

CAUSE NO. DC-12-07825

CADE MANNETTI,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
v.	§	
	§	
	§	
	§	DALLAS COUNTY, TEXAS
VISIONARY RESTAURANTS LLC,	§	
VISIONARY STAFFING LLC,	§	
WILLIAM McCROREY, AND	§	
THOMAS McMURRAY,	§	
	§	
Defendants.	§	162nd JUDICIAL DISTRICT

PLAINTIFF'S FIRST AMENDED PETITION

Plaintiff Cade Mannetti ("Plaintiff") files this First Amended Petition complaining of Defendants Visionary Restaurants LLC, Visionary Staffing LLC, Visionary Holdings LLC, Rare Operations LLC, William McCrorey and Thomas McMurray, ("Defendants"), and states as follows:

I. DISCOVERY LEVEL

1. Pursuant to Rules 190.1 and 190.3 of the Texas Rules of Civil Procedure, Plaintiff intends to conduct discovery under Level 2.

II. NATURE OF SUIT

2. This lawsuit arises from Defendants breach of contract with Plaintiff and their refusal to pay compensation and healthcare premiums in accordance with the Agreement.

3. This action is filed to recover all damages to Plaintiff caused by Defendants breach of contract and statutory damages as allowed by law, attorneys' fees, pre and post-judgment interest, costs and all other relief to which Plaintiff is entitled.

III. PARTIES

4. Plaintiff Cade Mannetti is an individual residing in Texas.

5. Defendant Visionary Restaurants, LLC is a Texas Limited Liability Company with its principal place of business located at 9699 Central Expressway, Ste. 290, Dallas, Texas. It may be served through its registered agent, Thomas M. McMurray at 109 S. Woodrow Lane, Ste. 700, Denton, TX 76205.

6. Defendant Visionary Staffing, LLC is a Texas Limited Liability Company with its principal place of business located at 9699 Central Expressway, Ste. 290, Dallas, Texas. It may be served through its registered agent, Thomas M. McMurray at 109 S. Woodrow Lane, Ste. 700, Denton, TX 76205.

7. Defendant William McCrorey is an individual residing at 9520 Hathaway Dallas, TX 75220.

8. Defendant Thomas McMurray is an individual residing in Denton County, Texas with a principal place of business at 109 S. Woodrow Lane, Ste. 700, Denton, TX 76205 and resides at 2702 Navajo Road, Corinth, TX 76210.

9. Visionary Restaurants LLC and Visionary Staffing LLC are the alter egos of McMurray and McCrorey and was used to perpetrate an actual fraud on Mannetti for direct personal benefit of McMurray and McCorrey. Plaintiff thus respectfully requests that that the Court disregard the corporate form and pierce the corporate veil to hold McMurray and McCrorey jointly and severally liable for each other's obligations in an equitable manner.

IV. JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over this lawsuit because the amount in controversy is within the jurisdictional limits of this Court.

11. Pursuant to Chapter 15 of the TEX. CIV. PRAC. AND REM. CODE, venue is proper in Dallas County, Texas in that all or a substantial part of the acts or omissions giving rise to this action arose in Dallas County, Texas and at least one of the Defendants resides in Dallas County, Texas.

V. BACKGROUND

12. On or about September 4, 2012, Plaintiff and Defendants entered into an Agreement wherein Defendants hired Plaintiff as Director of Administration. Pursuant to that Agreement, Defendants agreed to pay Plaintiff's healthcare insurance premiums and a salary of \$104,000 per year. Plaintiff began employment on September 12, 2012 and satisfied all conditions precedent pursuant to the Agreement. On April 20, 2013, Plaintiff resigned due to Defendants breach of their Agreement and Defendants other wrongful business practices.

13. On or about January 1, 2013, Blue Cross Blue Shield cancelled healthcare coverage for all of the Defendants' employees, including the Plaintiff, because Defendants failed to pay premiums in October, November and December 2012. Defendants deducted healthcare premiums from employee paychecks during the same time period. Defendants did reinstate coverage for 2012, but failed to pay any further premiums, despite continuing to deduct the premiums from Plaintiff's paycheck. When Plaintiff's 20 month-old son needed surgery, Plaintiff asked Defendant McCrorey to ensure that the healthcare insurance premiums were paid. Defendant McCrorey stated that he would ensure that all healthcare insurance premiums would be paid so that Plaintiff's son could have surgery paid by insurance. After incurring significant medical bills, Plaintiff was told

by the healthcare insurance company that the Defendants failed to pay the premiums and that the Plaintiff was therefore liable for the full amount of the medical bills. Defendants have also failed to pay salaried compensation to Plaintiff.

14. Defendant McCrorey and Defendant McMurray both admitted that the debts were owed by them to Plaintiff Mannetti and promised him that they would pay the health insurance and his unpaid salary. Defendants have failed to pay the health insurance premiums or the salary. Defendants McCrorey and Defendant McMurray have used the money owed to Plaintiff to form several business entities.

15. Plaintiff made repeated attempts to collect the amounts owed by Defendants. Defendants have acknowledged the debt owed, but failed to make any payments to Plaintiff.

16. On July 17, 2013, a criminal complaint was filed against the Plaintiff for signing three corporate checks at Defendant McCrorey and McMurray's direction to Sigel's Liquor for the benefit of the Defendants, including Rare Operations LLC. Instead of paying the debts that are clearly owed by the Defendants, Defendant McMurray has used the criminal prosecution of the Plaintiff as a bargaining chip to gain advantage in this litigation.

17. Not content with wrecking Plaintiff's past financial stability, Defendants have used the Mannetti's criminal prosecution for their conduct as a tool to irreparably scar Mannetti's future employment. After being notified that police and the District Attorney have contacted the Plaintiff's past, prospective and current employers because of the criminal complaint for their misconduct, Defendants continue to refuse to pay the debts that they instructed Mannetti to pay on the corporate bank account to gain advantage in this litigation. Defendants conduct is untenable.

VI. CLAIMS AND CAUSES OF ACTION

A. BREACH OF CONTRACT

18. Paragraphs 1-15 above are hereby adopted and incorporated by reference. The Agreement, entered into between Defendants and Plaintiff, is a valid and enforceable contract. Plaintiff fully performed under the terms of the Agreement, and Defendants have refused and continues to refuse to perform pursuant to the terms of the Agreement. As a direct result of Defendants' breaches, Plaintiff has sustained economic damages in the amount of \$42,998.63. Plaintiff has met all conditions precedent under the Agreement.

20. Pursuant to Chapter 38.001(8) of the TEX. CIV. PRAC. & REM. CODE, Plaintiff seeks and is entitled to all reasonable attorneys' fees incurred in pursuit of Plaintiff's claims.

B. QUANTUM MERUIT

21. Paragraphs 1-20 above are hereby adopted and incorporated by reference. Plaintiff and Defendants were parties to the Agreement. Plaintiff provided valuable services to Defendants. The services were provided for the benefit of Defendants, and Defendants accepted the services when it agreed to hire Plaintiff. Defendants had reasonable notice that Plaintiff expected compensation for his services, and by entering into the Agreement, Defendant agreed to pay Plaintiff for the services provided. Defendants have received value for the services Plaintiff provided and should not be unjustly enriched by breaching the Agreement and refusing to pay for the services rendered.

C. PROMISSORY ESTOPPEL

22. Paragraphs 1-20 above are hereby adopted and incorporated by reference. By entering into the Agreement, Defendant promised to pay Plaintiff. In reliance on that promise,

Plaintiff expended considerable time and expense as an employee of the Defendants. To Plaintiff's detriment, Plaintiff has not been compensated for services rendered pursuant to the Agreement. Plaintiff's reliance on Defendants' promises was or should have been foreseeable to Defendant. The only means of correcting the injustice to Plaintiff is by Defendant fulfilling their promise of payment.

D. NEGLIGENT MISREPRESENTATION

23. Paragraphs 1-22 are hereby incorporated by reference. In the course of Defendants business and in transactions involving their own pecuniary interest, Defendants made representations to Plaintiff that Defendants would pay Plaintiff's salary and health insurance. Defendants had an interest in Plaintiff continuing to work for Defendants benefit. Defendants took money from Plaintiff for his health insurance for their own benefit. Defendants did not exercise reasonable care and competence in obtaining or communicating the information about Plaintiffs salary, Medical Insurance or the state of the Defendants checking accounts as described in detail above in paragraphs 1-22. Mannetti justifiably relied on the representations made by Defendants and proximately caused Plaintiff damages.

E. CONSTRUCTIVE TRUST

24. Plaintiff incorporates by reference the above paragraphs 1-23 as if fully set forth herein.

25. Defendants, directly and indirectly, hold funds and assets, which in equity and good conscience belong to Cade Mannetti.

26. Defendants' acts and omissions were willful and for the purpose of obtaining the funds described above, including, but not limited to, engaging in promissory estoppel, breach of contract, negligent misrepresentation, and quantum meruit.

27. Plaintiff has been injured by Defendants as a result of being deprived of his money and health insurance, and being subject to criminal prosecution for Defendants conduct.

28. Plaintiff has no adequate remedy at law to compensate him for the damages caused by Defendants actions and misconduct.

29. Accordingly, Plaintiff is entitled to the imposition of a constructive trust over the money and assets in the possession of the Defendants (or their agents, employees, partners and affiliates).

F. DECLARATORY JUDGMENT

30. Plaintiff incorporates by reference the above paragraphs 1-29, as if fully set forth herein.

31. Plaintiff requests that the Court declare the parties' rights regarding:

- i. Plaintiff Mannetti is not liable for the Defendants' debts to Sigel's Liquor.
- ii. Plaintiff Mannetti was not Chief Financial Officer of Defendants' companies.
- iii. Plaintiff Mannetti was not in charge of the Defendants bank accounts.
- iv. Defendants McMurray and McCrorey are personally liable to Plaintiff for the wrongdoing described in this petition.

32. A controversy exists between Plaintiffs and some or all Defendants regarding whether the notes and board resolutions are void. Adjudication of these disputes by this Court would resolve the controversies between the parties.

VII. DAMAGES AND OTHER RELIEF REQUESTED

33. Through this action, Plaintiff seeks recovery in excess of \$100,000 including all damages suffered by Plaintiff as a result of Defendants actions, punitive and/or statutory damages

as allowed by law, attorneys' fees, pre and post-judgment interest to the maximum extent allowed by law, costs and all other relief to which Plaintiff is entitled.

VIII. CONCLUSION

34. Plaintiff respectfully requests that Defendants be cited to answer and appear and that after consideration of these claims, this Court award a judgment to Plaintiff against Defendant for all amounts due and owing to him from Defendants, statutory or punitive damages as allowed by law, reasonable and necessary attorneys' fees, pre and post-judgment interest to the maximum extent allowed by law, costs and all other relief to which Plaintiff is entitled.

Respectfully submitted,
DEANS & LYONS LLP

By: 

Michael P. Lyons
State Bar No. 24013074
Hamilton Lindley
State Bar No. 24044838
325 N. Saint Paul Street, Ste. 1500
Dallas, TX 75201
214-965-8500 Telephone
214-965-8505 Facsimile
mlyons@deanslyons.com
hlindley@deanslyons.com

ATTORNEYS FOR PLAINTIFF CADE MANNETTI

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing document was served upon all counsel of record on this 9th day of September, 2013.



Hamilton Lindley

By Facsimile: 940-382-2452

Thomas M. McMurray
McMurray Law Firm
109 S. Woodrow Lane, Ste. 700
Denton, TX 76205
Telephone: 940-383-0783
Facsimile: 940-382-2452
tom@tomcmurray.net

Attorney for Defendants