

Harris County - County Civil Court at Law No. 1

Cause No. 1152372

MH SUB I, LLC DBA NGAGE LIVE CHAT	§	IN THE COUNTY CIVIL COURT
	§	
vs.	§	AT LAW NO. 1
	§	
KENNARD LAW P.C. AKA AND DBA	§	HARRIS COUNTY, TEXAS
KENNARD LAW	§	

PLAINTIFF'S FIRST AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MH SUB I, LLC, a Limited Liability Company, doing business as NGAGE LIVE CHAT, hereinafter referred to as **Plaintiff**, and files this First Amended Petition complaining of KENNARD LAW P.C., a Professional Corporation, also known as, being the same entity as and doing business as KENNARD LAW, hereinafter referred to as **Defendant**, and for cause of action would show unto the Honorable Court:

I.

Plaintiff affirmatively pleads that it seeks only monetary relief of \$100,000.00 or less, including damages of any kind, penalties, costs, expenses, pre-judgment interest and attorneys' fees. Plaintiff intends to conduct discovery under Level 2 of the Texas Rules of Civil Procedure.

II.

Venue is appropriate as all or a substantial part of the events or omissions giving rise to this claim occurred in Harris County.

KENNARD LAW P.C., a Professional Corporation, has failed to maintain a registered agent who can be served with reasonable diligence. Efforts were made to deliver the citation to ALFONSO KENNARD JR., registered agent for service, but he did not make himself personally available for service at the registered office located at 3746 ROCKY LEDGE LANE, KATY,

TX, 77494. Citation has been issued, and, as reflected in the officer's return and affidavit on file with the Court, attempts at service have been unsuccessful. Due diligence has been used in an effort to obtain service of citation, to no avail, therefore the Secretary of State of the State of Texas is agent for service of process, pursuant to TEX. BUS. ORG. CODE § 5.251(1)(B).

KENNARD LAW P.C., a Professional Corporation, also known as, being the same entity as and doing business as KENNARD LAW, may be served by delivering duplicate copies of the citation, along with any fee required by law to the Secretary of State of Texas. The most recent address for KENNARD LAW P.C., a Professional Corporation, on file with the Secretary of State is 2603 AUGUSTA DR STE 1450, HOUSTON, TX 77057.

### III.

That, on the dates as shown in the itemized and verified account attached hereto as Plaintiff's Exhibit "A", reference to which is prayed, Plaintiff, at the special instance and request of Defendant, did sell and deliver to Defendant the goods, wares, merchandise and/or services described in said Exhibit "A", at the prices therein charged, the same being the reasonable market value and agreed price therefor.

### IV.

In the alternative, without waiving any of the foregoing, Plaintiff would show that the receipt of the goods, wares, merchandise, money and/or services described in Plaintiff's Exhibit "A" were beneficial to Defendant. Defendant will be unjustly enriched if allowed to retain the goods, wares, merchandise, money and/or services, without paying Plaintiff for same.

### V.

All conditions precedent have occurred, have been met, or have been waived. That Defendant did promise to pay Plaintiff for same, and although often requested to do so, the

Defendant failed and refused, and still fails and refuses to pay the said account, all to Plaintiff's damages in the sum of \$17,574.00 together with interest and attorneys' fees as hereinafter alleged.

VI.

In the alternative, without waiving the foregoing, Plaintiff pleads breach of contract.

VII.

That Plaintiff has made written demand upon the Defendant for payment of said account, more than thirty (30) days prior to the filing of this Petition, and that Plaintiff would show the Court that the recovery of attorneys' fees is authorized, made and provided, under and according to the provisions of Chapter 38, Texas Civil Practice and Remedies Code, the agreement between the parties, and the principles of equity. Plaintiff further sues Defendant for reasonable attorneys' fees, inasmuch as Plaintiff has been required to employ the undersigned attorneys to file this suit and has agreed to pay them a reasonable fee for their services, all of which Plaintiff alleges to be in at least the sum of \$5,860.00.

VIII.

**REQUEST FOR DISCLOSURE**

Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendant disclose, within fifty (50) days of the service of this request, the information or material described in Rule 194.2.(a)-(k), Tex.R. Civ. P.

WHEREFORE, premises considered, your Plaintiff prays unto this Honorable Court that the Defendant be cited to appear and answer herein, and that upon a final hearing hereof, Plaintiff do have and recover judgment against Defendant in the sum and amount of \$17,574.00 together

with interest thereon at the rate of six percent (6%) per annum from the 30th day after each invoice came due to the date of Judgment, costs of court, reasonable attorneys' fees as hereinabove alleged, statutory interest at the rate for Judgments prevailing in the State of Texas at the time the Judgment is entered on the total amount of the Judgment until paid, and for such further and other relief, general or special, in law or in equity, to which Plaintiff may be entitled.

Respectfully submitted,

**TOTZ ELLISON & TOTZ, P.C.**

By: 

**JON D. TOTZ**

TBA # 20148000

2211 Norfolk, Suite 510

Houston, Texas 77098

Phone: 713-275-0303

Fax: 713-275-0304

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E-Service: [service@tetlegal.com](mailto:service@tetlegal.com)

**ATTORNEYS FOR PLAINTIFF**

LAW OFFICES OF  
TOTZ.ELLISON & TOTZ, P. C.  
A PROFESSIONAL CORPORATION  
2211 NORFOLK, SUITE 510, HOUSTON, TX 77098-4096  
PHONE (713) 275-0303  
FAX (713) 275-0304

STATE OF California

COUNTY OF Los Angeles

BEFORE ME, the undersigned authority, on this day personally appeared Debora J. White

(Name of person making affidavit)

who, being by me duly sworn, states on oath that she is the Collections Manager

(In/She)

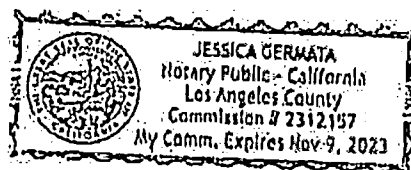
(Title/position of person making affidavit)

1. An individual trading as.....  
(Trade style if used - otherwise owner's name)
2. Agent of..... a partnership, and that..... is duly  
(Name of firm) (he/she)  
qualified to make this affidavit.
3. Agent of MH Sub 1, LLC DBA Ngage Live Chat,  
(Name of entity)  
a private corporation, duly incorporated and existing under and by virtue of the laws  
(Corporation / Limited Liability Company / Limited Partnership)  
of the State of Delaware with its principal office and domicile in the  
City Of El Segundo, County of Los Angeles and State of California,  
and is duly qualified and authorized to make this affidavit.
4. That the foregoing and annexed account, claim, and cause of action in favor of MH Sub 1, LLC DBA Ngage Live Chat  
and against KENNARD LAW P.C., a professional corporation, also known as, being the same entity as and doing  
business as KENNARD LAW,  
in the sum of \$17,574.00 dollars is within the personal knowledge of affiant just and true, that it is due, that all just and  
lawful offsets, payments and credits have been allowed, and that the facts in this affidavit are true;

Debora J. White  
(Signature of person making affidavit)

SWORN TO AND SUBSCRIBED BEFORE ME, this 20th day of February A.D. 2020  
and proved on basis of satisfactory evidence to be the person herein.

(Notary Seal)



[Signature]  
(Notary Signature)

NOTARY PUBLIC IN AND FOR THE  
STATE OF California

My commission expires Nov. 9, 2023



**Ngage**

Dept LA 24583

Pasadena, CA 91185-4583

**Invoice Date: 08/23/2019**

**Invoice Number: NS216345**

**Bank account on file billed automatically**

## Monthly Summary

Total Contacts: 54

Total Cost: \$1000.00

Outstanding: \$16574.00

**Total Amount to be Charged (Current + Outstanding): \$17574.00**

## Your Account Executives:

Alex Hambrick

(512) 582-4924

alex@ngagelive.com

## Ngage Customer Support:

800-226-1179

support@ngagelive.com

**Bill To:**

Kennard, Alfonso

### Statement of Account:

Date: 01/01/2018		Prior Balance: \$16574.00	
No Prior Activity!		Prior Date: \$16574.00	

**Chat Activity Period:** 8/1/2019 - 8/31/2019

[illegible]

# EXHIBIT

A

No Charge  
\$20.00  
\$20.00  
\$20.00  
\$20.00  
\$20.00  
\$20.00  
\$20.00

[illegible]

**Total amount to be charged: \$17574.00**

**THANK YOU FOR YOUR BUSINESS!**  
For questions please contact your Account Executive.

***Your bank account will be charged on or around the 10th of the month; charges will be from "Ngage".***