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IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

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RICHARD R. ROBERTSON, CLERK
E. Adams, D.C.

HOPE ELROD,
Plaintiff,

v.

Case No. 19C1431

MICHAEL MATTHEWS,
Defendant.

COMPLAINT FOR FRAUD, NEGLIGENT MISREPRESENTATION, BREACH OF
CONTRACT, UNJUST ENRICHMENT, FRAUDULENT TRANSFER AND PUNITIVE
DAMAGES

Comes now Hope Elrod ("Elrod" or "Plaintiff") and files this Complaint for Fraud, Negligent Misrepresentation, Conversion, Breach of Contract, Unjust Enrichment, Fraudulent Transfer, and Punitive Damages against Michael Matthews ("Defendant"), and would show as follows.

THE PARTIES, JURISDICTION AND VENUE

1. At all relevant times, Plaintiff Hope Elrod was a resident of Haywood County, Tennessee.
2. Defendant Michael Matthews is a resident of Davidson County, Tennessee and may be served with process at **2616 CARTER AVE, NASHVILLE, TN 37206-1346**
3. The various agreements and torts alleged herein all occurred in Davidson County, Tennessee. Accordingly, jurisdiction and venue are proper before this Court.

FACTUAL ALLEGATIONS

4. Plaintiff hereby incorporates the allegations contained in the preceding numbered paragraphs.

5. At all relevant times, Defendant was a general contractor building residential homes in Davidson and Williamson Counties.

6. Upon information and belief, Defendant does not have a contractor's license, in violation of Tennessee law, but pulls permits under the name of another contractor in exchange for a payment of \$500 per house.

7. Defendant hired Plaintiff in May 2017, at an annual salary of \$150,000 per year (to include paid vacation, and holiday time) to act as superintendent on a number of these jobs. Plaintiff was charged with working a specific number of hours per week, kept track of her time, and routinely provided her time logs to Defendant.

8. During the period of Plaintiff's employment, she oversaw the construction of the following six residential projects:

- a. 1402 Otay Street A Nashville TN 37216;
- b. 1402 Otay Street B Nashville TN 37216;
- c. 2426 Branch Street Nashville TN 37216;
- d. 2118 Martha Ave Nashville TN 37216;
- e. 2400 Porter Road Nashville TN 37206; and
- f. 1531 Dugger Drive Nashville TN 37206.

9. Although Plaintiff performed services without issue or complaint from Defendant, Defendant claimed he was unable to timely pay her full salary as a result of financial difficulties.

10. Despite this, he promised payments were forthcoming and Plaintiff relied on these promises and continued to perform services for Defendant.

11. At the time of this filing, Defendant owes Plaintiff unpaid wages from May 2017 through April 2018 totaling \$49,139.34.

12. Throughout this period, and continuing through May 2018, Defendant continued to reaffirm his obligation to pay Plaintiff these funds and continued to promise that he actually intended to pay these unpaid wages, but has not done so.

13. In addition to the foregoing, in June 2017, Defendant asked Plaintiff if he could borrow \$91,461.58 to help finance the purchase of parcels Defendant intended to convert into two eight-plexes located at 95 Glenrose Ave., Nashville, TN 37210 (the “Glenrose Property”).

14. Defendant explained that he would refinance the total loan for this purchase and reimburse Plaintiff in August 2017.

15. Upon information and belief, the refinance did not occur.

16. Between August 2017 and May 2018, Defendant made numerous promises and representations, both re-affirming his debt to Plaintiff and his intention to repay her as soon as possible with interest at the maximum rate allowed under Tennessee law.

17. Defendants acknowledgements of his debts to Plaintiff and his promises to pay have been repeatedly reduced to audio recordings by Plaintiff.

18. In May 2018, Plaintiff presented Defendant with a proposed promissory note to memorialize his promises to re-pay. Defendant refused to sign.

19. Plaintiff has been and continues to be damaged by Defendant’s conduct.

FRAUD – SPECIFIC FACTS

20. Plaintiff hereby incorporates the allegations contained in the preceding numbered paragraphs.

21. On or about May 1, 2017, Defendant hired Plaintiff and promised to pay her a monthly wage of \$12,500.00.

22. Each month, during Defendant's ordinary payroll period, when Defendant was unable to pay Plaintiff in full, he would acknowledge his shortfall and promise the balance was forthcoming.

23. On June 17, 2017, Defendant asked Plaintiff to loan him funds that he would use toward the purchase of the Glenrose Property. Defendant promised on this date that he would repay her in August 2017 upon refinancing his loan, and that he would further repay her at the maximum rate of interest allowable under Tennessee law.

24. On June 30, 2017, Plaintiff provided the funds to assist with the purchase of the Glenrose Project. Defendant also promised Plaintiff on this date that he would repay her in August 2017 upon refinancing his loan, and that he would further repay her at the maximum rate of interest allowable under Tennessee law.

25. Month after month, Plaintiff would approach Defendant about the failure to pay his debt to her. On each occasion, Defendant would promise that payment was forthcoming.

26. On April 27, 2018, Plaintiff confronted Defendant numerous times. During each conversation, Defendant acknowledged his debt, made excuses for non-payment, and continued to promise that payment would occur at some point in the future.

27. Specifically, on this date, Defendant promised Plaintiff he would pay her in full within three weeks, or by May 18, 2018.

28. Defendant's representations constitute numerous intentional misrepresentations of material facts.

29. Defendant had knowledge of the falsity of his representations.

30. Defendant's fraud has caused and continues to cause injury to Plaintiff as a result of her reasonable reliance on Defendant's many fraudulent misrepresentations.

31. Defendant's misrepresentations involve past or existing facts.

32. Had Defendant not made the fraudulent misrepresentations, Plaintiff would never have agreed to work for him or to loan him the funds for the "Glenrose Property."

NEGLIGENT MISREPRESENTATION

33. Plaintiff hereby incorporates the allegations contained in the preceding numbered paragraphs.

34. In making the misrepresentations described herein, Defendant was acting in the course of his business, profession, or employment.

35. Defendant supplied false information for the guidance of others in its business transactions.

36. Defendant failed to exercise reasonable care in obtaining or communicating the information.

37. Plaintiff justifiably relied on the information.

38. As a result of Defendant's negligent misrepresentations, Plaintiff has and continues to accrue damages.

CONVERSION

39. Plaintiff hereby incorporates the allegations contained in the preceding numbered paragraphs.

40. Defendant intentionally appropriated Plaintiff's property, comprised of her wages and her loan funds to his own use and benefit.

41. Defendant did this by the intentional exercise of dominion over it in defiance of Plaintiff's rights.

42. Although demand has been made numerous times, Defendant has not returned Plaintiff's property and therefore continues to cause Plaintiff damage in an amount to be proved at trial.

BREACH OF CONTRACT

43. Plaintiff hereby incorporates the allegations contained in the preceding numbered paragraphs.

44. The parties hereto had common understandings and shared a mutual assent to be bound by the terms of Plaintiff's agreement to lend Defendant funds for the Glenrose Property.

45. Plaintiff paid the funds, standing by Defendant's side, at the closing of the purchase of the Glenrose Property as consideration for Defendant's promise to repay a month later with interest.

46. As set forth elsewhere herein, Defendant did not perform its obligations under the agreement.

47. Plaintiff seeks compensatory damages resulting from Defendant's breach of contract.

UNJUST ENRICHMENT

48. Plaintiff hereby incorporates the allegations contained in the preceding numbered paragraphs.

49. Pleading alternatively, Plaintiff seeks to recover from Defendant under a theory of unjust enrichment.

50. Plaintiff conferred benefits upon the Defendant in the form of superintendent services as well as the loan of significant funds.

51. Defendant has appreciated these benefits and accepted them.

52. Defendant accepted and retained these benefits under such circumstances that it would be inequitable for him to retain the benefit without payment of the value thereof.

FRAUDULENT TRANSFER
AT COMMON LAW
AND UNDER TENN. CODE ANN. § 66-3-301, et seq.

53. Plaintiff hereby incorporates and re-alleges the allegations contained in the preceding numbered paragraphs.

54. Upon information and belief, Defendant has transferred Plaintiff's unpaid wages and loan funds in an attempt to hinder, delay or otherwise shield these monies from Plaintiff and other creditors.

55. The effect of these transfers was to render Defendant insolvent or unable to pay Plaintiff any of the funds she is owed.

56. Plaintiff seeks to enforce its judgment in this matter from those assets fraudulently transferred by Defendant.

PUNITIVE DAMAGES

57. Plaintiff hereby incorporates the allegations contained in the preceding numbered paragraphs.

58. Defendants' tortious conduct was fraudulent, intentional, reckless or malicious.

59. As a result thereof, Plaintiff seeks an award of punitive damages.

WHEREFORE PREMISES CONSIDERED, Plaintiff prays this Court to:

1. issue service of process against Defendant requiring him to appear and to answer this Complaint;
2. that a trial be held and that this Court determine that Plaintiff should be awarded actual and punitive damages resulting from Defendant's conduct;
3. that Plaintiff be awarded pre-judgment and post-judgment interest;
4. that Plaintiff be awarded such other, further and general relief to which it may be entitled and which the Court shall deem to be just and equitable.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Darrell N. Phillips', written over a horizontal line.

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