2009CI16891 -P00001

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Cause No. 2009CI16891

CAROL AND RON ASVESTAS Plaintiffs	§	IN THE DISTRICT COURT
VS.	§	
SUMNER MATTHES, MICHELLE CRYER, KAREN MAXFIELD, NICOLE ASVESTAS-GARCIA AND The ANIMAL SANCTUARY OF THE UNITED STATES WILD ANIMAL ORPHANAGE, A NON - PROFIT CORPORATION	§	57th JUDICIAL DISTRICT
Defendants	§	BEXAR COUNTY, TEXAS

CRT PROCESS DEPT.

ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Come now Plaintiffs, CAROL and RON ASVESTAS complaining of Defendants SUMNER MATTHES, MICHELLE CRYER, KAREN MAXFIELD, NICOLE ASVESTAS-GARCIA, and the ANIMAL SANCTUARY OF THE UNITED STATES WILD ANIMAL ORPHANAGE, A NON - PROFIT CORPORATION, and as grounds therefore would show unto the Court as follows:

I. PARTIES

Plaintiffs CAROL AND RON ASVESTAS are natural persons residing in Bexar County, Texas.

Defendant SUMNER MATTHES, is a natural person, and at all material times alleged to be the President of the Board of Directors of the Animal Sanctuary of the United States Wild Animal Orphanage, a Non-Profit Corporation, and may be served by certified mail, return receipt requested, restricted delivery, at his residence: 5649 Old Ranch Rd, Sarasota, Florida 34241.

Defendant MICHELE CRYER is a natural person and at all material times alleged to be a Director of the Animal Sanctuary of the United States Wild Animal Orphanage, a Non-Profit Corporation, and may be served by private process at her place of residence: 7179 Gallery Ridge, San Antonio, Bexar County, Texas 78250.

Defendant KAREN MAXFIELD is a natural person and at all material times alleged to be a Director of the Animal Sanctuary of the United States Wild Animal Orphanage, a Non-Profit Corporation, may be served by private process at her place of residence: 9343 Kirkner Rd., San Antonio, Bexar County, Texas 78263.

Defendant NICOLE ASVESTAS-GARCIA, is a natural person, and may be served by private process at her place of employment: 9626 Leslie Rd., San Antonio, Texas 78254.

Defendant, ANIMAL SANCTUARY OF THE UNITED STATES WILD ANIMAL ORPHANAGE, A NON-PROFIT CORPORATION, may be served by private process by service on the Registered Agent and Executive Director Nicole Asvestas-Garcia at its usual place of business: 9626 Leslie Rd., San Antonio, Texas 78254.

II. JURISDICTION AND VENUE

Jurisdiction is proper in the District Court as the amount of damages is in excess of the jurisdictional limits of the court. Venue is proper in Bexar County as all acts and omissions of Defendants occurred in Bexar County.

III. DISCOVERY CONTROL PLAN

Plaintiffs assert that discovery should be conducted in this cause of action in accordance with TRCP 190.3 (Level 2).

IV. FACTUAL SUMMARY

Carol and Ron Asvestas have donated many years and much effort to the Animal Sanctuary of the United States Inc. Wild Animal Orphanage, A Not-For-Profit Corporation (herein after referred to as the "WAO"). Carol and Ron Asvestas, approximately 21 years ago, purchased approximately 10 acres of property of which, approximately 7+ acres was made available to the "WAO". Carol and Ron Asvestas raised the necessary funds, physically built the "WAO", and worked for many years without salaries for the "WAO". Even at this date, the electricity for the back of the "WAO" property is metered to the personal home of

Carol and Ron Asvestas and the water supplied to the "WAO" runs through pipes across their personal homestead.

According to published reports on October 1, 2009, the WAO announced the termination of Ron and Carol Asvestas as employees effective immediately. This termination is not lawfully or to be recognized.

The By-laws of the "WAO" clearly state that "the number of the Board of Directors shall be not less than five (5) consisting of the President, Vice-President, Secretary, Corresponding Secretary and Treasurer". On October 1, 2009 and up to the date of the filing of this Petition, there are only three Directors; those named as Defendants herein. These three Directors in conspiracy with Nicole Asvestas-Garcia, have taken unlawful and fraudulent actions including the alleged termination of the employment of Carol and Ron Asvestas, when, no actions can, or could be, taken on behalf of the "WAO". All such wrongful actions were designed to, and did, cause injury to Carol and Ron Asvestas.

Pursuant to the past minutes of the board of directors, Carol and Ron Asvestas are owed $264,764.00 for reimbursement, salaries and vacation pay for which immediate payment is demanded. Further, Carol and Ron Asvestas demand the return of the 7+ acres, upon payment of $20,000.00 plus interest, which payment is hereby tendered. Additionally Carol and Ron Asvestas are due the reimbursement of the electric charges paid by them for the WAO and other reimbursements not included in the above amount of $264,764.00. Carol and Ron Asvestas also bring suit for the salaries, vacation pay and benefits due them for the current year. There are also personal items owned by Carol and Ron Asvestas in the offices of the "WAO" and on the real property that should be returned to Carol and Ron Asvestas for which demand is made.

V. CAUSES OF ACTION

A. NEGLIGENCE

Carol and Ron Asvestas bring suit against all Defendants, individually, and collectively for negligence in that Defendants either knew or should have known

that their actions were unlawful and not taken in accordance with the By-laws of the WAO. The Defendants engaged in acts and omissions each of which constitutes negligence as they failed to use reasonable care in performance of their duties as Directors and failed to use reasonable care in the management of the WAO to the injury of Carol and Ron Asvestas. The negligence of Defendants was the proximate cause of the injuries and damages sustained by Carol and Ron Asvestas.

B. CONSPIRACY

All Defendants formed a combination the object of which was to accomplish an unlawful purpose by any means necessary, including unlawful and even criminal means. Defendants planned, assisted and encouraged each other in the violation of their obligations, fiduciary duties, and other duties, to Carol and Ron Asvestas, and in the violation of the By-laws of the WAO. The unlawful purpose of the conspiracy of Defendants was the termination of the employment of Carol and Ron Asvestas, avoidance of the obligations owed to Carol and Ron Asvestas for payment and return of the real property, and the removal of Carol Asvestas as a member of the Board of Directors of the WAO. All Defendants conspired to deprive Carol and Ron Asvestas of any future voice in or benefit from the WAO. All Defendants conspired in all of the illegal and fraudulent acts taken against Carol and Ron Asvestas and caused injury and damage to Carol and Ron Asvestas.

C. SLANDER AND NEGLIGENT MISREPRESENTATION

Defendant, NICOLE ASVESTAS-GARCIA, publicly disseminated false and injurious information regarding Carol and Ron Asvestas in stating they were immediately terminated from their employment and Carol Asvestas was removed from her position on the Board of Directors of the WAO when she knew, or should have known, such information was false and when she conspired to have such unlawful actions taken. Alternatively, NICOLE ASVESTAS-GARCIA disseminated such information with reckless disregard for whether the

information was false. Further, NICOLE ASVESTAS-GARCIA made contradictory false statements claiming that Carol and Ron Asvestas resigned from their management positions with the WAO and that they were "under investigation", again when she knew such information was false and when she had conspired with the other named Defendants to disseminate false information.

VII. DECLATORY JUDGMENT ACTION

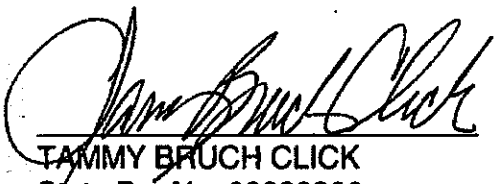
Carol and Ron Asvestas, pursuant to CPRC Chapter 37, seek a Declatory Judgment from the Court that the alleged termination of their employment is void, as Defendants did not comply with the conditions required by the By-laws of the "WAO" prior to the alleged termination. There were not the required five (5) Board members. Carol and Ron Asvestas and seek all reasonable attorney's fees, costs and expenses associated with the bringing of this action.

VIII. DAMAGES

Carol and Ron Asvestas seek a Declatory Judgment of the court that their alleged termination is null and void, and seek their attorney's fees and costs. Carol and Ron Asvestas also seek all actual damages to which they are justly entitled including the $264,764.00 previously owed, as well as all sums currently due and owing including all wages, salaries, vacation pay, benefits and reimbursements. Carol and Ron Asvestas seek the immediate return of the 7+ acres of real property on the terms initially agreed and the return of their personal property. Carol and Ron Asvestas seek recovery of the following damages:

1. All actual damages as allowed by law;
2. All exemplary and special damages as allowed by law;
3. Reasonable attorneys' fees and expenses;
4. Prejudgment interest on any and all damages assessed;
5. Post judgment interest on any and all damages assessed;
6. All costs of court; and
7. Such other and further relief at law or in equity to which Carol and Ron Asvestas may be justly entitled.

Respectfully submitted,



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