

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): ISABEL HERNANDEZ <div style="background-color: black; width: 200px; height: 20px; margin: 5px 0;"></div> TELEPHONE NO: <div style="background-color: black; width: 100px; height: 15px; display: inline-block;"></div> FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff, In Propria Persona	FOR COURT USE ONLY <div style="font-size: 1.2em; opacity: 0.5; transform: rotate(-5deg);"> ORIGINAL FILED Northwest District 17 2009 LOS ANGELES SUPERIOR COURT </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 6230 Sylmar Avenue MAILING ADDRESS: CITY AND ZIP CODE: Van Nuys, CA 91401 BRANCH NAME: Northwest District-Van Nuys Courthouse	
PLAINTIFF: Isabel Hernandez DEFENDANT: Damon Thomas and Kimberly Kardashian Thomas, and <input checked="" type="checkbox"/> DOES 1 TO <u>10, Inclusive</u>	
<div style="text-align: center;">CONTRACT</div> <div style="display: flex; justify-content: space-between;"> <input checked="" type="checkbox"/> COMPLAINT <input type="checkbox"/> AMENDED COMPLAINT (Number): </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <input type="checkbox"/> CROSS-COMPLAINT <input type="checkbox"/> AMENDED CROSS-COMPLAINT (Number): </div>	
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000 but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint or cross-complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited	CASE NUMBER: <div style="font-size: 1.5em; font-family: monospace;">LC087961</div>

1. **Plaintiff* (name or names):**

ISABEL HERNANDEZ

alleges causes of action against defendant* (name or names):

DAMON THOMAS AND KIMBERLY KARDASHIAN THOMAS, AND DOES 1 TO 10, INCLUSIVE

2. This pleading, including attachments and exhibits, consists of the following number of pages: _____

3. a. Each plaintiff named above is a competent adult

☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ other (specify):

b. ☐ Plaintiff (name):a. ☐ has complied with the fictitious business name laws and is doing business under the fictitious name (specify):b. ☐ has complied with all licensing requirements as a licensed (specify):c. ☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3c.

4. a. Each defendant named above is a natural person

☐ except defendant (name):

- (1) ☐ a business organization, form unknown
- (2) ☐ a corporation
- (3) ☐ an unincorporated entity (describe):
- (4) ☐ a public entity (describe):
- (5) ☐ other (specify):

☐ except defendant (name):

- (1) ☐ a business organization, form unknown
- (2) ☐ a corporation
- (3) ☐ an unincorporated entity (describe):
- (4) ☐ a public entity (describe):
- (5) ☐ other (specify):

* If this form is used as a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

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4. (Continued)

b. The true names of defendants sued as Does are unknown to plaintiff.

(1) ☒ Doe defendants (specify Doe numbers): 1 through 5 were the agents or employees of the named defendants and acted within the scope of that agency or employment.(2) ☒ Doe defendants (specify Doe numbers): 6 through 10 are persons whose capacities are unknown to plaintiff.c. ☐ Information about additional defendants who are not natural persons is contained in Attachment 4c.d. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):5. ☒ Plaintiff is required to comply with a claims statute, anda. ☒ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):6. ☐ This action is subject to ☐ Civil Code section 1812.10 ☐ Civil Code section 2984.4.

7. This court is the proper court because

a. ☒ a defendant entered into the contract here.b. ☐ a defendant lived here when the contract was entered into.c. ☐ a defendant lives here now.d. ☐ the contract was to be performed here.e. ☐ a defendant is a corporation or unincorporated association and its principal place of business is here.f. ☐ real property that is the subject of this action is located here.g. ☐ other (specify):

8. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

☒ Breach of Contract☒ Common Counts☒ Other (specify):
Fraud9. ☐ Other allegations:

10. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

a. ☒ damages of: \$ 29,000.00b. ☒ interest on the damages(1) ☐ according to proof(2) ☒ at the rate of (specify): 10 percent per year from (date): March 25, 2006c. ☐ attorney's fees(1) ☐ of: \$(2) ☐ according to proof.d. ☒ other (specify):

Any other relief the Court may seem just and proper in favor of Plaintiff

11. ☐ The paragraphs of this pleading alleged on information and belief are as follows (specify paragraph numbers):

Date: December 11, 2009

ISABEL HERNANDEZ

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

(If you wish to verify this pleading, affix a verification.)

SHORT TITLE:

HERNANDEZ v. THOMAS

CASE NUMBER:

FIRST

(number)

CAUSE OF ACTION—Breach of Contract

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

BC-1. Plaintiff (name): ISABEL HERNANDEZ

alleges that on or about (date): November 2002

a ☒ written ☐ oral ☐ other (specify):

agreement was made between (name parties to agreement):

DAMON THOMAS and KIMBERLY KARDASHIAN THOMAS

☐ A copy of the agreement is attached as Exhibit A, or☒ The essential terms of the agreement ☐ are stated in Attachment BC-1 ☐ are as follows (specify):

Defendants hired Plaintiff to perform cleaning services at their residence(s), for which they [Def promised to pay Plaintiff \$150/wk/\$7,800/yr within thirty days from the performance of such services. Such payments were memorialized in writing by the issuance of check(s) containing the quantity of payment, time covered for it, the identity of the parties, the price of the subject matter and the memo showing the purpose for such payment(s). See Exhibit "1" attached.

BC-2. On or about (dates): November 2008

defendant breached the agreement by ☐ the acts specified in Attachment BC-2 ☒ the following acts (specify):

Defendants refused to pay for Plaintiff's services [through such time] despite of repeatedly promises they made to Plaintiff to make an Unpaid [NSF] Check good -issued for Plaintiff's services she performed at their request. Such promises to pay included payment for services performed through January 2009. A true and correct copy of the NSF check is attached hereto marked as Exhibit "2" and incorporated by this reference.

BC-3. Plaintiff has performed all obligations to defendant except those obligations plaintiff was prevented or excused from performing.

BC-4. Plaintiff suffered damages legally (proximately) caused by defendant's breach of the agreement

☐ as stated in Attachment BC-4 ☒ as follows (specify):

\$13,100.00 as for a NSF Check for services performed by Plaintiff through December 2006

\$ 7,800.00 as for services performed by Plaintiff through December 2007

\$ 7,800.00 as for services performed by Plaintiff through December 2008

\$ 300.00 as for services performed by Plaintiff through January 2009

BC-5. ☐ Plaintiff is entitled to attorney fees by an agreement or a statute☐ of \$☐ according to proof.BC-6. ☒ Other:

Any other relief the Court may deem just and proper in favor to Plaintiff.

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**PLAINTIFF'S
EXHIBIT "1"**

HERNANDEZ v. THOMAS

SHORT TITLE:

HERNANDEZ v. THOMAS

CASE NUMBER:

SECOND

(number)

CAUSE OF ACTION—Fraud

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

FR- 1. Plaintiff (name): ISABEL HERNANDEZ

alleges that defendant (name): DAMON THOMAS and KIMBERLY KARDASHIAN THOMAS

on or about (date): March 25, 2006 defrauded plaintiff as follows:

FR-2. ☒ Intentional or Negligent Misrepresentationa. Defendant made representations of material fact ☐ as stated in Attachment FR-2.a ☒ as follows:

Plaintiff was made believed that Defendants promises to make a NSF Check GOOD until November 2008 when it became obvious to Plaintiff that Defendants' promises were just for the purpose keep benefiting from Plaintiff's services without the intention to pay for it. Defendants paid for Plaintiff's services performed at their request with a NSF Check with their knowledge and acknowledgement that such instrument could have not been cashed by Plaintiff and/or paid by the[ir] financial institution. Refer to Exhibit "2"

b. These representations were in fact false. The truth was ☐ as stated in Attachment FR-2.b ☒ as follows:

The Defendants -after obtaining the services of Plaintiff as they [Defendants] requested it, issued an (NSF) check to cover through 2006, which they knew it was not negotiable for the reasons stated in item FR-2 above. Defendants acted with malice against Plaintiff with the sole intention to defraud Plaintiff after benefiting from Plaintiff's cleaning services at their [Defendants] residence(s).

c. When defendant made the representations,

☒ defendant knew they were false, or☐ defendant had no reasonable ground for believing the representations were true.

d. Defendant made the representations with the intent to defraud and induce plaintiff to act as described in item FR-5. At the time plaintiff acted, plaintiff did not know the representations were false and believed they were true. Plaintiff acted in justifiable reliance upon the truth of the representations.

FR-3. ☒ Concealmenta. Defendant concealed or suppressed material facts ☐ as stated in Attachment FR-3.a ☒ as follows:

The Defendants knew that such instrument they used to pay for Plaintiff's services was not negotiable at any time after its execution

b. Defendant concealed or suppressed material facts

☐ defendant was bound to disclose.☒ by telling plaintiff other facts to mislead plaintiff and prevent plaintiff from discovering the concealed or suppressed facts.

c. Defendant concealed or suppressed these facts with the intent to defraud and induce plaintiff to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of the concealed or suppressed facts and would not have taken the action if plaintiff had known the facts.

Page ONE

SHORT TITLE:

HERNANDEZ v. THOMAS

CASE NUMBER:

SECOND

(number)

CAUSE OF ACTION—FraudFR-4. ☒ **Promise Without Intent to Perform**

- a. Defendant made a promise about a material matter without any intention of performing it ☐ as stated in Attachment FR-4.a ☒ as follows:

By issuing such instrument, Defendants told Plaintiff that such instrument was as good as their [Defendants] own, inducing Plaintiff to continue performing cleaning services for their [Defendants] residence(s) at their request through January 2009.

- b. Defendant's promise without any intention of performance was made with the intent to defraud and induce plaintiff to rely upon it and to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of defendant's intention not to perform the promise. Plaintiff acted in justifiable reliance upon the promise.

FR-5. In justifiable reliance upon defendant's conduct, plaintiff was induced to act ☐ as stated in Attachment FR-5 ☒ as follows:

Plaintiff continued performing cleaning services [through January 2009] for Defendants' residence(s) at their request without interruption.

FR-6. Because of plaintiff's reliance upon defendant's conduct, plaintiff has been damaged ☒ as stated in Attachment FR- 6 ☐ as follows:

FIR - 7. Other:

Defendants have been demanded to pay for Plaintiff's cleaning services in order to comply with their part of the agreement, including issue of the unpaid instrument they used to pay for services performed by Plaintiff, but they have just ignored Plaintiff's demands for payments including their refusal to: return phone calls made by Plaintiff, reply to letters mailed to them, and even hiding from Plaintiff by moving away from the residence(s) without disclosing to Plaintiff of their new location.

03/27/2006

This is a LEGAL COPY of
your check. You can use
the same way you would
use the original check.

31 MAR 2006

DAMON THOMAS

Date 3/23/06 1379

Pay to the Order of Isabel Hernandez \$ 13,100.00

Thirteen thousand one hundred Dollars

FIRST REPUBLIC BANK
Powers Building San Diego
1000 Camino del Rio
San Diego, CA 92108
Tel Fax: 619-594-7777

For 44-04-DIG 06

GUARDIAN SAFETY GLASS WOOD

Maker Name:DAMON THOMAS

Depositor Name:ISABEL HERNANDEZ

Payee Name:ISABEL HERNANDEZ

Processing Date:03/28/2006

Drawee Bank MICR:

Drawee Bank:FIRST REPUBLIC BANK

Branch:BANK OF AMERICA

Maker Account:

Date of Deposit:03/24/2006

Maker Check:1379

Depositor Account

Check Amount:13,100.00

Trace / Proof

Return Reason:NSF.

Trasaction #:

Notifiying Bank:FIDELITY INFO. SERVICE

Remarks:N/A

17:56