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ROBERT GARSON ESQ. and
GARSON, SEGAL, STEINMETZ,
FLADGATE LLP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

THE SCE GROUP, INC.,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.:
v.)	BER-L-006708-21
)	
ROBERT GARSON, ESQ., YONI)	NOTICE OF REMOVAL OF
GARSON, GARSON, SEGAL)	CIVIL ACTION
STEINMETZ, FLADGATE LLP, and)	
JOHN and JANE DOE Nos. 1-10, being)	
unknown Attorneys, Partners,)	
Shareholders, and Associates of)	
GARSON, SEGAL, STEINMETZ,)	
FLADGATE LLP)	
)	
Defendants.)	

TO: THE UNITED STATES DISTRICT COURT,
DISTRICT OF NEW JERSEY

PLEASE TAKE NOTICE that Defendants ROBERT GARSON, ESQ. and GARSON, SEGAL, STEINMETZ, FLADGATE LLP hereby submit this Petition for Removal, with full reservation of all defenses, from the Superior Court of New Jersey, Bergen County, to the United States District Court for the District of New Jersey in accordance with 28 U.S.C. §§ 1332, 1441 and 1446 and respectfully represents as follows:

PLAINTIFF’S COMPLAINT AND NATURE OF THE ACTION

1. This action was commenced against Defendants Robert Garson, Esq., Yoni Garson, and Garson, Segal, Steinmetz, Fladgate LLP, in the Superior Court of New Jersey Bergen County, with the Docket Number BER-L-006708-21 and was electronically filed October 12, 2021.

2. The State Court file consists of the Summons and Complaint. Pursuant to 28 U.S.C. §1446(a), a copy of the Complaint, which is the entire State Court file, is attached hereto as Exhibit “A.”

3. In the Complaint, Plaintiff alleges causes of action for professional negligence and unauthorized practice of law against Defendants in connection with legal advice that they provided regarding a transaction in which Plaintiff was to purchase another business, Cyber Reliance Advisors, Inc d/b/a Cayden Security. (Exhibit “A”).

4. An Affidavit of Service indicates that Robert Garson, Esq. and Garson, Segal, Steinmetz, Fladgate LLP were served on October 25, 2021 and received the summons and complaint on October 13, 2021. Annexed hereto as Exhibit “B” are true and accurate copies of the Acknowledgements of Service and Waivers of the Service of Summons signed by counsel for Robert Garson, Esq. and Garson, Segal, Steinmetz, Fladgate LLP.

5. This Notice of Removal is filed within thirty (30) days of both service and receipt of the state court action and is therefore timely under 28 U.S.C. § 1446.

DIVERSITY JURISDICTION IS PROPER

6. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. §1332. The Complaint alleges a matter in controversy, which, if liability is established, is reasonably probable to exceed the sum or value of \$75,000, exclusive of interest and costs and

complete diversity of citizenship exists between Plaintiff and all Defendants. This case may therefore be removed pursuant to 28 U.S.C. § 1441.

DIVERSITY EXISTS

7. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1332 because complete diversity of citizenship exists between the Plaintiff and Defendants.

8. At the time this action was filed, Plaintiff The SCE Group LLC was and still is a Delaware Corporation with a principal place of business located at 500 Linwood Drive, Suite 1J, Fort Lee, New Jersey 07024 located in Bergen County, New Jersey. Plaintiff The SCE Group LLC is a resident of Delaware and New Jersey for diversity purposes. (See Ex. A at ¶ 1).

9. At the time that this action was filed, defendant Robert Garson, was and still is an individual residing in the state of Florida and is deemed a Florida resident for diversity purposes.

10. The Complaint states that defendant Yoni Garson “is a natural person residing in the nation of Australia” and “maintains a business address at Minter Ellison, Level 40, Governor Macquarie Tower, 1 Farrer Place, Sydney 2000 Australia.” (See Ex. A at ¶ 4,5). At the time this action was filed, Yoni Garson, was and still is an individual residing in Australia and is a resident of Australia for diversity purposes.

11. "The citizenship of a limited liability company is determined like that of a limited partnership, by imputing to it the citizenship of its members." *Colmer v. ICCS Co., LLC*, No. 08-2737, 2009 U.S. Dist. LEXIS 57586, at *6, 2009 WL 1973547, at *3 (D.N.J. July 7, 2009).

12. The Limited Liability Partnership of Garson, Segal, Steinmetz, Fladgate LLP has three equity partners, Robert Garson, Michael Steinmetz, and Christopher Fladgate.

13. At the time this action was filed, defendant Robert Garson, was and still is an individual residing in the State of Florida and is deemed a resident of the State of Florida for diversity purposes.

14. At the time this action was filed, Michael Steinmetz was and still is an individual residing in the State of New York and is deemed a resident of the State of New York for diversity purposes

15. At the time this action was filed, Christopher Fladgate was and still is an individual residing in the State of New York and is deemed a resident of the State of New York for diversity purposes

16. Additionally, Garson, Segal, Steinmetz, Fladgate LLP has two attorneys holding the title “partner” who are not equity partners and do not share in the LLP’s gains and losses. Those attorneys are Yosef Shwedel and John Lane.

17. At the time this action was filed, Yosef Shwedel was and still is an individual residing in the State of Florida and is deemed a resident of the State of Florida for diversity purposes.

18. At the time this action was filed, John Lane was and still is an individual residing in the State of New York and is deemed a resident of the State of New York for diversity purposes.

19. As such, Garson, Segal, Steinmetz, Fladgate LLP is a citizen of the State of New York and the State of Florida for diversity purposes.

20. Complete diversity exists between Plaintiff and all Defendants because: (1) Plaintiff is a citizen of New Jersey and Delaware; (2) Defendant Robert Garson is a citizen of Florida; (3) Defendant Yoni Garson is a citizen of Australia; and (4) Defendant GS2 Law is a citizen of New York and Florida.

21. Therefore, complete diversity of citizenship exists, and this action may be removed to this Court pursuant to 28 U.S.C. §1441.

THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

22. In the first cause of action in the Complaint, Plaintiff demands *inter alia* “Compensatory damages, in an amount to be determined at trial but believed to be in excess of Five Million (\$5,000,000.00) Dollars.” (See Ex. A at ¶ 59). In the second cause of action in the Complaint, Plaintiff demands *inter alia* “Compensatory, Consequential and Incidental Damages, in an amount to be determined at trial but believed to be in excess of Five Million (\$5,000,000.00) Dollars.” (See Ex. A at ¶ 64). In the third cause of action in the Complaint, Plaintiff demands *inter alia* “Compensatory, Consequential and Incidental Damages, in an amount to be determined at trial but believed to be in excess of Five Million (\$5,000,000.00) Dollars.” (See Ex. A at ¶ 69).

23. Defendants Robert Garson and Garson, Segal, Steinmetz, Fladgate LLP reserve their right to contest the nature and extent of liability of Plaintiffs’ damages. Nevertheless, if liability is ever established, the allegation that Plaintiff sustained substantial financial damages, if proven, may convince a trier of fact to award Plaintiff an amount in excess of \$75,000.

REMOVAL IS TIMELY

24. Pursuant to 28 U.S.C. §1446(b), which provides that a Notice of Removal shall be filed within thirty (30) days after receipt by defendant, by service or otherwise, of the initial pleading or of an amended pleading, motion, order, or other paper from which it may first be ascertained that the case is one which is or has become removable, this Petition for Removal is timely filed. *Moltner v. Starbucks Coffee Co.*, 624 F.3d 34, 38 (2d Cir. 2010).

25. Here, the Defendants Robert Garson and Garson, Segal, Steinmetz, Fladgate LLP were served on October 25, 2021 and received the Summons and Complaint from Plaintiff’s

counsel on October 13, 2021, which is less than 30 days from the date of this filing. (See Exhibit “B”).

26. Upon information and belief, defendant Yoni Garson has not been served with the Complaint.

27. As such, the instant Notice of Removal is timely.

CONSENT AND JOINDER

28. All defendants from whom consent to remove is required join in the removal.

NOTICE

29. Pursuant to 28 U.S.C. §1446, a copy of this Notice of Removal is being filed with the Superior Court of New Jersey, Bergen County, Law Division.

VENUE IS PROPER

30. The United States District Court for the District of New Jersey includes the county in which the state court action was pending (Bergen County) and thus, pursuant to 28 U.S.C. §124(b)(2), venue is proper.

31. As of the date of this filing, no other process, pleadings, or orders have been filed with the Superior Court of New Jersey, Bergen County, Law Division, and no motions are pending before that court.

RESERVATION OF DEFENSES AND RIGHTS

32. Defendants Robert Garson and Garson, Segal, Steinmetz, Fladgate LLP reserve all defenses, including, without limitation, the defense of lack of personal jurisdiction.

33. Defendants Robert Garson and Garson, Segal, Steinmetz, Fladgate LLP reserve the right to amend or supplement this Petition for Removal.

34. If any question arises as to the propriety of the removal of this action, Defendants Robert Garson and Garson, Segal, Steinmetz, Fladgate LLP respectfully request the opportunity to present further briefing and oral argument in support of their position that this case is removable.

THEREFORE, all parties to the Civil Action pending in the Superior Court of the State of New Jersey, County of Bergen, Docket No. BER-L-006708-21 are **HEREBY NOTIFIED** pursuant to 28 U.S.C. §1446 and Local Rule 5.1, as follows:

Removal of the Civil Action and all claims and causes of action therein is effected upon the filing of a completed civil cover sheet and four (4) copies of this Notice of Removal with the Clerk of the State Court pursuant to 28 U.S.C. §1446 and Local Rule 5.1. The Civil Action is removed from the Superior Court of New Jersey, Bergen County, to the United States District Court, District of New Jersey. The parties to the Civil Action shall proceed no further in the State Court.

WHEREFORE, Defendants pray that this cause of action now pending in the Superior Court of the State of New Jersey, County of Bergen, be removed to the United States District Court, District of New Jersey and request that this Court assume full jurisdiction over the case herein as provided by law.

Dated: Newark, New Jersey
November 11, 2021

LEWIS BRISBOIS BISGAARD & SMITH, LLP

/s/ Meredith Stoma

Meredith Kaplan Stoma, Esq.

To: Arthur Porter Jr., Esq.
FISCHER PORTER & THOMAS, P.C.
Attorneys for Plaintiff
The SCE Group, Inc
560 Sylvan Avenue, Suite 3061
Englewood Cliffs, New Jersey 07632

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of November 2021, a true and exact copy of the foregoing **NOTICE OF REMOVAL OF CIVIL ACTION** was electronically filed with the Clerk of the District Court and served upon the attorney for Plaintiff at the following address, by first-class mail, postage prepaid:

Arthur Porter Jr., Esq.
560 Sylvan Avenue, Suite 3061
Englewood Cliffs, New Jersey 07632

/s/ Meredith Stoma _____

Meredith Kaplan Stoma, Esq.

EXHIBIT “A”

FISCHER PORTER & THOMAS, P.C.
560 Sylvan Avenue, Suite 3061
Englewood Cliffs, New Jersey 07632
Telephone: (201) 569-5959
Facsimile: (201) 871-4544
Attorneys for Plaintiff The SCE Group, Inc.

<p>The SCE Group, Inc., Plaintiffs, v. ROBERT GARSON, ESQ., YONI GARSON, GARSON, SEGAL, STEINMETZ, FLADGATE LLP, and JOHN and JANE DOE Nos. 1-10, being unknown Attorneys, Partners, Shareholders, and Associates of GARSON, SEGAL, STEINMETZ, FLADGATE LLP, Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY BERGEN COUNTY: LAW DIVISION CIVIL ACTION DOCKET NO. <u>VERIFIED COMPLAINT</u></p>
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Plaintiff, The SCE Group, Inc., by and through its attorneys, Fischer Porter & Thomas, P.C., by way of Complaint against Defendants, states as follows:

PARTIES

1. Plaintiff, The SCE Group, Inc. (“SCE”), is a Delaware Corporation with a principal place of business located at 500 Linwood Drive, Suite 1J, Fort Lee, New Jersey 07024 located in Bergen County, New Jersey.
2. Defendant Robert Garson, Esq. (“Garson” or “Robert Garson”) is a natural person admitted to practice law before the Courts of the State of New York and is Managing Partner of Garson, Segal, Steinmetz, Fladgate LLP (“GS2Law”). Garson has his business

address at 164 West 25th Street, Suite 11R, New York, NY 10001. Garson is not licensed to practice law in the State of New Jersey.

3. On information and belief, Garson maintains residence in the state of New York care of his business address located at 164 West 25th Street, Suite 11R, New York, NY 10001.

4. Defendant Yoni Garson (“Yoni Garson” or “Yoni”) is a natural person residing in the nation of Australia, who is allegedly an attorney in Australia, but he is not licensed to practice law in the State of New Jersey.

5. On information and belief, Yoni maintains a business address at Minter Ellison, Level 40, Governor Macquarie Tower, 1 Farrer Place, Sydney 2000 Australia.

6. Defendant Garson, Segal, Steinmetz, Fladgate LLP (“GS2Law”) is a New York Limited Liability Partnership authorized and engaged to practice law within the state of New York, located at 164 West 25th Street, Suite 11R, New York, NY 10001.

7. Defendants John and Jane Doe Nos. 1-10 are fictitious individuals, representing natural persons admitted to the practice of law before the Courts of the State of New York, who, as officers, shareholders, partners and/or associates of Defendants GS2Law, assisted with or participated in Defendants’ legal representation of the Plaintiff.

FACTUAL ALLEGATION

8. Plaintiff is a global cybersecurity firm that provides professional services, managed services, and strategic consulting services to its clients.

9. In July 2010, Plaintiff engaged the services of Defendants GS2Law and Robert Garson to assist Plaintiff in establishing a business presence in the United Kingdom.

10. In 2017, SCE sought to acquire (“the acquisition”) Cyber Reliance Advisors, Inc. d/b/a Cayden Security (“Cayden”). Cayden, a New Jersey Corporation, had a principal address of 40 Technology Drive, Warren, New Jersey 07059.

11. Prior to, and on the date of, the acquisition, both SCE and Cayden had principal places of business in the State of New Jersey, and neither company had a place of business in any other state. Furthermore, the acquisition itself was set to - and ultimately did - take place in New Jersey.

12. Garson represented to Plaintiff that, after looking into it, he had determined that he was able to represent Plaintiff in the acquisition occurring in the state of New Jersey between two New Jersey based companies. Importantly, the Plaintiff’s representatives made it clear to Garson that the company was relying on him to not only draft the acquisition document but also be responsible for the enforcement of the closing terms and conditions.

13. As previously stated herein, Garson was not licensed to practice law in New Jersey. Further, on information and belief, no individual associated with GS2Law who took part in the representation of Plaintiff in connection with the acquisition was licensed to practice law in New Jersey. Accordingly, Garson violated the law against unlicensed practice of the law in the state of New Jersey, set forth in RPC 5.5. *N.J. Rules Prof Conduct R. 5.5.*

14. On behalf of Plaintiff, Garson (1) oversaw and conducted negotiations and (2) drafted and implemented a Share Purchase Agreement (“SPA”) with the shareholders of Cayden (the “Cayden Shareholders”).

15. In drafting the SPA, Garson engaged the assistance of his brother, Yoni Garson, who Garson knew was not an attorney licensed to practice in New Jersey. In justifying to Plaintiff Yoni Garson’s engagement for legal services despite living in Australia, Garson stated, in sum and substance, “Anybody in the world can write a contract.”

16. Yoni Garson is allegedly an attorney based out of Australia and is not licensed to practice law in the United States. Further, on information and belief, when Garson billed Plaintiff for work performed by Yoni on the transaction, he charged Plaintiff for Yoni’s drafting of the Agreement.

17. The SPA presented to Plaintiff, as prepared by Robert Garson and Yoni Garson, was so deficient that Dain Dulaney, attorney for the Cayden Shareholders, described the SPA to his colleagues on December 11, 2017: “In general, this was a very non-standard, not particularly well drafted document, which is one of the reasons there are so many changes. In addition, there were some areas where they had provided provisions that were not favorable to them . . .”

18. This SPA set forth that Plaintiff would pay the Cayden Shareholders a purchase price of \$2,000,000.00 for the acquisition in the manner set forth below.

19. The first \$1,000,000.00 payment (“Initial Cash Payment”) from Plaintiff to the Cayden Shareholders was due as of the Closing Date set for January 10, 2018. The SPA, at Paragraph 2.3(b), mandated that \$1,000,000.00 be paid in cash “minus any payment to

pay off debts including but not limited to the Square One revolving credit note and any credit card debt of the Company . . .” *The SCE Group – Cyber Reliance Advisors, Inc. DBA Cayden Share Purchase Agreement* § 2.3(b).

20. The SPA further provided in Section 2.3(a)(i) that, the Initial Cash Payment was to be made “by means of a confirmed wire transfer to the attorney escrow account of Bishop, Dulaney, Joyner & Abner, PA pursuant to account designations and routing instructions . . .” *The SCE Group – Cyber Reliance Advisors, Inc. DBA Cayden Share Purchase Agreement* § 2.3(a)(i). Despite being entrusted to authorize the release of the Initial Cash Payment upon receiving proof that the Cayden Shareholders paid off Cayden’s debts, Garson negligently transferred the \$1,000,000.00 to the escrow account of the Cayden Shareholders’ attorneys. Accordingly, Garson violated his duty to safeguard the Plaintiff’s funds in violation of RPC 1.15. *N.J. Rules Prof Conduct R. 1.15*.

21. Pursuant to Section 2.3(a)(i) of the SPA, the Initial Cash Payment was to be distributed “[s]ubject to receiving confirmation from Purchaser’s counsel of the Shareholders’ satisfaction of their obligation under Section 2.3(b) below . . .” *The SCE Group – Cyber Reliance Advisors, Inc. DBA Cayden Share Purchase Agreement* § 2.3(a)(i).

22. Section 2.3(b) of the SPA further defined the Cayden Shareholders’ obligation to pay debt by stating that that the Cayden Shareholders would need to provide, in pertinent part, documentation demonstrating that they, “[Paid] off all the outstanding debts of the Company including but not limited to the credit note to the financial institution, Square One and all credit card debt, excluding any Company closing costs and professional fees

which borne by the shareholders.” *The SCE Group – Cyber Reliance Advisors, Inc. DBA Cayden Share Purchase Agreement* § 2.3(b).

23. Despite the language in the SPA, Garson negligently, recklessly and carelessly authorized the release of the \$1,000,000.00, without first receiving the required and agreed upon documentation confirming payment of Cayden’s outstanding debts, as required by the SPA. Accordingly, Garson violated his duty to safeguard the Plaintiff’s funds in violation of RPC 1.15. *N.J. Rules Prof Conduct R. 1.15*.

24. The second \$1,000,000.00 was to be paid by Plaintiff in accordance with a pre-determined payment schedule set forth in the Promissory Note attached to the SPA as Appendix A, pursuant to which the following amounts would be paid on the following dates: First Anniversary (\$250,000.00), Second Anniversary (\$416,666.66), and Third Anniversary (\$333,333.34). *The SCE Group – Cyber Reliance Advisors, Inc. DBA Cayden Share Purchase Agreement*, Appendix A § 5.

25. Garson negligently ignored the contractual obligation to make the first \$250,000.00 payment on the Promissory Note, despite knowing that there would be an automatic acceleration of the repayment of the entire Promissory Note in the event of default. *The SCE Group – Cyber Reliance Advisors, Inc. DBA Cayden Share Purchase Agreement*, Appendix A § 6.

26. Garson negligently failed to take steps to prevent default and acceleration, such as through filing for arbitration or seeking a stay. This negligence caused the Cayden Shareholders to declare that the nonpayment of the first \$250,000.00 constituted default, which accelerated the Promissory Note repayment.

27. Further, Garson negligently failed to include a contractual provision in the SPA that conditioned Plaintiff's obligation to make the first \$250,000.00 Promissory Note payment upon Cayden Shareholders' fulfillment of the net working capital requirement of \$525,000.00 pursuant to § 2.7 of the SPA. *The SCE Group – Cyber Reliance Advisors, Inc. DBA Cayden Share Purchase Agreement* § 2.7.

28. Garson also negligently failed to condition the repayment of the entire \$1,000,000.00 Promissory Note on the satisfaction of the terms set forth for the Initial Cash Payment, such as the repayment by the Cayden Shareholders of all of Cayden's outstanding debts pursuant to § 2.3(b) of the SPA. *The SCE Group – Cyber Reliance Advisors, Inc. DBA Cayden Share Purchase Agreement* § 2.3(b).

29. As a result of Garson negligence, Plaintiff was unable to pay vendors, was forced to borrow funds, and suffered a loss of business and goodwill.

30. In violation of his duties to Plaintiff, Garson negligently acquiesced to and accepted the Cayden Shareholders' failure to use the Initial Cash Payment to pay Cayden's debts as was contractually required.

31. Pursuant to Section 2.7(a) of the SPA, Cayden agreed that it would "cause the Company to retain 3 month's Working Capital as of the Closing Date ("Remaining Working Capital")." In reliance upon that promise, Purchaser agreed to repay to Cayden the Remaining Working Capital "no later than 150 days following the Closing Date." *The SCE Group – Cyber Reliance Advisors, Inc. DBA Cayden Share Purchase Agreement* § 2.7(a).

32. In violation of his duties and obligations owed to Plaintiff, Garson negligently failed to ensure that Cayden took steps to retain the “Remaining Working Capital” as set forth in the SPA in the amount of \$275,000.00.

33. Garson was further negligent in drafting § 2.7(a) in that, as drafted, this provision made Plaintiff responsible for repaying the Cayden Shareholders \$275,000.00 for Remaining Working Capital within 150 days of Closing regardless of whether the Cayden Shareholders actually provided Plaintiff with the \$275,000.00 for Remaining Working Capital

34. Furthermore, pursuant to Section 2.7(a) of the SPA, Cayden was to provide the Remaining Working Capital “in addition to the Two Hundred and Fifty Thousand Dollars (\$250,000) of cash that will remain in the Company as shown under the heading “Step 3 – Cash Holdback” in Appendix J.” *The SCE Group – Cyber Reliance Advisors, Inc. DBA Cayden Share Purchase Agreement* § 2.7(a).

35. Thus, per the SPA, the Cayden Shareholders were required to leave a total of \$525,000.00 in Cayden’s coffers for working capital at closing. However, Garson did not take steps as Plaintiff’s counsel to assure that the expected level of working capital necessary to operate Cayden would be in place as of the closing. As shown hereinafter, due to Garson’s negligence the Plaintiff purchased a “Pig in a Poke.”

36. As a result, rather than closing with \$525,000.00 in total working capital as set forth in the SPA (Remaining Working Capital in the amount of \$275,000.00 plus \$250,000.00 of working capital in cash), Cayden was \$322,179.00 in debt at closing. Due to this extreme negative cash position, and to save the company from bankruptcy, the

Plaintiff had to borrow and repay in excess of \$400,000.00 and negotiate with vendors to cover payroll and expenses. Accordingly, the brand and goodwill of Plaintiff and Cayden was severely damaged.

37. Since Plaintiff needed to pay off this unexpected debt and experienced subsequent financial constraints, Plaintiff has since lost profits in excess of \$2,000,000.00 from Closing to present. In 2018 alone, Plaintiff experienced \$1,152,638.85 in lost consolidated revenue.

38. In December of 2017, Garson represented to Plaintiff that \$525,000.00 in cash would be available as working capital at Closing. In reliance upon this statement, Plaintiff moved forward with the transaction. However, since the SPA did not seem to require the Cayden Shareholders to provide \$525,000.00 in cash at Closing, Plaintiff raised questions and concerns to Garson about his representation of the funding level of working capital. Garson recklessly ignored Plaintiff's concerns and stated, in sum and substance, that he was controlling the transaction.

39. During the course of the SPA drafting process, Garson negligently removed post-transaction reconciliation language from the SPA. This post-reconciliation language consisted of multiple provisions providing protection and recourse for Plaintiff to rectify any failures by the Caden Shareholders to comply with the material terms of the SPA, including that debt be paid off with acquisition funds. By failing to require these protections, Garson grossly increased the risk the Cayden Shareholders would not comply with the agreement, thereby causing the Plaintiff to become the owner of an entity dangerously and unexpectedly burdened with high and unmanageable debt and without cash.

40. Specifically, Garson deleted the following protection language in the PSA:

A. “Not less than 90 days after the Closing Date, the Purchaser shall cause the Company to prepare and deliver to the Shareholders a statement setting forth its calculation of the Closing Working Capital (“the Closing Working Capital Statement”), as of the close of business on the Closing Date . . . The Purchaser shall also cause the Company to make available copies of all work papers and other documents and data used to prepare the Closing Working Capital Statements. Company and Purchaser shall have the right to dispute the Closing Date Working Capital Statement (and any items therein) and calculations of the Closing Working Capital as of the Closing Date and make any proposed adjustments thereto . . .”

B. “If it is determined that the amount by which the Company’s Closing Working Capital is less than the Working Capital Target Amount (“Working Capital Shortfall”), the amount of the Working Capital Shortfall shall be paid by the Shareholders to the Company by a reduction in the amount due under the Debt Note on the Settlement Date in the amount of the Working Capital Shortfall.”

41. Garson’s negligent removal of the post-transaction reconciliation language intended to protect Plaintiff’s interests left Plaintiff with no specific contractual provision to address the Seller’s failure to pay off Cayden’s debts with the Initial Cash Payment and left Plaintiff with an insufficient amount of working capital.

42. Garson’s negligence proximately caused Plaintiff’s indebtedness of \$1,275,00.00 to accelerate while Plaintiff and the Cayden Shareholders disputed whether Plaintiff needed to repay the \$275,000.00 in Remaining Working Capital it never received from the Cayden Shareholders. As a result of allowing Plaintiff to have its indebtedness accelerated, Plaintiff has since been unable to secure funding from traditional lenders or raise additional equity capital. This left Plaintiff unable to pay off its vendors, which has irreparably damaged Plaintiff’s brand and business reputation and caused it to borrow funds at steep and expensive interest rates.

43. As a result of being unable to raise funds, Plaintiff was forced to take out a short-term loan of nearly \$300,000.00 to pay for the business’s expenses. By the time Plaintiff finished repaying this loan the following year, Plaintiff had paid back \$484,505.00.

44. Garson also negligently failed to verify the accuracy of the multiple representations and warranties made by Sellers regarding Caden's accounting practices, tax liabilities, and commitment to maintain the value of the company between the date of the SPA and Closing. Accordingly, Garson failed to exercise due diligence, in violation of RPC 1.3. *N.J. Rules Prof Conduct R. 1.3*.

45. In or about October of 2018, Garson seemingly admitted to Plaintiff that he knew he had made costly mistakes in his representation of Plaintiff when he stated: "Do you think I am responsible? You aren't going to sue me for this, are you?"

46. Plaintiff and the Cayden Shareholders subsequently submitted to arbitration in October of 2019 to resolve the numerous material post transaction disputes that arose between the parties. During the arbitration, an independent expert – Werdann Devito LLC - concluded, among other things, that Cayden's working capital had been deficient. *Letter from Werdann Devito LLC to Adrian Alvarez, Esq.*, March 13, 2020.

47. Plaintiff was ultimately compelled to settle the arbitration. The terms of the settlement were that Plaintiff pay \$575,000.00 on the original \$1,275,000.00 accelerated debt, although it has suffered millions of dollars of damages due to the negligence of Garson.

48. Importantly, but for Garson's negligence in not providing for a post-transaction reconciliation process, the arbitration would not have been necessary.

49. Plaintiff was forced to pay substantial legal fees for representation during the arbitration and ensuing negotiation. These legal fees cost Plaintiff more than \$250,000.00.

AS AND FOR A FIRST CAUSE OF ACTION
(Professional Negligence)

50. Plaintiff repeats the allegations of the preceding paragraphs as if set forth here at length.

51. Plaintiff reasonably believed that the Defendants were representing its interests and were its attorneys with regard to acquiring the shares of Cayden and protecting its legal interests throughout the process.

52. Defendants undertook to represent Plaintiff with reasonable skill, knowledge, and diligence.

53. The conduct of Defendants was in breach of their professional duties owed to Plaintiff and constituted deviations from accepted standards of legal practice so as to constitute legal malpractice.

54. As part of Defendants' professional responsibilities, they had a duty to review, understand and comprehend the facts and circumstances of the acquisition so as to protect Plaintiff's interests. To that end, Defendants further had a duty to draft an SPA with sufficient protections for Plaintiff's interests and a duty to ensure that the Cayden Shareholders abided by the terms of that very SPA.

55. Defendants breached their duties by negligently removing post-transaction reconciliation language from the SPA which would have compelled the Cayden Shareholders to perform their obligations under the PSA, including that at closing the stipulated required capital would be in place and that Cayden's debts would be paid from the closing proceeds.

56. Defendants breached their duties by negligently permitting the release of the Initial Cash Payment prior to receiving proof that the Cayden Shareholders had caused Cayden to pay off its outstanding debts, as required by the SPA.

57. The aforementioned deviations of Defendants were a substantial factor, and thus the proximate cause of, the damages suffered by Plaintiff for which Defendants are liable.

58. As a result of Defendants' legal malpractice, Plaintiff suffered financial damages, including having to repayment of Cayden's debts, lost profits anticipated from the acquisition, devaluation of shares of Cayden, and substantial out-of-pocket expenses, including attorneys' fees and costs.

59. *WHEREFORE*, Plaintiff SCE demands judgment against Defendants for:

- a. Compensatory damages, in an amount to be determined at trial but believed to be in excess of Five Million (\$5,000,000.00) Dollars;
- b. Consequential and Incidental Damages;
- c. Lost Profits
- d. Interest;
- e. Costs of suit;
- f. Attorneys' fees, in an amount to be determined at trial;
- g. Such other relief as this Court deems just and proper.

AS AND FOR A SECOND CAUSE OF ACTION
(Unauthorized Practice of Law)

60. Plaintiff repeats the allegations of the preceding paragraphs as if set forth here at length.

61. Defendant Robert Garson provided legal advice and representation to Plaintiff during the contractual negotiation and subsequent acquisition of Cayden, through and including the purchase of its outstanding shares, in the State of New Jersey.

62. Plaintiff reasonably relied upon Robert Garson's representation that he was able to legally represent Plaintiff during the contractual negotiation, subsequent acquisition of Cayden and the performance of the terms and conditions of the PSA in the State of New Jersey.

63. Defendant Robert Garson was not licensed to practice law in the State of New Jersey at the time of his representation of Plaintiff in the State of New Jersey. Accordingly, Robert Garson violated New Jersey law (*N.J.S.A. 2C:21-22a*), as well as the New Jersey Rules of Professional Conduct, Rule 5.5. *N.J. Rules Prof Conduct R. 5.5*.

64. As a result of Defendant Robert Garson's improper conduct, Plaintiff was deprived of legal representation from a New Jersey attorney familiar with the legal practices and standards in the State of New Jersey, in violation of the law.

WHEREFORE, Plaintiff SCE demands judgment against Defendant Robert Garson for:

- a. Compensatory, Consequential and Incidental Damages, in an amount to be determined at trial but believed to be in excess of Five Million (\$5,000,000.00) Dollars;
- b. Treble damages for the value of all costs incurred by the victim as a result of the defendant's unauthorized practice of law, including any fees

paid to the defendant for services, costs incurred for attorneys' fees, court costs and any out-of-pocket losses. N.J. Stat. § 2C:21-22a

- c. Interest;
- d. Costs of suit;
- e. Attorneys' fees, in an amount to be determined at trial;
- f. Such other relief as this Court deems just and proper.

AS AND FOR A THIRD CAUSE OF ACTION
(Unauthorized Practice of Law)

65. Plaintiff repeats the allegations of the preceding paragraphs as if set forth here at length.

66. Defendant Yoni Garson provided legal advice Plaintiff during the contractual negotiation and subsequent acquisition of Cayden in the State of New Jersey.

67. Plaintiff reasonably relied upon Yoni Garson's legal advice during the contractual negotiation and subsequent acquisition of Cayden in the State of New Jersey.

68. Defendant Yoni Garson was not licensed to practice law in the State of New Jersey at the time of his representation of Plaintiff in the contractual negotiation and subsequent acquisition of Cayden in the State of New Jersey. Accordingly, Yoni Garson violated New Jersey law (*N.J.S.A. 2C:21-22a*), as well as the New Jersey Rules of Professional Conduct, Rule 5.5. *N.J. Rules Prof Conduct R. 5.5*.

69. As a result of Defendant Yoni Garson's conduct, Plaintiff was deprived of legal representation from a New Jersey attorney familiar with the legal practices and standards in the State of New Jersey.

WHEREFORE, Plaintiff SCE demands judgment against Defendant Yoni Garson for:

- a. Compensatory, Consequential and Incidental Damages, in an amount to be determined at trial but believed to be in excess of Five Million (\$5,000,000.00) Dollars;
- b. Treble damages for the value of all costs incurred by the victim as a result of the defendant's unauthorized practice of law, including any fees paid to the defendant for services, costs incurred for attorneys' fees, court costs and any out-of-pocket losses. N.J. Stat. § 2C:21-22a
- c. Interest;
- d. Costs of suit;
- e. Attorneys' fees, in an amount to be determined at trial;
- f. Such other relief as this Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury on all issues triable by a jury.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Plaintiff designates Arthur "Scott" L. Porter, Jr. as trial counsel in this matter.

CERTIFICATION PURSUANT TO R. 4:5-1

I certify that the matters in controversy in this action are not the subject of any other action pending in any other court or of a pending arbitration proceeding and no other action or arbitration is contemplated.

DEMAND FOR PRODUCTION OF INSURANCE AGREEMENTS

Pursuant to R. 4:10-2(b), demand is hereby made that you disclose to the undersigned whether there are any insurance agreements or policies under which any person or firm carrying

on an insurance business may be liable to satisfy all of part of a judgment which may be entered in the action or to indemnify or reimburse for payment made to satisfy the judgment. If so, please provide a copy of each.

Dated: October 12, 2021

FISCHER PORTER & THOMAS, P.C.
Attorneys for Plaintiff The SCE Group, Inc.

By: /s/ Arthur "Scott" L. Porter, Jr.
Arthur "Scott" L. Porter, Jr.

FISCHER PORTER & THOMAS, P.C.
560 Sylvan Avenue, Suite 3061
Englewood Cliffs, New Jersey 07632
Telephone: (201) 569-5959
Facsimile: (201) 871-4544
Attorneys for Plaintiff The SCE Group, Inc.

The SCE Group, Inc.

Plaintiffs,

v.

ROBERT GARSON, ESQ., YONI
GARSON, GARSON, SEGAL,
STEINMETZ, FLADGATE LLP, and
JOHN and JANE DOE Nos. 1-10, being
unknown Attorneys, Partners,
Shareholders, and Associates of
GARSON, SEGAL, STEINMETZ,
FLADGATE LLP,

Defendants

SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY: LAW DIVISION

CIVIL ACTION

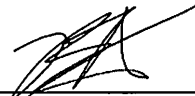
DOCKET NO.

VERIFICATION

Benjamin Z. Massin, of The SCE Group, Inc., of full age, certifies as follows:

1. I am the president of The SCE Group, Inc., Plaintiff in this action and as such I am personally familiar with the facts set forth in the Verified Complaint.
 2. The factual allegations of the Verified Complaint are true and accurate to the best of my personal knowledge except where such allegations are noted as being upon information and belief, and in such cases I believe the allegations to be true and accurate.
- I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated 9/13/2021



Benjamin Z. Massin, The SCE Group, Inc.

Civil Case Information Statement

Case Details: BERGEN | Civil Part Docket# L-006708-21

Case Caption: THE SCE GROUP, INC. VS GARSON
ROBERT

Case Initiation Date: 10/12/2021

Attorney Name: JOSEPH R SPARACIO

Firm Name: FISCHER PORTER & THOMAS PC

Address: 560 SYLVAN AVE 3RD FL STE 3061

ENGLEWOOD CLIFFS NJ 07632

Phone: 2015695959

Name of Party: PLAINTIFF : The SCE Group, Inc.

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: PROFESSIONAL MALPRACTICE

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? YES

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: The SCE Group, Inc.? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Business

Does the statute governing this case provide for payment of fees by the losing party? YES

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

10/12/2021

Dated

/s/ JOSEPH R SPARACIO

Signed

BERGEN COUNTY COURTHOUSE
SUPERIOR COURT LAW DIV
BERGEN COUNTY JUSTICE CTR RM 415
HACKENSACK NJ 07601-7680

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (201) 221-0700
COURT HOURS 8:30 AM - 4:30 PM

DATE: OCTOBER 12, 2021
RE: THE SCE GROUP, INC. VS GARSON ROBERT
DOCKET: BER L -006708 21

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 3.

DISCOVERY IS 450 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON GREGG A. PADOVANO

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 001
AT: (201) 527-2600.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: JOSEPH R. SPARACIO
FISCHER PORTER & THOMAS PC
560 SYLVAN AVE 3RD FL
STE 3061
ENGLEWOOD CLIFFS NJ 07632

ECOURTS

EXHIBIT “B”

FISCHER PORTER & THOMAS, P.C.
560 Sylvan Avenue, Suite 3061
Englewood Cliffs, New Jersey 07632
Telephone: (201) 569-5959
Facsimile: (201) 871-4544
Attorneys for Plaintiff The SCE Group, Inc.

The SCE Group, Inc.,

Plaintiffs,

v.

ROBERT GARSON, ESQ., YONI
GARSON, GARSON, SEGAL,
STEINMETZ, FLADGATE LLP, and
JOHN and JANE DOE Nos. 1-10, being
unknown Attorneys, Partners,
Shareholders, and Associates of
GARSON, SEGAL, STEINMETZ,
FLADGATE LLP,

Defendants.

SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY: LAW DIVISION

CIVIL ACTION

DOCKET NO. BER-L-006708-21

ACKNOWLEDGMENT OF SERVICE

ACKNOWLEDGEMENT OF SERVICE

Service of the Complaint, Summons, and Waiver of Service in the above-captioned
action is hereby acknowledged on this 25 day of October, 2021, on behalf of
Defendants **Robert Garson**.

By:



~~Mark K. Anesh, Esq.~~ *Michael P. Botwinick, esq.*
Attorney for Defendant Robert Garson atty # 211672017
Lewis Brisbois
77 Water Street, 21st Floor
New York, NY 10005
~~(T) 212-232-1411~~ *212 232-1305*
~~Mark.Anesh@lewisbrisbois.com~~ *Michael. Botwinick @*
Lewisbrisbois.com

FISCHER PORTER & THOMAS, P.C.
560 Sylvan Avenue, Suite 3061
Englewood Cliffs, New Jersey 07632
Telephone: (201) 569-5959
Facsimile: (201) 871-4544
Attorneys for Plaintiff The SCE Group, Inc.

The SCE Group, Inc.,

Plaintiffs,

v.

ROBERT GARSON, ESQ., YONI
GARSON, GARSON, SEGAL,
STEINMETZ, FLADGATE LLP, and
JOHN and JANE DOE Nos. 1-10, being
unknown Attorneys, Partners,
Shareholders, and Associates of
GARSON, SEGAL, STEINMETZ,
FLADGATE LLP,

Defendants.

SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY: LAW DIVISION

CIVIL ACTION

DOCKET NO. BER-L-006708-21

ACKNOWLEDGMENT OF SERVICE

ACKNOWLEDGEMENT OF SERVICE

Service of the Complaint, Summons, and Waiver of Service in the above-captioned action is hereby acknowledged on this 25 day of October, 2021, on behalf of Defendant **Garson, Segal, Steinmetz, Fladgate LLP.**

By: 

~~Mark K. Anesh, Esq.~~ Michael Botwinick, Esq.
Attorney for Defendant Garson, Segal, Steinmetz, Fladgate LLP
Lewis Brisbois
77 Water Street, 21st Floor
New York, NY 10005
(T) 212-232-~~1111~~ 1305
~~Mark.Anesh@lewisbrisbois.com~~

Michael Botwinick

FISCHER PORTER & THOMAS, P.C.
560 Sylvan Avenue, Suite 3061
Englewood Cliffs, New Jersey 07632
Telephone: (201) 569-5959
Facsimile: (201) 871-4544
Attorneys for Plaintiff The SCE Group, Inc.

The SCE Group, Inc.,
Plaintiffs,

v.

ROBERT GARSON, ESQ., YONI
GARSON, GARSON, SEGAL,
STEINMETZ, FLADGATE LLP, and
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GARSON, SEGAL, STEINMETZ,
FLADGATE LLP,

Defendants.

SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY: LAW DIVISION

CIVIL ACTION

DOCKET NO. BER-L-006708-21

**WAIVER OF THE SERVICE OF
SUMMONS**

To: FISCHER PORTER & THOMAS, P.C.
560 Sylvan Avenue, Suite 3061
Englewood Cliffs, New Jersey 07632
Telephone: (201) 569-5959
Facsimile: (201) 871-4544
Attorneys for Plaintiff The SCE Group, Inc.

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion within 35 days from October 13, 2021, the date when this request was sent. If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: October 25, 2021

LEWIS BRISBOIS
*Attorneys for Defendant Garson, Segal,
Steinmetz, Fladgate LLP*



~~Mark K. Anesh~~ Michael P. Botwinick, Esq.
Lewis Brisbois Attys #1211672017
77 Water Street, 21st Floor
New York, NY 10005
(T) 212-232-4441 1305
Mark.Anesh@lewisbrisbois.com

Michael. Botwinick

FISCHER PORTER & THOMAS, P.C.
560 Sylvan Avenue, Suite 3061
Englewood Cliffs, New Jersey 07632
Telephone: (201) 569-5959
Facsimile: (201) 871-4544
Attorneys for Plaintiff The SCE Group, Inc.

The SCE Group, Inc.,

Plaintiffs,

v.

ROBERT GARSON, ESQ., YONI
GARSON, GARSON, SEGAL,
STEINMETZ, FLADGATE LLP, and
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Defendants.

SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY: LAW DIVISION

CIVIL ACTION

DOCKET NO. BER-L-006708-21

WAIVER OF THE SERVICE OF
SUMMONS

To: FISCHER PORTER & THOMAS, P.C.
560 Sylvan Avenue, Suite 3061
Englewood Cliffs, New Jersey 07632
Telephone: (201) 569-5959
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Attorneys for Plaintiff The SCE Group, Inc.

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Date: October 25, 2021

LEWIS BRISBOIS
Attorneys for Defendant Robert Garson



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77 Water Street, 21st Floor
New York, NY 10005
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Michael Botwinick