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

TIMOTHY C. ROTE,

Plaintiff,

vs.

LINDA L. MARSHALL,

JOEL CHRISTIANSEN,

ANDREW BRANDSNESS,

CAROL BERNICK,

OREGON STATE BAR (PROFESSIONAL
LIABILITY FUND),

MATT KALMANSON,

JANE DOE,

PAM STENDAHL,

JOHN DOES (4-5)

Defendants

) Case No.: 18CV45257

) FIRST AMENDED COMPLAINT FOR:

) (1) DEFAMATION;

) (2) MALPRACTICE;

) (3) BREACH OF CONTRACT;

) (4) BREACH OF IMPLIED COVENANT
OF GOOD FAITH;

) (5) RACKETEERING;

) (6) INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS; AND

) (7) FRAUD.

JURY TRIAL REQUESTED

Plaintiff Timothy C. Rote ("Rote") alleges as follows:

1.

Plaintiff is an individual residing in West Linn, Oregon.

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2.

Defendant Linda L. Marshall (Marshall) practices law in Lake Oswego, Oregon.

3.

Defendant Joel Christiansen (CHRISTIANSEN) practices law in Portland, Oregon.

4.

Defendant Oregon State Bar (OSB) resides in Tigard, Oregon.

5.

Defendant Andrew Brandsness resides in Klamath Falls, Oregon

6.

Defendant Carol Bernick is CEO of the PLF and resides in Portland, Oregon

7.

Defendant Jane Doe is a court reporter licensed in Oregon and resides in Portland, Oregon

8.

Defendant Matt Kalmanson is an attorney practicing in Oregon and resides in Portland,
Oregon

9.

Defendant Pam Stendahl is an attorney practicing in Oregon and resides in Tigard, Oregon

10.

John Doe 4-5 identities and addresses are undisclosed.

FIRST CLAIM FOR RELIEF

(Defamation against Marshall, CHRISTIANSEN & John Does 4-5)

11.

Plaintiff alleges paragraphs 1-7.

12.

Plaintiff has been the subject of defamatory statements intended to influence litigation pending in Federal Court where Rote is a Defendant, to defame Rote which falsely and maliciously attribute characteristics to Rote that are intended to demean and embarrass him and hold him in a

1 false light.

2 13.

3 Rote is the author and owner of a blog and other intellectual property addressing issues of
4 bias and fraud arising during the course of litigation adjudicated in an arbitration lasting seven years.
5 In particular Rote has asserted that a substantial and prior partner relationship between Marshall and
6 the arbitrator (which was undisclosed by the arbitrator and concealed by Marshall) influenced the
7 arbitrator and resulted in arbitrator bias.

8 14.

9 In writing about the arbitration and subsequent litigation Rote exposed the testimony
10 evidence, forensic reports, and other supporting evidence making his case for the extreme dangers of
11 arbitration. Some of the forensic reports shine a poor light on the Plaintiff in that arbitration and by
12 association raises questions on whether Marshall knowingly advanced false evidence.

13 CHRISTIANSEN, Marshall and John Does took action to discredit Rote because of the information
14 disclosed in the blog. Subsequently, Rote met with the arbitrator and confirmed that he had referred
15 the opposing party to his former partner (Marshall) and had adopted her draft opinion because he did
16 not have the stamina to dive into the evidence.

17 15.

18 On November 12, 2015 Rote published a post (Chapter 19) about the relative lack of appeal
19 in arbitration. Marshall and Christiansen used that blog to justify publishing highly defamatory
20 statements about Rote and refused to be honest about what they had said.

21 16.

22 Later that day Rote's attorney was contacted by the U.S. Marshals service inquiring as to
23 the meaning of the post. The U.S. Marshal Service had been contacted by someone (U.S. Marshal
24 will not disclose who) from Judge Robert Jones chamber conveying that they received a tip from
25 someone about Rote's blog post and that it was a veiled threat of physical violence Rote intended to
26 execute on Judge Jones at the Awards Dinner that very night. Marshall has consistently engaged in
27 this type of innuendo during and after the arbitration, accusing Rote of fraud in Pleadings whenever
28 possible, as Rote has accused her.

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17.

Rote was contacted by the U.S. Marshals by phone while in the presence of his attorney. Said attorney represented Rote on the matter involving the ongoing litigation with Marshall and CHRISTIANSEN's client. Rote's attorney on this matter, Jeff Hasson, is not the only attorney Rote uses. However, the U.S. Marshals service did contact Hasson and then Rote while they were at their Country Club at approximately 5:00 pm on November 12, 2015.

18.

Rote had immediately reached out to Judge Robert Jones, but the U.S. Marshal Service has asked Rote to no longer contact them. Rote has asked CHRISTIANSEN and Marshall to disclose who among them engaged in this horrible act, but they refuse to admit or even engage on this topic. A defamation claim has been filed against Marshall and CHRISTIANSEN's client, as a counterclaim in an existing law suit in U.S. District Court of Oregon, but the court has not permitted Rote to join Marshall and Christiansen for diversity reasons. The defamatory actions were intended to influence two lawsuits now decided in the U.S. District Court of Oregon.

19.

In a Declaration subject to the penalty of perjury, including disbarment, Christiansen maintained only that he and Marshall conveyed the text of a blog post celebrating Judge Jones and spun it into something to the contrary. In fact they did much more.

20.

Rote was forced to file a Freedom of Information Act request to the U.S. Marshal's Service, the results of which were produced to Rote on October 15, 2016. The documents show that Marshall and Christiansen conveyed that Rote was unstable, that he had threatened their client, that he had been arrested and prosecuted on a weapons charge, that he has engaged in fraudulent transfers to avoid a judgment against one of his companies and is a threat to Judge Jones.

21.

Recently, Rote met with Judge Jones at his home, spending some time talking to Judge Jones and showcasing that he is not a threat to the Judge and his family. Rote has written elsewhere in his blog about how much he likes Judge Robert Jones and how much he looks forward to a

1 friendship.

2 22.

3 The Oregon State Bar Professional Liability Fund (PLF), Carol Bernick (PLF CEO) and
4 counsel hired by the PLF (Kalmanson) were well aware that Christiansen and Marshall were lying
5 about the extent and nature of the communication to Judge Jones chamber staff, the U.S. Marshal's
6 Service and others, concealing the truth from this court in a prior case 16CV07564. That case was
7 dismissed without prejudice, the U.S. Marshals evidence being unavailable until after the dismissal.

8 23.

9 As a result of these actions, Rote is often asked to defend himself in a business context on
10 the allegations of these threats which are a part of the public record.

11
12 **SECOND CLAIM FOR RELIEF**

13 (Malpractice against Defendant Andrew Brandsness)

14 24.

15 Plaintiff incorporates the allegations of paragraph 1-21.

16 25.

17 Defendant Brandsness was hired to represent corporate entities in two cases pending in the
18 U.S. District Court of Oregon, at the time of hire, February 2016, involving opposing counsel
19 Christiansen (3:15-CV-2401) and Marshall (3:14-CV-0406). Both cases went to trial.

20 26.

21 Case 3:14-CV-0406 was a bench trial and the court found in favor of Rote (a defendant in
22 that case) and the corporate defendant's wherein the plaintiff (Zweizig) sought to recover a judgment
23 against one of those corporate defendants alleging fraudulent transfers by Rote to avoid the judgment.

24 27.

25 Case 3:15-CV-2401 was a jury trial in which the plaintiff Zweizig sought damages against
26 Rote and corporate defendants for retaliation based on the sum of the content of the blog written by
27 Rote. Christiansen represented the plaintiff in that case. The jury found in favor of the plaintiff.

28 28.

1 The malpractice arose when Brandsness failed to file a Motion to Compel arbitration as the
2 contract with Zweizig demanded and to file a Motion to Dismiss corporate defendants not Zweizig's
3 employer. Instead Brandsness filed an Answer not addressing these issues.

4 29.

5 Rote discovered this failure in Mid October 2016, notifying Brandsness of this malpractice.
6 Rote filed his Motion to Dismiss alleging the contract requires arbitration, that this question has
7 already been decided in a court proceeding confirming the application of arbitration. Rote had not yet
8 discovered that the conditions precedent to this litigation should have resulted in the action being
9 dismissed for failing to bring the action timely.

10 30.

11 The U.S. District Court rejected Rote's Motion to Dismiss based on a Motion to Compel
12 arbitration and attendant lack of jurisdiction because both Rote and the corporate defendants had
13 answered and engaged in litigation for close to eight months. The court denied Rote's Motion to
14 Dismiss on January 5, 2017 and the potential damage to the corporate defendants did not mature until
15 that time.

16 31.

17 Brandsness withdrew from representation under a cloud of Rote raising this issue of
18 malpractice on approximately October 15, 2016. The malpractice impact could have been mitigated
19 had Brandsness filed a Motion to Compel and Dismiss, recognizing that the court did not deny this
20 same claim by Rote until 2017.

21 32.

22 While the jury trial result will be appealed, the PLF has refused to enter into a tolling
23 agreement forcing the filing of this action. A general judgment was issued on November 20, 2018 for
24 \$500,000, plus interest at 2.7% per annum. The Claim is for this amount.

25
26 **THIRD CLAIM FOR RELIEF**

27 (Breach of Contract against Defendants Brandsness, Bernick, Stendahl and Oregon State Bar PLF)

28 33.

1 Plaintiff incorporates the allegations of paragraph 1-33.

2 34.

3 Plaintiff tendered the very clear failure of Brandsness to file a Motion to Compel and
4 Motion to Dismiss.

5 35.

6 The Oregon State Bar PLF refused to repair and refused cover the malpractice by
7 Brandsness and that coverage has a direct impact on whether there should have been a jury trial
8 involving Rote as a defendant. Both Brandsness and the PLF refused to refund legal fees paid by
9 Rote and the corporate defendants. Both Brandsness and the PLF refused to cover the jury award, if
10 any.

11 36.

12 Rote files a Motion For Summary Judgment on the Arbitration Agreement in the Zweizig
13 contract and the court has refused to follow the precedent that this issue was resolved in a court
14 proceeding in New Jersey in 2005. The contract with Zweizig was upheld in its entirety.

15
16 **FOURTH CLAIM FOR RELIEF**

17 (Breach of Implied Covenant of Good Faith against Defendants Brandsness, Bernick, Stendahl and
18 Oregon State Bar PLF)

19 37.

20 Plaintiff incorporates the allegations of paragraph 1-36.

21 38.

22 The Oregon State Bar PLF (PLF) serves a dual purpose, to protect the public from
23 malpractice and to protect attorneys from malpractice costs (cost sharing) under a standard insurance
24 coverage theory.

25 39.

26 The PLF had adopted a sue us position in submitting claims, daring the public claimant to
27 file a lawsuit, forcing them to find counsel and pay even more legal fees. As citizens we would not
28 tolerate this behavior of an insurance company under the jurisdiction of the Oregon Insurance

1 Commission.

2 40.

3 The PLF is not subject to the jurisdiction of the Oregon Insurance Commission. The PLF is
4 in fact a captive insurance company that has not been forced to pay out a minimum number of claims
5 and in fact pays 5 times more for defense than it does in claims.

6 41.

7 The PLF no longer has an annual audit done. The PLF no longer publishes its annual
8 financial statements. As of this date, based on the financial information the plaintiff has been able to
9 acquire, the PLF generates annually \$25 Million in gross premiums, pay about \$2.5 Million in
10 claims, \$10 Million in defense through outside counsel, \$7.5 Million in administration and makes \$5
11 Million in net income. The PLF pays no tax on its net income and now has a war chest of over \$60
12 Million.

13 42.

14 Carol Bernick, CEO, was scheduled to be a witness in the 3:15-CV-2401 case. Instead of
15 communicating with defendant Rote, she conspired with Christiansen to avoid having to testify.
16 Through that series of communications it was clear that the PLF was assisting Christiansen with his
17 case against Rote, crossing the line to advocate for a party.

18 43.

19 Bernick, in representing the PLF and advocating for a party in which the PLF had no
20 interest showcases the unrestrained abuses of the PLF. Rote has long advocated through his blog and
21 publicly that the PLF is denying claims not based on the merits of the malpractice, but in retaliation
22 against parties like plaintiff Rote who raise community awareness of the PLF's failures to perform, to
23 disclose and to pay out on claims. Rote has also argued publicly that the PLF has engaged the Chief
24 Judges of the TRI-County area to assign cases against attorneys to proteem Judges with conflicts.

25 44.

26 Proteem Judges have undisclosed conflicts that arise from their firms representation of
27 attorneys accused of malpractice. Case in point, Skip Winters served as a judge proteem on
28 16CV07564 wherein the PLF represented parties Christiansen and Marshall. Winters firm, Body

1 Feltmount performs a lot of work with the PLF. Winters did not step down. The PLF counsel did not
2 disclose this conflict to me. Bernick knew of the conflict.

3 45.

4 The PLF staff attorney adjudicating the claim against Brandsness is Pam Stengahl, a former
5 partner at BodyFelt Mount. Pam has denied the malpractice claim without justification. Bernick has
6 not reversed Stengahl's decision.

7
8 FIFTH CLAIM FOR RELIEF

9 Oregon Civil Racketeer Influenced and Corrupt Organizations Act

10 (Against All Defendants)

11 46.

12 Plaintiff incorporates the allegations of paragraph 1-45.

13 Count 1 – Violation of ORS 166.720(2)

14 47.

15 Plaintiff alleges that the Defendants individually and collectively engaged in racketeering
16 activity by means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or
17 intimidate another person to commit bribery, perjury, obstructing judicial administration, presenting
18 false evidence, spoliation of evidence, unsworn falsification & perverting the course of justice.

19 48.

20 The PLF indirectly and directly acquired and maintained control of the enterprise through a
21 pattern of racketeering activity by committing or attempting to commit the crimes of bribery (ORS
22 162.015 & 162.025), perjury (ORS 162.065), unsworn falsification (ORS 162.085), obstructing
23 judicial administration (ORS 162.235) (to include witness tampering, spoliation, false evidence and
24 perverting the course of justice) and Coercion (ORS 163.275). The incidents alleged are not isolated.

25 49.

26 Defendants' actions were willful, wanton, malicious, oppressive and fraudulent, and a
27 conscious disregard of Oregon law resulting in injury to Rote and entitling Rote to punitive and
28 exemplary damages. These acts were committed with the knowledge and consent of Defendants' or

1 were ratified by Defendants after the fact.

2 50.

3 The organization and PLF enjoys unfettered opportunity. They do not publish financial
4 statements, do not engage an outside auditor, engage firms where partners serve as judges protem,
5 pay out little in claims and pay no income tax on the spoils.

6 Count 2 – Violation of ORS 166.720(3)

7 51.

8 Bernick, the PLF & John Doess have operated continuously as an associated-in-fact
9 enterprise since before 2010 to present, as described above. The common purpose of this enterprise is
10 to subvert the civil litigation process, extracting judgments and sharing the spoils. This enterprise is
11 organized and executed through the PLF, the Oregon State Bar and employ others to also participate
12 in the enterprise. Christiansen, Marshall and Brandsness have joined the enterprises and are co-
13 conspirators. Christiansen was specifically induced or voluntarily engaged in preparing a false
14 declaration.

15 52.

16 The Defendants, John Does and their employees participated in the enterprise through a
17 pattern of racketeering activity by committing or attempting to commit the crimes of bribery (ORS
18 162.015 & 162.025), perjury (ORS 162.065), unsworn falsification (ORS 162.085), obstructing
19 judicial administration (ORS 162.235, to include witness tampering, spoliation, false evidence and
20 perverting the course of justice) and Coercion (ORS 163.275).

21 53.

22 Defendants' actions were willful, wanton, malicious, oppressive and fraudulent, and a
23 conscious disregard of Oregon law resulting in injury to Rote and entitling Rote to punitive and
24 exemplary damages. These acts were committed with the knowledge and consent of Defendants or
25 were ratified by Defendants after the fact.

26 54.

27 For the violations of ORS 166.720(3) by Defendants, Rote is requesting three fold the
28 special damages sustained in an amount to be determined at trial for the costs and time associated

1 with the last 15 years of this litigation or in the alternative three fold the damages pursuant to ORS
2 166.725(7), an amount to be determined at trial, plus punitive damages.

3
4 SIXTH CLAIM FOR RELIEF

5 Intentional Infliction of Emotional Distress

6 (Against All Defendants)

7 55.

8 Plaintiff incorporates the allegations of paragraph 1-54.

9 56.

10 As a further proximate result of Defendants' wrongful conduct, Rote has suffered, and will
11 continue to suffer, emotional distress, pain and suffering, mental anguish, and embarrassment, all in
12 an amount not yet calculated, but reasonably believed to exceed the jurisdictional minimum of this
13 court. Rote will seek leave of the court to plead the true amount of his damages once they are fully
14 ascertained.

15 57.

16 Defendants' actions were willful, wanton, malicious, oppressive and fraudulent, and a
17 conscious disregard of Oregon law resulting in injury to Rote and entitling Rote to punitive and
18 exemplary damages. These acts were committed with the knowledge and consent of Defendants' or
19 were ratified by Defendants after the fact.

20
21 SEVENTH CLAIM FOR RELIEF

22 FRAUD

23 (Against Marshall, Christiansen, Bernick, Kalmanson and Jane Doe)

24 58.

25 Plaintiff incorporates the allegations of paragraph 1-57.

26 59.

27 Defendants Marshall, Christiansen, Kalmanson and Bernick were well aware that the assertions made
28 by these parties in case 16CV07564 to secure an anti-SLAPP Motion to Strike dismissal of the case

1 were untruth and constituted perjury before the court.

2 60.

3 Anti-SLAPP Motions are dismissed without prejudice. Plaintiff is reasserting the
4 defamation claim, adding claims and seeking to recover those fees, non-economic and punitive
5 damages.

6 61.

7 Jane Doe was the court reporter in Federal Case 3:15CV2401. This case is under appeal.
8 Jane Doe prepared a partial transcript of the jury trial. She has knowingly removed and modified
9 statements made by opposing counsel Christiansen during open statements and closing statements
10 that are material to the appeal such as the annual income of the defendant in that case (Rote) asserted
11 by Christiansen, those statements prejudicial when seeking non-economic damages. The false and
12 inappropriate assertions by Christiansen poisoned the jury. Jane Doe has refused to turn over copies
13 of the tapes of the hearing to another court reporter for review even with the purchase of the
14 transcript. A criminal complaint has been filed.

15 62.

16 Christiansen has admitted to influencing defendant Jane Doe and has intimated that Jane
17 Doe and Christiansen have a personal relationship of some form. Plaintiff seeks discovery of the
18 relationship, the tapes and third party transcripts to compare to those prepared by Jane Doe. Damages
19 to be asserted at trial.

20 63.

21 Co-conspirator Christiansen has, more than 5 times, with the publishing of Motions and
22 documents to the U.S. District Court of Oregon asked for prejudicial treatment and criminal misuse
23 of office. Christiansen can be prosecuted under 18 USC 201, 18 USC 1951, 18 USC 1343, 18 USC
24 1962 and State and Local Criminal Statutes for asking the court to set the facts aside and reward him
25 and the court with some benefit.

1 WHEREFORE, Rote prays for relief as follows:

2 1. For General and Economic damages in an amount not yet ascertained but to be established at trial,
3 but not less than \$6,600,000;

4 2. For Special damages in an amount not yet ascertained, to be established at trial, but not less than
5 \$45,000 for prior legal fee judgments procured by fraud;

6 3. For Noneconomic Damages to be established at Trial but not less than \$2,000,000.

7 3. For Treble damages on the racketeering cause of action;

8 4. For Punitive damages on all causes of action;

9 5. For Costs and attorneys' fees as permitted by law;

10 6. For Prejudgment interest as otherwise authorized by law; and

11 For such other and further relief as the Court may deem just and proper.

12
13
14 DATED: December 5, 2018

15 */s/ Timothy C. Rote*

16 Timothy C. Rote

17 *Pro Se*

18 24790 SW Big Fir Rd.

19 West Linn, OR 97068

20 (503) 702-7225

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CERTIFICATE OF SERVICE

I hereby certify that I served the Plaintiff's Amended Complaint on:

STEPHEN VOORHEES
(BERNICK, PLF, STENDAHL)
732 NW 19TH AVE.
PORTLAND, OR 97209
503-224-0055
Email to: SVOORHEES@KILMERLAW.COM

MATT KALMANSON
(Christiansen, Marshall, Kalmanson)
HART WAGNER
PORTLAND, OR 97205
503-222-4499
Email to: MJK@HARTWAGNER.COM

- Via First Class Mail
- Via Email
- Via Hand Delivery
- Via ECF Notification (Federal)
- Via OECF Notification

DATED: December 4, 2018

/s/ Timothy C. Rote

Timothy C. Rote
tim@rote-enterprises.com
Pro se