

Probate Ct.2

No. 481431-401

THE MENDEL LAW FIRM, L.P.

IN THE COUNTY PROBATE

V.

REID STEPHEN CAIN, INDIVIDUALLY  
& AS INDEPENDENT CO-EXECUTOR OF  
THE ESTATE AND MARY KAREN MILLER §  
AS INDEPENDENT CO-EXECUTOR OF THE §  
ESTATE OF MARY NAN CAIN, DECEASED §

COURT NO. TWO (2) OF

HARRIS COUNTY, TEXAS

**Plaintiff’s Original Petition**

TO THE HONORABLE JUDGE OF SAID COURT:

1 Pers by PP

Plaintiff, The Mendel Law Firm, L.P. (“MLF”), files its original petition against Defendant, Reid Stephen Cain, in his individual capacity, as Applicant for appointment and in his capacity as Independent Co-Executor of the Estate of Mary Nan Cain, Deceased (“Estate”) and against Defendant, Mary Karen Miller, a/k/a Mary Karen Cain Miller, in her capacity as Independent Co-Executor of the Estate, and would respectfully show the Court as follows.

**I. Discovery Control Plan & Damages**

1.01. Per TEX. R. CIV. P. 190.1, Plaintiff alleges that discovery should be conducted under Level 3 as set forth under TEX. R. CIV. P. 190.4.

**II. Parties**

2.01. Plaintiff, MLF, is a Texas limited partnership with its principal place of business in Harris County, Texas. A copy of all pleas, pleadings, motions, discovery, orders, and other instruments related to this cause should be provided to MLF’s attorney, who is Stephen A. Mendel, with The Mendel Law Firm, L.P., 1155 Dairy Ashford, Suite 104, Houston, TX 77079, O: 281-759-3213, F: 281-759-3214, E: [info@mendellawfirm.com](mailto:info@mendellawfirm.com).

2.02. Defendant, Reid Stephen Cain, in his individual capacity, as Applicant for appointment and in his capacity as Independent Co-Executor of the Estate, can be served with citation at his residence, which is 27614 Heritage Pass, Boerne, TX 78006, or at such other address as he may be found in the State of Texas. Defendant is not in the military service on active duty, nor is he a dependant of a service member on active duty.

2.03. Defendant, Mary Karen Miller, a/k/a Mary Karen Cain Miller, as Independent Co-Executor of the Estate can be served with citation through her resident agent, Alyssa McCreight, with the law firm of Hoover Slovacek, L.L.P., which is located at Galleria Tower II, 5051 Westheimer, Ste. 1200, Houston, TX 77056. Defendant is not in the military service on active duty, nor is she a dependant of a service member on active duty.

### **III. Jurisdiction**

3.01. This case involves causes of action for sworn account, breach of contract, and quantum meruit arising out of a probate administration for the *Estate of Mary Nan Cain, Deceased*. The amount in controversy is within the jurisdictional limits of this Court.

3.02. Jurisdiction is proper pursuant to Article 5, § 16 of the Texas Constitution, and TEX. GOVT. CODE.

### **IV. Venue**

Venue is proper in Harris County as provided by TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1) because all or a substantial portion of Plaintiff's causes of action arose in Harris County, Texas. More specifically, but not exclusively, virtually all of the work performed by the Plaintiff or its successors in interest occurred in Harris County, Texas.

## V. Facts

5.01. Defendant, in his individual capacity and as the Applicant for, and in his capacity as Independent Co-Executor of the Estate, retained MLF to perform legal services related C.A. 481431; *Estate of Mary Nan Cain, Deceased*; In County Probate Court No. 2 of Harris County, Texas.

5.02. MLF provided legal services to Defendant over the course of approximately two (2) years. In accordance with MLF's customary practice, the Defendant received one or more invoices. The invoices represented a series of transactions systematically kept in the ordinary course of business by MLF.

5.03. Notwithstanding a written demand for payment was made more than thirty (30) days before the filing of this suit, in compliance with TEX. CIV. PRAC. & REM. CODE § 38.001, *et. seq.*, Defendant refused to pay what is due and owing.

5.04. After allowing all just and lawful offsets, payments, and credits, the principal balance due on the account is \$8,710.05. *See Exhibit A, Copy of Account Statement.*

5.05. The fees and expenses incurred are an obligation of the Estate, as confirmed by MLF's claim against the Estate, and as such, Defendant, Mary Karen Miller, a/k/a Mary Karen Cain Miller, as Independent Co-Executor of the Estate is also obligated to pay the fees and expenses incurred during MLF's representation of Defendant, Reid Stephen Cain, during this probate administration, plus such fees as may be awarded by the Court for this litigation.

5.06. The balance due accrues simple interest at the rate of eighteen percent (18%) as provided by the Parties' engagement letter. *See Exhibit B, Legal Services Agreement.*

5.06. All conditions precedent have been performed or have occurred as required by TEX. R. CIV. P. 54.

## **VI. Sworn Account**

6.01. MLF incorporates by reference Article V as though stated in full herein.

6.02. MLF provided services to the Defendant on an open account, the charges for which were reasonable and customary. The Defendant accepted the services and became bound to pay MLF for such services, but has refused to make payment.

6.03. After allowing all just and lawful offsets, payments, and credits, the balance due on the account is as set forth above in Article V.

## **VII. Breach of Contract**

7.01. MLF incorporates by reference Articles V-VI as though stated in full herein.

7.02. MLF agreed to provide services to the Defendant, and the Defendant agreed to pay for those services. MLF fully performed all conditions, covenants, and promises required under its contract with Defendant. Defendant refused to pay the balance due. The Defendant's failure to pay constitutes a breach of contract, which caused harm to the Plaintiff.

7.03. After allowing all just and lawful offsets, payments, and credits, the balance due on the account is as set forth above in Article V.

## **VIII. Quantum Meruit**

8.01. MLF incorporates by reference Articles V-VII as though stated in full herein.

8.02. If, in the alternative, there is not a valid contract on which to maintain a breach of contract action, then MLF, is entitled to recover under the doctrine of quantum meruit.

8.03. MLF rendered valuable legal services, which the Defendant knowingly accepted and used, and for which Defendant knew that MLF expected to be paid and was not.

8.04. After allowing all just and lawful offsets, payments, and credits, the balance due on

the account is as set forth above in Article V.

### **IX. Attorneys' Fees**

9.01. Plaintiff incorporates by reference Articles V-VIII as though set forth in full herein.

9.02. As a result of Defendant's refusal to pay, Plaintiff found it necessary to file this lawsuit. Thus, Plaintiff seeks to be reimbursed its reasonable attorneys' fees as permitted by the written contract and/or TEX. CIV. PRAC. & REM. CODE § 38.001, *et. seq.*

### **Prayer**

Plaintiff requests that the following:

- A. Defendants be cited to appear and answer.
- B. Plaintiff recover its actual damages.
- C. Plaintiff recover prejudgment and post-judgment interest at the rate of eighteen percent (18%), as provided by the Parties' engagement letter, or as provided by law, whichever interest rate is higher.
- D. Plaintiff recover attorneys' fees, costs of court, expenses of litigation, and such other and further relief, general or special, legal or equitable, to which Plaintiff may be entitled.

Respectfully submitted,

// s // Emily J. Wyatt

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Stephen A. Mendel (13930650)  
Emily J. Wyatt (24088685)  
The Mendel Law Firm, L.P.  
1155 Dairy Ashford, Suite 104  
Houston, Texas 77079  
O: (281) 759-3213  
F: (281) 759-3214  
E: [info@mendellawfirm.com](mailto:info@mendellawfirm.com)

Attorneys for the Plaintiff, MLF

## Certificate of Service

I certify that a true and correct copy of the foregoing instrument was served on the following:

Alyssa L. McCreight  
Sara Madole  
Schlanger Silver  
109 N. Post Oak Lane, Ste. 300  
Houston, TX 77024  
O: 713-735-8517  
F: 713-785-2091  
E: [amccreight@schlangersilver.com](mailto:amccreight@schlangersilver.com)  
E: [smadole@schlangersilver.com](mailto:smadole@schlangersilver.com)

Attorney for Independent Co-Executor,  
Mary Karen Miller

Hunter Harris  
Attorney at Law  
P.O. Box 968  
Tahoka, TX 79373  
O: 806-9984863  
F: 806-998-5328  
E: [hunter@hhlawtx.com](mailto:hunter@hhlawtx.com)

Attorney for Independent Co-Executor,  
Reid Stephen Cain

via e-service on this May 19, 2023.

//s// Emily J. Wyatt

\_\_\_\_\_  
Emily J. Wyatt

THE MENDEL LAW FIRM, L.P.

§

IN THE COUNTY PROBATE

V.

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REID STEPHEN CAIN, INDIVIDUALLY §  
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COURT NO. TWO (2) OF

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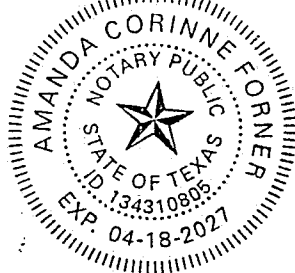
**Verification**

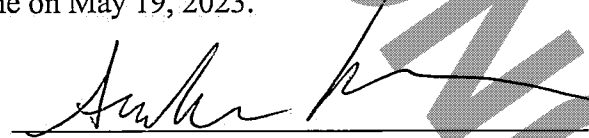
Before me, the undersigned authority, personally appeared Stephen A. Mendel, and after being duly sworn, deposed and said:

1. My name is Stephen A. Mendel. I am over the age of twenty-one (21), a resident of Harris County, Texas, and competent to make this affidavit. I have personal knowledge of the facts stated in this affidavit and they are true and correct.
2. I have read the foregoing *Plaintiff's Original Petition* and the facts stated therein are true and correct. The balance owed by Defendant, Reid Stephen Cain, is as set forth in Plaintiff's petition, and is just, true, due, and includes all just and lawful offsets, payments, and credits. The principal balance was due on the date set forth in Plaintiff's petition, and accrues interest at the rate set forth in Plaintiff's petition.
3. Attached as Exhibit A is a true and correct copy of the account statement, and which is incorporated by reference as though set forth in full herein
4. Attached as Exhibit B is a true and correct copy of the Legal Services Agreement, and which is incorporated by reference as though set forth in full herein.

  
Stephen A. Mendel

SWORN TO AND SUBSCRIBED before me on May 19, 2023.



  
Notary Public In & For  
The State of Texas

THE MENDEL LAW FIRM, L.P. §  
V. §  
REID STEPHEN CAIN, INDIVIDUALLY §  
& AS INDEPENDENT CO-EXECUTOR OF §  
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AS INDEPENDENT CO-EXECUTOR OF THE §  
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IN THE COUNTY PROBATE  
COURT NO. TWO (2) OF  
HARRIS COUNTY, TEXAS


**Service Members Civil Relief Act Affidavit**

THE STATE OF TEXAS §  
COUNTY OF HARRIS §

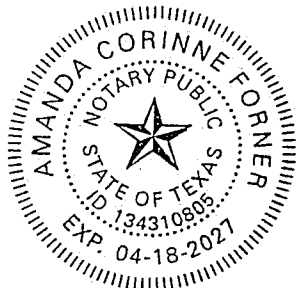
BEFORE ME, the undersigned authority, on this day personally appeared the below-named affiant, who, being by me duly sworn on oath deposed and said that affiant has read the affidavit; and that every statement contained in this affidavit is within affiant's personal knowledge and is true and correct.

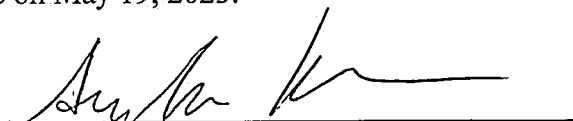
My name is Stephen A. Mendel. I am over the age of eighteen (18) years and am competent to make this affidavit. I am the Attorney for Plaintiff in the above-entitled and numbered matter. I researched whether Reid Stephen Cain is in the military by examining the Soldiers and Sailor Civil Relief Act (SCRA) Web Site @ <https://scra.dmdc.osd.mil>. A true and correct copy of the printout from the web site shows the defendant is not in military, is attached hereto and incorporated as though set forth herein. As a result of this investigation and the attached documentation, I declare that the above-named defendant is not in the military service on active duty, and is not dependent of service members on active duty.

I understand that any false statements on this document are made under penalty of perjury, and that making a false statement is a violation of Federal Law and is subject to both fine and imprisonment.

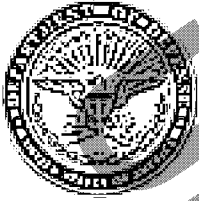
  
Stephen A. Mendel

SWORN TO AND SUBSCRIBED before me on May 19, 2023.



  
Notary Public In & For  
The State of Texas





**Status Report  
Pursuant to Servicemembers Civil Relief Act**

SSN:  
 Birth Date: Dec-XX-1961  
 Last Name: CAIN  
 First Name: REID  
 Middle Name: STEPHEN  
 Status As Of: May-19-2023  
 Certificate ID: 84ZMTWFCJC5FNM4

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty. HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.

Michael V. Sorrento, Director  
 Department of Defense - Manpower Data Center  
 400 Gigling Rd.  
 Seaside, CA 93955

COPY

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 3901 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q35) via this URL: <https://scra.dmdc.osd.mil/scra/faq>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 3921(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

## More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

## Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

**WARNING:** This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

No. 481431-401

THE MENDEL LAW FIRM, L.P.	§	IN THE COUNTY PROBATE
	§	
V.	§	
	§	
REID STEPHEN CAIN, INDIVIDUALLY	§	COURT NO. TWO (2) OF
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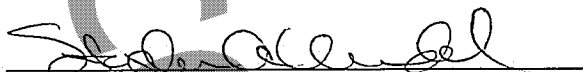
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THE STATE OF TEXAS §  
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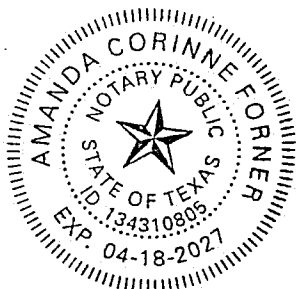
BEFORE ME, the undersigned authority, on this day personally appeared the below-named affiant, who, being by me duly sworn on oath deposed and said that affiant has read the affidavit; and that every statement contained in this affidavit is within affiant's personal knowledge and is true and correct.

My name is Stephen A. Mendel. I am over the age of eighteen (18) years and am competent to make this affidavit. I am the Attorney for Plaintiff in the above-entitled and numbered matter. I researched whether Mary Karen Miller is in the military by examining the Soldiers and Sailor Civil Relief Act (SCRA) Web Site @ <https://scra.dmdc.osd.mil>. A true and correct copy of the printout from the web site shows the defendant is not in military, is attached hereto and incorporated as though set forth herein. As a result of this investigation and the attached documentation, I declare that the above-named defendant is not in the military service on active duty, and is not dependent of service members on active duty.

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 Stephen A. Mendel

SWORN TO AND SUBSCRIBED before me on May 19, 2023.



  
 Notary Public In & For  
 The State of Texas



**Status Report  
Pursuant to Servicemembers Civil Relief Act**

SSN:  
 Birth Date: Oct-XX-1964  
 Last Name: CAIN MILLER  
 First Name: MARY  
 Middle Name: KAREN  
 Status As Of: May-19-2023  
 Certificate ID: BH1W7LS28PMC51D

COPY

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
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UNOFFICIAL

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Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

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**THE MENDEL LAW FIRM, L.P.**

Attorneys & Counselors  
1155 Dairy Ashford, Suite 104  
Houston, TX 77079  
Tel: 281-759-3213  
Fax: 281-759-3214

Reid Cain  
27614 Heritage Pass  
Boerne, TX 78006

May 19, 2023

In Reference C.A. No. 481431; *Estate of Mary Nan Cain, Deceased*; In the  
To: County Probate Court No. 2 of Harris County, Texas.

<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Balance</u>
1/28/2020	Payment applied to invoice -- thank you. To: Invoice No.25008	(591.90)	(591.90)
1/28/2020	Invoice No.25008	3,137.52	2,545.62
3/10/2020	Payment applied to invoice -- thank you. To: Invoice No.25008	(2,000.00)	545.62
3/10/2020	Invoice No.25105	2,583.81	3,129.43
4/17/2020	Invoice No.25183	753.60	3,883.03
5/4/2020	Payment applied to invoice -- thank you. To: Invoice No.25105 To: Invoice No.25008	(1,454.38) (545.62)	2,428.65 1,883.03
5/13/2020	Invoice No.25264	275.90	2,158.93
6/3/2020	Invoice No.25321	876.80	3,035.73
7/9/2020	Invoice No.25458	1,204.90	4,240.63
7/20/2020	Payment applied to invoice -- thank you. To: Invoice No.25264 To: Invoice No.25183 To: Invoice No.25105	(116.97) (753.60) (1,129.43)	4,123.66 3,370.06 2,240.63
8/13/2020	Invoice No.25573	664.75	2,905.38
9/17/2020	Invoice No.25674	418.21	3,323.59
10/15/2020	Invoice No.25764	576.80	3,900.39
10/19/2020	Payment applied to invoice -- thank you. To: Invoice No.25458 To: Invoice No.25321 To: Invoice No.25264	(464.27) (876.80) (158.93)	3,436.12 2,559.32 2,400.39
11/6/2020	Invoice No.25806	300.56	2,700.95

**EXHIBIT A**

<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Balance</u>
12/22/2020	Invoice No.25936	417.53	3,118.48
12/24/2020	Payment applied to invoice -- thank you.		
	To: Invoice No.25674	(418.21)	2,700.27
	To: Invoice No.25806	(300.56)	2,399.71
	To: Invoice No.25936	(299.05)	2,100.66
	To: Invoice No.25764	(576.80)	1,523.86
	To: Invoice No.25573	(664.75)	859.11
	To: Invoice No.25458	(740.63)	118.48
2/19/2021	Invoice No.26081	203.45	321.93
4/14/2021	Invoice No.26183	263.07	585.00
4/22/2021	Payment applied to invoice -- thank you.		
	To: Invoice No.26183	(263.07)	321.93
	To: Invoice No.26081	(203.45)	118.48
	To: Invoice No.25936	(118.48)	0.00
6/16/2021	Payment applied to invoice -- thank you.		
	To: Invoice No.26277	(500.00)	(500.00)
6/16/2021	Invoice No.26277	1,357.40	857.40
8/5/2021	Payment applied to invoice -- thank you.		
	To: Invoice No.26277	(857.40)	0.00
	To: Invoice No.26496	(142.60)	(142.60)
9/14/2021	Invoice No.26496	2,304.30	2,161.70
9/14/2021	Invoice No.26499	395.65	2,557.35
9/14/2021	Invoice No.26500	275.00	2,832.35
11/3/2021	Payment applied to invoice -- thank you.		
	To: Invoice No.26496	(2,000.00)	832.35
11/18/2021	Invoice No.26683	230.68	1,063.03
11/18/2021	Invoice No.26684	1,154.90	2,217.93
11/29/2021	Payment applied to invoice -- thank you.		
	To: Invoice No.26684	(1,154.90)	1,063.03
	To: Invoice No.26499	(395.65)	667.38
	To: Invoice No.26683	(230.68)	436.70
	To: Invoice No.26500	(275.00)	161.70
	To: Invoice No.26496	(161.70)	0.00
12/29/2021	Invoice No.26761	1,414.65	1,414.65
2/8/2022	Invoice No.26850	204.50	1,619.15
2/8/2022	Invoice No.26851	2,497.85	4,117.00
2/11/2022	Payment applied to invoice -- thank you.		
	To: Invoice No.26851	(1,630.85)	2,486.15
	To: Invoice No.26850	(204.50)	2,281.65

<u>Date</u>	<u>Description</u>	<u>Amount</u>	<u>Balance</u>
	To: Invoice No.26761	(1,414.65)	867.00
3/31/2022	Courtesy Credit.		
	To: Invoice No.26971	(431.70)	435.30
4/5/2022	Invoice No.26971	10,879.15	11,314.45
5/17/2022	Invoice No.27107	1,525.40	12,839.85
6/23/2022	Retainer applied to invoice -- thank you.		
	To: Invoice No.26971	(4,133.00)	8,706.85
	To: Invoice No.26851	(867.00)	7,839.85
6/23/2022	Invoice No.27218	870.20	8,710.05
	Ending Balance		8,710.05
	Amount Due		8,710.05

<u>Current</u>	<u>30 Days</u>	<u>60 Days</u>	<u>90 Days</u>	<u>120+ Days</u>
0.00	0.00	0.00	0.00	8,710.05

UNOFFICIAL COPY



**THE MENDEL LAW FIRM, L.P.**

Attorneys & Counselors  
1155 Dairy Ashford, Suite 104  
Houston, Texas 77079

E-Mail Address:  
[info@mendellawfirm.com](mailto:info@mendellawfirm.com)

Tel: 281-759-3213  
Fax: 281-759-3214

VIA E-MAIL

November 26, 2019

Re: Agreement for Legal Services.

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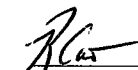
Reid Stephen Cain  
27614 Heritage Pass  
Boerne, TX 78006

Dear Mr. Cain:

We thank you for your interest in retaining our firm to assist you. As we previously discussed, this letter sets forth the agreement between The Mendel Law Firm, L.P. (the "Firm" or "MLF") (and includes any successor entity to MLF) and yourself, Reid Stephen Cain, (the "Client") (whether one or more), with respect to Client's desire to employ MLF to represent Client in a probate proceeding for the *Estate of Mary Nan Cain* (the "Work"). The term "Client" does not include any related persons, such as parents, siblings, subsidiaries, affiliates, employees, officers, directors, members, shareholders, or partners.

**1. Authority to Act:**

- A. Client authorizes MLF to perform the Work as described above, and to perform such other and further Work as agreed by Client and MLF, or as MLF, in its sole discretion, deems necessary to protect Client's interests, including, but not limited to the following:
- 1) Apply to the Court and seek the admission of the Will to probate.
  - 2) Assist with your appointment as co-executor of the Estate.
  - 3) Obtain letters testamentary to the extent needed to probate the Estate.
  - 4) Marshall, identify, and verify the value of Estate assets.
  - 5) Assist in the division of assets of the Estate.
  - 6) Notify creditors, to the extent required by law.
  - 7) Assist in the determination of whether or not any creditor's claims are valid.
  - 8) Prepare an inventory, appraisal, and list of claims for the Estate.
  - 9) Prepare such federal estate tax returns and state inheritance returns as applicable.

  
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- 10) Such legal research, if any, needed to complete the foregoing.
  - 11) Coordinate with your tax advisors, as needed.
- B. In the event litigation arises in the probate of this Estate, then Client authorizes MLF to prosecute and/or defend such lawsuits, if any, to settlement or final judgment.
- C. Client agrees that MLF may refuse to perform any work for any reason, including, but not limited to, the reason that, in MLF's sole opinion, Client's objectives lack merit, the objectives are not warranted under the facts, or under existing law, or if such objectives cannot be supported by a good faith argument for an extension, modification, or reversal of existing law, or if such objectives are economically unfeasible for MLF to pursue.
- D. Client acknowledges that in order for MLF to properly complete the scope of Work outlined above, Client will be obligated to provide MLF with certain information including, but not limited to, *if applicable* to the Work:
- 1) Your Social security card.
  - 2) Your driver's license or photo identification card.
  - 3) Decedent's death certificate.
  - 4) Decedent's driver's license or photo identification card.
  - 5) All financial account statements and signature cards.
  - 6) All records regarding income (*i.e.* Social Security benefits, Disability benefits, retirement benefits, pension benefits, etc.).
  - 7) All life insurance information.
  - 8) All annuity information.

2. **Compensation & Expenses:**

A. **Compensation:**

- 1) In consideration for the services rendered or to be rendered by MLF, Client agrees to pay MLF the standard hourly rates of MLF's attorneys, legal assistants, and law clerks for work performed on Client's behalf, plus expenses.
- 2) At the present time, MLF's standard hourly rates are as follows: (1) attorneys – \$175.00 to \$395.00 per hour; (2) law clerks – \$95.00 to \$130.00 per hour; and (3) legal assistants – \$75.00 to \$130.00 per hour. The foregoing rates are subject to change without notice or any subsequent approval, and generally change on or about January 1 of each new calendar year. Invoices are due and payable in Harris County, Texas within ten (10) days of issuance.

B. **Expenses:**

- 1) Client understands that all expenses incurred in the investigation, development, and litigation of Client's case may be advanced by MLF, but shall remain the ultimate responsibility of Client. Expenses include, but are not limited to, those that relate to couriers, court reporters, depositions, filing fees, investigation, long distance and

cellular charges, legal research, non-reimbursed court costs, photocopies, postage, service of process, subpoenas, taxes, and travel.

- 2) Client understands that, as a general rule, Client will be charged: (1) \$0.20/page for internal photocopies and faxes; and (2) \$20.00 per daily logon for legal research through Lexis/Westlaw, plus such other charges, if any, as may be assessed by Lexis/Westlaw for research related to non-Texas authorities or databases.

### 3. Trust Account:

- A. Client agrees to pay MLF \$5,000.00 as a retainer that MLF will deposit into its Ioltra trust account. **CLIENT FURTHER AGREES TO CONTINUOUSLY KEEP THE TRUST BALANCE AT NOT LESS THAN \$5,000.00.** During the course of this engagement, it may be necessary in MLF's judgment to request the payment of an additional retainer or retainers, and, if so requested, Client agrees to promptly deposit the additional retainer or retainers with MLF.
- B. CLIENT WARRANTS AND REPRESENTS THAT ANY AMOUNT REQUESTED BY MLF AS A RETAINER DOES NOT CONSTITUTE A WARRANTY, REPRESENTATION, GUARANTEE, OR ESTIMATE OF THE COST OF THE WORK, AND THAT THE WORK MAY BE LESS THAN, EQUAL TO, AND/OR MORE THAN THE RETAINER SO REQUESTED.**
- C. The deposit of the retainer will not eliminate or modify Client's obligation to pay promptly all invoices which MLF periodically renders. Upon conclusion of the work, MLF will refund any excess funds that remain in the trust account.
- D. All proceeds received on Client's behalf will be deposited into MLF's Ioltra trust account, from which MLF may reimburse itself or pay third parties for expenses incurred on Client's behalf, reimburse itself for the fees earned, and then remit the balance, if any, to Client.
- E. Client irrevocably makes, constitutes, and appoints MLF as Client's attorney-in-fact, with a power coupled with an interest, to sign Client's name and negotiate all checks or other instruments in settlement or payment of any judgment, and to deposit such proceeds into MLF's Ioltra trust account, from which MLF may reimburse itself or pay third parties for expenses incurred on Client's behalf, reimburse itself for the fees earned, and then remit the balance, if any, to Client. It is further agreed that the grant of the foregoing power of attorney shall survive the termination, if any, of this Agreement or the attorney/client relationship.
- F. In order to secure the payment of all sums due under this Agreement, Client grants MLF a security interest in all real and personal property of the Estate, and further authorizes MLF, in its discretion, to perfect such security interest by filing such lien(s) and/or financing statement(s) as MLF deems reasonable and/or necessary. As such, this Agreement constitutes a security agreement.

### 4. Invoices:

- A. From time to time, MLF will bill Client for legal services rendered and expenses incurred on Client's behalf. Client agrees to pay all invoices within seven (7) days after receipt of such invoices. Client further agrees that MLF may deduct all unpaid fees, and expenses from all proceeds recovered from any other parties to this or a related action during the pendency of any action related to this matter.
- B. CLIENT ACKNOWLEDGES, UNDERSTANDS, AGREES THAT ALL INVOICES ISSUED BY MLF SHALL BE AT SUCH INTERVALS AS MLF, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE OR NECESSARY. CLIENT FURTHER AGREES TO NEVER ASSERT AS A DEFENSE OR AN ARGUMENT FOR NONPAYMENT THAT MLF FAILED TO FOLLOW SOME SCHEDULE FOR ISSUING INVOICES, OR THAT DUE TO THE ABSENCE OF AN INVOICE CLIENT WAS UNAWARE THAT WORK WAS PERFORMED ON BEHALF OF CLIENT, OR THAT PAYMENT WAS NOT DUE UNTIL AN INVOICE REACHED OR ACCRUED TO A CERTAIN AMOUNT.**
- C. Notwithstanding the fact that MLF will issue invoices at such intervals as MLF, in its sole discretion, deems appropriate or necessary, Client is always free to request invoices at more frequent intervals, and MLF will endeavor to accommodate those more frequent intervals. Client agrees, however, that all such requests must be in writing.
- D. A failure by Client to pay all sums due to MLF will, at the option of MLF, result in a cessation of work then in progress until all outstanding balances are brought current.
- E. Time and expenses incurred in the collection of outstanding fees, expenses, and/or judgments due MLF shall also be billed to Client at MLF's standard hourly rates. In addition, Client shall be billed at MLF's standard hourly rates for invoices to be prepared in a manner other than MLF's standard format.
- F. The outstanding balance of any fee, expense, or judgment due MLF, and which remains unpaid for more than fifteen (15) days from the date the invoice or judgment was issued shall bear interest on the outstanding balance at the rate of 1.5% per month, compounded annually, until paid in full.
- G. Client authorizes MLF, and such agents or representatives as MLF may retain for the collection of amounts due MLF, to process electronic payments, such electronic payments to include, but not necessarily be limited to:
- 1) Electronic checks or ACH transactions against Client's bank account, if Client provides MLF with the minimum information required to process an ACH transaction. Client agrees that ACH transactions are nonrefundable and not subject to the charge-back process of Client's financial institution.
  - 2) Credit card payments, if Client provides MLF with the minimum information required to process a credit card payment. Client agrees that credit card payments are nonrefundable and not subject to the charge-back process of Client's credit card companies.

All invoices issued under this Agreement assume payment by cash, check, or wire transfer. Payments by credit card incur a convenience fee of three percent (3.0%) of the payment amount. Payments by ACH incur a convenience fee equal to one percent (1%) of the payment amount. Client understands and agrees that all fees permitted by this paragraph are in addition to all other fees or charges that may be assessed against or owed by Client. **CLIENT AGREES THERE IS NO RIGHT OF REFUND OR CANCELLATION OF THIS CHARGE, UNLESS THE REFUND OR CANCELLATION IS ISSUED BY MLF.**

5. **Entire Agreement:**

This Agreement contains the entire agreement between the parties hereto relative to the subject matter hereof, and supersedes all prior and contemporaneous negotiations relative to the subject matter hereof. No variation, alteration, modification, amendment, or change of this Agreement shall be binding upon any party hereto unless set forth in a document duly executed by the parties. Client further agrees that it will make no claim at any time or place that this Agreement has been orally altered or modified or otherwise changed by oral communication of any kind or character or by any course of dealing.

6. **Electronic Rider:**

Client and MLF agree that, with respect to this Agreement, all signed documents transmitted by email or machine shall be treated in all manner and respects as an original document. Any signed fax, electronic, digital, or photocopy document shall be considered to have the same binding legal effect as the original signed document. Either party may request that a fax, electronic, digital, or photocopy document be re-executed as an original document and in its original form, and the other party hereby agrees to promptly comply with such request. The parties agree that neither shall raise the use of a fax, electronic, digital, or photocopy signature as a defense to this contract and forever waive such defense.

7. **Imaging of Documents.**

Client understands and agrees that MLF's document retention policy may involve the imaging of this Agreement and other documents sent by MLF to or received by MLF from Client and/or any persons or entities regarding the subject matter of this Agreement or the Work required under this Agreement or by Client, and the destruction of the paper originals of all such documents. Client, therefore, forever waives any right that Client may have to a claim that the imaged copies are not originals; provided, however, either party may allege and prove that the imaged copy was altered without the challenging party's knowledge and/or consent.

  
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**8. Termination/Withdrawal:**

- A. Our relationship is based upon mutual consent and you may terminate our representation at any time, with or without cause; provided, however, notice of termination shall not be effective unless expressed in writing and received by MLF. Please note, however, that any termination of MLF's services will not affect your responsibility to pay any fees and/or expenses due MLF.
- B. Client agrees that MLF may withdraw from representation of Client for any reason, including, but not limited to, the reason that Client has not paid any sums due under this Agreement. This right of withdrawal is unlimited and extends, specifically, to withdrawal from any court proceeding in which MLF is representing Client. Any withdrawal by MLF does not serve as a waiver to any fees and/or expenses owed by Client under the terms set forth in this Agreement.

**9. State Bar of Texas Notice:**

The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. Although not every complaint against or dispute with a lawyer involves professional misconduct, the State Bar's Office of General Counsel will provide Client with information about how to file a complaint. Please call 1-800-932-1900 for more information.

**10. Time is of the Essence:**

Time is of the essence as to all of Client's obligations under this Agreement.


If the foregoing accurately sets forth our mutual agreement, please ***initial the lower right hand corner of each page and sign the last page*** of this letter where indicated below and return a signed copy of the agreement to us.

We appreciate the opportunity to be considered for this matter.


Very truly yours,

// s // Emily J. Wyatt

Emily J. Wyatt  
For the Firm

  
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AGREED & ACCEPTED PER THE FORE-  
GOING & THE FACT THAT THE WORK  
IS AN HOURLY RATE PLUS EXPENSES  
AND NOT A FLAT OR FIXED FEE:

  
\_\_\_\_\_  
Reid/Stephen Cain, Individually & As the Co-  
Executor of the Estate of Mary Nan Cain  
Date Signed: 11/26/2019

AGREED & ACCEPTED:

\_\_\_\_\_  
Stephen A. Mendel  
For the Firm

Date Signed: \_\_\_\_\_

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