

ESTTA Tracking number: **ESTTA575749**

Filing date: **12/11/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212131
Party	Plaintiff Barbara Morton
Correspondence Address	WARREN V NORRED NORRED LAW PLLC 200 E ABRAM, SUITE 300 ARLINGTON, TX 76001 UNITED STATES wnorred@norredlaw.com
Submission	Motion to Suspend for Civil Action
Filer's Name	Warrren V. Norred
Filer's e-mail	wnorred@norredlaw.com
Signature	/Warren V. Norred/
Date	12/11/2013
Attachments	2013_12_11-MortonMotionToAbateA.pdf(3077840 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BARBARA MORTON

Opposer

v.

TIMARRON OWNERS ASSOCIATION, INC.

Applicant.

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Opposition No: 91212131

Mark: TIMARRON

In re Trademark No: 85780484

OPPOSER'S MOTION TO SUSPEND OPPOSITION PURSUANT TO 37 CFR §2.117

Opposer, **BARBARA MORTON**, dba TIMARRON OWNERS ASSOCIATION, INC., submits this Motion to Suspend Opposition ("Motion"), pursuant to 37 C.F.R. §2.117.

I. Procedural Background

1. Opposer is Barbara Morton, dba Timarron College Prep; Applicant is Timarron Owners Association, Inc. ("TOA").
2. On August 21, 2013, Opposer Mortonn filed Opposition No. 91212131 against Applicant TOA, who filed application 85780484, seeking registration for the word mark "TIMARRON" in class 35, described as:

"Association services, namely, promoting the interests of current homeowners and marketing to attract new homeowners; Business management of homeowners associations for others; Homeowner association services, namely, promoting the interests of homeowners in a specific community and marketing the community nationwide to prospective new residents and property owners."

3. In addition to the application and opposition already discussed *infra*, Morton filed to register the word mark "TIMARRON COLLEGE PREP" in application 8551680, to which Applicant TOA has filed Opposition No. 91207557.
4. In the state case filed in Tarrant County District Court in Texas as Cause No. 096-260449-12, Applicant TOA sued Opposer Morton, alleging Trademark Infringement and associated claims

concerning the "TIMARRON" mark and seeking to restrain Morton's use of "TIMARRON COLLEGE PREP".

5. After Applicant TOA filed its suit for infringement and filed its opposition to Morton's application for "TIMARRON COLLEGE PREP", Applicant requested that its opposition be suspended until the state action was final, which the Board granted. Applicant's Motion to Suspend is attached as Exhibit A, which also includes TOA's Original Petition for trademark infringement and Morton's Answer.

6. In the state action, Morton filed a motion for summary judgment, attached as Exhibit B and incorporated in full herein. A week prior to the hearing set on the motion, TOA dismissed its claims, ostensibly understanding that it was about to lose and not wishing to see the matter fully and finally litigated, and resolved against it. The trial court allowed the case in full to be dismissed, dismissing Morton's counterclaims, which would be of use in these proceedings. That action remains active in the Second Court of Appeals as 02-13-00409-CV; docket on the appeal is publicly available and kept current at the following URL where the Board may freely view it: <http://www.search.txcourts.gov/Case.aspx?cn=02-13-00409-CV>.

7. Though Morton objected to the abatement initially in her own proceedings, this Board decided to suspend the opposition action in her application seeking to register "TIMARRON COLLEGE PREP" and significant work at the state level regarding the dispute has occurred.

8. Under the same reasoning employed by the Board to suspend action in the opposition to Morton's application 8551680, Morton now asks the Board to suspend the opposition at bar pursuant to 37 CFR § 2.117, as the resolution of the state action will have significant bearing on the outcome of this proceeding.

II. Prayer

WHEREFORE, Morton respectfully requests that the Board grant the Motion and suspend Opposition No. 91212131 until the state case is final.

Respectfully submitted,

By: /Warren V. Norred/
Warren V. Norred, Texas Bar No. 24045094
200 E. Abram, suite 300, Arlington, TX 76001
Tel. (817) 704-3984, Fax. (817) 549-0161
Attorney for PLAINTIFFs

CERTIFICATE OF SERVICE - I certify that on December 11, 2013, a true and correct copy of this Motion to Suspend was served by fax to John Wilson at 972.248.8088.


Warren V. Norred

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BARBARA MORTON

Opposer

v.

TIMARRON OWNERS ASSOCIATION, INC.

Applicant.

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Opposition No: 91212131

Mark: TIMARRON

In re Trademark No: 85780484

EXHIBIT A

MOTION TO SUSPEND FOR CIVIL ACTION
IN *RELATED* OPPOSITION 91207557

Trademark Trial and Appeal Board Electronic Filing System. <http://estta.uspto.gov>ESTTA Tracking number: **ESTTA1475**Filing date: **06/12/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91207557
Party	Plaintiff Timarron Owners Association, Inc.
Correspondence Address	JOHN T WILSON WILSON LEGAL GROUP PC 16610 DALLAS PARKWAY 2000 DALLAS, TX 75248 UNITED STATES john@wilsonlegalgroup.com, kandace@wilsonlegalgroup.com, sul@wilsonlegalgroup.com, ana@wilsonlegalgroup.com
Submission	Motion to Suspend for Civil Action
Filer's Name	John T. Wilson
Filer's e-mail	john@wilsonlegalgroup.com, uspto@wilsonlegalgroup.com
Signature	/John T. Wilson/
Date	06/12/2013
Attachments	Opposer's Motion to Suspend Opposition 6.12.13.pdf(5602720 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark Serial No.: 85/516680
Mark: TIMARRON COLLEGE PREP
Published in the Official Gazette on October 16, 2012

TIMARRON OWNERS ASSOCIATION, INC
Opposer,

v.

TIMARRON COLLEGE PREP
Applicant.

Opposition No. 91207557

MOTION TO SUSPEND OPPOSITION PURSUANT TO 37 C.F.R. §2.117

Opposer files this *Motion to Suspend Opposition Pursuant to 37 C.F.R. §2.117*, as authorized by Title 37 §2.117 of the U.S. CODE OF FEDERAL REGULATIONS.

I. Procedural Background

1. Opposer is Timarron Owners Association, Inc. ("TOA"); Applicant is Timarron College Prep ("TCP").

2. On or about October 18, 2012, Opposer filed its Notice of Opposition against Applicant, in light of Opposer's superior rights in and to "TIMARRON," and in light of Applicant's seeking to register the word mark TIMARRON COLLEGE PREP as a trademark for "after school tutoring programs" and "education services" in International Class 041.

3. On or about July 26, 2012, Opposer filed its Original Petition in *Timarron Owners Association, Inc. v Barbara Louise Morton d/b/a College Prep*; Cause No. 096-260449-12, pending in the District Court of the 96th Judicial District of Tarrant County Texas (the "Civil Lawsuit") alleging claims of Trademark Infringement, Unjust Enrichment, Tortious Interference,

and Unfair Competition as they pertain to the TIMARRON mark, and seeking *inter alia*, for the Court to restrain TCP from trading off of the good will and reputation of TOA's TIMARRON mark. A true and correct copy of said Original Petition is attached hereto as "Exhibit 1" and is incorporated by reference as if fully set forth herein.

4. On or about September 7, 2012, TCP filed its Original Answer and Counterclaim in the Civil Lawsuit. A true and correct copy of said Original Answer and Counterclaim is attached hereto as "Exhibit 2" and is incorporated by reference as if fully set forth herein.

5. On or about October 11, 2012, TOA filed its Original Answer and Special Exceptions to Defendant/Counter-Plaintiff's Original Counterclaim.

6. The Civil Lawsuit is currently in the discovery stage of litigation.

II. Arguments & Authorities

7. 37 C.F.R. §2.117(a) states:

Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action or another Board proceeding which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action or the other Board proceeding.

8. Accordingly, Timarron Owners Association, Inc. respectfully requests that this Board suspend this action in light of the Civil Lawsuit for the reason that the Civil Lawsuit, because it includes a cause of action for trademark infringement related to the Mark and seeks declaratory relief determining the owner of the Mark, is likely to have a substantial bearing on the outcome of this proceeding.

B. Conclusion

For these reasons, because of the Civil Lawsuit in which Timarron Owners Association, Inc. and Timarron College Prep are currently engaged, Timarron Owners Association asks The Trademark Trial and Appeal Board to suspend this opposition proceeding pending the resolution of the Civil Lawsuit.

DATED: June 12, 2013.

Respectfully submitted,
WILSON LEGAL GROUP P.C.

By: /s/John T. Wilson
John T. Wilson
State Bar No. 24008284
Kandace D. Walter
State Bar No. 24047068
16610 Dallas Parkway, Suite 2000
Dallas, Texas 75248
(T) 972.248.8080;
(F) 972.248.8088;

**ATTORNEYS FOR OPPOSER
TIMARRON OWNERS
ASSOCIATION, INC.**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above Motion has been served upon Opposer, by and through its counsel of record, pursuant to Rules of Federal Civil Procedure on June 12, 2013.

Mark W. Handley
Handley Law Firm, PLLC
P.O. Box 97
Grapevine, Texas 76099-0097
Facsimile: (972) 518-1777

Warren V. Norred
200 E. Abram
Suite 300
Arlington, TX 76001
Facsimile: (817) 549-0161

/s/John T. Wilson
John T. Wilson

“EXHIBIT 1”

CAUSE NO: 096 260449 12

TIMARRON OWNERS
ASSOCIATION, INC.

Plaintiff,

v.

BARBARA LOUISE MORTON D/B/A
TIMARRON COLLEGE PREP

Defendants.

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IN THE DISTRICT COURT

9/6/12

JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

PLAINTIFF TIMARRON OWNERS ASSOCIATION, INC.'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Plaintiff TIMARRON OWNERS ASSOCIATION, INC. and files this Original Petition against BARBARA LOUISE MORTON D/B/A TIMARRON COLLEGE PREP (the "Petition"), and in support of said Petition avers the following:

I. DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 2 of the TEXAS RULE OF CIVIL PROCEDURE 190.3/190.4.

II. VENUE AND JURISDICTION

2. Plaintiff TIMARRON OWNERS ASSOCIATION, INC. ("TIMARRON") is a Texas corporation whose principal place of business is located in Tarrant County, Texas.

3. Defendant BARBARA LOUISE MORTON D/B/A TIMARRON COLLEGE PREP ("MORTON") is an individual who resides and may be served at 476 Cherokee Ct. S., Keller, Texas 76248 or wherever else she may be found.

2012 JUL 26 P
TARRANT COUNTY, TEXAS
JUDICIAL DISTRICT

4. This Court has jurisdiction over this matter because the amount in controversy is within the jurisdictional limits of the Court.

5. Venue is appropriate in Tarrant County in that all or substantially all of the acts and/or omissions that form the basis of this suit occurred in Tarrant County, Texas.

III. FACTUAL BACKGROUND

6. TIMARRON is the owner of a trademark, specifically, Texas Trademark Registration No. 800205842 (the "Mark"). A true and correct copy of the Texas Secretary of State's Record for the Mark and the Assignment of said Mark to TIMARRON is attached hereto as "Exhibit A" and is incorporated by reference as if fully set forth herein.

7. The Mark was first used in commerce as early as the Declaration of Covenants, Conditions, and Restrictions for TIMARRON, dated May 15, 1992.

8. MORTON has been using the Mark in connection with its promotions, advertisements, websites, and operations without TIMARRON's authorization or permission.

9. MORTON's unauthorized use of the Mark has caused consumers to erroneously believe that MORTON is sponsored by, connected to, and/or otherwise affiliated with TIMARRON.

10. MORTON's unauthorized use of the Mark has caused consumers to erroneously believe that MORTON's goods and/or services are sponsored by, connected to, and/or otherwise affiliated with TIMARRON.

11. MORTON's unauthorized use of the Mark has caused consumers to erroneously believe that MORTON's websites, including, but not limited to, www.timarroncollegeprep.com, are sponsored by, connected to, and/or otherwise affiliated with TIMARRON.

12. MORTON has purposely used the Mark to cause confusion in the marketplace with regard to the sponsorship, approval, and/or affiliation of MORTON's goods and/or services with TIMARRON.

13. MORTON has intentionally and fraudulently held her goods and/or services out to be the products of TIMARRON.

14. MORTON's promotion, advertisement, and/or operation under the Mark has tortuously interfered with TIMARRON's ability to consummate sales with customers who are attempting to purchase products sponsored by, approved by, and/or otherwise connected with TIMARRON.

15. On or about January 18, 2012, counsel for TIMARRON issued a cease and desist letter to MORTON directing her to stop her promotion, advertisement, and operation under the Mark and any other unauthorized use of the Mark (the "C&D Letter"). A true and correct copy of said C&D Letter is attached hereto as "Exhibit B" and is incorporated by reference as if fully set forth herein.

16. Despite receiving the C&D Letter, MORTON has continued her unauthorized use of the Mark and sale of goods bearing the Mark.

17. MORTON has sold goods bearing the Mark and/or promoted herself, advertised herself, and/or operated under the Mark in the State of Texas, including, but not limited to, in Tarrant County.

IV. SUMMARY OF CAUSES OF ACTION

18. This suit is for the following causes of action against MORTON: i) Trademark Infringement Under TEXAS BUSINESS AND COMMERCE CODE §16.26; ii) Unjust Enrichment; iii) Tortious Interference with Prospective Business Relations; and, iv) Unfair Competition.

V. CAUSES OF ACTION

19. TIMARRON hereby reincorporates paragraphs 1 through 18 in accordance with TEXAS RULE OF CIVIL PROCEDURE 58.

TRADEMARK INFRINGEMENT UNDER TEXAS BUSINESS AND COMMERCE CODE §16.26

20. TIMARRON owns the Mark, registered under Chapter 16 of the TEXAS BUSINESS AND COMMERCE CODE.

21. MORTON, without TIMARRON's consent, authorization, or permission, used and continues to use the Mark and/or a colorable imitation of the Mark in connection with the selling and offering for sale of goods and/or services in the State of Texas when such use was and is likely to deceive and/or cause confusion and/or mistake as to the source or origin of said goods.

22. TIMARRON has been damaged by MORTON's unauthorized use of the Mark.

23. Pursuant to TBCC §16.26(c), TIMARRON is entitled to have MORTON enjoined from using the Mark in the State of Texas.

24. Pursuant to TBCC 16.26(d), TIMARRON is entitled to recover all damages caused by MORTON's unauthorized use of the Mark since at least the date of the C&D Letter, when MORTON had constructive notice of TIMARRON's ownership of the Mark.

UNJUST ENRICHMENT

25. TIMARRON owns the Mark, constituting a valuable, proprietary resource.

26. MORTON unlawfully misappropriated and traded upon the Mark for use in her own proprietary endeavors.

27. MORTON has been unjustly enriched by her unlawful misappropriation and use of the Mark, to TIMARRON's detriment.

28. TIMARRON is entitled to recover all valuable considerations MORTON has gained by her unlawful misappropriation and use of the Mark.

TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS RELATIONS

29. TIMARRON, through its use of its Mark, was reasonably likely to enter in business relations with consumers.

30. MORTON, by her continued, unauthorized use of the Mark after receiving notice of TIMARRON's ownership thereof through the C&D Letter, intentionally interfered with TIMARRON's prospective business relations by diluting the Mark and creating confusion about the Mark in the market.

31. MORTON's unauthorized use of the Mark was and is tortious and unlawful.

32. MORTON's tortious interference has caused injury to TIMARRON by diluting the Mark and creating confusion about the Mark in the market, directly and detrimentally impacting TIMARRON's ability to consummate business relations with consumers.

UNFAIR COMPETITION

33. TIMARRON owns the Mark, constituting a valuable trade resource.

34. TIMARRON has developed goodwill associated with the Mark

35. MORTON unlawfully misappropriated the Mark and traded upon the goodwill developed therein in furtherance of her own commercial goals and to the detriment of TIMARRON's commercial endeavors.

36. MORTON's unlawful use of the Mark has caused TIMARRON injury.

VI. DEMAND FOR ACCOUNTING, REQUEST FOR TURN OVER, AND REQUEST TO HOLD HARMLESS

31. Pursuant to TBCC §16.26, TIMARRON demands an accounting of MORTON's sales resulting from MORTON's unlawful use of the Mark and/or sales involving MORTON's

goods bearing the Mark and/or services sold under the Mark. TIMARRON requests that, after such accounting, all MORTON's profits from such sales, particularly those sales occurring after the C&D Letter had been received and notice of TIMARRON's ownership of the Mark given, be paid to TIMARRON. TIMARRON further requests all goods and advertisements bearing the Mark in MORTON's possession be turned over to TIMARRON and/or destroyed as the Court deems proper.

32. TIMARRON requests the Court order MORTON to indemnify and hold harmless TIMARRON against any and all possible claims of third parties arising out of the sale, offer of sale, distribution or use of MORTON's goods bearing the Mark or that bear confusingly similar designs to the Mark or otherwise based on or incorporating TIMARRON's Mark. TIMARRON further requests the Court order MORTON to identify vendors or resellers used to produce or sell their infringing goods.

VII. APPLICATION FOR TEMPORARY RESTRAINING ORDER

33. Because of MORTON's unauthorized use of the Mark, MORTON has undermined TIMARRON's business by selling goods and/or products that bear the Mark and/or confusingly similar designs and/or by falsely representing the goods produced and/or sold by MORTON have the sponsorship of TIMARRON.

34. MORTON's sale of goods and/or products bearing the Mark and/or confusingly similar designs have caused and continue to cause TIMARRON irreparable harm for which there is no adequate remedy at law.

35. Since TIMARRON can readily establish itself as owner of the Mark, TIMARRON is likely to succeed on the merits of the case prohibiting MORTON's unauthorized use of the Mark and confusingly similar designs.

36. The injury faced by TIMARRON outweighs the injury that would be sustained by enjoining MORTON from her unauthorized use of the Mark and related stylistic designs.

37. Furthermore, the Court's granting of a temporary restraining order against MORTON's use of the Mark and confusingly similar designs would not adversely affect public policy or public interest.

38. TIMARRON respectfully demands that MORTON be restrained from selling any goods and/or products containing either the Marks and/or confusingly similar designs. If necessary, TIMARRON is willing to post a bond in order for the Court to issue the temporary restraining order against MORTON.

VIII. ATTORNEY'S FEES

39. Because of the conduct of MORTON, TIMARRON has been compelled to engage the services of an attorney to prosecute this action. As a result, TIMARRON is entitled to recover both jointly and severally from MORTON a reasonable sum for the necessary services of Wilson Legal Group, P.C. in the preparation and trial of this action and for any appeals related thereto.

IX. CONDITIONS PRECEDENT

40. All conditions precedent to Plaintiff's causes of action have been performed and/or have occurred.

X. RULE 194 REQUEST FOR DISCLOSURE

41. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, MORTON is requested to disclose within fifty (50) days after service of this request, the information or material described in Rule 194 of the Texas Rules of Civil Procedure. The originals or copies of documents and other tangible items requested must be produced for inspection and copying at

Wilson Legal Group P.C., 16610 Dallas Parkway, Suite 2000, Dallas, Texas 75248 together with a written response. Each written response must be preceded by the request to which it applies. No objection or assertion of work product privilege is permitted to a request under this rule.

XI. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff TIMARRON OWNERS ASSOCIATION, INC., respectfully requests:

- a. That judgment be entered in favor of Plaintiff against Defendant BARBARA LOUISE MORTON D/B/A TIMARRON COLLEGE PREP for actual damages in an amount in excess of the minimum jurisdictional limits of the Court as can be shown;
- b. An award of Plaintiff's actual and special damages as pleaded within the jurisdictional limits of the Court;
- c. An award to Plaintiff of Defendant's ill-gotten profits;
- d. An award of Plaintiff's court costs in an amount to be determined by the Court;
- e. An award of Plaintiff's reasonable and necessary attorneys' fees;
- f. That Plaintiff recover pre-judgment and post-judgment interest on all sums awarded at the highest rate permitted by law; and
- g. An award to TIMARRON for such further relief, at law or in equity, to which it is justly entitled.

DATED: July 26, 2012.

Respectfully submitted,
WILSON LEGAL GROUP P.C.

By: /s/John T. Wilson
John T. Wilson
State Bar No. 24008284
Kandace D. Walter
State Bar No. 24047068
16610 Dallas Parkway, Suite 2000
Dallas, Texas 75248
(T) 972.248.8080;
(F) 972.248.8088;

**ATTORNEYS FOR TIMARRON
OWNERS ASSOCIATION, INC.**

“EXHIBIT A”

TEXAS SECRETARY of STATE HOPE ANDRADE

[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Notary](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

TRADEMARK INQUIRY - VIEW TRADEMARK

Registration Number:	800205842	Registration Date:	July 18, 2003
Status:	Registered	Date of Expiration:	July 18, 2013
Classification:	Insurance & Financial: Class 36	Design Code:	031702
Word Description:	TIMARRON		
Disclaimer:	N/A		

<u>REGISTRANTS</u>		<u>FILING HISTORY</u>	<u>CLASSIFICATION</u>
Last Update	Name	Address	
May 21, 2003	Timarron Owners Association, Inc.	700 Wentwood Drive Southlake, TX 76092 USA	

[Return to Search](#)

**ASSIGNMENT OF REGISTRATION
OF A TRADEMARK/SERVICE MARK**

FILED
In the Office of the
Secretary of State of Texas

FEB 16 2010

Corporations Section

**To: Office of the Secretary of State
Corporations Section
P. O. Box 13697
Austin, Texas 78711-3697**

Assignor: Westerra Timarron L.P.

Address: 13155 Noel Road-LB54, Suite 700

City: Dallas

State:

Texas

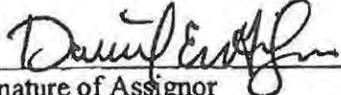
Zip: 75240

Registration No. 800205842

Date of Registration: May 21, 2003

**Assignee: Timarron Owners Association, Inc.
700 Wentwood Drive
Southlake, Texas 76092**

Except as hereinafter provided, Assignor assigns to Assignee all right, title and interest in and to the above referenced mark and its registration, together with the good will of the business with which the mark is used, or that part of the good will connected with the use of, and symbolized by, the mark. Assignor reserves the right to continue to use this mark in its name and for the limited purpose of marketing, promotion, advertisement, distribution, lease or sale of Assignor's products and services.



Signature of Assignor

Title: ASSISTANT VICE PRESIDENT

Date: 1-8-10

“EXHIBIT B”



WILSON LEGAL GROUP P.C.
Attorneys & Counselors at Law

16610 Dallas Parkway
Suite 2000
Dallas, Texas 75248
Telephone 972.248.8080
Facsimile 972.248.8088

John T. Wilson
E-mail: john@wilsonlegalgroup.com

www.wilsonlegalgroup.com

January 18, 2012

Barbara Morton
Timarron College Prep
630 E. Southlake Blvd., Suite 111
Southlake, Texas 76092

*(Via Certified Mail, Return Receipt
Requested No. 7010-1870-0001-6973-3232
and Regular First Class Mail)*

Barbara Morton
Timarron College Prep
251 E. Southlake Blvd., Suite 110
Southlake, Texas 76092

*(Via Certified Mail, Return Receipt
Requested No. 7010-1870-0001-6973-3249
and Regular First Class Mail)*

Barbara Morton
Timarron College Prep
251 S. Main Street, Suite 101
Keller, Texas 76248

*(Via Certified Mail, Return Receipt
Requested No. 7010-2000-0002-7331-9860
and Regular First Class Mail)*

Re: CEASE AND DESIST NOTICE

To Whom it May Concern:

Please be advised that this firm represents Timarron Owners Association, Inc. (hereinafter the "HOA"). As you may know, "Timarron" (hereinafter the "Mark") is a state registered trademark (Registration No. 800205842) of the HOA and the use of the Mark, without our client's express consent, is a violation of state and federal trademark laws under which the Mark is protected.

Your promotion, advertisement, and operation under the Mark constitutes an infringement of the HOA's common law, state, and federal trademark rights. Consumers, retailers, wholesalers, real estate professionals, and the public at large will be and probably have already been misled into believing that you are affiliated with our client, that you are approved, sponsored or supplied by it, or the reverse.

ACCORDINGLY, TAKE NOTICE THAT YOU ARE HEREBY NOTIFIED TO IMMEDIATELY CEASE AND DESIST THE USE OF THE MARK AND ALL CONFUSINGLY SIMILAR VARIATIONS OF THE MARK.

Cease and Desist Notice
January 18, 2012
Page 2 of 2

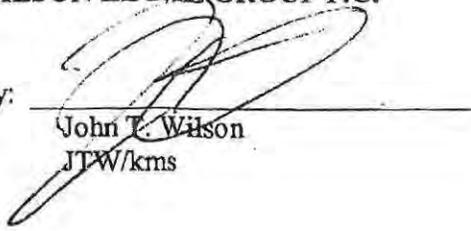
Under the circumstances, we demand that you immediately cease and desist all further promotion, advertisement, and operation under the name Timarron or any variation of the Mark. In particular, we demand that you do not display any signage, distribute any literature, promotional items, or in any other way advertise the name Timarron in print or on the internet.

We wish to receive your assurances in writing by noon on January 25, 2012, that you will comply with the above cease and desist demand. If you fail to advise us by then that you will not promote, advertise, or operate your business under the name Timarron, or any variations of the Mark, our client shall, without further notice to you, take such steps as may be necessary to assert its statutory rights to recover profits, damages, and costs thereof, attorney's fees, and otherwise to protect its interests.

This is a serious matter that requires your immediate attention. I urge you to handle this matter accordingly.

Sincerely yours,
WILSON LEGAL GROUP P.C.

By: _____


John T. Wilson
JTW/kms

cc: *Via Electronic Mail*
Client

“EXHIBIT 2”

Cause No. 096-260449-12

TIMARRON OWNERS ASSOC., INC.
Plaintiff,

v.

BARBARA LOUISE MORTON D/B/A/
TIMARRON COLLEGE PREP
Defendant.

§ IN THE DISTRICT COURT
§
§
§ 96TH JUDICIAL DISTRICT
§
§
§ TARRANT COUNTY, TEXAS
§

**DEFENDANT MORTON'S ORIGINAL ANSWER, COUNTERCLAIMS, and
MOTION TO TRANSFER**

NOW COMES Defendant BARBARA LOUIS MORTON, files this Original Answer in the above-styled and numbered cause, denying Plaintiff's claims, asking the Court for a declaration that Defendant is not infringing any common law trademark claimed by Plaintiff, and once the declaration is established, a transfer to Travis County District Court so that Defendant may seek cancellation of the Texas-registered trademark of TIMARRON OWNERS ASSOCIATION, INC, and would show the following:

I. PARTY VERIFICATION

1. Defendant/Counter-Plaintiff, BARBARA MORTON, is an individual residing in Tarrant County, Texas, and may be contacted through her attorney of record, Warren Norred.
2. Plaintiff TIMARRON OWNERS ASSOCIATION, INC. has already appeared in this suit.

II. JURISDICTION AND VENUE

3. The subject matter in controversy is within the jurisdictional limits of this court.
4. Plaintiff has established venue in Tarrant County, so venue for the counterclaims is also properly in Tarrant County under TEX. CIV. PRAC. & REM. CODE § 15.062(a).
5. Counterclaims against Plaintiff may require transfer to Travis County if the suit progresses to an action on the merits of those claims.

III. GENERAL DENIAL

6. Defendant denies each and every allegation of Plaintiff's Original Petition.

IV. COUNTERCLAIM FOR DECLARATORY JUDGMENT

7. Defendant requests that this Court issue declaratory judgment that it has not infringed any trademark belonging to Plaintiff, pursuant to the Texas Uniform Declaratory Judgments Act, Texas Civil Practice and Remedies Code, Chapter 37, in that:

- a. Defendant's trademark has been active since 2008, during which time it has provided tutoring services, which falls under trademark International Class 41.
- b. Plaintiff's Texas-registered trademark, provided in its petition, is for insurance and financial services, falling under trademark International Class 36.
- c. Plaintiff has based its case under an incorrect theory that that every mark that includes the word "Timarron" infringes Plaintiff's mark. However, there are nearly 40 businesses in Texas that use "Timarron" or a similar mark, including a home owner's association in San Antonio, the Tamaron Property Owners Association, which has existed and used the mark for seven years prior to Plaintiff's Texas registration.

V. COUNTERCLAIM FOR DISCLAIMER OR CANCELLATION

8. Defendant requests that this Court issue an order cancelling Plaintiff's trademarks, as Plaintiff does not appear to provide services that would appropriately fall under Class 36, and should be cancelled pursuant to TEX. BUS. & COM. CODE § 16.064(4)(D) [registered mark was obtained fraudulently].

VI. COUNTERCLAIM FOR TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS

9. Defendant has suffered damages for Plaintiff's agents actions that have interfered in

potential leases and other contracts, and caused Defendant to suffer malicious and wanton interference, disturbance, or annoyance in her business dealings.

VII. MOTION TO TRANSFER

10. In accordance with TEX. BUS. & COM. CODE § 16.106 (2012), this action must be transferred to Travis County, as it includes an action to cancel a trademark. Defendant is content to allow discovery and time for a potential settlement before a hearing on this motion to transfer in the hope that the issue might be settled before hearing and court be required to order on this issue.

VIII. ATTORNEY FEES

11. In accordance with TEX. CIV. PRAC. & REM. CODE § 37, Defendant requests attorney fees.

IX. PRAYER

12. Defendant prays the Court, after notice and hearing or trial, enters declaratory judgment in favor of Defendant, cancel or amend Third-Party Defendant's registered trademark, awards Defendant the costs of court, attorney's fees, and such further relief as Defendant may be entitled to in law or in equity.

Respectfully submitted,

By: Warren V. Norred
Warren V. Norred, Texas Bar No. 24045094
200 E. Abram, Suite 300, Arlington, TX 76010
Tel. (817) 704-3984, Fax. (817) 549-0161

CERTIFICATE OF SERVICE - I certify that on September 7, 2012, a true and correct copy of Defendant's Original Answer above served by fax to John Wilson at 972.248.8080.

Warren V. Norred
Warren V. Norred

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BARBARA MORTON

Opposer

v.

TIMARRON OWNERS ASSOCIATION, INC.

Applicant.

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Opposition No: 91212131

Mark: TIMARRON

In re Trademark No: 85780484

EXHIBIT B
MOTION FOR SUMMARY JUDGMENT

**BY OPPOSER MORTON, IN CAUSE NO. 96-260449-121,
96TH DISTRICT COURT, TARRANT COUNTY, TEXAS**

Cause No. 096-260449-12

TIMARRON OWNERS ASSOC., INC.
Plaintiff,

v.

BARBARA LOUISE MORTON D/B/A/
TIMARRON COLLEGE PREP
Defendant.

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IN THE DISTRICT COURT
96TH JUDICIAL DISTRICT
TARRANT COUNTY, TEXAS

FILED
TARRANT COUNTY
2013 JUL 15 AM 10:45
THOMAS A. WILDER
DISTRICT CLERK

**DEFENDANT MORTON'S
TRADITIONAL AND NO EVIDENCE MOTION FOR SUMMARY JUDGMENT**

Defendant Morton asks the court to sign a final summary judgment against Plaintiff on all claims under the traditional and no-evidence standards, and in favor of Defendant's Counter-Claims.

A. Introduction

1. Plaintiff sued Defendant Morton for:
 - a. trademark infringement,
 - b. unjust enrichment,
 - c. tortious interference with prospective business relations, and
 - d. unfair competition.
2. Defendant answered the suit with counterclaims for:
 - a. declaratory judgment,
 - b. disclaimer or cancellation of Plaintiff's Texas-registered mark,
 - c. tortious interference with business relations,
 - d. motion to transfer the case to Travis County, and
 - e. attorney fees.
3. Discovery in this suit is governed by a Level 2 discovery control plan.

B. Defendant moves for a No-Evidence Summary Judgment against Plaintiff's Claims

4. Trademark Infringement - Plaintiff can show no evidence that Defendant used Plaintiff's registered mark in connection with the selling and offering for sale of goods that is likely to deceive or cause confusion or mistake as to the source or origin of said good, which is required to constitute infringement under TEX. BUS. & COMM. CODE § 16.26, because

Plaintiff's mark represents only insurance & financial products found in International Trademark Class 36 (see Plaintiff's Original Petition, Exhibit A), and Defendant uses the mark only to advertise tutoring services that no reasonable person could associate with Plaintiff's mark. Without evidence of likely confusion, the infringement claim must fail.

5. Unjust Enrichment - Generally, to sustain an action for unjust enrichment, there must be some basis for the law to infer a promise on the part of the defendant to the plaintiff to pay for the benefit or property, as discussed in *Berger Engineering Co. v. Village Casuals, Inc.*, 576 S.W.2d 649, 652 (Tex. Civ. App.--Beaumont 1978, no writ) ("there must exist between the parties an implication that the party performing the services would be paid by the party accepting and benefiting by them"). The absence of such a relationship between a coventurer and the other coventurer's father, for example, defeated a coventurer's claim of unjust enrichment against the father, even though the father took depreciation and operating losses stemming from the joint venture as deductions in his personal federal income tax return in *Shwiff v. Priest*, 650 S.W.2d 894, 902 (Tex. App.--San Antonio 1983, writ ref'd n.r.e.). Plaintiff can show no relationship between the Parties that will sustain a claim for unjust enrichment, so its claim must fail.
6. Tortious Interference With Prospective Business Relations - Plaintiff's claim must fail because Plaintiff can provide no evidence on *any* of its elements, as listed in *Faucette v. Chantos*, 322 S.W.3d 901, 914 (Tex. App.--Houston [14th Dist.] 2010, no pet. h.):
 - a. There must be a "reasonable probability" that the plaintiff would have entered into the prospective relations. This must be a specific relationship.
 - b. The defendant's conduct must have been independently tortious or wrongful.
 - c. The defendant's interference must have resulted in actual harm or damage.

- d. The defendant's acts of interference must have been the proximate cause of the plaintiff's damages.
 - e. When the interference is with prospective business relations that are the subject of competition, the plaintiff must show defendant's actions violated antitrust laws or caused third persons to refuse to deal with the plaintiff. *Caller-Times Pub. Co. v. Triad Communications*, 855 S.W.2d 18, 22 (Tex. App.--Corpus Christi 1993, no writ).
7. **Unfair Competition** - Among other elements, Plaintiff must prove that Defendant's use of the trade mark would be likely to confuse the public. *Thompson v. Thompson Air Conditioning & Heating, Inc.*, 884 S.W.2d 555, 558 (Tex. App.--Texarkana 1994, no writ). As the Parties provide very different services that have no relation, Defendant's use of the mark would not be likely to confuse the public.
8. Defendant attaches affidavits to this motion as Exhibit A to establish facts in support of this motion and incorporates the affidavits by reference.

C. Argument & Authorities Supporting Defendant's No-Evidence Motion

9. A court may grant a no-evidence motion for summary judgment if the movant can show that adequate time for discovery has passed and the nonmovant has no evidence to support one or more essential elements of its claim or defense. TEX. R. CIV. P. 166a(i).
10. An adequate time for discovery has passed.
11. Defendant is entitled to summary judgment because Plaintiff cannot, by any admissible evidence, demonstrate there is any evidence to support the specific elements as discussed *supra*, causing all five of Plaintiff's substantive claims to fail.

D. Defendant also moves for a Traditional Summary Judgment against Plaintiff's Claims

12. To prevail on summary judgment, a movant must conclusively establish all elements of its cause of action as a matter of law, TEX. R. CIV. P. 166a(c); Defendant herein incorporates the prior factual discussion in previous paragraphs, and adds the additional facts and argument in support of a traditional summary judgment as follows.

13. **Facts** - There is no reason to believe that consumers will confuse TIMARRON OWNER'S ASSOCIATION with TIMARRON COLLEGE PREP, as consumers are already aware of these two businesses and others in operation in the Southlake and surrounding area, along with many others, and would not see yet another business in the area using the word TIMARRON as connected to Plaintiff. As discussed in Exhibit A, the following commercial enterprises exist near Plaintiff:

- a. "The Courtyard at Timarron" is a current business in Southlake, TX.
- b. "The Villages at Timarron" is a current business in Southlake, TX.
- c. "Timarron Family Medicine, PA" is a current business in Southlake, TX.
- d. "Timarron at Creekside Park" is a current business in Southlake, TX.
- e. "Timarron Financial Services, LLC" is a current business in Southlake, TX.
- f. "Timarron Partners, Inc." is a current business in Grapevine, TX.
- g. "Timmaron LLC" is a current business in Richardson, TX.
- h. "Timarron Capital Inc" is a current business in Irving, TX.
- i. "Timarron Custom Homes, Inc." is a current business in Keller, TX.
- j. "Timarron Venture, Ltd." is a current business in Dallas, TX.
- k. "Timarron Venture One, L.C." is a current business in Dallas, TX.
- l. "Timarron Shopping Center, L.P." is a current business in Dallas, TX.
- m. "Timarron Mortgage Group Inc." is a current business in Dallas, TX.
- n. "Timarron Land Corporation" is a current business in Mesquite, TX.
- o. "Timarron Skin & Laser" is a current business in Southlake, TX.
- p. "Timarron Professional Eye" is a current business in Southlake, TX.
- q. "Timarron Golf Club Maintenance" is a current business in Southlake, TX.
- r. "Timarron Family Medicine" is a current business in Southlake, TX.
- s. "Village at Timarron 4120" is a current business in Southlake, TX.
- t. "Timarron Tiger Sharks" is a current business in Southlake, TX.

14. No similarity of Goods - Plaintiff's claims requires at least a reasonable possibility that consumer confusion might result from Defendant's use of the word "Timarron", but the services provided by TIMARRON OWNER'S ASSOCIATION is not remotely connected to the educational tutoring services provided by Defendant.
15. No Confusion - After recognizing that the services offered by the Plaintiff and Defendant are so different, and there are so many other commercial enterprises using the word "Timarron", no reasonable person could be confused as to think that one organization is responsible for all of the enterprises.
16. Affirmative Defense of Laches - Applicant has been using TIMARRON as part of her mark for years, along with many other entities in the area. Timarron home owners have employed Defendant's mentoring services for years. The delay in filing suit was not reasonable or excusable. Though the Lanham Act has no Statute of Limitations, federal courts often look to state law and apply the doctrine of laches accordingly; the Texas Deceptive Trade Practices Act has a statute of limitations of two years, which supports a finding of laches in this case. Plaintiff cannot lie in wait while Defendant builds her business and then try to force a business name change.
17. Affirmative Defense of Dilution - The word "TIMARRON" is used by many businesses in the Southlake, TX area. In the minds of consumers, the word "TIMARRON" is not attached to one particular business. The word "TIMARRON" is diluted; no single entity can claim exclusive rights to the word.
18. No Colorable Claim for Common Law Trademark Confusion - Plaintiff's claim to a common law trademark is limited to its full name "TIMARRON OWNER'S ASSOCIATION", by which it is known. Defendant does not use Plaintiff's common law mark.

19. Summary of Motion for Traditional Summary Judgment - Based on the above facts, Defendant asks the Court for a declaration that Defendant is not infringing Plaintiff's registered mark, and award fees in accordance with TEX. CIV. PRAC. & REM. CODE § 37, in accordance with the following paragraph.

E. Attorney Fees

20. Defendant is entitled, under the authority of TEX. CIV. PRAC. & REM. CODE § 37, to reasonable and necessary attorney fees that were incurred in the prosecution of this suit and contingent attorney fees in case of unsuccessful appeal, as supported by Exhibit B, including:

- a. Defendant is entitled to attorney fees incurred in the amount of \$7515.00.
- b. If this case is unsuccessfully appealed to the court of appeals, Defendant is entitled to an additional \$15,000; if to the Texas Supreme Court, an additional amount of \$15,000.

F. Prayer

21. Defendant asks for summary judgment against Plaintiff with regard to all of its claims, and summary judgment on her claim for declaratory judgment and associated attorney fees, including pre- and post-judgment interest.

22. Defendant waives all causes of action and relief not requested in this motion.

Respectfully submitted,

By: Warren V. Norred
Warren V. Norred, Texas Bar No. 24045094
200 E. Abram, Suite 300, Arlington, TX 76010
Tel. (817) 704-3984, Fax. (817) 549-0161

CERTIFICATE OF SERVICE - I certify that on July 12, 2013, a true and correct copy of Defendant's MSJ was served by fax to John Wilson at 972.248.8080.

Warren V. Norred
Warren V. Norred

Cause No. 096-260449-12

TIMARRON OWNERS ASSOC., INC.
Plaintiff,

v.

**BARBARA LOUISE MORTON D/B/A/
TIMARRON COLLEGE PREP**
Defendant.

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IN THE DISTRICT COURT

96TH JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

EXHIBIT A
AFFIDAVIT OF DEFENDANT BARBARA MORTON

BEFORE ME, the undersigned authority, on this day personally appeared Barbara Morton, who swore on oath that the following facts are true:

“My name is Barbara Louis Morton. I am over 18 years of age, of sound mind, and fully competent to make this affidavit. I have personal knowledge of the facts stated herein and they are all true and correct.”

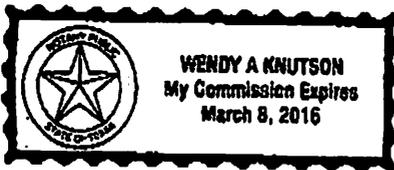
1. “I did not intentionally use ‘TIMARRON’ in the name of my tutoring service in order to take advantage of Plaintiff’s name, or any of the many businesses using the same word.
2. “The use of “TIMARRON” by itself cannot be used as a trademark because it is used by so many other people that it provides no identification of the provider of any good or service.
3. “I am familiar with the commercial enterprises in and around the Dallas-Fort Worth area. I have personally seen more than a dozen entities using the name “TIMARRON” in their title, and a search on the Internet revealed the following commercial entities in north Texas.
 - a. The Courtyard at Timarron is a current business in Southlake, TX.
 - b. The Villages at Timarron is a current business in Southlake, TX.
 - c. Timarron Family Medicine, PA is a current business in Southlake, TX.
 - d. Timarron at Creekside Park is a current business in Southlake, TX.
 - e. Timarron Financial Services, LLC is a current business in Southlake, TX.
 - f. Timarron Partners, Inc. is a current business in Grapevine, TX.
 - g. Timmaron LLC is a current business in Richardson, TX.

- h. Timarron Capital Inc is a current business in Irving, TX.
 - i. Timarron Custom Homes, Inc. is a current business in Keller, TX.
 - j. Timarron Venture, Ltd. is a current business in Dallas, TX.
 - k. Timarron Venture One, L.C. is a current business in Dallas, TX.
 - l. Timarron Shopping Center, L.P. is a current business in Dallas, TX.
 - m. Timarron Mortgage Group Inc. is a current business in Dallas, TX.
 - n. Timarron Land Corporation is a current business in Mesquite, TX.
 - o. Timarron Skin & Laser is a current business in Southlake, TX.
 - p. Timarron Professional Eye is a current business in Southlake, TX.
 - q. Timarron Golf Club Maintenance is a current business in Southlake, TX.
 - r. Timarron Family Medicine is a current business in Southlake, TX.
 - s. Village at Timarron 4120 is a current business in Southlake, TX.
 - t. Timarron Tiger Sharks is a current business in Southlake, TX."
4. "The number of businesses using the word "TIMARRON" in the geographic area indicates that even if the word "TIMARRON" was at one time a valid trademark, it is too diluted to be protectable as a mark today."
5. "Besides the commercial enterprises listed above, I have seen that the USPTO provided a Notice of Allowance for "TIMARRON CAPITAL, INC." as a standard character mark in 2006 for commercial loan services. Though that mark was eventually abandoned for lack of use, the USPTO did not see any conflict between "TIMARRON CAPITAL, INC" and "TIMARRON OWNERS ASSOC., INC."
6. No reasonable person would see all of the businesses with the name "TIMARRON" in them and think that they were all owned by the same organization. It's just a common name used commercially in this geographic area. If TIMARRON OWNERS ASSOC., INC. was the first organization to use "TIMARRON" and everyone else has used it in response, then it would be unfair to wait more than 20 years of use by two dozen other entities before reacting. None of the businesses using "TIMARRON" have hidden that fact.
7. "There is no likelihood of confusion between my tutoring service and TIMARRON OWNERS ASSOC., INC."

- 8. "There is no similarity of goods between TIMARRON OWNERS ASSOC., INC., which is a home owner association, and my organization, which provides tutoring services."
- 9. "I have performed tutoring services since 1999 with the word "TIMARRON" in my entity name; I have been doing business specifically as "TIMARRON COLLEGE PREP" since at least as far back as May 2008.
- 10. "When I was naming my company, I learned that 'TIMARRON' meant 'child of promise' in the Hopi language. I do not recall where or how I learned that, and I do not contend that I am some sort of expert on the Hopi language. But when I learned it, I chose to use the word in my company's name on that basis."
- 11. "I had to hire Warren Norred to defend me in this suit. I am paying him \$300 per hour, and have accumulated legal fees as detailed in Exhibit B."

Barbara L. Morton
 Barbara L. Morton

SUBSCRIBED AND SWORN TO BEFORE ME by July 11 Date: 2013



Wendy A. Knutson
 Notary Public, State of Texas

Cause No. 096-260449-12

TIMARRON OWNERS ASSOC., INC.
Plaintiff,

v.

**BARBARA LOUISE MORTON D/B/A/
TIMARRON COLLEGE PREP**
Defendant.

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IN THE DISTRICT COURT

96TH JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

EXHIBIT B
AFFIDAVIT OF WARREN NORRED IN SUPPORT OF ATTORNEY FEES

BEFORE ME, the undersigned authority, on this day personally appeared Warren V. Norred, who swore on oath that the following facts are true:

“My name is Warren V. Norred. I am over 18 years of age, of sound mind, and fully competent to make this affidavit. I have personal knowledge of the facts stated herein and they are all true and correct.”

“Movant Barbara Louis Morton employed Norred Law, PLLC in connection with the matter on which this suit is based. Movant is entitled to recover the reasonable attorney's fees requested herein pursuant to the Declaratory Judgment Act, TEX. CIV. PRAC. & REM. CODE § 37. It is my opinion that these fees are reasonable attorney's fees based upon the following factors:

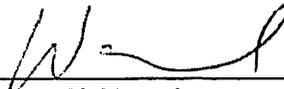
1. The novelty and difficulty of the issue involved, the skill required to provide the legal services properly, and my experience, reputation, and expertise in performing the services;
2. The time and labor involved to perform the legal services properly; and,
3. The fee customarily charged in the community for similar services.”

“I charge \$300 per hour for attorney time on this case. The estimated fees in this case are, to date, \$6615.00, which includes the fees for the initial consult, writing of the answer, amended

answer, handling discovery issues, preparation and service of the Motion for Summary Judgment to which this affidavit is attached. I anticipate another three hours to participate in the hearing on this motion and post-hearing issues, totaling \$7515.00.

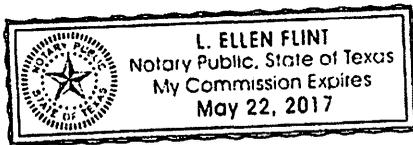
"In support of this accounting, I have attached a pre-bill to this affidavit as Attachment 1, reflecting a true and correct accounting of the tasks that my office has performed for this case."

"It is my opinion that attorney's fees in the amount of \$5,000.00 would be a reasonable fee for the services required to perform post-judgment discovery and to satisfy the judgment by writ of execution and other procedures, \$10,000.00 if appealed to the Court of Appeals, and \$15,000.00 to the Supreme Court."



Warren V. Norred

SUBSCRIBED AND SWORN TO BEFORE ME by Warren V. Norred on July 12, 2013.





Notary Public, State of Texas

PRE-BILL

ATTACHMENT 1

Date: 7/12/2013
 Time: 9:32AM
 Page: 1 of 2

Norred Law, PLLC

Bobbie Morton
 476 Cherokee Ct. S
 Keller, TX 76248

Client: 12-439
 Matter: 12-439
 Matter Type: LIT Litigation
 Comments :
 File Open Date: 7/26/2012
 Billing Mode: Hourly

Bobbie Morton
 Timarron v. Bobbie Morton - Trademark

Originating Timekeeper: WVN
 Responsible Timekeeper: WVN
 Billing Format Code: GEN
 Fees/Costs Cut Date: 7/12/2013
 Payments Cut Date: 7/12/2013

Bill Date: 7/12/2013
 Start Date: 1/1/1900

Billing Frequency : Monthly
 Remarks:

Last Bill:

Type of Bill: Regular

ACCOUNT	<u>Current</u>	<u>30 - 59 Days</u>	<u>60 - 89 Days</u>	<u>90 Days and Over</u>
AGING	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Fees Billed to Date:	\$0.00	Costs Billed to Date:	\$0.00	

Fees

<u>Ticket Number</u>	<u>Date</u>	<u>Timekeeper</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>	
17	1/25/2012	WVN	Initial disc with BM re HOA dispute.	0.33	\$99.00	BL
10	4/4/2012	WVN	Email exchange with BM; decided not to send letter.	0.33	\$99.00	BL
19	4/14/2012	WVN	Email with BM on decision not to get an agreement with HOA.	0.10	\$30.00	BL
18	5/29/2012	WVN	Email disc with BM about new lease at Courtyard at Timarron.	0.17	\$51.00	BL
11	8/22/2012	WVN	Rec'd petition.	0.50	\$150.00	BL
1	8/23/2012	WVN	Rec'd rest of Pet.	0.17	\$51.00	BL
2	8/24/2012	WVN	Rec'd evidence from BM, number of emails with examples of other Timarron companies.	0.50	\$150.00	BL
3	8/25/2012	WVN	Rec'd additional evidence of Timarron used.	0.17	\$51.00	BL
4	8/31/2012	WVN	Begin drafting answer.	0.50	\$150.00	BL
5	9/6/2012	WVN	Complete Answer. Added counter-claims of tortious interference.	3.50	\$1,050.00	BL
6	9/7/2012	WVN	File and serve answer	1.00	\$300.00	BL
7	9/8/2012	WVN	Write Rule 11 for email and email to JW. Examined national trademark.	0.50	\$150.00	BL
8	10/12/2012	WVN	Rec'd Timarron's answer.	0.50	\$150.00	BL
20	11/27/2012	WVN	Wrote and filed response to Notice of Opposition.	2.00	\$600.00	BL
21	12/15/2012	WVN	Sent discovery to Wilson via email.	0.25	\$75.00	BL
9	1/11/2013	WVN	Wrote & served Discovery to HOA.	2.00	\$600.00	BL
12	5/15/2013	WVN	Rec'd discovery requests from HOA.	0.25	\$75.00	BL

Continued On Next Page

Date: 7/12/2013
 Time: 9:32AM
 Page: 2 of 2

PRE-BILL

Norred Law, PLLC

Client: 12-439
 Matter: 12-439

Bobbie Morton
 Timarron v. Bobbie Morton - Trademark

13	5/16/2013	WVN	Status to client. Discussion of opposition to HOA's marks.	0.25	\$75.00	BL
14	5/16/2013	WVN	Email disc re: deposition of BM, set for July 15.	0.25	\$75.00	BL
15	5/17/2013	WVN	Disc re: trademark case, opposition case.	0.75	\$225.00	BL
16	5/17/2013	WVN	BM sent out req. discovery on 12/17, followed with phone discussion.	0.83	\$249.00	BL
23	5/22/2013	EF	Emailed Admissions to Bobbie. Awaiting responses.	0.00	\$0.00	BL
26	5/30/2013	EF	Prepared Admissions Responses.	1.25	\$112.50	BL
24	5/31/2013	EF	Drafted Interrogatory answers.	1.75	\$157.50	BL
25	5/31/2013	WVN	Instruct and draft discovery.	0.75	\$225.00	BL
28	6/3/2013	EF	Drafted Production responses/mailed Bobbie/LM on Bobbie's cell.	0.75	\$67.50	BL
27	6/4/2013	EF	Served Discovery Responses (Int, Adm, & Prod).	0.25	\$22.50	BL
32	6/17/2013	WVN	Rec'd Motion to Compel. No hrg set yet.	0.25	\$75.00	BL
30	7/3/2013	WVN	Draft MSJ.	3.00	\$900.00	BL
29	7/5/2013	WVN	Finalize, file, serve MSJ.	2.00	\$600.00	BL

Total Hours:	24.85	
Billable Hours:	24.85	\$6,615.00

Timekeeper Summary

Timekeeper EF worked 4.00 hours at \$90.00 per hour, totaling \$360.00.
 Timekeeper WVN worked 20.85 hours at \$300.00 per hour, totaling \$6,255.00.

Prior Balance:	\$0.00
Payments Received:	\$0.00
Current Fees:	\$6,615.00
Sales Tax on Fees:	\$0.00
Advanced Costs:	\$0.00
Sales Tax on Costs:	\$0.00
Administrative Cost:	\$0.00
Late Charges:	\$0.00
Additional Retainer Due:	\$0.00
TOTAL AMOUNT DUE:	\$6,615.00

Fees and Costs [] Fees Only [] Costs Only [] Don't Bill []