

CAUSE NO. 2021-26089

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| KENNETH MELBER, | § | IN THE DISTRICT COURT OF |
| | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | HARRIS COUNTY, TEXAS |
| | § | |
| | § | |
| F. KENNETH BAILEY, | § | |
| | § | |
| Defendant. | § | 281 st JUDICIAL DISTRICT |

DEFAULT JUDGMENT

Came on to be heard the above-entitled and numbered cause wherein Kenneth Melber (“Melber”) is Plaintiff and F. Kenneth Bailey, Jr. is Defendant. Melber appeared in person and by his attorney of record and announced ready for trial. F. Kenneth Bailey, Jr., although having been duly and legally cited to appear and answer, has failed to appear and answer and has wholly made default.

Citation was served on F. Kenneth Bailey, Jr. according to law and the return of service were returned to the Harris County District clerk where they have remained on file for the time required by law. The Court has read the pleadings and the papers on file and is of the opinion that the allegations contained in the Plaintiff’s Original Petition have been admitted and that the cause of action is liquidated and proven by instruments in writing. The Court has considered the Declaration of Kenneth Melber in support of Plaintiff’s claim for damages and has considered the Declaration of Robert J. Kruckemeyer in support of Plaintiff’s claim for attorneys’ fees. It is therefore

ORDERED, ADJUDGED and DECREED that the material allegations of Plaintiff's Original Petition be and the same are deemed admitted as F. Kenneth Bailey, Jr. that Melber have and recover of and from F. Kenneth Bailey, Jr. as follows:

Actual damages in the amount of \$1,041,179.13 as of August 4, 2022;

Pre-judgment interest through August 4, 2022, in the amount of \$364,124.66 with interest accruing thereafter through the date of judgment at the rate of \$338.43 per day.

Late fees in the amount of \$17,613.98.

Attorneys' fees in the amount of \$5,000.00 through the trial of this matter; an additional attorneys' fee of \$25,000.00 should this matter be appealed to the court of appeals and such appeal is unsuccessful; the additional sum of \$25,000.00 is awarded to Melber in the event that this matter is appealed to the Texas Supreme Court and appeal is unsuccessful;

IT IS FURTHER ORDERED that the judgment here rendered shall bear interest at the rate of eighteen percent (18%) from the date of judgment until paid.

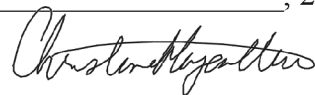
All costs of court expended or incurred in this cause are adjudged against F. Kenneth Bailey, Jr.

All writs and processes for the enforcement and collection of this judgment or the costs of court may issue as necessary.

All relief not expressly granted herein is denied.

SIGNED this _____ day of _____, 2021.

Signed:
5/4/2023



Judge Presiding

APPROVED AS TO FORM AND SUBSTANCE:

/s/ Robert J. Kruckemeyer _____

Robert J. Kruckemeyer

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ATTORNEY FOR PLAINTIFF

KENNETH MELBER