

# LDD 2301120: Ethics Complaint About Michael Fuller to CAO

## Introduction

Michael Fuller has lied incessantly and attempted to bully both me and my former counsel Marc Mohan throughout case 23CV15424 in Multnomah County Circuit Court. When I started pointing out the unethical ways that Mr. Fuller manipulated and intimidated Mr. Mohan into wanting to withdraw from my case, Mr. Fuller became more belligerent and started threatening me. Almost every single time that he has put something in writing related to this case, he has lied, and I watched him lie to the judge's face in our only in-person hearing. I will include with this letter all of the bullying correspondence that he sent to Mr. Mohan and to me, and I will enumerate every single one of his lies and the ways in which he attempted to intimidate both of us.

Mr. Fuller's lies go beyond what is strategically useful to manipulate an opponent or a judge on a few key matters that might help tip a case in his favor. Many times he has told lies that are easily disprovable and not necessarily all that important to the outcome of a case. However, his legal technique is to barrage his opponents with an incessant stream of paperwork containing so many untruths to the point where the lies become so normalized that the other side tires of pointing them out or loses the ability to detect them anymore.

## Dishonesty And Bad Faith Litigation Conduct In Motion To Strike

Since Mr. Fuller's response to the ethics complaint included *Evans Clinchy's Special Motion to Strike*, I will begin addressing his dishonesty there.

Literally the entirety of subsections 6 and 7 of the "Factual Background" section (pages 4-7) are lies. Not only did Mr. Fuller have the gall to put the title "Factual Background" on a section of a public court document that he filled with made-up stories about the plaintiff and the attorneys the plaintiff worked with, he also had the even greater gall to refer to the same lies in a section called "Brief Factual Background" of his letter to the CAO, after the plaintiff had already disproven those lies.

In section 7, Mr. Fuller accused the plaintiff of "bad faith litigation conduct," an accusation that he also made in direct correspondence with the plaintiff and his counsel many times in the case. The irony is that the plaintiff acted in impeccable good faith throughout all of the proceedings of this case, while Mr. Fuller and the defendants he represented consistently acted in bad faith the entire time.

I am attaching as evidence the *Plaintiff's Supplemental Response To Evans Clinchy's And Jennifer Clinchy's Special Motions To Strike*, which thoroughly disproves all of the lies that Mr. Fuller wrote in the sections referred to above and which thoroughly demonstrates Mr. Fuller's and the Clinchys' own bad faith litigation conduct. (Filename beginning "A")

Additionally, I am attaching *Plaintiff's Declaration In Support Of Plaintiff's Motion To Determine The Sufficiency Of Jennifer Clinchy's Responses And Objections To Requests For Admission*, which is referred to in the previous document and which provides further explanation and

## LDD 2301120: Ethics Complaint About Michael Fuller to CAO

evidence of bad faith litigation conduct by defendant represented by Mr. Fuller. (Filename beginning "B")

### Extortionate Behavior In Petitioning For Legal Fees

ORS 31.152(3) says "A defendant who prevails on a special motion to strike made under ORS 31.150 shall be awarded reasonable attorney fees and costs." Because the judge upheld the defendants' special motions to strike, both defense attorneys petitioned the court for fees. The total amount of money I paid my lawyer Marc Mohan for representation on this case was \$14,085.20. Defense attorney Ashley Vaughn billed for her fees honestly and petitioned for \$9,339.65. Michael Fuller petitioned for \$84,717.25. I am including both Ms. Vaughn's and Ms. Fuller's petitions for legal fees as evidence. (Filenames beginning "C")

One need not look any further than those three numbers to recognize that Mr. Fuller is attempting to extort an unreasonable amount of money from the plaintiff. Furthermore, the history of his communication with the plaintiff illustrates that these tactics are a common practice for Mr. Fuller and have nothing to do with the specifics of this case.

The initial letter that Mr. Fuller sent to my lawyer Mr. Mohan on April 25th, 2023 stated up front that he would seek legal fees against us and include a fee multiplier, as he did do. (Filename beginning "D".) He even included paperwork from several previous cases showing petitions for legal fees.

### Intentionality In Using A Protective Order As An Unethical Legal Weapon

The second letter that Mr. Fuller sent to Mr. Mohan, only a day later, asked for a meeting in order to confer on a protective order. (Filename beginning "E") Mr. Fuller disingenuously phrased the letter as if the protective order would have been something that my attorney wanted. Considering the fact that the protective order did not get put into place until a month later, that the protective order was entirely written by Mr. Fuller, and that I had never asked Mr. Mohan for a protective order nor had Mr. Mohan brought it up with me, there can be no doubt that the protective order was entirely Mr. Fuller's idea and was put into effect entirely on his initiative.

As was already shown in previous documents, Mr. Fuller approached the entirety of discovery in an obstructionist way, making frivolous objections, using the protective order as an excuse for delaying responses to requests for production, and never submitting a single responsive document as evidence. The only document that Mr. Fuller ever labeled "Confidential - Attorney's Eyes Only" per the protective order was the email from Terry Kang to the Clinchys' that he specifically used to undermine my working relationship with Mr. Mohan. (Exhibit F of the August 10th Declaration attached to original CAO complaint)

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## General Nastiness And Bullying

Mr. Fuller sent yet another letter for a third day in a row on April 27th, 2023. (Filename beginning "F") This was a Thursday, and May 1st was the following Monday. Two days before Mr. Fuller had just sent, in duplicate for each defendant, a 49 page document with 253 Requests for Production. One day before he had followed up with a 189 page supplemental document with 644 more Requests for Production, also in duplicate for each defendant. He also included in his April 26th and 27th correspondences multiple requests for admission and requests for inspection.

Mr. Fuller's tactic was clearly to overwhelm the opposing counsel with an absurd amount of spurious paperwork and then to act as if any delay by the other side was an act of bad faith. The opening paragraph of his April 27th letter makes this obvious.

I am 100% sure that Mr. Fuller and Mr. Mohan spoke on the phone on Monday, May 1st, as I received an email from Mr. Mohan that afternoon outlining the call. It appears that Mr. Fuller contacted Mr. Mohan late in the previous week to set up a time to talk, and the first time that they were able to schedule was the following Monday, which is a completely normal circumstance.

Mr. Mohan may not have been available to speak sooner anyway, but on top of that, when an opposing attorney has just sent you hundreds of pages of paperwork over three consecutive days in the middle of a week, it might make sense that the one receiving the call might want an opportunity to at least skim over most of the paperwork before taking the call.

Mr. Fuller's intellectually dishonest phrasing, "you are not available to confer until next month at the earliest," and "if you continue to unnecessarily delay conferrals moving forward, we will seek Court assistance," are unquestionably designed to create a false narrative that Mr. Mohan was doing anything to obstruct the process of justice.

## False Accusations About Plaintiff

The next three letters that Mr. Fuller sent to Mr. Mohan have already been included as Exhibits C, D, and E of the August 10th Declaration attached to the original CAO complaint. The June 8th letter was an attempt to distort a conversation he had with Mr. Mohan and rush the end of discovery so that we would not have time to collect any more evidence. The irony was that he sent this on the same day as his clients' only response to Requests For Production, which included no evidence and created a 30 day delay before they had to submit any.

The following letter, which was sent on June 16th, the day after I published "The Scapegoat" on splenetic.net, made false accusations that I "withheld or destroyed relevant responsive documents." As I explained in the declaration, I had already given all of the evidence that Mr. Fuller was looking for to Mr. Mohan, and the only reason that it had not already been submitted to discovery was Mr. Mohan's incompetence.

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I understand that the story outlined in “The Scapegoat” included mentions of various communications that Mr. Fuller and his clients did not already have access to, and that was a frustrating position to be put into. However, if I was trying to keep those documents from Mr. Fuller and the defendants, would it have made any sense for me to make a public statement mentioning them?

I made that statement under the incorrect assumption that Mr. Mohan had already passed those documents along in discovery, because Mr. Mohan had not been letting me see the details of what evidence he had and had not submitted.

Mr. Fuller’s wild accusations about withholding or destroying documents fit the larger pattern of him writing a conjecture-filled nonsense story about situations where he has limited knowledge in order to create a false narrative of bad faith conduct by the other side.

Mr. Fuller’s July 6th letter, which included the Terry Kang email, accused me of “tampering and fraud” as well as “waiv[ing] attorney-client privilege pertaining to the subject matter of this litigation.” The August 10th Declaration includes the real three-message conversation that Ms. Kang and I had, which neither Mr. Fuller nor Mr. Mohan had yet seen when Mr. Fuller sent this letter and when Mr. Mohan threatened to withdraw from my case the following day. The Declaration gives enough explanation and other evidence to show that the accusations in Mr. Fuller’s July 6th letter are absurdly false.

In particular, anyone in the tournament Scrabble community who knows both Terry Kang and her now ex-husband Stefan Rau well will be able to tell you that he is a far more reliable source than she is, and he made a statement directly contradicting her claims in that email. Ms. Kang’s own previous communications with me also undermine what she said in that email. (Exhibits H, I, J of the August 10th Declaration)

Ms. Kang’s July 6th email had no private or personal information in it that would require it being labeled as “Confidential - Attorney’s Eyes Only.” There is only one reason that it was marked as such: so that Mr. Fuller could manipulate Mr. Mohan into abandoning my defense without me being able to see what they were talking about and without me being able to defend myself from the false accusations that both Ms. Kang and Mr. Fuller made.

Mr. Fuller’s response to the initial complaint to the CAO dismisses the idea that Mr. Fuller assisted, induced, coerced, or intimidated Mr. Mohan into withdrawing from my case on the basis that I consented to his withdrawal. The reason that this argument is incorrect is that I only consented to his withdrawal three weeks later on July 28th, after Mr. Mohan and I were able to straighten out the misunderstandings that Mr. Fuller had created. The withdrawal letter that Mr. Mohan actually submitted was what we had both agreed on after we had worked things out.

I am attaching as additional evidence the email that Mr. Mohan sent me on July 7th, which included a letter explaining his rationale and a motion for withdrawal that he said he would file in the court on the following Monday. (Filenames beginning “G”) As you can see from the

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highlighted part of the attached letter, his rationale for attempting to withdraw from the case at that time was exactly the same as the accusations that Mr. Fuller made in his July 6th letter.

By the time I was able to speak to Mr. Mohan in person the following Monday, I had already correctly guessed that this was about my Facebook communication with Terry Kang and sent him a screenshot and an explanation. Mr. Mohan knew that he had been fooled and he no longer believed the things that he had written in that letter. He was no longer advising me to drop the case. Instead, he admitted his own incompetence and tried to help me find substitute counsel.

### Intimidation In Response To August 10th Declaration

Because of a court delay, the August 10th Declaration did not get filed and served until the following Monday, August 14th, two days before our scheduled hearing on the special motions to strike. Starting on that Monday and then continuing Wednesday morning, Mr. Fuller sent me a series of hostile letters and emails, attempting to strike the filing on the grounds that it included the Terry Kang email that Mr. Fuller had labeled “Confidential - Attorney’s Eyes Only,” and threatening to get me held in contempt of court and to get “per diem sanctions against (me).” (Filenames beginning with “H”)

In those emails, Mr. Fuller also continued his usual tactics of making up baseless accusations about the plaintiff, this time alleging that I had put malware in the filed documents, because people in his office had trouble opening the files.

The August 16th court hearing was supposed to address two different motions. The first was a motion to grant a different protective order to Jennifer Clinchy to answer one specific request for admission under seal, and the second was the special motions to strike. However, we never addressed the first motion and Mr. Fuller instead redirected the entire conversation with the judge to be about his complaints regarding the May 25th protective order.

My main takeaway from that part of the hearing was that the judge did not make any official decisions nor did she care to learn any of the details of what that particular Terry Kang email was about. When I explained to the judge that I did not believe that the protective order restricted my usage of the Terry Kang email, because I had received the email outside of the usual means of the protective order, when I had not signed the protective order, she did not argue with me. This is also explained in my August 16th letter to Mr. Fuller. (Filename beginning “H5”)

I was not put in contempt of court, and I was not disciplined for releasing that letter in any way. The judge did not order that the August 10th Declaration with the Terry Kang email be retroactively put under seal. The only concrete outcome of that part of the hearing was that the judge made sure that I understood that the protective order did apply to me moving forward.

At that hearing, Mr. Fuller also lied directly to the judge’s face, claiming that I had written in my letter that I did not intend to comply with the protective order, the same lie that he had written in

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the last of his letters to me that morning. (Filename beginning "H6") If you read over my letter that he was responding to, I said nothing about my future intentions when it came to the protective order. I simply said that I had not signed the protective order.

### Conclusion

Mr. Fuller has lied incessantly in almost every letter that he sent to me and my former attorney Mr. Mohan. He repeatedly made up baseless stories about me and accused me of bad faith litigation conduct, when my conduct in this case has been beyond reproach. On the other hand, Mr. Fuller and his clients have themselves repeatedly engaged in bad faith litigation conduct.

Mr. Fuller is presently attempting to extort an obscene amount of money from me, as can be seen from his statement of attorney fees, which is completely out of line with what the other attorneys have billed for this case.

Mr. Fuller attempted from the very outset of this case to get a protective order in place, and he used it for two purposes only: to give an excuse for not submitting any responsive documents to requests for production for a month, and to intimidate my counsel into leaving my case for false reasons without me being able to see those reasons and respond appropriately.

Fortunately, I was able to figure out what the lies were about despite having an important piece of the puzzle unethically hidden from me. Though Mr. Mohan and I parted ways later for different reasons, Mr. Mohan's July 7th letter to me demonstrates that Mr. Fuller had temporarily convinced him of false things about me.

When I reported Mr. Fuller's unethical behavior both to the court and the Oregon State Bar, he became increasingly hostile and threatening, in desperate attempts to remove the proof of his wrongdoing from the court record and to intimidate me.

I wish Mr. Mohan had been wise and strong enough not to fall for Mr. Fuller's bullying and deception. That said, the extent to which the Oregon State Bar tolerates using a protective order to create a back channel of communication between opposing counsels and putting their clients into a position where they are dealing with accusations that they are not allowed to see makes a mockery of our justice system.

Although the confrontation clause of the Sixth Amendment technically may not apply, because I was not the accused in a criminal prosecution, the same principle should apply. Anyone who is accused of anything should have the right to know who is accusing him or her and what the accusations are. Anything less than that is Kafkaesque.

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List of all attachments that were sent to the CAO:

- A. [Plaintiff's Supplemental Response to Clinchys' Motions to Strike](#)
- B. [Plaintiff's Declaration In Support of Motion to Determine Sufficiency](#)
- C. Statements of Attorney Fees (omitted)
- D. Fuller letter to Plaintiff, April 25th (11 pages)
- E. Fuller letter to Plaintiff, April 26th (1 page)
- F. Fuller letter to Plaintiff, April 27th (1 page)
- G. Mohan email to Plaintiff with attachments, July 7th (7 pages)
- H. Emails and letters between Fuller and Plaintiff, August 14th & 16th (7 pages)

Only attachments D through H are appended to this document.



April 25, 2023

David Koenig  
c/o attorney Marc Mohan  
1525 SE 22nd Avenue  
Portland, Oregon 97214  
[veritelawcompany@gmail.com](mailto:veritelawcompany@gmail.com)

**RE Notice of Representation**  
**Case No. 23CV15424**

We've been retained by Jennifer and Evans Clinchy to defend the lawsuit you filed against them. The Law Office of Kelly D. Jones has been retained to oversee motions practice, in the event the case results in an appeal. As a legal matter, based on the facts as we see them, your lawsuit has no objectively reasonable basis. Please understand that there will be no money paid by our clients to settle what we consider to be baseless claims. Ever.

If we must begin litigation, we will defend the case to judgment, either through dispositive motions, or through a trial by jury. **Assuming we secure a verdict in our favor, we will file a statement under ORS 20.105 asking the Court to enter judgment against you in the amount of the legal fees needlessly incurred defending your baseless claims, along with a fee multiplier under ORS 20.075.** My litigation rate in this case is \$545 per hour. I've been given full authority to mount the best defense possible. After we begin litigation, it will be impossible for you to later withdraw your lawsuit against my clients voluntarily, without being required to pay any judgment entered in our favor for legal fees<sup>1</sup> and costs and disbursements as the prevailing party.

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<sup>1</sup> My jury trial in April resulted in a \$430,126 fee statement. Case No. 19CV42308.



# D.Fuller Letter.pdf

Attached are three recent defense judgments I secured against plaintiffs who refused to promptly dismiss baseless lawsuits against my clients, requiring the plaintiffs to pay my clients' attorney fees.<sup>2</sup>

If you wish to proceed with litigation against my clients under these circumstances, that is your right, though the outcome may not be what you had hoped for, and may result in a money judgment against you in favor of my clients.<sup>3</sup> Please also understand that your failure to promptly dismiss my clients from this baseless lawsuit may also result in separate liability against you and your attorney, as we establish through motions practice and discovery that your claims lack probable cause, and that you acted with a primary purpose other than securing an adjudication on the merits of your claims.

If you wish to end the expense of litigation with my clients, please file a notice of voluntary dismissal with respect to them, and circulate a draft form of judgment for my review. If not, we respect your decision, and we will call your attorney on Thursday to confer on our forthcoming motions and to schedule your examination with Dr. Wicher. Thank you.

Sincerely,

s/ Michael Fuller  
Partner

Enclosures    Initial Requests for Production  
                  Prior Judgments

cc                Emily Templeton, Associate  
                  Nate Haberman, Associate  
                  Kelly D. Jones

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<sup>2</sup> We have recent experience defending against baseless defamation and IIED claims. The attached Washington County judgment involved a complaint similar to yours, claiming defamation and IIED against a local doctor. The Court ultimately entered judgment against the plaintiff on her own defamation claim through motions practice, and the IIED claim was later dismissed through unconditional surrender by the plaintiff, requiring her to pay our client's attorney fees.

<sup>3</sup> Legal fees owed under ORS 20.105 may not be dischargeable in bankruptcy, and any unpaid fee award may create a lien on your home. *See, e.g., Hamm v. Burcar (In re Hamm)*, Nos. CC-20-1049-LSF, 9:18-bk-10785-DS, 9:18-ap-01045-DS, 2020 Bankr LEXIS 2593, at \*20 (BAP 9th Cir Sep. 29, 2020).

IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR CLACKAMAS COUNTY

Case No. 22CV39956

**Indigo Construction, LLC**

Plaintiff

v.

**Randall Woods, an individual,**  
Defendant.

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**ORDER RE ATTORNEY  
FEES AND COSTS**

**FINDINGS AND RULINGS RE ATTORNEY FEES**

This matter comes before the Court on Defendant’s request for attorney fees.

Oral argument was held on 3/2/23, via Webex. Plaintiff appeared, represented by Stephen Leatham, and Defendant appeared, represented by Daniel Fuller.

**Statutory Factors Relied Upon in Determining Whether Fees Shall Be Awarded (ORS 20.075 (1)):**

The Court has considered the following factors in determining whether to award attorney fees in this case. A checked box indicates that in this case, the Court found the factor to be particularly relevant to its decision:

- a) The conduct of the Plaintiff in the transactions or occurrences that gave rise to the litigation, including any conduct of a party that was reckless, willful, malicious, in bad faith or illegal.
- b) The objective reasonableness of the claims and defense asserted by the parties.
- c) The extent to which an award of an attorney fee in the case would deter other from asserting good faith claims or defenses in similar cases.
- d) The extent to which an award of an attorney fee in the case would deter others from asserting meritless claims and defenses.
- e) The objective reasonableness of the parties and the diligence of the parties and their attorneys during the proceedings.
- f) The objective reasonableness of the parties and the diligence of the parties pursuing settlement of the dispute.
- g) The amount that the court has awarded as a prevailing party fee under ORS 20.190 (not relevant in family law case).

## D.Fuller Letter.pdf

- h) Such other factors as the court may consider appropriate under the circumstances of the case.

**If fees are awarded, the court shall consider, and has considered, the following factors in determining the amount of an award of attorney fees and costs (ORS 20.075 (2)):**

- a) The time and labor required in the proceeding, the novelty and difficulty of the questions involved in the proceeding and the skill needed to properly perform the legal services.
- b) The likelihood, if apparent to the client, that the acceptance of the particular employment by the attorney would preclude the attorney from taking other cases.
- c) The fee customarily charged in the locality for similar legal services.
- d) The amount involved in the controversy and the results obtained.
- e) The time limitation imposed by the client or the circumstances of the case.
- f) The nature and length of the attorney's professional relationship with the client.
- g) The experience, reputation and ability of the attorney performing the services.
- h) Whether the fee of the attorney is fixed or contingent.

### **The Court concludes and Rules:**

Reasonable attorney fees and costs are awarded. The hourly rate for services charged by the moving counsel is reasonable, and an award of \$ 8,457.50 in attorney fees, \$170 in costs, and a prevailing party fee of \$85, for a total award of **\$8,712.50.**

The Court is disinclined to entertain any further attorney fee requests.

**It is SO ORDERED.**

DATED: 3/3/2023

  
HEATHER L. KARABEIKA  
CIRCUIT COURT JUDGE

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IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR CLACKAMAS COUNTY

**INDIGO CONSTRUCTION, LLC,**  
an Oregon limited liability company,

Plaintiff

vs

**RANDAL WOODS,** an individual,

Defendant

Case No. 22CV39956

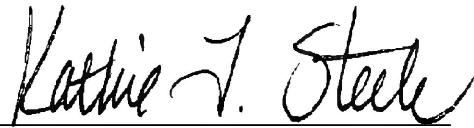
**STIPULATED  
GENERAL JUDGMENT**

By stipulation of the parties, judgment shall be entered in this action in favor of defendant as prevailing party and this action shall be dismissed with prejudice.

Accordingly, the Court now enters judgment as follows:

**IT IS ADJUDGED** that this action is dismissed with prejudice.

12/29/2022 11:38:41 AM



Circuit Court Judge Kathie F. Steele

**CERTIFICATE OF SERVICE**

I certify that I caused this document to be served by first class mail to the address below, and a courtesy copy provided by email on the date below:

**Indigo Construction, LLC**  
**c/o attorney Stephen Leatham**  
**Post Office Box 611**  
**Vancouver, Washington 98666**  
[sgl@hpl-law.com](mailto:sgl@hpl-law.com)

December 28, 2022

/s/ Michael Fuller  
**Michael Fuller, OSB No. 09357**  
Attorney for Mr. Woods  
OlsenDaines  
US Bancorp Tower  
111 SW 5th Ave., Suite 3150  
Portland, Oregon 97204  
[michael@underdoglawyer.com](mailto:michael@underdoglawyer.com)  
Direct 503-222-2000

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IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR WASHINGTON COUNTY

**KARA HOFFMAN**  
Plaintiff  
vs  
**PETER HOFFMAN**  
Defendant

Case No. 21CV21305

**GENERAL JUDGMENT**

Based on the stipulation of the parties,

**IT IS ADJUDGED** that a general judgment shall be entered in favor of defendant against plaintiff for \$884.00 in costs and \$2,500.00 in attorney fees, and plaintiff's complaint is dismissed with prejudice.

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**MONEY AWARD**

**JUDGMENT CREDITOR:** Peter Hoffman

**ADDRESS OF JUDGMENT CREDITOR:** OlsenDaines  
111 SW 5th Avenue, Suite 3150  
Portland, Oregon 97204

**JUDGMENT CREDITOR'S ATTORNEY:** Michael Fuller

**JUDGMENT DEBTOR:** Kara Hoffman

**JUDGMENT DEBTOR INFORMATION:**

Last Known Address	10121 SE Sunnyside Rd., Suite 300 Happy Valley, Oregon 97015
Date of Birth	N/A
Social Security Number	N/A
Driver's License No.	N/A
State of Issuance	N/A

**JUDGMENT DEBTOR'S ATTORNEY:** Jose Cienfuegos

**ADDRESS OF JUDGMENT DEBTOR'S ATTORNEY:** 10121 SE Sunnyside Rd., Suite 300  
Happy Valley, Oregon 97015

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

**PRINCIPAL:** \$0.00

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AMOUNT OF JUDGMENT:	\$0.00
PREJUDGMENT INTEREST:	0
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:	\$2,500.00
COSTS AND DISBURSEMENTS:	\$884.00
EXPENSES:	\$0.00
TOTAL AMOUNT OF JUDGMENT:	\$3,384.00

2/17/2022 11:34:35 AM



Circuit Court Judge, Andrew Erwin

**Presented by:**

Michael Fuller, OSB No. 09357  
Lead Trial Attorney for Defendant  
[michael@underdoglawyer.com](mailto:michael@underdoglawyer.com)

**Stipulated to by:**

  
Counsel for Plaintiff

2/9/2022  
Date



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IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR WASHINGTON COUNTY

**KARA L. HOFFMAN**  
Plaintiff  
vs  
**PETER E. HOFFMAN**  
Defendant

Case No. 21CV21305

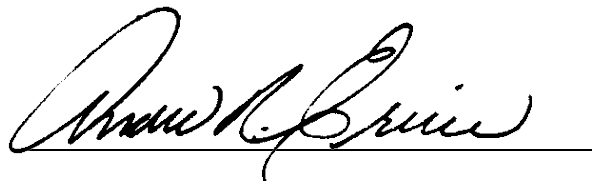
**ORDER ON DEFENDANT'S  
RENEWED MOTION TO DISMISS**

The Court having reviewed defendant's renewed motion to dismiss plaintiff's claims for slander *per se* in the amended complaint and request for attorney fees, and plaintiff's response, and having heard oral argument on September 13, 2021,

**IT IS ORDERED** that defendant's motion is **GRANTED**.

**IT IS ORDERED** that defendant's request for attorney fees is reserved for ruling until the conclusion of all the issues in this case. Upon conclusion, defendant should bring this reservation to the Court's attention.

Signed: 10/12/2021 09:19 AM



Circuit Court Judge, Andrew Erwin

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IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR MULTNOMAH COUNTY

**ROGER POLLOCK**

Plaintiff

vs

**PETER EMIL HOFFMANN**

Defendants

Case No. 22CV15221

**STIPULATED  
GENERAL JUDGMENT**

Based on the stipulation of the parties,

**IT IS ADJUDGED** that plaintiff's complaint is dismissed with prejudice.

8/4/2022 4:47:41 PM



Circuit Court Judge Judith H. Matarazzo Proxy  
Signed by MF



April 26, 2023

David Koenig  
c/o attorney Marc Mohan  
1525 SE 22nd Avenue  
Portland, Oregon 97214  
[veritelawcompany@gmail.com](mailto:veritelawcompany@gmail.com)

**RE Notice of Intent**  
**Case No. 23CV15424**

As you know, we've been retained by Jennifer and Evans Clinchy in the above-captioned case, and we intend to file an appearance for them, as soon as the pleadings are cleaned up. Please let us know your availability tomorrow to confer on motions to dismiss, motions to make more definite and certain, and motions to strike.

Attached please find supplemental requests for production. **If you require entry of a protective order prior to producing plaintiff's responsive documents, please be prepared to confer on the protective order tomorrow, and please file the proposed order with enough time for the Court to review and enter the order prior to plaintiff's discovery response deadlines.**

Please be prepared during conferral tomorrow to discuss available dates in May for plaintiff's mental examination by Dr. Wicher. Thank you.

Sincerely,

s/ Michael Fuller  
Partner

Enclosures Supplemental Requests for Production

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



April 27, 2023

David Koenig  
c/o attorney Marc Mohan  
1525 SE 22nd Avenue  
Portland, Oregon 97214  
[veritelawcompany@gmail.com](mailto:veritelawcompany@gmail.com)

**RE Case No. 23CV15424**

We received your message stating that you are not available to confer until next month at the earliest. Please understand that we intend to vigorously and expeditiously dispose of this baseless lawsuit, with or without your participation. As the plaintiff in this case, you alone made the decision to file the lawsuit, and you alone decided the timing of the filing. If you continue to unnecessarily delay conferrals moving forward, we will seek Court assistance.

Attached please find requests for inspection and a supplemental request for admission and a deposition notice to Steve Pellinen, the witness named in your complaint. Based on the facts as we understand them, Mr. Pellinen has serious health issues making it imperative that his testimony be taken on the record as soon as possible. If you intend to attend Mr. Pellinen's deposition and you cannot attend on May 15, please provide sooner dates that you are available and we will reschedule the examination to accommodate you.

Sincerely,

s/ Michael Fuller  
Partner

Enclosures    Requests for Inspection  
                  Supplemental Request for Admission  
                  Deposition Notice to Steve Pellinen

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



Dave Koenig [REDACTED]

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## Withdrawal

1 message

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**Marc Mohan** <marc@veritelawcompany.com>

Fri, Jul 7, 2023 at 2:34 PM

To: Dave Koenig [REDACTED]

Dave,

Please see the attached documents.

Sincerely,

Marc

Marc Mohan  
Verite Law Company  
1525 SE 22nd Ave.  
Portland OR 97214  
(503) 754-1656

\*\*\*PLEASE NOTE NEW EMAIL ADDRESS\*\*\*



[marc@veritelawcompany.com](mailto:marc@veritelawcompany.com)

### CONFIDENTIAL COMMUNICATION

E-mails from this firm normally contain confidential and privileged material, and are for the sole use of the intended recipient. Use or distribution by an unintended recipient is prohibited, and may be a violation of law. If you believe that you received this e-mail in error, please do not read this e-mail or any attached items. Please delete the e-mail and all attachments, including any copies thereof, and inform the sender that you have deleted the e-mail, all attachments and any copies thereof. Thank you.

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### 3 attachments

 **Order granting withdrawal.pdf**  
89K **Motion to Withdraw.pdf**  
122K **23-07-07 letter.pdf**  
55K

David Koenig

[REDACTED]  
[REDACTED]

Dave,

I'm writing because I have recently become aware of actions and communications on your part that require me to withdraw from representing you in the current action.

Under Oregon Rule of Professional Conduct (ORPC) 1.16(a)(1), an attorney must withdraw from representation of a client when the attorney has reason to believe that the representation will result in a violation of law or of the ORPC. Based on the history of our interactions and the information I recently received, **I believe that continuing to represent you in this matter would likely involve me in activities that could constitute witness tampering, fraud, and harassment.**

**In addition, your actions and communications have affected my ability to pursue a meritorious case on your behalf, by having the effect of waiving attorney-client privilege and by failing to act with full candor to the court.** See ORPC 3.1 and 3.3.

It is my strong recommendation that you voluntarily dismiss your current action against Jennifer Clinchy, Evans Clinchy, and Brianna (Lola) McKissen. Your chances of obtaining a judgment in your favor have been seriously tarnished.

Understand that, even if I withdraw from representing you, I do have a duty to preserve any remaining attorney-client confidentiality, as well as all documents and materials in my possession relating to your case. I will also assist you to the best of my ability to find another attorney, if you so desire, and provide to them or you any and all relevant documents or materials I possess.

I plan to file the attached motion to withdraw on Monday, and once it is granted, I will mail a check for the remaining funds in your retainer account to you. I am taking this step immediately in order to ensure that you have as much time as possible to find new counsel in time to prepare for the scheduled hearing regarding objections to your Requests for Admission, which is currently slated for July 25 at 1:00 p.m.

Thank you for choosing Verite Law Company to advise you in this matter, and I wish you the best of luck going forward.

Sincerely,

Marc Mohan  
Verite Law Company  
OSB #203325  
1525 SE 22<sup>nd</sup> Ave.  
Portland OR 97214  
marc@veritelawcompany.com

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

1  
2 DAVID KOENIG, )

3 )  
4 Plaintiff, )

5 v. )

6 EVANS CLINCHY, )  
7 JENNIFER CLINCHY, and )  
8 BRIANNA (LOLA) McKISSEN )

9 Defendants. )

Case No. 23CV15424

MOTION TO WITHDRAW AS  
COUNSEL FOR PLAINTIFF

10 **MOTION TO WITHDRAW AS COUNSEL**

11  
12 Comes now Marc Mohan, attorney of record for Plaintiff David Koenig in this matter,  
13 and respectfully notifies the court of a mandatory withdrawal under the provisions of the Oregon  
14 Rules of Professional Conduct.

15  
16 The situation is one in which withdrawal is mandatory under the Rules.

17 Plaintiff's next scheduled appearance is on July 25, allowing Plaintiff an opportunity to  
18 engage substitute counsel.

19  
20  
21 Respectfully,

22 /s/ Marc Mohan

23 Marc Mohan  
24 OSB #203325  
25 Verite Law Company  
26 1525 SE 22<sup>nd</sup> Ave.  
27 503-754-1656  
28 marc@veritelawcompany.com  
Attorney for Plaintiff



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**PROOF OF SERVICE**

I certify that I caused this document to be served via e-mail and first-class mail on:

Plaintiff David Koenig  
[Redacted]  
[Redacted]

Defendants Jennifer and Evans Clinchy  
c/o Atty: Michael Fuller  
OlsenDaines  
US Bancorp Tower  
111 SW 5th Ave., Suite 3150  
Portland, Oregon 97204  
[michael@underdoglawyer.com](mailto:michael@underdoglawyer.com)

Defendant Brianna (Lola) McKissen  
c/o Atty: Ashley L. Vaughn  
Dumas & Vaughn  
3835 NE Hancock St., Suite GLB  
Portland, Oregon 97212  
[Ashley@DumasandVaughn.com](mailto:Ashley@DumasandVaughn.com)

\_\_\_\_\_, 2023.

/s/ Marc Mohan  
Marc Mohan, Verite Law Company  
OSB # 203325  
1525 SE 22<sup>nd</sup> Ave.  
Portland OR 97214  
502-754-1656  
[marc@veritelawcompany.com](mailto:marc@veritelawcompany.com)  
Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

1  
2 DAVID KOENIG, )

3 )  
4 Plaintiff, )

5 v. )

6 EVANS CLINCHY, )  
7 JENNIFER CLINCHY, and )  
8 BRIANNA (LOLA) McKISSEN )

9 Defendants. )

Case No. 23CV15424

ORDER GRANTING  
PLAINTIFF’S COUNSEL’S  
MOTION TO WITHDRAW

10 Before the court is Marc Mohan’s Motion to Withdraw as Counsel, and having fully  
11 considered such motion,

12  
13 IT IS ORDERED that Marc Mohan is withdrawn as counsel of record for Plaintiff David  
14 Koenig in the above-captioned matter.

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**CERTIFICATE OF COMPLIANCE WITH UTCR 5.100**

I certify that this proposed order is ready for judicial signature because I have served a copy of this order on all parties entitled to service and no objection has been served on me.

\_\_\_\_\_, 2023.

/s/ Marc Mohan  
Marc Mohan, Verite Law Company  
OSB # 203325  
1525 SE 22<sup>nd</sup> Ave.  
Portland OR 97214  
502-754-1656  
marc@veritelawcompany.com  
Attorney for Plaintiff

# H1.2023-08-14 Fuller email 1.pdf



Dave Koenig [REDACTED]

## Fwd: Koenig v Clinchy et al. - 23CV15424

Michael Fuller <michael@underdoglawyer.com>

Mon, Aug 14, 2023 at 12:37 PM

To: Dave Koenig [REDACTED]

Cc: Ashley Vaughn <ashley@dumasandvaughn.com>, Emily Templeton <emily@underdoglawyer.com>, Nate Haberman <nate@underdoglawyer.com>, Michael Hickman <staff@underdoglawyer.com>, Kelly Jones Jones [REDACTED], Underdog Law Office <team@underdoglawyer.com>

Mr. Koenig,

Please see the attached letter.

The documents you recently filed have now crashed the applications of two different law offices that have attempted to access them. **Please confirm that your documents do not contain any known bugs, malware, spyware, etc.**

Thanks,

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

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# H1.2023-08-14 Fuller email 1.pdf

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Good afternoon,

We would like to request hearing availability for Judge Skye on the motion for a protective order.

Thank you,

[Quoted text hidden]



**23-08-14 Letter.pdf**

190K



August 14, 2023

David Koenig



**RE Case No. 23CV15424**

Based on the facts as we see them, you violated the Court's order by publicly filing a document designated confidential. Your violation appears to be willful, as your own declaration acknowledges that you knew of the Court's order, and of the confidentiality designation, and chose to file the document anyway. Under these circumstances, **we intend to move for an order to strike and seal the filing, and for sanctions, and for an order holding you in contempt.** Please let us know if the motions are opposed.

Based on the facts as we see them, you served requests for admission while special motions to strike remain pending. You previously received notice that discovery is stayed pending the resolution of a special motion to strike under ORS 31.152(2), and chose to serve your requests anyway. Under these circumstances, unless you agree to voluntarily withdraw your requests, we intend to seek an order from the Court striking them.

Thank you,

s/ Michael Fuller  
Partner



Dave Koenig [REDACTED]

---

**Fwd: Koenig v Clinchy et al. - 23CV15424**

---

**Michael Fuller** <michael@underdoglawyer.com>

Mon, Aug 14, 2023 at 3:50 PM

To: "Shannon N. O'Melia" &lt;Shannon.n.omelia@ojd.state.or.us&gt;, "Talia A. Lubin" &lt;Talia.A.Lubin@ojd.state.or.us&gt;

Cc: Ashley Vaughn &lt;ashley@dumasandvaughn.com&gt;, Dave Koenig [REDACTED], Emily Templeton &lt;emily@underdoglawyer.com&gt;, Nate Haberman &lt;nate@underdoglawyer.com&gt;, Michael Hickman &lt;staff@underdoglawyer.com&gt;, Kelly Jones Jones [REDACTED], Underdog Law Office &lt;team@underdoglawyer.com&gt;

**May It Please The Court:**

Today plaintiff caused files to be emailed to defense counsel through the Court's filing system. The files pertain to the upcoming hearing on defendant's motion for protective order.

The files sent by plaintiff have now crashed the applications of two different law offices that have attempted to access them, and apparently caused a user's computer camera to suddenly activate. **I have emailed plaintiff asking him to confirm that his files did not contain any known bugs, malware, spyware, etc. and I have not yet heard back.**

As it stands, we cannot view the entirety of the files submitted by plaintiff pertaining to the motion for protective order. Unless paper copies are served on our office by plaintiff, we may not be able to fully review the files prior to the upcoming hearing.

Respectfully,

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

[Quoted text hidden]



August 16, 2023

David Koenig



**RE Case No. 23CV15424**

Based on the facts as we see them, you have failed to take any steps to strike and seal the document marked “CONFIDENTIAL” that you filed in willful violation of the Court’s May 25 protective order.

Please understand that we may intend to file a motion seeking per diem sanctions against you as a civil penalty for each day that you continue to ignore your obligation to purge your contempt.

Thank you,

s/ Michael Fuller  
Partner



# H5.2023-08-16 letter to Fuller.pdf

August 16, 2023

Michael Fuller  
Olsen Daines  
US Bancorp Tower  
111 SW 5th Ave., Suite 3150  
Portland, Oregon 97204  
[michael@underdoglawyer.com](mailto:michael@underdoglawyer.com)

RE Case No. 23CV15424

Dear Mr. Fuller,

Thank you for your letter of August 16, 2023, and for communicating your concerns about the July 6th, 2023 email of Terry Kang to Jennifer Clinchy and Evans Clinchy.

I never signed the Court's May 25th, 2023 protective order and am under no legal obligation from it.

Furthermore, the order specifically says "This Protective Order, however, does not restrict the disclosure or use of any information or documents lawfully obtained by the receiving party through means or sources outside of this litigation."

I received the document in question from Marc Mohan after he had already withdrawn as my counsel from this case. My reception of that email and use of the contents within broke no laws or court rules. If you have an issue with Marc Mohan sending that email, take it up with him.

The entirety of the DECLARATION OF DAVID KOENIG that includes the document in question is already a public record three times. All three were filed by me on August 10, 2023.

- Declaration in Case No. 23CV15424
- Ethics complaint to the Oregon State Bar about Marc Mohan
- Ethics complaint to the Oregon State Bar about Michael Fuller

Sincerely,

s/ David Koenig



August 16, 2023

David Koenig



**RE Case No. 23CV15424**

Please understand that your continued references to ethics complaints will not succeed in deterring us from defending against your wrongful use of civil proceedings in this case.

False  
accusation  
repeated to  
judge

**Your remark that you do not intend to comply with the Judge's protective order will be brought to the Court's attention.**

Thank you,

s/ Michael Fuller  
Partner