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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Galleria, Inc.,

Plaintiff,

v.

Cesar Arturo Lozano, dba
Bridal Galleria of Houston

Defendant.

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Civil Action No. H-99-0308

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
ENTERED

MAY 20 1999

Michael N. Milby, Clerk

**AGREED FINAL JUDGMENT
AND PERMANENT INJUNCTION**

1. Plaintiff Galleria, Inc. ("Plaintiff") is a Texas corporation having an office and place of business in Houston, Texas. Defendant operates a business in Houston, Texas. Therefore, the Court has personal jurisdiction over the defendant.

2. The Court has jurisdiction over the subject matter of this action under 15 U.S.C. § 1121, 28 U.S.C. § 1338, and the doctrine of pendent jurisdiction.

3. Since at least as early as 1970, plaintiff and its predecessors have used the mark "GALLERIA" in connection with the management, operation, rental and promotion of space in a commercial real estate development operated as a multi-use development in Houston, Texas. Since at least as early as 1982, plaintiff and its predecessors have used the mark "Galleria" in connection with the operation of a multi-use development in Dallas, Texas. Plaintiff, through its licensees, has offered for sale

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to the public various goods, including T-shirts, postcards, and shopping bags which bear the mark "GALLERIA". The name "GALLERIA" has acquired widespread fame and public recognition in the Houston and Dallas areas and elsewhere as designating plaintiff's business and services.

4. On November 1, 1972, plaintiff's predecessor registered the mark "theGalleria" as a service mark with the State of Texas under Registration No. 30119 for rental and promotional services relative to business space in a commercial development. Effective January 1, 1981, that registration and all of the rights to the name "GALLERIA" were assigned to plaintiff. The registration was renewed on May 19, 1982, and is presently in force.

5. Although defendant is not in any way affiliated with plaintiff, he has been using the name "GALLERIA" in identifying his business, including in the telephone book and on his invoices.

6. Defendant's unauthorized use of the name "GALLERIA" as part of the trade name and service mark for his business is likely to cause confusion as to defendant's affiliation with plaintiff or with plaintiff's famous real estate developments.

7. On at least two occasions plaintiff has advised defendant that defendant's use of the name "GALLERIA" in connection with defendant's business infringes plaintiff's rights. However, defendant has refused to discontinue his use of the name "GALLERIA" in connection with his business. Defendant's continued infringement of plaintiff's rights is willful and deliberate.

8. Defendant's actions constitute (a) the use of a false description or representation, a false designation of origin, or false advertising, in violation of 15 U.S.C. § 1125(a), (b) infringement of plaintiff's registered marks under § 16.26 of the Texas Business & Commerce Code, (c) common law trademark infringement and unfair competition under Texas law, (d) injury to and dilution of plaintiff's trade name, trademarks, and service marks under § 16.29 of the Texas Business & Commerce Code, and (e) injury to and dilution of plaintiff's trade name, trademark, and service mark under 15 U.S.C. § 1125(c).

9. Defendant is ordered, pursuant to 15 U.S.C. § 1118, to deliver up for destruction to plaintiff's attorneys, within thirty (30) days after entry of this judgment, all literature, signs, labels, prints, packages, wrappers, containers, advertising materials, stationery, any other items in his possession or control which contain the infringing designation "GALLERIA", either alone or in combination with other words or symbols, and all plates, molds, matrices, masters, and other means of making any of the infringing items.

10. Thirty (30) days after entry of this judgment defendant shall take the following actions. If defendant uses "GALLERIA" in a d/b/a, defendant shall (a) file a withdrawal certificate withdrawing the assumed name which has "GALLERIA" as part of the name, and (b) file a new assumed name certificate which does not have "GALLERIA" as part of the name. If defendant uses "GALLERIA" in a corporate name, defendant shall (a) change the name of the corporation to delete the term "GALLERIA", and (b) file amended articles of incorporation with the Texas Secretary

of State, indicating the name change. Defendant shall request the telephone directory company to change the name of defendant's business in the alphabetical listings, the topical listings, and in any advertisement in the telephone books. Defendant shall provide plaintiff's Attorney-in-Charge with a copy of all paperwork associated with the withdrawal certificate, the new assumed name, amended articles of incorporation, the filing of those articles with the Texas Secretary of State, and the requests to the telephone directory company.

11. Defendant and his agents, servants, and employees, and all others in concert or participation with them, are enjoined from using (a) "Galleria Area"; or (b) the name "GALLERIA" as a part of defendant's trade name, or in any other manner, except as part of a truthful informational statement regarding the location of defendant's business with respect to the GALLERIA multi-use development, in which statement the word "Galleria" shall appear in the same size, format, color, and type style as the other words in the statement. Defendant shall be in compliance with these provisions no later than thirty (30) days after entry of this judgment.

12. Defendant will change his equipment and materials used for printing his invoices, so that thirty (30) days after entry of this judgment, his invoices will be in conformance with this judgment.

13. Effective immediately, defendant shall not create, order, or contract for any invoices, literature, posters, cards, labels, prints, packages, wrappers, containers, advertising materials, or other items which contain the term "GALLERIA" in any form, except as specifically permitted in this judgment. Defendant shall deliver a written

certification to plaintiff's attorney-in-charge thirty (30) days after entry of this judgment as to when all existing advertising contracts expire, and shall further certify that defendant has changed all invoices, listings, advertisements, and signs to be in conformance with this judgment.

14. Defendant shall pay plaintiff's attorneys' fees for any legal action plaintiff takes to enforce this judgment.

SIGNED this 19 day of May, 1999.



David Hittner

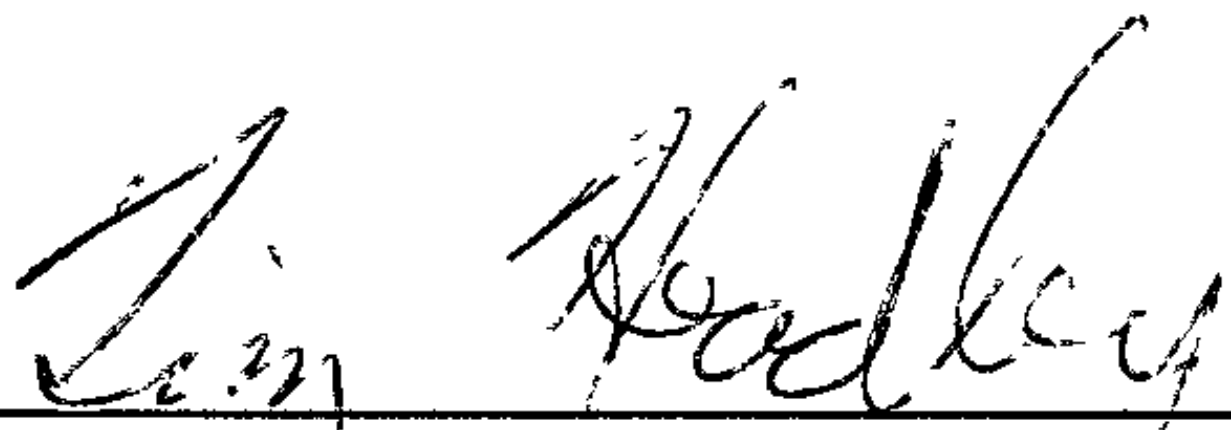
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND SUBSTANCE:



Defendant Cesar Arturo Lozano, dba
Bridal Galleria of Houston
1723 Post Oak Blvd.
Houston, TX 77056-3801
Phone: 713-877-1486
Fax: 713-877-1611

Date: May 14, 1999



Tim Headley
Attorney-in-Charge for Plaintiff
State Bar No. 09325210
HAYNES AND BOONE, L.L.P.
1000 Louisiana Street, Suite 4300
Houston Texas 77002-5012
Phone: 713-547-2040
Fax: 713-236-5526
Email: headleyt@hayboo.com

Date: 5-14-99

United States District Court
Southern District of Texas
FILED

AUG 30 1999

Michael N. Milby, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
ENTERED

AUG 31 1999

Michael N. Milby, Clerk

GALLERIA, INC.,
Plaintiff,

v.

CESAR ARTURO LOZANO,
d/b/a BRIDAL GALLERIA
OF HOUSTON,
Defendant.

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CIVIL ACTION NO. 99-308

ORDER OF CONTEMPT

Pending before the Court is the Motion for Contempt (Document #11) filed by plaintiff Galleria, Inc. The Motion for Contempt states that defendant Cesar Arturo Lozano should be held in contempt for failure to comply with the terms of the Agreed Final Judgment and Permanent Injunction, entered into by the parties and signed by the Court on May 19, 1999. Having considered the motion, submissions, and applicable law, together with the arguments and testimony of the parties at a hearing conducted by the Court on August 30, 1999 the Court determines that the motion for contempt should be granted.

Therefore, based on the foregoing, the Court hereby

ORDERS that Defendant Cesar Arturo Lozano is hereby found to be in CIVIL CONTEMPT of the Order of this Court entered on May 19, 1999. The Court hereby

ORDERS that Defendant Cesar Arturo Lozano is hereby COMMITTED to the

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custody of the United States Marshal's Service for imprisonment in the Harris County Jail where he shall be held until all terms and conditions of the May 19, 1999 agreed judgment entered by this Court are complied with. However, Lozano's actual commitment shall be postponed until September 15, 1999 at 9:45 a.m. in order for Lozano to comply with all terms and conditions of the May 19, 1999 agreed judgment and order. Failure of Lozano to comply completely with the terms and conditions of the May 19, 1999 agreed judgment and order on or before September 15, 1999 at 9:45 a.m. will result in his immediate imprisonment in the Harris County Jail where he shall remain imprisoned.

The Court shall conduct a hearing on September 15, 1999 at 9:45 a.m, in Courtroom 8A, 515 Rusk, Houston, Texas to determine whether or not Lozano has fully complied.

A copy of this Order shall be served personally on Cesar Arturo Lozano by the United States Marshal's Service at 712 Westcott, Houston, Texas 77007, telephone number 713-869-5118.

SIGNED at Houston, Texas, on this 30 day of August, 1999.



DAVID HITTNER
United States District Judge

United States District Court
Southern District of Texas
FILED

AUG 30 1999

Michael N. Milby, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
ENTERED

AUG 31 1999

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GALLERIA, INC.,
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CESAR ARTURO LOZANO,
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CIVIL ACTION NO. 99-308

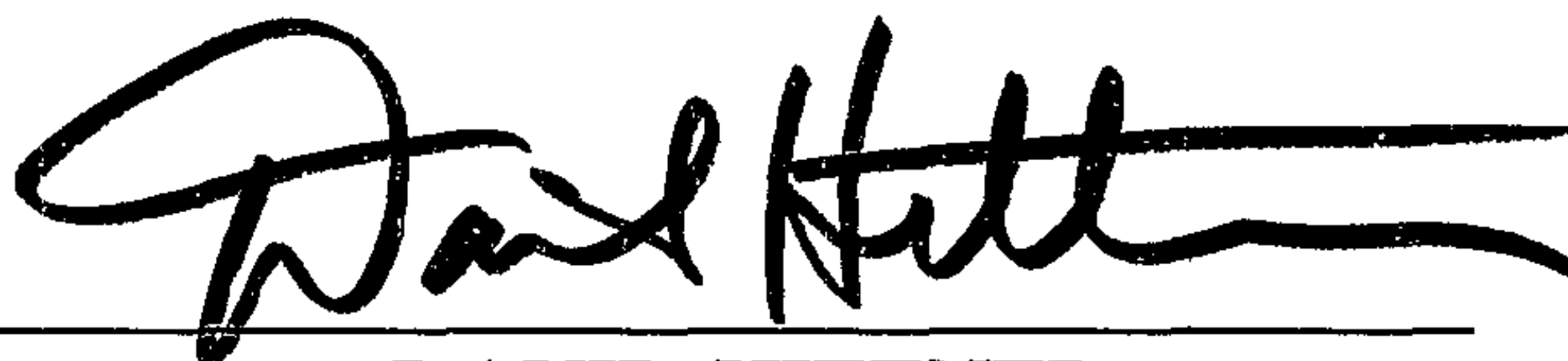
ORDER

On August 30, 1999 the Court conducted a show cause hearing in the above referenced cause. At that time, the Court found the defendant Cesar Arturo Lozano ("Lozano") in civil contempt. The Court further considered the request by plaintiff to assess damages against Lozano for attorney's fees and costs associated with seeking enforcement of the Agreed Order entered by the Court on May 19, 1999. The plaintiff offered uncontested testimony to support its request for fees and costs. Therefore, based on the foregoing the Court hereby

ORDERS that Lozano shall pay to plaintiff Galleria, Inc. fees and costs in the total amount of \$1,645.00. This amount represents \$300.00 incurred by plaintiff to retain the services of a private investigator and \$1345.00 in attorney and paralegal fees.

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SIGNED at Houston, Texas, on this 30 day of August, 1999.

A handwritten signature in black ink, appearing to read "David Hittner", written over a horizontal line.

DAVID HITTNER
United States District Judge