

No. _____

MLF-AR, L.L.C.	§	IN THE DISTRICT COURT OF
	§	
V.	§	HARRIS COUNTY, TEXAS
	§	
LUCIA SILVAS	§	_____ JUDICIAL DISTRICT

Plaintiff's Original Petition

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, MLF-AR, L.L.C., as assignee of The Mendel Law Firm, L.P., files its original petition against Defendant, Lucia Silvas, in her individual capacity and in support thereof, would respectfully show the Court as follows.

I. Discovery Control Plan & Damages

1.01. Per TEX. R. CIV. P. 190.1, Plaintiff alleges that discovery should be conducted under Level 3 as set forth under TEX. R. CIV. P. 190.4.

1.02. Per TEX. R. CIV. P. 47, Plaintiff seeks monetary relief over \$100,000.00 but not more than \$200,000.00.

1.03. This paragraph constitutes a request for disclosure under TEX. R. CIV. P. 194.

II. Parties

2.01. Plaintiff, MLF-AR, L.L.C., is a Texas limited liability company with its principal place of business in Harris County, Texas. MLF-AR is the assignee of The Mendel Law Firm, L.P. A copy of all pleas, pleadings, motions, discovery, orders, and other instruments related to this cause should be provided to MLF-AR, L.L.C.'s attorney, who is Stephen A. Mendel, with The Mendel Law Firm, L.P., 1155 Dairy Ashford, Suite 104, Houston, TX 77079, O: 281-759-3213, F: 281-759-3214, E: info@mendellawfirm.com.

2.02. Defendant, Lucia Silvas, can be served with citation at her residence, which is 7543 Brush Wood Drive, Houston, TX 77088, or at such other address as she may be found in the State of Texas. Defendant is not in the military service on active duty, nor is she a dependant of a service member on active duty.

III. Jurisdiction

3.01. This case involves causes of action for sworn account, breach of contract, Texas Theft Liability Act, and quantum meruit. The amount in controversy is within the jurisdictional limits of this Court.

3.02. Jurisdiction is proper pursuant to Article 5, § 16 of the Texas Constitution, and TEX. ESTATES CODE § 32.005.

IV. Venue

Venue is proper in Harris County as provided by TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1) because all or a substantial portion of Plaintiff's causes of action arose in Harris County, Texas. More specifically, but not exclusively, virtually all of the work performed by the Plaintiff or its successors in interest occurred in Harris County, Texas.

V. Facts

5.01. Defendant was an interested party in the C.A. No. 463306; *Estate of Abdulwahid H. Daoud, Deceased*; In Probate Court No. 1, Harris County, Texas.

5.02. The Mendel Law Firm, L.P. ("MLF") provided legal services to Defendant during the course of the probate proceeding. In accordance with MLF's customary practice, the Defendant received one or more invoices. The invoices represented a series of transactions systematically kept in the ordinary course of business by MLF.

5.03. Notwithstanding a written demand for payment was made more than thirty (30) days before the filing of this suit, in compliance with TEX. CIV. PRAC. & REM. CODE ANN. § 38.001, *et seq.*, Defendant refused to pay what is due and owing.

5.04. Thereafter, MLF assigned its claim for payment to MLF-AR, L.L.C. *See* Exhibit A, Copy of the Assignment of the Claim.

5.05. After allowing all just and lawful offsets, payments, and credits, the principal balance due on the account is \$76,516.35. *See* Exhibit B, Copy of Account Statement.

5.06. The balance due accrues simple interest at the rate of eighteen percent (18%) as provided by the parties engagement letter.

5.07. All conditions precedent have been performed or have occurred as required by TEX. R. Civ. P. 54.

VI. Sworn Account

6.01. MLF-AR, L.L.C. incorporates by reference Article V as though stated in full herein.

6.02. MLF provided services to the Defendant on an open account, the charges for which were reasonable and customary. The Defendant accepted the services and became bound to pay MLF for such services, but has refused to make payment.

6.03. After allowing all just and lawful offsets, payments, and credits, the balance due on the account is as set forth above in Article V.

VII. Breach of Contract

7.01. MLF-AR, L.L.C. incorporates by reference Articles V-VI as though stated in full herein.

7.02. MLF agreed to provide services to the Defendant, and the Defendant agreed to pay for

those services. MLF fully performed all conditions, covenants, and promises required under its contract with Defendant. Defendant refused to pay the balance due. The Defendant's failure to pay constitutes a breach of contract, which caused harm to the Plaintiff.

7.03. After allowing all just and lawful offsets, payments, and credits, the balance due on the account is as set forth above in Article V.

VIII. Texas Theft Liability Act

8.01. MLF-AR, L.L.C. incorporates by reference Articles V-VII as though stated in full herein.

8.02. Defendant violated TEX. CIV. PRAC. & REM. CODE Chapter 134. More specifically, Defendant committed theft of services as defined in TEX. PEN. CODE § 31.04 (a)(4), which states:

A person commits theft of service if, with intent to avoid payment for service that the actor knows is provided only for compensation: . . .
(4) the actor intentionally or knowingly secures the performance of the service by agreeing to provide compensation and, after the service is rendered, fails to make full payment after receiving notice demanding payment.

8.03. Defendant unlawfully obtained legal services from MLF without the intent to pay for same. Defendant's intent to not pay for services rendered by MLF is presumed because Defendant failed to make payment under the agreement for legal services within ten (10) days after receiving MLF's notice demanding payment.

8.04. In light of the balance due on the account as set forth above in Article V, Defendant committed a felony of the third degree.¹

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¹ See TEX. PEN. CODE § 31.04(e)(5).

IX. Quantum Meruit

9.01. MLF-AR, L.L.C. incorporates by reference Articles V-VIII as though stated in full herein.

9.02. If, in the alternative, there is not a valid contract on which to maintain a breach of contract action, then MLF-AR, L.L.C., as the assignee of MLF, is entitled to recover under the doctrine of quantum meruit.

9.03. MLF rendered valuable legal services, which the Defendant knowingly accepted and used, and for which Defendant knew that MLF expected to be paid and was not.

9.04. After allowing all just and lawful offsets, payments, and credits, the balance due on the account is as set forth above in Article V.

X. Attorneys' Fees

10.01. Plaintiff incorporates by reference Articles V-IX as though set forth in full herein.

10.02. As a result of Defendant's refusal to pay, Plaintiff found it necessary to file this lawsuit. Thus, Plaintiff seeks to be reimbursed its reasonable attorneys' fees as permitted by the written contract and/or TEX. CIV. PRAC. & REM. CODE § 38.001, *et. seq.*

Prayer

Plaintiff requests that the following:

- A. Defendant be cited to appear and answer.
- B. Plaintiff recover its actual damages.
- C. Plaintiff recover prejudgment and post-judgment interest the rate of eighteen percent (18%), as provided by the parties engagement letter, or as provided by law, whichever interest rate is higher.
- D. Plaintiff recover attorneys' fees, costs of court, expenses of litigation, and such other and

further relief, general or special, legal or equitable, to which Plaintiff may be entitled.

Respectfully submitted,



Stephen A. Mendel (13930650)

Emily J. Wyatt (24088685)

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Attorneys for the Plaintiff

MLF-AR, L.L.C.

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_____ JUDICIAL DISTRICT

Verification

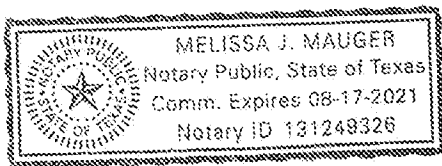
Before me, the undersigned authority, personally appeared Stephen A. Mendel, and after being duly sworn, deposed and said:

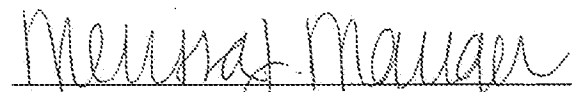
1. My name is Stephen A. Mendel. I am over the age of twenty-one (21), a resident of Harris County, Texas, and competent to make this affidavit. I have personal knowledge of the facts stated in this affidavit and they are true and correct.
2. I have read the foregoing *Plaintiff's Original Petition* and the facts stated therein are true and correct. The balance owed by Defendant, Lucia Silvas, is as set forth in Plaintiff's petition, and is just, true, due, and includes all just and lawful offsets, payments, and credits. The principal balance was due on the date set forth in Plaintiff's petition, and accrues interest at the rate set forth in Plaintiff's petition.
3. Attached as Exhibit A is a true and correct copy of the assignment of claim by The Mendel Law Firm, L.P. to MLF-AR, L.L.C., and which is incorporated by reference as though set forth in full herein.
4. Attached as Exhibit B is a true and correct copy of the account statement, and which is incorporated by reference as though set forth in full herein.



Stephen A. Mendel

SWORN TO AND SUBSCRIBED before me on December 1, 2020.





Notary Public In & For
The State of Texas



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this January 14, 2022

Certified Document Number: 93347001 Total Pages: 7

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com