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Date: May 22, 2013

Sent to: Jason S. Coomer FAX: (512) 474-1802

From: Stephanie O'Rourke / Robert M. Smith

Re: Hamilton v. Davila

File No.: 3208-192

Telecopy consists of 6 page(s) including cover page

Please contact Laura A. Perez at (210) 293-8721 if any follow-up is required.

Message

Please see the attached correspondence and Defendant's First Amended Answer to Plaintiff's Original Petition.

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May 22, 2013

Via Fax (512) 474-1802
Jason S. Coomer
Law Office of Jason S. Coomer, PLLC
406 Sterzing, Second Floor
Austin, Texas 78704

Re: Cause Number D-1-GN-13-001230
*Alan L. Hamilton, Individually and as Successor Trustee of the Hamilton Family Trust and
as Independent Executor of the Estate of Maurine P. Hamilton v. Daniel Davila III*
In the 353rd Judicial District Court, Travis County, Texas

Dear Mr. Coomer:

Enclosed, regarding the above-referenced case, please find DEFENDANT'S FIRST AMENDED ANSWER TO PLAINTIFF'S ORIGINAL PETITION which was e-filed today with the Travis County District Clerk.

Sincerely,

COKINOS, BOSIEN & YOUNG

Robert M. Smith

lap
3208-192\Hamilton v. Davila\Counsel - 4 Def's 1st Amd Answer

Enclosure

CAUSE NO. D-1-GN-13-001230

ALAN L. HAMILTON, INDIVIDUALLY
AND AS SUCCESSOR TRUSTEE OF THE
HAMILTON FAMILY TRUST AND AS
INDEPENDENT EXECUTOR OF THE
ESTATE OF MAURINE P. HAMILTON,
PLAINTIFF

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IN THE DISTRICT COURT

VS.

353RD JUDICIAL DISTRICT

DANIEL DAVILA III,
DEFENDANT.

TRAVIS COUNTY, TEXAS

**DEFENDANT'S FIRST AMENDED ANSWER
TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes DANIEL DAVILA, III (hereinafter at times referred to as "DAVILA"), Defendant herein, and files this, his First Amended Answer to Plaintiff's Original Petition, and would show the Court as follows:

**I.
GENERAL DENIAL**

Defendant, DAVILA, generally denies the allegations contained within Plaintiff's Original Petition and demands strict proof thereof by a preponderance of the evidence, as provided by Rule 92, Texas Rules of Civil Procedure.

**II.
AFFIRMATIVE DEFENSES**

1) Pleading further, if such be necessary and without waving any of the other pleadings contained herein, Defendant DAVILA affirmatively asserts that Plaintiffs' damages, if any, were not caused by any act or omission on the part of Defendant DAVILA, but were caused by actions and/or

omissions of third parties over which Defendant DAVILA had no control and for which he was not responsible.

2) Pleading further, if such be necessary and without waving any of the other pleadings contained herein, Defendant DAVILA affirmatively asserts that the actions of Maurine P. Hamilton, Deceased were the sole proximate cause of the damages alleged by Plaintiffs.

3) Pleading further, if such be necessary and without waving any of the other pleadings contained herein, Defendant DAVILA would plead that Plaintiffs' claims are barred, in whole or in part, by limitations.

4) Pleading further, if such be necessary and without waving any of the other pleadings contained herein, Defendant DAVILA would plead the contributory negligence of the Plaintiffs were the cause of any alleged damages or alleged injuries sustained by Plaintiffs.

5) Pleading further, if such be necessary and without waving any of the other pleadings contained herein, Defendant DAVILA would plead that Plaintiffs are collaterally estopped.

6) Pleading further, if such be necessary and without waving any of the other pleadings contained herein, Defendant DAVILA would plead that Plaintiffs' claims are barred because MAURINE P. HAMILTON ratified the actions of her agents, and others acting on her behalf.

7) Pleading further, if such be necessary and without waving any of the other pleadings contained herein, Defendant DAVILA would plead the Statute of Frauds.

8) Pleading further, if such be necessary and without waving any of the other pleadings contained herein, Defendant DAVILA would plead the defense of Waiver.

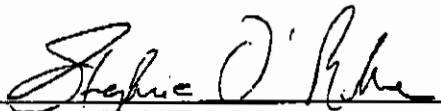
9) Pleading further, if such be necessary and without waving any of the other pleadings contained herein, Defendant DAVILA is not liable to Plaintiffs' because the Plaintiffs' alleged

injuries and damages, if any, occurred as a result of the actions and/or inactions of SYLVIA L. HAMILTON whether said actions and/or inactions constituted negligence, fraud, breach of fiduciary duties, misrepresentations and/or were criminal. As such Defendant DAVILA would designate SYLVIA L. HAMILTON as a responsible third party.

WHEREFORE, PREMISES CONSIDERED, Defendant, DAVILA, prays that upon final trial the Court will enter a take-nothing judgment against Plaintiffs and in favor of Defendant, and for such other and further relief to which he may be justly entitled.

Respectfully submitted,

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By 
STEPHANIE O'ROURKE
State Bar No. 15310800
ROBERT M. SMITH
State Bar No. 18677400

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing DEFENDANT'S FIRST AMENDED ANSWER TO PLAINTIFF'S ORIGINAL PETITION, has been sent via fax on this the 20th day of May 2013, to:

Attorneys for Plaintiff

Jason S. Coomer
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Fax (512) 474-1802



STEPHANIE O'ROURKE
ROBERT M. SMITH *z*