

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
Case Type: Malpractice
Judge Marilyn Brown Rosenbaum
File No. 27 CV-09-22301

Rockwood Retaining Walls, Inc.;
Raymond R. Price; Gerald P. Price;
GLS Industries, Inc.; and Equipment, Inc.,

AMENDED COMPLAINT

Plaintiffs,

v.

Patterson, Thunte, Skaar & Christensen, P.A.,

Defendant.

COME NOW PLAINTIFFS, who for their complaint against defendant, complain and allege as follows:

1. During all times referred to herein defendant is a professional association of attorneys at law.
2. From and after November 10, 2000 and during all times referred to herein, defendant contracted to, and undertook to, represent plaintiffs, and each of them, in an action (hereinafter referred to as "The Action") brought against them by Anchor Wall Systems, Inc. (hereinafter referred to as "Anchor.") During the course of the parties' attorney/client relationship, pursuant to their retainer agreement, plaintiffs paid defendants the sum of \$3,870,337 as and for attorney fees and disbursements.
3. During the course of the parties' attorney/client relationship, defendant departed from the standard of care and negligently represented plaintiffs' interests in The Action.

4. Defendant's departure from the required standard of care was in breach of the parties' agreement.

5. As examples of defendant's departure from the standard of care, but not in limitation thereof, defendant:

- failed to comply with applicable discovery rules, resulting in a pretrial court order prohibiting plaintiffs from offering evidence in support of a defense;
- failed properly to defend against Anchor's claim of inducement infringement;
- failed to supply competent litigation counsel to replace a partner of defendant who departed the firm;
- failed adequately to prepare certain witnesses for trial; and
- failed to offer any evidence to counter Anchor's evidence of damages, notwithstanding plaintiff's expressed instructions to do so.

6. As a direct result of defendant's negligence, judgment was awarded Anchor and against plaintiffs, and each of them, in The Action in the sum of \$24,185,484.

7. But for defendant's conduct aforescribed, plaintiffs would have successfully defended against The Action, or the result of the litigation would have been more favorable to plaintiff than it in fact was.

8. In an effort to mitigate plaintiffs' damages, after first providing notice to defendant, they entered into a settlement agreement with Anchor under the terms of which, *inter alia*, plaintiffs agreed to pay to Anchor in consideration for a satisfaction of the above judgment a confidential sum, plus escrowed sum in an additional amount, and plus certain sums from international business and future royalties. In order to compensate Anchor and to satisfy Anchor's judgment against plaintiffs, plaintiffs were compelled to borrow a sum of money at 7%

interest *per annum* for a term of 15 years, a loan and interest obligations that plaintiffs would not otherwise have incurred.

9. As a result of an adverse injunction in The Action, directly resulting from defendant's departure from the standard of care, Plaintiff Rockwood sustained loses in excess of \$1.7 million

10. As a direct and proximate result of defendant's negligence, and as a result of defendant's breach of its contract with plaintiffs, plaintiffs have suffered damages in an amount in excess of \$50,000.

WHEREFORE, plaintiffs demand judgment against defendant in an amount in excess of \$50,000, the exact amount and allocation to be proved at trial, together with interest thereon and plaintiffs' costs and disbursements herein

September 14, 2009

/s/ Phillip Gainsley
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ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. §549.211 to the party against whom the allegations in this pleading are asserted.

Phillip Gainsley