

State of Illinois
County of Cook



IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT***LAW DIVISION**

GMAC MORTGAGE, LLC)
Plaintiffs,)
VS.)
JOSEPH YOUNES, ET. AL.,)
Defendants.)
_____)
RICHARD DANIGGELIS,)
Defendant/Counter-Plaintiff)
VS)
JOSEPH YOUNES, PAUL)
SHELTON, ERIKA RHONE,)
JOHN LAROCQUE, Et. AL.,)
Counter-Defendants.)

07 CH 29738
(Transfer to Law Division)

ORDER

This matter having come on to be heard for trial on Richard Daniggelis' Counterclaim pursuant to this court's May 1, 2017 order;

And Attorney Andjelko Galic having appeared on behalf of Richard Danniggelis;

And Paul Shelton having appeared on his own behalf answering ready for trial;

And the Plaintiff through counsel having moved for a continuation of the trial, or in the alternative that the matter be dismissed without prejudice;

THE COURT HEREBY FINDS AS FOLLOWS:

1. The counterclaim was filed on December 3, 2009, and has been pending for over seven years.
2. On January 17, 2017 the predecessor judge entered an order stating that the matter would be dismissed on March 14, 2017 if the body attachment against John LaRocque had not been served.

3. Nonetheless, upon plaintiff's request on March 14, 2017 the matter was continued to April 17, 2017. On April 17, 2017 the matter was continued to May 1, 2017 for final status and trial setting, and on May 1, 2017 the matter was set for trial on July 10, 2017 at 10:30am.

4. Today, plaintiff's counsel stated to the court that the delay in the execution of the body attachment was due to the Cook County Sheriff's Department conduct and that they advised him that the matter was not a priority.

5. After the matter was called for trial, Attorney Galic presented a motion to continue trial claiming that the plaintiff was unable to appear because he was at home with an ill brother, and because the body attachment was still outstanding. Such was an intentional misrepresentation to the court because his client had been present in the courtroom prior to the court session.

7. The motion was denied, and counsel then moved for a voluntary nonsuit, once again claiming that his client was not available.

8. Section 2-1009 of the Code provides as follows:

"(a) The plaintiff may, at any time before trial or hearing begins, upon notice to each party who has appeared or each such party's attorney, and upon payment of costs, dismiss his or her action or any part thereof as to any defendant, without prejudice, by order filed in the cause." 735 ILCS 5/2-1009 (a)

9. 735 ILCS 5/2-1009(a) requires the payment of costs in order for a party to voluntarily dismiss his action without prejudice, and notice must be given. The court has no discretion to deny the plaintiff's motion for voluntary dismissal, as long as the requirements are met. *Vaughn v.*

Northwestern Memorial Hospital, 210 Ill. App. 3d 253, 257 (1991) appeal denied, 139 Ill. 2d 605(1991).

10. Plaintiff gave no notice of his motion to voluntarily dismiss.

11. Further, the plaintiff has not paid the defendants' costs or even represented a willingness to pay any costs.

12. Defendant Paul Shelton orally moved for judgment in his favor because of plaintiff's failure to proceed.

IT IS HEREBY ORDERED:

- 5217 **A. The motion to continue trial is denied.**
- 5040 **B. The motion for voluntary nonsuit is denied.**
- 4011 **C. The matter is dismissed with prejudice for failure to proceed.**
- 8301 **D. Judgement is entered in favor of Paul Shelton and against the plaintiff.**
- E. This matter is taken off call.**

Judge Diane M. Shelley

JUL 10 2017

Circuit Court - 1925

ENTERED


Judge Diane M. Shelley #1925

July 10, 2017

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

407

GMAC Plaintiff
Younes et al,
Defendants

No. 07 CH 29738

CASE MANAGEMENT ORDER

Danugglio

This case is before the court for initial subsequent status, or motion, counsel for plaintiff, defendant, third party defendant present, it is hereby ordered:

- 4296 1. Non-opinion written discovery to be completed by _____
- 4218 2. Non-opinion oral discovery to be completed by _____
- 4296 3. _____ shall complete outstanding written discovery by _____
- 4218 4. _____ shall be presented for deposition by _____
- 4253 5. Plaintiff shall serve Rule 213 f(2) and (3) disclosures by _____
- 4253 6. Defendant shall serve Rule 213 f(2) and (3) disclosures by _____
- 4218 7. Plaintiff's 213 f(2) and (3) witnesses to be deposed by _____
- 4218 8. Defendant's 213 f(2) and (3) witnesses to be deposed by _____
- 4295 9. All discovery to be completed by _____
- 4231 10. All dispositive motions shall be filed and noticed no later than _____
- 4619 11. This matter is continued to _____ at _____ for:

(check one or more)

- Service Status
- Compliance Status
- Default / Prove Up
- Pretrial (parties must be present unless excused by order of Court)
- Other _____
- Pleadings Status
- Settlement Status
- Final Pretrial
- Written Discovery Status
- Oral Discovery Status
- Expert Discovery Status

4482 12. Jury/Bench trial is set to begin on _____ at 10:30 a.m.

4619

It is further ordered: This matter is continued to 1-17-2017
at 9:10 AM for status regarding ~~some~~ discovery
attachment issued against John LaFolie.

ENTERED
JUDGE SANJAY TAILOR-1870
DEC 05 2016
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

Atty No. 33013
Atty Name: ANDREAS SAUCI
Attorney for: RICHARD DANUGGLIO
Address: 134 N. LaSalle St. #1040
City: CHICAGO IL 60602
Phone: 312 986-1510

Enter:

Judge Sanjay T. Tailor

No. 1870

40

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

GMAC Plaintiff
vs.
JOSEPH YOUNES, et al.
Respondent

NO. 07 CH29738
CITATION SUMMONS SERVED: 6-28-16
Date

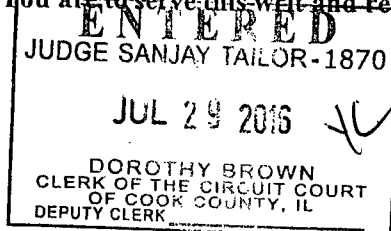
ATTACHMENT FOR CONTEMPT ORDER

To the Sheriff of Cook County:

YOU ARE COMMANDED to take custody of JOHN P. LA ROCQUE,
and if not released from your custody upon his/her bond, to immediately bring him/her before the Honorable
JUDGE SANJAY TAILOR or any Judge presiding in that Judge's stead in Room 1912,
DACEY CENTER, Illinois to answer for a Contempt of Court for NOT ATTENDING
SAID COURT AS PREVIOUSLY ORDERED.

You are authorized to take respondent to one of the Sheriff's facilities for the purpose of accepting bond, and to
require his/her appearance in court at a specified date and time not less than 7 nor more than 15 days after attachment.
Such appearance date, time and address shall be set forth upon the bond.

You are to serve this writ and return it without delay.



(Seal of Clerk of Circuit Court)

Bail set in the amount of \$ _____
(10% applicable - \$25.00 minimum)

or

Individual Bond set in the amount of \$ 20,000.00 ^{\$289}
[Signature] ^{BOND}
Judge Judge's No.

I hereby certify the above to be correct.

Dated: _____

Clerk of the Circuit Court of Cook County, Illinois

This order is the command of the Circuit Court and violation thereof is subject to the penalty of the law.

TO THE RESPONDENT: If you are released on bond, you shall appear in Room 1912, 50 W.
WASHINGTON, CHICAGO, Illinois, at 9:20 a.m./p.m. on [Signature], _____ (Date to be inserted by Sheriff.)
The above information shall be noted on the bond of the respondent and the copy of this writ delivered to him/her.

Atty. No.: 33013
Name: ANDREU GALIC
Attorney for: RICHARD DANIEGUS
Address: 134 N. 19th St, #1050
City/State/Zip: CHICAGO, IL 60602
Telephone: 312 986-1510

If the respondent is apprehended in a county other than Cook County and is let to bail, the bond, writ and cash bail deposite shall be forwarded without delay to the offices of Clerk of the Circuit Court, Room _____, in Municipal District _____, located at _____ (Address) _____, Illinois _____ (City) _____ (Zip)

(OVER)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

4C

GMAE
Plaintiff

No. 07 CH 29738

Joseph Younes et al.
Defendants

CASE MANAGEMENT ORDER

Richard Danjulis
Plaintiff

This case is before the court for ___ initial subsequent status, or motion, counsel for ___ plaintiff, ___ defendant, ___ third party defendant present, it is hereby ordered:

- 4296 1. Non-opinion written discovery to be completed by _____
- 4218 2. Non-opinion oral discovery to be completed by _____
- 4296 3. _____ shall complete outstanding written discovery by _____
- 4218 4. _____ shall be presented for deposition by _____
- 4253 5. Plaintiff shall serve Rule 213 f(2) and (3) disclosures by _____
- 4253 6. Defendant shall serve Rule 213 f(2) and (3) disclosures by _____
- 4218 7. Plaintiff's 213 f(2) and (3) witnesses to be deposed by _____
- 4218 8. Defendant's 213 f(2) and (3) witnesses to be deposed by _____
- 4295 9. All discovery to be completed by _____
- 4231 10. All dispositive motions shall be filed and noticed no later than _____
- 4619 11. This matter is continued to 8-30-16 at 9:20 AM for:

(check one or more)

- Service Status _____ Pleadings Status _____ Written Discovery Status _____
- _____ Compliance Status _____ Settlement Status _____ Oral Discovery Status _____
- _____ Default / Prove Up _____ Final Pretrial _____ Expert Discovery Status _____
- _____ Pretrial (parties must be present unless excused by order of Court)
- _____ Other _____

4482 12. Jury/Bench trial is set to begin on _____ at 10:30 a.m.

It is further ordered: Body Attachment

ENTERED
JUDGE SANJAY TAILOR-1870

JUL 29 2016

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

Atty No. 33013
 Atty Name: ANDRZEJ GAUC
 Attorney for: RICHARD DANJULIS
 Address: 134 N. La Salle St. # 1040
 City: CHICAGO, IL 60602
 Phone: 312 906-1510

Enter: _____
 Judge Sanjay T. Tailor No. 1870

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

GMAC,)	
)	
Plaintiff,)	
)	
vs.)	No.: 07 CH 29738
)	
JOSEPH YOUNIS, et. al.,)	
)	
Defendants.)	

MOTION FOR CONTINUANCE

NOW COMES Counter-Plaintiff, Richard Daniggelis, by and through his attorney Andjelko Galic, and moves this court to continue the trial date. In support of his Motion Plaintiff states as follows:

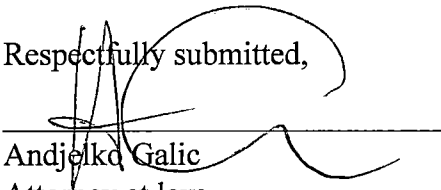
FILED-2
2017 JUL 10 AM 10:18
BOROTTA COURT
CLERK OF COURT
LAW DIVISION

1. This matter is currently pending and set for trial on July 10, 2017.
2. None of the counter-defendants appeared before this court since this matter was assigned to Law Division.
3. Counter-Plaintiff Richard Daniggelis served subpoena for depositions of John LaRuque and John LaRuque failed to appear for his deposition. LaRuque was very instrumental in the scheme to defraud Counter-Plaintiff and without LaRuque's assistance the fraud would not have been perpetrated on the Counter-Plaintiff.
4. There is an active warrant for body attachment against John LaRuque but the Sheriff is unable to bring him to court for reasons that are beyond Counter-Plaintiff's control.
5. John LaRuque was involved in financing of the underlying real estate transaction and he may have valuable information regarding the source of the funds for the underlying transaction and also regarding the distribution of the funds after the underlying transaction was completed.
6. Since none of the Counter-Defendants has appeared in court do defend against allegations raised in Counter-Plaintiff's complaint it is very likely that these counter-defendant's are not solvent and obtaining a default judgment against them would not be of much help to Counter-Plaintiff.

7. Since counter-defendants have not appeared on this matter since it was transferred to Law Division there is no prejudice to any interested party if this matter is continued for trial until after the warrant for body attachment of John LaRuque is executed.
8. In addition, Counter-Plaintiff, Richard Daniggelis is taking care of his elderly brother John Daniggelis. He has been caring for his brother on a daily basis for approximately 12 years.
9. John Daniggelis is 82 years old and lives at 2150 N. Lincoln Park West in Chicago.
10. In recent past John Daniggelis suffered a heart attack and a stroke.
11. John's health condition has worsened during the last few week and as a result Richard Daniggelis must continuously be with his brother because no one else can take care of him at this critical point in his life.
12. John Daniggelis is refusing to go to a hospital and he is unable to feed himself or to take care of his very basic needs.
13. As a result Richard Daniggelis is unable to come to trial and testify in support of his claims against Counter-Defendants.
14. On information and belief these could be John Daniggelis's last days.

Wherefore, Defendant prays for an order granting his motion for continuance.

Respectfully submitted,



Andjelko Galic
Attorney at law

ANDJELKO GALIC
Attorney for Plaintiff
134 N. LaSalle Street, Suite 1040
Chicago, IL 60602
(312) 986- 1510

VERIFICATION

I, Richard Daniggelis , under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, certify that I have read this Motion for Continuance, 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.

July 10, 2017

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, LAW DIVISION

9
 9

GMAC Plaintiff
 v
 Younes et al,
 Defendants

No. 07CH29738

CASE MANAGEMENT ORDER

This case is before the court for ___ initial ___ subsequent status, or motion, counsel for ___ plaintiff, ___ defendant, ___ third party defendant present, it is hereby ordered:

- 4296 1. Non-opinion written discovery to be completed by _____
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 - 4253 6. Defendant shall serve Rule 213 f(2) and (3) disclosures by _____
 - 4218 7. Plaintiff's 213 f(2) and (3) witnesses to be deposed by _____
 - 4218 8. Defendant's 213 f(2) and (3) witnesses to be deposed by _____
 - 4295 9. All discovery to be completed by _____
 - 4231 10. All dispositive motions shall be filed and noticed no later than _____
 - 4619 11. This matter is continued to 12-5-16 at 9:20 AM for:
 (check one or more) status regarding body attachment
- | | | |
|---|-------------------------|--------------------------------|
| _____ Service Status | _____ Pleadings Status | _____ Written Discovery Status |
| _____ Compliance Status | _____ Settlement Status | _____ Oral Discovery Status |
| _____ Default / Prove Up | _____ Final Pretrial | _____ Expert Discovery Status |
| _____ Pretrial (parties must be present unless excused by order of Court) | | |
| _____ Other | | |
- 4482 12. Jury/Bench trial is set to begin on _____ at 10:30 a.m.

It is further ordered: _____

ENTERED
 JUDGE SANJAY TAILOR-1870
OCT 17 2016
 DOROTHY BROWN
 CLERK OF THE CIRCUIT COURT
 OF COOK COUNTY, IL
 DEPUTY CLERK

Atty No. 33013
 Atty Name: ANDREAS GALE
 Attorney for: Richard Danziger
 Address: 134 N. La Salle St. #1040
 City: CHICAGO, IL 60602
 Phone: 312 926-1510

Enter: _____
 Judge Sanjay T. Tailor No. 1870

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

Ne

GMAC

v

No.

07CN 29738

Younes

CASE MANAGEMENT ORDER

This case is before the court for ___ initial ___ subsequent status, or motion, counsel for ___ plaintiff, ___ defendant, ___ third party defendant present, it is hereby ordered:

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- 4218 2. Non-opinion oral discovery to be completed by _____
- 4296 3. _____ shall complete outstanding written discovery by _____
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- 4218 8. Defendant's 213 f (2) and (3) witnesses to be deposed by _____
- 4295 9. All discovery to be completed by _____
- 4231 10. All dispositive motions shall be filed and noticed no later than _____
- 4619 11. This matter is continued to July 29 at 920 for:

(check one or more)

- _____ Service Status _____ Pleadings Status _____ Written Discovery Status
- _____ Compliance Status _____ Settlement Status _____ Oral Discovery Status
- _____ Default / Prove Up _____ Final Pretrial _____ Expert Discovery Status
- _____ Pretrial (parties must be present unless excused by order of Court)
- _____ Other _____

4482 12. Jury/Bench trial is set to begin on _____ at 10:30 a.m.

It is further ordered: _____

ENTERED
JUDGE SANJAY TAILOR-1870
JUL 19 2016
DOROTHY BROWN CLERK OF THE CIRCUIT COURT OF COOK COUNTY, IL
DEPUTY CLERK

Atty No. AMPJELIKO GALIC
 Atty Name:
 Attorney for: RICHARD DANIGGELIS
 Address: 134 N. LASALLE
 City: CHICAGO
 Phone: 312 217-5433

Enter:

[Signature]

Judge Sanjay T. Tailor No. 1870