

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

CONSTANT CONTENT CO.	:	CASE NO.: 24CV006509
	:	
Plaintiff,	:	JUDGE JULIE LYNCH
	:	
vs.	:	
	:	
OHIO REPUBLICAN PARTY	:	
	:	
Defendant.	:	
	:	

**PLAINTIFF CONSTANT CONTENT COMPANY’S MOTION FOR SUMMARY
JUDGMENT AGAINST DEFENDANT OHIO REPUBLICAN PARTY**

Plaintiff, Constant Content Company, by and its through counsel, David A. Goldstein Co., L.P.A., hereby moves this Court, pursuant to Ohio Civ.R. 56(C), for an Order granting Summary Judgment as there are no genuine issues of material fact in dispute, as Defendant breached its oral contract with Plaintiff and in the alternative Plaintiff provided and paid for services that benefited Defendant at Defendant’s request. As such, Plaintiff is entitled to judgment as a matter of law. A Memorandum in Support of this motion is attached hereto and incorporated herein.

Respectfully submitted,

/s/ David A. Goldstein
DAVID A. GOLDSTEIN (0064461)
David A. Goldstein Co., L.P.A.
511 S. High Street, Suite 200
Columbus, OH 43215
(614) 222-1889
(614) 222-1899 (Fax)
dgoldstein@dgoldsteinlaw.com
Attorney for Plaintiff
Constant Content Company

MEMORANDUM IN SUPPORT

I. PROCEDURAL POSTURE

On August 22, 2024, Plaintiff filed the instant matter against Defendant, asserting claims for breach of an oral contract, including an assertion that said breach was done in bad faith and, in the alternative, unjust enrichment and promissory estoppel. *See* Plaintiffs' Complaint.

On September 20, 2024, Defendant filed its answer, denying the allegations. *See* Defendant's Answer.

The matter is scheduled for trial on February 17, 2026.

II. STATEMENT OF FACTS

Plaintiff was an entity formed in 2017 for the purpose of providing services to Republican political candidates and Republican political organizations, including Defendant. [Deposition of Jeffrey Longstreth, pp. 12:6-11; 28:22-24 and 29:1-15]. The services provided by Plaintiff to clients and Defendant included the design/content of political mailers/fliers, printing of political mailers/fliers, the mailing of the political mailers/fliers, yard signs, online advertisements for candidates, and other political services. [*Id.* at pp. 29:16-24; 30:1-7].

Plaintiff would typically contract with a third party who would assist with the design/content, printing, and mailing of political mailers/fliers. [*Id.* at pp. 30:8-24;31:1, and *See* Exhibit G attached to the Deposition of Robert Secaur as an example of the mailers/fliers].

In early 2020, Defendant worked with the House Republican Campaign Committee ("HRCC"). In late 2019 and early 2020, there were Republican primaries to be held for candidates seeking the Republican nomination for the House of Representatives. HRCC requested Plaintiff as their vendor to provide political services to candidates endorsed by HRCC. Defendant agreed

to work with Plaintiff to provide these services. [*Id.* at pp. 38-39; Deposition of Robert Secaur, p. 21:9-21; Deposition of Cameron Sagester, p.18:9-18].

Before Plaintiff provided services to Defendant, in January/February of 2020, the parties, specifically Robert Secaur (“Secaur”), the executive director of the Ohio Republican Party, and Jeffrey Longstreth, owner of Constant Content, agreed to the following: (1) Constant Content would work with HRCC to design the political piece for the early 2020 primaries and then submit to Defendant for approval; (2) once approved by Defendant, Constant Content would print and thereafter mail out the mailers/fliers; and (3) Constant Content would invoice Defendant, with a 10% mark up on the pieces not postage and Defendant would pay the invoices. [Secaur Dep. at pp 22:10-24;23:1-24,24:1-24;25:1-8; Sagester Dep. at pp. 18:24;19:1-15; Longstreth Dep. 49:1-11].

After the oral agreement was entered into between Plaintiff and Defendant, in early 2020, Plaintiff contracted with Mighty Group to assist with the design, printing, and mailing of the mailers/fliers. [See Exhibit A, Affidavit of Adam Maust]. Pursuant to the oral agreement, Defendant would be provided the proposed mailer/flier during the design and content phase. Defendant would review the mailer/flier, suggest edits, and provide its approval for the mailer/flier to be printed and mailed out. [Sagester Dep. pp. 20:7-24;39-69 as well as Exhibits D and I attached to Sagester Dep.]. After the approval by Defendant, Plaintiff would instruct Mighty Group to print and mail out the mailers/fliers.

On each of the mailers/fliers, whereby Plaintiff has asserted it was not paid by Defendant, it stated “Paid For by The Ohio Republican Party”. [See Ex. G, H and I attached to Sagester and Secaur Dep.]. Defendant (The Ohio Republican Party) approved this representation because (1) by law, as all candidates are, to disclose who is actually sending the mail or who is actually providing

the advertisement on behalf of the candidate, and (2) Defendant was paying for the mailer/flier, including postage. [Sagester Dep. pp. 32:1-23;33:1-9].

Plaintiff and Mighty Group worked on designing the mailers/fliers for the benefit of the Ohio Republican Party. If Republican candidates are elected, it benefits Defendant. [*Id.* at 91:2-11].

Between January/February through April of 2020, Mighty Group provided services at the request of Plaintiff for the design, production, and mailing of political mailers/fliers for candidates authorized by Defendant. [Ex. A.]. In order to secure a reduced rate for postage, Mighty Group contacted Constant Content, who in turn contacted Defendant to request Defendant to grant the mailing house provider, Baseman Printer, permission to use Defendant's non-profit permit for postage. [*Id.* at 34:4-24;44:2-24;45:1-22;46:1-9, Ex. D and J attached to Sagester Dep.].

The mailers/fliers produced by Mighty Group were mailed out to the public. [Ex. A. and *see* Ex. 2 attached to Ex. A. and Exhibit B, Affidavit of Jeffrey Longstreth].

The cost of these services provided by Mighty Group, which included design, production, and postage, was to be paid by Mighty Group's customer Constant Content and was, in fact, paid by Constant Content. [*Id.*, *see* Ex. 1 attached to Ex. A, Ex. B and Exhibit C, Huntington Bank records¹].

The services provided by and paid for by Constant Content, as reflected in Exhibit A attached to Exhibit 1 and Exhibit C, were not all to be paid by Defendant. Plaintiff sent invoices to Defendant, with its agreed-upon markup, for Defendant to pay only those amounts attributable

¹ Attached as Exhibit B are the relevant portions of certified Huntington Bank records for the account holder Constant Content (redacted and highlighted relevant portions), setting forth payments to Mighty Group for services rendered for the benefit of Defendant.

to what Defendant agreed to pay Plaintiff. [Longstreth Dep. pp. 55-62;74, see Ex. 1 and 3 attached to Longstreth Dep.].

The first invoice, invoice number 1094, was sent on May 12, 2020, to Defendant reflected an amount owed to Plaintiff of \$357,115.13. [*Id.*; Secaur Dep. pp. 53:17-24;54: 1-10, see Ex. E attached to Secaur Dep.]. Upon receipt of the invoice, Secaur approved payment of the invoice and forwarded it to Defendant's accounting and operations director Tom Dains to pay Plaintiff. [Secaur Dep. pp. 15:9-12;54:11-24;55:1;59:13-16].

On May 28, 2020, Defendant issued a check payable to Constant Content for \$357,115.13 and in the remittance portion of the check referenced Invoice Number 1094. [*Id.* at 60:8-24;61:1 and Ex. F, attached to Secaur Dep.]. Sometime before mid-July of 2020, Secaur contacted a representative of Plaintiff and requested Plaintiff not to negotiate the check because Defendant (The Ohio Republican Party) had insufficient funds in its account. [*Id.* at pp. 62:15-24;64:3-7]. In other words, the check issued by the Ohio Republican Party to Plaintiff would have bounced if Plaintiff attempted to negotiate the check. In good faith and reliance upon representations made by Defendant that it would advise when the check could be negotiated so Plaintiff would be paid, Plaintiff did not negotiate the check.

On July 21, 2020, a Federal indictment was unsealed, whereby Jeffrey Longstreth, along with other individuals, including Larry Householder, were named defendants. Plaintiff was NOT named as a Defendant referenced as engaging in any illegal conduct in the indictment.

Knowing it owed money to Plaintiff, knowing the services were provided to Defendant and the mailers/fliers were sent out on behalf of Defendant's candidates, Defendant, without any legal justification and in bad faith, refused to pay Plaintiff \$357,115.13.

In November of 2020, Plaintiff discovered it had not billed Defendant for additional services it provided and paid for on behalf of Defendant. [Longstreth Dep. pp. 74:5-24;75-76]. Plaintiff sent these invoices to Defendant for payment, and again Defendant refused to pay these invoices. [Longstreth Dep. Ex. 3]. The additional amount owed to Plaintiff by Defendant is \$235,950.60. [*Id.*]

To date, Defendant has failed to pay Plaintiff \$593,065.73 for services Plaintiff provided to Defendant. [*Id.* at 45:7-11]. To its detriment, Plaintiff paid a third party, Mighty Group, expecting Defendant to reimburse Plaintiff for the costs plus its 10% markup.²

III. LAW AND ARGUMENT

A. Standard for Summary Judgment

Summary judgment, governed by Rule 56(C) of the Ohio Rules of Civil Procedure, is proper in this matter in favor of Plaintiff Constant Content. Civil Rule 56(C) states in pertinent part:

Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence in the pending case, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

Rule 56(C) mandates the entry of summary judgment against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case. *Hodgkinson v. Dunlap Tire & Rubber Corp.*, (1987), 38 Ohio App. 3d 101. The Ohio Supreme Court has further held that a Motion for Summary Judgment forces a non-moving party to produce evidence on any issues for which that party has the burden at Trial. *Wing v. Anchor Media, Ltd. of*

² Defendant did not charge any markup for postage.

Texas, (1991), 59 Ohio St. 3d 108. In *Wing*, the Court held "a motion for summary judgment forces a non-moving party to produce evidence on any issues for which that party bears the burden at trial. *Id.* (Emphasis added).

The party moving for summary judgment bears the initial burden of producing some evidence that affirmatively demonstrates the lack of any genuine issue of material fact. *Dresher v. Burt* (1996), 75 Ohio St.3d 280, 292-93

The non-moving party must then rebut the moving party's evidence by demonstrating specific facts that show the existence of a genuine, triable issue; the non-moving party may not rest on the mere allegations or denials in that party's pleadings. *Id.*; *see also Ohio Civ.R. 56 (E)*.

B. Plaintiff is Entitled to Summary Judgment as a Matter of Law on its Breach of Contract Claim

To recover on a breach of contract claim, a plaintiff must prove (1) the existence of a contract; (2) performance by the plaintiff; (3) breach by the defendant; and (4) damage or loss to the plaintiff. *Depompei v. Santabarbara*, 8th Dist. Cuyahoga No. 101163, 2015-Ohio-18, ¶ 20; *Underwood v. Boeppler*, 12th Dist. Butler No. CA2014-02-055, 2015-Ohio-156, 2015 WL 255978, ¶ 13.

The essential elements of a contract include an offer, acceptance, contractual capacity, consideration, a manifestation of mutual assent, and legality of object and consideration. *Artisan Mechanical, Inc. v. Beiser*, 12th Dist. Butler No. CA2010-02-039, 2010-Ohio-5427, 2010 WL 4514275, ¶ 26. "Mutual assent or 'a meeting of the minds' means that both parties have reached an agreement on the contract's essential terms." *Nguyen v. Chen*, 12th Dist. Butler No. CA2013-10-191, 2014-Ohio-5188, 2014 WL 6612424, ¶ 43, quoting *Beiser* at ¶ 27. The essential terms of a contract include the identity of the parties to be bound, the subject matter of the contract, the

consideration to be exchanged, and the price to be paid. *Turner v. Langenbrunner*, 12th Dist. Warren No. CA2003-10-099, 2004-Ohio-2814, 2004 WL 1197213, ¶ 13.

Contracts may be written or oral. *Ayad v. Radio One, Inc.*, 8th Dist. No. 88031, 2007–Ohio–2493, ¶ 24, citing *Eckliff v. Walters*, 168 Ohio App.3d 727, 861 N.E.2d 843, 2006–Ohio–4817, ¶ 22. An oral contract may be enforceable when the terms of the agreement are sufficiently particular. *Kostelnik v. Helper*, 96 Ohio St.3d 1, 2002-Ohio-2985, 770 N.E.2d 58, ¶ 15. “Terms of an oral contract may be determined from the parties’ words, deeds, and acts, as well as their silence.” *A N Bros. Corp. v. Total Quality Logistics, L.L.C.*, 12th Dist. Clermont, 2016-Ohio-549, 59 N.E.3d 758, ¶ 26. However, seldom, if ever, does the evidence establishing an oral contract present its terms in the exact words of offer and acceptance found in formal written contracts. *Santabarbara* at ¶ 22. **Rather, the goal in enforcing oral contracts is to hold people to the promises they make (*with emphasis*). *Id.***

1. Defendant Entered into an Oral Contract with Plaintiff for Plaintiff to Provide Political Mailers/Fliers for Republican Candidates on Behalf of Defendant and Plaintiff Fulfilled its Obligations to Prove A Breach of Contract.

There is no dispute that an oral contract was formed in early 2020 by and between Plaintiff and Defendant, and Defendant fulfilled its obligations under the contract. Defendant’s Executive Director, Rob Secaur testified in January/February of 2020, the parties agreed (1) Constant Content would work with HRCC to design the political mailers/fliers and then submit to Defendant for approval; (2) once approved by Defendant, Constant Content would print and thereafter mail out the mailers/fliers; and (3) Constant Content would invoice Defendant; and (4) Defendant would pay the invoices. [Secaur Dep. at pp 22:10-24;23:1-24,24:1-24;25:1-8; Sagester Dep. at pp. 18:24;19:1-15].

The actions of Defendant provide further evidence that an oral contract was reached between the parties. This included the following:

1. Per the agreement, Plaintiff would submit the mailers/fliers for approval to Defendant. [Sagester Dep. pp. 20:7-24;39-69 as well as Exhibits D and I attached to Sagester Dep.].
2. Defendant reviewed and requested changes to the mailers/fliers. [*Id.*]
3. Defendant had knowledge Plaintiff was working with Mighty Group for the design, printing, and mailing of the mailers/fliers and provided its approval to use its non-profit permit for postage. [*Id.* at 34:4-24;44:2-24;45:1-22;46:1-9, Ex. D and J attached to Sagester Dep.].
4. Defendant approved the mailers/fliers with the notice “Paid For by The Ohio Republican Party” as Defendant was well aware a contract existed and it was going to pay Plaintiff. [*See* Ex. G, H and I attached to Sagester and Secaur Dep.].
5. When Plaintiff submitted Invoice Number 1094 on May 12, 2020, for \$357,115.13, Secaur approved payment of the invoice, and Defendant issued a check to Plaintiff. [Secaur Dep. pp. 53:17-24;54:1-10, 60:8-24;61:1 see Ex. F attached to Secaur Dep.].

As set forth above, the parties’ words, deeds, and actions clearly establish that an oral agreement existed between Plaintiff and Defendant.

Furthermore, the record is uncontroverted that Plaintiff fulfilled its obligations under the agreement, specifically designing, printing, and mailing the mailers/fliers. [Ex. A, Ex. B, Ex. C and Ex. G and I attached to Secaur Dep.]. Plaintiff paid Mighty Group for the services it provided to Plaintiff on behalf of Defendant, which included payment for design, printing, and postage. [Ex. A., Ex. B and Ex. C.]. Defendant has not produced one shred of evidence Plaintiff did not perform under the agreement.

If the mailers/fliers were not produced or mailed out, (1) the candidates who were identified in said mailers/fliers would have complained; (2) Jeffrey Lomgstreth would not have received the

mailers/fliers; (3) Plaintiff would not have paid Mighty Group; (4) Defendant would not have issued payment on the first invoice; and (4) Mighty Group would have committed fraud. [Ex.B].

Plaintiff has provided un rebutted evidence demonstrating performance in fulfillment of its obligation under the agreement, and therefore, summary judgment must be granted in its favor.

2. Defendant Failed to Fulfill Its Contractual Obligation and Plaintiff has Incurred Damages.

A plaintiff is also required to prove, by a preponderance of the evidence, that the defendant failed to fulfill his contractual obligation. *Farmers State Bank v. Followay*, 9th Dist. No. 07CA0011, 2007-Ohio-6399, ¶13. Defendant failed to fulfill their contractual obligation by not paying for the services provided by Plaintiff.

A plaintiff seeking to recover on a breach of contract claim is required to show damage because of the breach. *Raze Internatl., Inc. v. Southeastern Equip. Co.*, 7th Dist. No. 14 JE 0015, 2016-Ohio-5700, 69 N.E.3d 1274, ¶64, citing *Textron Fin. Corp. v. Nationwide Mut. Ins. Co.*, 115 Ohio App.3d 137, 684 N.E.2d 1261, 1266 (9th Dist.1996). Furthermore, the amount of damages awarded must correspond to injuries arising from the breach. *Id.* Any damages awarded "should place the injured party in as good a position as it would have been in but for the breach." *Id.*

Defendant has refused to pay for the services for which it agreed to pay. Defendant initially paid one invoice, but because it did not have sufficient funds in its account, it requested Plaintiff not to negotiate the check. Thereafter, it refused to pay Plaintiff, asserting without any evidence that Plaintiff did not provide any services.

Again, Plaintiff has provided un rebutted evidence demonstrating (1) the services were provided and (2) it paid for the services provided for which it seeks payment from Defendant. [Ex

A, Ex. B, and Ex. C]. Defendant has no evidence to rebut this fact. [Secaur Dep. 77:3-9; Sagester Dep. 84:3-4;85:1-11].

As a result of the breach, no question of material fact exists that Plaintiff has incurred damages for the services it provided to Defendant.

3. Defendant's Breach by Failing to Pay Plaintiff Was Done In Bad Faith.

Ohio courts follow the "American rule," which provides in a breach of contract case each party is responsible for their own attorney fees except as otherwise provided for by statute or contract or when the opposing party acted in bad faith, vexatiously, wantonly, obdurately, for malicious reasons, or otherwise engaged in malicious conduct." *Strategy Group for Media, Inc. v. Lowden*, 5th Dist. Delaware No. 12 CAE 03 0016, 2013-Ohio-1330, ¶ 55, citing *Stambaugh v. T.C. Wood Realty, Inc.*, 5th Dist. Morrow No. 09 CA 00008, 2010-Ohio-3763, ¶ 36.

In Ohio, "public policy dictates that every contract contain an implied duty for parties to act in good faith and to deal fairly with each other." *Gator Dev. Corp. v. VHH, Ltd.*, 1st Dist. Hamilton No. C-080193, 2009-Ohio-1802, 2009 WL 1027584, ¶ 24.

The basis for Defendant not to pay Plaintiff and breach the contract was that Jeffrey Longstreth was indicted by a Federal Grand Jury, which called into question the "veracity of the invoice". [Secaur Dep. 28:14-21]. However, the record supports that this was not the basis at all. The reasoning behind not paying Plaintiff was that the Ohio Republican Party did not have the funds, and its leadership thought that after the owner (Longstreth) was indicted, it could stiff his company.

Bad faith embraces more than bad judgment or negligence. It is marked by a dishonest or fraudulent purpose, amoral conduct, conscious wrongdoing, or the breach of a known duty through

some ulterior motive or ill will. *Slater v. Motorists Mut. Ins. Co.*, 174 Ohio St. 148, 151 (1962).

Defendant's failure to pay was marked by amoral conduct, conscious wrongdoing, and the breach of a known duty through ulterior motive or ill will.

First, Plaintiff was not a named defendant in the indictment. Second, Plaintiff was not even mentioned in the indictment. Third, none of the allegations that gave rise to the indictment centered around or involved the design, printing, and mailing of political propaganda during this time frame or involved any of the candidates who were identified in the mailers/fliers. Fourth, the check issued to Plaintiff on May 28, 2020, whereby Defendant asked Plaintiff not to negotiate because the check would bounce, was voided a "few weeks" before July 21, 2020, which was the date the indictment was unsealed. [Secaur Dep. 69:4-13 and Ex. E attached to Secaur Dep.]. This was well before anyone knew about the indictment. Therefore, the assertion Defendant did not pay Plaintiff was due to the indictment being returned, and therefore questioning the veracity of the invoices was a false statement. Fifth, Defendant did not conduct any investigation or inquiry into whether the invoices were false. Defendant did not contact Mighty Group, did not contact any of the candidates to inquire if mailers/fliers were sent out, did not contact other members of Plaintiff's organization, (prior to undersigned counsel being involved) did not put anything in writing to Plaintiff advising it would not pay the invoices or demand proof that the services were provided. [Id. at 72:14-24;73:1-4;76:21-24;77:1-6; Sagester Dep.83:11-23;85:1-24;86:1-24;87:1-9]. Finally, Defendant had no evidence to suggest Plaintiff did not provide the services agreed upon in order to refuse to pay Plaintiff. [Secaur Dep. 77:3-9; Sagester Dep. 84:3-4;85:1-11].

Based upon the totality of circumstances, it is uncontroverted that Defendant acted in bad faith when it breached the agreement with Plaintiff.

C. Plaintiff is Entitled to Summary Judgment as a Matter of Law on Its Claim for Unjust Enrichment.

Plaintiff's second claim in its Complaint is for unjust enrichment. A party is permitted to plead alternative theories under Civ.R.8(E)(2) but is not entitled to recovery under both. *Bldg. Indus. Consultants, Inc. v. 3M Parkway, Inc.*, 182 Ohio App.3d 39, 2009-Ohio-1910, ¶17, 911 N.E.2d 356 (9th Dist). "While it is true that a party may not recover for the same services under both a contractual claim and a claim for [unjust enrichment], a party is not barred from seeking alternative theories and recovering under a[n] [unjust enrichment] theory if his contract claim fails." *Id.*

The basis of Plaintiff's claim is that it provided services to Defendant, and Defendant retained the services without paying for them. "[U]njust enrichment of a person occurs when he has and retains money or benefits which in justice and equity belong to another." *Hummel v. Hummel*, 133 Ohio St. 520, 528 (1938). "The doctrine of unjust enrichment provides an equitable remedy imposed to prevent injustice." *Giles v. Hanning*, 11th Dist. Portage No. 2001-P-0073, 2002-Ohio-2817, ¶13.

To successfully claim unjust enrichment, "a plaintiff must establish the following three elements: (1) a benefit conferred by a plaintiff upon a defendant; (2) knowledge by the defendant of the benefit; and (3) retention of the benefit by the defendant under circumstances where it would be unjust to do so without payment." *Rogers v. Natl. Citi Corp.*, 9th Dist. No. 91103, 2009-Ohio-2708, ¶27; *See Also Hambleton v. R.G. Barry Corp*, Ohio St. 3d 179, 183 (1984). Plaintiff can establish all three elements of this claim and is therefore entitled to summary judgment.

1. Defendant Benefited from the Services Provided to Them by Plaintiff.

Plaintiff conferred a benefit upon Defendant by providing Defendant with services for its candidates. The reason Defendant agrees to pay for the design, printing, and mailing of mailers/fliers is that the Republican candidates who are elected benefit Defendant. [Sagester Dep. 90:12-24;91:1-11].

2. Providing Legal Services Without Payment for Those Services Would be Unjust.

It would be unfair to Plaintiff to allow Defendant to retain the services, which the record sets forth were received, without compensating Plaintiff for the fair value of the services. Plaintiff has the right to have a benefit restored that was gained at its expense by the Defendant.

Plaintiff paid Mighty Group for the political mailers/fliers which were for the benefit of Defendant and the expectation Defendant would reimburse Plaintiff plus the 10% mark-up. [Ex.B]. The mailers/fliers were designed, printed, and mailed out, and therefore, Defendant benefited from the services provided by Plaintiff.

Based on these facts, there is no genuine issue of material fact that Defendant has benefited, and therefore, Plaintiff is entitled to summary judgment on its claim for unjust enrichment.

D. Plaintiff is Entitled to Judgment as a Matter of Law on its Promissory Estoppel Claim

Plaintiff has pleaded promissory estoppel in light of Defendant's promise to pay Plaintiff for the services it provided. Plaintiff detrimentally relied on Defendant's continued promise of payment and has suffered a financial loss due to its reliance. Plaintiff's assertion of promissory estoppel prevails because it establishes the prerequisite elements of such a claim.

To establish a claim for promissory estoppel, the plaintiff must demonstrate (1) a clear and

unambiguous promise; (2) reliance on the promise; (3) the reliance is reasonable and foreseeable; and (4) the party relying on the promise was injured by his or her reliance. *Connolly v. Malkamaki*, 11th Dist. Lake No. 2001-L-124, 2002-Ohio-6933, citing *Patrick v. Painesville Commercial Properties, Inc.*, 123 Ohio App.3d 575, 583 (1997). "The doctrine of promissory estoppel comes into play where the requisites of contract are not met, yet the promise should be enforced to avoid injustice." *Olympic Holding Co., L.L.C., v. ACE Ltd.*, 122 Ohio St.3d 89, 2009-Ohio-2057 ¶39, quoting *Doe v. Univision Television Group, Inc.*, 717 So.2d 63, 65 (Fla.App.1998). "To be successful on a claim of promissory estoppel, '[t]he party claiming the estoppel must have relied on conduct of an adversary in such a manner as to change his position for the worse and that reliance must have been reasonable in that the party claiming estoppel did not know and could not have known that its adversary's conduct was misleading.'" *Id.*, quoting *Shampton v. City of Sprinboro*, 98 Ohio St. 3d 457, 2003-Ohio-1913, ¶34, and *Ohio State Bd. of Pharmacy v. Frantz*, 51 Ohio St.3d 143, 145 (1990).

1. There was a Clear and Unambiguous Promise that Defendant Would Pay for Services.

First, there were "clear and unambiguous promises" made by Defendant to Plaintiff. Defendant, by and through Secaur, promised to pay Plaintiff for the costs of design, printing, and postage of mailers/fliers. [Secaur Dep. at pp 22:10-24;23:1-24,24:1-24;25:1-8; Sagester Dep. at pp. 18:24;19:1-15]. In reliance on Defendant's promise to pay, Plaintiff worked with Defendant and Mighty Group to produce and mail out the political mailers.

2. Any Reliance by Plaintiff was Reasonable.

In determining whether reliance is justifiable or reasonable, Ohio courts consider the nature

of the transaction, the form and materiality of the representation, the relationship of the parties and their respective means and knowledge, as well as other circumstances. *Radice Partners, Ltd. v. Angerman*, Ninth Dist. No. 90CA004861, 1991 Ohio App. LEXIS 209, at *12 (1991).

Here, Plaintiff justifiably relied on Defendant's promises to pay for services. This reliance was reasonable, in consideration of the relationship of the parties. Plaintiff would communicate with Defendant regarding the design of the mailers/fliers, edit said mailers/fliers at the direction of Defendant, obtain approval from Defendant to send the mailers/fliers to print and be mailed out, and used Defendant's nonprofit postage to pay for and mail out the mailers/fliers all based upon Defendant's promise to pay Plaintiff.

Plaintiff has established the justifiable reliance element of its promissory estoppel claim. As a result of Plaintiff's justifiable reliance on Defendant's promise to pay for services, Plaintiff was injured in the amount of \$593,065.73.

E. Plaintiff is Entitled to Pre- and Post-Judgment Interest.

Should this Court enter Summary Judgment for Plaintiff, Plaintiff, as a judgment creditor, is entitled to an award of post-judgment interest. R.C. 1343.03(A). Moreover, if Plaintiff prevails, Plaintiff is also entitled to an award of pre-judgment interest because it meets the requirements of the statute, and thus the award is non-discretionary. *See* R.C. 1343.03(C). *See, e.g., Musisca v. Massillon Cmty. Hosp., 1994-Ohio-451, 69 Ohio St. 3d 673, 676, 635 NE.2d 358, 360* ("if a party meets the four requirements of the statute, the decision to allow or not allow prejudgment interest is not discretionary.*** We hold that the provision of R.C. 1343.03(C) that a prejudgment interest award begins to run on the date the cause of action accrued is mandatory; a trial court may not adjust the date the award begins to run for equitable reasons.") Here, pursuant to R.C. 1343.03(C)

et seq., Plaintiff is entitled to prejudgment interest at the statutory rate set forth in R.C. 5703.47.

IV. CONCLUSION

For the reasons set forth above, Plaintiff respectfully requests that the Court grant summary judgment in its favor.

Respectfully submitted,

/s/ David A. Goldstein
DAVID A. GOLDSTEIN (0064461)
David A. Goldstein Co., L.P.A.
511 S. High Street, Suite 200
Columbus, OH 43215
(614) 222-1889
(614) 222-1899 (Fax)
dgoldstein@dgoldsteinlaw.com
Attorney for Plaintiff
Constant Content Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been sent via the electronic docketing system on this 11th day of August, 2025 to all counsel of record.

/s/ David A. Goldstein
DAVID A. GOLDSTEIN (0064461)
Attorney for Plaintiff