IN THE SUPREME COURT
STATE OF MISSOURI

IN RE:	)	
	)	
AL DON TROTTER,	)	**Supreme Court #SC93414**
	)	
Respondent.	)	

RESPONDENT'S AMENDED BRIEF

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT, AL DON TROTTER

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STATEMENT OF JURISDICTION

Jurisdiction over attorney discipline matters is established by Article 5, Section 5 of the Missouri Constitution, Supreme Court Rule 5, this Court's common law, and Section 484.040 RSMo 2000.

SUPPLEMENTAL STATEMENT OF FACTS

Respondent, Don Trotter, believes that some facts in addition to the Statement of Facts submitted by Informant will be helpful to the Court.

The federal court's order, which is a significant part of the background for this disciplinary proceeding, arises from a hearing on a fee dispute among the lawyers who represented Ms. Miess during the case. Supp. Record 087-088. Specifically, Aaron Sachs, Ms. Miess' counsel at the time of the fee dispute hearing, asked the federal court to award his firm the entire attorney fee, despite the sixteen months of work performed by Trotter and Mike Riehn. Stipulation of Fact #41; Supp. Record 087. Prior to the hearing, counsel for Trotter and Riehn sought additional time to conduct discovery given the nature of the claims against them. Supp. Record 080-082. As the matter before the federal court was a fee issue, that request was denied. Supp. Record 097, 099.

In his brief, Informant indicates that Ms. Miess was taking medication on the dates Trotter met with her in the hospital. There is nothing in the record that establishes exactly what or how much medication Ms. Miess was taking at the specific times she met with Trotter. Merely having a prescription for a medication, especially pain medication, does not mean that it is routinely administered or administered at the highest dosage permitted. To those present, including Mark Barton who was the father of one

of her children, and who had been living with Ms. Miess like they were husband and wife, "[s]he was very coherent" and seemed normal to him. App. 43 lines 18-20; App. 55, lines 11 and 21-23. Similarly, Trotter felt she was competent and lucid. App. 36, lines 22-23. Trotter had also been told by the medical staff that Ms. Miess was taking reduced pain killers for medical reasons. App. 50, lines 11-12.

Upon her discharge from the hospital, it is agreed that Ms. Miess was aware of and agreed to the participation of both Trotter and Mr. Riehn for approximately 16 months. App. 10, 30-31; Stipulation of Fact #12 (App. 118).

Trotter does not contest that he did not confirm Riehn's participation in writing. However, Trotter and Riehn fully apprised the clients of their joint participation and the division of fees by work done, to which the clients agreed. Stipulation of Fact #12 (App. 118). Informant acknowledged that there was frequent attorney-client communication. Miess admitted that she knew Riehn and Trotter were her attorneys and had been representing her for a year and a half before she discharged them. App. 30-31. When Trotter met with Miess and Barton to have the contracts signed, he explained Riehn's involvement and that Riehn's fees would come from Trotter's part of the settlement. App. 111, ¶ 6.

Informant, Trotter, and Riehn have agreed that the fee division was to be determined at the end of the case. Stipulation of Fact #12 (App. 118). This would ensure it was commensurate with the work and time each attorney spent on the case. Supp. Record 157-158; 172. This method of fee sharing was specifically approved by, and in keeping with the version of Rule 4-1.5 which had been in place from 1986 to

2007. Stipulation of Fact #15 (App. 119). Specifically, the ethical rule in place until the 2007 amendment stated:

> (e) A division of fee between lawyers who are not in the same firm may be made only if:
>
> (1) the division is in proportion to the services performed by each lawyer **or**, by written agreement with the client, each lawyer assumes joint responsibility for the representation;
>
> (2) the client is advised of and does not object to the participation of all the lawyers involved; and
>
> (3) the total fee is reasonable.

(Emphasis added).

There has been no claim that the fee was unreasonable, and the stipulated facts show both of the other required elements were met. Stipulations of Fact #12, 15 (App. 118-119). The contract used by Trotter was a form contract Trotter inherited from, Mr. Clapper, the lawyer whose practice he assumed in 2002. Stipulation of Fact #10 (App. 118). Unaware of the recent change to the rule, and relying upon the long standing civil contract from Mr. Clapper, the contract did not confirm Ms. Miess' agreement to Riehn's association in writing. The newly modified rule required the client's agreement to the association of counsel to be confirmed in writing. Stipulation of Fact #15 (App. 119). One way to confirm it in writing would have been to include it in the fee agreement. Instead of confirming Miess' agreement in writing, Trotter and Riehn

complied with the text of the former ethical rule which had been in place for the entirety of the time that both Trotter and Riehn had been practicing law.

It is likewise accurate that the contingency fee agreements did not indicate whether the percentage fee would be applied before or after expenses were deducted. However, the clients were advised that expenses would be deducted before the calculation of the fee. Stipulation of Fact #11 (App. 118). There is likewise no claim that Trotter (or Riehn) ever attempted to collect expenses in any method other than explained to the clients.

Trotter and Riehn determined that there was no potential for a cause of action by Ms. Miess against Mr. Barton. They concluded that Mr. Barton had no possible liability since the car he was driving was run over from behind while stopped by a construction flagman. The eyewitness flagman confirmed there was nothing Mr. Barton could have done to avoid being run over. Stipulation of Fact #6 (App. 117). Further, Mr. Sachs, the attorney who took over Ms. Miess' representation did not bring a claim against Mr. Barton, as he likewise determined that Mr. Barton did not do "anything wrong" in regard to the accident. Supp. Record 194-195. Similarly, an attorney for the fathers of the other children testified that they did not bring a claim against Mr. Barton because there "was no evidence of any liability whatsoever, or theory of liability against Mr. Barton." App. 84, line 17 – 85, line 2.

The lawyer for the other fathers of Ms. Miess' children testified, Trotter and Riehn had developed a novel legal theory that resulted in a cause of action against another defendant, Mars. App. 88, lines 6-21.

In regard to the issue of the agreement to split the proceeds between Mr. Barton and Ms. Miess evenly, Trotter understood from the time of engagement that Ms. Miess and Mr. Barton were in complete agreement to split any proceeds evenly. Stipulation of Fact #20 (App. 120). He did not obtain a signed written consent to waive a conflict because he understood that Ms. Miess and Mr. Barton had independently resolved the issue of apportionment. When Trotter arrived they informed him that they were in agreement that they would split their daughter's recovery evenly. App. 111, ¶ 4.

In a wrongful death action, the "individual interests of the beneficiaries become separable only after the indivisible cause of action becomes merged in a judgment." *Teeter v. MHTC*, 891 S.W.2d 817, 819-820 (Mo. 1995). Given the unitary nature of a wrongful death claim, Trotter believed any possible conflict could not arise until the distribution phase, if ever. Stipulation of Fact #22 (App. 120-121). This possible conflict over apportionment did not actually materialize. When the case was finally resolved with new counsel, the division of proceeds by agreement between Ms. Miess and Mr. Barton, which was approved by the Court, was this same 50/50 split. App. 31-32; Stipulation of Fact #23 (App. 121).

The August 17, 2009, letter indicating Ms. Miess wanted to discharge Riehn and Trotter was not sent to Riehn by Ms. Miess. Instead it was faxed from attorney Aaron Sachs. Stipulation of Fact #26 (App. 121-122); App. 70, 107, ¶ 40. Having heard nothing from Ms. Miess about being terminated, Trotter and Mr. Riehn advised they would take no further action, but needed to confirm this was in fact their client's desire. App. 114, ¶ 35. Trotter and Riehn therefore attempted to contact Ms. Miess to confirm

the attached letter was legitimate and that it was in fact her true intention to discharge them. Stipulation of Fact #28 (App. 122).

Two days after the letter from Mr. Sachs was sent, a motion to disqualify containing potentially inflammatory allegations was filed on August 20, 2009. Stipulation of Fact #29 (App. 122). Trotter and Riehn thereafter sought an opinion from Legal Ethics Counsel as to their obligations, and were informed that they remained counsel until the federal court no longer considered them attorneys of record. Stipulation of Fact #30 (App. 122-123); App. 128. Legal Ethics Counsel further advised it was permissible for them to try to contact Ms. Miess to verify her wishes, which again proved unsuccessful. Stipulations of Fact #30-32 (App. 122-123). Once the Court ruled the motion, Trotter and Riehn promptly provided the file, including the prior contracts, to Mr. Sachs. Stipulation of Fact #33 (App. 123).

Finally, in regard to the continued representation of Mr. Barton, neither Trotter nor Riehn felt they had obtained any confidential information that created a conflict with Ms. Miess. Stipulations of Fact #37-38 (App. 124). However, in an effort to further assess their ethical duties, Trotter and Riehn again contacted Legal Ethics Counsel who advised they could continue to represent Barton and allow the District Court to determine whether there was a conflict sufficient for disqualification. Stipulation of Fact #36 (App. 124); App. 129. When the Court ruled the motion, Trotter and Riehn promptly withdrew. Stipulation of Fact #39 (App. 124-125).

Trotter had no further involvement with the wrongful death case until Mr. Sachs, successor counsel for Ms. Miess, filed a "Motion to Vacate "Liens" and Forfeit Attorney

Fees of Attorneys Riehn and Trotter." The motion asked the federal court to vacate Trotter and Riehn's liens and to allow them no attorney fees to compensate them for their representation of Ms. Miess for a year and a half and for developing a novel theory of recovery against an additional defendant. Supp. Record 039, entry #105; Stipulation of Fact #41 (App. 125).

POINT RELIED ON

I.

THE COURT SHOULD DISCIPLINE MR. TROTTER NO MORE SEVERELY THAN PLACING HIM ON PROBATION FOR VIOLATING RULES 4-1.5(c), 4-1.5(e), 4-1.7, AND 4-1.9 BECAUSE:

(A) HE HAS ADMITTED THOSE VIOLATIONS;

(B) A REPRIMAND IS THE APPROPRIATE BASELINE SANCTION FOR MR. TROTTER'S MISCONDUCT IN THIS CASE, UNDER THE ABA SANCTION STANDARDS AND GUIDANCE FROM PREVIOUS DECISIONS OF THIS COURT AND OTHERS;

(C) MR. TROTTER'S DISCIPLINARY HISTORY IS AN AGGRAVATING FACTOR; AND

(D) MITIGATING FACTORS INCLUDE:

(1) MR. TROTTER'S FULL AND FREE DISCLOSURE AND COOPERATIVE ATTITUDE TOWARD PROCEEDINGS;

(2) ABSENCE OF DISHONEST OR SELFISH MOTIVE; AND

(3) IMPOSITION OF OTHER PENALTIES OR SANCTIONS.

ARGUMENT

I.

THE COURT SHOULD DISCIPLINE MR. TROTTER NO MORE SEVERELY THAN PLACING HIM ON PROBATION FOR VIOLATING RULES 4-1.5(c), 4-1.5(e), 4-1.7, AND 4-1.9 BECAUSE:

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(2) ABSENCE OF DISHONEST OR SELFISH MOTIVE; AND

(3) IMPOSITION OF OTHER PENALTIES OR SANCTIONS.

Effect of Federal Court Findings

This Court should not apply collateral estoppel in this case. The parties have entered into a stipulation which Informant concedes makes the issue moot. Even without a stipulation, *In re Caranchini*, 956 S.W.2d 910, 912-913 (Mo. banc 1997),

establishes the factors to consider when considering whether non-mutual collateral estoppel should apply:

> In this regard, four factors should be considered when applying non-mutual collateral estoppel: 1) the identity of the issues involved in the prior adjudication and the present action, 2) whether the prior judgment was on the merits, 3) "whether the party against whom collateral estoppel is asserted was a party or in privity with a party to the prior adjudication," and 4) whether the party had a full and fair opportunity in the prior adjudication to litigate the issue for which collateral estoppel is asserted.

This Court has only the federal court's Order and some of the evidence before that court. It does not have the pleadings framing the issues. It is impossible to determine whether the issues framed by the motion on which the federal court was ruling had the requisite identity with the issues in this disciplinary matter. The motion primarily related to attorney fees. Supp. Record 055, lines 22-23.

Trotter also did not have the required full and fair opportunity to litigate in the motion haring before the federal court. Trotter requested time to do discovery regarding allegations of conflict of interest and other matters that had been raised only two days before the hearing. Supp. Record 080, line 16 – 082, line 1. The federal court was dealing with issues of attorney fees and quantum meruit. Issues of professional conduct were peripheral and it is clear from her comments that Judge Perry did not contemplate that she was ruling on matters that would affect Trotter's license to practice law. The judge chose not to allow Trotter additional time in part because "it would increase the

cost and [Judge Perry saw] no point in continuing it or doing that." Supp. Record 097, lines 12-13. These words reflect that Judge Perry saw the primary issues as related to money and not professional conduct. As a result Trotter was not allowed "a full and fair opportunity" to litigate the issues of professional conduct.

Finally, even if collateral estoppel were to be applied in this case, the doctrine only applies to establish facts found by the federal court, rather than questions of law. *Caranchini at* 912-914.

Effect of Stipulation

In his brief, Informant lists the allegations of rule violations not addressed by the stipulation. Those allegations should be considered dismissed by Informant. Nowhere does the stipulation put Trotter on notice that the allegations of violations not included in the stipulation are still pending. The stipulation only puts Trotter on notice that the joint recommendation for discipline is not binding. App. 113. Although Informant cannot bind this Court as to the disciplinary action to take, it can bind this Court in terms of the allegations before the Court. If Informant believes a violation has occurred and does not include it in an Information, that allegation is not before the hearing panel and therefore is not before this Court. Rule 5.15(b). Similarly, if Informant amends an Information and omits an allegation that was in the original Information, that allegation is no longer before this Court. When a case is submitted to a hearing panel solely on a stipulation that only addresses some of the allegations in the Information, it should be treated as if Informant amended the Information to omit the allegations not addressed.

Rule 4-1.5(c)

Trotter's contingency fee contract did not address the issues related to expenses as required by Rule 4-1.5(c). The evidence, however, is clear this was a simple mistake, and that Trotter was attempting to comply with the Rules. While Trotter had significant trial experience, he did not have significant civil litigation experience. Stipulation of Fact #12 (App. 118). Instead, his experience was primarily in criminal litigation. Because of this, Trotter attempted to comply with the rules by utilizing what he understood was a tried and true long standing civil contract. Trotter had obtained this contract from the civil lawyer whose practice he took over, and felt using this contract would be the most prudent thing to do. Stipulation of Fact #10 (App. 118).

There is no showing of any potential or actual harm. Informant and Trotter agree that Trotter actually explained to Miess and Barton that the expenses would be deducted from the recovery before the calculation of the contingent fee. Stipulation of Fact #11 (App. 118). Trotter and Riehn never got to the point of actually calculating their fee. There is no evidence or even argument they would have calculated the fee in any manner other than explained to the client, which results in the client paying a lower attorney fee. Finally, the fee was determined by the court and the court did not award any expenses to Trotter and Riehn. App. 20.

Although the contracts failed to comply with the requirements of the rule, the client was not harmed in any manner, and there is no evidence or even argument that the client would have ever been harmed by that failure, even if Ms. Miess had never discharged Trotter prior to the settlement. Trotter and Riehn had previously

demonstrated this approach by not taking any expenses or fees from the settlements they obtained for Miess prior to their discharge. Supp. Record 155.

Rule 4-1.5(e)

The then newly revised Rule 4-1.5(e) was misinterpreted throughout the federal case, leading to misinterpretation in this case. It reads:

> (e) A division of a fee between lawyers who are not in the same firm may be made only if:
>
> (1) the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;
>
> (2) the client agrees to the association and the agreement is **confirmed in writing**; and
>
> (3) the total fee is reasonable.

(Emphasis added).

Rule 4-1.5(e) does not require that the client's agreement to the association be included in the fee agreement. The rule only requires that the client's agreement be confirmed in writing. It does not specify the type or nature of the writing. The only technical violation Trotter committed regarding this rule was that he did not confirm in writing to Ms. Miess that she had agreed to association of Riehn in the case. Ms. Miess was very well aware of this association. She communicated with Riehn or his office frequently. App. 64, lines 9-23. It is agreed that Ms. Miess was aware of and fully agreed to the participation of Riehn for the approximate year and a half he worked the case with Trotter. App. 30-31; Stipulation of Fact #12 (App. 118).

This rule does not require anything signed by the client and the client need only agree to the association. The writing is to confirm that the client agrees to the association of the other attorney. Ms. Miess' conduct demonstrates her agreement. This is not a case where another attorney was associated in the background such that the client was unaware of the other attorney's ongoing participation. While Trotter did not confirm the agreement in writing to Ms. Miess, the parties agree that she knew about and confirmed the agreement by her actions. Ms. Miess suffered no possible harm from this error as she was fully on board with the joint representation for the time Trotter and Riehn worked the case. In light of Ms. Miess' full knowledge of Riehn's involvement, there was never any risk of harm to Miess from this technical violation because the actual division of fees between the attorneys does not involve the client. Paragraph 7 of the Comment to Rule 4-1.5 states: "In addition, the client must agree to the association and the agreement must be confirmed in writing. It does not require disclosure to the client of the share that each lawyer would receive." (Emphasis added).

Trotter and Riehn intended to work the case together given the strengths of each. Trotter, with his experience, focused upon the investigation and would be more involved at the actual jury trial portion of the claim. While Trotter had trial experience, he did not have significant civil experience, and he had no experience with civil truck litigation. Supp. Record 087; Stipulation of Fact #12 (App. 118). Mr. Riehn, who had practiced personal injury litigation for many years, was identified and approached about teaming up to secure the best result for the client.

The Rule in effect from 1986 to 2007, the entire time Trotter engaged in the practice of law, stated:

> (e) A division of fee between lawyers who are not in the same firm may be made only if:
>
> (1) the division is in proportion to the services performed by each lawyer **or**, by written agreement with the client, each lawyer assumes joint responsibility for the representation;
>
> (2) the client is advised of and does not object to the participation of all the lawyers involved; and
>
> (3) the total fee is reasonable.

(Emphasis added).

The Rule for over 20 years, therefore, contained no requirement that the client agree to the association of another attorney, for fee sharing purposes, as long as the client was advised, and the fee was based upon the proportion of hours worked by the lawyers. Under that rule there was no need for agreement by the client if the fees were to be split proportional to the work done. Under that version of the rule, it was only necessary to advise the client. Trotter and Riehn would not have needed to put anything in writing under the previous version because they were splitting the fees proportionally.

The agreed facts are that the fee would be based upon the amount of work each lawyer did on the case. Supp. Record 157-158, 172; Stipulation of Fact #12 (App. 118). It is likewise agreed that the clients were advised and did not object to the participation of both Trotter and Riehn. Stipulation of Fact #12 (App. 118). Finally, there is no claim

the contracted fee was not reasonable. In fact, the fee charged by Mr. Sachs' office was higher than that charged by Trotter. Supp. Record 107.

When he learned of the error, Trotter conceded this technical violation. This oversight was clearly not an intentional or serious violation as the prior rule was followed. In effect, the technical violation was following the procedure in place and expressly declared the ethical thing to do, for the last twenty years prior to the engagement.

The Rules of Professional Conduct are rules of reason. Rule 4-Scope, ¶ 1. There is no reason to discipline Trotter for this technical oversight.

Rule 4-1.7

Rule 4-1.7(b)(4) requires that, in order to waive a conflict, "each affected client gives informed consent, confirmed in writing." Trotter did not obtain informed consent, confirmed in writing. Once again, the failure to confirm the consent in writing is Trotter's major error regarding any potential conflict regarding apportionment.

Ms. Miess and Mr. Barton had already independently agreed on apportionment when Trotter met them. App. 111, paragraph 4. Trotter went over everything with them. App. 39, line 16 – App. 40, line 18. The fact that Ms. Miess asked Mr. Riehn to check with Mr. Barton to see if he would agree to a 60/40 apportionment instead of 50/50 does not show that a conflict has developed. Merely asking someone with whom you have made an agreement to change the terms of the agreement does not mean there is a conflict. Riehn passed along Ms. Miess' request to change from 50/50 to 60/40 and Mr. Barton declined. After that, Ms. Miess reaffirmed the 50/50 agreement. App. 41,

line 13 – App. 42, line 4. Indeed, at the conclusion of the case when Mr. Sachs was representing Ms. Miess, the fee split was the same 50/50 as agreed. Supp. Record pp. 111-112; Stipulation of Fact #23 (App. 121).

Trotter understood the agreement or consent regarding apportionment was in place. It just was not confirmed in writing.

Rule 4-1.9

Trotter's violation of Rule 4-1.9 is derivative from his violation of Rule 4-1.7. If the apportionment agreement that Ms. Miess and Mr. Barton had reached independently had been confirmed in writing, it would have documented the elimination of any potential adversity related to the apportionment phase. Nothing in the record shows that Trotter believed that the 50/50 agreement between Ms. Miess and Mr. Barton was no longer in place. Trotter believed that potential conflict had been resolved. Stipulations of Fact #22-23 (App. 120-121).

It would have been better if Trotter had confirmed that agreement in writing after Ms. Miess discharged him, since he didn't document it before. Nevertheless, based on the information Trotter had at the time, Trotter did not believe there was a conflict or potential conflict involving apportionment that would require waiver or withdrawal.

ABA Sanction Analysis

Informant has adequately addressed the application of the ABA Standards to the allegations of flawed fee agreements and conflicts of interest. Informant's analysis shows that a reprimand is the appropriate baseline sanction for Trotter's conduct. Informant has presented the appropriate analysis in his brief regarding Missouri cases

and cases from other states, which also leads to the conclusion that a reprimand is the appropriate baseline discipline for Trotter's conduct.

Mitigating Circumstances

The following mitigating factors found in ABA Standards for Imposing Lawyer Sanctions (1991 ed.), Standard 9.32, apply in this case:

* * * *

(b) absence of a dishonest or selfish motive;

* * * *

(e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;

* * * *

(k) imposition of other penalties or sanctions;

Trotter demonstrated his lack of dishonest or selfish motive by seeking ethical advice regarding his conduct on two occasions. App. 128-130. Trotter's misconduct was not calculated to result in personal gain. As acknowledged by Informant's brief, Trotter cooperated in the disciplinary investigation and acknowledged his misconduct.

Trotter and Riehn have suffered other penalties or sanctions. The federal court penalized Trotter and Riehn for failing to address expenses in the fee agreement by awarding no expenses to Trotter and Riehn and awarding Trotter and Riehn a relatively low percentage fee recovery of 8%, in light of the value they provided to Ms. Miess by developing a novel theory of recovery against Mars. Trotter (and Riehn) have therefore

suffered the typical punishment of those who make an error in their contract regarding expenses; they lost their ability to recover all expenses they had advanced.

Aggravating Factor

ABA Standard 9.2 establishes that prior disciplinary offenses are an aggravating factor. Trotter has been disciplined before. Even if Trotter's prior discipline warrants discipline more than a reprimand in this case, the discipline recommended by the parties and the Disciplinary Hearing Panel is the most that this Court should impose. That recommendation is that Trotter be placed on probation for a period of two years, with various conditions. App. 127, 131.

Trotter has agreed to accept a probationary term although a reprimand would also be an appropriate sanction in light of the timing of Trotter's prior misconduct. Trotter became involved in the Miess case in March 2008. The majority of the conduct addressed in the stipulation in this case occurred at that time.

Trotter received three admonitions in 2009 and a reprimand in 2012. The record does not establish the dates of Trotter's conduct that led to these actions. In light of the time needed for complaint processing and investigation, it is reasonable to conclude that Trotter's conduct that led to the admonitions and reprimand occurred at about the same time as the conduct addressed in the stipulation in this case.

Trotter is not an attorney who was disciplined and then just continued a pattern and course of misconduct. "The purpose of probation is to educate, rehabilitate, and supervise the attorney in order to enable the attorney to modify his or her professional behavior." *In re Ehler,* 319 S.W.3d 442, 452 (Mo. banc 2010). In Trotter's

circumstances, probation is not required but he has acknowledged that it may be appropriate and has agreed to accept probation on that basis. Trotter's conduct does not warrant discipline any greater than that to which he has agreed.

CONCLUSION

Trotter asks this Court to discipline him in a manner no more severe than the two year probation agreed by Informant and Respondent Trotter and recommended by the Disciplinary Hearing Panel.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of October, 2013, a true and correct copy of the foregoing was served via the electronic filing system pursuant to Rule 103.08 on: Sam S. Phillips, Attorney for Informant.

Sara Rittman

CERTIFICATION: RULE 84.06(c)

I certify to the best of my knowledge, information and belief, that this brief:

1. Includes the information required by Rule 55.03;

2. Complies with the limitations contained in Rule 84.06(b);

3. Contains 4,801 words, according to Microsoft Word, which is the word processing system used to prepare this brief.

Sara Rittman