Fiebiger Law LLC
Listening. Counseling. Caring.

Rolf Fiebiger | Tom Fiebiger
[redacted]

Jacqueline M. Wilson
BC-MN-H21N
800 Nicollet Mall
Minneapolis, MN 55402
[redacted]

VIA ELECTRONIC MAIL

Re: Response of Rolf Fiebiger
Claim of John Wingo Against Rolf Fiebiger

Ms. Wilson:

This letter provides a summary Response to the discernable allegations contained within the complaint. If needed, I am happy to provide additional responses.

Communication
Many of the issues raised by Mr. Wingo appear to center around communication with my office – or the alleged lack thereof – as the case was initiated at the EEOC, investigated, and prosecuted. However, as demonstrated below, our office provided Mr. Wingo and his mother – [redacted] – with ample communication during the several months I represented Mr. Wingo which included investigation and filing of his lawsuit.

One of Wingo's main allegations is that there were errors in paperwork and no time to make corrections around the drafting and filing of the complaint. But, we received the Notice of Right to Sue from the EEOC on January 31, 2022. The draft complaint was completed and sent for Mr. Wingo's review on April 15, 2022. On April 18, Mr. Wingo responded by email stating, "My mother and I looked over the complaint and was [sic] very pleased with the results." Ex. 1. Mr. Wingo had some suggested changes which I returned to him in redlined form on April 18. with two new counts in the complaint. Additionally, we had three phone conversations, totaling 2 hours, 22 minutes and 56 seconds on April 18 and 19. Those phone call records are as follows:

4/18/22 – 2:06 pm – 41:27
4/19/22 – 8:15 am – 50:15
4/19/22 – 4:19 pm – 41:14

After these conversations, we agreed the Complaint was ready to go. The complaint was filed on April 20 before the May 1, 90-day deadline for filing suit.

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The April 18 and 19 phone conferences were not the only phone conferences we had. Between August 2021 and May 2022, when my firm's representation ended, we had nearly 6 hours of phone conferences about Wingo's case. Those phone call records are as follows:

4/25/22 – 4:36 pm – 18:55
4/26/22 – 10:34 am – 1:19:17
4/26/22 – 11:54 am – 54:27
4/26/22 – 1:18 pm – 7:49
4/26/22 – 1:44 pm – 1:04:49

On April 21, we also met in my officer for over two hours. After that we held several phone conferences as follows:

5/6/22 at 1:01 pm – 7:08
5/6/22 at 2:04 pm – 17:48
5/6/22 at 2:27 pm – 7:28
5/7/22 at 10:42 a.m. – 28:09

Additional examples include phone calls on
3/9/22 – 3:22 pm – 39:01
3/4/22 – 1:21 pm – 29:43
5/17/22 – 25:01

Between September 2021 and June 2022, we had 86 phone conferences and exchanged more than 50 emails. In short, we met, talked, or emailed each other over 130 times during my 8-month representation of Mr. Wingo. If needed I can provide the additional phone records and emails.

As for the shortened EEOC case, this was prompted both by case strategy and by Mr. Wingo's desire to make this public as soon as possible. To execute this, we needed to get the right-to-sue letter and file the lawsuit as soon as we could.

The allegations that our office did not follow dates set and closed out deadlines near the due date lack substance. The complaint, as addressed above, was filed before the 90-day deadline after multiple hours of phone conferences.

The discussion about setting in person meetings, our office thought that was unnecessary since Mr. Wingo lived in Colorado and the travel expenses would be very high. However, the [redacted] made the decision to come to Minneapolis, and we were very appreciative of their making the trip.

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Allegations that I "have not sent over any documents that were filed through the courts" are also categorically untrue. Ex. 2.

The expressions of disbelief were related to the things Mr. Wingo experienced at the hands of his employer, as well as the scope of the case. It is incredibly rare to see several individuals with claims against a company stemming from the same set of operative facts. Our firm did the requisite amount of investigation and strategizing to adequately represent Mr. Wingo's claims. We were not expressing that we could not handle the case. We took on the representation with the express intent of doing exactly that.

There was definitely adequate communication with Mr. Wingo, and certainly nothing approaching a violation of Rule 1.4.

Claims in Lawsuit

Mr. Wingo and I had repeated conversations about bringing a § 1981 claim. Bringing this claim would remove the Title VII claim caps. But, recent Supreme Court precedent barred bringing § 1981 claims along with Title VII and ADA claims. My professional opinion was that filing these claims together would give rise to potential Rule 11 sanctions. After providing Wingo with this information, I let him know that we could not bring the claims together and that if he disagreed he could seek other counsel. This conversation was repeated several times. Ultimately, we filed claims for Title VII Discrimination, Retaliation under Title VII, South Dakota state law discrimination and retaliation claims, disability discrimination and retaliation claims under the ADA and state law, negligent infliction of emotional distress, disclosure of confidential health information under the ADA, negligent supervision, and failure to pay wages owed. These were the claims we believed in our professional opinion were supported by the facts and the law at the time the case was filed.

Working with 3M's lawyers

3M Counsel asked for and we agreed to give them an additional month to Answer or otherwise plead in response to the Complaint. This happens frequently and courts have sanctioned lawyers for not allowing it and requiring a motion seeking an extension to answer. We thought it was particularly prudent given the substantial accusations contained in the Complaint. Additionally, at that point Mr. Wingo had informed our office that he was seeking alternate representation so that would also give him additional time to find another lawyer.

Mr. Wingo alleges that our office provided illegal documents and depositions to 3M. But our office never produced documents to 3M or its lawyers. The representation of Mr. Wingo ended after allowing 3M more time to respond to the complaint. Rule 26

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disclosures occurred after our representation ended. So, we did not produce any documents to 3M at any point.

The various allegations about my knowledge, investigation, and handling of the case are belied by the work we did up to filing of the complaint. Wingo's email acknowledges as much when he said, "My mother and I looked over the complaint and was [sic] very pleased with the results." Ex. 1.

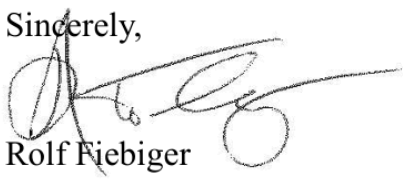
The "EEOC case" referenced is the initial interview with the EEOC where they ask questions of the charging party and take down the claim. Because the interviews are almost always more robust and thorough when no attorney is present, we make a point of not attending those sessions and will send a follow up if necessary. It is most often unnecessary.

Regarding the venue choice between South Dakota and Minnesota, Mr. Wingo's case was brought in Minnesota because our analysis was that the jury pool is better in Minneapolis for an African American man who has been vilified and treated with contempt by his allegedly racist bosses in a small town in South Dakota. 3M is based in Minnesota. So, in consultation with Mr. Wingo, we brought the case in Minnesota as opposed to Aberdeen, SD. And Mr. Wingo was in Colorado at the time, so it would actually be just as easy for him to get to Minneapolis as to Sioux Falls or Aberdeen.

It is also worth noting that Mr. Wingo fired my office the day after he and I had a conversation on the phone where he was pleased with the direction we were going to go. And he found alternate counsel before I withdrew representation.

Please let me know if you have any questions or need any additional information. Thank you for your assistance with this matter.

Sincerely,



Rolf Fiebiger
Fiebiger law, LLC
[redacted]

cc: John Wingo (via email only)

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