

CAUSE NO. 471-01040-2022

HENRY MISHKOFF	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
	§	
vs.	§	471 ST JUDICIAL DISTRICT
	§	
SONIA BRYANT	§	
	§	
<i>Defendant.</i>	§	COLLIN COUNTY, TEXAS

DEFENDANT’S ORIGINAL COUNTERCLAIM

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant/Counter-Plaintiff Sonia Bryant, (“Bryant”) by and through her undersigned counsel, files this Original Counterclaim against Plaintiff/Counter-Defendant Henry Mishkoff (“Mishkoff”) pursuant to Texas Rule of Civil Procedure 97 and in support thereof would respectfully show the Court as follows:

I.
DISCOVERY LEVEL

1. Pursuant to the TEXAS RULES OF CIVIL PROCEDURE, Bryant requests that this case be governed by a Level 3 Scheduling Order with dates negotiated by the parties or entered by the Court in absence of an agreement by the parties.

II.
PARTIES

2. Henry Mishkoff is an individual residing in Collin County, Texas. Henry Mishkoff has already made an appearance herein and may be served with a copy of this Counterclaim pursuant to Rules 21 and 21a of the Texas Rules of Civil Procedure.

III.
JURISDICTION, VENUE, AND TRCP 47 STATEMENT

3. This Court has subject matter jurisdiction over this matter because the amount in controversy is within the jurisdictional limits of the Court, and the Counter-Plaintiff seeks monetary relief under \$100,000.

4. Venue is proper pursuant to TEX. CIV. PRAC. & REM. CODE § 15.062.

IV.
STATEMENT OF FACTS

5. Bryant owns the real property located at 4060 Windhaven Lane, Dallas, Texas 75287 (“Bryant’s Property”). Bryant is a single mother.

6. Mishkoff owns the neighboring property at 4062 Windhaven Lane, Dallas, Texas, directly south of Bryant’s home.

7. Mishkoff has entered onto Bryant’s Property countless times without her authorization or consent for the purpose of harassing her.

8. In each of these instances of claimed trespass, Mr. Mishkoff veers far out of the express easement granted across her property. In each of these instances of claimed trespass, Mr. Mishkoff can make no claim, much less a credible claim, that he was exercising his rights to an “implied easement” as the photographic and videographic evidence shows him underneath Bryant’s carport or on other areas of the Bryant Property where he makes no claim to an implied easement.

9. He simply seems to enjoy exposing himself to her security cameras:



10. In one instance, Mr. Mishkoff brought third parties that appeared to be surveyors onto her property without her prior consent and the police were called.



11. On other occasions, Mr. Mishkoff has physically entered upon Bryant's real property for the purpose of taking pictures and conducting surveillance for this lawsuit without Bryant's permission.

12. Each of the complained entries onto Bryant's real property was done without her consent or authorization and has interrupted her right to possession, free of trespassing.

13. Pursuant to Rule 54 of the TEXAS RULES OF CIVIL PROCEDURE, Bryant generally avers that all conditions precedent have been performed or have occurred.

V.
CAUSE OF ACTION: TRESPASS

14. Bryant incorporates by reference each of the allegations in the preceding paragraphs of the Petition as if they were set forth in their entirety herein.

15. The law holds the property of every person so sacred that no one can set foot upon another's property without the property owner's leave. Every unauthorized entry is a trespass, even if no damage is done. *See General Mills Restaurants, Inc. v. Texas Wings, Inc.*, 12 S.W.3d 827 (Tex. App. Dallas 2000). A trespasser is liable to the property owner even when there is no proof of actual damages in any specific amount. *Id.*

16. As shown herein, Bryant owned certain real property located at 4060 Windhaven Lane, Dallas, Texas.

17. Henry Mishkoff has physically, intentionally, and voluntarily entered Bryant's property on numerous occasions in order to harass Bryant or to surveil her property. Each such entry was never authorized by Bryant or any of her agents.

18. Each such unauthorized entry onto Bryant's property has caused injury to Bryant's right to possession. As such, Bryant seeks nominal damages within the jurisdictional limits of this Court.

VI.
PRAYER FOR RELIEF

Bryant requests that the Court enter judgment against Henry Mishkoff, and that she recover nominal damages, costs of Court, attorney's fees, pre-judgment and post-judgment interest, and all other relief to which it may be justly entitled.

Respectfully submitted,

SCHEEF & STONE, LLP

/s/ *T. Chase Garrett*

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CERTIFICATE OF SERVICE

I certify that on May 25, 2022, a true and correct copy of the foregoing was sent to all parties who have made an appearance or their attorney of record in accordance with Texas Rules of Civil Procedure.

/s/ *T. Chase Garrett*