

IN THE SUPERIOR COURT OF DEKALB COUNTY

STATE OF GEORGIA

WILLIAM GLENWOOD CLOWDIS, JR.,)	
)	
Plaintiff,)	
)	Civil Action File No. 16CV-2088- 4 6
vs.)	
)	
JAMES HUGH POTTS, II and JAMES)	
HUGH POTTS, II, LLC,)	
)	
Defendants.)	

FINAL AMENDED AND RESTATED CONSOLIDATED PRE-TRIAL ORDER

The following constitutes the Final Amended and Restated Pre-Trial Order entered in the above-styled case after this matter having come before the Court on December 13, 2019 to correct several issues contained in the Proposed Consolidated Pre-Trial Order signed on December 6, 2019.

The well pled allegations of the Complaint as determined by the Court are attached hereto as Exhibit A and Plaintiff may read same to the jury and deliver copies of same to the jury at trial as an exhibit in evidence.

- (1) The name, address and phone number of the attorneys who will conduct the trial are as follows:

Plaintiff: Louis Levenson, Esq.
Lori J. Christman, Esq.
Randy Williams, Esq.
LEVENSON & ASSOCIATES
125 Broad Street, SW
Atlanta, GA 30303
(404) 659-5000 phone
(404) 659-1355 facsimile
louis@levensonlaw.com
lori@levensonlaw.com
randy@levensonlaw.com

Defendants: Eugene D. Butt
James Hugh Potts II, LLC
1348 Ponce De Leon Avenue
Atlanta, GA 30306
gene@jhpii.com

R. Edward Furr, Jr.
2316 Candler Rd
Decatur, GA 30032
edwardfurr@yahoo.com

- (2) The estimated time required for trial is three (3) to four (4) days.
- (3) There are no motions or other matters pending for consideration by the Court except as follows:

Plaintiff:

- (1) Plaintiff has filed motions in limine, and those have been ruled on.
- (2) Because punitive damages are being sought and because Plaintiff is entitled to present to the jury, during the bifurcated portion of the trial, proof of Defendants' worldly circumstances and financial status and earnings and assets, including legal cases, Plaintiff has sought via a Notice to Produce, Defendants' tax returns and other financial documents. These have not been produced and must be produced before trial.
- (3) Plaintiff reserves the right to file any additional motions in limine, which could not have been reasonably anticipated before trial.

Defendants:

Defendants' Motion in Limine already filed and ruled on.

Defendants object to any and all Documents identified by Plaintiff. Defendant objects to authenticity and admissibility of documents disclosed by Clowdis if liability is already established. This objection would also go to any testimony on matters deemed to be admitted by virtue of the default.

Defendant objects to the use of any demonstrative evidence by Plaintiff counsel which has not been previously disclosed to defense counsel with sufficient time for the evaluation of same.

Defendants objects to the jury considering any allegations of attorney fees and punitive damages since they were unlawfully added to the complaint by an *after* the default judgment amendment.

This Court should bifurcate the trial of this matter pursuant to O.C.G.A§51-12-5.1 into two distinct phases, as follows:

- Liability for punitive damages; and
- Assessment of punitive damages.

(4) The jury will be qualified as to relationship with the following:

Plaintiff William Glenwood Clowdis, Jr.
Plaintiff's counsel Louis Levenson, Lori J. Christman and Randy Williams
Levenson & Associates
Defendant James Hugh Potts, II
Defendant James Hugh Potts, II, LLC
Defendants' counsel Eugene Butt
Defendant's newest counsel Ed Furr

Defendants object to qualifying any person or entity that has no financial interest in the outcome of this case such as Defendants' counsel, Eugene Butt and Ed Furr.

(5)

Plaintiff:

- a. All discovery has been completed. The Court will not consider any further motions to compel discovery except for good cause shown. The parties shall be permitted to take depositions of any person(s) for the preservation of evidence for use at trial. However, deposition testimony shall only be admitted upon agreement of the parties or by a showing that the deponent is legally unavailable at the time of trial.
- b. Unless otherwise noted, the names of the parties as shown in the caption to this order are correct and complete and there is no question by any party as to the misjoinder or nonjoinder of any parties.

Defendants:

All discovery has been completed.

Defendants have sent to plaintiff a request to supplement discovery pursuant to USCR 5.2.

The names of the parties as shown in the caption to this order are correct and complete and there is no question by any party as to the misjoinder or nonjoinder of any parties.

In addition, Defendants request the right to conduct further discovery including depositions, regarding any witnesses listed or trial evidence identified by Plaintiffs, which has not been produced or identified previously during discovery. The Court has determined that discovery is closed.

(6) The following is the Plaintiff's brief and succinct outline of the case and contentions:

Plaintiff William Glenwood Clowdis, Jr. is an obstetrician/gynecologist and a lawyer currently practicing law in New York, New York.

In or about 2001, Clowdis became seriously ill and notified the Virginia Medical Board of his voluntary/temporary hiatus from the practice of medicine and allowed his medical license to become inactive. During this illness, Clowdis was involved in an incident that led to felony charges being pursued by the State of Colorado where he was currently residing. The incident occurred due to involuntary intoxication caused by a dangerous mixture of prescription medications then prescribed to Clowdis to combat this illness.

Because of the involuntary nature of Clowdis' actions, the Colorado prosecutor agreed to a plea bargain in which Clowdis would make a conditional plea with regard to the felony charge. Clowdis would then enter a supervised diversion program, which would cause the conditional guilty plea to be withdrawn upon completion of the program. After Clowdis completed the diversion program, a Colorado judge entered an Order dismissing the felony charge against Clowdis with prejudice. Clowdis' criminal record had since been sealed as of October 2019.

Upon completion of the diversion program, Clowdis notified the Virginia Medical Board of his intention to reactivate his medical license. Clowdis also entered a contract with a West Virginia hospital to return to the practice of medicine.

Unfortunately, in 2007, the Virginia Medical Board learned of the 2001 incident in Colorado and erroneously believed Clowdis to be a convicted felon, despite the Colorado court's dismissal of the felony charge. As a result, the Virginia Medical Board declared that Clowdis was a substance abuser and suspended his license without a hearing.

Clowdis did not have his first hearing with the Medical Board until 2011. After the initial hearing, the Board restored Clowdis' license under the condition that he be monitored by the Virginia Health Practitioners Monitoring Program ("HPMP"). Shortly thereafter, without explanation, HPMP re-suspended Clowdis' medical license and made Clowdis sign a five-year contract with HPMP for monitoring.

The arbitrary actions of HPMP led Clowdis to contact the Center for Peer Review Justice ("CPRJ") who then referred Clowdis to Robert Kimber, MD. Dr. Kimber then referred Clowdis to Defendant James Hugh Potts II for legal representation of Clowdis against HPMP and the Virginia Medical Board.

In January of 2012, Potts agreed to represent Clowdis in several legal matters including before the Virginia Medical Board, while also hiring Clowdis to work full time in Potts' office.

Clowdis was both a medical doctor and J.D. and could provide legal assistance to Potts and medical expertise on medical/legal matters. Potts agreed to pay Clowdis a salary for his employment and to provide Clowdis with a residence. Potts agreed to represent Clowdis in his various legal matters if Clowdis would work full time in Potts' law firm.

After Clowdis began working for Potts, Potts disclosed to Clowdis his intention to focus on medical malpractice cases and asked Clowdis to consider becoming his business partner because of Clowdis' qualifications as a lawyer and a doctor. Also around this time, Potts began his active representation of Clowdis in the following matters: (1) Clowdis' enrollment in HPMP; (2) Clowdis' attempts at retaining his medical license before the Virginia Medical Board; (3) Clowdis' child support matters; and (4) Clowdis' seeking to seal the Colorado criminal record (that has since been sealed). During this representation, Potts learned of a lot of confidential information from and about Clowdis; information that was protected under the attorney-client privilege. Also at this time, Clowdis maintained an active Virginia medical license and was Board Certified, though he was unable to practice because of HPMP's unilateral actions in preventing Clowdis from practicing medicine.

In furtherance of Potts' representation of Clowdis and instead of negotiating with HPMP to allow Clowdis to reenter the practice medicine, Potts negligently and/or intentionally made overt threats to HPMP officials and to the Virginia Medical Board on Clowdis' behalf. Potts further threatened to sue both entities, and eventually sent a letter to HPMP declaring Clowdis' immediate suspension of participation in the monitoring program. Potts also sent an *ante litem* notice (threatening to sue) to the Commonwealth of Virginia, the Virginia Board of Medicine, Virginia Commonwealth University, and Joel Silverman, MD (owner of HPMP). After this notice was sent, Amy Stewart (Clowdis' HPMP counselor) attempted to contact Potts, though, Potts refused to communicate with her. Because of Potts' actions, HPMP re-suspended Clowdis' medical license on September 7, 2012.

Also during this time, Potts was assisting Clowdis in obtaining admission to the New York and Georgia Bars by writing letters of support and even met with the General Counsel for the New York Bar and representatives of the Georgia Bar. Unfortunately because of the suspension of Clowdis' medical license in Virginia and the Medical Board's investigation into the matter, the Georgia Bar tabled Clowdis' application to take the bar exam pending the resolution of the Virginia medical board matter. Moreover, the New York Bar chose not to consider Clowdis' application until the Georgia Bar made their determination. In other words, Potts negligent and intentional actions in having Clowdis' medical license suspended destroyed Clowdis' ability to sit for a bar exam and become a licensed attorney.

On February 22, 2013, the Virginia Medical Board held a hearing on Clowdis' medical license suspension. Potts secured *pro hac vice* status and represented Clowdis at said hearing. At that hearing, Potts was completely unprepared and acted unprofessionally. He was threatened with the revocation of his *pro hac vice* admission for his unprofessional conduct. Because of Potts' conduct at the hearing on behalf of Clowdis, the Medical Board upheld its suspension of Clowdis' medical license indefinitely and issued a fine of \$5,000. Potts assured Clowdis that he would file suit and seek damages from the Medical Board and HPMP for this suspension. No such law suit was ever filed by Potts.

Instead, disagreements developed between Clowdis and Potts during the prosecution of certain *qui tam* (false claims) actions where Clowdis was the original “source” and “relator.” These disagreements eventually lead Potts to discontinue providing housing to Clowdis as was part of their original fee arrangement. As such, Clowdis was forced to move to his parents’ home in Virginia and continue to work long distance for Potts’ firm. Potts approved of this arrangement and agreed to continue the employment of Clowdis.

However, Potts soon took efforts to antagonize Clowdis and even filed a false police report alleging that Clowdis stole a laptop from Potts’ firm. This laptop was actually provided by Potts as a bonus to Clowdis and was utilized by Clowdis in furtherance of his work for Potts’ firm. Police were called to make a report on this.

During the period when Potts was Clowdis’ attorney, the tension between Clowdis and Potts continued to increase. Clowdis agreed to provide an affidavit in support of a bar grievance against Potts drafted by another aggrieved lawyer, Edward Rueda, who was a partner in Potts’ firm. Rueda was concerned by Potts’ unethical conduct, conduct that Clowdis witnessed during his time with the firm.

In retaliation against Clowdis for providing this affidavit, Potts began making efforts, whether intentionally or negligently and/or in violation of his duties to his client and his goals, to damage and ruin Clowdis’ ability to sit for the New York and Georgia Bar exams by expressly withdrawing his support of Clowdis’ applications for admission. Additionally, Potts utilized, accidentally, negligently or on purpose, confidential information on Clowdis that Potts only learned through his representation and contacted both the New York and Georgia Bar associations to explain this withdrawal of support. Upon information and belief, Potts made multiple phone calls to the New York Bar, Georgia Bar, HPMP, and the Virginia Medical Board where he defamed Clowdis and urged each entity to avoid admitting Clowdis because he was a “convicted felon” and “drug abuser,” though Potts knew each of these allegations or claims to be false and had represented to others at other times that these claims were false. Potts also utilized this privileged information of Clowdis in support of a separate civil lawsuit against Edward Rueda.

Because of Potts’ negligent and/or intentional actions, Clowdis was unable to obtain a license to practice law until 2019 when he was finally admitted to the State Bar of New York. However, Clowdis’ medical license has not been reinstated, despite concerted efforts by Clowdis for same. Potts’ actions before the Virginia Medical Board and his disclosure of confidential client information is clear malpractice that has substantially damaged Clowdis’ ability to have employment as he can no longer practice medicine and only recently began practicing law.

Because of Potts’ actions, Clowdis filed the instant lawsuit for legal malpractice and breach of fiduciary duty. During this litigation, Potts committed repeated, egregious discovery violations that ultimately caused Potts’ answer and counterclaims to be struck. A default judgment was thereafter entered against Defendants, meaning Defendants are prohibited from contesting liability in this case as the facts within Clowdis’ Complaint (outlined above) are deemed admitted.

(7) The following is the Defendants' brief and succinct outline of the case and contentions:

Plaintiff is not entitled to recover any damages from Defendants as his Complaint is devoid of sufficient well-plead facts to constitute any cause of action under Georgia Law.

The Court has ruled against Defendant's Brief and the Attached Color Coded Complaint Containing Defendants Objections and Arguments Regarding Well-Pled facts for each paragraph of Plaintiff's *pro se* Complaint, filed with this Court on November 22, 2019 and incorporated by reference. See also the attached DEFENDANTS' FACTS AND CONTENTIONS also incorporated herein by reference (Exhibit B attached to the Final Amended and Restated Pre-Trial Order).

(8) The issues for determination by the jury are as follows:

By Plaintiff:

- a. The amount of damages to be awarded to Plaintiff, including punitive damages and attorney's fees.

By Defendants:

1. Whether under the facts as deemed admitted, any damage exists which would allow the plaintiff to recover for legal malpractice and/or breach of fiduciary duty.
2. Whether Plaintiff mitigated his damages and if not, the amount by which damages could be mitigated.
3. Whether the damages claimed by the plaintiff, are related to the alleged conduct of the defendants or are they attributable to other causes.
4. Whether the damages claimed by the plaintiff are exaggerated magnified or speculative.
5. Whether under the facts as deemed admitted the plaintiff is entitled to be awarded any damages.
6. Whether under the facts as deemed admitted, any claim exists, for punitive damages.
7. Whether there is an underlying recovery of damages, which are required before attorney fees or punitive damages can be awarded.

(9) Specifications of negligence including applicable code sections are as follows:

Plaintiff:

Defendants have been determined to have been negligent by the entry of a default judgment and are no longer permitted to contest liability.

Defendants:

Upon admitting only the well pled facts in plaintiff's complaint pursuant to O.C.G.A. § 9-11-55. Defendants state that Plaintiff is not entitled to recover any damages against them.

- (10) If the case is based on contract, either oral or written, the terms of the contract are as follows (or, the contract is attached as an Exhibit to this order):

Plaintiff:

Oral and/or written contracts are involved. Defendant Potts agreed to represent Clowdis in his various legal matters if Clowdis would work full time in Potts' law firm.

Defendants

There is no written contract. There was an oral agreement for free representation in Virginia before the Virginia Medical Board in 2013. No valid contract claim exists under the well-pled facts of Plaintiff's Complaint.

Nowhere in the complaint is there an allegation establishing the parameters of acceptable conduct employed by lawyers under similar conditions and like surrounding circumstances and that a significant breach of the standard of care by Potts caused Clowdis any harm. The alleged claim for breach of fiduciary duty duplicates the unsupported legal malpractice claim because the duties: a) arose from the attorney-client relationship; 2) were allegedly breached by the same conduct and 3) allegedly caused the same damages.

Although plaintiff could have kept his license had he re-entered the drug and alcohol abuse monitoring program, he chose not do. Instead he appealed the Board's Order and sued the Va Medical Boar, Dr. Silverman and several others in federal court. Since plaintiff's claims re still pending in the U.S. Fourth Circuit Court of Appeals, plaintiff can prove no injury because the action may terminate favorably for the plaintiff. *Mauldin v. Weinstock*, 201 Ga.App. 514 (1991).

Furthermore, there is no allegation in the Complaint that after leaving Georgia on April 27, 2013, that Clowdis took any action to seek admission to the Georgia, New York or Illinois bars or that Clowdis sought gainful employment of any kind. Instead, Clowdis enrolled in Indiana University's business school. Thus, to the extent that Clowdis had any damages and it is submitted that he did not, he failed to mitigate, as he is required to do by statute.

- (11) The types of damages and the applicable measure of those damages are stated as follows:

Plaintiff:

1. Injury to Plaintiffs' reputation.
2. Humiliation and mental distress.
3. Plaintiff's inability to obtain employment.

4. Plaintiff's lost income from his inability to practice medicine due to Defendants' negligence and intentional acts.
5. Plaintiff's lost income from his inability to practice law due to Defendants' negligence and intentional acts.
6. Damages stemming from Defendants' failure to file suit against the Virginia Medical Board and HPMP.
7. Plaintiff's lost opportunities from Defendants' refusal to recognize Plaintiff as a business partner.
8. Other damages contemplated by applicable Georgia law, including but not limited to legal fees under 13-6-11 and other applicable law.

Defendants:

Defendants object to Plaintiff's enumerated damage claims.

Defendants further state that Plaintiff is not entitled to recover any damages against them and accordingly objects to Plaintiff's damages claims.

- (12) If the case involves divorce, each party shall present to the court at the pre trial conference the affidavits required by Rule 24.2.

This case does not involve divorce.

- (13) The following facts are stipulated: None

- (14) The following is a (at present, tentative) list of all documentary and physical evidence that will be tendered at the trial by the Plaintiff or Defendant. Unless noted, the parties have stipulated as to the authenticity of the documents listed and the exhibits listed may be admitted without further proof of authenticity. All exhibits shall be marked by counsel prior to trial so as not to delay the trial before the jury.

a. By the Plaintiff:

1. October 31, 2001 Letter from Thomas W. Turner to Mr. Groseclose
2. May 18, 2005 Preliminary Psychopharmacology Evaluation of Clowdis
3. May 20, 2005 Motion and Order to Dismiss Counts One through Four (People of the State of Colorado v. William Glenwood Clowdis Jr.; Case No: 04CR01304)
4. September 6, 2005 Stipulation for Deferred Judgment and Sentence (People of the State of Colorado v. William Glenwood Clowdis Jr.; Case No: 04CR01304)
5. April 26, 2007 Order from Sandra Whitley Ryals RE: Dept. of Health Professionals

6. August 19, 2008 Motion and Order to Dismiss Count Five Only (People of the State of Colorado v. William Glenwood Clowdis Jr.; Case No: 04CR01304)
7. September 3, 2008 Letter from Judy Childress to Clowdis
8. April 22, 2011 Letter from Joane Baumer, MD RE: Physician Re-Entry Program
9. May 24, 2011 Virginia Board of Medicine Order suspending Clowdis' medical license
10. May 27, 2011 Letter from Virginia Board of Medicine (Jennifer Deschenes) to Clowdis
11. August 16, 2011 Letter from Ronald C. Maxey, Jr. to Clowdis RE: Closure of Criminal History Records
12. September 22, 2011 Letter from William H. Gordon, M.Ed., CSAC (Admissions Coordinator for Centra Health, Virginia Baptist Hospital, Pathways Treatment Center)
13. November 1, 2011 Email from New York Bar RE: Clowdis' passing of the New York State bar examination
14. November 4, 2011 Letter from Kenneth Noller, M.D. to Clowdis
15. November 16, 2011 Letter and attachments from Clowdis to Renee Dixon
16. December 22, 2011 Email from Clowdis to James Hugh Potts II
17. January 3, 2012 Letter from Richard Willner, DPM (President of the Center for Peer Review Justice)
18. January 19, 2012 Email from Clowdis to Ed Rueda
19. January 23, 2012 Email from Potts to Clowdis
20. January 25, 2012 Letter from Daniel C. Brennan to Clowdis
21. January 27, 2012 Email from Potts to Lindsay Jackson, Shawn Shelton and Clowdis
22. February 7, 2012 Letter from James Hugh Potts II to Dr. Silverman
23. February 7, 2012 Letter from James Hugh Potts II to Daniel Brennan
24. February 12, 2012 Email from James Hugh Potts II to Clowdis RE: Crowne Supplemental Brief
25. February 14, 2012 Notice of Eligibility from Illinois Board of Admissions to the Bar to Clowdis
26. February 20, 2012 Release by Clowdis to Virginia Health Practitioners' Monitoring Program
27. February 21, 2012 Letter from Daniel Brennan to Clowdis RE: NY Bar
28. February 24, 2012 Letter RE: Withdrawal from February 2012 Illinois bar examination from Diana Hobrock to Clowdis
29. February 26, 2012 Email from Potts to Robert Kimber RE: Can Do Meeting
30. March 5, 2012 Checklist for Filing Application for Certification of Fitness to Practice Law in Georgia and Check for \$1,200
31. March 5, 2012 Wood v. UHS of Peachford, L.P. Opinion
32. March 12, 2012 Letter from James Hugh Potts II to Dr. Silverman

33. March 26, 2012 Letter from James Hugh Potts II to Dr. Silverman
34. March 26, 2012 Letter to the Commonwealth of Virginia (Office of the Attorney General), Commonwealth of Virginia (Director of the Division of Risk Management – Department of the Treasury), William L. Harp, MD (Executive Director of Virginia Board of Medicine), Virginia Commonwealth University (Office of the President, Michael Rao, Ph.D.), VCU School of Medicine (Office of the Dean, Jerome F. Strauss III, MD, Ph.D.), and Virginia Commonwealth University (Joel Silverman, MD – Chairman, Dept. of Psychiatry)
35. May 11, 2012 Letter from Sherry Foster to William Clowdis
36. May 16, 2012 Email from Robert Kimber to Clowdis
37. May 18, 2012 Letter from James Hugh Potts II to Sherry Foster
38. May 18, 2012 Letter from James Hugh Potts II to Jennifer Deschenes
39. May 18, 2012 Email from Jennifer Deschenes to Lindsay Jackson
40. April 27, 2012 Letter from Patricia Bernal to William Clowdis.
41. August 3, 2012 Letter from State of New York Bar Admissions office to Clowdis
42. August 5, 2012 JHPii Action Plan
43. August 9, 2012 Credit Card Authorization Form – A Foreign Affair
44. August 31, 2012 Email from James Hugh Potts II to Clowdis
45. September 3, 2012 JHPii Action Plan
46. September 7, 2012 Letter from Virginia Board of Medicine to Clowdis suspending Clowdis' medical license
47. September 10, 2012 Letter from Virginia Board of Medicine to Clowdis RE: formal administrative hearing
48. October 16, 2012 Email from James Hugh Potts II to Jennifer Deschenes
49. October 25, 2012 Email from James Hugh Potts II to Clowdis
50. November 28, 2012 Letter from Clowdis to Jefferson County Dept. of Human Services – CSE Unit
51. December 9, 2012 through April 17, 2013 Text Messages between James Hugh Potts II and Clowdis
52. December 17, 2012 Letter from James Hugh Potts to Georgia Board of Bar Examiners
53. January 10, 2013 Letter from Georgia Office of Bar Admissions to Clowdis
54. February 1, 2013 Email from Potts to Robert Kimber
55. February 1, 2013 Email from Clowdis to Courtney Lewis RE: Action Plan
56. February 15, 2013 Application to Appear Pro Hac Vice before a Virginia Tribunal (James Hugh Potts II)
57. February 22, 2013 Transcript of hearing before the Virginia Medical Board
58. February 22, 2013 Virginia Board of Medicine Formal Hearing Minutes

59. March 4, 2013 Virginia Board of Medicine Order continuing the suspension of Clowdis' medical license and fining Clowdis \$5,000.00
60. March 10, 2013 Email from Clowdis to Courtney Lewis
61. April 9, 2013 Notice of Appeal of March 4, 2013 Order
62. April 18, 2013 through April 19, 2013 text messages between James Hugh Potts II and Clowdis
63. April 26, 2013 Emails from James Hugh Potts II to Courtney Lewis RE: Carriage House
64. April 26, 2013 Email from Courtney Lewis to Team JHPii RE: Action Plan
65. April 27, 2013 through April 29, 2013 Text Messages from James Hugh Potts to Clowdis
66. April 30, 2013 Police Report and any related documents prepared by police or James Hugh Potts II
67. April 30, 2013 Letter from James Hugh Potts II to Daniel C. Brennan
68. April 30, 2013 Letter from James Hugh Potts II to Sally E. Lockwood
69. May 6, 2013 Email from James Hugh Potts II to Clowdis RE: passwords
70. June 17, 2013 Email from Robert Kimber to Clowdis RE: Reuda
71. July 26, 2013 James Hugh Potts II Response to Edward Rueda's Bar Grievance
72. Transcript excerpt of Potts' testimony before Judge John J. Tharp, Jr. (*United States ex rel. Joseph Kasper, et. al. v. Blackhawk Medical Transportation, et al.*, Case No. 13C00220)
73. June 10, 2016 Affidavit of Edward S. Rueda
74. Affidavit of Robert L. Kimber, M.D.
75. Entire lawsuit including Complaint and any other documents in the record in the case of James Hugh Potts II et al. v. Rueda and Lewis; Civil Action File No. 13-CV9982
76. Commonwealth of Virginia Board of Medicine – License to Practice – William G. Clowdis, Jr., MD
77. JHPii Monday Morning Can Do Meeting Notes
78. Voicemails from Robert Kimber to Clowdis
79. Georgia Bar Application of Clowdis
80. New York Bar Application of Clowdis
81. Ed Rueda's Bar Grievance against James Hugh Potts II
82. Excerpt of Potts' Sworn Testimony before U.S. District Court of the N.D. of Illinois Eastern Division: U.S. ex rel. Joseph Kasper, et al v. Blackhawk Medical Transportation
83. January 11, 2019 Report and Recommendation from Michael C. Clark RE: Application for Admission to New York Bar
84. February 22, 2019 Letter from Michael C. Clark to Peter V. Coffey, Esq.
85. May 1, 2019 Letter from Michael C. Clark to Peter Coffey Esq.
86. All pleadings filed in this case
87. All documents relating to Clowdis' criminal matters in Colorado

88. Any other documents produced by Clowdis to Defendants during discovery that are not specifically listed within this section.
89. Any other documents produced by James Hugh Potts II to Plaintiff during discovery that are not specifically listed within this section
90. Documents necessary for impeachment
91. Demonstrative evidence including illustrations, timelines, models, diagrams, tables, charts, etc.
92. All documents and other evidence attached as exhibits to depositions taken during discovery or to any pleadings filed in this case.
93. Georgia statutory mortality table(s) including the Annuity Mortality Table for 1949, Ultimate

The parties have been as yet unable to review each other's documentary evidence and physical evidence to be tendered at trial, and hence, reserve objections as to admissibility and authenticity until the time of trial.

Plaintiff also reserves the right to supplement his list of documents and physical evidence that may be tendered at trial up to one week before the trial of this matter.

b. By the Defendants:

Defendants object to any and all Documents identified by Plaintiffs.

1. Official Board Records of the Virginia Board of Medicine for William Glenwood Clowdis, Jr. (Clowdis)
2. November 7th 2019 Commonwealth of Virginia Department of Health Professions Letter re William G. Clowdis Jr., MD and attached Public Documents, including the following Virginia Department of Health Professions Documents re William G. Clowdis, Jr.
 - a. Certification of Official Board Records
 - b. Order dated 3 August 2017
 - c. Order dated 4 March 2013
 - d. Correspondence dated 4 February 2013
 - e. Correspondence dated 3 January 2013
 - f. Correspondence dated 26 October 2012
 - g. Correspondence dated 10 September 2012
 - h. Statement of Particulars dated 10 September 2012
 - i. Correspondence dated 7 September 2012
 - j. Correspondence dated 27 May 2011
 - k. Order dated 24 May 2011
 - l. Correspondence dated 26 April 2011
 - m. Statement of Particulars dated 26 April 2011
 - n. Correspondence dated 6 October 2009
 - o. Correspondence dated 31 August 2009
 - p. Correspondence dated 2 June 2009
 - q. Correspondence dated 26 May 2009

- r. Statement of Particulars dated 26 May 2009
 - s. Order dated 26 April 2007
 - t. Certification of Duplicate Record Dated 26 April 2007
 - u. **The People of Colorado v William Glenwood Clowdis, Jr.** Felony Conviction Amended entered 6 Feb 2006, NPT 6 September 2005.
 - v. **The People of Colorado v William Glenwood Clowdis, Jr.** Felony Conviction Amended entered 14 Oct 2005, NPT 6 September 2005.
 - w. **The People of Colorado v William Glenwood Clowdis, Jr.** Felony Conviction entered 6 September 2005.
3. 2013 Order of Va. Medical Board re Clowdis.
 4. 2011 Order of Va. Medical Board re Clowdis.
 5. 2007 Order of Va. Medical Board re Clowdis.
 6. All Va Medical Board Orders re Clowdis.
 7. All Va Medical Board Documents re Clowdis.
 8. Statement of Particulars dated May 26, 2009 re Clowdis.
 9. Statement of Particulars dated April 26, 2011 re Clowdis.
 10. Statement of Particulars dated September 10, 2012 re Clowdis.
 11. All Va Medical Board Statements of Particulars re Clowdis.
 12. Transcript of Va. Board of Medicine of Hearing on Feb. 2013 re Clowdis.
 13. Clowdis's Notice of Appeal
 14. Order of Circuit Court of Richmond County dated August 3, 2017
 15. Certified copy of Va. Court of Appeals decision in Clowdis v. Va. Medical Board
 16. Denial of certiorari by Virginia Supreme Court.
 17. Denial of certiorari by U.S. Supreme Court.
 18. Clowdis's Complaint and all filings and pleadings, including Affidavits and attachments, filed in the In the Circuit Court of Richmond City Virginia in *Clowdis v Virginia Board of Medicine, et al*, Civil Case No. CL 13002044-00
 19. Clowdis's Appellant Brief and all filings and pleadings, including Affidavits and attachments, filed in the Virginia Court of Appeals in *Clowdis v Virginia Board of Medicine, et al*, No. RECORD NO. 1381-17-2
 20. Clowdis's Complaint and all filings and pleadings, including Affidavits and attachments, filed in the U.S. District Court for Eastern District of Va. In *Clowdis v Silverman et al*, Civil Action No.: 3:15cv128
 21. Clowdis's Appellant Brief and all filings and pleadings, including Affidavits and attachments filed in the United States Court of Appeals for the Fourth Circuit in *Clowdis v Silverman et al*, No. 16-641
 22. All filings and pleadings, including Affidavits and attachments, filed in the District Court for Jefferson County Colorado in State of Colorado v *Clowdis*, Criminal Case No.: 2004CR1304
 23. All filings and pleadings, including Affidavits and attachments, filed in the Court of Pulaski County Virginia in Commonwealth of Virginia v *Clowdis*, Criminal Case No.: 2001CR
 24. Affidavit of Richard Fedder dated 6 March 2019.
 25. Affidavit of Jessica Aundralyn Clowdis dated 1 December 2016.
 26. Declaration of William G Clowdis, Jr. dated 14 November 2018.
 27. Affidavit of William G Clowdis, Jr dated 26 September 2018.

28. Affidavit of William G Clowdis, Jr dated 1 October 2018.
29. Affidavit of William G Clowdis, Jr dated 1 November 2018.
30. Motion to Appoint Counsel Richard Fedder 6 May 2019
31. Clowdis' Second Amended Complaint filed on October 27, 2015 in U.S. District Court for Eastern District of Va. Against Va., Va. Med Brd, Dr. Dr. Silverman, et.al
32. Decision of Eastern District Court of Va. In Clowdis Against Va., Va. Med Brd, Dr. Dr. Silverman, et.al
33. Clowdis Appellant Reply Brief and pleadings filed 29 May 2019 in *Clowdis v Silverman et al*
34. E-mail Clowdis to Kimber dated September 11, 2012
35. All Clowdis correspondence, including emails and texts, by or between Clowdis and the Virginia Medical Board, Robert Kimber, James Hugh Potts II, Ed Rueda, Isabella Nobis, Janine Mongor or Courtney Lewis or any other former employees of JHPIL.
36. November 16, 2012 letter to Dixon
37. 1st Recovery Monitoring Agreement.
38. 2nd Recovery Monitoring Agreement signed 12/2/19.
39. December 3, 2008 letter from S. Illinois to Clowdis
40. Illinois Bar letter dated February 6, 2012
41. Mrs. Clowdis' article in Colorado Community Media
42. Colorado Judgment of Conviction
43. Transcript of Colorado plea agreement
44. Dr. Lee's psychiatric evaluation
45. Georgia Bar Application and Instructions
46. New York Bar Application and Instructions
47. Illinois Bar Application and Instructions
48. Making the Mark -- Character and Fitness for Admission to the Bar Rebecca S. Mick, Senior Assistant Attorney General, adapted from an article that appeared in the *Georgia Bar Journal*, Vol.19 No.1, August 2013
49. WDBJ 7 Morning News February 2001, "A Pulaski County gynecologist accused of fondling a teenage babysitter was cleared ... 36-year-old Doctor William Glenwood Clowdis Junior slipped out the back door ..."
50. Clowdis's 4th Circuit Court Appeals reply Brief
51. Clowdis Va, Va Med Bd, Silverman et al, Memo Order
52. Clowdis Opening Brief 4th Circuit Court Appeals
53. Va Med Board Order Appeal Affirmed
54. All Va Med Board Orders
55. All Stmts of Particulars Va Med Board
56. Clowdis's Deposition Exhibits
57. Notice to Produce to Clowdis at Clowdis's Deposition
58. Clowdis's Notice of Appeal
59. Clowdis's Petition for Reinstatement April 2011
60. Clowdis's Va Med Board Stmt Particulars April 2011 May 2009
61. Clowdis's Withdrawal Petition for Reinstatement
62. Clowdis's Va Med Brd Order Apr 2007

63. Clowdis's Recovery Monitoring Contract No. 1
64. Clowdis's Recovery Monitoring Contract No. 2
65. Feb 2013 Hearing Transcript
66. Clowdis's Colorado Crim Matter Hearing Transcript
67. Clowdis's Preliminary Psychopharmacology Evaluation May 2005
68. Clowdis's Colorado Judgments of Conviction
69. Clowdis's Medical Records and Consult Notes by Harleen Gill MD
70. Clowdis's Medical Records and Progress Notes by Dr Lee MD
71. Clowdis's Medical Records and Notes by Dr David Thalor
72. Clowdis's Texts including those with Rueda or Lewis or both
73. Clowdis's Texts including those w Defendants or any agent or employee of any Defendant
74. Sou Illinois Charges against Clowdis
75. Clowdis Emails to Kimber
76. Jefferson County Colorado Pleadings, including Motions, Orders et al, Janine Clowdis v William G Clowdis Jr
77. Jefferson County Colorado Pleadings, including Motions, Orders et al, State of Colorado v William G Clowdis Jr
78. Clowdis's Notice of Fault Non-Party
79. Affidavit Anthony McGee
80. Clowdis's Applications for Certificate of Fitness to Practice Law and Attachments thereto
81. All documentary evidence Defendant's determine they require after being provided with Plaintiff's portion of the pre-trial;
82. All documentary evidence provided by Clowdis in discovery;
83. All documentary evidence listed by Plaintiffs in Paragraph 14(a) or in any other paragraph of its portion of the pre-trial order;
84. Defendant's Interrogatories and Request for Production of Documents to Plaintiffs and Responses thereto;
85. Plaintiff's responses to any discovery requests during the course of litigation;
86. Any documents attached as exhibits to any depositions taken or to be taken in this case;
87. Any document or tangible thing to be used for impeachment of Plaintiff or any witness
88. Depositions and exhibits of Plaintiff, and other witnesses for presentation of evidence or for potential use as impeachment;
89. Any and all documents produced by any party during discovery;
90. Any and all exhibits to any pleading or any deposition taken by any party during discovery.
91. Defendants reserve the right to amend this portion of the pretrial as Clowdis provided 7,995 additional pages of discovery to Defendants on Thanksgiving Day, 28 November 27th, 2019, which Defendants have not yet been able to thoroughly review.

Defendants reserve the right to amend this list of documentary and physical evidence by giving appropriate notice prior to trial of any such documentary and physical evidence to opposing counsel. Additionally, defendants reserve the right to object to any proposed documentary and/or physical evidence until it is properly authenticated and tendered. Further, defendants reserve the right to use impeachment materials and demonstrative aids as allowed by law without being listed herein. Defendants object to the admissibility of any documentary or physical evidence not previously identified and produced during discovery.

Defendants object to any documentary evidence being tendered into evidence by opposing counsel at trial if same has not been shown to Defendants attorney prior to pretrial.

Defendants object to any documentary evidence being tendered into evidence by opposing counsel at trial other than those which go to damages.

Defendants also reserve the right to supplement his list of documents and physical evidence that may be tendered at trial so as not to delay the trial of the matter.

(15) Special authorities relied upon by Plaintiff relating to peculiar evidentiary or other legal questions are as follows:

Because punitive damages are being sought and because Plaintiff is entitled to present to the jury, during the bifurcated portion of the trial, proof of Defendants' worldly circumstances and financial status and earnings and assets, including legal cases, Plaintiff has sought, via Notice to Produce, Potts' tax returns and other financial documents.

(16) Special authorities relied upon by Defendants relating to peculiar evidentiary or other legal questions are as follows:

None, at this time. Defendants reserve the right to present legal authority to the Court as particular evidentiary or legal questions may arise during the course of the trial.

(17) All requests to charge anticipated at the time of trial will be filed in accordance with Rule 10.3

Defendants will submit their proposed requests to charge with the court in advance of trial.

(18) The testimony of the following persons may be introduced by depositions:

- a. Plaintiff has not determined what depositions may be introduced, if any, but submits the following list out of an abundance of caution:
 1. Christine Mast
 2. Anthony McGee
 3. Courtney Lewis

4. David Gevertz
5. Edward Rueda

b. By Defendants:

Defendants object to any and all witnesses identified by Plaintiffs.

Randy Evans
Courtney Lewis
Christine Mast
Anthony McGee
Edward Rueda
James Hugh Potts II
Robert Kimber MD
Lindsay Jackson
Lauren Mallin
Janene Monger
Isabella Nobis.

Any witness identified in discovery or Plaintiff's portion of the pretrial order.

Defendants reserve the right to present testimonial evidence of any witness who was deposed during the course of discovery, or whose deposition was taken for the preservation of evidence, including: Randall Evans, Courtney Lewis, William Clowdis, Edward Rueda.

Defendants reserve the right to present testimonial evidence via deposition for any purpose allowable under Georgia law.

Any objections to the depositions or questions or arguments in the depositions will be called to the attention of the Court prior to trial.

Any objection to the depositions or questions or arguments in the depositions shall be called to the attention of the Court prior to the introduction of the deposition.

(19) The following are lists of witnesses the

a. Plaintiff will have present at trial:

1. Plaintiff William Glenwood Clowdis, Jr.

b. Plaintiff may have present at trial:

1. James Hugh Potts II

2. Shawn Shelton
3. Courtney Lewis
4. Edward Rueda
5. Lindsay Jackson
6. Dina Khismatulina
7. Jenny Jensen (as lay witness and expert)
8. Anthony McGee
9. Douglas Chandler
10. Arlan Cohen
11. Amy Stewart
12. Robert Kimber, M.D.
13. Leonard Gross
14. Daniel Levin
15. Atlanta Police Department Officer R. Ramirez
16. Christine Mast, Esq. (expert)
17. Peter Elliott, M.D.
18. Ann Cash
19. Richard Fedder

Plaintiff reserves the right to timely supplement this list prior to trial.

- c. Defendants will have present at trial:

James Hugh Potts.

- d. Defendants may have present at trial:

1. Randy Evans
2. Janene Monger
3. Isabella Nobis
4. Courtney Lewis
5. Christine Mast
6. Anthony McGee
7. Edward Rueda
8. James Hugh Potts II
9. Robert Kimber MD
10. Lindsay Jackson
11. Lauren Mallin
12. William G. Clowdis (for cross examination if not called by plaintiff)
13. All witnesses listed by Plaintiffs
14. An witness identified in discovery.

Defendants reserve the right to amend and supplement the foregoing list of potential witnesses upon reasonable notice so as not to constitute an unjust surprise or impose undue delay upon the trial of the case. Defendants further reserve the right to call other witnesses for the purposes of impeachment or rebuttal.

The Defendants object to the plaintiff calling any witness not specifically named in the Pre-Trial Order or identified in discovery.

Opposing counsel may rely on representation that the designated party will have a witness present unless notice to the contrary is given in sufficient time prior to trial to allow the other party to subpoena the witness or obtain their testimony by other means.

- (20) The form of all possible verdicts to be considered by the jury are as follows:
- a. For Plaintiff: Plaintiff will provide, at the beginning of trial a suggested general verdict form and, along with the general verdict form, some manner of interrogatories to the jury to declare whether punitive damages should be awarded. If the answer is yes to these issues, a second verdict form would be presented to the jury after presentation of the evidence of damages to support an award of punitive or exemplary damages and argument thereon are completed.
 - b. For Defendants: Defendants will submit a proposed verdict form prior to the beginning of trial for the court's consideration. Defendants object to Plaintiff's proposed verdict form.
- (21)
- a. The possibilities of settling the case are: nonexistent
 - b. The parties do want the case reported.
 - c. The cost of take-down will be paid by: Both parties equally
 - d. Other matters:

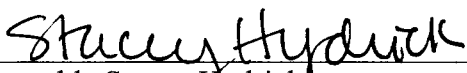
For Plaintiff: None

For Defendants: Defendant objects to any reference, presentation or introduction of this Consolidated Pre-Trial Order at trial.

* * * * *

It is hereby ordered that the foregoing, including the attachments thereto, constitutes the FINAL AMENDED AND RESTATED CONSOLIDATED PRE-TRIAL ORDER in the above case and does supersede the pleadings.

IT IS SO ORDERED, this the 10th day of January, 2020.



Honorable Stacey Hydrick
Judge, Superior Court of DeKalb County

"Exhibit A"

IN THE SUPERIOR COURT OF DEKALB COUNTY
STATE OF GEORGIA

WILLIAM GLENWOOD CLOWDIS, JR)
)
Plaintiff,)
)
v.)
)
JAMES HUGH POTTS II,)
JAMES HUGH POTTS II, LLC)
)
Defendants.)
)

Civil Action
No. _____

JURY TRIAL
DEMANDED

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiff WILLIAM GLENWOOD CLOWDIS, JR. ("CLOWDIS") comes now and files his COMPLAINT FOR DAMAGES and INJUNCTIVE RELIEF and allege as follows.

INTRODUCTION

This is an action for interference with profession and business relations, fraud, breach of contract, legal malpractice, defamation, intentional infliction of emotional distress, breach of fiduciary duty, damage to property, theft of secrets, libel and slander (including but not limited to filing of a false police report, and malicious use of process), retaliation by JAMES HUGH POTTS II ("POTTS") for Plaintiff's affidavit in support of Edward S. Rueda's ("RUEDA") Georgia Bar Grievance against POTTS in violation of Georgia State Bar Rule 4-221(g), destruction of Plaintiff's personal U.S. Mail (in violation of 18 U.S. Code §§ 1702, 1708). These acts were committed by POTTS, and also on behalf of JAMES HUGH POTTS II, LLC (collectively "Defendants").

PARTIES

1. William Glenwood Clowdis, Jr. ("Clowdis") is an obstetrician/gynecologist with a J.D. He is presently a student at Indiana University.
2. James Hugh Potts II ("Potts") is an attorney in Atlanta, Georgia.
3. James Hugh Potts II, LLC is a Georgia Limited Liability Company formed in 1999, owned by its registered agent Potts, and its principle place of business is located at 1348 Ponce de Leon Ave. SE, Atlanta, DeKalb County, Georgia.

FACTS

General Background

4. Plaintiff ("Clowdis") had a series of misfortunes befall him. The facts which form the background history for this Complaint are admittedly extraordinary, but they are well documented.
5. In the 1990's Plaintiff was a ~~very successful~~ practicing physician, having practiced first in the U.S. Navy and then in private practice in Virginia, where he maintained his medical license. In or about 2001, he became seriously ill. He realized that he could not practice medicine at that time and so he notified the Virginia Medical Board of his voluntary (and temporary) inactivation of his medical license. During the course of his illness, he did not practice medicine.
6. In the mean time, Clowdis' family moved to Evergreen, Colorado (near the Columbine area).
7. Clowdis' treating physician prescribed an increasing (and objectively dangerous) cocktail of drugs (~~probably malpractice~~). Instead of helping Clowdis, the combination of drugs prescribed rendered him increasingly ill, mentally depressed,

and caused tolerance and a physical dependency to the very drugs being prescribed.

He ultimately 'coded' and nearly died in the Hospital.

8. Towards the bottom of this cycle, Clowdis had an incident, which triggered a felony charge against him.

~~9. Clowdis had an absolute defense under Colorado law, due to involuntary intoxication.~~ His condition was strictly iatrogenic and caused by the prescription medications his physician prescribed, as administered by his wife according to his physician's directions.

10. Consequently, the prosecutor chose not to prosecute the felony charge. However, Clowdis had two lesser included misdemeanor charges in combination with the felony charge. Clowdis and the prosecutor agreed to a plea bargain in which he would make a conditional guilty plea (as required by Colorado Code for Deferred Judgment - Diversion) with respect to the felony charge and enter into a supervised diversion program. Clowdis did this with the full understanding that the guilty plea was conditional, and would be withdrawn upon his successful completion of diversion.

11. At about this time, Clowdis' wife left him, taking their children.

12. By the summer of 2004, Clowdis had been weaned from the prescription medications. By the time of his entry in Diversion in 2005, Clowdis had recovered, both mentally and physically. Blood tests showed that he was free from drugs, and his team of treating psychiatrists certified that he was mentally fit and ready to return to the practice of medicine. Clowdis then notified the Virginia Medical Board of his intention to reactivate his license.

13. Clowdis' supervising officer and the entire Diversion Counsel certified that he had completed his diversion program successfully. And, the Judge subsequently issued an Order dismissing the felony charge against him with prejudice.

14. In December 2006, with his health restored, Clowdis obtained a contract with a West Virginia Hospital, enabling him to return to the practice of medicine. (The Hospital offered to provide him supervised retraining under a physician for the first 6 months to ensure that his skills were back up to speed after his long absence from practice.).

15. In early 2007, the Virginia Medical Board became alerted to the incident in Colorado, and decided ~~(presumably due to a misunderstanding about what a diversion program is)~~ that Clowdis was a convicted felon.

16. Under Virginia law, a medical license cannot be suspended without a hearing, except in the case that a doctor has been convicted of a felony ~~(wherein the actual conviction in a court of law would constitute sufficient due process to justify the suspension)~~. However, Clowdis was not a convicted felon, ~~(likewise, his guilty plea was a conditional plea)~~. And the completion of diversion satisfied the condition to have the guilty plea rescinded. Furthermore, under Colorado law, his conditional guilty plea was to be treated as if it had never existed in the first place. Those are the legal terms under which Clowdis consented to make his plea.

17. Clowdis still had an attorney at the time that the Virginia Board first suspended his license. His attorney promptly notified the Virginia Medical Board that their suspension was unlawful, and sent proof that the diversion program had been completed successfully.

18. ~~Nevertheless, and perhaps because the Board was trying to cover up for its initial mistake,~~ the Board refused to reinstate Clowdis' license. The Board further doubled down by alleging that Clowdis was a substance abuser. However, there has never been any evidence of any drug use by Clowdis (prescription or not) since his illness. To the contrary, Clowdis has had multiple blood and urine tests, all showing him drug free.

19. The Board simply declared Clowdis to be a drug abuser at the time (2007-2009), without holding a hearing, or giving him any chance to present evidence to refute the allegation. As a result, he lost his job in West Virginia.

20. It should be noted that, if handled properly under due process, it would have been the Board's duty to hold a hearing before declaring that Clowdis is a substance abuser, and the burden of proof should have been on the Board to present evidence to prove its allegation. This never happened.

21. Clowdis did not have his first hearing with the Medical Board until 2011, four years after the initial suspension of his license.

22. However, well before that first hearing, ~~and without any due process,~~ the Board issued a public 'Statement of Particulars' ~~defaming Clowdis and~~ informing the public (~~falsely~~) that Clowdis is a substance abuser. The Board also told Clowdis they would not allow his license to be restored until he obtained formal retraining as a doctor.

23. By that time, Clowdis was destitute and unable to fight the Board effectively. However, with the support of the Veterans' Administration, he went to school and obtained his JD in 2010. At the Medical Board's explicit instruction, he further spent

three months in the KSTAR program in Texas (a hands-on residency program for physicians reentering the practice of medicine) in order to re-establish his credentials. ~~KSTAR is the leading physician re-training program in the country.~~

24. Clowdis passed the KSTAR program ~~with flying colors~~, and was given a ~~strong~~ recommendation from his supervisor.

25. But he still needed the Virginia Medical Board to reinstate his license. A hearing was scheduled in 2011.

26. ~~As a matter of due process, the Board set the bar at this hearing unreasonably high.~~ The burden was placed on Clowdis, ~~as if this were an appeal rather than the original hearing,~~ to prove by "clear and convincing evidence" that: (a) he is not a convicted felon; (b) he is not a current substance abuser; and (c) he is currently mentally fit to practice medicine. (The standard of review at a Medical Board Hearing is *current fitness to practice medicine*, not issues from the remote past.).

27. Clowdis had no problem providing the Virginia Medical Board with the official Order from the Colorado Court dismissing his felony charge with prejudice. As for the remaining allegations, the Board actually barred him from presenting the evidence from Colorado that he was free and clear of drugs and the psychiatric reviews finding he was mentally fit. Still, the one expert, Joel Jeremy Silverman, MD ("Silverman"), who did evaluate Clowdis for the hearing, testified that he had no current drug problems and was mentally fit to practice medicine. But Dr. Silverman also pointed out the past record of prescription medication problems (during Clowdis' illness), and suggested that it would not hurt for Clowdis to have some

health care monitoring. Dr. Silverman did not reveal to Clowdis at the time that this was a self-referral, as (unbeknownst to Clowdis at the time) Dr. Silverman also happened to be the CEO of the health care monitoring facility to which he referred Clowdis.

28. In fact, there is only one physician health care monitoring facility in the Commonwealth of Virginia, the Virginia Health Practitioners Monitoring Program (aka "HPMP"). As Clowdis learned later, Dr. Silverman, was the CEO of HPMP. Dr. Silverman stood to profit from obligating Clowdis to HPMP for as long as possible. But neither Dr. Silverman nor the Medical Board disclosed this to Clowdis at the time:

29. The above facts may account for the schizophrenic nature of the Board's Order based upon the 2011 hearing. On the one hand, the Board ruled that as a matter of fact (citing the Colorado Court's Order) Clowdis was not a convicted felon. But then the Board concluded that, as a matter of law, he was a convicted felon. Likewise, with respect to the alleged substance abuse and mental un-fitness to practice medicine, the Board acknowledged that there was no evidence of current substance abuse or psychopathology. Nevertheless, the Board declared that Clowdis' remote use of prescription medications as prescribed by his treating physicians in the remote past, and the mental depression induced by said medications (iatrogenic condition), prior to entering Colorado's diversion program, constituted substance abuse and mental illness, as a matter of law.

30. ~~Given those ambiguous "findings" of law and fact,~~ the Board concluded the 2011 hearing by Ordering that Clowdis' license to practice medicine be restored,

subject to his submitting to physician health monitoring by HPMP. The Board's Order stated ~~only vaguely~~ what submission to HPMP would mean, saying in effect that Clowdis must do whatever HPMP told him to do so, or else his license would be re-suspended.

31. By Virginia law, Plaintiff had 30 days to appeal this ruling. But the ruling reinstated his license, so there did not seem to be grounds to appeal, other than some questionable and inaccurate language in the Order. He interpreted the health monitoring requirement to mean simply that he would have to submit to regular drug tests when he returned to the practice of medicine. He interpreted the Order to obey HPMP to mean that he must show up for urine testing and the like, whenever HPMP so ordered.

32. Clowdis was not afforded his first opportunity to meet with officials from HPMP until over 90 days after the Board's Order pursuant to the 2011 hearing. It was only then that he learned that, while the Board had reinstated his license, HPMP chose to impose a *de facto* re-suspension of his license. They made Clowdis sign a five-year contract with HPMP. And they told him he could not practice medicine indefinitely, until they determined otherwise. All of this was done under the threat that if he did not sign the five-year contract and obey HPMP, they would tell the Board to re-suspend his license, in accordance with its 2011 Order.

33. At this point it was too late to appeal the Board's 2011 ruling. In addition, Clowdis no longer had a lawyer and could no longer afford one.

34. Not knowing where to turn Clowdis contacted Joanne Baumer, MD, the Chairman of the KSTAR Physician Residency Program and Chair of Family Medicine

at John Peter Smith Health Network in Fort Worth, Texas. Dr. Baumer referred Clowdis to the Center for Peer Review Justice ("CPRJ") located in Kenner, Louisiana.

35. ~~Lest there be any doubt, this Court should note that HPMP did not take this action because of any problems with Dr. Clowdis that had occurred while being monitored.~~ Every drug test Clowdis took at HPMP's behest was negative. And HPMP never made any medical finding that Clowdis was mentally unstable.

Potts Becomes Clowdis' Attorney and forms a Business Relation with Clowdis

36. CPRJ, in turn, referred Clowdis to Robert Kimber, MD ("Kimber"), who then referred Clowdis to Defendant Potts.

37. Clowdis met Potts for the first time shortly before Christmas 2011 at Potts' Atlanta, Georgia office.

38. Clowdis provided Potts with documents regarding his legal matters for which he sought Potts' assistance. Potts told Clowdis to return after the first of January, 2012, to review his case in more detail.

39. Clowdis did return to Potts' Atlanta office during the first week of January, 2012.

40. However, instead of reviewing Clowdis' files, Potts asked Clowdis to work on other legal matters within Potts' firm (drafting responses, other legal documents, etc.). Clowdis did so and Potts paid Clowdis \$1,000 for his first week.

41. In late January, Potts and Clowdis entered into a contract. Potts offered: (a) to represent Clowdis in certain legal matters; (b) to pay Clowdis a (modest) salary; and (c) to provide Clowdis with a residence (guest room in a carriage house on the

grounds of Potts' office), in exchange for which Clowdis was to work full time for Potts' firm, providing legal assistance and medical expertise.

42. Clowdis welcomed the opportunity to make a little money, since HPMP had forbid him to work as a doctor. He accepted Potts' proposal, and used much of his salary to begin paying child support to his family back in Colorado.

43. From the beginning Potts made it clear that he was very impressed with Clowdis' work. Within a month after Clowdis began working for him, Potts asked Clowdis to consider becoming his business partner. Potts told Clowdis of his plans to move his practice more into medical cases and it would be a powerful advantage to have Clowdis, a board certified physician, as his partner.

44. At the time, Potts was the sole partner of his firm, and the only decision-maker. Consequently, Clowdis genuinely and reasonably believed that Potts would and could make him a partner.

45. Furthermore, Clowdis was creating multi-million dollar cases for Potts' firm to litigate. These were cases that Clowdis could understand, precisely because of his medical expertise and understanding of the law. Clowdis was excited about this work and was willing to forego the practice of medicine, in order to address the medical malpractice and false claims cases that he had uncovered.

46. Clowdis told Potts that he would like to become his partner. And indeed, Potts soon began speaking of Clowdis as his current business partner, not merely as someone who was going to become his partner at some unspecified time in the future.

47. Naturally, Clowdis still wanted to maintain an active medical license to retain his status as a medical expert, and he still was relying on Potts to represent him before the Virginia Medical Board.

48. Potts began his legal representation of Clowdis around the end of January. This involved several matters, including: (a) Clowdis' issues with HPMP and the Medical Board (restoring a free and clear medical license and correcting erroneous statements by the Board about his non-existent felony conviction and substance abuse); (b) Clowdis' applications for admission to the bar (in Illinois, New York, and Georgia); (c) Clowdis' child support matters (being behind in his payments due to his inability to work); and (d) sealing his criminal misdemeanor record in Colorado (because the documentation of the misdemeanor conviction refers to the felony charge, which apparently caused confusion for the Medical Board about his criminal record).

49. Toward this end, Potts reviewed all of Clowdis' files with the Virginia Medical Board, as well as his complex history of illness in the early 2000's, and the ensuing legal problems in Colorado, as outlined above.¹

50. Potts' access to these documents, and his knowledge of what they contained resulted only from his representation of Clowdis as his lawyer.

51. Potts ordered the transcript of Clowdis' sentencing hearing in Colorado, and he conferred with a Colorado criminal attorney to assist him with sealing or otherwise remedying Clowdis' criminal record in Colorado.

¹ See Leonard Gross ("Gross") Affidavit, Certificate of Merit, Exhibit 2 at ¶11. Plaintiff incorporates by reference the Certificate of Merit by Gross in its entirety.

52. At about the same time, Potts began corresponding on behalf of Clowdis, regarding his medical license.² One of his first letters, dated February 7, was to Dr. Silverman, the psychiatrist referred to in the background facts (above) who, on the one hand, performed a (supposedly) Independent Medical Evaluation ("IME") of Clowdis to present to the Virginia Medical Board, while on the other hand, he failed to reveal to Clowdis his conflict of interest, being that he was also the CEO of HPMP, and also that HPMP, had been the organization that wrongfully initiated the medical Board's review of Clowdis in 2007 causing the initial suspension of his license.

53. In his February 7th letter to Silverman, Potts clearly lays out his concerns regarding the unreasonableness of HPMP's directives (barring Clowdis from practicing medicine indefinitely), as well as the unethical nature of Silverman's failure to disclose his conflict of interest, and his profit motivation in self-referring Clowdis to his own HPMP program. Potts elaborated that Clowdis "*suffers from the injury to his reputation,*" based on Silverman's misleading representations to the Board at the 2011 hearing. Specifically, Potts told Silverman that: "**Dr. Clowdis has never had a history of substance abuse**", whence there was no reason for monitoring, other than for HPMP's profit. (Exhibit 1, Bates³ 000072)

54. At this time, Clowdis still had an active Virginia medical license and was Board Certified, although HPMP would not let him use that license (under the

² See Exhibit 3. Letter from the Virginia Medical Board with copy of Clowdis active, "full and unrestricted" medical license prior to Potts' representation. See also, Exhibit 4, Board Certification from the American Board of Obstetrics and Gynecology prior to Potts' representation.

³ Bates Numbering was generated by the Virginia Medical Board for its exhibits at the February 2013 hearing, where Potts represented Clowdis.

explicit threat that HPMP would instruct the Medical Board to re-suspend his license, if he even so much as contacted any medical facility about a job).

~~55. Clowdis believes that a lawyer acting in good faith on his behalf could easily have negotiated with HPMP to authorize his return to the practice of medicine in 2012. However, Potts made no attempt to do so. (See Exhibit 2, [13].)~~

~~56. Instead, Potts took it upon himself to threaten Silverman and the Virginia Medical Board on Clowdis' behalf.~~

57. In a letter dated March 12, 2012, Potts notified Silverman of his intention to file a lawsuit in 10 days if Silverman, or his attorney, remained unwilling to respond to the issues raised by Potts. (Exhibit 1, Bates 000070)

58. In a letter dated March 26, 2012, Potts informed Silverman and HPMP that he "advised Dr. Clowdis that he immediately suspend any participation in HPMP to preserve his legal rights, to protect his health and to mitigate his damages pending resolution of this matter". Potts then goes on to state, "This letter represents Dr. Clowdis' suspension of participation in HPMP effective immediately." (Exhibit 1, Bates 000061-000062)

~~59. While Clowdis understands that hindsight is 20-20, he has reason to believe that inspection of the entire correspondence between Potts, Silverman, and the Medical Board (to be obtained in discovery) will show that Potts acted unreasonably to provoke HPMP and the Board into re-suspending Clowdis' medical license.~~

~~60. Clowdis further believes that Potts did this on purpose, to make him (Clowdis) wholly dependent on Potts. He alleges that Potts led him (Clowdis) to believe that he (Potts) was acting aggressively on Clowdis' behalf, and that he~~

~~(Potts) fully intended to make Clowdis a partner in his business; when in fact, Potts never intended to follow through on his threats to sue the Medical Board, and he fully intended to renege on his promise to make Clowdis a partner in his business.~~

61. In particular, Potts never filed a lawsuit or took any of the actions against the Board or Silverman, which he promised in the correspondence cited above, which Potts showed to Clowdis.

~~62. The record will further show that Potts is a spendthrift who ran through money like it was water, and used the firm's money (including the money held in trust for his clients, as well as the profits Potts eventually received from the multi-million dollar cases Clowdis developed), for his (Potts') personal aggrandizement. In particular,~~ Potts never shared with Clowdis any of the proceeds from the cases Clowdis developed.

~~63. Clowdis therefore infers that Potts made promises, and then committed to a partnership with him, only in order to deceive him (Clowdis) and coax him into completing the development of the cases Potts did not understand. From the start, Potts intended to retain full control of these cases solely for his own profit. And in the end, that is exactly what Potts did.~~

64. ~~Clowdis estimates the rough value of the cases he developed for Potts well in excess of ten million dollars.~~ Upon information and belief, Potts ultimately did settle some or all of these cases for substantial value. But he did not share any of that money with Clowdis.

65. In the same time frame, on or about February 7, 2012, Potts wrote a letter in support of Clowdis' admission to the New York Bar. Clowdis had passed the New

York Bar exam in July 2011, and all that was left for his admission was his clearance for admission by the character and fitness committee. In his letter, Potts states:

- a. "I am writing to recommend without reservation that William G. Clowdis, Jr., MD JD be admitted to the New York Bar."
- b. "Dr. Clowdis is working in our office and I have found his work, professionalism and character to be exemplary."

66. Clowdis had previously applied to sit for the Illinois Bar on or about October 28, 2011, before his initial referral to Potts in December.

67. Clowdis received notice from the Character and Fitness Committee dated February 14, 2012, that the Committee found him fit to sit for the February 28-29, 2012 bar examination. (See Exhibit 5)

68. In other words, Clowdis had passed the character and fitness criterion of the Illinois Bar. All that was left to become a full-fledged lawyer was to pass the Illinois Bar Exam, something he had already done successfully in New York.

69. However, as already noted, Potts was relying heavily on Clowdis to prepare and manage cases involving healthcare-related issues for the firm, in particular, developing a whole series of lucrative false claims act cases involving the healthcare industry.

70. When Clowdis approached Potts for (a short) time off to take the two-day bar exam in mid February 2012, Potts denied him. Potts told Clowdis it would take away from the aforementioned cases at his firm, for which Potts was relying on Clowdis' work. He told Clowdis not to take the Illinois bar. (See Exhibit 2, ¶13)

71. At this time, Potts once again, ~~and quite explicitly,~~ offered Clowdis a partnership in his firm. Potts explained that the firm did not have a practice (at that time) in Illinois, and so it would not do any good for Clowdis to obtain an Illinois license. Potts told Clowdis that he should sit for the Georgia bar exam, instead.

~~72. This partnership offer constituted a contract between Potts and Clowdis, as~~

~~Clowdis was asked to forego a value benefit – getting his law license in Illinois in~~

~~order to follow through with the firm's work in Georgia.~~

73. Relying upon Potts' partnership offer (with the expectation and promise that he would share in the high value of the cases he was developing), as well as trusting in Potts' legal expertise and full knowledge of Clowdis' complicated legal and medical history in both Colorado and Virginia, Clowdis agreed to withdraw his application to sit for the Illinois bar exam. (See Exhibit 6)

74. On or about March 5, 2012, Clowdis filed and paid to sit for the Georgia bar exam, also in reliance upon Potts' representations that he (Clowdis) was a business partner in Potts' firm. (See Exhibit 7)

75. On or about April 16, 2012, Clowdis and Potts flew to Albany, New York, to meet with Daniel Brennan, the General Counsel for the NY bar. As Clowdis had already passed the bar exam in New York, this meeting was to review his character and fitness to practice law in New York. At the April 16th meeting, and based upon his thorough review of Clowdis' past history as well as his personal observation of Clowdis' work and habits, Potts conveyed to Mr. Brennan his whole-hearted support for Clowdis' admission to the NY bar. (See Exhibit 8)

76. However, the New York bar decided to defer its consideration for Clowdis' admission, pending Georgia's determination regarding his application to the Georgia bar. The reasoning of the New York bar was that Clowdis had already applied to the Georgia bar, and Georgia was his home state. [See Exhibit 9]

~~77. In the meantime, Potts' actions had the effect of sabotaging Clowdis' Georgia Bar Application.~~

78. On the same date, March 26, 2012, that Potts sent his letter to Dr. Silverman and HPMP informing them that Dr. Clowdis was withdrawing from monitoring, Potts also sent a pre-suit notice addressed to the Office of the Attorney General for the Commonwealth of Virginia, the Virginia Board of Medicine, Virginia Commonwealth University ("VCU"), and Silverman. (Exhibit 1 Bates 000063-000067)

79. In this letter Potts stated that: (a) he was the legal representative for Dr. Clowdis; (b) the Medical Board "willfully and wantonly ignored its error in suspending Dr. Clowdis' medical license of 26 April 2007 for being convicted of a felony despite . . . having clear and convincing evidence to the contrary in the form of certified court documents in its possession prior to and presented during the 19 May 2011 hearing"; (c) Dr. Silverman was hired "to perform an independent medical evaluation to address misrepresentations made by the Virginia medical board regarding his medical history"; (d) and "without disclosing his conflict of interest" regarding self-referral to HPMP, for which he "serves as the Chief Executive Officer," Dr. Silverman "testified . . . , making false and fraudulent claims regarding the diagnosis and recommended treatment of Dr. Clowdis to which the Virginia medical

board remains complicit;" (e) thereby "defrauding Dr. Clowdis and the Commonwealth of Virginia." *Id.*

80. Potts' letter goes on to say that: "Dr. Clowdis was forced to sign a participation agreement under duress with HPMP", and that. "HPMP has further caused injury to Dr. Clowdis by not allowing him to seek employment, move out of state and by forcing him to suffer further injury from the abuse of psychiatry." *Id.* at 000066.

81. Potts' letter then demanded payment for damages in the amount of "\$10,000,000, payable within thirty (30) days of the receipt of this notice." *Id.* at 000067.

82. Needless to say, no payment was received.

83. However, Amy Stewart (Clowdis' HPMP counselor) does claim to have left Potts a message on or about April 23, 2012; and then to have spoken to him on April 26, 2012.

84. Although the content of this discussion is not yet known to Clowdis, he does know that HPMP has cited this communication as a reason for re-suspending his license.

85. HPMP also cited Potts' alleged refusal to respond to a correspondence mailed on or about June 28, 2012, as an additional reason for initiating the re-suspension of Clowdis' medical license. Clowdis had no knowledge regarding the existence of this correspondence, whether it was received by Potts, what its content was, or whether Potts responded.

86. However, Clowdis does know that, in ~~an apparent response to Potts' letters and pre-suit notice~~, HPMP dismissed Clowdis from its program. Instead of treating Clowdis action as a voluntary withdrawal from the program, as Potts told Clowdis it would be considered, HPMP treated this as a violation of the monitoring contract. In particular, upon information and belief, HPMP cited Clowdis (to the Board) for failing to call the Affinity test line (drug testing) on March 28 or 29, although Dr. Clowdis actually withdrew on March 26. (See Exhibit 2, ¶13)

87. As a result, the Virginia medical board then began an investigation.

88. Upon receiving notification from the Board about its investigation, Potts sent his "Response to the Virginia Medical Board" and "Notification of Representation" dated May 18, 2012 (Exhibit 1, Bates 000057-000080), in which Potts stated *inter alias*:

- a. "Dr. Clowdis is **presently board certified.**" (*Id.* 000058)
- b. "Dr. Clowdis did not call the Affinity test line on March 28 and March 29 because this firm received confirmation that the pre-suit notice had been received along with the attached notification of his Voluntary Withdrawal and Suspension from Participation in HPMP on March 26th, 2012 by FAX and March 27th, 2012 by signed receipt of USPS Express Mail containing the notice. Dr. Clowdis' last [drug] test was on March 26th, 2012. All test results were negative." *Id.*
- c. "Dr. Clowdis is no longer participating in HPMP or any other monitoring program. According to his physicians, Dr. Clowdis does not have a **substance abuse or mental health issue. Mental health professionals**

and experts in the fields of both psychology and psychiatry have confirmed this repeatedly." *Id.*

- d. "The Virginia Medical Board's initial decision to suspend Dr. Clowdis' medical license on 26 April 2007 was based on false representation by Dr. Silverman. **Dr. Clowdis is not a convicted felon.**" *Id.* at 000059.
- e. "In an effort to mitigate Dr. Clowdis' damages we notified HPMP that Dr. Clowdis' participation was suspended, effective March 26, 2012." *Id.* at 000060.
- f. "HPMP responded by ignoring his resignation and in accusing Dr. Clowdis of noncompliance. The Virginia medical board has not acknowledged any efforts by this office to resolve issues Dr. Clowdis has with HPMP and the medical board." *Id.*
- g. "Unless Dr. Clowdis' license is permanently reinstated without restriction, limitation, or monitoring and the prior orders containing both **false and slanderous** information about him is removed, we plan to proceed with our lawsuit against Dr. Silverman, HPMP, the Virginia medical board, et al." *Id.*

89. Clowdis' Virginia license to practice medicine and surgery was suspended, without first holding a hearing, on or about September 7, 2012.

90. As a result of the suspension of Clowdis' medical license, the Georgia bar held an informal conference on or about December 6, 2012, to consider Clowdis' Fitness to sit for the bar, and ultimately practice law in Georgia. Clowdis was represented by Potts at this conference.

91. On or about January 10, 2013, the Georgia Office of Bar Admissions tabled his application to sit for the bar pending resolution of the matters pertaining to the suspension of his medical license. (See Exhibit 10)

92. As noted above, the NY Bar had already notified Clowdis (on or about August 3, 2012) that it would not proceed with consideration of his character and fitness determination for admission until the Georgia bar completed its review, which in turn, the Georgia bar made dependent upon the Medical Board's review of his medical license.

93. Potts reassured Clowdis that he (Potts) would seek a Board hearing to remedy the suspension, and then file a suit for damages to offset his losses.

94. Potts further assured Clowdis that he (Clowdis) would be compensated through bonuses, as a partner in the firm, until he obtained his bar admission.

95. Clowdis secured local counsel for Potts to be admitted *pro hac vice* before the medical board in Virginia. The Board scheduled a hearing on February 22, 2013, in Henrico, Virginia. Clowdis arranged travel for both him and Potts to attend, and Potts officially represented Clowdis at the hearing.

96. Prior to the hearing Potts instructed Clowdis not to prepare for the hearing, but rather focus on his work regarding the firm's cases for which Clowdis was primarily responsible. Potts assured Clowdis that he (Potts) would prepare for Clowdis' hearing.

97. However, the evening before the hearing Potts approached Clowdis and asked him (Clowdis) what he (Potts) needed to know for the hearing the next day. It was apparent to Clowdis that Potts had done nothing to prepare.

98. During the hearing, Potts addressed the non-existent felony conviction effectively. He told the Board that this "conviction" was the sole reason that Clowdis' license had initially been suspended, and it was undisputedly erroneous. "[T]he judge dismissed the one and only felony [count] against Mr. Clowdis, making what is on page 2, paragraph 2 [of the charges against Clowdis], claiming that Dr. Clowdis is a convicted felon, **false.**"

99. But outside of this ~~basic (and easily proved)~~ point, Potts was completely unprepared to refute the substance abuse allegation, or to explain why he decided to withdraw Clowdis from HPMP, and why that should not have resulted in Clowdis' re-suspension, which was the focus of the hearing.

100. Furthermore, Potts was provocatively unprofessional during the hearing. He was warned repeatedly by the presiding officer that his continued failure to follow the Board's rules and instructions would result in revocation of his *pro hac* admission, or other disciplinary measures.

101. Based upon Potts' conduct at the hearing and his decision to withdraw Clowdis from participation in HPMP, the Medical Board upheld its suspension of Clowdis' license, Ordering that the suspension be continued indefinitely, that Clowdis be reprimanded, and that he be fined \$5,000.

102. Still, Potts assured Clowdis that he (Potts) would remedy the wrongful suspension by filing suit, and that Clowdis would likely receive damages. Potts further assured Clowdis that he would receive significant income from the firm if Clowdis would continue to focus on the firm's false claims and malpractice cases.

Clowdis' Experience at the Atlanta Firm

103. Clowdis assisted Potts with multiple medical malpractice cases (as well as non-medical legal cases). In addition, Clowdis developed and presented theories for recovery for a number of false claim cases.

104. From mid 2012 to early 2013 the number of malpractice and false claims cases the firm handled grew considerably.

105. In addition to false claims cases for others, Clowdis developed a *qui tam* (false claims) action from his own experience, wherein Clowdis was the original source and relator for the claim. He asked Potts to represent him in that case.

106. Potts had Clowdis complete the complaint and all necessary documents for the *qui tam*, but then inserted his own name as the relator in place of Clowdis. Potts claimed that he did so because Clowdis would have problems as a relator due to his past. Potts told Clowdis that if he agreed to let Potts be the relator, then he (Potts) would give Clowdis half of any proceeds that resulted. Clowdis believes the case(s) that resulted may still be under seal, but Clowdis did testify before U.S. Attorneys and various state Attorney Generals prior to leaving Potts' firm in 2013.

~~107. Potts began doing the same thing to other clients in false claims cases,~~

~~making himself the relator to squeeze out the client. Clowdis objected strenuously.~~

~~(See paragraphs 117- below).~~

108. Clowdis' friend from law school, Edward Rueda ("Rueda"), had come to visit him in Atlanta, back in the fall of 2012. At the time, Rueda was a lawyer working in Chicago.

109. Rueda had spoken to Potts on several occasions prior to his visit regarding cases and potential experts, so Rueda expressed an interest in meeting Potts.

110. Potts and Rueda met during Rueda's fall 2012 visit.

111. Potts told Rueda (and Clowdis) that he would like to expand his firm into the Chicago market due to his desire to increase the firm's number of false claims and complex medical malpractice cases.

112. Shortly thereafter in late 2012, Potts announced that he and Rueda had agreed to form a partnership and that the firm would operate in both Atlanta and Chicago. He further announced his intention to expand into New York.

113. Clowdis questioned Potts regarding his (Clowdis') bar admissions because Potts had previously told him (Clowdis) to withdraw from the Illinois Bar on the grounds that the firm would not need to be in Illinois, and because Clowdis still had a bar application pending in New York.

114. Potts reassured Clowdis he was working on his cases regarding bar admissions. He told Clowdis that he would be a good entry for the firm into the New York market. He also reiterated to Clowdis that he (Clowdis) was already a partner in the firm.

115. Potts also reassured Clowdis that he would continue to receive bonuses in proportion to his partnership status.

~~116. In early 2013, Potts held a meeting with Clowdis and the firm's investigator, Shawn Shelton ("Shelton"), in Shelton's office at the Atlanta firm.~~

~~117. Potts informed Clowdis and Shelton of his concern regarding liquidity, and asked them whether they thought it proper to use money from a client's trust to buy~~

some of his own personal property. Clowdis voiced his opposition to even

considering that as an option and both he and Shelton offered other potential solutions, such as refinancing the firm's property and actively pursuing and negotiating settlements where appropriate.

118. Shortly after this meeting, Potts flew both Shelton and Clowdis to meetings in California on behalf of the firm. Potts' behavior became considerably hostile and erratic to both Clowdis and Shelton, so much so that despite them being at the designated meeting place in the hotel for departure at the appointed time, Potts exited the hotel in a different location, forcing Clowdis and Shelton to find alternative means to meet with an Assistant U.S. Attorney and an Assistant Attorney General in Sacramento. Potts did the exact same thing for a subsequent meeting with an Assistant U.S. Attorney in San Diego a couple of days later.

119. Just prior to the meeting in San Diego, and because Clowdis had steadfastly objected to Potts interposing himself as relator in various false claims cases, Potts asked Clowdis to secure a legal ethics expert as to whether Potts could be both the relator and attorney of record for false claims act cases (where he would have to rely on his clients to be witnesses without giving them any entitlement to recovery). Clowdis arranged for a law school professor, Leonard Gross ("Gross"), to discuss the issue (by phone) with Potts.

120. When Professor Gross cautioned Potts against using client information to their detriment, Potts became furious. Potts threatened Clowdis, and pulled back his

...st to strike Clowdis. Clowdis quickly departed the area before a blow could be struck. The next day Potts stranded Clowdis at the hotel in San Diego after giving him a false time and place to meet with the U.S. Attorney.

121. In general, Potts' behavior became increasingly erratic during Clowdis' time at Potts' firm. This included such behavior as: criminal destruction of property while intoxicated, for which Potts was arrested in the Spring of 2012; a DUI, for which Potts was arrested on or about July 4, 2012; driving without a license (after his license was suspended); the use of client trust funds by Potts for his own purposes; and abusiveness toward his female employees, notably Courtney Lewis ("Lewis") whom he threatened to fire and ultimately docked her pay for becoming pregnant and for refusing to forge his (Potts') signature on an IRS document.

122. Each of the staff members, including Clowdis, voiced their concerns to Potts regarding the problems they witnessed, but Potts blew them off, and even sent an email to the entire firm that the firm would not tolerate anyone drinking and driving (saying the firm would pay for taxis for everyone). This was despite the fact that Potts was the only one at the firm who drank and drove.

123. In April 2013, Potts told Clowdis he would need to move out of the firm's housing, which was part of Clowdis' compensation under his contract with the firm. When Clowdis asked Potts if there would be a financial offset for the move, Potts became incensed. But as Clowdis calmly explained to Potts, he simply did not have the resources to find a place in Atlanta. As an alternative, Clowdis suggested that he

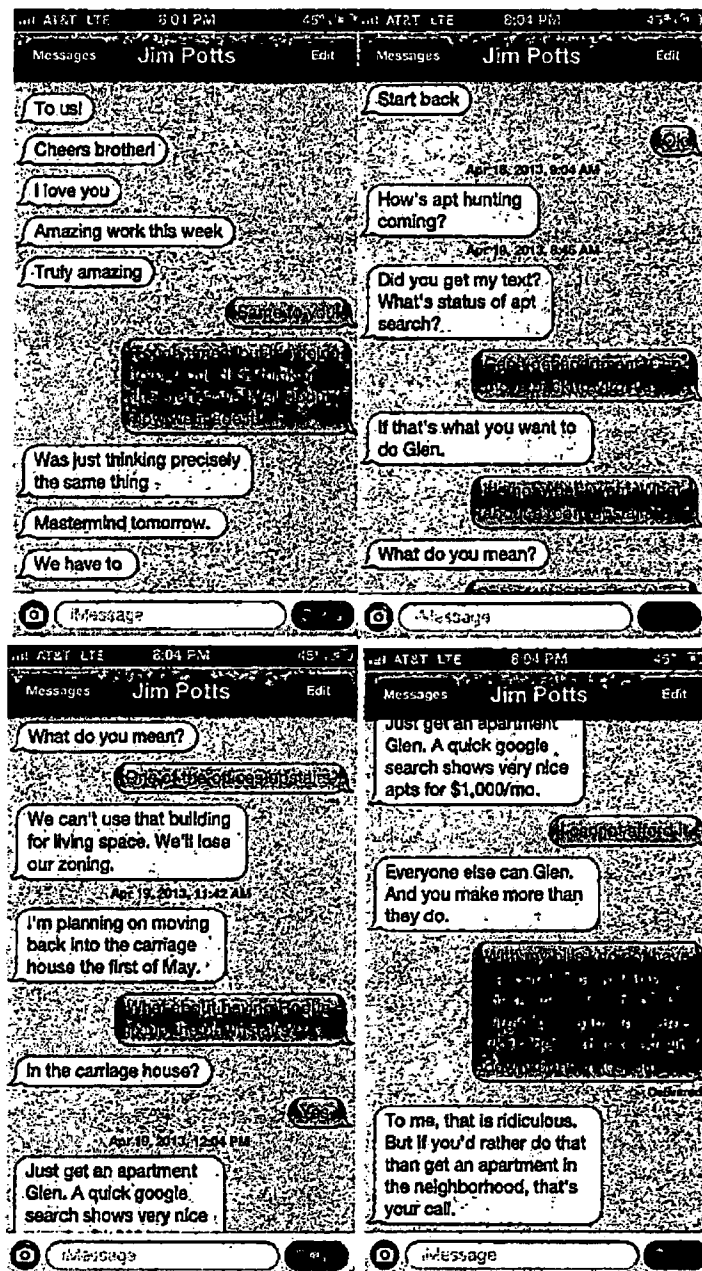
* Potts has a history of violent behavior and was sanctioned for his "offensive and threatening behavior" toward opposing counsel at deposition. *Wood et al. v. UHS of Peachford, L.P. et al.*, A11A1747 (Ga. Ct. of Appeals).

could move to his parents' home in Virginia, do his work long distance from there, and travel back and forth when necessary for hearings.

124. In mid April 2013 Potts traveled to Chicago to meet with Rueda. During that trip, Potts began texting Clowdis regarding his housing situation and inability to offer a financial offset. Specifically, Potts texted:

- a. Potts:
 - i. To us!
 - ii. Cheers brother!
 - iii. I love you
 - iv. Amazing work this week
 - v. Truly amazing
- b. Clowdis:
 - i. Same to you!
 - ii. Tough times, but it's going to pay off! Just think of the stories we'll tell about how we made it!
- c. Potts:
 - i. Was just thinking precisely the same thing
 - ii. Mastermind tomorrow.
 - iii. We have to
 - iv. Start back
- d. Clowdis:
 - i. Ok
- e. Potts: Apr. 18, 2013 8:45 AM
 - i. How's apt hunting coming?
- f. Potts: Apr. 19, 2013, 8:45 AM
 - i. Did you get my text? What's status of apt search?
- g. Clowdis:
 - i. Can't get apartment. **Can move back to Virginia.**
- h. Potts:
 - i. **If that's what you want to do Glen.**
- i. Clowdis:
 - i. It's not what I want. What about the room upstairs?
- j. Potts:
 - i. What do you mean?
- k. Clowdis:
 - i. One of the offices upstairs.

- l. Potts:
 - i. We can't use that building for living space. We'll lose our zoning.
- m. Potts: Apr. 19, 2013, 11:42 AM
 - i. I'm planning on moving back into the carriage house the first of May.
- n. Clowdis:
 - i. What about having Roque fix up the downstairs?
- o. Potts:
 - i. In the carriage house?
- p. Clowdis:
 - i. Yes.
- q. Potts: Apr. 19, 2013, 12:04 PM
 - i. Just get an apartment Glen. A quick google search shows very nice apts for \$1,000/mo.
- r. Clowdis:
 - i. I cannot afford it.
- s. Potts:
 - i. Everyone else can Glen. And you make more than they do.
- t. Clowdis:
 - i. With my bills I do not have enough. I can possibly make ends meet from Virginia. I can do the same work there a[n]d take a train down for hearings, etc.
- u. Potts:
 - i. To me, that is ridiculous. **But if you'd rather do that than get an apartment in the neighborhood, that's your call.**



125. On Friday, April 26, 2013, a meeting was held by Potts with the Atlanta office staff including: Clowdis, Lewis, Shelton and Dina Khismatulina (paralegal). At this meeting, and while standing in front of the group, Potts sent the entire office staff an email addressed to Lewis, instructing her to lock Clowdis out of his residence.

~~126. Each of the members of the group noticed their devices signaling an email~~

~~from Potts and grinned when they read it as Potts stood there in front of Clowdis.~~

After seeing the email, Clowdis told the group that he would be moving to Virginia over the weekend, but he would be available electronically and by phone for any work. Potts responded by telling the assembled staff that Clowdis' moving back to Virginia to work from there was fine with him.

The Law Firm of
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404.812.0000

© 2013 James Hugh Potts II

Carriage House

James Hugh Potts II <jim@jhpil.com> Fri, Apr 26, 2013 at 8:09 AM
To: Courtney Lewis <courtney@jhpil.com>
Cc: Dina Khismatulina <dina@jhpil.com>, Glen Clowdis <glen@jhpil.com>, Big Ed Rueda <ed@jhpil.com>, Shawn Shelton <shawn@jhpil.com>

Please have carriage house door rekeyed Thursday. Also please have Rita clean the carriage house that day.

I am moving into the carriage house Thursday.

Thank you.

Smile, open your arms to the world, and the world will come to you too.

James Hugh Potts II
james@jhpil.com

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127. That same day, April 26, 2013, after the meeting, Clowdis hired movers to assist him in moving to Virginia. This took place in Potts' presence, as Potts and

Clowdis shared an office. Potts knew that Clowdis was moving to Virginia to continue to work for the firm from there.

128. Clowdis had been provided a Macbook Pro by Potts after Clowdis' Macbook Pro burned out in mid 2012. Clowdis offered to pay for the computer himself, because he needed one of his own, but Potts informed him that the computer was already his, since it was a replacement for his personal computer that had burned out doing work for the firm. Potts also referred to the laptop as a "bonus". Based upon this assurance from Potts, Clowdis had used the Macbook as his personal computer (as well as for business), taking it with him on his personal trips, including international. Clowdis placed a considerable amount of his personal and private information on his computer. Potts also bought an iPad for Clowdis, but Clowdis did not regularly use it.

129. Clowdis moved to Virginia on April 27, 2013.

130. On Monday, April 29, 2013, Clowdis began receiving bizarre texts from Potts stating that he was going to swear out a warrant for his arrest for stealing the laptop.

131. Clowdis tried to call Potts. At first, Potts would not respond.

132. When Potts finally answered, he began screaming at Clowdis that he had stolen his computer and iPad and that he (Clowdis) was "going to jail". Potts said he was "swearing out a warrant", and that he would "destroy" Clowdis.

133. As already noted, Potts had previously told Clowdis the laptop belonged to him (Clowdis) not the firm, in part to replace Clowdis' prior personal laptop which

burned out while doing work for the firm, and in part as a bonus for Clowdis' good work for the firm.

134. Nevertheless, Potts did attempt to swear out a warrant. With a police officer on the line on Potts' end of the phone, Potts accused Clowdis of "stealing" the laptop and changing the passwords.

~~135. Upon information and belief, what really happened is that Potts had installed software on Clowdis' laptop, giving Potts control to disable the laptop long distance (using the Internet), should it ever be stolen. However, when Potts tried to do so on the morning of April 29, 2013, the laptop did not respond. The reason, as Clowdis explained to Potts, was not that Clowdis had changed any passwords. The problem was simply that Clowdis was staying at his parents' home in rural Virginia, and they could not get the Internet. Clowdis had to go out to connect to the Internet. Likewise, his phone signal was sporadic, so the Internet was not available through it at the time. And, when Clowdis was speaking with Potts by phone, he was in the city, returning the U-Haul truck used to move, while the laptop remained at his parents' home.~~

136. During the call, the police officer present on Potts' end of the call determined that there must be a misunderstanding. He informed Clowdis that if he would agree to send back the computer and iPad, then no charges would be filed. The officer stated the same in his report.

~~137. Clowdis could not afford to risk another incident wherein he would be accused of a crime he did not commit. Even though Potts had given him the~~

computer (and iPad) as part of his compensation for his work at the firm, Clowdis decided it would be better just to return them.

138. Clowdis immediately returned both the Macbook Pro and the iPad via FedEx.

139. Nevertheless, Potts continued to threaten Clowdis (such as bar admissions) where Potts could hurt him professionally. At one point, Potts demanded that Clowdis pay him \$4,000 or else he would destroy him regarding his bar admission in both Georgia and New York.

140. Clowdis contacted a local Atlanta attorney, Jenny Jensen Jones, who knew Potts, in order to help him (Clowdis) de-escalate Potts' rage and irrational behavior and to deflate the potential for Potts to act on his threats to destroy Clowdis.

141. After about one or two weeks, Potts' threats tapered off. Clowdis does not know why. ~~At the time, he believed that Ms. Jones had successfully assuaged Potts' anger, and that Potts would not still seek to undermine his career.~~

142. However, upon information and belief, Potts did take further action against Clowdis, ~~defaming him~~ before both the Georgia bar and the New York bar, without telling Clowdis that he had done so. Clowdis did not learn of this until the Fall of 2015.

143. Approximately one month after Clowdis' departure from Potts' Atlanta firm, Clowdis received a call from Shelton. Shelton informed Clowdis that the entire Atlanta office staff resigned, and that the partnership between Rueda and Potts had dissolved. Shelton knew that Potts had led Clowdis to believe he could not trust his former friend, Rueda. But Shelton reassured Clowdis that Rueda seemed to be on

the up and up. Shelton then asked Clowdis if he would receive a phone call from Rueda, and Clowdis agreed.

144. Rueda called Clowdis near the end of May 2013. Rueda apologized to Clowdis for having allowed himself to believe some of Potts' dishonest statements about Clowdis, intended to divide them. Rueda then told Clowdis that he was preparing a bar grievance against Potts.

145. ~~As Rueda knew,~~ Clowdis had openly opposed some of Potts' unethical conduct in the past. Rueda therefore asked Clowdis to sign an affidavit in support of Rueda's bar grievance. Clowdis agreed to do so.

146. Rueda filed his bar grievance against Potts in late May or early June 2013 and attached Clowdis' affidavit.

147. Shortly thereafter, Clowdis began receiving a series of voicemail messages from Dr. Kimber, telling him Potts was on the rampage.

148. On or about June 5, 2013, Clowdis spoke to Kimber by phone. Kimber did (almost) all of the talking. He advised Clowdis not to get involved with Rueda's bar grievance. He warned Clowdis, that, if he did get involved, Potts would destroy him.

149. On or about July 19, 2013, Kimber called again. He spoke to Clowdis for more than an hour, telling him that he (Kimber) was helping Potts edit a complaint against Rueda. Kimber informed Clowdis that Potts was making multiple threats against Clowdis as well. Clowdis took contemporaneous notes regarding these threats, as issued through Kimber:

- a. Kimber said Potts had sent him (Kimber) 22 emails that day alone about Clowdis, mostly about adding Clowdis to the complaint against Rueda, and charging him (Clowdis) with federal crimes.

- b. Kimber said Potts asked him (Kimber) to sign an affidavit saying Clowdis is mentally disturbed, and revealing everything in Clowdis' past, (which Potts only knew of from having represented Clowdis as his lawyer). Kimber told Clowdis that he told Potts, he (Kimber) would not sign the affidavit Potts had proposed.
- c. Kimber then asked Clowdis what had happened between him and Potts, and Clowdis told him about the carriage house situation. Kimber told Clowdis that he believed Potts had needlessly blown up at Clowdis based on Potts' anger and stress, due to his own personal financial problems and stress from his partnership with Rueda. Kimber said, "Potts is crazy like that."
- d. Kimber then told Clowdis:
 - i. That Potts had already destroyed this Rueda guy;
 - ii. That Courtney (Courtney "Lewis", the office manager who signed an affidavit for Rueda's bar grievance) is nothing;
 - iii. That he (Clowdis) was merely collateral damage; and
 - iv. That Potts told Kimber he couldn't find anything to use against Clowdis from his time at the firm.
- e. Clowdis asked Kimber what causes of action would Potts come at him with then? Kimber replied that Potts is paranoid, and he had decided that Clowdis must be the mastermind behind Rueda's bar grievance, because he (Potts) couldn't believe that a lawyer (Rueda) only 2 years out of law school could do this.
- f. Clowdis told Kimber that there was still no cause of action. Kimber replied, "Potts can do whatever he wants. Powerful trial lawyer. Member of the Georgia Bar in good standing for 22 years. You are nothing. You are ruined - Potts knows all of your past problems and will use them to destroy you."
- g. Clowdis responded that Potts would have to make stuff up that wasn't true. Kimber replied, that doesn't matter.
- h. Kimber continued, You f***ing idiot. The only thing you did wrong was sign an affidavit for what looks like something a first-year law student would come up with for a bar complaint. That's why he's coming after you, you idiot.
- i. Kimber: "You can't keep going through your little country church life with a Pollyanna attitude and make it"
- j. Kimber said: "Potts has mania and is depressed sometimes, but he's mostly manic. There's a genius there though."
- k. Kimber then said: "It's your fault. You introduced Potts to Rueda. Potts sees it as a plot you had all along. You're the mastermind."

- l. Clowdis: "That's not true."
- m. Kimber: "I agree, but you still introduced the two."
- n. Kimber: "Potts knows you don't have money and you can't get a lawyer. Potts has a million dollars. He'll settle those Tenet cases for pennies on the dollar, just to get you. Why? Because you're a f***ing idiot that signed an affidavit."
- o. Kimber: "The Georgia Bar can't touch Potts. Potts filed this case [is filing this case] in court to stop that. Federal crimes. You're all going down. You aren't getting anything for it - idiot."
- p. Kimber: "Potts wants your blood. You f***ed the king when you signed the affidavit. You won't practice law or medicine ever again."
- q. Kimber: "Call Potts first thing in the morning and bow down before the king. Tell him how much you learned from him and that you appreciate it. Tell Potts you agree to withdraw your affidavit to the Georgia Bar and you'll sign whatever affidavit he has for you against Rueda. Otherwise, you're through."
- r. Clowdis: "I'm looking for other work, maybe in consulting."
- s. Kimber: "It doesn't matter. Potts will hunt you down and destroy any career, anywhere you are on this planet. You f***ing idiot - all over an affidavit. Just looking at the affidavit, it doesn't say too much. It would be easy for you to say it was a mistake. It's perjury, so you have to do something, but I don't know what. You have to take back your affidavit or else. What are you going to do?"
- t. Clowdis: "I will call the counsel for the Georgia Bar and ask them what my options are."
- u. Kimber: "You f***ing idiot. No you won't. You will call Potts first thing in the morning, take back the affidavit and do whatever he wants. F*** both you guys now, it's late and I've got surgery early in the morning."

150. Clowdis did not retract his affidavit, nor did Clowdis perjure himself for Potts.

151. Clowdis later learned that Potts did, in fact, file a lawsuit, but that it was against Rueda and Lewis and not against Clowdis. Clowdis presumed that Kimber was able to keep Potts from involving him in his complaint.

152. Clowdis only heard from Potts via a couple of text messages over the remainder of the summer of 2013 stating that he would depose Clowdis in a case where Potts was being sued by his former partner, Arlan Cohen. Clowdis texted Potts that he would agree to be deposed, but Clowdis never heard back from Potts.

153. Clowdis moved on with his life, filing an appeal, *pro se*, regarding the medical board's 2013 order suspending his license.

154. Clowdis' medical license remains suspended ~~and he has yet to be admitted to a state bar~~. As a result, Clowdis has been unable to gain professional employment.

155. Clowdis is presently studying for two master's degrees, with the primary degree supported through a Veteran's Administration program.

156. In October 2015, Clowdis learned, based on information and belief, that Potts disclosed Clowdis' confidential attorney-client protected information, ~~and purposefully defamed Clowdis~~ and has otherwise interfered with his bar admissions, his medical license and professional endeavors.

157. Potts has never sought Clowdis' consent to use, release, or otherwise disclose any communications, documents, or any form of information about Clowdis, which Potts obtained through representing Clowdis as his lawyer.

158. Clowdis never gave consent, informed or otherwise, for Potts, or any agent of his, to use or disclose any of Clowdis' confidences. Clowdis' disclosures to Potts during their attorney-client relationship were privileged, and the information, if misused, could cause significant embarrassment and harm for Clowdis.

159. Potts filed a complaint against Rueda and Lewis in 2013, in the Superior Court of DeKalb County, State of Georgia, *Potts v. Rueda and Lewis*, No. 13-cv-9982.

160. Clowdis is not a named defendant in the caption in this suit. However, Clowdis is described within the Third Amended Complaint (the operative complaint) under the heading "Parties" and under the subheading "Defendants". Whereas, the other defendants' (Rueda's and Lewis') names are preceded with the word "Defendant", while Clowdis' is not. ~~This is because Potts did not intend to make Clowdis a defendant, but only intended to deceive the court into believing so, in order to achieve his (Potts') improper purpose.~~

161. Clowdis was never served this complaint and to his knowledge no attempts have ever been made to serve him. Furthermore, to his knowledge, Potts has no cause of action directed at him.

162. ~~Potts intentionally prepared his complaint in this way to conceal his motives and activities to defame and otherwise cause injury to Clowdis.~~

163. ~~On information and belief, Potts named and defamed Clowdis in his suit against Rueda and Lewis, as reference material to discredit, defame, and otherwise injure and prevent Clowdis from obtaining his licensing, bar admissions, and to interfere with his business relations.~~

164. At paragraph 22 of his Third Amended Complaint in *Potts v. Rueda and Lewis*, Potts alleges the following:

- a. "JHPHII regrettably employed Clowdis at the behest of a renowned spine surgeon and long-time friend of JHPHII, Robert Kimber, MD ("Dr. Kimber") who convinced JHPHII that, notwithstanding Clowdis' sordid past, given an opportunity and with proper mentoring, Clowdis was employable and could return as a productive member of society."

b. Potts cites the Exhibits provided by Clowdis or otherwise gained in confidence from Clowdis from his representation of Clowdis, including:

i. Exhibit 2, Virginia Medical Board Order dated 26 April 2007 "SUSPENDING" Clowdis' License to Practice Medicine.

ii. Exhibit 3, Virginia Medical Board Order dated 24 May 2011, continuing Clowdis' medical license on "INDEFINITE SUSPENSION."

1. Potts omits the fact that that suspension was **stayed** and Clowdis' license was, in fact, **active**.

iii. Exhibit 4, Virginia Medical Board Order dated 4 March 2013, "SUSPENDING" Clowdis' License to Practice Medicine "REPRIMAND[ING]" Clowdis and imposing "\$5,000 SANCTION."

1. Potts omits the fact that each: the suspension, reprimand, and fine; were based on his own actions (letters to HPMP, threats to sue, and refusal to follow or heed warnings and admonitions in court), and advice while representing Clowdis. ~~Thus, Potts is trying to impugn Clowdis' character due to Potts' own actions.~~

165. At paragraph 25 in his Third Amended Complaint, Potts alleges:

a. "Following his termination, JHPH was forced to file a criminal complaint against Clowdis after Clowdis absconded to the state of Virginia with JHPH law firm property, including a MacBook laptop computer and an iPad."

i. Potts makes this false allegation knowing that he filed this false criminal report after he both verbally and in writing had given

Clowdis prior authorization to move to Virginia and take the machines there to continue to work for the firm. (See footnote *supra* re *Jackson v. Empire Parking Services, Inc. et al.* No. 2012-CV-216798, with respect to Potts' proven willingness to lie to authorities and the court).

166. Clowdis had not been terminated when he moved to Virginia in April, 2013. In fact, Clowdis had Potts' prior authorization to work from Virginia.

167. At paragraph 26 in his Third Amended Complaint, Potts alleges:

a. "After Clowdis was terminated, JHPH discovered Clowdis had changed the access codes to both machines, and deleted important law firm and client information, intentionally jeopardizing JHPH clients' cases with rapidly approaching expirations of periods of limitations."

i. Clowdis did not change any access codes and Potts had disabled the computer remotely (upon the computer receiving a signal from Clowdis' cell phone) immediately upon Clowdis' arriving home from returning a U-Haul he had used to move to Virginia.

~~ii. Upon information and belief, Potts was able to use any of the information contained on the MacBook Pro he states "jeopardize[d] JHPH clients' cases" immediately upon receipt of the laptop, without ever placing any clients in Potts' artificially manufactured 'jeopardy' scenario (i.e., Clowdis was authorized by Potts to work on the cases from Virginia and would have sent the information in question to Potts electronically regardless).~~

168. At paragraph 24 in his Third Amended Complaint, Potts alleges:

a. "That same day Clowdis contacted opposing counsel in a pending case in which Plaintiffs are a party and on which Clowdis performed work while employed by JHPIL, and upon information and belief, disclosed Plaintiffs' confidential and privileged information and documents."

- i. Clowdis contacted the only attorney, Jenny Jensen Jones ("Jones"), he was aware of in Atlanta who handled legal malpractice after Potts filed a false police report against him. Clowdis did so because Clowdis knew Potts generally responded well to her in prior conversations, and he hoped to de-escalate Potts' rage.
- ii. Jones tried to be a go-between for the return of the computer and iPad to prevent Potts from stating Clowdis tampered with or damaged the machines in any way. Potts became irate with this offer, so Clowdis sent the machines back that same day via FedEx overnight at considerable expense. Jones confirmed Potts received the machines.
- iii. Clowdis did not provide any confidential information or documents to Jones, and only discussed what Potts had done to him personally and sought her assistance to find legal counsel should the need arise given Potts' actions at the time.
- iv. Clowdis and Jones had no discussions regarding any cases involving Potts. Jones, unfortunately, could not otherwise represent Clowdis

at the time because of a conflict of interest involving another of her clients who was suing Potts at the time.

169. At paragraph 27 in his Third Amended Complaint, Potts states:

- a. "In light of Clowdis' conduct, in May 2013 JHPH was compelled to withdraw his support for Clowdis' then pending applications for admission to the Georgia and New York Bars."

~~i. Thus, Potts acknowledges he had communications with the New York and Georgia bars.~~

170. Potts filed his complaint against Rueda and Lewis, and included Clowdis, after Rueda filed his bar grievance, ~~in retaliation, and to intentionally create a conflict of interest with respect to the Georgia Bar grievance filed by Rueda as supported by affidavits from Lewis and Clowdis.~~

171. At paragraph 66 in his Third Amended Complaint, Potts refers to the Defendants as "Complainants" with respect to their "sworn affidavits". The only affidavits involving Potts were those that would have otherwise remained confidential by the Georgia Bar.

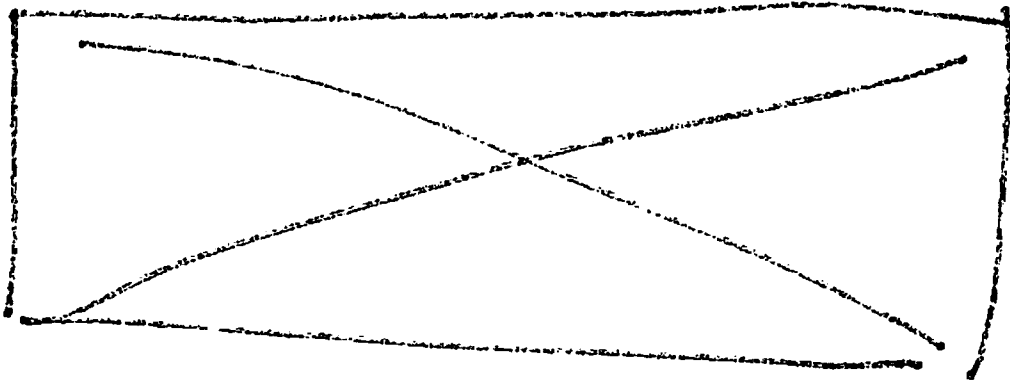
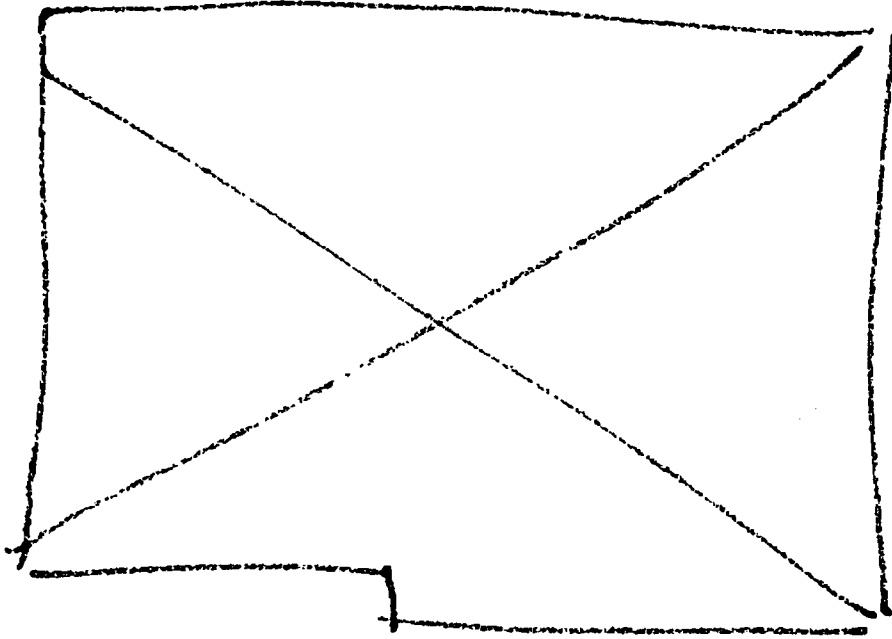
- a. "Contrary to *Complainant's* sworn affidavits, Clowdis['] employment was terminated on 29 April 2013 as a result of Clowdis' repeated acts of deceit, erratic and abhorrent behavior, and unethical and unprofessional conduct." (Potts' Third Amended Complaint ¶66).
- b. ~~With respect to his civil complaint, the defendants are not "complainants" with wrongdoing. Potts attacks a non-existent party, "complainants" over "affidavits" that have no relevance to Potts' lawsuit, in support of an~~

~~"issue" which plays no part in Potts' civil dispute or record. All of this makes sense, however, when one understands that Potts is collaterally attacking the Georgia Bar Complaint filed by "complainant" Rueda, in support of which Clowdis filed an affidavit. It shows Potts true intent is to aim his lawsuit to attack "Complaints" (Rueda, Lewis, and Clowdis) and their pending State Bar of Georgia grievance claim. In other words, Potts here, in shockingly plain language, tells this Court his entire lawsuit is directed against the core of Georgia Bar Rule 4-221(g)⁵, which protects grievance complainants and witnesses from lawsuits based on the content of their grievance claim.~~

~~177 Again, in numbered paragraphs 68-79 of Potts' Third Amended Complaint, Potts cites to evidence to show Rueda and Lewis "swore falsely" regarding the circumstances related to Clowdis' departure from JHPH-Atlanta. Yet again, the circumstances of Clowdis' departure from JHPH-Atlanta are at issue only in Rueda's State Bar of Georgia grievance, and that Bar Complaint is the only place where Rueda swore (though not falsely) regarding the circumstances related to Clowdis'~~

⁵ Georgia State Bar Rule 4-221(g) provides in pertinent part:

Pleadings and oral and written statements of members of the State Disciplinary Board, members and designees of the Committee on Lawyer Impairment, Special Masters, Bar counsel and investigators, complainants, witnesses, and respondents and their counsel made to one another or filed in the record during any investigation, intervention, hearing or other disciplinary proceeding under this Part IV, and pertinent to the disciplinary proceeding, are made in performance of a legal and public duty, are absolutely privileged, and under no circumstances form the basis for a right of action. (Emphasis added).



~~departure from the firm. Potts here, yet again, in his own words unwittingly tells the Court that his entire lawsuit is directed against the Defendants for filing a Georgia Bar Grievance against Potts, in violation of Georgia Supreme Bar Rule 4-221(g), which protects grievance complainants and witnesses from lawsuits based on the content of their grievance claims. Despite Potts' creative pleading, his sole basis for his claims and this cause of action are based on Georgia Bar complainant's communications with witnesses and potential witnesses during an investigation against Potts and "made in performance of a legal and public duty, [which] are absolutely privileged, and under no circumstances form the basis for a right of action." Georgia State Bar Rule 4-221(g).~~

173. Furthermore, Clowdis' involvement in the bar grievance investigation of Potts was limited in nature, ~~(e.g. providing an affidavit, based upon his own perceptions of and personal knowledge of Potts' unethical activities, notably his plans to deceive his clients with respect to misappropriating trust funds and usurping their status as relators in quantum cases)~~

174. Nevertheless, Potts not only disclosed Clowdis' confidential attorney-client information in violation of Rule 1.6 of the Georgia Rules of Professional Conduct, and in violation of Georgia Supreme Bar Rule 4-221(g) in order to discredit Clowdis in civil court, but he also used Clowdis' protected information in such a way as to misrepresent Clowdis to ~~defame him~~ and discredit him with regard to the Georgia and New York character and fitness committees of the bar. As Kimber had told Clowdis, Potts was using Clowdis' privileged information, which Potts obtained through representing Clowdis as his legal counsel, in an attempt to "destroy" him.

175. Potts would often brag to Clowdis that he applied Sun Tzu's "Art of War", and would drive a wedge between his opponents to turn them on each other.

176. Potts used the very technique with respect to Clowdis and Rueda in early 2013. He kept both Clowdis and Rueda suspecting each other's motives.

177. Potts also appeared to be mentally unstable. His erratic behavior concerned Clowdis.

- a. For example, Clowdis attended the firm's Christmas party on or about December 14, 2012 along with Potts, Lewis, Rueda and others. Potts could not afford to pay the bill as he had completely depleted the firm's accounts. After everyone but Potts and Clowdis had left, Potts told Clowdis that he (Potts) could not pay, so Clowdis would have to. Clowdis paid the bill, which was considerably in excess of \$1,000.
- b. Shortly thereafter, Clowdis drafted a letter to opposing counsel in a case Potts had already lost (dismissed), regarding the potential issues for appeal. Based on the issues Clowdis raised in the letter, opposing counsel provided the firm a settlement of \$50,000. Potts spent almost the entire \$50,000 on a personal trip to New York.
- c. Clowdis planned a (vacation) trip to Kiev, Ukraine leaving on or about January 16, 2013. The night before his travel, Clowdis and Rueda spoke by phone. Rueda mentioned that he sent money to Potts as partner to assist with the costs of the firm. During that conversation, Clowdis mentioned to Rueda that Potts was spending around \$30,000 to \$40,000 on yard work and that he had considerable construction projects ongoing.

~~Clowdis told Rueda that he might want to discuss some of the firm's~~
~~expenditures with Potts, since they seemed out of proportion to what was~~
~~being brought into the firm at the time. Rueda agreed.~~

- d. The next morning, Potts offered to drive Clowdis to the airport, and told him to load his luggage in the firm's SUV, which Clowdis did. Potts then called Rueda, after which he stormed out the office, driving off in the SUV with all of Clowdis' luggage. When Clowdis called, Potts would not answer.
- e. With less than an hour before his international departure, Potts returned and angrily told Clowdis he was taking him to the airport.
- f. On the way to the airport, Potts told Clowdis that Rueda had told him some very disturbing things that Clowdis had said about Potts, without elaborating. Potts then reminded Clowdis that, without Potts, Clowdis had no future and could work nowhere else. Potts also reminded Clowdis of his upcoming hearing with the Virginia Medical Board, and how Clowdis was completely at Potts' mercy. ~~In effect, Potts seemed to be threatening him.~~
- g. Potts then informed Clowdis that Rueda was trying to push him (Clowdis) out of the firm, so there would be more money to split between Rueda and Potts. After Potts' "warning" Clowdis about Rueda, reassured Clowdis that he had Clowdis' back. On arrival at the airport, Potts hugged Clowdis, kissed him on his cheek and told him he loved him. This strange behavior upset and worried Clowdis.

h. After that, Clowdis understood that he could no longer seek support from Potts' partner, Rueda. In addition, Clowdis feared retaliation by Potts if he voiced any concerns regarding Potts' unethical and possibly criminal conduct.

~~i. As a result, Clowdis' vacation was ruined. He did not know what to expect when he returned, i.e. whether he would still have a job and what Potts might do at the medical board hearing.~~

j. On return from Clowdis' trip, Potts awarded Clowdis a bonus, along with a signed 'football' for "best team player for the firm". This was done publicly at a staff meeting, for his "unwavering work ethic and support for the firm". In doing so, Potts temporarily alleviated Clowdis' concerns.

178. ~~Unfortunately, Clowdis' fears were realized shortly thereafter.~~ While in California in early 2013, Clowdis questioned Potts directly regarding the ethics of Potts using his clients' (relators') confidences to their detriment. Clowdis pointed out Potts' duty of loyalty to his clients. As already discussed, Clowdis' concerns were confirmed by a legal ethics expert, Lenny Gross ("Gross"), who informed Potts that his planned course of action would be unethical. Upon hearing this, Potts became infuriated. Potts immediately called his girlfriend, Lauren Mallin ("Mallin"), an attorney in New York, and after discussing the matter with her, he told Clowdis that he and Gross were idiots.

179. Potts then started acting out against Clowdis, as discussed above, beginning with not disclosing correct meeting times (with a State's Attorney and Assistant U.S.

Attorney) and then abandoning Clowdis in hotel lobbies, and culminating in an outright threat of physical violence against Clowdis.

~~100. Clowdis believes that in Potts' mind, his petty acts of cruelty towards Clowdis morphed into what Potts described (in his Third Amended Complaint against Rueda and Lewis) as "Clowdis' repeated acts of deceit, erratic and abhorrent behavior, and unethical and unprofessional conduct".~~

~~181. Potts thereby preemptively designed his defensive maneuver, intentionally seeking to discredit Clowdis before Clowdis might report Potts' unethical and possibly illegal conduct, or otherwise make a complaint against Potts.~~

~~182. Potts knew Clowdis had become frustrated with Potts' actions to prevent Clowdis from being admitted to the Bar (not allowing Clowdis to sit for the Illinois Bar despite already being cleared by character and fitness to do so) and the Medical Board (causing Clowdis' license to be suspended and causing Clowdis to lose his board certification).~~

183. Clowdis confronted Potts on several occasions in early 2013 after Rueda had already become a partner and asked whether Potts no longer wanted Clowdis to be a partner in the firm. Again, Potts reassured Clowdis that Clowdis was in fact a business partner already and would receive his share of the proceeds from the cases. Potts further elaborated that Clowdis would also be a full attorney partner in the firm once Potts fixed the bar admission issue.

184. Clowdis never did receive a share of the proceeds from the firm's cases, including the (lucrative) cases that Clowdis himself developed.

185. At or about that same time (early 2013), Potts could not afford to meet payroll and was in urgent need of a deposit. Clowdis went with Dina Khismatulina (from Potts' firm) to Chase bank, where he personally banked and the firm also. Clowdis withdrew \$1,000 from his personal checking, handed it to Ms. Khismatulina to deposit in the firm's account. She did this at the behest of Potts who was fully aware at the time that Clowdis had lent the firm the money. Clowdis was never reimbursed for loaning the firm this money, under the aforesaid emergency circumstances.

186. Rather than repay Clowdis, Potts just shrugged it off, informing Clowdis that this act of loaning the firm money was just one of the things that comes with being a partner in the firm.

~~187. Unbeknownst to Clowdis, at that very time in early 2013, Potts was laying the foundation to use Clowdis for his medical expertise and legal drafting skills, and then lay him to total waste to protect his deceitful means of manipulating and using clients and their resources for his personal gain to their detriment.~~

~~188. Clowdis believed that his move to Virginia might help Potts' irrational condition. Potts would have Clowdis apartment for his own personal use, which~~

⁶ Potts is known to make deceitful misrepresentations to individuals and in court. Potts "*blatantly misrepresented*" the true ownership of his vehicle and "*perpetuated this lie*", which was "material", in order to "*manipulat[e] the Court system.*" *Jackson v. Empire Parking Services, Inc. et al.* No. 2012-CV-216798 (Sup. Ct. Fulton Co., Ga.) "Potts misrepresented the facts surrounding Plaintiff Jackson's application for the TRO" *Id.* "Mr. Potts' affidavit contained misleading representations as to his efforts to notify all of the Defendants prior to obtaining the extreme measure of an ex parte order against them enjoining their business. *Id.* "Sanctions are warranted." *Id.* "They [Potts & Jackson, his paralegal] made material misrepresentations of fact to the Court on numerous occasions to further their *baseless claims*. This conduct is unacceptable, and warrants sanctions against both Plaintiffs in an amount to be determined at a hearing." *Id.* Affirmed on appeal. Cert. denied.

~~would save Potts money, the distance might relieve tension that was otherwise permeating the office in Atlanta from Potts' divisive tactics, and Clowdis could get more work done because he would not be distracted by Potts' divisiveness.~~

189. Clowdis was aware, as Potts had pointed out, that he had little to no other options for an income at the time, so he hoped to tough it out in his efforts to continue making child support payments and get back on his feet.

190. Clowdis remained under the impression that Potts was still planning on filing the lawsuit in Virginia, or at least an appeal the Board's Order, in order to correct the issues Potts had aggravated during the course of his representation of Clowdis.

~~Despite his dire circumstances, made worse by Potts, Clowdis tried to remain hopeful.~~

191. Then, as already discussed above, on April 26, 2013, Clowdis told Potts, in front of the entire office staff, that he was leaving that weekend and that he would continue to work for the firm from Virginia. Potts gave his approval, also in front of the entire staff. He had previously expressed his approval of this plan in writing to Clowdis as well.

192. Then, at the Monday morning breakfast meeting, Potts acted shocked and startled that Clowdis was in Virginia - as though Clowdis had run away, absconding with his belongings.

~~193. Potts did not include Clowdis in his original Complaint against Reed and Lewis and only mentioned his participation regarding the "complainant" issues discussed above in his Second Amended Complaint. It was not until his Third Amended Complaint (filed after the above quoted Kimber call, and still without~~

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~~naming Clowdis in the caption of the Complaint or serving him with process, that~~

~~Potts named Clowdis as a "party" to the lawsuit.~~

194. Upon information and belief, Potts wrote letters to the Georgia and New York bar in May 2013, where he "withdrew" his support for Clowdis' admission, when Clowdis refused to pay Potts the \$4,000 he demanded Clowdis pay or else he would do so to "destroy" Clowdis.

195. Upon information and belief, after naming Clowdis in the Third Amended Complaint and defaming him therein, without giving Clowdis notice or an opportunity to respond, Potts then notified the New York Bar, the Georgia Bar and the Virginia Medical Board of Clowdis' confidential record of problems with the Medical Board. Not only did Potts disclose confidential/privileged information, but he deliberately and grossly misrepresented Clowdis' history with the Medical Board for the purpose of ~~intentionally~~ interfering with Clowdis' opportunity to obtain a professional license. In particular, upon information and belief, he told the Georgia and New York Bar committees, that Clowdis was in fact a convicted felon and substance abuser, statements which Potts knew and had previously averred to the Virginia Medical Board were false. (See Gross Certificate of Merit, Exhibit 2 at ¶12)

196. Upon information and belief, after Clowdis filed his affidavit in support for Rueda's bar grievance against Potts, Potts specifically requested that the Georgia Bar deny Clowdis admission and should not be considered admissible in any State Bar.

197. Upon information and belief, Potts also contacted the Colorado Child Support Enforcement Agency in an attempt to interfere with Clowdis' financial condition after his departure from Potts' firm in Atlanta.

198. Upon information and belief, Potts stole or otherwise fraudulently obtained, opened and secreted the contents of for his use; and/or obstructed the delivery of or otherwise destroyed U.S. mail belonging to Clowdis upon Clowdis' departure from Potts' firm in Atlanta, ~~in violation of 18 U.S. Code §§ 1702, 1708.~~

- a. After leaving Potts' Atlanta firm where Clowdis resided, and because Potts' address 1348 Ponce de Leon Ave. SE, Atlanta, GA, is a business address, the U.S. Postal Service mail forwarding service was not available.
- b. Clowdis notified as many of the important agencies, companies, credit companies and the like that he could think of upon his move to Virginia. However, these changes took considerable time to take effect and despite Clowdis' efforts, resulting in some important senders of mail being missed. Thus, mail continued to be delivered to Clowdis at his former address in Atlanta, Potts' firm address.
- c. Upon information and belief, the mail that continued to be sent to Potts' Atlanta office included notices from the Virginia Medical Board, the National Practitioner Databank, the New York and Georgia Bars, the Colorado Child Support Enforcement Agency, credit card companies, banks, and the like.
- d. No mail was ever forwarded to Clowdis from Potts' or his staff.

199. In fact, Clowdis had asked Lewis to forward any mail once he moved to Virginia. But when Lewis asked Potts if she could forward Clowdis' mail, Potts took the mail and destroyed it instead.

200. Upon information and belief, Potts has openly referred to Clowdis and published that Clowdis is a convicted felon, ~~a statement that Potts knew for a fact to be false~~

201. Upon information and belief, Potts has publicly disclosed much of the confidential materials he gained knowledge of in the course of representing Clowdis as his attorney, without Clowdis' consent. ~~All of his efforts and use thereof were done with Potts' specific intention of causing embarrassment and injury to Clowdis~~

202. Upon information and belief, and without Clowdis' knowledge, Potts contacted Clowdis' former medical residency physician preceptor(s), including Peter Eliot ("Elliot"), and made false representations calculated to prevent Clowdis from receiving any support for the return to medical practice.

203. Upon information and belief, Potts has not only disclosed Clowdis' confidential material, he has misrepresented those documents to make false statements against Clowdis ~~in his effort to injure Clowdis.~~

- a. For example, after Clowdis signed an affidavit for the Georgia Bar grievance filed by Rueda, and unbeknownst to Clowdis who was never served a copy of Potts' lawsuit, Potts disclosed misleading documents as exhibits, without Clowdis' consent, which he used to suggest that Clowdis is a convicted felon. ~~Again, Potts knew with absolute certainty at the time that Clowdis was not a convicted felon, as he had personally reviewed the~~

~~Colorado Court Order dismissing the felony charge against Clowdis with prejudice.~~

- b. Upon information and belief, in court pleadings, responses to the bar, and in court proceedings, Potts has made other false ~~defamatory~~ statements including false statements stemming from a prior sealed case Potts learned of in the course of representing Clowdis before the Georgia and New York Bars, ~~knowing that his statements are false.~~

204. ~~Potts made these public disclosures, knowing that Clowdis would be unaware of his actions and therefore unable to respond or block them before they damaged his reputation.~~

~~205. By revealing privileged attorney-client communications and documents, as well as making secret calls to professional boards and bars, Potts knew he could "destroy" Clowdis before Clowdis could ever find out that he did so. And, once Clowdis did find out, the damage was already done. Potts' intent was to strike first, and make sure that Clowdis' character was so severely tarnished, that no one would take him seriously when he finally did discover this and challenge Potts' actions.~~

206. Based upon information and belief, Potts submitted Clowdis' confidential attorney-client privileged materials without consent and made false statements to the Georgia Bar including, but not limited to: Clowdis being a convicted felon; the status of Clowdis' medical license (suspended based on Potts' advice and actions); misrepresentative information regarding a formerly sealed case where Clowdis had been acquitted; HIPAA protected material (with Potts' misrepresentations and

despite being attorney-client privileged material without consent for use); and a false police report made by Potts. (See Exhibit 2, ¶14)

207. Based upon information and belief, Potts similarly disclosed Clowdis' confidential material and made false representations to the New York Bar, the Virginia Medical Board, and to other professional organizations, judicial bodies and agencies. *Id.*

208. As a result of Potts' violations of law against Clowdis, Clowdis has suffered tremendous losses, including but not limited to: money, professional licensing and certifications, business relations, work/job, reputation, property, emotional distress, the loss of time with his children, and the loss of the ability to support his family/children.

Claims for Relief

COUNT 1

Interference with Profession

209. Clowdis incorporates by reference as though fully set forth herein the allegations in all of the paragraphs within this Complaint.

210. Potts represented Clowdis as his attorney, and had a fiduciary duty to Clowdis under a contract for representation.

211. Potts acted improperly and without privilege (or consent) when he breached his attorney-client privilege regarding information gained in the course of his representation of Clowdis.

212. Potts then used that information dishonestly, to misrepresent Clowdis' past history ~~in order to injure him in the present.~~

213. Furthermore, Potts breached his fiduciary duty of loyalty to Clowdis when he went behind Clowdis' back, while representing Clowdis in these matters as his attorney: (a) to undermine Clowdis' legitimate appeals to the Virginia Medical Board (both informal and formal) seeking to be allowed to work; (b) to undermine Clowdis' application to the New York bar; (c) to undermine Clowdis' application to the Georgia bar; and (d) to undermine Clowdis' credibility with certain persons in the medical profession and resolve his problems with the Medical Board.

214. In addition, Potts made representations to various third parties that: while Clowdis worked for him (Potts) at the law firm, Clowdis was erratic, unreliable, and mentally unstable. As part of these false representations, Potts continued to defame Clowdis by alleging that Clowdis had stolen property from his firm (i.e. a laptop and iPad), even though Potts knew full well that he had in fact given these items to Clowdis and in any event pre-authorized Clowdis to take them when he moved to Virginia, that Clowdis had promptly returned the items when asked, and that the police concluded it was a misunderstanding and there was no cause to file charges.

215. Potts acted purposefully and maliciously in all of the above, at least in part as retaliation for Clowdis' acts in questioning Potts' unethical business practices. Potts' malice is evident from the facts that" (1) he knew that he was disclosing privileged information obtained while Clowdis was his client; (2) he knew that the privileged documents he chose to make public (cherry-picked from 1000's of pages of Medical Board documents) contained demonstrably false statements/allegations against Clowdis; and (3) he continued to make defamatory declarations about Clowdis based upon statements/allegations which he personally knew to be false.

216. In particular, Potts made representations to the Georgia Bar (character and fitness), the New York Bar (character and fitness), the American Congress of Obstetrics and Gynecology, the KSTAR residency program and its proctors (e.g. Elliot), and others to effect that Clowdis is a convicted felon, a substance abuser, mentally unstable, and that he was an erratic and irresponsible employee who had stolen property from his firm, all the while knowing that each of these statements was false and calculated to cause maximal harm to Clowdis. Potts then placed these false and defamatory statements in the public record, via his lawsuit. (See Exhibit 2, ¶14)

217. Potts thereby induced various third parties not to enter into or continue business relationships with Clowdis, including but not limited to: The Virginia Board of Medicine (preventing Clowdis from practicing medicine), the Georgia Bar (preventing Clowdis from practicing law), the New York Bar, the American Congress of Obstetrics and Gynecology, the KSTAR residency program and its proctors (e.g. Elliot), and others.

218. Potts' intent in doing all of the above was malicious⁷, vindictive and retaliatory – to permanently injure Clowdis and “destroy” his opportunity for future professional work.

⁷ Potts sought to suspend, revoke or otherwise prevent the granting of licensing to Clowdis by providing “false and misleading” information, which “was presented to the court and to the public”, and “was done with malice, solely for the purpose of causing damage” to Clowdis, whereby Potts secretly prepared “for the presentation of false and misleading information concerning” Clowdis. *Gallaher v. Teeple*, 183 Ga. App. 31, 33-34 (1987). Clowdis was never even informed he was a party (which he is not), but yet Potts' complaint and pleadings serve as a springboard for him to use against Clowdis to interfere with his professional licensing in other communications.

~~219. Clowdis is currently obtaining a Masters degree in business from Indiana University (because he cannot practice law or medicine). Clowdis believes Potts' defamatory statements, now that they have been made public, will likely interfere with Clowdis' opportunities to obtain work in business, as well as in law and medicine.~~

220. Potts caused Clowdis financial injury, in that his false representations, made both publically and privately, in judicial proceedings and otherwise, have caused Clowdis financial injury and other serious damages.

221. The malicious and intentional nature of Potts' actions justify punitive as well as compensatory and consequential damages.

COUNT 2 Fraud

222. Clowdis incorporates by reference as though fully set forth herein the allegations in all of the paragraphs within this Complaint.

223. Potts made false representations to Clowdis about his status as a member of Potts' firm. Within two months after Clowdis began working at Potts' firm, Potts ostensibly promoted him from salaried employee to business partner. This was specifically in response to some very valuable cases Clowdis was developing for the firm. Potts therefore made Clowdis a business partner. This was not merely a promise, upon which Clowdis justifiably relied to his detriment; it was also an immediate contractual obligation, with consideration given on both sides. Potts also promised to make Clowdis a law partner upon his admission to the bar, which Potts assured Clowdis would occur soon with his (Potts') help. However, Potts did not intend to fulfill his promise/contractual obligations at the time he made them; or if

he did so intend at the start, he soon reneged upon his obligations, and instead deliberately and surreptitiously sought to undermine them. Potts' hidden intent, and the reason he lied to Clowdis and made false promises, was in order to reduce Clowdis to helpless subservience and dependence upon him (Potts), in order for Potts to exploit Clowdis' medical knowledge for the development of a number of lucrative health care lawsuits, for which Potts intended to pocket all the profits, without ever paying Clowdis his share.

224. Potts further made misrepresentations to Clowdis that he would represent him as his lawyer with the Virginia Medical Board (medical license), the State of Colorado, and with respect to his bar applications in Georgia and New York. ~~Again these were not merely promises upon which Clowdis justifiably relied to his detriment; they constituted a contractual commitment to provide legal representation (in return for services to the firm).~~ Potts' duty of representation required him to uphold various fiduciary duties to his client Clowdis, including good faith representation, loyalty, and attorney-client privilege. However, Potts deliberately and with intent breach his fiduciary duties, and in fact turned those fiduciary duties on their head. In accord with Potts' true purpose, which was to keep Clowdis completely dependent upon him (Potts), Potts intentionally sabotaged Clowdis' case before the Virginia Medical Board, so that Clowdis would not get his medical license restored. And, in secret communications with representatives from the Medical Board, the New York bar, the Georgia bar, and the State of Colorado, he made ~~false and libelous~~ statements against Clowdis in order to undermine Clowdis' legal position with each of those parties. Potts also deliberately made ~~false and~~

~~libelous~~ statements publicly and in private communications to third parties to make sure that Clowdis would be unemployable and have no future, except through Potts.

In addition, when Clowdis developed a series of false claims (*qui tams*) cases, for which Clowdis was the relator, Potts persuaded Clowdis to let him (Potts) be the relator in Clowdis' place, by making a fraudulent promise/contractual commitment to pay Clowdis in bonuses, such as a partner would make. Potts never paid these bonuses. (See Exhibit 2, ¶14)

225. ~~In furtherance of Potts' fraud and to~~ keep Clowdis from exposing him after the fact, Potts set out to destroy Clowdis' reputation when Clowdis moved to Virginia. After making a spurious police report that Clowdis had stolen the firm's property, even though no criminal charge was ever filed, Potts trumpeted Clowdis' "crime" publicly, and to the parties discussed in paragraphs 221-222 above, and to various other third parties publicly and privately, representing to each that Clowdis was mentally unstable, that he had a history of criminality, and that he was now committing unspecified federal crimes as well.

226. Potts intentionally made the false representations regarding making Clowdis a partner in his firm, and otherwise committed to letting Clowdis share in the profits from his work, in order to induce Clowdis to act in reliance on the false representations. Clowdis did in fact rely upon those false representations in various ways. He withdrew from sitting for the Illinois Bar (after having passed character and fitness) at Potts' behest. He gave up his cause of action in his *qui tam* and allowed Potts to take that role, based upon a promise that he (Clowdis) would still

get his share of the profits. And, Clowdis withdrew from monitoring with HPMP at Potts' behest, resulting in the loss of his medical license.

227. Clowdis' reliance upon Potts' promises/contractual commitment to make him a partner and otherwise let him share the profits from his ongoing work for the firm was reasonable. In fact, Clowdis initially received some remuneration and bonuses from Potts. Clowdis also witnessed Potts drafting documents in support of Clowdis' attempts to restore his medical license, and obtain law licenses from New York and Georgia.

~~228. As a result of Potts' fraud Plaintiff suffered severe damages professionally (e.g. licenses, certifications, and work), monetary, and otherwise to his reputation and potential livelihood.~~

COUNT 3

Breach of Contract (Including Promissory Estoppel)

~~229. Clowdis incorporates by reference as though fully set forth herein the allegations in all of the paragraphs within this Complaint.~~

~~230. Soon after Clowdis began working for Potts' firm, a contract, or rather a series of contracts were formed between the parties.~~

~~231. Potts made promises to Clowdis, including but not limited to: representation to Clowdis for his various legal matters; an income with bonuses for his services; a residence; and remuneration for allowing Potts to step into his (Clowdis') *qui tam*(s) as relator. Consideration was given on both sides. Clowdis performed his work for the firm while receiving (at first) only modest compensation. In return, Potts agreed to: (a) represent Clowdis diligently in his legal concerns; (b) pay Clowdis bonuses and more generally share with Clowdis the profits of the firm (at the level~~

commensurate with being a full partner); and (c) remuneration for giving in his own legal claims as a *qui tam* relator, due to the supposed strategic assessment by Potts that it would be better for the firm if he (Potts) was the relator instead.

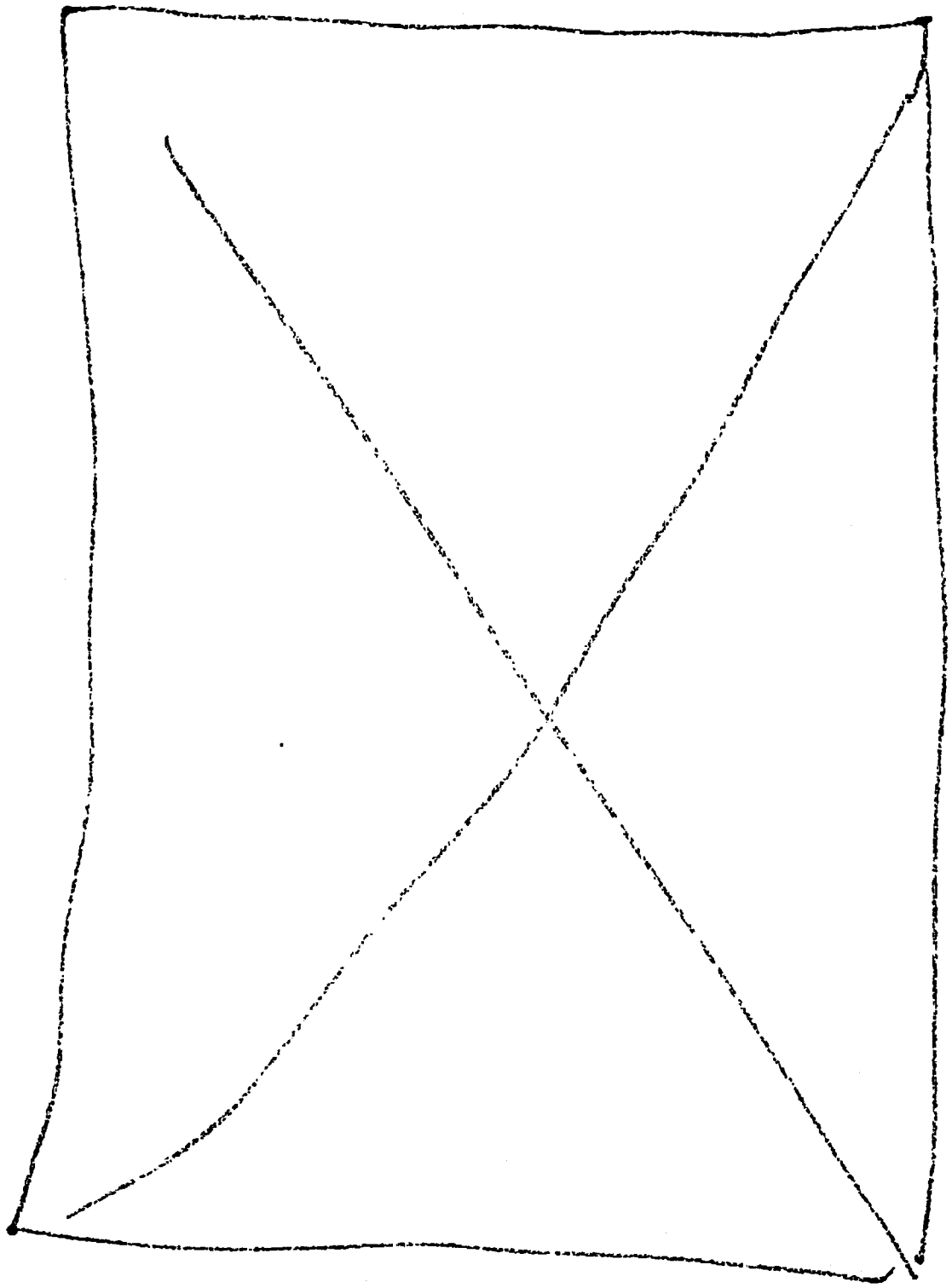
232. Both parties to the contract gave partial performance.

233. Clowdis performed under the contract by providing legal document drafting, reviewing and drafting expert medical opinions, researching cases, and facilitating in the development of the firm bringing in new cases, etc. Potts partially performed by providing Clowdis with a (modest) salary, living quarters, and by giving Clowdis some bonuses, at the beginning of their relationship. In addition, Potts partially performed, or at least gave Clowdis the appearance of partially performing with respect to his legal problems by writing letters (the ones which Clowdis was allowed to see) and making demands on Clowdis' behalf.

234. In the alternative, even if for some reason, the above acts do not constitute a contract, or series of contracts, made between the parties, they do constitute a promise, or series of promises, made by Potts, upon which he should have reasonably expected Clowdis to rely.

235. Clowdis did in fact rely upon Potts' promises/contractual obligations to his detriment. For example, Clowdis withdrew from sitting for the Illinois Bar, after being approved by the Committee for Character and Fitness, simply because Potts told him that it would be in the best interest of the firm for him to withdraw and stay focused on the cases he was developing which had statutes of limitation approaching. Given that Clowdis had previously passed the New York bar exam⁸, he

⁸ See Exhibit 11, Notification of passing the July, 2011 New York Bar Exam.



~~expected that he would have passed the Illinois bar exam (Clowdis' law school was in Illinois and focused its teaching on Illinois law) as well. By withdrawing, he lost his best opportunity to get a law license. Subsequently, he would be blocked from passing Character and Fitness before the Georgia bar and the New York bar, in part due to Potts' efforts to undermine him. Clowdis also withdrew from HPMP, based upon Potts' dubious legal strategy of voluntarily suspending his participation in order to provoke a dispute with the Medical Board. This resulted not only in Clowdis' loss of his medical license, but also in the loss of his being considered to sit for the Georgia Bar and the loss of his admission (after passing) the New York Bar (which losses were predicated upon the fact that his medical license was suspended).~~

236. Although he did not know it at the time, Clowdis now believes and alleges that Potts had the specific intent of causing Clowdis to lose his medical license and lose his opportunity to obtain a law license, when he pressured Clowdis (with the promise of partnership in his law firm and assurances that he (Potts) would ensure that Clowdis still got his law license) into making these dubious decisions - withdrawing at the last minute from taking the Illinois bar exam and then withdrawing unilaterally from HPMP, before negotiating a plan with the Medical Board. Potts' hidden agenda was to make Clowdis wholly dependent on Potts for his livelihood, so that Potts could exploit Clowdis' work without ever making him a partner or sharing profits. ~~This constituted a breach of contract(s) or in the alternative a breach of promise(s) upon which Clowdis justifiably relied.~~

~~237. Potts continually held up the promise of a long-term lucrative partnership with Clowdis to induce him to give up the immediate gains he could have made to recover his career. Potts did so, all the while knowing that he would never keep those promises, and would entrap Clowdis instead.~~

~~238. Clowdis suffered damages as a result.~~

239. First, Clowdis suffered the loss of his right to work as a physician. Clowdis had a prior successful practice in Virginia with quantifiable revenues, which he could have resumed; but for his reliance on Potts' promises.

240. Second, Clowdis also lost his opportunity to obtain a law license (in Illinois, in New York, and then in Georgia). With respect to Illinois, Clowdis had already received approval from the Character and Fitness Committee of the Illinois Bar. All he would have needed was to pass the Illinois Bar Exam, something he had already done in New York. But Potts acted deliberately to undermine Clowdis' prospect of becoming a law partner by instructing Clowdis not even sit for the Illinois Bar. With respect to New York, Clowdis had already passed the Bar Exam, and so would only have needed to satisfy New York's character and fitness review. But by the time, the review in New York came up, Clowdis already had an application pending with the Georgia bar – at Potts' behest. Being his home state, the New York Bar chose to wait for the Character and Fitness Review in Georgia. But, with respect to Georgia, Potts deliberately pulled Clowdis out of HPMP before Georgia's Character and Fitness Review. After the Medical Board suspended his license in response to Clowdis' withdrawal from HPMP, the Georgia Character and Fitness Committee decided to table any further consideration of his fitness based on his medical license being

suspended Clowdis' independent work in Potts' firm, generating causes of action in the health care field and pulling new clients for the firm, shows that he would have been able to work as an attorney independently, earning an income, had his bar admission(s) not been blocked by Potts' actions.

~~241. In addition, Potts first breached his contract with Clowdis by kicking him out of the housing that the firm had provided him. Then, when Clowdis decided to move to his parents' home in Virginia because he could not afford housing in Atlanta on the (modest) salary the firm was paying him, Potts agreed in writing that Clowdis could work for the firm long distance, while living in Virginia. But, on the first work day after Clowdis left, Potts breached his contract with Clowdis again by unilaterally firing him, without cause, doing so in the most melodramatic way by falsely alleging to police that Clowdis had run away to Virginia and absconded with company property suddenly kicking him out of the firm, when they had previously agreed in writing that Clowdis could do so.~~

~~242. Potts also breached his contracts to represent Clowdis diligently with respect to his legal problems with the Virginia Medical Board, the Georgia Bar, the New York Bar, and the State of Colorado, in that he deliberately made secret communications (unbeknownst to Clowdis at the time) with each of those parties. These communications were designed to undermine the very purpose for which Potts was representing Clowdis, namely to help Clowdis restore his medical license and/or obtain a license to practice law (bar admission(s)).~~

~~243. The injustice Potts caused Clowdis can only be remedied in part by enforcing the promises Potts made to Clowdis, regarding bonuses and sharing of profits.~~

COUNT 4

Defamation (Slander, Libel (O.C.G.A. § 51-5-1), Libel *per se* and Libel *per quod*)

244. Clowdis incorporates by reference as though fully set forth herein the allegations in all of the paragraphs within this Complaint.

245. Potts made charges that he specifically knew were false when made them, alleging that Clowdis is guilty of crimes (e.g. being a convicted felon, and thief in supposedly stealing the firm's property, and that he had committed some unspecified federal crimes presumably related to signing an affidavit to the Georgia Bar detailing unethical conduct by Potts) and dishonesty.

246. Potts made these false statements with malicious intent and despite having previously averred that the exact opposite is true. Specifically, as part of representing Clowdis before the Virginia Medical Board, Potts had reviewed the official Order from the Colorado Court dismissing the felony charge against Clowdis with prejudice. Potts explicitly averred the same to the Hearing Officers at the Virginia Medical Board and presented that Order to the Board. Yet, subsequently, Potts averred to the Court (in *Potts v. Rueda and Lewis*, No. 13-CV-9982, Superior Ct. of DeKalb Co., State of Georgia) making it a matter of public record, that Clowdis is a convicted felon, and upon information and belief, he made the same statement to the Georgia Bar and the New York Bar. As Potts well knew, Clowdis is not and never has been convicted of a felony. Similarly, Potts had explicitly told Clowdis that the laptop that the firm bought him was his to keep, because Clowdis' own laptop had burned out while doing the firm's work. Potts had further given Clowdis authorization in writing to work from Virginia, using the laptop and iPad as his tools. It follows that Potts knew full well that when Clowdis took the laptop and iPad

to Virginia with him, it was not with any intent to steal them. Potts invented this story for the police just so that he could defame and discredit Clowdis (for raising questions about Potts' unethical conduct towards his clients).

247. Potts made these false misrepresentations not only verbally, but also in writing, both in pleadings and in letters outside of the court, that injure the reputation of Clowdis and expose him to public hatred, contempt, and ridicule.

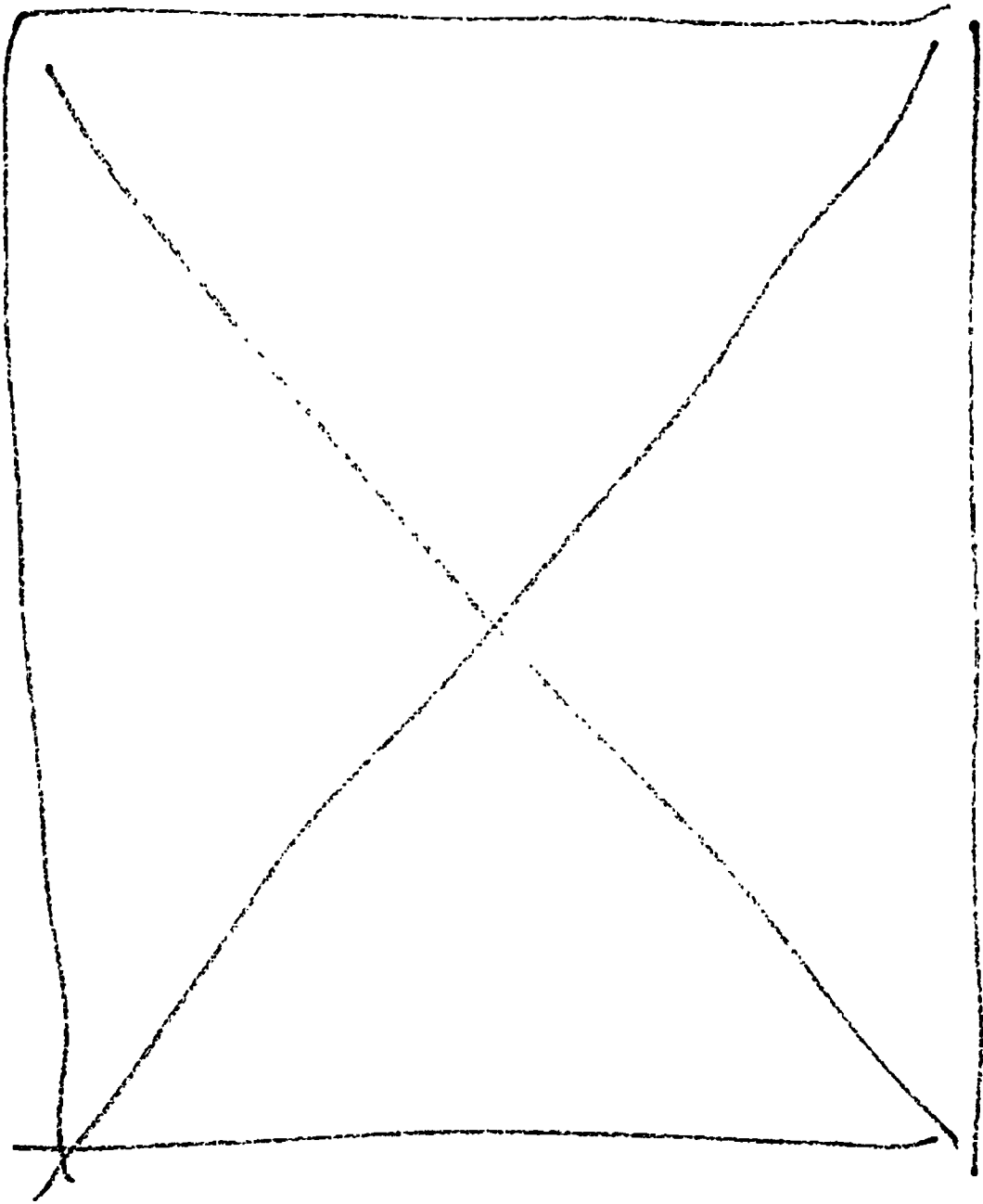
248. Potts intentionally made and continues to make false and malicious statements to others and the public regarding Clowdis (e.g. being a convicted felon, thief, dishonesty, etc.). These constitute libel *per se*.

249. Potts also intentionally made and continues to make false and malicious statements (both verbal and written) to others and the public, using innuendo that when combined with the extrinsic facts surrounding confidential attorney-client privileged material presented to the public (without Clowdis' consent) leads to libel *per quod*.

250. As a result of Potts' defamation, Clowdis has suffered severe damages, including but not limited to: damage to his reputation, his profession, his career and ability to earn a living, money, family and children, and emotional distress.

251. Clowdis therefore seeks punitive as well as compensatory and consequential damages.

COUNT 5
Intentional Infliction of Emotional Distress



252. Clowdis incorporates by reference as though fully set forth herein the allegations in all of the paragraphs within this Complaint.

253. Potts' conduct was intentional, willful, and wanton. He misrepresented to the public and governmental agencies and boards that his client, Clowdis, has mental health issues, substance abuse issues, and is a convicted felon, a thief, and a poor and unreliable employee. This naturally gave rise to Clowdis suffering emotional distress including, but not limited to, severe and intense feelings of: humiliation, embarrassment, shame, fright, outrage, sadness, and shock.

~~254. Potts' conduct was extreme and outrageous (e.g. violent threats, filing a false police report in violation of Ca. Criminal Code § 16-10-26 - False report of a crime; (2010), public humiliation with extraordinarily inflammatory libels, convicted felon, and the destruction of Clowdis' important U.S.P.S. mail in violation of 18 U.S.C. Code §§ 1702, 1708).~~

255. Potts knew, as Clowdis' attorney, that Clowdis was particularly susceptible to the type of tactics he used and was very vulnerable. For example, Potts knew that Clowdis could not seek medical care for the emotional distress because doing so could negatively impact his qualification for fitness to practice medicine, which in turn, blocked his ability to qualify for admission to the bar.

~~256. Potts also fully understood the scope of the objective harm, and therefore the resulting emotional distress that his libels would cause Clowdis. For these expanded upon the very libels - that Clowdis was a convicted felon, a substance abuser, and mentally unstable - which Potts was hired by Clowdis to remedy, Potts knew that~~

~~these libels had left Clowdis unemployed and unemployable for years, and rendered him destitute, unable to take care of himself or his family.~~

257. Potts' conduct wrongful conduct caused Clowdis to suffer great emotional pain and fear for his future, without even the ability to seek treatment (as doing so would likely give rise to new charges by the Board of mental issues, thereby causing further delays in his attempts to restore his medical license).

258. Clowdis suffered severe emotional distress from Potts' malicious conduct, in that Clowdis lost his desire to attend functions that he otherwise would have attended because of the shame caused by Potts. Clowdis was forced to isolate himself at his parents' residence in rural Virginia, unable to find work due tot he public shame and ridicule caused by Potts.

259. The deliberate, cynical, and malevolent acts by Potts – breaching his fiduciary duties to Clowdis and using Clowdis' confidences against him ~~in outrageous libels~~ ~~that Potts knew were false~~ – is behavior that shocks the conscience.

260. Clowdis therefore seeks punitive, consequential and compensatory damages.

COUNT 6
Breach of Fiduciary Duty
(Legal Malpractice, Breach of Attorney-Client Privilege, Conflict of Interest)

261. Clowdis incorporates by reference as though fully set forth herein the allegations in all of the paragraphs within this Complaint. (See Exhibit 2)

262. Potts represented Clowdis as his attorney. As such, Potts owed Clowdis a fiduciary duty of trust. This included a duty of due care, a duty of loyalty, and a duty to maintain client confidences, (See Rule 1.6)⁹.

263. Potts breached his fiduciary duty to Clowdis in a number of ways, including disclosing Clowdis' confidences without consent, and breaching his duty of loyalty by deliberately trying to sabotage the very cases (with the Illinois Bar, the New York Bar, and the Virginia Medical Board) for which he had been hired to represent Clowdis.

264. Potts breached his fiduciary duties to Clowdis for his own malicious purposes, including: (a) cynically undermining the promises/obligations Potts undertook to make Clowdis a partner in the firm's business, so that Potts could trap Clowdis in a condition of dependency and thereby keep for himself all the profits from the lucrative cases Clowdis was developing for the firm; (b) to discredit Clowdis, which became necessary after Clowdis objected to several unethical practices by Potts including raiding client trust funds and making himself (Potts) a relator in various *qui tam* cases, thereby locking out the true relators; and (c) to cause sufficiently severe emotional and financial distress upon Clowdis as to render him to seek redress against for his unconscionable behavior.

265. Potts' acts of breach of fiduciary duty are ongoing. For example, Clowdis has only recently discovered that Potts has published ~~misleading~~ allegations against Clowdis in in *Potts v. Rueda and Lewis*, No. 13-CV-9982, Superior Ct. of DeKalb Co.,

⁹ See Note 5 to Rule 1.6: "Rule 1.6 applies not merely to matters communicated in confidence by the client but also to *all information* gained in the professional relationship, *whatever its source.*"

State of Georgia, which ~~were~~ were based solely upon the (mis-)information that Potts was able to obtain and manipulate through his legal representation of Clowdis and client confidences.

266. As a result of Potts' breach of his fiduciary duty and other duties, Clowdis suffered damages, including but not limited to: financial and emotional.

267. Potts' breaches of his fiduciary duties to Clowdis were deliberate and done with extreme malice.

268. Clowdis seeks compensatory, consequential and punitive damages as a result.

COUNT 7
Malicious Use of and Abuse of Process

~~269. Clowdis incorporates by reference as though fully set forth herein the allegations in all of the paragraphs within this Complaint.~~

~~270. Potts maliciously abused the civil process by filing a law suit against Rueda and Lewis in retaliation for Rueda's bar grievance against Potts, in violation of Georgia Supreme Bar Rule 4-221(g). Potts used creative pleading for his causes of action in his attempt to thwart Rueda's Georgia Bar grievance by claiming the bar grievance was in retaliation for his civil complaint, despite Potts' complaint being filed after the bar grievance.~~

~~271. Potts maliciously abused and used the civil process against Clowdis by incorporating him as a (for lack of a better word) a "quasi"- party. Specifically, Clowdis was named internally in Potts' Complaint as a "defendant", but his name was not placed in the caption of the Complaint nor was his name preceded with the word "derendant" as were the names of Rueda and Lewis, and Clowdis was never~~

~~received a copy of the Complaint, nor was he informed (until very recently) that he~~

~~had been named internally under the heading of being a "defendant";~~

~~272. Potts abused and used the civil process in this way, for the vexatious purpose of entering in the public record his defamatory and otherwise libelous statements against Clowdis. As noted above, this was based almost entirely upon attorney-client privileged information.~~

~~273. Potts did this for two reasons. First, he knew that Clowdis had signed an affidavit as a witness for Rueda, not in opposition to Potts' civil case (which did not exist at the time) but in support of a Georgia bar grievance filed by Rueda alleging unethical conduct by Potts. Clowdis signed an affidavit detailing the unethical behavior that he had observed. Potts wanted to use the civil case to discredit Clowdis' character and undermine his affidavit before the Georgia Bar Committee. This specifically violated Georgia State Bar Rule 4-221(g), which bars civil lawsuits against grievance complainants and witnesses based on the content of the grievance claim.~~

~~274. Second, Potts was seeking a deceptive way to bypass attorney-client privilege. His plan appears to have been to: (a) first, use privileged information to discredit Clowdis in the civil case, as if Clowdis had filed a civil case against him (Potts), for which Potts might be justified in using privileged information to defend himself; and (b) second, once the privileged information had been placed in the public record, via his civil case, Potts planned to reference it so that he could defame Clowdis to the various third parties discussed in the Counts above, while pretending that he was not breaching attorney-client privilege (because it was already in the~~

public record). This too was an abuse and misuse of civil process in order to undo attorney-client privilege. It formed part of Potts' intentional and malicious efforts to "destroy" Clowdis' career and ability to earn an income, and to cause Clowdis severe emotional distress.

275. In fact, Potts unleashed his fury upon Clowdis through this abuse and misuse of process, in substantial part to retaliate because Clowdis had dared to file an affidavit with the Georgia bar in support of Rueda's bar grievance against Potts. To that end, Potts first had his friend Kimber call Clowdis and try to persuade him to perjure himself by recanting his affidavit. When Clowdis refused to do so, Potts immediately amended his Complaint to insert the attacks against Clowdis' character.

276. However, Clowdis did not know about this until recently when he saw Potts' various amended Complaints and compared them to the date when Kimber called him.

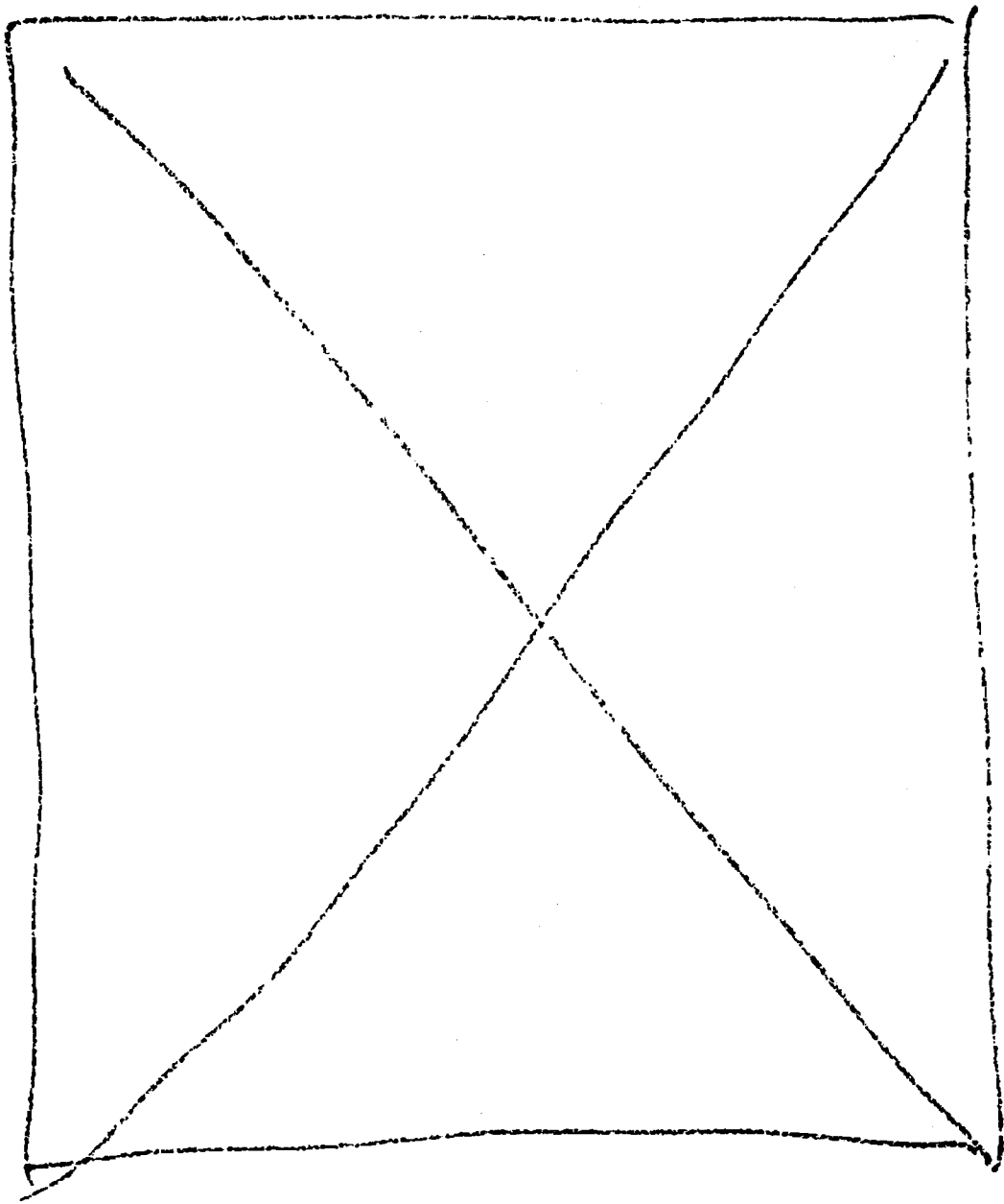
277. Potts' malicious abuse of and use of process proximately caused Clowdis to suffer damages, including but not limited to: monetary damages, damage to profession and business, damage to his reputation, damage to his family and relationship with his children, and emotional distress.

278. Clowdis seeks compensatory, consequential and punitive damages as a result.

Request for Relief

WHEREFORE, in view of the facts and arguments herein, Plaintiff respectfully prays that this Honorable Court enter an order:

A. Injunctive Relief



- a. Enjoin Defendant Potts, and any of his agents, and immediately restrain them from making false statements about Clowdis' past, including by not limited to allegations of a felony conviction, substance abuse, or mental instability, and thief, made to any persons with whom Plaintiff seeks to develop relationships, including boards, agencies, tribunals, schools, and businesses, as Plaintiff will suffer immediate and irreparable injury in that he will lose potential opportunity to work and earn a living if those false statements are believed.
- b. Enjoin Potts, and any of his agents, from making or causing to be made any false misrepresentations to any board, agency, tribunal, educational or vocational entity, and the public regarding Plaintiff.
- c. Order Potts to retract all false statements made to any board, agency, tribunal.
- d. Order Potts to retract and remove or otherwise redact from any and all publications or public documents of any false statements made by him or his agents regarding Plaintiff (e.g. false police report, false reports to the board of medicine, bar examiners, residency program, physician organizations, physician and other professional references, etc.).
- e. Order Potts to cooperate with Plaintiff in restoring his medical license, board certification and for his bar admission(s) as necessary (e.g. by

retraction of false statements, assistance with fees and any follow-up needs by the agencies, boards, and bars).

B. Damages

- a. Plaintiff is entitled to recover damages, including punitive damages, determined by this Court to have been sustained by him on account of Defendants' violations as outlined above.
- b. Award Plaintiff's attorney's fees¹⁰, expenses, interest and costs, consequential damages, and

C. Grant such other relief at law and in equity as justice requires.

JURY DEMAND

Plaintiff requests a trial by jury on all issues so triable.

Dated: February 5, 2016

Respectfully Submitted,



William G. Clowdis, Jr.
Pro Se
16310 Red House Road
Red House, VA 23963
(304) 657-0118

¹⁰ Clowdis intends to have an out-of-state attorney apply for admission *pro hac vice* to enter to represent him for this case.

"Exhibit B"

DEFENDANTS' FACTS AND CONTENTIONS

CLOWDIS STOPS PRACTICING MEDICINE

In January 2001, Clowdis surrendered his medical license because Clowdis had a substance abuse problem, which rendered him ill and depressed. (Complaint, ¶ 7). In 2005, Clowdis notified the Virginia Medical Board, of his intention to reactivate his license. (Complaint, ¶ 12). In April, 2007, the Virginia Medical Board suspended Clowdis' medical license after learning that Clowdis had pled guilty to a felony for pointing a gun at his ten-year-old daughter's head. (Complaint ¶ 15).

From 2001 to 2012, Clowdis' only paying jobs were at Arby's and at a little restaurant. (Dep. Clowdis; p. 445:21-p. 446:16).

Clowdis graduated from law school in 2010. (Complaint ¶ 23).

The Virginia Medical Board issued a public 'Statement of Particulars' stating that Clowdis is a substance abuser. (Complaint ¶ 19). In 2011, Clowdis had a hearing before the Virginia Medical Board. (Complaint ¶¶ 25-26). The Board determined that because of Clowdis' history of prescription medication abuse and because Clowdis had pled guilty to a felony, this

constituted substance abuse and mental illness, as a matter of law. (Complaint ¶ 29). The Virginia Medical Board found that: a) Clowdis had an “extensive history of mental illness in that from approximately 2001 through 2007 he exhibited psychiatric conditions, which require ongoing monitoring and management”. (Va. Med. Board Order-5/24/2011, p. 2, ¶ 3); b) Clowdis “had not received mental health services since approximately August 2007”. (*Id.*); c) Clowdis had “been hospitalized on numerous occasions (3 times in 2002); [was] involuntarily committed for mental health treatment on two occasions (April 2004); d) Clowdis received inpatient and outpatient psychiatric treatment; e) Clowdis was prescribed multiple psychiatric medications and at times determined to be unemployable as a physician”. (*Id.*); f) Clowdis “has a significant history of dependence/addiction to opioid and benzodiazepine medications and has been diagnosed with alcohol abuse in the past” (*Id.*, at ¶ 3a);g) . Clowdis was noted to “exhibit suicidal and/or homicidal ideation”. (*Id.*); h) that Clowdis had been diagnosed with bipolar disorder, which at times resulted in Clowdis’ hypomanic or even manic states. (*Id.*, at ¶ 3d);. (i) the evaluating psychiatrist recommended that given Clowdis’ “significant psychiatric history, ongoing psychiatric monitoring was indicated since the possibility of a mood disorder is considerable” and given “Clowdis’ “history

of severe polysubstance dependence, he should participate in some form of ongoing substance-abuse counseling”. (*Id.*, at ¶ 3d); j) Clowdis’ participation in a monitoring program was necessary to protect the public”. (*Id.*, at ¶ 3e).

The psychiatrist, Dr. Silverman, who did this evaluation on Clowdis at the request of Clowdis’ then lawyer, is also the CEO of Health Practitioners Management Program (hereinafter referred to HPMP) The Virginia Medical Board found that the psychiatrist did not endorse Clowdis’ claim, that his 2004 incident, of pointing a gun at the head of his ten year old daughter was involuntary intoxication or that Clowdis was “an accidental victim” (*Id.*, at ¶ 3e).

CLOWDIS UNDERSTOOD

RAMIFICATIONS OF NON -COMPLIANCE

The Virginia Medical Board’s Order of 2011 provides that Clowdis’ medical license would be continued on indefinite suspension, but stayed upon his entry and compliance with the HPMP. (Order-5/24/2011, p. 6). However, if Clowdis’ is noncompliant or dismissed from the HPMP, the stay would be summarily rescinded. (*Id.*) Clowdis understood that, while the Board had reinstated his license, HPMP “chose to impose a de facto re-

suspension of his license, to wit, they made Clowdis sign a 5-year contract with HPMP and they told him “he could not practice medicine, until they determined otherwise”. (Complaint ¶¶ 32; 42;).

On August 29, 2011, Clowdis who had both a medical and a law degree read, initialed each condition and signed and agreed to be bound by the terms of the HPMP contract. (Complaint ¶¶ 1-23; 30).

The HPMP contract required monthly submission of : 1) a self-participant report form; 2) a group attendance report form in regard to his once a month caduceus meeting requirement; 3) a report from his therapist at Pathways; 4) results of random urine toxicology screening; 5) record of his contact with his case manager, Amy Stewart (Transcript, p. 37: 21- p. 38: 13).

Clowdis agreed to abstain from alcohol and all other potentially addicting or mind-altering medications or drugs”. (Recovery Monitoring Contract #2). Clowdis agreed to maintain contact with his case manager at least once a month. (Id.#2). Clowdis agreed to be “courteous and cooperate in all contacts with the HPMP staff and representatives of the Virginia HPMP”. (id#2) Clowdis understood and agreed “that my failure to comply with this agreement as determined by the HPMP in its sole

discretion may result in my being reported to the Monitoring Program Committee and to my respective licensing board which could result in disciplinary action," which per the 2011 Order, meant suspension of his medical license. (id.¶ 27-).

Stewart told Clowdis that it was impossible for Clowdis to be drug and alcohol tested outside of the state of Virginia and to contact Board regarding his concerns about the HPMP. (Transcript, p. 81: 6- 15). Clowdis called Renée Dixon who suggested that Clowdis write a letter to lay out Clowdis' concerns about HPMP. (*Id*)

On November 16, 2011, Clowdis expressed his concerns in a letter to Dixon as follows: 1) HPMP has made pursuing work outside of Virginia impossible as Clowdis could not seek any form of employment unless authorized; to do so by HPMP; 2) HPMP's monitoring contract contains statements about Clowdis that are not true, "so in good conscience I [Clowdis] cannot sign it."; 3) Clowdis wanted to seek a job in Texas community health centers in Laredo and Brownsville but Clowdis was told by Stewart that if Clowdis called any healthcare facility Clowdis would be terminated from the HPMP program; 4) Stewart told Clowdis that he would be terminated from the program if he moved out of state unless he had a medical license in the other state and was already enrolled in the other

state's monitoring program; 5) Clowdis wanted to work as a paralegal in the field of workers comp and medical malpractice until Clowdis could obtain admission to the bar, but Stewart replied that if he obtained such paralegal work he would be terminated from HPMP and lose his medical license, because it involved healthcare; 6) Clowdis wanted the records previously made public by the Virginia Medical Board be removed as those records, according to Clowdis are misleading to the public and cause extreme hardship for Clowdis.and 7) Clowdis believed that: a) Clowdis was suspended unlawfully by the Board; b) that the Board wrongfully prohibited Clowdis, from working as a physician; and c) the Board wrongfully required drug and alcohol monitoring. (Dep. Clowdis, p. 89:15-19).

Clowdis never received a response to his letter to Dixon (Transcript, p. 81: 16- 23) Stewart told Clowdis that it was not going to be possible to be monitored in Georgia unless he applied for a medical license in Georgia. (Id. p. 81: 24-p. 82: 11). Clowdis did not intend to apply for a Georgia medical license. (Id. p. 97: 11-18).

Clowdis did not intend to return to Virginia to practice medicine (Id. p, 82: 12- 18). Clowdis signed a second contract on December 2, 2011 to reflect the change in his treatment plan. (Transcript p. 41: 2- p. 42: 12).

Clowdis attended only one of two scheduled appointments in December 2011 at the VA medical center (Transcript, p. 43: 7-16).

HPMP did not receive monthly reports from Dr. Lee for January or February 2012 as was required.

POTTS AGREES TO REPRESENT CLOWDIS

Clowdis met Potts for the first time shortly before Christmas 2011 at Potts' Atlanta, Georgia office. (Complaint ¶¶ 37). Despite Clowdis having not worked as a doctor for pay since 2001 and Clowdis not having been admitted to a state bar and not having a job in the legal profession despite having graduated from law school in 2010; and despite Clowdis' sordid history of feloniously pointing a gun to his 10 year old daughter's head and Clowdis' history of drug and alcohol abuse, Potts gave Clowdis a chance. Clowdis accepted a job as a legal assistant in Atlanta, Georgia, with JHP II in January 2012. Clowdis was paid \$50,000, (a wage significantly higher to what he was paid at Arby's) plus he was allowed to live in the carriage house, which is adjacent to the law office, rent free. Clowdis wanted to continue working at JHP II instead of practicing medicine. (Id., p.138: 16-22; p. 174: 24- p. 175:1; p. 176: 25- p. 177: 6).

CLOWDIS BREACHES MONITORING AGREEMENT

Notwithstanding Clowdis understanding that if he moved to Georgia where he could not be monitored by the HPMP that his medical license would be suspended again, Clowdis moved to Georgia. *Id.*, p. 140: 1-14.

Clowdis told case manager Stewart on February 17, 2012, that Clowdis was considering and was actually looking at being in another state though he was not sure where or when. (Transcript, p. 47: 6-13).

Clowdis's aforementioned communication to Stewart was false because Clowdis had already moved to Georgia, to work as a legal assistant for JHPH. (Transcript, p. 48:1-5). At no time did Clowdis ever inform his case manager that he actually moved to Georgia. (Transcript, p. 48:1-5).

Georgia did not have a physician monitoring program. (Transcript, p.48: 6-9).

Clowdis stopped participating in the HPMP because: a) Clowdis had no intention to return to Virginia to practice medicine; (Dep. Clowdis, p. 143:7-9);b) Clowdis was not approved to work as a physician by HPMP. (*Id.*, p. 89: 15-19).

In addition to Clowdis' transgressions listed above, there were other impediments to Clowdis' bar admission such as: a) charges brought against Clowdis for having sexual relations with the babysitter; b) while

attending law school, Clowdis was charged with groping co-eds; c) making false charges against Potts and participating with his co-conspirators Rueda and Lewis to steal Potts' law firm and cases.

On September 7, 2012 the board summarily rescinded the stay imposed on Clowdis's license suspension because Clowdis stopped going to HPMP meetings, (Id. p. 115: 5-16).

CLOWDIS' CONTEMPT FOR BOARD

Clowdis had contempt for the Virginia Medical Board and the HPMP program, writing that: a) "I won't be tolerating insolence of a medical board or quackopractor or their minions again". (Id., p. 211:19-21- p. 212: 5); b) Dr. Silverman, the head of the HPMP was a "collusional fraudster". (Id., p. 214: 2-6); c) "[p]erhaps my appearance [at the hearing] with complaints in hand with 'personal service' for them [Dr. Silverman, case manager Stewart, et. al] to appear before a REAL judge that has to follow statutes, laws in Court- oh and the U.S. Constitution, might facilitate the metamorphosis of the ill-defined, delusional and psychologically deficient individuals-'Board Members' – (a/k/a malignantly self-serving excrement of the medical profession into REALITY) (Id.,p. 249: 4-13); d) the HPMP and Dr. Silverman, were forcing their fraud down his throat and he was not

going to accept that. (Id., p. 206 : 3- p. 207: 2- 22); e) Dr. Silverman had a conflict of interest that is fraudulent. (Id. p. 208: 6-18; p. 210: 20-24).

THE 2013 HEARING

Potts represented Clowdis at a hearing before the Virginia Board of Medicine on February 22, 2013 in Henrico Virginia. On March 4, 2013 the Virginia Board of Medicine entered an order finding that Clowdis violated the Board's 2011 Order, by virtue of his noncompliance with the terms and conditions of his monitoring contract with HPMP. The Virginia Board of Medicine ordered "Clowdis' license to practice medicine and surgery in the Commonwealth of Virginia continue on indefinite suspension until such time as Clowdis provides evidence acceptable to the board that he entered into a Recovery Monitoring Contract with the HPMP. (Id., p. 3)

It was further ordered that, "upon receipt of such evidence this suspension imposed on Dr. Clowdis' license shall be stayed. Dr. Clowdis shall fully comply with all terms and conditions of his monitoring contract with HPMP and any addenda thereto. (Id.)

CLOWDIS APPEALS 2013 ORDER

Clowdis appealed the order of the Virginia Medical Board dated March 4th, 2013, *pro se*, instead of re-entering the HPMP (Dep. Clowdis, p.

81: 24- p. 82:1). The reasons Clowdis appealed instead of keeping his medical license were: a) Clowdis did not agree with the decision. (Id. p. 116: 25- p. 117: 2); b) although Clowdis has considered going back to the Virginia Medical Board and saying okay I do have a drug and alcohol abuse problem and I'm willing to do the HPMP so I can practice medicine and support my kids [\$80,000 + in arrearages], Clowdis chose not to give up his appeal and participate in the HPMP to get his medical license back. (Id., p. 172: 20-25); c) Clowdis had no intention to return to Virginia to practice medicine; (Dep. Clowdis, p. 143:7-9); d) Clowdis was not approved to work as a physician by HPMP. (Id., p. 89: 15-19); e) Clowdis considers the HPMP as a hindrance to Clowdis' re-entry into the medical profession. (Id. p. 202:25- p.203: 5); f) Clowdis believed that since his history of several hospital admissions wasn't impacting Clowdis in 2013, that Clowdis didn't belong in the HPMP. (Id. p. 209:14-17); g) Clowdis refused to give up drinking alcoholic beverages. Thus, he did not want to submit to random urine samples mandated by the HPMP. (Affidavit Potts)

CLOWDIS FILES LAWSUITS

In addition to the appeal, Clowdis filed a lawsuit against Dr. Silverman, *et. al* over the same issues that Clowdis had with the Virginia Medical Board prior to defying their rules and moving to Georgia to pursue

a legal career. (Dep. Clowdis, p. 133: 21). In that suit, Clowdis alleged that Dr. Silverman was a criminal.

TWO DISGRUNTLED EMPLOYEES FILE BAR GRIEVANCE

Clowdis authored and/or edited much of the false bar grievance that was filed against Potts by Clowdis's co-conspirator, Eduardo Sergio Rueda. (Id., p. 257 2-4). This false bar grievance in which Clowdis filed a false affidavit in support of Rueda's bar grievance has been dismissed in its entirety. Subsequently, Clowdis filed a separate bar grievance against Potts as part of his continuous harassment of Potts.

Furthermore, *OCGA § 51-5-8* affords Potts the unrestricted right to defend himself in Court pleadings against the false, scandalous and scurrilous allegations made by Clowdis as Judge Flake correctly recognized in her July 5, 2016 Order dismissing all of the counts of the complaint whose headline is legal malpractice/breach of fiduciary duty.

CONTENTIONS BY THE DEFENDANTS

1. The well-pled facts in the complaint do not demonstrate a claim, which would allow the plaintiff to recover.
2. There are no allegations, in Clowdis' complaint, establishing the parameters of acceptable conduct, employed by lawyers under

similar conditions and like surrounding circumstances and that a significant breach of the standard of care by Potts caused Clowdis harm as is required to establish a claim for recovery in an OCGA 9-11-55 default judgment case.

3. The Complaint does allege criticisms, which do not give rise to standard of care violations, such as second guessing decisions of an attorney, with the advantage of hindsight (Complaint ¶59); speculation regarding strategy, trial tactics and settlement negotiations (*Id.* ¶¶ 96-101; 58-59; 235); failing to prepare for the February, 2013 hearing, without explaining how different preparation would have resulted in an outcome more favorable;¶ making a conclusory statement that Potts was “provocative”, during the hearing. (*Id.*, ¶ 100). during the hearing without: a) citing a single fact or rule that Potts violated; b) alleging what Potts could have done differently in that hearing that would have changed the outcome of the underlying case. They do not set fort a claim for legal malpractice. *Fink v. Dodd*, 286 Ga. App. 363, at 365 (2007); See, also *Engelman v. Kessler*, 340 Ga. App. 238, at 244 (2017) (second guessing decisions of an attorney, with the advantage of hindsight does not allege a malpractice claim); *Allen Decorating, Inc. v. Oxendine, et. al.*

225 Ga. App. 84, at 89 (1997) (an attorney is not liable for malpractice based merely on the attorney's choice of trial tactics or strategy); *Szurovy v. Olderman*, 243 Ga. App. 449, at 452-453 (2000) (a legal malpractice claim cannot be based upon speculation or conjecture; *Guerrero v. McDonald*, 302 Ga. App. 164, at 167-168 (2010) (affirming grant of summary judgment because Guerrero's documents and topics that his lawyer should have discussed at trial was "based on mere speculation and conjecture" and did not explain how this would have resulted in an outcome favorable to Guerrero); *Quarterman v. Cullum*, 311 Ga. App. 800 (2011) (Quarterman's allegation that he was prejudiced by his lawyer failure to depose a witness was speculation and conjecture since Quarterman did not show how the taking of this deposition would have changed the outcome of the underlying case).

4. The plaintiff as a matter of law could not prevail in the original litigation. Clowdis sustained 0 damages since Clowdis' failures to file timely appeals of the 2007 and 2011 orders and his breaching of the monitoring agreement that he read, signed, initialed and understood precludes his ever being able to win the underlying litigation. *Clowdis*

v Virginia Board of Medicine, Va. Ct. App., Rec. No. 1381-17-2, at pp. 2-8.

5. Defendants did not breach any fiduciary duty by “disclosing Clowdis' confidences as Clowdis wrongfully alleges in *Complaint ¶ 230* because: 1) Attorney client privilege and confidential communications are legal conclusions, which the defendants do not admit; 2) Confidentiality and the privileged status are lost when the client tells the communication to someone other than the lawyer. *McKesson HBOC, Inc., v. Adler, 254 Ga. App. 500 (2002)* (disclosing documents to SEC waives confidentiality and the privileged status); *Zielinski v. Clorox Co., 270 Ga. 38, at 40 (2002)* (forwarding copy of document to district attorney waived attorney-client privilege); *Rogers v. State, 290 Ga. 18 (2011)* (confidentiality and privilege is lost where the client's girlfriend heard the client's conversation with his lawyer); 3) Clowdis' felony conviction for pointing a gun at his 10 year old daughter's head, his substance abuse, his 3 attempted suicides, his hospitalizations for mental illness, his groping of co-eds, his attempting to conceal from the Board his acquittal for fondling a teenage babysitters, his mental depression, etc. are facts provable from non privileged sources such as the Virginia Medical

Board which placed them on the internet for all to see. *Complaint* ¶¶ 7, 29; 48; 2007 and 2011 Orders of Va. Med. Board; *Statement of Particulars made public by Board*). Thus, these are facts known by other sources and they do not meet the definition of communications protected by the attorney client privilege. *Gilbert v. State*, 169 Ga. App. 383 (1981); *Howard v. State*, 279 Ga. 166 (2005)(communications made by client to attorney for purposes of disclosure to a third party is not privileged);⁴ "an attorney is released from the obligations of secrecy when a client charges negligence, malpractice, or other professional misconduct, in an action against the attorney . . .", as Clowdis did in this case. *Waldrip v. Head*, 272 Ga. 572, at 577 (2000); *Moody et.al v. Hill, Kertscher & Wharton, LLP et. al*, 346 Ga. App. 129 (2018); *Complaint* ¶¶ 145-146; 173; *Rule 1.6 of the Ga. Rules of Professional Conduct* (allowing release of confidential information which "lawyer reasonably believes necessary" . . . "to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client . . . or to respond to allegations in any proceeding concerning the lawyer's representation of the client"). Furthermore, *OCGA § 51-5-8* affords Potts the unrestricted right to defend himself in Court pleadings

against the false, scandalous and scurrilous allegations made by Clowdis as Judge Flake correctly recognized in her July 5, 2016 Order dismissing all of the counts of the complaint whose headline is legal malpractice/breach of fiduciary duty.

6. Clowdis claims for breach of fiduciary duty duplicate Clowdis' unsupported malpractice claim because the duties: a) arose from the attorney-client relationship; 2) were allegedly breached by the same conduct and 3) allegedly caused the same damages. Thus, they too must be dismissed. *Anderson v. Jones, 323 Ga. App. 311, at 318 (2013)*.
7. Potts by virtue of the default does not admit any of the legal conclusions contained in the the affidavit of Leonard Gross, a lawyer not admitted to practice law in Georgia, which is attached to the complaint. *Willis v. Allstate Ins. Co., 321 Ga. App. 496, at 502 (2013)*.
8. There is no connection between the well pled facts in plaintiff's complaint that are admitted by the defendants and the damages claimed by plaintiff.
9. Plaintiff's damage claim is barred since the underlying action remains pending in the 4th Circuit Court of Appeals and plaintiff cannot prove injury as a matter of law because the federal action still may

terminate favorably for the plaintiff. *Mauldin v. Weinstock*, 201 Ga. App. 514 (1991).

10. Plaintiff did not mitigate his damages, as the Board stayed the suspension of Clowdis' license provided he re-enter the drug and alcohol monitoring program. However, Clowdis filed a timely appeal of the Board's Order, and sued Dr. Silverman and others connected with the Medical Board in federal court instead of re-entering the monitoring program and keeping his license. *Complaint* ¶153. Moreover, there is no allegation in the Complaint that after leaving Georgia on April 27, 2013, that Clowdis took any action to seek admission to the Georgia, New York or Illinois bars or that Clowdis sought gainful employment of any kind. Instead, Clowdis enrolled in Indiana University's business school. *Id.* at ¶¶ 1; 219. In fact, Potts fired Clowdis on April 29, 2013. Clowdis was not employed from then until his deposition on April 13, 2017. (Dep. Clowdis, p. 80: 9-10). Clowdis has not sought a job as a physician since being fired by JHPH in April 2013 and Clowdis has not practiced medicine for pay since 2001 (16 years ago) (Dep. Clowdis, p. 81: 1-3). Clowdis has not since April 2013, enrolled in any drug or alcohol abuse program (Dep. Clowdis, p. 81: 24- p. 82:1).

11. The damages claimed by the plaintiff, are not related to the alleged conduct of the defendants; Clowdis' alleged damages to the extent there are any are attributable to other causes.
12. The damages claimed by the plaintiff are exaggerated magnified or speculative.
13. Under the facts as deemed admitted the plaintiff is not entitled, to be awarded any damages.
14. Under the facts as deemed admitted, no claim exists for attorney³ fees, since there is a bona fide controversy about liability and the amount of damages.

³ Defendants respectfully submit that the Court erred in adding claims for attorney fees and punitive damages after the motion for a default judgment was entered on October 24, 2017. This contravenes *O.C.G.A. § 9-11-54 (c)* which provides that “[a] judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment” and that the “the court shall not give the successful party relief, though he may be entitled to it, where the propriety of the relief was not litigated and the opposing party had no opportunity to assert defenses to such relief”. Thus, “[a] plaintiff’s relief in a judgment by default is strictly limited in nature and degree to that specifically demanded in the complaint, ... [and] in such circumstances a complaint may not be amended to conform to the evidence.” *Water’s Edge Plantation Homeowner’s Ass., Inc.*, 315 Ga. App. 618, at 620-621 (2012); *EnduraCare Therapy Mgmt.*, 298 Ga.App. 809, at 816, n.23 (2009) (stating that a new allegation that, “Brentwood was the

15. Under the facts as deemed admitted, no claim exists, for punitive damages.
16. Plaintiff is barred from obtaining an award for special damages not specifically pled in the original complaint. O.C.G.A. § 9-11-9 (g).
17. Plaintiff's claims are barred by the statute of limitations.
18. If any damages are awarded, how are they are to be apportioned pursuant to O.C.G.A 51-12-33 among the two defendants and the plaintiff who had a medical and law degree and who read, signed, initialed and was apprised of the ramifications of breaching the monitoring agreement by a HPMP representative is bound by its terms. *Berman v. Rubin, 138 Ga. App.849, at 855.*
19. Defendants do not admit false allegations. By way of illustration and not by way of limitation the following is an example of this principle:
20. The Illinois Bar needed information regarding Clowdis' ex-wife Janeen Lane to complete the processing of Clowdis' character and fitness application. (Id. p. 272: 19- p. 273:7). The Illinois Bar wrote

operator of the nursing home (and not the owner of the nursing home operator) . . . is not deemed admitted on default”).

that until Clowdis provides the requested information, Clowdis' application will not be recommended for certification by the character and fitness committee. (Id., p. 273:13-17).

21. Rather than provide the requested information permitting the Illinois Bar to contact Clowdis's ex-wife, Clowdis responds to the Illinois bar as follows, "I recently moved to Georgia and plan to take the Georgia Bar, so I am presently not interested in pursuing admission to the Illinois Bar. Please withdraw my application to the Illinois Bar."(Exhibit 12 to Clowdis deposition; 28; p. 394: 6-13; p. 274: 3-13). Subsequently Clowdis got a notice from the Illinois Bar confirming that Clowdis had withdrawn his application for admission to the Illinois bar and that he has been taken off the roles of those taking the test in February 2013. (Id., p. 275:1-5).