



Dave Koenig [REDACTED]

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## Mohan and Fuller complaints.

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Dave Koenig [REDACTED]

Mon, May 6, 2024 at 1:22 PM

To: OSB Client Assistance Office Intake &lt;cao@osbar.org&gt;

Dear Linn Davis,

Thank you for your update about the CAO handling of the Fuller and Mohan complaints. In the last five weeks I have had some additional written correspondence with Michael Fuller. I do not know if this rises to the level of something that should be added to report LDD 2301120, but I have deemed Mr. Fuller's communications erratic and concerning.

In early April, I received a letter from Mr. Fuller via postal mail only dated March 28th, 2024 with the final paragraph: "Please consider this letter an invitation to attend a mediation with a neutral retired judge to explore a global resolution of your liability. You told the Court that you may possibly sue your previous lawyer for malpractice. Accordingly, we've also addressed this letter to your previous lawyer's insurance company, in the event they want to attend the mediation as well to explore resolution of their liability."

Mr. Fuller and I have never had a conversation by voice, and I shared with the CAO all of our written communication up to the time of my submissions. The only time we heard each other speak was at our only court hearing about the anti-SLAPP motion on August 16th, 2023. I found it strange that he was suggesting bringing in a mediator without making it clear what he or his clients wanted from me and with no attempt to negotiate that deal on our own first.

I wrote back to him on April 9th, 2024 expressing a positive outlook toward negotiating some sort of deal with his clients without the presence of a mediator and asking for clarification on the goal of mediation.

Forty minutes after I emailed him my response, Mr. Fuller sent another email demanding immediate payment of his legal fees within ten days and threatening to "file a motion to obtain an order requiring you to appear before the court to answer under oath questions concerning the sources and locations of your income and assets."

I emailed him back on April 17th, 2024 with the brief message, "Why did you send me an invitation for mediation and then this demand letter? You could have just sent the demand letter immediately. There has to be a reason you asked for mediation. Also, why did you ask for mediation when you had not even attempted to talk to me first? You have not explained what you wanted from mediation."

I have heard nothing back from Mr. Fuller in the almost three weeks since that time. I am attaching to this email all of the correspondence that I have cited above.

This is merely a conjecture on my part, but I have some concern that Mr. Fuller's written communications to me are

EITHER an attempt to build a false narrative that I have been resistant to negotiating with him and his clients thus causing them to seek mediation, even though I am completely open and amicable to negotiation,

OR an attempt to use the cover of confidentiality of communications in mediation to ask me to remove the ethics complaint to the CAO against him or to reduce its severity.

As I stated above, I do not know whether this rises to the level of something that should be added to the ethics complaint, but I wanted to err on the side of transparency and to be completely forthcoming with the CAO about all communications that I have had with Mr. Fuller.

Sincerely,  
David Koenig

On Thu, May 2, 2024 at 10:49AM OSB Client Assistance Office Intake <cao@osbar.org> wrote:

Your complaints about lawyers Fuller and Mohan remain pending. Based upon the volume of files, I estimate you will receive a determination in the summer months. If possible, we will get to them earlier.

Thank you for your patience.



**Linn Davis**

Assistant General Counsel and CAO Attorney

503-431-6332

Oregon State Bar • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 • [www.osbar.org](http://www.osbar.org)

Please note: Your email communication may be subject to public disclosure. Written communications to or from the Oregon State Bar are public records that, with limited exceptions, must be made available to anyone upon request in accordance with Oregon's public records laws.

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#### 4 attachments



**2024-03-28 mediation letter fuller.pdf**

949K



**2024-04-09 mediation request response.pdf**

37K



**2024-04-09 demand fuller.pdf**

299K



**2024-04-17 response to demand.pdf**

25K



March 28, 2024

David Koenig  
[REDACTED]

Professional Liability Fund  
PO Box 231600  
Tigard, Oregon 97281

**RE Mediation**

As you know, I am not your attorney and I am not disinterested. Rather, I represent Mr. Clinchy and Ms. Clinchy, and my interests are in direct conflict with your interests. I cannot provide you with advice, except the advice to secure counsel.

In April of 2023 you filed a baseless lawsuit against my clients. I responded by explaining that your claims lacked probable cause. I explained that if you did not voluntarily dismiss your baseless lawsuit, we would file dispositive motions and seek a judgment against you for our attorney fees. I explained that after your case was dismissed, your wrongful use of civil proceedings may result in liability against you in a separate action. Now, 11 months later, as I explained would happen, the Court has determined that your baseless lawsuit lacked probable cause, your case was dismissed as a result of our dispositive motions, and a judgment has been entered against you for our attorney fees.

Please consider this letter an invitation to attend a mediation with a neutral retired judge to explore a global resolution of your liability. You told the Court that you may possibly sue your previous lawyer for malpractice. Accordingly, we've also addressed this letter to your previous lawyer's insurance company, in the event they want to attend the mediation as well to explore resolution of their liability.

Sincerely,

/s/ Michael Fuller  
Partner

US Bancorp Tower • 111 SW 5th Ave. • Suite 3150  
Portland, Oregon 97204 • 503-222-2000

April 9, 2024

Michael Fuller  
OlsenDaines  
US Bancorp Tower  
111 SW 5th Ave, Suite 3150  
Portland, OR 97204

Dear Mr. Fuller,

Thank you for your letter of March 28th. It is clear that either you or your clients Mr. and Mrs. Clinchy—or possibly both—want something from me. Please clarify who wants mediation and what the goal of it is.

A mediator costs money. You have said nothing about how this would be paid for. Is your intention for your firm to pay for mediation? A mediator does not seem to me to be a necessary or helpful expense at this point.

I believe that a conversation between Mr. and Mrs. Clinchy and myself is an excellent idea. Despite how profoundly damaged our relationship has become over the last many years, I believe that if we all approach a conversation with an open mind, it will not be hard to see that it is still easily within the realm of possibility for me to do a number of things that would help their interests and for them to do a number of things that would help my interests. I have many concrete ideas for how that can happen, and I do not believe that a mediator is necessary to facilitate such a discussion.

Furthermore, I strongly believe that Mr. and Mrs. Clinchy will be glad that they had a conversation with me, regardless of whether we are able to come to a specific agreement. It will not be a waste of their time, and it will not be a negative experience.

If we are not able to come to an agreement after an initial discussion, then I would consider mediation, if we all deemed that it would increase the chances of a productive follow-up discussion. My hunch, however, is that a mediator will never become necessary.

Frankly, Mr. Fuller, I am not sure whether your participation is helpful to such a discussion. Now that our legal case is closed and you are still under investigation by the Oregon State Bar for ethics violations related to the case, it seems to me that your interests may not be well aligned with those of Mr. and Mrs. Clinchy. You also did more than anyone else during our case to drive up the legal expenses with superfluous paperwork, which is to my disadvantage based on the judge's decision but easily could have been to the disadvantage of Mr. and Mrs. Clinchy.

At the same time, I recognize that Mr. and Mrs. Clinchy may only want to speak to me with their lawyer present. So I welcome your participation at their discretion.

It would probably be a waste of time for you and me to meet without the presence of both Mr. and Mrs. Clinchy. This would only create a situation where anything we discussed could not be agreed upon by them at the time, and it might enable you to distort our conversation to them. Regardless of whether you or they did most of the talking, I would insist on their presence for such a meeting to take place.

I will also pass this letter along to Mr. and Mrs. Clinchy through an intermediary.

Sincerely,  
David Koenig



April 9, 2024

David Koenig



**RE Demand to Pay Judgment**

As you know, I am not your attorney and I am not disinterested. Rather, I represent Mr. Clinchy and Ms. Clinchy, and my interests are in direct conflict with your interests. I cannot provide you with advice, except the advice to secure counsel.

Please take notice of this demand to pay the attached judgment entered against you in case number 23CV15424. You can make your check payable to OlsenDaines Trust Account and mail it to OlsenDaines, US Bancorp Tower, 111 SW 5th Avenue, Suite 3150, Portland, Oregon 97204.

If you do not pay this judgment in full within 10 days, we may file a motion to obtain an order requiring you to appear before the court to answer under oath questions concerning the sources and locations of your income and assets.

Sincerely,

/s/ Michael Fuller  
Partner

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3 IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
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5 FOR MULTNOMAH COUNTY  
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7 **DAVID KOENIG**

8 Plaintiff

9 vs

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11 **EVANS CLINCHY**  
12 **JENNIFER CLINCHY and**  
13 **BRIANNA (LOLA) McKISSEN**

14 Defendants

Case No. 23CV15424

**SUPPLEMENTAL JUDGMENT  
AND MONEY AWARD RE:  
JENNIFER CLINCHY AND EVANS  
CLINCHY'S SPECIAL MOTIONS  
TO STRIKE UNDER ORS 31.150**

**(Hon. Kelly Skye)**

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16 The Court having reviewed the statement of Jennifer Clinchy and Evans  
17 Clinchy for attorney fees, costs and disbursements and supporting materials,  
18 including the expert declaration of Matthew Kirkpatrick, and the Court having  
19 issued an order on the statement dated February 16, 2024,  
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22 **IT IS ADJUDGED** that supplemental judgment and money award is entered  
23 in favor of defendants Jennifer Clinchy and Evans Clinchy against plaintiff David  
24 Koenig for \$48,559.50 in attorney fees, \$1,188 in costs, and \$690 as prevailing party  
25 fees.  
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2 **MONEY AWARD**

3 **JUDGMENT**  
4 **CREDITORS:**

Jennifer Clinchy  
Evans Clinchy

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6 **ADDRESS OF**  
7 **JUDGMENT**  
8 **CREDITORS:**

OlsenDaines  
111 SW 5th Avenue, Suite 3150  
Portland, Oregon 97204


9  
10 **JUDGMENT**  
11 **CREDITORS'**  
12 **ATTORNEY:**

Michael Fuller

13 **JUDGMENT**  
14 **DEBTOR:**

David E. Koenig

15 **JUDGMENT**  
16 **DEBTOR**  
17 **INFORMATION:**

Last Known Address	
Date of Birth	xx/xx/1977
Social Security Number	N/A
Driver's License No.	N/A
State of Issuance	N/A

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21 **JUDGMENT**  
22 **DEBTOR'S**  
23 **ATTORNEY:**

N/A

24 **ADDRESS OF**  
25 **JUDGMENT**  
26 **DEBTOR'S**  
27 **ATTORNEY:**

N/A

28 **OTHERS ENTITLED**  
**TO ANY PORTION**  
**OF JUDGMENT:**

N/A



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**POSTJUDGMENT  
INTEREST:**

Simple interest at the rate of 9 percent per annum on the total judgment from the date judgment is entered until fully paid.

**ATTORNEY FEES:**

\$48,559.50

**COSTS AND  
DISBURSEMENTS:**

\$1,878.00

3/19/2024 2:29:02 PM



Circuit Court Judge Kelly Skye

**Presented by:**

/s/ Michael Fuller

Michael Fuller, OSB No. 09357  
Of Attorneys for Jennifer and Evans Clinchy  
[michael@underdoglawyer.com](mailto:michael@underdoglawyer.com)



Dave Koenig [REDACTED]

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**response to mediation request**

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**Dave Koenig** [REDACTED] >  
To: Michael Fuller <michael@underdoglawyer.com>  
Cc: Michael Hickman <staff@underdoglawyer.com>

Wed, Apr 17, 2024 at 2:02 PM

Why did you send me an invitation for mediation and then this demand letter? You could have just sent the demand letter immediately. There has to be a reason you asked for mediation. Also, why did you ask for mediation when you had not even attempted to talk to me first? You have not explained what you wanted from mediation.

On Tue, Apr 9, 2024 at 1:47 PM Michael Fuller <michael@underdoglawyer.com> wrote:

Please see the attached document.

Thank you,

Michael Fuller  
Partner  
OlsenDaines  
503-222-2000  
He/Him

On Tue, Apr 9, 2024 at 1:06 PM Dave Koenig <[REDACTED]> wrote:

Please see the attached letter.