STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

INDUSTRIAL QUICK SEARCH, INC.,
and MICHAEL MEIRESONNE,

Plaintiffs

Case No. 12- 08354 -NM B

vs.

Hon.

CHRISTOPHER P. YATES

LESLIE C. MORANT, LAW WEATHERS and
RICHARDSON, P.C., and A. J. BIRKBECK,

Defendants.
_____/

Stephen L. Grimm (P42215)
STEPHEN L. GRIMM, P.C.
Attorney for Plaintiff
330 East Fulton
Grand Rapids, Michigan 49503
(616) 459-0220
_____/

COMPLAINT

There is no other pending or resolved civil action arising out of the same transaction or occurrence alleged in this Complaint.

NOW COME Plaintiffs, by and through its attorneys, STEPHEN L. GRIMM, P.C., and for their Complaint against Defendants, state as follows:

PARTIES AND JURISDICTION

1. At all relevant times, Plaintiff Industrial Quick Search ("IQS") was a Michigan Profit corporation with its registered office at 2096 Robinson Road, Grand Rapids, Michigan.

2. At all relevant times, Plaintiff Michael Meiresonne ("Meiresonne") was a resident of 2096 Robinson Road, S.E., Grand Rapids, Michigan 49506.

3. At all relevant times, Defendant Leslie C. Morant ("Morant") was engaged in the practice of his profession as an attorney in the County of Kent, State of Michigan, and held himself out to the public, and in particular, these Plaintiffs as a skilled and competent lawyer in the field of business law and litigation and capable of properly handling its legal matters.

4. At all relevant times, Defendant Law Weathers and Richardson, P.C. ("Law Weathers") conducted business in the City of Grand Rapids, County of Kent, State of Michigan, under the laws and statutes of the State of Michigan with its principal office located at 333 Bridge Street, N.W., Grand Rapids, Michigan 49504.

5. At all relevant times, Defendant Morant was the apparent, ostensible, implied and/or express agent of and was employed by Defendant Law Weathers, and was acting within the course and scope of said employment and/or agency when the acts of malpractice and negligence hereinafter set forth and described were committed, thereby imposing vicarious liability upon Defendant Law Weathers by the reason of the doctrine of respondeat superior.

6. At all relevant times, Defendant Morant was engaged in the practice of his profession as an attorney in the County of Kent, State of Michigan, and held himself out to the public, and in particular, these Plaintiffs as a skilled and competent lawyer in the field of business law and litigation and capable of properly handling their legal matters.

7. At all relevant times, Defendant A. J. Birkbeck ("Birkbeck") was engaged in the practice of his profession as an attorney in the County of Kent, State of Michigan, and held himself out to the public, and in particular, these Plaintiffs as a skilled and

competent lawyer in the field of business law and litigation and capable of properly handling their legal matters.

8. At all relevant times, Defendant Birkbeck conducted business in the City of Grand Rapids, County of Kent, State of Michigan, under the laws and statutes of the State of Michigan with his principal office located at 2093 Robinson Road, S.E., Grand Rapids, Michigan 49506.

9. The amount in controversy greatly exceeds Twenty Five Thousand ($25,000.00) Dollars, exclusive of interest and costs and this cause is otherwise within the jurisdiction of this court.

COMMON ALLEGATIONS

10. Plaintiffs adopt the allegations contained in paragraphs 1 through 9 as though fully set forth herein.

11. On August 3, 2006, Judge Robert Owen of the United States District Court for the Southern District of New York entered a default judgment on the issue of copyright infringement against Plaintiffs, who were the Defendants in *Thomas Publishing Co v Industrial Quick Search, Inc.*, Docket No. 02-CIV-3307(RO).

12. Judge Owen found that IQS and its principals had directed its employee Christopher Terryn ("Terryn") to plagiarize for its commercial benefit valuable materials copyrighted by the Thomas Publishing Company; that the employee had followed the instructions given to him; and that, to thwart discovery, IQS had deliberately destroyed documents critical to determining the scope of the plagiarism.

13. After Judge Owen's ruling, IQS settled the New York case for $2.5 million.

14. Defendant Birkbeck, who had been Plaintiff Meiresonne's attorney in Michigan, advised Plaintiff Meiresonne to file suit against Terryn in the Kent County Circuit Court, and advised him to retain Defendant Law Weathers to prosecute the case.

15. The claim was eventually assigned to Defendant Morant.

16. Defendants Morant and Birkbeck drafted a verified complaint that was, at their direction, signed by Plaintiff Meiresonne.

17. The verified complaint was filed on October 19, 2007, and assigned to The Honorable Dennis C. Kolenda, then-Kent County Circuit Court Judge.

18. The verified complaint contained three counts: Fraud and Misrepresentation; Contribution; and Indemnity.

19. David J. Gass and Salvatore W. Pirrotta appeared on behalf of the Defendant in that case, and filed a motion to dismiss the verified complaint that was heard by Judge Kolenda.

20. Defendants Morant and Birkbeck jointly prepared a response to the motion to dismiss.

21. On December 13, 2007, Defendant Morant indicated to Plaintiff Meiresonne and Defendant Birkbeck that the "main hurdle we have to clear is **collateral estoppel.**" (Emphasis not added).

22. On December 19, 2007, Defendant Morant indicated to Defendant Birkbeck that "if there was no formal order entering the NY court's findings, it is nothing more than a verdict and is not a final judgment for estoppel purposes." (Emphasis not added).

23. On January 25, 2008, Defendant Birkbeck indicated to Plaintiff Meiresonne that, "As to Terryn, initially we planned just a small case to make him take the consequences for his actions...to feel some of the pain he caused you. Subsequently, legal research indicated that we had a chance to not only make Terryn feel that pain, but also recoup some or even substantially all of the dollars you paid to Thomas...I do know that whatever the ultimate cost of the case (perhaps $40,000) to prosecute, but I can say that it is a mere fraction of the cost you could have gotten *anywhere else*. I also think it to be a reasonable price to pay for a significant chance to get $1,000,000 or even $1,500,000 back on a $40,000 investment (playing the odds, only a 4% chance of winning would justify your expenditures on a $1,000,000 action)..."

24. On February 27, 2008, Defendant Morant stated, "...I think it would be a relatively straightforward appeal."

25. Defendant Birkbeck, in reply, stated that, "I agree that there are issues that have merit on appeal."

26. On February 28, 2008, Judge Kolenda granted the motion and dismissed the case with prejudice.

27. On March 31, 2008, Defendant Birkbeck forwarded to Defendant Morant, a preliminary draft of an appellate brief Defendant Birkbeck had prepared.

28. On May 5, 2008, Defendant Morant stated that, "You have excellent arguments in your favor and I think the judge made myriad errors in his underlying judgment with regard to collateral estoppel...I'm sorry that the costs of the action against Terryn exceeded what you wanted to pay, but anyone who told you that it would be cheap to get a court to ignore or overturn the findings of the NY court (especially after

the same court had already thrown out one of your related cases, made comments that were unflattering about you personally and was perhaps predisposed against you) mislead you. Especially now that Kolenda is off the bench, you have a chance to reverse that trend."

29. By July 24, 2008, Defendant Birkbeck had reviewed the cross-appeal filed by the defendant in the underlying Kent County Circuit Court case.

30. On that date, Defendant Birkbeck stated that he was "summarily unimpressed" with the cross-appeal, and asked Defendant Morant, "in fact, is there any way we can seek sanctions against them for filing it and costing Mike money to respond to it? Even Kolenda recognized we raised valid legal arguments not resolved under Michigan case law. As such, how could our filing *possibly* rise to the level of sanctionable??"

31. On July 25, 2008, Defendant Morant stated, "I think it will be enough to blow their arguments for sanctions out of the water and make them look foolish and petty for having made the request. That should actually enhance our position in this appeal and our credibility in the eyes of the court."

32. On February 1, 2010, Defendant Morant stated to Defendant Birkbeck that he had found "new cases/authority" on issues relevant to the appeal.

33. Oral argument was held on February 3, 2010, before judges Talbot, Whitbeck and Owens.

34. On February 11, 2010, Defendant Birkbeck stated to Defendant Morant and Plaintiff Meiresonne that, "Judge Talbot's impartiality has been questioned before, by the way, and his rant here is based on perceived 'inequities' to Terryn hardly has

relevance to any reasoned interpretation of the applicability of the Contribution Statute before him (while apportionment between joint tortfeasors may involve equitable considerations, the applicability of the statute itself in the present case is a matter of law, not equity). If he wrongfully dismisses the Contribution Claim (especially if he does so without reason, as Kolenda did), I would think his rant would be important to the Supreme Court's subsequent deliberations.

35. On February 11, 2010, the Court's unpublished opinion was issued and received by counsel on or about February 22, 2010.

36. The opinion unanimously affirmed Judge Kolenda's order of dismissal, and remanded to the trial court for a determination of damages in accordance with MCR 7.216(C)(2).

37. On February 22, 2010, Defendant Morant stated to Defendant Birkbeck and Plaintiff Meiresonne, "Just got your message and finished reviewing the 'opinion'- which appears to be another thinly disguised effort at avoiding the issues in order to heap mock outrage and scorn on Mike and IQS. Its Kolenda without actually addressing any of the issues argued by the parties to the appeal. What's more, they make many many conclusory factual assertions in the opinion that are, at worst, disputed issues of fact. Again, very perplexing. I have to say, without having researched any of the arguments created by the court of appeals to justify its ruling, the opinion doesn't seem very persuasive and instead invokes a whole lot of hand wringing and whining about how 'we just can't let them get away with this' when the law *plainly seems to indicate otherwise.* (Emphasis added)...my office has been very successful of late getting the supreme court to accept cert on a number of matters and we can glean some useful hints as to how to

craft the issues in the notice of appeal in a way that might make this case attractive for them to take up."

38. On March 1, 2010, Defendant Morant stated to Defendant Birkbeck and Plaintiff Meiresonne that Morant's partner Steve Stapleton, "our most experienced attorney in Michigan Supreme Court appeals,"... "noted that Talbot is known to be extremely volatile and overbearing and that LWR had just moved him (or in fact did remove him) from another appeals panel, which may have fed his unexpected rage and the over the top antics and 'moral outrage' at the hearing."

39. On March 13, 2010, Defendant Birkbeck stated to Plaintiff Meirsonne that, "Judge Talbot's dismissing ["Our legal theories"] are not only far fetched, they are just plain wrong. Is (sic.) goal was obviously to make our theories SOUND far fetched, but even Kolenda recognized they had merit. Talbot either made up his theories as he went along (along with, as you noted, many 'facts' that Owen never stated), or bent the law incorrectly to fit his end goal...to 'punish' you for actions you have a legal right to bring and/or buddy up with his Catholic Mafia cohorts."

40. Defendant Birkbeck also stated on that date that, "There is NO doubt that Talbot was just plain wrong in both his facts and his implementation of the law. Our concern is less that we will run into another bad judge like Talbot and Kolenda, but that the Supreme Court may decide not to hear it."

41. Defendant Birkbeck also stated on that date that, "...You have every right to be upset...but you have competent counsel who are dedicated to you and your case, and who had at least one winning argument, and possibly several. Your anger should be focused more on the legal system, the horrible judges you've been assigned, and their

flawed decisions, rather than on your lawyers. We would not have recommended a course of action that we did not think we could prevail on...and we could not have anticipated that so many judges would just get it wrong...[E]ven if deference is given to the Owen decision (that you ordered Terryn to copy) we still have a right to our day in court over splitting the blame with him...Also, as we discussed, Thomas will never settle unless we file an appeal which they think has some merit (which ours would have).

42. On March 14, 2010, Plaintiff Meiresonne sent an email to Defendants Morant and Birkbeck, stating, "It seems that the Court of Appeals is outraged at this suit and even has gone beyond Terryn's rights in ordering sanctions...I was led to believe we had a very strong case...Do we really have a chance or are we relying on legal theories that we hope might excite a Supreme Court justice?...I am very disappointed in how badly we have lost this appeal and I need to know what my exposure is going to be and what chances we have. Have you discussed with your partners how and why we lost and what is the next best thing to do?"

43. On March 18, 2010, Defendant Birkbeck forwarded to Defendant Morant and Plaintiff Meiresonne an email which outlined the Supreme Court appeal.

44. On March 23, 2010, Defendant Morant emailed Defendant Birkbeck, and stated that, "my initial read of these arguments is that they are strong arguments..."

45. Defendant Birkbeck and Defendant Morant jointly prepared the filings of the Supreme Court appeal.

46. On March 25, 2010, Defendant Morant filed a Notice for Filing Application for Leave to Appeal with the Supreme Court.

47. Thereafter, Defendants Birkbeck and Morant jointly prepared the brief filed with the Supreme Court.

48. On July 15, 2010, the Supreme Court denied the application for leave to appeal.

49. On October 28, 2010, The Honorable Mark A. Trusock awarded sanctions in favor of Terryn $167,447.00 in actual damages and $167,447.00 in punitive damages, as well as half of Terryn's fees and expenses related to the post-appellate proceedings in the Circuit Court.

50. At the hearing on Terryn's request for sanctions, Plaintiff Meiresonne was not called to the stand by his attorney Steve Stapleton of Defendant Law Weathers.

51. Defendant Law Weathers charged Plaintiff Meirsonne $155,017.99 in legal fees.

52. Defendant Birkbeck charged Plaintiff $297,000.00 in legal fees.

PROFESSIONAL NEGLIGENCE
LESLIE C. MORANT and LAW, WEATHERS and RICHARDSON, P.C.

53. Plaintiff adopts and realleges paragraphs 1-52 as though fully set forth herein.

54. At all times, Defendant Morant owed Plaintiff the duty to possess that degree of skill and learning that is ordinarily possessed by attorneys in Michigan, and more specifically those attorneys specializing in business law to use reasonable care and diligence in the exercise of his skill and application of his learning and the handling of Plaintiff's legal matters.

55. At all times, Defendant Law Weathers, owed Plaintiff the duty to possess that reasonable degree of skill and learning that is ordinarily possessed by law firms in

Michigan more specifically those firms specializing in business law and for its attorneys to use reasonable care and diligence in the exercise of their skill and application of their learning and the handling of Plaintiff's legal matters.

56. Specifically, Defendants owed Plaintiff the duty to use reasonable care and diligence as follows:

a. Providing competent representation;

b. Providing competent legal advice regarding the merits of litigation;

c. Providing competent legal advice regarding the likelihood of an adverse result, given the facts of the underlying case;

d. Providing competent legal advice regarding the likelihood of the imposition of sanctions;

e. Protecting the financial interests of Plaintiff;

f. Refraining from pursuing a vexatious suit; and appeal;

g. Otherwise acting as a reasonable and prudent attorney.

57. Defendants violated said duty by:

a. Failing to provide competent representation in violation of MRPC 1.1;

b. Failing to provide competent advice regarding the merits of filing suit against Terryn;

c. Failing to discuss with Plaintiff Meiresonne the likelihood of an adverse result, particularly in light of the facts of the underlying case, and the findings of fact by Judge Owen;

d. Failing to provide competent advice regarding the likelihood of the imposition of sanctions;

e. Failing to advise Plaintiff Meiresonne of the need to retain counsel after remand to the Circuit Court for a determination of sanctions;

f. Pursuing a vexatious claim and appeal;

g. Other deviations that may become evident during discovery.

58. As a direct and proximate result of the breaches of duties by Defendant, Plaintiff was ordered to pay sanctions and unnecessary legal fees.

59. Plaintiff alleges additional damages that have yet to be determined.

WHEREFORE, Plaintiff Meiresonne prays for Judgment against Defendants jointly and severally, in whatever amount Plaintiff is found to be entitled in excess of Twenty Five Thousand ($25,000.00) together with interest costs and attorney fees.

PROFESSIONAL NEGLIGENCE
A.J. BIRKBECK

60. Plaintiff adopts and realleges paragraphs 1-59 as though fully set forth herein.

61. At all times, Defendant Birkbeck owed Plaintiff the duty to possess that degree of skill and learning that is ordinarily possessed by attorneys in Michigan, and more specifically those attorneys specializing in business law to use reasonable care and diligence in the exercise of his skill and application of his learning and the handling of Plaintiff's legal matters.

62. Specifically, Defendant owed Plaintiff the duty to use reasonable care and diligence as follows:

h. Providing competent representation;

i. Providing competent legal advice regarding the merits of litigation;

j. Providing competent legal advice regarding the likelihood of an adverse result, given the facts of the underlying case;

k. Providing competent legal advice regarding the likelihood of the imposition of sanctions;

l. Protecting the financial interests of Plaintiff;

m. Otherwise acting as a reasonable and prudent attorney;

63. Defendant violated said duty by:

h. Failing to provide competent representation in violation of MRPC 1.1;

i. Failing to provide competent advice regarding the merits of filing suit against Terryn;

j. Failing to discuss with Plaintiff Meiresonne the likelihood of an adverse results, particularly in light of the facts of the underlying case, and the findings of fact by Judge Owen;

k. Failing to provide competent advice regarding the likelihood of the imposition of sanctions;

l. Failing to advise Plaintiff Meiresonne of the need to retain counsel after remand to the Circuit Court for a determination of sanctions;

m. Other deviations that may become evident during discovery.

64. As a direct and proximate result of the breaches of duties by Defendant, Plaintiff was ordered to pay sanctions and unnecessary legal fees.

65. Plaintiff alleges additional damages that have yet to be determined.

WHEREFORE, Plaintiff Meiresonne prays for Judgment against Defendant jointly and severally, in whatever amount Plaintiff is found to be entitled in excess of Twenty Five Thousand ($25,000.00) together with interest costs and attorney fees.

Respectfully submitted,

STEPHEN L. GRIMM, P.C.

Dated: 9-6-12

By: _____
Stephen L. Grimm (P42215)
Attorney for Plaintiff