

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR WASHTENAW COUNTY**

KAY E. GREENBURY,

Plaintiff,

Case No. 14-00014-CZ

v

JOHN F. SCHAEFER, B. ANDREW  
RIFKIN, and THE LAW FIRM OF  
JOHN F. SCHAEFER,

**JURY TRIAL DEMANDED**

Defendants.

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Steven G. Cohen (P48895)  
Cohen & Associates PC  
30833 Northwestern Highway  
Suite 205A  
Farmington Hills, MI 48334  
248-626-3615  
Attorney for Plaintiff

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**COMPLAINT**

Plaintiff, Kay Greenbury, through her attorneys, Cohen & Associates PC, for her complaint against Defendants, states as follows:

**THE PARTIES**

1. Plaintiff is an individual residing in Michigan.
2. Defendant John F. Schaefer is an attorney who conducts business in Washtenaw County, Michigan.
3. Defendant B. Andrew Rifkin is an attorney who conducts business in Washtenaw County, Michigan.
4. The Law Firm of John F. Schaefer is a Michigan limited liability company which conducts business in Washtenaw County, Michigan.

5. The amount in controversy exceeds \$25,000.00, exclusive of interest, costs and attorney fees, and is otherwise within the jurisdiction of this Court.

6. Venue is proper in this Court because all of the Defendants conduct business in Washtenaw County, as advertised on the Defendants' website. Exhibit 1.

### **COMMON ALLEGATIONS**

7. Defendants Schaefer and Rifkin are attorneys and principals/agents of the defendant law firm.

8. Plaintiff first consulted with Defendants in April of 2010 concerning a divorce action being threatened by her husband, Roger B. Smith, Jr. ("Smith"), son of former General Motors CEO Roger B. Smith, Sr.

9. Defendants advised Plaintiff that the consultation would not be charged to her.

10. Smith did not go forward with a divorce action in 2010; however, he commenced an action in March of 2012.

11. Plaintiff retained Defendants in March, 2012 to defend against the action.

12. Plaintiff advised Defendants that she was an unemployed cancer survivor and did not have sufficient income or personal assets to pay the substantial attorney fees requested by Defendants for the representation.

13. Defendants assured Plaintiff that the laws governing divorce matters permitted the shifting of Plaintiff's legal fees to her wealthy husband.

14. Defendants explicitly promised Plaintiff that she would not be responsible for the payment of any attorney fee, except for a one-time, non-refundable retainer in the amount of \$25,000.00.

15. In reliance on this promise, Plaintiff retained Defendants and promptly remitted the \$25,000.00 retainer to Defendants.

16. Defendants advised Plaintiff that in order to shift attorney fees to Smith Plaintiff would have to sign a retainer agreement contradicting their actual arrangement.

17. Defendants began work on the divorce matter.

18. Plaintiff did not receive any attorney billings from Defendants for the first nine months of the representation.

19. On or about December 7, 2012 Defendants sent an information-only billing statement to the Plaintiff. Exhibit 2.

20. The statement listed attorney fees for the first nine months of the representation in the amount of approximately \$68,000.00 and, consistent with the contractual arrangements between the parties, bore a prominent legend stating "PAY COSTS ONLY AT THIS TIME".

21. Another information-only statement arrived on or about January 10, 2013. Exhibit 3.

22. This statement listed an additional \$13,000.00 in attorney fees and bore the same legend.

23. Settlement discussions in the divorce matter were conducted in earnest during February of 2013 just prior to the trial, which was scheduled for February 28, 2013.

24. Defendants placed a great deal of pressure on Plaintiff to reach a property settlement with Smith.

25. Plaintiff advised Defendants that the proposed property settlement did not meet her financial needs.

26. Plaintiff also advised Defendants that she did not feel she had sufficient information about Mr. Smith's income and assets to make an informed settlement decision, particularly as Defendants had not completed discovery of Mr. Smith's assets or taken Smith's deposition.

27. Plaintiff specifically and repeatedly advised Defendants that she objected to any property settlement which did not contain arrangements for appropriate health insurance coverage.

28. When Plaintiff declined to settle, as was her right, Defendants sent a letter to her (Exhibit 4) which insultingly asserted that she would rather "shovel manure from horse stalls" than reach a reasonable settlement.

29. Defendants also demanded immediate payment of over \$92,000.00 in attorney fees, in repudiation of the explicit promise they made to Plaintiff at the beginning of the representation. Exhibit 4.

30. And, Defendants threatened to withdraw from the representation just two weeks before trial was scheduled to begin. Exhibit 4.

31. These were grossly inappropriate pressure tactics, to which Plaintiff firmly objected.

32. Trial was re-scheduled for April 8, 2013.

33. Defendants did not adequately prepare for trial; they appeared with the Plaintiff on April 8<sup>th</sup> without having secured the appearance of any witnesses.

34. Because they were not ready for trial, Defendants forced Plaintiff to engage in marathon settlement discussions in court chambers.

35. At 4:30 pm, after seven hours of negotiations, Defendants advised Plaintiff that the presiding judge expected her to sign a settlement agreement cobbled together on various pages of handwritten materials. Exhibit 5.

36. Plaintiff insisted on reviewing the proposed settlement in detail before assenting to it.

37. Defendants advised Plaintiff that the court was about to close and the judge was waiting for her signature on the settlement.

38. Defendants impatiently instructed Plaintiff to "just sign it".

39. In utter exhaustion and under considerable duress, the Plaintiff signed the handwritten settlement agreement.

40. Subsequently, Defendants presented Plaintiff with a typed settlement agreement and requested her to sign it.

41. Defendants did not review the typed settlement with Plaintiff.

42. Defendants assured Plaintiff that the typed document matched in all respects the handwritten agreement signed on April 8<sup>th</sup>.

43. Plaintiff objected to the typed agreement.

44. Defendants insisted that Plaintiff sign the typed agreement and advised her that she had no choice but to do so in view of the fact that she had previously signed the handwritten agreement.

45. The typed settlement contained the following paragraph concerning attorney liens that was not present in the handwritten agreement:

Each party shall be solely responsible for the payment of his or her respective attorney fees, costs, and expenses incurred in connection with this divorce proceeding and neither party shall have any obligation to any attorney for the other in this regard. Each attorney is awarded a lien on the property awarded to that attorney's respective client.

46. Defendants did not explain to Plaintiff the meaning or effect of the foregoing provision or provide Plaintiff the opportunity to seek the advice of independent counsel.

47. Defendants also did not explain that they intended to use this provision to file liens against virtually all of Plaintiff's assets as a means of pressuring her into paying fees that she did not have an obligation to pay.

48. A divorce judgment was entered shortly thereafter.

49. Subsequent to the entry of the judgment, Defendants placed liens on Plaintiff's Wells Fargo investment account, Chase Bank account and her home, tying up assets far in excess of the attorney fees demanded by Defendants. Exhibit 6.

50. Defendants' lien against Plaintiff's home asserts that it is a "judgment lien", an entirely false representation.

51. A judgment lien arises by operation of law after a money judgment has been entered; Defendants do not have such a judgment against Plaintiff.

52. Upon information and belief, Defendants characterized the lien against Plaintiff's home as a judgment lien because they were aware that an attorney may not assert a charging lien against real estate absent an express written agreement permitting a charging lien against real estate, which is wholly absent here.

53. Defendants' false and illegal liens have prevented Plaintiff from accessing the funds in her accounts and the equity in her home, funds necessary to maintain her residence and pay for food, medications and healthcare.

54. Defendants filed a post-judgment motion in the Oakland County Circuit Court seeking enforcement of their liens.

55. The motion was frivolous and vexatious in the extreme.

56. While purporting to protect Plaintiff's attorney-client privilege, Defendants' motion contained unnecessary and highly personal disclosures in violation of the privilege.

57. The motion knowingly and falsely stated that Plaintiff received statements for legal services rendered "on a monthly basis throughout Defendant's representation."

58. The motion asserted the frivolous position that Defendants could enforce their illegal liens without first having to demonstrate any actual underlying liability of Plaintiff.

59. The motion sought to enforce liens that were fraudulently obtained, illegal and unethical.

60. The motion was denied.

61. Defendants have continued to send billing statements to the Plaintiff for work allegedly performed on her behalf (but without authorization) subsequent to entry of judgment in May of 2013.

62. Defendants' billing statements even contain charges for prosecuting the post-judgment collection action against Plaintiff in the circuit court.

63. Defendants' illegal and unethical conduct is shocking in the extreme and has caused the filing of the present action.

#### **COUNT I**

64. Plaintiff incorporates by reference all of the preceding paragraphs.

65. Plaintiff and Defendants entered into an agreement in which Defendants promised Plaintiff that she would not be responsible for the payment of attorney fees in excess of the initial \$25,000.00 non-refundable retainer.

66. Defendants have attempted to repudiate this agreement, have unsuccessfully prosecuted a collection action against Plaintiff for fees far in excess of the retainer and are clearly planning to file another action against Plaintiff for collection of their alleged attorney fees.

67. Defendants have filed liens against virtually all of Plaintiff's property for the purpose of pressuring her to pay fees that are not owed.



68. These liens are causing Plaintiff to suffer financial hardship and extreme emotional distress.

69. There exists an actual controversy between the parties concerning these fees.

70. It is necessary for this Court to adjudicate and declare the rights of the parties to this action to guide Plaintiff's future conduct and preserve her legal rights.

71. This court has power under MCR 2.605 to adjudicate the matters at issue and enter its judgment declaring the rights of all parties to this action.

72. Plaintiff requests the following relief: (A) A declaration that the Plaintiff has no obligation to pay any attorney fees to Defendants and (B) such other relief as is awardable at law or in equity.

## COUNT II

73. Plaintiff incorporates by reference all of the preceding allegations.

74. Defendants' promise not to charge attorney fees to Plaintiff in excess of the original retainer was made in bad faith and in concealment of Defendants' actual intention to assert grossly inflated charges at a later point in the litigation when pressure could be exerted on Plaintiff to pay.

75. Plaintiff reasonably relied on Defendants' promise in making the decision to retain Defendants as counsel and pay the non-refundable \$25,000.00 retainer to Defendants.

76. Plaintiff has suffered damages as a result of Defendants' fraud.

77. Plaintiff requests (A) return of the \$25,000.00 retainer paid to Defendants; (B) an award of damages resulting from Defendants' fraud; (C) an award of damages for emotional distress caused by Defendants' fraudulent conduct; (D) an award of exemplary damages against Defendants; (E) an award of attorney fees against Defendants; (F) an order setting aside the attorney liens on the basis that they were procured by fraud; and (G) such other relief as is awardable at law or in equity.

### COUNT III

78. Plaintiff incorporates by reference all of the preceding allegations.

79. As counsel for Plaintiff, Defendants owed fiduciary duties to Plaintiff, including, without limitation, the duties of loyalty, honesty, confidentiality and good faith/fair dealing

80. Defendants breached their fiduciary duties by, among other things, falsely promising Plaintiff that Plaintiff would not have to pay for services rendered in the divorce matter; generating unnecessary and exorbitant attorney fees that they knew were beyond the ability of Plaintiff to pay; pressuring Plaintiff to pay these fees through various improper methods, including fraud, undue pressure, threats and insults directed at Plaintiff; pressuring Plaintiff to sign a handwritten settlement agreement that she did not voluntarily agree to execute; inserting attorney lien provisions in the written settlement that were not explained to Plaintiff; failing to advise Plaintiff of her right to seek independent counsel concerning the attorney liens; prosecuting a collection action against Plaintiff while purporting to at the same time represent her as legal counsel; making unauthorized and unnecessary disclosures of Plaintiff's highly personal and

confidential information; and asserting improper, excessive and illegal liens against virtually all of Plaintiff's property, causing her financial harm, anguish and emotional distress

81. Plaintiff has suffered damages as a result of Defendants' breaches.

82. Plaintiff requests (A) return of the \$25,000.00 retainer paid to Defendants; (B) an award of damages resulting from Defendants' breach of fiduciary duty; (C) an award of damages for emotional distress caused by Defendants' conduct; (D) an award of exemplary damages against Defendants; (E) an award of attorney fees against Defendants; (F) an order setting aside the attorney liens; and (G) such other relief as is awardable at law or in equity.

#### **COUNT IV**

83. Plaintiff incorporates by reference all of the preceding allegations.

84. The liens filed by Defendants against Plaintiff's home, Wells Fargo investment account and Chase bank accounts are illegal, unenforceable and against public policy.

85. The liens filed by Defendants against Plaintiff's home, Wells Fargo investment account and Chase bank accounts were procured by fraud and/or breach of fiduciary duty and must be set aside.

86. The liens filed by Defendants against Plaintiff's home, Wells Fargo investment account and Chase bank accounts are excessive and should be set aside as a matter of equity.

87. Plaintiff requests the following relief: (A) An order holding the liens to be of no force and effect; (B) an order requiring Defendants to record with the Oakland County Register of deeds a full and unconditional release of the lien filed against Plaintiff's residence; (C) an award of damages and attorney fees; and (D) such other relief as is awardable at law or in equity.

### COUNT V

88. Plaintiff incorporates by reference all of the preceding paragraphs.

89. On June 4, 2013, Defendants recorded an alleged judgment lien against Plaintiff's real property located at 2703 Zenith Drive, Milford, Michigan. Exhibit 6.

90. The alleged judgment lien has rendered the Property unmarketable.

91. Defendants filed the judgment lien with the express purpose of pressuring Plaintiffs to pay attorney fees that she was not obligated to pay.

92. The alleged lien was filed by Defendants for malicious purposes and with the knowledge that the lien was illegal, unenforceable and against public policy.

93. The judgment lien was filed with knowledge that no judgment had actually been entered against Plaintiff. See below - this lien was actually DENIED

94. Defendants filed their alleged judgment lien with express knowledge that it would cause financial harm and great emotional distress to Plaintiff and that a lien on Plaintiff's real property was wholly unnecessary in view of the other liens placed by Defendants on Plaintiff's investment and banking accounts.

95. Defendants acted with ill will toward Plaintiff and with a reckless disregard for her interest and welfare.

Aug. 6 2013 Order Regarding Motion to Enforce Attorney's Lien - DENIED - Hon. Cheryl A. Matthews

96. As a direct result of the recording of these false judgment liens, Plaintiff has suffered financial damages and emotional distress.

97. Plaintiff requests the following relief: (A) an award of special damages, including without limitation impairment of lendability, litigation expenses and attorney fees, loss of interest and impairment of credit; (B) an award of exemplary damages; and (C) such other relief as is awardable at law or in equity.

#### **COUNT VI**

98. Plaintiff incorporates by reference all of the preceding paragraphs.

99. The false judgment lien recorded by Defendants does not contain a full and fair accounting of the facts that support recording of the instrument.

100. The alleged judgment lien is false for the simple reason that Defendants have never sought or received any judgment against Plaintiff.

101. The false judgment lien was filed without lawful cause and with the intent to harass and intimidate Plaintiff.


102. Paragraph requests the following relief: (A) an order finding that the alleged judgment lien was not perfected in accordance with MCLA 565.25 and is, therefore, void and unenforceable; (B) an award of costs, including actual attorney's fees, incurred in this action; (C) an award of damages sustained as a result of the false judgment lien; (D) an award of exemplary damages; and (E) such other relief as is awardable at law or in equity.

**JURY DEMAND**

Plaintiff demands trial by jury.

Respectfully Submitted,

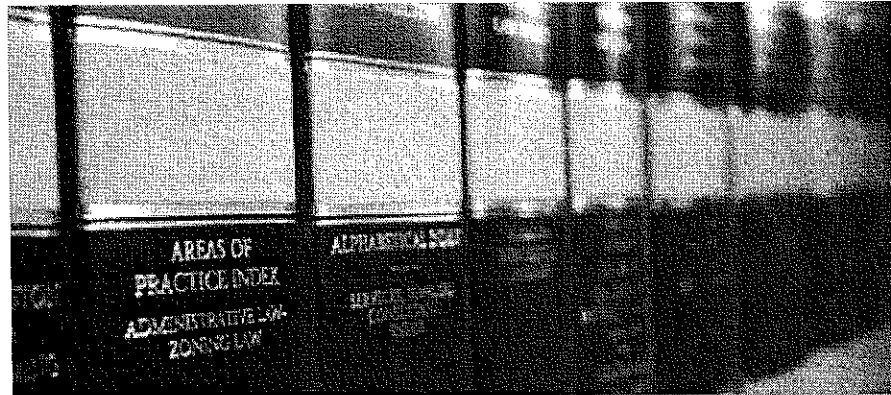
Dated: January 8, 2013

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COHEN & ASSOCIATES PC  
Steven G. Cohen (P48895)  
30833 Northwestern Highway  
Suite 205A  
Farmington Hills, MI 48334  
248-626-3615  
Attorney for Plaintiff

# EXHIBIT 1

**AREAS OF PRACTICE**[OUR PARTNERS](#)[OUR PHILOSOPHY](#)[OUR REPUTATION](#)[INITIAL CONSULTATIONS](#)[PRIVACY & CONFIDENTIALITY](#)[FREQUENTLY ASKED QUESTIONS](#)[OUR FIRM IN THE NEWS](#)[CONTACT US](#)[INTERNET RESOURCES](#)**AREAS OF PRACTICE**

Our matrimonial practice includes representation in the following areas:

"...one the nation's premier domestic relations firms, having established a reputation for resolving complicated matrimonial disputes and obtaining outstanding results."

- Divorce and Separation
- Child Custody
- Visitation and Parenting Time
- Property Division and Equitable Distribution
- Business Valuation
- Child Support
- Spousal Support and Alimony
- Paternity
- Change of Domicile and Relocation
- Prenuptial Agreements and Postnuptial Agreements
- Patimony Claims
- Annulments
- Enforcement of Court Orders and Judgments
- Domestic Violence
- Mediation, Arbitration, and Private Adjudication
- Appeals

Other areas of practice include:

- Sports and Entertainment Representation
- Estate and Wealth Transfer Planning
- Business Formations, Sales, and Dissolution

**BIRMINGHAM OFFICE**

380 N. Old Woodward Ave., Suite 320  
Birmingham, Michigan 48009  
(248) 642-6655

Oakland County

**GROSSE POINTE OFFICE**

130 Kercheval  
Grosse Pointe Farms, Michigan 48236  
(313) 881-1300

Wayne County

From our law offices in Birmingham and Grosse Pointe, Michigan, attorneys John Schaefer, Mark Bank, and B. Andrew Rifkin, of The Law Firm of John F. Schaefer represent clients in divorce and other family law matters in Bloomfield Hills, West Bloomfield, Rochester, Troy, Farmington Hills, Novi, Northville, Clarkston, Beverly Hills, Grosse Pointe, Plymouth, Franklin, Bingham Farms, Huntington Woods, Ann Arbor, Oakland County, Wayne County, Macomb County, Genesee County, and Washtenaw County.





# EXHIBIT 2

**THE LAW FIRM OF JOHN F. SCHAEFER**

380 North Old Woodward Avenue  
Suite 320  
Birmingham, Michigan 48009  
(248) 642-6655

GREENBURY, KAY ELLEN  
\*\*\*PERSONAL AND CONFIDENTIAL\*\*\*  
2703 ZENITH DRIVE  
MILFORD, MICHIGAN 48380

December 07, 2012

Invoice Number: 14304  
JOHN F SCHAEFER

For professional services rendered through November 30 2012  
as itemized on the attached invoice:

GREK

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**(DOM) DOMESTIC RELATIONS**

Total Fees due this invoice:	\$68,492.50
Total Costs due this invoice:	\$371.00
Total Administrative Costs re: Xerox, Facsimile, Postage and Telephone due this invoice	\$2,054.78
<b>Total Due This Matter:</b>	<b>\$70,918.28</b>
Plus: Prior Outstanding Accounts Receivable Balance:	\$70.40
<b>Total Balance Due:</b>	<b>\$70,988.68</b>

**PAY COSTS ONLY  
AT THIS TIME**

# EXHIBIT 3

**THE LAW FIRM OF JOHN F. SCHAEFER**

380 North Old Woodward Avenue  
Suite 320  
Birmingham, Michigan 48009  
(248) 642-6655

GREENBURY, KAY ELLEN  
\*\*\*PERSONAL AND CONFIDENTIAL\*\*\*  
2703 ZENITH DRIVE  
MILFORD, MICHIGAN 48380

January 10, 2013

Invoice Number: 14444  
JOHN F SCHAEFER

For professional services rendered through December 31 2012  
as itemized on the attached invoice:

GREK

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**(DOM) DOMESTIC RELATIONS**

Total Fees due this invoice:	\$13,650.00
Total Costs due this invoice:	\$319.31
Total Administrative Costs re: Xerox, Facsimile, Postage and Telephone due this invoice	\$409.50
<b>Total Due This Matter:</b>	<b>\$14,378.81</b>
Plus: Prior Outstanding Accounts Receivable Balance:	\$70,918.68
<b>Total Balance Due:</b>	<b>\$85,297.49</b>

**PAY COSTS ONLY  
AT THIS TIME**

# EXHIBIT 4

THE LAW FIRM  
OF  
**JOHN F. SCHAEFER**  
A PROFESSIONAL LIMITED LIABILITY COMPANY  
480 NORTH OLD WOODWARD AVENUE, SUITE 320  
BIRMINGHAM, MICHIGAN 48009

JOHN F. SCHAEFER  
MARK A. BANK <sup>1</sup>  
B. ANDREW RIFKIN <sup>2</sup>  
COLLEEN E. JOHNSON

TELEPHONE (248) 642-6655  
TELEFACSIMILE (248) 642-7878

WAYNE COUNTY OFFICE  
130 KERCHEVAL AVENUE  
GROSSE POINTE FARMS, MI 48236  
TELEPHONE (313) 881-1300

<sup>1</sup> ALSO MEMBER OF MARYLAND, VIRGINIA  
AND THE DISTRICT OF COLUMBIA BARS  
<sup>2</sup> ALSO MEMBER OF GEORGIA BAR

February 13, 2013

Ms. Kay E. Greenbury  
2703 Zenith Drive  
Milford, Michigan 483800

Re: Smith v. Greenbury

Dear Kay:

I want to follow up our conversation from Friday, February 8, 2013, with this correspondence, because as I indicated to you in that conversation, I want to make sure that you understand the risks involved with proceeding to trial, rather than attempting to settle the case along the lines that John and I discussed with you and your sister, Donna, the evening of February 7, 2013.

John and I suggested that we attempt to negotiate and settle the case with you receiving approximately \$1,300,000 of the \$1,600,000 total estate (some of which is clearly Roger's separate property). **Of the \$1,300,000, \$1,000,000 would be used for you to invest for the next ten years, with the intent that those funds double, so that in ten years you would have \$2,000,000 in investible assets which would produce somewhere between \$75,000 and \$100,000 per year in income. \$200,000 of the \$1,300,000 would be used to generate \$2,000 per month to you in tax free income for the next ten years, and \$100,000 would go toward the outstanding attorney fees** that you have incurred thus far. Thus, you would walk out of the marriage debt free, with \$1,000,000 of investible assets, and with a stream of income of \$2,000 per month for the next ten years, before alimony payments.

On top of that, our proposal would also include \$2,000 per month in alimony from Roger, so that you would have \$4,000 per month on which to live. **As you know, Roger currently earns only \$4,000 per month**, so his alimony payments to you, under this proposal, would be equal to 50% of his income. We also discussed trying to find a way to meet your healthcare costs.

In our conversation, you told me that you do not authorize us to make this proposal to Roger's attorney, despite our belief that we might be able to settle the case along these lines. We have told you that if we try this case, there is a strong likelihood that the Judge would not give you the vast majority of the marital estate and alimony in excess of what Roger currently makes. In fact, we told you last night – and I told you again on Friday – that the most likely outcome of this

THE LAW FIRM OF JOHN F. SCHAEFER

trial is that you receive \$500,000 in assets, **before the payment of our attorneys fees**, along with support in the amount of \$1,000 per month from Roger. I said to you that the Judge is unlikely to invade **Roger's separate property** (some of which is a part of the \$1,600,000 in total assets that we discussed last night), and the Judge is even less likely to **invade trust assets that Roger** does not even own, especially because the Judge does not have the power to allocate assets that Roger does not own.

You told me that you understand these risks, that you want to proceed with the case because the family is evil. You also told me that you can make \$2,000 per month shoveling manure from horse stalls, so to you, the difference between \$4,000 per month and \$1,000 per month in alimony is insignificant.

I understand, as you indicated in our conversation, that the Smith family money has been an important component of your life while married to Roger Smith, Jr., but when you divorce Roger Smith, Jr., you do not have a separate claim to his family money; instead, the Court only may allocate assets and income that each of the two of you have, because you did not marry his family, you married him.

I am sorry that this is the unfortunate reality of the situation, but we can only operate within what the law provides. If you would prefer to seek other counsel in the form of a second opinion, or to take over the case, please do not hesitate to so advise us.

If you wish this office to proceed to trial on your behalf, which is clearly against our advice, **you need to understand that our likelihood of coming close to that which we are recommending as a possible settlement is minimal indeed.** Further, **before commencing trial preparation, you must bring your outstanding attorney fee balance current, as indicated on the attached invoice.**

Sincerely,



B. Andrew Rifkin

BAR/sl  
Enclosure

No deposition had been taken of "Roger". The forensic accountants I had been asked to retain and pay for had delivered their information to Mr. Rifkin & Mr. Schaefer but not to me. My husband's income figures were only those from an estate transfer setup from his mother. They did not include his income from a marital asset called Air Monitors (with zero dollar purchase orders which I had supplied copies of) and did not include my share of Smith Spyglass Ltd.  
Information available via Google [www.sunbiz.org](http://www.sunbiz.org) search corporate database by name

**THE LAW FIRM OF JOHN F. SCHAEFER**

380 North Old Woodward Avenue  
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Birmingham, Michigan 48009  
(248) 642-6655

GREENBURY, KAY ELLEN  
\*\*\*PERSONAL AND CONFIDENTIAL\*\*\*  
2703 ZENITH DRIVE  
MILFORD, MICHIGAN 48380

February 06, 2013

Invoice Number: 14573  
JOHN F SCHAEFER

For professional services rendered through January 31 2013  
as itemized on the attached invoice:

GREK

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**(DOM) DOMESTIC RELATIONS**

Total Fees due this invoice:	\$10,572.50
Total Costs due this invoice:	\$76.80
Total Administrative Costs re: Xerox, Facsimile, Postage and Telephone due this invoice	\$317.18
<b>Total Due This Matter:</b>	<b>\$10,966.48</b>
Plus: Prior Outstanding Accounts Receivable Balance:	\$85,297.49
<b>Total Balance Due:</b>	<b>\$96,263.97</b>

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Invoice



# EXHIBIT 5

Note: Although the costs of maintaining the residence were known to be \$9000/mo and had been about that even with previous owners Roger - due to the extremely high utility costs - Roger Smith Jr. was only required to contribute \$4000 per month to the maintenance costs of the marital residence. Therefore the remainder went on credit cards.

Kramer, Timothy J.

From: Kramer, Timothy J.  
Sent: Saturday, April 06, 2013 1:12 PM  
To: B. Andrew Rifkin (bar@lfjfs.com)  
Subject: FW: Smith v Greenbury  
Attachments: Settlement concept 4-6-13.pdf

or another qualified repair person APPROVED BY KM

Andy,

I have spoken to Roger and in response to your email of last night:

- Property will be divided according to the attached spreadsheet, subject of course to fluctuations in the market (stocks) if applicable.
- Kay advised Roger she has an offer of \$575,000 based on actions taken solely by her. If the offer is accepted and closed in 30 days, Kay can have up to \$344,957 from the net sale proceeds. Anything over that should be divided 50/50. In addition, if Kay receives any commission, fee or other payment as a result of the sale, it should also be divided 50/50. Kay can live in the house for 60 days. She shall pay for routine maintenance and utilities during this time and Roger shall pay the equity loan, insurance and real estate taxes. ~~When Kay moves out 60 days the equity loan, insurance, real estate taxes utility and maintenance costs will be split 50/50.~~ *TO THE EXTENT > \$344,957 HAS BEEN RECEIVED FROM HOUSE SALE.*
- If the \$575,000 offer is not accepted and closed ~~within 30 days~~ *BY APRIL 30<sup>th</sup>*, The parties shall sign a listing agreement with ~~either party~~ a mutually agreeable agent at a listing price selected by ~~either party~~ the mutually selected agent. ~~If the Parties have not sold the home in 60 days, a receiver shall be appointed.~~ If the home is sold through ~~either~~ a subsequent agent agreed to by the parties or a receiver, Kay can have up to \$344,957 from the net sale proceeds and anything over that should be divided 50/50.
- The parties shall immediately begin to clean out the house and surrounding buildings. Any cost related thereto shall be split 50/50. At that time, I assume they can deal with dividing personal property between them.
- Roger will pay monthly non-modifiable spousal support of \$2,000 per month for eight and a half years beginning ~~15 OR~~ *15 OR* ~~when Kay moves out of the house.~~ *after* This would be deductible to Roger and include able by Kay for tax purposes. It will terminate on the death of either party or remarriage of Kay. Roger's spousal support obligation to Kay shall be secured by life insurance, with a minimum death benefit equal to the then-current after-tax present value of Roger's remaining support obligation. Both parties shall waive the right to any other support of any kind.
- All joint credit cards shall be immediately cancelled and any charges on them after today and until cancelled shall be paid by the party making such charge. You will provide us ~~today~~ *ASAP* with backup for all credit card and other debt Kay claims of \$85,000.
- Each party will indemnify and hold the other harmless for debts and taxes related to any property they acquire. Each party will indemnify and hold the other harmless for failure to report income.
- Each party pays his or her own attorney fees and costs.
- Each party pays his or her own health insurance costs and unreimbursed medical expenses going forward.
- Tax language and release language at pages 10, 12 and 13 of the judgment attached to my brief shall be included in the settlement agreement.
- The settlement agreement will be incorporated and merged in to a judgment.

No 9 fee of 344,957

120

AFTER LORER HAS PAID FOR MICH COMFORT SYSTEMS TO SHUT OFF POOL HOUSE + GARAGE GND

of 1st party

after

Timothy J. Kramer

Abbott, Nicholson, Quilter, Esshaki & Youngblood, P.C.  
300 River Place, Suite 3000  
Detroit, MI 48207-4225  
TEL: 313.566.2500  
FAX: 313.566.2502  
[www.abbottnicholson.com](http://www.abbottnicholson.com)

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the Internal Revenue Service, we inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing or recommending to another party any tax-related matters addressed in this communication.

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We are not authorized to enter into any binding agreement on behalf of any of our clients. If this communication contains any settlement proposal, it is for discussion purposes only and does not constitute an offer on behalf of us or any of our clients, and cannot create a contract or legally binding agreement. Any settlement of any matter requires the signature of an authorized representative of our client (other than Abbott Nicholson, P.C.) on final definitive documents which have been approved in accordance with our client's procedures.



4-6-13

Roger Smith and Kay Greenbury  
Settlement Concept

Assets and Secured Liabilities	Marital Equity	To Wife	To Husband	Current As Of Comments
Real Property (JT) 2703 Zornth Drive, Milford MI Lease: Chase Home Equity Line of Credit #2978 (JT) Net Equity	540,500 (195,540) <u>344,960</u>	344,957.00		
Bank and Brokerage Accounts				
(JT) Chase Premier Checking account #904401595	1,294.00	1,294.00		8/13/2012
(JT) Chase Money Market account #125814147	220.00			8/13/2012
(JT) Chase savings account #33068				5/11/2012
(JT) Wells Fargo account #5633-7006	215,588.00	215,588.00		12/31/2012
(R) Wells Fargo account #9222	339,000.00	169,500.00	169,500.00	4/4/2013
(R) Ally Checking account #102600046	8,428.00	5,428.00		1/30/2013
(R) Ally Demand Notes #6000901228747	12,825.00	12,825.00		2/27/2013
(R) GRAT (Register)	35,000.00			
Retirement and Pension Accounts				
(W) Wells Fargo IRA #63073-1923	116,191.00	116,191.00		12/31/2012
(R) Wells Fargo IRA #5939-0287	402,000.00	260,000.00	162,000.00	2/29/2013
(R) Lear Defined Benefit Pension Plan	151,000.00		151,000.00	8/1/2012
(R) Occidental Chemical Pension	1,650.00		1,650.00	6/9/2012
(W) Ford 401K	26,000.00	26,000.00		
(W) Ford Pension	19,000.00	19,000.00		10/23/2012
(W) State Farm Insurance (CSV)	8,555.00	8,555.00		
Business Interests and Investments				
(R) Smith Bryglass, LTD.	380,000.00		380,000.00	Stipulated
(R) Pacific Energy Corp. Private Equity Fund	24,000.00		24,000.00	Stipulated
(R) HRF Exploration and Production LLC	18,000.00		18,000.00	Stipulated
(R) Air Methods, Inc.	10,000.00		10,000.00	Stipulated
(R) Avaton Farms, Inc., and Horses	83,500.00	83,500.00		
Vehicles and Watercraft				
(W) 2000 Yukon XL	5,275.00	5,275.00		Estimated Blue Book value
(W) 2003 Pontiac GTO	10,000.00	10,000.00		Estimated Blue Book value
(R) 2004 GMC Avalanche	9,700.00		9,700.00	Estimated Blue Book value
(R) 31 Chris Craft Boat with Trailer	25,000.00		25,000.00	Estimated Blue Book value
Unsecured Credit Card and Other Debt	(63,000.00)	(42,000.00)	(43,000.00)	Estimated current outstanding balances totals
<b>Net Worth</b>	<b>\$ 2,170,833.00</b>	<b>\$ 1,214,657.00</b>	<b>\$ 448,453.00</b>	

①

- Statutory provisions + events orders
- Confidentiality / Non-disparagement provision
- Return or Destruction of Smith docs per protected order
- Bob Treat to prep DROS.
- ~~Alimony will be paid for 12 months~~
- Alimony IRS C 71 includable C 215 deductible
- No use of Home Equity Loan (non-modifiable)
- Release of claims
- Joint prep BY BOTH COUNSEL
- April 30 - Broker deal to expire / be closed
- May 1 - new realtor for 60 days.
- Anyone creates an impediment to sale at any time or home not sold after 60 days - receiver may be appointed by Arbitrator at request of either party
- Arbitration provision - Gil agrees to arbitrate all claims re house
- No repairs unless mutually agreed or Gil decides
- Receiver to ~~use~~ use best efforts to maximize sale price of house.

- Non-modifiable support begins ~~at~~ First of month following Ray's ~~exit from the home~~ moving out of most of home
- Ray shall vacate ~~the~~ the car. co. by 120 days, necessity of sale or decision of arbitrator - whichever shall occur first.
- At the time Ray ceases paying non-modifiable support, <sup>each party</sup> he shall have the right to elect to stop paying the home equity loan. ~~However~~ However it <sup>Ray</sup> elects to pay such loan he shall be entitled to repayment at the time of the sale of the home as a priority over any amount payable to Ray, regardless of amount to be paid to Ray.

Ray's Bank

4

(2)

- Part. is understood balance in account and retirement plans fluctuate and shall take subject to such fluctuation from this date to date of division.
- House shall be sold as is with no warranties + reps

LA

Mr. J. J. [Signature]

- Kay shall put all utilities for home in her name or name
- All bills shall be paid by Kay commencing effective April 1, 2013
- Gil & Kay shall arbitrate all personal property issues
- ~~Neither~~ <sup>neither</sup> party shall require or improvements of any kind to home unless mutually agreed upon in writing by Gil & then payment of same shall be 50/50
- ~~Each party~~ <sup>each party</sup> shall be responsible for his or her own contributions, charitable contributions, depletion expenses and itemized deduction for 2012 for income and capital gains
- A house person shall be present during ~~all~~ <sup>all</sup> showings, offers due to problems of ~~stallions~~ <sup>if no real estate agent is present</sup> ~~stallions~~ <sup>ATTORNEY ALL PARTIES</sup>
- ~~Neither party shall be responsible for the other's debts or liabilities~~
- The parties shall cooperate in ~~preparing and filing~~ <sup>2011</sup> joint tax returns filed by ~~them~~ <sup>them</sup>. ~~ROLES TO BE ENTERED APPLICABLE~~
- No discharge of debts assumed pursuant to bankruptcy
- In the event ~~either~~ <sup>either</sup> party is audited by tax authorities, any notice shall be shared with the other party and the other party shall be allowed to participate in such audit and have access to all returns and other documentation required for participating in such audit.

*[Handwritten signature]*

*[Handwritten signature]*

House - Real Property

(4)

Starting April 8, 2013 - Roger will pay taxes, insurance, HELOC and grass cutting until August 1, 2013.

- Kay will pay all utilities and normal maintenance and repairs.

Starting August 1, 2013 - Kay will pay all taxes insurance HELOC, grass, utilities and normal maintenance and repairs.

- Roger will start with spousal support of 2000 a month.
- Kay may stay in the home during this time and September 30, 2013

Between August 1, 2013<sup>a</sup> and September 30, 2013 - Kay will pay HELOC debt in full by refinancing or assets awarded to her. In such event, Roger will quit claim interest in house unless under contract of sale.

- Kay will provide Roger with notice of all refinancing attempts and results.

- If house sells or under contract between August 1 and September 30, 2013 any and all amount <sup>increased</sup> of, 345,000 shall be divided 50/50 as provided herein.

- Kay may stay in home during this time,

*Red 3*

5/20/13 ✓



September 30, 2013 — HELOC NOT PAID AND HOUSE UNDER SALE CONTRACT <sup>⑤</sup>

- IF there is <sup>①</sup>no contract to sell <sup>② NO</sup> AND <sup>THEN</sup> payment of A for HELOC in full by Kay, a receiver will be appointed to sell at the best possible price as quickly as possible
- From the closing all normal costs of sale will be paid
- Roger shall then receive from the proceeds a refund of all payments related to the horse since April 8, 2013 and thereafter
- Then Kay shall receive up to 345,000 and the balance shall be split 50/50.
- Effective September 30, 2013, Kay shall continue to pay all taxes, insurance, HELOC, gross utilities and normal ~~expenses~~ maintenance and repairs. Any amount not so paid by her shall be deducted from her 345,000.

herein:

At all times, both parties shall be advised immediately of any offer to purchase, and any offer netting 345,000 or more shall be accepted as long as Roger has not quit claimed his interest.

*[Handwritten initials]*  
K

"Will" shall equal "shall" in this agreement


Galisto be binding arbitrator as to any language disputes in documents regarding sale of this property

⑥

1. BOTH PARTIES SHALL BE ADVISED OF ANY OFFERS TO PURCHASE, AND ANY OFFER NETTING \$345,000 OR MORE SHALL BE ACCEPTED, AS LONG AS ROGER HAS NOT QUIT-CLAIMED HIS INTEREST IN HOME.
2. IF HOUSE NOT UNDER CONTRACT OF SALE AS OF AUGUST 1, 2013, KAY SHALL ASSUME FULL RESPONSIBILITY TO PAY ALL HOUSE-RELATED EXPENSES, INCLUDING HELOC, AND ROGER SHALL COMMENCE HIS ALIMONY OBLIGATION, EFFECTIVE AUGUST 1, 2013. KAY MAY REMAIN IN HOME IN THIS CIRCUMSTANCE.

From August 1, 2013

3. KAY HAS UNTIL SEPT. 30, 2013, TO REFINANCE, <sup>OR</sup> PRE-PAY IN FULL, ~~AND REMOVE~~ REMOVE ROGER'S NAME FROM ALL LIABILITY ASSOCIATED WITH HELOC. KAY TO PROVIDE ROGER WITH NOTICE OF ALL RE-FI ATTEMPTS AND RESULTS.
  - a. IF SHE DOES SO, ROGER WILL QUIT CLAIM TO KAY ALL OF HIS RIGHT, TITLE AND INTEREST IN THE HOME, AND KAY MAY KEEP ANY AND ALL PROCEEDS. (K9)
  - b. IF KAY HAS NOT REMOVED ROGER'S NAME FROM HELOC BY SEPT 30, 2013, A RECEIVER WILL BE APPOINTED TO SELL THE HOME AT THE BEST POSSIBLE PRICE, AND ROGER SHALL RECEIVE FROM THE SALE PROCEEDS ALL MONEY HE HAS PAID TOWARD HOME SINCE APRIL 8, 2013; AFTER THAT, KAY SHALL RECEIVE UP TO \$345,000, WITH ANY EXCESS DIVIDED EQUALLY BETWEEN THE PARTIES, ABOVE AND BEYOND KAY'S \$345,000.
  - c. IF THE HOUSE IS UNDER A CONTRACT OF SALE BEFORE SEPT 30, 2013, THERE SHALL BE NO RECEIVER AND KAY SHALL NOT HAVE ANY OBLIGATION TO REMOVE ROGER'S NAME FROM THE HELOC. SALE PROCEEDS SHALL BE SPLIT ACCORDING TO THE PRINTED AGREEMENT, WHICH IS ATTACHED

  
K1

# EXHIBIT 6

(00:50-LWS) WJLH:01 2102/01/90  
JUN. 10. 2013 9:42AM 248 360 034V WFA

NO. 2411 P. 2

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

ROGER B. SMITH, JR.,

Plaintiff/Counter-Defendant,

Case No. 12-794194-DO  
HON. CHERYL A. MATTHEWS

KAY E. GREENBURY,

Defendant/Counter-Plaintiff

ABBOTT NICHOLSON, P.C.  
BY: TIMOTHY J. KRAMER, (P36223)  
Attorneys for Plaintiff  
300 River Place  
Suite 3000  
Detroit, Michigan 48207  
(313) 566-2500

THE LAW FIRM OF JOHN F. SCHAEFER  
BY: JOHN F. SCHAEFER (P19948)  
B. ANDREW RIKKIN (P46147)  
COLLEEN E. JOHNSON (P71417)  
Attorneys for Defendant  
330 North Old Woodward Avenue  
Suite 320  
Birmingham, Michigan 48009  
(248) 642-6655

13 JUN -6 PM 1:53

TO: Wells Fargo Advisors  
Attn: Ms. Virginia E. Hathorne  
22260 Haggerty Rd., Ste. 230  
Northville, Michigan 48167

THE LAW FIRM  
OF  
JOHN F. SCHAEFER  
BIRMINGHAM, MICHIGAN 48009  
BIRMINGHAM CREDIT POLICE  
(248) 642-6655 (248) 251-1999

NOTICE OF ATTORNEYS CHARGING LIEN

FROM : AVALON FARM

FAX NO. : 248 684 1539


Jun. 17 2013 04:36PM P5

(00:50-LWS) MULT:01 810Z/01/90 WFA  
JUN. 17. 2013 9:42AM 248 684 1539

NO. 2411 P. 5

PLEASE BE ADVISED that The Law Firm of John F. Schaefer hereby asserts an attorneys charging lien in the amount of \$154,340.47 on the assets/monies of Kay Ellen Greenbury that are now in your possession or under your control. Consistent with the terms of this lien, you are instructed not to release such assets/monies from your custody and/or control until such time as you receive notice from us or a court order instructing you that the lien has been satisfied.

THE LAW FIRM OF JOHN F. SCHAEFER

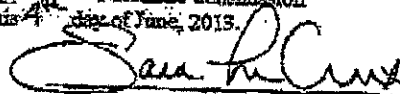
BY:   
JOHN F. SCHAEFER (P19948)  
B. ANDREW RIFKIN (P46147)  
COLLEEN E. JOHNSON (P71417)

Attorneys for Defendant  
380 N. Old Woodward Avenue Suite 320  
Birmingham, Michigan 48009  
(248) 642-6655

**PROOF OF SERVICE**

I hereby affirm that a copy of the foregoing document was served on the above named persons and entities, and all counsel of record at the address(es) shown above via:

Hand-delivery  
 U.S. Mail (first class, postage prepaid)  
 Facsimile transmission  
on this 4<sup>th</sup> day of June, 2013.



THE LAW FIRM  
OF  
JOHN F. SCHAEFER  
ATTORNEYS AT LAW  
BIRMINGHAM, MICHIGAN  
(248) 642-6655 (313) 881-1900

4 P. 097 NO. 760

WELLS FARGO ADVISORS J LAWS JUN. 10. 2013 12:29PM

FROM : AVALON FARM

FAX NO. : 248 684 1539

Jun. 14 2013 02:26PM P3

RECEIVED  
OAKLAND COUNTY  
REGISTER OF DEEDS

2013 JUN -4 PM 2:51

148958  
LIBER 45876 PAGE 764  
\$13.00 MISC RECORDING  
\$4.00 RECONUMENTATION  
06/04/2013 02:51:00 P.M. RECEIPT# 77929  
PAID RECORDED - OAKLAND COUNTY  
LISA BROWN, CLERK/REGISTER OF DEEDS

ATTORNEY/JUDGMENT LIEN

Notice is hereby given that pursuant to a Judgment of Divorce entered on May 8, 2013 in the Oakland County, Michigan, Circuit Court, in Case No. 2012-794194-DO, by the Honorable Cheryl A. Matthews, a copy of which is attached hereto, KAY E. GREENBURY granted to THE LAW FIRM OF JOHN F. SCHAEFER a lien interest in the following described premises situated in the Village of Milford, County of Oakland, and State of Michigan, to wit:

See attached Exhibit A.

Parcel Identification Number 18-29-201-013  
Commonly known as: 2703 Zenith Drive, Milford, Michigan 48380

The lien claimant's current outstanding total current balance, including extras and costs, presently is One Hundred Fifty-Four Thousand Three Hundred Forty and 47/100 Dollars (\$154,340.47). The lien claimant therefore claims a lien upon the above-described real property in that amount. If payment is not made in full, the lien claimant may invoke the power of sale and foreclosure of the property along with any other remedies permitted by law.

Date: June 3, 2013

LIEN CLAIMANT

THE LAW FIRM OF JOHN F. SCHAEFER

BY: John F. Schaefer  
JOHN F. SCHAEFER (#19948)  
380 North Old Woodward Suite 320  
Birmingham, MI 48009  
(248) 642-8655

ap  
r

STATE OF MICHIGAN )  
 ) SS  
COUNTY OF OAKLAND )

On this 4<sup>th</sup> day of June, 2013, before me, a Notary Public for the county and state aforesaid, personally appeared the above named JOHN F. SCHAEFER, by me first duly sworn and says that he has read the foregoing authorization by him subscribed and that he knows the contents to be true.

SARA R. LACROIX  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Aug 24, 2015  
ACTING IN COUNTY OF Oakland

Sara P. LaCroix  
NOTARY PUBLIC Sara P. LaCroix  
My Commission Expires: 8/24/2015

When Recorded Return To:  
B. Andrew Rifkin, Esq.  
380 N. Old Woodward Ave. Suite 320  
Birmingham, Michigan 48009

Drafted By:  
B. Andrew Rifkin  
380 N. Old Woodward Ave. Suite 320  
Birmingham, Michigan 48009

OK - MR

**EXHIBIT A**

Part of the Northeast ¼ of Section 29, Town 2 North, Range 7 East, Beginning at point distant South 00 degrees 00 Minutes 15 seconds East, 707 feet from North ¼ corner, thence North 89 degrees 19 minutes 15 seconds East; 80 feet; thence North 00 degrees 10 minutes 05 seconds West, 89.98 feet, thence North 89 degrees 19 minutes 15 seconds East, 375.53 feet, thence South 00 degrees 10 minutes 05 seconds East, 694.42 feet, thence South 89 degrees 29 minutes 00 seconds West 457.26 feet, thence North 00 degrees 00 minutes 15 seconds West, 603.18 feet to beginning.

Together with a Private Road and Public Utility Easement

A 60 foot wide non-exclusive private road and public utility easement, the centerline of which is described as:

Commencing at the North ¼ of said Section 29; thence North 89 degrees 19 minutes 15 seconds East, 171.52 feet to the Point of Beginning of said centerline description; thence South 00 degrees 10 minutes 05 seconds East, 677.00 feet; thence North 89 degrees 19 minutes 15 seconds East, 30.00 feet to the Center of a 60 foot turning radius and Point of Ending of said centerline description, as created by instrument recorded in Liber 9119, Page 770, Oakland County Records.