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IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA
CIVIL DIVISION

INSURANCE OFFICE OF AMERICA, INC., JOHN K. RITENOUR; and HEATH RITENOUR,

Plaintiffs/Counter Defendants,

vs.

JAY LEWIS FARROW; FARROW LAW, P.A.; JOSHUA D. CLARK; LAW OFFICES OF JOSHUA D. CLARK, P.A.; LOUIS SPAGNUOLO; ROY CASWELL; J. DAVID NAUGHTON; and WOODROW W. POWER,

Defendants Counter Plaintiffs,

v.

MICHAEL TESSITORE and
MORAN, KIDD, LYONS, JOHNSON, GARCIA, LLP

Third Party Defendants
_____/

CASE NO.: 2020 CA 000725 11B

DEFENDANTS' JAY LEWIS FARROW AND FARROW LAW, P.A.'S CORRECTED AMENDED ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFFS' COMPLAINT AND AMENDED COUNTERCLAIM AND THIRD-PARTY COMPLAINT

COME NOW, Defendants, JAY LEWIS FARROW and FARROW LAW, P.A. (collectively "Defendants"), by and through their undersigned counsel, and file this their First Amended Answer and Affirmative Defenses to Plaintiffs' Complaint and Amended Counterclaim and Third Party Complaint, and, as grounds therefore, state:

ANSWER

1. Defendants admit paragraphs 7 through 17.

2. Defendants deny the allegations of paragraph 1 through 6, and 18 through 205.

COUNT I: DEFAMATION – FARROW, FARROW LAW, CLARK, CLARK LAW, SPAGNUOLO, NAUGHTON AND CASWELL

3. Defendants reallege and incorporate by reference their response to paragraph 1 through 205 as if fully set forth herein.

4. Defendants deny the allegations of paragraphs 207 to 218.

WHEREFORE, Defendants demand entry of judgment against Plaintiffs providing that Plaintiffs take nothing by their action and that Defendants go hence without day, and awarding Defendants their costs and such other and further relief as this Court deems just and proper.

COUNT II: DEFAMATION – FARROW, FARROW LAW, CLARK AND CLARK LAW

5. Defendants reallege and incorporate by reference their response to paragraphs 1 through 205 as if fully set forth herein.

6. Defendants deny the allegations of paragraphs 220 to 230.

WHEREFORE, Defendants demand entry of judgment against Plaintiffs providing that Plaintiffs take nothing by their action and that Defendants go hence without day, and awarding Defendants their costs and such other and further relief as this Court deems just and proper.

COUNT III: DEFAMATION SPAGNUOLO

7. Defendants reallege and incorporate by reference their response to paragraphs 1 through 205 as if fully set forth herein.

8. As Plaintiffs do not seek damages against Defendants herein, Defendants deny paragraphs 232 to 241.

COUNT IV: TORTIOUS INTEFERENCE ALL DEFENDANTS

9. Defendants reallege and incorporate by reference their response to paragraphs 1 through 205 as if fully set forth herein.

10. Defendants deny paragraphs 243 to 246.

WHEREFORE, Defendants demand entry of judgment against Plaintiffs providing that Plaintiffs take nothing by their action and that Defendants go hence without day, and awarding Defendants their costs and such other and further relief as this Court deems just and proper.

COUNT V: ABUSE OF PROCESS ALL DEFENDANTS

11. Defendants reallege and incorporate by reference their response to paragraphs 1 through 205 as if fully set forth herein.

12. Defendants deny paragraphs 248 to 252.

WHEREFORE, Defendants demand entry of judgment against Plaintiffs providing that Plaintiffs take nothing by their action and that Defendants go hence without day, and awarding Defendants their costs and such other and further relief as this Court deems just and proper.

COUNT VI: ABUSE OF PROCESS FARROW, FARROW LAW, CLARK, CLARK LAW

13. Defendants reallege and incorporate by reference their response to paragraphs 1 through 205 as if fully set forth herein.

14. Defendants deny paragraphs 254 to 259.

WHEREFORE, Defendants demand entry of judgment against Plaintiffs providing that Plaintiffs take nothing by their action and that Defendants go hence without day, and awarding Defendants their costs and such other and further relief as this Court deems just and proper.

AFFIRMATIVE DEFENSES

15. As Defendants' First Affirmative Defense, Plaintiffs are barred from pursuing their claims because the matters raised in the complaint were stated by defendants as attorneys, in good faith, with an interest in the subject matter to plaintiffs and others in relation to plaintiffs who have a corresponding duty and interest in the same subject matter, and thus defendants were legally privileged to make the statements at issue in the complaint.

16. As Defendants' Second Affirmative Defense, Defendants state Plaintiffs are barred from pursuing their claims because Plaintiffs through their actions, conduct, and extensive litigation and tactics in relation to those litigations, are public figures (either all-purpose or limited), and the allegedly defamatory statements were made without malice.

17. As Defendants' Third Affirmative Defense, Defendants state that Plaintiffs are barred from pursuing their claims because the matters alleged in the complaint are substantially true.

18. As Defendants' Fourth Affirmative Defense, Defendants state that Plaintiffs' claims are barred based on the litigation privilege, insofar as all matters raised in the complaint occurred in preparation for and otherwise in connection with legal proceedings within the purview of such privilege.

19. As Defendants' Fifth Affirmative Defense, Defendants state that Plaintiffs' alleged claims are barred by the doctrine of unclean hands, insofar as Plaintiffs have brought this action for ulterior purposes to harass, intimidate and otherwise put Defendants off of representing their clients against Plaintiffs, and to engage in overbroad, harassing, burdensome discovery including attempting to provide a platform to gain access to attorney-client privileged and/or protected work product through the pretextual vehicle of a case for defamation, tortious interference and abuse of process. Further, Plaintiffs are barred by unclean hands based on the matters alleged in the litigations filed against Plaintiffs which are incorporated herein by this reference: *Spagnuolo v. IOA, et al.,* Case Number 19-010212, Broward Circuit Court; *Naughton, et al. v. IOA, et al.*, Case Number 19-025606, Broward Circuit Court; *Caswell v. IOA, et al.,* Case Number 20-001518, Broward Circuit Court; and *Power, et al., v. IOA, et al.,* Case Number 20-003595, Broward Circuit Court.

20. As Defendants' Sixth Affirmative Defense, Defendants state that Plaintiffs' alleged claims are barred based on the related doctrines of comparative fault and assumption of the risk, on the basis that Plaintiffs engaged in misconduct as detailed in the litigations filed against Plaintiffs which are incorporated herein by this reference: *Spagnuolo v. IOA, et al.,* Case Number 19-010212, Broward Circuit Court; *Naughton, et al. v. IOA, et al.*, Case Number 19-025606, Broward Circuit Court; *Caswell v. IOA, et al.*, Case Number 20-001518, Broward Circuit Court; and *Power, et al., v. IOA, et al.,* Case Number 20-003595, Broward Circuit Court.

21. As Defendants' Seventh Affirmative Defense, Defendants state that Plaintiffs have failed, in whole or in part, to mitigate their damages.

22. As Defendants' Eigth Affirmative Defense, Defendants state that Plaintiffs have failed to state a legal cause of action upon which relief can be granted because Plaintiffs' claims fail to allege ultimate facts in support of each of the essential elements of their claims set forth therein.

23. As Defendants' Ninth Affirmative Defense, Defendants state that Plaintiffs are barred from pursuing their claims based on the opinion and fair comment privilege, insofar as given the context and totality of the circumstances based on preparation for and anticipation of litigation, all matters raised in the complaint were opinion and otherwise matters open and subject to fair comment.

24. As Defendants' Tenth Affirmative Defense, Defendants state that Plaintiffs' action is barred by Florida Statutes § 768.295 insofar as all matters raised by Plaintiffs in their complaint were stated or otherwise accomplished as lawful exercise of Defendants of their first amendment right to free speech in connection with issues of public importance, and otherwise within the contemplation of this statute's purpose to protect the right of exercise of free speech in connection with such issues.

25. As Defendants' Eleventh Affirmative Defense, Defendants state that Plaintiffs are barred from pursuing their claims because none of the matters alleged in the complaint were stated with malice, and the statements were otherwise made in good faith investigation and pursuit of legal proceedings.

WHEREFORE, Defendants demand entry of judgment against Plaintiffs providing that Plaintiffs take nothing by their action and that Defendants go hence without day, and awarding Defendants their reasonable attorneys' fees as may be provided for by applicable law including Florida Statutes § 768.295, court costs, and such other and further relief as the Court deems just and proper.

AMENDED COUNTERCLAIM AND AMENDED THIRD PARTY COMPLAINT

Counter-Plaintiffs JAY L. FARROW ("Farrow") and FARROW LAW, P.A. ("Farrow Law"), by and through their undersigned counsel, hereby file their Counterclaim and Third Party Complaint against Plaintiff/Counter Defendants INSURANCE OFFICE OF AMERICA, INC. ("IOA"), JOHN RITENOUR ("John"), HEATH RITENOUR ("Heath"), MICHAEL TESSITORE ("Tessitore"), MORAN, KIDD, LYONS, JOHNSON, GARCIA, LLP ("The Moran Firm") (hereinafter collectively "Defendants") and JOHN DOE(S) ("Doe(s)"), and allege the following:

JURISDICTION AND VENUE

1. This is an action for damages in excess of $30,000.00 exclusive of interest, cost and attorneys' fees which is with the subject matter jurisdiction of the Court.

2. Venue is appropriate in this jurisdiction as at least one defendant resides in Seminole County.

3. Personal jurisdiction is appropriate pursuant to Florida Statutes s. 48.193.

4. Farrow is an individual resident of Broward County, Florida and is otherwise *sui juris*.

5. Farrow Law is a Florida Professional Association organized and existing under Florida law with its primary place of business located in Broward County, Florida.

6. Counter Defendant IOA is a Florida corporation with offices located in Seminole County, Florida.

7. Counter Defendant John is an individual residing in Seminole County, Florida and is otherwise *sui juris*.

8. Counter Defendant Heath is an individual residing in Seminole County, Florida and is otherwise *sui juris.*

9. Third Party Defendant Tessitore is a Florida resident residing in Orange County, Florida and is otherwise *sui juris*. Third Party Defendant Tessitore is an attorney who practices in Orlando Florida for The Moran Firm, is an employee and agent of The Moran Firm and all of his actions taken herein were taken in his capacity as an employee and agent of The Moran Firm. Tessitore is a proper party to the Counterclaim herein because he is a joint tortfeasor with The Moran Firm, Tessitore's presence is required to grant complete relief in the determination of the Counterclaim, and his joinder will not deprive the Court of jurisdiction of the action. Additionally, Tessitore is a proper party because this third-party complaint against him arises out of the transaction or occurrence which is the subject matter of the Counter Plaintiffs' claims.

10. Third Party Defendant, The Moran Firm is a Florida Limited Liability Partnership with its principal office in Orange County, Florida. The Moran Firm is a proper party to the Counterclaim because it is a joint tortfeasor with Tessitore, The Moran Firm's presence is required to grant complete relief in the determination of the Counterclaim, and The Moran Firm's joinder will not deprive the Court of jurisdiction of the action. Additionally, The Moran Firm is a proper party

because this third-party complaint against The Moran Firm arises out of the transaction or occurrence which is the subject matter of the Counter Plaintiffs' claims.

11. Third Party Defendant(s) Doe(s) is/are individual(s) and/or corporation(s) who participated and conspired with Defendants to damage Farrow and/or Farrow Law whose identity is unknown at this time.

Introduction

12. The Complaint filed by IOA, John and Heath Ritenour and their lawyers against the victims of their years-long schemes to steal and defraud for purposes of driving up IOA's private stock value is one of the most unprecedented legal maneuvers in history. These victims were brave enough to file lawsuits against IOA, John and Heath Ritenour and assert their legal rights in court against an organized crime family and their henchmen. Instead of defending these cases on the merits, IOA, John Ritenour and Heath Ritenour engaged their legal fixers from the The Moran Firm to file a lawsuit against all four victims and two sets of lawyers claiming they have been defamed. Yet, since this case has been filed, IOA, John Ritenour and Heath Ritenour have done everything to block and obstruct the victims' rights to discovery information further evidencing that this case is not about defaming their character – it is about using the judicial process for unintended and illegal purposes.

13. In essence, IOA and the Ritenours' Complaint is not only an offensive attempt to chill Defendants' prosecution of their Civil Racketeering claims, but its primary purpose was to use legal processes for purposes other than which they were designed. IOA, John and Heath Ritenour are seeking to use legal process to interfere with attorney-client relationships, obtain attorney-client/work product information, invade protected client files and use their Complaint as a public response to the following lawsuits:

- *Louis Spagnuolo v. Insurance Office of America, Inc. et al.*, In The Circuit Court For The Seventeenth Judicial Circuit In and For Broward County, Florida: Case Number: CACE19-010212 ("Spagnuolo Lawsuit"). This lawsuit seeks damages against John Ritenour, Heath Ritenour, Valli Ritenour and Insurance Office of America, Inc. ("IOA") for, *inter alia*, stealing insurance commissions from Louis Spagnuolo ("Spagnuolo") and other IOA employees and independent agents around the United States, manipulation of corporate documents to conceal theft, using stolen commissions to artificially inflate IOA's private stock, witness tampering and destruction of evidence.
- *Roy Caswell v. Insurance Office of America, Inc. et. al.*, In The Circuit Court For The Seventeenth Judicial Circuit In and For Broward County, Florida: Case Number: CACE20001518 ("Caswell Lawsuit"). This lawsuit seeks damages for retaliation and for a scheme to defraud Plaintiff Roy Caswell ("Caswell") relative to the intentional manipulation of IOA's private stock.
- *Woodrow Power, on behalf of himself and others similarly situated, v. Insurance Office of America, Inc. et. al.*, In The Circuit Court For The Seventeenth Judicial Circuit In and For Broward County, Florida, Case Number: CACE20003595. This is an alleged Class Action Lawsuit filed by Woodrow Power relative to racketeering activities and Ponzi scheme that manipulated IOA's stock over 300% over approximately ten years prior to John Ritenour's retirement in 2019. This lawsuit alleges that IOA's stock was manipulated by stealing commissions, overcharging IOA customers and other illegal conduct which purposely mislead IOA employees and independent insurance agents who were offered to purchase IOA stock at annual shareholders meetings.

- *TNC Holdings US, LLC and J. David Naughton IV v. Insurance Office of America, Inc., et. al.,* In the Circuit Court for the Eighteenth Judicial Circuit In and For Seminole County, Florida Case No: CACE2020CA001019. This Lawsuit seeks damages for stealing an account and for damages caused to Plaintiffs as victims of the fraudulent over inflation IOA's stock price.

14. Defendant Farrow and Farrow Law's representation of Spagnuolo, Caswell, Power, and, now, Naughton, and the actions taken to advance their claims, are protected under law by constitutional principles, the litigation privilege and other doctrines. Yet, more importantly, what is really going on here is that Farrow and Farrow Law are being targeted for pursuing the truth against some individuals that believe the law does not apply to them. John, Heath (the "Ritenours") and IOA's filing of a lawsuit against the lawyers representing victims is unlawful as its motives seek to punish and retaliate against courageous individuals for prosecuting viable claims against them, and to gain access to information that the Ritenours, IOA and their legal counsel would never be able to access under other circumstances.

GENERAL ALLEGATIONS

15. This Amended Counterclaim seeks to remedy the perverse use of the legal system to bully, injure, and intimidate the victims of the Ritenour's One Hundred Million Dollar $100,000,000.00 Ponzi scheme. The Ritenours and a handful of their loyal cronies are facing the proverbial music and being brought to account for years of stealing insurance commissions from IOA agents, stealing accounts from competitors, engaging in unlicensed activities, REBATING and breeding a culture of fraud which has led to IOA's customers paying illegal fees. All of this was done to make John, his son Heath and a few people very rich.

16. After the filing of four (4) racketeering lawsuits against them and IOA, with other law firms following suit, John and Heath Ritenour maliciously ordered their longtime attorneys, and a co-racketeer Defendant Brian Moran ("Brian"), to target those who dare interrupt their decades-long scheme which had successfully artificially inflated IOA's private stock over 300% before John's "retirement" in 2019. Indeed, after the last lawsuit was filed as a Class Action against Defendant John, Heath, IOA and others, outlining in painstaking detail how the scheme operated, Defendants John and Heath used the legal muscle end of their crime syndicate to attempt to obstruct justice and punish the brave former IOA team members for filing their claims.

17. In their latest move, the Ritenours and IOA sued all of the Plaintiffs and their attorneys with a collateral lawsuit which does nothing more than strike at the heart of an attorney's work, attempt to damage reputations, tortiously interfere with attorney-client relationships and aim to obtain attorney-client/work product materials.

18. The Ritenours, IOA and their lawyers are willing to spend stolen money to do whatever it takes to silence voices including: (1) sue victims and their attorneys; (2) criminally intimidate fact witnesses; (3) illegally destroy and tamper with evidence; (4) obstruct lawful discovery with baseless objections; (5) defy court orders requiring compliance with discovery; (6) threaten baseless sanctions against victim's lawyers; (7) threaten baseless ethical violations against victims' attorneys; (8) manipulate corporate documents to conceal fraud; and (9) seek to destroy the reputations of victims and their lawyers for advancing lawful claims.

19. As outlined herein, the Ritenours and IOA believe that their methods of using their lawyers to intimidate and bully former employees is an effective strategy for them to get away with fraud. For many years, Defendants John and Heath have used their in-house lawyers and The Moran Firm to ensure that nobody even thinks about exposing them for defrauding their own lifeblood. If they

do, they pay the price of either being sued or having their professional reputation in the insurance industry smeared. The Ritenours, IOA and their cronies' Ponzi scheme is now out in the open and, in their desperation to hold on to money and power, they filed a bully lawsuit against their victims and the victims' attorneys for purposes other than which they were designed.

20. For the Ritenours, IOA and the lawyers that represent them, they seem to believe that courthouse doors swing only one way in their favor, and that reality means any legal representation against these parties requires thinking outside the proverbial box - while staying within the rules which ensure justice and ethical conduct.

21. The Ritenours and IOA complain that Farrow and Farrow Law failed to engage in "tried and true" litigation tactics. "Tried and true" methods of legal practice, whatever that term means to Defendants, has always demanded zealous advocacy and innovation, especially where an attorney studies and identifies litigation tactics which are honed to eliminate the voices of the victims of fraud. Defendants John, Heath and IOA, like many of their ilk, have their own "tried and true" litigation tactics which have little to do with litigation and everything to do with intimidation, fear, and maliciousness. Indeed, like any organized crime syndicate, Defendants John and Heath have their hitmen – the lawyers who create and implement the final piece of the fraudulent scheme – the so called "legal" way to shut people up by using fear, frivolous sanction threats, obstructing lawful discovery and targeting lawsuits whose sole purpose is to instill intimidate and chill the lawful administration of justice.

22. Farrow Law is a boutique law firm focusing, *inter alia*, on Florida's Civil Remedies for Criminal Practices Act and the Federal Civil Racketeering Statute. Farrow Law uses experts in the area of civil racketeering which have included a former federal prosecutor and law professors. Farrow Law's practices involve forensic fraud analysis and heavy pre-suit investigations which

seek to innovate the legal practice to obtain as much discovery as possible prior to the institution of litigation.

23. One of the purposes of this innovation is to save all parties, including opponents, time and money which is inherent in protracted public litigation. Others include obtaining information and advancing client claims. Save for a very few limited exceptions, Farrow Law believes the filing of a lawsuit comes only after pre-suit demands are made and attempts to resolve claims prove fruitless.

24. Farrow Law routinely enrolls parties to pre-suit mediation as a means to attempt to have a dispute resolved before a Florida Supreme Court Mediator prior to a lawsuit being filed. Farrow Law believes that parties using pre-suit mediation have the chance for real solutions at that point before the matter becomes part of the public record and before the parties' lives become consumed with uncertain, costly and time-consuming litigation.

25. Farrow Law's conduct of its IOA cases is no different. Yet, from the very beginning of their representation of the victims of the Ritenours and IOA, Farrow and Farrow Law were personally threatened with sanctions if they dare prosecute claims in civil court. On March 2, 2019, Farrow Law, on behalf of Spagnuolo, served Defendants John and Heath with a pre-suit demand for settlement which requested pre-suit mediation.

26. In Spagnuolo's case, after the initial pre-suit demand was served, Farrow Law was threatened for the first time by IOA lawyer Adam Foslid ("Foslid"), then of Greenberg Traurig, LLP, with the prospect of being subject to sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure. A copy of Foslid's March 7, 2019 email is appended hereto marked Exhibit "A" and is incorporated herein by this reference. Rule 11 provides for sanctions against an attorney who prosecutes a case without factual or legal justification.

27. Notably, Foslid's first threat of sanctions had no explanation as to why sanctions would be appropriate, only the threat. Foslid's first threat of sanctions is, unfortunately, the new normal in litigation tactics from larger firms to smaller firms - especially where claims for civil racketeering are at issue. It seemingly costs nothing to make the threat, but its dampening effect is tremendous as it is meant to chill client advocacy/representation and threaten the lawyer personally. And while this threat has its place where an attorney acts frivolously , any baseless threat of sanctions is malicious in its conception. Indeed, untold amounts of victims' claims die this way as many attorneys unfortunately think of their own personal interests and reputation over taking on a Goliath like IOA.

28. After that initial threat on March 7, 2019, lawyers for John, Heath and IOA several times threatened the possibility of sanctions and ethics complaints against Farrow and Farrow Law. These threats came on July 26, 2019, September 15, 2019, December 12, 2019 and December 16, 2019 with respect to Farrow Law's prosecution of claims against John, Heath and IOA. In some instances, the threat of ethical violations related to serving pre-suit demand letters on parties who were individually named in the various lawsuits. However, on numerous occasions, Farrow and Farrow Law specifically inquired as to who IOA lawyers Foslid, Tim Kolaya ("Kolaya") and the Stumphauzer Foslid Sloman Ross & Kolaya, PLLC firm represented, yet an answer to this basic question was never provided.

29. Finally, on December 12, 2019, in response to yet another threat of sanctions and ethics complaints, Farrow sent Kolaya a letter indicating that he was serving individuals named in the lawsuit which were not parties he claimed to represent even though Farrow had inquired. In this correspondence, Farrow stated in part:

> Throughout your letter, you suggest that serving Mr. Caswell's pre-suit demand letters on certain individuals violates the prohibition of

> communication with an individual I know to be represented by counsel. If you recall, this is the second or third time you have accused me of violating this rule. Ironically, the first time you made this accusation was in Mr. Spagnuolo's case against Insurance Office of America, Inc. ("IOA") when we served Mr. Heath Ritenour ("Heath") with a proposed Amended Complaint. We researched our file before such service and your firm never stated in any form that you represented Heath and, thus, such accusation was patently false. To the point, Heath was and is an individual personal Defendant in that matter and had the right to be invited to a pre-filing resolution with my client.
>
> In the first paragraph of your letter, you indicate that you represent IOA and "certain [but not all] of the other individuals and entities … you have identified in the draft lawsuit". This is strangely familiar relative to the early correspondences in Mr. Spagnuolo's case.
>
> To be extremely clear, neither you nor your firm represented anyone I just served with Mr. Caswell's Complaint as far as I can tell or could possibly know. I think you may be assuming that I attempted service on every defendant which is not accurate. Notwithstanding, according to your letter of today – I would still be within my rights to serve any individual or entity other than IOA with a pre-suit demand letter – and I so intend with this pre-suit demand and others to follow.
>
> It's not my job to guess and, with you and your firm hiding the proverbial ball, it is simply disingenuous to accuse me of a Bar violation and lends the same to be interpreted as an improper threat.
>
> If one of my clients has individual claims against an individual, those claims are separate from the company, and I firmly believe they must get the opportunity to receive a demand letter and resolve any issues pre-suit – just like your client, IOA.

30. On February 26, 2019, Farrow Law caused to be filed the Power Class Action Lawsuit. On February 26, 2020, Farrow wrote an email to Kolaya inquiring as to whether he and Foslid would be agreeable to accept service of process on behalf of any of the Defendants. Kolaya indicated that while his firm "may" be coming in to undertake representation, that he was not "authorized" to accept service.

31. On March 16, 2020, less than three weeks after the filing of the Power Class Action Lawsuit, Farrow and Farrow Law received three letters from Defendant Tessitore of The Moran Firm. These letters generally requested a retraction of certain press releases dating back to July 2019. In response, Farrow, on behalf of himself, Caswell and Spagnuolo, sent Defendant Tessitore an email indicating in part that he and his client would be willing to issue a retraction provided he and his clients provide evidence that disputed the claims in the press releases and the various complaints.

32. Farrow's email to Tessitore stated in relevant part:

> I have now had the chance to read your letters. I am certainly open to speaking with you about the issues you raise. For the moment, and for purposes of cutting to the quick, I am not sure how any of my alleged statements you cite are defamatory. I believe that truth is an absolute defense to defamation.
>
> Also, without giving you one of those long attorney case-law riddled emails, regardless of the issue of truth, is the issue of litigation privilege. I believe that all of the "statements" you are referring to are statements within my pleadings which are a matter of public record and in the various complaints that have been filed after substantial investigation – and in some cases – attested to by an expert and fact witness. This issue has been researched on our end and I invite you to do the same. I think between the truth of the allegations and/or litigation privilege ends any conversation about the requests made in your letters, yet, I remain open to hearing more.
>
> While the Ritenours may not like what is being said in the lawsuits or otherwise, my team stands by its investigation which has lasted over a year, has been well sourced, and exhaustively researched. Now, interestingly enough, if your clients had wanted to, they could have provided me with any exculpatory discovery pursuant to my requests over the last year if they were really interested in "clearing their good names". Instead, all I received were form objections from their other set of lawyers in Miami.
>
> That said, **if your clients want a retraction, we can talk about that. We'd like to see some evidence from them that they didn't "do it"**. If that is the indeed the case, then, well, this could all be explained as a huge misunderstanding to anyone willing to listen or

> publish such a story. It seems to me that your clients have that ability.
>
> Short of that, we are just going to keep going as zealous advocates which means that if your clients ill-advisedly choose to proceed as to matters presented in your letters, we will avail all legal remedies and certainly our first amendment rights.
>
> I don't think it needs to come to all that and I look forward to speaking with you to prevent unnecessary litigation and the attention the same attracts. Let me know when you would like to schedule a call.

[Emphasis added].

33. **Defendant Tessitore did not respond to Farrow's email**.

34. On March 23, 2020, Farrow sent another email to Mr. Tessitore to follow up on his previous email which opened the door to a retraction.

> I did not receive any response to my email to you of last week. I am making it a practice to follow up in these unprecedented times where our inboxes might be fuller than normal. Let me know if you want to discuss.

35. **Defendant Tessitore again failed to respond to Farrow's email**.

36. Unbeknownst to Farrow or Farrow Law, **without ever responding to Farrow's request to discuss the requested retractions**, on March 24, 2020, Tessitore maliciously caused to be filed the Subject Lawsuit against Farrow, Farrow Law and their clients.

37. On March 26, 2019, without knowledge that the Subject Lawsuit had been filed, Farrow, once again, sent Defendant Tessitore a correspondence which stated in relative part:

> As you know, I represent Mr. Louis Spagnuolo and Mr. Roy Caswell. For purposes of this letter, the same is also on behalf of myself and Farrow Law, P.A. This is correspondence is in furtherance to my responses to your letters to me of last week regarding the above-referenced matters.
>
> Preliminarily, I wish to create the context under which your letters were received as I do not believe any of this happens in a vacuum.

As you know, my law firm and myself represent Mr. Roy Caswell, Mr. Spagnuolo and others relative to the prosecution of some very serious charges against your clients Mr. John Ritenour, Mr. Heath Ritenour and Insurance Office of America, Inc. ("IOA"). In fact, myself and my law firm have been representing claims against your clients and others at IOA for over a year now. During this time, we engaged in a massive investigation, which has included numerous witness interviews, document reviews and review of collected materials with a myriad of experts, including former federal prosecutors. To the extent that my clients have filed their lawsuits, the same are supported by documents and evidence, an expert report and even an affidavit which, in sum, outline the years-long PONZI scheme to defraud IOA insurance agents, customers and many others.

Over the course of time, we also uncovered another facet to the Ritenours and IOA's scheme; that is their use of fear and intimidation to further their own ends of the endless pursuit of power and money. This part of their racketeering activity uses their lawyers (and other loyalists) as enforcers and fixers of what is now identified as a $100,000,000.00 PONZI Stock scheme (a copy of Woodrow W. Power v. Insurance Office of America, Inc., et. al., Broward County Case No: CACE20003595 enclosed herewith). When I say "their", note that one of your partners, Brian Moran, is a named RICO Defendant in Mr. Caswell's lawsuit.

Notably, since we began our work here at Farrow Law, P.A. relative to IOA, our firm has received frivolous warnings of sanctions and other implicit baseless threats of unethical conduct on five separate occasions. Additionally, subsequent to the filing of Mr. Spagnuolo's Complaint, an in-house attorney at IOA, George "Tony" Tatum, at the direction of John, called one of our key witnesses and threatened him against cooperation with our investigation. This particular conduct is supported by affidavit. Additionally and most recently, a few of weeks ago, two of my clients received direct phone calls from one of IOA's Vice Presidents from its Broward County Cypress Creek Office demanding he be "taken out" of the lawsuit "or else".

Overall, myself, my firm and my clients received approximately nine threats before your letters of last week; five of these related to baseless threats of some type of sanctions against me personally. In response to one of IOA's Miami lawyers' last threats, I decided to engage considerable research on the issue of whether malicious direct or indirect threats to a lawyer working on a case seeking to disrupt his work or otherwise intimidate him or his clients could be actionable under Florida's Civil Remedies for Criminal Acts statute.

> As part of my past and continuing research, I started with the definition of extortion under the Florida statute. It suggests that any person who "maliciously threatens to accuse another of an offense [in the case of your letters defamation] or threatens injury to one's reputation in order to gain a pecuniary advantage or with the intent to compel the person to refrain from doing an act, is guilty of extortion – a second degree felony." My research and intuition lead me to believe that threats to take frivolous actions, either directly or implicitly, against an attorney and his clients in unrelated litigation violates Florida law and presumptively the Florida Bar rules when made for improper purposes – such as to effect the outcome of the litigation or to wrongfully intimidate.
>
> Unquestionably, falsely accusing a lawyer of a tort, violation of the ethical rules or threatening sanctions for an intentionally improper purpose has an intrinsic chilling effect, especially where it is directed at dissuading an attorney from prosecuting his clients' claims. This happens more often to us with smaller firms than any of us wish to admit. Indeed, the fear of sanctions or being sued personally is enough for even good shouldered lawyers to have second thoughts or even cut and run. Your letters baselessly demanding some sort of retraction for press releases to me and my clients from the law firm whose members include one of the RICO Defendants fits precisely into the category of malicious conduct directed to the heart of justice itself. This time, enough is enough.
>
> While we are not intimidated in the least, that doesn't change the intent of the wrongful conduct. Now, instead of writing you a very heavy-handed letter when I received your letters, I sent you a very cordial response inviting a further conversation to discuss even the desired retraction while outlining mine and my clients' positions. We never heard back from you and I am not going to wait for a frivolous lawsuit from your clients before taking action on behalf of mine.

38. On March 31, 2020, Farrow received a message from his office building supervisor that a process server was attempting to personally serve him with a lawsuit. Notably, this attempted personal service was during a period of time most businesses were shut down due to the spread of the COVID-19 virus. In the Subject Lawsuit, Defendants John, Heath, IOA, Tessitore and The Moran Firm maliciously claim against Farrow and Farrow Law for defamation, tortious

interference and abuse of process. This lawsuit also maliciously accuses Farrow and Farrow Law of the crime of extortion for essentially being zealous advocates.

39. IOA, John and Heath Ritenours' lawsuit is arguably the **tenth** attempt to threaten, intimidate and stop Farrow Law's advancement of its clients' claims.

40. The Subject Lawsuit's 88 pages tout IOA's alleged side of the story which could have easily been asserted as Affirmative Defenses in each respective lawsuit. Moreover, even the claims against Spagnuolo, Caswell and Power could have been asserted as counterclaims in the respective cases. However, since Defendants John, Heath and IOA have decided to make obstructionist procedural arguments and delay discovery, they apparently needed an outlet to smear their victims in a public setting while maliciously throwing stones at Farrow Law for distinguishing itself as being "heavy handed," "unorthodox" and "outside the box". Indeed, the Subject Lawsuit is littered with how these lawsuits are affecting IOA's business affairs and how Farrow and Farrow Law are the proverbial "bad guys" to blame for IOA's woes.

41. Well, there is nothing legally or ethically impermissible for being "heavy handed," "unorthodox," "outside the box," or "legally innovative" – **period**. In fact, it is a lawyer's job and duty in any lawsuit to use the appropriate tools - especially where the representation is David versus Goliath, and further, where Goliath has a track record of using malicious "heavy-handed" and "unorthodox" tactics to silence victims and their attorneys. However, their tactics are neither outside the box or legally innovative – they are simply the tactics routinely used by bullies.

42. Simply put, Farrow Law is advancing claims and taking action directed at justice, and Defendants are using a separate lawsuit for purposes other than which it was designed, including to give the color of legitimacy to seeking wholly undiscoverable information protected by attorney-

client privilege and work product while maliciously attacking lawyers for doing their jobs and victims for standing up for themselves.

43. Most recently, on June 18, 2020, Defendants IOA, John and Heath's lawyers Tim Kolaya and The Stumphauzer Firm served Plaintiffs and their then lawyers, Joshua Clark and Josh Clark, P.A. with a frivolous and fraudulent Motion for Sanctions pursuant to Fla. Stat. 57.105 in the Naughton Case. This would be the twelfth attempt to chill any legal representation on behalf of the victims of IOA and the Ritenour's fraud. Subsequently, undersigned counsel and Farrow Law, P.A. substituted into the Naughton Case. Immediately thereafter, on June 26, 2020, Attorney Kolaya and The Stumphauzer Firm served Naughton, Farrow and Farrow Law with an Amended Motion pursuant to Fla. Stat. 57.105, even before Farrow Law had become attorney of record. Both the initial Motion and the Amended Motion were served at the direction of IOA, John and Heath Ritenour for purposes other than for which they were designed, such as to weaponize the sanctions statute as a form of extortion.

44. The threat of judicial punishment through sanctions as a means of coercion is a serious matter and akin to threatening a report of criminal conduct to obtain some advantage which is the definition of extortion. The Amended Motion for Sanctions represents approximately the tenth attempt to coerce through the weaponization of judicial sanctions Farrow and Farrow Law to abandon their prosecution of fraud and civil racketeering.

45. While Defendant IOA, John and Heath may have defenses to this case, the same do not amount to this matter being frivolous – and Attorneys Kolaya, Foslid and The Stumphauzer Firm either know it or should know it or have a duty to know it. Moreover, IOA, John and Heath Ritenour, and those that serve them know that by directing the threat of sanctions, they are using process for a purpose other than for which it was designed, in this case, extortion.

46. The systemic practice of weaponizing the threat of judicial sanctions by wealthy and powerful companies and individuals such as IOA, John and Heath and their lawyers is nothing new, but in this case, on these facts, the collective conduct demonstrates the type of extortion or quasi-extortion the claim for abuse of process is available to remedy.

47. All conditions precedent to maintenance of this action have occurred, or have been performed, waived or excused.

48. Farrow and Farrow Law retained the undersigned attorneys to represent them in this action and are obligated to pay a reasonable fee and costs for their services.

COUNT I – ABUSE OF PROCESS

49. Plaintiffs reallege Paragraph Numbers 1 through 48 above as if fully set forth herein.

50. Defendants have engaged in a perversion of court processes to accomplish some end which the process was not intended by law to accomplish, or which compels Farrow and Farrow Law against whom it was used to do some collateral thing which they could not legally and regularly be compelled to do, such as breach client confidentiality, disclose work product information, and disclose the methods, individuals and materials of a pre-suit investigation.

51. By directing the repeated threat of judicial sanctions, Defendants IOA, John Ritenour and Heath Ritenour have used process for purposes other than for which it was designed.

52. As provided herein, the act or acts constituting the misuse occur *after* the process was issued.

53. Due to Defendants' conduct, Farrow and Farrow Law have been damaged in an amount to be determined at trial.

WHEREFORE, Farrow and Farrow Law demand entry of judgment against Defendants Insurance Office of America, Inc., John Ritenour, Heath Ritenour, Michael Tessitore and The

Moran Firm for compensatory damages, special damages, together with interest, and costs for instituting and prosecuting the instant action and for such further relief as this Honorable Court deems just and proper.

JURY TRIAL DEMAND

Defendants demand trial by jury of all issues so triable.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 7, 2020, a true and correct copy of the foregoing has been electronically filed with the Clerk of Courts and sent by e-mail through the Florida e-filing portal to those indicated on the attached Service List.

Respectfully submitted,

Holiday Hunt Russell PLLC
Attorneys for Defendants
2699 Stirling Road Suite A-105
Fort Lauderdale FL 33312
Telephone: (954) 920-5153
Primary email: pleadinghhr@gmail.com
Secondary email: servicesecondary@gmail.com

By: s/Holiday Hunt Russell
HOLIDAY HUNT RUSSELL
FL BAR NO.: 955914

SERVICE LIST

Michael Tessitore, Esquire
Counsel for Plaintiffs
Moran Kidd Lyons Johnson Garcia, P.A.
111 North Orange Avenue, Suite 900
Orlando, FL 3281
mtessitore@morankidd.com
bmoran@morankidd.com
cparkinson@morankidd.com
eservices@morankidd.com

Jay L. Farrow, Esquire
Farrow Law, PA
Counsel of Defendants
4801 South University Drive, Suite 132
Davie, FL 33328
jay@farrowlawfirm.com
meera@farrowlawfirm.com

Douglas J. Jeffrey, Esq.
Counsel for Joshua D. Clark and Law Offices of Joshua D. Clark, P.A.
Law Offices of Douglas J. Jeffrey, P.A.
6625 Miami Lakes Drive East, Suite 365
Miami Lakes, Florida 33014
dj@jeffreylawfirm.com

Diran V. Seropian, Esq.,
Counsel for Joshua D. Clark and Law Offices of Joshua D. Clark, P.A.
Shendell & Pollock, P.L.
2700 N. Military Trail, Suite 150
Boca Raton, Florida 33431
Diran@ShendellPollock.com

Charles J. Meltz, Esq.
Counsel for Moran Kidd Lyons Johnson Garcia, P.A
Grower, Ketcham, Eide, Telan & Meltz, P.A.
P.O. Box 538065
Orlando, FL 32853-8065
cjmeltz@growerketcham.com
jclinton@growerketcham.com