

SCHNADER HARRISON SEGAL & LEWIS LLP

vs.

WILLIAM HENRY COSBY JR.

NO. 2018-21548

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You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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SCHNADER HARRISON SEGAL & LEWIS LLP,  
1600 Market St., Suite 3600  
Philadelphia, PA 19103,

Plaintiff

v.

WILLIAM HENRY COSBY, JR.,  
8210 New Second Street  
Cheltenham, PA 19027,

Defendant.

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IN THE COURT OF COMMON PLEAS  
OF MONTGOMERY COUNTY,  
PENNSYLVANIA

NO. 2018-21548

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**COMPLAINT**

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William Henry Cosby, Jr. owes Schnader Harrison Segal & Lewis LLP \$282,948.40 in unpaid bills for legal fees and expenses. While the unpaid bills date back to August 2017, at no time between then and the end of August 2018 did Cosby or any of his authorized representatives who received and reviewed Schnader's bills utter a single concern about the amounts billed or any of the supporting time entries. Quite to the contrary, Cosby's consistent response to Schnader's repeated requests for payment was to assure Schnader that it would be paid, most recently by August 15, 2018. When no payment was forthcoming,

Schnader advised Cosby that absent prompt payment, Schnader would file suit on September 4, 2018. Rather than agree to pay, Cosby, through counsel, stated for the first time that he would question Schnader's bills if sued, and suggested that Schnader should instead agree to a confidential "arbitration/mediation" proceeding. Schnader kept to its word and commenced suit by Writ of Summons on September 4, 2018. Even the filing of the Writ has not caused Cosby to accept responsibility for his obligations. Schnader therefore now files this Complaint and in support states as follows:

1. Schnader is a Pennsylvania limited partnership with offices at 1600 Market Street, Suite 3600, Philadelphia, PA 19103.
2. Cosby is a citizen of the Commonwealth of Pennsylvania who resides at 8210 New Second Street, Cheltenham, PA 19027.
3. Cosby and Schnader entered into an engagement letter dated January 29, 2016. A copy of the engagement letter is attached as Exhibit A.
4. The engagement letter is addressed to Monique D. Pressley, Esq., a Washington, D.C. lawyer who functioned as Cosby's general counsel with respect to the many related legal matters he faced at that time. Cosby signed the engagement letter on March 1, 2016.
5. The engagement letter set forth the then current hourly rate of Samuel W. Silver, Esq., the lead partner on the Cosby representation. The engagement letter further provided that the firm's hourly rates "are subject to change and are usually revised annually without further notice at the beginning of the year."
6. Cosby subsequently retained Schnader in connection with several other matters, including the criminal proceedings in Montgomery County.

7. After repeated requests for payment, as explained more fully below, Cosby eventually paid all of Schnader's invoices covering work through June 30, 2017 in full, without questioning a single time entry.

8. As set forth on the Statement of Account attached as Exhibit B, Schnader submitted 14 invoices between August 21, 2017, and July 25, 2018, all of which remain outstanding.

9. Schnader addressed its bills for services from inception of the representation through June 30, 2016, to Ms. Pressley.

10. In or about July 2016, Cosby directed that Schnader send its bills to Lawrence Witzer of Gettelson, Witzer & O'Connor, a California firm that provides business management services.

11. Before August 2017, Schnader had worked on the criminal case against Cosby and other matters. In August 2017, when Cosby reconstituted his legal team to defend the criminal re-trial, he asked Schnader to serve as Pennsylvania counsel of record. Schnader agreed to do so on the understanding that Cosby's previous patterns of late payment would cease.

12. Among several times that Schnader raised this issue, on August 22, 2017 Silver met in his office with Andrew Wyatt, Cosby's advisor and spokesperson. During their meeting, Silver and Wyatt had a telephone conversation with Cosby's wife, Camille.

13. At the time of the August 22, 2017 telephone call, Cosby owed Schnader \$44,894.05 for services through June 30, 2017. Silver stated that if Cosby paid the outstanding receivable of \$44,894.05 by August 31, 2017, Schnader would be indulgent about monthly payments between then and year-end, provided that Cosby assured Schnader that it would be paid in full for all outstanding bills by December 31, 2017. Silver also discussed with Wyatt and

Mrs. Cosby the possibility of a substantial retainer to protect the Schnader firm against the potential of recurrent late payments for future bills.

14. Mrs. Cosby agreed that the \$44,894.05 would be paid by August 31, 2017 and that all bills rendered by year-end would be paid by December 31, 2017.

15. Despite Mrs. Cosby's agreement, the \$44,894.05 remained unpaid on August 31, 2017.

16. When Silver asked Wyatt to follow up, Wyatt referred Silver to attorney Tom L. Larkin, stating in an email dated September 15, 2017 on which Mr. Larkin was copied, "Mr. Larkin has been instrumental in providing legal advice to the Cosby's [*sic*] but most importantly, reviewing legal bills."

17. In that same email, Wyatt advised Mr. Larkin "For almost (3) years, Mr. Silver has aided Attorney Angela Agrusa in Mr. Cosby's civil cases (Pennsylvania and Massachusetts). However, Mr. Silver is playing a more vital role as the firm that pro hac Attorney Tom Mesereau (LA) and Attorney Kathleen Bliss (NV) in Mr. Cosby's criminal case [*sic*]. Mr and Mrs. Cosby requested that I make an introduction to the both of you fine legal minds so that Mr. Larkin can review legal bills and all contractual obligations."

18. Silver immediately (on September 15, 2017) responded to Larkin and Wyatt, stating:

Thanks, Andrew.

Tom, I will send you all pending bills. You should know that we have been rendering them on a regular basis, per our engagement agreement with the Cosbys, and we have sent them to the person directed by the Cosbys (Larry Witzer – per Mrs. Cosby's directive). There has never been a single question raised about the billing. The sole issue is that our bills have not been timely paid, and that is a concern for obvious reasons. So I very much welcome and appreciate your involvement in helping to establish a

regular process by which our bills will be paid monthly, as they are rendered (we do not have a retainer, but we would be happy to switch to that mechanism if it is preferred by the Cosbys).

Sam

19. Silver and Larkin spoke later that same morning. During that telephone conversation, Larkin asked for a copy of Schnader's engagement letter, which Silver promptly provided.

20. During their September 15, 2017 telephone call, Silver and Larkin also discussed the idea of a \$300,000 "retainer" that Silver had previously raised with Mrs. Cosby and Wyatt. Silver explained to Larkin and reiterated in a September 18, 2017 email: "I did talk with Andrew Wyatt about a retainer of \$300,000, but that was certainly not a fixed or capped fee, as that figure would have been quite low for such an arrangement. Rather, that was a retainer that would enable us to be paid on a regular basis (rather than having to bother the Cosbys to pay our monthly bills) until it was substantially depleted, at which it point it would have to be replenished."

21. Schnader received no further word from Larkin or any other representative of the Cosbys regarding payment, so Silver emailed Larkin on September 26, 2017, asking simply, "May I have an update?"

22. On October 4, 2017, Schnader finally received payment of \$44,894.05 – the amount due as of June 30, 2017. As noted, Schnader has not received any further payment for its legal services.

23. On December 5, 2017, Silver sent an email to Wyatt in which he recounted the firm's agreement not to press for monthly payments if Cosby assured Schnader that the invoices submitted by year-end would be paid by December 31. At that time, and as set

forth in the December 5 email, Schnader's unpaid invoices for services through November 30, 2017 totaled \$79,559.56.

24. Hearing no response from Wyatt or any other representative of Cosby, Silver followed up with emails to Wyatt dated December 19, 26, and 27, 2017.

25. By email to Silver dated December 27, 2017, Wyatt stated that he had spoken with Mrs. Cosby, who informed him that she would be unable "to hold the commitment to fulfill payment by December 31, 2018." He added that Mrs. Cosby would need until after the second week in January to make the payment.

26. No payment was made by December 31 or by the second week of January 2018. Nor did Silver hear further from Wyatt. Silver thus sent email messages on January 4 and 15, 2018, to lead criminal defense counsel, Thomas Mesereau, to request his assistance.

27. In the meantime, with the criminal trial rapidly approaching and pretrial motions due at the end of January, Schnader continued work so as not to jeopardize Cosby's defense. Schnader billed approximately \$183,000 for work in December 2017 and January 2018. Schnader's work was done at the request and direction and with the knowledge of Cosby's lead trial counsel, as well as Wyatt, Cosby himself, and other members of Cosby's team. All of the work was promptly billed. None of the work was ever questioned.

28. On February 13, 2018, Silver once again contacted Wyatt, asking that he ensure payment of the outstanding receivable by March 1, 2018. Again, Silver also sought the assistance of trial counsel. Receiving no response, on February 19, Silver again emailed Wyatt and lead trial counsel.

29. Wyatt responded to Silver that day, copying Mesereau and trial co-counsel Kathleen Bliss, as follows:

Sam,

I'm sorry for the late response but I have forwarded your invoices to the clients and they're [sic] accountants for review.

30. Silver responded on February 19, also copying trial counsel:

I appreciate that, Andrew. Just in case there is any uncertainty on your end (or Tom's or Kathleen's), all invoices were submitted to Larry Witzer as they were generated, per the Cosbys' instructions. And we have never had a single question raised about the work we performed and billed.

I will appreciate your following up so that you can let me know when the bills will be paid.

Thanks again.

Sam

31. The next day, February 20, 2018, Wyatt emailed Silver: "Sam, I wanted to give you an update that your bill is being thoroughly reviewed by the clients and if questions/concerns are presented, you will be apprised." Wyatt copied Mr. Larkin, attorney Wayne Gross, of Greenberg Gross LLP (which was representing Cosby in civil litigation and also assisting with the criminal case), as well as Mesereau and Bliss.

32. Schnader was never apprised of any "questions/concerns" regarding its bills. Indeed, as of the date of the filing of this Complaint, and despite the recent threat to raise such questions, Schnader has never been apprised of a single such question.

33. Silver requested payment by emails to Wyatt on March 8, 13, 15, 22, and 27, 2018.

34. Wyatt responded to Silver's message of March 13, 2018, copying Larkin:  
Sam,



In all due respect, I'm not the Cosby's [*sic*] accountant nor do [I] have power [of] attorney over thief [*sic*] dollars, so I did my part in forwarding your bills to the proper people.

I understand that one can't determine the tone of an email/text message but I will send your demands again to the Cosbys.

Kindest Regards,

Andrew V. Wyatt  
Purpose PR Firm

35. On June 4, 2018, Debbie Meister, a personal assistant to Cosby, whose email address is [dmeister@billcosby.com](mailto:dmeister@billcosby.com), sent an email to Silver. The "Subject" line stated "from Mr. C." The email states:

Dear Sam,

This email is to notify you that Mr. Cosby is planning to send a payment to your firm sometime this summer.

Thank you for your patience.

Regards,  
Debbie  
On behalf of Mr. Cosby

36. Silver responded to Meister on June 6, 2018, providing her with an invoice-by-invoice breakdown of the amount owed to Schnader and asking for further clarification and commitment that Cosby intended to pay in full. Silver included the following request in this message: "So that I can keep people here satisfied that we truly will be paid, I would appreciate your having Mr. Cosby sign something, *indicating that he intends to pay the entire amount set forth below by August 15.*" (emphasis added)

37. Silver followed up with Meister by email messages dated June 15, 18, 25, and July 2, 2018. Meister responded cordially to these messages, advising Silver that she was forwarding his messages and attempting to get answers but that she did not have any herself.

38. On July 26, 2018, Meister responded that “Mr. Cosby is raising funds to be able to pay you by August 15.” Meister copied Alan Greenberg and Wayne Gross of the Greenberg Gross firm on this message.

39. On August 14, 2018, Silver emailed Meister asking whether payment was still scheduled for August 15. He received no response. August 15 came and went without payment from Cosby.

40. Silver e-mailed Meister on August 16. Meister advised Silver that he would be hearing from Cosby’s new criminal defense counsel, which he did, only after emailing Meister again on August 21. Silver had communications with Cosby’s new counsel beginning August 22.

41. On August 30, 2018, Silver advised counsel by e-mail that if Schnader did not receive payment, the firm would file a lawsuit on the following Tuesday, September 4.

42. Counsel’s response was to assert that if Schnader started a lawsuit, Cosby would question the invoices. Counsel suggested that Schnader forego a lawsuit, agree to confidentiality, and participate in a binding “arbitration/mediation.”

43. Schnader commenced suit by Writ of Summons on September 4, 2018.

44. Cosby has not paid anything towards Schnader’s open invoices.

45. Cosby owes Schnader the principal amount of \$282,948.40. In accordance with the engagement letter, Cosby also owes a late fee of 1.5% per month for all balances past due over 30 days. All of the invoices at issue have been outstanding for more than 30 days.

### **COUNT I – BREACH OF CONTRACT**

46. Schnader incorporates the allegations in paragraphs 1 - 45 as though fully set forth.

47. Cosby entered into a contract with Schnader by which he agreed to compensate Schnader for the legal services provided on his behalf, as reflected in the engagement letter dated January 29, 2016. *See* Ex. A.

48. Schnader performed legal services on Cosby's behalf, for which it submitted 14 invoices between August 21, 2017, and July 25, 2018. *See* Ex. B.

49. Cosby did not pay the invoices submitted by Schnader between August 21, 2017, and July 25, 2018.

50. Cosby breached his contract with Schnader by failing to compensate Schnader in accordance with the terms of the engagement letter.

51. As a direct and proximate result of Cosby's breach, Schnader has suffered damages in the amount of \$282,948.40, as well as a late fee of 1.5% per month.

WHEREFORE, Schnader demands judgment in its favor and against defendants in the amount of \$282,948.40, together with costs, late fees, and/or prejudgment interest.

Respectfully submitted,

/s/ Wilbur L. Kipnes

Wilbur L. Kipnes (I.D. No. 19501)  
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*Attorney for Plaintiff Schnader Harrison  
Segal & Lewis LLP*


Dated: September 21, 2018

**VERIFICATION**

I, Samuel W. Silver, hereby state:

1. I am a partner at Schnader Harrison Segal & Lewis LLP;
2. I verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief; and
3. I understand that this verification is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsifications to authorities.

Date: September 21, 2018

  
Samuel W. Silver