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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT – LAW DIVISION

PAUL R. DULBERG, individually, and THE PAUL  
R. DULBERG REVOCABLE TRUST,  
  
Plaintiffs,  
  
vs.  
  
KELLY N. BAUDIN, et al.  
  
Defendants.

Case No. 2022 L 010905  
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**DEFENDANTS, JOSEPH DAVID OLSEN, CRAIG A. WILLETTE, AND RAPHAEL E. YALDEN II’S, COMBINED MOTION TO DISMISS COUNT III OF PLAINTIFFS’ COMPLAINT AT LAW**

NOW COMES the Defendants, JOSEPH DAVID OLSEN (“Olsen”), CRAIG A. WILLETTE (“Willette”), and RAPHAEL E. YALDEN II (“Yalden”) (collectively the “Olsen Defendants”) by and through their attorneys, LEWIS BRISBOIS BISGAARD & SMITH, LLP, and for their Combined Motion to Dismiss Count III of Plaintiffs’ Complaint at Law, pursuant to 735 ILCS 5/2-619.1 (West 2023), state as follows:

**INTRODUCTION AND SUMMARY OF ARGUMENT**

Count III of Plaintiffs Complaint at Law (the “Complaint”) is directed against the Olsen Defendants. A copy of the Complaint is attached hereto and marked as **Exhibit A**. Count III is entitled “Legal Malpractice – Aiding and Abetting a Fraud” and asserts that the Olsen Defendants assisted Kelly N. Baudin and William R. Baudin II (collectively the “Baudin Defendants”) in misrepresenting whether the bankruptcy court could force Plaintiff, Paul R. Dulberg (“Dulberg”) into binding mediation regarding his personal injury case. *See id.*

For numerous reasons, Plaintiffs’ claim against the Olsen Defendants is hopelessly flawed. To begin, Dulberg’s allegations demonstrate that in October 2016, he knew he had been “coerced” into binding mediation that included a high-low agreement, and that on December 12, 2016 he was

aware that the mediator had awarded him damages in the personal injury case well above the \$300,000 cap. Accordingly, to the extent Plaintiff had a claim against the Olsen Defendants, it accrued on December 12, 2016. Plaintiff did not file the instant lawsuit until December 13, 2022, well past the applicable two-year statute of limitations. *See* 735 ILCS 5/13-214.3(b) (West 2023).

Relatedly, the Complaint specifies that the allegedly problematic conduct in furtherance of the Baudin Defendants' purported misrepresentations took place on October 31, 2016. *See Exhibit A* at ¶¶52-55. As such, Plaintiffs' lawsuit is further barred by the six-year statute of repose. *See* 735 ILCS 5/13-214.3(c) (West 2023). Dismissal is thus appropriate, with prejudice, based on 735 ILCS 5/2-619(a)(5) (West 2023).

Dulberg also contends that Olsen and his firm acted as the bankruptcy trustee in the underlying case. *See Exhibit A* at ¶82. However, Dulberg has not obtained permission from the bankruptcy court to bring suit against the Olsen Defendants, so Count III is amenable to dismissal based on the *Barton* Doctrine. Moreover, as noted in the attached Affidavits of Craig A. Willette and Raphael E. Yalden II (marked as **Exhibits B & C**), neither worked on Dulberg's bankruptcy case.<sup>1</sup> In fact, Yalden has not practiced law since 2013. *See Exhibit C* at ¶3. Thus, there is no genuine issue of material fact that Count III should be dismissed with prejudice, pursuant to 735 ILCS 5/2-619(a)(9) (West 2023).

In addition to these dispositive bases for dismissal, the allegations in the Complaint do not state a cause of action against the Olsen Defendants for legal malpractice or for aiding and abetting fraud. *See generally Exhibit A*. They are instead conclusory and vague, nothing more than innuendo regarding the purported scheme. *See id.* However, under Illinois' fact pleading

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<sup>1</sup> Indeed, the Complaint contains no allegations of acts by Defendants Yalden or Willette, and neither filed appearances in the bankruptcy case.

requirements, such vague and conclusory allegations fail to state a cause of action and Count III should also be dismissed pursuant to 735 ILCS 5/2-615 (West 2023).

### **LEGAL STANDARD**

Illinois is a fact-pleading jurisdiction. *Weiss v. Waterhouse Secs., Inc.*, 208 Ill.2d 439, 451 (2004). “A section 2-615 motion to dismiss challenges the legal sufficiency of a complaint based on defects apparent on its face.” *Pooh-Bah Enters., Inc. v. County of Cook*, 232 Ill.2d 463, 473 (2009). In ruling on a section 2-615 motion to dismiss, the court must accept as true all well-pleaded facts, as well as any reasonable inferences to be drawn therefrom. *Khan v. Deutsche Bank AG*, 2012 IL 112219, ¶47. However, a plaintiff may not rely on mere conclusions of law or fact unsupported by specific factual allegations. *Pooh-Bah Enters., Inc.*, 232 Ill.2d at 473.

A motion to dismiss under section 2-619 of the Code “admits the legal sufficiency of the plaintiffs’ complaint, but asserts an affirmative defense or other matter that avoids or defeats the claim.” *DeLuna v. Burciaga*, 223 Ill.2d 49, 59 (2006). Section 2-619(a)(5) allows a cause of action to be dismissed if it was not commenced within the time limited by law. 735 ILCS 5/2-619(a)(5).

In a Section 2-619(a)(9) motion, the affirmative matter supporting dismissal may be “something in the nature of a defense that completely negates the cause of action or refutes crucial conclusions of law or conclusions of material fact contained in or inferred from the complaint.” *Golden v. Mullen*, 295 Ill. App. 3d 865, 869 (1st Dist. 1997).

### **STATEMENT OF UNDISPUTED FACTS**

On or about May 5, 2012, Dulberg filed a personal injury action against David Gagnon, Caroline McGuire, and Bill McGuire in a case styled *Paul Dulberg, Plaintiff, versus David Gagnon, Defendant, et al.*, Case No. 2012 LA 178, in the Twenty-Second Judicial Circuit, McHenry County, Illinois (the “Underlying Case”). In his Complaint, Dulberg alleged that he was

injured as a result of a chain saw negligently operated by Gagnon while on the McGuires' property. Dulberg was initially represented by The Law Offices of Thomas J. Popovich, P.C. After that firm was granted leave to withdraw, Dulberg entered into a fee agreement with the Baudin Defendants on or about September 22, 2015 to represent him in the Underlying Case. *See Exhibit A* at ¶15.

On November 26, 2014 Dulberg filed a Petition for Bankruptcy pursuant to Chapter 7, *In re: Paul Dulberg, Debtor*, Case No. 14-bk-83578 in the Northern District of Illinois Bankruptcy Court, Western Division (the "Bankruptcy Case"). Olsen was appointed as Successor Trustee in the Bankruptcy Case on August 31, 2016 after the initial trustee resigned.

In July 2016, the Baudin Defendants proposed binding mediation to Dulberg to resolve the Underlying Case. *See Exhibit A* at ¶¶24-35. According to Plaintiffs, the Baudin Defendants told Dulberg that by agreeing to binding mediation, however, there would be a cap on his recovery of \$300,000. *Id.* at ¶35. Dulberg responded that he wanted some assurance that the insurance carrier was "sincere in trying to resolve this" and wanted them to up the lower limit of recovery "from 50k to 150k," pay for along with other concessions. *Id.* at ¶42. Notwithstanding the Baudin Defendants recommending binding mediation as the best possibility of recovery, Dulberg alleges that he declined that option. *Id.* at ¶46.

Despite refusing to participate in binding mediation, which he communicated to Baudin on July 20, 2016, on August 16, 2016 Dulberg asked Baudin:

Randy, I have to ask again, why is it wise to agree to mediate before permanent disability is determined by social security since the permanent disability rating would be a large factor in determining what the insurance adjuster is willing to give?

*Id.* at ¶47.

Dulberg asserts that on October 9, 2016, the Baudin Defendants informed him binding mediation would take place notwithstanding his disapproval, and that the bankruptcy trustee and

the judge could order him to participate even without his consent. *Id.* at ¶50.

On October 4, 2016, Olsen filed a “Motion to Employ Special Counsel” and a “Motion for Authority to Enter Into a ‘Binding Mediation Agreement’” in the Bankruptcy Case, requesting the court allow him to employ the Baudin Defendants as Dulberg’s counsel in the Underlying Case, to approve the Baudin Defendants’ fee arrangement, and for authority to enter into a binding mediation agreement in the Underlying Case. *See id.* at Exhibits 4 & 5. Although he received notice of the motions, Dulberg did not appear on the presentment date, nor did he file a response or objection to the motions. *See id.*

On October 31, 2016, Olsen appeared before the bankruptcy court to obtain approval of the Motion to Employ. *See id.* at Exhibit 6. Olsen informed the court that the binding mediation had a \$50,000 floor with a \$300,000 ceiling (the “high/low”), that he had spoken to Baudin who seemed “very enthusiastic about it” since Olsen did not do personal injury work, “so [he wasn’t] sure how all that flows to a jury.” *Id.* The judge found the papers to be in order, the fee arrangement reasonable, and the binding mediation agreement acceptable, and granted the motions. *Id.* Olsen noted that he “didn’t want to micromanage [the] case.” *Id.*; *see also id.* at Exhibit 7. At no time did Olsen ever speak to Dulberg directly concerning the binding mediation. *See generally* **Exhibit A.**

On December 8, 2016 Dulberg participated in binding mediation. *See id.* at ¶57. At the mediation, he executed a mediation agreement. *See id.* at Exhibit 11, p. 6. The mediation agreement stated that the parties had agreed to submit the dispute to mediation. *See id.* at p. 1. The minimum award would be \$50,000 with the maximum award \$300,000. *See id.* at p. 4.

On December 12, 2016, the mediator entered a gross award for Dulberg of \$660,000, but reduced it by 15% for his own comparative fault for a net award of \$561,000. *See id.* at Exhibit 10. Upon being informed of the award by the Baudin Defendants, Dulberg stated:

Yeah, you two did good, real good, and I thank both of you sincerely. I just can't help it, what I see here is a gift of \$261,000 given to those responsible for my injuries.

*Id.* at ¶67.

On January 26, 2017, the bankruptcy court approved the binding mediation award without objection. On June 30, 2017 Dulberg's bankruptcy was discharged and Olsen was discharged as Trustee. Plaintiff filed the present suit on December 13, 2022. *See Exhibit A*

### **ARGUMENT**

#### **I. DISMISSAL OF COUNT III IS WARRANTED PURSUANT TO 735 ILCS 5/2-619(a)(5) BASED ON THE STATUTES OF LIMITATIONS AND REPOSE.**

It is well-established that 735 ILCS 5/13-214.3 applies to any claim against an attorney arising out of his or her performance of legal services, not just a legal malpractice claim. *See, e.g., Evanston Ins. Co. v. Riseborough*, 2014 IL 114271, ¶23 (the statute broadly "encompasses a number of potential causes of action in addition to legal malpractice"). As a result, the two-year statute of limitations and six-year statute of repose apply to Count III alleged against the Olsen Defendants. *Compare Exhibit A* at ¶¶82-93 *with id.*<sup>2</sup> As explained in greater detail below, Plaintiffs' claim against the Olsen Defendants (to the extent one exists) is barred by the statutes of limitation and repose, and dismissal is proper, with prejudice, pursuant to 735 ILCS 5/2-619(a)(5).

##### ***A. Based on the Allegations in the Complaint, Dulberg's Claim Accrued No Later Than December 12, 2016, Making His Complaint Untimely.***

735 ILCS 5/13-214.3(b) states in pertinent part:

An action for damages based on tort, contract, or otherwise ... against an attorney arising out of an act or omission in the performance of professional services ... must be commenced within 2 years from the time the person bringing the action knew or reasonably should have known of the injury for which damages are sought.

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<sup>2</sup> Indeed, Plaintiffs' claim against the Olsen Defendants sounds in "Legal Malpractice." *See Exhibit A* at p. 28.

“Section 13-214.3(b) incorporates the discovery rule, ‘which delays commencement of the statute of limitations until the plaintiff knew or reasonably should have known of the injury and that it may have been wrongfully caused.’” *Janousek v. Katten Muchin Rosenman LLP*, 2015 IL App (1st) 142989, ¶13 (quoting *Dancor Int’l, Ltd. v. Friedman, Goldberg & Mintz*, 288 Ill. App. 3d 666, 672 (1st Dist. 1997)). “A statute of limitations begins to run when the purportedly injured party has a reasonable belief that the injury was caused by wrongful conduct, thereby creating an obligation to inquire further on that issue.” *Id.* “Actual knowledge is not necessary to trigger the limitations period, nor does the plaintiff need knowledge of a specific defendant’s negligent conduct or knowledge of the existence of a malpractice claim.” *Nelson v. Padgitt*, 2016 IL App (1st) 160571, ¶12 (citing *SK Partners I, LP v. Metro Consultants, Inc.*, 408 Ill. App. 3d 127, 130 (1st Dist. 2011)).

Here, Dulberg contends that he that he wanted to take the Underlying Case to trial, and did not agree to participate in binding mediation, but was forced to do so by the Baudin Defendants. **Exhibit A** at ¶¶46, 50, 51. He alleges that he did “not approve of the [binding mediation] process and refused to sign the arbitration agreement.” *Id.* at ¶50. He further asserts that Baudin informed him that the “bankruptcy judge and trustee had the authority to order the process into a binding mediation agreement without [his] consent.” *Id.* He asserts that Olsen (in some manner) assisted Baudin in having the bankruptcy court approve the binding mediation agreement of which he did not approve. *Id.* at ¶86.

Dulberg states that he attended the binding mediation on December 8, 2016, “even though he did not agree to the process, did not want it to happen, and refused to sign any agreement or consent to the process.” *Id.* at ¶57. Finally, and significantly, he alleges that he knew he suffered an injury on December 12, 2016 upon receiving the mediator’s award, and that he told Baudin that

“I just can’t help it, what I see here is a gift of \$261,000 given to those responsible for my injuries.”  
*Id.* at ¶67.

Regardless of the truth of Plaintiffs’ allegations, there is no dispute that Dulberg knew, or should have known, that Olsen filed motions in the Bankruptcy Case to employ the Baudin Defendants as his counsel in the Underlying Case, and that he filed a motion to approve the binding mediation agreement. *See id.* at Exhibits 5-7. He knew, or should have known, that the bankruptcy court approved the binding mediation agreement. *Id.* In Dulberg’s own words, Olsen’s motion to approve the binding mediation agreement was a “wrongful act.” *Id.* at ¶87.

Dulberg also knew that he suffered an injury as a result of being “coerced” into the binding mediation agreement no later than December 12, 2016, when he learned he would not be able to recover the additional \$261,000 awarded by the mediator because of the mediation cap. *See Exhibit A* at ¶¶67, 87; *Janousek*, 2015 IL App (1st) 142989, ¶13. He knew that, absent being “coerced” into binding mediation, he would have received the additional \$261,000. *See id.*

As a result, upon entry of the mediator’s judgment on December 12, 2016, Dulberg knew of his injury, and that it was wrongfully caused, in part by Olsen (allegedly) “coercing” him into binding mediation. *See supra*; *see also Warnock v. Karm Winand & Patterson*, 376 Ill. App. 3d 364, 371-72 (1st Dist. 2007) (stating the general rule that a legal malpractice claim accrues upon entry of an adverse judgment, settlement, or dismissal of the underlying action).

Plaintiffs filed this suit on December 13, 2022, more than six (6) years after their claim accrued. *See Exhibit A*. The statute of limitations bars Plaintiffs’ claim against the Olsen Defendants; Count III of Plaintiffs’ Complaint should be dismissed with prejudice pursuant to 735 ILCS 5/2-619(a)(5).



**B. Olsen's Alleged Act or Omission Occurred on October 31, 2016, and Therefore Plaintiffs' Claim Against the Olsen Defendants Is Also Barred by the Statute of Repose.**

Not only does the statute of limitations defeat Plaintiffs' claim, but the statute of repose acts as an absolute bar. The statute of repose in actions brought against attorneys arising out of their performance of legal services is governed by 735 ILCS 5/13-214.3(c). It states:

[e]xcept as provided in subsection (d), an action described in subsection (b) may not be commenced in any event more than 6 years after the date on which the act or omission occurred.

“Unlike a statute of limitations, which begins running upon accrual of a cause of action, a statute of repose begins running when a specific event occurs, regardless of whether any action has accrued or whether an injury has resulted.” *Evanston Ins. Co.*, 2014 IL 114271, ¶31 (internal quotation marks omitted.). “While it creates a harsh result, the purpose of the statute of repose is to terminate the possibility of liability after a defined period of time, regardless of a party's lack of knowledge.” *Ferguson v. McKenzie*, 202 Ill.2d 304, 311 (2001).

Here, the complained of act or omissions by Olsen, presenting motions in the Bankruptcy Case to employ the Baudin Defendants as Dulberg's attorney and to have the bankruptcy court approve the binding mediation agreement, took place on October 31, 2016. *See Exhibit A* at ¶88. No later acts by Olsen are cited by Plaintiffs. *See generally id.* Any litigation had to have been initiated by October 31, 2022. *Compare supra with* 735 ILCS 5/13-214.3(c). Plaintiffs' Complaint, filed on December 13, 2022 is not timely, and dismissal of Count III with prejudice is therefore also indicated pursuant to 735 ILCS 5/2-619(a)(5).

**II. DISMISSAL OF COUNT III IS APPROPRIATE PURSUANT TO 735 ILCS 5/2-619(a)(9) BASED ON THE BARTON DOCTRINE AND THE AFFIDAVITS OF YALDEN AND WILLETTE.**

**A. Dulberg Has Not Sought and Secured the Requisite Leave from the Bankruptcy Court to Bring This Claim Against the Trustee.**

The Barton Doctrine provides that even after a chapter 7 bankruptcy case has been closed,

permission is still required from the bankruptcy court to bring a state court suit against the chapter 7 trustee. *See In re Linton*, 136 F.3d 544, 545-46 (7th Cir. 1998). “Letting such suits proceed unchecked would mean that “trusteeship will become a more irksome duty” and “it will be harder for courts to find competent people to appoint as trustees.” *Id.* “Requiring that leave to sue be sought enables bankruptcy judges to monitor the work of the trustees more effectively.” *Id.* “If a plaintiff wants to bring suit against a bankruptcy trustee in a forum other than the bankruptcy court, the Barton doctrine requires approval of the bankruptcy court in order to proceed in the alternate forum.” *In re J & S Props., LLC*, 872 F.3d 91, 98 (3d Cir. 2017).

The Barton Doctrine covers any “acts committed in [the trustee's] official capacity,” as measured by “the nature of the function that the trustee or his counsel was performing during commission of the actions for which liability is sought.” *McDaniel v. Blust*, 668 F.3d 153, 156-57 (4th Cir. 2012). If a plaintiff brings suits in violation of the Barton Doctrine, the Court is without subject matter jurisdiction to hear the case. *See id.*

Here, Olsen was appointed as Trustee in the Bankruptcy Case, and Plaintiffs’ claim against Yalden and Willette are derivative from that appointment. *See Exhibit A* at ¶¶52-55, 83-84, Exhibits 6-7. Count III directly implicates the Olsen Defendants’ role as bankruptcy Trustee and falls squarely within the Barton Doctrine. *See id.* Dulberg did not seek leave from the bankruptcy court to bring the instant state court suit. Accordingly, the Complaint should be dismissed since this Court is without jurisdiction to hear this matter.<sup>3</sup> *McDaniel*, 668 F.3d at 156-57.

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<sup>3</sup> This motion could also be considered pursuant to 735 ILCS 5/2-619(a)(1) (West 2023) (lack of subject matter jurisdiction). There is no Illinois case concerning whether the Barton doctrine is more properly raised pursuant to 619(a)(9) or 619(a)(1).

***B. The Affidavits of Craig A. Willette and Raphael E. Yalden II Demonstrate They Had No Role in the Bankruptcy or the Underlying Case.***

Not only does the Barton Doctrine bar Plaintiffs' claim against the Olsen Defendants, but as detailed in the attached Affidavits, neither Willette or Yalden ever spoke with Dulberg or the Baudin Defendants, nor did either play any role in the Bankruptcy Case or the Underlying Case. *See generally Exhibits B & C.* As such, they should be dismissed from this matter.

Plaintiffs' claim against the Olsen Defendants appears to be that they aided and abetted the Baudin Defendants in some fashion. *See generally Exhibit A* at ¶¶83-92. To state a claim for aiding and abetting by an attorney, the plaintiff must allege that: (1) the party whom the defendant aided performed a wrongful act that caused an injury; (2) the defendant was generally aware of his role as part of the overall tortious activity when he provided the assistance; and (3) the defendant knowingly and substantially assisted the principal violation. *Johnson v. Filler*, 2018 IL App (2d) 170923, ¶16 (citing *Wolf v. Liberis*, 153 Ill. App. 3d 488, 496 (1st Dist. 1987)). The plaintiff must plead specific facts to support the cause of action. *Thornwood, Inc. v. Jenner & Block*, 344 Ill. App. 3d 15, 29-30 (1st Dist. 2003).

Here, neither Yalden or Willette performed any acts, did not knowingly and substantially assist the Baudin Defendants, nor were they "aware of [their] role as part of the overall tortious activity." *Compare Johnson*, 2018 IL App (2d) 170923, ¶16 with **Exhibits B & C**. They had no communication and committed no acts in the Bankruptcy Case. *See Exhibits B & C*. In fact, Yalden retired from the practice of law in 2013. *See Exhibit C* at ¶3. Willette and Yalden could not aid and abet an activity of which they had no knowledge, nor did they render any assistance. *See Johnson*, 2018 IL App (2d) 170923, ¶16. The Complaint does not belie this fatal flaw. Accordingly, Dismissal of Count III with prejudice as respects Willette and Yalden is required pursuant to 735 ILCS 5/2-619(a)(9).

**III. DISMISSAL IS FURTHER APPROPRIATE PURSUANT TO 735 ILCS 5/2-615 AS THE COMPLAINT FAILS TO STATE A CAUSE OF ACTION FOR EITHER LEGAL MALPRACTICE OR AIDING AND ABETTING.**

It is not entirely clear under what theory Plaintiffs are actually proceeding against the Olsen Defendants, as Count III is titled “Legal Malpractice – Aiding and Abetting a Fraud.” See **Exhibit A** at p. 28. However, under either a legal malpractice or an aiding and abetting theory, Plaintiffs’ Complaint fails to allege sufficient facts to state a cause of action.

**A. The Trust Has No Standing to Bring Suit Against the Olsen Defendants.**

To begin, to the extent that there is a potential claim against any of the Olsen Defendants in this matter, the Trust is not a proper plaintiff. An attorney “is liable only to his client, [generally] not to third persons.” *In re Estate of Powell*, 2014 IL 115997, ¶14. “[T]he formation of an attorney-client relationship is a consensual relationship in which the attorney must indicate acceptance to work on behalf of the client, and the client must authorize the attorney to work on their behalf.” *Khoury v. Niew*, 2021 IL App (2d) 200388, ¶47 (citing *Willey v. Paulsen*, 385 Ill. App. 3d 305, 311 (1st Dist. 2008)).

Olsen was appointed as the bankruptcy Trustee for Dulberg, individually, as debtor. See **Exhibit A** at Exhibits 7, 8. The Trust was not a party to the bankruptcy, nor could it have been. See *In re Capital Equity Land Trust No. 2140215*, 646 B.R. 463, 468 (N.D. Ill. Bankr. Nov. 9, 2022) (stating the general rule that personal trusts are not eligible for bankruptcy protection). As a result, the Olsen Defendants never formed an attorney-client relationship with the Trust. See *Khoury*, 2021 IL App (2d) 200388, ¶47.

The Complaint does not allege any facts demonstrating that the Trust was an intended third-party beneficiary of Olsen’s appointment as bankruptcy trustee, so it should be dismissed as a party plaintiff with prejudice.

***B. Plaintiffs' Allegations Fail to State a Cause of Action for Legal Malpractice Against the Olsen Defendants.***

To prevail on a legal malpractice claim “a plaintiff must plead and prove that the defendants owed a duty of care arising from an attorney-client relationship, defendants breached that duty, and she suffered an injury as a proximate result of defendants’ breach.” *N. Ill. Emergency Physicians v. Landau, Omahana & Kopka, Ltd.*, 216 Ill.2d 294, 306 (2005). A plaintiff must “allege sufficient facts to state all the elements which are necessary to constitute his cause of action... .” *Claire Assocs. v. Pontikes*, 151 Ill. App. 3d 116, 123 (1st Dist. 1986) (citing *Shugan v. Colonial View Manor*, 107 Ill. App. 3d 458 (1st Dist. 1982)).

Here, there are really no allegations of an attorney-client relationship between Dulberg and Olsen, the bankruptcy Trustee. Moreover, the Complaint is devoid of facts that Olsen breached any duty of care, or was responsible for causing any damages. *See Exhibit A* at ¶¶83-92. Nor are there allegations demonstrating how Olsen was the actual and proximate cause of Dulberg’s alleged harm. *See id.* Aside from general conclusions, which must be disregarded by the Court, Dulberg’s allegations demonstrate that Olsen filed motions with the bankruptcy court to approve the Baudin Defendants’ appointment as counsel in the Underlying Case and to approve a mediation agreement based upon the representations made by the Baudin Defendants. *See generally id.* at ¶¶52-55, 82-93.

There are no allegations in the Complaint that any of the Olsen Defendants (Olsen, Willette, or Yalden) ever spoke with Dulberg, let alone “coerced” or “forced” him to enter into binding mediation in the Underlying Case. *See id.* Plaintiff has not pled facts supporting a legal malpractice claim, nor can he as a matter of fact law.

***C. Plaintiffs' Allegations Fail to State a Cause of Action for Aiding and Abetting Fraud Against the Olsen Defendants.***

As noted above, to state a claim for aiding and abetting by an attorney a “plaintiff must

allege that: (1) the party whom the defendant aided performed a wrongful act that caused an injury; (2) the defendant was generally aware of his role as part of the overall tortious activity when he provided the assistance; and (3) the defendant knowingly and substantially assisted the principal violation. *Johnson*, 2018 IL App (2d) 170923, ¶16. The plaintiff must plead specific facts to support the cause of action. *Thornwood, Inc.*, 344 Ill. App. 3d at 29-30. There can be no claim for aiding and abetting where there is no underlying tort. *See Chada v. N. Park Elem. Sch. Ass'n*, 2018 IL App (1st) 171958, ¶58 (stating general rule that aiding and abetting is not an independent tort and requires underlying conduct that is tortious).

Here, Plaintiffs' allegations regarding the Olsen Defendants consist of little more than unsupported conclusions. Plaintiffs allege that "Olsen was aware of his role when he presented his motions to hire Defendant William Randal Baudin II as special counsel and to enter into a binding mediation agreement for Plaintiff and also when he told the bankruptcy judge that Plaintiff [wanted] to avoid a jury trial because he was not a good witness." **Exhibit A** at ¶88. Plaintiffs allege that "Olsen aided Baudin to promote the misrepresentation that Plaintiff desired to enter into a binding mediation agreement because [Dulberg] was not a good witness." *Id.* at ¶86. Plaintiffs further allege that "[c]oercing Dulberg into a binding mediation agreement was a wrongful act causing Plaintiff pecuniary injury in an amount in excess of \$261,000." *Id.* at ¶87. These allegations fail to state specific facts to support an aiding and abetting cause of action.

There are no allegations of actions by the Olsen Defendants in furtherance of any fraud, aside from filing a motion in the bankruptcy court, let alone "substantial assistance." *See generally id.*; *Johnson*, 2018 IL App (2d) 170923, ¶16. Dulberg's allegation that Olsen "coerced" him is entirely unsupported, as the Complaint does not even allege that Olsen ever communicated with him, directly or indirectly. *See id.* at ¶87.

Plaintiffs have also failed to plead that Olsen had “actual knowledge” of his overall role within the tortious activity, or how he could possibly have known the Baudin Defendants purportedly forced Dulberg to participate in binding mediation in the Underlying Case. *See Exhibit A* at ¶¶52-55, 82-93. There are no facts supporting the conclusory allegation that Olsen and Baudin “together, decided that any arbitration award was to be capped at \$300,000 and forced the upper cap on Dulberg without his consent and while ignoring his strong objection.” *Id.* at ¶92. Indeed, the transcript of the October 31, 2016 hearing shows that because Olsen is not a personal injury attorney, he deferred to the Baudin Defendants’ expertise regarding the binding mediation in the Underlying Case. *Id.* at Exhibit 6A, [2:14-15, 2:23-25, 5:1-2]; *see also Gagnon v. Schickel*, 2012 IL App (1st) 120645, ¶18 (where an exhibit contradicts the complaint’s allegations, the exhibit controls).

All that Plaintiffs have alleged is that Olsen filed a motion in the Bankruptcy Case to have Baudin appointed as counsel in the Underlying Case and to approve the binding mediation agreement. *See Exhibit A* at ¶¶52-55, 82-93. These acts were required for Dulberg’s bankruptcy. *See* 11 U.S.C. § 541(a)(1) (2018) (a voluntary chapter 7 bankruptcy filing creates a bankruptcy estate that includes “all legal or equitable interests of the debtor in property as of the commencement of the case.”); *see also Holland v. Schwan's Home Serv., Inc.*, 2013 IL App (5th) 110560, ¶116 (holding that assets of the bankruptcy estate include a debtor’s causes of action).

Olsen followed the Bankruptcy Code in appointing Baudin and having the binding mediation agreement approved. *See id.* Dismissal with prejudice is therefore warranted pursuant to 735 ILCS 5/2-615.

### **CONCLUSION**

The allegations in the Complaint lead to only one conclusion - Plaintiffs have no viable

claims against the Olsen Defendants. Count III is barred by the statute of limitations, statute of repose, and the Barton Doctrine. There is literally not one single allegation regarding any activities of Willette and Yalden., And the sum of Plaintiffs' allegations against Olsen, taken together, fail to state or support a cause of action for either legal malpractice or for aiding and abetting fraud.

**WHEREFORE**, Defendants, JOSEPH DAVID OLSEN, CRAIG A. WILLETTE, and RAPHAEL E. YALDEN II, respectfully request that this Honorable Court enter an Order providing for the following relief:

- A. Granting their Combined Motion to Dismiss Count III of Plaintiffs' Complaint at Law;
- B. Dismissing each of them from this matter, *with prejudice*; and,
- C. For such other and further relief this Honorable Court deems equitable and just.

Respectfully submitted,

**DEFENDANTS, JOSEPH DAVID  
OLSEN, CRAIG A. WILLETTE, and  
RAPHAEL E. YALDEN II**

By: /s/George J. Manos  
One of Their Attorneys

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# EXHIBIT A

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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION**

PAUL R. DULBERG, INDIVIDUALLY AND  
THE PAUL R. DULBERG REVOCABLE  
TRUST

Plaintiffs,

vs.

KELLY N. BAUDIN A/K/A BAUDIN &  
BAUDIN, BAUDIN & BAUDIN AN  
ASSOCIATION OF ATTORNEYS, LAW  
OFFICES OF BAUDIN & BAUDIN,  
BAUDIN & BAUDIN LAW OFFICES,  
WILLIAM RANDAL BAUDIN II A/K/A  
BAUDIN & BAUDIN, BAUDIN & BAUDIN  
AN ASSOCIATION OF ATTORNEYS, LAW  
OFFICES OF BAUDIN & BAUDIN,  
BAUDIN & BAUDIN LAW OFFICES,  
KELRAN, INC A/K/A THE BAUDIN LAW  
GROUP, Ltd., JOSEPH DAVID OLSEN,  
A/K/A YALDEN, OLSEN & WILLETTE  
LAW OFFICES, CRAIG A WILLETTE,  
A/K/A YALDEN, OLSEN & WILLETTE  
LAW OFFICES, RAPHAEL E YALDEN II,  
A/K/A YALDEN, OLSEN & WILLETTE  
LAW OFFICES, ADR SYSTEMS OF  
AMERICA, LLC., ASSUMED NAME ADR  
COMMERCIAL SERVICES, ALLSTATE  
PROPERTY AND CASULTY INSURANCE  
COMPANY

Defendants.

CASE NO. 2022L010905

**PLAINTIFFS' COMPLAINT AT LAW**

Plaintiffs, PAUL R. DULBERG, INDIVIDUALLY AND THE PAUL R. DULBERG REVOCABLE TRUST, by and through their attorney, Alphonse A. Talarico, for their Complaint against Defendants, KELLY N. BAUDIN A/K/A BAUDIN & BAUDIN, BAUDIN & BAUDIN AN ASSOCIATION OF ATTORNEYS, LAW OFFICES OF BAUDIN & BAUDIN, BAUDIN & BAUDIN LAW OFFICES, WILLIAM RANDAL BAUDIN II A/K/A BAUDIN & BAUDIN, BAUDIN & BAUDIN AN ASSOCIATION OF ATTORNEYS, LAW OFFICES OF BAUDIN & BAUDIN, BAUDIN & BAUDIN LAW OFFICES, KELRAN, INC A/K/A THE BAUDIN LAW GROUP, Ltd., JOSEPH DAVID OLSEN, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, CRAIG A WILLETTE, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, RAPHAEL E YALDEN II, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, ADR SYSTEMS OF AMERICA, LLC., ADR COMMERCIAL SERVICES, ALLSTATE INSURANCE COMPANY, states as follows:

**NATURE OF THE CASE**

1. This is an action against Defendants KELLY N. BAUDIN A/K/A BAUDIN & BAUDIN, BAUDIN & BAUDIN AN ASSOCIATION OF ATTORNEYS, LAW OFFICES OF BAUDIN & BAUDIN, BAUDIN & BAUDIN LAW OFFICES, WILLIAM RANDAL BAUDIN II A/K/A BAUDIN & BAUDIN, BAUDIN & BAUDIN AN ASSOCIATION OF ATTORNEYS, LAW OFFICES OF BAUDIN & BAUDIN, BAUDIN & BAUDIN LAW OFFICES, KELRAN, INC A/K/A THE BAUDIN LAW GROUP, Ltd., for **LEGAL MALPRACTICE PREDICATED ON THE ATTORNEYS' BREACH OF THEIR FIDUCIARY DUTY (FRAUDULENT MISREPRESENTATION).**

2. This is an action against Defendants JOSEPH DAVID OLSEN, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, CRAIG A WILLETTE, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, RAPHAEL E YALDEN II, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, for **LEGAL MALPRACTICE PREDICATED ON THE ATTORNEYS' BREACH OF THEIR FIDUCIARY DUTY (FRAUDULENT MISREPRESENTATION)**.

3. This is an action against Defendant ADR SYSTEMS OF AMERICA, LLC., ASSUMED NAME ADR COMMERCIAL SERVICES for **BREACH OF A WRITTEN CONTRACT**.

4. This is an action against Defendant ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY for **BREACH OF A WRITTEN CONTRACT**.

### **PARTIES**

5. Plaintiffs are PAUL R. DULBERG, INDIVIDUALLY AND THE PAUL R. DULBERG REVOCABLE TRUST. Paul R. Dulberg is an Illinois resident whose address is 4606 Hayden Court, McHenry Illinois 60051. The Paul R. Revocable Trust of which Paul R. Dulberg and Thomas W. Kost are Co-Trustees is an Illinois Revocable Thrust whose address is 4606 Hayden Court, McHenry Illinois 60051.

6. Defendants are:

A) KELLY N. BAUDIN is an Illinois resident and Attorney with a registered address of 304 S. McHenry Avenue, Crystal Lake, Illinois 60014. She is also the President and Agent for Co-Defendant KELRAN, INC. an Illinois Domestic Corporation whose address is 304 S. McHenry

Avenue, Crystal lake, Illinois 60014 and does business under the Assumed Name of THE BAUDIN LAW GROUP, LTD.

B) WILLIAM RANDAL BAUDIN II is an Illinois resident and Attorney with a registered address of 304 S. McHenry Avenue, Crystal Lake, Illinois 60014. He is also the Secretary for Co-Defendant KELRAN, INC. an Illinois Domestic Corporation whose address is 304 S. McHenry Avenue, Crystal lake, Illinois 60014 and does business under the Assumed Name of THE BAUDIN LAW GROUP, LTD.

C) KELRAN INC. A/K/A THE BAUDIN LAW GROUP, LTD., is an Illinois Domestic Company with an assumed name of THE BAUDIN LAW GROUP, LTD. With an address of 304 South McHenry Avenue, Crystal Lake, Illinois 60014, and Registered Agent Kelly N. Baudin 304 South McHenry Avenue, Crystal Lake, Illinois 60014.

D) JOSEPH DAVID OLSEN, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, is an Illinois resident and Attorney with a registered address of 5702 Elaine Drive Suite 104, Rockford, Illinois 61108.

E) CRAIG A WILLETTE, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, is an Illinois resident who is no longer authorized to practice law in the State of Illinois as of 2021 with a registered address of 1837 National Avenue, Rockford, Illinois 61103.

F) RAPHAEL E YALDEN II, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, is an Illinois resident who is no longer authorized to practice law in the State of Illinois as of 2013 with a registered address of 1505 National Avenue, Rockford, Illinois 61103.

G) ADR SYSTEMS OF AMERICA, LLC., ASSUMED NAME ADR COMMERCIAL SERVICES, is an Illinois Domestic LLC with a principal office address of 20 North Clark

Street 29<sup>th</sup> Floor, Chicago, Illinois 60602. The registered agent is Marc J. Becker 20 North Clark Street, Suite 2900, Chicago, Illinois 60602.

H) ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY is an Illinois Domestic Dividing Stock Insurance Company pursuant to the Illinois Insurance Code 215 ILCS 5/35B-20 Type P&C Domestic Stock. Its address is 3100 Sanders Road, Suite 2100, Northbrook, Illinois 60062. Its Parent Company is THE ALLSTATE CORPORATION. Its registered agent is CT CORPORATION SYSTEM, 208 SOUTH LASALLE STREET SUITE 814, CHICAGO, ILLINOIS 60604.

#### **JURISDICTION AND VENUE**

7. This Court has personal jurisdiction for each Defendant as follows:

7a. KELLY N. BAUDIN pursuant to 735 ILCS 5/2-209(a)(2), 735 ILCS 5/2 209(a)(7), 735 ILCS 5/2-209(a)(11), 735 ILCS 5/2-209(a)(12), 735 ILCS 5/2-209(a)(14), 735 ILCS 5/2-209(b)(2);

7b. WILLIAM RANDAL BAUDIN II pursuant to 735 ILCS 5/2-209(a)(2), 735 ILCS 5/2 209(a)(7), 735 ILCS 5/2-209(a)(11), 735 ILCS 5/2-209(a)(12), 735 ILCS 5/2-209(a)(14), 735 ILCS 5/2-209(b)(2);

7c. KELRAN INC. A/K/A THE BAUDIN LAW GROUP, LTD., pursuant to 735 ILCS 5/2 209(a)(7), 735 ILCS 5/2-209(b)(3);

7d. JOSEPH DAVID OLSEN, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES pursuant to 735 ILCS 5/2-209(a)(2), 735 ILCS 5/2-209(a)(11), 735 ILCS 5/2-209(a)(14), 735 ILCS 5/2-209(b)(2);

7e. CRAIG A WILLETTE, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES pursuant to 735 ILCS 5/2-209(a)(2), 735 ILCS 5/2-209(a)(11), 735 ILCS 5/2-209(a)(14), 735 ILCS 5/2-209(b)(2);

7f. RAPHAEL E YALDEN II, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES pursuant to 735 ILCS 5/2-209(a)(2), 735 ILCS 5/2-209(a)(11), 735 ILCS 5/2-209(a)(14), 735 ILCS 5/2-209(b)(2);

7g. ADR SYSTEMS OF AMERICA, LLC., ASSUMED NAME ADR COMMERCIAL SERVICES pursuant to 735 ILCS 5/2-209(a)(1), 735 ILCS 5/2 209(a)(7), 735 ILCS 5/2-209(b)(3);

7h. ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY pursuant to 735 ILCS 5/2-209(a)(1), 735 ILCS 5/2-209(b)(4).

8. This Court has subject matter jurisdiction pursuant to The Constitution of the State of Illinois, Article VI The Judiciary, Section 9. Circuit Courts-Jurisdiction because legal malpractice, fraud and breach of contract matters committed within the State of Illinois.

9. Venue is proper pursuant to 735 ILCS 5/2-101(1) because Defendant ADR SYSTEMS OF AMERICA, LLC., ASSUMED NAME ADR COMMERCIAL SERVICES is a “resident “ of Cook County, Illinois and 735 ILCS 5/2-101(2) because the fraudulent Binding Mediation Agreement was created and the Binding Mediation Hearing was conducted in Cook County, Illinois.

### **STATEMENT OF FACTS**

10. On or about October 2, 2014 PLAINTIFF Paul R Dulberg began calling the office of

Randy Baudin Sr. multiple times, but nobody called back until December of 2014.

11. On or about September 22, 2015 Plaintiff Paul R Dulberg along with his mother Barbara Dulberg and brother Tom Kost went to meet with Randy Baudin Sr., and Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin at the office of Randal Baudin Sr. to discuss possible representation.

12. Upon entering the office of Randy Baudin Sr. Dulberg on September 22, 2015 Plaintiff met with a receptionist who called herself Myrna and she introduced Dulberg to Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin, attorneys of the firm.

13. When Barbara Dulberg inquired about Randy Baudin Sr, she was told that he was not available, not real active these days but doing okay.

14. A meeting took place on September 22, 2015 between Plaintiff Dulberg, Barbara Dulberg, Tom Kost and Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin.

15. On September 22, 2015 Plaintiff Dulberg entered into a fee agreement with Baudin & Baudin, an association of attorneys which at the time was located at 2100 Huntington Dr., Suite C Algonquin IL. 60102 (Please see Plaintiffs' exhibit 1 attached).

16. At the time Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin



belonged to Defendant KELRAN, INC A/K/A THE BAUDIN LAW GROUP, Ltd., located at 304 McHenry Ave., Crystal Lake, Illinois 60014.

17. Plaintiff Dulberg informed Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin at their opening meeting that he intended/required that they were willing to take the case to trial.

18. Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin agreed to take the case to trial if necessary.

19. Plaintiff Dulberg hired Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin to represent him in prosecuting his claims in the pending case designated as 12 LA 178 and that the case was an asset of the Bankruptcy Estate Bk No.:14-83578.

20. Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin did not review or did not use the relevant fact that within 12 LA 178 there was an unanswered (and never answered) cross-claim that would have determined liability for the remaining defendant.

21. Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin did not review or did not use the relevant fact that within 12 LA 178 there was an unanswered (and never

answered) Interrogatories that may have determined liability for the remaining defendant.

22. Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin did not inform Circuit Court Judge handling 12 LA 178 that Plaintiff Paul Dulberg had filed for bankruptcy protection in Bk No.:14-83578.

23. On July 15, 2016 Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin invited Dulberg and his mother, Barbara Dulberg, to meet at Jamison Charhouse.

24. On July 15, 2016 at 2:22 PM from (815) 814-2193 Defendant WILLIAM RANDAL BAUDIN II sent a text message to Plaintiff Dulberg stating "Kelly and I would like speak with you and your mom Monday night at 630"

25. On July 15, 2016 at 2:27 PM Plaintiff Dulberg sent a text message to Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin stating "Okay, Monday the 18th at 6:30 pm. Do we need to bring anything?"

26. On July 15, 2016 at 2:29 PM Defendant WILLIAM RANDAL BAUDIN II sent a text message to Plaintiff Dulberg stating "Maybe the social security report if you have it? We will Jameson's Charhouse crystal lake at 630 in meeting room there."

27. On July 18, 2016 at 4:26 PM Plaintiff Dulberg sent a text message to Defendant WILLIAM RANDAL BAUDIN II stating "Still on for tonight?"
28. On July 18, 2016 at 4:26 PM Defendants WILLIAM RANDAL BAUDIN II sent a text message to Plaintiff Dulberg stating "Yes sir."
29. On July 18, 2016 Defendants WILLIAM RANDAL BAUDIN II and Kelly N. Baudin met with Dulberg and his mother, Barbara Dulberg, at the Jamison Charhouse. During this meeting, Randal and Kelly Baudin informed Dulberg about ADR and tried to convince Dulberg to say Yes to the ADR. Dulberg did not agree with the ADR. Randy asked Dulberg to think it over and Dulberg agreed to think it over and get back to him.
30. On July 18, 2016 at 8:54 PM Plaintiff Dulberg sent a text message to Defendant WILLIAM RANDAL BAUDIN II stating "Would we be in a better position if the SSDI decision was already in and would that make a difference in the amount the arbitration judge would award?"
31. On July 18, 2016 at 10:12 PM Defendants WILLIAM RANDAL BAUDIN II and sent a text message to Plaintiff Dulberg stating "So sorry came in garbled. Are you taking our recommendation as to the binding mediation?"
32. On July 18, 2016 10:13 PM Plaintiff Dulberg sent a text message to Defendant

WILLIAM RANDAL BAUDIN II "You will have an answer tomorrow"

33. On July 19, 2016 at 12:23 AM Plaintiff Dulberg sent a text message to Defendant WILLIAM RANDAL BAUDIN III stating "Sorry but I want to get this to you while its fresh Please answer this in the morning How are costs and attorney fees handled in binding arbitration? Do they come out of the award or are they in addition to the award like a trial?"

34. On July 19, 2016 at 3:57 AM Defendants WILLIAM RANDAL BAUDIN II sent a text message to Plaintiff Dulberg stating "Both Handled the same as trail."

35. On July 19, 2016 at 7:02 AM Plaintiff Dulberg sent a text message to Defendant WILLIAM RANDAL BAUDIN II stating "Does that mean your fees and costs are awarded separate from the award or do they still come out of the 300k cap?"

36. On July 19, 2016 at 7:06 AM Defendant WILLIAM RANDAL BAUDIN II sent a text message to Plaintiff Dulberg stating If at trial and win 300 max Costs not above that. Same as mediation. We can ask for judge to award costs in both. Up to judge to award. Also costs mean filing fee service fee. Not the costs like experts bills.

37. On July 19, 2016 at 7:54 AM Plaintiff Dulberg sent a text message to Defendant W.

Randall Baudin II stating "We are thinking that if we can get Allstate to agree in advance and in writing to cover your % (fee) and all the costs including deposition fees, expert witness fees and medical above and beyond any award the arbiter sees fit then we would be willing to go forward. Let's just see if they are open to it"

38. On July 19, 2016 at 7:56 AM Defendant W. Randall Baudin II sent a text message to Plaintiff Dulberg stating "They won't. The judge will decide what the award is and that is the award. We again urge you to do the binding mediation."

39. On July 19, 2016 at 8:40 AM Plaintiff Dulberg sent a text message to Defendant W. Randall Baudin II stating "They are the ones pushing for arbitration correct? Why?"

40. On July 19, 2016 at 8:47 AM Plaintiff Dulberg sent a text message to Defendant W.

Randall Baudin II stating "I have to run to the dr's appointment. I'd tell Kelly to ask that Allstate wait till possibly Thursday for their answer. It's not like it cost them anything"

41. On July 19, 2016 at 10:07 AM Defendant W. Randall Baudin II sent a text message to Plaintiff Dulberg stating "I told you they don't care if we arbitrate. We as your lawyers say that it is the best that you do the binding mediation. We are deciding this based on facts and odds as to give you the best outcome. It appears to me that you are still looking for some justification or rationalization to carry on as if it will make it better. It

won't. This will give you the best possible outcome."

42. On July 19, 2016 at 1:46 PM Plaintiff Dulberg sent a text message to Defendant W. Randall Baudin II stating "Randy, Yes arbitration is appealing because it saves a few thousand dollars and maybe a few years but I don't like the idea of being blindly boxed in on their terms alone without any assurances as to your fees, medical expenses or even what we spent out of pocket in costs to get here. I want some assurances/concessions on their part prior to walking in or it's no deal. Going in blind with no assurances, I can't help but to feel like a cow being herded thinking its dinner time but it's really slaughter time. They need to give somewhere prior to arbitration or it's a good indication as to how they will negotiate once we start. In other wards, if they won't concede anything prior to arbitration then they won't negotiate or concede anything once the arbitration starts and if that's the case, what's the point. We need something to show they are sincere in trying to resolve this. Up the lower limits from 50k to 150k, concede on the medical portion, out of pocket expenses, attorneys fees or how about just resolving their portion and leave their chainsaw wielding idiot open to defend himself in this lawsuit. Perhaps they can give on something I haven't thought of

yet, Anything will do but giving on nothing prior to walking in there spells out what I'm going to get and if that's the case then I'll spend money and roll the dice. Convince me I'm not going being lead to slaughter and I'll agree To do it"

43. On July 19, 2016 at 4:28 PM Defendant W. Randall Baudin II sent a text message to Plaintiff Dulberg stating "So sorry your texts come in out of order. Binding mediation or no."

44. On July 20, 2016 at 11:44 AM Defendant W. Randall Baudin II sent a text message to Plaintiff Dulberg stating "All right, Kelly called and we have Cole show Sean in the next hour or so. Kelly had promised her we were calling yesterday, they have to know what's going on and make arrangements regarding additional counsel. Again, as your attorneys we are strongly urging you to participate in the binding mediation. It is your best opportunity for the greatest possible recovery and the guarantee that you would at least walk away with something if you got 0. Again, this gives us the most control of the situation."

45. On July 20, 2016 at 1:04 PM Defendant W. Randall Baudin II sent a text message to Plaintiff Dulberg stating "Yes binding mediation?"

46. On July 20, 2016 at 1:24 PM Plaintiff Dulberg sent a text message to Defendant W.

Randall Baudin II stating "Randy, I truly appreciate yours and Kelly's honest advice and I hope I continue to receive it in the future. Please don't take this personal because it's not. I value everything you have to offer more than you know. I will be moving forward with litigation at this time. However, should Allstate consider a full settlement with no strings attached in the future so they can save the cost of litigation or a humiliating defeat I'm not opposed to entertaining it and most likely will accept it. This is too important to me and my family. I just cannot give up the protections of a public trial with the possibility of review should something be handled wrongly in the hopes of saving a few thousand dollars and time. Thank you both for your honest advice now let's move forward together and enjoy winning this case together."

47. On August 16, 2016 at 7:42 AM Plaintiff Dulberg sent a text message to Defendant W. Randall Baudin II stating "Randy, I have to ask again, why is it wise to agree to mediate before permanent disability is determined by social security since the permanent disability rating would be a large factor in determining what the insurance adjuster is willing to give? Both mom and myself need a real answer to this question"

48. On September 27, 2016, W. Randall Baudin II signed an affidavit "AFFIDAVIT OF



W.RANDALL BAUDIN, II PURSUANT TO RULES 2014(a), 2016(b) and 5002 TO  
EMPLOYEE BAUDIN LAW GROUP, LTD. AS SPECIAL COUNSEL FOR THE  
TRUSTEE".

Section 1 states:

"I am a member of the law firm of Boudin Law Group, Ltd. located at 304 South McHenry Avenue, Crystal Lake, IL 60014 and in that capacity I have personal knowledge of, and authority to speak on behalf of the firm of Baudin Law Group, Ltd. with respect to the matters set forth herein. This Affidavit is offered in support of the Application of the Trustee for Authorization to Employ Baudin Law Group, Ltd. as special counsel for the Trustee. The matters set forth herein are true and correct to the best of my knowledge, information and belief.

Section 5 of the affidavit states:

"To the best of my knowledge, information and belief, Baudin Law Group, Ltd. does not hold or represent a party that holds an interest adverse to the Trustee nor does it have any connection with the Debtor's creditors, or any party in interest or their respective attorneys and accountants with respect to the matters for which Baudin Law Group, Ltd. is to be employed, is disinterested as that term is used in 11 U.S.C. § 101(14) and has no connections with the United States Trustee or any person employed in the Trustee's office, except that said firm has represented the Debtor's pre-petition with respect to the subject personal injury claim."

Section 6, part A states:

"My firm and I are obligated to keep the Trustee fully informed as to all aspects of this matter, as the Bankruptcy estate is my client until such time as the claim in question is abandoned by the Trustee, as shown by a written notice of such abandonment."

Section 6, part D states:

"No settlements may be entered into or become binding without the approval of the Bankruptcy Court and the Trustee, after notice to the Trustee, creditors and parties of interest."

Section 6, part E states:

"All issues as to attorneys fees, Debtor's exemptions, the distribution of any recovery between the Debtor and the Trustee or creditors, or any other issue which may come to

be in dispute between the Debtor and the Trustee or creditors are subject to the jurisdiction of the Bankruptcy Court. Neither I nor any other attorney or associate of the Firm will undertake to advise or represent the Debtor as to any such matters or issues. Instead, the Firm will undertake to obtain the best possible result on the claim and will leave to others any advice or representation as to such issues."

Section 6, part F states:

"The Firm is not authorized to grant any "physician's lien" upon, offer to protect payment of any claim for medical or other services out of, or otherwise pledge or encumber in any way any part of any recovery without separate Order of this Court, which may or may not be granted."

(Please see Exhibit 2 and exhibit 3 attached).

49. On October 4, 2016 bankruptcy trustee Olsen filed 2 motions with the bankruptcy court.

(Please see Exhibit 4 and 5 attached)

50. On or about October 9, 2016 Plaintiff Paul R. Dulberg received a phone call from

W. Randal Baudin II informing Dulberg that the binding mediation process will take

place even though Dulberg does not approve of the process and refused to sign the

arbitration agreement. W. Randal Baudin II informed Dulberg that the bankruptcy

trustee and judge had the authority to order the process into a binding mediation

agreement without Dulberg's consent.

51. On October 18, 2016 at 10:50 AM Plaintiff Dulberg sent a text message to

Defendant W. Randall Baudin II stating "Hi Randy, since we haven't received the IME

report in 10 days as the Dr stated we would, I'd like to move back the date of the

mediation thingy I'm being forced into so we have more than only a few weeks to deal with whatever the report may show. At least 2-3 months should do it considering the defense has already had the treating Dr's reports and depositions for months and years already. Let me know"

52. On October 31, 2016 Trustee Olsen appeared before the Honorable Thomas M. Lynch in the Northern District of Illinois, Western Division, US Bankruptcy Court and the following occurred:

MR. OLSEN: Good morning, Your Honor. Joseph Olsen, trustee. This comes before the Court on two motions. One is to authorize the engagement of special counsel to pursue a personal injury litigation, I think it's in Lake County, involving a chainsaw accident of some sort. And then, presumably, if the Court grants that, the second one is to authorize the estate to enter into -- I'm not sure what you call it, but binding mediation.

But there's a floor of \$50,000, and there's a ceiling of \$300,000

And I guess I've talked with his attorney. He seems very enthusiastic about it. There may be some issues about the debtor being a good witness or not, I guess. It had to do with a neighbor who asked him to help him out with a chainsaw, and then I guess the neighbor kind of cut off his arm, or almost cut off his arm right after that. There's some

bitterness involved, understandably, I guess.

But I don't do personal injury work at all, so I'm not sure how that all flows through to a jury, but he didn't seem to want to go through a jury process. He liked this process, so...

THE COURT: Very well. Mr. Olsen, first of all, with regard to the application to employ the Baudin law firm, it certainly appears to be in order and supported by affidavit. Their proposed fees are more consistent with at least what generally is the market than some of the fees you and I have seen in some other matters. One question for you: Have you seen the actual engagement agreement?

MR. OLSEN: I thought it was attached to my motion.

THE COURT: Okay.

MR. OLSEN: If it's not, it should have been. It's kind of an interesting – actually, this is kind of a unique one. The debtor actually paid them money in advance, and then he's going to get a credit if they actually win, which I guess enures, now, to my benefit, but t that's okay. And there's a proviso for one-third, except if we go to trial, then it's 40 percent. So these are getting more creative by the PI bar as we plod along here, I guess, but...

THE COURT: It's a bar that's generally pretty creative. And my apologies. I saw the

affidavit, but you did have the agreement attached, and one was in front of the other.

And the agreement is just as you describe it. It appears to be reasonable, and so I'll approve the application. Tell me about this binding mediation. It's almost an oxymoron, isn't it?

MR. OLSEN: Well, I guess the mediators don't know there's a floor and a ceiling. I'm not sure where that comes from, but that's -- yeah. And whatever number they come back at is the number we're able to settle at, except if it's a not guilty or a zero recovery, we get 50,000, but to come back at 3 million, we're capped at 300,000.

THE COURT: Interesting.

MR. OLSEN: A copy of the mediation agreement should also be attached to that motion.

THE COURT: And I do see that. That appears to be in order. It's one of those you wish them luck

MR. OLSEN: I don't want to micromanage his case.

THE COURT: But that, too, sounds reasonable. There's been no objection?

MR. OLSEN: Correct.

THE COURT: Very well. I will approve -- authorize, if you will, for you to enter into the binding mediation agreement, see where it takes you.

MR. OLSEN: Thanks, Your Honor."  
(Please see Group Exhibit 6A and B attached)

53. On October 31, 2016 both orders were issued by bankruptcy judge.  
(Please see Exhibit 7 and Exhibit 8 attached)

54. On October 31, 2016 at 10:41AM trustee Olsen sent an email to Randall Baudin II stating: "Randy- The Court authorized your appointment this morning, as well as entry into that "Binding Mediation Agreement"; Do you want the debtor to /s/ the form, or me as trustee? Let me know, thanks."  
(Please see Exhibit 9 p2 attached)

55. On October 31, 2016 at 10:50AM Randall Baudin II sent an email to Trustee Olsen stating: "You can good ahead sign it."  
(Please see Exhibit 9 P3 attached)

56. On or about November15, 2016 W. Randal Baudin II told Dulberg that even though he does not want the binding mediation to take place, he should attend the hearing anyway because the judge will look down on a person that doesn't attend as if they are uninterested in their own case.

57. On December 8, 2016, Dulberg attended the binding mediation with his mother,

Barbara Dulberg, even though he did not agree to the process, did not want it to happen, and refused to sign any agreement or consent to the process.

58. Dulberg believed at the time that the bankruptcy judge was the person who ordered the case into binding mediation at the request of the Trustee and Dulberg believed the bankruptcy judge had the legal authority to make that decision without anyone else's consent. Dulberg believed this because W. Randall Baudin II told him it was true.

59. Towards the end of the Binding Mediation, the Mediator was informing Dulberg that he was finding in Dulberg's favor but wasn't going to make the award so high that a neighborhood war would break out and Dulberg would have to wait to find out the award amount.

60. At that point some yelling started outside the room, to Dulberg and Barbara Dulberg it sounded like Kelly Baudin and Shoshan Reddington, Esq. (Allstate Defense Attorney).

61. Dulberg continued to talk with the Mediator and W. Randall Baudin II quickly excused himself to deal with the yelling.

62. Upon return, W. Randall Baudin II told Barbara Dulberg that Shoshan was angry

because she was informed they had a deal with prior counsel and the case would be settled for \$50,000.

63. When W. Randall Baudin II sat down, Dulberg moved Dr. Bobby L. Lanford's report in front of W. Randall Baudin II and pointed to the statement "... the McGuires – were also somewhat responsible ...".

Dulberg asked, Is that true?

W. Randall Baudin II looked and replied, That's what it says

.

Dulberg replied, Mast \*\*\*\*\* lied.

64. On December 12, 2016 The ADR Mediator The Honorable James P. Etchingham, (Ret) issued a Binding Mediation Gross Award of \$660,000.00. (Please see Exhibit 10 attached)

65. On December 12, 2016 W. Randall Baudin II called Dulberg to inform Dulberg of the award.

66. W. Randall Baudin II spoke of the \$561,000 net award informing Dulberg that both he and Kelly thought they did good and unfortunately the cap of \$300,000 was in place but we think we did good.

67. Dulberg replied, Yeah you two did good, real good and I thank both of you



sincerely. I just can't help it, what I see here is a gift of \$261,000 given to those responsible for my injuries.

68. Dulberg was informed that the trustee would receive the \$300,000 award, but the money would not be issued unless Dulberg signed a document, which Dulberg signed in order to have the money issued to the bankruptcy trustee to pay his creditors

### **COUNT 1**

#### **LEGAL MALPRACTICE-BREACH OF FIDUCIARY DUTY AGAINST DEFENDANTS KELLY N. BAUDIN, WILLIAM RANDAL BAUDIN II AND KELRAN, INC A/K/A THE BAUDIN LAW GROUP, Ltd.,**

69. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 65, inclusive, of this Complaint, as if fully restated herein.

70. Plaintiff entered into an Attorney- Client agreement with Defendants Kelly N. Baudin, William Randal Baudin II and KELRAN, INC A/K/A THE BAUDIN LAW GROUP, Ltd., on September 22, 2015. (Please see Exhibit 1 attached)

71. Pursuant to that agreement a relationship was created wherein the Defendants owed a fiduciary duty to act in the best interest of their client Plaintiff Paul R. Dulberg.

72. Defendants breached their fiduciary duty to plaintiff Paul R. Dulberg as follows:

a) These Defendants knew or should have known that the counterclaim filed by the McGuires against Gagnon on February 1, 2013 was not answered by Gagnon.

- b) These Defendants knew or should have known that because Gagnon did not answer the counterclaim filed on February 1, 2013, Gagnon was effectively admitting that the facts stated in the counterclaim were true.
- c) These Defendants knew or should have known that by not answering the counterclaim filed by the McGuires on or about February 1, 2013, Gagnon was contradicting the statements in what was Gagnon's deposition.
- d) These Defendants knew or should have known that documents such as "Gagnon deposition exhibit 1" were highly questionable and showed evidence of being manipulated.
- e) These Defendants knew or should have known that Gagnon never filed answers to the interrogatories sent by Popovich and Mast.
- f) These Defendants never asked Gagnon's counsel for the answers to interrogatories.
- g) These Defendants never informed the judge that they never received Gagnon's answers to interrogatories.
- h) These Defendants knew or should have known that an audio recording of a telephone conversation that Mast claimed to have with Gagnon on April 11, 2012 was missing from the case file.
- i) These Defendants never informed the judge that Dulberg had filed for bankruptcy.
- j) These Defendants and Trustee Olsen, together, coerced Dulberg against his will into a binding mediation agreement. *I & believe I never talked w/ him*
- k) Trustee Olsen told the bankruptcy judge that the parties agreed and Dulberg did not want a jury trial because he wouldn't be a good witness.
- l) These Defendants informed Dulberg that the bankruptcy judge has the authority and did force the binding mediation agreement upon the parties.

m) These Defendants and Trustee Olsen, together, decided that any arbitration award was to be capped at \$300,000 and forced the upper cap on Dulberg without his consent and while ignoring his strong objection.

n) These Defendants and Trustee Olsen, together, intentionally gave Dulberg deceptive and misleading legal opinions with respect to who has legal authority to decide for Plaintiff Paul R. Dulberg all major issues regarding the direction of Dulberg's case against Gagnon.

o) Trustee Olsen and these Defendants intentionally misrepresented Dulberg's wishes to the bankruptcy judge.

p) These Defendants may have forged Dulberg's signature on the Binding Mediation Agreement. (Please see Plaintiff's Exhibit 11 attached)

73. Defendants Kelly N. Baudin, William Randal Baudin II and KELRAN, INC A/K/A THE BAUDIN LAW GROUP, Ltd., actions in forcing Plaintiff Paul R. Dulberg into Binding Mediation with a \$300,000.00 cap against his stated desire and instructions for an uncapped jury trial was the proximate cause of Plaintiff's pecuniary injuries,

74. Plaintiff Paul R. Dulberg's actual damages in an amount in excess of \$261,00.00

WHEREFORE, Plaintiffs PAUL R. DULBERG, INDIVIDUALLY AND THE PAUL R. DULBERG REVOCABLE TRUST pray that this Court enter judgment on Count 1 of the Complaint in their favor and against Defendants Kelly N. Baudin, William Randal Baudin II and KELRAN, INC A/K/A THE BAUDIN LAW GROUP, Ltd., and each of them, in the amount in excess of \$261,000.00, plus interest, award Plaintiffs' their costs and reasonable attorneys' fees, and grant such other relief as this Court deems just and proper.

**COUNT 2**

**LEGAL MALPRACTICE-FRAUDULENT MISREPRESENTATION AGAINST  
DEFENDANTS KELLY N. BAUDIN, WILLIAM RANDAL BAUDIN II AND KELRAN,  
INC A/K/A THE BAUDIN LAW GROUP, Ltd.,**

75. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 71, inclusive, of this Complaint, as if fully restated herein.
76. These Defendants represented to Plaintiff that the bankruptcy judge had the authority and did order that Plaintiff pursue his ongoing litigation in Civil Court through Binding Mediation.
77. These Defendants' representation was false as these Defendant with the cooperation of the Bankruptcy Trustee told the Bankruptcy Court that Plaintiff desired to enter into binding mediation.
78. These Defendants knew that the representation was false.
79. The Bankruptcy Judge reasonably relied on the truth of the misrepresentation.
80. The misrepresentation was made to coerce Plaintiff to do what he has refused to do that being to accept Binding Mediation of his cause of action currently pending in Circuit Court.
81. Plaintiff Paul R. Dulberg reliance on the misrepresentation led to his pecuniary injury as the Binding Mediation had a cap of \$300,000.00 against a gross award by the Mediator of \$660,000.00.

WHEREFORE, Plaintiffs PAUL R. DULBERG, INDIVIDUALLY AND THE PAUL R. DULBERG REVOCABLE TRUST pray that this Court enter judgment on Count 2 of the Complaint in their favor and against Defendants Kelly N. Baudin, William Randal Baudin II and KELRAN, INC A/K/A THE BAUDIN LAW GROUP, Ltd., and each of them, in the

amount in excess of \$261,000.00, plus interest, award Plaintiffs' their costs and reasonable attorneys' fees, and grant such other relief as this Court deems just and proper.

**COUNT 3**

**LEGAL MALPRACTICE-AIDING AND ABETTING A FRAUD AGAINST  
DEFENDANTS JOSEPH DAVID OLSEN, A/K/A YALDEN, OLSEN & WILLETTE  
LAW OFFICES, CRAIG A WILLETTE, A/K/A YALDEN, OLSEN & WILLETTE LAW  
OFFICES, RAPHAEL E YALDEN II, A/K/A YALDEN, OLSEN & WILLETTE LAW  
OFFICES**

82. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 78, inclusive, of this Complaint, as if fully restated herein.

83. Defendant Joseph David Olsen was the second Trustee appointed to Plaintiff Paul R. Dulberg's bankruptcy action.

84. Defendant Joseph David Olsen had his a/k/a Law Firm YALDEN, OLSEN & WILLETTE LAW OFFICES appointed as his counsel in Plaintiff Paul R. bankruptcy matter.

85. Defendant Joseph David Olsen had Plaintiff Counsel in the Circuit Court matter DEFENDANTS KELLY N. BAUDIN, WILLIAM RANDAL BAUDIN II and KELRAN, INC A/K/A THE BAUDIN LAW GROUP, Ltd., appointed as his special counsel in Plaintiff's bankruptcy case.

86. Defendant Joseph David Olsen aided Defendant William Randal Baudin II to promote the misrepresentation that Plaintiff desired to enter into a binding

mediation agreement because plaintiff was not a good witness.

87. Coercing Plaintiff into a binding mediation agreement was a wrongful act  
causing Plaintiff pecuniary injury in an amount in excess of \$261,000.00.

88. Defendant Joseph David Olsen was aware of his role when he presented his  
motions to hire Defendant William Randal Baudin II as Special Counsel and to  
enter into a binding mediation agreement for Plaintiff and also when he told the  
bankruptcy judge that Plaintiff desire to avoid a jury trial because he was not a  
good witness.

89. Defendant Joseph David Olsen knowingly and substantially assisted  
Defendant William Randal Baudin II in his misrepresentations.

90. The Baudins and Trustee Olsen, together, coerced Dulberg against his will  
into a binding mediation agreement.

91. Trustee Olsen told the bankruptcy judge that the parties agreed  
and Dulberg did not want a jury trial because he wouldn't be a good witness.

92. The Baudins and Trustee Olsen, together, decided that any arbitration award  
was to be capped at \$300,000 and forced the upper cap on Dulberg without his  
consent and while ignoring his strong objection

WHEREFORE, Plaintiffs PAUL R. DULBERG, INDIVIDUALLY AND THE PAUL R. DULBERG REVOCABLE TRUST pray that this Court enter judgment on Count 3 of the Complaint in their favor and against DEFENDANTS JOSEPH DAVID OLSEN, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, CRAIG A WILLETTE, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, RAPHAEL E YALDEN II, A/K/A YALDEN, OLSEN & WILLETTE LAW and each of them, in the amount in excess of \$261,000.00, plus interest, award Plaintiffs' their costs and reasonable attorneys' fees, and grant such other relief as this Court deems just and proper.

**COUNT 4**

**BREACH OF CONTRACT AGAINST DEFENDANT ADR SYSTEMS OF AMERICA, LLC., ASSUMED NAME ADR COMMERCIAL SERVICES**

93. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 89, inclusive, of this Complaint, as if fully restated herein.

94. There was a valid and enforceable contract between Plaintiff Paul R. Dulberg and Defendants ADR SYSTEMS OF AMERICA, LLC., ASSUMED NAME ADR COMMERCIAL SERVICES and ALLSTATE PROPERTY AND CASULTY INSURANCE COMPANY dated December 8, 2016. (Please see Exhibit 11 attached)

95. There existed an unsigned/undated draft of this agreement presented to Plaintiff's Bankruptcy Judge on October 31, 2016 by Defendant Joseph David Olsen. (Please see Group Exhibit 6B attached)

96. Major terms within the two agreements were changed including but not limited to:

- a. Notifications under the title on page one;
- b. Language under Parties B;
- c. page 4 F1.b. regarding who is liable to Plaintiff;
- d. page 5 V.A.1. ADR Systems Fee Schedule;
- e. page 5 V ADR Systems Fee Schedule boxed information;
- f. page 6 section v number 5.

97. The specified language of Paragraph III. B. Amendments to the Agreement were not followed.

98. Plaintiff did all that was required of him under the terms of the contract.

99. Defendant breached the contract by not following the terms regarding amending the contract.

100. Plaintiff suffered pecuniary injury in an amount in excess of \$261,000.00 because the contract under the changed terms should not be allowed to regulate the procedure.

WHEREFORE, Plaintiffs PAUL R. DULBERG, INDIVIDUALLY AND THE PAUL R. DULBERG REVOCABLE TRUST pray that this Court enter judgment on Count 4 of the



Complaint in their favor and against DEFENDANT ADR SYSTEMS OF AMERICA, LLC., ASSUMED NAME ADR COMMERCIAL SERVICES in the amount in excess of \$261,000.00, plus interest, award Plaintiffs' their costs and reasonable attorneys' fees, and grant such other relief as this Court deems just and proper.

**COUNT 5**

**BREACH OF CONTRACT AGAINST DEFENDANT ALLSTATE PROPERTY AND CASULTY INSURANCE COMPANY**

101. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 97, inclusive, of this Complaint, as if fully restated herein.

102. There was a valid and enforceable contract between Plaintiff Paul R. Dulberg and DEFENDANT ALLSTATE PROPERTY AND CASULTY INSURANCE COMPANY dated December 8, 2016. (Please see Exhibit 11 attached)

103. There existed an unsigned/undated draft of this agreement presented to Plaintiff's Bankruptcy Judge on October 31, 2016 by Defendant Joseph David Olsen.  
  
(Please see Group Exhibit 6B attached)

104. Major terms within the two agreements were changed including but not limited to:

a. Notifications under the title on page one;

b. Language under Parties B;

- c. page 4 F1.b. regarding who is liable to Plaintiff;
- d. page 5 V.A.1. ADR Systems Fee Schedule;
- e. page 5 V ADR Systems Fee Schedule boxed information;
- f. page 6 section v number 5.

94. The specified language of Paragraph III. B. Amendments to the Agreement were not followed.

105. Plaintiff did all that was required of him under the terms of the contract.

106. Defendant breached the contract by not following the terms regarding amending the contract.

107. Plaintiff suffered pecuniary injury in an amount in excess of \$261,000.00 because the contract under the changed terms should not be allowed to regulate the procedure.

WHEREFORE, Plaintiffs PAUL R. DULBERG, INDIVIDUALLY AND THE PAUL R. DULBERG REVOCABLE TRUST pray that this Court enter judgment on Count 5 of the Complaint in their favor and against DEFENDANT ALLSTATE PROPERTY AND CASULTY INSURANCE COMPANY in the amount in excess of \$261,000.00, plus interest, award Plaintiffs' their costs and reasonable attorneys' fees, and grant such other relief as this Court deems just and proper.

**JURY DEMAND-12 PERSONS**

Plaintiffs PAUL R. DULBERG, INDIVIDUALLY AND THE PAUL R. DULBERG  
REVOCABLE TRUST demand a trial by jury on all issues triable by a jury.

Dated: December 8, 2022

Respectfully submitted,

By: /s/ Alphonse A. Talarico

ARDC 6184530

CC 53293

707 Skokie Boulevard suite 600

Northbrook, Illinois 60062

(312) 808-1410

contact@lawofficeofalphonsetalarico.com

Attorney for Plaintiffs: Plaintiffs PAUL R. DULBERG,  
INDIVIDUALLY AND THE PAUL R. DULBERG  
REVOCABLE TRUST

**VERIFICATION BY CERTIFICATION PURSUANT TO SECTION 1-109**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil  
Procedure, the undersigned certifies that the statements set forth in this instrument are true and

correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

  
Paul R. Dulberg

**AFFIDAVIT PURSUANT TO SUPREME COURT RULE 222(b)**

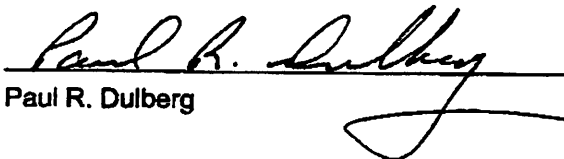
I, Paul R. Dulberg, after being duly sworn on oath depose and state as follows:

1. I have brought suit against Defendants KELLY N. BAUDIN A/K/A BAUDIN & BAUDIN, BAUDIN & BAUDIN AN ASSOCIATION OF ATTORNEYS, LAW OFFICES OF BAUDIN & BAUDIN, BAUDIN & BAUDIN LAW OFFICES, WILLIAM RANDAL BAUDIN II A/K/A BAUDIN & BAUDIN, BAUDIN & BAUDIN AN ASSOCIATION OF ATTORNEYS, LAW OFFICES OF BAUDIN & BAUDIN, BAUDIN & BAUDIN LAW OFFICES, KELRAN, INC A/K/A THE BAUDIN LAW GROUP, Ltd., JOSEPH DAVID OLSEN, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, CRAIG A WILLETTE, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, RAPHAEL E YALDEN II, A/K/A YALDEN, OLSEN & WILLETTE LAW OFFICES, ADR SYSTEMS OF AMERICA, LLC., ASSUMED NAME ADR COMMERCIAL SERVICES, ALLSTATE PROPERTY AND CASULTY INSURANCE COMPANY

2. The total of money damages I seeks does exceed \$50,000;

3. I am filing this Affidavit pursuant to the provisions of Illinois Supreme Court Rule 222.

Dated: December 8, 2022

  
Paul R. Dulberg

### FEE AGREEMENT

I, Paul Dulberg, hereby agree to retain and employ BAUDIN & BAUDIN, an association of attorneys, to prosecute and/or settle all suits and claims for damages, which may include personal injuries and property damage, against responsible parties, including their insurance companies and my insurance companies, or any other responsible insurance companies, arising out of events which occurred on or about the 28<sup>th</sup> day of June, 2011, at or near 1016 W. Elder Avenue, McHenry, Illinois.

I agree to pay BAUDIN & BAUDIN as compensation for services (1) a non-refundable retainer fee of \$3,333.33; AND (2) a sum of money equal to one-third (1/3) of the gross amount realized from this claim by settlement prior to trial of this matter. OR, if this matter proceeds to trial, which is defined as any time after the final pre-trial conference with the Court has concluded, I agree to pay BAUDIN & BAUDIN as compensation for its services a sum of money equal to forty percent (40%) of the gross amount realized from such action. Should this matter conclude by way of settlement, negotiations, trial, arbitration or judgment in my favor, BAUDIN & BAUDIN agrees to reduce its percentage fee by an amount of \$3,333.33 as an offset for the non-refundable retainer fee; however, in no event will the \$3,333.33 be refunded to me once this agreement has been executed.

I realize, understand and agree that all expenses and costs related to my claim, such as medical expenses for my/our care and treatment and related costs such as costs for obtaining medical records and bills, as well as court costs, including filing fees, costs of depositions, costs of experts, etc. are my obligation and responsibility and shall be paid as those bills become due from time to time.

It is further agreed and understood that there will be no further charges for legal services over and above the \$3,333.33 non-refundable retainer fee by BAUDIN & BAUDIN (with the exception of the aforesaid expenses and costs referred to in paragraph 3) unless recovery is made in this claim, and that no settlement will be made without the consent of the claimant(s).

I hereby authorize and direct that BAUDIN & BAUDIN is authorized to endorse and deposit any proceeds received in regard to the aforesaid claim herein, and to disburse those funds for purposes of client payments, resolution of liens, reimbursement of costs advanced, and attorney's fees.

This cause was not solicited either directly or indirectly from me/us by anyone. This agreement is being executed with duplicate originals.

Signed this Twenty of September, 2015, and copy received by claimant(s) or claimant(s)'s representative.

\_\_\_\_\_  
Claimant

Paul Dulberg  
Claimant

\_\_\_\_\_  
BAUDIN & BAUDIN  
2100 N. Huntington Drive, Suite C  
Algonquin, IL 60102  
847.658.5295 FAX: 847.658.5015

Revised 9/2015

EXHIBIT

1

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

IN RE: ) CHAPTER 7  
DULBERG, PAUL )  
Debtors. ) CASE NO. 14-83578  
)  
) JUDGE: THOMAS M. LYNCH

**AFFIDAVIT OF W. RANDAL BAUDIN, II PURSUANT TO RULES 2014(a),  
2016(b) AND 5002 TO EMPLOY BAUDIN LAW GROUP, LTD.  
AS SPECIAL COUNSEL FOR THE TRUSTEE**

STATE OF ILLINOIS )  
) ss  
COUNTY OF McHENRY )

Personally appeared before the undersigned officer, duly authorized to administer oaths, W. Randal Baudin, II, and after being duly sworn, states as follows:

1. I am a member of the law firm of Baudin Law Group, Ltd. located at 304 South McHenry Avenue, Crystal Lake, IL 60014 and in that capacity I have personal knowledge of, and authority to speak on behalf of the firm of Baudin Law Group, Ltd., with respect to the matters set forth herein. This Affidavit is offered in support of the Application of the Trustee for Authorization to Employ Baudin Law Group, Ltd. as special counsel for the Trustee. The matters set forth herein are true and correct to the best of my knowledge, information and belief.
2. Baudin Law Group, Ltd. has no partners, associates or other professional employees who are related to any judge of the United States Bankruptcy Court for the Northern District of Illinois.
3. Neither the firm of Baudin Law Group, Ltd. nor I have agreed to share any compensation or reimbursement awarded in this case with any persons other than partners and associates of the firm of Baudin Law Group, Ltd..
4. Baudin Law Group, Ltd. shall be compensated for their services on a contingent fee basis pursuant to terms of the attached agreement.
5. To the best of my knowledge, information and belief, Baudin Law Group, Ltd. does not hold or represent a party that holds an interest adverse to the Trustee nor does it have any connection with the Debtor's creditors, or any party in interest or their respective attorneys and accountants with respect to the matters for which Baudin Law Group, Ltd. is to be employed, is disinterested as that term is used in 11 U.S.C. § 101(14), and has no connections with the United States Trustee or any person employed in the Trustee's office, except that said firm has represented the Debtors pre-petition with respect to the subject personal injury claim.

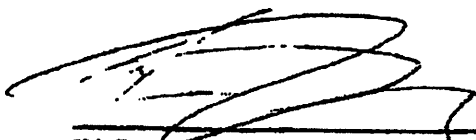


6. I understand and agree that:

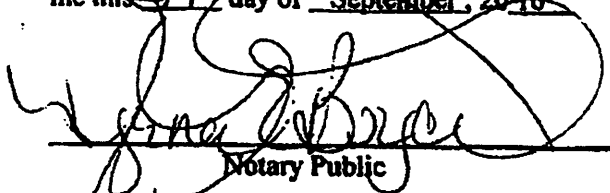
- A. My Firm and I are obligated to keep the Trustee fully informed as to all aspects of this matter, as the Bankruptcy Estate is my client until such time as the claim in question is abandoned by the Trustee, as shown by a written notice of such abandonment.
- B. All proceeds of any settlement or recovery must be paid to the Trustee in the first instance, and none may be disbursed without approval in writing of the Trustee or an Order of the Bankruptcy Court.
- C. If this application for appointment is approved, any fees or reimbursement of costs from the proceeds of any recoveries will be paid by the Trustee only after approval of the Bankruptcy Court.
- D. No settlements may be entered into or become binding without the approval of the Bankruptcy Court and the Trustee, after notice to the Trustee, creditors and parties in interest.
- E. All issues as to attorneys fees, Debtor's exemptions, the distribution of any recovery between the Debtor and the Trustee or creditors, or any other issue which may come to be in dispute between the Debtor and the Trustee or creditors are subject to the jurisdiction of the Bankruptcy Court. Neither I nor any other attorney or associate of the Firm will undertake to advise or represent the Debtor as to any such matters or issues. Instead, the Firm will undertake to obtain the best possible result on the claim, and will leave to others any advice or representation as to such issues.
- F. The Firm is not authorized to grant any "physician's lien" upon, offer to protect payment of any claim for medical or other services out of, or otherwise pledge or encumber in any way any part of any recovery without separate Order of this Court, which may or may not be granted.
- G. Authorization to hire experts. As part of this representation, I will need to hire experts to advise and assist in the conduct of this litigation, specifically medical experts, liability or forensic experts, vocational or economic experts, or other experts on issues of liability or damages. In this regard, I agree that:
  - i. My Firm or I will pay or advance any fees or cost retainers required by such experts with the understanding that such payment or advance will be included as a cost in any subsequent fee application my Firm or I make to this Court; and
  - ii. Before entering into any such retention or paying any initial fees or costs, I will consult with the Trustee, provide the Trustee any

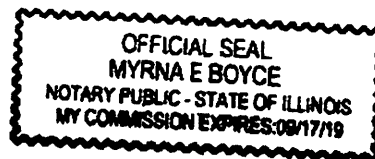
information requested including estimates of total costs and fees, provide a copy of any fee agreements, and obtain the Trustee's advance written approval to the proposed terms of retention.

- iii. I will see that copies of any bills submitted by such experts are submitted to the Trustee when I receive them and a reasonable time before I or my Firm pays them, and are approved in advance, by the Trustee, in writing.
- iv. Such fees or expenses of such experts are subject to reimbursement only by the Bankruptcy Estate, upon approval of this Court, to be paid as an administrative expense in this Bankruptcy case pursuant to 11 U.S.C. § 726, out of proceeds of any settlement or recovery in the litigation my Firm and I will be handling.

  
\_\_\_\_\_  
W. Randal Baudin, II, Affiant

Subscribed and sworn to before  
me this 27 day of September, 2016

  
\_\_\_\_\_  
Notary Public





UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

IN RE: ) CHAPTER 7  
DULBERG, PAUL )  
Debtors. ) CASE NO. 14-83578  
)  
) JUDGE: THOMAS M. LYNCH

**AFFIDAVIT OF W. RANDAL BAUDIN, II PURSUANT TO RULES 2014(a),  
2016(b) AND 5002 TO EMPLOY BAUDIN LAW GROUP, LTD.  
AS SPECIAL COUNSEL FOR THE TRUSTEE**

STATE OF ILLINOIS )  
COUNTY OF McHENRY ) ss  
COUNTY OF McHENRY )

Personally appeared before the undersigned officer, duly authorized to administer oaths, W. Randal Baudin, II, and after being duly sworn, states as follows:

1. I am a member of the law firm of Baudin Law Group, Ltd. located at 304 South McHenry Avenue, Crystal Lake, IL 60014 and in that capacity I have personal knowledge of, and authority to speak on behalf of the firm of Baudin Law Group, Ltd., with respect to the matters set forth herein. This Affidavit is offered in support of the Application of the Trustee for Authorization to Employ Baudin Law Group, Ltd. as special counsel for the Trustee. The matters set forth herein are true and correct to the best of my knowledge, information and belief.

2. Baudin Law Group, Ltd. has no partners, associates or other professional employees who are related to any judge of the United States Bankruptcy Court for the Northern District of Illinois.

3. Neither the firm of Baudin Law Group, Ltd. nor I have agreed to share any compensation or reimbursement awarded in this case with any persons other than partners and associates of the firm of Baudin Law Group, Ltd..

4. Baudin Law Group, Ltd. shall be compensated for their services on a contingent fee basis pursuant to terms of the attached agreement.

5. To the best of my knowledge, information and belief, Baudin Law Group, Ltd. does not hold or represent a party that holds an interest adverse to the Trustee nor does it have any connection with the Debtor's creditors, or any party in interest or their respective attorneys and accountants with respect to the matters for which Baudin Law Group, Ltd. is to be employed, is disinterested as that term is used in 11 U.S.C. § 101(14), and has no connections with the United States Trustee or any person employed in the Trustee's office, except that said firm has represented the Debtors prepetition with respect to the subject personal injury claim.

EXHIBIT

3

**6. I understand and agree that:**

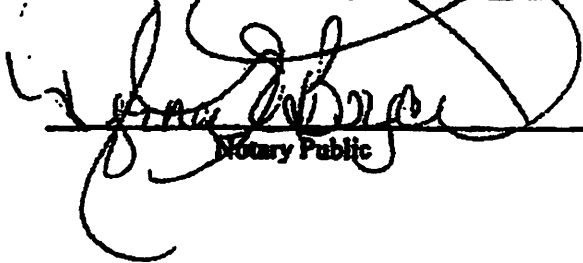
- A. My Firm and I are obligated to keep the Trustee fully informed as to all aspects of this matter, as the Bankruptcy Estate is my client until such time as the claim in question is abandoned by the Trustee, as shown by a written notice of such abandonment.**
- B. All proceeds of any settlement or recovery must be paid to the Trustee in the first instance, and none may be disbursed without approval in writing of the Trustee or an Order of the Bankruptcy Court.**
- C. If this application for appointment is approved, any fees or reimbursement of costs from the proceeds of any recoveries will be paid by the Trustee only after approval of the Bankruptcy Court.**
- D. No settlements may be entered into or become binding without the approval of the Bankruptcy Court and the Trustee, after notice to the Trustee, creditors and parties in interest.**
- E. All issues as to attorneys fees, Debtor's exemptions, the distribution of any recovery between the Debtor and the Trustee or creditors, or any other issue which may come to be in dispute between the Debtor and the Trustee or creditors are subject to the jurisdiction of the Bankruptcy Court. Neither I nor any other attorney or associate of the Firm will undertake to advise or represent the Debtor as to any such matters or issues. Instead, the Firm will undertake to obtain the best possible result on the claim, and will leave to others any advice or representation as to such issues.**
- F. The Firm is not authorized to grant any "physician's lien" upon, offer to protect payment of any claim for medical or other services out of, or otherwise pledge or encumber in any way any part of any recovery without separate Order of this Court, which may or may not be granted.**
- G. Authorization to hire experts. As part of this representation, I will need to hire experts to advise and assist in the conduct of this litigation, specifically medical experts, liability or forensic experts, vocational or economic experts, or other experts on issues of liability or damages. In this regard, I agree that:**
  - i. My Firm or I will pay or advance any fees or cost retainers required by such experts with the understanding that such payment or advance will be included as a cost in any subsequent fee application my Firm or I make to this Court; and**
  - ii. Before entering into any such retention or paying any initial fees or costs, I will consult with the Trustee, provide the Trustee any**

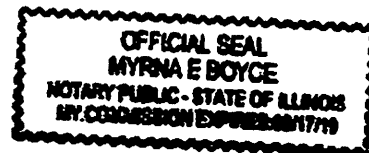
information requested including estimates of total costs and fees, provide a copy of any fee agreements, and obtain the Trustee's advance written approval to the proposed terms of retention.

- iii. I will see that copies of any bills submitted by such experts are submitted to the Trustee when I receive them and a reasonable time before I or my Firm pays them, and are approved in advance, by the Trustee, in writing.
- iv. Such fees or expenses of such experts are subject to reimbursement only by the Bankruptcy Estate, upon approval of this Court, to be paid as an administrative expense in this Bankruptcy case pursuant to 11 U.S.C. § 726, out of proceeds of any settlement or recovery in the litigation my Firm and I will be handling.

  
W. Randall Baudin, II, Affiant

Subscribed and sworn to before  
me this 27 day of September, 2016

  
\_\_\_\_\_  
Notary Public



UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

IN RE: ) CHAPTER 7  
PAUL DULBERG ) Case Number: 14-83578  
Debtor. ) JUDGE THOMAS M. LYNCH

**NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST**

Notified via Electronic filing: Attorney David Stretch and U.S. Trustee's Office,

Notified via U.S. Postal Service: See attached service list.

Joseph D. Olsen, Trustee has filed papers with the Court regarding his Motion for Authority to Enter into a "Binding Mediation Agreement" in accordance with the "Binding Mediation Agreement" which is attached hereto and made a part hereof as Exhibit A.

A copy of said Motion referred to herein is available for inspection at the offices of the Clerk of the U.S. Bankruptcy Court or at the offices of Yalden, Olsen & Willette, during usual business hours.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you want the Court to consider your views on the Motion, then you or your attorney must:

Attend the hearing on scheduled to be held on the 31<sup>st</sup> day of October, 2016 at 9:30 am in courtroom 3100, United States Bankruptcy Court, 327 South Church St., Rockford, IL 61101.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

Joseph D. Olsen, Trustee

By: YALDEN, OLSEN & WILLETTE, his attorneys

By: s/s Joseph D. Olsen

Joseph D. Olsen  
Yalden, Olsen & Willette  
1318 East State Street  
Rockford, IL 61104

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on October 4, 2016 I caused the aforesaid to be served upon all persons to whom it is directed (see attached Service List) by United States Mail by depositing the same in the United States Mail at Rockford, Illinois, at or about the hour of 5:00 p.m.

s/s Marti Maravich



UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

IN RE: ) CHAPTER 7  
PAUL DULBERG ) Case Number: 14-83578  
Debtor. ) JUDGE: THOMAS M. LYNCH

**MOTION FOR AUTHORITY TO ENTER INTO A  
"BINDING MEDIATION AGREEMENT".**

NOW COMES the Trustee, Joseph D. Olsen, by his attorneys, Yalden, Olsen & Willette, pursuant to Bankruptcy Rule 9019, and for his Motion for Authority to Enter into a "Binding Mediation Agreement", states as follows:

1. That the Debtor, Paul Dulberg, filed his Voluntary Petition for Relief pursuant to Chapter 7 of Title 11 on November 26, 2014;
2. That Joseph D. Olsen is the duly appointed and qualified acting case Trustee of the above captioned Estate;
3. That on the date of the petition the Debtor, Paul Dulberg, had a certain claim against David Gagnon, et al for certain personal injuries suffered in a chainsaw injury. This certain personal injury case is pending in the circuit court of the 22<sup>nd</sup> Judicial Circuit, McHenry County, Illinois in cause number 12LA178.
4. Heretofore the Trustee has hired as his Special Counsel, the Baudin Law Group, Ltd. to prosecute the Bankruptcy Estate's claim in this matter. After discussions with Randy Baudin, the lead attorney on the file, Mr. Baudin has recommended participation in the "Binding Mediation Agreement", a copy of which agreement is attached hereto and made a part hereof as Exhibit A. There can be no guarantee of the amount of the award that is eventually provided under the "Binding Mediation Agreement" but it has a floor of no less than \$50,000.00 and a ceiling of no greater than \$300,000.00.

The Trustee, in consultation with his special counsel, believes the "Binding Mediation Agreement" would be in the best interest of the Estate.

- 2 -

**WHEREFORE, the Trustee requests authority to enter into the afore-described "Binding Mediation Agreement" and to execute any document necessary or appropriate to process the Debtor's claims through that binding mediation process.**

**JOSEPH D. OLSEN, Trustee**

**By: YALDEN, OLSEN & WILLETTE, his attorneys**

**By: s/s Joseph D. Olsen**

**Prepared by:  
Joseph D. Olsen  
Yalden, Olsen & Willette  
1318 East State Street  
Rockford, IL 61104  
(815) 965-8635**

Alarcon Brothers Medical Group  
PO Box 5388  
Belfast, ME 04915-5588

Associated Neurology PC  
1949 Hollister Drive  
Suite 230  
Libertyville, IL 60440-5249

Cabalas Visa Center  
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PO BOX 83689  
LINCOLN, NE 68501-2689

World's Foremost Bank NA  
4800 NW 1st Street  
Suite 300  
Lincoln, NE 68521-4463

Attorney W. Randal Bandin, II  
Bandin Law Group, Ltd.  
2300 N. Huntington Dr Suite C  
Algonquin, IL 60102



**Binding Mediation Agreement  
ADR Systems File # 33391BMAG**

**Revised for Special Billing**

**I. Parties**

A. Paul Dulberg, by attorneys, Kelly N. Baudin and Randall Baudin, II

B. David Gagnon, by attorney, Shoshan Reddington

**SPECIAL BILLING – Section V.B.5 – Defendant agrees to pay up to \$3,500.00 of Plaintiff's Binding Mediation Costs.**

**II. Date, Time and Location of the Binding Mediation**

Date: Thursday, December 8, 2016

Time: 1:30 P.M.

Location: ADR Systems of America, LLC  
20 North Clark Street  
Floor 29  
Chicago, IL 60602  
Contact: Alex Goodrich  
312-960-2267

**III. Rules Governing the Mediation**

Each party ("Party") to this agreement ("Agreement") hereby agrees to submit the above dispute for binding mediation ("Mediation") to ADR Systems of America, L.L.C., ("ADR Systems") in accordance with the following terms:

**A. Powers of the Mediator**

1. The Parties agree that The Honorable James P. Etchingham (Ret.) shall serve as the sole Mediator in this matter (the "Mediator").
2. The Mediator shall have the power to determine the admissibility of evidence and to rule upon the law and the facts of the dispute pursuant to Section III(D)(1). The Mediator shall also have the power to rule on objections to evidence which arise during the hearing.
3. The Mediator is authorized to hold joint and separate caucuses with the Parties and to make oral and written recommendations for settlement purposes.
4. The Parties agree that the Mediator shall decide all issues concerning liability and damages arising from the dispute if this matter cannot be settled, unless any of the above is waived. Any other issues to be decided must be agreed upon by the Parties, and included in this contract.
5. Any failure to object to compliance with these Rules shall be deemed a waiver of such objection.



**B. Amendments to the Agreement**

1. No Party shall amend the Agreement at any time without the consent and approval of such changes by the opposing Party, and ADR Systems of America.
2. When changes or amendments to the Agreement are being requested, the Parties shall inform the ADR Systems case manager by telephone. The agreed proposal must also be submitted to the ADR Systems case manager in writing, by fax or email, if necessary, and the contract changes MUST be made by ADR Systems. No changes made outside these guidelines will be accepted. Furthermore, if the amended contract made by ADR Systems is not signed by both Parties, the Agreement shall be enforced in its original form, without changes.

**C. Pre-Hearing Submission**

1. Mediation statements are permitted provided that the statement is shared among the other parties. The Mediation Statement may include: statement of facts, including a description of the injury and a list of special damages and expenses incurred and expected to be incurred; and a theory of liability and damages and authorities in support thereof.

**D. Evidentiary Rules**

1. The Parties agree that the following documents are allowed into evidence, without foundation or other proof, provided that said items are served upon the Mediator and the opposing Party at least 17 (seventeen) days prior to the hearing date:
  - a. Medical records and medical bills for medical services;
  - b. Bills for drugs and medical appliances (for example, prostheses);
  - c. Property repair bills or estimates;
  - d. Reports of lost time from employment, and / or lost compensation or wages;
  - e. The written statement of any expert witness, the deposition of a witness, the statement of a witness, to which the witness would be allowed to express if testifying in person, if the statement is made by affidavit sworn to under oath or by certification as provided in section 1-109 of the Illinois Code of Civil Procedure;
  - f. Photographs;
  - g. Police reports;
  - h. Any other document not specifically covered by any of the foregoing provisions that a Party believes in good faith should be considered by the Mediator; and
  - i. Each Party may introduce any other evidence, including but not limited to documents or exhibits, in accordance with the rules of evidence of the State of Illinois.
2. The Parties agree that they will not disclose any and all dollar figures relating to the high/low agreement; last offer and last demand; policy limits; and /or set-offs orally or in written form, to the Mediator at any time before or during the conference, or while under advisement, prior to the Mediator's final decision.



- a. Violation of this rule set forth in (D)(2) shall constitute a material breach of this Agreement. The non-disclosing Party must formally object to the Mediator upon learning of the breach, or the breach will be considered waived. The non-disclosing Party shall then have the option to continue the Mediation from the point of objection to its completion; or to terminate the Mediation at the point of objection as null and void. The ADR Systems case manager must be made aware of this breach at the time of the objection, so the objection is addressed in accordance with the Agreement; and
- b. If the Mediation is terminated as null and void, all costs of the Mediation will be charged entirely to the disclosing Party. A new Mediation shall then take place with a new Mediator on a new date. If the Mediation is not terminated, the costs of the Mediation shall remain the responsibility of each Party or in accordance with the Agreement.
3. The Parties agree if a Party has an objection to the evidence or material submitted by any other Party pursuant to Paragraph (D)(1), notice of the objection shall be given to the ADR Systems case manager and opposing counsel by telephone and in writing at least seven days prior to the Mediation. If resolution cannot be obtained, the case manager will forward the objection to the Mediator to be ruled upon before or at the Mediation. The case manager will notify each of the Parties of the objection. The objection may result in a postponement of the proceedings. If the objection is because of new material being disclosed with the submission for the first time (for example, new or additional reports, additional medical/wage loss claims, etc.) then the disclosing party shall be charged for the total cost associated with the continuance.
4. The Parties agree that any Party desiring to introduce any of the items described in Paragraph (D)(1) without foundation or other proof, must deliver said items to the Mediator and to the other Parties no later than Monday, November 21, 2016.
5. The items are considered delivered as of the date that one of the following events occur:
- a. If mailed, by the date of the postmark;
  - b. If delivered by a courier or a messenger, the date the item is received by the courier or messenger; and
  - c. The date transmitted by facsimile or email.
6. The Parties agree to deliver any of the items described in Paragraph (C)(1) and (D)(1) to the following addresses:

If emailing Submissions, please send to submissions@adrsystems.com, however, please do not send anything over 50 pages, including exhibits.

The Honorable James P. Etchingham, (Ret.) (Mediator)  
C/O ADR SYSTEMS  
20 North Clark Street  
Floor 29  
Chicago, IL 60602

Kelly N. Baudin, Esq. / Randall Baudin, II, Esq. (Plaintiff Attorneys)  
BAUDIN LAW GROUP  
304 McHenry Avenue  
Crystal Lake, IL 60039



Shoshan Reddington, Esq. (Defense Attorney)  
LAW OFFICES OF STEVEN LIHOSIT  
200 N. La Salle Street  
Suite 2550  
Chicago, IL 60601

**E. Conference Procedure**

1. The Parties may present opening statements but there will be no live testimony.
2. The Parties will attempt to reach a voluntary settlement through negotiation with the assistance of the Mediator.
3. If the Parties cannot voluntarily reach a settlement, the Mediator will advise the Parties that settlement cannot be reached. The Mediator will then take the matter under advisement and render an award that will be binding to all Parties, (the "Award"), subject to the terms of any high/low agreement that the Parties may have as described below in Paragraph (F)(1).

**F. Award Limits**

1. The Parties may agree prior to the Mediation that a minimum and maximum amount will serve as parameters for the Award (sometimes referred to as a "high/low agreement"), such that the actual amount that must be paid to the plaintiff or claimant shall not exceed a certain amount (the "high" or "maximum award") and shall not be less than a certain amount (the "low" or "minimum award").
  - a. If liability is disputed and comparative fault or negligence is asserted as an affirmative defense, the Mediator shall make a finding regarding comparative fault or negligence, if any. In the event that there is a finding of comparative fault or negligence of the plaintiff that is greater than 50% (fifty percent), the plaintiff shall receive the negotiated minimum award. In the event that there is a finding of comparative fault or negligence of 50% (fifty percent) or less against the plaintiff, then any damages awarded in favor of the plaintiff shall be reduced by the amount of the plaintiff's comparative fault or negligence, but shall be no less than the minimum parameter or more than the maximum parameter.
  - b. All award minimum and maximum parameters are subject to applicable set-offs if any, as governed by policy provisions if not specified in the Agreement.

The Parties agree that for this Mediation the minimum award to Paul Dulberg will be \$50,000.00. Also, the maximum award to Paul Dulberg will be \$300,000.00. These amounts reflect the minimum and maximum amounts of money that David Gagnon shall be liable to pay to Paul Dulberg.

**IV. Effect of this Agreement**

- A. After the commencement of the Mediation, no Party shall be permitted to cancel this Agreement or the Mediation and the Mediator shall render a decision that shall be in accordance with the terms set forth in this Agreement. When the Award is rendered, the Mediation is resolved, and any Award arising from this Mediation shall operate as a bar and complete defense to any action or proceeding in any court or tribunal that may arise from the same incident upon which the Mediation is based.

- B. The Parties further agree that any pending litigation will be dismissed, with prejudice, as to those Parties participating in this Mediation upon the conclusion thereof. Any and all liens, including contractual rights of subrogation owed are subject to existing Illinois law. By agreement of the Parties, the Mediator's Award will be final and binding and not subject to appeal or motion for reconsideration by any Party.

V. Mediation Costs

A. ADR Systems Fee Schedule

1. A deposit is required for the Administrative Fee, Mediator's estimated review, session, and follow-up time ("Mediation Costs"). Binding-Mediations are billed at a four hour per day minimum. The required deposit amount is \$2,590.00 from Party B and is due by November 21, 2016. Any unused portion of the deposit will be refunded based on the four hour minimum. If the Mediator's review, session and follow-up time go over the estimated amount, each Party will be invoiced for the additional time.
2. Mediation Costs are usually divided equally among all Parties, unless otherwise agreed upon by the Parties. ADR Systems must be notified of special fee arrangements.
3. All deposits are due two weeks prior to the session. ADR Systems reserves the right to cancel a session if deposits are not received from all Parties two weeks prior to the session.
4. ADR Systems requires 14-day notice in writing or via electronic transmission of cancellation or continuance. For Binding-Mediations cancelled or continued within 14 days of the session, the Party causing the cancellation will be billed for the Mediation Costs of all the Parties involved, which includes the four hour per day minimum, additional review time, and any other expenses incurred ("cancellation fees"). If the cancellation is by agreement of all Parties, or if the case has settled, the cancellation fees will be split equally among all Parties, unless ADR Systems is instructed otherwise. The cancellation fees may be waived if the Mediator's lost time can be filled by another matter.

Administrative Fee	\$390.00 (Non-refundable)
Mediator's Review Time	\$450.00 per hour
Session Time	\$450.00 per hour
Mediator's Decision Writing Time	\$450.00 per hour
Mediator's Travel Time (if any)	\$75.00 per hour

B. Responsibility for Payment

**\*\*Special Billing**

1. Each Party and its counsel (including that counsel's firm) shall be jointly and severally responsible for the payment of that Party's allocated share of the Mediation Costs as set forth above.
2. All expenses and disbursements made by ADR Systems in connection with the Mediation, including, but not limited to, outside room rental fee, meals, express mail and messenger charges, and any other charges associated with the Mediation, will be billed equally to the Parties at the time of the invoice.



3. In the event that a Party and/or its counsel fails to pay ADR Systems in accordance with the terms of this Agreement, then that Party and/or its counsel shall be responsible for all costs, including attorney's fees, incurred by ADR Systems in connection with the collection of any amount due and owing. Payment of additional costs incurred by ADR Systems in connection with the collection of any amount due and owing shall be made within 15 days of invoice.
4. In the event ADR Systems' session rooms are completely booked on your selected session date, ADR Systems will attempt to find another complimentary venue for your session. If ADR Systems cannot find a complimentary venue or the parties cannot agree on the complimentary venue, ADR Systems reserves the right to schedule your case in a location that may involve a facilities charge. The facilities charge will be split equally among the parties unless ADR Systems is instructed otherwise.
5. **\*\*Defendant agrees to pay up to \$3,500.00 of Plaintiff's Binding Mediation Costs.**

**VI. Acknowledgment of Agreement**

- A. By signing this Agreement, I acknowledge that I have read and agree to all the provisions as set forth above.
- B. Each Party is responsible for only his/her own signature where indicated and will submit this signed Agreement to ADR Systems within 10 days of receipt of the Agreement. Counsel may sign on behalf of the Party.

By: \_\_\_\_\_  
Paul Dutberg / Plaintiff Date

By: \_\_\_\_\_  
Kelly N. Baudin / Attorney for the Plaintiff Date

By: \_\_\_\_\_  
Randall Baudin, II / Attorney for the Plaintiff Date

By: \_\_\_\_\_  
Shoshen Reddington / Attorney for the Defendant Date

ADR Systems File # 33391BMAG  
ADR Systems Tax ID. # 36-3977108  
Date of Hearing: Thursday, December 8, 2016



UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

IN RE: ) CHAPTER 7  
DULBERG, PAUL )  
Debtor. ) CASE NO. 14-83578  
) JUDGE THOMAS M. LYNCH

**NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST**

Notified via Electronic filing: Attorney David Stretch and U.S. Trustee's Office.

Notified via U.S. Postal Service: See attached service list.

Joseph D. Olsen, Trustee has filed papers with the Court regarding his Motion to Employ Special Counsel, Bandin Law Group, Ltd, as attorneys for the Trustee to pursue a personal injury cause of action. A copy of said Motion referred to herein is available for inspection at the offices of the Clerk of the U.S. Bankruptcy Court or at the offices of Yalden, Olsen & Willette, during usual business hours.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you want the Court to consider your views on the Motion, then you or your attorney must:

Attend the hearing on scheduled to be held on the 31<sup>st</sup> day of October, 2016 at 9:30 am in courtroom 3100, United States Bankruptcy Court, 327 South Church Street, Rockford, IL 61101.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

Joseph D. Olsen, Trustee

By: YALDEN, OLSEN & WILLETTE, his attorneys

By: s/s Joseph D. Olsen

Joseph D. Olsen  
Yalden, Olsen & Willette  
1318 East State Street  
Rockford, IL 61104

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on October 4, 2016 I caused the aforesaid to be served upon all persons to whom it is directed (see attached Service List) by United States Mail by depositing the same in the United States Mail at Rockford, Illinois, at or about the hour of 5:00 p.m.

s/s Marti Maravich



UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

IN RE: ) CHAPTER 7  
PAUL DULBERG, )  
 ) CASE NO. 14-83578  
 )  
Debtors. ) JUDGE: THOMAS M. LYNCH

**MOTION TO EMPLOY SPECIAL COUNSEL**

NOW COMES Joseph D. Olsen, Trustee, by his attorneys, Yalden, Olsen & Willette, and for his Motion to Employ Special Counsel, hereby states as follows:

1. JOSEPH D. OLSEN is the duly qualified, appointed, and acting Trustee in the above-captioned case.

2. To perform his duties as Trustee, your movant requires the services of an attorney for the following purposes:

A. To appear for and prosecute the Estate's interest regarding a personal injury cause of action;  
B. To assist in the preparation of such pleadings, motions, notices, and orders which are required;  
3. For the foregoing and all other necessary and proper purposes, movant desires to retain the law office of Baudin Law Group, Ltd., as counsel for the Trustee.

4. Movant feels that the law office is well qualified to render the foregoing services.

5. The law office of Baudin Law Group, Ltd. has no connections with the Debtor(s), creditors, or any party in interest, their respective attorneys and accountants, the U.S. Trustee, or any person employed in the office of the U.S. Trustee as defined in 11 U.S.C. Section 101(14), except as follows:

Post petition the Debtor entered into a contingent fee agreement with Baudin & Baudin (the predecessor law group to the Baudin Law Group, Ltd.) whereby the Debtor paid \$3,333.33 as a nonrefundable retainer (to the offset against any future recovery) and agreed to pay Baudin & Baudin 33 1/3% as a contingency fee if the matter settled prior to trial and 40% if the matter proceeds to trial.

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6. The attorneys requests that they be compensated in accordance with Baudin Law Group, Ltd. fee agreement which is attached hereto and made a part hereof as "Exhibit A."

WHEREFORE, JOSEPH D. OLSEN, Trustee, prays that he be authorized to employ the law office of Baudin Law Group, Ltd., as his attorneys to render services in the areas described above and compensation be paid as an administrative expense and in such amounts as this Court may hereinafter determine and allow.

JOSEPH D. OLSEN, Trustee

By: YALDEN, OLSEN & WILLETTE, his Attorneys

By: s/s Joseph D. Olsen

Joseph D. Olsen  
YALDEN, OLSEN & WILLETTE  
1318 East State Street  
Rockford, IL 61104  
(815) 965-8635  
Fax (815) 965-4573



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PO BOX 82600  
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Worlds Foremost Bank NA  
4000 NW 1st Street  
Suite 300  
Lincoln, NE 68521-4453

Attorney W. Randall Boudin, II  
Boudin Law Group, Ltd.  
2100 N. Huntington St Suite C  
Algonquin, IL 60102

**FREE AGREEMENT**

I, Paul Dulberg, hereby agree to retain and employ BAUDIN & BAUDIN, an association of attorneys, to prosecute and/or settle all suits and claims for damages, which may include personal injuries and property damage, against responsible parties, including their insurance companies and my insurance companies, or any other responsible insurance companies, arising out of events which occurred on or about the 28<sup>th</sup> day of June, 2011, at or near 1016 W. Elder Avenue, McHenry, Illinois.

I agree to pay BAUDIN & BAUDIN as compensation for services (1) a non-refundable retainer fee of \$3,333.33; AND (2) a sum of money equal to one-third (1/3) of the gross amount realized from this claim by settlement prior to trial of this matter, OR, if this matter proceeds to trial, which is defined as any time after the final pre-trial conference with the Court has concluded, I agree to pay BAUDIN & BAUDIN as compensation for its services a sum of money equal to forty percent (40%) of the gross amount realized from such action. Should this matter conclude by way of settlement, negotiations, trial, arbitration or judgment in my favor, BAUDIN & BAUDIN agrees to reduce its percentage fee by an amount of \$3,333.33 as an offset for the non-refundable retainer fee; however, in no event will the \$3,333.33 be refunded to me once this agreement has been executed.

I realize, understand and agree that all expenses and costs related to my claim, such as medical expenses for my/our care and treatment and related costs such as costs for obtaining medical records and bills, as well as court costs, including filing fees, costs of depositions, costs of experts, etc. are my obligation and responsibility and shall be paid as those bills become due from time to time.

It is further agreed and understood that there will be no further charges for legal services over and above the \$3,333.33 non-refundable retainer fee by BAUDIN & BAUDIN (with the exception of the aforesaid expenses and costs referred to in paragraph 3) unless recovery is made in this claim, and that no settlement will be made without the consent of the claimant(s).

I hereby authorize and direct that BAUDIN & BAUDIN is authorized to endorse and deposit any proceeds received in regard to the aforesaid claim herein, and to disburse those funds for purposes of client payments, resolution of liens, reimbursement of costs advanced, and attorney's fees.

This cause was not solicited either directly or indirectly from me/us by anyone. This agreement is being executed with duplicate originals.

Signed this 22<sup>nd</sup> day of September, 2015, and copy received by claimant(s) or claimant(s)'s representative.

\_\_\_\_\_  
Claimant

Paul Dulberg  
\_\_\_\_\_  
Claimant

BAUDIN & BAUDIN  
2100 N. Huntington Drive, Suite C  
Algonquin, IL 60102  
847.658.5295 FAX: 847.658.5015

Revised 9/2015

EXHIBIT "A"

FILED DATE: 12/8/2022 3:50 PM 2022L010905

)

October 31, 2016

Group  
EXHIBIT  
6A

1 THE CLERK: Paul Dulberg, 14 83578.

2 MR. OLSEN: Good morning, Your Honor.  
3 Joseph Olsen, trustee.

4 This comes before the Court on two  
5 motions. One is to authorize the engagement of  
6 special counsel to pursue a personal injury  
7 litigation, I think it's in Lake County, involving a  
8 chainsaw accident of some sort.

9 And then, presumably, if the Court  
10 grants that, the second one is to authorize the  
11 estate to enter into -- I'm not sure what you call  
12 it, but binding mediation. But there's a floor of  
13 \$50,000, and there's a ceiling of \$300,000.

14 And I guess I've talked with his  
15 attorney. He seems very enthusiastic about it.  
16 There may be some issues about the debtor being a  
17 good witness or not, I guess.

18 It had to do with a neighbor who asked  
19 him to help him out with a chainsaw, and then I guess  
20 the neighbor kind of cut off his arm, or almost cut  
21 off his arm right after that. There's some  
22 bitterness involved, understandably, I guess.

23 But I don't do personal injury work at  
24 all, so I'm not sure how that all flows through to a  
25 jury, but he didn't seem to want to go through a jury

1 process. He liked this process, so...

2 THE COURT: Very well.

3 Mr. Olsen, first of all, with regard  
4 to the application to employ the Baudin law firm, it  
5 certainly appears to be in order and supported by  
6 affidavit.

7 Their proposed fees are more  
8 consistent with at least what generally is the market  
9 than some of the fees you and I have seen in some  
10 other matters.

11 One question for you: Have you seen  
12 the actual engagement agreement?

13 MR. OLSEN: I thought it was attached  
14 to my motion.

15 THE COURT: Okay.

16 MR. OLSEN: If it's not, it should  
17 have been.

18 It's kind of an interesting --  
19 actually, this is kind of a unique one. The debtor  
20 actually paid them money in advance, and then he's  
21 going to get a credit if they actually win, which I  
22 guess enures, now, to my benefit, but that's okay.

23 And there's a proviso for one-third,  
24 except if we go to trial, then it's 40 percent. So  
25 these are getting more creative by the PI bar as we

1 plod along here, I guess, but...

2 THE COURT: It's a bar that's  
3 generally pretty creative.

4 And my apologies. I saw the  
5 affidavit, but you did have the agreement attached,  
6 and one was in front of the other.

7 And the agreement is just as you  
8 describe it. It appears to be reasonable, and so  
9 I'll approve the application.

10 Tell me about this binding mediation.  
11 It's almost an oxymoron, isn't it?

12 MR. OLSEN: Well, I guess the  
13 mediators don't know there's a floor and a ceiling.  
14 I'm not sure where that comes from, but that's --  
15 yeah.

16 And whatever number they come back at  
17 is the number we're able to settle at, except if it's  
18 a not guilty or a zero recovery, we get 50,000, but  
19 to come back at 3 million, we're capped at 300,000.

20 THE COURT: Interesting.

21 MR. OLSEN: A copy of the mediation  
22 agreement should also be attached to that motion.

23 THE COURT: And I do see that. That  
24 appears to be in order. It's one of those you wish  
25 them luck.

1 MR. OLSEN: I don't want to  
2 micromanage his case.

3 THE COURT: But that, too, sounds  
4 reasonable. There's been no objection?

5 MR. OLSEN: Correct.

6 THE COURT: Very well. I will approve  
7 -- authorize, if you will, for you to enter into the  
8 binding mediation agreement, see where it takes you.

9 MR. OLSEN: Thanks, Your Honor.

10 (End of audio to be transcribed.)  
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## CERTIFICATE

I, JERRI ESTELLE, CSR, do hereby  
certify that the foregoing is a true and accurate  
transcription of proceedings electronically recorded  
in the matter of PAUL R. DULBERG, 14 B 83578 on  
October 31, 2016, which was submitted to D&E  
Reporting for transcription; it contains all the  
content in said recording; and it has been  
transcribed to the best of my ability.

Jerri Estelle, CSR /S/  
License Number: 084-003284





**Binding Mediation Agreement  
ADR Systems File # 33391BMAG**

**Revised for Special Billing**

**I. Parties**

A. Paul Dulberg, by attorneys, Kelly N. Baudin and Randall Baudin, II

B. David Gagnon, by attorney, Shoshan Reddington

**SPECIAL BILLING – Section V.B.5 – Defendant agrees to pay up to \$3,500.00 of Plaintiff's Binding Mediation Costs.**

**II. Date, Time and Location of the Binding Mediation**

Date: Thursday, December 8, 2016

Time: 1:30 P.M.

Location: ADR Systems of America, LLC  
20 North Clark Street  
Floor 29  
Chicago, IL 60602  
Contact: Alex Goodrich  
312-960-2267

**III. Rules Governing the Mediation**

Each party ("Party") to this agreement ("Agreement") hereby agrees to submit the above dispute for binding mediation ("Mediation") to ADR Systems of America, L.L.C., ("ADR Systems") in accordance with the following terms:

**A. Powers of the Mediator**

1. The Parties agree that The Honorable James P. Etchingham (Ret.) shall serve as the sole Mediator in this matter (the "Mediator").
2. The Mediator shall have the power to determine the admissibility of evidence and to rule upon the law and the facts of the dispute pursuant to Section III(D)(1). The Mediator shall also have the power to rule on objections to evidence which arise during the hearing.
3. The Mediator is authorized to hold joint and separate caucuses with the Parties and to make oral and written recommendations for settlement purposes.
4. The Parties agree that the Mediator shall decide all issues concerning liability and damages arising from the dispute if this matter cannot be settled, unless any of the above is waived. Any other issues to be decided must be agreed upon by the Parties, and included in this contract.
5. Any failure to object to compliance with these Rules shall be deemed a waiver of such objection.

ADR Systems • 20 North Clark Street • Floor 29 • Chicago, IL 60602  
312.960.2260 • info@adrsystems.com • www.adrsystems.com

**EXHIBIT "A"**



**B. Amendments to the Agreement**

1. No Party shall amend the Agreement at any time without the consent and approval of such changes by the opposing Party, and ADR Systems of America.
2. When changes or amendments to the Agreement are being requested, the Parties shall inform the ADR Systems case manager by telephone. The agreed proposal must also be submitted to the ADR Systems case manager in writing, by fax or email, if necessary, and the contract changes **MUST** be made by ADR Systems. No changes made outside these guidelines will be accepted. Furthermore, if the amended contract made by ADR Systems is not signed by both Parties, the Agreement shall be enforced in its original form, without changes.

**C. Pre-Hearing Submission**

1. Mediation statements are permitted provided that the statement is shared among the other parties. The Mediation Statement may include: statement of facts, including a description of the injury and a list of special damages and expenses incurred and expected to be incurred; and a theory of liability and damages and authorities in support thereof.

**D. Evidentiary Rules**

1. The Parties agree that the following documents are allowed into evidence, without foundation or other proof, provided that said items are served upon the Mediator and the opposing Party at least **17 (seventeen)** days prior to the hearing date:
  - a. Medical records and medical bills for medical services;
  - b. Bills for drugs and medical appliances (for example, prostheses);
  - c. Property repair bills or estimates;
  - d. Reports of lost time from employment, and / or lost compensation or wages;
  - e. The written statement of any expert witness, the deposition of a witness, the statement of a witness, to which the witness would be allowed to express if testifying in person, if the statement is made by affidavit sworn to under oath or by certification as provided in section 1-109 of the Illinois Code of Civil Procedure;
  - f. Photographs;
  - g. Police reports;
  - h. Any other document not specifically covered by any of the foregoing provisions that a Party believes in good faith should be considered by the Mediator; and
  - i. Each Party may introduce any other evidence, including but not limited to documents or exhibits, in accordance with the rules of evidence of the State of Illinois.
2. The Parties agree that they will not disclose any and all dollar figures relating to the high/low agreement; last offer and last demand; policy limits; and /or set-offs orally or in written form, to the Mediator at any time before or during the conference, or while under advisement, prior to the Mediator's final decision.



- a. Violation of this rule set forth in (D)(2) shall constitute a material breach of this Agreement. The non-disclosing Party must formally object to the Mediator upon learning of the breach, or the breach will be considered waived. The non-disclosing Party shall then have the option to continue the Mediation from the point of objection to its completion; or to terminate the Mediation at the point of objection as null and void. The ADR Systems case manager must be made aware of this breach at the time of the objection, so the objection is addressed in accordance with the Agreement; and
- b. If the Mediation is terminated as null and void, all costs of the Mediation will be charged entirely to the disclosing Party. A new Mediation shall then take place with a new Mediator on a new date. If the Mediation is not terminated, the costs of the Mediation shall remain the responsibility of each Party or in accordance with the Agreement.
3. The Parties agree If a Party has an objection to the evidence or material submitted by any other Party pursuant to Paragraph (D)(1), notice of the objection shall be given to the ADR Systems case manager and opposing counsel by telephone and in writing at least seven days prior to the Mediation. If resolution cannot be obtained, the case manager will forward the objection to the Mediator to be ruled upon before or at the Mediation. The case manager will notify each of the Parties of the objection. The objection may result in a postponement of the proceedings. If the objection is because of new material being disclosed with the submission for the first time (for example, new or additional reports, additional medical/wage loss claims, etc.) then the disclosing party shall be charged for the total cost associated with the continuance.
4. The Parties agree that any Party desiring to introduce any of the items described in Paragraph (D)(1) without foundation or other proof, must deliver said items to the Mediator and to the other Parties no later than Monday, November 21, 2016.
5. The items are considered delivered as of the date that one of the following events occur:
- a. If mailed, by the date of the postmark;
  - b. If delivered by a courier or a messenger, the date the item is received by the courier or messenger; and
  - c. The date transmitted by facsimile or email.
6. The Parties agree to deliver any of the items described in Paragraph (C)(1) and (D)(1) to the following addresses:

If emailing Submissions, please send to [submissions@adrsystems.com](mailto:submissions@adrsystems.com), however, please do not send anything over 50 pages, including exhibits.

The Honorable James P. Etchingham, (Ret.) (Mediator)  
C/O ADR SYSTEMS  
20 North Clark Street  
Floor 29  
Chicago, IL 60602

Kelly N. Baudin, Esq. / Randall Baudin, II, Esq. (Plaintiff Attorneys)  
BAUDIN LAW GROUP  
304 McHenry Avenue  
Crystal Lake, IL 60039



Shoshan Reddington, Esq. (Defense Attorney)  
LAW OFFICES OF STEVEN LIHOSIT  
200 N. La Salle Street  
Suite 2550  
Chicago, IL 60601

**E. Conference Procedure**

1. The Parties may present opening statements but there will be no live testimony.
2. The Parties will attempt to reach a voluntary settlement through negotiation with the assistance of the Mediator.
3. If the Parties cannot voluntarily reach a settlement, the Mediator will advise the Parties that settlement cannot be reached. The Mediator will then take the matter under advisement and render an award that will be binding to all Parties, (the "Award"), subject to the terms of any high/low agreement that the Parties may have as described below in Paragraph (F)(1).

**F. Award Limits**

1. The Parties may agree prior to the Mediation that a minimum and maximum amount will serve as parameters for the Award (sometimes referred to as a "high/low agreement"), such that the actual amount that must be paid to the plaintiff or claimant shall not exceed a certain amount (the "high" or "maximum award") and shall not be less than a certain amount (the "low" or "minimum award").
  - a. If liability is disputed and comparative fault or negligence is asserted as an affirmative defense, the Mediator shall make a finding regarding comparative fault or negligence, if any. In the event that there is a finding of comparative fault or negligence of the plaintiff that is greater than 50% (fifty percent), the plaintiff shall receive the negotiated minimum award. In the event that there is a finding of comparative fault or negligence of 50% (fifty percent) or less against the plaintiff, then any damages awarded in favor of the plaintiff shall be reduced by the amount of the plaintiff's comparative fault or negligence, but shall be no less than the minimum parameter or more than the maximum parameter.
  - b. All award minimum and maximum parameters are subject to applicable set-offs if any, as governed by policy provisions if not specified in the Agreement.

The Parties agree that for this Mediation the minimum award to Paul Dulberg will be \$50,000.00. Also, the maximum award to Paul Dulberg will be \$300,000.00. These amounts reflect the minimum and maximum amounts of money that David Gagnon shall be liable to pay to Paul Dulberg.

**IV. Effect of this Agreement**

- A. After the commencement of the Mediation, no Party shall be permitted to cancel this Agreement or the Mediation and the Mediator shall render a decision that shall be in accordance with the terms set forth in this Agreement. When the Award is rendered, the Mediation is resolved, and any Award arising from this Mediation shall operate as a bar and complete defense to any action or proceeding in any court or tribunal that may arise from the same incident upon which the Mediation is based.



- B. The Parties further agree that any pending litigation will be dismissed, with prejudice, as to those Parties participating in this Mediation upon the conclusion thereof. Any and all liens, including contractual rights of subrogation owed are subject to existing Illinois law. By agreement of the Parties, the Mediator's Award will be final and binding and not subject to appeal or motion for reconsideration by any Party.

**V. Mediation Costs**

**A. ADR Systems Fee Schedule**

1. A deposit is required for the Administrative Fee, Mediator's estimated review, session, and follow-up time ("Mediation Costs"). Binding-Mediations are billed at a four hour per day minimum. The required deposit amount is \$2,590.00 from Party B and is due by November 21, 2016. Any unused portion of the deposit will be refunded based on the four hour minimum. If the Mediator's review, session and follow-up time go over the estimated amount, each Party will be invoiced for the additional time.
2. Mediation Costs are usually divided equally among all Parties, unless otherwise agreed upon by the Parties. ADR Systems must be notified of special fee arrangements.
3. All deposits are due two weeks prior to the session. ADR Systems reserves the right to cancel a session if deposits are not received from all Parties two weeks prior to the session.
4. ADR Systems requires 14-day notice in writing or via electronic transmission of cancellation or continuance. For Binding-Mediations cancelled or continued within 14 days of the session, the Party causing the cancellation will be billed for the Mediation Costs of all the Parties involved, which includes the four hour per day minimum, additional review time, and any other expenses incurred ("cancellation fees"). If the cancellation is by agreement of all Parties, or if the case has settled, the cancellation fees will be split equally among all Parties, unless ADR Systems is instructed otherwise. The cancellation fees may be waived if the Mediator's lost time can be filled by another matter.

Administrative Fee	\$390.00 (Non-refundable)
Mediator's Review Time	\$450.00 per hour
Session Time	\$450.00 per hour
Mediator's Decision Writing Time	\$450.00 per hour
Mediator's Travel Time (if any)	\$75.00 per hour

**B. Responsibility for Payment**

**\*\*Special Billing**

1. Each Party and its counsel (including that counsel's firm) shall be jointly and severally responsible for the payment of that Party's allocated share of the Mediation Costs as set forth above.
2. All expenses and disbursements made by ADR Systems in connection with the Mediation, including, but not limited to, outside room rental fee, meals, express mail and messenger charges, and any other charges associated with the Mediation, will be billed equally to the Parties at the time of the invoice.



3. In the event that a Party and/or its counsel fails to pay ADR Systems in accordance with the terms of this Agreement, then that Party and/or its counsel shall be responsible for all costs, including attorney's fees, incurred by ADR Systems in connection with the collection of any amount due and owing. Payment of additional costs incurred by ADR Systems in connection with the collection of any amount due and owing shall be made within 15 days of invoice.
4. In the event ADR Systems' session rooms are completely booked on your selected session date, ADR Systems will attempt to find another complimentary venue for your session. If ADR Systems cannot find a complimentary venue or the parties cannot agree on the complimentary venue, ADR Systems reserves the right to schedule your case in a location that may involve a facilities charge. The facilities charge will be split equally among the parties unless ADR Systems is instructed otherwise.
5. **\*\*Defendant agrees to pay up to \$3,500.00 of Plaintiff's Binding Mediation Costs.**

**VI. Acknowledgment of Agreement**

- A. By signing this Agreement, I acknowledge that I have read and agree to all the provisions as set forth above.
- B. Each Party is responsible for only his/her own signature where indicated and will submit this signed Agreement to ADR Systems within 10 days of receipt of the Agreement. Counsel may sign on behalf of the Party.

By: \_\_\_\_\_  
Paul Dulberg / Plaintiff Date

By: \_\_\_\_\_  
Kelly N. Baudin / Attorney for the Plaintiff Date

By: \_\_\_\_\_  
Randall Baudin, II / Attorney for the Plaintiff Date

By: \_\_\_\_\_  
Shoshan Reddington / Attorney for the Defendant Date

ADR Systems File # 33391BMAG  
ADR Systems Tax I.D. # 36-3977108  
Date of Hearing: Thursday, December 8, 2016



**Debtor(s)**

**EXHIBIT**  
**7**

In Re:  
PAUL DULBERG

BK No.: 14-83578

Chapter: 7

Honorable Thomas M. Lynch

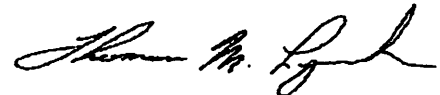
Debtor(s)

**ORDER**

THIS CAUSE coming on to be heard on this 31st day of October, 2016 upon the Trustee's Motion for Authority to Enter into a "Binding Mediation Agreement", the Court after considering the Motion, the statements of counsel, pleadings on file and being fully advised in the premises:

IT IS HEREBY ORDERED that Joseph D. Olsen, Trustee herein, is authorized to enter into a "Binding Mediation Agreement" as described in the Trustee's Motion, and the Trustee may execute such documents as are necessary to accomplish the matters set forth herein.

Enter:



Honorable Thomas M. Lynch

United States Bankruptcy Judge

Dated: October 31, 2016

**Prepared by:**

Joseph D. Olsen  
Yalden, Olsen & Willette  
1318 East State Street  
Rockford, IL 61104  
815-965-8635 (phone)  
815-965-4573 (fax)

EXHIBIT

8



From: Joe Olsen <jolsen@jolsenlaw.com>  
Subject: Fwd: Re: Paul Bulberg 14-03878 & 15LA478  
Date: December 2, 2016 at 2:05 PM  
To: jolsen@jolsenlaw.com

Joseph D. Olsen - Yelden, Olsen & Willett  
230 North Main Street, Rockford, IL 61103-0006  
(815) 956-8036 | Fax (815) 956-4573 | jolsen@jolsenlaw.com

We have moved! Our new address is noted above. Our phone, fax, and email addresses will remain the same. Thank you.

----- Original Message -----

From: Joe Olsen <jolsen@jolsenlaw.com>  
To: Randy Bardin II <randybardin@gmail.com>  
Cc: jolsen@jolsenlaw.com  
Date: December 13, 2016 at 2:33 PM  
Subject: Re: Paul Bulberg 14-03878 & 15LA478

Randy-

Just a follow up to our conf. this afternoon, where you advised the results of the binding mediation.

First off, thank you.

Difficult having a Ch. 7 Trustee browsing around your file, I appreciate your professionalism and cooperation.

Secondly, Re medical liens, I reviewed what I had. I came across a lien claim, that from U.S. Physical Therapy, Inc., it looks pretty defective. Did you or one of the prior attys. or the court get notice from them? From any other lien claimants? If you have any such information, could you send me a complete copy of whatever it is you have?

Third, Re your compensation (most important), do we have to worry about any of the claimant's previous atty's possible claim for fees?

If so, can you give me whatever you have re same? The quickest way to get you paid, is if you can provide me w/ the equivalent of a settlement statement which would show how much is owed under the contingent fee contract, plus any costs/expenses claimed by you.

If there is any other claim by any other party to the settlement proceeds, please let me know.

As soon as I get the "settlement statement" I'll file w/ court to get it approved. It's a 7-10 day notice.

Can you let me know when you expect to receive the settlement funds? Again, you must turn over the gross proceeds to me.

Thanks again.

Joseph D. Olsen  
Yelden, Olsen & Willett  
1310 East State Street  
Rockford, IL 61104  
(815) 956-8036  
Fax (815) 956-4573

On October 31, 2016 at 10:30 AM Randy Bardin II <randybardin@gmail.com> wrote:

You can good ahead sign it. Thank you so much.



On Mon, Oct 31, 2016 at 10:41 AM, <[jolsenlaw@comcast.net](mailto:jolsenlaw@comcast.net)> wrote:

Randy-

The Court authorized your appointment this morning, as well as entry into that "Binding Mediation Agreement";

Do you want the debtor to /s/ the form, or me as trustee?

Let me know, thanks.

---

**From:** "Randy Baudin II" <[randybaudin2@gmail.com](mailto:randybaudin2@gmail.com)>

**To:** "jolsenlaw" <[jolsenlaw@comcast.net](mailto:jolsenlaw@comcast.net)>

**Sent:** Monday, September 26, 2016 2:09:00 PM

**Subject:** Re: Paul Dulberg 14-83578 & 12LA178

Any luck on appointing us as attorneys on this case yet?

Thanks,  
Randy

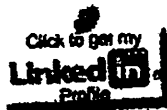
On Fri, Sep 16, 2016 at 11:24 AM, <[jolsenlaw@comcast.net](mailto:jolsenlaw@comcast.net)> wrote:

Randy-

Nice talking w/ you today, below is contact info.

Thanks.

Joseph D. Olsen  
Yalden, Olsen & Willette  
1318 East State Street  
Rockford, IL 61104  
(815)965-8635  
Fax (815)965-4573



W. Randal Baudin II's LinkedIn Profile  
Cell 815.814.2193



## Binding Mediation Award

Paul Dulberg

v.

ADR Systems File # 33391BMAG

David Gagnon

On December 8, 2016, the matter was called for binding mediation before the Honorable James P. Etchingham, (Ret.), in Chicago, IL. According to the agreement entered into by the parties, if a voluntary settlement through negotiation could not be reached the mediator would render a settlement award which would be binding to the parties. Pursuant to that agreement the mediator finds as follows:

Finding in favor of:

Paul Dulberg

Gross Award:

\$660,000.

Comparative fault:

15 % (if applicable)

Net Award:

\$561,000

Comments/Explanation

Medical\$ 60,000.Future medical\$ 200,000.Lost wage\$ 250,000.P & S75,000.L & L75,000.
  
 The Honorable James P. Etchingham, (Ret.)

EXHIBIT

10



**Binding Mediation Agreement  
ADR Systems File # 33391BMAG**

**I. Parties**

- A. Paul Dulberg, by attorneys, Kelly N. Baudin and Randall Baudin, II
- B. David Gagnon, by attorney, Shoshan Reddington

**II. Date, Time and Location of the Binding Mediation**

Date: Thursday, December 8, 2016  
Time: 1:30 P.M.  
Location: ADR Systems of America, LLC  
20 North Clark Street  
Floor 29  
Chicago, IL 60602  
Contact: Alex Goodrich  
312-960-2267

**III. Rules Governing the Mediation**

Each party ("Party") to this agreement ("Agreement") hereby agrees to submit the above dispute for binding mediation ("Mediation") to ADR Systems of America, L.L.C., ("ADR Systems") in accordance with the following terms:

**A. Powers of the Mediator**

1. The Parties agree that The Honorable James P. Etchingham (Ret.) shall serve as the sole Mediator in this matter (the "Mediator").
2. The Mediator shall have the power to determine the admissibility of evidence and to rule upon the law and the facts of the dispute pursuant to Section III(D)(1). The Mediator shall also have the power to rule on objections to evidence which arise during the hearing.
3. The Mediator is authorized to hold joint and separate caucuses with the Parties and to make oral and written recommendations for settlement purposes.
4. The Parties agree that the Mediator shall decide all issues concerning liability and damages arising from the dispute if this matter cannot be settled, unless any of the above is waived. Any other issues to be decided must be agreed upon by the Parties, and included in this contract.
5. Any failure to object to compliance with these Rules shall be deemed a waiver of such objection.

**B. Amendments to the Agreement**

1. No Party shall amend the Agreement at any time without the consent and approval of such changes by the opposing Party, and ADR Systems of America.

ADR Systems • 20 North Clark Street • Floor 29 • Chicago, IL 60602  
312.960.2260 • [www.adrsystems.com](http://www.adrsystems.com)

**EXHIBIT**

**11**

2. When changes or amendments to the Agreement are being requested, the Parties shall inform the ADR Systems case manager by telephone. The agreed proposal must also be submitted to the ADR Systems case manager in writing, by fax or email, if necessary, and the contract changes **MUST** be made by ADR Systems. No changes made outside these guidelines will be accepted. Furthermore, if the amended contract made by ADR Systems is not signed by both Parties, the Agreement shall be enforced in its original form, without changes.

**C. Pre-Hearing Submission**

1. Mediation statements are permitted provided that the statement is shared among the other parties. The Mediation Statement may include: statement of facts, including a description of the injury and a list of special damages and expenses incurred and expected to be incurred; and a theory of liability and damages and authorities in support thereof.

**D. Evidentiary Rules**

1. The Parties agree that the following documents are allowed into evidence, without foundation or other proof, provided that said items are served upon the Mediator and the opposing Party at least **17 (seventeen)** days prior to the hearing date:
  - a. Medical records and medical bills for medical services;
  - b. Bills for drugs and medical appliances (for example, prostheses);
  - c. Property repair bills or estimates;
  - d. Reports of lost time from employment, and / or lost compensation or wages;
  - e. The written statement of any expert witness, the deposition of a witness, the statement of a witness, to which the witness would be allowed to express if testifying in person, if the statement is made by affidavit sworn to under oath or by certification as provided in section 1-109 of the Illinois Code of Civil Procedure;
  - f. Photographs;
  - g. Police reports;
  - h. Any other document not specifically covered by any of the foregoing provisions that a Party believes in good faith should be considered by the Mediator; and
  - i. Each Party may introduce any other evidence, including but not limited to documents or exhibits, in accordance with the rules of evidence of the State of Illinois.
2. The Parties agree that they will not disclose any and all dollar figures relating to the high/low agreement; last offer and last demand; policy limits; and /or set-offs orally or in written form, to the Mediator at any time before or during the conference, or while under advisement, prior to the Mediator's final decision.
  - a. Violation of this rule set forth in (D)(2) shall constitute a material breach of this Agreement. The non-disclosing Party must formally object to the Mediator upon learning of the breach, or the breach will be considered waived. The non-disclosing Party shall then have the option to continue the Mediation from the point of objection to its completion; or to terminate the Mediation at the point of objection as null and void. The ADR Systems case manager must be made aware of this breach at the time of the objection, so the objection is addressed in accordance with the Agreement; and

- b. If the Mediation is terminated as null and void, all costs of the Mediation will be charged entirely to the disclosing Party. A new Mediation shall then take place with a new Mediator on a new date. If the Mediation is not terminated, the costs of the Mediation shall remain the responsibility of each Party or in accordance with the Agreement.
3. The Parties agree if a Party has an objection to the evidence or material submitted by any other Party pursuant to Paragraph (D)(1), notice of the objection shall be given to the ADR Systems case manager and opposing counsel by telephone and in writing at least seven days prior to the Mediation. If resolution cannot be obtained, the case manager will forward the objection to the Mediator to be ruled upon before or at the Mediation. The case manager will notify each of the Parties of the objection. The objection may result in a postponement of the proceedings. If the objection is because of new material being disclosed with the submission for the first time (for example, new or additional reports, additional medical/wage loss claims, etc.) then the disclosing party shall be charged for the total cost associated with the continuance.
4. The Parties agree that any Party desiring to introduce any of the Items described in Paragraph (D)(1) without foundation or other proof, must deliver said Items to the Mediator and to the other Parties no later than **Monday, November 21, 2016**.
5. The Items are considered delivered as of the date that one of the following events occur:
- a. If mailed, by the date of the postmark;
  - b. If delivered by a courier or a messenger, the date the Item is received by the courier or messenger; and
  - c. The date transmitted by facsimile or email.
6. The Parties agree to deliver any of the Items described in Paragraph (C)(1) and (D)(1) to the following addresses:

If emailing Submissions, please send to [submissions@adrsystems.com](mailto:submissions@adrsystems.com), however, please do not send anything over 50 pages, including exhibits.

The Honorable James P. Etchingham, (Ret.) (Mediator)  
C/O ADR SYSTEMS  
20 North Clark Street  
Floor 29  
Chicago, IL 60602

Kelly N. Baudin, Esq. / Randall Baudin, II, Esq. (Plaintiff Attorneys)  
BAUDIN LAW GROUP  
304 McHenry Avenue  
Crystal Lake, IL 60039

Shoshan Reddington, Esq. (Defense Attorney)  
LAW OFFICES OF STEVEN LIHOSIT  
200 N. La Salle Street  
Suite 2550  
Chicago, IL 60601



**E. Conference Procedure**

1. The Parties may present opening statements but there will be no live testimony.
2. The Parties will attempt to reach a voluntary settlement through negotiation with the assistance of the Mediator.
3. If the Parties cannot voluntarily reach a settlement, the Mediator will advise the Parties that settlement cannot be reached. The Mediator will then take the matter under advisement and render an award that will be binding to all Parties, (the "Award"), subject to the terms of any high/low agreement that the Parties may have as described below in Paragraph (F)(1).

**F. Award Limits**

1. The Parties may agree prior to the Mediation that a minimum and maximum amount will serve as parameters for the Award (sometimes referred to as a "high/low agreement"), such that the actual amount that must be paid to the plaintiff or claimant shall not exceed a certain amount (the "high" or "maximum award") and shall not be less than a certain amount (the "low" or "minimum award").
  - a. If liability is disputed and comparative fault or negligence is asserted as an affirmative defense, the Mediator shall make a finding regarding comparative fault or negligence, if any. In the event that there is a finding of comparative fault or negligence of the plaintiff that is greater than 50% (fifty percent), the plaintiff shall receive the negotiated minimum award. In the event that there is a finding of comparative fault or negligence of 50% (fifty percent) or less against the plaintiff, then any damages awarded in favor of the plaintiff shall be reduced by the amount of the plaintiff's comparative fault or negligence, but shall be no less than the minimum parameter or more than the maximum parameter.
  - b. All award minimum and maximum parameters are subject to applicable set-offs if any, as governed by policy provisions if not specified in the Agreement.

The Parties agree that for this Mediation the minimum award to Paul Dulberg will be **\$50,000.00**. Also, the maximum award to Paul Dulberg will be **\$300,000.00**. These amounts reflect the minimum and maximum amounts of money that David Dulberg shall be liable to pay to Paul Dulberg.

**IV. Effect of this Agreement**

- A. After the commencement of the Mediation, no Party shall be permitted to cancel this Agreement or the Mediation and the Mediator shall render a decision that shall be in accordance with the terms set forth in this Agreement. When the Award is rendered, the Mediation is resolved, and any Award arising from this Mediation shall operate as a bar and complete defense to any action or proceeding in any court or tribunal that may arise from the same incident upon which the Mediation is based.

- B. The Parties further agree that any pending litigation will be dismissed, with prejudice, as to those Parties participating in this Mediation upon the conclusion thereof. Any and all liens, including contractual rights of subrogation owed are subject to existing Illinois law. By agreement of the Parties, the Mediator's Award will be final and binding and not subject to appeal or motion for reconsideration by any Party.

## V. Mediation Costs

### A. ADR Systems Fee Schedule

1. A deposit is required for the Administrative Fee, Mediator's estimated review, session, and follow-up time ("Mediation Costs"). Binding-Mediations are billed at a four hour per day minimum. The required deposit amount is **\$1,295.00 per Party** and is due by **November 21, 2016**. Any unused portion of the deposit will be refunded based on the four hour minimum. If the Mediator's review, session and follow-up time go over the estimated amount, each Party will be invoiced for the additional time.
2. Mediation Costs are usually divided equally among all Parties, unless otherwise agreed upon by the Parties. **ADR Systems must be notified of special fee arrangements.**
3. All deposits are due two weeks prior to the session. ADR Systems reserves the right to cancel a session if deposits are not received from all Parties two weeks prior to the session.
4. ADR Systems requires **14-day notice in writing or via electronic transmission** of cancellation or continuance. For Binding-Mediations cancelled or continued within 14 days of the session, the Party causing the cancellation will be billed for the Mediation Costs of all the Parties involved, which includes the four hour per day minimum, additional review time, and any other expenses incurred ("cancellation fees"). If the cancellation is by agreement of all Parties, or if the case has settled, the cancellation fees will be split equally among all Parties, unless ADR Systems is instructed otherwise. The cancellation fees may be waived if the Mediator's lost time can be filled by another matter.

Administrative Fee	\$195.00 per Party (Non-refundable)
Mediator's Review Time	\$450.00 per hour, split equally between Parties
Session Time	\$450.00 per hour, split equally between Parties
Mediator's Decision Writing Time	\$450.00 per hour, split equally between Parties
Mediator's Travel Time (if any)	\$75.00 per hour, split equally between Parties

### B. Responsibility for Payment

1. Each Party and its counsel (including that counsel's firm) shall be jointly and severally responsible for the payment of that Party's allocated share of the Mediation Costs as set forth above.
2. All expenses and disbursements made by ADR Systems in connection with the Mediation, including, but not limited to, outside room rental fee, meals, express mail and messenger charges, and any other charges associated with the Mediation, will be billed equally to the Parties at the time of the invoice.
3. In the event that a Party and/or its counsel fails to pay ADR Systems in accordance with the terms of this Agreement, then that Party and/or its counsel shall be responsible for all costs,



3. In the event that a Party and/or its counsel fails to pay ADR Systems in accordance with the terms of this Agreement, then that Party and/or its counsel shall be responsible for all costs, including attorney's fees, incurred by ADR Systems in connection with the collection of any amount due and owing. Payment of additional costs incurred by ADR Systems in connection with the collection of any amount due and owing shall be made within 15 days of invoice.
4. In the event ADR Systems' session rooms are completely booked on your selected session date, ADR Systems will attempt to find another complimentary venue for your session. If ADR Systems cannot find a complimentary venue or the parties cannot agree on the complimentary venue, ADR Systems reserves the right to schedule your case in a location that may involve a facilities charge. The facilities charge will be split equally among the parties unless ADR Systems is instructed otherwise.
5. "Defendant agrees to pay up to \$3,500.00 of Plaintiff's Binding Mediation Costs.

#### VI. Acknowledgment of Agreement

- A. By signing this Agreement, I acknowledge that I have read and agree to all the provisions as set forth above.
- B. Each Party is responsible for only his/her own signature where indicated and will submit this signed Agreement to ADR Systems within 10 days of receipt of the Agreement. Counsel may sign on behalf of the Party.

4 By: Paul Dulberg  
Paul Dulberg / Plaintiff Date

4 By: Kelly N. Baudin  
Kelly N. Baudin / Attorney for the Plaintiff Date 12/8/16

4 By: Randall Baudin, II  
Randall Baudin, II / Attorney for the Plaintiff Date 12/8/16

14 By: Shoshan Reddington  
Shoshan Reddington / Attorney for the Defendant Date 12/18/16

Walter Norman

ADR Systems File # 33391BMAG  
ADR Systems Tax I.D. # 36-3977108  
Date of Hearing: Thursday, December 8, 2016

# EXHIBIT B

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT – LAW DIVISION**

PAUL R. DULBERG, individually, and THE PAUL  
R. DULBERG REVOCABLE TRUST,

Plaintiffs,

vs.

KELLY N. BAUDIN, et al.

Defendants.

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Case No. 2022 L 010905  
Calendar R

**DEFENDANT, CRAIG A. WILLETTE’S AFFIDAVIT IN SUPPORT OF COMBINED  
MOTION TO DISMISS COUNT III OF PLAINTIFFS’ COMPLAINT AT LAW**

Affiant, CRAIG A. WILLETTE (“Affiant”), under oath, and subject to penalties of perjury pursuant to 735 ILCS 5/1-109, states and affirms as follows:

1. I am over the age of 18 and competent to testify.
2. I have personal knowledge of the facts contained herein.
3. In 2016, I was a partner in the firm Yalden, Olsen & Willette.
4. In 2021, I retired from the practice of law.
5. I never at any time spoke or communicated in any way with Paul Dulberg regarding either the bankruptcy case or the personal injury case referenced in Plaintiffs’ Complaint at Law in this matter.
6. In 2016, I never at any time spoke or communicated in any way with Kelly Baudin or Randal Baudin, nor did I confer with either regarding the bankruptcy case or the personal injury case referenced in Plaintiffs’ Complaint at Law in this matter.
7. I had no role in the aforementioned bankruptcy case or personal injury case. I did not perform work on either matter, as a trustee or as an attorney, nor did I have knowledge of any of the specifics of the binding mediation alleged in Plaintiff’s Complaint at Law in the instant

matter.

8. If called as a witness, I would testify consistently with the statements herein.

FURTHER AFFIANT SAYETH NAUGHT.

Respectfully submitted,

**CRAIG A. WILLETTE**

By: /s/Craig A. Willette  
Craig A. Willette

# EXHIBIT C

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT – LAW DIVISION**

PAUL R. DULBERG, individually, and THE PAUL  
R. DULBERG REVOCABLE TRUST,

Plaintiffs,

vs.

KELLY N. BAUDIN, et al.

Defendants.

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Case No. 2022 L 010905  
Calendar R

**DEFENDANT, RAPHAEL E. YALDEN II'S AFFIDAVIT IN SUPPORT OF COMBINED  
MOTION TO DISMISS COUNT III OF PLAINTIFFS' COMPLAINT AT LAW**

Affiant, RAPHAEL E. YALDEN II ("Affiant"), under oath, and subject to penalties of perjury pursuant to 735 ILCS 5/1-109, states and affirms as follows:

1. I am 74 years old, under no legal disability and am competent to testify to the facts stated herein.

2. I have personal knowledge of the facts contained herein.

3. I retired from the practice of law in 2013 including registering my retirement status with the Illinois Attorney Registration and Discipline Commission and turning over all of my legal files to other attorneys. I have not practiced law since 2013.

4. I have never at any time spoken to Paul Dulberg regarding the matters alleged in the Plaintiffs' Complaint at Law, or any other matter. To my knowledge, I have never met or known Paul Dulberg.

5. I have never spoken to, corresponded with, or otherwise conferred with Kelly Baudin or Randall Baudin regarding either the bankruptcy proceedings or the personal injury claim referred to in Plaintiffs' Complaint in this case. To my knowledge, I have never met or known Kelly Baudin or Randall Baudin.

6. I had no role as an attorney in the bankruptcy case or personal injury case noted in the Plaintiffs' Complaint at Law, nor do I have any knowledge of the binding mediation referred to in Plaintiffs' Complaint at Law.

7. If called as a witness, I would testify consistently with the facts herein.

FURTHER AFFIANT SAYETH NAUGHT.

Respectfully submitted,

**RAPHAEL E. YALDEN II**

By: /s/Raphael E. Yalden II  
Raphael E. Yalden II