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24TH JUDICIAL DISTRICT COURT PARISH OF JEFFERSON

STATE OF LOUISIANA

744-653

SARA J. PITRE

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VS.

MCQUAIG & ASSOCIATES, LLC AND SCOTT W. MCQUAIG

FILE FOR RECORD
2014 NOV 26 PM 2:03
DEPUTY CLERK
PARISH OF JEFFERSON, LA

IMAGED DEC 04 2014

FILED _____

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PETITION FOR DAMAGES

The petition of Sara J. Pitre, a person of the full age of majority, domiciled and residing in the parish of Jefferson, state of Louisiana, who, with respect, represents:

1.

Made defendants herein are the following:

- a) McQuaig & Associates, LLC, a domestic corporation domiciled in this state and parish; and,
- b) Scott W. McQuaig ("McQuaig"), a person of the full age of majority, on information and belief, domiciled and residing in this state and parish.

2.

Petitioner avers that, to the best of her knowledge and belief, McQuaig is an attorney at law duly licensed to practice law in the state of Louisiana, and is employed by a limited liability company which he owns and operates, McQuaig & Associates, LLC, defendant herein, which said entity operates in this state and parish, with an office address of 100 Lilac Street, Metairie, LA 70005.

3.

Petitioner further sets forth that many, if not all, of the wrongful acts or omissions set forth hereinbelow occurred in Jefferson Parish, making venue in this court appropriate.

4.

Petitioner sets forth that both defendants herein are liable to her, *in solido*, for damages in

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excess of \$50,000.00, together with legal interest thereon from date of judicial demand until paid, and all costs of these proceedings, as well as attorney fees, for the following, to wit:

FOR A FIRST CAUSE OF ACTION

5.

Petitioner alleges and reavers the allegations of paragraphs 1-4 set forth hereinabove as if set forth herein *in extenso*.

6.

Petitioner sets forth that on May 29, 2010, she contracted with the entity, McQuaig & Associates, LLC, for the attorney employed by it, Scott W. McQuaig, to provide legal services to her as a result of an accident and resulting injuries, including second-degree burns, which she sustained on April 29, 2010, while purchasing food to eat in a Whole Foods Market in New Orleans, Louisiana.

7.

Petitioner further avers that subsequent to this, McQuaig filed a lawsuit on her behalf in the Civil District Court for the Parish of Orleans, State of Louisiana, in the matter entitled "Sara Pitre v. Whole Foods Market, Inc.," Case No. 2011-4379, Div. "C-10."

8.

Petitioner further sets forth that during the course of the aforementioned lawsuit pending in Civil District Court in New Orleans, that defendant McQuaig settled her lawsuit with the defendant in that matter, Whole Foods Market, Inc., without her knowledge or consent, in direct contravention of the rules governing the professional conduct of McQuaig, as well as in contravention of the contract between the parties.

9.

Petitioner further sets forth that neither defendant ever remitted the settlement funds to her as a result of the unauthorized settlement of her claim without her consent. Petitioner further sets forth, on information and belief, that the funds resulting therefrom from the unauthorized settlement thereof were either misappropriated by McQuaig, or misappropriated by an employee of McQuaig or McQuaig & Associates, LLC, rendering both McQuaig and McQuaig & Associates, LLC liable to her.

10.

Petitioner further sets forth that despite her efforts to contact defendant McQuaig, that he

consciously avoided and ignored her telephone calls until such time as she retained undersigned counsel to investigate the status of this claim for her. Undersigned counsel learned of the unauthorized settlement of petitioner's case as well as the misappropriation of her funds in April 2014. Undersigned counsel informed petitioner of these facts shortly thereafter.

FOR A SECOND CAUSE OF ACTION

11.

Petitioner realleges and reavers the allegations of paragraphs 1 through 10 above as if set forth herein *in extenso*.

12.

Petitioner sets forth that on January 21, 2012, she contracted with the entity, McQuaig & Associates, LLC, for the attorney employed by it, Scott W. McQuaig, to provide legal services to her as a result of a motor vehicle accident and resulting injuries in which she was involved on January 20, 2012. While operating a vehicle in a lawful fashion, petitioner was struck from the side by another vehicle. Ms. Pitre was traveling at the rate of speed of approximately 35 miles an hour at the time of the incident and did not see the vehicle strike her vehicle from the side.

13.

Petitioner further sets forth that after she hired McQuaig to represent her, McQuaig or someone acting for him, entered into settlement negotiations with the tortfeasor regarding the January 20, 2012 accident in which petition was injured. As a result of these discussions, this case was inappropriately settled without petitioner's knowledge or consent in direct violation of the duties owed by both defendants to petitioner, as well as in contravention of the contract between the parties.

14.

Petitioner further sets forth that neither defendant ever remitted any settlement funds to her as a result of the unauthorized settlement of January 20, 2012 motor vehicle accident without her consent. Petitioner further sets forth, on information and belief, that the funds resulting therefrom from the unauthorized settlement were either misappropriated by McQuaig, or misappropriated by an employee of McQuaig or McQuaig & Associates, LLC, rendering both McQuaig and McQuaig & Associates, LLC liable to her.

15.

Petitioner further sets forth that despite her efforts to contact defendant McQuaig, that he consciously avoided and ignored her telephone calls until such time as she retained undersigned

counsel to investigate the status of this claim for her. Undersigned counsel learned of the unauthorized settlement of petitioner's motor vehicle accident case as well as the misappropriation of her funds in May 2014. Undersigned counsel informed petitioner of these facts shortly thereafter.

16.

Petitioner sets forth that both defendants are liable to her for their wrongful acts set forth above.

17.

Petitioner further sets forth that defendant McQuaig is liable to her for his negligence or intentional actions, as follows:

- a) His failing to consult with plaintiff regarding the settlement of both claims which McQuaig was handling for her;
- b) The intentional or negligent misappropriation of funds resulting from McQuaig's failure to remit funds to her after both cases were inappropriately settled;
- c) On information and belief, the settling of the plaintiff's claims for less than actual compensatory value in an effort to enrich himself and/or his business entity as defendants needed quick access to these funds;
- d) The failure of defendant McQuaig to follow the ethical rules and rules of professional conduct governing the conduct of attorneys in the state of Louisiana regarding keeping petitioner updated on the status of her cases, the unauthorized settling of her cases without her consent, misappropriation or theft of funds from petitioner, and/or failure to appropriately supervise nonattorney employees who orchestrated the misappropriation of petitioners' funds; and,
- e) All other acts of negligence or intentional action to be learned through the discovery process and to be shown at the trial of this cause;

18.

Petitioner sets forth that defendant, McQuaig & Associates, LLC is liable to defendant for its negligent or intentional actions, for the following reasons:

- a) Liability under the doctrine of respondeat superior for the negligent or intentional actions of its employee, Scott W. McQuaig, and/or other unknown employees of its who may have committed wrongful acts leading to petitioner's losses;
- b) The failure of defendant, McQuaig & Associates, LLC, through its principal, to properly supervise its employees; and,
- c) All other acts of negligence or intentional action to be learned through the discovery process and to be shown at the trial of this cause.

19.

Petitioner sets forth that both defendants herein had a duty to her, breached that duty to her, and further, that the breach of the duty directly led to injuries to her for which she seeks redress herein.

Petitioner sets forth that she is entitled to damages from both defendants herein, as follows:

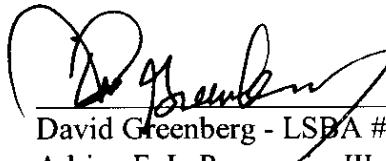
- a) Funds representing full redress for her injuries which she sustained in the matter filed by defendants on her behalf in the Civil District Court for the Parish of Orleans, State of Louisiana, in the matter entitled "Sara Pitre v. Whole Foods Market, Inc.," Case No. 2011-4379, Div. "C-10" which was settled by defendants without petitioner's authorization or consent.
- b) Funds representing full redress for her injuries which she sustained in the matter settled by defendants for the claims which she had resulting from the motor vehicle accident in which she was involved on January 20, 2012, which was settled by defendants without petitioner's authorization or consent.
- c) Funds which were misappropriated and/or stolen from her by defendants, their agents or employees.
- d) Attorney fees incurred by her due to her need to collect these funds multiple times due to the intentional wrongdoing and/or negligent management of its staff by defendants herein.

Petitioner avers amicable demand to no avail.

WHEREFORE, petitioner prays that defendants be served with a copy of this petition, and be duly cited to appear and answer same; that after legal delays have elapsed and due proceedings had, that there be judgment herein in favor of petitioner, Sara J. Pitre, and against the defendants, McQuaig & Associates, LLC and Scott W. McQuaig, *in solido*, for damages which are consistent with the law and evidence herein, together with legal interest thereon from date of judicial demand until paid, attorneys fees, and all costs of these proceedings.

Respectfully Submitted:

GREENBERG & LaPEYRONNIE, L.L.C.



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Attorneys for Sara J. Pitre, Plaintiff

****PLEASE SEE NEXT PAGE FOR SERVICE INFORMATION

PLEASE SERVE:

1. McQuaig & Associates, LLC
Through it's registered agent for service of process:
Scott W. McQuaig
100 Lilac Street
Metairie, Louisiana 70005

2. Scott W. McQuaig
100 Lilac Street
Metairie, Louisiana 70005

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