

## **Unliquidated damages require jury trial**

Attorney Stuart Yanofsky was sued by his former client Andrew Isaacs resulting from alleged malpractice in a dissolution of marriage matter. Mr. Yanofsky represented himself in the appeal and it appears in the trial court proceeding as well. Yanofsky's pleadings were struck after failing to respond to discovery requests and Yanofsky moved for summary judgment as to both liability and damages. The court reserved ruling and ordered Yanofsky to file a response to the summary judgment in fourteen days. He did not. Isaacs then moved for sanctions and sought a judgment in his favor. Thereafter, Yanofsky moved to strike Isaacs' affidavit in support of the damages because they were unliquidated. The court entered granted the summary judgment as to both liability and damages in favor of Isaacs.

The appellate court reversed as to damages since both parties demanded a jury trial in their pleadings and the damages were not liquidated. A jury trial is required if demanded and the damages are not liquidated. The case was remanded for a jury trial on damages.

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**TAKEAWAY** - Don't ask the trial court for a judgment seeking unliquidated damages if a jury trial is requested.

