

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

CARL CAVALIER

CIVIL ACTION NO: 3:21-cv-00656

VERSUS

JUDGE: JOHN W. deGRAVELLES

**STATE OF LOUISIANA:
DEPARTMENT OF PUBLIC SAFETY
AND CORRECTIONS: PUBLIC SAFETY
SERVICES; OFFICE OF STATE POLICE;**

**MAGISTRATE JUDGE: RICHARD L.
BOURGEOIS, JR.**

CONSENT MOTION FOR LEAVE TO FILE COMPLAINT IN INTERVENTION

NOW INTO COURT, through undersigned counsel, comes Jill L. Craft, Attorney at Law, LLC, with consent of plaintiff, Carl Cavalier and defendants, which respectfully moves this Honorable Court for an Order permitting it to file the attached Complaint in Intervention in this matter pursuant to Fed.R.Civ.P. Rule 24, for the following reasons to-wit:

1.

On November 30, 2022, plaintiff Mr. Cavalier filed a Motion to Reopen the Cause and Rescind Settlement (Rec. Doc. 52). On December 5, 2022, defendants filed a Motion to Enforce Settlement (Rec. Doc. 56).

2.

In his Motion to Reopen the Cause and Rescind Settlement, Mr. Cavalier argues he was “coerced” or otherwise “pressured” into accepting settlement of all claims by Jill Craft, of the firm, Jill L. Craft, Attorney at Law, LLC. In his recent filing, an Opposition to defendants’ Motion to Enforce Settlement (Rec. Doc. 60), Mr. Cavalier again asserts he was “coerced” and fails to attach significant written communications with Intervenor and which contradict the position he asserts in brief.

3.

In their Motion to Enforce Settlement, the defendants argue there exists an enforceable settlement agreement consisting of monetary and non-monetary terms and which were set forth in communications among counsel and Mr. Cavalier.

4.

The terms of settlement were recited in front of the Magistrate Judge following the Settlement Conference held on October 6, 2022, and reduced to writing by undersigned counsel by emails exchanged on October 6, 2022, at 4:27 p.m. and 4:40 p.m. and communication with and by Mr. Cavalier as to the terms of settlement by email on October 6, 2022, at 5:20 p.m. This document will also be the subject of a Motion to Deem Privilege Waived upon the Court's granting of leave to intervene.

5.

Mover seeks to intervene in this lawsuit in order to protect its interests pursuant to a written contingency fee agreement entitled "Attorney-Client Contract", which is attached as Exhibit A. The Attorney-Client Contract was duly filed in the mortgage and conveyance records of East Baton Rouge Parish where this lawsuit was pending and as provided pursuant to La. R.S. 37:218. Mover also seeks to intervene because, as a practical matter, disposition of either the Cavalier Motion or the Defendants' Motion will impair and impede Mover's ability to protect its interest and shows that in the event the question regarding informed consent to settle by Mr. Cavalier is adjudicated, mover and counsel employed by mover, have significant evidence relevant to the pending Motions including, as will be the subject of a Motion to Deem Privilege Waived, numerous writings by Mr. Cavalier demonstrating his consent to settle and his agreement to the terms and conditions of settlement. Mover also shows that Mr. Cavalier expressed no remorse or desire to "rescind" the

settlement until October 13, 2022 – seven (7) days later. Only a portion of the October 13, 2022, email exchange was filed by Mr. Cavalier in this record, but which did not include the entire email chain of October 13, 2022, starting at 9:57 a.m. Upon receipt of his communication, ensuing telephone communications and correspondence on that date, and consideration of the relative positions, including undersigned’s ethical considerations, mover was placed in a conflict situation resulting in mover having to withdraw from any further representation. Accordingly, Mover, Ms. Craft, and Mr. Conrad withdrew as counsel.

6.

Pursuant to Fed.R.Civ.P. Rule 24, on timely motion, intervention exists of right and of discretion. The Court “must” permit intervention where “anyone” claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impar or impede the movant’s ability to protect its interest, unless existing parties adequately represent that interest. The Court “may” permit intervention where “anyone” has a claim or defense that shares with the main action a common question of law or fact. Proposed intervenor submits it falls within both the mandatory and permissive bases for intervention.

7.

Mover contacted current counsel for Mr. Cavalier and counsel for the Defendants and both consent to and do not oppose the filing of the Complaint in Intervention herein.

WHEREFORE, Mover, Jill L. Craft, Attorney at Law, LLC, prays after due proceedings are had that it be granted permission to file the attached Complaint in Intervention and that it be afforded all such other relief to which it is entitled at law or in equity.

Respectfully submitted,

By: _____s/Jill L. Craft _____
Jill L. Craft, #20922
Jill L. Craft, Attorney at Law, LLC
329 Saint Ferdinand Street
Baton Rouge, Louisiana 70802
(225) 663-2612
jcraft@craftlaw.net

CERTIFICATE OF SERVICE

I hereby certify that I have filed the above and foregoing Consent Motion for Leave to File Complaint in Intervention was filed electronically using the Court's CM/ECF system. Notice of this filing will be sent to Trial Counsel of record for all parties by operation of the Court's electronic filing system.

Baton Rouge, Louisiana, this 23rd day of December, 2022.

_____/s/Jill L. Craft _____
Jill L. Craft

Hon. Doug Welborn, EBR Clerk of Court
ORIG: 471 BNDL: 13225 MB/CB
DATE: 11/14/2022 TIME: 10:44 AM
of Pages-1

ATTORNEY-CLIENT CONTRACT

The following contract, effective on the 29th day of August, 2022 is entered into by and between:

The Law Office of
JILL L. CRAFT, ATTORNEY AT LAW, LLC,
hereinafter referred to as Attorney,

and

Carl Cavalier,
hereinafter referred to as Client,

in accordance with the following terms and conditions:

- Client hereby retains and employs Attorney to investigate, prosecute and collect, whether by suit, compromise or otherwise, Client's claim or cause of action against the following persons (and all other persons who might be responsible to Client):

State of Louisiana, through the Department of Public Safety & Corrections, Office of State Police and Superintendent Lamar Davis

- Attorney accepts this employment and agrees to pursue Client's claim. Attorney shall have the right to any time to withdraw from this contract as follows: (a) if Attorney concludes that Client does not have a viable cause of action, or a reasonable possibility of recovering damages as a result of the circumstances described above; (b) if Client fails to cooperate with Attorney; (c) if Client fails to timely pay Attorney's invoices; or, (d) for any other reason deemed sufficient by Attorney.
- Neither Client nor Attorney shall have the right, without the express written consent of the other, to settle, compromise, release, discontinue or otherwise assign, transfer or dispose of the above described claim or subsequent lawsuit arising therefrom.
- In consideration of the services to be rendered by Attorney in the prosecution or compromise of Client's claim, Client hereby agrees to pay Attorney a percentage fee as follows:
 - Attorney shall be entitled to 40% of all sums received or the amount of attorney's fees awarded, whichever is greater plus
 - Attorney shall also be entitled to reimbursement by Client for all expenses actually paid or incurred by Attorney in pursuit of this claim, including but not limited to court costs, deposition costs, computer research, costs of professional reports, telephone, telecopy, photocopy and travel expenses, and fees of all experts, consultants and investigators employed in connection with the case.
 - The percentage fee shall be based upon the total values or amounts received or collected, either directly or indirectly, by settlement, compromise, judgment or otherwise.
- Expenses shall be paid by Client on a monthly basis. Regardless of whether any sums are ever collected, Client shall be responsible for and pay all expenses incurred or paid by Attorney in pursuit of Client's claim.
- It is understood and agreed between the parties that this contract is intended to and does hereby assign, transfer, set over and deliver unto Attorney, as their fee for the representation of Client in said claim, an interest in the claim and/or claims under the terms and conditions specified, in accordance with the provisions of L.R.S. 37:218, and is binding on the heirs, successors and assigns of the parties hereto.

This Contract was read and signed by the parties to be effective on the date first written above,

CLIENT:

Carl Cavalier
Carl Cavalier

JILL L. CRAFT, ATTORNEY AT LAW, LLC

Jill L. Craft
Jill L. Craft

Paul Mahony



Certified True and
Correct Copy
CertID: 2022111400175

East Baton Rouge Parish
Deputy Clerk of Court



Continued Case:
11/14/2022 10:44 AM

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

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**MAGISTRATE JUDGE: RICHARD L.
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COMPLAINT IN INTERVENTION

The Complaint in Intervention of Jill L. Craft, Attorney at Law, LLC, a Louisiana Limited Liability Company domiciled in East Baton Rouge Parish, Louisiana, respectfully represents:

1.

Jurisdiction is founded herein pursuant to 28 U.S.C. § 1367(a) as the matter in intervention is so related to the claims in underlying action which arise from the Court's original jurisdiction pursuant to 28 U.S.C. § 1331(federal question) and form part of the same case or controversy under Article III of the United States Constitution.

2.

Made parties in intervention are the parties to this matter, namely, State of Louisiana, Department of Public Safety and Corrections, Office of State Police, Lamar Davis, individually and in his official capacity, and Carl Cavalier.

3.

Intervenor is a law firm, presently consisting of attorneys Jill L. Craft and W. Brett Conrad, Jr. Ms. Craft and Mr. Conrad represented Mr. Cavalier in connection with this litigation and in connection with several pending appeals by Mr. Cavalier before the Louisiana State Police Commission.

4.

Counsel were initially retained pursuant to a written hourly Retainer Agreement. Thereafter, counsel and Mr. Cavalier agreed to transition to a contingency fee arrangement and Mr. Cavalier executed a written contingency agreement entitled “Attorney-Client Contract”, a copy of which is attached hereto as Exhibit “A”.

5.

Pursuant to the written contingency agreement and La. R.S. 37:218, Intervenor is entitled to a privilege over the settlement proceeds of Mr. Cavalier’s claims and, alternatively, a privilege confirmed in quantum meruit based on any outstanding offer by the opposing parties made during the existence of the attorney-client relationship.

6.

Intervenor has an accounting of the time and expenses incurred by Intervenor in connection with the representation of Mr. Cavalier in the amount of \$112,215.00. The accounting will be the subject of a Motion to Deem Privilege Waived upon the Court’s granting of the Motion to Intervene.

7.

On October 6, 2022, the parties attended a Settlement Conference with the Court. At the Settlement Conference, Mr. Cavalier and the Defendants in the main action agreed to settle all claims under both monetary and non-monetary terms.

8.

The terms of settlement were recited in front of the Magistrate Judge following the Settlement Conference held on October 6, 2022, and reduced to writing by undersigned counsel

by emails exchanged on October 6, 2022, at 4:27 p.m. and 4:40 p.m. and communication with and by Mr. Cavalier as to the terms of settlement by email on October 6, 2022, at 5:20 p.m.

9.

On October 13, 2022, seven (7) days after the Settlement Conference and written confirmation of settlement between the parties, Mr. Cavalier sent an email to Ms. Craft at 9:57 a.m. Upon receipt of his communication, ensuing telephone communications and correspondence on that date, and consideration of the relative positions, including undersigned's ethical considerations, mover was placed in a conflict situation resulting in mover having to withdraw from any further representation. Accordingly, Mover, Ms. Craft, and Mr. Conrad withdrew as counsel.

10.

Leading up to the Settlement Conference and written confirmation of settlement on October 6, 2022, Mr. Cavalier had repeatedly expressed his desire to settle all claims under the terms and conditions ultimately agreed to by him on October 6, 2022. Mr. Cavalier's authority to settle and his agreements to settle were both oral and in writing by Mr. Cavalier on numerous occasions. It is also noted that Mr. Cavalier and the underlying Defendants agreed to and actively participated in a series of meetings and negotiations through the EEOC mediation process directed by EEOC mediator, Ms. Toni Goff, private discussions and emails (and to which Mr. Cavalier was either a direct party or copied on each such communication), and ultimately, the October 6, 2022, Settlement Conference. The process of working toward settling his claims began with Mr. Cavalier's written consent to the EEOC mediation in December, 2021. Those efforts, including Mr. Cavalier's consent and authority on each occasion are detailed in his writings and

communications between Mr. Cavalier and his counsel. Intervenor is filing a Motion to Deem Privilege Waived.

11.

As to each term of settlement, Mr. Cavalier consented verbally and in writing and, as requested pursuant to the Motion to Deem Privilege Waived, are borne out by the communications between Mr. Cavalier and his counsel.

12.

Settlement negotiations between Mr. Cavalier and the underlying Defendants began as far back as December, 2021, when Mr. Cavalier gave his informed consent to participate in EEOC mediation with the defendants. Mr. Cavalier acknowledged that he understood mediation was an attempt to enter into a voluntary resolution of his EEOC Charge and claims according to accepted terms and conditions. For the next several months, the parties and EEOC coordinated the scheduling of mediation with Mr. Cavalier's full knowledge and approval.

13.

On March 15, 2022, Mr. Cavalier, with Mr. Conrad, voluntarily participated EEOC mediation with defendants. Ms. Craft was not present at the initial EEOC mediation. During the mediation, Mr. Cavalier was a willing and active participant in an attempt to settle his claims, including executing all necessary EEOC confidentiality and agreement to mediate forms, and consenting to submission of a global offer to resolve all claims. The parties agreed to suspend mediation to allow underlying Defendants to obtain settlement authority and resume mediation once such authority was obtained.

14.

With Mr. Cavalier's consent, the parties agreed to continue the EEOC mediation on August 29, 2022. Mr. Cavalier voluntarily participated in the continuation of mediation with Intervenor where he was a willing and active participant, executed EEOC confidentiality and agreement to mediate forms, and authorized several counteroffers to LSP in an attempt to resolve all claims. The EEOC mediation took place with EEOC mediator, Toni Goff, over Zoom and spanning several hours. Mr. Cavalier and Mr. Conrad were present in Mr. Conrad's office for the Zoom. Ms. Craft was not present during the EEOC mediation and participated only when Mr. Cavalier and Mr. Conrad called her to inform her of the offers being exchanged, to elicit her advice, input, and recommendations. Various offers made by Mr. Cavalier in the EEOC process and to the EEOC mediator included Mr. Cavalier's agreement as to non-monetary and a specific monetary sum.

15.

The continuation of EEOC mediation was suspended due to time constraints of Ms. Goff, the EEOC mediator, on that day, but with the agreement of all parties that the EEOC mediation process would continue thereafter as would ongoing settlement negotiations. With Mr. Cavalier's full knowledge and authorization, Intervenor continued settlement discussions with the underlying Defendants outside of the EEOC mediation. Among those communications, which are the subject of a Motion to Deem Privilege Waived, are verbal communications, text message on August 29, 2022, emails of August 30, 2022, at 3:31 p.m. and 3:35 p.m. confirming Mr. Cavalier's agreement to settle and the terms to which he is amenable.

16.

After Mr. Cavalier's offer was made to defendants' counsel, on September 1, 2022, Mr. Cavalier communicated again with counsel. It is noted Mr. Cavalier attached his email of

September 1, 2022, at 3:55 p.m., but does not also attach his email to counsel on September 1, 2022, at 4:11 p.m. On September 2, 2022, (Mr. Cavalier recorded only a portion of his conversation with Ms. Craft and attached a copy of a purported partial transcript to his Motion to Reopen the Cause and Rescind the Proposed Settlement) and September 5, 2022, (it remains unknown whether Mr. Cavalier recorded this conversation with Ms. Craft and Mr. Conrad at Intervenor's office as he did not attach a copy of the transcript to his pending Motion), Intervenor discussed with Mr. Cavalier the offer he had authorized and which were extended with his August 30, 2022, counteroffer. These communications are likewise the subject of a Motion to Deem Privilege Waived and include Mr. Cavalier's email and text messages with Ms. Craft, dated September 6, 2022, September 9, 2022, September 10, 2022, September 23, 2022, and September 26, 2022. These documents represent Mr. Cavalier's written representations after the September 1, 2022, email and the September 2, 2022, partial recording.

17.

On September 26, 2022, Ms. Craft and Mr. Cavalier exchanged text messages and emails, including at 6:17 p.m., which were not attached by Mr. Cavalier, but which are the subject of the Motion to Deem Privilege Waived. In addition, Mr. Cavalier and Ms. Craft exchanged email September 27, 2022, at 12:41 p.m., and a text message on September 28, 2022, at 9:59 a.m., neither of which were filed by Mr. Cavalier, but will be the subject of the Motion to Deem Privilege Waived.

18.

At Mr. Cavalier's request and with his fully informed consent, on September 29, 2022, Intervenor requested a Settlement Conference with the Magistrate Judge in an effort to reach a

global settlement including the sole, remaining non-monetary terms which were the only remaining subjects of disagreement between Mr. Cavalier and the underlying Defendants.

19.

Heading into the Settlement Conference, Mr. Cavalier and the underlying Defendants had agreed, in writing to the following terms: 1) payment of \$200,000.00 in settlement of all claims; 2) LSP will rescind the termination of Mr. Cavalier who agrees to voluntarily, irrevocably resign from his employment with LSP and no re-employment (sic) with LSP. Confirmation of the agreement to these terms by Mr. Cavalier and the underlying Defendants was also in writing and, before the position paper submitted by Mr. Cavalier was faxed to the Magistrate-Judge, its terms and conditions were approved by Mr. Cavalier.

20.

Therefore, as agreed by Mr. Cavalier and the underlying Defendants, the only terms which remained in dispute between the parties were: 1) his resignation not be coded as a resignation in lieu of termination for the purposes of the State's ISIS database and civil service, and 2) his suspension and enforced leave be rescinded, reversed, and withdrawn. Confirmation of this was also in writing and were approved by Mr. Cavalier.

21.

Those communications, including those dated September 29, 2022, and September 30, 2022, will be the subject of the Motion to Deem Privilege Waived.

22.

On October 4, 2022, at 12:22 p.m., Mr. Cavalier again communicated with counsel and the communication will be the subject of the Motion to Deem Privilege Waived.

23.

On October 6, 2022, the Magistrate Judge held a Settlement Conference by Zoom. Notably, Ms. Craft was not in the room for the majority of time when the Settlement Conference was not attended with the Magistrate Judge, leaving only Mr. Cavalier and Mr. Conrad in the room. It is unknown whether Mr. Cavalier recorded any of the conversations which took place among he and counsel during the lull periods of the Settlement Conference or the Settlement Conference itself. Mr. Cavalier actively participated in the Settlement Conference, including direct dialog between he and the Magistrate-Judge.

24.

The parties reached a settlement resolving all of Mr. Cavalier's claims under both monetary and non-monetary terms and which terms were recited by the Court and counsel at the conclusion of the Settlement Conference.

25.

As set forth above, the terms and conditions of settlement were recited to the Court and confirmed in writing on October 6, 2022, including with Mr. Cavalier and that communication at 5:20 p.m. by email will also the subject of the Motion to Deem Privilege Waived.

26.

Pursuant to Mr. Cavalier's acceptance of the terms and conditions of the settlement agreement, on October 6, 2022, the Magistrate Judge entered an Order confirming the parties "were able to reach a settlement, subject to certain necessary non-party approval" and that a conditional dismissal under Local Rule 16(c) would be issued. *See* (Rec. Doc. 40). On October 7, 2022, the Magistrate Judge entered a sixty (60) day conditional dismissal under Local Rule 16(c). *See* (Rec. Doc. 41).

27.

Intervenor submits it is entitled to recognition of and protection of its privilege pursuant to the written contingency fee agreement, properly filed in the mortgage and conveyance records of East Baton Rouge Parish, and pursuant to La. R.S. 37:218.

28.

Intervenor requests all such other relief to which it is entitled at law or in equity.

WHEREFORE, Intervenor, Jill L. Craft, Attorney at Law, LLC, prays after due proceedings are had that its lien and privilege as set forth by virtue of the written contingency fee agreement and pursuant to La. R.S. 37:218 over the proceeds of settlement or amounts awarded in this matter be recognized and protected in accordance with law and for all such other relief to which Intervenor is entitled at law or in equity.

Respectfully submitted,

By: _____s/Jill L. Craft _____
Jill L. Craft, #20922
Jill L. Craft, Attorney at Law, LLC
329 Saint Ferdinand Street
Baton Rouge, Louisiana 70802
(225) 663-2612
jcraft@craftlaw.net

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**MAGISTRATE JUDGE: RICHARD L.
BOURGEOIS, JR.**

ORDER

Upon consideration of the record of these proceedings, the law, and evidence offered in support of the Consent Motion for Leave to File Complaint in Intervention;

IT IS ORDERED that Mover, Jill L. Craft, Attorney at Law, LLC, be and is hereby permitted to file the attached Complaint in Intervention.

Baton Rouge, Louisiana, this _____ day of _____, 2022.

Honorable John W. deGravelles
United States District Court Judge