

Bobbie Duke

**CAUSE NO. 16-14519**

<b>SAVANNAH ROBERTSON</b>	<b>§</b>	<b>IN THE DISTRICT COURT</b>
	<b>§</b>	
<b>vs.</b>	<b>§</b>	<b>MADISON COUNTY, TEXAS</b>
	<b>§</b>	
<b>HOPE B. MARTIN,</b>	<b>§</b>	
<b>CAMERON STOUTD, DVM, and</b>	<b>§</b>	
<b>TEXAS EQUINE HOSPITAL PC</b>	<b>§</b>	<b>278<sup>th</sup> JUDICIAL DISTRICT</b>

**PLAINTIFF SAVANNAH ROBERTSON'S  
FIRST AMENDED ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff SAVANNAH ROBERTSON, and files its First Amended Original Petition against Defendants HOPE B. MARTIN, DR. CAMERON STOUTD, and TEXAS EQUINE HOSPITAL PC; and in support thereof would respectfully show the Court the following:

**I.**  
**STATEMENT OF DAMAGES AND DISCOVERY LEVEL**

Plaintiff intends to conduct discovery under Level 3 of Rule 190.3 of the Texas Rules of Civil Procedure. The damages sought are within the jurisdictional limits of the court.

**II.**  
**PARTIES**

Plaintiff SAVANNAH ROBERTSON is an individual who resides in Kern County, California.

Defendant HOPE B. MARTIN is an individual residing in Huntsville, Madison County, Texas. She has already entered an appearance in this matter and as such, issuance of citation is not necessary. Service may be had by serving her attorney of record, Bennie D. Rush.

Defendant DR. CAMERON STOUDT, is a Doctor of Veterinary Medicine who may be served at her place of business, Texas Equine Hospital, 13688 South Highway 6, Bryan, Brazos County, Texas, 77807, or wherever she may be found.

Defendant TEXAS EQUINE HOSPITAL PC is a professional corporation veterinary clinic with its principal office located at 13688 South Highway 6, Bryan, Texas, 77807, and service may be had by serving its Registered Agent and President, Clifford M. Honnas at 8679 Calhoun RD, Bryan, Robertson County, Texas 77808, or wherever he may be found.

## I.

### **JURISDICTION AND VENUE**

Jurisdiction is proper in Texas because the parties entered into a contract in Texas, to be performed in whole or in part, in Madison County, Texas.

Venue is proper in Madison County, Texas because a substantial part of the conduct giving rise to this lawsuit occurred in Madison County, Texas, and a substantial part of the events and omissions which created this cause of action occurred in Madison County, Texas.

## II.

### **FACTS**

On or about May 13, 2016, Savannah Robertson entered into a contract with Michelle Alley and Defendant Hope B. Martin for the purchase of the performance barrel horse known as “Crown N Diamonds.” According to the bill of sale, Michelle Alley was acting as the agent for horse owner, Hope B. Martin. Additionally, Savannah Robertson consulted Defendant Cameron Stoudt, DVM, with Texas Equine Hospital to conduct a Pre-Purchase Report on the horse prior to purchase. Relying on Defendant Cameron Stoudt, DVM’s report, Savanna Robertson believed the horse was sound and fit for performance purposes. Shortly thereafter purchase and execution of the contract, Savannah Robertson discovered that the horse was not sound, as its patella

locked up in its left rear leg, a condition that rendered it lame and unfit for barrel racing or any other performance purpose. As such, Savannah Robertson notified both Michelle Alley and Hope B. Martin of their DTPA violations based on the deceptive sale of the wholly unfit performance horse. Further, it was learned after the sale that Defendant Cameron Stoudt, DVM had previously seen and treated the horse on a number of occasions, including multiple injections for the stifle lock issue, knew the horse was unfit as a performance horse, yet wholly failed to disclose same. At all times material herein, Defendant Cameron Stoudt, DVM, was acting in the course and scope of her employment with Defendant Texas Equine Hospital PC.

### **III. CAUSES OF ACTION**

#### **A. CAUSES OF ACTION AGAINST HOPE B. MARTIN**

##### ***DTPA Violations***

SAVANNAH ROBERTSON complains of HOPE B. MARTIN and would show that HOPE B. MARTIN violated the Texas Deceptive Trade Practices Consumer Protection Act (“DTPA”) under Section 17.46 of the Texas Business and Commerce Code. Specifically, HOPE B. MARTIN committed the following violations knowingly and intentionally, upon which SAVANNAH ROBERTSON relied to her detriment, and which are producing causes of damages:

1. HOPE B. MARTIN represented that the performance barrel horse had characteristics, uses, benefits, and qualities which it did not; and
2. HOPE B. MARTIN failed to disclose information concerning the performance barrel horse which was known at the time of the transaction and such failure to disclose

such information was intended to induce SAVANNAH ROBERTSON into a transaction in which she would not have entered had the information been disclosed.

On September 30, 2016, SAVANNAH ROBERTSON provided written notice to HOPE B. MARTIN advising her of SAVANNAH ROBERTSON'S specific complaints and the amount of damages, including reasonably attorneys' fees, incurred by SAVANNAH ROBERTSON as of the date of the letter. A copy of this written notice was previously provided and is part of the Court's file.

As a result of HOPE B. MARTIN'S knowing conduct, SAVANNAH ROBERTSON has suffered economic damages in an amount within the jurisdiction limits of this Court, for which it now sues, including, but not limited to, the original purchase price of the horse, the costs of all veterinarian exams, transportation and boarding costs, and all other costs associated with the sale and purchase of the horse. In addition, as a result of HOPE B. MARTIN'S knowing conduct, SAVANNAH ROBERTSON has suffered mental anguish damages. Accordingly, SAVANNAH ROBERTSON now sues for her actual and incurred damages, mental anguish and treble damages as allowed by law.

## **B. CAUSES OF ACTION AGAINST DR. CAMERON STOUDT**

### **Negligence**

#### ***Negligent Misrepresentation***

Prior to SAVANNAH ROBERTSON'S purchase of the performance barrel horse, she consulted Defendant DR. CAMERON STOUDT, DVM, who is an experienced veterinarian in the Brazos Valley region, to assess the horse's health, both present and future soundness, and any abnormalities that may adversely affect the horse's ability to perform for the sole reason of purchase. Defendant DR. CAMERON STOUDT, DVM, made negligent misrepresentations to

Plaintiff regarding the horse's health, soundness, medical conditions, and ability to perform. Defendant's misrepresentations supplied false information to Plaintiff upon which Plaintiff relied. Defendant breached its duty by not exercising reasonable care or competence in obtaining or communicating this information to Plaintiff. Plaintiff justifiably relied on the misrepresentations and as a result suffered damages.

***Negligent Breach of Standard of Care***

As an experienced Doctor of Veterinary Medicine in the Brazos Valley, Defendant owed a specific veterinarian standard of care to Plaintiff. Specifically, Plaintiff was required to conform to the standard of care applicable to a veterinarian of ordinary skill and care practicing in the Brazos Valley area, with a focus on equine practice. Defendant breached its duty to Plaintiff by wholly failing to disclose her previous treatment of the horse, by failing to disclose that the horse was not sound, as its patella locked up in its left rear leg, a condition that rendered it lame and unfit for barrel racing or any other performance purpose. Plaintiff relied on Defendant's Pre-Purchase Assessment and Report in its decision to purchase the horse and enter into the contract with Co-Defendants MICHELLE ALLEY and HOPE B. MARTIN. Defendant's breach of the standard of care applicable to veterinarians, with a practice focusing on equine health, was a proximate cause of the damages to the Plaintiff.

***Respondeat Superior/Vicarious Liability***

All of the acts and omissions of Defendant DR. CAMERON STOUTT, DVM, accompanied of occurred while she was in the course and scope of her employment with Defendant TEXAS EQUINE HOSPITAL. As such, pursuant to Texas law, Defendant TEXAS EQUINE

HOSPITAL is directly liable to the Plaintiff for the acts and omissions of Defendant DR. CAMERON STOUUDT, DVM and the damages proximately caused thereof.

#### **IV.** **DAMAGES**

##### ***DTPA Violations***

As for the actions of Defendant Hope Martin, Plaintiff is entitled to recover her actual damages, mental anguish for the knowing and/or intentional acts, attorneys' fees and treble damages pursuant to the Texas DTPA pursuant to Chapter 17 et seq of the Texas Business and Commerce Code. More specifically, Plaintiff is entitled to recover her purchase price of the horse, expenses incurred in the transaction, expenses and upkeep of the horse since the date of the purchase and lost profits and business opportunities for having a horse that was unfit for its particular purpose, to wit, a barrel horse. Plaintiff also seeks a fair and reasonable sum to be determined by the jury for her mental anguish associated with the sale of the unfit horse. Plaintiff seeks trebling of these damages, pursuant to the penal provisions of the DTPA, for the knowing and/or intentional misrepresentations made by Defendant Martin. Plaintiff is entitled to recovery of these reasonable attorney's fees by virtue of section 17.50(d) of the Texas Business and Commerce Code and 38.001 of the Texas Civil Practices and Remedies Code. Finally, Plaintiff seeks recovery of pre and post judgment interest, and reasonable and necessary fees for expert witnesses, copies of depositions and costs of court, as authorized by law.

##### ***Negligence***

As a proximate cause of the various negligent acts of Defendant Stouudt and Defendant Texas Equine Hospital, by and through the acts of Defendant DR. CAMERON STOUUDT, DVM,

Plaintiff has suffered actual damages, for which it now sues. Both Defendant DR. CAMERON STOUUDT, DVM and Defendant TEXAS EQUINE HOSPITAL are liable for the actual damages sustained by Plaintiff, including, but not limited to, her purchase price of the horse, expenses incurred in the transaction, expenses and upkeep of the horse since the date of the purchase and lost profits and business opportunities for having a horse that was unfit for its particular purpose, to wit, a barrel horse. Finally, Plaintiff seeks recovery of pre and post judgment interest, and reasonable and necessary fees for expert witnesses, copies of depositions and costs of court, as authorized by law.

## **VII.** **JURY DEMAND**

Plaintiff has previously demanded a trial by jury for which the required fees have been paid.

## **PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff SAVANNAH ROBERTSON, respectfully prays that Defendants, HOPE B. MARTIN, DR. CAMERON STOUUDT, DVM, and TEXAS EQUINE HOSPITAL PC be cited to appear and answer herein.

Plaintiff prays that upon final hearing of the cause, judgment be entered for the Plaintiff and against the Defendants for damages in an amount within the jurisdictional limits of the Court, together with pre-judgment interest at the maximum rate allowed by law, post-judgment interest at the legal rate, costs of court, reasonable and necessary attorneys' fees and other such and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

**MCMAHON SUROVIK SUTTLE, P.C.**

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BY: /s/ Robert Wagstaff

**ROBERT B. WAGSTAFF**

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ATTORNEYS FOR PLAINTIFF

SAVANNAH ROBERTSON

**CERTIFICATE OF SERVICE**

This is to certify that a true copy of the above and foregoing instrument was forwarded to all attorneys of record on this 3<sup>rd</sup> day of November, 2017, in accordance with the Texas Rules of Civil Procedure.

/s/ Robert B. Wagstaff

**ROBERT B. WAGSTAFF**