

**CAUSE NO. 141-307474-19**

<b>VICTOR MIGNOGNA,</b>	§	<b>IN THE DISTRICT COURT</b>
	§	
<b>Plaintiff,</b>	§	
	§	
<b>v.</b>	§	
	§	<b>141<sup>ST</sup> JUDICIAL DISTRICT</b>
<b>FUNIMATION PRODUCTIONS, LLC,</b>	§	
<b>MONICA RIAL, RONALD TOYE, and</b>	§	
<b>JAMIE MARCHI,</b>	§	
	§	
<b>Defendants.</b>	§	<b>TARRANT COUNTY, TEXAS</b>

**DEFENDANTS MONICA RIAL, RONALD TOYE, AND JAMIE MARCHI’S JOINT  
RESPONSE/CROSS-MOTION TO STRIKE (1) PLAINTIFF’S RESPONSE TO THE  
TCPA MOTIONS TO DISMISS, (2) PLAINTIFF’S SECOND AMENDED PETITION,  
AND (3) DENY PLAINTIFF’S MOTION FOR LEAVE TO FILE LATE RESPONSE TO  
DEFENDANTS’ TCPA MOTIONS TO DISMISS**

Defendants Monica Rial, Ronald Toye, and Jamie Marchi (collectively, “Defendants”) hereby file this Joint Response/Cross-Motion to Strike (1) Plaintiff’s Response to the TCPA Motions to Dismiss, (2) Plaintiff’s Second Amended Petition, and (3) to Deny Plaintiff’s Motion for Leave to File Late Response to Defendants’ TCPA Motions to Dismiss Due to Technical Issues (“Motion for Leave”), and respectfully request that the same be stricken from the record and/or disregarded in whole.

## I. INTRODUCTION

It appears that Plaintiff's counsel, Ty Beard, falsely notarized the affidavits for three witnesses, including Plaintiff<sup>1</sup>—conduct which rises to a fraud on the Court—a criminal offense in the State of Texas. The undersigned gave Mr. Beard an opportunity to explain himself.<sup>2</sup> Rather than offer an explanation, Mr. Beard caused Plaintiff to file a Second Amended Petition with declarations from Plaintiff, Huber, and Slatosch. By attaching declarations to the Second Amended Petition Mr. Beard hopes to avoid the striking of the Fraudulent Affidavits and utilize the provision of the TCPA that requires the trial court to consider pleadings and affidavits.<sup>3</sup>

This is an instance when the integrity of the Court is threatened by the behavior of a licensed attorney in the State of Texas, and three witnesses willing to participate in his schemes. Severe sanctions are warranted, including the striking of the “Response,” “Motion to Strike,” and Second Amended Petition.<sup>4</sup>

## II. RELEVANT FACTUAL BACKGROUND

1. On August 30, 2019, Plaintiff was required to file the Response and Motion to Strike, pursuant to this Court's Order (August 1, 2019) and Rule 11 Agreement (August 6, 2019).
2. Plaintiff missed the deadline and filed the Response on August 31, 2019, only after

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<sup>1</sup> The witnesses are Vic Mignonga (resident of Tarrant County), Chuck Huber (resident of Tarrant County), and Chris Slatosch (resident of Ector County). All three men (the “Affiants”) purported to execute affidavits in Tyler, Texas on August 30, 2019, right before the kick off Labor Day weekend (the “Fraudulent Affidavits”).

<sup>2</sup> See Declaration of J. Sean Lemoine (“Lemoine Dec.”) (attached hereto as Exhibit A), at ¶ 28 and Ex. 3.

<sup>3</sup> See TEX. CIV. PRAC. & REM. CODE §27.006(a). (“In determining whether a legal action should be dismissed under this chapter, the court shall consider the pleadings and supporting and opposing affidavits stating the facts on which the liability or defense is based.”).

<sup>4</sup> On August 31, 2019, Plaintiff filed his Response to Defendants' TCPA Motions to Dismiss (the “Response”) and Objections to and Motion to Strike Evidence Offered in Support of Defendants' Motions to Dismiss and Defendants' Supplemental Evidence Filed in Support of Defendants' TCPA Motions to Dismiss and Supplemental (“Motion to Strike”).

prompting from Ms. Rial and Mr. Toye's counsel.<sup>5</sup>

3. To put it mildly, the Response is a disaster, with multiple glaring mistakes, including even incomplete footnotes, such as the following:

<p><sup>29</sup> Exhibit ___ attached hereto (RIAL000038-39).</p> <p><sup>30</sup> Ronald's Deposition, Exhibit 28-__.</p> <p><sup>31</sup> Exhibit __ [Monica's Feb. 3 tweet to @MorphBox, @DBZUk_kamehouse].</p>
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4. Ms. Marchi's counsel quickly recognized that something was amiss with the notary and made demand for Mr. Beard's notary book.<sup>6</sup>

5. On August 31, 2019, Plaintiff filed the Motion for Leave, alleging the Response and Motion to Strike were late because of technical difficulties. This assertion is not supported by the e-File system time entry and, given the behavior of opposing counsel, should not be accepted at face value.

6. On September 2, 2019, undersigned counsel gave Mr. Beard an opportunity to explain what occurred.<sup>7</sup>

**From:** [Sean Lemoine](#)  
**To:** [Ty Beard](#); [Carev Christie](#); [Jim Bullock](#)  
**Cc:** [John Volney](#); [Erick, Casey](#); [sam@johnsonsparks.com](mailto:sam@johnsonsparks.com); [Ethan Minshull](#); [Christian Orozco](#); [Sean Lemoine](#)  
**Subject:** Case: 141-307474-19, VICTOR MIGNOGNA VS. FUNIMATION PRODUCTIONS, LLC, ET AL  
**Date:** Monday, September 02, 2019 9:04:36 AM

Mr. Beard,

I am gravely concerned that the affidavits of Vic Mignogna, Chris Slatosch, and Chuck Huber were not signed in your presence, despite the representation in your jurat (see below). While it is possible that all three drove or flew to Tyler so that you could personally execute those affidavits, it is highly unlikely. I have confirmed that Mr. Slatosch was at the San Japan Anime Convention on August 30, 2019.

Obviously, you understood the import of Mr. Johnson's request for your notary book when he sent his letter on August 31, 2019. Obviously, a photo copy of the Notary book would be some evidence to support what occurred.

Perhaps there is an explanation, but I am struggling to determine what it might be, but before I file a motion with the Court I wanted to give you the opportunity to take a position.

I will wait until September 3, 2019 at 10:00 a.m. for you to provide your side.

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<sup>5</sup> See Lemoine Dec., ¶ 5.

<sup>6</sup> See Lemoine Dec., ¶ 27, and Ex. 2.

<sup>7</sup> See Lemoine Dec., ¶ 5.

7. Rather than explain the mystery of how Mr. Beard notarized three (3) affidavits in Tyler, Texas for three (3) witnesses that each live over 100 miles away from his office, he filed a Second Amended Petition at 10:20 p.m. on Monday September 2, 2019.<sup>8</sup>

8. The Second Amended Petition appears to be an almost mirror image of the Response, with the factual section of the Response filling in for the factual section of the Second Amended Petition.<sup>9</sup>

9. The Second Amended Petition has 427 pages of attachments, with Exhibits A-Q, which include declarations from Plaintiff, Mr. Huber, and Mr. Slatosch, and the condensed depositions of Ron Toye, Monica Rial, and Vic Mignogna.<sup>10</sup>

10. A little before 1:00 a.m. on Sept. 3, 2019, Mr. Beard finally responded that the Fraudulent Affidavits were “mistakenly submitted with defects in form” and threatened sanctions if his fraud on the Court were disclosed.<sup>11</sup>

**From:** [Ty Beard](#)  
**To:** [Sean Lemoine](#)  
**Cc:** [Carey Christie](#); [Jim Bullock](#); [John Volney](#); [Erick Casey](#); [sam@johnsonsparks.com](mailto:sam@johnsonsparks.com); [Ethan Minshull](#); [Christian Orozco](#)  
**Subject:** Re: Case: 141-307474-19, VICTOR MIGNOGNA VS. FUNIMATION PRODUCTIONS, LLC, ET AL  
**Date:** Tuesday, September 03, 2019 12:47:55 AM

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There has been no fraud. The affidavits were mistakenly submitted with defects in form. This is my notice that we're withdrawing them. I'll serve notice tomorrow but this email is sufficient notification.

No harm has been done to your clients, and the declarations in our second amended petition are identical to the defective affidavits, with one very minor exception. (Mr. Mignogna's original affidavit incorrectly stated that he was prescribed Losartin as a result of the acts of defendants, so that statement has been omitted). Otherwise, the declarations have the exact same statements as the affidavits.

...

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<sup>8</sup> See Lemoine Dec., ¶ 29.

<sup>9</sup> See Lemoine Dec., ¶ 30.

<sup>10</sup> It appears that with the extra two days, Plaintiff was able to fill in the footnotes missing in the Response.

<sup>11</sup> See Lemoine Dec., ¶ 11, and Ex. 4.

Of course, there's no need to do that since we've told you that we're withdrawing them.

And if you want to get into a sanctions fight, so be it. However, given your client's rampant discovery abuse (for instance, Rial testified several times that she gave important information to her counsel that was not produced to us), the revealing of sensitive information about Mr. Mignogna in your pleadings (in violation of TCRP 21c.), your numerous violations of TCPRC 13 and 10, etc., I don't think you're going to get much traction with the court.

...

And now that you have notice that we're withdrawing the defective affidavits, we will of course argue that filing motions to strike will violate Rules 13 and/or 10 if filed.

—Ty

11. Shortly thereafter, around 1:30 a.m., in what is an obvious admission of guilt, Mr. Beard withdrew the Fraudulent Admissions.

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TO THE HONORABLE JUDGE OF SAID COURT:

Counsel for Plaintiff Victor Mignogna ("Plaintiff" or "Vic") hereby notifies the Court and Opposing counsel that Plaintiff is withdrawing the Affidavits of Victor Mignogna, Chuck Huber and Christopher Slatosch that were attached to Plaintiff's Response to Defendants' TCPA Motions to Dismiss.

Respectfully submitted,  
BEARD HARRIS BULLOCK HUGHES

By: /s/ Ty Beard

12. Now is the appropriate time to determine what "traction" the Court believes is necessary for Mr. Beard's actions.

### III. ARGUMENT AND AUTHORITIES

#### A. The Court Should Strike the Response and the Motion to Strike for Failure to Comply with the Court's Order and the Parties' Rule 11.

On August 31, 2019, at 12:08 a.m., counsel for Ms. Rial and Mr. Toye emailed all counsel pointing out that Plaintiff had missed this agreed and Ordered deadline, and Defendants' clients would move to strike any late pleading.<sup>12</sup> Counsel for Plaintiff responded, alleging trouble due to

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<sup>12</sup> See Motion for Leave to File Late, PDF page 12.

“file size” and encouraged opposing counsel to have “Sweet Dreams.”<sup>13</sup> But Plaintiff did not even submit the Response (in its unfinished state) until 12:15 a.m.<sup>14</sup>

Error Details	
Filings in Error	Answer/Response
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Error Reason(s)	Odyssey File & Serve could not accept the pdf file because it is secured by security restrictions. The most common security restrictions include password security not allowing the copying or changing of the document. Please remove the security settings and resubmit the filing.
Filing Details	
Case Number	141-307474-19
Case Style	VICTOR MIGNOGNA VS. FUNIMATION PRODUCTIONS, LLC,ET AL
Date/Time Submitted	8/31/2019 12:15 AM CST

Plaintiff’s counsel certified that service of the Response did not occur until August 31, 2019:

<p><i>Certificate of Service</i></p> <p>The undersigned certifies that the foregoing motion was electronically filed today and served via electronic filing manager on counsel of record.</p> <p style="text-align: right;">_____ /s/ Ty Beard Date: August 31, 2019</p>
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Plaintiff did not submit his Response until the day after the deadline, despite his insistence that the failure to comply with the Court’s deadline was due solely to technical difficulties encountered on August 30, 2019. The amateurish, unfinished nature of the Response indicates that it was not complete at midnight on August 30, 2019.<sup>15</sup>

Plaintiff relies on Texas Rule of Civil Procedure 21(f)(6) to excuse his late filing.<sup>16</sup> But if the evidence submitted shows the attempt to file was late, and not caused by some technical

<sup>13</sup> See *id.*

<sup>14</sup> See Motion for Leave, at Ex. A, PDF page 3.

<sup>15</sup> See Response, *passim*.

<sup>16</sup> TEX. R. CIV. P. 21(f)(6) (“If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from the court. **If the missed deadline is one imposed by these rules**, the filing party must be given a reasonable extension of time to complete the filing.”).

problem, then this Rule does not justify an extension. *See Aziz v. Waris*, 01-15-00175-CV, 2015 WL 5076295, at 1, \*3 (Tex. App.—Houston [1st Dist.] Aug. 27, 2015, no pet.).<sup>17</sup> Plaintiff may very well have experienced technical difficulties when he filed his Response on August 31, but this does not excuse the fact that he missed his deadline—an extended deadline that he had requested a month before. Having failed to lay a proper predicate, and the fact that the evidence shows the attempt was made after the deadline, the Court should deny this request.

Further, given Plaintiff's participation in the fraud on the Court, he is not entitled to any benefit of the doubt from the Court.

**B. The Fraudulent Affidavits are a Deliberate Fraud on the Court.**

If, as suspected, the Affiants did not appear before Mr. Beard, then the Fraudulent Affidavits to the Response are inadmissible and constitute an attempt to commit fraud upon the Court. *See Allison v. Conglomerate Gas II L.P.*, 02-13-00205-CV, 2015 WL 5106448, at \*9 (Tex. App.—Fort Worth Aug. 31, 2015, no pet.).

Moreover, although an affidavit is not required to have a jurat affixed to meet the statutory definition of an affidavit, the Purported Affidavit contained one signed by the notary stating that **Wife had both signed and sworn to the affidavit “before” the notary.** Thus, even if government code section 312.011(1) does not require an affiant to swear to the affidavit's truth in the physical presence of a notary, **the jurat on the Purported Affidavit falsely claimed that Wife had done so.** *See Olsen v. Comm'n for Lawyer Discipline*, 347 S.W.3d 876, 883–84 (Tex.App.—Dallas 2011, pet. denied) (**describing jurat on purported self-proving will as “false” when witness did not sign in notary's physical presence as stated in the jurat.**)

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<sup>17</sup> Citing *Ex parte Agostadero*, No. 14–13–00975–CR, 2014 WL 1622772, at \*1–2 (Tex.App.—Houston [14th Dist.] Apr. 22, 2014, pet. ref d) (mem. op., not designated for publication) (dismissing appeal after concluding motion was untimely filed “about five minutes late” when appellant “did not allege or prove that the motion was transmitted to appellant's electronic filing service provider before midnight, or that there was a technical failure or system outage that caused the untimely filing” of his motion to extend the time to file his notice of appeal).

(emphasis added). If a written statement does not meet the requirements of the Texas Government Code Section 312.011, it is not an affidavit and cannot be admitted as evidence. *Mansions in the Forest, L.P. v. Montgomery County*, 365 S.W.3d 314, 317 (Tex. 2012).

Not only are the Fraudulent Affidavits inadmissible, making false representations on an affidavit are criminal acts by both the Affiants and Mr. Beard. *See Martin v. Frail*, SA-09-CA-695-OG, 2010 WL 11506662, at \*4 (W.D. Tex. Oct. 28, 2010).<sup>18</sup> The typical sanction (in addition to attorneys' fees) for false notary jurat, is that the Fraudulent Affidavits should be struck and disregarded. *See id*; *see also Allison*, 2015 WL 5016448 at \*9.

The distance between Mr. Beard's office and the residence of each Affiant, as stated in their respective Fraudulent Affidavit, is significant:

<b>Residence</b>	<b>County of Signature on the Affidavit</b>	<b>Distance from residence to BHBH</b> <sup>19</sup> 100 Independence Place, Suite 300 Tyler, Texas 75703
Mr. Slatosch 4017 E 37 <sup>th</sup> Street Odessa, Texas 79762 <sup>20</sup> Ector County, Texas	Smith	454 miles
Mr. Huber 7005 Overhill Road Fort Worth, Texas 76116 Tarrant County, Texas	Tarrant	141 miles
Plaintiff 4711 Taylor Lane	Smith	125 miles

<sup>18</sup> ("In Texas, a notarized certificate to an affidavit is not valid if the affiant did not appear personally before the notary. Indeed, as discussed in a case cited by the individual defendants and as addressed in exhibit 6 to their response to Martin's motion to file a corrected affidavit, **falsely notarizing a document can result in criminal sanctions:**

It is of course true that to constitute a notarial certificate to an affidavit valid, the affiant must appear personally before the notary; absent which the certificate is false, and its execution a criminal offense, **not only on the part of the notary, but on that of those participating in the commission of the crime**") (emphasis added) (citations omitted).

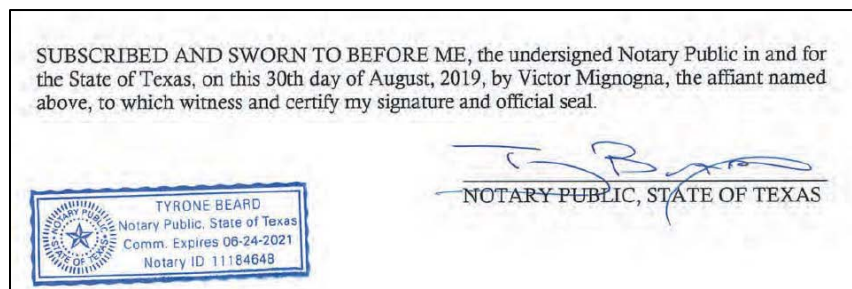
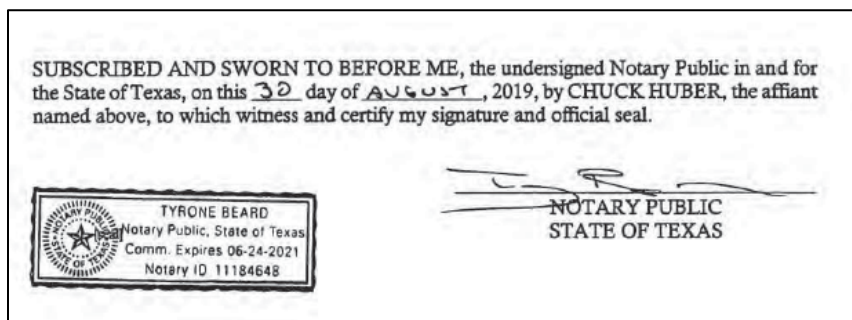
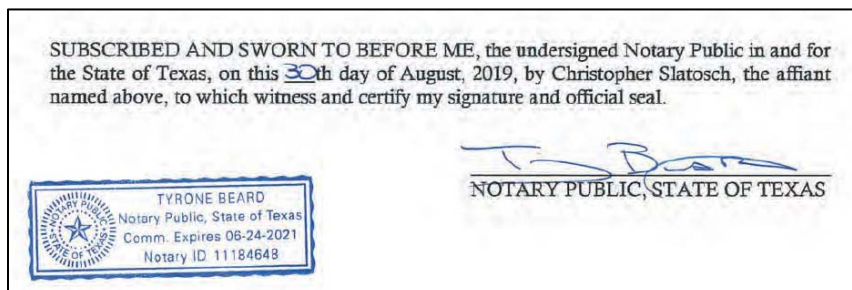
<sup>19</sup> As calculated using [www.maps.google.com](http://www.maps.google.com).

<sup>20</sup> The Slatosch Affidavit does not identify his address. However, filings with the Texas comptroller for Silvrfire, LLC (Mr. Slatosch's company as identified in ¶ 2 of his affidavit) identify this as the mailing address associated with this entity.



Grapevine, Texas 76051 <sup>21</sup> Tarrant County, Texas		
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All three affidavits attest that they were **allegedly** signed in front of Mr. Beard:



Based on tweets from Mr. Beard’s twitter handle <https://twitter.com/TyBeard10>, it appears that on August 30, 2019, Mr. Beard was in the office of Beard Harris Bullock Hughes (“BHBH”) in Tyler, Texas (consistent with his jurat signature).<sup>22</sup> It strains belief that three (3) affiants (each over one hundred miles away) appeared before Mr. Beard to execute affidavits that could be

<sup>21</sup> Plaintiff’s Affidavit does not identify his address. However, filings with the Texas comptroller identify Plaintiff as the registered agent for Requiem Productions, LLC, and 4711 Taylor Lane, Grapevine, Texas as the mailing address associated with this entity.

<sup>22</sup> See Lemoine Dec., ¶¶ 10-14.

executed in any city with a bank or lawyer. This is buttressed by the belief that Mr. Slatosch has been in San Antonio, Texas since at least August 29, 2019, to attend San Japan, an Anime convention at the Henry B. Gonzales Convention Center.<sup>23</sup>

Mr. Beard's failure to respond when directly confronted with accusations of criminal behavior, in particular as a licensed attorney, are indications that he falsely notarized the Fraudulent Affidavits.

Plaintiff's counsel has withdrawn the fraudulent Affidavits, essentially admitting to his misconduct.<sup>24</sup> But this does not erase his sanctionable conduct, or his violation of his oath.<sup>25</sup> Further, the Court should note that Plaintiff's counsel, specifically Mr. Beard and Mr. Bullock have been sanctioned for fraudulent behavior before a Texas Court in the past:<sup>26</sup>

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<sup>23</sup> See Lemoine Dec., ¶¶ 21-25.

<sup>24</sup> See Lemoine Dec., ¶ 33.

<sup>25</sup> TEX. GOV'T CODE ANN. § 406.010(c); Section 1, Article XVI, Texas Constitution.

<sup>26</sup> See Lemoine Dec., ¶ 34, and Ex. 5; *see also*

<http://www.search.txcourts.gov/SearchMedia.aspx?MediaVersionID=cd0b00a4-60d2-42b2-bf49-d560127dc671&coa=coa12&DT=Brief&MediaID=660031d1-cfb9-425f-a4c3-98aee4c0130e>; *See In re Beard*, 12-15-00005-CV, 2015 WL 273187, at \*1 (Tex. App.—Tyler Jan. 20, 2015, no pet.) (“In this original proceeding, Ty Beard, Jim E. Bullock, Brian Casper, Craig Daugherty, and Don Harris (Relators) seek mandamus relief from the trial court's April 22, 2014 order directing them to pay attorney's fees to the Deborah Patterson Howard Trust as a discovery sanction. . . . we deny their petition for writ of mandamus and dismiss their motion for emergency relief as moot.”).

**ORDER GRANTING MOTION FOR SANCTIONS**

Came on to be heard on September 12, September 19, and November 13, 2013, Robert H. Patterson, Jr.'s Motion to Quash Subpoena and for Sanctions for Discovery Abuse ("Motion for Sanctions"). The Court, having considered the Motion, the evidence presented and having heard arguments of counsel, is of the opinion that the Motion for Sanctions should be GRANTED. The Court finds that:

1. The attorneys for Deborah Patterson Goughnor, specifically Craig M. Daugherty, Ty Beard, Donald Harris, Jim E. Bullock and Brian Casper ("Deborah's Attorneys") prepared, signed and sent a false trial Subpoena to Central Title Company dated May 28, 2013 (the "False Trial Subpoena"). The False Trial Subpoena commanded Central Title Company to appear before this Court on June 25, 2013 at 11:00 a.m. to give testimony and provide evidence in this case. No hearing or trial was ever set for June 25, 2013, in this matter.
2. Deborah's Attorneys sent the False Trial Subpoena in order to avoid compliance with Rules 176.2, 176.3(b), 199.2(b)(5), 200, and 205, which constitutes an abuse of the discovery process that is sanctionable under Rule 215.3.

**C. The Court Should Strike the Second Amended Petition.**

Plaintiff desperately wants a continuance – respectfully, the Court should not give him one, nor allow him and his counsel make a mockery of rules designed to stop perjury and other fraudulent behavior. Further, even though the TCPA (in the form before the September 1, 2019) does not have set deadlines for a response, this is not a justification for trial by ambush. *See Mission Wrecker Serv., S.A., Inc. v. Assured Towing, Inc.*, 04-17-00006-CV, 2017 WL 3270358, at \*3–4 (Tex. App.—San Antonio Aug. 2, 2017, pet. denied) (“The absence of a rule directly applicable to an issue should not be used as a means to ambush opposing counsel. *Gessmann v. Stephens*, 51 S.W.3d 329, 340 n.7 (Tex. App.—Tyler 2001, no pet). Instead, in the absence of a rule, the trial court should have the discretion to determine the timeliness of a response.”).

To the extent Plaintiff intends to rely on the Second Amended Petition and the 427 pages attached thereto, it is a violation of the Rule 11 Agreement.<sup>27</sup> Further, this Court has discretion under Tex. R. Civ. P. 70 to deny an amended pleading when it functions as a surprise to the opposing party. *See Minor v. Aland*, 775 S.W.2d 744, 746 (Tex. App.—Dallas 1989, writ denied). Here, the failure to comply with this Court’s Order and the Rule 11, while submitting the Fraudulent Affidavits, only to try and backdoor them as “attachments” to the Second Amended Petition functions as a surprise. In particular, because Defendants strategy was built around timely filing responses based on the First Amended Petition, the Second Amended Petition impacts Defendants’ evidentiary objection and reply strategy.

**D. Defendants Request a Hearing for Sanctions Against Plaintiff and Mr. Beard, After the Court Renders a Decision on the TCPA Motions to Dismiss.**

Defendants will appear on September 6, 2019 for the Motions to Dismiss, and if successful, a subsequent hearing shall occur to determine the appropriate award of attorneys’ fees and sanctions against Plaintiff. There also should be redress for the Fraudulent Affidavits, in which Mr. Beard and Plaintiff are the key participants. Because of the timing of the Fraudulent Affidavits and the Second Amended Petition, and Defendants obligations to file a timely reply, that motion cannot be presented today. But it is coming.

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<sup>27</sup> See Rule 11 Agreement (“1. Plaintiff will file his responses to the TCPA Motions and any objections/motions to strike on or before August 30, 2019.”) (emphasis added).

#### IV. CONCLUSION

For the reasons stated, Defendants respectfully request that (a) the Motion for Leave be denied; (b) the Response and Motion to Strike be stricken and disregarded; (c) the Second Amended Petition be stricken, (d) a hearing be set for sanctions against Plaintiff and Mr. Beard concerning the actions described herein, and (e) for any additional relief to which they may be justly entitled.

Respectfully Submitted,

/s/J. Sean Lemoine

J. Sean Lemoine

Texas State Bar No. 24027443

[sean.lemoine@wickphillips.com](mailto:sean.lemoine@wickphillips.com)

**Wick Phillips Gould & Martin, LLP**

3131 McKinney Ave., Suite 100

Dallas, Texas 75204

Telephone: 214-692-6200

Facsimile: 214-692-6255

ATTORNEY FOR MONICA RIAL

AND RON TOYE

*and*

**JOHNSON & SPARKS PLLC**

/s/ Samuel H. Johnson

**SAMUEL H. JOHNSON**

State Bar No. 24065507

7161 Bishop Road, Suite 220

Plano, Texas 75024

972.918.5274 (phone/fax)

[sam@johnsonsparks.com](mailto:sam@johnsonsparks.com)

**ATTORNEY FOR DEFENDANT JAMIE MARCHI**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing instrument was served on counsel of record via electronic service pursuant to the Texas Rules of Civil Procedure on September 3, 2019.

*/s/J. Sean Lemoine*

\_\_\_\_\_  
J. Sean Lemoine

# EXHIBIT A

CAUSE NO. 141-307474-19

VICTOR MIGNOGNA,

Plaintiff,

v.

FUNIMATION PRODUCTIONS, LLC,  
MONICA RIAL, RONALD TOYE, and  
JAMIE MARCHI,

Defendants.

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IN THE DISTRICT COURT

141<sup>ST</sup> JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

DECLARATION OF J. SEAN LEMOINE

1. I am a partner with the law firm of Wick Phillips Gould & Martin, LLP (“Wick Phillips”).
2. I am of sound mind, competent and authorized to make this declaration, the statements of which are within my personal knowledge, true, and correct.
3. I am an attorney at law duly admitted and licensed to practice before the courts of the State of Texas. I was so licensed in November 2000. My practice is based out of the DFW Metroplex, which includes Dallas County, Tarrant County, and Collin County, Texas (and has been so for my entire career).
4. I am counsel of record for Defendants Monica Rial and Ron Toye.
5. On August 31, 2019, at 12:08 a.m. I sent an email to counsel for Plaintiff Vic Mignogna (“Plaintiff”) because Plaintiff had failed to file a response to Ms. Rial and Mr. Toye’s Motion to Dismiss pursuant to the Texas Citizens Participation Act. A true and correct copy of the relevant insert is below.



**From:** Sean Lemoine <slemoine@WickPhillips.com>  
**Sent:** Saturday, August 31, 2019 12:08 AM  
**To:** Ty Beard  
**Cc:** Carey Christie; Jim Bullock; Christian Orozco; Ethan Minshull; sam@johnsonsparks.com; John Volney; Erick, Casey; Sean Lemoine  
**Subject:** RE: Case No. 141-307474-19 8/1/19 Motion to Strike Supplemental Filings

Mr. Beard,

You are late in violation of the Rule 11.

We will move to strike whatever you might file, if you actually file anything.

6. Prior to, and up to 12:08 a.m., no one from Plaintiff's counsel's office had emailed me to identify any issues they might be having with filing any response or other filing.

7. At 12:17 a.m., Plaintiff's counsel forwarded me (and others) an email from eFileTexas.gov indicating that Plaintiff had initiated an upload at 12:15 a.m. that had failed. Below is a true and correct copy of the relevant portion of the email.

**From:** Jim Bullock  
**Sent:** Saturday, August 31, 2019 12:17 AM  
**To:** Sean Lemoine <slemoine@WickPhillips.com>; Ty Beard <ty@beardandharris.com>; Carey Christie <carey@beardandharris.com>; Christian Orozco <corozco@lynnllp.com>; Ethan Minshull <ethan.minshull@wickphillips.com>; sam@johnsonsparks.com; John Volney <jvolney@lynnllp.com>; Erick, Casey <cerick@cowlesthompson.com>  
**Subject:** FW: Submission Failed for Envelope Number: 36452123 in Case: 141-307474-19, VICTOR MIGNOGNA VS. FUNIMATION PRODUCTIONS, LLC,ET AL

FYI.

**From:** [No-Reply@eFileTexas.gov](mailto:No-Reply@eFileTexas.gov) <[No-Reply@eFileTexas.gov](mailto:No-Reply@eFileTexas.gov)>  
**Sent:** Saturday, August 31, 2019 12:15 AM  
**To:** Jim Bullock <jim@beardandharris.com>  
**Subject:** Submission Failed for Envelope Number: 36452123 in Case: 141-307474-19, VICTOR MIGNOGNA VS. FUNIMATION PRODUCTIONS, LLC,ET AL



## Submission Failure

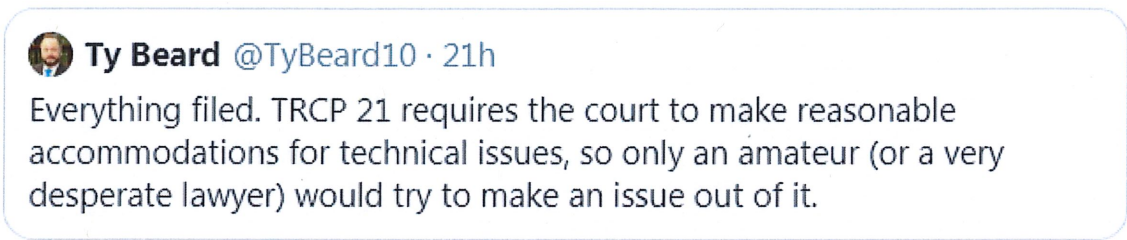
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Case Number: 141-307474-19  
Case Style: VICTOR MIGNOGNA VS.  
FUNIMATION PRODUCTIONS, LLC,ET  
AL

The filing below was **not** successfully submitted.

Error Details	
<b>Filings in Error</b>	Answer/Response
<b>Document(s) Causing Error</b>	Plf Response to MTDs_FINAL.pdf
<b>Error Reason(s)</b>	Odyssey File & Serve could not accept the pdf file because it is secured by security restrictions. The most common security restrictions include password security not allowing the copying or changing of the document. Please remove the security settings and resubmit the filing.
Filing Details	
<b>Case Number</b>	141-307474-19
<b>Case Style</b>	VICTOR MIGNOGNA VS. FUNIMATION PRODUCTIONS, LLC,ET AL
<b>Date/Time Submitted</b>	8/31/2019 12:15 AM CST
<p><b>Note about credit card funds:</b> Any funds related to this filing will automatically be reversed back onto the card used. Funds will become available based on your financial institution's policies (typically 3-10 business days).</p>	

8. On August 31, 2019, Plaintiff ultimately filed his Response to Defendants' TCPA Motions to Dismiss (the "Response") and Objections to and Motion to Strike Evidence Offered in Support of Defendants' Motions to Dismiss and Defendants' Supplemental Evidence Filed in Support of Defendants' TCPA Motions to Dismiss and Supplemental ("Motion to Strike").

9. On August 31, 2019, I took a snapshot (which is true and correct image) of the relevant section of the twitter account for Plaintiffs counsel, Ty Beard, which is <https://twitter.com/TyBeard10>.



10. I also took the following true and correct image snapshot from Mr. Beard's twitter account for the purpose of establishing that he was in Tyler, Texas on August 30, 2019, which is important because Mr. Beard has submitted three affidavits that he purportedly notarized in front of the affiants (presumably while all three were in Tyler, Texas).



11. In order to determine what time this photograph was taken I clicked on the photo which took me to the twitter handle for @yusamadd, and I took a true and correct image

snapshot of the photo below, which indicates this photo was taken on August 30, 2019, at 12:55 p.m., which would put Mr. Beard in Tyler, Texas at that time.

[@NickRekieta](#) it was really ice meeting [@TyBeard10](#) today. I dropped off a bottle of something good for you too!



12:55 PM · Aug 30, 2019 · Twitter for iPhone

12. I also took the following true and correct image snapshot from Mr. Beard's account (below).



**Ty Beard** @TyBeard10 · Aug 30

Late afternoon in the BHBH conference room today:



80 83 752

13. Upon information and belief, the reference to BHBH above refers to the law firm of Beard Harris Bullock & Hughes which maintains the website

<https://www.beardandharris.com/>

14. Based on Mr. Beard's comment, it appears he was in Tyler, Texas on August 30, 2019.

15. Upon review of the Affidavits attached to the Response, I noticed that Mr. Beard was the notary for the Affidavits of Chris Slatosch, Chuck Huber, and Plaintiff. True and correct copies of the "Affidavits" are attached hereto as Exhibit 1.

16. The following table is based off of information from the Affidavits, information I obtained from <https://mycpa.cpa.state.tx.us/coa/> and <https://www.mapquest.com/> which I used to look up information on the affiants so that I could calculate distances between Mr. Beard's office and the affiant's assumed or known residence.

Residence	County of Signature on the Affidavit	Distance to Mr. Beard's office from residence <sup>1</sup>
Mr. Slatosch Ector County, Texas 4017 E 37 <sup>th</sup> St. Odessa, Texas <sup>2</sup>	Smith	454 miles
Mr. Huber 7005 Overhill Road, Fort Worth, Tarrant County, Texas.	Tarrant	141 miles
Plaintiff Tarrant County, Texas 4711 Taylor Lane, Grapevine,	Smith	124 miles

<sup>1</sup> Mr. Beard's office is located at 100 Independence Place, Suite 300 Tyler, Texas 75703 according to his signature block on the Response.

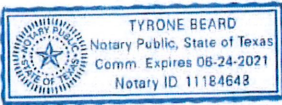
<sup>2</sup> The Slatosch affidavit does not identify his address. However, filings with the Texas comptroller for Silverfire, LLC (Mr. Slatosch's company as identified in ¶ 2 of his affidavit) identify this as the mailing address associated with this entity.

Texas<sup>3</sup>

17. The Affidavits are unequivocal that they were signed in front of Mr. Beard.

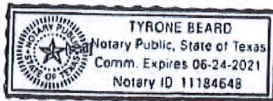
Below are true and correct image snapshots of the jurat for each affiant.


SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this 30th day of August, 2019, by Christopher Slatosch, the affiant named above, to which witness and certify my signature and official seal.



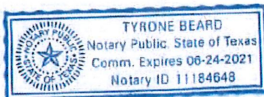
  
NOTARY PUBLIC, STATE OF TEXAS

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this 30 day of AUGUST, 2019, by CHUCK HUBER, the affiant named above, to which witness and certify my signature and official seal.



  
NOTARY PUBLIC  
STATE OF TEXAS

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this 30th day of August, 2019, by Victor Mignogna, the affiant named above, to which witness and certify my signature and official seal.



  
NOTARY PUBLIC, STATE OF TEXAS

18. Given that none of the affiants live in Tyler, Texas, and considering August 30, 2019, was the Friday before Labor Day weekend, I began to suspect that none of the Affidavits were signed in Mr. Beard's presence. It would be highly unusual for individuals to drive to

<sup>3</sup> Plaintiff's affidavit does not identify his address. However, filings with the Texas comptroller identify Plaintiff as the registered agent for Requiem Productions, LLC, and 4711 Taylor Lane, Grapevine, Texas as the mailing address associated with this entity.

Tyler, Texas, or Mr. Beard to drive or fly to them, when any licensed attorney knows that an affidavit can be notarized by any authorized notary wherever they are.

19. Mr. Beard's tweets that he was in Tyler, Texas on August 30, 2019, lent credence to my belief that the jurats on the Affidavits were in fact false.

20. I next decided to determine if social media placed one of the three affiants somewhere other than Tyler, Texas.

21. By looking at the Instagram page for Kameha Con which is found here, <https://www.instagram.com/kamehacon/?igshid=1h9x0bw0fzfp0>, I clicked on the below picture, which is a true and correct image snapshot taken from that page. The true and correct hyperlink for this image is <https://www.instagram.com/p/B1zHbGIjUc/>

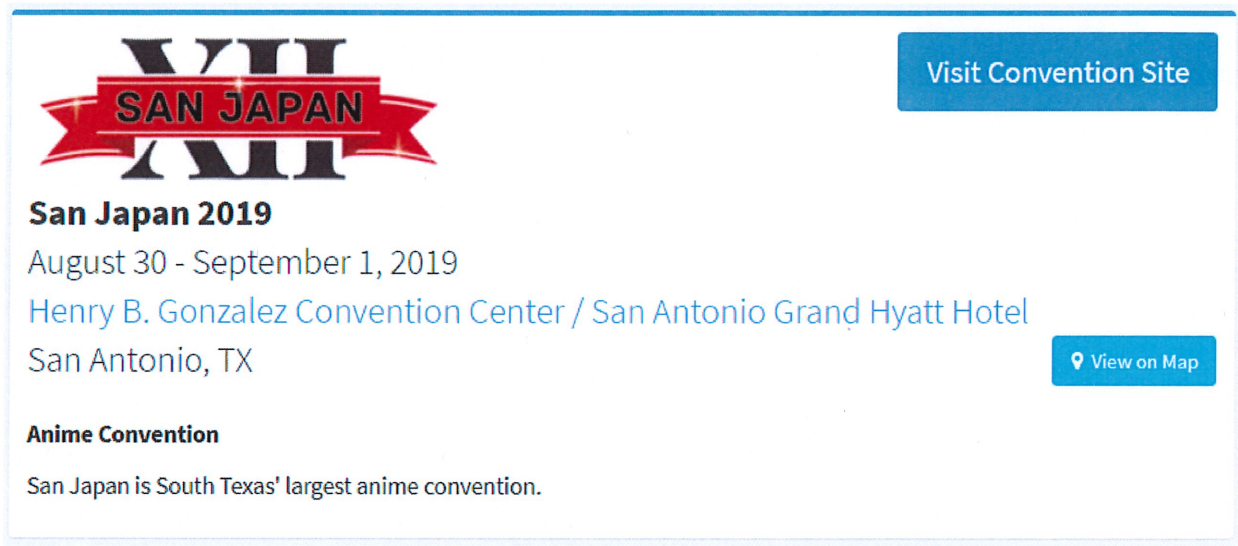
22. Mr. Slatosch's affidavit indicates that he is the owner of Kameha Con.



23. This indicated to me that Mr. Slatosch was at the Henry B. Gonzalez Convention Center, on August 30, 2019, which is located in San Antonio, Texas, as evidenced by the following

<https://animecons.com/events/info/11311/san-japan-2019>

24. Below is a true and correct image snap shot from this website confirming the location of the Henry B. Gonzalez Convention Center.



**XIII SAN JAPAN XIII**

**San Japan 2019**  
August 30 - September 1, 2019  
Henry B. Gonzalez Convention Center / San Antonio Grand Hyatt Hotel  
San Antonio, TX

**Anime Convention**  
San Japan is South Texas' largest anime convention.

Visit Convention Site

View on Map

25. If Mr. Slatosch was in San Antonio, Texas and Mr. Beard was in Tyler, Texas (both on August 30, 2019) absent extraordinary travel (which makes no logical sense given the presence of notaries in most banks and law firms in both cities) Mr. Slatosch deliberately signed an affidavit, outside the presence (and not even in the same city) as Mr. Beard.

26. I suspect, given the distance between Fort Worth and Tyler, Texas, that neither Plaintiff nor Mr. Huber were in the same city when they executed their respective Affidavits.



27. On August 31, 2019, Jamie Marchi's counsel, Sam Johnson, sent a letter to Mr. Beard demanding his notary book. A true and correct copy of that letter is attached hereto as Exhibit 2.

28. In order to give Mr. Beard an opportunity to explain himself I sent him an email on the morning of Sept. 2, 2019. A true and correct copy is attached hereto as Exhibit 3

29. Rather than explain the mystery of how Mr. Beard notarized three (3) affidavits in Tyler, Texas for three (3) witness that each live over 100 miles away from his office, he filed a Second Amended Petition at 10:20 p.m. on Monday September 2, 2019.

30. The Second Amended Petition appears to be an almost mirror image of the Response, with the factual section of the Response filling in for the factual section of the Second Amended Petition.

31. The Second Amended Petition has 427 pages of attachments, with Exhibits A-Q, which include declarations from Plaintiff, Mr. Huber, and Mr. Slatosch, and the condensed depositions of Ron Toye, Monica Rial, and Vic Mignogna.

32. A little before 1:00 a.m. on Sept. 3, 2019, Mr. Beard finally responded that the Fraudulent Affidavits were "mistakenly submitted with defects in form" and threatened sanctions if his fraud on the Court were disclosed. A true and correct copy is attached hereto as Exhibit 4.

33. Plaintiff's counsel has withdrawn the fraudulent Affidavits, essentially admitting to his misconduct.

34. Mr. Beard and Mr. Bullock have been sanctioned for fraudulent behavior before a Texas Court in the past. Attached hereto as Exhibit 5 is a true and correct copy is the Sanctions Order, which I pulled from

<http://www.search.txcourts.gov/SearchMedia.aspx?MediaVersionID=cd0b00a4-60d2-42b2->

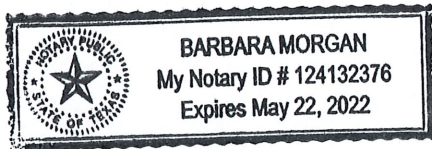
[bf49-d560127dc671&coa=coa12&DT=Brief&MediaID=660031d1-cfb9-425f-a4c3-98aee4c0130e.](https://www.legis.state.tx.us/lookup?_af=660031d1-cfb9-425f-a4c3-98aee4c0130e)

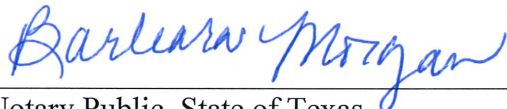
35. This concludes my affidavit testimony.

Executed in Dallas County, Texas on September, 2019.

  
\_\_\_\_\_  
J. Sean Lemoine

SUBSCRIBED AND SWORN TO BEFORE ME on this 3<sup>rd</sup> day of September 2019.



  
\_\_\_\_\_  
Notary Public, State of Texas

# EXHIBIT 1

CAUSE NO. 141-307474-19

VICTOR MIGNOGNA,  
Plaintiff,

v.

FUNIMATION PRODUCTIONS, LLC,  
JAMIE MARCHI, MONICA RIAL,  
AND RONALD TOYE,  
Defendants

§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT

141<sup>st</sup> JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

**AFFIDAVIT OF CHRISTOPHER SLATOSCH**

STATE OF TEXAS  
COUNTY OF SMITH

§  
§

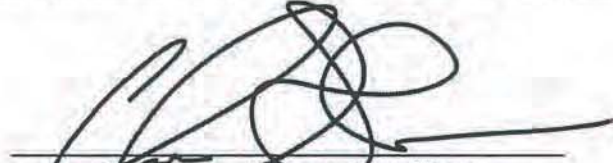
On this day, Christopher Slatosch, personally known to me to be the affiant herein, appeared before me and, after being sworn according to law, on his oath, deposed and said as follows:

1. My name is Christopher Slatosch, and I live in Ector County, Texas. I am over the age of eighteen years and competent to make this affidavit. I have personal knowledge of the facts stated in this Affidavit, and these facts are true and correct.
2. I and my company, Silvrfire LLC ("Silvrfire") are owners of Kameha Con, an anime convention.
3. The agreement attached as Exhibit A was a binding contract between Silvrfire and Victor Joseph Mignogna ("Vic"), providing for his appearance at Kameha Con on April 12-14, 2019. This agreement was executed in July of 2018.
4. The listed date for Kameha Con is incorrect in the Agreement; it should have been April 12-14, 2019, but both parties understood.
5. Monica Rial ("Rial") was also scheduled to appear at Kameha Con on April 12-14, 2019.
6. From February, 2019 through April 11, 2019, I had several conversations with Ronald Toye ("Toye") and Rial by telephone and numerous text

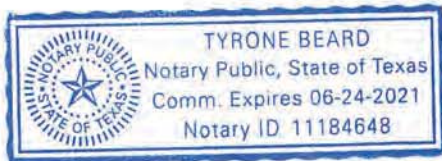
message conversations with Toye. Exhibit B is a true and accurate copy of the text messages exchanged between us.

7. In these conversations, Toye repeatedly asserted that Vic was a sexual predator and that criminal charges would soon be filed against Vic. Toye urged me repeatedly to terminate Vic's appearance. I told him that this would breach the contract with Vic. He urged me to do it anyway, emphasizing that criminal charges would be filed before April 12-14, 2019.
8. In these conversations, Toye also encouraged me to not do business with Vic in the future.
9. I participated in a telephone conversation with Rial in which she repeatedly asserted that Vic was a sexual predator and that criminal charges would soon be filed against him. She also implied (and I inferred) that she would convince numerous other voice actors to cancel their appearances at Kameha Con. I heard Toye in the background talking to her and she periodically responded in agreement with him.
10. Termination of multiple appearances at the last minute would have severely threatened the profitability of Kameha Con.
11. Her threat turned out to be credible, since a number of the voice actors she claimed to have influence over ultimately did cancel their appearances.
12. Rial and Toye were aware that a contract had been executed between Silvrfire and Vic because I informed both of them of that fact and they repeatedly urged me to have Silvrfire breach the contract.
13. Toye also clearly implied that his company would withdraw a promised sponsorship (worth approximately \$25,000) if Silvrfire did not breach its contract with Vic. The sponsorship ultimately did not materialize.
14. Silvrfire did breach its contract with Vic by cancelling his appearance. After being threatened with litigation from Vic's counsel, and after long negotiations and legal expenses, Silvrfire agreed that Vic could attend Kameha Con under numerous restrictions that were not part of the original agreement and that were not imposed on other guests, including Vic paying for additional security, not participating in panel discussions, signing in a different location from the other guests, etc.
15. As a result of this compromise, a number of the voice actors Rial mentioned cancelled their appearances.
16. In summary, Rial and Toye individually and jointly, told me that Vic was a sexual predator who would be criminally charged before Kameha Con

and they urged me to breach the contract with Vic. They threatened to lead a boycott of Kameha Con and they threatened to withdraw significant sponsorship money that had been promised unless Silvrfire breached its contract with Vic. Finally, they urged me to never do business with Vic in the future.

  
\_\_\_\_\_  
Christopher Slatosch, Affiant

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this 30th day of August, 2019, by Christopher Slatosch, the affiant named above, to which witness and certify my signature and official seal.



  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

Slatosch Affidavit  
**Exhibit A**



SILVRFIRE LLC | ODESSA, TX 79762 | 432-653-6511 | [CHRIS@SILVRFIRE.COM](mailto:CHRIS@SILVRFIRE.COM)

Confidential Contract between "SILVRFIRE LLC" and "Guest" for  
Personal and/or Autograph Appearance (Hereafter referred to as the "Agreement")

## I. General

This document and all identified and attached Appendices constitute  
an agreement between Guest and SilvrFire LLC.

### Guest Information :

- **Full Legal Name:** Vic Mignogna
- **DOB:** 08/27/62
- **Email:** [victhewop@aol.com](mailto:victhewop@aol.com)
- **Airline AA#, SkyMiles#, Rapid Rewards#:** 340YNL8
- **TSA#:** n/a
- **Departing Airport:** LAX
- **Signature Price:** 30
- **Table Side Photo Op Price:** 20

**1.1** This Agreement shall be governed by the laws of the state of Texas. In the event of any conflict, inconsistency, or incongruity between the provisions of any attached Appendices, the provisions of this Agreement shall govern and control.

**1.2** Silvrfire, by virtue of this Agreement, agrees to conduct the:

- **Event:** Kameha Con
- **Dates:** April 12th-14th 2018
- **Venue:** Irving Convention Center-500 west Las Colinas Boulevard
- **City, State:** Irving, TX 75039

**1.3** Vic Mignogna will be the Guest's representative and agent for purposes of facilitating this Agreement in all respects.

**1.4** It is understood that this Agreement is binding on both parties. It cannot be altered or changed unless agreed to, in writing, by SilvrFire and Guest and/or SilvrFire LLC and Agent. No oral representation, warranty, condition, or agreement of any kind or nature whatsoever shall be binding unless specifically incorporated into this Agreement.



**1.5** Silvrfire will not announce Guest until this agreement is fully executed unless otherwise agreed upon in writing by SilvrFire and Guest/Representative.

## **II. Financial and Related Arrangements by Promoter**

**SilvrFire agrees to provide Guest with the following:**

**2.1** \$6,500.00US Dollars (hereafter referred to as the "Guarantee") will be paid to Guest:

**2.1 (a)** The Guarantee represents a draw against autograph, merchandise, photo opportunity and Meet & Greet sales made at the Event during autograph sessions at the signing table (such sales hereafter referred to as the "Proceeds") at Silvrfire's Event;

**2.1 (b)** Silvrfire guarantees Guest the total amount of the Guarantee whether or not the Proceeds actually reach such amount;

**2.1 (c)** Should Guest's proceeds not reach the amount of sales necessary to equal or surpass the Guarantee, Silvrfire will purchase autographs the difference in such amount needed to bring the total amount of proceeds to the guarantee.

**2.1 (d)** Guest will retain 100% of all Proceeds collected during Event and at the end of each day the Agent/assigned SilvrFire Handler will report the total amount of proceeds collected during the Event to Silvrfire Staff after a tally of the daily sales has been completed

### **II. (A) Photo-Ops**

**2.2** If SilvrFire and Guest agree in writing, SilvrFire may offer professional photo opportunities with Guest for \$50 for each photo taken.

**2.2 (a)** Of the for each photo taken, Guest will receive \$25 and Photographer and SilvrFire will divide the remaining however they may agree; Guest amount will count toward guarantee, when guarantee is applicable.

**2.2 (b)** Photographer will supply 8" x 10" photographs.

### **II. (B) Meet & Greets**

**2.2 (c)** Guest agrees to participate in at least (1) one Meet & Greet during scheduled hours of appearance. Guest will receive combo price of autograph and signature. The remaining will be spit between promoter, artist and signature verification company.

**2.2 (d)** Meet & Greets will be presold and guest will receive Meet & Greet purchases upon arrival to the event.

**2.2 (e)** Meet & Greet amount paid out to guest will count toward guarantee is applicable.

**2.2 (d)** If Meet & Greet is scheduled, it will be cleared with Guest upon signing. Schedule will be set at least 30 days before the event and included in guest itinerary.

## **II. (C) Travel/Lodging/Misc. Arrangements**

**2.3** Promoter will provide one Economy Airfare for Guest: (1) Economy round-trip airfare when available from for Guest. Guest must approve all flight arrangements in advance of Promoter's purchase. Please note the following:

**2.3 (a)** Confirmed flight itineraries and/or tickets for Guest must be received by SilvrFire no later than 30 days prior to the first day of the Event;

**2.3 (b)** If SilvrFire does not receive confirmed flight itineraries and/or tickets for Guest no later than 30 days prior to the first day of the Event, Guest may consider this contract null and void.

**2.3 (c)** SilvrFire will provide transportation or hotel shuttle service for Guest. This transportation will be scheduled for airport/hotel/venue throughout the length of the event.

**2.3 (d)** SilvrFire will provide 1 hotel room for Guest. Hotel room will be at least a three star rating or higher.

**2.3(e)** SilvrFire will only cover room charges and taxes. All incidental charges (ex. phone calls, room service, pay per view) are the guest's responsibility. Guest will be required to place card on file for incidentals upon arrival.

**2.3 (f)** Promoter will provide Guest with \$60 US Dollars per diem for three (3) days, for a total of \$180 payable in cash immediately upon Guest's arrival at Event city. Access to Event Green Room will also be provided to Guest and guest only. Handlers, agents or representatives will not be allowed to access guest green room.

## **III. Guest's Responsibility**

**The Guest is responsible to provide the following:**

**3.1** Guest will attend the SilvrFire's Event as a guest. Guest will appear at selected times throughout the Event but no earlier than 10 AM and no later than 7 PM unless otherwise agreed to in writing by Guest and/or SilvrFire.

**3.2** Guest will attend at least one discussion session for no more than 60 minutes each day, over the 3 day event (said day, time, title of panel/Q&A/discussion and other panelist to be agreed upon in writing by Guest and/or Agent prior to printing of the Event program or internet/website publication) unless otherwise agreed upon in writing by Guest and/or Agent;

**3.3** Subject to Guest's written approval and availability, Guest will participate in a maximum of 2 pre-arranged media and promotional activities for Event to be arranged by Promoter and approved by Guest before Guest arrival.

**3.4** Guest agrees not to appear at another event within 50 miles of SilvrFire's event within 60 days before or after the Event date.

**3.5** Guest will use their best efforts to promote their appearance through social media and other viable means available to the guest.

**3.6** Guest will provide all photos and merchandise for all autograph sessions.

**3.7** Guest will provide 30 signed photos for SilvrFire.

#### **IV. Cancellation**

**It is agreed that both parties are to make their "best efforts" in order to attend and/or present at the Event as scheduled. In addition:**

**4.2** Once Guest has been advertised or promoted, in any way, to appear at Event, neither SilvrFire nor Guest may change the parameters of this Agreement or cancel Guest's appearance for any reason other than as outlined in section 4.3 & 4.4; however neither party shall be in breach of this Agreement if here is any total or partial failure of performance by it of its duties and obligations under this Agreement occasioned by any act of God, fire, act of government or state, criminal act of any third party, war, civil commotion, insurrection, act of terrorism, embargo, labor disputes of whatever nature, adverse weather conditions, event cancelation and any other reason beyond the control of either party. If either party is unable to perform its duties and obligations under this Contract as a direct result of the effect of one of those reasons, that party shall give written notice to the other of the inability which sets out full details of the reasons therefore. Providing substantial proof of reason.

**4.3** Guest shall not be liable for failure to appear, present, or perform, if such failure is caused by or due to the disability or illness or accident of Guest or Guest's immediate family member, or for any total or partial failure of performance by Guest of Guest's duties and obligations under this Agreement occasioned by any act of God, fire, act of government or state, criminal act of any third party, war, civil commotion,

insurrection, act of terrorism, embargo, labor disputes of whatever nature, adverse weather conditions, and any other reason beyond the control of either party. If either party is unable to perform its duties and obligations under this Contract as a direct result of the effect of one of those reasons, that party shall give written notice to the other of the inability which sets out full details of the reasons therefore. Once notification of Guest's cancellation is given to SilvrFire, SilvrFire will immediately cease all advertising and promotion of Guest's appearance. An announcement of Guest's cancellation must be placed in any and all of Guests and SilvrFire's websites promoting appearance within 24 hours of notification. Any advertising or promoting of Guest's appearance will be removed from SilvrFire's Event website within 24 hours of notification of cancellation of Guest's appearance. In addition to the reasons for Guest's cancellation described herein, Guest may also cancel appearance if required to be in attendance for film and/or television work or other professional obligations of work that may fall outside the entertainment industry. Guest will provide detailed description of how it interferes with appearance.

**4.4** Guest may not cancel appearance at Event to attend another autograph appearance unless Guest is contractually obligated to a studio for an upcoming film or television appearance.

## **V. Miscellaneous**

**Please note the following miscellaneous provisions of this Agreement:**

**5.2** The failure or forbearance by either party on any occasion to insist upon the full performance of the terms, conditions and provisions of the Agreement shall not thereby constitute a waiver of such breach or an acceptance of any variation of the Agreement.

**5.3** This executed Agreement supersedes all prior agreements, written or oral, between SilvrFire and Guest and shall constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. The Agreement and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by Guest and SilvrFire.

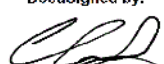
**5.4** No permission is given for the disclosure of any term or provision of this Agreement to any third party. If made known that this provision has been breached, SilvrFire LLC reserves the right to nullify this contract in its entirety.

**5.5** Agent and Guest agree that, unless otherwise provided by mutual agreement in writing, all communications by, among or between SilvrFire, Guest and Agent concerning the Event, arrangements for the Event, this Agreement (including any Appendices hereto), and/or any of the terms of this Agreement are confidential and shall not be disclosed, shared, or communicated to any person or entity other than SilvrFire, Guest or Agent.

## **VI. Signatures**

**Once this Agreement has been signed by a SilvrFire LLC Representative, the Guest has seven (7) business days to sign and return the fully executed agreement or this agreement may be considered null & void. By signing this Agreement, I confirm that I have read and agree to all terms and conditions stated above:**

**“SilvrFire Representative”:**

DocuSigned by:  
  
656F846AC5684AD...

**Date:** 7/8/2018 8:49:23 AM PDT

By signing this Agreement, I confirm that I have read and agree to all terms and conditions stated above:

**“GUEST”:**

DocuSigned by:  
  
F698E56530A548F...

**Date:** 7/7/2018 11:03:06 AM PDT

Slatosch Affidavit  
**Exhibit B**

< (469) 623-6677



10:49 AM, Jan 10

Hey bud, sorry my schedule is insane. I am sure it's too late to sponsor the event but I wanted to see if there is a possibility of having a vendor booth? Sizable section. :) could we do a call or an online meeting? I would have my business partner on the call so there wouldn't be delays in communication. Also, this is Ron Toye if my number isn't saved in your phone :)



Copy text



Share



< Me

11:12 AM, Jan 10



All good man! We are actually just wrapping up our sponsor pushes. So you still have time there. Plus if you are wanting to set up something promotional it would need to be done in that format vs being on the floor with dragon ball merch. We have a packet for it I can send over, I think we can make it worth the time for you and your partners. Whens a good time to talk?



Copy text



Share





< (469) 623-6677



Yes :) that sounds great. Let me talk with Andy. I am good for a call at 7-8pm today but I would like to get us all on a call together. He is in a meeting but I will shoot you the times once I get with him but for sure I am good at 7-8 today if you are available

11:55 AM

Friday, January 11, 2019



Sorry about missing the call I had a client whose had an issue with their closing and the realtor was blowing me up. I am meeting with Andy at 5 and I will update you soon. My email is [rtoye@fairwaymc.com](mailto:rtoye@fairwaymc.com) if you would like to email me the packages :)

3:40 PM

5:18 PM

Will do

Tuesday, January 22, 2019

Hey wondering how the meeting went. Was kind of waiting to send that over til you got a confirm. Let

+ Enter message



< (469) 623-6677



Hey wondering how the meeting went. Was kind of waiting to send that over til you got a confirm. Let me know! Thanks!

12:04 PM



Sorry about that. It's been intense here. Also, with the Vic thing we might not be able to sponsor this year with him being a guest. I will get everything lined up and keep you posted. Because we want to work with you either now or in the future we just need to make sure we don't get caught up in a

View all



12:22 PM

So you are saying the internet her say is causing you to with hold sponsorship? Just what to be clear.

12:28 PM



It's not just the internet. He assaulted 3 close friends of mine and 1 additional person that's even closer but I can't say much because here is an investigation going on. This will get ugly so we are talking with our legal team to



+ Enter message



< (469) 623-6677



12:22 PM, Jan 22

Sorry about that. It's been intense here. Also, with the Vic thing we might not be able to sponsor this year with him being a guest. I will get everything lined up and keep you posted. Because we want to work with you either now or in the future we just need to make sure we don't get caught up in a mess when all this goes down with him.



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Share



< (469) 623-6677



So you are saying the internet her say is causing you to with hold sponsorship? Just what to be clear.

12:28 PM



It's not just the internet. He assaulted 3 close friends of mine and 1 additional person that's even closer but I can't say much because here is an investigation going on. This will get ugly so we are talking with our legal team to see if there could be any fall out if we are sponsoring an event wit

View all



12:31 PM

And by it "all goes down" is there something I should know?

12:31 PM



They came forward

12:31 PM

I can tell you now, based on our contracts. If he has people step forward and/or charges he will be dropped.

12:32 PM



All I can say is there is an active



+ Enter message



< (469) 623-6677



12:31 PM, Jan 22

It's not just the internet. He assaulted 3 close friends of mine and 1 additional person that's even closer but I can't say much because here is an investigation going on. This will get ugly so we are talking with our legal team to see if there could be any fall out if we are sponsoring an event with him in attendance.



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< (469) 623-6677



And by it "all goes down" is there something I should know?

12:31 PM



They came forward

12:31 PM

I can tell you now, based on our contracts. If he has people step forward and/or charges he will be dropped.

12:32 PM



All I can say is there is an active investigation going on but just know 3 very very close friends of mine and Monica came forward and the last person, I will let her speak for herself but it's legit. Not trying to cause drama but just wanted to let you know where we stand

12:32 PM



Don't say anything please, but one of those who are coming forward is Monica. She was uneasy being there with him but wouldn't let the fans down but her agents are contacting all cons they are booked at and letting them know she won't be there if he is. The other another



+ Enter message



< (469) 623-6677



12:34 PM, Jan 22

Don't say anything please, but one of those who are coming forward is Monica. She was uneasy being there with him but wouldn't let the fans down but her agents are contacting all cons they are booked at and letting them know she won't be there if he is. The other another voice actors girlfriend, and the two twins who lived with me.



Copy text



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< (469) 623-6677



... and letting them know she won't be there if he is. The other another voice actors girlfriend, and

View all >

Cons have already started backing out.

12:34 PM

12:35 PM

Which shows.



He doesn't know who is coming to the front with these issues but that's why I need you not to say anything because it can hurt Sony's investigation and the legal investigation

I will get a list for you.

12:35 PM

Please do. From a legal stand point I can be sued without probably conduct or legal issues.

12:36 PM

Probable\*



Makes sense. I will. We have time before your con it's coming quick but this stuff will probably pop before.

12:37 PM

+ Enter message





< (469) 623-6677



Most of the assaults happened at conventions.

12:38 PM

Is there a way Monica can speak with me off record? She gave me her number, but if she has concerns is love to address them trust me we won't be standing idle.

12:38 PM I'd\*

Aside from that, I wouldn't let that stop you from reaching our market or utilizing our reach. Once all that comes out, he will be removed without hesitation. On top of that we are on a deadline to push promotion. So when you meet with your team let them know that.

12:40 PM



Wait on her. I will ask her to reach out to you. She doesn't know I told you anything.

12:56 PM



Excellent. That helps. :) I will talk to Monica tonight and set up a call. I will let her know I talked with you about sponsoring the event and my concerns with Vic



+ Enter message



< (469) 623-6677



2:23 PM, Jan 22

Excellent. That helps. :) I will talk to Monica tonight and set up a call. I will let her know I talked with you about sponsoring the event and my concerns with Vic. She will more than likely bring up the actual documented cases naturally, just please don't let her know I told you without her permission. :) you guys are awesome and this year is going to be amazing!



Copy text



Share



< (469) 623-6677



Not a problem. And thanks! The last thing we'd want is anyone feeling uncomfortable at an event we hold, that goes from talent to the attendees. I do very much appreciate you letting me know, and I'll be sure to have fresh ears during our conversation about the topic. Thanks Ron!

2:28 PM

Friday, February 1, 2019

Hey! So currently Vic is not attending. Can you have Monica call me if possible? Thank you.

7:15 PM



I can call tomorrow. She is in Houston recording. You made the right call not having him out.

7:18 PM

Based on what we've seen we think so. Our decision was based on the potential of his past victims being VAs. We are also taking a ton of heat so I just want to make sure those allegations you brought to me are seriously being acted upon.

7:31 PM



I promise it's true VAs and

+ Enter message



< (469) 623-6677



I can call tomorrow. She is in Houston recording. You made the right call not having him out.

7:18 PM

Based on what we've seen we think so. Our decision was based on the potential of his past victims being VAs. We are also taking a ton of heat so I just want to make sure those allegations you brought to me are seriously being acted upon.

7:31 PM



I promise it's true. VAs and staff. I will see if Ian would feel comfortable telling you his story of someone extremely close to him getting assaulted by Vic

7:32 PM

I don't doubt it at all, just makes it easier when the voices are louder. Especially for these young women who are stepping up. People think this guy is a hero.

8:09 PM

Again thank you for all your help with this and being open in sharing. It's certainly a big deal in my eyes you were willing to reach out

8:15 PM



You're welcome. I know it is tough but he is a predator. He can be really nice at times but when he gets upset he can be a terror and the other obvious thing is the sexual harassment stuff

10:15 PM

+ Enter message



**CAUSE NO. 141-307474-19**

VICTOR MIGNOGNA,  
Plaintiff,

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IN THE DISTRICT COURT

v.

141<sup>st</sup> JUDICIAL DISTRICT

FUNIMATION PRODUCTIONS, LLC,  
JAMIE MARCHI, MONICA RIAL,  
AND RONALD TOYE,  
Defendants

TARRANT COUNTY, TEXAS

**AFFIDAVIT OF CHUCK HUBER**

STATE OF TEXAS  
COUNTY OF TARRANT

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On this day, CHUCK HUBER, personally known to me to be the affiant herein,  
appeared before me and, after being sworn according to law, on his oath, deposed and said  
as follows:

1. My name is CHUCK HUBER, and I reside at 7005 Overhill Road, Fort Worth, Tarrant County, Texas. I am over the age of eighteen years and competent to make this affidavit. I have personal knowledge of the facts stated in this Affidavit, and these facts are true and correct.
2. The facts in this affidavit should not be construed to condone Vic Mignogna’s behavior especially as it relates to his infidelity toward Michelle Specht which was personally heartbreaking and horrible.
3. I have been an Anime Voice Actor or VA since 1998 and have performed over 200 roles.
4. I have attended over 150 anime conventions.
5. I have been a voice actor for Funimation since 1998 and am intimately familiar with the work environment at Funimation.
6. I am friends with several employees of Funimation and have had direct communication with former CEO Gen Fukanaga, Karen Mika, Justin Cook and Colleen Clinkenbeard through my years of employment at Funimation.
7. I have been a voice actor for Okratron5000, a company owned by Chris

Sabat, since 2004 and have been an employee of Deep Space Mustache, a film company founded by Chris Sabat, during 2012-2013.

8. I have been friends with Plaintiff, Victor Mignogna (“Vic”), for at least 10 years.
9. I have been friends with the Defendants’, Jamie Marchi and Monica Rial for at least 10 years.
10. I know Ron Toye from his relationship with Monica Rial.
11. The first time I heard Vic’s name was in a conversation in 2003 or 2004 with Chris Sabat. This occurred while I was recording for a Funimation property at Okratron5000.
12. In that conversation, Chris Sabat verbally disparaged Vic’s Christian faith and speculated that Vic was “actually gay” based on the way he dressed.
13. In that conversation, Chris Sabat stated that Vic was a pedophile who liked “little girls”. Despite these statements, he did not express concerns about risks to fans, which I thought was odd.
14. During this conversation, there was no specific mention of Vic committing sexual harassment, sexual assault, inappropriate behavior with teenage fans or that Vic posed a risk to fans at conventions.
15. In approximately 2007, Vic began the practice of autographing artwork depicting anime characters for money at anime conventions.
16. Other voice actors (Jamie Marchi, Monica Rial and Chris Sabat) and other Funimation employees initially described that practice as “stealing from fans,” “using fans,” or “being an asshole.” We all later adopted the same practices and currently follow those practices at conventions.
17. This behavior by voice actors (including Jamie Marchi, Monica Rial and Chris Sabat) and other Funimation employees toward Vic’s successful business tactics demonstrates longstanding negative opinions about Vic.
18. In virtually all conversations I had with these voice actors when Vic was not present, disparaging remarks were made about Vic. Typical statements included “he’s a prima dona, he’s a douche, he’s a diva, his clothes are gay,” plus comments of his purported infidelity, dislike of his conservative Christian beliefs and personal attacks for his support of Donald Trump. All of these comments were made at one time or another by Monica Rial, Jamie Marchi, Chris Sabat, and others. All of them, however, conceded his ability to do his job.

21. In December 2013, at Yama-Con, I had lunch with Sean Schemmel and Sonny Strait.
22. Sean Schemmel tried to persuade me to participate in a derogatory video about Vic known as the "Vince Mangina VA pedophile video". The video was to portray Vic as a pedophile. I refused because Vic is my friend and he is not a pedophile.
23. Most of the time when I interacted with Sean Schemmel, he attacked Vic for pushing his Christian faith on fans at conventions and for Vic's purported sexual promiscuity.
24. In 2016, I was at Funimation and witnessed a producer at Funimation, warn other Funimation employees of Vic's arrival and address Vic negatively with directors at Funimation.
25. In approximately 2016-2017, a director employed at Funimation, told me that Vic would never get a directing job at Funimation because he was "such a douche." This conversation happened at Funimation. I advised Vic of this conversation. Vic later told me he addressed this issue with Justin Cook, a member of Funimation management.
29. In my opinion, the voice actors and Funimation employees described above were overly preoccupied with disparaging Vic.
30. Over the last decade, I was around Vic, the Defendants' and other Funimation employees hundreds of times. Until January 2019, none of them directly accused him of sexual assault or sexual harassment in my presence.
31. Until January 2019 negative discussions about Vic Mignogna in my presence were accompanied by laughter and derision but never included concern for any alleged victims or named specific victims. Vic has always been a joke to a certain clique of influential Funimation employees for decades but never a threat.
32. Vic indicated to me that in 20 years of working at Funimation he had never been warned of any complaints about his behavior.
33. Vic told me he had a meeting with a producer at Funimation, in approximately 2018 specifically to discuss any issues with his behavior. He stated that there was no mention in this meeting of his having committed sexual harassment, sexual assault or his having behaved in an inappropriate manner at Funimation or at any conventions. He stated that

she told him that he was “difficult to work with” because he sometimes asked directors to do additional takes when the director was satisfied with his initial take.

34. Senior Funimation directors have described the work environment at Funimation to me as a “Den of Poison,” “Kafka Nightmare,” and “Orwellian Slave Factory.”
35. My experience working at Funimation was unpleasant. It is well known that if one falls out of favor with certain people (including Chris Sabat) or if one tries to do anything to change the working conditions, that person will not be rehired as a voice actor. I felt threatened with not being used as a voice actor in subsequent projects if I complained about the work environment.
36. Funimation posted no employment policies regarding sexual harassment in the workplace or at conventions.
37. Funimation did not provide an employee handbook to me, Vic, Jamie Marchi and Monica Rial.
38. In the twenty (20) years I worked at Funimation, it was very common for employees, voice actors, writers, producers, directors to hug and kiss each other at the Funimation offices. Raunchy and sexual comedy was extremely common. Sexual relationships between Funimation employees and voice actors was common. No one was ever disciplined or terminated for this conduct.
39. When Sony acquired a majority interest in Funimation in late 2017, a “no hugs” policy was announced. Funimation employees and voice actors largely ignored this policy at first.
40. The voice actors (including Jamie Marchi and Monica Rial) and other Funimation employees talked and flirted freely at Funimation on a regular basis, though this did become less common after Sony instituted the “no hugs” policy.
41. When the Dragonball Kai was being recorded in 2007, I heard rumors that actresses had been recast at Funimation for refusing sexual advances by Funimation employees. I consider these rumors credible based on my experience working at Funimation and from direct messages received from a former DBZ cast member.
42. I also heard that actresses who participated in sex with Funimation/Okatron5000 employees were cast in roles. I consider these rumors credible based on my experience working at Funimation



43. When the trailer for the Dragonball Z: Super Broly movie was released, Vic did not voice the character of Broly, even though Vic was the only English actor who had ever voiced Broly up to that point.
44. During this timeframe, I sent a text message to Chris Sabat who responded that “if this has anything to do with Vic, I will not talk about it.”
45. Chris Sabat is the owner of Okratron5000 and is a voice actor at Funimation.
46. Chris Sabat did most of the casting and recording for the Dragonball Z properties including for the movie Dragonball Z: Super Broly.
47. Chris Sabat engaged in negotiations, either directly or through Funimation for various projects with TOEI, owner of the Dragonball Z properties.
48. The voice actors employed by Funimation generally consider Chris Sabat to be a de facto manager at Funimation and they believe his approval and support is vitally beneficial to succeeding at Funimation and the conventions and the converse regarding his disapproval.
49. Chris Sabat has more influence at Funimation and other studios, including Roosterteeth and Toei, than Vic has ever had in the Anime industry.
50. I heard Chris Sabat and Sean Schemmel call Vic a pedophile numerous times before the allegations against Vic in January/February 2019 arose.
51. I have observed Chris Sabat on multiple occasions talk in a derogatory manner about members of Funimation management and other people he calls “friends.”
52. I was aware of no rumors or accusations that Vic committed rape, sexual assault or sexual harassment until the accusations arose in January-February 2019 on the internet.
57. I was aware of no rumors or statements that identified any purported victims of sexual assault or sexual harassment by Vic until January-February 2019 on the internet.
58. Jamie Marchi and I have been close friends and writing partners since 2009. She never mentioned the hair-pulling incident at Funimation that she alleges occurred between Vic and her.

60. I believe Jamie Marchi would have mentioned the hair-pulling incident, if it had bothered her, since she is typically very outspoken. In addition, while Jamie Marchi, Monica Rial and other Funimation employees often expressed animosity towards Vic, they never claimed he had sexually harassed or sexually assaulted anyone. Their animosity was primarily due to his personality, his sexual promiscuity, his Christian faith and claims that he was difficult to work with.
61. In 2009, Jamie Marchi and I worked with Chris Sabat on CONdotcom.com, which was a website where voice actors could provide content for fans. Vic was a digital guest on that website and our primary marketing force because of his prolific convention schedule. In dozens of specific conversations about Vic there was never any concern about pedophilia or other criminal sexual behavior.
62. I have never seen Vic behave inappropriately with any fans of any age.
63. Although voice actors and other Funimation employees called Vic a pedophile and accused him of liking underage girls for years, they never said these things to Vic and never expressed any concerns about working with Vic or doing panels at conventions with Vic until 2019. Nor did they express concern for the convention fans until 2019.
64. The sexual assault and sexual harassment allegations by the Defendants and Funimation employees have seriously damaged Vic's career by inducing numerous conventions to cancel his appearances, by inducing producers and directors to not consider him or terminate him from projects.
65. Jamie Marchi, Monica Rial, myself and almost all other voice actors have kissed and hugged hundreds of fans at conventions, no matter their age.
66. I approached Jamie Marchi and Monica Rial to attempt a settlement between Vic and the Defendants' in early March 2019. Vic was not aware of my efforts.
67. I was initially supportive of what Jamie and Monica were doing because my understanding was that they were, with inflated versions of their stories, attempting to help the alleged underage victims of rape and sexual assault by Vic, which they along with Michelle Specht directly told me existed, who would otherwise be too afraid to speak out. I never considered Jamie and Monica to be victims of attempted rape or sexual assault by Vic.
68. I drafted a proposed statement by Vic that included the phrase "I am a sex

addict” because my conversations with Jamie Marchi and Monica Rial convinced me that Vic would have to admit some form of “guilt” for them to settle. Vic never saw or approved that phrase.

69. I am not educated about sex addiction nor am I an expert about sex addiction.
70. I talked with Vic about sex addiction and advised him to speak with his counselor about it. I now believe his sexual activity and infidelities are more closely associated to the common narcissism and ego from men in his position. I believe Vic is sincere in his efforts with his counselor to correct the abject moral failings associated with his sexual behavior.
71. My settlement efforts were an attempt to help my friend Vic who was suffering tremendously, to protect Jamie and Monica from the difficulty of a lawsuit and to heal the Anime community, which has been seriously divided by the allegations against Vic.
72. During my settlement efforts. Todd Haberkorn told me that that Chris Sabat, Ron Toye and Sean Schemmel told him that he was in danger of never working at Funimation again because Haberkorn retained the same law firm as Vic. (see attached email)
73. I also feared that my twenty (20) year voice acting career at Funimation and personal reputation would be damaged by retaliation for my association with Vic.
74. I contacted Gen Fukanaga, the then CEO of Funimation to discuss my concerns with Chris Sabat’s gaslighting of Sean Schemmel, damaging use of his authority toward actors and his attempts to destroy my career, in early March 2019 who met with me and advised that Vic would lose and have to pay via something he had learned about called an Anti-SLAPP motion. He also, in response to my specific concerns about Chris Sabat, said that he had been friends with Chris Sabat for 17 years and he did not believe me. This meeting occurred on March 5, 2019 at 2:30 p.m. in Gen’s office approximately a month to a month and a half prior to Vic filing the current pending lawsuit.
75. I and my wife fear direct, planned and specific retaliation from Chris Sabat and those loyal to him in response to this affidavit that will be damaging to my reputation and career.
76. I have known Vic for many years, and I do not believe he has ever sexually approached anyone past the point of them telling him no.
77. I believe Vic utilized his position of privilege in shameful ways in attempts

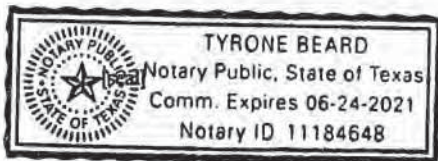
to obtain sex.

78. In my experiences with Vic, if someone acted like they did not want to be hugged or kissed, he stopped immediately.
79. Funimation employees, including Jamie Marchi, Monica Rial and Michelle Specht have advised me more than once since February 2019 that criminal charges are coming against Vic. In response I encouraged them to help these alleged underage victims of rape and sexual assault to come forward. When asked to provide specifics to these allegations they couldn't or refused to do so.
80. When I was told about the contents of the "confidential" investigation undertaken by Tammie Denbow on behalf of Funimation, my opinion was that Funimation, Jamie Marchi and Monica Rial acted together and with encouragement from Chris Sabat and Sean Schemmel, to destroy Vic's career and life.
81. I believe that the purported incidents investigated by Tammi Denbow occurred off Funimation property and not at Funimation events. The one incident that purportedly occurred on Funimation property occurred prior to Sony's acquisition of Funimation, thus the "no hugs" policy from Sony was not in effect (i.e. there were no signs about the policy hung around the Funimation office).
81. I do not believe that Vic kissed Sarah Bachmeyer without her consent. I have never heard rumors of Vic behaving sexually inappropriate at Funimation.
82. Funimation has supported the accusations made by Defendants' that Vic is a sexual predator, pedophile and rapist by supporting the accusations directly with their own public statements (I, as a member of the public, viewed the Tweets made on February 11, 2019 by Funimation as supporting the accusations against Vic and asserting Vic was fired for sexual harassment and threats).
83. It appears to me that Ron Toye, Monica Rial and Jamie Marchi have been speaking with Funimation's tacit or overt consent in tweets that have been made by them since January 2019.

  
Affiant

Printed name: Chuck Huber

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this 30 day of AUGUST, 2019, by CHUCK HUBER, the affiant named above, to which witness and certify my signature and official seal.



  
NOTARY PUBLIC  
STATE OF TEXAS

**CAUSE NO. 141-307474-19**

VICTOR MIGNOGNA,  
Plaintiff,

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IN THE DISTRICT COURT

v.

141<sup>st</sup> JUDICIAL DISTRICT

FUNIMATION PRODUCTIONS, LLC,  
JAMIE MARCHI, MONICA RIAL,  
AND RONALD TOYE,  
Defendants

TARRANT COUNTY, TEXAS

**AFFIDAVIT OF VICTOR MIGNOGNA**

STATE OF TEXAS  
COUNTY OF SMITH

§  
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On this day, VICTOR MIGNOGNA, personally known to me to be the affiant herein, appeared before me and, after being sworn according to law, on his oath, deposed and said as follows:

1. My name is Victor Mignogna and I live in Tarrant County, Texas. I am over the age of eighteen years and competent to make this affidavit. I have personal knowledge of the facts stated in this Affidavit, and these facts are true and correct.
2. I have never sexually assaulted or sexually harassed anyone or attempted to do so.
3. I have never physically assaulted any woman or attempted to do so.
4. I have never forced (or attempted to force) anyone to kiss me, hug me, or engage in any sexual activities.
5. I have never fondled, kissed without consent, or otherwise inappropriately had contact with underage people or adults.
6. I have never inappropriately touched, rubbed, stroked, struck any female fans, guests, staff or acquaintances.
7. I have never had sexual contact with anyone without their consent.

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8. I have never attempted to sexually assault, sexually harass, touch inappropriately, or have any nonconsensual contact with Monica Rial or Jamie Marchi.
  9. I have read Jamie Marchi's July 18, 2019 affidavit, attached as Exhibit A to her Motion to Dismiss. I have (a) never grabbed her hair and pulled it down; (b) never whispered sexually suggestive or violent statements to her; and (c) never pressed my lips to ears, as she claims in the affidavit.
  10. Tammi Denbow contacted me on January 25, 2019. She stated she was an executive with Sony and advised me that she wanted to interview me by phone about several allegations that had been reported against me. We discussed the three allegations below:
    - a. An accusation that, at an anime convention, I ate a jellybean thrown at me by Monica Rial in a sexually suggestive manner. I did not eat the jellybean in a sexually suggestive manner; I made no sexually suggestive comments; and no one, including Monica Rial appeared to interpret the action and comments as being sexual in nature. I told this to Tammi Denbow.
    - b. An accusation that I invited two adult females (who had flirted with me numerous times over the previous year) to my hotel room at an anime convention, then sexually harassed or assaulted them. I did not sexually harass or assault them. I expressed romantic interest in them, they declined and left the room. I did not harass, intimidate or pressure them in any way. I told this to Tammi Denbow.
    - c. An accusation that I kissed a Funimation Productions, LLC ("Funimation") employee, Sarah Bachmeyer, without her consent, in her office. I did share a single, consensual kiss with her. There was no coercion or lack of consent. I told this to Tammi Denbow.
  11. Immediately after this conversation, I emailed Tammi Denbow about the investigation. The emails attached as Exhibit A are true and correct versions of the emails we exchanged.
  12. Before the consensual kiss in her office at Funimation, Sara Bachmeyer and I had corresponded via text, phone calls and in person for at least a year or more. I regularly stopped by her office while in the studio recording just to say hi. She appeared to welcome my interest in her and appeared to be interested in me. Eventually asked to kiss her, and she agreed. We only kissed that one time. In the years since the kiss, she has never expressed any outrage or anger to me.
-

13. Tammi Denbow did not mention or ask me about any other incidents. In particular, she did not mention or ask about the purported attempted sexual assault in 2007 against Monica Rial (alleged by Monica Rial in her affidavit), nor did she mention any of the alleged hair-pulling incidents asserted by Monica Rial and Jamie Marchi.
  14. I was assured by Tammi Denbow that the investigation and its results would be kept confidential.
  15. I was informed by telephone on Saturday January 26, 2019 that I had been terminated by Funimation.
  16. By mid-January, 2019, I had valid contracts with dozens of conventions to appear as a guest in 2019. At least a dozen cancelled my appearance by the time I filed this lawsuit and they are listed in my Amended Petition. Emerald City Comic Con, Fan Expo Toronto, Fan Expo Orlando (aka MegaCon) and Planet Comic Con also cancelled my appearances, despite having contracts with me to appear.
  17. I have appeared at a number of conventions in 2019. They are listed below, along with the amounts I earned at each (all amounts rounded down to the nearest thousand dollars):
    - a. Kamehacon - \$37,000
    - b. Savannah - \$13,000
    - c. Central PA - \$5,000
    - d. Puerto Rico - \$11,000
    - e. BakAnime - \$5,000
    - f. Anime Matsuri - \$30,000
    - g. Super World Con - \$5,000
    - h. Ireland - \$12,000
    - i. Liberty - \$14,000
    - j. Jacksonville NC - \$12,000
    - k. Bubba Fest - \$17,000
  18. Five of the conventions that cancelled me were as large or larger than Anime Matsuri. These were: Emerald City Comic Con, Florida Super Con, Fan Expo Toronto, Fan Expo Orlando (aka MegaCon) and Planet Comic Con. It is reasonable to expect that I would have earned similar amounts at each of these conventions that I earned at Anime Matsuri (\$30,000), but I would have earned a minimum of \$20,000 per convention because they were all larger in attendance than Anime Matsuri. I would have expected to earn at least \$5,000 at each of the smaller conventions that cancelled my appearances, extrapolating from similar sized conventions that I did attend (i.e., the conventions listed in the previous paragraph other than Anime Matsuri).
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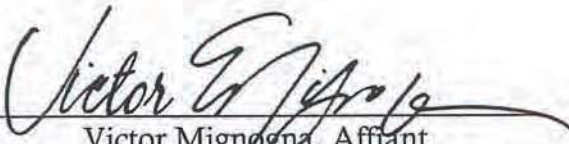


19. The owners or managers of the conventions that cancelled me all stated that the cancellation was due to the allegations of sexual assault being made by defendants. Several also mentioned the Funimation investigation as motivating the cancellation.
  20. I have never been cancelled at a convention before 2019.
  21. I have no memory of anyone named Robin Michelle Blankenship or Robin Michelle Blankenship-McConnell and no memory of any of the events she described in her affidavit that was attached to Rial and Toye's Motion to Dismiss.
  22. I have read the affidavit of Kara Edwards, attached to Rial and Toye's Motion to Dismiss. I did not commit any of the improper acts she claims I did in the affidavit, such as knocking on her door repeatedly, hugging for an uncomfortably long time, saying things like "open the door; nobody has to know" or "you know you want this", etc. I did not sexually assault her, I did not attempt to sexually assault her and I never engaged in any contact without her consent.
  23. I have read the affidavit of Lynn Hunt, attached to Rial and Toye's Motion to Dismiss. I deny all improper conduct she claims I engaged in, including the specific allegations in paragraphs 3-9 of the affidavit.
  24. I have read the affidavit of Faisal Ahmed attached to Rial and Toye's Motion to Dismiss. I deny all improper conduct he claims I engaged in, including being "overly friendly" with female cosplayers, behaving inappropriately with Erica McCord, Kelly Loftus or Leah Hamilton.
  25. I have read the affidavit of Mary Reese attached to Rial and Toye's Motion to Dismiss. I deny all improper conduct she claims I engaged in, including manipulating and tricking young girls, being "demanding", being a bully, being intentionally rude to her, grabbing Kara Edwards' hair and forcefully pulling it back, demanding that Kara Edwards' table be moved, etc.
  26. I have read the affidavit of Whitney Falba attached to Rial and Toye's Motion to Dismiss. I deny all improper conduct she claims I engaged in, including being disrespectful to staff, inappropriately touching females, having underage female fans in my hotel room, etc.
  27. I have read the affidavit of Nesha Perry attached to Rial and Toye's Motion to Dismiss. I deny all improper conduct she claims I engaged in, including stroking anyone's leg without permission, and grabbing anyone's hair and pull it back while whispering into their ear.
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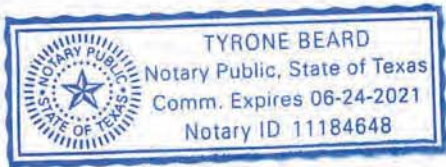
28. I have read the affidavit of Emmett Plant attached to Rial and Toye's Motion to Dismiss. I deny all improper conduct he claims I engaged in, including stroking anyone's leg without permission, and grabbing anyone's hair and pull it back while whispering into their ear.
29. I have read the affidavit of Adam Sheehan attached to Rial and Toye's Motion to Dismiss. I deny all improper conduct he claims I engaged in, including "having [any] predatory tendencies", kissing, touching or stroking female fans inappropriately, etc.
30. I have read the affidavit of Kelly Loftus attached to Rial and Toye's Motion to Dismiss. I deny that I ever "hit" on her. I also deny all improper conduct she claims I engaged in, including hugging, touching or kissing her without her consent or doing so inappropriately.
31. I have read the affidavit of John Prager attached to Rial and Toye's Motion to Dismiss. I deny all improper conduct he claims I engaged in, including "stalking" or behaving inappropriately with Mari Iijima. Being a sexual predator, touching women inappropriately or without their consent.
32. I have read the affidavits of Elizabeth Yost and Theresa Yost, attached to Rial and Toye's Supplement to Motion to Dismiss. I deny that I touched either of them without consent or in any inappropriate way. I did invite them to my room (after they had flirted with me numerous times over the previous year), but when their made their lack of interest clear, I bid them goodbye and they left freely and peacefully. I did not ask them to do a strip tease show for me. I did not try to kiss either of them. I did not later express a desire to kiss them nor did I ever become angry with them. They never cried, teared up or acted afraid in my presence.
33. As a result of the stress and anguish caused by Defendants, I have been diagnosed with depression and have been prescribed Zoloft. I have also been diagnosed with high blood pressure and have been prescribed Losartan for that condition. These medications were prescribed after the defamatory assertions by Defendants.
34. I have never asked my fans to harass, attack or mistreat anyone.
35. In late 2017, I walked into Coleen Clinkenbeard's office and asked her why I was not cast more often. At the time, I was directing *Juni Taisen*. She told me that (a) they did not like casting people who weren't local and (b) that some directors thought I was "difficult" because I occasionally requested additional takes even though the director was satisfied. She stated that there were no other concerns about my conduct and did not

mention any reports of inappropriate conduct. I told Chuck Huber of this meeting.

36. Until the January 25, 2019 communication with Tammi Denbow, I had never been reprimanded or questioned for any inappropriate conduct of any kind.

  
Victor Mignogna, Affiant

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this 30th day of August, 2019, by Victor Mignogna, the affiant named above, to which witness and certify my signature and official seal.



  
NOTARY PUBLIC, STATE OF TEXAS

Mignogna Affidavit  
**Exhibit A**

----- Forwarded message -----

**From:** **victhewop** <[victhewop@aol.com](mailto:victhewop@aol.com)>  
**Date:** Fri, Jan 25, 2019 at 5:30 PM  
**Subject:** Fwd: Confidential Discussion  
**To:** Lisa Hansell <[liser67@gmail.com](mailto:liser67@gmail.com)>

Begin forwarded message:

**From:** "Denbow, Tammi" <[Tammi\\_Denbow@spe.sony.com](mailto:Tammi_Denbow@spe.sony.com)>  
**Date:** January 25, 2019 at 7:20:44 PM CST  
**To:** "[victhewop@aol.com](mailto:victhewop@aol.com)" <[victhewop@aol.com](mailto:victhewop@aol.com)>  
**Subject:** RE: Confidential Discussion

Vic,

As we discussed during our previous conversation today, please do NOT reach out to either party listed below or anyone else you believe might have raised a concern, or be connected to this investigation.

Thanks,

Tammi

**From:** [victhewop@aol.com](mailto:victhewop@aol.com) <[victhewop@aol.com](mailto:victhewop@aol.com)>  
**Sent:** Friday, January 25, 2019 12:33 PM  
**To:** Denbow, Tammi <[Tammi\\_Denbow@spe.sony.com](mailto:Tammi_Denbow@spe.sony.com)>  
**Subject:** Re: Confidential Discussion

just one more thing..... I hope this is acceptable to offer....

I would be more than willing to make a sincere heartfelt apology to Monica and Sara for any unintended offense. I have considered them both friends and I believed the feeling was mutual. I would have apologized at the time, but was never given any indication that anything offensive had occurred.

thanks again, sorry to bother again.

vic

-----Original Message-----

From: Denbow, Tammi <[Tammi\\_Denbow@spe.sony.com](mailto:Tammi_Denbow@spe.sony.com)>

To: [victhewop@aol.com](mailto:victhewop@aol.com) <[victhewop@aol.com](mailto:victhewop@aol.com)>

Sent: Fri, Jan 25, 2019 2:19 pm

Subject: RE: Confidential Discussion

Hi, Vic.

Thank you for the additional information/clarification. I will add it to my file.

Tammi

**From:** [victhewop@aol.com](mailto:victhewop@aol.com) <[victhewop@aol.com](mailto:victhewop@aol.com)>

**Sent:** Friday, January 25, 2019 11:59 AM

**To:** Denbow, Tammi <[Tammi\\_Denbow@spe.sony.com](mailto:Tammi_Denbow@spe.sony.com)>

**Subject:** Re: Confidential Discussion

thank you for your time, Tammi, albiet a difficult conversation.

I just wanted to reiterate a couple things....

1. Sara Bachmeyer and I corresponded via text, phone calls and in person for at least a year or more. I regularly stopped by her office while in the studio recording just to say hi. She gave me every indication that she liked me and welcomed my interest in her before I ever asked to kiss her... and she agreed. And it was a couple years ago and she has never expressed any offense then or since, so I feel that why it's coming up now is suspect.

2. My relationship with Monica has always been completely platonic. That jelly bean joke was in bad taste at worst, but it was also many years ago and it was simply quick banter meant to be funny. She and I

have done dozens of events and projects together since then and she has not only never mentioned any offense, but has treated me exactly the same as the good friends we've been for 20 years.

Additionally, many many things are said and done by voice actors at conventions in front of fans that's MUCH worse. In fact, many conventions have "after dark" panels where voice actors actually share explicitly sexual stories and profanity in front of an audience of fans. (I have never attended one because it's not who I am)

I hope you dont mind me sending you this. I just wasn't sure if I communicated those points clearly enough.

Sincerely,

vic

-----Original Message-----

From: Denbow, Tammi <[Tammi\\_Denbow@spe.sony.com](mailto:Tammi_Denbow@spe.sony.com)>

To: [victhewop@aol.com](mailto:victhewop@aol.com) <[victhewop@aol.com](mailto:victhewop@aol.com)>

Sent: Fri, Jan 25, 2019 11:20 am

Subject: RE: Confidential Discussion

Hi, Vic.

10 a.m. is perfect. I'll make sure I'm free at that time.

Thanks,

Tammi

**From:** [victhewop@aol.com](mailto:victhewop@aol.com) <[victhewop@aol.com](mailto:victhewop@aol.com)>

**Sent:** Friday, January 25, 2019 9:19 AM

**To:** Denbow, Tammi <[Tammi\\_Denbow@spe.sony.com](mailto:Tammi_Denbow@spe.sony.com)>

**Subject:** Re: Confidential Discussion



hi Tammi,

Thanks for your email. I've been expecting your call. Would it be OK for me to call you at your number listed below around 10 AM your time? It will be from my cell 713-927-3897.

Thanks,

Vic

-----Original Message-----

From: Denbow, Tammi <[Tammi\\_Denbow@spe.sony.com](mailto:Tammi_Denbow@spe.sony.com)>

To: [victhewop@aol.com](mailto:victhewop@aol.com) <[victhewop@aol.com](mailto:victhewop@aol.com)>

Sent: Fri, Jan 25, 2019 11:09 am

Subject: Confidential Discussion

Hi, Vic.

As Karen informed you, I need to speak with you regarding a confidential matter brought to my attention. Please do not discuss this request with others to maintain the integrity of this confidential process. My schedule is open until 2 p.m. Pacific time today. You will need privacy on your end of the call, so please plan accordingly when responding with a time you are available. Please indicate whether you would prefer to call me at the number below or if I should call you at 713-927-3897.

I look forward to speaking with you soon.

Tammi

Tammi Denbow

Executive Director, P&O

Sony Pictures Entertainment

10202 West Washington Blvd.

Culver City, CA 90232

(310) 244-2907

[Tammi\\_Denbow@spe.sony.com](mailto:Tammi_Denbow@spe.sony.com)

# EXHIBIT 2



August 31, 2019

Via eService

Mr. Ty Beard  
Beard Harris Bullock Hughes  
100 Independence Place, Suite 300  
Tyler, Texas 75703

Re: *Victor Mignogna v. Funimation Productions, LLC, Jamie Marchi, Monica Rial, and Ronald Toye*, Cause Number: 141-307474-19 in the 141st District Court, Tarrant County, Texas

Dear Mr. Beard,

Pursuant to TEX. GOV'T CODE §406.014, please provide a certified copy of all notary book pages containing information for notarizations performed by you on August 30, 2019 as a commissioned Notary Public (Notary ID 11184648).

Sincerely,

A handwritten signature in blue ink, appearing to read 'S.H. Johnson', is written over the word 'Sincerely,'.

Samuel H. Johnson

SHJ:ejr

cc: All Counsel/Parties of Record

# EXHIBIT 3

**From:** [Sean Lemoine](#)  
**To:** [Ty Beard](#); [Carey Christie](#); [Jim Bullock](#)  
**Cc:** [John Volney](#); [Erick Casey](#); [sam@johnsonsparks.com](mailto:sam@johnsonsparks.com); [Ethan Minshull](#); [Christian Orozco](#); [Sean Lemoine](#)  
**Subject:** Case: 141-307474-19, VICTOR MIGNOGNA VS. FUNIMATION PRODUCTIONS, LLC, ET AL  
**Date:** Monday, September 02, 2019 9:04:36 AM

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Mr. Beard,

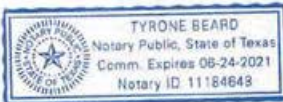
I am gravely concerned that the affidavits of Vic Mignogna, Chris Slatosch, and Chuck Huber were not signed in your presence, despite the representation in your jurat (see below). While it is possible that all three drove or flew to Tyler so that you could personally execute those affidavits, it is highly unlikely. I have confirmed that Mr. Slatosch was at the San Japan Anime Convention on August 30, 2019.

Obviously, you understood the import of Mr. Johnson's request for your notary book when he sent his letter on August 31, 2019. Obviously, a photo copy of the Notary book would be some evidence to support what occurred.

Perhaps there is an explanation, but I am struggling to determine what it might be, but before I file a motion with the Court I wanted to give you the opportunity to take a position.

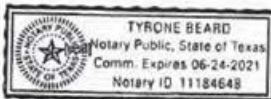
I will wait until September 3, 2019 at 10:00 a.m. for you to provide your side.

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this 30th day of August, 2019, by Christopher Slatosch, the affiant named above, to which witness and certify my signature and official seal.



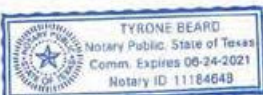
  
NOTARY PUBLIC, STATE OF TEXAS

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this 30 day of August, 2019, by CHUCK HUBER, the affiant named above, to which witness and certify my signature and official seal.



  
NOTARY PUBLIC  
STATE OF TEXAS

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this 30th day of August, 2019, by Victor Mignogna, the affiant named above, to which witness and certify my signature and official seal.



  
NOTARY PUBLIC, STATE OF TEXAS

**Sean Lemoine**

Partner | [Wick Phillips](#)

Direct: 214.740.4053

Email: [sean.lemoine@wickphillips.com](mailto:sean.lemoine@wickphillips.com)



# EXHIBIT 4



**From:** [Ty Beard](#)  
**To:** [Sean Lemoine](#)  
**Cc:** [Carey Christie](#); [Jim Bullock](#); [John Volney](#); [Erick, Casey](#); [sam@johnsonsparks.com](mailto:sam@johnsonsparks.com); [Ethan Minshull](#); [Christian Orozco](#)  
**Subject:** Re: Case: 141-307474-19, VICTOR MIGNOGNA VS. FUNIMATION PRODUCTIONS, LLC,ET AL  
**Date:** Tuesday, September 03, 2019 12:47:55 AM

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There has been no fraud. The affidavits were mistakenly submitted with defects in form. This is my notice that we're withdrawing them. I'll serve notice tomorrow but this email is sufficient notification.

No harm has been done to your clients, and the declarations in our second amended petition are identical to the defective affidavits, with one very minor exception. (Mr. Mignogna's original affidavit incorrectly stated that he was prescribed Losartin as a result of the acts of defendants, so that statement has been omitted). Otherwise, the declarations have the exact same statements as the affidavits.

And we are allowed to amend our petition before the hearing. Indeed, the case law seems to almost demand it.

So there is no legitimate basis for you to file motions to strike them. Your remedy is to object to the affidavits as being defective in form:

"Anderson's objections to the County's summary-judgment evidence include...authentication, verification...not under oath, not an affidavit, statement unsigned... These are all objections to form... See *Tri-Steel Structures, Inc. v. Baptist Found. of Tex.*, 166 S.W.3d 443, 448 (Tex. App.—Fort Worth 2005, pet. denied)." *Limestone County, Texas v. Lauri J. Anderson* (10-07-00174-CV, \_\_\_ SW3d \_\_\_, 07-02-08). Tex. App.—Waco 2008, pet. denied).

Of course, there's no need to do that since we've told you that we're withdrawing them.

And if you want to get into a sanctions fight, so be it. However, given your client's rampant discovery abuse (for instance, Rial testified several times that she gave important information to her counsel that was not produced to us), the revealing of sensitive information about Mr. Mignogna in your pleadings (in violation of TCRP 21c.), your numerous violations of TCPRC 13 and 10, etc., I don't think you're going to get much traction with the court.

There are also rumors that Mr. Toye has been contacting witness and trying to induce them to alter testimony and threatening them with retaliation if they don't. While I have not credited those rumors up to this point, I will of course look very closely into them if we get into a sanctions war. Given his tendency to use text messages and direct messages, it should be easy to substantiate these rumors if true.

And now that you have notice that we're withdrawing the defective affidavits, we will of course argue that filing motions to strike will violate Rules 13 and/or 10 if filed.

—Ty

cid:image001.jpg@01D06623.DADF7330

Ty Beard, Senior Partner  
Beard and Harris, Attorneys at Law  
100 Independence Place #101  
Tyler, Texas 75703  
(o) 903-509-4900  
(f) 903-509-4908  
Email: [ty@beardandharris.com](mailto:ty@beardandharris.com)  
Please CC emails to: [admin@beardandharris.com](mailto:admin@beardandharris.com)

On Sep 2, 2019, at 10:30 PM, Sean Lemoine <[slemoine@wickphillips.com](mailto:slemoine@wickphillips.com)> wrote:

Mr. Beard,

It is now apparent that did in fact attempt to commit a fraud on the Court.

In addition to filing a Cross Motion to Strike your Response and Objections to Evidence, please allow this to serve as our attempt to Confer to Strike your newly Amended Petition.

It is unfortunate that you have caused Mr. Slatosch and Mr. Huber to engage in this type of behavior.

Sean Lemoine  
Partner | Wick Phillips  
Direct: 214.740.4053  
Email: [sean.lemoine@wickphillips.com](mailto:sean.lemoine@wickphillips.com)  
<image011.jpg>

From: Sean Lemoine  
Sent: Monday, September 02, 2019 9:04 AM  
To: Ty Beard <[ty@beardandharris.com](mailto:ty@beardandharris.com)>; Carey Christie <[carey@beardandharris.com](mailto:carey@beardandharris.com)>; Jim Bullock <[jim@beardandharris.com](mailto:jim@beardandharris.com)>  
Cc: John Volney <[jvolney@lynnllp.com](mailto:jvolney@lynnllp.com)>; Erick, Casey <[cerick@cowlesthompson.com](mailto:cerick@cowlesthompson.com)>; [sam@johnsonsparks.com](mailto:sam@johnsonsparks.com); Ethan Minshull <[ethan.minshull@wickphillips.com](mailto:ethan.minshull@wickphillips.com)>; Christian Orozco <[corozco@lynnllp.com](mailto:corozco@lynnllp.com)>; Sean Lemoine <[slemoine@WickPhillips.com](mailto:slemoine@WickPhillips.com)>  
Subject: Case: 141-307474-19, VICTOR MIGNOGNA VS. FUNIMATION PRODUCTIONS, LLC,ET AL

Mr. Beard,

I am gravely concerned that the affidavits of Vic Mignogna, Chris Slatosch, and Chuck Huber were not signed in your presence, despite the representation in your jurat (see below). While it is possible that all three drove or flew to Tyler so that you

could personally execute those affidavits, it is highly unlikely. I have confirmed that Mr. Slatosch was at the San Japan Anime Convention on August 30, 2019.

Obviously, you understood the import of Mr. Johnson's request for your notary book when he sent his letter on August 31, 2019. Obviously, a photo copy of the Notary book would be some evidence to support what occurred.

Perhaps there is an explanation, but I am struggling to determine what it might be, but before I file a motion with the Court I wanted to give you the opportunity to take a position.

I will wait until September 3, 2019 at 10:00 a.m. for you to provide your side.

<image012.jpg>

<image013.jpg>

<image014.jpg>

Sean Lemoine

Partner | Wick Phillips

Direct: 214.740.4053

Email: [sean.lemoine@wickphillips.com](mailto:sean.lemoine@wickphillips.com)

<image015.jpg>

# EXHIBIT 5

CAUSE NO. 11-2216-C

2011 APR 22 AM 10:43  
IN THE 24<sup>TH</sup> JUDICIAL DISTRICT  
COURT AND FOR  
SMITH COUNTY, TEXAS

IN RE: THE  
DEBORAH PATTERSON HOWARD  
TRUST

§  
§  
§  
§  
§

ORDER GRANTING MOTION FOR SANCTIONS

Came on to be heard on September 12, September 19, and November 13, 2013, Robert H. Patterson, Jr.'s Motion to Quash Subpoena and for Sanctions for Discovery Abuse ("Motion for Sanctions"). The Court, having considered the Motion, the evidence presented and having heard arguments of counsel, is of the opinion that the Motion for Sanctions should be GRANTED. The Court finds that:

1. The attorneys for Deborah Patterson Goughnor, specifically Craig M. Daugherty, Ty Beard, Donald Harris, Jim E. Bullock and Brian Casper ("Deborah's Attorneys") prepared, signed and sent a false trial Subpoena to Central Title Company dated May 28, 2013 (the "False Trial Subpoena"). The False Trial Subpoena commanded Central Title Company to appear before this Court on June 25, 2013 at 11:00 a.m. to give testimony and provide evidence in this case. No hearing or trial was ever set for June 25, 2013, in this matter.
2. Deborah's Attorneys sent the False Trial Subpoena in order to avoid compliance with Rules 176.2, 176.3(b), 199.2(b)(5), 200, and 205, which constitutes an abuse of the discovery process that is sanctionable under Rule 215.3.
3. An appropriate sanction for Deborah's Attorneys' abuse of the discovery process is a monetary sanction based on the attorney's fees expended by the Deborah Patterson

Howard Trust (the "Trust") in preparing and filing the Motion for Sanctions as well as preparing for and attending the three (3) hearings on the Motion for Sanctions as authorized by Texas Rule of Civil Procedure 215.2(b)(8) (the "Monetary Sanction").

4. The monetary sanction is calculated at thirty-five (35) hours at the rate of \$400 per hour, which is reasonable and necessary to sanction Deborah's Attorneys' for their abuse of the discovery process.

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED that Craig M. Daugherty, Ty Beard, Donald Harris, Jim E. Bullock, and Brian Casper, jointly and severally, are hereby liable to the Deborah Patterson Howard Trust (the "Trust") for the sum of \$14,000. in attorney's fees and shall pay this amount to the Trust no later than July 21, 2014.

SIGNED this 22<sup>nd</sup> day of April, 2014.

  
JUDGE PRESIDING

