

Cause No. 09-0588 ED

2009 MAY -6 PM 2:20  
IN THE DISTRICT COURT  
GARY LEE SIMMONS  
DISTRICT CLERK  
DALLAS CO., TEXAS  
DEPUTY

LUIS ENRIQUE RAMIREZ, ALONSO  
SALINAS, LETISIA SALINAS, MARIA  
SALINAS, AND MARIA ALICIA  
PUENTE NAVARRO,

Plaintiffs,

v.

14th-A JUDICIAL DISTRICT COURT

ALVINO GUAJARDO, INDIVIDUALLY,  
ALVINO GUAJARDO IN HIS  
CAPACITY AS THE GENERAL  
COUNSEL FOR THE MEXICAN  
CONSULATE, PABLO ALVARADO P.C.,  
PABLO ALVARADO, INDIVIDUALLY,  
AND PABLO ALVARADO IN HIS  
CAPACITY AS THE GENERAL  
COUNSEL FOR THE MEXICAN  
CONSULATE,

Defendants.

DALLAS COUNTY, TEXAS

**PLAINTIFFS' ORIGINAL PETITION AND  
MOTION FOR CLASS ACTION CERTIFICATION**

**TO THE HONGRABLE JUDGE OF SAID COURT:**

**NOW COMES** Plaintiffs Luis Enrique Ramirez, Alonso Salinas, Letisia Salinas, Maria Salinas, and Maria Alicia Puente Navarro, complaining of Alvino Guajardo, Individually, Alvino Guajardo in his capacity as the general counsel for the Mexican Consulate, Pablo Alvarado, P.C., Pablo Alvarado, individually, and Pablo Alvarado in his capacity as the general counsel for the Mexican Consulate, and, for cause, would respectfully show unto the court as follows:

### **I. Discovery Control Plan**

1. Plaintiffs intend to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.4 because the unusual nature of the facts, nature of the parties and potential witnesses, and allegations herein are out of the ordinary and require a custom discovery control plan.

### **II. Jurisdiction**

2. The court has jurisdiction over this lawsuit because the amount in controversy exceeds this court's minimum jurisdictional requirements.

### **III. Venue**

3. Venue is proper in Dallas County because all of the acts complained of occurred in Dallas County.

### **IV. Parties**

4. Plaintiff Luis Enrique Ramirez is an individual residing in Dallas County, Texas.
5. Plaintiff Alonso Salinas is an individual residing in Dallas County, Texas.
6. Plaintiff Latisia Salinas is an individual residing in Dallas County, Texas.
7. Plaintiff Maria Salinas is an individual residing in Dallas County, Texas.
8. Plaintiff Maria Alicia Puente Navarro is an individual residing in Monterrey, Mexico.
9. Defendant Alvino Guajardo is an employee of Defendant Law Offices of Pablo Alvarado, P.C. and purports to be the General Counsel to the Mexican Consulate in Dallas, Texas. Guajardo may be served with process either at: his principal place of business, 3500

Maple Avenue, Suite 1160, Dallas, Texas 75219 or, at the Mexican Consulate, 2777 N Stemmons Freeway # 1622, Dallas, Texas 75207; or, wherever else he may be found.

10. Pablo Alvarado (“Alvarado”) is an attorney licensed to practice law in the State of Texas. Alvarado also purports to be the General Counsel to the Mexican Consulate in Dallas, Texas. Alvarado may be served with process either at: his principal place of business, 3500 Maple Avenue, Suite 1160, Dallas, Texas 75219 or, at the Mexican Consulate, 2777 N Stemmons Freeway # 1622, Dallas, Texas 75207; or, wherever else he may be found.

11. Pablo Alvarado, P.C. (“Alvarado, P.C.”) is a Texas professional corporation with its principal place of business in Dallas, Texas, and who may be served by and through it’s President, Pablo Alvarado at 3500 Maple, Suite 1160, Dallas, Texas, or wherever else he may be found.

#### **V. Facts**

12. This case is about corruption and greed hiding behind the façade of public service. The office of a Consul is termed a Consulate, and is usually subordinate to the state's main representation in that foreign country, nowadays usually an Embassy. Activities of a consulate include but are not limited to: 1) protecting the interests of their citizens; 2) issuing passports; 3) issuing visas to foreigners; and, 4) public diplomacy. It is not customary or appropriate for a Consul or a Consulate to refer injured people and grieving families to the “right law firms”...let alone, to refer them to “one law firm” who, mislead them into believing that the law firm is acting under the auspices and authority of the Consulate.

13. The Mexican Consulate (the “Consulate”) in Dallas is located off of Stemmons Freeway and serves thousands of Mexican Citizens living in North Texas and surrounding cities.

If you log on to its website, it appears to be what a standard Consulate should be -- a place for Mexican citizens to go for assistance. However, when you step inside the Consulate you step into a "lawless" world where rules do not exist, where corruption, ethical violations, bribery and kick-backs reign supreme.

14. In many cases, Hispanic people, ignorant of the laws, policies and procedures of the United States call upon the Consulate for help under the logical, but misguided impression that the Consulate is looking out for their best interest. However, in far too many cases, the "help" these people receive from the Consulate is a referral to Guajardo and Alvarado, P.C. who are not concerned with their people's best interest; they are only concerned with how much money they can get for themselves through these cases. These "employees" and/or "volunteers" at the Consulate are making important decisions that effect peoples lives every day, but are not concerned about the person who came in needing there assistance; instead, they are looking out for their own interests and the interests of their "Patron," Pablo Alvarado ("Alvarado"). Upon information and belief, Alvarado provides kickbacks, cash payments, and significant favors to Consulate employees in return for "special privileges" in and around the Consulate. One of those special privileges that the "Patron" gets is the right to be the exclusive referral attorney for all the potentially lucrative personal injury cases from the families of the victims that come to the Consulate for help.

15. Unbeknownst to the victims' families, they are referred to Guajardo and Alvarado P.C. to be their lawyer not because of Guajardo's and Alvarado's qualifications, but rather because of the kickbacks, cash payments, and significant favors they give to Consulate employees. In fact, it is common practice for Alvarado, P.C. to take cases that either they are not

qualified to handle or that they know they are not going to handle in the first place, but rather that they intend to refer or sell on to other lawyers that the “clients” have never met or spoken to. On information and belief, neither Guajardo nor Alvarado, P.C. actually handles the cases that they solicit from the Consulate, as neither of them have the requisite trial experience or qualifications to do so. In fact both Alvarado and Guajardo have testified that they have never taken a personal injury case to trial and are not qualified to do so.

16. Alvarado is not alone. Many of his directives are carried out by his longtime henchman and right hand man, Alvino Guajardo. Guajardo has been stationed at the Consulate by Alvarado since he was a law student and he, too, receives the same “special privileges” that are afforded to “el Patron” Alvarado. Several other lawyers also perform pro bono work at the Consulate; however, they do not receive the same privileges and special treatment passed on to Alvarado and Guajardo because they do not “take care” of the Consulate employees the way Alvarado and Guajardo do.

17. It is widely known throughout the community and was even reported by the Dallas Observer in 2006, that Guajardo “volunteers” at the Consulate to recruit clients for Alvarado. Guajardo’s “volunteer” work is far from philanthropic. In fact, Guajardo is only there to recruit clients’ which he is extremely effective at doing, in part, because, his authority at the Consulate is second to none. For example, there is a box in the Consulate where Mexican citizens applying to have their loved one’s body shipped back to Mexico or looking for assistance with funeral expenses place their applications. No one in the Consulate is allowed to touch the box (which receives approximately 45 applications a month) until Guajardo sorts through the applications and decides which applications would be good “cases.” Guajardo then

calls the applicants on behalf of the Consulate; however, the purpose of the call is not to assist them with shipping the body back or helping with funeral expenses. The purpose of the call is to speak with a potential client and gain their confidence by talking about the incident that caused the tragedy and then sign them to a legal services contract when they are most emotionally vulnerable. For several years Guajardo held himself out as a lawyer for the Consulate, when in fact he was neither a lawyer nor an employee of the Consulate.

18. The 2006 Dallas Observer article where the “breaking” news of corruption was first brought to the public’s attention is not the only concern that has been raised regarding corruption at the Consulate. On information and belief, several people wrote then Attorney General Alberto Gonzales about their concerns as well. However, despite these concerns, it remains “business as usual” for the Consulate with Guajardo and Alvarado running the show. This is no surprise, in the 2006 Dallas Observer Article Consul General Carlos Garcia de Alba is quoted as saying “there’s no hurry” in regards to completing an investigation of one witnesses claim. If Guajardo and Alvarado have their way, no investigation will ever be completed.

19. Guajardo has gone so far as to get I.D. cards and business cards from the Consulate to commit a fraud on the persons who came along looking for help.

#### **A Dying Father’s Final Wish**

20. Unfortunately this reign of greed and corruption is not limited to a few isolated incidents, it’s a way of life at the Consulate. In December of 2008, Alonso Salinas, Letisia Salinas, and Maria Salinas (collectively, hereinafter the “Salinas family”) sought help from the Consulate. Maria’s husband and the father of her six (6) children had been critically injured in a work place accident. The Salinas family, extremely distraught over this injury knowing that their

father's chances of survival were grim, sought assistance from the Consulate. The Salinas family, in urgent need of help, sought the Consulate's assistance in order to obtain a temporary visa so that their critically injured father's sister could come and see her brother before he died. The Consulate took note of the Salinas family's situation and the head of the department came over and said, "We have an attorney who can help you." A couple days later the Salinas family received a phone call from Guajardo calling on behalf of the Consulate. Guajardo was not concerned about assisting the Salinas family in bringing their dying father's sister to see her brother one last time. Guajardo was only concerned about "the facts of the case" he wanted to know what happened, how it happened, and when the Salinas family could sign a contract for legal services. After eight (8) days in the hospital, Alonso, Letisia, and their four (4) other siblings lost a father, Maria lost a husband, and the Consulate let the Salinas family down because they never got their aunt out of Mexico to see her brother before he died. Shortly, after their father's death Guajardo was at the Salinas family's home attempting to have the Salinas family sign contracts for legal services. When they told Guajardo they wanted another lawyer's opinion, he indicated that he had a lot of experience and specialized in wrongful death actions. In truth, Guajardo had never tried a wrongful death case, and had only been a licensed attorney for two (2) years!

### **The Tricks Continue**

21. Maria Alicia Puente Navarro ("Maria") has her own nightmare, from her experience at the Consulate. On or about August 14, 2006, Edgar Navarro ("Edgar") was crushed to death in a workplace accident. The next day, Maria went to the Mexican Consulate to obtain information about transporting Edgar's body back to Mexico. Maria is the mother of four (4) of

Edgar's children and considered herself to be his common law wife.

22. While at the Mexican Consulate, Maria was approached by Guajardo. At the time, Guajardo was not a licensed attorney, but was an employee and/or agent of Alvarado, P.C.

23. On information and belief, Guajardo scouts Mexican citizens coming to the Consulate who might have a personal injury claim or need other legal representation and approaches his target while holding himself out to be an "attorney" for Alvarado, P.C. He then gets the unwitting "prospect" to sign a contract for legal services with Alvarado, P.C., and brings them to Alvarado for a meeting. Guajardo, now a licensed attorney, even holds himself out as the official attorney of the Mexican Consulate and advertises himself as "General Counsel" for the Consulate in several Hispanic periodicals.

24. Guajardo, having become aware of Maria's potential wrongful death claim, intentionally misled Maria into believing that she required the services of an attorney in order to send Edgar's body back to Mexico. Believing that Guajardo was an attorney and relying on his representation that an attorney was necessary to send Edgar's body to Mexico, Maria, who does not speak or read English, signed a non-translated English only contingent fee agreement with Alvarado, P.C. The English language fee agreement purportedly conferred authority on Alvarado, P.C. to act on Maria's behalf and on behalf of her four (4) children to pursue claims arising from the death of Edgar. Shortly thereafter, Alvarado enlisted the assistance of Bob Lyon and Lyon & Associates in the matter without the consent or approval of Maria.

25. In Maria's case, Guajardo, Alvarado and Alvarado, P.C. signed up other family members of Edgar and on or about September 12, 2006, Alvarado, P.C., Alvarado and Lyon filed suit on behalf of Maria, but only as next friend of her and Edgar's children. No claim was made

for Maria in her individual capacity. The petition filed by Alvarado, P.C., Alvarado and Lyon also included the mother and grandmother of Edgar's other minor children, as well as Edgar's mother, as individual Plaintiffs, despite an apparent conflict of interest by and among the parties.

26. Like many of the clients who have been illegally solicited by Guajardo and Alvarado, Maria quickly learned of her mistake. Approximately six (6) weeks after Alvarado, Alvarado, P.C., Bob Lyon and Lyon & Associates had filed suit; on or about October 24, 2006, Maria terminated Alvarado and Alvarado, P.C. "for cause."

27. Maria, who had unknowingly been illegally solicited for legal services by Guajardo, had been told her interests would be represented and protected by Alvarado and Alvarado, P.C.; however, Alvarado and Alvarado, P.C. not only failed to investigate Maria's claims, they: 1) did not file suit on behalf of Maria individually; 2) failed and refused to return her telephone calls; 3) breached attorney-client confidences and secrets by having improper communications with third parties; 4) failed to investigate Maria's individual claims; 5) failed to advise Maria or Maria's children of any conflicts of interest that they had; 6) failed to have Maria waive any conflicts of interests that they had; 7) failed to advise Maria that the method by which her signature on the contingent fee contract was obtained was unlawful and illegal; 8) failed to advise Maria to seek independent counsel; and, 9) failed to seek Maria's permission to add Bob Lyon and Lyon & Associates as counsel of record.

#### **Burned At Work And By His "Attorney"**

28. The story of Luis Enrique Ramirez ("Luis") is yet another story of a person in need that Guajardo, Alvarado and Alvarado, P.C. has used for their own personal gains. Luis is a painter and in later September of 2005, he suffered severe burns at work, burning 61% of his

body. Mr. Ramirez was in the hospital for approximately a month, and for 2 ½ weeks he was unconscious. As Luis laid unconscious in his hospital bed his wife and mother went to the Consulate. They couldn't afford to pay for the hospital bills and sought the Consulate's assistance. When they got to the Consulate they explained their situation and were immediately escorted to the second floor where a woman gave them a business card and told them that only Guajardo and Alvarado could help them figure out who would pay for the hospital bills.

29. A couple days later they were put in touch with Guajardo, who sought pictures of the accident and information from the accident scene. Guajardo and Alvarado even came to visit Luis in the hospital. Approximately two (2) or three (3) days after regaining consciousness while still in great pain (on morphine), barely able to move and still all wrapped up in bandages Guajardo came to the hospital and signed up Luis, his wife and mother to legal services contracts. Guajardo ended up referring the case to another lawyer, who despite telling Luis they were negotiating a settlement, not only didn't file a lawsuit, but later dropped Luis saying, that "they could win the case, but could not get him any money." Guajardo reimbursed Luis for medicine and some clothes, but never helped Luis with his hospital bills, which was, of course, his wife's and mother's sole reason for seeking the help of the Consulate in the first place.

30. Those who do not condone Alvarado and Guajardo's unethical and illegal behavior are forced to cease doing business with the Consulate or leave in fear of retaliation by Alvarado and Guajardo. This lawlessness needs to stop. The Consulate needs to be placed back in the hands of the legitimate Mexican government – and out of the greedy hands of Alvarado, Guajardo, and the people at the Consulate that they influence and control. The people who come to the Consulate for help are looking for a safe-haven, for someone who they can trust, who they

know will be looking out for their best interest, and who will be able to properly guide them in the right direction. Neither Guajardo nor Alvarado are that someone.

## **VI. CAUSES OF ACTION**

### **COUNT ONE: VIOLATION OF THE TEXAS DECEPTIVE TRADE PRACTICES ACT**

31. Pursuant to Texas State law, Plaintiffs plead a cause of action against Defendants for Violations of the Texas Deceptive Trade Practices Act. The allegations contained in all of the paragraphs of this Petition are hereby re-alleged and incorporated herein by reference for all purposes as if set forth in full.

32. Plaintiffs are consumers within the meaning of Section 17.45 of the Texas Business and Commerce Code. The Defendants made several representations regarding the work that they performed. Those statements were false.

33. The Defendants used or employed false, misleading, or deceptive acts or practices in connection with the contract set forth herein, including:

- a. causing confusion or misunderstanding as to the source, sponsorship, approval, or certification, of goods or services; in violation of Section 17.46(b)(2) of the Texas Business and Commerce Code;
- b. representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another, in violation of Section 17.46(b)(7) of the Texas Business and Commerce Code;
- c. advertising goods or services with intent not to sell them as advertised; in violation of Section 17.46(b)(9) of the Texas Business and Commerce Code;
- d. representing that work or services have been performed on; or parts replaced in, goods when the work or services were not performed or the parts replaced; in violation of Section 17.46(b)(22) of the Texas Business and Commerce Code;

34. The Plaintiffs relied on the foregoing false, misleading, or deceptive acts and

practices to their detriment.

35. The foregoing false, misleading, or deceptive acts and practices were a producing cause of economic damages, litigation costs, and other damages to the Plaintiffs in amounts in excess of the minimum jurisdictional limits of this Court.

36. Additionally, because the conduct of the Defendants was committed knowingly and/or intentionally, the Plaintiffs have suffered injuries for which they are entitled to recover treble damages.

**COUNT TWO: NEGLIGENT MISREPRESENTATION**

37. Pursuant to Texas State law, Plaintiffs plead a cause of action against Defendants for Negligent Misrepresentation. The allegations contained in all of the paragraphs of this Petition are hereby re-alleged and incorporated herein by reference for all purposes as if set forth in full.

38. Defendants have made representations to the Plaintiffs in the course of doing business together in which Defendants had an interest. The Defendants represented to the Plaintiffs that they were qualified experienced attorneys who would represent them, file a legally sufficient lawsuit, and look out for their best interest; by failing to follow through with their representations the Defendants have breached their duties the Plaintiffs.

39. The Defendants supplied false information for the guidance of the Plaintiffs. The Defendants did not exercise reasonable care or competence in obtaining or communicating the information.

40. The Plaintiffs justifiably relied on the Defendants representations. The Defendants negligent misrepresentations proximately caused the Plaintiffs damages.

**COUNT THREE: COMMON LAW FRAUD**

41. Pursuant to Texas State law, Plaintiffs plead a cause of action against Defendants for Common Law Fraud. The allegations contained in all of the paragraphs of this Petition are hereby re-alleged and incorporated herein by reference for all purposes as if set forth in full.

42. The Defendants made representations to the Plaintiffs; that Defendants would represent them and look out for their best interests. The representations were material. The representations were false.

43. When the Defendants made these representations, the Defendants knew the representations were false. The Defendants made these representations with the intent that Plaintiffs would act on them and sign a contract for legal services.

44. The Plaintiffs relied on the representations; and, the representations caused the Plaintiffs damages.

**COUNT FOUR: NEGLIGENCE**

45. Pursuant to Texas State law, Plaintiffs plead a cause of action against Defendants for Negligence. The allegations contained in all of the paragraphs of this Petition are hereby re-alleged and incorporated herein by reference for all purposes as if set forth in full.

46. The Defendants owed a legal duty to the Plaintiffs.

47. The Defendants breached the duty. The breach proximately caused the Plaintiffs injury.

48. The Defendants negligence caused the Plaintiffs to suffer damages in excess of the jurisdictional limit of this Court.

**COUNT FIVE: BREACH OF FIDUCIARY DUTIES**

49. Pursuant to Texas State law, Plaintiffs plead a cause of action against Defendants for Breach of Fiduciary Duties. The allegations contained in all of the paragraphs of this Petition are hereby re-alleged and incorporated herein by reference for all purposes as if set forth in full.

50. Attorneys owe certain fiduciary duties to their clients. Plaintiffs were clients of Alvarado, P.C., Alvarado, and Guajardo. As a fiduciary to the Plaintiffs Alvarado, P.C., Alvarado, and Guajardo had a duty of loyalty, candor, full disclosure, refrain from self-dealing, act with integrity of the strictest kind and act in good faith and with fairness and honesty. Alvarado, P.C., Alvarado and Guajardo have breached their fiduciary duties to the Plaintiffs.

51. Specifically, as a result of their unlawful acts, willful misconduct and negligent misrepresentations, Alvarado, P.C., Alvarado, and Guajardo have breached the following fiduciary duties:

- a. the duty to preserve client confidences;
- b. the duty to represent the client with undivided loyalty;
- c. the duty to act with absolute perfect candor, openness and honesty without any concealment or deception;
- d. duty to be strictly honest about fee arrangements and to refrain from self-dealing;
- e. the duty to inform the client of matters material to representation;
- f. the duty to timely inform the client of a conflict of interest; and,
- g. the duty to follow the client's instructions;

52. The breaches of fiduciary duties continue to this day. Alvarado, P.C., Alvarado, and Guajardo's numerous breaches of fiduciary duties proximately resulted in actual, consequential and special damage to the Plaintiffs, in excess of the minimum jurisdictional limits of this Court for which the Plaintiffs hereby sue.

**COUNT SIX: CIVIL CONSPIRACY/AIDING AND ABETTING**

53. Pursuant to Texas State law, Plaintiffs plead a cause of action against Defendants for Civil Conspiracy/Aiding and Abetting. The allegations contained in all of the paragraphs of this Petition are hereby re-alleged and incorporated herein by reference for all purposes as if set forth in full.

54. The Defendants have intentionally and knowingly acted in concert to unlawfully 1) violate the Texas Deceptive Trade Practices Act; 2) make negligent misrepresentations; 3) defraud the Plaintiffs; 4) breach the duties they owed to the Plaintiffs; and 6) breach the fiduciary duties they owed to the Plaintiffs. Alvarado, P.C., Alvarado, and/or Guajardo also knowingly and intentionally acted together in making numerous material misrepresentations of fact with the purpose or expectation of inducing the Plaintiffs to continue to allow Alvarado, P.C., Alvarado, and Guajardo to represent them.

55. The Defendants intentional, unlawful acts, done in concert with one another, amount to civil conspiracy, as well as aiding and abetting, for which the Plaintiffs have suffered actual and consequential damages in excess of the minimum jurisdictional limits of this Court for which the Plaintiffs hereby sue.

**COUNT SEVEN:    IN THE ALTERNATIVE**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

56. Pursuant to Texas State law, Plaintiffs plead a cause of action against Defendants for Intentional Infliction of Emotional Distress. The allegations contained in all of the paragraphs of this Petition are hereby re-alleged and incorporated herein by reference for all purposes as if set forth in full.

57. The Defendants preyed on the emotionally vulnerable Plaintiffs while they were at their weakest moments for their own personal gain.

58. The Defendants thinking only about dollar signs and not about the Plaintiffs will stoop to any level to obtain these emotionally distraught people's legal business. The Defendants took advantage of grieving families when all they wanted was help from their Consulate.

59. Thereafter, the Plaintiffs, who are not sophisticated consumers of legal services and understand little or no English, could not get any of their calls they made to the Defendants returned when they tried to get information about the status of their cases. Later still, some Plaintiffs were shocked to learn that no one had even filed suit on their behalf. This of course, caused their distress to worsen.

60. The Defendants conduct was intentional and at the very least, reckless and in complete disregard for the Plaintiffs well being; further the Defendants conduct rose to the level of extreme and outrageous behavior and continues to this day.

61. The Plaintiffs have suffered severe emotional distress and that emotional distress was proximately caused by the extreme and outrageous conduct of Alvarado, P.C., Alvarado, and Guajardo.

**COUNT EIGHT: EXEMPLARY DAMAGES**

62. Pursuant to Texas State law, Plaintiffs plead claims against Defendants for Exemplary Damages. The allegations contained in all of the paragraphs of this Petition are hereby re-alleged and incorporated herein by reference for all purposes as if set forth in full.

63. The acts and omissions complained of herein were committed knowingly, willfully, intentionally, with actual awareness and with the specific and predetermined intention of enriching Alvarado, P.C., Alvarado, and Guajardo at the expense of the Plaintiffs.

64. In addition to the Plaintiffs named herein, on information and belief, Guajardo and Alvarado have committed similar acts of fraud, misrepresentation and malfeasance on numerous other persons similarly situated to the Plaintiffs named herein. This conduct is, on information and belief, both longstanding and on going.

65. In order to punish Alvarado, P.C., Alvarado, and Guajardo for such unconscionable overreaching and to deter such actions and/or omissions in the future, the Plaintiffs also seek recovery from Alvarado, P.C., Alvarado, and Guajardo for exemplary damages as provided by Chapter 41 of the Texas Civil Practice and Remedies Code.

**VI. RESERVATION OF RIGHTS**

66. Plaintiffs specifically reserve the right to bring additional causes of action against Defendants and to amend this Petition, as necessary.

**VII. JURY DEMAND**

67. Plaintiffs demand that this Court empanel a lawful jury to hear this case.

### **VIII. REQUEST FOR DISCLOSURE**

68. Pursuant to Texas Rule of Civil Procedure 194, Plaintiffs request that each Defendant disclose to the Plaintiffs within fifty (50) days of this service of this request, the information and materials described in Rule 194.2(a) through 194.2(k).

### **IX. MOTION FOR CLASS CERTIFICATION**

69. The Plaintiffs move that the Court certify Luis Enrique Ramirez as a class representative pursuant to Rule 42 of the Texas Rules of Civil Procedure, and that this litigation proceed as a class action. In support of this motion the allegations contained in all of the paragraphs of this Petition are hereby re-alleged and incorporated herein by reference for all purposes as if set forth in full.

70. Luis Enrique Ramirez brings this action on behalf of himself the other Plaintiffs named herein and all others similarly situated, as representative of the following class: All persons who from January 1, 2005 to the date of this action that Guajardo and Alvarado have committed similar acts of fraud, misrepresentation and malfeasance similar to the acts alleged by the Plaintiffs named herein.

71. As described below, this action satisfies the numerosity, commonality, typicality, and adequacy of representation requirements of Civil Procedure Rule 42.

72. The persons in the class are so numerous that joinder of all members is impracticable. Although the exact number of class members is unknown to Luis Enrique Ramirez at this time, it is ascertainable by appropriate discovery, and Luis Enrique Ramirez is informed and believes that the class includes several hundred members or more. The identity and

location of class members may be identified from the records maintained and possessed by the defendants or its representatives.

73. There are common questions of law or fact affecting the class. Specifically, predominant common questions include but are not limited to:

- a. Whether the Defendants fraudulently induced the class members to enter into fee contracts.
- b. Whether the Defendants breached their fiduciary duties to the class members.
- c. Whether the Defendants knowingly and intentionally acted together in making numerous material misrepresentations of fact with the purpose or expectation of inducing the class members to continue to allow Alvarado, P.C., Alvarado, and Guajardo to represent them.
- d. Whether their fee contracts are void due to barratry.
- e. Whether the Defendants were negligent in their representations to the class members.
- f. Whether the Defendants breached the standard of care owed to the class members

74. The claims of Luis Enrique Ramirez and the Plaintiffs listed herein are typical of the claims of the rest of the class in that the Defendants have committed the same fraud, misrepresentation and malfeasance on numerous other persons similarly situated to Luis Enrique Ramirez and the other Plaintiffs named herein and all members of the class sustained damages arising out the Defendants breaches of fiduciary duties, Common Law Fraud, Negligence, Violation of the Texas Deceptive Trade Practices Act, and Negligent misrepresentation.

75. Luis Enrique Ramirez will fairly and adequately represent the interests of the class. In support of this proposition, Luis Enrique Ramirez will show unto the Court he is:

- a. A member of the proposed class.
- b. Has expressed interest in representing the class.
- c. He has no interests adverse to other members of the class.
- d. He has suffered the same harm as the class.

76. Lawrence J. Friedman and the Law Firm of Friedman & Feiger, LLP (collectively hereinafter “Friedman”) requests appointment as class counsel.

77. Friedman has spent several months researching the issues, including speaking with dozens of potential class members about the fraud, misrepresentation and malfeasance of the Defendants.

78. Friedman and their support staff will be able to devote significant time to this case. Friedman has a database, file management, and office services departments fully capable of providing the support needed for such a case.

79. The prosecution of separate suits by individual members of the class would create a risk of inconsistent adjudications with respect to individual members of the class, which would establish incompatible standards of conduct for the party opposing the class.

**PRAYER**

**WHEREFORE, PREMISES, CONSIDERED,** Plaintiffs pray that Defendants be cited to appear and to answer herein and that, upon final hearing, the Court enter judgment in favor of the Plaintiffs against the Defendants, jointly and severally, in an amount in excess of the minimum jurisdictional limits of this Court for compensatory damages, punitive damages, reasonable attorneys' fees, costs of court, and together with pre-and post-judgment interest at the highest rate allowed by law, and further that: 1) the Court certify the class as described herein and appropriate subclasses, if any; 2) the Court appoint Friedman & Feiger, L.L.P. as counsel for the class; and for such other and further relief, general or special, at law or in equity, to which Plaintiffs may show the Plaintiffs to be justly entitled.

Respectfully submitted,



**Lawrence J. Friedman, Esq.**

State Bar No. 07469300

**Lawrence W. Bailey, Esq.**

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**ATTORNEYS FOR PLAINTIFFS**