

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

Yuling Zhan,)
Plaintiff)
V.) No: 04 M1 23226
Napleton Buick Inc,)
Defendant)

**MOTION TO CONFIRM THE NULLITY OF NOVEMBER 8 AND NOVEMBER
29, 2005 COURT ORDERS OR IN ALTERNATIVE MOTION FOR LEAVE TO
FILE AN ANSWER TO DEFENDANT'S COUNTERCLAIM**

Plaintiff, Yuling Zhan, respectfully submits this motion, and states as follows:

1. On December 21, 2004, plaintiff filed the instant lawsuit, and raised a variety of claims against a car dealership, Napleton Buick Inc. ("Buick).
2. On June 23, 2005 defendant filed an untimely Counterclaim. In response, plaintiff filed a Motion To Strike on July 12, 2005.
3. On November 8, 2005 the Court denied plaintiff's Motion To Strike and granted plaintiff's leave to file an Answer or respond otherwise. See Exhibit 1 at order 3.
4. On November 23, 2005 plaintiff filed a Motion To Dismiss Defendant's Counterclaim, and the motion was denied by the November 29, 2005 Order. See Exhibit 2 at order 2
5. On November 3, 2005 plaintiff filed a motion for substitution of Judge as of right, which was granted on December 8, 2005. See Exhibit 3.
6. It has long been the law in Illinois that if a petition for substitution of judge is timely made and is in the proper form, the trial court has no discretion to deny it, and any other order entered after its presentation is a nullity. See *Nunes v. Northwest Hospital*, 253 Ill. App. 3d 337, 625 N. E. 2d 376

(1993), appeal denied 154 Ill 2d 561, 631 N. E. 2d 710, citing *In re Dominique F.*, 145 Ill. 2d 311, 324, 583 N. E. 2d 555 (1991).

7. Plaintiff respectfully move to confirm the nullity of the Orders entered on November 8, and November 29 of 2005. As a direct result plaintiff's Motion To Strike is still pending, or in alternative, if the Orders are still valid, plaintiff respectfully moves for leave to file an Answer to defendant's Counterclaim

WHEREFORE, plaintiff prays the Honorable Court grant this motion.

(Plaintiff's Signature)

(Date)

Yuling Zhan

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