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VIA US MAIL and VIA E-MAIL

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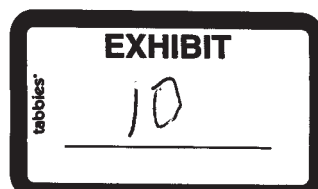
Re: *Burt Newsome v. Clark Cooper, Balch & Bingham LLP, et al.*,
01-CV-2015-900190, Circuit Court of Jefferson County, Alabama

Dear Counsel:

As you know, I represent Balch & Bingham and Clark Cooper (“Defendants”) in the case referenced in the subject line. While I rarely write letters under the Alabama Litigation Accountability Act (ALAA), in this instance, a letter is warranted.

You have alleged that Mr. Cooper, Claiborne Seier, and John Bullock conspired to stage an “incident to set-up Newsome for possible criminal charges” and do so “under circumstances substantially similar” to a previous incident involving Mr. Newsome. These were far-fetched allegations and lacked credibility from the outset. But now they have taken a turn for the truly absurd. Plaintiffs’ recent Amended Complaint now alleges that Don Gottier—a man that not a single defendant has ever met or spoken with—somehow acted as a co-conspirator. Plaintiffs rely solely on entries for the phone number “205-410-1494” to conclude that, because Mr. Gottier spoke with each defendant at suspicious times on certain days significant to the lawsuit, he certainly had some involvement in the conspiracy between Mr. Cooper, Mr. Seir, and Mr. Bullock.

This conspiracy theory has no basis in reality, and Plaintiffs know it. Mr. Gottier’s Affidavit attached and Motion to Dismiss make this clear. *See* attached Exhibit A – Gottier Affidavit and Exhibit B – Gottier Motion to Dismiss. Before filing the Amended Complaint, Plaintiffs’ investigator contacted Mr. Gottier and asked him about the 205-410-1494 number. *See* Ex. A. Mr. Gottier and/or his son-in-law informed Plaintiffs’ investigator that Gottier has never used the 205-410-1494 number. *See id.* Mr. Gottier also informed the Plaintiffs’ investigator that he has been notified that the number has been implicated in various telemarketing and fraud



schemes. *See id.* Plaintiffs' investigator has gone so far as to text Mr. Gottier and apologize for dragging him into this sordid affair. *See id.*

Moreover, Mr. Gottier has submitted a Calera Police Department Report stating that the 205-410-1494 number is actually a routing number and that Verizon Wireless confirmed that Mr. Gottier was not associated with the number. A simple call to Verizon Wireless would have resolved this matter, rather than filing amended claims against Mr. Gottier and Clark Cooper and Balch & Bingham LLP that "Clark Cooper, Claiborne Seier, John Bullock, and Don Gottier staged this incident [Newsome pulling a gun on Bullock and Bullock filing menacing charges against Newsome for doing so] to set-up Newsome for possible criminal charges..." *See* Amended Complaint, p. 6. Plaintiffs directly stated in the Amended Complaint that "[t]his amendment is based on telephone records the plaintiffs first received from AT&T by email on Friday, June 23, 2017." *See* Amended Complaint, fn. 1.

And now we learn that the Calera Police Department has issued a July 3, 2017 report (Exhibit C) of identity theft on Mr. Donald Gottier (the victim) wherein it is explained that the number: 205-410-1494 is a Verizon location routing number (LRN) and is not a real telephone number. You could have done your own due diligence work on the origin of a LRN without jumping the gun and suing Mr. Gottier for conspiracy to have Newsome arrested, and by adding tort claims against the other defendants. In any event, it is clear the Amended Complaint substituting Clark Cooper for fictitious defendants and asserting claims against him for Malicious Prosecution, Abuse of Process, False Imprisonment, Outrage/Intentional Infliction of Emotional Distress, and Conspiracy are all based on the telephone records for the 205-410-1494 number, which is a LRN and not a real telephone number. These allegations are wholly groundless in fact or law.

On behalf of the plaintiffs you signed this Amended Complaint. Rule 11 of the Alabama Rules of Civil Procedure states:

The signature of an attorney constitutes a certificate by the attorney that the attorney has read the pleading, motion, or other paper; that to the best of the attorney's knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay....If a pleading, motion, or other paper is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the pleading, motion, or other paper had not been served. **For a willful violation of this rule an attorney may be subjected to appropriate disciplinary action.**

ARCP 11(a) (emphasis added). There is a lack of "good ground to support" the claims filed against Clark Cooper and Balch & Bingham LLP in the Amended Complaint, as is clear from the Plaintiffs' own investigator's confession and apology to Mr. Gottier as well as the Calera Police Report. Rather, this Amended Complaint was plainly filed to interpose delay in this action and to harass Defendants.

Because of Plaintiffs' actions, Defendants have incurred and invested—and will continue to incur and invest—substantial legal time, fees, and costs to defend against these frivolous and meritless claims that Plaintiffs have no intention or means to substantiate. It is precisely this type of burden that the Alabama Litigation Accountability Act (“ALAA”) is intended to alleviate. The Act provides the following consequences for filing frivolous litigation:

(a) Except as otherwise provided in this article, in any civil action commenced or appealed in any court of record in this state, the court shall award, as part of its judgment and in addition to any other costs otherwise assessed, reasonable attorneys' fees and costs against any attorney or party, or both, who has brought a civil action, or asserted a claim therein, or interposed a defense, that a court determines to be **without substantial justification**, either in whole or part;

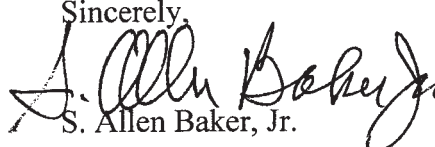
...

(c) The court **shall** assess attorneys' fees and costs against any party or attorney if the court, upon the motion of any party or on its own motion, finds that an attorney or party brought an action or any part thereof, or asserted any claim or defense therein, that is **without substantial justification**, or that the action or any part thereof, or any claim or defense therein, was interposed for delay or harassment, or if it finds that an attorney or party unnecessarily expanded the proceedings by other improper conduct including but not limited to abuses of discovery procedures available under the Alabama Rules of Civil Procedure;

Ala. Code § 12-19-272(a), (c) (emphasis added). The Act defines the phrase “without substantial justification” as any action or claim that is “frivolous, groundless in fact or in law, or vexatious, or interposed for any improper purpose, including without limitation, to cause unnecessary delay or needless increase in the cost of litigation” Ala Code § 12-19-271(1).

Plaintiffs cannot reasonably dispute that their allegations against Defendants are “frivolous” and “groundless in fact [and] in law” and are therefore “without substantial justification.” Accordingly, the Alabama Litigation Accountability Act entitles Defendants to recover attorneys' fees and costs incurred once we prevail in this action. Moreover, pursuant to Rule 11, sanctions are in order.

With this in mind, we are demanding that you dismiss the claims against Defendants with prejudice by no later than August 18, 2017 (the extended discovery deadline). If the claims are not dismissed, we intend to move under the ALAA and Rule 11 for sanctions and attorneys' fees.

Sincerely,

 S. Allen Baker, Jr.

cc: Mrs. Katie Hill
 Mrs. Kimberly L. Bell
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