

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
FIRST MUNICIPAL, CIVIL DIVISION

141701473
CALENDAR/ROOM 1302
JAN 22 09:30
2014

Joseph Youngs

Plaintiff

Richard Jamisselis

No. _____

1720 N. Sedgwick, Chicago, Ill 60614

Defendant

Jury Demand Yes No

CIVIL ACTION COVER SHEET

A Civil Action Cover Sheet shall be filed with the complaint in all civil actions. The information contained herein is for administrative purposes only and cannot be introduced into evidence. Please check the box in front of the appropriate general category which best characterizes your action.

Civil Case (A)

- Tort not Personal Injury
- Confession of Judgment
- Replevin
- Define
- Foreign Judgment
- Filing Out of State/Out of Country
- Registration of Administrative Judgment

Tort/Personal Injury Case

Any wrong or damage done to another person, such as; physical pain, illness, or any impairment of physical condition resulting from the careless or negligent actions of others. The most common cases involve auto accident injuries.

- Personal Injury Motor Vehicle
- Dram Shop
- Product Liability
- Personal Injury Subrogation
- Personal Injury Motor Vehicle Subrogation
- Personal Injury Other
- Tort Intentional
- Property Damage

Other Litigation Case

(i.e. credit card agreements, any contract between two or more individuals)

- Breach of Contract
- Fraud
- Consumer Fraud
- Breach of Warranty
- Statutory Action Complaint

By: Perry Perelman

Atty. No.: 57398 Pro se 99500

Name: Perry Perelman

Atty. for: Plaintiff

Address: 2059 W. Chicago Avenue

City/State/Zip Code: Chicago, Ill, 60622

Telephone: 847-630-4177

Civil Case (B)

- Filing an Illinois Court Judgment
- Petition for Discovery
- A Petition to take depositions or subpoena records before a case is filed.

Civil Housing Case

(i.e. condominium conversion, conservation, demolition, objection to fast track, exterior walls/facades, fire protection, heat call (including Unincorporated Cook County), lead paint new developments, public nuisance, public places of amusement, strategic task force inspections)

- Housing
- Objection to Fast Track
- Criminal Ordinance Violation
- Heat Case
- Vacant Building

Pro Se Case Type

The Pro Se Court section of the Civil Division resolves disputes between parties where the amount at issue does not exceed \$3,000. The party may act as their own attorney. Forms can be completed at the Pro Se desk in Room 602.

- Pro Se (\$3,000 or less)

Eviction Case/Civil Forcible/CHA Forcible

A summary proceeding in which the landlord seeks to restore possession of the premises or payment of rent when the tenant has wrongfully withheld rent or possession of the premises.

- Forcible (possession only)
- Joint Action (possession and rent)
- Distress for Rent

Service via email will be accepted at:

PPerelman@PerelmanDorf.com

by consent pursuant to Ill. Sup. Court. Rules 11 and 131.

Pro Se Only: I have read and agree to the terms of the Clerk's Office Electronic Notice Policy and choose to opt. in to electronic notice for this case at this email address:

JAN 22 AM 11:21

2120 - Served 2220 - Not Served 2620 - Sec. of State
2121 - Alias Served 2221 - Alias Not Served 2621 - Alias Sec. of State

(07/01/13) CCM N081 A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

20141701473
CLERK'S OFFICE/ROOM 1302
DISTRICT 09:30
Forcible

JOSEPH YOUNES
Plaintiff(s)
v.
RICHARD DANIGGELIS
Defendant(s)
1720 N. SEDGWICK, CHICAGO, ILLINOIS 60614
Address of Defendant(s)

Case No. _____
Rent Amount Claimed: \$ _____
*Trial Date: _____ Time: _____
Court Location: _____

Please serve as follows: Sheriff Service Alias (Plaintiff check one)

**EVICITION SUMMONS FOR TRIAL
BEFORE YOU GO TO COURT, YOU MUST PAY YOUR APPEARANCE FEE.**

You are hereby **SUMMONED** to Court, however, you must file your appearance and pay the required fee with the Clerk of the Circuit Court's Office at the court location on this form, on or before the date and before the time of the trial. **IF YOU DO NOT FILE AN APPEARANCE** and contest the claim, a **JUDGMENT BY DEFAULT** may be entered for the relief requested in the complaint, ordering that you be evicted. If judgment is entered against you, the SHERIFF may evict you. A money judgment may also be entered against you if requested in the complaint.

The Plaintiff(s), named above, has/have filed a complaint in this Court to have you evicted. A true and correct copy of the complaint is attached.

THEREFORE, you, the Defendant(s), after you have filed an appearance, are hereby summoned to appear in person before this Court on* February 5th at 9:30 am p.m. in Courtroom _____ at _____
(Court Location)

at which time and place a **TRIAL** will be held on the complaint. (See top of this form if blanks not filled in.)
*Not less than 7 days nor more than 40 days after issuance of summons.

INSTRUCTIONS TO SHERIFF

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service and not less than seven (7) days before the day for appearance. If service cannot be made, this summons shall be returned so endorsed.

DOROTHY BROWN **JAN 22 2014**

Atty. No.: 57398
Name: PERELMAN | DORF, LLC
Atty. for: PLAINTIFF
Address: 2059 W. CHICAGO
City/State/Zip Code: CHICAGO, IL 60622
Telephone: 847.630.1477

WITNESS _____

DOROTHY BROWN, Clerk of Court
DATE OF SERVICE _____
(To be inserted by officer on copy left with Defendant or other person)

IMPORTANT INFORMATION FOR DEFENDANTS

THIS IS AN EVICTION SUMMONS

On the date and at the time shown on the other side, the court will decide whether you will have to move or whether you can continue to stay. **YOU MUST BE ON TIME FOR COURT. HAVING TO GO TO WORK, BEING ILL, OR DOING SOMETHING ELSE DOES NOT MEAN YOU CAN MISS COURT.**

Any person wishing to sue or defend a case as an indigent must petition the court to have the fees, costs, and charges associated with the proceedings waived

Customers may visit www.cookcountyclerkofcourt.org to access the Clerk's filing fees or telephone the Civil Division at (312) 603-5116 with additional questions.

IF YOU DO NOT COME TO COURT

The court may order you to move within a short period of time. **IF YOU DO NOT MOVE**, your landlord can have the SHERIFF move you and all of your belongings out. The sheriff will put your property outside and you will have to make arrangements to move it.

YOU HAVE RIGHTS

1. You have the right to come to court and tell your side of the case.
2. You have a right to a trial by jury. A request for a jury trial must be in writing and filed with the Clerk of the Circuit Court prior to your hearing. You must request the jury trial immediately when your case is called, before your trial actually starts.
3. You may come to court and speak for yourself, or you may have a lawyer represent you. If you want a lawyer, you must get one right away. If you are unable to come to court for any reason, you should talk to a lawyer.
4. If you do not have a lawyer, and are not able to afford one, you may call one of the following Lawyer Referral Services and ask them to recommend a lawyer for you:
 - **CARPLS (Cook County's Legal Aid Hotline):** Telephone (312) 738-9200
 - **Chicago Bar Association Lawyer Referral Service:** 321 S. Plymouth Ct., Chicago, IL 60604, Telephone (312) 554-2001
 - **Illinois Tenants Union Eviction Hotline:** Telephone (773) 478-1133
 - **Cook County Bar Association Lawyer Referral Service:** 39 S. LaSalle, Suite 1117, Chicago, IL 60603, Telephone (312) 630-1157
 - Other Lawyer Referral Services are listed in your telephone directory.
5. If you cannot afford a lawyer, you may call one of the following agencies that may be able to provide you with free legal help:
 - **Cabrini-Green Legal Aid:** 740 N. Milwaukee Ave., Chicago, IL 60642, Telephone (312) 738-2452 (CGLA) (Initial \$20 Fee)
 - **Chicago Volunteer Legal Services:** Telephone (312) 332-1624
 - **Legal Assistance Foundation of Metropolitan Chicago:** 120 S. LaSalle Street, Suite 900, Chicago IL 60603, Telephone (312) 341-1070, Fax (312) 341-1041
 - **Law Offices of Kent College of Law Advice Desk:** Room 602 Daley Center, Telephone (312) 603-3579
 - **Lawyer's Committee for Better Housing, Inc.:** 33 N. LaSalle, Suite 900, Chicago, IL 60602, Telephone (312) 347-7600, Fax (312) 347-7604

Participating agencies of the Housing Advocacy Consortium: Cabrini-Green Legal Aid; CARPLS; Chicago Lawyer's Committee for Civil Rights; Lawyers' Committee for Better Housing, INC.; Legal Assistance Foundation of Metropolitan Chicago; Metropolitan Tenants Organization and National Center on Poverty Law.

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT**

JOSEPH YOUNES

Plaintiff,

v.

RICHARD DANIGGELIS

Defendants.

20141701473
CALENDAR/ROOM 1302
TIME 09:30
Forcible

CASE NO.:

COMPLAINT AT LAW

NOW COMES, THE PLAINTIFF, JOSEPH YOUNES, (hereinafter Plaintiff) by and through his attorneys Perelman Dorf, LLC, and complains of the Defendant RICHARD DANIGGELIS (hereinafter Defendant), stating as follows.

1. Plaintiff JOSEPH YOUNIS, is an individual and is now and at all times mentioned in this complaint was a resident of Cook County, State of Illinois
2. Defendant, RICHARD DANIGGELIS, is now, and at all times mentioned in this complaint was, an individual residing in Cook County, State of Illinois.
3. On or about May 18, 2006, Defendant was the owner of the property located at 1720 N. Sedgwick, Chicago, Illinois.
4. On or about May 19, 2006, Plaintiff and Defendant entered into a written Real Estate Contract for the sale of the property described in paragraph 2, under the terms of which Plaintiff purchased the property from the Defendant for the price of \$850,000. A copy of the Real Estate Contract is attached to this complaint as Exhibit A and is incorporated by reference.
5. On or about July 9, 2006, a deed to the premises was endorsed by Defendant and delivered to the Plaintiff and was duly recorded in the office of the Cook County

FILED - CIV
CLERK OF THE CIRCUIT COURT
CIVIL DIVISION
2014 JAN 22 AM 11:06

Recorder of Deeds on August 16, 2006. A copy of the Warranty deed is attached to this complaint as Exhibit B and is incorporated by reference

6. On or about May 18, 2006, Defendant endorsed an Addendum (Revised) to Contract for Purchase (hereinafter Addendum), in which he agreed to vacate the property after ninety (90) days and relinquish possession of said property to the Plaintiff at that time. A copy of the Addendum[s] (Revised) to Contract for Purchase is attached to this complaint as Exhibit C and is incorporated by reference.
7. Additionally, in the Addendum (Revised) to Contract for Purchase, Defendant agreed, among other terms, to "leave the premises free of debris and personal belongings, and shall waive any right to a jury trial in a suit for possession and consents to an immediate entry of Order of Possession." See Exhibit C, paragraph 4.
8. Plaintiff has performed all conditions of the Real Estate Contract.
9. Defendant has refused and continues in his refusal to vacate the premises despite the expiration of the agreed upon ninety (90) days.
10. On December 28, 2013, the following Landlord's Five Day Notice and Final Notice to Vacate were served on the defendant, Richard Daniggelis. The notices was served by delivering a copy of the notice to Richard Daniggelis.
11. The Final Notice to Vacate states the terms of the Addendum whereby Defendant "shall waive any right to a jury trial in a suit for possession and consent[s] to an immediate entry of Order of Possession. All facts stated in the notice are true. A

copy of the notices are attached to this complaint as Group Exhibit D and are incorporated by reference.

12. The period in the notice specified in Paragraphs 10 and 11 expired on January 3, 2014, yet Defendant has refused and neglected to surrender possession of the premises and still holds over the premises without permission of Plaintiff.
13. The Addendum provides that the Defendant "waives any right to a jury trial in a suit for possession and consents to an immediate entry of Order of Possession.
14. The Plaintiff is entitled to immediate possession of the property located 1720 N. Sedgwick, Chicago, Illinois.

WHEREFORE, the Plaintiff, Joseph Younes, respectfully requests of this Honorable Court that Judgment be entered in favor of Plaintiff and against Defendant Richard Daniggelis, of:

1. Immediate possession of the premises; and
2. Reasonable attorney's fees; and
3. Costs incurred in this proceeding; and
4. Any further relief the court considers just and proper.

Respectfully submitted
JOSEPH YOUNIS

By: 
One of his Attorneys

Perelman | Dorf, LLC
Attorneys for Plaintiff
2059 W. Chicago
Chicago, Illinois 60622
(847) 630-1477
Firm # 57398

EXHIBIT "A"

05/15/2005 17:25

5388371948

SHELTON LAW GROUP

PAGE 02/05

REAL ESTATE CONTRACT
FORM APPROVED BY THE SOUTHWEST BAR ASSOCIATION
AND THE SOUTH SUBURBAN BAR ASSOCIATION



EXCEPTING FURTHER WRITING, UNLESS SO OTHERWISE PROVIDED, BUYER AND SELLER REPRESENT AND WARRANT TO EACH OTHER THAT NO ALTERATIONS HAVE BEEN MADE TO THIS CONTRACT FORM AS PUBLISHED BY THE BAR ASSOCIATIONS ABOVE.

SELLER: **RICHARD DANIGGELIS**
ADDRESS: **1720 N SEDGWICK CHGO IL 60614**
BUYER: **JOSEPH YOUNG**
ADDRESS: **357 ROSAHE CT PALMATE FL 33407**

- CHECK ONE
- COVENANT
 - SELLER'S FAMILY (Attach Rider 8)
 - TOWNHOUSE (Attach Rider 8, 9)
 - CONDOMINIUM (Attach Rider 8, 9)
 - YES NO (If no, attaching docs)
 - VACANT LOT

Buyer hereby agrees to purchase and Seller agrees to sell the following described real estate on the terms and conditions herein set forth.

PROPERTY: LEGAL DESCRIPTION (Buyer may check at any time thereafter)
ADDRESS: **1720 N SEDGWICK CHGO IL 60614**
COUNTY: **COOK** (STATE) **IL** (CITY)

LOT AND APPROXIMATELY **PDR SURVEY** FEET. **14.33-34 OFF-0000**

IMPROVED WITH **OPPORTUNITY** COUNTY **COOK** WITHIN VILLAGE/TOWNSHIP LIMITS OR UNINCORPORATED
Improvements attached to and forming a part of the premises, including but not limited to:
- foundation, walls, roof, floors, doors, windows, porches, patios, decks, stairs, etc.
- landscaping, including trees, shrubs, lawns, etc.
- swimming pools, hot tubs, etc.
- detached garages, etc.
- any other improvements or structures on the premises.

AS IS
NO SURVEY REQUIRED
BUYER OBTAINS TITLE

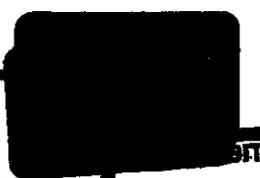
PRICE AND TERMS:
PURCHASE PRICE: **1850,000**
BUYER TO DEPOSIT: **1850,000**

BALANCE DUE AT CLOSING:
SCHEDULE: CASH VA (Attach Rider 9) FHA (Attach Riders 8 and 9)

WARRANTY: (CHECK ONE)
 Seller warrants that the premises are free of all liens, mortgages, judgments, and other encumbrances, except as stated in this contract.
 Seller warrants that the premises are free of all liens, mortgages, judgments, and other encumbrances, except as stated in this contract, and that the Seller has no knowledge of any other encumbrances.
 Seller warrants that the premises are free of all liens, mortgages, judgments, and other encumbrances, except as stated in this contract, and that the Seller has no knowledge of any other encumbrances, and that the Seller has no knowledge of any other encumbrances.

CLOSING: Closing shall be on **11/19/05** at the office of **Shelton Law Group**

CONVEYANCE: (Check one applicable option)
 Seller shall deliver possession to the buyer at closing.
 Seller shall deliver possession to the buyer **72** days from date of closing. Seller agrees to pay **monthly**



withholding, pending recording, or special assessment proceedings affecting the property.

6) Fictitious liens are hereby acknowledged as if they were original mortgages. All notices herein required shall be by writing and served upon the parties to this Contract and their successors in interest as if they were original mortgages. In the event the name and address of either party and the party's address, are omitted from the contract or any exhibits, within notice may be served upon such party's mailing, as last updated. Fictitious transmission of any other, completion, action, or other benefit provided to the parties, their broker or attorney, shall constitute a violation of the contract, including all other provisions hereof.

7) This Contract and any future amendments hereto shall constitute the entire agreement and understanding between the Seller and Buyer, and there are no other agreements, representations, or understandings, oral or written, between the parties with respect to the subject matter of this Contract. No modification, amendment, or supplement to this Contract shall be valid unless in writing and signed by all parties.

8) If any provision in a state statute (no statute is provided by Buyer) the parties shall each pay one-half of the fee for any state statute, legal representation and costs.

9) This Contract shall be binding upon and in full force and effect in the event of the death, disability, bankruptcy, legal representation and costs.

10) This Contract shall be subject to the provisions of the Real Estate Settlement Procedures Act, 12 U.S.C. 1601, known as the Real Estate Settlement Procedures Act, the terms of which are hereby incorporated herein and made a part hereof. Buyer represents that the information in the disclosures attached is accurate as of the Contract Date.

11) The liability of any participant in this Contract shall not be limited by the liability of any other participant or participant. If any provision of this Contract is determined to be unenforceable by a court, such provision shall be deemed severable and the Contract may be enforced with such provision revised or not modified by such court.

12) Prior to closing, Buyer shall have the right to enter the land and make a final inspection of the premises to determine that the participant in the condition required by the terms of this Contract. If there are any changes to the condition of the premises since the Contract Date, the Seller shall return the premises to the same condition as it was on the Contract Date, or as otherwise required by the terms of this Contract.

13) Seller shall pay for the State of Florida and County of Miami-Dade transfer taxes and stamp duty. Any transfer tax not paid by the party designated in the instrument of the property interest shall be the responsibility of the party designated in the instrument.

14) If Buyer has any existing mortgages on the property, Buyer shall have the option to prepay such mortgages at the time of closing.

15) If the Buyer or Seller under this Contract is an Illinois land trust, the beneficial beneficiaries thereof have signed their assent to this Contract to fulfill their obligations under the Illinois Trust Code, to give effect to the performance of this Contract, and to indicate that they hold the sole power of direction with respect to this trust.

16) In the event the terms of any future attached hereto conflict with the terms of this Contract, the Rider thereto shall control. In all other respects, the terms of this Contract shall remain in full force and effect. Exemplary provisions, uncodified, or held to be provisions, Buyer and Seller registered and entered to each other but no amendments have been made to the text of this Contract or any Riders, hereto, as published by the law association since. No other amendments of this contract form are permitted.

RESIDENTIAL REAL PROPERTY DISCLOSURE REPORT (SELLER'S PART) (REALTOR USE ONLY) where applicable, are attached hereto and incorporated hereto, and shall be deemed a part of this contract and shall be binding on the parties hereto. THE REAL ESTATE SETTLEMENT PROCEDURES ACT (FARPT) TERMS ARE NOT WITHSTANDING.

BUYER: Joseph Younes SELLER: Richard Danigelis

BUYER: Joseph Younes SELLER: RICHARD DANIGELIS

Date of Date: 5-16-05

Date of Acceptance: _____
 To be recorded only after the parties have agreed to all the terms and conditions of this Contract and there is no further action to be taken on the Contract Date.

IDENTITY OF SELLER'S AND BUYER'S ATTORNEYS (Please complete when recording the Contract)

BUYER'S ATTORNEY: _____ SELLER'S ATTORNEY: _____
 Telephone: _____ Telephone: _____
 Fax: _____ Fax: _____
 (postpaid) or (Post Office Subject to) _____
 (postpaid) _____

BUYER'S ADDRESS: _____ SELLER'S ADDRESS: _____
 Address: _____ Address: _____
 Telephone: _____ Telephone: _____
 Fax: _____ Fax: _____



EXHIBIT "B"

STEWART TITLE OF ILLINOIS
2 N. LaSalle Street
Suite 825
Chicago, IL 60602
312-646-4243

MAIL TO

This Instrument prepared by
(and after recording return)



Doc#: 0622826137 Fee: \$26.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 08/16/2008 12:26 PM Pg: 1 of 2

Paul L. Shelton
SHELTON LAW GROUP, LLC
1010 Jorie Blvd #144
Oak Brook, IL 60523
(630) 993-9999

STEWART 476918 3/4

WARRANTY DEED
Individual to Individual

THE GRANTOR, RICHARD DANIGGELIS, a single person, of the City of Chicago, County of Cook, State of Illinois, for and in consideration of TEN and NO/100ths Dollars (\$10.00), and other good and valuable consideration in hand paid, does sell, grant, convey and warrant unto the GRANTEE: JOSEPH YOUNES, of Palatine, Illinois, the following described real estate situated in the County of Cook, State of Illinois, to wit:

THE EAST 66 FEET OF LOT 8 IN C. J. HULLS SUBDIVISION OF BLOCK 51 IN CANAL TRUSTEE'S SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

CKA: 1720 North Sedgwick Street Chicago, Illinois 60614
PIN#: 14-33-324-044-0000

Subject to general real estate taxes not yet due and payable at the time of closing; covenants, conditions and restrictions of record, building lines and easements, if any; so long as they do not interfere with the current use and enjoyment of the Real Estate.

Hereby releasing and waiving all rights, if any, hereunder by virtue of the Homestead Laws of the State of Illinois.

IN WITNESS WHEREOF, the grantor RICHARD DANIGGELIS, has hereunto set his hand and seal on this 9th day of July, 2006.

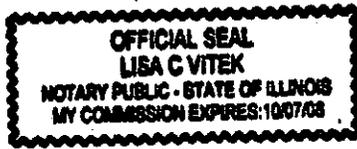
Richard Daniggelis
RICHARD DANIGGELIS

2/19

STATE OF ILLINOIS }
COUNTY OF COOK } SS

I, **LISA C VITEK**, a notary public, do hereby certify that **RICHARD DANIGGELIS**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

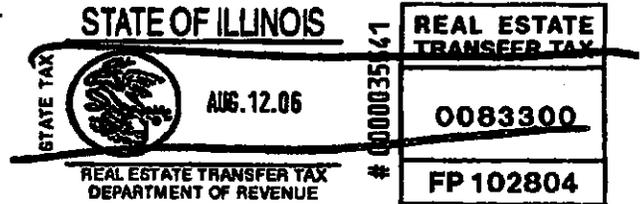
Given under my hand and seal this 9th day of *July* 2006.



Lisa C. Vittek
notary public

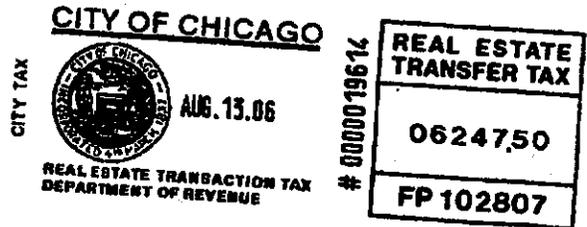
Prepared by:

Paul L. Shelton, Esq.
Shelton Law Group, LLC
1010 Jorie Blvd - Suite 144
Oak Brook, Illinois 60523



Mail to:

Paul L. Shelton, Esq.
Shelton Law Group, LLC
1010 Jorie Blvd - Suite 144
Oak Brook, Illinois 60523



Name and Address of Taxpayer:

Joseph Younes
120 West Madison - Suite 1405
Chicago, Illinois 60602

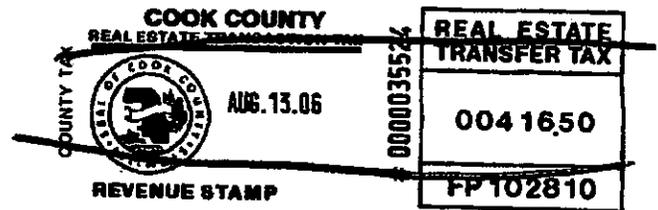


EXHIBIT "C"

ADDENDUM TO CONTRACT FOR PURCHASE
1720 N. SEDGWICK dated 5-16-2006

Parties

1. Richard Daniggelis ("RICHARD") is owner of 1720 N. Sedgwick Chicago, IL 60614
2. Joseph Younes ("JOSEPH") is purchaser of the property

Additional Terms

1. RICHARD shall receive one thousand dollars (\$1,000) prior to the closing.
2. RICHARD shall receive a total proceeds amount of five thousand dollars (\$5,000.00) at the closing.
3. JOSEPH agrees to allow RICHARD pursuant to the POSSESSION paragraph of the contract to post-possess the property for 90 days after closing.
4. RICHARD shall then vacate the premises after the 90 day period and leave the premises free of debris and personal belongings, and shall waive any right to a jury trial in a suit for possession and consents to an immediate entry of Order of Possession.
5. UPON vacation, RICHARD shall receive four thousand dollars (\$4,000.00).
6. If within the ninety days post-possession period, Richard is able to find money to repurchase the property, he will be entitled to do so for a purchase price of \$875,000.00
7. During the 90 day period, JOSEPH or his designated agents (but not Contractors to perform any work) may enter the premises a total of 10 times. It is assumed that JOSEPH shall need agents to visit for permit and survey work.

Agreed: 5-16-2006

Joseph Younes
Purchaser

X
Seller

ADDENDUM (REVISED) TO CONTRACT FOR PURCHASE
1720 N. SEDGWICK STREET, dated 5/18/2006

Parties

1. Richard Daniggelis ("RICHARD") is owner of 1720 N. Sedgwick, Chicago, IL 60614
2. Joseph Younes ("JOSEPH") is purchaser of the property.

Additional Terms

1. RICHARD shall receive one thousand dollars (\$1,000) prior to the closing.
2. RICHARD shall receive a total proceeds amount of five thousands dollars (\$5,000) at closing.
3. JOSEPH agrees to allow RICHARD pursuant to the POSSESSION paragraph of the contract to post-possess the property for ninety (90) days after closing.
4. RICHARD shall then vacate the premises after the 90 day period and leave the premises free of debris and personal belongings, and shall waive any right to a jury trial in a suit for possession and consents to an immediate entry of Order of Possession.
5. UPON vacation of the property, RICHARD shall receive four thousand dollars (\$4,000.00), which shall be held in escrow at closing to be released on the condition that Richard has vacated the premises; escrow subject to Richard's signature only. *RD*
6. If within the ninety days post-possession period, Richard (or assigns) is able to find money to repurchase the property, he will be entitled to do so for a purchase price of \$875,000.00 less the amount of the purchaser's construction costs/commitments and/or purchaser's second mortgage costs (if applicable), based upon settlement statement/HUD-1. *RD*
7. During the 90 day post-possession period, but no sooner than June 1, 2006, JOSEPH or his designated agents (but not Contractors to perform any work) may enter the premises a total of 10 (ten) times. It is assumed that JOSEPH shall need agents to visit for permit and survey work. *RD*

Agreed 5/18/2006

506 Adherson
Purchaser, Joseph Younes

Richard Daniggelis
Seller, Richard Daniggelis

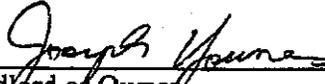
GROUP EXHIBIT "D"

FINAL NOTICE TO VACATE

Be advised, this is your final notice to vacate these premises. All of my attempts to resolve your breach of our agreement have gone unanswered. You have five days to vacate this property. If you have not delivered the property to me within five days, eviction proceedings will be started. Eviction is not an enjoyable experience for anyone. I am giving you this final notice to allow you the opportunity to leave these premises under you own power. If you fail to vacate, I will take all actions available to have you removed from the property, including but not limited to the enforcement of the Agreement that was entered into on May 18, 2006, in which you "shall waive any right to a jury trial in a suit for possession and consent[s] to an immediate entry of Order of Possession."

At this point any communication should be made with attorney, Perry Perelman at Perelman Dorf, LLC, who can be reached at 847.630.1477.

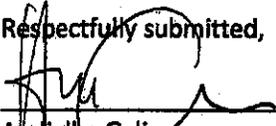
Date: December 13, 2013


Landlord of Owner

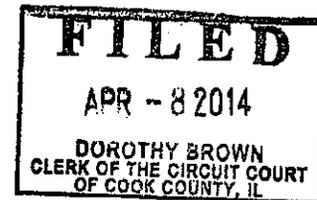
13. Defendant denies the validity and the authenticity of the document referred to in allegation number 13 of Plaintiff's Complaint.
14. Defendant denies allegations in paragraph 14 of Plaintiff's Complaint.

Wherefore, Defendant, RICHARD DANIGGELIS, prays for an order dismissing Plaintiff's Complaint so wrongfully brought against Defendant.

Respectfully submitted,



Andjelko Galic
Attorney for Richard Daniggelis



COUNTERCLAIM

COMMON LAW FRAUD

Now comes, the Counter-Plaintiff, RICHARD DANIGGELIS, by and through his attorney, Andjelko Galic, and complaining against Counter-Defendant, JOSEPH YOUNES, states as follows:

1. In May of 2006 Defendant, JOSEPH YOUNES, was an attorney licensed to practice law in the state of Illinois.
2. In May of 2006 and during the time leading to the closing on Counter-Plaintiff's property Counter-Defendant, JOSEPH YOUNES, by himself and through his agents, made representations that he wanted to help rescue Counter-Plaintiff from the pending foreclosure on his residence.
3. At all relevant times Counter-Defendant knew that his representations were false and that he did not have sufficient funds to purchase Counter-Plaintiff's property.
4. In order to deceive Counter-Plaintiff, Counter-Defendant appear in court on Counter-Plaintiff's behalf without entering his appearance on Counter-Plaintiff's behalf.
5. Counter-Defendant used the information obtained while acting as Counter-Plaintiff's attorney and as a Counter-Plaintiff's fiduciary in order to deceive Counter-Plaintiff and to strip the equity from Counter-Plaintiff's property.

6. Counter-Plaintiff has relied on Counter-Defendant's representations and representations of Counter-Defendant's agents in executing a deed that was supposed to be held in escrow and was not to be recorded or used for any other purpose including the transfer of Counter-Plaintiff's property to Counter-Defendant.

7. Counter-Plaintiff's reliance on Counter-Defendant's representations was justified given the fact that Counter-Defendant was a licensed attorney and that he appeared as a person interested in rescuing Counter-Plaintiff from losing his residence.

8. At all relevant times Counter-Defendant knew or should have known that he was involved in a classic foreclosure rescue fraud.

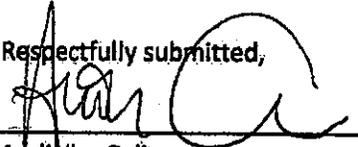
9. At all relevant times Counter-Defendant knew that he would not spend any of his funds to acquire Counter-Plaintiff's property.

10. At all relevant times Counter-Defendant knew that, Paul Shelton, his former law partner and his partner in this foreclosure rescue scam was involved in conflict of interest at several levels and that Counter-Defendant stood to benefit from these conflicts of interest.

11. As a result of Counter-Defendants actions Counter-Plaintiff has lost all of his equity and his residence and has incurred additional expenses and damages to be proved at trial.

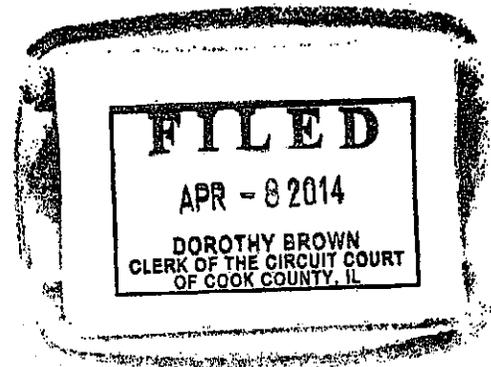
Wherefore, Counter-Plaintiff, Richard Daniggelis, prays for a judgment against Counter-Defendant, Joseph Younes in the in excess of \$50,000.00 and for attorneys fees and costs and for filing fees and costs.

Respectfully submitted,


Andjelko Galic

Attorney for Richard Daniggelis

Law Office of Andjelko Galic
134 N. LaSalle Street
Suite 1040
Chicago, Illinois 60602
Tel. 312 217-5433
Attorney No.: 33013



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PAGE 1 of 3
CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
MUNICIPAL DIVISION
CLERK DOROTHY BROWN

33013

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

PH YOUNES,)
)
Plaintiff,)
)
v.)
)
RICHARD DANIGGELIS,)
)
Defendant.)

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DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION TO DISMISS
DEFENDANT'S COUNTERCLAIM

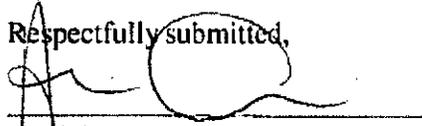
Now comes the Defendant, Richard Daniggelis, by and through his attorney, Andjelko Galic, and as his Response to Plaintiff's Motion to Dismiss states as follows:

1. On May 19, 2014 Plaintiff filed its motion to dismiss Defendant's counterclaim.
2. Plaintiff's motion to dismiss is based on a gross mischaracterization of the law and the facts related to this case. In addition, Plaintiff is relying on forged documents.
3. Plaintiff's motion to dismiss incorporates a copy of the alleged contract dated March 29, 2006 but the attached copy of that contract incorporated into Plaintiff's Exhibit 1 is not legible at all and it should be stricken.
4. Plaintiff is mischaracterizing Defendant's statement in paragraph 4 of Defendant's Answer to Plaintiff's Complaint. In this paragraph Defendant admitted that he entered into a contract with the Plaintiff but Defendant specifically denied that the sale was completed pursuant to his contract with the Plaintiff. See paragraph 4 of Defendant's Answer to Plaintiff's Complaint.
5. Plaintiff's Exhibit "C", attached to Plaintiff's Motion to Dismiss consists of two separate documents that have been executed by the Plaintiff and/or his agents in order to defraud Defendant and strip his equity from his property in a foreclosure-rescue-scheme designed by Plaintiff and his former law partner Paul Shelton.
6. In paragraph 93 of Plaintiff's Exhibit 3 submitted in support of Plaintiff's motion to Dismiss, Defendant, Richard Daniggelis specifically stated that the closing by which Plaintiff attempted to transfer title to Defendant's property "proceeded on July 28, 2006 without Daniggelis' knowledge, despite the express provision in the Power of Attorney that it was to be used only t facilitate payment of the arrearages" on Defendant's mortgage. See paragraph 9 of Plaintiff's Exhibit 3.

7. Plaintiff's Motion to Dismiss mischaracterizes Defendant's statements regarding the power of attorney used by the Plaintiff in order to implement the foreclosure-rescue-fraud scheme. The power of attorney given to Plaintiff's agents was limited in scope and was authorizing Erica Rhone only to pay Defendant's mortgage arrearage and not for execution of any type of deed or any other closing documents. This is a factual issue that has not been finally resolved in any litigation and thus Plaintiff's Motion to Dismiss is completely without any factual and legal support and thus it must be denied.
8. Plaintiff's reliance of Judge Otto's February 15, 2013 order is also misplaced. Judge Otto did enter an order on February 15, 2013 but that order is not a final order as of the time of filing of this Response.
9. Plaintiff has only recently filed its motion to include the 304(a) language in the February 15, 2013 order and that motion was granted on May 15, 2014. However, on the same date Plaintiff also presented a motion to dismiss the underlying foreclosure case and since this motion was presented before a different Judge and without any notice to Defendant, the motion to dismiss the underlying foreclosure case was actually granted.
10. Moreover, Richard Daniggelis has filed a timely motion to reconsider the order entered on May 15, 2014 by Judge Otto and the order entered on May 15, 2014 is not going to be final and appealable until Judge Otto rules on Defendant's motion to reconsider. In any case Plaintiff does not have a final judgment and thus Plaintiff is fundamentally mistaken about the application of principles of res judicata to the facts of this case.
11. In addition, Plaintiff is mistaken about his claim that Defendant did not pay the filing fee. This issue was already before this court and it was resolved in Defendant's favor because Defendant's 298 petition was granted and the order is part of the record in this matter.
12. Plaintiff's motion to dismiss is without any merit and it was filed in violation of the Supreme Court Rule 137. Plaintiff could not in good faith claim that it had a final order in the underlying case knowing that the 304(a) language was added to the order on 5-15-14.

For all of the above reasons Plaintiff's Motion to Dismiss Defendant's Counterclaim must be denied.

Respectfully submitted,



Andjelko Galic

LAW OFFICE OF ANDJELKO GALIC
134 N. LaSalle Street, Suite 1040
Chicago, IL 60602
(312) 986- 1510
Attorney No. 33013

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PAGE 2 of 3

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

JOSEPH YOUNES,

Plaintiff,

v.

RICHARD DANIGGELIS,

Defendant.

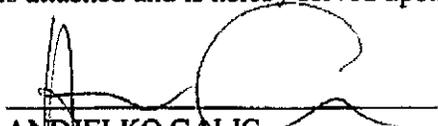
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TO: Perelman Dorf LLC
2059 W. Chicago Ave.
Chicago, IL 60622

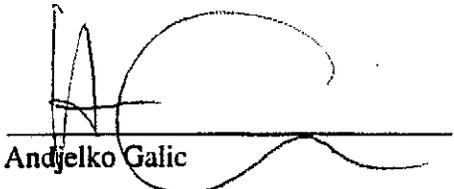
You are hereby given notice that on June 18, 2014, we electronically filed with the Clerk of the Circuit Court of Cook County Defendant's Response to Plaintiff's Motion to Dismiss Defendant's Counterclaim, a copy of which is attached and is hereby served upon you.



ANDJELKO GALIC
Attorney for Defendant
134 N. LaSalle Street, Suite 1040
Chicago, IL 60602
(312) 986- 1510
Attorney No. 33013

CERTIFICATE OF SERVICE

I, Andjelko Galic, an attorney, certify that I caused this Notice of Filing to be served on the above identified party by placing a copy of it in an envelope addressed the above party at the above address and depositing the same in the U.S. mailbox in Chicago, on June 18, 2014 with proper postage prepaid.


Andjelko Galic

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PAGE 3 of 3

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

JOSEPH YOUNES,

Plaintiff,

v.

RICHARD DANIGGELIS,

Defendant.

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CIRCUIT COURT OF COOK
COUNTY, ILLINOIS
CHANCERY DIV.
DOROTHY BROWN
CLERK

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DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT
PURSUANT TO THE ORDER ENTERED ON AUGUST 18, 2014

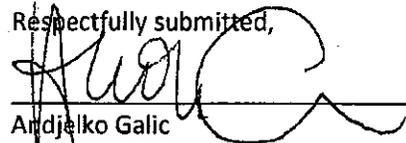
Now comes the Defendant, RICHARD DANIGGELIS, by and through his attorney, Andjelko Galic, and moves this Court to dismiss Plaintiff's complaint. In support of his motion Defendant states as follows:

1. On August 18, 2014 this Court entered an order with a specific finding that the principles of *res judicata* apply in this case because the parties have already litigated their claims against each other in Chancery Division under case number 07 CH 29738.
2. One of the objective behind doctrine of *res judicata* is to prevent litigants from claim-splitting.
3. Traditional claim-splitting is characterized as plaintiff's failure to raise an issue or request a remedy when afforded the opportunity in their initial lawsuit. See 1 Am. Jur. 2d Actions paragraph 103(2010).
4. The aversion to claim-splitting is incorporated into the underlying policy supporting *res judicata*. *Elliot v. LRSI Enter., Inc.*, 589 N.E.2d 1074, 1076-77 (Ill. App. Ct. 1992)
5. Illinois has historically adhered to the traditional form of the rule against claim-splitting. *Airtite v. DPR Ltd. P'ship*, 638 N.E.2d 241, 243 (Ill. App. Ct. 1994).
6. Here, if Defendant is barred from bringing his counterclaim, *inter alia*, due to the application of doctrine of *res judicata* then the same principle of *res judicata* must be applied against the Plaintiff.
7. In this case Plaintiff is seeking possession of Defendant's property. As a matter of fact Plaintiff has sought the same relief he now seeks from this court, two times during the pendency of the Chancery case (07 CH 29738). See attached Exhibit "A", a copy of Plaintiff's Motion for 304(a) finding and for Possession filed on September 9, 2013 and attached Exhibit "B", a copy of Plaintiff's Motion for Possession filed on December 31, 2013.

8. Plaintiff's Complaint for possession, in the case currently pending before this Court, was filed on January 22, 2014, during the time Plaintiff's December 31, 2013 Motion for Order of Possession was still pending before the trial court in the Chancery case (07 CH 29738).
9. If *res judicata* is already declared to be the law of this case by the order entered on August 18, 2014 then this Court must dismiss Plaintiff's complaint not only pursuant to the long standing law in Illinois against claim-splitting but also on grounds of *res judicata* because this doctrine applies equally to both litigants.

Wherefore, Defendant, RICHARD DANIGGELIS, prays for an order dismissing Plaintiff's Complaint so wrongfully brought against Defendant.

Respectfully submitted,



Andjelko Galic
Attorney for Richard Daniggelis

LAW OFFICE OF ANDJELKO GALIC
134 N. LaSalle Street, Suite 1040
Chicago, Illinois 60602
Tel. 312 986-1510
Attorney No.: 33013

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 COUNTY DEPARTMENT - CHANCERY DIVISION

FILED

CLERK OF THE CIRCUIT COURT
 CHANCERY DIVISION

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DOROTHY BROWN
 CLERK

GMAC Mortgage, LLC, U.S. Bank National Association, a national banking association as successor trustee to Bank of America, N.A., as Trustee for Morgan Stanley Loan Trust 2006-16AX,

Plaintiff/Counter-Defendant,

vs.

RICHARD DANIGGELIS,

Defendant/Counter-Plaintiff,

JOSEPH YOUNES; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., as Nominee for HLB Mortgage; Paul Shelton, Erika Rhone and Stewart Title of Illinois and Unknown Owners;

Defendants/Counter-Defendants.

07 CH 29738

CALENDAR 61

1720 North Sedgwick Ave.,
 Chicago, Illinois

DEFENDANT JOSEPH YOUNES' MOTION FOR RULE 304(A) FINDING AND ORDER OF POSSESSION

NOW COMES JOSEPH YOUNES ("YOUNES"), by and through his attorneys King Holloway LLC, and for his Motion for a Rule 304(a) Finding pursuant to Illinois Supreme Court Rule 304 and for Possession of the Subject Property, hereby states as follows:

1. On February 15, 2013, this Honorable Court entered an Order granting YOUNES' Motion for Summary Judgment against Defendant/Counter-Plaintiff RICHARD DANIGGELIS ("DANIGGELIS"). As a result of the February 15, 2013 Order, this Court held that YOUNES was the owner of the property subject to this litigation free and clear of any interest of DANIGGELIS and therefore there was no cloud on the title of YOUNES as it related to DANIGGELIS.

2. On that same date, this Court entered an Order granting summary judgment in favor of the Plaintiff GMAC MORTGAGE, LLC, U.S. Bank National Association, a national banking association as successor trustee to Bank of America, N.A., as Trustee for Morgan Stanley Loan Trust 2006-16AX ("GMAC") as to Count I of its Complaint seeking foreclosure, and denying Defendant DANIGGELIS' Motion for Summary Judgment against Plaintiff.

3. On March 8, 2013, this Court entered a separate Order wherein the Court, among other things, granted Plaintiff's Motion for Summary Judgment as to Counts I, II, III and V of DANIGGELIS' Counterclaim.

4. On June 14, 2013, this Honorable Court entered an Order denying DANIGGELIS' Motion to Reconsider this Court's Orders of February 15, 2013 and March 8, 2013 in their entirety.

5. As a result of the above-referenced Orders of February 15, 2013, March 8, 2013 and June 14, 2013, this Honorable Court has found, as a matter of law, that YOUNES is the legal owner of the Subject Property, free and clear of any interest of DANIGGELIS, and that DANIGGELIS has no interest whatsoever in the Subject Property.

6. Subsequent to the entry of the February 15, 2013, March 8, 2013 and June 14, 2013 Orders, YOUNES and Plaintiff GMAC entered into settlement negotiations and an agreement has been reached in principle, with the hope that a Sheriff's Sale can be avoided.

7. In order for YOUNES and GMAC to complete any settlement, the Fraudulent Document Notice recorded by DANIGGELIS with the Cook County Recorder of Deeds Office on April 20, 2007 and recorded as Document Number 0622826137 must be removed from the chain of title to the Subject Property, so that YOUNES has sufficient evidence to immediately

freely transfer the property to a potential buyer and then thereby satisfy the outstanding mortgage and avoid a Sheriff's Sale.

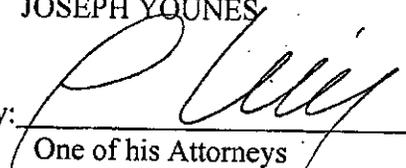
8. As a result of the tentative settlement agreement, there will be no confirmation of sale that would start the time running for which DANIGGELIS could appeal, if he so chooses.

9. As such, YOUNES hereby requests this Court enter a Finding pursuant to Illinois Supreme Court Rule 304(a) that, pursuant to the Orders of February 15, 2013, March 8, 2013 and June 14, 2013, that there is no just reason to delay enforcement or appeal therefrom.

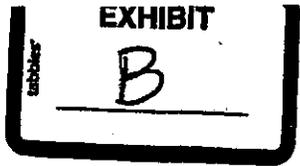
10. Moreover, because this Court has held that YOUNES is the owner of the Subject Property and that DANIGGELIS has no interest in same, YOUNES respectfully requests this Court enter an Order granting YOUNES possession of the Subject Property.

WHEREFORE, JOSEPH YOUNES respectfully requests that this Court enter a Finding pursuant to Illinois Supreme Court Rule 304(a), an Order for Possession of the Subject Property in favor of YOUNES, and for any further relief deemed just by this Court.

Respectfully submitted,
JOSEPH YOUNES

By: 
One of his Attorneys

KING HOLLOWAY LLC
101 N. Wacker Drive, Suite 2010
Chicago, IL 60606
312.780.7302
Atty. No. 48761



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CHANCERY DIVISION

DECEMBER 6 11

GMAC Mortgage, LLC, U.S. Bank National Association, a national banking association as successor trustee to Bank of America, N.A., as Trustee for Morgan Stanley Loan Trust 2006-16AX,

Plaintiff/Counter-Defendant,

vs.

RICHARD DANIGGELIS,

Defendant/Counter-Plaintiff,

07 CH 29738

CALENDAR 61

1720 North Sedgwick Ave.,
Chicago, Illinois

JOSEPH YOUNES; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., as Nominee for HLB Mortgage; Paul Shelton, Erika Rhone and Stewart Title of Illinois and Unknown Owners,

Defendants/Counter-Defendants.

MOTION FOR ORDER OF POSSESSION

NOW COMES JOSEPH YOUNES ("YOUNES"), by and through his attorneys King Holloway LLC, and for his Motion for Order of Possession, hereby states as follows:

1. On February 15, 2013, this Honorable Court entered an Order granting YOUNES' Motion for Summary Judgment against Defendant/Counter-Plaintiff RICHARD DANIGGELIS ("DANIGGELIS"). As a result of the February 15, 2013 Order, this Court held that YOUNES was the owner of the property subject to this litigation free and clear of any interest of DANIGGELIS and therefore there was no cloud on the title of YOUNES as it related to DANIGGELIS.

2. On June 14, 2013, this Honorable Court entered an Order denying DANIGGELIS' Motion to Reconsider this Court's Order of February 15, 2013 in its entirety.

3. As a result of the above-referenced Orders of February 15, 2013 and June 14, 2013, this Court has found as a matter of law that YOUNES owns the Subject Property free and clear of any interest of DANIGGELIS, and that DANIGGELIS has no interest whatsoever in the Subject Property.

4. YOUNES currently has pending before this Court a motion for 304(a) language which, if granted, will resolve all issues related to ownership of the Subject Property before this Court. Should YOUNES' Motion be granted, DANIGGELIS will be given his lawful thirty day period upon which he can file any notice of appeal, should he choose to pursue such an action.

5. YOUNES has settled all claims with the Plaintiff in this matter, and has executed a modification of mortgage with Plaintiff as part of the settlement. YOUNES is currently paying on this new mortgage, but does not have access to his Property.

6. Defendant DANIGGELIS is currently occupying the Subject Property, as he has been for over seven years, and is not paying YOUNES any rent, nor is DANIGGELIS paying property taxes on the Subject Property.

7. Having been found by this Court to own the Subject Property free and clear of any interest of DANIGGELIS, YOUNES is entitled to the use and enjoyment of his property. However, DANIGGELIS is currently trespassing on the premises and has expressed no intention to leaving said premises.

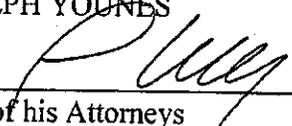
8. Because YOUNES is the lawful owner of the Subject Property, and DANIGGELIS refuses to vacate the premises, YOUNES is entitled to an Order of Possession which will allow him to enforce his rights over the Subject Property against DANIGGELIS.

9. Alternatively, should this Court not enter an Order of Possession, YOUNES respectfully requests this Court enter an Order requiring DANIGGELIS to make monthly payments for rent and taxes in an amount reflective of other rental properties in the location of the Subject Property.

10. YOUNES purchased the Subject Property in 2006, and has yet to be able to enter the premises or use and enjoy the Subject Property as he is entitled to under the law. YOUNES should not have to be required to wait for DANIGGELIS to decide whether to file an appeal without receiving any contribution from DANIGGELIS to the payment and maintenance of the Subject Property.

WHEREFORE, JOSEPH YOUNES respectfully requests that this Court enter an Order of Possession of the Subject Property in his favor, or in the alternative, enter an Order requiring DANIGGELIS to pay rent for his occupancy of the Subject Property, and for any further relief deemed just by this Court.

Respectfully submitted,
JOSEPH YOUNES

By: 
One of his Attorneys

KING HOLLOWAY LLC
101 N. Wacker Drive, Suite 2010
Chicago, IL 60606
312.780.7302
Atty. No. 48761

Atty No. 48761

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT**

JOSEPH YOUNES,)

Plaintiff,)

vs.)

No.: 14 M1 701473

RICHARD DANIGGELIS,)

Defendant/Counter-Plaintiff.)

PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS

NOW COMES the Plaintiff, JOSEPH YOUNES, by and through his attorneys, King Holloway LLC, and in Response to Defendant's Motion to Dismiss, states as follows:

PROCEDURAL HISTORY

1. On February 5, 2014 Plaintiff filed his complaint in forcible entry and detainer regarding his property located at 1720 N. Sedgwick, Chicago, Illinois hereinafter referred to as "the Subject Property." At the time of filing case 07 CH 29738, an action regarding the title of the Subject Property, was pending in Chancery.
2. On February 15, 2013 the Honorable Judge Otto issued an order granting Summary Judgment in favor of Plaintiff in case 07 CH 29738.
3. Defendant filed his Answer to Plaintiff's Complaint on April 8, 2014, and subsequently filed his Counter-Claim against Plaintiff on May 14, 2014.
4. On May 15, 2014, the Honorable Judge Otto issued a Memorandum of Judgment in case number 07 CH 29738, finding that Plaintiff is the sole owner of the Subject Property and dismissing Defendant's claims against Plaintiff, including Defendant's claim of fraud.

(A true and accurate copy of the May, 2014 Memorandum of Judgment is attached as “Exhibit 1”)

5. On May 19, 2014, Plaintiff filed his Motion to Dismiss Defendant’s Counterclaim.
6. On June 18, 2014 Defendant filed his Response to the Plaintiff’s Motion to Dismiss Defendant’s Counterclaim.
7. On July 14, 2014, Defendant filed his Memorandum Regarding Limited Jurisdiction of the Forcible Entry and Detainer Act. In said filing, Defendant concedes that **“this Court has both subject matter and personal jurisdiction as well as the authority to enter orders adjudicating the issues raised by the parties”** (See Defendant’s Memorandum Regarding Limited Jurisdiction of the Forcible Entry and Detainer Act at paragraph 8. Attached hereto as “Exhibit 2”).
8. On August 7, 2014, the Honorable Judge Otto entered an order granting 304(a) language in case 07 CH 29738 with respect to order entering summary judgment in Plaintiff’s favor against Defendant.
9. On August 18, 2014, this Honorable Court dismissed Defendant’s Counterclaim under the theory of *res judicata*, as the cause of action for fraud was adjudicated before Judge Otto in case 07 CH 29738.
10. At no point in the current proceedings, prior to the filing of this Motion, did Defendant move to dismiss, enjoin, or consolidate the case at bar as a result of the existence of the action in Chancery.
11. On September 18, 2014, Defendant then brought his Motion to Dismiss alleging that *res judicata* bars Plaintiff’s claim for forcible entry and detainer, in contradiction to his admission that this Honorable “...Court has both subject matter and personal jurisdiction

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as well as the authority order adjudicating the issues raised by the parties.” (See Exhibit 2).

ARGUMENT

I. ENFORCEMENT OF A CHANCERY COURT ORDER QUIETING TITLE DOES NOT CONSTITUTE RES JUDICATA OR SPLITTING OF CLAIMS AS THE CLAIMS ARE PARTICULARLY WHEN DEFENDANT MADE NO REQUEST TO CONSOLIDATE THE FORCIBLE DETAINER ACTION WITH THE CHANCERY ACTION

A forcible entry and detainer action is a limited proceeding that determines the issue of who is entitled to immediate possession. American National Bank by Metroplex, Inc. v. Powell, 293 Ill.App.3d 1033, 1044, 229 Ill.Dec. 439, 691 N.E.2d 1162 (1997). Forcible entry actions are summary, statutory proceedings, and “[a] court hearing a forcible entry and detainer claim is considered ‘a court of special and limited jurisdiction.’ [Citation.]” Yale Tavern, Inc. v. Cosmopolitan National Bank, 259 Ill.App.3d 965, 971, 198 Ill.Dec. 21, 632 N.E.2d 80 (1994)

Defendant argues, in paragraph 8 of his Motion to Dismiss, that Plaintiff’s Complaint is improper due to the prior pendency of the action in Chancery Court. Defendant further incorrectly argues that the two actions somehow constitute a split claim. In Illinois, the mere existence of a chancery action does not in any way act as a bar for an action demanding immediate possession under the forcible entry and detainer statute. Heritage Pullman Bank v. American Nat. Bank and Trust Co. of Chicago, 164 Ill.App.3d 680, 685 (1st Dist. 1987). In Heritage Pullman Bank, the plaintiff, a defendant in a pending foreclosure action, brought an entirely separate action under forcible entry and detainer seeking immediate possession. The two causes of action were consolidated into the foreclosure action. The Plaintiff appealed the trial court’s decision granting a motion to dismiss in relation to the forcible entry and detainer action only. The trial court granted the defendant’s motion to dismiss based on a theory that the

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pendency of the foreclosure action barred plaintiff from pursuing its forcible entry and detainer action. The First District of the Appellate Court of Illinois rejected the trial court's reasoning in dismissing the forcible detainer action and reversed vacating the lower court's dismissal, stating:

The record in the instant case reveals, however, that issues and *685 parties are present in the foreclosure action that are absent from the forcible detainer action. Indeed, this is the very nature of an action under the forcible entry and detainer statute. The action calls for a special and limited proceeding. The scope of judicial inquiry is confined to a determination of the right to immediate possession. The question of title, therefore, cannot be litigated. (Kitzer v. Rice (1967), 90 Ill.App.2d 72, 76-77, 234 N.E.2d 115, 117.) Evidence of title may be admissible for the limited purpose of establishing or clarifying one's right to immediate possession. However, when the admission of title documents requires an adjudication of contradictory claims to title, such documents are inadmissible. A serious title dispute cannot be decided in an action under the forcible entry and detainer statute. 90 Ill.App.2d 72, 77, 234 N.E.2d 115, 118; Urbach v. Green (1957), 15 Ill.App.2d 186, 188, 145 N.E.2d 808, 810.

... Each action involves different parties and issues, and each seeks different relief; each has a different focus. We hold that, under section 2-619(a)(3) of the Code of Civil Procedure, the existence of the foreclosure action in the instant case did not bar plaintiff from bringing an action for possession

According to the First District Appellate Court, the very nature of an action under the forcible entry and detainer statute calls for a special and limited proceeding only related to the issue of immediate possession and could be pursued at the same time. *Id.* at 685. In the case at bar, an action relating to a cloud on title, as was the case in the Chancery, and an issue of immediate possession, seeking enforcement of the Chancery court's order quieting title in Plaintiff's favor, does not constitute a split-claim, as Defendant incorrectly argues. The forcible entry and detainer action merely seeks enforcement of that possessory right granted in Chancery. Even assuming *arguendo*, if this forcible entry and detainer action was "split" in nature, the proper course of conduct required Defendant to consolidate the two causes of action much earlier during the four months that both cases were simultaneously pending and active, as is allowed under 735 ILCS

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5/2-619(a)(3). *Heritage Pullman Bank v. American Nat. Bank and Trust Co. of Chicago*, 164 Ill.App.3d 680, 685 (1987).

Defendant filed his Appearance on April 8, 2014, and the Chancery action did not enter its final order entered until August 7, 2014, thereby affording Defendant four months to move to consolidate this action into the Chancery case. Not surprisingly, Defendant did not take any such action. In fact, Defendant did exactly the opposite and conceded that the **“this Court has both subject matter and personal jurisdiction as well as the authority to enter orders adjudicating the issues raised by the parties”** and that “Plaintiff complied with the Act’s jurisdictional requirements” (“Exhibit 2” Defendant’s Memorandum paragraph 8). **As a general rule, “facts admitted in a pleading amount to a judicial admission.”** *El Rincon Supporting Services Organization, Inc. v. First Nonprofit Mutual Insurance Co.*, 346 Ill.App.3d 96, 100, 803 N.E.2d 532, 535-536 (1st Dist. 1994).

Defendant now attempts to rely on motions filed in the Chancery which merely expressed an interest to seek possession, but were never presented in the Chancery action, in a strained attempt to support his belated argument of res judicata. Defendant is well aware that, while filed, said motions were never presented at any time during the pendency of the Chancery action. Additionally, the issue of possession in the Chancery action dealt with **whether** the purchase of the Subject Property vests a possessory interest in Plaintiff at **that** time (See Exhibits A and B attached to Defendant’s Motion to Dismiss). This action now seeks immediate possession pursuant to the Chancery court’s order. The Forcible Entry and Detainer Statue deals **only with the enforcement of an existing possessory interest seeking immediate possession.** *Heritage Pullman Bank*, 164 Ill.App.3d 680, 685. 735 ILCS 5/9-102 states, in relevant part:

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(a) The person entitled to the possession of lands or tenements may be restored thereto . . .

(3) When any lessee of the lands or tenements . . . holds possession without right after the termination of the lease or tenancy by its on limitation.

The question before this Honorable Court is whether Plaintiff's possessory interest in the Subject Property is currently and actively being violated, not at some time in the past. This action raises a separate and distinct issue than was raised in the motions filed in Chancery and never presented. Accordingly, any motion filed in Chancery and never presented, can not in any way constitute *res judicata* on the issue of immediate possession.

Defendant's imprudent choice to wait for the entry of the final order in the Chancery action, and then belatedly filing his Motion to Dismiss in this action on September 10, 2014, the day the matter was originally set for trial, is nothing more than an attempt to distort this Honorable Court's ruling on Defendant's frivolous Counterclaim based upon Res Judicata, in a desperate attempt to avoid the entry of an order for immediate possession. Accordingly, Defendant's reliance upon *res judicata* is frivolous and wholly without merit.

II. THE DOCTRINE OF RES JUDICATA DOES NOT APPLY TO PLAINTIFF'S CAUSE OF ACTION AS THERE IS NO IDENTITY OF CAUSE OF ACTION WITH PRIOR PROCEEDINGS.

The doctrine of *res judicata* applies specifically to causes of action, not to litigants. *Rein v. David A. Noyes & Co.*, 172 Ill.2d 325, 334 (Ill. 1996). The doctrine of *res judicata*, provides that final judgment on merits rendered by a court of competent jurisdiction bars any subsequent actions on the same cause of action. *Rein v. David A. Noyes & Co.*, 172 Ill.2d 325, 334 (Ill. 1996) (emphasis added). In order to effectively bar a claim through *res judicata* three elements must be present: (1) there must have been a final judgment on the merits rendered by a court of

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competent jurisdiction; (2) there must be an identity of cause of action; and (3) there must be an identity of parties or their privies. *Id. citing Downing v. Chicago Transit Authority*, 162 Ill.2d 70, 73-74 (Ill. 1994).

An action to quiet title and an action for forcible entry and detainer are separate and distinct causes of action. **“In an action to quiet title, the question of title is involved, while in an action for forcible entry and detainer, the right to possession is involved.”** *Gurga v. Roth*, 964 N.E.2d 134, 139 (App. Ct. 2d Dist. 2011); See also *Avenaim v. Lubecke*, 347 Ill.App.3d 855 (2004) 807 N.E.2d 1068, 283 Ill.Dec. 227. The questions of law are not identical, therefore there can be no identity of cause of action between a claim to quiet title and an action for forcible entry and detainer.

Turning to the case at bar, Defendant admitted that the Chancery action, case number 07 CH 29738, was one he had filed to quiet title. The present action in forcible entry and detainer filed by Plaintiff is the sole and proper recourse for the entry of an order seeking immediate possession of the subject property. The issue present in this action is one solely related to immediate possession by the Plaintiff. This is reflected by the fact that Defendant never attempted to consolidate the two cases, or earlier move to dismiss this action on the grounds of the Chancery action’s pendency. The questions are not identical, therefore, there is no identity of cause of action and *res judicata* does not bar the present action for immediate possession.

III. THE DOCTRINE OF RES JUDICATA EXPRESSLY PREVENTS THE USE OF THE DOCTRINE TO CREATE INCONSISTENT RESULTS

Defendant’s contention that this Honorable Court cannot adjudicate the issues raised by this action directly contradicts Defendant’s own position on this Honorable Court’s authority as presented in the Defendant’s Memorandum Regarding Limited Jurisdiction of the Forcible Entry

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PAGE 7 of 9

and Detainer Act in which he admitted that this this Honorable Court had complete and total jurisdiction. (See "Exhibit 2" paragraph 8)

Furthermore, Defendant, in his Motion to Dismiss, misstates the law surrounding the doctrine of *res judicata*. Defendant improperly relies upon *Airtite v. DPR Ltd. P'ship.*, which states that **res judicata cannot be applied if "its application would result in an inconsistent result."** *Airtite v. DPR Ltd. P'ship.*, 638 N.E.2d 241, 244 (Ill. App. Ct. 1994). Assuming *arguendo* that Plaintiff's action is precluded by *res judicata*, this Honorable Court would in essence then be entering a ruling directly contradicting the prior order of the Honorable Michael Otto which ruled that Defendant **"has no interest in the Subject Property"** (See "Exhibit 1" paragraph 3). A dismissal in this case has the unconscionable result of granting the Defendant a right to continue to possess the Subject Property ad infinitum, where no such right exists under any legal or equitable theory. According to the Defendant's cited authority the doctrine of *res judicata* is designed to prevents exactly such an inequitable result and accordingly Defendant's argument is frivolous and wholly without merit.

CONCLUSION

Plaintiff is seeking and entitled to immediate possession of the Subject Property for which he has been adjudicated the sole owner with clear title. While *res judicata* rightly bars the re-litigation of Defendant's illegitimate and errant fraud claim, it does not bar the Plaintiff's cause of action for immediate possession. Not only does *res judicata* not apply to Plaintiff bringing this cause of action due to the lack of identity with any prior cause of action, but even if it were to apply, the authority Defendant cites clearly states that *res judicata* cannot be used to create a different result. Defendant cannot use the *res judicata* doctrine to manufacture a claim

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PAGE 8 of 9

allowing him to possess the Subject Property ad infinitum, particularly after he has already conceded this Honorable Court's jurisdiction.

WHEREFORE Plaintiff, JOSEPH YOUNES, humbly requests that this Honorable Court deny Defendant's Motion to Dismiss.

Respectfully submitted,

BY: /s/ Peter M. King
Peter King

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2014-M1-701473
PAGE 9 of 9

KING HOLLOWAY LLC
Attorneys for Plaintiff
101 N. Wacker Drive, Suite 2010
Chicago, IL 60606
312.780.7302
Atty. No. 48761

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

JOSEPH YOUNES,

Plaintiff,

v.

RICHARD DANIGGELIS,

Defendant.

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14 MI 701473

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2014 OCT -9 AM 11:15
CLERK OF COOK COUNTY, IL

NOTICE OF MOTION

TO: King Holloway, LLC
Peter King, Esq
101 N Wacker Drive, Suite 2010
Chicago, IL 60606

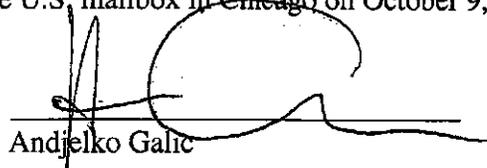
You are hereby given notice that on Oct 22, 2014 at 11:00 AM/PM I will appear before the Honorable Judge George F. Scully presiding in Room 1302, located at 50 W. Washington in Chicago, IL 60602 and then and there present our Motion to Reconsider The Order Entered on October 8, 2014 which is hereby served upon you and at which time you may appear, if you see fit to do so.



ANDJELKO GALIC
Attorney for Defendant
134 N. LaSalle Street, Suite 1040
Chicago, IL 60602
(312) 986- 1510
Attorney No. 33013

CERTIFICATE OF SERVICE

I, Andjelko Galic, an attorney, certify that I caused this Notice of Motion to be served on the above identified party by placing a copy of it in an envelope addressed to the above party at the above address and depositing the same in the U.S. mailbox in Chicago on October 9, 2014 with proper postage prepaid.


Andjelko Galic

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

JOSEPH YOUNES,

Plaintiff,

v.

RICHARD DANIGGELIS,

Defendant.

14 M1 701473

FILED B-12
2014 OCT -9 AM 11:45
CLERK OF THE COURT
OF COOK COUNTY, ILL.

DEFENDANT'S MOTION TO RECONISER THE ORDER ENTERED ON OCTOBER 8, 2014

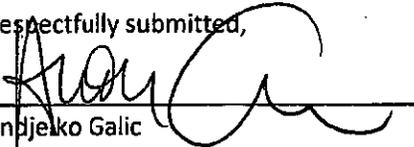
Now comes the Defendant, RICHARD DANIGGELIS, by and through his attorney, Andjelko Galic, and moves this Court to Reconsider the Order Entered on October 8, 2014. In support of his motion Defendant states as follows:

1. On October 8, 2014 this Court entered an order denying Defendant's motion to dismiss Plaintiff's complaint pursuant to Section 735 ILCS 5/2-619(a)(3).
2. On October 8, 2014, after hearing the arguments on Defendant's motion to dismiss, this court has indicated that the other case between the parties is no longer pending and therefore that Section 619(a)(3) is not applicable.
3. This ruling is contrary to the holding in *Gerber v. First National Bank of Lincolnwood*, App. 1. Dist. 1975, 30 Ill. App. 3d 776, 332 N.E.2d 615 where it was held that for purposes of Section 735 ILCS 5-2-619(a)(3) which grants a right to dismiss a complaint when there is another action pending between the same parties for the same cause, "the pendency of an action is determined by the date the complaint is filed".
4. Plaintiff filed his current complaint on January 22, 2014.
5. On January 22, 2014 Plaintiff had his Motion for Possession of the same premises pending before Judge Otto in case number 07 CH 29738. See attached Exhibit "A", a copy of Plaintiff's Motion for Possession filed by the same attorneys currently representing Plaintiff in this eviction case. This Motion for Possession was filed on December 31, 2013.
6. In the Gerber case the court stated that the statutory language is unambiguous. It grants a right to dismiss, thus fostering orderly procedure and relieving litigants and courts of unnecessary burdens associated with multiple actions. In reliance on the Lehman case the Gerber court stated that the pendency of an action is determined by the date the complaint is filed. *People ex rel. Lehman v. Lehman* (1966), 34 Ill.2d 286, 215 N.E.2d 806.
7. A motion to dismiss an action on ground that there was another action pending between the same parties for the same cause should not require the exercise of judicial discretion except in those rare

instances where complaints in both actions are filed simultaneously and neither court has priority of jurisdiction. *Gerber v. First National Bank of Lincolnwood*, App. 1. Dist. 1975, 30 Ill. App. 3d 776, 332 N.E.2d 615.

Wherefore, Defendant, RICHARD DANIGGELIS, prays for an order dismissing Plaintiff's Complaint pursuant to 735 ILCS 5/2-619(a)(3).

Respectfully submitted,



Andjelko Galic
Attorney for Richard Daniggelis

LAW OFFICE OF ANDJELKO GALIC
134 N. LaSalle Street, Suite 1040
Chicago, Illinois 60602
Tel. 312 986 1510
Attorney No.: 33013



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CHANCERY DIVISION

DEC 31 11 6:11

GMAC Mortgage, LLC, U.S. Bank National Association, a national banking association as successor trustee to Bank of America, N.A., as Trustee for Morgan Stanley Loan Trust 2006-16AX,

Plaintiff/Counter-Defendant,

vs.

RICHARD DANIGGELIS,

Defendant/Counter-Plaintiff,

JOSEPH YOUNES; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., as Nominee for HLB Mortgage; Paul Shelton, Erika Rhone and Stewart Title of Illinois and Unknown Owners,

Defendants/Counter-Defendants.

07 CH 29738

CALENDAR 61

1720 North Sedgwick Ave.,
Chicago, Illinois

MOTION FOR ORDER OF POSSESSION

NOW COMES JOSEPH YOUNES ("YOUNES"), by and through his attorneys King Holloway LLC, and for his Motion for Order of Possession, hereby states as follows:

1. On February 15, 2013, this Honorable Court entered an Order granting YOUNES' Motion for Summary Judgment against Defendant/Counter-Plaintiff RICHARD DANIGGELIS ("DANIGGELIS"). As a result of the February 15, 2013 Order, this Court held that YOUNES was the owner of the property subject to this litigation free and clear of any interest of DANIGGELIS and therefore there was no cloud on the title of YOUNES as it related to DANIGGELIS.

2. On June 14, 2013, this Honorable Court entered an Order denying DANIGGELIS' Motion to Reconsider this Court's Order of February 15, 2013 in its entirety.

3. As a result of the above-referenced Orders of February 15, 2013 and June 14, 2013, this Court has found as a matter of law that YOUNES owns the Subject Property free and clear of any interest of DANIGGELIS, and that DANIGGELIS has no interest whatsoever in the Subject Property.

4. YOUNES currently has pending before this Court a motion for 304(a) language which, if granted, will resolve all issues related to ownership of the Subject Property before this Court. Should YOUNES' Motion be granted, DANIGGELIS will be given his lawful thirty day period upon which he can file any notice of appeal, should he choose to pursue such an action.

5. YOUNES has settled all claims with the Plaintiff in this matter, and has executed a modification of mortgage with Plaintiff as part of the settlement. YOUNES is currently paying on this new mortgage, but does not have access to his Property.

6. Defendant DANIGGELIS is currently occupying the Subject Property, as he has been for over seven years, and is not paying YOUNES any rent, nor is DANIGGELIS paying property taxes on the Subject Property.

7. Having been found by this Court to own the Subject Property free and clear of any interest of DANIGGELIS, YOUNES is entitled to the use and enjoyment of his property. However, DANIGGELIS is currently trespassing on the premises and has expressed no intention to leaving said premises.

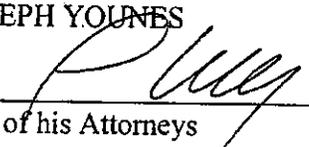
8. Because YOUNES is the lawful owner of the Subject Property, and DANIGGELIS refuses to vacate the premises, YOUNES is entitled to an Order of Possession which will allow him to enforce his rights over the Subject Property against DANIGGELIS.

9. Alternatively, should this Court not enter an Order of Possession, YOUNES respectfully requests this Court enter an Order requiring DANIGGELIS to make monthly payments for rent and taxes in an amount reflective of other rental properties in the location of the Subject Property.

10. YOUNES purchased the Subject Property in 2006, and has yet to be able to enter the premises or use and enjoy the Subject Property as he is entitled to under the law. YOUNES should not have to be required to wait for DANIGGELIS to decide whether to file an appeal without receiving any contribution from DANIGGELIS to the payment and maintenance of the Subject Property.

WHEREFORE, JOSEPH YOUNES respectfully requests that this Court enter an Order of Possession of the Subject Property in his favor, or in the alternative, enter an Order requiring DANIGGELIS to pay rent for his occupancy of the Subject Property, and for any further relief deemed just by this Court.

Respectfully submitted,
JOSEPH YOUNES

By: 
One of his Attorneys

KING HOLLOWAY LLC
101 N. Wacker Drive, Suite 2010
Chicago, IL 60606
312.780.7302
Atty. No. 48761

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Joseph Young

v.

No. 14 MI 701473

Richard D. ...

ORDER

This matter having come before the Court on Defendant's Motion to Dismiss Plaintiff's Motion for Summary Judgment and Motion in Limine, the Court having jurisdiction and being fully advised in the premises, it is hereby ordered that:

- ① Defendant's Motion to Dismiss is denied in its entirety by the Court on the record;
- ② Plaintiff's Motion in Limine is entered and continued to November 3, 2014 at 11:00 AM;
- ③ Defendant has 21 days up to and including October 29, 2014 to file his response to Plaintiff's Motion for Summary Judgment;
- ④ Plaintiff's Motion for Summary Judgment is set for hearing on November 3, 2014 at 11:00 AM in Room 1302.

Judge George F. Scully
OCT 08 2014
Circuit Court - 2013

Atty. No.: 48761
 Name: Patricia King
 Atty. for: Y
 Address: 161 N. Wacker Dr. 5th Fl. 2010
 City/State/Zip: Chicago, IL 60606
 Telephone: (312) 760-7362

ENTERED: _____
 Dated: _____
 Judge _____ Judge's No. _____

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT

JOSEPH YOUNES,

Plaintiff,

vs.

RICHARD DANIGGELIS,

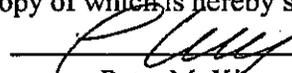
Defendant.

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No. 14 M1 701473
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NOTICE OF MOTION

To: Andjelko Galic, 134 N. LaSalle Street, Suite 1040, Chicago, IL 60602

On Nov. 12, 2014 at 11 a.m., or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Scully, or any judge sitting in his stead, in courtroom 1302, of the Cook County Courthouse, Richard J. Daley Center, 50 W. Washington Street, Chicago, Illinois, and shall then and there present our Motion for Leave to File Amended Response to Defendant's Motion to Reconsider, a copy of which is hereby served upon you

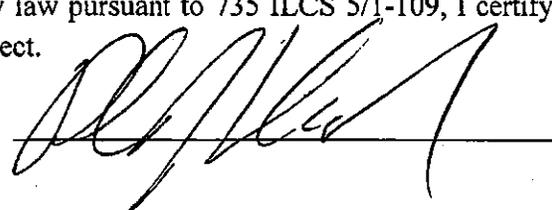

Peter M. King

Peter M. King
King Holloway LLC
101 N. Wacker Drive, Suite 2010
Chicago, IL 60606
312.780.7302
Atty. No. 48761

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DOROTHY BROWN
CLERK

CERTIFICATE OF SERVICE VIA REGULAR MAIL

Paul Yovanic, Jr., being first duly sworn upon oath deposes and states that a true and correct copy of the foregoing document was served via regular mail to the named attorneys of record at their respective addresses by depositing the same in the U.S. mail located at 101 N. Wacker Drive, Chicago, Illinois, with proper postage prepaid, before the hour of 5:00 p.m., on October 30, 2014. Under penalties as provided by law pursuant to 735 ILCS 5/1-109, I certify that the statements set forth herein are true and correct.



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT

JOSEPH YOUNES,

Plaintiff,

vs.

RICHARD DANIGGELIS,

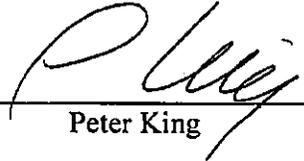
Defendant.

No. 14 M1 701473

**PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED
RESPONSE TO DEFENDANT'S MOTION TO RECONSIDER**

Now comes Plaintiff, JOSEPH YOUNES, by and through his attorneys, KING HOLLOWAY LLC., and moves this Honorable Court for leave in which to file his Amended Response to Defendant's Motion to Reconsider (a copy of which is attached hereto), instanter.

BY:


Peter King

Peter M. King
KING HOLLOWAY LLC
101 N. Wacker Drive, Suite 2010
Chicago, IL 60606
(312)780-7302
Atty. No.: 48761

DORO FITZ BROWN
CLERK

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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT – FIRST DISTRICT**

JOSEPH YOUNES,

Plaintiff,

vs.

RICHARD DANIGGELIS,

Defendant.

No. 14 M1 701473

**PLAINTIFF'S AMENDED RESPONSE
TO DEFENDANT'S MOTION TO RECONSIDER**

Now comes Plaintiff, JOSEPH YOUNES, by and through his attorneys, KING HOLLOWAY LLC., and in response to Defendant's Motion to Reconsider the Order entered on October 8, 2014, states as follows:

1. On October 8, 2014 this Honorable Court entered an order denying Defendant's Motion to Dismiss Plaintiff's Complaint. Defendant now moves this Honorable Court to reconsider its ruling in the latest of a string of desperate attempts to manufacture a right of possession where none exists. Defendant's most recent baseless argument relies on reasoning functionally overturned by the Supreme Court of Illinois and is totally inapplicable to this action, as further discussed below.

2. This cause of action arises separately and distinctly from the Chancery action previously filed by Defendant in case number 07 CH 29738. Said Chancery action, which had been pending before the Honorable Michael F. Otto, originally arose as a foreclosure action, and subsequently Defendant filed a Counterclaim raising a cloud on title against the lender, as well as Plaintiff in this cause. It should be noted that at no time did Plaintiff in this cause, file any

Complaint or Counterclaim in the Chancery action. This cause of action, however, is the first instance in which Plaintiff has filed a Complaint against Defendant seeking immediate possession of Plaintiff's premises. The prior Chancery action filed by Defendant, in which Plaintiff had merely filed a motion seeking possession and then withdrew, can in no way arguably act as a bar to an entirely different action seeking immediate possession. *Heritage Pullman Bank v. American Nat. Bank and Trust Co. of Chicago*, 164 Ill.App.3d 680, 685 (1st Dist. 1987).

3. The authority cited by Defendant, i.e. *Gerber v. First National Bank of Lincolnwood*, 30 Ill.App.3d 776 (1st Dist. 1975), applied only to pending actions for the same cause. As articulated in *Heritage Pullman Bank*, **Forcible Entry and Detainer actions are separate and distinct from Chancery actions**. *Heritage Pullman Bank*, 164 Ill.App.3d 680. Thus, the standard Defendant relies upon can not be applied to the case at bar.

4. Assuming *arguendo*, even if the prior Chancery action filed by Defendant seeking to quiet title and this action for immediate possession were somehow considered to be the same cause, the authority Defendant has cited, i.e. *Gerber*, relied on reasoning rejected by, and for all intents and purposes, overturned by the Supreme Court of Illinois. *A E Staley Mfg Co. v. Swift and Co.*, 84 Ill.2d 245 (1980). The argument Defendant has fashioned, dismissal on the grounds that there was another action pending between the same parties for the same cause, is based upon the premise that a court is precluded from exercising judicial discretion, originally stems from the Illinois Supreme Court's decision in *Skolnick v. Martin*, 32 Ill.2d 55 (1965), which is cited in *Gerber*. The court in *Skolnick* held that the Civil Practice Act of Illinois intended to grant a right to move for dismissal based on the pendency of duplicative actions. *Skolnick*, 32 Ill.2d at 59. Citing *Skolnick* and building on that premise, the Appellate Court of

Illinois in *Gerber* asserted that a motion to dismiss based on a duplicative action "should not require the exercise of judicial discretion except in those rare instances . . . where complaints in both actions are filed simultaneously." *Gerber*, 30 Ill.App.3d at 780. The Defendant cites this premise directly in his Motion to Reconsider at paragraph 7. **However**, the premise that dismissal of duplicative actions is a right with no room for judicial discretion, asserted in *Skolnick* and *Gerber*, and relied upon by Defendant, was flatly **rejected** by the Illinois Supreme Court in *Staley*. In *Staley*, an Illinois corporation acting as a purchaser brought action against another Illinois corporation acting as a vendor for breach of contract after the vendor had already brought an action based upon the same contract in another jurisdiction. The Court in *Staley*, after a review of the *Skolnick* decision, states in relevant part:

" . . . section 48(1)(c) provides that a motion for dismissal "or for other appropriate relief" may be made where "there is another action pending between the same parties for the same cause." (Ill.Rev.Stat.1977, ch. 110, par. 48(1)(c).) The reference in section 48(1)(c) to "other appropriate relief" **makes it obvious that dismissal is not mandated** or the only form of relief afforded by that statute, as the circuit court seemingly presumed. Second, no mention is made in section 48(1)(c) of the respective filing times of the actions, and it is therefore apparent that the statute does not attribute any significance to that factor . . .

The purpose of section 48(1)(c) is to avoid duplicative litigation (*People ex rel. Phillips Petroleum Co. v. Gitchoff* (1976), 65 Ill.2d 249, 255, 2 Ill.Dec. 367, 357 N.E.2d 534; *People ex rel. Lehman v. Lehman* (1966), 34 Ill.2d 286, 290, 215 N.E.2d 806), and the trial court's analysis should be geared toward effectuating that purpose. Notwithstanding this policy, however, **we do not believe that the legislature intended that the filing of a section 48(1)(c) motion should result in automatic dismissal or that two separate actions concerning the same subject matter could never proceed simultaneously.**" *Staley*, 84 Ill.2d at 252 (emphasis added).

The Illinois Supreme Court made it unmistakably clear that judicial discretion is appropriate in ruling on a motion to dismiss. This is a blatant rejection of the reasoning set forth in *Skolnick* and *Gerber*, upon which Defendant mistakenly attempt to rely. The *Staley* court further found "the circuit court . . . felt that it had no discretion . . . and therefore failed to conduct an

appropriate analysis of the situation.” *Id.* Defendant mistakenly asks this Honorable Court to fail to make the same analysis. Contrary to Defendant’s inaccurate claim, the *Staley* decision indicates that “the more reasonable construction is that the circuit court possesses some degree of discretion in ruling upon the motion.” *Id.* While the *Skolnick* and *Gerber* were not overturned per se, the premise cited therein upon which Defendant attempts to rely, for all intents and purposes, has been overruled by the Illinois Supreme Court in *Staley*.

5. Any attempt to distinguish *Staley* from the case at bar on the grounds that *Staley* dealt with actions in different States would be in error as the *Staley* decision ruled that it is applicable to a duplicative action within Illinois as well. *Staley*, 84 Ill.2d at 254. In *Staley*, the Court held that “prior cases of this court” dealing with intrastate conflicts “**do not require a different application of section 48(1)(c) to the facts here.**” *Id.* While an intrastate conflict “is one over which the court understandably could and should exercise greater control and guidance,” to apply the same application would require the trial court to consider the use of judicial discretion in order to “conduct an appropriate analysis.” *Id.*

Wherefore, Plaintiff, JOSEPH YOUNES, requests this Honorable Court deny Defendant’s Motion to Reconsider.

Peter M. King
KING HOLLOWAY LLC
101 N. Wacker Drive, Suite 2010
Chicago, IL 60606
(312)780-7302
Atty. No: 48761

BY: _____
Peter King

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PAGE 1 of 9
CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
MUNICIPAL DIVISION
CLERK H. BOROBY BROWN

33013

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

YOUNES,
Plaintiff,

RICHARD DANIGGELIS,
Defendant.

14 M1 701473

DEFENDANT'S ANSWER TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Now comes the Defendant, RICHARD DANIGGELIS, by and through his attorney, Andjelko Galic, and answers Plaintiff's motion for summary judgment as follows:

1. On August 18, 2014 this matter was set for trial on September 10, 2014 and the parties were ordered to exchange their trial exhibits and their witness lists.
2. On September 10, 2014 this matter was continued for trial on September 16, 2014 and Defendant's trial subpoenas were continued to September 16, 2014.
3. On September 16, 2014 this matter was set for trial on October, 2014.
4. Defendant's have subpoenaed attorney Paul Shelton to testify during the trial because Paul Shelton is the individual who orchestrated the sham transaction of transferring Defendant's property to Joseph Younes, Paul Shelton's long time law partner and client.
5. This court has indicated to Plaintiff that this matter will not go to trial until Paul Shelton appears in court to testify. As a result of this court's clear statement about Paul Shelton's need to testify Plaintiff got hold of Paul Shelton and agreed to produce him for trial.
6. Subsequently, on September 25, 2006, in order to avoid testimony of Paul Shelton, who fabricated documents attached to Plaintiff's complaint, Plaintiff filed its motion for summary

judgment. At no time prior to September 25, 2014 did Plaintiff indicate that he intended to file a motion for summary judgment.

7. Plaintiff's motion for summary judgment should be denied because it is based on the claim that Plaintiff's complaint is subject to *res judicata*, and therefore that all relevant decisions were already made in the Chancery case under number 07 CH 29738.
8. The date of filing of plaintiff's current complaint is relevant for purposes of determining applicability of *res judicata* doctrine.
9. In his motion for summary judgment Plaintiff alleges that he filed his pending forcible complaint on February 5, 2014. See paragraph 3 of Plaintiff's motion for summary judgment. This claim is false as is indicated in Exhibit 2 attached to Plaintiff's motion for summary judgment, clearly showing that Plaintiff's complaint was filed on January 22, 2014.
10. In his motion for summary judgment Plaintiff argues that "an action regarding the title of the Subject Property, was pending in Chancery."
11. What is critical for purposes of the current case is not the fact that on January 22, 2014 a title action was pending in another courtroom but that the same claim for possession of the subject property was pending in case number 07 CH 29738 between these two parties and that Plaintiff's claim for possession in that case did not involve any other party. On September 9, 2013 Plaintiff filed his first motion for possession of the subject property in case number 07 CH 29738 and then filed it again on December 31, 2013.
12. So, on January 22, 2014, at the time of filing of the complaint pending before this court, Plaintiff already had the same claim for possession of the same property directed against the same Defendant pending in case number 07 CH 29738. This was a clear violation against the well established principles of law in Illinois prohibiting claim splitting.

13. Plaintiff's motion for summary judgment, insofar as it fails to advise the Court about its actual claims pending in the Chancery case at the time of filing of the current complaint is seriously misleading.
14. On January 22, 2014 Plaintiff's claim in the Chancery case was not reduced to a final and enforceable judgment and thus as of January 22, 2014 the principles of *res judicata* did not apply to the current case because, under well settled law in Illinois, in order for *res judicata* to apply as a complete bar, a final judgment involving the same claim between the same parties must be in effect.
15. In paragraph number 9 of his motion for summary judgment Plaintiff admits that a final judgment was entered on August 7, 2014 resolving all claims that were pending between these two parties so that *res judicata* comes in play only in relation to what the parties filed against each other subsequent to August 7, 2014 if it could have been filed and argued in case number 07 CH 29738.
16. There is no question that possession of the subject property could have been litigated in the Chancery case and that in fact this kind of relief prayed for in the complaint currently pending before this court was already requested two times in the Chancery case number 07 CH 29738. The critical point, however, for purposes of adjudicating Plaintiff's current complaint, is that at the time of filing of this complaint, Plaintiff was seeking the same kind of relief against the same Defendant in another pending action. This is why Plaintiff's motion for summary judgment must be denied because, as a matter of law, Plaintiff's complaint must be dismissed pursuant to Defendant's motion to dismiss.
17. Plaintiff's reliance on the May 15, 2014 Memorandum of Judgment is misplaced. In its motion for summary judgment Plaintiff admits that a final judgment in this case was entered on August 7, 2014 and thus any memorandum that predates the entry of a final judgment is

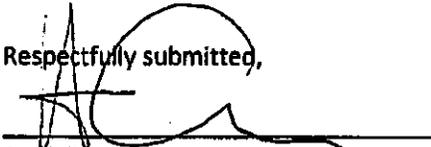
obviously entered in error because on May 15, 2014 there was no legal basis for recording a memorandum of judgment because on May 15, 2014 Plaintiff only had an unenforceable and un-appealable order.

18. Plaintiff's complaint is based on a contract a copy of which was attached to Plaintiff's complaint. In his answer Plaintiff has challenged the validity and the enforceability of that contract. There is no affidavit submitted in support of Plaintiff's motion for summary judgment to resolve material factual issues raised in Defendant's Answer. Moreover, Defendant's affidavit in opposition to Plaintiff's motion for summary judgment clearly raised material factual issues precluding grant of Plaintiff's motion for summary judgment. Defendant is an elderly person who was taken advantage of by two attorneys, former partners. It would be unconscionable to award them for the fraud they committed in the process of taking away Defendant's property.
19. Plaintiff's complaint was filed with clear motivation to avoid opening additional issues in the chancery action that was pending between the parties at the time of filing of the current action and it is a clear cut case of forum shopping.
20. Validity of the underlying deed that was fabricated by Plaintiff's attorney, authenticity of the contract attached to Plaintiff's current complaint and Plaintiff's motivation for filing this complaint before this court, these are all germane issues according to Plaintiff's own submission in his motion for summary judgment. See attached Exhibit "A", an affidavit of Richard Daniggelis submitted in opposition to Plaintiff's motion for summary judgment.
21. Moreover, the underlying Chancery case 07 CH 29738 has been voluntarily dismissed on August 7, 2015 without much regard for the effects of that dismissal on the claims affecting this Plaintiff and this Defendant.

22. During the hearing on August 7, 2014 Defendant was seeking to clarify the impact of the voluntary dismissal on the claims between Plaintiff and Defendant and in that effort Defendant asked for a stipulation that Plaintiff is waiving the argument before the Appellate court that the voluntary dismissal rendered the Defendant's prospective appeal moot. Plaintiff refused to enter into that stipulation.
23. By filing his complaint for possession before this Court based on the exhibits attached to his complaint, and not based on any orders entered in the underlying Chancery case, Plaintiff has squarely placed issues related to the authenticity and validity of those documents before this court.
24. At the time of filing this complaint Plaintiff could not have relied on any rulings from the underlying Chancery case and, since the relevant time is the time of filing of the current complaint, as it is argued in Defendant's current motion to reconsider the denial of Defendant's motion to dismiss. Defendant's defense strategy was based on the status of the parties positions as of January 22, 2014 and not as of any subsequent date.

Wherefore, Defendant, RICHARD DANIGGELIS, prays for an order denying Plaintiff's motion for summary judgment.

Respectfully submitted,


Andjelko Galic
Attorney for Richard Daniggelis

Law Office of Andjelko Galic
14 N. LaSalle Street, Suite 1040
Chicago, Illinois 60602
Tel. 312 217 5433
Attorney No.: 33013

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2014-MI-701473
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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT



JOSEPH YOUNES,

)

Plaintiff,

)

)

v.

)

14 M1 701473

)

RICHARD DANIGGELIS,

)

Defendant.

)

)

AFFIDAVIT OF RICHARD DANIGGELIS SUBMITTED IN OPPOSITION
TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

I, Richard Daniggelis, under oath state as follows:

1. I am the Defendant in the above captioned case.
2. I have been residing at 1720 N. Sedgwick in Chicago, Illinois since 1989.
3. On or about July 9, 2006 I did not sign the warranty deed a copy of which has been submitted in support of Plaintiff's motion for summary judgment and marked as Exhibit 1.
4. I did not endorse and deliver the July 9, 2006 warranty deed to the Plaintiff.
5. I never appeared before Lisa C. Vitek and, contrary to what is indicated on the second page of the July 9, 2006 deed, I did not sign any documents in front of Lisa C. Vitek, the notary public.
6. Lisa C. Vitek is the wife of attorney Paul Shelton and Paul Shelton was the attorney for Joseph Younes. My house was "sold" to Joseph Younes without my knowledge and without my consent.
7. I executed a warranty deed in May of 2006 and gave it to Paul Shelton to hold it in escrow because Paul Shelton told me that he needed a warranty deed to help me save my house.
8. Joseph Younes did not pay any consideration for the warranty deed.
9. In the same transaction Paul Shelton was acting as the mortgage broker, as title agent and he was negotiating with one of my lenders on my behalf.
10. Paul Shelton is also a former partner of Joseph Younes.
11. Plaintiff's claim for possession is based on a contract, a copy of which was attached to Plaintiff's complaint as Exhibit "A". Plaintiff's Exhibit "A" is not legible and it is also an altered document.
12. Plaintiff's Exhibit "C" that was attached to Plaintiff's complaint is another fabrication.
13. Plaintiff's Complaint Exhibit "C" predates the alleged May 19, 2006 contract and therefore paragraph 7 of Plaintiff's complaint is also false.
14. I entered into an agreement with Plaintiff's attorney, Paul Shelton, that my contract with Joseph Younes would be null and void if the closing does not take place by May 19, 2006. See attached Exhibit B a copy of my agreement with Plaintiff's attorney.

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PAGE 6 of 9

Affiant states nothing further.

Richard Daniggelis
Richard Daniggelis

Subscribed and Sworn to Before me
on this 29th day of, October, 2014.

Laura Gold

Notary Public

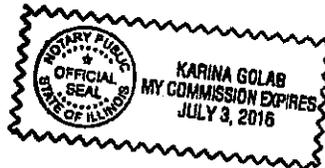


EXHIBIT
B

Agreement

I, PAUL L. STEWART, agree to hold the warranty deed executed today, in escrow, to be used only to close this contract on or about May 12th, 2006.

If Richard Daniggelis chooses not to close on or before May 19th, 2006, he shall pay as ~~liquidated~~ damages to Joseph Young the sum of \$10,000⁰⁰ as and for time and services rendered, ~~within 60 days~~ AT END OF 10 MONTHS

If the closing does not take place on or before May 19th, 2006, the contract is null and void, and the ~~liquidated~~ damages will be due IN 10 MONTHS

Richard Daniggelis
RICHARD DANIGGELIS


PAUL L. STEWART

EXHIBIT
Defendants
4

EXHIBIT 15
Daniggelis
90 646-11

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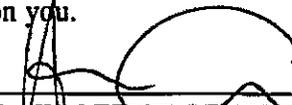
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

JOSEPH YOUNES,)	
)	
Plaintiff,)	
)	
v.)	14 M1 701473
)	
RICHARD DANIGGELIS,)	
)	
Defendant.)	

NOTICE OF FILING

TO: Peter M. King
King Holloway LLC
101 N. Wacker Drive, Suite 2010
Chicago, IL 60606

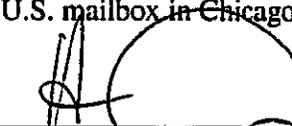
You are hereby given notice that on October 29, 2014, we electronically filed with the Clerk of the Circuit Court of Cook County our Response to your Motion for Summary Judgment, a copy of which is attached and is hereby served upon you.



 LAW OFFICE OF ANDJELKO GALIC
 Attorney for Defendant
 134 N. LaSalle Street, Suite 1040
 Chicago, IL 60602
 (312) 986- 1510
 Attorney No. 33013

CERTIFICATE OF SERVICE

I, Andjelko Galic, an attorney, certify that I caused this Notice of Filing to be served on the above identified party by placing a copy of it in an envelope addressed the above party at the above address and depositing the same in the U.S. mailbox in Chicago, on October 30, 2014 with proper postage prepaid.



 Andjelko Galic

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

JOSEPH YOUNES,)
)
 Plaintiff,)
)
 v.) 14 M1 701473
)
 RICHARD DANIGGELIS,)
)
 Defendant.)

DEFENDANT'S MOTION TO RECONSIDER THE ORDER GRANTING PLAINTIFF LEAVE TO AMEND

Now comes the Defendant, Richard Daniggelis, by and through his attorney, Andjelko Galic, and moves this court to reconsider the order granting Plaintiff leave to amend his complaint. In support of his motion Defendant states as follows:

1. On December 10, 2014 this matter was set for status only.
2. On December 10, 2014 Plaintiff's attorney appeared for status and made an oral motion for leave to amend Plaintiff's complaint.
3. Plaintiff's motion to amend was not noticed up for December 10, 2014 and Defendant was not ready to respond to Defendant's motion except in a general way.
4. In Illinois, at any time before final judgment, amendments may be allowed to pleadings on just and reasonable terms, but a party's right to amend is not absolute and unlimited. 735 ILCS 5/2-616. See, *Volper v. IKO Indust., Ltd.*, 327 Ill. App. 3d. 567 (1st Dist. 2002); *O'Brien v. City of Chicago*, 285 Ill. App. 3d 864 (1996).
5. Plaintiff's motion for leave to amend does not specify any basis whatsoever for seeking leave to amend at this late stage in this litigation.
6. Section 2-616 of the Illinois Civil Practice Law provides for amendments to pleadings on just and reasonable terms before final judgment. *Loyola Academy v. S & S Roof Maintenance*, 146 Ill.2d 263 provides the standard for amending pleadings in Illinois. The *Loyola Academy* court looked to four factors in determining the appropriateness of allowing leave to file an amended pleading.
7. The four factors are the following: (a) Whether the proposed amendment would cure the defective pleading; (b) Whether other parties would sustain prejudice or surprise by virtue of the proposed amendment; (c) Whether the proposed amendment is timely; and (d) Whether previous opportunities to amend the pleadings could be identified.

8. In our case Plaintiff simply "overlooked" all of the above requirements and filed his motion as if he had an absolute right to do so without any regard whatsoever for the above stated legal requirements. This court simply cannot allow for this kind of behavior, particularly so in view of the fact that the trial in this matter was already set and that the parties already exchanged names of witnesses, and trial exhibits and that trial subpoenas were already served.

9. Moreover, Plaintiff's proposed amendment is not amending the theory but rather the facts of the Plaintiff's complaint. This is particularly troubling in light of the fact that the parties are waiting for the ruling on Defendant's dispositive motion seeking dismissal of Plaintiff's complaint based on claim splitting because at the time of filing the original complaint Plaintiff had another motion in another courtroom seeing the identical relief.

10. In the alternative, Defendant moves to dismiss Plaintiff's amended complaint pursuant to section 735 ILCS 5/2-619 due to the fact that Plaintiff already sought the same relief in the underlying foreclosure case. Plaintiff's amended complaint is barred by principles of *res judicata*.

Wherefore, Defendant, RICHARD DANIGGELIS, prays for an order reconsidering the order granting Plaintiff leave to file an amended complaint or in the alternative dismissing Plaintiff's amended complaint on principles of *res judicata*.

Respectfully submitted,

/s/ Andjelko Galic

Attorney for Richard Daniggelis

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Law Office of Andjelko Galic
134 N. LaSalle Street
Suite 1040
Chicago, Illinois 60602
Tel. 312 217-5433
Attorney No.: 33013

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PAGE 1 of 9
CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
MUNICIPAL DIVISION
CLERK DOROTHY BROWN

33013

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

YOUNES,
Plaintiff,

v.

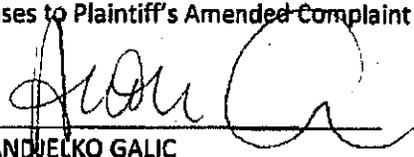
RICHARD DANIGGELIS,
Defendant.

14 M1 701473

NOTICE OF MOTION

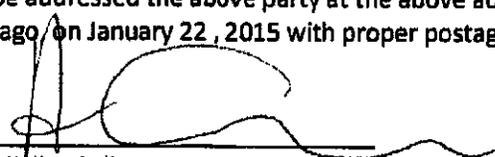
TO: Peter M. King
KING HOLLOWAY LLC
101 N. Wacker Drive, Suite 2010
Chicago, Illinois 60606

You are hereby given notice that on January 26, 2015 we will appear before Honorable Judge Scully in Room 1302 in the Richard Daley Center at 11:00 A.M. and there and then present our Motion for Leave to File Defendant's Answer and Affirmative Defenses to Plaintiff's Amended Complaint *Instante*, a copy of which is attached and hereby served on you.


ANDJELKO GALIC
Attorney for Defendant
134 N. LaSalle Street, Suite 1040
Chicago, IL 60602
(312) 986- 1510
Attorney No. 33013

CERTIFICATE OF SERVICE

I, Andjelko Galic, an attorney, certify that I caused this Notice of Motion to be served on the above identified party by placing a copy of it in an envelope addressed the above party at the above address and depositing the same in the U.S. mailbox in Chicago on January 22, 2015 with proper postage prepaid.


Andjelko Galic

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

JOSEPH YOUNES,

Plaintiff,

v.

RICHARD DANIGGELIS,

Defendant.

14 M1 701473

DEFENDANT'S VERIFIED MOTION FOR LEAVE TO FILE DEFENDANT'S ANSWER AND AFFIRMATIVE
DEFENSES TO PALINTIFF'S AMENDED COMPLAINT INSTANTER

Now comes the Defendant, RICHARD DANIGGELIS, by and through his attorney, Andjelko Galic, and moves this Court, pursuant to Supreme Court Rule 183, for leave to file his Answer and Affirmative Defenses to Plaintiff's Amended Complaint. In support of his motion Defendant states as follows:

1. On January 6, 2015 an order was entered granting Defendant 7 days to file an Answer to Plaintiff's Amended Complaint.
2. Due to complexity of the issues involved in this case and due to Defendant attorney's other commitments Defendant was not able to prepare his answer and affirmative defenses by January 13, 2015.
3. On January 7, 2015 I had to submit a Petition for Leave to Appeal to the Supreme Court of Illinois. In addition to my regular work load and my own pending divorce I could not finish it and I had to draft a motion to additional time to complete it. On the same day I had to attend a closing at 9:00 AM in Oak Brook and I also had to appear for a hearing on an administrative review complaint at 1:30 in Maywood.
4. On January 8, 2015 I had 3 court appearances in the morning and 4 court appearances in the afternoon. On the same date I had already reserved significant time to finish a Response to a motion for summary judgment in one of my foreclosure cases that was due on January 9, 2015.
5. On January 7, 2015 and on January 8, 2015 I did not have any time to work on Richard Daniggelis's Answer and Affirmative Defenses to Plaintiff's Amended Complaint.
6. On January 9, 2015 I had the whole morning from 9:15 AM until 12:45 already booked for a mediation session on my own divorce. On January 9, 2015 I also had to prepare for a deposition of an attorney in a legal malpractice case that was set to take place on January 12, 2015.
7. On January 12, 2015 the previously scheduled deposition did take place consuming my whole morning and some significant time in the afternoon. On January 12,, 2015 I had to be in court at 3:00 PM on another foreclosure case.

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8. I had another deposition of another attorney related to the same legal malpractice case scheduled for January 14, 2015 and I had to prepare for it. I also had a hearing on a motion related to a pending appeal at 3:00 P.M. on January 14, 2015.

9. Since answers in forcible entry and detainer actions are not required and since I was not able to file it by January 13, 2015 I was working with the assumption that we will simply proceed to trial on January 27, 2015 without a written answer on file.

10. However, since Plaintiff has moved for default Defendant is filing this motion in opposition to Plaintiff's motion and seeking leave to file his Answer and Affirmative Defenses *Instantly*. Defendant's proposed Answer and Affirmative Defenses are attached to this motion as Exhibit "A".

11. The issues in this case are complex due to previous rulings issued in the underlying foreclosure action and also due to the previous rulings issued by this Court. In particular, this Court has issued a comprehensive ruling on August 18, 2014 and I was under the impression that my office already ordered the transcript from that date. However, I was not correct about that and I did not have the benefit of having that transcript available. The previous rulings by this court are very important for determining what affirmative defenses could and could not be asserted and I had to research this issue before I could file Defendant's Answer and Affirmative Defenses.

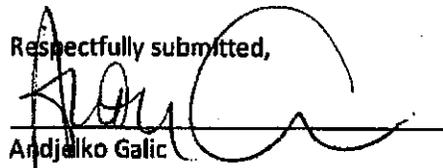
12. Defendant already answered Plaintiff's original complaint and in his answer to the original complaint Defendant raised issues sounding in fraud. The crux of Plaintiff's amended complaint is the elimination of the exhibits that were attached to the original complaint.

13. Plaintiff is not prejudiced by Defendant's late Answer and Affirmative Defenses and Defendant would be seriously prejudiced if this court were to grant Plaintiff's motion for default.

14. Under the Supreme Court Rule 183 this court has wide discretion in deciding whether to approve a late filing. Defendant's attorney is working on this case pro bono and Defendant's attorney cannot in good conscience withdraw from representing Defendant at this point in this case and, as indicated above, Defendant's attorney simply could not comply with the January 13, 2015 deadline.

Wherefore, Defendant, RICHARD DANIGGELIS, prays for an order granting him leave to file his Answer and Affirmative Defenses *instantly*.

Respectfully submitted,


Andjelko Galic
Attorney for Richard Daniggelis

LAW OFFICE OF ANDJELKO GALIC
134 N. LaSalle Street, Suite 1040
Chicago, Illinois 60602
Tel. 312 986 1510
Attorney No.: 33013

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VERIFICATION

I, Andjelko Galic, under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, certify that I have read the Defendant's Motion for Leave to File his Answer and Affirmative Defenses *Instantly*, and that statements given in this Motion are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certify as aforesaid that they verily believe the same to be true.

January 22, 2015


Andjelko Galic

the alleged mortgage that was given to him by the Plaintiff. Prior to the purported sale in July of 2006 Defendant had more than \$150,000.00 in equity in his property. Plaintiff and his attorney took a short term loan and collateralized it with Defendant's equity in order to make it possible for Plaintiff to take Defendant's property without paying any money for it. The July 28, 2006 "sale" is unconscionable and it cannot be condoned by any court of law.

7. Defendant denies allegations in paragraph number 7 of Plaintiff's Amended Complaint.

8. Defendant denies allegations in paragraph number 8 of Plaintiff's Amended Complaint.

Wherefore, Defendant, RICHARD DANIGGELIS, prays for an order dismissing Plaintiff's Amended Complaint so wrongfully brought against Defendant.

FIRST AFFIRMATIVE DEFENSE: FRAUD

Now comes, the Defendant, RICHARD DANIGGELIS, by and through his attorney, Andjelko Galic, and as his First Affirmative Defense against Plaintiff's Amended Complaint, states as follows:

1. In May of 2006 Plaintiff, JOSEPH YOUNES, was an attorney licensed to practice law in the state of Illinois.
2. In May of 2006 and during the time leading to the "closing" on Defendant's property, JOSEPH YOUNES, by himself and through his agents, made representations that he wanted to help rescue Defendant from the pending foreclosure.
3. At all relevant times Plaintiff knew that his representations were false and that he did not have funds to purchase Defendant's property.
4. In order to deceive Defendant, Plaintiff appeared in court on Defendant's behalf without formally entering his appearance on Defendant's behalf.
5. Plaintiff used the information obtained while acting as Defendant's attorney and as Defendant's fiduciary in order to deceive Defendant and to strip the equity from Defendant's property.
6. Defendant has relied on Plaintiff's representations and representations of Plaintiff's agents in executing a deed that was supposed to be held in escrow and was not to be recorded or used for any other purpose.
7. Defendant's reliance on Plaintiff's representations was justified given the fact that Plaintiff was a licensed attorney and that he appeared as a person interested in rescuing Defendant from losing his residence.

8. At all relevant times Plaintiff knew or should have known that he was involved in a classic foreclosure rescue fraud designed to strip the equity Defendant had in his residence.
9. At all relevant times, Plaintiff, Joseph Younes, knew that Defendant was an elderly person in dire situation.
10. At all relevant times Plaintiff knew that he would not spend any of his funds to "acquire" Defendant's property.
11. At all relevant times Plaintiff knew that, Paul Shelton, his former law partner and his partner in this foreclosure rescue scam was involved in conflict of interest at several levels and that Plaintiff stood to benefit from these conflicts of interest.
12. As a result of Plaintiff's actions Defendant lost all of the equity he had in his residence.
13. Plaintiff's actions amount to fraud and Defendant asserts Plaintiff's fraud as an affirmative defense to Plaintiff's Amended Complaint.

Wherefore, Defendant, Richard Daniggelis, prays for an order dismissing Plaintiff's complaint with prejudice.

**SECOND AFFIRMATIVE DEFENSE:
FAILURE OF CONSIDERATION**

Now comes, the Defendant, RICHARD DANIGGELIS, by and through his attorney, Andjelko Galic, and as his Second Affirmative Defense against Plaintiff's Amended Complaint, states as follows:

14. Defendant re-alleges paragraphs 1 through 13 of his First Affirmative Defense as 14 of his Second Affirmative Defense.
15. Plaintiff did not pay any consideration for the purported purchase of Defendant's property.

Wherefore, Defendant, Richard Daniggelis, prays for an order dismissing Plaintiff's complaint with prejudice.

**THIRD AFFIRMATIVE DEFENSE:
STATUTE OF FRAUDS**

Now comes, the Defendant, RICHARD DANIGGELIS, by and through his attorney, Andjelko Galic, and as his Third Affirmative Defense against Plaintiff's Amended Complaint, states as follows:

16. At all relevant times there was a statute in effect in Illinois known as Frauds Act.
17. In its relevant part Section 740 ILCS 80/2 of the Frauds Act states as follows:

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"Sec. 2. No action shall be brought to charge any person upon any contract for the sale of lands, tenements or hereditaments or any interest in or concerning them, for a longer term than one year, unless such contract or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized in writing, signed by such party. This section shall not apply to sales for the enforcement of a judgment for the payment of money or sales by any officer or person pursuant to a judgment or order of any court in this State. (Source: P.A. 83-346.)

18. Plaintiff has failed to attach a copy of the alleged purchase contract to its Amended Complaint and has failed to produce the original after it was requested by the Defendant. As a result of Plaintiff's refusal to produce the original purchase contract Plaintiff is barred from introducing the purchase contract into evidence.
19. Plaintiff does not have a valid contract for his alleged purchase of Defendant's property.

Wherefore, Defendant, Richad Daniggelis, prays for an order dismissing Plaintiff's Amended Complaint with prejudice.

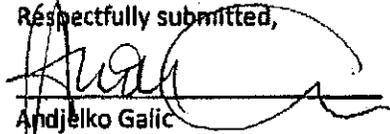
**FOURTH AFFIRMATIVE DEFENSE:
PLAINTIFF'S ACTIONS ARE UNCONSCIONABLE**

Now comes, the Defendant, RICHARD DANIGGELIS, by and through his attorney, Andjelko Galic, and as his Fourth Affirmative Defense against Plaintiff's Amended Complaint, states as follows:

20. Defendant re-alleges his First, Second and Third Affirmative Defenses as paragraph 20 of his Fourth Affirmative Defense.
21. At all relevant times Plaintiff, Joseph Younes and his former law partner, Paul Shelton were licensed Illinois attorneys.
22. Plaintiff, Joseph Younes, has engaged in unauthorized practice of law on Defendant's behalf and is not attempting to enforce the benefit secured by unauthorized appearance in court on Defendant's behalf.
23. Moreover, as a result of his illegal practices, Plaintiff's former partner, Paul Shelton, has lost his mortgage broker's license.
24. Attorney Paul Shelton and his wife have altered the escrow deed and used it to transfer title Defendant's property knowing that Defendant would not receive any money for the alleged transfer.
25. Plaintiff's actions and his cooperation with attorney Paul Shelton are shocking and unconscionable.
26. The full extent of Plaintiff's involvement will become more apparent after the pending trial on Defendant's claims against Plaintiff's agents and/or conspirators.

Wherefore, Defendant, Richad Daniggelis, prays for an order dismissing Plaintiff's Amended Complaint with prejudice or in the alternative staying Plaintiff's complaint pending the resolution of Defendant's claims against Plaintiff's attorney Paul Shelton and Erica Rhone.

Respectfully submitted,



Andjelko Galic
Attorney for Richard Daniggelis

Law Office of Andjelko Galic
134 N. LaSalle Street
Suite 1040
Chicago, Illinois 60602
Tel. 312 217-5433
Attorney No.: 33013

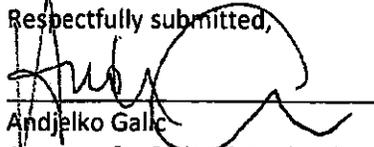
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PAGE 9 of 9

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7. Defendant denies allegations in paragraph number 7 of Plaintiff's Amended Complaint.
8. Defendant denies allegations in paragraph number 8 of Plaintiff's Amended Complaint.

Wherefore, Defendant, RICHARD DANIGGELIS, prays for an order dismissing Plaintiff's Amended Complaint so wrongfully brought against Defendant.

Respectfully submitted,



Andjelko Galic

Attorney for Richard Daniggelis

Law Office of Andjelko Galic
134 N. LaSalle Street
Suite 1040
Chicago, Illinois 60602
Tel. 312 217-5433
Attorney No.: 33013

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CLERK OF THE CIRCUIT COURT
CIVIL DIVISION

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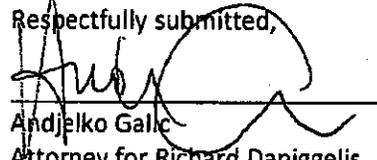
DOUGLASS BROWN
CLERK

the alleged mortgage that was given to him by the Plaintiff. Prior to the purported sale in July of 2006 Defendant had more than \$150,000.00 in equity in his property. Plaintiff and his attorney took a short term loan and collateralized it with Defendant's equity in order to make it possible for Plaintiff to take Defendant's property without paying any money for it. The July 28, 2006 "sale" is unconscionable and it cannot be condoned by any court of law.

7. Defendant denies allegations in paragraph number 7 of Plaintiff's Amended Complaint.
8. Defendant denies allegations in paragraph number 8 of Plaintiff's Amended Complaint.

Wherefore, Defendant, RICHARD DANIGGELIS, prays for an order dismissing Plaintiff's Amended Complaint so wrongfully brought against Defendant.

Respectfully submitted,



Andjelko Galic

Attorney for Richard Daniggelis

Law Office of Andjelko Galic
134 N. LaSalle Street
Suite 1040
Chicago, Illinois 60602
Tel. 312 217-5433
Attorney No.: 33013

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CLERK OF THE CIRCUIT COURT
CIVIL DIVISION

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DOROTHY BROWN
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CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
MUNICIPAL DIVISION
CLEOPH DOROTHY BROWN

APPEAL TO THE ILLINOIS APPELLATE COURT
FIRST JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT

vs.
RICHARD DANIGGELIS,
Appellant.
vs.
CLEOPH YOUNES,
Appellee,
From the Circuit Court of
Cook County, Illinois
Municipal Department,
First District
Gen. No.: 14 MI 701473
Hon. Judge George F. Scully
Judge Presiding

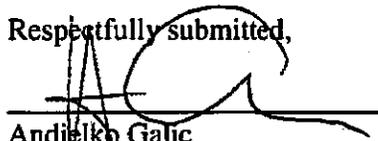
NOTICE OF APPEAL

Defendant – Appellant, Richard Daniggelis, hereby appeals to the Illinois Appellate Court for the First Judicial District pursuant to Supreme Court Rule 303 from the following orders entered in this matter in the Circuit Court of Cook County, Illinois, Municipal Department, First District:

- (1) The order entered on January 27, 2015 giving possession of Defendant’s property to Plaintiff;
- (2) Prior orders entered in this matter leading to the January 27, 2015 order and in particular the orders entered on December 10, 2014 granting Plaintiff leave to amend its complaint and the order entered on January 2, 2015 denying Defendant’s motion to reconsider denial of Defendant’s motion to dismiss.

By this appeal, Defendant-Appellant will ask the Appellate Court to reverse and/or remand the orders appealed from and for such other relief, as the Appellate Court may deem appropriate to grant.

Respectfully submitted,


Andjelko Galic
Attorney for Defendant-Appellant

Andjelko Galic
LAW OFFICE OF ANDJELKO GALIC
134 N. LaSalle Street, Suite 1040
Chicago, IL 60602
Phone: (312) 986-1510
Attorney No: 33013

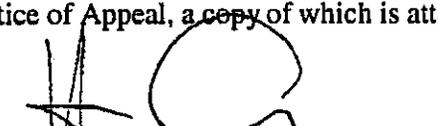
APPEAL TO THE ILLINOIS APPELLATE COURT
FIRST JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT

JOSEPH YOUNES)	
)	
Appellee,)	From the Circuit Court of
)	Cook County, Illinois
vs.)	Municipal Department,
)	First District
RICHARD DANIGGELIS.)	
)	Gen. No.: 14 M1 701473
Appellant.)	
)	Hon. Judge George F. Scully
)	Judge Presiding

NOTICE OF FILING

To: King Holloway, LLC
Peter King, Esq
101 N Wacker Drive, Suite 2010
Chicago, IL 60606

You are hereby notified that on February 26, 2015, we electronically filed with the Clerk of the Circuit Court of Cook County our Notice of Appeal, a copy of which is attached hereto and hereby served upon you.

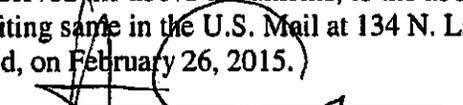


Andjelko Galic
Attorney for Defendant-Appellant

Andjelko Galic
LAW OFFICE OF ANDJELKO GALIC
134 N. LaSalle Street, Suite 1040
Chicago, IL 60602
(312) 986-1510
Atty. Code: 33013

CERTIFICATE OF SERVICE

I, Andjelko Galic, an attorney, certify that I served the above documents, to the above named person at the above stated address, by depositing same in the U.S. Mail at 134 N. LaSalle Street, Chicago, Illinois, with proper postage prepaid, on February 26, 2015.)



Andjelko Galic

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7. Defendant has lived at the subject property for over 20 years and he is willing to post a bond but the trial court, for reasons that have not been articulated, did not set the bond amount as requested in Defendant's Motion to Stay that was filed on February 26, 2015.
8. In his motion to stay filed on February 26, 2015 Defendant also indicated that this court has given full credit to the underlying judgment issued by Judge Otto thinking that it was a final judgment that was not appealed.
9. In February of 2015 Defendant advised this court that he had a Petition for Leave to Appeal pending before the Supreme Court of Illinois and that if his petition for leave to appeal is granted that Judge Otto's underlying judgment may be reversed.
10. In the meantime the Supreme Court of Illinois has vacated the order entered by the Appellate Court and now Judge Otto's ruling is under review in case number: 14-2751.
11. The Defendant here is a victim of a foreclosure-rescue-scheme organized by the two former law partners: Paul Shelton and Joseph Younes. Defendant has only recently obtained a copy of the fraudulent power of attorney that was used to transfer Defendant's property to the Plaintiff without having him pay anything for the property. This power of attorney was attached to one of Plaintiff's post-trial filings and it was not produced during the discovery in the underlying chancery case that serves as the basis for the current eviction. This fact is additional evidence that Defendant is more likely to prevail on this appeal and consequently that the order of possession should not be enforced in order to preserve the fruits of the appeal.
12. Under the above fact it would be extremely prejudicial to the Defendant to allow Plaintiff to enforce a judgment that was obtained through fraud and especially so in light of the fact that the trial court did not give Defendant an chance to post a bond during the pendency of the appeal of this case so that the status quo could be preserved during the appeal process.
13. If Plaintiff's current motion is deemed filed pursuant to Section 735 ILCS 5/9-117 with Plaintiff's motion must be denied because Plaintiff did not provide Defendant with notice required by Section 735 ILCS 5/9-117.
14. In its pertinent part Section 735 ILCS 5/9-117 states as follows:

Plaintiff's notice of motion shall contain the following notice directed to the defendant:

"Your landlord, (insert name), obtained an eviction judgment against you on (insert date), but the sheriff did not evict you within the 120 days that the landlord has to evict after a judgment in court. On the date stated in this notice, your landlord will be asking the court to allow the sheriff to evict you based on that judgment. You must attend the court hearing if you want the court to stop the landlord from having you evicted. To

prevent the eviction, you must be able to prove that (1) the landlord and you made an agreement after the judgment (for instance, to pay up back rent or to comply with the lease) and you have lived up to the agreement; or (2) the reason the landlord brought the original eviction case has been resolved or forgiven, and the eviction the landlord now wants the court to grant is based on a new or different reason; or (3) that you have another legal or equitable reason why the court should not grant the landlord's request for your eviction." (Source: P.A. 96-60, eff. 7-23-09.)

15. Plaintiff did not provide Defendant with the notice required by Section 735 ILCS 5/9-117 and thus Plaintiff's motion to extend time to enforce the order of possession must be denied.

Respectfully submitted,

/s/ Andjelko Galic

Law Office of Andjelko Galic
134 North LaSalle Street
Suite 1040
Chicago, Illinois 60602
Tel. (312) 986-1510
Attorney No.: 33013

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

JOSEPH YOUNES,

Plaintiff,

v.

RICHARD DANIGGELIS,

Defendant.

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14 MI 701473

NOTICE OF FILING

TO: Peter King, Esq
1 N LaSalle Street, Suite 2000
Chicago, IL 60602

You are hereby given notice that on June 30, 2015, we electronically filed with the Clerk of the Circuit Court of Cook County our Response to Plaintiff's Motion for Extension of Period of Enforcement of Judgment, a copy of which is attached and is hereby served upon you.

/s/ Andjelko Galic
ANDJELKO GALIC
Attorney for Richard Daniggelis
134 N. LaSalle Street, Suite 1040
Chicago, IL 60602
(312) 986- 1510
Attorney No. 33013

CERTIFICATE OF SERVICE

I, Andjelko Galic, an attorney, certify that I caused this Notice of Filing to be served by placing a copy of it in an envelope addressed the above party at the above address and depositing the same in the U.S. mailbox in Chicago, on July 1, 2015 with proper postage prepaid.

/s/ Andjelko Galic
Andjelko Gaic

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IN THE CIRCUIT COURT OF COOK COUNTY ILLINOIS
MUNICIPAL DEPARTMENT - FIRST DISTRICT

JOSEPH YOUNES)
Plaintiff(s),)
vs.)
RICHARD DANIGGELIS)
Defendant(s).)

No. 14 MI 701473 OR

ORDER

This matter coming on to be heard on the Motion of the Plaintiff(s) to Extend the Order For Possession entered herein on Jan. 27, 2015; and due notice having been given and the court being advised in the premises;

IT IS HEREBY ORDERED THAT;

The Plaintiff's Motion to Extend the Order For Possession is granted. The period of enforcement is extended to Sept. 30, 2015

Entered: [Signature]
Judge

Date: _____

Judge Diana Rosario

JUL 02 2015

Circuit Court - 2135

Attorney Code No. 48761

Name: PETER KING

Address: 101 N. WACKER DR.

SUITE 2010

Telephone No. (312) 780-7302