for trial.

Have a good vacation & don't worry.

The reason for no mediation will be clear & the increase in value.

Thanks,

Darlene

Exhibit 22

Subject: Re: AMRHEIN V. SCHROEDER 01-SC-16-00165

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: LB@Wormingtonlegal.com;

Date: Monday, December 12, 2016 8:04 PM

Ok !

On Monday, December 12, 2016 7:06 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Cathy will contact you tomorrow to schedule a time Wednesday. No exhibits necessary.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Monday, December 12, 2016 6:48 PM
To: Lennie Bollinger
Subject: Re: AMRHEIN V. SCHROEDER 01-SC-16-00165

Wednesday anytime would be my best. Do you need the exhibits?

Darlene

On Monday, December 12, 2016 5:46 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Darlene,

Exhibit 22

A continuance was granted. I would like to meet with you. Can you come in Tuesday afternoon or any time Wednesday? Thanks.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Monday, December 12, 2016 9:18 AM
To: Lennie Bollinger
Subject: Re: AMRHEIN V. SCHROEDER 01-SC-16-00165

Add Geraldine (Gerry) F. Lemond.
This is his live in girl friend who he was contacting while living here & pretending to have a relationship with me. She is the woman behind the fake police reports & his angry message to me.
I believe she is his new support for his living expenses.
I have prepared step by step issues if you want me to fax them to you.
My internet service has been out for two days.
This what I would want to testify to under oath. It gives you a clear idea of what I have been through with Schroeder & all my damages which exceeds my demand letter. This new information makes everything clear for this lawsuit & why I will not mediate with him.
Lamond's mailing address is the same as his & that is Largo Vista since August 2015 & one month after nasty messages on my cell phone.
He has been involved with her since 2011 as I witnessed.

The type is large on my fax because I have issues with my eyes right now, but it is very detailed about Schroeder & should help with continuance, new discovery, and the actions of the frauds against me.
If you send a message & don't get a response within 2 hours it means internet is down again & just call me with any questions.
She is twice divorced & when he got my demand letter he went same day to police to prevent me from finding out about her.
Her address is the same as David Schroeder's address.

Thanks,

Darlene

Exhibit 22

On Sunday, December 11, 2016 7:57 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Who do you want to add and why?

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Thursday, December 8, 2016 2:01 PM
To: Lennie Bollinger
Subject: AMRHEIN V. SCHROEDER 01-SC-16-00165

Hi Lennie,

Do not want to bother you while on vacation, but knew you would need this information as soon as possible for above case number set for trial on Dec. 14, 2016 at 11:00 AM.

I would like to have you file a Motion For Continuance to Judge & Collin County Court.

Not for any mediation because that offer is withdrawn & impossible.

Motion to Continue to Reset Trial for Requested Discovery that was filed with the court in "Original Petition" and also due to "newly discovered" information of an "indispensable party" to this lawsuit.

I do not want to name person prior to service of citation to delay or prevent service.

If an questions let me know.

Thanks,

Exhibit 22

Darlene Amrhein

Exhibit 22

Subject: 42 pages sent Dec. 12, 2016

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Wednesday, December 14, 2016 6:32 PM

Lennie,

The 42 pages sent to you on Monday Dec. 12, 2016 is attorney-client privilege not to be shared with Mr. Schroeder written, faxed or verbally until we have taken care of all issues in this case.

Thanks,

Darlene Amrhein

Exhibit 22

Subject: Re: Amrhein v. Schroeder Case

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: LB@Wormingtonlegal.com;

Date: Wednesday, December 14, 2016 6:49 PM

Ok sounds good. Will wait with my list.
Have a good trip !

Darlene

On Wednesday, December 14, 2016 6:42 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Darlene, I will respond to your emails over the weekend. I am heading out of state for a deposition Friday. I am not sharing anything with Mr. Shroeder that you have shared with me.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Wednesday, December 14, 2016 6:26 PM
To: Lennie Bollinger
Subject: Amrhein v. Schroeder Case

I have a few questions, Lennie.

Has Mr. Schroeder agreed to paying all attorney fees, court cost & process server fees?

Did Mr. Schroeder inform you or discuss any of my legal in the past with you?

Exhibit 22

You sighted a past title claim per who's information ?

What court will hear fraud, tort claims, theft & emotional distress?

Is it that the lowest court is not qualified in those particular laws?

Thanks,

Darlene Amrhein

Exhibit 22

Subject: Re: Amrhein v. Schroeder 01-SC-16-00165

From: Lennie Bollinger (LB@Wormingtonlegal.com)

To: winsley112@yahoo.com;

Cc: Cathy@Wormingtonlegal.com;

Date: Wednesday, December 28, 2016 7:03 PM

Darlene,

My apologies for just responding. I've had a few issues come up.

Small claims court will hear claims regarding whatever you plead, including fraud, etc. What I was trying to explain to you is that I think a lot of the information you're discussing in the 42 pages is extraneous information that would likely not be relevant and would not lead to a successful outcome at trial. You are more than welcome to make whatever claims you want but I will not make them all as your attorney because I do not believe they have merit.

The initial scope of my representation was limited to the claims regarding back rent and property he took from you. You have greatly expanded what you would like to claim. You are certainly able to do so but I am not comfortable making the claims for you.

Mr. Shroeder has not asked me for a list. My communications with him have been limited to scheduling mediation (when that was something you wanted) and moving the trial date. He mentioned he made you an offer previously and I asked him to tell me what the offer was. He has not discussed your past with me.

I think this case is one that needs to be settled given the emotion, potential recovery/outcomes, and other factors. You have told me you do not want to settle that you want a trial no matter what offer he makes.

Given the differing opinions you and I have on the strategy, potential outcomes, and claims that should be made it is likely best that I no longer represent you in this case. Please let me have your thoughts. I wish nothing but the best for you but feel we don't see eye to eye on the case and you'd be better served with someone who sees the case the way you do. Thanks.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street

Exhibit 22

McKinney, Texas 75069
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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Wednesday, December 14, 2016 5:28 PM
To: Lennie Bollinger
Subject: Amrhein v. Schroeder 01-SC-16-00165

Hi Lennie,

Just want to make sure about what we talked about this afternoon.

The Small Claims court will not hear fraud claims, tort actions, damages emotional distress & other related issues to this above case as prepared in the 42 pages I provided to you on Monday Dec. 12, 2016.

Is it that this case was filed in the wrong court?

There are laws on fraud, tort claims, theft & emotional distress, so why are we not making these claims against Mr. Schroeder ?

What court will hear those claims?

Do you not file such claims in any of your cases?

You asked me to prepare a brief limited list.

Has Mr. Schroeder asked for this limited list?

Does Mr. Schroeder know the case was continued to March 1, 2017?

I am trying to understand your position on this case. Maybe you can explain it a little further, so I understand the procedure & conversations you have had with Mr. Schroeder, before I prepare any lists.

How many times have you talked with Mr. Schroeder?
What was the conversation?

Why do you want to limit this case before the judge?

Exhibit 22

You claimed no emotional distress claim, so why when you know what I have been through?

Is fraud, theft & damages not crimes in this case?

If this case is in the wrong court, then how will you change it?

Thanks for your clarification.

Darlene Amrhein

Exhibit 22

Subject: Darlene Amrhein v. David Schroeder Case

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Tuesday, January 10, 2017 11:01 PM

Hi Lennie,

Update : Still trying to recover from first surgery.

Each one has to be timed to prevent complications.

Still in a lot of pain, bandaged & can't walk.

Have you sent message to Judge & Court ?

Please set it for 3rd or 4th week in March.

I need to know ASAP, so I schedule surgeries properly.

Please Email the Order to me, so I can plan timely.

Thank the Judge for me as greatly appreciated.

Thanks,

Darlene Amrhein

Exhibit 22

Subject: Darlene Amrhein v. David Schroeder

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Sunday, January 15, 2017 11:37 AM

Hi Lennie,

Update as of an. 15, 2017

Still trying to recover, in extreme pain & unable to walk.

Forgot to mention in last update that when asking the

Court to continue this case into late March, 2017 I forgot

to mention that "I want a jury trial," which may affect

scheduling for March or into April, 2017 according to

scheduling for Court's convenience.

Please let me know the date ASAP, so I can let the Doctor know

for scheduling 3 remaining surgeries & time for recovery.

Thank you, Lennie,

Darlene Amrhein

Exhibit 22

Subject: Amrhein v. Schroeder Lawsuit

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Tuesday, January 24, 2017 11:01 AM

Hi Lennie,

Any date yet from Court ?

This should not be difficult since I have never asked for any continuance.

The doctor is wanting to schedule the next 3 surgeries, so this is important.

The jury trial has been submitted timely.

I can't work on offer until this is handled.

Please let me know in the next few days before end of month.

Thanks,

Darlene Amrhein

Exhibit 22

Subject: Re: Amrhein v. Schroeder Lawsuit

From: Lennie Bollinger (LB@Wormingtonlegal.com)

To: winsley112@yahoo.com;

Date: Wednesday, January 25, 2017 8:18 PM

That is fine. Or they can fax it to my email fax at 214-580-8298. You can tell them that is your accessible fax.

Lennie F. Bollinger
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212 E. Virginia Street
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214-580-8298 (direct fax)
www.wormingtonlegal.com

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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Wednesday, January 25, 2017 8:11 PM
To: Lennie Bollinger
Subject: Re: Amrhein v. Schroeder Lawsuit

I will call them tomorrow, since I am unable to walk around
& it would have to be sent by email to me.

Darlene Amrhein

On Wednesday, January 25, 2017 7:33 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Can you get a letter from your doctor stating you are under his care and require several surgeries in the coming months?

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street

Exhibit 22

McKinney, Texas 75069
972-569-3930 (office)
972-547-6440 (fax)
214-202-1104 (cell)
214-580-8298 (direct fax)
www.wormingtonlegal.com

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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Tuesday, January 24, 2017 11:07 AM
To: Lennie Bollinger
Subject: Amrhein v. Schroeder Lawsuit

Hi Lennie,

Any date from Court yet on jury trial date as I emailed you weeks ago.

I am sure the Court has a busy schedule & they need proper notice per

rules of civil procedure for this request.

I have never asked for a continuance & sure jury trial dates are to be timely.

My doctor wants to set next 3 surgeries before end of this month.

Please let ,me know in next few days.

I can't work on any offer at this point until this is handled.

Thanks,

Darlene Amrhein

Exhibit 22

Subject: Re: Amrhein vs Schroeder

From: Lennie Bollinger (LB@Wormingtonlegal.com)

To: winsley112@yahoo.com;

Date: Thursday, January 26, 2017 6:38 PM

ok

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
972-569-3930 (office)
972-547-6440 (fax)
214-202-1104 (cell)
214-580-8298 (direct fax)
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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Thursday, January 26, 2017 5:26 PM
To: Lennie Bollinger
Subject: Amrhein vs Schroeder

Lennie,

My doctor is out of office today.

My doctor is in surgery procedures tomorrow.

It will be Monday before medical excuse.

Darlene Amrhein

Exhibit 22

Subject: Re: Amrhein v. Schroeder Lawsuit

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: LB@Wormingtonlegal.com;

Date: Tuesday, February 14, 2017 10:42 PM

Thanks Lennie,
2nd surgery Feb 28, then 3rd March 14, & 4th March 30 then recovery for 2 to 3 weeks more after that. Painful ! Yuk

Darlene

On Tuesday, February 14, 2017 10:39 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Hi Darlene,

I got the fax. I will file the continuance tomorrow. I hope you are feeling well.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
972-569-3930 (office)
972-547-6440 (fax)
214-202-1104 (cell)
214-580-8298 (direct fax)
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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Saturday, February 4, 2017 1:54 PM
To: Lennie Bollinger
Subject: Amrhein v. Schroeder Lawsuit

Hi Lennie,

Did you get my doctors email that was sent to your fax ?

When will you notify the Court?

Exhibit 22

Thanks,

Darlene Amrhein

Exhibit 22

Subject: Re: Amrhein v. Schroeder Lawsuit

From: Lennie Bollinger (LB@Wormingtonlegal.com)

To: winsley112@yahoo.com;

Cc: Cathy@Wormingtonlegal.com;

Date: Thursday, February 23, 2017 9:11 AM

We filed it yesterday or today. I was waiting to hear from Mr. Schroeder if he was in agreement. He emailed me yesterday he was in agreement. I will let you know when we hear back. I hope your procedures are going well.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
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972-547-6440 (fax)
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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Wednesday, February 22, 2017 10:23 PM
To: Lennie Bollinger
Subject: Amrhein v. Schroeder Lawsuit

Hi Lennie,

Have you heard from the Court about new trial date from last week ?

Did you send copy to Mr. Schroeder about Continuance / Change?

I did not receive a copy of this filing.

Thanks,

Darlene Amrhein

Exhibit 22

Subject: Amrhein v. Schroeder

From: winsley112@yahoo.com (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Monday, February 27, 2017 2:39 PM

Hi Lennie,

Has the Court ruled yet since March 1 is nearly here ?

Darlene

Exhibit 22

Subject: Re: Amrhein v. Schroeder

From: Lennie Bollinger (LB@Wormingtonlegal.com)

To: winsley112@yahoo.com;

Cc: Cathy@Wormingtonlegal.com;

Date: Monday, February 27, 2017 2:41 PM

Continuance was granted. I don't know the reset date yet.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
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From: winsley112@yahoo.com <winsley112@yahoo.com>
Sent: Monday, February 27, 2017 2:39 PM
To: Lennie Bollinger
Subject: Amrhein v. Schroeder

Hi Lennie,

Has the Court ruled yet since March 1 is nearly here ?

Darlene

Exhibit 22

Subject: Schroeder

From: Lennie Bollinger (LB@Wormingtonlegal.com)

To: winsley112@yahoo.com;

Cc: Cathy@Wormingtonlegal.com;

Date: Wednesday, March 1, 2017 2:34 PM

Darlene,

The court reset your trial to 6/28/17. I am going to calendar to follow-up with you on April 1 to discuss the items we discussed during our in person meeting. Get well soon. Lennie

Lennie F. Bollinger
Wormington & Bollinger
212 East Virginia Street
McKinney, Texas 75069
972 569 3930 (office)

214 202 1104 (cell)

214 580 8298 (direct fax)
972 547 6440 (fax)
Lb@wormingtonlegal.com
www.wormingtonlegal.com

LIFE MEMBER
MILLION DOLLAR ADVOCATES FORUM
The Top Trial Lawyers In America™

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Attachments

- image001.gif (6.96KB)
- image002.jpg (3.95KB)

Exhibit 22

Subject: Re: Amrhein v. Schroeder Lawsuit

From: Darlene Balistreri (winsley112@yahoo.com)

To: LB@Wormingtonlegal.com;

Date: Thursday, March 16, 2017 12:21 AM

Can you send the Order for my records.

Update !

I was in hospital last week & in need of back surgery
for pinched nerves affecting my legs with 4 medications.
My doctor is arranging for surgeon for operation.

That court date should not be a problem as time for recovery.

I would like to have amended pleadings done to deny his stalking charge.

To add fraud, deception, omissions, abuses, fear, retaliation & intentional
infliction of emotional distress and damaged property to be included
with conversion of my property to this Amended Pleadings.

I will then prepare an offer to settle on each issue to send to
Mr. Schroeder to see if he wants to avoid the jury trial.
Hopefully this can be done before my back surgery.

Please send me a copy of Amended Pleadings.

Thanks Lenny,

Darlene Amrhein

On Wednesday, March 15, 2017 10:47 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

It was reset to 6/28/17.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
972-569-3930 (office)
972-547-6440 (fax)
214-202-1104 (cell)
214-580-8298 (direct fax)
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Exhibit 22

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or copying of the communication is strictly prohibited. If you have received this communication in error,please immediately notify us by return email or telephone at 972-569-3930.

From: Darlene Balistreri <winsley112@yahoo.com>
Sent: Wednesday, March 15, 2017 5:49 PM
To: Lennie Bollinger
Subject: Amrhein v. Schroeder Lawsuit

Hi Lenny,

Have you heard from Court on Order & New Trial Date?

Darlene Amrhein

Exhibit 22

Subject: Amrhein v. Schroeder

From: Darlene Balistreri (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Sunday, March 26, 2017 11:07 AM

Hi Lennie,

Forgot to mention to include all attorney fees & expenses to the Amended Pleadings.

Thanks,

Darlene Amrhein

Exhibit 22

Subject: Amrhein v. Schroeder

From: Darlene Balistreri-Amrhein (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Monday, April 17, 2017 9:34 AM

Hi Lennie,

Have you filed the Amended Pleadings in this lawsuit?

I have not received a copy to date along with other document requests & no responses, since March 27, 2017, when I sent an e-mail to you.

It has been 21 days since my last email & update.

I have been waiting to do the Settlement Offer for Mr. Schroeder.

Health Update:

I have had multiple tests, medications, CT & MRI testing results with treatment of surgery, which I have been putting off, so to do this Settlement Offer, which results in pain & medications.

When can we expect to get this done, so I can make my health plans.

Mr. Schroeder will need time to consider & respond to both the Amended Pleading & Settlement Offer, plus civil procedure rules have to be considered for proper timing.

I also have not received the Judge's last Order & all documents filed.

If you have sent these documents from your office & just not received you have my active e-mail address as winsley112@yahoo.com.

Please let me know the status.

Thanks,

Darlene Amrhein

Exhibit 22

Subject: Amrhein v. Schroeder

From: Darlene Balistreri-Amrhein (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Monday, April 24, 2017 8:54 AM

Lennie,

Have you filed with the court yet, so I can do the Settlement Offer to Mr. Schroeder?

I have not heard from you for several emails & received nothing as requested.

I have my doctor appointment on May 16, 2017 for back surgery.

If not done we will have to ask the judge for another continuance.

I would like to get this done now before that happens.

Darlene

Exhibit 22

Subject: Re: Amrhein v. Schroeder

From: Darlene Balistreri-Amrhein (winsley112@yahoo.com)

To: LB@Wormingtonlegal.com;

Date: Monday, May 8, 2017 11:09 PM

Lennie,

No I am having testing for back surgery. You will have to communicate with me by emails.

My home repairs from all the storms are on hold too because of my health.

I need to have the Amended Pleadings sent for approval & filed in Court as in my emails.

Will keep you updated each chance I get.

Thanks,

Darlene Amrhein

On Monday, May 8, 2017 6:46 PM, Lennie Bollinger <LB@Wormingtonlegal.com> wrote:

Darlene,

I am sorry but your emails accidentally went to my spam folder. Are you free for a call Tuesday? Let me know a good time.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
972-569-3930 (office)
972-547-6440 (fax)
214-202-1104 (cell)
214-580-8298 (direct fax)
www.wormingtonlegal.com

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From: Darlene Balistreri <winsley112@yahoo.com>
Sent: Monday, March 27, 2017 12:57 PM

Exhibit 22.

To: Lennie Bollinger
Subject: Amrhein v. Schroeder

Hi Lennie,

Health update:

Seeing Spine Surgeon tomorrow & more testing with hospital CT Scan examination & reporting to date. Sorry for all health issues.

Want to do Settlement Offer to see if we could prevent the Jury Trial, as stated back months ago, by agreement on all fact issues outstanding.

Have not received Plaintiff's "Amended Pleadings" from you yet to do that Settlement Offer for each point considered as pending since December 2016.

I thought you wanted a Settlement Offer from our meeting in your office back in December, 2016 as stated ? I am confused !

I think the Settlement Offer on all interest & issues in this case would be a good avenue, as you claimed months ago under the circumstances.

I would like to get this done before back surgery as recovery takes some time & makes it impossible to do accurately & timely.

Defendant Schroeder will need time to consider what he wants to do about avoiding the jury trial that you Ordered in February, 2017.

I still have not received all your court filings to date & would like them for my records, because I do not have latest communications with this judge & court causing additional confusion.

Time is important, since set for jury trial June 28, 2017 & I don't have that Court Order either for my records.

Have you spoken to Mr. Schroeder? If so please let me know what was said & his feelings toward a Settlement Offer, since their is no attorney client privilege with him in this case.

As I stated by email the points of interest to be added to this "Amended Pleadings" to be filed will add to the accuracy & points in this Settlement Offer without confusion.

There is to be nothing left out or hidden from everyone, including the judge & court.

Per our December 2016 meeting you declined to add the party involved in this case, which is for the benefit of Mr. Schroeder & his interests, against my wishes.

It will be totally Defendant Schroeder's choice the way this case will go after he receives this Amended Pleadings & Settlement Offer.

I need the "Amended Pleadings" to do that Settlement Offer before any scheduled back surgery & you can transfer it to Defendant Schroeder by his copies.

We can't afford another delay. I am sure the Judge will not want to continue this

Exhibit 22

case over this Settlement Offer, Jury Trial & Amended Pleadings, when my health has been a problem, along with Defendant Schroeder's false claims & work travels.

Do not forget denial of all Defendant Schroeder's "false claims of stalking him and any other of his false claims," your attorneys fees & all expenses incurred to date.

I have not received any attorney fees bill from you itemized to date either.

Thanks for you consideration of all your well wishes for good health.

Very limited daily abilities, very painful & living on pain medications, so additional issues do not contribute to my wellness for all upsets to date.

Thanks for your loyalty & co-operations in these matters.

Darlene Amrhein

Exhibit 22

Subject: Amrhein v. Schroeder

From: Darlene Balistreri-Amrhein (winsley112@yahoo.com)

To: lb@wormingtonlegal.com;

Date: Monday, May 8, 2017 11:12 PM

Lennie,

I will then send you a Settlement Offer after receiving the Amended Pleadings & Jury Trial as Ordered.

Mr. Schroeder needs time to consider this information for possible settlement.

This is all time sensitive according to Rules.

Thanks,

Darlene

Exhibit 22

CAUSE NO. 01-SC-16-00165

DARLENE AMRHEIN	§	**IN JUSTICE OF THE PEACE**
	§	
vs.	§	**PRECINCT 1**
	§	
	§	
DAVID SCHROEDER	§	**COLLIN COUNTY, TEXAS**

MOTION FOR WITHDRAWAL OF COUNSEL

TO THE HONORABLE COURT:

COME NOW, Movants, Lennie F. Bollinger and Wormington & Bollinger, Attorneys for Plaintiff, Darlene Amrhein (hereinafter referred to as "Plaintiff"), and bring this Motion for Withdrawal of Counsel, and in support thereof, show the Court the following:

I.

Good Cause exists for withdrawal of Movants as counsel because Movants are unable to effectively communicate with Plaintiff in a manner consistent with good attorney-client relations. It is necessary for Plaintiff's attorney to withdraw due to a difference of opinion with Plaintiff which make continued representation of Plaintiff in this cause of action impossible.

Further, Movants would show that notice has been given to Plaintiff of all upcoming deadlines and events in this matter. Additionally, Movants notified Plaintiff of the filing of this motion and Plaintiff disagrees with the withdrawal.

This motion is not sought for the purpose of delay.

A copy of this motion has been provided to Plaintiff by mail at Plaintiff's last known address: 112 Winsley Circle, McKinney, Texas 75071 and to Plaintiff's current email address.

Plaintiff is hereby notified in writing of the right to object to this motion.

Exhibit 23

WHEREFORE, PREMISES CONSIDERED, Movants pray that the Court enter an order discharging Movants as attorney of record for Plaintiff, Darlene Amrhein, and for such other and further relief that may be awarded at law or in equity.

Respectfully submitted,

WORMINGTON & BOLLINGER

BY:_____

Lennie F. Bollinger, JD
State Bar No. 24076894
lb@wormingtonlegal.com

212 East Virginia Street
McKinney, Texas 75069
(972) 569-3930
(972) 547-6440 Facsimile

ATTORNEY FOR PLAINTIFF

Exhibit 23

CERTIFICATE OF CONFERENCE

I personally conferred with Defendant on 11th day of May, 2017 regarding this Motion and Defendant does not oppose with the Motion for Withdrawal.

I personally conferred with Plaintiff on the 10th day of May, 2017 regarding this Motion and Plaintiff opposes the Motion for Withdrawal.

Lennie F. Bollinger

CERTIFICATE OF SERVICE

This will certify on this 11th day of May, 2017 that a true and correct copy of the foregoing was forwarded to opposing party as follows:

VIA EMAIL
David A. Schroeder
PO Box 80393
Dallas, Texas 75380

VIA EMAIL AND MAIL
Darlene Amrhein
112 Winsley Circle
McKinney, Texas 75071

Lennie F. Bollinger

Electronically Served
12/11/2017 12:32 PM

ALLIED WORLD INSURANCE COMPANY
1690 New Britain Avenue, Suite 101, Farmington, CT 06032
Tel. (860) 284-1300 Fax (860) 284-1301

ALLIED WORLD *LPL ASSURE*
LAWYERS PROFESSIONAL LIABILITY INSURANCE POLICY

POLICY NUMBER: 0310-6143 **RENEWAL OF:**

THIS IS A CLAIMS MADE POLICY WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY EXTENDED REPORTING PERIOD, AND REPORTED IN ACCORDANCE WITH SECTION V.E. OF THE POLICY. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES WILL BE REDUCED AND MAY BE EXHAUSTED BY CLAIMS EXPENSES AND CLAIMS EXPENSES WILL BE APPLIED AGAINST THE RETENTION AMOUNT. IN NO EVENT WILL THE INSURER BE LIABLE FOR CLAIMS EXPENSES OR DAMAGES IN EXCESS OF THE APPLICABLE LIMIT OF LIABILITY. PLEASE READ THE ENTIRE POLICY CAREFULLY.

DECLARATIONS

Item 1. Name and Mailing Address of Named Insured:

Wormington Law Group
212 East Virginia Street
McKinney, TX 75069

Item 2. Policy Period:

(a) Inception Date: March 24, 2017
(b) Expiration Date: March 24, 2018
At 12:01 a.m. Standard Time at the Mailing Address Shown Above

Item 3. Limits of Liability:

I. Limits of Liability for Insuring Agreements

(a) $500,000 Limit of Liability for each and every Claim under Insuring Agreement I.

(b) $1,000,000 Limit of Liability for all Claims under Insuring Agreement I.

II. Limits of Liability for Additional Coverages

(a) $25,000 Shared Aggregate Limit of Liability for all amounts payable under Additional Coverage A., Supplemental Privacy Coverage.

(b) $500,000 Limit of Liability for each and every Claim under Additional Coverage B., Non-Profit Directors & Officers Coverage.

Exhibit 23

Electronically Served
12/11/2017 12:32 PM

$500,000 Limit of Liability for all Claims under Additional Coverage B., Non-Profit Directors & Officers Coverage.

(c) $30,000 Limit of Liability for all personal earnings, under Additional Coverage C.; provided that this Limit of Liability is further limited as follows:

(i) $500 for personal earnings lost each day

(ii) $15,000 for personal earnings per Claim

(d) $20,000 Limit of Liability for all fees, costs and expenses incurred from each and every Disciplinary Proceeding under Additional Coverage D.

$60,000 Limit of Liability for all fees, costs and expenses incurred from all Disciplinary Proceedings under Additional Coverage D.

(e) $5,000 Limit of Liability for all fees and costs incurred from the Insured receiving a Subpoena arising out of Legal Services under Additional Coverage E.

III. Policy Aggregate Limit of Liability

(a) $1,000,000 Aggregate Limit of Liability for all amounts payable under Insuring Agreement I. and Additional Coverages A. and B. The Aggregate Limit of Liability does not apply to the Additional Coverages C., D. and E.

Item 4. Retentions:

(a) $5,000 each and every Claim under Insuring Agreement I.

(b) $5,000 each and every Material Event; each and every Privacy Wrongful Act; and each and every Data Breach under Additional Coverage A.

(c) $5,000 each and every Claim under Additional Coverage B.

No Retention shall apply to Additional Coverages C., D. and E.

Item 5. Address of Insurer For Notices Under This Policy:

Claim-Related Notices:
noticeofloss@awac.com

All Other Notices:
1690 New Britain Avenue Farmington, CT 06032

Item 6. Premium:
Total Premium:

Exhibit 23

Electronically Served
12/11/2017 12:32 PM

Item 7. Retroactive Date: March 24, 2009

Item 8. Endorsements Attached at Issuance:
1. LPL 00032 42 (11/2013) Texas Amendatory
2. LPL 00088 42 (11/2013) Texas Deceptive Trade Practices Act

In Witness Whereof, the **Insurer** has caused this Policy to be executed and attested. This Policy shall not be valid unless countersigned by a duly authorized representative of the **Insurer**.

President

Karen Colom
Asst. Secretary

AUTHORIZED REPRESENTATIVE

Exhibit 23

CERTIFICATE OF SERVICE

A true and correct copy of Plaintiff, Darlene C. Balistreri-Amrhein Waiving Client – Attorney Privilege, So No Exceptions With Defendants Attorney Lennie Bollinger, Wormington & Bollinger Law Firm, Some Important New Court Filings & Communications Representing Violations of Laws & Facts To Additional Amend Pleadings In This Lawsuit For Submission, Stated Claims & Arguments With Exhibits was served in person or by Certified Mail through the United States Post Office on or about January 22, 2018 to the following:

Collin County Courthouse — In Person

County Court at Law No. 5

Honorable Dan K. Wilson
Attn: Collin County District Clerk's Office
2100 Bloomdale Rd.
McKinney, TX 75071

Cobb, Martinez, Woodward, PLLC — Certified # 7017 0530 0000 6416 6235

Attorney Carrie Johnson Phaneuf

1700 Pacific Avenue, Suite 3100

Dallas, TX. 75201

Respectfully submitted,

Darlene Balistreri-Amrhein

Darlene Balistreri-Amrhein, Plaintiff, Pro Se and

Representative for Deceased Anthony J. Balistreri

1/22/2018

vii

Electronically Filed 1/23/2018 4:08 PM
Stacey Kemp County Clerk
Collin County, Texas
By: Dianna Shine, Deputy
Envelope ID: 22011469

CAUSE NO. 005-02654-2017

DARLENE C. AMRHEIN, et al,	COUNTY COURT AT LAW
Plaintiffs,	NO. 5
v.	[Hon. Dan K. Wilson]
ATTORNEY LENNIE F. BOLLINGER, AND WORMINTON & BOLLINGER LAW FIRM,	
Defendants.	COLLIN COUNTY, TEXAS

DEFENDANTS' FURTHER REPLY TO PLAINTIFF'S SUPPLEMENTAL FILINGS IN RESPONSE TO DEFENDANTS' MOTION TO DISMISS UNDER RULE 91A OF THE TEXAS RULES OF CIVIL PROCEDURE

Defendants Lennie F. Bollinger and Wormington & Bollinger ("Defendants") file this further reply to the supplemental filings by *Pro Se* Plaintiff Amrhein ("Amrhein") made in response to Defendants' Rule 91a Motion to Dismiss ("Motion to Dismiss"). Specifically, Defendants' reply herein addresses arguments by Amrhein in the following pleadings:

- "Plaintiff's New & Additional Supplements for Submission to Consider Defendants' Motion to Dismiss this Lawsuit" (hereinafter referred to as "First Supplement"), dated January 18, 2018, but not received by Defendants until January 22, 2018;[1] and
- "Plaintiff's Waiving Client-Attorney Privilege, So No Exceptions with Attorney Lennie Bollinger, Wormington & Bollinger Law Firm, Some Important New Court Filings & Communications Representing Violations of Laws & Facts to Additional Amend Pleadings in This Lawsuit for Submission, Stated Claims & Arguments with Exhibits" (hereinafter

[1] This pleading was not available through the Court online docket system because it contained sensitive information that was not redacted. Accordingly, Defendants did not receive a copy until it was delivered in the mail on January 22, 2018.

referred to as "Second Supplement"), dated January 21, 2018 but verified and file-marked January 22, 2018.

I. BACKGROUND

Defendants filed their Rule 91a Motion to Dismiss on December 22, 2017, challenging Amrhein's baseless causes of action. Specifically, Defendants challenge all causes of action Plaintiff, *pro se*, attempts to bring as representative of Anthony J. Balistreri, deceased, as well as the non-legal malpractice and improperly fractured causes of action. Plaintiff filed her Response on January 2, 2018. On January 17, 2018, the Court granted Defendants' request to hear the Motion to Dismiss by written submission on January 25, 2018. Defendants filed a Reply to Amrhein's Response on January 19, 2018. Amrhein filed her First Supplement on January 18, 2018 and Second Supplement on January 22, 2018. Defendants' Motion to Dismiss is set for hearing by submission on January 25, 2018.

II. ARGUMENT AND AUTHORITIES

A. Reply to First Supplement.

1. Plaintiff's Medical Condition

While Defendants are sympathetic to Amrhein's assertions regarding her medical condition, Amrhein has been able to now file three voluminous responses to the Motion to Dismiss: January 2, 2018 Response (225 pages); January 18, 2018 First Supplement (32 pages); and January 22, 2018 Second Supplement (176 pages). Further, although Amrhein claims she was hospitalized twice "since December 26, 2017," she was able to file the following in the Fifth Circuit Court of Appeals:[2]

[2] The Fifth Circuit case information is attached hereto.

12/26/2017 APPELLANT'S BRIEF FILED by Ms. Darlene C. Amrhein. Brief NOT Sufficient as it requires a complete case caption. Additionally the Brief requires removal of included Recorcd Excerpts Index. Also, it is in excess of the page limit and word count. A/Pet's Brief deadline satisfied. Sufficient Brief due on 01/11/2018 for Appellant Darlene C. Amrhein. [17-41017] (Jd)

12/26/2017 RECORD EXCERPTS FILED by Appellant Ms. Darlene C. Amrhein. Record Excerpts NOT Sufficient as they require a complete case caption. It is also in excess of the page limit and word count. Sufficient Record Excerpts due on 01/11/2018 for Appellant Darlene C. Amrhein [17-41017] (Jd)

12/26/2017 MOTION filed by Appellant Ms. Darlene C. Amrhein to file brief and record excerpts in excess of the page limitations and word count. The Brief is 77 pages and Record Excerpts are 296 pages. [8672044-2], [8672044-3], [8672044-4]. [17-41017] (DMS)

Regardless, the Court is hearing the Motion to Dismiss by submission, alleviating any need for Amrhein to physically appear at a hearing. And she has been able to provide ample response to the Motion to Dismiss. Further, as previously stated in Defendants' January 19, 2018 Reply, adopted by reference as if fully stated herein, Rule 91a states that a court must decide the motion based ***solely on the pleading of the cause of action***, except for exhibits permitted by Rule 59 (which are exhibits attached to the petition or adopted by reference in the petition). TEX. R. CIV. P. 91a.6. Under this Rule, "the trial court is expressly prohibited from considering evidence." *Bedford Internet Office Space, LLC v. Tex. Ins. Grp., Inc.*, No. 02-17-00009-CV, 2017 Tex. App. LEXIS 11948, at *5-6 (Tex. App.—Fort Worth Dec. 21, 2017) (emphasis in original). "The plain language of the rule requires the trial court **to wear blinders to any pleadings except 'the pleading of the cause of action**.'" *Id.* (Emphasis added).

Thus, while Defendants are not unsympathetic to Amrhein's medical condition, as described by her, her medical condition should not impede the Court's hearing on the Rule 91a Motion to Dismiss by submission on January 25, 2018.

2. Allegations Regarding Balistreri and Lawsuit #2

Amrhein complains that Defendants' Motion to Dismiss did not address specific allegations by her related to their alleged failure to handle Lawsuit #2 on behalf of her deceased

father, Anthony J. Balistreri.[3] However, Defendants have moved to dismiss *all of the claims* related to Balistreri and Lawsuit #2 because Amrhein cannot bring claims in her representative capacity on behalf of Balistreri, his trust or his estate without an attorney. If Amrhein does end up retaining counsel to bring suit on her father's behalf, then the attorney can re-file those claims once retained. To date, no attorney has appeared to represent the deceased father, his trust or his estate and therefore all of the claims and causes of action as to Balistreri, no matter the specific allegations, must be dismissed. *See Kaminetzky v. Newman*, No. 01-10-01113-CV, 2011 Tex. App. LEXIS 10221, at *5 (Tex. App.—Houston [1st Dist.] Dec. 29, 2011, no pet.).

3. *Allegations Regarding the Alleged Failure to Bring Claims against Schroeder for Alleged Sexual Assault*

Amrhein complains that Defendants' Motion to Dismiss does not address the allegation that Defendants failed to file sexual assault charges against underlying defendant David Schroeder.[4] Even if Defendants were in a position to file criminal charges against David Schroeder, which is denied, these allegations have no relevance to the Motion to Dismiss.[5] Any allegation that Defendants should have, but did not, pursue claims against Schroeder related to an alleged sexual assault, is the subject of an alleged malpractice cause of action.[6] As stated in Defendants' January 19, 2018 Reply, the Rule 91a Motion to Dismiss does not seek dismissal of Amrhein's legal malpractice cause of action as it pertains to Defendants' representation of her in the underlying lawsuit against Schroeder ("Lawsuit #1").

4. *Defendants have Not Mislead the Court regarding the Law of Conspiracy*

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[3] See First Supplement, ¶¶ 12, 15, 16-18, 32, 34; p. 13.
[4] See First Supplement, ¶¶ 7, 8, 13, 14, 26, 32; and pages 12-13.
[5] Defendants also deny that they could have or should have filed a civil suit against Schroeder for alleged sexual assault.
[6] See Plaintiff's Amended Petition, p. 18, ¶10.

Contrary to Amrhein's allegations, neither Defendants nor their counsel have mislead this Court regarding the law of conspiracy. Amrhein's First Amended Petition states that the claim for conspiracy is between the two named Defendants,[7] and Defendants Bollinger and the Wormington & Bollinger law firm are the only two named defendants in the petition. As stated in the Motion to Dismiss, a partner of a law firm, as the agent, cannot conspire with his principal, the law firm. *See Crouch v. Trinque*, 262 S.W.3d 417, 427 (Tex. App.—Eastland 2008, no pet.).

Amrhein attempts to overcome this by asserting a new claim in her First Supplement that all of the attorneys in the firm were involved in the conspiracy. However, these new allegations also have no basis in law or in fact. First, there are no facts alleged in the First Amended Petition regarding any other attorneys or employees of the firm as it pertains to the cause of action for conspiracy.[8] In fact, Amrhein admits in her First Amended Petition that she "never spoke or emailed Attorney Wormington as only contact was Attorney Lennie Bollinger."[9] Not only do Amrhein's new allegations in her First Supplement that all four attorneys in the firm were involved in the conspiracy contradict her petition, but the new allegations cannot be considered. Again, Rule 91a requires that the court ***only consider the pleading of the cause of action***. That said, even if all four attorneys were alleged to have been involved, a corporation, such as a law firm, cannot conspire with itself, no matter how many of its agents may participate in the action. *Fojtik v. First Nat'l Bank of Beeville*, 752 S.W.2d 669, 673 (Tex. App.-Corpus Christi 1988), *writ denied*, 775 S.W.2d 632 (Tex. 1989). As such, Amrhein's cause of action for conspiracy between Defendant Bollinger and the law firm, has no basis in law and must be dismissed.

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[7] See Plaintiff's Amended Petition, p. 25, ¶39.
[8] See Plaintiff's Amended Petition, p. 18, ¶1; p. 23, ¶22; p. 25, ¶39; p. 30, ¶28; p. 35, ¶51; Exhibit B to the Petition, p. 6, ¶23.
[9] See Plaintiff's Amended Petition, p. 25, ¶40.

5. Objections to Amrhein's Exhibits

Again, Defendants object to the Exhibits that Amrhein attaches to the First Supplement because no extrinsic evidence may be considered in ruling on the Rule 91a Motion to Dismiss. TEX. R. CIV. P. 91a.6.

B. Reply to Second Supplement.

6. Plaintiff's Medical Condition

Again, Defendants are sympathetic to and willing to accommodate Amrhein's medical issue. However, respectfully, the hearing of this matter by submission ameliorates Amrhein's concern. Further, while Defendants appreciate the January 19, 2018 note from Amrhein's physician attached as Exhibit A to the Second Supplement, the note only states that Amrhein was seen that day for spine pain, is getting a work up and the plan is pending. While the note states Amrhein will report to Dr. Ju for further treatment, there is no date specified. The note does not state that any surgery has, in fact, been scheduled. Nor does it state that Amrhein is incapacitated by medication. Respectfully, the note does not describe the debilitating condition or impairment Amrhein has alleged in her pleadings with the Court.

7. Plaintiff's Exhibits are Not Evidence that She can Proceed Pro Se on Behalf of Her Deceased Father

Contrary to the argument in Amrhein's Second Supplement, none of the exhibits she attaches are evidence that any other court allowed her to engage in the practice of law without a license on behalf of the trust or the estate of her deceased father. Exhibits B and C are pleadings she filed. They are not orders or rulings of any court permitting a *pro se* plaintiff to bring claims

on behalf of the trust or the estate of a deceased person. The Memorandum Opinion and Order attached as Exhibit D specifically states in Footnote 1 that the United States District Court previously *dismissed* Balistreri from the suit because he died before the filing of the lawsuit and Amrhein failed to proffer evidence showing she had authority to proceed on his behalf *pro se*. The other pleading attached as Exhibit D is again something Amrhein filed. It is not a court order or ruling permitting her to bring claims on behalf of her deceased father *pro se*. Again, Amrhein misses the point of the Motion to Dismiss. Her legal capacity and/or authority is a different issue than whether she is able to bring a claim *pro se* on behalf of someone other than herself. Regardless of her legal status in relation to Anthony J. Balistreri's estate or trust, Amrhein cannot pursue claims in her representative capacity because she is not a lawyer. Proceeding *pro se* gives individuals the right to pursue their individual claims only. Not the claims of others. Therefore, all claims brought by Amrhein on behalf of Anthony J. Balistreri, Deceased, his Estate, or his Trust, must be dismissed.

8. Defendants Have Not Mislead the Court Regarding Fractured Causes of Action

Contrary to Amrhein's allegations, neither Defendants nor their counsel have mislead the court regarding the improper fracturing of a cause of action for legal malpractice.[10] The case law and prevailing legal authority on the issue of fracturing is well established. Unless the claim *cannot* be characterized as advice, judgment, or opinion arising from the attorney-client relationship, the cause of action is for malpractice. *Messner v. Boon*, 466 S.W.3d 191, 203 (Tex. App.—Texarkana 2015, pet. filed); (citing *Isaacs v. Schleier*, 356 S.W.3d 548, 556 (Tex. App.—Texarkana 2011, pet. denied); *Brescia v. Slack & Davis, L.L.P.*, No. 03-08-00042-CV, 2010 Tex. App. LEXIS 9204, 2010 WL 4670322, at *7 (Tex. App.—Austin Nov. 19, 2010, pet. denied)

[10] See Second Supplement, p. 13.

(mem. op.)). "Texas law . . . does not permit a plaintiff to divide or fracture her legal malpractice claims into additional causes of action." *Goffney v. Rabson*, 56 S.W.3d at 190 (citing *Greathouse v. McConnell*, 982 S.W.2d 165, 172 (Tex. App.—Houston [1st Dist.] 1998, pet. denied); *Smith v. Heard*, 980 S.W.2d 693, 697 (Tex. App.—San Antonio 1998, pet. denied); *Kahlig v. Boyd*, 980 S.W.2d 685, 688-91 (Tex. App.—San Antonio 1998, pet. denied); *Rodriguez v. Klein*, 960 S.W.2d 179, 184 (Tex. App.—Corpus Christi 1997, no pet.); *Judwin Props., Inc. v. Griggs & Harrison*, 911 S.W.2d 498, 506 (Tex. App.—Houston [1st Dist.] 1995, no writ); *Am. Med. Elecs., Inc. v. Korn*, 819 S.W.2d 573, 576 (Tex. App.—Dallas 1991, writ denied); *Bray v. Jordan*, 796 S.W.2d 296, 298 (Tex. App.—El Paso 1990, no writ)); *see Messner*, 466 S.W.3d at 203; *Isaacs*, 356 S.W.3d at 555-56.

"Generally, courts do not allow a case arising out of an attorney's alleged bad legal advice or improper representation to be split out into separate claims for negligence, breach of contract, or fraud, because the 'real issue remains one of whether the professional exercised that degree of care, skill, and diligence that professionals of ordinary skill and knowledge commonly possess and exercise.'" *Kimleco Petroleum, Inc. v. Morrison & Shelton*, 91 S.W.3d 921, 924 (Tex. App.—Fort Worth 2003, pet. denied) (quoting *Averitt v. PriceWaterhouseCoopers L.L.P.*, 89 S.W.3d 330, 333 (Tex. App.—Fort Worth 2002, no pet.)); *see Messner*, 466 S.W.3d at 203; *Isaacs*, 356 S.W.3d at 556. "'Whether allegations against a lawyer, labeled as breach of fiduciary duty, fraud, or some other cause of action, are actually claims for professional negligence or something else is a question of law to be determined by the court.'" *Isaacs*, 356 S.W.3d at 556 (quoting *Duerr v. Brown*, 262 S.W.3d 63, 70 (Tex. App.—Houston [14th Dist.] 2008, no pet.); *Murphy v. Gruber*, 241 S.W.3d 689, 692 (Tex. App.—Dallas 2007, pet. denied).

Regardless, Amrhein's conclusory statement that Defendants have misled the Court on this issue, supported by no legal authority, has no merit. Amrhein's various responses fail to provide any factual basis or legal authority to demonstrate that the pleading of her cause of action in her First Amended Petition against Defendants as it pertains to their representation of her in Lawsuit #1 equates to something different than a complaint about Defendants' alleged improper representation.

Amrhein describes the basis of her complaint against Defendants as it pertains to Lawsuit #1 on pages 27-32 of her First Amended Petition. Her allegations regarding Defendants' failure to file suit in the correct court;[11] return communications,[12] follow directions,[13] bring certain claims,[14] and follow through with discovery[15] are allegations which question whether Defendants exercised that degree of care, skill, and diligence that professionals of ordinary skill and knowledge commonly possess and exercise. Regardless of the various and multiple labels Amrhein affixes her claims, the alleged acts and/or omissions of Defendants as they relate to Lawsuit #1 sound in negligence – nothing more.

Because Plaintiff's allegations amount to a single cause of action for malpractice, they cannot be divided or fractured into something else.

9. Objections to Amrhein's Exhibits

Defendants object to the Exhibits that Amrhein attaches to the Second Supplement because no extrinsic evidence may be considered in ruling on the Rule 91a Motion to Dismiss. TEX. R. CIV. P. 91a.6.

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[11] See Plaintiff's Amended Petition, p. 29, ¶23.
[12] See Plaintiff's Amended Petition, p. 29, ¶25.
[13] See Plaintiff's Amended Petition, p. 29, ¶25.
[14] See Plaintiff's Amended Petition, p. 29, ¶26.
[15] See Plaintiff's Amended Petition, p. 30, ¶29

III. CONCLUSION

Defendants respectfully request that the Court grant Defendants' Motion to Dismiss pursuant to Rule 91a in its entirety and dismiss (i) all of the causes of action brought in Amrhein's representative capacity of Anthony Balistreri, deceased, or his estate, (ii) Violations of the Texas Disciplinary Rules of Professional Conduct, (iii) Breach of Fiduciary Duty, (iv) Breach of Contract, (v) Fraud, (vi) Violations of the DTPA, (vii) Violations of the Texas Rules of Civil Procedure, (viii) "Bad Faith," (ix) Negligent Misrepresentation, (x) Conspiracy, (xi) violations of constitutional rights, and (xii) alleged discrimination. Defendants request they be awarded attorney fees incurred in the defense of Plaintiff's baseless causes of action, and any other relief to which they may be entitled.

Respectfully submitted,

COBB MARTINEZ WOODWARD PLLC
1700 Pacific Avenue, Suite 3100
Dallas, Texas 75201
Phone: 214.220.5206
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By: *__/s/ Carrie Johnson Phaneuf*
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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned certifies that on 23rd day of January, 2018, a true and correct copy of the foregoing document was electronically served on Plaintiff Darlene Amrhein via electronic service through FileTime, e-mail, and priority mail.

/s/ Carrie Johnson Phaneuf
CARRIE JOHNSON PHANEUF

General Docket
United States Court of Appeals for the Fifth Circuit

Court of Appeals Docket #: 17-41017 **Docketed:** 10/05/2017
Nature of Suit: 2440 Other Civil Rights
Darlene Amrhein v. USA, et al
Appeal From: Eastern District of Texas, Sherman
Fee Status: IFP pending 5CCA

Case Type Information:
1) Civil Rights
2) United States
3)

Originating Court Information:
District: 0540-4 : 4:16-CV-223
Originating Judge: Amos L. Mazzant, U.S. District Judge
Date Filed: 03/31/2016
Date NOA Filed: 10/03/2017
Date Rec'd COA: 10/04/2017

Prior Cases:
None

Current Cases:
None

Panel Assignment: Not available

DARLENE C. AMRHEIN
Plaintiff - Appellant

Darlene C. Amrhein
Direct: 972-547-0448
[NTC Pro Se]
112 Winsley Circle
McKinney, TX 75071-0000

v.

UNITED STATES OF AMERICA, Civil Process Clerk, Loretta Lynch
Defendant - Appellee

DONALD JOHN TRUMP, SR., President
Defendant - Appellee

MIKE PENCE, Vice President
Defendant - Appellee

NOEL FRANCISCO, United States Solicitor General
Defendant - Appellee

JEFFERSON B. SESSIONS, III, United States Attorney General
Defendant - Appellee

DARLENE C. AMRHEIN,

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA, Civil Process Clerk, Loretta Lynch; DONALD JOHN TRUMP, SR., President; MIKE PENCE, Vice President; NOEL FRANCISCO, United States Solicitor General; JEFFERSON B. SESSIONS, III, United States Attorney General, et al

Defendants - Appellees

10/05/2017	70 pg, 3.63 MB	CIVIL RIGHTS CASE docketed. NOA filed by Appellant Ms. Darlene C. Amrhein [17-41017] (CAS)
10/05/2017		PARTY LIMIT CASE. (FOR A FULL LIST OF PARTIES FOR THIS APPEAL, PLEASE REFER TO THE DISTRICT COURT'S DOCKET SHEET.) [17-41017] (CAS)
10/10/2017	2 pg, 136.74 KB	INITIAL CASE CHECK by Attorney Advisor complete, Action: Case OK to Process. [8610498-2] Initial AA Check Due satisfied. [17-41017] (CAS)
10/10/2017		ELECTRONIC RECORD ON APPEAL REQUESTED FROM DISTRICT COURT for 4:16-CV-223. Electronic ROA due on 10/25/2017. [17-41017] (CAS)
10/20/2017	57 pg, 3.1 MB	MOTION filed by Appellant Ms. Darlene C. Amrhein to recuse all Judges of the 5th Circuit Court of Appeals from appeal, to remand case to the District Court, to transfer appeal to 7th Circuit, to file motion in excess of the word count limitations. [17-41017] (DMS)
10/20/2017	154 pg, 7.47 MB	EXHIBITS IN SUPPORT of motion recuse judges from panel [8626214-2], motion to remand case [8626214-3], motion to transfer appeal [8626214-4], motion to file motion in excess of the word count limitations [8626214-5] filed by Appellant Ms. Darlene C. Amrhein [17-41017] (DMS)
10/23/2017	2 pg, 136.64 KB	DISTRICT COURT ORDER of 10/19/2017 denying IFP for Appellant Ms. Darlene C. Amrhein. Fee due on 11/22/2017 for Appellant Darlene C. Amrhein [17-41017] (CAS)
10/24/2017		ELECTRONIC RECORD ON APPEAL FILED. Exhibits on File in District Court? No. Electronic ROA deadline satisfied. [17-41017] (MRB)
11/03/2017	6 pg, 312.91 KB	MOTION filed by Appellant Ms. Darlene C. Amrhein to proceed in forma pauperis [8632485-2] Fee deadline canceled. Date of service: 11/01/2017 Document is insufficient for the following reasons: The motion does not include a certificate of compliance Sufficient Mtn/Resp/Reply due on 11/16/2017 for Appellant Darlene C. Amrhein [17-41017] (DMS)
11/03/2017		AFFIDAVIT OF FINANCIAL STATUS filed by Appellant Ms. Darlene C. Amrhein in support of the motion to proceed IFP filed by Appellant Ms. Darlene C. Amrhein in 17-41017 [8632485-2]. [17-41017] (DMS)
11/07/2017	3 pg, 152.21 KB	COURT ORDER denying motion to recuse all judges, filed by Appellant Ms. Darlene C. Amrhein [8626214-2]; denying motion to transfer appeal filed by Appellant Ms. Darlene C. Amrhein [8626214-4]; denying motion to remand case filed by Appellant Ms. Darlene C. Amrhein [8626214-3]; denying motion to file motion in excess of the word count limitations filed by Appellant Ms. Darlene C. Amrhein [8626214-5] Judge(s): WED, EBC and PRO. [17-41017] (Jd)
11/17/2017		The motion to proceed IFP filed by Appellant Ms. Darlene C. Amrhein in 17-41017 [8632485-2] has been made sufficient. Sufficient Mtn/Resp/Rpl deadline satisfied. [17-41017] (DMS)
11/20/2017	4 pg, 151.38 KB	BRIEFING NOTICE ISSUED A/Pet's Brief Due on 01/02/2018 for Appellant Darlene C. Amrhein. [17-41017] (DMS)
11/22/2017	6 pg, 305.16 KB	DOCUMENT RECEIVED - NO ACTION TAKEN. No action will be taken at this time on the Motion received from Appellant Ms. Darlene C. Amrhein because Unnecessary [17-41017] (DMS)
12/26/2017	79 pg, 3.66 MB	APPELLANT'S BRIEF FILED by Ms. Darlene C. Amrhein. Brief NOT Sufficient as it requires a complete case caption. Additionally the Brief requires removal of included Recorcd Excerpts Index. Also, it is in excess of the page limit and word count. A/Pet's Brief deadline satisfied. Sufficient Brief due on 01/11/2018 for Appellant Darlene C. Amrhein. [17-41017] (Jd)
12/26/2017	298 pg, 12.39 MB	RECORD EXCERPTS FILED by Appellant Ms. Darlene C. Amrhein. Record Excerpts NOT Sufficient as they require a complete case caption. It is also in excess of the page limit and word count. Sufficient Record Excerpts due on 01/11/2018 for Appellant Darlene C. Amrhein [17-41017] (Jd)
12/26/2017	6 pg, 239.91 KB	MOTION filed by Appellant Ms. Darlene C. Amrhein to file brief and record excerpts in excess of the page limitations and word count. The Brief is 77 pages and Record Excerpts are 296 pages. [8672044-2], [8672044-3], [8672044-4]. [17-41017] (DMS)
01/04/2018	1 pg, 135.31 KB	CLERK ORDER denying Motion to file record excerpts in excess pages filed by Appellant Ms. Darlene C. Amrhein [8672044-4]; denying Motion to file brief in excess of word count filed by Appellant Ms. Darlene C. Amrhein [8672044-3]; denying Motion to file brief in excess pages filed by Appellant Ms. Darlene C. Amrhein [8672044-2] [17-41017] (DMS)

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CAUSE NO. 005-02654-2017

DARLENE C. AMRHEIN, et al,	COUNTY COURT AT LAW
Plaintiffs,	NO. 5
v.	[Hon. Dan K. Wilson]
ATTORNEY LENNIE F. BOLLINGER, AND WORMINTON & BOLLINGER LAW FIRM,	
Defendants.	COLLIN COUNTY, TEXAS

ORDER GRANTING DEFENDANTS LENNIE F. BOLLINGER AND WORMINGTON & BOLLINGER'S RULE 91A MOTION TO DISMISS

On this day, the Court considered Defendants Lennie F. Bollinger and Wormington & Bollinger's ("Defendants") Motion to Dismiss, pursuant to Rule 91a of the Texas Rules of Civil Procedure, filed on December 22, 2017. Plaintiff Darlene Amrhein in her individual capacity and in her representative capacity on behalf of Anthony Balistreri (collectively "Amrhein" or "Plaintiff"), filed a Response on January 2, 2018. Defendants filed a Reply to Plaintiff's Response on January 19, 2018. After careful consideration of Plaintiff's Amended & Supplement Petition and Pleadings, Defendants' Rule 91a Motion to Dismiss, Plaintiff's Response to the Motion to Dismiss, and Defendants' Reply, and relevant legal authority, the Court rules as follows:

a. It is **ORDERED** that Defendants' Rule 91a Motion is **GRANTED**.

b. Therefore, it is **ORDERED** that the following causes of action or purported causes of action are **DISMISSED WITH PREJUDICE**: (i) all of the causes of action brought in Amrhein's representative capacity of Anthony Balistreri, deceased, or his estate or trust, (ii) Violations of the Texas Disciplinary Rules of Professional Conduct, (iii) Breach of Fiduciary Duty, (iv) Breach of Contract, (v) Fraud, (vi)

Violations of the DTPA, (vii) Violations of the Texas Rules of Civil Procedure, (viii) "Bad Faith," (ix) Negligent Misrepresentation, (x) Conspiracy, (xi) violations of constitutional rights, and (xii) alleged discrimination.

c. Plaintiff is **ORDERED** to file an amended petition removing the dismissed causes of action from her petition within 20 days of the date of this Order. Failure to comply with this Order may result in a dismissal of this case.

d. The Court finds that the amount of fees incurred by Defendants for defense of this matter through the date of the hearing is reasonable and necessary. It is hereby **ORDERED** that Defendants' request for attorney fees and costs pursuant to Tex. R. Civ. Proc. 91a.7 is **GRANTED**. Attorney fees and costs in the amount of $14,101.55, plus $29.05 in expenses, are awarded to Defendants. Plaintiff is hereby **ORDERED** to pay $14,130.60 to Defendants. Execution may issue on all sums awarded.

Signed this 30 day of January, 2018.

Signed: 1/30/2018 10:20 AM

Dan K. Wilson

JUDGE PRESIDING

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Cause No. 2017-2017

Label 228, March 2016

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DARLENE C. AMRHEIN, et al — COUNTY COURT AT LAW

Plaintiffs,

V. — NO. FIVE (5) JUDGE WILSON

ATTORNEY LENNIE F. BOLLINGER, AND
WORMINGTON & BOLLINGER LAW FIRM — COLLIN COUNTY, TEXAS
Defendants, et al — Defendants

PLAINTIFF'S SECOND MOTION FOR STAY & CONTINUANCE OF THIS LAWSUIT FOR "GOOD CAUSE" REASONS

COMES NOW, Plaintiff Darlene C. Amrhein to file Plaintiff's Second Motion For Stay & Continuance of This Lawsuit For "Good Cause" Reasons as follows:

1) Plaintiff has been at Medical City of Plano Hospital for the 4th time admitted since January 26, 2018 to January 31, 2018 with high risk complications & infectious disease, with additional 7 kinds of different medications & pain killers;

2) Plaintiff can't sit, stand, walk, concentrate or see without blurry vision now;

3) Plaintiff's surgery was suppose to be scheduled for early February, which has been delayed two weeks due to treatments for these complications as high risk to prevent being paralyzed as it affects my entire spinal column;

4) Full recovery needs to be complete before first of two surgeries can be done;

5) Plaintiff has more than six physicians currently for care & medical treatments;

6) Proof of Plaintiff's January 26, 2018 to January 31, 2018 hospital is **Exhibit 1;**

7) This is the Second Motion To Stay & Continue this lawsuit, all filings, all demands & all activities for this lawsuit as required to prevent "abuse of discretion," errors fairness & reversal on Appeal for "void" Orders & "Judgments;"

8) There is no other alternative to prevent Plaintiff's medical treatment & care as a senior citizen with notice of 2 needed back surgeries, now high risk complications

as a "Medicare patient," which is illegal discriminations & additional intentional personal injuries done unlawfully on a continued basis;

9) Complaints have been filed with Texas & Federal Civil Rights Agencies on Americans With Disabilities Act, Rehabilitation Act, HIPPA Laws & Consumer Rights, etc, which is known by all participants with intent to retaliate against Plaintiff;

10) Plaintiff Amrhein is unable to participate in this lawsuit as a "material party" in any current & ongoing court legal activities for these "Good Cause" Reasons;

11) Plaintiff's main surgeon is planning to send a letter to these facts, as soon as he knows the scheduling of 2 surgeries affecting the complete spinal column & full recovery of all high risk complications as now occurring with medical treatments ;

12) Plaintiff has attached a portion of Medical City Discharge Instructions to prevent attorneys false made up speculations to mislead & affect this Court Order;

IN CONCLUSION & PRAYER

Plaintiff is in need of assistance in all "life activities" currently, needs bed rest, medications to get well to schedule both surgeries for recovery. It is time to stop all filings, all demands, all harassments & Civil Rights violations to allow recovery. Plaintiff files this Motion To Stay & Continue this Lawsuit for these "Good Cause" Reasons as filed on both occasions with this Court without any exceptions or excuses to prevent any further injuries & financial billings to Plaintiff Amrhein & Medicare with unfair advantages to prevent "due process & just outcome.

(Exhibits 1, 2)

Respectfully submitted,

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein

2-1-18

Medical City
Plano

3901 West 15th Street, Plano TX 75075
972-596-1505

WORK / SCHOOL / SPORTS RELEASE

PATIENT NAME: Darlene Balistreri Amrhein

DATE: 1/31/18

☐ THE PATIENT IS ABLE TO RETURN TO WORK/SCHOOL/SPORTS ON: _____

☐ THE PATIENT MAY RETURN TO WORK WITHOUT RESTRICTIONS.

☐ THE PATIENT MAY RETURN TO WORK ONCE RELEASED BY FOLLOW-UP PROVIDER.

☐ OFF WORK/SCHOOL/SPORTS FOR _____ DAYS.

was admitted as a patient from 1/26 - 1/31/18

SIGNATURE: [illegible]

Exhibit 1

Print Date: 01/31/18 0020

BALISTRERI AMRHEIN,DARLENE C
E00991098394 Room: E.521 Bed: A

Department of Health and Human Services
Center for Medicare & Medicaid Services
OMB Approval No. 0938-0692

AN IMPORTANT MESSAGE FROM MEDICARE ABOUT YOUR RIGHTS

AS A HOSPITAL INPATIENT, YOU HAVE A RIGHT TO

- Receive Medicare covered services. This includes medically necessary hospital services and services you may need after you are discharged, if ordered by your doctor. You have a right to know these services, who will pay for them and where you can get them.
- Be involved in any decisions about your hospital stay, and know who will pay for it.
- Report any concerns you have about the quality of care you receive to the Quality Improvement Organization (QIO) listed here: KePRO 844-430-9504
  Address: Rock Run Center 5700 Lombardo Center, Suite 100 Seven Hills, Ohio

YOUR MEDICARE DISCHARGE RIGHTS

Planning For Your Discharge: During your hospital stay, the hospital staff will be working with you to prepare for your safe discharge and arrange for services you may need after you leave the hospital. When you no longer need inpatient hospital care, your doctor or hospital staff will inform you of your planned discharge date.

If you think you are being discharged to soon:

- You can talk to the hospital staff, your doctor and your managed care plan (if you belong to one) about your concerns.
- You also have the right to appeal- that is a review of your case by a Quality Improvement Organization (QIO). The QIO is an outside reviewer hired by Medicare to look at your case to decide whether you are ready to leave the hospital.
  - If you want to appeal, you must contact the QIO no later than your planned discharge date and before you leave the hospital.
  - If you do this, you will not have to pay for the services you receive during appeal (except the charges like copays and deductibles).
- If you do not appeal, but decide to stay in the hospital past your planned discharge date, you may have to pay for any services you receive after that date.
- Step by step instructions for calling the QIO and filing an appeal are contained here.

You can speak with someone at the hospital about this notice, call __

Please sign and date here to show you received this notice and understand your rights.

Darlene C. Balistreri Amrhein — Signature of Patient or Representative
1/31/18 — Date
_____ — Time

CMS-R-193 (Exp 03/31/2020)

CMS-R-193 (Exp 03/31/2017) *This form is a part of the permanent medical record, DO NOT discard

Exhibit 1

Telephone: (972) 867-3928 DEA #AM 8165892

WILLIAM L. MULCHIN, M.D.
Urology

3900 West 15th Street, Suite 408 Plano, TX 75075

Name Darlene Amrhein Date 1/23/18

Address _____ D.O.B. 7/18/46

℞

Mrs Amrhein is under my urology care

☐ Label

Refill _____ Times PRN NR

_____, MD _____, M.D.

Product Selection Permitted ~~Dispense As Written~~

Exhibit 1

Electronically Filed 1/22/2018 4:50 PM
Stacey Kemp County Clerk
Collin County, Texas
By: Dianna Shine, Deputy
Envelope ID: 21981471

CAUSE NO. 005-02654-2017

DARLENE C. AMRHEIN, et al,	COUNTY COURT AT LAW
Plaintiffs,	NO. 5
v.	[Hon. Dan K. Wilson]
ATTORNEY LENNIE F. BOLLINGER, AND WORMINTON & BOLLINGER LAW FIRM,	
Defendants.	COLLIN COUNTY, TEXAS

ORDER GRANTING DEFENDANTS LENNIE F. BOLLINGER AND WORMINGTON & BOLLINGER'S RULE 91A MOTION TO DISMISS

On this day, the Court considered Defendants Lennie F. Bollinger and Wormington & Bollinger's ("Defendants") Motion to Dismiss, pursuant to Rule 91a of the Texas Rules of Civil Procedure, filed on December 22, 2017. Plaintiff Darlene Amrhein in her individual capacity and in her representative capacity on behalf of Anthony Balistreri (collectively "Amrhein" or "Plaintiff"), filed a Response on January 2, 2018. Defendants filed a Reply to Plaintiff's Response on January 19, 2018. After careful consideration of Plaintiff's Amended & Supplement Petition and Pleadings, Defendants' Rule 91a Motion to Dismiss, Plaintiff's Response to the Motion to Dismiss, and Defendants' Reply, and relevant legal authority, the Court rules as follows:

a. It is **ORDERED** that Defendants' Rule 91a Motion is **GRANTED**.

b. Therefore, it is **ORDERED** that the following causes of action or purported causes of action are **DISMISSED WITH PREJUDICE**: (i) all of the causes of action brought in Amrhein's representative capacity of Anthony Balistreri, deceased, or his estate or trust, (ii) Violations of the Texas Disciplinary Rules of Professional Conduct, (iii) Breach of Fiduciary Duty, (iv) Breach of Contract, (v) Fraud, (vi)

Exhibit 9

Violations of the DTPA, (vii) Violations of the Texas Rules of Civil Procedure, (viii) "Bad Faith," (ix) Negligent Misrepresentation, (x) Conspiracy, (xi) violations of constitutional rights, and (xii) alleged discrimination.

c. Plaintiff is **ORDERED** to file an amended petition removing the dismissed causes of action from her petition within 20 days of the date of this Order. Failure to comply with this Order may result in a dismissal of this case.

d. The Court finds that the amount of fees incurred by Defendants for defense of this matter through the date of the hearing is reasonable and necessary. It is hereby **ORDERED** that Defendants' request for attorney fees and costs pursuant to Tex. R. Civ. Proc. 91a.7 is **GRANTED**. Attorney fees and costs in the amount of $14,101.55, plus $29.05 in expenses, are awarded to Defendants. Plaintiff is hereby **ORDERED** to pay $14,130.60 to Defendants. Execution may issue on all sums awarded.

Signed this 30 day of January, 2018.

Signed: 1/30/2018 10:20 AM

Dan K. Wilson

JUDGE PRESIDING

Exhibit 2

VERIFICATION / AFFIDAVIT

CAUSE NO. 005-02654-2017

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Plaintiff, Darlene C. Balistreri-Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Plaintiff's Second Motion For Stay & Continuance of This Lawsuit For "Good Cause" Reasons.

This information as referenced and stated within is true and correct and of Darlene C. Balistreri-Amrhein's own personal knowledge to best of her ability & documented. This state and or federal filing is for purpose of "due process," fairness, Justice under State and Federal Laws & presented in applicable Court attached as sited for this Court filing.

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON February 3, 2018 to Certify which witness my hand and official seal.

SEAL:

NOTARY PUBLIC STATE OF TEXAS
TREVOR HILZ
My Commission Expires
May 1, 2019

Trevor L. Hilz

Notary Public of Texas (Printed Name)

Trevor L. Hilz

Notary Public of Texas (Signature)

Commission Expires May 1, 2019

3.

CERTIFICATE OF SERVICE

A true and correct copy of Plaintiff's Second Motion For Stay & Continuance of This Lawsuit For "Good Cause" Reasons was served in person or by Certified Mail through the United States Post Office on or about Feb. 2, 2018 to the following:

Collin County Courthouse — Certified 7017 0530 0000 6416 5979

County Court at Law No. 5

Honorable Dan K. Wilson
Attn: Collin County District Clerk's Office
2100 Bloomdale Rd.
McKinney, TX 75071

Cobb, Martinez, Woodward, PLLC — Certified # 7017 0530 0000 6416 5986

Attorney Carrie Johnson Phaneuf

1700 Pacific Avenue, Suite 3100

Dallas, TX. 75201

CERTIFICATE OF CONFERENCE

There was no conference filed & served because Plaintiff is too sick, in pain & medicated from hospital discharge.

Respectfully submitted,

Darlene Balistreri-Amrhein

Darlene Balistreri-Amrhein, Plaintiff, Pro Se and

Representative for Deceased Anthony J. Balistreri

2-1-18

4.

original

CAUSE NO. 005-02654-2017

DARLENE C. AMRHEIN, et al — COUNTY COURT AT LAW

Plaintiffs,

V. — NO. FIVE (5) JUDGE WILSON

ATTORNEY LENNIE F. BOLLINGER, AND
WORMINGTON & BOLLINGER LAW FIRM — COLLIN COUNTY, TEXAS
Defendants, et al Defendants

PLAINTIFF'S RESPONSES TO JANUARY 30, 2018 ORDER ON MOTION TO DISMISS PORTIONS OF THIS LAWSUIT THAT IS CHALLENGED BY MOTION FOR RECONSIDERATION FOR "GOOD CAUSE" REASONS

Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se, Trustee
For Anthony J. Balistreri, Deceased Plaintiff
112 Winsley Circle
McKinney, TX. 75071

FILED
COUNTY COURT AT LAW
2018 FEB -6 AM 11:43
STACEY KEMP
COUNTY CLERK
COLLIN COUNTY, TEXAS
BY: DEPUTY

TABLE OF CONTENTS

Table of Contents.....i, ii

Index of Authorities.....iii to iv

I. Some of Laws Violated In This Lawsuit.....1 to 8

II. Lawyers' Responsibilities.....8 to 10

III. Texas Rules of Professional Conduct & Legal Ethics.....10 to 14

IV. Texas Lawyer's Creed.....14 to 18

V. Order of Texas Supreme Court.....17 to 18

VI. Frauds By These Texas Attorneys.....18 to 19

VII. Fraud Upon The Courts.....19 to 20

VIII. Breach of Implied & Expressed Contract.....20

IX. Deceptive Trade Practices Act.....20 to 24

X. Negligent Misrepresentations.....24 to 25

XI. Violations of Texas Rules of Civil Procedure.....25 to 26

XII. Bad Faith.....26

XIII. Conspiracy.....26 to 27

XIV. Violations of Constitutional Rights.....27 to 28

XV. Discrimination.....28 to 29

XVI. Violations of Disabilities & ADA Laws Denied.....24

XVII. 20 Day Demand With Threats.....29 to 30

XVIII. Conflict Of Interest Requiring Recusal.....30 to 33

XIX. Challenge To Dismissal Of Lawsuit.....33

XX. Legal Malpractice.....34 to 38

XXI. Challenge to TRCP 91a.....38

XXII. Rule of Law.....39

XXIII. Plaintiff's deceased Father.....39

XXIV. Plaintiff's Overview Conclusion.....39 to 40

Signature Page.....40

Verification / Affidavit.....v.

Certificate of Service.....vi

Index Of Authorities

Americans With Disabilities Act.....1

Title II of ADA.....1

Civil Liberties.....1, 2

Equal Protection Clause.....2

Due Process Clause.....2

Age Discrimination.....2

Civil Rights Act.....2

Affordable Care Act.....2

Section 504 of ADA.....3

U.S. Code Title 42 Chapter 21Civil Rights.....4

U.S. Constitution , Articles, Amendment.....4

Texas Constitution.....4, 5

County Court Judges.....6

Challenge of State Constitution Statutes.....6, 7

Rights of Crime Victims.....7, 8

Lawyers Responsibilities.....8 to 10

Texas Rules of Professional Responsibilities.....10 to 14

Lawyers Creed.....14 to 18

Frauds By Texas Attorneys.....18 to 19

Fraud Upon The Court.....19 to 20

Breach of Contract.....20

Deceptive Trade Practices Act.....20 to 24

Negligent Misrepresentations.....24 to 25

Violations of Rules of Civil Procedure.....25 to 26

Bad Faith.....26

Conspiracy.....26 to 27

Violations of Constitutional Rights.....27 to 28
Discriminations.....28 to 29
Violations of Disabilities & ADA Law.....29
20 Day Demand With Threats.....29 to 30
Conflict of Interest Requiring Recusal.....30 to 33
Challenge To Dismissal of Lawsuit.....33
Legal Malpractice & Errors.....34 to 38
TRCP 91a Challenge.....38
Rule of Law.....39
Plaintiff's Deceased Father.....39
Plaintiff's Overview Conclusion & Prayer.....39 to 40

original

CAUSE NO. 005-02654-2017

DARLENE C. AMRHEIN, et al — COUNTY COURT AT LAW

Plaintiffs,

V. — NO. FIVE (5) JUDGE WILSON

ATTORNEY LENNIE F. BOLLINGER, AND
WORMINGTON & BOLLINGER LAW FIRM — COLLIN COUNTY, TEXAS
Defendants, et al — Defendants

PLAINTIFF'S RESPONSES TO JANUARY 30, 2018 ORDER ON MOTION TO DISMISS PORTIONS OF THIS LAWSUIT THAT IS CHALLENGED BY MOTION FOR RECONSIDERATION FOR "GOOD CAUSE" REASONS

COMES NOW, Plaintiff, Darlene C. Balistreri-Amrhein, to file Plaintiff's Responses To January 30, 2018 Order On Motion To Dismiss Portions of This Lawsuit That Is Challenged By Motion For Reconsideration For "Good Cause" Reasons as follows:

I. SOME OF LAWS VIOLATED IN THIS LAWSUIT

1) **Americans With Disabilities Act** clearly states the requirements for protection of all parties with a disability, illness & or death per Federal & Texas laws, but not in this Court with Judge Dan Wilson presiding as Plaintiff is violated as disabled with Illness as stated & documented with knowledge requiring a stay & continuance in this lawsuit to "prevent prejudice to Plaintiff & this lawsuit," which is "abuse of discretion;"

2) **Any person who** (A) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment as Plaintiff Amrhein;

3) **Title II of the Americans with Disabilities Act (ADA) of 1990**, covering all health care and social services programs and activities of public entities that Judge Wilson violated in this lawsuit;

4) **Civil Liberties or Personal Freedoms Violated** are personal guarantees and freedoms that the government cannot abridge, either by law or by judicial

interpretation, without due process. Though the scope of the term differs between countries, civil liberties may include the freedom of conscience, freedom of press, freedom of religion, freedom of expression, freedom of assembly, the right to security and liberty, freedom of speech, the right to privacy, the right to equal treatment under the law and due process, the right to a fair trial, and the right to life;

5) **Civil Rights Violated** - No person shall...be deprived of life, liberty, or property, without due process of law... -Amendment V ...nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. -Amendment XIV;

6) **The Equal Protection Clause of the Fourteenth Amendment** forbids states from treating individuals differently based on unalterable characteristics, such as race, nationality, disabilities and gender. The Supreme Court has imposed the same obligation on the federal government through the Fifth Amendment;

7) **Due Process Clause Violated** - Due process clauses in Constitution protect all people, both citizens and non-citizens, by requiring both state & federal governments to follow procedural mechanisms when attempting to take an individual's life, liberty, or property. Property has been defined includes traditional forms of property, such as money, real estate, & tangible personal assets;

8) **Violated Procedural Due Process** generally requires the government to provide notice and a hearing whenever a liberty or property interest is at stake; (Plaintiff could not attend a hearing due to illness & disability requiring Stay & continuance was denied by Judge Wilson.);

9) **Age Discrimination** - **§6101. Statement of purpose** - It is the purpose of this chapter to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance; **42 USC 6101**;

10) **Civil Rights Act of 1991 Violated** - Provided for plaintiffs to receive monetary damages in cases of harassment or discrimination based on sex, religion, or disability. Passed by 102nd Congress (1991–1993) as S. 1745; Judge Wilson is not Congress to legislate from the bench;

11) **Section 1557 of the Patient Protection and Affordable Care Act (ACA),** ensuring that an individual is not excluded from participating in, denied benefits because of, or subjected to discrimination as prohibited under Section 504 of the **Rehabilitation Act of 1973 (disability)**, under any health program or activity, any

part of which is receiving federal financial assistance, or under any program or activity that is administered by an Executive Agency or any entity established under Title I of the Affordable Care Act or its amendments violated;

12) **Section 504 of ADA Violated** :

Covered entities must not, on basis of disability:

- Exclude a person with a disability from a program or activity;
- Deny a person with a disability the benefits of a program or activity;
- Afford a person with a disability an opportunity to participate in or benefit from a benefit or service that is not equal to what is afforded others;
- Provide a benefit or service to a person with a disability that is not as effective as what is provided others;
- Provide different or separate benefits or services to a person with a disability unless necessary to provide benefits or services that are as effective as what is provided others;
- Apply eligibility criteria that tend to screen out persons with disabilities unless necessary for the provision of the service, program or activity.

Covered entities must:

- Provide services and programs in the most integrated setting appropriate to the needs of the qualified individual with a disability
- Ensure that programs, services, activities, and facilities are accessible
- Make reasonable modifications in their policies, practices, and procedures to avoid discrimination on the basis of disability, unless it would result in a fundamental alteration of the program
- Provide auxiliary aids to persons with disabilities, at no additional cost, where necessary to afford an equal opportunity to participate in or benefit from a program or activity

- Designate a responsible employee to coordinate their efforts to comply with Section 504 and the ADA

- Adopt grievance procedures to handle complaints of disability discrimination in their programs and activities

- **Provide notice that indicates**:

  - That the covered entity does not discriminate on the basis of disability

  - How to contact the employee who coordinates the covered entity's efforts to comply with the law

  - Information about the grievance procedures;

13) **Plaintiff is a senior citizen** over the age of 65 years, disabled as declared by a Federal Judge in 1995, on going, a Medicare patient, that is a federal funded program that has been undermined by Judge Wilson to cause additional medical expenses to a federal funded program for not continuing & staying this lawsuit with additional hospitalization from Jan. 26 to Jan 31, 2018 in lawsuit as Texas Judge against Plaintiff Amrhein's known disability & all court filed records;

14) **U.S. Code Title 42, Chapter 21 -- Civil Rights** Title 42, Chapter 21 of the U.S. Code prohibits discrimination against persons based on age, disability, gender, race, national origin, and religion (among other things) in a number of settings -- including education, employment, access to businesses and buildings, federal services, and more. Chapter 21 is where a number of federal acts related to civil rights have been codified -- including the Civil Rights Act of 1866, Civil Rights Act of 1964, and the Civil Rights of Institutionalized Persons Act.

15) The **U.S. Constitution | Articles | Amendments** The U.S. Constitution, ratified in 1789, outlines the role and operation of government in the United States. Includes links to all articles and amendments, with annotations;

16) **Texas Constitution** is the basic governing document of the state of Texas.

17) **Article 1 of the Texas Constitution** is labeled as the "Power of Government" and provides for the separation of the powers of the government;

18) **Article 3 of the Texas Constitution** is labeled "Legislative Department" and consists of 67 sections. It vests the legislative power of the state in the "Legislature of the State of Texas" and establishes that the legislature consists of the Texas Senate and Texas House of Representatives;

19) **Article 4 of Texas Constitution** is labeled as "Executive Department" and consists of 26 sections. It describes powers and duties state's executive officials;

20) **Article 5 of the Texas Constitution** is labeled as the "Judicial Department" and consists of 31 sections. It describes the composition, powers and jurisdiction of the Texas Supreme Court, the Court of Criminal Appeals, the Court of Appeals, District, County and Commissioners Courts and Justice of the Peace Courts;

21) **Article 15 of the Texas Constitution is labeled "Impeachment"** and consists of nine sections. It lays out the rules under which Texas government officials can be removed from office and describes the process of impeachment. The Texas House of Representatives is granted the power of impeachment;

22) **Article 16 of the Texas Constitution** is entitled "General Provisions" and consists of 76 sections. Miscellaneous provisions include limits on interest rates, civil penalties for murder, the punishment for bribery, prohibits garnishment of wages and provides for the constitutional protection of a mechanic's lien;

23) **Article 17 of the Texas Constitution** is entitled "Mode of Amending the Constitution of This State" and consists of two sections, of which one has been repealed. It prescribes procedure for amending constitution & voted by the people;

24) **TEXAS CONSTITUTION ARTICLE 5. JUDICIAL DEPARTMENT -** Sec. 11. DISQUALIFICATION OF JUDGES; EXCHANGE OF DISTRICTS; HOLDING COURT FOR OTHER JUDGES. No judge shall sit in any case wherein the judge may be interested, or where either of the parties may be connected with the judge, either by affinity or consanguinity, within such a degree as may be prescribed by law, or when the judge shall have been counsel in the case. When the Supreme Court, the Court of Criminal Appeals, the Court of Appeals, or any member of any of those courts shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of such cause or causes;

25) **Sec. 12. JUDGES TO BE CONSERVATORS OF THE PEACE;**

INDICTMENTS AND INFORMATION. (a) All judges of courts of this State, by virtue of their office, are conservators of the peace throughout the State;

26) Sec. 15. COUNTY COURT; COUNTY JUDGE. There shall be established in each county in this State a County Court, which shall be a court of record; and there shall be elected in each county, by the qualified voters, a County Judge, who shall be well informed in the law of the State; shall be a conservator of the peace, and shall hold his office for four years, and until his successor shall be elected and qualified. He shall receive as compensation for his services such fees and perquisites as may be prescribed by law;

27) Sec. 16. COUNTY COURTS JURISDICTION; COUNTY JUDGE POWERS; DISQUALIFICATION OF COUNTY JUDGE. The County Court has jurisdiction as provided by law. The County Judge is the presiding officer of the County Court and has judicial functions as provided by law. County court judges shall have the power to issue writs necessary to enforce their jurisdiction. County Courts in existence on the effective date of this amendment are continued unless otherwise provided by law. When the judge of the County Court is disqualified in any case pending in the County Court the parties interested may, by consent, appoint a proper person to try said case, or upon their failing to do so a competent person may be appointed to try the same in the county where it is pending in such manner as may be prescribed by law;

28) Sec. 24. REMOVAL OF COUNTY OFFICERS. County Judges, county attorneys, clerks of the District and County Courts, justices of the peace, constables, and other county officers, may be removed by the Judges of the District Courts for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing and the finding of its truth by a jury;

29) Sec. 32. LEGAL CHALLENGES TO CONSTITUTIONALITY OF STATE STATUTES. Notwithstanding Section 1, Article II, of this constitution, legislature may: (1) require a court in which a party to litigation files a petition, motion, or other pleading challenging the constitutionality of a statute of this state to provide notice to the attorney general of the challenge if the party raising the challenge notifies the court that the party is challenging the constitutionality of the statute; and

(2) prescribe a reasonable period, which may not exceed 45 days, after the provision of that notice during which the court may not enter a judgment holding the statute unconstitutional;

30) Article 1 - BILL OF RIGHTS - Section 27 - RIGHT OF ASSEMBLY; PETITION FOR REDRESS OF GRIEVANCES
The citizens shall have the right, in a peaceable manner, to assemble together for their common good; and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance;

31) Sec. 28. SUSPENSION OF LAWS. No power of suspending laws in this State shall be exercised except by the Legislature.

32) Sec. 29. BILL OF RIGHTS EXCEPTED FROM POWERS OF GOVERNMENT; TO FOREVER REMAIN INVIOLATE. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void;

33) Sec. 30. RIGHTS OF CRIME VICTIMS. (a) A crime victim has the following rights:
(1) the right to be treated with fairness and with respect for the victim's dignity and privacy throughout the criminal justice process; and
(2) the right to be reasonably protected from the accused throughout the criminal justice process.
(b) On the request of a crime victim, the crime victim has the following rights:
(1) the right to notification of court proceedings;
(2) the right to be present at all public court proceedings related to the offense, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial;
3) the right to confer with a representative of the prosecutor's office;
4) the right to restitution; and
5) the right to information about the conviction, sentence, imprisonment, and release of the accused.

(c) The legislature may enact laws to define the term "victim" and to enforce these and other rights of crime victims.
(d) The state, through its prosecuting attorney, has the right to enforce the rights of crime victims.
(e) The legislature may enact laws to provide that a judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this section. The failure or inability of any person to provide a right or service enumerated in this section may not be used by a defendant in a criminal case as a ground for appeal or post-conviction writ of habeas corpus. A victim or guardian or legal representative of a victim has standing to enforce the rights enumerated in this section but does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge;

II. LAWYERS' RESPONSIBILITIES

1. A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice. Lawyers, as guardians of the law, play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship with and function in our legal system. A consequent obligation of lawyers is to maintain the highest standards of ethical conduct.

2. As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the clients position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealing with others. As intermediary between clients, a lawyer seeks to reconcile their divergent interests as an advisor and, to a limited extent, as a spokesperson for each client. A lawyer acts as evaluator by examining a client's affairs and reporting about them to the client or to others.

3. In all professional functions, a lawyer should zealously pursue client's interests within the bounds of the law. In doing so, a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Texas Disciplinary Rules of Professional Conduct or other law.

4. A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

5. As a public citizen, a lawyer should seek improvement of the law, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence in their behalf. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

6. A lawyer should render public interest legal service. The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer, and personal involvement in the problems of the disadvantages can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in or otherwise support the provision of legal services to the disadvantaged. The provision of free legal services to those unable to pay reasonable fees is a moral obligation of each lawyer as well as the profession generally. A lawyer may discharge this basic responsibility by providing public interest legal services without fee, or at a substantially reduced fee, in one or more of the following areas: poverty law, civil rights law, public rights law, charitable organization representation, the administration of justice, and by financial support for organizations that provide legal services to persons of limited means.

7. In the nature of law practice, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from apparent conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interests. The Texas Disciplinary Rules of Professional Conduct prescribe terms for resolving such tensions. They do so by stating minimum standards of conduct below which no lawyer can fall without being subject to disciplinary action. Within the framework of these Rules many difficult issues of professional discretion can

arise. The Rules and their Comments constitute a body of principles upon which the lawyer can rely for guidance in resolving such issues through the exercise of sensitive professional and moral judgment. In applying these rules, lawyers may find interpretive guidance in the principles developed in the Comments.

8. The legal profession has a responsibility to assure that its regulation is undertaken in the public interest rather than in furtherance of parochial or self-interested concerns of the bar, and to insist that every lawyer both comply with its minimum disciplinary standards and aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

9. Each lawyer's own conscience is the touchstone against which to test the extent to which his actions may rise above the disciplinary standards prescribed by these rules. The desire for the respect and confidence of the members of the profession and of the society which it serves provides the lawyer the incentive to attain the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction. So long as its practitioners are guided by these principles, the law will continue to be a noble profession. This is its greatness and its strength, which permit of no compromise.

III. TEXAS RULES OF PROFESSIONAL CONDUCT & LEGAL ETHICS

10. The Texas Disciplinary Rules of Professional Conduct are rules of reason. The Texas Disciplinary Rules of Professional Conduct define proper conduct for purposes of professional discipline. They are imperatives, cast in the terms "shall" or "shall not." The Comments are cast often in the terms of "may" or "should" and are permissive, defining areas in which the lawyer has professional discretion. When a lawyer exercises such discretion, whether by acting or not acting, no disciplinary action may be taken. The Comments also frequently illustrate or explain applications of the rules, in order to provide guidance for interpreting the rules and for practicing in compliance with the spirit of the rules. The Comments do not, however, add obligations to the rules and no disciplinary action may be taken for failure to conform to the Comments.

11. The rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers and substantive and procedure law in general. Compliance with the rules, as with all law in an open society, depends primarily upon understanding and voluntary

compliance, secondarily upon reinforcement by peer and public opinion and finally, when necessary, upon enforcement through disciplinary proceedings. The Rules and Comments do not, however, exhaust the moral and ethical considerations that should guide a lawyer, for no worthwhile human activity can be completely defined by legal rules.

12. Most of the duties flowing from the client-lawyer relationship attach only after the client has requested the lawyer to render legal services and the lawyer has agreed to do so. For purposes of determining the lawyer's authority and responsibility, individual circumstances and principles of substantive law external to these rules determine whether a client-lawyer relationship may be found to exist. But there are some duties, such as that of confidentiality, that may attach before a client-lawyer relationship has been established.

13. The responsibilities of government lawyers, under various legal provisions, including constitutional, statutory and common law, may include authority concerning legal matters that ordinarily reposes in the client in private client-lawyer relationships. For example, a lawyer for a government agency may have authority on behalf of the government to decide upon settlement or whether to appeal from an adverse judgment. Such authority in various respects is generally vested in the attorney general and the state's attorney in state government, and their federal counterparts, and the same may be true of other government law officers. Also, lawyers under the supervision of these officers may be authorized to represent several government agencies in intragovernmental legal controversies in circumstances where a private lawyer could not represent multiple private clients. They also may have authority to represent the "public interest" in circumstances where a private lawyer would not be authorized to do so. These Rules do not abrogate any such authority.

14. These rules make no attempt to prescribe either disciplinary procedures or penalties for violation of a rule.

15. These rules do not undertake to define standards of civil liability of lawyers for professional conduct. Violation of a Rule does not give rise to a private cause of action nor does it create any presumption that a legal duty to a client has been breached. Likewise, these rules are not designed to be standards for procedural decisions. Furthermore, the purpose of these rules can be abused when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a

disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the rule. Accordingly, nothing in the rules should be deemed to augment any substantive legal duty of lawyers or the extra-disciplinary consequences of violating such a duty.

16. Moreover, these rules are not intended to govern or affect judicial application of either the attorney-client or work product privilege. The fact that in exceptional situations the lawyer under the Rules has a limited discretion to disclose a client confidence does not vitiate the proposition that, as a general matter, the client has a reasonable expectation that information relating to the client will not be voluntarily disclosed and that disclosure of such information may be judicially compelled only in accordance with recognized exceptions to the attorney-client and work product privileges;

Preamble

- A Lawyer's Responsibilities
- Scope
- Terminology

I CLIENT-LAWYER RELATIONSHIP

- 1.01 Competent and Diligent Representation
- 1.02 Scope and Objectives of Representation
- 1.03 Communication
- 1.04 Fees
- 1.05 Confidentiality of Information
- 1.06 Conflict of Interest: General Rule
- 1.07 Conflict of Interest: Intermediary
- 1.08 Conflict of Interest: Prohibited Transactions
- 1.09 Conflict of Interest: Former Client
- 1.10 Successive Government and Private Employment
- 1.11 Adjudicatory Official or Law Clerk
- 1.12 Organization as a Client
- 1.13 Conflicts: Public Interests Activities
- 1.14 Safekeeping Property
- 1.15 Declining or Terminating Representation

II COUNSELOR

- 2.01 Advisor
- 2.02 Evaluation for Use by Third Persons

III ADVOCATE

- 3.01 Meritorious Claims and Contentions
- 3.02 Minimizing the Burdens and Delays of Litigation
- 3.03 Candor Toward the Tribunal
- 3.04 Fairness in Adjudicatory Proceedings
- 3.05 Maintaining Impartiality of Tribunal
- 3.06 Maintaining Integrity of Jury System
- 3.07 Trial Publicity
- 3.08 Lawyer as Witness
- 3.09 Special Responsibilities of a Prosecutor
- 3.10 Advocate in Non adjudicative Proceedings

IV NON-CLIENT RELATIONSHIPS

- 4.01 Truthfulness in Statements to Others
- 4.02 Communication with One Represented by Counsel
- 4.03 Dealing with Unrepresented Person
- 4.04 Respect for Rights of Third Persons

V LAW FIRMS AND ASSOCIATIONS

- 5.01 Responsibilities of a Partner or Supervisory Lawyer
- 5.02 Responsibilities of a Supervised Lawyer
- 5.03 Responsibilities Regarding Nonlawyer Assistants
- 5.04 Professional Independence of a Lawyer
- 5.05 Unauthorized Practice of Law
- 5.06 Restrictions on Right to Practice
- 5.07 [Blank]
- 5.08 Prohibited Discriminatory Activities

VI PUBLIC SERVICE

- 6.01 Accepting Appointments by a Tribunal

VII INFORMATION ABOUT LEGAL SERVICES

- 7.01 Firm Names and Letterhead
- 7.02 Communications Concerning a Lawyer's Services
- 7.03 Prohibited Solicitations & Payments
- 7.04 Advertisements in the Public Media
- 7.05 Prohibited Written, Electronic, or Digital Solicitations
- 7.06 Prohibited Employment
- 7.07 Filling Requirements for Public Advertisements and Written, Recorded, Electronic, or Other Digital Solicitations

VIII MAINTAINING THE INTEGRITY OF THE PROFESSION

- 8.01 Bar Admission, Reinstatement, and Disciplinary Matters
- 8.02 Judicial and Legal Officials
- 8.03 Reporting Professional Misconduct
- 8.04 Misconduct
- 8.05 Jurisdiction

IX MAINTAINING THE INTEGRITY OF THE PROFESSION

- 9.01 Severability

IV. TEXAS LAWYER'S CREED

THE TEXAS LAWYER'S CREED A MANDATE FOR PROFESSIONALISM Promulgated by The Supreme Court of Texas and the Court of Criminal Appeals November 7, 1989 I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this creed for no other reason than it is right. I. OUR LEGAL SYSTEM A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism. 1. I am passionately proud of my profession. Therefore, "My word is my bond." 2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life. 3. I commit myself to an adequate and effective pro bono program. 4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit & letter of this Creed. 5. I will always be conscious of my duty to the judicial system;

II. <u>LAWYER TO CLIENT</u> A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest. 1. I will advise my client of the contents of this creed when undertaking representation. 2. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible. 3. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice. 4. I will advise my client that civility and courtesy are expected and are not a sign of weakness. 5. I will advise my client of proper and expected behavior. 6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct. 7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party. 8. I will advise my client that we will not pursue tactics which are intended primarily for delay. 9. I will advise my client that we will not pursue any course of action which is without merit. 10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel. 11. I will advise my client regarding the availability of mediation, arbitration, other alternative methods of resolving and settling disputes.

III. <u>LAWYER TO LAWYER</u> A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct. 1. I will be courteous, civil, and prompt in oral and written communications. 2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance. 3. I will identify for other counsel or parties all changes I have made in documents submitted for review. 4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.

5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are cancelled. 6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected 7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond. 8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses. 9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me. 10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel. 11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed. 12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the Court. I Will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court. 13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence. 14. I will not arbitrarily schedule a deposition, court appearance, or hearing until a good faith effort has been made to schedule it by agreement. 15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party. 16. I will refrain from excessive and abusive discovery. 17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear. 18. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable. 19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

IV. LAWYER AND JUDGE Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession. 1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol. 2. I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law. 3. I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility. 4. I will be punctual. 5. I will not engage in any conduct which offends the dignity and decorum of proceedings. 6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage. 7. I will respect the rulings of the Court. 8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration. 9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

V. ORDER OF THE SUPREME COURT OF TEXAS AND THE COURT OF CRIMINAL APPEALS The conduct of a lawyer should be characterized at all times by honesty, candor, and fairness. In fulfilling his or her primary duty to a client, a lawyer must be ever mindful of the profession's broader duty to the legal system. The Supreme Court of Texas and the Court of Criminal Appeals are committed to eliminating a practice in our State by a minority of lawyers of abusive tactics which have surfaced in many parts of our country. We believe such tactics are a disservice to our citizens, harmful to clients, and demeaning to our profession. The abusive tactics range from lack of civility to outright hostility and obstructionism. Such behavior does not serve justice but tends to delay and often deny justice. The lawyers who use abusive tactics instead of being part of the solution have become part of the problem. The desire for respect and confidence by lawyers from the public should provide the members of our profession with the necessary incentive to attain the highest degree of ethical and professional conduct. These rules are primarily aspirational. Compliance with the rules depends primarily upon understanding and voluntary compliance, secondarily upon re enforcement by peer pressure and public opinion, and finally when necessary by enforcement by the courts through their inherent powers and rules already in existence. These standards are not a set of rules that lawyers can use and abuse to incite ancillary litigation or arguments over whether or not they have been observed. We must always be mindful that the practice of law is a profession. As

members of a learned art we pursue a common calling in the spirit of public service. We have a proud tradition. Throughout the history of our nation, the members of our citizenry have looked to the ranks of our profession for leadership and guidance. Let us now as a profession each rededicate ourselves to practice law so we can restore public confidence in our profession, faithfully serve our clients, and fulfill our responsibility to the legal system. The Supreme Court of Texas and the Court of Criminal Appeals hereby promulgate and adopt "The Texas Lawyer's Creed - A Mandate for Professionalism" as attached hereto and made a part hereof. In Chambers, this 7th day of November, 1989. The Supreme Court of Texas Thomas. R. Phillips, Chief Justice Franklin S. Spears C. L. Ray Raul A. Gonzales Oscar H. Mauzy Eugene A. Cook Jack Hightower Nathan L. Hecht Lloyd A. Doggett Justices The Court of Criminal Appeals Michael J. McCormick, Presiding Judge W. C. Davis Sam Houston Clinton Marvin O. Teague Chuck Miller Charles F. (Chuck) Campbell Bill White M. P. Duncan, III David A. Berchelmann, Jr. Judges;

VI. FRAUDS BY THESE TEXAS ATTORNEYS

Taylor v. State Compensation Insurance Fund, 175 Mont. 432, 913 P.2d 1242 (1996)

To sustain a claim of fraud, insurer was required to plead and prove each of nine elements of fraud:

(1) a representation; (2) falsity of the representation; (3) materiality of the representation; (4) speaker's knowledge of the falsity of the representation; (5) the speaker's intent it should be relied upon; (6) the hearer's ignorance of the falsity of the representation; (7) the hearer's reliance on the representation; (8) the hearer's right to rely on the representation; and (9) the hearer's consequent and proximate injury caused by reliance on the representation.

10) These Attorneys directly & indirectly made representations for over one year against Plaintiff's, knowing they were false by the legal education & years of experience;

11) Does this Court claim by their Order that 4 Attorneys sitting in the same office never talked to each other about the case assets within this law firm; Really ????

12) We all know they have weekly meetings of the minds in how to handle these lawsuits & this Judge knows it as ex Attorney in how they handle lawsuits, which is a false representation within this lawsuit to eliminate 4 Attorneys liabilities to Plaintiff, committing Fraud Upon the Court;

13) Plaintiff trusted & depended on the information given by these Defendants as relied upon, while being ignorant of these Attorneys' falsities of representations as relied upon by Plaintiff;

14) Plaintiff had a right to reply upon these falsities that were hidden with intent to deceive Plaintiffs & was the proximate cause of all these injuries, harms & damages

15) If Plaintiff knew that this was a fraudulent law firm, false statements, holding my files, refusing to add all claims & injuries to prevent us from our legal choices I would have run on day one, but this was these Attorneys' illegal acts that has now been affirmed by this Judge Wilson within a "conflict of interest to protect their own corrupted McKinney Attorneys against unknow clients, who are victimized;

16) TRCP 91a was not for the purpose to cover up the crimes of Texas licensed Attorneys as protected by Collin County Judges to commit crimes against the public to cause harms, injuries & injustices for their own benefits to scam people as Texas licensed offenders with tricks from the same conflict of interest of their representative Defendants Attorneys; Really ?????? (Conflict of Interest to Obstruct Justice & commit Fraud Upon Courts to detriment of all litigants.)

17) Is this same package deal to conspire, cover up & collude against crimes of "ordinary people" for crimes of robbery, murder, theft & assault by Judges or is it just "special interest" for corrupt licensed Texas Attorneys caught in crimes & deceit for a different legal standard to scratch each other backs & bribery ?

18) This "shameful dirty stains of Defendants" has now become the stain of Judge Wilson to Obstruct Justice & commit Frauds Upon Courts in his career that will be reported against all participants & made public;

19) Let's see what the intent of the Judge Wilson affect is in this case to eliminate most causes of action, for one of their own in conflict of interest, then try to falsely claim no malpractice with ½ claims to get Defendants off for their crimes, use the Plaintiff's cost to divide up the pay day, go back to illegal business as usual, continue to defraud the public, while collecting public taxpayer dollars, sounds like corruption to me, which is illegal & conspired plan to "Obstruct Justice;"

VII. FRAUD UPON THE COURTS

20) Judges are not the Court. Judges are suppose to enforce real legislative laws, not cover up Defendants crimes against these poor, killed, deceased man & this disabled, sick, woman with denied healthcare against federal laws, to prevent due

process, free speech, right to seek redress for all grievances of assaults, theft, murder & other crimes as committed against them for these judicial own benefits ;

21) When did the U.S. & Texas Constitution, state & federal laws, rights, due process & procedure take a back seat to Defendants corruptions, protected by the Judge Wilson affect as a so-called authority of the laws as violated in this case?

VIII. BREACH OF IMPLIED & EXPRESSED CONTRACT

22) An *implied contract* is formed by behavior of the parties that clearly shows an intent to enter into an agreement, even if no obvious offer and/or acceptance were clearly expressed in words or writing.

23) A business contract is one of the most common legal transactions you will be involved in when running a business. No matter what type of business you run, having an understanding of contract law is a key to creating sound business agreements that will be legally enforceable in the event that a dispute arises.

24) Intent to eliminate legal contract to prove malpractice, to drive price of harms, injuries down & out to eliminate wrongdoing & lawsuit by Judge Wilson affect;

IX. DECEPTIVE TRADE PRACTICES ACT

The underlying purpose of the Texas Deceptive Trade Practices Consumer Protection Act (DTPA) is to protect consumers against false, misleading, and deceptive business practices, unconscionable actions, and breaches of warranty and to provide efficient and economical procedures to secure such protection. This Act is intended to be liberally construed and applied. A consumer is defined as one who seeks or acquires by purchase or lease any goods or services.

Unlawful Acts Unlawful Acts Under the (DTPA)

False, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful and are subject to action by the consumer protection division under Sections 17.47 , 17.58 , 17.60 , and 17.61 of this code.

Breach of Warranty

1. Express Warranty: Written or verbal warranty.

Merchantable: Good can do what good is ordinarily used for.

2. Fitness: Good can do what the sales person said it would do.

Unconscionable Acts

1. Seller takes advantage of "consumers" lack of knowledge, ability, experience, or capacity to a grossly unfair degree.

Any False, Misleading or Deceptive Act
The following acts must also be relied on by a consumer to the consumer's detriment:

1. Passing off goods or services as those of another;
2. Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
3. Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another;
4. Using deceptive representations or designations of geographic origin in connection with goods and services;
5. Explicit or implicit representation that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not;
6. Representing that goods are original or new if they are deteriorated, reconditioned, reclaimed, used, or secondhand;
7. Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another;
8. Disparaging the goods, services, or business of another by false or misleading representation of facts;
9. Advertising goods or services with intent not to sell them as advertised;
10. Advertising goods or services with intent not to supply a reasonable expectable public demand, unless the advertisements disclosed a limitation of quantity;
11. Making false or misleading statements of fact concerning the reasons for, existence of, or amount of price reductions;
12. Representing that an agreement confers or involve rights, remedies, or obligations which it does not have or involve, or which are prohibited by law;
13. Knowingly making false or misleading statements of fact concerning the need for parts, replacement, or repair service;

14. Misrepresenting the authority of a salesman, representative or agent to negotiate the final terms of a consumer transaction;

15. Basing a charge for the repair of any item in whole or in part on a guaranty or warranty instead of on the value of the actual repairs made or work to be performed on the item without stating separately the charges for the work and the charge for the warranty or guaranty, if any;

16. Disconnecting, turning back, or resetting the odometer of any motor vehicle so as to reduce the number of miles indicated on the odometer gauge;

17. Advertising of any sale by fraudulently representing that a person is going out of business;

18. Using or employing a chain referral sales plan in connection with the sale or offer to sell of goods, merchandise, or anything of value, which uses the sales technique, plan, arrangement, or agreement in which the buyer or prospective buyer is offered the opportunity to purchase merchandise or goods and in connection with the purchase receives the seller's promise or representation that the buyer shall have the right to receive compensation or consideration in any form for furnishing to the seller the names of other prospective buyers if receipt of the compensation or consideration is contingent upon the occurrence of an event subsequent to the time the buyer purchases the merchandise or goods;

19. Representing that a guaranty or warranty confers or involves rights or remedies which it does not have or involve, provided, however, that nothing in this subchapter shall be construed to expand the implied warranty of merchantability as defined in Sections 2.314 through 2.318 and Sections 2A.212 through 2A.216 of the Business & Commerce Code to involve obligations in excess of those which are appropriate to the goods;

20. Promoting a pyramid promotional scheme, as defined by Section 17.461;

21. Representing that work or services have been performed on, or parts replaced in, goods when the work or services were not performed or the parts replaced;

22. Filing suit founded upon a written contractual obligation of and signed by the defendant to pay money arising out of or based on a consumer transaction for goods, services, loans, or extensions of credit intended primarily for personal, family, household, or agricultural used in any county other than in the county in which the defendant resides at the time of the commencement of the action or in the county in which the defendant in fact signed the contract; provided, however, that a violation of this subsection shall not occur where it is shown by the person filing such suit he neither knew or had reason to know that the

county in which such suit was filed was neither the county in which the defendant resides at the commencement of the suit nor the county in which the defendant in fact signed the contract;

23. The failure to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed;

24. Using the term "corporation," "incorporated," or an abbreviation of either of those terms in the name of a business entity that is not incorporated under the laws of this state or another jurisdiction; or

25. Taking advantage of a disaster declared by the governor under Chapter 418, Government Code, by:

26.

    1. Selling or leasing fuel, food, medicine, or another necessity at an exorbitant or excessive price; or
    2. Demanding an exorbitant or excessive price in connection with the sale or lease of fuel, food, medicine, or another necessity.

Texas Deceptive Trade Practices Consumer Protection Act Guidelines

1. As a prerequisite to filing a suit seeking damages under this Act, the consumer must send a registered or certified letter of written notice telling the seller what is wrong and asking for the amount of your damages. The notice must advise the seller in reasonable detail of the consumer's specific complaint and the amount of damages.
2. If the seller fails to send you the amount requested within 60 days of receiving your letter, a suit can be filed.
3. If a suit is filed, ask for the all of the damages incurred as a result of this deceptive trade practice. The possible remedies include:
4.

    1. Economic and mental anguish damages;
    2. Additional damages**;
    3. An injunction;
    4. A restoration order;
    5. The appointment of a receiver;
    6. Revocation of a defendant's license or certificate to do business;

7. Court costs and attorney's fees;
8. Interest; or
9. Any other relief that the court deems proper.

   Defendants,' Attorneys & Judge Wilson intent to cover up all damages & injuries committed to eliminate the value of this lawsuit & cover up issues;

Additional Damages

If a court finds that the conduct of the seller was committed "knowingly," a court may also award not more than three times the amount of economic damages.

If a court finds the conduct of the seller was committed "intentionally," a court may also award not more than three times the amount of damages for mental anguish and economic damages.

The information you obtain at this site is not, nor is it intended to be, legal advice. You should consult an attorney for individual advice regarding your own situation.

X. NEGLIGENT MISREPRESENTATIONS

The essential elements of a claim of negligent misrepresentation are:

1. **Someone made a false representation as to a past or existing fact**. Statements about the future do not count, nor do opinions or typical "car-salesman" type phrases ("This is a great car," "This is a real deal," and the like).
2. **The person making the belief must have no reasonable ground for believing it to be true**. So in the real estate broker example, if the broker had lived in the house for 10 years, and always found it to be quiet in the past, then her misrepresentation would not have been negligent (in that case it would have been an innocent misrepresentation).
3. **The representation must have been made with the intent to induce the other party to rely upon it**. Basically, you had to be using your misrepresentation in order to help you make the deal.
4. **The other party must have believed the misrepresentation and reasonably relied on it**. Most courts are hesitant to protect a buyer if he is unreasonable in relying on whatever the seller told him (for example, in trying to sell him a car, the seller assured him it could go "a million miles an hour," and the buyer believes this). The buyer must also rely partly (or in

many courts, wholly), on the misrepresentation in deciding to go ahead with the transaction.

5. **As a result of the reliance on the misrepresentation, the other party suffered damages**. This means the buyer must be actually harmed by the final transaction, otherwise there is no liability.

There is an important distinction to be made here, however. The more serious variety of misrepresentation (fraudulent misrepresentation, or fraud), has nearly identical elements, so the line between the two is very fine. The only difference is that fraudulent misrepresentation requires "reckless disregard" as to the truth of something", while negligent disregard only requires "no reasonable ground" to assume something is true. It is essentially a matter of degree.

Judge Wilson, Attorneys & Defendants intent conspiracy goes to eliminate to disprove this malpractice as fractured to prevent all liabilities for their criminal acts, frauds & negligent misrepresentations that Plaintiff relied upon to her detriment that is the basis of this lawsuit as they "Obstruct Justice;"

XI. VIOLATIONS OF TEXAS RULES OF CIVIL PROCEDURE

RULE 1. OBJECTIVE OF RULES The proper objective of rules of civil procedure is to obtain a just, fair, equitable and impartial adjudication of the rights of litigants under established principles of substantive law. To the end that this objective may be attained with as great expedition and dispatch and at the least expense both to the litigants and to the state as may be practicable, these rules shall be given a liberal construction.

RULE 2. SCOPE OF RULES These rules shall govern the procedure in the justice, county, and district courts of the State of Texas in all actions of a civil nature, with such exceptions as may be hereinafter stated. Where any statute in effect immediately prior to September 1, 1941, prescribed a rule of procedure in lunacy, guardianship, or estates of decedents, or any other probate proceedings in the county court differing from these Rules, and not included in the "List of Repealed Statutes," such statute shall apply; and where any statute in effect immediately prior to September 1, 1941, and not included in the "List of Repealed Statutes," prescribed a rule of procedure in any special statutory proceeding differing from these rules, such statute shall apply. All statutes in effect immediately prior to September 1, 1941, prescribing rules of procedure in bond or recognizance forfeitures in criminal cases are hereby continued in effect as rules of procedure governing such cases, but where such statutes prescribed no rules of procedure in such cases, these rules shall apply. All statutes in effect immediately prior to

September 1, 1941, prescribing rules of procedure in tax suits are hereby continued in effect as rules of procedure governing such cases, but where such statutes prescribed no rules of procedure in such cases, these rules shall apply; provided, however, that Rule 117a shall control with respect to citation in tax suits

Intent of Court is without any TRCP there are no laws violated to reduce value of lawsuit, to prevent malpractice & all accountability by these Defendants, Attorneys, so Judge Wilson can't rule is the affect in this lawsuit to Obstruct Justice in his "conflict of interest," cover up, conspiracy & "Fraud Upon Court;"

XII. BAD FAITH

The fraudulent deception of another person; the intentional or malicious refusal to perform some duty or contractualobligation.

Bad faith is not the same as prior judgment or **Negligence**. One can make an honest mistake about one's own rights and duties , but when the rights, of someone else are intentionally or maliciously infringed upon, such conduct demonstrates bad faith.

The existence of bad faith can minimize or nullify any claims that a person alleges in a lawsuit. **PunitiveDamages**,attorney's fees, or both, may be awarded to a party who must defend himself or herself in an action brought in bad faith.

Bad faith is a term commonly used in the law of contracts and other commercial dealings, such as **Commercial Paper**, and in transaction. It is the opposite of Good Faith, the observance of reasonable standards of fair dealings in trade that is required of every merchant.

A government official who selectively enforces a nondiscriminatory law against the members of a particular group or race, thereby violating the Civil Rights of those individuals, is acting in bad faith.

Intent of Judge Wilson, Defendants & their Attorneys wants to eliminate Plaintiff's Civil Rights in this lawsuit, to minimizing the misconduct & actions in this lawsuit that can prevent the malpractice claims to devalue Plaintiff claims & damages;

XIII. CONSPIRACY

A **conspiracy theory** is an explanation of an event or situation that invokes an unwanted conspiracy, generally one involving an illegal or harmful act carried out by government or other powerful actors. Conspiracy theories often produce

hypotheses that contradict the prevailing understanding of history or simple facts. The term is a derogatory one.

A **conspiracy** is a secret agreement by people to commit something wrong or illegal. Depending on the circumstances, a conspiracy may be a crime, or a civil wrong.

A "conspiracy theory" is an explanation of an event or situation that invokes an unwarranted conspiracy.

Intent of Judge Wilson, Defendants & Attorneys are engaging in a conspiracy this this Order of January 30, 2018 to prevent Plaintiff's lawsuit, Obstruct Justice & commit "Frauds Upon Court" with intent to destroy all causes of actions & liabilities by obvious conflict of interest & potential forms of bribery;

XIV. VIOLATIONS OF CONSTIUTIONAL RIGHTS

ENFORCING CONSTITUTIONAL RIGHTS

It has been said that a right without a remedy is no right at all. It is important that citizens have a proper way of enforcing their constitutional rights against the government in the courts. Constitutional rights may be asserted both offensively and defensively. The most common defensive use of constitutional rights is by criminal defendants. Persons may also assert constitutional rights offensively, bringing a civil suit against the government or government officials for a variety of relief: declarative, injunctive and monetary;

Such a declaratory or injunctive lawsuit could be brought in either federal or state court. Most often, however, it would be brought in federal court, with the hope that a federal judge, who was appointed by the President, rather than by the state's governor or elected by the public, would be more willing to declare a state law unconstitutional.

There are several additional impediments to recovering damages from certain defendants for constitutional violations. Although damages may be recovered against a city for enforcing an unconstitutional law or policy, the same is not true for state governments. States are protected by the doctrine of sovereign immunity from having to pay damages in most cases. They may only be sued for injunctive relief to prohibit constitutional violations, not afterwards for any damages caused.

Most other government officials and employees are given only partial, or qualified immunity. This means that they may be held liable for damages for violating someone's constitutional rights, but not in all cases. The injured party must show

that the right that was violated was "clearly established" by the courts before the official took the action. This rule is imposed because it would not be fair to hold government employees personally liable for their actions unless they could know, in advance, that the actions were unconstitutional. In our case, since the right not to be subjected to unreasonable force during an arrest has been established by the courts in the past, damages could be awarded against the individual officers.

One of most significant developments in the field of civil rights litigation has been emergence of damages as remedy for enforcement of constitutional guarantees.

This statute allows a person whose constitutional rights have been violated to sue the responsible public official or governmental body for money damages.

Intent of Judge Wilson, Defendants & Attorneys to deprive Plaintiff's Constitutional Rights, to eliminate all Constitutional Rights, so they can't be sued for knowingly breaking Texas & Federal Laws, which Plaintiff plans to sue for all actions taken in the January 30, 2018 Order signed by Judge Wilson against all participants & Law Firms in this Lawsuit; (Dirty Tricks)

XV. DISCRIMINATION

In plain English, to "discriminate" means to distinguish, single out, or make a distinction. In everyday life, when faced with more than one option, we discriminate in arriving at almost every decision we make. But in the context of civil rights law, unlawful discrimination refers to unfair or unequal treatment of an individual (or group) based on certain characteristics, including:

- Age
- Disability
- Ethnicity
- Gender
- Marital status
- National origin
- Race,
- Religion, and
- Sexual orientation.

Judge Wilson, Defendants & Attorneys will be sued for violations of ADA on Plaintiff's known disability & required medical care as a senior Medicare patient causing additional personal injuries to Plaintiff Amrhein by reckless

denial to stay & continue this lawsuit as filed in this court record for illness or death, no immunities apply & automatic "abuse of discretion" in this lawsuit;

XVI. VIOLATIONS OF DISABILITIES & ADA LAWS DENIED

Most laws prohibiting discrimination, and many legal definitions of "discriminatory" acts, originated at the federal level through either:

- **Federal legislation**, like the Civil Rights Act of 1964 and the Americans with Disabilities Act (ADA).
- Other federal acts (supplemented by court decisions) prohibit discrimination in voting rights, housing, extension of credit, public education, and access to public facilities.
-

Section 504 is a civil rights law that prohibits discrimination against individuals with disabilities, which Judge Wilson, Defendants, Attorneys & Law Firms have violated in this case, is preserved for additional Texas & Federal lawsuits to which immunities do not apply as Plaintiff's Constitutional & Civil Rights have been violated by all participants in this lawsuit; (Another dirty trick & conspiracy.)

Article 14: Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in the European Convention on Human Rights and the Human Rights Act shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Courts have ruled that human rights protection from discrimination includes indirect discrimination. This occurs when a rule or policy, supposedly applying to everyone equally, actually works to disadvantage of one or more groups.

XVII. 20 DAY DEMAND WITH THREATS

Intent by Judge Wilson, Defendants, Attorneys & Law Firms to use their experiences to trick Plaintiff with a design of frauds to eliminate her own case by dirty tricks to Amend these pleadings within 20 days to prevent research of facts & laws against discriminated, disabled Plaintiff in need of 2 back operations, with high risk complications is a low & dirty any person can go that now requires additional lawsuits, which shows their "conflict of interest" as now challenged as unlawful acts, conspiracy, Obstruction of Justice & Fraud Upon The Courts;

Plaintiff challenges this January 30, 2018 Order, will not follow this demand as unlawful, will Appeal as "abuse of discretion" & sue on all issues presented & while the trial Court has discretion, the judges do not have the discretion & authority to violate laws & protect wrongdoers. (Unbias Trier of Fact)

Plaintiff makes a demand for voluntary recusal by Judge Dan Wilson, who has an unlawful "conflict of interest," bias, prejudice & retaliation against Plaintiff & this lawsuit, to aid & abet Defendants & Attorneys crimes & unlawful acts, to prejudice this lawsuit & discriminate against Plaintiff in a hateful way, to deprive her of needed medical & treatments as a protected class senior disabled Medicare patient, causing her additional personal injuries, making all participants liable in this lawsuit, which is not based on any delays or any specific Orders for this recusal;

XVIII. CONFLICT OF INTEREST REQUIRING RECUSAL

Sec. 11. DISQUALIFICATION OF JUDGES; EXCHANGE OF DISTRICTS; HOLDING COURT FOR OTHER JUDGES. No judge shall sit in any case wherein the judge may be interested, or where either of the parties may be connected with the judge, either by affinity or consanguinity, within such a degree as may be prescribed by law, or when the judge shall have been counsel in the case. When the Supreme Court, the Court of Criminal Appeals, the Court of Appeals, or any member of any of those courts shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of such cause or causes.

(a) All judges of courts of this State, by virtue of their office, are conservators of the peace throughout the State.

When the judge of the County Court is disqualified in any case pending in the County Court the parties interested may, by consent, appoint a proper person to try said case, or upon their failing to do so a competent person may be appointed to try the same in the county where it is pending in such manner as may be prescribed by law. (Amended Aug. 11, 1891, Nov. 7, 1978, Nov. 4, 1980, and Nov. 5, 1985.)

(a) Notwithstanding any conflicting provision in the Texas Rules of Civil Procedure, Rules 18a and 18b, Texas Rules of Civil Procedure, apply to the recusal and disqualification of a statutory probate court judge except as otherwise provided by this section or another provision of this subchapter. The presiding judge:

(1) has the authority and shall perform the functions and duties of the presiding judge of the administrative judicial region under the rules, including the duty to hear or rule on a referred motion of recusal or disqualification or, subject to Subdivisions (2) and (3) and to Section 25.002201, assign a judge to hear and rule on a referred motion of recusal or disqualification;
(2) may assign a presiding judge of the administrative judicial region to hear and rule on a referred motion of recusal or disqualification only with the consent of the presiding judge of the administrative judicial region; and
(3) may not assign a judge of a statutory probate court located in the same county as the statutory probate court served by the judge who is the subject of the motion of recusal or disqualification.
(a-1) Notwithstanding Rule 18a(h), Texas Rules of Civil Procedure, or any other conflicting provision of the rules, the judge who hears a motion of recusal or disqualification, after notice and hearing, may:
(1) order the party or attorney who filed the motion, or both, to pay the reasonable attorney's fees and expenses incurred by another party if the judge determines that the motion was:
(A) groundless and filed in bad faith or for the purpose of harassment; or
(B) clearly brought for unnecessary delay and without sufficient cause; and
(2) enjoin the movant from filing other recusal motions in the case without the prior written consent of the presiding judge of the statutory probate courts.
(b) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).
I Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).
(d) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).
I Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).
(f) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).
(g) A judge who recuses himself or herself:

(1) shall enter an order of recusal and:

(A) if the judge serves a statutory probate court located in a county with only one statutory probate court, request that the presiding judge assign a judge under Section 25.002201 to hear the case; or
(B) subject to Subsection (l), if the judge serves a statutory probate court located in a county with more than one statutory probate court, request that the presiding judge order the clerk who serves the statutory probate courts in that county to randomly reassign the case to a judge of one of the other statutory probate courts located in the county; and
(2) may not take other action in the case except for good cause stated in the order in which the action is taken.

(g-1) A judge who disqualifies himself or herself:

(1) shall enter an order of disqualification and:
(A) if the judge serves a statutory probate court located in a county with only one statutory probate court,request that the presiding judge assign a judge under Section 25.002201 to hear the case; or
(B) subject to Subsection (l), if the judge serves a statutory probate court located in a county with more than one statutory probate court, request that the presiding judge order the clerk who serves the statutory probate courts in that county to randomly reassign the case to a judge of one of the other statutory probate courts; and
(2) may not take other action in the case.

(h) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).
(i) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).
(i-1) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).
(i-2) A judge who hears a motion for recusal or disqualification may also hear any amended or supplemented motion for recusal or disqualification filed in the case.
(i-3) If a motion for recusal or disqualification is granted ,
the presiding judge shall transfer the case to another court or assign another judge to the case and:
(1) if the judge subject to recusal or disqualification serves a statutory probate court located in a county with only one statutory probate court, the presiding judge or judge assigned to decide the motion shall enter an order of recusal or disqualification, as appropriate, and request that the presiding judge assign a judge under Section 25.002201 to hear the case; or
(2) subject to Subsection (l), if the judge subject to recusal or disqualification serves a statutory probate court located in a county with more than one statutory probate court, the presiding judge or judge assigned to decide the motion shall enter an order of recusal or disqualification, as appropriate, and request that the clerk who serves the statutory probate courts in that county randomly reassign the case to a judge of one of the other statutory probate courts located in the county.
(i-4) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).
(i-5) A judge assigned to hear a motion for recusal or disqualification is entitled to receive the same salary, compensation, and expenses, and to be paid in the same manner and from the same fund, as a judge otherwise assigned under Section 25.0022 .
(j) Repealed by Acts 2015, 84th Leg., ch. 1031 (H.B. 1438), § 37(2).
(k) A party may file a motion for sanctions alleging that another party in the case filed a motion for the recusal or disqualification of a judge solely to delay the case

and without sufficient cause. The presiding judge of the administrative judicial district or the judge assigned to hear the motion for recusal may approve a motion for sanctions authorized by Rule 215.2(b), Texas Rules of Civil Procedure .
(l) If a clerk of a statutory probate court is unable to reassign a case as requested under Subsection (g)(1)(B), (g-1)(1)(B), or (i-3)(2) because the other statutory probate court judges in the county have been recused or disqualified or are otherwise unavailable to hear the case, the clerk shall immediately notify the presiding judge and request that the presiding judge assign a judge under Section 25.002201 to hear the case.
(m) The clerk of a statutory probate court shall immediately notify and provide to the presiding judge of the statutory probate courts a copy of an order of recusal or disqualification issued with respect to the judge of the statutory probate court.

Judge Dan Wilson needs to recuse himself for "conflict of interest" in outcome of this lawsuit, violations of laws, discrimination against Plaintiff & dirty tricks as interested in the outcome of Defendants & Attorneys liabilities & no enforcement of laws; (It took 5 days to review all Plaintiff's evidence, then accepted & relied upon Defendants' Attorneys late filings, unenforced laws & attorneys fees that are unreasonable & unattainable from an in forma pauperis person with more than $100,000 in medical bills, no attainable assets & no job;

XIX. CHALLENGE TO DISMISSAL OF LAWSUIT

1) **Judge Wilson set the date of January 22, 2018** to not accept any filings, but Defendant's Attorney violated that & filed a reply on January 23, 2018.

2) **There was to be a stay & continuance** as motion filed for disabled Plaintiff, who is ill & needing 2 back surgeries, but Defendants, Attorneys & Judge Wilson violated federal laws on ADA & discriminated against disabled Plaintiff causing prejudice to her & this lawsuit; (Ex Wrt 1)

3) **There was no formal hearing** on this matter as required as a matter of law;

4) **Judge Wilson was instructed by Attorneys** not to examine any of Plaintiff's evidence, but did over 5 days from January 25, 2018 to January 30, 2018 & still ruled in violations of laws, demonstrating a "conflict of interest" in outcome of lawsuit, use of dirty tricks, conspiracy, 20 - day demand to Obstruct Justice & commit "Fraud Upon The Court" that requires recusal of this judge to protect these Defendants in this case, who violated laws & Plaintiff's Rights;

XX. LEGAL MALPRACTICE

Instead, legal malpractice happens when an attorney handles a case inappropriately due to negligence or with intent to harm and causes damages to a client. To prevail in a legal malpractice lawsuit in most jurisdictions, you will need to prove an attorney-client relationship between you and the lawyer, a breach of the duty to provide skillful and competent representation (negligence), causation, and a financial loss.

Proving the first element requires you to show that an attorney gave or promised to give you legal advice or assistance, and therefore created an attorney-client relationship in which you were owed competent and skillful representation. Usually, this relationship is created by a written contract or agreement, but it also can be implied from an attorney's actions in connection with the client's actions. In some states, if a client has a reasonable belief that there is an attorney-client relationship based on an attorney's representations, that is enough to find an attorney-client relationship. The nature of this element could vary depending on the ethics rules of the State Bar in your state, and occasionally attorneys do contest that there was such a relationship.

The second element of attorney negligence is similar to the standard for medical negligence. In performing legal services, an attorney must exercise the care, skill, and diligence that are commonly exercised by other attorneys in similar conditions and circumstances. An attorney can never insure a particular outcome, and a failure to choose the best strategic course of action does not necessarily amount to a breach of duty.

In many cases, an attorney chooses a strategy in good faith, and at the time this strategy is chosen it is reasonable. However, if a reasonably prudent attorney with the skill and competence level necessary to provide the same legal service would not make the decision made by the attorney, there may have been a breach of duty.

With regard to the third and fourth elements, you must show that if the attorney had not been negligent or otherwise acted wrongfully, you would have been successful in the underlying case. It can be challenging to prove that the outcome of a legal proceeding would have been different if your attorney had acted differently. When a financial loss would have happened irrespective of the attorney's mistakes, there is no malpractice. For example, if your trial attorney failed to communicate with you regularly, but whatever information he could have

gotten from you would not have changed the outcome of the trial, there is no malpractice.

Some common kinds of malpractice include failure to meet a filing or service deadline, failure to sue within the statute of limitations, failure to perform a conflicts check, failure to apply the law correctly to a client's situation, abuse of a client's trust account, such as commingling trust account funds with an attorney's personal funds, and failure to return telephone calls.

In addition to a civil legal malpractice lawsuit, in cases of fraud or theft, the attorney can be reported to the State Bar or criminally prosecuted. The state bar may impose disciplinary sanctions, such as fines or disbarment.

Definition of Type of Alleged Error*

Clerical Error: This category applies to clerical or stenographic errors as opposed to legal errors. In these cases, the basic act or omission is not that of the lawyer, but of a non-lawyer working on behalf of the lawyer. Items included would be an error in typing a legal description, the transposition of numbers, or generally the type of error which would be disclosed by effective proofreading. Not included in this category would be administrative failure to carry out the attorney's instructions, such as a clerk not following instructions to send an item by certified mail; the category Procrastination in Performance of Services or Lack of Follow-Up would apply to such claims.

Conflict of Interest : This category will be used when the principal error is that the lawyer allegedly had a conflicting interest to that of the client. It applies whether the lawyer knew or did not know of the conflict.

Error in Mathematical Calculation : This category includes any alleged error in mathematical calculation. Examples would be errors in tax computations, real estate closing statements and interest calculations.

Error in Public Record Search : This category covers cases where a title search, U.C.C., or patent or trademark search failed to disclose a relevant item on public record, or a case where no public record search was made when it should have been. It does not include an alleged error based on inaccurate interpretation of the effect of a document or notice which was noted on the record.

Failure to Calendar Properly: This category covers the situation where the lawyer was aware of the existence of a time deadline and what it was, but did not initiate any kind of calendar entry as a reminder to himself or others in the office.

Failure to File Documents Where No Deadline is Involved : This category applies when there is no deadline by which an act has to occur to be effective, but rather where the filing of a document or notice is necessary to perfect a client's interests against the claim of another party. A typical example is the requirement for filing of a mortgage on real estate to protect the priority interest of the mortgagee against those acquiring a subsequent interest.

Failure to Follow Client's Instructions : This category is self-explanatory. It applies in cases where the attorney has been given instructions to follow by the client, but fails to follow these instructions either intentionally or unintentionally.

Failure to Know or Ascertain Deadline Correctly : This category includes both the situation where there is a deadline which the lawyer did not know about, and the case where there is an alleged error either in determining what deadline applies, or in calculating when the deadline occurs. If there was no calendar entry then the category Failure to Calendar Properly applies unless the lawyer made no entry because the lawyer did not know there was a deadline.

Failure to Know or Properly Apply the Law : This category applies where the attorney was unaware of the legal principles involved, or where the attorney did the research but failed to ascertain the appropriate principles. It applies in instances of erroneous reasoning from known principles. The category also applies where the lawyer simply fails to see the legal implications of the known facts, such as where the attorney knows the client has children who are not to receive anything under the client's will, but fails to recognize the requirement that the children be mentioned in the will.

Failure to Obtain Client's Consent or to Inform Client : This category involves cases where a client asserts that, if the client had been fully informed by the lawyer of various alternatives or the risks involved, a different course of action would have been selected. It would also apply where the lawyer should have communicated with the client and obtained consent to proceed but did not.

Failure to React to Calendar : This category would apply where the proper notations were made in the calendar system, but the lawyer failed to react to them.

Failure to Understand or Anticipate Tax Consequences : This category applies when the basis of the claim is that, in handling a matter which was not principally a problem in taxation, the attorney fails to properly advise the client or adequately take into account the tax implications of other actions. (The category Failure to Know or Properly Apply the Law also applies, but where the lack of knowledge is as to tax implications, this more specific category was used.)

Fraud : This category covers the claim where the primary cause of the action is the fraudulent acts of the attorney, whether covered by insurance or not.

Improper Withdrawal from Representation : This category applies whenever a question of representation arises. It covers instances where the claimant asserts that

a lawyer-client relationship has been established, even if the attorney denies it. It also covers a withdrawal from representation improperly communicated by the attorney.

Inadequate Discovery of Facts or Inadequate Investigation : This category includes cases where the claimant alleges that certain facts which should have been discovered by the attorney in a careful investigation or in the use of discovery procedures were not discovered or discerned.

Libel or Slander : This category applies where the complaint made by a claimant alleges libel or slander.

Lost File, Document or Evidence : This category is self-explanatory, and pertains to all instances where the alleged error was due to a lost file, document, or evidence.

Malicious Prosecution or Abuse of Process : This category applies to any claim brought by a non-client for malicious prosecution or abuse of process.

Planning or Strategy Error : This category applies, for example, to a contested proceeding where a lawyer has an adequate knowledge of the facts and legal principles and makes an error in judgement as to how the client's matter should be handled. The cases here are those involving allegedly wrong decisions where the lawyer knows the facts and law. These are usually strategy and judgement errors. This category does not apply if the alleged error occurs because of a lack of knowledge of facts which should have been discovered by the attorney, or clear legal principles which the attorney should have known.

Procrastination in Performance of Services or Lack of Follow-Up : This category applies where the delay in dealing with a client's matter by a lawyer causes a loss even though there may not have been a formal lapse of a time limitation, or the intervention of another interest adverse to that of the client, such as the loss of a sale of business, disappearance of evidence, or loss of witnesses which occurred as a result of the lawyer's delay. Lack of follow-up is also covered under this category. This includes the instances where the attorney has initiated some type of action, but has not followed up to make sure the necessary action is taken.

Violation of Civil Rights : This category covers any allegations made against the attorney for violation of any civil rights protected by law. This error code would most commonly arise in a third-party action against the lawyer, and would not be used when a lawyer is retained to represent a client with respect to a violation of the client's civil rights and makes some other errors during the representation

Judge Dan Wilson, Defendants, Attorneys & Law Firms illegal intent on filed court records of evidence that could not be denied as violations of laws, was to fracture all Plaintiff's claims, to eliminate each one directly or indirectly, so their

was no probable cause & case with no laws, allowing Defendants to walk on all these liabilities, which goes beyond "conflict of interest," bias, prejudice, retaliation & manipulation of laws, dirty tricks, intent to intimidate Plaintiff, discriminate against her, her disability, deny her healthcare & lead directly to frauds, corruption, conspiracy, mandatory disqualification, lost immunity , recusal injustices & Plaintiff "right to sue" for these actions;

XXI. CHALLENGE TO TRCP 91a

TRCP 91A: RESOLVING THE CONFUSION* ABSTRACT On the heels of the U.S. Supreme Court's decision in Ashcroft v. Iqbal, the Texas Supreme Court promulgated Texas Rule of Civil Procedure 91a, which permitted trial courts to dismiss actions that have no basis in either law or fact. Since then, Rule 91a has created considerable confusion among both state and federal courts applying Texas pleading procedure. Looking for guidance, the courts have analogized Rule 91a to Federal Rule of Civil Procedure 12(b)(6), which similarly allows trial courts to dismiss baseless claims at the pre-trial stage.

TRCP 91a was suppose to claim that no reasonable person could believe the pleadings, yet these Defendants had no problem knowing what Plaintiff had plead according to facts & applicable laws to pull them apart to fracture & separate them;

TRCP 91a can't be understood by a reasonable person if no evidence is examined leading to only speculation to decide a case or how to apply the laws causing Texas & Federal Courts confusion, so how can anyone consider what is baseless in suit;

TRCP 91a was to provide "fair notice" standards, but in this case it was to dismantle this lawsuit for benefit of Defendants & their Attorneys to run a scam on Plaintiff to prejudice her & this lawsuit;

TRCP 91a 60 day deadline with disabled Plaintiff's illness caused a violation of federal & Texas laws requiring a secondary lawsuit & additional injuries & harm;

Confusion in Courts on this law is unsettled, vague law, claims of baseless claims, which is not the case in this lawsuit as the Court tries to hide evidence, play dirty tricks, manipulated the laws & demonstrate a "conflict of interest" to prejudice & discriminate against Plaintiff by miscarriage of justice, Obstruction of Justice & "Fraud Upon Courts" for their friends & associates, while fleecing Plaintiff to cause further injuries & harms causing recusal;

XXII. RULE OF LAW

The **rule of law** is the principle that law should govern a nation, as opposed to being governed by decisions of individual government officials. It primarily refers to the influence and authority of law within society, particularly as a constraint upon behaviour, including behaviour of government officials. (Ex. 1)

Rule of law implies that every person is subject to the law, including people who are lawmakers, law enforcement officials, and judges. **No one is above the law !**

XXIII. PLAINTIFF'S DECEASED FATHER

1) My Dad was abused, tortured, killed & then we have Defendants that took way all his rights with no recourse for all things he suffered because of these Defendants, Attorneys, Law Firms & Judge Dan Wilson falsely claiming no laws & facts in the most hateful way that these people should all experience in their lifetime to feel the hurt because these Defendants, just parked his case files in some closet removing all choices by exhausted "statute of limitations" as if that is legal to cover up & lie;

2) My Dad was a good, kind & loving man that did not deserve this treatment by these crooks;

3) Seems the high Courts have no problems with he on cases before & after his death & his trust giving Plaintiff authorities to protect him;

4) Plaintiff would not have left dead cat with these crooked Defendants if known;

5) Plaintiff plans to shut this law firm done from ever abusing or taking advantage of any other trusting person for harms, losses & damages as fake attorneys for their own self interest to scam consumer clients as Collin County Courts cover up as they should lose their Texas licenses for their abusive misconduct & frauds;

6) Defendant Bollinger's "conflict of interest" & frauds evident in Schroeder case & to prevent filing all damages was more of the "good old boy network;

7) My Dad's expired "statute of limitations is an automatic malpractice & Plaintiff will not remove one "cause of actions" as plead for "fair notice" standard by law. Ex 2 + Ex 3

XXIV. PLAINTIFF'S OVERVIEW

This Court Judge, Defendants, Attorneys & Law Firms have engaged in frauds, negligence, misrepresentations, cover up, conspiracy & corruption to try to get these Defendants off, but it did not work.

Dismissal With Prejudice needs to be reversed, as Plaintiff will go public with these actions, Plaintiff will sue under discriminations & disability rights for all personal injuries caused, Appeal under "abuse of discretion," Malpractice & all wrongs done for attempts of no fracture by this illegal scam against Plaintiff & deceased father's estate, in unlawful attempt to rid all Defendants' suit liabilities;

Plaintiff will receive her healthcare timely as needed as hatefully denied by this Court Judge Wilson & his partners in their manipulation of laws for injustices, so stop all harassments for the next six months, grant stay & continuance for all "plead causes of action" as filed timely throughout this lawsuit on the facts of case;

Plaintiff will not file the 20-day threat as medically incapacitated, preparing for first surgery as disabled Plaintiff filed with this Court, anymore injuries will be added to lawsuits & all participants with "no immunities" according to Texas & federal laws for discriminations of disabled person, belonging to "protected class;"

Recuse & Disqualify Judge Dan Wilson, reconsider all activities & wasted time in this lawsuit with reflection of all actions taken in violation of each sworn oath of office, licenses, to be honest & enforce laws with an unjust Order & attempts to "Obstruct Justice" with "Fraud Upon the Courts" to protect these corrupt attorneys;

No Attorneys' Fees as Plaintiff is broke with huge medical bills, no assets, no job & will continue to right the wrongs & violations of laws done by lawsuits;

Anthony Balistreri was deceased when Plaintiff went to hire these Defendant Attorneys by Wormington Law Firm as trustee, survivor with a fiduciary duty on a legal "irrevocable trust document," held legal in all high Courts. Now this court claims Plaintiff has no right to do Plaintiff's fiduciary duty, because a dead person can't represent himself just as deceased as before makes no sense as effects are still the same with damages done to Plaintiff as Survivor to his estate & as next of kin having an affect upon Plaintiff & Plaintiff Rights, so representation & damages are done to Plaintiff, who has a right to protect herself, duty, care & all assigned assets that require "due process," as matter of law, under rule of law for all justices. 2/3

Plaintiff prays for fairness, "due process," justice & reconsideration in all matters within this court record filing, proper legal procedures enforcing all laws, reversing this Order, stay lawsuit & while Plaintiff has her 2 surgeries as disabled litigant.

(Exhibit 1) Darlene C. Balistreri-Amrhein

~~to~~ 2 4

Respectfully submitted, Darlene Balistreri-Amrhein, Plaintiff, Pro Se & Trustee

Representative & Survivor for Anthony J. Balistreri, Deceased Plaintiff

2/2/18

Notice:
No filings until
after 2 surgery updates.

40.

Electronically Filed 1/22/2018 4:50 PM
Stacey Kemp County Clerk
Collin County, Texas
By: Dianna Shine, Deputy
Envelope ID: 21981471

CAUSE NO. 005-02654-2017

DARLENE C. AMRHEIN, et al,	COUNTY COURT AT LAW
Plaintiffs,	NO. 5
v.	[Hon. Dan K. Wilson]
ATTORNEY LENNIE F. BOLLINGER, AND WORMINTON & BOLLINGER LAW FIRM,	
Defendants.	COLLIN COUNTY, TEXAS

ORDER GRANTING DEFENDANTS LENNIE F. BOLLINGER AND WORMINGTON & BOLLINGER'S RULE 91A MOTION TO DISMISS

On this day, the Court considered Defendants Lennie F. Bollinger and Wormington & Bollinger's ("Defendants") Motion to Dismiss, pursuant to Rule 91a of the Texas Rules of Civil Procedure, filed on December 22, 2017. Plaintiff Darlene Amrhein in her individual capacity and in her representative capacity on behalf of Anthony Balistreri (collectively "Amrhein" or "Plaintiff"), filed a Response on January 2, 2018. Defendants filed a Reply to Plaintiff's Response on January 19, 2018. After careful consideration of Plaintiff's Amended & Supplement Petition and Pleadings, Defendants' Rule 91a Motion to Dismiss, Plaintiff's Response to the Motion to Dismiss, and Defendants' Reply, and relevant legal authority, the Court rules as follows:

a. It is **ORDERED** that Defendants' Rule 91a Motion is **GRANTED**.

b. Therefore, it is **ORDERED** that the following causes of action or purported causes of action are **DISMISSED WITH PREJUDICE**: (i) all of the causes of action brought in Amrhein's representative capacity of Anthony Balistreri, deceased, or his estate or trust, (ii) Violations of the Texas Disciplinary Rules of Professional Conduct, (iii) Breach of Fiduciary Duty, (iv) Breach of Contract, (v) Fraud, (vi)

Exhibit 1

Violations of the DTPA, (vii) Violations of the Texas Rules of Civil Procedure, (viii) "Bad Faith," (ix) Negligent Misrepresentation, (x) Conspiracy, (xi) violations of constitutional rights, and (xii) alleged discrimination.

c. Plaintiff is **ORDERED** to file an amended petition removing the dismissed causes of action from her petition within 20 days of the date of this Order. Failure to comply with this Order may result in a dismissal of this case.

d. The Court finds that the amount of fees incurred by Defendants for defense of this matter through the date of the hearing is reasonable and necessary. It is hereby **ORDERED** that Defendants' request for attorney fees and costs pursuant to Tex. R. Civ. Proc. 91a.7 is **GRANTED**. Attorney fees and costs in the amount of $14,101.55, plus $29.05 in expenses, are awarded to Defendants. Plaintiff is hereby **ORDERED** to pay $14,130.60 to Defendants. Execution may issue on all sums awarded.

Signed this 30 day of January, 2018.

Signed: 1/30/2018 10:20 AM

Dan K. Wilson

JUDGE PRESIDING

Exhibit 1

EXHIBIT 2

ATTORNEY STUART KALB
FOR ANTHONY J. BALISTRERI (DECEASED)
2921 COUNTRY CLUB ROAD
DENTON, TX. 76210

TEXAS BAR LICENSE # 11079850

35 YEARS EXPERIENCE IN ESTATE PLANNING AND REPRESENTATIVE TO ANTHONY J. BALISTRERI FOR ALL PREPARED TRUST DOCUMENTS.

ATTORNEY STUART KALB CAN FILE NOTICE OF APPEARANCE ON BEHALF OF ANTHONY J. BALISTRERI FOR REPRESENTATION ONLY ON HIS ESTATE, TRUST, SURVIVORSHIP OF DARLENE C. BALISTRERI-AMRHEIN IN THIS LAWSUIT IF REQUIRED, WHICH ELIMINATES QUESTION OF TEXAS ATTORNEY REPRESENTATION IN THIS LAWSUIT.

Exhibit 2

Case: ~~4:15~~cv112

Anthony J Balistreri
c/o Darlene C Balistreri-Amrhein
112 Winsley Circle
McKinney, TX 75071

Exhibit 3

FILED
OCT 25 2016
Clerk, U.S. District Court
Texas Eastern

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DARLENE C. AMRHEIN, Pro Se
ANTHONY J. BALISTRERI (Deceased), Plaintiffs,

Civil Action Case # 4:16-CV-112-ALM-CAN

DONALD VERRILLI JR. UNITED STATES SOLICITER GENERAL, ET AL,
UNITED STATES OF AMERICA, ET AL, Defendants

PLAINTIFF(S) MOTIONS AND OBJECTIONS FOR "GOOD CAUSE " REASONS TO CORRECT ALL ERRORS AND FORMAL REQUEST FOR FINDING OF FACT AND CONCLUSION OF CONSTITUTIONAL LAW ON SIGNED OCTOBER 7, 2016 REPORT AND RECOMMENDATION OF U.S. MAGISTRATE JUDGE

Darlene C. Amrhein, Plaintiff(s) Pro Se,
Trustee, Representative
Anthony J. Balistreri, (Deceased)
112 Winsley Circle
McKinney, TX. 75071
Telephone; Unpublished

Exhibit 3

VERIFICATION / AFFIDAVIT

CAUSE NO. 005-02654-2017

STATE OF TEXAS

COUNTY OF COLLIN

BEFORE ME, the undersigned Plaintiff, Darlene C. Balistreri-Amrhein, who swore in her capacity & individually on her sworn oath, deposed and said she prepared and signed Plaintiff's Responses To January 30, 2018 Order On Motion To Dismiss Portions of This Lawsuit That Is Challenged By Motion For Reconsideration For "Good Cause" Reasons.

This information as referenced and stated within is true and correct and of Darlene C. Balistreri-Amrhein's own personal knowledge to best of her ability & documented. This state and or federal filing is for purpose of "due process," fairness, Justice under State and Federal Laws & presented in applicable Court attached as sited for this Court filing.

Darlene C. Balistreri-Amrhein

Darlene C. Balistreri-Amrhein, Plaintiff, Pro Se

SUBSCRIBED AND SWORN TO ME, BEFORE ME: ON February 3, 2018 to Certify which witness my hand and official seal.

SEAL:

Trevor L. Hilz

Notary Public of Texas (Printed Name)

NOTARY PUBLIC STATE OF TEXAS
TREVOR HILZ
My Commission Expires
May 1, 2019

Trevor L Hilz

Notary Public of Texas (Signature)

Commission Expires May 1, 2019

CERTIFICATE OF SERVICE

A true and correct copy of Plaintiff's Responses To January 30, 2018 Order On Motion To Dismiss Portions of This Lawsuit That Is Challenged By Motion For Reconsideration For "Good Cause" Reasons was served in person or by Certified Mail through the United States Post Office on or about Feb. 2, 2018 to the following:

Collin County Courthouse — Certified 7017 0530 0000 6416 5979

County Court at Law No. 5

Honorable Dan K. Wilson
Attn: Collin County District Clerk's Office
2100 Bloomdale Rd.
McKinney, TX 75071

Cobb, Martinez, Woodward, PLLC — Certified # 7017 0530 0000 6416 5986

Attorney Carrie Johnson Phaneuf

1700 Pacific Avenue, Suite 3100

Dallas, TX. 75201

CERTIFICATE OF CONFERENCE

There was no conference filed & served because Plaintiff is too sick, in pain & medicated from hospital discharge.

Respectfully submitted,

Darlene C. Balistreri-Amrhein

Darlene Balistreri-Amrhein, Plaintiff, Pro Se and

Representative for Deceased Anthony J. Balistreri

2/2/18

Electronically Filed 2/9/2018 4:50 PM
Stacey Kemp County Clerk
Collin County, Texas
By: Drenea Mack, Deputy
Envelope ID: 22437092

CAUSE NO. 005-02654-2017

DARLENE C. AMRHEIN, et al,	COUNTY COURT AT LAW
Plaintiffs,	NO. 5
v.	[Hon. Dan K. Wilson]
ATTORNEY LENNIE F. BOLLINGER, AND WORMINTON & BOLLINGER LAW FIRM,	
Defendants.	COLLIN COUNTY, TEXAS

DEFENDANTS' MOTION FOR AN ORDER DETERMING PLAINTIFF DARLENE AMRHEIN TO BE A VEXATIOUS LITIGANT AND REQUESTING SECURITY

Defendants Lennie F. Bollinger and Wormington Law Group, PLLC d/b/a Wormington and Bollinger (incorrectly named as "Wormington & Bollinger Law Firm") ("Defendants") file this Motion for an Order Determining that Plaintiff Darlene Amrhein ("Plaintiff" or "Amrhein") is a Vexatious Litigant, and requesting security, pursuant to the provisions of Chapter 11 of the Texas Civil Practice & Remedies Code, as follows:

SUMMARY OF THE ARGUMENT

Defendants request that the Court enter an Order determining that Amrhein is a vexatious litigant and requiring security from her. As shown below, the Court can make this determination under TEX. CIV. PRAC. & REM. CODE § 11.054(1)(A) because there is not a reasonable probability that Amrhein will prevail in this lawsuit and, in the seven-year period immediately preceding the date of this motion, Amrhein has commenced, prosecuted, or maintained at least five litigations as a *pro se* litigant that have been finally determined adversely to her.

The United States District Court of the Northern District of Texas previously entered a pre-filing injunction against Amrhein and ordered that Amrhein was prohibited from filing any new civil action in any United States District Court unless first requesting leave to do so, and Amrhein was later found to have violated this injunction on at least two separate occasions. Additionally, the United States District Court for the Eastern District of Texas previously determined that lawsuits by Amrhein were frivolous and malicious.

Further, Amrhein repeatedly litigates the validity of the determination against the same defendants as to whom the litigation was finally determined and the same causes of action, claims, controversies, and issues of fact or law determined or concluded by the final determination against the same defendants as to whom the litigation was finally determined. TEX. CIV. PRAC. & REM. CODE ANN. § 11.054(2), (3).

For these reasons, Defendants request Amrhein be declared a vexatious litigant.

I. Procedural History and Background Facts

As a *pro se* litigant, Darlene Amrhein has been filing frivolous and groundless lawsuits in state and federal courts since at least 1996, including during the last seven years. Her current lawsuit is no different. As such, the Court must determine her to be a vexatious litigant and require her to post security pursuant to Chapter 11 of the Texas Civil Practice and Remedies Code before she is allowed to proceed in this case.

On October 26, 2017, Plaintiff filed this lawsuit against Defendants asserting a claim for legal malpractice and approximately twelve other causes of action against Defendants. Defendants answered on November 15, 2017. On November 27, 2017, Plaintiff amended her petition. On January 30, 2018, the Court granted Defendants' Rule 91a Motion to Dismiss and dismissed all of Plaintiff's causes of action except for her claim for legal malpractice brought in her individual capacity. Thus, Amrhein's only remaining claim is for legal malpractice as it relates to Defendants' representation of her in *Darlene Amrhein v. David Schroeder*, in Precinct 1, Collin County Justice Court (referred to by Amrhein as "Lawsuit #1"). The Court has ordered Amrhein to amend her pleadings, but, as of the date of this motion, she has not done so.[1]

In early spring of 2016, Amrhein retained Defendants to represent her with respect to a claim against her former tenant, David Schroeder ("Schroeder").[2] The scope of Defendants'

[1] *See* Order Granting Defendants' Rule 91a Motion. The deadline for Amrhein to amend in according with this Order is February 19, 2018.
[2] Exhibit A.

representation was limited to claims against Schroeder for back rent and property he allegedly took from Amrhein.[3] Based on information from Amrhein regarding the scope and amount of her damages,[4] Defendants prepared an Original Petition to file in the Justice of the Peace Court and sent it to Amrhein for her review and approval.[5] The Original Petition alleged damages of $2300, and also requested discovery from Schroeder in the form of Requests for Disclosure and Requests for Admission.[6] Amrhein approved the petition on April 13, 2016,[7] and Defendants thereafter filed it on April 26, 2016.[8] Schroeder filed an answer denying the allegations on or about May 18, 2016.[9]

On December 12, 2016, Amrhein faxed Defendants a 42+ page memo regarding new claims she wanted to bring in the lawsuit.[10] These claims were not relevant to the issue of past-due rent, lacked merit and would not have led to a successful outcome at trial.[11] For example, Amrhein complained that Schroeder drank wine every night and that she had to pay for the wine; that he called her fat; that he said he would not have sex with her; that he spent time at a gun shop; and that he lied to her about being a smoker, about being religious, as well as failed to disclose his former wives and divorces to her.[12]

On December 14, 2016, Amrhein and Defendant Bollinger had a meeting to discuss her case and the new allegations she wanted to bring.[13] During the meeting, Defendant Bollinger explained to Amrhein that he was not comfortable asserting any of the claims as set forth in the

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[3] Exhibit A; See also Exhibit A-1 and A-2.
[4] Exhibit A; See, also January 15, 2016 Letter from Amrhein to Schroeder attached hereto as Exhibit B.
[5] Exhibit A; Exhibit A-1.
[6] Exhibit A-2.
[7] Exhibit A-1.
[8] Exhibit A-2.
[9] Exhibit A-3.
[10] Exhibit A-5.
[11] Exhibit A.
[12] Exhibit A-5.
[13] Exhibit A; Exhibit A-4.

42+page memo.[14] On December 28, 2016, Defendant Bollinger sent Amrhein a follow up email stating that while she was certainly able to make whatever claims she liked, Defendants would not agree to make those claims because Defendants did not agree that the claims had merit.[15] Defendants suggested that due to the differing opinions regarding claims that should be made, strategy and outcomes, Amrhein may want to obtain different counsel.[16]

On December 29, 2016, Amrhein asked Defendant Bollinger to continue the case due to medical procedures she was having, and he complied.[17] After receiving a letter from her medical provider regarding her procedure, Defendants obtained a continuance of the trial date until late June 2017.[18]

In April 2017, Amrhein sent two emails to Defendants that inadvertently went into Defendant Bollinger's SPAM filter.[19] One email again asked Defendants to agree to amend Amrhein's pleadings to assert the meritless allegations against Schroeder.[20] In response, Defendant Bollinger again explained he would not agree to bring claims that lacked merit and advised he would be filing a motion to withdraw due to their disagreement on how to proceed and the differing views on the claims that could be asserted.[21]

The court granted Defendants' Motion to Withdraw on May 12, 2017.[22]

Thereafter, on or about May 15, 2017, Amrhein, *pro se*, filed a verified amended petition in which she swore that her damages did not exceed $10,000.[23] The amended petition also

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[14] Exhibit A.
[15] Exhibit A; Exhibit A-4.
[16] Id.
[17] Exhibit A; Exhibit A-4.
[18] Exhibit A; Exhibit A-4.
[19] Exhibit A; Exhibit A-4.
[20] Exhibit A; Exhibit A-4.
[21] Exhibit A; Exhibit A-4.
[22] Exhibit A; Exhibit A-6.
[23] Exhibit A-7, p. 8.

contained additional Requests for Disclosure and Requests for Admission.[24] On June 29, 2017, Amrhein, *pro se*, filed a verified supplemental petition in which she swore that her damages were $9775.00.[25]

Five months after Defendants' withdrawal, on October 16, 2017, the court entered an order finding that Amrhein's first amended petition failed to plead damages and therefore Schroeder's motion to dismiss would be granted with prejudice.[26] The court's order further found that discovery was not authorized by the Court, and **sanctioned Amrhein by ordering that she not file another civil cause of action against Schroeder until first authorized by the court.**[27] The same day, Amrhein filed a *Motion for Leave for Permission to File against Defendant "Good Cause."* On October 18, 2017, the court entered an order finding that after reviewing the Motion for Leave, it asked for an award beyond the jurisdictional limits of the court in the amount of $13,208.00 and so the court denied Amrhein's request to replead her cause of action.[28]

Not satisfied, Amrhein, *pro se*, appealed her case to the County Court at Law No. 2 of Collin County, Texas. On December 14, 2017, the county court dismissed the appeal for want of jurisdiction.[29]

Plaintiff's Amended Petition in this matter is, at best, vague and ambiguous. Most of the 64 page amended pleading is merely a cut and paste of black letter law, and/or commentary on same, from various unidentified sources without tying the law to any alleged facts as to Defendants. These regurgitations of legal commentary do not, in and of themselves, give rise to a cause of action against Defendants. Regardless, Defendants did not cause Plaintiff's alleged harm

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[24] Exhibit A-7, pp. 16-17.
[25] Exhibit A-8, p. 14.
[26] Exhibit A-9.
[27] Exhibit A-9.
[28] Exhibit A-10.
[29] Exhibit A-11.

and thus Plaintiff has no reasonable probability that she will prevail against Defendants in this suit. That is because, no matter how framed, Plaintiff's claims against Defendants on her remaining legal malpractice claim as it relates to Lawsuit #1 against Schroeder are ultimately based on Defendants' withdrawal from the representation and the subsequent dismissal of the lawsuit. But Plaintiff's case was dismissed, not because of any alleged act or omission of Defendants, but because of Plaintiff's amended pleadings she filed *pro se* after Defendants' withdrew. Plaintiff's amended pleadings were an intervening and/or superseding cause that resulted in the dismissal of the case.

Defendants now file this Motion for Order Determining Plaintiff Amrhein a Vexatious Litigant and Requesting Security before the 90th day after the date Defendants filed the original answer. *See* Tex. Civ. Prac. & Rem. Code § 11.051. There is not a reasonable probability that Plaintiff will prevail on her legal malpractice claims, and Amrhein has commenced, prosecuted, or maintained in the seven years prior to Defendants' Motion more than five *pro se* litigations that have been finally adversely decided against her. In addition, after litigation has been finally determined against Plaintiff, Amrhein repeatedly relitigates or attempts to relitigate, *pro se*, the validity of the determination against the same defendants as to whom the litigation was finally determined. Moreover, Amrhein's conduct and pleadings have previously been declared to be frivolous and a pre-filing injunction already exists against Amrhein in federal district court.[30]

II. EVIDENCE IN SUPPORT OF MOTION

In support of this motion, Defendants rely upon the following exhibits which are attached hereto and adopted by reference as if fully set forth herein, as well as Amrhein's own pleadings, motions, testimony, and judicial opinions, and judgments/mandates:

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[30] Exhibit F-2.

Exhibit A: Affidavit of Lennie Bollinger

Exhibit A-1: April 2016 Emails between Bollinger and Amrhein

Exhibit A-2: Original Petition (April 26, 2016)

Exhibit A-3: Schroeder's Original Answer (May 18, 2016)

Exhibit A-4: Emails between Bollinger and Amrhein

Exhibit A-5: Amrhein's 42+ page memo

Exhibit A-6: Motion to Withdraw (May 11, 2017) and Order Granting Motion to Withdraw (May 12, 2017)

Exhibit A-7: First Amended Petition (May 15, 2017)

Exhibit A-8: Supplement to First Amended Pleadings (June 29, 2017)

Exhibit A-9: Order of Dismissal (Oct. 16, 2017)

Exhibit A-10: Order Denying Cause of Action (Oct. 18, 2017)

Exhibit A-11: Order Dismissing JP Appeal (Dec. 14, 2017)

Exhibit A-12: Plaintiff's Motion for Reconsideration (Dec. 15, 2017)

Exhibit B: February 15, 2016 Letter from Amrhein to Schroeder with alleged damages

Exhibit C: *Balistreri-Amrhein v. AHI*, 05-09-01377-CV, Dallas Court of Appeals

Exhibit C-1: Opinion denying interlocutory appeal (July 6, 2011)

Exhibit C-2: Opinion and Final Judgment (July 31, 2012)

Exhibit D: *Amrhein v. La Madeleine, et al.*, No. 3:11-CV-02440-P, U.S. District Court for the Northern District of Texas

Exhibit D-1: Order dismissing claims with prejudice (Dec. 21, 2012)

Exhibit D-2: Final Judgment (Dec. 31, 2012)

Exhibit D-3: Fifth Circuit Opinion affirming trial court's judgment (January 5, 2015)

Exhibit D-4: Supreme Court Opinion denying petition for writ of certiorari (October 5, 2015)

Exhibit D-5: Supreme Court Opinion denying petition for rehearing (November 30, 2015)

Exhibit E: *Amrhein v. La Madeleine, et al*, 06-12-00107-CV, Texarkana Court of Appeals

Exhibit E-1: Memorandum Opinion affirming trial court judgment (March 6, 2013)

Exhibit E-2: Opining overruling motion for rehearing (March 26, 2013)

Exhibit E-3: Opining overruling further motion for rehearing (April 16, 2013)

Exhibit E-4: Opining overruling motion for reconsideration en banc (April 30, 2013)

Exhibit E-5: Opinion denying petition for review with Texas Supreme Court (February 7, 2014)

Exhibit E-6: Opinion denying motion for rehearing of petition for review (April 4, 2014)

Exhibit F: *Amrhein v. Riechert, et al*, No. 3:12-CV-03707-G-BK, U.S. District Court for the Northern District of Texas

Exhibit F-1: Findings, Conclusions, and Recommendations (February 1, 2013)

Exhibit F-2: Order Accepting Findings, Conclusions, and Recommendation of the United States Magistrate Judge (March 21, 2013) – ***including pre-filing injunction***

Exhibit F-3: Final Judgment (March 21, 2013)

Exhibit F-4: 5th Circuit Court of Appeals Order granting dismissal of appeal (November 3, 2014)

Exhibit G: *Amrhein v. Verrilli, et al.*, No. 4:16-CV-112, U.S. District Court for the Eastern District of Texas

Exhibit G-1: Report and Recommendation of Magistrate Judge (Oct. 7, 2016) – ***including findings that Amrhein violated pre-filing injunction and that claims were frivolous and malicious.***

Exhibit G-2: Memorandum Adopting Report and Recommendation of United States Magistrate Judge (Feb. 24, 2017)

Exhibit H: *Amrhein v. United States of America, et al.*, No. 4:16-CV-00223, U.S. District Court for the Eastern District of Texas

Exhibit H-1: Report and Recommendation of Magistrate Judge (June 23, 2017)- ***including findings that Amrhein violated pre-filing injunction and that claims were frivolous and malicious.***

Exhibit H-2: Memorandum Adopting Report and Recommendation of United States Magistrate Judge (Sept. 6, 2017)

Exhibit I: Excerpts from Deposition of Darlene C. Amrhein taken in *Amrhein v. Prosperity Bank, et al.*, No. 199-05352-2016, 199th District Court, Collin County Texas, on Oct. 27, 2017.

III. ARGUMENT AND AUTHORITIES

A. Overview of Chapter 11 TCPRC—the "Vexatious Litigant" Statute

In Chapter 11 of the Texas Civil Practice & Remedies Code, the Texas Legislature addresses the problem of "vexatious litigants"—persons who abuse the legal system by filing numerous, frivolous lawsuits. *See* TEX. CIV. PRAC. & REM. CODE §§ 11.001-.104; *see Cooper v. McNulty*, No. 05-15-00801-CV, 2016 Tex. App. LEXIS 11333 at *6; 2016 WL 6093999 (Tex. App.—Dallas, Oct. 19, 2016) (citing *In re Douglas*, 333 S.W.3d 273, 282 (Tex. App.—Houston [1st Dist.] 2010, pet. denied)).

Section 11.051 of the statute provides that a defendant may "on or before the 90th day after the date the defendant files the original answer or makes a special appearance, move the court for an order determining that the plaintiff is a vexatious litigant and requiring the plaintiff to furnish security." TEX. CIV. PRAC. & REM. CODE § 11.051. Upon the filing of a Section 11.051 motion, the court must conduct an evidentiary hearing to determine whether the defendant has demonstrated as a threshold matter that "there is not a reasonable probability that the plaintiff will prevail in the litigation against the defendant" ***plus*** any one of the following three criteria:

> (1) [that] the plaintiff, in the seven-year period immediately preceding the date the defendant makes the motion . . . has commenced, prosecuted, or maintained at least five litigations as a *pro se* litigant other than in a small claims court that have been:
>
> > (A) finally determined adversely to the plaintiff;
> >
> > (B) permitted to remain pending at least two years without having been brought to trial or hearing; ***or***
> >
> > (C) determined by a trial or appellate court to be frivolous or groundless under state or federal laws or rules of procedure;
>
> (2) after litigation has been finally determined against the plaintiff, the plaintiff repeatedly relitigates or attempts to relitigate, pro se, either:

(A) the validity of the determination against the same defendant as to whom the litigation was finally determined; ***or***

(B) the cause of action, claim, controversy, or any of the issues of fact or law determined or concluded by the final determination against the same defendant as to whom the litigation was finally determined; ***or***

(3) the plaintiff has previously been declared to be a vexatious litigant by a state or federal court in an action or proceeding based on the same or substantially similar facts, transition,[31] or occurrence.

TEX. CIV. PRAC. & REM. CODE § 11.054 (emphasis added); *see Akinwamide v. Transp. Ins. Co.*, 499 S.W.3d 511, 531 (Tex. App.—Houston [1st Dist.] 2016, pet. denied); *Jones v. Markel*, No. 14-14-00216-CV, 2015 Tex. App. LEXIS 6273 at *9-12 (Tex. App.—Houston [14th Dist.] June 23, 2015, pet. denied). A trial court's determination that *pro se* plaintiff is a vexatious litigant is reviewed under an abuse of discretion standard. *Harris v. Rose*, 204 S.W.3d 903, 906 (Tex. App.—Dallas 2006, no pet.).

As more fully explained below, Defendants are entitled to a declaration that Amrhein is a "vexatious litigant" because: (1) there is "not a reasonable probability" that Amrhein will prevail (TEX. CIV. PRAC. & REM. CODE § 11.054), and (2) in the past seven (7) years, Amrhein has commenced or maintained more than five litigations as a *pro se* litigant that have been "determined adversely" to her (§ 11.054(1)(A)). Additionally, after litigation has been finally determined against her, Amrhein repeatedly litigates the validity of the determination against her, and other courts have determined her pleadings to be frivolous, have sanctioned her, and imposed pre-filing injunctions against her as a result.

[31] It appears that the word "transition" in the statute is a typographical error and should be "transaction." *See Scott v. Mireles,* 294 S.W.3d 306, 308 (Tex. App.—Corpus Christi 2009, no pet.) (quoting statute as "transaction"). Defendants have not located any Texas cases in which the word "transition" was determinative, and it is not at issue in the present case.

B. There is not a reasonable probability that Amrhein will prevail in the litigation against Defendants.

The threshold showing required to support the Court's declaring Amrhein a vexatious litigant is that "there is not a reasonable probability that the plaintiff will prevail in the litigation against the defendant." Tex. Civ. Prac. & Rem. Code § 11.054. For example, a plaintiff "did not have a reasonable probability of prevailing on his claim for professional negligence [when] he proffered no evidence of a duty, and supreme court authority barred any recovery in the absence of exoneration" *Douglas v. Redmond*, No. 14-12-00259-CV, 2012 Tex. App. LEXIS 9712, at *18 (Tex. App.—Houston [14th Dist.] Nov. 27, 2012, pet. denied).

Here, Amrhein alleges a claim against Defendants for legal malpractice related to Defendants' representation of her in her lawsuit against Schroeder. Just as the plaintiff in *Douglas v. Redmond* could not establish all of the elements of a legal malpractice claim, Amrhein has no reasonable probability of prevailing in this suit because she cannot establish all the elements of a claim for legal malpractice.

As shown below, there is not a reasonable probability that Amrhein will prevail on her legal malpractice claim against Defendants because Defendants did not file suit in the incorrect court and *Amrhein v. Schroeder* was dismissed, not because of any action or omission of Defendants, but because of Plaintiff's own actions and omissions *after* Defendants withdrew from the representation. For the following reasons, the Court should grant this Motion and enter an Order declaring Plaintiff Darlene C. Amrhein a vexatious litigant and requiring her to post security.

1. Elements of Legal Malpractice Claim

To prevail on a legal malpractice claim, a plaintiff must show "that (1) the attorney owed the plaintiff a duty, (2) the attorney breached that duty, (3) the breach proximately caused the

plaintiff's injuries, and (4) damages occurred." *Peeler v. Hughes & Luce*, 909 S.W.2d 494, 496 (Tex. 1995).

When a legal-malpractice case arises from prior litigation, the plaintiff must prove that the client would have obtained a more favorable result in the underlying litigation had the attorney conformed to the proper standard of care. *Elizondo v. Krist*, 415 S.W.3d 259, 263 (Tex. 2013). "The traditional means of resolving what should have happened is to recreate the underlying case." *Rogers v. Zanetti*, 518 S.W.3d 394, 401 (Tex. 2017). This re-creation is typically referred to as the "case-within-a-case" or "suit-within-a-suit" and "is the accepted and traditional means of resolving the issues involved in the underlying proceeding in a legal malpractice action." *Id.*

Here, Plaintiff has no probability of prevailing in this suit because she cannot establish that Defendants' alleged conduct was a breach of the standard of care or that Defendants' alleged conduct was the proximate cause of the damages alleged.

2. Defendants did not breach the standard of care because Plaintiff judicially admitted her case was filed in the correct court.

The crux of Plaintiff's legal malpractice claim against Defendants is that Defendants filed suit in wrong court and that fact, combined with Defendants' alleged refusal to bring new claims in accordance with her instructions and/or Defendants' withdrawal, ultimately caused Plaintiff's lawsuit against Schroeder to be dismissed. However, Plaintiff's claims fail, and there is no reasonable probability she will succeed on same, because Plaintiff judicially admitted her case was filed in the correct court.

In February 2016, Amrhein sent a demand letter to Schroeder for back rent and property he allegedly took for a total amount of $2,813 plus costs.[32] Her letter tells Schroeder she will be

[32] Exhibit B.

filing suit in justice of the peace small claims court if he fails to meet her demand.[33] Upon being retained, Defendants prepared an Original Petition for filing in justice court based on this same information from Amrhein about the nature and scope of her damages.[34] Defendants sent the petition to Amrhein for review and she approved it for filing.[35] Because Amrhein's alleged damages were less than $10,000, jurisdiction as to the allegations in the Original Petition was proper in the Justice Court. See, TEX. GOV'T CODE §27.031(a)(1); *see also* Tex. R. Civ. P. 500.3(a) ("A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than $10,000, excluding statutory interest and court costs but including attorney fees, if any."). Accordingly, and contrary to Amrhein's allegations in this suit, Defendants did not file her lawsuit against Schroeder in the wrong court.

Defendants withdrew as Amrhein's legal counsel in *Amrhein v. Schroeder* on May 12, 2017.[36] Defendants withdrew from the representation of Plaintiff because Plaintiff insisted upon pursuing an objective that Defendants considered imprudent and with which the Defendants had a fundamental disagreement, which is permitted by Rule 1.15 of the Texas Disciplinary Rules of Professional Conduct.[37] Specifically, Defendants withdrew because Amrhein insisted on amending her petition to bring claims against Schroeder that Defendants considered without merit.[38]

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[33] Exhibit B.
[34] Exhibit A; Exhibits A-1 - A-3; Exhibit B.
[35] Exhibit A; Exhibit A-1.
[36] Exhibit A-6
[37] See TEX. DISC. R. PROF'L CONDUCT, Rule 1.15(b)(4).
[38] Exhibit A; Exhibits A-4 and A-5.

After Defendants withdrew from the case, Amrhein, *pro se*, amended her petition on May 15, 2017.[39] She swore in the amended petition that her damages did not exceed $10,000, confirming that the case was correctly filed in justice court.[40] Then, on June 29, 2017, Amrhein, *pro se*, filed a supplement to her amended petition.[41] In the supplement, Amrhein swore that her damage were $9,775.00, again confirming that the case was correctly filed in justice court.[42] These sworn pleadings are judicial admissions by Plaintiff that directly contradict her allegations in this case that Defendants filed her lawsuit in the wrong court.

A judicial admission is a formal waiver of proof, usually found in pleadings or the stipulations of the parties, that dispenses with the production of evidence on an issue and bars the admitting party from disputing it. *Mendoza v. Fidelity & Guar. Ins. Underwriters, Inc.*, 606 S.W.2d 692, 694 (Tex.1980); *De La Pena v. Elzinga*, 980 S.W.2d 920, 922 (Tex. App.--Corpus Christi 1998, no pet.). This rule is based on the public policy that it would be unjust to permit a party to recover after he has sworn himself out of court by clear, unequivocal testimony. *De La Pena,* 980 S.W.2d at 922 (citing *United States Fidelity & Guar. Co. v. Carr*, 242 S.W.2d 224, 229 (Tex. Civ. App.--San Antonio 1951, writ ref'd)).

A judicial admission "results when a party makes a statement of fact which conclusively disproves a right of recovery or defense currently asserted." *See Brown v. Lanier Worldwide, Inc.*, 124 S.W.3d 883, 900 (Tex. App.--Houston [14th Dist.] 2004, no pet.).

A pleading in another lawsuit may be considered a judicial admission. *Brown*, 124 S.W.3d at 900. To be treated as a judicial admission, a party's statement must meet five requirements: (1)

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[39] Exhibit A-7.
[40] Exhibit A-7, p. 8.
[41] Exhibit A-8.
[42] Exhibit A-8, pp. 14-15.

the statement relied on is made during the course of a judicial proceeding; (2) the statement is contrary to an essential fact embraced in the theory of recovery or defense asserted by the person making the statement; (3) the statement is deliberate, clear, and unequivocal; (4) giving conclusive effect to the statement will be consistent with the policy on which the judicial admission rule is based; and (5) the statement is not also destructive of the opposing party's theory of recovery. *See DowElanco v. Benitez*, 4 S.W.3d 866, 871 (Tex. App.--Corpus Christi 1999, no pet.).

Amrhein's amended and supplemental petitions both contain statements during the course of a judicial proceeding that directly conflict with allegations she is now making against Defendants. Amrhein swore on two separate occasions that her damages were less than $10,000, meaning that jurisdiction in the justice court was correct.[43] Now, however, she claims Defendants committed malpractice by filing suit in the wrong court. Amrhein's statements in her amended and supplemental pleadings as to the amount of damages are deliberate and clear. Application of the judicial admissions doctrine to the case at hand is consistent with public policy, and it is not destructive of Defendants' assertions in this case.

Because Amrhein judicially admitted her claims were within the jurisdictional limits of the justice court, she cannot now sue Defendants claiming the case was filed in the wrong court. There is no reasonable probability that Amrhein will prevail because the damages pleaded in the Original Petition, prepared by Defendant Bollinger, fell within the jurisdictional limit of the court and Plaintiff judicially admitted her damages were within the jurisdictional limits of the Justice Court.

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[43] Exhibits A-7 and A-8.

3. Defendants did not proximately cause Plaintiff's alleged damages because Plaintiff's amended filings were new and independent causes of the dismissal of the case.

Plaintiff's claim that the alleged acts and omissions of Defendants caused the dismissal of the Schroeder lawsuit have no merit. The dismissal was not caused by Defendants but rather by Plaintiff's intervening and superseding act of filing an amended pleading, *pro se*, that plead no damages and then a further subsequent pleading she filed *pro se* that plead damages outside the jurisdiction of the court.

Plaintiff filed her amended petition *pro se* on May 16, 2017.[44] Amrhein's first amended petition alleged causes of action or purported causes of action for (1) unpaid rent, (2) conversion of the same personal property, (3) breach of implied or expressed contract, (4) fraud and other iterations of fraud, (5) negligent misrepresentation, (6) negligence, (7) gross negligence, (8) "acting in 'bad faith,'" (9) "lack of ordinary care," (10) breach of fiduciary duty, (11) harassment, (12) abuse, (13) "threats," (14) "cover-up," (15) collusion, (16) conspiracy, (17) defamation, (18) theft of property, (19) property damages, (20) "cause of financial loss," and (21) "cause of emotional distress."[45] The first amended petition also made claims for consequential damages, "mental pain and suffering," and punitive damages.[46]

On June 29, 2017, Amrhein filed "Plaintiffs' Supplement to First Amended Pleadings."[47] In this pleading, Amrhein supplemented her First Amended Petition and purported to add numerous additional causes of action against David Schroeder.[48]

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[44] Exhibit A-7.
[45] Exhibit A-7, pp. 7-15.
[46] Exhibit A-7, pp. 15-16.
[47] Exhibit A-8.
[48] Exhibit A-8 at 2.

The amended and supplemental petitions were the operative pleadings when the judge dismissed Plaintiff's case (five months after Defendants' withdrawal) for "fail[ing] to plea for damages."[49] Importantly, the Court dismissed Amrhein's claims because she failed to plead damages at all.[50] Defendants did not represent Amrhein when Amrhein amended her petition, *pro se*, and omitted a proper pleading of damages. Conversely, the Original Petition Defendants filed on behalf of Amrhein properly pleaded damages in the amount of $2300 related to unpaid rent and conversion of personal property.[51]

After her case was dismissed, on October 16, 2017, Amrhein sought leave from the Court to "file a lawsuit against David A Schroeder," which the Court construed as a "request to replea her cause of action."[52] However, because Amrhein's new pleadings asked for an award of $13,208, the Court denied Amrhein's request as the alleged damages were in excess of the jurisdictional limits of the Court. Importantly, the Court noted that "it is not appropriate to reduce actual damages so is [sic] would fit into the Court[']s jurisdictional limits."[53] The Court denied Plaintiff's request to *re*plead her cause of action because of want of jurisdiction. Defendants did not represent Amrhein when Amrhein requested that the Court allow her to *re*plead her claims against David Schroeder and included an amount outside the jurisdictional limits of the court.

Amrhein appealed the decision of the Justice Court on October 27, 2017 to County Court at Law No. 2. David Schroeder filed a Plea to the Jurisdiction on December 7, 2017. On December 14, 2017, the County Court of Law No. 2 dismissed her appeal for want of jurisdiction.[54]

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[49] Exhibit A-9.
[50] Exhibit A-9.
[51] Exhibit A-2.
[52] Exhibit A-10.
[53] Exhibit A-10.
[54] Exhibit A-11.

Undeterred, Amrhein filed a "Motion for Reconsideration of Judge Walker's December 14, 2017 Order for 'Good Cause' Reasons & Unlawful Acts."[55] Interestingly, Plaintiff did not seek reconsideration of the dismissal of her case, but only reconsideration of the decision that costs were assessed to Plaintiff.[56] Plaintiff admitted that "Dismissal is fine," but "Plaintiff believes that no costs to Plaintiff should be Ordered[.]"[57] Thus, Plaintiff admitted that dismissal was appropriate under the circumstances of her appeal.

When the plaintiff's allegation is that some failure on the attorney's part caused an adverse result in prior litigation, the plaintiff must produce evidence from which a jury may reasonably infer that the attorney's conduct proximately caused the damages alleged. *Haynes & Boone v. Bowser Bouldin, Ltd.*, 896 S.W.2d 179, 181 (Tex. 1995); *Alexander v. Turtur & Assocs.*, 146 S.W.3d 113, 117 (Tex. 2004).

Proximate cause means that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a lawyer using ordinary care would have foreseen that the event, or some similar event, might reasonably result therefrom. *See Nixon v. Property Mgmt. Corp.*, 690 S.W.2d 546 (Tex. 1998). Thus, proximate cause is comprised of two distinct elements: 1) cause-in-fact and 2) foreseeability. *Akin, Gump, Strauss, Hauer & Feld, L.L.P. v. Nat'l Dev. & Research Corp.*, 299 S.W.3d 106, 122 (Tex. 2009).

These elements cannot be established by mere conjecture, guess, or speculation. *McClure v. Allied Stores of Tex., Inc.*, 608 S.W.2d 901, 903 (Tex. 1980); *Farley v. M M Cattle Co.*, 529 S.W.2d 751, 755 (Tex. 1975).

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[55] Exhibit A-12.
[56] Exhibit A-12.
[57] Exhibit A-10.

Cause-in-fact is not shown if the defendant's negligence did no more than furnish a condition which made the injury possible. *See Bell v. Campbell*, 434 S.W.2d 117, 120 (Tex. 1968). In other words, even if the injury would not have happened but for the defendant's conduct, the connection between the defendant and the plaintiff's injuries simply may be too attenuated to constitute legal cause. *See Union Pump Co. v. Allbritton*, 898 S.W.2d 773, 776 (Tex. 1995); *Doe v. Boys Clubs of Greater Dallas, Inc.*, 907 S.W.2d 472, 477 (Tex. 1995).

Foreseeability requires more than someone, viewing the facts in retrospect, theorizing an extraordinary sequence of events whereby the defendant's conduct brings about the injury. *See* RESTATEMENT (SECOND) OF TORTS § 435(2) (1965).

Although there can be more than one proximate cause of an injury, *see Travis v. City of Mesquite*, 830 S.W.2d 94, 98 (Tex. 1992), a new and independent, or superseding, cause may "intervene[] between the original wrong and the final injury such that the injury is attributed to the new cause rather than the first and more remote cause," *Dew v. Crown Derrick Erectors, Inc.*, 208 S.W.3d 448, 450 (Tex. 2006) (plurality op.). A defendant's conduct is not a proximate cause of the plaintiff's injuries if subsequent conduct of a third party interrupts or supersedes the defendant's actions. *See Dew,* 208 S.W.3d at 450-52. A superseding cause is one that alters the natural sequence of events, produces results that would not otherwise have occurred, is an act or omission not brought into operation by the original wrongful act of the defendant, and operates entirely independently of the defendant's allegedly tortious act. *Columbia Rio Grande Healthcare, L.P. v. Hawley*, 284 S.W.3d 851, 857 (Tex. 2009). A new and independent cause thus destroys any causal connection between the defendant's negligence and the plaintiff's harm, precluding the plaintiff from establishing the defendant's negligence as a proximate cause. *See Columbia*, 284 S.W.3d at 856; *Dew*, 208 S.W.3d at 450. This is true even if the original tortious act is the "but for" cause of

the intervening cause. *MJS & Assocs., LLC v. Master*, 501 S.W.3d 751, 757-758 (Tex.App—Tyler 2016, pet. denied).

Plaintiff claims that the Defendants' alleged conduct caused dismissal of her case against Schroeder. But even assuming, *arguendo*, Defendants' engaged in the conduct as alleged, which is specifically denied, Plaintiff's subsequent conduct of filing amended and supplemental pleadings interrupted and/or superseded any of the Defendants' alleged actions. For example, Plaintiff's allegations that Defendants failed to conduct discovery,[58] failed to schedule mediation,[59] failed to amend pleadings,[60] recommended an improper settlement amount,[61] communicated improperly with Schroeder,[62] and/or failed to communicate between December 2016 and May 2017[63] (acts and omissions specifically denied by Defendant), were not the proximate cause of alleged damages because it was Plaintiff's *pro se* filings after withdrawal that caused dismissal of the lawsuit and not any of the kaleidoscope of allegations Amrhein asserts in her petition against Defendants. The amended and supplemental pleadings were intervening and/or superseding causes that destroyed any causal connection between Defendants' allegedly tortious acts and the harm alleged by Plaintiff.

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[58] This allegation has no merit. The Original Petition filed by Defendants included requests for disclosure and admissions. Further, in Justice Court, discovery is limited to that which the judge considers reasonable and necessary and any requests for pretrial discovery must be presented to the court for approval by written motion. Tex. R. Civ. P. 500.9(a). Amrhein attempted to obtain discovery in her amended pleading but the court specifically found that discovery was not authorized and denied her request for same. See Exhibit A-9.

[59] This allegation has no merit. Defendants were working with Amrhein to schedule mediation in November and early December 2016. See Exhibit A-4. Then, on December 8, 2016, Amrhein told Defendants she did not want to mediate because her offer to do so was withdrawn and impossible. See Exhibit A-4.

[60] This allegation has no merit. As discussed previously, Defendants told Amrhein they would not amend to include claims that had no merit and this was the basis of their withdrawal.

[61] This allegation has no merit. There is no evidence, much less any allegation, that a $200 settlement offer was ever communicated to Schroeder. Merely suggesting a settlement amount is not a violation of any duty of care.

[62] This allegation has no merit. Schroeder was pro se. Defendants had to communicate directly with him on matters regarding the litigation. Defendants' discussions with Schroeder were limited to scheduling mediation and requesting a continuance of the trial date. See Exhibit A and Exhibit A-4.

[63] This allegation has no merit. Defendants emailed with Plaintiff on 12/1/16; 12/11/16; 12/12/16; 12/13/16; 12/28/16; 1/25/17; 2/14/17; 2/23/17; 2/27/17; 3/1/7; 3/15/17; 5/8/17; and 5/10/17; Defendants had an office meeting with Plaintiff on 12/14/16. See Exhibit A-4.

Defendants cannot be held liable for Amrhein's actions that later plead her out of court. Accordingly, there is not a reasonable probability that Amrhein will prevail on her legal malpractice claims against Defendants because Plaintiff's intervening and/or superseding actions preclude her from establishing the Defendants' negligence as a proximate cause.

4. **The fact of withdrawal did not proximately cause Plaintiff's alleged damages.**

Although unclear, it appears that Amrhein alleges she was damaged simply because Defendants withdrew from the representation.[64] Amrhein makes the conclusory statement that Defendants' withdrawal from the case "caused further harm & losses to Plaintiff," but does not specifically state what harm was allegedly caused by Defendants' withdrawal. Assuming, *arguendo*, that the harm was the dismissal, Plaintiff cannot assign that fault to Defendants as established above.[65] The connection between Defendants' withdrawal and dismissal of the case is too attenuated to be a cause of the dismissal. *See Union Pump Co.*, 898 S.W.2d at 776; *Boys Clubs of Greater Dallas, Inc.*, 907 S.W.2d at 477.

Moreover, the act of withdrawal was not improper. As previously stated, in December 2016, Defendant Bollinger sent Amrhein an email suggesting that due to their differing opinions regarding claims that should be made, strategy and outcomes, Amrhein may want to obtain different counsel.[66] In April 2017, after Amrhein again asked Defendants to agree to amend Amrhein's pleadings to assert baseless claims against Schroeder, Defendant Bollinger again explained he would not agree to bring claims that lacked merit and advised he would be filing a

[64] Amended & Supplement Petition, pp. 28, 30.
[65] Supra, Section III (B)(3).
[66] Exhibit A; Exhibit A-4.

motion to withdraw due to their disagreement on how to proceed and the differing views on the claims that could be asserted.[67]

Rule 1.15 of the Texas Disciplinary Rules of Professional Conduct permits withdrawal when the client insists upon pursuing an objective that the attorney considers imprudent and with which the attorney has a fundamental disagreement.[68] Rule 10 of the Texas Rules of Civil Procedure permits an attorney to withdraw from representing a party by written motion that shows good cause. TEX. R. CIV. P. 10. In accordance with these Rules, Defendants had proper grounds to withdraw, filed a motion citing good cause, and obtained court approval of the withdrawal.[69] Accordingly, there is not a reasonable probability that Amrhein will prevail on her legal malpractice claim against Defendants with respect to the withdrawal.

C. Amrhein has lost *more* than five pro se litigations that she commenced/maintained in the past seven years.

Not only is there no reasonable probability that Amrhein will prevail in this litigation against Defendants, but the evidence conclusively establishes that "plaintiff, in the seven-year period immediately preceding the date the defendant makes the motion . . . has commenced, prosecuted, or maintained at least five litigations as a pro se litigant other than in a small claims court that have been . . . finally determined adversely to the plaintiff." TEX. CIV. PRAC. & REM. CODE § 11.054(1)(A).

This Motion addresses Amrhein's *pro se* lawsuits she has commenced, prosecuted, or maintained in the seven years prior to Defendants' Motion that were finally determined against her. The Motion also includes information regarding the cases that she has repeatedly litigated

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[67] Exhibit A; Exhibit A-4.
[68] See TEX. DISC. R. PROF'L CONDUCT, Rule 1.15(b)(4).
[69] Exhibit A-6.

after they were finally determined and regarding courts that have found Plaintiff's litigations frivolous and sanctionable. However, in addition to the lawsuits addressed herein, there are countless *pro se* lawsuits being prosecuted by Amrhein, including older iterations of the lawsuits below and new lawsuits that are currently pending before a court, that are not addressed herein.[70]

Amrhein has been involved as a *pro se* litigant in each of the following matters in the past seven (7) years:

1) *Balistreri-Amrhein v. AHI*, Dallas Court of Appeals[71]

The AHI case arose out of a real estate transaction. Amrhein and her father appeared *pro se* and "continually supplemented their pleadings." *Balistreri-Amrhein v. AHI*, No. 05-09-01377-CV, 2012 Tex. App. LEXIS 6258, at *1 (Tex. App.—Dallas July 31, 2012). Because Amrhein could not give the defendants notice of their claims after the ninth amended petition, the trial court struck the petition and dismissed the case with prejudice. *Id.* The Court of Appeals dismissed the appeal on July 31, 2012, because Amrhein did not identify any issues for review in the briefing.[72] As such, the trial court's dismissal was affirmed and this appeal was adversely decided against Plaintiff. Since this appeal was maintained until July 31, 2012, it falls within the last seven years before this Motion was filed.

Bringing a *pro se* appeal counts as "maintaining a litigation pro se" for purposes of Section 11.054(1). *Jones v. Markel*, No. 14-14-00216-CV, 2015 Tex. App. LEXIS 6273, at *15 (Tex.

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[70] Defendants ask that the Court take judicial notice of Plaintiff's suits filed in Collin County, Texas: Cause Nos. 199-01407-91; 219-5259-93; 366-01063-94; 003-10097; 296-00634-98; 003-848-01; 005-1096-02; 366-00784-04; 296-04034-06; 380-04081-06; 199-05352-2016; 01-EV-13-00835; and 002-02663-2017. This list does not include her lawsuits filed in other state and federal jurisdictions or her pending litigations. The trial court is free to take judicial notice of cases in vexatious litigant motions. *See Scott v. Mireles*, 294 S.W.3d 306, 308 (Tex. App.—Corpus Christi 2009, no pet.); *Douglas v. Redmond*, No. 14-12-00259-CV, 2012 Tex. App. LEXIS 9712, at *18 (App.—Houston [14th Dist.] Nov. 27, 2012, pet. denied).

[71] Exhibit C-2.

[72] Exhibit C-2.

App.—Houston [14th Dist.] June 23, 2015) (finding that a *pro se* appeal counts as maintaining a litigation *pro se*); *see also Retzlaff v. GoAmerica Comm'ns Corp.*, 356 S.W.3d 689, 699 (Tex. App.—El Paso 2011, no pet.) ("The language of these statutes plainly encompasses appeals. . . . [A] person who files a notice of appeal is maintaining litigation.").

2) *Amrhein v. La Madeleine, et al.*, Northern District of Texas

Unhappy with the outcome of state court litigation against her former employer, La Madeline, that lasted over 14 years, Amrhein turned to the federal system on August 16, 2011, and filed another employment lawsuit against La Madeleine, in the Eastern District of Texas.[73] The case was soon transferred to the Northern District of Texas. Amrhein, *pro se*, sued 27 defendants, including the State of Texas, various Texas elected officials, judges, and courts. This suit was adversely decided against Plaintiff on December 21, 2012.[74]

The District Court dismissed her claims with prejudice and **warned that any attempt to re-file may result in sanctions or other disciplinary measures.**[75] The District Court entered a Final Judgment on December 31, 2012.[76] At the time of dismissal, Amrhein had "been in and out of court for over 16 years attempting to find a favorable resolution for her plight." *Amrhein v. La Madeleine, Inc., et al.*, 2012 Tex. Cnty. LEXIS 5509 *10 (N.D. Tex. Dec. 21, 2012).[77]

Amrhein appealed to the Fifth Circuit, *pro se*, and the Fifth Circuit affirmed the trial court's dismissal, noting that her complaint totaled over 200 pages and included over 52 issues. *Amrhein v. La Madeleine, Inc.*, 589 F. App'x 258, 259 (5th Cir. 2015).[78]

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[73] Exhibit D-1.
[74] Exhibit D-1.
[75] Exhibit D-1.
[76] Exhibit D-2.
[77] Exhibit D-1.
[78] Exhibit D-3.

Amrhein's petition for writ of certiorari to the United States Supreme Court was denied on October 5, 2015. *Amrhein v. La Madeleine, Inc.*, 136 S. Ct. 86 (2015).[79] Amrhein's petition for rehearing to the U.S. Supreme Court was denied on November 30, 2015. *Amrhein v. La Madeleine, Inc.*, 136 S. Ct. 574 (2015).[80]

This matter was finally adversely decided against Plaintiff within the last seven years before the date this Motion was filed.

3) *Amrhein v. La Madeleine, Inc.*, Court of Appeals of Texas, Sixth District, Texarkana

This litigation was another of the La Madeline series that Amrhein filed *pro se* alleging that La Madeleine failed to provide a safe workplace and "alleging primarily that [Amrhein] developed carpal tunnel syndrome from the repetitive motion of tossing or mixing salads over a period of less than five months in 1994. *Amrhein v. La Madeleine, Inc.*, No. 06-12-00107-CV, 2013 Tex. App. LEXIS 2191, at *1 (Tex. App.—Texarkana Mar. 6, 2013).[81] Amrhein appealed *pro se* from the grant of La Madeleine's summary judgment and order of dismissal. The Texarkana Court of Appeals found that "Amrhein's pro se brief . . . is incomprehensible. It can accurately be described as a fifty-page denunciation of perceived slights by the legal system and her belief that because she has not prevailed, the system has treated her unfairly at every turn." *Id.* at *6.

Thus, the Texarkana Court affirmed the trial court's judgment against Amrhein on March 6, 2013.[82] The Court of Appeals further denied two motions for rehearing and a motion for reconsideration.[83] The Supreme Court of Texas denied her petition for review and denied the petition again on rehearing.[84]

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[79] Exhibit D-4.
[80] Exhibit D-5.
[81] Exhibit E-1.
[82] Exhibit E-1.
[83] Exhibits E-2, E-3, and E-4.
[84] Exhibit E-6.

This matter was finally adversely decided against Plaintiff within the last seven years before the date this Motion was filed.

4) *Amrhein v. Riechert, et al*, U.S. District Court for the Northern District of Texas

On September 12, 2012, Amrhein filed a complaint, *pro se*, naming 57 defendants, including various elected officials, judges, attorneys, realtors, cities, courts, and the state of Texas. The magistrate judge entered Findings, Conclusions and Recommendations on February 1, 2013.[85] In addition to recommending dismissal of Amrhein's complaint, the magistrate noted that, "Plaintiffs have made it clear that they will not cease their contumacious conduct absent some sort of sanction," and noted that "[Amrhein] has filed at least 22 civil actions in various Collin County courts, two in Dallas County court, and four in Texas federal courts, as well as numerous state appeals and bankruptcy cases."[86] As such, the magistrate recommended a pre-filing injunction against Amrhein to be applied in all district courts in the United States.[87] The District Court entered an order accepting the Findings, Conclusions and Recommendations of the magistrate on March 21, 2013.[88]

In its Order accepting the magistrate's recommendations, **the U.S. District Court entered the pre-filing injunction against Amrhein and held that "Darlene Amrhein is prohibited from filing any new civil action in any United States district court** unless she first files a motion requesting leave of court to do so and attaches thereto copies of (1) her proposed complaint, (2) the magistrate judge's findings, conclusions and recommendation in this case, (3) this court's order accepting the findings, conclusions and recommendation of the United States Magistrate Judge,

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[85] Exhibit F-1.
[86] Exhibit F-1.
[87] Exhibit F-1.
[88] Exhibit F-2.

and (4) the judgment in this case." *Amrhein, et al. v. Jerry Riechert, et al.*, No. 3:12:-CV-03707 (March 21, 2013) (emphasis added)).[89] The court also entered a final judgment that same day dismissing Amrhein's claims.[90]

The Fifth Circuit dismissed Amrhein's *pro se* appeal on October 27, 2014 and issued the mandate the same day.[91]

This matter was finally adversely decided against Plaintiff within the last seven years before the date this Motion was filed.

5) *Balistreri-Amrhein v. Verrilli, et al.*, U.S. District Court for the Eastern District of Texas

On February 11, 2016, Amrhein filed a Complaint in the U.S. District Court for the Eastern District of Texas in violation of the pre-filing injunction imposed by the court in *Riechert* case.[92] Plaintiff's Third Amended Complaint named more than 120 defendants and asserted numerous causes of action against each defendants.

On October 7, 2016, the magistrate judge recommended that Plaintiff's Complaint, filed *pro se*, be dismissed with prejudice.[93] The magistrate found that "**Plaintiffs have previously asserted the allegations contained in the Third Amended Complaint (or similar allegations) against many of the defendants named therein**."[94] Additionally, the magistrate noted that **Amrhein was in violation of the Northern District of Texas's Pre-filing Injunction Order and**

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[89] Exhibit F-2.
[90] Exhibit F-3.
[91] Exhibit F-4.
[92] Exhibit G-1.
[93] Exhibit G-1.
[94] Exhibit G-1, p. 3.

that Amrhein's claims were frivolous and malicious.[95] On February 24, 2017, the District Court adopted the recommendation and dismissed Plaintiff's Complaint with Prejudice.[96]

This matter was finally adversely decided against Plaintiff within the last seven years before the date this Motion was filed.

6) *Amrhein v. United States of America, et al.*, U.S. District Court for the Eastern District of Texas

On March 31, 2016, Amrhein filed a lawsuit against over 160 defendants, including the United States, President Obama, many federal, state, and local elected officials, the justices of the Supreme Court, courts, judges, clerks of court, the State of Texas, La Madeline, Inc., the attorneys for La Madeline, and many more individuals.[97] Her complaints stemmed (again) from disputes between Plaintiff and her prior employer La Madeleine, Inc.—Amrhein complained that its employees mistreated her at work, caused to her suffer on-the-job injuries, and subsequently refused to pay for certain medical procedures.

The magistrate issued a Report and Recommendation on June 23, 2017 recommending dismissal of Amrhein's claims.[98] The magistrate again noted that **Amrhein was in violation of the Northern District of Texas's Pre-filing Injunction Order and that Amrhein's claims were frivolous and malicious.**[99]

In adopting the recommendations of the magistrate on September 6, 2017, the Court pointed out that "[i]n the instant action, **Plaintiff now raises for the third time all of the same claims she raised in the *Amrhein NDTX I* litigation**, and has appended claims against every

[95] Exhibit G-1, pp. 9, 21-22.
[96] Exhibit G-2.
[97] Exhibit H-1.
[98] Exhibit H-1.
[99] Exhibit H-1.

member of the judiciary remotely associated with the Amrhein *NDTX I* litigation, as well as their staff and any attorney representing other parties to that litigation."[100] The Court further recounted Plaintiff's extensive prior litigation history: **"she has filed more than six suits before numerous Texas state and federal courts (including [the Eastern District of Texas]), and courts have dismissed each of these cases for frivolousness and/or for failure to comply with basic pleading or procedural requirements."[101]** The Court found that "Plaintiff has filed flurries of largely incomprehensible motions, letters, and other requests for relief both prior to and following the respective court's disposition of her claims and that courts have previously admonished Plaintiff for such behavior."[102] Moreover, the Court held that "Plaintiff's claims and allegations [in this 2016 lawsuit] . . . duplicate the claims Plaintiff previously raised (and the Northern District previously dismissed with prejudice) in the *Amrhein NDTX I* litigation." [103]

On October 3, 2017, Amrhein, *pro se*, appealed this decision and the appeal is currently pending at the Fifth Circuit.

During the seven-year period preceding the filing of the present motion, Amrhein has prosecuted or maintained at least five *pro se* matters in both the Texas state and federal courts, and she has received adverse rulings each time. In *Leonard v. Abbott*, 171 S.W.3d 451, 456 (Tex. App.—Austin 2005, pet. denied), the court of appeals noted that "any person of reasonable intelligence would be able to discern that if he were to file five lawsuits in seven years, all of which were decided in favor of the opposing party. . . he may be subject to being labeled a vexatious litigant." (citing *Liptak v. Banner*, No. 3:01-CV-0953-M, 2002 U.S. Dist. LEXIS 940, at *13 (N.D.

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[100] Exhibit H-2, p.4.
[101] Exhibit H-2, p. 6.
[102] Exhibit H-2, p. 7.
[103] Exhibit H-2, p. 13.

Tex. Jan. 18, 2002)). Likewise, Amrhein's extensive *pro se* litigation record clearly meets the proof required under TEX. CIV. PRAC. & REM. CODE § 11.054(1)(A) to declare Amrhein to be a vexatious litigant and require her to post security for this lawsuit.

D. Amrhein's Lawsuits Have Been Labeled Frivolous by Courts

Plaintiff's previous lawsuits have been declared frivolous by courts, and Plaintiff has even been sanctioned for continuing to file frivolous litigation. The Northern District of Texas issued a pre-filing injunction against her.[104] Twice, her pleadings have been declared frivolous and malicious by the magistrate in the Eastern District of Texas.[105] A District Judge in the U.S. District Court for the Eastern District of Texas found that Amrhein "has filed more than six suits before numerous Texas state and federal courts (including [the Eastern District of Texas]), and courts have dismissed each of these cases for frivolousness and/or for failure to comply with basic pleading or procedural requirements."[106]

As such, Plaintiff can be declared a vexatious litigant under Chapter 11 because she has violated the Pre-filing Injunction Order and a court has found that at least six of her previous cases were frivolous. See TEX. CIV. PRAC. & REM. CODE § 11.051(3).

E. Amrhein Repeatedly Litigates the Same Issues and Causes of Action against the Same Defendants

As can be seen in the brief recitation of Amrhein's most recent *pro se* lawsuits contained herein, Plaintiff repeatedly litigates the same issues and causes of action against the same defendants after the suit has been decided against her. Amrhein's long-lasting and harassing *La Madeleine* litigation[107] is a prime example of what the Texas Legislature was trying to prevent

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[104] Exhibit F-2.
[105] Exhibits G-1 and H-1.
[106] Exhibit H-1, p. 6
[107] Exhibits D-1 through D-5; Exhibits E-1 through E-6; Exhibits H-1 through H-2.

when it enacted Chapter 11 of the Texas Civil Practice and Remedies Code. Three of the above matters involve variations of litigation against La Madeline. As noted by the magistrate in the Northern District, Amrhein litigated against La Madeline in state court for over 14 years before then filing suit in the Eastern District of Texas.[108] "By the time she got to federal court, she had dragged numerous unrelated parties into the suit including...the State of Texas, Governor Perry, the Texas Secretary of State, various judges, and the entire Texas state legislature."[109] Amrhein brought 52 causes of action against the named parties and her filings were voluminous.[110] It was evidence like this that caused the magistrate to conclude that Plaintiffs will not cease their contumacious conduct absent some sort of sanction.[111]

Recently, in one of Amrhein's pending lawsuits against Prosperity Bank, she was deposed about her litigation history. Amrhein refused to answer the questions under oath:

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[108] Exhibit F-1.
[109] Exhibit F-1.
[110] Exhibit F-1.
[111] Exhibit F-1.

7 Q. (BY MS. MAHONY) Are you currently employed,
8 Ms. Amrhein?
9 **A. No.**
10 Q. Okay. I looked at your LinkedIn page and you
11 indicate on there that you're an independent legal
12 services professional. What does that mean?
13 **A. That means I'm interested in legal. That's**
14 **it. I don't work for anyone.**
15 Q. What do you do as an independent legal
16 services professional?
17 **A. Research. That's it.**
18 Q. Research for whom?
19 **A. For myself.**
20 Q. And as a litigant for yourself?
21 **A. No, not necessarily. It's just I have an**
22 **interest in law.**
23 Q. So you just research the law, because you like
24 to research?
25 **A. Pretty much.**

1 Q. How many active lawsuits are you involved in
2 right now?
3 **A. I object to that question. It's not relevant.**
4 MS. MAHONY: Certify the question.
5 Q. (BY MS. MAHONY) Do you currently have any
6 bankruptcies pending right now?
7 **A. No.**
8 Q. Would it surprise you to know that you've
9 filed 18 federal court cases since 1986?
10 **A. I object to the question. That's -- the form**
11 **of the question and it has no relevance to this**
12 **lawsuit.**
13 MS. MAHONY: Certify the question.
14 Q. (BY MS. MAHONY) Would it surprise you that
15 since 1991 you've had ten cases filed in Collin County?
16 **A. I object to the form of the question. It has**
17 **no relevance to Prosperity Bank and it's irrelevant.**
18 Q. Okay. Ms. Amrhein, would it surprise that you
19 have three appeals before the Fifth Circuit all of
20 which have been denied since 2000?
21 **A. I object to the form of the question. I**
22 **object to the question as it has no relevance to the**
23 **Prosperity Bank case.**
24 MS. MAHONY: Certify the question and
25 improper objection to all of the foregoing.

Deposition of Darlene Amrhein, pages 139-141, October 27, 2017 in *Amrhein v. Prosperity Bank, et al.*, No. 417-05352-2016/199-05352-2016, 417th Judicial District of Collin County, Texas.[112] The Prosperity Bank suit is currently pending in Collin County and Amrhein is prosecuting it *pro se*. The suit's basis is another employment dispute with her former employer, Prosperity Bank.

Moreover, Plaintiff has now indicated in recent filings in this court that there is no end to her harassing and vexatious litigation. Upset with this Court's January 30, 2018 Order granting Defendants' Rule 91a Motion to Dismiss, Plaintiff filed a Response on February 6, 2018 in which

[112] Exhibit I.

she states her intent to sue the Judge and Defendants' lawyers in this case in connection with the Rule 91 Motion and Order.[113]

Therefore, the Court must declare Plaintiff Darlene C. Balistreri-Amrhein to be a vexatious litigant and requiring her, pursuant to Tex. Civ. Prac. & Rem. Code §§ 11.051(1); (2); (3), to post security before proceeding in this suit.

V. CONCLUSION AND PRAYER

For the good of all, the Court should find there is not a reasonable probability that Amrhein will prevail in this lawsuit and, in the seven-year period immediately preceding the date of this motion, Amrhein has commenced, prosecuted, or maintained at least five litigations as a *pro se* litigant that have been finally determined adversely to her. Additionally, many of Amrhein's lawsuits have been declared to be frivolous, she repeatedly litigates, *pro se*, the same issues and causes of action against the same defendants and continues to litigate after the issue has been decided. There already exists a pre-filing injunction against her at the federal court level, and these same federal courts have determined her claims to be frivolous and malicious. Therefore, the Court must enter an order determining Plaintiff Darlene C. Amrhein, also known as Darlene C. Balistreri-Amrhein, to be a vexatious litigant and requiring her to post security pursuant to Tex. Civ. Prac. & Rem. Code §§ 11.054, 11.055.

WHEREFORE, PREMISES CONSIDERED, Defendants Lennie F. Bollinger and Wormington & Bollinger, respectfully request that the Court:

(1) immediately stay this litigation pursuant to Tex. Civ. Prac. & Rem. Code § 11.052;

(2) set the foregoing motion for hearing with notice to all parties pursuant to Tex. Civ. Prac. & Rem. Code § 11.053;

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[113] See Plaintiff's February 6, 2018 Response, p. 28.

(3) sign and enter an order declaring Plaintiff Amrhein a vexatious litigant pursuant to Tex. Civ. Prac. & Rem. Code § 11.054 and requiring Plaintiff to furnish security in accord with Tex. Civ. Prac. & Rem. Code § 11.055.

Defendants also request such other and further relief to which they may show themselves justly entitled both at law and in equity.

Respectfully submitted,

By: */s/ Carrie J. Phaneuf*
CARRIE JOHNSON PHANEUF
Texas Bar No. 24003790
cphaneuf@cobbmartinez.com
JENNIFER SMILEY
Texas Bar No. 24082004
jsmiley@cobbmartinez.com

COBB MARTINEZ WOODWARD PLLC
1700 Pacific Avenue, Suite 3100
Dallas, Texas 75201
Phone: 214.220.5201
Facsimile: 214.220.5251
ATTORNEYS FOR LENNIE F. BOLLINGER
AND WORMINGTON & BOLLINGER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been forwarded to Darlene Amrhein, *pro se*, by via electronic service through FileTime, e-mail, and priority mail on February 9, 2018.

Darlene Amrhein
112 Winsley Circle
McKinney, Texas 75071
Winsley112@yahoo.com

/s/ Carrie Johnson Phaneuf
CARRIE PHANEUF

EXHIBIT A

CAUSE NO. 005-02654-2017

DARLENE C. AMRHEIN, et al,	COUNTY COURT AT LAW
Plaintiffs,	NO. 5
v.	[Hon. Dan K. Wilson]
ATTORNEY LENNIE F. BOLLINGER, AND WORMINTON & BOLLINGER LAW FIRM,	
Defendants.	COLLIN COUNTY, TEXAS

AFFIDAVIT OF LENNIE F. BOLLINGER IN SUPPORT OF DEFENDANTS' MOTION FOR AN ORDER DETERMING PLAINTIFF DARLENE AMRHEIN TO BE A VEXATIOUS LITIGANT AND REQUESTING SECURITY

BEFORE ME, the undersigned authority, on this day personally appeared Lennie F. Bollinger, who by me being duly sworn, deposed as follows:

1. My name is Lennie F. Bollinger. I am over 18 years of age, of sound mind, and have never been convicted of a felony. I am competent to testify to the matters stated herein. I have personal knowledge of the facts stated herein and affirm the following is true and correct.

2. I am a lawyer, licensed to practice law in Texas, and have been so licensed since 2012. I am a partner in the law firm Wormington Law Group, PLLC d/b/a Wormington and Bollinger. Along with Wormington and Bollinger, I have been named as a defendant in this lawsuit. We are collectively referred to herein as "Defendants."

3. In early spring of 2016, Plaintiff Darlene Amrhein ("Amrhein") retained Defendants to represent her with respect to a claim against her former tenant, David Schroeder ("Schroeder"). The scope of Defendants' representation was limited to claims against Schroeder for back rent and property he allegedly took from Amrhein.

4. Based on information from Amrhein regarding the scope and amount of her damages, I prepared an Original Petition to file in the Justice of the Peace Court and sent it to Amrhein for her review and approval. The Original Petition I drafted on behalf of Amrhein properly pleaded damages in the amount of $2300 related to unpaid rent and conversion of personal property. It also requested discovery from Schroeder in the form of Requests for Disclosure and Requests for Admission.

5. I sent a draft of the Original Petition to Amrhein and she approved the petition on April 13, 2016. I thereafter filed the petition on her behalf on April 26, 2016. The Original Petition was properly filed in the Justice Court because it alleged damages less than $10,000.

6. Schroeder filed an answer to the lawsuit denying the allegations on or about May 18, 2016.

7. On December 12, 2016, Amrhein faxed me a 42+ page memo regarding new claims she wanted to bring in the lawsuit. In my opinion, and based on my legal education, experience and training, these claims were not relevant to the issue of past-due rent, lacked merit and would not have led to a successful outcome at trial. Her request to bring these claims also exceeded the scope of my representation.

8. On December 14, 2016, I had a meeting with Amrhein at my office to discuss her case and the new allegations she wanted to bring. During the meeting, I explained to Amrhein that I was not comfortable asserting any of the claims as set forth in the 42+page memo.

9. On December 28, 2016, I sent Amrhein a follow up email stating that while she was certainly able to make whatever claims she liked, I would not agree to make the claims as set forth by her in the 42+ page memo because I did not agree that the claims had merit. I suggested that due to the differing opinions regarding claims that should be made, strategy and outcomes, Amrhein may want to obtain different counsel.

10. However, the next day, on December 29, 2016, Amrhein asked me to continue the case due to medical procedures she was having, and I complied. After receiving a letter from her medical provider regarding her procedure, I obtained a continuance of the trial date until late June 2017.

11. In April 2017, Amrhein sent me two emails that inadvertently went into my SPAM filter. One email again asked me to agree to amend Amrhein's pleadings to assert baseless allegations against Schroeder. In response, I again explained I would not agree to bring claims that lacked merit and advised I would be filing a motion to withdraw due to our disagreement on how to proceed and the differing views on the claims that could be asserted.

12. On May 11, 2017, Defendants filed a motion to withdraw from the representation of Amrhein because Amrhein insisted upon pursuing an objective that Defendants considered imprudent and with which the Defendants had a fundamental disagreement.

13. The court granted Defendants' Motion to Withdraw on May 12, 2017.

14. Defendants did not represent Amrhein when Amrhein filed her amended and supplemental petitions, *pro se*, that omitted a proper pleading of damages.

15. Defendants did not represent Amrhein when Amrhein requested that the Court allow her to *re*plead her claims against David Schroeder and included an amount outside the jurisdictional limits of the court.

16. The allegation that Defendants failed to conduct discovery has no merit. The Original Petition filed by Defendants included requests for disclosure and admissions. Further, in Justice Court,

discovery is limited to that which the judge considers reasonable and necessary and any requests for pretrial discovery must be presented to the court for approval by written motion. Tex. R. Civ. P. 500.9(a). I explained this to Amrhein on November 29, 2016, and also explained why I did not believe discovery was warranted in her case. Moreover, based on my review of pleadings and court orders entered in the case after Defendants withdrew, I understand that Amrhein attempted to obtain discovery but the court specifically found that discovery was not authorized and denied her request for same.

17. The allegation that Defendants failed to schedule mediation has no merit. Defendants were working with Amrhein to schedule mediation in November and early December 2016. Then, on December 8, 2016, Amrhein told me she did not want to mediate because her offer to do so was withdrawn and impossible.

18. The allegation that Defendants failed to amend pleadings or include additional allegations has no merit. As discussed previously, I told Amrhein I would not agree to amend to include claims that had no merit and this was the basis of my withdrawal from the representation.

19. This allegation that Defendants improperly communicated with Schroeder has no merit. Schroeder was *pro se*. Because he had no attorney, I had to communicate directly with him on matters regarding the litigation. My discussions with Schroeder were limited to scheduling mediation and requesting a continuance of the trial date. Every time I communicated with David Schroeder, the *pro se* defendant in this case, it was on behalf of Ms. Amrhein and in my capacity as her attorney.

20. The allegation that Defendants failed to communicate with Amrhein from December 2016 to May 2017 has no merit. As a part of my representation of Ms. Amrhein, I frequently communicated with her. In fact, Defendants emailed with Plaintiff on 12/1/16; 12/11/16; 12/12/16; 12/13/16; 12/28/16; 1/25/17; 2/14/17; 2/23/17; 2/27/17; 3/1/7; 3/15/17; 5/8/17; and 5/10/17. Further, Defendants had an office meeting with Plaintiff on 12/14/16. Emails reflecting these communications are attached hereto as Exhibit A-4 and adopted by reference as if fully stated herin.

21. Based on my education, experience and training as an attorney licensed to practice law in the state of Texas, it is my opinion that Defendants' representation of Amrhein in the Schroder lawsuit exceeded the standard of care. Defendants did not engage in conduct that was a breach of the standard of care, nor did Defendants proximately cause any damages to Amrhein. Defendants did not cause the Schroeder lawsuit to be dismissed.

22. Attached hereto, and adopted by reference as if fully set forth herein, are true and correct copies of the following documents:

Exhibit A-1:	April 2016 Emails between Bollinger and Amrhein
Exhibit A-2:	Original Petition (April 26, 2016)
Exhibit A-3:	Schroeder's Original Answer (May 18, 2016)
Exhibit A-4:	Emails between Bollinger and Amrhein

Exhibit A-5: Amrhein's 42+ page memo

Exhibit A-6: Motion to Withdraw (May 11, 2017) and Order Granting Motion to Withdraw (May 12, 2017)

Exhibit A-7: First Amended Petition (May 15, 2017)

Exhibit A-8: Supplement to First Amended Pleadings (June 29, 2017)

Exhibit A-9: Order of Dismissal (Oct. 16, 2017)

Exhibit A-10: Order Denying Cause of Action (Oct. 18, 2017)

Exhibit A-11: Order Dismissing JP Appeal (Dec. 14, 2017)

Exhibit A-12: Plaintiff's Motion for Reconsideration (Dec. 15, 2017)

This concludes my affidavit testimony.

Lennie F. Bollinger

SUBSCRIBED AND SWORN TO BEFORE ME on this 9th day of February, 2018, to certify which witness my hand and seal of office.

Cathy Thompson

Notary Public in and for
the State of Texas

CATHY THOMPSON
Notary Public, State of Texas
My Commission Expires
May 29, 2019

EXHIBIT A-1

Re: Darlene Balistreri-Amrhein

Lennie Bollinger

Mon 4/11/2016 10:44 PM

To:dbalistreri@tx.rr.com <dbalistreri@tx.rr.com>;

1 attachments (126 KB)

Petition.Amrhein.pdf;

Attached is the petition I would like to file. Please review and give us the green light to file. Thanks.

Lennie F. Bollinger
Wormington & Bollinger
212 E. Virginia Street
McKinney, Texas 75069
972-569-3930 (office)
972-547-6440 (fax)
214-202-1104 (cell)
214-580-8298 (direct fax)
www.wormingtonlegal.com

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From: dbalistreri@tx.rr.com <dbalistreri@tx.rr.com>
Sent: Monday, April 11, 2016 10:32 PM
To: Lennie Bollinger
Subject: Re: Darlene Balistreri-Amrhein

Yes. March 10, 2015

Re: Darlene Balistreri-Amrhein

dbalistreri@tx.rr.com

Mon 4/11/2016 10:57 PM

To:Lennie Bollinger <LB@Wormingtonlegal.com>;

Just a couple corrections.

David Allen Schroeder

112 Winsley Circle

rent, utilities, food & misc.
written demands for more than 1 year

Sounds good.

Re: Darlene Balistreri-Amrhein

dbalistreri@tx.rr.com

Wed 4/13/2016 11:29 AM

To:Lennie Bollinger <LB@Wormingtonlegal.com>;

One question....Do we have to mention in filing that he was trying to take my home?

Green light to file.
Service should be by constable, because he won't sign green card to avoid suit.

Thanks Lenny,

Darlene