

SMALL CLAIMS PETITION

IN THE JUSTICE COURT PRECINCT ONE CITY OF TARRANT COUNTY TEXAS THE PEACE JUDGE RALPH SWEARINGIN JR. DISTRICT 3

OFFICE USE ONLY
CLERK OF COURT
COUNTERCLAIM

PLEASE TYPE OR PRINT

CAUSE NO SC23966

19 JAN 14 AM 9:48
CITN TO BE SERVED BY CO3

PLAINTIFF(S) LUCY SNEARLEY

ADDRESS 1824 GETTYSBURG PL

CITY/STATE BEDFORD TX ZIP CODE 76022

PHONE 856 342-5527 ALT. PHONE ( )

DEFENDANT(S) JOHN WALLACE

SERVE JOHN WALLACE

SERVICE ADD 924 DEE LANE

CITY/STATE BEDFORD TX ZIP CODE 76022

ALT. ADD

CITY/STATE ZIP CODE

PHONE ( ) 817-721-4868 ALT. PHONE ( )

IF KNOWN DEFENDANT(S) DOB: / / LAST 3 OF SS# LAST 3 OF DL#

I hereby state that I am filing a Small Claims Case. A small claim case is a lawsuit brought for the recovery of money damages, civil penalties, or personal property or other relief allowed by law. The claim may be filed for no more than \$10,000 excluding statutory interest and court costs but including attorney's fees, if any.

PLAINTIFF BEING DULY SWORN, ON HIS/HER OATH DEPOSES AND SAYS THAT DEFENDANT(S) IS JUSTLY INDEBTED TO HIM/HER IN THE SUM OF

\$ 9231.00 DOLLARS FOR IMPROPER INSTALLATION OF A LAWN SPRINKLER SYSTEM - INOPERABLE - LEAKS - SUBSTANDARD EQUIPMENT

\$ 7231.00 TO REMOVE AND REPLACE ENTIRE SYSTEM

\$ 2000.00 PUNITIVE DAMAGES - AS REQUIRED BY TEXAS LAW, A LICENSE

IS REQUIRED TO DO THIS WORK - PLAINTIFF HAS NO PLUS COURT COSTS. LICENSE AND DID NOT OBTAIN REQUIRED PERMIT FROM THE CITY

14 day of January 2019

Lucy Snearley PLAINTIFF

ATTORNEY IF APPLICABLE BAR #

I hereby give my consent for the answer and any other motions or pleadings to be sent to my e-mail address which is:

LucySnearl@aol.com

## **SMALL CLAIMS PETITION**

19 FEB 20 PM 12:15

Cause JP03-19-SC00023966

Plaintiff: Lucy Snearley

Defendant: John Wallace

As Defendant the following is my written answer to the Plaintiffs

Small Claims Petition filed January 14, 2019,

I quoted Mrs. Snearley \$3,950.00 to install an irrigation system in her yard. I walked her through her yard and explained everything that would be done in her yard. I explained to her that in the last 15 years I had worked for two separate landscape companies along the Gulf Coast of Alabama installing irrigation systems. I explained to her that I was in the process of getting the special license required by the State of Texas, but that a "licensed" plumber/irrigator was working with me as a mentor. Of the other quotes she received she said she choose mine because I had explained everything to her in detail. Due to unforeseen weather and staffing problems the project did not go as planned but these problems in no way inhibited the workmanship or quality of the product. The materials used are all above standard and were bought through Sprinkler Warehouse in Houston.

Mrs. Snearley had the foresightedness to download an APP onto her telephone from the City of Bedford to help with the conservation of water at her home. For which she attended a class the City provided.

Upon a walk-through of her yard once system was turned on, no obvious problems except a leak at one of the valves where it had not been completely tightened onto the threaded connector but this was fixed immediately. Each time her APP advised her she had a leak, she let me know and I responded immediately except for the last time... I did not see her text until early evening while I was on another job in Oak Cliff. Her message stated she had a 45 gal. per hour leak. I drove straight to her house on my way back to Bedford but I saw no evidence of a leak that large and because she had assumed I was ignoring her she would not answer the door. At which time she told me via text to stay off her property and she would see me in court. I thought this was premature but I followed her wishes.

I value each and every customer I have, in no way did I try to misrepresent myself or provide substandard service or product. All of my work is 100% guaranteed and I would like the opportunity to satisfy Mrs.

Snearley's misgivings, even if that means hiring someone to go through the system and repair or replace anything as they see fit. But I do not believe there is any reason to trash perfectly good equipment and PVC pipe that was placed in the correct locations. Granted different installers have different opinions on the types of sprinkler heads they choose to use but pipe placement is fairly standard.

Answers provided by defendant \_\_\_\_\_ John Wallace dated February 19, 2019.

Attached please find:

4 pgs of invoices showing her system came from Sprinkler Warehouse  
1 pg showing sprinkler installation diagram.

**Irrigation**

Quantity / Symbol	Description	Part Number	Pressure	Flow	Radius
<b>Sprinklers</b>					
9	○ Hunter MP2000 180° - MPR40-04	MP2000 90-210°	40 psi	0.74 gpm	19 ft
7	○ Hunter MP2000 270° - MPR40-04	MP2000 270-270°	40 psi	1.1 gpm	19 ft
6	○ Hunter MP2000 90° - MPR40-04	MP2000 90-210°	30 psi	0.33 gpm	18 ft
6	⊕ Rain Bird 15CST - 1804	15CST	30 psi	1.21 gpm	30 x 4 ft
3	⊖ Rain Bird 15EST - 1804	15EST	30 psi	0.61 gpm	15 x 4 ft
1	○ Rain Bird 5000 MPR-30-H - 5004-PI-PC	MPR-30-H	45 psi	2.96 gpm	30 ft
1	○ Rain Bird 5000 MPR-30-O - 5004-PI-PC	MPR-30-O	45 psi	1.4 gpm	30 ft
3	○ Rain Bird 5000 MPR-35-H - 5004-PI-PC	MPR-35-H	45 psi	3.81 gpm	35 ft
3	○ Rain Bird 5000 MPR-35-O - 5004-PI-PC	MPR-35-O	45 psi	1.92 gpm	35 ft
3	○ Rain Bird U-10H1 - 1804	U-10H	30 psi	0.82 gpm	10 ft
2	○ Rain Bird U-10O - 1804	U-10O	30 psi	0.41 gpm	10 ft
3	○ Rain Bird U-9H - 1804	U-9H	30 psi	0.52 gpm	8 ft

**Motors/Pumps**

1	BS	
---	----	--

**Backflow Assemblies**

1	Q	Febco 850 - 1"	850 - 1"
---	---	----------------	----------

**Control Valves**

4	➔	Rain Bird 100-DVF	100-DVF
1	⊕	Rain Bird XCZ-100-PRF	XCZ-100-PRF

**Irrigation Accessories**

1	▲	Rain Bird ESP-4TM	ESP-4TM
1	D	Rain Bird WRFSC	WRFSC

**Lateral Line Pipe**

170 ft	=====	XT-700 Distribution Tubing	XT-700
756 ft	=====	Schedule 40 1"	0

**Mainline Pipe**

89 ft	-----	Schedule 40 1"	0
-------	-------	----------------	---

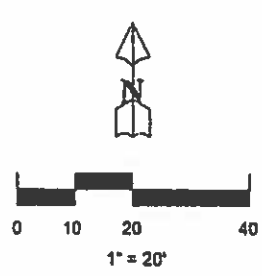
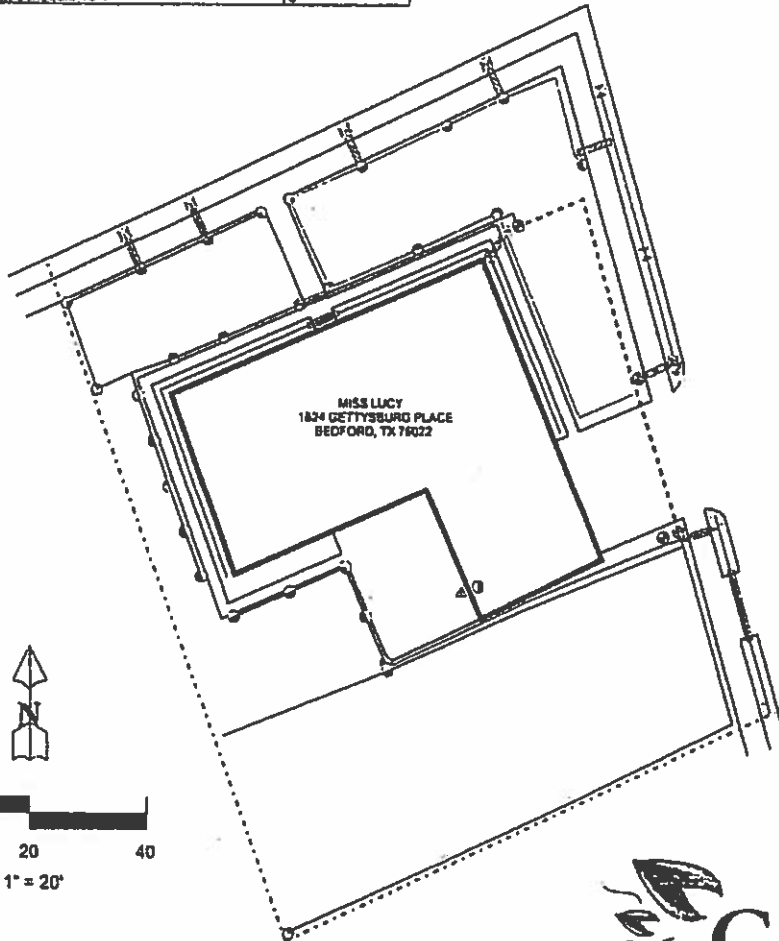
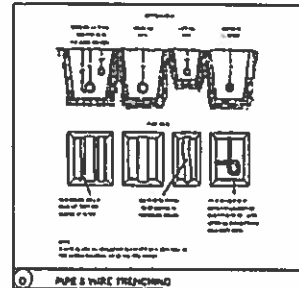
**Slaeving**

68 ft	=====	Schedule 40 4"	0
-------	-------	----------------	---

<b>Water Source #1</b>	
Meter Size	
Static Pressure	64 psi
Elevation Change	0 ft

<b>Service Line Information</b>	
Pipe Category	
Pipe Size	
Length	0 ft
Velocity	5 fps

<b>Recommendations</b>	
Maximum Recommended Flow	16.79 gpm
Available Working Pressure	157.6 psi



DATE: 01/27/18	PROJECT: MISS LUCY'S 1824 GETTYSBURG PLACE BEDFORD, TX 76022	SHEET DESCRIPTION: PROPERTY DIMENSIONS	COE, Inc. PO Box 515 Canonville, CO 81422 (970) 816-7025
DRAWN BY: J. Enslin			
CHECKED BY: J. Enslin			
SCALE: 1" = 20'			
SHEET: 1 of 1			

**3:35:47**

left for same-day shipping

## My Account

[Return to My Account](#)

### Order Details

[PRINT INVOICE](#)

Order #: 822514

Order Placed: 08/20/2018 at 01:43PM PST

**Order Status: Shipped**

Your items shipped on 08/20/2018 via FedEx: FEDEXGROUND  
TRACK YOUR PACKAGE with tracking # 782391086898

**Ship To:**  
JL WALLACE Landscape Professionals  
John Wallace  
924 Dee Ln  
Bedford, TX 76022-7217  
United States  
2514087380

- Items Ordered:**
- 1 of : Aqualine Pipe Cutter 1" | PC-R100
  - 1 of : Rain Bird 5004-PC 4 in. Pop-Up Adjustable Part Circle Rotor - Case of 20

<b>Price:</b>	<b>Status:</b>
\$9.86	Shipped
\$111.58	Shipped

**Shipping Speed:**  
FREE Shipping (1-4 Days)

### Payment Information

**Bill To:**  
JL WALLACE Landscape Professionals  
John Wallace  
924 Dee Ln  
Bedford, TX 76022-7217  
United States  
2514087380

**Payment:**  
Credit Card: Visa  
John Wallace  
\*\*\*\*\*0885

### Order Summary:

Product Subtotal:	\$121.44
Tax (8.25%):	\$9.61
Shipping & Handling:	\$0.00
<b>Discounts:</b>	<b>-\$5.00</b>
<b>Grand Total:</b>	<b>\$126.05</b>

NOTE: This order has already shipped or has reached the final stages of processing. Therefore this order is no longer editable.

Looking for the order confirmation page that was displayed after checkout? [Click here to view it again.](#)

**SHOPPER APPROVED** REAL REVIEWS BY REAL PEOPLE

**4.7 Overall Rating**

★★★★★

Based on 47,714 Ratings from Actual Customers

# SprinklerWarehouse

8535 Jackrabbit Rd, Suite A  
Houston, TX 77095

281-500-9800



★★★★★

**4.7 Overall Satisfaction Rating**

Based on 53,000+ Customer Ratings

## 3:34:54

left for same-day shipping

## My Account

[Return to My Account](#)

### Order Details

[PRINT INVOICE](#)

Order #: 812309

Order Placed: 07/26/2018 at 04:18PM PST

**Order Status: Shipped**

Your items shipped on 07/26/2018 via FedEx : FEDEXGROUND  
TRACK YOUR PACKAGE with tracking # 917520910600509

**Ship To:**  
JLWALLACE Landscape Professionals  
John Wallace  
924 Dee Ln  
Bedford, TX 76022-7217  
United States  
2514087380

**Shipping Speed:**  
FREE Shipping (1-4 Days)

#### Items Ordered:

- 1 of : Christys 32 oz Red Hot Blue PVC Cement | BG-030
- 1 of : FREE Sprinkler Warehouse Shirt - XLarge
- 1 of : King Innovation Siphon King Jr. Mini Pump 50" | 48050
- 1 of : Oatey 32 oz Purple All-Purpose PVC Primer | 30806
- 24 of : Rain Bird O - 360 Female Variable Adjustable Nozzle 15' | HE-VAN15
- 100 of : Rain Bird Acetal Swing Pipe Elbow 1/2" MPT x Barb | SBE-050
- 12 of : Rain Bird Half Circle Female Fixed Nozzle 12' | 12H
- 12 of : Rain Bird Half Circle Female Fixed Nozzle 15' | 15H
- 12 of : Rain Bird Quarter Circle Female Fixed Nozzle 12' | 12Q
- 1 of : SW Boring Tool 3/4" | SW-BOR-075
- 1 of : Wilkins Double Check Assembly (DCA) 1" FPT | WK950XLT-100

Price:	Status:
\$23.77	Shipped
\$0.00	Shipped
\$9.81	Shipped
\$10.09	Shipped
\$20.16	Shipped
\$19.00	Shipped
\$10.08	Shipped
\$10.08	Shipped
\$10.08	Shipped
\$10.08	Shipped
\$7.04	Shipped
\$128.71	Shipped

#### Payment Information

**Bill To:**  
JLWALLACE Landscape Professionals  
John Wallace  
924 Dee Ln  
Bedford, TX 76022-7217  
United States  
2514087380

**Payment:**  
Credit Card: Visa  
John Wallace  
\*\*\*\*\*0885

#### Order Summary:

Product Subtotal:	\$248.82
Tax (8.25%):	\$19.71
Shipping & Handling:	\$0.00
Discounts:	-\$10.00
<b>Grand Total:</b>	<b>\$258.53</b>

NOTE: This order has already shipped or has reached the final stages of processing. Therefore this order is no longer editable.

Looking for the order confirmation page that was displayed after checkout? [Click here to view it again.](#)

**SHOPPER APPROVED** REAL REVIEWS BY REAL PEOPLE

**4.7 Overall Rating**

★★★★★

Based on 47,714 Ratings from Actual Customers



## 3:34:28

left for same-day shipping

### My Account

[Return to My Account](#)

#### Order Details

[PRINT INVOICE](#)

Order#: 814083

Order Placed: 07/30/2018 at 10:16PM PST

Order Status: Shipped

Your items shipped on 07/31/2018 via FedEx : FEDEXGROUND  
TRACK YOUR PACKAGE with tracking # 917520910617163

**Ship To:**  
JLWALLACE Landscape Professionals  
John Wallace  
924 Dee Ln  
Bedford, TX 76022-7217  
United States  
2514087380

**Shipping Speed:**  
FREE Shipping (1-4 Days)

#### Items Ordered:

- 20 of : Antelco 360 Degree Adjustable Drip Emmitter | A30995
- 20 of : Antelco Red 26.5 GPH Rotor Spray 10/32 | A20055
- 3 of : Aqualine D - 160 PSI Pressure Gauge 3/4" | PG160S
- 20 of : Dawn Industries Sch. 40 PVC KwikSlip Tee 3/4" x 3/4" x 1/2" Slip x Slip x Barb Swing | ST-007
- 1 of : DIG Brown 6" Emmitter Spacing Drip Line 1/4" x 500' | ML-5068
- 2 of : DIG Brown Vinyl Tubing 1/4" x 100' | 12-002
- 1 of : FREE Sprinkler Warehouse Shirt - XLarge
- 1 of : King Innovation 20 Waterproof Connectors | 61235
- 5 of : Rain Bird Half Circle Female Fixed Nozzle 15" | 15H
- 7 of : Rain Bird No Flow Control In-Line Valve 1" FPT | 100-HV-NPT
- 2 of : Rain Bird Plastic Rain Sensor | RSD-BEX
- 5 of : Rain Bird Quarter Circle Female Fixed Nozzle 12" | 12Q

Price:	Status:
\$9.40	Shipped
\$8.60	Shipped
\$12.78	Shipped
\$13.00	Shipped
\$54.61	Shipped
\$10.42	Shipped
\$0.00	Shipped
\$10.37	Shipped
\$4.65	Shipped
\$67.62	Shipped
\$32.20	Shipped
\$4.65	Shipped

#### Payment Information

**Bill To:**  
JLWALLACE Landscape Professionals  
John Wallace  
924 Dee Ln  
Bedford, TX 76022-7217  
United States  
2514087380

**Payment:**  
Credit Card: Visa  
John Wallace  
\*\*\*\*\*0885

#### Order Summary:

Product Subtotal:	\$228.30
Tax (8.25%):	\$18.00
Shipping & Handling:	\$0.00
Discounts:	-\$10.00
<b>Grand Total:</b>	<b>\$236.30</b>

NOTE: This order has already shipped or has reached the final stages of processing. Therefore this order is no longer editable.

Looking for the order confirmation page that was displayed after checkout? [Click here to view it again.](#)

**SHOPPER APPROVED** REAL REVIEWS BY REAL PEOPLE

**4.7 Overall Rating**

Based on 47,714 Ratings from Actual Customers





3:33:54

left for same-day shipping

## My Account

Return to My Account

### Order Details

[PRINT INVOICE](#)

Order#: 822514

Order Placed: 08/20/2018 at 01:43PM PST

Order Status: Shipped

Your items shipped on 08/20/2018 via FedEx : FEDEXGROUND  
TRACK YOUR PACKAGE with tracking # 782391086898

**Ship To:**  
JLWALLACE Landscape Professionals  
John Wallace  
924 Dee Ln  
Bedford, TX 76022-7217  
United States  
2514087380

**Items Ordered:**

- 1 of : Aqualine Pipe Cutter 1" I PC-R100
- 1 of : Rain Bird 5004-PC 4 in. Pop-Up Adjustable Part Circle Rotor - Case of 20

**Price: Status:**  
\$9.86 Shipped  
\$111.58 Shipped

**Shipping Speed:**  
FREE Shipping (1-4 Days)

### Payment Information

**Bill To:**  
JLWALLACE Landscape Professionals  
John Wallace  
924 Dee Ln  
Bedford, TX 76022-7217  
United States  
2514087380

**Payment:**  
Credit Card: Visa  
John Wallace  
\*\*\*\* \* 0885

### Order Summary:

Product Subtotal: \$121.44  
Tax (8.25%): \$9.61  
Shipping & Handling: \$0.00

Discounts: -\$5.00

**Grand Total: \$126.05**

NOTE: This order has already shipped or has reached the final stages of processing. Therefore this order is no longer editable.

Looking for the order confirmation page that was displayed after checkout? [Click here to view it again.](#)

**SHOPPER APPROVED** REAL REVIEWS BY REAL PEOPLE

**4.7 Overall Rating**

Based on 47,714 Ratings from Actual Customers

# CASE SCENARIO 2

## PETITION: SMALL CLAIMS CASE

CASE NO. (court use only) 1251900223

In the Justice Court, Precinct 1, Bexar County, Texas

PLAINTIFF Alyssa Leyba

VS.

DEFENDANT(S): Juan Sierra III  
Defendant(s) address: 7123 Westport Way San Antonio, TX 78227

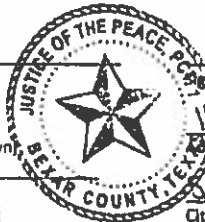
COMPLAINT: The basis for the claim which entitles the plaintiff to seek relief against the defendant is:  
I gave Juan \$2,600 for a 2010 Dodge Charger, which he was going to sell to me for \$7,000. He did not give me a receipt and did not disclose to me that the money I gave was non-refundable. When I told Mr. Sierra that I was choosing to kindly back out from his offer for the car, he refused to give me my \$2,600 back. We did not sign off for that. I do have a receipt that I gave him a \$200 deposit. There was no contract or official Bill of Sale for the vehicle. Mr. Sierra also does not have a valid reason for not giving me my money back.

RELIEF: Plaintiff seeks damages in the amount of \$ 0, and/or return of personal property as described as follows (be specific): cash/personal savings which has a value of \$ 2,600.  
Additionally, plaintiff seeks the following: I also ask he pay me \$126, which was the fee I had to pay to file this claim against him.

SERVICE OF CITATION: Service is requested on defendants by personal service at home or work or by alternative service as allowed by the Texas Justice Court Rules of Court. Other addresses where the defendant(s) may be served are:

If you wish to give your consent for the answer and any other motions or pleadings to be sent to you by email address, please check this box, and provide your valid email address: \_\_\_\_\_

Alyssa Leyba  
Petitioner's Printed Name  
[Signature]  
Signature of Plaintiff or Attorney



DEFENDANT(S) INFORMATION (if known)  
DATE OF BIRTH: \_\_\_\_\_  
\*LAST 3 NUMBERS OF DRIVER LICENSE: \_\_\_\_\_  
\*LAST 3 NUMBERS OF SOCIAL SECURITY: \_\_\_\_\_  
DEFENDANT'S PHONE NUMBER: 210-584-9248  
Address of Plaintiff's Attorney, if any, or Plaintiff if none  
11307 Bald Mountain  
San Antonio TX 78245  
City State Zip  
Phone & Fax No. of Plaintiff's Attorney, if any, or Plaintiff if none  
210-712-0354 no fax

FILED  
JUL 29 10  
DEKAR  
COURT  
PCT.  
TEXAS  
AM

Small Claim Petition. 7/2013

Sworn to and subscribed before me this JUL 29 2019 day of \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_  
CLERK OF THE JUSTICE COURT OR NOTARY

Instructions: The Servicemembers Civil Relief Act applies to a civil proceeding in the Justice Courts. Before entering a default judgment against an individual defendant, the plaintiff must file with the court an affidavit stating whether or not the defendant is in the military service, showing necessary facts to support the affidavit, or stating that the plaintiff is unable to determine whether or not the defendant is in military service, if that is the case. The requirement for an affidavit may be satisfied by a written, signed document declared to be true under penalty of perjury. If it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If the court is unable to determine if the defendant is in military service, the court may require plaintiff to file a bond in an amount approved by the court.

A person who makes or uses an affidavit under this Act knowing it to be false, may be fined or imprisoned or both. 50 U.S.C. App. 501 et seq. To obtain certificates of service or non-service under the Servicemembers' Civil Relief Act, you may access the public website <https://www.dmdc.usa/militarystatusaffidavit>. This website will provide the current active military status of an individual.

**Military Status Affidavit**

Case No. 125/900223 § In the Justice Court of  
Alyssa Leyba §  
Plaintiff § Bexar County, Texas  
§  
vs. §  
Juan Sierra III § Precinct 1, Place 1  
Defendant §

FILED  
JUSTICE COURT PCT. 1  
2019 JUL 29 AM 8:10  
BEXAR COUNTY, TEXAS  
AM

BEFORE ME, on this day personally appeared Alyssa Leyba  
who, under penalty of perjury, stated that the following facts are true:

I am the  Plaintiff  attorney of record for the Plaintiff in this proceeding.

Juan Sierra III Defendant, is not in military service.

\_\_\_\_\_ Defendant, is in military service

I know this, because he disclosed with my mom and I that the only work he does is buying cars, fixing them, and re-selling them.

I am unable to determine whether or not the Defendant is in military service.

Signed on 7-16-19



Alyssa Leyba  
Signature  
Printed Name: Alyssa Leyba  
Address: 11307 Bald Mountain  
San Antonio, TX 78245  
Telephone: 210-717-0354  
Fax: n/a  
E-Mail Address: alyssalaleyba@icloud.com

THE STATE OF TEXAS §  
COUNTY OF BEXAR §

JUL 29 2019

SWORN TO AND SUBSCRIBED BEFORE ME on \_\_\_\_\_

[Signature]  
Clerk of the Court

NOTARY PUBLIC, State of Texas

**CASE SCENARIO 3**

Larry Parker/Ramona Parker  
DBA-Ramona's Parrots  
PLAINTIFF

CAUSE NO. SC19-005-JP2

COURT CLERK  
PCT. 2

2019 OCT -7 AM 10:34

§  
§  
§  
§  
§  
§  
§

IN THE JUSTICE COURT

PRECINCT NO. 2

Limestone COUNTY, TEXAS

**FILED**  
10/7/19  
10:36 AM  
P20

v.  
Natalie Gilmore  
DEFENDANT

**PETITION: SMALL CLAIMS CASE**

Defendant(s) address: 1321 S. 11<sup>th</sup> St. apt. 211  
Waco, TX 76706

COMPLAINT: The basis for the claim which entitles Plaintiff to seek relief against Defendant is: Boarding fees for 2 parrots + food for  
17 months & 5 days as of Oct 7, 2019.

RELIEF: Plaintiff seeks:  damages in the amount of \$ 4130.<sup>00</sup>  return of personal property as described as follows (be specific): \_\_\_\_\_ which has a value of \$ \_\_\_\_\_. Additionally, Plaintiff seeks the following:

SERVICE OF CITATION: Service is requested on Defendant(s) by:  personal service at home or work,  registered mail,  certified mail, return receipt requested. If required, Plaintiff requests alternative service as allowed by the Texas Rules of Civil Procedure. Other addresses where Defendant(s) may be served are: \_\_\_\_\_

I hereby request a jury trial. The fee is \$22 and must be paid at least 14 days before trial.

I hereby consent for the answer and any other motions or pleadings to be sent to my email address as follows: \_\_\_\_\_

Larry Parker / Ramona Parker  
Plaintiff's Printed Name

Ramona Parker  
Signature of Plaintiff  
or Plaintiff's Attorney

**Defendant's Information (if known):**  
Date of birth: \_\_\_\_\_  
Last three digits of Driver License: \_\_\_\_\_  
Last three digits of Soc. Sec. No.: \_\_\_\_\_  
Phone No.: \_\_\_\_\_

11729 Highway 84 W.  
Address of Plaintiff  
or Plaintiff's Attorney  
Parade Hill TX 76678  
City State Zip  
254-716-3565  
512-792-1638 LP.  
Phone & Fax No. of Plaintiff  
or Plaintiff's Attorney

Date: 10/24/2019

Attn: Mike Bell/or appointed Attorney

RE: Response to accusations by Ramona/Larry Parker of Ramona's Parrots

This case has informed me that I owe Ramona's Parrots \$4100 for the boarding of my two parrots, Lola, my blue and gold macaw, and Babe, my Timneh African Grey. Ramona's Parrots stated an extra 5 days of boarding or longer now because I could not remove my 2 parrots on October 1<sup>st</sup>, 2019. I am going to deny that I owe Ramona's Parrots any money until I receive my 2 parrots back from them. Ramona's Parrots still have my 2 parrots and would not return them to me or make arrangements so that the boarding would end.

**Key Points:**

1) I would like to counter-sue Ramona's Parrots, Ramona and Larry Parker for emotional suffering on 2 occasions.

a) First occasion was a phone call from Ramona, on a late Saturday night while I was working; Larry Parker could be heard in the background pretending to be the 'banker' on the phone and was asking me to pay \$300/month for the birds to continue to be boarded with them in lieu of them bringing my birds to me right at that time. This was around March 2019 that this phone call was made to me. They made the suggestion around May 2019, that they would deliver my parrots to me in Austin in lieu of me owing them any money.

b) The second occasion, is the disturbing remarks made to me in an aggressive hostile manner on October 1<sup>st</sup>, 2019. I was verbally threatened and treated like a criminal trespassing at Ramona's Parrots, their place of business. I was verbally assaulted with the statement made by Larry Parker saying "I will shoot you off my property!" It was awful! This place of business I did not know was on 1) private property and 2) I do not have anything saying I could not be there ever to visit my parrots. 3) Nor did I know that there was any issues going on with my payments. I did not receive any late notices or mail, email, regarding this.

2) Not only was I harassed by Larry Parker, but also two of Ramona's Parrots colleagues, Dawn, and Ramona's granddaughter, I believe her name was Ramona also. They did not treat me like a customer of their shop whatsoever. They were rude but answering via Facebook. Note: there is a true lack of communication going on with Ramona's Parrots.

3) I paid Ramona's parrots \$1100 for boarding fees so far. I again do not claim to owe them any more fees until the return of my two parrots, Lola, my blue and gold macaw, and Babe, my Timneh African Grey.

4) I was prepared to pay Ramona much earlier in my parrots boarding, but she actually told me "just to wait until you are settled". That was late last October 2018 when I was just starting my new job and had to relocate from Waco, TX to Austin, TX working for Applied Materials via Modis as a contractor in Engineering Technology.

5) In an effort to communicate with Ramona's Parrots and my 2 parrots, I would visit often while I lived in Waco, TX and I would call or text asking how my birds were. I was even put on speaker phone to talk to them when Ramona had time. I am asking for a counter-lawsuit for the return of my 2 parrots, Lola, my blue and gold macaw, and Babe, my Timneh African Grey. I cannot accept paying Ramona's Parrots until I have my parrots back in my possession.

**Final Point:**

I am actually scared to go back to the property where my parrots are located or even make a phone call to Ramona's Parrots because of the bad behavior of Larry Parker, Dawn, and the granddaughter Ramona. This is bullying if not criminal for them to continue holding my 2 parrots at their store. I was notified that the store is located on private property for the first time ever on October 1<sup>st</sup>, 2019. I witnessed the final location of Lola, my blue and gold macaw, on October 1<sup>st</sup>, 2019 at Ramona's Parrots in a barn next to the store. Below is a picture of Lola in their possession. I was informed by Ramona herself that she "did not know where Babe was."

I am sad to be treated so disrespectfully by Ramona's Parrots. I would often visit Ramona's and enjoy time with the birds and talk. I am not sure what has happened to Ramona's Parrots. It was a kind store and I recommended the store to colleagues of mine who have parrots. Now I am worried for the welfare of my parrots and it is emotionally upsetting. On October 1<sup>st</sup>, 2019, I was also threatened to be shot off the property if I did not leave by Larry Parker. Please help me 1) to get my parrots back to me and 2) to reduce the costs associated with my parrot's boarding and remind them of who the customers are because I was treated terrible. I also lost a good friend named Ramona Parker. 3) I would gladly help Ramona out if she wanted me too. Please return my parrots!

Signed

Natalie Gilmore

512-813-0425 leave message if necessary

CASE SCENARIO 4

CAUSE NO. SC-19-0012-3

KILI HARKINS  
Plaintiff,

§  
§  
§  
§  
§  
§  
§

IN THE JUSTICE COURT

V.

PRECINCT 3

RICK WOODS  
Defendant.

WISE COUNTY, TEXAS

---

AMENDED PETITION: SMALL CLAIMS CASE

---

TO THE HONORABLE JUDGE OF SAID COURT:

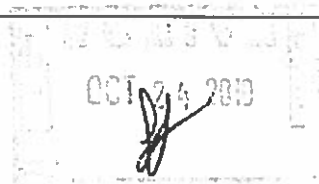
NOW COMES, KILI HARKINS, Plaintiff, who files this Amended Petition:  
Small Claims Case and would respectfully show the Court as follows:

I.

On May 7, 2019, Plaintiff paid to Defendant the sum of Eight Hundred Dollars and Zero Cents (\$800.00) as a deposit for a rental property owned by Defendant located at 203 West Highway 114, Aurora, Texas. Defendant dated receipt #115556 May 9, 2019 and provided the receipt to Plaintiff, a copy of which is attached hereto as Exhibit "A." Defendant notified Plaintiff that she could move in within two (2) weeks of May 7, 2019.

II.

Before Plaintiff could move into the property at 203 West Highway 114, Aurora, Texas, the property required substantial repairs to make it habitable





including, but not limited to, the following: the flooring was damaged including a hole in the floor of one bedroom; no functioning air conditioner, exposed electrical wiring; non-working toilets; broken cabinet doors; exposed nails in the floor; windows in need of repair; damaged ceilings; no light fixtures; a leak in the living room ceiling; and a hole in an exterior wall. These are all items that Defendant represented he would repair or replace prior to Plaintiff taking possession of the property as the property was in deplorable condition, rendering it unlivable. These repairs were never completed by Defendant.

Plaintiff never received a key to the property but was permitted access to the property. Plaintiff cleaned the property, among other things, but did not cause any damage to the property. Defendant was aware that Plaintiff was having improvements made at her expense as well as having the interior re-painted. Defendant provided the paint to have the interior re-painted but Plaintiff paid the painter, Chris Hardesty, copies of receipts for which are attached hereto as Exhibit "B."

### III.

Defendant's failure to make the necessary repairs prohibited Plaintiff from living in the residence, requiring her to find an alternative, temporary residence while waiting to move into this property. Plaintiff paid Four Hundred Dollars and Zero Cents (\$400.00) per month for the months of June, July, and August while

waiting to take possession of the premises due to Defendant's delays.

Thereafter, upon receiving Defendant's wrongful notice of eviction, Plaintiff paid the sum of Two Hundred Fifty Dollars and Zero Cents (\$250.00) as a deposit for another rental property and rent in the amount of \$750.00 on August 13, 2019, a copy of the receipt for which is attached hereto as Exhibit "C."

#### IV.

Defendant failed to provide Plaintiff with a written lease and the parties did not sign a written lease. Therefore, Plaintiff and Defendant operated on a month-to-month lease term basis.

Texas law mandates that Defendant provide Plaintiff with thirty (30) days' notice of termination of the month-to-month lease term. However, on August 4, 2019, Defendant wrongfully evicted Plaintiff from the premises:

1. Defendant failed to provide Plaintiff with written notice at three (3) days prior to a lawsuit being filed to evict Plaintiff.
2. Defendant did not file an action to evict Plaintiff to the premises, thereby wrongfully evicting Plaintiff from the premises.
3. Defendant acted in bad faith and wrongfully withheld half of Plaintiff's deposit.
4. Defendant failed to provide Plaintiff with an itemized list of deductions taken from Plaintiff's deposit.

#### V.

Plaintiff seeks damages in the amount of Seven Thousand Two Hundred

Dollars and Zero Cents (\$7,200.00) as follows:

1. One Thousand Two Hundred Dollars and Zero Cents (\$1,200.00) for rents paid by Plaintiff to a third party for the months of June, July, and August while waiting to take possession of the premises due to Defendant's delays;
2. Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) representing \$100.00 plus triple the original deposit as permitted by Texas law for Defendant's acting in bad faith and failing to return the full amount of Plaintiff's deposit;
3. One Thousand Dollars and Zero Cents (\$1,000.00) for monies paid to Chris Hardesty to have the interior of the property painted;
4. One Thousand Dollars and Zero Cents (\$1,000.00) paid by Plaintiff to a third party as a deposit and rent after being wrongfully evicted by Defendant;
5. The sum of One Thousand Five Hundred Dollars and Zero Cents (\$1,500.00) in attorney's fees for representation in this matter.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that citation and notice issue as required by law and that the Court award Plaintiff payment for damages as set forth herein, for punitive damages against Defendant as pleaded herein, and for all other relief requested in this petition. Petitioner prays for such other and further relief as she may show herself to be justly entitled.

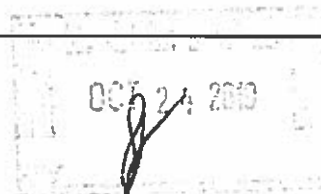
Respectfully submitted

By:

  
\_\_\_\_\_  
Lori E. Reeves

State Bar No. 24032952


Lori E. Reeves, Attorney at Law  
1602 West Business 380, Suite 100  
Decatur, Texas 76234

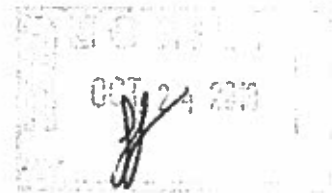


(940) 627-5800 Telephone  
(940) 626-4446 Facsimile  
reeveslawyer@hotmail.com

**CERTIFICATE OF SERVICE**

I certify that on October 24, 2019 a true and correct copy of Plaintiff's Amended Petition: Small Claims Case was served on William K. Clary electronically through the electronic filing manager.

  
\_\_\_\_\_  
Lori E. Reeves





*Lori E. Reeves*  
Attorney at Law

**EXHIBIT "A"**

# RECEIPT

No. 115556

DATE 5-9-19

FROM Kiki Harkins

\$ 800<sup>00</sup>

eight hundred & no / 100 DOLLARS

FOR RENT Deposit Bal. To be paid 100<sup>00</sup>/mo

ACCT. 1000<sup>00</sup>

CASH

PAID 800<sup>00</sup>

CHECK

DUE 200<sup>00</sup>

MONEY ORDER

CREDIT CARD

FROM \_\_\_\_\_ TO \_\_\_\_\_

BY Rick

A-1152  
T-4161



*Lori E. Reeves*  
Attorney at Law

**EXHIBIT "B"**

<b>RECEIPT</b>		<b>No.</b>	
DATE <u>06/20/2019</u>			
FROM <u>Kili Harkins</u>		\$ <u>200.00</u>	
<u>Two hundred dollars</u>		DOLLARS	
O FOR <u>Painting</u>			
Amount of Account	\$ <u>1,000.00</u>	<input checked="" type="radio"/> CASH	FROM _____ TO _____ BY <u>Chris Hardesty</u>
Amount of Paid	\$ <u>200.00</u>	<input type="radio"/> CHECK	
Balance Due	\$ <u>800.00</u>	<input type="radio"/> MONEY ORDER	
		<input type="radio"/> CREDIT CARD	

<b>RECEIPT</b>		<b>No.</b>	
DATE <u>06/27/2019</u>			
FROM <u>Kili Harkins</u>		\$ <u>200.00</u>	
<u>Two hundred dollars</u>		DOLLARS	
O FOR <u>Painting</u>			
Amount of Account	\$ <u>800.00</u>	<input checked="" type="radio"/> CASH	FROM _____ TO _____ BY <u>Chris Hardesty</u>
Amount of Paid	\$ <u>200.00</u>	<input type="radio"/> CHECK	
Balance Due	\$ <u>600.00</u>	<input type="radio"/> MONEY ORDER	
		<input type="radio"/> CREDIT CARD	

<b>RECEIPT</b>		<b>No.</b>	
DATE <u>07/04/2019</u>			
FROM <u>Kili Harkins</u>		\$ <u>200.00</u>	
<u>Two hundred dollars</u>		DOLLARS	
O FOR <u>Painting</u>			
Amount of Account	\$ <u>600.00</u>	<input checked="" type="radio"/> CASH	FROM _____ TO _____ BY <u>Chris Hardesty</u>
Amount of Paid	\$ <u>200.00</u>	<input type="radio"/> CHECK	
Balance Due	\$ <u>400.00</u>	<input type="radio"/> MONEY ORDER	
		<input type="radio"/> CREDIT CARD	



<b>RECEIPT</b>		<b>No.</b>	
DATE <u>07/11/2019</u>			
FROM <u>Kili Harkins</u>		\$ <u>200.<sup>00</sup></u>	
<u>Two hundred dollars</u>		DOLLARS	
OFOR <u>Painting</u>			
Amount of Account	\$ <u>400.00</u>	<input checked="" type="checkbox"/> CASH	FROM _____ TO _____ BY <u>Chris Hardesty</u>
Amount of Paid	\$ <u>200.00</u>	<input type="checkbox"/> CHECK	
Balance Due	\$ <u>200.00</u>	<input type="checkbox"/> MONEY ORDER	
		<input type="checkbox"/> CREDIT CARD	

<b>RECEIPT</b>		<b>No.</b>	
DATE <u>07/18/2019</u>			
FROM <u>Kili Harkins</u>		\$ <u>200.<sup>00</sup></u>	
<u>Two hundred dollars</u>		DOLLARS	
OFOR <u>Painting</u>			
Amount of Account	\$ <u>200.00</u>	<input checked="" type="checkbox"/> CASH	FROM _____ TO _____ BY <u>Chris Hardesty</u>
Amount of Paid	\$ <u>200.00</u>	<input type="checkbox"/> CHECK	
Balance Due	\$ <u>0</u>	<input type="checkbox"/> MONEY ORDER	
		<input type="checkbox"/> CREDIT CARD	

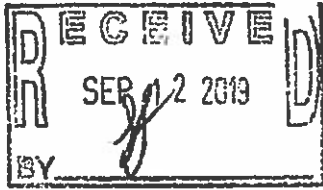


*Lori E. Reeves*  
Attorney at Law

EXHIBIT "C"

<b>RECEIPT</b>		No. 146953	
DATE	08-13-19		
FROM	Parrotte's Kili	\$ 250	
	Two Hundred &	DOLLARS	
<input type="radio"/> FOR RENT			
<input checked="" type="radio"/> FOR	Lepesi 201 ALVard # 101		
ACCT.		<input checked="" type="radio"/> CASH	FROM _____ TO _____
PAID		<input type="radio"/> CHECK	BY <u>[Signature]</u>
DUE		<input type="radio"/> MONEY ORDER	
		<input type="radio"/> CREDIT CARD	A-1152 T-4161

<b>RECEIPT</b>		No. 146954	
DATE	08-13-19		
FROM	Parrotte's Kili	\$ 750	
	Seven Hundred fifty	DOLLARS	
<input type="radio"/> FOR RENT			
<input type="radio"/> FOR	201 ALVard # 101		
ACCT.		<input type="radio"/> CASH	FROM _____ TO _____
PAID		<input type="radio"/> CHECK	BY <u>[Signature]</u>
DUE		<input type="radio"/> MONEY ORDER	
		<input type="radio"/> CREDIT CARD	A-1152 T-4161



**NO. SC-19-0012-3**

**KILI HARKINS**

**§ IN THE JUSTICE COURT**

**VS.**

**§  
§  
§  
§  
§  
§  
§**

**PRECINCT THREE**

**RICK WOODS**

**WISE COUNTY, TEXAS**

**DEFENDANT'S COUNTERCLAIM Small Claims Case**

Now comes Rick Woods, Counterclaimant herein, complaining of Kili Harkins and respectfully shows the court the following:

**I.**

Rick Woods rented a house located at 203 West Hwy. 114, Boyd, Texas to Kili Harkins. On May 7, 2019, Ms. Harkins paid Mr. Woods \$800.00 rent on the house. Ms Harkins went into possession of the property to make improvements before she and her family actually moved in. The improvements consisted primarily of painting the interior of the house. The work was done in a shoddy, unworkmanlike manner and resulted in damages to the house. The hardwood floors were painted, the light fixtures were painted over and the floors were damaged.

**II.**

Woods refunded one half of the \$800 after Harkins had been in possession of the house for June and July 2019. Ms. Harkins accepted the \$400. Her acceptance amounts to accord and satisfaction of the dispute.

**III.**

In order to get the house in a rentable condition Mr. Woods had to have the floors completely redone. This cost him \$7,507.28. A copy of the invoice from Larry's Carpet is attached hereto. Further to repaint the inferior paint job Mr. Woods had to pay cost him \$1,500.00. His total damages are a \$9,007.28. For which he sues Plaintiff Harkins.

Woods additionally seeks his damages as alleged above, costs of court and attorneys fees as determined by the fact finder.

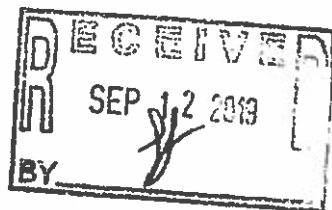
Respectfully submitted,

By: *William K. Clary*  
William K. Clary  
Texas Bar No. 04325500  
Email: clarylkw@embarqmail.com  
P. O. Box 98  
Bridgeport, Texas 76426  
Tel. (940) 683-6722  
Fax. (940) 683-4029  
Attorney for Rick Woods

**CERTIFICATE OF SERVICE**

I certify that on September 12, 2019, a true and correct copy of Defendant's Counterclaim was served on Kili Harkins by hand delivery at the Pre-Trial Conference.

*William K. Clary*  
William K. Clary



**CASE SCENARIO 5**

NO. CJ310077291

FELLOWSHIP OF THE NATIONS CHURCH Plaintiff	§	IN THE JUSTICE COURT
	§	
	§	
VS.	§	PRECINCT 3, PLACE 1
	§	
	§	
RODRIGO BECERRA D/B/A RICO SIGNS & GRAPHICS Defendant.	§	HARRIS COUNTY, TEXAS

**PLAINTIFFS' ORIGINAL PETITION**

**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COME FELLOWSHIP OF THE NATIONS CHURCH, hereinafter called Plaintiff, complaining of and about RODRIGO BECERRA D/B/A RICO SIGNS, hereinafter called Defendant, and for cause of action show unto the Court the following:

**DISCOVERY CONTROL PLAN LEVEL**

1. Plaintiffs intend that discovery be conducted under Discovery Level 2.

**PARTIES AND SERVICE**

2. Plaintiff, FELLOWSHIP OF THE NATIONS CHURCH, is a religious organization, whose address is 13305 Woodforest Blvd., Houston, Texas 77015.

3. Defendant RODRIGO BECERRA, an Individual doing business as RICO SIGNS & GRAFICS, who is a resident of Texas and doing business in Texas, may be served with process at the following address: 12640 Greens Bayou, Houston, Texas 77015. Service of said Defendant as described above can be effected by personal delivery.

**JURISDICTION AND VENUE**

4. The subject matter in controversy is within the jurisdictional limits of this court.

5. Plaintiffs seek:

a. only monetary relief of \$15,000 or less, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

6. This court has jurisdiction over the parties because Defendant is a resident of Texas and is doing business in Texas.

7. Venue in Harris County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

#### FACTS

8. That on or about November 7, 2011, Plaintiff and Defendant entered into a contract wherein Defendant was to supply Plaintiff with a sign for a total price of \$29,000.00.

9. That Plaintiff paid Defendant \$14,500.00 and Defendant delivered a partially completed sign at the end of 2013, but did not and has not completed the sign, although asked to do so on several occasions.

10. That as a result Plaintiff contacted another sign company who examined the partially completed sign, and found it to be totally constructed with out-of-date and defective materials.

11. That the value of the work done by Defendant is approximately \$5,000.00 and as a result Plaintiff has been damaged in the amount of \$9,500.00 for which it now sues.


#### PLAINTIFF'S

#### PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff, FELLOWSHIP OF THE NATIONS CHURCH, respectfully prays that the Defendant be cited to appear and answer

herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant, for the actual damages requested in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,



By: "/s/ Kenneth D. Junck

KENNETH D. JUNCK

Texas Bar No. 11051000

Email: kdjlw@yahoo.com

13410 Holly Park Dr.

Houston, Texas 77015

Tel. (713) 453-7283

Fax. (713) 453-5013

Attorney for Plaintiff

FELLOWSHIP OF THE NATIONS CHURCH



**CASE SCENARIO 6**

CAUSE NO. 1532

[Redacted Name]  
[Redacted Name]  
PLAINTIFF

v.

[Redacted Name]

§ IN THE JUSTICE COURT  
§  
§  
§ PRECINCT NO. 4  
§  
§ Martin COUNTY, TEXAS

**PETITION: SMALL CLAIMS CASE**

Defendant(s) address: PO Box 581 Abilene TX 79612  
[Redacted Address]  
[Redacted Address]  
[Redacted Address]

[Redacted Address]  
[Redacted Address]  
[Redacted Address]  
[Redacted Address]

**COMPLAINT:** The basis for the claim which entitles Plaintiff to seek relief against Defendant is: I did work for [Redacted Name] and Mr. [Redacted Name] and I went back and forth on invoices to be paid. I resigned cause Mr. [Redacted Name] would either not get my invoices into the people who paid him on time or he did not turn in the invoices. Mr [Redacted Name] never paid me on time which was the 15<sup>th</sup> or the 1<sup>st</sup>. He was 5 days late and lied about mailing me the check, the other time he was 8 days late. We have a contract and the contract goes by dayrate. Dayrate never mentions how many hours, time could be 2 hours or 24 hours. I worked for a dayrate of \$375. Mr [Redacted Name] tried to tell me what times to be where and I was contract labor, he told me to be in the office from 8-5 the last week I worked. He tried to keyhole me into employee/employer status. I am waiting the results of this lawsuit and have other suits to file with TWC and the IRS. I justified my billing to him several times and his refused to turn in my invoices or is refusing to pay me. Either way, I did the work, I have the work I completed, and turned into him, emails, the contract and invoices of the work. I asked an attorney to send a demand letter to Mr. [Redacted Name] and the company [Redacted Name] Resources, Mr [Redacted Name] works for replied they would be looking into it the matter. The oldest invoice is over 60 days from being in Mr [Redacted Name] hands, and the rest of the invoices are after that. He has not acknowledged anything of the invoices since June 26. I quit on June 21. There had been nothing wrong with my billing

that had been turned in since 5/12 until I turned in my resignation. After my resignation all my billing was wrong. My billing had no issues until my resignation.

**RELIEF:** Plaintiff seeks:  damages in the amount of \$ 9947.56,  return of personal property as described as follows (be specific): \_\_\_\_\_ which has a value of \$ \_\_\_\_\_. Additionally, Plaintiff seeks the following:

**SERVICE OF CITATION:** Service is requested on Defendant(s) by:  personal service at home or work,  registered mail,  certified mail, return receipt requested. If required, Plaintiff requests alternative service as allowed by the Texas Rules of Civil Procedure. Other addresses where Defendant(s) may be served are: \_\_\_\_\_

I hereby request a jury trial. The fee is \$22 and must be paid at least 14 days before trial.

I hereby consent for the answer and any other motions or pleadings to be sent to my email address as follows: [REDACTED]

\_\_\_\_\_  
Plaintiff's Printed Name

\_\_\_\_\_  
Signature of Plaintiff  
or Plaintiff's Attorney

**Defendant's Information (if known):**

Date of birth: \_\_\_\_\_

Last three digits of Driver License: \_\_\_\_\_

Last three digits of Soc. Sec. No.: \_\_\_\_\_

Phone No.: [REDACTED]

\_\_\_\_\_  
Address of Plaintiff  
or Plaintiff's Attorney

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Phone & Fax No. of Plaintiff  
or Plaintiff's Attorney

RECEIVED  
RE-8-19  
NR

CAUSE NO. C-1532

~~CODY QUILLEN DRILLING~~  
~~ENTERPRISES, LLC~~  
Plaintiff,

v.

~~THE LAND SERVICES ENDEAVOR~~  
Defendants.

§  
§  
§  
§  
§  
§  
§  
§

IN THE JUSTICE COURT

PRECINCT NO. 4

MARTIN COUNTY, TEXAS

**DEFENDANT'S ORIGINAL ANSWER & COUNTERCLAIM**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES DEFENDANTS, ~~Cody Quillen Drilling Enterprises, LLC~~ files its ORIGINAL ANSWER and COUNTERCLAIM and would respectfully show the Honorable Court:

**I. DEFENDANT'S ORIGINAL ANSWER**

**A. GENERAL DENIAL**

1. Defendant generally denies the allegations in Plaintiff's Original Petition and demands strict proof thereof.

**B. AFFIRMATIVE DEFENSES**

- 2. All or a part of Plaintiff's claims are barred by the doctrine of unclean hands.
- 3. All or a part of Plaintiff's claims are barred by the doctrine of first material breach.

**II. DEFENDANT'S COUNTERCLAIM FOR FRAUD, FRAUDULENT INDUCEMENT, AND BREACH OF CONTRACT**

4. Defendant ~~Cody Quillen Drilling Enterprises, LLC~~ contracts with Endeavor Resources to provide landman services. William G. ~~Quillen~~ is principal of ~~Cody Quillen Drilling Enterprises, LLC~~.

5. Given the company's workload, Mr. G. ~~Quillen~~ advertised for contract landmen to help him fulfill his agreement with Endeavor. Plaintiff ~~Cody Quillen Drilling Enterprises, LLC~~

RECEIVED  
19/03/19  
NE

Q[REDACTED] responded to Mr. G[REDACTED]'s posting for landmen, and based on his represented experience and expertise, G[REDACTED] Land Services contracted with Q[REDACTED] to assist with its work for Endeavor. Q[REDACTED] began his independent contractor engagement with G[REDACTED] on or about April 23, 2019.

6. Q[REDACTED] signed an Independent Contractor's Agreement, which, among other things, described the work he agreed to do as "certain land-related services for unaffiliated, third-party client companies . . . . Services to be performed by Subcontractor consist of those common in the oil and gas industry performed by independent petroleum landmen. Such services include, but are not limited to, one or more of the following: purchase of oil and gas leases, purchase of right-of-way easements, examination of mineral and surface title to real property, preparation of reports and/or maps related to ownership for mineral fee and mineral leasehold interests, and other services related to the foregoing." The Agreement further provided that work performed under it "shall be performed promptly and in accordance with prudent industry practices and procedures."

7. By executing the Agreement, Q[REDACTED] represented that he was capable of performing the services as stated and agreed to do so "promptly" and "in accordance with prudent industry practices and procedures."

8. Q[REDACTED] misrepresented both his experience and expertise. He proved incapable of performing the first routine project assigned to him, a simple review of title. G[REDACTED] reassigned him to draft documents, a task he would undoubtedly be able to perform given his claimed credentials. Again, Q[REDACTED] failed to adequately perform this task. G[REDACTED] reassigned him as a runner, which essentially put him in charge of obtaining signatures and acknowledgements on already-prepared documents. But Q[REDACTED] failed to perform even this task, missing signatures and having to make repeated trips to accomplish what should have been a simple task. (G[REDACTED] could not invoice Endeavor for these repeated trips.) Finally, G[REDACTED] assigned Q[REDACTED] to work on an in-house project

pulling lease files. After two days of training, Q[REDACTED] quit.

9. When he was engaged, G[REDACTED] provided Q[REDACTED] with detailed billing instructions. Compliance with these instructions was essential—if Q[REDACTED] did not satisfactorily invoice, G[REDACTED] could not collect payment from Endeavor.

10. Not only did Q[REDACTED] fail to follow these instructions, even after repeated intervention and assistance by G[REDACTED], but he submitted false and fraudulent invoices. Evidence of Q[REDACTED]'s social media postings and "check-ins," among other things, establish the falsity of the invoices.

11. In sum, Endeavor rightfully refused to accept invoices for which Q[REDACTED] has demanded payment because (1) the work stated was not performed, (2) the amounts charged for work performed are inflated, and/or (3) Q[REDACTED] wholly failed to perform the work in the manner required under the Agreement. G[REDACTED] has been injured as a result.

**A. CAUSE OF ACTION – BREACH OF CONTRACT**

12. The Agreement constitutes a valid, enforceable contract.

13. Counter-Plaintiff G[REDACTED] is the proper party for sue for Q[REDACTED]'s breach of the contract.

14. G[REDACTED] performed, tendered performance of, or was excused from performing its contractual obligations.

15. Q[REDACTED] breached the contract, causing G[REDACTED] injury.

16. G[REDACTED] pleads for actual damages caused by Q[REDACTED]'s breach.

**B. CAUSE OF ACTION - FRAUDULENT INDUCEMENT (ALTERNATIVELY)**

17. In the alternative, Q[REDACTED] fraudulently induced G[REDACTED] to enter the Agreement by misrepresenting his experience and/or expertise, and his ability and/or willingness to comply with

its terms, which induced G to enter the Agreement.

18. Q's representations were material, false, and Q knew they were false when made and/or made them recklessly, as positive assertions, without knowledge of their truth.

19. Q made the misrepresentations with the intent that G act on them.

20. G relied on the misrepresentations, causing him injury.

21. G pleads for actual damages as well as punitive damages.

C. CAUSE OF ACTION – FRAUD

22. Q misrepresented the work as stated on his invoices.

23. Such representations were material, false, and Q knew they were false when he made them.

24. Q intended that G act on his misrepresentations by submitting the fraudulent invoices to Endeavor and paying him on the basis of his misrepresentations.

25. G relied on the misrepresentations to his detriment.

26. G pleads for actual damages as well as punitive damages.

D. ATTORNEY'S FEES

27. G is entitled to an award of the amount of fees paid to the undersigned attorney in the defense of Q's claim under the Agreement, and in his prosecution of his Breach of Contract claim under Texas Civil Practice & Remedies Code §38.001.

PRAYER

For these reasons, G asks the Court to dismiss this suit or render judgment that Plaintiff, Q, take nothing, assessing costs against Plaintiff, and award all other relief to which Defendant is entitled.

Respectfully submitted,



By: Brandy Manning

Brandy R. Manning

State Bar No.: 24029703

[bmanning@lwmattys.com](mailto:bmanning@lwmattys.com)

Constance K. Hall

State Bar No.: 24074341

[chall@lwmattys.com](mailto:chall@lwmattys.com)

**Long-Weaver & Manning, LLP**

222 S. Main Street

Big Spring, Texas 79720

Main: 432-219-4383

Fax: 844-325-0400

ATTORNEY FOR ~~THE STATE AND SERVICES~~

CAUSE NO. 1454

**William Doc Hubble,  
Plaintiff**

vs.

**Robert Holub, Individually and d/b/a  
Rob's Painting & Roofing & Remodeling,  
Defendant**

§ IN THE JUSTICE COURT  
§  
§  
§ OF  
§  
§  
§ SCHLEICHER COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

Plaintiff files this Original Petition and shows as follows:

1. Discovery:

This cause of action is a level 1 Discovery Control Plan case as set out in Rule 190.3 of the Texas Rules of Civil Procedures.

2. Parties

A. Plaintiff, William Doc Hubble is an individual whose mailing address is P.O. Box 65, Eldorado, Schleicher County Texas.

B. Defendant, Robert Holub, Individually and d/b/a Rob's Painting & Remodeling & Roofing is an individual who conducts business, and may be served at 2617 Woodlawn Dr, San Angelo, Tom Green County, Texas. Service is requested at this time.

3. Facts:

Plaintiff alleges that Plaintiff and Defendant entered into a valid written contract (attached hereto as Exhibit "A" and referred to herein as the "Contract") for the preparation of the existing roof and the application of new Peel-n-Stick Roll Roofing and replace the flashing on the roof of Mr. Hubble's building located at 218 S. Main St., Eldorado, Schleicher County, Texas. Said Contract was entered into on November 16, 2017, and was signed by Defendant.

Plaintiff, pursuant to the Contract, tendered the amounts due under the contract to Defendant. Defendant accepted payment, however, Defendant has failed to perform as he is contractually bound to under the Contract, to wit: Defendant improperly applied the roofing material, also the material used was deemed improper for the type of roof that is on this building thereby causing further damage to Plaintiff's property.. Defendant's inaction constitutes a clear breach of the terms of the Contract

At all times material to this action, Plaintiff fully performed all of his obligations to Defendant under the terms and conditions of the Contract. Plaintiff alleges that there is no unfulfilled conditions precedent to Plaintiff's recovery under the Contract.



It has become necessary for Plaintiff to employ the services of Kosub & Griffin, licensed attorneys to preserve and protect Plaintiff's rights. Plaintiff asks for judgment against Defendant for recovery of reasonable and necessary attorney's fees incurred in this matter.

4. Prayer:

WHEREFORE, Plaintiff asks that citation be properly served by the Court and that Defendant be required to answer herein, and that on final trial hereof, Plaintiff asks that the Court GRANT judgment against Defendant as follows:

- a. for economic damages in the amount within the jurisdictional limits of the Court; and
- b. Court cost.

Plaintiff's damages do not exceed \$10,000.00

WHEREFORE, Plaintiff requests that Defendant be cited to appear and answer herein, that upon final hearing hereof, Plaintiff be granted judgment for amounts alleged above.

Plaintiff asks the court to order Defendant to pay prejudgment interest from the date of breach until the date of judgment; and for post judgment interest from the date of judgment until paid. Plaintiff prays for the court to grant judgment for costs of court. Plaintiff prays for further relief.

Respectfully submitted,

**KOSUB & GRIFFIN, LLP**  
105 S. Main  
PO Box 460  
Eldorado, Texas 76936  
(325) 853-2711  
(325) 853-2922 fax

By: \_\_\_\_\_

Clint T. Griffin  
SBN 00796678  
[cgriffin@kgelaw.com](mailto:cgriffin@kgelaw.com)

**Attorney for Plaintiff**

NO ANSWER FROM DEFENDANT  
BUT APPEARED FOR HEARING

Handout 1

SEARCH

A Project of [National Paralegal College \(https://nationalparalegal.edu\)](https://nationalparalegal.edu)

Log in (/account/login)

SHORT VIDEOS (/VIDEOS)


[Foundations of Law \(/courseware\)](#)
[Contracts \(/courseware/topic/contracts\)](#)
[Mutual Assent Offer and Acceptance \(/courseware/topic/mutual-assent-offer-and-acceptance\)](#)
[Mutual](#)

RESEARCH INDEX (/CONCEPT)

## Mutual Assent

### See Also:

**Video-Course: Elements of a Contract: Offer and Acceptance- Module 2 of 5**

</videocourses/entry/elements-of-a-contract-offer-and-acceptance--module-2-of-5-?TimeIndex=30>

**Short Video: Contract Defenses for Lack of Mutual Assent: Mistake, Misunderstanding and Misrepresentation**

</videos/entry/contract-defenses-for-lack-of-mutual-assent-mistake-misunderstanding-and-misrepresentation?TimeIndex=7>

### Related Videos:

- **Contract Defenses for Lack of Mutual Assent: Mistake, Misunderstanding and Misrepresentation** (<https://lawshelf.com/videos/entry/contract-defenses-for-lack-of-mutual-assent-mistake-misunderstanding-and-misrepresentation>)
- **Contract Law: The Rule of Mutuality of Consideration** (<https://lawshelf.com/videos/entry/contract-law-the-rule-of-mutuality-of-consideration>)

### Terms:

#### Mutual assent:

Agreement by both parties to a contract

#### Express Contract:

A contract where mutual assent is explicitly expressed, either verbally or in writing

#### Implied in Fact Contract:

A contract in which each party's promise is inferred from their act or conduct, or from words that are not explicitly words of agreement

#### Implied in Law Contract:

A contract where one party is required to compensate the other party for a benefit he received in order to avoid unjust enrichment

#### Unjust Enrichment:

One party receiving a benefit thereby becoming "enriched", without being compensating the other party

At the heart of any contract issue is the question of whether or not a contract was actually formed. This usually requires a determination of whether there was valid consideration, as we discussed in Chapter 1, and whether there was a valid offer and acceptance which we will discuss in this chapter.

## Mutual Assent

In order for a contract to be formed, there must be mutual assent, which is simply the agreement by both parties to enter into a contract. In deciding whether or not there is mutual assent, courts use an objective "reasonable man" test in which the court examines the exchange between the parties that led to the establishment of the contract and then determines what reasonable people in the place of the parties would have understood the exchange to mean.



Please note that the court is not interested in what the parties actually thought. It is only interested in what a reasonable person in the same circumstances would have thought. For example:

Tommy offers to buy Pam's farm for \$100,000. Pam does not wish to sell her farm but she jokingly accepts the offer because she does not believe that Tommy has the \$100,000. Tommy and Pam work out the terms of the contract and Pam, still joking, writes but the contract on a sheet of paper and signs it. Tommy takes the writing and tries to enforce it. In this situation, the contract is binding even if Pamela didn't intend to sell her farm because Tommy actually believed this to be a serious transaction and his belief was reasonable. See *Lucy v. Zehmer*, 84 S.E.2d 516 (Va. 1954).

If mutual assent is explicitly expressed, either verbally or in writing, the resulting contract is an express contract.

If mutual assent is present but not explicitly expressed, the resulting contract is an implied contract. There are two types of implied contracts: "implied in fact" contracts and "implied in law contracts".

An implied in fact contract is a contract in which each party's promise is inferred from their act or conduct, or from words that are not explicitly words of agreement. For example:

Michelangelo asks Picasso to paint his house. Picasso paints Michelangelo's house. In this situation, there is an implied in fact contract which obligates Michelangelo to pay Picasso his usual rate for painting a house as long as the rate is reasonable. Although there were no explicit words of agreement, Michelangelo's request and Picasso's act created an implied in fact contract.

An implied in law contract is a contract where, in order to avoid unjust enrichment, one party is required to compensate the other party for a benefit he received.

Marsha is walking down the street one winter day when an icicle falls off of the building she is walking past and strikes her on the head. Marsha is knocked unconscious. Jan, a licensed physician, sees the icicle hit Marsha and rushes over to help her. When Marsha recovers, Jan sends her a bill for her medical services. In this situation, Marsha is obligated to pay Jan the reasonable value of her services under an implied in law contract. Even though Jan and Marsha are not actually contractually bound to each other, an implied in law contract will be established to avoid Marsha's unjust enrichment.

Please note that while an implied in fact contract is a real contract, an implied in law contract is not a real contract. Rather, it is a legal fiction created to prevent unjust enrichment.

## Related Videos:

- [Contract Defenses for Lack of Mutual Assent: Mistake, Misunderstanding and Misrepresentation \(https://lawshelf.com/videos/entry/contract-defenses-for-lack-of-mutual-assent-mistake-misunderstanding-and-misrepresentation\)](https://lawshelf.com/videos/entry/contract-defenses-for-lack-of-mutual-assent-mistake-misunderstanding-and-misrepresentation)
- [Contract Law: The Rule of Mutuality of Consideration \(https://lawshelf.com/videos/entry/contract-law-the-rule-of-mutuality-of-consideration\)](https://lawshelf.com/videos/entry/contract-law-the-rule-of-mutuality-of-consideration)

take self-test

## See Also:

**Video-Course: Elements of a Contract: Offer and Acceptance- Module 2 of 5**

</videocourses/entry/elements-of-a-contract-offer-and-acceptance--module-2-of-5-?TimeIndex=30>

**Short Video: Contract Defenses for Lack of Mutual Assent: Mistake, Misunderstanding and Misrepresentation**

</videos/entry/contract-defenses-for-lack-of-mutual-assent-mistake-misunderstanding-and-misrepresentation?TimeIndex=7>

Chat With Us



*Handout 2*

SEARCH

A Project of [National Paralegal College \(https://nationalparalegal.edu\)](https://nationalparalegal.edu)

Log in (/account/login)

SHORT VIDEOS (/VIDEOS)


[Foundations of Law \(/courseware\)](#)
[Contracts \(/courseware/topic/contracts\)](#)
[Defenses to Formation \(/courseware/topic/defenses-to-formation\)](#)
[The Statute of Frauds](#)

## RESEARCH INDEX (/CONCEPT)

### The Statute of Frauds

#### Related Videos:

- [The Statute of Frauds \(https://lawshelf.com/videos/entry/the-statute-of-frauds\)](https://lawshelf.com/videos/entry/the-statute-of-frauds)
- [Satisfying the Statute of Frauds \(https://lawshelf.com/videos/entry/satisfying-the-statute-of-frauds\)](https://lawshelf.com/videos/entry/satisfying-the-statute-of-frauds)
- [Contracts for the Sale of Real Estate \(https://lawshelf.com/videos/entry/contracts-for-the-sale-of--real-estate\)](https://lawshelf.com/videos/entry/contracts-for-the-sale-of--real-estate)

#### Terms:

##### Statute of Frauds:

Basis of most modern laws requiring that certain promises must be in writing in order to be enforceable; it was passed by the English Parliament in 1677. In the United States, although state laws vary, most require written agreements in six types of contracts which are covered in this lesson.

##### Contracts of Suretyship:

Contracts to assume the obligation of another person.

##### Contracts in Consideration of Marriage:

A contract under which one party promises something of value to the other party on the condition that they become married.

##### "Main Purpose" Rule:

The rule stating that where a person guarantees the debt of another person in order to satisfy his own personal interests, that guarantee is enforceable even if it is not in writing.

Usually, oral contracts are enforceable. However, the Statute of Frauds requires that six kinds of contracts be put in writing in order to be enforceable. If a contract falls into one of these categories, the contract is "within the statute" and must be in writing. If the contract does not fall into one of these six categories, the contract is "outside the statute" and does not need to be in writing.

The six categories of contracts that must be written down in order to satisfy the Statute of Frauds are:

1. contracts for the sale of an interest in land.
2. contracts for the sale of goods for \$500 or more (under the U.C.C.).
3. contracts in consideration of marriage.
4. contracts that cannot be performed within one year of the contract being made.
5. contracts of suretyship.
6. contracts where an estate executor agrees to pay estate debts from his personal funds.

Any kind of writing will be adequate to satisfy the Statute of Frauds. However, the writing must contain the essential terms of the contract, including who the contracting parties are, the subject matter of the contract and the terms and conditions of the agreement. Also, the writing must be signed by the party to be charged (i.e., the contract must be signed in order to hold a party liable to it). If any party to the contract does not sign it, that party cannot be held liable under the contract.

Larry has just moved from Indiana to Boston and would like to buy a house in the area. Larry goes to Fleet Bank and applies for a \$1 million loan. Kevin, Larry's friend from Minnesota who also lives in Boston, makes a written contract with the bank that he will be responsible for paying back the loan if Larry does not. However, Kevin does not sign the contract. Larry defaults on his loan but Kevin ↑

refuses to pay the bank. In this case, although Kevin's promise satisfies the writing requirement of the Statute of Frauds and is enforceable, the contract will not be enforceable against Kevin because he did not sign it.

In the event that an oral contract violates the Statute of Frauds, the contract will be voidable. Remember the difference between a contract that is void and a contract that is merely voidable. A void contract is meaningless to begin with while a voidable contract is a valid contract except that it can be affirmed or rejected at the option of one of the parties.

That being the case, if the contract is subsequently put in writing, it will be a valid contract as opposed to if the contract were void, putting it in writing would not make the contract valid unless there was new consideration).

## Contracts for the Sale of an Interest in Land

Under the Statute of Frauds, contracts for the sale of an interest in land must be written down.

The exception here is where an oral contract for the sale of land has been partially performed. If a seller performs his side of the contract by conveying good title to the buyer, the seller can recover the purchase price from the buyer even though the contract is oral. For example:

Robert and Jimmy enter into a contract in which Robert agrees to sell Jimmy his house for \$1 million. The contract is oral. Robert conveys good title to the house to Jimmy. Jimmy tries to get out of the deal, arguing that the contract was oral and therefore, unenforceable under the Statute of Frauds. In this case, Jimmy will lose and will have to pay Robert the purchase price of the house. Although the contract was oral and unenforceable under the Statute of Frauds, Robert's part performance, the conveyance of the title, made the contract enforceable.

As far as the buyer's part performance goes, if the buyer either makes a valuable improvement on the land or takes possession of the property and pays part of the purchase price, the contract will be enforceable. For example:

Robert and Jimmy enter an oral contract in which Robert agrees to sell Jimmy his house for \$1 million. After they agree, and in anticipation of moving in, Jimmy has the house painted and has an addition built onto the house which he turns into a recording studio. Robert tries to get out of the deal by arguing that the contract was oral and, thus, invalid. In this case, Robert will have to convey title to Jimmy. Jimmy's valuable improvement that he made on the land makes this otherwise unenforceable contract enforceable.

### Contracts for the Sale of Goods

According to U.C.C. Section 2-201, any contract for the sale of goods for the price of \$500 or more must be in writing.

There are, however, certain exceptions to this rule in which an oral contract for the sale of goods of \$500 or more will be enforced.

(1) If the buyer receives and accepts the goods, the contract will become enforceable. If the buyer receives and accepts part of the goods, the contract will become enforceable as to the goods that were accepted and received. For example:

SqueezeMe Juice Company and Sunshine Orange Groves form an oral contract in which Sunshine will sell SqueezeMe two hundred bushels of oranges at \$5 per bushel for a total value of \$1,000. Sunshine sends SqueezeMe the first shipment of twenty-five bushels for \$250. SqueezeMe receives the shipment and accepts them. After they accept the oranges, SqueezeMe tries to get out of the contract, arguing that it was an oral contract for goods valued at over \$500 and is therefore unenforceable. In this case, the contract will be enforced as to the goods that were received and accepted. In other words, the contract will be enforced for the \$250 worth of oranges that SqueezeMe has accepted so that SqueezeMe will have to pay Sunshine the \$250. However, SqueezeMe is under no obligation to accept and pay for the remaining \$750 worth of oranges that they contracted to buy.

(2) If the buyer makes a partial payment for the goods contracted for, the contract is enforceable as to the goods for which payment has been made. For example:

Sunshine and SqueezeMe enter an oral contract whereby Sunshine will sell SqueezeMe two hundred bushels of oranges for \$5 per bushel for a value of \$1,000. SqueezeMe sends Sunshine a partial payment of \$250. Sunshine then tries to get out of the contract, arguing that it is unenforceable under the Statute of Frauds. In this case, the contract will be enforced as to the goods already paid for. Therefore, Sunshine is legally obligated to send SqueezeMe \$250 worth of oranges, but they will not be legally required to accept payment for, and send, the \$750 worth of oranges remaining on the contract.

(3) If the contract requires the seller to specially manufacture goods for the buyer that are not suitable for sale to others and the seller makes a substantial beginning in the manufacturing process, the contract will be enforceable. For example:

Pistols and Flowers is a heavy metal rock and roll band that is about to go on a world tour. The five members of the band decide that they would like custom made leather jackets with the band's emblem on them for the tour. The band makes an oral contract with LeatherCo to provide five specially made jackets with the band's emblem embossed into the leather and each band member's name imprinted on the jacket. LeatherCo begins the job by tanning the leather and creating a metal template of the band's emblem. The band members then try to pull out of the deal, saying that the contract was unenforceable under the Statute of Frauds. In this case, the agreement is enforceable because the contract called for the manufacture of special goods which were not suitable to others and LeatherCo made a substantial beginning in the manufacturing of the jackets.

If a contract involves the sale of goods and services together, the Statute of Frauds will govern if the contract is primarily for the sale of goods and will not govern if the contract is primarily for the sale of services. For example:

1. Michael and Scottie enter an oral agreement in which Scottie agrees to pay Michael \$600 and Michael agrees to give Scottie six basketball lessons and an official NBA basketball. This contract is not governed by the Statute of Frauds. Although Scottie is buying a basketball along with the lessons, the contract is primarily for the lessons (which are services).
2. Michael and Scottie enter an oral agreement in which Scottie agrees to pay Michael \$550 and Michael agrees to give Scottie a basketball, four tickets to a Wizards game, a jersey and a basketball lesson. This contract will be governed by the Statute of Frauds because, although there is a service involved in the contract, the contract is essentially for the sale of goods over \$500.



## Contracts in Consideration of Marriage

Contracts made in consideration of marriage must be in writing. Please note that this is not a contract to marry. This is a contract in consideration of marriage. For example:

1. Evan orally promises to marry Zora and Zora promises to marry Evan. This is not a contract in consideration of marriage. This is simply a contract to marry.
2. Evan and Zora make an oral contract in which Evan promises to buy Zora a mansion in France if Zora marries Evan. This promise is not enforceable because it violates the Statute of Frauds. Evan is promising the mansion in consideration of Zora marrying him. Therefore, this contract must be in writing.

## Contracts that Cannot be Performed Within One Year (VIDEOS)

Under this provision of the Statute of Frauds, contracts that cannot be performed within one year of the contract being made must be in writing.

The one-year time period is measured from the date that the contract is made. For example:

On January 1, 2003 the Metro Opera House and Andy Boccalo make an oral contract in which Metro will pay Andy \$25,000 and Andy will perform on New Years Day, 2006. This contract is unenforceable because it is not in writing. 2006 is three years away and there is no possible way that the contract can be performed within a year of its making. Thus, it must be in writing.

Please note that if there is any theoretical possibility that the contract can be performed within a year, the contract is outside the statute and does not need to be in writing no matter how remote the chance is that the contract will be performed within a year. For example:

1. The city planners of Boston make an oral contract with Beantown Construction Co. under which the city will pay Beantown \$1 million and Beantown will build a one hundred ten story skyscraper in downtown Boston. This contract is enforceable because, even though it is highly unlikely that Beantown will finish the skyscraper within a year, it is theoretically possible that they will and, as long as it is theoretically possible for the contract to be performed within a year, the contract is outside the statute and does not have to be in writing.
2. Roy is a thirty-five-year old paraplegic. Other than the fact that he cannot walk, Roy is in perfect health. Roy makes an oral contract with Jackie in which Roy will pay Jackie \$10,000 per year and Jackie will take care of Roy until he dies. This contract is also enforceable because it is theoretically possible that the contract can be fully performed within a year. If Roy dies within a year of making the contract, Jackie has fulfilled the contract within a year. That being the case, this agreement falls outside the statute and does not have to be written down.

The exception to this rule is where a contract has been fully performed. If an oral contract that cannot be fulfilled within one year has been fully performed, the contract is fully enforceable (regardless of how long performance actually took). For example:

The Boston Red Sox and Ramon Garcia enter an oral contract in which the Red Sox will pay Garcia \$500,000 per year for two years and Garcia will play for the Red Sox for those two years. Garcia plays for the Red Sox for the two seasons. At this point, the Red Sox are obligated to pay Garcia his salary. Although the contract was oral and it was impossible to perform within a year, the contract became enforceable by virtue of the fact that Garcia performed on the contract. Thus, the Red Sox are obligated to pay him.

## Contracts of Suretyship

According to this provision of the Statute of Frauds, a promise made by a third person to a creditor that the third person will be responsible for the debt that the debtor owes the creditor must be in writing. For example:

Larry has just moved from Indiana to Boston and would like to buy a house in the area. Larry goes to Fleet Bank and applies for a \$1 million loan. Kevin, Larry's friend from Minnesota who also lives in Boston, orally promises the bank that he will be responsible for paying back the loan if Larry does not. This promise is unenforceable because, according to the Statute of Frauds, it must be in writing.

There are three exceptions to this rule.

(1) If the third person makes the promise to the debtor instead of to the creditor, the promise does not have to be in writing. For example:

Larry has just moved from Indiana to Boston and would like to buy a house in the area. Larry goes to Fleet Bank and applies for a \$1 million loan. Kevin, Larry's friend, orally promises Larry that he will be responsible for paying back the loan if Larry does not. This promise is outside the statute and does not need to be in writing because Kevin made the promise to Larry, the debtor, and not to the creditor bank.

(2) If the third person promises to be primarily responsible for the debt, the promise is outside the statute. For example:

Larry has just moved from Indiana to Boston and would like to buy a house in the area. Larry goes to Fleet Bank and applies for a \$1 million loan. Kevin, Larry's friend, orally promises the bank that he will be responsible for paying back the loan. Here, Kevin has promised to be primarily responsible for the debt. Therefore, this promise is outside the statute and does not need to be in writing.

(3) Even if the third person makes the promise to the creditor and promises only to be responsible for the debt if the debtor defaults, an oral promise will be enforceable if the third person's main purpose for making the promise is for his own benefit. This is called the "Main Purpose" rule. For example:

Larry has just moved from Indiana to Boston and is looking for a place to live. Kevin, Larry's friend, owns some property and agrees to lease two acres of land to Larry. Larry asks Kevin if he can build a house on the land and Kevin readily agrees, knowing that a house will drastically increase the value of his property. Larry goes to Fleet Bank and applies for a \$1 million loan to build the house. Kevin orally promises the bank that he will be responsible for paying back the loan if Larry does not. In this case, even though Kevin's promise is oral, it will be enforceable because Kevin's main purpose in making the promise to the bank is his interest in seeing the house build on his land.



### Related Videos:

- [The Statute of Frauds \(https://lawshelf.com/videos/entry/the-statute-of-frauds\)](https://lawshelf.com/videos/entry/the-statute-of-frauds)
- [Satisfying the Statute of Frauds \(https://lawshelf.com/videos/entry/satisfying-the-statute-of-frauds\)](https://lawshelf.com/videos/entry/satisfying-the-statute-of-frauds)
- [Contracts for the Sale of Real Estate \(https://lawshelf.com/videos/entry/contracts-for-the-sale-of-real-estate\)](https://lawshelf.com/videos/entry/contracts-for-the-sale-of-real-estate)

take self-test

Chat With Us

**Phone:** 800-500-3136  
**Mon-Thu:** 8:00 am – 7:00 pm (CDT)  
**Friday:** 10:00 am – 4:30 pm (CDT)  
**Sunday:** 8:00 am – 3:30 pm (CDT)

Email Us (/home/contact)



[ABOUT US \(/HOME/ABOUT\)](#)  
 [SITE MAP \(/HOME/TOC\)](#)  
 [TERMS OF SERVICE \(/HOME/TERMSOFSERVICE\)](#)  
 (HTTPS://^

©2019 NATIONAL PARALEGAL COLLEGE (HTTPS://NATIONALPARALEGAL.EDU)

