

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

RICKY B. PERRITT, Individually; §
The Cupcakery, LLC, a Texas Limited §
Liability Company; Buster Baking, LLC, §
a Texas Limited Liability Company; and §
the Woodlands Baking, LLC, a Texas §
Limited Liability Company §

Plaintiffs, §

VS. §

CAUSE NO. _____

PAMELA F. JENKINS, Individually; §
and The Cupcakery LLC, a Nevada §
Limited Liability Company §

Defendant. §

CERTIFICATE OF EFFORTS OF ATTORNEY TO GIVE NOTICE FOR TEMPORARY
RESTRAINING ORDER WITHOUT NOTICE

THE STATE OF TEXAS §

COUNTY OF DENTON §

Michael J. Whitten, being duly sworn, deposes and says as follow:

1. My name is Michael J. Whitten. I am an attorney at law duly licensed in the State of Texas and admitted to practice in the Eastern District of Texas. I am the attorney for the Plaintiff Ricky B. Perritt and the Plaintiff entities in the above and numbered cause.
2. On January 14, 2011 I sent an email to Kirk D. Kaplan, an attorney at law practicing in the State of Nevada. Mr. Kaplan was the attorney for the Defendant Pamela Jenkins in the previous litigation referenced in Plaintiffs' Original Complaint in which my client, Mr. Perritt and Ms. Jenkins were adversaries. Mr. Kaplan represented Ms. Jenkins in that matter. He never made an appearance in the lawsuit, nor did any Texas lawyer make an

appearance on Ms. Jenkins behalf. I agreed with Mr. Kaplan to not take any default judgment against Ms. Jenkins to see if we can work out a settlement. A settlement was worked out and the case was dismissed.

3. I do not know whether Mr. Kaplan still represents Ms. Jenkins. I know of no other attorney who represents Ms. Jenkins.
4. Before the current crisis erupted I sent an email to Mr. Kaplan about 2 weeks ago asking for him to call. He did not. In addition to an email sent at approximately 11:45 a.m. on January 14, 2011, I called Mr. Kaplan's office. Mr. Kaplan was not in. His receptionist took a message in which I asked her to have him call me as soon as possible. I left my cell phone number and left a message indicating that I was going to seek a temporary restraining order without notice to keep Ms. Jenkins from interfering from the current operation of the website "TheCupcakery.com". The receptionist indicated that she would have Mr. Kaplan call me. At 1:26 p.m. I received an email from Mr. Kaplan stating he would call Ms. Jenkins and get back to me. I told him by return email that I could not wait to seek relief and asked if he could agree to a temporary restraining order simply to maintain the status quo. I have not heard back as of 2:45 p.m.
5. I have sent a copy of this certificate, the Affidavit of Ricky B. Perritt and Plaintiffs' Original Complaint to Mr. Kaplan at this email address KKaplan@RKLAWNV.com.
6. This affidavit is made pursuant to Rule 65 of the Federal Rules of Civil Procedure.

Michael J. Whitten
MICHAEL J. WHITTEN

SUSCRIBED AND SWORN TO BEFORE ME this 14 day of January, 2011, to
certify which witness my hand and seal of office.

Vicky A. Wardlaw
NOTARY PUBLIC, STATE OF TEXAS

