

FILED
SUPREME COURT
STATE OF WASHINGTON
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BY ERIN L. LENNON
CLERK

Supreme Court No. 102695-1
Court of Appeals No. 84946-8-1

SUPREME COURT OF THE STATE OF WASHINGTON

KYLE WILLIAM LAGOW, APPELLANT,

V.

HAGENS BERMAN SOBOL SHAPIRO LLP, a Washington Limited Liability
Partnership, Defendant

DEFENDANT REQUEST FOR TIME, WRIT OF CERTIORARI, AND PERMISSION
TO MODIFY THE PETITION FOR REVIEW

KYLE WILLIAM LAGOW, PRO SE
3408 SWANSON DRIVE, PLANO, TEXAS 75025

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THE PLAINTIFF ACTING AS PRO SE REQUESTS THE COURT CONSIDER THE FOLLOWING:

1. REQUEST FOR 120 DAY HOLD: The plaintiff asks that the Petition for Review be held for a minimum of 120 days. There is no damage suffered by the defendant, the defendant and Texas based partners law firm have already collected more than \$250,000,000 for the alleged wrongful conversion of the Plaintiff's data. The only party that a delay would inconvenience is the Plaintiff. The Plaintiff seeks the additional time to allow Plaintiff to onboard an attorney that is better capable of detailing the Petition for Review issues so that the Plaintiff's constitutionally provided due process rights are adequately represented. While the Plaintiff has shown unquestionably that discovery was unreasonably ignored, there are other issues detailed below that require a trained attorney to properly present.
2. WRIT OF CERTIORARI: The Plaintiff asks the court to issue a Writ of Certiorari regarding the decision that denied the Plaintiffs right to counsel of choice. This obviously deals with legal representation and furthers the disregard of the Plaintiff's constitutional right to representation of choice. As everyone is aware, the Defendant is a

very well-known law firm with extensive reach into the Washington State and National legal community. The Plaintiff spoke to numerous attorneys for legal representation in Washington State and most liked the case but stated they could not take on such a behemoth of a law firm. Most stated they simply did not have the resources. This was certainly understood by the plaintiff.

Plaintiff finally located an attorney who would handle the case, from the east coast area, and after filing the case in Washington State the attorney sought a Pro Hac Vice temporary practice permission. It is the plaintiff's understanding these are typical and very rarely denied and in fact WSB has several articles that drill down to grounds for denial and the most common is conflict, which was not an issue, and misconduct, which the applicant had never been sanctioned.

In this case permission was denied despite the attorney never having been sanctioned by any court, at least as understood by the plaintiff. Obviously, the court can understand if the Plaintiff was suspicious of what favors the plaintiff might have called in or offered to get the Ad Hoc Vice denied. After having heard so much from other Washington State attorneys, suspicion was reasonable, but the plaintiff had no evidence and only had the statement of the attorney which is attached as "Exhibit M."

Nevertheless, the east coast attorney then hired a local Washington State attorney to work through and things moved forward until the local attorney informed the plaintiff's attorney in writing that it did not take long for the defendant to start threatening and trying to intimidate him. Specifics were never provided. A week or so before the initial hearing to dismiss the local attorney withdrew without fault of the plaintiff. The chain reaction resulted in the east coast attorney being unable to represent the plaintiff and the action left the plaintiff

without legal representation. It was a very favorable move for the Defendant by the Washington State attorney. Months had passed, the East Coast attorney had been paying him, then a week before the hearing he withdrew.

There is no question attorneys withdraw for reasons every day. There is also no requirement that an attorney must represent a client. The issue concerning to the plaintiff is that legal representation was obtained, the defendant somehow blocked an Ad Hoc Vice despite no sanctions and Washington State, like every State, has an assortment of attorneys with interesting pasts practicing in Washington State. The plaintiff was effectively denied Constitutionally guaranteed representation of choice with a denial of Ad Hoc Vice without adequate grounds.

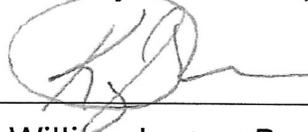
3. REQUEST TO MODIFY PETITION FOR REVIEW: Plaintiff asks that the court, once representation is in place, allow counsel of choice to modify, change, and resubmit the Petition for Review no more than 120 days from the date the attorney is granted Ad Hoc Vice in Washington State.

CONCLUSION

The above requests are made to finally bring this matter to a conclusion in a manner that protects the Constitutionally guaranteed rights of the plaintiff and provide relief to the court in not having a Pro Se Plaintiff trying to communicate with the court.

DATED: March 3, 2024.

Respectfully submitted,



Kyle William Lagow-Pro Se
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DOCUMENT WORD STATS:

WORD COUNT FOR THIS DOCUMENT IS 822.

Exhibit "M"

Brian Muchinsky
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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

KYLE W. LAGOW and SCOTT D.
HAMILTON,

Plaintiffs,

v.

HAGENS BERMAN SOBOL SHAPIRO,
LLP, a Washington limited liability
partnership,

Defendant.

No. 22-2-02681-2 SEA

Civil Action

**SUPPLEMENTAL DECLARATION OF
TIMOTHY J. McILWAIN, ESQ. IN REPLY TO
DEFENDANT'S OPPOSITON TO ADMISSION
PRO HAC VICE**

TIMOTHY J. McILWAIN, ESQ., being of full age, hereby declares as follows:

1. I have been a licensed attorney in New Jersey since 1996 and have never been disciplined as an attorney, either publicly or privately, for unethical conduct, nor is any grievance pending according to the Office of Attorney Ethics of the Supreme Court of New Jersey. Attached and made apart hereof is a true and correct copy the **March 9, 2022** Certificate of Ethical Conduct from the Supreme Court of New Jersey as Exhibit A.
2. Historically, I have not responded to law firms that take ad hominem personal or professional attacks at my character, but given the seriousness (and misguided) statements made about me

and my law practice, this Honorable Court should know the person that is asking for permission to appear and represent 2 individuals in your Courthouse that were harmed by members of the legal community.

3. I attended the University of California at Berkeley then New York Law School on a partial scholarship.
4. After years as a trial attorney for insurance companies (AIG), corporations (Trump Casinos) and individuals, I attended the Trial Lawyers College in Wyoming, which is founded by Gerry Spence, who spent over 3 weeks teaching me jury trial skills in a barn and I became a Ranch member of the Trial Lawyers College.
5. During my experience with Trial Lawyers College, I was able to work with Washington lawyers Paul Luvera and Eric Fong, who have a big influence on me and the types of cases I believe need their day in Court. This is one such case.
6. This Honorable Court should know that in 2020 Judge Robert D. Mariani of the District Court of Pennsylvania granted my pro hac vice admission in the matter of the *Estate of Eugene Hamill v. Cedar Twins Senior Living, et. Al. Docket No. 3:20-cv-231-RDM/MCC*.
7. In 2020, I settled a civil rights matter that became a federal class action that led to a new prison being built and female inmates not needing to expose their breasts to male guards every time they used the communal toilet; they now wear 2-piece prison uniforms instead of a jumpsuit and have restored some dignity. The Court approved my billings and hourly rate and the agreement with co-counsel was honored unlike my experience with Hagens Berman

law firm in the matter of *Docherty v. County of Cape May, Cape May Department of Corrections*, Docket No. 1:15-cv-08785 (RMB/JS).

8. Unfortunately, I need to address the specific cases referenced in the opposition to my motion for admission pro hac vice.
9. **Kazaba Case:** This was a case that was litigated for 5 years, (2) there were 11 trial dates to appear ready for trial; (3) jury trial was conducted for 3 weeks; (4) post-trial motions lasted over 6 months with multiple hearings and (5) an appeal was filed by the losing party to an employment discrimination case, which provides statutory attorney fees.
 - a Unbelievably, the trial court only approved 154 hours in attorney fees for 5 years of litigation and on trial days would sometimes only award the time I was actually in Court in front of the judge; so, there was no discretion because the transcripts tracked the time.
 - b According to the judge presiding over the Kazaba trial I did not even work over my lunch break at trial and spent next to no time preparing after the day of trial for the next day of trial.
 - c New Jersey has 21 counties; and, similar to handling a case in another state there are times when 1 county being sued views the appearance of a lawyer of another county as an invasion into their legal community. This is an unfortunate and unpleasant fact to being a lawyer handling impact litigation.
 - d Then the Appellate Division only awarded my law firm 28 hours of work (\$10,000) for prevailing on almost all appeal issues that had billing entries from January 2018 to September 16, 2020 (2 years and 9 months); reducing the actual time that was

contemporaneously billed to an over 96% reduction in my time records (over 714 hours).

10. Kentucky Custody Case: This is a child's rights case as well as a father's right case that is considered the worse result in the history of family law by practicing lawyers across the country.

- a The case involves my personal custody dispute that deals with my 2.5 year old daughter, who was forced to live 800 miles away from both of her parents because the Family Court did not allow a hearing on status quo (I was the primary caregiver because the mom worked and lived in New York 4 days a week); this Court failed the child by allowing her to be raised without her father, who for 2.5 years she saw every day from wake up until bedtime.
- b The subpoenas mentioned in my character assassination were filed in a motion for reconsideration for the purpose of proving that the mother works and lives in New York City leaving the child to be raised by an elderly grandparent; away from both parents. My subpoena of information that requested the work schedule of the mother, who was working and living in New York, was viewed by the Family Court as stalking and resulted in a restraining order.
- c This ruling was beyond legally bizarre because during the hearing there was no testimony of a single incident of domestic violence in a 10 year period except a made up story of supposedly a time when I wrestled the mother while sleeping. The testimony did not give a date or place for this so-called incident that was done while sleeping aka sleep walking so nothing that can be refuted.
- d The presiding elected Judge who made these rulings recused herself after the orders were entered because the Judge's clerk was married to the lawyer for the mother and

the husband was the factual support of a motion since the mother was in New York, among other reasons for the Judge's disqualifications.

- e I will not list the other rulings that are frankly not believable and the subject of a Sixth Circuit Court of Appeals matter and soon to be ethics complaint.

11. **Jim Brown Case:** This was a case where I represented legendary NFL Hall of Fame running back, actor and activist, Jim Brown and his charity Amer-I-Can, which teaches life management skills to prison inmates. I successfully handled the case in California state court after being admitted pro hac vice on a pro bono basis and then was asked to investigate a theory of liability about rights to publicity.

- a I was the first to file a case on behalf of a football player against the video game giant Electronic Arts, Inc., aka EA Sports claiming that people had a right to their name and likeness.
- b My filing led to the class action law firms swooping in to file copy cat cases and eventually steal my client, Jim Brown, who never signed a new retainer, and eventually settled the case against EA Sports for \$600,000 with Hagens Berman as his lawyers.
- c The complaint filed on Jim Brown's behalf by Hagens Berman was identical to my original filing except for 1-2 paragraphs and supposedly zero discovery was done before settlement, upon information and belief.
- d I was not reimbursed for my cost or given any quantum merit for an inordinate amount of time and effort. I handled my attorney fee lien pro se in the Central District of California.

12. **Keller Case:** This is the case filed after Jim Brown in the form of a federal class action in California.

- a I had a similar federal class action in New Jersey (*Hart v. EA Sports, No. 09-5990*) that was a larger class than Hagens Berman's Keller case because New Jersey law has a 6-year statute of limitations verse California's 2 year statute of limitations.
- b Additionally, I brought in the Lanier law firm with noted legal scholar Arthur Miller, Esq. to assist in our filing for class certification, which was going to be filed 4 months before Keller could file for class certification because they were still in the appellate division.
- c After a \$40,000,000 settlement was reached in mediation with my class action case [EA Sports never offered more than \$2,000,000 before my involvement], I agreed to an attorney fee split/pooling agreement with Hagens Berman and permitted the settlement to proceed in California not New Jersey. Hagens Berman breached the agreement and focused on attacking my lodestar of hours spent on the case for years.
- d The opposition references the Court criticizing my billings for research done on actors and found it did not help the class action. Meanwhile, my research of actors was done when I created a fake video game called "Heist" that copied the Ocean 11 movie actors. I showed the Screen Actors Guild the importance of them getting involved by writing amicus briefs because if I was to lose the EA Sports case the actors would not be able to be compensated for their images and likeness if a video game was made about a movie. Ultimately, the Screen Actors Guild did join my lawsuit and filed briefs on behalf of their members. I still believe this helped our case and assisted in getting the case resolved despite the Court's criticism of me.

13. **Walker Case:** This was a case where a major class action law firm, Hausfeld, LLP asked for me to be put on the pleading of the concussion case for college athletes because of my ability to secure class representatives. After years of being on the pleadings and reviewing filings, I

submitted a request for attorney fees of approximately \$50,000, which should have been an exhibit to the law firm that asked that I be involved attorney fee application. However, I was a day late filing my own separate motion for attorney fees because of internet problems from a country house in Italy. Admittedly, I was a day late and the Court, in turn, was unwilling to grant me leave for 1 day extension. This is the extent of this criticism.

14. **Hagens Berman Case:** For sake of brevity, I am attaching my Petition for Certiorari challenging the District Court's refusal to follow a Supreme Court case directly on point in my case and challenging the revocation of my pro hac vice status. Attached and made apart hereof is a true and correct copy McIlwain's Petition for Certiorari as Exhibit B; Respectfully I invite Your Honor's attention to pages 11-16.
15. Finally, while I have never been disciplined or successfully sued for legal malpractice and breach of fiduciary duties, Defendant Hagens Berman has on numerous times showed their modus operandi of taking advantage of people on the one hand, yet on the other hand, raking in enormous fees at the expense of people, but Hagen Berman is displayed in the media as a do-good law firm addressing societal wrongs with their public relations machine.
16. Ultimately, Defendant Hagens Berman is the law firm equivalent of the once admired company Theranos with their leader sharing similar qualities to Elizabeth Holmes; a fraud. Attached and made apart hereof is a true and correct copy of multiple occasions where Hagens Berman was sanctioned by Courts and successfully sued for malpractice as Exhibit C. Respectfully, I invite this Honorable Court's attention to pages 24, 61, 101, 106 and 111 to see the multiple verdicts against Hagens Berman for breach of fiduciary duties and legal malpractice.

I HEREBY DECLARE that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

McILWAIN LAW FIRM
Attorneys for Defendant

BY: Timothy J. McIlwain
Timothy J. McIlwain

DATED: March 24, 2022

KDL APPRAISAL SERVICES, LLC

March 03, 2024 - 11:18 AM

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