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ORIGINAL FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

MAY 10 2012

John A. Clarke, Executive Officer/Clerk
BY Cristina Grijalva Deputy
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1 Patricia Nazario
2 12951 Romont Street
3 Sylmar CA 91342
4 Tel: 213.247.7390

5 Plaintiff in propria persona

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

7 **COUNTY OF LOS ANGELES**

8 **UNLIMITED JURISDICTION**

9 PATRICIA NAZARIO,
10

11 Plaintiff,

12 vs.

13 GREGORY ANDREW YATES, KEREN
14 HAVA BAVILSKI, GREGORY A. YATES, A
15 PROFESSIONAL CORPORATION dba Law
16 Office of Gregory A. Yates, a California
17 corporation, and DOES 1 to 25, inclusive,

18 Defendants.

Case No.:

BC470321

**FIRST AMENDED COMPLAINT
PURSUANT TO SECTION 472 CCP:**

1. **Rescission under Sections 1689(b), 1691, 1692, and 1693 Civil Code;**
2. **Legal Malpractice;**
3. **Breach of Contract**
4. **Negligent Assignment & Supervision**
5. **Constructive Fraud**

18 **PLAINTIFF ALLEGES AS FOLLOWS:**

19 1. Plaintiff Patricia Nazario (hereinafter "Plaintiff"), is
20 a resident of the County of Los Angeles and of the State of
21 California.

22 2. Defendant Gregory Andrew Yates (hereinafter "Yates") is a
23 resident of the County of Los Angeles and of the State of
24 California who is licensed as an attorney by the California
25 State Bar under license number 63259.

26 3. Defendant Keren Hava Bavilski (hereinafter "Bavilski") is
27 upon the information and belief of Plaintiff a resident of the
28 County of Los Angeles and of the State of California.

1 Bavilski is an attorney licensed to practice by the California
2 State Bar Association, license number 201699. At all times
3 relevant herein, Plaintiff is informed and believes and
4 thereon alleges that Bavilski was an employed as an attorney
5 by Defendant Corporation.

6 4. Defendant Gregory A. Yates, a Professional Corporation
7 dba Law Office of Gregory A. Yates (hereinafter "Corporation")
8 is upon the information and belief of Plaintiff, a California
9 corporation in good standing headquartered within the County
10 of Los Angeles and the State of California.

11 5. Defendants Does 1-25, inclusive, are any individuals
12 and/or entities whose true full names and capacities are
13 unknown to Plaintiff or not fully known to Plaintiff, who
14 elects to sue them by the fictitious name of Doe until such
15 time as she can amend this pleading under the provisions of
16 Section 474 of the California Code of Civil Procedure.

17 6. At all times relevant herein, Defendants Yates and
18 Corporation are and were alter egos.

19 **FIRST CAUSE OF ACTION**

20 **FOR RESCISSION**

21 **AGAINST DEFENDANT YATES, CORPORATION AND DOES 1-5, INCLUSIVE**

22 7. Within the First Cause of Action for Rescission,
23 Plaintiff reincorporated and re-alleges as though fully set
24 forth herein each and every allegation contained within the
25 preceding paragraphs 1-5, inclusive.

26 8. On or about June 22, 2007, Plaintiff entered into a
27 contract for legal representation with the Defendants which
28 was pre-dated by Defendants to the year 2005, for reasons

1 unknown to Plaintiff and which Plaintiff did not become
2 cognizant of until the drafting of the initial Complaint. The
3 contract is attached hereto as Exhibit 1 and incorporated
4 herein by reference.

5 9. Prior to entering into the above-mentioned contractual
6 agreement, Defendant Yates made representations about his
7 competence, experience, results of his services, his
8 intentions on how he would conduct the investigation and
9 litigation of Plaintiff's case and abilities which he knew to
10 be untrue or which he had no reasonable basis for believing to
11 be true, in order to induce Plaintiff to enter into the
12 agreement.

13 10. Plaintiff is informed and believes and thereon alleges
14 that the reasons (which Plaintiff did not discover until on or
15 about November 2011 through January 2012) why Defendant Yates
16 knew his representations to be untrue include, but are not
17 limited to: (a) in 1986, California Bar Association Case No.
18 840218 LA, Defendant Yates took advances of \$2,500.00 from a
19 client and failed to maintain the money in a segregated trust
20 account, no individual ledger, and no accounting procedure to
21 segregate the funds received, negotiated and received a
22 settlement of \$4,500, failed to deposit the funds into a trust
23 account, and wrote a check made payable to cash in the amount
24 of \$10,390.00 without any adequate accounting of the nature of
25 the expenses or their relation to his client; Yates also in
26 this matter settled some clients cases in order to provide a
27 purported "war chest" for the remainder of the prosecution of
28 the case and then converted the entire sum to himself

1 purportedly to cover costs and fees leaving no recovery for
2 his client;

3 (b) in 1988, California Bar Association Case No. 87-0-28 LA,
4 Defendant Yates settled a case and paid a client with a check
5 with insufficient funds which was \$500 more than the amount
6 she was to receive;

7 (c) in Los Angeles Superior Court Case No. BC 139521 Famco FCU
8 vs Louis G. Harbottle et al exposed the fact that Defendant
9 Yates supervised his law practice so ineptly that his
10 bookkeeper managed to embezzle \$11,547.62 over the course of
11 nearly two years;

12 (d) in 2000, Los Angeles Superior Court Case No. SC 064055,
13 Taschner vs Yates et al, it was alleged that Defendant Yates
14 surreptitiously settled the "Rampart Division" litigation
15 against the City of Los Angeles for an excess of \$10,000,000
16 and then failed and refused to pay co-counsel Taschner for his
17 share of the settlement as agreed to (e.g. approximately
18 \$900,000);

19 (e) in 2008, Los Angeles Superior Court Case No. LC 081111,
20 Vensel vs Yates et al, Plaintiff Vensel alleged that Defendant
21 Yates committed legal malpractice and Yates settled the matter
22 for a payment of \$100,000 and was required to pay the cost of
23 the mediator under the settlement while he was representing
24 Plaintiff and failed to apprise Plaintiff of this ongoing
25 matter and/or that the behavior that led to this suit was the
26 same and/or similar behavior that he was engaging in with his
27 representation of Plaintiff;

28

1 (f) in 2001, Los Angeles Superior Court Case No. BS 069034,
2 Moreno et al vs Law Office of Gregory A. Yates, the
3 Plaintiffs, attorneys, petitioned to compel binding
4 arbitration against Yates over an attorney fee lien dispute;

5 (g) in 2002, Los Angeles Superior Court Case No. SC 071272,
6 Ackerberg vs Grace Cherry et al, Defendants Yates was sued for
7 malicious prosecution; and

8 (h) in 1991, Los Angeles Superior Court Case No. BC 044652,
9 Rubin vs Yates, the Plaintiff sued Yates for assault and
10 battery and related injuries, contending that in essence,
11 following a traffic accident that Defendant Yates exercised
12 little or no impulse control and screamed at Rubin using a
13 homophobic epithet ("fucking faggot") and physically hit Rubin
14 about his head while Rubin was seated inside his car.

15 11. At all times relevant herein, had Plaintiff known of the
16 facts enumerated in paragraph 9, Plaintiff would never have
17 entered into a contractual relationship with Defendants for
18 legal services or for any services whatsoever.

19 12. The underlying litigation for which Plaintiff hired the
20 Defendants involved her having been physically attacked by a
21 Los Angeles Police Officer at MacArthur Park in Los Angeles on
22 May 1, 2007 while working as a reporter for KPCC (Southern
23 California Public Radio). It was a well publicized incident.

24 13. At all times relevant herein and especially at the time
25 she entered into the aforementioned agreement, Plaintiff was
26 suffering from neurological injuries and trauma to her brain
27 as a proximate result of the underlying subject matter of her
28 need for legal representation and these facts were known to

1 Defendant Yates, who in addition to fraudulently
2 misrepresenting his qualifications to handle the litigation,
3 also used undue influence over Plaintiff, taking advantage of
4 her impairment. Plaintiff's disabilities continue to this
5 day, including but not limited to migraine headaches, sudden
6 dizziness, word finding problems, continuing loss of short
7 term memory [See Exhibit 2].

8 14. Plaintiff is informed (only learning these facts on or
9 about May 1, 2012) and believes and thereon alleges that
10 Defendants either:

11 (a) Withheld all writings as defined in Evidence Code Section
12 250 concerning investigative assignments, results of
13 investigation, invoice for investigation and investigative
14 work product directed to and obtained from Private
15 Investigator Paul Ingels to which Plaintiff is entitled to
16 receive from the Defendants pursuant to State Bar Ethics
17 Opinion 1992-127 or;

18 (b) Fabricated investigative costs purportedly paid to
19 Private Investigator Paul Ingels in the amount of \$745.50 on
20 or about April 25, 2008.

21 15. Clause VIII of the aforementioned agreement (Exhibit 1)
22 does not prohibit Plaintiff from initiating an action for
23 Rescission of the agreement itself, wherein Plaintiff elects
24 to sue for revision of Clause VIII in and of itself as having
25 been entered into by fraud and/or undue influence as defined
26 in Section 1689 of the California Civil Code.

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1 litigation (Los Angeles Superior Court Case No. BC 377597),
2 Plaintiff did not receive them until January 10, 2011.
3 20. Only after receiving her files and records on or about
4 January 10, 2011 (with the exception of writings as defined in
5 Evidence Code Section 250 that have been withheld from
6 Plaintiff by Defendants as set forth in Paragraph 14) from
7 Defendants did Plaintiff discover many of the facts of
8 Defendants' negligence in handling her case and only
9 thereafter, through independent investigation and research did
10 Plaintiff learn of the Defendants' patterns and practices as
11 set forth in paragraph 10, above. Plaintiff's probing and
12 examination into these matters was impeded by the withholding
13 of documents and/or evidence which Defendants claimed to be
14 subject to a protective order and by the fact that Defendants
15 delivered Plaintiff's files in no organized, sorted, or
16 chronological order whatsoever.
17 21. At all times relevant herein Defendants, and each of
18 them, held themselves out to Plaintiff as having specialized
19 knowledge, skill, experience and expertise in civil law, the
20 litigation of police misconduct, civil rights cases involving
21 use of force and corruption, related health care injury law,
22 and other professional aptitude, insight, competence and
23 proficiency, and agreed to utilize such knowledge, skill,
24 experience and expertise in performing services for the
25 Plaintiff. Plaintiff did not learn the facts concerning
26 Defendants' ineptitude concerning related health care injury
27 law and other aspects of civil litigation until on or about
28 December 2011-January 2012.

1 22. Plaintiff relied upon, and followed, the advice rendered
2 to her by Defendants, and each of them, so long as they, and
3 each of them, represented her, in consequence thereof,
4 plaintiff suffered the injuries and damages hereinafter
5 alleged. Plaintiff so acted only at the advice of each of said
6 Defendants, and would not have so acted without such advice.

7 23. As a direct and proximate result of said acts and conduct
8 of Defendants, and each of them, Plaintiff's case was not
9 adequately prepared for jury trial causing Plaintiff to suffer
10 substantial loss of her property rights, including, but not
11 limited to, her claims for Civil Rights violations, pain and
12 suffering, emotional distress, claims for future medical
13 treatment, recovery of medical expenses and lost wages, all to
14 her damage in a sum in excess of the minimum jurisdiction of
15 this Court.

16 24. The acts and omissions of the Defendants (which Plaintiff
17 learned of on or about December 2011-January 2012) and each of
18 them, which were the proximate causes of damage to her
19 interests, legal and otherwise, include but are not limited
20 to:

21 (a) Failing to research case law concerning the
22 objection by Plaintiff's employer to a subpoena for the
23 testimony of Plaintiff's supervisor;

24 (b) Erroneously accepting the assertion of counsel for
25 Plaintiff's employer that the California "Shield Law"
26 encompassed in Section 1070 of the California Evidence
27 Code and Article I, Section 1 of the California
28 Constitution was an absolute "privilege" when in plainly

1 established case law the Shield Law has been ruled not to
2 even constitute a "privilege;"

3 (c) Failing to oppose or object to the improper
4 assertion of the Shield Law by Plaintiff's employer and
5 failing to assert that Plaintiff's rights under Article
6 I, Section 2(a) of the California Constitution should
7 take precedence over her employer's purported rights
8 under Article I, Section 2(b) of the California
9 Constitution;

10 (d) By Defendant Bavilski failing to even discuss the
11 facts of the case with Plaintiff when "researching" the
12 application or non-application of the Shield Law to the
13 case;

14 (e) Failing to file a joinder in other Plaintiffs'
15 Pitchess Motion to seek release of defendant misconduct
16 allegations against the police officer who had assaulted
17 and battered Plaintiff;

18 (f) Selecting an "expert witness" who Defendant Yates
19 knew, or should have known, would be unable to qualify to
20 testify about his work product to insure its
21 admissibility in court;

1 (g) Failing to employ an investigator to research the
2 background of Plaintiffs' assailant while representing to
3 Plaintiff that he already knew facts about that assailant
4 which Plaintiff told him about [which are nowhere
5 reflected in the case file documents as turned over to
6 Plaintiff on January 10, 2011] which Plaintiff had
7 learned about prior to trial from another licensed
8 investigator and failing to research the facts concerning
9 Plaintiff's assailant's own lawsuit against the City of
10 Los Angeles, the existence of which Plaintiff did not
11 discover until January 27, 2012;

12 (h) Failing to question Plaintiff's assailant in
13 deposition concerning his past incidents of misconduct
14 involving his credibility and honesty [which Plaintiff
15 subsequently learned about after the deposition from a
16 licensed private investigator who had not been employed
17 by Defendants] or about the case of Reyes vs Los Angeles;

18 (i) Failing to timely submit exhibits concerning
19 Plaintiff's damages causing them not to be admitted at
20 trial causing Plaintiff to be forced to attempt to
21 memorize information concerning her damages for direct
22 testimony, knowing part of Plaintiff's damages were in
23 fact neurological impairment of her ability to remember;

24 (j) Failing to plead violations of the Ralph Civil
25 Rights Act and Bane Civil Rights Act as separate causes
26 of action in the Complaint as separate remedies that are
27 expressly available as exclusive of all other remedies;
28

1 (k) Failing to properly plead damages to include minimum
2 civil penalties of \$25,000.00 each as to the Ralph and
3 Bane civil rights acts;

4 (l) Failing to plead violations of Plaintiff's rights
5 under (I) Article I, Sections 1, 2, 3, and 7 of the
6 California Constitution and (II) Sections 43 and 52.3 of
7 the California Civil Code;

8 (m) Failing to make other timely objections or any
9 objections to (I) adoption of the verdict form and jury
10 instructions, (II) the special verdict form, and (III)
11 the nature and form of the Special Jury Instruction
12 regarding Cheryl Devall's invocation of the purported
13 "privilege" under Section 1070 of the California Evidence
14 Code, (IV) failing to object to the court's
15 characterization of the Shield Law as a "privilege" in
16 the court's ruling on or about August 31, 2010 on a
17 motion for JNOV (Judgment Notwithstanding Verdict);

18 (n) Failing to attempt to compromise expense claims
19 according to common custom and practice of civil
20 plaintiffs' lawyers to insure at least some portion of
21 the judgment would actually be remitted to Plaintiff.

22 (o) By Defendant Yates and Defendant Corporation
23 negligently assigning and supervising Defendant
24 Bavliski's research of the legal implications of
25 Plaintiff's employer's objection to the subpoena issued
26 for the attendance of Cheryl Devall as a trial witness
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1 (p) By failing to maintain appropriate contact with
2 Plaintiff's treating physician, Robert J. Tomaszewski,
3 PH.D. [See Exhibit 2].

4 25. The aforementioned acts and omissions were done by the
5 Defendants, and each of them, in breach of their duties to the
6 Plaintiff by negligently, carelessly, and recklessly failing
7 to exercise reasonable care and skill in undertaking to
8 perform, and performing, legal services for Plaintiff and
9 negligently, carelessly and recklessly investigated,
10 researched, analyzed and presented Plaintiff's case.

11 26. But for the actions and omissions of the Defendants, and
12 both of them, in their improper handling of the plaintiff's
13 personal injury claim, she would have been able to prevail
14 upon her claims and to vindicate her legal, civil, and
15 constitutional rights.

16 27. Plaintiff relied upon and followed the advice rendered to
17 her by Defendants, and each of them, so long as they
18 represented her, in consequence thereof, Plaintiff suffered
19 the injuries and damages alleged herein. Plaintiff so acted
20 only at the advice of each of said Defendants and would not
21 have so acted without such advice.

22 28. Plaintiff has been generally and specially damaged in an
23 amount to be determined at trial on the issues herein, and
24 whereas Defendants' acts and omissions were grossly negligent,
25 done fraudulently and with a malicious disregard of her
26 rights, Plaintiff is entitled to recover of them punitive and
27 exemplary damages according to proof at trial.

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1 Assignment and Supervision, Plaintiff reincorporates and re-
2 alleges by reference each and every allegation contained
3 within the preceding paragraphs 1-32 inclusive as though fully
4 set forth herein.

5 35. Plaintiff is informed (and only learned after receiving
6 her file on or about January 10, 2011) and believes and
7 thereon alleges that Defendants Yates and Corporation assigned
8 Defendant Bavilski to research the legal issues involving the
9 California Shield Law doctrine invoked by Plaintiff's employer
10 in objection to a subpoena duly served on witness Cheryl
11 Devall. Plaintiff is further informed and believes and thereon
12 alleges that Defendant Bavilski's sole research was to read
13 and print out a copy of Section 1070 of the California
14 Evidence Code eight days before trial start date.

15 36. Thereafter, Defendants Yates and Corporation failed to
16 supervise and direct Defendant Bavilski to review case law
17 interpreting Section 1070 of the California Evidence Code and
18 Article I, Section 2(b) of the California Constitution to make
19 a proper determination as to whether the laws cited in support
20 of Plaintiff's employer's objection were even applicable to
21 the facts of Plaintiff's case. Additionally Defendants Yates
22 and Corporation failed to supervise and direct Defendant
23 Bavilski to discuss the facts of the case pertaining to the
24 Shield Law objection with Plaintiff.

25 37. Had Defendants Yates and Corporation properly assigned
26 and supervised Defendant Bavilski, it would have been
27 determined that the legal contention that the relevant laws
28

1 created a "privilege" was frivolous on its face, that the
2 issue had been repeatedly determined with cases on point to
3 clearly distinguish that no such privilege existed and that
4 the word "privilege" is nowhere mentioned in the relevant
5 statutes and Constitutional provisions.

6 38. Had Defendants Yates and Corporation properly assigned
7 and supervised Defendant Bavliski, it would have been
8 determined that the legal contention that the relevant laws
9 created any reasonable objection to the subpoena for Cheryl
10 Devall was frivolous on its face, that the actual facts of
11 what she would have testified to were not the subject matter
12 of the statutory and/or constitutional immunity that the law
13 actually contemplates, and that even assuming *arguendo* that
14 the facts of the case actually had anything to do with the
15 subject matter of the statutory scheme, that the Plaintiff's
16 California constitutional rights, which were at issue in the
17 underlying matter as set forth in paragraph 23(1) above,
18 presented a case of first impression as to whether the
19 immunity conferred by the Shield Law outweighed Plaintiff's
20 state constitutional rights.

21 39. Plaintiff has been generally and specially damaged in an
22 amount to be determined at trial on the issues herein as a
23 proximate result of the acts and omissions of Defendants Yates
24 and Corporation.

25 **FIFTH CAUSE OF ACTION**

26 **Constructive Fraud**

27 **Against Defendants Yates, Corporation and Does 1-5 inclusive**

28 40. Within the Fifth Cause of Action for Constructive Fraud

1 Plaintiff reincorporates and re-alleges as though fully set
2 forth herein each and every allegation contained within the
3 preceding paragraphs 1-39, inclusive.

4 41. Prior to undertaking the representation of Plaintiff
5 Defendant Yates acting on behalf of himself and Defendant
6 Corporation made representations to Plaintiff as set forth in
7 paragraph 9, above.

8 42. At all times relevant herein, Defendant Yates knew that
9 the representations he made to Plaintiff were untrue and that
10 the truth is as represented above in paragraph 10 of this
11 Complaint. Defendant Yates concealed the facts alleged in
12 paragraph 10 by telling Plaintiff the false facts alleged in
13 paragraph 9 with the intent to defraud Plaintiff by allowing
14 him to entrust her legal, constitutional, and other interests
15 in his care.

16 43. In justifiable reliance upon Defendants' representations
17 as heretofore set forth, Plaintiff hired and employed
18 Defendants to represent her legal interests and did not
19 terminate the Defendants' services believing them to be in her
20 best legal interests.

21 44. During and throughout his representation of Plaintiff,
22 Defendant Yates, acting for himself and for Defendant
23 Corporation, made a series of false representations to
24 Plaintiff which he either knew to be false or which he had no
25 reasonable basis for believing or asserting, including but not
26 limited to that California's Shield Law created an "absolute
27 privilege" for Cheryl Devall not to testify when in fact, no
28 such "privilege" exists in case law and that there was thus no

1 way to oppose Plaintiff's employer's objection to the subpoena
2 for Cheryl Devall.

3 45. Plaintiff discovered on or about May 1, 2012 that
4 Defendants have either withheld evidence and/or fabricated
5 false cost charges concerning an alleged investigation
6 conducted by Private Investigator Paul Ingles as set forth in
7 paragraph 14.

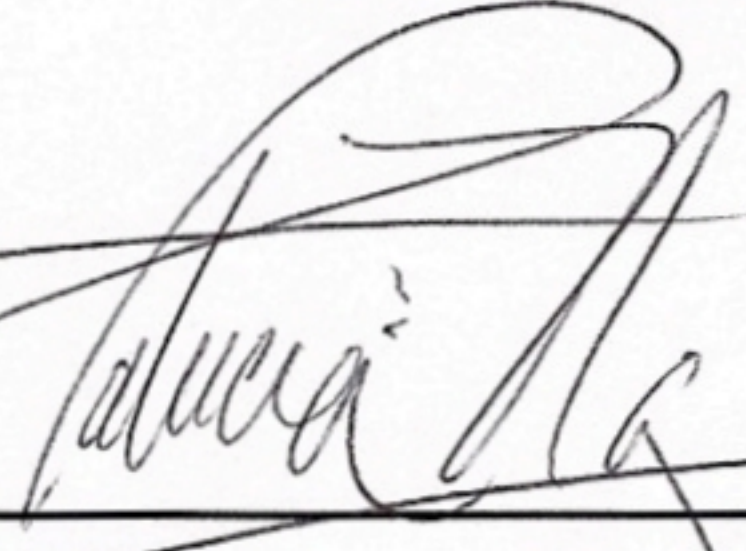
8 46. On or about February 21, 2012 Defendant Yates acting on
9 behalf of all Defendants made a false assertion to Plaintiff
10 that Plaintiff had been "fully informed of each..." without
11 specifying what "each" was referring to, although Plaintiff
12 infers that Defendant Yates meant to say that Plaintiff was
13 fully informed about a series of issues that she outlined in a
14 letter to Defendant Yates on or about February 8, 2012. At
15 all times relevant herein, Defendant knew or should have known
16 that he had not "fully informed" Plaintiff concerning the
17 facts alleged herein in paragraphs 10, 14, 24, 35 and 36.
18 Additionally, at the time that Defendant Yates made his
19 assertions on or about February 21, 2012, he knew that at no
20 time had he ever addressed most or any of the questions that
21 Plaintiff posed to him in her correspondence of February 8,
22 2012 and that his claim that she had been "fully informed" was
23 nonsensical if he was referring to the issues she had raised
24 in that letter.

25 47. Plaintiff has been generally and specially damaged in an
26 amount to be determined at trial on the issues herein, and
27 whereas Defendants' acts and omissions were grossly negligent,
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1 done fraudulently and with a malicious disregard of her
2 rights, Plaintiff is entitled to recover of them punitive and
3 exemplary damages according to proof at trial.

4 **WHEREFORE, PLAINTIFF PRAYS FOR RELIEF AS FOLLOWS:**

- 5 1. For Judgment for Plaintiff and against the Defendants
6 and each of them;
- 7 2. For Rescission of the first and second sentences of
8 Clause VIII of the Contract at issue herein or in the
9 alternative for Rescission of the Contract in its entirety;
- 10 3. For general damages according to proof on the Second
11 through Fifth Causes of Action, inclusive;
- 12 4. For punitive and exemplary damages according to proof
13 on the Second and Fifth Causes of Action;
- 14 5. For Attorney fees according to the Contract (if not
15 rescinded in its entirety) and costs of the suit herein;
- 16 6. For such other and further relief as appropriate.

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20 Patricia Nazario, Plaintiff in pro per

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RETAINER AGREEMENT

The undersigned hereby retains LAW OFFICES OF GREGORY YATES (hereinafter "Attorneys"), to represent PATRICIA NAZARIO, hereinafter "Client"), with regard to an incident

I.

Services to be Performed by Attorneys

Attorneys agrees to perform the following legal services if necessary and desirable in representing Client with respect to the said claim: investigation of claim, determining responsible parties, preparation and filing of lawsuit, prosecution of lawsuit to judgment in the trial court. Further, in the event a judgment is returned in Client's favor, Attorneys shall represent client in opposing any motion for a new trial.

No other services are covered by this Agreement. It is specifically understood that in the event a judgment is not returned in Client's favor, Attorneys shall not be obligated to prosecute a motion for new trial without further fee arrangements between the parties. Likewise, in the event either party appeals from any judgment rendered by the trial court, Attorneys may decline to represent client in connection with any appeal. It is further understood that Attorneys shall be entitled to additional compensation if Attorneys represent Client in connection with any appeal.

If, at any time, for any reason, Attorneys determine that it is not feasible or proper for them to prosecute Client's claims, Attorneys shall notify Client of these facts in a timely fashion and may withdraw from representation.

Attorneys have made no guarantees regarding the successful termination of the matter for which Attorneys have been retained and all expressions relative thereto are matters of Attorneys' opinion only. It is expressly understood that cases of this nature are very difficult.

II.

Duties of Attorneys and Client

Attorneys shall provide those legal services reasonably required to represent Client in the matter described in Section I of this Agreement. Attorneys shall also take reasonable steps to keep Client informed of significant developments and to respond to Client's inquiries.

Client shall be truthful with Attorneys, cooperate with Attorneys, keep Attorneys informed of his address, telephone number and whereabouts.

III.

Attorneys' Compensation

Attorneys shall be entitled to a fee only upon recovery of money, whether such recovery is by way of settlement, judgment or otherwise.

Attorneys' fee shall be as follows:

TRIAL *gm*

A. An amount equal to thirty-three per cent (33%) of any sum recovered if the matter is settled before suit is filed; an amount equal to thirty-three (33%) of any sum recovered if settlement is before the ~~filing~~ filing of a law suit, thereafter, an amount equal to forty per cent (40%) of any sum recovered, whether such recovery is by way of settlement, judgment or otherwise.

The distribution of any receipt or recovery shall be before reimbursement of costs and disbursements as provided in Section IV.

Client acknowledges that client understands that the fee herein is not set by law but is negotiable between the Attorneys and client.

Attorneys may receive the settlement or judgment amount and may retain therefrom their percentage Attorneys' fee. Before disbursing the remainder to client, Attorneys may deduct therefrom the amount of costs and expenses advanced.

Attorneys shall be entitled to their full contingent share of any settlement or judgment on the claim for prosecution of which Attorneys are hereby retained, even though the client discharges Attorneys or obtains a substitution for the Attorneys before such settlement is made or judgment is had.

IV.

Costs and Disbursements

Client agrees to pay all costs and disbursements incurred by Attorneys and reasonably required for the preparation and prosecution of legal action on Client's claim. This includes, without limitation, filing fees, service fees, charges for depositions, investigators and copying of documents, jury fees and fees for expert witnesses and consultants, and other witness fees.

In the event that no recovery is obtained, whether by settlement, judgment or otherwise, and the court does not award Attorneys fees to Client, Client agrees that Attorneys may retain sums advanced by Client for costs and disbursements as compensation for Attorneys's services to the extent of Attorneys' billable hours.

In the event Client fails to pay any of the costs and disbursements aforesaid, Attorneys may (but are not obligated to) advance and pay same on Client's behalf. But any such payments shall be repaid to Attorneys by Client upon demand, and without regard to the outcome of the legal action on Client's claim.

The total costs and disbursements aforesaid shall be subtracted from any recovery obtained in connection with Client's claim, after determining the shares payable under the contingency fee agreement provided in Section III, if applicable. The costs and disbursements shall be reimbursed to whichever party, Client or Attorneys, has paid or advanced same to any third party to whom they are still payable.

V.

[Handwritten signature]

Court Awarded Sanctions or Attorneys fees

During the litigation of this matter, the court may award monetary sanctions to compensate us for extraordinary time spent by our firm to compel the opposing side to do what it is required, but refuses, to do. Such awards are not part of any recovery made on your behalf and belong solely to Attorneys. Any award for attorneys fees and expenses pursuant to 42 U.S.C. §1988 shall belong solely to attorneys.

VI.

Attorney's Lien and Assignment

Client hereby grants Attorneys a Lien on Client's claim and any cause of action filed thereon to secure payment to Attorneys of all sums due under this Agreement for legal services rendered and costs advanced, if any. Client assigns to Attorneys the proceeds of any judgment or settlement or award sufficient to pay Attorneys all sums due under this Agreement.

VII.

Court-Awarded Attorneys' Fees

Attorneys will, if appropriate, seek court-awarded fees under applicable federal and state law. Fees recovered shall be considered part of the sum recovered" under part III above, except for fees awarded under part V, above.

VIII.

Arbitration

THIS PROVISION PROVIDES FOR BINDING ARBITRATION AND WAIVER OF THE RIGHT TO A JURY TRIAL FOR ANY DISPUTES BETWEEN US. PLEASE READ IT CAREFULLY. If we are unable to resolve any dispute which arises out of our representation of you, including any claim by you that we have committed malpractice or failed to perform competently, breached our fiduciary duty toward you, breached this agreement, made misrepresentations to you, or inflicted emotional distress on you, the dispute must be submitted to binding arbitration before the State Bar of California or the Los Angeles County Bar Association, with each of us to bear our own costs and Attorneys' fees. If subsequent litigation is necessary to compel arbitration or to enforce any arbitration award, however, then the prevailing party shall be entitled to an award of reasonable Attorneys' fees (including fees for our own time and efforts if we choose to represent ourselves in whole or part) and expenses. This entitlement shall extend to fees and expenses incurred in the arbitration proceedings, in addition to any other relief available by law.

IX.

Power of Attorney

The client hereby gives to the Attorneys the client's power of Attorney to execute all documents connected with the claim for the prosecution of which the Attorneys are retained, including pleadings, verifications, settlement agreements, compromises, releases, contracts, settlement checks, settlement drafts, commercial paper, dismissals, orders, and all other documents that the client could properly execute.

X.

Statutory Disclosure

Attorneys hereby disclose that Attorneys do maintain errors and omissions insurance coverage applicable to the services to be rendered by Attorneys pursuant to this agreement.

Client acknowledges receipt of a copy of this Agreement concurrently with Client's execution thereof.

READ, CONSIDERED and SIGNED: June 22, 2005


Client


GREGORY A. YATES, ESQ.
Attorney

DECLARATION OF ROBERT J. TOMASZEWSKI, Ph.D., ABPP

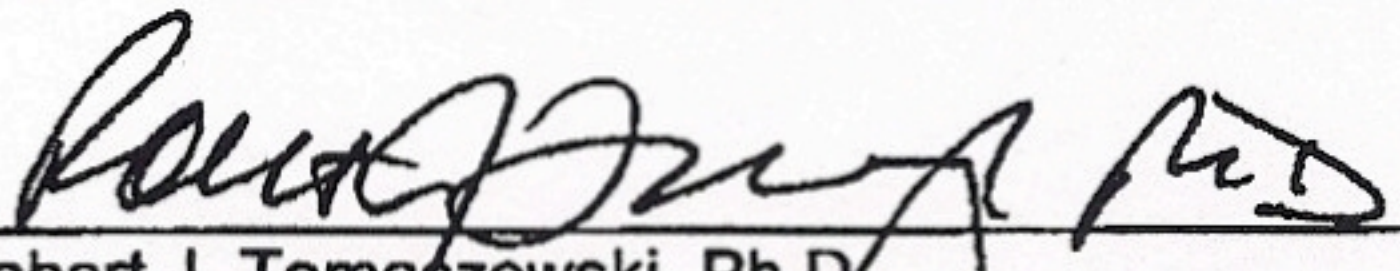
I, Robert J. Tomaszewski, Ph.D., do hereby declare as follows:

I am a Clinical Neuropsychologist and treated Patricia Nazario from May 10, 2007, through August 25, 2010, for cognitive and emotional problems associated with her injuries suffered on May 1, 2007. If called as a witness I could and would testify as follows:

1. I was first contacted by Jessica Brown, attorney for the City of Los Angeles, on March 17, 2010, with a request to meet with her or schedule deposition testimony. A deposition was scheduled.
2. I first discussed the case of Patricia Nazario with Greg Yates, her attorney, on April 27, 2010, immediately prior to my deposition testimony. I have no recall or record of contact with Mr. Yates prior to the date of my deposition testimony.
3. The lack of an earlier discussion with the patient's attorney to review my opinions as an ongoing treatment provider is atypical.
4. I subsequently provided video testimony for trial on June 10, 2010, because my unavailability for court room testimony due to pre-existing planned vacation.
5. I discussed the case with Mr. Yates on June 7, 2010, and June 10, 2010, in preparation for my testimony.
6. Ms. Nazario has memory difficulties associated with her injury on May 1, 2007, that were clearly documented in my objective test findings. The residual memory deficits associated with the injury of May 1, 2007, are a persistent problem that interferes with her daily functioning. Ms. Nazario uses compensatory strategies, organizational skills, and assistive devices to assist her memory functioning.
7. Ms. Nazario has post traumatic stress symptoms associated with her assault on May 1, 2007. A gradual work re-entry was necessary due to the severity of her post traumatic stress symptoms and she had great difficulty in resuming work functions. Her heightened anxiety arousal and reactivity were triggered by the mere mention of the assault by co-workers and colleagues. The trial preparation and trial testimony resulted in increased PTSD arousal. In addition, her attorney's request that she prepare and remember detailed information regarding her wage loss added to her stress.
8. Mr. Yates' reliance upon Ms. Nazario to prepare detailed financial reports unduly added to her stress, especially given her memory difficulties. In addition, the thoroughness of her preparation and detailed recall regarding her wage loss most likely minimized the appearance of her memory difficulties.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Dated: 1-3-12


Robert J. Tomaszewski, Ph.D.
Board Certified in Clinical Neuropsychology