

APR 29 2008

In the District Court of Josephine County
State of Oregon

FILED
Josephine County Courts

Irvin Lee Adkins, and
Eddie Leon Andrews

By _____

Vs.

Case Number 08CV0531

Terence C. Kern, an individual, and
Paul j. Cleary, an individual, and
Phil Lombardi an individual, and
Elisabeth A. Shumaker, an individual

Petition complaint, and claim under authority of
Oregon's doctrine of common Law fraud

1. Elisabeth A. Shumaker's, from a location in the vicinity of Denver, Colorado and visited into Josephine County Oregon via the United States Mail Service, committed mail fraud, on or before December 6, 2007. Elisabeth A. Shumaker prepared and uttered a false material misrepresentation as a positive assertion which is now known to be false and made recklessly without knowledge of the truth with the intention that it be acted upon by Irvin Lee Adkins, and Eddie Leon Andrews relied on Elisabeth A. Shumaker's false assertion to the detriment of Irvin Lee Adkins, and Eddie Leon Andrews losing in excess of \$500,000,000.00 per each violation and;

Elisabeth A. Shumaker's acts are violative of Kansas's doctrine of *common law fraud* articulated by the Oregon Supreme Court, *inter alia*, in Several courts have ruled that reliance is not a required element of scheme to defraud. *See, e.g.*, Schreider Distrib. Co. v. Serv-Well Furniture Co., 806 F.2d 1393, 1399-1400 (9th Cir. 1986) (noting that essential elements of mail and wire fraud are (1) formation of scheme to defraud, (2) use of United States mails or wires in carrying out schemes, and (3) intent to defraud); United States v. Miller, 545 F.2d 1204, 1216 (9th Cir. 1976) (affirming **mail fraud** conviction for filing falsified tax returns); United States v. Mirabile, 503 F.2d 1065, 1066 (8th Cir. 1974) (affirming **mail fraud** conviction for filing falsified tax returns and noting broad scope and "ever-expanding role" of **mail fraud** statute); Lustiger v. United States, 386 F.2d 132, 138 (9th Cir. 1967) ("It is only necessary to prove that . . . [the] scheme [is] reasonably calculated to deceive, and that the mail service of the United States was used and intended to be used in the execution of the scheme."); *see*

also Durland v. United States, 161 U.S. 306, 312-13 (1896) (concluding that **mail fraud** statute's "scheme to defraud" is not limited by **common law** interpretations and or,

2. and Under the Equal Access Law, Elisabeth A. Shumaker's acts are violative of the Colorado's doctrine of *common law fraud* articulated by the "See cases above", and or and Under the Equal Access Law, Elisabeth A. Shumaker's acts are violative of the Oklahoma's doctrine of *common law fraud* articulated by the *Worsham v. Nix*, 83 P.3d 879, 2004 OK CIV APP 2 (06/03/2003), and a claim for common law fraud or negligent misrepresentation requires, among other things, an allegation that the plaintiff Eddie Leon Andrews, did rely on as demonstrated by Postal Money Order No. 10518083313 and contributions from above interested Irvin Lee Adkins, and Eddie Leon Andrews relied on Elisabeth A. Shumaker's false assertion to the detriment of Irvin Lee Adkins, and Eddie Leon Andrews acted in reliance upon the alleged misrepresentation, *see Pence v. United States*, 316 U.S. 332, 338 (1941) (federal common law); *Esteves v. Esteves*, 680 A.2d 398, 401 n.1 (D.C. 1996) (D.C. common law); *Hall v. Ford Enterprises, Ltd.*, 445 A.2d 610, 612 (D.C. 1982) (negligent misrepresentation) and;

3. Phil Lombardi, from a location in the vicinity of Tulsa, Oklahoma and visited into Jackson County Oregon via the United States Mail Service, committed mail fraud, on or before March 20, 2008. Phil Lombardi prepared and uttered a false material misrepresentation as a positive assertion which is now known to be false and made recklessly without knowledge of the truth with the intention that it be acted upon by Irvin Lee Adkins, and Eddie Leon Andrews relied on Phil Lombardi's false assertion to the detriment of Irvin Lee Adkins, and Eddie Leon Andrews losing in excess of \$500,000,000.00 per each violation and;

Phil Lombardi's acts are violative of Oregon's doctrine of *common law fraud* articulated by the Oregon Supreme Court, *inter alia*, in Several courts have ruled that reliance is not a required element of scheme to defraud. *See, e.g.,* Schreider Distrib. Co. v. Serv-Well Furniture Co., 806 F.2d 1393, 1399-1400 (9th Cir. 1986) (noting that essential elements of mail and wire fraud are (1) formation of scheme to defraud, (2) use of United States mails or wires in carrying out schemes, and (3) intent to defraud); *United States v. Miller*, 545 F.2d 1204, 1216 (9th Cir. 1976) (affirming **mail fraud**

conviction for filing falsified tax returns); *United States v. Mirabile*, 503 F.2d 1065, 1066 (8th Cir. 1974) (affirming **mail fraud** conviction for filing falsified tax returns and noting broad scope and "ever-expanding role" of **mail fraud** statute); *Lustiger v. United States*, 386 F.2d 132, 138 (9th Cir. 1967) ("It is only necessary to prove that . . . [the] scheme [is] reasonably calculated to deceive, and that the mail service of the United States was used and intended to be used in the execution of the scheme."); *see also* *Durland v. United States*, 161 U.S. 306, 312-13 (1896) (concluding that **mail fraud** statute's "scheme to defraud" is not limited by **common law** interpretations and or;

4. and Under the Equal Access Law, Phil Lombardi's acts are violative of the Oklahoma's doctrine of *common law fraud* articulated by the *Worsham v. Nix*, 83 P.3d 879, 2004 OK CIV APP 2 (06/03/2003), and a claim for common law fraud or negligent misrepresentation requires, among other things, an allegation that the plaintiff Eddie Leon Andrews, did rely on as demonstrated by Postal Money Order No. 10518083313 and contributions from above interested Irvin Lee Adkins, and Eddie Leon Andrews relied on Phil Lombardi's false assertion to the detriment of Irvin Lee Adkins, and Eddie Leon Andrews acted in reliance upon the alleged misrepresentation, *see Pence v. United States*, 316 U.S. 332, 338 (1941) (federal common law); *Esteves v. Esteves*, 680 A.2d 398, 401 n.1 (D.C. 1996) (D.C. common law); *Hall v. Ford Enterprises, Ltd.*, 445 A.2d 610, 612 (D.C. 1982) (negligent misrepresentation) and;

5. Paul J. Cleary, from a location in the vicinity of Tulsa, Oklahoma and visited into Josephine County Oregon via the United States Mail Service, committed mail fraud, on or before March 26, 2008. Paul J. Cleary prepared and uttered a false material misrepresentation as a positive assertion which is now known to be false and made recklessly without knowledge of the truth with the intention that it be acted upon by Irvin Lee Adkins, and Eddie Leon Andrews relied on Paul J. Cleary's false assertion to the detriment of Irvin Lee Adkins, and Eddie Leon Andrews losing in excess of \$500,000,000.00 per each violation and;

Paul J. Cleary's acts are violative of Oregon's doctrine of *common law fraud* articulated by the Oregon Supreme Court, *inter alia*, in Several courts have ruled that reliance is not a required element of scheme to defraud. *See, e.g., Schreider Distrib. Co. v. Serv-*

Well Furniture Co., 806 F.2d 1393, 1399-1400 (9th Cir. 1986) (noting that essential elements of mail and wire fraud are (1) formation of scheme to defraud, (2) use of United States mails or wires in carrying out schemes, and (3) intent to defraud); *United States v. Miller*, 545 F.2d 1204, 1216 (9th Cir. 1976) (affirming **mail fraud** conviction for filing falsified tax returns); *United States v. Mirabile*, 503 F.2d 1065, 1066 (8th Cir. 1974) (affirming **mail fraud** conviction for filing falsified tax returns and noting broad scope and "ever-expanding role" of **mail fraud** statute); *Lustiger v. United States*, 386 F.2d 132, 138 (9th Cir. 1967) ("It is only necessary to prove that . . . [the] scheme [is] reasonably calculated to deceive, and that the mail service of the United States was used and intended to be used in the execution of the scheme."); *see also Durland v. United States*, 161 U.S. 306, 312-13 (1896) (concluding that **mail fraud** statute's "scheme to defraud" is not limited by **common law** interpretations and or;

6. and Under the Equal Access Law, Paul J. Cleary's acts are violative of the Oklahoma's doctrine of *common law fraud* articulated by the *Worsham v. Nix*, 83 P.3d 879, 2004 OK CIV APP 2 (06/03/2003), and a claim for common law fraud or negligent misrepresentation requires, among other things, an allegation that the plaintiff Eddic Leon Andrews, did rely on as demonstrated by Postal Money Order No. 10518083313 and contributions from above interested Irvin Lee Adkins, and Eddie Leon Andrews relied on Paul Cleary's false assertion to the detriment of Irvin Lee Adkins, and Eddie Leon Andrews acted in reliance upon the alleged misrepresentation, *see Pence v. United States*, 316 U.S. 332, 338 (1941) (federal common law); *Esteves v. Esteves*, 680 A.2d 398, 401 n.1 (D.C. 1996) (D.C. common law); *Hull v. Ford Enterprises, Ltd.*, 445 A.2d 610, 612 (D.C. 1982) (negligent misrepresentation) and;

7. Terence C. Kern, from a location in the vicinity of Tulsa, Oklahoma and visited into Josephine County Oregon via the United States Mail Service, committed mail fraud, between September 2006 and October 24, 2006 and on or about April 16, 2008. Terence C. Kern prepared and uttered a false material misrepresentation as a positive assertion which is now known to be false and made recklessly without knowledge of the truth with the intention that it be acted upon by Irvin Lee Adkins, and Eddie Leon Andrews relied on Terence C. Kern's false assertion to the detriment of Irvin Lee Adkins, and Eddie Leon Andrews losing in excess of \$500,000,000.00 per each violation and;

Terence C. Kern's acts are violative of Oregon's doctrine of *common law fraud* articulated by the Oregon Supreme Court, *inter alia*, in Several courts have ruled that reliance is not a required element of scheme to defraud. *See, e.g.*, *Schreider Distrib. Co. v. Serv-Well Furniture Co.*, 806 F.2d 1393, 1399-1400 (9th Cir. 1986) (noting that essential elements of mail and wire fraud are (1) formation of scheme to defraud, (2) use of United States mails or wires in carrying out schemes, and (3) intent to defraud); *United States v. Miller*, 545 F.2d 1204, 1216 (9th Cir. 1976) (affirming **mail fraud** conviction for filing falsified tax returns); *United States v. Mirabile*, 503 F.2d 1065, 1066 (8th Cir. 1974) (affirming **mail fraud** conviction for filing falsified tax returns and noting broad scope and "ever-expanding role" of **mail fraud** statute); *Lustiger v. United States*, 386 F.2d 132, 138 (9th Cir. 1967) ("It is only necessary to prove that . . . [the] scheme [is] reasonably calculated to deceive, and that the mail service of the United States was used and intended to be used in the execution of the scheme."); *see also* *Durland v. United States*, 161 U.S. 306, 312-13 (1896) (concluding that **mail fraud** statute's "scheme to defraud" is not limited by **common law** interpretations and or;

8. and Under the Equal Access Law, Terence C. Kern's acts are violative of the Oklahoma's doctrine of *common law fraud* articulated by the *Worsham v. Nix*, 83 P.3d 879, 2004 OK CIV APP 2 (06/03/2003), and a claim for common law fraud or negligent misrepresentation requires, among other things, an allegation that the plaintiff Eddie Leon Andrews, did rely on as demonstrated by Postal Money Order No. 10518083313 and contributions from above interested Irvin Lee Adkins, and Eddie Leon Andrews relied on Terence C. Kern's false assertion to the detriment of Irvin Lee Adkins, and Eddie Leon Andrews acted in reliance upon the alleged misrepresentation, *see Pence v. United States*, 316 U.S. 332, 338 (1941) (federal common law); *Esteves v. Esteves*, 680 A.2d 398, 401 n.1 (D.C. 1996) (D.C. common law); *Hall v. Ford Enterprises, Ltd.*, 445 A.2d 610, 612 (D.C. 1982) (negligent misrepresentation), and Plaintiff Mr. Eddie Leon Andrews was a citizen of the United States, mailing address at P.O. 1132, Catoosa, Oklahoma, 74015, and at all times relevant to the alleged wrongdoing in complaint, which were the direct, and indirect, causation of the Civil RICO injuries to his person and business cognizable pursuant to section 1964© , of Title 18 United States Code, and was forced to leave the State of

Oklahoma for "personal safety" after finding Terence C. Kern's had threatened other Plaintiff's with grave bodily injury and death, and Mr. Eddie Leon Andrews had to move out of state and hereinafter residing at 4 Smedley Lane, Newtown Square, PA 19073 and;

Conclusion

9. A jury's determination that Elisabeth A. Shumaker, Phil Lombardi, Paul J. Cleary, and Terence C. Kern prepared a document which Elisabeth A. Shumaker, Phil Lombardi, Paul J. Cleary, and Terence C. Kern knew was false and uttered the false document through the United States Mail service with the intention that Irvin Lee Adkins and Eddie Leon Andrews relied on Elisabeth A. Shumaker's, Phil Lombardi's, Paul J. Cleary's, and Terence C. Kern's false assertion to the detriment of Irvin Lee Adkins, and Eddie Leon Andrews rely on the false document to lose in excess of \$500,000,000.00 per each violation and Irvin Lee Adkins, and Eddie Leon Andrews relied on Elisabeth A. Shumaker's, Phil Lombardi's, Paul J. Cleary's, and Terence C. Kern's false assertion to the detriment of Irvin Lee Adkins, and Eddie Leon Andrews did rely on the false document to the detriment of Irvin Lee Adkins and Eddie Leon Andrews relied on Elisabeth A. Shumaker's, Phil Lombardi's, Paul J. Cleary's, and Terence C. Kern's false assertion to the detriment of Irvin Lee Adkins, and Eddie Leon Andrews relied on Elisabeth A. Shumaker's, Phil Lombardi's, Paul J. Cleary's, and Terence C. Kern's false assertion to the detriment of Irvin Lee Adkins, and Eddie Leon Andrews are entitle to treble damages¹ or the sum in excess of \$500,000,000.00 per each violation to be paid by Elisabeth A. Shumaker, Phil Lombardi, Paul J. Cleary, and Terence C. Kern and;

10. THE SUM IN CONTROVERSY IN THIS CASE EXCEEDS \$10,000.00 and;

11. TRIAL BY JURY DEMANDED and;

12. THIS INSTRUMENT IS NON-NEGOTIABLE and;

Prepared and submitted by:

4-28-08 © Irvin Lee Adkins Irvin Lee Adkins

© Eddie Leon Andrews Eddie Leon Andrews

¹ see 18U.S.C. § 1964© which enjoys comity with Oregon State law regarding fraud and Colorado State law regarding fraud and Oklahoma State law regarding fraud

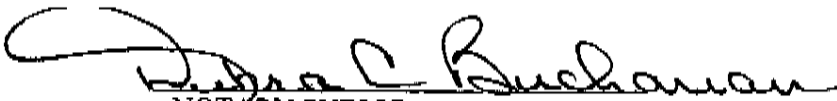
JURAT

State of Oregon
County Josephine

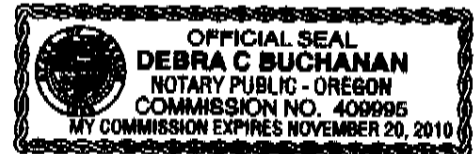
ON April 28, 2008 before me, Irvin Lee Adkins personally appeared and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, executed the instrument.

WITNESS my hand.

Official Seal



NOTARY PUBLIC
Commission Expires 11-20-10



PROOF OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Foregoing Document:

Has been Sent By MAIL: 7002 0860 0007 1648 9091 Kern ✓
7002 0860 0007 1648 9060 Cleary
To Date 4-29-2008 7002 0860 0007 1648 9084 Lombardi

To: Terence C. Kern / Paul J. Cleary, Phil Lombardi's at: GENERAL DELIVERY
TULSA, OKLAHOMA 74015

1. In the District Court of Josephine County State of Oregon

Irvin Lee Adkins, and)
Eddie Leon Andrews)
Vs.)
Case Number 08CV0531
Terence C. Kern, an individual, and)
Paul J. Cleary, an individual, and)
Phil Lombardi, an individual, and)
Elisabeth A. Shumaker, an individual)

Petition complaint, and claim under authority of
Oregon's doctrine of common Law fraud

I, Irvin Adkins on this 29 day of April, 2008 A. D. executed the foregoing document.

By Irvin Adkins
I, THEREFORE, set forth the execution thereof.

Robert C. Roberts Date: 4-29-2008
Witness

Billy-Jane Palmar Date: 4-29-2008
Witness

PROOF OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Foregoing Document:

Has been Sent By MAIL: 7002 0860 0007 1648 9091 Kern
7002 0860 0007 1648 9060 Cleary ✓
To Date 4-29-2008 7002 0860 0007 1648 9084 Lombardi

To: Terence C. Kern / Paul J. Cleary, Phil Lombardi's at: GENERAL DELIVERY
TULSA, OKLAHOMA 74015

1. In the District Court of Josephine County State of Oregon

Irvin Lee Adkins, and)
Eddie Leon Andrews)

Vs.)

Case Number 08CV0531

Terence C. Kern, an individual, and)
Paul J. Cleary, an individual, and)
Phil Lombardi, an individual, and)
Elisabeth A. Shumaker, an individual)

Petition complaint, and claim under authority of
Oregon's doctrine of common Law fraud

I, Irvin Adkins on this 29 day of April, 2008 A. D. executed the foregoing document.

By Irvin Adkins
I, THEREFORE, set forth the execution thereof.

Debra G. Palmateer Date: 4-29-2008
Witness

Billy-Jane Palmateer Date: 4-29-2008
Witness

PROOF OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Foregoing Document:

Has been Sent By MAIL: 7002 0860 0007 1648 9091 Kern
7002 0860 0007 1648 9060 Cleary
To Date 4-29-2008 7002 0860 0007 1648 9084 Lombardi ✓

To: Terence C. Kern / Paul J. Cleary, Phil Lombardi's at: GENERAL DELIVERY
TULSA, OKLAHOMA 74015

1. In the District Court of Josephine County State of Oregon

Irvin Lee Adkins, and)	
Eddie Leon Andrews)	
)	
Vs.)	
)	Case Number <u>08CV0531</u>
Terence C. Kern, an individual, and)	
Paul J. Cleary, an individual, and)	
Phil Lombardi, an individual, and)	
<u>Elisabeth A. Shumaker</u> , an individual)	

Petition complaint, and claim under authority of
Oregon's doctrine of common Law fraud

I, Irvin Adkins on this 29 day of April, 2008 A. D. executed the foregoing document.

By Irvin Adkins
I, THEREFORE, set forth the execution thereof.

Delat G. Polonete Date: 4-29-2008
Witness

Billy Gene Palmer Date: 4-29-2008
Witness

PROOF OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Foregoing Document:

Has been Sent By MAIL: 7003 0500 0000 9705 4765

To Date 4-29-2008

To: Elisabeth A. Shumaker's at: GENERAL DELIVERY EVERGREEN COLORADO 80257

1. In the District Court of Josephine County State of Oregon

Irvin Lee Adkins, and)
Eddie Leon Andrews)

Vs.)

) Case Number 08CV0531

Terence C. Kern, an individual, and)
Paul J. Cleary, an individual, and)
Phil Lombardi an individual, and)
Elisabeth A. Shumaker, an individual)

Petition complaint, and claim under authority of Oregon's doctrine of common Law fraud

I, Irvin Adkins on this 29 day of April, 2008 A. D. executed the foregoing document.

By Irvin Adkins

I, THEREFORE, set forth the execution thereof.

Debra Lynn Palmate
Witness

Date: 4-29-2008

Billy Gene Palmate
Witness

Date: 4-29-2008