

APR 13 2009

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Attorney for Plaintiff, Gabriel Castellanos

**SUPERIOR COURT OF STATE OF CALIFORNIA**

**LOS ANGELES COUNTY, CENTRAL DISTRICT**

**BC 411716**

**GABRIEL CASTELLANOS**

**CASE NO.:**

Plaintiff,

**COMPLAINT FOR:**

vs.

- 1. BREACH OF CONTRACT
- 2. COMMON COUNT
- 3. FRAUD AND FRAUDULENT INDUCMENT TO ENTER INTO A CONTRACT

**THOMAS E. SIZEMORE  
AND DOES I THROUGH 20**

Defendants

**FIRST CAUSE OF ACTION**

**[BREACH OF CONTRACT]**

Plaintiff for a first cause of action for breach of contract against Defendant Sizemore, and each of them, alleges as follows:

- 1. Plaintiff, Gabriel Castellanos ("Castellanos"), is an individual who is a resident of the State of California, resides in the County of Los Angeles. Plaintiff is a duly licensed, by the California State Bar, attorney at law in the State of California.
- 2. Defendant, Tom E. Sizemore (hereinafter as "Sizemore"), is and at all times mentioned herein, an individual with his resident in Los Angeles County, State of California:

C1/CASE: BC411716 LEA/DEP:  
 RECEIPT # 2 COM78957012  
 DATE PAID: 04/13/09 09:46:43 AM  
 PAYMENT: 50.00  
 RECEIVED: 0310  
 CASE # 150.00  
 CHARGE: 150.00  
 FINE: 150.00

*D-49*  
*Gabriel Aragon*

*03/13/09*

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3. The true names and capacities, whether individual, corporate, associate or otherwise, of each of the Defendants designated herein as a DOE are unknown to Plaintiff at this time and therefore said Defendants, and each of them are sued by such fictitious names. Plaintiff is informed and believes and thereon alleges that each of the Defendants designated herein as DOE is legally responsible in some manner for events and incidents described and caused damages thereby to the Plaintiff as hereinafter alleged.
4. Plaintiff is informed and believes and thereon alleges that each of the Defendants, at all times herein mentioned, was acting as agents, servant, and/or employee of each of the other Defendants, and each of them and within the scope of said agency and employment. Plaintiff is further informed and believes and thereon alleges that at the time and place of the incidents described, each of the Defendants, their agents, servants and/or employees becomes liable to Plaintiffs for one or more of the reason described and thereby proximately caused Plaintiffs to sustain damages as described herein.
5. On or about January 1, 2005, Defendant Sizemore retained Plaintiff as his attorney, for criminal proceedings pending against Sizemore, and entered into a retainer agreement for services to be rendered during representation.
6. In September 2006, Plaintiff terminated representation of Sizemore.
7. As of September 2006, Sizemore owed a balance of Seventy Four Thousand Dollars (\$74,000) to Plaintiff for services rendered during representation.
8. On or about February 1, 2008, Plaintiff complied with California Business and Professional Code sections 6200 et. seq. by providing a written notice outlining Defendant's rights to request arbitration accompanied with a detailed invoice of the services rendered to Defendant Sizemore.
9. Defendant Sizemore breach his written contract for legal representation with Plaintiff by failure to perform his contractual obligations to make timely payments to Plaintiff.

1 10. Defendant Sizemore's breach of his contractual obligations directly and proximately  
2 caused Plaintiff to suffer damages in the amount of Seventy Four Thousand Dollars  
3 (\$74,000.00).  
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5 **SECOND CAUSE OF ACTION**

6 **[Common Counts]**

7 11. Plaintiff realleges and incorporates herein each of the allegations contained in paragraphs  
8 1 through 10, inclusive of Plaintiff's complaint herein.

9 12. Plaintiff further alleges that Defendant, and each one of them, became indebted to  
10 Plaintiff within the last four years for money owed by Defendant for the benefit of  
11 Plaintiff.

12 13. Defendant, and each one of them, became indebted to Plaintiff in the amount of Seventy  
13 Four Thousand Dollars (\$74,000.00), which is due and unpaid despite Plaintiff's repeated  
14 demands for repayment.  
15

16 **THIRD CAUSE OF ACTION**

17 **[FRAUD AND FRAUDULENT INDUCEMENT TO ENTER INTO A CONTRACT]**

18 14. Plaintiff realleges and incorporates herein each of the allegations contained in paragraphs  
19 1 through 13, inclusive of Plaintiff's complaint herein.

20 15. Defendant Sizemore represented to Plaintiff his intention to retain and pay for legal  
21 representation starting from January 2005. Relying on Defendant's representation,  
22 Plaintiff entered into a written contract to represent Defendant Sizemore in various legal  
23 matters, for a fee of \$300.00 per hour, on or about January 1, 2005. During the period of  
24 January 2005 to September 2006, Defendant received legal services, charged at \$300.00  
25 per hour, with an outstanding balance of Seventy Four Thousand Dollars (\$74,000.00)  
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1 from Plaintiff. Defendant Sizemore never intended to perform his contractual  
2 obligations imposed by the written contract with Plaintiff, i.e. to pay outstanding attorney  
3 fees timely. Defendant Sizemore intended to defraud Plaintiff of the services received at  
4 all time herein mentioned. Such conduct was fraudulent and deceptive.

5 16. Defendant Sizemore concealed and misrepresented to Plaintiff of their true intention at  
6 formation of the written contract. Defendant Sizemore misrepresented and fraudulently  
7 induced Plaintiff to enter into said contract with no intention ever to pay Plaintiff for  
8 services rendered.

9 17. Defendant Sizemore, as alleged above, willfully, intentionally, maliciously defrauded  
10 Plaintiff and willfully, intentionally, maliciously, and fraudulently induced Plaintiff to  
11 enter into the written contract, whereas Defendant Sizemore have no intention ever pay  
12 Plaintiff for services rendered. Such willful, intentional, malicious and fraudulent  
13 conduct directly and proximately cause damages and injuries to Plaintiff and warrant the  
14 imposition of exemplary and punitive damages in an amount sufficient to punish  
15 Defendant Sizemore, and each of them, and to deter others from engaging in similar  
16 conduct.

17  
18 WEREFORE, Plaintiff prays for judgment against Defendant as follows:

19 ON THE FIRST CAUSE OF ACTION:

- 20 1. For General Damages according to proof;
- 21 2. For Compensatory Damages according to proof;
- 22 3. For costs of suit incurred herein;
- 23 4. Attorneys' Fees;
- 24 5. For such other and further damages or relief as the Court deems just and proper.

25 ON THE SECOND CAUSE OF ACTION:

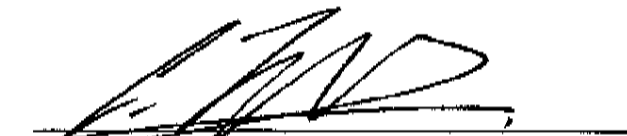
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1. For General Damages according to proof;
2. For Compensatory Damages according to proof;
3. Pre-judgment interest on general damages in a sum to be proven at trial;
3. For costs of suit incurred herein;
4. Attorneys' Fees;
5. For such other and further damages or relief as the Court deems just and proper.

ON THE THIRD CAUSE OF ACTION:

1. For General Damages according to proof;
2. For Compensatory Damages according to proof;
3. For Exemplary and Punitive Damages;
4. For costs of suit incurred herein;
5. For such other and further damages or relief as the Court deems just and proper.

Dated: April 1, 2009

  
FRANKY C. CHAN, ESQ.  
ATTORNEY FOR PLAINTIFF