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March 12, 2010

VIA E-MAIL AND U.S. MAIL

The Honorable Susan M. Burke
Judge of District Court
Hennepin County Government Center
Chambers C 730
300 South 6th Street
Minneapolis, MN 55487-0332

Re: *Christopher Roller v. Wagoner, Falconer & Judd, Ltd. (WFJ) via Prepaid Legal c/o Dan Smith, Honorable Judge Mark Boris via WFJ and Bosley and State of Minnesota, and Attorney Alexander Gese via Bosley*
Court File No.: 27-CV-09-22812

Dear Judge Burke:

Pursuant to Minnesota General Practice Rule 115.11, this letter is a request for leave to submit a motion for reconsideration of the Court's order filed March 5, 2010. Defendants Alexander Gese and Bosley, Inc. ("Gese Defendants") respectfully submit this request on two bases:

- (1) While the Court's Order dismissed the Complaint With Prejudice, it also denied the Gese Defendants' Motion to Dismiss. The rulings are inconsistent.
- (2) The stated basis for denying the motions to dismiss do not apply to the Gese Defendants. As alleged in the complaint, Alexander Gese was never Mr. Roller's lawyer. On the contrary, Mr. Gese represented defendant Bosley, Inc., in two cases brought by Mr. Roller that did not succeed.¹ Lacking any other attorney-client relationship eliminates any possible claim of breach of fiduciary duty.

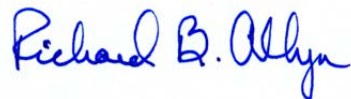
¹ Roller initially sued Bosley Medical Group (Bosley, Inc.) for infringing his "pseudo-patent" in federal court. Alexander Gese represented Bosley and got Roller to voluntarily dismiss the Complaint. *Roller v. Bosley Medical Group*, U.S. Dist. Ct. (Minn.) Civil Action No. 07-01296. Subsequently, Roller brought a Conciliation Court claim against Bosley and Mr. Gese in Hennepin County seeking reimbursement for the cost of his hair transplants. Case No. 080327031. He was awarded no money against Bosley and the claim against Mr. Gese was dismissed with prejudice on July 22, 2008. He failed to perfect his appeal on time.

Further, contrary to the Order, the defendants are not accused of any assault and battery on Mr. Roller. There is no allegation that either Bosley, Inc., or attorney Gese ever posed an immediate physical threat, see, e.g., *Prosser & Keeton on the Law of Torts*, (5th Ed., 1984), § Assault. Likewise, there is no allegation of any physical touching as required to assert a claim for battery. *Id.* Lastly, assuming the basis for an intentional infliction of emotional distress claim is Mr. Roller's "impression that my daughter has been molested by Dan Smith (an attorney at Wagoner), Alexander Gese (Bosley, Inc.'s attorney), and (Conciliation Judge) Mark Boris during the past year, sometime, somehow, somewhere," Mr. Roller has not even minimally stated sufficient facts to put the Gese Defendants on notice of any claim.²

Thank you for your consideration of this matter.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.



Richard B. Allyn

RBA/sjw

² Complaint at p.4. A vague "impression" does not satisfy even minimal pleading as pointed out in the parties' Motion to Dismiss.