UNITED STATES DISTRICT COURT
FOR THE SOUTHER DISTRICT OF TEXAS
HOUSTON DIVISION

MILLMAN STEEL INC., ***Plaintiff,*** v. HAYDIN CONSTRUCTION, LLC, DARYL M. SELZER, JENNIFER SELZER, ALLEN SELZER, LEIGH ANN HOOD & PRIME DEVELOPMENT GROUP, LLC. ***Defendants.***	CASE NO. 4:23-cv-2320

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff Millman Steel Inc. files this Original Complaint.

RESPECTFULLY SUBMITTED,

ART AGUILAR LAW FIRM, PC

BY: /s/ Art Aguilar

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I. JURISDICTION & VENUE

Per 28 U.S.C. § 1331, this Court has jurisdiction over the federal causes of action brought under 18 U.S.C. § 1961 et seq. because it arises under the laws of the United States.

Per 28 U.S.C. section 1332(a) this Court has jurisdiction over the state court causes of action because there is complete diversity between Plaintiff and Defendants and there is more than $75,000 at stake, exclusive of interest and costs.

Venue is proper in this district because Defendants reside here and "a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated." 28 U.S.C.A. § 1391.

II. CLAIM FOR MONETARY RELIEF

1. Plaintiff's damages sought are within the jurisdictional limits of this Court and exceed $15,000,000.

III. PARTIES

2. Plaintiff is a foreign corporation doing business in Texas, but which resides in Denver, Colorado and may be served with legal papers via the Undersigned.

3. Defendant Haydin Construction, LLC ("Haydin") is a company doing business in Harris County, Texas.

4. Daryl Selzer as the managing member of Haydin, and Haydin itself, may be served at 5829 W. Sam Houston Pkwy. N #403, Houston, Texas 77041, or wherever he or it may be found.

5. Jennifer Selzer is Daryl Selzer's wife, and may be served at 12903 Taylorcrest Road, Houston, Texas 77079 or anywhere she may be found.

6. Allen Selzer, is Daryl Selzer's father and may be served at 709 N. Velasco St.

Houston, TX 77003 or anywhere he may be found.

7. Leigh Ann Hood is Daryl Selzer's former (or actual mistress) and may be served at 18797 E Cool Breeze Ln., Montgomery, TX 77356 or anywhere she may be found.

8. Defendant Prime Development Group LLC is a domestic company doing business in Montgomery County, Texas and may be served by serving its managing member Hood or its registered agent United States Corporation Agents, Inc. located at 9900 Spectrum Drive Austin, TX 78717 USA.

IV. AGENCY

9. Unless otherwise stated, whenever it is alleged that the Daryl Selzer or Haydin committed an act, failed to perform an act, made a representation or a statement, or failed to make a disclosure, it is alleged that Selzer and Haydin acted or failed to act through their authorized agents, including Selzer in his leadership capacity at Haydin or individually, or through servants, employees or representatives acting with either expressed, implied, apparent, direct and/or ostensible authority, or they subsequently ratified these acts, their acts, failures to act, representations, statements or conduct.

V. FACTS

10. On or about June of 2022, Plaintiff and Defendants entered into an agreement for the construction of a facility in Magnolia, Montgomery County, Texas ("the project").

11. Defendant Haydin is a general contractor.

12. The facility was to be built at 31099 Old Hockley Rd, Magnolia, TX 77355 as is owned by Clary Holdings, LLC, an affiliated entity of Plaintiff.

13. The funds used for the project by Plaintiff were proceeds of a corporate sale in California to be used specifically for a new facility in Texas.

14. Indeed, the funds were the fruits of an IRC Section 1031 exchange with the strict legal purpose of reinvesting the funds by replacing the California facility with similar property in Texas.

15. The funds were deposited into Third Coast Bank, located in Humble, Texas by Asset Preservation Inc., a 1031 Exchange company. Essentially this was the escrow account for the funds. The contract was estimated to be worth in excess of 6 million dollars.

16. Turner McKiernan was the company hired by Plaintiff to turnkey the entire project. Chris Turner was contractually obligated to oversee the entire project and oversee the draws from the escrow account.

17. Per the party's agreement, Defendants would draw from the escrow at Third Coast Bank account which was created specifically for the construction project.

18. To the best of Plaintiff's knowledge, the parties agreed that construction of the project would be initiated in or around July of 2022.

19. In fact, construction began and broke ground with Defendants' continuing assurances to Plaintiff. However, during the months of August 2022 through February 2023, Plaintiff and its agents received complaints that several subcontractors and vendors who were in the project were not being paid.

20. Indeed, upon monitoring the account in January and inspecting the project, most of the funds were gone by late December of 2022.

21. The funds were transferred to Veritex Community Bank in Dallas, Texas.

22. Plaintiff did not approve of these transfers and did not give D. Selzer permission to transfer the money to other companies or himself.

23. Less than 10% of actual work has been done but more than $6,000,000 of funds have gone missing from the escrow account at Third Coast Bank.

24. Realizing the dire circumstances, Plaintiff moved to contact Defendants regarding updates on the project, knowing that it had yet to be completed. Defendants refused to entertain the matter leading to this lawsuit.

25. After having investigated, D. Selzer appears to have sent himself in excess of $500,000 for his own personal enrichment.

26. Defendant Hood, a contractor who was never even involved in the project, received close to 2 million dollars. Hood is Selzer's former or actual mistress.

27. During the pendency of the current investigation, it has come to light that Defendant Selzer intentionally falsified the account statements and deposits with the premeditated intent to criminally defraud Plaintiff by showing him and sending him false account statements reflecting the wrong amounts in the account.

28. Further, upon further investigation, facts have come to light that this conduct is nothing new to Defendant Daryl Selzer.

29. In fact, the current investigation shows that Daryl Selzer has operated several companies, since 2020, with the intent to defraud several of his construction clients. That is, Defendant Daryl Selzer has had ongoing projects since 2020, for which he was paid for, but has failed to deliver on the projects. All in all, the current facts show that this is a pattern of fraud, a scheme, and a pattern of racketeering activity that Defendant Daryl Selzer imposes on his clients to personally enrich himself.

30. The terms "the fraud," "the scheme," "racketeering activity," or "the fraudulent scheme" used in conjunction with each other, or independently, in this pleading, are hereinafter

defined as follows, but not completely limited, and are given the most expansive definitions in both applicable Texas and Federal case law:

a. A pattern of fraud involving exceptional moral turpitude and intentional wrong;

b. A fraudulent conveyance or fraudulent transfer using the interstate channels of commerce either in banking, or other forms of electronic means, regarding the open and/or secret transfer of money or financial funds to other states, or to other countries;

c. Actual fraud, in a fiduciary capacity, which is positive fraud, or fraud in fact, involving moral turpitude or intentional wrong and not implied fraud;

d. The obtaining of money, property, services, or credit by actual fraud, with the wrongful intent, which can be inferred by examining the totality of the circumstances;

e. Fraudulent conveyances or schemes which could been affected without a false representation;

f. Making knowing misrepresentations involving deception, false pretenses, and which include fraudulent falsehoods, connoting deception or trickery, knowing that another party was justifiably relying on such misrepresentations them to their detriment;

g. With the intent to hinder, delay, or defraud Plaintiff, Defendants transferred, removed, destroyed, mutilated, concealed or otherwise permitted to be transferred, removed, destroyed, mutilated, property of the estate;

h. Fraudulent actions or omissions which are chargeable and punishable under Texas and Federal Law, involving extortion money laundering, financial crimes, and other crimes.

31. The current facts also show that Defendant Selzer is in hiding, possibly in his parents' home in Houston, or in another place. He divorced his wife in January of 2023.

32. In an attempt to show innocence and no wrongdoing, Defendant Selzer has now nonsuited his divorce, and has attempted to "save his marriage," per his bankruptcy attorney.

33. In fact, Selzer is roaming the streets of Houston as a free man, pretending to have done nothing wrong, engaging in garage sales, and even now trying to sell his home.

34. Some witnesses have come forward to state that Defendant Selzer used some of the money to pay accounts on other projects.

35. Defendant Selzer also attempted to commit suicide, but apparently was unsuccessful.

36. It appears that Defendant Selzer has shut down Haydin's website.

37. Defendant Selzer even deleted his LinkedIn Account, but then reactivated it.

38. Accordingly, all the facts show that Defendant Selzer is a complete flight risk at this point.

39. These actions were premeditated by Selzer and several other confederates.

40. In fact, Selzer and his mistress, Leigh Ann Hood, who also goes by the name of "Leigh Ann Stikeleather" planned this evil fraudulent scheme.

VI. Hood's Involvement

41. Defendant Hood received in excess of $1,000,000 in transfers from the project. However, Hood was never contracted to do any work on the project for Plaintiff.

42. Hood admitted to being the mistress of Selzer for the past two or so years after she cold called the Undersigned.

43. Indeed, Hood showed up to the Undersigned's office to speak about D. Selzer's fraud and stated that she even had recent conversations with Daryl's wife, J. Selzer.

44. Upon information and belief, Hood is still conspiring with Selzer. Indeed, Hood attempted to misdirect the Undersigned by stating that Selzer had moved to Arizona to open up a new company over there. That was simply not true.

45. Hood also admitted that she knew of Selzer's fraud ever since November of 2022, but kept quiet about it.

46. Hood received the following disbursements beginning in June of 2022, to her business account for work that she never did on the Mill Man project.

• **June 24, 2022**	**$30,000.00**
• **Jul 19, 2022**	**$173,762.93**
• **Jul 29, 2022**	**$150,093.20**
• **Aug 5, 2022**	**$146,000.00**
• **Aug 17, 2022**	**$87,500.00**
• **Aug 24, 2022**	**$71,399.00**
• **Sep 1, 2022**	**$62,706.60**
• **Sep 1, 2022**	**$32,790.00**
• **Sep 6, 2022**	**$97,250.00**
• **Sep 16, 2022**	**$2,200.00**
• **Sep 16, 2022**	**$2,600.00**
• **Sep 16, 2022**	**$7,140.00**
• **Sep 16, 2022**	**$32,790.00**
• **Sep 28, 2022**	**$46,077.80**
• **Oct 4, 2022**	**$20,000.00**
• **Oct 7, 2022**	**$35,000.00**
• **Oct 12, 2022**	**$63,337.41**
• **Oct 20, 2022**	**$30,000.00**
• **Oct 27, 2022**	**$20,000.00**
• **Nov 3, 2022**	**$75,000.00**
• **Dec 8, 2022**	**$73,500.00**
• **Dec 16, 2022**	**$70,859.90**
• **Dec 22, 2022**	**$52,293.00**
• **Dec 30, 2022**	**$52,293.00**
• **Dec 30, 2022**	**$70,859.90**
• **Jan 6, 2023**	**$40,999.99**

These amounts total greater than $1,920,855.66.

47. Hood does not have the knowledge, experience or reputation for taking on projects of this magnitude. In fact, Hood's business, Prime Development Group, LLC was only started in 2021, a mere year before the fraudulent transfers took place.

48. Accordingly, these transfers are highly suspicious and were made for the purpose of defrauding Plaintiff, to further enrich both Selzer, Hood, and their future wellbeing. Hood should be punished for these actions.

VII. THE ATTEMPTED COVER UP BY ALLEN SELZER

49. Allen Selzer is D. Selzer's father and upon information and belief, knew about the fraud D. Selzer was perpetrating on Plaintiff.

50. Indeed, upon information and belief, A. Selzer assisted D. Selzer in attempting to cover up the fraud, and money laundering, after he wired in excess of $824,000.00 to D. Selzer's Haydin's account.

51. One of the wires to Texas originated from a bank in New York.

52. In fact, it is undisputed that D. Selzer made several payments to loan sharks in New York.

53. Some of these wires originated from the "ALAN SELZER AND LAURIE SELZER JTWRO and the "STIFEL BANK TRUST AS AGENT ALAN S," which upon information and belief, belong to Allen Selzer.

54. These facts indicate that A. Selzer knew about the fraud and attempted to help his son cover up the fraud.

55. A. Selzer does not own a construction company and has no known ties to any construction projects as a client or subcontractor of Haydin.

VIII. CAUSES OF ACTION

A - RICO (Defendant D. Selzer (individually and acting as Haydin) Hood, A. Selzer, and others).

56. Congress enacted RICO to protect Americans from corrupt schemes and fraudulent devices often used by racketeers, fraud feasors, and members of organized crime to infiltrate and harm legitimate American businesses and individuals.

57. It is unlawful under 18 U.S.C. § 1962(a)-(c) for any person associated with any enterprise to conduct or participate, directly or indirectly, in the conduct of an enterprise's affairs through a pattern of racketeering.

58. "A RICO enterprise can be either a legal entity or an association-in-fact." *Crowe v. Henry*, 43 F.3d 198, 204 (5th Cir. 1995). Here, Defendant Haydin, a legal entity, was the enterprise.

59. RICO applies when a "corporate employee unlawfully conducts the affairs of the corporation of which he is the sole owner—whether he conducts those affairs within the scope, or beyond the scope, of corporate authority." Cedric *Kushner Promotions, Ltd. v. King*, 533 U.S. 158, 166 (2001).

60. "RICO's purpose is 'the imposition of enhanced criminal penalties and new civil sanctions to provide new legal remedies for all types of organized criminal behavior, that is, enterprise criminality—from simple political corruption to sophisticated white-collar crime schemes to traditional Mafia-type endeavors.'" *United States v. Cauble*, 706 F.2d 1322, 1330 (5th Cir. 1983).

61. RICO applies even to legitimate business enterprises, and legal entities, like Defendant D. Selzer and Haydin.

62. Undoubtedly, the goal of this lawsuit is to put an end to Defendants "infiltration of legitimate businesses [and to strike] at the source of the problem," the continuous perpetration of

fraud, thorough the means of a federally insured bank, which is interstate commerce. *United States v. Turkette*, 452 U.S. 576, 592–93, (1981)

63. Thus, this action is brought by Plaintiff based upon misrepresentations, wire transfers, and supporting documentation for a construction project which was a guise for a fraudulent scheme.

64. Defendant D. Selzer (individually and acting as Haydin) Hood, A. Selzer, and several unknown confederates, knowingly submitted, and caused to be submitted, fraudulent documents, bank wires, supporting documentation, and other documents which were purposed to operate as a fraudulent scheme on Plaintiff, to deprive him of 6 million dollars.

65. Thus, Plaintiff's goal by way of this lawsuit is "to divest the association of the fruits of its ill-gotten gains." *United States v. Turkette*, 452 U.S. 576, 585 (1981).

<u>Civil Remedies Available to Plaintiff per 18 U.S.C.A. § 1964</u>

66. Per section 1964, Plaintiff brings this RICO action because he is a "person injured in his . . . property by reason of a violation of section 1962" and therefore sues and seeks to "recover threefold the damages" of which he has sustained, plus and the cost of the suit, including his reasonable attorney's fees.

67. Plaintiff brings to this Court's attention a pattern of racketeering which involve the following predicate offenses, which in their continuity, and close relationship in advancing unlawful fraudulent activity, within the construction context, which include (1) laundering of monetary instruments; (2) using of interstate facilities to further unlawful racketeering activity; (3) operating a scheme to defraud Plaintiff through a series of monetary transactions in criminally derived property; (4) mail fraud, (5) wire fraud, all of which are defined as "racketeering activity" in section 1961.

68. The racketeering activity evinced by Defendants is continuous because the predicate offenses stated as follows, are inextricably intertwined to the regular and routine method which Defendants conduct, operate, and participate in their supposed legitimate construction business.

69. In other words, these predicate offenses are an integral part of Defendants operation of their construction business, and unequivocally occur, and have been occurring for the past three years, and include a specific threat of repetition extending indefinitely into the future.

Violation of 18 US.C. §1956, "Laundering of Monetary Instruments."

70. Plaintiff incorporates by reference all the allegations formerly recited as if fully adopted herein.

71. Defendant Selzer's fraudulent behavior arises because he sought to capitalize on Plaintiff's funds at Third Coast Bank by making phony change orders, fake and fraudulent charges, a fraudulent scheme, fraudulent bank wires, and false billings which have no basis whatsoever in favor of Plaintiff, but rather to benefit himself (and others).

72. Money laundering under section 1956 is a RICO predicate offense.

73. This behavior amounts to money laundering within the ambit of section 1956.

74. Defendants, on more than two occasions, knowing that the money involved in the financial transaction with the bank represented proceeds of unlawful fraudulent activity, and with the intent to promote the carrying of an specified unlawful fraudulent activity, conducted and attempted to conduct, the transfer of the funds with the full intent to engage and conduct in unlawful activity prohibited by section 1956, knowing that engaging in such transfers were meant to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity.

75. The transfers and financial transactions involved the proceeds of specified unlawful fraudulent activity because it was part of a set of parallel or dependent transactions, any one of which involved the proceeds of specified unlawful fraudulent activity, and all of which were part of a single plan or arrangement, within the construction agreement with Plaintiff.

76. These transfers are considered "racketeering activity" within the meaning of section 1961, and a prohibited activity withing section 1962.

77. Defendant Selzer's money laundering and fraud was complete when he actually received and disbursed the ill-gotten funds from the bank into either his business accounts, other accounts, personal accounts, or other business accounts which he used to continue to operate the unlawful activities, or assist others involved, including Hood.

78. Defendants had the intent to further an unlawful activity when making those transfers. "These transfers constituted the 'transactions' of money laundering, in violation of 18 U.S.C. § 1956(a)." *United States v. Halstead*, 634 F.3d 270, 280 (4th Cir. 2011).

79. Plaintiff requests the appointment of a receiver to "collect, marshal, and take custody, control, and possession of all assets of the defendant, wherever located, to satisfy a civil judgment under this subsection . . . including an order of restitution to any victim of a specified unlawful activity.

Violation of 18 U.S.C. § 1952, "Interstate and Foreign travel or transportation in aid of racketeering enterprises."

80. Plaintiff incorporates by reference all the allegations formerly recited as if fully adopted herein.

81. Defendant Selzer and Haydin used Third Coast Bank, Veritext Bank, Wells Fargo Bank, and other banks in New York, and others, which were and are facilities "in interstate commerce," with intent to distribute the proceeds of his unlawful and fraudulent activities

perpetrated on Plaintiff, and did in fact distribute the proceeds of his unlawful and fraudulent activity, and continued to further and otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of his fraudulent unlawful activity, by engaging in monetary transactions in violations of sections 1956 and 1957, which are predicate RICO offenses.

Violation of 18 U.S.C. § 1957 – Criminally Derived Property.

82. Plaintiff incorporates by reference all the allegations formerly recited as if fully adopted herein.

83. Defendant Selzer, through Defendant Haydin, knowingly operated, and attempted to operate, a scheme to defraud Plaintiff through a series of monetary transactions in criminally derived property of a value greater than $6,000,000.00 which said property was derived from specified unlawful activity, in violation of section 18 U.S.C.A. § 1957.

84. Violations of section 1957 are predicate RICO offenses.

85. The monetary transactions which Defendants Selzer and Haydin engaged in are within the definition of RICO because such monetary transactions were in the form of a "deposit, withdrawal, transfer, or exchange, in or affecting interstate commerce . . . by, through, or to a financial institution," which are the several banks as already stated.

Violations of Mail Fraud - § 1341. "Frauds and swindles"

86. Plaintiff incorporates, adopts, and re-alleges as though fully set forth herein, the foregoing allegations.

87. "RICO was an aggressive initiative to supplement old remedies and develop new methods for fighting crime." *Sedima, S.P.R.L. v. Imrex Co., Inc.*, 473 U.S. 479, 498 (1985). Per

RICO's policy, it is to be used liberally, in both civil and criminal actions. *Delta Truck & Tractor, Inc. v. J.I. Case Co.*, 855 F.2d 241, 242 (5th Cir. 1988).

88. RICO includes other "deliberately broad terms . . . such as 'person,' 'enterprise,' 'conduct' and 'participate,' [all of which] offer few toeholds for courts seeking to narrow RICO's application." *Haroco, Inc. v. Am. Nat. Bank & Tr. Co. of Chicago*, 747 F.2d 384, 391 (7th Cir. 1984), aff'd, 473 U.S. 606 (1985).

89. In this case Defendant Selzer was the corporate owner and employee who controlled and was associated with the corporation, Defendant Haydin. Both Defendant Selzer and Defendant Haydin are distinct and separate.

90. "The corporate owner/employee, a natural person, is distinct from the corporation itself, a legally different entity with different rights and responsibilities due to its different legal status . . . nothing in the statute [] requires more "separateness" than that." *Cedric Kushner Promotions, Ltd. v. King*, 533 U.S. 158, 163 (2001).

91. "This allegation is sufficient to demonstrate that the RICO person, an individual employee of the corporation, is distinct from the RICO enterprise, the corporation itself." *Abraham v. Singh*, 480 F.3d 351, 357 (5th Cir. 2007).

92. "A corporate employee who conducts the corporation's affairs through an unlawful RICO 'pattern ... of activity,' § 1962(c), uses that corporation as a 'vehicle' whether he is, or is not, its sole owner." *King*, 533 U.S. at 164–65.

93. In their course as agents and principals, Defendant Selzer and Haydin committed mail fraud in a variety of methods, by submitting and causing to be submitted, wires, transfers, fraudulent bills, and statements to banks, which had no basis in fact, but only to advance a

fraudulent scheme, and to damage Plaintiff's ability to finish his facility and frustrate the IRS exchange, said operations which occurred through interstate commerce.

94. Mail fraud consists of three elements: "(1) a scheme to defraud; (2) the use of the mails to execute the scheme; and (3) the specific intent to defraud." *United States v. Traxler*, 764 F.3d 486, 488 (5th Cir. 2014).

95. Even two single acts of mail fraud, alone, evincing an otherwise legal transaction or activity, may nonetheless "constitute a pattern of racketeering activity." *Delta Truck & Tractor, Inc. v. J.I. Case Co.*, 855 F.2d 241, 243 (5th Cir. 1988).

96. As to the first element, the scheme to defraud is relatively straight forward. Here, Plaintiff claims Defendants affectuated the fraudulent scheme using wires, interstate banks, and via mail. Defendants did not need to personally affect the mailing, but it is sufficient that the Defendants acted with the knowledge that use of mail would follow or could have reasonably been foreseen, even though not actually intended.

97. Nonetheless, Defendants effectuated several mailings which satisfy the second element.

98. A jury may infer the last element, that Defendants had the intent to defraud Plaintiff through their concerted actions. *See Allstate Ins. Co. v. Plambeck*, 802 F.3d 665, 675 (5th Cir. 2015) ("the jury could reasonably infer that the scheme was fraudulent and that using the mail or wire services was inevitable.").

99. Accordingly, all elements of mail fraud, as predicate acts to support RICO claims, are satisfied.

<u>Wire Fraud - Violations of § 1343. "Fraud by wire, radio, or television"</u>

100. Plaintiff incorporates, adopts, and re-alleges as though fully set forth herein, the foregoing allegations.

101. Defendant Selzer, advancing the fraudulent and criminal scheme, within his capacity as the agent and individually, used telecommunications to communicate with Plaintiff, and all of his confederates, his family, and the other Defendants in this pleading to further advance the criminal scheme.

102. By its RICO legislation, as put clearly by the Supreme Court in *Lopez*, "Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities." *United States v. Lopez*, 514 U.S. 549, 558 (1995).

103. Indeed, the intrastate use of "intestate facilities properly regulated under Congress's second-category *Lopez* power." *United States v. Marek*, 238 F.3d 310, 318 (5th Cir. 2001) (finding that Western Union is a facility in interstate commerce and therefore affirming conviction under the federal murder-for-hire statute).

104. Third Coast Bank, Wells Fargo and Veritext Bank (and the other banks mentioned in this pleading) are banks which are in interstate commerce.

105. "Even businesses purely intrastate in character can be subject to federal regulation if they directly affect interstate commerce." *F.T.C. v. Shaffner*, 626 F.2d 32, 37 (7th Cir. 1980).

106. Thus, RICO applies because the act covers anyone who uses an interstate facility to facilitate an unlawful activity and, thereafter, performs or attempts to perform an act in aid thereof." *United States v. Graham*, 856 F.2d 756, 761 (6th Cir. 1988).

107. The use of the use of "interstate wires need not actually further the illegal scheme but need only be intended to execute the scheme." *United States v. Pecora*, 693 F.2d 421, 424 (5th Cir. 1982).

108. Defendants knowingly conducted and/or participated, directly or indirectly, in the conduct through a pattern of racketeering activity consisting of repeated violations of the federal wire fraud statute, based upon the above-described scheme to defraud Plaintiff by submitting and causing to be submitted fraudulent wire transfers, bills and other supporting documentation for evaluations and work that was never done and did not need to be done, to the extent it was done through telecommunications, emails and text messages.

109. The wire fraud offense was also committed a series of times every single time Selzer fraudulently requested the wire transfer of funds from the bank to his own personal account or that of Haydin, or that of a third party which had no connection to the project, or any right to be paid out of the escrow account.

110. A single wire transfer is sufficient to support a wire fraud conviction under RICO. *United States v. Dowl*, 619 F.3d 494, 500 (5th Cir. 2010).

111. Similarly, "one phone call is sufficient to constitute an offense[.]" *United States v. Pecora*, 693 F.2d 421, 424 (5th Cir. 1982); *United States v. Weathers*, 169 F.3d 336, 341 (6th Cir.1999) (finding that intrastate use of a cellular phone constituted use of a facility in interstate commerce under the Travel Act); *United States v. Photogrammetric Data Services, Inc.*, 103 F. Supp. 2d 875, 882 (E.D. Va. 2000), aff'd, 259 F.3d 229 (4th Cir. 2001).

112. "A wire fraud offense under § 1343 requires proof of (1) a scheme to defraud and (2) the use of, or causing the use of, wire communications in furtherance of the scheme. The wire communication need only be intended to further or to execute the scheme, and one phone call is

sufficient to constitute an offense." *United States v. Shively*, 927 F.2d 804, 813 (5th Cir. 1991) (internal citations omitted).

113. "It is well established that telephones, even when used intrastate, constitute instrumentalities of interstate commerce." *United States v. Weathers*, 169 F.3d 336, 341 (6th Cir. 1999). "Telephones are instrumentalities of interstate commerce." *United States v. Clayton*, 108 F.3d 1114, 1117 (9th Cir. 1997).

114. In this case, Defendants used wires to perpetrate their fraudulent scheme to defraud Plaintiff by the use or causing the use of wire communications in furtherance of the scheme.

Violation of 18 U.S.C. §1962(C)

115. Plaintiff incorporates, adopts, and re-alleges as though fully set forth herein, the foregoing allegations.

116. The foregoing predicate acts are numerous, all occurring more than two times, and constitute a pattern of racketeering activity. A pattern of racketeering is defined as "at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years." 18 U.S.C.A. § 1961 (West).

117. Defendants are civilly liable for violations of section 1962(c) as Defendant Selzer is a person who has "unlawfully" been "employed by or associated" with Defendant Haydin, which is an "enterprise engaged in, or the activities of which affect, interstate or foreign commerce" where he conducts or participates, directly or indirectly, in the conduct of Haydin's affairs "through a pattern of racketeering activity."

118. Plaintiff is a "person injured in his . . . property by reason of a violation of section 1962" and therefore sues and seeks to "recover threefold the damages" of which he has sustained, plus and the cost of the suit, including his reasonable attorney's fees.

B - Texas Uniform Fraudulent Transfer Act.

119. Under TUFTA, a creditor may sue a debtor who places property beyond the creditor's reach with the intent to defraud the creditor.

120. In this case, Defendants engaged in prohibited transfers in an effort to fraudulently transfer funds from the escrow account, into their own personal accounts, and those accounts belonging to their accomplices, and other confederates, to defraud their future creditors.

121. These transfers were made between July of 2023 and March of 2023.

122. These transfers were fraudulent as to Plaintiff because their claims arose before or within a reasonable time after the transfers were made or the obligations were incurred.

123. Here, Defendants, or the debtors made the transfers or incurred the obligations:

- with actual intent to hinder, delay, or defraud Plaintiff;
- without receiving a reasonably equivalent value in exchange for the transfer or obligation;
- knowing that they were engaged or were about to engage in a business or a transaction for which the remaining assets of Haydin were unreasonably small in relation to the business or transaction; and
- knowing that they intended to incur, or believed or reasonably should have believed that they would incur, debts beyond their ability to pay as they became due after judgement when this suit was first filed.

124. To show Defendants' actual intent under Subsection (a)(1) of TUFTA the jury may consider the following factors, that:

- the transfers or obligations were made to an insider, because they were made to Selzer's personal accounts, his confederates, his family or other friends assisting him in the fraudulent actions;
- Selzer retained possession or control of the property transferred after the transfers out of the escrow account; and
- the transfers or obligations were concealed.

In addition, the facts will show that in handling his personal account and Haydin's account, Selzer:

- concealed and removed or caused to be removed or concealed, assets out of the escrow account into his personal bank accounts; and
- the transfers occurred shortly before or shortly after a substantial debt was incurred.

C - Money Had and Received.

125. Plaintiff incorporates all formerly recited allegations as if fully recited herein. All Defendants are liable for claims for money had and received. Defendants have gained access to money and finances which rightfully belong to the Plaintiff.

126. The only thing that needs to be proved in a claim for money had and received "is that defendant holds money which in equity and good conscience belongs to [Plaintiff]." *London v. London*, 192 S.W.3d 6, 13 (Tex. App.-Houston [14th Dist.] 2005, pet. denied) (quoting Staats v. Miller, 243 S.W.2d 686, 687-88 (1951)). Money had and received "is an equitable doctrine that courts apply to prevent unjust enrichment." *Id*. (citing *Miller-Rogaska, Inc. v. Bank One*, 931 S.W.2d 655, 662 (Tex. App.-Dallas 1996, no writ). "The cause of action is not premised on wrongdoing but looks to the justice of the case and inquires whether the party has received money that rightfully belongs to another." *Id*.

127. The question in an action for money had and received is to which party the money, in equity and law, belongs. *Id*. (*Staats*, 243 S.W.2d at 687).

128. Here, Defendants hold money, which in equity and good conscience belongs to Plaintiff.

129. Several Texas courts have held that claims for money had and received were recoverable where payment was made based on mistake, fraud, or in other similar circumstances.

130. Indeed, Texas courts have allowed restitution for these types of claims in a variety of cases: [B]y a defrauded party against the party who committed the fraud, *see Staats*, 243 S.W.2d at 686-88; *Wiseman v. Baylor*, 6 S.W. 743, 743-44 (Tex. 1887); by a party that made an overpayment, *Benson v. Travelers Ins. Co.*, 464 S.W.2d 709, 710-13 (Tex. Civ. App.-Dallas 1971, no writ); and by a party that paid or credited money to the wrong person or account, *see Amoco Prod Co.*, 946 S.W.2d at 163-65 (payment to wrong person); *Doss v. Homecomings Fin. Network, Inc.*, 210 S.W.3d 706, 710-11 (Tex. App.-Corpus Christi 2006, pet. denied); *Lyman D. Robinson Family Ltd P'ship v. Mc Williams & Thompson, P.L.L.C.*, 143 S.W.3d 518, 520 (Tex. App.—Dallas 2004, pet. denied) (earnest money released to wrong client). *Edwards v. Mid-Continent Office Distribs., L.P.*, 252 S.W.3d 833, 837-38 (Tex. App.—Dallas 2008, pet. denied).

131. In *Benson* for example, the court explained, "It has been stated as a rule of law that if payments were made because of a serious mistake of fact by the insurer, it is entitled to restitution unless it has agreed to assume the risk of mistake or there is some reason which makes it inequitable or inexpedient for restitution to be granted." *Benson v. Travelers Ins. Co.*, 464 S.W.2d 709, 712-13 (Tex. Civ. App.-Dallas 1971, no writ).

132. Accordingly, the court held that the Plaintiff was entitled to recover on its claim for overpayment by mistake, even though the mistake was unilateral and not induced by fraud, imposition, undue influence or betrayal of confidence. *Id*. at 710-13.

133. The Court should do the same in this case.

134. The fraud on Plaintiff resulted from Defendants' efforts of fraud, undue influence, and the betrayal of confidence, and failing to disclose that the funds for the project were being diverted into other accounts which were not connected to the project, and without actually performing the work that needed to be done. Accordingly, Defendants are liable for money had and received.

135. Further, the money had and received was a product of fraud and the undue taking advantage of Plaintiff, to a grossly unfair degree.

136. For example, Defendants committed the fraudulent scheme by sending invoices, and making bank transfers, which reflected false, fake and fraudulent billing practices, and for work which was not done; and billing which did not reflect reasonable and necessary work; further the invoices and bank transfers reflected work which was not reasonable and necessary to effectuate the draws and advances to Veritex Bank.

137. Further, Defendants wrongfully secured the benefits of such fraudulent billing by having Plaintiff pay the fraudulent bills out of the escrow account; such behavior on behalf of Defendants was committed to a grossly unfair degree.

138. Further, upon information and belief, many of these bank transfers went directly into Defendant Selzer's personal banking account.

139. Thus Defendant D. Selzer, Hood and Haydin are liable for money had and received.

D – Fraud and Fraud by Non-Disclosure.

140. The transaction on Plaintiff resulted from Defendants' efforts of fraud, undue influence, and the betrayal of confidence, and failing to disclose that the funds for the project were being diverted into the account without actually performing the work that needed to be done. Accordingly, Defendants are liable for fraud, fraudulent inducement, and fraud by non-disclosure.

141. Plaintiff incorporates by reference the factual allegations contained in the preceding paragraphs. At the time they made the foregoing representations and omissions, Defendants knew they were false and/or made the representations without knowledge of the truth thereof. Specifically, Defendants represented that they were working on the construction project when they were not.

142. In fact, Plaintiff was not in a position to know of the falsity of the misrepresentations and omissions. The misrepresentations made by Defendants were material insofar as they underlie the actual and necessary need to draw Plaintiff's account to fund the construction project. In making misrepresentations and omitting the pertinent facts, Defendants acted so as to deceive and defraud Plaintiff.

143. Accordingly, Defendants' conduct was such as to arise to the level of common law fraud. Plaintiff was damaged as a direct and proximate result of Defendants' fraudulent conduct.

144. Fraud by nondisclosure is considered a subcategory of fraud.

145. To establish fraud by nondisclosure, appellants must prove (1) the defendant failed to disclose facts to the Plaintiff, (2) the defendant had a duty to disclose those facts, (3) the facts were material, (4) the defendant knew the Plaintiff was ignorant of the facts and the Plaintiff did not have an equal opportunity to discover the facts, (5) the defendant was deliberately silent when it had a duty to speak, (6) by failing to disclose the facts, the defendant intended to induce the

Plaintiff to take some action or refrain from acting, (7) the Plaintiff relied on the defendant's nondisclosure, and (8) the Plaintiff was injured as a result of acting without that knowledge." *Blankinship v. Brown*, 399 S.W.3d 303, 308 (Tex. App.—Dallas 2013, pet. denied).

146. Defendants failed to disclose all the material facts leading to the transfers of the draws into Veritex bank, failing to disclose such transfers were being made not for the purpose of the construction of the new facility, but for the illegal benefit of Defendants; such amounts to common law fraud by non-disclosure and caused Plaintiff to suffer substantial damages.

E - Civil Conspiracy (D. Selzer, Hood, Haydin, and A. Selzer).

147. Plaintiff incorporates all formerly recited allegations herein.

148. Defendants engaged in a civil conspiracy to defraud Plaintiff.

149. A civil conspiracy was formed when Defendants acted in concert and acted with the unlawful purpose and by unlawful means to deprive Plaintiff of the benefits of the contract, and instead enrich themselves with over 6 million dollars in diverted funds.

150. "The elements of a cause of action for civil conspiracy in Texas are (1) two or more persons; (2) an object to be accomplished; (3) a meeting of the minds on the object or course of action; (4) one or more unlawful, overt acts; and (5) damages as the proximate result." *In re Enron Corp. Sec., Derivative & ERISA Litig.*, 623 F. Supp. 2d 798, 808–09 (S.D. Tex. 2009).

151. Defendants civilly conspired to defraud Plaintiff, by engaging in the fraudulent scheme in diverting funds from the Third Coast Account to the Veritex account, to many others, all to Defendants' benefit.

152. A. Selzer conspired with D. Selzer to cover up the fraud by transmitting over $800,000 to D. Selzer's business account. Defendants' actions have caused Plaintiff damages.

F - Unjust Enrichment (All Defendants)

153. Plaintiff incorporates all formerly recited allegations as if fully recited herein.

154. Defendants, Daryl Selzer and his wife, Jennifer Selzer and his mistress (former or actual) Defendant Leigh Ann Hood were unjustly enriched as a result of the fraud perpetrated on Plaintiff.

155. J. Selzer, although not directly involved with the project, benefitted from the 6 million dollars D. Selzer stole because she is married to D. Selzer.

156. The fact that J. Selzer may be an innocent beneficiary does not change the analysis. The Court may still hold her accountable and may impose a constructive trust.

157. A "court may impose a constructive trust on totally innocent beneficiaries of a wrongful act." *Sun Life Assur. Co. of Canada v. Dunn*, 134 F. Supp. 2d 827, 834 (S.D. Tex. 2001). "The same rule applies in imposing the trust on a knowing or unknowing beneficiary of fraud, even though he is not the actual wrongdoer." *Ginther v. Taub*, 675 S.W.2d 724, 728 (Tex. 1984) (emphasis added). *See also Dyll v. Adams*, 167 F.3d 945, 948 (5th Cir. 1999) ("Because these third parties are beneficiaries of the Appellants' wrongful acts, the constructive trust was properly imposed.").

158. Thus, the doctrine of unjust enrichment applies to address such a situation.

159. A party may recover under an unjust enrichment theory when one person has obtained a benefit from another by fraud, duress, or the taking of an undue advantage. *See Pope v. Garrett*, 211 S.W.2d 559, 560 (Tex. 1948); *Austin v. Duval*, 735 S.W.2d 647, 649 (Tex. App.-Austin 1987, writ denied).

160. Unjust enrichment is a cause of action based upon the result of a failure to "make restitution of benefits either wrongfully or passively received under circumstances that give rise to

an implied or quasi-contractual obligation to repay." *Friberg-Cooper Water Supply Corp. v. Elledge*, 197 S.W.3d 826, 832 (Tex. App.-Fort Worth 2006, pet. filed) (quoting *Walker v. Cotter Props., Inc.*, 181 S.W.3d 895, 900 (Tex. App.-Dallas 2006, no pet.)), *rev'd on other grounds*, 240 S.W.3d 869 (Tex. 2007); *Mowbray v. Avery*, 76 S.W.3d 663, 679 (Tex. App.-Corpus Christi 2002, pet. denied); *see Best Buy Co. v. Barrera*, 214 S.W.3d 66, 73 (Tex. App.-Corpus Christi 2006, pet. filed), *rev'd on other grounds*, 248 S.W.3d 160 (Tex. 2007).

161. Unjust enrichment occurs when a person wrongfully secured a benefit or has passively received one which it would be unconscionable to retain. *Tex. Integrated Conveyor Sys., Inc. v. Innovative Conveyor Concepts, Inc.*, 300 S.W.3d 348, 367 (Tex. App.-Dallas 2009, pet. denied). Here, all Defendants are liable for unjust enrichment.

162. A claim for unjust enrichment requires proof of the following elements: (1) Defendant obtained a benefit from Plaintiff by fraud, duress, or taking undue advantage; or (2) when a contemplated agreement is unenforceable, impossible, not fully performed, thwarted by mutual mistake, or void for other legal reasons. *Burlington N R.R. v. Southwestern Elec. Power Co.*, 925 S.W.2d 92, 97 (Tex. App.-Texarkana 1996), aff'd, 966 S.W.2d 467 (Tex.1998); *Heldenfels Bros. v. City of Corpus Christi*, 832 S.W.2d 39, 41 (Tex.1992); *Harker Heights v. Sun Meadows Land, Ltd*, 830 S.W.2d 313, 319 (Tex. App.-Tyler 1996, no writ).

163. "Unjust enrichment" is an equitable principle holding that one who receives benefits unjustly should make restitution for those benefits.

164. A person is unjustly enriched when he obtains a benefit from another by fraud, duress, or the taking of an undue advantage. *Texas Integrated Conveyor Systems, Inc. v. Innovative Conveyor Concepts, Inc.*, 300 S.W.3d 348 (Tex. App.—Dallas 2009, pet. denied).

165. Such fraud, duress, and the undue taking advantage of Plaintiff, to a grossly unfair degree, happened here, and Defendants should be held liable for causing Plaintiff damages. For example, Defendants committed the fraudulent scheme by sending invoices, and making bank transfers, which reflected false, fake and fraudulent billing practices, and for work which was not done; and billing which did not reflect reasonable and necessary work; further the invoices and bank transfers reflected work which was not reasonable and necessary to effectuate the draws and advances to Veritex Bank.

166. Further Defendants wrongfully secured the benefits of such fraudulent billing by having Plaintiff pay the fraudulent bills; such behavior on behalf of Defendants was committed to a grossly unfair degree, thus, Defendants were unjustly enriched; such conduct has caused Plaintiff damages.

167. Further, upon information and belief, many of these bank transfers went directly into Defendant Selzer's personal banking account.

168. This account, upon information and belief, has been used to pay off part of the Selzer's home located at 12903 Taylorcrest Rd, Houston, TX 77079.

169. For example, several of the banking transfers totaling more than $500,000 went directly into Selzer's account at Wells Fargo bank, which include as follows:

Sep 12, 2022	**$30,000.00**
Sep 13, 2022	**$39,758.89**
Sep 16, 2022	**$15,654.50**
Oct 11, 2022	**$31,500.00**
Oct 19, 2022	**$55,000.00**
Oct 27, 2022	**$12,000.00**
Oct 31, 2022	**$24,500.00**
Nov 7, 2022	**$9,500.00**
Nov 14, 2022	**$18,500.00**
Nov 14, 2022	**$10,850.00**

Nov 28, 2022	**$4,500.00**
Dec 30, 2022	**$5,400.00**
Jan 3, 2023	**$17,353.63**
Jan 5, 2023	**$9,545.50**
Jan 6, 2023	**$18,987.00**
Jan 9, 2023	**$9,785.50**
Jan 10, 2023	**$6,850.00**
Jan 11, 2023	**$3,968.70**
Jan 12, 2023	**$6,488.00**
Jan 13, 2023	**$1,750.00**
Jan 13, 2023	**$38,460.45**
Jan 25, 2023	**$11,520.00**
Jan 31, 2023	**$7,357.30**
Feb 1, 2023	**$15,850.00**
Feb 1, 2023	**$8,500.00**
Feb 2, 2023	**$8,985.00**
Feb 3, 2023	**$28,550.00**
Feb 17, 2023	**$45,444.22**
Jan 3, 2023	**$10,000.50**
Jan 4, 2023	**$8,540.00**
Jan 9, 2023	**$8,500.00**
Jan 12, 2023	**$7,500.00**
Feb 2, 2023	**$7,554.65**

G - Plaintiff's Request for the Creation of a Constructive Trust Against the Selzer's Home.

170. Plaintiff incorporates all formerly recited allegations herein. The Supreme Court of Texas has clearly stood by the flexibility of imposing constructive trusts as a proper remedy, and in fact, has provided, that in order to satisfy the demands of justice, "equity will indulge in presumptions and even pure fiction" to impose one. *Meadows v. Bierschwale*, 516 S.W.2d 125, 131 (Tex. 1974).

171. Thus, "[c]onstructive trusts, being remedial in character, have the very broad function of redressing wrong or ***unjust enrichment*** in keeping with basic principles of equity and justice." *Id.* (emphasis added). In order to fasten a constructive trust on property owned by the defendant, some particular property must be identified as to which plaintiff has an equity. *Wheeler v. Blacklands Prod. Credit Ass'n*, 627 S.W.2d 846, 851 (Tex. App.—Fort Worth 1982, no writ).

172. "In weighing the imposition of a constructive trust, a court will identify whether a wrongful taking has occurred." *KCM Fin. LLC v. Bradshaw*, 457 S.W.3d 70, 87 (Tex. 2015).

173. "A transaction may, depending on the circumstances, provide the basis for a constructive trust where one party to that transaction holds funds which in equity and good conscience should be possessed by another." *Meadows*, 516 S.W.2d at 131.

174. "A party seeking to impose a constructive trust must establish (1) breach of a special trust or fiduciary relationship or actual or constructive fraud, (2) unjust enrichment of the wrongdoer, and (3) an identifiable res that can be traced back to the original property." *In re Hayward*, 480 S.W.3d 48, 52 (Tex. App.—Fort Worth 2015, no pet.).

175. "They have historically been applied to remedy or ameliorate harm arising from a wide variety of misfeasance." *Bradshaw*, 457 S.W.3d at 87.

176. "The very nature of a constructive trust presupposes a wrongful taking by B of property owned equitably or legally by A, or to which A has some claim of right.

177. In such a situation, the law imposes a constructive trust on that property and any proceeds from the sale thereof, or revenues therefrom, for the benefit of A." *Wheeler*, 627 S.W.2d at 851.

178. In this case, there is no doubt that Selzer's actions, in dissipating the funds of the escrow account, for his personal enrichment, justifies the imposition of a constructive trust.

179. Upon information and belief, Selzer used the funds to pay off his home; Selzer is also currently attempting to sell his home to ensure that the funds cannot be traced back to the funds he stole from Plaintiff.

180. These funds were wrongfully taken because no facility was ever built.

181. Thus, this Court may impose a constructive trust on the Selzer's home.

H - Plaintiff's Request for the Creation of a Constructive Trust Against Leigh Ann Hood's Home and Business and all assets.

182. Plaintiff incorporates all formerly recited allegations herein.

183. Upon information and belief, Hood has used the funds to pay off her home. Hood may also be holding on to the funds in a separate bank account, in cash, inventory, and/or in other mediums made through other transfers which were made to her and her business's benefit.

184. These funds were wrongfully taken because no facility was ever built and Hood was never even contracted to do any work for Haydin. In fact, Hood's only role was to be Selzer's mistress.

185. Accordingly, the money transferred out to her and her company do not belong to her or her company.

186. Thus, this Court may impose a constructive trust on Hood's home, her business, and any assets which she has under her name, or her company's name.

I - Application for Declaratory Relief.

187. This action is brought by Plaintiff so this Court may declare the rights, status, and other legal relations which regard the contract executed by the parties.

188. Plaintiff is an individual interested in a contract whose rights, status or other legal relations have been affected by the parties' conduct, and need certain questions determined regarding the parties' legal relations. TX CIV PRAC & REM § 37.004.

189. Defendants are made parties to this action as they are persons who have or claim any interest that would otherwise be affected by the declaration sought. TX CIV PRAC & REM § 37.006.

190. Because certain matters in the contract require determination of issues of fact, Plaintiff demands a jury trial on the same. TX CIV PRAC & REM § 37.007.

191. Plaintiff requests that this Court render the following subject matter relief: that a constructive trust be created in J. Selzer's and D. Selzer's home located at the following address and with the following legal description:

Address:

12903 Taylorcrest Road, Houston, Texas 77079

Legal Description:

Lot 17, Block 6, Memorial Plaza, Section 1, according to the map or plat thereof, recorded in Volume 49, Page 74, Map Records, Harris County, Texas.

192. Further, Plaintiff requests that this Court render the following subject matter relief:

a. Rescind the agreement between the parties and order Defendant to return to Plaintiff all the funds Defendants stole from the project;

b. A Constructive Trust be imposed as to J. Selzer's and D. Selzer's home and any proceeds from any sale therefrom;

c. Disgorgement of any and all fee and profits received in connection with the contract in this matter.

193. Plaintiff further requests that a constructive trust be created in Defendant Hood's home, her business, Defendant Prime Development Group, LLC, and any assets which belong to either. Hood's home and business addresses are located below along with her home's legal description:

Address:

18797 E Cool Breeze Ln., Montgomery, TX 77356.

Legal Description:

S538003 - Grand Harbor 03, BLOCK 3, Lot 13

Neighborhood Grand Harbor

Account 5380-03-02200

Business Address:

Prime Development Group, LLC, located at 1274 Blake Rd, Conroe, TX 77304.

194. Plaintiff requests that this Court further impose as to Defendant Hood's home and any proceeds from any sale therefrom, if any; and disgorgement of any and all profits received in connection with the transfers outlined in this pleading; or any other transfers made to her or her business.

IX. Damages.

195. Plaintiff requests that it obtain against Defendants a judgment in a sum within the jurisdictional limits of the court, treble damages, exemplary damages, attorney's fees, and costs of suit. Plaintiff further seeks as damages all damages to which he is legally entitled to include all related expenses of bringing this action, including investigative expenses, attorney's fees and exemplary damages that the court believes would be justified as punishment for the crimes and fraudulent conduct of the Defendants and would serve as an example to others contemplating on engaging in the same or similar criminal and/or fraudulent conduct.

X. Pre-Judgment and Post-Judgment Interest & Jury Demand

196. Plaintiff seeks pre-judgment and post-judgment interest as allowed by law.

197. Plaintiff requests a trial by jury for all issues of fact.

198. A jury fee has been paid timely and properly.

CONCLUSION & PRAYER FOR RELIEF

Plaintiff prays that Defendants be cited to appear and answer herein, that this cause be set down for trial before a jury, and that Plaintiff recover judgment of and from the Defendants for their actual and exemplary damages in such amount as the evidence may show and the jury may determine to be proper, together with pre-judgment interest, post-judgment interest, costs of suit, attorneys' fees, and such other and further relief to which they may show themselves to be justly entitled.

RESPECTFULLY SUBMITTED,

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