

FILED
 CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
 STATE OF LOUISIANA SECTION 6
 2013 SEP 10 3:33

NO. 13-8600

DIVISION CIVIL DISTRICT COURT SECTION NO.
 LLOYD MARTIN AND NICOLE MARTIN

versus

DANIEL G. ABEL AND ABC INSURANCE COMPANY

FILED: _____

 DEPUTY CLERK

PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, come Plaintiffs, Lloyd Martin and Nicole Martin, who with respect represent that:

1.

DALE N. ATKINS
 CLERK, CIVIL DISTRICT COURT
 402 CIVIL COURTS BUILDING
 421 LOYOLA AVENUE - ROOM 402

Plaintiffs are residents of St. Tammany Parish and are persons of full age and majority.

2.

504-407-0000

The Defendants herein are the following:

(A) Daniel G. Abel, a person of full age of majority and an attorney licensed to practice law in the State of Louisiana whose registered address with the Louisiana State Bar Association is in Orleans Parish.

DATE: 9/10/2013 at 15:45
 CASE#: 2013 - 08600 SEC.: 6

PRICE	PAID	BAL
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(B) ABC Insurance Company, a professional liability insurer which, upon information and belief, issued a policy of insurance to Daniel G. Abel which covered the acts and omissions complained of herein, and which was in full force and effect at all times pertinent herein.

OTHER PETITION INFORMATION			
\$ 444.50	\$ 444.50	\$	0.00
\$ 23.00	\$ 23.00	\$	0.00

JURISDICTION AND VENUE

3.

INDIGENT LEGAL FEE			
\$ 10.00	\$ 10.00	\$	0.00
BUILDING FUND FEE			
\$ 25.00	\$ 25.00	\$	0.00

This Court has jurisdiction of this matter as the amount in controversy exceeds the Courts jurisdictional minimum amount.

TOTAL PAID CASE # 201308600: \$502.50

4.

RECEIPT TOTAL \$502.50

That some of all of the acts of negligence set forth in the petition occurred in Orleans Parish.

AMOUNT RECEIVED \$502.50
 CHANGE DUE \$.00

5.

That at all times pertinent herein, there existed an attorney client relationship between the Plaintiffs and Defendant Abel.

THE FIDELITY LAWSUIT

6.

Plaintiffs retained Daniel G. Abel to file a lawsuit against Fidelity National Title Insurance Company ("Fidelity") for damages that Plaintiffs occasional when Fidelity failed to pay the Plaintiffs' February 10, 2009 title insurance policy claim.

7.

A lawsuit was filed by Mr. Abel on behalf of Plaintiffs in the Eastern District of Louisiana on June 29, 2009 seeking actual damages for the denial of the title insurance policy claim and seeking bad faith damages under La. 22:658 and 22:1220.

8.

On May 8, 2012, Fidelity filed a motion for summary judgment moving the court dismiss the Plaintiffs' claims against it.

9.

On May 14, 2012, Mr. Abel on behalf of Plaintiffs filed an opposition to Fidelity's motion for summary judgment.

10.

When Mr. Abel filed the May 14, 2012 opposition to motion for summary judgment, Mr. Abel neglected to provide and attach evidence that Fidelity acted in bad faith.

11.

When Mr. Abel filed the May 14, 2012 opposition to motion for summary judgment, Mr. Abel neglected to provide and attach evidence of Plaintiffs' actual damages.

12.

On September 11, 2012, the Judge in the Eastern District of Louisiana granted Fidelity's summary judgment motion and dismissed Plaintiffs' case against Fidelity predicated upon Plaintiffs failure to provide evidence that Fidelity acted in bad faith and Plaintiffs failure to provide evidence of Plaintiffs' damages.

13.

Daniel G. Abel's failure to provide evidence that Fidelity acted in bad faith and failure to provide evidence of Plaintiffs' damages in opposition to Fidelity's summary judgment fell below any reasonable standard of care owed to the Plaintiffs and thus constituted malpractice.

14.

The September 11, 2012 dismissal of Plaintiffs' claims against Fidelity by the Eastern District of Louisiana was due to the fault of Daniel G. Abel.

15.

Plaintiffs suffered damages because their claims against Fidelity were dismissed.

THE RICO LAWSUIT

16.

At some point during his representation of the Martins, Daniel G. Abel discovered what he believed to be a Racketeering Influenced Corrupt Organization involving a number of persons including four attorneys, a sitting judge, eight civilians, and seven corporations.

17.

Daniel G. Abel believed that this alleged Racketeering Influenced Corrupt Organization caused damages to the Martins.

18.

Daniel G. Abel used the Martins' pending case against Fidelity as a vehicle to conduct discovery on what Daniel G. Abel believed to be a Racketeering Influenced Corrupt Organization

19.

Unbeknownst to the Martins, Daniel G. Abel filed a Civil RICO case against number of persons including four attorneys, a sitting judge, eight civilians, and seven corporations in using the Martins and two other sets of homeowners as named plaintiffs.

20.

Daniel G. Abel failed to advise and inform the Martins that they would be named plaintiffs in a Civil Rico suit naming a number of persons including four attorneys, a sitting judge, eight civilians, and seven corporations.

21.

Daniel G. Abel breached Louisiana Rule of Professional Conducts, including but not limited to Rule 1.4, when he filed the Civil Rico suit against a number of persons including four attorneys, a sitting judge, eight civilians, and seven corporations without informing the Martins that they would be named plaintiffs.

22.

On information and belief the Rico Suit filed by Abel exceeded the scope of the attorney client relationship between Defendant Abel and Plaintiffs.

23.

Had they been properly informed of the full nature of the Civil RICO allegations, the Martins would not have permitted Daniel G. Abel to use them as named plaintiffs in the Civil RICO lawsuit.

24.

As a result of Daniel G. Abel's unauthorized use of the Martins' names as named plaintiffs in the Civil RICO lawsuit, the Martins have been sued for defamation.

25.

Daniel G. Abel's failure to obtain Plaintiffs' approval prior to filing the Civil RICO claim using the Martins' names as named plaintiffs fell below any reasonable standard of care owed to the Plaintiffs and thus constituted malpractice.

26.

Plaintiffs have suffered damages due to Daniel G. Abel's failure to obtain Martins' approval prior to filing the Civil RICO claim using the Martins' names as named plaintiffs including, but not limited to, attorneys fees and costs in defending the defamation claim.

27.

Upon information and belief at all times pertinent herein, ABC Insurance Company provided malpractice insurance to Daniel G. Abel and thus ABC Insurance Company is made a defendant pursuant to the Louisiana Direct Action Statute.

DAMAGES

28.

Defendants are liable to Plaintiffs for all damages suffered, including, but not limited to, the following:

1. Actual damages that should have been recovered under the Fidelity policy;
2. Bad Faith damages that should have been recovered under the Fidelity policy;
3. Costs of all proceedings including costs of defending the defamation suit;
4. Attorneys fees for defending the defamation suit;
5. All other consequential damages;
6. All other compensatory damages;
7. For such other and further relief as the Court deems just and proper; and
8. Any and all other damages that may be proven at time of trial.

WHEREFORE, Plaintiffs, Lloyd Martin and Nicole Martin, pray that Defendants, Daniel G. Abel and ABC Insurance Company, be served with a copy of this Petition for Damages and citation, and that after due proceedings, that there be judgment in favor of Plaintiffs, and against Defendants, Daniel G. Abel and ABC Insurance Company, for all damages resulting from the legal malpractice, with legal interest, costs and all other legal and equitable relief to which Plaintiffs are entitled in an amount determined by the trier of fact.

Respectfully submitted,

MARTZELL & BICKFORD

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