

05-05589-D

Cause No. 04-1817

FILED
05 JUN -8 AM 11:11
JIM HASTON
DISTRICT CLERK
DALLAS CO., TEXAS
095116
330 DEPUTY

KAREN ANN ERWIN,
PLAINTIFF,

v.

KIP H. ALLISON and
ALLISON and JOHNSON, L.L.P.,
DEFENDANTS.

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IN THE 330
JUDICIAL DISTRICT COURT
GRAYSON COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Karen Ann Erwin, "Plaintiff" and files this her Original Petition, complaining of Kip H. Allison and Allison and Johnson, L.L.P. hereinafter collectively referred to as the "Defendants" and in support hereof would respectfully show unto this Court the following:

I.
Level Designation

Pursuant to Rule 190.1, Tex. R.CIV.P., Plaintiff designates this lawsuit as a Level 3 case.

II.
Parties

Plaintiff is an individual resident and domiciliary of Dallas County, Texas.

Defendant, Kip H. Allison, is an individual resident of Dallas County, Texas and may be served at his home located at:

629 Cambridge Manor Lane
Coppell, Texas 75019-6102

7/6/2010

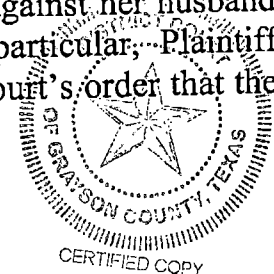


Defendants, Allison and Johnson, L.L.P., is to the best of Plaintiff's knowledge and belief a limited liability partnership engaged in the practice area of law with its main offices and principal place of business located in Collin County, Texas. Allison and Johnson, L.L.P. may be served by serving its general partner at:

5000 Legacy Drive
Plano, Texas 75024-3100

III.
Factual Predicate

1. On or about June 8, 2004, Plaintiff retained the professional services of the Defendants to file and prosecute that certain divorce action styled, "In The Matter Of The Marriage Of Karen A. Erwin and Karl D. Erwin" filed in the 330th Judicial District Court of Dallas County, Texas and bearing cause number 01-10336, ("The Divorce Action").
2. Plaintiff obtained several trash bags of financial documents that had been shredded by her husband during the course of their divorce proceeding. Plaintiff brought these trash bags to the Defendants to be used as proof her husband's spoliation of evidence. Defendants lost all of these trash bags of shredded financial documents.
3. Plaintiff obtained the actual box for the shredder that her husband had purchased to shred the financial documents. Plaintiff brought this box to the Defendants to be used as proof of her husband's spoliation of evidence. Defendants lost this box..
4. Plaintiff obtained many of her husband's pornographic tapes, receipts for same, and the female undergarments of hers that he wore during their marriage. Plaintiff delivered all of these materials to the Defendants for use in Court. Plaintiffs lost all of these materials.
5. Plaintiff advised the Defendants that her husband was in violation of twenty-five (25) counts of the Temporary Orders entered in the Divorce Action. She requested that they move for contempt against her husband for his violations of the Temporary Orders. In particular, Plaintiff requested that Defendants enforce by contempt the Court's order that the



parties' home be listed for sale and sold. Defendants failed and refused to move the Court to hold Plaintiff's husband in contempt.

6. Defendants advised Plaintiff that certain creditors held a \$400,000.00 secured note against three of her husband's clinics located in California. Defendants advised Plaintiff that she was liable for \$200,000.00 of this \$400,000.00 note and that the note's secured creditor's intended to foreclose upon the collateral secured by the \$400,000.00 note

Plaintiff requested that the Defendants obtain a copy of the \$400,000.00 note, all instruments granting the creditors a security interest in the clinics and all notices of default and acceleration. Defendants failed and refused to obtain the information.

7. Defendants' advised Plaintiff to file for Chapter 13 bankruptcy to stop the "impending foreclosure" upon the Plaintiff's husbands's three clinics in California. Relying upon the Defendants' advice, Plaintiff filed for Chapter 13 bankruptcy relief in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division on July 22, 2002 in a petition bearing case number 02-3641-SAS-13. ("The Bankruptcy")
8. Plaintiff's husband owned three clinics in California and one in Texas, that were all community property. Defendants failed to obtain any discovery or information regarding the assets, incomes or values of these clinics.

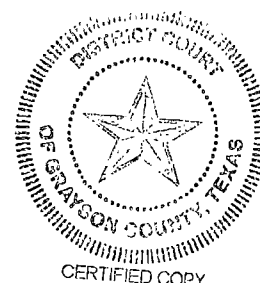
III.

Causes of Action

Plaintiff was a consumer of the Defendants' services.

Defendants owed Plaintiff a fiduciary duty of the utmost good faith, loyalty and full disclosure.

Defendants owed Plaintiff the duty to handle her divorce proceedings with reasonable care and diligence.



Plaintiff would show that the Defendants during their course of representation of her in the Divorce Action breached their duties to her. Plaintiff has incurred damages as a direct result of their breaches.

During the course of their representation of Plaintiff, the Defendants committed wrongful acts and omissions that:

- a. fell beneath standards of professional care;
- b. fell below standards of good and workmanlike legal services;
- c. constituted negligence;
- d. breached express warranties;
- e. constituted professional negligence;
- f. violated the Texas Deceptive Trade Practices Act;
- g. breached fiduciary duties; and
- h. breached Defendants' contract with Plaintiff.

Each of such acts and omissions was a proximate cause of damages to Plaintiff. Plaintiff's damages are in excess of \$1,000,000.00. Plaintiff seeks both actual damages, multiple damages, and exemplary and/or other damages and fee forfeiture to such extent and in such an amount as authorized by the law and facts of this case.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendants be cited to appear and answer herein and that upon final trial Plaintiff be awarded judgment against Defendants, jointly and severally, for her actual damages and/or punitive damages as may be allowed by law and the facts of this case, prejudgment interest, post-judgment interest, costs of court.

Your Plaintiff further prays for any and all such relief, either in law or in equity, general or special to which this Court may deem her justly entitled.



Respectfully submitted,

Alfred N. Kay, Jr.

Alfred N. Kay, Jr.

~~P.O.~~ Drawer 1699

Van Alstyne, Texas 75495

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Counsel For Plaintiff

FILED FOR RECORD

BY:

04 OCT 22 AM 10: 02

CLERK OF DISTRICT COURT
GRAYSON COUNTY, TEXAS

