



July 29, 2022

Via Electronic Filing

Judge Lauren Reeder
234TH JUDICIAL DISTRICT COURT
201 Caroline Street
Houston, Texas 77002

Re: Cause No. 2020-46985, Mark Canfora, et al. v. Brent W. Coon, PC, et al., in the 234th Judicial District Court of Harris County, Texas.

Dear Judge Reeder,

As you are aware, on July 12, 2022, the Court denied the BCA Defendants' First Amended Motion for Contempt, to Show Cause, and to Compel (the "Motion") and ordered counsel to have a good faith meet and confer by July 31, 2022 regarding Plaintiffs' Objections and Responses to the BCA Defendants' Second and Third Sets of Written Discovery (the "Discovery Responses").

Counsel met to discuss the Discovery Responses on July 26th. While the meeting was a step in the right direction, additional discussions are necessary. To aid the parties in those discussions, Plaintiffs' counsel spent substantial time constructing the attached chart, which organizes the BCA Defendants' discovery into topics, lists the specific requests that fall under those topics, and thoroughly details Plaintiffs' position on those topics. Plaintiffs' counsel has provided the BCA Defendants with the chart and hopes to have their input by August 8th. Once Plaintiffs' counsel has the BCA Defendants' input, counsel will arrange a time to further discuss the Discovery Responses.

Please let me know if you have any additional information is needed.

Sincerely,

THE KASSAB LAW FIRM

A handwritten signature in blue ink that reads "N. Pierce". The signature is written in a cursive style and is positioned above a horizontal line.

NICHOLAS R. PIERCE

Investor Plaintiffs' Objections & Responses to BCA Defendants' Second Set of Written Discovery				
Topic	Requests	Plaintiffs' Position	Plaintiffs' Questions for BCA Defendants	BCA Defendants' Position
Adequately Answered ¹	1-15, 17, 72-90, 97, 100, 107, 111-115, 123, 127-131, 135, 139, 147, 152, 156, 160, 164, 171, 181-182, 190-191	N/A	N/A	Please review the requests listed and confirm that the BCA Defendants do not plan to take these requests up with the Court.
BP Oil Spill Malpractice ²	16, 18-21, 28-31, 50-71	<p><i>First</i>, the specified requests are irrelevant and nothing more than a fishing expedition relating to an unpled barratry claim.</p> <p>BCA Defendants contend that, <i>after their representation of the Plaintiffs had already concluded</i>, Canfora formed BP Oil Spill Malpractice for the purpose of recruiting other folks (such as the Investor Plaintiffs) to bring legal malpractice claims against the BCA Defendants.</p> <p>Yet, the dispute at issue does not concern the time period or actions taken after the BCA Defendants' underlying representation of the Plaintiffs had concluded. Instead, the dispute at issue concerns the BCA Defendants' underlying representation of the Plaintiffs. It is undisputed that BP Oil Spill Malpractice was formed after the underlying representation of the Plaintiffs had ended. It is undisputed</p>	<p>What is the relevance of these requests to this litigation?</p> <p>What specific claims or defenses do the BCA Defendants contend these requests concerning BP Oil Spill Malpractice go towards? Please list the specific claims or defenses and explain.</p> <p>If the BCA Defendants contend the requests are relevant because they go towards a barratry claim, how can that be at issue when the BCA Defendants have not brought a barratry claim against BP Oil Spill Malpractice and/or The Kassab Law Firm?</p> <p>Even if we assume that the BCA Defendants' contention is correct and Canfora formed BP Oil Spill Malpractice to get the Investor Plaintiffs to bring malpractice claims against the BCA Defendants and/or commit barratry, what bearing does that have on this case? What claim or defense would that support?</p>	<p>While a detailed explanation regarding relevance was not provided, the BCA Defendants noted they sent these requests because the responses will show that (1) barratry occurred and (2) Mark Canfora is an unethical person.</p> <p>The BCA Defendants have not rebutted Plaintiffs' assertions of privilege.</p> <p>Please provide detailed responses to the Plaintiffs' questions regarding these requests so that Plaintiffs can evaluate their objections and/or assertions of privilege prior to these issues</p>

¹ "Adequately Answered" generally refers to requests to which Plaintiffs have adequately responded and/or requests to which Plaintiffs have objections and/or assertions of privilege in place that the BCA Defendants do not plan to challenge.

² "BP Oil Spill Malpractice" generally refers to requests which seek information: about whether Canfora formed an entity named BP Oil Spill Malpractice, LLC to locate former clients of BCA Defendants (such as the Investor Plaintiffs) to sue them for malpractice; relating to whether the Plaintiffs hired BP Oil Spill Malpractice to investigate their potential claims against BCA Defendants; about whether Canfora encouraged the Investor Plaintiffs to file suit against the BCA Defendants; about whether Canfora was to receive any fee from their recovery.

		<p>that BP Oil Spill Malpractice is not an entity named in this litigation. And it is clear the Plaintiffs' responses to these requests have no bearing on the claims or defenses at issue in this litigation.</p> <p>BCA Defendants have asserted that these requests go towards proving Defendants' claim that the Investor Plaintiffs were illegally solicited by BP Oil Spill Malpractice and/or The Kassab Law Firm.</p> <p>Yet, no claim of barratry has been pled. If the BCA Defendants want to assert these requests are relevant because they relate to a supposed barratry claim, BCA Defendants should be required to bring the barratry claim.</p> <p>As Plaintiffs' counsel has conveyed to the BCA Defendants numerous times, we have no issue with the BCA Defendants bringing a barratry claim for two reasons: (1) because no improper solicitation occurred and (2) because, even if we assume that an improper solicitation occurred (and it did not), BCA Defendants do not have standing to bring a barratry claim.</p> <p>The criminal barratry statute does not give rise to a private right of action in favor of opposing counsel. <i>See Moiel v. Sandlin</i>, 571 S.W.2d 567, 571 (Tex. Civ. App.—Corpus Christi 1978, no writ) (“The offense of barratry as defined in the penal code is a public remedy and not a private one.”). And while there is a civil statute that creates a private right of action against those who commit barratry, only those who are improperly solicited have standing to sue, not opposing counsel. <i>See TEX.</i></p>	<p>If the BCA Defendants contend that the requests are relevant because they go towards proving that Canfora generally acts in an unethical manner, how is that information relevant when the Rules of Evidence state such information is inadmissible?</p> <p>Even if we assume that the BCA Defendants' contention is correct and Canfora acted unethically through BP Oil Spill Malpractice, what bearing does that have on this case? What claim or defense would that support?</p> <p>Furthermore, what is good for the goose is good for the gander.</p> <p>Are the BCA Defendants opposed to the Plaintiffs sending several discovery requests about unethical actions the BCA Defendants allegedly took? Or will the BCA Defendants object and assert that those actions are irrelevant and a fishing expedition?</p> <p>For instance, Judge Jerry A. Brown denied BCA attorney's fees in the underlying BP Oil Spill matter because Judge Brown found that BCA's supposed client had never actually signed up with BCA and the supposed client's signature on the BCA contract was forged; BCA has been sued several times for not honoring contracts with co-counsel or referring counsel; and, there are other cases where BCA has been sued for botching a former client's underlying BP case.</p> <p>Are the BCA Defendants opposed to the Plaintiffs sending discovery requests regarding those topics since they go</p>	<p>being taken up with the Court.</p>
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		<p>GOV'T CODE § 82.0651.</p> <p>BCA Defendants have only offered one other explanation for these requests regarding BP Oil Spill Malpractice. BCA Defendants assert that the requests will show that Mark Canfora acts in an unethical manner and that his unethical actions are relevant to this dispute.</p> <p>Yet, the Rules of Evidence clearly that crimes, wrongs, and bad acts are not admissible. <i>See</i> Tex. R. Evid. 404.</p> <p>Second, the specified requests seek information that is protected by the attorney client and/or work product privileges.</p> <p>Canfora is acting as a client representative in this litigation. Canfora is authorized to obtain and facilitate the rendition of professional legal services on the Investor Plaintiffs' behalf. Thus, requests that seek to discover Canfora's communications with the Investor Plaintiffs that have been made to facilitate Plaintiffs' counsel's rendition of legal services is privileged as a matter of law. Furthermore, as BCA Defendants should be aware, the work-product doctrine protects the ideas and strategic decisions made concerning a case by guarding information revealing the thought process of an attorney, a client, or their agent. This can include communications as well as documents. If the Plaintiffs are communicating with each other regarding this malpractice litigation, those communications would clearly contain their thoughts and ideas and strategy concerning the malpractice</p>	<p>towards establishing the BCA acts in an unethical behavior? Or will the BCA Defendants object and assert that their unethical actions are irrelevant and a fishing expedition?</p> <p>Last, do the BCA Defendants contest the Plaintiffs' assertion of privilege? On what grounds?</p>	
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Privileged Communications w/ Present Counsel ³	22-27	<p>With these requests, BCA Defendants seek communications between the Plaintiffs and their present counsel. It could not be clearer that the information sought is protected by the attorney client and/or work product privileges.</p> <p>Regardless, even if Plaintiffs' assertions of privilege were somehow not an adequate ground to refuse to respond to these requests, the specified requests are irrelevant and nothing more than a fishing expedition relating to an unpled barratry claim.</p> <p>BCA Defendants have only offered one explanation for these requests regarding these privileged communications. BCA Defendants assert that the requests will support their unpled barratry scheme.</p> <p>Again, BCA Defendants should be required to bring that unpled barratry claim if the BCA Defendants want to assert these requests are relevant to it.</p>	<p>Do the BCA Defendants contest the Plaintiffs' assertion of privilege? If so, on what grounds?</p> <p>What is the relevance of these requests to this litigation?</p> <p>What specific claims or defenses do the BCA Defendants contend these requests concerning communications with counsel go towards? Please list the specific claims or defenses and explain.</p> <p>If the BCA Defendants contend the requests are relevant because they go towards a barratry claim, how can that be at issue when the BCA Defendants have not brought a barratry claim against BP Oil Spill Malpractice and/or The Kassab Law Firm?</p>	<p>While a detailed explanation regarding relevance was not provided, BCA Defendants noted they sent these requests because the responses will show that barratry occurred.</p> <p>The BCA Defendants have not rebutted Plaintiffs' assertions of privilege.</p> <p>Please provide detailed responses to the Plaintiffs' questions regarding these requests so that Plaintiffs can evaluate their objections and/or assertions of privilege prior to these issues being taken up with the Court.</p>
Unrelated Entities ⁴	32-39, 41-45, 48-49	<p>The specified requests are irrelevant and nothing more than a fishing expedition.</p> <p>The entities listed in the specified requests were not parties in the underlying BP litigation; the BCA Defendants never represented those entities; the entities are not named in</p>	<p>What is the relevance of these requests to this litigation?</p> <p>What specific claims or defenses do the BCA Defendants contend these requests concerning communications with counsel go towards? Please list the specific claims or defenses and explain.</p>	<p>While a detailed explanation regarding relevance was not provided, BCA Defendants noted they sent these requests because the responses will show that Canfora is an unethical person</p>

³ "Privileged Communications w/ Present Counsel" generally refers to requests which seek information regarding communications between the Plaintiffs and their present counsel, The Kassab Law Firm, in this case.

⁴ "Unrelated Entities" generally refers to requests which seek information regarding whether the Investor Plaintiffs have ever heard of various random entities which the BCA Defendants contend Mark Canfora had some supposed involvement. However, the BCA Defendants never represented these entities in any manner and these entities were not involved in the underlying BP Litigation.

		<p>the present litigation; and, as far as Plaintiffs' counsel can tell, Plaintiffs knowledge (or lack thereof) of the described entities has no bearing on the claims or defenses at issue.</p> <p>BCA Defendants – once again – assert that the requests will show that Canfora acts in an unethical manner and that his unethical actions are relevant to this dispute. More specifically, BCA Defendants assert that the listed entities may have been Ponzi schemes that Canfora utilized to obtain funds from the Investor Plaintiffs.</p> <p>Again, the Rules of Evidence are clear that crimes, wrongs, and bad acts are not admissible. <i>See</i> Tex. R. Evid. 404.</p> <p>Even assuming that the BCA Defendants' assumption is true (and that Canfora formed entities to get folks like the Investor Plaintiffs to provide him with funds), that finding has no bearing on the present case. That finding goes to none of the claims or defenses at issue in the present lawsuit. If anything, that finding would go toward claims that the Investor Plaintiffs could bring against Canfora, which is not the dispute presently before the Court.</p>	<p>Even if we assume that the BCA Defendants' contention is correct and Canfora acted unethically through these entities, what bearing does that have on this case? What claim or defense would that support?</p> <p>Are the BCA Defendants opposed to the Plaintiffs sending discovery requests regarding the previously mentioned topics since they go towards establishing the BCA also acts in an unethical behavior? Or will the BCA Defendants object and assert that their unethical actions are irrelevant and a fishing expedition?</p>	<p>because he utilized the listed entities as Ponzi schemes to get the Investor Plaintiffs to give him money.</p> <p>Please provide detailed responses to the Plaintiffs' questions regarding these requests so that Plaintiffs can evaluate their objections and/or assertions of privilege prior to these issues being taken up with the Court.</p>
Other Entities ⁵	40, 46-47	<p>The specified requests are irrelevant.</p> <p>Plaintiffs' knowledge (or lack thereof) of the described entities has no bearing on the claims or defenses at issue.</p>	<p>What is the relevance of these requests to this litigation?</p> <p>What specific claims or defenses do the BCA Defendants contend these requests</p>	<p>Plaintiffs' counsel does not recall specifically discussing why the Investor Plaintiffs' knowledge of other</p>

⁵ "Other Entities" generally refers to requests which seek information regarding whether the Investor Plaintiffs have ever heard of a few entities that were involved in the underlying BP Litigation, including Fractional Real Estate Adjusters, LLC, Prepaid Real Estate of Florida, LLC, and Infinity Blu Development Group, LLC.

			concerning communications with counsel go towards? Please list the specific claims or defenses and explain.	entities involved in the BP Litigation is relevant to the present lawsuit. Please provide detailed responses to the Plaintiffs' questions regarding these requests so that Plaintiffs can evaluate their objections and/or assertions of privilege prior to these issues being taken up with the Court.
<i>Legal Conclusions</i>		The specified requests are improper because they ask Plaintiffs, who are non-lawyers, to state information not within their personal knowledge and formulate legal conclusions which they are not qualified to do.	Do the BCA Defendants contest that the requests are asking the Plaintiffs to make a legal conclusion? Do the BCA Defendants contest that the Texas Supreme Court has repeatedly (for 70+ years) stated that such a use of requests for admission are improper? If so, on what grounds?	Defendants have stated that they would conduct legal research to determine whether requests for admissions seeking legal conclusions from laypersons are proper.
Violations of the Texas Rules of Professional Conduct ⁶	91-96, 119-122	The Texas Supreme Court has repeatedly (for 70+ years) chided parties that have attempted to utilize requests for admission in this manner: "Requests for admission are a tool, not a trapdoor." <i>U.S. Fid. & Guar. Co. v. Goudeau</i> , 272 S.W.3d 603, 610 (Tex. 2008). Requests for admission primarily serve "to simplify trials by eliminating matters about which there is no real	Moreover, if the Court somehow overrules the Plaintiffs' objections (and 70+ years of precedent), the Plaintiffs are going to assert that they do not have the information necessary to admit or deny the request because they are laypersons and not lawyers and that they defer to their counsel and/or legal	Please provide detailed responses to the Plaintiffs' questions regarding these requests so that Plaintiffs can evaluate their objections and/or assertions of privilege prior to these issues
Breach of Contract ⁷	101, 108, 175-179			
Breach of Fiduciary Duty ⁸	99, 102, 109, 143, 180			

⁶ "Violations of the Texas Rules of Professional Conduct" generally refers to requests which ask whether certain actions are prohibited (or not prohibited) by the Texas Rules of Professional Conduct; for instance, the BCA Defendants ask whether the Texas Rules of Professional Conduct specifically prohibit a request to have a client fill out a sworn statement and return it within 4 days.

⁷ "Breach of Contract" generally refers to requests which ask whether certain actions constitute a breach of contract. It should be noted that the Plaintiffs have not brought a breach of contract action against the BCA Defendants.

⁸ "Breach of Fiduciary Duty" generally refers to requests which ask whether certain actions constitute a breach of fiduciary duty.

Negligence or Gross Negligence ⁹	110	<p>controversy, but which may be difficult or expensive to prove.” <i>Medina v. Zuniga</i>, 593 S.W.3d 238, 244 (Tex. 2019). When used “as intended,” requests for admissions are useful in “addressing uncontroverted matters or evidentiary ones like the authenticity or admissibility of documents.” <i>Wheeler v. Green</i>, 157 S.W.3d 439, 443 (Tex. 2005) (per curiam). Requests for admission were “never intended to be used as a demand upon a plaintiff or defendant to admit that he had no cause of action or ground of defense.” <i>Marino v. King</i>, 355 S.W.3d 629, 632 (Tex. 2011) (per curiam) (“Requests for admission were never intended for [the] purpose” of asking the defendant to “admit to the validity of [the plaintiff’s] claims and concede [the defendant’s] defenses— matters [the plaintiff] knew to be in dispute.”).</p> <p>Furthermore, BCA Defendants have sent requests regarding Plaintiffs’ breach of contract claim; yet, Plaintiffs have not brought a breach of contract claim against the BCA Defendants.</p>	<p>expert(s).</p> <p>With that in mind, what is the purpose of taking these requests up with the Court?</p>	<p>being taken up with the Court.</p> <p>Please provide the results of the legal research conducted.</p>
<i>Legal Conclusions & Sanctions</i>		<p>First, as already stated, the specified requests are improper because they ask Plaintiffs, who are non-lawyers, to state information not within their personal knowledge and formulate legal conclusions which they are not qualified to do.</p> <p>The Texas Supreme Court has</p>	Do the BCA Defendants contest that the requests are asking the Plaintiffs to make a legal conclusion?	Defendants have stated that they would conduct legal research to determine whether requests for admissions seeking legal conclusions from laypersons are proper.
Brought for an Improper Purpose ¹⁰	103		Do the BCA Defendants contest that the Texas Supreme Court has repeatedly (for 70+ years) stated that such a use of requests for admission are improper? If so, on what grounds?	
Warranted / Unwarranted	104, 118, 126, 132, 134, 136, 138, 142,			

⁹ “Negligence or Gross Negligence” generally refers to requests which ask whether certain actions constitute negligence or gross negligence.

¹⁰ “Brought for an Improper Purpose” generally refers to a request which asks whether the legal malpractice lawsuit filed is bring done for an improper purpose, such as to harass.

Based on Existing Law ¹¹	146, 148, 151, 155, 163, 167, 170, 174, 185-186, 189	repeatedly (literally for 70+ years) chided parties that have attempted to utilize requests for admission in this manner:	Moreover, if the Court somehow overrules the Plaintiffs' objections (and 70+ years of precedent), the Plaintiffs are going to assert that they do not have the information necessary to admit or deny the request because they are laypersons and not lawyers and that they defer to their counsel and/or legal expert(s).	Defendants have not yet responded to Plaintiffs' assertion that these requests are improper because they are brought solely for the purpose of obtaining sanctions.
Likely to Lack Evidentiary Support after Reasonable Investigation ¹²	105, 116-117, 125, 133, 137, 141, 145, 150, 154, 158, 159, 162, 166, 169, 173, 184, 188	"Requests for admission are a tool, not a trapdoor." <i>U.S. Fid. & Guar. Co. v. Goudeau</i> , 272 S.W.3d 603, 610 (Tex. 2008). Requests for admission primarily serve "to simplify trials by eliminating matters about which there is no real controversy, but which may be difficult or expensive to prove." <i>Medina v. Zuniga</i> , 593 S.W.3d 238, 244 (Tex. 2019). When used "as intended," requests for admissions are useful in "addressing uncontroverted matters or evidentiary ones like the authenticity or admissibility of documents." <i>Wheeler v. Green</i> , 157 S.W.3d 439, 443 (Tex. 2005) (per curiam). Requests for admission were "never intended to be used as a demand upon a plaintiff or defendant to admit that he had no cause of action or ground of defense." <i>Marino v. King</i> , 355 S.W.3d 629, 632 (Tex. 2011) (per curiam) ("Requests for admission were never intended for [the] purpose" of asking the defendant to "admit to the validity of [the plaintiff's] claims and	With that in mind, what is the purpose of taking these requests up with the Court? Furthermore, do the BCA Defendants contest the fact that all of these requests are aimed at trying to file a motion for sanctions (as opposed to trying to investigate the facts of the case)? If so, then why do requests mirror the language contained in the statutes relating to sanctions? Do you contest that request for admissions are not in place so that a party can use them as a "trapdoor" and attempt to get sanctions? If not, on what grounds?	Please provide detailed responses to the Plaintiffs' questions regarding these requests so that Plaintiffs can evaluate their objections and/or assertions of privilege prior to these issues being taken up with the Court. Please provide the results of the legal research conducted.
Warranted / Unwarranted Based on the Evidence ¹³	106, 124, 140, 144, 149, 153, 157, 161, 165, 168, 172, 183, 187			

¹¹ "Warranted / Unwarranted Based on Existing Law" generally refers to requests which ask whether certain allegations are warranted or unwarranted based on existing law; for instance, BCA Defendants ask whether the Plaintiffs' assertion that BCA failed to communicate with the Plaintiffs is based on existing law.

¹² "Likely to Lack Evidentiary Support after Reasonable Investigation" generally refers to requests which ask whether certain allegations are likely or unlikely to have evidentiary support after a reasonable opportunity for further investigation or discovery; for instance, BCA Defendants ask whether the Plaintiffs' assertion that BCA failed to communicate with the Plaintiffs is likely to have evidentiary support after further investigation or discovery.

¹³ "Warranted / Unwarranted Based on the Evidence" generally refers to requests which ask whether certain allegations are warranted or unwarranted based on the evidence; for instance, BCA Defendants ask whether the Plaintiffs' assertion that BCA failed to communicate with the Plaintiffs is based on the evidence.

		<p>concede [the defendant's] defenses— matters [the plaintiff] knew to be in dispute.”).</p> <p>Second, the specified requests are improper because they clearly seek to discover information to support a motion for sanctions (as opposed to discovering factual information raised in the Plaintiffs’ pleadings).</p> <p>BCA Defendants’ intent could not be clearer – BCA Defendants literally copied language from rules relating to sanctions.</p> <p>For instance, Texas Rule of Civil Procedure 13 provides that sanctions may be warranted if a pleading is “not warranted by good faith argument for the extension, modification, or reversal of existing law.” Texas Civil Practice and Remedies Code Rule 10.001 provides that sanctions may be warranted if a pleading is: “not being presented for any improper purpose, including to harass or to cause unnecessary delay or needless increase in the cost of litigation;” “warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;” and “has evidentiary support or, for a specifically identified allegation or factual contention, is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery...”</p> <p>“Discovery undertaken with the purpose of finding an issue, rather than in support of an issue already raised by the pleadings, would constitute an</p>		
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		impermissible “fishing expedition” and is improper. <i>In re Allstate Fire & Cas. Ins. Co.</i> , 617 S.W.3d 635, 643 (Tex. App.—Houston [14th Dist.] 2021, orig. proceeding). That’s exactly what is happening here. The purpose of the BCA Defendant’s requests is to find an issue on which basis they can file a motion for sanctions (as opposed to discovering factual information about issues raised in the pleadings). Those requests are improper as a matter of law.		
Supplement ¹⁴	97, 192	Plaintiffs will supplement with the requested information if that resolves the dispute between the parties.		Please confirm this will resolve the dispute between the parties.

¹⁴ “Supplement” means Plaintiffs will supplement these responses.

Canfora Plaintiffs' Objections & Responses to BCA Defendants' Third Set of Written Discovery ¹⁵					
Topic	Specific Defendant	Requests	Plaintiffs' Position	Plaintiffs' Questions for BCA Defendants	BCA Defendants' Position
Adequately Answered ¹⁶	BCA	1, 4-9, 12-13, 15, 21, 23	N/A	N/A	Please review the interrogatories listed and confirm that the BCA Defendants do not plan to take these interrogatories up with the Court.
	Schwartz	1-13			
	Coon	1-2, 6-7, 11, 13, 16			
	Newell	1-2, 6-7, 11-12, 20-21, 23			
	Thomas	1-7, 11-12			
	Slocum	1-7, 11-12, 15, 17			
	Jacob	1-7, 11-12			
Supplement ¹⁷	BCA	2	<p>Plaintiffs' marital status and addresses for the last fifteen years have no relevance to the present case.</p> <p>However, at the meet and confer between counsel, Mr. Newell expressed that he was only interested in Canfora's addresses around the time of the underlying litigation.</p> <p>Plaintiffs will disclose Canfora's addresses around the time of the underlying litigation if that resolves the dispute between the parties.</p>	N/A	Please confirm this will resolve the dispute between the parties.
	BCA	3	Plaintiffs' employers for the past ten years have no relevance to the present case.		Please confirm this will resolve the

¹⁵ Plaintiffs' counsel and BCA Defendants' counsel have not specifically reviewed each of the Investor Plaintiffs' Responses and Objections to the BCA Defendants' Third Set of Written Discovery. However, the BCA Defendants' Third Set of Written Discovery to the Investor Plaintiffs is similar to the BCA Defendants' Third Set of Written Discovery to the Canfora Plaintiffs. The parties appear to be aligned on the fact that the Court's rulings on the Canfora Plaintiffs' Objections and Responses to the BCA Defendants' Third Set of Written Discovery will inform the parties how to handle the Investor Plaintiffs' Objections and Responses to the BCA Defendants' Third Set of Written Discovery.

¹⁶ "Adequately Answered" generally refers to interrogatories which Plaintiffs have adequately responded and/or interrogatories to which Plaintiffs have objections and/or assertions of privilege in place that the BCA Defendants do not plan to challenge.

¹⁷ "Supplement" means Plaintiffs will supplement these interrogatories.

			<p>Plaintiffs’ marital status and addresses for the last fifteen years have no relevance to the present case.</p> <p>However, at the meet and confer between counsel, Mr. Newell expressed that he was only interested in Canfora’s employment history around the time of the underlying litigation.</p> <p>Plaintiffs will disclose Canfora’s employment history around the time of the underlying litigation if that resolves the dispute between the parties.</p>		<p>dispute between the parties.</p>
	BCA	10	<p>Plaintiffs contend that detailing all damages and losses that they intend to claim requires Plaintiffs to marshal all its available proof that they intend to offer at trial</p> <p>However, at the meet and confer between counsel, Mr. Newell expressed that he simply wanted the figures provided broken down into the Plaintiffs’ actual investment and their purported return on investment.</p> <p>Plaintiffs will supplement if that resolves the dispute between the parties.</p>		<p>Please confirm this will resolve the dispute between the parties.</p>
	BCA	11	<p>Plaintiffs contend that listing any and all lawsuits that they have been involved in – without any limits as to time and/or scope – is overly broad and seeks information that is not relevant to the present lawsuit. Plaintiffs imagine that if the same interrogatory were posed to the BCA Defendants, BCA Defendants would provide the same objections as Plaintiffs.</p> <p>However, at the meet and confer between counsel, Mr. Newell expressed that he wanted information relating to any litigation involving the Plaintiffs and the Infiniti Blu project.</p>		<p>Please confirm this will resolve the dispute between the parties.</p>

			Plaintiffs will supplement with the requested information if that resolves the dispute between the parties.		
	BCA	14	<p>Plaintiffs contend that listing any and all criminal charges, actions or investigations that they have been involved in – without any limits as to time and/or scope – is overly broad and seeks information that is not relevant to the present lawsuit. Plaintiffs imagine that if the same interrogatory were posed to the BCA Defendants, BCA Defendants would provide the same objections as Plaintiffs.</p> <p>However, at the meet and confer between counsel, Mr. Newell expressed that he would limit the interrogatory to the bounds of Texas Rule of Evidence 609 – criminal convictions if the crime was a felony or involved moral turpitude within the last ten years.</p> <p>Plaintiffs will supplement with the requested information if that resolves the dispute between the parties.</p>		Please confirm this will resolve the dispute between the parties.
	BCA	22	<p>Plaintiffs contend that identifying any other attorneys or legal representatives they spoke to regarding their BP Oil spill claim is irrelevant. The Miller Defendants and the BCA Defendants agreed to take on their case; whether other attorneys reviewed the case prior to them has no bearing on Plaintiffs' claims.</p> <p>Regardless, Plaintiffs will supplement to resolve the dispute between the parties.</p>		Please confirm this will resolve the dispute between the parties.
	Schwartz	14	<p>Plaintiffs contend the interrogatory is vague and ambiguous. During the meet and confer, Mr. Newell agreed with that assessment.</p> <p>However, to resolve the dispute, counsel agreed to change the interrogatory to state, "Please generally describe your communications with your counsel regarding</p>		Please confirm this will resolve the dispute between the parties.

			PTO 60.”		
	Schwartz	16, 17	No issues should exist with these interrogatories. While Plaintiffs stand by their objections, they have indicated in their response and in the meet and confer with Mr. Newell that they will supplement with a detailed response.		Please confirm.
	Schwartz	18, 19	Plaintiffs contend the interrogatory is vague and ambiguous as it was unclear which attorneys are being referenced. Mr. Newell clarified that the interrogatory seeks to discover what the BCA Defendants or Miller Defendants told the Plaintiffs about their ability to pursue claims as individual investors. With that clarification, Plaintiffs will supplement to resolve the dispute between the parties.		Please confirm this will resolve the dispute between the parties.
	Coon	3-5, 11, 14-15	No issues should exist with these interrogatories. While Plaintiffs stand by their objections, they have indicated in their response and in the meet and confer with Mr. Newell that they will supplement with a detailed response.		Please confirm.
	Newell	3-5, 12-16, 22	No issues should exist with these interrogatories. While Plaintiffs stand by their objections, they have indicated in their response and in the meet and confer with Mr. Newell that they will supplement with a detailed response.		Please confirm.
	Newell	17-19	Plaintiffs contend that these interrogatories relating to various ancillary issues are irrelevant. Regardless, Plaintiffs will supplement to resolve the dispute between the parties.		Please confirm this will resolve the dispute between the parties.
	Slocum	13-14, 20-21	No issues should exist with these interrogatories. While Plaintiffs stand by their objections, they have indicated in their response and in the meet and confer with Mr. Newell that they will supplement with a detailed response.		Please confirm.
	Slocum	16-19	Plaintiffs contend that the interrogatories –		Please confirm this

			<p>as drafted – are over broad and require Plaintiffs to detail countless conversations over the course of years.</p> <p>However, at the meet and confer between counsel, Mr. Newell expressed that he would limit the interrogatories to communications between Canfora on the one hand and the Investor Plaintiffs and/or other Infiniti Blue investors on the other hand from March through May of 2016.</p> <p>With that clarification, Plaintiffs will supplement to resolve the dispute between the parties.</p>		<p>will resolve the dispute between the parties.</p>
	Jacob	13-16, 18-19	<p>No issues should exist with these interrogatories. While Plaintiffs stand by their objections, they have indicated in their response and in the meet and confer with Mr. Newell that they will supplement with a detailed response.</p>		<p>Please confirm.</p>
BP Oil Spill Malpractice ¹⁸	BCA	16, 17, 18	<p>First, the specified interrogatories are irrelevant and nothing more than a fishing expedition relating to an unpled barratry claim.</p> <p>BCA Defendants contend that, <i>after their representation of the Plaintiffs had already concluded</i>, Canfora formed BP Oil Spill Malpractice for the purpose of recruiting other folks (such as the Investor Plaintiffs) to bring legal malpractice claims against the BCA Defendants.</p> <p>Yet, the dispute at issue does not concern the time period or actions taken after the BCA Defendants’ underlying representation of the Plaintiffs had concluded. Instead, the dispute at issue concerns the BCA</p>	<p>What is the relevance of these interrogatories to this litigation?</p> <p>What specific claims or defenses do the BCA Defendants contend these interrogatories concerning BP Oil Spill Malpractice go towards? Please list the specific claims or defenses and explain.</p> <p>If the BCA Defendants contend the interrogatories are relevant because they go towards a barratry claim, how can that be at issue when the BCA Defendants have not brought a barratry claim against BP Oil Spill Malpractice and/or The Kassab Law Firm?</p>	<p>While a detailed explanation regarding relevance was not provided, BCA Defendants noted they sent these requests because the responses will show that (1) barratry occurred and (2) Mark Canfora is an unethical person.</p> <p>The BCA Defendants have not rebutted Plaintiffs’ assertions of privilege.</p>
	Thomas	13-14			

¹⁸ “BP Oil Spill Malpractice” generally refers to interrogatories which seek information: about whether Canfora formed an entity named BP Oil Spill Malpractice, LLC to locate former clients of BCA Defendants (such as the Investor Plaintiffs) to sue them for malpractice; relating to whether the Plaintiffs hired BP Oil Spill Malpractice to investigate their potential claims against BCA Defendants; about whether Canfora encouraged the Investor Plaintiffs to file suit against the BCA Defendants; about whether Canfora was to receive any fee from their recovery.

			<p>Defendants’ underlying representation of the Plaintiffs. It is undisputed that BP Oil Spill Malpractice was formed after the underlying representation of the Plaintiffs had ended. It is undisputed that BP Oil Spill Malpractice is not an entity named in this litigation. And it is clear the Plaintiffs’ responses to these requests have no bearing on the claims or defenses at issue in this litigation.</p> <p>BCA Defendants (specifically, Mr. Coon during hearings before the Court) have asserted that these requests go towards proving Defendants’ claim that the Investor Plaintiffs were illegally solicited by BP Oil Spill Malpractice and/or The Kassab Law Firm.</p> <p>Yet, no claim of barratry has been pled. If the BCA Defendants want to assert these requests are relevant because they relate to a supposed barratry claim, BCA Defendants should be required to bring the barratry claim.</p> <p>As Plaintiffs’ counsel has conveyed to the BCA Defendants numerous times, we have no issue with the BCA Defendants bringing a barratry claim for two reasons: (1) because no improper solicitation occurred and (2) because, even if we assume that an improper solicitation occurred (and it did not), BCA Defendants do not have standing to bring a barratry claim.</p> <p>The criminal barratry statute does not give rise to a private right of action in favor of opposing counsel. <i>See Moiel v. Sandlin</i>, 571 S.W.2d 567, 571 (Tex. Civ. App.—Corpus Christi 1978, no writ) (“The offense of barratry as defined in the penal code is a public remedy and not a private one.”). And while there is a civil statute that creates a private right of action against those who</p>	<p>Even if we assume that the BCA Defendants’ contention is correct and Canfora formed BP Oil Spill Malpractice to get the Investor Plaintiffs to bring malpractice claims against the BCA Defendants, what bearing does that have on this case? What claim or defense would that support?</p> <p>If the BCA Defendants contend that the interrogatories are relevant because they go towards proving that Canfora generally acts in an unethical manner, how is that information relevant when the Rules of Evidence state such information is inadmissible?</p> <p>Even if we assume that the BCA Defendants’ contention is correct and Canfora acted unethically through BP Oil Spill Malpractice, what bearing does that have on this case? What claim or defense would that support?</p> <p>Furthermore, what is good for the goose is good for the gander.</p> <p>Are the BCA Defendants opposed to the Plaintiffs sending several discovery requests about unethical actions the BCA Defendants allegedly took? Or will the BCA Defendants object and assert that those actions are irrelevant and a fishing expedition?</p> <p>For instance, Judge Jerry A. Brown denied BCA attorney’s fees in the underlying BP Oil Spill matter because Judge Brown</p>	<p>Please provide detailed responses to the Plaintiffs’ questions regarding these requests so that Plaintiffs can evaluate their objections and/or assertions of privilege prior to these issues being taken up with the Court.</p>
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			<p>commit barratry, only those who are improperly solicited have standing to sue, not opposing counsel. <i>See</i> TEX. GOV'T CODE § 82.0651.</p> <p>BCA Defendants have only offered one other explanation for these requests regarding BP Oil Spill Malpractice. BCA Defendants assert that the requests will show that Mark Canfora acts in an unethical manner and that his unethical actions are relevant to this dispute.</p> <p>Yet, the Rules of Evidence clearly that crimes, wrongs, and bad acts are not admissible. <i>See</i> Tex. R. Evid. 404.</p> <p>Second, the specified interrogatories seek information that is protected by the attorney client and/or work product privileges.</p> <p>Canfora is acting as a client representative in this litigation. Canfora is authorized to obtain and facilitate the rendition of professional legal services on the Investor Plaintiffs' behalf. Thus, requests that seek to discover Canfora's communications with the Investor Plaintiffs that have been made to facilitate Plaintiffs' counsel's rendition of legal services is privileged as a matter of law. Furthermore, as BCA Defendants should be aware, the work-product doctrine protects the ideas and strategic decisions made concerning a case by guarding information revealing the thought process of an attorney, a client, or their agent. This can include communications as well as documents. If the Plaintiffs are communicating with each other regarding this malpractice litigation, those communications would clearly contain their thoughts and ideas and strategy concerning the malpractice case.</p>	<p>found that BCA's supposed client had never actually signed up with BCA and the supposed client's signature on the BCA contract was forged; BCA has been sued several times for not honoring contracts with co-counsel or referring counsel; and, there are other cases where BCA has been sued for botching a former client's underlying BP case.</p> <p>Are the BCA Defendants opposed to the Plaintiffs sending discovery requests regarding those topics since they go towards establishing the BCA acts in an unethical behavior? Or will the BCA Defendants object and assert that their unethical actions are irrelevant and a fishing expedition?</p> <p>Last, do the BCA Defendants contest the Plaintiffs' assertion of privilege? On what grounds?</p>	
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Unrelated Transactions ¹⁹	BCA	19, 20	<p>The specified requests are irrelevant and nothing more than a fishing expedition.</p> <p>Other financial dealings with Nathan Glick or the Plaintiffs outside of the Infiniti Blu transaction, which was the only transaction at issue for the Plaintiffs in the underlying BP Litigation, have no bearing on the claims or defenses at issue.</p> <p>BCA Defendants – once again – assert that the interrogatories will show that Canfora acts in an unethical manner and that his unethical actions are relevant to this dispute. More specifically, BCA Defendants assert that Canfora’s other financial dealings may reveal Ponzi schemes that Canfora utilized to obtain funds from the Investor Plaintiffs.</p> <p>Again, the Rules of Evidence are clear that crimes, wrongs, and bad acts are not admissible. <i>See</i> Tex. R. Evid. 404.</p> <p>Even assuming that the BCA Defendants’ assumption is true (and that Canfora formed entities to get folks like the Investor Plaintiffs to provide him with funds), that finding has no bearing on the present case. That finding goes to none of the claims or defenses at issue in the present lawsuit. If anything, that finding would go toward claims that the Investor Plaintiffs could bring against Canfora, which is not the dispute presently before the Court.</p>	<p>What is the relevance of these interrogatories to this litigation?</p> <p>What specific claims or defenses do the BCA Defendants contend these interrogatories concerning these other financial dealings go towards? Please list the specific claims or defenses and explain.</p> <p>Even if we assume that the BCA Defendants’ contention is correct and Canfora acted unethically in other financial dealings, what bearing does that have on this case? What claim or defense would that support?</p> <p>Are the BCA Defendants opposed to the Plaintiffs sending discovery requests regarding the previously mentioned topics since they go towards establishing the BCA also acts in an unethical behavior? Or will the BCA Defendants object and assert that their unethical actions are irrelevant and a fishing expedition?</p>	<p>While a detailed explanation regarding relevance was not provided, BCA Defendants noted they sent these requests because the responses will show that Canfora is an unethical person.</p> <p>Please provide detailed responses to the Plaintiffs’ questions regarding these requests so that Plaintiffs can evaluate their objections and/or assertions of privilege prior to these issues being taken up with the Court.</p>
Communications Between Plaintiffs Regarding	Coon Newell Thomas Slocum	9-10 8-10 8-10 8-10	With these requests, BCA Defendants seek communications between the Plaintiffs regarding this legal malpractice case.	Do the BCA Defendants contest the Plaintiffs’ assertion of privilege? If so, on what grounds?	The BCA Defendants have not rebutted Plaintiffs’ assertions of privilege.

¹⁹ “Unrelated Transactions” generally refers to interrogatories which seek information regarding Plaintiffs’ other financial dealings with Nathan Glick or other Plaintiffs outside the Infiniti Blu transaction.

Malpractice Case ²⁰	Jacob	8-10	<p>It could not be clearer that the information sought is protected by the privilege; mainly, the work product privilege.</p> <p>As BCA Defendants should be aware, the work-product doctrine protects the ideas and strategic decisions made concerning a case by guarding information revealing the thought process of an attorney, a client, or their agent. This can include communications as well as documents.</p> <p>If the Plaintiffs are communicating with each other regarding this malpractice litigation, those communications would clearly contain their thoughts and ideas and strategy concerning the malpractice case.</p> <p>Regardless, even if Plaintiffs' assertions of privilege were somehow not an adequate ground to refuse to respond to these requests, the specified requests are irrelevant. They are not direct to any of the claims or defenses in this litigation.</p>	<p>Furthermore, what is good for the goose is good for the gander.</p> <p>Are the BCA Defendants opposed to the Plaintiffs sending several discovery requests about the BCA Defendants communications with one another relating to this litigation? Or will the BCA Defendants assert that those communications are privileged?</p> <p>What is the relevance of these requests to this litigation?</p> <p>What specific claims or defenses do the BCA Defendants contend these requests concerning communications between the Plaintiffs go towards? Please list the specific claims or defenses and explain.</p>	<p>The BCA Defendants have not provided an explanation as to why the interrogatories are relevant.</p> <p>Please provide detailed responses to the Plaintiffs' questions regarding these requests so that Plaintiffs can evaluate their objections and/or assertions of privilege prior to these issues being taken up with the Court.</p>
Competent to Stand Trial ²¹	Coon	17	<p>This interrogatory is harassing.</p> <p>There has been no indication by Canfora or his counsel that he is incompetent and cannot stand trial in this matter. This is clearly just a ploy to gain access to Canfora's medical history and records.</p> <p>If The Kassab Law Firm reasonably believes that one of its clients has diminished capacity or cannot adequately act in the client's own interest, it will take reasonably necessary protective action.</p>	<p>Are the BCA Defendants seriously going to pursue this interrogatory?</p> <p>If so, are the BCA Defendants opposed to the Plaintiffs investigating their mental health records on the chance they are not "competent"?</p> <p>What is the relevance of these requests to this litigation?</p> <p>What specific claims or defenses do the BCA Defendants contend these</p>	<p>The BCA Defendants have not provided an explanation as to why the interrogatory is not harassing and is somehow relevant.</p> <p>Please provide detailed responses to the Plaintiffs' questions regarding these requests so that Plaintiffs can evaluate their</p>

²⁰ "Communications Between Plaintiffs Regarding Malpractice Case" generally refers to interrogatories which seek information regarding Plaintiffs' communications with each other regarding this malpractice litigation.

²¹ "Competent to Stand Trial" refers to an interrogatory which asks why Canfora was allegedly found to be "mentally/physical unable to stand trial" several years ago and to identify his health care providers.

			In addition, the interrogatory is not relevant to the present litigation. It does not go towards any claims or defenses in this matter.	requests concerning communications between the Plaintiffs go towards? Please list the specific claims or defenses and explain.	objections and/or assertions of privilege prior to these issues being taken up with the Court.
\$400 Fee			During the meet and confer, counsel discussed at length the issue of the \$400 fee raised in Plaintiffs' Petition. Based off that discussion, Plaintiffs' counsel is hopeful that the parties resolve any dispute over that issue and the parties' discovery regarding it will no longer be pertinent to the case.		Please confirm.

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Status as of 7/29/2022 10:01 AM CST

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