

CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF KINGS HOUSING PART -----X 622A PRESIDENT STREET OWNERS CORP., Petitioner-Landlord,  -against  BRETT WYNKOOP and KATHLEEN KESKE  Respondent-Tenants,  “JOHN DOE” and “JANE DOE” Respondent(s)-Undertenat(s) -----X	<b>Index No. LT-081709-18</b>  <b>Memorandum of Law</b>  <b>In Opposition to</b> <b>Motion to Consolidate</b>  <b>Motion Sequence - 2</b>
---	--

#### **No Waiver of Jurisdictional Defects**

**This pre-answer motion does not waive jurisdictional defects and Respondents do not consent to the jurisdiction of this court. This submission is only a special appearance to prevent a court that is without jurisdiction from issuing a void order, with no objection from Brett Wynkoop on the record. This court illegally threatens to give Kyle Taylor and Rajeev Subramanyam alleged authority to employ armed thugs to dispose Wynkoop of his 60% ownership interest in 622A President Street Owners Corporation based on the perjury already committed by both of his minority partners, Taylor and Subramanyam.**

This court is referred again to EX PARTE MCCARDLE, 74 U.S. 506 (Wall.) (1868)<sup>1</sup> for controlling case law from the Supreme Court of The United States of America.

***This is a special appearance only respondents do not waive any rights with respect to jurisdiction.***

#### **Three Strikes**

1. On filing motion sequence 1 in the instant matter, **motion to dismiss for lack of jurisdiction**, Wynkoop prepared the exact same motion papers for **LT-081709-18 and LT-081708-18**. Wynkoop presented one copy of the papers to the clerk of the court and said the two matters needed to be joined, or at least sent to the same judge, as they involved the same parties, same fact pattern, and should have been filed by the Alleged Petitioner as one action, not two. The clerk replied that they were two actions

<sup>1</sup> “It is quite clear, therefore, that this court cannot proceed to pronounce judgment in this case, for it has no longer jurisdiction” - **Salmon P. Chase** Chief Justice of the Supreme Court of the United States

and he could not even send them to the same judge. He said Wynkoop could make application to the judge hearing the Order to Show Cause (OSC) to consolidate the two matters.

2. When Wynkoop presented his OSC to Judge Gonzalez he at that time made Oral Application to her to consolidate the two matters, or at least have both OSCs heard at the same time and by the same judge. That application was denied.

3. Wynkoop then presented himself before Judge Cohen where he made the same application, and the same answer was returned, no consolidation would be forthcoming.

4. For Sodroski to make an application to consolidate at this stage is frivolous. The court has already made answer to the question of consolidation. Additionally as there has been a challenge to jurisdiction made, several in fact, and they have not been addressed this court has nothing before it until the jurisdictional issues have been settled.<sup>2</sup> It must be noted that there were no findings of fact or conclusions of law rendered on motion sequence 1, and it was never reviewed, so all jurisdictional challenges remain in play.

### **No Standing**

5. 622A President Street Owners Corporation, False Flag<sup>3</sup> Petitioner (FFP), has no standing to bring the instant motion as there is nothing properly in front of this court. FFP failed to perfect service and Respondents made application in motion sequence 1 for a traverse hearing which was ignored by Judge Sikowitz. A request for a traverse hearing is a challenge to jurisdiction and were a challenge to jurisdiction exists the court can do nothing until the party in opposition, in the instant matter FFP, makes a showing that they have properly obtained jurisdiction.<sup>4</sup> No traverse hearing has been had therefore there is no jurisdiction and there is **NOTHING** properly before the court.

6. FFP can not invoke the jurisdiction of this court until it corrects its defective initial pleading and makes good and proper service of the corrected pleading. The initial pleading fails the "sniff test"<sup>5</sup> on both BCL 3020 and 3022. The court is referred to the original of the UN-verified Petition of FFP.

---

<sup>2</sup> "There is no discretion to ignore lack of jurisdiction." Joyce v. U.S. 474 2D 215.

<sup>3</sup> A **false flag** is a covert operation designed to deceive; the deception creates the appearance of a particular party, group, or nation being responsible for some activity, disguising the actual source of responsibility.

<sup>4</sup> "No judgment of a court is due process of law, if rendered without jurisdiction in the court, or without notice to the party." *Scott v. McNeal*, 154 U. S. 34, 154 U. S. 46.

<sup>5</sup> A Sniff Test is the act of smelling something to see if it seems fresh or spoiled. Here the odor is that of rotten eggs.

In particular to the alleged verification affidavit. The embossed seal over the signature of Daphne H. Hooper is clearly not that of a New York Notary. In fact the seal indicates it is from Ontario, Canada while the document clearly states in the jurat that it was executed in the State of New York. Hooper is not listed on the rolls of notaries in the State of New York. There is no New York State Commission Number on her seal or in her own hand on the document. Clearly the document fails the “sniff test”, is defective on it’s face and the clerk should never have accepted it for filing. It is therefore a **ministerial duty for the court to dismiss the instant action** for the defect in the initiating document. There is no way to amend facially defective pleading ex-post-facto. To do so denies due process in violation of the 5<sup>th</sup> and 14<sup>th</sup> amendments to the Constitution of the United States of America. Any attempted retroactive correction is a denial of **NOTICE, which is a fundamental right and the cornerstone of our judicial system**.

7. Filing the petition with the fake notarization is the criminal act of filing a false instrument in the second degree. This charge of necessity would have to reflect back to both Taylor, and his attorney Sodroski. Both of them are licensed to practice law in the State of New York, as such it was also a criminal act under Judicial Law 487, the attorney deceit act. Exhibit-1 shows the details of Taylor’s registration and Exhibit-2 the details of Sodroski’s registration.

8. **Judges are mandated reporters of crimes.** A judge must take action when a crime is brought to the judges attention. This is an affirmative application to Judge Sikowitz, or any successor judge to attend to the ministerial act of referring these crimes to Kings County District Attorney Eric Gonzalez for investigation and prosecution.

9. But wait there is more! Not only was the verification fake notarized, but it was no verification at all. Taylor never swore to anything. Attached at Exhibit-3 is a straight forward COURT SUPPLIED verification form that comports with CPLR 3020, which states “...***A verification is a statement under oath that the pleading is true to the knowledge of the deponent, except as to matters alleged on information and belief***”. The court is asked to compare the language therein with that used by Taylor. Taylor swears “to the best of his knowledge”, which is in effect swearing to nothing, for his knowledge might be very faulty. The purpose of a verification is to “put skin in the game”<sup>6</sup>. In legal proceedings the purpose of a verification to an initial pleading is so that the person making the verification risks jail

---

<sup>6</sup> To have “**skin in the game**” is to have incurred risk (monetary or otherwise) by being involved in achieving a goal. In legal proceedings swearing under penalty of perjury puts the deponent at risk of jail time if the swearing is false.

time for perjury if they have sworn out a false complaint. In the non-verification made by Taylor he risks nothing, and uses this court as a weapon against his victims. The difference between Taylor and a mugger on the street is that Taylor, and Sodroski too, are both members of the same private guild as those who meet out justice. History teaches us it is nearly impossible to get an attorney to take actions against another attorney. Thus Taylor has been allowed to terrorize a pair of Senior Citizens for the last 6 years.

#### **FFP Submitted a Facially Defective Motion.**

10. CPLR 320 states in pertinent part “***Unless otherwise specified by law, where a pleading is verified, each subsequent pleading shall also be verified...***”. If FFP represents that their initial pleading was properly verified then their pleading in the instant motion is facially defective and can not be considered properly before the court due to it’s own inherent defect. It is not verified.

11. If we accept the proposition that FFP did not make a properly verified petition, then FFP’s instant motion need not be verified, except there is that little pesky detail that Respondents verified their first motion. That means everything that comes after in the case must be verified and of course Petitioner has failed to properly verify yet again.

12. FFP’s motion is defective on it’s face and even if the court had jurisdiction in this matter, which it does not, as it lacks both subject matter and personal jurisdiction, the court has no motion before it due to Sodroski’s errors and omissions. **Respondents do not waive their right to a verified motion! Respondents do not waive their right to a verified Petition.**

#### **FFP Can Not Obtain Subject Matter Jurisdiction**

13. Taylor and Suramanyam who claim to have corporate authority to collect rent on behalf of 622A President Street Owners Corporation (COOP, not to be confused with FFP) have no such authority. Attached at Exhibit-4 are true copies of Shareholder resolutions removing Taylor and Subramanyam from any positions they may have at one time held. Subject matter jurisdiction can not be obtained by false statements to a tribunal. Any statement made by either Taylor or Subramanyam to the effect that they speak for the COOP is a false statement.

14. Kings County Supreme Court made and entered an order, which was served on Keske, Wynkoop, Subramanyam, and Taylor with respect to how rent was to be collected and how coop funds



were to be dispersed. That order is attached at Exhibit-5. The court is directed the bottom of Page 3 and the top of Page 4 In the instant action Subramanyam and Taylor are attempting to do an end run around a lawful order of a higher court. This order was put in place so that both factions in Kings County Supreme Court Case 507156-2013 could be assured that no funds were being improperly used by any party. It was needed because for more than 2 years Taylor and Subramanyam refused to pay their rent, yet they come to this court, having not deposited their monies into that account as directed by Kings County Supreme Court and claim that because Respondents did not hand their rent over to Taylor and Subramanyam that Respondents are in arrears. Respondents are under no obligation to provide any funds to Taylor and Subramanyam. Taylor and Subramanyam are under obligation, as are Keske and Wynkoop to obey the order of the Supreme Court and deposit their rent in the account that was in effect at the time the order was written.

15. Because a superior court to housing court has directed Taylor, Subramanyam, Keske and Wynkoop as to where the rent is to be paid, and how that rent is to be paid ***housing court can not obtain subject matter jurisdiction until the order of Justice Schmidt attached at Exhibit-5 is no longer in force.***

16. Taylor, Subramanyam and their attorney Sodroski have committed the crimes of filing a false instrument to bring actions against the majority shareholders in the COOP.

17. Taylor and Subramanyam filed a building registration with the city of New York that they were not authorized to file, and additionally which contained false statements. As described in FFP's initiating papers Taylor claimed to the NYC HPD that he lived in Apartment 3 of 622A President Street. Exhibit-1 shows that Taylor is employed as an attorney at a law firm in Toronto, Ontario, Canada. The current building HPD registration information can be seen at Exhibit-6 and shows that Taylor claims to live at the storefront mailbox provider Balloonmail (Exhibit-7). This is the crime of filing a false instrument in the second degree. It is axiomatic that no legal process may be sustained that has begun in a criminal act.

18. Taylor and Sodroski also filed a false instrument in the Petition on file with the housing court. The petition was not verified as it did not comport with CPLR 3020, but worse still the notarization was a fraud. The jurat claims the document was notarized in New York County, but the raised seal

shows no New York notary commission information and the alleged notary is not on the rolls of New York Notaries.

19. This means FFP has not invoked personal jurisdiction.

### **Judge Sikowitz Violated Respondents Civil Rights and More**

20. On 30 October 2018 at the first appearance before Judge Sikowitz she refused to even hear Respondents motion to dismiss, which was based on jurisdictional grounds. Upon hearing lying lawyer Daniel P. Sodroski tell her respondents have no standing to move the court until they vacate their default, she began writing her nonsensical and impossible to follow order dated 30 October 2018 directing Respondents to vacate a non-existent default before they could be heard.

21. That single action violated Respondents due process right to both Notice and Opportunity to Be Heard. It was violative of both those fundamental rights because Respondents were not properly served in the instant action and made demand in motion sequence 1 for a traverse hearing. Judge Sikowitz ignored this demand which was clear in the papers for motion sequence 1. Respondents' papers from motion sequence 1 are included here by reference as if they were attached to this document.

22. Respondents have represented to this court that FFP did not initiate the instant action with a properly verified complaint. Respondents have represented to this court that FFP was noticed in conformance with CPLR 3022 of their failure. Respondents have noticed this court that FFP's alleged rejection of Respondents rejection did not comport with CPLR 3022 and only made the conclusionary statement that Respondent's rejection was "legally insufficient", making FFP's rejection legally insufficient for failure to comport with CPLR 3022. Respondents made reply with another Rejection which comported to the letter with CPLR 3022. These rejections are all part of motion sequence 1 which is here included by reference. **The only two options left to FFP at that time were either correct their documented defects and reserve, or motion this court to force Respondents to accept a petition which does not comport with New York State Law.**

23. The law and facts surrounding FFP's failure to invoke the jurisdiction of the court was presented to Judge Sikowitz in motion sequence 1, which she refused to read or allow oral argument on.

24. Upon directing Respondents to file a “proper osc” requesting setting aside a non-existent default, and entering that order into the record of the court Judge Sikowitz compounded things. In addition to violating Respondents Constitutionally Protected Right to Due Process Judge Sikowitz committed fraud upon the court and violated Judicial Law 487, the New York Attorney deceit statute.

### **Judicial Notice Under CPLR 4511**

25. The court must under CPLR 4511 take judicial notice of it's own records and read motion sequence 1, Respondents motion to dismiss.

26. The court must under CPLR 4511 to take judicial notice of it's own records and examine the invalid verification attached to FFP's petition, which clearly shows the defects cited in Respondents' rejection.

27. The court must under CPLR 4511 to take judicial notice of **Washington Mut. Bank v Phillip** 2010 NY Slip Op 52034(U) Decided on November 29, 2010 Supreme Court, Kings County Schack, J. attached as Exhibit-8

### **Judge Shopping**

28. If there is to be any consolidation, and Respondents do not agree with consolidation, then the proper consolidation would be to consolidate under the lower index number to the judge assigned that case. The lower index number indicates the case that is first and therefore has primacy.

29. That Sodroski requested consolidation before Judge Sikowitz indicates he is judge shopping. Judge Sikowitz's obvious bias to favor litigants who are represented by New York State Licensed attorneys was visible when she refused to hear Respondents on motion sequence 1 after Sodroski's false claim that a default had to be cured. That Judge Sikowitz refused to even look at the court's own file is further evidence of bias which Sodroski is attempting to use to advantage FFP.

### **Conclusion**

30. Daniel P. Sodroski made the initial choice to file two actions against Keske, Wynkoop, and Richmond (John Doe). That Daniel P. Sodroski now appears before this court asking to consolidate is disingenuous, outrageous and frivolous. He wastes the court's time and that of the victims of his false

flag attack<sup>7</sup>. It is clear he is trying to make the cost to defend respondents ownership interest in 622A President Street Owners Corporation (COOP) so great that Wynkoop and Keske will be forced to turn their property, which amounts to their life savings and retirement nest egg over to his clients Taylor and Subramanyam who have perjured themselves in documents filed ex-parte with the court and never served upon respondents.

31. Given the foregoing the FFP's Motion to Consolidate is unripe, there is no action before this court, and as the court is without jurisdiction it must follow United States Supreme Court, which is controlling on all courts in this nation, and dismiss. For the assistance and guidance of the court the relevant portion of *Ex parte McCardle* :: 74 U.S. 506 (1868) is quoted below and Authorities on Jurisdiction are attached.

**"Without jurisdiction the court cannot proceed at all in any cause.**

**Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause. And this is not less clear upon authority than upon principle.**

32. The court here has only one action open to it, note the lack of jurisdiction and dismiss.

33. Should the court ignore it's clear duty and decide to plow forward in violation of the law then any amended caption should read as follows:

<p>CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF KINGS HOUSING PART</p> <p>-----X</p> <p>Kyle Taylor &amp; Rajeev Subramanyam claiming to sue in the right of 622A PRESIDENT STREET OWNERS CORP., False Flag Petitioners,</p> <p>-against</p> <p>BRETT WYNKOOP and KATHLEEN KESKE</p> <p>Respondent-Victims,</p> <p>"JOHN DOE" and "JANE DOE" Respondent(s)-Victims(s)</p> <p>-----X</p>	<p><b>Index No. LT-08170-18</b> <b>Index No. LT-081709-18</b></p> <p><b>A False Flag Action as Collateral Attack Attempting to End Run The Jurisdiction of Kings County Supreme Court</b></p>
--	---

<sup>7</sup> See footnote 2

34. The caption is explained thusly, evidence attached to motion sequence 1 clearly shows that Taylor and Subramanyam lack the capacity to bind the COOP. Being unauthorized to bind the COOP the only way they could provide initiating or supporting documents to the housing court would be if they brought an action in a derivative capacity, which they here did not, instead they raised a False Flag and pretended to be the COOP, thus they are False Flag Petitioners.

35. That Subramanyam and Taylor have for 6 years attempted to obtain Respondents Apartments and Shares in the COOP in two actions in Kings County Supreme Court is already documented to this court in motion sequence 1. That the instant action is an attempt to usurp the jurisdiction of the Kings County Supreme Court with respect to an order it made and entered about rent payments is obvious by a clear and plain order of that court attached as Exhibit D to Respondents initial motion.

36. That this is a collateral attack upon Keske and Wynkoop is clear to the reasonable man upon reading of the pleadings submitted by Respondents, which include by reference all the pleadings in the related Kings County Supreme Court case under index number 507156-2013.

37. It is crime against Respondents and our very system of laws that Respondents should be forced to battle both Petitioner and a Judge who ignores the law and thinks herself not bound by that law. A judge has no special privilege which allows her to violate the law and be immune to the ramification of her actions.

38. Given that FFP's attorney Sodrosky brought the instant action with neither subject matter nor personal jurisdiction there is no action that can possibly be pending before this court. The lack of an action before this court means Sodrosky lacks standing to bring a motion to consolidate, making the instant motion frivolous on it's face.

39. Given that there is no jurisdiction over either subject or persons the entire action is a nullity.

40. Given the foregoing the only action this court can take is dismiss.

41. Given the frivolous nature of the action, the instant motion, and Respondents' timely and proper notice to Sodroski under CPLR 3022 Sodroski could have and should have corrected his pleadings and properly served them upon Respondents. Instead he made false representation to this court of default by Respondents, a default not possible under CPLR 3022.

**Affirmative Action Requested**

42. Should the court deem consolidation is proper, then under the circumstances it is requested that the following apply to both **LT-081708-18 and LT-081709-18**


43. Given the foregoing it is requested this court dismiss with prejudice the instant matter and order payment of costs and fees to Wynkoop as required under the RPL. At this time 120 hours have been expended in research, writing, and appearances. The rate for calculation of of fees should be \$120/hour (Wynkoop's retail billing rate), or the billing rate of Sodroski, whichever is greater.

  
Brett Wynkoop

622A President Street  
Brooklyn, NY 11215  
917-642-6925

*ILLINOIS*  
STATE OF ~~NEW YORK~~ *NEW* **AFFIDAVIT OF VERIFICATION**  
COUNTY OF ~~KANE~~ *SS*

Brett Wynkoop being duly sworn deposes and says that he is the Respondent in this proceeding; that he has written the annexed opposition to motion to consolidate and knows the contents thereof; that the same is true to the knowledge of deponent except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes them to be true.

  
Brett Wynkoop  
622A President Street  
Brooklyn, NY 11215  
917-642-6925

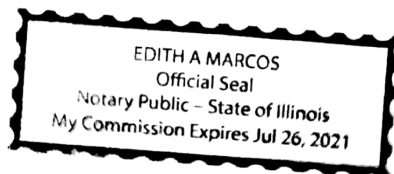
UNIFORM, ALL PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

(Must sign in addition to Jurat if signed outside of New York State)

"State of Illinois

County of hane

On the 9th day of November in the year of 2018 before me, the undersigned, personally appeared Brett Wynkoop, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed same in his capacity and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in Aurora, Illinois."





CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF KINGS HOUSING PART -----X 622A PRESIDENT STREET OWNERS CORP., Petitioner-Landlord, -against BRETT WYNKOOP and KATHLEEN KESKE Respondent-Tenants, "JOHN DOE" and "JANE DOE" Respondent(s)-Undertenat(s) -----X	<b>Index No. LT-081709-18</b>  <b>Affidavit</b>  <b>In Opposition to</b> <b>Motion to Consolidate</b>  <b>Motion Sequence - 2</b>
---	--

State of Illinois                    )  
County of KANE                    ) ss.:

Brett Wynkoop being duly sworn under penalty of perjury does depose and say the following is true and known personally by me, except those things stated upon information and belief, which I believe to be true and have proper information upon which to form such a belief:

- Attached at Exhibit 1 is a true copy of Kyle Taylor's New York State Attorney Registration Information.
- Attached at Exhibit 2 is a true copy of Daniel P. Sodroski's New York State Attorney Registration Information.
- Attached at Exhibit 3 is a true copy of New York State Unified Court System supplied verification form.
- Attached at Exhibit 4 are true copies of all 622A President Street Owners Corporation shareholder resolutions to date with respect to management status of Taylor and Subramanyam.
- Attached at Exhibit 5 is a true copy of the order of Judge David Schmidt of Kings County Supreme Court dated 2015-04-13.
- Attached at Exhibit 6 is a true copy of HPD Building Registration information for 622A President Street.
- Attached at Exhibit 7 is a true copy of <http://www.balloonmail.nyc/>
- Attached at Exhibit 8 is a true copy of 2010 NY Slip Op 52034(U) [29 Misc 3d 1227(A)] decision and and order dated 29 November 2010.

The instant action is yet another collateral attack on my wife and myself by the minority shareholders in 622A President Street Owners Corporation. Since March of 2012 they have been working to obtain our shares and our apartments. The initial case titled Taylor -v- Wynkoop under Kings County Supreme Court index number 6548-2012 was dismissed on procedural grounds in November of 2013.

On the afternoon of 13 November 2013 Rishi Bhandari, attorney for Taylor and Subramanyam in the above referenced case threatened that if my wife and I did not settle with his clients that they would keep litigating until they either won or my wife and I were destitute and could no longer afford to defend. Please see the annexed affidavit of Antony Hilton.

This court is being used as a tool and weapon by Taylor and Subramanyam under the pretext of their being in some sort of management authority in 622A President Street Owners Corporation, which they are not. They have brought no fewer than 4 motions for judgement in their favor and 4 motions for contempt seeking judgement in their favor as punishment in KCSC 507156-2013 over the course of 5 years in that case. All 8 motions have as of today been denied. As detailed in papers already submitted to the court in motion sequence 1 neither Subramanyam nor Taylor have any corporate authority, yet they run to this court claiming authority to work their way around the order of Justice Schmidt.

I hold 60% of the shares in the COOP. It is a mathematical impossibility that I do not have controlling interest in the COOP. I have not authorized Taylor or Subramanyam to file actions based fraudulent documents and claims against me. The only possible way Taylor and Subramanyam could come to this court under the name of 622A President Street Owners Corporation would be as a derivative action, which they have not here done. Even if this were a derivative action it would be impossible for this court to write any valid order directing payment of rent be made to anyone, or in any way that is different from the order of Justice Schmidt until at least the conclusion of 507156-2013.

Sworn to before me on this

9 day of NOV, 2018



Brett Wynkoop

Notary Public

UNIFORM, ALL PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

(Must sign in addition to Jurat if signed outside of New York State)

"State of Illinois

County of hane

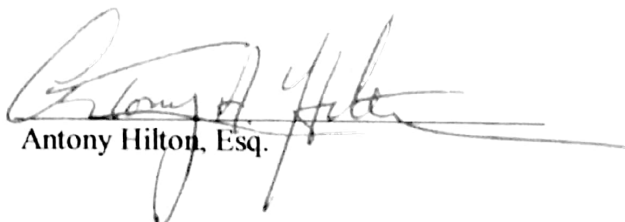
On the 9th day of November in the year of 2018 before me, the undersigned, personally appeared Brett Wynkoop, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed same in his capacity and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument, and that such individual made such appearance before the undersigned in Aurora, Illinois."



## **Affirmation of Antony Hilton**

Antony Hilton being duly sworn under penalty of perjury does depose and say;

1. I am an attorney licensed to practice in the State of New York.
2. On the afternoon of November 13 of 2013 I was in the Kings County Court House at 360 Adams Street with Brett Wynkoop. Rishi Bhandari, who purported to represent the other side in a recently dismissed lawsuit against Mr. Wynkoop approached Mr. Wynkoop and myself asked to discuss settlement on his clients previous claims. Mr. Wynkoop rejected request to discuss settlement because the action had already been dismissed. However, Mr. Bhandari stated that since some of his clients' claims were dismissed without prejudice, he would continue to take any and all action against Mr. Wynkoop until he either settled on his clients' terms or until Mr. Wynkoop and his wife ran out of money.
3. On November 9 of 2017, Mr. Wynkoop's current case involving Rishi Bhandari's clients was on for motions before Judge Silber in Kings County Supreme Court. When the calendar was called, Mr. Bhandari represented to Judge Silber that the attorney for the nominal defendant, D. Bunji Fromartz, had been suspended from the practice of law. Mr. Fromartz was not suspended.
4. After making this representation to Judge Silber, the matter was postponed to second call, a 2 hours of delay.
5. My billing rate is \$285/hour. This means that Mr. Wynkoop had an additional 4 hours of billable time for a total additional of \$1100.
6. When we eventually got in front of Judge Silber she disposed of the motions before her very quickly, probably no more than 5 minutes were spent before her.



Antony Hilton, Esq.

## Jurisdiction Appendix

**The following information is provided to the court under CPLR 4511 for judicial notice. United States Supreme court cases are controlling, others are persuasive.**

- "Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather, should dismiss the action." - *Melo v. US*, 505 F2d 1026.
- "A departure by a court from those recognized and established requirements of law, however close apparent adherence to mere form in method of procedure, which has the effect of depriving one of a constitutional right, is an excess of jurisdiction." - *Wuest v. Wuest*, 127 P2d 934, 937.
- Judgments entered where court lacked either subject matter or personal jurisdiction, or that were otherwise entered in violation of due process of law, must be set aside, *Jaffe and Asher v. Van Brunt*, S.D.N.Y.1994. 158 F.R.D. 278.
- "Jurisdiction, once challenged, is to be proven, not by the court, but by the party attempting to assert jurisdiction. The burden of proof of jurisdiction lies with the asserter." See *McNutt v. GMAC*, 298 US 178. The origins of this doctrine of law may be found in *Maxfield's Lessee v. Levy*, 4 US 308.
- "Where a court *failed to observe safeguards*, it amounts to denial of due process of law, court is deprived of juris." See *Merritt v. Hunter*, C.A. Kansas 170 F2d 739.
- "Once jurisdiction is challenged, it must be proven." See *Hagens v. Lavine*, 415 U.S. 533.
- "Mere good faith assertions of power and authority (jurisdiction) have been abolished." See *Owens v. The City of Independence*, 445 US 622 (1980).
- "In a court of limited jurisdiction, whenever a party denies that the court has subject-matter jurisdiction, it becomes the duty and the burden of the party claiming that the court has subject matter jurisdiction to provide evidence from the record of the case that the court holds subject-matter jurisdiction." *Bindell v City of Harvey*, 212 Ill.App.3d 1042, 571 N.E.2d 1017 (1st Dist. 1991)
- "Until the plaintiff submits uncontroversial evidence of subject-matter jurisdiction to the court that the court has subject-matter jurisdiction, the court is proceeding without subject-matter jurisdiction." *Loos v American Energy Savers, Inc.*, 168 Ill.App.3d 558, 522 N.E.2d 841(1988)
- In *Stump v. Sparkman*, 435 U.S. 349 at 360 (1978), the Supreme Court confirmed that a judge would be immune from suit only if he did not act outside of his judicial capacity and/or was not performing any act expressly prohibited by statute.

# EXHIBIT 1

[Sign Up \(/signup\)](#) [Log In \(/login\)](#) [🐦 \(https://twitter.com/nytechstate\)](https://twitter.com/nytechstate) [t \(http://nytechstate.tumblr.com/\)](http://nytechstate.tumblr.com/)

[DATA.NY.GOV \(/\)](#) [OPEN NY \(HTTPS://WWW.NY.GOV/PROGRAMS/OPEN-NY\)](https://www.ny.gov/programs/open-ny) [CATALOG \(/BROWSE\)](#)

[DEVELOPERS \(/DEVELOPERS\)](#) [HELP ▼ \(\)](#) [ABOUT ▼ \(\)](#)

## attorney lookup new york

Based on [attorney lookup new york](#)

The data included here is the information in the  
NYS Attorney Registration Database, that is

[Manage](#) [More Views](#) [Filter](#) [Visualize](#)

Last Name	TAYLOR	Street 2	Phone Number	(416) 360-1175
First Name	KYLE	City	Year Admitted	2009
Middle Name	RUSSELL	Toronto ON M5H 2V1	Judicial Department	3
Status		State	of Admission	
Currently registered		Zip	Law School	
Registration Number	4662490	Zip Plus Four	CORNELL LAW SCHOOL	
		Country	Next Registration	Aug 2019
		CANADA		

1

[Terms of Service \(https://data.ny.gov/download/77gx-ii52/application/pdf\)](https://data.ny.gov/download/77gx-ii52/application/pdf) [Privacy \(https://www.ny.gov/privacy-policy\)](https://www.ny.gov/privacy-policy)

[Accessibility \(https://www.ny.gov/accessibility\)](https://www.ny.gov/accessibility) [Give Feedback \(https://data.ny.gov/d/fq3e-q75i\)](https://data.ny.gov/d/fq3e-q75i)



Office of Information  
Technology Services (<https://www.its.ny.gov>)



# EXHIBIT 2

[Sign Up \(/signup\)](#) [Log In \(/login\)](#) [🐦 \(https://twitter.com/nytechstate\)](https://twitter.com/nytechstate) [📌 \(http://nytechstate.tumblr.com/\)](http://nytechstate.tumblr.com/)

[DATA.NY.GOV \(/\)](#) [OPEN NY \(HTTPS://WWW.NY.GOV/PROGRAMS/OPEN-NY\)](https://www.ny.gov/programs/open-ny) [CATALOG \(/BROWSE\)](#)

[DEVELOPERS \(/DEVELOPERS\)](#) [HELP ▼ \(\)](#) [ABOUT ▼ \(\)](#)

## attorney lookup new york

Based on [attorney lookup new york](#)

The data included here is the information in the  
NYS Attorney Registration Database, that is

[Manage](#) [More Views](#) [Filter](#) [Visualize](#)

Last Name	SODROSKI	Street 2		Phone Number	(212) 922-9250
First Name	DANIEL	City	New York	Year Admitted	2016
Middle Name	PAUL	State	NY	Judicial Department	1
Status		Zip	10017	of Admission	
Currently registered		Zip Plus Four	6502	Law School	
Registration Number	5444674	Country	United States	DUQUESNE UNIVERSITY SCHOOL OF LAW	
		County	New York	Next Registration	Jan 2020

1

[Terms of Service \(https://data.ny.gov/download/77gx-ii52/application/pdf\)](https://data.ny.gov/download/77gx-ii52/application/pdf) [Privacy \(https://www.ny.gov/privacy-policy\)](https://www.ny.gov/privacy-policy)

[Accessibility \(https://www.ny.gov/accessibility\)](https://www.ny.gov/accessibility) [Give Feedback \(https://data.ny.gov/d/fq3e-q75i\)](https://data.ny.gov/d/fq3e-q75i)



Office of Information  
Technology Services (<https://www.its.ny.gov>)

# EXHIBIT 3

Reset Form

**VERIFICATION**

\_\_\_\_\_(YOUR NAME), being duly sworn, deposes and says:

I am the plaintiff in the above-entitled action. I have read the foregoing complaint and know the contents thereof. The same are true to my knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters I believe them to be true.

\_\_\_\_\_  
**[Signature]**

\_\_\_\_\_  
**[Printed]**  
Plaintiff

Sworn to before me this  
\_\_ day of \_\_\_\_, 200\_\_

Notary Public

# EXHIBIT 4

**WRITTEN CONSENT OF SHAREHOLDERS  
IN LIEU OF MEETING**

The undersigned, being shareholders (the "Shareholders") of 622A President Street Owners Corp., a New York State corporation ("622A"), holding no less than a majority voting interest of the outstanding shares of 622A, and, hereby waive all requirements as to notice of meeting and hereby consent and agree to the adoption of the resolutions set forth below in lieu of taking such action at a formal special meeting, pursuant to Section 615 of the New York Business Corporation Law ("BCL") and Article II, Section 2 of the corporate bylaws of 622A PRESIDENT STREET OWNERS CORP:

**WHEREAS**, the majority of the voting Shareholders of 622A have determined that it is advisable to waive the appointment of a board of directors, and that all matters concerning the operation of the corporation and the building, 622A President Street, Brooklyn, New York, be addressed by the shareholders directly,

**NOW, THEREFORE, BE IT RESOLVED**, that the board of directors is disbanded, and it is further

**RESOLVED**, that all matters concerning the operation of the corporation and management of the building shall be addressed by majority vote of the shareholders; and it is further

**RESOLVED**, that shareholder vote on corporate operations and building management shall be conducted in a similar manner as set for a board of directors, i.e. that all shareholders voting shall have only one vote in favor or against any decision concerning the operations of the corporation and management of the building; and it is further

**RESOLVED**, that any impasse between the shareholders shall be resolved in accordance with the shareholder interim stipulation of April 30, 2013, a copy of which shall be kept with this resolution for reference; and it is further

**RESOLVED**, that mediation that takes place pursuant to the April 30, 2013, interim stipulation shall be conducted by Resolute Systems, Ret. Hon. Justice David I. Schmidt.

**IN WITNESS WHEREOF**, the undersigned, being Shareholders of 622A, holding no less than a voting majority of the outstanding Unit shares of 622A, hereby execute this Written Consent of Shareholders in Lieu of Meeting, which shall be effective upon the dated of execution set forth below, with respect to the Units owned by them or which they have the right to vote in favor of the adoption of this Resolution, which number of shares is specified below their signature on the relevant signature page of this consent, and shall have the same force and effect as a Shareholder vote at a duly called meeting of the Shareholders and shall be filed with the minutes of proceedings of the Shareholders in the corporate records.

Execution Date: November 4, 2015

By: \_\_\_\_\_  
Kyle Taylor,  
Shareholder and Lessee of Unit \_\_\_\_  
Holder of \_\_\_\_\_ shares

By: \_\_\_\_\_  
Rajeev Subramanyam,  
Shareholder and Lessee of Unit \_\_\_\_  
Holder of \_\_\_\_\_ shares

By: Brett Wynkoop  
Brett Wynkoop,  
Shareholder and Lessee of Unit 122  
Holder of 82.5 shares

By: Kathleen Keske  
Kathleen Keske,  
Shareholder and Lessee of Unit 122  
Holder of 82.5 shares



**WRITTEN CONSENT OF SHAREHOLDERS  
IN LIEU OF MEETING**

The undersigned, being shareholders (the "Shareholders") of 622A President Street Owners Corp., a New York State corporation ("622A"), holding no less than a majority voting interest of the outstanding shares of 622A, and, hereby waive all requirements as to notice of meeting and hereby consent and agree to the adoption of the resolutions set forth below in lieu of taking such action at a formal special meeting, pursuant to Section 615 of the New York Business Corporation Law ("BCL") and Article II, Section 2 of the corporate bylaws of 622A PRESIDENT STREET OWNERS CORP:

**WHEREAS**, the majority of the voting Shareholders of 622A have determined that at the shareholder meeting of 26 April 2016 the inspector of elections was provided with false information as to the outstanding shares held with respect to each unit. To wit Kyle Taylor, Hillary Taylor, and Rajeev Subramanyam provided the inspector of elections with a count of 55 shares per apartment when in fact apartment 1 is allocated 110 shares.

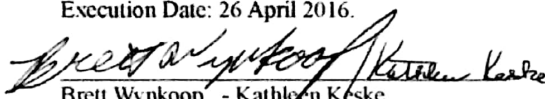
**WHEREAS**, this misrepresentation caused the inspector of elections to err in her duty and improperly tally the vote.

**NOW, THEREFORE, BE IT RESOLVED**, Kyle Taylor, Hillary Taylor and Rajeev Subramanyam are removed as directors and officers of the corporation.

**RESOLVED**, that all matters concerning the operation of the corporation and management of the building shall be addressed by majority vote of the shareholders by shares held.

**IN WITNESS WHEREOF**, the undersigned, being Shareholders of 622A, holding no less than a voting majority of the outstanding Unit shares of 622A, hereby execute this Written Consent of Shareholders in Lieu of Meeting, which shall be effective upon the dated of execution set forth below, with respect to the Units owned by them or which they have the right to vote in favor of the adoption of this Resolution, which number of shares is specified below their signature on the relevant signature page of this consent, and shall have the same force and effect as a Shareholder vote at a duly called meeting of the Shareholders and shall be filed with the minutes of proceedings of the Shareholders in the corporate records.

Execution Date: 26 April 2016.

  
Brett Wynkoop - Kathleen Keske  
Shareholders and Lessees of Units 1 and 2  
Holders of 165 shares

\_\_\_\_\_  
Kyle Taylor  
Shareholder and lessee of Unit 3  
Holder of 55 shares

\_\_\_\_\_  
Rajeev Subramanyam  
Shareholder and Lessee of Unit 4  
Holder of 55 shares

## WRITTEN CONSENT OF SHAREHOLDERS IN LIEU OF MEETING

The undersigned, being shareholders (the "Shareholders") of 622A President Street Owners Corp., a New York State corporation ("622A"), holding no less than a majority voting interest of the outstanding shares of 622A hereby waive all requirements as to notice of meeting and hereby consent and agree to the adoption of the resolutions set forth below in lieu of taking such action at a formal special meeting, pursuant to Section 615 of the New York Business Corporation Law ("BCL") and Article II, Section 2 of the corporate bylaws of 622A PRESIDENT STREET OWNERS CORP:

**WHEREAS**, the majority of the voting Shareholders of 622A have determined that at the shareholder meeting of 26 April 2016 the inspector of elections was provided with false information as to the outstanding shares held with respect to each unit. To wit Kyle Taylor, Hillary Taylor, and Rajeev Subramanyam provided the inspector of elections with a count of 55 shares per apartment when in fact apartment 1 is allocated 110 shares.

**WHEREAS**, this misrepresentation caused the inspector of elections to err in her duty and improperly tally the vote.

**WHEREAS**, all elections held since that date have been declared a 5 way tie as counted by alleged inspectors of elections hired by Taylor, Taylor, and Subramanyam.

**WHEREAS**, a tied election results in the previous board status quo being preserved, and;

**WHEREAS**, the shareholder resolution dated 4 November 2015 removed Taylor, Taylor, and Subramanyam from any board position they may have enjoyed, and;

**WHEREAS**, the shareholder resolution dated 26 April 2016 restated and confirmed that Taylor, Taylor, and Subramanyam were not corporate directors, and;

**WHEREAS**, Taylor, Taylor, and Subramanyam had no actual authority to act on behalf of 622A President Street Owners Corporation after 4 November 2015;

**WHEREAS**, Ganfer Shore Leeds & Zauderer LLP Represented on the record at the shareholder meeting of 17 May 2015 that they were attorneys for Taylor and therefore have an unresolvable conflict of interest and;

**WHEREAS**, Taylor, Taylor, and Subramanyam were removed as directors and had no power to act on behalf of the corporation, let alone engage their own attorney on behalf of the corporation;

**NOW, THEREFORE, BE IT RESOLVED**. Kyle Taylor, Hillary Taylor and Rajeev Subramanyam were previously removed as directors and officers of the corporation, and if adjudicated to ever have been directors or officers after 4 November 2015, they no longer hold any officer or director positions and are again by this resolution removed.

**RESOLVED**, that all matters concerning the operation of the corporation and management of the building shall be addressed by majority vote of the shareholders by shares held.

**RESOLVED**, that any contracts, bylaws changes, assessments levied, board resolutions, or other actions taken by Taylor, Taylor, and Subramanyam purported to be on behalf of 622A President Street



Owners Corporation are NULL & VOID for lack of authority, and any financial obligations entered into by Taylor, Taylor and Subramanyam purported to be on behalf of 622A President Street Owners Corporation are the sole responsibility of the person who represented they had the authority to bind the corporation.

**RESOLVED**, any bylaws changes, assessments, board resolutions, or other corporate actions made by Taylor, Taylor, and Subramanyam that may be adjudicated as having at one time been valid are hereby repealed, reversed, and canceled with any financial obligation associated with those actions falling on Taylor, Taylor, and Subramanyam.

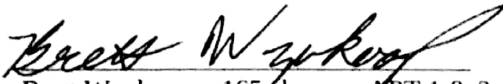
**RESOLVED**, Taylor, Taylor, and Subramanyam are directed to provide full access to any corporate accounts they have set up in the name of 622A President Street Owners Corporation to Brett Wynkoop.

**RESOLVED**, that Taylor, Taylor, and Subramanyam are directed to deposit all corporate books, records and the corporate seal at 622A President Street, Brooklyn, NY 11215 in the care and custody of Brett Wynkoop for safekeeping.

**RESOLVED**, Ganfer Shore Leeds & Zauderer LLP is not the legal counsel for 622A President Street Owners Corporation, and if it could be adjudicated that they ever were retained with proper authority they are as of this day relieved and directed to deliver up all files pertaining to 622A President Street Owners Corporation to 622A President Street, Brooklyn, NY 11215 in the care and custody of Brett Wynkoop for safekeeping. They are further directed to deliver any unearned retainer monies in the form of a certified check made payable to 622A President Street Owners Corporation to Brett Wynkoop.

IN WITNESS WHEREOF, the undersigned, being Shareholders of 622A, holding no less than a voting majority of the outstanding Unit shares of 622A President Street Owners Corporation hereby execute this Written Consent of Shareholders in Lieu of Meeting, which shall be effective upon the date of execution set forth below, with respect to the Units owned by them or which they have the right to vote in favor of the adoption of this Resolution, which number of shares is specified below their signature on the relevant signature page of this consent, and shall have the same force and effect as a Shareholder vote at a duly called meeting of the Shareholders and shall be filed with the minutes of proceedings of the Shareholders in the corporate records.

Effective Date: 16 August 2018

  
Brett Wynkoop – 165 shares – APT 1 & 2

\_\_\_\_\_  
Kyle Taylor – 55 shares – APT 3

\_\_\_\_\_  
Rajeev Subramanyam – 55 shares – APT 4

# EXHIBIT 5

At an IAS Term, COM-2 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at Civic Center, Brooklyn, New York, on the 13<sup>th</sup> day of April, 2015

P R E S E N T:

HON. DAVID I. SCHMIDT,

Justice.

BRETT E. WYNKOOP AND KATHLEEN KESKE,

Plaintiffs,

- against -

622A PRESIDENT STREET OWNERS CORP., KYLE  
TAYLOR, HILARY TAYLOR, AND RAJEEV  
SUBRAMANYAM,

Defendants.

**ORDER**

Index No. 507156/13

Mot. Seq. Nos. 8, 9, 10, 11, 12  
& 13

It is hereby,

**ORDERED** that plaintiffs' motion (motion sequence number 8) seeking leave to renew/reargue this court's November 7, 2014 decision and order is granted in part and denied in part. The motion is granted the extent that leave to reargue is granted and upon reconsideration of the prior motions, this court's November 7, 2014 is modified as follows:

1. Jaime Lathrop, Esq., 641 President St, STE 202, Brooklyn, New York 11215, (718) 857-3663, is hereby appointed as successor referee and shall serve in the same manner as directed by this court's November 7, 2014 order except that all prior timelines outlined in the November 7, 2014 shall become effective as to the successor referee

Additionally, the successor referee shall hear and report upon any issues raised in accordance with provisions below and the parties are directed to pay the referee, upon the completion of any report issued in accordance herewith, a minimum fee of \$250 and an additional fee of \$250 per hour as compensation for his services lasting more than an one hour, which sum shall be shared equally by the parties.

2. The preliminary injunctions granted in this court's November 7, 2014 order shall remain in full force and effect except to the extent that the plaintiffs are directed to immediately add one of the defendants (to be chosen by the defendants) as a co-signatory on the existing 622A PRESIDENT STREET OWNERS CORP corporate bank account. The co-signatories shall have complete access to all bank records.

3. If the co-signatories can reach an agreement, the parties shall pay any expenses and/or obligations incurred by 622A PRESIDENT STREET OWNERS CORP through the corporate account. All payments issued in accordance with this provision must contain the signatures of both signatories. If the parties cannot agree as to the payment of an expense, the issue shall be submitted to the successor referee to hear and report as to a recommended course of action. Thereafter, if the shareholders agree to proceed in accordance with the course of action recommended by the referee, the corporation may take such

action without further order of the court. In the event the shareholders cannot agree on the recommended course of action, either party may move this court for relief with regard to the findings and recommendations in the referee's report.

4. All other relief requested in motion sequence number 8 is denied; it is further

**ORDERED** that motion sequence number 9 is granted to the extent that Plaintiff Wynkoop and/or 622A PRESIDENT STREET OWNERS CORP are directed to refund the \$32,670.06 taken from the account of Rajeev Subramanyam subject to any offsets outlined below (the "Net Sum"). The "Net Sum" refunded to Rajeev Subramanyam shall be \$32,670.06 minus any rent owed Subramanyam to 622A PRESIDENT STREET OWNERS CORP. The "Net Sum" to be returned shall be refunded immediately in part by a \$10,000.00 payment from the 622A PRESIDENT STREET OWNERS CORP corporate account and any balance owed shall be paid from the funds being held on deposit by the clerk of the court under index number 6548/2012. In furtherance of this directive and in resolution of the contempt motion, the plaintiff shall take all actions necessary to effectuate the immediate release of the sums being held by the clerk of the court under index number 6548/2012, including but not limited to the immediate submission of an order and judgment directing the release and distribution of the funds as directed herein. The funds held by the clerk of the court under index number 6548/2012 shall be released directly to Rajeev Subramanyam in the amount of the balance of the "Net Sum" after payment of the initial \$10,000.00 sum and the remainder of the funds shall be released to 622A PRESIDENT



STREET OWNERS CORP and deposited in the existing corporate account. All parties shall hereafter deposit their rent into the existing corporate account. The motion is denied in all other respects and all temporary restraining orders and/or preliminary injunctions previously issued by this court under motion sequence number 9 are hereby vacated; it is further

**ORDERED** that, over the procedural objection of plaintiffs, motion sequence number 10 is deemed properly served and is granted to the extent that Rajeev Subramanyam and/or Kyle Taylor are immediately authorized to contact Matthews Exterior Group (the, "Contractor") to make a warranty claim under the terms of the 2011 contract between 622A PRESIDENT STREET OWNERS CORP and the Contractor and to obtain a repair proposal. Any appointment made with the Contractor by Rajeev Subramanyam and/or Kyle Taylor must be made on 10 days' written notice to all shareholders. Notice can be served on the attorneys for the parties via email. Any repair proposal received by Rajeev Subramanyam and/or Kyle Taylor shall immediately be distributed to all shareholders with copies of the proposals to be distributed to the attorneys of record by email. If a majority of the shareholders cannot agree to proceed with the repairs within 5 days of the distribution of the repair proposal, the parties shall each obtain estimates for the same scope of work from alternate contractors and submit same to the referee for an advisory opinion. If the parties still cannot agree after the Referee issues an opinion, the parties shall move the court for a decision on the issues regarding the repair. The motion is denied in all other respects and all temporary restraining orders and/or

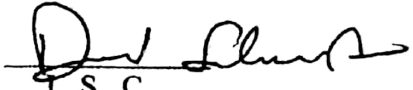
preliminary injunctions previously issued by this court under motion sequence number 10 are hereby vacated; it is further

**ORDERED** that motion sequence 11 is denied without prejudice to plaintiff's right to seek the removal of the alleged "guest"/licensee currently occupying the third floor apartment through a derivative action on behalf of 622A PRESIDENT STREET OWNERS CORP in the appropriate manner. The motion is denied in all other respects and all temporary restraining orders and/or preliminary injunctions previously issued by this court under motion sequence 11 are hereby vacated; it is further

**ORDERED** that motion sequence numbers 12 and 13 are denied without prejudice. The court notes that at this stage of the litigation, the corporation is for all intents and purposes a "nominal" party inasmuch as all the shareholders having a beneficial interest in the corporation are represented in the lawsuit and neither "faction" has a greater right to represent the corporation (*see Strategic Development Concepts, Inc. v Whitman & Ransom*, 287 AD2d 307 [2d Dept 2001]; *207 Second Avenue Realty Corp v Salzman & Salzman*, 291 AD2d 243 [1st Dept 2002]; *Parklex Associates v. Flemming*, 2012 WL 11875131 [N.Y.Sup. 2012]).

This constitutes the decision and order of the court.

E N T E R,

  
J. S. C.

HON. DAVID L. SCHMIDT

# EXHIBIT 6


11/4/2018  
100918HPD Building, Registration, Violations Services  [Home](#)**The selected address: 622A PRESIDENT STREET, Brooklyn 11215**

HPD#	Range	Block	Lot	CD	CensusTract	Stories	A Units	B Units	Ownership	Registration#	Class	
355758	Active	622A-622A	00958	0026	6	13300	4	4	0	PVT	302086	A

Other Units

[Property  
Owner  
Registration  
Information](#)
[Charges](#)[Complaint  
Status](#)[Complaint  
History](#)[Litigation/Case  
Status](#)[Tenant  
Harassment  
Report](#)[All Open  
Violations](#)[prior year  
Open Viol.'s](#)[Ecertification](#)[Overdue Lead  
Paint Viol.  
Correction](#)[Vacate Orders](#)[I-Card  
Images](#)[PROS Online](#)[Map](#)**Building Registration Summary Report**

Owner	Last Reg Dt Reg. Expire Dt	Organization	Last Nm	First Nm	House No	Street Nm	Apt. City	State/Zip
Head Officer	09/04/2018 09/01/2019		TAYLOR	KYLE	593	VANDERBILT AVE	292 Brooklyn NY	11238
Officer	09/04/2018 09/01/2019		SUBRAMANYAM	RAJEEV	593	VANDERBILT AVE	292 Brooklyn NY	11238
Corporation	09/04/2018 09/01/2019	622A PRESIDENT ST OWNERS CORP			593	VANDERBILT AV	292 Brooklyn NY	11238
Managing Agent	09/04/2018 09/01/2019	622A PRESIDENT ST OWNERS CORP	TAYLOR	KYLE	593	VANDERBILT AVE	292 Brooklyn NY	11238



[Services](#) [News & Features](#) [City Life](#) [City Agencies](#) [Office of the Mayor](#) [Contact Us](#) [Search](#)

NY.gov NEW YORK CITY'S OFFICIAL WEBSITE

# EXHIBIT 7

# BALLOON MAIL

Home

Pack & Ship

Home & Business

Tracking

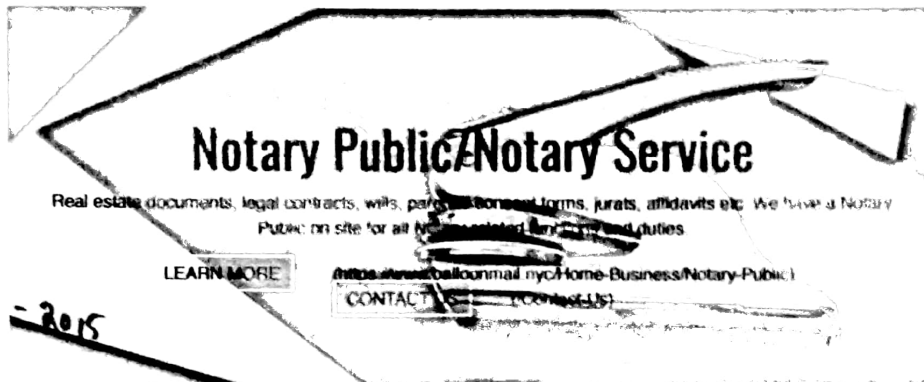
Copy & Print

Contact Us

(<https://www.balloonmail.nyc/>)

(<https://www.balloonmail.nyc/Tracking>)

(<https://www.balloonmail.nyc/Contact-Us>)



**Notary Public/Notary Service**

Real estate documents, legal contracts, wills, powers of attorney, affidavits etc. We have a Notary Public on site for all New York State and duties.

[LEARN MORE](https://www.balloonmail.nyc/Home-Business/Notary-Public)

[CONTACT US](https://www.balloonmail.nyc/Home-Business/Notary-Public)

*-2015*

## NEXT PICK-UP



**FedEx**

**USPS**  
Monday 4:00pm

**Express**  
Monday 3:30pm

**Ground**  
Monday 2:00pm



**DHL**  
Monday 2:00pm

**Air**  
Monday 4:00pm

**Ground**  
Monday 4:00pm

## Welcome To Balloon Mail

### Pack & Ship

**Balloon Mail** located at 593 Vanderbilt Ave, Brooklyn NY is the go-to resource for packing, shipping, printing and business service needs of the residents and businesses of **Brooklyn, NY**. Our team of dedicated, professionally trained experts understands the meaning of Super-Star Customer Care—we focus on saving you time and money by ensuring you get the right products and services at the right price—in a single, quick visit.

We can pack and ship [almost] anything to [almost] anywhere in the world, but shipping is only one way we can help to make your life easier. In addition to our pack and ship service, we are also **Brooklyn's** premier copy, print and document services center. Large or small, black and white or color; if it can be printed, **Balloon Mail** can handle it!

**Balloon Mail** is a one-stop-shop for dozens of business products and services that will allow you to do what you're good at while we take care of the "other stuff" you need to succeed.

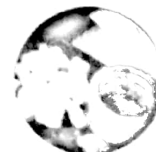


## OUR FEATURED PRODUCTS & SERVICES...

[See All Services >> \(\)](#)



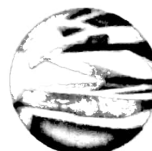
Postage Stamps



Packaging Supplies



Copying Services



Document Scanning



Fax Services



Notary Public



Mailbox Rental



Print & Document Services

INDUSTRY PARTNERS  
Pictures



(/Portals/485/Images/StorePictures/f4cfe6c9-a9a0-42a4-9881-53d45801db69.JPG)

Balloon Mail



Package Tracking

Track your shipments here. Simply enter the shipment tracking number to receive up-to-date status and delivery confirmation for your valuable and time-sensitive letters and packages. Our system tracks all packages sent via USPS, FedEx, DHL, and UPS —easy, fast, and accurately.

ENTER A TRACKING NUMBER

TRACK

Twitter

Balloon Mail

**Balloon Mail**  
@BalloonMail93

Good Morning Brooklyn!



**ADDRESS**  
**Balloon Mail**  
593 Vanderbilt Ave  
Brooklyn, NY 11238

**CONTACT**  
**PH:** 718.636.9333  
**FX:** 718.636.9336  
**EM:** [contact@balloonmail.nyc](mailto:contact@balloonmail.nyc)

STORE HOURS							
SUN - Nov 4	MON - Nov 5	TUE - Nov 6	WED - Nov 7	THU - Nov 8	FRI - Nov 9	SAT - Nov 10	
Closed	9:00 AM 5:00 PM	9:00 AM 5:00 PM	9:00 AM 5:00 PM	9:00 AM 5:00 PM	9:00 AM 5:00 PM	9:00 AM 2:00 PM	

Copyright 2018 by Balloon Mail

Website By RS Websites (<http://www.rscentral.org/Programs/RS-Store-Websites>)

[Privacy Statement \(https://www.balloonmail.nyc/Privacy\)](https://www.balloonmail.nyc/Privacy) | [Terms Of Use \(https://www.balloonmail.nyc/Terms\)](https://www.balloonmail.nyc/Terms) | [Login \(https://www.balloonmail.nyc/Login?returnurl=%2f\)](https://www.balloonmail.nyc/Login?returnurl=%2f)



# EXHIBIT 8

[ \* ]

<b>Washington Mut. Bank v Phillip</b>
2010 NY Slip Op 52034(U) [29 Misc 3d 1227(A)]
Decided on November 29, 2010
Supreme Court, Kings County
Schack, J.
Published by <u>New York State Law Reporting Bureau</u> pursuant to Judiciary Law § 431.
As corrected in part through December 20, 2010; it will not be published in the printed Official Reports.

Decided on November 29, 2010

**Supreme Court, Kings County**

<b>Washington Mutual Bank, Plaintiff,</b>
<b>against</b>
<b>Sheila U. Phillip, et. al., Defendants.</b>

16359/08

**Plaintiff:**

**Matthews & Matthews, P.C.**

**Huntington NY**

Defendant:

No Appearances.

Arthur M. Schack, J.

In this foreclosure action, plaintiff, WASHINGTON MUTUAL BANK (WAMU), moved for an order of reference and related relief for the premises located at 2035 East 63rd Street, Brooklyn, New York (Block 8406, Lot 64, County of Kings). On October 20, 2010, Chief Administrative Judge Ann T. Pfau issued an Administrative Order requiring that plaintiff's counsel in foreclosure actions "effective immediately . . . shall file with the court in each such action an affirmation, in the form attached hereto . . . in cases pending . . . at the time of filing . . . the proposed order of reference." Therefore, I instructed plaintiff's WAMU's counsel, in my decision and order of November 9, 2010, that: For this Court to consider the instant motion for an order of reference, plaintiff's counsel must comply with the new Rule, promulgated by [\*2] Chief Administrative Judge Ann T. Pfau on October 20, 2010 and announced that day by Chief Judge Jonathan Lippman, within sixty (60) days of this decision and order, or the instant foreclosure action will be dismissed with prejudice. The new Rule mandates an affirmation by plaintiff's counsel, which must be submitted to my Chambers (not the Foreclosure Department), 360 Adams Street, Room 478, Brooklyn, NY 11201, requiring plaintiff's counsel to state that he or she communicated on a specific date with a named representative of plaintiff WASHINGTON MUTUAL BANK, who informed counsel that he or she: a) has personally reviewed plaintiff's documents and records relating to this case; (b) has reviewed the Summons and Complaint, and all other papers filed in this matter in support of foreclosure; and, (c) has confirmed both the factual accuracy of these court filings and the accuracy of the notarizations contained therein. Further, plaintiff's counsel, based upon his or her communication with plaintiff's representative named above, must upon his or her "inspection of the papers filed with the Court and other diligent inquiry, . . . certify that, to the best of [his or her] knowledge,

information, and belief, the Summons and Complaint filed in support of this action for foreclosure are complete and accurate in all relevant respect." Counsel is reminded that the new standard Court affirmation form states in a note at the top of the first page: During and after August 2010, numerous and widespread insufficiencies in foreclosure filings in various courts around the nation were reported by major mortgage lenders and other authorities. These insufficiencies include: failure of plaintiffs and their counsel to review documents and files to establish standing and other foreclosure requisites; filing of notarized affidavits which falsely attest to such review and to other critical facts in the foreclosure process; and "robosigning" of documents by parties and counsel. ***The wrongful filing and prosecution of foreclosure proceedings which are discovered to suffer from these defects may be cause for disciplinary and other sanctions upon participating counsel. [Emphasis added]***

According to the October 20, 2010 Office of Court Administration press release about the new filing requirement: The New York State court system has instituted a new filing requirement in residential foreclosure cases to [\*3] protect the integrity of the foreclosure process and prevent wrongful foreclosures. Chief Judge Jonathan Lippman today announced that plaintiff's counsel in foreclosure actions will be required to file an affirmation certifying that counsel has taken reasonable steps — including inquiry to banks and lenders and careful review of the papers filed in the case — to verify the accuracy of documents filed in support of residential foreclosures. The new filing requirement was introduced by the Chief Judge in response to recent disclosures by major mortgage lenders of significant insufficiencies — including widespread deficiencies in notarization and "robosigning" of supporting documents — in residential foreclosure filings in courts nationwide. The new requirement is effective immediately and was created with the approval of the Presiding Justices of all four Judicial Departments. Chief Judge Lippman said, "***We cannot allow the courts in New York State to stand by idly and be party to what we now know is a deeply flawed process, especially when that process involves basic human needs — such as a family home — during this period of economic crisis.***" This new filing requirement will play a vital role in ensuring that the documents judges rely on will be thoroughly examined, accurate, and error-free before any judge is asked to take the drastic step of foreclosure." ***[Emphasis added]*** (See Gretchen Morgenson and Andrew Martin, *Big Legal Clash on*

*Foreclosure is Taking Shape*, New York Times, Oct. 21, 2010; Andrew Keshner, *New Court Rules Says Attorneys Must Verify*

*Foreclosure Papers*, NYLJ, Oct. 21, 2010). Plaintiff WAMU's counsel, Donna D. Maio, Esq. of Matthews & Matthews, in response to my November 9, 2010 decision and order, submitted an affirmation, dated November 11, 2010, in which she stated "[o]n the date of June 4, 2008, I communicated with Mark Phelps, Esq., House Counsel and representative of Plaintiff, who informed me the he (a) has personally reviewed Plaintiff's documents and records relating to this case; (b) has reviewed the Summons and Complaint, and all other papers filed in this matter in support of foreclosure; and (c) has [\*4] confirmed both the factual accuracy of these court filings and *the accuracy of the notarizations contained therein [Emphasis added]*." Further, Ms. Maio affirmed that "[b]ased upon my communication with Mark Phelps, Esq., as well as my own inspection of the papers filed with the Court and other diligent inquiry, *I certify that, to the best of my knowledge, information, and belief, the Summons and Complaint and all other documents filed in support of this action for foreclosure are complete and accurate in all relevant respects [Emphasis added]*."

After I received Ms. Maio's November 11, 2010 affirmation I checked the instant motion for an order of reference and discovered that the motion failed to: have an affidavit of merit executed by an officer of plaintiff WAMU of someone with a valid power of attorney from plaintiff WAMU; and, despite Ms. Maio's affirming the accuracy of plaintiff WAMU's papers in the instant action, the complaint and other documents filed in support of the instant for foreclosure are incomplete and inaccurate.

The Court grants leave to plaintiff, within forty-five (45) days of this decision and order, to: correct the deficiencies in its papers, which are explained below; and, using the new standard Court form, pursuant to CPLR Rule 2106, and under the penalties of perjury, file a new affirmation that plaintiff WAMU's counsel has "based upon . . . communications [with named representative or representatives of plaintiff], as well as upon my own inspection and reasonable inquiry under the circumstances, . . . that, to the best of my

knowledge, information, and belief, the Summons, Complaint and other papers filed or submitted to the Court in this matter contain no false statements of fact or law"; and, is "aware of my obligations under New York Rules of Professional Conduct (22 NYCRR Part 1200) and 22 NYCRR Part 130."

Again, failure to correct the deficiencies listed following and file a new affirmation, within forty-five (45) days of this decision and order, will result in the instant foreclosure action being dismissed with prejudice.

### ***Background***

Defendant GJAVIT THAQI borrowed \$600,000.00 from WAMU on November 6, 2006. The note and mortgage were recorded in the Office of the City Register of the New York City Department of Finance, on November 13, 2006, at City Register File Number (CRFN) 2006000629092. Plaintiff WAMU commenced the instant foreclosure action on June 6, 2008. Defendants defaulted in the instant action. Plaintiff WAMU filed the motion for an order of reference and related relief on November 25, 2008. However, plaintiff WAMU's moving papers for an order of reference failed to present an "affidavit made by the party," pursuant to CPLR § 3215 (f), whether by an officer of WAMU or someone with a power of attorney from WAMU.

Further, the verification of the complaint was not executed by an officer of WAMU, but by Benita Taylor, a "Research Support Analyst of Washington Mutual Bank, the plaintiff in the within action" a resident of Jacksonville, Florida, on June 4, 2008. This is the same day that Ms. Maio claims to have communicated with "Mark Phelps, Esq., House Counsel." I checked the Office of Court Administration's Attorney Registry and found that Mark Phelps is not now nor has been an attorney registered in the State of New York. Moreover, the Court does not know what "House" employs Mr. Phelps. [\*5] Both Mr. Phelps and Ms. Maio should have discovered the defects in Ms. Taylor's verification of the subject complaint. The jurat states that the verification was executed in the State of New York and the County of Suffolk [the home county of plaintiff's counsel], but the notary public who

took the signature is Deborah Yamaguichi, a Florida notary public, not a New York notary public. Thus, the verification lacks merit and is a nullity. Further, Ms. Yamaguchi's notarization states that Ms. Taylor's verification was "Sworn to and subscribed before me this 4th day of June 2008." Even if the jurat properly stated that it was executed in the State of Florida and the County of Duval, where Jacksonville is located, the oath failed to have a certificate required by CPLR § 2309 (c) for "oaths and affirmations taken without the state." CPLR § 2309 (c) requires that: An oath or affirmation taken without the state shall be treated as if taken within the state if it is accompanied by such certificate or certificates as would be required to entitle a deed acknowledged without the state to be recorded within the state if such deed had been acknowledged before the officer who administered the oath or affirmation. The Court is distressed that Ms. Maio falsely affirmed on November 11, 2010 that "pursuant to CPLR § 2106 and under the penalties of perjury," that "the Summons and Complaint and all other documents filed in support of this action for foreclosure are complete and accurate in all relevant respects," when the instant motion papers are incomplete and the verification is defective. Moreover, the purpose of the October 20, 2010 Administrative Order requiring affirmations by plaintiff's counsel in foreclosure cases is, according to Chief Judge Lippman, in his October 20, 2010 press release, to ensure "that the documents judges rely on will be thoroughly examined, accurate, and error-free before any judge is asked to take the drastic step of foreclosure."

Ms. Maio should have consulted with a representative or representatives of plaintiff WAMU or its successors subsequent to receiving my November 9, 2010 order, not referring back to an alleged June 4, 2008 communication with "House Counsel." Affirmations by plaintiff's counsel in foreclosure actions, pursuant to Chief Administrative Judge Ann t. Pfau's October 20, 2010 Administrative Order, mandates in foreclosure actions prospective communication by plaintiff's counsel with plaintiff's representative or representatives to prevent the widespread insufficiencies now found in foreclosure filings, such as: failure to review files to establish standing; filing of notarized affidavits that falsely attest to such review, and, "robosigning: of documents.

### ***Discussion***

Real Property Actions and Proceedings Law (RPAPL) § 1321 allows the Court in a foreclosure action, upon the default of the defendant or defendant's admission of mortgage payment arrears, to appoint a referee "to compute the amount due to the plaintiff." In the instant action, plaintiff's application for an order of reference is a preliminary step to obtaining a default judgment of foreclosure and sale. (*Home Sav. Of Am., F.A. v Gkanios*, 230 AD2d 770 [2d Dept 1996]). [\*6] Plaintiff failed to meet the clear requirements of CPLR § 3215 (f) for a default judgment.

*On any application for judgment by default, the applicant shall file proof of service of the summons and the complaint, or a summons and notice served pursuant to subdivision (b) of rule 305 or subdivision (a) of rule 316 of this chapter, and **proof of the facts constituting the claim, the default and the amount due by affidavit made by the party** . . . Where a verified complaint has been served, it may be used as the affidavit of the facts constituting the claim and the amount due; in such case, an affidavit as to the default shall be made by the party or the party's attorney. [**Emphasis added**].*

Plaintiff failed to submit "proof of the facts" in "an affidavit made by the party." The Court needs an affidavit of merit executed by an officer of plaintiff WAMU or its successor in interest, or by someone granted this authority with a valid power of attorney from WAMU or its successor in interest for that express purpose. Additionally, if a power of attorney is presented to this Court and it refers to a Pooling and Servicing agreement, the Court needs a properly offered copy of the Pooling and Servicing agreement, to determine if the servicing agent may proceed on behalf of plaintiff. (*EMC Mortg. Corp. v Batista*, 15 Misc 3d 1143 (A) [Sup Ct, Kings County 2007]; *Deutsche Bank Nat. Trust Co. v Lewis*, 14 Misc 3d 1201 (A) [Sup Ct, Suffolk County 2006]). If a Pooling and Servicing Agreement is presented with a renewed motion for an order of reference, it must be an original or a copy of the original certified by plaintiffs' attorney, pursuant to CPLR § 2105. CPLR § 2105 states that "an attorney admitted to practice in the court of the state may certify that it has been compared by him with the original and found to be a true and complete copy." (*See Security Pacific*



*Nat. Trust Co. v Cuevas*, 176 Misc 2d 846 [Civ Ct, Kings County 1998]).

In *Blam v Netcher*, 17 AD3d 495, 496 [2d Dept 2005], the Court reversed a default judgment granted in Supreme Court, Nassau County, holding that:

In support of her motion for leave to enter judgment against the defendant upon her default in answering, the plaintiff failed to proffer either an affidavit of the facts or a complaint verified by a party with personal knowledge of the facts (*see* CPLR 3215 (f): *Goodman v New York City Health & Hosps. Corp.* 2 AD3d 581 [2d Dept 2003]; *Drake v Drake*, 296 AD2d 566 [2d Dept 2002]; *Parratta v McAllister*, 283 AD2d 625 [2d Dept 2001]). Accordingly, the plaintiff's motion should have been denied, with leave to renew [\*7] on proper papers (*see* *Henriquez v Purins*, 245 AD2d 337, 338 [2d Dept 1997]). (*See HSBC Bank USA, N.A. v Betts*, 67 AD3d 735 [2d Dept 2009]; *Hosten v Oladapo*, 44 AD3d 1006 [2d Dept 2007]; *Matone v Sycamore Realty Corp.*, 31 AD3d 721 [2d Dept 2006]; *Taebong Choi v JKS Dry Cleaning Equip. Corp.*, 15 AD3d 566 [2d Dept 2005]; *Peniston v Epstein*, 10 AD3d 450 [2d Dept 2004]; *De Vivo v Spargo*, 287 AD2d 535 [2d Dept 2001]).

### ***Conclusion***

Accordingly, it is

ORDERED, that the November 11, 2010 affirmation presented by Donna D. Maio, Esq., of Mathews & Matthews, counsel for plaintiff, WASHINGTON MUTUAL BANK, in this action to foreclose a mortgage for the premises located at 2035 East 63rd Street, Brooklyn, New York (Block 8406, Lot 64, County of Kings) is deemed defective; and it is further ORDERED, that counsel for plaintiff, WASHINGTON MUTUAL BANK, has forty-five (45) days from this decision and order to correct the deficiencies in its motion for an order of reference for the premises located at 2035 East 63rd Street, Brooklyn, New York (Block 8406, Lot 64, County of Kings), or the instant foreclosure action will be dismissed with prejudice; and it is further

ORDERED, that counsel for plaintiff, WASHINGTON MUTUAL BANK, must submit to the Court, with the corrected deficiencies in its motion for an order of reference for the premises located at 2035 East 63rd Street, Brooklyn, New York (Block 8406, Lot 64, County of Kings), a new affirmation, pursuant to the October 20, 2010 Administrative Order, announced by Chief Judge Jonathan Lippman and ordered by Chief Administrative Judge Ann T. Pfau, using the new revised standard Court form, pursuant to CPLR Rule 2106 and under the penalties of perjury, that counsel for plaintiff, WASHINGTON MUTUAL BANK: has "based upon my communications [with named representative or representatives of plaintiff], as well as upon my own inspection and reasonable inquiry under the circumstances, . . . that, to the best of my knowledge, information, and belief, the Summons, Complaint and other papers filed or submitted to the Court in this matter contain no false statements of fact or law"; and, is "aware of my obligations under New York Rules of Professional Conduct (22 NYCRR Part 1200) and 22 NYCRR Part 130."

This constitutes the Decision and Order of the Court.

ENTER

\_\_\_\_\_  
HON. ARTHUR M. SCHACK

J. S. C.

[\*8]

[Return to Decision List](#)