

NO

EXHIBITS

CASE NO. 2018 1010297

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CASE TYPE: Legal Malpractice

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CASE NOTE

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12-Person Jury

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DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2018L010297

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

STEVEN PAUL,)	
)	
Plaintiff,)	
)	
v.)	
)	
LOCKE LORD, LLP,)	
WILLIAM J. COOK, BRIAN LEWIS, and)	
JOHN ROBERTS)	JURY DEMANDED
)	
Defendants.)	

COMPLAINT AT LAW

Plaintiff Steven Paul (“Plaintiff” or “Paul”), by his undersigned attorneys, states the following as his Complaint against Defendants Locke Lord, LLP, William Cook, Brian Lewis and John Roberts.

NATURE OF THE CASE

1. This is an action for professional malpractice and breach of fiduciary duty. As set forth more fully below, a result of the defendants’ failure to provide competent legal representation, full and adequate disclosures, and exercise due care in its undertaking of Plaintiff’s representation, Plaintiff has:

- a. been deprived of the opportunity to gain either a grant of immunity from prosecution or deferred prosecution;
- b. been deprived of more than \$1,000,000 paid to the Defendant and/or its predecessor as legal fees;
- c. been deprived of more than \$150,000 which Plaintiff paid to third parties upon the advice of the defendant law firm;
- d. been sentenced to 20 months of incarceration in a federal penitentiary;

- e. been deprived of the opportunity to parent his two minor children for whom he serves as the custodial and primary parental figure; and
- f. been subjected to a restitution Order in excess of \$1,200,000.

Plaintiff seeks redress for the damages he sustained as a result of his attorneys' breaches of the standard of care expected of them and/or their breaches of fiduciary duty to him.

PARTIES

- 2. At all relevant times, Plaintiff Steven Paul ("Paul") was a resident of Cook County, Illinois.
- 3. At all relevant times, Locke Lord, LLP and the firms which it acquired by merger, all offered legal services to hundreds of clients, including Paul, in Cook County, Illinois.
- 4. At all relevant times, William Cook was an attorney licensed to practice law and practicing through the firm known as Wildman, Harrold, Allen & Dixon, a firm which merged with defendant Locke Lord during the course of defendants' representation of the Plaintiff.
- 5. At all relevant times, Brian Lewis was an attorney licensed to practice law and practicing through the firm known as Wildman, Harrold, Allen & Dixon, a firm which merged with defendant Locke Lord during the course of defendants' representation of the Plaintiff.
- 6. At all relevant times, John Roberts was an attorney licensed to practice law and practicing through the firm known as Wildman, Harrold, Allen & Dixon, a firm which merged with defendant Locke Lord during the course of defendants' representation of the Plaintiff.
- 7. Hereafter, defendants are referred to as "the Wildman/Locke attorneys."

JURISDICTION AND VENUE

8. This Court has personal jurisdiction over the defendants whose conduct giving rise to the actions complained of herein all occurred in Cook County, Illinois.

9. Venue is appropriate in this Judicial Circuit because the defendants practiced law in Cook County and the facts and circumstances giving rise to Plaintiff's claims occurred in Cook County, Illinois.

FACTS COMMON TO ALL COUNTS

10. On December 5, 2017, Paul was sentenced to serve 20 months in a federal penitentiary and further Ordered to pay \$1,186,290 in restitution damages as a result of his knowledge of, and failure to prevent, a fraudulent insurance-billing scheme perpetrated by chiropractic doctors with whom he practiced, *i.e.*, Bradley Mattson and Neelesh Patel.

11. Plaintiff retained attorneys at the firm of Wildman, Harrold, Allen & Dixon in the spring of 2009 to assist him in connection with a federal investigation of the billing practices at the chiropractic offices in which he worked. Defendants Cook, Lewis and Roberts were the attorneys primarily responsible for Paul's representation at the outset.

12. Locke Lord acquired the Wildman firm by merger in January, 2014 and, as discussed more fully below, in addition to Cook, Lewis and Roberts, various other Wildman/Locke attorneys entered appearances on Plaintiff's behalf in the federal criminal case in which Plaintiff was ultimately charged. Several Wildman/Locke attorneys remained counsel of record for the Plaintiff until the spring of 2018.

13. As early as 2009, and prior to his indictment, Plaintiff was advised by his Wildman/Locke attorneys that if he cooperated with the government's investigation and assisted in the government's investigation of the active participants in a scheme to bill Blue Cross/Blue

Shield in amounts in excess of the fees properly compensable for services provided to their patients, that he would be rewarded with immunity from personal prosecution.

14. Plaintiff relied on the advice and counsel of his Wildman/Locke attorneys and deferred to their judgments and recommendations concerning the most appropriate course of action to limit his exposure to criminal and civil liabilities.

15. At various points in time in 2009, 2010 and 2011, the Wildman/Locke Lord attorneys, in particular William Cook, advised the Plaintiff that, based on their on-going negotiations with the U.S. Attorneys' office, Plaintiff was "on track" to receive an immunity agreement from the U.S. Attorney's office

16. However, notwithstanding their affirmative representations, the Wildman/Locke attorneys knew, or reasonably should have known, that: a) the U.S. Attorneys' office was not likely not fully consummate any immunity agreement; and b) even if the U.S. Attorney would not offer immunity, the U.S. Attorney would seriously consider a deferred prosecution agreement (by which the government would agree not to prosecute the Plaintiff so long as he cooperated with their investigation) instead of an immunity agreement.

17. In particular, Cook, Lewis and Roberts were aware that, by the end of 2009, the U.S. Attorney had declined to pursue an immunity agreement but rather only indicated a willingness to offer a deferred prosecution agreement.

18. Cook, in particular, was personally offended by the U.S. Attorney's change of strategy and, without fully analyzing the relevant similarities between immunity and deferred prosecution, and without fully analyzing Plaintiff's circumstances, flatly rejected the U.S. Attorney's offer of deferred prosecution.

19. None of the Wildman/Locke attorneys adequately advised Plaintiff that the U.S. Attorney had offered deferred prosecution instead of immunity, nor fully explained to the Plaintiff the consequences of accepting a deferred prosecution agreement.

20. Without adequately analyzing the U.S. Attorney's offer and without adequately communicating with the Plaintiff, the Wildman/Locke attorneys rejected the U.S. Attorney's offer of deferred prosecution and the U.S. Attorney declined to renew such negotiations thereafter.

21. The Wildman/Locke Lord attorneys failed to exercise due care and refused to adequately consider, analyze, evaluate and discuss with the Plaintiff a strategy to obtain a deferred prosecution agreement from the government.

22. The government did in fact enter into a deferred prosecution agreement with one of Plaintiff's co-defendants, a chiropractor with far greater and more direct responsibility for the fraudulent conduct of which they were accused.

23. While in the process of negotiations with the government, the Wildman/Locke Lord attorneys advised Plaintiff to enter into a settlement agreement with Blue Cross Blue Shield to address potential claims of civil liability and/or restitution.

24. Plaintiff acted upon such advice borrowed money in order to enter into such agreement, which provided a full and complete release of Plaintiff's potential obligation to Blue Cross.

25. During the course of 2012, the U.S. Attorney confirmed that it would no longer consider either an immunity or deferred prosecution agreement. However, the U.S. Attorney did offer to minimize Plaintiff's criminal liabilities if he agreed to plead guilty to one count of insurance fraud.

26. On September 24, 2012, based on inadequate, inaccurate and/or improper advice provided by Wildman/Locke attorneys, Plaintiff pleaded guilty to one count of health care fraud under 18 U.S.C. §1347. The plea agreement provided that Plaintiff would not suffer any adverse financial or liberty consequences at that time. The government sought Plaintiff's cooperation against his co-defendants (Mattson and Patel) and deferred sentencing for several years after Plaintiff entered into a plea agreement.

27. Indeed, in May, 2015, and based on many of the facts and circumstances asserted herein, Wildman/Locke attorneys filed a motion to withdraw Plaintiff's guilty plea, conceding that Plaintiff had not been properly or adequately advised or **represented at the time his guilty** plea was entered.

28. The United States District Court denied a portion of such motion in October, 2015 but the found that Plaintiff was entitled to an evidentiary hearing on the question of whether Plaintiff received ineffective assistance of counsel with respect to the deferred prosecution agreement and conducted an evidentiary hearing on that question during the summer of 2016.

29. During the course of the evidentiary hearing, Wildman/Locke attorney Michael King stated, in open court:

Let me start by saying that I take no pleasure in making this argument. I am not happy about it because I think the record is clear that my law firm screwed up, and we should never have been in this situation and Mr. Paul should never have been in this situation. And a lawyer that I have known for 40 years, Mr. Cook, who served with me in the U.S. Attorney's Office, testified here, and I think testified inaccurately.

30. Notwithstanding Mr. King's argument, U.S. District Court denied Plaintiff's motion to vacate his guilty plea on December 2, 2016.

31. However, Plaintiff was not sentenced, and therefore did not suffer a cognizable injury resulting from Defendants' conduct, until December 5, 2017, at which time he was

ordered to serve 20 months in a federal penitentiary and subjected to a restitution order to pay Blue Cross another \$1,186,290 (plus applicable interest) despite his prior payments to Blue Cross and Blue Cross' complete and unconditional release of any liability he might have to the insurer.

COUNT I: MALPRACTICE

1 – 31. Plaintiff incorporates by reference paragraphs 1 – 31 of his Complaint as paragraphs 1 - 31 of this Count I.

32. At all relevant times, attorneys working at Wildman/Locke represented the Plaintiff and had an express attorney-client relationship with the Plaintiff, which was demonstrated by, *inter alia*, the appearances filed by Wildman/Locke Lord in Plaintiff's criminal case, issuing bills, demanding payments and collecting in excess of \$1 million from the Plaintiff.

33. As a result of that attorney-client relationship, the Wildman/Locke attorneys owed the Plaintiff duties of due care.

34. The Wildman/Locke Lord attorneys breached the standard of due care by, *inter alia*, failing to properly advise the Plaintiff concerning their negotiations with the U.S. Attorney, failing to exercise reasonable judgment and skill in negotiating with the U.S. Attorney, failing to analyze the best routes to avoid prosecution, improperly advising the Plaintiff to plead guilty without an adequate investigation of the quality of admissible evidence that could be presented in light of the Plaintiff's prior cooperation with the government, failure to exercise due care in advising and documenting Plaintiff's settlement and release with Blue Cross in a manner which left Plaintiff vulnerable to further financial prejudice and failing to adequately minimize the risks of and length of any potential incarceration.

35. As a result of the Wildman/Locke Lord attorneys' breaches of the standard of due care, Plaintiff has been deprived of his liberty interests, has been deprived of the opportunity to provide parenting to his minor children, has been deprived the opportunity to make a reasonable living commensurate with his education, skill and training, suffered additional pecuniary losses in excess of \$1,000,000 and suffered additional and further damages to be proven at trial.

WHEREFORE, Plaintiff Steven Paul respectfully urges this Court to enter judgment in his favor and against defendant Locke Lord, LLP in an amount in excess of \$1,000,000 and to be further proven at trial and for such other and further relief as this Court deems appropriate.

COUNT II: BREACH OF FIDUCIARY DUTY

1 – 35. Plaintiff incorporates by reference paragraphs 1 – 36 of his Count I as paragraphs 1 – 35 of this Count II.

36. Plaintiff reposed trust and confidence in the Wildman/Locke Lord attorneys to provide him with diligent and appropriate guidance and advice.

37. Plaintiff paid the Wildman/Locke Lord firm in excess of \$1,000,000 to provide him with diligent and appropriate guidance and advice.

38. The Wildman/Locke Lord attorneys knew that Plaintiff had reposed trust and confidence in him and accepted their role as his fiduciary.

39. The Wildman/Locke Lord attorneys breached their fiduciary duties to the Plaintiff by, *inter alia*, placing their own reputational and financial interests above his interests, providing incomplete and inaccurate legal advice, failing to properly and fully advise Plaintiff about their strategies and work on his behalf, failing to properly and fully advise Plaintiff concerning their discussions and negotiations with the U.S. Attorney's office on his behalf, failing to fully explore

the possibility of deferred prosecution or other strategies to minimize Plaintiff's risks of incarceration and financial prejudice.

40. As a result of the Wildman/Locke Lord attorneys' breaches of their fiduciary duties, Plaintiff has been deprived of his liberty interests, has been deprived of the opportunity to provide parenting to his minor children, has been deprived the opportunity to make a reasonable living commensurate with his education, skill and straining, suffered additional pecuniary losses in excess of \$1,000,000 and suffered additional and further damages to be proven at trial.

WHEREFORE, Plaintiff Steven Paul respectfully urges this Court to enter judgment in his favor and against defendant Locke Lord, LLP in an amount in excess of \$1,000,000 and to be further proven at trial and for such other and further relief as this Court deems appropriate.

JURY DEMAND

Plaintiff hereby demands trial by jury.

PLAINTIFF STEVEN PAUL

By: Alan J. Mandel
One of his attorneys

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