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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

FILED

JAN 12 2009

DAVID CREWS, CLERK
By: *[Signature]*

PLAINTIFFS

**WILLIAM ROBERTS WILSON, JR. AND
ROBERTS WILSON, JR., P.C. successor to
WM. ROBERTS WILSON, JR., P.A.**

VS.

CIVIL ACTION NO. 3:09CV0006-BA

**RICHARD F. SCRUGGS, RICHARD F. SCRUGGS, P.A.,
SMBD, INC. f/k/a SCRUGGS LEGAL, P.A.
f/k/a SCRUGGS, MILLETTE, BOZEMAN AND DENT, P.A.,
SLF, INC. f/k/a THE SCRUGGS LAW FIRM, P.A.,
EDWARD J. PETERS, STEVEN A. PATTERSON,
TIMOTHY BALDUCCI, DAVID ZACHARY SCRUGGS, and
JOHN DOES 1-10**

DEFENDANTS

COMPLAINT

COME NOW Wm. Roberts Wilson, Jr. and Roberts Wilson, Jr., P.C., successor to Wm. Roberts Wilson, Jr., P.A. (hereinafter collectively referred to as "Wilson"), by and through their attorneys, and, in support of their complaint against Richard F. Scruggs, Richard F. Scruggs, P.A., SMBD, Inc. f/k/a Scruggs Legal, P.A. f/k/a Scruggs Millette, Bozeman and Dent, P.A., SLF, Inc. f/k/a Scruggs Law Firm, (hereinafter collectively referred to as "Scruggs"), Edward J. Peters, Steven A. Patterson, Timothy Balducci, David Zachary Scruggs and John Does 1 through 10 would allege the following:

PARTIES

1. Wm. Roberts Wilson, Jr. is an adult resident citizen of the City of Tuscaloosa, Alabama.
2. Roberts Wilson, Jr., P.C. is an Alabama professional corporation with its principal place of business in Tuscaloosa, Alabama, and is the corporate successor of Wm. Roberts Wilson, Jr., P.A.

3. Richard F. Scruggs is a convicted felon incarcerated at the Federal Correctional Institute - Ashland, located in Ashland, Kentucky. Prior to his incarceration, Richard F. Scruggs resided in the City of Oxford, Lafayette County, Mississippi.

4. Richard F. Scruggs, P.A. is a Mississippi corporation. The principal business address is listed with the Mississippi Secretary of State's office as 120-A Courthouse Square, Oxford, Lafayette County, Mississippi.

5. SMBD, Inc. formerly known as Scruggs Legal, P.A. formerly known as Scruggs, Millette, Bozeman, Dent, P.A. is a Mississippi corporation with its registered office and principal place of business at 120A Courthouse Square, Oxford, Mississippi.

6. SLF, Inc. formerly known as Scruggs Law Firm, P.A. is a Mississippi corporation the principal business address is listed with the Mississippi Secretary of State's office as 120-A Courthouse Square, Oxford, Lafayette County, Mississippi.

7. Edward J. Peters is an adult resident citizen of the Town of Terry, Second Judicial District of Hinds County, Mississippi.

8. Steven A. Patterson is an adult resident citizen of the Town of New Albany, Union County, Mississippi.

9. Timothy Balducci is an adult resident citizen of Monroe County, Mississippi.

10. David Zachary Scruggs is a convicted felon incarcerated at the Federal Correctional Institute - Forrest City, located in Forrest City, Arkansas. Prior to his incarceration, David Zachary Scruggs resided in the City of Oxford, Lafayette County, Mississippi.

11. John Does 1 through 10 are other persons or entities who might be liable to Plaintiffs in the premises and are persons who, *inter alia*, contributed money to attorneys fees and expenses during the illicit conspiracy to defraud Wilson described below.

JURISDICTION

12. Jurisdiction is proper in this Court based on the provision of 28 U.S.C. §1331 and 1332, because there is complete diversity of citizenship between each of the Plaintiffs and each of the Defendants and the amount in controversy exceeds the jurisdictional amount.

13. Jurisdiction is proper in this Court because claims are asserted under 28 U.S.C. §1927, 18 U.S.C. §1961, et seq. and 42 USC §1983.

14. Jurisdiction is proper in this Court because Plaintiffs also seek relief for fraud perpetrated in a federal court proceeding.

VENUE

15. Venue is proper in this Court inasmuch as one or more of the Defendants resides in the Northern District of Mississippi and one or more of the wrongful acts complained of took place in the Northern District of Mississippi.

FACTS

16. At all times complained of Richard F. Scruggs was acting on his own behalf and in association with and/or as agent of Richard F. Scruggs, P.A, SMBD, Inc. and SLF, Inc.

17. Wilson and Scruggs¹ were formerly party opponents in a lawsuit pending in the United States District Court for the Southern District of Mississippi (Jackson Division). The litigation was styled *Wm. Roberts Wilson, Jr. and Wm. Roberts Wilson, Jr., P.A. vs. Richard F.*

¹Defendant SLF, Inc. was not a party to the previous litigation.

Scruggs, Richard F. Scruggs, P.A., Scruggs Legal, P.A. f/k/a Scruggs, Millette, Bozeman & Dent, P.A., Civil Action No. 3:02CV525(L)(N).

18. According to an Order of said United States District Court, Wilson had successfully stated a claim for constructive trust due to Scruggs's breaches of an express trust agreement between Wilson and Scruggs. *Wilson v. Scruggs*, 371 F. Supp. 2d 837 (S. D. Miss. 2005). Wilson sought to impress the constructive trust upon tobacco proceeds flowing to Scruggs from various settlements with tobacco companies. *Id.* Those settlement funds flow from a Tobacco Company Paying Agent into a Scruggs-formed entity known as Delmas Capital, LLC, and then to Scruggs and others.

19. The constructive trust was to be impressed due to Scruggs's embezzlement, conversion and use of Wilson's asbestos fees for which Scruggs, as Wilson's trustee, had the highest duties to diligently, efficiently and speedily collect and disburse to Wilson. *Id.* Instead, Scruggs converted Wilson's funds to the use of SMBD, Inc. and SLF, Inc. to fund litigation against tobacco companies on behalf of the state of Mississippi and others.

20. By Order and Opinion of the United States District Court dated April 25, 2005 and reported at 371 F. Supp. 2d 837 (S.D. Miss. 2005), the federal case of *Wilson v. Scruggs* was stayed pending an adjudication of asbestos fees due to Wilson by the Circuit Court of the First Judicial District of Hinds County, Mississippi in a case pending before Circuit Court Judge Bobby DeLaughter styled *Wilson v. Scruggs*, Cause No. 94-251-582. *Id.* After adjudication of asbestos fees due Wilson by the Hinds County Circuit Court, the stay in the federal case would be lifted so that a constructive trust over Scruggs's tobacco proceeds could be imposed. *Id.*

21. Defendant Timothy Balducci did represent Scruggs in both the federal court action and the Hinds County Circuit Court action.

22. Richard F. Scruggs made decisions to commit the wrongful acts and sanctionable conduct complained of herein on behalf of himself individually and on behalf of SMBD, Inc., Richard F. Scruggs, P.A. and SLF, Inc. as a former officer of the United States District Court and as an officer of the Courts of the State of Mississippi and is therefore mutually liable with his attorneys for sanctions prayed for under 28 USC §1927..

23. After the stay of the action pending in the United States District Court, the Hinds County Circuit Court case of *Wilson v. Scruggs* remained active on the docket of Circuit Court Judge Bobby B. DeLaughter. Scruggs along with Defendants Timothy Balducci, Edward J. Peters, Steven A. Patterson, David Zachary Scruggs and non-parties Joseph C. Langston and others did enter into a conspiracy to illegally and feloniously influence and corrupt Hinds County Circuit Judge Bobby B. DeLaughter to render a zero judgment on asbestos fees in Scruggs's favor against Wilson so that the United States District Court would be thwarted and defrauded out of its intention to hear evidence supporting the imposition of a constructive trust over the tobacco settlement proceeds. As a result of the scheme, Wilson was defrauded out of his cause of action in the United States District Court, his claims for constructive trust over tobacco proceeds and the corpus of his trust in the asbestos fees and other relief.

24. Circuit Court Judge Bobby B. DeLaughter and a former United States Senator joined the conspiracy and agreed to aid and abet Scruggs, Balducci, Patterson, Peters, David Zachary Scruggs and Langston and others in their attempt to thwart and defraud the United States District Court and Wilson.

25. All of the Defendants in the instant action worked in concert and, together with their unnamed co-conspirators, to accomplish their intended goal of depriving Wilson of his trust property

and his right to a federal trial in the United States District Court in contravention of Wilson's right to a fair trial and an impartial determination of the issues pending before both the Hinds County Circuit Court and before the United States District Court.

COMMON LAW FRAUD

26. All of the Defendants in the instant action together with the named and unnamed co-conspirators perpetrated the following affirmative acts of fraud against Wilson:

- a. Wilson relied on the words, verbal and written, of the Hinds County Circuit Court to have been rendered by an officer sworn to impartiality and wholesomeness and not a corrupted, bribed individual;
- b. Wilson relied on the robe and the seat behind the bench as a representation by the Hinds County Circuit Court that the judicial officer sitting there was impartial and not a corrupted, bribed individual;
- c. Wilson relied on the absence of Bobby DeLaughter's name and the absence of the name of Edward J. Peters in the "of counsel" portion of the pleadings that neither was in fact working as counsel for Scruggs;
- d. Wilson relied on every word in filings by Scruggs that the words were not written by the Court who was in fact working for Scruggs;
- e. Other affirmative frauds that may be shown by the evidence at the trial of this cause.
- f. Wilson relied on these affirmative acts of fraud to his detriment when he accepted, after unsuccessful interlocutory appeal to the Mississippi Supreme Court, the zero judgment of the Hinds Circuit Court and settled his claim for the imposition of a constructive trust over tobacco proceeds, interest,

attorneys fees, punitive damages, actual damages and other relief for an inadequate amount dictated by the results of the Hinds County judgment.

27. The following frauds of concealment were perpetrated by the Defendants in the instant action and their un-named co-conspirators:

- a. All of the named Defendants and their un-named co-conspirators, except Steven A. Patterson, were officers of the Hinds County Circuit Court and of the United States District Court during all times complained of;
- b. All of the named Defendants and their un-named co-conspirators, except Steven A. Patterson, had an affirmative duty to inform Wilson, the federal authorities, the Mississippi State Bar Association, the Mississippi Judicial Performance Commission and the Mississippi Supreme Court of the unethical, illegal and felonious acts that were occurring but all failed to do so and maintained their silence in furtherance of the conspiracy to defraud Wilson, the Hinds County Circuit Court and the United States District Court;
- c. Wilson relied on the silence of these officers of the Courts in light of the rule of law that imposed an affirmative duty to disclose illegal and unethical conduct by the officers of the Circuit Court of Hinds County and the United States District Court which rule of law required the immediate, forthright and prompt disclosure that ex parte contacts were occurring, that the Circuit Court was doing their research and making their arguments for them and that a bribe or attempt to corruptly influence the Circuit Court and to defraud and thwart the judicial processes of the United States District Court was occurring. By virtue of the rules of law, State and Federal, that required

prompt, forthright and immediate disclosure, Wilson was right in his reliance on the silence that none was occurring and by this reliance, Wilson was forced to forego his damages, actual, punitive, interest, attorneys fees and costs in the Hinds County Circuit and was defrauded into settling and dismissing his case in the United States District Court for the imposition of a constructive trust over tobacco.

All of these acts of fraud, affirmative and concealed, were relied on by Wilson and his counsel to the detriment of Wilson and which caused grievous economic damages to Wilson.

**42 U.S.C. §1983 – DEPRIVATION OF RIGHTS
UNDER U.S. CONST. AMEND V, VII AND XIV**

28. All of the wrongful acts described above, deprived Wilson of his property without due process of law and violated Wilson's rights to due process of law as guaranteed by U.S. Const. Amend. V and XIV, which at their most fundamental level guarantee a right to a fair hearing and opportunity to be heard by an impartial tribunal.

29. All of the wrongful acts described above were committed in conspiracy with a State actor and an officer of the United States Senate, therefore each named Defendant in this Complaint was a State actor at all times complained of.

30. All of the wrongful acts described above in conspiracy with a State actor and an officer of the United States Senate deprived Wilson of his right to a jury trial as guaranteed by U.S. Const. Amend. VII.

28 U.S.C. §1927 – FRIVOLOUS CONDUCT IN FEDERAL LITIGATION

31. All of the Defendants did conspire to thwart and defraud the process of the United States District Court by vexatious and frivolous conduct and by defrauding Wilson and the United States District Court, therefore, Wilson is entitled to all relief afforded by 28 U.S.C. §1927.

18 U.S.C. §1961, et seq – RACKETEERING

32. The Defendants have committed the predicate crimes of bribery, corrupting a public official, obstruction of justice, embezzlement all to the end of converting monies belonging to Wilson and these Defendants continue to reap the benefit of these crimes and continue in the commission of some of these crimes because the Defendants continue to receive the benefits of the embezzlement and conversion and other crimes committed against Wilson.

33. The means utilized by Defendants to embezzle and convert Wilson's money was a pattern of fraudulent racketeering activity spanning the course of the last 16 years. The pattern of racketeering activity includes obstruction of justice in the Courts of the United States and the State of Mississippi, embezzlement, conversion of corporate assets by use of forged corporate documents and moving bank accounts from one enterprise to another. The scheme also includes violations of state laws against abuse of corporate office. The scheme also includes fraud upon a United States District Court, bribery of State Court judicial officers and other predicate crimes which may be shown by the evidence at the trial of this cause.

34. Through said scheme, Defendants have caused injury to Wilson in his property and his business.

35. The scheme continues in full force and effect unto this day, and the injuries continue on a regular basis.

36. The scheme did not stop with the loss of the law licenses of Scruggs and the other instant Defendants and Mr. Langston, as exhibited by non-lawyer Steven A. Patterson, a law license is not needed to engage in bribery, fraud and the other illegal acts described in this Complaint. Neither does the imprisonment of Scruggs and his co-conspirators suggest that an end to racketeering has occurred as exhibited in by the case of *United States v. Kirksey Nix*, a racketeering enterprise can be run from a prison cell.

37. The scheme to harm Wilson has injured Wilson in its business and property because of the predicate crimes and other violations of 18 USC 1961, et seq. which have been committed against Wilson by the Defendants.

38. Through the pattern of racketeering activity described above, Defendants have established and maintained various enterprises, to-wit: SMBD, Inc. and SLF, Inc. and other enterprises with which enterprises the other named Defendants in this Complaint were employed or associated and participated in the affairs of these enterprise and the enterprise formed specifically for the purpose of defrauding the United States District Court and the Hinds County Circuit Court all through a pattern of racketeering activity of bribery, obstruction of justice, embezzlement and conversion. Defendants have in the past, are now and will in the future (1) illicitly derive income rightfully belonging to Wilson to acquire, establish and operate enterprises affecting interstate commerce; (2) acquire and maintain interests in and/or control of enterprises engaged in and affecting interstate commerce and (3) conducted and participated in the conduct of the affairs of enterprises engaged in and affecting interstate commerce.

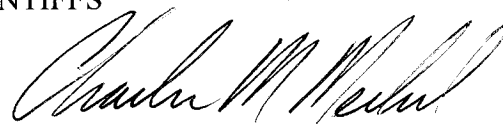
PREMISES CONSIDERED, Wilson prays for an amount in excess of the jurisdictional limits of this Court such sum to consist of:

- a. Actual damages including both asbestos fees and pasts tobacco fees to which Wilson would have been entitled imposition of a constructive trust according to Wilson's entitlement to tobacco fees;
- b. Punitive damages;
- c. Attorneys fees for all past and present litigation;
- d. Sanctions as may be appropriate under 28 U.S.C. §1927;
- e. Treble damages;
- f. Pre-judgment interest;
- g. Post-judgment interest;
- h. Costs of litigation;
- i. All relief, legal or equitable, in any form whatsoever to which Plaintiffs may be entitled.

Respectfully submitted, this the 12th day of January, 2009.

WM. ROBERTS WILSON, JR. and
ROBERTS WILSON, JR., P.C.,
PLAINTIFFS

BY:



CHARLES M. MERKEL, JR.
For the Plaintiffs

OF COUNSEL:

CHARLES M. MERKEL, JR., MSB#2884
CYNTHIA I. MITCHELL, MSB#3356
MERKEL & COCKE, P.A.
30 DELTA DRIVE
POST OFFICE BOX 1388
CLARKSDALE, MISSISSIPPI 38614-1388
TELEPHONE: (662)-627-9641
FACSIMILE (662)627-3592

VICKI R. SLATER, MSB#9759
VICKI R. SLATER, ATTORNEY AT LAW, P.A
1554 LAKESIDE DRIVE
POST OFFICE BOX 23981
JACKSON, MISSISSIPPI 39225-3981
TELEPHONE: (601)987-8184
FACSIMILE: (601)987-8188

WILLIAM B. KIRKSEY, MSB#4183
KIRKSEY & ASSOCIATES
POST OFFICE BOX 33
JACKSON, MISSISSIPPI 39205-0033
TELEPHONE: (601)354-4662
FACSIMILE: (601)354-2433