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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

DULCICH, INC. dba PACIFIC SEAFOOD GROUP; DULCICH, INC.; FRANK DULCICH; PACIFIC SEAFOOD GROUP ACQUISITION COMPANY, INC.; PACIFIC SEAFOOD WASHINGTON ACQUISITION CO., INC.; BANDON PACIFIC, INC.; BIO-OREGON PROTEIN, INC.; PACIFIC CHOICE SEAFOOD COMPANY; PACIFIC COAST SEAFOODS COMPANY; PACIFIC GARIBALDI, INC.; PACIFIC GOLD SEAFOOD COMPANY; PACIFIC PRIDE SEA FOOD COMPANY; PACIFIC SEA FOOD CO.; PACIFIC SURIMI CO., INC.; PACIFIC TUNA COMPANY, LLC; WASHINGTON CRAB PRODUCERS, INC.; PACIFIC ALASKA SHELLFISH, INC.; SEA LEVEL SEAFOODS, LLC; ISLAND FISH CO., LLC; PACIFIC RESURRECTION BAY; PACIFIC CONQUEST, INC.; CALAMARI, LLC; JO MARIE, LLC; LESLIE LEE, LLC; MISS PACIFIC, LLC; PACIFIC FUTURE, LLC; PACIFIC GRUMPY J, LLC; PACIFIC HOOKER, LLC; PACIFIC HORIZON, LLC; PACIFIC KNIGHT, LLC; PRIVATEER, LLC; SEA PRINCESS, LLC; TRIPLE STAR, LLC; PACIFIC FISHING, LLC; PACIFIC SEA FOOD OF ARIZONA, INC; STARFISH

Case No.: 3:13-cv-00003-ST

**SECOND AMENDED COMPLAINT  
(Professional Negligence -  
Declaratory Judgment – Contract)**

**JURY TRIAL REQUESTED**

INVESTMENTS, INC.; DULCICH SURIMI, LLC; BIO-OREGON PROPERTIES, LLC; PACIFIC GROUP TRANSPORT CO.; PACIFIC MARKETING GROUP, INC.; PACIFIC RUSSIA, INC.; PACIFIC RUSSIA VENTURES, LLC; PACIFIC TUNA HOLDING COMPANY, INC.; POWELL STREET MARKET, LLC; PACIFIC FRESH SEA FOOD COMPANY; SEACLIFF SEAFOODS, INC.; COPPER RIVER RESOURCE HOLDING CO., INC.; PACIFIC COPPER RIVER ACQUISITION CO., INC.; SEA LEVEL SEAFOODS ACQUISITION, INC.; ISLAND COHO, LLC; S&S SEAFOOD CO., INC.; PACIFIC SEAFOOD DISC., INC.; DULCICH REALTY, LLC; DULCICH REALTY ACQUISITION, LLC; and DULCICH JET, LLC,

Plaintiffs,

v.

MAYER BROWN LLP,

Defendant.

Plaintiffs allege as follows:

1.

Plaintiff Pacific Seafood Group is the assumed business name of plaintiff Dulcich, Inc., which is an Oregon corporation.

2.

Plaintiff Frank Dulcich is an individual residing in the State of Washington.

3.

Plaintiffs Seafood Group Acquisition Company, Inc., Pacific Conquest, Inc., Calamari, LLC, Jo Marie, LLC, Leslie Lee, LLC, Pacific Knight, LLC, Miss Pacific, LLC, Pacific Future, LLC, Pacific Grumpy J, LLC, Pacific Hooker, LLC, Pacific Horizon, LLC, Privateer, LLC, Sea Princess, LLC, Triple Star, LLC, Pacific Sea Food of Arizona, Inc., Starfish Investments, Inc., Powell Street Market, LLC, Pacific Group Transport Co., Pacific

Marketing Group, Inc., Pacific Fishing, LLC, Bandon Pacific, Inc., Bio-Oregon Protein, Inc., Bio-Oregon Properties, LLC, Pacific Gold Seafood Company, Pacific Choice Seafood Company, Pacific Coast Seafoods Company, Pacific Russia, Inc., Pacific Russia Ventures, LLC, Pacific Surimi Co., Dulcich Surimi LLC, Pacific Tuna Company, LLC, Pacific Garibaldi, Inc., Pacific Pride Sea Food Company, Pacific Sea Food Co., Pacific Tuna Holding Company, Inc., Dulcich Realty, LLC, Dulcich Realty Acquisition, LLC, Dulcich Development, LLC, and Dulcich Jet, LLC are all Oregon corporations or limited liability companies.

4.

Plaintiffs Washington Crab Producers, Inc., and Pacific Seafood Washington Acquisition Co., Inc., are Washington corporations.

5.

Plaintiffs Pacific Alaska Shellfish, Inc., Sea Level Seafoods, LLC, Island Fish Co., LLC, Pacific Resurrection Bay, Sea Level Seafoods Acquisition, Inc., Copper River Resource Holding Co., Inc., Pacific Copper River Acquisition Co., Inc., and Island Coho, LLC are Alaska corporations or limited liability companies.

6.

Plaintiffs Pacific Fresh Sea Food Company and Seacliff Seafoods, Inc. are California corporations.

7.

Plaintiff S & S Seafood Co., Inc. is a Delaware corporation.

8.

Plaintiff Pacific Seafood DISC, Inc. is a Nevada corporation.

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9.

Defendant Mayer Brown is an international law firm operating as a limited liability partnership formed under the laws of Illinois.

10.

In June 2010, Lloyd D. Whaley, Todd L. Whaley, Brian Nolte, Jeff Boardman, Miss Sarah, LLC, Dynamik Fisheries, Inc., and My Fisheries, Inc., sued all plaintiffs in the United States District Court for the District of Oregon, Civil Case No.1:10-cv-03057-PA (the "Whaley Case").

11.

On or about September 10, 2010, plaintiff, Dulcich, Inc. entered into a contract with defendant whereby defendant would represent all plaintiffs in the Whaley Case. Plaintiffs and defendant were in an attorney-client relationship until February 2012. At all material times, defendant owed plaintiffs a professional duty of care.

12.

Defendant retained Cornerstone Research, Inc. ("Cornerstone") to act as an expert on behalf of plaintiffs on the Whaley matter. Defendant was responsible for directing Cornerstone's work and efforts.

13.

Defendant recommended that plaintiffs hire Stroz Friedberg, LLC ("Stroz") to process electronic documents. Defendant did not obtain bids from other document management and litigation support companies, particularly companies in the Northwest.

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14.

Defendant claims that plaintiffs owe more than \$5,000,000 in unpaid legal fees and costs.

15.

Plaintiffs dispute the billings submitted by defendant and contend that attorney fees for defendant's work in the Whaley Case should be set at a reasonable amount.

16.

Stroz claims that plaintiffs owe Stroz approximately \$300,000, for processing electronic documents, which plaintiffs dispute.

17.

Cornerstone claims that plaintiffs owe Cornerstone approximately \$1,300,000 for its expert services, which plaintiffs dispute.

**FIRST CLAIM FOR RELIEF**

**(Professional Negligence)**

18.

Plaintiffs reallege paragraphs 1 through 17.

19.

Defendant breached its professional duty of care to plaintiffs and was negligent in one or more of the following respects:

- (a) failing to properly manage the Whaley case in a way designed to produce a timely and economical handling of matters;

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- (b) by using multiple attorneys to attend meetings, depositions, hearings, and conferences when less or only one attorney would suffice;
- (c) not using attorneys or other professionals with lower billing rates to perform services instead of its senior attorneys on the team;
- (d) not scrutinizing the billing practices of its employees for obvious signs of padding time at month end;
- (e) retaining Cornerstone to develop the Whaley case;
- (f) failing to replace Cornerstone when their shortcomings were brought to its attention by more qualified economists with extensive background in the industry;
- (g) failing to obtain competitive bids for the handling of electronic discovery, particularly from local Northwest providers.

20.

As a result of defendant's negligence, plaintiffs have suffered the following damages:

- (a) Excessive expert fees and interest from Cornerstone in an approximate sum of \$1,300,000.
- (b) Excessive electronic document processing costs and interest from Stroz in an approximate sum of \$300,000.
- (c) Excessive legal fees in the approximate sum of \$6,500,000.

## **SECOND CLAIM FOR RELIEF**

### **(Declaratory Judgment – Contract)**

21.

Plaintiffs reallege paragraphs 1 through 20.

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22.

There is a bona fide dispute between the parties as to the amount of defendant's legal fees, and costs, as well as responsibility for outstanding amounts due Stroz and Cornerstone for the work that was purportedly performed on behalf of plaintiffs in the Whaley Case.

23.

All plaintiffs have an interest in the determination of the reasonable value of the services provided on their behalf in the defense of the Whaley case by defendant, Stroz and Cornerstone because they might share in the potential liability for the cost of those services.

24.

Pursuant to ORS Chapter 28 and 28 U.S.C. § 2201, plaintiffs request this Court for a declaration setting forth the rights and obligations of the parties for legal, expert and electronic document processing services.

WHEREFORE, the plaintiffs pray for the following relief:

1. Damages as set forth in paragraph 20.
2. A return of all consideration paid to defendant in excess of the reasonable value of the services rendered by defendant, plus interest thereon from and after the date of payment until paid;
3. A declaration that plaintiffs owe nothing further to defendant;
4. An offset for amounts paid by the plaintiffs for services rendered by Cornerstone and Stroz that exceed the reasonable value of those services;

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5. A declaration that defendant shall defend and hold the plaintiffs harmless from any additional claims or payments to Stroz and Cornerstone;
6. Costs and disbursements incurred in this case; and
7. Such other relief as the Court deems just and equitable.

DATED this 10<sup>th</sup> day of January, 2013.

**BODYFELT MOUNT LLP**

BY: /s/ Deanna L. Wray

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing **SECOND AMENDED COMPLAINT** on the following attorneys on the date noted below via the following method:

David B. Markowitz  
Kerry J. Shepherd  
Chad M. Colton  
Markowitz, Herbold, Glade & Mehlhaf, P.C.  
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*Of Attorneys for Defendant*

Method:  US Mail, postage prepaid  
 Facsimile  
 Hand Delivery  
 Electronic service via Court CM/ECF System

Dated this 10<sup>th</sup> day of January, 2013.

BY: /s/ Deanna L. Wray

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