

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

TRAVIS KARR,
Plaintiff,

v.

QUICK QUACK TEX-CO LLC, and QUICK
QUACK CARWASH MANAGEMENT, LLC
Defendants.

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Civil Action No. 14-CV-00258

DEFENDANTS' NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446, Defendants Quick Quack Tex-Co LLC and Quick Quack Carwash Management, LLC (collectively "Defendants") hereby file their Notice of Removal and remove this case to United States District Court for the Northern District of Texas, Amarillo Division.

**I.
STATEMENT OF THE CASE**

Plaintiff Travis Karr ("Plaintiff") brought suit against Defendants under Cause No. 103288-2 in the County Court at Law No. 2 of Potter County, Texas ("State Court Action"), located within the Northern District of Texas, Amarillo Division. A true and correct copy of Plaintiff's Original Petition is attached hereto as part of EXHIBIT A, *Documents Filed in State Court Action*.

Plaintiff's Original Petition alleges causes of action against Defendants for disability discrimination. Plaintiff seeks to recover monetary damages in an amount in excess of \$93,795.00¹ plus attorneys fees and other unspecified relief.

¹ Plaintiff has demanded back-pay (which equals \$26,325.00); plus two years of front pay (which equals \$29,250.00); plus nonpecuniary damages in the amount of \$38,220.00; plus other relief.

Defendants filed their Original Answer and Verified Denial on December 5, 2014. *See* EXHIBIT A, *Documents Filed in State Court Action*.

Plaintiff also sued Quick Quack, LTD. #4 on Georgia. Quick Quack, LTD. #4 on Georgia is a Texas domestic limited partnership. As stated in Defendants' Original Answer and Verified Denial, this entity was not Plaintiff's employer; thus, Plaintiff cannot state a cause of action against it.

Plaintiff filed a Notice of Non-Suit without Prejudice against Quick Quack, Ltd. #4 on Georgia on December 5, 2014. Quick Quack, Ltd. #4 on Georgia is no longer a party to this action.

Defendant Quick Quack Tex-Co LLC was not Plaintiff's employer; thus, Plaintiff cannot state a cause of action against it. Defendant Quick Quack Tex-Co LLC is a Delaware Limited Liability Company with its principal place of business located in California.

Defendant Quick Quack Carwash Management, LLC was Plaintiff's employer and is a proper party to this lawsuit. Defendant Quick Quack Carwash Management, LLC is a Delaware Limited Liability Company with its principal place of business located in California.

II.

THIS COURT HAS DIVERSITY JURISDICTION

Pursuant to 28 U.S. Code Section 1332(a), "The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between...citizens of different States." 28 U.S.C. §1332(a). For the purposes of diversity jurisdiction, "a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business..." 28 U.S.C. § 1332(c)(1).

This Court has diversity jurisdiction over Plaintiff's claims pursuant to 28 U.S. Code Section 1332(a) because there is complete diversity of citizenship between the parties and Plaintiff has demanded a sum of money in excess of \$93,795.00, exclusive of interest and costs.

Plaintiff is an individual domiciled in Texas. *See* EXHIBIT A, *Documents Filed in State Court Action* at Plaintiff's Original Petition. Defendant Quick Quack Carwash Management, LLC and Defendant Quick Quack Tex-Co LLC are Delaware Limited Liability Companies. *Id.* Defendant Quick Quack Carwash Management, LLC and Defendant Quick Quack Tex-Co LLC both have their principal places of business in California. *Id.* Plaintiff's Original Petition seeks monetary relief in excess of \$75,000.00 exclusive of interest and costs.² *Id.*

Accordingly, the District Court has original jurisdiction over this matter because complete diversity exists between the parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. *See* 28 U.S.C. §§ 1332(a)(1) and 1332(c)(1).

III. **REMOVAL IS TIMELY**

This Notice of Removal is filed in compliance with 28 U.S.C. § 1446(b), which states:

The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.

Plaintiff served his Original Petition on Defendants' registered agent on November 18, 2014. *See* EXHIBIT A, *Documents Filed in State Court Action*. This Notice is timely under 28 U.S.C.

² Plaintiff has demanded back-pay (which equals \$26,325.00); plus two years of front pay (which equals \$29,250.00); plus nonpecuniary damages in the amount of \$38,220.00; plus other relief.

§ 1446(b), as it is filed within thirty days from the date of Defendants' receipt of the pleading upon which Plaintiff's claims are based.³

IV.
NOTICE GIVEN TO STATE COURT

A copy of this Notice of Removal has been simultaneously filed with the state court from which this suit is being removed.

V.
PRAYER

WHEREFORE, Defendants Quick Quack Tex-Co LLC, and Quick Quack Carwash Management, LLC pray (1) that the above-entitled cause be removed to the United States District Court for the Northern District of Texas, Amarillo Division, (2) that this Court assume jurisdiction over this lawsuit and retain it for final disposition, and (3) for such other relief, both general and special, at law or in equity, to which Defendants may be justly entitled.

³ Under the doctrine of fraudulent joinder, Defendants learned that this case was removable upon receiving Plaintiff's Original Petition on November 18, 2014, because Plaintiff has no possibility of establishing a cause of action against Quick Quack, Ltd. #4 on Georgia, the only Texas-based defendant. *See Salazar v. Allstate Tex. Lloyd's, Inc.*, 455 F.3d 571, 574 (5th Cir.2006). On December 5, 2014, Plaintiff non-suited Quick Quack, Ltd. #4 on Georgia, at which point this cause was removable on diversity grounds even without the doctrine of fraudulent joinder.

Respectfully submitted,

BELL NUNNALLY & MARTIN LLP

By: /s/ Alana K. Ackels

Jay M. Wallace

State Bar No. 20769200

jayw@bellnunnally.com

Alana K. Ackels

State Bar No. 24066760

alanaa@bellnunnally.com

3232 McKinney Ave., Suite 1400

Dallas, TX 75204-2429

Tel: 214/740-1400

Fax: 214/740-1499

Counsel for Defendants

Quick Quack Tex-Co LLC, and

Quick Quack Carwash Management, LLC

CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2014, I electronically filed the foregoing document with the Clerk of Court for the U.S. District Court, Northern District of Texas using the electronic case filing system of the Court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

Shawn D. Twing
Sprouse Shrader Smith P.C.
PO Box 15008
Amarillo, TX 79105-5008

/s/ Alana K. Ackels
Alana K. Ackels

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

TRAVIS KARR,
Plaintiff,

v.

QUICK QUACK TEX-CO LLC, and QUICK
QUACK CARWASH MANAGEMENT, LLC
Defendants.

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Civil Action No. 14-CV-00258

EXHIBIT A
DOCUMENTS FILED IN STATE COURT

No.	Description	Date
1.	Potter County Docket Sheet	12/15/14
2.	Plaintiff's Original Petition	11/12/14
3.	Return of Service of Citation – Quick Quack, Ltd. #4 on Georgia	11/21/14
4.	Return of Service of Citation – Quick Quack Carwash Management, LLC	11/25/14
5.	Return of Service of Citation – Quick Quack Tex-Co LLC	11/25/14
6.	Defendants' Original Answer and Verified Denial	12/05/14
7.	Plaintiff's Notice of Non-Suit Without Prejudice	12/05/14

DISTRICT CLERK, POTTER COUNTY, TEXAS
 DATE: 12/15/2014 CASE HISTORY REPORT
 CIVIL DOCKET

TIME: 8:13
 PAGE: 1

Case: 103288-00-2 Filed: 11/12/2014 KARR TRAVIS

Style: TRAVIS KARR
 VS.
 QUICK QUACK, LTD. #4 ON GEORGIA; QUICK
 QUACK TEX-CO LLC, AND QUICK QUACK
 CARWASH MANAGEMENT, LLC

Cat	Description	Balance
PAY	RECEIPTS	630.00
REF	REFUND	22.80-
	TOTAL SPREAD:	607.20

Cat	Description	Assessed	Paid	Credits	Difference
ADRC	DISPUTE RES.	15.00	15.00-	.00	.00
CC	CERT. COPIES	35.00	35.00-	.00	.00
CCSLs	CC SLS FEE	10.00	10.00-	.00	.00
CCSTE	CC STATE FEE	40.00	40.00-	.00	.00
CLERK	CLERKS FEES	275.00	275.00-	.00	.00
EFSF	EFILE FND CR	20.00	20.00-	.00	.00
JUDSP	JUDICIAL SPT	42.00	42.00-	.00	.00
JURY	JURY FEES	30.00	30.00-	.00	.00
LAW	LAW LIBRARY	35.00	35.00-	.00	.00
POST	POSTAGE	22.20	22.20-	.00	.00
STENO	STENO FEE	15.00	15.00-	.00	.00
DCRM	DC REC MGMT	5.00	5.00-	.00	.00
RM	REC MGMT FEE	5.00	5.00-	.00	.00
SECUR	CRTHS SECURE	5.00	5.00-	.00	.00
ARCHV	DC ARCHIVE	10.00	10.00-	.00	.00
DCCOA	DC COURT APP	5.00	5.00-	.00	.00
ECOL	EFILE COLL	4.00	4.00-	.00	.00
ISSUE	ISSUANCE	24.00	24.00-	.00	.00
PRSV	DC PRSV FEE	10.00	10.00-	.00	.00
	TOTALS:	607.20	607.20-	.00	.00

Activity Between 0/00/0000 and 99/99/9999
 All Categories Except NARR

Date	By	Reference	Amount	Description/Comments
11/12/2014	KLP			PREPARE DOCKET SHEET DISCOVERY LEVEL 3 FILE EFILING LOG ORDER NO 003147438-0 FILE CIVIL COVER SHEET FILE PLAINTIFF'S ORIGINAL PETITION/CC 50.00 COUNTY CLERK CIVIL FILING FEE 40.00 COUNTY COURT STATE FILING FEE

A CERTIFIED COPY
 Page 1 of 5
 CAROLINE WOODBURN
 District Clerk
 Potter County, Texas
 By [Signature], Deputy

DATE: 12/15/2014 DISTRICT CLERK, POTTER COUNTY, TEXAS
CASE HISTORY REPORT TIME: 8:13
CIVIL DOCKET PAGE: 2

Case: 103288-00-2 Filed: 11/12/2014 KARR TRAVIS
(Continued)

Activity Between 0/00/0000 and 99/99/9999
All Categories Except NARR

Date	By	Reference	Amount	Description/Comments
			35.00	LAW LIBRARY FEE
			15.00	ALTERNATIVE DISPUTE RESOLUTION CENTER
			5.00	COURTHOUSE SECURITY FUND
			15.00	COURT REPORTER'S FEE
			42.00	JUDICIAL SUPPORT FEE
			5.00	DISTRICT CLERK'S COURT OF APPEALS FEE
			5.00	RECORDS MANAGEMENT FEE
			5.00	DC RECORD MANAGEMENT
			10.00	DISTRICT CLERK'S ARCHIVE FEE
			10.00	COUNTY COURT STATE LEGAL SERVICES FEE
			10.00	DISTRICT CLERK'S PRESERVATION FEE CC
			20.00	ELECTRONIC FILING SYSTEM FUND CO COURT
			2.00	EFILING COLLECTION FEE-BANK TRANSFER
				ORDER NO 003147438-0
			30.00	JURY FEE--COUNTY COURT AT LAW
11/13/2014			15.00	CERTIFIED COPIES
			8.00	ISSUE CITATION BY CERTIFIED MAIL:
				QUICK QUACK LTD #4
			75.00	CLERK FEE -- SERVICE BY CERT. MAIL
			8.00	ISSUE CITATION BY CERTIFIED MAIL:
				QUICK QUACK TEX-CO
			75.00	CLERK FEE -- SERVICE BY CERT. MAIL
			8.00	ISSUE CITATION BY CERTIFIED MAIL:
				QUICK QUACK CARWASH
			75.00	CLERK FEE -- SERVICE BY CERT. MAIL
		00046330	608.00	ELECTRONIC PAYMENT
				Paid by: TERESA RICH
				Order#: 003147438-0
	"		-15.00	ALTERNATIVE DISPUTE RESOLUTION
	"		-15.00	CERTIFIED COPIES
	"		-10.00	COUNTY COURT STATE LEGAL SERVICES FEE
	"		-40.00	COUNTY COURT STATE FILING FEE
	"		-275.00	CLERKS FEES
	"		-20.00	ELECTRONIC FILING SYSTEM FUND
	"		-42.00	JUDICIAL SUPPORT FEE
	"		-30.00	JURY FEES
	"		-35.00	LAW LIBRARY FEES
	"		-15.00	COURT REPORTER'S FEE
	"		-5.00	DC RECORD MANAGEMENT & PRESERVATION FE
	"		-5.00	RECORDS MANAGEMENT

A CERTIFIED COPY
Page 2 of 5
CAROLINE WOODBURN
District Clerk
Potter County, Texas
By [Signature], Deputy

DISTRICT CLERK, POTTER COUNTY, TEXAS
 DATE: 12/15/2014 CASE HISTORY REPORT TIME: 8:13
 CIVIL DOCKET PAGE: 3

Case: 103288-00-2 Filed: 11/12/2014 KARR TRAVIS
 (Continued)

Date	By	Reference	Amount	Description/Comments
Activity Between 0/00/0000 and 99/99/9999 All Categories Except NARR				
		"	-5.00	COURTHOUSE SECURITY FUND
		"	-10.00	DISTRICT CLERK'S ARCHIVE FEE
		"	-5.00	DISTRICT CLERKS COURT OF APPEALS FEE
		"	-2.00	EFILING COLLECTION FEE - BANK TRANSFER
		"	-24.00	ISSUANCE
		"	-10.00	DISTRICT CLERK'S PRESERVATION FUND
		"	-45.00	DEPOSIT ON COST COURT POSTAGE MAIL: CITATION TO QUICK QUACK LTD #4 ON GEORGIA BY CERTIFIED MAIL ARTICLE NO 9414 7266 9904 2004 9534 00 MAIL: CITATION TO QUICK QUACK TEX-CO BY CERTIFIED MAIL ARTICLE NO 9414 7266 9904 2004 9534 17 MAIL: CITATION TO QUICK QUACK CARWASH BY CERTIFIED MAIL ARTICLE NO 9414 7266 9904 2004 9534 24 CHECK OUT DOCKET SHEET TO: COURT
11/17/2014	DJG			FILE CERTIFIED MAIL POSTAGE RECEIPT 9414 7266 9904 2004 9534 24 ADDRESSED TO: ROB H HOLT QUICK QUACK CARWASH MANAGEMENT LLC 7.40 POSTAGE FILE CERTIFIED MAIL POSTAGE RECEIPT 9414 7266 9904 2004 9534 17 ADDRESSED TO: ROB H HOLE QUICK QUACK TEX-CO LLC 7.40 POSTAGE FILE CERTIFIED MAIL POSTAGE RECEIPT 9414 7266 9904 2004 9534 00 ADDRESSED TO: PAUL P FIELDS QUICK QUACK LTD #4 ON GEORGIA 7.40 POSTAGE
		00046439	45.00	DEPOSITS ON COST - COURT
		"	-22.20	POSTAGE
		"	-22.80	REFUND PAYABLE Name: SPROUSE SHRADER SMITH Addr: PO BOX 15008 : AMARILLO TX 79105
11/21/2014	C/M			RECORD CITATION CERTIFIED MAIL 9414 7266 9904 2004 9534 00

A CERTIFIED COPY
 Page 3 of 3
 CAROLINE WOODBURN
 District Clerk
 Potter County, Texas
 By [Signature], Deputy

DISTRICT CLERK, POTTER COUNTY, TEXAS
 DATE: 12/15/2014 CASE HISTORY REPORT TIME: 8:13
 CIVIL DOCKET PAGE: 4

Case: 103288-00-2 Filed: 11/12/2014 KARR TRAVIS
 (Continued)

Date	By	Reference	Amount	Description/Comments
				Activity Between 0/00/0000 and 99/99/9999 All Categories Except NARR
				DEFENDANT SERVED: QUICK QUACK LTD #4 ON GEORGIA, PAUL P FIELDS DELIVERY DATE: 11/17/2014 (PER USPS TRACKING) SIGNED BY: RENEE PRUETT
11/25/2014	"			RECORD CITATION CERTIFIED MAIL 9414 7266 9904 2004 9534 17 DEFENDANT SERVED: QUICK QUACK TEX-CO LLC BY SERVING ITS R/A ROB H HOLT DELIVERY DATE: 11/20/2014 SIGNED BY: ROB H HOLT
	"			RECORD CITATION CERTIFIED MAIL 9414 7266 9904 2004 9534 24 DEFENDANT SERVED: QUICK QUACK CARWASH MANAGEMENT, LLC BY SERVING ITS R/A ROB H HOLT DELIVERY DATE: 11/18/2014 SIGNED BY: ROB H HOLT
12/05/2014		1448/ 945		FILE & ENTER PLTF'S NOTICE OF NONSUIT (AS TO QUICK QUACK, LTD #4 ON GEORGIA) // FILE EFILING LOG #003395747-0 FILE DEFENDANT'S ORIGINAL ANSWER: DEFENDANTS' ORIGINAL ANSWER AND VERIFIED DENIAL (QUICK QUACK TEX-CO LLC, AND QUICK QUACK CARWASH MANAGEMENT, LLC) 2.00 EFILING COLLECTION FEE-BANK TRANSFER #003395747-0
12/08/2014		00046950	2.00	ELECTRONIC PAYMENT Paid by: JAMES SKOCHDOPOLE Order#: 003395747-0
	"		-2.00	EFILING COLLECTION FEE - BANK TRANSFER
12/11/2014				FILE: REQUEST FOR COPIES 20.00 CERTIFIED COPIES (EMAILED 4 DOCUMENTS & RECEIPT)
		00047060	20.00	PAID BY CREDIT CARD: VISA Paid by: ALANA ACKELS PmtID#: 100121913432

A CERTIFIED COPY
 Page 4 of 5
 CAROLINE WOODBURN
 District Clerk
 Potter County, Texas
 By [Signature], Deputy

DISTRICT CLERK, POTTER COUNTY, TEXAS
DATE: 12/15/2014 CASE HISTORY REPORT TIME: 8:13
CIVIL DOCKET PAGE: 5

Case: 103288-00-2 Filed: 11/12/2014 KARR TRAVIS
(Continued)

Activity Between 0/00/0000 and 99/99/9999
All Categories Except NARR
Date By Reference Amount Description/Comments

" -20.00 CERTIFIED COPIES
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** END OF REPORT **

I, Caroline Woodburn, Clerk of the District
Courts and County Courts at Law, in and
for Potter County, Texas, do hereby certify
that the foregoing instrument is a correct
copy of the original on file in this office

ATTESTED this 12 day of December 2014
By [Signature] Deputy

A CERTIFIED COPY
Page 5 of 5
CAROLINE WOODBURN
District Clerk
Potter County, Texas

By [Signature], Deputy

B N

103288-2

No. _____

Caroline Woodburn
District Clerk
11/12/2014 11:34:35 AM
Poter County, Texas
By _____ Deputy

TRAVIS KARR

Plaintiff,

v.

QUICK QUACK, LTD. #4 ON GEORGIA,
QUICK QUACK TEX-CO LLC, and
QUICK QUACK CARWASH
MANAGEMENT, LLC

Defendants.

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§~~IN THE _____ DISTRICT COURT~~

County Court at Law 2

IN AND FOR

POTTER COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

This petition is brought by Travis Karr, Plaintiff, complaining of Quick Quack, Ltd. #4 on Georgia, a Texas domestic limited partnership, Quick Quack Tex-Co LLC, a Delaware limited liability company, and Quick Quack Carwash Management, LLC, a Delaware limited liability company and in support would show the Court as follows:

I. Discovery Level

1. Plaintiff intends to conduct discovery under discovery control plan 3 pursuant to Tex. R. Civ. P. 190.4

II. Parties

2. Plaintiff Travis Karr is a resident of the State of Texas, and is a resident of Potter County Texas.

3. Defendant Quick Quack, Ltd. #4 on Georgia is a Texas domestic limited partnership with its principal place of business in Amarillo, Texas. For the reasons set forth below, Quick Quack, Ltd. #4 on Georgia is subject to the personal jurisdiction of the State of

Texas. Service of process may be made on Quick Quack, Ltd. #4 on Georgia through its registered agent at:

Paul P. Fields
3010 West 27th Avenue
Amarillo, Texas 79109 USA

4. Defendant Quick Quack Tex-Co LLC is a limited liability company organized under the laws of the State of Delaware and maintaining its principal place of business in Alisa Viejo, California. For the reasons set forth below, Quick Quack Tex-Co LLC is subject to the personal jurisdiction of the State of Texas. Service of process may be made on Quick Quack Tex-Co LLC through its registered agent at:

Rob H. Holt
1716 Briarcrest Drive, Suite 625
Bryan, Texas 77802 USA

2. Defendant Quick Quack Carwash Management, LLC is a limited liability company organized under the laws of the State of Delaware and maintaining its principal place of business in Carmichael, California. For the reasons set forth below, Quick Quack Carwash Management, LLC is subject to the personal jurisdiction of the State of Texas. Service of process may be made on Quick Quack Carwash Management, LLC through its registered agent at:

Rob H. Holt
1716 Briarcrest Drive, Suite 625
Bryan, Texas 77802 USA

Jurisdiction & Venue

5. This Court has jurisdiction over this lawsuit because the amount in controversy exceeds the jurisdictional minimum. Venue is proper in this Court under Tex. Civ. Prac. & Rem.

Code § 15.002(a)(1) because Potter County, Texas is the county where a substantial part of the events giving rise to the claim occurred.

III. Exhaustion of Administrative Remedies

6. Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”) on April 25, 2013. Because of a work sharing agreement the charge was simultaneously filed with the Texas Workforce Commission Civil Rights Division (“TCHRCRD”). Plaintiff has received a Dismissal and Notice of Rights from both the EEOC and TCHRCRD and filed this action within the prescribed time periods. Plaintiff has exhausted all other administrative remedies necessary to pursue the claims plead in this case both federal and state law claims.

IV. Statement of Facts

7. Defendants employ 15 or more employees making them subject to the Americans with Disabilities Act, codified at 42 USC § 12101 et. seq. and the ADA Amendments Act of 2008 (referred to herein collectively as (“ADA”). Though separate entities, Defendants constitute a single integrated employment for all ADA purposes including but not limited to ADA coverage, legal obligations and available remedies.

8. The following material facts give rise to Plaintiff’s claims against Defendants:

a. Plaintiff was first diagnosed with epilepsy in 1990. He therefore has a disability for purposes of federal and state law. In addition to the limitations Plaintiff endured as a result of his epilepsy, he also experienced negative effects of his medical treatment.

b. Plaintiff was employed by Defendants from December 2010 to March 2013 and was hired as an employee in the “wash” area of the Quick Quack

Carwash located at 2400 S. Georgia, Amarillo, Texas 79109. His job duties entailed preparing customer vehicles for the automated machinery and car wash process; Mr. Karr worked as a cashier until the end of 2012. At this time, Mr. Karr was moved to the wash bay area due to complaints from his co-workers.

c. In early 2012, Mr. Karr requested a reasonable accommodation for his disability and asked the Company to move him back to the cash register. A letter requesting documentation for determining ADA eligibility was sent to Plaintiff's treating physician on March 1, 2013. Plaintiff's Physician advised Defendants that while Plaintiff should not work around heavy equipment or high voltage electricity due to his seizures, Plaintiff could return to the cashier position.

d. During the week of March 25, 2013, Plaintiff was hospitalized for anorexia and anxiety. Plaintiff was later subjected to discipline for his absences relating to his hospitalization.

e. During his Plaintiff's employment and thereafter, local management at Quick Quack communicated with third parties confidential medical information concerning Plaintiff.

f. Rather than return Plaintiff to the cashier position or further engaged in the interactive process, the Defendants' Human Resources advised Plaintiff in writing that it was unable to provide Plaintiff with a reasonable accommodation and terminated his employment.

g. Plaintiff was involuntarily terminated on or about because of his epilepsy effective March 29, 2013. Defendants advised the Texas Workforce Commission that Plaintiff's employment was terminated for "medical reasons."

V. "Causes of Action"

9. Plaintiff incorporates the preceding paragraphs of this Petition as if fully set forth below.

10. Defendants' Conduct constitutes violations of the ADA, specifically 42 USC §12112 [§102] (a) and (b) and the Texas Labor Code §21.105 and Texas Labor Code §21.121(a). Defendants' discrimination against Plaintiff was willful and has caused Plaintiff to suffer harm. Plaintiff seeks recovery of back pay, front pay, compensatory damages, equitable relief and attorney's fees.

A. Violations of the Americans with Disabilities Act

11. Plaintiff incorporates the preceding paragraphs of this Petition as if fully set forth below.

12. The ADA, codified at 42 U.S.C. §12101 et. seq., protects individuals who are and who are regarded as disabled. These protections include a prohibition of discrimination on account of one's disability, an affirmative duty to make a reasonable accommodation for employees with a disability, an affirmative duty to engage in the interactive process regarding a reasonable accommodation and to maintain confidentiality regarding an employee's medication information.

13. Defendants Quick Quack Tex-Co LLC and Quick Quack Carwash Management, LLC are each "employers" within the meaning of the ADA and acting in concert constitute a single integrated employer for purposes of the ADA.

14. Defendant's disparate treatment, i.e. termination, of Plaintiff violated the ADA as he was subject to discrimination with respect to his compensation, terms, conditions or privileges of employment and deprived employment opportunities or otherwise adversely affected by his status as an employee because of his disability.

15. Defendants' articulated reason for treatment of Plaintiff is a mere pre-text for disability discrimination.

16. Defendants' failure to provide the reasonable accommodation requested by Plaintiff, i.e. returning him to his previous job for which he was qualified, constituted a violation of the ADA's mandate for employers to reasonably accommodate employees with disabilities.

17. Defendants' failure to engage in the interactive process after denying his request for a reasonable accommodation constituted a violation of the ADA's mandate for employers to engage in the interactive process as part of their obligation to reasonably accommodate employees with disabilities.

17. Defendants' failure to maintain confidentiality regarding Plaintiff's medical history and medical information constituted a violation of the ADA's mandate regarding the confidential nature of employee medical information.

18. Defendant's violations of the ADA were the actual and proximate cause of the harm and damages sustained by Plaintiff for which he seeks recovery.

B. The Texas Labor Code

19. The Texas Labor Code sections 21.051, 21.105, 21.125 and 21.128 ("Texas Labor Code") protects individuals who are considered to be disabled. These protections include a prohibition of discrimination on account of one's disability, an affirmative duty to make a

reasonable accommodation for employees with a disability, an affirmative duty to engage in the interactive process regarding a reasonable accommodation and to maintain confidentiality regarding an employee's medication information.

20. Defendants Quick Quack Tex-Co LLC and Quick Quack Carwash Management, LLC are each "employers" within the meaning of the Texas Labor Code and acting in concert constitute a single integrated employer for purposes of the Texas Labor Code.

21. Defendant's disparate treatment, i.e. termination, of Plaintiff violated the ADA as he was subject to discrimination with respect to his compensation, terms, conditions or privileges of employment and deprived employment opportunities or otherwise adversely affected by his status as an employee because of his disability.

22. Defendants' articulated reason for treatment of Plaintiff is a mere pre-text for disability discrimination.

23. Defendants' failure to provide the reasonable accommodation requested by Plaintiff, i.e. returning him to his previous job for which he was qualified, constituted a violation of the Texas Labor Code's mandate for employers to reasonably accommodate employees with disabilities.

24. Defendants' failure to engage in the interactive process after denying his request for a reasonable accommodation constituted a violation of the Texas Labor Code's mandate for employers to engage in the interactive process as part of their obligation to reasonably accommodate employees with disabilities.

25. Defendants' failure to maintain confidentiality regarding Plaintiff's medical history and medical information constituted a violation of the Texas Labor Code's mandate regarding the confidential nature of employee medical information.

26. Defendant's violations of the Texas Labor Code were the actual and proximate cause of the harm and damages sustained by Plaintiff for which he seeks recovery.

C. Attorneys' Fees

26. Plaintiff incorporates the preceding paragraphs of this Petition as if fully set forth below.

20. As a result of the conduct described above, Plaintiff has incurred reasonable and necessary attorneys' fees. Plaintiff seeks recovery of reasonable and necessary attorneys' fees under the ADA and Texas Labor Code. Plaintiff has retained the law firm of Sprouse Shrader Smith P.C. to prosecute this action and has agreed to pay the firm reasonable and necessary attorneys' fees. Plaintiff requests an award of costs and reasonable and necessary attorneys' fees pursuant to the ADA and the Texas Labor Code.

D. Punitive Damages

21. Defendants engaged in the complained of discriminatory practices intentionally, willfully and with malice or reckless indifference to Plaintiff's rights which are protected under the ADA and the Texas Labor Code. Accordingly, Plaintiff seeks punitive damages.

V. Jury Demand

22. Plaintiff demands trial by jury.

WHEREFORE, Plaintiff requests that the Defendant be cited to appear and answer, and on final trial, the Plaintiff be awarded a judgment against Defendant for the following:

- a. Compensatory damages;
- b. Back-pay and Front-pay;
- c. 401K or other similar contribution;
- d. Accrued paid time off
- e. Lost benefits;
- f. Mental pain & suffering;
- g. Incidental damages;
- h. Equitable damages and injunctive relief;
- i. Punitive and exemplary damages;
- j. Pre-judgment interest;
- k. Post-judgment interest;
- l. Reasonable attorneys' fees;
- m. Costs of court; and

All other relief, general and special, legal or equitable, to which Plaintiff may be justly entitled;

Respectfully submitted,

SPROUSE SHRADER SMITH P.C.
Shawn D. Twing, Texas SBN: 00798008
701 S. Taylor, Suite 500 (79101)
Post Office Box 15008
Amarillo, Texas 79105-5008
Telephone: (806) 468-3300
Facsimile: (806) 373-3454
Email: shawn.twing@sprouselaw.com

Shawn D. Twing
ATTORNEYS FOR PLAINTIFF

814284.3 – 2498.01

Filed
Caroline Woodburn
District Clerk
11/12/2014 11:34:35 AM
Potter County, Texas
By _____ Deputy

POTTER COUNTY
Caroline Woodburn
DISTRICT CLERK
P.O. Box 9570
Amarillo, Texas 79105-9570
501 S. Fillmore - Suite 1B
(806) 379-2300
Fax: (806) 372-5061
districtclerk@co.potter.tx.us

THE STATE OF TEXAS
CIVIL

CITATION--CERTIFIED MAIL

CAUSE NO. V-103288-00-2

TRAVIS KARR VS. QUICK QUACK, LTD. #4 ON GEORGIA; QUICK QUACK TEX-CO LLC,
AND QUICK QUACK CARWASH MANAGEMENT, LLC

IN AND FOR THE: COUNTY COURT AT LAW NO. 2

TO: QUICK QUACK CARWASH MANAGEMENT, LLC BY SERVING ITS
REGISTERED AGENT, ROB H. HOLT, 1716 BRIARCREST DRIVE,
SUITE 625, BRYAN, TEXAS 77802

NOTICE: YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR
ATTORNEY DO NOT FILE A **WRITTEN ANSWER** WITH THE CLERK WHO ISSUED THIS
CITATION BY 10:00 A.M. ON THE MONDAY NEXT FOLLOWING THE EXPIRATION OF
TWENTY DAYS AFTER YOU WERE SERVED THIS CITATION AND PETITION, A DEFAULT
JUDGMENT MAY BE TAKEN AGAINST YOU.

THE ADDRESS OF THE CLERK IS SHOWN ABOVE. THE PLAINTIFF'S PETITION WAS
FILED ON: NOVEMBER 12, 2014 IN THE COUNTY COURT AT LAW NO. 2 LOCATED AT
AMARILLO, POTTER COUNTY, TEXAS.

ATTACHED HERETO IS: PLAINTIFF'S ORIGINAL PETITION

THE ATTORNEY FOR THE PLAINTIFF IS: SHAWN D. TWING, P.O. BOX 15008,
AMARILLO, TEXAS 79105, (806) 468-3300.

THIS CITATION WAS EXECUTED BY MAILING A TRUE COPY OF IT TO THE DEFENDANT
AND ADDRESS NAMED ABOVE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED WITH
A TRUE COPY OF THE PETITION ATTACHED.

ISSUED AND GIVEN UNDER MY HAND AND SEAL ON: NOVEMBER 13, 2014

CAROLINE WOODBURN, CLERK OF THE COURT
POTTER COUNTY, TEXAS

BY Kristi Pitt DEPUTY

(OFFICER'S RETURN FOLLOWS)



**DEFENDANT'S
COPY**

POTTER COUNTY
Caroline Woodburn
DISTRICT CLERK
P.O. Box 9570
Amarillo, Texas 79105-9570
501 S. Fillmore - Suite 1B
(806) 379-2300
Fax: (806) 372-5061
districtclerk@co.potter.tx.us

OFFICER'S RETURN---CERTIFIED MAIL

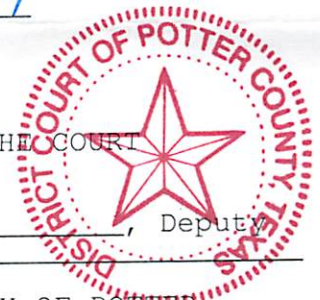
Cause No. V-103288-00-2 in the COUNTY COURT AT LAW NO. 2
Style: TRAVIS KARR VS. QUICK QUACK, LTD. #4 ON GEORGIA; QUICK QUACK
TEX-CO LLC, AND QUICK QUACK CARWASH MANAGEMENT, LLC

This CITATION was executed by mailing an exact copy of it with an exact
copy of the PLAINTIFF'S ORIGINAL PETITION attached, to the defendant(s)
and addressed named above by certified mail, return receipt requested.

Date Mailed: 11-13, 2014
Certified Mail #: 9414 1266 9904 2004 9534 24
Fee for Return: \$ 15.00

CAROLINE WOODBURN, CLERK OF THE COURT
POTTER COUNTY, TEXAS

By: Kristi Ortiz, Deputy



THE STATE OF TEXAS

COUNTY OF POTTER

The return receipt was received on the ____ day of _____, 20____,
bearing a delivery date of _____, 20____, and is
attached hereto and made a part of this return.

CAROLINE WOODBURN, CLERK OF THE COURT
POTTER COUNTY, TEXAS

By: _____, Deputy

Before me, the undersigned authority, personally appeared:
_____, who after being duly sworn,
stated that the above facts are true and correct, subscribed and sworn
to before me on this the _____ day of _____, 20____.

_____, Notary

My Commission Expires: _____

POTTER COUNTY
Caroline Woodburn
DISTRICT CLERK
P.O. Box 9570
Amarillo, Texas 79105-9570
501 S. Fillmore - Suite 1B
(806) 379-2300
Fax: (806) 372-5061
districtclerk@co.potter.tx.us

THE STATE OF TEXAS
CIVIL

CITATION--CERTIFIED MAIL

CAUSE NO. V-103288-00-2

TRAVIS KARR VS. QUICK QUACK, LTD. #4 ON GEORGIA; QUICK QUACK TEX-CO LLC,
AND QUICK QUACK CARWASH MANAGEMENT, LLC

IN AND FOR THE: COUNTY COURT AT LAW NO. 2

TO: QUICK QUACK, LTD. #4 ON GEORGIA, BY SERVING ITS
REGISTERED AGENT, PAUL P. FIELDS, 3010 WEST 27TH AVE.
AMARILLO, TX 79109

NOTICE: YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR
ATTORNEY DO NOT FILE A **WRITTEN ANSWER** WITH THE CLERK WHO ISSUED THIS
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FILED ON: NOVEMBER 12, 2014 IN THE COUNTY COURT AT LAW NO. 2 LOCATED AT
AMARILLO, POTTER COUNTY, TEXAS.

ATTACHED HERETO IS: PLAINTIFF'S ORIGINAL PETITION

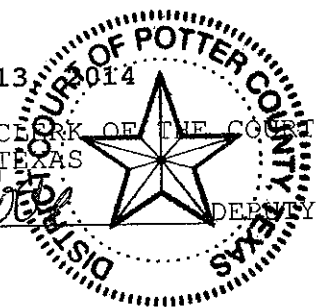
THE ATTORNEY FOR THE PLAINTIFF IS: SHAWN D. TWING, P.O. BOX 15008,
AMARILLO, TEXAS 79105, (806) 468-3300.

THIS CITATION WAS EXECUTED BY MAILING A TRUE COPY OF IT TO THE DEFENDANT
AND ADDRESS NAMED ABOVE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED WITH
A TRUE COPY OF THE PETITION ATTACHED.

ISSUED AND GIVEN UNDER MY HAND AND SEAL ON: NOVEMBER 13, 2014

CAROLINE WOODBURN, CLERK OF THE COURT
POTTER COUNTY, TEXAS
BY *Kristi Pate* DEPUTY

(OFFICER'S RETURN FOLLOWS)



ORIGINAL FOR RETURN

FILED
CAROLINE WOODBURN
DISTRICT CLERK
2014 NOV 21 AM 11:53
POTTER COUNTY, TEXAS
BY *Kristi Pate* DEPUTY

POTTER COUNTY
Caroline Woodburn
DISTRICT CLERK
P.O. Box 9570
Amarillo, Texas 79105-9570
501 S. Fillmore - Suite 1B
(806) 379-2300
Fax: (806) 372-5061
districtclerk@co.potter.tx.us

OFFICER'S RETURN---CERTIFIED MAIL

Cause No. V-103288-00-2 in the COUNTY COURT AT LAW NO. 2
Style: TRAVIS KARR VS. QUICK QUACK, LTD. #4 ON GEORGIA; QUICK QUACK
TEX-CO LLC, AND QUICK QUACK CARWASH MANAGEMENT, LLC

This CITATION was executed by mailing an exact copy of it with an exact
copy of the PLAINTIFF'S ORIGINAL PETITION attached, to the defendant(s)
and addressed named above by certified mail, return receipt requested.

Date Mailed: 11-13, 2014

Certified Mail #: 9414 7266 9904 2004 9534 00

Fee for Return: \$ 15.00

Certified Article Number

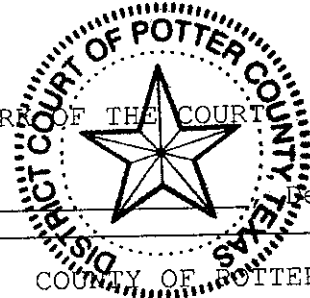
9414 7266 9904 2004 9534 00

SENDERS RECORD

CAROLINE WOODBURN, CLERK OF THE COURT
POTTER COUNTY, TEXAS

By: Kristi Pool

Deputy



THE STATE OF TEXAS

The return receipt was received on the ____ day of _____, 20____,
bearing a delivery date of _____, 20____, and is
attached hereto and made a part of this return.

CAROLINE WOODBURN, CLERK OF THE COURT
POTTER COUNTY, TEXAS

By: _____, Deputy

Before me, the undersigned authority, personally appeared:
_____, who after being duly sworn,
stated that the above facts are true and correct, subscribed and sworn
to before me on this the ____ day of _____, 20____.

_____, Notary

My Commission Expires: _____

FILED
CAROLINE WOODBURN
DISTRICT CLERK
2014 NOV 21 AM 11 53
POTTER COUNTY, TEXAS
BY _____ DEPUTY

English

Customer Service

USPS Mobile

Register / Sign In



USPS Tracking™



Customer Service ›
Have questions? We're here to help.

Tracking Number: 9414726699042004953400

Updated Delivery Day: Saturday, November 15, 2014

Product & Tracking Information

Postal Product:
First-Class Mail®

Features:
Certified Mail™

Return Receipt

DATE & TIME

November 17, 2014 , 3:37 pm

STATUS OF ITEM

Delivered

LOCATION

AMARILLO, TX 79109

Your item was delivered at 3:37 pm on November 17, 2014 in AMARILLO, TX 79109.

November 15, 2014 , 7:53 am

Out for Delivery

AMARILLO, TX 79109

November 15, 2014 , 7:43 am

Sorting Complete

AMARILLO, TX 79109

November 15, 2014 , 6:31 am

Arrived at Unit

AMARILLO, TX 79109

Available Actions

Text Updates

Email Updates

Return Receipt After Mailing

Track Another Package

Tracking (or receipt) number

Track It

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LEGAL INFORMATION

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9414 7266 9904 2004 9534 00
103288-2

TO: PAUL P. FIELDS
QUICK QUACK, LTD. #4 ON GEORGIA
3010 WEST 27TH AVENUE
AMARILLO, TX 79109

SENDER: DISTRICT CLERK
REFERENCE: 103288-2

2014 NOV 17 PM 3:15
POTTER COUNTY TEXAS
CAROLINE WOODBURN
DISTRICT CLERK
FILED
05

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	7.40

USPS®
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No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE
NOV 14 2014
AMARILLO, TX

2. Article Number
103288-2

9414 7266 9904 2004 9534 00
DEPUTY

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:
PAUL P. FIELDS
QUICK QUACK, LTD. #4 ON GEORGIA
3010 WEST 27TH AVENUE
AMARILLO, TX 79109

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)
Renee Pruett

B. Date of Delivery
2014 NOV 21

C. Signature
X Renee Pruett

☐ Agent
☐ Addressee

D. Is delivery address different from item 1?
If YES, enter delivery address below:
☐ Yes
☐ No

Reference Information
103288-2
DISTRICT CLERK-CIVIL

PS Form 3811, January 2005 Domestic Return Receipt

POTTER COUNTY
Caroline Woodburn
DISTRICT CLERK
P.O. Box 9570
Amarillo, Texas 79105-9570
501 S. Fillmore - Suite 1B
(806) 379-2300
Fax: (806) 372-5061
districtclerk@co.potter.tx.us

THE STATE OF TEXAS
CIVIL

CITATION--CERTIFIED MAIL

CAUSE NO. V-103288-00-2

TRAVIS KARR VS. QUICK QUACK, LTD. #4 ON GEORGIA; QUICK QUACK TEX-CO LLC,
AND QUICK QUACK CARWASH MANAGEMENT, LLC

IN AND FOR THE: COUNTY COURT AT LAW NO. 2

TO: QUICK QUACK CARWASH MANAGEMENT, LLC BY SERVING ITS
REGISTERED AGENT, ROB H. HOLT, 1716 BRIARCREST DRIVE,
SUITE 625, BRYAN, TEXAS 77802

NOTICE: YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR
ATTORNEY DO NOT FILE A **WRITTEN ANSWER** WITH THE CLERK WHO ISSUED THIS
CITATION BY 10:00 A.M. ON THE MONDAY NEXT FOLLOWING THE EXPIRATION OF
TWENTY DAYS AFTER YOU WERE SERVED THIS CITATION AND PETITION, A DEFAULT
JUDGMENT MAY BE TAKEN AGAINST YOU.

THE ADDRESS OF THE CLERK IS SHOWN ABOVE. THE PLAINTIFF'S PETITION WAS
FILED ON: NOVEMBER 12, 2014 IN THE COUNTY COURT AT LAW NO. 2 LOCATED AT
AMARILLO, POTTER COUNTY, TEXAS.

ATTACHED HERETO IS: PLAINTIFF'S ORIGINAL PETITION

THE ATTORNEY FOR THE PLAINTIFF IS: SHAWN D. TWING, P.O. BOX 15008,
AMARILLO, TEXAS 79105, (806) 468-3300.

THIS CITATION WAS EXECUTED BY MAILING A TRUE COPY OF IT TO THE DEFENDANT
AND ADDRESS NAMED ABOVE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED WITH
A TRUE COPY OF THE PETITION ATTACHED.

ISSUED AND GIVEN UNDER MY HAND AND SEAL ON: NOVEMBER 13, 2014

CAROLINE WOODBURN, CLERK OF THE COURT
POTTER COUNTY, TEXAS

BY Kristen DEPUTY

(OFFICER'S RETURN FOLLOWS)



ORIGINAL FOR RETURN

FILED
CAROLINE WOODBURN
DISTRICT CLERK
2014 NOV 25 AM 9:19
POTTER COUNTY, TEXAS
BY Kristen DEPUTY

POTTER COUNTY
Caroline Woodburn
DISTRICT CLERK
P.O. Box 9570
Amarillo, Texas 79105-9570
501 S. Fillmore - Suite 1B
(806) 379-2300
Fax: (806) 372-5061
districtclerk@co.potter.tx.us

OFFICER'S RETURN---CERTIFIED MAIL

Cause No. V-103288-00-2 in the COUNTY COURT AT LAW NO. 2
Style: TRAVIS KARR VS. QUICK QUACK, LTD. #4 ON GEORGIA; QUICK QUACK
TEX-CO LLC, AND QUICK QUACK CARWASH MANAGEMENT, LLC

This CITATION was executed by mailing an exact copy of it with an exact
copy of the PLAINTIFF'S ORIGINAL PETITION attached, to the defendant(s)
and addressed named above by certified mail, return receipt requested.

Date Mailed: 11-13, 2014

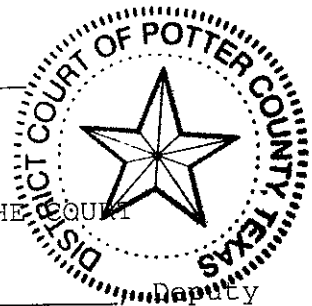
Certified Mail #: 9414 7266 9904 2004 9534 24

Fee for Return: \$ 15.00

SENDERS RECORD

CAROLINE WOODBURN, CLERK OF THE COURT
POTTER COUNTY, TEXAS

By: Kristi O'Neil



THE STATE OF TEXAS

COUNTY OF POTTER

The return receipt was received on the ____ day of _____, 20____,
bearing a delivery date of _____, 20____, and is
attached hereto and made a part of this return.

CAROLINE WOODBURN, CLERK OF THE COURT
POTTER COUNTY, TEXAS

By: _____, Deputy

Before me, the undersigned authority, personally appeared:
_____, who after being duly sworn,
stated that the above facts are true and correct, subscribed and sworn
to before me on this the _____ day of _____, 20____.

_____, Notary

My Commission Expires: _____

FILED
CAROLINE WOODBURN
DISTRICT CLERK
2014 NOV 25 AM 9 19
POTTER COUNTY, TEXAS
BY _____ DEPUTY

9414 7266 9904 2004 9534 24
103288-2

TO: ROB H. HOLT
QUICK QUACK CARWASH MANAGEMEN
LLC
1716 BRIARCREST DRIVE #625
BRYAN, TX 77802

SENDER: DISTRICT CLERK
REFERENCE: 103288-2

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	7.40

**USPS®
Receipt for
Certified Mail™**

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

FILED
CAROLINE WOODBURN
DISTRICT CLERK
2014 NOV 17 PM 3 15
POTTER COUNTY, TEXAS

2. Article Number

9414 7266 9904 2004 9534 24

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) ☐ Yes

1. Article Addressed to:

ROB H. HOLT
QUICK QUACK CARWASH
MANAGEMENT LLC
1716 BRIARCREST DRIVE, #625
BRYAN, TX 77802

2014 NOV 25 AM 9 19

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **Rob H. Holt**

B. Date of Delivery **11/18/14**

C. Signature **Rob H. Holt**

☒ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

Reference Information

103288-2

DISTRICT CLERK-CIVIL

PS Form 3811, January 2005 Domestic Return Receipt

POTTER COUNTY
Caroline Woodburn
DISTRICT CLERK
P.O. Box 9570
Amarillo, Texas 79105-9570
501 S. Fillmore - Suite 1B
(806) 379-2300
Fax: (806) 372-5061
districtclerk@co.potter.tx.us

THE STATE OF TEXAS
CIVIL

CITATION--CERTIFIED MAIL

CAUSE NO. V-103288-00-2

TRAVIS KARR VS. QUICK QUACK, LTD. #4 ON GEORGIA; QUICK QUACK TEX-CO LLC,
AND QUICK QUACK CARWASH MANAGEMENT, LLC

IN AND FOR THE: COUNTY COURT AT LAW NO. 2

TO: QUICK QUACK TEX-CO LLC BY SERVING ITS REGISTERED AGENT,
ROB H. HOLT, 1716 BRIARCREST DRIVE, SUITE 625
BRYAN, TEXAS 77802

NOTICE: YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR
ATTORNEY DO NOT FILE A **WRITTEN ANSWER** WITH THE CLERK WHO ISSUED THIS
CITATION BY 10:00 A.M. ON THE MONDAY NEXT FOLLOWING THE EXPIRATION OF
TWENTY DAYS AFTER YOU WERE SERVED THIS CITATION AND PETITION, A DEFAULT
JUDGMENT MAY BE TAKEN AGAINST YOU.

THE ADDRESS OF THE CLERK IS SHOWN ABOVE. THE PLAINTIFF'S PETITION WAS
FILED ON: NOVEMBER 12, 2014 IN THE COUNTY COURT AT LAW NO. 2 LOCATED AT
AMARILLO, POTTER COUNTY, TEXAS.

ATTACHED HERETO IS: PLAINTIFF'S ORIGINAL PETITION

THE ATTORNEY FOR THE PLAINTIFF IS: SHAWN D. TWING, P.O. BOX 15008,
AMARILLO, TEXAS 79105, (806) 468-3300.

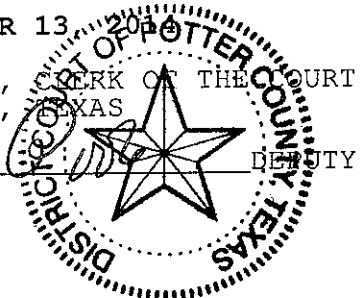
THIS CITATION WAS EXECUTED BY MAILING A TRUE COPY OF IT TO THE DEFENDANT
AND ADDRESS NAMED ABOVE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED WITH
A TRUE COPY OF THE PETITION ATTACHED.

ISSUED AND GIVEN UNDER MY HAND AND SEAL ON: NOVEMBER 13, 2014

CAROLINE WOODBURN, CLERK OF THE COURT
POTTER COUNTY, TEXAS

BY *[Signature]* DEPUTY

(OFFICER'S RETURN FOLLOWS)



ORIGINAL FOR RETURN

FILED
CAROLINE WOODBURN
DISTRICT CLERK
2014 NOV 25 AM 9 18
POTTER COUNTY, TEXAS
BY *[Signature]* DEPUTY

P.O. Box 9570
Amarillo, Texas 79105-9570
501 S. Fillmore - Suite 1B
POTTER COUNTY
Caroline Woodburn
DISTRICT CLERK
(806) 379-2300
Fax: (806) 372-5061
districtclerk@co.potter.tx.us

OFFICER'S RETURN--CERTIFIED MAIL

Cause No. V-103288-00-2 in the COUNTY COURT AT LAW NO. 2
Style: TRAVIS KARR VS. QUICK QUACK, LTD. #4 ON GEORGIA; QUICK QUACK
TEX-CO LLC, AND QUICK QUACK CARWASH MANAGEMENT, LLC

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Date Mailed: 11-13, 2014

Certified Mail #:

Certified Article Number

9414 7266 9904 2004 9534 17

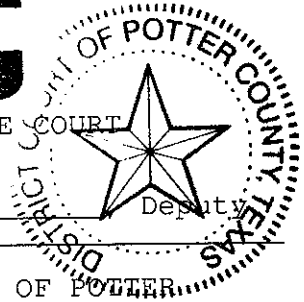
Fee for Return: \$ 7500

SENDER'S RECORD

CAROLINE WOODBURN, CLERK OF THE COURT
POTTER COUNTY, TEXAS

By:

Caroline Woodburn



THE STATE OF TEXAS

COUNTY OF POTTER

The return receipt was received on the ____ day of ____, 20____,
bearing a delivery date of ____, 20____, and is
attached hereto and made a part of this return.

CAROLINE WOODBURN, CLERK OF THE COURT
POTTER COUNTY, TEXAS

By: _____, Deputy

Before me, the undersigned authority, personally appeared:
_____, who after being duly sworn,
stated that the above facts are true and correct, subscribed and sworn
to before me on this the ____ day of ____, 20____.

_____, Notary

My Commission Expires: _____

FILED
CAROLINE WOODBURN
DISTRICT CLERK
2014 NOV 25 AM 9 18
POTTER COUNTY, TEXAS
BY *[Signature]* DEPUTY

9414 7266 9904 2004 9534 17
103288-2

TO: ROB H. HOLT
QUICK QUACK TEX-CO LLC
1716 BRIARCREST DRIVE, #625
BRYAN, TX 77802

SENDER: DISTRICT CLERK-CIVIL
REFERENCE: 103288-2

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	3.15
	Certified Fee	1.50
	Return Receipt Fee	0.00
	Restricted Delivery	0.00
	Total Postage & Fees	7.40

USPS®
Receipt for
Certified Mail™

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE
NOV 17 2014

FILED
CAROLINE WOODBURN
DISTRICT CLERK
2014 NOV 17 PM 3 15
POTTER COUNTY TEXAS

2. Article Number

9414 7266 9904 2004 9534 17
103288-2

3. Service Type **CERTIFIED MAIL®**

4. Restricted Delivery? (Extra Fee) **Yes**

1. Article Addressed to:

ROB H. HOLT
QUICK QUACK TEX-CO LLC
1716 BRIARCREST DRIVE, #625
BRYAN, TX 77802

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly): **Rob H. Holt**

B. Date of Delivery: **11/20/14**

C. Signature: **[Signature]**

D. Is delivery address different from item 1? **X** Yes ☐ No

Reference Information

103288-2
DISTRICT CLERK-CIVIL

PS Form 3811, January 2005 Domestic Return Receipt

CAUSE NO. 103288-2

TRAVIS KARR,
 Plaintiff,

v.

QUICK QUACK, LTD. #4 ON GEORGIA,
 QUICK QUACK TEX-CO LLC, and QUICK
 QUACK CARWASH MANAGEMENT, LLC
 Defendants.

§
 §
 §
 §
 §
 §
 §
 §

IN THE COUNTY COURT

AT LAW NO. 2

POTTER COUNTY, TEXAS

DEFENDANTS' ORIGINAL ANSWER AND VERIFIED DENIAL

Defendants Quick Quack Tex-Co LLC, and Quick Quack Carwash Management, LLC
 (collectively "Defendants") file their Original Answer and would respectfully show as follows:

I. GENERAL DENIAL

1. Defendants generally deny all of the allegations of Plaintiff's Original Petition and demand strict proof thereof by a preponderance of the evidence.

II. VERIFIED DENIAL

2. Defendant Quick Quack Tex-Co LLC denies that it is liable in the capacity in which it has been sued. Defendant Quick Quack Tex-Co LLC was not Plaintiff's employer and, therefore, is not liable for Plaintiff's claims against it. Plaintiff's employer was Quick Quack Carwash Management, LLC.

3. Defendants deny that Quick Quack, Ltd. #4 on Georgia is a proper party to this suit, as Quick Quack, Ltd. #4 on Georgia was the entity that sold the car wash to Plaintiff's employer, Quick Quack Carwash Management, LLC, in 2008. Quick Quack, Ltd. #4 on Georgia was not Plaintiff's employer and had no involvement whatsoever in Plaintiff's termination made the basis of this lawsuit.

III.
AFFIRMATIVE DEFENSES

4. Defendants assert the affirmative defense that Plaintiff's medical condition presented a direct threat to himself and others; therefore, Plaintiff was not entitled to the protections afforded under the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*

5. To the extent that Plaintiff alleges conduct under the Texas Commission on Human Rights Act occurring more than 180 days prior to the date on which he filed his Discrimination Charge against Defendants with the Texas Commission on Human Rights, Defendants assert the affirmative defense that any claim for back pay, or other relief arising therefrom, is barred under Texas Labor Code § 21.202.

6. Defendants assert the affirmative defense that, as Plaintiff's employer, Quick Quack Carwash Management LLC exercised reasonable care to prevent and correct promptly any of the behavior complained of in Plaintiff's Original Petition, although it denies that any such behavior occurred.

7. Defendants assert the affirmative defense that Plaintiff was not a qualified individual within the meaning of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*

8. Defendants assert the affirmative defense that Plaintiff could not perform the essential functions of his job with or without a reasonable accommodation within the meaning of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*

9. Defendants assert the affirmative defense that they terminated Plaintiff's employment for legitimate, non-discriminatory reasons.

10. Defendants assert the affirmative defense that Plaintiff failed to take reasonable steps to mitigate any damages he may have sustained.

11. Defendants assert the affirmative defense that Plaintiff's claim for exemplary damages is limited by Chapter 41 of the Texas Civil Practice and Remedies Code.

12. Defendants assert the affirmative defense that the amount of compensatory and punitive damages sought by Plaintiff are limited by statute under 42 U.S.C. § 1981a and Texas Labor Code § 21.2585.

13. Defendants assert the affirmative defense that Plaintiff is not entitled to and cannot recover an award of attorneys' fees.

14. Defendants assert the affirmative defense that any action or inaction on their part was not willful; therefore, Plaintiff is not entitled to liquidated damages.

15. Defendant Quick Quack Tex-Co LLC denies that it is liable in the capacity in which it has been sued. Defendant Quick Quack Tex-Co LLC was not Plaintiff's employer and, therefore, is not liable for Plaintiff's claims against it.

16. Defendants deny that Quick Quack, Ltd. #4 on Georgia is a proper party to this suit, as Quick Quack, Ltd. #4 on Georgia was the entity that sold the car wash to Plaintiff's employer, Quick Quack Carwash Management, LLC, in 2008. Quick Quack, Ltd. #4 on Georgia was not Plaintiff's employer and had no involvement whatsoever in Plaintiff's termination made the basis of this lawsuit.

17. As a result of Plaintiff's unsupported claims against Defendants, Defendants have been required to retain the services of the undersigned attorneys; pursuant to Section 21.259 of the Texas Labor Code, Defendants are entitled to an award of their reasonable attorneys' fees incurred in defending this action.

18. Defendants reserve the right to assert additional affirmative defenses that become apparent throughout the development of this case.

IV.
DEMAND FOR JURY

Defendants hereby request a trial by jury and will submit the required jury fee as necessary.

WHEREFORE, PREMISES CONSIDERED, Quick Quack Tex-Co LLC, and Quick Quack Carwash Management, LLC having fully answered herein, pray (1) that Plaintiff receive a take nothing judgment, (2) that any award to Plaintiff be reduced or barred based on Defendants' affirmative defenses, and (3) for such other and further relief, both general and special, to which it may be justly entitled.

Respectfully submitted,

BELL NUNNALLY & MARTIN LLP

By: /s/ Alana K. Ackels

Jay M. Wallace
State Bar No. 20769200
jayw@bellnunnally.com
Alana K. Ackels
State Bar No. 24066760
alanaa@bellnunnally.com

3232 McKinney Ave., Suite 1400
Dallas, TX 75204-2429
Tel: 214/740-1400
Fax: 214/740-1499

Counsel for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 5, 2014, a true and correct copy of the foregoing document has been sent to counsel of record as follows:

Shawn D. Twing
Sprouse Shrader Smith P.C.
PO Box 15008
Amarillo, TX 79105-5008
Via ECF and Facsimile 806/373-3454

/s/ Alana K. Ackels
Alana K. Ackels

Caroline Woodburn
District Clerk
12/5/2014 2:56:58 PM
Potter County, Texas
By _____ Deputy

CAUSE NO. 103288-2

TRAVIS KARR,
Plaintiff,

v.

QUICK QUACK, LTD. #4 ON GEORGIA,
QUICK QUACK TEX-CO LLC, and QUICK
QUACK CARWASH MANAGEMENT, LLC.
Defendants.

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IN THE COUNTY COURT


AT LAW NO. 2

POTTER COUNTY, TEXAS

VERIFICATION

STATE OF California §
COUNTY OF Placer §

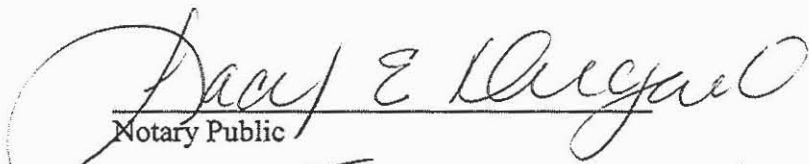
BEFORE ME, the undersigned Notary Public, on this day personally appeared JASON JOHNSON, who being by me duly sworn on his oath, deposed and said that he is the President of Quick Quack Carwash Management, LLC and has read Defendants' Original Answer and Verified Denial, and that every statement contained therein is within his knowledge, or within the knowledge of other employees at Quick Quack Carwash Management, LLC, and is true and correct.



JASON JOHNSON

SUBSCRIBED AND SWORN TO on the 5th day of December, 2014, to certify which witness my hand and seal of office.




Notary Public
Printed Name: Tracy Delgado
Commission expires: 11/4/15

No. 103288-2

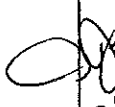
TRAVIS KARR,

Plaintiff,

v.

QUICK QUACK, LTD. #4 ON GEORGIA,
QUICK QUACK TEX-CO LLC, and
QUICK QUACK CARWASH
MANAGEMENT, LLC,

Defendants.

FILED
CAROLINE WOODBURN
DISTRICT CLERK
2014 DEC 5 pm 4 25
POTTER COUNTY, TEXAS
BY  DEPUTY
IN AND FOR
COUNTY COURT AT LAW

POTTER COUNTY, TEXAS

PLAINTIFF'S NOTICE OF NON-SUIT WITHOUT PREJUDICE

COMES NOW TRAVIS KARR, Plaintiff, and hereby gives notice to this Court and to all parties to this suit that they are taking a non-suit without prejudice of all of their claims against QUICK QUACK, LTD. #4 ON GEORGIA, Defendant, effective immediately on the filing of this Notice on this date.

SIGNED THIS 5th day of December, 2014.

Respectfully submitted,

SPOUSE SHRADER SMITH PLLC
Shawn D. Twing, Texas SBN: 00798008
701 S. Taylor, Suite 500 (79101)
Post Office Box 15008
Amarillo, Texas 79105-5008
Telephone: (806) 468-3300
Facsimile: (806) 373-3454
Email: shawn.twing@sprouselaw.com



Shawn D. Twing

ATTORNEY FOR PLAINTIFF

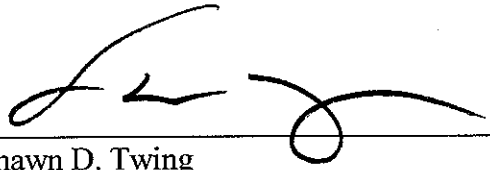
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CERTIFICATE OF SERVICE

It is hereby certified that on the 5th day of December, 2014, a true and correct copy of the above and foregoing document was served upon the following attorney(s) of record:

Jay M. Wallace
Alana K. Ackels
3232 McKinney Ave., Suite 1400
Dallas, Texas 75204-2429
jayw@bellnunnally.com
alanaa@bellnunnally.com

Garland Sell
504 S. Polk, Suite 101
Amarillo, Texas 79101-2318
garland@sgmtexaslaw.com


Shawn D. Twing

02498-01
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FILED
CAROLINE WOODBURN
DISTRICT CLERK
2014 DEC 5 PM 4 25
POTTER COUNTY, TEXAS
BY _____ DEPUTY