

No. 20-565

IN THE
SUPREME COURT OF THE UNITED STATES

George Matthews and Nina Matthews

Petitioners,

vs.

David Merbaum and Andrew Becker

Respondents.

On Petition for a Writ of Certiorari to
The United States Court of Appeals
For the Eleventh Circuit

SUPPLEMENTAL APPENDIX

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Nina Matthews
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Pro-Se Petitioners

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Appendix A

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-15001

GEORGE MATTHEWS, NINA MATTHEWS *Plaintiffs*

v.

ANDREW BECKER AND DAVID MERBAUM *Appellees*

COURT DOCKET FOR CASE NO. 19-15001

General Docket
United States Court of Appeals for the Eleventh Circuit

Court of Appeals Docket #: 19-15001
Nature of Suit: 4110 Insurance
 George Matthews, et al v. Andrew J. Becker
Appeal From: Northern District of Georgia
Fee Status: Fee Paid

Docketed: 12/12/2019
Termed: 06/02/2020

Case Type Information:

- 1) Private Civil
- 2) Diversity
- 3) -

Originating Court Information:

District: 113E-1 : 1:10-cv-01641-SCJ
Court Reporter: Lori Burgess
Civil Proceeding: Steve C. Jones, U.S. District Judge
Date Filed: 05/27/2010
Date NOA Filed:
 12/11/2019

Prior Cases:

12-11125 **Date Filed:** 03/01/2012 **Date Disposed:** 12/06/2012 **Disposition:** Affirmed

Current Cases:

None

GEORGE MATTHEWS

Plaintiff - Appellant

George Matthews
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 [NTC Pro Se]
 6038 KATIE EMMA DR
 POWDER SPRINGS, GA 30127

NINA MATTHEWS

Plaintiff - Appellant

Nina Matthews
 Direct: 404-213-8324
 [NTC Pro Se]
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 POWDER SPRINGS, GA 30127

versus

STATE FARM FIRE & CASUALTY COMPANY
Terminated: 02/11/2020

Defendant - Appellee

ANDREW J. BECKER

Andrew J. Becker

Interested Party - Appellee Direct: 678-393-8232
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DAVID JASON MERBAUM

Interested Party - Appellee David Jason Merbaum
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ATLANTA, GA 30328

GEORGE MATTHEWS,
NINA MATTHEWS,

Plaintiffs - Appellants,












versus









STATE FARM FIRE & CASUALTY COMPANY,

Defendant,

ANDREW J. BECKER
DAVID JASON MERBAUM,

Interested Party - Apellees.

12/12/2019	<input type="checkbox"/> 	CIVIL APPEAL DOCKETED. Notice of appeal filed by Appellants George Matthews and Nina Matthews on 12/11/2019. Fee Status: Fee Paid. Awaiting Appellant's Certificate of Interested Persons due on or before 01/09/2020 as to Appellant George Matthews. Awaiting Appellee's Certificate of Interested Persons due on or before 02/06/2020 as to Appellee State Farm Fire & Casualty Company. The appellant's brief is due on or before 01/21/2020. The appendix is due no later than 7 days from the filing of the appellant's brief [Entered: 12/22/2019 05:14 PM]
01/08/2020	<input type="checkbox"/> 	Certificate of Interested Persons and Corporate Disclosure Statement filed by Appellants George Matthews and Nina Matthews. [Entered: 01/08/2020 09:51 AM]
01/21/2020	<input type="checkbox"/> 	Appellant's brief filed by George Matthews and Nina Matthews. Service date: 01/21/2020 [19-15001] Attorney for Appellee: Dietrichs - US mail; Attorney for Appellee: Marsh - US mail. [Entered: 01/22/2020 03:52 PM]
01/28/2020	<input type="checkbox"/> 	Appendix filed [1 VOLUMES - 2 copies] by George Matthews and Nina Matthews. Service date: 01/28/2020 US mail - Appellants Matthews, Matthews; email - Attorney for Appellees: Dietrichs, Marsh. [Entered: 01/30/2020 09:48 AM]
02/11/2020	<input type="checkbox"/> 	Briefing Notice issued to Appellees Andrew J. Becker and David Jason Merbaum. Appellee's brief is due on or before 03/12/2020. Created Awaiting Supplemental Appendix on 03/19/2020 as to Appellees Andrew J. Becker and David Jason Merbaum. [Entered: 02/11/2020 02:24 PM]
02/12/2020	<input type="checkbox"/>	NOTICE OF CIP FILING DEFICIENCY to Andrew J. Becker and David Jason Merbaum. You are receiving this notice because you have not completed the Web-Based Stock Ticker Symbol CIP via the court's public web-page and have not filed the CIP via the electronic filing system (CM/ECF). Failure to comply with 11th Cir. Rules 26.1-1 through 26.1-4 may result in dismissal of the case or appeal under 11th Cir. R. 42-1(b), return of deficient documents without action, or other sanctions on counsel, the party, or both. [Entered: 02/12/2020 02:31 PM]
02/12/2020	<input type="checkbox"/> 	NOTICE OF CIP FILING DEFICIENCY to David Jason Merbaum. You are receiving this notice because you have not completed the Certificate of Interested Persons (CIP). Failure to comply with 11th Cir. Rules 26.1-1 through 26.1-4 may result in dismissal of the case or appeal under 11th Cir. R. 42-1(b), return of deficient documents without action, or other sanctions on counsel, the party, or both. [Entered: 02/12/2020 02:34 PM]
02/27/2020	<input type="checkbox"/> 	Certificate of Interested Persons and Corporate Disclosure Statement filed by Party Andrew J. Becker. On the same day the CIP is served, the party filing it must also complete the court's web-based stock ticker symbol certificate at the link here http://www.ca11.uscourts.gov/web-based-cip or on the court's website. See 11th Cir. R. 26.1-2(b). [19-15001] (ECF: Andrew Becker) [Entered: 02/27/2020 02:14 PM]
03/02/2020	<input type="checkbox"/> 	Supplemental Certificate of Interested Persons and Corporate Disclosure Statement filed by Appellants George Matthews and Nina Matthews. [Entered: 03/02/2020 03:51 PM]
03/02/2020	<input type="checkbox"/> 	"Motion to Disqualify Attorney's Filing Certificate of Interested Persons Form Due to Failure to File an Appearance of Counsel Form" filed by Appellants George Matthews and Nina Matthews. [9023415-1] [Entered: 03/02/2020 03:59 PM]
03/06/2020	<input type="checkbox"/> 	RESPONSE to Motion filed by Appellants George Matthews and Nina Matthews with incorporated Motion for Sanctions [9023415-2] filed by Party Andrew J. Becker. [19-15001]-[Edited 03/24/2020 by JC] (ECF: Andrew Becker) [Entered: 03/06/2020 11:58 AM]
03/06/2020	<input type="checkbox"/> 	Appellee's Brief filed by Appellee Andrew J. Becker. [19-15001] (ECF: Andrew Becker) [Entered: 03/06/2020 11:58 AM]

03/06/2020	<input type="checkbox"/> 	Supplemental Appendix [1 VOLUMES] filed by Appellee Andrew J. Becker. [19-15001] (ECF: Andrew Becker) [Entered: 03/06/2020 12:00 PM]
	275 pg, 9.28 MB	
03/09/2020	<input type="checkbox"/>	Received paper copies of EBrief filed by Appellees Andrew J. Becker and David Jason Merbaum. [Entered: 03/09/2020 03:26 PM]
03/09/2020	<input type="checkbox"/>	Received paper copies of EAppendix filed by Appellees Andrew J. Becker and David Jason Merbaum. 1 VOLUMES - 2 COPIES [Entered: 03/09/2020 03:26 PM]
03/27/2020	<input type="checkbox"/> 	Reply Brief filed by Appellants George Matthews and Nina Matthews. Service 03/27/2020 US mail - Appellees Becker, Merbaum. [Entered: 03/30/2020 01:13 PM]
	23 pg, 1.27 MB	
03/30/2020	<input type="checkbox"/> 	ORDER: Appellants' "Motion to Disqualify Attorney's Filing Certificate of Interested Persons Form Due to Failure to File an Appearance of Conunsel [sic] Form" is DENIED. Appellee's "Response to Motion to Disqualify..." which is also construed as a motion requesting sanctions pursuant to 11th Cir. R. 27-4, is DENIED. [9027749-2] [9023415-2] (ELB, BCG and RJL) [Entered: 03/30/2020 04:33 PM]
	2 pg, 75.67 KB	
03/30/2020	<input type="checkbox"/>	NOTICE OF CIP FILING DEFICIENCY to Andrew J. Becker. You are receiving this notice because you have not completed the Web-Based Stock Ticker Symbol Certificate of Interested Persons (CIP) via the Court's public web-page. Failure to comply with 11th Cir. Rules 26.1-1 through 26.1-4 may result in sanctions on the party. [Entered: 03/30/2020 04:39 PM]
04/02/2020	<input type="checkbox"/>	Public Communication: The deficiency notice sent to Andrew Becker on March 30, 2020, was sent in error and can be disregarded. He is not required to file a web-based CIP. [Entered: 04/02/2020 12:25 PM]
04/02/2020	<input type="checkbox"/>	Received paper copies of EAppendix filed by Appellant George Matthews. 1 VOLUMES - 2 COPIES [Entered: 04/07/2020 08:58 AM]
04/02/2020	<input type="checkbox"/> 	Appellant's Supplemental Appendix filed [1 VOLUMES - 2 copies] by George Matthews and Nina Matthews. Service date: 04/02/2020 US mail - Appellants Matthews, Matthews; Appellee Merbaum; email - Appellee Becker; Attorney for Not Parties: Dietrichs, Marsh. [Entered: 04/07/2020 11:06 AM]
	68 pg, 3.45 MB	
06/02/2020	<input type="checkbox"/> 	Opinion issued by court as to Appellants George Matthews and Nina Matthews. Decision: Affirmed. Opinion type: Non-Published. Opinion method: Per Curiam. The opinion is also available through the Court's Opinions page at this link http://www.ca11.uscourts.gov/opinions . [Entered: 06/02/2020 10:48 AM]
	18 pg, 85.01 KB	
06/02/2020	<input type="checkbox"/> 	Judgment entered as to Appellants George Matthews and Nina Matthews. [Entered: 06/02/2020 10:53 AM]
	1 pg, 9.11 KB	
07/01/2020	<input type="checkbox"/> 	Mandate issued as to Appellants George Matthews and Nina Matthews. [Entered: 07/01/2020 02:44 PM]
	2 pg, 580.07 KB	
10/26/2020	<input type="checkbox"/> 	Notice of Writ of Certiorari filed as to Appellant George Matthews. SC# 20-565. [Entered: 11/02/2020 03:58 PM]
	1 pg, 52.54 KB	
12/07/2020	<input type="checkbox"/>	Checked status of certiorari 20-565 filed as to Appellant George Matthews - Pending. [Entered: 12/07/2020 03:53 PM]
01/07/2021	<input type="checkbox"/>	Checked status of certiorari 20-565 filed as to Appellant George Matthews - Pending. [Entered: 01/07/2021 10:01 AM]

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Appendix B

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

No. 19-15001

GEORGE MATTHEWS, NINA MATTHEWS *Plaintiffs*

v.

ANDREW BECKER AND DAVID MERBAUM *Appellees*

BRIEFING NOTICE TO APPELLEES FOR CASE NO. 19-15001

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.call.uscourts.gov

February 11, 2020

Andrew J. Becker
Merbaum & Becker, P.C.
5755 NORTH PT PKWY STE 284
ALPHARETTA, GA 30022

David Jason Merbaum
Merbaum & Becker, P.C.
5755 NORTH PT PKWY STE 284
ALPHARETTA, GA 30022

Appeal Number: 19-15001-GG
Case Style: George Matthews, et al v. Andrew J. Becker
District Court Docket No: 1:10-cv-01641-SCJ

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause.

Below please find a briefing notice issued to the correct appellees in this appeal.

The brief of appellant has been filed. Eleventh Circuit Rule 31-1 requires that APPELLEE'S BRIEF BE SERVED AND FILED ON OR BEFORE March 12, 2020. The supplemental appendix, if needed, is due no later than 7 days after filing of appellee's brief.

The due date is calculated from the date the Appellees were correctly added to the appeal.

This is the only notice you will receive concerning the due date for filing briefs and appendices. See Fed.R.App.P. 28, 30, 31, 32, the corresponding circuit rules, General Order 39 and the Guide to Electronic Filing for further information. Pro se parties who are incarcerated are not required to file an appendix.

If you have not entered your appearance in this appeal, please note that the clerk may not process your filings. See 11th Cir. R. 46-6. Appearance of Counsel Forms are available on the court's Web site.

Attorneys must file briefs electronically using the ECF system. Use of ECF does not modify the requirements of the circuit rules that counsel must also provide seven (7) paper copies of a brief

Appendix B

7

to the court, nor does it modify the requirements of the circuit rules for the filing of appendices in a particular case.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Joseph Caruso, GG/caw
Phone #: (404) 335-6177

BR-5RCIV Civ Aple brf due frm trigger dt

Appendix C

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

No. 19-15001

GEORGE MATTHEWS, NINA MATTHEWS *Plaintiffs*

V.

ANDREW J. BECKER AND DAVID JASON MERBAUM
Interested Party - Appellees

**MOTION TO DISQUALIFY ATTORNEY'S FILING CERTIFICATE OF
INTERESTED PERSONS FORM DUE TO FAILURE TO FILE AN APPEARANCE
OF COUNSEL FORM**



IN THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Appellate Case No. 19-15001 *GP*

George Matthews et al

Matthews et al v. State Farm Fire and Casualty Company

Plaintiff-Appellant

-VS-

David Merbaum

Andrew Becker

Attorneys At Law

Respondent-Appellee

On Appeal from the United States District Court
For the Northern District of Georgia
Atlanta Division

**MOTION TO DISQUALIFY ATTORNEY'S FILING
CERTIFICATE OF INTERESTED PERSONS FORM DUE TO
FAILURE TO FILE AN APPEARANCE OF CONUNSEL FORM**

George Matthews, pro se
Nina Matthews, pro se
6038 Katie Emma Drive
Powder Springs, GA 30127
matthews.6038@yahoo.com

SUPPLEMENTAL CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT

Pursuant to 11th Cir. R. 26.1-1 Appellants George Matthews and Nina Matthews certify that the following persons and entities have an interest in the outcome of this appeal:

Andrew J. Becker, Merbaum & Becker, P.C.

Hon. John G. Breakfield, Hall County State Court – Added 3/1/20

Lori Burgess, US District Court Reporter, Northern District of Georgia

Hon Mark H. Cohen, US District Court Judge, Northern District of Georgia – added 1/21/20

Brittany DeDiego, Attorney, Copeland, Stair, Kingma & Lovell – Added 3/1/20

Mark Dietrichs, Attorney, Swift, Currie, McGhee & Hiers, LLP

FedEx Corporation NYSE: FDX, Publicly Traded Corporation – Added 3/1/20

Hon. Reuben Green, Cobb Superior Court Judge

Hon. Willis B. Hunt, Senior US District Court Judge, Northern District of Georgia

Crystal James Esq, Attorney, Crystal James & Assoc LLC

Hon. Steve C. Jones, US District Court Judge, Northern District of Georgia

Kathleen A. Marsh, Attorney, Quirk & Quirk, LLC

David Jason Merbaum, Attorney, Merbaum & Becker, P.C

Hon. Barbara Ellis-Monro, US Bankruptcy Court Judge, Northern District of Georgia

Lois D. Phillips, US District Court Reporter, Northern District of Georgia – added 1/21/20

Mary Ida Townson, Chapter 13 Trustee, Northern District of Georgia – added 1/21/20

State Bar of Georgia – added 3/1/20

State Farm Fire and Casualty Company – added 3/1/20

United States Postmaster General – added 3/1/20

I hereby certify that, to the best of my knowledge, the preceding list is a complete list of all parties having an interest in the outcome of this case.

By:

George Matthews, pro se

Nina Matthews, pro se

Introduction

COMES NOW Appellants George Matthews and Nina Matthews pro se, and respectfully moves this court to disqualify the filing of APPELLEES'

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE

DISCLOSURE STATEMENT pursuant to 11th Cir. R. 46-5 due to the Appellees

who are also licensed attorneys failure to file an Entry of Appearance before this

court. Attorneys are now more than 14 days deficient in filing this required

information to the US 11th Circuit Court of Appeals but have filed a pleading into

the case violating the court rule 11th Cir. R. 46-5 which states every attorney must

file an appearance form before this court.

Background of Case

In this case, Appellants are appealing their motion to hold in contempt former attorneys David Merbaum and Andrew Becker who were given orders by US District Court Judge Willis B. Hunt on the Matthews v. State Farm case. There were nine missing orders from the US District Court case docket [Matthews v. State Farm 1:10-cv-1641-WBH]. The orders given by Judge Willis B. Hunt on October 25, 2010 are outlined in Exhibit 1. The transcript of the Motions hearing before Judge Wills B. Hunt on October 25, 2010 contained all orders [Docket #105]. Of the ten orders outlined in Exhibit 1, only Order #3 was filed into the case docket [Exhibit 2]. The original presiding Judge Willis B. Hunt was

transferred off of the Matthews v. State Farm case and replaced with Judge Steve C. Jones in January 2011. Judge Steve C. Jones granted summary judgment for State Farm on February 13, 2012 [Docket #94] and the orders outlined in Exhibit 1 were missing from the docket. The official transcript of Judge Willis B. Hunt's October 25, 2010 hearing containing all orders was withheld from the Trial Court at the time Summary Judgment was rendered for State Farm.

In January 2011 Attorneys withdrew from the Matthews vs. State Farm lawsuit (Docket #57) but they were subject to court orders entered by Judge Willis B. Hunt on October 25, 2010 (Exhibit 1, Docket #105). Appellants have filed the Motion for Contempt based on the attorneys direct violation of Order #9 which stated if attorneys were relieved from the case they could only collect out-of-pocket costs from the Appellants. Attorney's violated the order by suing for attorney services, expenses and interest. In 2015 Attorneys Andrew Becker and David Merbaum filed a Late Proof of Claim to US Bankruptcy Court Northern Division and were granted \$19,928.83 of which \$614.16 was paid from the bankruptcy account to Andrew Becker and David Merbaum. On August 2, 2017 attorneys obtained a judgment in Cobb Superior Court for legal services in the amount of \$39,902.66 comprised of \$22,579.08(attorney fees and interest) and \$17,323.58 (expenses and late fees). On October 10, 2017 attorneys filed garnishment in State Court of Hall County to collect \$57,226.20. The claims made

by Attorneys David Merbaum and Andrew Becker for the almost \$20k were heard before Judge Willis B. Hunt and not granted, however, attorneys violated orders given and sued to collect these amounts. David Merbaum and Andrew Becker sued Appellants under their former law firm name of Merbaum Law Group. They have since formed a new law firm Merbaum & Becker, PC.

On July 2, 2019 Appellants filed Motion for Contempt against their former attorneys David Merbaum (Georgia Bar No. 006700) and Andrew Becker (Georgia Bar No. 142595) (Docket 111). On July 17, 2019 Attorneys David Merbaum and Andrew Becker filed a Response in Opposition to Motion (Docket 115). On November 12, 2019 the US District Court denied the Motion for Contempt. Appellants filed a Notice to Appeal on December 11, 2019.

Argument

Attorneys have filed documents into this 11th Circuit Court of Appeals case without filing an Entry of Appearance of Counsel Form which is a clear violation of 11th Cir. R. 46-5. Pursuant to 11th Cir. R. 46-5, **every attorney** is required to file an Entry of Appearance form in order to participate in a case before the court unless they are a court appointed attorney. The 11th Cir. R. 46-5 rule states:

Entry of Appearance. Every attorney, except one appointed by the court for a specific case, must file an Appearance of Counsel Form in order to participate in a case before the court. The form must be filed within 14 days after the date on the notice from the clerk that the Appearance of Counsel

Form must be filed. With a court-appointed attorney, the order of appointment will be treated as the appearance form.

This case was docketed on December 12, 2019 and a briefing notice was sent to Appellants and State Farm counsel but erroneously excluded Appellees who are also Attorneys-At-Law David Merbaum and Andrew Becker of Merbaum and Becker Law PC. Attorneys David Merbaum and Andrew Becker along with State Farm attorneys were served with the Notice of Appeal (Doc #117), Certificate of Interested Persons (Filing 1/8/2020), Appellant's Brief (Filing 1/21/20) and Appellant's Appendix (Filing 1/28/20) but Attorneys David Merbaum and Andrew Becker were unresponsive to the case. Appellants were prompted to contact the clerks' office when they attorneys did not file into the case. It was then that the 11th Circuit Court of Appeals clerks' office acknowledged they had made an error in excluding the Appellees Attorneys David Merbaum and Andrew Becker off of the original Briefing Notice and that they would issue a correction to the case docket. On February 11, 2020 Attorneys David Merbaum and Andrew Becker were sent a Briefing Notice by the 11th Circuit US Court of Appeals clerks' office. According to the Merbaum and Becker law firm website, both attorneys are admitted to practice law in the United States Court of Appeals for the 11th Circuit (Exhibit 3, 4). However they have allowed the 14 days to elapse to sign in on the

case and are still refusing to complete the Entry of Appearance as required by Rule 11th Cir. R. 46-5 although they have begun to file documents into the case.

Not only are Attorneys David Merbaum and Andrew Becker more than 14 days deficient but they have also evaded 11th Cir. R. 46-6(b) which addresses the penalty for such failure and that is that the clerk may not accept any further filings (except for a brief) from the attorney until the attorney files an Appearance of Counsel Form. Attorneys David Merbaum and Andrew Becker have violated this rule when they circumvented the rules of this court and filed a Certificate of Interested Persons and Corporate Disclosure Statement bypassing the courts requirement of submitting an Entrance of Appearance Form to this court.

11th Cir. R. 46-6 (b) Filings from an Attorney Who Has Not Filed an Appearance of Counsel Form Within 14 Days After Notice is Mailed by the Clerk. When an attorney fails to file a required Appearance of Counsel Form within 14 days after notice of that requirement is mailed by the clerk, the clerk may not accept any further filings (except for a brief) from the attorney until the attorney files an Appearance of Counsel Form. When an attorney who has not filed an Appearance of Counsel Form tenders a brief for filing, the clerk will treat the failure to file an Appearance of Counsel Form as a deficiency in the form of the brief. An Appearance of Counsel Form need not be accompanied by a motion to file out of time.

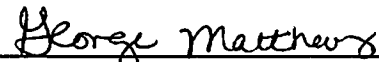
Pursuant to 11th Cir. R. 46-6 (b) the Clerk of this Court did not have authority to accept the APPELLEES' CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT until they have

come into compliance with this courts rule of filing the required Appearance of Counsel Form.

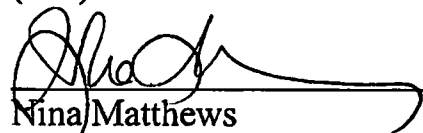
Summary

Appellants hereby respectfully request this court to disqualify the APPELLEES' CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT filing by Attorney David Merbaum and Andrew Becker and also request that Attorneys David Merbaum and Andrew Becker are restricted from filing any further pleadings into this case unless the filings are permitted according to 11th Cir. R. 46-6 (b).

Respectfully submitted this 2nd day of March 2020.



George Matthews
6038 Katie Emma Drive
Powder Springs, GA 30127
(404) 213-8324



Nina Matthews
6038 Katie Emma Drive
Powder Springs, GA 30127
(678)231-7726

I certify this motion is in compliance with FRAP 27(d)(2)(A).

Exhibit 1 – Orders withheld out of US District Court (Docket 105)

TRANSCRIPT OF MOTIONS HEARING BEFORE THE HONORABLE WILLIS B. HUNT, JR. UNITED STATES JUDGE (Orders Withheld Out of the Court – Doc 105)	
Civil Action File No. 1:10-cv-1641-WBH	United States District Court - Northern District of Georgia - Atlanta Division
October 25, 2010 10:10 A.M.	George Matthews, Nina Matthews vs. State Farm Fire and Casualty Company
Lori Burgess, Official Court Reporter (404) 215-1528	Appearances: For the Plaintiffs: DAVID MERBAUM, ANDREW BECKER, ATTORNEYS AT LAW
ORDERS GIVEN	ORDER
ORDER 1 PG. 28 Line 6-8 (Missing from Docket)	AFTER DISCOVERY THEN IS WHEN YOU GET THE MOTIONS TO THE COURT THAT WOULD DISPOSE OF THE CASE, IF SUCH MOTIONS ARE AUTHORIZED.
ORDER 2 PG. 28 Line 8-15 (Missing from Docket)	IN THIS CASE THEY MAY NOT BE BECAUSE, I MEAN, WE MAY HAVE SOME ISSUES ABOUT WHETHER CERTAIN EXPERTS ARE QUALIFIED TO TESTIFY. BUT ASSUMING, YOU KNOW, THAT DOES NOT GET RESOLVED AGAINST Y'ALL, THERE IS NO WAY, I DON'T THINK, THAT STATE FARM COULD SAY THERE IS NOT GOING TO BE ANY FACTUAL ISSUE IN THE CASE AND, THEREFORE, THE COURT CASE PROBABLY WOULD NOT BE DISPOSED OF BY SUMMARY JUDGMENT, MEANING THAT ULTIMATELY IT WOULD GO ON A TRIAL CALENDAR.
ORDER 3 PG. 40 Line 16-18 (FILED INTO CASE)	I WANT YOU TO EITHER TALK WITH EACH OTHER RIGHT HERE IN THE COURTROOM THIS MORNING AND SEE IF THERE IS ANY WAY YOU CAN RECONCILE THE DIFFERENCES.
ORDER 4 PG. 41 Line 7 (Missing from Docket)	YOU NEED TO AGREE ON CONTINGENCY
ORDER 5 PG. 41 Line 8 (Missing from Docket)	SEE IF YOU CAN TAKE DEPOSITIONS
ORDER 6 PG. 41 Line 9 (Missing from Docket)	AND AT LEAST HAVE MEDIATION AND SEE WHERE YOU ARE THERE
ORDER 7 PG. 41 Line 11-13 (Missing from Docket)	THEN WHAT I WANT YOU TO AGREE IS, SO THAT THE MATTHEWS'S COME BY YOUR OFFICE BEFORE THE END OF THIS WEEK

ORDER 8 PG. 41 Line 13-14 (Missing from Docket)	IF AT THE END OF THAT TIME YOU CANNOT GET OUT, LET US KNOW
ORDER 9 PG. 41 Line 13-18 (Missing from Docket)	I WILL THEN RELIEVE THE LAWYERS OF THEIR RESPONSIBILITY ON THE CONDITIONS SET FORTH IN THEIR LETTER, AND THAT IS THAT THERE BE NO ADDITIONAL---ASIDE FROM SOME OUT-OF-POCKET COSTS --THERE WOULD BE NOT ADDITONAL CHARGE TO THE PLAINTIFFS.
ORDER 10 PG. 41 Line 18-20 (Missing from Docket)	AND THEN THEY CAN GO AND GET A LAWYER WHO WILL MAYBE WHO WILL AGREE TO TAKE IT ON A CONTINGENCY AND MOVE FORWARD

Exhibit 2**US District Court Case - Civil Action File No. 1:10-cv-1641-WBH – Court Docket**CM/ECF [Query](#) [Reports](#) [Utilities](#) [Help](#) [Log Out](#)

	Terminated:	11/03/2010	
	Docket Text: MOTION to Withdraw Andrew J. Becker as Attorney by George Matthews, Nina Matthews. (Becker, Andrew)		
21	Filed & Entered:	10/06/2010	Certificate of Service
	Docket Text: CERTIFICATE OF SERVICE of Defendants Amended Response to Interrogatory 16 of Plaintiff's First Amended Continuing Interrogatories by State Farm Fire and Casualty Company.(Quirk, Kathleen)		
28	Filed & Entered:	10/06/2010	Motion for Contempt
	Terminated:	03/23/2011	
	Docket Text: MOTION for Contempt Against Non-Party Cerny & Ivey Engineers, Inc. by George Matthews, Nina Matthews. (Becker, Andrew)		
29	Filed & Entered:	10/06/2010	Notice of Filing
	Docket Text: NOTICE OF Filing Filing Sheriff's Entry of Service by George Matthews, Nina Matthews (Becker, Andrew)		
30	Filed & Entered:	10/13/2010	Response (Non-Motion)
	Docket Text: Amended RESPONSE re [24] Response filed by George Matthews, Nina Matthews. (Becker, Andrew) Modified on 10/14/2010 to delete duplicative text (rvb).		
31	Filed & Entered:	10/15/2010	Notice of Filing
	Docket Text: NOTICE OF Filing Supplement re [28] MOTION for Contempt Against Non-Party Cerny & Ivey Engineers, Inc. by George Matthews, Nina Matthews (Becker, Andrew) Modified on 10/19/2010 to delete duplicate text (rvb).		
32	Filed & Entered:	10/20/2010	Order
	Docket Text: ORDER scheduling an ex parte Hearing at which Plaintiffs and their attorneys are DIRECTED to appear for 10/25/2010 at 10:00 AM in ATLA Courtroom 1707 before Judge Willis B. Hunt Jr. re [25] MOTION to Withdraw David Jason Merbaum as Attorney and [26] MOTION to Withdraw Andrew J. Becker as Attorney. The schedule in this matter, including discovery and all filing deadlines, is SUSPENDED retroactive to October 6, 2010, and until further order of this Court. Signed by Judge Willis B. Hunt, Jr. on 10/20/2010. (rvb)		
33	Filed & Entered:	10/25/2010	Motion Hearing
	Docket Text: Minute Entry for proceedings held before Judge Willis B. Hunt, Jr.: Motion Hearing held on 10/25/2010 re [26] MOTION to Withdraw Andrew J. Becker as Attorney [25] MOTION to Withdraw David Jason Merbaum as Attorney. Court met ex parte with plaintiffs and plaintiffs' counsel and ordered them to make another attempt to reconcile their differences. Counsel is to report back to the Court by October 29, 2010. (Court Reporter Lori Burgess)(rvb)		
	Filed & Entered:	11/05/2010	Submission to District Judge
	Docket Text: Submission of [28] MOTION for Contempt Against Non-Party Cerny & Ivey Engineers, Inc., [25] MOTION to Withdraw David Jason Merbaum as Attorney, [26] MOTION to Withdraw Andrew J. Becker as Attorney, submitted to District Judge Willis B. Hunt. (rvb)		
34	Filed & Entered:	11/05/2010	Withdrawal of Motion
	Docket Text: Withdrawal of Motion [26] MOTION to Withdraw Andrew J. Becker as Attorney filed by George Matthews, Nina Matthews, [25] MOTION to Withdraw David Jason Merbaum as Attorney filed by George Matthews, Nina Matthews filed by George Matthews, Nina Matthews. (Becker, Andrew)		

Exhibit 3**Merbaum and Becker Website – Attorney David J. Merbaum**

HOME



PRACTICE AREAS

NEWSROOM

CONTACT

Attorney David J. Merbaum

David was born and raised in Jamaica, New York and graduated with a degree in History from City University of New York, Queens College in 1985. David moved to Atlanta in 1985 to attend Emory University School of Law and obtained his Juris Doctor Degree in 1988. David began his legal career as an associate with a small firm whose practice focused on the representation of surety companies and contractors. David was responsible for handling all aspects of surety claims including the review and evaluation of performance bond claims, organizing completion of various projects, hiring contractors, working with construction experts, and reviewing pay applications and payment bond claims. David participated in numerous trials and arbitration hearings representing both the surety and at times, the contractor.

In 1996 David started his own firm, Merbaum Law Group, P.C., in Alpharetta, Georgia. In 2016 the firm name was changed to Merbaum & Becker, P.C. to reflect the addition of partner Andrew J. Becker. The Firm represents contractors, subcontractors, landlords, tenants, small businesses, and material and sporting good supply companies in matters throughout the United States. The Firm handles cases involving construction law, commercial collections, landlord tenant, incorporation, real estate matters including real estate litigation, business advice and dispute resolution and consumer advice and representation. The Firm is able to assist clients from initial communications through litigation or arbitration and the appeal process.

David has been lead counsel on numerous jury and bench trials and well as numerous arbitration proceedings. David is admitted to practice law in the following courts:

- All State and Superior Courts in the State of Georgia
- The Georgia Court of Appeals
- The Georgia Supreme Court
- US District Court, Northern Division, Georgia
- The 11th Circuit Court of Appeals
- The United States Supreme Court

David has been involved in several Court of Appeals cases which addressed relevant and important

David J. Merbaum**My Bar Admissions**

- All State and Superior Courts in the State of Georgia
- The Georgia Court of Appeals
- Georgia Supreme Court
- US District Court, Northern Division, Georgia
- The 11th Circuit Court of Appeals
- The United States Supreme Court

Professional Profile Pages**Contact Information**

Exhibit 4

Merbaum and Becker Website – Attorney Andrew Becker

678-393-8232 Home About Us Contact Us

Andrew J. Becker
MERBAUM & BECKER

HOME ABOUT US PRACTICE AREAS NEWSROOM CONTACT

Attorney Andrew J. Becker


Andrew J. Becker is a partner at Merbaum & Becker, P.C. as of 2016. Previously, since 2005, Andrew was an associate at the Merbaum Law Group which changed it's name to reflect his new position.

His practice areas include construction law, business litigation, landlord/tenant, creditor/debtor and civil appeals. Andrew has experience in drafting appeals to the Georgia Court of Appeals, Georgia Supreme Court, and the Federal Court of Appeals for the 11th Circuit.

Andrew received his J.D. from Emory University School of Law, where he was a member of Emory's Moot Court Society and interned at the United States Department of Interior as well as the Southern Environmental Law Center in Atlanta, Georgia. Since graduation, Andrew has served as a Judge for the Georgia Moot Court Competition.

Andrew graduated Cum Laude from Brandeis University in Massachusetts, where he received a Bachelor of Arts degree in History and Computer Science. Andrew also received a Master of Arts Degree in European Comparative History from Brandeis University, where his research focused on Spanish medieval history.

Andrew J. Becker



My Bar Admissions

- State of Georgia
- United States District Court for the Northern District of Georgia
- United States Court of Appeals for the 11th Circuit

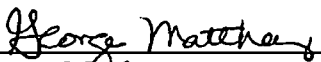
CERTIFICATE OF SERVICE


I hereby certify that I have this day served the foregoing **MOTION TO DISQUALIFY ATTORNEY'S FILING CERTIFICATE OF INTERESTED PERSONS FORM DUE TO FAILURE TO FILE AN APPEARANCE OF CONUNSEL FORM** upon counsel for all parties, by depositing a copy of same in the United States mail in an envelope with sufficient postage thereon addressed as follows:

David Merbaum
Merbaum & Becker
5755 North Point Pkwy
Suite 284
Alpharetta, GA 30022

Andrew Becker
Merbaum & Becker
5755 North Point Pkwy
Suite 284
Alpharetta, GA 30022

Respectfully submitted this 2nd day of March 2020.


George Matthews
6038 Katie Emma Drive
Powder Springs, GA 30127
(404) 213-8324


Nina Matthews
6038 Katie Emma Drive
Powder Springs, GA 30127
(678)231-7726

Appendix D

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

No. 19-15001

GEORGE MATTHEWS, NINA MATTHEWS *Plaintiffs*

V.

ANDREW J. BECKER AND DAVID JASON MERBAUM
Interested Party - Appellees

RESPONSE TO MOTION FILED BY APPELLEES

DOCKET NO. 19-15001-GG

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

George Matthews and Nina Matthews,

Movants – Appellants,

v.

Andrew J. Becker and David J. Merbaum,

Respondents – Appellees.

Appeal from the United States District Court
for the Northern District of Georgia (Atlanta Division)
Case 1:10-cv-01641 (Hon. Steve C. Jones)

**APPELLEES' RESPONSE TO MOTION TO DISQUALIFY ATTORNEY'S
FILING CERTIFICATE OF INTERESTED PERSONS FORM DUE TO
FAILURE TO FILE AN APPEARANCE OF CONUNSEL[SIC] FORM**

David J. Merbaum
Georgia Bar Number: 006700
dmerbaum@mbpclaw.com
Andrew J. Becker
Georgia Bar Number: 142595
abecker@mbpclaw.com
Merbaum & Becker, P.C.
5755 North Point Parkway, Suite 284
Alpharetta, Georgia 30022
P: 678 393 8232
APPELLEES

**APPELLEES' CERTIFICATE OF INTERESTED PERSONS AND
CORPORATE DISCLOSURE STATEMENT**

Pursuant to 11th Cir. R. 26.1-1, Appellees Andrew J. Becker and David J. Merbaum certify that the following persons and entities have an interest in the outcome of this appeal:

Becker, Andrew, Appellee-Respondent

Jones, Steve, U.S. District Court Judge, Northern District of Georgia

Matthews Consulting LLC, Company owned by Appellant-Movant

Matthews, George, Appellant-Movant

Matthews, Nina, Appellant-Movant

Merbaum & Becker, P.C. *f/k/a* Merbaum Law Group, P.C., law firm representing Appellees-Respondents

Merbaum, David, Appellee-Respondent

Appellees certify that Merbaum & Becker, P.C. has no parent corporations and no publicly held corporations own 10% or more of its stock.

Respectfully Submitted,

/s/ David J. Merbaum

David J. Merbaum
Georgia Bar No. 006700

/s/ Andrew J. Becker

Andrew J. Becker
Georgia Bar No. 142595
Appellees - Respondents

INTRODUCTION

As argued in the Brief of Appellee, George and Nina Matthews (“Matthewses”) have taken frivolous actions in four prior courts: the Superior Court of Cobb County, the Court of Appeals of Georgia, the Supreme Court of Georgia, and the United States District Court for the Northern District of Georgia. This Court is now the fifth. The Matthews argued in their Motion to Disqualify Attorney’s Filing Certificate of Interested Persons Form Due to Failure to File an Appearance of Counsel[sic] Form (“Motion”) that this Court should disqualify the Appellees’ Certificate of Interested Persons and Corporate Disclosure Statement (“CIP”) filed by the David J. Merbaum and Andrew J. Becker (“M&B Attorneys”) because the M&B Attorneys did not make an appearance on behalf of themselves.

ARGUMENT

The Matthews’ argument is based on 11th Cir. R. 46-5 which states: “[e]very attorney, except one appointed by the court for a specific case, must file an Appearance of Counsel Form in order to participate in a case before the court. The form must be filed within 14 days after the date on the notice from the clerk that the Appearance of Counsel Form must be filed. With a court-appointed attorney, the order of appointment will be treated as the appearance form.”

FRAP 46 and 11th Cir. R. 46, *et seq.* deal with attorneys who are appearing before the Court on behalf of another party. Nowhere in FRAP 46 or 11th Cir. R. 46 does it require parties who happen to be attorneys file a Appearance of Counsel form. Assume that the *pro se* party who is an attorney is not admitted to practice before the Court. Under the Matthews's argument, the *pro se* party who happens to also be an attorney would be required to file an application for admission under 11th Cir. R. 46-3 or 46-4 just to participate in the proceeding against the attorney. Such is not the case from the M&B Attorneys review of FRAP 46 or 11th Cir. R. 46, *et seq.*

As shown by the M&B Attorneys' CIP and the Brief of Appellees, the M&B Attorneys are proceeding *pro se* as the signature lines identify the M&B Attorneys as Appellees-Respondents.¹ Thus, no Appearance of Counsel form is required since the M&B Attorneys are not appearing on behalf of another party in a representative capacity. In fact, the M&B Attorneys office contacted the Clerk's Office because the Clerk did not issue the M&B Attorneys an EDF ID to complete the online corporate disclosure statement. The Clerk informed the M&B Attorneys office that and EDF ID would not be issued if they were proceeding *pro se* which they are. It is also noted that the M&B Attorneys have not received a notice from

¹ See e.g. 11th Cir. R. 25-4 (stating "[a]ll papers filed, including motions and briefs, must contain the name, office address, and telephone number of... a party proceeding *pro se*, and be signed by... a party proceeding *pro se*"). The signature lines of the CIP

the Clerk pursuant to 11th Cir. R. 46-6(a)(2) to file an Appearance of Counsel form.

The M&B Attorneys will file an Appearance of Counsel form if the Court or Clerk's office instructs them to do so. However, it does not appear from the rules or conversation with the Clerk's office that a *pro se* party who happens to be an attorney is required to file the Appearance of Counsel form.

CONCLUSION

For the foregoing reasons, the M&B Attorneys requests that this Court deny the Motion. Should the Court agree, the M&B Attorneys request sanctions be imposed against the Matthewses pursuant to 11th Cir. R. 27-4 for filing a frivolous motion.

This 6th day of March, 2020.

Respectfully Submitted,

/s/ David J. Merbaum

David J. Merbaum
Georgia Bar No. 006700

/s/ Andrew J. Becker

Andrew J. Becker
Georgia Bar No. 142595
Appellees – Respondents

MERBAUM & BECKER, P.C.
5755 North Point Pkwy.
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F: 678-393-0410
dmerbaum@mbpclaw.com
abecker@mbpclaw.com

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this document complies with the word limit of FRAP 27(d)(2)(A) because this document contains 1,105 words.

The undersigned further certifies that this document complies with the typeface requirements of FRAP 32(a)(5) and the type-style requirements of FRAP 32(a)(6).

This 6th day of March, 2020.

Respectfully Submitted,

/s/ David J. Merbaum

David J. Merbaum
Georgia Bar No. 006700

/s/ Andrew J. Becker

Andrew J. Becker
Georgia Bar No. 142595

Appellees – Respondents

MERBAUM & BECKER, P.C.
5755 North Point Pkwy.
Suite 284
Alpharetta, Georgia 30022
P: 678-393-8232
F: 678-393-0410
dmerbaum@mbpclaw.com
abecker@mbpclaw.com

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing **Appellees' Response to Motion to Disqualify Attorney's Filing Certificate of Interested Persons Form Due to Failure to File an Appearance of Conunsel[sic] Form** upon the opposing party by placing a copy of the same in the U.S. First Class Mail, with adequate postage affixed thereto and properly addressed to:

George and Nina Matthews
6038 Katie Emma Drive
Powder Springs, Georgia 30127

This 6th day of March, 2020.

Respectfully Submitted,

/s/ David J. Merbaum

David J. Merbaum
Georgia Bar No. 006700

/s/ Andrew J. Becker

Andrew J. Becker
Georgia Bar No. 142595
Appellees – Respondents

MERBAUM & BECKER, P.C.
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dmerbaum@mbpclaw.com
abecker@mbpclaw.com

Appendix E

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-15001

GEORGE MATTHEWS, NINA MATTHEWS *Plaintiffs*

V.

STATE FARM FIRE & CASUALTY COMPANY *Defendant*

ANDREW J. BECKER AND DAVID JASON MERBAUM
Interested Party - Appellees

ORDER

Before: BRANCH, GRANT and LUCK, Circuit Judges

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

No. 19-15001-GG

GEORGE MATTHEWS,
NINA MATTHEWS,

Plaintiffs - Appellants,

versus

STATE FARM FIRE & CASUALTY COMPANY,

Defendant,

ANDREW J. BECKER
DAVID JASON MERBAUM,

Interested Party - Appellees.

On Appeal from the United States District Court for the
Northern District of Georgia

BEFORE: BRANCH, GRANT and LUCK, Circuit Judges.

BY THE COURT:

Appellants' "Motion to Disqualify Attorney's Filing Certificate of Interested Persons Form
Due to Failure to File an Appearance of Counsel [sic] Form" is DENIED.

Appellees' "Response to Motion to Disqualify....," which is also construed as a motion
requesting sanctions pursuant to 11th Cir. R. 27-4, is DENIED.

Appendix E 32

Appendix F

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

No. 1:10-CV-1641

GEORGE MATTHEWS, NINA MATTHEWS *Plaintiffs*

v.

STATE FARM FIRE & CASUALTY COMPANY Defendant

Andrew J. Becker
David Jason Merbaum Respondents

Filed: July 2, 2019

**MOTION FOR CONTEMPT AGAINST ATTORNEYS DAVID MERBAUM AND
ANDREW BECKER WITH BRIEF IN SUPPORT**

Before: Judge Steve C. Jones



Appendix G

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

No. 11-63910

MERBAUM LAW GROUP, *Movant*

v.

GEORGIA E. MATTHEWS III, *Respondent*

Filed February 21, 2017

CHAPTER 13 STANDING TRUSTEE'S FINAL REPORT AND ACCOUNT

Before: Judge Barbara Ellis-Monro

[Handwritten marks]

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In re:

GEORGE E MATTHEWS, III

Debtor(s)

Case No. A11-63910-BEM

CHAPTER 13 STANDING TRUSTEE'S FINAL REPORT AND ACCOUNT

Mary Ida Townson, chapter 13 trustee, submits the following Final Report and Account of the administration of the estate pursuant to 11 U.S.C. § 1302(b)(1). The trustee declares as follows:

- 1) The case was filed on 05/05/2011.
- 2) The plan was confirmed on 08/09/2011.
- 3) The plan was modified by order after confirmation pursuant to 11 U.S.C. § 1329 on NA.
- 4) The trustee filed action to remedy default by the debtor in performance under the plan on 08/30/2013.
- 5) The case was completed on 07/27/2016.
- 6) Number of months from filing to last payment: 63.
- 7) Number of months case was pending: 70.
- 8) Total value of assets abandoned by court order: NA.
- 9) Total value of assets exempted: \$12,500.00.
- 10) Amount of unsecured claims discharged without payment: \$369,918.20.
- 11) All checks distributed by the trustee relating to this case have cleared the bank.

Total paid by or on behalf of the debtor	\$53,032.26
Less amount refunded to debtor	\$318.00

NET RECEIPTS: **\$52,714.26**

Expenses of Administration:

Attorney's Fees Paid Through the Plan	\$2,942.19
Court Costs	\$0.00
Trustee Expenses & Compensation	\$2,533.53
Other	\$0.00

TOTAL EXPENSES OF ADMINISTRATION: **\$5,475.72**

Attorney fees paid and disclosed by debtor: **\$600.00**

Scheduled Creditors:

Creditor Name	Class	Claim Scheduled	Claim Asserted	Claim Allowed	Principal Paid	Int. Paid
ALEXANDER FARMS COMMUNITY A	Unsecured	550.00	550.00	550.00	16.95	0.00
AMERICAN EXPRESS BANK, FSB	Unsecured	1,366.00	1,366.68	1,366.68	42.13	0.00
AMERICAN EXPRESS CENTURION BI	Unsecured	9,263.00	9,263.58	9,263.58	285.49	0.00
AMERICA'S SERVICING CO./HSBC Bk	Secured	11,900.00	15,396.74	15,396.74	15,396.74	0.00
BUREAU'S INVESTMENT GROUP POR	Unsecured	900.00	919.88	919.88	28.34	0.00
CIGPF I CORP	Unsecured	9,681.00	9,680.68	9,680.68	298.34	0.00
CITIBANK NA	Unsecured	46,015.00	45,901.77	45,901.77	1,414.58	0.00
CITIBANK, NA	Unsecured	14,404.12	14,775.54	14,775.54	455.35	0.00
DISCOVER BANK	Unsecured	2,957.00	2,957.74	2,957.74	91.16	0.00
INTERNAL REVENUE SERVICE	Unsecured	NA	2,151.00	2,151.00	66.29	0.00
INTERNAL REVENUE SERVICE	Priority	8,681.52	6,584.84	6,584.84	6,584.84	0.00
MERBAUM LAW GROUP, P.C.	Unsecured	NA	19,928.83	19,928.83	614.16	0.00
MIDLAND FUNDING, LLC	Unsecured	0.00	1,728.33	1,728.33	53.27	0.00
PRA RECEIVABLES MANAGEMENT, .	Unsecured	2,640.00	2,640.00	2,640.00	81.35	0.00
PRA RECEIVABLES MANAGEMENT, .	Unsecured	1,921.00	1,921.33	1,921.33	59.20	0.00
PRA RECEIVABLES MANAGEMENT, .	Unsecured	2,443.00	2,443.52	2,443.52	75.30	0.00
Gemb/Ge Money Bank Low	Unsecured	0.00	NA	NA	0.00	0.00
Hhgreg/Gemb	Unsecured	0.00	NA	NA	0.00	0.00
Homebancmt	Unsecured	0.00	NA	NA	0.00	0.00
Homebancmt	Unsecured	0.00	NA	NA	0.00	0.00
Citi	Unsecured	1,598.00	NA	NA	0.00	0.00
Delta Outsource Group	Unsecured	895.81	NA	NA	0.00	0.00
Amex	Unsecured	0.00	NA	NA	0.00	0.00
Georgia Department of Revenue	Priority	1.00	NA	NA	0.00	0.00
Americasse	Unsecured	0.00	NA	NA	0.00	0.00
Suntrust Mortgage/Cc 5	Unsecured	191,920.00	NA	NA	0.00	0.00
Tidewater Credit Scrvi	Unsecured	0.00	NA	NA	0.00	0.00
Wells Fargo Hm Mortgag	Unsecured	0.00	NA	NA	0.00	0.00
Macys/Fdsb	Unsecured	0.00	NA	NA	0.00	0.00
Macys/Fdsb	Unsecured	0.00	NA	NA	0.00	0.00
Novastar Financial	Unsecured	0.00	NA	NA	0.00	0.00

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Appendix H

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

No. 11-63910

MERBAUM LAW GROUP, *Movant*

v.

GEORGIA E. MATTHEWS III, *Respondent*

Filed April 19, 2015

MOTION TO ALLOW LATE PROOF OF CLAIM AND PROOF OF CLAIM

Before: Judge Barbara Ellis-Monro

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:)	BANKRUPTCY CASE
)	NO. 11-63910-BEM
GEORGE E. MATTHEWS III)	
)	CHAPTER 13
Debtor)	
)	BARBARA ELLIS-MONRO

)	
MERBAUM LAW GROUP, P.C.)	
)	
Movant,)	
vs.)	CONTESTED MATTER
)	
GEORGE E. MATTHEWS III)	
)	
Respondent.)	
)	
)	

NOTICE OF HEARING

PLEASE TAKE NOTICE that the Merbaum Law Group, P.C. has filed a Motion to Allow late Filed Proof of Claim and related papers with the Court seeking an order holding that the Merbaum Law Group, P.C.'s proof of claim was timely filed.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Merbaum Law Group, P.C.'s Motion to Allow late Filed Proof of Claim in Courtroom 1402, United States Courthouse, 75 Spring Street, S.W., Atlanta, Georgia at 11:00 A.M. on September 15, 2015.

Your rights may be affected by the court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is: Clerk, U. S. Bankruptcy Court, Suite 1340, 75 Spring Street, Atlanta Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below.

If a hearing on the motion for relief from the automatic stay cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within thirty days of filing the motion and agrees to a hearing on the earliest possible date. If a final decision cannot be rendered by the Court within sixty (60) days of the date of the request, Movant waives the requirement that a final decision be issued within that period. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.

This 19th day of August, 2015.

Respectfully submitted,

/s/ David J. Merbaum

David J. Merbaum

Georgia Bar Number: 006700

dmerbaum@bellsouth.net

Andrew J. Becker

Georgia Bar Number: 142595

Merbaum Law Group, P.C.
5755 North Point Pkwy., Suite 284
Alpharetta, Georgia 30022
(678) 393-8232 (phone)
(678) 467-1920 (facsimile)

CERTIFICATE OF SERVICE

I, David J. Merbaum, Esq. certify that I am over the age of 18 and that on August 19, 2015, I served a copy of the foregoing **Motion to Allow late Filed Proof of Claim** by first class U. S. Mail, with adequate postage prepaid on the following persons or entities at the addresses stated:

Mary Ida Townson - Chapter 13 Trustee
191 Peachtree Street, NE, Suite 2200
Atlanta, Georgia 30303
(ALSO BY CM/ECF)

George E Matthews, III
6038 Katie Emma Drive
Powder Springs, GA 30127

Anthony B. Sandberg, Esq.
International Tower - Suite 705
229 Peachtree Street, NE
Atlanta, GA 30303

Abbey M. Ulsh, Esq.
Barrett Daffin Frappier Levine & Block
15000 Surveyor Blvd., Suite 100
Addison, TX 75001
(ALSO BY CM/ECF)

Office of the United States Trustee
362 Richard Russell Building
75 Spring Street, SW
Atlanta, GA 30303
(ALSO BY CM/ECF)

This 19th day of April, 2015.

Respectfully submitted,

/s/ David J. Merbaum
David J. Merbaum
Georgia Bar Number: 006700
dmerbaum@bellsouth.net
Andrew J. Becker
Georgia Bar Number: 142595

Merbaum Law Group, P.C.
5755 North Point Pkwy., Suite 284
Alpharetta, Georgia 30022
(678) 393-8232 (phone)
(678) 467-1920 (facsimile)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:)	BANKRUPTCY CASE
)	
GEORGE E. MATTHEWS III)	NO. 11-63910-BEM
)	
Debtor)	CHAPTER 13
)	
		BARBARA ELLIS-MONRO
)	
MERBAUM LAW GROUP, P.C.)	
)	
Movant,)	
vs.)	CONTESTED MATTER
)	
GEORGE E. MATTHEWS III)	
)	
Respondent.)	
)	

MOTION TO ALLOW LATE FILED PROOF OF CLAIM

COMES NOW the above identified movant, Merbaum Law Group, P.C. ("Movant"), by and through its undersigned counsel, and hereby moves the Court as follows:

JURISDICTION AND VENUE

This Court has jurisdiction over this contested matter pursuant to 28 U.S.C. §§ 1334 and 157. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

FACTUAL BACKGROUND

George E. Matthews, III ("Debtor") filed a petition under Chapter 13 of the Bankruptcy Code on May 5, 2011 (the "Bankruptcy Case"). Pursuant to 1301(a), the automatic stay extends to any co-debtor who is liable on any consumer debt to which Debtor is also liable. Movant is a

law firm hired by Debtor and his wife, Nina Matthews (“the “Co-Debtor”) in March 2010. Movant provided legal services to Debtor and Co-Debtor on an insurance matter involving State Farm from 2010 through 2011. At the time Debtor filed for bankruptcy, he was indebted to Movant for services provided in the principal amount of \$19,070.65 along with interest of \$858.18.

Neither Debtor nor Co-Debtor ever notified Movant of Debtor’s bankruptcy filing or listed Movant as a creditor. On May 5, 2011 this Court set a deadline of September 8, 2011 for all non-governmental creditors to file a proof of claim (the “Bar Date”). Movant was not listed in Debtor’s initial schedules or in Debtor’s mailing matrix of creditors and never received notice of the Bar Date from the Court. Movant only became aware of the Bankruptcy Case in June of this year, after Movant filed suit against Debtor and Co-Debtor, which was several years after expiration of the Bar Date.

Movant has filed its proof of claim concurrently with this filing, a copy of which is attached as Exhibit “1”. Good cause exists to deem Movant’s late proof of claim as timely filed.

ARGUMENT AND CITATION TO AUTHORITY

1. CONSTITUTIONAL DUE PROCESS ALLOWS MOVANT’S CLAIM:

Constitutional due process requires that when a creditor did not have adequate notice of a bankruptcy, the creditor should be allowed to file a tardy claim. *Goodman v. IRS (In re Adams)*, 502 B.R. 645, 648-649 (Bankr. N.D. Ga. 2013). Here, Movant did not receive notice of the Bar Date, was not given notice of the underlying bankruptcy case, and was not and has not been listed as a creditor under the Debtor’s mailing matrix. Therefore, due to this lack of adequate notice, this Court should deem Movant’s claim as timely filed.

WHEREFORE, MOVANT PRAYS AS FOLLOWS:

1. An Order holding that its late filed proof of claim is considered timely filed;
2. Such other and further relief as is just and proper.

This 19th day of August, 2015.

Respectfully submitted,

/s/ David J. Merbaum
David J. Merbaum
Georgia Bar Number: 006700
dmerbaum@bellsouth.net
Andrew J. Becker
Georgia Bar Number: 142595

Merbaum Law Group, P.C.
5755 North Point Pkwy., Suite 284
Alpharetta, Georgia 30022
(678) 393-8232 (phone)
(678) 467-1920 (facsimile)

B10 (Official Form 10) (04/13)

UNITED STATES BANKRUPTCY COURT		Northern District of Georgia	PROOF OF CLAIM						
Name of Debtor: GEORGE E. MATTHEWS III		Case Number: 11-63910-BEM							
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.									
Name of Creditor (the person or other entity to whom the debtor owes money or property): Merbaum Law Group, P.C.									
Name and address where notices should be sent: Merbaum Law Group, P.C. 5755 North Point Parkway, Suite 284 Alpharetta, Georgia 30022		Telephone number: (678) 393-8232 email: abecker@merbaumlaw.com	COURT USE ONLY <input type="checkbox"/> Check this box if this claim amends a previously filed claim. Court Claim Number: _____ <i>(If known)</i> Filed on: _____						
Name and address where payment should be sent (if different from above):		Telephone number: email:	<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.						
1. Amount of Claim as of Date Case Filed: \$ <u>19,928.83</u> If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input checked="" type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.									
2. Basis for Claim: <u>Services Provided</u> (See instruction #2)									
3. Last four digits of any number by which creditor identifies debtor: _____	3a. Debtor may have scheduled account as: _____ (See instruction #3a)	3b. Uniform Claim Identifier (optional): _____ (See instruction #3b)							
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable (when case was filed)		Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____							
5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount. <table style="width: 100%;"> <tr> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B). </td> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4). </td> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5). </td> </tr> <tr> <td style="vertical-align: top;"> <input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7). </td> <td style="vertical-align: top;"> <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8). </td> <td style="vertical-align: top;"> <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)(). </td> </tr> </table> <p style="text-align: right;">Amount entitled to priority: \$ _____</p>				<input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B).	<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4).	<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5).	<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7).	<input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8).	<input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)().
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*Amounts are subject to adjustment on 4/01/16 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.									
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)									



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The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

DEFINITIONS

Debtor

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor

A creditor is a person, corporation, or other entity to whom debtor owes a debt that was incurred before the date of the bankruptcy filing. See 11 U.S.C. §101 (10).

Claim

A claim is the creditor's right to receive payment for a debt owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

Secured Claim Under 11 U.S.C. § 506 (a)

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien.

A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. § 507 (a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor must show only the last four digits of any social-security, individual's tax-identification, or financial-account number, only the initials of a minor's name, and only the year of any person's date of birth. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information.

Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

INFORMATION

Acknowledgment of Filing of Claim

To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system (www.pacer.psc.uscourts.gov) for a small fee to view your filed proof of claim.

Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq.*), and any applicable orders of the bankruptcy court.

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