

IN THE DISTRICT COURT, HARRIS COUNTY

189th Judicial District

Robert J. Kruckemeyer)	MOTION TO STRIKE
)	PLAINTIFF'S FIRST
Plaintiff)	AMENDED PETITION
)	No. 2023-11266
)	
vs.)	
)	
Blogger Inc. D/B/A/, LAWIN)	
TEXAS.COM)	
)	
)	
Defendant)	
)	
)	
)	

MOTION TO STRIKE PLAINTIFF'S FIRST AMENDED PETITION

Defendants, Counter-Plaintiffs and Third-Party Plaintiffs Mark Burke, individually, and on behalf of Blogger Inc., and Joanna Burke ("The Burkes"), file this Motion to Strike for the following reasons;

TIMELINE OF EVENTS

On Feb 21, 2023, the Plaintiff's Original Petition And Application For Permanent Injunction [docketed](#).

On May 1, 2023, "Defendant's Original Answer and Jury Demand" was filed by Imposters and Co-Conspirators David Oubre and Jason Powers of Lewis Brisbois on behalf of Berkshire Hathaway Direct Insurance Company ("Imposters and Co-Conspirators") allegedly representing Blogger, Inc. without capacity, nor any documented authority to do so.

On May 11, 2023, Bob registered "The Kruckemeyer Law Firm" as a DBA in Harris County.

On May 30, 2023, "Defendant's Motion to Dismiss Pursuant to the Texas Anti-Slapp Law, Texas Civil Practice & Remedies Code 27.001 et seq." was filed by Imposters and Co-Conspirators David Oubre and Jason Powers of Lewis Brisbois on behalf of Berkshire Hathaway Direct Insurance Company ("Imposters and Co-Conspirators") allegedly representing Blogger, Inc. without capacity, nor any documented

authority to do so.

On Jun 5, 2023, “Plaintiff’s First Amended Original and Application for Permanent Injunction” [docketed](#), adding new parties. The causes of action remain the same.

On Jun 6, 2023, Imposters and Co-Conspirators file “Motion to Withdraw” with a hearing scheduled for July 25, 2023, walked back mid-afternoon the same day to a setting by submission (date, Jun 19, 2023).

On Jun 15, 2023, “Defendants Mark Burke and Joanna Burkes Original Answer and Jury Demand” and “ORIGINAL COUNTERCLAIM AND APPLICATION FOR PERMANENT INJUNCTION” by the real parties in interest docketed.

On Jun 26, 2023, Plaintiffs Notice of Dismissal of Joanna Burke without Prejudice filed.

On Jun 27, 2023, the “First Amended Counterclaim/Third Party Petition and Application for Permanent Injunction” by the real parties in interest docketed.

FACTS, ARGUMENT AND AUTHORITIES

Relying upon real parties in interest The Burkes appearance, pleadings including addendums, verifications, and declarations, the “Plaintiff’s First Amended Original and Application for Permanent Injunction” as docketed on Jun 5, 2023 should be stricken from the record and the complaint dismissed with prejudice.

In The Burkes pleadings, they assert debt collecting Texas Lawyer Robert Kruckemeyer (“Bob”) and Texas Lawyer Randall Sorrels (“Randy”) lack authority and capacity, along with David Oubre, Jason Powers, Lewis Brisbois and BHDIC.

In their pleadings, The Burkes specifically asked the court to set a hearing or rule on this matter. To date, the court has not set any hearings, requested briefing, nor released any Orders related to this civil action.

The Burkes contest the Plaintiff’s Amended Petition should be stricken. Whilst it is recognized in *Deadmon v. Dallas Area Rapid Transit*, 347 S.W.3d 442, 444 (Tex. App. 2011) that “an amended petition

supplants any earlier petition ”, citing to Tex. R. Civ. P. 65 may overcome The Burkes objection to Bob’s perjurious affidavit¹ as to his non-existent entity “The Kruckemeyer Law Firm” at the time of filing his verified Original Petition, and/or relying upon TEX. R. CIV. P. 28, it should be stricken and dismissed with prejudice for at least three reasons.

A comparison of the facts of each Petition confirms the only changes include the addition of; (i) new parties, namely Mark Burke and Joanna Burke; (ii) an updated signature page changing the original petition from “Pro Se” to “Attorneys for Plaintiff” (see side-by-side [image](#) comparison); (iii) the unchanged content of the affidavit, with the exception of the updated signature, date and notary, and (iv) the arguments in The Burkes counterclaim, including the “Actual Fraud” section. Relevant here is (ii), (iii) and (iv).

First, the underlying facts alleged in the Amended Petition remain

¹ See; Addendum K, section “Perjury”, Image No. 108883357; Exhibit: “Perjury & DBA Registration”.

the same, and taken as true, Bob has perjured himself because “The Kruckemeyer Law Firm” (“Firm”) did not exist until May 2023. Bob’s complaint revolves around his Firm’s debt collection practices, which did not legally exist at the time of the alleged defamatory article. See image version of Original Petition at 12, stating LIT’s article was published on Jun 22, 2022;

12. On June 22, 2022, LawIn Texas published an article on its Laws In Texas website. The headline reads: “Cowboy Lawyer Robert J. Kruckemeyer of The Kruckemeyer Law Firm Violate Texas Laws.” The sub-heading reads: “Lawyer Robert J Kruckemeyer has held a Texas Bar license for nearly 40 years. He is unlawfully filing for garnishment, and approved by judge.” (the “Article”). The byline for the Article reads that it was by: “justicefortexas.” A true and correct copy of the Article is attached hereto as Exhibit 1.

And then compare the content of the Amended Petition at 15;

15. On June 22, 2022, LawIn Texas and Burke published an article on the Laws In Texas website. The headline reads: “Cowboy Lawyer Robert J. Kruckemeyer of The Kruckemeyer Law Firm Violate Texas Laws.” The sub-heading reads: “Lawyer Robert J Kruckemeyer has held a Texas Bar license for nearly 40 years. He is unlawfully filing for garnishment, and approved by judge.” (the “Article”). The byline for the Article reads that it was by: “justicefortexas.” A true and correct copy of the Article is attached hereto as Exhibit 1. Upon information and belief, the author(s) of the Article was either MBurke, JBurke or both.

The Burkes interpretation is supported when applying the textual

interpretation, see; Tex. R. Civ. P. 93: “14. That a party plaintiff or defendant is not doing business under an assumed name or trade name as alleged.”; “4. That there is a defect of parties, plaintiff or defendant.”; “2. That the plaintiff is not entitled to recover in the capacity in which he sues, or that the defendant is not liable in the capacity in which he is sued.”; “1. That the plaintiff has not legal capacity to sue or that the defendant has not legal capacity to be sued.”. Additionally, further into the Amended Petition, at 18 D), Bob complains of LIT’s description – a “Rogue Debt Collection **Law Firm** in Houston” (emphasis added).

Whilst the LawsInTexas.com (“LIT”) article mentioned Bob, it is only in his ‘capacity’ as owner of “The Kruckemeyer Law Firm”, as Bob admitted in both affidavits, see; Addendum K, p. 3. Bob may amend his Petition, but the underlying facts have not changed. For those reasons, striking the Petition is warranted.

Second, the signature page in the Amended Petition alleges that Randy’s Firm is now lead counsel and Bob’s Firm is acting as joint counsel.

As pointed out in Addendum K, p. 14-16 this cannot stand, in law.

Third, relying upon the arguments in the counterclaim (Addendum K), actual fraud defeats an attempt to amend a Petition, see; *Muniz v. State*, 575 S.W.2d 408, 411 (Tex. Civ. App. 1979), and generally;

“An attorney must be held to a more strict standard than the layman because of the position of public trust which he enjoys. As such, his standard of conduct must be high. A lawyer assumes a position of responsibility to the law itself, and any serious disregard of the law by him or her is much more grave than that by the layman who may breach the law innocently or otherwise. A lawyer has always been regarded as an officer of the court. He is charged with obedience to the laws of this State and of the United States.”

This is further evidenced by Bob’s non-existent entity and failure to register “The Kruckemeyer Law Firm” under an assumed name is a violation, a misdemeanor in Texas Law.

See; *Seidler v. Morgan*, 277 S.W.3d 549, 555 n.3 (Tex. App. 2009);

“The Texas Business and Commerce Code contains a requirement in Texas that if an entity regularly conducts business under an assumed name, it must file a certificate with information about the business. TEX. BUS. COM. CODE ANN. §§

36.10, 36.11 (Vernon 2002) (violation is a misdemeanor (TEX. BUS COM. CODE ANN. § 36.26 (Vernon 2002))).”

Indeed, as stated in Addendum K, p. 3, “The Kruckemeyer Law Firm” did not exist until May 11, 2023, after the date this civil action commenced but before the real parties in interest, The Burkes responded, raising this issue for the first time.

Clearly, Bob was aware of his decades of non-compliance with Texas law and acted on his own initiative to belatedly correct the misdemeanor, however, that only affirms The Burkes arguments here.

See; *Pelletier v. Vict. Air Conditioning, Ltd.*, No. 13-20-00011-CV, at *26-27 (Tex. App. Jan. 6, 2022) (explaining moving of assets to avoid a judgment and/or garnishment is evidence of ‘actual fraud’). As outlined, the same ‘actual fraud’ applies to these proceedings.

REQUEST FOR A MOTION HEARING

The Burkes formally request a motion hearing be set. In anticipation, they will confer with the parties after obtaining dates two available dates

from the court, and upon agreement of the parties will notice the same formally on the docket.

CONCLUSION

The Burkes Motion to Strike Plaintiff's First Amended Petition should be GRANTED and the complaint dismissed with prejudice.

RESPECTFULLY submitted this 10th day of July, 2023.
I declare under penalty of perjury that the foregoing is true and correct.
This declaration under Chapter 132, Civil Practice and Remedies Code.



Mark Burke
State of Texas / Pro Se

46 Kingwood Greens Dr
Kingwood, Texas 77339
Phone Number: (346) 763-2074
Fax: (866) 705-0576
Email: browserweb@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing motion has been forwarded to Plaintiff/ Counter-Defendants / Third-Parties and counsel by electronic filing notification and/or electronic mail and/or facsimile and/or certified mail, return receipt requested, this the 10th day of July, 2023.

A handwritten signature in black ink that reads "Mark Burke". The signature is written in a cursive style with a large, sweeping initial "M".

Mark Burke
State of Texas / Pro Se

Automated Certificate of eService

This automated certificate of service was created by the e filing system. The filer served this document via email generated by the e filing system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 77331009

Filing Code Description: Motion (No Fee)

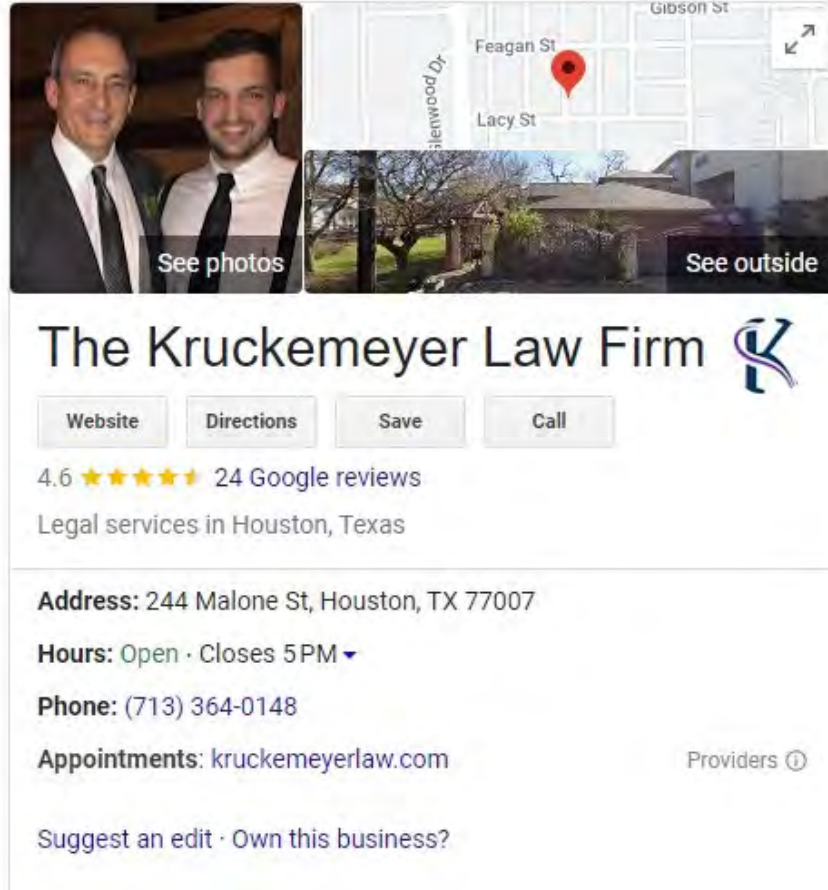
Filing Description: MOTION TO STRIKE PLAINTIFF's FIRST AMENDED PETITION

Status as of 7/10/2023 9:45 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Robert Joseph Kruckemeyer	11735700	bob@kruckemeyerlaw.com	7/10/2023 7:28:01 AM	SENT
Randall Sorrels	10000000	Randy@SorrelsLaw.com	7/10/2023 7:28:01 AM	SENT
Kathy Truong		Kathy.Truong@lewisbrisbois.com	7/10/2023 7:28:01 AM	SENT
David Oubre		David.Oubre@lewisbrisbois.com	7/10/2023 7:28:01 AM	SENT
Jason Powers		Jason.Powers@lewisbrisbois.com	7/10/2023 7:28:01 AM	SENT
Mark Burke		browserweb@gmail.com	7/10/2023 7:28:01 AM	SENT
Joanna Burke		joanna@2dobermans.com	7/10/2023 7:28:01 AM	SENT
Mark Burke		browserweb@gmail.com	7/10/2023 7:28:01 AM	SENT

EXHIBIT “Perjury & DBA Registration”



The Kruckemeyer Law Firm

4.6 ★★★★★ 24 Google reviews
Legal services in Houston, Texas

Address: 244 Malone St, Houston, TX 77007
Hours: Open · Closes 5PM ▾
Phone: (713) 364-0148
Appointments: kruckemeyerlaw.com Providers ⓘ

[Suggest an edit](#) · [Own this business?](#)

The image shows a Google Business Profile for 'The Kruckemeyer Law Firm'. At the top, there are two photos: one of two men in suits and another of the building exterior. To the right of the photos is a map snippet showing the location on a street grid with a red pin. Below the photos are buttons for 'See photos' and 'See outside'. The business name 'The Kruckemeyer Law Firm' is prominently displayed with a stylized 'K' logo. Below the name are buttons for 'Website', 'Directions', 'Save', and 'Call'. The listing includes a 4.6-star rating from 24 Google reviews and the category 'Legal services in Houston, Texas'. The address is listed as 244 Malone St, Houston, TX 77007. Hours are shown as 'Open' with a dropdown arrow indicating it closes at 5 PM. The phone number is (713) 364-0148. The website for appointments is kruckemeyerlaw.com, and there is a 'Providers' link with an information icon. At the bottom, there are links to 'Suggest an edit' and 'Own this business?'.



TENESHIA HUDSPETH
HARRIS COUNTY CLERK

HOME COURTS PROPERTY RECORDS

PERSONAL RECORDS

COMMISSIONERS COURT

LOG IN | NEW USER | FORGOT PASSWORD

Assumed Names

File Number

Firm Code

File Date (From)



File Date (To)

Business

Owner

SEARCH CLEAR

3 Record(s) Found.

File Number	Term	Name and Address	Status Type	Date	Pgs	Firm Code
C72009	10	Business: NEVERALONE STAFFING 265 El Dorado #2020 Webster TX 77598 Owner: Knuckemeyer Larry Elai 1328 Charadonay Houston TX 77077 Owner: Patterson Jaime Elai 265 El Dorado #2020 Webster TX 77598	Expired Unborn	05/28/2004	1	234982402
513362	10	Business: HOUSTON TJB & SPA 13843 Cherry Hollow Houston TX 77062 Owner: Knuckemeyer James	Expired Unborn	12/19/1991	1	209952098
1241732	10	Business: THE KRUCKEMEYER LAW FIRM 244 MALONE STREET HOUSTON TX 77007 Owner: KRUCKEMEYER ROBERT JOSEPH 16402 AGUSTA COURT SPRING TX 77379	Unincorporated	05/11/2023	1	ASN-2003-18692

- Marriage License
- Assumed Names
- Informal Marriages
- Uniform Commercial Code
- Vital Statistics
- Misc. Personal Records
- Amthal Brands
- Conflicts of Interest
- Campaign Finance Reports
- Public Notices
- Personal Finance Reports



OFFICE OF TENESHIA HUDSPETH
COUNTY CLERK, HARRIS COUNTY, TEXAS

1241732
05/11/2023 PERSONAL
\$17.00 ASSUM NTRY

ASSUMED NAME RECORDS
CERTIFICATE OF OWNERSHIP FOR
UNINCORPORATED BUSINESS OR PROFESSION

(1) NAME OF BUSINESS: The Kruckemeyer Law Firm
(2) ADDRESS OF BUSINESS: 244 Malone Street
(3) CITY: Houston (4) STATE: TX (5) ZIP CODE: 77007
(6) Number of years business will be active, not to exceed 10 years: 10

(7) Please select your type of Business:

Sole Proprietorship General Partnership Joint Venture
X Sole Practitioner Real Estate Investment Trust Joint Stock Company

(8) NAME OF OWNER (1): Robert Joseph Kruckemeyer
(first) (middle) (last)

(9) ADDRESS OF RESIDENCE: 16402 Augusta Court

(10) CITY: Spring (11) STATE: TX (12) ZIP CODE: 77379

(13) SIGNATURE OF OWNER [Signature] (14) Veteran Status

(15) NAME OF OWNER (2):
(first) (middle) (last)

(16) ADDRESS OF RESIDENCE:

(17) CITY: (18) STATE: (19) ZIP CODE:

(20) SIGNATURE OF OWNER [Signature]

STATE OF TEXAS }
COUNTY OF HARRIS }

(21) BEFORE ME, THE UNDERSIGNED AUTHORITY, on this day personally appeared Robert J. Kruckemeyer

known (or proven) to me to be the person whose name is subscribed in the above statement and acknowledged to me that they executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS 9 DAY OF May, 2023

Notary Seal: DONNA GUERRA, Notary Public, State of Texas, Comm. Expires 03-15-2024, Notary ID 12485819825
Signature of Notary or Deputy County Clerk: Donna Guerra

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

FILED
2023 MAY 11 AM 9:50

IN THE DISTRICT COURT, HARRIS COUNTY

189th Judicial District

Robert J. Kruckemeyer) CASE No. 2023-11266
)
 Plaintiff)
)
) vs.)
)
Blogger Inc. D/B/A/, LAWIN)
TEXAS.COM)
)
) Defendant)
)
)
)

ORDER

On this day came for consideration the MOTION TO STRIKE PLAINTIFF’S FIRST AMENDED PETITION filed by Defendants, Blogger Inc., Mark Burke and Joanna Burke.

The Court finds that after considering the Motions, responses, if any,

