

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUFFOLK SUPERIOR COURT
CA NO. SUCV 1784CV 00495 H

CHRISTOPHER ST LOUIS)
Plaintiff)
)
v.)
)
MITRA GHOBADI, RADHY PENA)
& RICHARD FITZGERALD)
Defendants)

DEFENDANT'S MOTION IN LIMINE TO EXCLUDE CLAIMS OF DAMAGES RELATED TO ALLEGED LOST INCOME OF \$280,000.00 AS SPECIFIED IN THE PRE-TRIAL MEMORANDUM ITEMIZATION OF DAMAGES

Now come the defendants and respectfully move this court to exclude from consideration before the jury alleged evidence as it relates to lost income in the amount of \$280,000.00 the plaintiff claims the defendants are responsible for. The Pre-Trial Memorandum, Itemization of \$280,000 in damages (Ex. 8 p.5) specifies, "**\$280,000.00 Lost income.**"

PROCEDURAL HISTORY

On April 27, 2018 Judge Ullmann ruled on the plaintiff's Rule 60B motion for the removal of the Default Judgment. As a result of that ruling (docket entry #31) the plaintiff's motion was allowed, only as it applies to defendants Fitzgerald, Pena and Ghobadi.

The plaintiff's last amended complaint had been filed with the court on October 18, 2017 and it contained counts against now dismissed defendants (#8-9). No new or updated Amended Complaint has been served since October 18, 2017. (Doc. entry #16)

2020 FEB 11 P 2:13
SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE

CRITICAL FACTS & TIME LINE

I Ownership and Transfer

It is undisputed and a matter of public record with the Secretary of State for the Commonwealth, that the defendant Richard Fitzgerald is the manager of Five Realty LLC. (Ex 1) Five Realty LLC purchased the subject property from Mr. St Louis and recorded the sale with the Registry of Deeds on **March 27, 2015** (Ex 2. Bk 54234 P106-108). On **June 23, 2015** Five Realty LLC sold the property to Salvador Rosa who is the Manager of OZZ14 Realty LLC (Ex 3 Bk 54659 P 97-98).

II New Owner Eviction Action

Soon thereafter on **August 10, 2015**, OZZ14 Realty, Salvador Rosa, Manager, filed an action in the housing court to evict Mr. St Louis. (Ex 4). 15H84SP003323 After a long and protracted procedural history, including a judgment against Mr. St Louis an Appeal, Appeal Bond and an eventual dismissal of the Appeal, an Execution was issued on **March 4, 2016**. (Ex 4). Mr. St Louis filed three TRO actions ¹ relating to the eviction (Ex 5) action brought forward by the new owner, Mr. Rosa. Eventually, a No Trespass order was given to Mr. St Louis in open court on April 6, 2016 in relation to his three TRO actions. (Ex 5). (See footnote #1)

III Findings of Fact and Rulings of Law in the Housing Court.

In a related action to evict Mr. St. Louis' houseguest, David Ernest wherein Mr.

¹ December 3, 2015, March 8, 2016 and March 18, 2016 (Ex 5) The last TRO application also involved a site visit from the Housing Court Specialist D. Mathis who took photographs as part of his report (Docket entry 4/19/16). A no Trespass order was given to Mr. St Louis in open court on April 6, 2016.

Ernest took the possession at trial that Mr. St Louis was the proper owner of the property and Mr. Rosa had no rights to bring an eviction action forward. (Ex 6.15H84SP003463). Mr. St Louis testified at the trial ² and the Hon. Judge Winnik made Findings of Fact and Rulings of Law. (Ex 6). Judge Winnik found that Mr. St Louis signed the deed in the presence of a Notary Public on March 27, 2015 and that Five Realty LLC conveyed the property to OZZ12 Realty LLC on June 23, 2015 and Mr. Rosa had superior rights to recover possession of the property. (Ex 6; p. 1-2)

IV Motion to Dismiss

A Motion to Dismiss was filed with the court in 2017 and the hearing was held on May 17, 2017. On May 22, 2017 Judge Ullmann allowed the Motion and Dismissed the action against Salvador Rosa, Manager of OZZ14 Realty LLC, with Prejudice (Ex 7)

ARGUMENT

According to the Pre-Trial Conference Memorandum in the itemized damages section, the plaintiff seeks “\$280,000.00 for lost income” for alleged events that may or may not have occurred well after Five Realty LLC sold its ownership rights and possession of the 27 Greenbrier St. property to a subsequent buyer.

At the time of the transfer of ownership from Five Realty LLC, Richard Fitzgerald Manager, to Mr. Rosa in June 2015, Mr. St Louis was the occupant of the property and he maintained possession of all his personal items.

From the point of the sale of the property to Mr. Rosa on June 23, 2015 on ward, Five Realty LLC and all other defendants had no legal authority of any kind as it relates to Mr. St. Louis and his ability or inability to seek employment in his vocation or craft.

²Judge Ulman, in the Motion to Dismiss against Mr. Rosa, relied upon, in part, the findings of Judge Winik (Ex 7)

and took no steps to assert any control over his conduct and or restrict his employment opportunities. The eviction action is a separate matter that has been concluded between the plaintiff and the new owner, Mr. Rosa (Ex 4 & 5) of which none of the defendants in this present matter were ever a party.

It is illogical for Mr. St Louis and his counsel to conclude or alleged that he may seek relief from this court for alleged lost wages of \$280,000. that are unrelated to the three present defendants.

All counts against Mr. Rosa were dismissed from this action by Judge Ullman early on in the litigation on May 22, 2017. (Docket Entry #10). It is possible that the plaintiff's counsel never took that dismissal into account when evaluating its alleged lost income damages in the Pre-Trial Conference Memorandum.

Additionally, during the discovery process, the plaintiff never provided any documents related to and or responsive to his claims of lost income in his Rule 34 responses. (See affidavit of defense counsel).

It would be prejudicial to allow St Louis to present such documents at this stage of the litigation even if they exist. The plaintiff in his complaint filed with the court on October 18, 2017 never referred to lost income as an allegation against the defendants.

Nonetheless, the plaintiff has no claim based on the facts or the law to assert claims against the remaining defendants for lost income alleged to be caused due to the short sale. There is no causal connection between short sale and the claims of lost wages against the defendants. The real estate was sold to Mr. Rosa in June 2015 and Mr. St Louis was evicted in the spring of 2016. The plaintiff was free to earn an income if he wanted to do so. The defendants put no restriction on the plaintiff's ability

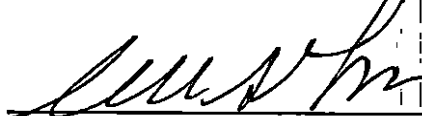
or desire to earn an income. The plaintiff has failed to supply any tax records to verify any income history, variations and or even any capacity to earn an income.

SUMMARY

The three remaining defendants, hereby move that this court exclude the plaintiff's allegations of lost income in the amount of \$280,000.00 for a person who has no cause of action against the defendants for lost wages. The plaintiff has provided no tax records or any other records to demonstrate damages of \$280,000.00 as the defendants asserted no control over the plaintiff to restrict him from being employed during the ownership of Five Realty LLC of the Greenbriar property.

WHEREFORE: The plaintiff request that the motion be allowed and prohibit the plaintiff from asserting this claim for alleged lost wages.

Counsel for the Defendants



Scott G. Gowen Esq.
LAW OFFICES OF SCOTT G. GOWEN
165 Main St. Suite 210
Medway, MA 02053
Tel. (508) 533-5400
BBO# 648428

Dated: February 5, 2020

CERTIFICATE OF SERVICE

I Scott Gowen, counsel for the Defendants do hereby swear under the pains and penalties of perjury that on this day February 5, 2020 by electronic means and First-Class U. S. Mail to Nicole Bluefort the attached Motion.



Scott G. Gowen

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUFFOLK SUPERIOR COURT
CA NO. SUCV 1784CV 00495

CHRISTOPHER ST LOUIS
Plaintiff

v.

MITRA GHOBADI, RADHY PENA
& RICHARD FITZGERALD
Defendants

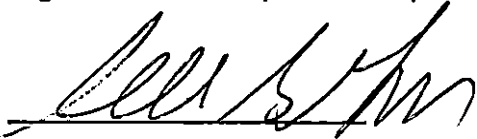
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AFFIDAVIT OF ATTORNEY SCOTT G. GOWEN

I am an attorney in good standing and I represent the defendants in the above matter.

- 1) I caused Rule 34 discovery to be sent to the plaintiff in the normal course.
- 2) The response was received in February 2019.
- 3) The plaintiff Amended Complaint filed with the court on October 18, 2017 makes no allegation that the defendants prevented the plaintiff from being employed and resulting in \$280,000 in lost wage damages.
- 4) None of the documents contained within the responses included any records or documents related to alleged lost wages, income tax records, W-2 form, 10-99 forms, employment applications and any other document related to loss of income and lost wages.

Signed under the pains and penalties of perjury this day the 4th of February, 2020.



Scott G. Gowen

EXHIBIT ONE



William Francis Galvin
Secretary of the Commonwealth of Massachusetts



Corporations Division

Business Entity Summary

ID Number: 463338037

[Request certificate](#)

[New search](#)

Summary for: FIVE REALTY LLC

The exact name of the Domestic Limited Liability Company (LLC): FIVE REALTY LLC		
Entity type: Domestic Limited Liability Company (LLC)		
Identification Number: 463338037		
Date of Organization in Massachusetts: 08-05-2013		
Last date certain:		
The location or address where the records are maintained (A PO box is not a valid location or address):		
Address: 85 CURTIS AVE		
City or town, State, Zip code, STOUGHTON, MA 02072 USA		
Country:		
The name and address of the Resident Agent:		
Name: RICHARD FITZGERALD		
Address: 85 CURTIS STREET		
City or town, State, Zip code, STOUGHTON, MA 02072 USA		
Country:		
The name and business address of each Manager:		
Title	Individual name	Address
MANAGER	RICHARD FITZGERALD	85 CURTIS AVE. STOUGHTON, MA 02072 USA
In addition to the manager(s), the name and business address of the person(s) authorized to execute documents to be filed with the Corporations Division:		
Title	Individual name	Address
The name and business address of the person(s) authorized to execute, acknowledge, deliver, and record any recordable instrument purporting to affect an interest in real property:		
Title	Individual name	Address
REAL PROPERTY	RICHARD FITZGERALD	85 CURTIS AVE. STOUGHTON, MA 02072 USA
Confidential Merger		

Consent Data

Allowed

Manufacturing

View filings for this business entity:

ALL FILINGS

Annual Report

Annual Report - Professional

Articles of Entity Conversion

Certificate of Amendment

Certificate of Incorporation

[View filings](#)

Comments or notes associated with this business entity:

[New search](#)

EXHIBIT TWO

Suffolk County Registry of Deeds
Electronically Recorded Document

This is the first page of the document - Do not remove

Recording Information

Document Number : 23253
Document Type : DED
Recorded Date : March 27, 2015
Recorded Time : 01:39:05 PM

Recorded Book and Page : 54234 / 106
Number of Pages(including cover sheet) : 3
Receipt Number : 547873
Recording Fee (including excise) : \$681.32

MASSACHUSETTS EXCISE TAX
Suffolk County District ROD # 001
Date: 03/27/2015 01:39 PM
Ctrl# 146671 26253 Doc# 00023253
Fee: \$556.32 Cons: \$122,000.00

Suffolk County Registry of Deeds
Francis "Mickey" Roache, Register
24 New Chardon Street
Boston, MA 02114
617-788-8575
Suffolkdeeds.com

Quitclaim Deed

I, **Christopher St. Louis**, an unmarried man, of 27 Greenbrier St. Boston, MA, for consideration paid and in full consideration of *One Hundred Twenty Two Thousand Dollars and 00/100 cents (\$122,000.00)*

GRANT TO Five Realty LLC, a Massachusetts limited liability company having a usual address of **85 Curtis Ave. Stoughton MA**

with **QUITCLAIM COVENANTS**,

All that certain parcel of land with the buildings thereon now known as and numbered 27 Greenbrier Street, situated in that part of Boston, Suffolk County, Massachusetts formerly Dorchester, being Lot 24 on a plat by Charles F. Baxter, dated March 1, 1898 recorded with Suffolk Deeds, Book 2533, Page 55, bounded and described as follows:

Northeasterly on Greenbrier Street, thirty-nine and twenty-seven hundredths (39.27) feet;

Southerly and Southeasterly by a curved line forming the center of Greenbrier Street and Dakota Street, ten and seventy-five hundredths (10.75) feet;

Southeasterly on Dakota Street eighty and forty-five hundredths (80.45) feet; Southwesterly by Lot 20 on said plan, forty-five (45) feet;

Northwesterly by Lot 23 on said plan, seventy-four and eighty-two hundredths (74.82) feet.

Containing according to said plan, three thousand six hundred sixty-eight (3668) square feet of land, more or less.

For Grantors' title see deed recorded on July 17, 2013 in Suffolk Registry of Deeds Book 51803, Page 339.

By signing below, the Grantor releases all Homestead rights that they may have in the subject property and further certifies that there are no additional parties entitled to Homestead rights.

~SIGNATURE PAGE TO FOLLOW~

Property Address; 27 Greenbrier St. Dorchester (Boston) MA

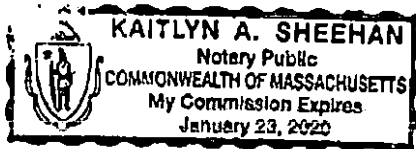
Executed as a sealed instrument this 27th day of March 2015.

Christopher St. Louis
Christopher St. Louis

Commonwealth of Massachusetts

Marie-SE, ss.

On 27th day of March, 2015, before me, the undersigned notary public, personally appeared **Christopher St. Louis**, the above-named and proved to me through satisfactory evidence of identification, which was a valid Mr. P. Lucente, to be the person whose name is signed on this document, and acknowledged to me that he/she signed it voluntarily for its stated purpose and that the foregoing instrument is his/her free act and deed.



Kaitlyn A. Sheehan
Notary Public:
Printed Name:
My Commission Expires: 1/23/2020

THIS IS A TRUE COPY OF AN INSTRUMENT
RECORDED IN THE SUFFOLK
REGISTRY OF DEEDS AT THE BOOK AND
PAGE ON THE FIRST PAGE HEREOF.

Stephen J. Murphy

STEPHEN J. MURPHY
REGISTER OF DEEDS

NOV 15 2019

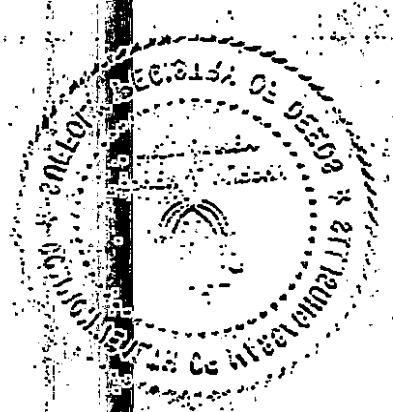


EXHIBIT THREE



2016 00052834
Bk: 54659 Pg: 97 Page: 1 of 2
Recorded: 08/24/2015 03:32 PM
ATTEST: Francis M. Roache, Register
Suffolk County Registry of Deeds

MASSACHUSETTS EXCISE TAX
Suffolk County District B014103
Date: 08/24/2015 03:32 PM
Ciri# 149189 31110 Doc# 00052834
Fee: \$1,415.88 Cons: \$310,374.22

CANCELLED

Quitclaim Deed

Five Realty LLC, a Massachusetts limited liability company having a usual address of 85 Curtis Ave. Stoughton MA, for consideration paid and in full consideration of *Three Hundred Ten Thousand and Three Hundred Seventy-Four Dollars and 22/100 cents (\$310,374.22)*

GRANT TO **TOZZI** Realty LLC, a Massachusetts limited liability company having a usual address of 89 Savin Hill Avenue, Dorchester, MA

with **QUITCLAIM COVENANTS**,

All that certain parcel of land with the buildings thereon now known as and numbered 27 Greenbrier Street, situated in that part of Boston, Suffolk County, Massachusetts formerly Dorchester, being Lot 24 on a plat by Charles F. Baxter, dated March 1, 1898 recorded with Suffolk Deeds, Book 2533, Page 55, bounded and described as follows:

Northeasterly on Greenbrier Street, thirty-nine and twenty-seven hundredths (39.27) feet;

Southerly and Southeasterly by a curved line forming the center of Greenbrier Street and Dakota Street, ten and seventy-five hundredths (10.75) feet;

Southeasterly on Dakota Street eighty and forty-five hundredths (80.45) feet; Southwesterly by Lot 20 on said plan, forty-five (45) feet;

Northwesterly by Lot 23 on said plan, seventy-four and eighty-two hundredths (74.82) feet.

Containing according to said plan, three thousand six hundred sixty-eight (3668) square feet of land, more or less.

For Grantors' title see deed recorded on March 27, 2015 in Suffolk Registry of Deeds Book 54234, Page 106.

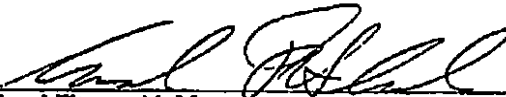
By signing below, the Grantor releases all Homestead rights that they may have in the subject property and further certifies that there are no additional parties entitled to Homestead rights.

~SIGNATURE PAGE TO FOLLOW~

Property Address: 27 Greenbrier St. Dorchester (Boston) MA

Executed as a sealed instrument this 23 day of June 2015.

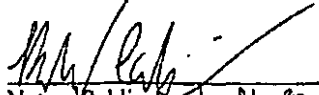
Five Rearty LLC


Richard Fitzgerald, Manager

Commonwealth of Massachusetts

Norfolk, ss.

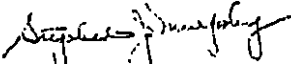
On 27th day of March, 2015, before me, the undersigned notary public, personally appeared Richard Fitzgerald, Manager, the above-named and proved to me through satisfactory evidence of identification, which was a valid MA DL, to be the person whose name is signed on this document, and acknowledged to me that he/she signed it voluntarily for its stated purpose and that the foregoing instrument is his/her free act and deed.


Notary Public: Brendan Fahigian
Printed Name:
My Commission Expires Jan, 21, 2022



BRENDAN FAHIGIAN
Notary Public
Commonwealth of Massachusetts
My Commission Expires Jan. 21, 2022

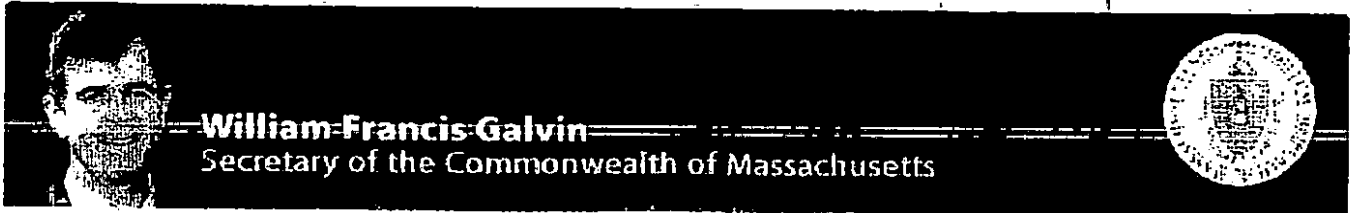
THIS IS A TRUE COPY OF AN INSTRUMENT
RECORDED IN THE SUFFOLK
REGISTRY OF DEEDS AT THE BOOK AND
PAGE ON THE FIRST PAGE HEREOF.

ATTEST: 

STEPHEN J. MURPHY
REGISTER OF DEEDS

NOV 15 2019





Corporations Division

Business Entity Summary





ID Number: 001129935

[Request certificate](#)

[New search](#)

Summary for: OZZ14 REALTY LLC

The exact name of the Domestic Limited Liability Company (LLC): OZZ14 REALTY LLC		
Entity type: Domestic Limited Liability Company (LLC)		
Identification Number: 001129935		
Date of Organization in Massachusetts: 03-05-2014		
Last date certain:		
The location or address where the records are maintained (A PO box is not a valid location or address):		
Address: 89 SAVIN HILL AVE		
City or town, State, Zip code, DORCHESTER, MA 02125 USA		
Country:		
The name and address of the Resident Agent:		
Name: SALVADOR ROSA		
Address: 89 SAVIN HILL AVENUE		
City or town, State, Zip code, DORCHESTER, MA 02125 USA		
Country:		
The name and business address of each Manager:		
Title	Individual name	Address
MANAGER	SALVADOR ROSA	89 SAVIN HILL BOSTON, MA 02125 USA
In addition to the manager(s), the name and business address of the person(s) authorized to execute documents to be filed with the Corporations Division:		
Title	Individual name	Address
SOC SIGNATORY	KENNETH B. PHILLIPS ESQ.	1085 WORCESTER ST. STE 1 NATICK, MA 01760 USA
The name and business address of the person(s) authorized to execute, acknowledge, deliver, and record any recordable instrument purporting to affect an interest in real property:		
Title	Individual name	Address
REAL PROPERTY	SALVADOR ROSA	89 SAVIN HILL AVE. BOSTON, MA 02125 USA

Consent	Confidential Data	Merger Allowed	Manufacturing
View filings for this business entity:			
ALL FILINGS			
Annual Report 			
Annual Report - Professional			
Articles of Entity Conversion 			
Certificate of Amendment			
Certificate of Organization			
View filings			
Comments or notes associated with this business entity:			
 			

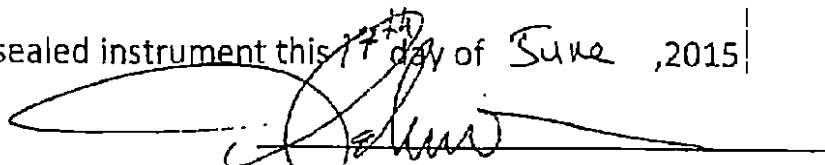
[New search](#)

OZZ14 Realty LLC

AGREEMENT

I, Salvador Rosa, hereby agree to accept appointment as successor Manager, SOC Signatory, Real Property Signatory and Registered Agent of OZZ14 REALTY LLC. I agree to change the address on file with the Secretary of the Commonwealth from 4 Palmer Avenue, Danvers, Ma 01923 to 89 Savin Hill Ave., Boston, Ma 02125. I agree to indemnify and hold harmless Maureen FitzGerald from any loss or expense arising out of her serving as Manager or Registered Agent of Ozz14 Realty LLC from March 05, 2014 until her name is removed on the records of the Secretary of the Commonwealth Corporations Division records.


Executed as a sealed instrument this ^{17th} day of June, 2015


Salvador Rosa

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this the *17* day of *June*, 2015, before me, the undersigned Notary Public, personally appeared Salvador Rosa, proved to me through satisfactory evidence of identity, which was a Massachusetts Drivers License, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.


Notary Public

My Commission Expires:

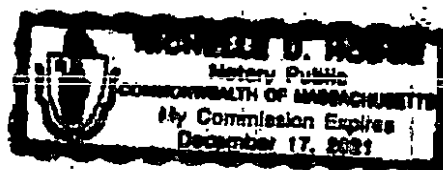


EXHIBIT FOUR

[Skip to main content](#)

15H84SP003323 Salvador Rosa, Manager vs. St.Louis, Christopher

- Case Type
- Housing Court Summary Process
- Case Status
- Closed
- File Date
- 08/10/2015
- DCM Track:
- Initiating Action:
- SP Summons and Complaint - Cause
- Status Date:
- 10/13/2015
- Case Judge:
- Next Event:

Property Address

27 Greenbrier Street 1
Dorchester Center MA 02124

[All Information](#)
[Party](#)
[Event](#)
[Docket](#)
[Disposition](#)
[Judgment](#)

Party Information

Salvador Rosa, Manager
- Plaintiff

Alias

Party Attorney

- Attorney
- Gowen, Esq., Scott G
- Bar Code
- 648428
- Address
- Law Offices Of Scott G. Gowen
- 165 Main St
- Suite 210
- Medway, MA 02053
- Phone Number
- (508)533-5400

[More Party Information](#)

St.Louis, Christopher
- Defendant

Alias

Party Attorney

- Attorney
- Miller, Esq., Rudolph Findley
- Bar Code
- 585807
- Address
- Law Office of Rudolph F. Miller
- 75 Adams St
- Suite C
- Milton, MA 02186
- Phone Number
- (617)282-5600
- Attorney
- Pro Se
- Bar Code
- PROPER
- Address
- Phone Number

[More Party Information](#)

Events

<u>Date</u>	<u>Session</u>	<u>Locality</u>	<u>Location</u>	<u>Type</u>	<u>Result</u>
08/20/2015 09:00 AM	First Session		Courtroom 15 - 5th Floor	Summary Process Trial	Continued
10/01/2015 09:00 AM	Second Session		Courtroom 14 - 5th Floor	Motion Hearing	Allowed
10/09/2015 09:30 AM	First Session		Courtroom 15 - 5th Floor	Summary Process Trial	Allowed
11/12/2015 09:00 AM	Second Session		Courtroom 14 - 5th Floor	Motion Hearing	Held
12/10/2015 09:00 AM	First Session		Courtroom 14 - 5th Floor	Motion Hearing	Allowed - TRO or PI
02/25/2016 09:00 AM	Second Session		Courtroom 14 - 5th Floor	Motion Hearing	Held
03/02/2016 12:00 PM	First Session		Courtroom 15 - 5th Floor	Status Hearing	Held

Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>
08/10/2015	SP Summons and Complaint - Cause	
08/10/2015	SURCHARGE 185C:Entry of Action filed (Section 466 - M.G.L. c. 185C, §19) SURCHARGE Receipt: 61321 Date: 08/10/2015	
08/10/2015	Summary Process: MGL Chapter 185C Section 19; Chapter 262 Section 2 Receipt: 61321 Date: 08/10/2015	
08/18/2015	Scheduled Event: Summary Process Trial Date: 08/20/2015 Time: 09:00 AM Result: Continued	
08/19/2015	Motion To File Late Answer filed by Christopher St.Louis	
08/20/2015	Event Resulted The following event: Summary Process Trial scheduled for 08/20/2015 09:00 AM has been resulted as follows: Result: Continued Reason: Court Action Appeared:	
08/24/2015	Scheduled Event: Summary Process Trial Date: 10/09/2015 Time: 09:30 AM Result: Allowed	
08/31/2015	Motion To Strike The Defendant's late Answer And Request For A Default Due To The Failures Of The Defendant To Comply With The Court's Orders Of August 20, 2015 filed by Salvador Rosa, Manager	
09/22/2015	Scheduled Event: Motion Hearing Date: 10/01/2015 Time: 09:00 AM Result: Allowed	
10/01/2015	Event Resulted The following event: Motion Hearing scheduled for 10/01/2015 09:00 AM has been resulted as follows: Result: Motion to Strike Defendant's Late Answer and to enter default for failure to comply with 8/20/15 Order; ALLOWED.	
10/09/2015	Event Resulted The following event: Summary Process Trial scheduled for 10/09/2015 09:30 AM has been resulted as follows: Result: Allowed	
10/13/2015	Judgment in SP by default	
10/13/2015	Judgment issued Default Default (by Clerk) SP10 Lewis, C-M Robert L Judgment For: Salvador Rosa, Manager Judgment Against: St.Louis, Christopher Terms of Judgment: Jdgmnt Date: 10/13/2015 Damages: Filing Fees: 135.00 Costs Pd to Court: 5.00 Other Costs: 50.00 Judgment Total: 190.00 Execution entered on 03/04/2016	

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>
10/19/2015	Notice of Appeal by Christopher St.Louis from Judgment dated 10/13/2015	
10/29/2015	Motion to dismiss appeal filed by Salvador Rosa, Manager	
10/30/2015	Scheduled Event: Motion Hearing Date: 11/12/2015 Time: 09:00 AM Result: Held	
11/12/2015	Event Resulted The following event: Motion Hearing scheduled for 11/12/2015 09:00 AM has been resulted as follows: Result: Held - no action taken on Notice of Appeal and Motion to Dismiss, as this is an appeal to the single justice. See endorsement.	
11/24/2015	Motion to Set the Bond During the Pendancy of the Appeal Pursuant to G.L.c. 239 s 5 C. filed by Salvador Rosa, Manager	
11/30/2015	Scheduled Event: Motion Hearing Date: 12/10/2015 Time: 09:00 AM Result: Held	
12/07/2015	Motion For A Temporary Restraining Order (Emergency) filed by Salvador Rosa, Manager	
12/10/2015	Event Resulted The following event: Motion Hearing scheduled for 12/10/2015 09:00 AM has been resulted as follows: Result: Held	
12/10/2015	Scheduled Event: Motion Hearing Date: 12/10/2015 Time: 09:00 AM Result: Allowed - TRO or PI	
12/10/2015	Temporary Restraining Order or Preliminary Injunction The following event: Motion Hearing scheduled for 12/10/2015 09:00 AM has been resulted as follows: Result: Allowed - TRO or PI Receipt: 63763 Date: 12/10/2015	
12/10/2015	Event Resulted The following event: Motion Hearing scheduled for 12/10/2015 09:00 AM has been resulted as follows: Result: Allowed - TRO or PI	
12/10/2015	Taken under advisement on motion to waive appeal bond.	
12/11/2015	BOND ORDERED IN THE AMOUNT OF \$4,500.00 PAYABLE BY December 17, 2015. See Order for all details.	
12/17/2015	Escrow Central Bank Account Receipt Receipt: 63867 Date: 12/17/2015 Receipt: 63869 Date: 12/17/2015 Receipt: 63870 Date: 12/17/2015 Receipt: 63871 Date: 12/17/2015 Receipt: 63872 Date: 12/17/2015	
12/17/2015	FINANCIAL NOTES: \$4,500.00 bond posted today per order.	
12/29/2015	Tape Cassette and Digital Recordings of Proceedings MGL 262 section 4b Receipt: 64021 Date: 12/29/2015	
01/05/2016	CD ready. Unable to leave message, mail box is full.	
01/06/2016	CD picked up.	
02/02/2016	Motion to assemble the record on appeal and order the defendant to comply with rules of appellate procedure filed by Salvador Rosa, Manager	
02/02/2016	Motion for determination of contempt and sanctions to be issued against the defendant for violations of court order filed by Salvador Rosa, Manager	
02/02/2016	Affidavit of Salvador Rosa, Manager.	
02/09/2016	Scheduled Event: Motion Hearing Date: 02/25/2016 Time: 09:00 AM Result: Held	
02/25/2016	Event Resulted The following event: Motion Hearing scheduled for 02/25/2016 09:00 AM has been resulted as follows: Result: Held	
02/25/2016	Interim Agreement/Stipulation & Order	
02/25/2016	Scheduled Event: Status Hearing Date: 03/02/2016 Time: 12:00 PM Result: Held	
03/01/2016	Motion To Dismiss The Appeal Bond Based On The Defendant's Failure To Comply With A Court Order Consistant With G.L.c239 s5 filed by Salvador Rosa, Manager	

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>
03/02/2016	Event Resulted The following event: Status Hearing scheduled for 03/02/2016 12:00 PM has been resulted as follows: Result: Held	
03/04/2016	ORDER: Plaintiff's Motion to Dismiss Defendant's Appeal is ALLOWED. Defendant's appeal is dismissed and execution shall issue forthwith. Clerk is directed to release the appeal bond to Plaintiff. See Order for details.	
03/04/2016	Execution issued Final Execution Judgment Debtor: St.Louis, Christopher Judgment Creditor: Salvador Rosa, Manager Terms of Execution: EXON Issuance Date: 03/04/2016 Judgment Total: 190.00 Execution Subtotal: 190.00 Execution Total: 190.00	
03/18/2016	Escrow Central Bank Account Disbursement: (AMOUNT) Payable to (PARTYNAME)	
03/18/2016	FINANCIAL NOTES: Check #1534 for \$4,500.00 released to plaintiffs attorney Gowen today.	

Case Disposition

<u>Disposition</u>	<u>Date</u>
Judgment In SP by Default	10/13/2015

Judgments

<u>Date</u>	<u>Type</u>	<u>Method</u>	<u>For</u>	<u>Against</u>
10/13/2015	Default	Default (by Clerk) SP10	Salvador Rosa, Manager	St.Louis, Christopher

EXHIBIT FIVE

[Skip to main content](#)

16H84CV000232 St. Louis, Christopher v. Rosa, Salvador et al

- Case Type
- Housing Court Civil
- Case Status
- Closed
- File Date
- 03/18/2016
- DCM Track:
-
- Initiating Action:
- Temporary Restraining Order
- Status Date:
- 03/30/2016
- Case Judge:
-
- Next Event:
-
-
- **Property Address**
- 27 Greenbrier Street
Dorchester Center MA 02124

All Information Party Event Docket Disposition

Party Information

St. Louis, Christopher
- Plaintiff

Alias

Party Attorney

- Attorney
- Pro Se
- Bar Code
- PROPER
- Address
- Phone Number

[More Party Information](#)

Rosa, Salvador
- Defendant

Alias

Party Attorney

- Attorney
- Gowen, Esq., Scott G
- Bar Code
- 648428
- Address
- Law Offices Of Scott G. Gowen
- 165 Main St
- Suite 210
- Medway, MA 02053
- Phone Number
- (508)533-5400

[More Party Information](#)

Rosa, Marla
- Defendant

Alias

Party Attorney

- Attorney
- Gowen, Esq., Scott G
- Bar Code
- 648428
- Address
- Law Offices Of Scott G. Gowen
- 165 Main St
- Suite 210
- Medway, MA 02053

• Phone Number
 • (508)533-5400

[More Party Information](#)

Events

<u>Date</u>	<u>Session</u>	<u>Locality</u>	<u>Location</u>	<u>Type</u>	<u>Result</u>
03/23/2016 09:30 AM	First Session		Courtroom 15 - 5th Floor	Hearing on Application for TRO	Continued
03/30/2016 09:30 AM	First Session		Courtroom 15 - 5th Floor	Status Hearing	Held
04/06/2016 11:00 AM	First Session		Courtroom 15 - 5th Floor	Motion Hearing	Denied
04/07/2016 09:00 AM	First Session		Courtroom 15 - 5th Floor	Motion Hearing	Rescheduled

Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>
03/18/2016	Request for Temporary Restraining Order filed	
03/18/2016	SURCHARGE 185C:Entry of Action filed (Section 186 - M.G.L. c. 185C, §19) SURCHARGE Dismissed Type: INDIGENCY Dismissed Date: 03/21/2016 Dismissed Amount: 15.00 Dismissed By: FENNELBK	
03/18/2016	Civil Filing Fee due. Dismissed Type: INDIGENCY Dismissed Date: 03/21/2016 Dismissed Amount: 120.00 Dismissed By: FENNELBK	
03/18/2016	Scheduled Event: Hearing on Application for TRO Date: 03/23/2016 Time: 09:30 AM Result: Continued	
03/18/2016	Affidavit of Indigency FILED	
03/18/2016	Affidavit of Indigency APPROVED	
03/18/2016	Order of Notice issued. Party(s) must show cause why TEMPORARY RESTRAINING ORDER SHALL NOT ISSUE and service must be given AT LEAST TWO DAYS before scheduled hearing.	
03/23/2016	Opposition to To Allow The Defendant Back On To The Property To Enter Basement by Salvador Rosa, Maria Rosa	
03/23/2016	Event Resulted The following event: Hearing on Application for TRO scheduled for 03/23/2016 09:30 AM has been resulted as follows: Result: Continued Reason: Court Action	
03/25/2016	Scheduled Event: Status Hearing Date: 03/30/2016 Time: 09:30 AM Result: Held	
03/30/2016	Event Resulted The following event: Status Hearing scheduled for 03/30/2016 09:30 AM has been resulted as follows: Result: Held. TRO allowed.	
03/30/2016	Case Disposed	
04/01/2016	Scheduled Event: Motion Hearing Date: 04/07/2016 Time: 09:00 AM Result: Rescheduled	
04/05/2016	Event Resulted The following event: Motion Hearing scheduled for 04/07/2016 09:00 AM has been resulted as follows: Result: Rescheduled Reason: Court Action	

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>
04/05/2016	Scheduled Event: Motion Hearing Date: 04/06/2016 Time: 11:00 AM Result: Denied	
04/06/2016	Event Resulted The following event: Motion Hearing scheduled for 04/06/2016 11:00 AM has been resulted as follows: Result: Denied, no trespass order given to Mr. St. Louis in open Court by C.O. Wheeler.	
04/19/2016	Memo from HS D. Mathis w/pictures attached	

Case Disposition

<u>Disposition</u>	<u>Date</u>
Disposed	03/30/2016

[Skip to main content](#)

16H84CV000196 St. Louis, Christopher v. Rosa, Salvador

Case Type
Housing Court Civil

Case Status
Closed

File Date
03/08/2016

DCM Track:

Initiating Action:
Temporary Restraining Order

Status Date:
03/08/2016

Case Judge:

Next Event:

Property Address

27 Greenbrier Street 1
Dorchester Center MA 02124

[All Information](#) [Party](#) [Event](#) [Docket](#) [Disposition](#)

Party Information

St. Louis, Christopher
- Plaintiff

Alias

Party Attorney

- Attorney
- Pro Se
- Bar Code
- PROPER
- Address
- Phone Number

[More Party Information](#)

Rosa, Salvador
- Defendant

Alias

Party Attorney

- Attorney
- Gowen, Esq., Scott G
- Bar Code
- 648428
- Address
- Law Offices Of Scott G. Gowen
185 Main St
Suite 210
Medway, MA 02053
- Phone Number
- (508)533-5400
- Attorney
- Pro Se
- Bar Code
- PROPER
- Address
- Phone Number

[More Party Information](#)

Events

Date	Session	Locality	Location	Type	Result
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<u>Date</u>	<u>Session</u>	<u>Locality</u>	<u>Location</u>	<u>Type</u>	<u>Result</u>
03/08/2016 02:00 PM	First Session		Courtroom 15 - 5th Floor	Hearing on Application for TRO	Denied

Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>
03/08/2016	Request for Temporary Restraining Order filed	
03/08/2016	SURCHARGE 185C:Entry of Action filed (Section 466 - M.G.L. c. 185C, §19) SURCHARGE Dismissed Type: INDIGENCY Dismissed Date: 03/08/2016 Dismissed Amount: 15.00 Dismissed By: FENNELL	
03/08/2016	Civil Filing Fee due. Dismissed Type: INDIGENCY Dismissed Date: 03/08/2016 Dismissed Amount: 120.00 Dismissed By: FENNELL	
03/08/2018	Scheduled Event: Hearing on Application for TRO Date: 03/08/2016 Time: 02:00 PM Result: Denied	
03/08/2016	Event Resulted The following event: Hearing on Application for TRO scheduled for 03/08/2016 02:00 PM has been resulted as follows: Result: Denied Reason: Court Action	
03/08/2016	Notice of appeal filed	
03/08/2016	Case Disposed	
03/11/2016	NOTICE OF DOCKET ENTRY FROM APPEALS COURT - Motion to stay - denied. Meade, J.	

Case Disposition

<u>Disposition</u>	<u>Date</u>
Disposed	03/08/2016

16H84CV000196 ST/2015, Christopher v Rosa

Sulvado.

[Skip to main content](#)

15H84CV000977 St. Louis, Christopher v. Salvador Roas Manager of 02214 Realty LLC

- Case Type
Housing Court Civil
- Case Status
Closed
- File Date
12/03/2015
- DCM Track:
- Initiating Action:
Temporary Restraining Order
- Status Date:
12/04/2015
- Case Judge:
- Next Event:

Property Address

27 Greenbrier Street 3
Dorchester Center MA 02124

[All Information](#) [Party](#) [Event](#) [Docket](#) [Disposition](#)

Party Information

St. Louis, Christopher
- Plaintiff

Alias

- Party Attorney
- Attorney
- Pro Se
- Bar Code
- PROPER
- Address
- Phone Number

[More Party Information](#)

Roas, Salvador
- Defendant

Alias

- Party Attorney
- Attorney
- Gowen, Esq., Scott G
- Bar Code
- 648428
- Address
- Law Offices Of Scott G. Gowen
165 Main St
Suite 210
Medway, MA 02053
- Phone Number
- (508)533-5400

[More Party Information](#)

Events

<u>Date</u>	<u>Session</u>	<u>Locality</u>	<u>Location</u>	<u>Type</u>	<u>Result</u>
12/03/2015 12:00 PM	First Session		Courtroom 15 - 5th Floor	Hearing on Application for TRO	Denied - TRO or PI

Docket Information

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>
12/03/2015	SURCHARGE 185C:Entry of Action filed (Section 466 - M.G.L. c. 185C, §19) SURCHARGE Dismissed Type: INDIGENCY Dismissed Date: 12/03/2015 Dismissed Amount: 15.00 Dismissed By: DILISIOD	
12/03/2015	Civil Filing Fee due. Dismissed Type: INDIGENCY Dismissed Date: 12/03/2015 Dismissed Amount: 120.00 Dismissed By: DILISIOD	
12/03/2015	Request for Temporary Restraining Order filed	
12/03/2015	Scheduled Event: Hearing on Application for TRO Date: 12/03/2015 Time: 12:00 PM Result: Denied - TRO or PI	
12/03/2015	Event Resulted The following event: Hearing on Application for TRO scheduled for 12/03/2015 12:00 PM has been resulted as follows: Result: Denied - TRO or PI	
12/04/2015	Case Disposed	

Case Disposition

<u>Disposition</u>	<u>Date</u>
Disposed	12/04/2015

EXHIBIT SIX

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS:

HOUSING COURT DEPARTMENT
CITY OF BOSTON DIVISION
SUMMARY PROCESS
NO. 15H84SP003463

SALVADOR ROSA, Manager of 02214 Realty LLC,

Plaintiff

VS.

DAVID ERNEST,

Defendant

**FINDINGS OF FACT, RULINGS OF LAW AND
ORDER OF JUDGMENT**

This is a summary process action in which the plaintiff is seeking to recover possession of a residential apartment from the defendant upon the termination of a tenancy at will.

Based upon all the credible testimony and evidence presented at trial, and the reasonable inferences drawn therefrom, the Court finds as follows:

The plaintiff, Salvador Rosa, is the manager of 02214 Realty LLC. The plaintiff has owned the three-family residential dwelling at 27, Greenbrier Street, in the Dorchester section of Boston, since June 24, 2015.

The defendant, David Ernest, occupies 27 Greenbrier Street, Apartment 1. He was in possession of Apartment 1 on the date the plaintiff acquired title to the property. I find that he occupied the apartment subject to an oral month-to-month tenancy.

On June 25, 2015 the plaintiff served the defendant with a legally sufficient notice to quit that terminated the defendant's tenancy at the expiration of July 2015.

The defendant refused to vacate the premises. He claims that the plaintiff does not own the property. He claims that Christopher St. Louis is the owner of the property and is his landlord.

Based upon the deeds on record at the Suffolk County Registry of Deeds I find that by deed dated March 27, 2015 Christopher St. Louis conveyed any interest he had in the property at 27 Greenbrier Street to Five Realty LLC for consideration of \$122,000.00. St. Louis testified

that he purchased the property in 2004 with proceeds from a loan secured by a mortgage on the property. He testified that he did not make a mortgage payment for 10 years and was facing the risk of foreclosure. Accordingly he entered into an agreement with Five Realty LLC whereby he would transfer the property to Five Realty LLC in exchange for a promise from the manager of Five Realty LLC that it would help him resolve his debt problems. According to St. Louis Five Realty LLC promised that it would re-convey the property to him after the mortgage loan obligation was satisfied. St. Louis contends that he was the victim of a fraud perpetrated upon him by the manager of Five Realty LLC. St. Louis admitted that he received at least some of the proceeds from the sale of the property to Five Realty LLC in March 2015; however he denied that he had signed the deed to Five Realty LLC. I do not credit St. Louis' testimony regarding the signature on the deed. I find that St. Louis signed the March 27, 2015 deed in the presence of a Notary Public. I do not make any factual or legal determination as to whether the manager of Five Realty LLC was engaged in a fraudulent scheme directed against St. Louis.

I find that on June 23, 2015 Five Realty LLC conveyed the property at 27 Greenbrier Street to Ozz14 Realty LLC for consideration received of \$310,374.22. I find that on June 24, 2015, the plaintiff purchased the property from Ozz14 Realty LLC for \$330,000.00. I find that Ozz14 Realty LLC was the record owner of the property at the time of the sale to the plaintiff. There is no evidence that the plaintiff had any actual knowledge (or information by which it should have known) that St. Louis' transfer of the property to Five Realty LLC may have been part of a fraudulent scheme by the manager of Five Realty LLC directed against St. Louis.

I rule that the plaintiff has a superior right to possession of Apartment 1 over any claim to possession asserted by the defendant.

The plaintiff has established its case to recover possession of the premises from the defendant.

ORDER FOR JUDGMENT

Based upon all the credible testimony and evidence presented at trial in light of the governing law, it is **ORDERED** that:

1. Judgment enter for the plaintiff against the defendant for possession.

2. Execution shall issue ten (10) days from the date that judgment enters.

SO ORDERED.



JEFFREY M. WINIK
FIRST JUSTICE

October 13, 2015

cc: Scott G. Gowan, Esq.
David Ernest

EXHIBIT SEVEN

Notice sent 5/23/17 (sm)
SG CL
SG

NOTICE

5/22

1

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION
NO. 2017-0495-H

CHRISTOPHER ST. LOUIS,
Plaintiff,

vs.

MITRA GHOBADI, SALVADOR ROSA and RICHARD FITZGERALD,
Defendants.

**MEMORANDUM OF DECISION AND ORDER ON DEFENDANTS'
SPECIAL MOTION TO DISMISS UNDER G.L. c. 184, §15(c)**

The defendants, Mitra Ghobadi ("Ghobadi"), Salvador Rosa ("Rosa"), and Richard Fitzgerald ("Fitzgerald"), moved to dismiss the Complaint filed by the plaintiff, Christopher St. Louis ("St. Louis"), pursuant to G. L. c. 184, §15(c). The Court heard oral argument on May 17, 2017. For the below reasons, the defendants' motion is **ALLOWED**. The Complaint is dismissed **with prejudice** as to Rosa. St. Louis cannot assert of claim of right or title to 27 Greenbrier Street, Dorchester (the "Property"). The Complaint is dismissed **without prejudice** as to Ghobadi and Fitzgerald.

DISCUSSION

A. The Legal Standards

A motion to dismiss, "argues that the complaint fails to state a claim upon which relief can be granted." Jarosz v. Palmer, 436 Mass. 526, 529 (2002), quoting J.W. Smith & H.B. Zobel, Rules Practice s. 12.16 (1974). In considering such a motion, the Court takes as true the allegations of the complaint, as well as such inferences as may be drawn from them in favor of the non-moving party. Nader v. Citron, 372 Mass. 96, 98 (1977).

However, the court disregards legal conclusions cast in the form of factual allegations. Schaer v. Brandeis Univ., 432 Mass. 474, 477 (2000). To survive the motion, the complaint must contain “allegations plausibly suggesting (not merely consistent with)” an entitlement to relief, and “must be enough to raise a right to relief above the speculative level.” Iannacchino v. Ford Motor Co., 451 Mass. 623, 636 (2008), quoting Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 557 (2007). Allegations of fraud must be stated with particularity. Mass. R. Civ. P. 9(b).

“The 2002 amendments to G. L. c. 184, §15 created ‘a mechanism for expedited removal of an unjustified lis pendens, including dismissal of frivolous claims supporting an approved lis pendens.’” Galipault v. Wash Rock Investments, LLC, 65 Mass. App. Ct. 73, 81 (2005), quoting Wolfe v. Gormally, 440 Mass. 699-705 (2004). “In ruling on this special motion under §15(c), the judge ‘shall consider verified pleadings and affidavits.’” Galipault, 65 Mass. App. Ct. at 82 (quoting G. L. c. 184, §15(c)).

B. Application of the Legal Standards

1. Claims against Rosa

In Salvador Rosa v. David Ernest, Suffolk No. 15H84SP003463 (Boston Housing Ct. Oct. 13, 2015), a summary process action (the “Summary Process Case”), the Honorable Jeffrey M. Winik found that Rosa had a valid claim of title to the Property. Judge Winik further found that by deed dated March 27, 2015 St. Louis conveyed any interest he had in the Property, and his testimony that he did not sign the deed was not credible.

Moreover, in filing his petition for a lis pendens under G. L. c. 184, §15, St. Louis was required to certify that no material facts had been omitted from the petition. G. L. c.

184, §15(b). St. Louis's petition failed to mention the Summary Process Case. This was not a mere oversight, because St. Louis *did* list a purported FBI investigation. St. Louis's conduct limits his right to equitable relief. See Galipault, 65 Mass. App. Ct. at 85.

St. Louis has no valid claim against Rosa, who did not buy the Property directly from him and has been found validly to own the Property.¹ St. Louis cannot assert a claim of right or title to the Property. The Complaint should therefore be dismissed with prejudice as to Rosa.

2. Claims against Ghobadi and Fitzgerald

The conduct of Ghobadi and Fitzgerald was not at issue in the Summary Process Case. Indeed, Judge Winik's opinion explicitly states that he was not deciding whether the direct purchase from St. Louis involved fraud. However, under Mass. R. Civ. P. 9(b), allegations of fraud must be stated with particularity. Because the claim against Ghobadi and Fitzgerald is based on allegations of fraud, it must contain more than the current two-sentence conclusory allegation. Therefore, the Complaint against Ghobadi and Fitzgerald must be dismissed, but without prejudice to St. Louis's right to serve and file a motion for leave to file an Amended Complaint. The motion must be served and filed within 60 days, in accordance with Superior Court Rule 9A, and must satisfy the requirements of Mass. R. Civ. P. 9(b). Any relief against Ghobadi and Fitzgerald must be limited to monetary damages, as they have no interest in the Property.

¹ The Summary Process Case was brought against St. Louis's purported tenant, not directly against St. Louis, and therefore collateral estoppel does not apply. However, St. Louis participated in the proceeding. The findings of Judge Winik combined with St. Louis's admission that he failed to pay his mortgage on the Property for almost 10 years, and his omission of material facts in this case warrant the relief granted herein.


CONCLUSION AND ORDER

For the above reasons, Defendants' Special Motion To Dismiss This Action Pursuant To G. L. c. 184, §15(c) (Docket # 3) is **ALLOWED**.

The Complaint is dismissed **with prejudice** as to defendant Salvador Rosa. Plaintiff Christopher St. Louis has no claim of right or title to 27 Greenbrier Street, Dorchester.

The Complaint is dismissed **without prejudice** as to defendants Mitra Ghobadi and Richard Fitzgerald. If St. Louis wishes to pursue his case, within 60 days he must serve and file a motion for leave to file an Amended Complaint. The motion must be served and filed in accordance with Superior Court Rule 9A, and must satisfy the requirements Mass. R. Civ. P. 9(b). Any relief against Ghobadi and Fitzgerald shall be limited to monetary damages.

May 12, 2017



Robert L. Ullmann
Justice of the Superior Court

EXHIBIT EIGHT

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUCV 17-0495H

CHRISTOPHER ST. LOUIS,

Plaintiff

V.

MITRA GHOBADI,

RICHARD FITZGERALD,

RADHY PENA,

Defendants.

JOINT PRETRIAL CONFERENCE MEMORANDUM

I. AGREED UPON ISSUES OF FACT

The plaintiff owned a home located on Greenbrier St in Dorchester. In March of 2015 the property was transferred to Five Realty LLC, Mgr. Richard Fitzgerald, by way of a short sale. The plaintiff contends he was defrauded in the transaction and the defendants deny the allegations.

II. STATEMENT OF THE EVIDENCE

The Plaintiff and the Defendants dispute liability and all other counts.

Plaintiff's Position:

Plaintiff was the victim of a foreclosure rescue scam in which Defendant Mitra Ghobadi and a team of her agents including the co-Defendants successfully conspired to buy the Plaintiff's family home for hundreds of thousands of dollars below market value and resell it for a five hundred percent profit. The Defendant Mitra Ghobadi had an agreement with the Plaintiff that she would purchase his home and re-sell it to him once he completed various repairs. Further, the agreement required that the Plaintiff be allowed to remain in the home. The Defendant did not have any intentions in re-selling the home to the Plaintiff, as she immediately sold the home to Five Realty LLC, which was owned by her husband, Defendant Richard Fitzgerald. Further, the Defendant Mitra Ghobadi forced the Plaintiff to leave the home, discarded all of his personal items including the tools he utilizes to make a living, and never compensated him for the improvements he made.

The Defendants have profited financially while the Plaintiff and his family have lost their home and the tools required for the Plaintiff to make a living and continue on with his life.

Defendants' Position

The plaintiff's claims are frivolous and not supported by the evidence provided by the plaintiff. The plaintiff had not made mortgage payments on the property in ten years. It was just a matter of time before the bank foreclosed on the property. The plaintiff took steps on two prior occasions to transfer the home by way of a short sale. He withdrew and changed his mind on both prior occasions. The third time (March 2015) he completed the transfer of ownership and was provided with \$10,000.00 as moving expenses. During the plaintiff's ownership the property was in disrepair. There were times when there were no utilities, heat or water service at the home. The bank holding the mortgage appraised the home for nearly \$150,000.00 prior to the short sale. Based on that appraisal, the bank consented to the short sale price in March 2015. The plaintiff refused entry to people hired to make repairs to the property and the insurance was going to be cancelled for a failure to repair safety items designated during their inspection. The Defendant opted to sell the home in June of 2015.

Mr. Pena had very little to do with any transactions. His role was one of introductions and assistance as a real estate agent. He claims against him are clearly frivolous.

The plaintiff claims a loss of \$680,000 for the value of the home while the bank appraiser assessed the property at a far less value of nearly \$150,000.

The plaintiff claims he suffered a loss of income of \$280,000 but in the prior ten years he never paid the mortgage and has not produced any tax records to support his alleged loss of income or how it is connected to the defendants.

The plaintiff claims storage costs and loss of personal items. None of the defendants owned the property at the time the plaintiff is contending that he suffered a loss of personal items and had to incur storage fees.

The plaintiff reserves the right to supplement this memorandum and defenses.

III. AGREED DESCRIPTION OF CASE TO BE READ TO JURY

The plaintiff owned a home located on Greenbrier St in Dorchester. In March of 2015 the property was transferred to Five Realty LLC, Mgr. Richard Fitzgerald, by way of a short sale. The plaintiff contends he was defrauded in the transaction and the defendants deny the allegations.

IV. UNUSUAL LEGAL ISSUES

- 1) Panel Voire Dire is requested and Rule 9A Motion served with the PTC to counsel.
- 2) Issue preclusion as it applies to the judgment of the housing court

V. WITNESSES

Plaintiff's Witnesses:

1. Plaintiff
2. Defendants
3. Lester Williams, Plaintiff's brother-in-law
4. Avian Williams, Plaintiff's ex-wife
5. David Ernst, Plaintiff's former roommate
6. Maureen Fitzgerald, daughter-in-law of Defendant Richard Fitzgerald
7. Salvador Rosa, former Registered agent of OZZ14
8. Louis G. Bertucci, III, Esq.
9. Stuart Schrier, Esq.
10. Carolyn Morin
11. Christopher Chislom
12. Jacki Klatzman
13. Daniel Goncalves, current owner of 13 Greenbrier
14. Eunice Barros, current owner of 13 Greenbrier

The Plaintiff reserves to supplement this list prior to the time of trial.

Defendant's Witnesses Ghobadi:

In addition to the witnesses listed by the Plaintiff and/or the other parties, whom the Defendant incorporates by reference as witnesses for the Defendant, the following witnesses may be called:

Kaitlyn Sheehan, Esq.

Kenneth Phillips, Esq.

Chris Wallace, Esq.

Brendan Pahigian, Citizens Bank employee, notary

Michael Duvert, witness who was approached to make false statements

Sam Medina of Realty World Related Realty Group principal broker for 2nd short sale efforts.

Louis Martins of Realty World 2nd short sale efforts

Christine Medina Realty World, short sale.

Alex Zayas, post-sale handyman will testify as it relates to damages alleged.

Emerson Andrews, referral of short sale

Thelbert Foster, contractor who will testify as to the condition of the home at or near the time of the transfer of ownership from plaintiff to one defendant and occupancy.

Richard Girard, subsequent property manager

Winston Marshall, subsequent general contractor

LAureano s Gomes, unlicensed electrical work authorized by plaintiff

Steve Mallen, electrician hired by subsequent owner to replace unlicensed electrical work.

Larry McCallum, plumber, hired by subsequent owner that repaired 28 broken pipes in Plaintiff's unit 1 apartment so the heat can be turned on.

Jason Moynihan, labor

Fran Mackay, labor

The Defendant reserves the right to supplement this list within a reasonable amount of time, prior to trial.

The Defendant also reserves the right to call any person with knowledge of admissible facts discovered prior to or during trial, and rebuttal witnesses if necessary. The Defendant also reserves the right to read into evidence portions of the plaintiff's verified complaint, insofar as permitted by Massachusetts's law and the Massachusetts Rules of Civil Procedure.

Defendant's Witnesses Fitzgerald:

In addition, the defendant Richard Fitzgerald reserves the right to call any witnesses designated by the other parties to this matter and, with the court's permission, to designate additional witnesses with proper notice.

Defendant's Witnesses Pena:

In addition, the defendant Richard Fitzgerald reserves the right to call any witnesses designated by the other parties to this matter and, with the court's permission, to designate additional witnesses with proper notice.

The defendant reserves the right to call any witness listed on the listing of witnesses of other parties.

VI. EXPERT WITNESSES

Plaintiff's Expert Witnesses:

The plaintiff does not intend to call any expert witnesses.

Defendant Ghobadi, Fitzgerald & Pena:

The defendants do not intend to call any expert witnesses. However, prior to this pre-trial conference the plaintiff has not designated any expert witnesses for trial. If the plaintiff is allowed to designate expert witnesses for trial, the Defendants request an additional 60 days after such disclosure to identify expert witnesses for trial.

VII. ESTIMATED LENGTH OF TRIAL

A. Plaintiff's Response

5 days

B. Defendant's Response

5 days

VIII. ITEMIZATION OF DAMAGES

- \$680,000 sale price of the home
- \$280,000 lost income
- \$18,000 storage costs
- \$100,000 removed goods in home including work tools

A. Plaintiff's Response

The claims are unsupported by the evidence and at critical times the defendants had no ownership rights to the home after June 24, 2015 when the home was sold to a BFP.

B. The Defendants Response

The defendants contest all damages including what has been disclosed

X. CERTIFICATION OF COUNSEL

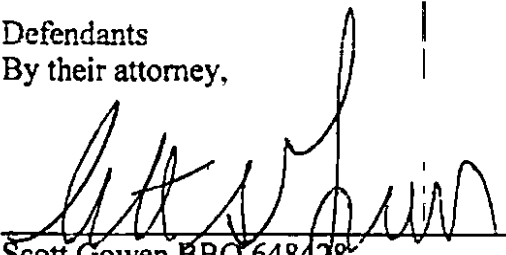
Counsel for all parties certify that they have conferred and discussed the costs of litigation as well as the possibility of settlement and alternative dispute resolution.

Respectfully submitted,

Plaintiff,
By his attorney,

Nicole Bluefort, Esq.
583 Chestnut Street, Unit 9
Lynn, MA 01904
(781)-593-1952

Defendants
By their attorney,



Scott Gowen BBO 648428
Law Offices of Scott G. Gowen
165 Main Street, Suite 210
Medway, MA 02053
(508) 533-5400

PROGRESSIVE CLAIMS
43 CONSTITUTION DR
SUITE 203
BEDFORD, NH 03110

PROGRESSIVE

Underwritten By:
Progressive Direct Insurance
Company

Claim Number: 18-2812359
Loss Date: March 2, 2018
Document Date: April 12, 2018
Page 1 of 2

ALISON P PRATT
287 FEDERAL STREET
BELCHERTOWN, MA 01007

claims.progressive.com
Track the status and details of your claim,
e-mail your representative or report a
new claim.

Claim Information

Dear Allison Pratt,

This letter is to advise that we have completed our investigation regarding coverage for the above captioned loss. We have attempted to investigate all issues regarding coverage, liability and damages. Under the conditions of your policy, you have the obligation to cooperate with us regarding any and all claims presented against your policy.

You were asked to return forms to us within 10 days. The forms were then given a deadline to return by March 29, 2018, for our forensic vendor to further inspect the vehicle. You were asked in addition to the form to provide the following:

- 1) Complete service records for the vehicle.
- 2) Complete cell and text records for your phone for February and March of 2018.

We have yet to determine how or when the damage to the vehicle occurred. Without your cooperation we are unable to determine if the excluded driver on the policy was in possession of the vehicle.

Please refer to your Massachusetts Auto Policy #910247906, Form 9609, Edition 03/14, under the section entitled: WHEN THERE IS AN ACCIDENT OR LOSS which states:

***SECOND, NOTIFY THE POLICE, REGISTRY OR FIRE DEPARTMENT**

Under Massachusetts law, notice to the local or state police and the Registry of Motor Vehicles is required within 5 days if there is anyone injured in an accident, no matter how slight the injury, or if there is reason to believe that there has been over \$1,000 in total property damage.

Within 24 hours, notify both the police and us if your auto is stolen or if you have been involved in a hit-and-run accident. You must report a fire loss to the fire department. The notice to the police or the fire department must be on the form required by law.

THIRD, FILE THE CLAIM WITH US

We do not know about accidents or losses until you or someone else notifies us. We, or our agent, must be notified promptly of the accident or loss by you or someone on your behalf. The notification should include as many details as possible, including names and addresses of drivers, injured persons and witnesses. If you or any person seeking payment under this policy fail to notify us promptly of any accident or claim under Parts 2, 3, 6, or 12 of this policy, we may not be required to pay claims under any of these parts.

FOURTH, COOPERATE WITH US

After an accident or loss, you or anyone else covered under this policy must cooperate with us in the investigation, settlement and defense of any claim or lawsuit. We must be sent copies of all legal documents in connection with the accident or loss.

We may also require you and any person seeking payment under any part of this policy to submit to an examination under oath at a place designated by us, within a reasonable time after we are notified of the claim.

If anyone makes a claim or seeks payment under Personal Injury Protection, Bodily Injury Caused By An Uninsured Auto, Medical Payments, or Bodily Injury Caused By An Underinsured Auto (Parts 2, 3, 6 or 12), we have a right to require that person to be examined by doctors selected by us. If anyone seeks continuing payments under any of these Parts, we may also require additional examinations at reasonable intervals. We will pay for these examinations. We must also be authorized to obtain medical reports and other records pertinent to the claim.

Failure to cooperate with us may result in the denial of the claim.*

As we have been unable to obtain your cooperation, we are unable to afford coverage or offer any payments regarding damages as a result of this accident.

If you have any questions or wish to discuss this matter further, please feel free to contact me by dialing 1-800-PROGRESSIVE (1-800-776-4737) or directly at the number listed below.

Sincerely,

STEVEN GILBERT
Claims Department
1-603-637-9862
1-800-PROGRESSIVE (1-800-776-4737)

Form 2587 XA (01/08) MA

EXHIBIT EIGHT