

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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XXXXXXXXXXXXXXXX and XXXXXXXXXXXXXXXX,

Index #: XXXXXX

Plaintiffs,

- against -

NOTICE OF MOTION

XXXXXX and XXXXXX,

And XXXXXXXXXXXX, as Escrow Agent,

Defendants.

-----X

S I R S:

PLEASE TAKE NOTICE that upon the annexed affirmation of Jeena R. Belil, the affidavit of XXXXXXXXXXXX, sworn to the day of XXXXX, 200X, and upon all the pleadings and proceedings heretofore had herein, a motion will be made at an Individual Assignment Part at the Courthouse located at 210 Center Drive, Riverhead, New York, 11901, on Xth day of XXXXXX, 200X, at 9:30 o'clock in the forenoon, or as soon thereafter as counsel can be heard, for an order pursuant to CPLR 2601, granting leave to XXXXXXXXXXXX, defendant herein, to make payment into court of the sum of \$ XX,XXX.00 and to discharge him from all further liability and dismiss him from this action upon the ground that the defendant is not involved in the controversy between the plaintiff and XXXXXX and XXXXXX, the co-defendants herein, since the defendant XXXXXXXXXXXX, is merely a disinterested stakeholder, and for such other and further relief as may be just, proper, and equitable.

Pursuant to CPLR 2214(b), answering affidavits, if any, are required to be served upon the undersigned at least seven days before the return date of this motion.

The above-entitled action is for breach of contract.

Dated: XXXXXXXXXXXX, New York
March 10, 2009

Yours, etc.,

THE LAW OFFICE OF JEENA R. BELIL, PC

JEENA R. BELIL

Attorney for Defendant

XXXXXXXXXXXX

XXXXXXXXXXXX

XXXXXXXXXXXX, New York XXXXXXXXXXXX

631-445-7380

File Number: XXXXXXXXXXXX

TO: XXXXXXXXXXXX, PC
Attorney for Plaintiffs
XXXXXXXXXXXXXXXX and XXXXXXXXXXXX
XXXXXXXXXXXXXXXX
XXXXXX, New York XXXXX

XXXXXXXXXXXXXXXX and XXXXXXX
Defendants Pro Se
XXXXXXXXXXXXXXXX
XXXXXX, New York XXXXXXX

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----X

XXXXXXXXXXXXXXXX and XXXXXXXXXXXXXXXX,

Index #: XXXXXX

Plaintiffs,

- against -

AFFIRMATION IN SUPPORT
OF MOTION

XXXXXX and XXXXXX,

And XXXXXXXXXXXX, as Escrow Agent,

Defendants.

-----X

JEENA R. BELIL, an attorney duly licensed to practice law in the Courts of the State of New York, affirms the following under the penalties of perjury:

1. I am the attorney for XXXXXXXXXXXX (hereinafter referred to as “XXXXXXXXXXXX”), one of the defendants herein, and am familiar with all the facts and circumstances heretofore had herein and, as such, I submit this affirmation in support of the within motion for an Order pursuant to CPLR 2601 granting leave to XXXXXXXXXXXX, defendant herein, to make payment into the Supreme Court, Suffolk County of the sum of \$ xx,xxx.00 and to discharge him from all further liability and dismiss him from this action.

2. The above-entitled action was brought on behalf of the Plaintiff for alleged breach of a real estate sales contract and for reimbursement of Plaintiffs’ deposit which has been kept, in good faith, in escrow, by Defendant, XXXXXXXXXXXX, pursuant to the terms of said real estate contract.

3. The action was commenced on the 13th day of January, 2009, by the filing a summons and complaint, which were served upon Defendant XXXXXXXXXXXX on the same day. Issue was joined on February 3, 2009 with the service of an Answer with Counterclaims.

4. That pursuant to the real estate Contract of Sale and Riders entered into by all parties to the above referenced action, a \$ XX,XXX.00 down payment toward the purchase price of the property was to be transferred and held in escrow by Defendant XXXXXXXXXXXX. A copy of the Contract of Sale, including Riders is attached hereto as Exhibit “A”. Defendant XXXXXXXXXXXX is still possession of the \$ XX,XXX.00 in a segregated bank account held at XXXX Bank in XXXXX, XXX XXXX, pursuant to the escrowee’s obligations set forth in the Contract of Sale. Co-Defendants XXXXXXXXXXXX and XXXXXX have denied plaintiff’s rights to this down payment, based upon plaintiffs’ breach of the Sales Contract, and have requested that XXXXXXXXXXXX withhold the release of escrow monies until the dispute is resolved. Additionally, Plaintiff’s counsel has advised XXXXXXXXXXXX, by correspondence dated November 21, 2008, not to release said funds. See copy of correspondence and follow up letters from Defendant, annexed hereto as Exhibit “B”.

5. That XXXXXXXXXXXX has no interest in the property in question and here merely occupies the position of a stakeholder, having no interest in the controversy between Plaintiffs and Co-Defendants XXXXXXXXXXXX and XXXXXX.

6. No previous application for the relief herein prayed for has been made.

WHEREFORE, deponent respectfully asks for an order granting defendant, XXXXXXXXXXXX, leave to make payment into the Supreme Court, Suffolk County of the sum of \$ XX,XXX.00 and to dismiss him from the action and discharge him from all further liability, and for such other and further relief as this Honorable Court deems just, proper and equitable.

Dated: XXXXXXXXXXXX, New York
March 10, 2009

JEENA R. BELIL
Attorney for Defendant
XXXXXXXXXXXX
XXXXXXXXXXXX
XXXXXXXXXXXX, New York XXXXXXXXXXXX
631-XXX-XXXX
File Number: XXXXXXXXXXXX

TO: XXXXXXXXXXXX, PC
Attorney for Plaintiffs
XXXXXXXXXXXX and XXXXXXXXXXXX
XXXXXXXXXXXX
XXXXXXXXXX, New York XXXXX

XXXXXXXXXXXX and XXXXXX
Defendants Pro Se
XXXXXXXXXXXX
XXXXXXXXXX, New York XXXXX

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

Index #: XXXXX/09

XXXXXXXXXXXXXXXX & XXXXXXXXXXXXXXXX,

Plaintiff(s),

- against -

XXXXXX and XXXXXX

And XXXXXXXXXXXX, as Escrow Agent,

Defendant(s).

NOTICE OF MOTION AND AFFIRMATION IN SUPPORT

THE LAW OFFICE OF JEENA R. BELIL, P.C.

Attorney for the Defendant(s)

XXXXXXXXXXXXXXXXXXXX

P.O. BOX 709

XXXXXXXXXXXX

XXXXXXXXXXXX, NEW YORK XXXXXXXXXXXXXXX

(631) 445-7380

Fax (631) 514-3615

File #: xxxxxxxxxxxx

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of this document or the contentions contained therein are not frivolous.

Dated _____

Signature _____

Print Signer's Name _____

Service of a copy of the within _____ is hereby admitted.

Dated: _____

Attorney(s) for

Sir:

Please take notice

NOTICE OF ENTRY

That the within is a (certified) true copy of a

Duly entered in the office of the clerk of the within named Court on _____, 20__

NOTICE OF SETTLEMENT

That an order _____ of which the within is a true copy will be presented for settlement to the

HON. _____, one of the judges of the within named Court at _____ on the

day of _____ 20 __, at _____ .m.

Dated,

Yours, etc.

THE LAW OFFICE OF JEENA R. BELIL, P.C.

Attorney for the Plaintiff(s)

P.O. BOX 709

XXXXXXXXXXXX
XXXXXXXXXXXX, NEW YORK XXXXXXXXXXXXXXX