

FINDINGS OF FACT

1. The Plaintiffs properly served notice of this cause and motion on the Defendant.
2. The notice to the Defendant of the default prove-up hearing was not required in that the Defendant received all the notice to which he is entitled when he was served with process and he has failed to file an answer or make an appearance.
3. The Court determined that it had jurisdiction over the subject matter and the parties of this proceeding.
4. The Court also determined that venue was not contested and it is proper in Dallas County Texas.
5. The Court takes judicial notice of the Original Petition and attached exhibits marked A-1 through A-8 filed on August 06, 2008.
6. The Court finds after a review of the evidence, the Court's file, docket sheet and testimony of all parties present that the following activity occurred in this matter:
 - A. The Plaintiffs filed their suit in this matter against Michael R. Davis on or about August 6, 2009.
 - B. This Court ordered a Temporary Restraining Order on August 11, 2009, in Vol./Book 432E, Page 155, 4 pages.
 - C. The Defendant was served with Notice, Citation, and a Temporary Restraining Order on or about August 12, 2009.
 - D. The Plaintiffs filed a supplemental brief for a Temporary Injunction on August 18, 2009.
 - E. This Court ordered a Temporary Injunction against Defendant on August 19, 2009 in Vol./Book 432E, 5 pages.
 - F. The Clerk of this Court issued the Temporary Injunction and Trial Notice on August 26, 2009.
 - G. The Defendant was served with the Temporary Injunction and the Trial Notice on September 02, 2009.
 - H. A Certificate of Last Known Address, Affidavit, and Motion for Partial Summary were filed with this Court on September 04, 2009.
 - I. This Court ordered and Interlocutory Judgment on September 09, 2009 in Vol./Book 433E, Page 166, 1 page.

- J. On September 11, 2009, the Clerk of this Court sent the Defendant Notice of Motion for Default Judgment to the Defendant's last known address.
 - K. The Court finds that the court record demonstrates the expiration of time for Defendant, Michael R. Davis to file an answer.
 - L. The Court finds that the citation and proof of services has been on file with the clerk for more the 10 (ten) days required.
 - M. The Court find that evidence exist by the Defendant of Fraud, Embezzlement, Conversion, Theft and violation of the Texas Wiretap Act and other claims as plead by Plaintiffs.
 - N. The Court further finds that the evidence presented is the causal nexus between the Defendant's actions and the Plaintiffs' injuries. And that such actions were malicious and with specific intent.
7. The Court conducted a hearing in which the Plaintiffs presented evidence of damages and proved the amount of damages in the amount of \$190,602.48 (one hundred ninety thousand six hundred two dollar and forty-eight cents) during the hearing.

CONCLUSIONS OF LAW

1. There is clear and convincing evidence that the Defendant, Michael R. Davis violated the Texas Wiretap Act, when he intentionally obtained access to the Plaintiffs' bank accounts without authorization.
2. There is clear and convincing evidence that the Defendant committed conversion, embezzlement and theft when he applied for, obtained and spent approximately \$9,000.00 on a line of credit in the Plaintiffs' name, fraudulently transferred \$388.00 from the Plaintiffs' account into a non-Plaintiffs' account, while unauthorized and wrongfully assuming dominion and control over property belonging to that of the Plaintiff
3. There is clear and convincing evidence that the Defendant committed fraud by holding himself out to be the executive officer of a corporation of which he was not, in order to obtain lines of credit and to gain access to accounts to transfer funds that were not his and by his actions of conversion, embezzlement and theft to take such funds for his personal

use.

4. There is clear and convincing evidence that the Defendant acted with malicious specific planned intent to invade upon the Plaintiffs' solitude, seclusion, private affairs or concerns by his highly offensive actions to a reasonable person that caused the Plaintiffs to suffer injury and such actions were with design to injure Plaintiff as to provide a basis for exemplary damages.

Signed this 17th day of May, 2010.


Judge Presiding

Copies to:

Counsel for the Petitioner

Defendant

STATE OF TEXAS }
COUNTY OF DALLAS }

I, GARY FITZSIMMONS, Clerk of the District of Dallas County, Texas, do hereby certify that I have compared this instrument to be a true and correct copy of the original as appears of record in my office.

EVEN UNDER MY HAND AND SEAL of said Court, at office Dallas, Texas, this 26th day of May, A.D., 2010

GARY FITZSIMMONS, DISTRICT CLERK
DALLAS COUNTY, TEXAS

By Patricia Forbice Deputy