

93285087

CASE NO.

70 17

Part \_\_\_\_\_ of \_\_\_\_\_ Parts

In The Circuit Court for Baltimore City  
**CIVIL**

In the Matter of

RICHARD SHOFER, ETAL  
VS.  
BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

TC  
121133

(21)  
PD

RICHARD SHOFER, et al  
Plaintiffs/Counter-Defendants  
v.  
BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P. A.  
Defendant/Counter-Plaintiff

\*  
\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No. 93285087/CL 171133

FEB 27 1995

CIRCUIT COURT FOR  
BALTIMORE CITY

\* \* \* \* \*

STIPULATION OF DISMISSAL WITH PREJUDICE OF COMPLAINT

The undersigned, who represent all parties who appeared in this case, stipulate that the Complaint in the above captioned case is DISMISSED WITH PREJUDICE. The Counter-Complaint by Blum, Yumkas, Mailman, Gutman & Denick, P. A. is not dismissed, and a Consent Judgment in the Counter-Suit is being filed simultaneously with this Stipulation.



Thomas H. Bornhorst  
2236 Southland Road  
Baltimore, Maryland 21207  
(410) 298-2265  
Attorney for Plaintiffs



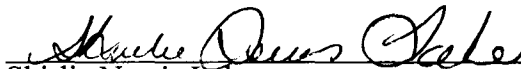
Richard Shofer, Individually

CATALINA ENTERPRISES, INC.

By:   
Richard Shofer, President

CATALINA ENTERPRISES PENSION TRUST

By:   
Richard Shofer, Sole Trustee



Shirlie Norris Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
729 E. Pratt Street  
7th Floor - Scarlett Place  
Baltimore, Maryland 21202  
(410) 752-7474  
Attorneys for Defendant

pd-

Richard Shoten et al.

Plaintiff(s) and  
Counter-Defendants

IN THE  
Circuit Court  
For  
Baltimore City

v.

Blum, Yunkas, Mailman,

Gulman Defendant(s) and  
a Denick, P.A. Counter-Plaintiff

File No. 93285087/  
CL171133

SETTLEMENT ORDER

TO THE CLERK:

Please enter this case Agreed and Settled, costs to be paid by Plaintiffs

The parties agree that if costs and damages have not been paid within thirty (30) days from today's date, judgment will be entered for \_\_\_\_\_ against \_\_\_\_\_

in the amount of \_\_\_\_\_; or

The parties agree that if costs have not been paid within thirty (30) days from today's date, judgment for costs will be entered against Plaintiffs.

This settlement is subject to approval by \_\_\_\_\_, but the entry of judgment is not. Judgment will be entered in 30 days unless notice is filed that such approval has been denied.

and as President of Catalina Enterprises Inc  
and Trustee of Catalina Enterprises, Inc  
Plaintiff(s) Pension TRUST

[Signature]  
Attorney(s) for Plaintiff(s) and Counter-Defendants

[Signature]  
Blum, Yunkas, Mailman, Gulman, Denick, P.A.  
Defendant(s)

[Signature]  
Eccleston and Wolf  
Attorney(s) for Defendant(s) and Counter-Plaintiff

Enter judgment pursuant to agreement of the parties.

Date: Feb. 25, 1995

[Signature]  
Judge

CIRCUIT COURT CITY DATE PRINTED / /

*Heller*

COURTROOM CLERK .....

STENOGRAPHER .....

ASSIGNMENT FOR: *2/25/95*

CASE NUMBER - *93285087*  
CASE TITLE - *Shofer, et al. v. Blum, Gunkas, et al* *CL 171133*  
CATEGORY - *Other Tort*  
PROCEEDING - *Pre-Trial Conf*

DEFENSE ATTORNEY -  
PLAINTIFF ATTORNEY -

TYPE OF PROCEEDING: ( JURY) ( NON-JURY) ( )

DISPOSITION: (CHECK ONE)

- (  ) SETTLED ( ) CANNOT ( ) COURT ( )
- ( ) VERDICT ( ) REMANDED ( ) NON PROS/DISMISSED
- ( ) JUDGEMENT ( ) VER/DECREE SIGNED ( ) OTHER
- ( ) JUDGEMENT ABSOLUTE ( ) VER/DECREE T SIGNED PLEASE EXPLAIN:
- ( ) POSTPONED ( ) MOTION GRANTED
- ( ) SUB CURIA ( ) MOTION ( )

JUDGE SIGNATURE *Heller* DATE *2/27/95*

CIRCUIT COURT BALTIMORE CITY DATE PRINTED

PRESIDING JUDGE *He...*

COURTROOM CLERK

STENOGRAPHER

ASSIGNMENT FOR: *2/25/95*

CASE NUMBER - *43285007*  
CASE TITLE -  
CATEGORY -  
PROCEEDING -

DEFENSE ATTORNEY -  
PLAINTIFF ATTORNEY -

TYPE OF PROCEEDING: ( JURY) (NON-JURY) (OTHER)

DISPOSITION: (CHECK ONE)

- (  ) SETTLED ( CANNOT SETTLE) ( COURT ORDER)
- ( VERDICT) ( REMANDED) (NON PROS/DISMISSED)
- ( JUDGEMENT NISI) ( ORDER/DECREE SIGNED) ( OTHER)
- ( JUDGEMENT ABSOLUTE ( ER/DEGREE T SIGNED) PLEASE EXPLAIN:
- ( POSTPONED) ( MOTION GRANTED)
- ( SUB CURIA) ( MOTION DENIED)

JUDGE SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

CIRCUIT COURT BALTIMORE CITY DATE PRINTED / /

PREPARED BY .....

COURTROOM CLERK .....

STENOGRAPHER .....

ASSIGNMENT FOR: [REDACTED]

CASE NUMBER -  
CASE TITLE -  
CATEGORY -  
PROCEEDING -

DEFENSE ATTORNEY -  
PLAINTIFF ATTORNEY -

TYPE OF PROCEEDING: ( JURY) ( NON-JURY) ( OTHER)

DISPOSITION: (CHECK ONE)

- (  SETTLED) ( CANNOT SETTLE) ( NEXT COURT)
- ( VERDICT) ( REMANDED) ( NON PROS/DISMISSED)
- ( JUDGEMENT NISI) ( ORDER/DECREE SIGNED) ( OTHER)
- ( JUDGEMENT ABSOLUTE) ( ORDER/DECREE SIGNED) ( PLEASE EXPLAIN: )
- ( POSTPONED) ( MOTION GRANTED)
- ( ) ( MOTION DENIED)

JUDGE SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

CIRCUIT COURT FOR BALTIMORE CITY

DATE PRINTED / /

PRESIDING JUDGE .....

COURTROOM CLERK .....

STENOGRAPHER .....

ASSIGNMENT FOR:

CASE NUMBER -  
CASE TITLE -  
CATEGORY -  
PROCEEDING -

DEFENSE ATTORNEY -  
PLAINTIFF ATTORNEY -

TYPE OF PROCEEDING: (  ) JURY (  ) NON-JURY (  ) OTHER

DISPOSITION: (CHECK ONE)

- (  ) SETTLED (  ) CANNOT SETTLE (  ) NEXT COURT DATE
- (  ) VERDICT (  ) REMANDED (  ) NON PROS/DISMISSED
- (  ) JUDGEMENT NISI (  ) ORDER/DECREE SIGNED (  ) OTHER
- (  ) JUDGEMENT ABSOLUTE (  ) ORDER/DECREE TO BE SIGNED
- (  ) POSTPONED (  ) MOTION GRANTED
- (  ) SUB CURIA (  ) MOTION DENIED

PLEASE EXPLAIN:

JUDGE SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

PRESIDING JUDGE .....

COURTROOM CLERK .....

STENOGRAPHER .....

A

ASSIGNMENT FOR THURSDAY FEBRUARY 09, 1995 P33

CASE NUMBER - 93285087  
CASE TITLE - SHOFR, ETAL VS BLUM, YUMKAS, ETAL CL171133  
CATEGORY - OTHER TORT  
PROCEEDING - PRE-TRIAL CONFERENCE

CL

LAKE, SHIRLIE  
KOZLOWSKI, MARK ANTHONY  
BORNHORST, THOMAS

DEFENSE ATTORNEY  
DEFENSE ATTORNEY  
PLAINTIFF ATTORNEY

752-7474  
752-7474  
298-2265

*Stipulation of Dismissal  
to be filed by 2/17/95.  
Settlement placed on record.*

OF PROCEEDING: ( \_\_\_ ) JURY ( \_\_\_ ) NON-JURY ( \_\_\_ ) OTHER

DISPOSITION (CHECK ONE)

- (  ) SETTLED ( \_\_\_ ) CANNOT SETTLE ( \_\_\_ ) NEXT COURT DATE
- ( \_\_\_ ) VERDICT ( \_\_\_ ) REMANDED ( \_\_\_ ) NON PROS/DISMISSED
- ( \_\_\_ ) JUDGEMENT NISI ( \_\_\_ ) ORDER/DECREE SIGNED ( \_\_\_ ) OTHER
- ( \_\_\_ ) JUDGEMENT ABSOLUTE ( \_\_\_ ) ORDER/DECREE ( \_\_\_ ) PLEASE EXPLAIN:
- ( \_\_\_ ) POSTPONED ( \_\_\_ ) MOTION GRANTED
- ( \_\_\_ ) SUB CURIA ( \_\_\_ ) MOTION DENIED

JUDGE SIGNATURE *Allen*

DATE *2/9/95*



**CIVIL POSTPONEMENT FORM**

DATE: 1/31/95

Plaintiff(s)

*Shofer*

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY

(202)

v.

Defendant(s)

*Blum, Yankas*

Computer #: 93285087

File #: CL171133

Jury  CT. \_\_\_\_\_ CTF. \_\_\_\_\_ MOT.  GEN.  2-507

DOMESTIC JUDGE: \_\_\_\_\_ DOMESTIC MASTER: \_\_\_\_\_

**PLEASE PRINT**

To be postponed from: DATE: PTCO 2/9/95 *pt. 33 at 11:00* PRIOR POSTPONEMENTS: Y  N

Postponement requested by: \_\_\_\_\_

Postponement reason: (please specify):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff(s) Attorneys: <i>Thomas Bernkorst</i>	Defendant(s) Attorneys: <i>Shirley Lake</i>

New Trial Date: PTCO 2/9/95 Pt. 3 2:00  
Approved:  Denied: \_\_\_\_\_ : *[Signature]*  
(JUDGE'S SIGNATURE)

PRESIDING JUDGE .....

COURTROOM CLERK .....

STENOGRAPHER .....

ASSIGNMENT FOR THURSDAY FEBRUARY 19, 1995 P33

CASE NUMBER - 9520087

CASE TITLE - SHOFR, ETAL VS BLUM, YUMKAS, ETAL CL171133

CL

CATEGORY - OTHER TORT

PROCEEDING - PRE-TRIAL CONFERENCE

LAKE, SHIRLIE  
KOZLOWSKI, MARK ANTHONY  
BORNHORST, THOMAS

DEFENSE ATTORNEY 752-7474  
DEFENSE ATTORNEY 752-7474  
PLAINTIFF ATTORNEY 298-2265

*Wahl*

TYPE OF PROCEEDING: ( ) JURY ( ) NON-JURY ( ) OTHER

DISPOSITION (CHECK ONE)

- ( ) SETTLED ( ) CANNOT SETTLE ( ) NEXT COURT
- ( ) VERDICT ( ) REMANDED ( ) NON PROS/DISMISS
- ( ) JUDGEMENT NISI ( ) ORDER/DECREE SIGNED ( ) OTHER
- ( ) JUDGEMENT ABSOLUTE ( ) ORDER/DECREE TO BE STAYED PLEASE EXPLAIN:
- ( ) POSTPONED ( ) MOTION GRANTED
- ( ) SUB CURIA ( ) MOTION DENIED

SIGNATURE \_\_\_\_\_

ASSIGNING JUDGE .....

COURTROOM CLERK .....

STENOGRAPHER .....

ASSIGNMENT FOR THURSDAY FEBRUARY 09, 1995 P33

NUMBER - 9-0007

TITLE - ...ER, ETAL VS BLUM, YUMKAS, ETAL CL171133

CL

CATEGORY - OTHER  
PROCEEDING - ...

LAKE, SHIRLIE  
KOTLOWSKI, MARK AL  
HORST, THOMAS

PROSECUTOR  
DEFENSE ATTORNEY  
PLAINTIFF ATTORNEY

752-7474  
752-7474  
298-2265

PROCEEDING (\_\_\_\_ JURY) (\_\_\_\_ BY) (\_\_\_\_ OTHER)

DISPOSITION (\_\_\_\_)

SETTLED (\_\_\_\_) CANONICAL (\_\_\_\_)

VERDICT (\_\_\_\_) (\_\_\_\_) (\_\_\_\_) NON PROS/DISMIS

(\_\_\_\_) JUDGEMENT NISI (\_\_\_\_) ORDER/DECREE SIGNED (\_\_\_\_) OTHER

(\_\_\_\_) JUDGEMENT RESOLUTION (\_\_\_\_) (\_\_\_\_) PLEASE EXPLAIN:

(\_\_\_\_) POSTPONED (\_\_\_\_) MOTION

(\_\_\_\_) SUB CURIA (\_\_\_\_) MOTION



File  
RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY  
95 JAN 24 PM 3:42  
CIVIL DIVISION

RICHARD SHOFER, et al. \* IN THE  
Plaintiffs/Counter-Defendants \* CIRCUIT COURT  
v. \* FOR  
BLUM, YUMKAS, MAILMAN \* BALTIMORE CITY  
GUTMAN & DENICK, P.A. \*  
Defendant/Counter-Plaintiff \* Case No: 93285087/CL171133  
\* \* \* \* \*

**SETTLEMENT STATEMENT**

Blum, Yumkas, Mailman, Gutman & Denick, P.A. ("Blum, Yumkas"), Defendant/Counter-Plaintiff, by its counsel, Shirlye Norris Lake, Mark Anthony Kozlowski and Eccleston and Wolf, pursuant to the Court's request, submits the following Settlement Statement:

**I. INTRODUCTION/BACKGROUND**

The remaining portion of the action currently pending before the Court is the Counter-Plaintiff's Counter-Claim in the amount of \$62,427.78. This claim arises out of the legal representation provided by Blum, Yumkas, Mailman, Gutman & Denick, P.A. to Mr. Shofer and Catalina Enterprises in a separate action entitled Richard Shofer, et al. v. Stuart Hack Co., et al., Circuit Court for Baltimore City, Case No. 88102069/CL7993 ("Hack Litigation"). Those services were rendered from 1988 through and including 1992. The Hack Litigation is still pending before this Court.

Currently, the Counter-Claim is scheduled to be heard, at trial, on March 9, 1995.

**II. SETTLEMENT NEGOTIATIONS**

Current Demand:

Counter-Plaintiff Blum, Yumkas' current demand is as follows:

1. A total settlement of \$30,000.00;
2. Mr. Shofer pays \$10,000.00 in cash to Blum, Yumkas upon settlement;
3. \$20,000.00 be paid from the proceeds of any settlement or verdict in the

Hack Litigation;


4. Execution of a Consent Judgment and an assignment of proceeds by Mr. Shofer in Catalina Enterprises in the amount of \$20,000.00;

5. That, in the event Mr. Shofer, individually, and/or Catalina Enterprises, Inc., fail to reach a settlement with Hack or lose the litigation, or if Blum, Yumkas is unable to collect the full \$20,000.00 from such monies as may be paid or payable by Hack or on his behalf to Mr. Shofer, individually and/or Catalina Enterprises, Inc., then Blum, Yumkas will be entitled to execute on its Consent Judgment, to the extent of the deficiency, by attaching any and all assets of Mr. Shofer, individually, and/or Catalina Enterprises, Inc. and;

6. Mr. Shofer and Blum, Yumkas will execute Mutual General Releases and a Stipulation of Dismissal With Prejudice of the Complaint and Counter-Claim in above captioned case.

Current Offer:

Richard Shofer's current offer is that he will agree to execute a judgment in his own name only in the amount of \$25,000.00, payable \$1,000.00 per month, without interest, beginning in April 1995. Additionally, Mr. Shofer has indicated that he would "give priority" to a lien of Blum, Yumkas against any proceeds from a settlement or judgment in Shofer v. Hack, and that the lien can retain its priority so that any settlement balance would be due immediately in the event that proceeds from settlement and/or judgment are available subsequent to March 31, 1995.

  
\_\_\_\_\_  
Shirlie Norris Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460  
(410) 752-7474

Attorneys for Defendant/Counter Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24<sup>th</sup> day of January, 1995, a copy of the foregoing Settlement Statement was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207.

  
\_\_\_\_\_  
Mark Anthony Kozlowski

Law Offices  
**Eccleston and Wolf**  
Professional Corporation

(410) 752-7474  
FAX (410) 752-0611

7TH FLOOR, SCARLETT PLACE  
729 E. PRATT STREET  
BALTIMORE, MARYLAND 21202-4460

SUITE 450  
1750 K STREET, N. W.  
WASHINGTON, D. C. 20006-2300  
(202) 857-1696  
FAX (202) 857-0762

MARK ANTHONY KOZLOWSKI

January 24, 1995

**HAND DELIVERED**

Honorable Ellen M. Heller,  
Circuit Court for Baltimore City  
111 North Calvert Street  
Courthouse East  
Baltimore, Maryland 21202

**RE:** Shofer, et al. v. Blum, Yumkas, Mailman,  
Gutman & Denick, P.A.  
Case No: 93285e87/CL171133

Dear Judge Heller:

Pursuant to your instructions at the recent status conference before you, Blum, Yumkas, Mailman, Gutman & Denick, P.A., Counter-Plaintiff, is submitting its Settlement Statement for your consideration at the upcoming settlement conference on Monday, January 30, 1995 at 8:30 a.m.

Thank you.

Very truly yours,

ECCLESTON AND WOLF

By: Mark Anthony Kozlowski  
Mark Anthony Kozlowski

MAK/cgg  
Enclosure

cc: Lloyd Mailman, Esquire  
Thomas Bowden, Esquire  
Thomas H. Bornhorst, Esquire

JAN 24 1995



RICHARD SHOFER, et al.  
Plaintiffs / Counter-Defendants

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

Defendant / Counter-Plaintiff

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\*  
\* Case No: 93285087 / CL 171133

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY  
1994 DEC 29 P 1:59  
CIVIL DIVISION

\* \* \* \* \*

PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS  
FOR FAILURE TO PROVIDE DISCOVERY  
AND  
REQUEST FOR HEARING

Plaintiffs, by counsel, respond to Defendant's Motion to Dismiss and state:

1. Defendant's Motion to Dismiss is redundant, having been previously filed and ruled on by Judge Noel under his Order of November 28, 1994.

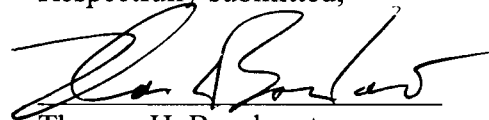
2. Under Judge Noel's Order the plaintiff's claims were dismissed (without prejudice by the nature of that ruling), plaintiffs thereby electing not to pursue their claims against the defendant by allowing the 15-day grace period in the Order of 11/28/94 to expire.

3. While the defendant now seeks a dismissal of Plaintiffs' claims with prejudice, the present motion itself is moot, in that there are presently no viable claims to dismiss (unless Judge Noel's order is given no force and effect, while the defendant's instant motion argues in favor of its effectiveness, presenting no clear grounds for further action by this court under the circumstances).

4. The only open issues in this case concern the conduct of the defendant's counterclaim and plaintiff's defenses, motions concerning which are set for hearing on 1/5/95.

WHEREFORE, Plaintiffs urge that Defendant's instant motion to dismiss is moot.

Respectfully submitted,



Thomas H. Bornhorst  
2236 Southland Rd.  
Baltimore, MD 21207  
(410) 298-2265  
Attorney for Plaintiffs

REQUEST FOR HEARING

Plaintiffs request a hearing on Defendant's Motion to Dismiss for failure to provide discovery, noting there is a motions hearing presently set in this case for January 5, 1995.



Thomas H. Bornhorst  
2236 Southland Rd.  
Baltimore, MD 21207  
(410) 298-2265  
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Plaintiff's Response to Defendant's Motion to Dismiss for Failure to Provide Discovery, and Request for Hearing, was mailed first class, postage prepaid, this 29 day of December, 1994, to:

Shirlie N. Lake, Esq.  
ECCLESTON & WOLF  
7th Floor, Scarlett Place  
729 E. Pratt St.  
Baltimore, MD 21202-4460  
Counsel for Defendant, Blum, Yumkas, et. al.



Thomas H. Bornhorst

SHOFER, ETAL VS BLUM, YUNKAS, ETAL CL171133

THIS IS TO REMIND YOU THAT THE ABOVE CASE IN WHICH YOU APPEAR  
AS DEFENSE ATTORNEY IS SCHEDULED FOR PRE-TRIAL CONFERENCE AND TRIAL  
ON THE DATES SET FORTH BELOW.

ALL COUNSEL, THEIR CLIENTS AND INSURANCE REPRESENTATIVES MUST ATTEND  
THE PRE-TRIAL CONFERENCE IN PERSON. FAILURE TO ATTEND WITHOUT PRIOR APPROVAL  
OF THE COURT CAN RESULT IN SANCTIONS.

JOSEPH H. H. KAPLAN  
ADMINISTRATIVE JUDGE

LAKE, SHIRLIE  
7TH FLOOR  
729 EAST PRATT STREET  
BALTIMORE MD 21202

PRE-TRIAL  
CONFERENCE:  
DATE: 02/09/95  
TIME: 11:00 AM  
PLACE: ROOM 509 PART P33  
COURTHOUSE EAST  
111 N. CALVERT STREET  
BALTIMORE, MD. 21202

TRIAL:  
DATE: 03/09/95  
TIME: 09:30 AM  
PLACE: ROOM 219 PART  
COURTHOUSE WEST  
100 N. CALVERT STREET  
BALTIMORE, MD. 21202

\*\*\*\*\* THIS NOTICE OF THE DATE, TIME, AND LOCATION OF EVENTS  
ALL PREVIOUS NOTICES. \*\*\*\*\*

2/08/94

SHOFFER, AL VS BLUM, YUMKAS, ETAL CL171133

THIS IS TO REMIND YOU THAT THE ABOVE CASE IN WHICH YOU APPEAR AS DEFENSE ATTORNEY IS SCHEDULED FOR PRE-TRIAL CONFERENCE AND FOR TRIAL ON THE DATES SET FORTH BELOW.

ALL COUNSEL, THEIR CLIENTS AND INSURANCE REPRESENTATIVES MUST ATTEND THE PRE-TRIAL CONFERENCE IN PERSON. FAILURE TO ATTEND WITHOUT PRIOR APPROVAL OF THE COURT CAN RESULT IN SANCTIONS.

JOSEPH H. H. KAPLAN  
ADMINISTRATIVE JUDGE

	PRE-TRIAL CONFERENCE:		TRIAL:
LOWSKI, ANTHONY	DATE: 02/09/95		DATE: 03/09/95
3 FLOOR, 111 N. CALVERT PLACE	TIME: 11:00 AM		TIME: 09:30 AM
729 E. PRATT ST.	PLACE: ROOM 508 PART P33		PLACE: ROOM 219 PART
BALTIMORE MD 212024460	COURTHOUSE EAST		COURTHOUSE WEST
	111 N. CALVERT STREET		100 N. CALVERT STREET
	BALTIMORE, MD. 21202		BALTIMORE, MD. 21202

\*\*\*\*\* THIS NOTICE SUPERCEDES ALL PREVIOUS NOTICES. \*\*\*\*\*  
THE DATE, TIME, AND LOCATION OF EVENTS

12/08/94

SHOFF VS BLUM, YUMKAS, ETAL CL171133

THIS IS TO REMIND YOU THAT THE ABOVE CASE IN WHICH YOU APPEAR  
AS PLAINTIFF ATTORNEY IS SCHEDULED FOR PRE-TRIAL CONFERENCE AND FOR TRIAL  
ON THE DATES SET FORTH BELOW.

ALL COUNSEL, THEIR CLIENTS AND INSURANCE REPRESENTATIVES MUST ATTEND  
THE PRE-TRIAL CONFERENCE IN PERSON. FAILURE TO ATTEND WITHOUT PRIOR APPROVAL  
THE COURT CAN RESULT IN SANCTIONS.

JOSEPH H. H. KAPLAN  
ADMINISTRATIVE JUDGE

BORNHORST, THOMAS  
2236 SOUTHLAND RD.  
BALTIMORE MD 21207

PRE-TRIAL  
CONFERENCE:

DATE: 02/09/95  
TIME: 11:00 AM  
PLACE: ROOM 508 PART P33  
COURTHOUSE EAST  
111 N. CALVERT STREET  
BALTIMORE, MD. 21202

TRIAL:

DATE: 03/09/95  
TIME: 09:30 AM  
PLACE: ROOM 219 PART  
COURTHOUSE WEST  
100 N. CALVERT STREET  
BALTIMORE, MD. 21202


\*\*\*\*\* THIS NOTICE OF THE DATE, TIME, AND LOCATION OF EVENTS  
ALL PREVIOUS NOTICES. \*\*\*\*\*



Motion to Consolidate the Hack Litigation with the instant professional negligence case. At that juncture, this Court specially assigned the Hack Litigation to the Honorable Ellen Hollander.

4. As this Defendant believed no ground supported any request for potential consolidation of the two litigations, an Opposition was submitted to the Court detailing the grounds which did not support a consolidation. In that Opposition, a copy of which is attached as Exhibit 2, at page 4, this Defendant explained to the Court that the professional negligence case was only recently filed, involved separate issues apart from the Hack Litigation, and that Blum, Yumkas had filed a Counter-Claim for its legal fees. The Opposition was forwarded to Thomas Bornhorst, counsel for the Plaintiffs on May 6, 1994. There is no dispute, apparently, that Mr. Bornhorst received a copy of the Opposition and, accordingly, having reviewed its contents, should have been aware of the existence of the Counter-Claim, even assuming he did not receive a copy of the same at the time of its initial filing. Indeed, subsequently, Mr. Bornhorst appeared before Judge Hollander at an extensive motions hearing to argue against a Motion for Summary Judgment submitted by the Hack Defendants as well as comment upon the Hack Defendants' Motion to Consolidate.

5. Mr. Bornhorst, counsel for the Plaintiffs, now seeks the Court's approval of extending the discovery deadlines and trial dates as a result of his alleged failure to receive the Counter-Claim. Even assuming he did not receive the Counter-Claim when mailed to him in April of this year, Plaintiff's counsel has been on notice of the Counter-Claim since early May of 1994 when he received Defendant's Opposition to the Motion to Consolidate. As a consequence thereof, there is no reason for the Court to extend the scheduled trial date or the discovery deadline which has already been extended once as a result of Plaintiff's failure to provide discovery.



---

Shirlie Norris Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460  
(410) 752-7474

Attorneys for Defendant/Counter Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14<sup>th</sup> day of December, 1994, a copy of the foregoing Opposition was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207.

  
\_\_\_\_\_  
Mark Anthony Kozlowski





17  
G

RICHARD SHOFER, et al.  
Plaintiffs/Counter-Defendants

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

Defendant/Counter-Plaintiff

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\*  
\* Case No: 93285087/CL171133  
\*

CIVIL DIVISION  
1994 DEC 14 PM 3:05

\* \* \* \* \*

**MOTION OF DEFENDANT, BLUM, YUMKAS, MAILMAN, GUTMAN & DENICK, P.A., TO DISMISS FOR FAILURE TO PROVIDE DISCOVERY**

Blum, Yumkas, Mailman, Gutman & Denick, P.A. ("Blum, Yumkas"), Defendant/Counter-Plaintiff, by its counsel, Shirlye Norris Lake, Mark Anthony Kozlowski and Eccleston and Wolf, hereby moves for an Order dismissing the Plaintiff's claims, with prejudice, for failure to provide discovery and, in support thereof states:

1. Trial in the above-captioned matter is currently scheduled for March 9, 1995 and the discovery deadline is January 9, 1995.

2. On or about October 12, 1993, Richard Shofer, individually and Catalina Enterprises, Inc. and Catalina Enterprises, Inc. Pension Trust (collectively "Plaintiffs") filed the instant professional negligence matter.

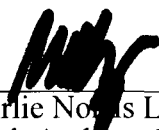
3. An Answer was submitted on behalf of Blum, Yumkas on or about March 7, 1994.

4. Defendant, Blum, Yumkas, filed a comprehensive set of Interrogatories and a Request for Production of Documents on or about August 22, 1994 and copies of the same were forwarded, *via* first class mail, to opposing counsel. As of November 1, 1994, the Plaintiff had failed to respond, in any respect, to written discovery submitted on behalf of the Defendant. Repeated requests were made of the Plaintiff to submit written discovery responses. Additionally, Defendant requested the immediate deposition of Richard Shofer, the individual Plaintiff. However, no written discovery responses were received, nor did the Plaintiff submit to deposition.

5. As a consequence thereof, this Defendant submitted a Motion for Immediate Sanctions for Failure to Provide Discovery which is attached hereto as Exhibit A.

6. The Honorable Thomas E. Noel granted the Defendant's Motion by entering an Order on November 28, 1994, a copy of which is attached as Exhibit B. Judge Noel's Order stated "Plaintiff's claims are hereby dismissed, unless Plaintiff responds to Defendant's Interrogatories and Request for Production of Documents within 15 days of this Order." Fifteen days from November 28, 1994 was December 13, 1994.


7. Defendant has not received the Plaintiff's Answers to Interrogatories or a Response to Request for Production of Documents. Accordingly, under the terms of Judge Noel's November 28, 1994 Order, the Defendant requests that the Court enter an Order dismissing the Plaintiff's case, with prejudice, for failure to provide discovery.

  
\_\_\_\_\_  
Shirley Novak Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460  
(410) 752-7474

Attorneys for Defendant/Counter Plaintiff

**STATEMENT OF GROUNDS AND AUTHORITIES**

1. Maryland Rule 2-432.
2. Maryland Rule 2-433.

  
\_\_\_\_\_  
Mark Anthony Kozlowski

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19<sup>th</sup> day of December, 1994, a copy of the foregoing Motion to Dismiss for Failure to Provide Discovery was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207.

  
\_\_\_\_\_  
Mark Anthony Kozlowski

RICHARD SHOFR, et al.  
Plaintiffs/Counter-Defendants

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

Defendant/Counter-Plaintiff

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

\* Case No: 93285087/CL171133  
\*

\* \* \* \* \*

**ORDER**

Upon consideration of Defendant/Counter-Plaintiff's Motion for Dismissal, With Prejudice, and any Opposition thereto, it is this \_\_\_\_\_ day of \_\_\_\_\_, 1994, by the Circuit Court for Baltimore City, hereby

ORDERED

1. That the Plaintiffs' claims are hereby DISMISSED, for failure to respond to discovery.

\_\_\_\_\_  
Judge  
Circuit Court for Baltimore City

Copies to:

Shirlie Norris Lake, Esquire  
Mark Anthony Kozlowski, Esquire  
Thomas H. Bornhorst, Esquire

*Return  
6/30/95  
AW  
secret*

December 12, 1994

Shirlie N. Lake, Esq.  
Eccleston & Wolf  
Scarlett Place  
729 E. Pratt Street  
Baltimore, MD 21202-4460

Thomas H. Bornhorst, Esq.  
2236 Southland Road  
Baltimore, MD 21207

Re: Shofer, et al. v. Blum, Yunkas, Mailman, Gutman & Denick  
Case No. 93285087/CL171133

Notice:

The motion to modify the pretrial conference order in the above case is set for hearing at 9:00 a.m. on January 5, 1995, in Room 426 of the Mitchell Courthouse. All counsel and all unrepresented parties must attend with their trial calendars.

Counsel and pro se parties whose offices are outside the Baltimore Beltway or in Towson may participate by telephone. If this involves more than one party, a conference call should be prearranged by the parties.

Ellen M. Heller  
Judge in Charge of Civil Docket

**P.S.** Counsel addressed are requested to contact any other counsel or pro se parties involved in the above case whose name does not appear on this notice.

CIRCUIT COURT FOR BALTIMORE CITY  
MSV533

A D D / U P D A T E  
C A L E N D A R D A T A

DATE: 12/09/94  
TIME: 10:45  
TERMINAL: V147

CASE NUMBER: 93285087 SHOFR, ETAL VS BLUM, YUMKAS, ETAL CL171133

CATEGORY: OTORT

ORIG COURT: CL

AMOUNT OF SUIT :\$

LAST PLEA DATE : 11/28/94

DATE FILED: 10/12/93

TRANSCRIPT PAGES:

TERMINATION DATE: 11/28/95

STATUS: A

CONSOLIDATED CASE:

WHO PAYS COSTS :

STATUS DATE: 03/07/94

PROTRACTED :

LAST CHANGE: 12/09/94

DATE SCHEDULED				SCHEDULED	ACTUAL	DISP OF	POST	PRESIDING	JUDGE
FOR:	PART:	TIME:	ROOM:	EVENT:	EVENT:	EVENT:	REAS:	JUDGE:	IDENT:
020995	P33	1100	508	PTCO					
030995		0930	219W	PTCT					

1489

NOV 15 10 3:57  
CIVIL DIVISION  
CLERK OF COURT FOR  
BALTIMORE CITY

RICHARD SHOFER, et al.  
Plaintiffs/Counter-Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

Defendant/Counter-Plaintiff \* Case No: 93285087 / CL 171133

\* \* \* \* \*


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing:

Plaintiffs' Opposition to Defendant's Motion for Sanctions, and exhibits  
Plaintiffs' Motion for Leave to File Answer to Defendant's Counterclaim, and  
Plaintiffs' Motion to Modify Scheduling Order;  
Affidavit of Counsel;  
Plaintiffs' Answer to Defendant's Counterclaim;  
Plaintiffs' Memorandum; and  
proposed Order

was mailed first class, postage prepaid, this 15 day of November, 1994, to:

Shirlie N. Lake, Esq.  
ECCLESTON & WOLF  
7th Floor, Scarlett Place  
729 E. Pratt St.  
Baltimore, MD 21202-4460,  
Counsel for Defendant, Blum, Yumkas, et. al.

  
Thomas H. Bornhorst  
2236 Southland Rd.  
Baltimore, MD 21207  
(410) 298-2265  
Counsel for Plaintiffs / Counter-defendants



RICHARD SHOFER, et al.  
Plaintiffs

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.  
Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No: 93285087 / CL 171133

CIVIL DIVISION  
1994 NOV 15 P 3: 58  
CIRCUIT COURT FOR  
BALTIMORE CITY

\* \* \* \* \*

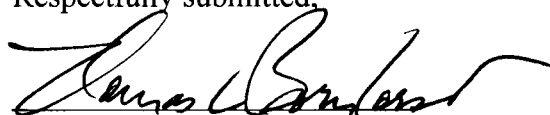
PLAINTIFFS' MEMORANDUM IN SUPPORT OF  
MOTION FOR LEAVE TO ANSWER COUNTERCLAIM

Maryland Rule 2-321(a) requires that "A party shall file an answer to a... counterclaim within 30 days after being served." Defendant filed a Counterclaim against Plaintiffs on April 6, 1994, which did not reach Plaintiffs' counsel as more fully set forth in the accompanying Motion and attached Affidavit of Counsel, so that no answer to the counterclaim was filed in accordance with Rule 2-321.

While there was no defect in the Certificate of Service to counsel on the counterclaim in the instant case, and while Maryland Rule 1-323 states that "A certificate of service is prima facie proof of service," Maryland Rule 1-204(a) (3) provides that by motion filed after the expiration of the specified period, the court may "...permit the act to be done if the failure to act was the result of excusable neglect."

Under the circumstances in this case set forth in the Affidavit of Counsel (Motion Exhibit #2), and in the absence of fault on any party, Plaintiffs urge the court to allow and recognize the filing of Plaintiff's Answer to Defendant's Counterclaim pursuant to the authority of Rule 1-204 (a) (3).

Respectfully submitted,



Thomas H. Bornhorst  
2236 Southland Rd.  
Baltimore, MD 21207  
(410) 298-2265  
Attorney for Plaintiffs

RICHARD SHOFER, et al.  
Plaintiffs / Counter-Defendants

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

Defendant / Counter-Plaintiff

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No: 93285087 / CL 171133

\* \* \* \* \*

ORDER

Upon consideration of Plaintiff's Motion(s) for Leave to Answer Counterclaim, and for Modification of the Scheduling Order in this action, cause having been shown, it is:

ORDERED, on this \_\_\_\_\_ day of November, 1994, in the following particulars:

1. That counter-defendants Richard Shofer, Catalina Enterprises, Inc., and Catalina Enterprises Pension Trust, are hereby granted leave to answer the counterclaim of counter-plaintiff Blum, Yumkas, Mailman, Gutman & Denick, P.A., and that the Answer presented by the counter-defendants is deemed filed and served on the counter-plaintiff as of the date of this Order; and ordered further

2. That the Pre-Trial Conference Order in this case schedule of this case is further modified as follows:

- a.) Discovery shall terminate on April 7, 1995;
- b.) Summary Judgment motions will be filed by April 24, 1995;
- c.) Pretrial Conference date will be May 9, 1995;
- d.) Trial will begin June 9, 1995.

\_\_\_\_\_  
Judge, Circuit Court for Baltimore City

RICHARD SHOFER, et al.  
Plaintiffs/Counter-Defendants

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

Defendant/Counter-Plaintiff

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

Case No: 93285087/CL171133




\* \* \* \* \*

ORDER

Upon consideration of Defendant/Counter-Plaintiff's Motion for Immediate Sanctions it is this 28 day of November, 1994, by the Circuit Court for Baltimore City, hereby

ORDERED

1. That the Motion for Immediate Sanctions is hereby GRANTED, ~~and~~
2. That Plaintiffs' claims are hereby DISMISSED, unless Plaintiff responds to Defendant's interrogatories and requests for production of documents within 15 days of this order

  
\_\_\_\_\_  
Judge  
Circuit Court for Baltimore City

T.N.  
Judge  
NOV. 28, 1994

Copies to:

Shirlie Norris Lake, Esquire  
Mark Anthony Kozlowski, Esquire  
Thomas H. Bornhorst, Esquire

200  
1-29-94

NOISIAID TIAID  
CIVIL DIVISION  
MARCH 1 - 1994  
PM 3:34  
FOR  
CITY

CIRCUIT COURT FOR BALTIMORE CITY MSV534  
TERMINAL: V147

EVENT DATA

DATE: 11/22/94  
TIME: 09:18

CASE NUMBER: 93285087 SHOFER, ETAL VS BLUM, YUMKAS, ETAL CL171133  
CATEGORY: OTORT  
ORIG COURT: CL TRANSCRIPT PAGES: TERMINATION DATE: 11/15/95  
STATUS: A CONSOLIDATED: LAST CHANGE: 11/16/94  
STATUS DATE: 03/07/94 PROTRACTED:

DATE: CODE: EVENT TEXT

101293 FILE COMPLAINT. (1)  
101393 PROC DEF BLUM YUMKAS MAPRIVATE CREATED: 10/13/93 SERVED: / / .  
011894 PROC DEF BLUM YUMKAS MAPRIVATE CREATED: 01/18/94 SERVED: / / .  
022294 PLEA RETURN OF P. P. S. (BLUM, YUMKAS, MAILMAN, GUTMAN & DENICK, P.A.  
030794 S/O LLOYD S. MAILMAN/2-4-94) (2)  
030794 ISSU APP. OF ATTY SHIRLIE NORRIS LAKE FOR DEFT SAMEDAY ANSWER FD. (3)  
030994 PCOI PRE-TRIAL CONFERENCE ORDER SENT, C/D:950209 T/D:950309  
040694 PLEA DEFT/COUNTER PLTFF FILES COUNTERCLAIM AGAINST PLTFF/ COUNTER  
040694 DEFTS (4)  
050694 APPR ENTER THE APPR OF ATTY MARK A KOZLOWSKI WITHDRAW THE APPR OF  
050694 LAURIE A LYTE FOR DEFT/COUNTER PLTFF (5)  
050694 PLEA DEFT/COUNTER PLTFF OPPOSITION TO MOTION TO CONSOLIDATE CASES (6)

PAGE 001

CIRCUIT COURT FOR BALTIMORE CITY MSV534  
TERMINAL: V147

EVENT DATA

DATE: 11/22/94  
TIME: 09:18

CASE NUMBER: 93285087 SHOFER, ETAL VS BLUM, YUMKAS, ETAL CL171133  
CATEGORY: OTORT  
ORIG COURT: CL TRANSCRIPT PAGES: TERMINATION DATE: 11/15/95  
STATUS: A CONSOLIDATED: LAST CHANGE: 11/16/94  
STATUS DATE: 03/07/94 PROTRACTED:

DATE: CODE: EVENT TEXT

082394 PLEA DEFT. BLUM, YUMKAS' NOTICE OF SERVICE FD. (7)  
092994 PLEA DEFT., BLUM, YUMKAS, MAILMAN, GUTMAN AND DENICK, P.A., NOTICE  
092994 OF DISCOVERY FD. (8)  
102494 ORDR CIVIL POSTPONEMENT "APPROVED". SEE ATTACHED LETTER FD. (BYRNES,  
102494 J) FD. (9)  
110194 MOTN DEFT/COUNTER-PLTFF MOTION FOR IMMEDIATE SANCTIONS FOR FAILURE TO  
110194 PROVIDE DISCOVERY, STATEMENT OF GROUNDS AND AUTHORITIES, CERTI-  
110194 FICATION OF GOOD FAITH ATTEMPTS TO RESOLVE DISCOVERY DISPUTE AND  
110194 REQUEST FOR HEARING (10)  
111594 PLEA PLTFFS' OPPOSITION TO DEFT'S MOT. FOR SANCTIONS FOR FAILURE TO  
111594 PROVIDE DISCOVERY (11)  
111594 MOTN PLTFF'S MOT. FOR LEAVE TO FILE AN ANS. TO DEFT'S COUNTERCLAIM

PAGE 002

CIRCUIT COURT FOR BALTIMORE CITY MSV534  
TERMINAL: V147

EVENT DATA

DATE: 11/22/94  
TIME: 09:19

CASE NUMBER: 93285087 SHOFER, ETAL VS BLUM, YUMKAS, ETAL CL171133  
CATEGORY: OTORT  
ORIG COURT: CL TRANSCRIPT PAGES: TERMINATION DATE: 11/15/95  
STATUS: A CONSOLIDATED: LAST CHANGE: 11/22/94  
STATUS DATE: 03/07/94 PROTRACTED:

DATE: CODE: EVENT TEXT

111594 AND PLTFF'S MOT. TO MODIFY SCHEDULING ORDER (12)  
111594 ANSW PLTFFS' ANS. TO DEFT'S COUNTERCLAIM (13)  
112294 MEMO CASE SENT TO JUDGE NOEL ON ENTRY 10 AND 11  
120694 TRIG ENTRY #12

PAGE 003

13  
Gj

1994 NOV 15 P 3:58  
C. L. DIVISION  
CIRCUIT COURT FOR  
BALTIMORE CITY

RICHARD SHOFER, et al.  
Plaintiffs / Counter-Defendants

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

\* Case No: 93285087 / CL 171133

Defendant / Counter-Plaintiff

\* \* \* \* \*

PLAINTIFFS' ANSWER TO DEFENDANT'S COUNTERCLAIM

Richard Shofer, Catalina Enterprises, Inc., and Catalina Enterprises Pension Trust, by Thomas H. Bornhorst, their attorney, answers the counterclaim of Blum, Yumkas, Mailman, Gutman & Denick, P.A., defendant, and states:

1. Plaintiffs generally deny the allegations of the counterclaim.
2. Defendant's counterclaim is barred by accord and satisfaction.
3. Defendant's counterclaim is barred by breach of contract.
4. Defendant's counterclaim is barred by negligent misrepresentation.
5. Defendant's counterclaim is barred by forgiveness.

Wherefore, Plaintiffs seek dismissal of the Defendant's counterclaim and such other relief as the circumstances of this case require.

Respectfully submitted,



Thomas H. Bornhorst  
2236 Southland Rd.  
Baltimore, MD 21207  
(410) 298-2265  
Attorney for Plaintiffs

RICHARD SHOFER, et al.  
Plaintiffs/Counter-Defendant

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

Defendant/Counter-Plaintiff

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

\* Case No: 93285087 / CL 171133

\* \* \* \* \*

1994 NOV 15 P 3:51  
CIV. DIVISION  
CIRCUIT COURT FOR  
BALTIMORE CITY


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing:

Plaintiffs' Opposition to Defendant's Motion for Sanctions, and exhibits  
Plaintiffs' Motion for Leave to File Answer to Defendant's Counterclaim, and  
Plaintiffs' Motion to Modify Scheduling Order;  
Affidavit of Counsel;  
Plaintiffs' Answer to Defendant's Counterclaim;  
Plaintiffs' Memorandum; and  
proposed Order

was mailed first class, postage prepaid, this 15 day of November, 1994, to:

Shirlie N. Lake, Esq.  
ECCLESTON & WOLF  
7th Floor, Scarlett Place  
729 E. Pratt St.  
Baltimore, MD 21202-4460,  
Counsel for Defendant, Blum, Yumkas, et. al.



Thomas H. Bornhorst  
2236 Southland Rd.  
Baltimore, MD 21207  
(410) 298-2265  
Counsel for Plaintiffs / Counter-defendants





RICHARD SHOFER, et al.  
Plaintiffs / Counter-Defendants

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

Defendant / Counter-Plaintiffs

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

\* Case No: 93285087 / CL 171133

CIRCUIT COURT FOR BALTIMORE CITY  
1994 NOV 15 12 3:58  
CLERK'S OFFICE

\* \* \* \* \*

PLAINTIFFS' MOTION FOR LEAVE TO FILE AN ANSWER  
TO DEFENDANT'S COUNTERCLAIM

AND

PLAINTIFF'S MOTION TO MODIFY SCHEDULING ORDER

Richard Shofer, Catalina Enterprises, Inc., and Catalina Enterprises, Inc. Pension Trust, plaintiffs and counter-defendants, by counsel, Thomas H. Bornhorst, respectfully seeks the following relief:

- (a) leave to file an answer to defendant's counterclaim; and
- (b) modification of the scheduling order by an additional 120 days,

petitioners stating for cause:

(Leave to Answer Counterclaim)

1. The Defendant's counterclaim was filed on or about April 6, 1994.
2. Plaintiffs have not answered as Counter-defendants since Plaintiffs' counsel was without actual notice or actual knowledge of the counterclaim until October 27, 1994 by inspection of the court file as set forth in the Affidavit of Counsel (Motion Exhibit #1.).
3. Notwithstanding a proper Certificate of Service which appears on the counterclaim, Plaintiff's counsel did not receive a copy of said counterclaim by mail in April, 1994, or thereafter, or until it was faxed to him by request on October 28, 1994 (Mot.Exhibit #2).
4. No motions for default judgment are pending on the counterclaim.

5. The proposed Answer of the counter-defendant is included separately herewith.

(Modification of Scheduling Order)

6. That on or about October 21, 1994 Judge Byrne approved scheduling changes to discovery and summary judgment deadlines (only) pursuant to the parties Joint Motion for Modification of the Pre-Trial Conference Order.

7. That Plaintiffs' agreement with said Joint Motion was made without knowledge or accounting for the Defendant's counterclaim for reasons set forth in Exhibit #2 (Affidavit of Counsel)..

8. Under such circumstances, and in the absence of personal neglect of counsel or other procedural negligence on their part, counterdefendants urgently request a further extension of 120 days to gain a reasonable time and opportunity for discovery and defense, and also to allow more time for settlement efforts.

9. In addition, defendant's counterclaim concerns counsel fees in an attorney/client relationship relating to Shofer v. Hack et. al., 88-102069 / CL79993, a case now assigned for trial in this court on February 27, 1995 before Judge Andre M. Davis; and

10. That the outcomes of trial in Shofer v. Hack et. al., from the standpoint of plaintiff / counter-defendant Richard Shofer in the instant case, concern issues and arguments involved in the instant counterclaim, in view of which an extension of discovery and other deadlines in this case would help to avoid possible uncertainties and act as further encouragement to settlement.

11. A Memorandum of Points and Authorities and a proposed Order are also submitted herewith.

WHEREFORE, Plaintiffs pray the following relief:

- (a) leave to answer the counterclaim of the defendant; and
- (b) an extension of 120 days to the scheduling order by the following changes:

Discovery date to 4/9/95

Summary Judgment motions to 4/24/95

Pretrial Conference date to 5/9/95

Trial to 6/9/95

Respectfully submitted,



Thomas H. Bornhorst  
2236 Southland Rd.  
Baltimore, MD 21207  
(410) 298-2265  
Attorney for Plaintiffs

RICHARD SHOFER, et al.  
Plaintiffs

\* IN THE  
\* CIRCUIT COURT

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

\* FOR  
\* BALTIMORE CITY

Defendant

\* Case No: 93285087 / CL 171133

\* \* \* \* \*

AFFIDAVIT OF COUNSEL

1. I am Thomas H. Bornhorst, a licensed Maryland attorney presently serving as counsel to the Plaintiffs in this action.

2. Defendant's counterclaim, filed on April 6, 1994, was unknown to me until receipt of a proposed pleading entitled Stipulation of Dismissal with Prejudice of Plaintiffs' Claims, attached to the accompanying motion as Exhibit #3, a transmission by fax on 10/27/94, a pleading noting that Defendants' rights to pursue said counterclaim would remain pending.


3. Thereafter on 10/27/94 I inspected the courthouse file in this case and saw Defendant's counterclaim for the first time, noting a proper Certification of Service.

4. I did not receive a copy of Defendant's counterclaim by mail in April pursuant to the Certification of Service, or prior to my request for a faxed copy on October 28, 1994. (Exhibit #2 herewith)

5. I have been a member of the Maryland Bar since 1974 in active trial work and this Affidavit and the accompanying motion due to failure to answer a counterclaim are without precedent in my personal practice.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

11-14-94  
Date

  
Thomas H. Bornhorst, Esq.

**Thomas H. Bornhorst**  
Attorney at Law  
2236 Southland Rd., Baltimore, Md. 21207  
(410) 298-2265

State and Federal Trial Practice

Maryland, District of Columbia

October 28, 1994

[via telefax to 752-0611]

Shirley N. Lake, Esq.  
Mark A. Kozlowski, Esq.  
ECCLESTON & WOLF  
7th Floor, Scarlett Place  
729 East Pratt St  
Baltimore, MD 21202

NOTE: URGENT Re: Shofer v. Blum, Yumkas et al.

Dear Counsel:

Please fax me a copy of your counterclaim, this morning if possible. I'm meeting with Mr. Shofer after which I need to provide you with further advice you require concerning the outstanding procedural issues.

Thanks.

Sincerely,  
(S)  
Thomas H. Bornhorst

RICHARD SHOFER, et al.  
Plaintiffs/Counter-Defendant

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

Defendant/Counter-Plaintiff

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

\* Case No: 93285087 / CL 171133

\* \* \* \* \*

RECEIVED FOR  
BALTIMORE CITY  
NOV 15 12 3:57  
CIVIL DIVISION


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing:

Plaintiffs' Opposition to Defendant's Motion for Sanctions, and exhibits  
Plaintiffs' Motion for Leave to File Answer to Defendant's Counterclaim, and  
Plaintiffs' Motion to Modify Scheduling Order;  
Affidavit of Counsel;  
Plaintiffs' Answer to Defendant's Counterclaim;  
Plaintiffs' Memorandum; and  
proposed Order

was mailed first class, postage prepaid, this 15 day of November, 1994, to:

Shirlie N. Lake, Esq.  
ECCLESTON & WOLF  
7th Floor, Scarlett Place  
729 E. Pratt St.  
Baltimore, MD 21202-4460,  
Counsel for Defendant, Blum, Yumkas, et. al.

  
Thomas H. Bornhorst  
2236 Southland Rd.  
Baltimore, MD 21207  
(410) 298-2265  
Counsel for Plaintiffs / Counter-defendants

RICHARD SHOFER, et al.  
Plaintiffs

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

\* Case No: 93285087 / CL 171133

RECEIVED  
CIRCUIT COURT  
BALTIMORE CITY  
NOV 15 P 3:58  
DIVISION

\* \* \* \* \*  
PLAINTIFFS' OPPOSITION TO DEFENDANT'S MOTION FOR SANCTIONS  
FOR FAILURE TO PROVIDE DISCOVERY

Plaintiffs, Richard Shofer, et al., by Thomas H. Bornhorst, their attorney, opposes Defendant's Motion for Sanctions and states:

1. Plaintiffs' have not refused discovery, production of which has been frustrated by two separate failures to receive pleadings from the Defendant in spite of the appearance of certificates of service on defendant's Interrogatories / Request for Production of Documents, and Counterclaim.

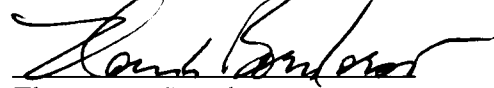
2. That Plaintiffs separate motions attached herewith seeking leave to answer said counterclaim and for an extension of the case schedule under the circumstances includes counsel's Affidavit attesting under oath to Plaintiff's ignorance of Defendant's counterclaim, which changes this case in substance.

3. That Plaintiffs' counsel has been involved in ongoing discussions with opposing counsel about the disposition of this case and that such communications have been grossly understated, overlooked, and otherwise misrepresented to the court by defendant's Motion for Sanctions.

4. That such acrimony between counsel in this case which characterizes defendant's motion, as well as Plaintiffs' admitted willingness to complete discovery (the present deadline for which is January 9, 1995), is represented in letters between counsel dated November 9, 1994 (Exhibit #1) and November 11, 1994 (Exhibit #2), (letters discussing issues, such as dismissal, not involved in the instant motions).

5. That sanctions are inappropriate without some fault or abuse on the part of the Plaintiffs, and that the court can resolve the present dispute by allowing Plaintiffs additional time in its defense of the counterclaim, as Plaintiffs seek by separate motion.

Respectfully submitted,



Thomas H. Bornhorst  
2236 Southland Rd.  
Baltimore, MD 21207  
(410) 298-2265  
Attorney for Plaintiffs



EXHIBIT #1

Law Offices

**Eccleston and Wolf**

Professional Corporation

7TH FLOOR, SCARLETT PLACE  
729 E. PRATT STREET  
BALTIMORE, MARYLAND 21202-4460  
(410) 752-7474  
FAX (410) 752-0611

SUITE 450  
1750 K STREET, N. W.  
WASHINGTON, D. C. 20006-2300  
(202) 857-1696  
FAX (202) 857-0762

MICHAEL A. STOVER

SHIRLIE NORRIS LAKE

November 9, 1994

## VIA TELEFAX

Thomas H. Bornhorst, Esquire  
2236 Southland Road  
Baltimore, Maryland 21207

RE: Shofer v. Blum, Yumkas

Dear Tom:

I am in receipt of your letter dated October 31, 1994 which was sent by telefax yesterday at 4:32 p.m.

I have provided my clients with a copy of your letter and will advise you of their response to your request that the parties and counsel meet to discuss settlement.

Additionally, your letter confirms in writing what you had previously advised us verbally that you believe that the malpractice case is "no longer viable." In view of this, I would once again request that the Stipulation of Dismissal With Prejudice which we previously forwarded be executed and returned to this office for filing with the Court by Friday, November 11, 1994.

In the event the Stipulation of Dismissal is not executed and returned to this office by the close of business Friday, November 11, 1994, we will supplement our pending Motion for Immediate Sanctions which, as you know, requests that the Court dismiss this case, to advise the Court that Plaintiff's counsel has conceded the case is no longer viable. As you know, Maryland Rule 1-341 permits the Court to award sanctions if a party or counsel maintains a proceeding without substantial justification. If you continue to prosecute the malpractice case which you concede is no longer viable, I believe you would be in clear violation of Maryland Rule 1-341, and we would be entitled to an award of sanctions.

I would request that you contact me to discuss these matters.

Sincerely,

ECCLESTON AND WOLF

By: \_\_\_\_\_

*Shirley Norris Lake*  
Shirley Norris Lake

SNL/rmc

cc: Thomas Bowden, Esquire  
Lloyd Mailman, Esquire

Thomas H. Bornhorst  
Attorney at Law  
2236 Southland Rd., Baltimore, Md. 21207  
(410) 298-2265

State and Federal Trial Practice

Maryland, District of Columbia

November 11, 1994

[via telefax to 752-0611]

Shirlie N. Lake, Esq.  
Mark A. Kozlowski, Esq.  
ECCLESTON & WOLF  
7th Floor, Scarlett Place  
729 East Pratt St  
Baltimore, MD 21202

Re: Shofer v. Blum, Yumkas et al.

Dear Counsel:

I confess that I am not accustomed to the poor professional rapport which has been developing in this case. Ms. Lake's letter/fax dated November 9, 1994 openly implies that I practice without regard to my personal statements, that I harbor unethical intentions in this case, and that I practice without awareness of the rules of procedure. As one professional to another, I don't enjoy being patronized and I sincerely regret the diminishing access to opposing counsel for objective and intelligent discussion about the conduct of this case. If we manage this case from the same emotional base that typically characterize clients' disputes, we will easily double the time and expenses which both sides usually employ counsel to avoid.

Let's clear the record from my standpoint without questioning your right or need to practice aggressively. My opinion that the malpractice claim against Blum Yumkas is "no longer viable" is a meaningful concession, but is still limited. Our discussions around that issue have centered only on whether Shofer would have been entitled to collect excise tax damages from Hack had case been filed in federal court prior to expiration of the statute of limitations. I have admitted that my feelings on that particular issue were changed by subsequent rulings in Shofer v. Hack as well as the reasonable effect of the Mertens decision at the Supreme Court. It's also true that issue was the most immediate time consideration in the original filing of the complaint in this case. However, I have not admitted and do not believe that one issue represents the extent of Mr. Shofer's claims, defenses, or procedural choices available within the Rules. While I may need to file certain amendments, a simple admission can also disarm your need to defend the complaint where we now agree.

The counterclaim changes the dynamics in this case considerably and I am asking the court for a reasonable time and opportunity in which to conduct that defense. Privately I'll continue to do what I can to get this matter settled, as it deserves to be. However, I won't be forced into malpractice of my own. I cannot dismiss the plaintiffs' claims outright when both the plaintiffs' claims and counter-defense operate from the same factual base. If I dismissed outright,

with or without prejudice, you would then use every opportunity to argue that plaintiffs' have forfeit all claims, defenses, and other initiatives represented by the factual background of the case and any contractual language incorporated in the complaint. I can spare us both the time and effort we would need to maneuver in that setting.

I expect to file pleadings on Monday, November 14, 1994 in accordance with the intentions set forth in this letter, including a motion for leave to answer the counterclaim and for additional time under the circumstances. I also ask sincerely that you forego raising the stakes to the level of any further challenge or misstatements of convenience regarding my professional intentions. I am perfectly willing to conduct this case properly. Now that my representation of Mr. Shofer is no longer a complicating issue in this case you can set his deposition at any time (except a Wednesday) and even continue it further at your discretion on the basis of our answers, etc. While I will be more specific in Answers and responses to your document requests, I'll remind you that the entire Shofer v. Hack file which accumulated through the end of your client's representation of Mr. Shofer was refused to me as succeeding counsel and was kept in your client's possession, where it remains.

Sincerely,  
(S)

Thomas H. Bornhorst

cc: R. Shofer

RICHARD SHOFR, et al.  
Plaintiffs/Counter-Defendant

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

Defendant/Counter-Plaintiff

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

\* Case No: 93285087 / CL 171133

\* \* \* \* \*

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CLERK OF COURT FOR  
BALTIMORE CITY  
NOV 15 P 3:57  
CIVIL DIVISION


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing:

Plaintiffs' Opposition to Defendant's Motion for Sanctions, and exhibits  
Plaintiffs' Motion for Leave to File Answer to Defendant's Counterclaim, and  
Plaintiffs' Motion to Modify Scheduling Order;  
Affidavit of Counsel;  
Plaintiffs' Answer to Defendant's Counterclaim;  
Plaintiffs' Memorandum; and  
proposed Order

was mailed first class, postage prepaid, this 15 day of November, 1994, to:

Shirlie N. Lake, Esq.  
ECCLESTON & WOLF  
7th Floor, Scarlett Place  
729 E. Pratt St.  
Baltimore, MD 21202-4460,  
Counsel for Defendant, Blum, Yumkas, et. al.

  
Thomas H. Bornhorst  
2236 Southland Rd.  
Baltimore, MD 21207  
(410) 298-2265  
Counsel for Plaintiffs / Counter-defendants

10  
AS

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CIRCUIT COURT FOR  
BALTIMORE CITY  
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CIVIL DIVISION

RICHARD SHOFER, et al.  
Plaintiffs/Counter-Defendants

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.  
Defendant/Counter-Plaintiff

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\*  
\* Case No: 93285087/CL171133  
\*

\* \* \* \* \*

**MOTION FOR IMMEDIATE SANCTIONS FOR FAILURE TO PROVIDE DISCOVERY**

Blum, Yumkas, Mailman, Gutman & Denick, P.A. ("Blum, Yumkas"), Defendant/Counter-Plaintiff, by its counsel, Shirlie Norris Lake, Mark Anthony Kozlowski and Eccleston and Wolf, pursuant to Maryland Rules 2-432 and 2-433, hereby moves for an Order for Immediate Sanctions for Failure to Provide Discovery and, in support thereof, states:

1. Trial in the above captioned case is currently scheduled for March 9, 1995, and the discovery cut off is January 9, 1995.
2. On or about October 12, 1993, Richard Shofer, individually, and Catalina Enterprises, Inc. and Catalina Enterprises, Inc. Pension Trust (collectively "Plaintiffs"), filed the instant professional negligence matter.
3. An Answer was submitted on behalf of the Defendant on or about March 7, 1994.
4. This Court entered a Pretrial Conference Order on March 9, 1994 setting the following dates: Discovery Completion: November 9, 1994; Pretrial Conference: February 9, 1995; and Trial: March 9, 1995. *See* Exhibit 1.
5. Immediately thereafter, the Defendant/Counter-Plaintiff, on April 6, 1994, filed a Counter-Claim for legal fees of \$62,427.78 against the Plaintiffs. A copy of that Counter-Complaint was served, in due course, upon counsel for the Plaintiffs/Counter-Defendant, Thomas Bornhorst. *See* Exhibit 2 (Certificate of Service)

6. As this matter arose out of legal representation provided by the Defendant/Counter-Plaintiff to the Plaintiffs/Counter-Defendants in a separate action entitled Richard Shofer, et al. v. Stuart Hack Company, Circuit Court for Baltimore City, Case No: 88102069/CL7993 ("Hack litigation") and because the Hack litigation remained pending at this time this action was filed, the parties hereto did not undertake immediate efforts to begin discovery. This is so, in part, because on the eve of the scheduled trial date, the Defendants in the Hack litigation, Stuart Hack Co. ("Hack") and Grabush Neuman & Company, P.A. ("Grabush"), a Third Party Defendant, jointly filed a Motion to Consolidate the Hack litigation with the instant professional negligence case. At that juncture, this Court specially assigned the Hack litigation to the Honorable Ellen Hollander. In conjunction with filing their Motion to Consolidate, the Defendants in the Hack litigation filed an extensive Motion for Summary Judgment attacking the validity of various aspects of the allegations against them. Judge Hollander was assigned to rule on the pending Motion for Summary Judgment as well as the Motion to Consolidate. As the disposition of the Motion to Consolidate and the Motion for Summary Judgment filed by the Defendants in the underlying case could affect the course of discovery in the professional negligence case, no discovery was immediately sought.

7. Judge Hollander issued a ruling on the Motion for Summary Judgment in the Hack litigation in late July, 1994. No ruling was made on the Motion to Consolidate.

8. Immediately thereafter, Defendant/Counter-Plaintiff, Blum, Yumkas, filed a comprehensive set of Interrogatories, a Request for Production of Documents. The written discovery was filed with this Court on or about August 22, 1994 and forwarded to opposing counsel. Copies of these Interrogatories and the Request for Production of Documents along with the Notice of Service are attached hereto as Exhibits 3, 4 and 5.

9. Plaintiffs' counsel did not timely respond to the Interrogatories or the Request for Production of Documents.

10. On September 28, 1994, counsel for the Defendant forwarded correspondence to Mr. Bornhorst asking for immediately discovery responses in light of the impending discovery

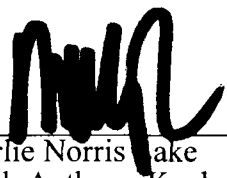
deadline, which, at that time, was November 9, 1994. *See* Exhibit 6. At that time, Defendant took the necessary step of immediately noting the deposition of Mr. Shofer, one of the Plaintiffs, as the discovery deadline was fast approaching. *See* Exhibit 7.

11. However, despite repeated requests for information, *see*, Exhibit 8, no discovery responses have been filed by the Plaintiff. Apparently, Plaintiff's counsel contends that he did not receive the discovery, when sent on August 22, 1994. In response to counsel's request, the discovery requests were forwarded to him a second time by telefax on October 5, 1994.

12. Because of the Plaintiff's failure to respond to appropriately noted discovery, a Joint Motion for Modification of the Pretrial Conference Order was submitted to the Court for approval. *See* Exhibit 9. An extension of discovery has been granted to and including January 9, 1995.

13. However, despite the extension of discovery as granted by the Court, Plaintiff has continued to fail to respond to written discovery. Additionally, the Plaintiff has failed to offer dates for the deposition of Richard Shofer. Defendant has continued to request immediate discovery responses. *See* Exhibit 10.


13. As the Defendant's ability to prepare for trial has been and will continue to be severely impaired because of the failure of the Plaintiff to respond to appropriately noted written discovery, pursuant to Maryland Rule 2-433(a), this Defendant requested an Order be entered dismissing this action.

  
\_\_\_\_\_  
Shirley Norris Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460  
(410) 752-7474

Attorneys for Defendants

**STATEMENT OF GROUNDS AND AUTHORITIES**

1. Maryland Rule 2-432.
2. Maryland Rule 2-433.

  
\_\_\_\_\_  
Mark Anthony Kozlowski

**CERTIFICATION OF GOOD FAITH ATTEMPTS  
TO RESOLVE DISCOVERY DISPUTE**

I, Mark Anthony Kozlowski, counsel for Defendant/Counter-Plaintiff, certify, pursuant to Maryland Rule 2-431, that good faith attempts have been made to resolve the dispute which is the subject of this Motion. Such attempts include written correspondence, *see* Exhibits 6-10 attached hereto, as well as multiple telephone calls. All efforts have been unsuccessful.

  
\_\_\_\_\_  
Mark Anthony Kozlowski

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 15 day of November, 1994, a copy of the foregoing Motion for Immediate Sanctions for Failure to Respond to Discovery was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207.

  
\_\_\_\_\_  
Mark Anthony Kozlowski



\*\*\*\*\*

PRE-TRIAL CONFERENCE ORDER

\*\*\*\*\*

PURSUANT TO MD. RULE 2-504(A), IT IS THIS 09 DAY  
OF MARCH , 1994, ORDERED:

1. (A) THAT ALL PARTIES SHALL APPEAR BEFORE THE  
COURT FOR A CONFERENCE BEFORE TRIAL ON FEBRUARY 09, 1995.

(B) THE PARTIES SHALL PREPARE IN ADVANCE AND  
BRING TO THE CONFERENCE A PRETRIAL MEMORANDUM COVERING  
IN FULL EACH OF ITEMS (1) THROUGH (8) IN SEC (B) OF RULE 2-504.  
(ITEM (9) IN SEC (B) IS SUBSUMED IN PARAGRAPH 2 OF THIS ORDER.)

2. ALL DISCOVERY INCLUDING FULL RESOLUTION OF ALL  
DISCOVERY DISPUTES SHALL BE COMPLETED NO LATER THAN EIGHT  
MONTHS FROM THE DATE OF THIS ORDER.

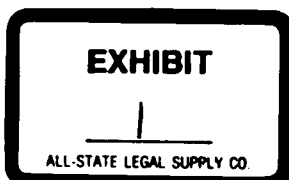
3. ANY MOTION FOR SUMMARY JUDGMENT SHALL BE FILED  
NO LATER THAN NINE MONTHS FROM THE DATE OF THIS ORDER.

4. TRIAL OF THIS CASE SHALL BEGIN ON MARCH 09, 1995.

5. THIS ORDER IS SUBJECT TO MODIFICATION, INCLUDING THE  
SCHEDULING OF THE PRETRIAL CONFERENCE AND TRIAL, UPON A WRITTEN  
MOTION FOR MODIFICATION FILED WITHIN 15 DAYS OF THE DATE OF  
THIS ORDER. THEREAFTER, THIS ORDER MAY BE MODIFIED ONLY UPON A  
WRITTEN MOTION FOR MODIFICATION SETTING FORTH A SHOWING OF GOOD  
CAUSE THAT THE SCHEDULE CANNOT REASONABLY BE MET DESPITE THE  
DILIGENCE OF THE PARTIES SEEKING MODIFICATION. IF EXIGENT  
CIRCUMSTANCES PREVENTS A MOTION IN WRITING, AN ORAL MOTION SHALL BE  
MADE AT A HEARING AT 1:45 P.M. ON A DAILY BASIS IN ROOM 434 OF THE  
CLARENCE M. MITCHELL, JR. COURTHOUSE.  
COUNSEL FOR ALL PARTIES AND ANY PRO SE PARTIES MUST ATTEND  
THESE HEARINGS. AN "EXIGENT CIRCUMSTANCE" MEANS AN UNFORESEEN  
DEVELOPMENT OCCURRING WITHIN 30 DAYS OF THE  
PRETRIAL CONFERENCE OR TRIAL DATE WHICH PREVENT COMPLIANCE WITH THIS ORDER.

JOSEPH H.H. KAPLAN  
ADMINISTRATIVE JUDGE

LAKE, SHIRLIE  
7TH FLOOR  
729 EAST PRATT STREET  
BALTIMORE , MD 21202





5. On or about March 9, 1988, the Plaintiffs/Counter-Defendants entered into an agreement to retain the Defendant/Counter-Plaintiff to provide legal representation to the Plaintiffs/Counter-Defendants in connection with matters including, but not limited to, a potential claim against the Stuart Hack Company. Pursuant to its retention of the Defendant/Counter-Plaintiff, the Plaintiff/Counter-Defendants agreed to compensate the Defendant/Counter-Plaintiff at an agreed upon rate for the legal services provided to the Plaintiffs/Counter-Defendants, and to reimburse all expenses advanced on their behalf.

6. From 1988 through and including 1992, the Defendant/Counter-Plaintiff provided legal services to the Plaintiffs/Counter-Defendants in connection with the Stuart Hack Company matter and other matters, and advanced considerable costs on behalf of the Plaintiffs/Counter-Defendants.

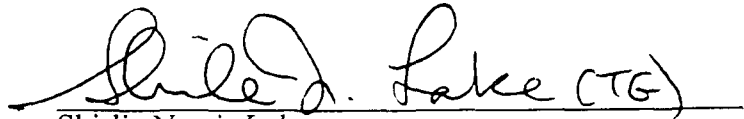
7. The Plaintiff/Counter-Defendants did make regular payments to the Defendant/Counter-Plaintiff during the course of the representation, until April of 1992. Thereafter, in August of 1992, Plaintiffs/Counter-Defendants discharged Defendant/Counter-Plaintiff.

8. Upon the Plaintiffs'/Counter-Defendants' discharge of the Defendant/Counter-Plaintiff, there remained due and owing to the Defendant/Counter-Plaintiff, for services rendered and costs advanced as a result of the aforementioned retainer agreement, the amount of \$62,427.78. The Defendant/Counter-Plaintiff has demanded that the Plaintiffs/Counter-Defendants pay the amount due.

8. Since the time of the discharge of the Defendant/Counter-Plaintiff, and at all times thereafter, the Plaintiffs/Counter-Defendants have refused to pay, and have not paid, the amount due under the terms of the aforementioned retainer agreement, thereby materially breaching their contract with the Defendant/Counter-Plaintiff.

9. The Defendant/Counter-Plaintiff has incurred a loss of \$62,427.78 as a result of the breach of contract by the Plaintiffs/Counter-Defendants.

WHEREFORE, Blum, Yumkas, Mailman, Gutman & Denick, P.A. demands judgment against Richard Shofer, Catalina Enterprises, Inc. and Catalina Enterprises, Inc. Pension Trust, jointly and severally, in the amount of \$62,427.78, plus interest and costs.

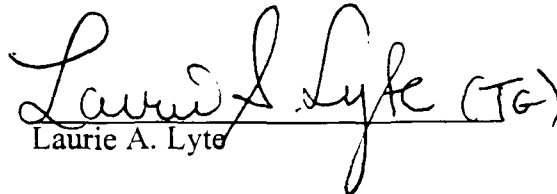
 (TG)

Shirlie Norris Lake  
Laurie A. Lyte  
Eccleston and Wolf  
7th Floor - Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202  
(410) 752-7474

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of April, 1994 a copy of the foregoing Counterclaim was mailed, postage prepaid to:

Thomas H. Bornhorst, Esquire  
2236 Southland Road  
Baltimore, Maryland 21207

 (TG)  
Laurie A. Lyte

c:\word\terri\contrclm

RICHARD SHOFER, et al.

Plaintiffs

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\*  
\* Case No: 93285087/CL171133

\* \* \* \* \*

**INTERROGATORIES**

TO: Richard Shofer, one of the Plaintiffs

FROM: Blum, Yumkas, Mailman, Gutman & Denick, P.A. ("BYMG&D"), Defendant

You are requested to answer the following Interrogatories separately, fully and under oath.

(a) These Interrogatories are continuing in character so as to require you to file Supplemental Answers if you obtain further or different information before trial.

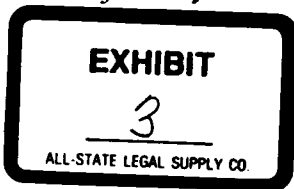
(b) Where the name or identity of a person is requested, please state the full name, home address and also business address, if known.

(c) Unless otherwise indicated, these Interrogatories refer to the time, place and circumstances of the occurrence mentioned or complained of in the pleadings.

(d) Where knowledge or information in your possession is requested, such request includes that of your agents, representatives, and unless privileged, your attorney. When answer is made by a corporate party, state the name, title and address of the person supplying the information and making the affidavit, and the source of his information.

(e) The pronoun "you" refers to the party to whom these Interrogatories are addressed and the person mentioned in clause (d) above.

(f) "Identify" or "identity" when used in reference to a document, requires you to state the date, the author, the addressee, and the type of document. If any such documents was, but is no longer in your possession or subject to your control, state what disposition was made of



it and the reason for such disposition. In lieu of so identifying a document, at your option you may attach a copy of it to your Answers to these Interrogatories, appropriately labelled to correspond to the Interrogatory in response to which it is being produced.

(g) "Identify" or "identity" when used in reference to a individual, entity or organization, requires you to state the full name, current home address, current business address and telephone number.

**INTERROGATORY NO. 1:** State your full name, home and business addresses, date of birth, marital status, maiden name, social security number, and state your relationship and position, if any, with each of the named Plaintiffs.

**INTERROGATORY NO. 2:** If you contend that this Defendant or any other party to this litigation or any agent, servant, employee or representatives thereof have acknowledged liability or fault as to any of the allegations contained in your Complaint, state the date, time, place and substance of each such acknowledgment, the identity of the person making same, the identity of the person to whom such acknowledgment was made, whether such statement was written or orally and identify all individuals present when such acknowledgment was made.

**INTERROGATORY NO. 3:** If you are aware of any written or oral statements concerning the subject matter of this action made by this Defendant or any of his agents, servants or employees which have not previously been identified in your Answers to Interrogatories, state the substance of each such statement, the place and date the statement was made, the method of communication (i.e. telephone call, conference, letter, etc.), and identify the person making the statement, the person to whom it was made, and all documents concerning the statement.

**INTERROGATORY NO. 4:** State the names and addresses of all persons who investigated the cause and circumstances of the occurrence, indicating which did so on your behalf.

**INTERROGATORY NO. 5:** Identify all persons from whom you have a written, signed or recorded statement regarding the subject matter of this litigation, state the date of each

such statement, identify the present custodian of each such statement, and attach to your Answers to these Interrogatories a copy of any such statement in your control given by this Defendant, or any agent, servant or employee thereof.

**INTERROGATORY NO. 6:** With respect to paragraph 4 of your Complaint, describe, in detail, "any and all relevant claims and litigation" which you allege this Defendant was retained to conduct including, but not limited to, all causes of action, the court(s) in which such actions were to be filed, describe, in detail, all direct communication between you and any employee, agent or servant of this Defendant specifically with respect to the type of "relevant claims and litigation" that was to be pursued, state the date of all such communications, identify all persons present during any such communications, identify all documents related thereto and identify all persons with personal knowledge thereof.

**INTERROGATORY NO. 7:** With respect to paragraph 9 of your Complaint, describe, in detail, the precise "professional advice and conduct" this Defendant and its agents, servants and employees allegedly failed to provide you in connection with "selecting a court of proper jurisdiction for the litigation of all claims" in Shofer v. Hack, identify all persons on whom you rely in alleging such advice was negligent, state whether you participated in any communication, written or oral, with this Defendant's agents, servants or employees regarding "selecting a court of proper jurisdiction," state the date(s) of each such communication, identify all persons participating in each such communications, identify all person present during each such communication, identify all documents related thereto and identify all persons with personal knowledge thereof.

**INTERROGATORY NO. 8:** With respect to paragraph 10 of your Complaint, describe, in detail, the facts on which you contend that this Defendant was negligent by "fail[ing] to file suit in federal court prior to the expiration of the applicable Statute of Limitations," identify all persons upon you rely in making such a contention, identify all documents related thereto and, identify all persons with personal knowledge thereof.

**INTERROGATORY NO. 9:** State, with specificity, the remedies against Stuart Hack and The Stuart Hack Company which you contend you lost as a result of the alleged negligence of this Defendant including, but not limited to, the type of damages that you can no longer pursue, the jurisdiction in which such damages should have or could have been pursued, identify all persons upon which you rely in making any such contention, identify all documents related to any such contention, and identify all persons with personal knowledge regarding any such contention.

**INTERROGATORY NO. 10:** State in complete detail whether you contend that, absent the alleged negligence of this Defendant, any cause of action that would have been filed in Federal Court seeking the alleged damages you now contend that were lost as a result of this Defendant's negligence would have been successful and recovered in any such Federal Court suit, identify all persons upon whom you rely in making any such contention, identify, with specificity, the legal authorities, including case law, upon which you rely in making any such contention, identify all documents related to any such contention and identify all persons with personal knowledge thereof.

**INTERROGATORY NO. 11:** With respect to paragraph 10 of your Complaint, describe, in detail, the facts on which you rely in contending that this Defendant "was otherwise negligent in the conduct of Shofer v. Hack including, but not limited to, each act of negligence, the applicable standard of care breached, all damages allegedly resulting from each act of negligence, identify all persons upon which you rely in making any such contention, identify all documents upon which you rely and identify all persons with personal knowledge thereof.

**INTERROGATORY NO. 12:** Explain in detail your allegation in paragraph 10 of the your Complaint that this Defendant "knew, or should have known, of the exclusivity of federal jurisdiction as to certain or all claims against Hack" including, but not limited, whether you contend that case law interpreting the Employee Retirement Income Security Act of 1974, 29 U.S.C. sec 1001-461 (1988 Supp. 1994) ("ERISA") and, specifically, its preemption provisions, permitted an action against a non-fiduciary for recovery of compensatory damages for breach of



the duty owed to a qualified plan, whether you contend that such an action could have been maintained in Federal Court on your behalf by this Defendant under the law at the time of its representation of you, identify each case or other legal authority upon which you rely, identify all persons upon whom you rely in making any such contention, and identify all documents that support any such contention.

**INTERROGATORY NO. 13:** If you contend that you suffered damages as a proximate result of any act, error or omission on the part of this Defendant, set forth in detail all facts and circumstances which support your contention including, but not limited to, a precise description of each such act, error or omission, the date of each such act, error or omission, a precise description of any generally accepted standards which you contend this Defendant failed to follow, a precise description of any statute, rule, ordinance or regulation which you contend this Defendant failed to follow, identify all persons with personal knowledge of such facts and circumstances and, identify all documents related to any such contentions.

**INTERROGATORY NO. 14:** For each act, error or omission set forth in Answer to the previous Interrogatory, set forth all facts and circumstances which support your contention that you suffered damage including, but not limited to, an specific itemization of each element of alleged damages including, but not limited to, prohibited transactions penalties, excise taxes and related damages, the basis for all such damages, the exact nature and amounts of such damage, your method of computing such damages, identify all documents related thereto and identify all personal knowledge thereof.

**INTERROGATORY NO. 15:** State the date of any excise taxes levied against you or any of the Plaintiffs by the Labor Department, identify the amount of any such excise taxes, identify all documents related thereto and identify all persons with personal knowledge thereof related thereto.

**INTERROGATORY NO. 16:** Describe all "penalties" assessed against the Plaintiffs by the Internal Revenue Service arising out of the transactions of Richard Shofer and which are alleged to have been incurred as a result of this Defendant's negligence, state the amount of such

penalties, state the date any such penalties were assessed, state whether any such penalties have been paid, identify all document including, but not limited to, correspondence, memoranda, notices, assessments, I.R.S. documents and related material regarding and such penalties, and identify all persons with personal knowledge thereof.

**INTERROGATORY NO. 17:** In accordance with Maryland Rule 2-402(e)(1), identify all persons whom you expect to call as expert witnesses at trial of this matter, and for each such expert, identify the subject matter on which each is expected to testify, the substance of the findings and opinions to which each is expected to testify and a summary of the grounds for each opinion, and attach to your Answers a copy of any written report from any such experts.

**INTERROGATORY NO. 18:** Prior to retaining this Defendant to act as your counsel in Shofer v. Hack, state whether your consulted with any other attorney regarding potential causes of action against the Hack defendants and, if so, identify each such attorney, the date or dates of each consultation and the general purpose of the consultation.

**INTERROGATORY NO. 19:** Identify each document, writing or report which you or anyone assisting in the preparation of your Answers to these Interrogatories reviewed or referred to for the purpose of responding to these Interrogatories.

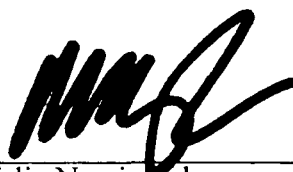
**INTERROGATORY NO. 20:** If you contend that a person, firm or corporation not a party to this action acted in such a manner as to cause or contribute to the occurrence and/or your alleged damages, identify that person, firm or corporation, give a concise statement of the facts upon which you rely and identify all documents related thereto.

**INTERROGATORY NO. 21:** State whether any person has entered into any release, settlement or other agreement, formal or informal, whether reduced to writing or not, pursuant to which the liability of any person for any injury or damage arising out of the occurrence described in the Complaint has been limited, reduced, released or modified in any manner whatsoever, and, if so, identify the persons with whom each such agreement was made, the date each such agreement was made, and describe the terms of each such agreement.

**INTERROGATORY NO. 22:** Set forth, in detail, all communications between you, or any of your agents, servants or employees and this Defendant or any of his agents, servants or employees, including, but not limited to, the date, time and place of the communication, the method of communication (i.e.: telephone call, letter, personal conference), the exact substance of the communication and identify all persons who participated in, witnessed or have personal knowledge of each such communication.

**INTERROGATORY NO. 23:** If you have ever pleaded guilty or have been convicted of any crime (other than a minor traffic violation), state the nature, place and date of the same, the court docket reference and identify the counsel who represented you.

**INTERROGATORY NO. 24:** Identify all persons not previously identify in your Answers to these Interrogatories who have personal knowledge of any facts pertinent to the such matter of this litigation, and with respect to each person, identify the subject matter to which their knowledge pertains and the substance of such knowledge.



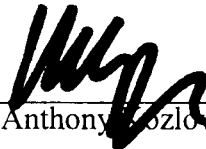
Shirlie Norris Lake  
Mark Anthony Kozlowski  
ECCLESTON AND WOLF  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460

Attorneys for Blum, Yumkas, Mailman, Gutman & Denick, P.A., Defendant.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 22<sup>nd</sup> day of August, 1994, a copy of the foregoing Interrogatories was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207; to Janet M. Truhe, Esquire, Ward, Janofsky &

Truhe, P.A., Court Towers, Suite 505, 210 West Pennsylvania Avenue. Towson, Maryland 21204 and to Jason L. Spiegel, Esquire, Jordan, Coyne & Savits, 33 Wood Lane. Rockville, Maryland 20850.

  
\_\_\_\_\_  
Mark Anthony Rozlowski

RICHARD SHOFER, et al.

Plaintiffs

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

Defendant

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IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY  
Case No: 93285087/CL171133

\* \* \* \* \*

**REQUEST FOR PRODUCTION OF DOCUMENTS**

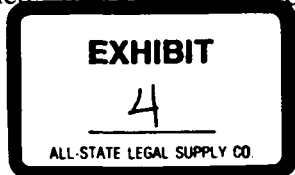
TO: Richard Shofer, one of the Plaintiffs

FROM: Blum, Yumkas, Mailman, Gutman & Denick, P.A. ("BYMG&D"), Defendant

In accordance with the Maryland Rules of Civil Procedure, Richard Shofer, one of the Plaintiffs, is hereby requested to produce the following documents for inspection, examination and copying by Defendant BYMG&D or its attorneys, at the law offices of Eccleston and Wolf, 7th Floor, Scarlett Place, 729 E. Pratt Street, Baltimore, Maryland 21202, on or before September 19, 1994, or at such time and place as counsel for the parties may agree. Plaintiffs, prior thereto and within thirty (30) days after service of this Request, shall serve a written response to the Request stating, with respect to each item or category listed below, that inspection will be permitted as requested unless the Request is objected to, in which event the reason for objection shall be stated.

**DEFINITIONS AND INSTRUCTIONS**

(a) As used herein, the term "document" shall include the original, and any copy (regardless of origin), and all drafts of correspondence, memoranda, notes, reports, letters, diaries, minutes, telegrams, messages (including reports and notes of telephone conversations of conferences), books, accounts, tax returns, financial statements, check books, bank books, and statements, contracts, studies, transcripts, tabulations, analyses, estimates, projections, work papers, summaries, opinions, calendars, appointment books, adding machine tapes, receipts, invoices, telephone bills, photographs, photostats, film, microfilm, sound recordings, tapes, data compilations, or any other written, recorded, transcribed, taped, filed, or graphic matter,



compilations, or any other written, recorded, transcribed, taped, filed, or graphic matter, however produced or reproduced, in your custody, possession or control or that of your agents, representatives or employees continuing attorneys and accountants.

(b) If any documents responsive to this request was, but no longer is in your possession, custody or control, please furnish a description of each such document, state the manner and circumstances under which it left your possession, custody or control, and the document's present whereabouts, if known.

(c) As used herein "person" shall mean individual's sole proprietorships, partnerships, corporations, joint ventures and/or any combinations thereof in addition to natural persons.

(d) As used herein all references to the singular include the plural, and all plural references include the singular.

(e) Each document produced in response to this request shall be segregated or numbered in accordance with the paragraph, or subparagraph, if applicable, to which it is produced.

(f) If you claim privilege, qualified work product immunity, or decline to produce documents as requested on the basis of some other objection, you shall list in your response to this request, all such documents in chronological order, setting forth as to each of the following:

- (1) Date
- (2) Author(s)
- (3) Addressee(s)
- (4) Title
- (5) Type of document (e.g., letter report, memorandum, etc.)
- (6) Subject matter (without revealing the information as to which privilege or immunity is claimed or objection made)
- (7) Basis for the claimed privilege, immunity or objection
- (8) Identity of all persons to whom copies of such requests were sent.

The deponent is requested to bring the following documents:

**REQUEST NO. 1:** All documents named or referred to in your Answers to the Interrogatories filed herewith.

**REQUEST NO. 2:** All documents which set forth, evidence, refer or relate to any and all damages all Plaintiffs are claiming in this case.

**REQUEST NO. 3:** All documents, notes, memoranda, or other material related to any investigation of you or each other Plaintiff by the Internal Revenue Service as it relates to any damages claimed in the instant action.

**REQUEST NO. 4:** All reports, notes, calculations and other documents prepared by any and all experts who you intend to call as witnesses at the trial of this case.

**REQUEST NO. 5:** The most current curriculum vitae or resume of each expert expected to testify at the trial of the above captioned case.

**REQUEST NO. 6:** All documents provided to any expert expected to testify at the trial of the above captioned case.

**REQUEST NO. 7:** All correspondence to or from any expert expected to testify at the trial of the above captioned case.

**REQUEST NO. 8:** All documents, books, treatises, or articles relied upon or reviewed by any expert expected to testify in the above captioned case.

**REQUEST NO. 9:** All documents which relate to the services rendered by any expert expected to testify in the above captioned case including, but not limited to, retainer agreement, time records, and bills and/or services.

**REQUEST NO. 10:** All transcripts of prior testimony of any expert expected to testify at the trial of the above captioned case.

**REQUEST NO. 11:** All documents, notices, assessments, calculations, invoices, checks or other material related to any excise taxes assessed against you or any other Plaintiff by the Internal Revenue Service.

**REQUEST NO. 12:** All statements of witnesses regarding any and all fact relevant to the instant action.

**REQUEST NO. 13:** All written correspondence and documents evidencing oral communications between you or anyone on your behalf, and the Defendants or any agent, servant or employee of the Defendants.

**REQUEST NO. 14:** All written correspondence and documents evidencing oral communications between you or anyone on your behalf and anyone other than the Defendants which relate, concern or refer, in any way, to their representation of your interests in Shofer v. Hack, et al.

**REQUEST NO. 15:** All documents provided by you or anyone on your behalf to the Defendants.

**REQUEST NO. 16:** All documents, notices, assessments, calculations, invoices, checks or other material related to any prohibited transaction penalties and/or taxes assessed against you or any other Plaintiff by the Internal Revenue Service.

**REQUEST NO. 17:** The office file of this Defendant regarding its representation of the Plaintiff in Shofer v. Hack.

**REQUEST NO. 18:** Copies of your federal and state income tax returns and W-2 forms for the previous 10 years.

**REQUEST NO. 19:** Copies of Catalina Enterprises, Inc.'s federal and state income tax returns for the previous 10 years.


**REQUEST NO. 19:** Copies of Catalina Enterprises, Inc. Pension Trust's federal and state income tax returns for the previous 10 years.

**REQUEST NO. 19:** A copy of any employment contract or retainer agreement between you and the Defendants.

**REQUEST NO. 20:** Any book, treatise, article or other document relied upon by you in any contention that the Defendants deviated from the standard of care.



REQUEST NO. 21: All written or recorded statements of this party, or of any agent, representative, or employee of this party, concerning the subject matter of this action.

  
\_\_\_\_\_  
Shirley Norris Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
729 E. Pratt Street  
7th Floor - Scarlett Place  
Baltimore, Maryland 21202-4460  
(410) 752-7474

Counsel for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22 day of August, 1994, a copy of the foregoing Request for Production of Documents was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207; to Janet M. Truhe, Esquire, Ward, Janofsky & Truhe, P.A., Court Towers, Suite 505, 210 West Pennsylvania Avenue, Towson, Maryland 21204 and to Jason L. Spiegel, Esquire, Jordan, Coyne & Savits, 33 Wood Lane, Rockville, Maryland 20850.

  
\_\_\_\_\_  
Mark Anthony Kozlowski

RICHARD SHOFER, et al.

RECEIVED  
CIRCUIT COURT FOR BALTIMORE CITY  
AUG 23 PM 3:08  
CIVIL DIVISION

Plaintiffs  
v.  
BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

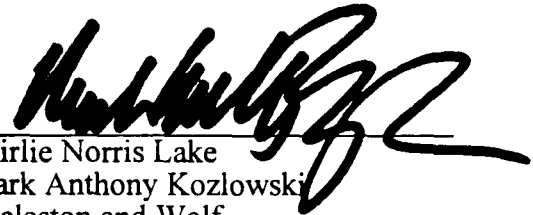
\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\*  
\* Case 93285087/CL171133

Defendant

\* \* \* \* \*

NOTICE OF SERVICE

Pursuant to Rule 2-401(c)(2), notice is hereby given of the service of Interrogatories and Request for Production of Documents directed to Richard Shofer upon by first class mail, postage prepaid, on August 22, 1994. The originals of the Interrogatories and Request for Production of Documents have been retained by the undersigned and are available for inspection by any other party.

  
Shirlie Norris Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460

Attorneys for Blum, Yumkas, Mailman, Gutman & Denick, P.A., Defendant.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22<sup>nd</sup> day of August, 1994, a copy of the foregoing Notice of Service was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207; to Janet M. Truhe, Esquire, Ward, Janofsky & Truhe, P.A., Court Towers, Suite 505, 210 West Pennsylvania Avenue, Towson, Maryland 21204 and to Jason L. Spiegel, Esquire, Jordan, Coyne & Savits, 33 Wood Lane, Rockville, Maryland 20850.

  
Mark Anthony Kozlowski

EXHIBIT  
5  
ALL-STATE LEGAL SUPPLY CO.

Law Offices  
**Eccleston and Wolf**  
Professional Corporation

(410) 752-7474  
FAX (410) 752-0611

7TH FLOOR, SCARLETT PLACE  
729 E. PRATT STREET  
BALTIMORE, MARYLAND 21202-4460

SUITE 450  
1750 K STREET, N. W.  
WASHINGTON, D. C. 20006-2300  
(202) 857-1696  
FAX (202) 857-0762

MARK ANTHONY KOZLOWSKI

September 28, 1994

VIA TELEFAX

Thomas H. Bornhorst, Esquire  
2236 Southland Road  
Baltimore, Maryland 21207

COPY

RE: Richard Shofer, et al. v. Blum,  
Yumkas, Mailman, Gutman & Denick, P.A.  
Circuit Court for Baltimore City  
Case No: 93285087 CL171133

Dear Mr. Bornhorst:

As you are aware, we filed a Request for Production of Documents and Interrogatories directed to Richard Shofer on or about August 22, 1994. By my calculations, your client's discovery responses were due September 22. With the fast approaching discovery deadline of November 9, 1994, I request that you immediately submit your discovery responses.

Additionally, I have taken the precautionary step of noting Mr. Shofer's deposition, pursuant to the enclosed Notice to Take Deposition, for 10:00 a.m. on Wednesday, October 12, in our offices in Baltimore. Should this date be inconvenient, please contact me so that we may discuss alternative dates.

Additionally, please disclose the identity of your anticipated experts immediately so that I can arrange their depositions and so that we may adequately prepare a counter designation of defense experts.

I look forward to your immediate cooperation.

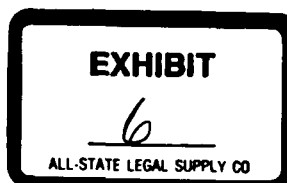
Very truly yours,

ECCLESTON AND WOLF

By:   
Mark Anthony Kozlowski

MAK/cgg

cc: Thomas Bowden, Esquire



RICHARD SHOFER, et al.

Plaintiffs

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

Defendant

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY

Case No: 93285087/CL171133


\* \* \* \* \*

**NOTICE OF DEPOSITION DUCES TECUM**

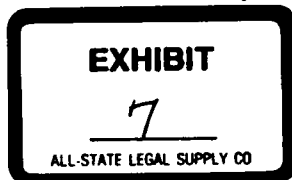
You are hereby notified that Defendant, Blum, Yumkas, Mailman, Gutman & Denick, P.A., by and through its attorneys, Shirlye Norris Lake, Mark Anthony Kozlowski and Eccleston and Wolf request, pursuant to the terms and provisions of the Maryland Rules of Civil Procedure, to take the deposition duces tecum of the following named person before a notary public of the State of Maryland at the time and place indicated below, to be continued from time to time until completed.

DEPONENT: RICHARD SHOFER  
DATE: Wednesday, October 12, 1994  
TIME: 10:00 a.m.  
LOCATION: Law Offices of Eccleston and Wolf  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202

Deponent is request to bring with him to the scheduled deposition the documents request on the attached Schedule A.

  
\_\_\_\_\_  
Shirlye Norris Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460

Attorneys for Defendants



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26<sup>th</sup> day of September, 1994, a copy of the foregoing Notice of Deposition Duces Tecum was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207; to Janet M. Truhe, Esquire, Ward, Janofsky & Truhe, P.A., Court Towers, Suite 505, 210 West Pennsylvania Avenue, Towson, Maryland 21204 and to Jason L. Spiegel, Esquire, Jordan, Coyne & Savits, 33 Wood Lane, Rockville, Maryland 20850.

  
\_\_\_\_\_  
Mark Anthony Kozlowski

## SCHEDULE A

### DEFINITIONS AND INSTRUCTIONS

(a) As used herein, the term "document" shall include the original, and any copy (regardless of origin), and all drafts of correspondence, memoranda, notes, reports, letters, diaries, minutes, telegrams, messages (including reports and notes of telephone conversations and conferences), books, accounts, tax returns, financial statements, check books, bank books and statements, contracts, studies, transcripts, tabulations, analyses, estimates, projections, work papers, summaries, opinions, calendars, appointment books, adding machine tapes, receipts, invoices, telephone bills, photographs, photostats, film, microfilms, sound recordings, tapes, data compilations, or any other written, recorded, transcribed, punched, taped, filed, or graphic matter, however produced or reproduced, in your custody, possession or control or that of your agents, representatives or employees including attorneys and accountants.

(b) If any documents responsive to this Request was, but no longer is, in your possession, custody or control, please furnish a description of each such document, state the manner and circumstances under which it left your possession, custody or control, and the document's present whereabouts, if known.

(c) As used herein "person" shall mean individual sole proprietorships, partnerships, corporations, joint ventures and/or any combinations thereof in addition to natural persons.

(d) As used herein all references to the singular include the plural, and all plural references include the singular.

(e) Each document produced in response to this Request shall be segregated or numbered in accordance with the paragraph, or subparagraph, if applicable, to which it is produced.

(f) If you claim privilege, qualified work-product immunity, or decline to produce documents as requested on the basis of some other objection, you shall list in your written response to this Request all such documents in chronological order, setting forth as to each of the following:

- (1) Date
- (2) Author(s)
- (3) Addressee(s)
- (4) Title
- (5) Type of document (e.g., letter report, memorandum, etc.)
- (6) Subject matter (without revealing the information as to which privilege or immunity is claimed or objection made)
- (7) Basis for the claimed privilege immunity or objection
- (8) Identity of all persons to whom copies of such documents were sent.

#### DOCUMENTS TO BE PRODUCED

1. All documents named or referred to in your Answers to the Interrogatories filed herewith.
2. All documents which set forth, evidence, refer or relate to any and all damages all Plaintiffs are claiming in this case.
3. All documents, notes, memoranda, or other material related to any investigation of you or each other Plaintiff by the Internal Revenue Service as it relates to any damages claimed in the instant action.
4. All reports, notes, calculations and other documents prepared by any and all experts who you intend to call as witnesses at the trial of this case.
5. The most current curriculum vitae or resume of each expert expected to testify at the trial of the above captioned case.
6. All documents provided to any expert expected to testify at the trial of the above captioned case.
7. All correspondence to or from any expert expected to testify at the trial of the above captioned case.
8. All documents, books, treatises, or articles relied upon or reviewed by any expert expected to testify in the above captioned case.

9. All documents which relate to the services rendered by any expert expected to testify in the above captioned case including, but not limited to, retainer agreement, time records, and bills and/or services.

10. All transcripts of prior testimony of any expert expected to testify at the trial of the above captioned case.

11. All documents, notices, assessments, calculations, invoices, checks or other material related to any excise taxes assessed against you or any other Plaintiff by the Internal Revenue Service.

12. All statements of witnesses regarding any and all fact relevant to the instant action.

13. All written correspondence and documents evidencing oral communications between you or anyone on your behalf, and the Defendants or any agent, servant or employee of the Defendants.

14. All written correspondence and documents evidencing oral communications between you or anyone on your behalf and anyone other than the Defendants which relate, concern or refer, in any way, to their representation of your interests in Shofer v. Hack, et al.

15. All documents provided by you or anyone on your behalf to the Defendants.

16. All documents, notices, assessments, calculations, invoices, checks or other material related to any prohibited transaction penalties and/or taxes assessed against you or any other Plaintiff by the Internal Revenue Service.

17. The office file of this Defendant regarding its representation of the Plaintiff in Shofer v. Hack.

18. Copies of your federal and state income tax returns and W-2 forms for the previous 10 years.

19. Copies of Catalina Enterprises, Inc.'s federal and state income tax returns for the previous 10 years.



20. Copies of Catalina Enterprises, Inc. Pension Trust's federal and state income tax returns for the previous 10 years.

21. A copy of any employment contract or retainer agreement between you and the Defendants.

22. Any book, treatise, article or other document relied upon by you in any contention that the Defendants deviated from the standard of care.

23. All written or recorded statements of this party, or of any agent, representative, or employee of this party, concerning the subject matter of this action.

Law Offices  
**Eccleston and Wolf**  
Professional Corporation

(410) 752-7474  
FAX (410) 752-0611

7TH FLOOR, SCARLETT PLACE  
729 E. PRATT STREET  
BALTIMORE, MARYLAND 21202-4460

SUITE 450  
1750 K STREET, N. W.  
WASHINGTON, D. C. 20006-2300  
(202) 857-1696  
FAX (202) 857-0762

MARK ANTHONY KOZLOWSKI

October 12, 1994

VIA TELEFAX

COPY

Thomas H. Bornhorst, Esquire  
2236 Southland Road  
Baltimore, Maryland 21207

RE: Richard Shofer, et al. v. Blum,  
Yumkas, Mailman, Gutman & Denick, P.A.  
Circuit Court for Baltimore City  
Case No: 93285087 CL171133

Dear Mr. Bornhorst:

This confirms our conversation of yesterday.

As you know, we will not agree to a stay of the captioned action. However, in light of the pending discovery deadline, as we discussed, we will agree to submit a Joint Motion for Modification of the Scheduling Order which will seek to extend the discovery deadline for 60 days (to January 9, 1995). Additionally, I propose to include in the Joint Motion for Modification an extension of the deadline for Motions for Summary Judgment to and including January 24, 1995, which will be 15 days after the completion of discovery.

As we discussed, you agreed to proceed as described above in the event that this case is not resolved in another manner. You told me that you would be speaking with Mr. Shofer within the next day regarding a possible dismissal of this action. Please promptly advise me of his desire, if any, in that regard.

Additionally, as we discussed yesterday, we need your client's discovery responses immediately. The Interrogatories and Request for Production of Documents were filed on or about August 22, 1994 and copies were forwarded directly to you. We would agree to allowing you an additional two weeks to prepare the appropriate discovery responses. Accordingly, we will expect to receive the same no later than October 27, 1994.

With respect to the deposition of Mr. Shofer, which we have previously noted, we suggest the following two dates: Tuesday, November 1, 1994 at 9:00 a.m. or Thursday, November 3, 1994 at 9:00 a.m. Please confirm one of these alternative dates immediately. Unless I hear from you with regard to which date is most convenient within the next several days, I will assume that both dates are available and I will file an Amended Notice to Take Deposition for one of those two dates.

EXHIBIT

8

ALL-STATE LEGAL SUPPLY CO.

**Eccleston and Wolf**

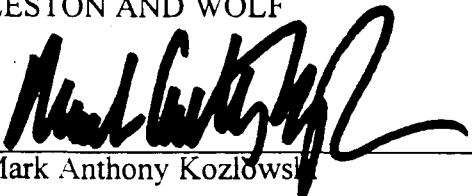
Thomas H. Bornhorst, Esquire  
October 12, 1994  
Page 2

I will forward the proposed Joint Motion for Modification to you under separate cover within the next 24 hours. Please let me hear from you as soon as possible.

Very truly yours,

ECCLESTON AND WOLF

By:

  
Mark Anthony Kozlowski

MAK/cgg

cc: Lloyd Mailman, Esquire  
Thomas Bowden, Esquire

RICHARD SHOFER, et al.

Plaintiffs

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

Defendant

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IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY

Case No: 93285087/CL171133

\* \* \* \* \*

**JOINT MOTION FOR MODIFICATION OF PRE-TRIAL CONFERENCE ORDER**

Richard Shofer, Catalina Enterprises, Inc. and Catalina Enterprises, Inc. Pension Trust, Plaintiffs, by their counsel, Thomas Bornhorst, and Blum, Yumkas, Mailman, Gutman & Denick, P.A. ("Blum, Yumkas"), Defendant, by its counsel, Shirlie Norris Lake, Mark Anthony Kozlowski and Eccleston and Wolf, hereby submit this Joint Motion for Modification of the Pre-Trial Conference Order and, in support thereof, state:

1. The instant professional negligence case was filed on or about October 12, 1993 on behalf of Richard Shofer and his business related entities, Catalina Enterprises, Inc. and Catalina Enterprises, Inc. Pension Trust. The Defendant filed an Answer on March 8, 1994. Shortly thereafter, the Court entered a Pre-Trial Conference Order. *See* Exhibit 1.

2. This matter arises out of the legal representation provided by the Defendant to the Plaintiffs in a separate action entitled Richard Shofer, et al. v. Stuart Hack Company, Circuit Court for Baltimore City, No. 88102069/CL7993 ("Hack litigation"). The Hack Complaint was initially filed in April 1988. After several years of litigation, which included proceedings in the United States District Court for the District of Maryland as well as the Court of Appeals of Maryland, Plaintiff retained separate counsel to represent him in the Hack litigation.

3. On the eve of a scheduled trial date in the Hack litigation, the Defendants in the Hack litigation, Stuart Hack Company ("Hack") and Grabush, Newman & Company, P.A. ("Grabush"), a Third Party Defendant, jointly filed a Motion to Consolidate the Hack litigation with the instant professional negligence case. At that juncture, this Court specially assigned the

Hack litigation to the Honorable Ellen Hollander. The Defendants in the underlying Hack litigation had filed an extensive Motion for Summary Judgment attacking the validity of various aspects of the Plaintiff's case. Judge Hollander was assigned to rule on the pending Motion for Summary Judgment as well as the Motion to Consolidate. A hearing on the Motion for Summary Judgment and Motion to Consolidate was held, in open court, before Judge Hollander, in June 1994.

4. Because the Motion to Consolidate was pending and because the disposition of the Motion for Summary Judgment filed by the Defendants in the underlying case could affect the course of discovery in the professional negligence case, the parties in the professional negligence case did not undertake any discovery.

5. Judge Hollander did not issue her ruling on the Motion for Summary Judgment until mid-July, 1994. The Court did not rule on the Motion to Consolidate.

6. Shortly after the disposition of the Motion for Summary Judgment, Blum, Yumkas sent Interrogatories and a Request for Production of Documents directed to Richard Shofer.

7. Additionally, efforts were undertaken to secure the consent of the Defendants in the Hack litigation to withdraw their Motion to Consolidate. Once it was determined that the cases would not be consolidated, the Defendant in the instant action filed a Notice to Take Deposition of the Plaintiff.

8. Counsel for the Plaintiff, however, discovered that he apparently never received the Interrogatories or Request for Production of Documents filed on behalf of the Defendant. New copies of the discovery were forwarded to Plaintiff's counsel.


9. Pursuant to the terms of the current Pre-Trial Conference Order, discovery is presently scheduled to be completed on November 7, 1994. However, because of the underlying circumstances of this matter as explained herein and because of the pendency of separate motions in the Hack litigation, the schedule as currently set, cannot reasonably be met despite the diligence of both parties.

10. Accordingly, for good cause shown as set forth herein, Plaintiffs and Defendants in the instant action have agreed to modify the Court's Pre-Trial Conference Order to include the following dates:


Discovery completion: January 7, 1995; and,  
Motions for Summary Judgment: January 24, 1995

11. The parties are not requesting an amendment to the Pre-Trial Conference date of February 9, 1995 or the trial date of March 9, 1995.

WHEREFORE, for the reasons stated herein, Plaintiffs and Defendants jointly request that this Court enter an Order modifying the Pre-Trial Conference Order to extend the discovery deadline to and including January 7, 1995 and extend the deadline for filing Motions for Summary Judgment to and including January 24, 1995.

  
Thomas H. Bornhorst  
2236 Southland Road  
Baltimore, Maryland 21207  
(410) 298-2265

Attorney for Plaintiff

  
Shirlie Norris Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460  
(410) 752-7474

Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21<sup>st</sup> day of October, 1994, a copy of the foregoing Joint Motion to Modify Pre-Trial Conference Order was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207.

  
\_\_\_\_\_  
Mark Anthony Kozlowski

Law Offices  
**Eccleston and Wolf**  
Professional Corporation

7TH FLOOR, SCARLETT PLACE  
729 E. PRATT STREET  
BALTIMORE, MARYLAND 21202-4460

SUITE 450  
1750 K STREET, N. W.  
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(202) 857-1696  
FAX (202) 857-0762

(410) 752-7474  
FAX (410) 752-0611

MARK ANTHONY KOZLOWSKI

October 21, 1994

COPY

VIA TELEFAX AND FIRST CLASS MAIL

Thomas H. Bornhorst, Esquire  
2236 Southland Road  
Baltimore, Maryland 21207

RE: Richard Shofer, et al. v. Blum,  
Yumkas, Mailman, Gutman & Denick, P.A.  
Circuit Court for Baltimore City  
Case No: 93285087 CL171133

Dear Mr. Bornhorst:

Please be advised that Judge Byrnes of the Baltimore City Circuit Court signed the Order granting our Joint Motion for Modification of the Pretrial Conference Order. Therefore, discovery has been extended to and including January 7, 1995. A copy of the Order should be forwarded to you in due course by the clerk's office.

With respect to our last conversation, we need your client's executed Answers to Interrogatories as well as his response to our Request for Production of Documents no later than Wednesday, October 26, 1994. Additionally, please confirm either November 2 or November 4 as the date for Mr. Shofer's deposition. As we have secured an extension of discovery, it is absolutely imperative that we move forward immediately towards completing discovery.

It is my understanding that you were to discuss the terms of my client's counter-offer with Mr. Shofer. Please let us have the courtesy of your response no later than close of business November 2, 1994.

Very truly yours,

ECCLESTON AND WOLF

By: 

Mark Anthony Kozlowski

MAK/cgg  
Enclosure

cc: Lloyd Mailman, Esquire  
Thomas Bowden, Esquire

EXHIBIT

10

ALL-STATE LEGAL SUPPLY CO.



RICHARD SHOFER, et al.

Plaintiffs/Counter-Defendants

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

Defendant/Counter-Plaintiff

\* IN THE  
\* CIRCUIT COURT

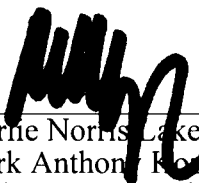
\* FOR  
\* BALTIMORE CITY

\* Case No: 93285087/CL171133

\* \* \* \* \*

**REQUEST FOR HEARING**

Blum, Yumkas, Mailman, Gutman & Denick, P.A. ("Blum, Yumkas"), Defendant/Counter-Plaintiff, by its counsel, Shirlie Norris Lake, Mark Anthony Kozlowski and Eccleston and Wolf, pursuant to Maryland Rule 2-311(f), hereby requests a hearing on their Motion for Immediate Sanctions for Failure to Provide Discovery

  
\_\_\_\_\_  
Shirlie Norris Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460  
(410) 752-7474

Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 13 day of November, 1994, a copy of the foregoing Request for Hearing was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207.

  
\_\_\_\_\_  
Mark Anthony Kozlowski

(9) 08

**CIVIL POSTPONEMENT FORM**

DATE: \_\_\_\_\_

Plaintiff(s)

*Richard Shoter, et al*

**FILE**

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY

v.

OCT 24 1994

*Blum, Yunkas, Meilman,  
+ Durk, P.A.*

CIRCUIT COURT FOR  
BALTIMORE CITY

Defendant(s)

Case #: \_\_\_\_\_

File #: *93 2 8 5087 CL 171133*



Jury  CT. \_\_\_\_\_ CTF. \_\_\_\_\_ MOT. 2-507

DOMESTIC JUDGE: \_\_\_\_\_ DOMESTIC MASTER: \_\_\_\_\_

**PLEASE PRINT**

To be postponed from: DATE: \_\_\_\_\_ PRIOR POSTPONEMENTS: Y  N

Postponement requested by: *Joint Motion for Modification*

Postponement reason: (please specify):  
*See attached Motion*

Plaintiff(s) Attorneys:  
*Thomas Boehnke*

Defendant(s) Attorneys:  
*Mark Anthony Kozlowski*

New Trial Date: *SEE ATTACHED*

Approved:  Denied: \_\_\_\_\_

*[Signature]*  
(JUDGE'S SIGNATURE)

RICHARD SHOFER, et al.

Plaintiffs

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

Defendant

\*

\*

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\*

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IN THE

CIRCUIT COURT

FOR

BALTIMORE CITY

Case No: 93285087/CL171133

\*

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**ORDER**

Upon consideration of the Joint Motion for Modification of the Pre-Trial Conference Order, and any oral argument thereon, it is this 21 day of OCTOBER, 1994, by the Circuit Court for Baltimore City,

ORDERED:

1. That the Joint Motion for Modification of the Pre-Trial Conference Order is hereby GRANTED; and
2. That the discovery deadline shall be extended to and including January 7, 1995; and
3. That the deadline for Motions for Summary Judgment shall be extended to and including January 24, 1995.



\_\_\_\_\_  
Judge, Circuit Court for Baltimore City

Copies to:

Thomas H. Bornhorst, Esquire  
Shirlie Norris Lake, Esquire  
Mark Anthony Kozlowski, Esquire

RICHARD SHOFER, et al.

Plaintiffs

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

Defendant

\*  
\*  
\*  
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IN THE  
CIRCUIT COURT

FOR

BALTIMORE CITY

Case No: 93285087/CL171133

\* \* \* \* \*

**JOINT MOTION FOR MODIFICATION OF PRE-TRIAL CONFERENCE ORDER**

Richard Shofer, Catalina Enterprises, Inc. and Catalina Enterprises, Inc. Pension Trust, Plaintiffs, by their counsel, Thomas Bornhorst, and Blum, Yumkas, Mailman, Gutman & Denick, P.A. ("Blum, Yumkas"), Defendant, by its counsel, Shirlie Norris Lake, Mark Anthony Kozlowski and Eccleston and Wolf, hereby submit this Joint Motion for Modification of the Pre-Trial Conference Order and, in support thereof, state:

1. The instant professional negligence case was filed on or about October 12, 1993 on behalf of Richard Shofer and his business related entities, Catalina Enterprises, Inc. and Catalina Enterprises, Inc. Pension Trust. The Defendant filed an Answer on March 8, 1994. Shortly thereafter, the Court entered a Pre-Trial Conference Order. See Exhibit 1.

2. This matter arises out of the legal representation provided by the Defendant to the Plaintiffs in a separate action entitled Richard Shofer, et al. v. Stuart Hack Company, Circuit Court for Baltimore City, No. 88102069/CL7993 ("Hack litigation"). The Hack Complaint was initially filed in April 1988. After several years of litigation, which included proceedings in the United States District Court for the District of Maryland as well as the Court of Appeals of Maryland, Plaintiff retained separate counsel to represent him in the Hack litigation.

3. On the eve of a scheduled trial date in the Hack litigation, the Defendants in the Hack litigation, Stuart Hack Company ("Hack") and Grabush, Newman & Company, P.A. ("Grabush"), a Third Party Defendant, jointly filed a Motion to Consolidate the Hack litigation with the instant professional negligence case. At that juncture, this Court specially assigned the

Hack litigation to the Honorable Ellen Hollander. The Defendants in the underlying Hack litigation had filed an extensive Motion for Summary Judgment attacking the validity of various aspects of the Plaintiff's case. Judge Hollander was assigned to rule on the pending Motion for Summary Judgment as well as the Motion to Consolidate. A hearing on the Motion for Summary Judgment and Motion to Consolidate was held, in open court, before Judge Hollander, in June 1994.

4. Because the Motion to Consolidate was pending and because the disposition of the Motion for Summary Judgment filed by the Defendants in the underlying case could affect the course of discovery in the professional negligence case, the parties in the professional negligence case did not undertake any discovery.

5. Judge Hollander did not issue her ruling on the Motion for Summary Judgment until mid-July, 1994. The Court did not rule on the Motion to Consolidate.

6. Shortly after the disposition of the Motion for Summary Judgment, Blum, Yumkas sent Interrogatories and a Request for Production of Documents directed to Richard Shofer.

7. Additionally, efforts were undertaken to secure the consent of the Defendants in the Hack litigation to withdraw their Motion to Consolidate. Once it was determined that the cases would not be consolidated, the Defendant in the instant action filed a Notice to Take Deposition of the Plaintiff.

8. Counsel for the Plaintiff, however, discovered that he apparently never received the Interrogatories or Request for Production of Documents filed on behalf of the Defendant. New copies of the discovery were forwarded to Plaintiff's counsel.

9. Pursuant to the terms of the current Pre-Trial Conference Order, discovery is presently scheduled to be completed on November 7, 1994. However, because of the underlying circumstances of this matter as explained herein and because of the pendency of separate motions in the Hack litigation, the schedule as currently set, cannot reasonably be met despite the diligence of both parties.

10. Accordingly, for good cause shown as set forth herein, Plaintiffs and Defendants in the instant action have agreed to modify the Court's Pre-Trial Conference Order to include the following dates:

Discovery completion: January 7, 1995; and,  
Motions for Summary Judgment: January 24, 1995

11. The parties are not requesting an amendment to the Pre-Trial Conference date of February 9, 1995 or the trial date of March 9, 1995.

WHEREFORE, for the reasons stated herein, Plaintiffs and Defendants jointly request that this Court enter an Order modifying the Pre-Trial Conference Order to extend the discovery deadline to and including January 7, 1995 and extend the deadline for filing Motions for Summary Judgment to and including January 24, 1995.



Thomas H. Bornhorst  
2236 Southland Road  
Baltimore, Maryland 21207  
(410) 298-2265

Attorney for Plaintiff



Shirlie Norris Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460  
(410) 752-7474

Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21<sup>st</sup> day of October, 1994, a copy of the foregoing Joint Motion to Modify Pre-Trial Conference Order was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207.

  
\_\_\_\_\_  
Mark Anthony Kozlowski

69

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY

94 SEP 29 PM 2:54

RICHARD SHOFER, et al.

Plaintiffs

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

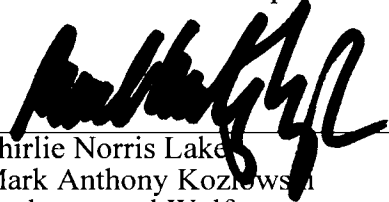
Defendant

\* IN THE  
\* CIRCUIT COURT DIVISION  
\* FOR  
\* BALTIMORE CITY  
\*  
\* Case 93285087/CL171133

\* \* \* \* \*

NOTICE OF SERVICE

Pursuant to Rule 2-401(c)(2), notice is hereby given of the service of Notice of Deposition Duces Tecum of Richard Shofer upon Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207; to Janet M. Truhe, Esquire, Ward, Janofsky & Truhe, P.A., Court Towers, Suite 505, 210 West Pennsylvania Avenue, Towson, Maryland 21204 and to Jason L. Spiegel, Esquire, Jordan, Coyne & Savits, 33 Wood Lane, Rockville, Maryland 20850 by first class mail, postage prepaid, on September 28, 1994. The original of Notice has been retained by the undersigned and is available for inspection by any other party.

  
Shirlie Norris Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460

Attorneys for Blum, Yumkas, Mailman, Gutman & Denick, P.A., Defendant.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28<sup>th</sup> day of September, 1994, a copy of the foregoing Notice of Service was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207; to Janet M. Truhe, Esquire, Ward, Janofsky



& Truhe, P.A., Court Towers, Suite 505, 210 West Pennsylvania Avenue, Towson, Maryland  
21204 and to Jason L. Spiegel, Esquire, Jordan, Coyne & Savits, 33 Wood Lane, Rockville,  
Maryland 20850.



---

Mark Anthony Kozlowski

RICHARD SHOFER, et al.

Plaintiffs

v.

BLUM, YUMKAS, MAILMAN  
GUTMAN & DENICK, P.A.

Defendant

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BALTIMORE CITY  
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CIRCUIT COURT  
FOR CIVIL DIVISION

BALTIMORE CITY

Case 93285087/CL171133

*Handwritten initials and a checkmark.*

\* \* \* \* \*

NOTICE OF SERVICE

Pursuant to Rule 2-401(c)(2), notice is hereby given of the service of Interrogatories and Request for Production of Documents directed to Richard Shofer upon by first class mail, postage prepaid, on August 22, 1994. The originals of the Interrogatories and Request for Production of Documents have been retained by the undersigned and are available for inspection by any other party.

*Handwritten signature of Shirlie Norris Lake*  
Shirlie Norris Lake  
Mark Anthony Kozlowski  
Eccleston and Wolf  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460

Attorneys for Blum, Yumkas, Mailman, Gutman & Denick, P.A., Defendant.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22<sup>nd</sup> day of August, 1994, a copy of the foregoing Notice of Service was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207; to Janet M. Truhe, Esquire, Ward, Janofsky & Truhe, P.A., Court Towers, Suite 505, 210 West Pennsylvania Avenue, Towson, Maryland 21204 and to Jason L. Spiegel, Esquire, Jordan, Coyne & Savits, 33 Wood Lane, Rockville, Maryland 20850.

*Handwritten signature of Mark Anthony Kozlowski*  
Mark Anthony Kozlowski

Law Offices  
**Eccleston and Wolf**  
Professional Corporation

(410) 752-7474  
FAX (410) 752-0611

7TH FLOOR, SCARLETT PLACE  
729 E. PRATT STREET  
BALTIMORE, MARYLAND 21202-4460

SUITE 450  
1750 K STREET, N. W.  
WASHINGTON, D. C. 20006-2300  
(202) 857-1696  
FAX (202) 857-0762

MARK ANTHONY KOZLOWSKI

May 6, 1994

Clerk,  
The Circuit Court  
for Baltimore City  
Courthouse East  
111 North Calvert Street  
Baltimore, Maryland 21202

RECEIVED FOR  
COURT DIVISION  
MAY 6 1994  
10:31

RE: Richard Shofer, et al v. Stuart Hack,  
Company  
Case No: 88102069/CL7993 79993

Richard Shofer, Catalina Enterprises, Inc.  
and Catalina Enterprises, Inc., Pension Trust  
v. Blum, Yumkas, Mailman, Gutman &  
Denick, P.A.  
Civil Action No: 93285087/CL171133

Dear Clerk:

Enclosed for filing please find an Opposition to Motion to Consolidate Cases and Notice to Strike and Enter Appearance with regard to the above-referenced case. Once filed, kindly sign and date the enclosed copy of this letter and return it to me in the self-addressed, stamped envelope I have provided.

Thank you for your attention to this matter.

Sincerely,

ECCLESTON AND WOLF

By: Mark Anthony Kozlowski  
Mark Anthony Kozlowski

MAK/ljr  
Enclosures

SIGNED: \_\_\_\_\_

DATED: \_\_\_\_\_

cc: Judge Ellen L. Hollander  
Thomas H. Bornhorst, Esquire  
Janet Truhe, Esquire  
Jason L. Spiegel, Esquire

Law Offices  
**Eccleston and Wolf**  
Professional Corporation

(410) 752-7474  
FAX (410) 752-0611

7TH FLOOR, SCARLETT PLACE  
729 E. PRATT STREET  
BALTIMORE, MARYLAND 21202-4460

SUITE 450  
1750 K STREET, N. W.  
WASHINGTON, D. C. 20006-2300  
(202) 857-1696  
FAX (202) 857-0762

MARK ANTHONY KOZLOWSKI

May 6, 1994

Clerk,  
The Circuit Court  
for Baltimore City  
Courthouse East  
111 North Calvert Street  
Baltimore, Maryland 21202

RE: Richard Shofer, et al v. Stuart Hack,  
Company  
Case No: 88102069/CL~~7993~~79993

Richard Shofer, Catalina Enterprises, Inc.  
and Catalina Enterprises, Inc., Pension Trust  
v. Blum, Yumkas, Mailman, Gutman &  
Denick, P.A.  
Civil Action No: 93285087/CL171133

Dear Clerk:

Enclosed for filing please find an Opposition to Motion to Consolidate Cases and Notice to Strike and Enter Appearance with regard to the above-referenced case. Once filed, kindly sign and date the enclosed copy of this letter and return it to me in the self-addressed, stamped envelope I have provided.

Thank you for your attention to this matter.

Sincerely,

ECCLESTON AND WOLF

By: \_\_\_\_\_

Mark Anthony Kozlowski

MAK/ljr  
Enclosures

SIGNED: \_\_\_\_\_

DATED: \_\_\_\_\_

cc: Judge Ellen L. Hollander  
Thomas H. Bornhorst, Esquire  
Janet Truhe, Esquire  
Jason L. Spiegel, Esquire

Sub

RICHARD SHOFER, et al

Plaintiff

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

Defendants

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Civil Action No. 93285087 CL171133

MAY 06 1994

\* \* \* \* \*

**NOTICE TO STRIKE AND ENTER APPEARANCE**

Please withdraw the appearance of Laurie A. Lyte, Esquire, Co-Counsel for the Defendant/Counter-Plaintiff, Blum, Yumkas, Mailman, Gutman & Denick, P.A. and, enter the appearance of Mark Anthony Kozlowski, Esquire as Co-Counsel for the Defendant/Counter-Plaintiff.



*Mark Anthony Kozlowski*

Shirley Norris Lake  
Mark Anthony Kozlowski  
ECCLESTON AND WOLF  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460  
(410) 752-7474

Counsel for Defendant/Counter-Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6<sup>th</sup> day of May, 1994, a copy of the foregoing Notice to Strike and Enter Appearance was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207, counsel for Richard Shofer, et al. and to Janet M. Truhe, Esquire, Ward Janofsky & Truhe, P.A., Court Towers Suite 505, 210 West Pennsylvania Avenue, Towson, Maryland 21204, counsel for Stewart Hack Company, et al. and to Jason L Spiegel, Esquire, Gordan Coyne & Savits, 33 Wood Lane, Rockville, Maryland 20850, counsel for Grabush Newman & Company, P.A.

*Mark A. Kozlowski*

Mark A. Kozlowski

600

RICHARD SHOFER, et al

Plaintiff

v.

STUART HACK, COMPANY

Defendants

\* \* \* \* \*

RICHARD SHOFER, CATALINA ENTERPRISES, INC. AND CATALINA ENTERPRISES, INC., PENSION TRUST

Plaintiff/Counter-Defendants

v.

BLUM, YUMKAS, MAILMAN, GUTMAN & DENICK, P.A.

Defendants/Counter-Plaintiffs

\* \* \* \* \*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No. 881020269/CL~~7993~~ 79993

88100177

Civil Action No. 93285087/CL171133

**OPPOSITION TO MOTION TO CONSOLIDATE CASES**

Defendant/Counter-Plaintiff in Civil Action No. 93285087/CL171133, Blum, Yumkas, Mailman, Gutman & Denick, P.A., ("Blum Yumkas") by its attorneys, Shirley Norris Lake, Mark Anthony Kozlowski, and Eccleston and Wolf, hereby submits this Opposition to the pending Motion to Consolidate Cases.

**I. STATEMENT OF FACTS**

The genesis of this litigation arose in 1984 when it is alleged that Stuart Hack, Defendant in Civil Action No. 881020269/CL7993, improperly advised the plaintiff, Richard Shofer ("Shofer"), that it was permissible to use pension funds for personal loans. Relying on Hack's advice, between August 9, 1984 and September 20, 1986, Shofer borrowed approximately \$375,000.00 from the pension plan ("Catalina plan") serving his business.<sup>1</sup> Hack

<sup>1</sup> Shofer is the sole share holder and President of Catalina Enterprises (a/k/a Crown Motors) which deals in the sale of automobiles. The employees of Shofer's businesses were served by a pension plan which is qualified under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 et seq.

was the Catalina plan's consultant, and he routinely rendered professional assistance to the plan including advising Shofer as to the tax implications of transactions that were contemplated.

Sometime after borrowing the proceeds from the Catalina Plan, Shofer's accountants, Grabush, Newman & Company, P.A. ("Grabush"), Third Party Defendant in Civil Action No. 881020269/CL7993, allegedly advised Shofer of income tax liability based on those loans. It is alleged that because Hack failed to disclose that the loans were "income" under the tax code, Shofer was forced to pay additional taxes and penalties as he did not disclose the loans as income.<sup>2</sup>

Shofer began litigation in April, 1988 by filing, through his attorneys, Blum Yumkas, Richard Shofer et al. v. Stuart Hack Co., No. 88102069/CL7993 ("Hack Complaint"), a three count Complaint in the Baltimore City Circuit Court against Hack and his Company (collectively "Hack") alleging negligence, breach of contract and breach of fiduciary duty. An Amended Complaint was filed by Shofer in May, 1988 which added a fourth count for violation of ERISA. The ERISA based action sought damages for anticipated excise taxes and penalties on prohibited transactions as well as attorney fees. Hack eventually impleaded Grabush as a Third Party Defendant.

A Motion to Dismiss Count IV (the ERISA claim) of the Amended Complaint was filed by Hack in March, 1990 asserting that the Circuit Court lacked subject matter jurisdiction as the ERISA claim was exclusively within federal jurisdiction. Judge Ross found that a claim for breach of fiduciary duty under ERISA to be within exclusive federal jurisdiction and he dismissed Count IV with leave to amend. Shofer, thereafter, filed a Second Amended Complaint which set forth three counts under common law and five counts under ERISA. Hack then filed a Motion to Dismiss again asserting that exclusive federal jurisdiction applied to the ERISA based claims and arguing that the common law claims were preempted by ERISA's

---

<sup>2</sup> Shofer allegedly paid to the Federal Government and to the State of Maryland income taxes, penalties and interest totaling approximately \$120,428.00 for the years of 1984, 1985 and 1986 as the proceeds of the loans constituted income from those respective years.

preemption provision. On October 12, 1990, Judge Ross dismissed the Second Amended Complaint without leave to amend.<sup>3</sup>

Shofer pursued an appeal to the Court of Special Appeals; the Court of Appeals, however, issued a Writ of Certiorari on its own motion. The case was briefed and argued before the Court. By written opinion dated September 17, 1991, the Court of Appeals affirmed the dismissal of the ERISA based claims. Shofer v. Stuart Hack Co., 324 Md. 92, 113, 595 A.2d 1078 (1991). The Court, however, held that the state law causes of action were not preempted by ERISA and it remanded the case for trial. Id. at 109.

After remand, on December 5, 1992, Shofer filed a Third Amended Complaint containing counts for negligence and breach of contract. Shofer asserted that included among the damages sought under in the common law counts in the Third Amended Complaint were excise taxes and prohibited transaction penalties. Hack again moved to dismiss the Third Amended Complaint to the extent that ERISA damages were alleged. On February 17, 1993, this Court, by Judge Ward, granted Hack's Motion to Dismiss.

Extensive discovery has been completed, including depositions as well as written discovery, in the underlying Hack litigation and, until only recently, a trial date was scheduled for May 23, 1994. A new trial date has been established on July 11, 1994.<sup>4</sup>

At the time the Hack Complaint was filed, Shofer was represented by Lloyd Mailman and Tom Bowden of the law firm of Blum, Yumkas, Mailman, Gutman and Denick, P.A. ("Blum, Yumkas"). Blum Yumkas continued to represent the plaintiff until June, 1992.

On or about October 12, 1993, Shofer filed Richard Shofer, et al v. Blum, Yumkas, Mailman, Gutman & Denick, P.A., No. 93285087/CL171133 ("Blum, Yumkas

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<sup>3</sup> Shortly after Judge Ross dismissed the Second Amended Complaint in October, 1990, while still represented by Blum, Yumkas, Shofer filed a Complaint in the United States District Court for the District of Maryland which contained the identical causes of action set forth in the Second Amended Complaint. Hack, thereafter, filed a Motion To Dismiss raising a statute of limitations defense which was later granted by Judge Smalkin. The District Court's dismissal of the federal lawsuit was upheld by the Fourth Circuit Court of Appeals in June, 1992.

<sup>4</sup> A scheduling conference was held in the Hack case on April 28, 1994 before the Honorable Ellen Hollander to whom the Hack case has been specially assigned. The purpose of the scheduling conference was to discuss the impending May 26, 1994 trial date. Although not a party to the Hack matter, at the request of Judge Hollander, the undersigned counsel appeared on behalf of Blum, Yumkas. A trial date of July 11, 1994 was set for the Hack case only.



Complaint") against Blum, Yumkas asserting two separate causes of action for legal malpractice and breach of contract. The gravamen of the Blum, Yumkas litigation is the assertion that the defendants breached the applicable standard of care by failing to file, within the statute of limitations, a federal court lawsuit asserting ERISA damages. Blum, Yumkas, which was only recently served with process, filed a responsive pleading on March 7, 1994 as well as a Counter-Claim for legal fees. As the Blum Yumkas litigation is in its infancy stages, no discovery whatsoever has been completed. Additionally, the Circuit Court has recently entered a Scheduling Order which has assigned the Blum, Yumkas case for trial in March, 1995.

On or about April 19, 1994, only one month before the then May 23, 1994 trial date in the Hack case, by Motion filed only in the Shofer litigation, Hack and Grabush sought to postpone the trial of the Shofer case by asserting that consolidation of the two cases is appropriate. In support of their Motion, Hack/Grabush contend that, to succeed in the Blum, Yumkas litigation, Shofer will have to "prove [a] case within a case." See, Motion at 2. Further, the movants allege that Shofer will "have to establish the damages it allegedly suffered because of the Hack Defendants conduct, i.e. Plaintiff will have to quantify his alleged losses in the form of taxes, penalties, interest, and consequential damages." Id. Finally, in a rather illogical leap of supposition, the movants maintain "the purported liability of the Hack Defendants and the damages allegedly flowing therefrom are issues which are identical in both the [Shofer litigation] and the Blum, Yumkas [matter]. Id. The contentions of Hack/Grabush are without merit.

## **II. CONSOLIDATION OF THE HACK AND BLUM YUMKAS CASES WOULD BE GROSSLY INAPPROPRIATE.**

### **1. Consolidation will not serve the interest of justice.**

Considering the late stage of the Hack litigation and given that the Blum, Yumkas litigation is in its infancy stage, consolidation, for all intents and purposes, is impracticable and virtually impossible. The underlying case is presently scheduled for trial on July 11, 1994, now approximately ten weeks away. The legal malpractice cannot be prepared in such a short period

of time and to force Blum, Yumkas to so prepare would be grossly prejudicial. Moreover, Shofer, the only common party in the two cases, objects to the consolidation. As neither Hack or Grabush is a party to the Blum, Yumkas litigation, neither has standing to seek consolidation. If the Hack case is postponed to allow consolidation, such a delay would unfairly require Shofer to wait even longer for his day in court. From either perspective, consolidation at this juncture would not serve the interest of justice for either Shofer or Blum, Yumkas.

2. Consolidation is not appropriate under Md. Rule 2-503.

Maryland Rule 2-503(a), allows a trial court discretion to consolidate separate trials where such "actions involve a common question of law or fact or common subject matter." Rule 2-503(a). Only a cursory review of the separate liability and damages issues presented in Hack and Blum, Yumkas cases reveal that no such "common issues of law or fact" exist.

The Maryland Court of Appeals has reduced the Hack litigation to allegations of professional malpractice by Hack arising from his alleged failure to properly advise Shofer of tax consequences of loans from the Catalina Fund and the allegation against Grabush that its own negligence caused the plaintiff's damages. Those allegations have nothing to do whatsoever with Shofer's separate legal malpractice action against Blum, Yumkas which arises from the alleged failure to file a lawsuit within the applicable statute of limitations. Shofer's order of proof in both cases will be drastically different. In the Hack case, Shofer must present expert testimony in the area of pension consulting and tax advise. On the other hand, Shofer must present testimony of legal experts to prove his claim against Blum, Yumkas. Order of proof on the liability issues will involve separate testimony and separate documents.

Shofer's theory against Blum, Yumkas will not, as Hack/Grabush contend, require the Plaintiff to prove the identical cause of action against Hack as is asserted in the Hack case; rather, Shofer will only have the obligation to demonstrate that he had a viable cause of action under ERISA which was subject to the exclusive jurisdiction of the federal court and which Blum, Yumkas failed to file within the applicable statute of limitations. In Hack, Shofer will

have to prove that he has viable state law causes of action. Thus, the questions of liability relative to each case involve separate and distinct allegations.

Moreover, the alleged damages arising from the legal malpractice claim are those damages which would have been recoverable under a potential ERISA claim against Hack. Under the current ruling of this Court, as made by Judge Ward on May 23, 1994, those damages are distinct and separate from those damages which may be recoverable from Hack pursuant to Shofer's state law cause of action. Now pending before this Court is a Motion for Summary Judgment filed by Hack in the underlying case. A portion of that Motion asserts that the ERISA based damages, excise taxes and prohibited transaction penalties, are barred from the trial. Shofer, in his opposition, contends that such damages were part of the initial Complaint filed in 1988 and, that the Court of Appeals and Judge Ward's ruling excluding such damages is incorrect. To the extent that such damages are held to be recoverable under Shofer's common law causes of action, it may be possible for Shofer to fully recover from Hack all damages he allegedly sustained, thus, eliminating the basis of the legal malpractice claim. Accordingly, if Hack's Motion for Summary Judgment is granted as to the ERISA based damages, there will clearly be no common issues in the two cases. On the other hand, if the Court denies the Motion as to these damages, and Shofer is permitted to proceed to trial on them, then he will have suffered no damage as a result of the failure by Blum Yumkas to bring the ERISA claim in federal court within the proper limitations period. Accordingly, regardless of the Court's ruling on the pending Motion for Summary Judgment, consolidation is not appropriate.

3. No basis for indemnification or contribution exists against Blum, Yumkas.

The movants maintain that pending disposition of their Motion for Summary Judgment, a claim for indemnification and/or contribution may exist against the Blum, Yumkas law firm. There is absolutely no legal basis on which Hack and/or Grabush have grounds to seek indemnification and/or contribution from Blum, Yumkas. Under Maryland law, a claim seeking indemnification on contribution constitutes a form of derivative liability which is contingent on a

finding of liability on the main claim on the part of the party from whom contribution/indemnification is sought. Soper v. Kahn, 568 F.Supp. 398 (1983). In other words, the essence of a third party claim, which is the only method through which Hack/Grabush could assert claim for indemnification and/or contribution, is that the asserted liability of the third-party defendant to the defendant must be for all or part of the claim of the original plaintiff against the original defendant. Tradjer v. Montgomery Co., 300 Md. 539, 479 A.2d 1321 (1984), see also Md. Rule 2-332.

The damages sought from the Hack and Grabush center on allegations of negligence and breach of contract which arose in 1984 and thereafter. In no way could the law firm of Blum, Yumkas be found to be a joint tortfeasor with respect to Shofer's claim against Hack and Grabush arising out of negligent advice which occurred years before Blum, Yumkas became involved with the Plaintiff. Moreover, any such third-party claim would be untimely under Md. Rule 2-332 and subject to a Motion to Strike inasmuch as it would be filed approximately six years after the original Complaint. Accordingly, there exists no circumstance under which a claim for indemnification and/or contribution could be asserted against Blum, Yumkas.

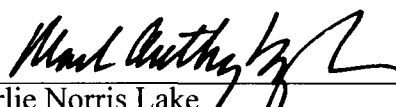
4. The underlying Shofer litigation must proceed to judgment prior to disposition of Shofer's legal malpractice claim against Blum, Yumkas.

Until such time as the Hack claim proceeds to judgment, any alleged damages flowing from the alleged negligent actions of Blum, Yumkas are speculative. Should Shofer receive full compensation for his losses resulting from the negligence of Hack, there will be no damages which may be asserted in the separate legal malpractice claim. Accordingly, under such circumstances, Shofer will fail to present a viable legal malpractice claim in as much as such a claim requires proof of damages. See, Kendall v. Rogers, 181 Md. 606, 611-12, 31 A.2d 312 (1943). Furthermore, while no cases directly address this point in Maryland, other states have held that a legal malpractice action for loss of rights is premature where, in a suit pending on behalf of the plaintiff against the tortfeasor, those same rights are claimed. In the instant

case, Shofer in his Opposition to the pending Motion for Summary Judgment, maintains that excise taxes and prohibited transaction penalties, which form the basis of his ERISA claim, are included in and recoverable under his state common law causes of action. In the event that the Court rules that such damages may be presented in the plaintiff's case-in-chief, the legal malpractice action against Blum, Yumkas should be stayed pending a determination of whether such damages are recoverable from Hack and/or Grabush. See, Marchand v. Miazza, 151 So.2d 372 (1963); Anderson v. Anderson, 399 N.E.2d 391 (1979); Eddleman v. Dowd, 648 S.W.2d 632 (1983). Because the Blum Yumkas case cannot proceed until the underlying litigation is concluded, the cases are clearly inappropriate for consolidation.

### III. CONCLUSION

For the reasons stated herein, Defendant/Counter-Plaintiff, Blum, Yumkas, requests that this Honorable Court enter an Order denying the Motion To Consolidate Cases.

  
\_\_\_\_\_  
Shirlie Norris Lake  
Mark Anthony Kozlowski  
ECCLESTON AND WOLF  
7th Floor, Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202-4460  
(410) 752-7474

Counsel for Blum, Yumkas, Mailman, Gutman & Denick, P.A., Defendant/Counter-Plaintiff.

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6<sup>th</sup> day of May, 1994, a copy of the foregoing Opposition to Motion to Consolidation was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236 Southland Road, Baltimore, Maryland 21207, counsel for Richard Shofer, et al. and, to Janet M. Truhe, Esquire, Ward Janofsky & Truhe, P.A., Court Towers Suite 505, 210 West Pennsylvania Avenue, Towson, Maryland 21204, counsel for Stuart Hack Company, et al.

and, to Jason L Spiegel, Esquire, Gordan Coyne & Savits, 33 Wood Lane, Rockville, Maryland  
20850, counsel for Grabush Newman & Company, P.A.

  
\_\_\_\_\_  
Mark Anthony Kozlowski

RICHARD SHOFER, et al.

Plaintiffs

v.

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.

Defendant/Counter-Plaintiff

v.

RICHARD SHOFER, CATALINA  
ENTERPRISES, INC.  
and  
CATALINA ENTERPRISES, INC.  
PENSION TRUST

Counter/Defendants

\* \* \* \* \*

\* IN THE  
\* CIRCUIT COURT  
\* FOR  
\* BALTIMORE CITY  
\* Case No.: 93285087/CL171133

HUB

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY  
94 APR - 6 PM 3:20  
CIVIL DIVISION

**COUNTERCLAIM**

Defendant/Counter-Plaintiff Blum, Yumkas, Mailman, Gutman & Denick, P.A., by its attorneys Shirlye Norris Lake, Laurie A. Lyte and Eccleston and Wolf, sues the Plaintiff/Counter-Defendants, Richard Shofer, Catalina Enterprises, Inc. and Catalina Enterprises, Inc. Pension Trust, and for cause states:

1. Defendant/Counter-Plaintiff Blum, Yumkas, Mailman, Gutman and Denick, P.A., is a professional association organized under the laws of the State of Maryland with its principal place of business in Baltimore, Maryland, established and maintained for the practice of law in the State of Maryland.

2. Plaintiff/Counter-Defendant Richard Shofer is an individual residing in the State of Maryland.

3. Plaintiff/Counter-Defendant Catalina Enterprises, Inc. is a corporation organized under the laws of the State of Maryland.

4. Plaintiff/Counter-Defendant Catalina Enterprises, Inc. Pension Trust is the pension plan of Catalina Enterprises, Inc.

5. On or about March 9, 1988, the Plaintiffs/Counter-Defendants entered into an agreement to retain the Defendant/Counter-Plaintiff to provide legal representation to the Plaintiffs/Counter-Defendants in connection with matters including, but not limited to, a potential claim against the Stuart Hack Company. Pursuant to its retention of the Defendant/Counter-Plaintiff, the Plaintiff/Counter-Defendants agreed to compensate the Defendant/Counter-Plaintiff at an agreed upon rate for the legal services provided to the Plaintiffs/Counter-Defendants, and to reimburse all expenses advanced on their behalf.

6. From 1988 through and including 1992, the Defendant/Counter-Plaintiff provided legal services to the Plaintiffs/Counter-Defendants in connection with the Stuart Hack Company matter and other matters, and advanced considerable costs on behalf of the Plaintiffs/Counter-Defendants.

7. The Plaintiff/Counter-Defendants did make regular payments to the Defendant/Counter-Plaintiff during the course of the representation, until April of 1992. Thereafter, in August of 1992, Plaintiffs/Counter-Defendants discharged Defendant/Counter-Plaintiff.

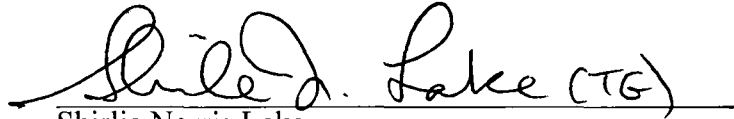
8. Upon the Plaintiffs'/Counter-Defendants' discharge of the Defendant/Counter-Plaintiff, there remained due and owing to the Defendant/Counter-Plaintiff, for services rendered and costs advanced as a result of the aforementioned retainer agreement, the amount of \$62,427.78. The Defendant/Counter-Plaintiff has demanded that the Plaintiffs/Counter-Defendants pay the amount due.

8. Since the time of the discharge of the Defendant/Counter-Plaintiff, and at all times thereafter, the Plaintiffs/Counter-Defendants have refused to pay, and have not paid, the amount due under the terms of the aforementioned retainer agreement, thereby materially breaching their contract with the Defendant/Counter-Plaintiff.

9. The Defendant/Counter-Plaintiff has incurred a loss of \$62,427.78 as a result of the breach of contract by the Plaintiffs/Counter-Defendants.



WHEREFORE, Blum, Yumkas, Mailman, Gutman & Denick, P.A. demands judgment against Richard Shofer, Catalina Enterprises, Inc. and Catalina Enterprises, Inc. Pension Trust, jointly and severally, in the amount of \$62,427.78, plus interest and costs.

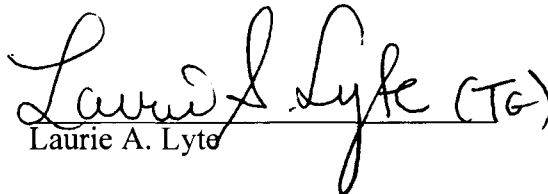


Shirlie Norris Lake  
Laurie A. Lyte  
Eccleston and Wolf  
7th Floor - Scarlett Place  
729 East Pratt Street  
Baltimore, Maryland 21202  
(410) 752-7474

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 6th day of April, 1994 a copy of the foregoing Counterclaim was mailed, postage prepaid to:

Thomas H. Bornhorst, Esquire  
2236 Southland Road  
Baltimore, Maryland 21207



c:\word\terri\contrclm

\*\*\*\*\*

PRE-TRIAL CONFERENCE ORDER

\*\*\*\*\*

PURSUANT TO MD. RULE 2-504(A), IT IS THIS 09 DAY  
OF MARCH , 1994, ORDERED:

1. (A) THAT ALL PARTIES SHALL APPEAR BEFORE THE  
COURT FOR A CONFERENCE BEFORE TRIAL ON FEBRUARY 09, 1995.

(B) THE PARTIES SHALL PREPARE IN ADVANCE AND  
BRING TO THE CONFERENCE A PRETRIAL MEMORANDUM COVERING  
IN FULL EACH OF ITEMS (1) THROUGH (8) IN SEC (B) OF RULE 2-504.  
(ITEM (9) IN SEC (B) IS SUBSUMED IN PARAGRAPH 2 OF THIS ORDER.)

2. ALL DISCOVERY INCLUDING FULL RESOLUTION OF ALL  
DISCOVERY DISPUTES SHALL BE COMPLETED NO LATER THAN EIGHT  
MONTHS FROM THE DATE OF THIS ORDER.

3. ANY MOTION FOR SUMMARY JUDGMENT SHALL BE FILED  
NO LATER THAN NINE MONTHS FROM THE DATE OF THIS ORDER.

4. TRIAL OF THIS CASE SHALL BEGIN ON MARCH 09, 1995.

5. THIS ORDER IS SUBJECT TO MODIFICATION, INCLUDING THE  
SCHEDULING OF THE PRETRIAL CONFERENCE AND TRIAL, UPON A WRITTEN  
MOTION FOR MODIFICATION FILED WITHIN 15 DAYS OF THE DATE OF  
THIS ORDER. THEREAFTER, THIS ORDER MAY BE MODIFIED ONLY UPON A  
WRITTEN MOTION FOR MODIFICATION SETTING FORTH A SHOWING OF GOOD  
CAUSE THAT THE SCHEDULE CANNOT REASONABLY BE MET DESPITE THE  
DILIGENCE OF THE PARTIES SEEKING MODIFICATION. IF EXIGENT  
CIRCUMSTANCES PREVENTS A MOTION IN WRITING, AN ORAL MOTION SHALL BE  
MADE AT A HEARING AT 1:45 P.M. ON A DAILY BASIS IN ROOM 434 OF THE  
CLARENCE M. MITCHELL, JR. COURTHOUSE.

COUNSEL FOR ALL PARTIES AND ANY PRO SE PARTIES MUST ATTEND  
THESE HEARINGS. AN "EXIGENT CIRCUMSTANCE" MEANS AN UNFORESEEN  
DEVELOPMENT OCCURRING WITHIN 30 DAYS OF THE

PRETRIAL CONFERENCE OR TRIAL DATE WHICH PREVENT COMPLIANCE WITH THIS ORDER.

JOSEPH H.H. KAPLAN  
ADMINISTRATIVE JUDGE

BORNHORST, THOMAS  
2236 SOUTHLAND RD.  
BALTIMORE , MD 21207

\*\*\*\*\*

PRE-TRIAL CONFERENCE ORDER

\*\*\*\*\*

PURSUANT TO MD. RULE 2-504(A), IT IS THIS 09 DAY  
OF MARCH , 1994, ORDERED:

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COURT FOR A CONFERENCE BEFORE TRIAL ON FEBRUARY 09, 1995.

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DEVELOPMENT OCCURRING WITHIN 30 DAYS OF THE

PRETRIAL CONFERENCE OR TRIAL DATE WHICH PREVENT COMPLIANCE WITH THIS ORDER.

JOSEPH H.H. KAPLAN  
ADMINISTRATIVE JUDGE

LAKE, SHIRLIE  
7TH FLOOR  
729 EAST PRATT STREET  
BALTIMORE , MD 21202

RECEIVED FOR  
 CIRCUIT COURT FOR  
 BALTIMORE CITY  
 94 MAR - 7 PM 4: 12  
 CIVIL DIVISION

RICHARD SHOFER, et al

Plaintiffs

v.

BLUM, YUMKAS, MAILMAN,  
 GUTMAN & DENICK, P. A.

Defendants

\* IN THE  
 \* CIRCUIT COURT  
 \* FOR  
 \* BALTIMORE CITY

Civil Action No. 93285087 CL171133

\* \* \* \* \*

ANSWER

Blum, Yumkas, Mailman, Gutman & Denick, P. A., by Shirlye Norris Lake, Laurie A. Lyte and Eccleston and Wolf, its attorneys, files an Answer to the Complaint in the above captioned case.

1. That it did not promise as alleged.

2. That it was never indebted as alleged.

3. That it did not commit the wrongs alleged.

4. That it generally denies liability pursuant to Maryland Rule 2-523(d).

4:09PM03/07/94 002#2815 A \*\*\*  
 #0932850  
 #0000087  
 LIBRA \$10.00  
 \*\*\*TTL \$10.00  
 CHNG \$0.00

AFFIRMATIVE DEFENSES

1. That the Complaint fails to state a claim upon which relief can be granted.

2. That the Complaint is barred by the statute of limitations.

3. That the Complaint is barred by the doctrine of laches.

4. That the Plaintiffs' claims are barred by their contributory negligence, and/or assumption of risk.

5. That Plaintiffs' claims are barred by the doctrines of estoppel and/or waiver.

6. That the Plaintiffs' claims are barred by the doctrines of res judicata and/or collateral estoppel.

369357

7. That the Complaint is barred by release and/or accord and satisfaction.

*Shirley Norris Lake*  
Shirley Norris Lake  
Laurie A. Lyte  
Eccleston and Wolf  
729 E. Pratt Street  
7th Floor - Scarlett Place  
Baltimore, Maryland 21202  
(410) 752-7474

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7<sup>th</sup> day of March, 1994, a copy of the  
aforegoing Answer was mailed, postage prepaid, to Thomas H. Bornhorst, Esquire, 2236  
Southland Road, Baltimore, Maryland 21207.

*Shirley Norris Lake*  
Shirley Norris Lake

5/4

Baltimore City

IN THE Circuit COURT FOR BALTIMORE COUNTY, MARYLAND

CIRCUIT COURT FOR BALTIMORE COUNTY CIVIL DIVISION

Richard Shofner  
1994 FEB 22 A 8:09  
CIVIL DIVISION

Plaintiff

vs.  
Blom, Gumkas, Mailman, Gutman + DENICK

No. 93285087/CL-171133

Defendant

RETURN OF PRIVATE PROCESS SERVER

I, Joseph Trimmer, hereby certify that I executed Service of Process upon Blom, Gumkas, Mailman, Gutman + DENICK on Feb 4, 1994, at 210 LLOYD S. MAILMAN PLAZA #1200, Baltimore, Maryland, by delivering and leaving with him/her a copy of the Summons and Complaint ( \_\_\_\_\_ ) issued by this Court on 1/18/94.

I further certify that I am over 18 years of age and am not a party to or otherwise interested in this matter of suit.

I do solemnly declare and affirm under the penalty of perjury that the matters and facts set forth herein are true to the best of my knowledge, information, and belief.

LEWIS J. NEUWELT INVESTIGATIONS  
9175 GUILFORD ROAD  
SUITE 212  
COLUMBIA, MARYLAND 21046

Joseph Trimmer  
Private Process Server

J



Thomas H. Bornhorst  
Attorney at Law  
2236 Southland Rd., Baltimore, Md 21207  
(410) 298-2265

State and Federal Trial Practice

Maryland, District of Columbia

January 11, 1994

Clerk of the Court  
Circuit Court of Maryland for Baltimore City  
111 North Calvert St.  
Room 462  
Baltimore, MD 21202

FILED  
JAN 13 1994

RECEIVED FOR  
CIRCUIT COURT FOR  
BALTIMORE CITY  
94 JAN 11 PM 2:01  
CIVIL DIVISION

Re: Shofer et. al. v. Blum, Yumkas, Mailman, Gutman & Denick, P.A.  
Case No. 93285087 / CL-171133

Dear Clerk:

Your kind attention to the following is requested:

1. Reissuance of a summons and return to this plaintiff for private service of process on the Defendant in the above-captioned case.

Sincerely,



Thomas H. Bornhorst



CIRCUIT COURT FOR BALTIMORE CITY  
SAUNDRA E. BANKS, CLERK  
111 N. CALVERT ST. - ROOM 462  
BALTIMORE, MD. 21202

WRIT OF SUMMONS                      CASE NUMBER 93285087                      CL171133

STATE OF MARYLAND,                      COUNTY TO WIT:                      PRIVATE PROCESS  
REISSUE

TO:                      BLUM, YUMKAS, MAILMAN, GUTMAN & DENICK, P.A.  
S/O LLOYD S. MAILMAN  
2 HOPKINS PLACE-SUITE 1200  
BALTIMORE                      MD                      21201

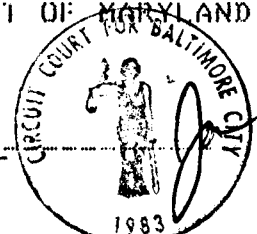
YOU ARE HEREBY SUMMONED TO FILE A WRITTEN RESPONSE BY PLEADING OR MOTION  
IN THIS COURT TO THE ATTACHED                      COMPLAINT FILED BY

RICHARD SHOFR, ETAL  
216 ST. DUNSAN'S RD.                      BALTIMORE                      MD                      21212

WITHIN 30 DAYS AFTER SERVICE OF THIS SUMMONS UPON YOU.  
WITNESS THE HONORABLE CHIEF JUDGE OF THE EIGHTH JUDICIAL CIRCUIT OF MARYLAND.

DATE ISSUED                      1/18/94

*Sandra E. Banks*  
\_\_\_\_\_  
Clerk                      CLERK



TO THE PERSON SUMMONED:                      Circuit Court for Balto. City

1. PERSONAL ATTENDANCE IN COURT ON THE DAY NAMED IS NOT REQUIRED.
2. FAILURE TO FILE A RESPONSE WITHIN THE TIME ALLOWED MAY RESULT IN A JUDGEMENT BY DEFAULT OR THE GRANTING OF THE RELIEF SOUGHT AGAINST YOU.

SHERIFF(S) RETURN.

PERSON SERVED \_\_\_\_\_ TIME \_\_\_\_\_ DATE \_\_\_\_\_

PERSON SERVED \_\_\_\_\_ TIME \_\_\_\_\_ DATE \_\_\_\_\_

NON EST (REASON) \_\_\_\_\_

FEE \$ \_\_\_\_\_ SHERIFF \_\_\_\_\_

NOTE:

1. THIS SUMMONS IS EFFECTIVE FOR SERVICE ONLY IF SERVED WITHIN 60 DAYS AFTER THE DATE IS ISSUED.
2. PROOF OF SERVICE SHALL SET OUT THE NAME OF THE PERSON SERVED, DATE AND THE PARTICULAR PLACE AND MANNER OF SERVICE. IF SERVICE IS NOT MADE, PLEASE STATE THE REASONS.
3. RETURN OF SERVED OR UNSERVED PROCESS SHALL BE MADE PROMPTLY AND IN ACCORDANCE WITH RULE 2-126.
4. IF THIS SUMMONS IS SERVED BY PRIVATE PROCESS. PROCESS SERVER SHALL FILE A SEPERATE AFFIDAVIT AS REQUIRED BY RULE 2-126(A).

001191

RECEIVED  
CIRCUIT COURT FOR  
BALTIMORE CITY

93 OCT 12 PM 2:12

RICHARD SHOFER  
216 St. Dunsan's Rd.  
Baltimore, MD 21212

\* IN THE

\* CIRCUIT COURT CIVIL DIVISION

and

\* FOR

**93285087**

CATALINA ENTERPRISES, INC.  
5006 Liberty Heights Ave.  
Baltimore, MD 21207

\* BALTIMORE CITY

*CL 171133*

and

\*

CATALINA ENTERPRISES, INC.  
PENSION TRUST  
5006 Liberty Heights Ave.  
Baltimore, MD 21207

\* Civil Action No. \_\_\_\_\_

Plaintiffs

\*

v.

\*

BLUM, YUMKAS, MAILMAN,  
GUTMAN & DENICK, P.A.  
1200 Mercantile Bank & Trust Bldg.  
2 Hopkins Plaza  
Baltimore, MD 21201

\*

2:16PM10/12/93 002#9496 B \*\*\*  
#0932850  
#0000087  
CIVIL \$80.00  
LIBRA \$10.00  
\*\*TTL \$90.00  
CHECK \$90.00  
CHNG \$0.00

Serve: Lloyd S. Mailman  
1200 Mercantile Bank & Trust Bldg.  
Baltimore, MD 21201

\*

\*

Defendant

\* \* \* \* \*

COMPLAINT

Plaintiffs, Richard Shofer ("Shofer"), Catalina Enterprises, Inc. ("Catalina"), and Catalina Enterprises, Inc., Pension Trust ("Pension Trust"), by their attorney, Thomas H. Bornhorst, files this Complaint against Defendant, Blum, Yumkas, Mailman, Gutman & Denick, P.A. ("Blum, Yumkas"), and for cause state:



Facts Common to all Counts

1. Blum, Yumkas is a law firm and a Professional Association organized under the laws of Maryland.

2. In 1987 and thereafter during all times relevant to this Complaint, Defendant held itself out to the public, and to Plaintiffs, as possessing that degree of knowledge, experience, skill, and judgment to be expected of reasonably competent attorneys in such business in Maryland.

3. Shofer is the sole stockholder and President of Catalina which trades as Crown Motors, and is also Trustee of the Catalina Pension Trust.

4. Between 1987 and 1992 Defendant's professional services were retained by Plaintiffs to conduct any and all relevant claims and litigation against The Stuart Hack Company and Stuart Hack ("Hack"), professional actuaries and pension consultants who had failed to properly advise Shofer regarding the conduct of certain loans from the Pension Trust, such loans initiating unintended and burdensome liabilities to Plaintiffs for income taxes, excise taxes, prohibited transactions, related interests and penalties, and other economic losses to the Pension Trust, Catalina, and Shofer, all such detriments in the absence of negligence on the part of any Plaintiff herein.

5. On Shofer's behalf, Blum, Yumkas filed suit against Hack in the Circuit Court for Baltimore City ("Shofer v. Hack") alleging counts of negligence, breach of contract, breach of fiduciary duty, and ERISA violations pursuant to 29 U.S.C.A. Sec. 1132.

6. On October 12, 1990 the trial court dismissed Shofer v. Hack on grounds that ERISA mandated federal subject-matter jurisdiction on any issues related to pensions.

7. After such dismissal, Defendant Blum, Yumkas filed Shofer v. Hack in the U.S. District Court, District of Maryland, and said action was dismissed on grounds that suit had not been filed within the Maryland three-year Statute of Limitations for negligence actions, said dismissal being upheld by the U.S. Fourth Circuit Court of Appeals.

COUNT I

(Tort / Professional Negligence)

8. Plaintiffs incorporate paragraphs 1. through 8. herein.

9. Defendant owed a duty of reasonable care to Plaintiffs to provide competent professional advice and conduct in the litigation of Shofer v. Hack, including, but not limited to, selecting a court of proper jurisdiction for the litigation of all claims.

10. Defendant breached their duty to the Plaintiffs by negligent failure to file suit in federal court prior to the expiration of the applicable Statute of Limitations, when the Defendant knew, or should have known, of the exclusivity of federal jurisdiction as to certain or all claims against Hack, and Defendant was otherwise negligent in the conduct of Shofer v. Hack.

11. As a consequence of Defendant's negligent acts and omissions, Plaintiffs suffered damages by being barred from the use of federal jurisdiction to recover excise taxes and penalties levied on prohibited transactions as recognized under ERISA and the Internal Revenue Code, Plaintiffs accumulated liability for Defendant's professional fees in the conduct of Shofer v. Hack before the U.S. District Court and the Fourth Circuit Court of Appeals, and Plaintiffs have also suffered other damages in consequence of Defendants breaches of duty.

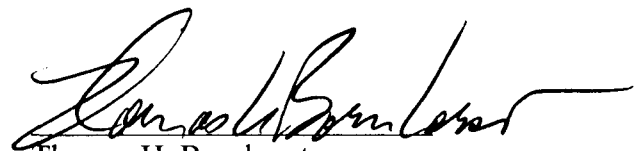
WHEREFORE, Plaintiffs demand judgment against Defendant in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) compensatory damages, plus prejudgment interest , costs in this case, and such other and further relief as justice may require.

COUNT II  
(Breach of Contract)

12. Plaintiffs incorporate paragraphs 1 through 11 herein.

13. The relationship between the Plaintiffs and Defendant at all times relevant constituted an agreement and contract for professional services, so that the duties, breaches of such duties, and damages in consequence of such negligent acts and omissions by Defendant, as stated or implied in Count I hereinbefore, also state Defendant's liability to Plaintiffs for breach of contract under the circumstances.

WHEREFORE, Plaintiffs demand judgment against Defendant in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) compensatory damages, plus prejudgment interest , costs in this case., and such other and further relief as justice may require.



Thomas H. Bornhorst  
2236 Southland Rd.  
Baltimore, MD 21207  
(410) 298-2265  
Attorney for Plaintiffs

**MSAREF.NET, MSA SC 5458**  
**An Archives of Maryland Publication**

D. Lee  
2-19-10  
Image 125

| ▶ **Edit & Modify Entries** | ▶ **Search** | ▶ **Search MAILREF** | ▶ **Contact Webmaster** | ▶ **Home** | ▶ **End Session**

**MSA SC 5458-82-152**

**Dates:** 2010/02/17

**Description:** Case numbers received from J. Hollander -

BALTIMORE CITY CIRCUIT COURT (Paternity Papers) Arrington v. Rodriguez, 1989, Box 169  
Case No. 119070 [MSA T3351-923, CW/16/31/25]  
File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Rolnik v. Union Labor Life  
Ins. Co., 1987, Case No. 87313071  
Case is split between 2 boxes:  
Box 387 [MSA T2691-2026, HF/8/35/8]  
Box 388 [MSA T2691-2027, HF/8/35/9]  
File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Shofer v. The Stuart Hack  
Co., Box 128 Case No. 88102069 [MSA T2691-2232, HF/11/30/3]  
See also for "brick binders":  
Box 527 [MSA T2691-2631, HF/11/38/18]  
Box 528 [MSA T2691-2632, HF/11/38/19]  
File should be named msa\_sc5458\_82\_152\_[full case number]-####

BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Attorney Grievance  
Commission v. Yacono, 1992, Box 1953 Case No. 92024055 [MSA T2691-4591,  
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BALTIMORE CITY CIRCUIT COURT (Civil Papers, Equity and Law) Shofer v. The Stuart Hack  
Co. and Blum, Yumkas, Mailman, 1993, Box 518 Case No. 93285087 [MSA T2691-5593,  
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D. Lee  
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1993, Box 589 Case No. 93330026 [MSA T2691-5665, OR/22/12/45]  
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