

Fl

NO. 86-12449-A

PENDERGRAFT, ELAM & SIMON,	§	IN THE DISTRICT COURT
Plaintiff,	§	
vs.	§	
ORIENT SALES CORPORATION,	§	OF HARRIS COUNTY, TEXAS,
INC. FORMERLY DBA AARON	§	
WOMEN'S CLINIC, L. JOHN	§	
PETERSON, INDIVIDUALLY,	§	
AND AARON WOMEN'S CLINIC	§	
Defendants,	§	
A COMPREHENSIVE WOMEN'S	§	
HEALTH CARE SYSTEM, INC.,	§	
Garnishee	§	55TH JUDICIAL DISTRICT
	§	

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PLAINTIFF'S APPLICATION FOR WRIT OF GARNISHMENT PRIOR TO JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

I. PARTIES

PENDERGRAFT, ELAM & SIMON, Plaintiff in this cause, makes this Application for Writ of Garnishment Prior to Judgment. Garnishee is A COMPREHENSIVE WOMEN'S HEALTH CARE SYSTEM, INC., which may served with process at 5900 North Freeway, Suite 143, Houston, Harris County, Texas. Defendant L. JOHN PETERSON may be served with process by certified mail at 500 Capitol of Texas Highway South, Building 3, Suite 200, Austin, Texas. Defendants ORIENT SALES CORPORATION, INC., and AARON WOMEN'S CLINIC are not subject to this Writ of Garnishment in that they have no property interest affected thereby. Notice of this garnishment proceeding may accordingly be sent by certified mail, return receipt requested, to their attorney of record, Mr. John Berkel, Two Houston Center, Suite 3420, 909 Fannin, Houston, Texas 77010.

II. FACTS

Plaintiff has brought suit against the aforementioned Defendants to recover sums due Plaintiff for legal services performed on behalf of said named Defendants. Plaintiff orally contracted with Defendant L. JOHN PETERSON to perform legal services for Defendants ORIENT SALES CORPORATION, INC. and AARON WOMEN'S CLINIC in return for monthly payment of the hourly legal fees incurred. Defendants incurred legal fees in the amount of \$35,816.94, together with interest thereon, and then refused to pay such fees, which are now due and owing. Based on information and belief, Defendant L. JOHN PETERSON then sold all the stock and interest in ORIENT SALES CORPORATION, INC. and the AARON WOMEN'S CLINIC to A COMPREHENSIVE WOMEN'S HEALTH CARE SYSTEM, INC., Garnishee herein.

Plaintiff has reason to believe and does believe that Garnishee has property belonging to Defendant L. JOHN PETERSON or is indebted to Defendant L. JOHN PETERSON. Upon information and belief, Defendant L. JOHN PETERSON does not possess property within the state that is subject to execution and that is sufficient to satisfy the debt. This garnishment is not sued out to injure L. JOHN PETERSON or the Garnishee.

III. AFFIDAVIT

Plaintiff is entitled to the issuance of Writ of Garnishment Prior to Judgment on the grounds stated in the attached affidavit. The affidavit is incorporated into this application by reference as if copied herein verbatim.

PRAYER

Plaintiff prays that Writs of Garnishment Prior to Judgment issue; that Garnishee be cited to appear and answer; that copies of the Writs and other documents be issued and served on L. JOHN PETERSON; that upon final hearing Plaintiff's garnishment liens be established and ordered foreclosed; and for such other and further relief to which Plaintiff may be entitled.

Respectfully submitted,



Michael A. Lamson
ATTORNEY FOR PLAINTIFF,
PENDERCRAFT, ELAM & SIMON
3120 Southwest Freeway
Suite 406
Houston, Texas 77098
(713) 526-9269
TEC# 11855300

Unofficial Copy Office of Christy District Clerk

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vs. §
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AND AARON WOMEN'S CLINIC §
Defendants, §
A COMPREHENSIVE WOMEN'S §
HEALTH CARE SYSTEM, INC., §
Garnishee § 55TH JUDICIAL DISTRICT

AFFIDAVIT FOR WRIT OF GARNISHMENT
PRIOR TO JUDGMENT

STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared MARILYN H. ELAM who, being by me duly sworn, on oath stated:

1. "I am a partner in the law firm of Pendergraft, Elam & Simon, Plaintiff in this cause. I have personal knowledge of the facts stated in this affidavit on behalf of Pendergraft, Elam & Simon, and they are true and correct. I am authorized to make this affidavit on behalf of Pendergraft, Elam & Simon and to apply for Writ of Garnishment Prior to Judgment in this cause. I am over twenty-one (21) years of age and am legally competent in all respects to make this affidavit.

2. "The above captioned suit involves a claim by Pendergraft, Elam & Simon against Defendants ORIENT SALES

CORPORATION, INC., AARON WOMEN'S CLINIC, and L. JOHN PETERSON, for failure to pay fees incurred for legal representation. Representation was instituted by Pendergraft, Elam & Simon based upon an oral contract between L. JOHN PETERSON and Pendergraft, Elam & Simon with the understanding that legal fees would be billed on a monthly basis and be due upon receipt of such billing. Legal representation was instituted on behalf of the aforementioned Defendants on the basis of said agreement.

3. "That Pendergraft, Elam & Simon is owed \$35,816.94 by Defendants herein, and despite frequent billings, no payment has been made to settle said debt. These billings are reflected by Exhibit "A" attached to Plaintiff's Original Petition herein.

4. "While this debt was outstanding, Defendant L. JOHN PETERSON sold his interest in ORIENT SALES CORPORATION, INC. and AARON WOMEN'S CLINIC to Garnishee, A COMPREHENSIVE WOMEN'S HEALTH CARE SYSTEM, INC. Upon information and belief, Garnishee makes monthly payments to Defendant L. JOHN PETERSON pursuant to the purchase agreement.

5. "This debt is just, due and unpaid. Within my knowledge, Defendant does not possess property within this state that is subject to execution and that is sufficient to satisfy the debt. This garnishment is not sued out to injure either Defendant or Garnishee, but merely so that justice may be done.

6. "In the suit against L. JOHN PETERSON, Pendergraft, Elam & Simon have alleged that they have been damaged in the amount of \$35,816.94, together with interest. Pendergraft, Elam & Simon should be permitted to garnish property of L. JOHN PETERSON in that amount."

Marilyn H. Elam
MARILYN H. ELAM

SUBSCRIBED AND SWORN TO BEFORE ME, this 29th day of May, 1986.

Kathryn S. Clement
Notary Public, State of Texas

My commission expires:

MARCH 29, 1989

MARILYN T. CLEMENT,
Notary Public, State of Texas
My Commission Expires March 21, 1989

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