

ORIGINAL FILED

OCT 26 2005

LOS ANGELES
SUPERIOR COURT

JOSE CASTANEDA
1377 RUTAN WAY
PASADENA, CA. 91104
(626)757-5610

FELICITAS CASTANEDA BY AND THROUGH HER POWER OF ATTORNEY IN FACT,
JOSE CASTANEDA.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, NORTHEAST DISTRICT

GC036176

FELICITAS CASTANEDA BY AND)
THROUGH HER POWER OF)
ATTORNEY JOSE CASTANEDA)

CASE No:

VERIFIED COMPLAINT

Plaintiff,

1. LEGAL MALPRACTICE

vs.

2. ACCOUNTING

3. FRAUD

SONIA MERCADO, an individual)
DOES 1 through 100,)

4. PERJURY

DEPT. "S"

TIME: 8:30 AM

DATE: APR/03/2005

COMES NOW PLAINTIFF, FELICITAS CASTANEDA BY AND THROUGH HER
ATTORNEY IN FACT, JOSE CASTANEDA (hereinafter referred to individually and
collectively as "Plaintiff" or "Plaintiffs") complains against Defendants, SONIA MERCADO
and DOES 1 through 100, (hereinafter referred to individually and collectively as "Defendant" or
"Defendants") as follows:

1. At all times herein mentioned, Plaintiffs FELICITAS CASTANEDA BY AND
THROUGH HER ATTORNEY IN FACT, JOSE CASTANEDA, both individuals, at
all times relevant herein resided in the County of Los Angeles, California.

1 2. Plaintiffs are informed and believe, and thereon allege, that at all times relevant
2 herein, defendants SONIA MERCADO and DOES 1 through 100, were individuals
3 residing in the County of Los Angeles, California.

4 3. Plaintiffs are ignorant of the true names and capacities, whether individual, corporate
5 or otherwise of the defendants sued herein as does 1 through 100. Plaintiff therefore
6 sues said defendant by such fictitious names. Plaintiff will amend this complaint to
7 allege the true names and capacities of each of these defendants when the same has
8 been ascertained. Plaintiff is informed and believes, and thereon alleges, that each of
9 the defendants sued herein as Doe is in some manner responsible for the events and
10 occurrences alleged herein, and that the damages alleged herein are the proximate
11 result of negligence. All named defendants and Doe defendants are herein collective-
12 ly and individually referred to as "Defendants".

13
14 4. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants
15 was acting as agent, partner, employee, associate or joint ventures of each of the other
16 Defendants, and at all times herein alleged, was acting within the course and scope of
17 said agency, partnership, employment and join venture, and with the know-ledge,
18 authorization, and ratification of each of the other Defendants.
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22 **FIRST CAUSE OF ACTION**

23 **LEGAL MALPRACTICE**

24 **(AGAINST ALL DEFENDANTS)**

25 5. Plaintiff incorporates paragraphs 1 through 4 of this complaint as if fully set forth
26 herein.
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- 1 6. At all times herein mentioned Defendant SONIA MERCADO was licensed to engage
2 in the practice of law in the State of California and was practicing law at 777 South
3 Figueroa Street, Los Angeles, California 90017.
- 4 7. On or about September 1996, Plaintiffs and Defendants entered into a contingency
5 fee agreement wherein the attorney's fees were set at 35% of the total amount
6 recovered based upon a settlement that is reached prior to the commencement of trial.
7
- 8 8. Defendant, SONIA MERCADO represented Plaintiffs in the matter of Felicitas
9 Castaneda v. County of Los Angeles, et al. Said litigation was the result of the
10 untimely wrongful-death of Luis Castaneda while custody in 1994.
- 11 9. The Felicitas Castaneda v. County of Los Angeles, et al. case was settled on or about
12 1997 or 1998 for the gross total of \$400,000.00. The exact date of settlement is
13 unknown because Plaintiffs were never provide with any supporting documentation to
14 outline the terms of the settlement and/or dates thereof.
- 15 10. Plaintiff only received \$150,000.00 out of the gross settlement and was never
16 provided with a settlement disbursement breakdown or any other type of accounting
17 document to indicate the disbursement of funds.
- 18 11. Furthermore, Plaintiff, FELICITAS CASTANEDA does not speak English. Mrs.
19 Castaneda did not understand what a release was and it was not explain to her neither
20 in English nor translated to Spanish for her comprehension.
- 21 12. Defendant defrauded Plaintiff with money.
- 22 13. At that time, Defendant SONIA MERCADO failed to disclose to above-described
23 facts to Plaintiff, she knew that these facts existed and deliberately concealed them
24 from Plaintiff.
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- 1 14. At the time, Plaintiff JOSE CASTANEDA issued OVER TWENTY THOUSAND
2 dollars to SONIA MARIA MERCADO & NED P. REILLY to handle case versus
3 County of Los Angeles. Monies were to be returned to Plaintiff at Settlement.
4
5 15. The suppression of the information caused Plaintiff to be deceived and deprived of
6 the knowledge of the true settlement amounts until May 10, 2005. When Mrs.
7 Mercado testified under oath and under penalty of perjury on Department "P". She
8 was presented with two checks that were issued to her to undertake case v. County of
9 Los Angeles. At issue is whether Mrs. Mercado Reimburse said amount accordingly.
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11 16. At the time Defendant SONIA MARIA MERCADO failed to disclose the above-
12 described facts to Plaintiffs, she knew that these facts existed and deliberately
13 concealed them from Plaintiffs and further knew that these facts were not known to
14 Plaintiff and were not reasonably discoverable by Plaintiff because FELICITAS
15 CASTANEDA is a Spanish speaking, elderly lady with the lack and experience in
16 legal matters who was unable to properly investigate the true outcome of her case
17 without outside assistance.
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19 17. Defendant SONIA MARIA MERCADO knew of CASTANEDA'S inability to find
20 the true outcome and the information and documentation that she was deprived of and
21 took full advantage of this fact in an attempt to defraud Plaintiff.
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1 **SECOND CAUSE OF ACTION**

2 **ACCOUNTING**

3 **(AGAINST ALL DEFENDANTS)**

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5 18. Plaintiff incorporates paragraphs 1 through 17 of this complaint as if fully set forth
6 herein.

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8 19. On or about September 1996, Plaintiffs and Defendants entered into a contingency fee
9 agreement wherein the attorney's fees were set at 35% of the total amount recovered
10 based upon settlement that is reached prior to the commencement of trial.

11 20. Defendant, SONIA MARIA MERCADO & NED PAUL REILLY represented Plaintiffs
12 in the matter of Felicitas Castaneda v. County of Los Angeles, et al.

13 21. The Felicitas Castaneda v. County of Los Angeles, et al. case was settled on or about
14 1997 or 1998 for the gross total of \$400,000.00. The exact date of settlement is not
15 known because Plaintiff were never provided with any supporting documentation to
16 outline the terms of the settlement and/or dates thereof.

17
18 22. Plaintiff only received about \$150,000.00 out of the gross settlement and was never pro
19 vided with a settlement disbursement breakdown or any type of accounting document
20 to indicate the disbursement of funds.

21
22 23. Furthermore, Plaintiff, FELICITAS CASTANEDA does not speak English. Mrs.
23 CASTANEDA did not understand what a release was and it was not explained to her
24 neither in English nor translated to Spanish for her comprehension.

25 24. Defendant defrauded Plaintiff with money.
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1 25. The amount of money due from Defendant to Plaintiff is unknown to Plaintiff and
2 cannot be ascertained without an accounting of the disbursement funds deriving from
3 the gross settlement of the Felicitas Castaneda v. County of Los Angeles, et l. case that
4 was settled on or about 1997 or 1998.

5 26. On or about July 2005, Plaintiff requested through Attorney Kevin Duthoy, in writing,
6 from Whittier, California, a true, correct accounting of the above mentioned sttlment.

7 27. Prior to July 2005, ACCOUNTING demand by Attorney Kevin Duthoy, Plaintiffs
8 traveled to Office of Defendant SONIA MARIA MERCADO. Defendant expelled
9 from office JOSE CASTANEDA with the threat of calling "Culver City Police".
10 Defendant reluctantly met with Plaintiff FELICITAS CASTANEDA. Plaintiff
11 expressed frustration stating that Defendant refused to provided any proof of
12 accounting stating that "all records have been destroyed"

13 28. To the date of the filing of this action, Defendant SONIA MARIA MERCADO has
14 refused to provide any documentation and/or information regarding the settlement
15 agreement.
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18 **THIRD CAUSE OF ACTION**

19 **FRAUD**

20 **(AGAINST ALL DEFENDANTS)**

21 29. Plaintiff incorporates paragraphs 1 through 28 of this complaint as if fully set forth
22 herein.
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24 30. On or about September 1996, Plaintiffs and Defendants entered into a contingency fee
25 agreement wherein the attorney's fees were set at 35% of the total amount recovered
26 based upon a settlement that is reached prior to the commencement of trial.
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- 1 31. Defendant, SONIA MARIA MERCADO represented Plaintiffs in the matter of
2 Felicitas Castaneda v. County of Los Angeles, et al.
- 3 32. The Felicitas Castaneda v. County of Los Angeles, et al. case was settled on or about
4 1997 or 1998 for the gross total of \$400,000.00. The exact date of the settlement is not
5 known because Plaintiffs were never provided with any supporting documentation to
6 outline the terms of the settlement and/or dates thereof.
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8 33. Plaintiff only received \$150,000.00 out of the gross settlement and was never provided
9 with a settlement disbursement breakdown or any other type of accounting document to
10 indicate the disbursement of funds.
- 11 34. Defendant defrauded Plaintiff with money. Plaintiff JOSE CASTANEDA gave
12 Defendant SONIA MARIA MERCADO Several thousands of dollars to undertake
13 case. This monies were to be returned at settlement. Per testimony of Defendant at trial
14 JESUS CASTANEDA, ABEL BUELNA v. JOSE CASTANEDA.
- 15
16 35. The amount of money due from Defendant to Plaintiff is unknown to Plaintiff and
17 cannot be ascertained without an accounting of the disbursement funds deriving from
18 the gross settlement of the Felicitas Castaneda v. County of Los Angeles, et al. case
19 that was settled on or about 1997 or 1998.
- 20 36. The Plaintiff did not learn of the aforementioned facts constituting Defendant's fraud
21 until July 2005, when Plaintiff through her son Jose Castaneda began to inquire on the
22 final result of the Felicitas Castaneda v. County of Los Angeles, et al. case.

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24 **FOURTH CAUSE OF ACTION**

25 **PERJURY**

26 **(AGAINST ALL DEFENDANTS)**
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1 37. Plaintiff JOSE CASTANEDA alleges that Defendant SONIA MARIA MERCADO
2 testified in case Jesus Castaneda, Abel Buelna v. Jose Castaneda et al. case No.
3 GC031549. At said trial Defendant testified that checks 192 for \$4,000.00 and 193 for
4 \$2,000.00 issued and endorsed to "Sonia Mercado" might be forgeries allegedly
5 committed by Plaintiff Jose Castaneda. Defendant testified that the weakness of case
6 Felicitas Castaneda v. County of Los Angeles, et al. was that Plaintiff Jose Castaneda
7 did not provide psychologists, psychiatrist, doctors, dentists, day care programs for
8 deceased LUIS CASTANEDA PRIOR TO HIS INCARCERATION.
9

10 WHEREFORE, Plaintiffs pray for judgment against Defendants and each of them as follows:

- 11 1. For attorneys' fees as provided for by law.
12 2. For costs of the suit incurred herein; and
13 3. For and order for accounting of the settlement of the Felicitas Castaneda v. County of Los
14 Angeles, et.al. case; and
15 4. For such other and further relief as the court may deem proper.
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18 Dated: October ____, 2005

JOSE CASTANEDA SALAZAR

19 BY: _____

20 FELICITAS CASTANEDA BY AND
21 THROUGH HER ATTORNEY IN FACT;
22 JOSE CASTANEDA
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