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Michelle S. Bruner, DY CLERK 335  
JEFFERSON PARISH, LA

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24<sup>th</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 782-185

DIVISION P

Filed by: Fax CHRISTOPHER BUTLER AND MELANIE BUTLER

Date: March 29 2018  
Time: 4:24 p.m.

VERSUS

Deputy Clerk: Nicholas Bruner  
(SEE ATTACHED LOG) LAHATTE LAW FIRM, L.L.C., JOSEPH "JOEY" LAHATTE, III,

AND XYZ INSURANCE COMPANY

FILED: \_\_\_\_\_

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DEPUTY CLERK

PETITION FOR LEGAL MALPRACTICE

NOW INTO COURT, through undersigned counsel, come Petitioners, CHRISTOPHER BUTLER AND MELANIE BUTLER (hereinafter "Petitioners"), who in accordance with the Louisiana Rules of Civil Procedure, represent as follows:

1.

PARTIES

Christopher Butler is a person of the full age of majority domiciled in the Pearl River County, State of Mississippi.

2.

Melanie Butler is a person of the full age of majority domiciled in the Pearl River County, State of Mississippi.

3.

Made Defendants herein are:

(a) JOESPEH "JOEY" LAHATTE, III is a person of the full age of majority domiciled in the Parish of Jefferson, State of Louisiana;

(b) LAHATTE LAW FIRM, L.L.C., a Louisiana limited liability company based in the Parish of Jefferson and licensed to do and doing business in the State of Louisiana; and

(c) XYZ INSURANCE COMPANY, upon information and belief insured Joseph "Joey" LaHatte, III, and LaHatte Law Firm, L.L.C. for the damages asserted by Petitioners herein.

4.

JURISDICTION AND VENUE

This Court has subject matter jurisdiction of this matter as the amount in controversy exceeds the Court's jurisdictional minimum amount.

5.

Venue is proper in this Court pursuant to Arts. 42, 43, and 74 of the Louisiana Code of Civil Procedure as named Defendants are domiciled in the Parish of Jefferson and the events giving rise to this matter took place in the Parish of Jefferson.

6.

#### **BACKGROUND INFORMATION**

On March 3, 2015, a fire occurred at the Petitioner's home in East Baton Rouge Parish causing severe damage to the structure and contents therein. As a consequence of the fire, Petitioners were unable to reside in their home and needed to find alternative housing.

7.

Shortly following the fire, in March 2015, the Petitioner's retained LaHatte Law Firm, LLC and Joseph LaHatte, III (herein collectively "LaHatte") to pursue claims against their homeowner's insurance provider, Centauri Specialty Insurance Company (hereinafter "Centauri"), Arrowhead Insurance Company (hereinafter "Arrowhead") and associated vendors.

8.

Although organized as a limited liability company, LaHatte Law Firm, L.L.C. regularly fails to indicate that it is a "limited liability company" or "L.L.C." in correspondence and filings thereby failing to comply with the statutory requirements necessary to afford limited liability protection.

9.

Upon information and belief, LaHatte Law Firm, L.L.C. regularly fails to maintain separate financial records as required to comply with the statutory requirements necessary to afford limited liability protection.

10.

On April 1, 2015, LaHatte sent a letter to Arrowhead demanding \$30,000 for loss of use to rent a house for Petitioners. Centauri subsequently replaced Arrowhead as the insurer of interest.

11.

The \$30,000 loss of use demand was attributable to six months of loss of use or additional living expenses ("ALE") for property located at 17432 Copperfield Drive, Baton Rouge, LA 70817.

12.

Upon information and belief, sometime between April 1, 2015 and April 22, 2015, LaHatte was denied six (6) months ALE and was offered three (3) months ALE by Centauri's counsel, James Nader.

13.

On April 22, 2015, LaHatte emailed James Nader, counsel for Centauri Insurance, stating that the lease arrangement could be modified for a three (3) month term. In pertinent part, he stated:

*As we discussed, I just called Maria at Relocating Solutions, L.L.C. to inquire about getting a three month, upfront, furnished lease arrangement in lieu of the six month agreement previously sent to you. She did say that this can be arranged, but, as I predicted, it will need an upfront one month deposit plus the service fee. Thus, the total ALE payment needed ASAP is \$13,200.00. (emphasis added)*

14.

On or about April 22, 2015, American Claims Management, the third-party administrator retained by Centauri, disbursed \$13,200.00 for the initial three months of loss of use with the belief that it was to be used for rent at 17432 Copperfield Drive, Baton Rouge, LA 70817.

15.

In a letter dated July 13, 2015, sent from LaHatte to Centauri, LaHatte demanded an additional \$13,000.00 for three (3) months of loss of use based on the earlier ALE payment for furnishings and security deposit:

*Please send to my firm's attention an additional three (3) months of loss of use payments based on our demand sent to you three months ago. (emphasis added)*

16.

On or about July 16, 2015, American Claims Management disbursed \$13,000.00 for an additional three months of loss of use with the belief that it was to be used for rent at 17432 Copperfield Drive, Baton Rouge, LA 70817.

17.

Although LaHatte represented that a three-month lease was available at 17432 Copperfield Drive, Baton Rouge, LA 70817, this was not true.

18.

Because the home located at 17432 Copperfield Drive, Baton Rouge, LA 70817 was not available for a three-month lease, Petitioners moved in with Christopher Butler's parents in Picayune, Mississippi.

19.

The two loss of use checks totaling \$26,200.00 were issued to LaHatte and, upon information and belief, deposited into his IOLTA trust account. Upon information and belief, after depositing each check into his IOLTA trust account, LaHatte took a portion of the proceeds as a contingency fee and the remainder of the funds were disbursed to the Petitioners.

20.

Petitioners, believing the loss of use payments they had received were proper, deposited the checks received from LaHatte.

21.

At some point after the second loss of use disbursement, Centauri inspected the residence located at 17432 Copperfield Drive at which time it discovered that Petitioners were actually living at the home of Chris Butler's parents.

22.

At no point in time prior to Centauri's discovery did LaHatte advise or notify Centauri that Petitioners never actually moved into the 17432 Copperfield Drive residence or that they moved in with Christopher Butler's parents in Picayune, Mississippi.

23.

In an October 4, 2015 letter directed to Centauri's counsel, Jim Nader, LaHatte misrepresented whether he ever communicated that a three-month lease had been available and further claimed that he advised the Butlers that they could use the ALE monies for purposes undisclosed to Centauri, stating:

*As you know, at the meeting of 9/29/2015 you shared concern with how the Butler's have been dealing with their loss of use situation. As you know a contract was signed by the Butler's for a furnished rental home to be provided by a housing vendor. **The terms of this agreement were sent to your client and yourself. As reviewed by my office and conveyed to me by the housing vendor, the contract required the full six-month term to be paid in advance of the Butler's moving into the home, which was located by Relocating Solutions, L.L.C. This was made aware to your office, and assumingly to your client. In response to receiving the agreement your client only provided for three (3) out of the six (6) months sought for the furnished rental home by Relocating Solutions, L.L.C. This made it impossible for them to utilize their chosen housing vendor since the housing vendor does not deal with rentals for less than six months in duration. Since they could not get the home, I advised them that they could rent from their family members until the home was repaired.** (emphasis added)*

26.

On April 22, 2016, Centauri took the depositions of Petitioners, Chris and Melanie Butler, during which both Chris and Melanie Butler testified that LaHatte never informed them that a three-month lease was available.

24.

Chris and Melanie Butler further testified that they would have preferred to have stayed at a rental house in Baton Rouge had a three-month lease been available.

25.

During the April 22, 2016 deposition of Melanie Butler, LaHatte stated on the record that he did not recall communicating to Centauri that a three-month lease was available for the rental home at 17432 Copperfield Drive, Baton Rouge, LA 70817; however, counsel for Centauri, Jim Nader, presented LaHatte with his own emails and communications in which LaHatte represented to Centauri that a three-month lease was possible.

26.

The insurance policy between Centauri and Petitioners provides the following exclusion, which reads as follows:

**J. Concealment or Fraud**

We do not provide coverage to an "insured" who, whether before or after a loss, has:

1. Intentionally concealed or misrepresented any material fact or circumstance;
2. Engaged in fraudulent conduct; or
3. Made false statements relating to this insurance.

27.

After Centauri learned of LaHatte's apparent misrepresentation, it took the extraordinary measure of filing multiple motions to compel LaHatte's deposition. Despite the fact LaHatte was representing the Petitioners, he was ordered by the Court to submit to a deposition.

28.

On August 8, 2017, Centauri deposed LaHatte during which he appeared unprepared, uninformed, and uncooperative, likely warranting a third motion to compel his deposition by Centauri further unnecessarily extending resolution of the underlying case.

29.

On, or about, February 27, 2018 Petitioners retained The Johns Firm, LLC to assume representation in the underlying case against Centauri.

30.

On, or about February 28, 2018, The Johns Firm, LLC requested the entire case file from LaHatte. A partial copy of the case file was produced to undersigned counsel after which evidence of LaHatte's apparent misrepresentations regarding the use of ALE payments for rent at 17432 Copperfield Drive, Baton Rouge, LA 70817 was first discovered and reported to Petitioners.

31.

On March 11, 2018, undersigned counsel spoke with counsel for Centauri, James Nader, regarding the claim at which time Mr. Nader advised that Centauri may seek dismissal of the case due to the apparent material misrepresentations made by LaHatte.

32.

At all material times, LaHatte knew that Petitioners were not residing at the rental home located at 17432 Copperfield Drive; yet, he never informed Petitioners of his misrepresentations regarding the purpose of the loss of use disbursements.

33.

The apparent false representations made by LaHatte have potentially jeopardized the entirety of Petitioners' claim against Centauri, which may seek dismissal of Petitioners' underlying claim pursuant to the Policy's fraud exclusion.

34.

Although Petitioners retained LaHatte in March 2015 to represent them in their claim against Centauri, by mid-2016, when LaHatte's misrepresentations became a central focus of Centauri's defense strategy, LaHatte stopped making progress on Petitioners' case as most of his time was spent attempting to avoid being deposed by Mr. Nader.

35.

**JOEY LAHATTE AND LAHATTE LAW, LLC'S MISREPRESENTATIONS AND FAILURE TO COMMUNICATE HAS CAUSED PETITIONERS DAMAGES**

36.

Petitioners reallege and reaver the allegations contained in the preceding paragraphs as if re-stated herein.

37.

Centauri has declined payment of a substantial portion of Petitioners loss alleging that they are not liable based on LaHatte's purported intentional misrepresentations.

38.

Petitioners were not aware, did not discover, and should not have discovered that the acts, omissions, and neglect of LaHatte constituted malpractice during the period they were represented by same.

39.

At no point in time did LaHatte advise Petitioners that his apparent misrepresentations may have implicated the fraud exclusion contained in Centauri's Policy.

40.

### **COUNT I – LEGAL MALPRACTICE**

Petitioners reallege and reaver the allegations contained in the preceding paragraphs as if re-stated herein.

41.

LaHatte is an attorney licensed in the State of Louisiana who provided legal representation and counsel to Christopher and Melanie Butler.

42.

As Petitioners' counsel, LaHatte owed Petitioners the strictest duties of loyalty, care, candor, confidentiality, and zealous advocacy.

43.

As detailed above, LaHatte breached the applicable standard of care by intentionally making material misrepresentations to Petitioners' insurer, Centauri, regarding the use of ALE paid on Petitioners behalf.

44.

LaHatte breached the applicable standard of care by providing negligent and incorrect legal advice to Petitioners regarding the permissible use of ALE funds in accordance with their insurance policy.

45.

The acts, omissions, and neglect of LaHatte has placed Petitioners' at imminent risk of having their insurance claim for a substantial house fire dismissed.

46.

**COUNT II – BREACH OF FIDUCIARY DUTY**

Petitioners reallege and reaver the allegations contained in the preceding paragraphs as if re-stated herein.

47.

LaHatte is an attorney licensed in the State of Louisiana who provided legal representation and counsel to Christopher and Melanie Butler.

48.

LaHatte was a fiduciary to Petitioners and owed Petitioners fiduciary duties including the duties of care, loyalty, candor, disclosure, confidentiality, and zealous advocacy.

49.

As detailed above, LaHatte breached fiduciary duties owed to Petitioners by making material misrepresentations to the Petitioners insurer, by failing to communicate with Petitioners to ascertain the truth of representations made to Petitioners' insurer, and by improperly advising Petitioners of the applicable law relating to the permissible use of ALE funds in accordance with their insurance policy.

50.

LaHatte further breached the fiduciary duties owed to Petitioners by refusing to inform his clients of his apparent misrepresentations that have negatively impacted their case against Centauri.

51.

LaHatte's breach of fiduciary duties is the direct, proximate, and legal cause of injuries suffered by Petitioners.

52.

**COUNT III - NEGLIGENCE**

Petitioners reallege and reaver the allegations contained in the preceding paragraphs as if re-stated herein.

53.

LaHatte is an attorney licensed in the State of Louisiana who provided legal representation and counsel to Christopher and Melanie Butler.

54.



As detailed above, LaHatte owed Petitioners fiduciary duties and other duties flowing from the legal representation. Additionally, LaHatte owed a duty to use reasonable care in the representation.

55.

As detailed above, LaHatte breached legal and fiduciary duties by making material misrepresentations to the Petitioners insurer, by failing to communicate with Petitioners to ascertain the truth of representations made to Petitioners' insurer, and by improperly advising Petitioners of the applicable law relating to the permissible use of ALE funds in accordance with their insurance policy.

56.

The acts, omissions, and neglect of LaHatte are the direct, proximate, and legal cause of injuries already suffered by Petitioners.

57.

#### **DAMAGES**

Petitioners seek all damages provided by Louisiana law, including, but not limited to:

- a) General damages in an amount according to proof at trial;
- b) Special damages in an amount according to proof at trial;
- c) Mental anguish;
- d) Unpaid insurance proceeds for all applicable coverages from the claims against Centauri;
- e) Costs;
- f) Attorneys' fees;
- g) For such other relief that the Court deems just and proper; and
- h) Any and all other damages that may be proven at the time of trial.

#### **PRAYER FOR RELIEF**

WHEREFORE, considering the above and foregoing, Petitioners, CHRISTOPHER BUTLER and MELANIE BUTLER, pray that this Petition be deemed good and sufficient, and after all due proceedings be had, there be judgment in their favor and against JOSEPH LAHATTE, III, LaHATTE LAW FIRM, LLC, and XYZ INSURANCE COMPANY jointly and in solidido for the full amounts of Petitioners' damages, plus legal interest together with all costs incurred in this matter, and other general or equitable relief that the court deems proper.

Petitioners reserve their right to trial by jury.

Respectfully submitted:

**THE JOHNS FIRM, LLC**



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**PLEASE HOLD SERVICE**

XYZ Insurance Company