State Bar Complaint of Violations of the Texas Disciplinary Rules of Professional Conduct Against Kent Davis Krabill Michael Paige Lynn Britta Stanton

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1. Parties

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2. Background of the Terry Suit

2.1. In 2008 I lived in New York City and began researching and writing a book about the U.S. Army Air Corps 13th Troop Carrier Squadron, nicknamed "The Thirsty 13th," which flew cargo planes in the South Pacific during WWII, and in which my father served as a navigator.

2.2. I learned the serial numbers for almost all of the squadron's C-47 airplanes, and discovered that one, after converted to a DC-3 in 1946, was still flying, in Puerto Rico. This plane in 1942 was nicknamed Billie, was in the first group of 13 C-47s the squadron flew over-seas, and was one of four with a white tail stripe denoting it as a lead plane. I found many photos of it, including one with my dad next to it. I wanted to visit the plane, and contacted the owner. I learned it was for sale, and wanted to buy it and donate it to an airplane museum, to be restored.

2.3. In October 2009 I was on a research trip by car around the U.S., to visit relatives of squadron members and scan their photos, and, when in Fort Worth, Texas, a relative of one member suggested I donate the plane to the Vintage Flying Museum at Meacham Airport. I visited there and met James Terry, who convinced me to hire him to restore this airplane.

2.4. On January 19, 2010, I purchased Billie in Puerto Rico for $75,000. On January 31, 2010, Billie landed at Meacham Airport in Fort Worth, and I already wanted to fire Terry, for suggesting I steal a tow bar, giving me bad advice, lying to me, and laughing about this.

2.5. I returned to New York and started wiring money to Terry. I gave Terry a spending limit of $300,000, including the purchase price and cost to fly Billie to Texas, so he could spend about $200,000, but instead he directed the expenditure of $860,000 of my money. He insisted I buy a donor plane from his friend, but it was found to have D-Day history, so he insisted I restore it, too, and buy a third DC-3 as a donor. I visited Terry after 7 months, after another 5 months, and after another 7 months, and so visited rarely.

2.6. From February to May 2010 I noticed more problems with Terry, and started a list. I wanted to fire him in May 2010 after he lied to me again, and changed mangers in February 2011, to his assistant Mahaffey. In November 2011, I finished my book "The Thirsty 13th," visited Fort Worth to check on the restoration, and found many problems.

2.7. Regarding one missing elevator, with a replacement value of $25,000, Mahaffey and two workers told me mine had been discarded in a dumpster, and Terry said he did not know where it was. Then I learned the workers helped Terry put it on his plane. It appeared Terry stole more than 100 of my parts. Billie was mostly disassembled, with nothing written down, and, in August 2012, the fuselage and three of my wings to other planes were destroyed by a wind storm.

2.8. In September 2012, the Vintage Flying Museum ("VFM") terminated my lease, effective October 27, 2012. Terry's assistant Dana Wood then, oddly, added my name to the distribution list for events Terry hosted at the hangar.

2.9. On March 2, 2013, for the first time since leaving, I returned to the VFM, for a parts auction, including of a rare navigator's dome Terry stole from me. Terry hired two security guards with guns and flak jackets, and when I drove up one asked my name, and motioned to a police officer parked nearby that I was the person of interest. She issued me a trespass warning, stating I was not to return to 505 NW 38th Street. I never learned what happened to my navigator's dome. I went home and resolved to sue Terry for theft.

2.10. On March 3, 2013, the day after the experience at the VFM hangar, I searched for, and a few days later retained, a Fort Worth law firm to sue Terry. I also sued Terry's entities, and the second project manager, Patrick Mahaffey. In December 2010, James Terry contracted with Terry Rogers of Perrin Warbirds to fix corrosion in the airplane's center wing, and I sued Rogers and Perrin as well. This suit was styled as **Tarrant County, 48th Judicial District, Cause No.**

048-268735-13: Seth Washburne and Thirsty 13th LLC, Plaintiffs, vs. James Terry, Pacific Prowler, LLC, Pacific Prowler Nonprofit, Greatest Generation Aircraft, Patrick Mahaffey, Terry Rogers, and Perrin Warbirds, Inc., Defendants. The original petition was filed October 14, 2013. The trial was scheduled for July 2015, but Rogers' lawyer, Buzz Deitchman, claimed to have a medical condition, and delayed the trial for 14 months, until September 2016. My lawyer quit, and the suit was delayed to March 2017. Then Deitchman claimed to need shoulder surgery, and the trial was delayed to January 20, 2018.

3. Background of the Museum Suit

3.1. After Terry's marketing assistant Dana Wood in November 2012 added me to a bulk email list to invite me to events Terry's organization held at the museum, she sent me more than 30 emails over the next 18 months. I decided to return to the museum area on April 26, 2014, to see if Terry was in town, because a few days before he said he could not comply with discovery because out of town. I drove to the west end of NW 38th Street in Fort Worth, along the north border of property owned by the Hospers Family Trust "D," which leases a hangar to the Vintage Flying Museum, where Terry worked, and where the offenses occurred. I stayed on the public road, but Dana Wood called the police and had them again issue me a trespassing warning.

3.2. On Sunday, April 27, 2014, museum director Hal Monk called me at 2:05 p.m., and told me Dana had no authority to speak for the museum, that NW 38th Street was a public road all the way to the fence, and I could park anywhere along there. He told me he had told this to Hospers Trust owner Charlyn Hospers, and Dana Wood. I said ok, I would stop by their late that afternoon, and he assured me the police would not be called. After I parked there, Wood did call the police. I called Monk, he picked up the phone and knew what was going on, but refused to act, and let me be arrested for criminal trespass.

3.3. Terry and Wood then filed a complaint with the FAA that, because I was arrested, my pilot medical certificate, should be terminated, and I had to go to great expense to get it back.

3.4. I filed suit a second suit, **Tarrant County 153rd Judicial District, Cause No. 153-275478-14**, Seth Washburne vs. Vintage Flying Museum, the Hospers Family Trust "D," Charlyn Hospers, Bill Gorin, Dana Wood, and Hal Monk, and later for a while added James Terry, individually and d/b/a Greatest Generation Aircraft, Pacific Prowler (Non-Profit), and Pacific Prowler, LLC., alleging malicious prosecution. The original petition was filed November 11, 2014. The first trial setting was December 5, 2016, and then, due to my lawyer quitting, was rescheduled for July 25, 2017, and then for December 4, 2017.

4. Legal Representation History

4.1. First, in March 2013, I retained Chris Lyster of Shannon Gracey in Fort Worth for the Terry suit. He sent me draft petitions with many misspellings, including of my name, and bad grammar, and did not correct these. He failed to mention that Texas is a notice-pleading state, and so I wanted more facts in the original petition, and was confused that he did not seem to care about this. He stopped communicating with me, and after about 6 weeks he quit.

4.2. Second, in May 2013, I retained Slack & Davis in Dallas. They said they did lots of contingency fee work, and so were used to keeping the costs down, but billed me $15,000 in the first month for doing little more than cutting and pasting paragraphs to combine two petitions. I thought that was excessive, and they quit after about 5 weeks.

4.3. Third, in July 2013, I retained Kevin Vice of Mayo Mendolia & Vice, in Royse City. He first worked on a suit I filed against a trucking company, which had insurance. I paid $100,000 in legal fees in that suit, and we settled for $150,000. On October 14, 2013, he filed the Terry suit, and on November 11, 2014, he filed the museum suit.

4.4. In June 2016, I asked Vice what he had learned in three years in the Terry case, and he stated regarding one stolen item: "We'll tell the jury Terry did not have one before he met you, he bought one for you, and now he has one on his plane, and so that is evidence he stole yours." I replied "He had four of those." Vice replied: "We won't tell the jury." He also said that about a second item. He knew few facts, and wanted to provide misleading information to the jury. In July 2016, after billing me $400,000 in the Terry and Museum suits, in addition to $100,000 in the trucking company suit, $500,000 in three years, Vice said he'd quit unless I signed a confidentiality agreement to never say anything about him. I declined, and he quit.

4.5. Fourth, in August 2016, I retained Puls, Haney, Kaiser in Fort Worth to represent me in the Terry suit. Puls, Haney offered a fixed $100,000 fee to handle the Terry case, but their engagement letter had a condition that if I did not accept their advice they could quit. After I paid them the first $50,000 installment, they insisted I drop two defendants, and narrow the case against Terry, which was not the case I wanted to bring. I asked Puls what happened if the defendants filed for bankruptcy soon, and he laughed and said "Then WE win!" i.e. his firm would come out ahead on the fixed-price contract. It appeared they would demand I accept a settlement, violating the Texas Rules, and if I did not follow their advice they'd quit and keep my money, and so I terminated them. They returned 100% of my $50,000 deposit.

4.6. Fifth, also in August 2016, for the museum case, I retained the Law Offices of Jennifer K. Gjesvold, but she never substituted in. I had Gjesvold take on the Terry case, too, and she did substitute in. Gjesvold turned out to be a divorce attorney who it seemed had lied to get me to hire her, and was in over her head. She billed 14 hours to prepare a motion to substitute, wanted to outsource most of the work to a $450 / hour lawyer in Addison – who was a jerk, used my money to pay a referral fee on another deal to that lawyer, asked me to loan her business $1.5

million, unsecured, for her personal use, which she'd pay back in a lump sum after 30 years, swore a lot, and was the most incompetent and stressful person I have met in my life. After about four weeks I demanded she stop work. She filed an MTW, and returned 100% of my retainers.

4.7. Sixth, in September 2016, I retained Kent Krabill of Lynn Pinker Cox & Hurst, LLP ("LPCH"). This was an extremely stressful time, because there were trial settings, motions to which to respond, and I had terrible times with Vice, Puls, and Gjesvold. I had been turned down by 16 other lawyers in two months, and so was desperate for someone to take these cases.

4.8. In the Terry suit, Mahaffey filed a settlement offer under Rule 167 on September 27, 2016, of $15,100, which I rejected, such that fees would start accruing October 17, 2016. James Terry made a Rule 167 offer on January 10, 2017, of $54,500, which I also rejected.

4.9. In the Museum case, the defendants other than Wood made a Rule 167 settlement offer on February 9, 2017 of $22,000, and Wood did on March 22 of $750, both which I rejected.

5. Krabill Withdrawal and Subsequent Events

5.1. On June 29, 2017, Krabill, after billing me $578,107 in nine months, and three weeks before a trial, filed motions to withdraw from both of my suits.

5.2. On July 14, 2017, at 10 a.m., was a hearing on an Emergency Motion to Withdraw in the Museum case in the Tarrant County 153rd District Court, and this was granted.

5.3. On August 3, 2017, at 9 a.m. was a hearing on the Motion to Withdraw in the Terry case in the Tarrant County 48th District Court, and this was granted.

5.4. On October 24, 2017, I received an email from Tana Mladan of LPCH with a demand for arbitration, and these are in Exhibit 00, with its exhibits 1-6, also being Exhibits 1-6 referenced herein. LPCH claimed Breach of Contract, and demanded $151,688.95 outstanding on their invoices, $108,949 of this due after Krabill quit. I filed a reply, and counterclaims.

5.5. On October 24, 2017, due to Krabill's withdrawal, I filed a Notice of Nonsuit, and on October 30, 2017, an amended Notice of Nonsuit in the Terry case. On October 31, 2017, the order of nonsuit was signed by the Tarrant County 48th District Court Hon. Judge David L. Evans.

5.6. On October 30, 2017, due to Krabill's withdrawal, I filed a Notice of Nonsuit in the museum suit. The order of nonsuit was signed October 31, 2017, by Hon. Susan B. McCoy.

5.7. I believed I owed Rule 167 fees, and sought to negotiate payments with the four parties who made settlement offers. On October 27, 2017, I paid James Terry $44,500, and the Museum defendants $45,000.

5.8. I offered Terry suit defendant Mahaffey $70,000 to settle his Rule 167 "obligations actually incurred for reasonable attorney fees." His attorneys, Dowdy and Atkins, had billed him $79,756, before any adjustment for reasonableness. He had been willing to give me a credit for his settlement offer amount of $15,100, which would have brought this down to $64,756, and so my offer was $5,244 more than his obligations actually incurred less the settlement offer. Rather than accept my good-faith offer, Mahaffey conspired with Dowdy and Atkins to steal from me $28,680, by falsifying Dowdy's billing rate as 75% higher, and represented to me and the court that his obligations actually incurred were $110,131.42. He was willing to give me the $15,100 credit, and so demanded $95,031.42, and did not make a counteroffer to my $70,000.

5.9. On December 7, 2017, in the 48th District Court, was a hearing on Mahaffey's Motion for Recovery of Litigation Costs under Rule 167, to which I had filed replies, and which I argued, pro se, and on December 20, 2017, the motion was denied.

5.10. On December 27, 2017, and January 4, 2018, Mahaffey filed a motion to reconsider, and a supplemental motion to reconsider, and on January 25, 2018, these, too, were denied.

5.11. On January 8, 2018, Mahaffey filed a Notice of Appeal in the Court of Appeals for the Second District, Fort Worth. On May 15, 2018, he filed the appellate brief, and on June 26, 2018, I filed the appellee brief. This is set for submission October 2, 2018, no oral argument.

5.12. The Krabill arbitration hearing is set for October 29-30, 2018.

5.13. I paid Kevin Vice $280,886 for the Terry case, and $141,102 for the VFM case, and Krabill billed $315,237 for the Terry case, and $264,831 for VFM, a combined $1,002,055. I paid Rule 167 fees of $89,500, for a total cost of $1,091,555, and potentially $150,000 more to Mahaffey. Krabill's unjustified withdrawal cost: a) the loss of $1.1 million in legal fees, b) five years of my life, and c) my having to live with all the wrongdoers' offenses, knowing they will never be punished, and instead all got away, e.g. Terry in stealing more than 100 of my parts.

5.14. Exhibits 7 and 8 are line-by-line reviews of invoice amounts in each case. Exhibit 9 is phone records reproduced from T-Mobile. Appendices A to C include emails.

6. Invoice Payment History

6.1. The engagement letters in Exhibits 1 and 2 state in Para. IV. Payment for Services Rendered by LPCH, "Client agrees to pay each monthly bill within thirty (30) days of its receipt."

6.2. With my prior counsel, Kevin Vice, from July 2013 to July 2016 he billed me, and I paid him, roughly $522,000, paid in full, and I reviewed invoices the moment I received them, and mailed checks typically within 2 hours of receipt. I treated Vice extremely well, and he quit on me, and so I was less eager to provide Krabill this same immediate-review treatment.

6.3. Krabill's first three invoices were:

For	**Received**	**Due**
September 19-30, 2016	October 27, 2016	November 26. 2016
October 2016	November 16, 2016	December 16, 2016
November 2016	December 8, 2016	January 8, 2017

6.4. I was extremely busy in November 2016, as the historian for the U.S. Army 13th Troop Carrier Squadron in World War II, using Ancestry.com to find relatives of more squadron members, and going over historical items they shared with me. I expected the September invoices were not large, because for 12 days, and they were for $6,181 in one suit, and $7,160 in the other, one-fourth of the $30,000 retainers in each, and so I did not open them, review them, or pay them by the November 26 due date. On December 7, I sent Krabill the email in Exhibit 10, with pages from an attached newsletter, noting this mammoth WWII research effort.

6.5. On December 8, 2016, at 6:58 a.m. I received an email from LPCH's CFO, Robert Petty, with the November invoice, and amounts due for September and October. I mailed a check the same day, for the full amount, $146,418.41, and so was 12 days late for September, but 8 days early for October, and 30 days early for November.

6.6. I was shocked at the amounts Krabill billed for October and November, and sent him an email on December 8, 2016 (page A-39, Exhibit 11). I wrote at the end:

"I'll review the bill line by line and get back to you with any specific questions,"

and so made it clear the payment was not an acceptance that the invoice was correct, but rather was under protest. Krabill was mean and unreasonable about my questions. The Terry trial was three months away, and I had no leverage, and so the first three invoices are still unresolved.

6.7. The December invoices were never sent to me until I requested them in February. Krabill sent me an email February 20, 2017, (page A-90, and Exhibit 12) confirming this:

"You had mentioned that you had not received any billing for December."

I had not received the January bill yet, so this was prompted only by my wanting to pay. I replied to Krabill the same day, also in Exhibit 12, asking:

> "Please ask whoever told you they already sent it to please find the email in which they sent it, and to resend that email to me so I can see the date."

Krabill replied “No worries” and never produced the original email, or proof the December invoice had been emailed to me. It was sent February 20, 2017, due in 30 days, on March 22. 2017.

6.8. The January invoice was emailed to me February 24, due March 26. LCPH delayed this until 4 days prior to the end of the month, such that I was already on the hook for almost all of February before seeing what they billed for January.

6.9. After my expressing outrage at the total billed through November, LPCH failed to send the $66,495 December invoice, and delayed the $98,800 January invoice, until they had billed $73,215 more for February, $238,510 more before sending another invoice.

6.10. On March 7 Krabill sent me an email (page A-95, Exhibit 13 - bottom), asserting the December amount was 30 days past due, but invoices were due 30 days after I received them, and this was sent late, so it was not due for 15 more days. I replied, also in that exhibit, that I was again very busy with the Thirsty 13th, and might send a check and review the invoices later:

> “[I] intended to pay yours last week, but haven’t felt up to looking over the invoices. I usually go over them line by line before writing the check, and just haven’t wanted to. I have been busy finding Thirsty 13th relatives, and found relatives of 49 men so far in the last month. I was thinking of just sending a check in for a flat $100,000, and then going over them. Anyway the money is there, I just haven’t written the check yet.”

6.11. On March 29, 2017, Krabill sent me an email (page A-96, and Exhibit 14, page 2), stating my account was 60 days behind. This was not true. I was 7 days beyond the allowed 30 days for the December bill, and 3 days beyond 30 days for January. I replied, also in Exhibit 14, that I had been massively busy on Thirsty 13th research, but that same day had mailed a check for $90,000. I noted in my second to last paragraph:

> “Usually I like to review invoices line by line, and input them to a spreadsheet, but haven’t been up to wading into that, but will try to this weekend,”

and so Krabill knew that this payment, too, did not represent accepting the invoice, but rather I wanted to review each line at a later time. The next day I sent another $90,000.

6.12. LPCH chose how to allocate my $180,000 sent March 29-30. It did so first to the Museum case, so it was fully paid through the February invoice sent March 22, due April 21, i.e. was paid 21 days early. The balance they applied to the Terry case, but this left $5,468 due for January, plus the February $60,716 billed March 22, due April 21, a total $66,185. LPCH had retainers for $30,000 in each suit, $60,000 total.

6.13. Krabill was ok with the $180,000 payment, and replied March 30, also Exhibit 14:

> "No problem, Seth. And it sounds like you are making great progress on your Thirsty 13h research! Great job!"

6.14. The March invoice for $50,829 was received April 19, due May 19. I did not look at that invoice, because: a) I was still very busy with WWII research, and b) 19 days earlier I paid $180,000, and thought that might cover December to February and some of March.

6.15. On May 18, one day before the March invoice was due, and 5 days before April was received, after the Hal Monk deposition at Veritext Solutions in Fort Worth, I walked with Krabill to his car near Sundance Square, and asked him if I was up to date on billing. He said he could pull this up on his phone, and, standing next to his car, he told me the outstanding balance, including April, which had not been mailed yet, was $32,461. I was elated that I was almost fully paid. I planned to look over the invoices soon, but was again busy with Thirsty 13th research.

6.16. Krabill made me think he was talking about both cases, but he was looking at only the Museum case, for which we had just had a deposition. I later learned the Terry case had an enormous balance, of $110,279. I was shocked to realize the January invoice was $98,800, and February $80,770, using up all the $180,000, with nothing for December. The total amount due the day I asked Krabill what was outstanding, was not the $32,461, but $142,740.

6.17. On Tuesday, May 30, 2017, at 9:20 a.m., Krabill sent me an email (page A-145, Exhibit 15), asking me to bring a check for the amount outstanding in the two suits, demanding to

be paid the full April amount, which was not due until June 23.

6.18. I replied at 9:44 a.m., also in Exhibit 15, that I received the April invoice only 6 days before, and had the March bill for 41 days, and so "not had them very long," and he had billed me $469,158, and "I now want to go back over all the invoices and understand what you billed for before paying this latest one." Krabill replied at 9:55 a.m., also in Exhibit 15:

"You are severely delinquent… I need the past due amounts paid immediately."

6.19. Krabill called me at 10:46 a.m., full of extreme anger and rage, yelling at me on his speaker phone about the "delinquent" $117,013. Then we had a conversation I recall as:

Krabill: "I need to know what day you are going to send a check, either today, Wednesday, Thursday, or Friday."

Seth: "Well, I want to review all of the invoices, and have not been able to do so yet."

Krabill: "No, you need to give me a date RIGHT NOW!"

Seth: "Well, I'll try to do this and send a check by Friday…"

Krabill (now yelling): "I DON'T WANT TO KNOW when you will TRY to send a check, I want to know when you WILL send a check!!"

Seth: "Ok, well I can probably send a check by Friday."

Krabill (yelling even louder): "I don't want to know when you PROBABLY can send a check, I want a date when you WILL SEND A CHECK!!!"

Seth: "Again, I think I can…

Krabill: **"I DON'T WANT TO KNOW WHEN YOU THINK YOU CAN SEND A CHECK!!! I WANT TO KNOW WHEN YOU WILL SEND A CHECK!!**"

Seth: "Look, can I just send a fixed $100,000 now, and send the balance when I go over the invoices in detail?"

Krabill (now with the voice of a little boy): "Oh, that would be fine. That shows good faith. You know, I like you, Seth."

6.20. I sent Krabill an email May 30, 2017 at 2:18 p.m. (page A-151, Exhibit 15) titled "Settlement Conversation," and in the last line wrote:

> "I just wrote out a check for $100,000, and will walk to the mailbox in a few moments, but it won't get picked up until tomorrow. I will try to go over the invoices ASAP."

Krabill replied at 2:21 p.m. (also in Exhibit 15) "Thank you, Seth," acknowledging I could send the $42,740 balance after reviewing the invoices. On May 30, 2017, the amounts unpaid were:

Month	**Museum**	**Terry**	**Total**	**Due**
March (rem.)	$4,018	$12,996	$17,013	May 19 (past due)
April	$21,672	$4,055	$25,727	June 22
Total	**$25,690**	**$17,050**	**$42,740**	

6.21. I did not pay these amounts, or the May and June invoices due after Krabill quit, because Krabill agreed I could wait until I reviewed all of the invoices since inception, I felt massively victimized, and the 18 weeks from May 30 to October 3 were very busy, with:

a. 4 weeks of: legal matters June 7-9 and 20-29, unrecalled matters June 1-6 and 10-19 (plus Krabill was away, out of the country, June 1-12).
b. 1 week for a previously-planned family vacation – June 30 to July 10.
c. 3 weeks required to prepare replies to Krabill's MTWs – July 11 to August 3.
d. 3 weeks for a scheduled Thirsty 13th research trip – August 3 to August 25.
e. 5 weeks to go over WWII documents and photos scanned on that trip.
f. 2 weeks for my fiancé, out-of-state, who I had planned to marry in October, to visit.

I stayed in touch with Krabill, and he respected these prior commitments. In early October, as soon as I was done with the above commitments, I turned my attention to the invoices.

6.22. On October 16, 2017, at 5:34 p.m., I emailed Krabill with a preliminary invoice review, and asked if he would accept a lower amount to extinguish the $151,688.95 balance.

6.23. On October 18, 2017, at 9:33 a.m., Krabill sent me the email in Exhibit 16, that his firm would accept my offer, and he included a Settlement Agreement and Release.

6.24. Also on October 18, at 3:38 p.m., while I was considering settling with LPCH, I received an email from a go-between to two defendants in the Terry case informing me that the

Rule 167 fees in that case were $220,000, and they would accept $83,376.42 + $64,050 = $147,426. At 4:06 p.m., in Exhibit 17, I forwarded this to Krabill, and stated I did not want to settle with LPCH until I knew what my liability was in the two cases.

6.25. On October 20, 2017, I learned the VFM fees were $85,000, and sent an email, Exhibit 18, to Krabill, asking him to come back in and take these to trial, or I'd sue him. This was an extraordinarily stressful day, learning even if I quit I would owe $232,000 Rule 167 fees.

6.26. On October 24, 2017, LPCH sent me a demand for arbitration. It now appears arbitration is the best place to resolve questions about invoices, with a line-by-line review.

6.27. The invoices are summarized below. My payments were allocated as follows:

Payment Sent	**Museum**	**Terry**	**Total**
December 8, 2016	$59,743	$86,676	$146,418
March 29, 2017	$63,438	$116,462	$180,000
May 30, 2017	$6,772	$93,228	$100,000
Total Paid	$130,053	$296,366	$426,418

In both suits I paid 8-days early for October, and 30 days early for November 2016, and in the Museum suit paid 23 days early for February 2017.

Lynn Pinker Cox Hurst Amounts Billed and Paid, and Days Late or Early

Invoice			Museum Case					Terry Case					Total	
Month	Rec'vd	Due	Billed	Paid	Lt/El	Amount	Balance	Billed	Paid	Lt/El	Amount	Balance	Billed	Due
Sep-16	27-Oct	26-Nov	$6,181	8-Dec	12		$6,181	$7,160	8-Dec	12		$7,160	$13,341	$13,341
Oct-16	16-Nov	16-Dec	6,117	8-Dec	-8		12,298	56,967	8-Dec	-8		64,127	76,425	76,425
Nov-16	8-Dec	7-Jan	47,564	8-Dec	-30	59,743	120	22,549	8-Dec	-30	86,676	0	146,538	120
Dec-16	20-Feb	22-Mar	17,858	29-Mar	7		17,977	48,638	29-Mar	7		48,638	213,033	66,615
Jan-17	24-Feb	26-Mar	25,507	29-Mar	3		43,485	67,824	29-Mar	3	116,462	0	306,365	43,485
"	"	"						5,468	30-May	65		5,468	311,833	48,953
Feb-17	22-Mar	21-Apr	20,053	29-Mar	-23	63,538	0	60,716	30-May	39		66,185	392,603	66,185
Mar-17	19-Apr	19-May	6,772	30-May	11	6,772	0	27,044	30-May	11	93,228	0	426,418	0
Outstanding														
Mar-17	19-Apr	19-May	4,018	<remainder			4,018	12,996	<remainder			12,996	443,432	17,013
Apr-17	23-May	22-Jun	21,672				25,690	4,055				17,050	469,158	42,740
Due after Quit														
May-17	20-Jun	20-Jul	44,120				69,809	1,212				18,262	514,490	88,072
Jun-17	24-Jul	23-Aug	64,969				134,778	608				18,871	580,067	153,649
Adj			-1,960				132,818						$578,107	$151,689
Total			**262,871**		**130,053**	**132,818**		**315,237**			**296,366**	**18,871**		
Total Billed and Paid - Both Cases							**$578,107**				**$426,418**	**$151,689**	Retainer:	60,000

7. Extraordinary Rudeness and Disrespect toward this Client

7.1. Kent Krabill treated this client extraordinarily rudely.

7.2. September 16, 2016 – Krabill appears to have lied to me in our first conversation, saying he would not bill me for our first meeting, then appearing to have billed for his associate.

7.3. September 20, 2016 – In our first meeting, Krabill was evasive, and grinned a lot when one would expect him to be serious, making me think he was lying to me to get me to hire him. I got the impression that something sneaky was going on. When I got home I wanted to contact the managing partner to work with someone other than Krabill, but thought that would be awkward. A lawyer recommended Krabill, so I thought he must be good.

7.4. September 30, 2016 – Krabill met with my prior lawyer, Kevin Vice, and after this Krabill was openly rude to me. Krabill emailed me December 12, 2016, at 11:05 p.m. (page A-58, Exhibit 19, page 6, paragraph 14) confirming my prior lawyer poisoned the well, to so speak, belittled me, and made Krabill think I deserved no respect, so he could be rude (emphasis added):

> **YOUR PRIOR COUNSEL COMPLAINED TO ME THAT YOU MADE THEIR JOB EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE.** YOUR LEVEL OF INVOLVEMENT IS EXTREMELY HIGH, BUT I AM OK WITH THAT. I LIKE A CLIENT WHO IS INVESTED AND ENGAGED IN THE CASE. BUT PLEASE NOTE THAT EACH EMAIL YOU SEND, EACH CALL YOU MAKE, EACH VISIT YOU ASK US TO MAKE, EACH CHANGE YOU MAKE TO FILINGS, COSTS ADDITIONAL TIME AND MONEY.

7.5. December 1, 2016 – there was a hearing in Fort Worth in the 153rd at 1 p.m., but I think moved to 1:30 p.m., on a No-Evidence MSJ and Motion to Quash, which Krabill and Cole attended, at a combined $450 + $340 = $790 per hour, $13 a minute. The judge did not appear until about 45 minutes late, for some unexplained reason, around 2:15 p.m., making me anxious about my legal fees on this day. Afterwards I wanted Krabill and Cole to drive about 10 minutes up to NW 38th Street at Meacham Airport, so I could quickly walk them through where I parked

my car August 26 and 27. When we arrived there, Krabill asked me "Why would you go back to somewhere you got a trespass warning, the very next day?"while grinning like "You are a fool!" I explained I had been told the police would not be called, but he kept on. I told him the reason I invited him up there was to walk him through the events, but he said "If we can't explain this to a jury, none of that matters." I told him it was all in the filings, the case was 2.5 years old, and he had it for more than two months, couldn't he please look there? I told him I'd rather develop trial strategy while sitting down, able to take notes, not standing in the middle of a street. He refused to let me describe the events, kept laughing at what a fool I was, and then became frustrated, got in his car, and floored it away, with his car tires squealing and pebbles flying.

7.6. On December 13, 2016, I replied (Exhibit 20) to Krabill's response to my invoice questions, and noted: "You write in a disrespectful way.

7.7. December 14, 2016 – Krabill in the Terry had suit ignored my prior lawyer's three years of work, which whittled 183 offenses down to maybe 50, described in the petition and RFDs, and demanded I give him my own list of "3-5 things" each person did wrong. This was impossible, in part because I did not know what was actionable. When I did not do this, Krabill became more and more belligerent. His four-person staff assigned to this suit, in two months, while billing me $86,676, failed to find the RFDs. On this date, frustrated that I had not provided him the 3-5 list for defendant Rogers, Krabill yelled at me on his speakerphone with shear hatred: **"THE PROBLEM WITH YOU IS YOU DON'T LISTEN!!!!"** This was a week after I mailed a check for $146,418, which I would lose if I fired Krabill, and this was three months before the trial setting, so I continued with him, trusting he would take this case to trial.

7.8. December 14, 2016 – Krabill excluded me from two phone calls with my expert witness. After the first one, I insisted to be on the second, but was excluded from it, too.

7.9. May 18, 2017 – Krabill, during a deposition, blew up at the witness, argued with defense attorney Randy Turner, and went off record and yelled more at Turner. Turner urged Krabill to continue, asking other questions, but Krabill refused, and stormed out of the room. Krabill knew Texas would not allow us to retake the deposition of Monk, and put this at risk. His temper and rudeness were the subject of the next hearing. Judge McCoy agreed that Texas laws did not allow the deposition to be taken again, but stated it was her belief that a plaintiff should not be disadvantaged by his lawyer's failings. Krabill's rudeness was therefore already recognized by a Texas court.

7.10. June 29, 2017 – at mediation Krabill was off-the-charts disrespectful and mean to me for 4 hours, as described in Exhibit 21.

7.11. August 3, 2017 – after the hearing in the 48th letting Krabill out of that case, Krabill walked up to me in the court room, got real close in a threatening manner, looked down on me with a mean look on his face, but also with that same evil grin, and sneered: "So, do you want to talk to my partner now about your unpaid balance?" I politely and respectfully said "No, not right now," and looked away. This was at the moment my two cases, upon which I had spent $1 million in legal fees, were essentially now dead due to his actions, and he was quite happy. This reflects that Krabill is mean, selfish, and delights-in-causing hurt.

7.12. Defendant fact witness Hal Monk said that, in his 50 years of being a lawyer, Kent Krabill was the second rudest lawyer he ever met.

VIOLATIONS OF THE TEXAS RULES

MUSEUM SUIT

8. Rule 1.01: Competent Representation – Krabill Failed to be 100% Competent

8.1. Rule 1.01(b)(2) states:

> I. CLIENT-LAWYER RELATIONSHIP
> Rule 1.01. Competent and Diligent Representation
> **(b) In representing a client, a lawyer shall not: (2) frequently fail to carry out completely the obligations that the lawyer owes to a client or clients.**
> Comment:
> 6. Having accepted employment, **a lawyer should act with competence, commitment and dedication** to the interest of the client and with zeal in advocacy upon the client's behalf. **A lawyer should feel a moral or professional obligation to pursue a matter on behalf of a client with reasonable diligence** and promptness **despite opposition, obstruction or personal inconvenience to the lawyer. A lawyer's workload should be controlled so that each matter can be handled with diligence and competence.**

8.2. **LPCH never sought to clarify from Fort Worth the status of Von Avenue.**

Defendant VFM fact witness Hal Monk, in his deposition, page 142, line 9, said:

> "Hereditaments generally would permit the titled owner to give permissive use and authority to control the property. The city has authorized, permitted, the owners and occupants of these hangars and the other property to use it, maintain it, and control it."

LPCH should have sought to confirm this with the City of Fort Worth, but failed to do so.

8.3. **LPCH never sought to clarify the terms of the through-the-fence agreement.**

VFM director Hal Monk during his deposition, from around its page 144 to 156, claimed that this agreement gave VFM the right to control who was on Von Avenue, because such a person could piggyback on a valid person crossing onto airport property. LPCH never confirmed this.

8.4. **LPCH never suggested I make a Rule 167 offer.** Attorney fees are not recoverable under malicious prosecution, but if I made a settlement offer to them under Rule 167, and they rejected it, and a jury awarded me more than 120% of the offer, they would have to pay me my legal fees since the offer. This is a fundamental action. LPCH failed to suggest it.

8.5. Krabill, by not doing the above three actions, violated Rule 1.01:

> "A lawyer shall not…frequently fail to carry out completely the obligations that the lawyer owes to a client," and "a lawyer should act with competence."

9. Rule 1.01: Diligent Representation – Moral and Professional Obligation

9.1. Krabill, by quitting, failed to "carry out completely the obligations that the lawyer owes to a client," and refused to "feel a moral or professional obligation to pursue a matter on behalf of a client with reasonable diligence…despite personal inconvenience to the lawyer."

9.2. Krabill may have refused his obligation due to the "personal inconvenience" of having to rely on new associate Kelley. Prior associate Cole quit April 30, 2017.

9.3. Krabill may have failed the requirement that his "workload…be controlled." On June 26, 2017, Krabill sent me the email in Exhibit 22 asking me to prepare the trial exhibits:

> "July 12: Deadline for Seth to submit all notes on questions to ask and exhibits to present to witnesses (categorized by witness)

I replied asking if he would please send me what he had prepared, and he replied June 29, 2017, the morning he quit: "No, we do not have those this early." Krabill wanted ME to provide the questions and exhibits for the trial, sorted by witness.

9.4. Krabill may have failed the requirement that his "workload…be controlled" due to having a more lucrative case. On June 9, 2017, I drove associate Kelley from Fort Worth to Garland, and asked what else he was working on, and he mentioned that he was working on a case for I think a founder of Range Resources, seeking $300 to $500 million, which was a long-shot, but for which LPCH could earn a contingency fee of 30% to 50%, about $150 million. Krabill may have wanted Kelley to put his time into that case instead of mine.

9.5. Krabill, in quitting this cases, violated Rule 1.01:

> (b) In representing a client, a lawyer shall not: (2) frequently **fail to carry out completely the obligations that the lawyer owes to a client or clients.**
> Comment:
> **A lawyer should feel a moral or professional obligation to pursue a matter on behalf of a client with reasonable diligence** and promptness **despite opposition, obstruction or personal inconvenience to the lawyer. A lawyer's workload should be controlled so that each matter can be handled with diligence and competence.**

10. Rule 1.02: Objectives – Failed to Mediate Confidentiality

10.1. Rule 1.02 (a)(1) states:

> **Rule 1.02. Scope and Objectives of Representation**
> (a) Subject to paragraphs (b), (c), (d), and (e), (f), and (g), **a lawyer shall abide by a client's decisions:**
> (1) **concerning the objectives and general methods of representation**;
> (b) A lawyer may limit the scope, objectives and general methods of the representation if the client consents after consultation.
> Comment:
> 1. Both lawyer and client have authority and responsibility in the objectives and means of representation. **The client has ultimate authority to determine the objectives to be served by legal representation**, within the limits imposed by law, the lawyer's professional obligations, and the agreed scope of representation. The lawyer should assume responsibility for the means by which the client's objectives are best achieved.

10.2. Confidentiality in this case was technically impossible because:

a. The Museum had maybe 10 volunteers, and ten tenants renting space, with 20 workers, and many had heard things about me which were untrue. If the Defendants wanted confidentiality, it would have to extend to all of these people. If not, then, even though the three defendants (Hospers, Gorin, and Wood) could not say anything about me, others could, and Wood could tell people: "Ask Jim Terry, he'll tell you all about Seth." Everyone could laugh and tell stories about me, and I could say nothing at all, and not defend myself. This is not confidentiality.

b. Defendants Gorin and Wood had probably little savings, and so could not pay me any damages if they broke the confidentiality clause, yet under their May 28, 2017, offer I would have to pay them $250,000 if I said anything about them.

c. Hospers was unlikely to agree to pay $250,000 to me each time Gorin or Wood said anything about me, or if any of these 40+ people said anything the rest of their lives.

10.3. On May 30, 2017, I emailed Krabill (page A-152, Exhibit 23) stating I would be interested in going to mediation "if the mediator could get them to give up confidentiality:"

"Regarding mediation, **if the mediator could get them to give up confidentiality it would be worthwhile**, so I am sorry to flip flop on that, but I think it might be worthwhile, **assuming the mediator might see my view that confidentiality is an extra thing, above and beyond what they owe me for, and which I simply am not interested in,** since they have already widely damaged and harmed me

Krabill replied "Got it. Thanks." Thus <u>he knew</u> I wanted to mediate confidentiality.

10.4. <u>On June 17, 2017</u>, I emailed Krabill, at 3:24 p.m. (page A-168), Exhibit 24:

> **"A while ago we talked about mediating this case, and my recollection is I first said let's not do it, but then I changed and said <u>yes, if they can try to get Randy to give up confidentiality</u>, then it would be ok**, and you agreed that it was good to go to mediation, because sometimes you can get a glimpse of their strategy.
>
> There are only two weeks left until you go on vacation for a week, and then two weeks after that before the trial. May I please learn if a mediation is still contemplated, and when it might be scheduled? I, too, will be gone July 3-7, and am also unavailable June 30, and perhaps June 29.
>
> **"I still have zero flexibility on confidentiality, and never will provide that.**"

<u>No emails after mine ever changed the purpose of mediation.</u> Subsequent emails from Krabill show no signs of questioning my goal to mediate confidentiality, and were:

a. June 17: "There is no mandatory mediation and Defendants don't want it, so if you want it we have to file a motion requesting the judge to order it. Let me know if you want it. I always think it is helpful. I am not in office but will check on net worth docs next week and let you know. "
b. June 20: "Have you made a decision about mediation? Let us know."
c. June 23: "Would July 10 or 11 work for you for mediation."
d. June 26, 9:49 a.m.: "Turner called and seems to have had a change of heart on mediation. Are you available either this Thursday or Friday to attend mediation?
e. June 26, 10:28 a.m.: "Is set for noon on Thursday in Dallas. I will send more info in a bit."
f. June 26, 12:48 p.m.: "The mediator just called and said he may want to start at 9. He is going to reach out to Turner's office and let me know."

10.5. <u>On June 21, 2017</u>, I emailed Krabill (page A-182), Exhibit 25, again with what I expected in the VFM case, which was to get my actual damages, plus pain and suffering and exemplary damages which would get me over $17,000 to not pay rule 167 fees. I also wrote:

> **"I would nonsuit before agreeing to confidentiality."**

10.6. When we got to mediation, mediator Gary Berman sat down, and said something like "Ok, I understand this is about the restoration of a WWII airplane." Krabill replied that it was about malicious prosecution, and I was surprised he did not mention that the real purpose was for Berman to get the other side to give up confidentiality. I spoke up: "I'm sorry, could I tell you the main reason we are here?" and Berman replied "No, I know what you want," and got up and went to the other room. Berman returned a short while later, and, while still standing, announced "We have a big problem, they demand confidentiality." It was interesting he said "big problem," because this suggested Krabill had told him this was important to me.

10.7. I asked him "Ok, now can I tell you what I wanted to say earlier, about why I am here?" I told him the main reason I was there was to get him to explain to the other side my reasons why confidentiality was impossible, to get them to give it up. I asked him if he would please be seated, and he sat down. I told him the points I wanted him to tell the defendants. I noticed Berman was not taking any notes, and so I paused and asked if he wanted to write down my arguments, to share with the others. He replied: **"No one cares about anything you think." He refused to mediate confidentiality.**

10.8. Krabill set up this mediation, knew my objective, and should have conveyed my objective to Berman, and had Berman confirm he would negotiate this point. Berman said "It's all about coin," and so from the start was never going to mediate this point.

10.9. Krabill's selection of this mediator is further evidence he did not intend to "abide by my objective." I have been to mediation as a plaintiff four times, in four different causes, three as plaintiff, and one I requested over a lease. For the first three I was consulted about which mediator would be used. Krabill did no such thing. Rather, defense attorney Turner recommended Berman, and Krabill on Monday, June 26, 2017, at 11:37 a.m., less than 72 hours

before the mediation, sent me an email, Exhibit 26, titled: "Mediation will be with Gary Berman, 2027 Young St, Dallas, TX 75201 (214) 526-7500," and saying he would meet me there.

10.10. Krabill in the 153rd MTW hearing July 14, 2017, for which the transcript is Exhibit 27, on page 12, line 8, says:

> Krabill: "**Mr. Berman, he pushed my client hard**. From what Mr. Turner has said, he pushed his client hard. **He's known for that, to try to bring about a settlement.**"
>
> The Court: "I think that's been my experience when I was a trial lawyer as well. He does not come in and put on – he does not allow your client to wear any rose-colored glasses, and tells you the hard realization of you have a 50% chance of winning and a 50% chance of losing."

Krabill knew Berman was instead going to push me hard to settle without confidentiality.

10.11. Krabill had an agenda, to force me to settle this case, probably worked out with Berman ahead of time. I was subject to unending criticism, disrespect and hostility from Krabill and Berman. When I finally could not take Krabill's water-torture-like continual demanding I accept the mediator's proposal, and not think, I leapt up from the table, and ran out of the room

10.12. Krabill, in not getting a mediator to mediate confidentiality, violated Rule 1.02 (a)(1), which requires:

> (a) a lawyer shall abide by a client's decisions: (1) concerning the objectives and general methods of representation; Comment 1: The client has ultimate authority to determine the objectives to be served by legal representation. The lawyer should assume responsibility for the means by which the client's objectives are best achieved.

11. Rule 1.02: Objectives – Failed to Abide Regarding Settlement

11.1. Rule 1.02 (a)(2) states:

> **Rule 1.02. Scope and Objectives of Representation**
> (a) Subject to paragraphs (b), (c), (d), and (e), (f), and (g), **a lawyer shall abide by a client's decisions: (2) whether to accept an offer of settlement of a matter**;
> **Comment:**
> 3. A lawyer should consult with the client concerning any such proposal, and generally **it is for the client to decide whether or not to accept it.**

11.2. During mediation, mediator Berman handed Krabill a mediator's proposal, for $65,000, with confidentiality. Krabill placed this in front of himself, with his right hand next to it, and never handed it to me. I recall the following conversation:

> Me: "I am going to check the box 'no," and I reached out with my left hand for the paper.
>
> Krabill: "You can't check the box, only I can," and he moved his right hand to press down on the paper, to keep me from taking it.
>
> Me: "Ok, then you check the box 'no.'"
>
> Krabill: "No, you need to accept this."
>
> Me: "No, I don't want to accept it, please check the box 'no'."
>
> Krabill: "You will have peace."
>
> Me: "I won't have peace if I agree to confidentiality. I want to reject this."
>
> Krabill: "No, you need to accept this."
>
> Me: "Please stop telling me that."
>
> Krabill: "You hired me to advise you, and I am advising you."
>
> Me: "I know, and thank you, but for this I do not want to take your advice."
>
> Krabill (offended, and beginning to type on his computer): "I will make note of that."

11.3. Krabill refused to let me reject the proposal, and for 40 minutes demanded I accept it with confidentiality, and live the rest of my life with that which I repeatedly said I did not want.

11.4. Krabill, in refusing to let me reject the mediator's proposal, violated Rule 1.02 (a)(2):

> Rule 1.02. Scope and Objectives of Representation (a) Subject to paragraphs (b), (c), (d), and (e), (f), and (g), a lawyer shall abide by a client's decisions: (2) whether to accept an offer of settlement of a matter;

12. Rule 1.02: Objectives – Refused My Request to go to Trial

12.1. On June 20, 2017, at 8:07 p.m., Krabill emailed me: Exhibit 43:

"We are ready and willing to try this case."

12.2. At mediation, I did not want to agree to confidentiality, and, while I still thought I could recover lots of damages, I told Krabill I wanted to go to trial: "I think it would be an interesting life experience. One watches Perry Mason, and Judge Judy. My favorite Three Stooges episode was 'Disorder in the Court.' I think it would be fun." Krabill replied: "It is not fun." Krabill refused to check the mediator's box no, then quit. He was not "willing to try this case."

12.3. Krabill, in refusing to go to trial, violated Rule 1.02 (a)(2).

13. Rule 1.04: Fees – Unconscionable, vs. Line-by-Line Review

13.1. Rule 1.04 (a) states:

> **Rule 1.04. Fees**
> **(a) A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee. A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable.**
> Comment
> 19. If a procedure has been established for resolution of fee disputes, such as an arbitration or mediation procedure established by a bar association, the lawyer should conscientiously consider submitting to it.

13.2. Exhibit 7 is a line-by-line review of fees billed, identifying those which meet the definition of unreasonable. LPCH has agreed to arbitration.

13.3. Krabill violated Rule 1.04(a):

> **Rule 1.04. Fees (a) A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee.** A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable.

14. Rule 1.04: Fees – Unconscionable, vs. Results Obtained

14.1. Rule 1.04 (b)(4) states:

> **Rule 1.04. Fees**
> **(a) A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee.** A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable.
> **(b) Factors that may be considered in determining the reasonableness of a fee include,** but not to the exclusion of other relevant factors, the following:
> **(4) the amount involved and the results obtained;**
> Comment
> 7. The "unconscionability" standard adopts that difference in perspective and requires that a lawyer be given the benefit of any such uncertainties for disciplinary purposes only. Except in very unusual situations, therefore, the circumstances at the time a fee arrangement is made should control in determining a question of unconscionability.

14.2. The "time the fee arrangement [was] made" was September 20, 2016. It would be reasonable to consider the "time a fee arrangement is made" to continue to September 30, 2016, when Krabill met my prior counsel.

14.3. The original petition was filed November 11, 2014, almost two years before September 20, 2016, and on September 20, 2016, Krabill had this, and many of the relevant facts.

14.4. Below is a summary of Krabill's billing in the museum case. If he thought I would recover little, or if he would not take the case to trial, he should have told me in our very first meeting, and, failing that, on or around any of the following days:

1. September 30, 2016, after meeting my prior attorney Vice, through when Krabill had billed $6,181 – but he said nothing.

2. December 13, 2016, when I replied to Krabill, Exhibit 20, below, after receiving a budget, when I almost had a heart attack and wrote:

> I really wish I had just gone pro-se this summer.
> **I am seriously thinking of dropping both these cases.**
> Again, I cannot even type now my hands are shaking so bad – just this sentence I have to do every letter about 2-3 times.
> I' ma about to have a heart attack. I'll writ more latr."[sic]

3. December 15, 2016, when I asked Krabill and Cole to settle this case, when I had been billed $74,908 – but he said he first had to take all the depositions and reply to motions and discovery.

4. February 9, 2017, when Cole sent that me the $15,000 settlement offer, when they had billed $106,926 – but instead there was zero discussion.

5. April 9, 2017, when Krabill and Cole called regarding settlement, and he had billed $141,326.

6. April 24, 2017, when our proposal was rejected, and he had billed $151,928

7. May 28, 2017, when we received a counter proposal, and he had billed $188,393.

8. Instead, Krabill waited until he had billed me $264,831, the most he could before final trial prep, and then demanded I accept a mediator's proposal for $65,000.

Krabill Billling and Acts re VFM Settlement

Through	Each	Total	Krabill Action
9/30/2016	$6,181	**6,181**	1 No discussion
10/31/2016	6,117	12,298	
11/30/2016	47,564	59,862	
12/15/2016	15,046	**74,908**	2,3 I asked them to settle
12/31/2016	2,812	77,720	
1/31/2017	25,507	103,227	
2/9/2017	3,699	**106,926**	4 Cole forwarded Rule 167
2/28/2017	16,354	123,281	
3/31/2017	10,789	134,070	
4/9/2017	7,256	**141,326**	5 Krabill called prep set ofr
4/24/2017	10,602	151,928	6 Our proposal rejected.
4/30/2017	3,814	155,742	
5/28/2017	32,651	**188,393**	7 Rec Def counterprosal
5/31/2017	11,469	199,862	
6/30/2017	64,969	264,831	
Total		**$264,831**	8 Demanded I settle

14.5. On May 26, 2017, Krabill's ledger states: "'email exchanges with opposing counsel Mr. Turner regarding…regarding settlement counteroffer." On May 28, 2017, at 4:09 p.m., associate Kelley emailed me the offer, therefore Krabill likely knew what was in this, and negotiated this. On May 29, 2017, at 11:42 a.m., Krabill emailed me (page A-121) regarding this settlement offer, for $27,000:

> "Here, you have an offer that is larger than your actual damages. It isn't enough, but it is something. You have an apology. Again, it isn't perfect, but it is something. There is absolutely nothing in this settlement offer to be offended by."

Krabill in this suit from September 19, 2016, to May 31, 2017, billed me $199,862, and here he was saying $27,000 was a good result. This offer required $250,000 liquidated damages if I violated confidentiality.

14.6. Billing $199,862 for a "result obtained" of $27,000, and becoming subject to pay $250,000 until the day I die if I ever said a word about the defendants, is unconscionable.

14.7. After the May 28, 2017, settlement offer, Krabill billed for June $64,969. On June 29, 2016, after billing $264,831, during mediation Krabill told me emphatically I would never get one penny more than my actual damages, of $8,522.

14.8. Billing $264,831for a "result obtained" of $8,522 is unconscionable.

14.9. The trial was set for July 24, and one would expect Krabill would bill through trial perhaps another $100,000, so planned to bill a total $364,831.

14.10. Billing $364,831for a "result obtained" of $8,522 is unconscionable.

14.11. Krabill knew that I paid a prior firm $141,102 on this case, and with the $264,831 he billed through June 29, 2016, my total legal fees on this suit were $405,933, and going to $505,933. Billing $505,933 to get $8.522 is unconscionable.

14.12. Krabill, in billing amounts through each of the dates in the above table, e.g. $199,862, to get $27,000; $264,831 to get $65,000; and planning to bill me $364,831 to get $8,522, violated Rule 1.04(b)(4):

> **(a) A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee.** A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable. **(b) Factors that may be considered in determining the reasonableness of a fee include,** but not to the exclusion of other relevant factors, the following: **(4) the amount involved and the results obtained.**

15. Rule 1.15: Terminating Representation

15.1. Rule 1.15 (b) states:

> **Rule 1.15. Declining or Terminating Representation**
> (b) Except as required by paragraph (a), **a lawyer shall not withdraw from representing a client unless:**
> **(1) withdrawal can be accomplished without material adverse effect on the interests of the client;**
> (2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes may be criminal or fraudulent;
> (3) the client has used the lawyer's services to perpetrate a crime or fraud;
> (4) a client insists upon pursuing an objective that the lawyer considers repugnant or imprudent or with which the lawyer has fundamental disagreement;
> (5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services, including an obligation to pay the lawyer's fee as agreed, and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
> (6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
> **(7) other good cause for withdrawal exists.**
> Comment:
> 1. **Having accepted the representation, a lawyer normally should endeavor to handle the matter to completion.** Nevertheless, in certain situations the lawyer must terminate the representation and in certain other situations the lawyer is permitted to withdraw.

15.2. Regarding (b)(1), Krabill's withdrawal had a severe material adverse affect, and I advised the 48th court of this in my reply to his motion, and did not have time to file a reply in the 153rd, but argued this in person.

15.3. Regarding (b)(7), "other good cause for withdrawal" did not exist.

15.4. I was not "pursing a repugnant or imprudent objective, or one with which the lawyer had a fundamental disagreement." or he should have told me the first day we met.

15.5. Krabill, in withdrawing from my cases, violated Rule 1.15(b)(4):

> "(b) a lawyer shall not withdraw from representing a client unless: (1) withdrawal can be accomplished without material adverse effect on the interests of the client; [or] (7) other good cause for withdrawal exists. 1. Having accepted the representation, a lawyer normally should endeavor to handle the matter to completion."

16. Rule 2.01: Advisor – Misrepresented the Cost in September 2016

16.1. Rule 2.01 states:

> **II. COUNSELOR**
> Rule 2.01. Advisor
> In advising or otherwise representing a client, a lawyer shall exercise independent professional judgment and render candid advice.
> Comment:
> 1. **A client is entitled to straightforward advice expressing the lawyer's honest assessment.** Legal advice often involves unpleasant facts and alternatives that a client may be disinclined to confront. In presenting advice, a lawyer endeavors to sustain the client's morale and may put advice in as acceptable a form as honesty permits. **However, a lawyer should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client.**

16.2. Prior to meeting Krabill I paid Kevin Vice $280,886 for the Terry case, and $141,102 for the VFM case, $421,988 for these suits, and so did not want to pay much more. Therefore during the first meeting with Krabill my key question was how much he estimated I would spend taking these two cases to trial.

16.3. Krabill sent me an email December 8, 2016, at 10:31 a.m., Exhibit 28, writing:

> "When we spoke the first couple of times, I explained to you, in painstaking detail, the potential costs of this litigation, the uncertainty of costs due to not knowing exactly what your prior counsel had done, the uncertainty of costs not knowing what opposing counsel will do, etc. You told me about other offers you had [for $75,000 and $100,000] from other attorneys, and I said the choice was yours, but that nobody could effectively try these cases and represent you for such a small amount of money. You then chose to hire us, because you realized that you get what you pay for."

I replied December 12, Exhibit 19, point 1: "I do not recall any "painstaking detail." There is no evidence he provided any details. In Exhibit 29 I agreed he estimated "$200,000," "more or less."

16.4. On December 8, 2016, at 9:20 a.m. I asked Krabill for a budget for the cases. He replied at 10:31 with detailed budgets for each case, and a detailed email, so each budget took him less than 30 minutes, and this assuming he saw my email the moment I sent it. The budgets had nothing tailored to my suits, such that Krabill knew these amounts when I first met him, but hid this from me until he had billed me almost $200,000 for both suits.

16.5. The primary activities in this suit after Krabill substituted in were a no-evidence all claims MSJ (filed 8/8/16), an MSJ for lawyer Hal Monk to get out (filed 8/11/16), depositions of defendants Hospers, Gorin, and Wood, depositions of fact witnesses Hal Monk and Mark Reames, and a stipulation. The filings are listed in Exhibit 30. There were no unexpected items, and so Krabill should have been able to estimate the budget on September 19, 2016, but hid this from me.

16.6. The Museum suit budget, in Exhibit 31, had a range of an additional $120,000 to $268,500, which, with the $59,862 billed for September to November, and $10,472 for December 1-8, was a total $190,334 to $338,834. The high end was 69.4% above his $200,000 estimate less than 90 days before.

16.7. Through when he quit, Krabill billed $264,831, and with an estimated $100,000 through trial would have been at $364,831, above his high estimate, and 82.4% above the estimate of $200,000.

16.8. I paid Vice $141,102 for the Museum case, and when added to Krabill's $264,831 actual and maybe another $100,000 through trial, this is $505,933. In early 2017, Krabill told me "$500,000 is a typical amount for a lawsuit," showing he had an idea of the total cost in our first meeting.

16.9. If in September 2016 I had known the $338,834 high estimate, or the actual $364,831, I never would have proceeded. Krabill hid the cost from me to get me to hire him.

16.10. Krabill, in estimating my cost to him in September 2016 as "$200,000, more or less" when he could easily have provided a more realistic estimate, violated Rule 2.01:

> "In advising or otherwise representing a client, a lawyer shall...render candid advice. Comment: 1. **A client is entitled to straightforward advice expressing the lawyer's honest assessment."**

17. Rule 2.01: Advisor – Misrepresented the Cost in December 2016

17.1. On December 8, 2016, at 9:20 a.m., I reviewed Krabill's invoices, and replied (page A-39, Exhibit 11):

> "It seems at this rate these cases will go to at least $400,000 to $500,000 each, a combined $800,000 to $1 million. I am sure this is small potatoes to you guys who usually have corporate clients, but to me who is retired, no job, no income, and extremely volatile capital gains which may have all ceased for the foreseeable future, these are very big numbers, and will take a big part of my net worth."

17.2. Krabill replied December 8 at 10:31 a.m. (page A-41, Exhibit 28, paragraph 4):

> "I said that, although I hadn't reviewed the case files, from what you explained to me there was no way the cases could be tried for the amounts you were quoted ($100k for one and $75k for the other). I told you that we would have to dig into the file to have a better idea, but that **it may be possible to try the cases for less than $200k each**, but that depending on what the Defendants did, **it may be more or less than that for each case**.
>
> **"We are well within that range.** I don't know where you are coming up with a **number of $800,000 to $1 million. That is not even close to the range we are headed."**

Krabill had billed for September to November $146,538, and for December 1 to 7 $10,180 in the museum case and $11,137 in the Terry case, a total $167,855, and we were a long way from trials, so "We are well within that range" of $200,000 more or less was misrepresented.

17.3. Krabill also wrote in that December 8, 10:31 a.m., email:

> "I have attached proposed case budgets for both cases."
>
> "These provide a range of potential costs for each case. The total budget number is our best estimate of the amount to be expended, but the actual amount could vary based upon the strategies employed by the other parties in the case as well as decisions you make on how to proceed with the litigation, which claims to include, and which defendants to dismiss.
>
> "These estimates reflect the fact that in the Terry matter, there is still a large MSJ to respond to, several depos to be taken, and expert reports to be completed. In the Museum matter, there are still MSJ's to argue, depos to be taken, and written discovery. But the estimates should provide a good guide for you to analyze where you are."

The estimates are in Exhibit 31, and including a range for the Terry suit of $115,000 to $291,000 were an additional $235,000 to $559,500. This was in addition to the $145,538 billed through November 30, and for December 1-8 in the Museum suit $10,472, and in the Terry suit $11,586, for a total range of $402,596 to $727,096. **This was not "well within the range of $400,000, but far above it. The high end was almost heart-stopping**.

17.4. Krabill said my $800,000 estimate was "not even close to where we are headed," but here his own estimate was, at the top end, $727,096, so this again was not true.

17.5. Krabill eventually billed $580,067, excluding the trials. The trials could easily have added $100,000 each, for a total $780,067, above the top of the budget, and far above his combined $400,000 more or less.

17.6. I replied to Krabill:

> **I am still having trouble breathing, I am just hyperventilating over this still, wide eyed and probably white as a ghost.**
>
> The Terry case through November was at $86,675, so up to almost half the $200,000. Do you believe that half the work and expense in the Terry suit has already been done?"

Krabill refused to answer.

17.7. If I had any idea I would pay very much more than $400,000 when I first met Krabill, I never would have hired him.

17.8. Krabill, in emailing me December 8, 2016, "We are well within that range" of $200,000 more or less for each suit, and that "$800,000 to $1 million…is not even close to the range we are headed," lied, and violated Rule 2.01:

> "In advising or otherwise representing a client, a lawyer shall...render candid advice. Comment: 1. A client is entitled to straightforward advice expressing the lawyer's honest assessment."

18. Rule 2.01: Advisor – Failed to Advise me About Rule 167 in September 2016

18.1. Krabill never told me in September 2016 that the defendants could file Rule 167 offers. They did, and I paid them $45,000 in October 2017 of their actual $110,000, and if we had gone to trial they estimated another $55,000 or so, a total $165,000 cost if I lost. Krabill hid this cost from me.

18.2. Krabill's high estimate, if I lost should then have been $364,831 + $165,000 = $529,831, 215% higher than his $200,000 estimate.

18.3. Krabill, in not warning me about Rule 167 offers, violated Rule 2.01:

> In advising or otherwise representing a client, a lawyer shall...render candid advice. Comment: 1. A client is entitled to straightforward advice expressing the lawyer's honest assessment.

19. Rule 2.01: Advisor – Unrealistic Expectations in September 2016

19.1. Krabill in our first meeting said it might be hard to get a lot for pain and suffering, but was not specific about this, and left it, as I recall, as "juries are unpredictable, maybe they would give you a lot, we just don't know." For punitive damages, Krabill did not tamp down my expectations of these. I expected to get potentially $1 million or more.

19.2. In our first meeting, if Krabill told me he was quite sure I would never get a penny more than my actual damages of about $8,522, I would never have hired him.

19.3. Krabill, in September 2016, by asserting it was possible I would get a big verdict, when he really did not think so, violated Rule 2.01:

> "In advising or otherwise representing a client, a lawyer shall...render candid advice. Comment: 1. A client is entitled to straightforward advice expressing the lawyer's honest assessment."

20. Rule 2.01: Advisor – Expectations in December 2016 to January 2017

20.1. On December 12, 2016, I emailed Krabill about the VFM case:

> "What do you think the likelihood is of getting a favorable ruling in the VFM case, and an award of more than $410,000?"

Krabill replied (Exhibit 19, paragraph 14 on page 6):

> "AS I SAID FROM THE BEGINNING, I DON'T PREDICT OUTCOMES. **YOU HAVE SOUND CLAIMS** WITH VERY LITTLE ACTUAL DAMAGES IN THE MUSEUM CASE. **I THINK WE WILL BE ABLE TO PUT ON A GOOD CASE AND THAT WE HAVE A SHOT AT WINNING.**
>
> "A JURY MAY FIND THE DEFENDANTS' ACTIONS DEPLORABLE AND MAKE THEM PAY. OR THEY COULD DECIDE THAT YOU SHOULDN'T HAVE RETURNED TO THE AIRPORT, AND EVEN THOUGH YOU WERE WRONGFULLY ARRESTED AND DETAINED, YOU DON'T DESERVE ANYTHING. TRIALS ARE ALWAYS RISKY, AS I HAVE TOLD YOU ON MULTIPLE OCCASIONS.

This reflects that Krabill did not object to, and encouraged, my expectation of $411,000.

20.2. On December 13, 2016, on a phone call, I was shocked when Krabill told me the maximum punitive damages that could be awarded were $200,000. The fact that this shocked me reflects that I expected a much, much higher number. This was so shocking, that because I sensed fraud, I tried to record this call, putting my phone on speakerphone, and turning on an iPod, and pressing record, but Krabill heard this device make a beep, and asked me if I was recording the call, and I said "Yes." He then said I did not have permission to record any of our calls, and so I stopped the recording, and never recorded any other conversations. [Krabill's insistence there be no proof of anything he said should make his assertions of anything he said receive less weight.]

20.3. On December 14, 2016, I emailed Krabill (page A-63, Exhibit 33) again about my expectations for the VFM case, so he knew I expected to get at least $600,000:

> "This is to confirm that on our call Tuesday the 13th I asked you to please look into and get back to me about whether you can definitely reveal to the jury in the VFM case how much I have spent on legal fees.

> "In my view this is critically important when asking the jury to award damages. I have paid Vice $140,000 on that suit, and you billed $59.743 through November 30, a total $200,000 already, and your high-end estimate was another $268,500, plus expenses, so I might spend more than $500,000 on that suit.
>
> "A jury might want to give me a good amount, but not make me rich, and think $100,000 is enough. If they knew I had already spent $500,000, they would realize paying me $600,000 won't make me rich, it will just reimburse me my cost, and so they might be more willing to go with a bigger number. I believe this is very important.

Krabill could have tamped down my expectations, but did not.

20.4. On January 4, 2017, Krabill filed Plaintiff's Fourth Amended Petition, Exhibit 34, with a Claim for Relief stating **"Plaintiff seeks monetary relief over $1,000,000."** This further encouraged my expectations, which were not changed by Krabill.

20.5. On January 17, 2017, Cole emailed me about exemplary damages, to correct what he and Krabill told me December 13 about the $200,000. He wrote (page B-101, Exhibit 35):

> "As requested, here is some information concerning Texas' statutory limits on exemplary damages.
>
> > Section 41.008 of the Texas Civil Practice & Remedies Code provides that exemplary damages awarded against a defendant cannot exceed the greater of: (1) two times the amount of economic damages plus any noneconomic damages (up to $750,000 of noneconomic damages), or (2) $200,000.
>
> "In the Museum case, we do have claims for noneconomic damages. So, our claim for exemplary damages there will be limited to the greater of (1) $200,000, or (2) twice your economic damages (what you paid your criminal defense attorney, procuring the survey, etc.) plus the amount awarded for your noneconomic damages (up to $750,000)."

This is Cole representing that I could get $200,000, plus up to $750,000 more.

20.6. Krabill, in December 2016, by asserting I could get $410,000, to $750,000, to $1 million or more, when Krabill expected a maximum $8,522, violated Rule 2.01:

> "In advising or otherwise representing a client, a lawyer shall...render candid advice. Comment: 1. **A client is entitled to straightforward advice expressing the lawyer's honest assessment."**

21. Rule 2.01: Advisor – Expectations in February to June 2017

21.1. On February 9, 2017, I emailed Cole regarding the VFM settlement offer of $22,000, asking: "If you had to speculate, do you think it is possible I will get more than this, so it should be rejected? It seems it definitely should be?" Cole sent me an email, Exhibit 36, pt 2:

> "It's impossible to guess what the jury might award. As we've discussed in the past, our biggest hurdle in this case will be proving a significant damages figure for you.
> **That said, we will do everything we can to put on a strong case to the jury and… hope that they are inclined to either**
> **(1) award you significant amounts for the emotional distress this caused you, and/or**
> **(2) provide us a significant exemplary damages award.**
> **So, is it possible you will get more than this? Yes, that's possible.**
> It's also possible you would get less (or nothing at all).

21.2. On April 11, 2017, I emailed Cole, cc'ing Krabill, (page B-139, Exhibit 37) writing that I expected to get $300,000:

> "I picture we can make a case to the jury for non-economic damages (pain and suffering) by my being on the stand and giving examples of many of the times I am reminded of that bad experience, and how this will color all the days of the rest of my life, then use the Mark Cuban example, and say I should get at least $100,000 for that, preferably $500,000, but $100,000 ok, and then exemplary damages of $200,000, so $300,000 total. I know this would not cover my costs of bringing the suit, but I do get the intangible of standing up for myself. Also the past costs are sunk costs, and so going forward if I spend $100,000 more through trial to get maybe more than that, it is worth it."

21.3. On April 21, 2017, in response to Cole asking for my edits to the Fifth Amended Petition, I sent Cole an email, Exhibit 38, cc'ing Krabill, suggesting we reduce our damages from $1 million to $850,000. He replied, also in Exhibit 38:

> "All we would accomplish by reducing our claim for relief is limiting ourselves.
> No matter how unlikely a recovery that large would be, we don't need to limit ourselves **[from $1 million down to $850,000]** on what we can request from the jury."

On April 21, 2017, Krabill filed Plaintiff's Fifth Amended Petition, Exhibit 39, with a Claim for Relief stating "Plaintiff seeks monetary **relief over $1,000,000**," creating expectations.

21.4. Also on April 21, 2017, at 4:44 p.m., I sent Cole an email, Exhibit 40, with comments to the settlement term sheet, reflecting my state of mind and expectations, that I would like to recover from the defendants $350,000:

> I increased the amount to **$350,000**. I have yet to go over all LP's invoice's in detail, but I was at $140,000 with Kevin Vice, and expect I am at $200,000 with LP, so **would like to recover all of this**.

21.5. On May 30, 2017, at 10:17 a.m. I sent Krabill an email, Exhibit 41, regarding what I wanted out of the suit, and in paragraph 4 (e) state: "So this is a range of **$320,000 to $170,000,"** and in (f) "$100,000 might be enough…but no confidentiality whatsoever."

21.6. On June 20, 2017, at 6:20 p.m., Kelley called me asking how the Museum case damages were calculated. I replied at 7:11 p.m., with the email in Exhibit 42, $11,138,318.

21.7. On June 20, 2017, at 8:07 p.m., Krabill sent me the email, Exhibit 43:

> "On your telephone call with Jonathan this afternoon, he advised you that the amount you are claiming in actual damages (non-punitive) is approximately $8,250 (or a few thousand dollars more, depending on whether we are able to locate additional sources of damages). He further advised you (i) of the risks of continuing the lawsuit, (ii) that if we lose at trial or don't recover at least 80% of defendants' offer of $22,000, you will owe Defendants their attorneys' fees, and (iii) that **the settlement offer we have [$27,000] currently from defendants is likely higher than any amount you would receive in damages at trial** (and also includes the apology you said you wanted).

He followed this June 21, also Exhibit 43, saying we would ask for $2 million damages.

21.8. On June 29, 2017, at mediation, Krabill asserted **I would never get a penny more than actual damages of $8,522. Krabill probably knew this on day 1, but hid this from me**.

21.9. Krabill, in hiding that he expected I would never get a penny more than my actual damages of $8,522, and creating expectations I might get up to $1 million, violated Rule 2.01:

> "In advising or otherwise representing a client, a lawyer shall...render candid advice. Comment: 1. A client is entitled to straightforward advice expressing the lawyer's honest assessment."

22. Rule 2.01: Advisor – Expectations of Going to Trial

22.1. Krabill repeatedly made representations that he was going to take this case to trial.

Krabill referred to "trial" or "trying" cases in emails:

a. September 27, 2016, 7:43 p.m.:

"We know how to put cases together and try them. We have experience taking cases over near the trial date, and know how to do it in the most efficient way possible."

b. December 8, 2016, 10:31 a.m.:

"Your cases were nowhere near ready for trial when we received them. And both needed a lot of work to fend off motions the defendants had filed as well prepare for trial."

c. June 8, 2017, 3:08 p.m.:

"But we must get the info we need for trial."

d. June 20, 2017, at 8:07 p.m., Exhibit 43:

"We are ready and willing to try this case."

22.2. Krabill's email representations included referring to "put on a case" and "jury":

a. December 12, 2016, (Exhibit 19, paragraph 14 on page 6):

"I THINK WE WILL BE ABLE TO PUT ON A GOOD CASE AND THAT WE HAVE A SHOT AT WINNING.

b. Dec 12, 2016, at 11:38 AM:

"ADDING IRRELVANT INFO IS A HINDERANCE TO THE JUDGE (AND ULTIMATELY THE JURY IN THE FUTURE)"

"A JURY MAY FIND THE DEFENDANTS' ACTIONS DEPLORABLE AND MAKE THEM PAY. "

c. June 22, 2017, 2:51 p.m.:

"I don't think playing songs will help us with the jury."

e. June 27, 2017, (page A-206, Exhibit 44):

> "THEY WILL TRY THEIR BEST TO CONVINCE THE JURY THAT THEY DIDN'T KNOW THEY COULDN'T EXCLUDE PEOPLE OFF OF THE STREET, BUT GIVEN YOU PROVIDED THEM THE PROPERTY LINES, AND GIVEN MONK'S EMAILS, **I DON'T THINK <u>THE JURY</u> WILL BUY IT**.

22.3. Krabill made other representations, emailing me December 8 at 10:31 a.m. (page A-41, Exhibit 28, paragraph 2), and told me often.

"You get what you pay for."

22.4. Krabill emailed me December 8, 2016, at 11:05 p.m., Exhibit 19, page 4, para. 5:

"IF YOU WANT TO FIGHT, YOU HAVE TO BE IN FOR THE LONG HAUL TO WIN."

So I stayed "in," i.e. paying his bills, for the long haul.

> "WE ARE ONE OF THE PREMIERE LITIGATION BOUTIQUES IN THE COUNTRY. WE HAVE ATTORNEYS WITH EXCELLENT CREDENTIALS AND THE BEST REPUTATIONS. WE REPRESENT MANY TOP NATIONAL COMPANIES AS WELL AS MANY SUCCESFUL SMALL BUSINESSES WITH OWNERS WHO HAVE MUCH LESS MONEY THAN YOU DO. AND NONE OF THEM LIKE TO PAY FOR LITIGATION.
>
> "IT IS JUST A REALITY. BUT IF YOU WANT TO FIGHT AND VINDICATE YOUR RIGHTS, THEN YOU HAVE HIRED A GREAT SET OF ATTORNEYS TO HELP YOU. WE CAN'T GUARANTEE VICTORY, BUT **WE CAN GUARANTEE THAT WE WILL WORK OUR HEARTS OUT TO ASSURE THAT YOU GET THE BEST ADVOCACY POSSIBLE**."

He "guaranteed" he would "work his heart out."

22.5. Krabill made these representations knowing I would rely on them. If he was going to take these cases only to settlement, he should have said so.

22.6. Krabill, in often referring to the trial and jury, and representing he would take these suits to trial, and using expressions "you get what you pay for," "You have to be in it for the long haul," "We can guarantee we will work our hearts out," violated Rule 2.01:

> "In advising or otherwise representing a client, a lawyer shall...render candid advice. Comment: 1. **A client is entitled to straightforward advice expressing the lawyer's honest assessment."**

23. Rule 2.01: Advisor – Failed to Assess the Causes of Action

23.1. Rule 2.01 states, in part:

> **II. COUNSELOR**
> Rule 2.01. Advisor
> In advising or otherwise representing a client, a lawyer shall exercise independent professional judgment and render candid advice.
> Comment:
> 1. **A client is entitled to straightforward advice expressing the lawyer's honest assessment. Legal advice often involves unpleasant facts and alternatives that a client may be disinclined to confront.** In presenting advice, a lawyer endeavors to sustain the client's morale and may put advice in as acceptable a form as honesty permits. **However, a lawyer should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client.**

23.2. Plaintiff's Fifth Amended Petition, Exhibit 39, lists this suits causes of action, as malicious prosecution, intentional infliction of emotional distress, negligence, false imprisonment, civil conspiracy, and vicarious liability. I, as "a client," was "entitled to…[Krabill's] honest assessment" with regard to each of these causes. In particular I was entitled to Krabill reviewing with me each of the elements required to prove malicious prosecution, asking me questions about each element, and advising me why I had a strong case or not.

23.3. Krabill emailed me September 30, 2016 (page A-10, Exhibit 45) regarding the Museum case with "a preliminary list of tasks" and stated he would "review docs and mark hot." Nowhere on this list is the task of reviewing whether I have a good case or not.

23.4. Krabill never once reviewed with me the elements required to prove malicious prosecution. The email history has no review of these, and no invitations to the office to do so. Krabill took over the case from Kevin Vice, and so perhaps will say he assumed I was familiar with elements, but Vice, too, never reviewed these with me. Krabill should not have assumed Vice told me, and should have reviewed these himself, and with me, to be sure I had a good case.

23.5. On January 4, 2017, the eve of my deposition, I emailed Krabill some questions, and was very scared of saying the wrong thing, because I had no idea what our arguments were.

23.6. Cole prepared a reply to an MSJ, and sent it to me for my edits, and I checked my statements, but did not fully understand the arguments or elements.

23.7. In October 2017, three months after Krabill quit, I, for the first time, searched the Internet for what it takes to prove malicious prosecution in Texas, and found the page in Exhibit 46. I was shocked to read, regarding the procurement element:

> "A person does not procure a prosecution, however, when the decision to prosecute is left to the discretion of a law enforcement official or grand jury unless the person provides information he knows is false."

In a written statement to the police after my arrest I wrote a complaint about the arresting officer, Oldham, that he, on page Bates WASHBURNE000339, in Exhibit 47:

"Took the law into his own hands at one point and said a sign marked the land boundary."

This is evidence that "the decision to prosecute [was] left to the discretion of a law enforcement official," and if the defense used this, would have eliminated my entire case. This was produced to the Defendants, as evidenced by the January 4, 2017, Supplemental Affidavit of Hal Monk which had Bates 337 and 338. LPCH had this document, as shown in Exhibit 47, after the first version, and had it in color, and it was on a file directory also in Exhibit 47. Krabill had Biblo go over all the documents to identify what was "Hot," but this was not in that directory. It was hand-written by me, and so should have been highly scrutinized by LPCH.

23.8. The only persons who spoke to the arresting officer were Gorin and Wood, so I would have to prove they "knowingly provided false information to those responsible for procuring the prosecution, i.e. to the officer, i.e. that they knew for certain the property line. I had no evidence of this. On April 26, the day before the arrest, I held a Tarrant Appraisal District map out the window of my car, offering for Wood to come look at it, and she politely refused and said "I don't know where you got that, Seth," so she would not believe it. I emailed it to Wood

that night, but have no proof she looked at it, and she already told me she would not believe it. She could have mentioned it to the arresting officer, Oldham, but I also told him about it, and held out a print out for him to look at, and he, too, refused to look at it. I have no evidence Gorin, either, knew the property line, and he has stated he did not know. The officer told me Gorin thought it was the drainage ditch, but was not sure.

23.9. There is no proof that Hospers knew the property line, and she asserts she did not. If one can prove she did, there is no evidence she told Wood or Gorin. Hospers commissioned a survey of the grounds, which might suggest she did not know the property line.

23.10. Monk seems to have known, but was no longer a defendant, and what he told Hospers, Gorin or Wood is subject to client-attorney privilege.

23.11. VFM defense attorney Randy Turner, on October 24, 2017, when I was about to file a notice of nonsuit, explained the museum's defense. He told me they were going to lay it off on Wood, and she would say "We didn't know the property line, Seth gave us that page from the Tarrant Appraisal District, but we ignored it." Turner said "Should have known the property line" is negligence, not intentional, and "not going to get me there." These seem to be good arguments such that now, in retrospect, it seems yes, I would have lost.

23.12. Krabill's arguments are in the 11/22/16 Response to Museum Defendant's No-Evidence MSJ, prepared by LPCH, Exhibit 48, and its arguments seem weak. While these may have been enough to suggest an issue of fact, to defeat the MSJ, they may have been weak on proving malicious prosecution.

23.13. Krabill, in never reviewing the elements with me, violated Rule 2.01:

> "In advising or otherwise representing a client, a lawyer shall...render candid advice. Comment: 1. **A client is entitled to straightforward advice expressing the lawyer's honest assessment."**

24. Rule 2.01: Advisor – Lied about Strength of the Case

24.1. Krabill often contrasted my two cases, saying:

> "The museum case is a very strong case with weak actual damages, and the Terry case is a weaker case with strong damages."

On June 27, 2017, Krabill confirmed I had a strong case, emailing me (page A-206, Exhibit 44):

> "THEY WILL TRY THEIR BEST TO CONVINCE THE JURY THAT THEY DIDN'T KNOW THEY COULDN'T EXCLUDE PEOPLE OFF OF THE STREET, BUT GIVEN YOU PROVIDED THEM THE PROPERTY LINES, AND GIVEN MONK'S EMAILS, **I DON'T THINK THE JURY WILL BUY IT**.

24.2. On October 24, 2017, when I was negotiating to pay for Rule 167 fees, I emailed museum defense attorney Turner saying I had a very strong case. Turner emailed me October 24, 2017, at 12:54 p.m., Exhibit 50 (with emphasis added):

> **"I think she [Chuckie] has a 99% chance of winning this case and recovering all of her attorney's fees from you.** This is not wishful thinking on my part. **Your own attorneys, who were all seasoned and extremely competent (especially Kent Krabill), had the same very same opinion. At this stage, I can promise you that any lawyer who tells you that you have any chance of winning has not reviewed the file and depositions, has not talked to your previous lawyers,** and is telling you what you want to hear in order to get a fat retainer."

I called Turner, and told him what Krabill had said, that this was a strong case, and he replied:

"That is shocking to me."

24.3. One would expect Turner discussed his strategy with Krabill, and so Krabill knew the defense's arguments. Krabill never once mentioned to me the case was weak. Krabill was sure I was going to lose – and that is why it was unethical for him to continue.

24.4. Krabill, in representing to me that I had a very strong case, while telling Randy Turner he was 99% sure I was going to lose, violated Rule 2.01:

> "In advising or otherwise representing a client, a lawyer shall...render candid advice. Comment: 1. **A client is entitled to straightforward advice expressing the lawyer's honest assessment."**

25. Rule 3.03: Candor Toward the Tribunal – Lies in Emergency Motion to Continue

25.1. Rule 3.03 states, in part:

> Rule 3.03. Candor Toward the Tribunal
> **(a) A lawyer shall not knowingly:**
> **(1) make a false statement of material fact or law to a tribunal;**
> **(5) offer or use evidence that the lawyer knows to be false.**
> Comment:
> **An assertion purporting to be on the lawyer's own knowledge, as in an affidavit by the lawyer or a representation of fact in open court, may properly be made only when the lawyer knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry.**

25.2. On June 30, 2017, Krabill filed two motions, in Exhibit 51.

25.3. In the **"Emergency Motion to Continue Trial Date,"** on page 2, Krabill cites

Tex. R. Civ. P. 253 (with emphasis added):

> "A court has the discretion to continue a case when a party's attorney is unavailable for trial if the motion shows proof of good cause. Tex. R. Civ. P. 253. To establish good cause, the moving party must:
> (1) state the reasons for the attorney's unavailability,
> (2) show that the attorney's unavailability is not the result of the movant's own fault or negligence, and
> (3) explain why another attorney at the firm cannot handle the trial.

Krabill then asserts with regard to each these three requirements:

1. "Irreconcilable differences of opinion have arisen between counsel for Plaintiff and Mr. Washburne."

   This was a lie, and Krabill provided no examples, and there factually were none.

2. "This withdrawal is not the result of the movant's own fault or negligence."

   This was a lie, as the withdrawal was 100% Krabill's fault – Krabill:
   a. Failed to get Berman to mediate confidentiality.
   b. Was mean to me from the first words out of his mouth at mediation.
   c. For four hours insulted me, and threatened to quit.
   d. Refused to follow my instructions to reject the mediator's proposal.
   e. Refused my countless, polite, respectful, more-and-more desperate pleas to him to please give me a few minutes of silence to think about confidentiality, until he drove me out of my head and I fled the room. Anyone would have done the same.

3. "Due to the sensitive nature of the reasons supporting withdrawal, counsel has not included specifics here. Counsel is prepared to provide such specific information to this Court at the hearing on the Emergency Motion to Withdraw, including *in camera* if necessary. This information will also explain why another attorney at the firm cannot handle the trial."

   This is a lie – No "information" prevented another attorney from handling the case.

25.4. In the "**Emergency Motion to Withdraw**," Krabill includes about good cause:

1. "Irreconcilable differences of opinion have arisen between Movant and Mr. Washburne,"

This is a lie. Krabill has not one example of irreconcilable differences

2. "Mr. Washburne has engaged in such conduct that make it impossible for Movant to continue to represent him in this matter. Due to the sensitive nature of the conduct, Movant has not included specifics here."

There was no conduct that made it "impossible" for him to continue.

25.5. Krabill suggests he must represent to a jury that I never get upset. But I admitted in my deposition I got upset many times, threw the baby bottle, and kicked my tool box.

25.6. Krabill told me that allegations of me getting upset helped my case, providing a motive. If the jury hears I was a fine fellow, they would not see a motive to get me arrested, but if I was crazy, they think VFM would do anything to get rid of him, including lying to the police.

25.7. On August 11, 2016, VFM director, Hal Monk filed an MSJ, Exhibit 52. This was full of dozens of inaccuracies, but notable ones, and characterizations of me, include:

a. Exhibit 52, PDF page 8, Affidavit of Hal Monk, page 2 o4 3, paragraph 8:

   Upon finding a baby bottle on his desk in the VFM hangar, he went into a rage, chased a female employee of another tenant across the hangar floor screaming 'mother fucker' and other obscenities, until she fell backwards while trying to get away from him. He was so out of control that he broke a toe when he kicked a huge metal tool box

   A VFM **volunteer reported him saying that he wanted to kill another hangar tenant "so bad, I can't stand it,**"

b. Exhibit 52, PDF page 14, Affidavit of Charlyn Hospers, page 2 of 4, paragraph 7:

> "**Reports of his stated wishes to commit suicide and murder were most alarming. Episodes of uncontrollable screaming, cursing tantrums, and actual physical assaults on a former employee and a female employee of another tenant** made us fearful for the personal safety of our tenants, volunteers and visitors to the Museum"

c. Exhibit 52, PDF page 17, Affidavit of Robert Hospers, page 2 of 3, paragraph 5:

> "In mid-20l2, we all became alarmed upon learning of the irrational threats, **cursing rages,** violations of FAA regulations, statements of **wishes to commit suicide and murder, attempted bodily assaults** and other antics in VFM's hangar by tenant Seth Washburne. Other hangar tenants, their employees, volunteers and Museum visitors were complaining about his manifestations of severe, and possibly dangerous, mental aberrations.

25.8. On November 16, 2016, Mallory Biblo sent me an email, Exhibit 53, with a draft response to the MSJ, and on November 22, at 1:10 p.m. Biblo sent me an email, also in Exhibit 53, with a finalized response, and a declaration, not challenging statements about me.

25.9. On November 22, 2016, at 1:15 p.m., I sent Krabill an email (page A-29, Exhibit 54) that I was shocked he did not counter false accusations about me in defendants' affidavits. Phone records show I then called him on his cell phone at 1:32 p.m.

25.10. On November 23, 2016, at 11.17 a.m. I sent Krabill an email, Exhibit 55, summarizing what he said, which talks about Monk's immunity, but on the phone extended to the case:

> "After I emailed you, and you asked me to call you, <u>you stated we did not need to address all their criticisms of me</u>, because the only thing relevant is if he was acting outside his duties as an attorney. <u>You stated that even if I was a crazy lunatic, he still would be not-immune</u>.
>
> You, of course, know judges better than me, but I think all this negative stuff does affect at least in a small way the way a judge decides, and I think it is worth standing up to some of these in the response. <u>They say I was screaming, swearing at everyone, assaulting people, knocking women over, demanding mechanics violate FAA regulations, openly threatening to murder people</u>. I would think that plants at least a little seed in a judge's mind that I don't deserve the benefit of the doubt. And these are all lies, none of this ever happened.

On November 25, 2016, at 11:24 a.m. I sent Krabill and email (page A-32, Exhibit 56) noting:

> "I added a 9-page addendum to my previously 5-page, as shown attached, addressing the specific points in Monk's motion, and the three affidavits."

Also in Exhibit 56 is the declaration as filed. LPCH never wanted to challenge any of these.

25.11. I wrote in my email, Exhibit 56, reflecting what Krabill told me on the phone:

> "Also I know you don't care about how they characterize me, but **imagine if** someone made a public filing that anyone of you were uncontrollably screaming, battering women, slugging employees, demanding employees brake federal laws, plotting murder, and much more, and **someone told you [as Krabill did to me] not to challenge these, just to leave them out there, they won't affect what the judge thinks of you**."

On November 25, 2016, at 1:31 p.m., replying to mine, Krabill emailed me, Exhibit 57:

"As you know, we do not believe this addendum is necessary."

Thus, Krabill stated, 7.5 months before the MTW, that it was "not necessary" to note I was not "uncontrollably screaming, battering women, slugging employees, and plotting murder!"

25.12. On May 10, 2017, we were in Shreveport for a deposition of defendants' fact witness Mark Reames, who said he saw me yell at Terry. I drove Krabill to the airport afterwards and he again told me something like "That *helps* us if they say you were yelling at people."

25.13. Krabill, in filing the Emergency Motion to Continue Trial Date, and Emergency Motion to Withdraw, in which he lied repeatedly to the Court, violated Rule 3.03:

> **(a) A lawyer shall not knowingly: (1) make a false statement of material fact or law to a tribunal; (5) offer or use evidence that the lawyer knows to be false.**

26. Rule 3.03: Candor Toward the Tribunal – Lies in Person to the Judge

26.1. Krabill during the July 14, 2017, MTW hearing made statements to the court which he knew were false, which he wanted the judge to act upon, and which the judge did act upon, which caused me immense harm. The hearing transcription is Exhibit 27.

26.2. Lie #1: Page 7, line 14:

"There are irreconcilable differences between my firm and the client."

Fact: There were no "irreconcilable differences" at 12:45 p.m. during mediation, and nothing after that created any such differences.

26.3. Lie #2: Page 7, line 21:

> "We've…done our best to prepare for trial against allegations against my client which were quite serious. Defense counsel can tell you more about that because they're the ones that made the allegations, and had the incidents that I ended up experiencing with my client."

Fact: The "serious allegations" are apparently that I get upset, but Krabill always said these help my case, and if I get upset this has nothing to with their being able to lie to the police to arrest me. The judge realized this, and asked: "This lawsuit has to do with whether or not the defendants should be liable to your client for him having been put in jail for trespass?" Krabill: "Correct."

26.4. Lie #3: Page 9, line 7:

> I continue to believe…that he was wrongfully arrested and the claims are legitimate that he has brought.

Fact: Randy Turner said Krabill told him he was sure I was going to lose.

26.5. Lie #4: Page 9, line 14:

> The court: "It is not a situation where you learned something new or found out your client was not telling the truth. You didn't learn a new fact about the underlying case. Or did…." Krabill: "I cannot reveal – I don't believe I can reveal the answer to that question… without divulging attorney/client communications."

Fact: Krabill did not "learn something new," a "new fact," or find I "was not telling the truth."

26.6. Lie #5: Page 10, line 6:

> "I do not believe the client wants to follow or listen to my advice at all. And that's been a pattern for a long time that I have tried to work around and truly my associates as well. So I don't know why he wants me to continue to represent him to be honest with you."

Fact: The main advice I did not take was to not accept a mediator's proposal, and this was my right under the Texas Rules. Regarding Krabill's other advice, that is all easily verifiable from emails, and there is no evidence of this, except, ironically, that I wanted to defend myself against false statements in the affidavits attached do Monk's MSJ, and Krabill thought it was unnecessary.

26.7. Lie #6: Page 10, line 13:

> "I just don't understand why he would continue to want me to represent him if the things he has stated are true."

Fact: He provides no examples.

26.8. Lie #7: Page 10, lines 16 to 17, and page 11, line 17:

> "There was a motion filed to compel mediation.
> "The defendants did not want mediation because of, you know, you probably read their response of what happened in a mediation in another matter with Mr. Washburne
>
> "So in their response to the Motion to Compel Mediation, the defendants made the Court aware of the vicious treatment of them and the ranting and blistering attack on the prior mediator and such. I don't know anything about it other than what they attached."

Facts: Defendant's response is attached as Exhibit 58. Krabill falsely suggested to the judge:

d. I gave the defendants "vicious treatment" in person – when the defendant's reply states "Plaintiff has engaged in a vicious *internet* smear campaign," which was four internet postings, taken down after about 30 days, in early 2013, 4.5 years earlier.

e. I made a "ranting and blistering attack on the prior mediator" in person – but defendants stated I "*wrote* a ranting, blistering email attacking the mediator personally." My email was attached to their motion, and there was nothing "blistering" about it, and it was written unemotionally. In that email to the mediator, I

noted in point 11 "I did not ask her [Charlyn Hospers] a single question, and hardly even looked at her while we spoke," evidence of the great respect I showed for the defendants, and how I conducted myself in person at that mediation.

Krabill wrote "I don't know anything about it except what they attached," indicating he was stating what was attached. Krabill intentionally lied about what was in the attachment.

26.9. Lie #8: Page 13, line 12:

> The Court: "And so as a result ["of a physical conflict" between me and Mr. Berman"] did that terminate the mediation immediately?"
> Krabill: Yes.

Fact: I was the one who terminated the mediation, and while still in the room with Krabill, before I ever even saw Berman, who was out in the hallway, beyond a closed door. Krabill refused to let me check the mediator's proposal "no," refused to give me 5 seconds of silence, and demanded I accept the proposal, and I finally leapt up from my chair, blurted out something to Krabill, and fled the room, and that was the moment mediation was over. All due to Krabill. Berman had nothing to do with mediation terminating. Krabill lied, because he caused this.

26.10. Lie #9: Page 14, line 9:

> The Court: "You feel as though Mr. Washburne did not follow your advice and that's just part of your concern about him following your advice. That's one example of him not following your advice that is the most recent and perhaps the most dramatic." Mr. Krabill: "Yes, Your Honor."

Fact: There is not a shred of evidence I did not follow his advice, apart from my not accepting the mediator's proposal, which was my right. The emails all the way through the morning of mediation, and deposition notes, reflect I followed LPCH's advice probably 100 times.

26.11. Lie #10: Page 14, line 23:

> "We have put together a case with evidence that we believe is the best way to convince a jury to rule in our client's favor, and it appears that Mr. Washburne does not want to follow our advice on how to present the case to the jury."

Fact: There is no evidence of this. The email record is clear that we were having constructive dialogue prior to the mediation, and I closed Exhibit 59, June 21, 2017, 8 days prior to the withdrawal, with: "I think you are a very good lawyer, the best I could possibly have, and picture you doing a great job at trial."

26.12. Lie #11:

> "It [that Mr. Washburne does not want to follow our advice on how to present the case to the jury] goes back to how to take depositions, motion practice, every step of the way.

Fact: LPCH never provided me advice of "how" they would like to take a deposition, and I never "did not want to follow" their advice. There were several times during depositions when, during breaks, I recommended going back over something to get a clarification, and they: a) took my advice on dozens of these, and thanked me for them, or b) advised me we should not go back over some, and I accepted that advice. There was never a single question I was advised they should not ask, which advice I did not take and insisted they do ask, and which they then asked. They would not do such a thing, as it would hurt our case.

Regarding the depositions, these were 9 by Cole, 3 by Krabill, 1 by Kelley, so Krabill is saying I "did not want to follow the advice" first of Cole with regard to some of these 9. The email record shows no advice not taken, and lots taken. Krabill says I did not follow his advice for his depositions of Hospers, Monk, and Reames – that, too, is absurd, I was a follower and just listened, and if I asked a question be asked, and he said no, then that was fine. There are no examples of questions he asked on my insistence. Ditto for Kelley. The depositions were:

Terry Suit (seven, all by Cole)

a. December 5, 2016 – Wood, by Cole LPCH didn't: a) tell me it was scheduled, b) send me a list of questions, or c) ask for any input. I received an email 13 minutes before it

started saying "just wanted to make sure you remembered it was today." I was shocked. I sent emails with suggested questions. Cole emailed me at 12:32 p.m. after over: "I again apologize that you did not know the deposition was today, but we were able to hit the areas that you sent questions about. How could I not follow advice when I was not even told about this deposition, and did not even attend? I did not "not follow" advice for this.

b. December 19, 2016 – Perdue, by Cole. *Cole emailed me asking for broad topics to cover,* and I promptly replied, with 4 pages of potential questions, and re-did under broad topics as he asked, which Cole appreciated. I did not "not follow" any advice for this one.

c. January 13, 2017 – Nelson, by Cole – I did not "not follow" any advice.

d. February 1, 2017 – Bradley, Diver, Mahaffey, by Cole – I did not "not follow" any advice.

e. February 16, 2017 – Williams, by Cole. I received no outline, and provided no questions. Near the end I asked Cole to ask Williams what Terry Rogers thought of me, and why he didn't complete my project, and Cole agreed, and this was the key question in the case against Rogers. Afterwards, in the parking lot, I noted this to Cole, and he replied "I give credit where credit is due," i.e. to me. I did not "not follow" any advice for this one.

Museum Suit (3 Krabill, 2 Cole, 1 Kelley)

f. January 30, 2017 – Gorin, by Cole – I was in Hawaii and again did not attend, and again Cole did not send me an outline ahead of time, and so I had no idea what he was going to ask. On this day I emailed him some suggested questions, and Cole replied: "Thanks Seth. Received." I did not "not follow" any advice for this one, and did not even attend.

g. February 14, 2017 – Wood by Cole. Cole never sent me an outline, so I had no idea what he was going to ask. On February 13, 2017, I emailed Cole 20 questions about statements in two police reports, and he replied: "Seth, received and understood." The only advice I

received for this was, during a break, I asked Cole to please ask Wood what Jim Terry thought of me. Cole advised me she would not incriminate herself – but she was not a defendant in the other suit with Terry and this would have no bearing on her in this suit, and b) this would make the deposition go on longer. I tried to insist he ask this, but he refused, and never did. This was the main advice I received, and did not want to accept, but I did accept it. I did not "not follow" any advice for this one.

h. February 13, 2017 – Hospers, by Krabill. I did not "not follow" any advice for this one.

i. May 10, 2017 – Mark Reames, by Krabill. He was a fact witness for the defendants. I did not "not follow" any advice for this one.

j. May 18, 2017 – Hal Monk, by Krabill. Krabill stopped the deposition, saying he had to take Hospers deposition again first. I went along with this wrong, and highly risky advice. I did not "not follow" any advice for this one.

k. June 9, 2017 – Hal Monk, by Kelley. I was notified of this less than 36 hours before it occurred, and was never previously told it was on the schedule, but rather was told it would take place 20 days later, on June 29, by Krabill, so this was a shock. Kelley attached an outline and wrote:

> **I plan to incorporate your attached RFA response questions throughout the deposition based on the subject we are discussing, I think they are really good**. Note also that I have not included all of the questions I intend to ask in this outline. In fact, most of the questions I plan to ask about the documents are not included in this outline. Let me know if you have any comments or questions.

I replied with an extensive list of questions. I am a WWII troop carrier historian, and Monk was a post-WWII troop carrier mechanic, and I was personally curious about his experience, so added some questions about his WWII experience. Krabill replied:

> "We don't have time for all of this. It is way too much and most of what you added is completely irrelevant to our case. Here is what needs to be omitted from what you added."

Exhibit 60 shows the back-and-forth communications about this, and shows respectful, constructive, dialogue. There was no material advice I did not follow, just that we did not have time for personal questions about WWII experience, which took very few minutes. During breaks I made many suggestions of areas to cover again, and Kelley did. I advised him to ask Monk specifically why he did not stop my arrest, a key question to show the malicious nature, which Kelley was going to skip over. Krabill and Kelley gave me some advice on this only one deposition, but it was not material.

In summary regarding "how to take depositions," I did not "not follow [their] advice," for 10 of 11, 91% of, depositions.

Regarding motions, I provided constructive comments on these, sometimes correcting errors, and there is not a single example of me not following their advice on motions.

Regarding "it appears that Mr. Washburne does not want to follow our advice on how to present the case to the jury," we never once discussed how it would be presented to a jury.

We had a May 30, 2017, deadline for producing documents to be used at trial in this case, and, after the Mark Reames deposition, May 10, I thought I needed to provide more examples of people at VFM who liked me, and background on what happened with Terry, so people would understand what I was dealing with when at the museum. I spent all of May 28, 2017, reviewing the Terry case documents, and others, and sent a list to Krabill, noted at the bottom of Exhibit 61's first email series. I even wrote out a potential line of questioning Krabill could use, or not use, and emailed him this, also in Exhibit 61. This was only a suggestion, one time, on May 29. Krabill and Kelley went over the documents, and agreed to include almost all of them.

Krabill wrote May 29, 2017, at 9:55 a.m.

> "If they are relevant to the Defendants' request or we feel we want to use in our case, we will produce.
> But this constant last minute routine you keep doing is not the way to prepare a case.
> You are harming your case, and costing yourself a bunch of extra money, every time you dump something like this on us.
> And frankly, you do this all the time, before every motion, depo, and deadline.
> Please try to plan ahead next time

Krabill here writes "You are harming your case," but I wrote May 29, 2017, at 10:00 p.m.:

> "Obviously, the ones that hurt my case can be taken out."

As for Krabill saying I did this all the time:

a. I reviewed things when LPCH sent them to me, and they often sent them to me at the last minute, e.g. Kelley sent me his Monk deposition outline 36 hours before that deposition

b. On January 3, 2017, at 8:48 a.m. Cole sent me an email, Exhibit 62, asking me to prepare a deposition outline for him, less than 24 hours before a key deposition:

> "As mentioned in my prior email, **Ricky Bradley's deposition is scheduled for tomorrow at 8:30** in our office. He has been served with a subpoena, but we have not been able to reach him to confirm he will show up. However, to get prepared, **can you please send me a list of areas to cover with him**, as you did with Scott Perdue? **I've been busy** working on the MSJ responses **so do not currently have an outline put together**, but will get that to you after I get your suggestions. Thanks. Stephen Cole"

This latest one shows how it was LPCH, not me, who did things at the last minute, e.g. also sending me motion replies to review shortly before the deadline to be file them.

Krabill should also be used to clients getting anxious as trial dates approach.

26.13. Lie #12:

> "And we're left with a client who apparently does not believe we are adequate counsel for them."

Fact: This is an outright lie. I was there strongly opposing the withdrawal. I shook my head vigorously left-to-right to indicate "No! No! No!", and the court observed this and stated:

> "I see sort of a physical reaction by Mr. Washburne to that statement"

Then Page 15, line 14:

> The Court: "Are you sure he doesn't want you to represent him?"
>
> Krabill: "Well, I have conflicting evidence of that. I have evidence of him opposing this motion, and then I have other evidence. So I have conflicting evidence of that."
>
> The Court: **"That does weigh – if you tell me you can't do your job.**
> **I don't feel, based upon what I know about your law firm, although I've not met you before this case,**
>
> **I do not feel that it's that you don't want to, or that you're not capable of doing your job, it's that you truly feel you can't.**
> **And I'm pretty sure that's all that is required."**

There was nothing I did that made it so he "can't" do his job. He billed me $64,969 for June.

26.14. Lie #13, dropping "buzzwords:" Page 16, line 22:

> Krabill: "Ms. Stanton reminded me of…
> "What we've been left with, and I believe I said this in the papers, but we have a broken relationship of trust and confidence.
> "And if I'm going to be in a fiduciary relationship with somebody, I need them to be able to trust in me and trust my advice. It appears that's not occurring any longer."

Factually there was not, and is not, a single item upon which I did not trust Krabill, except that I did not want to accept confidentiality with the mediator's proposal, and that was a personal decision, and Krabill knew ahead of time, and about which the Texas Rules require he abide.

> The Court: **Well, those are the buzz words that come right out of the law**. …
> A lawyer does have a fiduciary relationship with their client, because they have to be able to talk about – they have to be able to be 100% honest with each other, like, you know, does that hurt my case?
> **Trust and fiduciary are two terms that I was either going to interject in myself or let somebody else interject in, but those are the two terms that are very important."**

Fact: **Krabill provided no examples of trust and fiduciary problems. He knew the "buzz words" that would get him free, and used them, despite these being lies.**

26.15. Lie #14: Page 18, line 8:

> The Court: "So you are saying that your ability to trust your client has also been a concern to you?"

Krabill:	"I do not trust Mr. Washburne."
The Court:	"You don't trust him to move this case forward?"
Krabill:	"That's correct."

Fact: Krabill has no examples of areas in which he did not trust me.

26.16. Page 19, line 19: Defense attorney Randy Turner stated:

> "Central to our defense is that Mr. Washburne has an uncontrollable temper, and exhibits bizarre, irrational behavior, sometimes violent, and this is why the defendants terminated his lease.

This is why I wanted to provide the reply to Monk's MSJ affidavit, in Exhibit 56. Krabill thought it was unnecessary do defend my character. Turner continued:

> "Mr. Krabill has very skillfully defended against these allegations of irrational and violent behavior."

This is not true. When and where did Krabill do this? Not in any replies, motions, or depositions. Rather, Krabill wanted me to appear irrational and violent, and on November 23, 2016, specifically objected to refuting such claims. Turner wanted to get rid of Krabill.

Turner continued:

> "After he saw the attack on the mediator by Mr. Washburne, he's in the precarious position now of basically having to advocate a position that doesn't exist.
>
> For example, Mr. Washburne testified in a deposition that he doesn't lose his temper and he doesn't get angry. Well, now Mr. Krabill has firsthand knowledge that that's not true. He does lose his temper and, in fact, can become violent."

My deposition transcript is Exhibit 63. Its index pages 44 and 49 show the words "temper" and "violent" were never used, so these were not discussed. Its index pages 4 and 48 show the words "angry" and "upset" were used the following times, by Seth (S), and Turner (T):

a. 17:21,23 That VFM never investigated Terry stealing from me: S (line 19): **"I don't get mad very easily."** T: "Were you angry?" S: "I wouldn't say I was - - I don't recall.

b. 18:16: S: **"I don't get angry very easily."**
19:5,24: T: "You weren't angry?" S: "I'm just trying to recall." "I was not upset or angry about that, because I did not know about it before

c. 20:2,15,19,22: That Chuckie told people I'd fired Pat: "S: Telling people I'd fired Pat, that bothered me, but I was not angry about that." T: "Were you angry at…after you were arrested?"

d. 21:2, 8: For Hospers and Monk having me arrested. S: **"Yes, I was very upset with them for what they had done to me, extremely, extremely upset."** T: "Let's use the word "mad" instead." Were you mad at Monk and Hospers after your arrest?" S: **"I was extremely upset at them, and perhaps you could use the word "mad" to describe that feeling." "Yes, I think that would be a good word to use."**

e. 43:4,7: For Jim Terry putting a baby bottle on my desk. "I hate to use the word 'angry' in case there's some implications to that, but **I was upset at Jim Terry.**"

f. 66:17: How I felt when I made an internet posting about VFM: T: "Would it be fair to say you were angry with VFM, Hospers, and Jim Terry?" S: No.
72:5: "Again, I was trying to warn others.

g. 116:22: How I felt April 26, 2014, when two police officers wrongly due to VFM slammed me against their car and twisted my right arm up on my back, injuring it: **T: Were you angry? S: "I was very upset at the police."**

h. 124:12,16: How I felt in the back of the police officer, handcuffed, being driven to the jail: **T: "You weren't angry?" S: "Well, then I was a little upset." "I was upset."**

i. 181:14: How I felt when I drove out there Sunday, afternoon before arrested: T: "Were you angry at VFM? Were you mad at them at that time?" S: "I don't think so….it was a very friendly conversation I had with Hal."

This transcript proves **it is not true, what Turner said**, that "Mr. Washburne testified in a deposition that he doesn't lose his temper and he doesn't get angry," and, rather, I said I don't get angry very easily, and that I got upset at least three times – the baby bottle, April 26, and 27.

Turner continued, Page 20, line 21:

Mr. Turner: "I don't have, I don't think, personal knowledge, but in my opinion, it's obvious to me that he can't control his client, and he can't trust his client."

The court: "Controlling the client would be helpful but it is not necessarily required. It's the trusting part that concerns me greatly."

Page 28, line 9: The Court:

"If an attorney says 'I can't represent this client despite the fact that I can bill lots of hours up the tune of half a million dollars and I am still telling you, judge, I don't think I can do it,' it's very hard for a judge to say "Oh, I'm going to force you to."

Page 42, line 22:

Me: "Krabill and I worked together fine on most of these issues. I don't disagree with him about strategy things."

26.17. Lie #15: Page 44, line 9:

Krabill: "Knowing what I now know, it would be unethical for me and my firm to continue to represent Mr. Washburne."

Fact: The only new information Krabill had was that Krabill saw me get upset, but I already admitted in depositions that in extreme situations I get upset, and Krabill said this helped the case.

Exhibit 97 is a preliminary list I made at mediation of items I would "Give up post[ing] about" if I agreed to confidentiality, and four of the first six I wrote "ok" next to.

1. Fired Mahaffey – ok, I did – ok
2. **Cornered Dana – told ___**
3. 30d notice termination - ok
4. Insulting offer [to stay 4 months longer if I move outside] - ok
5. Police __ ___ -
6. Didn't _ of Terry - ok
7. Arrest – this
8. Crazies [list]
9. [blank]
10. Legal fees caused by emotional distress

I was trying to review and think about this list, and I never could get past the first few.

Page 46, line 21, the Judge:

"**For a trial lawyer firm like yours that is known for going to trial**, and if you sit here in light of all that and tell me you can't do it, I mean, I have to believe you.
"I think your ethics are telling me you can't do it."

26.18. Lie #16: Page 48, line 16:

Krabill: **"I've tried my very best, and my associates have tried their very best to be kind, to be very deliberate in our speech, to be consistent in the face of the treatment that I would consider abusive, cruel, and derogatory."**

The Court: **"I am going to make a finding that you and Mr. Washburne do not have the trust that is required for a fiduciary relationship between a lawyer and a client. "I'm going to let you withdraw."**

THIS SEALED IF TO KRABILL, AND WAS ANOTHER 100% LIE. Facts are:

a. Regarding Associate Cole:

1) We bonded over both having attended graduate school at Washington University in St. Louis, me in Engineering, him in Law.

2) We both attended Covenant Presbyterian Church in St. Louis, associated with a prominent seminary, me as a member for four years, and he as a visitor a few times.

3) I was always friendly and respectful to him.

4) Around April 25, 2017, Krabill called me on his speaker phone, with Cole present, to tell me Cole had given notice. My first instinct was to be express I was upset at losing him, but instead gushed about how wonderful he had been, thanked him for all his help, congratulated him, and wished him well in his new position.

5) Cole emailed me May 27, 2017, (page B-157, Exhibit 64) that his grandfather just died, and he learned his grandfather had been a radio operator on a C-47 in a troop carrier squadron, concluding:

> **"I am now that much more grateful that I got the chance to represent you and help you** in some small way in your work of honoring our veterans. **As always, I am wishing you the very best** and will be checking in with Kent periodically to get an update on how things are going Take care."

I replied, and let him know where he could learn more, and he replied thanking me.

Krabill has no proof of my being "abusive, cruel, and derogatory" to Cole, and these are examples that I was the opposite, and that Krabill lied to the Court.

b. Regarding Associate Jonathan Kelley:

1) On May 17, 2017, Krabill emailed me (page A-109) asking if he could bring Kelley to the deposition of Monk, and I replied "This is a great idea."

2) On May 29, 2017, at 2:37 p.m., I emailed Kelley asking him to renumber a list, and he declined, and we worked through the list successfully.

3) On May 29, 2017, at 6:13 p.m., I privately and respectfully noted some areas for potential improvements for Kelley to Krabill, which were not meant to be shared. Krabill showed my email to Kelley, and so it was Krabill who was abusive to Kelley. On May 30 Krabill called me, with Kelley present, and then took another call for a moment during which I spoke with Kelley, and he said he did not mind my comments.

4) On June 9, 2017, 12 days after my email to Krabill, Kelley took the deposition of Hal Monk, and we spent the day together, just him and I, also going to lunch together 12:18 to 1:30 p.m. Afterwards I very kindly offered to drive him from Fort Worth to a parking lot near the DART Station in Garland near his home, and did. I took great interest in his life, and was enthusiastic and friendly, and we had great rapport.

5) On June 20 and 21 I emailed Kelley some additional items, and these were the only communications I had with him after June 9, and were respectful and positive.

6) On June 29, 2017, after Krabill quit, I noted some of Kelley's shortcomings to Mike Lynn, copying Krabill, but these were not expressed prior to Krabill quitting, and never directly to Kelley, so were not a basis for him to withdraw when he did.

Krabill has no evidence of my ever once being "abusive, cruel, and derogatory" directly to Kelley, and these are examples that I was the opposite. Krabill lied to the Court.

c. Regarding Krabill:

1) On March 29, 2017, I emailed Krabill about an invoice payment delay that I was busy doing Thirsty 13th research, and he replied at March 30 at 10:09 a.m.: "**It sounds like you are making great progress on your Thirsty 13th research! Great job!"**

2) On April 28, 2017, I emailed Krabill I was going on a Thirsty 13th scanning trip, and he replied enthusiastically: **"Oh, and have fun in Vegas and San Francisco!"** This reflects that we had a good relationship, full of mutual trust and respect.

3) On May 10, 2017, Krabill flew to Shreveport for the deposition in the VFM case of a fact witness for the defense named Mark Reames in Bossier City, La. I drove there, and met Krabill at the airport, and drove him to the deposition and back to the airport. We were on great terms, and had a nice day together, talking happily.

4) On May 30, 2017, after I said I would send $100,000 toward the outstanding $142,740 on invoices, Krabill stated "That shows good faith. **You know, I like you, Seth."**

5) On June 27, 2017, just two days before mediation, Krabill emailed me (page A-206, Exhibit 44) confirming his confidence in that case and that he has faith in me:

"THEY WILL TRY THEIR BEST TO CONVINCE THE JURY THAT THEY DIDN'T KNOW THEY COULDN'T EXCLUDE PEOPLE OFF OF THE STREET, BUT GIVEN YOU PROVIDED THEM THE PROPERTY LINES, AND GIVEN MONK'S EMAILS, **I DON'T THINK THE JURY WILL BUY IT**.

THE ONLY WAY I SEE IT HAPPENING IS IF THE JURY JUST LOVES THEM AND HATES YOU. BUT LET'S MAKE SURE THAT DOESN'T HAPPEN."

6) If I accepted the mediator's proposal, and the defendants did, Krabill and I would have given each other a high-five, and gone to lunch together happily.

Krabill has no evidence I was ever "abusive, cruel, and derogatory" to him before he quit, and rather there is a history of me being friendly and of us working fine together.

26.19. On May 29, 2017, I sent an email to Kelley, to which Krabill replied at 11:42 a.m., Exhibit 65, telling me I was rewriting history, but my points were all supported. I wrote:

"I made it very clear to Stephen that I would never agree to non-disparage."

On April 11, at 9:29 a.m., Cole sent me a proposed term sheet, and I marked it up, as shown in Exhibit 66, requiring the defendants admit the things they said about me were untrue, and that confidentiality only apply to the events of March 2, April 26 and 27. I wrote Cole April 12:

> "Regarding non-disparagement, I have nothing to gain by this. I will agree to non-disparage very narrowly defined to include the incidents of the three days, but nothing else, and for those three days I will have their statements."

I describe this in Exhibit 67, and made it very clear to Cole I will never agree to confidentiality.

I next wrote:

> "He either failed to communicate this to the other side, or they just want to insult me, which they do with this, asking for $250,000 liquidating damages"

This, too, is fact.

I next wrote:

> "Stephen was discussing the stipulation with Randy, then launched into a settlement discussions without my permission or knowledge"

I emailed this to Cole, and he, in his reply, also Exhibit 67, did not disagree with this. I also wrote this in Exhibit 37.

I next wrote:

> "I would have told him on day 1 I will never agree to non-disparage. They wanted this in 2012 when I went to mediation with them about the lease termination and I said I would never agree to this. I will not pay for anyone at LPCH to communicate with them beyond a simple sentence that I will never agree to any non-disparage or confidentiality, and to tell them to stop wasting my time."

This, too, is fact, that I wrote Cole April 27, also in Exhibit 67.

26.20. On Page 50, line 20, I stated to the court there was no evidence:

"I also would just like to go on record saying I disagree with all of his characterizations of me, and **he has not provided any evidence of most of those**."

The court:

"Your life is not going to get any better and your case is not going to get any better if you have a lawyer who doesn't believe in you…"

26.21. I continued, Page 52, line 15:

"All I did wrong was not accept his advice [to agree to a mediator's order with confidentiality] and tell him to be quiet.
"There wasn't any way to escape from him. That's all I did wrong here."

The Court: "Well, one should not want to escape from their lawyer."

26.22. **Krabill repeatedly changed his reasons for the withdrawal**:

a. On June 29, 2017, at 3:52 p.m., he emailed me, in Exhibit 68: "Due to your conduct at mediation, we must withdraw from both of your cases listed above." His invoice billed by VCE on this date states: "Legal research in connection with ethical obligations and conflicts concerning witnessing client engage in criminal act."

   There was no criminal act – the citation was dismissed, and expunged from my record. There was no ethical conflict, and he said my getting upset helped us.

b. On June 30, 2017, in both his motions to the court, in Exhibit 51, he wrote "Irreconcilable differences of opinion have arisen between Movant and Mr. Washburne necessitating the termination of their attorney-client relationship."

   There were no differences.

c. On July 14, 2017, he told the judge the issue about trust, and my not following his advice.

   There was no trust issue, and no evidence of my not following his advice, other than settlement.

26.23. **Krabill, in lying to the court in person at least 16 times,** violated Rule 3.03:

> (a) A lawyer shall not knowingly: (1) make a false statement of material fact or law to a tribunal; (5) offer or use evidence that the lawyer knows to be false.

27. Rule 3.03: Candor Toward the Tribunal – Need for Emergency Withdrawal

27.1. Krabill on June 30, 107, at 10:01 a.m., filed an Emergency Motion to Withdraw, and wrote in this motion:

> "Movant has been notified by its client, Mr. Washburne, that he is out of the country starting today at 7 a.m. until Monday, July 9, 2017. Movant is also set to leave the country tomorrow morning and be out of the country until July 9, 2017. Movant respectfully requests that this Motion be set for hearing as soon as practicable the week of July 10-14, 2017. Alternatively, Movant notes that it is available for a telephonic hearing anytime from today, June 30, 2017 through July 9, 2015. However, Movant does not know Mr. Washburne's availability for a telephonic hearing during that time. Movant estimates that 15 minutes will be sufficient to present the issues in this Motion."

Krabill therefore:

a. Submitted this motion when he knew I was out of the country.

b. Requested his motion to withdraw be heard on an "emergency" basis, on the 1st to 5th day after I returned from overseas, giving me no time to prepare a reply. There was a trial that might need to be continued, but no his motion to withdraw was not an "emergency."

c. Requested his motion to withdraw alternatively be heard by telephone June 30 to July 9 while I was overseas, further giving me zero time to prepare and submit a reply.

27.2. On June 29, 2017, at 11:33 p.m., prior to my leaving at 7 a.m. for an overseas flight, I emailed the 153rd court coordinator Patricia Cannon, writing:

> "I am the plaintiff in the above case, and my attorney advised me Thursday he will file a motion to withdraw on Friday, requesting an expedited hearing. I oppose his motion, and intend to submit a reply to his motion, but will be unable to submit a reply until Sunday or Monday. This is therefore to ask you to please wait for my reply before passing these on to Judge McCoy for a ruling. I am cc'ing the two attorneys for the defendants."

I took a laptop computer and many files with me on my family vacation to try to draft a reply, and spent time working on this, but was unable to work on this effectively, due to having a smaller keyboard, and only one screen, and no access to many relevant files. I therefore called Ms. Cannon and left a message that I would not be able to submit a reply until I got back, and asking that any 5-day in advance period be waived. I received no reply from Ms. Cannon.

27.3. The 153rd set the hearing for July 14, 2017, at 10 a.m. I returned from overseas late on July 9, and had to spend July 10 and 11 replying to more than 100 emails and taking care of personal matters, while also trying to prepare a response. I could finally focus 100% of my time on this on July 12. On July 13 I had a several hour dental procedure for which I had to drive from Dallas to Fort Worth, taking many hours of this day, and so did not finalize my reply until late on July 13. My reply to this motion was 29 pages long.

27.4. Early in the week I again contacted the 153rd court coordinator, Patricia Cannon, by phone, and asked how I could submit my reply, because I had not yet filed anything on the e-file system, and believed Krabill unlikely to submit my reply for me. I received no reply

27.5. I re-read my reply on the morning of the hearing, July 14, and expected to transfer it to a USB drive and take it to a FedEx Office to print it out, and bring it to the hearing, but then it was 9:10 a.m. and I was in North Dallas and the hearing in Fort Worth at 10 a.m., and my computer's ability to transfer files froze up. I then tried emailing me it, but recently changed my desktop internet connection to be through my phone, and this connection had been broken that morning, and as I drove to Fort Worth realized that because I had my phone with me, the email would never go out from my desktop. In summary, I prepared, and tried to submit, a written reply, but was unable to, due to the unreasonably short time.

27.6. During the hearing, I had only a marked-up print-out of my reply, and couldn't read 29 pages to the court, and so had to respond orally to questions, and so I was denied my right to reply appropriately to Krabill's motion to withdraw. This was Krabill's plan.

27.7. Krabill, in falsely representing a need for emergency hearings, violated Rule 3.03:

> (a) A lawyer shall not knowingly: (1) make a false statement of material fact or law to a tribunal; (5) offer or use evidence that the lawyer knows to be false.

28. Rule 3.03: Candor Toward the Tribunal – Britta Stanton Lied to the Judge

28.1. On July 14, 2017, at the Motion to Withdraw hearing, LPCH partner Britta Stanton stated Exhibit 27, page 50, line 8:

> "Lawyers represent clients. Firms do not represent clients. So the undersigned lawyers on the pleading blocks now have been withdrawn pursuant to your ruling."

This is not true, as:

a. The engagement letter clearly states in Section II. Scope of Engagement:

> "Client hereby engages the law firm of Lynn Pinker Cox & Hurst, LLP ("LPCH") to act as counsel in connection with the lawsuit filed by you.

b. The last page of the contract says "Sincerely, LYNN PINKER COX & HURST, LLP."

c. It is now LPCH, not Kent Krabill, with whom I am in arbitration.

28.2. Britta Stanton, in lying to the court in person, violated Rule 3.03:

> (a) A lawyer shall not knowingly: (1) make a false statement of material fact or law to a tribunal; (5) offer or use evidence that the lawyer knows to be false.

29. Rule 3.05: Maintaining Impartiality – Lying about Me to the Tribunal

29.1. Rule 3.05 states:

> Rule 3.05. Maintaining Impartiality of Tribunal
> **A lawyer shall not:** (a) **seek to influence a tribunal concerning a pending matter by means prohibited by law or applicable rules of practice or procedure;**

29.2. Krabill sought to influence both MTW hearings by lying to the tribunal, with a character assassination of me, with statements which were false and misleading, saying:

a. "The defendants made the Court aware of the vicious treatment of them, and the ranting, and blistering, attack on the prior mediator.

b. "I've tried my very best…to be kind…in the face of the treatment that I would consider abusive, cruel, and derogatory."

29.3. The judge at one point noted what she held his firm in high esteem, and was inclined to believe him, and so his trick worked, and made her think more of him and less of me.

29.4. Krabill, in telling falsehoods about me to the tribunal, violated Rule 3.05:

> A lawyer shall not: (a) seek to influence a tribunal concerning a pending matter by means prohibited by law or applicable rules of practice or procedure.

30. Rule 4.01: Truthfulness in Statements to Others – Lied to the Police

30.1. Rule 4.01 states, in part:

> Rule 4.01. Truthfulness in Statements to Others
> In the course of representing a client a lawyer shall not knowingly:
> (a) make a false statement of material fact or law to a third person;
> Comment:
> 3. Paragraph (b) of this Rule also relates only to failures to disclose material facts.

30.2. Exhibit 69 is the City of Dallas Police Department Incident Data Sheet Report, prepared on June 29, 2017. This states:

> "On listed date and time R/OS (responding officers) responded to a disturbance call at the listed location. Listed location is a law office where a mediation was taking place. **"During the mediation the listed Susp became very irate and started yelling and causing a scene in one of the conference rooms with listed witness who is susps attorney.**
>
> "The comp went in to investigate what was going on, at which time the susp punched the comp on his right arm causing pain. The susp apologized to the comp, and then fled the location prior to R/OS arrival. Comp declined medical attention at this time.
> **The listed witness is the attorney for the listed susp.**
> Only susp information available at the time of this report was susp name and description.
> **The wit observed the susp assault comp.**
> The listed R/PS did not observe the assault, but all heard the disturbance.

30.3. Krabill made a false statement to the police that I "**became very irate and started yelling and causing a scene in one of the conference rooms with listed witness who is susps attorney."** I got up and said one thing to Krabill, this is not "started yelling and causing a scene."

30.4. Krabill "failed to disclose material facts:" a) that he caused this, by refusing to give me even 5 seconds of silence, and demanding I accept confidentiality, and b) that what I gave Berman was a "friendly shoulder bunch," sarcastically, as shown in Exhibit 70.

30.5. Krabill, in misrepresenting events to the police, and not disclosing material facts, such as that he caused the situation, violated Rule 3.05:

> In the course of representing a client a lawyer shall not knowingly:
> (a) make a false statement of material fact or law to a third person.

31. Rule 5.01: Responsibility of a Partner – Lynn Failed to Act

31.1. Rule 5.01 states, in part:

> V. LAW FIRMS AND ASSOCIATIONS
> Rule 5.01. Responsibilities of a Partner or Supervisory Lawyer
> **A lawyer shall be subject to discipline because of another lawyer's violation of these rules of professional conduct if:**
> **(b) The lawyer is a partner in the law firm** in which the other lawyer practices, is the general counsel of a government agency's legal department in which the other lawyer is employed, or has direct supervisory authority over the other lawyer, **and with knowledge of the other lawyer's violation of these rules knowingly fails to take reasonable remedial action to avoid or mitigate the consequences of the other lawyer's violation.**
> Comment:
> Rule 5.01(a) additionally provides that a partner or supervising lawyer is subject to discipline for ordering or encouraging another lawyer's violation of these rules. Moreover, a partner or supervising lawyer is in a position of authority over the work of other lawyers and **the partner or supervising lawyer may be disciplined for permitting another lawyer to violate these rules.**
> **4. The duty imposed upon the partner or other authoritative lawyer by Rule 5.01(b) is to take reasonable remedial action to avoid or mitigate the consequences of the other lawyer's known violation.**

31.2. On June 29, 2017, at 5:58 p.m., after receiving Krabill's email that he was going to withdraw, I sent an email, page C-1, Exhibit 71, to LPCH managing partner Mike Lynn. I wrote: "Please let me know if you have anyone else who could take over." Lynn now "had knowledge of the other lawyer's violations of these rules," and failed "to take reasonable remedial action."

31.3. Lynn, in refusing to make Krabill continue, or to ask another lawyer in his firm to take over my suits, violated Rule 5.01:

> **A lawyer shall be subject to discipline because of another lawyer's violation of these rules of professional conduct if: (b) The lawyer is a partner in the law firm** in which the other lawyer practices, **and with knowledge of the other lawyer's violation of these rules knowingly fails to take reasonable remedial action to avoid or mitigate the consequences of the other lawyer's violation.**

32. Rule 7.02: Communications – Lying about Kelley's Background

32.1. Rule 7.02 (a) (1) states:

> Rule 7.02. Communications Concerning a Lawyer's Services
> **(a) A lawyer shall not make or sponsor a false or misleading communication about the qualifications or the services of any lawyer or firm.**
> **A communication is false or misleading if it:**
> **(1) contains a material misrepresentation of fact** or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
> Comment:
> 3. Sub-paragraph (a)(1) recognizes that statements can be misleading both by what they contain and what they leave out. Statements that are false or misleading for either reason are prohibited.

32.2. As shown in Exhibit 72, from May 1, 2018, the LPCH website represents,

regarding Jonathan Kelley, who joined the firm estimated in early 2017, that:

> "Jon has experience in all aspects of trial strategy and preparation, and has represented a diverse group of clients, including Microsoft, Major League Baseball, Pfizer, JPMorgan, Kohlberg Kravis Roberts & Co., the Blackstone Group, and other Fortune 500 companies. Jon's practice is focused on civil litigation and civil appeals."

32.3. Regarding Major League Baseball, and Pfizer, I emailed Beth Wilkinson, name

partner of his prior firm, and Exhibit 73 is a reply, written by her assistant, Brant Bishop, stating:

> "During the first couple of months of the Firm's existence, Beth Wilkinson handled the final court approvals in the resolution of a matter for Major League Baseball, though it was just the final approval hearing and all the motion papers requesting the court's approval had been submitted before the Firm's formation, when Beth was at Paul Weiss. The Firm has also had matters for Pfizer.
>
> "Our records do not indicate that Jon performed any work for Major League Baseball or Pfizer while at WW+E.
>
> "Any work that Jon did during his time at WW+E was under the direction of partners of the Firm. I do not believe that Jon questioned any witnesses in depositions while at WW+E, or made any in-court appearances on behalf of clients while at WW+E."

32.4. Kelley told me that while at WW+E he sat in on the preparation of Bill Gates for a

deposition, and so that was the firm with client Microsoft, so he also did not represent them.

32.5. Kelley told me that at Simpson Thatcher he worked on only one government contract. Perhaps JPMorgan, Kohlberg Kravis Roberts & Co., and the Blackstone Group were clients of LPCH, but, considering he joined in early 2017, it appears these, too, are lies.

32.6. LPCH, by lying on its website about associate Jonathan Kelley's background, violates Rule 7.02:

> (a) A lawyer shall not make or sponsor a false or misleading communication about the qualifications or the services of any lawyer or firm. A communication is false or misleading if it: (1) contains a material misrepresentation of fact."

33. Rule 7.02: Communications – Lying about Associates' Experience

33.1. The LPCH website, in Exhibit 74, represents:

"**Our associates have trial experience that rivals partners at most large law firms.**"

This does not say "some of our associates," but refers to all of their associates. This refers to partners at **most, large,** firms, not some, and not small firms, and so this is a significant claim.

33.2. Jonathan Kelley appears to perhaps have had zero trial experience, and perhaps not attended a trial. Even if he had attended trials, he was probably not leading a case, and so does not have "experience that rivals partners at most large law firms."

33.3. Associate Cole may have had trial experience, but his experience, too, may not have "rivaled partners <u>at most large</u> law firms."

33.4. LPCH, by representing that all of its "associates have trial experience that rivals partners at most large law firms," violates Rule 7.02:

> (a) A lawyer shall not make or sponsor a false or misleading communication about the qualifications or the services of any lawyer or firm. A communication is false or misleading if it: (1) contains a material misrepresentation of fact."

34. Rule 7.02: Communications – Expectation they will Go to Trial

34.1. Rule 7.02 (a) (3) states, in part:

> Rule 7.02. Communications Concerning a Lawyer's Services
> **(a) A lawyer shall not make or sponsor a false or misleading communication about the** qualifications or the **services of any lawyer or firm.**
> **A communication is false or misleading if it:**
> **(3) is likely to create an unjustified expectation about results the lawyer can achieve;**
> 6. The inclusion of a disclaimer or qualifying language may preclude a finding that a statement is likely to create unjustified expectations or otherwise mislead a prospective client, but it will not necessarily do so. Unless any such qualifications and disclaimers are both sufficient and displayed with equal prominence to the information to which they pertain, that information can still readily mislead prospective clients into believing that similar results can be obtained for them without reference to their specific factual and legal circumstances. Consequently, in order not to be false, misleading, or deceptive, other of these Rules require that appropriate disclaimers or qualifying language must be presented in the same manner as the communication and with equal prominence. See Rules 7.04 (q) and 7.05(a)(2).

34.2. The LPCH website creates an "unjustified expectation about results," that they will go to trial. A search on Google produces results, shown in Exhibit 74:

a. "At Lynn Pinker Cox & Hurst, LLP, **the courtroom is where we shine**. When you have to go to trial, we're exactly the kind of team you want on your side."

The LPCH website itself includes a page "Why Should You Choose Us?" which states:

b. "**We have tried cases to judges and juries throughout the country with a consistent track record of success**."

c. "What sets us apart?" "**Our trial capabilities and courtroom expertise set us apart.**"

d. "We established LPCH to build **one of the elite trial boutiques in the United States** – devoted to representing companies and individuals who need the best.

e. "**Our associates have trial experience** that rivals partners at most large law firms."

f. "Our partners have tied scores of **jury cases** to verdict."

g. "…to create **a firm that wins in the courtroom**, when results truly matter."

34.3. The LPCH brochure, which was given to me when I visited the LPCH office September 19, also creates "unjustified expectation about results" they will to go to trial. Pages from this were scanned and are included at the end of Exhibit 74, and state:

a. "Adding them [three partners] to the considerable trial talent at the firm creates an unstoppable litigation force."

b. "Our goal for the next 20 years is to dominate the Texas business litigation market. Simply put, **we want to be the go-to trial firm for all commercial litigation in the state of Texas**".

34.4. The brochure also creates an "unjustified expectation" that they will not stop:

a. "UNSTOPPABLE" – the only word on the cover.

b. "An unstoppable combination" on page 2

c. "An unstoppable litigation force" on page 4.

34.5. My Terry suit had been through mediation and settlement was not possible, so that was going to trial, and I expected this museum suit, too, was going to trial, so I relied heavily on LPCH's representation that they were a firm that went to trial.

34.6. My prior law firm quit on me, and so I also wanted to find a firm that would not "stop," and so I relied heavily on the representation by LPCH that they are "unstoppable."

34.7. On September 16, 2016, in my very first email to Krabill, Exhibit 75, I wrote in the second to last paragraph:

> "I am looking for a firm which has trial experience, preferably including some in Tarrant County."

34.8. I continued to rely on these representations when Krabill was extraordinarily rude to me, staying with him only for his and the firm's trial expertise.

34.9. After Krabill quit, Lynn refused to assign anyone else to take my case. No one at this firm wanted to take my two cases, for which they had billed me $578,107, to trial.

34.10. The website should instead state they are a litigation defense firm, which will primarily work toward a settlement, and go to trial only as a last resort. Nowhere on the home page do they mention settlements.

34.11. The LPCH website creates additional "unjustified expectations of results" stating:

a. "We innovate. We succeed. We get results.

b. "Strategically staffing our teams for utmost efficiency.

c. "We have assembled a collection of talent and experience that is unrivaled…

LPCH did not innovate, did not succeed, and did not get any results. It did not staff the team for any efficiency, and instead was the most inefficient, with four people, at $220, $335, $340, and $450 per hour, leading to enormous bills and duplication of effort.

34.12. Their website does not include any disclaimers, as required, to "preclude a finding that a statement is likely to create unjustified expectations or otherwise mislead a prospective client."

34.13. LPCH, by representing on its website that it is a trial firm, unstoppable, innovates, succeeds, get results, staff teams for the "utmost efficiency," and more, with no disclosures, violates Rule 7.02(a)(3):

> (a) A lawyer shall not make or sponsor a false or misleading communication about the qualifications or the services of any lawyer or firm. A communication is false or misleading if it: (3) is likely to create an unjustified expectation about results the lawyer can achieve.

35. Rule 8.03: Reporting Professional Misconduct

35.1. Rule 8.03 states, in part:

> **Rule 8.03. Reporting Professional Misconduct**
> (a) Except as permitted in paragraphs (c) or (d), a lawyer having knowledge that another lawyer has committed a violation of applicable rules of professional conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate disciplinary authority.

35.2. LPCH partner Lynn was aware Krabill committed a violation of the rules, and Krabill was aware that Lynn violated the rules, by not taking remedial action. Neither "informed the appropriate disciplinary authorities" about the other.

35.3. Krabill and Lynn, by not reporting each other, violated Rule 8.03(a):

> (a) a lawyer having knowledge that another lawyer has committed a violation of applicable rules of professional conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate disciplinary authority.

36. Rule 8.04: Misconduct

36.1. Rule 8.04 states, in part:

> **Rule 8.04. Misconduct**
> **(a) A lawyer shall not:**
> **(1) violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship;**
> **(3) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;**

36.2. Krabill repeatedly violated these rules, and also engaged in dishonesty, fraud, deceit, and misrepresentation.

36.3. Krabill, by "violating these rules," and "engaging in conduct involving dishonesty, fraud, deceit [and] misrepresentation," violated Rule 8.04(a)(3):

> (a) A lawyer shall not: (1) violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship; (3) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

TERRY SUIT

37. Rule 1.01: Competent Representation – Worthless Expert Opinion

37.1. Rule 1.01 states:

> I. CLIENT-LAWYER RELATIONSHIP
> Rule 1.01. Competent and Diligent Representation
> (b) In representing a client, a lawyer shall not:
> (2) frequently fail to carry out completely the obligations that the lawyer owes to a client or clients.
> Comment: Competent and Diligent Representation
> 6. **Having accepted employment, a lawyer should act with competence, commitment and dedication to the interest of the client and with zeal in advocacy upon the client's behalf.**

37.2. On October 6, 2016, I sent Krabill an email, Exhibit 76, about the expert:

> "I think before you contact Paul you should create a list of questions, and photo exhibits to go with them, so he knows immediately exactly what you want him to do. For instance for the work Terry Rogers did on the center section, regarding the metal with the rivet holes, ask him: "What percent complete was AD 92-06-10?", and send him photos to go along with this for him to assess this. He doesn't need to come down here to look at it again if he has photos. And for that attach angle compression plate that was not flush, ask "How much would it cost to fix this," and refer to the photo of it in the produced exhibits. I think Kevin sent him a USB drive with about 9,000 emails and photos."

Krabill did not do this, and never provided the expert with a list of the areas of work to opine on.

37.3. On October 17, 2016, Krabill emailed me:

> "Stephen and I had a great call with Paul this morning.
> "We now have a good understanding of what we would like him to opine on."

I was not included, and these areas "to opine on" were not at that time shared with me.

37.4. On November 9, 2016, I sent Cole an email (page B-30), asking when the expert was going to visit, and he replied "November 17-18," and "I will let you know specific times when I have more details." Cole did not let me know specifics, and on November 17 at 1:49 a.m. (i.e. the night before) I emailed him "You emailed me last Wednesday, below, that you would let me know specific times when you have more details, but I have not received these yet." This was

the very day the expert was supposed to arrive. Cole replied the expert would be there the next morning. Cole kept me out of this planning. Six months before, I arranged the expert's visit and travel, but now was completely cut out.

37.5. On November 17, 2016, at 7:47 a.m. I sent Cole an email (page B-32) noting:

> "May I get a list of exactly what you want him to opine on, or what handouts you have given to him, to be sure you are covering everything?"

Krabill, cc'd, refused to send this to me until I requested it.

37.6. On November 17, 2016, Krabill emailed me (page A-27) regarding this visit:

> "Paul will be opining on the items listed in his disclosure in the case. Part of the reason for this visit is to narrow down his opinions, as a jury can only digest so much material. However, **we will have an outline with us tomorrow to keep us all focused. Stephen will email that outline later today** "

That outline, in Exhibit 77, was almost worthless.

37.7. On December 14, 2016, Krabill emailed me, p. A-60, Exhibit 78: "Our call with Paul Bazeley got postponed for 15 minutes, so we will likely be a little late, 15 minutes or so, in calling you. Sorry for the delay." This reflects that they had calls with the expert without me. I was told there would be another conference call with the expert that day, and asked to be on it. Krabill assured me Cole would include me, but Cole did not.

37.8. On December 15, 2016, at 1:19 p.m. I emailed Krabill (page A-65, also Exhibit 78) asking what he asked the expert, with a list of dozens of questions that should have been asked.

37.9. On December 15, 2016, at 9:34 p.m. I emailed Krabill (page A-66) asking that he zero-bill me the time he talked to the expert when he had no idea what he was talking about.

37.10. Krabill's ledger shows he received and reviewed the expert report on January 4, 2017. I had asked for this to be sent to me as soon as it was received, but he refused to share it with me for three days. On January 7, 2017, at 4:09 p.m., Cole emailed me the report, the day the

expert came to town, as I was about to drive to the airport to meet him, and so Cole gave me no time to review it. This is my WWII C-47 airplane, and I know all about what the defendants did to it, but Krabill and Cole wanted no input from me.

37.11. On Sunday, January 8, 2017, Cole met with the expert at LPCH's office to finalize the report, and prep the expert for his deposition the next day. I asked if I could attend the meeting and was told no. I had to beg to be allowed to attend, and was then not to interfere. Cole led this meeting and only wanted to go over the report as written, which was in general terms. There were no opinions about all the items important to me, and all my details were on my computer at home. The Bazeley deposition was the next morning, too soon to add my details, and in any case they were not wanted in November, and not now as the report was finalized.

37.12. On May 24, 2017, I received the expert report from Bazeley, and sent Krabill an email (page A-116):

> "Can I have a couple days, or until Sunday night, to review the Bazeley report, before you take the next step with it? I wasn't involved much with the preparation of it, and have never done a thorough comparison to my own estimates of damages, and would like to do this.

37.13. On June 15, 2017, I sent Bazeley an email, cc'ing Krabill (page A-170, last in Exhibit 78) with my review of Bazeley's opinions, noting 4 single-spaced pages of deficiencies. This is what Krabill and Cole developed, and billed me for, and was almost entirely worthless. Krabill did not object to me now providing all this discoverable detail to Bazeley.

37.14. Krabill, in excluding me from working with the expert, resulting in a worthless report, violated Rule 1.01:

> "A lawyer shall not…frequently fail to carry out completely the obligations that the lawyer owes to a client," and "a lawyer should act with competence."

38. Rule 1.01: Competent Representation – Failed to Inform me of Depositions

38.1. On December 5, 2016, at 8:47 a.m., I received an email from Cole that the deposition of a key witness, Dana Wood, was going to start in 13 minutes, wondering if I was going to attend. never did anyone ever tell me about this deposition. Stephen Cole replied:

> "I am very sorry you were not aware of the deposition. I had understood that you were receiving everything we served from our secretary."

Even if this was an oversight, Cole should have asked me to review an outline, but did not.

38.2. On January 2, 2017, at 8:59 a.m., only 28 days after not telling me about the Wood deposition, Cole emailed me about another deposition in the Terry case:

> "Ricky Bradley has been served with a subpoena and his deposition is set for tomorrow… I will send you a separate email discussing that and getting your thoughts so I can put together an outline."

Ricky was a key fact witness, and this is the first I learned about this deposition, which Cole in a next email told me was scheduled for 8:30 a.m., so I learned about this less than 24 hours in advance. This was then rescheduled because Ricky had not confirmed.

38.3. On June 7, 2017, at 9:34 p.m., Kelley let me know for the first time about the deposition of Hal Monk in the Museum case, at 9:30 a.m., June 9, less than 36 hours away. The June invoice shows Krabill first talked to Kelley about this May 26, and Kelley began drafting the deposition notice May 30, so **Krabill hid from me:** a) that Jonathan was going to take this, instead of Krabill, and b) the time and date for this.

38.4. Krabill, in telling me for the first time about these three depositions with notice of less than 13 minutes, less than 24 hours, and less than 36 hours, violated Rule 1.01:

> "A lawyer shall not…frequently fail to carry out completely the obligations that the lawyer owes to a client," and "a lawyer should act with competence."

39. Rule 1.01: Diligent Representation – Refused to go to Trial in March 2017

39.1. Rule 1.01 states:

> I. CLIENT-LAWYER RELATIONSHIP
> Rule 1.01. Competent and Diligent Representation
> (b) In representing a client, a lawyer shall not:
> (1) neglect a legal matter entrusted to the lawyer; or (2) frequently fail to carry out completely the obligations that the lawyer owes to a client or clients.
> Comment:
> 6. Having accepted employment, a lawyer should act with competence, commitment and dedication to the interest of the client and with zeal in advocacy upon the client's behalf. **A lawyer should feel a moral or professional obligation to pursue a matter on behalf of a client with reasonable diligence and promptness despite opposition, obstruction or personal inconvenience to the lawyer.** A lawyer's workload should be controlled so that each matter can be handled with diligence and competence.

39.2. The Terry suit was set for trial March 20, 2017. On February 22, 2017, at 3:52 p.m., Cole called me to say Defendant Terry Rogers' lawyer, Buzz Deitchman, sent an email that he wanted to delay it. He said he had pain in his right shoulder, and wanted to have surgery the week before the trial. On February 8, 2017, 14 days before Deitchman's email, after a hearing in Fort Worth, I watched Deitchman take off his jacket by his car, and saw no pain. On February 16, 2017, only 5 days before that email, for the deposition of Deitchman's client Terry Rogers' expert Ken Williams, Cole and I sat across from Deitchman from 9:51 a.m. until 12:58 p.m., for more than 3 hours, and chatted with him during breaks, and he exhibited and mentioned no pain.

39.3. Deitchman delayed the first trial setting in 2015 for 12 months, and I immediately saw this as another delaying tactic. I demanded we 100% oppose this. Cole, at 3:55 p.m., while speaking with me, forwarded to me the email from Deitchman, Exhibit 79. Cole was upset with my opposing this, saying it would look bad to the judge, and I was not compassionate.

39.4. On February 26, 2017, I sent an email, also in Exhibit 79, to Cole and Krabill with 11 reasons we should oppose this. I close saying I was ok with not opposing this, but this was to not offend Cole, but I was strongly opposed to any delay in this suit.

39.5. When I arrived at the hearing on the motion to continue, I sat at the table next to Cole, and when Deitchman came in, grinning and showing no pain, I quietly said to Cole "There's the cripple," at which Krabill, also grinning, delighted in demanding I sit back on a bench, saying the microphone was on, though I was far from it and my comment did not go through this, and we could have turned it off. Krabill then stood up and happily, eagerly, said we had no problems at all delaying this, and were delighted to do so, which was the opposite of the way I felt.

39.6. In August 2016 I looked at a used car, and the salesman talked to the manager and he came out, and when the manager said he could take $1,000 off, the salesman stomped his foot as if in disbelief at what a great deal I was going to get. It appeared rehearsed, as the car was overvalued. After this hearing to delay the Terry suit, Krabill, in the parking garage, grinning, gave the same foot-stomp, and said he was so frustrated that the suit was delayed; he was all ready to go to trial. But he never went over the claims with me. It seemed as real as the stomp by the used car salesman. We could even have dropped Rogers. Krabill didn't want to go to trial.

39.7. As a result, the defendants billed 10 more months of Rule 167 fees.

39.8. On January 16, 2017, Krabill sent me an email (8-86, Exhibit 80) asking me to provide how much I would like to get in a settlement with each of the three Terry defendants, and the minimum amount for which I would settle. I had been to mediation in this case seven months before, in June 2016, and had no interest in settling. On January 27 he re-sent that email. This suggests Krabill wanted to settle this suit, too, and not take the Terry case to trial, as I asked when I first met him, and instead would eventually demand I settle, and if I refused he would have quit.

39.9. Krabill, in not opposing the March 2017 delay, and refusing to go to trial, violated Rule 1.01:

> "A lawyer shall not…frequently fail to carry out completely the obligations that the lawyer owes to a client," and "a lawyer should act with competence."

40. Rule 1.02: Scope and Objectives – 3-5 Things

40.1. Rule 1.02 states:

> Rule 1.02. Scope and Objectives of Representation
> (a) Subject to paragraphs (b), (c), (d), and (e), (f), and (g), a lawyer shall abide by a client's decisions:
> (1) concerning the objectives and general methods of representation;
> (b) A lawyer may limit the scope, objectives and general methods of the representation if the client consents after consultation.
> Comment:
> 1. Both lawyer and client have authority and responsibility in the objectives and means of representation. The client has ultimate authority to determine the objectives to be served by legal representation, within the limits imposed by law, the lawyer's professional obligations, and the agreed scope of representation.

40.2. When I brought the case to Krabill, I explained that a prior lawyer wanted to limit it, but I wanted to go to trial with all the claims. On October 4, 2016, at 10 a.m., we met at the hangar, and Krabill asked me to make a list of 3-5 things each of the defendants did wrong, and he would go after them for those. He then asked me for these for two months:

a. On October 12, 2016, Krabill emailed me (page A-21):

> "**I asked you to send me a one page document setting forth the 3 to 5 complaints you have against each of the individual defendants in the Terry case.** Please forward me that document so we can see your thoughts as we amend the petition. In addition, I would like you to do the same with the Museum case."

b. On October 14, 2016, Krabill emailed me (page A-21), with emphasis added:

> "Things are coming together nicely.. Also, just a reminder to **please send me a one page document setting forth the 3 to 5 complaints you have against each of the individual defendants in the Terry case. We really want to see this to aid us in preparing an amended petition and preparing the case for trial.**"

c. On December 5, 2016, Cole emailed me (page B-59):

> "Finally, for the Terry case, **we need the list of the 3-5 major complaints that you have against each group of defendants (Terry, Mahaffey, and Rogers). We've been asking for this for a couple of months now.**"

d. On December 15, 2016, Krabill emailed me (page A-64, Exhibit 81):

"Yesterday, we asked you to send a list of the Terry Roger's work that was either not done or was done incorrectly. I am assuming that is the list you have drafted and want to discuss. Please send the list and then Stephen and I will call you at 1 p.m. We then plan to speak to Bazeley. Also, **please send us the list of the 3-5 main items for each defendant that we have requested.** Talk at 1."

e. On December 14, 2016, Krabill called me, with Cole, billing me $450 + $340 = $790 per hour, and told me the expert, Bazeley, said Rogers did a good job. I said something like "How could you get such a wrong opinion?", and Krabill yelling at me:

"THE PROBLEM WITH YOU IS YOU DON'T LISTEN! I have been asking you for your list for two months and you still haven't provided it!"

40.3. On December 16, 2016, at 9:21 a.m. I sent Krabill an email, (page A-67), Exhibit 82, and in paragraph 5, I wrote:

"It was completely shocking to me for you to call me on Wednesday…and tell me [expert] Paul determined Rogers did adequate work at a reasonable cost, and sounding like there was no claim against him."

Later that morning I emailed Krabill December 16, 2016, at 10:29 a.m. (page A-69, Exhibit 83):

"Attached as a PDF and Word document is Plaintiff's Response to Defendant Patrick Mahaffey's Request for Disclosure, itemizing all the areas I summarized for Kevin Vice, and he put in legal terms, as actionable against Mahaffey. Please reply in writing and tell me whether you, Stephen, and Mallory have each reviewed this or not. I believe it was in our meeting at the hangar October 4 that you asked me to make a list of the 3-5 things which Mahaffey (and Jim Terry and Terry Rogers) did wrong, and you have repeated this request many times. This document is 17 pages long, and you essentially want me to:

a. Eliminate everything but 3-5 one-liner sentences.
b. Decide what is a strong legal claim, despite that I am not a lawyer
c. Decide what should be left in to trigger DTPA claims, despite that I am not a lawyer.
d. Decide where I might get treble damages, despite that I am not a lawyer.

I apologize, but I am not equipped to do this."

Krabill refused to answer these emails, and refused to deny his wrongdoing and incompetence.

40.4. Exhibit 84 is the Rogers RFD I then sent to Krabill, and it explains in great detail what Rogers did wrong, as well as the estimated damages. Also in that Exhibit is Mahaffey's.

40.5. Also in Exhibit 84 is a screenshot from the file directory on a USB drive Krabill provided, and under "Documents from Prior Counsel," "Discovery," "Plaintiffs' Discovery Responses," are the RFDs for Mahaffey and Rogers (Terry did not send an RFD), explaining what each did, proving Krabill received these RFDs from my prior lawyer, in September 2016.

40.6. I paid my prior lawyer, Kevin Vice, $280,886, from July 2013 to July 2016 to go over the claims for all of the defendants in this suit, decide which were the best, and include these in RFDs and the petition. It made no sense for me, a non-lawyer, to go back over my list of 183 offenses, and pick only 9-15 to go after, not knowing which were litigatable, which were the strongest causes of action, and which could lead to recovery of attorney's fees. Krabill never discussed the claims with me, and never demonstrated he had any idea what most of them were.

40.7. Exhibit 85 is the Terry suit's third amended petition, filed by Krabill 10/31/16, with claims against all for fraud, DTPA violations, negligence, and conspiracy, and for conversion and theft against Terry, and conversion and aiding and abetting against Mahaffey. Exhibit 86 is the judge's order responding to Terry and Mahaffey MSJs, and this granted Mahaffey's MSJ for agency, theft, conversion, aiding and abetting, and conspiracy, except as to the elevator claims, and denying his MSJ for other claims. The court ordered Terry's MSJ granted for conspiracy, except as to the elevator, and denied for everything else. On October 16, 2017, at 9:52 a.m., Krabill shared with me the jury charge for the Terry suit, Exhibit 87, and it mentions only two things: breach of contract, and breach of express warranty for service. Krabill does not even mention theft, which was the original reason I bought this suit.

40.8. Krabill, in wanting to limit the scope, violated Rule 1.02 (a)(1), which requires:

> (a) a lawyer shall abide by a client's decisions: (1) concerning the objectives and general methods of representation; Comment 1: The client has ultimate authority to determine the objectives to be served by legal representation. The lawyer should assume responsibility for the means by which the client's objectives are best achieved."

41. Rule 1.02: Objectives – Not Going to Trial

41.1. On October 3, 2016, Krabill received from defendant Mahaffey a settlement offer under Rule 167 of $15,100. On October 4, 2016, his secretary emailed me this, Exhibit 88, with:

"Seth, attached is a settlement offer received from Patrick Mahaffey's counsel."

41.2. If Krabill thought I should settle with Mahaffey, then the time to have a long, arm-twisting discussion was on October 4 when the offer was first sent to me. The $15,100 exceeded the $9,722 Krabill billed so far, as shown on the next page. The suit was against three defendants, and so the amount spent vs. Mahaffey might be considered $3,000, making the $15,100 even more attractive. Krabill could also have inquired if the other defendants wanted to settle, e.g. Jim Terry January 10, 2017, offered $56,500. This was the prudent time to do this, before more costs were incurred. Krabill did not do this. He billed another $32,943 for the next 9 days that this offer was outstanding, as shown on the next page, while making no effort to talk to me about it.

41.3. If a defendant: a) might feel more vulnerable after depositions and discovery, b) is definitely guilty, and c) has millions of dollars, then I could understand waiting to negotiate. But at the time of Mahaffey's offer, all discovery and depositions were done, so there was no reason Mahaffey would feel more vulnerable over time. I also had advised Krabill I learned Mahaffey and his wife had a total $30,000, and the $15,000 offer was his half of his family's cash savings, and so it was also unlikely Mahaffey would ever agree to pay more.

41.4. On October 17, 2016, Krabill sent me the email in Exhibit 89, that this was the deadline date to accept or reject Mahaffey's offer, saying he understood I did not want to settle with Mahaffey, and to let him know if I would like to have a "short" call to discuss, but we did not, and he again did not call me or urge me to settle. On November 21, 2017, Mahaffey filed a no-evidence MSJ, but our main claim survived this.

Krabill Billling and Acts re Mahaffey Rule 167 Offer $15,100

Through	Each	Total	Krabill Action
10/4/2016	$9,722	$9,722	Secretary forwarded offer.
10/17/2016	32,943	42,665	Short email confirming no.
10/31/2016	21,461	64,126	None
11/30/2016	22,549	86,675	None
12/31/2016	48,638	135,313	None
1/17/2017	$59,025	**$194,338**	Email asking min I'd accept.
1/31/2017	14,267	208,606	None
2/28/2017	60,716	269,322	None
3/31/2017	40,039	309,362	None
4/30/2017	4,055	313,416	None
5/31/2017	1,212	314,628	None
6/30/2017	608	315,237	None
Total		**$315,237**	Would demand I settle.

41.5. On January 10, 2017, Cole sent me an email, Exhibit 90, with a settlement offer under Rule 167 from James Terry for $56,500. This expired January 24. Again, no discussion.

41.6. On January 16, 2017, after billing me $194,138, Krabill sent me an email, page A-86, Exhibit 80, asking me to provide how much I would like to get in a settlement with each of the three Terry defendants, and the minimum amount for which I would settle.

41.7. On January 27, 2017, after the deadline to accept Terry's proposal, Krabill send me an email, Exhibit 91, resending his prior email, and writing "I need you to provide the info I requested." He never had reached out to me to discuss the pros and cons while the Terry Rule 167 offer was outstanding, and again did not. But he kept on billing. Another $120,000.

41.8. Krabill proceeded to bill $315,237 in this case while making no effort to settle. Then he should have been committed to take it to trial.

41.9. Krabill, in quitting the Terry suit, after not insisting I accept Mahaffey's settlement offer, violated Rule 1.02 (a)(1), which requires:

> (a) **a lawyer shall abide by a client's decisions**: (1) **concerning the objectives and general methods of representation**; Comment 1: **The client has ultimate authority to determine the objectives to be served by legal representation.** The lawyer should assume responsibility for the means by which the client's objectives are best achieved."

42. Rule 1.04: Fees – Unconscionable, vs. Line-by-Line

42.1. Rule 1.04 states:

> **Rule 1.04. Fees**
> **(a) A lawyer shall not enter into an arrangement for, charge, or collect an illegal fee or unconscionable fee.** A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable.
> Fee Disputes and Determinations
> 19. If a procedure has been established for resolution of fee disputes, such as an arbitration or mediation procedure established by a bar association, the lawyer should conscientiously consider submitting to it. All involved lawyers should comply with any prescribed procedures.

42.2. Exhibit 8 is a line-by-line review of fees billed, identifying those which meet the definition of unreasonable. LPCH has agreed to arbitration.

43. Rule 2.01: Advisor – Failed to Assess the Causes of Action

43.1. Rule 2.01 states, in part:

> **II. COUNSELOR**
> Rule 2.01. Advisor
> In advising or otherwise representing a client, a lawyer shall exercise independent professional judgment and render candid advice.
> Comment:
> 1. **A client is entitled to straightforward advice expressing the lawyer's honest assessment.** Legal advice often involves unpleasant facts and alternatives that a client may be disinclined to confront. In presenting advice, a lawyer endeavors to sustain the client's morale and may put advice in as acceptable a form as honesty permits. **However, a lawyer should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client.**

43.2. I as "a client" was "entitled to" an "honest assessment" of the claims in this suit.

43.3. On September 29, 2016, I emailed Krabill (page A-8) "Most of what happened giving rise to the claims is in the booklet I left," referring to a booklet. This listed 115 offense I suffered from Jim Terry, 51 by Pat Mahaffey, and at least 17 by Terry Rogers.

43.4. On October 4, 2016, Krabill emailed me (page A-16):

> "You have done a tremendous amount of work and we have a lot of good building blocks to work with. We will get through the info in the next week or so and then **I would like to have you in for a strategy meeting** and then we can get going on depos."

We never had a strategy meeting and never discussed any of the Terry suit claims.

43.5. Krabill, in never reviewing even one of the claisms with me, violated Rule 2.01:

> "In advising or otherwise representing a client, a lawyer shall exercise independent professional judgment and render candid advice. Comment: 1. **A client is entitled to** straightforward advice expressing **the lawyer's honest assessment**."

44. Rule 2.01: Advisor – Lied about Going to Trial

44.1. For the Terry case, by the time it reached Krabill I knew that defendant James Terry hid assets, defendant Mahaffey and his spouse had a combined $30,000 in savings, and defendant Terry Rogers was broke, so I would likely recover at most maybe $50,000. Yet I wanted to go trial because I wanted a public record that these three defendants were guilty, to:

a. quiet anyone who might say I made up all the allegations,

b. warn others who might hire them,

c. create a permanent public record on their reputations, and

d. demonstrate to potential donors that I had gone after the wrongdoers, not let them off.

I went to mediation with the Terry Defendants around May 2016, but we did not settle. I wanted a jury verdict in the Terry case, and therefore was looking for a firm which would definitely take the Terry case to trial, and was great at trials. I explained this to Krabill in the first meeting, and so he knew I was hiring him to take the case to trial.

44.2. In my first email to Krabill September 16, 2016, at 10:05 a.m. (page A-1, Exhibit 75), I wrote:

a. In the Terry suit "the defendants claim they are mostly broke, but the main person has at least $500,000 hidden away."

b. "I am looking for a firm which has trial experience, preferably including some in Tarrant County."

c. "I have reviewed your firms website, and the firm profile is impressive."

44.3. In my email to Krabill September 20, 2016 (page A-3, Exhibit 92), I wrote:

> "It was particularly great to learn that Lynn Pinker Cox Hurst has a focus on litigation, that you and Stephen have a passion for this, and that you have experience with Judge Pittman,"

and I used the word litigation to mean trial experience, again reflecting that I wanted a trial.

44.4. Krabill emailed me September 27, 2016 (page A-7, Exhibit 93) about meeting with my prior counsel, and made additional representations about taking the cases to trial:

> "We want to help provide you the best chance to prevail in your cases.
> "**We know how to put cases together and try them.**
> "We have experience taking cases over near the trial date, and know how to do it in the most efficient way possible."

44.5. Krabill emailed me 12/08 at 11:05 p.m. , Exhibit 19, page 6, to justify the enormous amounts he billed:

> "WE ARE ONE OF THE PREMIERE LITIGATION BOUTIQUES IN THE COUNTRY. "WE HAVE ATTORNEYS WITH EXCELLENT CREDENTIALS AND THE BEST REPUTATIONS.
>
> "WE REPRESENT MANY TOP NATIONAL COMPANIES AS WELL AS MANY SUCCESFUL SMALL BUSINESSES WITH OWNERS WHO HAVE MUCH LESS MONEY THAN YOU DO. AND NONE OF THEM LIKE TO PAY FOR LITIGATION. IT IS JUST A REALITY. BUT IF YOU WANT TO FIGHT AND VINDICATE YOUR RIGHTS, THEN YOU HAVE HIRED A GREAT SET OF ATTORNEYS TO HELP YOU.
>
> "WE CAN'T GUARANTEE VICTORY, BUT WE CAN GUARANTEE THAT WE WILL WORK OUR HEARTS OUT TO ASSURE THAT YOU GET THE BEST ADVOCACY POSSIBLE."

44.6. Krabill representations include referring to "trial" in emails about the Terry suit:

a. September 27, 2016, 7:43 p.m.

> "We know how to put cases together and try them. We have experience taking cases over near the trial date, and know how to do it in the most efficient way possible."

b. October 14, 2016, 10.32 a.m.:

> We really want to see this to aid us in preparing an amended petition and preparing the case for trial.

c. October 17, 2016, 4:28 p.m.:

> The last thing we want to do is get caught flat-footed at trial.

d. December 8, 2016, 10:31 a.m.:

But your cases were nowhere near ready for trial when we received them. And both needed a lot of work to fend off motions the defendants had filed as well prepare for trial

e. December 12, 2016, 10:03 p.m.:

THE NO-EVIDENCE HEARING, REQUIRED US TO LAY OUT WHAT IS ESSENTIALLY THE ROADMAP FOR HOW WE WILL PROVE OUR CLAIMS AT TRIAL.

WE MUST GET THAT INFO AND GET THE CASES PREPARED FOR TRIAL

f. January 12, 2017, 4:12 p.m.:

Almost all of our claims survive for trial. And this includes all the Mahaffey damage related to the windstorm, which is huge for us

We are now in good shape for trial.

44.7. Krabill representations in emails refer to "put on a good case" and jury":

a. December 12, 2016, (Exhibit 19, paragraph 14 on page 6):

"**I THINK WE WILL BE ABLE TO PUT ON A GOOD CASE AND THAT WE HAVE A SHOT AT WINNING.**

b. October 14, 2016:

We have been working through the documents and deposition transcripts and trying to come up with a clear way to explain our damages to the jury.

c. November 17, 2016

Part of the reason for this visit is to narrow down his opinions, as a jury can only digest so much material.

44.8. If he wasn't going to take my cases to trial, he should have advised me in our first meeting, or shortly thereafter, that I needed to settle these cases. I was entitled to honest advice.

44.9. Krabill, in quitting this suit, after not encouraging settlement, violated Rule 2.01:

"In advising or otherwise representing a client, a lawyer shall exercise independent professional judgment and render candid advice. Comment: 1. **A client is entitled to** straightforward advice expressing **the lawyer's honest assessment**."

45. Rule 3.03: Candor Toward the Tribunal – Lies in the Motion to Withdraw

45.1. Rule 3.03 states, in part:

> Rule 3.03. Candor Toward the Tribunal
> **(a) A lawyer shall not knowingly:**
> **(1) make a false statement of material fact or law to a tribunal;**
> **(5) offer or use evidence that the lawyer knows to be false.**
> Comment:
> **An assertion purporting to be on the lawyer's own knowledge, as in an affidavit by the lawyer or a representation of fact in open court, may properly be made only when the lawyer knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry.**

45.2. In the Terry case, Krabill filed his MTW, Exhibit 94, with a lie:

> "Irreconcilable differences of opinion have arisen between Movant and Plaintiffs necessitating the termination of their attorney-client relationship."

He provided no examples of this, and none existed.

45.3. Immediately following receipt of Krabill's withdrawal letter, I replied with some unflattering emails. These should not be considered in this arbitration, because they came after the withdrawal, when it is only natural to get "sour grapes" replies. Krabill effectively stole almost $600,000 from me, and so my subsequent emails to him were natural reactions, precipitated by his extremely hostile theft of $600,000 from me. If a man tells his wife he has already filed for divorce, and she yells at him, her yelling at him was not the reason he filed. Similarly what I wrote after Krabill quit was not a reason to quit.

45.4. I filed my reply to his motion, opposing it, and this is Exhibit 95.

45.5. Krabill, in filing the Motion to Withdraw with a lie that we had "irreconcilable differences," violated Rule 3.03:

> (a) A lawyer shall not knowingly: (1) make a false statement of material fact or law to a tribunal; (5) offer or use evidence that the lawyer knows to be false.

46. Rule 3.03: Candor Toward the Tribunal – Lies in Person to the Judge

46.1. On August 3, 2017, in the MTW hearing, **Krabill lied to the court**. The transcript of this hearing is Exhibit 96.

a. Page 8, line 15:

> The Court: "I don't think there's anything more than you tell me that you have good cause – that you believe you have good cause for – that **you can't work with your client on it."**
> **Krabill: "Yes, Your Honor."**

This was a lie, and was what got him out of the case, as the court then said ,Page 12, line 17:

> "**Once he** makes that, **makes that representation as a lawyer to the Court that he cannot represent the person**, my only concern at that point is how much additional time, if any, do I need to grant the parties."

Fact: He could still represent me.

46.2. Ultimately, one should note that at around 12:45 p.m., prior to the blow up, Krabill liked me just fine, we got along, and he had no reason to withdraw. If I agreed to settle the Museum case, we would have given each other a high-five, gone out to lunch together to celebrate, and eagerly looked forward to working on the Terry case. Krabill once indicated to me during mediation something like "Let's finish this one so we can get on to the Terry case." The blow up did not give him a right to withdraw. And he caused that.

46.3. In the Terry case, all was done in February 2017, and almost all work stopped March 8, 2017, at the hearing on defendant's motion for a continuance, and the case was delayed 11 months, until January 20, 2018. There were no conflicts, and no distrust or reason to withdraw.

46.4. Krabill, in lying to the judge, that he could not work with me, violated Rule 3.03:

> (a) A lawyer shall not knowingly: (1) make a false statement of material fact or law to a tribunal; (5) offer or use evidence that the lawyer knows to be false.

47. Rule 8.03: Reporting Professional Misconduct

47.1. Rule 8.03 states, in part:

> Rule 8.03. Reporting Professional Misconduct
> (a) Except as permitted in paragraphs (c) or (d), a lawyer having knowledge that another lawyer has committed a violation of applicable rules of professional conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate disciplinary authority.

47.2. Cole knew Krabill lied about billing me for lunch, and failed to "inform the appropriate disciplinary authority." Lynn was aware Krabill committed a violation of the rules, but failed to inform authorities. Krabill is aware that Lynn violated the rules by not taking mitigating actions, but failed to inform the appropriate disciplinary authority about Lynn.

47.3. Cole, Krabill, and Lynn, by not informing the authorities, violated Rule 8.03(a):

> (a) a lawyer having knowledge that another lawyer has committed a violation of applicable rules of professional conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate disciplinary authority.

48. Rule 8.04: Misconduct

48.1. Rule 8.04 states:

> **Rule 8.04. Misconduct. (a) A lawyer shall not:**
> **(3) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;**
> **(4) engage in conduct constituting obstruction of justice;**
> **(12) violate any other laws of this state relating to the professional conduct of lawyers and to the practice of law.**

48.2. Krabill eagerly engaged in dishonesty, fraud, deceit, and misrepresentations.

48.3. Krabill, by "violating these rules," and "engaging in conduct involving dishonesty, fraud, deceit [and] misrepresentation," violated Rule 8.04(a)(3):

> (a) A lawyer shall not: (1) violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship; (3) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

49. Summary and Prayer

49.1. These were two of my first three lawsuits ever. I was the plaintiff, seeking justice, at a cost, which would also bring wrongdoers to justice, and make the world a better place.

49.2. Instead of getting justice, I got $1.2 million in bills, more than four years of emails tasking me to review items, and then no justice at all, a complete loss of $1.2 million, and potential liability for $150,000 fees to Mahaffey, and the loss of five years of my life.

49.3. The lawyers in whom I placed my trust eagerly committed all the same torts as the defendants, but even more recklessly, and on a far greater scale.

49.4. Krabill was the worst-ever. He is a mean, distrustful, liar and crook.

49.5. I ask the State Bar to heavily sanction or cancel the license of Kent Krabill, and to sanction Mike Lynn, Britta Stanton, and the firm, Lynn Pinker. Their tolerance of this despicable behavior, which is immensely harmful to the legal process, legal profession, and society, is reprehensible and deserves extreme punishment.

EXHIBITS