

U S DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
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JUN 21 2023

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

IN RE: ATTORNEYS OF
MCCLENNY MOSELEY & ASSOCIATES
PLLC

CASE NO. 3:23-MC-0062

JUDGE TERRY A. DOUGHTY

SWORN STATEMENT OF GRANT P. GARDINER

STATE OF LOUISIANA

PARISH OF JEFFERSON

BEFORE ME, the undersigned Notary Public, duly commissioned and qualified in and for the above-listed Parish and State, personally came and appeared:

GRANT P. GARDINER,

who respectfully offers the following sworn statement. Mr. Gardiner, after first being duly sworn, did state and confirm under oath as follows:

1.

I am an attorney licensed to practice law in the State of Louisiana.

2.

I became licensed to practice in October 2021 shortly after passing the Louisiana Bar Exam.

3.

In June of 2022, less than eight months after becoming licensed to practice and while I was working for Pandit Law Firm, I was approached by McClenny, Moseley & Associates (“MMA”)

through its Louisiana Managing Partner, Richard William Huye III, whom I knew from when Mr. Huye worked at Pandit Law Firm.

4.

Mr. Huye invited me to dinner to discuss an associate attorney position at MMA.

5.

During the course of the dinner, Mr. Huye described the role I would fill at MMA should I choose to accept the position.

6.

Mr. Huye said he was interested in hiring me as a “settlement attorney” or “mediation attorney,” which included mediation attendance, settlement conference attendance, and related preparation work for those mediations and settlement conferences.

7.

Specifically, Mr. Huye stated that the role was to exclude formal litigation because, as Mr. Huye explained, formal litigation would only serve as a “distraction” and would detract from my efficiency and capacity to process and settle a vast number of claims in the pre-suit phase.

8.

Mr. Huye elaborated that MMA had obtained approximately 10,000 policyholder clients throughout the State of Louisiana through highly successful marketing campaigns, including but not limited to radio commercials, bus stop advertisements, and mailers.

9.

I accepted the associate position of “settlement attorney” or “mediation attorney” and began my employment with MMA on July 18, 2022.

10.

I was not informed at the time and did not know that a large portion of MMA's purported clients were obtained through improper solicitation via "Velawcity" and Apex Roofing and Restoration ("Apex").

11.

In the twenty-one (21) workdays between my start date and the Hurricane Laura statute of limitations deadline of August 27, 2022, I attended previously-scheduled mediations or settlement conferences for about thirteen (13) of those days.

12.

On workdays when I was not scheduled to appear at the firm's mediations or settlement conferences, my work was largely filled with preparing for mediations or settlement conferences, including speaking with clients, reviewing insurance claim files, and settling claims with open settlement offers.

13.

During that time, Mr. Huye explained that he was planning to execute "tolling agreements" with various insurance companies by which prescription for Hurricane Laura would be extended, allowing MMA to continue its pre-suit settlement program.

14.

Mr. Huye also explained he planned to file lawsuits for claims with insurance companies in which he was not able to secure a tolling agreement ahead of the looming prescription date.

15.

Mr. Huye explained such suits would be filed using permissive joinder, so that only one lawsuit would be required for each insurance company in a given district regardless of the number of claimants.

16.

Mr. Huye explained the tolling agreements and permissive joinder would result in only a few dozen lawsuits that would require filing, even though Mr. Huye said that there were over 1,000 unresolved Hurricane Laura claims about to prescribe.

17.

Mr. Huye ultimately failed to secure a single tolling agreement, and the Courts informed Mr. Huye that they would not accept combined lawsuits via permissive joinder.

18.

On the evening of Friday, August 19, 2022, Mr. Huye provided me with the first notice of my expected involvement in the filing of MMA lawsuits related to Hurricanes Laura and Delta.

19.

Prior to this notice, neither Mr. Huye nor any other partner or employee of MMA had advised me that I would have any obligations or responsibilities related to preparing lawsuits, reviewing lawsuits, or filing lawsuits.

20.

Mr. Huye informed me that my PACER account, and the PACER accounts of Claude F. Reynaud III, and Cameron S. Snowden, would have to be used in addition to his own PACER account in order to timely file all complaints within the few remaining days before the upcoming prescriptive date for claims associated with Hurricanes Laura and Delta.

21.

Mr. Huye further explained that a pleading can only be filed through a PACER account if the name on the filing account matches the name of the signatory on the pleading.

22.

Mr. Reynaud, Mr. Snowden, and I were informed by Mr. Huye that it would only be physically possible to file all of the complaints in time if MMA used a team of staff members working constantly and utilizing all four PACER accounts. Otherwise, Mr. Huye explained, a substantial number of lawsuits would not be filed and would therefore prescribe.

23.

My options as I understood them at the time were to (1) allow my PACER account to be used in an effort to have all complaints filed timely and protect client rights, or (2) risk allowing the claims to prescribe. Given the circumstances, I chose the option that I believed would best protect the clients, and I allowed Mr. Huye and his staff to affix my signature to several hundred filings and to access my PACER account to complete the filings.

24.

Because of the time limitations, I could not physically review each complaint and client file prior to each lawsuit being filed. However, Mr. Huye assured me the information and allegations contained in the lawsuits were verified to the best of his knowledge and ability based on information or documentation obtained from the client, information or documentation obtained from the insurance company, or from a combination of both. In reliance on these assurances and due to the perceived risk faced by MMA clients if my PACER account was not utilized, I gave permission for my PACER account to be accessed for filing lawsuits.

25.

Unbeknownst to me at the time, but now known to me and the public, the information in the firm's client relationship management platform ("Smart Advocate"), which was used as the basis for the lawsuits, contained many and significant inaccuracies.

26.

On February 1, 2023, Mr. Huye and John Zachary Moseley of MMA attended a hearing in the Eastern District of Louisiana in *Franatovich v. Allied Trust Insurance Company*.

27.

Following this hearing and without direct access to the hearing transcript, I asked Mr. Huye about the topic of discussion and the outcome of the hearing.

28.

Mr. Huye explained that Ms. Franatovich was an “Apex AOB” policyholder and that MMA had filed a lawsuit on her behalf.

29.

Mr. Huye had previously explained that the “Apex AOB” policyholders, including policyholders such as Ms. Franatovich, assigned the benefits of their insurance claims to Apex, allowing Apex to “step into the shoes of the policyholder.”

30.

Mr. Huye said the judge simply requested information pertaining to the relationship between the policyholder, Apex, and MMA at the hearing.

31.

Mr. Huye also explained that MMA’s letter of representation for Ms. Franatovich and the letters of representation for other “Apex AOB” policyholders mistakenly stated that MMA’s client was the policyholder rather than Apex.

32.

Mr. Huye explained that the error was due to an oversight in using the same automatically generated letters of representation that MMA used for its clients in general.

33.

Mr. Huye stated that the Court would be satisfied by what Mr. Huye referred to as a “clarification letter” in which MMA would correct its prior letter of representation to indicate that MMA in fact represented Apex as an assignee of the policyholder rather than the policyholder directly.

34.

Mr. Huye also told me that the Court was at least as concerned with the behavior of counsel for Allied Trust Insurance Company as it was with MMA’s behavior for Allied Trust’s counsel’s depiction of the case and its developments on social media.

35.

A plain reading of the hearing transcript, which I obtained later, shows that Mr. Huye’s representation of the hearing was not consistent with the actual substance of the hearing.

36.

On February 17, 2023, the Louisiana Department of Insurance issued a “cease and desist” letter to MMA, John Zachary Moseley, James McClenny, and Richard William Huye III related to MMA’s engagement of policyholders through Apex and its representation thereof to insurance companies.

37.

On February 22, 2023, counsel for Allied Trust Insurance Company filed a memorandum in *Franatovich v. Allied Trust*, which I read soon thereafter, in conjunction with my reading of the transcript from the February 1, 2023, hearing.

38.

It quickly became obvious that MMA had deliberately withheld information from me, specifically as it related to its client engagement practices.

39.

Around this time, Mr. Huye informed me that Mr. Moseley had previously executed an agreement with Velawcity that may not be consistent with the ethical rules governing client engagement in Louisiana.

40.

In my conversations with other attorneys and other employees at MMA, it also became clear that upper management within the firm had been concealing the true nature of its practices and had ‘siloe’d’ us accordingly; each lawyer only dealt with his or her own responsibilities.

41.

Specifically, I was ‘siloe’d’ to mediation and settlement conference preparation and attendance. In other words, I only became involved in a claim once it became ‘ripe’ or scheduled for mediation or a settlement conference. My involvement in a claim ended once a settlement was agreed upon. I was unequivocally not involved in or given responsibility for MMA’s marketing efforts, client intake, estimator assignment, drafting or sending letters of representation to insurers, general correspondence with insurers, general correspondence with clients whose claims were not in mediation, or check processing. Additionally, I did not have an assigned docket of specific client files that I was responsible for handling from start to finish or at any part of the process outside of mediation or settlement conferences.

42.

My conversation with another attorney at MMA regarding concerns over the “cease and desist letter” and the February 22, 2023, filing from counsel for Allied Trust Insurance Company was interrupted by Mr. Huye, stating “shame on us for even being concerned” over these allegations as they were “distractions” and “entirely political.”

43.

At this point in time, I knew I would be resigning from MMA as soon as I could reasonably develop an exit plan that would allow me to continue to support my wife and me.

44.

Unfortunately, my planned exit did not come soon enough, as I was suspended from practice in the Western District of Louisiana for a period of ninety (90) days beginning on March 4, 2023, based on the volume of unverified suits filed and the recent developments regarding MMA's practices with Velawcity and Apex.

45.

I tendered my formal resignation to MMA on March 4, 2023, effective immediately.

46.

Since my resignation from MMA, I have not engaged in solicitation or representation regarding any MMA clients in the Western District of Louisiana and will not do so in the future regardless of my eligibility to practice in the Western District.

47.

I have previously provided consent to Magistrate Judge Kay to withdraw me from all pending matters in the Western District of Louisiana in which I had been enrolled.

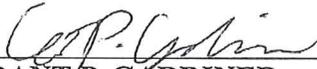
48.

Further, even if my ability to practice in the Western District of Louisiana is re-instated, I do not intend to enroll in any Hurricane Laura or Delta case in this District.

49.

To the extent that my actions may have affected any clients of MMA, I have great remorse, just as I have incredible remorse for taking a job with MMA in the first place.

The undersigned, Grant P. Gardiner, attests and swears under oath that everything stated and contained herein is completely true, correct, and accurate to the very best of his personal knowledge, information, and belief.


GRANT P. GARDINER

21st SWORN TO AND SUBSCRIBED before me, the undersigned Notary Public, this day of June 2023.


NOTARY PUBLIC

Printed Name: Deborah Lavender
La. Bar Roll No.: #17018
Commission Expires: Commission expires @ death