

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

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

PLAINTIFF'S MOTION TO
RECONSIDER FEBRUARY 28, 2006 ORDER

Plaintiff, Yuling Zhan, respectfully submits this Plaintiff's Motion To Reconsider February 28, 2006 Order, and states as follows:

1. On February 27, 2006, plaintiff filed a Emergency Motion To Transfer The Case Out Of A Small Claim Court Or In The Alternative Emergency Motion To Proceed Pursuant To Illinois Supreme Court Rule 218.
2. As the Honorable Court can see, the instant suit has never been, and is still not a small claim case.
3. Whenever jurisdiction is denied or questioned by the party or a court, it is the duty of the party claiming that the court has jurisdiction to prove that the court does indeed have it. See *Bindell v. City of Harey*, 212 Ill. App. 3d 1042, 571 N. E. 2d 1017 (1st Dist. 1991).
4. On October 20, 2005, Defendant's § 2-615 Motion To Strike And Dismiss Plaintiff's Amended Complaint ("Motion To Dismiss") was stricken, and defendant became in default for failure to plead. See Exhibit 1. As plaintiff

- understands it, the Order is perfectly justifiable. For months, defendant flagrantly misinterpreted the law, and challenging a Federal Statute by arguing that there was no private cause of action under the Magnuson-Moss Act. Further, in order to solicit an ruling in their favor, defendant's counsel filed the same motion in the Court twice, presented it to three Judges on four occasions.
5. Without question, no other Judge in the Circuit Court should and could overrule an Order entered by Honorable Judge Healy. This is reflected in the Rules of Procedure For Room 1307, as it says in the second paragraph of II MOTION CALL: "These motions cannot affect or alter any ruling previously determined in room 1501." See Exhibit 2. Defendant's counsel Mr. Ryan Haas ("Mr. Haas") repeatedly contended in front of Honorable Judge Davis, that the Motion To Dismiss was still pending because it was stricken without prejudice. His argument is misleading and absurd.
 6. In *re C. M. A.*, 306 Ill. App. 3d 1061, 715 N. E. 2d 674 239 Ill. Dec. 20 (First Dist. 1999), the Appellate Court states "It has long been the law in Illinois that a petition for substitute judge is timely made and in the proper form, the trial court has no discretion to deny it, and any other order entered after its presentation is a nullity. *Nunes v. Northwest Hospital*, 253 Ill. App. 3d 337, 625 N. E. 2d 311, 324, 583 N. E. 2d 555 (1993), appeal denied 154 Ill. 2d 710, citing *In re Dominique F.*, 145 Ill. 2d 311, 324, 583 N. E. 2d 555 (1991)."
 7. On November 3, 2005, plaintiff filed a Motion For Substitution Of Judge, because she believed that defendant and its counsel were engaging in a process of avoiding or choosing a judge for trial. Plaintiff really appreciates Honorable Judge Davis granted her motion professionally, further, she is pretty sure Honorable Judge Davis himself would agree that all orders entered in November of 2005 shall be void and null as a matter of law.
 8. The Second District Appellate Court holds "[A] court has inherent authority to expunge void acts from its record." *Evans v. Corporate Services*, 207 Ill.

App. 3d 297, 565 N. E. 2d 724 (Second Dist. 1990), and in Illinois, void orders do not change the status of a case. See *National Bank of Monmouth v. Multi National Industries, Inc.*, 286 Ill. App. 3d 638, 640, 678 N. E. 2d 7, 9 (1997).

9. When drafting the February 28, 2006 Order, Buick's counsel, Mr. Haas used a word "re-open", which was misleading and incorrect, because discovery had not started yet for the instant case.
10. Under First and Fourteenth Amendments of the U. S. Constitution, any litigant must have an adequate, complete, fair, full, impartial, meaningful, and timely access to the court. It is for the benefit of all parties to conduct a meaningful discovery before trial, if any one of them really believes it has a variable claim or counterclaim.
11. For months, defendant counsel have been requesting for a trial date even before filing an Answer or before discovery. The purpose is clear, that is, to cover up their misconduct, at the same time, put their client in jeopardy, and bring the legal profession into disrepute.
12. During February 28, 2006 hearing, Mr. Haas vigorously contended that the discovery should be limited to one-month time period. As the Honorable Court can see, this might be enough for small claims, but definitely not for all of any other lawsuits: As well known, under Illinois Supreme Court Rules, it would take 28 days to serve a single set of interrogatories and receive response, whereas the main purpose of interrogatories is to pin point key witnesses to depose later.
13. During February 28, 2006 hearing, Honorable Judge Rhine permitted plaintiff to file a Reply, Buick's counsel, Mr. Haas, failed to incorporate the ruling in the Order.
14. As stated here and in the Motion To Confirm The Nullity Of Defendant's Answer Or In The Alternative Motion For Leave To File A Response, plaintiff has good reasons to believe defendant's Answer has no legal effect, except it is the best evidence to support her claims.

15. It is undisputable that defendant failed to serve plaintiff an official copy of its Answer with a court file stamp. See Exhibit 3. Further, the "notice of filing" suggests either Mr. Haas intended to reinstate Ford Motor Company ("Ford") as a defendant by serving court papers, or he might demand a jury trial in the future to avoid or choose another judge, or, he and some other employee from the same firm Childress Duffy Goldblatt, Ltd provided false statement on oath in a court filing, or, to say the very least, defendant and its counsel showed no respect to the Rule of the Courts consistently, they should be sanctioned and the filing should be a nullity.
16. In her Reply, plaintiff will provide additional comments on fatal defects in defendant's Answer.

WHEREFORE, plaintiff respectfully prays the Honorable Court reconsider the February 28, 2006 order.

(Plaintiff's Signature)

(Date)

Yuling Zhan

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