

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

WENDY KUBIK, MICHELLE DeTOMASO, )  
RITA DILLON, JANE DOE #1, JANE DOE #2, )  
JANE DOE #3, JUDITH FLENNA, )  
ELAINE KOLODZIEJ, PAMELA LINDSTROM, )  
PAULINE MANIACI, MARY RICHARDSON, )  
JOAN RITCH, JANICE SANDORA, )  
MICHELE BOULTON, SUSAN SCHMALTZ, )  
JUDY SPRADLEY, ELEANOR TAYLOR, )  
BEVERLY THOMAS, JUDITH THORNTON, )  
MARY JO VAN TIEM and RENEE WILLITS, )

Civil Action No. 03-CV-73350

**DEMAND FOR JURY TRIAL**

10/9/03 2 AMENDED complaint #1 by plaintiffs )  
adding plaintriffs Rebecca Ditch, Sarah Aguinaga, )  
Joan Rahill, Lisa Hadix, Barbara Stewart, )  
Pat Bolone, Bonnie Bousson, Donna Vaughn, )  
Marjorie Harder, Christina Diem, Kathy Diem, )  
Osuil Mayo, Christine Ewald and Pam Rogers, )  
with jury demand (kg) [Entry date 10/10/03] )  
Michigan residents, )

Plaintiffs, )

Vs. )

WILLIE GARY, TRICIA HOFFLER, )  
ROBERT PARENTI, SEKOU GARY, and )  
GARY, WILLIAMS, PARENTI, FINNEY, )  
LEWIS, McMANUS, WATSON & )  
SPERANDO, P.C., )  
Florida residents, )

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PLAINTIFFS' COMPLAINT

NOW COME Plaintiffs, Wendy Kubik, Michelle DeTomaso, Rita Dillon, Jane Doe #1,  
Jane Doe #2, Jane Doe #3, Judith Flenna, Elaine Kolodziej, Pamela Lindstrom, Pauline Maniaci,  
Mary Richardson, Joan Ritch, Janice Sandora, Michele Boulton, Susan Schmaltz, Judy Spradley,

Eleanor Taylor, Beverly Thomas, Judith Thornton, Mary Jo Van Tiem and Renee Willits, (collectively hereinafter as “PLAINTIFFS”), by and through their attorneys, Schwartz Law Firm, P.C. and Wigod, Falzon and DiCicco, P.C., and for their complaint against Defendants, Willie Gary, Tricia Hoffler, Robert Parenti, Sekou Gary, and Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.C., jointly and severally, (collectively hereinafter “DEFENDANTS/ATTORNEYS”), state as follows:

1. Plaintiff, Wendy Kubik, formerly known as Wendy Curdie, is a resident of the Township of Fairfield and a citizen of the State of Michigan.

2. Plaintiff, Michelle DeTomaso, is a resident of the Township of Shelby, County of Macomb and a citizen of the State of Michigan.

3. Plaintiff, Rita Dillon, is a resident of the Township of Harrison, County of Macomb and a citizen of the State of Michigan.

4. Plaintiff, Jane Doe #1, is a citizen of, and resides by herself in, the State of Michigan. She and Jane Doe #2 were represented by DEFENDANTS/ATTORNEYS, in part, as the only plaintiffs in a lawsuit filed in one of the state courts in Michigan.

DEFENDANTS/ATTORNEYS know the identity of Jane Doe #1. She is being designated as Jane Doe #1 to help preserve the confidentiality of the outcome of said prior litigation.

5. Plaintiff, Jane Doe #2, is a citizen of, and resides with her husband in, the State of Michigan. She and Jane Doe #1 were represented by DEFENDANTS/ATTORNEYS, in part, as the only plaintiffs in a lawsuit filed in one of the state courts in Michigan.

DEFENDANTS/ATTORNEYS know the identity of Jane Doe #2. She is being designated as Jane Doe #2 to help preserve the confidentiality of the outcome of said prior litigation.

6. Plaintiff, Jane Doe #3, is a citizen of the State of Michigan. She was represented by

DEFENDANTS/ATTORNEYS, in part, as the only plaintiff in a lawsuit filed in one of the state courts in Michigan. DEFENDANTS/ATTORNEYS know the identity of Jane Doe #3. She is being designated as Jane Doe #3 to help preserve the confidentiality of the outcome of said prior litigation.

7. Plaintiff, Judith Flenna, is a resident of the Township of Chesterfield, County of Macomb and citizen of the State of Michigan.

8. Plaintiff, Elaine Kolodziej, is a resident of Grosse Pointe Park, County of Wayne and citizen of the State of Michigan.

9. Plaintiff, Pamela Lindstrom, is a resident of the Township of Columbus, County of Macomb and citizen of the State of Michigan.

10. Plaintiff, Pauline Maniaci, is a resident of the Township of Clinton, County of Macomb and citizen of the State of Michigan.

11. Plaintiff, Mary Richardson, is a resident of the Township of Macomb, County of Macomb and citizen of the State of Michigan.

12. Plaintiff, Joan Ritch, is a resident in the City of Mt. Clemens, County of Macomb and citizen of the State of Michigan.

13. Plaintiff, Janice Sandora, is a resident of the Township of Macomb, County of Macomb and citizen of the State of Michigan.

14. Plaintiff, Michele Boulton, is a resident of the City of Romeo, County of Macomb and citizen of the State of Michigan.

15. Plaintiff, Susan Schmaltz, is a resident of the Township of Armada, County of Macomb and citizen of the State of Michigan.

16. Plaintiff, Judy Spradley, is a resident of the City of Detroit, County of Wayne and

citizen of the State of Michigan.

17. Plaintiff, Eleanor Taylor, is a resident of the Township of Shelby, County of Macomb and citizen of the State of Michigan. She was represented by DEFENDANTS/ATTORNEYS, in part, in a lawsuit filed in one of the state courts in Michigan, which was also pending in the United States District Court for the Eastern District of Michigan, Case No. 00-CV-73161, before the Honorable Nancy Edmunds, at one point.

18. Plaintiff, Beverly Thomas, is a resident of the City of Detroit, County of Wayne and citizen of the State of Michigan.

19. Plaintiff, Judith Thornton, is a resident of the Township of Clinton, County of Macomb and citizen of the State of Michigan.

20. Plaintiff, Mary Jo Van Tiem, is a resident of the Township of Sylvan Lake, County of Oakland and citizen of the State of Michigan.

21. Plaintiff, Renee Willits, is a resident of the Township of Shelby, County of Macomb and citizen of the State of Michigan.

22. Upon information and belief, Defendant, Willie Gary, is a citizen of the state of Florida and is an attorney who at all times relevant herein was practicing his profession through the law firm of Defendant, Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.C., with a principal place of business in Stuart, Florida.

23. Upon information and belief, Defendant, Tricia Hoffler, is a citizen of the State of Florida and is an attorney who at all times relevant herein was practicing her profession through the law firm of Defendant, Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.C., with a principal place of business in Stuart, Florida.

24. Upon information and belief, Defendant, Robert Parenti, is a citizen of the State of

Florida and is an attorney who at all times relevant herein was practicing his profession through the law firm of Defendant, Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.C., with a principal place of business in Stuart, Florida.

25. Upon information and belief, Defendant, Sekou Gary, is a citizen of the State of Florida and is an attorney who at all times relevant herein was practicing his profession through the law firm of Defendant, Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.C., with a principal place of business in Stuart, Florida.

26. Upon information and belief, Defendant, Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.C., is a professional corporation incorporated under the laws of the State of Florida, with a principal place of business in the City of Stuart and at all times material herein, was responsible for the actions of its employees and/or agents.

27. The matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

28. This Court has original jurisdiction of this civil action pursuant to 28 U.S.C. §1332(a)(1) and (c).

29. Venue is appropriate in this judicial district pursuant to 28 U.S.C. §1391(c).

30. In the spring of 2002, Plaintiff, Eleanor Taylor, had a pending lawsuit in a state court in Michigan against Company A. Discovery and case evaluation had been completed. Company A's motion for summary disposition had been taken under advisement. The case was poised for trial. Her Michigan counsel, Rundell and Nolan, P.C., hired DEFENDANTS/ATTORNEYS to serve as co-counsel for her in her claim against Company A.

31. Concurrently in the spring of 2002, Jane Doe #1 and Jane Doe #2 had a pending

lawsuit in a state court in Michigan against Company A and Company B. The case was in the discovery phase. Jane Doe #1's and Jane Doe #2's Michigan counsel, Rundell and Nolan, P.C., hired DEFENDANTS/ATTORNEYS to serve as co-counsel for Jane Doe #1 and Jane Doe #2 in their claims against Company A and Company B.

32. Also concurrently in the spring of 2002, Jane Doe #3 had a pending lawsuit in a state court in Michigan against Company A and Company B. The case was in the discovery phase. Jane Doe #3's Michigan counsel, Rundell and Nolan, P.C., hired ATTORNEYS to serve as co-counsel for Jane Doe #3 in her claims against Company A and Company B.

33. After being retained by Rundell and Nolan, P.C., DEFENDANTS/ATTORNEYS implemented a scheme designed to compel Company A and Company B to resolve the pending lawsuits on terms extremely advantageous to DEFENDANTS/ATTORNEYS, including instructing Rundell and Nolan, P.C. to secure other plaintiffs who were similarly situated to their existing clients with respect to claims against Company A and Company B so as to enhance the pool of claimants.

34. Upon information and belief, at DEFENDANTS/ATTORNEYS urging, Rundell and Nolan, P.C. thereafter signed attorney/client representation agreements with 38 additional women (which included Plaintiffs Wendy Kubik, Michelle DeTomaso, Rita Dillon, Judith Flenna, Elaine Kolodziej, Pamela Lindstrom, Pauline Maniaci, Mary Richardson, Joan Ritch, Janice Sandora, Michele Boulton, Susan Schmaltz, Judy Spradley, Beverly Thomas, Judith Thornton, Mary Jo Van Tiem and Renee Willits) to pursue their individual claims against Company A and Company B.

35. Neither DEFENDANTS/ATTORNEYS, nor Rundell and Nolan, P.C., ever filed a lawsuit on behalf of any of these 38 individuals against Company A or Company B.

36. A few months later and without the knowledge and consent of PLAINTIFFS, upon information and belief, Company A and/or Company B and DEFENDANTS/ATTORNEYS secretly entered into an agreement whereby DEFENDANTS/ATTORNEYS would receive \$51.5 million as part of a settlement package in exchange for PLAINTIFFS permanently dropping their claims against Company A, and DEFENDANTS/ATTORNEYS agreeing never to pursue litigation against Company A again in the future. PLAINTIFFS were not to, and in fact did not, receive any of these monies.

37. PLAINTIFFS were never told of this secret agreement, nor were they told of the \$51.5 million DEFENDANTS/ATTORNEYS were to, and upon information and belief did, receive.

38. In August 2002, in furtherance of this fraudulent scheme, DEFENDANTS/ATTORNEYS informed PLAINTIFFS that they did not have causes of action against Company A, that they could never prevail against Company A and that Company A “had nothing to do” with PLAINTIFFS’ potential claims. DEFENDANTS/ATTORNEYS insisted that PLAINTIFFS permanently dismiss their claims against Company A without receiving any compensation from Company A.

39. Based strictly upon this intentionally false and erroneous advice, and the non-disclosure of the sums DEFENDANTS/ATTORNEYS were to receive, PLAINTIFFS signed various documents that purported to permanently dismiss and release their claims against Company A.

40. Upon information and belief, DEFENDANTS/ATTORNEYS thereafter received the \$51.5 million.

41. PLAINTIFFS did not know about the \$51.5 million at the time they signed their

documents.

42. PLAINTIFFS never received any of the \$51.5 million.

43. In late July 2002, after having undertaken the individual representation of each and every plaintiff, and upon information and belief, after having reached an understanding in principal regarding the \$51.5 million and other agreements with Company A and/or B, DEFENDANTS/ATTORNEYS discovered they had never executed attorney/client representation agreements with any of the 42 individuals.

44. During the last week of July 2002 and the first two weeks of August 2002, DEFENDANTS/ATTORNEYS had PLAINTIFFS sign contingency fee attorney/client representation agreements with DEFENDANTS/ATTORNEYS whereby the clients each agreed to pay DEFENDANTS/ATTORNEYS 33 $\frac{1}{3}$ % of their total recovery for their legal services rendered.

45. At the conclusion of the representation, DEFENDANTS/ATTORNEYS withheld monies substantially in excess of 33 $\frac{1}{3}$ % of each PLAINTIFF'S total recovery (the legal fees in excess of 33 $\frac{1}{3}$ % hereinafter called "ADDITIONAL LITIGATION PROCEEDS") as their purported legal fees, *exclusive* of the aforementioned \$51.5 million.

46. DEFENDANTS/ATTORNEYS represented that the ADDITIONAL LITIGATION PROCEEDS were legal fees being paid by their new client Company B, for other legal work to be performed in the future for Company B, and that these monies had nothing to do with their representation of PLAINTIFFS against Company B.

47. Even if DEFENDANTS/ATTORNEYS' explanation were in fact true, which PLAINTIFFS believe it is not, DEFENDANTS/ATTORNEYS violated the Michigan Rules of Professional Conduct by entering into a blatant conflict of interest arrangement for their own

pecuniary advantage.

48. Upon information and belief, the \$51.5 million and the ADDITIONAL LITIGATION PROCEEDS were monies Company A and/or Company B were willing to pay to resolve PLAINTIFFS', and others', claims.

49. PLAINTIFFS have been harmed by DEFENDANTS/ATTORNEYS wrongful retention of the \$51.5 million and the ADDITIONAL LITIGATION PROCEEDS.

## **COUNT I**

### **LEGAL MALPRACTICE**

50. PLAINTIFFS repeat and reallege paragraphs 1 through 49 as though each allegation was stated verbatim.

51. At all times material herein, there was a lawyer/client relationship between DEFENDANTS/ATTORNEYS who represented, advised and counseled PLAINTIFFS.

52. DEFENDANTS/ATTORNEYS accepted responsibility in their professional capacity as attorneys, agreeing to advise, consult and represent PLAINTIFFS, and pursue and protect PLAINTIFFS' interests against Company A and Company B, all within the applicable standard of care.

53. At all times pertinent hereto, DEFENDANTS/ATTORNEYS owed PLAINTIFFS a duty to render and provide legal services in conformance with the acceptable standard of care required of lawyers in the community, in light of the facts of the case, and to refrain from acts of negligence and/or professional negligence and to further refrain from negligent omissions and to provide competent and accurate advice, service and legal representation to PLAINTIFFS and other duties which include, but are not limited to:

- A. To use reasonable knowledge, skill, ability and care ordinarily possessed and exercised by attorneys in the State of Michigan, in representation of

PLAINTIFFS;

- B. To act in a spirit of loyalty to PLAINTIFFS, assuming a position of the highest trust and confidence;
- C. To exert their best efforts while wholeheartedly advancing PLAINTIFFS' interests with complete fidelity and diligence;
- D. To familiarize themselves with the facts, the rules of the particular courts in which they practice and in the interpretation and construction said court's place upon the law in the State of Michigan and in the United States, including but not limited to common law, statutory law, and court rules;
- E. To comply with all duties imposed upon DEFENDANTS/ATTORNEYS by the Michigan Rules of Professional Conduct, including but not limited to:
  - i. Competence;
  - ii. Diligence;
  - iii. Explaining matters to the extent reasonably necessary to permit PLAINTIFFS to make informed decisions regarding the representation;
  - iv. Notifying PLAINTIFFS promptly of all settlement offers;
  - v. Keeping PLAINTIFFS reasonably informed about the status of their matter and complying promptly with reasonable requests for information;
  - vi. Upon conclusion of the contingent-fee matter, providing PLAINTIFFS with a written statement of the full outcome of the matter and the method used to determine PLAINTIFFS' portion of the monies they received.
  - vii. Seeking of the lawful objectives of PLAINTIFFS against Company A and Company B through all reasonably available means permitted by law;
  - viii. Not entering into impermissible conflict of interest relationships;
  - ix. Not participating in making an aggregate settlement of PLAINTIFFS' claims with Company A and/or Company B unless each Plaintiff consents after full consultation, including disclosure of the existence and nature of all the claims involved and of the details of each person's participation in the settlement;
  - x. Not acquiring a proprietary interest in the cause of action or subject matter of the litigation DEFENDANTS/ATTORNEYS were conducting for PLAINTIFFS, other than the contingency fee;

- xi. Not practicing law in the State of Michigan without a license to do so;
  - xii. Not participate in offering or making an agreement in which a restriction on DEFENDANTS/ATTORNEYS' right to practice is part of the settlement of a controversy involving PLAINTIFFS; and
  - xiii. Not soliciting employment from Company A or Company B when DEFENDANTS/ATTORNEYS had no family or prior professional relationship with them and when a significant motive for DEFENDANTS/ATTORNEYS' doing so was DEFENDANTS/ATTORNEYS' pecuniary gain; and
- F. Such other duties as are imposed by the Michigan Rules of Professional Conduct, Michigan Court Rules, Michigan Statutes, the common law of the State of Michigan and by the legal community in Michigan where the matter was pending.

54. DEFENDANTS/ATTORNEYS conducted themselves in a professionally negligent manner and breached their duties in rendering services to PLAINTIFFS within the pendency of the attorney-client relationship, and that this professional negligence consisted of, but is not limited to, the following:

- A. Failing to inform PLAINTIFFS of the \$51.5 million;
- B. Failing to take the necessary steps and use due diligence to pursue PLAINTIFFS' objectives against Company A and Company B;
- C. Failing to use reasonable knowledge, skill, ability and care ordinarily possessed and exercised by attorneys in the State of Michigan regarding settlement of disputes;
- D. Failing to act in a spirit of loyalty, with the highest trust and confidence, towards PLAINTIFFS;
- E. Failing to explain all matters to the extent reasonably necessary to permit PLAINTIFFS to make informed decisions regarding their claims against Company A and Company B;
- F. Failing to notifying PLAINTIFFS promptly of all settlement offers and the terms of all settlement offers;
- G. Failing to properly forward PLAINTIFFS their respective portion of their

monies;

- H. Entering into impermissible conflict of interest relationships;
- I. Accepting compensation for representing PLAINTIFFS from Company A and/or Company B;
- J. Making an aggregate settlement of PLAINTIFFS' claims without informing each PLAINTIFF of all information needed to be known for them to make an informed decision;
- K. Making false statements and using egregious tactics to get PLAINTIFFS to make decisions about their case;
- L. Intentionally acquiring a proprietary interest in the PLAINTIFFS' claims against Company A and/or Company B for their own pecuniary advantage;
- M. Entering into an agreement in which a restriction on DEFENDANTS/ATTORNEYS' right to practice is part of the settlement;
- N. Failing in other ways to comply with the standard of practice and care, the Canons of Ethics, the Rules of Professional Responsibility, and ethical considerations applicable to attorneys in the State of Michigan; and
- O. Committing the acts set forth elsewhere in this Complaint.

55. As a direct and proximate result of DEFENDANTS/ATTORNEYS' breaches of duty to PLAINTIFFS, PLAINTIFFS have sustained substantial damages.

WHEREFORE, Plaintiffs, Wendy Kubik, Michelle DeTomaso, Rita Dillon, Jane Doe #1, Jane Doe #2, Jane Doe #3, Judith Flenna, Elaine Kolodziej, Pamela Lindstrom, Pauline Maniaci, Mary Richardson, Joan Ritch, Susan Schmaltz, Judy Spradley, Eleanor Taylor, Beverly Thomas, Judith Thornton, Mary Jo Van Tiem and Renee Willits, respectfully request that this Honorable Court enter a Judgment in their favor, and against Willie Gary, Tricia Hoffler, Robert Parenti, Sekou Gary, and Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.C., jointly and severally, for an amount well in excess of Seventy-Five Thousand (\$75,000.00) Dollars, for all damages they have incurred, and provide such further relief as this

Court deems just.

## **COUNT II**

### **CONVERSION**

56. PLAINTIFFS repeat and reallege paragraphs 1 through 55 as though each allegation was stated verbatim.

57. DEFENDANTS/ATTORNEYS retention of the \$51.5 million, and of the ADDITIONAL LITIGATION PROCEEDS, is a distinct act of dominion wrongfully exerted over PLAINTIFFS' personal property in denial of or inconsistent with their rights.

58. As a direct and proximate result of DEFENDANTS/ATTORNEYS' actions, PLAINTIFFS have been severely harmed.

59. DEFENDANTS/ATTORNEYS' scheme to take PLAINTIFFS' monies, and the methods they employed to accomplish this objective, were malicious and/or so willful and wanton as to demonstrate a reckless disregard of PLAINTIFFS' rights.

60. In addition to all other relief, PLAINTIFFS are entitled to exemplary damages as DEFENDANTS/ATTORNEYS' actions inspired feelings of humiliation, outrage and indignity.

WHEREFORE, Plaintiffs, Wendy Kubik, Michelle DeTomaso, Rita Dillon, Jane Doe #1, Jane Doe #2, Jane Doe #3, Judith Flenna, Elaine Kolodziej, Pamela Lindstrom, Pauline Maniaci, Mary Richardson, Joan Ritch, Susan Schmaltz, Judy Spradley, Eleanor Taylor, Beverly Thomas, Judith Thornton, Mary Jo Van Tiem and Renee Willits, respectfully request that this Honorable Court enter a Judgment in their favor, and against Willie Gary, Tricia Hoffler, Robert Parenti, Sekou Gary, and Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.C., jointly and severally, for an amount well in excess of Seventy-Five Thousand (\$75,000.00) Dollars, for all damages they have incurred, include exemplary damages, and provide such

further relief as this Court deems just.

### **COUNT III**

#### **BREACH OF FIDUCIARY DUTY**

61. PLAINTIFFS repeat and reallege paragraphs 1 through 60 as though each allegation was stated verbatim.

62. At all material times herein, DEFENDANTS/ATTORNEYS were in a position of highest trust and confidence toward PLAINTIFFS.

63. At all material times herein, PLAINTIFFS reposed their faith, confidence and trust in DEFENDANTS/ATTORNEYS' judgment and advice.

64. At all material times herein, DEFENDANTS/ATTORNEYS owed PLAINTIFFS a fiduciary duty that included, among other things, to act in their best interest and with unswerving loyalty.

65. DEFENDANTS/ATTORNEYS breached their fiduciary obligations to PLAINTIFFS by, among other things:

- (i) entering into an attorney/client relationship with Company B while representing PLAINTIFFS against Company B;
- (ii) duping PLAINTIFFS into permanently releasing all claims they may possess against Company A so that ATTORNEYS could receive \$51.5 million;
- (iii) misappropriating PLAINTIFFS' funds.

66. As a direct and proximate result of DEFENDANTS/ATTORNEYS' actions, PLAINTIFFS' have been severely harmed.

67. DEFENDANTS/ATTORNEYS scheme to take PLAINTIFFS' monies, and the methods they employed to accomplish this objective, were malicious and/or so willful and

wanton as to demonstrate a reckless disregard of PLAINTIFFS' rights.

68. In addition to all other relief, PLAINTIFFS are entitled to exemplary damages as DEFENDANTS/ATTORNEYS' actions inspired feelings of humiliation, outrage and indignity.

WHEREFORE, Plaintiffs Wendy Kubik, Michelle DeTomaso, Rita Dillon, Jane Doe #1, Jane Doe #2, Jane Doe #3, Judith Flenna, Elaine Kolodziej, Pamela Lindstrom, Pauline Maniaci, Mary Richardson, Joan Ritch, Susan Schmaltz, Judy Spradley, Eleanor Taylor, Beverly Thomas, Judith Thornton, Mary Jo Van Tiem and Renee Willits, respectfully request that this Honorable Court enter a Judgment in their favor, and against Willie Gary, Tricia Hoffler, Robert Parenti, Sekou Gary, and Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.C., jointly and severally, for an amount well in excess of Seventy-Five Thousand (\$75,000.00) Dollars, for all damages they have incurred, include exemplary damages, and provide such further relief as this Court deems just.

#### **COUNT IV**

##### **CONTRACT IN CONTRAVENTION OF PUBLIC POLICY**

69. PLAINTIFFS repeat and reallege paragraphs 1 through 68 as though each allegation was stated verbatim.

70. DEFENDANTS/ATTORNEYS entered into 1/3 contingency fee attorney/client representation agreements with PLAINTIFFS.

71. DEFENDANTS/ATTORNEYS withheld monies from PLAINTIFFS in accordance with their attorney/client representation agreement, as legal fees.

72. Each attorney/client representation agreement DEFENDANTS/ATTORNEYS signed with PLAINTIFFS violates the Michigan Rules of Professional Conduct in the following particulars:

- (i) Entering into an agreement for, charging, or collecting an illegal or clearly excessive fee;
- (ii) Authorizing DEFENDANTS/ATTORNEYS to enter into an impermissible conflict of interest;
- (iii) Failing to explain the implications of common representation, and the advantages and risks involved, when seeking permission to enter in to a conflict of interest situation involving the representation of multiple clients;
- (iv) Acquiring a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, other than the contingency fee;
- (v) Accepting compensation for representing a client from one other than the client without (1) the client consenting after full consultation; (2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and (3) information relating to representation of a client is protected as required by MRPC 1.6.

73. Attorney fee agreements that violate the Michigan Rules of Professional Conduct are unethical and unenforceable as a matter of law.

74. As a direct and proximate result of DEFENDANTS/ATTORNEYS entering into arrangements with PLAINTIFFS which contravene the Michigan Rules of Professional Conduct, PLAINTIFFS have been harmed.

WHEREFORE, Plaintiffs Wendy Kubik, Michelle DeTomaso, Rita Dillon, Jane Doe #1, Jane Doe #2, Jane Doe #3, Judith Flenna, Elaine Kolodziej, Pamela Lindstrom, Pauline Maniaci, Mary Richardson, Joan Ritch, Susan Schmaltz, Judy Spradley, Eleanor Taylor, Beverly Thomas, Judith Thornton, Mary Jo Van Tiem and Renee Willits, respectfully request that this Honorable Court order Defendants Willie Gary, Tricia Hoffler, Robert Parenti, Sekou Gary, and Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.C., to disgorge all monies wrongfully received by Plaintiffs through their entering into arrangements that violate the

Michigan Rules of Professional Conduct and Michigan Court Rules, and provide such further relief as this Court deems just.

## **COUNT V**

### **FRAUD**

75. PLAINTIFFS repeat and reallege paragraphs 1 through 74 as though each allegation was stated verbatim

76. During the first two weeks of August 2002, at the law firm of Rundell & Nolan, P.C. in Troy, Michigan, Defendants Willie Gary, Robert Parenti and Sekou Gary told PLAINTIFFS that they did not have causes of action against Company A, that they could never prevail against Company A and that Company A “had nothing to do” with PLAINTIFFS’ potential claims.

77. During these discussions, Defendants Willie Gary, Robert Parenti and Sekou Gary never informed PLAINTIFFS that Company A and/or Company B would be paying \$51.5 million in exchanging for PLAINTIFFS’ permanently releasing their claims against Company A.

78. During these discussions, Defendants Willie Gary, Robert Parenti and Sekou Gary never informed PLAINTIFFS that DEFENDANTS/ATTORNEYS would be receiving compensation in excess of the 33 $\frac{1}{3}$ % contingency fee of each PLAINTIFFS’ claims.

79. During these discussions, Defendants Willie Gary, Robert Parenti and Sekou Gary specifically did not inform PLAINTIFFS about the existence of the \$51.5 million DEFENDANTS/ATTORNEYS were receiving as part of the resolution of the dispute.

80. PLAINTIFFS made the ultimate decision regarding their claims against Company A and Company B, and signed documents in accordance therewith, without knowledge of the \$51.5 million.

81. Defendants Willie Gary’s, Robert Parenti’s and Sekou Gary’s representations and

omissions were intentional, false and material.

82. Defendant Willie Gary's, Robert Parenti's and Sekou Gary's representations and omissions were made with the intention that PLAINTIFFS' relied upon it.

83. PLAINTIFFS acted in reliance upon Defendant Willie Gary's, Robert Parenti's and Sekou Gary's representations and omissions.

84. As a direct and proximate result of DEFENDANTS/ATTORNEYS' actions, PLAINTIFFS' have been severely harmed.

85. DEFENDANTS/ATTORNEYS fraudulent representations and omissions were part of a scheme to take PLAINTIFFS' monies and, as such, were malicious and/or so willful and wanton as to demonstrate a reckless disregard of PLAINTIFFS' rights.

86. In addition to all other relief, PLAINTIFFS are entitled to exemplary damages as DEFENDANTS/ATTORNEYS' actions inspired feelings of humiliation, outrage and indignity.

WHEREFORE, Plaintiffs Wendy Kubik, Michelle DeTomaso, Rita Dillon, Jane Doe #1, Jane Doe #2, Jane Doe #3, Judith Flenna, Elaine Kolodziej, Pamela Lindstrom, Pauline Maniaci, Mary Richardson, Joan Ritch, Susan Schmaltz, Judy Spradley, Eleanor Taylor, Beverly Thomas, Judith Thornton, Mary Jo Van Tiem and Renee Willits, respectfully request that this Honorable Court enter a Judgment in their favor, and against Willie Gary, Tricia Hoffler, Robert Parenti, Sekou Gary, and Gary, Williams, Parenti, Finney, Lewis, McManus, Watson & Sperando, P.C., for an amount well in excess of Seventy-Five Thousand (\$75,000.00) Dollars, for all damages they have incurred, include exemplary damages, and provide such further relief as this Court deems just.

SCHWARTZ LAW FIRM, P.C.

By: \_\_\_\_\_

Jay A. Schwartz (P45268)  
Attorney for Plaintiffs  
37887 West Twelve Mile Road, Suite A  
Farmington Hills, Michigan 48331  
(248) 553-9400

WIGOD, FALZON & DICICCO, P.C.

By: \_\_\_\_\_  
Lawrence C. Falzon (P30655)  
Attorney for Plaintiffs  
29500 Telegraph Road, Suite 210  
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(248) 356-3300

Dated: September 3, 2003

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

WENDY KUBIK, MICHELLE DeTOMASO, )  
RITA DILLON, JANE DOE #1, JANE DOE #2, )  
JANE DOE #3, JUDITH FLENNA, )  
ELAINE KOLODZIEJ, PAMELA LINDSTROM, )  
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JUDY SPRADLEY, ELEANOR TAYLOR, )  
BEVERLY THOMAS, JUDITH THORNTON, )  
MARY JO VAN TIEM and RENEE WILLITS, )

Civil Action No. 03-CV-73350

***DEMAND FOR JURY TRIAL***

10/9/03 2 AMENDED complaint #1 by plaintiffs )  
adding plaintriffs Rebecca Ditch, Sarah Aguinaga, )  
Joan Rahill, Lisa Hadix, Barbara Stewart, )  
Pat Bolone, Bonnie Bousson, Donna Vaughn, )  
Marjorie Harder, Christina Diem, Kathy Diem, )  
Osuil Mayo, Christine Ewald and Pam Rogers, )  
with jury demand (kg) [Entry date 10/10/03] )  
Michigan residents, )

Plaintiffs, )

Vs. )

WILLIE GARY, TRICIA HOFFLER, )  
ROBERT PARENTI, SEKOU GARY, and )  
GARY, WILLIAMS, PARENTI, FINNEY, )  
LEWIS, McMANUS, WATSON & )  
SPERANDO, P.C., )  
Florida residents, )

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PLAINTIFF'S JURY DEMAND

NOW COME Plaintiffs, Wendy Kubik, Michelle DeTomaso, Rita Dillon, Jane Doe #1,  
Jane Doe #2, Jane Doe #3, Judith Flenna, Elaine Kolodziej, Pamela Lindstrom, Pauline Maniaci,

Mary Richardson, Joan Ritch, Janice Sandora, Michele Boulton, Susan Schmaltz, Judy Spradley, Eleanor Taylor, Beverly Thomas, Judith Thornton, Mary Jo Van Tiem and Renee Willits, (collectively hereinafter as "PLAINTIFFS"), by and through their attorneys, Schwartz Law Firm, P.C. and Wigod, Falzon and DiCicco, P.C., and hereby requests a trial by jury of the within cause.

SCHWARTZ LAW FIRM, P.C.

By: \_\_\_\_\_  
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WIGOD, FALZON & DICICCO, P.C.

By: \_\_\_\_\_  
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Dated: September 3, 2003