

ROBERT BURNS

NUMBER 602,922 SECTION 25

VERSUS

19TH JUDICIAL DISTRICT COURT

SANDY EDMONDS

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

**SUPPLEMENTAL MEMORANDUM IN SUPPORT OF EXCEPTIONS
OF NO CAUSE OR RIGHT OF ACTION AND SPECIAL MOTION TO STRIKE**

NOW INTO COURT, through undersigned counsel, comes defendant, Sandy Edmonds, who submits the following Supplemental Memorandum in Support of her Exception of No Cause or Right of Action and Special Motion to Strike as follows:

Mr. Burns alleges in his Petition that he should recoup the costs of advertising in the *Advocate* from defendant, Sandy Edmonds, because of a decision by real estate agent/broker Mr. Beau Box, to deny Mr. Burns' permission to place his business logo on the Internet website of Beau Box Commercial Real Estate (hereinafter sometimes referred to as "BBCRE").

Mr. Burns' allegations that the complained-of actions on the part of Ms. Edmonds, Executive Assistant to the Louisiana Auctioneers' Licensing Board ("LALB"), somehow caused him to lose potential business, is unfounded, as are all the other allegations set forth in his Petition for Malicious Prosecution.

Ms. Edmonds offers the attached Affidavits of Mr. James K. Comer, Jr. and Mr. Beau Box as "Exhibit C" and "Exhibit D" in support of her Exceptions of No Cause and No Right of Action and Special Motion to Strike. Affiant was supervisor of the LALB at all relevant times herein. Affiant was informed of Mr. Burns' conduct of Wednesday, April 6, 2011, and Friday, April 8, 2011, as more fully detailed in the Affidavit offered by Karen L. Kennedy. Affiant discussed Mr. Burns' suspicious conduct with LALB counsel, Anna E. Dow, and possible security threats posed by Mr. Burns. Ms. Dow advised affiant of her conference with a member of the Louisiana Attorney General's Office Civil Section. Affiant and Ms. Dow further discussed possible options to improve the security of their office building.

Mr. Comer states in his affidavit that he instructed Ms. Sandy Edmonds, Executive Assistant for the LALB, to place a call to the East Baton Rouge Parish Sheriffs Office and the Louisiana State Police. Affiant made the decision to report Mr. Burns' conduct to police officials because he was

concerned for Ms. Edmonds' safety, and the safety of other tenants in the Summa Court building, wherein Ms. Edmonds' office was located and wherein the LALB held periodic board meetings. Affiant is unaware of any conduct on the part of Ms. Edmonds that could be interpreted as having any malicious intent towards Mr. Burns.

Mr. Box states in his Affidavit that he has received and reviewed a copy of Mr. Robert Burns' Petition for Damages for Malicious Prosecution, wherein Sandy Edmonds is a named defendant. Mr. Box avers that he had only one face-to-face meeting with Mr. Burns regarding the alleged joint venture, and no formal agreement was ever reached between Mr. Box and Mr. Burns as to any joint or other business venture. Moreover, no business has ever been referred to Mr. Burns by BBCRE and Mr. Burns has, at no time, been requested to auction any property listed with BBCRE.

Mr. Box further states that he did grant Mr. Burns permission to place his logo on the Internet website of BBCRE, but has since advised Mr. Burns to remove the logo related to Mr. Burns' auction business, namely, Auction Sells Fact, LLC/BWW Realty.

Mr. Box also states that, in regard to plaintiff's "Exhibit P-6", the decision by affiant to terminate any potential business relationship with petitioner, Robert Burns, had nothing to do with the Louisiana Auctioneers Licensing Board or any actions on the part of Ms. Sandy Edmonds, the Executive Assistant to the Board. Ms. Edmonds never spoke with Mr. Beau Box, nor did she ever make any "false and scurrilous accusations", as alleged by Mr. Burns in Paragraph 25 of his Petition for Damages.

Plaintiff filed an amendment to his Petition for Damages for Malicious Prosecution on or about September 7, 2011. Ms. Edmonds denies the allegations contained therein, as she denies the allegations contained in the original Petition seeking damages for alleged malicious prosecution. Ms. Edmonds respectfully requests that the Court summarily dismiss the Amended Petition, pursuant to her Special Motion to Strike, which is incorporated and made a part herein. In the alternative, Mr. Burns' Amended Petition should be dismissed for failure to state a cause of action. A review of the allegations set forth in the Amended Petition and the exhibits attached thereto show that the matters discussed therein involve various disputes between Mr. Burns and the LALB which are not relevant or probative of the alleged claim for malicious prosecution.

made the basis of this subject litigation. Ms. Edmonds admits that she received notice of certified mail correspondence addressed to Mr. Burns from the Louisiana Ethics Commission in January of 2011. Mr. Burns was no longer a member of the LALB at the time. Ms. Edmonds received this notice and immediately left a voice mail with Tracy Barker, an attorney with the Louisiana Ethics Commission. Ms. Edmonds informed the Ethics Commission that the letter had been addressed to the LALB by mistake. She provided the Ethics Commission with Mr. Burns' address and advised the Ethics Commission to forward all future correspondence directly to Mr. Burns.

Ms. Edmonds also admits she received a second piece of mail addressed to Mr. Burns on or about February 25, 2011, but the mail was not checked by her until much later on in the day, after Mr. Burns had left the building. Ms. Edmonds was attending an Interior Design Board meeting the majority of the day. On Monday, February 28, 2011, she phoned Deborah Greer, Executive Secretary to the Ethics Commission, and explained what had occurred with both the certified letter and the letter to Mr. Burns sent by regular mail. The Ethics Commission advised Ms. Edmonds to return the unopened envelope to her attention so that she could make sure Mr. Burns received it in a timely fashion. Ms. Edmonds complied with the instructions of the Ethics Commission. At no time did Ms. Edmonds ever open any mail, nor did she commit any acts to demonstrate any malice or ill will towards Mr. Burns. Although, Mr. Burns filed a complaint against the LALB, no action was taken against Ms. Edmonds or anyone else. The LALB found no merit to Mr. Burns' complaint, as Mr. Burns' subject litigation lacks merit.

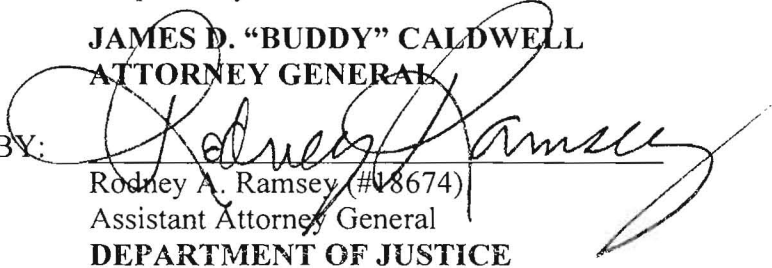
In regard to the allegations contained in paragraph 32 of the Amended Petition, Mr. Burns refers to a complaint involving his friend and LALB member, Freddie Phillips. The incident which Mr. Burns contends occurred in or about August or September of 2009, involved a complaint against the LALB by former LALB secretary Sherri Wilks. Ms. Wilks complained that Mr. Phillips was not following LALB regulations with regard to advertisements for auctions he was conducting. The complaint did not involve Mr. Burns or Ms. Edmonds in any way. Ms. Wilks complained that Mr. Phillips was receiving preferential treatment from the LALB. The LALB cleared Mr. Phillips. The Inspector General's Office became involved in the investigation of the complaint and visited the LALB to view a copy of Mr. Phillips' licensing file. The

inspector assigned to the case exited the LALB office and left Mr. Phillips' file on one of the LALB office tables. As Executive Assistant to the LALB, Ms. Edmonds, checked the file to confirm all the materials had been replaced and securely fastened so that it could be re-filed. At this time, Ms. Edmonds observed a page with notes accidentally left in the file by the inspector assigned to investigate the matter. Ms. Edmonds made a copy of the notes, but did not distribute a copy of the notes to anyone. The LALB and Inspector General's Office did not find any fault with Ms. Edmonds' actions; thus, there was no reprimand or disciplinary action taken against Ms. Edmonds for the incident. Again, Mr. Burns offers no proof of malice on the part of Ms. Edmonds. Mr. Burns offers no evidence of any threats or action evidencing malice on the part of Ms. Edmonds towards Mr. Burns. Ms. Edmonds, again, prays that this Court summarily dismiss Mr. Burns' Petition and award Ms. Edmonds attorney fees and court costs.

Respectfully submitted:

**JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL**

BY:

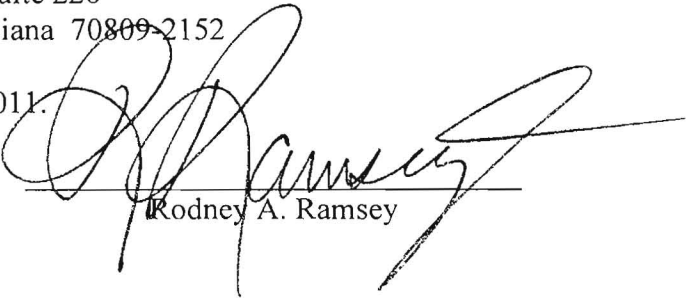

Rodney A. Ramsey (#18674)
Assistant Attorney General
**DEPARTMENT OF JUSTICE
LITIGATION DIVISION**
1885 North 3rd Street (70802)
Post Office Box 94005
Baton Rouge, Louisiana 70804-9005
Telephone: (225) 326-6386
Facsimile: (225) 326-6494

CERTIFICATE OF SERVICE

I certify that a copy of the above and foregoing Supplemental Memorandum in Support of Exceptions of No Cause or Right of action and Special Motion to Strike has been served upon all counsel of record by depositing same in the United States Mail, properly addressed and postage prepaid to:

Robert Edwin Burns, In Proper Person
President, Auction Sells Fast, LLC
4155 Essen Lane, Suite 228
Baton Rouge, Louisiana 70809-2152

this 26th day of October, 2011.


Rodney A. Ramsey

ROBERT BURNS

NUMBER 602,922 SECTIONS 25

VERSUS

19TH JUDICIAL DISTRICT COURT

SANDY EDMONDS

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

AFFIDAVIT

STATE OF LOUISIANA

PARISH OF JEFFERSON DAVIS

BEFORE ME, the undersigned Notary Public, personally came and appeared:

JAMES K. COMER, JR.

who, after being duly sworn, did depose and state, based on his personal knowledge, the following:

I.

Affiant is of the age of majority and is a resident of Jennings, Jefferson Davis Parish, State of Louisiana.

II.

Affiant is a licensed auctioneer and has been engaged in this business for approximately 23 years in the State of Louisiana. Affiant's business is Ken Comer Auctioneers, Inc.

III.

Affiant served as a board member for the Louisiana Auctioneer's Licensing Board ("LALB") for approximately four years; thereafter, he was chairman of the LALB for approximately three years and seven months. He resigned that position in July of 2011.

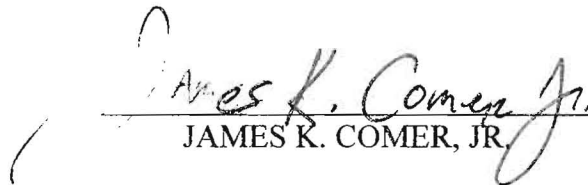
IV.



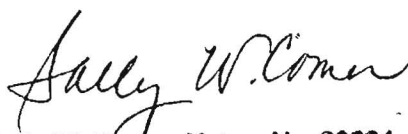
Affiant was supervisor of the LALB at all relevant times herein. Affiant was informed of Mr. Burns' conduct of Wednesday, April 6, 2011, and Friday, April 8, 2011, as more fully detailed in the affidavit offered by Karen L. Kennedy. Affiant discussed Mr. Burns' suspicious conduct with LALB counsel, Anna E. Dow, and possible security threats posed by Mr. Burns. Ms. Dow advised affiant of her conference with a member of the Louisiana Attorney General's Office Civil Section. Affiant and Ms. Dow further discussed possible options to improve the security of their office building.

V.

Affiant then instructed Ms. Sandy Edmonds, the Executive Assistant for the LALB, to place a call to the East Baton Rouge Parish Sheriff's Office and the Louisiana State Police. Affiant made the decision to report Mr. Burns' conduct to police officials because he was concerned for Ms. Edmonds' safety, and the safety of other tenants in the Summa Court building, wherein Ms. Edmonds' office was located and wherein the LALB held periodic board meetings. Affiant is unaware of any conduct on the part of Ms. Edmonds that could be interpreted as having any malicious intent towards Mr. Burns.


JAMES K. COMER, JR.

SWORN TO AND SUBSCRIBED
BEFORE ME, NOTARY PUBLIC
THIS 21st DAY OF Oct., 2011.


Sally W. Comer, Notary No. 88234

(SIGNED):

July W. Comer

(PRINT NAME):

NOTARY PUBLIC

88234

Notary I.D. or Bar Roll Number:

ROBERT BURNS

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AFFIDAVIT

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned Notary Public, personally came and appeared Mr. Beau Box, who after being duly sworn, did depose and state, based on his personal knowledge, the following:

I.

Affiant is a resident of East Baton Rouge Parish.

II.

Affiant is a real estate broker and has been licensed as such in the State of Louisiana for approximately fifteen years.

III.

Affiant is the owner of Beaux Box Commercial Real Estate, L.L.C. (hereinafter "BBCRE"). BBCRE has an office located at 8710 Jefferson Highway in Baton Rouge, Louisiana. BBCRE also has offices located in Lafayette and New Orleans, Louisiana.

IV.

Affiant has received and reviewed a copy of Mr. Robert Burns' Petition for Damages for Malicious Prosecution, wherein Sandy Edmonds is a named defendant. The pleading bears Docket Number 602,922, currently pending in the 19th Judicial District Court, Parish of East Baton Rouge.

V.

Affiant has specifically reviewed Paragraph 16 of Mr. Burns' Petition, wherein Mr. Burns alleges he had a "Joint venture to promote commercial real estate auctions" with BBCRE.

VI.

Affiant avers that he had only one face-to-face meeting with Mr. Burns regarding the alleged joint venture, and no formal written agreement was ever reached between the parties as



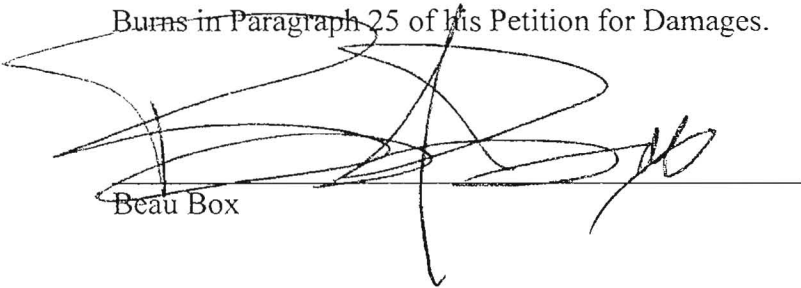
to any joint venture. Moreover, no business has ever been referred to Mr. Burns by BBCRE and Mr. Burns has at no time been requested to auction any property listed with BBCRE.

VII.

Affiant did, for a short time, place Mr. Burns' logo on the Internet website of BBCRE, but has since removed from BBCRE's website Mr. Burns' logo related to Mr. Burns' auction business, namely, Auction Sells Fast, LLC/BWW Realty.

VIII.

Affiant states that, in regard to plaintiff's "Exhibit P-6", the decision by affiant to terminate any potential business relationship with petitioner, Robert Burns, was not based on any action of the Louisiana Auctioneers Licensing Board or any actions on the part of Ms. Sandy Edmonds, the Executive Assistant to the Board. Ms. Edmonds never spoke with Mr. Beau Box, nor did she ever make any "False and scurrilous accusations" to Mr. Box, as alleged by Mr. Burns in Paragraph 25 of his Petition for Damages.


Beau Box

Sworn to and subscribed before me, notary public, this 10th day of October, 2011, in Baton Rouge, Louisiana.



NOTARY PUBLIC
(Print name, notary public, notary ID
and/or Bar Roll Number)

Matthew L. Mullins
Notary Public
Bar Roll # 29998
My Commission Expires at Death