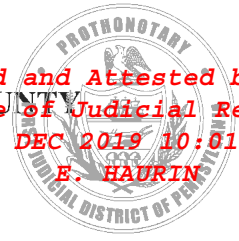


FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

Filed and Attested by the  
Office of Judicial Records  
11 DEC 2019 10:51 am  
E. HAURIN



DAVID F. STERN, individual and as a  
partner of Pond Lehocky Stern Giordano,  
LLP,

Plaintiff,

v.

POND LEHOCKY STERN GIORDANO  
LLP, SAMUEL H. POND, JERRY M.  
LEHOCKY and THOMAS J. GIORDANO,

Defendants.

NO. 191200319

COMMERCE PROGRAM

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the Preliminary Objections of Defendants, Pond Lehocky Stern Giordano LLP, Samuel H. Pond, Jerry M. Lehocky and Thomas J. Giordano (collectively, the “Pond Lehocky Defendants”), to Plaintiff’s Complaint, and any response thereto, it is hereby ORDERED and DECREED that the Pond Lehocky Defendants’ Preliminary Objections are SUSTAINED, Plaintiff’s Complaint is dismissed, and Plaintiff is directed to submit his claims to alternative dispute resolution in accordance with the terms of the parties’ Arbitration Agreement.

BY THE COURT:

\_\_\_\_\_  
, J.

**FOX ROTHSCHILD LLP**

Abraham C. Reich, Esquire (No. 20060)  
Theodore H. Jobs, Esquire (No. 62165)  
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*Attorneys for Defendants*

Pond Lehocky Stern Giordano, LLP  
Samuel H. Pond, Jerry M. Lehocky,  
and Thomas J. Giordano

DAVID F. STERN, individual and as a  
partner of Pond Lehocky Stern Giordano,  
LLP,

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v.

POND LEHOCKY STERN GIORDANO  
LLP, SAMUEL H. POND, JERRY M.  
LEHOCKY and THOMAS J. GIORDANO,

Defendants.

**COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PA**

**NO. 191200319**

**COMMERCE PROGRAM**

**NOTICE TO PLEAD**

TO: Plaintiff DAVID STERN  
c/o Benjamin A. Garber, Esquire  
Braverman Kaskey, P.C.  
One Liberty Place  
1650 Market Street – 56<sup>th</sup> Floor  
Philadelphia, PA 19103

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE  
ENCLOSED PRELIMINARY OBJECTIONS WITHIN TWENTY (20) DAYS FROM SERVICE  
HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

ABRAHAM C. REICH, ESQUIRE  
THEODORE H. JOBES, ESQUIRE  
**FOX ROTHSCHILD LLP**  
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Dated: December 11, 2019

*Attorneys for Defendants*

Case ID: 191200319  
Control No.: 19121347

**FOX ROTHSCHILD LLP**

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Defendants.

**COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PA**

**NO. 191200319**

**COMMERCE PROGRAM**

**DEFENDANTS' PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT**

Pursuant to Pennsylvania Rule of Civil Procedure 1028(a)(6), Defendants, Pond Lehocky Stern Giordano LLP, Samuel H. Pond, Jerry M. Lehocky and Thomas J. Giordano, file these Preliminary Objections to Plaintiff David F. Stern's Complaint (the "Complaint"), on the grounds that Stern is party to a binding arbitration agreement governing this dispute and thus this matter must be dismissed or stayed. In further support thereof, Defendants state as follows:

**INTRODUCTION**

1. This lawsuit demonstrates a shameless and reckless disregard for the lives of the tens of thousands of clients and the hundreds of employees of Pond Lehocky and their families. Stern is seeking the dissolution of a leading law firm in an illegitimate attempt to extract more money than he would be entitled to under the partnership agreement he signed. Notwithstanding the grandiose allegations in the complaint – which are vehemently denied – they have no place in

a public forum. The parties, and David Stern in particular, agreed on multiple occasions in signed writings that any disputes among them would be resolved through private binding arbitration. Accordingly, Defendants file these preliminary objections to compel arbitration.

**Plaintiff Must Be Compelled To Arbitrate These Claims**

2. On December 3, 2019, Plaintiff filed a Complaint against Defendants. *See* Complaint, attached hereto as Exhibit “A”.

3. Defendants are Pond Lehocky Stern Giordano LLP (“Pond Lehocky”) – one of the leading firms in the country specializing in workers compensation and social security law, Samuel H. Pond (“Pond”), Jerry M. Lehocky (“Lehocky”) and Thomas J. Giordano (“Giordano”) (collectively, the “Pond Lehocky Defendants”). Pond, Lehocky, Giordano and Plaintiff are all partners in Pond Lehocky.

4. Plaintiff is David F. Stern (“Stern”).

5. Plaintiff’s Complaint asserts a single count seeking dissolution of Pond Lehocky. The gist of the averments in the Complaint relate to Stern’s grievances with the operation of Pond Lehocky and Pond’s actions as Managing Partner of the Firm.

6. On or about June 21, 2019, Stern, Pond, Lehocky and Giordano all signed a Limited Liability Partnership Agreement (the “Partnership Agreement”) that governs Pond Lehocky. The Partnership Agreement superseded an earlier Limited Liability Partnership Agreement among Stern, Pond, Lehocky and Giordano dated September 28, 2015 (the “2015 Partnership Agreement”), which, in turn, superseded a Partnership Agreement dated May 16, 2010 among Stern, Pond, Lehocky and Giordano (the “2010 Partnership Agreement”).

7. Stern acknowledges the existence of the Partnership Agreement in his Complaint (*see, e.g.,* ¶¶ 68-73), but did not attach a copy which would have revealed that the Partnership

Agreement contains an arbitration provision. The Partnership Agreement is confidential and contains confidential and proprietary business information. Accordingly, the Pond Lehocky Defendants will not attach a copy to these publicly filed preliminary objections. Nevertheless, Stern has a copy and Defendants can make the Partnership Agreement available to the Court for *in camera* review or file a copy under seal. The relevant provision will be quoted verbatim and in full below.

8. The Partnership Agreement contains an arbitration agreement which states in full:

#### ARTICLE XIII

##### Arbitration

*Any controversy or claim or dispute arising out of or related to this Agreement, or the failure or refusal to perform the whole or any part thereof, shall be settled by arbitration at Philadelphia, Pennsylvania, by a single arbitrator selected by mutual agreement of the Partners; but in the absence of agreement on a single arbitrator, then, the matter shall be settled in accordance with the rules then obtaining, of the American Arbitration Association, by three (3) arbitrators selected in accordance with said rules. The parties, and each of them, hereby submit themselves to the jurisdiction of the courts of Pennsylvania in any proceeding for the enforcement of this Agreement to arbitrate or for the enforcement of the award rendered by the arbitrators, and agree that judgment upon such award may be entered in any court, in or out of Pennsylvania, having jurisdiction thereof.*

(Emphasis added.)

9. Significantly, the Partnership Agreement does not contain an exception to the arbitration agreement for injunctive relief by partners such as Stern.

10. The 2015 Partnership Agreement, signed by Stern, contained an identical arbitration provision.

11. The 2010 Partnership Agreement, signed by Stern, also included an arbitration provision, although the wording was slightly different and that provision required the parties to mediate before submitting a claim to arbitration.

12. Preliminary objections may be properly based on “pendency of a prior action or agreement for alternative dispute resolution.” *See* Pa.R.C.P. 1028(a)(6).

13. Where an agreement to arbitrate exists, the court must order the parties to submit the dispute to arbitration. The Uniform Arbitration Act, 42 Pa.C.S. § 7304(a), provides:

On application for a court order to compel arbitration made by a party showing an agreement described in section 7303 (relating to validity of an agreement to arbitrate) and a showing that an opposing party refused to arbitrate, the court shall order the parties to proceed with arbitration.

14. Where an application for an order to proceed with arbitration has been made, a court must stay any action involving the issue subject to arbitration. 42 Pa.C.S. § 7304(d) provides:

An action or proceeding, allegedly involving an issue subject to arbitration, shall be stayed if a court order to proceed with arbitration has been made or an application for such an order has been made under this section.

15. Ignoring the arbitration agreement contained in the Partnership Agreement, on December 3, 2019, Plaintiff filed a Complaint (attached as Exhibit “A”) in the Court of Common Pleas of Philadelphia County against Defendants relating to the governance of Pond Lehocky.

16. Regardless of the relief sought by Plaintiff – dissolution of Pond Lehocky – his claims arise out of the Partnership Agreement and are plainly encompassed by the “*any controversy or claim or dispute arising out of or related to this Agreement, or the failure or refusal to perform the whole or any part thereof*” language provided for in the arbitration provision. *See* ¶ 8 above.

17. By filing his Complaint and requesting relief in the Court of Common Pleas of Philadelphia County, Plaintiff has demonstrated his unwillingness to submit the dispute to arbitration as required by the Partnership Agreement.

18. “Where a party to a civil action seeks to compel arbitration of that action, a two-part test is employed to determine if arbitration is required. First, the trial court must determine whether a valid agreement to arbitrate exists between the parties. Second, if the trial court determines that such an agreement does exist, it must then determine if the dispute involved is within the scope of the arbitration provision.” *Pittsburgh Logistics Sys., Inc. v. Prof'l Transp. & Logistics, Inc.*, 803 A.2d 776, 779 (Pa. Super. 2002).

19. Plaintiff does not dispute that he entered into the Partnership Agreement with Defendants – indeed he admits this fact in his complaint. *See* Complaint (Exhibit “A”) at ¶¶ 68-73.

20. Similarly, this dispute is within the scope of the arbitration provision. Plaintiff’s contentions – relating to the operation of Pond Lehocky and Pond’s actions as Managing Partner of Pond Lehocky – fall squarely within the “any controversy or claim or dispute arising out of or related to this Agreement, or the failure or refusal to perform the whole or any part thereof” language of the arbitration agreement.

21. Accordingly, the Court must enter an order compelling Plaintiff to submit for arbitration the claims brought in his Complaint, and staying this case in favor of the arbitration. *See* 42 Pa.C.S. §§ 7302 (a), 7304(a) and 7304(d).

#### **Pennsylvania and Federal Law Direct Enforcement of the Arbitration Agreement.**

22. Section 2 of the Federal Arbitration Act, 9 U.S.C. §§ 1 *et seq.* (the “FAA”) “is a congressional declaration of a liberal federal policy favoring arbitration agreements,

notwithstanding any state substantive or procedural policies to the contrary.” See *Moses H. Cone Mem’l Hosp. v. Mercury Const. Corp.*, 460 U.S. 1, 24 (1983). A written agreement to arbitrate “shall be valid, irrevocable, and enforceable” per the FAA “save upon such grounds as exist at law or in equity for the revocation of any contract.” 9 U.S.C. § 2.

23. The United States Supreme Court has repeatedly mandated that both state and federal courts must enforce the FAA with respect to all arbitration agreements covered by that statute and enforce the bargain of the parties to arbitrate. See *Marmet Health Care Center, Inc. v. Brown*, 132 S.Ct. 1201 (2012); see also *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333 (2011).

24. In *DirectTV, Inc. v. Imburgia*, 136 S.Ct. 463 (2015), the Supreme Court overruled a state court ruling that failed to give due deference to federal policy favoring enforcement of arbitration agreements, as expressed in *Marmet*, *Concepcion*, and other cases.

25. In *Imburgia*, the Supreme Court expressed its frustration with the continuing phenomenon of state courts refusing to enforce FAA-governed arbitration agreements:

“Lower court judges are certainly free to note their disagreement with a decision of this Court. But the ‘Supremacy Clause forbids state courts to dissociate themselves from federal law because of disagreement with its content or a refusal to recognize the superior authority of its source.’ . . . The Federal Arbitration Act is a law of the United States, and *Concepcion* is an authoritative interpretation of that Act. Consequently the judges of every State must follow it.” (citations omitted).

*Id.* at 468.

26. Similarly, Pennsylvania law requires enforcement of arbitration provisions as written, “permitting such provisions to be set aside only for generally recognized contract defenses such as duress, illegality, fraud, and unconscionability.” *Gaffer Ins. Co., Ltd. v. Discover Reinsurance Co.*, 936 A.2d 1109, 1114 (Pa. Super. 2007) (internal citation omitted). Ultimately, “[i]t is hornbook law that Pennsylvania favors the enforceability of agreements to arbitrate . . . . If

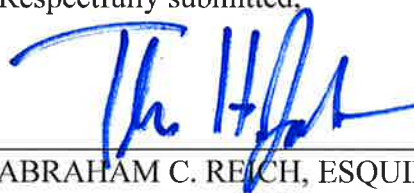


a party dissatisfied with the result of a contract could avoid arbitration merely by claiming that the other party intended to breach the contract before signing it, then any arbitration clause could easily be avoided.” *Dodds v. Pulte Home Corp.*, 909 A.2d 348, 351 (Pa. Super. 2006) (citing *Quiles v. Financial Exch. Co.*, 879 A.2d 281, 285 (Pa. Super. 2005)).

27. A valid arbitration agreement contained in the Partnership Agreement covers Plaintiff’s claims in the Complaint. Accordingly, Defendants request that the Court enter an Order requiring Plaintiff to pursue his claims in the manner provided in the arbitration agreement.

**WHEREFORE**, Defendants respectfully request that the Court sustain their preliminary objections and enter an Order (1) compelling arbitration in the manner provided for in the Partnership Agreement and (2) dismissing Plaintiff’s Complaint in favor of such arbitration. Alternatively, Defendants respectfully request that the Court stay this action pending the outcome of the arbitration.

Respectfully submitted,



---

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Dated: December 11, 2019

*Attorneys for Defendants*

**VI. CONCLUSION**

For the foregoing reasons, Defendants respectfully request that the Court sustain their preliminary objections and enter an Order (1) compelling arbitration in the manner provided for in the Partnership Agreement and (2) dismissing Plaintiff's Complaint in favor of such arbitration. Alternatively, Defendants respectfully request that the Court stay this action pending the outcome of the arbitration.

Respectfully submitted,



---

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Dated: December 11, 2019

*Attorneys for Defendants*

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*Attorneys for Defendants*

Pond Lehocky Stern Giordano, LLP  
Samuel H. Pond, Jerry M. Lehocky,  
and Thomas J. Giordano

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**COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PA**

**NO. 191200319**

**COMMERCE PROGRAM**

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS'  
PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT**

Defendants, Pond Lehocky Stern Giordano LLP, Samuel H. Pond, Jerry M. Lehocky and Thomas J. Giordano, submit this memorandum of law in support of their Preliminary Objections to Plaintiff David F. Stern's Complaint.

**I. MATTER BEFORE THE COURT**

This matter comes before the Court on Defendants' Preliminary Objections to Plaintiff's Complaint. Defendants filed preliminary objections pursuant to Pennsylvania Rule of Civil Procedure 1028(a)(6) seeking to dismiss or stay this action and compel arbitration because Plaintiff and Defendants are parties to a binding arbitration agreement pursuant to which they agreed "*any controversy or claim or dispute arising out of or related to this Agreement, or the failure or*

*refusal to perform the whole or any part thereof, shall be settled by arbitration.*” The arbitration agreement governs this dispute and mandates arbitration. For the reasons set forth below, Defendants respectfully request that the Court sustain their Preliminary Objections and dismiss or stay Plaintiff’s Complaint.

**II. STATEMENT OF QUESTION INVOLVED**

Should Plaintiff’s Complaint be dismissed or stayed and Plaintiff be compelled to arbitrate his dispute with Defendants where Plaintiff and Defendants are parties to a binding written arbitration agreement pursuant to which they agreed “any controversy or claim or dispute arising out of or related to this Agreement, or the failure or refusal to perform the whole or any part thereof, shall be settled by arbitration” and the claims arise out of and are related to the agreement?

***SUGGESTED ANSWER: YES***

**III. INTRODUCTION**

This lawsuit demonstrates a shameless and reckless disregard for the lives of the tens of thousands of clients and the hundreds of employees of Pond Lehooky and their families. Stern is seeking the dissolution of a leading law firm in an illegitimate attempt to extract more money than he would be entitled to under the partnership agreement he signed. Notwithstanding the grandiose allegations in the complaint – which are vehemently denied – they have no place in a public forum. The parties, and David Stern in particular, agreed on multiple occasions in signed writings that any disputes among them would be resolved through private binding arbitration. Accordingly, Defendants file these preliminary objections to compel arbitration.

#### IV. FACTUAL BACKGROUND

##### Plaintiff Must Be Compelled To Arbitrate These Claims

On December 3, 2019, Plaintiff filed a Complaint against Defendants. *See* Complaint, attached hereto as Exhibit “A”. Defendants are Pond Lehocky Stern Giordano LLP (“Pond Lehocky”) – one of the leading firms in the country specializing in workers compensation and social security law, Samuel H. Pond (“Pond”), Jerry M. Lehocky (“Lehocky”) and Thomas J. Giordano (“Giordano”) (collectively, the “Pond Lehocky Defendants”). Pond, Lehocky, Giordano and Plaintiff are all partners in Pond Lehocky. Plaintiff is David F. Stern (“Stern”).

Plaintiff’s Complaint asserts a single count seeking dissolution of Pond Lehocky. The gist of the averments in the Complaint relate to Stern’s grievances with the operation of Pond Lehocky and Pond’s actions as Managing Partner of the Firm.

On or about June 21, 2019, Stern, Pond, Lehocky and Giordano all signed a Limited Liability Partnership Agreement (the “Partnership Agreement”) that governs Pond Lehocky. The Partnership Agreement superseded an earlier Limited Liability Partnership Agreement among Stern, Pond, Lehocky and Giordano dated September 28, 2015 (the “2015 Partnership Agreement”), which, in turn, superseded a Partnership Agreement dated May 16, 2010 among Stern, Pond, Lehocky and Giordano (the “2010 Partnership Agreement”). Stern acknowledges the existence of the Partnership Agreement in his Complaint (*see, e.g.*, ¶¶ 68-73), but did not attach a copy which would have revealed that the Partnership Agreement contains an arbitration provision.<sup>1</sup>

---

<sup>1</sup> The Partnership Agreement is confidential and contains confidential and proprietary business information. Accordingly, the Pond Lehocky Defendants will not attach a copy to these publicly filed preliminary objections. Nevertheless, Stern has a copy and Defendants can make the Partnership Agreement available to the Court for *in camera* review or file a copy under seal. The relevant provision is quoted verbatim and in full in the preliminary objections and this memorandum of law.

The Partnership Agreement contains an arbitration agreement which states in full:

### ARTICLE XIII

#### Arbitration

*Any controversy or claim or dispute arising out of or related to this Agreement, or the failure or refusal to perform the whole or any part thereof, shall be settled by arbitration at Philadelphia, Pennsylvania, by a single arbitrator selected by mutual agreement of the Partners; but in the absence of agreement on a single arbitrator, then, the matter shall be settled in accordance with the rules then obtaining, of the American Arbitration Association, by three (3) arbitrators selected in accordance with said rules. The parties, and each of them, hereby submit themselves to the jurisdiction of the courts of Pennsylvania in any proceeding for the enforcement of this Agreement to arbitrate or for the enforcement of the award rendered by the arbitrators, and agree that judgment upon such award may be entered in any court, in or out of Pennsylvania, having jurisdiction thereof.*

(Emphasis added.) Significantly, the Partnership Agreement does not contain an exception to the arbitration agreement for injunctive relief by partners such as Stern.

The 2015 Partnership Agreement, signed by Stern, contained an identical arbitration provision. The 2010 Partnership Agreement, signed by Stern, also included an arbitration provision, although the wording was slightly different and that provision required the parties to mediate before submitting a claim to arbitration.

#### V. LEGAL ARGUMENT

##### A. Standard of Review

Pennsylvania Rule of Civil Procedure 1028(a)(6) permits a party to file a preliminary objection to enforce an agreement for alternative dispute resolution. *See* Pa. R. Civ. P. 1028(a)(6) (“Preliminary objections may be filed by any party to any pleading and are limited to the following grounds: ... (6) pendency of a prior action or agreement for alternative dispute resolution.”)

**B. Plaintiff Must Submit His Claims to Arbitration Pursuant to the Partnership Agreement.**

Where an agreement to arbitrate exists, the court must order the parties to submit the dispute to arbitration. The Uniform Arbitration Act, 42 Pa.C.S. § 7304(a), provides:

On application for a court order to compel arbitration made by a party showing an agreement described in section 7303 (relating to validity of an agreement to arbitrate) and a showing that an opposing party refused to arbitrate, the court shall order the parties to proceed with arbitration.

Where an application for an order to proceed with arbitration has been made, a court must stay any action involving the issue subject to arbitration. 42 Pa.C.S. § 7304(d) provides:

An action or proceeding, allegedly involving an issue subject to arbitration, shall be stayed if a court order to proceed with arbitration has been made or an application for such an order has been made under this section.

Ignoring the arbitration agreement contained in the Partnership Agreement, on December 3, 2019, Plaintiff filed a Complaint (attached as Exhibit “A”) in the Court of Common Pleas of Philadelphia County against Defendants relating to the governance of Pond Lehocky. Regardless of the relief sought by Plaintiff – dissolution of Pond Lehocky – his claims arise out of the Partnership Agreement and are plainly encompassed by the “*any controversy or claim or dispute arising out of or related to this Agreement, or the failure or refusal to perform the whole or any part thereof*” language provided for in the arbitration provision. By filing his Complaint and requesting relief in the Court of Common Pleas of Philadelphia County, Plaintiff has demonstrated his unwillingness to submit the dispute to arbitration as required by the Partnership Agreement.

“Where a party to a civil action seeks to compel arbitration of that action, a two-part test is employed to determine if arbitration is required. First, the trial court must determine whether a valid agreement to arbitrate exists between the parties. Second, if the trial court determines that such an agreement does exist, it must then determine if the dispute involved is within the scope of

the arbitration provision.” *Pittsburgh Logistics Sys., Inc. v. Prof'l Transp. & Logistics, Inc.*, 803 A.2d 776, 779 (Pa. Super. 2002).

Plaintiff does not dispute that he entered into the Partnership Agreement with Defendants – indeed he admits this fact in his complaint. *See* Complaint (Exhibit “A”) at ¶¶ 68-73. Similarly, this dispute is within the scope of the arbitration provision. Plaintiff’s contentions – relating to the operation of Pond Lehocky and Pond’s actions as Managing Partner of Pond Lehocky – fall squarely within the “any controversy or claim or dispute arising out of or related to this [Partnership] Agreement, or the failure or refusal to perform the whole or any part thereof” language of the arbitration agreement. Accordingly, the Court must enter an order compelling Plaintiff to submit for arbitration the claims brought in his Complaint, and staying this case in favor of the arbitration. *See* 42 Pa.C.S. §§ 7302 (a), 7304(a) and 7304(d).

**C. Pennsylvania and Federal Law Direct Enforcement of the Arbitration Agreement.**

Section 2 of the Federal Arbitration Act, 9 U.S.C. §§ 1 *et seq.* (the “FAA”) “is a congressional declaration of a liberal federal policy favoring arbitration agreements, notwithstanding any state substantive or procedural policies to the contrary.” *See Moses H. Cone Mem’l Hosp. v. Mercury Const. Corp.*, 460 U.S. 1, 24 (1983). A written agreement to arbitrate “shall be valid, irrevocable, and enforceable” per the FAA “save upon such grounds as exist at law or in equity for the revocation of any contract.” 9 U.S.C. § 2.

The United States Supreme Court has repeatedly mandated that both state and federal courts must enforce the FAA with respect to all arbitration agreements covered by that statute and enforce the bargain of the parties to arbitrate. *See Marmet Health Care Center, Inc. v. Brown*, 132 S.Ct. 1201 (2012); *see also AT&T Mobility LLC v. Concepcion*, 563 U.S. 333 (2011).



In *DirectTV, Inc. v. Imburgia*, 136 S.Ct. 463 (2015), the Supreme Court overruled a state court ruling that failed to give due deference to federal policy favoring enforcement of arbitration agreements, as expressed in *Marmet, Concepcion*, and other cases. In *Imburgia*, the Supreme Court expressed its frustration with the continuing phenomenon of state courts refusing to enforce FAA-governed arbitration agreements:

“Lower court judges are certainly free to note their disagreement with a decision of this Court. But the ‘Supremacy Clause forbids state courts to dissociate themselves from federal law because of disagreement with its content or a refusal to recognize the superior authority of its source.’ . . . The Federal Arbitration Act is a law of the United States, and *Concepcion* is an authoritative interpretation of that Act. Consequently the judges of every State must follow it.” (citations omitted).

*Id.* at 468.

Similarly, Pennsylvania law requires enforcement of arbitration provisions as written, “permitting such provisions to be set aside only for generally recognized contract defenses such as duress, illegality, fraud, and unconscionability.” *Gaffer Ins. Co., Ltd. v. Discover Reinsurance Co.*, 936 A.2d 1109, 1114 (Pa. Super. 2007) (internal citation omitted). Ultimately, “[i]t is hornbook law that Pennsylvania favors the enforceability of agreements to arbitrate . . . . If a party dissatisfied with the result of a contract could avoid arbitration merely by claiming that the other party intended to breach the contract before signing it, then any arbitration clause could easily be avoided.” *Dodds v. Pulte Home Corp.*, 909 A.2d 348, 351 (Pa. Super. 2006) (citing *Quiles v. Financial Exch. Co.*, 879 A.2d 281, 285 (Pa. Super. 2005)).

A valid arbitration agreement contained in the Partnership Agreement covers Plaintiff’s claims in the Complaint. Accordingly, Defendants request that the Court enter an Order requiring Plaintiff to pursue his claims in the manner provided in the arbitration agreement.

**VERIFICATION**

I, Samuel H. Pond, certify that I am Managing Partner of Defendant Pond Lehocky Stern Giordano LLP, and am authorized to make this verification on behalf of all Defendants. I hereby verify that the statements made in the foregoing Preliminary Objections are true and correct to the best of my knowledge, information and belief. I understand that false statements made therein are subject to the penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.



---

Samuel H. Pond  
Managing Partner  
Pond Lehocky Stern Giordano LLP,

Dated: December 6, 2019

**FOX ROTHSCHILD LLP**

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and Thomas J. Giordano

DAVID F. STERN, individual and as a  
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LLP,

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v.

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LLP, SAMUEL H. POND, JERRY M.  
LEHOCKY and THOMAS J. GIORDANO,

Defendants.

**COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PA**

**NO. 191200319**

**COMMERCE PROGRAM**

**CERTIFICATE OF SERVICE**

I hereby certify that on December 11, 2019, I served a true and correct copy of the foregoing Preliminary Objections via First Class United States Mail, addressed as follows:

Benjamin A. Garber, Esquire  
Braverman Kaskey, P.C.  
One Liberty Place  
1650 Market Street – 56<sup>th</sup> Floor  
Philadelphia, PA 19103

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THEODORE H. JOBES, ESQUIRE  
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Dated: December 11, 2019

*Attorneys for Defendants*

# EXHIBIT "A"

Court of Common Pleas of Philadelphia County  
 Trial Division  
**Civil Cover Sheet**

For Prothonotary Use Only (Docket Number)  
**DECEMBER 2019** **000319**  
 E-Filing Number: 1912007195

PLAINTIFF'S NAME DAVID F. STERN		DEFENDANT'S NAME POND LEHOCKY STERN GIORDANO, LLP	
PLAINTIFF'S ADDRESS 1312 WAVERLY ROAD GLADWYNE PA 19035		DEFENDANT'S ADDRESS 2005 MARKET STREET 18TH FLOOR PHILADELPHIA PA 19103	
PLAINTIFF'S NAME		DEFENDANT'S NAME SAMUEL H. POND	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS 2005 MARKET STREET, 18TH FLOOR PHILADELPHIA PA 19103	
PLAINTIFF'S NAME		DEFENDANT'S NAME JERRY M. LEHOCKY	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS 2005 MARKET STREET, 18TH FLOOR PHILADELPHIA PA 19103	
TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NUMBER OF DEFENDANTS 4	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input checked="" type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other:		
CASE TYPE AND CODE KP - PARTNERSHIP DISPUTE			
STATUTORY BASIS FOR CAUSE OF ACTION			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		FILED <b>PROPROTHY</b> DEC 03 2019 M. BRYANT	
		IS CASE SUBJECT TO COORDINATION ORDER? YES    NO	
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>DAVID F STERN</u> Papers may be served at the address set forth below.			
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY BENJAMIN A. GARBER		ADDRESS BRAVERMAN KASKEY PC 1650 MARKET STREET 56TH FLOOR PHILADELPHIA PA 19103	
PHONE NUMBER (215) 575-3800	FAX NUMBER (215) 575-3800		
SUPREME COURT IDENTIFICATION NO. 306765		E-MAIL ADDRESS bgarber@braverlaw.com	
SIGNATURE OF FILING ATTORNEY OR PARTY BENJAMIN GARBER		DATE SUBMITTED Tuesday, December 03, 2019, 01:47 pm	

FINAL COPY (Approved by the Prothonotary Clerk)

Case ID: 191200319  
 Control No.: 19121347

**COMPLETE LIST OF DEFENDANTS:**

1. POND LEHOCKY STERN GIORDANO, LLP  
2005 MARKET STREET 18TH FLOOR  
PHILADELPHIA PA 19103
2. SAMUEL H. POND  
2005 MARKET STREET, 18TH FLOOR  
PHILADELPHIA PA 19103
3. JERRY M. LEHOCKY  
2005 MARKET STREET, 18TH FLOOR  
PHILADELPHIA PA 19103
4. THOMAS J. GIORDANO  
2005 MARKET STREET, 18TH FLOOR  
PHILADELPHIA PA 19103

**COMMERCE PROGRAM ADDENDUM  
TO CIVIL COVER SHEET**

This case is subject to the Commerce Program because it is not an arbitration matter and it falls within one or more of the following types (check all applicable):

1. Actions relating to the internal affairs or governance, dissolution or liquidation, rights or obligations between or among owners (shareholders, partners, members), or liability or indemnity of managers (officers, directors, managers, trustees, or members or partners functioning as managers) of business corporations, partnerships, limited partnerships, limited liability companies or partnerships, professional associations, business trusts, joint ventures or other business enterprises, including but not limited to any actions involving interpretation of the rights or obligations under the organic law (e.g., Pa. Business Corporation Law), articles of incorporation, by-laws or agreements governing such enterprises;
2. Disputes between or among two or more business enterprises relating to transactions, business relationships or contracts between or among the business enterprises. Examples of such transactions, relationships and contracts include:
- a. Uniform Commercial Code transactions;
  - b. Purchases or sales of business or the assets of businesses;
  - c. Sales of goods or services by or to business enterprises;
  - d. Non-consumer bank or brokerage accounts, including loan, deposit cash management and investment accounts;
  - e. Surety bonds;
  - f. Purchases or sales or leases of, or security interests in, commercial, real or personal property; and
  - g. Franchisor/franchisee relationships.
3. Actions relating to trade secret or non-compete agreements;
4. "Business torts," such as claims of unfair competition, or interference with contractual relations or prospective contractual relations;
5. Actions relating to intellectual property disputes;
6. Actions relating to securities, or relating to or arising under the Pennsylvania Securities Act;
7. Derivative actions and class actions based on claims otherwise falling within these ten types, such as shareholder class actions, but not including consumer class actions, personal injury class actions, and products liability class actions;
8. Actions relating to corporate trust affairs;
9. Declaratory judgment actions brought by insurers, and coverage dispute and bad faith claims brought by insureds, where the dispute arises from a business or commercial insurance policy, such as a Comprehensive General Liability policy;
10. Third-party indemnification claims against insurance companies where the subject insurance policy is a business or commercial policy and where the underlying dispute would otherwise be subject to the Commerce Program, not including claims where the underlying dispute is principally a personal injury claim.

**BRAVERMAN KASKEY, P.C.**  
DAVID L. BRAVERMAN, ESQ. (No. 35145)  
BENJAMIN A. GARBER, ESQ. (No. 306765)  
EVAN SCHECHTER, ESQ. (No. 325548)  
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Filed and Attested by the  
Office of Judicial Records  
03 DEC 2019 01:47 pm  
M. BRYANT

*Attorneys for Plaintiff*

**DAVID F. STERN**, individually and  
as a partner of Pond Lehocky  
Stern Giordano, LLP  
1312 Waverly Road  
Gladwyne, PA 19035,  
*Plaintiff,*

v.

**POND LEHOCKY STERN GIORDANO  
LLP**, a Pennsylvania limited liability  
Partnership  
2005 Market Street, 18th Floor  
Philadelphia, PA 19103

**SAMUEL H. POND**  
2005 Market Street, 18th Floor  
Philadelphia, PA 19103

**JERRY M. LEHOCKY**  
2005 Market Street, 18th Floor  
Philadelphia, PA 19103

and

**THOMAS J. GIORDANO**  
2005 Market Street, 18th Floor  
Philadelphia, PA 19103,  
*Defendants.*

**COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PA**

No.

Term \_\_\_\_\_

**COMMERCE PROGRAM**

**NOTICE TO DEFEND**

**VERIFIED COMPLAINT**

Case ID: 191200319

Case ID: 191200319  
Control No.: 19121347



**NOTICE**

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 the 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.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

PHILADELPHIA BAR ASSOCIATION  
Lawyer Referral and Information Service  
One Reading Center  
Philadelphia, Pennsylvania 19107  
Telephone: (215) 238-1701

**AVISO**

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACIÓN DE LICENCIADOS DE  
FILADELFIA  
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**POND LEHOCKY STERN GIORDANO  
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2005 Market Street, 18th Floor  
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2005 Market Street, 18th Floor  
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and

**THOMAS J. GIORDANO**  
2005 Market Street, 18th Floor  
Philadelphia, PA 19103,  
*Defendants.*

**COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PA**

No.

Term \_\_\_\_\_

**COMMERCE PROGRAM**

**VERIFIED COMPLAINT**

Plaintiff David F. Stern, ("Stern"), through his undersigned counsel, hereby files this  
Verified Complaint against Pond Lehocky Stern Giordano LLP (the "Firm" or the

“Partnership”), Samuel H. Pond (“Pond”), Jerry M. Lehocky (“Lehocky”) and Thomas J. Giordano (“Giordano”), as follows:

**PRELIMINARY STATEMENT**

1. Stern is one of the three founding partners of the Firm and, since its formation, has been integral to the Firm’s success as its top revenue generator, *de facto* managing partner of the worker’s compensation department and mentor to numerous associates who have lined up outside his office to seek out his advice.

2. Pond is the Firm’s managing partner who manages the Firm in a hypocritical fashion through fear and intimidation. As a result of certain imaginary complaints that Pond wrongly believed Stern had made toward him, Pond has gone on the warpath against Stern attempting to make his life at the Firm so untenable that Stern voluntarily withdraws from the Partnership and accepts a *one-dollar* buyout of his 31.67% ownership stake in the Firm which has been valued in excess of \$90,000,000 by persons hired by Pond himself.

3. Pond has admitted to Stern that the complaints were never actually made. Nevertheless, Pond’s oppressive conduct directed to Stern has continued and escalated. Pond has ousted Stern from his role as the *de facto* managing partner of the worker’s compensation department, disparaged Stern before the entire Firm, taken credit for Stern’s ideas for improving the worker’s compensation department while blaming Stern for the failed policies that Pond implemented and that Stern had warned against, and is falsely accusing Stern of having manifested an intent to withdraw from the Partnership, and of placing the Firm, its employees and clients in jeopardy as part of his continued efforts to coerce Stern into forfeiting his partnership interest. Pond has even bullied the other equity partners into turning against Stern, at

least superficially, while behind his back, they actually harbor disdain for his practices and treatment of Stern. As one of the other equity partners has told Stern the “system is broke”.

4. Because of defendants’ conduct, Stern seeks dissolution of the Partnership under 15 Pa.C.S. § 8481(a)(4)(iii), pursuant to which dissolution is ordered as “another partner has engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with that partner”.

### **THE PARTIES**

5. Plaintiff Stern is an adult individual residing at the above-captioned address. Stern is an equity partner of the Firm and has a 31.67% ownership stake in the Firm.

6. Defendant Pond is an adult individual with the above-captioned address. Pond is the managing partner of the Firm and has a 31.67% ownership stake in the Firm.

7. Defendant Lehocky is an adult individual with the above-captioned address. Pond is an equity partner of the Firm and has a 31.67% ownership stake in the Firm.

8. Defendant Giordano is an adult individual with the above-captioned address. Giordano is an equity partner of the Firm and has a 5% ownership stake in the Firm.

9. Defendant Partnership is a Pennsylvania limited liability general partnership organized and existing under the laws of the Commonwealth of Pennsylvania located at the above-captioned address, which is also its principal place of business.

### **JURISDICTION AND VENUE**

10. This Court has subject matter jurisdiction over this action under 42 Pa.C.S. § 931.

11. Pursuant to 42 Pa.C.S. § 5301, this Court has personal jurisdiction over all of the parties, as each party resides, conducts business in, is organized under the laws of, or maintains its principal place of business in Pennsylvania.

12. Venue is appropriate in this Court under Pa.R.C.P. 1006 and 2130.

### FACTS

#### Stern is an asset to the Firm

13. Stern, Pond, and Lehocky formed "Pond, Lehocky & Stern, P.C." on June 8, 2010.

14. Pond, Lehocky & Stern, P.C. became "Pond Lehocky Stern Giordano LLP" on October 31, 2013, pursuant to 15 Pa.C.S. § 8201 *et seq.*

15. Stern, Pond, and Lehocky each contributed 33.33% of the start-up capital, and each initially had an equal 33.33% equity interest in the Firm.

16. After the initial contributions, Stern, Pond, and Lehocky offered a 5% equity interest to Giordano who accepted and bought into the Firm for \$3,000,000.

17. Stern, Pond, and Lehocky now each have a 31.67% equity stake in the Firm.

18. The Firm primarily represents claimants in worker's compensation and social security disability cases.

19. Shortly after the firm was founded, Stern became the *de facto* manager of the worker's compensation department.

20. Stern did most of the hiring and firing of worker's compensation attorneys, and he was the partner to see for day-to-day operational issues.

21. The associates looked to Stern as a mentor, and he helped train every single one.

22. Within a few years of 2010, the Firm circulated a hierarchical tree; Stern was formerly entitled the "Managing Partner of Workers' Compensation."

23. After a few years, Pond requested Stern focus more on the attorneys and appointed others to manage the day-to-day operations in the worker's compensation department.

24. As a result of the Firm's extraordinary growth, it was constantly promoting young (some with only 1-3 years of experience) lawyers to the job of worker's compensation case file handling.

25. Stern was their mentor, and they would form such long lines outside his office for help that Stern's legal staff joked that he needed a deli counter ticket machine to handle the lines and meetings.

26. Stern spent an enormous amount of time with these young lawyers, and many of them have expressed their gratitude toward him for how he has mentored and taught them.

27. Stern has been the top revenue generator for the Firm every single year; it has not even been close.

28. In 2018, Stern produced in excess of one million dollars more in revenue than the second highest earner: Lehocky (who had a larger caseload).

29. So far in 2019, Stern has produced almost close to one million dollars more than anyone else.

30. Stern has been named by the Philadelphia Business Journal to its annual class of Best of the Bar: Philadelphia's Top Lawyers in the category of plaintiff personal injury litigation.

31. Stern was named among the Top 100 Lawyers of 2018 in both Pennsylvania and Philadelphia by Super Lawyers®. He has also named to the Best Lawyers® list from 2013 through 2019.

32. Upon information and belief, Stern is among the most successful plaintiff's worker's compensation case handlers in the Commonwealth.

33. Due to his skills, leadership, and revenue generation, Stern is an essential member of the Firm.

**Pond's mismanagement**

34. The Firm has experienced explosive growth since its founding in 2010.
35. Currently, the Firm's yearly revenue is more than \$50 million.
36. The Firm achieved this growth through hard work, and massive marketing campaigns.
37. As the Firm's expenses grew due to marketing costs, Pond grew frustrated and restless with the Firm's associates.
38. He believed the associates were not achieving enough "value" in their cases (i.e. receiving less fees), as he compared their results with the partners'.
39. If the associates were not generating as much in fees, it was because the quality of their cases was lower.
40. Pond's berating of the associates caused morale to sink and compelled the associates to become fearful of settling cases, as they feared Pond would accuse them of settling for too low of an amount.
41. The associates then took more cases to trial, no matter their merits; revenue continued to stagnate as the cases taken to trial resulted in low or defense verdicts.
42. Additionally, Pond instituted metrics to track the percentage of cases associates would accept. If their numbers were too low, Pond reprimanded the associates.
43. As a result, the associates accepted worse and worse cases (to keep their acceptance rate high), feeding the lower revenue in a vicious cycle.
44. Pond also adopted a system where attorneys would not meet with new clients face-to-face, but rather only over the phone (to save time and money), which also contributed to the lower revenue and caused client-service issues.

45. All of these edicts by Pond caused the associates' court and deposition coverage requirements to be extreme, causing burnout.

46. Stern pushed back on these policies, pointing out the flaws. In response, Pond scolded him and ignored his concerns.

47. Around June of 2019, Pond took over the management of the worker's compensation department.

48. After reviewing some of the cases, Pond noticed the quality was poor, cases should have been settled, and that many clients had never been met.

49. These were all things Stern had been warning Pond about, but Pond refused to listen.

50. Instead, Pond started sending emails stating: "There is a new sheriff in town."; "I don't care if there is a sore ass now that I'm in charge."; and "How did we get to this place?"

51. These emails were consistent attacks on Stern and his management, even though the issues arose because of Pond's policies.

52. When Pond took over management of worker's compensation, he reversed *his* previous policies (which now he somehow attributed to Stern).

53. He also brought in associates from the Firm's social security department to alleviate coverage burdens and he eliminated first meetings with clients by phone.

54. These were suggestions made by Stern in the past but ignored by Pond.

55. Revenue increased and Pond started sending emails informing everyone of how well the department was doing since he took over and installed "his ideas" (in reality, Stern's ideas).

56. Pond's management has negatively affected the Firm's culture.



**Pond's self-dealing**

57. Pond is the managing partner and has been receiving a substantial fixed monthly management fee, on top of his partnership draws and distributions.

58. The original premise for Pond's monthly management fee was his claim that his caseload was less than that of Stern and Lehocky and thus he was making less money.

59. As time went by, Pond was not satisfied with that management fee, and he wanted a percentage of revenue, even though he was making more money than Stern and Lehocky, while handling around one third of the amount of cases that they were handling.

60. Having now taken a larger caseload, the premise for the monthly management fee no longer holds water. However, Pond still collects his substantial monthly management fee and takes a percentage of all revenue.

61. Often, Pond pays himself more than Stern and Lehocky, even though Stern and Lehocky generate the majority of the revenue and all three have the same 31.67% equity.

62. Pond's substantial monthly management fee has strained the Firm's finances to the extent that even with Stern and Lehocky generating millions in revenue, the Firm has had to draw down on its line of credit to pay the salary of other equity partners.

63. At least one other equity partner of the Firm has acknowledged the inequality in Pond's compensation to the detriment of the other partners.

**Pond's imaginary grievances with Stern**

64. In the winter of 2018-19, Pond unilaterally presented Stern, Lehocky, and Giordano with a new partnership agreement that Pond insisted they sign.

65. Stern was not involved in the drafting of the agreement and did not have any advance notice that one was coming.

66. At a meeting between the four equity partners, Stern raised certain issues with the proposed agreement, including a provision that Pond would be the managing partner until he dies or retires (the previous agreement capped management at age 72).

67. Once Stern spoke up, Lehocky, and to a lesser extent, Giordano, chimed in and agreed with the same concerns Stern raised.

68. For months, Pond did not raise the issue of the new partnership agreement. However, during the week of June 17, 2019, Pond emailed the partners and demanded they sign the proposed agreement that week and circulated the newest draft.

69. Virtually none of the prior concerns were accounted for, and it was essentially the same document.

70. The partners agreed to meet on Friday, June 21, 2019, at Pond's house.

71. Pond demanded Stern, Lehocky, and Giordano sign the slightly revised agreement, or they would have to "come up with other arrangements."

72. They discussed many of the same issues raised at the previous meeting, but only a few small, minimal, changes were made to the proposed agreement.

73. Lehocky and Giordano signed, and Stern was forced to sign as well.

74. Pond apparently felt, without basis, that Stern had told him to retire. Stern never did so. Pond also felt that Stern had questioned his management fee, but that was false as well.

75. Based upon these two imaginary grievances, the relationship between Pond and Stern has become irreconcilable, even though months later, Pond ultimately admitted to Stern that Stern never told him to retire, nor questioned his management fee.

76. Pond apologized to Stern for accusing him of having done so.

### Freeze-out of Stern

77. After the new partnership agreement was signed in June 2019, Pond has attempted to freeze Stern out of the Partnership and force him to leave without fair compensation for his ownership interest in the Firm.

78. Pond removed Stern from management of the worker's compensation department.

79. Pond did away with the flawed policies that *he* had implemented, and then implemented Stern's policies claiming them as his own and taking credit for their efficacy.

80. Pond has sent multiple firm wide emails which those within the Firm understand to be attacks on Stern even though Stern's name is not mentioned.

81. Numerous associates have come to Stern and expressed bewilderment at Pond's attacks on Stern's previous leadership in emails, meetings and dinner speeches.

82. Pond has removed Stern from mentoring workers' compensation associates.

83. Pond has removed Stern from conducting monthly file review meetings and seminars.

84. Pond has removed Stern from policy development in the department.

85. Pond has removed Stern from all financial discussions about the Firm..

86. Despite a tradition of holding regular partner meetings, the last true partner's meeting took place in July 2019.

87. Instead, there have been numerous subset meetings involving various combinations of partners and executive team members, *excluding Stern*.

88. Stern has been stripped of his standing at the Firm that he helped build, despite that Stern retains an ownership stake equal to Pond and Lehocky.

89. Pond, Lehocky and Giordano have conducted almost no business via the existing “partners@pondlehocky.com” email address; through which Stern previously received dozens of emails every week.

90. Instead, Pond caused the creation of new email addresses to conduct Firm business that Stern had no access to.

91. For example, the “RezTeamAdmin@pondlehocky.com” email address does not include Stern and is simply a ruse through which the partners conduct business without Stern.

92. Stern was also removed from the “partners@pondlehocky.com” email address to the bewilderment of the associates that noticed and expressed concern.

93. Pond has left Stern completely in the dark regarding partnership business and failed to consult with him regarding partnership business and issues.

94. For example, Stern generated a workers’ compensation lead in California, only to be told by a staff member that the Firm stopped handling those cases.

95. Similarly, Stern generated a workers’ compensation lead in West Virginia, only to be told by a staff member that the lawyer the Firm hired in Pittsburgh was not going to handle WV cases, despite that being a condition of her hire.

96. Pond has caused the formation of a Delaware limited liability company called “Pond Lehocky LLC” for reasons not disclosed to Stern and without informing or consulting Stern.

97. Upon information and belief, the new entity has been created for the purpose of engaging in new lucrative ventures that exclude Stern and/or to divert the Firm’s business and/or assets to the new entity.

98. Upon information and belief, Pond has entered into a transaction with the Philadelphia 76ers without informing or consulting Stern.

**Pond's oppressive conduct escalates**

99. On October 14, 2019, Pond called a meeting of the equity partners.

100. Stern believed the meeting was a chance to clear the air and move forward.

101. Instead, Stern walked into the meeting where it was obvious that Pond, Lehocky, and Giordano had met first without Stern and discussed Stern amongst themselves.

102. After Stern joined the meeting, Pond looked at Stern and said, "things have not been that harmonious around here recently, do you agree?", to which Stern agreed.

103. Pond replied, "Well I have a solution to that. Here's a new partnership agreement. Jerry [Lehocky] and Tom [Giordano] signed it. You sign it or we will have to come up with other alternatives here."

104. Pond also falsely accused Stern of "undermining him" by not supporting Pond's mandate that associates use satellite offices to meet clients, and falsely accused Stern of having acted improperly by not using the negotiation screens in the Firm's case management software.

105. The October proposed partnership agreement was absurd on its face, as it misrepresented the history and success of the Firm to be all about Pond, excluding Stern's role.

106. In delivering the draft agreement, Pond also misrepresented that the only changes that had been made were to the general acknowledgements section of the agreement when he had made changes to material terms of the agreement elsewhere.

107. Giordano signed the agreement as did Lehocky who told Stern he "signed the Agreement without reading it." Stern refused to sign the October proposed partnership agreement.

108. Having rightfully refused to sign the agreement, on October 30, 2019, Pond held a meeting with Stern and the Firm's CFO, not the other equity partners, to discuss "alternatives".

109. Pond told Stern that he would be given alternatives to stay at the firm and if they were unacceptable, they would negotiate a buyout and he would leave. No offer was made for Stern to stay with the Firm.

110. It was crystal clear to Stern that he would have to choose from the alternatives to be supplied or he would be squeezed and forced out of the Firm.

111. On November 11, 2019, Pond held another meeting with only Stern and the Firm's CFO, where Pond presented Stern with the following options:

- A. Stern would be bought out using the retirement formula in the partnership agreement, with a deep discount for inventory value and other fees he would still be entitled to.
- B. The second proposal was a quasi-franchise arrangement not fully explained by Pond where Stern would be bought out and relegated to a satellite office.
- C. Pond told Stern that if the first two options were unacceptable, they would negotiate a separation and a buyout of his ownership interest in the Firm.

112. Nowhere was the option presented to continue as an equity partner in his current role. Stern considered and rejected the first two proposals as unacceptable.

113. On November 18, 2019, Pond again held a meeting with only Stern and the CFO where Pond presented Stern with an absurd buy-out of his 31.67% share of the Firm (which has been valued in excess of \$90,000,000 by persons hired by Pond himself), which, at bottom, ended with Stern paying the Firm approximately \$200,000. Stern rejected the proposal.

114. Pond pushed for a counteroffer and Stern replied that he had a 31.67% share of the Firm, which was recently valued in excess of \$90 million. Pond scoffed at the notion, even though it was consistent with the value of the Firm and past valuations of the Firm.

115. Pond then wrongfully accused Stern of having declared an intention to voluntarily leave the Firm and that consequently Stern was entitled to \$1 for his ownership stake.

116. Stern responded that he was not leaving voluntarily as he was given no other choice due to the three alternatives presented by Pond, none of which included Stern staying at the Firm.

117. Pond demanded to know if Stern would stay as a partner. Stern told him he was staying and asked Pond if they could revert to how things were before the June meeting.

118. Pond apologized for his behavior but stated that they had come too far at this point to turn around and the Partnership was likely irreparably broken.

119. On November 19, 2019, Stern was then called into a meeting with Pond, Lehocky, and Giordano for the purpose of discussing whether they could continue to operate as the Partnership.

120. Lehocky stated that it was not his call as the issues were between Pond and Stern, and Lehocky was "loyal" to Pond.

121. Giordano said he would be uncomfortable around his partners and he was not comfortable with Stern around, for no particular reason.

122. Upon information and belief, Giordano and Lehocky harbor significant disdain and distrust of Pond and disagree with his practices and treatment of Stern but to date have capitulated to his bullying tactics.

123. Pond then told Stern that there would be (onerous) “conditions” if Stern were to stay.

- A. First, the Firm would be changing its name to simply “Pond Lehocky,” dropping Stern and Giordano.
- B. Second, Stern would follow Pond’s undefined “Playbook.”
- C. Third, Pond stated that he was going to start and operate the DC law firm branch “alone,” that is, without Stern, cutting him off from a new lucrative venture of the Firm.
- D. Fourth, just to spite Stern and hurt him, Pond stated that if Stern stayed, Stern’s top second chair associate would be Pond’s second chair.
- E. Fifth, Pond told Stern that Giordano would be “the man” in worker’s compensation because he “carries out my directives”.

124. Pond also offered the associate significant monetary incentives to coerce him into working for Pond as opposed to Stern.

125. Pond’s efforts to disrupt Stern’s practice by taking away his top second chair associate at the Firm is detrimental to the Firm’s interests inasmuch as Stern is the top revenue generator for the Firm through his superior handling of worker’s compensation cases.

126. Stern has never stated that he was voluntarily withdrawing from the Partnership.

127. Stern has refused (and continues to refuse) to voluntarily withdraw from the Partnership, despite continued pressure from Pond.

128. Pond has and continues to falsely accuse Stern of having voluntarily withdrawn from the Partnership and of somehow placing the Firm, its employees and clients in jeopardy.



129. Pond has also falsely stated that he and the other equity partners have “begged” Stern to stay with the Firm while Pond’s conduct and that of the other partners has clearly demonstrated otherwise.

**COUNT I FOR DISSOLUTION**

130. Plaintiff hereby incorporates by reference herein all of the foregoing allegations of the Complaint.

131. Pursuant to 15 Pa.C.S. § 8481(a) (events causing dissolution), “[a] partnership is dissolved, and its business shall be wound up, upon the occurrence of any of the following:

...

(4) On application by a partner, the entry by the court of an order dissolving the partnership on the grounds that:

...

(iii) another partner has engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with that partner . . .

132. Pond’s oppressive conduct directed toward Stern, as alleged herein, has made it not reasonably practicable to carry on the business in partnership with him.

133. Pond’s efforts to disrupt Stern’s practice has made it not reasonably practicable to carry on the business in partnership with him.

134. Pond’s efforts to turn the other equity partners against Stern has made it not reasonably practicable to carry on the business in partnership with him.

135. Pond’s false accusations that Stern has declared an intent to voluntary withdraw from the Partnership has made it not reasonably practicable to carry on the business in partnership with him.

136. Pond's false accusations that Stern is placing the Firm, its employees and clients in jeopardy has made it not reasonably practicable to carry on the business in partnership with him.

137. Pond's actions taken on behalf of the Firm, including cutting him out of the DC venture, promising to remove his name from the Firm's masthead and entering into a transaction with the Sixers, among other things, without Stern's knowledge and input, has made it not reasonably practicable to carry on the business in partnership with him.

138. As aforesaid, Pond has acted without regard for the existence, rights and interests of the Partnership and of Stern as a partner therein which has made it not reasonably practicable to carry on the business in partnership with him.

139. Pond's conduct relating to the Partnership business has been and continues to be in contravention of Pond's fiduciary duties as managing partner of the Partnership.

140. As aforesaid, Pond's conduct relating to the Partnership business has made it not reasonably practicable to carry on the business in partnership with him.

141. Stern's interest in the Partnership has and continues to be damaged by Pond's conduct relating to the Firm's business.

142. Stern has no adequate remedy at law.

WHEREFORE, plaintiff David F. Stern demands (i) a decree for the dissolution of the Partnership, (ii) for the appointment of a receiver to direct the dissolution and winding up of the affairs of the Partnership, (iii) for the sale of Partnership property and other non-cash assets of the Partnership, (iv) the collection of all monies owed to the Partnership, (v) for the proper distribution of the proceeds thereof after payment of all just debts of said Partnership, (vi) for an injunction enjoining the dissipation of any Partnership assets by any of the defendants and (vii)

for such other and further relief as may be proper, together with interest, costs and attorney's fees.

Respectfully submitted,

Dated: December 3, 2019

**BRAVERMAN KASKEY, P.C.**


BY: /s/ Benjamin A. Garber, Esq. (306765)  
BENJAMIN A. GARBER, ESQ.  
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Philadelphia, PA 19103  
*Attorneys for Plaintiff*

VERIFICATION

Filed and Attested by the  
Office of Judicial Records  
03 DEC 2019 01:47 pm  
M. BRYANT

I, David F. Stern, hereby verify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsifications to authorities.

Dated: December 3, 2019

  
\_\_\_\_\_  
DAVID F. STERN

Case ID: 191200319

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Control No.: 19121347