

Cause No D-1-GN-16-002071

ROBERT LINDSEY DUNCAN	§	IN THE <u>98th</u> DISTRICT COURT
	§	
VS.	§	OF
	§	
CHERYL WHEELER SANDERS, and	§	
ROBERT REED SANDERS	§	TRAVIS COUNTY, TEXAS

**PLAINTIFF’S ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE**

**TO THE HONORABLE JUDGE OF THIS COURT:**

COMES NOW, ROBERT LINDSEY DUNCAN (“Plaintiff or Duncan”), and files this original petition and request for disclosure, against CHERYL WHEELER SANDERS (Aka Cheryl Marie Wheeler Sanders; Cheryl Wheeler Dixon; & Cheryl Marie Duncan) AND ROBERT REED SANDERS (“Cheryl, Reed, or Defendants”), and alleges as follows:

**Discovery-Control Plan**

1. Plaintiff intends to conduct discovery under level 2 of the Texas Rule of Civil Procedure 190.2.

**Claim for relief**

2. Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000. TEX. R. CIV. P. 47(C)(4).

**PARTIES**

3. Plaintiff, Robert Lindsey Duncan, is an individual, residing in Bastrop, County, Texas.
4. Defendant, Cheryl Wheeler Sanders, an individual, may be served with process at Defendant’s home in Travis County at 4801 Paraiso Parkway, Austin, Texas 78738.

5. Defendant, Robert Reed Sanders, an individual, may be served with process at Defendant's home in Travis County at 4801 Paraiso Parkway, Austin, Texas 78738.

### **Jurisdiction**

6. The Court has subject-matter jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements.
7. The Court has subject-matter jurisdiction because all of the acts and torts committed by the Defendants, occurred in Travis County.

### **Venue**

8. Venue is permissible under an action brought under the Texas Theft Liability Act. A suit under this chapter can be brought in the county where the theft occurred or in the county where the Defendant resides. CPRC 134.004.

## **COUNT 1 – BREACH OF CONTRACT**

### **A. TORTIOUS INTERFERENCE WITH EXISTING CONTRACT**

9. On October 25, 1999 Plaintiff and Defendant "Cheryl" entered into a valid and enforceable Prenuptial Agreement. This contract called for a delineation of Plaintiff's total assets upon divorce, with Defendant Cheryl agreeing to 20% of community property, and not seeking alimony.
10. In 2001 the Plaintiff started Genesis Today, Inc. ("Genesis Today"), and in 2006, started Genesis Pure, Inc. ("Genesis Pure"), where Defendant Cheryl

became a major shareholder of both companies due to the Prenuptial Agreement and subsequent divorce decree of 2009.

11. Defendant Cheryl, over the years, due to shares of stock given by the Plaintiff through the divorce settlement, became one of the single largest shareholder of Genesis Today and Genesis Pure, and was a Board observer then a Board member for both companies, and at various times was a spokesperson, employee, co-owner, and partner of these companies.
12. In 2009, as per the Plaintiff's and Defendant Cheryl's Divorce Decree, a substantial number of shares were transferred from the Plaintiff to Defendant Cheryl.
13. Defendant Cheryl breached her duties as a shareholder and board member and tortuously interfered with an existing contract.
14. On August 14, 2014, Defendant Cheryl wrote a malicious and disparaging letter about the Plaintiff and sent it to the Board of Directors of Genesis Today, Genesis Pure, non-board employees of both companies, and to various members of the Plaintiff's family.
15. Not only were there personal, false, and malicious accusations of a personal nature made about the Plaintiff, that Defendant Cheryl wrote in the letter, but also false accusations that the Plaintiff was committing corporate fraud by illegally manipulating corporate assets and funds.
16. This false and disparaging letter damaged the Plaintiff's reputation with these companies that he founded and was the single largest shareholder

of, damaged his reputation with some of the board members, the employees, and non-board members who either were sent the letter directly by Defendant Cheryl but also by those who heard about the letter through others, and could, or may have damaged his reputation with his family.

17. The false and malicious letter, written and sent by Defendant Cheryl damaged the Plaintiff's Goodwill with these companies, board members, employees, current customers, future customers, or potential investors, and the community at large.
18. The false and disparaging letter, written and sent by Defendant Cheryl damaged the reputation and Goodwill of these companies, and it's current and potential investors.
19. Through this letter, Defendant Cheryl, was attempting to extort money, shares of the company stock, and other consideration, from the Plaintiff, by threatening a lawsuit to "expose" her fabricated details, if her demands were not met.
20. Even through her own admission, that she made up these accusations because she was upset for personal reasons, Defendant Cheryl was paid off with a reward of additional stock from the Plaintiff.
21. Defendant Cheryl not only intentionally and willfully interfered with the decision making of the board, but also tortuously interfered with the second separation agreement which stated that she agreed to not

disparage, disclose, or slander the Plaintiff, and she clearly violated each of these provisions.

22. Defendant Cheryl intentionally and willfully interfered with the decision making of the Board of Directors of Genesis Today, by not only sending them this threatening and disparaging letter, but went to the business location in person, verbally assaulted a secretary in the lobby, threatened to disrupt a meeting of both companies Board of Directors, and made abusive threats against the Plaintiff, which was captured by a video monitor in the lobby and overheard by company employees.
23. The CEO of Genesis Today was forced to prepare a “trespass warning” letter and alert the local Sherriff’s Department, as well as Defendant Cheryl, that she could not trespass physically on the premises unless specifically invited, due to her actions.
24. On or about July 25, 2013, Defendant Cheryl tortuously interfered with an existing contract by attempting to extort \$1.5M (1,500,000.00) dollars from the Plaintiff under a written Promissory Note and Profit Sharing Agreement mutually signed by Defendant Cheryl and the Plaintiff.
25. As part of the divorce settlement, Defendant Cheryl in her own handwriting declared the Promissory Note null and Void, but later demanded the money back, and threatened to sue the Plaintiff if he did not pay the money back. Defendant Cheryl also told the Plaintiff that she had a lawyer on a contingency fee basis, who told her this was a “slam dunk case”.

26. When the Plaintiff sent Defendant Cheryl the written agreement with her own handwritten note on it, along with her signature, stating that the loan was null and void, Defendant Cheryl stated that “he won this one” but she “will get you on the next one”.
27. Approximately a year later, Defendant Reed attempted to extort the Plaintiff for the same null and void promissory note, by stating that if the Plaintiff did not give the Defendants \$8,000, Defendant Reed and Defendant Cheryl would file a statement and 1099c form with the Internal Revenue Service (IRS) that would falsely allege the Plaintiff owed taxes on the promissory note. On the very day Defendant Reed tried to extort money from the Plaintiff, Defendant Reed sent a draft letter he planned on sending to the IRS if his demands were not met. This letter stated that Defendant Cheryl “was remiss” in not filing the proper forms two and half years ago and needed to alert the IRS.
28. When the Plaintiff refused to be extorted and pay the Defendants and explained he would disclose to the IRS exactly what had transpired and not hide anything, they filed the false and malicious complaint and 1099c form with the IRS.
29. On or about April 2016, Defendant’s Cheryl and Reed interfered tortuously with an existing contract, by stealing a new Audi Q-5, that is wholly owned by the Plaintiff.

30. Defendants, in writing and through audio recordings, agreed to return the stolen automobile, only if the Plaintiff would pay them \$8,000, a further illegal attempt to extort money from the Plaintiff.
31. Plaintiff attempted on multiple occasions to retrieve his car. One of Plaintiff's attempts was to meet with a Senior Deputy with the Travis County Sheriff's Department who told him that they could just go get the vehicle. They both went to the Defendant's home to try to secure the possession of the car, but they could not find the car, and the Defendant's were not home.
32. After these multiple and un-successful attempts to obtain his stolen property, the Plaintiff was forced to file a claim with his insurance company and file a claim for Un-authorized use of a motor vehicle (UUMV-class C felony), and theft of property, against both Defendants with the Travis County Sheriff's Department. TEX. PENAL CODE TITLE 7, CHA. 31.
33. As further proof of tortuously interfering with a contract, the single largest IBO in Genesis Pure, through various verbal communications, stated to Defendant Cheryl that by airing malicious, damaging, and false personal issues about the Plaintiff, to employees, investors, and customers, she was ensuring that not only would there be a significant departure from existing employees and investors as well as Genesis Pure IBOs. Defendant Cheryl admitted that not only was she maliciously and

intentionally defaming the Plaintiff but that she was doing it because she was hurt.

**B. Tortious interference with prospective relations**

34. One of the Companies that both the Plaintiff and the Defendant Cheryl have a significant amount of shares in, is Genesis Pure, a Texas based Multi-level Marketing (“MLM”), structured company. The strategy behind MLM companies is the ability to sell and market directly to individuals who want to then become Independent Business Owners (“IBO”). This requires long-term business relationships with individuals as well as a very healthy prospective database of potential individuals who will be persuaded to the benefits of not only purchasing a product, but also becoming an actual owner of a home-based business.
35. The Plaintiff, who founded Genesis Pure at the time that Defendant Cheryl wrote and sent a disparaging, malicious and false letter about the Plaintiff to the Board and others, was the number one, key spokesperson of the company and known and respected by over 200,000 IBO’s worldwide.
36. Defendant Cheryl, through her actions of false, and malicious accusations both verbally and in writing, sabotaged the stream of potential buyers, by intentionally maligning the Plaintiff, who was the number one spokesperson, who founded, helped build, increased sales, and new IBO membership of the company.
37. Defendant Cheryl, on numerous occasions, which have been recorded, starting in August of 2013, began a campaign of slander, defamation of



character, and intentional interference of potential business, especially in regards to Genesis Pure, the MLM company, regarding the Plaintiff.

38. Defendant Cheryl was a hired spokesperson, major shareholder, public figure, IBO, expert nutritionist, and should not have been disparaging and maligning the Plaintiff openly, to employees and potential investors of the company, nor created a very toxic environment by admitted false accusations against the Plaintiff.
39. This behavior became so extreme that employees of both Genesis Today and Genesis Pure complained to the Plaintiff and asked him to request that Defendant Cheryl stop harassing, due to potential harm to the Plaintiff and the business's reputation and business prospects, and due to the harassment that the employees were experiencing.
40. Multiple recorded conversations between the Plaintiff and Defendant Cheryl show that the Plaintiff, at times, would plead with Defendant Cheryl to stop slandering his name and reputation. She continued.
41. As further harassment and extortion, Defendant Cheryl agreed through a "tolling agreement" with parties in a separate lawsuit, that both the Plaintiff and Defendant Cheryl were involved in, to testify and provide additional false information and accusations against the Plaintiff in exchange for money and a written assurance of no liability in this separate suit. This threat has been used by Defendant Cheryl, on numerous occasions, against the Plaintiff. Evidence in writing, found by the Plaintiff's daughter, and communicated to the Plaintiff by the

daughter, detailing this arrangement, was found on Defendant Cheryl's computer.

42. The Plaintiff spent years starting, cultivating, growing, and building these companies and his public reputation, that has been maliciously, intentionally, and irrefutably harmed, due to the jealousy and greed of the Defendants and their illegal and malicious conduct.

### **Count II - Defamation**

43. Defendant Cheryl provided a written statement to both boards of Genesis Pure and Genesis Today, as well as non-board members, employees, and various members of the Plaintiff's family. This statement accused the Plaintiff of false, malicious, defamatory, and vicious accusations, which defamed both the Plaintiff and Genesis Today and Genesis Pure.
44. Defendant Cheryl, verbally and in writing, intentionally defamed the Plaintiff with numerous co-workers, current business associates and new business potential for both Genesis Pure and Genesis Today.

#### **A. Slander & Libel**

45. Defendant Cheryl, through her letter she sent to both boards of Genesis Today and Genesis Pure, to non-board members, to employees, and to various family members of the Plaintiff, as well as verbal statements made by Defendant Cheryl, slandered and libeled the Plaintiff by verbally accusing him of marital infidelity, of intimidation and harassment, of perpetuating fraud against Genesis Pure and Genesis Today, and by making accusations that are criminal in nature, knowing them to be false.

46. Even after Defendant Cheryl tried to unsuccessfully recant some of her accusations, in order to extort additional shares of stock from the Plaintiff, however the reputation of the Plaintiff had already been damaged.
47. Defendant Cheryl agreed orally and in writing with a third party individual to provide additional false statements in a separate lawsuit she and the Plaintiff are involved in, if she would be paid, and if they would leave her out of the suit.
48. Defendant Reed defamed the Plaintiff by threatening and ultimately making false accusations to a government agency in order to attempt to extort money from the Plaintiff. Defendant Reed, in a later recorded conversation, admitted he was hurt and frustrated, but the damage to the Plaintiff had already been done. According to the Defendants, the false documents have already been filed with the IRS.

**C. Business Disparagement & injurious falsehood**

49. Defendant Cheryl, verbally and in writing, defamed the Plaintiff causing pecuniary loss in the form of loss of existing sales, loss of continued business dealings, and further expense to counteract the false accusations made by Defendant Cheryl, pertaining to his business dealings, to employees, to current and potential investors, to board members of Genesis Today and Genesis Pure, and to future business enterprises the Plaintiff is engaged in.

50. Due to the repeated attempts by the Defendants of harassment and attempts to extort money and other consideration from the Plaintiff, and his companies, the Plaintiff had to expend capital and time in the form of hiring experts, consultants, attorney's and press relations consultants to protect not only his public reputation and the capital and Goodwill that this reputation provides, but to protect the reputation and Goodwill of the companies he was a founder, and a major shareholder of, and their bottom line.
51. The Plaintiff had to further hire consultants, attorneys and auditors, due to Defendant Reed's threats and false statement to the IRS in an attempt to extort money from the Plaintiff.

**Count III - Breach of Fiduciary Duty**

52. Defendant Cheryl breached her fiduciary duty as a member of both the board of Genesis Today and Genesis Pure, by intentionally, maliciously, and falsely providing to other members of each board, non-board members and various family members of the Plaintiff, accusations about the Plaintiff, who was a board member of each company, a major spokesperson for the companies, and a public figure presenting various products to the public through TV, radio, seminars, and other media appearances, knowing that the accusations were untrue, in order to extort money from the Plaintiff, and cause harm to the Plaintiff's reputation, economic harm to the Plaintiff in lost business dealings, and causing the Plaintiff intentional emotional distress.

53. Defendant Cheryl's actions caused both businesses to expend their time and effort in ensuring employees were safe, after her verbal assaults in person, and by phone, caused the companies to have to halt their normal business activities to address what amounted to false accusations regarding fraud and criminal accusations against the Plaintiff, and caused harm to the reputation of both the Plaintiff and the companies.
54. Defendant Cheryl breached her fiduciary duty by verbally communicating private, personal, and sensitive, corporate board matters to employees within the companies, to non-board members, and to various family members of the Plaintiff.

#### **Count IV – Theft Liability Act**

55. Defendant's Cheryl and Reed tortuously stole personal property wholly owned by the Plaintiff, which is a 2015 Audi Q5, Model 8RBM74. In oral and written communications, which have been recorded, and well documented, they are attempting to extort \$8,000 in exchange for the car – payment of which was paid in full by the Plaintiff amounted to \$47,697.40. TEX. C. P. REMEDIES CODE 134.002(2) AND TEX. PEN. CODE 31.03.
56. The Theft of the Plaintiff's car is an actionable crime for Un-Authorized Use of a Motor Vehicle (UUMV) and is being pursued by the Travis County Sheriff's Department.
57. Title to the vehicle rests solely with the Plaintiff. Defendants have refused to turn over the vehicle and the Plaintiff is being forced to file a police report and an insurance claim for the stolen car.

58. The intention of the Defendants is to deprive the Plaintiff from use of his property, to extort money from him based upon written and oral communications that have been recorded and well documented.

**Count V - Conversion**

59. Defendants Cheryl and Reed have unlawfully detained and have stolen personal property from the Plaintiff, and the Plaintiff seeks to recover the property in addition to seeking damages for its unlawful detention.

60. Defendants have unlawfully detained a car that is wholly owned with title in the Plaintiff's name, and is being held in hiding, in an undisclosed storage facility, with access and possession solely with the Defendants. Insurance on the vehicle is under the Plaintiff's name. The Defendant's have unlawfully detained the vehicle and are seeking to extort \$8,000 from the Plaintiff, in exchange for returning the vehicle.

61. The Plaintiff seeks the vehicle returned along with damages for loss of use, damage to the vehicle and exemplary damages for attempting to extort the Plaintiff, and acting with malice. Plaintiff is also seeking pre and post judgment interest.

62. Defendant Cheryl is tortuously withholding the Plaintiff's investment in a privately held real-estate company called Rice Ranch located in California. Written and oral communications, which were recorded, and well documented, attest to this investment made wholly by the Plaintiff for \$275,000.00, but intended to be an investment for both Defendant Cheryl and the Plaintiff.

63. The Plaintiff is seeking the value of the investment plus interest and exemplary damages as this action was committed with malice.

**Count VI - Intentional Infliction of Emotional Distress**

64. The Plaintiff has suffered emotional distress due to the continued and unwarranted harassment by the Defendants seeking to extort money and other consideration from the Plaintiff.

65. Throughout the course of a few years, through recorded conversations, written letters, texts, emails, and other reliable evidence, Plaintiff was subjected to continued & extreme harassment and defamation of character, both to his business interests and to him personally.

66. Throughout the course of a few years, through recorded conversations, written letters, texts, emails, and other reliable evidence, Plaintiff was subjected to numerous attempts at extortion and harassment to the point of disparaging and falsely accusing the Plaintiff of fraud in business deals, but also personally attacking his family in vicious and manipulative ways. The Plaintiff has been forced to make a decision that he has had enough and will not continue with this harassment and extortion any longer.

67. The Plaintiff and his fiancé suffered extreme emotional distress when Defendant Cheryl threatened to stop or halt their upcoming wedding through false accusations that the Plaintiff was involved in criminal activity, and until the accusations were proven by the Plaintiff to be untrue, the wedding had to be postponed.

68. The emotional stress further intensified when Defendant Cheryl, attempted to coerce their daughter to lie to police and another State agency, and then along with the Travis County Sherriff's Department trespassed onto the Plaintiff's property in order to attempt to obtain personal property, believed to be the daughters. When Defendant Cheryl and the daughter realized the Plaintiff was not home, Defendant Cheryl, in the presence of a deputy for the Sheriff's Department, attempted to coerce the Plaintiff's daughter to throw a rock at the front door of the Plaintiff's home, break the glass, and unlawfully enter to retrieve her personal property. The deputy called the Plaintiff out of concern that Defendant Cheryl was coercing a minor to commit criminal activities.

**Jury Demand**

69. Plaintiff demands a jury trial and tenders the appropriate fee with this petition.

**Request for Disclosure**

70. Under Texas Rule of Civil Procedure 194, the Plaintiff requests that the Defendants disclose within 50 days of service of this request, the information or material described in Rule 194.2.

**Prayer**

71. For these reasons, the Plaintiff asks that the Court issue citation for the Defendants to appear and answer, and that the Plaintiff be awarded a judgment against the Defendants for the following:



- a. Actual Damages - under the causes of action of conversion, tortious interference with an existing contract, tortious interference with prospective relations, breach of fiduciary duty, and the Theft Liability Act.
- b. Direct Damages - under the causes of action of defamation, slander, libel, and business disparagement.
- c. Special Damages - under the causes of action of defamation, slander, libel, and business disparagement.
- d. Exemplary damages - under the causes of action of tortious interference with an existing contract, tortious interference with prospective relations, breach of fiduciary duty, conversion, defamation, slander, libel and business disparagement.
- e. Attorney fees - under the causes of action of conversion, defamation, slander, libel, tortious interference with an existing contract, tortious interference with prospective relations, and the Theft Liability Act.
- f. Damages for Intentional Infliction of Emotional Distress
- g. All other relief that the Plaintiff is entitled.
- h. Declaratory Judgment - ordering that the Defendants stop harassing the Plaintiff in order to extort money and other consideration.

**ATTORNEY FOR PLAINTIFF**

**The Silva Law Firm**

*Lara L. Silva*

---

**Lara L. Silva**

**Bar No. 24004777**

**702 Rio Grande**

**Austin, Texas 78701**

**512.799.5272 mobile**

**512.476.5588 office**

**512.276.6712 fax**

**[lara.silva@thesilvalawfirm.com](mailto:lara.silva@thesilvalawfirm.com)**

**[www.thesilvalawfirm.com](http://www.thesilvalawfirm.com)**