

CAUSE NO. CC-10- 08658E

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JOHN F. WARREN  
COUNTY CLERK  
DALLAS COUNTY

FERNANDO ROSALES AND §  
INITIATIVE PARTNERS, LLC. D/B/A §  
LOST SOCIETY §  
Plaintiffs, §

IN THE COUNTY COURT AT LAW

V. §

NO. 5

AVI S. ADELMAN, §  
BARKINGDOGS.ORG, AND §  
DALLAS CREATIVE, INC §  
Defendants. §

DALLAS COUNTY, TEXAS

**AMENDED**  
**PLAINTIFF'S ORIGINAL PETITION, REQUEST**  
**FOR EQUITABLE RELIEF, & REQUEST FOR DISCLOSURE**

**A. Discovery Control Plan**

1. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3

**B. Parties**

2. Plaintiff INITIATIVE PARTNERS, LLC is a Texas Limited Liability Company doing Business as Lost Society in Dallas County.

3. Plaintiff FERNANDO ROSALES is an individual living in Dallas County, Texas.

4. Defendant, AVI S. ADELMAN, is an individual and may be served with process at his residence at 5715 Belmont Drive, Dallas, Texas 75206, Dallas County, Texas.

5. Defendant, [www.barkingdog.org](http://www.barkingdog.org) is a website owned and operated by Defendant, Avi S, Adelman and may be served with process by serving the owner, Defendant Avi S. Adelman, at his residence at 5715 Belmont Drive, Dallas, Texas 75206, Dallas County, Texas

Defendant, Dallas Creative, Inc is a business owned and operated by the Defendant, Avi S. Adelman and Defendant, Dallas Creative, Inc, is the sponsor of the website, [www.barkingdogs.org](http://www.barkingdogs.org) and may be served with process by serving the owner, Defendant, Avi s. Aderman at his residence at 5715 Belmont Drive, Dallas, Texas 75206, Dallas County, Texas.

**C. Venue**

6. Venue is mandatory in Dallas County under TCPRC15.017 because this suit involves defamation and libel and this is he county where Plaintiff, Fernando Rosales and Defendant reside.

**D. Jurisdiction**

7. This court has jurisdiction of the subject matter and parties in this case.

#### E. Facts

8. On the below referenced dates, on the his website [www.barkingdogs.org](http://www.barkingdogs.org) in Dallas County, Texas defendant, Avi S. Adelman, published defamatory statements concerning Plaintiffs.

9. On June 3, 2010, Defendant committed libel and published disparaging and defamatory words that were untrue about Plaintiffs on a public Internet site, [www.barkingdogs.org](http://www.barkingdogs.org), which is owned and maintained by Defendant.

10. The June 3, 2010 post titled, "Early Morning Shooting Leaves One Dead on Char-Bar Parking Lot," states that "[t]wo black males had just left Lost Society Bar" when an argument ensued and one of the males shot and fired four rounds at the other. Defendant has included links to a Dallas Morning News article and a Dallas Observer blog regarding the incident.

11. Defendant's statements about the males just leaving Lost Society bar are false and Defendant knew or should have known there was no basis for this statement. Defendant's own links to news stories regarding the incident make no mention of Lost Society.

12. In the June 3, 2010 post, Defendant made a false statement that the parties involved in the shooting were intoxicated at Lost Society. Defendant has no basis for this false statement and published it to the public as if it were true. Defendant's title of the post even claims that it is the "truth."

13. On June 6, 2010, Defendant committed libel and published disparaging and defamatory words and pictures that were untrue about Plaintiffs on a public Internet site, [www.barkingdogs.org](http://www.barkingdogs.org), which is owned and maintained by Defendant.

14. The June 6, 2010 post titled, "Truth in Advertising Comes to Lowest Greenville," exhibits a picture of Plaintiffs' business billboard sign with the words "LOST SOCIETY" in large letters and "The Ultimate Experience," which is Plaintiffs' slogan. Defendant replaced the picture on Plaintiffs' billboard sign with a picture of a shooting range: target in the shape of a human figure and added the statement "[b]eing murdered on the street after getting intoxicated at our bar, may not be considered an 'ultimate' experience."

15. Defendant has infringes and continues to infringe on Plaintiffs' service mark by creating a confusingly similar sign in Defendant's blog. Defendant received no permission' or license to use Plaintiffs' service mark.

16. Defendant is also violating trademark laws by causing tarnishment and dilution to Plaintiffs' mark by using it in Defendant's blog without permission.

18. Defendant has committed copyright infringement on Plaintiffs': copyright by creating a sign that is substantially similar to Plaintiffs' copyrighted sign design and text. Defendant had no license or permission to use Plaintiffs' copyrighted text or design.

19. On June 10, 2010, Defendant committed libel and published disparaging and defamatory words that were untrue about Plaintiffs on a public Internet site, [www.barkingdogs.org](http://www.barkingdogs.org), which is owned and maintained by Defendant.

20. The June 10, 2010 post states that "[I]ast week's murder by Char Bar took place after the victim and shooter partied at Lost Society," and calls Lost Society's owner "the scumbar owner."

21. The June 10, 2010 post also states that Defendant called the Dallas Sheriff's Office public affairs office and asked them if they "knew the reputation of the club," implying that Plaintiffs have a bad or negative reputation.

22. The June 10, 2010 post then claims that other Greenville Avenue business owners are trying to "shut down" Lost Society because it is "killing their businesses by scaring people off" and that the club owner is "equally hated for his crap-on-you attitude."

23. Because of Defendant's June 10, 2010 post, Plaintiffs have suffered damages and a loss of business dealings, as after this posting, the hired security officers that Lost Society regularly hired for added security at the bar, refused to honor their ongoing contract with Lost Society.

24. On June 23, 2010, Defendant committed libel and published disparaging and defamatory words that were untrue about Plaintiff ROSALES on a public Internet site, [www.barkingdogs.org](http://www.barkingdogs.org), which is owned and maintained by Defendant.

25. The June 23, 2010 post reads, "Sources tell BD this person is also on the list for a one-way ticket somewhere out of the country." Defendant implied that Plaintiff ROSALES would be deported, when he knew or should have known the statement was false.

26. On June 25, 2010, Defendant posted a photograph of Plaintiff ROSALES on a public Internet site, [www.barkingdogs.org](http://www.barkingdogs.org), which is owned and maintained by Defendant.

27. Defendant is infringing on Plaintiff ROSALES' copyright by posting such picture without permission or a proper license.

28. On June 28, 2010, Defendant committed libel and published disparaging and defamatory words that were untrue about Plaintiffs on a public Internet site,

www.barkingdogs.org, which is owned and maintained by Defendant.

29. The June 28, 2010 post reads, "The shooting of a bar patron after he left Lost Society a few weeks ago did not set off the final alarm."

30. Defendant's statements about the victim of shooting having been a patron of Lost Society bar are false and Defendant knew or should have known there was no basis for this statement.

31. On June 30, 2010, Defendant committed libel and published disparaging and defamatory words that were untrue about Plaintiffs on a public Internet site, www.barkingdogs.org, which is owned and maintained by Defendant.

32. The June 30, 2010 post reads, "Lost Society has been locked down by the landlord for violating their Don't get customers killed clause," which is false and misleading.

33. On July 2, 2010, Defendant committed libel and published disparaging and defamatory words that were untrue about Plaintiffs on a public Internet site, www.barkingdogs.org, owned and maintained by Defendant.

34. The title of the July 2, 2010 post reads, "Even the Dallas Sheriff's Department is Investigating Lost Society," which is untrue and defamatory.

35. Defendant knew or should have known that the headline of the July 2, 2010 post was false, especially since the post itself contained no information regarding an investigation of Lost Society by the Dallas Sheriff's Department and no such investigation is occurring or has occurred.

36. On September 11, 2010, Defendant committed libel and published disparaging and defamatory words that were untrue about Plaintiffs on a public Internet site, www.barkingdogs.org, owned and maintained by Defendant.

37. The September 11, 2010 post reads, "Lost Society's Rosales back in pokey for skipping a hearing."

38. Defendant's statements of "Rosales skipped a hearing before a judge..... Not only did he skip it, but even his attorneys skipped the hearing" and "Rosales and his attorney reportedly told the judge they would try to make it to court in a few days, you know he's kinda busy renovating the club without any permits....." are false and Defendant knew or should have known there was no basis for this statement.

39. On October 21, 2010, Defendant committed libel and published disparaging and defamatory words that were untrue about Plaintiffs on a public Internet site, www.barkingdogs.org, owned and maintained by Defendant.

40. The October 30, 2010 post reads, "One dead, one hurt in Lowest Greenville shooting"

41. Defendant's statements of "This is the second shooting in less than six months on Lowest Greenville. A patron of Lost Society was shot and killed on the Char-Bar parking lot in early June 2010....." are false and Defendant knew or should have known there was no basis for this statement.

42. On October 30, 2010, Defendant committed libel and published disparaging and defamatory words that were untrue about Plaintiffs on a public Internet site, www.barkingdogs.org, owned and maintained by Defendant.

43. The October 30, 2010 post reads, "Think of those less fortunate - before they get deported"

44. Defendant's statements of "There's no word on when his former partner and BFF, Fernando Rosales, will be back in detention, but the wheels of justice they do grind slowly. We are patient....." are false and Defendant knew or should have known there was no basis for this statement.

45. On December 04, 2010, Defendant committed libel and published disparaging and defamatory words that were untrue about Plaintiffs on a public Internet site, www.barkingdogs.org, owned and maintained by Defendant.

46. The December 04, 2010 post reads, "Lost Society - the gift you just can't get rid of"

47. Defendant's statements of "For example, hosting Sunday afternoon block parties starting at 2pm, even though the lease said they could not open for business until 5pm....And the good news for Lowest Greenville's other scumbars- Lost Society is going to be providing lots of story ideas and leadership for at least four more years, if not longer.... If Rosales is trying to pump up sales by offering lunch, he better have a killer menu and chef in the kitchen (pardon the pun). In fact, it would help if he had a kitchen that could pass a health inspection after years of sitting idle since Suede installed it. Their liquor sales ain't doing too hot either, according to the Texas Comptroller and AlcoholSales.com. In the months after the patron was killed at Char Bar, sales are down nearly 30% compared to the same months last year.... There's still plenty of time for Lost Society and its scummy owner to provide stories to BD and the local media, as well as keep the attention of the TABC....." are false and Defendant knew or should have known there was no basis for this statement.

#### F. Grounds for TRO

48. Plaintiff will suffer immediate and irreparable injury, loss, or damage, if Defendants' conduct described above is not enjoined for these reasons: Plaintiffs does not have an adequate remedy at law because Defendant will not be able to satisfy the judgment that will probably be rendered in Plaintiffs's favor in this suit; Defendant lacks nonexempt property with which to satisfy the judgment; Defendant has demonstrated

unwillingness to pay Plaintiffs's claim; and this conduct of Defendant will result in Defendant's not having assets subject to execution". Plaintiffs has exercised due diligence in prosecuting this claim. The injury to Plaintiffs if Defendants continue the conduct described above would outweigh any injury the restraining order and injunction might cause Defendants, and issuance of the restraining order and injunction would not disserve the public interest. Plaintiffs is willing to post a bond to secure TRO.

G. Request for Temporary Restraining Order, Temporary Injunction and Injunction

49. Petitioner requests the Court to dispense with the issuance of a bond, and Petitioner requests that Respondent be temporarily restrained immediately, without hearing, and after notice and hearing be temporarily enjoined, pending the further order of this Court, from: the below listed requests. Petitioner requests the Court, after notice and hearing, to dispense with the issuance of a bond, to make temporary orders and issue any appropriate temporary injunctions for the preservation of the property and protection of the parties as deemed necessary and equitable. Petitioner requests that the Court enjoin Respondent and order the following:

50. The Defendants, Avi S. Adelman and Barkingdogs.org be should be restrained from publishing false defamatory statements concerning Plaintiffs, Fernando Rosales, Lost Society and Initiative Partners,LLC;

The Court should order that the Defendants, Avi S. Adelman, Dallas Creative, Inc., and Barkingdogs.org be ordered to delete and remove all defamatory statements concerning plaintiffs, Fernando Rosales, Lost Society and Initiative Partners,LLC that were published by the defendants on the internet, including, the website [www.barkingdogs.org](http://www.barkingdogs.org)

51. The Court should order the parties to mediate this matter.

H. Count 1 - Defamation

52.Plaintiff's incorporate the above-referenced paragraphs as if recited in their entirety here

53. Defendant published statements by *written communication* in his blog asserting them as facts; 54.The statements involved a private matter. 55.The statements referred to plaintiff *by name*. 56. The statements were defamatory.57. The statements were false.

58. Defendant is strictly liable to plaintiff for the defamation.

59. Defendant's false statements caused injury to plaintiff, which resulted in the damages.

60. Plaintiff seeks unliquidated damages within the jurisdictional limits of this court.

61. Exemplary damages. Plaintiff's injury resulted from defendant's malice, which entitles plaintiff to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

#### I. Count 1 - Defamation

62. Plaintiff's incorporate the above-referenced paragraphs as if recited in their entirety herein

63. Defendant published a statements by *written communication* asserting as facts.

64. The statement involved a public matter.

65. The statement referred to plaintiff *by name*.

66. The unambiguous statements were defamatory

67. The statement were false

68. Defendant was negligent in determining whether the statement was true.

69. Defendant's false statement caused injury to plaintiff, which resulted in the damages.

70. Plaintiff seeks unliquidated damages within the jurisdictional limits of this court.

71. Exemplary damages. Plaintiff's injury resulted from defendant's malice and *knowledge of the statement's falsity or reckless disregard for the truth*, which entitles plaintiff to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

72. Exemplary damages. Plaintiff's injury resulted from defendant's malice, which entitles plaintiff to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a). Alternatively, Plaintiff's injury resulted from defendant's malice and *knowledge of the statement's falsity and/or reckless disregard for the truth*, which entitles plaintiff to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

#### J. Count 2 - Libel Per Se

73. Plaintiff's incorporate the above-referenced paragraphs as if recited in their entirety herein

74. Defendant's *written* statements described in Count 1 was libel per se as defined by Texas Civil Practice & Remedies Code section 73.001. Defendant's statement

- (A) injured plaintiff's reputation and exposed plaintiff to public hatred, contempt, ridicule, or financial injury.
- (B) impeached plaintiff's honesty, integrity, virtue, or reputation.
- (C) described plaintiff's natural defects and exposed plaintiff to public hatred, ridicule, or financial injury.

75. The defamatory statement requires no proof of its injurious character because it was obviously hurtful to plaintiff.

K. Count 3 - Defamation Per Se

76. Plaintiff's incorporate the above-referenced paragraphs as if recited in their entirety herein

77. Defendant's *written* statements described in Count 1 was defamatory per se under the common law. Defendant's statement

- (A) injured plaintiff in plaintiff's *profession and/or occupation*.
- (B) falsely charged plaintiff with a crime punishable by imprisonment.

78. The defamatory statement requires no proof of its injurious character because it was obviously hurtful to plaintiff.

L. Count 4 - Intentional Infliction of Emotional Distress

79. Plaintiff's incorporate the above-referenced paragraphs as if recited in their entirety herein

80. In the alternative to all other counts, defendant intentionally caused plaintiff emotional distress.

81. Defendant's conduct set forth herein and described above was *intentional or reckless*.

82. Defendant's conduct was extreme and outrageous without verification and disregarding the truth

83. Defendant's conduct proximately caused severe emotional distress to plaintiff.

84. Plaintiff's severe emotional distress cannot be remedied by any other cause of action.

85. Defendant's wrongful conduct caused damages:



86. Plaintiff seeks unliquidated damages within the jurisdictional limits of this court.

87. Exemplary damages. Plaintiff's injury resulted from defendant's malice, which entitles plaintiff to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

M. Count 5 - Business Disparagement

88. Plaintiff's incorporate the above-referenced paragraphs as if recited in their entirety herein

89. Defendants published *written* disparaging words about plaintiff's Lost Society

90. The words were false.

91. Defendant published the words with *malice or actual malice*

92. Defendant published the words without privilege.

93. Defendant's false statement caused injury to plaintiff, which resulted in the special damages.

94. Plaintiff seeks unliquidated damages within the jurisdictional limits of this court.

N. Count 1 - Tortious Interference with Prospective Relations

95. Plaintiff's incorporate the above-referenced paragraphs as if recited in their entirety herein

96. Plaintiff was prepared to enter into a contract with *another party to prospective contract*

97. Plaintiff had an ongoing business relationship with said party.

98. Defendant knew of plaintiff's *prospective contract or business relationship* and intentionally interfered with it.

99. Defendant's *actions* were independently *tortious or unlawful*, regardless of the effect those actions had on plaintiff's *prospective contract or business relationship* with the *other party to prospective contract and/or ongoing relationship*.

100. Plaintiff suffered actual *damage or loss* because defendant's interference prevented plaintiff from *entering into the prospective contract and/or continuing plaintiff's business relationship the other party to the prospective contract or ongoing relationship*

101. Defendant's interference proximately caused injury to plaintiff, which resulted in damages.

101. Plaintiff seeks unliquidated damages within the jurisdictional limits of this court.

103. Exemplary damages. Plaintiff's injury resulted from defendant's malice or actual fraud, which entitles plaintiff to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

O. Count 2 - Tortious Interference with Existing Contract

104. Plaintiff's incorporate the above-referenced paragraphs as if recited in their entirety herein

105. In *the alternative or in addition* to other counts, defendant interfered with plaintiff's contract with his landlord, Wonderful Seven A.

106. Plaintiff had a valid contract with his landlord, Wonderful Seven-A.

107. Defendant knew or had reason to know of plaintiff's contract with his landlord and plaintiff's interest in the contract.

108. Defendant willfully and intentionally interfered with plaintiff's contract with his landlord.

109. Defendant's interference proximately caused injury to plaintiff, which resulted in the actual damage or loss.

110. Plaintiff seeks unliquidated damages within the jurisdictional limits of this court.

111. Exemplary damages. Plaintiff's injury resulted from defendant's malice or actual fraud, which entitles plaintiff to exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

P. Application for Temporary Restraining Order

112. Plaintiff's incorporate the above-referenced paragraphs as if recited in their entirety herein

113. Plaintiff's application for a temporary restraining order is authorized by *Tex. Civ. Prac. & Rem. Code §65.011(1)*.

114. Plaintiff asks the court to The Defendants, Avi S. Adelman and Barkingdogs.org be should be restrained from publishing false defamatory statements concerning Plaintiffs, Fernando Rosales, Lost Society and Initiative Partners, LLC.

115. It is probable that plaintiff will recover from defendant after a trial on the merits because Plaintiff is able to prove the elements of the counts alleged herein

116. If plaintiff's application is not granted, harm is imminent because defendant will continue to publish false unverified defamatory statements against plaintiff's causing damages and irreparable harm.

117. The harm that will result if the temporary restraining order is not issued is irreparable because the damage and injury will continue to plaintiff's reputation, loss of goodwill and economic business loss.

118. Plaintiff has no adequate remedy at law because *certain damages are incalculable and defendant is insolvent.*

119. Plaintiff is willing to post bond.

#### O. Ex Parte Relief

120. Plaintiff's incorporate the above-referenced paragraphs as if recited in their entirety herein

121 There is not enough time to serve notice on defendant and to hold a hearing on this application. Defendant will continue to publish defamatory statements about Plaintiffs.

#### R. Request for Temporary Injunction

122. Plaintiff's incorporate the above-referenced paragraphs as if recited in their entirety herein

123. Plaintiff asks the court to set *his* application for temporary injunction for a hearing and, after the hearing, issue a temporary injunction against defendant.

124. Plaintiff has joined all indispensable parties under Texas Rule of Civil Procedure 39.

#### S. Request for Permanent Injunction

125. Plaintiff's incorporate the above-referenced paragraphs as if recited in their entirety herein

126. Plaintiff asks the court to set *his* request for a permanent injunction for a full trial on the merits and, after the trial, issue a permanent injunction against defendant.

#### T. Jury Demand

127. Plaintiff demands a jury trial and tenders the appropriate fee with this petition.

U. Request for Disclosure

128. Under Texas Rule of Civil Procedure 194, plaintiff requests that defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

V. Prayer

129. For these reasons, plaintiff asks that the court issue citation for defendant to appear and answer, and that plaintiff be awarded a judgment against defendant for the following:

- a. Actual damages.
- b. Physical pain and suffering in the past;
- c. Physical pain and suffering in the future;
- d. Lost profits past and future;
- e. Loss of Goodwill;
- f. Damages to Business's credit reputaion;
- g. Mental anguish in the past; and
- h. Mental anguish in the future.
- i. TRO and Permenant Injunction
- j. Exemplary damages.
- k. Prejudgment and postjudgment interest.
- l. Attorney fees.
- m. All other relief to which plaintiff is entitled.
- n. Court costs

Respectfully submitted,

By: \_\_\_\_\_

Armando Miranda  
Texas Bar No. 14199599  
923 W/. Jefferson.  
Dallas, Tx. 75208  
Tel. (214) 943 4888  
Fax. (214) 943 2544  
Attorney for Plaintiffs

**FERNANDO ROSALES AND §  
INITIATIVE PARTNERS, LLC. D/B/A  
LOST SOCIETY  
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WWW.BARKINGDOGS.ORG, AND §  
DALLAS CREATIVE, INC §  
Defendants.**

**DALLAS COUNTY, TEXAS**

**Affidavit In Support of Application for TRO**

BEFORE ME, the undersigned authority, on this day personally appeared Fernando Rosales, who swore on oath that the following facts are true:

"I am a Plaintiff in this cause and my name is Fernando Rosales. I reside in Dallas County, Texas. I have personal knowledge of the facts stated herein, and they are true and correct to the best of my knowledge.

The other Plaintiff initiative Partners LLC dba Lost Society. I am the President of Initiative Partners LLC and Lost Society is a restaurant and bar located at lower Greenville Ave Dallas, Texas.

The Defendant is Avi S. Adelman who is the owner and publisher of www.barkingdogs.com a website that deals with buisnesses and issues that occur on lower greenville ave Dallas, Texas Dallas Creative, Inc is owned by Avi S. Adelman and is the sponsor for www.barkingdogs.com

1. On the below referenced dates, on the his website www.barkingdogs.org in Dallas County, Texas defendant, Avi S. Adelman, published defamatory statements concerning Plaintiffs.

2. On June 3, 2010, Defendant committed libel and published disparaging and defamatory words that were untrue about Plaintiffs on a public Internet site, www.barkingdogs.org, which is owned and maintained by Defendant.

3. The June 3, 2010 post titled, "Early Morning Shooting Leaves One Dead on Char-Bar Parking Lot," states that "[t]wo black males had just left Lost Society Bar" when an argument ensued and one of the males shot and fired four rounds at the other. Defendant has included links to a Dallas Morning News article and a Dallas Observer blog regarding the incident.

4. Defendant's statements about the males just leaving Lost Society bar are false and Defendant knew or should have known there was no basis for this statement. Defendant's own links to news stories regarding the incident make no mention of Lost Society.

5. In the June 3, 2010 post, Defendant made a false statement that the parties involved in the shooting were intoxicated at Lost Society. Defendant has no basis for this false statement and published it to the public as if it were true. Defendant's title of the post even claims that it is the "truth."

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7. The June 6, 2010 post titled, "Truth in Advertising Comes to Lowest Greenville," exhibits a picture of Plaintiffs' business billboard sign with the words "LOST SOCIETY" in large letters and "The Ultimate Experience," which is Plaintiffs' slogan. Defendant replaced the picture on Plaintiffs' billboard sign with a picture of a shooting range: target in the shape of a human figure and added the statement "[b]eing murdered on the street after getting intoxicated at our bar, may not be considered an 'ultimate' experience."

8. Defendant is also violating trademark laws by causing tarnishment and dilution to Plaintiffs' mark by using it in Defendant's blog without permission.

9. Defendant has committed copyright infringement on Plaintiffs': copyright by creating a sign that is substantially similar to Plaintiffs' copyrighted sign design and text. Defendant had no license or permission to use Plaintiffs' copyrighted text or design.

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12. The June 10, 2010 post also states that Defendant called the Dallas Sheriff's Office public affairs office and asked them if they "knew the reputation of the club," implying that Plaintiffs have a bad or negative reputation.

14. The June 10, 2010 post then claims that other Greenville Avenue business owners are trying to "shut down" Lost Society because it is "killing their businesses by scaring people off" and that the club owner is "equally hated for his crap-on-you attitude."

15. Because of Defendant's June 10, 2010 post, Plaintiffs have suffered damages and a loss of business dealings, as after this posting, the hired security officers that Lost Society regularly hired for added security at the bar, refused to honor their ongoing contract with. Lost Society.

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ticket somewhere out of the country." Defendant implied that Plaintiff ROSALES would be deported, when he knew or should have known the statement was false.

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25. The title of the July 2, 2010 post reads, "Even the Dallas Sheriff's Department is Investigating Lost Society," which is untrue and defamatory.

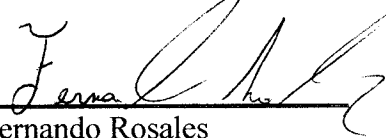
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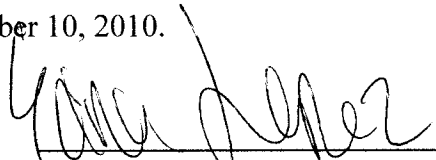
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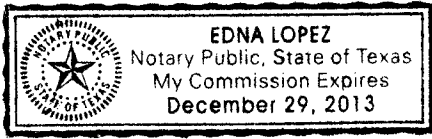
Fernando Rosales, Lost Society and Initiative Partners, LLC; breach of agreement.

"  


Fernando Rosales  
Affiant

SIGNED under oath before me on December 10, 2010.

  
\_\_\_\_\_  
Notary Public, State of Texas





[Home » Articles](#)

## 02 JUL Even the Dallas Sheriff's Department is investigating Lost Society

The Dallas (County) Sheriff's Department has opened an internal affairs investigation into the presence of two off-duty officers who worked at Lost Society just one week after the fatal shooting of a club patron in early June. This investigation was revealed in a letter sent to the Texas Attorney General, asking they be allowed to keep a number of documents demanded by BD under an Open Records request confidential in order to avoid interfering with the detection, investigation or prosecution of a crime (Texas Gov't Code 552.108 (a) (1)).

BD submitted a complaint on the two DSO officers, both of whom refused to provide him with their names and badge numbers upon request as required by Dallas Sheriff Department (DSO) regulations. BD also asked for a copy of the officers' off-duty work records, which would show their superiors knew they were working security outside of a bar on Lowest Greenville. And finally, BD was trying to find out why a DSO vehicle was parked in front of the club for nearly one hour that same evening (blocking traffic on Greenville Avenue). Sources in the department told BD papers regarding the work assignment were improperly written, and may have stated the officers would be working at a parking lot around the corner from the club (nearly 300 yards away from the front door).

According to the letter, sent to the Attorney General on Tuesday...

**The Dallas Sheriff's Department received a complaint ... on two officers who allegedly were working off-duty at a bar, in violation of the Department's Code of Conduct. (He) also made requests for copies of the officers off-duty work authorizations for this assignment at this (club) address.**

**The complaint is currently being investigated by the Internal Affairs unit of the Dallas Sheriff's Department. It is unknown whether the information compiled in the investigation will be referred to the Criminal Investigation Division. The Internal Affairs unit is still in the process of developing the evidence in the case and no decision has been made regarding criminal charges.**

**The complainant has alleged that one of the officers attempted to commit official oppression while in uniform. Alleged Official Oppression is a criminal offense which violates Texas Penal Code Section 39.03.**

The letter does not indicate a specific time frame in which the investigation will be completed. But in the past, the Texas Attorney General does not generally allow the long-term use of this waiver in order to conduct a long-term or never ending investigation designed to frustrate the person requesting the documents.

By Avi S. Adelman under Public safety , Lower Greenville

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## Lost Society owner in custody for false statements

Following Wednesday's arrest of Lost Society general manager Brightman Nwatu, BD reported that another party was set to surrender this morning. The TABC has now confirmed - and the booking is online sans photograph - Fernando Rosales, the president of Initiative Partners and the owner of Lost Society, surrendered to authorities at 11 am this morning and has been booked on a charge of making a false statement on a TABC permit.



According to Rosales' Facebook page (and sources on the street), he just completed his MBA at UT Arlington. Sources tell BD that he had turned over the keys to Lost Society after graduating, but could not escape prying questions and some legal issues generated at the club.

Late Friday afternoon, BD learned Lost Society would still open over the weekend, and that Rosales will probably be bonding out and running the business. That, BD's sources say, is completely legal. The TABC is going through the long and tedious administrative process to close the doors of Lost Society for good.

By Avi S. Adelman under Neighborhoods , Lower Greenville

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## Lost Society's Rosales back in pokey for skipping a hearing

Lost Society's Fernando Rosales, already in deep for his association soon-to-be-deported with Brightman Nowatu and false papers to get a TABC permit, is back in the Dallas County Jail after taking a pass at a hearing before a Dallas County judge in late August. Rosales was taken into custody last evening and re-booked into the Dallas County Jail.



Sources tell BD that Rosales skipped a hearing before a judge on the previously filed charges of false paperwork to the TABC. Not only did he skip it, but even his attorneys skipped the hearing. If you want to piss off a judge, that is the best way to do it.

Rosales and his attorneys reportedly told the judge they would try to make it to court in a few days, you know, he's kinda busy renovating the club without any permits, it's hot outside, and on and on.

The bench told them no deal and issued a felony bench warrant, which was served last evening at the club on Lowest Greenville. He's gonna spend some time in the pokey until a bond hearing is held, but that won't help much - the bond hearing almost always takes place in front of the judge who issued the warrant.

Rosales is fighting attempts by the TABC to revoke his liquor license, claiming he was duped by Brightman Nwatu, whom he trusted implicitly to run his club. Rosales turned down the chance to have the false papers charges dropped in return for surrendering his license, and a grand jury indicted him about a month ago. Nwatu is still in jail, pending another hearing on charges related to this issue, and then he's got a one-way reserved seat back to Nigeria five years after he should have been deported.

By Avi S. Adelman under Public safety, Lower Greenville

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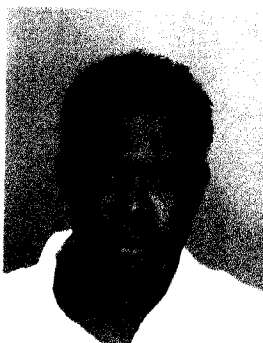
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## Lost Society manager put on ICE after arrest, to be deported

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The general manager of Lost Society, a troublesome bar on Lowest Greenville, was taken into custody by the Dallas District Attorney's investigators and agents of ICE - Immigrations and Custom Enforcement - late this Wednesday afternoon.

Agents told BD that three warrants were served on Brightman Nwatu at the club, where he was arrested, and taken to Lew Sterrett for detention (see charges listed below). He will be processed and deported to Nigeria after the paperwork is complete. The arrest was the result of an investigation into business activities led by the Dallas County District Attorney's office and the TABC.



Another person with management responsibility is also being sought by investigators, and has agreed to surrender before the weekend. Sources tell BD this person is also on the list for a one-way ticket somewhere out of the country.

According to the Dallas County Jail booking sheet, Nwatu has been charged with two counts of Assault with Bodily Injury, and one count of Citizenship of Permittee / Subterfuge (filed by TABC, read the link for the legal explanation). There's also a hold for immigration flag on his file, pending his deportation to Nigeria.

Late Thursday afternoon, Nwatu's bond was increased to \$25,000 and five more charges were filed against him.

Sources tell BD this investigation has been ongoing for months, with DA investigators visiting numerous locations on Lowest Greenville to collect evidence and information.

This is not the end of the problem, one investigator told BD, there's a lot of crappy people down here. We're going to get all of them and make this a nice place to live, raise families and have a business (not sic).

Late Saturday evening, Lost Society and several other locations were inspected by the Dallas Fire Marshall (many bars on Henderson Avenue were inspected on Friday evening).

According to Dallas Fire/Rescue citations released to BD on Monday, Lost Society was the only business cited for issues other than overcrowding: Locking and blocking upstairs exits, ordered to discontinue forcible blocking of the front door, remove combustible waste from upstairs area, provide covers of junction boxes in the upstairs bar, discontinue the use of extension cords in the building, discontinue the use/storage of LPG tanks in the buildings, and provide proof of flameproofing of all combustible materials in the building (link to citations).

This is a developing story...

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Rodriguez was forced to find her own means of escape without Nwatu's assistance or involvement.

Nwatu otherwise subjected Rodriguez to propositions of sexual intercourse and other sexually suggestive conduct. Nwatu's locking Rodriguez inside Lost Society' facility was the result of her objections to his forced attempts at sexually offensive contact and offensive contact, and other sexually suggestive conduct, and her refusal of Nwatu's propositions of oral sex and intercourse.

The petition continues by Fernando Rosales was negligent in hiring, supervising, training or retaining Nwatu. Ms Rodriguez is seeking actual damages, punitive damages, prejudgment interest and court costs. A review of the file jacket shows that attempts to mediate the case failed, and a trial date was set for this coming August. Ms Rodriguez also made a nearly 2-hour deposition on the incident, but that content is not included in the file jacket.

You can read the original pleading document [here](#).

By Avi S. Adelman under Public safety , Lower Greenville

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## Fresh worms from Lost Society: Sexaul assault lawsuit

Update 11pm Wednesday - **Lost Society has been locked down by the landlord for violating their Don't get customers killed clause (see Murdered bar patron is a second for Lower Greenville)**

If **BD** has learned one thing about controversies on Lowest Greenville, it's this: Opening up one can of worms invariably will bring more cans of worms to be opened.

Today's latest offering - More worms from Lost Society's Brightman Nwatu, in the form of a lawsuit filed against him, Fernando Rosales and Lost Society. The claim: That Nwatu committed three acts of sexual assault on a waitress.

At this rate, **BD** will be sitting on the edge of White Rock Lake catching lots of fish for a long time.

Late Thursday afternoon, Nwatu's bond was increased to \$25,000 and five more charges were filed against him.

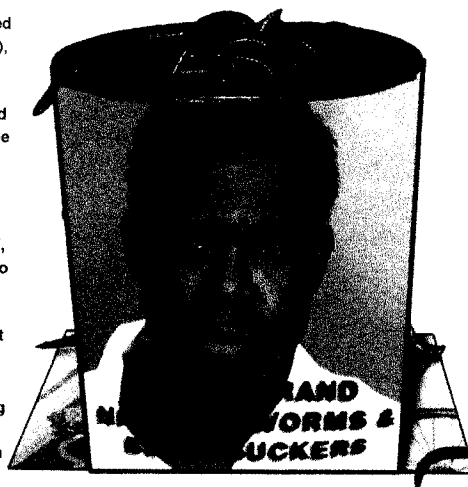
According to Cause #CC-09-07139-B, filed in Dallas County originally filed in September 2009(with amendments), Evelyn Rodriguez was a newly-hired waitress on August 14, 2009. Starting Saturday, August 15, Nwatu attempted to give her some one-on-one employee training of the very personal kind (this content is rated NSFW ).

On August 15, 16, and 17, 2009, Nwatu threatened to touch, and touched, [Rodriguez] in an offensive manner without her consent.

This first included forcing himself on Rodriguez in an attempt to kiss [her] in the early morning of Saturday, August 15, and her first day of work. It next included during the early evening of the same day and early morning of the next day, August 16 his locking the door to his office and forcing his upright body into that of Rodriguez and attempting to kiss her and then continuing to attempt to kiss her at other locations.

It also included Nwatu's insisting, in the early morning of August 16, that Rodriguez go with him to the roof of Lost Society and over her objection, forcibly pulling her upstairs and to the roof, and locking the door behind him, then forcing himself upon Rodriguez and forcing Rodriguez to touch his penis by grabbing her hand and bringing it to his penis and then asking her to kiss it and still attempting to kiss her.

On Sunday, August 17, Rodriguez then arrived for work at the request of Nwatu under false pretenses, and Nwatu subsequently locked Rodriguez in Lost Society' facility without her consent after making propositions of sexual intercourse to her, which she refused.



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## BD subpoenaed to give testimony - for Lost Society???

It seems like so long ago, but in fact the Lost Society debacle started in late June - following the murder of a club patron on the Char Bar parking lot - when Brightman Nwatu was arrested for subterfuge and being in the country illegally. His partner in crime, Fernando Rosales, was arrested and detained briefly on charges of filing false documents with the TABC and other agencies. Rosales is out of jail, but facing a number of legal actions in an effort to revoke his TABC permit.

In the middle of all this excitement, Andres Properties (working under the name Wonderful Seven) locked the doors on Lost Society, claiming numerous violations of their lease. It took two weeks, but Rosales was eventually able to convince a judge to force the doors open, whereupon he immediately started renovating and installing a kitchen. But the whole lock-out mess did not sit very well with Rosales, who filed a suit against Andres under the name Initiative Partners, seeking damages and other benefits. You can read all the back and forth documents on the County's website - [click here](#) and enter **CC1004909D** in the Case Number field.

BD has posted the two most interesting back and forth claims and counterclaims on this server - the amended counter-petition with discovery is [here](#), and the sworn complaint for re-entry is [here](#).

The first document includes printouts from BD's articles about Lost Society and the Dallas Observer Unfair Park blog - like, really, when did they start taking bloggers so seriously?? In a conversation with BD after being allowed to reopen Lost Society, Rosales (seen in photo from his latest jailhouse booking) said he and his girlfriend were conned by Nwatu just like everyone else, that BD was a pathological liar getting information from people who did not like him, and was making statements on this website which warranted BD being sued.



BD's reply - [Get in line, mi amigo, get in line.](#)

Now BD is beginning to wonder if the Lost Society folks have hit the **Desperate to Settle No Matter What** point in their lawsuit against Andres Properties. Early Thursday evening, BD was presented a subpoena to attend and give testimony in the above-styled case on November 11, 2010. The subpoena was issued by - are you ready for this - Lost Society's attorney, indicating he has either completely lost any sense of reality in the dispute, or has not bothered to read this blog.

The subpoena does not describe what kind of testimony the attorney expects or wants from BD. We seriously doubt they want to hear BD's opinion of Lost Society's standards, since they have none. And his opinions about scumbars like Lost Society are found all over this website. Since BD is not a party to the lawsuit (and is described in the subpoena as a non-party witness), but his articles are included in the filings, the first thing that came to mind was BD's myriad sources of information. The attorneys should be ready for the silent treatment - BD has no intention of giving up any sources of his information, and Texas law gives him the right to tell the attorney where to put that subpoena.

Please allow BD to refer attorney Armando Miranda to the Texas Free Flow of Information Act, signed into law in May 2009, which allows BD to keep his sources confidential under most circumstances...

**Sec. 3. PRIVILEGE.** (a) Except as otherwise provided by this article, a judicial, legislative, administrative, or other body with the authority to issue a subpoena or

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other compulsory process may not compel a journalist to testify regarding or to produce or disclose in an official proceeding:

(1) any confidential or nonconfidential unpublished information, document, or item obtained or prepared while acting as a journalist; or

(2) the source of any information, document, or item described by Subdivision (1).

The deposition is being taken at the attorney's office on Zang Blvd., so BD's really hoping they bring in some of that Oak Cliff barbecue for lunch. That might be the only chance the attorneys see BD open his mouth all day.

By Avi S. Adelman under Public safety, Lower Greenville

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AUG

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## The trials and indictments keep rolling at Lost Society

Update 8/10 - Nwatu was found Not Guilty on both assault charges today. According to one in-the-courtroom source, 'It did not help that both victims were - to put it politely - already hammered when Nwatu assaulted them.' Next up - A trial on the false paperwork charge, followed by a one-way trip back home to Nigeria.

It's been a few weeks since BD posted any news about Lost Society. And then boom, here it comes in buckets.

Our favorite deportee-to-be, Brightman Nwatu, is at this very moment sitting in a courtroom at the Crowley Courthouse, on trial for two counts of assault from incidents that took place in June 2009. When the crap hit the fan and he was arrested a few months ago, the outstanding warrants were among all the cases filed. According to DPD Incident Report 171388W , Nwatu is accused of violently ejecting a 52 year old woman out of Lost Society. And moments later, states DPD Incident Report 171385W , he hit another female in the eye, causing severe damage. And in two weeks, he'll be back in court on the charges of filing of false paperwork to the TABC.



But he won't sit in the courtroom alone. Our resident Lowest Greenville playboy, Fernando Rosales, continues to insist he was just as shocked - shocked, I tell you! - to find out Brightman was claiming to be the club owner as the TABC and lying about his years of bar management experience. But he absolutely swears that the three attempted rapes of a waitress by Brightman had nothing to do with his business and he was going to have his name and the business name removed from the case. Just last month, Rosales told BD he was going to make sure all these claims were taken off the face of the earth, even if that included suing BD for defamation of character and slander. At that point, BD told him to get in line.

Rosales was also charged right after Brightman was arrested for filing false paperwork to the TABC. Since that time, his attorneys have been negotiating with TABC and other law enforcement agencies to have the charges dropped. The conversation goes like this - If Rosales, who has two degrees and wants to get his CPA license, surrenders the license quietly, then the charges will be dropped. Rosales is insisting he's just another victim of Brightman and wants to fight it out in court. In the meantime, mysterious crews are at work inside Lost Society at night doing renovations (has anyone pulled the permits?) - maybe trying to sell the club???

All the discussions went south and today, it looks like Rosales can kiss his CPA good-bye. Sources in the courthouse tell BD that Rosales was indicted by a grand jury on the false paperwork charges. No word on his surrender date.

This story will be updated...

By Avi S. Adelman under Public safety , Lower Greenville

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the US Fifth Circuit Court of Appeals denied Nwatu's petition for a rehearing, effectively ordering the deportation to proceed. At this point, Nwatu falls off the radar in Austin.

In 2006, Nwatu is in Dallas, where he reopens Coconuts Grill as Brown Jug, then changes the name to SideBar. During the time he was at SideBar, Nwatu claimed to be the owner, and that he had a brother running a club in Austin on his behalf. SideBar was closed down under circumstances relating to subterfuge issues similar to the Lost Society case in Fall 2008. That brought Nwatu into TABC's line of fire, prompting a slow and painstakingly detailed investigation.

On December 19, 2008, at 426pm, Nwatu and Rosales filed in Dallas County an Assumed Name Record for an Unincorporated Business under the name Lost Society. It's the first step in getting your business off the ground, because it's needed to get a bank account, a sales tax number, etc.

On January 1, 2009, Rosales files for the creation of Initiative Partners, LLC, a corporation in the State of Texas, naming himself as the only officer of the corporation and applied for a TABC permit. A few months later, Lost Society opened for business on Lowest Greenville in the former Suede location. A few noise complaints were filed due to music on the rooftop patio, but not much else happens after that.

Sensing trouble if anyone found the original county filings. Nwatu and Rosales go back to the Dallas County Courthouse on January 6, 2010 and file documents to withdraw the Lost Society business name and abandon the business entity (Rosales doc, Nwatu doc). A few minutes later, Rosales files another Assumed Name Record for an Unincorporated Business as Initiative Partners, LLC.

Nwatu and Rosales screwed up when they filed together for the Lost Society name. Nwatu's name could not be used in filing for a TABC permit, since a background check would have revealed his being on the deportation orders list. So they cancel the business filings, then refile under Rosales' name alone. But they failed to understand that simply abandoning a name does not mean all the records - or intents - are also abandoned. The original records never go away and obviously came back to haunt them last week.

By claiming to be the owner, when in fact he was just Nwatu's front man, Rosales broke the law when he filed for a TABC permit. It's just a matter of time until the TABC revokes their permit and Lost Society becomes another in a long line of scumbars on Lowest Greenville to close their doors. Nwatu added to the confusion by using different names on the street, mostly blamed on his formal English accent. Almost no one BD spoke to know him as Brightman Nwatu, a manager at Lost Society; on Lowest Greenville he was Brian Nuwad, the owner of Lost Society. And everyone knew he lived in the bar, usually sleeping on the rooftop patio and having breakfast at 7-Eleven.

The deportation issue was not the only thing that got Nwatu and Rosales in trouble. Too many strange things were going on at Lost Society, which caught the attention of more investigators, which resulted in more cooperation and coordination. The shooting of a bar patron after he left Lost Society a few weeks ago did not set off the final alarm, but it illustrated how fast Nwatu needed to be pulled off the street.

It's nice when the good guys finally win one.

By Avi S. Adelman under Public safety , Lower Greenville

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## Lost Society scam unraveled by paperwork and stupidity

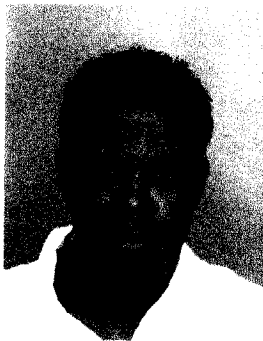
The arrests last week of Lost Society's Brightman Nwatu and Fernando Rosales were not a result of the death of a bar patron a few weeks ago. They were the result of painstaking - and ploddingly slow - research and investigations by a number of state and federal law enforcement agencies. Nwatu had enough sense to evade deportation since 2005, but not enough to avoid signing his name to any legal documents that could be traced.

Despite the claims by Lost Society employees, he is not getting out of jail very soon. In a few weeks, Nwatu will be saying *Ka omesia* (goodbye in Ibo, a language of Nigeria) as ICE puts his butt on a plane (forget seatbelts, they use handcuffs) and departs his butt back to Nigeria. BD's got the paper trail from his deportation hearings to his phony business names.

Late Thursday afternoon, Nwatu's bond was increased to \$25,000 and five more charges were filed against him.

Owner of Lower Greenville bar popular with SMU students accused of serving minors, faces deportation - Dallas Morning News 6/29/2010

According to his own pro se filings (acting as his own attorney), Nwatu has been in the United States for nearly 20 years, and attended the University of Texas. Around 1992, he was arrested and convicted of passing bad checks; a deportation hearing was called. The hearings were never held due to technical issues and an inability to find Nwatu. BD's I-am-not-a-lawyer review of the documents shows.



Sometime in 2004, Nwatu was taken into custody by federal authorities, and held at the federal detention facility in Los Fresnos, TX. He filed a handwritten appeal on December 15, 2004, asking for an emergency stay of deportation since he believed state court was the proper venue for this issue. He also stated his intent to ask for an attorney to be appointed for him at government expense. In all subsequent filings on the federal and state level, Nwatu acted as his own attorney. He was released from federal custody in late January 2005.

According to federal court documents filed by Nwatu in February 2005 -

The proceedings were suspended [until] probation is revoked, or expungement is refused, or until respondent has had a reasonable opportunity to obtain an expungement after discharge from probation, which event occurs first.

In 1996, the [INS] moved to recalendar proceedings and a hearing was set for February 14, 1996 despite the fact that none of the stipulations of the 1992 decision had been met as to warrant a re-opening of the proceedings.

In early 2005, Nwatu filed a pauper's petition in federal court, pleading for relief from paying any filing fees, posting a bond, and claiming no income for the prior 12 months. He included in the petition a claim that he had never been informed of any deportation proceedings against him prior to this time, even though he had a valid post office box address while attending the University of Texas at Austin.

On February 7, 2005, he filed an Application for Writ of Habeas Corpus (release from the federal case) in state district court in Travis County. That petition was denied on March 2, 2005. On May 2, 2005,

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