

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER - COMPLIANCE PART

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Joan Catali

Plaintiff(s),

NYSCEF
DISCOVERY MOTION
BRIEFING SCHEDULE

-against-

Index No.: 69588/2017

Jefferson Village

Defendant(s).

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Movant: *Plaintiff*
Relief Sought: *Compel / Vacate Note of Issue / Reargue / Renew etc.*

Order to Show Cause shall be filed via NYSCEF on or before: *August 13, 2019* at 12 p.m.

Opposition Papers shall be filed via NYSCEF on or before: *August 27, 2019* at 12 p.m.

Return Date: *September 9, 2019* at *2p.m., Courtroom 1600, Westchester County Courthouse.* *Oral argument shall be heard on the return date. Appearances are required.*

No reply papers shall be accepted. No cross-motion shall be made except as expressly provided herein.

The Order to Show Cause and opposition papers shall be clearly marked "Compliance Part". All inquiries regarding this motion shall be directed to the Compliance Part Motion Clerk. No telephone calls, correspondence or other inquiries relating to this motion shall be directed to the Justices' chambers or the IAS Parts.

Failure of the movant to timely proceed in accordance with this briefing schedule may result in waiver of the issues that were to be raised. Failure to timely oppose the motion in accordance with this briefing schedule may result in the motion being decided without consideration of opposition.

Additional directives:

Dated: *July 30, 2019*

Diane Clerkin
Diane Clerkin
Court Attorney-Referee

At the Compliance Part of the
Supreme Court of the State of New
York, County of Westchester,
located at 111 Dr. Martin Luther
King Jr. Boulevard, White Plains
New York, on the ____ day of
_____, 2019

PRESENT:

HONORABLE: Joann B. Lefkowitz
Justice of the Supreme Court

-----X Index No: 69588/2017
JOAN CATALI and ANDREW CATALI

Plaintiffs,

**ORDER TO
SHOW CAUSE**

-against-

JEFFERSON VILLAGE CONDOMINIUM No. 3 INC.
MCGRATH MANAGEMENT SERVICES INC.
CHARLES O'NIELL and GAIL DEVERY, respectively,
THE PRESIDENT AND TREASURER of THE BOARD
OF MANAGERS OF JEFFERSON VILLAGE CONDOMINIUM
No. 3, AN UNINCORPORATED ASSOCIATION

Defendants.

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SIRS:

Upon the annexed affirmation of Anthony V. Barbiero Esq., affirmed on the 14th day of June, 2019 submitted on the previous motion a copy of which is annexed hereto together with those exhibits which pertain to this motion, and upon the affirmation of Meghan R. Boyar Esq. in partial opposition of the defendants, together with exhibits annexed thereto, a copy of which is annexed hereto, and upon the previous Decision and Order of this Court dated July 15, 2019 , a copy of which is annexed hereto, and upon reading and filing the annexed Affirmation of Anthony V. Barbiero Esq. dated the 6th day of August, 2019 and the exhibits annexed thereto, and the pleadings and proceedings heretofore had herein:

LET the defendants and/or their attorneys show cause at Compliance Part of the Supreme Court of the State of New York, County of Westchester located in Courtroom 1600 , at the Courthouse located at 111 Dr. Martin Luther King Jr. Boulevard, White Plains, New York, on **September 9, 2019, at 2:00 o'clock in the afternoon of that day**, at which time oral argument shall be heard why an Order should not be made and entered herein granting Plaintiffs application for renewal of that portion of the previous motion seeking disclosure of the contents of any insurance agreement covering the exposure of the Defendant McGrath Management Services Inc. to the claims of the Plaintiffs herein as required by CPLR 3101 (f). as set forth in Plaintiffs post-deposition demands dated May 17, 2019, and upon such renewal directing the Defendants to provide disclosure of the contents of any insurance agreement covering the exposure of the Defendant McGrath Management Services Inc. to the claims of the Plaintiffs herein as required by CPLR 3101 (f), or in the alternative

Granting the Plaintiff relief from that portion of the motion decided by the Decision and Order of this Court dated July 15, 2019 which, among other things, denied that branch of Plaintiffs' motion seeking to compel Defendants to respond to Plaintiffs' post-deposition demands dated May 17, 2019 as moot, pursuant to CPLR 5015 upon the ground that the Defendants misrepresented to the Court that disclosure of McGrath insurance agreements had been disclosed when in fact they had not and have not been disclosed such that the non-disclosure is unjust and violative of the public policy as set forth in CPLR 3101 (f).

PLEASE TAKE NOTICE: Oral argument shall be heard on the return date of this motion and appearances are required by all counsel.

Due and sufficient cause appearing therefore, let service of a copy of this Order to Show Cause and the supporting papers and exhibits annexed thereto via NYSCEF on or before **August 13, 2019 at 12 p.m.** upon Lewis Brisbois Bisgaard & Smith, attorneys for the Defendants be deemed to constitute due and sufficient service.

Opposition Papers shall be filed via NYSCEF on or before **August 25, 2019 at 12 p.m.** No reply papers shall be accepted. No cross-motion shall be made except as expressly provided herein.

E N T E R:

J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X Index No: 69588/2017
JOAN CATALLI and ANDREW CATALLI

Plaintiffs,

AFFIRMATION IN
SUPPORT OF MOTION
FOR RENEWAL and
RELIEF FROM THE
DECISION AND ORDER
DATED JULY 15, 2019
UPON THE GROUND
OF MISCONDUCT AS
SET FORTH IN CPLR
5015

-against-

JEFFERSON VILLAGE CONDOMINIUM No. 3 INC.
MCGRATH MANAGEMENT SERVICES INC.
CHARLES O'NIELL and GAIL DEVERY, respectively,
THE PRESIDENT AND TREASURER of THE BOARD
OF MANAGERS OF JEFFERSON VILLAGE CONDOMINIUM
No. 3, AN UNINCORPORATED ASSOCIATION

Defendants.

-----X

Anthony V. Barbiero Esq., an attorney duly admitted to practice law before the Courts of the State of New York, and associated with ROTH LAW GROUP PLLC, attorneys for the Plaintiffs herein, hereby affirms the following to be true under the penalties of perjury:

1. I am fully familiar with all the facts and circumstances surrounding this action, based upon my office file and my personal inspection of the premises and documents pertaining to this action.

2. This affirmation is submitted on behalf of Plaintiff Joan Catalli and Andrew Catalli, her husband, which seeks initially an order from this Court

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