

CAUSE NO. 1242992RELIANT ENERGY RETAIL
SERVICES, LLC,
Plaintiff,

v.

TEXAS CHILDREN'S MUSEUM f/k/a
IMAGINATION STATION
CHILDREN'S MUSEUM, LLC,
Defendant.§
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IN THE COUNTY COURT AT LAW

NO. ____

HARRIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff Reliant Energy Retail Services, LLC ("Plaintiff"), and files this Original Petition against Defendant Texas Children's Museum f/k/a Imagination Station Children's Museum, LLC ("Defendant"), and in support thereof would respectfully show this Honorable Court as follows:

I. DISCOVERY LEVEL

1. Discovery conducted in this matter is intended to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

II. PARTIES

2. Plaintiff is Reliant Energy Retail Services, LLC. Plaintiff is a limited liability company properly registered and authorized to do business in the State of Texas with offices located at 910 Louisiana Street, Suite B200, Houston, Texas 77002.

3. Defendant Texas Children's Museum f/k/a Imagination Station Children's Museum, LLC is a domestic nonprofit corporation organized under the laws of the State of Texas whose office is located at 201 North Highway 174, Rio Vista, Texas 76093, and may be served through its Director and Registered Agent Aaron G. Rosenkrans and/or

Director Vada L. Rosenkrans, located at 201 North Highway 174, Rio Vista, Texas 76093, and/or at any location where they may be found for service. Alternatively, Defendant can be served through its Director, Laura S. Johnson, located at 1364 Southeast Parkway, Apartment 3018, Azle, Texas 76020.

III. MISNOMER/MISIDENTIFICATION/ALTER EGO

4. In the event that any of the parties are misnamed, misidentified, and/or not including herein, it is Plaintiff's contention that such was a "misidentification", "misnomer", and/or such parties are/were "alter egos" of parties named herein. Alternatively, Plaintiff contends that such "corporate veils" should be pierced to hold such parties properly included in the interest of justice.

IV. JURISDICTION AND VENUE

5. The Court has jurisdiction over this lawsuit because the amount in controversy exceeds the minimum jurisdictional limits of the Court.

6. Venue of this case is proper in Harris County, Texas because the contract made the basis of this lawsuit was entered into, accepted, and is performable in Harris County, Texas.

V. FACTS

7. Plaintiff is an energy provider in the service of providing electricity services to residents and businesses. In the usual and ordinary course of business, Plaintiff sold and provided one or more items of goods, wares, merchandise, or services to Defendant on an open account. The account is supported by affidavit that is attached hereto as Exhibit A and incorporated fully herein by reference for any and all purposes. Plaintiff generated an open account to extend and establish payment terms to Defendant pursuant to an

Agreement, of which the Terms of Service and Electricity Facts Label are attached hereto as Exhibit A-1 and incorporated fully herein by reference for any and all purposes.

8. Pursuant to that Agreement, Plaintiff provided certain goods and services to Defendant as shown on the Final Invoice attached hereto as Exhibit A-2 and incorporated fully herein by reference for any and all purposes. The prices reflected in the Final Invoice is a reasonable, usual, and customary market value price for such goods and services and is the agreed price between the parties. Defendant accepted the goods and services and became bound to pay Plaintiff the designated, agreed-upon price. Pursuant to Rule 185 of the Texas Rules of Civil Procedure, the reliability of the records is supported by the affidavit of Plaintiff's agent. The affidavit also substantiates that the claim is within the personal knowledge of the affiant, is just and true, that is due, and that all just and lawful offsets, payments, and credits have been allowed. See Exhibit A.

9. The attached statement of account and Final Invoice accurately set forth the goods and services, the dates of performance, the quantities, and the prices of the series of transactions and represents a transaction or series of transactions for which a systematic record has been kept in the usual and ordinary course of business. See Exhibits A-1 and A-2.

10. Defendant defaulted by failing to make payments on the balance owed on the account. The principal balance due Plaintiff is **SIX THOUSAND SIX HUNDRED NINETY-SIX DOLLARS AND 51/100 CENTS (\$6,696.51)**, after allowing all just and lawful offsets, payments, and credits, as shown on Exhibit A, plus contractual interest, attorneys' fees, and court costs.

VI. DEMAND FOR PAYMENT

11. Plaintiff made a written demand upon Defendant more than thirty (30) days prior, pursuant to Texas Civil Practice and Remedies Code § 38.002, and payment for the amount owed has not been tendered.

VII. SWORN ACCOUNT CLAIM

12. Plaintiff repeats and re-alleges the foregoing paragraphs and incorporates them as if fully restated herein.

13. Plaintiff is entitled to recover its damages based upon its sworn account with Defendant. Defendant's conduct constitutes a refusal and failure to pay the balance owed on the verified account as shown on the invoices attached as Exhibit A-2 and sworn to in the Affidavit of Plaintiff's agent attached hereto as Exhibit A. This verified account is a liquidated money demand, and is a systematic record of account, incorporating charges submitted to Defendant, and is a record of business dealings between Plaintiff and Defendant. After allowing all just and lawful offsets, payments, and credits, there remains due and unpaid on said account the in the above-stated amount of \$6,696.51, together with all lawful interest and incidental damages.

14. At the time Plaintiff rendered the goods and services, the reasonable market value of such goods and services were the amounts charged to Defendant. As a natural and probable result of, or as a proximate result of Defendant's failure and refusal to pay said account with Plaintiff, it has suffered actual damages in the above-stated amount of \$6,696.51. Plaintiff does hereby, pursuant to this sworn account claim, sue and assert its claim for all such damages, attorneys' fees, plus all pre- and post-judgment interest allowed by law.

VIII. BREACH OF CONTRACT

15. Plaintiff repeats and re-alleges the foregoing paragraphs and incorporates them as if fully restated herein.

16. Defendant's failure to pay Plaintiff for the invoiced goods and services constitutes a breach of the Agreement, under which Defendant agreed to remit payment to Plaintiff for those goods and services provided. See Exhibits A-1 and A-2.

17. As a natural and probable result of, or a proximate result of, the breach of agreement by Defendant, Plaintiff has suffered actual damages in the above-stated amount of \$6,696.51. Plaintiff does hereby, pursuant to this breach of contract, sue and assert its claim for all such damages, including attorneys' fees, plus all pre- and post-judgment interest allowed by law.

IX. QUANTUM MERUIT

18. Plaintiff repeats and re-alleges the foregoing paragraphs and incorporates them as if fully restated herein.

19. In the alternative, and without waiving or limited Plaintiff's allegations, based on the facts alleged herein, it is entitled to recover damages upon the theory of quantum meruit. Specifically, Defendant has received benefits and services without paying fair value for said benefits from Plaintiff as shown in Exhibit A-2. Defendant used the goods and services to its benefit under circumstances as to reasonably notify that Plaintiff, in providing the goods and services, expected to be paid. Plaintiff detrimentally relied on the performance of Defendant and Plaintiff still has not received fair and just compensation for the goods and services provided to Defendant.

20. Defendant agreed to pay Plaintiff the reasonable value of the invoiced goods and services furnished and delivered by Plaintiff. Accordingly, Plaintiff has been damaged and

Defendant has been unjustly enriched as a result thereof; therefore, Plaintiff, pursuant to this alternative quantum meruit claim, asserts its claim against Defendant and Defendant is obligated to pay Plaintiff for all such damages.

X. UNJUST ENRICHMENT

21. Plaintiff repeats and re-alleges the foregoing paragraphs and incorporates them as if fully restated herein.

22. In the alternative, and without waiving or limiting Plaintiff's allegations, Plaintiff asserts a claim for restitution under an implied contract basis to recover the reasonable of the invoiced goods and services, the benefit of which Defendant willingly accepted but refused to pay for and for which Defendant has obtained a significant benefit from Plaintiff without payment, as shown in Exhibit A-2. Defendant's actions resulted in a material gain and unjust enrichment to Defendant, while resulting in a material loss for Plaintiff. Defendant is liable to Plaintiff in the above-stated amount of \$6,696.51, the reasonable value of the goods and services Plaintiff provided to Defendant for which Plaintiff has not been paid.

XI. ATTORNEYS' FEES

23. Plaintiff is entitled to recover reasonable attorneys' fees, pursuant to Texas Civil Practice and Remedies Code § 38.001 et seq. Defendant's default and refusal to pay the account invoices has made it necessary for Plaintiff to employ the undersigned attorneys to file suit to recover the amount due. Accordingly, Plaintiff seeks recovery of and from Defendant for reasonable attorneys' fees for services rendered and to be rendered through trial and appeal.

XII. CONDITIONS PRECEDENT

24. All conditions precedent have been performed or have occurred.

XIII. PRAYER

25. WHEREFORE, PREMISES CONSIDERED, Plaintiff Reliant Energy Retail Services, LLC respectfully requests and prays that Defendant be cited to appear and answer herein, that upon final trial and hearing thereof, Plaintiff be granted judgment against Defendant for:

- a. The principal amount due on the account of **SIX THOUSAND SIX HUNDRED NINETY-SIX DOLLARS AND 51/100 CENTS (\$6,696.51)**;
- b. Pre- and post-judgment interest at the highest legal and contractual rate allowed by law;
- c. Reasonable attorneys' fees, with additional contingent amounts in the event of appellate proceedings;
- d. All taxable costs of court; and
- e. Any and all further relief, general or special, at law or in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

BROWN SIMS, P.C.

By: 

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ATTORNEYS FOR PLAINTIFF

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Miguel Torres on behalf of Robert Browning
Bar No. 796264
mtorres@brownsims.com
Envelope ID: 96239033
Filing Code Description: Petition
Filing Description: PLAINTIFF'S ORIGINAL PETITION
Status as of 1/15/2025 2:06 PM CST

Case Contacts

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