

RESPONDENT DULBERG'S EXHIBIT 1

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - LAW DIVISION

PAUL R. DULBERG, Individually,)
and THE PAUL R. DULBERG)
REVOCABLE TRUST,)
Plaintiffs,)
vs.) No. 2022 L 010905
KELLY N. BAUDIN, et al.,)
Defendants.)

VIDEOCONFERENCE COURT HEARING

MAY 25TH, 2023

COMMENCING AT 10:30 A.M.

BEFORE: HONORABLE MICHAEL F. OTTO

REPORTED BY: Linda S. Idrizi, CSR NO. 84-3704.

1 APPEARANCES :

2
3 ALPHONSE TALARICO LAW OFFICES,
4 (707 Skokie Boulevard, Suite 600,
5 Northbrook, Illinois 60062), by:
6 MR. ALPHONSE A. TALARICO,
7 contact@lawofficeofalphonsetalarico.com,
8 appeared on behalf of the Plaintiff;

9
10 LEWIS BRISBOIS BISGAARD & SMITH, LLP,
11 (550 West Adams Street, Suite 300,
12 Chicago, Illinois 60661), by:
13 MR. JASON W. JOCHUM,
14 jason.jochum@lewisbrisbois.com,
15 appeared on behalf of Defendants;

1 APPEARANCES :

2
3 CHAPMAN SPINGOLA, LLP,
4 (190 South LaSalle Street, Suite 3850,
5 Chicago, Illinois 60603), by:
6 MR. ROBERT CHAPMAN,
7 rchapman@chapmanspingola.com,
8 appeared on behalf of the Defendants;

9
10 AMUNDSEN DAVIS,
11 (150 North Michigan Avenue, Suite 3300,
12 Chicago, Illinois 60601), by:
13 MS. MICHELLE E. Tinajero,
14 mtinajero@smithamundsen.com,
15 appeared on behalf of the Defendants.

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1 THE COURT: Good morning, everybody. This is
2 Dulberg versus Baudin, 2022 L 10905. I'm Judge
3 Michael Otto. We are up today for a hearing on a
4 couple of different fully briefed motions to
5 dismiss.

6 And then I believe I also need to set
7 a briefing schedule on other motions that have been
8 filed, but we will do all of that -- we will go
9 through all of that after everybody introduces
10 themselves for the record, please, starting with
11 Plaintiff's counsel.

12 MR. TALARICO: Good morning, your Honor.
13 Good morning, Counsel. My name is Alphonse
14 Talarico. I represent the Plaintiff, Paul Dulberg.

15 THE COURT: And also the Dulberg Revocable
16 Trust; correct?

17 MR. TALARICO: Correct, yes.

18 THE COURT: Okay. Who is here for any of the
19 movants on the fully briefed motions?

20 MR. CHAPMAN: Good morning, your Honor.
21 Robert Chapman on behalf of ADR Systems.

22 MR. JOCHUM: And good morning, your Honor.
23 Jason Jochum, J-O-C-H-U-M, on behalf of the
24 Defendants Joseph Olsen, Raphael Yalden and Craig

1 Willette. And I am going to refer to them
2 collectively as the Olsen Defendants, which we
3 referred to them in our motions.

4 THE COURT: Good morning to everyone so far.
5 And Miss Tinajero.

6 MS. TINAJERO: Good morning, Judge. Michelle
7 Tinajero on behalf of Allstate.

8 THE COURT: Okay. And no one here for the
9 Baudin Defendants at this time?

10 MR. TALARICO: Doesn't appear that way.

11 THE COURT: All right. We will cross that
12 bridge when we come to it. Why don't we go ahead
13 with the motions to dismiss that are up today for
14 hearing. Unless the parties have agreed otherwise,
15 I am fine with starting with ADR and going in
16 alphabetical order.

17 I will say at the outset that as to
18 both ADR's motion to dismiss and we are going to
19 call it the Olsen Defendants, the Olsen Defendants'
20 motion to dismiss, I have read all of the briefs,
21 motion in response, reply, reviewed the exhibits
22 that the parties have cited and considered the
23 authority on which the parties have relied.

24 So nobody should feel that they need

1 to read their brief to me, but if anybody has
2 anything they want to highlight, especially since
3 we do have a court reporter here, I would, of
4 course, give both sides a chance to be heard.

5 So, Mr. Chapman, you will have the
6 first and last word on your motion. Please go
7 ahead when you are ready.

8 MR. CHAPMAN: Thank you, your Honor. I will
9 be very brief in light of the fact that you have
10 reviewed everything.

11 From our perspective, your Honor, our
12 motion is very straightforward. I am going to
13 assume you know who ADR Systems is and that we are
14 in the mediation and arbitration business.

15 There was a bankruptcy by Mr. Dulberg.
16 The trustee assumed control of his personal injury
17 claim. There was a motion presented in the
18 bankruptcy court that approved a binding mediation
19 at ADR Systems.

20 As Mr. Talarico states in Exhibit 10
21 to his complaint is a binding mediation agreement
22 with ADR Systems, following which is executed by
23 the Baudin attorneys.

24 It is unclear to me if Mr. Talarico is

1 disputing that Mr. Dulberg's signature is on the
2 document, but that's neither here nor there as the
3 bankruptcy court approved the mediation with a
4 high-low agreement.

5 The mediation occurred. Judge
6 Etchingham retired, oversaw the binding mediation.
7 He entered an award of \$560,000 in Mr. Dulberg's
8 favor.

9 There was a high-low agreement. The
10 bankruptcy court record, which the court can take
11 judicial notice of, the payment was made by
12 Allstate, I believe. The proceeds from the
13 mediation were then distributed, including \$117,000
14 to Mr. Dulberg.

15 In sum, we are in the mediation
16 business. There was a mediation agreement. Judge
17 Etchingham ruled consistent with the mediation
18 agreement and the parties performed in accordance
19 with that mediation agreement, which the bankruptcy
20 court had directed the trustee to enter into as he
21 saw necessary.

22 Under those circumstances, you Honor,
23 I don't think there is any allegation in the
24 complaint, as we state in our pleadings, that would

1 support any type of claim that ADR breached the
2 agreement. It's that straightforward. There are
3 no allegations of breach in the agreement.

4 THE COURT: Thank you, Mr. Chapman.

5 Mr. Talarico.

6 MR. TALARICO: A quick response, Judge.
7 There were two agreements, two different exhibits
8 attached to the complaint.

9 The breach that we are alleging is
10 that ADR as a third-party to the contract breached
11 their own terms.

12 The terms of which we are talking
13 about specifically -- I don't have them in front of
14 me, but what they require is that if a contract
15 which has been made and -- made and it's gotten
16 changed, it has to be -- the changes have to be
17 approved by the parties and ADR.

18 There was a change. The terms of the
19 contract are different. And there is no evidence
20 of approval by ADR.

21 THE COURT: Mr. Talarico, the first contract
22 was not executed.

23 MR. TALARICO: Correct.

24 THE COURT: So if I am understanding

1 correctly, your theory is that ADR is bound by the
2 terms of the unexecuted contract and they breached
3 the unexecuted contract by ultimately performing
4 under the contract that the parties did execute.

5 MR. TALARICO: That's not exactly what I'm
6 trying to say. I will try again, Judge, and
7 forgive me if I am not being clear.

8 The unsigned one that was presented to
9 the bankruptcy judge has a term in it. And the
10 term -- one of the terms, which makes it very
11 interesting, it says that payments have to be made
12 on a scheduled basis. And one of the dates that's
13 included is November 21st, 2016. I think I
14 addressed that.

15 Now, the contract, we don't know yet
16 whether there was a signed contract at that point,
17 but the terms of the one that was presented to the
18 bankruptcy court, okay, required, again, by
19 November 21st, payments of somewhere around 2,
20 \$3,000 be made in advance.

21 I also believe that means under
22 discovery there was a signed contract prior to the
23 one that they -- that was presented on December
24 8th.

1 A contract was presented on December
2 8th, the day of the hearing, but that also had the
3 term you must pay -- I don't remember, 2 to \$3,000
4 by November 21st.

5 Judge, how could there not have been a
6 first contract if the December 8th one that they
7 filed has a term requiring a payment of November
8 21st?

9 THE COURT: So, again, I'm not sure that that
10 addresses the concern that I suspect was evident
11 from my question.

12 You are seeking to hold them to an
13 unsigned contract. Right now you are saying maybe
14 there was a different signed contract and we just
15 don't know, but you pled nothing about that.

16 MR. TALARICO: What I am trying to say was
17 the contract that was presented to the bankruptcy
18 judge was a contract that was on ADR's stationary.
19 It had terms. It had money that ADR was entitled
20 to. It had fees on it. All of those things got
21 changed on the second contract.

22 THE COURT: I understand, but the first
23 contract was never signed.

24 MR. TALARICO: We don't know that, Judge. We

1 know that that was the contract that was submitted.

2 THE COURT: Sure. So let me say it a
3 different way. The only contract that you have
4 presented as an exhibit to support your theory that
5 there was a breach is an unsigned version?

6 MR. TALARICO: We presented the December 8th
7 contract, also, Judge, that was signed. And that
8 had --

9 THE COURT: Mr. Talarico, if you want to
10 quibble --

11 MR. TALARICO: No, I don't. Not at all.

12 THE COURT: You understand the point that I
13 am making, do you not?

14 MR. TALARICO: I'm not sure, Judge.

15 THE COURT: Wait a minute, Mr. Talarico. I
16 will try to make it even more plain. You say that
17 the contract that was presented to the bankruptcy
18 court differed from the contract that was
19 ultimately performed; correct?

20 MR. TALARICO: Correct.

21 THE COURT: But the bankruptcy court version
22 of the contract, the version that was presented to
23 the bankruptcy court, was unsigned; correct.

24 MR. TALARICO: Correct.

1 THE COURT: Okay. Anything else?

2 MR. TALARICO: Yes. The one that was signed
3 also had that same clause requiring payment by
4 November 21st of that year where that contract,
5 which is now a signed contract, took place on
6 December 8th. I don't know how that can happen.

7 And, Judge, just one last sentence,
8 that's all, and then I will end it. The terms --
9 it's not just the fact that it says November 21st,
10 but that any changes to contracts have to be
11 approved by ADR.

12 And the December 8th contract was not
13 approved by ADR. It was signed and there was a
14 hearing. It doesn't -- I don't understand how it
15 could possibly be both.

16 THE COURT: How it could be both, what?

17 MR. TALARICO: The only contract requiring a
18 payment of dollars weeks or months in advance of
19 the contract being signed.

20 THE COURT: Okay. Thank you.

21 Mr. Chapman, you have the last word,
22 if you wish.

23 MR. CHAPMAN: Your Honor, unless you have any
24 questions, we will just rely on our briefs.

1 THE COURT: That's fine. Thank you,
2 Mr. Chapman.

3 The motion is granted. I do not see
4 any sufficient allegations of breach of any term of
5 the contract against ADR in the complaint as pled.

6 The notion that they are bound by a
7 contract which was unsigned is untenable. And the
8 complete speculation that there was a previous
9 signed version of the contract is just that. Not
10 only is it speculation, but it doesn't even appear
11 in the complaint. The motion is granted.

12 MR. CHAPMAN: Your Honor, thank you very
13 much. I think I have stated both in my initial
14 brief and my reply brief that we would like the
15 dismissal to be with prejudice.

16 I can't imagine any allegations that
17 would allow this -- a claim to go forward. And we
18 would like it to be with prejudice, to have the
19 requisite Rule 304(A) language since there are
20 other claims still pending.

21 THE COURT: I am skeptical, as well, but I
22 think it's fair to give the Plaintiffs an
23 opportunity to replead, if they have grounds for
24 asserting some of the theories or some of the facts

1 that were alluded to today, I will give leave to
2 replead it. At this time I am not going to dismiss
3 it with prejudice. I will give 21 days to replead.

4 MR. CHAPMAN: Thank you, your Honor.

5 THE COURT: All right. Thank you.

6 Let's move to the Olsen Defendants'
7 motion to dismiss. Let's see, Mr. Jochum, again, I
8 have read motions, response and reply, but I do
9 want to give both sides a chance to be heard. You
10 will have the first and last word. Please go ahead
11 when you are ready.

12 MR. JOCHUM: Thank you, your Honor. Similar
13 to Mr. Chapman, I will just have a few, brief
14 arguments, and then if your Honor has any
15 questions, I am glad to address them.

16 Plainly put, the Olsen Defendants were
17 appointed as a bankruptcy trustee of Mr. Dulberg's
18 bankruptcy in August of 2016.

19 There was an approval of the mediation
20 agreement October 31st, 2016, by the bankruptcy
21 court that Mr. Olsen presented. And the mediation
22 occurred on December 8th, 2016 with the award
23 entered on December 12th, 2016.

24 As we noted in our motion to dismiss,

1 this claim is barred by the statute of limitations
2 and the statute of repose. There is no question of
3 fact that Mr. Dulberg knew of his injury and that
4 it was allegedly wrongfully caused when the award
5 was entered on December 12th of 2016.

6 In fact, he emailed the Baudin
7 Defendants' attorneys as noted in Paragraph 57 of
8 his complaint. "You guys did good. I just feel
9 like I gave these people \$261,000." I am
10 paraphrasing, but that's essentially what he
11 stated.

12 He knew of his injury. He knew he was
13 coerced into participating into this mediation.
14 His claim arose then. He didn't file suit within
15 two years.

16 I just want to briefly address two
17 points raised in the response brief. Mr. Dulberg
18 argues that disability should toll the statute of
19 limitations and the statute of repose.

20 That is just -- being deemed disabled
21 by the Social Security Administration is not
22 legally disabled as noted by a significant amount
23 of Illinois case law.

24 And I would just point out that if

1 Mr. Dulberg was disabled, he could not even bring
2 the present suit because he is legally disabled.

3 Mr. Dulberg also cites to Carlson,
4 that is not applicable to this case. There is no
5 question of fact that Mr. Dulberg's injury occurred
6 in 2016, that he knew it, and he failed to file
7 suit within two years.

8 Briefly on the statute of repose, the
9 only act or omission alleged by -- against the
10 Olsen Defendants occurred on October 31st, 2016,
11 and the complaint filed more than six years later
12 is not timely.

13 So unless your Honor has any
14 questions, we will stand on our briefs and the
15 arguments therein.

16 THE COURT: Do you want to address the Barton
17 Doctrine at all or just rest on the briefs for it?

18 MR. JOCHUM: Your Honor, I could bring it up,
19 but I think the statute of limitations and the
20 statute of repose arguments are fairly dispositive.

21 Barton, there is no -- we have done
22 extensive research on it. There actually is no
23 Illinois case we have found deciding whether the
24 Barton Doctrine applies or how an Illinois court

1 has applied it; however, the 3rd, 4th and 7th
2 Circuits have held that the debtor must have
3 permission for the bankruptcy court to bring suit
4 against a trustee.

5 I know Mr. Talarico has cited to an
6 11th Circuit case that holds otherwise. We would
7 state that the Court should follow the holdings of
8 the 3rd, 4th and 7th Circuit which are more
9 dispositive on the issue, especially the 7th
10 Circuit as that is based here in Chicago.

11 THE COURT: Fair enough. Thank you,
12 Mr. Jochum.

13 Mr. Talarico?

14 MR. TALARICO: Thank you, Judge. As to the
15 Barton Doctrine, the purpose of the Barton Doctrine
16 as we have cited is to recognize the superiority of
17 the bankruptcy court in other related matters, but
18 once the bankruptcy court has finished its
19 business, it no longer has jurisdiction.

20 The Barton Doctrine cannot -- a person
21 cannot go ask a court that is not in existence for
22 permission. That's as simple as I can make it.

23 The jurisdiction is no longer there.
24 So the request to the bankruptcy court, which no

1 longer has jurisdiction, is a nonentity, something
2 that can't be done or shouldn't be done.

3 THE COURT: Bankruptcy cases are re-opened
4 all the time.

5 MR. TALARICO: But this one -- they may be,
6 Judge, but this one was not re-opened. Are you
7 saying -- well, whatever. Okay. Yes, sir.

8 THE COURT: Okay. Did you have anything else
9 you wanted to add, Mr. Talarico?

10 MR. TALARICO: Oh, the statute of limitations
11 argument. The statute of limitations when linked
12 with fraud by deception, including attorneys who
13 are doing fraud by deception, there is a five-year
14 statute from discovery.

15 The discovery was made on October
16 22nd, 2022 when ADR submitted to me by my request a
17 contract different than what was presented to the
18 bankruptcy court. The allegations are fraud and
19 fraud by deception.

20 THE COURT: The allegations against Olsen,
21 Willette and Yalden have what to do with the
22 purported contract switch --

23 MR. TALARICO: That has to do with the
24 fact -- what I am arguing about with Olsen is that

1 they claim that they had nothing -- the individual
2 Defendants, Yalden and Willette, had nothing to do
3 with the case, the bankruptcy case, yet the trustee
4 applied and asked for and was paid money for their
5 services. I don't see how they can be paid for
6 something they didn't do.

7 THE COURT: My question must have been
8 unclear. What of your allegations of wrongdoing
9 against Olsen, Willette and/or Yalden have anything
10 to do with the purportedly improper change in terms
11 of the ADR contract?

12 MR. TALARICO: The fact that they, Olsen
13 related to the bankruptcy judge that Mr. Dulberg
14 did not want to go forward with the case, the
15 trial, to a jury trial, and that he was -- he
16 acknowledged himself to be a poor witness such that
17 ADR was his choice to go forward.

18 The trustee also in the hearing when
19 he brought this motion said he didn't want to
20 micromanage. And the last fact is this was a
21 positive bankruptcy, a rarity, where, yes, the
22 estate -- the trustee had control of the estate and
23 the estate's action, but by relinquishing it and by
24 the fact that Dulberg also was a taker from that

1 estate, he had -- and they said they are relying on
2 what he wants to make a decision.

3 They say he wants to go to ADR. He
4 wants -- they are abandoning to a certain degree
5 the control of that case. And that's based on a
6 lie that was presented to the judge that this was
7 the individual, Dulberg's, desire. So I think
8 that's fraud.

9 THE COURT: First, it's not fraud against
10 Mr. Dulberg. At most, if true, it would be fraud
11 on the bankruptcy court.

12 Leaving that aside, all of that
13 occurred in October of 2016. So even if I agreed
14 with you that in theory that this complaint sounds
15 in fraud, you still blew the five-year statute of
16 limitations because 2016 is more than five years
17 before you filed the suit.

18 MR. TALARICO: Not five years from when he
19 knew about it, knew about the fraud.

20 THE COURT: He knew about everything that you
21 just said when it happened because it happened in
22 open court.

23 The production of a different ADR
24 contract didn't suddenly reveal to him everything

1 that you just said was the wrongdoing that you are
2 claiming the Olsen Defendants committed.

3 That's why I tried to ask you very
4 specifically and clearly and more than once what,
5 if anything, does the changed -- purportedly
6 changed, purportedly improperly changed ADR
7 contract have to do with anything that any of these
8 Defendants are alleged to have done.

9 You didn't answer that, but you told
10 me everything that you claim they did wrong and all
11 of that happened in 2016.

12 And I don't see what possible
13 relevance the purported 2022 production of the
14 changed terms, quote/unquote, ADR contract had to
15 do with any of it.

16 MR. TALARICO: Your Honor, I have nothing
17 further to say.

18 THE COURT: Okay. Thank you, Mr. Talarico.

19 MR. TALARICO: You're welcome.

20 THE COURT: Mr. Jochum, you have the last
21 word, if you wish.

22 MR. JOCHUM: I would just like to point out
23 Adverston versus Riseburrow, all claims against an
24 attorney are subject to 735 ILCS 5/13-214.3.

1 Mr. Talarico's assertion of fraud and
2 how the statute of limitations applies is
3 incorrect. And I have nothing further, your Honor.

4 THE COURT: All right. Thank you both.

5 This motion is granted with prejudice.
6 First, I agree with Mr. Jochum that the relevant
7 statute of limitations is that for attorney's
8 conduct, the two year statute of limitations, six
9 year statute of repose.

10 By those measures, by both of those
11 measures, the complaint is untimely as to these
12 Defendants and is subject to dismissal.

13 The Plaintiffs have argued fraudulent
14 concealment, but I see nothing having been
15 fraudulently concealed as far as the wrongdoing
16 that these Defendants are alleged to have
17 committed. I see no basis for tolling the statute
18 of limitations.

19 And as to the argument in the
20 alternative set out in the brief that the
21 Plaintiff, Mr. Dulberg, individually is under a
22 legal disability that would toll the statute of
23 limitations, again, I agree with the movants, the
24 Defendants, that that is incorrect.

1 The brief itself notes that Section
2 1.06 of the statute on statutes defines a person
3 under legal disability is a person who -- well, I
4 don't need to read the whole thing, but essentially
5 it refers to individuals who because of mental
6 deterioration or physical incapacity, mental
7 illness, are unable or at least not fully able to
8 manage their person or estates.

9 There is no suggestion whatsoever in
10 the complaint or any of the exhibits to it or the
11 exhibits to the response that that applies to
12 Mr. Dulberg.

13 As Mr. Jochum pointed out, if it did
14 apply to him, given the representation that he
15 remains disabled, there would be another reason to
16 dismiss the case because he would be incapable,
17 legally incapable of moving forward at the present
18 time.

19 So, again, I don't see any basis for
20 tolling the statute of limitations based on that
21 argument.

22 As to -- and as I discussed with
23 Mr. Talarico, even if the five year statute of
24 limitations were to apply, for purposes of

1 argument, which, again, I do not believe it does,
2 still the actions took place and the Defendant --
3 pardon me, the Plaintiffs were aware of the harm
4 more than five years before the complaint was filed
5 and it would still be subject to dismissal on
6 limitations grounds.

7 In addition, as an alternate basis for
8 dismissal, the Barton Doctrine as applied by the
9 7th Circuit, among others, I believe is
10 appropriately invoked here.

11 Although, it may very well be true,
12 and it is true apparently, that the bankruptcy case
13 has been closed, it's routinely and possible to
14 re-open the bankruptcy case. That happens for a
15 host of reasons and the Plaintiff has presented no
16 argument or suggestion why if he wished to pursue a
17 cause of action against the movants, he could have
18 sought to reopen and sought leave for the
19 bankruptcy court to do so.

20 I think ordinarily the court then
21 appoints an official, whether it be a trustee in
22 this case or a receiver, ordinarily claims against
23 those individuals appointed by the court need to be
24 approved at a minimum by the court that appointed

1 the individuals. And the Barton Doctrine is the
2 bankruptcy specific manifestation of that generally
3 accepted principle.

4 So this motion is granted with
5 prejudice. And I will provide 304(A) language in
6 the order. I do find that there is no just cause
7 for delay, enforcement or appeal of this order.
8 And so 304(A) language should be included in the
9 written order memorializing today's proceedings.

10 All right. So then let's move,
11 please, to the other Defendants for the moment. I
12 know that I do need to give a deadline for the
13 Plaintiff to replead against ADR Systems, if the
14 Plaintiffs choose to do so, but I do want to first
15 ask Miss Tinajero, I believe that you filed a
16 motion to dismiss on behalf of Allstate. Am I
17 correct about that?

18 MS. TINAJERO: So, Judge, we -- let me double
19 check really quick. We answered the complaint. We
20 have not filed a motion to dismiss. We may file a
21 dispositive motion in the future, but no. We have
22 nothing on file as of today.

23 THE COURT: Okay. And as we noted earlier,
24 there is not anyone here on behalf of Defendants

1 Kelly Baudin, William Randal Baudin II or Kelran,
2 Incorporated, which surprises me, but is anyone
3 here able to represent whether those individuals
4 had filed a responsive pleading on the schedule set
5 by this Court's order of March 28th?

6 MR. TALARICO: They have filed a motion to
7 dismiss based on 2-619(1).

8 THE COURT: Okay. Thank you. Have we
9 already set a briefing schedule on that? I don't
10 believe so.

11 MR. TALARICO: Yes, we have, Judge.

12 THE COURT: Okay. On the Baudin motion to
13 dismiss?

14 MR. TALARICO: Yes.

15 THE COURT: Okay. Well, then that briefing
16 schedule will stand. I think it probably makes
17 sense, and I imagine this might be a little bit
18 frustrating for Mr. Chapman on behalf of ADR, but I
19 think it probably makes sense for me to hear that
20 final motion to dismiss before setting a deadline
21 for the Plaintiffs to file an amended complaint, if
22 they elect to do so, against ADR so Mr. Talarico
23 knows exactly what he has to replead and doesn't
24 have to replead more than once.

1 MR. CHAPMAN: Your Honor, if you don't mind
2 me interrupting only because I am looking at the
3 May 18th order. And the Baudin Defendants' motion
4 is set for July 31, 2023. Do you want to just have
5 a status on that, on that date on the ADR, the
6 complaint as it is to ADR?

7 THE COURT: The July 31 date, can you tell me
8 the time? I don't have that order in front of me.

9 MR. CHAPMAN: Sure. 9:45 a.m.

10 THE COURT: So that's for status on
11 disposition?

12 MR. TALARICO: Yes, your Honor.

13 MR. CHAPMAN: Yes.

14 THE COURT: Yes, that will be for status, but
15 Mr. Talarico, just to be abundantly clear, I am not
16 requiring you to replead against ADR before that
17 July date. I think it's fairest to hear that last
18 motion to dismiss, as well, and then we can get one
19 amended complaint depending on the ruling on that
20 motion.

21 MR. CHAPMAN: I will just indicate that the
22 matter -- I am just looking at a draft order I have
23 been working one. I will say the matter as to ADR
24 is continued for status to July 31 at 9:45 a.m.

1 THE COURT: Yes.

2 MR. CHAPMAN: Okay. Thank you.

3 THE COURT: All right. Are there any other
4 outstanding matters that it would be helpful for us
5 to address this morning? Mr. Talarico, I will ask
6 you first?

7 MR. TALARICO: No, your Honor.

8 THE COURT: Anybody else?

9 MR. CHAPMAN: Your Honor, on housekeeping, is
10 it -- I would suggest that we have two separate
11 orders because of the 304(A) language.

12 THE COURT: Agree.

13 MR. CHAPMAN: So I will submit an order to
14 the court for ADR.

15 THE COURT: I think having two separate
16 orders makes abundant sense with 304(A) language on
17 one and not the other.

18 And they don't really need to say much
19 more since we do have a court reporter transcribing
20 the proceedings than that the motions are granted
21 respectively without and with prejudice for the
22 reasons stated on the record.

23 Thank you all and I will see you July
24 26th.

1 MR. JOCHUM: Thank you, your Honor.

2 MR. CHAPMAN: Thank you.

3 MR. TALARICO: Thank you, Judge, and counsel.

4 MS. TINAJERO: Thank you.

5 THE COURT: Have a good day, everyone. Thank
6 you.

7 (WHICH WERE ALL THE PROCEEDINGS HAD
8 IN THE ABOVE-ENTITLED CAUSE ON
9 THIS DATE.)

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I, LINDA S. IDRIZI, a Certified Shorthand Reporter of the State of Illinois, CSR No. 84-3704, do hereby certify that I reported in shorthand the proceedings had in the aforesaid matter, and that the foregoing is a true, complete and correct transcript of the proceedings had as appears from my stenographic notes so taken and transcribed under my personal direction.

IN WITNESS WHEREOF, I do hereunto set my hand this 31st day of May, 2023.



LINDA S. IDRIZI, CSR
CSR No. 84-3704.

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RESPONDENT DULBERG'S EXHIBIT 2

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

PAUL DULBERG and THE PAUL DULBERG)
REVOCABLE TRUST,)

Plaintiffs,)

v.)

KELLY N. BAUDIN a/k/a Baudin & Baudin,)
Baudin & Baudin, an Association of Attorneys,)
Law Offices of Baudin & Baudin, Baudin &)
Baudin Law Offices, et al.)

Defendants.)

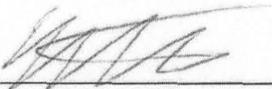
Case No. 2022 L 010905

ORDER

This matter coming before the Court for hearing on Defendant ADR Systems of America, L.L.C.'s Section 2-615 Motion to Dismiss, the parties being present, and the Court being duly advised in the premises,

IT IS HEREBY ORDERED:

- 4271 1. For the reasons stated on the record, Defendant ADR Systems' Motion to Dismiss is granted and Plaintiffs' Complaint is dismissed without prejudice;
- 6215 2. This matter as to ADR is continued for status to July 31, 2023 at 9:45 a.m.

By: 

Hon. Michael Otto

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Judge Michael F. Otto

MAY 25 2023

Circuit Court – 2065

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RESPONDENT DULBERG'S EXHIBIT 3

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IN THE CIRCUIT COURT OF COOK COUNTY,
COUNTY DEPARTMENT - LAW DIVISION

PAUL R. DULBERG and THE PAUL)
R. DULBERG REVOCABLE TRUST,)
)
Plaintiff,)
)
vs.)
)
KELLY N. BAUDIN, et al,)
)
Defendants.)

No. 2022 L 010905

Zoom video conference of the Hearing
held before the HONORABLE MICHAEL F. OTTO,
Courtroom 1407, taken pursuant to notice, commencing
at 11:15 a.m., Thursday, September 21, 2023.

Reported by: Connie L. James, CSR
License No. 084.002510

A P P E A R A N C E S:

ALL PARTIES APPEARING VIA ZOOM VIDEO CONFERENCE:

FOR PLAINTIFF:

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BY: MR. ALPHONSE TALARICO

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FOR DEFENDANT ALLSTATE:

AMUNDSEN DAVIS

BY: MS. MICHELLE TINAJERO

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FOR DEFENDANTS OLSEN, WILLETTE & YALDEN:

LEWIS BRISBOIS BISGAARD & SMITH, LLP

BY: MR. JASON JOCHUM

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I N D E X

HEARING ON MOTION FOR SUMMARY JUDGMENT:

Arguments:

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1 THE COURT: Good morning. Would everyone please
2 identify themselves for the record?

3 MR. TALARICO: Good morning, Your Honor.
4 Alphonse Talarico. I represent the Plaintiffs.

5 MS. TINAJERO: Good morning, Judge Otto. My name
6 is Michelle Tinajero. I represent Allstate Property
7 and Casualty Insurance Company.

8 THE COURT: Thank you.

9 Mr. is it Mr. Jochum?

10 MR. JOCHUM: Jochum, Your Honor. Sorry.

11 THE COURT: All right. Good morning.

12 MR. JOCHUM: Jason Jochum representing what we
13 refer to as the Olsen Defendants, Joseph Olsen, Craig
14 Willette and Raphael Yalden. They were dismissed
15 earlier, but I'm just observing because we're still on
16 appeal.

17 THE COURT: Thank you. I see we are also joined
18 by Mr. Dulberg, individually, as well as Thomas Kost,
19 K O S T, who is identified in his Zoom window as, the
20 quote, full trustee of Paul R. Dulberg Revocable Trust,
21 unquote.

22 We're up today for hearing on Allstate's
23 Motion For Summary Judgment, which has been fully
24 briefed. Anything to discuss before we move forward

1 with that hearing?

2 Mr. Talarico for the Plaintiff?

3 MR. TALARICO: Judge, no, nothing.

4 THE COURT: Ms. Tinajero, ready?

5 MS. TINAJERO: Yes, Your Honor.

6 THE COURT: Okay. You'll have the first and last
7 word.

8 I will say for the record I have read the
9 briefs, I have, of course, reviewed the exhibits as
10 well as the authority that the parties have cited. So
11 no within should feel that they need to read their
12 brief to me, but I will, of course, give both sides an
13 opportunity to be heard.

14 Ms. Tinajero, it's your motion, you'll have
15 the first and last word.

16 MS. TINAJERO: Thank you, Your Honor. I will
17 keep it brief this morning since you have gone through
18 the briefs.

19 ARGUMENT BY

20 MS. TINAJERO:

21 The arguments set forth in our Motion For
22 Summary Judgment are very straight forward. You know,
23 as to the unsigned agreement, the position Plaintiffs
24 have taken that a party is bound by and, therefore, can

1 breach an unsigned, undated agreement is a legally
2 flawed position. Simply put, Allstate cannot be bound
3 by an unsigned agreement.

4 As to the binding mediation agreement, which
5 is the only executed valid agreement between the
6 parties, which is undisputed, to the extent terms were
7 modified and/or admitted between the unsigned agreement
8 and the executed binding mediation agreement, it is not
9 alleged Allstate does not maintain that it played any
10 role in drafting anything about the mediation
11 agreement. And, importantly, such amendments were made
12 before the binding mediation was executed.

13 Additionally, the monetary parameters set
14 forth in the agreement remains the same in both the
15 unsigned agreement and the executed binding mediation
16 agreement.

17 The damage that Dulberg identifies in the
18 complaint, you know, in an amount in excess of \$261,000
19 do not flow from any breach complained of as against
20 Allstate. And it's our position that there are no set
21 of facts under which Dulberg can prove a breach of an
22 unsigned agreement or the executed binding mediation
23 agreement.

24

1 Further, Dulberg executed a release, which is
2 attached to our Motion For Summary Judgment. The terms
3 of the release are clear, certain, free from doubt and
4 Dulberg admits to signing the release in his reply to
5 Allstate's affirmative defenses. That's all I have,
6 Your Honor.

7 THE COURT: Thank you, Tinajero.

8 Mr. Talarico?

9 ARGUMENT BY

10 MR. TALARICO:

11 I think I would like to start in reverse
12 order. I would like to address, Judge, the release.

13 Mr. Dulberg -- I filed on behalf of
14 Mr. Dulberg, he signed a counter-affidavit, which was
15 sent to the Court and I believe it's actually been
16 delivered personally to your courtroom today. It was
17 filed yesterday. Mr. Dulberg had been sick for a few
18 days and he couldn't cooperate or give me any of his
19 time, but I filed it yesterday and it's in opposite to
20 the release, the reasons why the release is not
21 effective. His reasoning is that he was forced to do
22 this against his will.

23 In his counter-affidavit he indicated, and I
24 think copied transcripts of e-mails that he received

1 from his own attorney forcing -- telling him that if he
2 didn't sign the release, the Judge would hold him in
3 contempt and he would be jailed, different than the
4 general terms of contract by signing a release, which
5 is a contract, under those terms cannot be enforced
6 against the person that's being threatened with jail,
7 and/or being held in contempt. Plus, that particular
8 release makes no sense, Judge.

9 If you really think about all of the things
10 they talk about in their motion and affidavit,
11 especially the affidavit.

12 I would like to bring up the fact that the
13 statement, the affiant says the money was paid and then
14 the releases were sent out to be signed. Judge, I
15 would ask you to take judicial notice that insurance
16 companies do not pay first and then send out releases.

17 Furthermore, since this matter was already
18 adjudicated and an order was entered by the arbitration
19 judge, there was no need for a release; that Allstate
20 had paid, according to their own affidavit, and now
21 they're trying to enforce and ask for and force
22 Mr. Dulberg to sign a release. I think that brings up
23 a considerable amount of questionable contrary facts
24 just on its own, Judge.

1 So I would hope that you would contemplate
2 what I'm saying and see that summary judgment is so
3 inappropriate, that's just one of hundreds of things
4 that we are at different ends of the spectrum on. And
5 I think that's all been supplied to Your Honor, but,
6 most importantly, this release issue, it is contrary to
7 the logic that the money was paid first and released.
8 In my practice, Judge, but I've never settled with an
9 insurance company that would pay first and then ask for
10 a release. That's all I have to say today, Judge.
11 Thank you.

12 THE COURT: Okay. Mr. Talarico, the only
13 argument you want to make today is a brand new argument
14 based on, I believe, duress that did not appear
15 anywhere in your response brief. It is based
16 exclusively on an affidavit that was filed yesterday
17 and hand delivered to the Court minutes before this
18 proceeding began.

19 That's the only argument you want to make?
20 You don't want to address anything that Ms. Tinajero
21 spelled out in the motion or the reply regarding the
22 enforceability of an unsigned agreement, which is the
23 entire basis of Count 5? I just want to make sure that
24 you have a full opportunity to make whatever arguments

1 you wish.

2 FURTHER ARGUMENT

3 BY MR. TALARICO:

4 First, I would like to get back to the
5 release. The release was filed yesterday, Your Honor.
6 It was filed and it was accepted. I sent it out to
7 Your Honor this morning at about 6:00 a.m. with the
8 attached exhibits and all the other counsel of record.
9 What response I got was please send a hard copy from
10 your support staff. So I had a hard copy delivered to
11 the courtroom today, but this was filed yesterday.

12 Judge, this was filed pursuant to, and I
13 think it's clear there, Subsection C of the Motion For
14 Summary Judgment. I'm allowed to do that, Your Honor.
15 And I just complied with the statute, 735 5 -- Well,
16 you know, Judge, better than I know. But 105
17 Subsection C says I can file counter-affidavits up to
18 the time of hearing and I did that.

19 So I don't think I violated anyone and I
20 tried -- I sent a message to everybody that if anybody
21 objects, they want more time to review, they want more
22 time to respond, we have no objection. And I also --
23 counsel suggested the reason why Mr. Dulberg is here
24 because if the Court wants to examine him as to the

1 affidavit, he's more than willing to answer questions
2 of the Court.

3 THE COURT: This is not an evidentiary hearing.

4 MR. TALARICO: You're right, Your Honor. I just
5 made that option.

6 THE COURT: The other question I asked you, and,
7 again, you focused exclusively on this 11th hour
8 affidavit, which only addresses the effectiveness of
9 the release, I want to make sure that you've had the
10 opportunity to address today, if you choose, because I
11 didn't see anything really in your brief that addresses
12 why the draft agreement attached as Exhibit 6B to the
13 complaint would be enforceable?

14 MR. TALARICO: Why it wouldn't be enforceable?
15 Is that what you said? I'm sorry.

16 THE COURT: Why it would be enforceable because
17 that's your claim. Count 5 is for breach of contract.

18 MR. TALARICO: Yes, Judge.

19 THE COURT: The breach that you claim in
20 Paragraph 106 is that Defendant breached the contract
21 by not following the terms regarding amending the
22 contract, but the only amendments that you cite are the
23 changes between Exhibit 6B and Exhibit 11. So for
24 there to possibly be a breach of contract, Exhibit 6B

1 must have been enforceable, otherwise you can't
2 possibly have a claim for its breach. And Ms. Tinajero
3 on behalf of Allstate has argued in the motion and the
4 reply that because Exhibit B was unsigned it was not
5 enforceable.

6 THE COURT: Judge, Exhibit B was the only exhibit
7 permitted by the bankruptcy court. It was presented to
8 the bankruptcy judge as unsigned and the bankruptcy
9 judge, Judge Lynch, said to the trustee "sign the
10 contract and you can go forward." Trustee never signed
11 it. They refused to sign -- They didn't actually
12 refuse to sign it, but he didn't. Then another
13 contract appeared.

14 One of the things we said, Judge, is that
15 this matter -- this binding mediation agreement had
16 been already presented to the trial court judge maybe
17 6 months before. So there's all of these issues of
18 what's the valid contract, names are changing from the
19 Defendant being liable, the contract now says a
20 relative of the Dulbergs is liable to Paul, but there's
21 a person, David Dulberg, he exists.

22 Again, the bankruptcy judge saw an unsigned
23 contract and told and instructed his trustee to sign
24 it.

1 We have an enforceable contract, I believe.
2 And I think that the fact that all of these things were
3 done -- and forgive me, Judge, because I don't practice
4 bankruptcy -- but in violation of the stay that had
5 been in effect that whole time. I think that with all
6 of those issues I should be allowed as representative
7 of the Plaintiff to do some discovery upon to see
8 really what the truth of the matter is, we've had
9 allegations back and forth.

10 THE COURT: You said that the bankruptcy court
11 directed the trustee to sign the agreement. So what
12 possible relevance can any prior alleged violations of
13 the stay have to do with Allstate's liability under any
14 contract?

15 MR. TALARICO: Judge, the terms of the contract,
16 we say that the signed contract is a contract. The
17 terms of the contract as accepted and signed by all the
18 parties were -- when I say parties I mean Dulberg
19 denies he signed it, but, anyway, the terms of the
20 contract are sufficient, they say that the breach is
21 that they changed the terms of the contract from the
22 contract they presented to the Court; that the plain
23 language of the contract says if you do this you have
24 to do it, you have to submit hard copies, you have to

1 do it in advance, I think it's 2 weeks, you have to get
2 permission by the ADR. None of that was done. And
3 both Baudin and the attorney for Allstate were
4 participants in that. So I believe that's a breach of
5 contract.

6 THE COURT: Mr. Talarico, that assumes that the
7 unsigned contract was enforceable. What factual or
8 legal support do you have for that proposition because
9 I saw not a single case cited in your brief at all?
10 And the extensive factual recitation appears completely
11 irrelevant. So what did you point me to that I
12 overlooked in your brief that provides factual or legal
13 support for the proposition that the unsigned contract
14 is enforceable?

15 MR. TALARICO: Judge, I will rest now. I said
16 what I have to say. What I pointed you to was the fact
17 that the only contract empowered was the unsigned one.
18 So I'm going to stay on that and I'm finished talking.
19 Thank you, Judge.

20 THE COURT: Thank you, Mr. Talarico.

21 Ms. Tinajero, if you wish?

22 FURTHER ARGUMENT

23 BY MS. TINAJERO:

24 Judge, just briefly. I will say as to the

1 counter-affidavit that was filed this morning, or at
2 least a courtesy copy of which we only received this
3 morning, it's Allstate's position it should be
4 stricken.

5 A briefing schedule was entered in this case.
6 Dulberg, Plaintiff's counsel received an extension of
7 time to file his response. But, more importantly,
8 procedural matters aside, all the information contained
9 in the counter-affidavit it doesn't create a genuine
10 issue of material fact as to Allstate's breach of an
11 unsigned agreement:

12 Any representations that the Baudin
13 Defendants made or the Olsen Defendants made to Dulberg
14 in the course of the binding mediation proceedings, any
15 execution of the binding mediation agreement or in
16 Dulberg's execution of the release have no bearing on
17 the specific claim against Allstate here, which is
18 breach of an unsigned contract. That's all, Your
19 Honor.

20 MR. TALARICO: Your Honor, may I respond?

21 THE COURT: You had a full opportunity to argue,
22 Mr. Talarico, but in the interest of making a complete
23 record, what did you wish to say, bearing in mind that
24 Ms. Tinajero will have the last word?

1 FURTHER ARGUMENT

2 BY MR. TALARICO:

3 Yes. I'm repeating myself but --

4 THE COURT: Then why are you taking everybody's
5 time if all you're going to do is repeat yourself?

6 MR. TALARICO: One sentence, Judge, will be all I
7 want.

8 I'm allowed to do that pursuant to 735 ILCS
9 5/2-1005(c). Thank you, Judge.

10 THE COURT: All right. You did, indeed, repeat
11 yourself, but I suppose if you wanted to say that a
12 second time for the record, fine.

13 COURT'S RULING

14 ON THE MOTION:

15 Plaintiff's counsel is correct, Section 2
16 1005 of the Illinois Code of Civil Procedure, 735 ILCS
17 5/2-1005, Subparagraph (c), does permit an opposing
18 party to, quote, prior to or at the time of the hearing
19 on the motion file counter-affidavits, unquote.

20 I remain unconvinced of the wisdom of that
21 provision of the Illinois Code of Civil Procedure, but
22 there's nothing unconstitutional about it and judges
23 don't ignore or overlook a statute simply because they
24 can't understand why in the world that would be the

1 law. So, yes, there is nothing procedurally improper
2 about launching an affidavit at the opposing parties
3 and the Court hours before a hearing on a fully briefed
4 Motion For Summary Judgment. So I have received the
5 affidavit.

6 The affidavit, as I said, essentially seeks
7 to lay ground work for a claim of duress in executing
8 the release. I don't see anything about duress by
9 Allstate and I don't see anything in the affidavit, nor
10 have I heard anything in counsel's argument today, that
11 would suggest that Allstate was not entitled to rely on
12 the release, but the release issue is only one of the
13 arguments that Allstate makes in support of its Motion
14 For Summary Judgment.

15 Even if I were to find that there were an
16 issue of material fact as to the enforceability of the
17 release, Allstate is entitled to summary judgment on
18 Count 5 of the complaint as pled because the only
19 breach of contract that the Plaintiff alleges is
20 failure to follow, quote, the terms regarding amending
21 the contract. But the only amendments of the contract
22 that the Plaintiff identifies are changes from an
23 unsigned version of the contract to the final signed
24 version of the contract.

1 The Plaintiff provides no authority to
2 support the proposition that the unsigned contract was
3 binding on Allstate or anyone else. And if the
4 contract, itself, was not binding, definitionally the
5 terms regarding amending the contract, quote, unquote,
6 cannot have been bind. There is no other breach pled.
7 So Allstate ask entitled to summary judgment.

8 In addition, even if hypothetically, because
9 I understand Mr. Talarico's point, that the unsigned
10 version of the contract was the version presented to
11 the bankruptcy judge in advance, even if theoretically
12 there might be some potential claim for hoodwinking the
13 bankruptcy judge, or something like that, I don't know
14 what it would be, even if hoodwinking the bankruptcy
15 judge, quote, unquote, were a basis for finding a
16 contract enforceable, even so the breaches that the
17 Plaintiff claims did not cause any injury.

18 Mr. Talarico notes that there were a few
19 changes and one does appear to have introduced a
20 typographical error in terms of the individual who
21 would be responsible to the Plaintiff, but both
22 contracts, the unsigned and the signed, were identical
23 as far as Allstate's obligation and there is no
24 suggestion, there is not even any suggestion, let alone

1 an issue of material fact that Allstate paid the full
2 amount that it was obligated to pay under either
3 version of the contract.

4 So Allstate is entitled to summary judgment
5 not only on the grounds that there was no breach, but,
6 even if there were a breach, there was no injury.

7 The motion for summary judgment is granted in
8 its entirety.

9 And the parties will have to remind me, I
10 don't believe there are any other parties remaining,
11 but, perhaps, I'm overlooking someone.

12 Mr. Talarico, to your knowledge are there any
13 other party defendants remaining in the case?

14 MR. TALARICO: Not at this moment, Your Honor.
15 There are no more, you've already released everyone.

16 THE COURT: Okay. So then today's order will be
17 final and appealable.

18 Ms. Tinajero, I'll ask you to draft a short
19 written order. It doesn't need to say anything more
20 than that the parties appearing on Allstate's Motion
21 For Summary Judgment, Court having heard argument of
22 both sides, having considered all briefs and all
23 exhibits, including the recent affidavit by Plaintiff
24 Paul Dulberg grants summary judgment for the reasons

1 stated on the record. This is a final and appealable
2 order.

3 Thank you, everybody. Have a good day.
4 We're in recess.

5 MS. TINAJERO: Thank you, Judge.

6 MR. TALARICO: Thank you, Your Honor.

7 (Whereupon the hearing concluded at 11:40 a.m.)
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1 REPORTER'S CERTIFICATE

2
3 I, CONNIE L. JAMES, CSR No. 084.002510,
4 Certified Shorthand Reporter, certify:

5
6 That the foregoing proceedings were taken before
7 me at the time and place therein set forth;

8 That all statements made at the time of the
9 hearing were recorded stenographically by me and were
10 thereafter transcribed;

11 That the foregoing is a true and correct
12 transcript of my shorthand notes so taken;

13 I further certify that I am not a relative
14 or employee of any attorney of the parties, nor
15 financially interested in the action.

16 I declare under penalty of perjury under the Laws
17 of Illinois that the foregoing is true and correct.

18 Dated this 2nd 

19
20 CONNIE L. JAMES, CSR No. 084.002510
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RESPONDENT DULBERG'S EXHIBIT 4

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

PAUL R. DULBERG, Individually, and)
THE PAUL R. DULBERG REVOCABLE)
TRUST,)

Plaintiffs,)

v.)

No. 2022 L 10905

KELLY N. BAUDIN A/K/A BAUDIN &)
BAUDIN, BAUDIN & BAUDIN AN)
ASSOCIATION OF ATTORNEYS, LAW)
OFFICES OF BAUDIN & BAUDIN,)
BAUDIN & BAUDIN LAW OFFICES,)
WILLIAM RANDAL BAUDIN II A/K/A)
BAUDIN & BAUDIN, BAUDIN & BAUDIN)
AN ASSOCIATION OF ATTORNEYS, LAW)
OFFICES OF BAUDIN & BAUDIN,)
BAUDIN & BAUDIN LAW OFFICES,)
KELRAN, INC A/K/A THE BAUDIN LAW)
GROUP, Ltd., JOSEPH DAVID OLSEN,)
A/K/A YALDEN, OLSEN & WILLETTE)
LAW OFFICES, CRAIG A WILLETTE,)
A/K/A YALDEN, OLSEN & WILLETTE)
LAW OFFICES, RAPHAEL E YALDEN II,)
A/K/A YALDEN, OLSEN & WILLETTE)
LAW OFFICES, ADR SYSTEMS OF)
AMERICA, LLC., ASSUMED NAME ADR)
COMMERCIAL SERVICES, ALLSTATE)
PROPERTY AND CASUALTY INSURANCE)
COMPANY,)

Calendar U

Defendants.)

ORDER

This cause coming before the Court for hearing and ruling on Defendant Allstate Property and Casualty Insurance Company's Motion for Summary Judgment, Counsel for Plaintiff, Paul R. Dulberg, Individually, and The Paul R. Dulberg Revocable Trust ("Plaintiff"), Counsel for Defendant, Allstate Property and Casualty Insurance Company ("Allstate"), and Counsel for the "Olsen Defendants" all appearing before the Court, the Court having heard oral argument from Plaintiff and Defendant Allstate and having considered all briefs and exhibits, including Plaintiff's recently filed counter-affidavit, the Court being fully advised in the premises, IT IS HEREBY ORDERED:

FILED DATE: 2/8/2024 4:22 PM 2022L010905

1. Allstate's Motion for Summary Judgment is GRANTED for the reasons stated on the record. This is a final and appealable order.

Prepared by:

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ENTERED:

Judge

Date

Judge Michael F. Otto

SEP 21 2023

Circuit Court – 2065

RESPONDENT DULBERG'S EXHIBIT 5
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

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10/11/2023 10:14 AM
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COOK COUNTY, IL
2022L010905
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PAUL DULBERG, THE PAUL DULBERG)
REVOCABLE TRUST,)

Plaintiffs,)

v.)

KELLY N. BAUDIN A/K/A BAUDIN &)
BAUDIN, BAUDIN & BAUDIN AN)
ASSOCIATION OF ATTORNEYS, LAW)
OFFICES OF BAUDIN & BAUDIN,)
BAUDIN & BAUDIN LAW OFFICES,)
WILLIAM RANDAL BAUDIN II A/K/A)
BAUDIN & BAUDIN, BAUDIN &)
BAUDIN AN ASSOCIATION OF)
ATTORNEYS, LAW OFFICES OF)
BAUDIN & BAUDIN, BAUDIN &)
BAUDIN LAW OFFICES, KELRAN, INC)
A/K/A THE BAUDIN LAW GROUP, Ltd.,)
JOSEPH DAVID OLSEN, A/K/A YALDEN,)
OLSEN & WILLETTE LAW OFFICES,)
CRAIG A WILLETTE, A/K/A YALDEN,)
OLSEN & WILLETTE LAW OFFICES,)
RAPHAEL E YALDEN II, A/K/A)
YALDEN, OLSEN & WILLETTE LAW)
OFFICES, ADR SYSTEMS OF AMERICA,)
LLC., ASSUMED NAME ADR)
COMMERCIAL SERVICES, ALLSTATE)
PROPERTY AND CASULTY INSURANCE)
COMPANY,)

Defendants.)

Case No. 2022 L 010905

**DEFENDANT ADR SYSTEMS OF AMERICA, LLC'S
REQUEST FOR STATUS**

On May 25, 2023, the Court granted Defendant ADR Systems of America, L.L.C.'s Section 2-615 Motion to Dismiss. However, the Court's dismissal was *without* prejudice. See May 25, 2023 Order, attached as **Exhibit A**. Since that time, the Court has granted the remaining Defendants' various motions to dismiss or for summary judgment with prejudice. ADR requests

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that the Court conduct a status conference for the purpose of determining whether Plaintiffs intend to file an Amended Complaint as to ADR (noting that it remains ADR's position that no set of facts exist by which Plaintiffs could state a viable claim against ADR). If Plaintiffs intend to file an Amended Complaint, ADR asks the Court to schedule a brief period of time for them to do so. If Plaintiffs do not intend to file an Amended Complaint, ADR asks the Court enter an Order dismissing the claim against ADR with prejudice.

Respectfully submitted:

ADR SYSTEMS OF AMERICA, L.L.C.

By: /s/ Robert A. Chapman

One of Its Attorneys

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EXHIBIT A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

PAUL DULBERG and THE PAUL DULBERG)
REVOCABLE TRUST,)

Plaintiffs,)

v.)

KELLY N. BAUDIN a/k/a Baudin & Baudin,)
Baudin & Baudin, an Association of Attorneys,)
Law Offices of Baudin & Baudin, Baudin &)
Baudin Law Offices, et al.)

Defendants.)

Case No. 2022 L 010905

ORDER

This matter coming before the Court for hearing on Defendant ADR Systems of America, L.L.C.'s Section 2-615 Motion to Dismiss, the parties being present, and the Court being duly advised in the premises,

IT IS HEREBY ORDERED:

1. For the reasons stated on the record, Defendant ADR Systems' Motion to Dismiss is granted and Plaintiffs' Complaint is dismissed without prejudice;
2. This matter as to ADR is continued for status to July 31, 2023 at 9:45 a.m.

By: _____
Hon. Michael Otto

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Counsel for Defendant ADR Systems of America, L.L.C.

Judge Michael F. Otto
MAY 25 2023
Circuit Court – 2065

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CERTIFICATE OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I, Robert A. Chapman, an attorney, hereby certify that on October 11, 2023, I caused the foregoing (i) to be filed electronically using the Odyssey eFileIL system and (ii) to be served on counsel of record through the Odyssey eFileIL system, if registered, and by PDF/email at the following addresses:

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/s/ Robert A. Chapman

This form is approved by the Illinois Supreme Court and is required to be accepted in all Illinois Appellate Courts.

FILED IN COURT FILED 02/19/2023 8:38 PM 2022L010905

<p>Instructions ▼</p> <p>Check the box to the right if your case involves parental responsibility or parenting time (custody/visitation rights) or relocation of a child.</p> <p>Just below "Appeal to the Appellate Court of Illinois," enter the number of the appellate district that will hear the appeal and the county of the trial court.</p> <p>If the case name in the trial court began with "In re" (for example, "In re Marriage of Jones"), enter that name. Below that, enter the names of the parties in the trial court, and check the correct boxes to show which party is filing the appeal ("appellant") and which party is responding to the appeal ("appellee").</p> <p>To the far right, enter the trial court case number, the trial judge's name, and the Supreme Court Rule that allows the appellate court to hear the appeal.</p>	<p><input type="checkbox"/> THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED DISPOSITION UNDER RULE 311(a).</p> <p style="text-align: right;">FILED 10/19/2023 8:36 PM IRIS Y. MARTINEZ CIRCUIT CLERK COOK COUNTY, IL 2022L010905 24869576</p> <p style="text-align: center;">APPEAL TO THE APPELLATE COURT OF ILLINOIS</p> <p style="text-align: center;">FIRST _____ District</p> <p style="text-align: center;">from the Circuit Court of _____</p> <p style="text-align: center;">Cook _____ County</p> <hr/> <p>In re _____</p> <p>Paul R. Dulberg and The Paul R. Dulberg Revocable Trust</p> <hr/> <p>Plaintiffs/Petitioners (<i>First, middle, last names</i>)</p> <p><input checked="" type="checkbox"/> Appellants <input type="checkbox"/> Appellees</p> <p>v.</p> <p>Kelly N. Baudin et al., Joseph David Olsen et al., ADR Systems Of America L.L.C. Allstate Property and Casualty Insurance Company</p> <hr/> <p>Defendants/Respondents (<i>First, middle, last names</i>)</p> <p><input type="checkbox"/> Appellants <input checked="" type="checkbox"/> Appellees</p>
	<p>Trial Court Case No.: 2022 L 010905</p> <p>Honorable Michael F. Otto Judge, Presiding</p> <p>Supreme Court Rule: 301</p>

NOTICE OF APPEAL (CIVIL)

In 1, check the type of appeal.
For more information on choosing a type of appeal, see *How to File a Notice of Appeal*.

- 1. Type of Appeal:**
- Appeal
 - Interlocutory Appeal
 - Joining Prior Appeal
 - Separate Appeal
 - Cross Appeal

In 2, list the name of each person filing the appeal and check the proper box for each person.

- 2. Name of Each Person Appealing:**
- Name: Paul R. Dulberg
- | | | |
|---|---|-------------|
| <i>First</i> | <i>Middle</i> | <i>Last</i> |
| <input checked="" type="checkbox"/> Plaintiff-Appellant | <input type="checkbox"/> Petitioner-Appellant | |
| OR | | |
| <input type="checkbox"/> Defendant-Appellant | <input type="checkbox"/> Respondent-Appellant | |

Name: The Paul R. Dulberg Revocable Trust
First Middle Last

Plaintiff-Appellant Petitioner-Appellant

OR

Defendant-Appellant Respondent-Appellant

In 3, identify every order or judgment you want to appeal by listing the date the trial court entered it.

3. List the date of every order or judgment you want to appeal:

05/25/2023
Date

08/29/2023
Date

09/21/2023
Date

In 4, state what you want the appellate court to do. You may check as many boxes as apply.

4. State your relief:

- reverse the trial court's judgment (*change the judgment in favor of the other party into a judgment in your favor*) and send the case back to the trial court for any hearings that are still required;
- vacate the trial court's judgment (*erase the judgment in favor of the other party*) and send the case back to the trial court for a new hearing and a new judgment;
- change the trial court's judgment to say: Transcript of 9/21/23 and order of May 25, 2023 are in opposite and trial court statement that the case is over regarding all Defendants is incorrect,
- order the trial court to: acknowledge that Fraud (and Fraud on the Court) is alleged, that the Statute of Limitations began to run on October 28, 2022 pursuant to the "Discovery Rule", that Dulberg was legally disabled at all times herein, the automatic BK stay was
- other: violated, allow Appellants to supplement Record on Appeal to include a bystanders report showing that the Baudin Defendants refused 304(a) language in the 8/2923 order ect and grant any other relief that the court finds appropriate.

If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign by hand and print your name. Fill in your address, telephone number, and email address, if you have one.

/s/ Paul R. Dulberg 4606 Hayden Ct.
Your Signature Street Address

Paul R. Dulberg McHenry, IL 60051
Your Name City, State, ZIP

Paul R. dulberg@comcast.net (847) 497-4250 _____
Email Telephone Attorney # (if any)

Additional Appellant Signature

/s/ Thomas W. Kost, Trustee 423 Dempster St.
Signature Street Address

Thomas W. Kost Mt. Prospect, IL/ 60056
Name City, State, ZIP

tkost999@gmail.com (847) 439-2198 _____
Email Telephone Attorney # (if any)

All appellants must sign this form. Have each additional appellant sign the form here and enter their complete name, address, telephone number, and email address, if they have one.

GETTING COURT DOCUMENTS BY EMAIL: You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.

PROOF OF SERVICE (You must serve the other party and complete this section)

FILED IN CASE NO. 2022L010905 8:38 PM

In **1a**, enter the name, mailing address, and email address of the party or lawyer to whom you sent the document.

In **1b**, check the box to show how you sent the document, and fill in any other information required on the blank lines.

In **1b**, check the box to show how you are sending the document. **CAUTION:** If you and the person you are sending the document to have an email address, you **must** use one of the first two options. Otherwise, you may use one of the other options.

In **c**, fill in the date and time that you sent the document.

In **2**, if you sent the document to more than 1 party or lawyer, fill in **a**, **b**, and **c**. Otherwise leave **2** blank.

1. I sent this document:

a. To:
Name: Jeremy N. Boeder
First Middle Last
Address: 225 W. Washington St. #2550 Chicago Illinois 60606
Street, Apt # City State ZIP
Email address: jnboeder@tribler.com

b. By:
 An approved electronic filing service provider (EFSP)
 Email (not through an EFSP)
Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.
 Personal hand delivery to:
 The party
 The party's family member who is 13 or older, at the party's residence
 The party's lawyer
 The party's lawyer's office
 Mail or third-party carrier

c. On: 10/19/2023
Date
At: 4:55 a.m. p.m.
Time

2. I sent this document:

a. To:
Name: Jason W. Jochum
First Middle Last
Address: 550 W. Adams St. #300 Chicago Illinois 60661
Street, Apt # City State ZIP
Email address: Jason.Jochum@lewisbrisbois.com

b. By:
 An approved electronic filing service provider (EFSP)
 Email (not through an EFSP)
Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.
 Personal hand delivery to:
 The party
 The party's family member who is 13 or older, at the party's residence
 The party's lawyer
 The party's lawyer's office
 Mail or third-party carrier

c. On: 10/19/2023
Date
At: 4:55 a.m. p.m.
Time

In 3, if you sent the document to more than 1 party or lawyer, fill in a, b, and c. Otherwise leave 2 blank.

3. I sent this document:

a. To: Name: Robert A. Chapman
Address: 190 S. LaSalle St.#3850 Chicago, Illinois 60603
Email address: rchapman@chapmanspingola.com

b. By: [X] An approved electronic filing service provider (EFSP)
[] Email (not through an EFSP)
[] Personal hand delivery to:
[] The party
[] The party's family member who is 13 or older, at the party's residence
[] The party's lawyer
[] The party's lawyer's office
[] Mail or third-party carrier

c. On: 10/19/2023
At: 4:55 p.m.

Under the Code of Civil Procedure, 735 ILCS 5/1-109, making a statement on this form that you know to be false is perjury, a Class 3 Felony.

If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign by hand and print your name.

I certify that everything in the Proof of Service is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under 735 ILCS 5/1-109.

/s/ Alphonse A. Talarico
Your Signature

Alphonse A. Talarico
Print Your Name

6184530
Attorney # (if any)

ADDITIONAL PROOF OF SERVICE

In **1a**, enter the name, mailing address, and email address of the party or lawyer to whom you sent the document.

1. I sent this document:

a. To:

Name: Christine V. Anto
First Middle Last

Address: 150 N. Michigan Ave. #3300 Chicago Illinois 60601
Street, Apt # City State ZIP

Email address: canto@amundsendavislaw.com

b. By:

An approved electronic filing service provider (EFSP)

Email *(not through an EFSP)*

Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.

Personal hand delivery to:

The party

The party's family member who is 13 or older, at the party's residence

The party's lawyer

The party's lawyer's office

Mail or third-party carrier

c. On: 10/19/2023
Date

At: 4:50 a.m. p.m.
Time

In **1b**, check the box to show how you are sending the document.
CAUTION: If you and the person you are sending the document to have an email address, you **must** use one of the first two options. Otherwise, you may use one of the other options.

In **c**, fill in the date and time that you sent the document.

FILED OCT 19 2023 8:38 PM 2022L010905

RESPONDENT DULBERG EXHIBIT 7
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

PAUL DULBERG and THE PAUL DULBERG)
REVOCABLE TRUST,)

Plaintiffs,)

v.)

KELLY N. BAUDIN a/k/a Baudin & Baudin,)
Baudin & Baudin, an Association of Attorneys,)
Law Offices of Baudin & Baudin, Baudin &)
Baudin Law Offices, et al.)

Defendants.)

Case No. 2022 L 010905

ORDER

This matter coming before the Court for hearing on Defendant ADR Systems of America, L.L.C.'s Request for Status, due notice having been given, counsel for the Baudin defendants being present, counsel for Plaintiffs not being present,

IT IS HEREBY ORDERED:

1. As Plaintiffs have not filed an Amended Complaint against ADR Systems since the May 25, 2023 Order granting Defendant ADR Systems' Motion to Dismiss without prejudice, the Court dismisses Plaintiffs' claims against ADR Systems of America, L.L.C. with prejudice.
2. This Order is final and appealable.

By: _____
Hon. Michael Otto

Robert A. Chapman
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Firm I.D. No. 29411
Counsel for Defendant ADR Systems of America, L.L.C.

Judge Michael F. Otto
OCT 31 2023
Circuit Court – 2065

RESPONDENT DULBERG'S EXHIBIT 8
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

FILED
10/11/2023 10:14 AM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2022L010905
Calendar, U
24734151

PAUL DULBERG, THE PAUL DULBERG)
REVOCABLE TRUST,)

Plaintiffs,)

v.)

KELLY N. BAUDIN A/K/A BAUDIN &)
BAUDIN, BAUDIN & BAUDIN AN)
ASSOCIATION OF ATTORNEYS, LAW)
OFFICES OF BAUDIN & BAUDIN,)
BAUDIN & BAUDIN LAW OFFICES,)
WILLIAM RANDAL BAUDIN II A/K/A)
BAUDIN & BAUDIN, BAUDIN &)
BAUDIN AN ASSOCIATION OF)
ATTORNEYS, LAW OFFICES OF)
BAUDIN & BAUDIN, BAUDIN &)
BAUDIN LAW OFFICES, KELRAN, INC)
A/K/A THE BAUDIN LAW GROUP, Ltd.,)
JOSEPH DAVID OLSEN, A/K/A YALDEN,)
OLSEN & WILLETTE LAW OFFICES,)
CRAIG A WILLETTE, A/K/A YALDEN,)
OLSEN & WILLETTE LAW OFFICES,)
RAPHAEL E YALDEN II, A/K/A)
YALDEN, OLSEN & WILLETTE LAW)
OFFICES, ADR SYSTEMS OF AMERICA,)
LLC., ASSUMED NAME ADR)
COMMERCIAL SERVICES, ALLSTATE)
PROPERTY AND CASULTY INSURANCE)
COMPANY,)

Defendants.)

Case No. 2022 L 010905

**DEFENDANT ADR SYSTEMS OF AMERICA, LLC'S
REQUEST FOR STATUS**

On May 25, 2023, the Court granted Defendant ADR Systems of America, L.L.C.'s Section 2-615 Motion to Dismiss. However, the Court's dismissal was *without* prejudice. See May 25, 2023 Order, attached as **Exhibit A**. Since that time, the Court has granted the remaining Defendants' various motions to dismiss or for summary judgment with prejudice. ADR requests

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that the Court conduct a status conference for the purpose of determining whether Plaintiffs intend to file an Amended Complaint as to ADR (noting that it remains ADR's position that no set of facts exist by which Plaintiffs could state a viable claim against ADR). If Plaintiffs intend to file an Amended Complaint, ADR asks the Court to schedule a brief period of time for them to do so. If Plaintiffs do not intend to file an Amended Complaint, ADR asks the Court enter an Order dismissing the claim against ADR with prejudice.

Respectfully submitted:

ADR SYSTEMS OF AMERICA, L.L.C.

By: /s/ Robert A. Chapman
One of Its Attorneys

Robert A. Chapman
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EXHIBIT A

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

PAUL DULBERG and THE PAUL DULBERG)
REVOCABLE TRUST,)

Plaintiffs,)

v.)

KELLY N. BAUDIN a/k/a Baudin & Baudin,)
Baudin & Baudin, an Association of Attorneys,)
Law Offices of Baudin & Baudin, Baudin &)
Baudin Law Offices, et al.)

Defendants.)

Case No. 2022 L 010905

ORDER

This matter coming before the Court for hearing on Defendant ADR Systems of America, L.L.C.'s Section 2-615 Motion to Dismiss, the parties being present, and the Court being duly advised in the premises,

IT IS HEREBY ORDERED:

1. For the reasons stated on the record, Defendant ADR Systems' Motion to Dismiss is granted and Plaintiffs' Complaint is dismissed without prejudice;
2. This matter as to ADR is continued for status to July 31, 2023 at 9:45 a.m.

By: _____
Hon. Michael Otto

Robert A. Chapman
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Firm I.D. No. 29411
Counsel for Defendant ADR Systems of America, L.L.C.

Judge Michael F. Otto

MAY 25 2023

Circuit Court – 2065

FILED BY TBA TEB/12/22/2023 4:02:22 PM 2022L010905

CERTIFICATE OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I, Robert A. Chapman, an attorney, hereby certify that on October 11, 2023, I caused the foregoing (i) to be filed electronically using the Odyssey eFileIL system and (ii) to be served on counsel of record through the Odyssey eFileIL system, if registered, and by PDF/email at the following addresses:

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/s/ Robert A. Chapman