

CAUSE NO. 2023-08671

STEVEN A. ROGERS
Plaintiff,

v.

THE TURKEY LEG HUT & COMPANY, LLC,
NAKIA PRICE, AND LYDELL PRICE,
Defendants.

§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

127th JUDICIAL DISTRICT

PLAINTIFF'S MOTION TO ENFORCE AGREED JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT

COMES NOW, PLAINTIFF, STEVEN A. ROGERS, and files this Motion to Enforce Agreed Judgment, and in support thereof would respectfully show unto the Honorable Court the following:

I.

BACKGROUND FACTS

1. On or around September 3, 2021, Plaintiff and Defendants, former co-partners in a local business trade-named The Turkey Leg Hut, entered into a certain Redemption Agreement. *See* Exhibit "A," Redemption Agreement.

2. The Redemption Agreement contemplated that Defendants would pay an agreed cash consideration of **\$1,547,500.00 (One Million Five Hundred Forty-Seven Thousand and Five Hundred Dollars)** to Plaintiff in exchange for his rights and interests in The Turkey Leg Hut & Company, LLC. Pursuant to the Redemption Agreement, the parties agreed that in the event of the Defendants' payment default, Plaintiff will be entitled to the entry of an Agreed Judgment

against Defendants, consisting of the Purchase Price less the total amounts of payments made by the Defendants. *See* Exhibit “B,” Contingent Agreed Judgment attached to Original Redemption Agreement.

3. Defendants performed under the agreement, making the scheduled payments as agreed for over a year, but ultimately failed to make the scheduled payment in November 2022. Aside from making a partial payment toward the arrearage in January 2023, the Defendants have otherwise failed to comply with their obligations as agreed.

4. To date, the total payments made toward the redemption of Plaintiff—combined with the full amount of offsets against the total obligation—is **\$616,388.88**. As such, a remaining debt in the amount of **\$931,111.12** is owed and immediately collectable through the civil process, in accordance with the Redemption Agreement entered by all parties. *See* Exhibit “C,” Affidavit of Steven A. Rogers.

5. Defendants remain delinquent on the debt created by the Redemption Agreement. On February 9, 2023, after all Plaintiff’s attempts in resolving the matter amicably failed, Plaintiff initiated this lawsuit seeking to exercise the relief he is justly entitled.

6. Through the date of this filing, Defendants Lyndell Price and The Turkey Leg Hut & Company, LLC have failed to appear — which is not surprising considering the months both parties spent refusing to accept personal service. After

multiple unsuccessful personal service attempts and, for the corporation, attempts to serve via certified mail return receipt requested, the Plaintiff was forced to seek relief from the Court.

7. The Turkey Leg Hut LLC and Mr. Price are well beyond the deadline to file an answer in this matter and, therefore, in addition to enforcing the judgment against them, default judgment is also appropriate. The return of service shows a service date for (a) Turkey Leg Hut LLC on March 7, 2023, (b) Lyndell Price on April 7, 2023, and (c) Nakia Price on April 7, 2023.

8. Only Nakia Price has answered. See Exhibit "D". Ms. Price's attempt to rescind the Redemption Agreement and, subsequently, the Agreed Judgment is legally ineffective.

II. ARGUMENT AND AUTHORITIES

A. Agreed Judgment Should Be Enforced.

9. The Court has power to render an agreed judgment when the agreement is written, signed, and filed with the papers of the case as part of the record and when all terms of the agreement are definitely agreed on by the parties. Tex. R. Civ. P. 11; *Behrens v. Behrens*, 186 S.W.2d 697,698 (Tex. Civ. App. 1945). When rendering an agreed judgment between parties, the Court's interpretation is governed by the usual rules of contract interpretation with the primary concern

to ascertain and give effect to the parties' intentions. *Patel v. City of Everman*, 179 S.W.3d 1,9 (Tex. App. 2004); *Coker v. Coker*, 650 S.W.2d 391, 393 (Tex.1983).

10. Here, the Agreed Judgment between the parties is not ambiguous – the terms unequivocally establish the parties' intent that, upon payment default, an agreed judgment be entered entitling Plaintiff to the remaining debt amount. Therefore, Plaintiff requests this honorable Court to honor the signed Redemption Agreement by entering the Agreed Judgment on file with this Court.

11. After applying all legal credits and offsets, the amount left owing on the balance due on the Redemption Agreement is **\$931,111.12**. Accordingly, the liquidated amount in the Agreed Judgment should also be **\$931,111.12** and also include post-judgment interest at the legal rate, attorney's fees, and taxable costs of court (including receiver fees).

B. Default Judgment is Proper Against Lyndell Price and The Turkey Leg Hut LLC

12. The Court may enter a default judgment as to a party who fails to Answer in the designated time. Tex. R. Civ. P. 239.

13. Defendant Nakia Price's last known address is 1818 Arbor Street, Houston, Harris County, Texas, 77004. See Exhibit "E," Certificate of last known address - Nakia Price. Defendant Lyndell Price's last known address is 2806 Isabella Street, Houston, Harris County, Texas, 7004. See Exhibit "F," Certificate of last known address - Lyndell Price.

14. Defendants Lyndell Price and Nakia Price are not known to be members of the United States military. See Exhibit "G," Defendant Lyndell Price's Nonmilitary Status; Exhibit "H," Defendant Nakia Prince's Nonmilitary Status. Defendant The Turkey Leg Hut & Company LLC is not a natural person, and thus cannot be in the military or be covered by the Servicemembers Civil Relief Act.

15. No default judgment may be granted until proof of service has been on file with the clerk of the court for ten days. Tex. R. Civ. P. 107. Defendant The Turkey Leg Hut & Company LLC's return of service has been on file with this Court since June 16, 2023, and Defendants Nakia Price and Lyndell Price's returns of service have been on file since April 18, 2023. Therefore, the requirements for proof of service have been complied with as all returns of service have been on file for the requisite time.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays the Honorable Court ENTER the Agreed Judgment on file with this Court and AWARD Plaintiff damages amounting to a hearing to establish all damages Plaintiff sustained.

Respectfully submitted,

ROBERTS MARKLAND LLP

By: /s/ Sean A. Roberts

Sean A. Roberts

State Bar No. 00797328

Alejandra Muñoz Torres

State Bar No. 24108858

2555 North MacGregor

Houston, Texas 77004

Telephone: 713.630.0900

Facsimile: 713.630.0991

Email: sr@robertsmarkland.com

Email: am@robertsmarkland.com

Email: eservice@robertsmarkland.com

ATTORNEYS FOR PLAINTIFF

DESIGNATED E-SERVICE E-MAIL ADDRESS

The following is the designation of electronic service email address for the above attorney(s) for all electronically served documents and notices, filed and unfiled pursuant to Tex. R. Civ. P. 21(f)(2) and 21(a): eservice@robertsmarkland.com. This is the ONLY electronic service email address for the above attorney(s), and service through any other email address will be considered invalid.

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.

Michelle Ozuna on behalf of Sean Roberts
Bar No. 797328
mo@robertsmarkland.com
Envelope ID: 81360884
Filing Code Description: Motion (No Fee)
Filing Description: Motion to Enforce Agreed Judgment
Status as of 11/7/2023 8:26 AM CST

Case Contacts

| Name | BarNumber | Email | TimestampSubmitted | Status |
|-------------------------------|-----------|------------------------------|----------------------|--------|
| Michelle Ozuna | | mo@robertsmarkland.com | 11/6/2023 6:19:04 PM | SENT |
| eservice Roberts Markland LLP | | eservice@robertsmarkland.com | 11/6/2023 6:19:04 PM | SENT |
| Sean A.Roberts | | sr@robertsmarkland.com | 11/6/2023 6:19:04 PM | SENT |
| Alejandra Munoz Torres | 24108858 | am@robertsmarkland.com | 11/6/2023 6:19:04 PM | SENT |

Unofficial Copy Office of Maine Business District Clerk