

**NO. 471-03472-2022**

**HENRY MISHKOFF,  
PLAINTIFF,**

**V.**

**T. CHASE GARRETT,  
SCHEEF & STONE, LLP, AND  
SONIA BRYANT,  
DEFENDANTS.**

§ **IN THE DISTRICT COURT**  
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§ **471<sup>ST</sup> JUDICIAL DISTRICT**  
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§ **COLLIN COUNTY, TEXAS**

**PLAINTIFF’S OPPOSITION TO DEFENDANTS’  
AFFIDAVIT IN SUPPORT OF ATTORNEYS’ FEES**

**TO THE HONORABLE JUDGE OF SAID COURT:**

Plaintiff opposes the award of attorneys’ fees as requested by Defendants in the Affidavit of J. Mitchell Little Regarding Attorneys’ Fees and Costs in Support of Defendants (the “Affidavit,” Exhibit A), and raises the following objections:

1. Defendants’ attorneys have provided no evidence that they have collected fees from their clients or that they expect ever to collect them, as specifically required by law and precedent in cases involving the TCPA.
2. Defendants can only properly seek to recover fees for the TCPA aspect of this case, but they have made no effort to segregate the time they devoted to the TCPA aspect of the case from the time they devoted to the other aspects of the case.

3. Mr. Little is acting as an expert witness, a potential fact witness, a defendant, and an attorney in the same case, a situation rife with explicit conflicts of interest as defined in the *Texas Disciplinary Rules of Professional Conduct*.

**I. THE TCPA REQUIREMENT FOR “INCURRED” FEES**

**A. Defendants’ attorneys have provided no evidence that their fees are liable for payment, so no attorneys’ fees have actually been incurred.**

In many types of legal actions in Texas, attorneys can “recover” fees even if they’ve never actually billed their clients for their time and even if they don’t expect to be paid (and even if they’re acting pro bono). But if attorneys are acting to “recover” fees in a TCPA Motion to Dismiss (as in this case), the statute that enables the attorneys to recover fees requires that the fees must have actually been incurred: “[I]f the court orders dismissal of a legal action under this chapter, the court: (1) shall award to the moving party court costs and reasonable attorney's fees *incurred* in defending against the legal action ...” (emphasis added) TEX. CIV.

PRAC. & REM. CODE § 27.009(a)

Texas courts have consistently ruled that, in this context, “incurred” means that the attorneys must have already been paid for their time or must expect to be paid for their time.

The Texas Court of Appeals Fifth District has, for example, ruled that pro bono attorneys’ fees are not recoverable under the TCPA because those fees are not liable for payment and therefore are not incurred: “In *American Heritage*

*Capital*, we assumed without deciding reasonable attorney’s fees had to be incurred for recovery under 27.009(a)(1). We also interpreted ‘incurred’ to mean liable for payment.” *Cruz v. Van Sickle*, 452 S.W.3d 503, 522 (Tex. App. 2015)

Even more explicitly, the Texas Supreme Court has held that recovery of incurred attorneys’ fees under the TCPA is *reimbursement* for actual fees, not merely payment for hours devoted to a case: “As we have explained, attorney’s fee awards are *compensatory* in nature (emphasis added), intended generally to make the prevailing party whole as to reasonable and necessary fees for successfully prosecuting or defending against a claim.” *Rohrmoos Venture v. UTSW DVA Healthcare, LLP*, 578 S.W.3d 469, 489 (Tex. 2019)

Mr. Little has provided no evidence that Defendants’ attorneys have incurred any expenses from which they need to be made whole. In his Affidavit, Mr. Little does say that “Defendants have agreed to cover the cost of this litigation.” (*See* Affidavit at ¶ 3.) But that is an ambiguous statement at best, one that is especially problematic under these unique circumstances, and one that shines no light on the possibility that the attorneys’ fees in this case have actually been incurred and thus can be recovered under the provisions of the TCPA.

**B. Mr. Little’s claim that the attorneys’ costs will be covered is too *ambiguous* to be meaningful.**

When Mr. Little claims that “Defendants have agreed to cover the cost of this litigation,” what does he mean?

This litigation is replete with defendants, most of whom are also attorneys in this litigation. Which defendants have agreed to cover the costs of which attorneys? Have *Defendants* Scheef & Stone agreed to cover the costs of *attorneys* Scheef & Stone? (If so, that sounds more like a journal entry than an incurred cost.) Has *Defendant* Garrett agreed to cover the costs of *attorney* Garrett?

Two of the three defendants in this case are also attorneys in this case. The various possible permutations of Mr. Little's ambiguous claim of an agreement to cover costs appear to be:

- Defendant Scheef & Stone has agreed to cover the costs of attorneys Scheef & Stone.
- Defendant Scheef & Stone has agreed to cover the costs of attorney Garrett.
- Defendant Garrett has agreed to cover the costs of attorneys Scheef & Stone.
- Defendant Garrett has agreed to cover the costs of attorney Garrett.
- Defendant Bryant has agreed to cover the costs of attorneys Scheef & Stone.
- Defendant Bryant has agreed to cover the costs of attorney Garrett.

Most of those possible interpretations of Mr. Little's claim of an agreement to cover costs are nonsensical *prima facie*. Those interpretations take on an even more fantastical aspect when Plaintiff takes into account the fact that Mr. Little, who wrote the Affidavit on which this claim is based, is himself both a defendant in this litigation (in his role as a partner in Scheef and Stone) and an attorney in

this litigation. So one surprising but perfectly reasonable interpretation of Mr. Little's claim is that the affiant Mr. Little is affirming that the defendant Mr. Little has agreed to cover the costs of the attorney Mr. Little.

**C. Costs are unlikely to be covered by Ms. Bryant, and Mr. Little provides no evidence to support that possible interpretation.**

But what of the possible interpretations of Mr. Little's claim that suggest that Ms. Bryant has agreed to cover the costs of either attorneys Scheef and Stone or attorney Garrett?

This may be the least likely interpretation of all. Considering that it was her attorneys' defamation of Plaintiff that dragged Ms. Bryant into this morass in the first place, Plaintiff would like to believe that the attorneys involved in this litigation would have the grace to be too embarrassed to ask Ms. Bryant to pay fees potentially in excess of \$100,000 so that they can extricate her from a situation of their own making.

But if Mr. Little *is* actually claiming that Ms. Bryant has explicitly agreed to cover the costs of litigation, he should have provided written proof, dated prior to the date of his Affidavit, as evidence of that arrangement. Plaintiff realizes that billing arrangements between clients and attorneys are generally privileged, but Mr. Little raised the issue himself, unprompted, which constitutes at the very least a limited waiver of that privilege. And due to the convoluted nature of the relationships between the various parties (some of whom are clients, some of

whom are attorneys, some of whom are both), Plaintiff does not believe that the Court can award attorneys' fees without some concrete evidence that such an arrangement exists. Lacking such evidence, there is no reason to believe that Defendants have satisfied the "incurred costs" provision of the TCPA, which means that they are not entitled to recover *any* attorneys' fees whatsoever.

**D. Mr. Little's claim that the attorneys' costs will be covered is too *vague* to be meaningful.**

Note that Plaintiff is not accusing Mr. Little of being dishonest in his Affidavit; rather, Plaintiff believes that Mr. Little was being deliberately vague. That is perfectly understandable given the baffling demands of the situation.

When Mr. Little says that "Defendants have agreed to cover the costs of the litigation," Plaintiff has already pointed out that it's not clear to which Defendants Mr. Little refers, and that the meaningfulness of that statement depends on the resolution of that reference.

But what does the verb "to cover" mean in that context? Is Mr. Little proposing the unlikely interpretation that some unspecified combination of defendants have contractually agreed to pay some unspecified combination of attorneys for representation in this litigation? Or is he merely suggesting that one department of Scheef and Stone is simply planning to make a journal entry to transfer imaginary funds to another department at Scheef and Stone in an amount that would "cover" the costs of the litigation? The TCPA legal requirement is for

“incurring the costs – but is “covering the costs” actually a euphemism for “*absorbing* the costs”?

**E. Since no fees have been incurred, attorneys’ fees cannot be awarded under the provisions of the TCPA.**

Mr. Little has provided no evidence that any Defendants have incurred the liability of actually paying any amount of money to cover the costs of the litigation. Under the requirements of the TCPA, the Court cannot award attorneys’ fees in this case *either at this time or at any point in the process of any potential appeal.*

**II. FEES UNRELATED TO THE TCPA**

There are three distinct aspects of Defendant’s Motion to Dismiss:

- The Right to Petition, as guaranteed by the TCPA.
- Judicial Proceedings Privilege.
- Attorney Immunity.

Because this is a motion to recover attorneys’ fees under the TCPA, if Defendants’ attorneys are entitled to recover any fees at all they are entitled to recover *only* those fees that cover the hours that they devoted to the TCPA-related aspects of the litigation.

Unfortunately, Defendants’ attorneys didn’t bother to segregate those hours from the hours they devoted to the Judicial Proceedings Privilege and Attorney Immunity.

### **A. TCPA fees must be segregated to be recovered.**

According to the Texas Supreme Court, “[F]ee claimants have always been required to segregate fees between claims for which they are recoverable and claims for which they are not.” *Tony Gullo Motors I v. Chapa*, 212 S.W.3d 299, 311 (Tex. 2006). The Court later expanded on that rule:

[A] claimant must segregate legal fees accrued for those claims for which attorneys fees are recoverable from those that are not. *Tony Gullo Motors I, L.P. v. Chapa*, 212 S.W.3d 299, 314 (Tex. 2006). ... Accordingly, to recover attorneys fees, the Kinsels were required to segregate work relating to recoverable and non-recoverable claims.

*Kinsel v. Lindsey*, 526 S.W.3d 411, 427 (Tex. 2017)

The attorneys’ Time Report attached to the Affidavit as Exhibit 1 confirms that some of the fees that the attorneys are trying to recover were from aspects of the litigation that were *not* related to the TCPA:

- “Begin outlining defenses involving privilege and immunity.”  
(07/11/2022)
- “Additional research on attorney immunity.” (07/13/2022)
- “Receive and review Mr. Mishkoff’s letter claiming defamatory meaning in the Counterclaim.” (06/29/2022)
- “Draft and file original answer.” (07/12/2022)
- “Receive and review Plaintiff’s Initial Disclosures.” (08/10/2022)

Because the notes in the Time Report are terse, it is reasonable to assume that the activities on other days also involved some work on the non-TCPA aspects of the litigation, even if that is not explicitly mentioned in those notes.

**B. TCPA fees have not been segregated, so any attempt to recover attorneys' fees must be disallowed.**

The Affidavit specifically states that “[t]he fees requested by Defendants are attributable to their successful prosecution of their TCPA motion.” (*See* Affidavit at ¶ 5). However, this is not accurate. It is clear that Defendants are also requesting the recovery of fees that are, by their own admission, *not* related to their TCPA motion.

Because of the time that has elapsed since the creation of the Time Report (two months, for some entries), Plaintiff suggests that any attempt by Defendants’ attorneys to retroactively segregate their TCPA hours would be more guesswork than fact, which is hardly appropriate or acceptable given the sums involved.

Under the circumstances, given that Defendants’ attorneys made no attempt to segregate their hours in accordance with well-established Court rules, Plaintiff asks that the Court disallow their request in its entirety.

Alternatively, given that the TCPA component of Defendants’ Response is one of three aspects of this litigation, Plaintiff asks that the Court reduce the attorneys’ fee request to a maximum of one-third the amount that the attorneys requested. In other words, because Defendants’ attorneys asked for nearly \$18,000

but failed to segregate those charges, the Court should prorate the charges and rule that \$6,000 of the charges related to the Judicial Proceedings Privilege, \$6,000 of the charges related to Attorney Immunity, and that no more than \$6,000 of the charges related to the TCPA claim, so Defendants’ attorneys should be allowed to recover no more than \$6,000 (if the Court rules that those charges are just and reasonable).

### **III. CONFLICTS OF INTEREST**

#### **A. Dual attorney/witness roles have raised questions relating to professional conduct.**

At the outset of the “Motion to Dismiss” hearing last Thursday (August 25, 2022), Plaintiff asked the Court if it was proper for Mr. Garrett and other attorneys from Scheef and Stone to act as attorneys in litigation in which they are also potential fact witnesses. Not wishing to misrepresent the Court’s response (which was oral, and of which Plaintiff has no written notes), Plaintiff believes that the Court said that we’d address issues related to that dual role if and when they arose in the course of the litigation, or something to that effect.

Plaintiff believes that those issues have arisen, and that they have been brought into sharp focus by the recent Affidavit of J. Mitchell Little concerning the recovery of attorneys’ fees.

As the Texas Supreme Court points out, “Subject to certain exceptions, Texas Disciplinary Rule of Professional Conduct 3.08 prohibits an attorney from

representing a party in an adjudicatory proceeding if the attorney knows or believes that he or she may be a witness at trial.” *Anderson Producing Inc. v. Koch Oil Co.*, 929 S.W.2d 416, 418 (Tex. 1996)

Because of Rule 3.08, Plaintiff was concerned that he might not be able to call the attorneys in this case (all of whom are also defendants) as fact witnesses. On August 10, 2022, Plaintiff notified Defendant Garrett that he “may be called as a witness.” (Plaintiff’s Initial Disclosures at page 2, Exhibit B.) At the hearing on August 25, Plaintiff advised the Court that not only was Mr. Garrett a potential fact witness, but that all the other Scheef and Stone attorneys were potential fact witnesses as well.

Due to Plaintiff’s receipt of the Affidavit of Mr. Little, what was a concern to Plaintiff a few days ago is now a pressing issue. Plaintiff has been troubled that all of the attorneys in this case are also defendants and potential fact witnesses. With the submission of his Affidavit, Mr. Little stands alone not only as an attorney, a defendant (as a partner with Defendant Scheef and Stone), and a potential fact witness, but as an expert witness as well – not a *potential* expert witness, but an *actual* expert witness already participating in the litigation. (“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." *See* Affidavit at ¶ 1.)

**B. In addition to being of concern to the State Bar of Texas, ethics violations should be of concern to the Court.**

These kinds of multiple roles may appear to be purely ethical violations and thus not the concern of the Court in a civil proceeding. But the Texas Supreme Court has ruled that the Court *must* take action in this kind of situation:

The attorney in *Warrilow* testified as both a fact and an expert witness on behalf of his client, while also actively participating as an advocate at trial by questioning witnesses, addressing the court, and arguing to the jury. The appellate court properly held that the trial court abused its discretion by failing to disqualify the attorney based on this dual role.

*Anderson Producing Inc. v. Koch Oil Co.*, 929 S.W.2d 416, 421 (Tex. 1996)

Given the ethics ramifications and the Court's responsibilities, Plaintiff asks the Court for the following relief:

- The Court should disallow the Affidavit because Mr. Little is ethically compromised.
- The Court should disqualify Mr. Garrett, Mr. Little, and all the rest of the Scheef and Stone attorneys from acting as attorneys in the case due to the ethical considerations that are likely to arise later in the litigation, which would threaten to unduly complicate and delay the proceedings.

Additionally, the Court may wish to consider further actions against the attorneys. “The trial court does, however, have comprehensive inherent and statutory power to discipline errant counsel for improper trial conduct in the exercise of its contempt powers.” *Remington Arms Co. v. Caldwell*, 850 S.W.2d 167, 172 (Tex. 1993) “Indeed, the court itself is obligated to refer a lawyer to appropriate authorities to answer for unprofessional conduct of which the judge is aware.” *Id.*

Note that Plaintiff is not actively asking the Court to refer any of the attorneys for disciplinary action. But Plaintiff does want to make sure that the possibility of disciplinary action is in the record, as it may become significant later in this litigation.

#### IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that this Court:

- A. Reject Defendants’ request for attorneys’ fees (both in this case and in all potential appeals) because Defendants have provided no evidence that those costs have actually been incurred, as required by the TCPA and as repeatedly reaffirmed by Texas courts.
- B. Alternatively, reject Defendants’ request for attorneys’ fees because of the ethical implications raised by the filing of the Affidavit by J. Mitchell Little,

who, in addition to being a defendant, is acting as an attorney, an expert witness, and a fact witness in this case, in clear violation of provisions of the *Texas Disciplinary Rule of Professional Conduct*.

C. Alternatively, reduce the amount of the award of attorneys' fees to no more than one-third of the amount requested because the attorneys failed to segregate TCPA-related charges from other charges, as required by many rulings by Texas courts, including definitive rulings from the Texas Supreme Court.

Respectfully submitted,

Henry Mishkoff

*/s/ Henry Mishkoff*

**Henry Mishkoff**

4062 Windhaven Lane

Dallas, TX 75287

(214) 458-3600

HankMishkoff@gmail.com

### **CERTIFICATE OF SERVICE**

I certify that on August 29, 2022, a true and correct copy of the foregoing was sent to all parties who have made an appearance or their attorney of record in accordance with Texas Rules of Civil Procedure 21 and 21a.

*/s/ Henry Mishkoff*

**Exhibit A**

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**

**471<sup>ST</sup> 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.

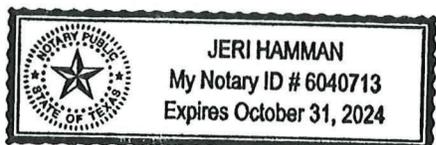
Signed this 25<sup>th</sup> day of August, 2022.



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J. MITCHELL LITTLE

SUBSCRIBED AND SWORN TO BEFORE ME by the said J. Mitchell  
Little on the 25<sup>th</sup> 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*; 296<sup>th</sup> Judicial District Court, Collin County, Texas
2. Cause NO. 219-02191-2011; *Lancaster, et al v. Collin Bank*, 219<sup>th</sup> 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*; 192<sup>nd</sup> Judicial District Court, Dallas County, Texas
4. Case No. 01-14-0000-6142; *Leland Rogness v. Alfaro Oil and Gas, L.L.C., et al*, American Arbitration Association

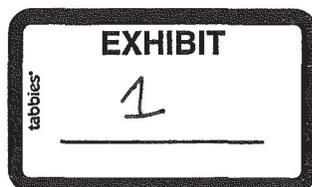
5. Cause No. 74339-86; *Chahine, et al v. Piney Woods Ventures, L.L.C., et al*, 86<sup>th</sup> Judicial District Court, Collin County, Texas
6. Cause No. 416-3008-05; *Bruce Folks v. Prairie Resources, Inc., et al*; 416<sup>th</sup> Judicial District Court, Collin County, Texas
7. Cause No. 296-04880-2009; *Donald Rieke v. Z&Z International, Inc., et al*; 296<sup>th</sup> Judicial District Court, Collin County, Texas
8. Cause No. 366-00595-2008; *Tonnie C. Karle v. Innovative Direct Media Ltd. Co., et al*; 366<sup>th</sup> Judicial District Court, Collin County, Texas
9. Cause No. 199-02011-07; *Neil Tomba v. Timothy Pettinger, et al*; 199<sup>th</sup> Judicial District Court, Collin County, Texas
10. Cause No. 366-02962-2007; *David Elbaum, et al v. Knowles Consultants, L.L.C., et al*; 366<sup>th</sup> Judicial District Court, Collin County, Texas
11. Cause No. 401-03047-2007; *Christian Life Assembly of God of Carrollton, Texas v. Donald Blair*; 401<sup>st</sup> Judicial District Court, Collin County, Texas
12. Cause No. 366-05061-2015; *OIC Holdings, L.L.C. v. Tom Gleason, et al*, 366<sup>th</sup> 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*; 429<sup>th</sup> 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*; 153<sup>rd</sup> 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*; 366<sup>th</sup> 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
		<b>42.50</b>	<b>17,875.00</b>		

### 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
		<b>42.50</b>	<b>17,875.00</b>

## **Exhibit B**

### **PLAINTIFF'S INITIAL DISCLOSURES**

**194.2(b)(1):** The correct names of the parties to the lawsuit.

**RESPONSE:** The parties appear to be correctly named.

**194.2(b)(2):** The name, address, and telephone number of any potential parties.

**RESPONSE:** None at this time.

**194.2(b)(3):** The legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial).

**RESPONSE:** Defendants defamed Plaintiff in their Counterclaim to another lawsuit (471-01040-2022: *Henry Mishkoff v. Sonia Bryant*, pending in the 471st District Court, Collin County, TX).

**194.2(b)(4):** The amount and any method of calculating economic damages.

**RESPONSE:** The damages are incalculable, but Plaintiff seeks monetary relief of more than \$1,000,000 for each type of damage from each Defendant.

**194.2(b)(5):** The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

**RESPONSE:**

Henry Mishkoff, 4062 Windhaven Lane, Dallas, TX 75287. Mr. Mishkoff is the Plaintiff and may testify on his own behalf.

Sonia Bryant, 4060 Windhaven Lane, Dallas, TX 75287. Ms. Bryant is a Defendant and may be called as a witness.

T. Chase Garrett, Scheef & Stone, 2600 Network Boulevard, Frisco, TX 75034. Mr. Garrett is a Defendant and may be called as a witness.

**194.2(b)(6):** A copy – or a description by category and location – of all documents, electronically stored information, and tangible things that the responding party has in its possession, custody, or control, and may use to support its claims or defenses, unless the use would be solely for impeachment.

**RESPONSE:** The Counterclaim referenced in Plaintiff’s response to 194.2(b)(3), above.

**194.2(b)(7):** Any indemnity and insuring agreements described in Rule 192.3(f).

**RESPONSE:** None.

**194.2(b)(8):** Any settlement agreements described in Rule 192.3(g).

**RESPONSE:** None.

**194.2(b)(9):** Any witness statements described in Rule 192.3(h).

**RESPONSE:** None at this time.

**194.2(b)(10):** In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills.

**RESPONSE:** N/A.

**194.2(b)(11):** In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

**RESPONSE:** N/A.

**194.2(b)(12):** The name, address, and telephone number of any person who may be designated as a responsible third party.

**RESPONSE:** None.