

IN THE COURT OF COMMONS PLEAS  
WARREN COUNTY  
CIVIL DIVISION

STEPHEN R. LILLEY  
2900 South Waynesville Road  
Morrow, Ohio 45152

Plaintiff,

CASE NO. \_\_\_\_\_  
(formerly filed under  
Case NO. 06CV66195)

Judge Sunderland

-vs-

JACK C. MCGOWAN  
246 High Street  
Hamilton, OH 45011

Defendant.

---

VERIFIED COMPLAINT WITH JURY DEMAND ENDORSED HEREON

---

JURISDICTION AND VENUE

1. This action is brought by plaintiff who is a citizen of Warren County, State of Ohio against defendant who is a citizen of Butler County, State of Ohio and does business within the State of Ohio.
2. The plaintiff is a resident of Warren County, State of Ohio.
3. The defendant is a resident of Butler County, State of Ohio, and has his principal place of business in Butler County, State of Ohio.
4. The cause of action herein arose in Warren County, State of Ohio. The amount in controversy exceeds the jurisdictional threshold for a proceeding in an Ohio court of common pleas being greater than \$75,000.

PARTIES

5. Plaintiff Stephen R. Lilley is a resident of Warren County,

State of Ohio, whose domicile is located at 2900 South Waynesville Road, Morrow, Ohio 45152.

6, Defendant Jack C. McGowan, is a licensed attorney by the State of Ohio Supreme Court, who has an established practice of law with the firm of McGowan & Jacobs, LLC, County of Butler, State of Ohio, whose principal place of business is located at 246 High Street, Hamilton, Ohio 45011.

### **FACTS COMMON TO ALL COUNTS**

7. In 1997, Plaintiff Stephen R. Lilley engaged Defendant Jack C. McGowan, an attorney at law as counsel to recover certain amounts due from the Estate of Marion G. Lilley which had been improperly converted into an asset of the Estate of Marion G. Lilley and monies that had been converted by the guardian of Marion G. Lilley, namely, Patricia Suttman in a conspiracy with Pamela Lilley to deprive Plaintiff Lilley of a certain certificate of deposit.

8. During the course of this representation, defendant failed to prosecute properly prosecute the claims on behalf of Plaintiff Stephen R. Lilley, wherein defendant failed under a complaint filed in the Warren County Probate Court, Case No 97 1061 to receive the non-probate assets that were rightfully his property and improperly commingled with assets of the Estate of Marion G. Lilley.

9. Defendant during the course of this representation failed to demand and receive the return of funds that were the property of Plaintiff Stephen R. Lilley from Patricia Suttman, guardian for Marion G. Lilley, who had converted \$40,000 for use as legal fees for Marion G. Lilley from a certificate of deposit that was in a joint survivorship account with Plaintiff Stephen R. Lilley.

10. Defendant during the course of this representation failed to demand and receive the return of funds that were the property of Plaintiff Stephen R. Lilley from the Co-Administrators of the Estate of Marion G. Lilley, who had converted \$120,000 for distribution of Estate of Marion G. Lilley from an annuity account that had been purchased with funds that were the certificate of deposit in a joint survivorship account with Plaintiff Stephen R. Lilley and Marion G. Lilley.

11. Defendant failed to prosecute and settle claims of the client for an equal division of the probate property.

12. Defendant advised Plaintiff Stephen R. Lilley that he must accept the distribution of the Estate of Marion G. Lilley without objection to the distribution of the commingled funds from the annuity.

13. Defendant failed to prosecute the recovery of monies and property of known value for the benefit of Plaintiff Stephen R. Lilley, as it was known that there was the known commingling of funds that were the separate property of Plaintiff Stephen R. Lilley and the Estate of Marion G. Lilley.

14. Defendant failed to pursue the claims of Plaintiff Stephen R. Lilley when he failed to bring causes actions against the parties responsible for depriving Plaintiff Lilley of his assets with Defendant placing his personal interest ahead of his clients while continuing to representation and failing to disclose that Defendant was limiting the opportunity for recovery of his funds.

**First Causes of Action**  
**(Legal Malpractice for Failure to Properly Prosecute Claim)**

15. Plaintiff re-alleges paragraphs one through fourteen as if fully rewritten herein.

16. Defendant failed to properly prosecute claims of Plaintiff Stephen R. Lilley, when defendant failed to prosecute properly prosecute the claims on behalf of Plaintiff Stephen R. Lilley, wherein defendant failed under a complaint filed in the Warren County Court of Common Pleas, Case No. 95 CV 52939 to receive and accounting from Co-Administrators of the Estate of Marion G. Lilley, for the purpose of determination of non-probate assets that had been converted into probate assets and the cause of said conversion.

17. Defendant, having negligently failed to prosecute the claims of Plaintiff Stephen R. Lilley, caused the Plaintiff irreparable harm.

18. Plaintiff was not compensated for his losses as a direct cause of defendant's negligence in not prosecuting the case.

19. There was a more than causal relationship between the defendant's negligent conduct and the plaintiff's failure to recovery for his damages.

20. Defendant's actions failed to conform to the standard of care required by law.

**Second Cause of Action**  
**(Legal Malpractice for negligent handling of a legal matter)**

21. Plaintiffs re-allege paragraphs one through twenty as if fully rewritten herein.

22. Defendant failed to use the discovery procedures available under the Ohio Rules of Civil Procedure to uncover conduct and location of assets and their distribution in the prosecution of the claims on behalf of Plaintiff Stephen R. Lilley.

23. This failure to adequately request discovery and present evidence of the converted and improper distribution of personal property failed to conform to the standard of care required by law.

24. There is a direct link between the defendant's malpractice and the plaintiff having not his full damages.

**WHEREFORE, IT IS PRAYED AND DEMANDED THAT** the plaintiff be awarded the following relief:

A. That Plaintiff Stephen R. Lilley be awarded compensatory and special damages from Defendant Jack C. McGowan in the First Cause of Action.

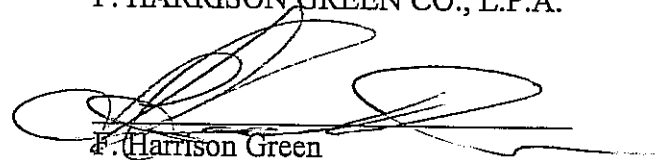
B. That Plaintiff Stephen R. Lilley be awarded compensatory and special damages from Defendant Jack C. McGowan in the Second Cause of Action.

C. That plaintiff be awarded punitive damages from the defendant in this action.

D. That plaintiff recover his damages and all other equitable relief to which he may be entitled.

E. That the plaintiff be awarded his costs and attorney fees in this matter and interest on any award from the date of filing this complaint.

F. HARRISON GREEN CO., L.P.A.

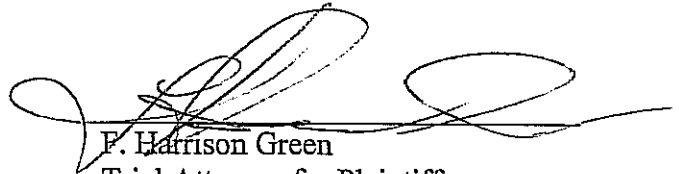


F. Harrison Green  
Ohio Supreme Court Reg. #0039234  
Trial Attorney for Plaintiff Stephen  
R. Lilley  
Executive Park, Suite 230  
4015 Executive Park Drive  
Cincinnati, Ohio 45241

(513) 769-0840  
FAX (513) 563-2953  
fhgreen@fuse.net

**JURY DEMAND**

It is the request of Plaintiff Stephen R. Lilley that this matter be tried before a jury of his peers.

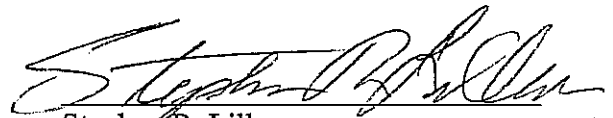


F. Harrison Green  
Trial Attorney for Plaintiff

VERIFICATION

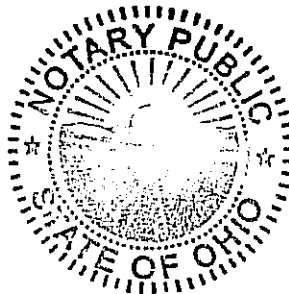
STATE OF OHIO                    }  
  } SS:  
COUNTY OF HAMILTON        }

I, Stephen R. Lilley, have read the foregoing Complaint against Jack C. McGowan. I hereby certify that the above stated facts are true and accurate to the best of my knowledge.

  
Stephen R. Lilley

Sworn to and Subscribed  
Before me this the 21<sup>st</sup> day  
Of November 2007.

  
Notary Public



LISA S. KETTLEHAKE  
Notary Public, State of Ohio  
My Comm. Expires April 28, 2009