IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

NETSPHERE, INC.,	§	
MANILA INDUSTRIES, INC., and	§	
MUNISH KRISHAN,	§	
Plaintiffs.	§	
	§	Civil Action No. 3-09CV0988-F
v.	§	
	§	
JEFFREY BARON, and	§	
ONDOVA LIMITED COMPANY,	§	
Defendants.	§	

AMENDED RESPONSE, OBJECTION, MOTION FOR LEAVE TO FILE, AND MOTION FOR RELIEF WITH RESPECT TO RECEIVER ASSESSMENT OF FORMER ATTORNEY CLAIMS

TO THE HONORABLE JUDGE ROYAL FURGESON:

COMES NOW JEFF BARON, Appellant, and makes this response discussing some of the fundamental legal issues, and offering an overview of some claims in order of significance of amount claimed, and jointly moves this Court to grant leave to file the included motion for relief to require the receiver to produce the documents which have been requested and promised but not delivered, provide funding for Jeff Baron to hire expert witnesses to offer evidence as to the reasonableness and necessity of the claimed fees, to provide funding for the employment of trial counsel and legal assistants to assist in investigating and responding to the claims, to provide funding for legal research on westlaw and lexis, to allow discovery including for disclosures, document production and depositions, and to allow sufficient time to review the materials and respond appropriately to the number of civil attorneys

working on the matters on behalf of Jeff Baron.

A. OVERRIDING ISSUES OF LAW

1. Receivership of a person's property is different from receivership of a human being.

The Thirteenth Amendment prohibits slavery or involuntary servitude as a civil punishment. Involuntary servitude occurs when one no longer possess the liberties and privileges of a freeman, including by legal coercion. *Slaughter-House Cases*, 83 US 36, 90 (1873)(dissent); *US v. Kozminski*, 821 F. 2d 1186, 1192 (6th Cir. 1987). The Supreme Court ruled in *Plessy v. Ferguson*, 163 U.S. 537, 555 (1896):

> "The Thirteenth Amendment does not permit the withholding or the deprivation of any right necessarily inhering in freedom. It not only struck down the institution of slavery as previously existing in the United States, but it prevents the imposition of any burdens or disabilities that constitute badges of slavery or servitude. It decreed universal civil freedom in this country."

Your honor's goal is not to place Jeff Baron ***personally*** into your honor's servitude. Rather your honor's goal was to seize Jeff's property. The difference is fundamental for handling your honor's goal of resolving the former attorney claims.

A receiver's authority under the bounds of a court's equity (and inherent) power is limited to taking "into his possession every kind of property which may be taken in execution". *Booth v. Clark*, 58 U.S. 322, 331 (1855)(emphasis). Accordingly, the Fifth Circuit has held "Where a final decree involving the disposition of property is appropriately asked, the court, in its discretion, may appoint a receiver to preserve and protect the property pending its final disposition")

Tucker v. Baker, 214 F.2d 627, 631 (5th Cir. 1954) (emphasis).

Accordingly, claims against the person Jeff Baron are not, and cannot be included in a receivership. Claims against Jeff are not his property.

The receiver is no more authorized under the law to affect Jeff's rights with respect to claims against him, than the receiver is authorized to marry Jeff off, or divorce him if he were married. If Jeff were married, he would possesses the legal right to divorce. The receiver obviously could not exercise that right on Jeff's behalf.

Similarly, the receiver cannot exercise any right on Jeff's behalf personally. A receiver can take only Jeff's property, and (if the receivership is lawful and authorized under the law and within the jurisdiction of the court), can exercise all the rights auxiliary to ownership of that property.

Thus, if the receiver has taken property that has a mortgage, or liens filed **against the property**, with the Court's approval the receiver can pay, or settle those equitable ownership claims in the property res itself. The same is true whether the property is real estate, or a corporation.

2. Jeff is a citizen, a human being, not a corporation.

Jeff is a person, not property. By contrast, a corporation is property. When a corporation is seized from its owner, a receiver can be authorized to settle any and all claims made against the corporation. That is because the claims are claims

against a corporation which is *property*.[1] The law allows rights to be asserted by or against the property which is a corporation. Control of the corporation therefore involves control of the rights to be asserted by or against that corporation. Thus, for example, a receiver could bind a corporation to a 99 year lease. By contrast, a receiver has no power to bind Jeff, or any other human being to anything.

For this reason, there is no legal authority allowing a receiver of an individual's property to settle claims against that individual.[2]

3. The authority relied upon by the receiver does not support the receiver's position.

The receiver errs in its interpretation of *Santibanez v. Wier McMahon & Co.*, 105 F.3d 234,241 (5th Cir. 1997) as holding "receivership may be an appropriate remedy . . . to subject equitable assets to the payment of . . . claim[s]". As a general rule of law, an appellate court's ruling cannot be interpreted by cutting out selected words and phrases to create an opposite meaning to that expressed by the appellate

[1] Notably, Novo Point and Quantec have appeared before your honor, and clearly, as a matter of personal jurisdiction, this court has seized in receivership the companies' local property. The owner of those companies, SouthPac, has never made any appearance, has not been served with process, and has not been named as a party in any pleading filed with this court. Accordingly, your honor has not acquired personal jurisdiction over SouthPac, and as a matter of lack of personal jurisdiction cannot take possession of SouthPac's property. Thus, if the concept of the requirement of personal jurisdiction is respected, while the companies' property has been seized, SouthPac's property interest and ownership of those companies has not. That situation is very different from when a corporation is *itself* taken as the receivership res.

With respect to the companies, if well established law is respected, is long well settled that a District Court does not have jurisdiction over res which is not located within the district. *Booth v. Clark*, 58 U.S. 322, 335 (1855); *Sterrett v. Second National Bank*, 248 U. S. 73,77; *e.g.*, *Guaranty Trust Co. of New York v. Fentress*, 61 F. 2d 329, 332 (7th Cir.1932). Accordingly, the domain name registrations in Australia fall well outside the jurisdiction of the court's receiver.

[2] Again, by contrast a corporation is property. Where a receiver holds a corporation as receivership res, the receiver can exercise all rights in and to that property.

court.

The Fifth Circuit in *Santibanez* held opposite to the position taken by the receiver. The Fifth Circuit held in *Santibanez*:

> "[R]eceivers may be appointed 'to preserve property pending final determination of its distribution in supplementary proceedings in aid of execution.' 7 Moore et al.,1]66.05 ¶] (citing *Haase v. Chapman*, 308 F.Supp. 399 (W.D.Mo.1969)). In addition, '**receivership may be an appropriate remedy for a judgment creditor** who seeks to set aside allegedly fraudulent conveyances by the judgment debtor, or who has had execution issued and returned unsatisfied, or who proceeds through supplementary proceedings pursuant to Rule 69, or **who seeks to subject equitable assets to the payment of his judgment**, or who otherwise is attempting to have the debtor's property preserved from dissipation until his claim can be satisfied.' 12 Wright & Miller,§2983 (citing *Pusey & Jones Co. v. Hanssen*, 261 U.S. 491, 43 S.Ct. 454, 67 L.Ed. 763 (1923))"
>
> *Santibanez*, 105 F. 3d 241 (emphasis).

Obviously, the holding in *Santibanez*, is very different, and in fact opposite, from the cut and paste variation erroneously relied upon by the receiver ("receivership may be an appropriate remedy . . . to subject equitable assets to the payment of . . . claim[s]"). The distinction between a judgment creditor and a simple creditor is the distinction that makes all the difference. As the case relied upon in *Santibanez*, *Pusey* & Jones, explains, an unsecured creditor **may not use receivership to collect its debt:**

> "**[A]n unsecured simple contract creditor has**, in the absence of statute, **no substantive right, legal or equitable, in or to the property of his debtor.** This is true, whatever the nature of the property; and, although the debtor is a corporation and insolvent. The only substantive right of a simple contract creditor is to have his debt paid in due course. His adjective right is, ordinarily, at law. **He has no right whatsoever in equity until he has exhausted his legal remedy.** After execution upon a

> judgment recovered at law has been returned unsatisfied he may proceed in equity by a creditor's bill."

Pusey & Jones Co. v. Hanssen, 261 U.S. at 497.

As explained in *Pusey & Jones*, an unsecured creditor has "no right whatsoever in equity until he has exhausted his legal remedy". The receiver's string cites following *Santibanez*, establish clearly that receivership is a remedy in equity. Accordingly, the receiver has conclusively established that as a matter of long established law receivership is an equitable remedy to which unsecured creditors have no right whatsoever. The attorney claimants are just as clearly simple, unsecured alleged creditors.

The receiver similarly errs in its interpretation of *United States v. Arizona Fuels Corp.*, 739 F.2d 455, 458-60 (9th Cir. 1984). The receiver errs first, in omitting the context cut from center of the quote cited. The court in *Arizona Fuels* held "Although precedents are few and far between, the traditional rule is that summary proceedings are appropriate and proper to protect equity receivership assets. A receiver may proceed summarily to recover money belonging to the receivership by petition to the appointing court for an order to show cause against a possessor not a party to the original action. Receivership courts have the general power to use summary procedure in allowing, disallowing, and subordinating the claims of creditors." *Id*. at 458 (citations omitted). The actual holding of *Arizona Fuels* is that "**[S]ummary proceedings are appropriate to determine right to possession, although not ultimate rights to title or ownership.**" *Id*. at 459 (emphasis).

The holding in *Arizona Fuels* is clear. The claim that can adjudicated is a claim to an equitable ownership interest in the res of the receivership property itself. The court in *Arizona Fuels* held that where "The district court's order determined the Receiver's **right to possession of the funds**, based on adjudication of the right to setoff, **without determining the validity of Tenneco's claims as a creditor of Arizona Fuels**. We hold that summary proceedings were appropriate and proper for **this** purpose." *Id*.

The attorney's claims are personal claims in law. The attorneys are claiming to be simple creditors. The claims are not against the receivership res. Therefore there is no power to adjudicate the claims within the framework of the receivership. The attorneys are not seeking merely the right to possess funds pending determination of their claims as creditors, the attorneys are seeking the ultimate determination of the validity of their claims as creditors. Pursuant to the law, as explained and held in the key case relied upon by the receiver, the attorneys' claims cannot be adjudicated by summary proceedings.

Notably, if the receivership is dissolved, Jeff can ask the attorneys to participate in the State Bar fee arbitration process and sit down before the State Bar fee committee to resolve the disputes. If the Court desires assurance that if recovered the fees will be collectable, Jeff and the companies can post security for a stay pending appeal, including a security interest in the domain names the receiver would like to sell (and others if the Court desires), so that the attorneys will be secure.

4. The trial court has been divested of jurisdiction over the matter of the receivership by the interlocutory appeal of the receivership order.

Jeff has appealed the order appointing the receiver [Doc #136] and NovoPoint, LLC and Quantec, LLC have appealed from the order including the companies into the receivership [Doc #227]. The Supreme Court has established that the filing of a notice of appeal is an event of jurisdictional significance— it confers jurisdiction on the court of appeals and divests the district court of its control. *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). The divesture of jurisdiction of the trial court involves those aspects of the case appealed. *Id*. Accordingly, the Fifth Circuit has established that "A district court does not have the power to 'alter the status of the case as it rests before the Court of Appeals'." *Dayton Indep. School Dist. v. US Mineral Prods. Co.,* 906 F.2d 1059, 1063 (5th Cir. 1990).

The Fifth Circuit has established that the jurisdiction of the district court over a matter appealed from, pending appeal are limited to **maintaining the status quo**. *Coastal Corp. v. Texas Eastern Corp.*, 869 F.2d 817, 820 (5th Cir. 1989). For that reason, an approach that achieves your honor's goals without disregarding the law and controlling precedent should be preferred.

You honor can insure that the attorney's claims, if valid, will be secured by requiring from the 'receivership parties' security to stay the receivership pending appeal. The companies can provide a security interest in domain names valued well in excess of the attorney fees claims. That will achieve your honor's goals while following the law and respecting controlling precedent. The claims will then be

resolved in appropriate forums, most likely the State Bar fee committee – if the attorney claimants are willing to participate. Such a solution would also respect and uphold the constitutional right to trial by jury. The Seventh Amendment guarantees every American, including Jeff Baron, the right to trial by jury. *E.g.*, *Ross v. Bernhard*, 396 U.S. 531, 542 (1970). That right is a sacred right that his Court should protect and defend. Being assured of that right allows the parties not to have to resort to it—all if both sides agree they can voluntarily sit down before the State Bar fee committee to resolve the fee disputes.

Notably, as a matter of law, the district court lacks subject matter jurisdiction over the non-diverse attorneys' claims, as well as the property subject the receivership. Even if the receiver desires to waive all complaint and agree to this Court's jurisdiction, the receiver has no such power. No party can grant a court subject matter jurisdiction it does not possess under the law. *Mitchell v. Maurer*, 293 U.S. 237 (1934) (parties cannot confer subject matter jurisdiction upon a federal court by agreement, waiver, or consent); *and e.g.*, *Matter of Edwards*, 962 F.2d 641, 644 (7th Cir. 1992); *First State Bank v. Sand Springs State Bank*, 528 F.2d 350, 354 (10th Cir. 1976). Accordingly, adjudications purporting to adjudicate the non-diverse claims risk being held void for lack of subject matter jurisdiction, especially where the lack of subject matter jurisdiction over the claims is so clear– the pleadings do put neither the claims' subject-matter nor the receivership res at issue. *See Cochrane v. WF Potts Son & Co.*, 47 F.2d 1026, 1029 (5th Cir. 1931) ("their proceedings are absolutely void in the strictest sense of the term").

B. OBJECTION TO ASSESSMENT 'PROCEDURES'

The assessment lists only evidence of claims. The receiver took no apparent steps to investigate or determine the substantive merit of the claims. Accordingly, the 'assessment' that the claims should be paid is no assessment. There is a large gap between claims being made, and the validity of the claims. The receiver took no steps to cross that gap.

C. OBJECTION TO RECEIVER BIAS

The assessment is unreliable because the receiver is biased and did not take reasonable steps to make the assessments. The Receiver is aggressively antagonistic and adversarial toward Mr. Baron and has manufactured evidence that was then falsely represented to the Court attacking the conduct and character of Jeff and his counsel. Accordingly, the opinion and work of the receiver cannot be trusted. (Doc#440 and 440-1 detailing the receiver's actions are incorporated herein by reference).

There are also other examples of the receiver's gross bias and failure to investigate in any reasonable meaning of the word 'investigate'. For example, the two million dollars provided by Jeff to Ms. Schurig to hold in trust that is now 'gone'. The receiver explains that:

(1) Approximately $450,000.00 was distributed to Mr. Baron for his taxes. However, Mr. Baron has no knowledge or record of such half million dollar distribution to him. The receiver has provided no check, or wire transfer information, and yet declares that Mr. Baron engaged in "ill

informed and disingenuous statements" with respect to Ms. Schurig. In 2009 Schurig did not distribute $450,000.00 to Baron, by check, cash in a briefcase, or wire transfer. Rather The Beckum Group sent to Schurig approximately that sum (upon belief) (in addition to the $2 Million). That additional sum is also unaccounted for. Since the amount Ms. Schurig is believed to have received was listed as a disbursement, the discrepancy is almost one million dollars just for this item alone.

(2) $425,106.00 was distributed to Friedman & Feiger. But as this Court is well aware, that money was from Ondova's receivables, not from Ms. Schurig. Here is another near half million dollars unaccounted for. Yet the receiver demanded no documentation, performed no actual investigation, and accepts the assertion that Friedman & Feiger were paid an additional $425,106.00 from Jeff's $2 Million he left with Ms. Schurig in trust.

(3) $600,000.00 is claimed for registration fees to Ondova. But, this money was not authorized by Jeff. If the claim is truthful (no documentation has been provided), the registration fees were not due or owing by Jeff. Any registration fee payments should have come from the company's funds, not the $2 Million Jeff placed with Schurig to hold for him in trust. Accordingly, as trustee for Jeff's money, that $600,000.00 should properly and promptly have been placed into receivership funds. The

receiver has not operated as a true receiver, and took no action to do that.

(4) $750,000.00 was claimed paid in trustee, protector, and trust attorneys' fees. Current protector costs re $500.00 per year, and trustees fees should not exceed $5,000.00 annually. The near million dollar 'expense' is not legitimate. Apparently Schurig claims in a cloaked 'disclosure' to have 'paid' herself this money as 'trust attorney'. Accordingly, Schurig admits to having taken money from the trust, asserting it to be an attorney's fee. Since she was a trustee and acting as fiduciary for the money, a transaction with herself is clearly not arms-length and is presumed to be invalid. Since attorneys were hired and paid substantial fees, how Schurig justifies a near million dollar fee is unclear. In any case, as a self-dealing transaction between a trustee and himself is invalid as a matter of law, that money should have been taken back by the receiver.

(5) Similarly, there is a claim that funds remaining in the hands of Asiatrust, or in accounts owned by any of the companies owned by Asiatrust, were turned over to either Southpac as Successor Trustee of The Village Trust or to agents of the companies designated on Sept. 30,2010. Apparently those funds were not received. The receiver did no investigation, no accounting of those funds was demanded nor provided. Since all the asserted companies which claim to have

transferred the money to SouthPac are receivership parties, the accounting of these funds should be a simple matter. Yet the receiver performed none.

D. DUE PROCESS OBJECTION AND REQUEST FOR RELIEF

Jeff moves the Court to require the receiver to produce the documents which have been requested and promised but not delivered, provide funding for Jeff Baron to hire expert witnesses to offer evidence as to the reasonableness and necessity of the claimed fees and as to malpractice committed by the claimants, to provide funding for the employment of trial counsel and legal assistants to assist in investigating and responding to the claims, to provide funding for legal research on westlaw and lexis, to allow discovery including for disclosures, document production and depositions, and to allow sufficient time to review the materials and respond appropriate to the number of civil attorneys working on the matters on behalf of Jeff Baron. Without this relief there is a failure of due process, and Jeff cannot reasonably defend or respond to the claims.

Attached and incorporated herein are specific requests made of the receiver with respect to Jeff responding to the claims. Although the receiver promised to provide the files requested, the receiver has failed to do so.

Jeff's only civil attorney this Court has allowed to represent him, is the appellate lawyer below signed. Jeff had been represented by an AV rated trial counsel, but the Court allowed him to be fired by the receiver. Oddly, that attorney is listed as a 'claimant' since the receiver seized all of Jeff's assets and the attorney

was therefore not paid. Because this Court has ordered that the undersigned counsel must work without payment, for the past four months the undersigned has been forced to work over 65 hours a week reviewing, researching and responding to a mountain of paperwork generated by two teams of attorneys working literally 24 hours a day. The overwhelming workload without pay, has forced counsel to turn away and defer other work, and go without material income for four months. Obviously, counsel has had to drastically reduce office expenses and rely upon savings for his livelihood and office expenses. Accordingly, without funding allowed on this case, legal research on westlaw, etc., the hiring of legal assistance, the hiring of expert witnesses, etc. is not possible. The reasonableness of attorneys fees requires expert opinion. Without the ability to hire an expert witness to provide such an opinion, it is impossible for Jeff to put up a defense as would be sufficient if such experts could be retained. As an attorney the undersigned can clearly see much of the work billed is grossly duplicative and not reasonable. Many of the attorneys owe Jeff a refund for overpayment. However, trial counsel is not competent as a witness, and without an expert witness Jeff cannot defend himself on these grounds.

It is notable, the claimant attorneys have been paid by Jeff nearly two million dollars for less work than the undersigned has provided by court order on this case—for which this Court has paid no money. But after four months of work without any payment for fees or expenses on a case requiring more than 65 hours a week of response work by a single individual to large firms' billing frenzies, counsel does not

have the resources to be able to properly respond or defend against the 20 cases listed as 'claims'.

In summary, Jeff has been denied a fair, reasonable, and equitable opportunity to investigate and object to the claims, including as follows:

1. Attorney's fees claims are contract claims. It should be easy to take the retainer agreement, compare it to the work and the billing, and get a fair impression as to the claim generally. Attorneys have an ethical and fiduciary duty to provide clear written contract terms and monthly billings and reports. Failure to due so and to breach an attorney's fiduciary duty to a client, pursuant to Texas law results in fee forfeiture. Counsel for Mr. Baron asked-- in writing— for the receiver to provide for each claim (A) the retainer contracts or engagement letters, (B) the billing sent to the client, (C) the demand letters sent to the client, and (D) any responses. The receiver has refused to do this and most of the retainer contracts have been withheld. Notably, for those few produced, the bulk of the work billed (where billing has been produced) does not match the scope of work retained for. Notably, what 'seems' or doesn't seem to counsel is not relevant. Expert opinion is needed to present an objection or response, and without any funds to hire an expert, we have none to offer.

2. Jeff has been denied competent legal counsel expert in handling attorney fee disputes. All of Jeff's assets were seized, so that he would have no money to hire an attorney. He was also directed not to spend any money on an attorney. The court ordered that Mr. Baron be represented by (1) a state court

criminal defense attorney with serious medical issues and upon information and belief under the influence of prescription psychotropic drugs, that has zero experience in handling civil matters in the federal court; and (2) an appellate lawyer who is a solo practitioner that associates with additional counsel on a per case basis, but who has been overloaded with working over 65 hours a week on the trial matters in this case. Said counsel has been forced to work without any associated counsel, without additional staff, without expenses for west law research, etc. Moreover, while in theory a client might be able to find an attorney to provide work on a contingency fee basis, because of two factors, no attorney has been willing to get near this case. First, attorneys are scared that the court will make them unpaid attorneys for all purposes as has been done with Mr. Schepps, and they will be trapped in a case for months or years without pay. Secondly, it looks like there may be zero assets left because the court is playing favorites, and picking and choosing who gets preferential treatment with Jeff's assets. Accordingly, no attorney has been willing to accept work on this case. Attorneys adverse to Jeff have been paid hundreds of thousands of dollars of Jeff's money. Attorneys representing Jeff have been allowed no money for fees or expenses.

3. Jeff has been denied the basic information and documentation necessary even to begin to respond and object. Very specific and simple requests for information were made of the receiver. (Attached as Exhibit A). The receiver agreed to provide the information, but has failed to do so. The information is

material. Without that material, it is not possible for Jeff to reasonably object or respond to the claims in a reasonable manner.

4. Jeff has been denied the opportunity to hire experts to investigate and offer opinions as to the reasonableness and necessity of the fee demands. Without this basic evidence, Jeff cannot reasonable defend or object to these claims.

5. Jeff has been denied a reasonable opportunity to investigate and respond. Jeff's only civil attorney is a solo practitioner. Between the demands of the appeal and the flood of work run up by the receiver, even at working 65 hours a week or more, counsel has not had the time, as a literal matter, to investigate each of the claims. There are over twenty claims. Each claim involves its own factual issues, and requires research into the fiduciary duties and violations involved. For a single attorney to handle the cases, if only a single week was spent researching, investigating, and preparing a defense to each claim, it would require six months of work dedicated fully to that project.

E. JURY DEMAND

Notably, Jeff Baron object to this process, and demands a jury trial for each and every claim against him, as his constitutional right.

F. SPECIFIC DEFENSES

Issues relating to claims over $10,000.00 are briefly addressed:

(1) Some claims such as Pronske and Patel and Bickel & Brewer include fees for work not performed for Jeff or any receivership

entity, such as for 'collection' or making motions for substantial contribution in the bankruptcy court. Texas law does not provide for the recovery of such fees. Additionally no showing has been made providing for the collection of any additional fees.

(2) Many claimants appear to have no written contract, and have not complied with Texas law that is mandatory and prerequisite for an attorney's entitlement to payment of fees. These appear to include Pronske and Patel, Carrington, Coleman, Sloman & Blumenthal, LLP , Schurig Jetel Beckett Tackett, Gary G. Lyon, Dean Ferguson, Robert J. Garrey, David L. Pacione, Jones, Otjen & Davis, and Mateer & Shaffer, LLP.

(3) Powers and Taylor admit being paid, and appear to owe Jeff $7,500.00 remaining unused on an initial $10,000.00 retainer. They are seeking fees for a contingency, but their contract is explicit and the contingency was not reached. They lost the lawsuit they handled, they did not win it.

(4) Some attorneys are not entitled to recover any fees through a 'claims' procedure, they agreed to seek any fees only via arbitration. Those attorneys appear to include Bickel & Brewer, and Broome.

(5) For many attorneys the work billed does not match the scope of the retainer. Pursuant to Texas law, an attorney's representation

and right to payment is limited by the scope of the attorney client-contract. Firms not entitled to fees beyond the scope of the work agreed to be paid for include Fee, Smith, Sharp & Vitullo, West & Associates, and Schurig Jetel Beckett Tackett.

(6) Lyon's claim is concerning he produced a written agreement that provides "You (Lyon) will not bill any further amounts, and I will not pay you any amounts (except as identified in #1 and #2 above) unless you perform work specifically instructed by me in writing and we reach a further agreement regarding payment." Since none of the now claimed work was authorized in writing as required by the contract, Lyon is not entitled to any payment. Lyon also appears to have reached an agreement on fees, and is owed under $4,000.00.

(7) Some attorneys are not licensed, or not licensed in Texas and are not entitled pursuant to state law for charging for state court and state law work in Texas. In fact, the attempt to charge such fees is criminal. Lyon apparently is not licensed in Texas and neither is Michael B. Nelson. Other attorneys may also not be licensed, no budget has been allowed for an investigator.

(8) Dean Ferguson admitted under oath that he "never reached an agreement" with Jeff to pay the $300 per hour he is now demanding. He testified that he worked 45 days and was paid for

22 days, leaving only 23 days of work unpaid. He sent a bill for $20,000.00 and now demands over $70,000.00 for his 23 days of work. The fee is unreasonable and unconscionable and the fee demand violates his ethical duties such that Jeff is entitled to fee forfeiture of all sums paid to Ferguson.

(9) In addition to Dean Ferguson, several attorneys appear to have engaged in ethical violations requiring forfeiture of the fee they are demanding as well as the fee they have already been paid. These attorneys include Dean Ferguson, Pronske and Patel, Garrey, Schurig, Broome, and perhaps others as well.

(10) In total, the work charged is grossly duplicative and over billed. Expert opinion is required to provide further detain, Jeff has been denied expenses to hire an expert.

(11) Most of the attorneys represented multiple clients but have failed to segregate their billing. Accordingly, no prima facie case has been established as to any client in particular.

(12) Broome's contract was expressly limited to $10,000.00 per month. Broome worked at most 2 months and one week. Broome admits he was paid $18,000.00. Accordingly, the maximum possible claim would be $4,000.00 not the $28,000.00 he claims. Demanding excess fees from a client is an ethical violation in Texas resulting in fee forfeiture both of the excess fee demanded,

and the original fee paid.

(13) Sidney B. Chesnin's fee is not and never was objected to. He was fired by the receiver, and the receiver in bad faith has not paid him.

(14) Jeff was not a client of Hitchcock Evert, LLP, nor West & Associates, LLP. The Hitchcock fees appear to have been capped by a supplemental agreement so that they are owed no money.

(15) Some of the attorneys, such as West & Associates, Fee, Smith, Sharp & Vitullo, Broome Law Firm, Mateer & Shaffer, Hohmann, Taube & Summers, and Pronske and Patel appear to have committed malpractice with respect to their representations. Establishing the existence and extent and amount of set-off for the damages requires expert opinion. No funding has been allowed for the retention of expert witnesses, and accordingly, it is not possible to provide that opinion and evidence at this point. For example the malpractice includes, but is not limited to: (A) Drafting a settlement which was represented that the settlement provided from the plaintiff payment in the form of 30,000-40,000 valuable domains, (estimated in value from $3 Million to $12 Million) but not actually providing for that term in the contract. Instead of transferring the domains to the clients of the malpractice attorneys, the plaintiff simply deleted the names and allowed them

to vanish into cyberspace. (B) The settlement of claims with the University of Texas for generic names and names registered in good faith without any knowledge of any possible infringement. These claims should not have been settled, nor was the settlement amount reasonable. (C) Failing to disclose or warn the client that the Ondova trustee was not actually releasing all of its claims and causes of action and remedies as stated in the settlement agreement, but that the clients were at risk of being placed into receivership based on the settlement agreement. This failure to disclose and advise represents a material breach of the attorneys' duty of care and has caused millions of dollars in damages and loss, far offsetting any fee that is allegedly due.

(16) Other issues are reserved for evidentiary and oral argument.

Respectfully submitted,

/s/ Gary N. Schepps

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FOR JEFFREY BARON

CERTIFICATE OF SERVICE

This is to certify that this filing was served this day on all parties who receive notification through the Court's electronic filing system.

CERTIFIED BY: /s/ Gary N. Schepps
Gary N. Schepps
COURT ORDERED TRIAL COUNSEL
FOR JEFFREY BARON