

NO. 1024

IN THE ESTATE OF	§	IN THE COUNTY COURT
	§	
IDA BALDWIN DENISON,	§	OF
	§	
DECEASED	§	STONEWALL COUNTY, TEXAS

DEFENDANT'S PLEA TO JURISDICTION

NOW COMES Defendant John Wayne Denison, individually and as Independent Executor of Estate of Ida Baldwin Denison, Deceased, in the above-entitled and numbered cause, and files this Plea to Jurisdiction, and shows the Court:

I.

Defendant claims this Honorable Court is without authority to determine the subject in controversy because Plaintiff's Petition shows on its face that the Court does not have subject matter jurisdiction.

1. Plaintiff has not asserted that the claims alleged are within the monetary jurisdictional limits of this court.

II.

Defendant claims this Honorable Court is without authority to determine the subject in controversy because Plaintiff's Petition submits fraudulent allegations that his causes of action are "appertaining to an estate" and "incident to an estate" in an effort to confer jurisdiction on this Court.

WHEREFORE, Defendant prays this Honorable Court will dismiss the Plaintiff's Petition, and for such other and further relief that may be awarded at law or in equity.

**DEFENDANT'S SPECIAL EXCEPTIONS TO
PLAINTIFF'S PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Defendant John Wayne Denison, individually and as Independent Executor of Estate of Ida Baldwin Denison, Deceased, and objects to the Plaintiff's Petition, as set forth herein.

I.

Defendant submits the following exceptions to Plaintiff's Petition:

1. Plaintiff's allegations are so general that Defendant does not have fair notice of the claim.
2. The pleadings for breach of duty and constructive fraud in paragraphs IV and V, do not plead all the elements necessary to support breach of duty and constructive fraud.
3. Plaintiff has not pled facts to confer jurisdiction upon this court.
4. In paragraphs IV, V, and VII, Plaintiff pleaded for unliquidated damages.

Defendant requests the Plaintiff to state the maximum amount of Plaintiff's damages.

WHEREFORE, Defendant John Wayne Denison, individually and as Independent Executor of Estate of Ida Baldwin Denison, Deceased, prays this Court will sustain the exceptions to the Plaintiff's Petition, and either order Plaintiff to replead or order such other relief as the Court deems appropriate.

DEFENDANT'S ORIGINAL ANSWER

NOW COMES Defendant, John Wayne Denison, individually and as Independent Executor of Estate of Ida Baldwin Denison, Deceased, named Defendant in the above-entitled and numbered cause, and files this Original Answer, and shows the Court:

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I.

GENERAL DENIAL

Defendant denies each and every allegation of Plaintiff's Original Petition, and demands strict proof thereof as required by the Texas Rules of Civil Procedure.

II.

VERIFIED DENIAL

A. There are other suits pending in this State between the same parties involving the same claims. Cause No. 4222-A in the 39th District Court of Stonewall County, Texas involves a variety of different suits filed by Plaintiff involving the same claims.

III.

AFFIRMATIVE DEFENSES

- A. Defendant claims Plaintiff's suit is barred by the doctrine of laches.
- B. Defendant claims Plaintiff's suit is barred by the statute of limitations.

IV.

TEX. R. CIV. PROC. 173 provides that the guardian ad litem fees shall be taxed as costs. Defendant requests that the Court tax the guardian ad litem fees as costs against Plaintiff and, in the alternative, that the Court approve his determination, pursuant to TEX. PROBATE CODE § 378B(a), that it would be just and equitable to allocate all fees and expenses of an attorney, commissions and expenses of a personal representative, court costs, and other expenses resulting from the above-referenced cause as being solely payable from that principal of the estate which belongs to the trust for the benefit of Bob Marshall Denison.

V.

Defendant has found it necessary to retain Isaac M. Castro and Vance Stanton, licensed attorneys, to represent him in this cause. Defendant requests that the Court find that he has acted in good faith in responding to the Plaintiff's Original Petition and grant him recovery of his attorneys' fees incurred.

PRAYER

Defendant prays the Court, and after notice and hearing or trial, enters judgment in favor of Defendant, awards Defendant the costs of court, attorney's fees, and such other and further relief as Defendant may be entitled to in law or in equity.

Respectfully submitted,

LAW OFFICE OF ISAAC M. CASTRO
212 South Central
PO Box 608
Hamlin, Texas 79520
Tel. (915)576-2797
Fax. (915)576-2799

By: 

ISAAC M. CASTRO
Texas Bar No. 03997450

Attorney for Defendant John Wayne Denison, as
Independent Executor of Estate of Ida Baldwin
Denison, Deceased

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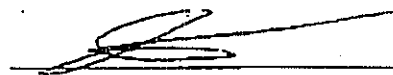
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STONEWALL COUNTY, TEXAS

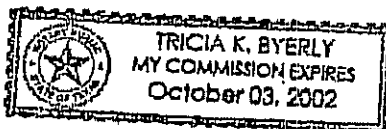
VERIFICATION

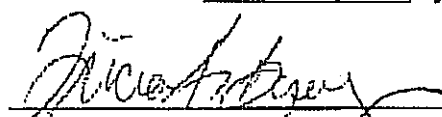
BEFORE ME, the undersigned authority, personally appeared Isaac M. Castro, who being duly sworn, deposed as follows:

"My name is Isaac M. Castro. I am at least 18 years of age and of sound mind. I am personally acquainted with the facts alleged in Defendant's Plea to Jurisdiction and Defendant's Verified Denial. I hereby swear that the statements in support of Defendant's Plea to Jurisdiction and Defendant's Verified Denial are true and correct."


Isaac M. Castro

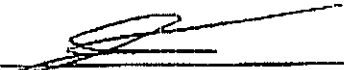
SUBSCRIBED AND SWORN TO BEFORE ME on October 29, 2001, by Isaac M. Castro.




Notary Public, State of Texas

CERTIFICATE OF SERVICE

I certify that on October 29, 2001 a true and correct copy of Defendant's Answer, Plea to Jurisdiction and Special Exceptions were served by facsimile transmission on SUZIE SHAY at 806/763-7536.



ISAAC M. CASTRO