

CAUSE NO. \_\_\_\_\_

NEW TECH GLOBAL VENTURES, LLC           §           IN THE DISTRICT COURT OF  
   §  
VS.   §           HARRIS COUNTY, TEXAS  
   §  
LITTLER MENDELSON                           §           \_\_\_\_\_ JUDICIAL DISTRICT

**PLAINTIFFS' ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES NEW TECH GLOBAL VENTURES, LLC, hereinafter called Plaintiff, filing this Plaintiff's Original Petition against LITTLER MENDELSON; AND TERRANCE MURPHY, Individually, hereinafter Defendants, for causes of action and would respectfully show unto the Court and Jury as follows:

**I.**  
**DISCOVERY CONTROL PLAN**

Pursuant to the provisions of Texas Rule of Civil Procedure 190.4, Plaintiff proposes to conduct discovery according to Discovery Control Plan Level 3 and therefore request this Court to enter a scheduling order which includes a discovery deadline date and a date for the designation of experts.

The amount of damages in this case exceeds \$100,000 and is not subject to the Texas Rules of Civil Procedure 169. This case is not an Expedited Action.

**II.**  
**PARTIES**

Plaintiff, NEW TECH GLOBAL VENTURES, LLC is a limited liability corporation with its principal place of business located in Houston, Harris County, Texas.

Defendant, LITTLER MENDELSON, is a law firm practicing law and doing business in the State of Texas, who can be served by serving Managing Partner, Kelley Edwards at the business address located at 1301 McKinney Street, Ste. 1900, Texas 77010, or wherever he may be found.

### **III.** **JURISDICTION AND VENUE**

This case is brought under Texas state law. Pursuant to Texas Civil Practices and Remedies Code §15.002, venue is proper in Harris County, Texas, because most if not all of the legal malpractice related to this matter occurred in Harris County, Texas. The case in questions was pending in Houston, Harris County, Texas. Further, Defendant has a law firm located in Harris County, Texas. This Court has subject matter jurisdiction over this cause and the amount in controversy exceeds the minimum jurisdictional limits of this Court.

### **IV.** **FACTS**

In late 2017, New Tech Global Ventures, LLC hired Defendants to defend them against an FLSA claim filed by Dale Bercier under Cause No. 4:17-cv-00908, then pending in the United States District Court for the Southern District of Texas located in Houston, Harris County Texas. Mr. Bercier filed the suit on his own behalf and on behalf of other potentially similarly situated “well site” supervisors. During the course of Littler Mendelson’s representation of New Tech Global Ventures, LLC, Defendants were charged with the responsibility of providing names and addresses for the “well site” supervisors only. For unknown reasons, Defendants not only sent the “well site” supervisor information, but also included and disclosed “completion” supervisors’ information, thereby allowing the underlying plaintiffs’ attorneys to sign up numerous additional “completion” supervisors as part of the FLSA litigation, which they would not have otherwise had access to or knowledge of, but for Defendants’ negligent production during discovery in the underlying matter. Defendants mistakenly forwarded hundreds of names and contact information to the underlying Plaintiffs’ counsel which should never been included in the underlying lawsuit. As a result, New Tech Global Ventures, LLC was forced to hire new counsel and incurred significant legal fees trying to cure the problems created by Defendants’ negligence. New Tech

Global Ventures, LLC also spent significant money trying to settle the remaining claims, including new claims created by Defendants' negligence and malpractice.

In addition to the above, New Tech Global Ventures, LLC paid Defendants approximately \$244,000.00 in legal fees for the legal work complained of herein, which Plaintiff contends was excessive and unconscionable considering the quality of the services provided by Defendants. Plaintiff was forced to retain new counsel to try to cure the problems created by Defendants and attempt to mitigate the damages caused by Defendants' malpractice.

**V.**  
**CAUSE OF ACTION – NEGLIGENCE**

At all times relevant herein, Defendants were licensed attorneys practicing law before the federal courts located within the State of Texas. At all material times hereto, Defendants had an attorney-client relationship with Plaintiff.

Plaintiff entrusted Defendants to defend them in the underlying FLSA action filed against them by Bercier and other potentially similarly situated "well site" supervisors.

During the time complained of, Defendants were held to the duty of any reasonable practitioner of law within the State of Texas.

At no time did Defendants deny that they owed a duty to Plaintiff. At no time did Defendants take the position that they did not have an attorney/client relationship with Plaintiff. Further, at no time did Defendants take the position that they were not assisting or were unable to assist on any of the legal matters or render advice regarding the issues surrounding the legal matters involving Plaintiff. To the contrary, during this period of time, Defendants represented to Plaintiff that they were qualified to handle their case. As such, Defendants had an ongoing duty as attorneys and fiduciaries to Plaintiff.

Defendants were under a duty to exercise reasonable care in their legal representation of Plaintiff. Defendants' breach of duty owed to Plaintiff constitutes negligence which has

proximately caused Plaintiff to suffer damages in an amount in excess of the minimum jurisdictional limits of the Court. Defendants' conduct fell below the standard of care for attorneys handling these types of cases and their negligence includes, but is not limited to the following:

- a) Failing to zealously represent Plaintiff;
- b) Failing to look out for Plaintiff's best interest;
- c) Failing and/or refusing to properly work up the file;
- d) Negligence in producing documentation and/or information that was harmful to Plaintiff and which was not necessary to perform any of Defendants' duties in the underlying case;
- e) Providing the incorrect list of "completion" supervisors to the underlying Plaintiffs' attorney in the FLSA matter;
- f) Causing Plaintiff to incur additional legal fees to cure, remedy, and mitigate damages caused by Defendants' conduct;
- g) Exposing Plaintiff to new and/or additional claims or causes of action, increasing attorney's fees, increasing exposure and damages, and other incidental and consequential damages resulting from Defendants' conduct.

Each of the above and foregoing acts and/or omissions of Defendants constituted negligence and were a proximate cause of damages to Plaintiff. Therefore, for all of such actions, Plaintiff hereby requests damages as appropriate under the law. Nothing Plaintiff did or failed to do in any way caused or contributed to the injuries and damages complained of herein.

Plaintiff reserves the right to amend his pleading to conform to the evidence and to plead more specifically acts and/or omissions in the future as they become known.

At all times related to this matter, Defendant, Terrance Murphy, was acting in the course and scope of employment for his law firm, and as agents with full authority, and as such, the law firm is vicariously liable for all acts/omissions by Defendant.

**VI.**  
**VIOLATIONS OF TEXAS DTPA**

The Deceptive Trade Practices-Consumer Protection Act (DTPA) provides additional protections to consumers who are victims of deceptive, improper, or illegal practices. Defendants' conduct creates a cause of action under the DTPA. Defendants' actions, as set forth herein, specifically violate the DTPA related to their "unconscionable fee" compared to the actual services rendered. As such, Plaintiff seeks fee forfeiture and all other remedies available under this Act. Plaintiff realleges all acts/omissions set forth above and herein.

**VII.**  
**DAMAGES**

Plaintiff is entitled to each of the following damages:

- a) All legal fees paid to Defendants (approximately \$244,000.00) under fee forfeiture for unconscionable or unreasonable fees compared to the services provided;
- b) All legal fees and expenses, court costs, and other out of pocket expenses related to Plaintiff being forced to retain the services of new lawyers/law firms in an attempt to cure the problems created by Defendants and/or mitigate damages associated with same;
- c) Any and all AAA or other arbitration fees paid to resolve cases that arose as a result of Defendants' negligent production of materials;
- d) Any and all incidental and consequential damages incurred by Plaintiff as a result of Defendants' negligence;
- e) Any settlement monies paid to any underlying Plaintiffs to resolve cases that would not or should not have otherwise been filed against Plaintiff herein but for Defendants' wrongful disclosure and production of materials in the underlying matter;
- f) Any and all damages that were incurred as a result of Defendants' negligence, including but not limited to any sums of money Plaintiff had to pay to cure any problems or conditions caused by Defendants' conduct, errors and/or omissions in the underlying matter;
- g) Prejudgment and post-judgment interest;
- h) Economic damages;
- i) All costs of Court;
- j) Statutory damages; and

k) All other relief, general and specific, at law and in equity, to which Plaintiff is entitled.

All of the above damages exceed the jurisdictional limits of this court. Plaintiff will rely on a jury or fact finder to determine the reasonable amount of such damages.

**VIII.**  
**JURY TRIAL**

Plaintiff hereby request a jury trial in this matter and tender the appropriate fee with this petition.

**IX.**  
**CONDITIONS PRECEDENT**

All conditions precedent to Plaintiff's claims for relief have been performed or have occurred.

**X.**  
**REQUEST FOR DISCLOSURE**

Under Texas Rules of Civil Procedure 194, Plaintiff requires that Defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2

**XI.**  
**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that citation and notice be issued in accordance with law and that upon final trial or hearing hereof that they receive judgment against the Defendants related to the damages asserted herein, prejudgment and post-judgment interest, economic damages, all costs of Court, statutory damages, and all other relief, general and specific, at law and in equity, to which Plaintiff herein pleads and is justly entitled.

Respectfully submitted,

LAW OFFICE OF STEVEN M. DUBLE

By: /s/ Steven M. Duble

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**ATTORNEY FOR PLAINTIFF**

Dated: November 21, 2019

Unofficial Copy Office of Marilyn Burgess District Clerk