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Attorneys for Defendants Domtar Corporation and Polsinelli PC

13 **UNITED STATES DISTRICT COURT**

14 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

15 KELLY BREZOCZKY, an individual,
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 Plaintiff,
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 v.
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 19 DOMTAR CORPORATION, a Delaware
 corporation; and POLSINELLI PC, a Missouri
 professional corporation,
 20
 Defendants.
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Case No. 5:16-CV-4995-EJD

STIPULATION & ~~PROPOSED~~ ORDER TO DISMISS DEFENDANT POLSINELLI PC WITH PREJUDICE

Judge: Hon. Edward J. Davila
 Courtroom 4, Fifth Floor

22 PLAINTIFF KELLY BREZOCZKY (“Plaintiff”) and DEFENDANTS DOMTAR
 23 CORPORATION (“Domtar”) and POLSINELLI PC (“Polsinelli”) (Domtar and Polsinelli are
 24 collectively referred to herein as “Defendants”), pursuant to Local Rule 7-12, jointly submit this
 25 stipulation asking the Court to dismiss Defendant Polsinelli PC with prejudice.

26 **RECITALS**

27 WHEREAS, on September 14, 2016, Plaintiff filed her First Amended Complaint against
 28 Defendants (Dkt 14);

1 WHEREAS, Plaintiff alleged in her First Amended Complaint, among other things, that she had
2 an attorney-client relationship with Polsinelli and asserted claims for breach of fiduciary duty and
3 professional negligence against Polsinelli;

4 WHEREAS, on October 7, 2016, Polsinelli filed its Answer to Plaintiff's First Amended
5 Complaint (Dkt 24);

6 WHEREAS, Polsinelli alleges that it was engaged by Domtar, had an attorney-client
7 relationship with Domtar, and denies having an attorney-client relationship with Brezoczky and any
8 and all liability to Brezoczky;

9 WHEREAS, Plaintiff and Polsinelli have entered into a settlement agreement ("Settlement
10 Agreement") mutually resolving all matters between them;

11 WHEREAS, Plaintiff and Polsinelli desire to dismiss Polsinelli from this action *with prejudice*;

12 WHEREAS, the dismissal of Polsinelli shall have no impact on Plaintiff's claims against
13 Domtar;

14 WHEREAS, to the extent Plaintiff obtains a judgment against Domtar, nothing in the
15 Settlement Agreement between Plaintiff and Polsinelli shall be used as an offset to Plaintiff's claims
16 against Domtar;

17 WHEREAS, Plaintiff and Polsinelli shall pay their own attorney's fees and costs;

18 WHEREAS, the parties respectfully request that the Court shall retain jurisdiction over Plaintiff
19 and Polsinelli to enforce the Settlement Agreement.

20 **STIPULATION**

21 IT IS HEREBY STIPULATED by the Parties that:

22 (1) Polsinelli is dismissed *with prejudice*;

23 (2) The dismissal of Polsinelli shall have no impact on Plaintiff's claims against Domtar;

24 (3) To the extent Plaintiff obtains a judgment against Domtar, nothing in the Settlement
25 Agreement shall be used as an offset to Plaintiff's claims against Domtar;

26 (4) Plaintiff and Polsinelli shall pay their own attorney's fees and costs; and

27 (5) This Court shall retain jurisdiction over the parties to enforce the Settlement Agreement.
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Dated: October 27, 2017

LEONARDMEYER LLP

By: /s/ Derek J. Meyer
Derek J. Meyer
Attorneys for Plaintiff

Dated: October 27, 2017

POLSINELLI LLP

By: /s/ Noel S. Cohen (with consent)
Noel S. Cohen
Attorneys for Defendants

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: October 30, 2017



Hon. Edward J. Davila
United States District Judge

DECLARATION OF DEREK J. MEYER

I, Derek J. Meyer, declare and state as follows:

1. I am an attorney duly licensed to practice law in the State of California, including the United States District Court for the Northern District of California. I am one of the attorneys of record for Plaintiff in the above-captioned matter.

2. I have personal knowledge of the facts set forth herein and if called as a witness, I could and would testify competently as to those facts.

3. On September 14, 2016, Plaintiff filed her First Amended Complaint against Defendants (Dkt 14). Plaintiff alleged in her First Amended Complaint, among other things, that she had an attorney-client relationship with Polsinelli and asserted claims for breach of fiduciary duty and professional negligence against Polsinelli.

4. On October 7, 2016, Polsinelli filed its Answer to Plaintiff's First Amended Complaint (Dkt 24). Polsinelli alleges that it was engaged by Domtar, had an attorney-client relationship with Domtar, and denies having an attorney-client relationship with Brezoczky and any and all liability to Brezoczky.

5. Plaintiff and Polsinelli have entered into a settlement agreement ("Settlement Agreement") mutually resolving all matters between them.

6. Plaintiff and Polsinelli desire to dismiss Polsinelli from this action *with prejudice*.

7. The parties have agreed that dismissal of Polsinelli shall have no impact on Plaintiff's claims against Domtar.

8. Further, to the extent Plaintiff obtains a judgment against Domtar, the parties have agreed that nothing in the Settlement Agreement between Plaintiff and Polsinelli shall be used as an offset to Plaintiff's claims against Domtar.

9. The parties have agreed that Plaintiff and Polsinelli shall pay their own attorney's fees and costs.

10. The parties have agreed to request that the Court shall retain jurisdiction over the parties to enforce the Settlement Agreement.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3 Executed on October 27, 2017 at Los Angeles, California.

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5 /s/ Derek J. Meyer
6 Derek J. Meyer
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1 **CERTIFICATE OF SERVICE**

2 I, Derek J. Meyer, an attorney, hereby certify that the attached **STIPULATION &**
3 **[PROPOSED] ORDER TO DISMISS DEFENDANT POLSINELLI PC *WITH PREJUDICE*** was
4 served via CM/ECF on October 27, 2017 to all counsel of record.

5
6 Dated: October 27, 2017

LEONARDMEYER LLP

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8 By: /s/ Derek J. Meyer
9 Derek J. Meyer
Attorneys for Plaintiff