

CAUSE NO. \_\_\_\_\_

STEVEN A. ROGERS, INDIVIDUALLY,  
AND ON BEHALF OF THE  
TURKEY LEG HUT & COMPANY, LLC

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IN THE DISTRICT COURT

V.

HARRIS COUNTY, TEXAS

NAKIA PRICE

\_\_\_\_\_ JUDICIAL DISTRICT

**PLAINTIFFS' ORIGINAL PETITION, APPLICATION FOR DECLARATORY  
JUDGMENT, APPLICATION FOR TEMPORARY RESTRAINING ORDER,  
AND APPLICATION FOR TEMPORARY INJUNCTION**

**A. Discovery Control Plan**

1. Plaintiffs intend to conduct discovery under Level 2 of the Texas Rules of Civil Procedure.

**B. Parties**

2. Plaintiff The Turkey Leg Hut & Company, LLC is a Texas Limited Liability Company.

3. Plaintiff Steven Rogers, is an individual residing in Houston, Harris County, Texas.

4. Defendant Nakia Price, is an individual residing in Houston, Harris County, Texas with a last known address of 17523 Sugar Pine Drive, Houston, Texas 77090.

**C. Jurisdiction & Venue**

5. Venue is proper in Harris County, Texas pursuant to Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code, because it is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.

6. Jurisdiction is proper in this Court because the amount in controversy is

within the Court's subject matter jurisdiction. The Court has personal jurisdiction over the Defendant because she is a natural person and citizen of Texas residing and working in Harris County, Texas.

7. Plaintiff Rogers has individual and derivative standing under Chapter 101 of the Texas Business Organizations Code. Plaintiff Rogers is a Managing Member of The Turkey Leg Hut & Company, LLC and holds a 29% Member's interest. Because Rogers has not breached the The Turkey Leg Hut & Company, LLC's Company Agreement and seeks to prevent irreparable injury caused by the ongoing theft, waste, and loss of company assets, Plaintiff Rogers fairly and adequately represents the interests of The Turkey Leg Hut & Company, LLC in enforcing its rights against the Defendant.

8. Plaintiffs seek monetary relief aggregating \$100,000.00 or more, including non-monetary relief.

#### D. Facts

9. The Turkey Leg Hut & Company, LLC ("TLHC"), is a Texas Limited Liability Company that owns and operates a popular restaurant known as The Turkey Leg Hut, located at 4830 Almeda Rd, Houston, Texas 77004. TLHC is a "closely held limited liability company" as the term is defined in Section 101.463(a) of the Texas Business Organizations Code and therefore the demand, good-faith determination, stay of proceedings, and dismissal-after-stay provisions of the Business Organizations Code do not apply. Plaintiff Rogers is one of two managing members of TLHC and has served in that capacity since August 2017. Plaintiff Rogers began his membership with a 15% member interest, but increased his membership percentage over time by using his personal funds to buyout other partners at the request of Defendant and to provide her

personal loans. By July of 2020, Plaintiff Rogers had acquired a 29% member interest in TLHC.

10. Defendant previously owned The Turkey Leg Hut located on Washington Avenue in Houston, Harris County, Texas. Due to personal issues the business was failing, so Plaintiff Rogers and other investors came in to save the business and invested thousands of dollars. Defendant invested \$500.00 plus "sweat" equity in the new Turkey Leg Hut. Plaintiffs and Defendant decided to open up a new location on Almeda Road, in Houston, Texas in August of 2017, Plaintiff Rogers had a huge role to play in the preparation for opening that new location. The Turkey Leg Hut located on Almeda Road opened up in December of 2017, and the business was and continues to be profitable. So profitable that the Defendant and her husband pay themselves \$6,000.00 per week through majority of the company's existence. Plaintiff Rogers and other shareholders rarely receive dividends and if they do, they are not equal to their percentage of ownership.

11. Defendant is and at all times pertinent to this petition, a managing member of The Turkey Leg Hut & Company, LLC. As a managing member of a LLC, Defendant owes the LLC and its other shareholders the fiduciary duties of loyalty and complete candor. As enumerated herein, Defendant and her husband have been diverting funds, customers, and supplies from TLHC in use for their own business in which Plaintiffs have zero stake. By doing this, Defendant has breached her fiduciary duties to the LLC, has engaged in self-dealing, and has tortuously interfered with the LLC.

12. Besides her dealings with TLHC, Defendant and her husband operate a fleet of food trucks and a catering business under the name "The Turkey Leg Hut". Plaintiffs have zero monetary stake in these food trucks or the catering business. Plaintiffs

discovered these other business dealings in April of 2018 and suspected Defendant was using The Turkey Leg Hut & Company, LLC's funds, supplies, and notoriety to operate. On December 24, 2019 Nakia Price created TLH Concessions, LLC to operate her food truck and catering business. Defendant uses TLHC's marketing platforms and boasts that they are associated directly with TLHC. See Social Media Posts, attached as Exhibit A. The food trucks are covered in Turkey Leg Hut advertisements and are easily confused as being associated with TLHC. *Id.*

13. Turkey Leg Hut is wildly popular and often has a long wait time for its customers, requiring customers to form a line around the premises. Customers tend to arrive to Turkey Leg Hut as early as three hours before TLHC opens in order to secure their spot in line. Defendant and her husband often tell potential Turkey Leg Hut customers to leave the line at Turkey Leg Hut and go to Defendant's food truck where they can avoid the long lines and eat quicker. See Houston Eater Article, attached as Exhibit B. Defendant is taking all the proceeds from the food trucks for herself. It is believed that these takings represent \$1,000,000.00 or more in estimated costs and loss of revenue to TLHC over the past 24 months.

14. The food sold at these food trucks is ordered and paid for by TLHC. The food sold at these food trucks is also prepared on BBQ pits which were paid for and are maintained by TLHC. The food sold at these food trucks is prepared on TLHC's premises by TLHC paid staff using TLHC supplies. Defendant must pay TLHC for the inventory used for their other ventures. Defendant must be enjoined and pay TLHC for these breaches, costs, rent, and past use of the premises for running her other business from the restaurant's premises without compensating TLHC.

15. On June 30, 2020, Defendant made a cash call to Plaintiffs requesting funds due to the financial strain COVID-19 has caused on the Turkey Leg Hut. See Cash Call Letter, attached as Exhibit C. In reviewing the Company's June 2020 Point of Sale report, TLHC made \$1,154,310.15 in net sales that month alone. Plaintiffs suspect that Defendant has been using money from TLHC to fund her personal projects which is causing the financial strain alleged in the Cash Call Letter dated June 30, 2020. The diverting of these funds is inconsistent with any type of company agreement in existence.

16. Plaintiffs further plead, that Defendant is committing fraud against the shareholders of TLHC. On December 7, 2019, Defendant requested Plaintiff Rogers pay to cover a portion of the attorney's fees for a prior lawsuit. The total amount of attorney's fees paid by TLHC investors was \$50,000.00. Plaintiff Rogers paid \$15,000.00 as requested to cover 29% of the fees, due to him having a 29% member interest in TLHC. However, according to documents in which Defendant attempts to buy out Plaintiff Rogers, Defendant alleges that Plaintiff Rogers now only owns a 21% member interest of TLHC. See May 29, 2020 Letter, attached as Exhibit D. The confusion for Plaintiffs continue, because in the June 30 cash call letter referenced above, Defendant states Plaintiff Rogers has only an 18.75% stake of TLHC. See Cash Call Letter, attached as Exhibit C. Plaintiffs believe that Defendant is purposefully defrauding members and other shareholders of the TLHC.

17. Plaintiffs seek a declaration from the Court that Plaintiff Rogers owns a 29% member interest in TLHC.

18. Pleading further, Defendant has possession of Individual Plaintiff, Steven Rogers's personal property. Steven Rogers purchased a 2017 Ford F-450 pick up truck at

the request of Defendant's husband. Defendant had the truck wrapped with TLHC advertisements. When Defendant decided she no longer had use for the truck and wanted to end her business dealings with Plaintiff Rogers, he asked her to return the truck or simply put the truck in her name and keep it. Plaintiff Rogers still has clear title to the 2017 Ford F-450 pick up truck. Defendant removed all TLHC advertisements from the truck and seemingly was going to return the truck to Plaintiff Rogers. However, when Plaintiff Rogers agreed to retake possession of the truck, Defendant continuously stalled and refused to return it. At the time of this filing, Plaintiff Rogers is still being deprived the use of his personal property because Defendant still has possession of the truck and is refusing to return it. As of July 2020, Plaintiff Rogers is still paying the note on the 2017 Ford F-450. Plaintiffs seek declaration from the Court that Plaintiff Rogers is the owner of the 2017 Ford F-450 and that it be returned to him immediately.

19. The filing of this action on behalf of the company is necessary in order to protect the rights of the company and its members. Should Plaintiffs prevail in this action, the relief obtained will be of substantial benefit to the company and its members.

20. Injunctive relief is necessary to protect Plaintiffs from Defendant's unfettered embezzlement and conversion of TLHC funds and property. Based on the foregoing, a Temporary Restraining Order and Injunction are necessary to maintain and protect TLHC's operational status quo, cash, credit, and assets from Defendant's unfettered embezzlement, conversion and encumbrances.

21. Plaintiffs have suffered and will suffer significant and irreparable injury. All conditions precedent to Plaintiffs' rights to recovery have occurred, accrued, been performed, or have otherwise been waived.

22. For the reasons stated herein, Plaintiff Rogers, individually and derivately on behalf of TLHC, brings the causes of action set forth below and sues for all damages, special and consequential damages, exemplary damages, declaratory relief, a full accounting and disgorgement of these embezzled Company funds and property, and for injunctive relief preventing Defendant from further looting and encumbering TLHC.

#### E. Conversion

23. In order to succeed on a conversion cause of action, a plaintiff must prove: (1) the plaintiff owned, possessed, or had the right to immediate possession of property; (2) the property was personal property; (3) the defendant wrongfully exercised dominion or control over the property; and (4) the plaintiff suffered injury. See *Lawyers Title Co. v. J.G. Cooper Dev., Inc.*, 424 S.W.3d 713, 718 (Tex.App.—Dallas 2014, pet. denied).

24. Based upon the foregoing facts stated above, Defendant has committed conversion against Plaintiff Steven Rogers. Steven Rogers owns the 2017 Ford F-450 truck, which can be proven by reviewing the title. *Herrera v. Gibs*, 499 S.W.2d 912, 914 (Tex.App.—El Paso 1973, no writ). Under Texas law, automobiles qualify as personal property. The Defendant wrongfully exercised domain or control over Plaintiff Rogers's personal property in a manner inconsistent with Plaintiff's rights. *Waisath v. Lack Store's*, 474 S.W.2d 444, 447 (Tex.1971). When demand for the property was made by Plaintiff Rogers, Defendant refused to return the truck and is still exercising wrongful dominion or control over it. The acts by the Defendant's conversion was the proximate cause of Plaintiff's injuries due to the loss of use of his Ford F-450 truck.

25. Plaintiff Steven Rogers brings this action under The Uniform Declaratory Judgments Act (Chapter 37 of the Texas Civil Practice and Remedies Code) asking the

Court to declare that Plaintiff Steven Rogers is the owner of the 2017 Ford F-450 truck and is entitled to immediate and permanent possession of the 2017 Ford F-450 truck.

#### **F. Breach of Fiduciary Duty and Self-Dealing**

26. As a managing member, Defendant owed Plaintiffs fiduciary duties. The managing members are obliged to act and/or give advice for the benefit of the LLC and its members. Defendant's actions mentioned above are a breach of her fiduciary duties to TLHC and to Steven Rogers. Additionally, the actions taken by Defendant to divert business away from TLHC to her personally owned business amounts to prohibited self-dealing, as she is seeking to redirect profits from TLHC to herself in a manner inconsistent with the company's obligations to Steven Rogers, who is also a company member, and other shareholders. These acts committed by Defendant constitute breaches of fiduciary duties owed by the Defendant to the Plaintiffs, resulting in damages to Plaintiffs and unlawful benefits to Defendant. The Defendant had fiduciary obligations and duties owed to Plaintiffs, including the duty to refrain from self-dealing, a duty of good faith, a duty of full disclosure, a duty of fairness and honesty in dealings and a duty to refrain from sharp dealing.

27. Plaintiffs have been damaged financially as a result of Defendant's breach of her fiduciary duties. Plaintiffs therefore request a declaratory judgment stating the Defendant breached her fiduciary duties to Plaintiffs by unlawfully diverting business away from TLHC. Further, Plaintiffs request the immediate dismissal of Defendant as a member manager of The Turkey Leg Hut & Company, LLC due to her breaches.

#### **G. Fraud**

28. Plaintiffs incorporate the allegations stated above as if fully restated below.



29. Defendant by means of a scheme designed to defraud shareholders of their investments by diluting membership interest percentages with no authority or reason to do so, and made misrepresentations and omissions of fact to Plaintiffs concerning the financial state of the business. Defendant makes cash calls and requests funds from shareholders stating the business is in deep financial crises; however, the only corporate books Plaintiffs were given do not reflect that the company is facing financial hardship.

30. When Defendant made such misrepresentations to Plaintiffs, Defendant knew the representations were false or she made the representations recklessly, as a positive assertion, and without knowledge of their truth.

31. Defendant made the misrepresentations with the intent that Plaintiff Steven Rogers and other shareholders act upon them and invest more money in TLHC for Defendant's use on her food trucks.

32. Plaintiffs reasonably relied upon Defendant's misrepresentations to Plaintiffs' detriment, incurring actual damages.

#### **H. Conspiracy to Commit Fraud**

33. Plaintiffs incorporate the allegations stated above as if fully restated below.

34. Defendant conspired with her husband to defraud Plaintiffs. There was a meeting of the minds between Defendant and her husband to defraud Plaintiffs, and the Defendant and her husband knew their actions would harm Plaintiffs, but acted to nonetheless cause injury and damage.

35. Defendant and her husband's fraudulent conduct is the type of conduct for which exemplary damages may be awarded. Plaintiffs seek and are entitled to exemplary damages from Defendant.

### I. Right of Accounting

36. Plaintiffs reallege and incorporate the factual allegations set forth above as if fully stated herein.

37. As a member of TLHC, Plaintiff Rogers has the statutory right to information regarding the business, affairs, and financial condition of TLHC.

38. In addition, Plaintiff Rogers has the common law right to an accounting for all financial decisions and funds received/taken/spent by Defendant during Plaintiff Rogers's time as a member.

39. The Court should order TLHC and the Defendant to an expedited production of their books and records for inspection regarding any and all payments to/from or agreements with TLHC, plus any and all food, wine and spirits, monies, supplies, furniture, fixtures, competing concepts, intellectual property, etc. removed or taken away from TLHC, plus the identities of all other parties who may have taken, received, and/or participated in any such takings or plans to take or use such funds or TLHC assets.

### J. Request for Attorneys' Fees

40. Plaintiffs re-allege and incorporate the factual allegations set forth above as fully stated herein.

41. Pursuant to Chapters 37 and 38 of the Texas Civil Practice and Remedies Code, Section 401.461 of the Texas Business Organizations Code, and all other statutory and/or common law causes of action sued upon, Plaintiffs seek all reasonable attorneys' fees because the Defendant's actions forced Plaintiffs to retain counsel and proceed with litigation.

### K. Declaratory Judgment

42. Plaintiffs re-allege and incorporate the factual allegations set forth above as if fully stated herein.

43. Pursuant to Chapter 37 of the Texas Civil Practice and Remedies Code, an actual and justiciable controversy exists among Plaintiff Rogers, TLHC, and Defendant regarding their respective rights, status, and legal entitlements or lack thereof, involving the Operating Agreement, Defendant's fiduciary and contractual obligations to Plaintiffs, and Defendant's conversion of Plaintiff Rogers's personal property. Accordingly, Plaintiffs request that this Court make judicial declarations that:

- (A) Defendant owed and owes fiduciary and contractual duties to TLHC and Rogers;
- (B) Defendant owes contractual and/or equitable payment obligations to TLHC and has materially breached these obligations by not paying or reimbursing TLHC;
- (C) Defendant materially breached her fiduciary duties to TLHC and Rogers;
- (D) Due to Defendant's material breaches Defendant is immediately dismissed as a member manager of TLHC;
- (E) As a result of Defendant's multiple fiduciary breaches, she has not performed and provided the necessary consideration for her membership interest in TLHC, and therefore Defendant has never been a vested member of The Turkey Leg Hut & Company, LLC;
- (F) Alternatively, because of Defendant's multiple fiduciary breaches, she has not performed and provided the necessary consideration to earn her \$12,000.00

per month salary, and therefore Defendant must pay restitution and otherwise disgorge all past and present salary payments back to The Turkey Leg Hut & Company, LLC;

- (G) As a result of Defendant's multiple breaches, Plaintiffs have suffered damages and injury for which Defendant is responsible and shall pay damages;
- (H) Plaintiff Rogers has 29% member interest in TLHC;
- (I) Defendant is responsible for paying all damages, restitution, and disgorging all fees, property (or the case equivalent of such property) back to TLHC and/or Rogers pursuant to the Operating Agreement, and all other common law causes and rights;
- (J) Plaintiffs are entitled to all their damages, necessary attorney's fees, injunctive relief, interest, and costs of court against Defendant for Plaintiffs' prosecution of this claim;
- (K) Plaintiff Rogers is the rightful owner of the 2017 Ford F-450; and
- (L) Plaintiff Rogers is entitled to the immediate return of his 2017 Ford F-450.

**J. Application for Temporary Restraining Order**

44. Plaintiffs re-allege and incorporate the factual allegations set forth above as if fully stated herein.

45. Based upon information and belief, Defendant is using TLHC funds, supplies, and staff to operate her food trucks. This is directly impacting TLHC's operating funds and shareholder accounts. Defendant has not been forthcoming with TLHC's business records. Defendant is refusing to return Plaintiff Rogers's personal property causing him injury.

Therefore, Plaintiffs seek a Temporary Restraining Order:

- (A) Restraining Defendant from distributing or otherwise disposing of revenue generated by TLHC;
- (B) Restraining all parties from using TLHC funds to pay for attorney's fees arising from this lawsuit and/or other related actions;
- (C) Requiring expedited production of all TLHC books and records for inspection by Plaintiffs;
- (D) Requiring the immediate return of Plaintiff Rogers's Ford F-450 truck; and
- (E) Removing Defendant from payroll.

46. It is probable that Plaintiffs will recover from Defendant after trial on the merits because Defendant clearly breached her fiduciary duties to Plaintiffs and is wrongfully possessing Plaintiff Rogers's personal property.

47. If Plaintiffs' application is not granted, harm is imminent because the proceeds from TLHC may be disposed of in an inappropriate and unlawful manner, and Plaintiff Rogers's truck will not be returned or paid for by Defendant.

48. The harm that will result if the temporary restraining order is not issued is irreparable because if the proceeds from TLHC are disposed of inappropriately, Plaintiffs will likely be unable to recover such funds once they are dispersed to Defendant. Further, Plaintiff Rogers will unlikely be able to recover his personal truck without direction from the Court.

49. Plaintiffs have no adequate remedy at law because damages are incalculable and Plaintiffs believe Defendant is insolvent.

50. Plaintiffs are willing to post bond.

**M. Request for Temporary Injunction**

51. Plaintiffs ask the Court to set their application for temporary injunction for a hearing and, after the hearing, issue a temporary injunction against the Defendant.

**N. Request for Permanent Injunction**

52. Plaintiffs ask the Court to set their request for a permanent injunction for a full trial and, after trial, issue a permanent injunction against Defendant.

**O. Damages**

53. As a result of Defendant's breach of fiduciary duty and self-dealing, Plaintiffs have suffered actual damages in the form of out-of-pocket expenses. As a result of Defendant's conversion Plaintiff Rogers has also suffered loss of use of his 2017 Ford F-450 Truck.

54. Under Section 38.001 of the Texas Civil Practice and Remedies Code and the Texas Declaratory Relief Act, Plaintiffs are entitled to recover their reasonable and necessary attorney's fees and costs associated with prosecuting this action.

**P. Exemplary Damages**

55. A plaintiff who successfully prosecutes a suit for fraud can recover exemplary damages under Section 41.003(a)(1) of the Texas Civil Practice and Remedies Code. Plaintiffs seek exemplary damages as provided for by Section 41.003 of the Texas Civil Practice & Remedies Code because the Defendant perpetrated a fraud upon and acted with malice with respect to Plaintiffs. The Defendant, with the intent to defraud or harm the Plaintiff, engaged in an outrageous course of conduct.

**Q. Conditions Precedent**

56. All conditions precedent to Plaintiffs' recovery has occurred or has been

performed as required by law.

R. Prayer

57. For these reasons, Plaintiffs pray that the Defendant be cited to appear and answer and, on final trial, that Plaintiffs be awarded a judgment against Defendant for the following:

- A. Temporary injunction;
- B. Permanent injunction;
- C. Temporary restraint;
- D. Declaratory judgment relief;
- E. Damages,
- F. Exemplary Damages;
- G. Attorneys' fees; and
- H. Costs of court and such other and further relief to which Plaintiffs may show themselves entitled.

Unofficial Copy Office of Marilyn Burgess District Clerk

Respectfully submitted,

MONSHAUGEN & VAN HUFF, P.C.

/s/ Albert T. Van Huff

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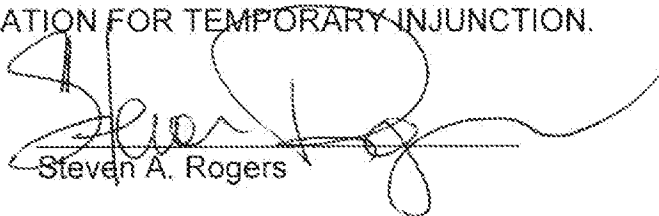
Verification

STATE OF TEXAS \*  
COUNTY OF HARRIS \*

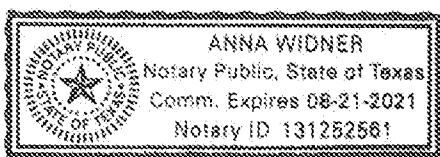
Before me the undersigned notary on this day personally appeared Steven A. Rogers who being duly sworn upon his oath stated as follows:


I am Steven A. Rogers. All of the statements in this Verification are true and correct and are based on my personal knowledge. I have read the foregoing PLAINTIFF'S ORIGINAL PETITION, APPLICATION FOR TEMPORARY RESTRAINING ORDER, APPLICATION FOR DECLARATORY JUDGMENT, AND APPLICATION FOR TEMPORARY INJUNCTION for a lawsuit by myself and The Turkey Leg Hut & Company, LLC against Nakia Price. I am familiar with the facts and events described in this lawsuit because of my involvement with The Turkey Leg Hut & Company, LLC as a managing member.

I hereby verify the contents of the PLAINTIFF'S ORIGINAL PETITION, APPLICATION FOR TEMPORARY RESTRAINING ORDER, APPLICATION FOR DECLARATORY JUDGMENT, AND APPLICATION FOR TEMPORARY INJUNCTION.

  
Steven A. Rogers

Subscribed and sworn to before me on the 7<sup>th</sup> day of July, 2020.



  
Notary Public