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First Circuit Court of the State of Illinois

County of Cook

Ted E.C. Bulthaup III	)	**Case No. 2019L004480**
Plaintiff	)	
	)	
v.	)	
	)	
The Law Office of Michael Young	)	
Michael J. Young	)	
Defendants	)	
	)	

VERIFIED COMPLAINT

Now comes Ted E.C. Bulthaup III, Plaintiff, and brings this action for damages against the Defendants, The Law Office of Michael Young and Michael J. Young, and in support hereof would respectfully show unto the Court the following facts and matters, to wit:

PARTIES

1. Plaintiff Ted Bulthaup (Bulthaup) is a Resident of the State of Illinois, whose address is 144 South Pinecrest, Bolingbrook, Illinois 60440. Bulthaup has been a high achiever all his life, at Downers Grove High School South, DePaul University and afterward, becoming a nationally recognized serial entrepreneur, acknowledged for community work and fundraising with the businesses he developed, primarily serving full to your seat dinners and drinks, including beer, wine and cocktails to customers while they watched first run movies. While imitators are common now, Bulthaup was the first to develop that concept over 25 years ago.

Plaintiff is still an expert for the industry and a resource for the Anti-trust Division of the U.S. Department of Justice. Bulthaup currently has an Op-ed on the USDOJ website concerning the current value of 1948 Paramount Consent Decrees to the Cinema industry and the public.

2. Defendants, The Law Office of Michael Young and Michael J. Young (hereinafter referred jointly to as Young) is an adult residing in the Village of Burr Ridge in the State of Illinois. Said Defendants may be found for the service of process at his law office, and The Law Office of Michael Young, located at 9842 Roosevelt Road, Westchester, Illinois 60154 which is located in Cook County, Illinois. Further, the cause of action which is the subject of this suit occurred and accrued in said offices in Cook County, Illinois.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 735 ILCS 5/2-209 as all parties transacted business in the State of Illinois and entered into a contract requiring performance in that State.

4. Venue is also proper in this Court pursuant to 735 ILCS 5/2-101.

BACKGROUND AND INTRODUCTION

5. Initially, Chicago based attorney Ted Sinars had represented Bulthaup and Bulthaup's businesses and had been in communication with State's Attorney Anshuman Vaidya (head of Special Prosecutions) for approximately 10 months. Sinars is a specialist in criminal tax law.

6. Bulthaup had been cooperating with the Illinois Department of Revenue (IDOR) concerning underreported sales taxes due. They had been working with the State's Attorney and IDOR in the downtown Chicago offices and had already signed a repayment agreement with IDOR as of August 2014.

7. In December 2014, the State of Illinois brought charges for unreported sales tax in the Circuit Court of DuPage County while knowing that Sinars was out of the country for the 2014 Christmas holidays. As a result of this, and as Sinars does not practice in DuPage County, Bulthaup had to find replacement Counsel.

8. Bulthaup was searching for new Counsel and Young was recommended by Eric Muller, a good friend of both Plaintiff and the Defendant. Bulthaup went to interview Young at his offices in a meeting that lasted over two hours to review the case. Young convinced Plaintiff

that he was a fighter, would contest every inch and never surrender. Young further assured Plaintiff that he "knew a lot of people" and given the facts and support documentation Bulthaup had already amassed, that Bulthaup would "win with Young" and so was hired.

9. In State of Illinois v Ted E. Bulthaup, Defendant Young then undertook to provide legal services for Plaintiff Bulthaup in connection with his "Legal Matter". At all times Defendant held himself out to be competent in the area of law dealing with the legal matter for which Plaintiff retained services of Defendant. Plaintiff and Defendant acted under an attorney/client relationship in which Defendant undertook to represent Plaintiff in January 2015.

10. This case revolves around Plaintiff and his two former businesses, the Hollywood Blvd Cinema and the Hollywood Palms Cinema.

11. At Young's first Court appearance on behalf of Plaintiff, State's Attorney Vaidya immediately approached Young offering to sit down in the belief that they could easily resolve this case. Bulthaup was impressed with Young's response and thought he had hired the "tiger" he was looking for. Plaintiff and Defendant both believed that the State's case must be very weak to seek make such a settlement offer so quickly after Bulthaup's arrest.

FACTS COMMON TO ALL COUNTS

12. Plaintiff was professionally and ethically responsible as the Chief Executive Officer of Hollywood Blvd Cinema and Hollywood Palms Cinema to insure accounting irregularities and sales tax issues did not occur. Further, Plaintiff admits he was the responsible corporate officer to make sure all taxes were paid in full and timely.

13. Three top Hollywood executives, Director of Operations Mike Moore, General Manager Bob DeMyers and House Accountant Lou Ann Severson attempted a hostile takeover of both Plaintiff's companies; eventually succeeding with one as a result of the criminal charges being brought against Plaintiff.

14. As a result of Young's representation, Plaintiff was required to pull everything together for Defendant Young due to how busy he always seemed to be, his not having any staff, the volume of materials and the complexity of the case.

15. Plaintiff himself, without the assistance of Young, spent countless hours going through many computer evidence discs containing over 10,000 documents. Other than the original investigative report, Young did not review these documents during his representation of Plaintiff. Plaintiff started with the IDOR witness statements of Moore, DeMyers and Severson

which were contained in the investigative reports, line by line, then assimilating documents and testimony that refuted those reports for Young. In many cases Plaintiff's review demonstrated that Moore, DeMyers and Severson flat out lied to investigators.

16. Throughout the 30 months of hearings Plaintiff continued to act as a law clerk, reviewing evidence, investigating, collecting testimony and affidavits, FOIA requests to the IRS, looked at accounting reports, etc.

17. Plaintiff even successfully put himself through a lie detector test. Plaintiff was sure that the accumulated materials he prepared for Defendant Young would allow Young to prevail in Court.

18. Young's malpractice revolves around his breaches of fiduciary duty, failure to obtain or review critical discovery tendered by the State, a coerced plea, a probation interview, a contested Sentencing Hearing, and Young's failure to coordinate Plaintiff's defense at the Motion for Reconsideration stage.

19. Illinois law provides that Defendant Young was required to exercise the same judgement and expertise as a reasonably competent attorney and to use reasonable care in determining and implementing a strategy to be followed to achieve the Plaintiffs legal goals. As a fiduciary to Plaintiff, the Defendant was obligated to treat all information related to Plaintiffs representation as confidential, to zealously represent the Plaintiff's interests, to communicate and get the consent of the Plaintiff, and abide by Plaintiff's legal decisions.

20. In the course of handling the legal matters for the Plaintiff, Defendant negligently failed to act with the degree of competence generally possessed by an attorney in the State who handles legal matters similar to Plaintiffs. Plaintiff paid Defendant over $90,000 for the sole purpose of representing Plaintiff in the proceedings referenced herein.

21. Defendant Young was negligent, committed malpractice and breached his fiduciary duties to Plaintiff in the following regard:

(a) By failing to carry out his duties as an attorney to Plaintiff, know and understand the critical, relevant tax evasion laws and criminal procedure, and by not representing the best interests of Plaintiff.

(b) By failing to zealously defend the Plaintiff's interests during the pending tax evasion proceedings, including his failure to conduct an adequate due

diligence and investigation of the State's case in chief, as well as review the discovery tendered by the State.

(c) By failing to provide the Plaintiff appropriate advice at the time of Plaintiff's plea.

(d) By failing to regularly communicate with Plaintiff during critical times of the criminal proceedings, by failing to timely work on the matter as a result of his procrastination.

(e) By failing to properly handle Plaintiff's defense due to his carelessness, gross negligence and

(f) Incompetence

(g) By failing to appear or timely appear on behalf of plaintiff at numerous court proceedings, as well as consult with Plaintiff in advance of numerous substantive hearings – which were not simply status hearings.

(h) By failing in his duties to object to evidence during the sentence hearing. and proffer evidence provided by Plaintiff, including the affidavits of numerous third parties demonstrating why Plaintiff would be entitled to a probationary sentence.

(i) By failing to get the consent of the Plaintiff and abide by Plaintiff's legal decisions.

22. In addition to numerous breaches of fiduciary duty and malpractice committed by the Defendant as mentioned above, Defendant fraudulently induced Plaintiff to pay him large sums of money by making him representations regarding the legal matter that were untrue.

FIRST CAUSE OF ACTION

Legal Malpractice

23. Plaintiff hereby incorporates as paragraph 23 of the instant verified complaint paragraphs 1 through 22.

Young Fails to Advocate the Subpoenas Duces Tecum

24. Defendant Young filed individual third-party motions seeking the production of financial records from Moore, DeMyers and Severson.

25. The subpoenas duces tecum as presented by Young were from a basic template form subpoena which was overly broad in scope.

26. State's Attorney Vaidya admitted to Young that the Illinois Department of Revenue had anonymously received internal Hollywood financials but said he had no idea where the information came from or who had sent it to IDOR. Plaintiff and Defendant both believed Moore provided the financials to the State.

27. Mike Moore, Bob DeMyers and Lou Ann Severson were responsible for either calculating, filing and remitting the companies taxes and would be at the very least be civilly assessable by the State for those unpaid monies. They were the only persons who truly had access to all information, offices, file cabinets and computer passwords and the only ones who profited from that access. Young believed that this subpoena would go a long way towards achieving a successful resolution for the Plaintiff; i.e. having the charges dropped.

28. Moore, DeMyers and Severson appeared at the court hearing seeking to quash the subpoena duces tecum. They were not represented by their own counsel. Instead, State's Attorney Vaidya represented them in essence pro bono and Young should have objected to the State's representation of these individuals. At this hearing, Young failed to inquire of Moore, DeMyers and Severson where the internal financials sent to the State originated. Young failed to request the Court to have the parties provided with the full disclosure of as many documents as possible. Rather, Young allowed Vaidya to actively advocate for and protect Moore, DeMyers and Severson and to hide critical facts that would aid in Plaintiff's defense. Young knew all this prior to those three appearing in Court. Young could not argue the need for all the listed materials in the subpoena and did not try to argue as to what was, and was not needed, and why due to his lack of knowledge and preparation. The record shows Young had a very weak grasp of the facts and a difficult time defending such a broad document request.

29. Success in discovering this information by Young would have also uncovered the fact that Moore had a brother-in-law who was employed as a lawyer in the Illinois Secretary of State's office and at least had prior knowledge or was even actively complicit with Moore. Getting Mike Moore, Bob DeMyers and Lou Ann Severson on the witness stand early in the discovery phase would have also brought out that a key IDOR investigator on this case was a neighbor, good friend and advisor of Moore. This information was also provided by Plaintiff to Young during their initial discussions. Indeed, Young's enthusiastically embracing this information and his initial grasp of its importance was a material reason why Bulthaup hired Young.

30. The Judge denied Young's motion saying that the boilerplate request was too broad and should be limited. The Judge did say he would consider a narrowed subpoena if Young cared to restate and refile. Plaintiff discussed this with Young, deciding to edit and refile, then later following up should additional requests be necessary. Young initially agreed this was doable and that he would follow up, but then just abandoned the whole concept over his Client's questions and objections.

31. Young was negligent in failing to follow through afterward with a modified version of the subpoena as the Judge mentioned. Before it was denied, Young maintained it would yield spectacular results and was vital to the case. After it was denied Young just dropped it as no longer important. Young certainly was not a diligent, zealous advocate and was negligent for not promptly refiling this motion which he was directed by his client to do.

32. If Young had followed through and revised the subpoenas, the State would then have been pressed into a position to drop all charges against Plaintiff and the corporate entity would have been assessed all outstanding taxes. All parties would then be forced to argue in other court settings concerning their personal liability for payment -- but with all the criminal charges against Plaintiff having been dropped. This this is standard operating procedure for IDOR as its primary goal is to recover missing tax dollars for the state of Illinois.

Young Ensures That He Would be Directly Released Plaintiff's Posted $25,000 Bond

33. Shortly after the failed arguing of the subpoena duces tecum motions, Young turned to filing a Motion to Release the posted Appearance Bond of $25,000 with the stated purpose of Plaintiff not being a flight risk. While true, Young was seeking this relief primarily to ensure that Plaintiff could remit additional fees to Young.

34. Young failed to provide the requested advance copy of this Motion for approval by Plaintiff. The record will show Young was not adequately prepared to argue the motion. The Judge, while entertaining Young's Motion, refused to lower the bond amount by more than $1,000. The Judge explained that the court would reconsider this denial if Young provided a justifiable need. Young never filed an amended motion. Young simply ceased his effort to get the full bond released.

35. Immediately after Judge Guerin denied the Motion, State's Attorney Vaidya rushed over to Young and offered to have the entire $25,000 released directly to Young if he could get Plaintiff to plead to a single tax evasion charge. Plaintiff overheard this offer.

36. Those monies were later remitted to Young by agreement with Vaidya just after a Sentence Hearing rather than being kept for court fees or the court ordered restitution. At that time, Young slid paperwork in front of Bulthaup to sign without explanation as Plaintiff was being taken away. While not reviewing that document, it authorized the release of the bond directly to Young.

Young Failed to Investigate and Conduct Discovery

37. Defendant Young had a duty to adequately investigate and conduct discovery. The IRS had brought Moore, DeMyers and Severson in for questioning as to their role in unpaid payroll taxes for the Great Hollywood Theater Group. GHTG was an operating company over both the cinemas and used to split shared expenses, primarily payroll, including both Moore and Severson. Young failed to use the investigation by the IRS to gather evidence, including demonstrating that Plaintiff was individually unaware of unpaid tax dollars and that Moore, DeMyers and Severson were all jointly and severally liable.

38. Rather, Plaintiff himself, was forced to file FOIA requests with the IRS regarding Moore, DeMyers and Severson. In response, the IRS refused to release the requested information sought by the Plaintiff himself through FOIA. A subpoena would be needed. Plaintiff and Young then discussed that the IRS could not legally withhold this information from subpoena. Young, once again, failed to act and follow up on Plaintiff's discovery requests and failed to subpoena those IRS files. While Young believed Plaintiff's IRS requests were a good idea and Bulthaup provided Young a copy of the IRS regulations as to how and where to file, Young failed to act and later explained to Plaintiff that he just did not know how to subpoena this information from a Federal agency.

39. Young's negligence and breaches of fiduciary duty to Plaintiff by failing to investigate and by not subpoenaing the critical information requested by Plaintiff warrants relief.

40. Young's failure to follow through is contrary to everything Young said to Plaintiff about demonstrating Moore, DeMyers and Severson's personal responsibility for the missing taxes, their fraudulent activities and the value of impeaching their character.

41. Plaintiff expressed concern to Young that this stall strategy would make the State's Attorney, the Judge, or both angry. While stalling is not was an appropriate good faith tactic, Young's following up on those subpoenas could have produced valuable evidence to aid

Plaintiff's defense. But, not following through was reckless and certainly evidences just the opposite of what the standard of zealous advocacy requires.

42. Young was always pushing back court dates because of his being overloaded with his scheduled DUI caseload. Young's stalling was the path of least resistance because he just didn't want to spend more time on an actual defense. Young hoped that the State's Attorney would eventually just grow weary and make a settlement offer that Young could push on Plaintiff and by doing so, grab the remaining $25,000 held in the bail bond.

Resulting Coercion

43. Rather than just growing weary the State's Attorney forced the issue. The State first sent a threatening letter to Young, stating that if Plaintiff did not plea they would go in front of a Grand Jury and seek to charge Plaintiff with three Class X Felonies. Plaintiff was sure the State's Attorney would carry out their campaign of intimidation but continued to be told by his Counsel that he would "Win with Young!"

44. The State then went in front of the Grand Jury in November 2015 and obtained the indictment. Vaidya threatened to go ahead and file the new charges if Young could not get Plaintiff to plea. The State further coerced Plaintiff by threatening his wife with the same three Class X felonies. Rather than aggressively shutting down the State on this coercion path, Young only contacted Vaidya, telling him Plaintiffs wife, Cheryl Bulthaup, did not know anything about these matters, that she only operated a separate Chinese restaurant on the premises of the cinema.

45. As a result of Young's lack of follow thru, Plaintiff was forced to hire an attorney for his wife, John Houlihan, who then contacted Vaidya and repeated Cheryl knew nothing. Vaidya said he realized that, but that Cheri "sleeps with the President, so she must know something". Houlihan responded, "so guilt by association, eh?" whereupon Vaidya just chuckled back and said "yup".

46. Vaidya was clearly attempting to further coerce Plaintiff by threatening his wife, while tacitly admitting she did not likely know anything and that she was not involved in anything as far as the State knew. If Plaintiff Bulthaup didn't plea, Vaidya would also get a wrongful indictment against his wife to put further pressure on him. All the while, Young stood on the sidelines and allowed this to happen.

47. Plaintiff talked the situation over with Young and he stated that Plaintiff would surely just get probation if he pled. By then Bulthaup and his wife had lost the businesses,

the house was in foreclosure, his car had been repossessed, 25 years of work had been lost and Bulthaup's reputation destroyed. Bulthaup was living off charity, getting groceries from a food bank and had nothing left to lose.

Young Represents to Plaintiff that He Would Receive a Probationary Sentence

48. Prior to even considering a plea, Young told Plaintiff that he would be granted probation, but at the sentence hearing on November 10, 2016, during a recess while Jude Guerin was considering the matter in chambers, Young informed plaintiff that if the court sentenced Plaintiff to imprisonment, Plaintiff would be immediately incarcerated. That statement by Young to Plaintiff minutes before the sentence ruling and was the exact opposite of what Young had been telling the Plaintiff for months.

49. On November 10, 2016, Judge Guerin ordered that Plaintiff be immediately incarcerated for a period of 2½ years. To compound the situation, Young, while having the right to do so, did not request the Court order for Plaintiff to report at a future date. Young failed to seek this relief for Plaintiff because he sought the release of the $25,000 bond to himself. Young's receipt of this bond increased his fees to that date to at least $90,000.

50. As of that day in early 2016 when Young had been assured by the State's Attorney the bond money would be released in full directly to him, Young's new stated strategy without conferring with Plaintiff became to simply stall, stall, stall.

51. Thereafter, Young simply failed to advocate zealously on Plaintiff's behalf and merely began attempting to stall the case. Young stopped any sort of due diligence investigation, failed to spend adequate time and effort on behalf of Plaintiff, or his duty to be a loyal and zealous advocate for his client on any level. Young merely made appearances.

52. Plaintiff told Young to agree to plead but that he would also answer the Judges question about coercion truthfully. Bulthaup then came before Judge Guerin and went through the plea process. The Judge asked Plaintiff "if anyone had promised, threatened or coerced you in any way?" and Plaintiff replied "yes". The Judge looked up rather startled, and asked "Well, are you pleading"? Plaintiff started to explain without really knowing what to specifically say and Young interrupted saying "yes he is". So, the Judge took the plea.

53. Young then looked over to Plaintiff, signaling for him to be quiet and took over saying a few more words to the Judge. The proceeding closed and as Young got Plaintiff to the side said how great this was, exclaiming "judicial error" and that now Young could "vacate the

plea at any time, in a week, or months from now", even after the Judge pronounced sentence as Vaidya would not agree to a 402 Conference. Young specifically asserted this was all for the better and that Plaintiff now had all the leverage.

54. Days later, Young told Plaintiff that "of course" if he did ever vacate this plea, in the future he would probably never be able to practice in front of Judge Guerin again. Shortly after that, Young repeated this same concern though adding that he might never even be able to practice in this Courthouse or even DuPage County again. Thus, Young was now more concerned about his future practice rather than Plaintiff.

55. Young continued to reassure Plaintiff, further stressing that he would get probation anyway so vacating the plea wouldn't matter, although Plaintiff could always do that later as a last resort. Young continued stressing that putting an end to all this and Plaintiff not serving any time was the important thing.

56. The next step was to prepare for a probation office interview with Plaintiff as to his suitability to receive a sentence of probation only. Plaintiff was then told by Young that he was sure Plaintiff would be recommended for probation. In the meantime, Plaintiff and Young would then also gather further information and witnesses to refute anything the State's Attorney might later say in Court. Young failed in this regard as well.

SECOND CAUSE OF ACTION

Breach of Fiduciary Duties

57. Plaintiff hereby incorporates as paragraph 57 of the instant verified complaint paragraphs 1 through 56.

Young also failed Plaintiff at the Probationary Interview Stage

58. Plaintiff inquired of Young about the necessary probation interview. Young characterized the work as simply "an interview" and failed to provide any guidance for his client. Young's communicated that the State would have its turn later in front of the Judge and this was an independent interview with the result based on that assessment. Young never mentioned the State would weigh in against probation in this forum. Despite Young's self-professed 20-years' experience in criminal law he didn't have any advice for Plaintiff as to interview preparation; what to say, what not to say, what to inquire about, procedure, possible questions and answers, nothing. Plaintiff, left to his own devices by Young, again researched via the internet

attempting to prepare himself. Plaintiff further produced a 3- inch binder of documents in support for use by Young at the interview and later in court. And, Plaintiff blindly followed the repeated representations that he needed to accept full responsibility and express complete overwhelming remorse for what had happened.

59. As pled herein, Plaintiff has fully admitted that it was his responsibility as Hollywood's CEO to oversee the company as the responsible tax partner: making sure that taxes were paid timely and in full. Bottom line, the buck stopped with him and so everything was ultimately his fault. One of the things discussed was that 25 years of Plaintiffs work was gone, that his life was in ruins and that his reputation was trashed in the press. He had nothing left. He didn't even have a car to drive himself to the Probation Office. The Probation Officer seemed to expect a short meeting, but they spent about 2 hours together going through everything in Plaintiff's background from High School to age 60. Plaintiff tearfully took 100% responsibility multiple times. The Officer was in tears during parts of the interview, she even had to go get herself tissues. Plaintiff had to use the tissues for his own eyes too. She was very sympathetic and based on her manner Plaintiff was sure of a positive recommendation.

60. All of Plaintiff's representations were made to the Probation Officer without Young's input, guidance, and counseling because Young failed to appear for the Probation Officer's interview. Precedents were especially important at this juncture and Young was supposed to come armed with such support. Plaintiff was so close to the desired result but Young failed to get the ball over the line because he wasn't there.

61. Young failed to show up at the Probation Office because of his assumption that Plaintiff would receive probation. Young relied on this assumption to a fault which ended up costing Plaintiff his freedom for a period of 912 days. Young again breached his duties to Plaintiff by failing to reschedule Plaintiff's interview in order to take on another client.

62. The Probation report was released and did not say Bulthaup was not a good candidate for Probation. but still recommended that he not get that leniency. If Young and done what he said he would do, when he said he would do it, Plaintiff would have very likely had the desired outcome.

63. Young, realizing that he had put Plaintiff's freedom in jeopardy called the Probation Office to speak with the Interviewer, but that was only after the determination was

issued. Young then called the Department Head asking him to reconsider. Young was too late again.

64. Young knows that if he had shown up, and if he knew the criteria, if he had known the internal processes, if he had been fully prepared, and perhaps most importantly if he had made a legal argument that cited precedents of which there are many, Plaintiff would have received a positive recommendation.

65. This is just another example of Young's failure at communication, diligence, preparation, loyalty and to be a zealous advocate of Plaintiff. Young failed because he did not show up. Without attempting to be redundant, in this case, Plaintiff he was not represented by any counsel. Young was a no show.

66. This was a precursor of things to come at the actual Sentence Hearing and later with the Reconsideration of Sentence Hearing. Not having the knowledge, not coming prepared, not showing up when he was supposed to.

67. This breach of fiduciary duty was especially harmful as it raised the bar in the Courtroom. It would now require the Judge to justify disregarding the Probation Office recommendation.

Youngs Lack of Preparedness and Responsiveness for Sentence Hearing

68. When Plaintiff sent emails, he would attach a 'return receipt requested' and Plaintiff would never receive a read receipt back from Young. Plaintiff would text or call leaving a voice mail to insure Young had received correspondence. Plaintiff finally asked Young about return receipts and Young said he never clicks on those pop ups from anyone's email. Young didn't 'like" that function.

69. Plaintiff had put together exhibits with written explanations for trial and many of these were now to be adopted for Young's use at the sentence hearing. Plaintiff's daughter testified that her Father was constantly working on the case at home and two prominent civil attorneys, Dan Hayes, the Senior Trial Attorney for the SSC and Ken Sullivan, a former State's Attorney and still Special Deputy to the Attorney General's Office now in private practice, both testified on Plaintiff's behalf testifying he always worked on civil cases more closely with them than any other client they ever had. Both Young and Plaintiff believed these materials would have been highly impactful. Plaintiff had also put together a list of prospective witnesses with all their contact information for the Sentence Hearing. The list included how long Plaintiff knew

them, their relationship and questions that should be asked. The two sat together in Young's office and reviewed those materials.

70. As the sentence hearings loomed near Young planned to phone the prospective witnesses on a Friday and Saturday and then write his closing statement Sunday; all over the weekend just prior to the hearing in the quiet seclusion of his Michigan cabin. Young further assured Plaintiff that everything would be fine and that with what he planned, he would overcome the results of the failed probation hearing, diminishing its importance, and that he would get me the desired result.

71. Plaintiff called Young on Saturday morning to make sure he had gotten through the previous day's list without any problems. Young said he had not "called anyone, he hadn't been in the mood". Plaintiff was angry pointing out that his life and future was in Young's hands.

72. Young also revealed he was having lunch with their mutual friend Eric. Young did not tell Plaintiff that in addition to this last-minute invitation they were attending the "Anderson, Rabin & Wakeman" reunion concert that night at the Chicago Theater. Plaintiff's brother Tim is a big fan and was also at the Chicago Theater where he spotted Young and even took a photo. Young failed to timely complete his required due diligence by conducting vital phone interviews of critical witnesses for testifying at the sentence hearing. Young also flat out lied to Plaintiff.

73. Upon information and belief, Young did not ask those witnesses any of the questions that Plaintiff provided Young. It is not reflected in testimony and there were certainly no hand written notations on the witness contact & question sheets when Young later returned those papers.

74. Sometime shortly after the coerced plea had been accepted, Vaidya emailed the list of three intended State witnesses to Young; also asking who Young intended to call and for any exhibits Young intended to introduce. Plaintiff received a copy of this email from Young and responded by asking about any documents the State would rely upon since there were no attachments. The State asked to see ours, didn't they have to show us there's? Young said that was true and that he would inquire.

75. Plaintiff followed up with Young several times about those possible exhibits without reply and so assumed Vaidya was only using testimony, but the State did introduce

documents. Young never gave Plaintiff copies of these before the hearing and it is readily apparent he did not examine them himself prior to the State's witnesses testifying.

76. Greg Apathy was the first prosecution witness. He was originally hired as an independent auditor for Hollywood Blvd Cinema which was soon acquired by Moore and DeMyers. On the stand Vaidya asked about Plaintiff's personal income from that Cinema.

77. Vaidya introduced an exhibit as having been provided by Apathy. Key word "provided". It was a long list of Blvd Cinema Excel entries under the heading of "Advance to Officer" (as against future dividends), listing monies that were supposedly disbursed to Plaintiff. The list claimed an ending balance of over $3,000,000 for a 7-year time period. The sum presented the court was not for the alleged 7-year period, but rather a 15-year period. That would have been easily demonstrated due to the very large beginning balance on Day **1** rather than just "0". That zero balance had occurred 8-years before and that adjustment alone would have made the average annual disbursement about half what Vaidya alleged. Apathy would not have been able to address why there was a large beginning balance. This was a key point that should have been obvious on the face of the document if Young had been prepared by letting his client know this would be introduced. Young failed to illicit these clear facts at the sentence hearing.

78. If Plaintiff had similarly known that this list would be presented, Young could have rebutted that evidence with both documentation and the testimony of Severson's accounting assistant who knew of the fallacies of some entries and was even in the courtroom at the time, in support of Plaintiff. If Young had only been prepared, he would have been armed to the teeth and the Auditor would not be able to justify dozens of dozens of entries.

79. Most damning, the State's Attorney introduced this list as being 'provided' by Apathy, which the expert witness confirmed under oath. Apathy had "**provided**" it; but he did not "**produce**" it. That is different, it was not Apathy's work product and he would have been forced to admit that. Apathy was an expert witness only if he testified as to his own work. Plaintiff had first noticed this document among the 8 discs of discovery the Prosecution had provided years earlier. Lou Severson, who was and still is the Blvd accountant was the person who produced it, not the state's witness. Apathy merely provided a copy of someone else's work without any back up detail. If Young had been really prepared for this case, he could have broken the whole affair wide open with this single witness.

80. The record will show Young was not prepared and only briefly and meekly challenged the accounting accuracy based only on Payees of just a few disbursements listed on just the first page of many pages. Young's few comments were short and ineffective because he was not prepared for the hearing and did not know the surrounding facts nor how to dispute accounting entries. If Plaintiff had been informed this salacious item would be introduced; he would have had everything ready for Young to contest it from even being placed into evidence. Young would have been able to completely discredit any witness and the State's entire side of the equation. Young did not make Plaintiff aware the document would be "provided" regardless whether he knew it would be or not. It was Young's complete responsibility to discover and investigate the facts beforehand. This is yet another example of Plaintiff not being represented by effective counsel.

81. While Young was cross examining Apathy, Plaintiff wrote the word "no produce" underlined on Young's yellow pad as it lay on the defense table. Young didn't understand and dismissed it as if Bulthaup was a distraction. Plaintiff then asked Young to stop for a short recess but Young just ignored his own client, kept talking and then wrapped up.

82. That recess would have led to a more effective attack on all issues. Cross-examination could have been delivered as hammer blows if Young would have stopped to listen. That could all have been proven but as a result of Young's lack of preparation it could not even be rebutted. Another example of his not communicating with client, not giving Plaintiff vital information and not listening so as to get vital information. Young could have otherwise demolished the State's expert witness.

83. The third and last of the three State witness was Stan Luboff of the Illinois Department of Commerce & Economic Opportunity (DCEO). The DCEO had guaranteed 25% of a $4 million dollar bank construction loan for the Hollywood Palms. Luboff and Bulthaup had always been on very friendly terms. Luboff was called to testify about a meeting Plaintiff called between the two soon after Plaintiff hired auditors had discovered issues with sales taxes at the Palms.

84. The sentence hearing was several years after that meeting. Luboff's recollection of the discussion was faulty and he mistakenly stated just the opposite of the plan presented at that meeting. Plaintiff had said he was going to keep paying the bank their interest payments only, just not the loan principal - until the missing taxes were paid in full. Right after Plaintiff's

meeting when Luboff did not object to Plaintiff's plan; Plaintiff actually made that deal with the Illinois Department of Revenue who signed off on it. All free cash flow went to tax arrearages and IDOR was paid over $250,000 over the next four months. At that rate the State would have been paid all the missing money in about a year. The cinema would then have resumed paying the bank both principle and the interest until the loan was entirely paid. That was the plan, that is what Plaintiff projected for Luboff, and that is what was actually done. This was a key element of the State's greater case or they would not have brought it up in this forum.

85. Plaintiff again sought Young's attention, wanting a recess to go over what needed to be asked of Luboff in the remaining cross examination as opposed to asking Luboff how his client casually dressed around his office. Again, Young just read Plaintiff's note and then pushed the pad back. Plaintiff paid the State per the plan doing exactly what Plaintiff said he was going to do; when Plaintiff said he was going to do it. Luboff would have likely remembered all this if Young had listened to Plaintiff and inquired as directed. Plaintiff could have documented this before the hearing if he had known there would be a need to.

86. Young assessed the first days results with Plaintiff, saying Luboff's mistaken testimony was the most damning of the three State witnesses. If Young had stopped and listened to Plaintiff, Young could have at least attempted to jog that witnesses' memory and correct the damaging testimony, making Luboff a witness for and not against the Defense. Young was again reckless, incompetent and negligent, didn't communicate with nor consider the Plaintiff's knowledge before continuing his cross examination.

87. Ken Sullivan was the final defense witness. Ken had handled several civil cases for the theaters. Young had never connected with Sullivan prior to the hearing. Young was supposed to then meet Sullivan on the last day of testimony at 12:00 noon so everyone would have an hour at the courthouse to go over his testimony. Young was to have his closing statement in hand.

88. However, Young arrived an hour late for the final session of the Sentence Hearing, after 1:00pm when Court was supposed to have convened. Sullivan and Plaintiff had been waiting for Young in the cafeteria for an hour and there was no time to properly prepare Sullivan for his testimony. Young then wanted to speak with Sullivan privately and asked for Plaintiff to leave them alone. At first Plaintiff protested, relenting only because time was up. As it was, they did not enter the Courtroom until about 20 minutes after 1:00. Young only asked

Sullivan four questions on the stand, none of which were on Plaintiff's list. Plaintiff only found out when Sullivan testified that Young had surprisingly directed him to represent that Plaintiff was not very smart about business.

89. Plaintiff had also asked Young for his closing arguments as he arrived and Young just tapped his finger on his forehead, obviously meaning no notes, no written speech, that he had everything in his "noodle".

90. Plaintiff naturally had an absolute right to preview and comment on Young's written closing statement as Young had often promised. As of the night before, Young said he had not completed his statement and a draft of those arguments were supposed to have been done long before the hearing. Plaintiff had given Young material that he was specifically directed to use in his closing. Young stated the prior week that he had been working on his closing and would have a great speech with supporting citations that his intern Jordan was researching. Plaintiff was especially enthusiastic about the use of precedents and considered them crucial.

91. Young had not communicated previously with Sullivan because he had better things to do the prior weekend, like lunch and a concert. Young didn't communicate effectively with Sullivan that day because Young was late, and then Young recklessly changed tactics without the approval of his client. That is malpractice.

Young's Lack of Preparedness for Closing Arguments

92. When Plaintiff arrived unannounced at Young's office one late afternoon just before the last hearing, Young had been working out at a gym and was then taking his nap. Young casually said he did that most afternoons and that Plaintiff had just woke him up. Young had nothing finished to show his client. The night before the final Sentence Hearing Young phoned Plaintiff from some steak restaurant, had an irrelevant and inappropriate "me too" type comment about one of Plaintiff's former staff members and said he was going back to the office to finish his closing statement. The work was not getting done.

93. There was no preparation evident once Young arrived late at the Courthouse, there were no citations, the transcript demonstrates there was no effective summation, it was meandering, short and inconsequential. Young had even said to Plaintiff he particularly liked the case of U.S. vs Ty Warner yet did not use a single citation. Young assumed leniency would be the result from the probation interview and was wrong; Young should have learned his lesson and taken this appearance in a court much more seriously.

94. After Young sat down at the defense table and the Judge had gone to chambers to consider Plaintiff's fate, Young said to Plaintiff words to the affect that, "Boy am I glad I went over those accounting items".

95. Young had not said a single word to the court about any accounting in his closing statement. Bulthaup told him so. Young just looked at Bulthaup with a blank stare. The transcript proves Young said nothing about accounting, not even challenging those several accounting related witnesses in absentia since he had not challenged them when they were on the witness stand. Plaintiff had specifically directed Young to address and rebut each of those witness's testimony in his closing remarks and Young did not do that either.

96. Plaintiff complained, had even provided a list of documents which were then laying on the defense desk so Young had a ready reference…..but it was ignored. Young had not used the IRS audit letter about the Hollywood Palms stating that all the taxes had been paid. Young had not used the lie detector results that determined Plaintiff did not know about the missing tax money. Young had not read the statement by Hoosier witness Bill Dever who could not return to Illinois for the third of the three sentence hearings. Young did not use a series of 7558 individual check copies with only two bearing Plaintiff's original signature and which proved Moore and Severson were handling the money, were responsible and liable for the missing tax money. With a big stack of affidavits in front of Young, copies he had in his possession for well over a year and which had been accepted as evidence with the IRS as proofs, Young replied to Plaintiff's comment about not using those affidavits with "What affidavits?"

97. Other than what Plaintiff provided, Young didn't have much in the way of even an outline to guide him in speaking about accounting or anything else. Of the questions Plaintiff wanted asked of both the State's and defense witnesses, few were used. Of the Exhibits Plaintiff provided and wanted argued, none were used. Young was deficient in case knowledge, deficient in diligence, deficient in communications, he was never properly prepared. Young was not and could not be a zealous advocate with all those deficiencies and therefore was not even remotely effective, further breaching his duty as a fiduciary.

98. After Plaintiff's dramatic speech the Judge was obviously moved and had to take a half hour recess to chambers to reflect but then sentenced Plaintiff to 2½ years of incarceration.

99. Plaintiff had asked Young long before the final hearing if, should he sentenced to time, would he be allowed to report at some future date after his affairs were in order. Young had said that could be done. Plaintiff had also asked that question to two attorney friends who gave the same answer. During this recess Young changed his tune and now told his Client he would immediately be taken into custody if sentenced to time, a complete reversal. Plaintiff was shocked and directed Young, in a worst-case scenario, to at least ask the Judge for time to report. The record will show Young didn't even ask.

100. At an earlier hearing, State's Attorney Vaidya had promised Young that if he could get his Client to plead, Vaidya would see that Plaintiff's $25,000 bail money was released to him instead of being used for court costs and the State's ordered restitution. Vaidya did as promised. The State allowed all those funds to transfer to Young personally right then and there.

101. Given Young's poor performance, now known to be malpractice, if Plaintiff had been free on existing bond to put his affairs in order, he could have challenged any release of funds by the Court to Young. This is a motive for why Plaintiff went to jail immediately. There is no other explanation for Young to have told his Client months earlier he would have time to report, then change his story entirely after the Judge went to chambers and to not even ask after the Judge had sentenced. Young wanted to secure the money Viadya had offered him as a financial incentive for getting Plaintiff to plead guilty. Young wanted the money in his pocket before Plaintiff could object to such a disbursement or could vacate the sentence as Young told Plaintiff could be done at any time due to the judicial error. If Bulthaup did not go to jail immediately, Young risked that $25,000 payoff.

Young's Post-Sentence Breach of Fiduciary Duties

102. After Plaintiff was taken into custody and into the depths of DuPage Jail, the outcome had been so surprising, and Plaintiff was such an emotional wreck that authorities put him in solitary confinement and on suicide watch. This was due to the misrepresentations of Young. The next day, Friday, Young tried to visit him and was told "No" because Plaintiff was so emotionally shattered that he was alternately dry heaving, vomiting and crying.

103. Young came back the following Monday after one of his other DuPage cases and after Plaintiff had been moved to the regular lockup. They discussed the Motion to

Reconsider and the 30 days Young had to file it. Plaintiff and Young agreed that they had to go for broke and that all the things he had previously directed to go into Young's final arguments must now be used in the Motion to Reconsider and listed them from memory. Young explained to Plaintiff they had 30 days to vacate the plea after sentencing and regardless, Plaintiff had an absolute right to vacate. As with the probation interview, Young was again trying to pick up the pieces after the fact.

104. Plaintiff wanted weekly drafts to review. If Young could not be finished to file timely with something Plaintiff approved, if Plaintiff could not aide in this process throughout, or if he could not be there for the actual hearing in person; Young was directed by Plaintiff to vacate the plea. Young understood and agreed.

105. Young had brought nothing to take notes. Young said he would send his recently hired intern, Jordan, the next day to take notes on everything they had discussed. Young had all the exhibits necessary from well before the hearings. Jordan did come the next day and wrote everything down, item by item, of what was to be included. Jordan also told Plaintiff she had been directed by Young to find case law supporting our sentence request. According to Young, he had directed Jordan to find citations even before the probation interview, and later said that he told her to compile precedents well before the sentence hearing so he could present them to the Judge. Young did not even show up to the probation office with precedents and did not recite any precedents at the sentence hearing as he had been directed to do. Obviously, no search for precedents had ever been conducted and Young had been lying all along. No loyalty, no preparation, no zealous advocacy by Young at sentencing because Young hadn't done the work, put in the effort, taken the time to even write his final arguments down. Plaintiff tried to confirm by jailhouse phone and through relatives calling Young on his behalf about status, confirming exhibits, what was supposed to be done, etc. Young was largely uncommunicative saying he didn't take calls from jails. His phone would show the incoming calls source, such as "Inmate from DuPage County Jail" or later "Inmate from the Illinois Department of Corrections" instead of a name or phone number.

106. Young told Plaintiff he arranged for him to stay in DuPage through the Christmas Holidays to "confer with Counsel" before Plaintiff could be sent to a state prison. Plaintiff assumed that Young had filed something like habeas corpus so they would have

access to each other while preparing the Motion to Reconsider. That was not the case. Plaintiff was soon taken into direct custody by the Illinois Department of Corrections (IDOC) and whisked off to Statesville prison. Plaintiff directed through family for Young to bring his paperwork for consultation and approval there just as they planned to do in DuPage.

1077. Young just showed up at Statesville one day without the required 48-hour notice and IDOC refused entry. If Young had all the claimed prior criminal experience, he would have known to call in advance for an appointment to any IDOC facility.

108. Plaintiff found out later through a family member that Young had a made that attempt. Young was asked to make an appointment immediately and return before Plaintiff was shipped even further away to a regular prison. Young balked and said to Plaintiff's friend that he wasn't going to drive all the way out to Joliet a second time. Young told that person he was already "underwater" with time spent and so would not follow up since he thought he had everything he needed. Since Young did not have Bulthaup's review and approval on the motion, Young did not have everything he needed and Young was not taking the few calls that IDOC permitted Bulthaup to attempt.

109. Young filed the Motion to Reconsider by the deadline but without setting a hearing date, without the required and agreed upon content, without Bulthaup's further input, and without having vacated the plea.

110. Plaintiff only got a copy of what Young filed much later, just prior to being shipped from Vandalia back to Statesville when the actual Reconsideration Hearing was already set for February 9th.

111. Young's arguments were that Plaintiff was a nice guy and that the sentence was too harsh, and two other brief ridiculous comments that wouldn't change anyone's mind about anything. Plaintiff realized this Motion would utterly fail as none of the materials Plaintiff provided and that Young had confirmed that he would use, had been used. Young told Plaintiff's friend and outside go-between Holly Hu that he especially liked one case Plaintiff provided months before, U.S. vs Ty Warner, and that he would be including it. Young did not cite this or any other precedent. Young's motion contained nothing agreed too, nothing that Jordan had made notes about. None of the missing exhibits, none of the

cases, used none of the arguments. Young had his money and was communicating even less effectively with his client than before. Bulthaup was out of sight - out of mind

112. Young then insisted on privileged calls which could only be scheduled by him from the outside and also with the same 48-hour advance notice. That means only Young could initiate a call. Plaintiff waived privilege because time was of the essence and didn't care about privilege. Young said he didn't care. Bulthaup, his friends and family repeatedly tried to reach Young who continued to be uncommunicative.

113. Bulthaup wanted to be transferred North and continue to be kept in DuPage until such time as the Motion for Reconsideration could be amended to his satisfaction. Plaintiff had called a lawyer friend who confirmed that the filed Motion could be amended. Everything Young had left out at the original Sentence Hearing needed to be added and then heard properly as Young agreed to. Plaintiff insisted to Young that he be brought back to DuPage after Young suddenly went ahead and scheduled the hearing for February 9, 2017. Young claimed the motion could not be amended nor the hearing postponed. Both lies and Plaintiff was well aware of it from civil cases. The hearing could certainly have been postponed, continuances happen all the time. Plaintiff also found out Young had to file a Writ of Habeas Corpus to bring him back to DuPage as it was his Constitutional right to be present. Young said he did not know how to file such a motion. Plaintiff insisted. Young had always said he was an experienced criminal lawyer so this should be at least somewhat routine.

114. Plaintiff was brought North for the hearing approximately a week in advance, but to Statesville rather than the DuPage jail. Young would not meet with, continue or amend prior to the hearing. Young maintained he would arrive early and they would half an hour to talk once they both got into the courtroom. If necessary, Plaintiff planned to speak up to the Judge about all this unless he was satisfied once he and Young spoke and only if Young had amended and restated the motion which was doubtful.

115. Plaintiff arrived in the Courtroom before the 9:00am call and was seated in the empty jury box in a jumpsuit with feet manacled, handcuffed and restrained, waiting for Young to appear. The regular call finished with the Judge still asking for Young's whereabouts. Vaidya said that he had tried to call Young several times without a response and had no idea where Young was. At about 10:30am Vaidya got through. Young claimed

to be on the way and was about 20 minutes out. Half hour later, still no Young. Plaintiff was then brought before the Judge by himself whereupon the Judge stated he had read the motion and was prepared to rule against it regardless of Young's absence; he had to swear in incoming Judges at a luncheon and he wasn't going to miss that because of Young's tardiness. Plaintiff tried to speak but was 'shushed' by the Judge. The Judge decided to wait a little longer, likely because ruling without Plaintiff's attorney being present would be a basis for a further appeal. The Judge told Vaidya to phone Young again and went angrily to his Chambers. Plaintiff was returned to the jury box. The atmosphere was poisoned. A few minutes after 11:30am, over two and a half hours late, Young finally appeared. Seems he had taken a case in DeKalb with a 9:00am call and thought he could do both. That was not only reckless and incompetent, but he violated his pledge and duty to Plaintiff to arrive early so they could confer before the hearing.

116. Young and Plaintiff only had a moment to speak once he arrived. Plaintiff warned Young that the Judge was very angry at him for being late. Young brusquely replied, "The Judge isn't angry with me, he is angry at you!" Plaintiff was absolutely stunned with his attorney's statement and it obviously showed on his face. Young then added, "he is mad at you because you are sitting here in his Court in handcuffs". Plaintiff was further stunned. All Plaintiff could get out was "we can't do this today, the Judge is very mad, and I want this continued, you tell him, or I will" and Young initially said "no" he wouldn't continue just as the Judge took his seat. There was no time for further discussion.

117. Plaintiff was taken up by the guard with Young to the Bench, where the Judge in a very calm, clear, cool and collected manner handed Young his head. The Judge laid into him. Then Young stupidly tried to make excuses but the Judge would have none of it. Young only made it worse. The Judge ended up stating that no matter how many other cases in any other court Young might ever have, Young would show up without fail in this Judge's court first and promptly at 9:00am.

118. There was no mistaking who the Judge was mad at; and it was Young and not his client. Young was visibly shaken. Then because of the late time and lack of Young's proper preparation Young was forced to ask for a continuance. The Judge realized that this had to be, also due to his own schedule, but certainly made it clear about his disdain

for a "do over" due to Young's incompetence. The Judge was not happy and mentioned the lost time and cost to return Plaintiff back to his home prison and then bring him back a second time. Days before the hearing, before Plaintiff arrived, he had expressly told Young to continue the hearing to late summer. Plaintiff hoped his application for work release would be accepted and he would be back in Chicago so they could amend and restate the Motion to Reconsider together. The case was continued to just April 28 with no mention by Young of a late summer replacement date. Plaintiff was again furious with Young for just not listening…….again.

119. Plaintiff had three supporters in the Court but was not allowed to speak with them. His chains were killing him, he was an emotional wreck, dry heaving and soon vomiting from the stress in a nearby trash can. Plaintiff's supporters asked Young 'what next' and Young said nervously, "Well, I guess I'm driving down to Vandalia". That was the last Plaintiff ever saw of his attorney. Despite subsequent assurances to Plaintiff's family that he would drive down, and later the same assurances to Plaintiff himself, Young never showed up.

120. After Plaintiff was returned to his home prison, he was told that his application to go to a work release facility in Chicago had been accepted. It would be a few months after his transfer back North, but once there, Plaintiff would be allowed out on passes. Plaintiff would be able to spend all the time he needed in law libraries and with Young to get this Reconsideration done fully and properly. Plaintiff considered this to be heaven sent and later pointed out to Young that it would even save him the 11-hour round trip to Vandalia.

121. Plaintiff kept reaching out to Young through friends and family due to phone restrictions, pleading with Young for a further continuance to summer's end when Plaintiff felt a proper motion could be prepared and presented. Young would always promise those few people who had reached him that he would soon be contacting Plaintiff on a certain day or the first of next week, or something similar; but once again it was just talk and he would never do what he said he would do, when he said he would do it. Most often Young would let those calls go straight to voicemail and not return their messages. Even though Plaintiff had not wanted her involved because of her advanced age and health, he eventually resorted to having his 82-year old Mother call Young in the hope of getting through. She was

successful, presumably from the out-of-state area code registering since Young picked up his phone without realizing who was calling him. Young told her he was no longer planning on driving to Vandalia (as he had promised in front of witnesses when he was last in Court). Young did promise her to schedule a 30-minute legal call to her son about two weeks before Plaintiff was to be transferred back to Statesville for the hearing. Too little, too late.

122. Young finally reached out to Plaintiff a few days before he was shipped out. Plaintiff again directed that the Court date be continued until he was transferred to the Chicago work release center. Young flatly refused to postpone, saying it could not be continued. Plaintiff knew that was a lie and insisted because Young had failed to keep his Courthouse pledge to come and see Plaintiff in Vandalia. Young didn't seem to care.

123. Plaintiff then told Young to cancel the Writ and not bring him back up to that truly horrid place Statesville as he knew Young's motion, without change, would be denied. There was no hope as Plaintiff suspected and Young's motion was indeed denied on April 28th of 2017.

124. An experienced law clerk at Vandalia told Plaintiff the statistic that 82% of the Motions to Reconsider Sentence filed in DuPage County had some degree of a positive success, resulting in some sort of reduction, electronic monitoring, home detention, etc.

125. Young said before going in to initially argue his motion that he judged the appeal had a "10% chance of success, but **a good 10%!**". What does that mean? Plaintiff realized his attorney had blown off the case and any appeal and was just going through the motions since he was obligated to do something. Worse in Plaintiff's eyes, Young had broken his word and had been consistently lying to his client.

126. The Vandalia law library had been closed while Plaintiff was in Statesville, but then re-opened in May. Plaintiff started to research what, if anything, could be done about his situation. The law clerk heard Plaintiff's story and directed him to ARDC material. That material led Plaintiff to Failure of Effective Counsel statutes, just before Plaintiff was sent back to Statesville for a three-week layover prior to his transfer to the Lawndale Work Release Center on June 16th, 2017. After two months Plaintiff was allowed to go out on 6 hour passes and went straight to see Ken Sullivan and start asking questions.

That's when Plaintiff's realized Young's conduct was more than just unethical, sloppy and subject to an ARDC complaint, but that Young's conduct constituted actual malpractice.

Young Denies Plaintiff Access to Work Product

127. After Plaintiff was able to get passes and have some time out of the Work Release Center, he had access to electronics. Plaintiff was initially most interested in pursuing available sentence credits with the Department of Corrections so as to gain an early release. Plaintiff then started researching Young's handling of his case.

128. Plaintiff sent three separate letters to Young asking for the balance of his files including all his communications, notes, phone calls, emails, etc. Plaintiff's daughter first picked up what was supposed to be the entire file at the beginning of May 2017. Plaintiff had asked for all this work product but Young initially said he did not "have to give" Plaintiff records of his communications or notes. Young stated his only emails in the matter were some calendar issues with Vaidya. Plaintiff pointed out in his letters that even if Young was not legally required to hand those items over to his client that Young was ethically bound to provide them and should as a matter of professionalism. Plaintiff further pointed out there is such a thing as good faith dealing with any law, including professional services.

129. Receiving no reply, Plaintiff then approached a friend, litigator Ken Sullivan and asked him to call Young. Young told Sullivan he would find the materials and forward them to Ken's office. Months went by and Sullivan received nothing.

130. In May of 2018, Plaintiff renewed those requests by mail, phone and in several texts and afterward in three separate follow up phone conversations over a single weekend. Young was again completely resistant saying again that he was not required to hand his work product and communications to Plaintiff, but that he would think it over. In their final conversation Young just denied he had any notes or emails, saying he keeps everything "in his noodle". That is quite different than what he had previously been saying and was an obvious lie to avoid his ethical obligation to his client.

131. Plaintiff had sent Young many emails during the case. Plaintiff knows from Young that he had exchanged many emails with the State's Attorney. While Young's notes may be few, he did make some in Plaintiff's presence and so Young once had some. Young should also have notes from the Sentence Hearing with Plaintiff's notes to him as described above.

132. Young originally told Ken Sullivan he had materials, took the address down and said he would mail them. None were ever received.

133. Not making notes on any case would be reckless and negligent in and of itself; especially in a case as complex, as long and drawn out as this one.

134. Those materials may have originally had value to get Plaintiff out of the IDOC system early. They certainly would be supporting evidence to the many things described in this complaint. Young's failure to provide them is unethical in and of itself. This material would further evidence his breach of fiduciary duties and shows him being ineffective as Counsel. Since Young has not provided copies of the materials, he is not meeting his ethical responsibility and if he never made notes it demonstrates his negligence in meeting his ethical and legal obligations to his client.

135. Legal Malpractice is failing to properly handle a case due to carelessness, recklessness, gross negligence and incompetency, failing to know and properly apply criminal procedure, failing to provide the Plaintiff appropriate advice, failure to effectively or timely communicate with, respect and abide by Plaintiffs legal decisions, failure to zealously advocate on Plaintiffs behalf which is all evidenced herein.

136. Plaintiff alleges as a direct and proximate result of the Defendants malpractice, breaches of fiduciary duty and actions previously described, Plaintiff sustained actual damages in the amount of $342,000.00.

WHEREFOR, PREMISES CONSIDERED, Plaintiff hereby demand judgement of and from the Defendant in the amount of $342,000.00 in compensatory damages, together with pre-judgment and post judgement interest and all costs accrued herein.

Respectively submitted,

_____

Plaintiff April 26, 2019