

250
06

NO. 232,261

ROBERT HERNANDEZ,
D.B.A. RBH DIRECT
PLAINTIFF

)
)
)
)
)
)
)
)
)

IN THE COUNTY COURT AT LAW

V.

NUMBER 1

WILLIAM SPELMAN,
DEFENDANT

OF TRAVIS COUNTY, TEXAS

ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

ROBERT HERNANDEZ, doing business as RBH DIRECT, plaintiff, complains of WILLIAM SPELMAN, defendant, and for cause of action shows:

I.

Plaintiff is an individual doing business as RBH DIRECT, a sole proprietorship business, whose principle place of business is 603 West 13th St., #2D, Austin, Texas. Defendant is an individual living at 2502 Hartford, Austin, Travis County, Texas. Defendant may be served at the address listed above.

II.

On or about April 1, 1996, plaintiff ROBERT HERNANDEZ, doing business as RBH DIRECT, and WILLIAM SPELMAN, orally agreed that if plaintiff would produce and mail out literature and produce and provide yard signs as defendant specified, defendant would pay according to the amounts set forth on invoices appended to, and incorporated into this petition in Exhibit A.

III.

Plaintiff has fully performed all obligations under the contract in that RBH direct produced the mailout material and conducted the bulk mailout in a timely manner and produced and delivered the yardsigns according to specification.

IV.

All conditions precedent to contract formation and to defendant's liability under the contract have occurred or have been performed by plaintiff.

V.

Despite plaintiff's performance, defendant, in violation of its obligations and promises under the contract described in Paragraph II, defendant wrongfully refused to pay plaintiff and sum of money for the work plaintiff performed pursuant to the contract.

VI.

Valuable services were rendered by plaintiff and accepted by defendant under circumstances that reasonably notified defendant that plaintiff, in performing services, reasonably expected to be paid by defendant. Defendant has acknowledged the existence of the agreements and has paid \$1,500.00 of the \$2,607.43 owed.

VII.

As a result of the defendant's failure to comply with the provisions of the contract, as described in the foregoing paragraphs, it was necessary for plaintiff to secure the services of Robert R. Smith, a licensed attorney to prepare and prosecute this suit. Judgment in favor of plaintiff should be granted against defendant for reasonable and necessary attorney's fees, costs of court, and expenses; or in the alternative, plaintiff requests that reasonable and necessary attorney's fees, costs of court, and expenses be taxed as costs and ordered paid directly to plaintiff's attorney, who may enforce the order in the attorney's own name.

VIII.

WHEREFORE, plaintiff requests that defendant be cited to appear and answer, and that on final trial, plaintiff have judgment as follows:

1. For general damages \$1,107.43.
2. Prejudgment interest as provided by law.
3. Reasonable attorney's fees.
4. Postjudgment interest as provided by law.

5. Costs of suit.
6. Such other and further relief to which plaintiff may be justly entitled.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert R. Smith", written over a horizontal line.

ROBERT R. SMITH
1000 West Ave.
Austin, Texas 78701
(512) 478-7463
(512) 478-1790 Facsimile
State Bar No. 18678070
Attorney for ROBERT HERNANDEZ/RBH
DIRECT

| Customer's Order No. | | Date | |
|---|---|------------------|--------|
| | | 4/19 19 96 | |
| Sold to | | | |
| BILL SPELMAN | | | |
| Address | | | |
| 2502 Hartford | | | |
| City | | | |
| Austin 78703 | | | |
| Sold by | Cash | C.O.D. | Charge |
| | | / | |
| On Acc. | Mose. Ret. | Paid Out | |
| | | | |
| Quantity | Description | Price | Amount |
| 30M | Personal Mail 2/2 PMS 3198 + BLK 2 Up on 8 1/2 x 11" trimmed to 5 1/2 x 8 1/2" | 27- | 540 - |
| 11M | 8 1/2 x 11 sheets white paper cover stock | 15 ⁰¹ | 165 11 |
| 1 | Ink | 30- | 30 - |
| | RBA Production Fee | NT | 110 27 |
| Thank You in case of claims or returned goods please present this bill. | | Tax | 60 65 |
| | | Total | 906 03 |

RS 510-8

No. 05959

Uarco Business Forms

Received by _____

| | | | | | | |
|---|--|------------|--------|----------|-------------|----------|
| Customer's Order No. | | Date | | | | |
| | | 9-19 19 96 | | | | |
| Sold to | | | | | | |
| BILL SPELMAN | | | | | | |
| Address | | | | | | |
| 2502 Hartford | | | | | | |
| City | | | | | | |
| Austin Tex 78703 | | | | | | |
| Sold by | Cash | C.O.D. | Charge | On Acct. | Moise. Ret. | Paid Out |
| | | / | | | | |
| Quantity | Description | | | | Price | Amount |
| 1M | 22" x 78" Wood Sides 1/4 PMS scored dulcett 222 = 30 c.c. in water | | | | 1.345 | 1345 |
| | RBH Production Fee | | | | | 201 75 |
| | | | | | Tax | 110 97 |
| Thank You In case of claims or returned goods please present this bill. | | | | | Total | 1657 72 |

110 510-8

No. **05957**

Uarco Business Forms

Received by _____

R.B.H. DIRECT

603 W. 124th St., Ste 2B (ol)

| Customer's Order No. | | Date 4-24 19 96 | | | | | |
|---|---|-------------------------------|--------|----------|------------|--------------------|--|
| Sold to BILL SPELMAN | | | | | | | |
| Address 2502 HARTFORD | | | | | | | |
| City AUSTIN 78703 | | | | | | | |
| Sold by | Cash | C.O.D. | Charge | On Acct. | More. Ret. | Paid Out | |
| | | X | | | | <i>(Signature)</i> | |
| Quantity | Description | Price | | | Amount | | |
| | Add'l postage from bulk mailing (billed to us by post office) | | | | 18 | 68 | |
| | Use of RBH bulk mail permit | | | | 25 | — | |
| Tax | | | | | — | | |
| Thank You In case of claims or returned goods please present this bill. | | | | | Total | 43 68 | |

No. **05963**

Received by _____

> > > > >

CITATION

< < < < <

FILED
SEP 13 10:10:12
CLERK'S OFFICE

THE STATE OF TEXAS

To: SPELMAN, WILLIAM
2502 HARTFORD
AUSTIN, TX

Defendant, in the hereinafter styled and numbered cause:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. A copy of the petition accompanies this citation, in cause number 232261, styled

HERNANDEZ, ROBERT, Plaintiff vs.
SPELMAN, WILLIAM, Defendant

filed in County Court-At-Law No. 1 on SEPTEMBER 10, 1996.

Given under my hand and seal of Dana DeBeauvoir, County Clerk on SEPTEMBER 11, 1996.

County Clerk, Travis County, Texas
P.O. Box 1748, Austin, Texas 78767

By Deputy:

Plaintiff Attorney:

ROBERT R SMITH
1000 WEST AVE, STE 103
AUSTIN TX 78701



OFFICER'S RETURN

Came to the hand on the 13TH day of SEPTEMBER, 1996 at 9:00 o'clock A. M
executed at 2400 RED RIVER within County of TRAVIS at 10:00 o'clock A. M
on the 13TH day of SEPTEMBER, 1996, by delivering to the within named

WILLIAM SPELMAN, By Personal Service

U.T. SID RICHMOND HALL BLDG # 2.224

a true copy of this citation together with the accompanying copy of the petition having first attached such copy of such petition to such copy of citation and endorsed on such copy of citation the date of delivery.

To certify which witness my hand officially. CAVAZOS PRIVATE PROCESS SERVICE

GILBERT CAVAZOS

Private of TRAVIS County, Texas

By Deputy

AUTHORIZED SERVER

FEES PAID \$ 40.00

~ ~ ~ ~ NOTICE OF JUDGMENT ~ ~ ~ ~

DANA DEBEAUVOIR
COUNTY CLERK

P.O. Box 1748, Austin, TX 78767
1000 Guadalupe, Austin, TX 78701

OCTOBER 10, 1996

CAUSE NO. 232261
To: SPELMAN, WILLIAM
2502 HARTFORD
AUSTIN, TX

Cause No. 232261
County Court at Law No. 1
Case Style:
HERNANDEZ, ROBERT, Plaintiff
vs. SPELMAN, WILLIAM, Defendant

In accordance with the provisions of Rule 306a of the Texas
Rules of Civil Procedure, you are hereby notified that in
the above numbered and styled cause filed in said County
Court at Law of Travis County, Texas, a final judgment has
been signed and entered on *Oct. 9*, 1996.

Dana DeBeauvoir, County Clerk
Travis County, Texas

By Deputy: G CANTU
County Court at Law No. 1

NO. 232,261

96 OCT -9 PM 1:43

ROBERT HERNANDEZ,
D.B.A. RBH DIRECT
PLAINTIFF

V.

WILLIAM SPELMAN,
DEFENDANT

) IN THE COUNTY COURT AT LAW
)
)
)
) NUMBER ONE
)
)
) OF TRAVIS COUNTY, TEXAS

COUNTY CLERK
TRAVIS COUNTY, TEXAS

JUDGMENT

On the 9th day of October, came on to be heard the above-entitled and numbered cause wherein ROBERT HERNANDEZ, doing business as RBH DIRECT is plaintiff and WILLIAM SPELMAN is defendant. The plaintiff appeared in person and by his attorney of record, Robert R. Smith, and announced ready for trial. The defendant, although having been duly and legally cited to appear and answer, failed to appear and answer and wholly made default.

Citation was served according to law and returned to the clerk where it remained on file for the time required by law. The Court has read the pleadings and the papers on file, has taken testimony and heard arguments of counsel and is of the opinion that the allegations of the plaintiff's petition have been admitted or proven by good and sufficient evidence. Therefore, the Court finds that defendant is indebted to plaintiff in the sum of \$1,107.43, plus legal interest of \$55.37, and should recover a reasonable attorney's fee which the Court finds to be \$400.00.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that ROBERT HERNANDEZ, doing business as RBH DIRECT, have and recover of WILLIAM SPELMAN, the sum of \$1,107.43, prejudgment legal interest of \$55.37, attorney's fees in the amount of \$400.00, court costs in the amount of \$173.00, and postjudgment interest at a rate of 12% per annum from the date of judgment until paid.

Plaintiff is allowed such writs and processes as may be necessary in the enforcement and collection of this judgment.

SIGNED this 9th day of October, 1996 at 1:40 p.m.



JUDGE PRESIDING

00342 1308