

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

INFANT SWIMMING RESEARCH, INC.,

Plaintiff,

v.

FAEGRE & BENSON, LLP,
MARK FISCHER,
JUDY HEUMANN,
NORMAN HEUMANN,
BOULDER ESCROW, LLC

Defendants.

**COMPLAINT
AND JURY DEMAND**

Plaintiff Infant Swimming Research, Inc., by and through its undersigned attorneys, alleges as follows:

PARTIES

1. Plaintiff Infant Swimming Research, Inc. is a Florida corporation ("ISR").

2. On information and belief, Defendant Faegre & Benson, LLP is a Minnesota limited liability partnership located at 1700 Lincoln Street, Denver, Colorado 80203.

3. On information and belief, Defendant Mark Fischer is an individual located at 285 Iroquois Drive, Boulder, Colorado 80303 ("Fischer").

4. On information and belief, Defendants Judy and Norman Heumann are individuals located at 428 Wewoka Drive, Boulder, Colorado 80303 ("Heumann").

5. On information and belief, Boulder Escrow, LLC is a limited liability company located at 2425 Canyon Boulevard, Boulder, Colorado 80302 ("Boulder Escrow").

JURISDICTION AND VENUE

6. This Court has personal and subject matter jurisdiction over this action pursuant to, without limitation, 28 U.S.C. section 1332(a) in that the parties are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. Venue is properly placed in this Court pursuant to 28 U.S.C. section 1391(a) in that a substantial part of the events giving rise to Plaintiff's claims occurred in this district and Defendants are subject to personal jurisdiction in this district.

GENERAL ALLEGATIONS

8. On February 2, 2004, a jury in this Court in the matter entitled Harvey Barnett, Inc., et. al. v. Ann Shidler, Judy Heumann, et. al., 00-CV-00731, entered a verdict in favor of ISR and against Defendant Judy Heumann (the "Prior Action").

9. A Judgment On Remand was entered by this Court based upon the jury verdict in the Prior Action. On April 28, 2004, the Judgment On Remand entered against Defendant Judy Heumann and in favor of ISR in the Prior Action was recorded with the Boulder County Clerk and Recorder. The recorded judgment acted as a lien in favor of ISR and against real estate owned by Defendant Judy Heumann.

10. On April 26, 2005, Defendants fabricated a Certificate Of Stay Of Judgment/Release Of Judgment Lien (the "Fabricated Order") which purports to be issued and entered by this Court. This Court never issued or entered the Fabricated Order. A copy of the Fabricated Order is attached as Exhibit A and incorporated herein by reference.

11. On April 26, 2005, Defendants filed the Fabricated Order with the Boulder County Clerk and Recorder and thereby fraudulently released ISR's lien on Defendant Judy Heumann's real property.

12. The Fabricated Order allowed Defendant Judy Heumann to obtain funds from Countrywide Home Loans, Inc. which she would not have been able to obtain but for the Fabricated Order. Some of the funds obtained by use of the Fabricated Order were paid to Fischer and Faegre & Benson. This wrongfully provided the financial resources to allow Defendant Judy Heumann to continue her litigation in the Prior Action, at great expense and damage to ISR, and wrongfully provided the financial resources for Fischer and Faegre & Benson to receive additional attorneys' fees.

13. ISR did not discover the Fabricated Order until on or about March 28, 2007.

14. On April 9, 2007, Fischer admitted his misconduct as set forth herein by the letter to Magistrate Hegarty attached as Exhibit B and incorporated herein by reference.

15. At the time of the fabrication and recording of the Fabricated Order and thereafter until on or about April 9, 2007, Fischer was a partner with Faegre & Benson. Pursuant to, without limitation, Colorado Revised Statutes section 7-60-113, Faegre & Benson is liable to ISR to the same extent as Fischer.

16. Boulder Escrow improperly facilitated the filing of the Fabricated Order and improperly failed to require a certified copy of the Fabricated Order.

FIRST CAUSE OF ACTION
(Violation Of Colorado Revised Statutes
Section 38-35-109)
(As Against All Defendants)

17. Plaintiff incorporates by this reference each of the previous paragraphs. Plaintiff repeats and re-alleges each and every allegation contained in the previous paragraphs.

18. By the actions and omissions set forth herein, Defendants have violated Colorado Revised Statutes section 38-35-109(3).

19. ISR is entitled to the relief set forth in Colorado Revised Statutes section 38-35-109(3), including an award of reasonable attorneys' fees.

20. As a direct and proximate result of foregoing, ISR has sustained damages, together with interest, costs, and reasonable

attorneys' fees and is entitled to declaratory and/or injunctive relief.

21. Defendants' actions were, and continue to be, attended by circumstances of malice and/or constituted misconduct purposefully, heedlessly and/or recklessly committed without regard to the consequences or rights of ISR.

22. ISR is entitled to an award of punitive damages.

SECOND CAUSE OF ACTION
(Fraudulent Transfer)
(As Against All Defendants)

23. Plaintiff incorporates by this reference each of the previous paragraphs. Plaintiff repeats and re-alleges each and every allegation contained in the previous paragraphs.

24. All transfers of Defendant Judy Heumann's real estate from the date of the Fabricated Order were fraudulent transfers pursuant to Colorado Revised Statutes section 38-8-105(a).

25. On February 22, 2007, this Court amended its previous Judgment On Remand to award additional attorneys' fees and costs to ISR and against Defendant Judy Heumann.

26. On March 8, 2007, Defendant Judy Heumann recorded a quit claim deed attempting to transfer her interest in real property to Defendant Norman Heumann.

27. By the quit claim deed recorded March 8, 2007, Defendant Judy Heumann and Norman Heumann have engaged in a fraudulent transfer pursuant to 38-8-105(a) and (b).

28. ISR is entitled to the relief set forth in Colorado Revised Statutes section 38-8-108.

29. As a direct and proximate result of foregoing, ISR has sustained damages, together with interest, costs and reasonable attorneys' fees and is entitled to declaratory and/or injunctive relief.

30. Defendants' actions were, and continue to be, attended by circumstances of malice and/or constituted misconduct purposefully, heedlessly and/or recklessly committed without regard to the consequences or rights of ISR.

31. ISR is entitled to an award of punitive damages.

THIRD CAUSE OF ACTION
(Negligent Supervision)
(As Against Faegre & Benson)

32. Plaintiff incorporates by this reference each of the previous paragraphs. Plaintiff repeats and re-alleges each and every allegation contained in the previous paragraphs.

33. Faegre & Benson had a duty to ISR to properly supervise Fischer.

34. Faegre & Benson failed to properly supervise Fischer.

35. Faegre & Benson breached its duties to ISR.

36. As a direct and proximate result of Faegre & Benson's negligent supervision, ISR has sustained damages, together with interest, costs and reasonable attorneys' fees and is entitled to declaratory and/or injunctive relief.

FOURTH CAUSE OF ACTION

(Fraud)
(As Against All Defendants)

37. Plaintiff incorporates by this reference each of the previous paragraphs. Plaintiff repeats and re-alleges each and every allegation contained in the previous paragraphs.

38. Defendants made representations of material fact as set forth above which were in fact false. Defendants materially misrepresented that the Court had issued and entered the Fabricated Order.

39. When Defendants made the representations, Defendants knew they were false or Defendants had no reasonable ground for believing the representations were true.

40. Defendants made the representations with the intent to defraud ISR and did defraud ISR.

41. ISR reasonably and properly relied upon its recording of the Judgment On Remand in the Prior Action as a lien against Defendant Judy Heumann's real property, which would have remained as a lien against Defendant Judy Heumann's real property but for Defendants' fraud.

42. As a direct and proximate result of foregoing, ISR has sustained damages, together with interest, costs and reasonable attorneys' fees and is entitled to declaratory and/or injunctive relief.

43. Defendants' actions were, and continue to be, attended by circumstances of malice and/or constituted misconduct purposefully, heedlessly and/or recklessly committed without regard to the consequences or rights of ISR.

44. ISR is entitled to an award of punitive damages.

FIFTH CAUSE OF ACTION
(Negligent Misrepresentation)

45. Plaintiff incorporates by this reference each of the previous paragraphs. Plaintiff repeats and re-alleges each and every allegation contained in the previous paragraphs.

46. The misrepresentations made by Defendants as set forth herein were made by Defendants without reasonable grounds for Defendants to believe the misrepresentations were true.

47. ISR reasonably and properly relied upon its recording of the Judgment On Remand in the Prior Action as a lien against Defendant Judy Heumann's real property, which would have remained as a lien against Defendant Judy Heumann's real property but for Defendants' negligent misrepresentations.

48. As a direct and proximate result of foregoing, ISR has sustained damages, together with interest, costs and reasonable attorneys' fees and is entitled to declaratory and/or injunctive relief.

SIXTH CAUSE OF ACTION
(Negligence)
(As Against Boulder Escrow)

49. Plaintiff incorporates by this reference each of the previous paragraphs. Plaintiff repeats and re-alleges each and every allegation contained in the previous paragraphs.

50. Boulder Escrow had a duty to ISR to reasonable and properly review the Fabricated Order prior to participating in its filing and require a certified copy of the Fabricated Order.

51. Boulder Escrow failed to ISR to reasonable and properly review the Fabricated Order prior to participating in its filing and failed to require a certified copy of the Fabricated Order.

52. Boulder Escrow breached its duties to ISR.

53. As a direct and proximate result of foregoing, ISR has sustained damages, together with interest, costs and reasonable attorneys' fees and is entitled to declaratory and/or injunctive relief.

SEVENTH CAUSE OF ACTION
(Conspiracy)
(As Against All Defendants)

54. Plaintiff incorporates by this reference each of the previous paragraphs. Plaintiff repeats and re-alleges each and every allegation contained in the previous paragraphs.

55. Defendants maliciously conspired together with intent to injure ISR.

56. Defendants had an agreement to create the Fabricated Order and wrongfully record it with the Boulder County Clerk and Recorder.

57. Defendants fraudulent created and recorded the Fabricated Order in furtherance of the conspiracy.

58. As a direct and proximate result of foregoing, ISR has sustained damages, together with interest, costs and reasonable attorneys' fees and is entitled to declaratory and/or injunctive relief.

EIGHTH CAUSE OF ACTION
(Contempt)

(As Against Faegre & Benson, Fischer, & Judy Heumann)

59. Plaintiff incorporates by this reference each of the previous paragraphs. Plaintiff repeats and re-alleges each and every allegation contained in the previous paragraphs.

60. Faegre & Benson, Fischer and Heumann willfully disobeyed the Judgment On Remand by the Fabricated Order.

61. Faegre & Benson, Fischer and Heumann interfered with the ability of the Court to function properly by the Fabricated Order.

62. As a direct and proximate result of foregoing, Faegre & Benson, Fischer and Heumann should be held in contempt, and ISR awarded damages, together with interest, costs and reasonable attorneys' fees and declaratory and/or injunctive relief.

NINTH CAUSE OF ACTION
(Declaratory Relief)
(As Against All Defendants)

63. Plaintiff incorporates by this reference each of the previous paragraphs. Plaintiff repeats and re-alleges each and every allegation contained in the previous paragraphs.

64. There is an actual controversy between the parties.

65. A judicial determination is required regarding the Fabricated Order. Defendants have taken the position that the Fabricated Order is a true and correct Order of this Court and is properly filed with the Boulder County Clerk and Recorder. ISR has taken the position that the Fabricated Order was never issued or entered by this Court and was not properly filed with the Boulder County Clerk and Recorder and should be voided.

TENTH CAUSE OF ACTION
(Injunctive Relief)
(As Against All Defendants)

66. Plaintiff incorporates by this reference each of the previous paragraphs. Plaintiff repeats and re-alleges each and every allegation contained in the previous paragraphs.

67. Injunctive relief is necessary to void the Fabricated Order and/or the Quit Claim deed and/or to avoid further disposition of Defendant Judy Heumann's real property.

68. Injunctive relief is expressly provided by Colorado Revised Statutes section 38-8-108.

ELEVENTH CAUSE OF ACTION
(Vicarious Liability)
(As Against Faegre & Benson and Judy Heumann)

69. Plaintiff incorporates by this reference each of the previous paragraphs. Plaintiff repeats and re-alleges each and every allegation contained in the previous paragraphs.

70. Fischer was acting within the scope of his employment and/or agency duties when he participated in creating the Fabricated Order. Fischer's tortuous conduct is imputable to Faegre & Benson and/or Defendant Judy Heumann.

JURY DEMAND

A trial by jury is hereby demanded.

Dated: April 24, 2007

LAW OFFICES OF DOUGLAS JAFFE

/s Douglas Jaffe

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