

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

HPFS INC.,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
SAP TRANSPORTATION INC.	§	
	§	
Defendant.	§	_____ JUDICIAL DISTRICT

**PLAINTIFF’S ORIGINAL PETITION**

HPFS Inc. (“HPFS”), Plaintiff, complains of SAP Transportation Inc. (“SAP”), Defendant, as follows:

**Discovery Control Plan - Level Two (2)**

1. Pursuant to Rule 190.3 of the Texas Rules of Civil Procedure, this matter should be placed on level two (2) discovery plan as the amount in controversy exceeds \$50,000.

**Rule 47 Claim for Relief**

2. This is a cause of action for breach of contract arising out of the Defendant’s failure to pay the Plaintiff the amount owed to the Plaintiff pursuant to a contract. The damages sought are within the jurisdictional limits of this court. Pursuant to Tex. R. Civ. P. 47 Plaintiff seeks only monetary relief of \$250,000 or less, excluding interest, statutory or punitive damages and penalties, and attorneys’ fees and costs.

**Parties**

3. HPFS is a Texas corporation doing business in Houston, Harris County, Texas.

4. SAP is a Texas corporation whose principal place of business is Harris County, Texas. SAP may be served with process herein by serving its registered agent for service of

process, Anuj Shah, at 3707 Windmill Links Dr., Richmond, Texas 77407.

### **Venue**

5. Venue is proper in Harris County, Texas pursuant to Civ. Prac. & Rem. Code § 15.002 in that Harris County is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.

### **Factual Background**

6. On or about February 16, 2023, HPFS and SAP, entered into a services agreement whereby SAP engaged HPFS to assist SAP in recovering Employee Retention Credits (“ERC”) under the Coronavirus Aid, Relief, and Economic Security Act (“CARES ACT”). SAP represented to HPFS that SAP qualified for the ERC for the following quarters and dates associated with those quarters:

- 1<sup>st</sup> Quarter 2020 (March 13-March 31)
- 2<sup>nd</sup> Quarter 2020
- 3<sup>rd</sup> Quarter 2020
- 4<sup>th</sup> Quarter 2020
- 1<sup>st</sup> Quarter 2021
- 2<sup>nd</sup> Quarter 2021
- 3<sup>rd</sup> Quarter 2021

SAP engaged HPFS to prepare and file all required Internal Revenue Service (“IRS”) forms on behalf of SAP. HPFS performed the services requested by SAP.

7. For each ERC that was issued to SAP by the IRS, SAP agreed to pay HPFS a flat fee equal to 7.5% of the total aggregate value of such ERC (the “Fee”). SAP was obligated to pay the Fee to HPFS no later than 5 business days from the date on which SAP received a quarterly ERC from the IRS. Upon information and belief, SAP has received quarterly ERC’s

from the IRS. However, SAP has failed and refused, and continues to fail and refuse to pay HPFS the Fee.

8. By letter dated June 26, 2023 (the “Demand Letter”), HPFS made demand upon SAP to pay to HPFS the FEE that was then due and owing and to complete the IRS Form 8821 to allow HPFS to communicate directly with the IRS regarding the status of the ERC payments. HPFS demanded that the payment be made and that the IRS Form 8821 be returned to HPFS on or before July 10, 2023.

9. Although SAP made the payment demanded SAP refused to provide the executed form as demanded so that HPFS could confirm the amount of ERC payments made to SAP .

10. As of August 15, 2023, SAP owes HPFS at least \$96,568.59. SAP refuses to communicate with HPFS regarding the date that HPFS received the payments. Accordingly, HPFS is unable to calculate the interest accrual at this time.

11. All conditions precedent to HPFS’s right to enforce the terms of the Agreement and to obtain the relief requested herein have been performed or have occurred.

### **Causes of Action**

#### **A. Breach of Contract**

12. HPFS re-alleges the alleges set forth above.

13. HPFS and SAP into entered into an agreement whereby SAP agreed to pay HPFS for the services HPFS performed for SAP. HPFS performed the services and SAP became obligated to pay HPFS for the services. SAP’s failure to pay for the services according to the terms of the agreement constitutes a breach of contract as that term is defined in Texas law. Because of SAP’s breach of contract, HPFS has been damaged in an amount in excess of the

minimum jurisdictional limits of this Court.

**B. Attorneys' Fees**

14. HPFS re-alleges the allegations set forth above.

15. Because of SAP's breach of contract, HPFS has been required to hire The Kruckemeyer Law Firm to assist it in collecting the amounts due and owing. Demand having been made, HPFS is entitled to recover its reasonable and necessary attorneys' fees herein pursuant to Tex. Civ. Prac. & Rem. Code § 38.001 *et seq.*

Accordingly, HPFS prays that SAP Transportation Inc. be cited to appear and answer herein and that upon final trial hereof HPFS have judgment against and recover from SAP as follows:

- (1) Actual damages;
- (2) Prejudgment interest;
- (3) Post judgment interest;
- (4) Reasonable and necessary attorneys' fees;
- (5) Cost of suit; and
- (6) All other and further relief to which HPFS may be justly entitled.

Respectfully submitted,

/s/ Robert J. Kruckemeyer

Robert J. Kruckemeyer

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ATTORNEYS FOR PLAINTIFF

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling 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.

Robert Kruckemeyer on behalf of Robert Kruckemeyer  
Bar No. 11735700  
bob@kruckemeyerlaw.com  
Envelope ID: 78637876  
Filing Code Description: Petition  
Filing Description: Petition  
Status as of 8/17/2023 12:30 PM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Michael ThomasKruckemeyer		mike@kruckemeyerlaw.com	8/17/2023 12:23:46 PM	SENT
Robert JosephKruckemeyer		bob@kruckemeyerlaw.com	8/17/2023 12:23:46 PM	SENT

**CIVIL PROCESS REQUEST FORM**

REQUEST SERVICE TO BE ISSUED IN: *HPFS Inc. v. SAP Transportation Inc.*

CASE NUMBER: \_\_\_\_\_ CURRENT COURT: \_\_\_\_\_

INSTRUMENT TO BE SERVED: Plaintiff's Original Petition

SERVICE TO BE ISSUED ON: (please list exactly as the name appears on the pleading to be served)

1. NAME: SAP Transportation Inc.

ADDRESS: 3707 Windmill Links Dr.  
Richmond, Texas 77407

AGENT (if applicable) Anuj Shah

TYPE OF SERVICE

SERVICE BY:

CONSTABLE \_\_\_\_\_ NON-RESIDENT \_\_\_\_\_ OUT OF COUNTY X  
PUBLICATION \_\_\_\_\_ OTHER \_\_\_\_\_ (Secretary of State)

E-ISSUANCE X

ATTORNEY REQUESTING SERVICE:

NAME: Robert J. Kruckemeyer

TEXAS BAR NO. 11735700

MAILING ADDRESS: 244 Malone Street, Houston, Texas 77007

TELEPHONE: (713) 600-3473

## CIVIL PROCESS REQUEST FORM

REQUEST SERVICE TO BE ISSUED IN: *HPFS Inc. v. SAP Transportation Inc.*

CASE NUMBER: 2023-54171 CURRENT COURT: 281<sup>st</sup>

INSTRUMENT TO BE SERVED: Plaintiff's Original Petition

SERVICE TO BE ISSUED ON: (please list exactly as the name appears on the pleading to be served)

1. NAME: SAP Transportation Inc.

ADDRESS: 11310 Sandhaven Dr.  
Richmond, Texas 77407

AGENT (if applicable) Anuj Shah

TYPE OF SERVICE

SERVICE BY:

CONSTABLE  NON-RESIDENT  OUT OF COUNTY   
PUBLICATION  OTHER  (Secretary of State)

E-ISSUANCE

ATTORNEY REQUESTING SERVICE:

NAME: Robert J. Kruckemeyer

TEXAS BAR NO. 11735700

MAILING ADDRESS: 244 Malone Street, Houston, Texas 77007

TELEPHONE: (713) 600-3473

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Robert Kruckemeyer on behalf of Robert Kruckemeyer  
Bar No. 11735700  
bob@kruckemeyerlaw.com  
Envelope ID: 80062361  
Filing Code Description: Request  
Filing Description: Amended Filing  
Status as of 9/28/2023 4:06 PM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Michael ThomasKruckemeyer		mike@kruckemeyerlaw.com	9/28/2023 4:01:06 PM	SENT
Robert JosephKruckemeyer		bob@kruckemeyerlaw.com	9/28/2023 4:01:06 PM	SENT