

CAUSE NO. 471-03472-2022

HENRY MISHKOFF
Plaintiff

v.

T. CHASE GARRETT,
SCHEEF & STONE, LLP, and
SONIA BRYANT
Defendants.

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IN THE DISTRICT COURT

471ST JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

**AFFIDAVIT OF J. MITCHELL LITTLE REGARDING
ATTORNEYS' FEES AND COSTS IN SUPPORT OF DEFENDANTS**

1. My name is J. Mitchell Little, and I am an attorney for Defendants in the above-captioned cause. I have been engaged to provide expert opinion testimony regarding the reasonableness and necessity of the attorney's fees charged by my law firm in connection with the above-captioned case and, specifically, the Texas Citizens Participation Act ("TCPA") Motions filed in the case.

2. I am an equity partner in the law firm of Scheef & Stone, L.L.P. I have been licensed as an attorney in the State of Texas since May 24, 2004. I am familiar with the reasonable attorney's fee rates normally charged in and around Collin County, Texas.

Scheef & Stone, L.L.P. Fees on the TCPA Motions

3. My law firm and I were engaged in this matter on an hourly basis. Defendants have agreed to cover the cost of this litigation.

4. During this representation, I maintained detailed records of hourly time

applied to this matter for use in calculating any recoverable attorney's fees and tracking my time and any expenses. My current hourly rate for handling business litigation matters is \$650.00 per hour. Chase Garrett also worked on this matter, and his rate is \$400 per hour. Based on the rates charged in both the areas in which the actual work was performed and the area in which the matter was to be heard remotely, the rates are reasonable given the complexity and subject matter of the case. From the initiation of the demand letter on June 29, 2022 that started the above-captioned proceeding until August 25, 2022, in this case, our law firm expended 42.5 hours in the defense of the various claims in the case. We performed all the activities described in the attached **Exhibit A**, which is a true and correct copy of our billing records in this matter. My clients have accrued a total of **\$17,875.00** in hourly fees litigating this matter. Dividing the total by the number of hours, we come to a blended rate of \$420.59 per hour, which is reasonable based upon my experience in Collin County.

5. The fees requested by Defendants are attributable to their successful prosecution of their TCPA Motion. The services provided by Scheef & Stone, L.L.P. advanced the prosecution of the motion for which fee recovery was permissible (TCPA).

Legal Standard

7. Under Texas law, the court is required to consider the reasonableness of

the attorneys' fees charged in this case through consideration of eight factors laid out in the Texas Disciplinary Rules of Professional Conduct. They are:

- a) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- b) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- c) the fee customarily charged in the locality for similar legal services;
- d) the amount involved and the results obtained;
- e) the time limitations imposed by the client or by the circumstances;
- f) the nature and length of the professional relationship with the client;
- g) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- h) whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

In arriving at my opinion, I am also required as a Texas lawyer to consider each of these eight factors under Texas law. These are commonly referred to in Texas as the *Arthur Andersen* factors. *Arthur Andersen & Co. v. Perry Equip. Corp.*, 945 S.W.2d 812 (Tex.1997).

8. This is a sophisticated, contentious dispute arising from Miskhoff's claims against Defendants for defamation and libel, which drove up the effort and

attorney's fees required both to prosecute and defend it. The legal and factual questions involved in this case were difficult and required a high degree of skill and experience in the area of civil litigation. The work was labor-intensive and fact-intensive and required assistance of experienced attorneys. While the acceptance of this assignment did not preclude other employment, it did require a great deal of attention to detail over a relatively short period of time (two months). The fees customarily charged for this type of work range in Collin County, Texas area from \$200/hour all the way up to over \$700/hour. Counsels' experience and qualifications justify rates between \$400 and \$650 are appropriate. Neither the time limitations imposed by the circumstances nor the nature and length of the professional relationship with the client had a significant impact on the rate charged or the work performed. The Scheef & Stone Partners who worked on the case are experienced in the area of tort liability in civil litigation, having tried multiple cases to jury verdict or arbitration award.

Summary of Fees

9. It is my opinion, based upon my knowledge, expertise, and personal experience, that the reasonable and necessary attorney's fees incurred by Defendants is **\$17,875**.

Appellate Fees

10. I have been involved in a variety of complex civil appeals, each with

multiple issues before the Court. It is my opinion, based upon my knowledge, expertise, and personal experience, that the reasonable and necessary attorney's fees incurred if Plaintiffs unsuccessfully appeal this matter to the Court of Appeals would be \$25,000. That would be a reasonable attorney's fee for responding to a multiple-issue appeal, briefing the issue on the merits, and engaging in oral argument.

11. If the opposing parties then appeal the matter to the Supreme Court of any state, a reasonable and necessary attorney's fee for having to respond to an unsuccessful Petition for Review would be an additional \$25,000.

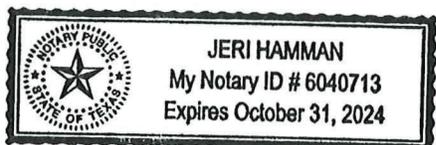
12. If the Petition for Review is granted, a reasonable and necessary attorney's fee for having to brief the matter on the merits to the Texas Supreme Court would be \$25,000. If oral argument is granted, an additional \$20,000 in attorney's fees would be reasonable.

Signed this 25th day of August, 2022.



J. MITCHELL LITTLE

SUBSCRIBED AND SWORN TO BEFORE ME by the said J. Mitchell
Little on the 25th day of August, 2022, to certify which witness my hand and
official seal.



Jeri Hamman

Notary Public, State of Texas

Disclosures

I have been retained as an expert witness on a non-attorney's fees matter in one other case, Cause No. CC-12-06631-D, *Timothy Matthew Brann v. Shamrock Asset Management, L.L.C., et al* before the County Court at Law No. 4 in Dallas County, Texas. The subject matter of that case was securities-related.

I have testified live at a bench or jury trial or by affidavit to reasonableness and necessity of attorney's fees fewer than twenty-five times in the past ten years. A list of all of those matters is not readily available but could be reproduced with sufficient research if necessary.

A non-exhaustive list of those matters in which I testified as a live witness at a final trial or sanctions hearing include:

1. Cause No. 296-00547-2014; *Sedey v. Brar*; 296th Judicial District Court, Collin County, Texas
2. Cause NO. 219-02191-2011; *Lancaster, et al v. Collin Bank*, 219th Judicial District Court, Collin County, Texas
3. Cause No. DC-08-09597; *Quaneco, L.L.C. et al v. Couch Oil and Gas, Inc. et al*; 192nd Judicial District Court, Dallas County, Texas
4. Case No. 01-14-0000-6142; *Leland Rogness v. Alfaró Oil and Gas, L.L.C., et al*, American Arbitration Association

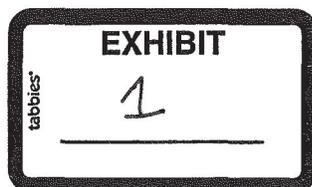
5. Cause No. 74339-86; *Chahine, et al v. Piney Woods Ventures, L.L.C., et al*, 86th Judicial District Court, Collin County, Texas
6. Cause No. 416-3008-05; *Bruce Folks v. Prairie Resources, Inc., et al*; 416th Judicial District Court, Collin County, Texas
7. Cause No. 296-04880-2009; *Donald Rieke v. Z&Z International, Inc., et al*; 296th Judicial District Court, Collin County, Texas
8. Cause No. 366-00595-2008; *Tonnie C. Karle v. Innovative Direct Media Ltd. Co., et al*; 366th Judicial District Court, Collin County, Texas
9. Cause No. 199-02011-07; *Neil Tomba v. Timothy Pettinger, et al*; 199th Judicial District Court, Collin County, Texas
10. Cause No. 366-02962-2007; *David Elbaum, et al v. Knowles Consultants, L.L.C., et al*; 366th Judicial District Court, Collin County, Texas
11. Cause No. 401-03047-2007; *Christian Life Assembly of God of Carrollton, Texas v. Donald Blair*; 401st Judicial District Court, Collin County, Texas
12. Cause No. 366-05061-2015; *OIC Holdings, L.L.C. v. Tom Gleason, et al*, 366th Judicial District Court, Collin County, Texas
13. Cause No. 429-03624-2015; *Eckard Global Midstream, LLC and Precision Midstream, LLC v. Enserca Engineering, LLC, et al*; 429th Judicial District Court, Collin County, Texas

14. Case No. 01-19-0003-4072; *Lumos Partners, LLC v. Vac-Tron Equipment, LLC*, before the American Arbitration Association.
 15. Case No. 01-21-0000-1862; *Lumos Partners, LLC v. Altavian, Inc.*, before the American Arbitration Association.
 16. Cause No. 153-321789-20; *Jon Ver Halen, M.D. and West Houston Aesthetic and Plastic Surgery, PLLC d/b/a Ver Halen Aesthetics and Plastic Surgery v. Sacha Obaid, M.D. and North Texas Plastic Surgery*; 153rd Judicial District Court, Tarrant County, Texas.
 17. Cause No. 366-01154-2022; *Matthew Fuller and Fuller Wealth Management, L.L.C. v. Craig Hausz, Michelle Hausz, CMH Advisors, PLLC, and CMH Wealth Management, LLC*; 366th Judicial District Court, Collin County, Texas
- My current *curriculum vitae* is available online at the following URL:
<https://solidcounsel.com/attorney/mitch-little/>

Time Report

Sonia Bryant / Defamation Suit (18304-102)

Date	Name	Hours	Amount	Rate	Narrative
06/29/2022	Chase Garrett	1.25	500.00	400.00	Receive and review Mr. Mishkoff's letter claiming defamatory meaning in the Counterclaim. Email to his counsel.
07/11/2022	Chase Garrett	7.50	3,000.00	400.00	Receive and review newly filed lawsuit. Confer with firm's general counsel and executive committee over same. Begin outlining defenses involving privilege and immunity. Research and drafting relative to TCPA Motion to Dismiss. Communications with firm's client regarding claims against her.
07/12/2022	Mitch Little	1.00	650.00	650.00	Review pleading; confer with Brent and Exec; confer with Chase Garrett regarding facts and procedure; review TCPA motion and discuss setting and next steps.
07/12/2022	Chase Garrett	8.30	3,320.00	400.00	Continue draft of TCPA Motion to Dismiss. Additional conference with firm's counsel and executive committee. Finalize and file draft of Motion to Dismiss. Draft and file Original Answer. Confer with Court staff on hearing availability. Draft and file Notice of Hearing.
07/13/2022	Chase Garrett	3.50	1,400.00	400.00	Additional research on attorney immunity; amend TCPA filing to include additional affirmative defense.
07/19/2022	Chase Garrett	1.25	500.00	400.00	Prepare for and attend in-office meeting with firm's client to discuss [privileged].
08/10/2022	Chase Garrett	1.20	480.00	400.00	Receive and review Plaintiff's Initial Disclosures; attention whether to amend TCPA motion to include Plaintiff's admissions in the disclosures as additional proof that the claim was brought in response to client's right to petition.



08/16/2022	Chase Garrett	3.80	1,520.00	400.00	Close review of Plaintiff's lengthy response to our TCPA Motion to Dismiss. Begin outlining arguments, case authority to use in Reply.
08/17/2022	Chase Garrett	4.60	1,840.00	400.00	Initial draft of our Reply in Support of TCPA Motion to Dismiss.
08/24/2022	Chase Garrett	5.60	2,240.00	400.00	Finalize and oversee filing of our Reply in Support of TCPA Motion to Dismiss. Confer with J. Little and B. Kugler. Prepare proposed order granting our Motion to Dismiss; evaluate fees incurred. Review Sur-Reply.
8/25/2022	Chase Garrett	2.00	800.00	400.00	Travel to/from Collin County Courthouse and attend hearing on our TCPA Motion to Dismiss.
8/25/2022	Mitch Little	2.50	1,625.00	650.00	Travel to/from Collin County Courthouse and attend hearing on our TCPA Motion to Dismiss. Draft and file Affidavit in Support of Fees
		42.50	17,875.00		

Attorney Summary Report

Attorney	Hours	Amount	Rate
Chase Garrett	39.00	15,600.00	400.00
Mitch Little	3.50	2,275.00	650.00
		42.50	17,875.00