

CAUSE NO. _____

STATE OF TEXAS, Plaintiff	§	IN THE DISTRICT COURT OF
	§	
v.	§	
	§	_____ JUDICIAL DISTRICT
NOEMI S. SUAREZ, a/k/a NOEMI S.	§	
AVALOS D/B/A SUAREZ BUSINESS	§	
MANAGEMENT SERVICES, Defendant	§	WEBB COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF THE COURT:

Plaintiff, the State of Texas, acting by and through Attorney General of Texas Greg Abbott, complains of Defendant, NOEMI S. SUAREZ, also known as NOEMI S. AVALOS, doing business as SUAREZ BUSINESS MANAGEMENT SERVICES, and for cause of action respectfully shows:

DISCOVERY CONTROL PLAN

1 Plaintiff submits that this suit should be governed by TEX. RULES OF CIVIL PROCEDURE 190.3, (Level 2 discovery).

NATURE OF SUIT

2. This action is brought by Attorney General Greg Abbott, through his Consumer Protection and Public Health Division, in the name of the State of Texas and in the public interest under the authority granted him by §17.47 of the Texas Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE ANN. §17.41 *et seq.* (hereafter the "DTPA") upon the ground that Defendant has engaged in false, deceptive and misleading acts and practices in the course of trade and commerce as defined in, and declared unlawful by, §17.46(a) and (b) of the DTPA.

DEFENDANT

3. Defendant NOEMI S. SUAREZ, also known as NOEMI S. AVALOS, doing business as SUAREZ BUSINESS MANAGEMENT SERVICES, is an individual doing business in Webb

County, Texas as alleged specifically below and may be served with process at her place of business at 2219 Ross, Laredo, Texas.

JURISDICTION

4. The Court has jurisdiction over this action pursuant to §17.47 (b) of the DTPA.

VENUE

5. Venue of this suit is proper in Webb County, Texas under TEX. CIV. PRAC. & REM. CODE §15.002 (a)(1) and DTPA § 17.47 (b).

PUBLIC INTEREST

6. Because Plaintiff has reason to believe that Defendant has engaged in, and will continue to engage in, the unlawful practices described below, Plaintiff has reason to believe Defendant has caused and will cause injury, loss and damage to the State of Texas, and will also cause adverse effects to legitimate business enterprises which lawfully conduct trade and commerce in this State. Therefore, the Consumer Protection Division of the Office of the Attorney General of the State of Texas believes these proceedings are in the public interest.

TRADE AND COMMERCE

7. Defendant has, at all times described below, engaged in conduct which constitutes "trade" and "commerce" as those terms are defined by §17.45(6) of the DTPA.

ACTS OF AGENTS

8. Whenever in this Petition it is alleged that Defendant did any act, it is meant that:

- a) Defendant performed or participated in the act; or
- b) Defendant's officers, agents, or employees performed or participated in the act on behalf of and under the authority of the Defendant.

NOTICE BEFORE SUIT

9. The Consumer Protection Division informed Defendant in general of the alleged unlawful conduct described below, at least seven days before filing suit, as may be required by §17.47(a) of the DTPA.

NATURE OF DEFENDANT'S OPERATIONS

10. Defendant owns and operates a business that purports to provide immigration services to persons who purchase her services.

SPECIFIC FACTUAL ALLEGATIONS

11. Defendant has been engaged in the business of providing immigration services to those persons who purchase her services (hereafter "customers"). During all relevant times, Defendant was a notary public, held herself out to the public as a provider of immigration services and solicited customers by representing that she has the skill or knowledge necessary to handle immigration cases or problems. Defendant advertised her immigration services by posting a sign in front of her place of business and distributing business cards. Defendant conducts business in Webb County, Texas, and uses the name Suarez Business Management Services to conduct business.

12. Defendant's customers are persons who sought to obtain immigration visas, permanent residency or authorization to work in the United States (hereafter referred to collectively as "immigration benefits") for themselves or their relatives. The immigration services performed by Defendant for her customers include the following activities:

- a. Interviewing customers to determine eligibility for immigration benefits under U.S. immigration laws;
- b. Advising customers whether to file a petition or application under U.S. immigration laws to secure an immigration benefit for the customer or a relative of the customer;

c. Selecting and preparing a petition or application and other forms on behalf of customers, for filing with the Bureau of Citizenship and Immigration Services, formerly known as Immigration and Naturalization Service¹ in order to obtain an immigration benefit;

or

d. Gathering and storing the documentation supporting a customer's petition or application for immigration benefits under U.S. immigration laws.

13. Defendant agreed to perform one or more of the immigration services described above in exchange for compensation and accepted compensation from her customers for the performance of the immigration services described above.

14. Defendant is not now and, at all times relevant, has not been an attorney at law duly licensed by the State of Texas to engage in acts, practices or conduct which constitute the practice of law. In addition, Defendant is not now and, at all relevant times, has not been a recognized organization or accredited representative by the Board of Immigration Appeals as able to represent individuals in immigration matters or in proceedings before the immigration courts.

15. The activities of Defendant, as alleged in paragraph 12 above, constitute the unauthorized practice of law. *See Unauthorized Practice Committee v. Cortez*, 692 S.W.2d 47 (Tex. 1985).

NOTARY PUBLIC LAW VIOLATIONS

16. Defendant, as alleged above, has in the course of trade and commerce violated Chapter 406 of the Texas Government Code, TEX. GOV'T CODE ANN. § 406.001, *et seq.* as follows:

a. By soliciting or accepting compensation to prepare documents for another in an administrative proceeding relating to immigration to the United States, Defendant, a notary

¹ The Immigration and Naturalization Service has been recently reorganized under the U.S. Department of Homeland Security and its service component has been renamed "Bureau of Citizenship & Immigration Services."

public, is in violation of TEX. GOV'T CODE ANN. § 406.017(a)(2); and

b. By soliciting or accepting compensation to obtain relief on behalf of another from an officer, agency, or employee of the United States, Defendant, a notary public, is in violation of TEX. GOV'T CODE ANN. § 406.017(a)(3).

FALSE, MISLEADING OR DECEPTIVE ACTS

17. Defendant, as alleged above, has in the course of trade and commerce engaged in false, misleading and deceptive acts and practices declared unlawful in §17.46(a) and (b) of the DTPA as follows:

a. By advertising, offering for sale, selling, or providing a service that constitutes the unauthorized practice of law, Defendant is engaging in or has engaged in an act or practice that is false, misleading, or deceptive, in violation of §17.46(a) of the DTPA;

b. By representing that she has the skill or knowledge necessary to handle immigration cases or problems, Defendant is representing, by implication, that she has the status of a licensed attorney, which she does not, in violation of §17.46(a) and (b)(5) of the DTPA;

c. By agreeing to perform a service which constitutes the unauthorized practice of law, Defendant is representing that her agreement with customers confers or involves an obligation which is prohibited by law, in violation of §17.46(a) and (b)(12) of the DTPA;

d. By violating § 406.017 TEX. GOV'T CODE ANN., Defendant is in violation of the DTPA. Section 406.017(f) of the Notary Public Law provides that failure to comply with §406.017 of the Act is a deceptive trade practice and is actionable under the DTPA; and

e. By representing that Defendant can provide immigration services/represent customers before the Bureau of Citizenship and Immigration Services when Defendant does not meet the requirements for persons authorized to provide such services pursuant to 8 C.F.R. Part

292, Defendant is representing that an agreement confers or involves rights, remedies or obligations which it does not have or involve or which are prohibited by law, in violation of §17.46(a) and (b)(12) of the DTPA.

INJURY TO CONSUMERS

18. Defendants have, by means of these unlawful acts and practices, obtained money or other property from identifiable persons to whom such money or property should be restored or who, in the alternative, are entitled to an award of damages.

PRAYER

19. Plaintiff prays that Defendant be cited according to law to appear and answer herein. Plaintiff further prays that after due notice and hearing, a TEMPORARY INJUNCTION be issued and that upon final hearing, a PERMANENT INJUNCTION be issued, restraining and enjoining Defendant, her officers, agents, servants, employees and attorneys and any other person in active concert or participation with Defendant from engaging in the following acts or practices:

- a. Advertising, offering to render or rendering immigration services unless Defendant is recognized and accredited to provide immigration services as per 8 C.F.R. Part 292;
- b. Engaging in the practice of immigration law unless Defendant is licensed to practice law by the Supreme Court of the State of Texas or is accredited to practice immigration law by the United States Board of Immigration Appeals or its successor;
- c. Representing, directly or by implication, herself as an “immigration specialist,” “immigration counselor” or “immigration consultant,” unless recognized and certified by the Bureau of Citizenship and Immigration Services to provide immigration services;
- d. Representing, directly or by implication, that Defendant has the skill, expertise, or competence to handle immigration matters;

- e. Holding herself out to the public by any title or designation incorporating the word “immigration,” or an abbreviation thereof, unless Defendant is recognized and certified by the Bureau of Citizenship and Immigration Services to provide immigration services;
- f. Affixing the word “Immigration” to any business card, pamphlet, stationery, letterhead, public document, or other means of identification in conjunction with an address, place of business or telephone number of Defendant that is in the State of Texas, unless Defendant is recognized and certified by the Bureau of Citizenship and Immigration Services to provide immigration services;
- g. Advertising or promoting immigration services in any telephone directory, newspaper, magazine, pamphlet, flier or any other medium for advertising in conjunction with an address, place of business or telephone number of Defendant that is in the State of Texas, unless Defendant is recognized and certified by the Bureau of Citizenship and Immigration Services to provide immigration services;
- h. Showing, directly or by implication, any affiliation, connection, or association of any address or telephone number in the United States with any immigration service in Mexico;
- i. Representing, directly or by implication, that Defendant can get legal resident status and a work permit for persons who purchase her services;
- j. Accepting any money or other valuable consideration for providing immigration services or documents to persons seeking to immigrate to or work in the United States, unless Defendant is recognized and accredited pursuant to 8 C.F.R. Part 292;
- k. Soliciting or accepting compensation to prepare documents for or otherwise represent the interest of another in a judicial or administrative proceeding, including a proceeding relating to immigration to the United States, United States citizenship or related matters; and

1. Soliciting or accepting compensation to obtain relief of any kind on behalf of another from any officer, agency or employee of this state or the United States.
20. In addition, Plaintiff prays that this Court will:
- a. Adjudge against Defendant civil penalties in favor of Plaintiff in the amount of \$20,000 per violation of the DTPA and an additional amount up to \$250,000 for calculating to acquire or deprive money or other property from a consumer who was 65 years of age or older, pursuant to TEX. BUS. COM. CODE §17.47(c);
 - b. Order Defendant to restore all money or other property taken from identifiable persons by means of unlawful acts or practices, or in the alternative award judgment for damages to compensate for such losses;
 - c. Adjudge against Defendant attorney's fees and costs of court pursuant to TEX. GOVT CODE, §402.006(c);
 - d. Adjudge against Defendant pre-judgment and post-judgment interest on all awards of restitution, damages or civil penalties, as provided by law; and
 - e. Grant all other relief to which Plaintiff STATE OF TEXAS may show itself entitled.

Respectfully submitted,

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