

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

TIMOTHY C. ROTE,

Plaintiff,

v.

~~LINDA L. MARSHALL,~~
~~JOEL CHRISTIANSEN,~~
ANDREW BRANDSNESS,
CAROL BERNICK,
OREGON STATE BAR (PROFESSIONAL
LIABILITY FUND),
ANTHONY ALBERTAZZI,
NENA COOK
PAM STENDAHL,
MAX ZWEIZIG,

Defendants.

Case No.: 18CV45257

THIRD AMENDED COMPLAINT FOR:

- ~~(1) DEFAMATION;~~
- (2) MALPRACTICE;
- (3) BREACH OF CONTRACT;
- (4) BREACH OF IMPLIED COVENANT OF GOOD FAITH;
- (5) RACKETEERING (OREGON RICO);
- (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.

2.

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

3.

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

4.

1 Defendant Oregon State Bar Professional Liability Fund ("PLF") is a captive
2 insurance company owned by the Oregon State Bar ("OSB") and resides in Tigard,
3 Oregon.

4 5.

5 Defendant Andrew Brandsness ("Brandsness") is an attorney practicing in Oregon
6 and resides in Klamath Falls, Oregon

7 6.

8 Defendant Carol Bernick ("Bernick") is now former CEO of the PLF and resides in
9 Portland, Oregon

10 7.

11 Defendant Anthony Albertazzi ("Albertazzi") is an attorney practicing in Oregon and
12 resides in Bend

13 8.

14 Defendant Nena Cook ("Cook") is an attorney practicing in Oregon and resides in
15 Portland, Oregon

16 9.

17 Defendant Pam Stendahl ("Stendahl") is an attorney practicing in Oregon and resides
18 in Tigard, Oregon

19 10.

20 Defendant Max Zweizig ("Zweizig") is on information and belief a law school
21 graduate, has been represented by Cook, Albertazzi, the PLF and other attorneys in
22 Oregon and resides in New Jersey.

23 **~~FIRST CLAIM FOR RELIEF~~**

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

25 11.

26 Plaintiff alleges paragraphs 1-10.

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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 false light.

13.

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

14.

In writing about the arbitration and subsequent litigation Rote exposed the testimony evidence, forensic reports, and other supporting evidence making his case for the extreme dangers of arbitration. Some of the forensic reports shine a poor light on the Plaintiff in that arbitration and by association raises questions on whether Marshall knowingly advanced false evidence. Christainsen, Marshall and Zweizig took action to discredit Rote because of the information disclosed in the blog. Subsequently, Rote met with the arbitrator and confirmed that he had referred the opposing party to his former partner (Marshall) and had adopted her draft opinion because he did not have the stamina to dive into the evidence.

15.

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

16.

Later that day Rote's attorney was contacted by the U.S. Marshals service inquiring

1 as to the meaning of the post. The U.S. Marshal Service had been contacted by someone
2 (U.S. Marshal will not disclose who) from Judge Robert Jones chamber conveying that they
3 received a tip from someone about Rote's blog post and that it was a veiled threat of physical
4 violence Rote intended to execute on Judge Jones at the Awards Dinner that very night.
5 Marshall has consistently engaged in this type of innuendo during and after the arbitration,
6 accusing Rote of fraud in Pleadings whenever possible, as Rote has accused her.

7 17.

8 Rote was contacted by the U.S. Marshals by phone while in the presence of his
9 attorney. Said attorney represented Rote on the matter involving the ongoing litigation with
10 Marshall and Christiansen's client Max Zweizig. Rote's attorney on this matter, Jeff Hasson,
11 is not the only attorney Rote uses. However, the U.S. Marshals service did contact Hasson
12 and then Rote while they were at their Country Club at approximately 5:00 pm on November
13 12, 2015.

14 18.

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

23 19.

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

1 more.

2 20.

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

9 21.

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

14 22.

15 The PLF, Bernick (then PLF CEO) and counsel hired by the PLF to represent
16 Christiansen and Marshall, attorney Matthew Kalmanson ("Kalmanson"), were well aware
17 that Christiansen and Marshall were lying about the extent and nature of the communication
18 to Judge Jones chamber staff, the U.S. Marshal's Service and others, concealing the truth
19 from this court in a prior case 16CV07564. That case was dismissed without prejudice, the
20 U.S. Marshals evidence being unavailable until after the dismissal.

21 23.

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

24
25 **SECOND CLAIM FOR RELIEF**

26 (Malpractice against Defendant Andrew Brandsness)

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24.

Plaintiff incorporates the allegations of paragraph 1-23.

25.

Defendant Brandsness was hired in January 2016 to represent corporate entities in two cases pending in the U.S. District Court of Oregon, at the time of hire, involving defendants Christiansen (3:15-CV-2401) and Zweizig, and Marshall (3:14-CV-0406) and Zweizig. Brandsness was also hired by Rote to provide advice to Rote on these same cases. Both cases went to trial.

26.

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

27.

Case 3:15-CV-2401 was a jury trial in which the plaintiff Zweizig sought damages against Rote and corporate defendants for retaliation based on the sum of the content of the blog written by Rote. Christiansen represented the plaintiff in that case. The jury found in favor of the plaintiff. That jury award is under appeal, on multiple grounds, one of which is that Rote had a right to arbitrate the claims. The PLF did not join Rote on the Appeal.

28.

The malpractice arose when Brandsness failed to file a Motion to Compel arbitration as the contract with Zweizig demanded and to file a Motion to Dismiss corporate defendants not Zweizig's employer. Instead Brandsness filed an Answer not addressing these issues, but did raise the contract mandate to arbitrate. Brandsness however advised Rote that the other corporate defendants and Rote could not compel Zweizig to arbitration and would be required to engage in litigation in multiple forums, one forum in the USDCOR and one

1 forum in arbitration. Brandsness was in possession of the contract with Zweizig, the 2011
2 arbitration award and pervious New Jersey State Court order compelling Zweizig and Rote to
3 arbitration on Zweizig's employment and post-employment claims.

4 29.

5 Rote discovered Brandness' erroneous advice in or around Mid October 2016,
6 notifying Brandsness of this malpractice. Rote ordered Brandsness to file a Motion to
7 Compel arbitration on behalf of the corporate defendants. Brandsness refused to do so. Rote
8 filed his Motion to Dismiss and Compel alleging the contract requires arbitration and that
9 post-employment retaliation claims were subject to arbitration, that this question of
10 arbitrability had already been decided in a court proceeding confirming the application of
11 arbitration to those claims. Rote had not yet discovered that the conditions precedent to this
12 litigation, under the terms of Zweizig's contract, should have resulted in Zweizig 2015 action
13 being dismissed for failing to bring the action timely.

14 30.

15 The U.S. District Court rejected Rote's Motion to Dismiss and to Compel
16 arbitration (and attendant lack of federal jurisdiction) because both Rote and the corporate
17 defendants had answered and engaged in litigation for close to eight months. The Court also
18 decided Rote could not compel arbitration as a non-signatory to the employment agreement.
19 The PLF refused to provide counsel to Rote and the corporate defendants to repair the
20 malpractice. The PLF would subsequently provide counsel free of charge to Zweizig, which
21 Zweizig admitted in his deposition of December 21, 2020. Zweizig also admitted at that time
22 that he did not solicit the PLF's representation. The court denied Rote's Motion to Dismiss
23 on January 5, 2017 and the potential damage to the corporate defendants did not mature until
24 that time. The jury award was raised to Judgment in November 2018.

25 31.

26 Brandsness withdrew from representation claiming a conflict and cloud of Rote

1 raising this issue of malpractice on approximately October 15, 2016. The malpractice impact
2 in case 3:15-cv-2401 could have been mitigated had Brandsness filed a Motion to Compel
3 and Dismiss, instead of resigning, recognizing that the court did not deny the Motion to
4 Compel Arbitration filed by Rote until 2017. Moreover, the Federal Court in this 2015 case
5 also found that Rote could not compel arbitration as Rote was a non-signatory to the
6 employment agreement between Zweizig and corporate defendant Northwest Direct
7 (“NDT”). The Federal Court concluded that NDT could have compelled arbitration, since
8 NDT was a party to the contract. The allegations in the 2015 case allege that Rote aided and
9 abetted NDT’s post-employment retaliation against Zweizig, wherein he sought non-
10 economic damages of \$150,000 by reference to ORS 659A.030 (1) (f) and (g). NDT was out
11 of business at the time of the alleged unlawful acts represented by Rote’s blog.

12 32.

13 While the jury trial result was appealed, the PLF refused to enter into a tolling
14 agreement forcing the filing of this action in 2018. A general judgment was issued on
15 November 20, 2018 for \$500,000, plus interest at 2.7% per annum against the corporate
16 defendants and Rote. The jury awarded \$1 Million against the defendants, but that amount
17 was reduced by the court to \$500,000, with authority under ORS 31.710. The Claim is for the
18 award or the original award, if Zweizig successfully appeals the reduction to the award, plus
19 legal fees awarded in the underlying action and prevailing fees in the appeal if any. Had
20 Brandsness filed the Motion to Compel Arbitration and to Dismiss, the jury award would
21 have been avoided. Non-economic damage awards by Oregon’s Bureau of Labor and
22 Industries (“BOLI”) on claims similar to Zweizig’s are roughly 7% of the amount of jury
23 awards in Portland Oregon. That empirical evidence is available in the public record.
24 Subsequent litigation by other parties have shown conclusively that the Portland USDCOR is
25 the forum of preference when bringing employment claims by non-resident plaintiff’s (which
26 Zweizig was as a resident of New Jersey on his retaliation claims) because of the size of the

1 jury awards.

2
3 **THIRD CLAIM FOR RELIEF**

4 (Breach of Contract against Defendants Brandsness, Bernick, Stendahl and PLF PLF)

5 33.

6 Plaintiff incorporates the allegations of paragraph 1-32.

7 34.

8 Plaintiff tendered the very clear failure of Brandsness to file a Motion to Compel
9 and Motion to Dismiss to the PLF. Brandsness breached his contract with the plaintiff. The
10 PLF breached their contract of coverage with Brandsness and third party Plaintiff Rote. The
11 PLF further breached the contract with Brandsness and Plaintiff by representing Zweizig
12 through a quid pro quo agreement.

13 35.

14 The PLF refused to repair and refused cover the malpractice by Brandsness. Both
15 Brandsness and the PLF refused to refund legal fees paid by Rote and the corporate
16 defendants. Both Brandsness and the PLF refused to cover the jury award, if any. Both
17 refused to repair.

18 36.

19 In addition to the Motion to Compel arbitration, Rote also filed a Motion For
20 Summary Judgment alleging the federal court did not have jurisdiction since the employment
21 agreement in the Zweizig contract with NDT. The federal court had refused to follow the
22 precedent that this issue was resolved in a court proceeding in New Jersey in 2005, the order
23 issued in 2006. The contract with Zweizig was upheld in its entirety by the New Jersey Court
24 in 2005-2006 and affirmed by the USDCOR in 2011, confirming that the arbitration
25 agreement applied to post-employment retaliation claims and that Rote was subject to the
26 arbitration agreement. Zweizig had been awarded \$5,000 in the 2006-2011 arbitration on a

1 post-employment retaliation that allegedly occurred in 2009, six years after Zweizig's
2 employment ended with NDT. Although Oregon law (Livingston case) specifically mandates
3 arbitration under the facts of the 3:15-cv-2401 case, Brandsness and the PLF refused to cover
4 the malpractice claims or take any action to support Rote's effort to mitigate the damage of
5 the malpractice. The empirical evidence from BOLI on similar post-employment non-
6 economic damages awards shows the BOLI awards are approximately 15 times lower than
7 jury awards. Plaintiff's preference for arbitration was secured at great cost. In 2016 the
8 American Bar Association published that arbitration is preferential in legal malpractice cases
9 to a jury trial because jurors have an inherent mistrust of attorneys. Defendants' refusal to
10 cover the malpractice was wrongful, unreasonable and malicious and resulted in damage to
11 plaintiff in an amount to be determined at trial. Brandsness had a duty to enforce the contract
12 for the benefit of third party Timothy Rote. Brandsness refused to do so, presumably in
13 exchange for representation in this case.

14
15 **FOURTH CLAIM FOR RELIEF**

16 (Breach of Implied Covenant of Good Faith against Defendants Brandsness, Bernick,
17 Stendahl and PLF)

18 37.

19 Plaintiff incorporates the allegations of paragraph 1-36.

20 38.

21 The Oregon State Bar PLF (PLF) serves a dual purpose, to protect the public from
22 malpractice and to protect attorneys from malpractice costs (cost sharing) under a standard
23 insurance coverage theory. The PLF entered into a contract for coverage of Brandsness on
24 malpractice claims. A component of that contract for coverage includes an implied covenant
25 of good faith and fair dealing in every contract that neither party will do anything which will
26 injure the right of the other to receive the benefits of the agreement. Plaintiff alleges that the

1 PLF acted in bad faith in denying Plaintiff a settlement, coverage or repair.

2 39.

3 The PLF had adopted a sue us position in submitting claims, daring the public
4 claimant to file a lawsuit, forcing the public to find counsel and pay even more legal fees.
5 The PLF is invested with discretionary power affecting the rights of another. Such power
6 must be exercised in good faith. The PLF exercised its unilateral power to not allow
7 Brandsness to benefit from his malpractice coverage and frustrated that covenant even further
8 by representing Zweizig in order to avoid paying out on the insurance coverage.

9 40.

10 The PLF is not subject to the jurisdiction of the Oregon Insurance Commission.
11 There is no public or private body exercising oversight of the PLF which overtime has led to
12 very aggressive denials of malpractice coverage. Plaintiff relied on Brandsness malpractice
13 coverage in the event Brandsness committed malpractice, which he did. Under Oregon law,
14 Plaintiff is a third party beneficiary of the malpractice coverage of Brandsness and tendered
15 the claim to the PLF, which was denied.

16 41.

17 The PLF has a war chest of over \$100 Million, which it has accumulated over a 20
18 year period. The PLF generates gross revenue of \$25 Million per year, nets \$5 Million and
19 pays no tax on its income. The PLF contract with Brandsness provides for the basic \$300,000
20 per incident coverage, with an excess coverage rider of up to \$1 Million. The amount of the
21 damage alleged in this complaint exceeds \$1 Million.

22 42.

23 Carol Bernick, former CEO, was scheduled to be a witness in the 3:15-CV-2401
24 case. Instead of communicating with defendant Rote, Bernick conspired with Christiansen to
25 avoid having to testify. That act benefitted Zweizig, which undermined the duty to
26 Brandsness and to Plaintiff. Through that series of communications it was clear that the PLF

1 was assisting Christiansen with his case against Plaintiff after plaintiff tendered a demand for
2 coverage and repair, crossing the line to advocate for a party, which has continued with the
3 representation of the defendants. The PLF undermined Brandsness malpractice coverage
4 intentionally and in doing so caused damage to plaintiff. Brandsness by capitulating to the
5 PLF's threat to deny him legal representation, breached the implied covenant of good faith
6 inherent to the professional services contract between Brandsness and plaintiff. The named
7 defendants engaged in conduct which frustrated the plaintiff's rights to the benefits of the
8 contract with Brandsness.

9 43.

10 Bernick, in representing the PLF and advocating for a party in which the PLF had
11 no coverage, showcased the unrestrained abuses of the PLF. Rote has long advocated through
12 his blog and publicly that the PLF is denying claims not based on the merits of the
13 malpractice, but in retaliation against parties like plaintiff Rote who raise community
14 awareness of the PLF's failures to perform, to disclose and to pay out on claims. Rote has
15 also argued publicly that the PLF has engaged the Chief Judges of the TRI-County area to
16 assign cases against attorneys to protem Judges with undisclosed conflicts resulting in
17 predictable successes for the PLF. In a separate legal action, plaintiff Rote is seeking to have
18 the PLF disbanded in favor of independent insurance carriers.

19 44.

20 Protem Judges in the tri-County typically have undisclosed conflicts that arise from
21 their firm's representation of attorneys accused of malpractice. Plaintiff has experienced this
22 issue personally. In the case in point, Skip Winters served as a judge protem on
23 case 16cv07564 in which the PLF represented parties Christiansen and Marshall. Winter's
24 firm, BodyFelt Mount, LLP performs a lot of work for the PLF as a vendor. Winters did not
25 step down nor disclose the conflict. The PLF counsel did not disclose this conflict to
26 Plaintiff. Bernick knew of the conflict and ordered counsel hired by the PLF to not disclose

1 it.

2 45.

3 The PLF staff attorney adjudicating the claim against Brandsness is Pam Stendahl, a
4 former partner at BodyFelt Mount. Stendahl denied the malpractice claim without
5 justification and in bad faith. Bernick has not reversed Stendahl's decision. Stendahl issued a
6 letter denying the claim alleging that Brandsness had concluded the other named corporate
7 defendants in the 3:15-cv-2401 case and Rote could not have litigated in the arbitration and
8 would have been required to continue with parallel litigation in the USDCOR. Plaintiff
9 alleges that Stendahl's conclusion is inaccurate, is not an accurate representation of the
10 professional service relationship between Rote and Brandsness, incorporates assumptions
11 that implicate malpractice by Brandsness and is an unreasonable refusal to cover that
12 malpractice. The PLF's refusal was wrongful, made in bad faith and Plaintiff has been
13 damaged in an amount to be determined at trial.

14
15 FIFTH CLAIM FOR RELIEF

16 Oregon Civil Racketeer Influenced and Corrupt Organizations Act

17 (Against All Defendants)

18 46.

19 Plaintiff incorporates the allegations of paragraph 1-45.

20 Count 1 – Violation of ORS 166.720(2)

21 47.

22 Plaintiff alleges that the Defendants individually and collectively engaged in
23 racketeering activity by means to commit, to attempt to commit, to conspire to commit, or to
24 solicit, coerce or intimidate another person to commit multiple predicated acts over a five
25 year term (and longer) which at a minimum includes bribery, perjury, obstructing judicial
26 administration, presenting false evidence, spoliation of evidence, unsworn falsification &

1 perverting the course of justice.

2 48.

3 Bernick was during the period of these RICO acts the CEO of the PLF. Nena Cook
4 joined the PLF as CEO for a period of one year after representing Zweizig. Bernick rejoined
5 the PLF in 2020 as interim CEO after Nena Cook resigned. On information and belief the
6 Board of the PLF has determined the PLF's representation of Zweizig and solicitation of bias
7 of members of the judiciary constitute Oregon RICO predicate acts. The PLF indirectly and
8 directly acquired and maintained control of the enterprise through a pattern of racketeering
9 activity by, at a minimum, committing or attempting to commit the crimes of bribery (ORS
10 162.015 & 162.025), perjury (ORS 162.065), unsworn falsification (ORS 162.085),
11 obstructing judicial administration (ORS 162.235) (to include witness tampering, spoliation,
12 false evidence and perverting the course of justice) and Coercion (ORS 163.275).The
13 defendants committed the predicate acts over a period of at least five years as follows:

14 a. Nena Cook confirmed via email of November 12, 2019 that the PLF hired her
15 firm and the PLF was paying for the defense to represent Max Zweizig and Sandra
16 Ware in case 19cv14552. Cook represented Zweizig without reason or repair. Neither
17 Zweizig nor Ware solicited that representation. On information and belief the
18 defendants entered into a quid pro quo unlawful agreement, where Zweizig waived
19 the opportunity to collect the malpractice damage by Brandsness, entering into a joint
20 effort to attack and intimidate the plaintiff. Cook aided and abetted in the suppression
21 of key evidence held by Zweizig and Ware in case 19cv14552, evidence that is
22 material in this and other actions on the defendants' collective ex parte
23 communications with members of the judiciary (ORS 162.235, 162.015, 162.025);

24 b. Zweizig committed perjury by and through material omission by refusing to
25 describe the reason for his representation in his deposition dated December 21, 2020.
26 Zweizig also confirmed that he did not file a malpractice claim against Marshal and

1 Christiansen on or related to cases 3:14-cv-0406 and 19cv14552 (162.235, 162.065).
2 Zweizig was instructed by the PLF to be coy, which he did in part by claiming to not
3 remember the names of Cook, Christiansen and Marshall;

4 c. Zweizig confirmed in his deposition of December 21, 2020 that he engaged in
5 perjury in case 3:15-cv-2401 in his testimony to the jury, denying in that trial that he
6 did not download and disseminate child porn, commit cybercrime and engage in
7 identity theft (162.065). Zweizig admitted to duping the court into suppressing the
8 evidence with and through counsel Christiansen. The RICO enterprise was aware of
9 Zweizig's crime at the time the PLF took up Zweizig's representation in cases
10 19cv14552 and 19cv01547;

11 d. Zweizig confirmed in his deposition of December 21, 2020 that his former
12 attorney Ward Greene evaluated the forensic evidence on Zweizig, the very forensic
13 evidence suppressed in the 3:15-cv-2401 trial, and resigned not wanting to be
14 associated with the raping of children. The PLF hired John Barhoum, who stepped in
15 to represent Zweizig in the anti-SLAPP, the appeal in Clackamas County case
16 19cv01547 (162.235, 162.015, 162.025) and on the appeal in Clackamas County case
17 19cv14552. The PLF also assisted Greene on counterclaims brought against Greene
18 in case 19cv01547, by hiring counsel James Callahan. Before resigning from Zweizig
19 representation, Greene had filed a fee petition on Zweizig's successful anti-SLAPP
20 Motion dismissing Tim Rote and Tanya Rote's counterclaims for slander of title and
21 intentional interference with contract. The Zweizig fee petition showed that 66% of
22 the fee entries were fraudulent;

23 e. The PLF through representation of Zweizig from September 2019 to the
24 present would have be necessity evaluated the computer forensic reports showing
25 Zweizig's child porn and refused or failed to report Zweizig's child porn, which is a
26 RICO predicate act by the PLF, Nena Cook, Carol Bernick, Pam Stendahl and

1 Albertazzi, all members of the enterprise (ORS 163.693). Christiansen suborned the
2 perjury in the 3:15 case, a criminal act of which the PLF was aware before hiring
3 Kalmanson to represent Christiansen;

4 f. Christiansen and Marshall, acting as attorneys to Zweizig, then also made
5 multiple false declarations in cases 16cv07564 and 3:15-cv-2401 by sworn
6 declaration (5/9/16), testimony that was refuted by evidence provided by the U.S.
7 Marshals Service and filed in those cases in September 2016. The PLF represented
8 Marshall and Christiansen in perpetrating these crimes which are RICO predicate act
9 (162.065). On information and belief the PLF would not permit Kalmanson to resign
10 after discovering the Christiansen perjury and subornation of perjury;

11 g. Without fail and in more than 5 separate action as briefly described above,
12 actions that have taken place since January of 2016 through this date, the PLF
13 through its enterprise and members filed the Jones and Kugler transcripts soliciting
14 therefrom bias of the court that constitute the predicate acts of obstruction (ORS
15 162.235), misuse of a public office (162.405), bribing a witness (162.265), bribe
16 given (162.015), bribe receiving (162.025) and perjury (162.065). Co-conspirator
17 Christiansen has, more than 5 times, with the publishing of Motions and documents to
18 the U.S. District Court of Oregon asked for prejudicial treatment and solicited
19 criminal misuse of office. Christiansen and Zweizig can be prosecuted under 18 USC
20 201, 18 USC 1951, 18 USC 1343, 18 USC 1962 and State and Local Criminal
21 Statutes for asking the court to set the facts aside and reward him and the court with
22 some benefit; and

23 h. The above acts are an extension of more than 20 acts of perjury by Zweizig,
24 subornation of perjury by Marshall and Christiansen, coercion and bribery dating
25 back to 2010 in the arbitration that lasted from May through November of 2010. The
26 available testimony of former arbitrator William Crow confirms those predicate acts.

1 49.

2 Defendants' actions were willful, wanton, malicious, oppressive and fraudulent, and
3 a conscious disregard of Oregon law resulting in injury to Rote and his family, and entitling
4 Rote to punitive and exemplary damages. These acts were committed with the knowledge
5 and consent of Defendants' or were ratified by Defendants after the fact.

6 50.

7 The RICO organization of the PLF enjoys unfettered opportunity to commit crimes.
8 The PLF does not publish financial statements, does not engage an outside auditor,
9 unlawfully maintain foreign bank accounts and offshore assets, and engage firms where law
10 firm vendor partners also serve as judges protem (which the enterprise then asks the
11 presiding Judge to assign to the case). The PLF pays out little in claims and pays no income
12 tax on the spoils.

13 Count 2 – Violation of ORS 166.720(3)

14 51.

15 Defendants have operated continuously as an associated-in-fact enterprise since
16 before 2010 to present, as described above. The common purpose of this enterprise is to
17 subvert the civil litigation process, extracting judgments and sharing the spoils. This
18 enterprise is organized and executed through the PLF, the Oregon State Bar and employs
19 others to also participate in the enterprise. Defendants are members of the enterprise and are
20 co-conspirators. Defendants voluntarily engaged in preparing false declarations, committing
21 perjury, the taking and receiving of bribes, witness tampering and other predicate acts as
22 outlined by reference to paragraph 48.

23 52.

24 The Defendants and their employees participated in the enterprise through a pattern
25 of racketeering activity by committing or attempting to commit, the crimes listed in detail in
26 paragraph 48 and other acts of bribery (ORS 162.015 & 162.025), perjury (ORS 162.065),

1 unsworn falsification (ORS 162.085), obstructing judicial administration (ORS 162.235, to
2 include witness tampering, spoliation, false evidence and perverting the course of justice) and
3 Coercion (ORS 163.275), committing most of these act within a five year period of time
4 measured from the date the complaint was filed. Less than two months ago the enterprise
5 through defendants Zweizig and attorney Albertazzi also engaged in an effort to extort
6 money, by attempting to collect on a debt not owed by plaintiff, a predicate act (ORS
7 260.575). That predicate act also involved the use of an unlawful pursuit of a sheriff sale of
8 Rote’s homestead where Zweizig lacked standing and acknowledged no expectation of
9 receiving any proceeds, that act used and endorsed by the enterprise to only cause harm and
10 intimidate the plaintiff. Pursuit of the sheriff sale continues to threaten to disturb an existing
11 sale of plaintiff’s homestead and will potentially cause more than \$300,000 in damage.
12 Zweizig and Albertazzi in this pursuit also violated federal and state moratoriums on
13 foreclosure during the Covid pandemic. On information and belief the PLF contacted the
14 presiding Judge in Clackamas and Deschutes Counties to support the sheriff sale, to violate
15 state and federal moratoriums and as an act of retaliation and intimidation for plaintiff
16 bringing civil rights claims against members of the judiciary. The actions taken by and aided
17 by Defendants constitute an unlawful collection activity designed to only cause harm, to
18 coerce and intimidate plaintiff. The collection action likely violated the Oregon Fair Debt
19 Collection Practices Act. Clackamas County Sheriff intervened to temporarily stop the
20 Sheriff Sale, pending action by the Court to Stay the Sheriff Sale.

21 53.

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

26 54.

1 For the violations of ORS 166.720 by Defendants, plaintiff Rote is requesting three
2 fold the special damages sustained in an amount to be determined at trial for the costs and
3 time associated with the last 18 years of this litigation or in the alternative three fold the
4 damages pursuant to ORS 166.725(7), an amount to be determined at trial, plus punitive
5 damages.

6
7 **SIXTH CLAIM FOR RELIEF**

8 **Intentional Infliction of Emotional Distress**

9 **(Against All Defendants)**

10 **55.**

11 Plaintiff incorporates the allegations of paragraph 1-54.

12 **56.**

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

18 **57.**

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

23
24 **~~SEVENTH CLAIM FOR RELIEF~~**

25 **~~FRAUD~~**

26 **~~(Against Marshall, Christiansen, Bernick, Kalmanson and Jane Doe)~~**

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~~58.~~

~~Plaintiff incorporates the allegations of paragraph 1-57.~~

~~59.~~

~~Defendants Marshall, Christiansen, Kalmanson and Bernick were well aware that the assertions made by these parties in case 16CV07564 to secure an anti-SLAPP Motion to Strike dismissal of the case were untruth and constituted perjury before the court.~~

~~60.~~

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

~~61.~~

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

~~62.~~

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

~~63.~~

~~Co-conspirator Christiansen has, more than 5 times, with the publishing of Motions~~

1 ~~and documents to the U.S. District Court of Oregon asked for prejudicial treatment and~~
2 ~~criminal misuse of office. Christiansen can be prosecuted under 18 USC 201, 18 USC 1951,~~
3 ~~18 USC 1343, 18 USC 1962 and State and Local Criminal Statutes for asking the court to set~~
4 ~~the facts aside and reward him and the court with some benefit.~~

5
6
7 PLAINTIFF CERTIFIES THAT THIS THIRD AMENDED COMPLAINT WAS
8 REVIEWED BY OPPOSING COUNSEL FOR THE ORIGINAL DEFENDANTS IN THIS
9 ACTION. OPPOSING COUNSEL PROVIDED WRITTEN CONSENT TO THIS THIRD
10 AMENDED COMPLAINT AS REQUIRED UNDER ORCP RULE 23A. MOTION FOR
11 LEAVE TO FILE THIS THIRD AMENDED COMPLAINT IS NOT REQUIRED AS TO
12 THE ORIGINAL DEFENDANTS. PERMISSION OR LEAVE IS NOT REQUIRED AS TO
13 THE NEWLY NAMED DEFENDANTS (COOK, ALBERTAZZI AND ZWEIZIG).

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
3 at trial, 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
5 less than \$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: August 2, 2021

15 /s/ Timothy C. Rote
16 Timothy C. Rote
17 *Pro Se*
24790 SW Big Fir Rd.
West Linn, OR 97068
(503) 702-7225

1 **CERTIFICATE OF SERVICE**

2
3 I hereby certify that I served the Plaintiff's Third Amended Complaint on:

4 Foster Garvey
5 Attention: Matthew Yium
6 121 SW Morrison Street, 11th Floor
7 Portland, OR 97204
8 503.223.3939
9 matthew.yium@foster.com
10 Counsel for Bernick, PLF and Stendahl

Albertazzi Law
Attention: Anthony Albertazzi
296 SW Columbia St., Ste. B
Bend, Oregon 97702
541.317.0231
a.albertazzi@albertazzilaw.com
Defendant (Service completed)

11 FD Firm
12 Bernard S. Moore
13 2592 E Barnett Rd.
14 Medford, OR 97504
15 541.779.2333
16 moore@fdfirm.com
17 Counsel for Andrew Brandsness

Nena Cook Law
Attention: Nena Cook
8477 SW 35th Avenue
Portland, OR 97219
503.290.6226
nenascsw@gmail.com
Defendant (Service not comptd)

18 Max Zweizig
19 140 Ford Avenue
20 Woodbury, New Jersey 08096
21 856.848.2912
22 peerlessmusician@gmail.com
23 Defendant (Service to be completed)

24 [X] Via First Class Mail

25 [X] Via Email

26 [X] Via OECF Notification

DATED: August 2, 2021

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

DECLARATION OF SERVICE