

CAUSE NO. 2018-0138M-CV

RIETA DUFURRENA, BRANDON	§	IN THE DISTRICT COURT OF
DUFURRENA AND EDWARD	§	
DUFURRENA,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	MONTAGUE COUNTY, TEXAS
	§	
DONALD EUGENE VOGEL,	§	
JANIE VOGEL AND JANDON, LTD.	§	
	§	
Defendants.	§	97 th JUDICIAL DISTRICT COURT

PLAINTIFFS' ORIGINAL PETITION FOR DECLARATORY JUDGMENT

Now come Plaintiffs Rieta Dufurrena, Brandon Dufurrena and Edward Dufurrena (hereinafter referred to as "Plaintiffs"), and file this Original Petition against Defendants Donald Eugene Vogel, Janie Vogel and Jandon, Ltd. (hereinafter referred to as "Defendants" or "the Vogels") asserting a cause of action for declaratory judgment regarding the interpretation of certain contracts and related documents, attached hereto as Exhibits A, B and C, and in support of which Plaintiffs respectfully show the following:

I.

Discovery Control Plan & Request for Disclosure

1. Plaintiffs intend to conduct discovery in this case under Level 2 of the Discovery Control Plan, Rule 190.3, of the Texas Rules of Civil Procedure ("TRCP").
2. Pursuant to Rule 194 of the TRCP, Defendants are requested to disclose within 50 days of service of this request, the information or material described in Rule 194.2.

II.

Parties

3. Plaintiff Rieta Dufurrena may be served through her undersigned counsel.
4. Plaintiff Brandon Dufurrena may be served through his undersigned counsel.
5. Plaintiff Edward L. Dufurrena may be served through his undersigned counsel.
6. Defendant Donald Eugene Vogel is an individual who may be served at 389 Littlefield Road, Saint Jo, Montague County, Texas 76265.
7. Defendant Janie Vogel is an individual who may be served at 389 Littlefield Road, Saint Jo, Montague County, Texas 76265.
8. Defendant JANDON, Ltd. is a Texas Limited Partnership that can be served through its registered agent, Donald Eugene Vogel, 389 Littlefield Road, Saint Jo, Montague County, Texas 76265.

III.

Jurisdiction

9. This Court has jurisdiction over this case because Defendants are residents of Montague County, Texas. The Court has subject matter jurisdiction over this matter. The claims herein are sufficient to confer jurisdiction pursuant to Texas Civil Practice and Remedies Code § 37.003. The Court also has personal jurisdiction over Defendants.

IV.

Venue

10. Venue is proper in Montague County because Defendants maintain their primary residence and/or principal office in said county.

V.

Facts

11. On or about September 27, 2017, Defendants began a suit against Edward L. Dufurrena styled *Donald Eugene Vogel and Janie S. Vogel v. Edward L. Dufurrena*, Cause No. CV17-00588 in the 235th Judicial District Court of Cooke County, Texas (“the Lawsuit”). On October 20, 2017, Edward L. Dufurrena and Shona Dufurrena filed an answer and counterclaim in said litigation. Later, on December 11, 2017, Donald Eugene Vogel, Janie Vogel joined Brandon Dufurrena regarding the ownership of a certain horse.

12. In the Lawsuit and publicly, the Vogels stated that they owned a part of three horses, which were Stevie Rey Von, Creyzy Train and Auspicious Cat. They cast further doubt on the ownership history of two more horses, which were Ozzum Man and Whata Sneaky Cat, although they did not assert current ownership in the Lawsuit.

13. All issues were settled between the Vogels and the Dufurrenas who were parties to the Lawsuit. Although the Vogels, Ed Dufurrena, Shona Dufurrena and Brandon Dufurrena entered into a settlement agreement, Plaintiff Rieta Dufurrena did not participate in the Lawsuit or the Release (Exhibit A).

14. As the Lawsuit was settled, and the Vogels bought certain horses, namely Stevie Rey Von, Creyzy Train and Auspicious Cat. Plaintiffs have attached said Bill of Sale (Exhibit B). The Vogels bought all three horses for the sum of \$1,150,000.00 as evidenced by Exhibit B.

15. In connection with the settlement, and to minimize the damage done by their allegations disputing the AQHA ownership records of the horses, the Vogels executed a Statement Regarding Horse Ownership History, a copy of which is attached hereto (Exhibit C). Said document

contained the Vogels' statement acknowledging and confirming the American Quarter Horse Association ("AQHA") records of the ownership of 5 horses, which they no longer disputed.

16. Subsequently, and after executing Exhibits A, B and C, the Vogels continued to circulate statements and documents containing allegations of horse ownership contrary to AQHA records and inconsistent with their statement acknowledging and confirming AQHA records.

17. The validity of the statement by the Vogels regarding the ownership of five horses which were the subject of the Lawsuit has been called into question, and, on information and belief, the Vogels have continued to make allegations of ownership that were inconsistent with AQHA records and the statements made in Exhibit C. This has necessitated Plaintiffs herein to request a declaratory judgment on the documents signed by the Vogels on February 7, 2018, setting out the ownership of these horses.

18. The Vogels' conduct in perpetuating their previous allegations is detrimental to all of the Plaintiffs and damaging their livelihood. Since all of the documents attached hereto as Exhibits A, B and C were executed contemporaneously, the Vogels' failure to honor their acknowledgment, confirmation and withdrawal of any dispute as to the AQHA records may constitute a breach of the agreements entered into on February 7, 2018, and before.

19. Pursuant to the Uniform Declaratory Judgment Act, Plaintiffs request that this Court construe the provisions of these contracts between Plaintiffs and Defendants and the Statement Regarding Horse Ownership History ("Exhibit C"), which is that the Vogels acknowledge, confirm and do not dispute the content of Exhibit C, thus retracting their allegations to the contrary. The Vogels had no contractual relationship with Brandon Dufurrena before the Lawsuit. Moreover, the Vogels have never had a contractual relationship with Rieta Dufurrena. Pursuant to Texas Civil Practice and Remedies Code § 37.004(a), "A person interested under a deed, will, written