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11 and Victor Gojcaj

12 **ARIZONA SUPERIOR COURT**
13 **MARICOPA COUNTY**

14 MWM VICSDALE MAGIC, LLC, an
15 Arizona limited liability company; and
16 VICTOR GOJCAJ, an Arizona resident,

17 Plaintiffs,

18 v.

19 WALID A. ZARIFI and JANE DOE
20 ZARIFI, Arizona residents and husband and
21 wife; KELLY MCCOY, PLC., an Arizona
22 professional limited liability company;
23 MATTHEW J. KELLY, an Arizona resident;
24 KEVIN C. MCCOY, an Arizona resident;
25 GREENBRIAR LAW, P.L.C, an Arizona
26 professional limited liability company;
BLACK AND WHITE ENTITIES 1-10;
JOHN AND JANE DOES A-Z,

Defendants.

Case No. **CV2024-016365**

VERIFIED COMPLAINT

[Commercial Court Assignment Requested]

Plaintiffs MWM Vicsdale Magic, LLC, and Victor Gojcaj (collectively, "Plaintiffs") file this Verified Complaint against Defendants Walid A. Zarifi, Kelly McCoy, PLC, Matthew J. Kelly, Kevin C. McCoy, Greenbriar Law, PLC, Black and White Entities 1-10, and John and Jane Does A-Z (collectively, "Defendants"). Plaintiffs allege the following against Defendants.

1 **PARTIES**

2 1. Plaintiff MWM Vicsdale Magic, LLC is an Arizona limited liability company
3 (“MWM Vicsdale”).

4 2. Plaintiff Victor Gojcaj is an individual who resides in Maricopa County, Arizona
5 (“Gojcaj”).

6 3. Gojcaj is the sole manager of MWM Vicsdale.

7 4. Defendant Walid A. Zarifi is an individual who, upon information and belief,
8 resides in Maricopa County, Arizona (“Zarifi”). Upon further information and belief, Zarifi is
9 married to Jane Doe Zarifi, who is also a resident of Maricopa County, Arizona. All personal
10 conduct of Zarifi, as alleged in this Verified Complaint, was to benefit his marital community;
11 therefore, Jane Doe Zarifi is named for community property purposes. If and when Jane Doe
12 Zarifi’s true name is known, Plaintiffs will move to amend the case caption.

13 5. Defendant Kelly McCoy, PLC, is a law firm registered as an Arizona professional
14 limited liability company and was originally formed in March 2010 (“Kelly McCoy”). Upon
15 information and belief, Zarifi was employed as an attorney by Kelly McCoy from at least May
16 2020 until November 2022. Upon further information and belief, Kelly McCoy is no longer an
17 operational law firm, but is still an active company in good standing with the Arizona
18 Corporation Commission.

19 6. Defendant Matthew J. Kelly is an individual who, upon information and belief,
20 resides in Maricopa County, Arizona (“Kelly”). Kelly is an attorney licensed to practice law in
21 Arizona. Upon information and belief, Kelly was a member and owner of Kelly McCoy and
22 supervised Zarifi when Zarifi was employed by, and worked for, Kelly McCoy. Upon further
23 information and belief, Kelly now works for the Office of the Arizona Attorney General. Kelly
24 is named as a defendant in his capacity as a former member and owner of Kelly McCoy.

25 7. Defendant Kevin C. McCoy is an individual who, upon information and belief,
26 resides in Maricopa County, Arizona (“McCoy”). McCoy is an attorney licensed to practice law

1 in Arizona. Upon information and belief, McCoy was a member and owner of Kelly McCoy
2 and supervised Zarifi when Zarifi was employed by, and worked for, Kelly McCoy. Upon
3 further information and belief, McCoy worked at McCoy Law, PLC, after Kelly McCoy, but is
4 now on inactive status with the Arizona State Bar. McCoy is named as a defendant in his
5 capacity as a former member and owner of Kelly McCoy.

6 8. Defendant Greenbriar Law, PLC, is a law firm registered as an Arizona
7 professional limited liability company and was originally formed in September 2021
8 (“Greenbriar”). Upon information and belief, Zarifi was the sole manager, member, and owner
9 of Greenbriar and worked as an attorney at Greenbriar from September 2021 until May 2023.
10 Upon further information and belief, Greenbriar is no longer an operational law firm, but is still
11 an active company with the Arizona Corporation Commission.

12 9. Defendants Black and White Entities 1-10 are unknown fictitious business entities
13 that are liable for the conduct alleged below. If and when their true identities are known,
14 Plaintiffs will move to amend the case caption.

15 10. Defendants John and Jane Does A-Z are unknown fictitious individuals who are
16 liable for the conduct alleged below. If and when their true identities are known, Plaintiffs will
17 move to amend the case caption.

18 **JURISDICTION AND VENUE**

19 11. The Court has jurisdiction over this matter pursuant to Article 6, Section 14,
20 Paragraphs 1 and 3, of the Arizona Constitution and pursuant to A.R.S. § 12-123.

21 12. The conduct, events, occurrences, acts, and omissions alleged in this Complaint
22 occurred within Maricopa County, Arizona. Venue is therefore proper in this Court pursuant to
23 A.R.S. § 12-401.

1 **GENERAL ALLEGATIONS**

2 **Zarifi’s Admission To, And Suspension From, The Practice of Law**

3 13. Zarifi was admitted as an attorney to the Arizona State Bar on November 3, 2005
4 and issued State Bar Number 024079.

5 14. Between November 2005 through May 2023, Zarifi worked as an attorney at a
6 various law firms, including Kelly McCoy and Greenbriar.

7 15. In his capacity as a licensed attorney, Zarifi represented clients in various legal
8 matters, including Plaintiffs.

9 16. Through an Amended Final Judgment and Order issued on June 2, 2023, the
10 Arizona State Bar suspended Zarifi from the practice of law for six months and one day, effective
11 from May 31, 2023.

12 17. According to public information provided by the Arizona State Bar, Zarifi was
13 suspended due to the following issues:

14 A. In one matter, a client e-mailed Zarifi regarding representation in a dispute
15 involving a reverse mortgage. Later that evening, Zarifi promised to
16 conduct research and submit a demand letter by early the following week.
17 Despite multiple requests by the client, Zarifi failed to perform any legal
18 services of value and ultimately failed to respond to the client’s requests.

19 B. In another matter, Zarifi attended a mandatory arbitration in a lawsuit on
20 behalf of a client. Despite multiple requests for the status of the arbitration
21 decision, Zarifi failed to inform the client of an adverse decision. After
22 informing the client of the adverse decision, Zarifi falsely claimed that “this
23 whole ‘compulsory arbitration’ process is like jury-service for lawyers, and
24 the results of which have absolutely no bearing whatsoever on the case as
25 it moves forward.” Zarifi later falsely claimed that he submitted a
26 scheduling order and requested a trial date. Almost one year later, Zarifi

1 falsely claimed that the matter was set forth trial. After another year of
2 unanswered requests for a status, Zarifi offered a full refund to the client
3 but failed to timely pay the refund.

4 C. In another matter, Zarifi made several unprofessional and disparaging
5 comments regarding the court to his client. Zarifi also engaged in a
6 concurrent conflict of interest with the client and tried to provide financial
7 assistance to his client during a lawsuit. During the lawsuit, Zarifi
8 counseled his client to testify falsely to avoid a trial date, knowingly
9 disobeyed an obligation of the court, and failed to provide successor
10 counsel with a copy of the client file.

11 D. In another matter, Zarifi became attorney of record in a consolidated
12 lawsuit. He failed to respond timely to outstanding discovery requests and
13 a motion for summary judgment, but later filed an untimely response to the
14 motion for summary judgment. After further briefing and an arbitration,
15 the arbitrator entered a monetary award against Zarifi's client. Zarifi filed
16 an appeal of the award but failed to explain adequately the legal impact or
17 future exposure to the client. The court ordered the parties to submit a joint
18 written report, but despite opposing counsel's request for Zarifi's input,
19 Zarifi failed to respond, causing opposing counsel to move for a trial setting
20 conference. Zarifi failed to inform the client of the joint report deadline or
21 his failure to file the joint report timely. Following an adverse jury verdict,
22 Zarifi contemporaneously moved for a new trial and filed a separate untitled
23 document asking for an "evidentiary hearing requested to extent court
24 prefers the entry of a supersedeas bond v. interim stay." The court denied
25 the untitled filing and later denied as groundless the motion for new trial.
26

1 18. The Arizona State Bar found four aggravating factors in its decision to suspend
2 Zarifi from the practice of law: dishonest or selfish motive, a pattern of misconduct, multiple
3 offenses, and substantial experience in the practice of law.

4 19. The Arizona State Bar found two mitigating factors in its decision to suspect Zarifi
5 from the practice of law: absence of a prior disciplinary record and personal or emotional
6 problems.

7 20. The Arizona State Bar concluded that Zarifi violated Arizona Supreme Court Rule
8 42, Ethical Rules 1.3, 1.4, 1.5, 1.7, 1.8(a) and (e), 1.16(d), 3.1, 3.2, 3.3(a)(1), 3.4(b) and (c), 4.1,
9 4.4(a), and 8.4(a), (c), and (d); and Arizona Supreme Court Rule 54(c).

10 **The Goldstein Lawsuit**

11 21. On May 5, 2020, Melanie Goldstein filed a lawsuit against Plaintiffs (who were
12 defendants in the lawsuit) in the Maricopa County Superior Court (“Goldstein Lawsuit”). The
13 case number of the Goldstein Lawsuit is CV2020-005417.

14 22. In the Goldstein Lawsuit, Goldstein alleged claims for, among other items, breach
15 of contract, consumer fraud, common law fraud, negligent concealment, and negligent
16 misrepresentation.

17 23. The allegations in the Goldstein Lawsuit centered around Goldstein’s claim that
18 mold was present in a residence she purchased from MWM Vicsdale.

19 24. According to the Complaint filed in the Goldstein Lawsuit, Goldstein sought
20 \$50,000 in compensatory damages and \$100,000 in punitive damages.

21 25. Zarifi, who at the time worked as an attorney for Kelly McCoy, filed an answer to
22 the Complaint on July 17, 2020.

23 26. Although the Complaint alleged that Gojcaj acted as an agent of MWM Vicsdale,
24 and although the written contract regarding the sale of the residence was between Goldstein and
25 MWM Vicsdale, Zarifi failed to file a Motion to Dismiss the claims alleged against Gojcaj,
26 individually.

1 27. The failure to file a Motion to Dismiss the claims against Gojcaj, individually, was
2 a breach of the standard of care and exposed Gojcaj to potential individual liability.

3 28. Goldstein submitted discovery requests to MWM Vicsdale and Gojcaj, and sought
4 to take Gojcaj's deposition.

5 29. Zarifi failed to timely respond to the discovery requests, and when a response was
6 submitted, it was deficient.

7 30. Zarifi also failed to secure Gojcaj's appearance at his scheduled deposition.

8 31. Due to Zarifi's failure to properly participate in discovery, Goldstein filed a
9 Motion for Sanctions, which the Court granted.

10 32. Zarifi's failure to properly participate in discovery was a breach of the standard of
11 care.

12 33. At the close of discovery, Zarifi did not file a Motion for Summary Judgment to
13 request that the Court enter judgment in Gojcaj's favor with respect to his personal liability.

14 34. Zarifi's failure to file a Motion for Summary Judgment on Gojcaj's personal
15 liability was a breach of the standard of care and exposed Gojcaj to potential individual liability.

16 35. The Goldstein Lawsuit proceeded to trial in October 2022.

17 36. The Court had previously ordered Gojcaj to appear in-person at the trial.

18 37. Gojcaj did not appear in-person at the trial due to COVID-19 and travel to New
19 York.

20 38. Upon consultation with Zarifi about whether to appear, Zarifi advised Gojcaj to
21 not appear in-person at the trial.

22 39. Advising Gojcaj to not appear in-person at the trial was a breach of the standard
23 of care.

24 40. The Court sanctioned Gojcaj for violating its order to appear and for Gojcaj not
25 appearing in-person at the trial.
26

1 41. The Court also provided a negative inference instruction to the jury regarding
2 Gojcaj's failure to appear in-person at the trial.

3 42. At the close of Goldstein's case-in-chief, Zarifi moved under Arizona Civil
4 Procedure Rule 50(a) for a directed verdict on the claims alleged against Gojcaj, individually,
5 and on all claims other than the breach of contract claim.

6 43. The Court denied Zarifi's Rule 50(a) motion.

7 44. On November 1, 2022, the jury returned its verdict.

8 45. The jury unanimously found in favor of Goldstein and against MWM Vicsdale and
9 Gojcaj on all claims.

10 46. The amount of compensatory damages awarded to Goldstein, as stipulated to by
11 the parties, was \$45,068.

12 47. The jury also awarded Goldstein punitive damages against MWM Vicsdale and
13 Gojcaj in the amount of \$1,000,000.

14 48. On November 4, 2022, Zarifi filed a Notice of Change of Firm to notify the Court
15 he was no longer employed by Kelly McCoy and was now employed by Greenbriar.

16 49. On November 21, 2022, Goldstein lodged a proposed Form of Judgment

17 50. On December 5, 2022, Zarifi filed an objection to the proposed Form of Judgment,
18 in which he argued, among other items, that the \$1,000,000 punitive damages award was
19 "improper and illegal as a matter of law" and that no basis existed to hold Gojcaj personally
20 liable to Goldstein.

21 51. On December 13, 2022, the Court entered Judgment in Goldstein's favor and
22 against MWM Vicsdale and Gojcaj, jointly and severally, for \$45,068 in compensatory damages,
23 \$1,000,000 in punitive damages, and \$76,164.50 in attorneys' fees and costs. The Judgment was
24 a final judgment entered pursuant to Arizona Civil Procedure Rule 54(c).

25 52. Zarifi did not file a renewed Motion for Judgment As a Matter of Law under Rule
26 50(b) or a Motion for New Trial under Rule 59 to challenge the punitive damages award or

1 Gojcaj's personal liability. These motions were due within 15 days of the date the Court entered
2 the Judgment.

3 53. Zarifi's failure to file a motion under Rule 50(b) and Rule 59 failed to properly
4 challenge the Judgment and failed to preserve for appeal any challenge to the punitive damages
5 award and Gojcaj's personal liability.

6 54. Zarifi's failure to file a motion under Rule 50(b) and Rule 59 breached the standard
7 of care for attorneys in Arizona.

8 **Arizona Court of Appeals**

9 55. On January 9, 2023, Zarifi filed a Notice of Appeal and identified the following
10 two issues for appeal: "(1) that certain judgment following jury trial entered in this action on
11 December 13, 2022, and (2) the trial Court's denial of each of Defendants' Rule 50 Motions for
12 directed verdict."

13 56. On February 14, 2023, the law firm of Sinson LLP substituted in as counsel for
14 MWM Vicsdale and Gojcaj.

15 57. The appeal was assigned to Division Two of the Arizona Court of Appeals and
16 referenced as Case No. 2 CA-CV-2023-0021.

17 58. The Court of Appeals issued its Memorandum Decision on November 9, 2024.

18 59. In its Memorandum Decision, the Court of Appeals affirmed the punitive damages
19 award against MWM Vicsdale and Gojcaj because Zarifi failed to properly raise or preserve any
20 objection to the punitive damages award before the trial court.

21 60. The Court of Appeals described Zarifi's deficiencies before the trial court and his
22 failure to preserve a challenge to the punitive damages award as follows:

23 Nowhere do [the cases cited by MWM Vicsdale and Gojcaj] establish that an
24 appellate court is obligated to conduct de novo review of the constitutionality
25 of a punitive damages award when that issue was never properly raised
26 before, or addressed by, the trial court. Indeed, each of the cases cited by
MWM on the issue of the constitutionality of punitive damages awards

1 involved review by this court in the context of a prior determination by a trial
2 court.

3 Here, there is no trial court application of the Supreme Court’s guideposts
4 [set forth in *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408
5 (2003)] for us to review de novo. As detailed above, at the close of the
6 evidence, MWM made a number of motions for JMOL under Rule 50(a), all
7 of which the trial court denied. Presumably because the jury had yet to return
8 its verdict, none of those motions asked the court to address the guideposts
9 creating constitutional limits for a punitive damages award. After the jury
10 returned its verdict awarding \$1 million in punitive damages, MWM briefly
11 challenged the award’s constitutionality in its December 5th objection to
12 Goldstein’s proposed form of judgment. But, as we have explained, the plain
13 language of the portions of Rule 58, Ariz. R. Civ. P., governing objections to
14 a proposed form of judgment ‘contemplates its use as a means to object to
15 the form of judgment only, not its substance.’

16 MWM never filed anything more with the trial court after it entered judgment
17 on December 13, 2022. MWM had fifteen days – until December 28 – to
18 file a renewed motion under Rule 50(b) for JMOL, a motion for new trial
19 under Rule 59, or both. [] MWM could have used such motions to challenge
20 the sufficiency of the evidence to support the jury’s findings of liability, the
21 sufficiency of the evidence to support the jury’s punitive damages award
22 (including that it was the result of passion or prejudice), or that the \$1 million
23 punitive damages award was unconstitutionally excessive. [] Either type of
24 motion could have provided the trial court with the opportunity to address
25 the sufficiency of the evidence to support the punitive damages awarded or
26 the constitutionality of that award. Indeed, Rule 59 provides special
procedures for a motion for new trial on the ground of excessive damages
and allows a trial court to grant a new trial only on the issue of damages, if
appropriate. []

But, again, MWM filed no such motion. It so failed even though Goldstein
had pointed out on December 9, before the judgment was entered, that the
arguments raised in MWM’s objection to the proposed form of judgment
needed to be raised instead in a motion for new trial under Rule 59. MWM
filed only a notice of appeal on January 6, 2023.

(internal citations omitted).

1 61. The Court of Appeals also described the consequences of Zarifi’s failure to file a
2 post-judgment motion under Rule 50(b) or Rule 59 to challenge the punitive damages award as
3 follows:

4 First, it deprives us of jurisdiction to entertain any claim that the evidence
5 was insufficient to support the verdict or judgment, whether in terms of
6 liability, Goldstein’s entitlement to punitive damages, or the amount of such
7 damages. [] Second, that failure deprives us of any trial court ruling on the
8 subject for us to review, as well as any trial judge findings or party briefing
9 that would have been gathered to inform such a ruling. [] MWM’s failure
10 to meaningfully participate in discovery further compounds any ability this
11 court might have to properly address the constitutionality of the punitive
12 damages ultimately awarded.

13 Notably, MWM refrains from presenting on appeal any sufficiency of the
14 evidence claim, which we would be statutorily barred from addressing. []
15 Instead, MWM raises only the constitutional argument, which we are not
16 jurisdictionally prohibited from considering. [] But such consideration ‘is
17 discretionary with this court.’ [] Under circumstances involving less trial
18 court misconduct than occurred in this case, our supreme court has refused
19 to address the constitutionality of a substantial punitive damages award
20 raised for the first time on appeal. []

21 Given the unique procedural history of this case outlined in detail above,
22 which would compromise our ability to review the determinations of either
23 the jury or trial court under the appropriate constitutional guidelines, we
24 decline to exercise our discretion to address MWM’s constitutional claim,
25 not properly raised until this appeal. []

26 Nor does the record provide us a compelling reason to do so. []

. . . .

21 Finally, as our supreme court further explained in [*Hawkins v. Allstate Ins.*
22 *Co.*, 152 Ariz. 490 (1987)] when declining to reach an unpreserved
23 constitutional challenge to an award of punitive damages, ‘This is not a case
24 involving denial of a fundamental constitutional right in a criminal trial nor
25 contentions which affect the jurisdiction of the court, and we do not feel
26 compelled to exercise our discretion.’ [] The same is true here.

 As noted above, in *Hawkins* our supreme court also rejected a properly
preserved challenge to the sufficiency of the evidence to support a jury’s
award of punitive damages. [] . . . Thus, even taking as accurate for the

1 sake of argument MWM’s claim that ‘Arizona has repeatedly recognized’ a
2 four-to-one ratio ‘as the maximum outer limit’ for punitive damages, such
3 constraints do not apply when a court does not reach the constitutional
4 question.

(internal citations omitted).

5 62. Zarifi’s failure to properly and timely challenge the punitive damages award before
6 the trial court, which resulted in not preserving the issue for review by the Court of Appeals, is
7 a breach of the standard of care for attorneys in Arizona.

8 **Arizona Supreme Court**

9 63. On December 14, 2023, MWM Vicsdale and Gojcaj filed a Petition for Review
10 with the Arizona Supreme Court.

11 64. The Petition for Review challenged the Court of Appeals’ refusal to consider the
12 punitive damages award on appeal.

13 65. On March 5, 2024, the Arizona Supreme Court denied the Petition for Review.

14 66. Plaintiffs now bring this lawsuit to obtain damages against Defendants due to the
15 breach of the standard of care for attorneys in Arizona and the breach of duties owed to Plaintiffs
16 with respect to legal services rendered in the Goldstein Lawsuit.

17 **COUNT ONE**

18 **NEGLIGENCE**

19 **(Zarifi, Kelly McCoy, Matthew Kelly, and Kevin McCoy)**

20 67. Plaintiffs incorporate the allegations set forth in the preceding paragraphs.

21 68. An attorney-client relationship existed between Plaintiffs, Zarifi, and Kelly
22 McCoy from at least May 5, 2020 through November 4, 2022.

23 69. All acts in this matter by Zarifi from May 5, 2020 through November 4, 2022 were
24 within the course and scope of his employment as an attorney at Kelly McCoy.

25 70. Kelly McCoy is vicariously liable for Zarifi’s conduct.
26

1 71. Kelly and McCoy were the members and owners of Kelly McCoy, and were also
2 Zarifi’s supervisors while Zarifi was employed at Kelly McCoy.

3 72. Kelly and McCoy, in their capacity as members and owners of Kelly McCoy, are
4 vicariously liable for Zarifi’s conduct.

5 73. Zarifi, Kelly McCoy, Kelly, and McCoy owed a duty to Plaintiffs to exercise that
6 degree of skill, care, and knowledge commonly exercised by attorneys in Arizona.

7 74. Zarifi, Kelly McCoy, Kelly, and McCoy breached their duty owed to Plaintiffs in
8 the Goldstein Lawsuit by, among other items, not filing a Motion to Dismiss the claims against
9 Gojcaj, not filing a Motion for Summary Judgment on the claims against Gojcaj, and advising
10 Gojcaj to not appear in-person at the trial.

11 75. These breaches proximately caused Plaintiffs monetary damages, for which they
12 are entitled to receive compensation.

COUNT TWO

NEGLIGENT SUPERVISION

(Kelly McCoy, Matthew McCoy, and Kevin McCoy)

15 76. Plaintiffs incorporate the allegations set forth in the preceding paragraphs.

16 77. An employer is liable for the tortious conduct of its employee if the employer was
17 negligent or reckless in supervising the employee.

18 78. Arizona follows the Restatement (Second) of Agency § 213 to determine whether
19 an employer is liable for negligent supervision. Section 213 states, in relevant part:
20

21 A person conducting an activity through servants or other agents is subject
22 to liability for harm resulting from his conduct if he is negligent or reckless:

- 23 (a) in giving improper or ambiguous orders of [sic] in failing to make
24 proper regulations; or
- 25 (b) in the employment of improper persons or instrumentalities in
26 work involving risk of harm to others[;]

1 (c) in the supervision of the activity; or

2 (d) in permitting, or failing to prevent, negligent or other tortious
3 conduct by persons, whether or not his servants or agents, upon
4 premises or with instrumentalities under his control.

5 79. Kelly McCoy was Zarifi's employer from at least May 5, 2020 to November 4,
6 2022.

7 80. Kelly was Zarifi's supervisor, as a member and owner of Kelly McCoy, from at
8 least May 5, 2020 to November 4, 2022.

9 81. McCoy was Zarifi's supervisor, as a member and owner of Kelly McCoy, from at
10 least May 5, 2020 to November 4, 2022.

11 82. Based upon Zarifi's history of failing to fulfill his professional and ethical duties
12 as an attorney, as later confirmed in the Arizona State Bar's Amended Final Judgment, Kelly
13 McCoy, Kelly, and McCoy knew, or should have known, that Zarifi was incompetent to provide
14 legal services as an attorney to Plaintiffs in the Goldstein Lawsuit.

15 83. Kelly McCoy, Kelly, and McCoy owed a duty to Plaintiffs to properly supervise
16 Zarifi with respect to the legal services provided to Plaintiffs in the Goldstein Lawsuit.

17 84. Kelly McCoy, Kelly, and McCoy breached this duty by, among other items, failing
18 to oversee and supervise Zarifi's work for Plaintiffs before, during, and after the trial in the
19 Goldstein Lawsuit.

20 85. The failure by Kelly McCoy, Kelly, and McCoy to properly supervise Zarifi
21 caused Plaintiffs monetary damages, for which they are entitled to receive compensation.

22 **COUNT THREE**

23 **NEGLIGENCE**

24 **(Zarifi and Greenbriar Law)**

25 86. Plaintiffs incorporate the allegations set forth in the preceding paragraphs.

26 87. An attorney-client relationship existed between Plaintiffs, Zarifi, and Greenbriar
from at least November 4, 2022 to February 14, 2023.

1 88. All acts in this matter by Zarifi from November 4, 2022 to February 14, 2023 were
2 within the course and scope of his employment as an attorney at Greenbriar.

3 89. Greenbriar is vicariously liable for Zarifi's conduct.

4 90. Zarifi and Greenbriar owed a duty to Plaintiffs to exercise that degree of skill, care,
5 and knowledge commonly exercised by attorneys in Arizona.

6 91. Zarifi and Greenbriar breached their duty owed to Plaintiffs in the Goldstein
7 Lawsuit by, among other items, failing to properly and timely challenge the jury's punitive
8 damages award, not filing a renewed Motion for Judgment As a Matter of Law under Rule 50(b),
9 and not filing a Motion for New Trial under Rule 59.

10 92. These breaches proximately caused Plaintiffs monetary damages, for which they
11 are entitled to receive compensation.

12 **TIER DESIGNATION**

13 93. Pursuant to Arizona Civil Procedure Rule 26.2(b)(3), Plaintiffs designate this case
14 as Tier 3.

15 **JURY TRIAL DEMAND**

16 94. Plaintiffs demand a jury trial on all counts.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs request that the Court enter the following relief:

- 19 A. Enter judgment in Plaintiffs' favor and against Defendants;
20 B. Award Plaintiffs damages in an amount to compensate Plaintiffs for
21 Defendants' breaches of the standard of care; and
22 C. Award Plaintiffs any other relief that the Court deems just and proper.
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24
25
26

1 Dated on June 24, 2024.

2 BARRETT & MATURA, P.C

3
4 By: /s/ Jeffrey C. Matura
5 Jeffrey C. Matura
6 John J. Daller
7 8925 East Pima Center Parkway
8 Suite 215
9 Scottsdale, Arizona 85258
10 Attorneys for Plaintiffs MWM
11 Vicsdale Magic, LLC, and Victor
12 Gojcaj

9 ORIGINAL of the foregoing filed
10 on June 24, 2024, with:

11 Clerk of the Court
12 Maricopa County Superior Court
13 Phoenix, Arizona

13 /s/ Briana S. Willson
14 Briana S. Willson

VERIFICATION

I have read the foregoing Verified Complaint and verify that, to the best of my knowledge and understanding, the allegations set forth in the Verified Complaint are true and accurate.

Dated: 06-17-2024



Victor Gojcaj
Individually and on behalf of MWM Vicsdale
Magic, LLC

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