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TO BE FILED WITH THE CASE MANAGEMENT OFFICE BY 4:30 P.M. ON OR BEFORE WEDNESDAY PRECEDING MOTION DAY

PRAECEPT FOR MOTION AND MISCELLANEOUS DOCKET

STATE OF MICHIGAN
The Circuit Court for the County of Oakland
1200 N. Telegraph Rd., Dept. 404, Pontiac, MI 48341-0404

Case Number : 2012-794194-DO

(YYYY-123456-XX)

Plaintiff SMITH,ROGER,B,JR

v.

Defendant GREENBURY,KAY,E,

Judge: CHERYL A. MATTHEWS

Summary Disposition Motion:

Motion Date: Wednesday, 7/17/2013

OAKLAND COUNTY 12-794194-DO



JUDGE CHERYL A. MATTHEWS
SMITH,ROGER B. v. GREENBURY,KAY

Motion Title: The Law Firm of John F. Schaefer's Notice and Verified Motion to Enforce Attorneys' Lien

YOUR MOTION WILL NOT BE SCHEDULED IF YOU DO NOT COMPLETE EITHER #1 OR #2 BELOW:

1. I hereby certify that I have made personal contact with Defendant on 6/4/2013, requesting concurrence in the relief sought with this Motion and that concurrence has been denied.

OR

2. I have made reasonable and diligent attempts to contact counsel requesting concurrence in the relief sought with this motion on

Is this a re-praecept?

No Yes

Notice: If this motion has been praeciped with no one appearing, the judge has an option of sanctioning parties or dismissing your motion. Your electronic signature certifies that the above information is correct.

Attorney: B. Andrew Rifkin

Phone: (248)642-6655

Moving Party: Defendant's counsel

Date: 7/9/2013 3:56:36 PM

C-10 (11-07)46569

Local Rule 2.119

PLEASE TAKE NOTICE that on **Wednesday, July 17, 2013, at 8:30 a.m.**, B.

ANDREW RIFKIN of THE LAW FIRM OF JOHN F. SCHAEFER, former counsel to Defendant herein, will appear, and for THE LAW FIRM OF JOHN F. SCHAEFER'S Verified Motion to Settle Attorney's Lien, it respectfully represents unto this Honorable Court as follows:

1. THE LAW FIRM OF JOHN F. SCHAEFER ("Schaefer") has filed this motion because Defendant Kay Greenbury ("Ms. Greenbury") has refused to respond to several weeks of communications from Schaefer and entirely has ignored her obligation to pay her bill for legal services.¹ While Schaefer no longer represents Ms. Greenbury (since this Court's Judgment of Divorce specifically discharges the attorneys of record upon entry), Schaefer still needs to be paid for the extraordinary amount of work that its lawyers did.

Where is the evidence?

2012-2013 what 3 yrs

2. During the more than three years that Schaefer represented Ms. Greenbury, she knowingly and willingly consumed more than 435 hours of attorney time on her matter, routinely requiring her attorneys to set aside other work, take calls and e-mails at home at night and on weekends, and handle her "urgent" needs at all hours as various incidents habitually arose, frequently after regular business hours. Her matter required myriad motions and extensive discovery, business valuation work and financial analysis of marital and separate property claims (much of which involved significant and intricate trust interests), and briefing of complex legal issues, with Defendant also insisting upon an exhaustive forensic investigation of Plaintiff's personal and financial affairs, including issuing and litigating in foreign jurisdictions subpoenas for depositions of many of Plaintiff's family members.

All lies Prove it

Never deposed ANYONE - WHERE ARE THE DEPOSITIONS?

Throughout the course of her matter, Defendant also consumed attorney time on issues such as reviewing voluminous documents and obtaining money to pay for separate litigation involving an ethics complaint against Ms. Greenbury from the *International Andalusian and*

THE LAW FIRM OF JOHN F. SCHAEFER PROFESSIONAL LIMITED LIABILITY COMPANY

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¹ In the interest of protecting Defendant's privacy, THE LAW FIRM OF JOHN F. SCHAEFER has elected not to attach to this motion copies of the detailed billing statements issued to Defendant (consistent with the lien granted) because of the explanations in the statements of the services provided on Defendant's behalf.

Where are these? Where is the evidence? I sued him where is it? I have it I followed the money

Took time from my attorney of 20yrs to build billable hours

Lusitano Horse Association, issues involving the boarding of horses on her property, the operation and expenses of her horse farm, various maintenance and repairs needed to her home and barn (including re-roofing, heating and cooling issues, and removal of extraordinary amounts of personal property throughout the home), and Defendant's own medical needs and expenses. Defendant had many opportunities – both during and after two separate mediation sessions – to favorably settle her matter throughout the course of the litigation, but she declined each and every opportunity until the very end, requiring nearly nine hours of additional time and effort on the day of trial to finalize her settlement (which ultimately awarded to her nearly 60% of the marital estate). Ms. Greenbury then refused to consent to the entry of the Judgment of Divorce that incorporated and merged those terms to which she agreed, requiring many additional hours of legal work and an another unnecessary court appearance.

3. The liens that Schaefer filed and served on June 4, 2013 – pursuant to this Court's Judgment of Divorce, which in paragraph 15 specifically provides that "[e]ach attorney is awarded a lien on the property awarded to that attorney's respective client" – may be enforced in this action. There is no requirement under Michigan law that prior counsel must file a separate action to enforce its statutory judicial lien.² *Malesh v Mills*, 237 Mich App 359, 364-65 (1999). "These liens exist as part of the court's inherent power to oversee the relationship of attorneys with their clients; they provide a means of securing the legitimate interest of the attorney in payment, but are subject to the control of the court for the protection of the client and third parties as well." *Kysor Industrial v. D.M. Liquidating Company*, 11 Mich.App. at 445, 161 N.W.2d 452 (1968).

4. In a Michigan divorce case, prior counsel for a party always may file a motion in the existing action to intervene, enforce, and collect its lien. *Munro v Munro*, 168 Mich

² A court-ordered lien is "a statutory judicial lien ..., not an attorneys' lien." *George v Sandor M Gelman, PC*, 201 Mich App 474, 478, fn 1; 506 NW2d 583, 585 (1993).

Newer
Deposed
Husband
Ignored
Tax Preparer
Fraud
Cooperated in
cover up of
assets shipped
off shore
withheld
information
from Greenbury
Costs \$35-40K

Kept myself & \$5 yr old
father lodged in Jury
room w/ no food
or even glasses for water
I got a migraine
wanna take
Had to take
Per locat

my BUSINESS

WHAT WAS HE HIRED FOR?

\$24000/yr

NO
medical
that's
favorable
Hotta

- Had Evidence Smith Spyglass
was Marital Assets AND IGNORED
IT

PARTICIPATE
in cover up

Francis accountants

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App 138, 143 (1988). In *Munro*, the plaintiff/wife terminated her first counsel, and she signed a charging lien agreement in favor of her prior counsel. Thereafter – in the same action – prior counsel “filed a motion to enforce the charging lien against [plaintiff/wife’s current counsel].” *Munro*, 168 Mich App at 141. The *Munro* trial court denied the motion, but the Court of Appeals reversed, holding that “the trial court should have granted intervenor-plaintiff’s motion to enforce the lien against intervenor-defendant” because the plaintiff/wife’s current counsel “... had notice of the lien, came into possession of funds which were encumbered by the lien, and thereafter failed to turn over the proceeds to intervenor-plaintiff in settlement of the lien.” *Id.* at 143. The Court of Appeals therefore remanded the matter back “to the circuit court with directions to enter judgment in favor of [prior counsel] intervenor-plaintiff.” *Id.*

5. *Munro* and *Malesh* are not the only Michigan cases in which attorneys have filed motions in existing actions to enforce their liens. Indeed, as a matter of judicial efficiency and economy, Michigan courts routinely and consistently have permitted prior counsel to intervene in the existing action to enforce their liens, rather than requiring prior counsel to file separate actions. See, e.g., *Doxtader v. Sivertsen*, 183 Mich.App. 812 (1990), and *Krajewski v Klawon*, 84 Mich.App. 532 (1978). In *Klawon*, for example, the Court of Appeals held that “[t]o avoid any further delay or prejudice to the adjudication of the rights of plaintiffs and both attorneys, we exercise our powers under GCR 1963, 820.1(2), and permit [prior counsel] to intervene *nunc pro tunc*.” *Klawon*, 84 Mich.App. 536-37. *Klawon* and its progeny has been the law of this state for nearly 30 years.

6. Ms. Greenbury has had ample opportunity to contest the amount of the lien, but she has failed to file any objections with this Court, despite having received notice of the liens on June 4, 2013. Throughout Schaefer’s representation, Ms. Greenbury on a monthly basis received statements for legal services rendered, the time spent, and the amount owed as

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*LIARS
HAVE
filed in
court*

of the end of each month, but she never once objected to any of the monthly statements, the services performed, the time spent, or the amounts owed. (Ms. Greenbury apparently consulted with Henry Gornbein, Esq., and while Mr. Gornbein called Schaefer's office to discuss the liens, he never has filed an appearance or objections with this court.)

7. As of today, THE LAW FIRM OF JOHN F. SCHAEFER still has not been paid for services that it rendered to Defendant – totaling more than 435 hours of attorney time – beginning in 2010 and continuing until May of 2013.

8. It now is time that THE LAW FIRM OF JOHN F. SCHAEFER is paid for its hard work. Defendant should not be entitled to continue to hold hostage the long-overdue fees that she owes.

Didn't hire ^{the} him! Not paying a divorce until 2012
The retainer not signed until 2012

What is this

Cancel 11-1-12
\$154,000 and no one
See his

WHEREFORE, THE LAW FIRM OF JOHN F. SCHAEFER respectfully requests that this Court:

- A. Allow THE LAW FIRM OF JOHN F. SCHAEFER to intervene in this existing action and enforce its Court-ordered lien within this same matter, rather than requiring a separate lawsuit to be filed;
- B. Find that THE LAW FIRM OF JOHN F. SCHAEFER's billing statements reasonably reflect the services rendered and the costs advanced on behalf of Defendant, and that the amounts charged for such services and costs are reasonable under the circumstances;
- B. Order that the sums of \$6,125,47 for costs expended on behalf of Defendant by The Law Firm of John F. Schaefer, \$148,215.00 for attorney fees incurred, and \$5,652.50 for unpaid costs which Defendant owes for various experts and litigation expenses – all of which presently is being held in Defendant's Wells Fargo brokerage account pursuant to the notice of lien served by THE LAW FIRM OF JOHN F. SCHAEFER – be

Also liened my house and my bank accounts

everything I advised - Evidence is in Court Papers filed by Steven Cohen \$800,000 in assets for 2 yrs

released to THE LAW FIRM OF JOHN F. SCHAEFER to satisfy, in full, the fees and costs owed by Defendant to THE LAW FIRM OF JOHN F. SCHAEFER; and

D. Grant to THE LAW FIRM OF JOHN F. SCHAEFER such other and further relief as shall be agreeable to equity and good conscience.

Also liened my house & bank accounts

"I declare that the foregoing statements are true to the best of my information, knowledge and belief."

J. Schaefer

JOHN F. SCHAEFER

JUDAS

*all for the same amount
But never went to court
Just liened them!*

Respectfully submitted,

THE LAW FIRM OF JOHN F. SCHAEFER

BY: *Colleen E. Johnson*

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

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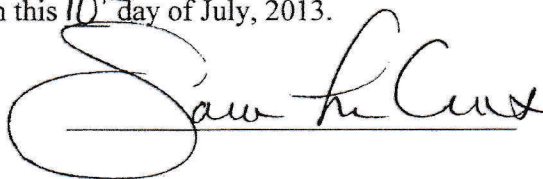
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Proof of Service

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

- Hand-delivery
- U.S. Mail (first class, postage prepaid)
- Facsimile transmission / E-mail

on this 10th day of July, 2013.



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