

Cause No. _____

YAHIA ZARIR,	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
VS.	§	____ JUDICIAL DISTRICT
	§	
DRUSILLA W. BENNETT,	§	
Defendants.	§	HARRIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **YAHIA ZARIR**, Plaintiff, resident of Harris County, Texas,
complaining of **DRUSILLA W. BENNETT**, Defendant, upon whom service of citation may be
had as follows:

DRUSILLA W. BENNETT
5124 Ennis 2-A, Suite 4
Houston, Texas 77004

Venue is mandatory in Harris County, Texas since this suit involves real property.

TEX. CIV. PRAC. & REM. CODE ANN. § 15.011 (Vernon 2002).

The Plaintiff would respectfully show unto this honorable Court the following:

1. Pursuant to Texas Rule of Civil Procedure 190, discovery is intended to be conducted under Level 2 of said Rule.
2. Yahia Zarir owns a parcel of land behind 5124 Ennis Street, Houston, Texas.

This property is "land locked" and has no access from the public streets. There are no easements for access and for these reasons, YAHIA ZARIR brings this cause of action to recover an Easement by Necessity.

3. Plaintiff would show that the properties in question have the following characteristics:

- a. A unity of ownership of the two lots prior to the severance;
- b. The requested access is not a matter of convenience;
- c. The necessity existed at the time the two estates were severed.

Hamrick v. Bertram, 446 S.W.3d 337 (Tex. 2014).

4. Plaintiff would show that the parcel belonging to him currently was once part of the estate currently owned by DRUSILLA BENNETT.

5. This requested easement is not a matter of convenience. Plaintiff has no access whatsoever to the property without trespassing. This is not a mere convenience but in fact, is a necessity.

6. The necessity of an easement existed at the moment the parcel owned by Plaintiff was severed from the property now owned by DRUSILLA BENNETT.

7. As a result of the foregoing, an Easement by Necessity is formed and justified and Plaintiff requests that this Court grant an Easement by Necessity and that the Easement be thereafter recorded in the real property records.

8. Plaintiff seeks an easement for vehicle access to and from Ennis Street using the existing driveway on DRUSILLA BENNETT'S property and or any other reasonable means of access equivalent to a typical residential driveway sufficient for commercial delivery vehicles as well as passenger cars to access the property.

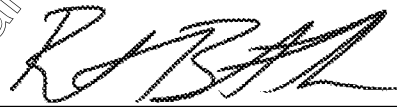
9. For these reasons, Plaintiff requests that this Court grant this Easement by Necessity and for any and such further relief at equity or at law.

10. **Rule 47 Statement of Claim for Relief:** YAHIA ZARIR seeks only declaratory relief and no money damages.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer herein, and that upon final trial hereof, Plaintiff recover his actual damages, and exemplary damages, within the jurisdictional limits of this Court, for costs of suit herein, for prejudgment and post judgment interest, and for such other and further relief, both general and special, at law or in equity, to which Plaintiff may show himself to be justly entitled.

The undersigned certifies compliance with Rule 21 and Rule 21(a), Texas Rules of Civil Procedure, with respect to the foregoing and the attached discovery which is incorporated by reference.

Respectfully submitted by:



ROBERT W. BERLETH
Texas Bar # 24091860
SDOT #: 3062288
510 Bering Circle, Suite 300
Houston, Texas 77057
E-mail: rberleth@berlethlaw.com
Tele: 713-588-6900
Fax: 713-481-0894

ATTORNEY FOR YAHIA ZARIR

Cause No. _____

YAHIA ZARIR,	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
VS.	§	____ JUDICIAL DISTRICT
	§	
DRUSILLA W. BENNETT,	§	
Defendants.	§	HARRIS COUNTY, TEXAS

TO: Defendant, **DRUSILLA W. BENNETT**, by attachment to the Original Petition and Citation.

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff, YAHIA ZARIR requests that you disclose, within 50 days of service of this request which is attached to the citation, the following information and material described in the following subsections of Tex.R.Civ.P. 194.2:

REQUESTS FOR DISCLOSURE

1. R. 194.2(a):

State the correct names of the parties to the lawsuit.

RESPONSE:

2. R. 194.2(b):

State the name, address, and telephone number of any potential parties.

RESPONSE:

3. R. 194.2(c):

State the legal theories and, in general, the factual bases for your claims or defenses.

RESPONSE:

4. R. 194.2(d).:

State the amount and any method of calculating economic damages.

RESPONSE;

5. R. 194.2(e).:

State the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

RESPONSE:

6. R. 194.2(f).:

For any testifying expert, state:

1. The expert's name, address, and telephone number;
2. The subject matter on which the expert will testify;
3. The general substance of the expert's mental impressions and brief Summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to your control, documents reflecting such information;
4. If the expert retained by, employed by, or otherwise subject to your control;
 - (A) produce all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
 - (B) produce the expert's current resume and bibliography.

RESPONSE:

7. R. 194.2(g).:

Produce any indemnity and insuring agreements as describes in Rule 192.3(f).

RESPONSE:

8. R. 194.2(h):

Produce any settlement agreements as described in Rule 192.0(g).

RESPONSE:

9. R. 194.2(I):

Produce any witness statements as described in Rule 192.3(h).

RESPONSE:

10. R. 194.2(j):

If this is a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, produce all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, any authorization permitting the disclosure of such medical records and bills.

RESPONSE:

11. R. 194.2(k):

If this is a suit alleging physical or mental injury and damages from the occurrence that is subject of the case, produce all medical records and bills obtained by you virtue of an authorization furnished by defendant.

RESPONSE:

12. R.194.2(l):

The name, address and telephone number of person who may be designated as a responsible third party.

RESPONSE:

Cause No. _____

YAHIA ZARIR, § IN THE DISTRICT COURT
Plaintiff, §
§
VS. § ____ JUDICIAL DISTRICT
§
DRUSILLA W. BENNETT, §
Defendants. § HARRIS COUNTY, TEXAS

PLAINTIFF'S FIRST SET OF INTERROGATORIES

TO: Defendant, **DRUSILLA BENNETT**, by attachment to the Original Petition and Citation.

Pursuant to Rule 197 of the Texas Rules of Civil Procedure, the following written Interrogatories are submitted by Plaintiff, to be answered by you separately and fully in writing, under oath. A copy of your answers must be served on the attorney for the party submitting these Interrogatories within fifty (50) days after service hereof.

In answering these Interrogatories, furnish such information as is available to you, not merely such information as is of your own knowledge. This means you are to furnish information which is known by or in the possession of you, your employees or agents, including your attorney or any agent or investigator of your attorney.

1. State the following:
 - a. Your full legal name:
 - b. The date of your birth:
 - c. Your residence address, and telephone number:
 - d. Your employer's name, address and telephone number
 - e. Your Social Security Number:

ANSWER:

2. Please indicate how long you have owned 5124 Ennis St.

ANSWER:

3. Please indicate whether you were personally involved in the severance of 5124B from 5124 Ennis St. and if so, please explain the purpose of the severance of the lot.

ANSWER:

4. Please state what you know about the severance of the lot.

ANSWER:

5. State how you gained ownership of 5124 Ennis indicating who you obtained the property from and what price, if any, was paid.

ANSWER:

6. Have you ever been convicted of any offenses, including traffic offenses, and those for which you were placed on probation, under the laws of any state and/or the U.S. Government? If yes, state the dates, nature of offenses and disposition of offenses.

ANSWER:

7. State the names, addresses, and work telephone numbers of all laypersons and persons who are or were skilled in land use, land development, land severance or land access used for consultation and who is not expected to be called as an expert witness at trial if the consulting expert's opinion or impressions have been reviewed by a testifying expert, and with respect to each consulting expert identify and state:

- a. their fields of expertise or area of lay experience;
- b. the subject matter on which the expert was utilized;
- c. the mental impressions and opinions held by the expert;
- d. the facts known to the expert (regardless of when the factual information was acquired) which relate to or form the basis of the mental impressions and opinions held by the expert.
- e. all tangible reports, physical models, compilations of data and other material to be used by the expert or prepared by the expert or for the expert in anticipation of a testifying expert's trial and deposition testimony, and, with respect to consulting experts, all materials prepared by the consulting expert, even if prepared in anticipation of litigation or for trial if the consulting expert's opinions or impressions have been reviewed by a testifying expert.

ANSWER:

8. What statements, if any, do you attribute to the Plaintiff?

ANSWER:

9. If you deny the Easement by Necessity is warranted, please explain why no easement should be granted.

ANSWER:

10. If you contend that an easement is not necessary, please explain in detail why you believe that and what evidence you have to prove no easement is necessary.

ANSWER:

Unofficial Copy Office of Marilyn Burgess District Clerk

Cause No. _____

YAHIA ZARIR, § IN THE DISTRICT COURT
Plaintiff, §
§
VS. § ____ JUDICIAL DISTRICT
§
DRUSILLA W. BENNETT, §
Defendants. § HARRIS COUNTY, TEXAS

PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION

Pursuant to Rule 196, Plaintiff requests that Defendant produce within (50) days after receipt of this Request, copies of those documents and things listed herein.

1. All appraisals of 5124 Ennis St before or after severance
2. All photographs, video recordings and slides taken of the properties at any time.
3. All deeds for 5124 Ennis St. in your possession.
4. All deeds for 5124A Ennis St. in your possession.
5. All surveys for 5124 Ennis St. in your possession.
6. All surveys for 5124A Ennis St. in your possession.
7. All deeds that involve or include the severance of 5124 Ennis St and the creation of 5124A Ennis St.
8. Any and all documents which support any defense you are making in this case.
9. Any and all communications between you and Plaintiff regarding 5124 Ennis St, 5124A Ennis St., or both.
10. Any and all communication between you and any appraiser regarding 5124 Ennis St, 5124A Ennis St., or both.
11. Any and all communication between you and any surveyor regarding 5124 Ennis St, 5124A Ennis St., or both.
12. Any and all communication between you and any realtor regarding 5124 Ennis St, 5124A Ennis St., or both.

13. Any and all documents that demonstrate or support your contention that no Easement by Necessity is warranted for 5124A Ennis St.

Unofficial Copy Office of Marilyn Burgess District Clerk