

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT, IN AND FOR VOLUSIA COUNTY, FLORIDA

HEIDI YARBROUGH,
an individual,

Plaintiff,

vs.

CASE NO.: 2011 30792411
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KAREN A. FOXMAN,
ESQ., an individual, and
RICE & ROSE, P.A., a
Florida professional association,

Defendants.

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CLERK OF THE CIRCUIT COURT
& COUNTY COURT VOLUSIA COUNTY FL
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**COMPLAINT FOR
LEGAL MALPRACTICE**

COMES NOW the Plaintiff, **HEIDI YARBROUGH**, by and through her undersigned attorney, and sues the Defendants, **KAREN A. FOXMAN, ESQ.,** and **RICE & ROSE, P.A.,** and for this, her Complaint, would allege:

1. This is an action for damages in excess of the sum of Fifteen Thousand Dollars (\$15,000.00), exclusive of interest and costs.
2. At all times material to this cause of action, the Defendant, **KAREN A. FOXMAN, ESQ.,** was an attorney at law, practicing law in Volusia County, Florida, more specifically, to-wit: at 222 Seabreeze Blvd., Daytona Beach, Florida.
3. At all times material to this cause of action, the Defendant, **RICE & ROSE, P.A.,** was and is a professional association, organized and existing under the laws of the State of Florida, and conducting business in Volusia County, Florida, more specifically, to-wit: at

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222 Seabreeze Blvd., Daytona Beach, Florida.

4. At all times material to this cause of action, the individual Defendant, **KAREN A. FOXMAN, ESQ.**, was an agent, servant and/or employee of the corporate Defendant, **RICE & ROSE, P.A.**; that at all times material thereto, the individual Defendant acted within the line and scope of her duties with the corporate Defendant, in furtherance of the interests of the corporate Defendant.

5. At all times material to this cause of action, the individual Defendant, **KAREN A. FOXMAN, ESQ.**, held herself out to the general public and more specifically the Plaintiff herein to be an attorney and counselor at law, skilled and experienced in the field of domestic relations and marital law.

REPRESENTATION

6. The Plaintiff retained the Defendants herein, **KAREN A. FOXMAN, ESQ.** and **RICE & ROSE, P.A.**, to represent her in a legal matter, more specifically, to-wit: the dissolution of her marriage to her husband, Robert Glenn Yarbrough.

DUTY

7. By virtue of the Defendants accepting the representation of the Plaintiff as stated above, the Defendants owed the Plaintiff a duty of care of a standard of care commensurate with that level of skill and legal representation reasonably expected of a similarly qualified attorney at law.

BREACH OF DUTY

8. The Defendant, **KAREN A. FOXMAN, ESQ.**, breached her duty of care as referenced above and was negligent in her representation of the Plaintiff, and that said negligence

consisted of, but was not limited to, the following:

(a) by advising the Plaintiff that she should accept a proposal from her husband regarding child support which was an incorrect interpretation of the law and calculations to find that the Plaintiff owed her husband some seven hundred dollars (\$700.00) monthly in child support; the correct interpretation of current Florida law at that time would have yielded the Plaintiff *receiving* three hundred dollars (\$300.00) monthly, rather than *paying* seven hundred dollars (\$700.00) monthly, a differential of one thousand dollars (\$1,000.00) monthly; and

(b) by failing to retain a qualified expert to help sort through the complex matters, relying instead on the husband as a fiduciary in properly reporting what assets and income were in play even though the Plaintiff would be unable to set aside any agreement reached based upon erroneous disclosure; and

(c) by advising the Plaintiff that she should accept a proposal which incorrectly calculated a non-marital portion of the Plaintiff's Thrift savings plan that gave credit only for the dollar amount of her non-marital contributions, not the value they achieved during the fifteen (15) year marriage; and

(d) by failing to take into account the husband's non-marital asset consisting of his book of business, which was valued at almost one million dollars (\$1,000,000.00), in advising the Plaintiff that her husband would not have to pay her attorney's fees, resulting in the Plaintiff having to pay the entirety of the Defendant's attorney's fees when the Plaintiff should not have had to do so, as the Plaintiff's husband should have been required to do so; and

(e) by failing to factor in that the husband retained three times the income after the award of alimony and child support in the determination of who paid the attorneys

fees; between failing to take into account the book of business and the income disparity, the husband should have paid the attorneys fees; and

(f) by using a manner of distribution for certain properties that was unconventional and this method allowed the husband to control the outcome of the division in a manner that favored him and altered a 50/50 contemplated division that greatly favored the husband; that these properties included the real property and several pension properties.

9. The above allegations contained in paragraph eight (8), supra, constitute a deviation from the standard of care set forth in paragraph seven (7), supra.

PROXIMATE CAUSE

10. As a direct and proximate result of the failure of the Defendant, **KAREN A. FOXMAN, EQ.**, to meet the appropriate standard of care in her representation of the Plaintiff, the Plaintiff has been caused to suffer damages in an amount in excess of the sum of Fifteen Thousand Dollars (\$15,000.00); that the damages which have been suffered by the Plaintiff are the differential in the child support payments, the improper division of the marital assets, the attorneys fees which the Plaintiff paid when she should not have had to do so.

DAMAGES

11. As stated in paragraph ten (10), supra, the damages which the Plaintiff has sustained include the differential in the child support payments, the improper division of marital assets, the attorneys fees which the Plaintiff has had to pay, *inter alia*.

12. The corporate Defendant, **RICE & ROSE, P.A.**, is vicariously liable for the negligence of the individual Defendant, **KAREN A. FOXMAN, ESQ.**, in her representation of the Plaintiff herein.

WHEREFORE, the Plaintiff, **HEIDI YARBROUGH**, sues the Defendants, **KAREN A. FOXMAN, ESQ.**, and **RICE & ROSE, P.A.**, for compensatory damages in an amount within the jurisdictional limits of this Court, to-wit: in excess of the sum of Fifteen Thousand Dollars (\$15,000.00), exclusive of interest and costs, requests an award of costs, and further demands trial by jury of all issues triable as of right by jury.

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