1995 - 43235

HARRY L. BOWLES,	§	IN THE DISTRICT COURT OF
Plaintiff	§	
	§	
vs.	§	
	§	
GEORGE M. BISHOP, CHARLES K.	§	
PETERSON, AND DAVID E. SHARP, EACH	§	HARRIS COUNTY, TEXAS
IN THEIR INDIVIDUAL CAPACITIES; AND	§	
GEORGE BISHOP & ASSOCIATES, AND	§	
BISHOP, PETERSON & SHARP, P.C., EACH	§	
A PROFESSIONAL LAW CORPORATION,	§	
AND/OR AN ASSUMED NAME OF THE	§	
NAMED INDIVIDUALS	§	151ST DISTRICT COURT
Defendants	§	

2006 JUL 12 3:21
BY ____ DEPUTY

PLAINTIFF'S MOTION FOR REHEARING

Comes Plaintiff Harry L. Bowles ("Bowles") to motion this Court for a rehearing of the ruling issued first on June 22, 2006 and reissued as an amended order on June 27, 2006 whereby the Court granted the Motion for Summary Judgment by Defendant Bishop, Peterson & Sharp, P.C. ("BPS") filed November 22, 2005. The most recent order dated June 27, 2006 granting summary judgment is attached hereto as EXHIBIT A. These orders were proposed to the Court by counsel for BPS. Also attached hereto as EXHIBIT B is a copy of the proposed order

EXHIBIT M

accompanying the original motion. Bowles pleads that the Court reconsider the motion and rescind the June 27th order in light of the following:

I

The Order is a Death Penalty Sanction Imposed in Violation of *Transamerican* Standards.

The Court's June 27th order is not an order based on the facts or the law or the pleadings regarding the issue placed before the Court by BPS's motion – that being whether or not Bowles' malpractice action is barred by *res judicata* under Rule 97, T.R.C.P. for Bowles' alleged failure to file a compulsory counterclaim. Instead, it is a death penalty sanction issued against Bowles imposed on the pretext that Bowles failed to respond in a written document to a rhetorical question allegedly posed to all counsel at some point after January 2006.

Apparently, the Court has struck Bowles' pleadings for his alleged failure to submit a brief responding to the following specific question: "If the February 12, 1996 order signed by the 334th District Court is a "final judgment" as to the 1991-25939 case, what effect, if any, does that order have on Mr. Bowles' malpractice claim filed on August 31, 1995, in a different Civil District Court (the 151st), since this claim was not made as a compulsory counter-claim in the main lawsuit in the 334th District Court?"

This rhetorical question and its answer are irrelevant to the fundamental issue of applicability of *res judicata* as a bar to Bowles' malpractice claim. The only relevant question here is whether or not the February 12, 1996 order was, in fact, a final judgment. The Court's order cites no rationale for its considering the question and answer of critical importance to this case.

The Court's order applying a death penalty sanction against Bowles constitutes abuse of discretion. A court, as here, cannot adjudicate a party's claims without regard to the merits. Very severe sanctions are restrained by constitutional due process. Where such an improper sanctions order is not immediately appealable, the party wronged may seek relief by petition for writ of mandamus. *Transamerican Natural Gas Corp. v. Powell*, 811 S.W. 2d 913 (Tex. 1991).

A death penalty sanction is any sanction that adjudicates a claim and precludes the presentation of the case on the merits. *Chrysler Corp. v. Blackmon*, 841 S.W. 2d 844,849 (Tex. 1992). Any sanction that is "case determinative" may constitute a death penalty sanction. Only in exceptional circumstances may case determinative sanctions be imposed in the first instance – when they are clearly justified and no lesser sanctions will promote compliance. *GTE Comm. Sys. Corp. v. Tanner*, 856 S.W.2d 725, 732 (Tex. 1993). These principles, all applicable here, are reiterated in other cases, including *In Re Polaris Industries, Inc.*, 65 S.W. 3d 746 (Tex App. - Beaumont 2001 and *In Re Bledsoe*, 41 S.W.3d 807 (Tex. App. – Ft Worth 2001).

This Court must withdraw and void its order as in violation of *Transamerican* and related standards that prohibit death penalty sanctions without notice, hearing or trial.

II

Neither Bowles nor BPS Can Respond to the Court's Hypothetical Question

Bowles, as well as BPS and all other defendants, are well aware of facts that preclude their arguing the proposition or premise that the February 12, 1996 order was a final judgment. Those facts are contained in documents concerning the six months of litigation prosecuted in 1996 by BPS (represented by its president, George M. Bishop) under Cause No. 1991-25939 and Cause No. 1991-25939-A against Charles N. Schwarz, Jr. based on the BPS claim **that the**

February 12, 1996 order was not a final judgment. That litigation was initiated in February 27, 1996 with letter communications between Bishop and attorney Grant Cook. It proceeded to involve a writ of mandamus issued by the First Court of Appeals to restore a severance order; it involved reactivation of a closed case, Cause No. 1991-259239 – A and its transfer from the 190th District Court to the 55th Court; it involved the filing of an appeal of the February 12th order in the First Court of Appeals; it involved hearings before 55th Court Judge Kathleen Stone; it involved an August 9, 2006 order by the Harris County Civil Administrative Judge Sharolyn Wood declaring Cause No. 1991-25939 an "active case"; and it involved transfer of Cause No. 1995-25939 from the 334th Court to the 55th Court. All this culminated in a Rule 11 Settlement Agreement approved by Judge Stone between attorneys Cook and Bishop in an order dated August 30, 1996 whereby Bishop and BPS prevailed in their action. Cook was forced to agree that the February 12, 1996 order was not final, and, as consideration for Bishop's withdrawal of the appeal in the First Court of Appeals, agreed to the 55th Court's order granting payment of $226,000 in fees to BPS and Bishop from the registries of the 190th and 334th Courts.

In light of these documented facts before the Court, by what authority can this Court require either Bowles or Defendant BPS to adopt and speak to the hypothetical proposition or premise worded as follows: "If the February 12, 1996 order signed by the 334th District Court is a "final judgment" as to the 1991-25939 case"? The record of six months of litigation culminating in a Rule 11 settlement agreement approved by a 55th Court judgment make the premise nonsensical and fraudulent. This Court cannot impose sanctions against Bowles for having failed to respond to the Court's request for briefing on this false premise.

The fact that Defendant BPS did not respond is self-evident. Defendant BPS prevailed in litigation opposing the premise and proving it false. BPS cannot now presume to offer a response

to the question, knowing from personal knowledge that the essential premise was proven false by the 55th Court's August 30, 1996 judgment.

It is this Court's duty to rescind its order of June 27, 2006 wrongly granting summary judgment to BPS for Bowles' failure to file a brief addressing an assumption proven false and groundless in 1996 through orders issued by Judges Sharolyn Wood and Kathleen Stone.

III

Controlling Law of the Case

Controlling law in this case was cited in Bowles' first response to the BPS motion for summary judgment filed December 5, 2005. The first essential element for *res judicata* to apply is that there be a prior final judgment on the merits by a court of competent jurisdiction. *Cont'l Casing Corp. v. Siderca Corp.*, 38 S.W.3d 782, 792 (Tex. App. – Houston [14th Dist.] 2001, no. pet.) (citing *Amstadt v. United States Brass Corp.*, 919 S.W. 2d 644, 652 (Tex. 1996). *Res judicata* can only apply when there are two actions involving the same parties and both are based on the same conduct, and there must be a final judgment on the merits in the first cause of action. *Sullivan v. State,* 572 S.W. 2d 778 (Tex. App. – El Paso 1978). . Before the doctrine of *res judicata* is applicable, a final judgment must exist. Where no final judgment has been rendered, the doctrine is not applicable. *Trinity Universal Ins. Co. v. Drake*, 587 S.W. 2d 458, Civ. App. – Dallas 1979).

Other controlling law regarding finality of judgment is found in *H.E. Butt Grocery Co. v. Bay, Inc.*, 808 S.W.678 (Tex. App. – Corpus Christi 1991). A final judgment must dispose of all parties and issues in a lawsuit (*Schlipf v. Exxon Corp.*, 644 S.W.2d 453 (Tex. 1982). A final judgment must also be certain, so it can be enforced by writ of execution. (Citation). Ministerial

officers must be able to carry the judgment into execution without ascertainment of additional facts. (Citation). A judgment awarding an unascertainable amount cannot be final. (citation).

Defendant BPS, in its summary judgment and subsequent pleadings, has never once attempted to provide evidence (officially verified as to truth) that the February 12, 1996 "final summary judgment" order issued by the 334th Court was a "final judgment" supporting its claim of *res judicata*, or that that order qualified as a final judgment under the stipulations listed in the *H.E. Butt* opinion. In fact, this line of argumentation was employed by Bishop and BPS to cause attorney Cook to concede non-finality of the February order and to force Cook to enter into the Rule 11 agreement with Bishop referred to in the 55th Court's order dated August 30, 1996.

IV

Statement In Court's Order That Its Opinion is Based on the Record is False on its Face

The Court's order (Exhibit A) dictated to the Court by BPS states on Page 3 as follows:

> " Since no additional briefing has been filed on this
> issue, this Court must rely on the record before it."

This statement is followed by the opinion of the Court that final judgments were entered in Cause No. 1991-25939, and that therefore *res judicata* bars Bowles' malpractice suit. The order proceeds to declare that the opinion is "based on pleadings, motions and other evidence now before this Court". Thus, the order would suggest that the Court reviewed all the pleadings and motions currently on file in the Court and found facts or law that precluded grant of the BPS motion for summary judgment.

This is a patently false statement. The rule of law in Texas is that a trial court abuses its discretion when it grants summary judgment against a party without ruling on that party's

pending motions and giving that party an opportunity to be heard. *Nelson v. PNC Mortgage Corp.*, 139 S.W.3d 442 (Tex App.-Dallas 2004), *Cf. Creel v. Dist. Attorney for Media County*, 818 S.W.2d 45 (Tex. 1991). Further Supreme Court law states, "When there is no indication that evidence was admitted or considered by the trial court prior to rendering judgment, and the record on appeal contains no statement of facts, we indulge no presumptions in favor of the judgment" *Otis Elevator Co. v. Parmelee*, 850 S.W.2d 179,181 (Tex 1993). That this Supreme Court law applies here, this Court need only consider the fact that this Court has before it at this time Bowles' verified Motion for Partial Summary Judgment filed April 18, 2006. This motion has not been ruled upon by this Court in violation of the rule of law. Further in violation of the rule of law, this Court, prior to granting summary judgment against Bowles:

(1) failed to consider Bowles' Notice of Deemed Admissions Admitted filed October 24, 2005 as evidence precluding summary judgment;

(2) did not rule on Bowles' Motion for Final Judgment by Default for Defendant's Discovery Abuse filed December 5, 2005;

(3) did not act affirmatively on Bowles' Motion to Compel Discovery filed January 11, 2006 and supplemented on February 1, 2006;

Clearly, the Court's grant of the BPS motion for summary judgment deprived Bowles of a trial on the merits of his claims against BPS. A trial on the merits is a fundamental due process right that cannot lightly be taken away by government action. *Cunningham v. Parkdale Bank*, 660 S.W.2d 810 (Tex. 1983) as cited in *In Re Polaris*. It is this Court's duty to grant this motion for rehearing and rescind its order of June 27, 2006 in order that Bowles' constitutional due process rights to be heard shall not summarily be stricken without just cause.

V

Defendant BPS Has Failed to Rebut Bowles' Motion for Partial Summary Judgment With a Verified Response, Thus Bowles' Must Prevail On the Issue of Finality of Judgment

Bowles' Motion for Partial Summary Judgment filed April 18, 2006 and duly supported by Bowles' affidavit, specifically addresses the fundamental issue of claim preclusion by *res judicata* in the BPS motion for summary judgment. On page 2 of that motion, Bowles states as follows:

> Recent disclosures reveal that an issue of primary importance in this case is whether or not the underlying case, Cause No. 1991-25939, was litigated to an appealable final judgment in the Harris County courts, thus justifying the designation of the case as a "closed case" and its consignment to the County archives. The employment contract dated November 6, 1992 provides that Bishop and BPS agreed to represent Bowles in Cause No. 1991-25939 through termination of the case by settlement, trial and appeal. Bowles contends that Bishop and BPS breached their contractual obligation to litigate the case to a final conclusion, and fraudulently collected $226,000 in fees.

Under Rule 166a, T.R.C.P., this Court must give full consideration to Bowles' motion and to the response by BPS. Where both parties have motions for summary judgment properly before the court, all evidence accompanying one party's motion is likewise evidence to be considered in deciding the other party's motion and vice versa. Tex Jur 3d, Summary Judgment, Section 30, Page 168, citing *Woods v. Applemack Enterprises Inc.*, 729 S.W.2d 328 (Tex. App. Houston [14th Dist.] 1987) and *Seaman v. Seaman*, 686 S.W.2d 206 (Tex. App. Houston [1st Dist.] 1984), writ refused n.r.e., (June 26, 1985). It is noteworthy that both Houston appeal courts are in agreement on this issue.

Defendant BPS responded to Bowles' summary judgment motion on May 5, 2006 (amended May 8th) in a document titled Defendant BPS's Response to Plaintiff's Motion for Partial Summary Judgment Against BPS on Plaintiff's Breach of Contract Cause of Action Based on Defendant's Fraudulent Claim That the Underlying Litigation Was Terminated by Appealable Final Judgment. In its unverified response, BPS **for the first time** declared that Cause No. 1991-25939 was terminated by an appealable final judgment rendered by the 334th District Court on February 12, 1996. It states on Page 4 in pertinent part as follows:

> Plaintiff argues that there is no proof of a final termination in Cause No. 1991-25939 and that, therefore, Defendant's position that this case is barred under *res judicata* and collateral estoppel is false. The truth is, final judgments definitely do exist in the underlying litigation, Cause No. 1991-25939 and Cause No. 1991-25939-A. - - - As for Cause No. 1991-25939, a Final Summary Judgment was signed on February 12, 1996.

Predictably, the BPS response to Bowles' motion is not supported by an affidavit. This is obviously because BPS and George M. Bishop know that such an affidavit would constitute perjury or false swearing or obstruction of justice in view of the fact that in 1996 BPS prevailed in litigation where its position on the finality of judgment was diametrically opposite to its position expressed in its May 5, 2006 response.

Bowles' April 2006 Motion for Partial Summary Judgment included Bowles' affidavit and a complete chronicle of the events of 1996 as follows: (a) the 334th Court's 2-12-96 Final Summary Judgment order that is purported to be final and appealable; (b) the docketing statement for BPS's faux appeal of the order filed in the First Court of Appeals ; (c) the August 9, 1996 order by Harris County Civil Administrative Judge Sharolyn Wood declaring the case

"active" on that date; (d) the judgment *inter partes* by the 55th Court dated August 30, 1996 approving an alleged Rule 11 settlement agreement between BPS and Charles N. Schwarz, Jr. whereby BPS, for consideration paid, agreed to withdraw its appeal; and (e) the application to the 55th Court dated October 2, 1996 by Receiver Joe H. Reynolds requesting his "full and final" discharge as Receiver in Cause 1991-25939. All of these documents are before the court evidencing the fact that the 334th Court's February 12, 1996 did not finalize Cause No. 1991-25939.

This Court's order granting summary judgment against Bowles assigns superiority to the BPS unverified and undocumented false claim of finality over Bowles' fully documented and verified motion proving non-finality. An affidavit is evidence in a matter where the witness is shown to have personal knowledge of the matter. The matter may be placed in question by a countering affidavit based on personal knowledge. However, Defendant BPS did not submit a countering affidavit asserting on personal knowledge a belief that the February 12, 1996 judgment is an appealable final judgment that terminated all litigation in Cause No. 1991-25939. This is consistent with the sworn response to Bowles' Interrogatory No. 18 answered by BPS on December 22, 2005 in which Defendant BPS refused to identify the "the one appealable final trial court judgment in Cause No. 1991-5939 that you consider as having legally terminated the litigation". BPS has judiciously and deceitfully avoided presenting sworn testimony to assert its belief that the February 1996 judgment is final and appealable.

This Court cannot be seen as a forum in which false, unverified and undocumented evidence takes precedence over sworn, verified and documented evidence. Accordingly, the Court must grant this motion for rehearing and rescind the summary judgment order of June 27, 2006.

VI

Re Rule 301, T.R.C.P.

In its response to Bowles' Motion for Partial Summary Judgment, BPS deceitfully fails to mention that the two judgments (both styled under Cause No. 1991-25939) were issued by two different courts (the 334th and the 55th) to adjudge different causes of action between different parties. Both judgments were issued as summary judgments without a conventional trial on the merits. In neither judgment was BPS included as a named party or as an intervenor. In neither judgment is there any mention of an intervention in Cause No. 1991-25939 by BPS or George M. Bishop. Neither judgment finally disposes of the October 1996 application by receiver Joe H. Reynolds for an award of additional expenses from the registry of the courts. The BPS pleading simply ignores the most fundamental requisites of a final judgment in Texas that are absent in the 334th Court's February 12, 1996 order and in the 55th Court's August 30, 1996 order.

This Court has the duty to consider these facts is reassessing its action in granting the BPS motion for summary judgment by a finding of finality of judgment in Cause No. 1991-25939. The Court must rescind the order for reason that there has never been an order from any court that affirmatively and finally disposed of all issues and parties in Cause No. 1991-25939.

VII

Documentary Proof of Non-Finality of February 1996 Order

The following review of evidence is submitted herewith for the Court's edification as proof that Cause No. 1991-25939 was not subjected to final judgment in February 1996:

1. Bowles' withdrawal from the October 1993 Settlement Agreement **(Exhibit C)** charging fraud and breach of contract. This action terminated the Settlement Agreement. No

judgment based on the Settlement Agreement could thereafter be issued, as it was Bowles' right to withdraw for good cause.

2. The breach of contract and fraud suit in intervention filed by BPS on November 2, 1995 against Charles N. Schwarz, Jr. in a breach of contract action illegally styled under Cause No. 1991-25939 in the 334th Court (**Exhibit D**).

3. The 334th Court's February 12, 1996 order (**Exhibit E**) titled Final Summary Judgment that includes no mention of resolution of the BPS November 1995 suit in intervention.

4. The Motion to Modify, Correct or Reform the Judgment (**Exhibit F**) filed by BPS and George M. Bishop on February 27, 1996 that includes five distinct reasons why the February 12 order was not an appealable final judgment, including the fact that it did not resolve the BPS suit in intervention against Schwarz.

5. The communications from Bishop to attorney Cook (**Exhibits G and H**) in February and March 1996 declaring that the February 12th order was not an appealable final judgment and threatening an appeal unless modifications were agreed to.

6. The response (**Exhibit I**) to Bowles' request for admission in which Bishop, president of BPS, admitted he unsuccessfully sought to modify the February 12, 1996 order for the purpose of making it an appealable final judgment.

7. The docketing statement (**Exhibit J**) filed by BPS in the First Court of Appeals exhibiting its contention that the February12th order was not final in accordance with Bishop's letters to Cook.

8. The August 9, 1996 transfer order (**Exhibit K**) signed by Civil Administrative Judge Sharolyn Wood wherein Judge Wood declared Cause No. 1991-25939 an "active case" as

of that date (some 7 months after the purported final judgment issued by the 334th Court in February 1996).

9. The judgment titled Order for Disbursement of Funds rendered on August 30, 1996 by the 55th Court **(Exhibit L)** wherein, pursuant to Bishop's specific wishes and solicitations, that court disposed of BPS's fraud and breach of contract suit against Charles N. Schwarz, Jr. in Cause No. 1991-25939 (by settlement involving consideration fraudulently paid to BPS from the registries of the 190th and 334th Courts).

10. Judge Stone's hand-written notes **(EXHIBIT M)** showing that Bishop had agreed to withdraw the appeal of the February judgment and that the 55th Court "carried forward" and executed the 190th Court's April 10, 1995 titled Order Approving Actions of and Discharging Receiver despite the fact that Bowles had withdrawn from the Settlement Agreement in March 1995.

11. The opinion dated October 3, 1996 by the First Court of Appeals showing that Bishop and BPS withdrew the appeal by motion. **(EXHIBIT N)**

12. The pleading **(Exhibit O)** titled Application for Disbursement of Funds dated October 2, 1996 filed by Joe H. Reynolds in the 55th Court to request his full and final discharge as Receiver of National Parts Systems, Inc., evidencing that neither the February 12, 1996 order nor the August 30, 1996 terminated litigation in Cause No. 1991-25939.

13. The response **(Exhibit P)** by BPS to Bowles' Interrogatory No. 18 refusing to identify the one appealable final order that BPS considers as having terminated litigation in Cause No. 1991-25939, evidencing BPS's inability to give sworn testimony regarding finality of the February 12, 1996 order.

14. The fact that neither the February 1996 order **(Exhibit E)** nor the August 1996 order **(Exhibit L)** include BPS or George M. Bishop as either parties or intervenors. This evidences a blatant violation of Rule 301, T.R.C.P. and the Supreme Court's mandate in *Schlipf* that a final judgment must dispose of all parties and issues in a lawsuit.

The listed items constitute prima facie evidence of non-finality of the February 1996 judgment. BPS and George M. Bishop are shown to have entered into a settlement agreement whereby an appeal of the February 12, 1996 order was withdrawn for a large monetary consideration without Bowles' knowledge, consent or participation. Thus, Bowles' property interests were fraudulently expropriated without notice, hearing, trial or due process of any kind.

VIII

Re The August 1996 Rule 11 Agreement

Going further into the connection of Rule 11 to the instant motion, the 55th Court's August 30, 1996 order **(Exhibit L)** is likewise unenforceable against Bowles. That order references a settlement agreement entered into in disposition of a breach of contract and fraud suit brought by BPS and George M. Bishop against Charles N. Schwarz, Jr. in November 1995. The Rule 11 settlement agreement did not involve Bowles, although Bowles was a necessary party. It did involve BPS as an intervenor in Cause 1991-25939. Bishop and BPS were contractually prohibited from entering into a Rule 11 agreement without Bowles.

Rule 11 states that, "No agreement between attorneys or parties touching any suit pending will be enforced unless it be in writing, signed and filed with the papers as part of the record, or unless it be made in open court and entered of record." The Supreme Court has held

that, to be enforceable, settlement agreements must satisfy the requirements of Rule 11. *Kennedy v. Hyde*, 682 S.W.2d 525, 528 (Tex 1984). A review of **Exhibit L** reveals that the settlement agreement between BPS and Schwarz was announced to the court; however, no signed agreement was entered of record. Therefore, the agreement was void and unenforceable on August 30, 1996 and remains so to the present day. Payments of some $226,000 to BPS from the registry of the courts constituted a fraudulent misappropriation of funds by the 55th Court. The Court's grant of summary judgment against Bowles results in disallowing Bowles to pursue this aspect of his fraud charges against BPS.

IX
Conclusion

The June 27, 2006 order by this Court has no basis in fact or in law. It is contrary to fact and governing law. Defendant BPS has supplied no evidence, indeed cannot supply any evidence, that Cause No. 1991-25939 was subjected to a final judgment on February 12, 1996 in the 334th Court or, subsequently, in the 55th District Court. To the contrary, the record indisputably shows that no final judgment was rendered in 1996 in Cause 1991-25939 by either of these courts. Therefore, *res judicata* cannot apply to preclude Bowles from litigating his legal malpractice action. It is the Court's duty to grant Bowles' Motion for Rehearing and rescind its order.

Furthermore, this Court must now rule favorably on Bowles' Motion for Partial Summary Judgment holding that the February 12, 1996 order by the 334th Court did not finalize the litigation in Cause No. 1991-25939, and holding Defendants in breach of their contractual duty to litigate Cause No. 1991-25939 to finality.

X

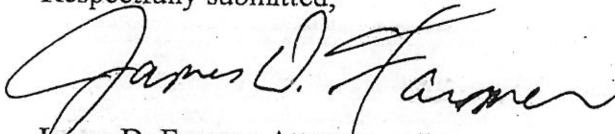
Request for Relief

Above considered, Bowles requests grant of his motion for rehearing and rescission of its order of June 27, 2006.

Bowles requests grant of his Motion for Partial Summary Judgment filed April 18, 2006 holding Defendants in breach of their contractual duty to provide legal services through termination of Cause No. 1991-25939.

Bowles requests all other and further relief to which this Court may deem him entitled.

Respectfully submitted,

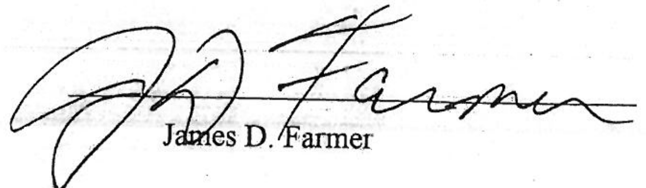


James D. Farmer, Attorney at Law
SBN 06822500
P. O. Box 19798, Houston, Texas 77224
Tel 713-777-6705 Fax 713-466-5491

Attachments

CERTIFICATE OF SERVICE

I certify that on this **12th day of July 2006**, a true and correct copy of the foregoing was sent by U.S. Mail, by fax, or was hand delivered with receipt acknowledged to Mr. John C. Marshall, Marshall & McCracken, P.C., 1990 Post Oak Boulevard, Suite 2400, Houston, Texas 77056; to Defendant George Bishop at his home address 6922 Alderney Drive, Houston, Texas 77055 (fax at 713-956-2354) ; and to David E. Sharp, 1300 Post Oak, Ste. 1900, Houston, Texas 77056.



James D. Farmer

1995- 43235

HARRY L. BOWLES, Plaintiff	§	IN THE DISTRICT COURT OF
vs.	§	
GEORGE M. BISHOP, CHARLES K. PETERSON, AND DAVID E. SHARP, EACH IN THEIR INDIVIDUAL CAPACITIES; AND GEORGE BISHOP & ASSOCIATES, AND BISHOP, PETERSON & SHARP, P.C., EACH A PROFESSIONAL LAW CORPORATION, AND/OR AN ASSUMED NAME OF THE NAMED INDIVIDUALS	§	HARRIS COUNTY, TEXAS
Defendants	§	151ST DISTRICT COURT

ORDER OF RECISSION

ON THIS DAY THIS COURT PROCEEDED TO CONSIDER Plaintiff Harry L. Bowles' MOTION for REHEARING of this Court's ORDER GRANTING SUMMARY JUDGMENT dated June 27, 2006. Bowles' motion requests this Court rescind the Order.

Considering the pleadings and accompanying documentation and after further review of the case file, this COURT finds that the motion should in all things be GRANTED.

Accordingly, the Court Orders and Decrees that its order dated June 27, 2006 granting summary judgment is hereby rescinded, vacated, voided and nullified.

Signed on this _______ day of July, 2006.

____

Presiding Judge