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CAUSE NO 2017-73032

WENDY MEIGS,	)	IN THE DISTRICT COURT
	)	
PLAINTIFF	)	
	)	
	)	
VS.	)	HARRIS COUNTY, TEXAS
	)	
	)	
TREY BERGMAN	)	
	)	
DEFENDANT	)	270TH JUDICIAL DISTRICT
	)	

\*\*\*\*\*

MOTIONS HEARING

\*\*\*\*\*

On November 30, 2018, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable BRENT GAMBLE, Judge presiding, held in Houston, Harris County, Texas.

Proceedings reported by machine shorthand and computer-aided transcription.

## APPEARANCES

## FOR THE PLAINTIFF:

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1 P R O C E E D I N G S

2 THE COURT: All right. Go ahead.

3 MR. CLAWATER: Wayne Clawater, again, for Trey  
4 Bergman and Bergman ADR Group. I will not repeat what I said  
5 before we went on the record. The bottom line, Your Honor, is  
6 we believe we are entitled to Summary Judgment on both our  
7 traditional and no evidence Motions for Summary Judgment based  
8 upon the Summary Judgment record before the Court. Thank you.

9 THE COURT: All right. Response, if any?

10 MS. JAHANI: My name is Cheryl Ellsworth Jahani  
11 and I represent the Plaintiff, Ms. Wendy Meigs, and I would  
12 like to restate for the record that I'm going to amend the  
13 original petition and also delete a add some claims and better  
14 specify the damages for my client, the Plaintiff.

15 THE COURT: What about -- just humor me and talk  
16 to me a little bit about how a mediator becomes liable to  
17 somebody for something that happens at a mediation absent  
18 assault or something like that?

19 MS. JAHANI: Your Honor, there's a standard of  
20 care that is in the -- standard and practice code of ethics for  
21 mediator and a mediator can become liable when the mediator is  
22 aware or becomes aware that one party is enable to proceed and  
23 they proceed anyway, or when all the parties unnecessarily --

24 THE COURT: Tell me how that happened here.

25 MS. JAHANI: Well, my client had taken some

1 medication the day of mediation for nerves. She ingested some  
2 food that she states makes -- made her very ill and, then, she  
3 also ingested alcohol at the mediation. The mediation took  
4 place from 10 o'clock in the morning until 10:30 at night. She  
5 was exhausted and feeling --

6 THE COURT: I've been there, done that. But  
7 never with alcohol or anything else on board.

8 MS. JAHANI: Me neither. I never even heard of  
9 that. But that happened in this situation and there's a  
10 standard of ethics and also necessary parties. I mean, the  
11 necessary parties to mediate this corporate aspect of the  
12 divorce were not there. At the beginning the husband that she  
13 was in the process of divorcing was told he had to leave with  
14 his attorney. So that left my client with the corporate  
15 officer and also co-owner of essentially of the company that  
16 they own together, my client, her husband --

17 THE COURT: And her attorney.

18 MS. JAHANI: No, Mr. Johnson, who was her  
19 opponent. Her attorney was also there.

20 THE COURT: Yeah. That was the point of my  
21 statement. She was represented by counsel.

22 MS. JAHANI: She was represented by counsel, but  
23 a necessary party was not there. Jody Meigs, her husband, left  
24 at the beginning because he was told that he didn't have funds  
25 for mediation. So my client, who was part owner of a company,

1 her husband who was also part owner of that company, and Mike  
2 Johnson, who was part owner of that company were parties to the  
3 mediation, but one of the necessary parties left. So, Your  
4 Honor, I'm answering your question about how a mediator can be  
5 held --

6 THE COURT: I know that. That's what I wanted  
7 to you do. Okay.

8 MS. JAHANI: So, how's that's?

9 THE COURT: You know this won't be any news to  
10 you that I have to decide this based on the Summary Judgement  
11 record, which doesn't include anything that is said here today.  
12 Okay? Even though we are taking a record of it, you know, good  
13 luck getting the Court of Appeals to read any of that, because  
14 it's not part of the Summary Judgment record and you know that  
15 and I know that --

16 MS. JAHANI: Yes, Your Honor, I do and I would  
17 ask you to consider that my client has been --

18 THE COURT: Wait a minute. I'm talking.

19 MS. JAHANI: Okay.

20 THE COURT: I let you talk. Okay. See, if you  
21 don't interrupt -- I didn't interrupt you when you were  
22 talking. All right. And as this is second or third time with  
23 which --

24 MR. CLAWATER: At least the second and maybe the  
25 third, Your Honor.

1 THE COURT: Okay. I can say this with some  
2 level of confidence, because I do it as a matter of routine and  
3 habit every time a pro se party shows up in front of me I tell  
4 them, you know -- I give them the usual speech about I can't  
5 help you and I can't tell you'll what to do, but I am going to  
6 tell you this. You best hire a lawyer and best do it pronto.  
7 Okay?

8 The Summary Judgment record being what it is I  
9 don't think I have any alternative, but to grant it. Judge  
10 Davis in January on a Motion for New Trial when you get in  
11 proper Summary Judgment form some of the things that you were  
12 just telling me about you may feel differently about it. But I  
13 don't think I had any alternative on the state of the record  
14 today. All right. Anything else?

15 MR. CLAWATER: No. We had another motion, but I  
16 think it's mooted by the Court's order.

17 THE COURT: Okay. You-all have a good day  
18 weekend. Thank you.

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1 STATE OF TEXAS

2 COUNTY OF HARRIS

3 I, Karen D. deShetler, Deputy Court Reporter, in and  
4 for the 270th Judicial District Court of Harris County, State  
5 of Texas, do hereby certify that the above and foregoing  
6 contains a true and correct transcription of all portions of  
7 evidence and other proceedings requested in writing by counsel  
8 for the parties to be included in this volume of the Reporter's  
9 Record, in the above-styled and numbered cause, all of which  
10 occurred in open court or in chambers and were reported by me.

11 I further certify that this Reporter's Record of the  
12 proceedings does not reflect the exhibits, if any, admitted by  
13 the respective parties.

14 WITNESS MY OFFICIAL HAND this the 10th day of  
15 December, 2018.

16

17

18 //Karen D. DeShetler

19

20 Karen D. deShetler, CSR 1688  
21 Official Court Reporter  
22 270th District Court  
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