

**SUPREME COURT-STATE OF NEW YORK  
SHORT FORM ORDER**

**Present:**

**HON. TIMOTHY S. DRISCOLL**  
**Justice Supreme Court**

-----x  
**TD BANK, N.A.,**

**TRIAL/IAS PART: 16  
NASSAU COUNTY**

**Plaintiff,**

**-against-**

**Index No: 002240-12  
Motion Seq. Nos. 1 and 2  
Submission Date: 5/2/12**

**SIMMONS FOODS-PARSONS II, INC.,  
JEREMIAH SIMMONS, DEBRA SIMMONS,  
BASKIN-ROBBINS FRANCHISING LLC,  
DUNKIN' DONUTS FRANCHISING LLC and  
DUNKIN' DONUTS MID-ATLANTIC  
DISTRIBUTION CENTER, INC.,**

**Defendants.**

-----x

**The following papers having been read on these motions:**

- Notice of Motion, Affirmation in Support and Affidavit in Support.....x**
- Defendants' Exhibit List in Support.....x**
- Memorandum of Law in Support.....x**
- Notice of Cross Motion, Affidavit in Support/Opposition,  
Affirmation in Support and Exhibits.....x**
- Plaintiff's Memorandum of Law.....x**
- Reply Affirmation in Support/Opposition.....x**

This matter is before the Court for decision on 1) the motion filed by Defendants Baskin-Robbins Franchising LLC ("BR") and Dunkin' Donuts Franchising LLC ("DD")<sup>1</sup> ("Defendants") on April 9, 2012, and 2) the cross motion filed by Plaintiff TD Bank ("Plaintiff")

<sup>1</sup> The Court is in possession of a copy of an undated stipulation of the parties which provides that, upon Defendant Dunkin' Donuts Mid-Atlantic Distribution Center, Inc.'s filing of a UCC-3 statement terminating its security interest or claim in the collateral, Plaintiff will discontinue this action against Defendant Dunkin' Donuts Mid-Atlantic Distribution Center, Inc.

on April 26, 2012, both of which were submitted on May 2, 2012.

With respect to Defendants' motion, the Court grants Defendants' motion to dismiss the seventh cause of action in the Amended Complaint against BR and DD and denies Defendants' application for sanctions.

With respect to Plaintiff's cross motion, the Court denies Plaintiff's applications for an Order 1) avoiding the transfers of the subject personal property collateral of the Plaintiff; 2) granting injunctive relief; 3) granting foreclosure of the Plaintiff's security interests; 4) requiring Defendants to immediately and forthwith account for, surrender and turn over the collateral in their possession, and the products and proceeds thereof; 5) granting an accounting of the products and proceeds of Plaintiff's collateral security at the Elmont, New York DD location from February 6, 2012; and 6) striking the Answer of the Defendant Simmons Foods-Parsons II, Inc. ("Simmons Foods") for failure to comply with CPLR § 321(a). The Court reserves decision on the branch of Plaintiff's motion seeking leave to amend its complaint and file the proposed Second Amended Complaint included with Plaintiff's papers, and directs that there will be oral argument before the Court on that application which will be held on August 7, 2012 at 11:00 a.m.

A. Relief Sought

Defendants BR and DD move for an Order 1) pursuant to CPLR §§ 3211(a)(1) and (7), dismissing the seventh cause of action in the amended complaint; and 2) imposing sanctions and attorney's fees on Plaintiff for this allegedly frivolous action.

Plaintiff cross moves for an Order 1) permitting a further amendment of the amended complaint; 2) avoiding the transfers of the subject personal property collateral of the Plaintiff; 3) granting injunctive relief with respect to the further use and/or dissipation of the subject collateral by the debtors or transferee(s); 4) granting foreclosure of the Plaintiff's security interests, and requiring Defendants to immediately and forthwith account for, surrender and turnover the collateral in their possession, and the products and proceeds thereof; 5) granting an accounting of the products and proceeds of Plaintiff's collateral security at the Elmont, New York DD location from February 6, 2012; and 6) striking the Answer of the Defendant Simmons Foods for failure to comply with CPLR § 321(a).

B. The Parties' History

The Amended Complaint ("Ds' Ex. A) alleges as follows:

Defendants Simmons Foods, Jeremiah Simmons ("Jeremiah") and Debra Simmons

("Debra") are referred to as the "Obligors" and/or "Guarantors. Defendants BR and DD are referred to as the "Franchisors." The relevant loan documents ("Loan Documents") are annexed to the Complaint, and incorporated by reference. The Loan Documents include 1) a U.S. Small Business Administration ("SBA") Note reflecting a loan amount of \$1,865,000.00, which lists Plaintiff as the lender and Simmons Foods as the borrower, 2) a Loan and Security Agreement which lists Simmons Foods as the borrower, 3) a Uniform Commercial Code ("UCC") Financing Statement, and 4) Guarantees executed by Jeremiah and Debra ("Individual Defendants"). There are seven (7) causes of action in the Amended Complaint, which are as follows:

First Cause of Action - asserted against Obligors/Guarantors Only

Plaintiff and Defendants occupied, and still occupy, a debtor and creditor relationship by virtue of certain loans and/or advances made by the Plaintiff to the Defendants, and/or guaranteed and/or cosigned by the Defendants. Defendants have defaulted on their obligations under the Loan Documents and, despite due demand by Plaintiff and Plaintiff's acceleration of the balance due to Plaintiff, have failed to pay the principal balance of \$1,852,181.51 due to Plaintiff, as well as interest, late charges, and costs and disbursements, including attorney's fees, due under the Loan Documents.

Second Cause of Action - asserted against Obligors/Guarantors only

Defendants owe Plaintiff the sums set forth in the First Cause of Action under the theory of money lent.

Third Cause of Action - asserted against Obligors/Guarantors Only

Defendants owe Plaintiff the sums set forth in the First Cause of Action by reason of a Book Account, annexed to the Complaint.

Fourth Cause of Action - asserted against Obligors/Guarantors Only

Defendants owe Plaintiff the sums set forth in the First Cause of Action under the theory of account stated.

Fifth Cause of Action - asserted against Obligors/Guarantors Only

Defendants owe Plaintiff the sums set forth in the First Cause of Action "for money had by the defendants to the use of the plaintiff" (Compl. at ¶ 13).

Sixth Cause of Action - asserted against Obligors/Guarantors Only

Defendants are indebted to Plaintiff by virtue of a book account rendered to the Defendants, in the amount of said monies and/or the products and proceeds thereof.

Seventh Cause of Action - asserted against all Defendants

Pursuant to the Security Agreement or other Loan Documents, Obligors/Guarantors granted to Plaintiff, as collateral security for the loans and advances made by Plaintiff, a security interest in the collateral ("Collateral") set forth therein. Pursuant to the Loan Documents, Plaintiff is entitled to the immediate possession of the Collateral, as well as its products and proceeds. Despite due demand, Defendants have failed and/or refused to surrender the Collateral to Plaintiff, which constitutes a conversion of Plaintiff's security interests. Plaintiff alleges that it is entitled to judgment for the balance, as set forth in the First Cause of Action, as well as damages, attorney's fees, costs and disbursements, and an Order of foreclosure and possession of the Collateral.

In support of Defendants' motion, Jack Laudermilk ("Laudermilk"), Associate General Counsel for Dunkin' Brands Inc. ("Dunkin' Brands"), the holding company of DD and BR, affirms that his responsibilities include overseeing litigation, including the instant action ("Instant Action"), and he has reviewed relevant documents and records which are kept in the regular course of business by Dunkin' Brands. The DD and BR franchises ("Franchises") at issue are operated by Defendants Simmons Foods. Laudermilk affirms that he is unaware of any written demand having been made by Plaintiff, prior to the commencement of the Instant Action, that Dunkin' Brands deliver equipment on the sites of the Franchises to the Plaintiff.

Laudermilk affirms that on December 16, 2010, DD and BR entered into a Franchise Agreement with Simmons Foods ("Elmont Franchise Agreement") authorizing Simmons Foods to operate a restaurant in Elmont, New York utilizing the DD and BB Systems ("Elmont Premises"). On December 16, 2010, DD entered into a Franchise Agreement with Simmons Foods ("Hempstead Franchise Agreement") authorizing Simmons Foods to operate a restaurant in Hempstead, New York utilizing the DD system ("Hempstead Premises"). On December 16, 2010, DD and BR entered into a Franchise Agreement with Simmons Foods ("Roosevelt Franchise Agreement") authorizing Simmons Foods to operate a restaurant in Roosevelt, New York using the DD and BR systems ("Roosevelt Premises").

On or about September 28, 2011, Simmons Foods and A & S Donuts, Inc. ("A&S") entered into a Purchase and Sale Agreement for the Elmont Franchise. With a covering letter dated October 25, 2011, Dunkin' Brands received an amendment reducing the purchase price from \$1,400,000 to \$1,000,000. The Purchase and Sale Agreement states that Simmons Foods is conveying, *inter alia*, "all... equipment, furniture, machinery and signs" (Ds' Ex. F at ¶ 1.2(b)).

It also provides that “The Restaurant(s) shall possess, on the Effective Date, all Assets necessary to operate a [DD] and [BR] restaurant as is currently operating as of the date of this agreement” (*id.* at ¶ 4.8).

On or about March 2, 2012, Dunkin’ Brands received a covering letter and a Purchase and Sale Agreement dated March 1, 2012, entered into by Simmons Foods with D & S Hempstead, Inc. and Nassau QSR, Inc. for the sale of the Hempstead and Roosevelt Franchises. The Purchase and Sale Agreement states that Simmons Foods is conveying “all of the existing chattels, fixtures, equipment and other tangible personal property owned or leased by Seller and required to be used in connection with the operation of the [DD/BR] franchisee businesses referred to in the recital above with each location at closing equipped as a JBOD location” (Ds’ Ex. I at ¶ 1(i)). It also provides that “Each franchise shop contains all the Franchisor required furniture, fixtures and equipment required for the operation of said franchise at each respective location as of the date of closing (*id.* at ¶ 11(K)).

Laudermilk affirms that the furniture, fixtures, signs and equipment located at the Elmont, Hempstead and Roosevelt Premises do not belong to Dunkin’ Brands. According to the Franchise Agreements, Simmons Food is responsible for making all needed repairs and replacements, to conform to Dunkin’ Brands standards (*see* Franchise Agreements, Ds’ Exs. B, C and D). The Purchase and Sale Agreements reflect that the equipment belongs to Simmons Foods and will be conveyed without any liens on it. Laudermilk submits that, while Dunkin’ Brands is authorized by the Franchise Agreements to inspect the equipment to ensure that it complies with its standards, it cannot and does not exercise dominion and control over its franchisees’ chattels.

Laudermilk affirms, further, that on or about February 6, 2012, Dunkin’ Brands entered into a Temporary Operating Agreement with A&S (“TOA”) (Ds’ Ex. H). Pursuant to the TOA, A&S is operating the restaurant located on the Elmont Premises according to the terms and conditions of its Franchise Agreement with Dunkin’ Brands. A&S also is responsible for maintaining the equipment in the Premises, as is Simmons Foods under its Franchise Agreement. Dunkin’ Brands does not own, possess or control any of the equipment which belongs to Simmons Foods, and is being used by a franchisee with Simmons Foods’ consent, pending the closing on the Purchase and Sale Agreement between Simmons Foods and A&S.

In support of Plaintiff’s cross motion, and in opposition to Defendants’ cross motion, Ellen R. Ferrara (“Ferrara”), a Vice President of Plaintiff, affirms that Plaintiff and Simmons

Foods entered into a commercial loan obligation, pursuant to the terms of the SBA Note in the principal loan amount of \$1,865,000.00. To secure the Note further, the parties entered into agreements including the Loan and Security Agreement, and Plaintiff memorialized the security interests reflected therein by filing a UCC filing statement. In addition, Jeremiah executed an unconditional and unlimited Guarantee, and Debra executed an unconditional limited Guarantee, which limited her liability to her interest in collateral pledged under the Note. Under both of the Guarantees, the Individual Defendants agreed to preserve the Plaintiff's collateral security.

Ferrara affirms that Plaintiff's security interest in all of the personal property of Simmons Foods was perfected by the filing of a UCC statement on December 16, 2010, a copy of which is annexed to Plaintiff's Proposed Second Amended Complaint (Ex. A to Ferrara Aff. in Supp./Opp.). Ferrara submits that BR and DD knew of Plaintiff's "paramount" security interest in the Collateral (*id.* at ¶ 4). Ferrara cites relevant provisions of the Security Agreement, including the limitation, set forth in Section 5.8, on Borrower's disposition of assets except in the ordinary course of business. Ferrara contends that the disposition of the Collateral at the Elmont Premises in favor of the Franchisors is not a transaction in the ordinary course of business, "especially in a case such as here where the obligor is under threat of being ousted from all of its franchise locations" (*id.* at ¶ 5).

Ferrara affirms that, pursuant to the SBA Note, upon a default, Plaintiff may take possession of the Collateral and dispose of it. To that end, Plaintiff served a demand and notice of acceleration on Defendants Simmons Food, Jeremiah and Debra which included a demand for Plaintiff's collateral security. Defendants refused the demand and did not remit payment to Plaintiff. In addition, Plaintiff has granted Defendants several extensions to attempt to sell the businesses of Simmons Foods to other prospective DD and BR franchisees, but Defendants have been unwilling to enter into an agreement that preserves Plaintiff's secured interests.

Ferrara submits that, in light of the terms of the Loan Documents, the Franchisor Defendants lacked the authority to enter into the TOA which interfered with the contractual relationship between Plaintiff and Simmons Foods, and improperly converted Plaintiff's secured assets. Ferrara characterizes Defendants' arguments regarding the insufficiency of the conversion cause of action as an "oversimplification" (Ferrara Aff. in Supp./Opp. at ¶ 10), and submits that the documentary evidence demonstrates that DD and BR have asserted dominion and control over the Collateral.

### C. The Parties' Positions

Defendants submit that the Amended Complaint fails to state a viable cause of action against BR and DD in light of the fact that 1) it accuses all named Defendants of conversion in one conclusory paragraph; 2) the bare contention that due demand of the Collateral was made is insufficient, as it does not specify which Defendant or Defendants received the demand; 3) it “uses a shotgun approach” (Ds’ Memo. of Law at p. 3) by pleading, in the alternative, that Defendants “failed and/or refused to surrender and/or deliver possession” of the Collateral (*id.*, quoting ¶ 20 of the Am. Compl.); 4) it does not recite facts from which the Court can infer that DD and BR exercised dominion and control over the Collateral; and 5) the documentary evidence refutes the claim that DD and BR exercised dominion and control over the Collateral, in light of the fact that DD and BR are not parties to the Purchase and Sale transactions, and the Purchase and Sale Agreements state that the Collateral belongs to Simmons Foods and will be conveyed at the closing.

Plaintiff contends that, notwithstanding the fact that it has moved to further amend its complaint, the Amended Complaint adequately pleads a cause of action for conversion against the Defendants. Plaintiff argues that it has adequately alleged that the Defendants transferred the Collateral, notwithstanding Plaintiff’s security interest in, and demands for, that Collateral.

Plaintiff also submits that it has established its right to injunctive relief by demonstrating a likelihood of success on the merits by 1) establishing Plaintiff’s right to take possession of the Collateral pursuant to the Loan Documents and relevant provisions of the UCC, and Defendants’ knowledge of Plaintiff’s perfected security interest; 2), demonstrating Defendants’ default by virtue of their failure to make payments due on the Note or produce the Collateral; and 3) establishing that Defendants have converted the Collateral by entering into the TOA, which included the Plaintiff’s collateral security, without Plaintiff’s authorization. Plaintiff also argues that it has demonstrated that it will be irreparably harmed without the requested injunctive relief because there is a danger that Defendants will dispose of Plaintiff’s collateral security.

Plaintiff also submits that it is entitled to an accounting and Order of foreclosure in light of the fact that the value of the Collateral may diminish due to its unauthorized use by A&S, which has no obligation to account for, or preserve, the Collateral, and Defendants’ failure to return the Collateral to Plaintiff. Plaintiff also seeks to strike the Answer of Defendant Simmons Foods in light of the fact that Jeremiah has interposed an Answer on behalf of Simmons Foods which, pursuant to CPLR § 321(a), is required to appear by counsel.

In reply, Defendants submit that the Court should deny Plaintiff's motion to file the Proposed Second Amended Complaint because the proposed seventh and eighth causes of action, alleging conversion of the Collateral and impairment of Plaintiff's security interest, are not viable in light of the fact that 1) the Loan Documents do not establish that there was an unauthorized transfer of the Collateral; 2) Plaintiff has failed to make a demand of DD, BR or A&S for the Collateral; the only demand provided is dated October 13, 2011 (Ex. B to Ferrara Aff. in Supp./Opp.), which was several months before the TOA, and was directed to the attention of the Simmons Defendants; 3) in light of Plaintiff's concession that it granted several extensions to Defendants to sell the businesses, and delayed the filing of this action to allow the Obligor/Guarantors to consummate sales of the franchise locations, DD, BR and A& S "had no way of knowing when Plaintiff suddenly and arbitrarily decided that the Collateral had been converted" (Ds' Reply Aff. at ¶ 14); 4) the TOA did not convey an interest in the Collateral, as the transferring of franchise rights does not constitute the transferring of personal property rights; and 5) the Purchase and Sale Agreements are not "vehicles by which [DD and BR] converted Plaintiff's property" (*id.* at ¶ 24) in light of the fact that a) DD and BR are not parties to those Agreements; b) no transfer would take place until the closing; and c) at the closing the personal property must be delivered free and clear of all liens. Defendants also argue that the ninth cause of action, alleging tortious interference with contract, is not viable in light of Plaintiff's failure to allege that BR and DD intentionally induced or pressured Simmons Foods to breach a contract with Plaintiff. Defendants also contend that there is no basis for naming A&S as a defendant in light of Plaintiff's failure to demand that A&S Surrender the Collateral. Finally, Defendants argue that Plaintiff's claimed damages are monetary in nature and, therefore, Plaintiff is not entitled to injunctive relief because it cannot demonstrate irreparable harm.

#### RULING OF THE COURT

##### A. Standards of Dismissal

A complaint may be dismissed based upon documentary evidence pursuant to CPLR § 3211(a)(1) only if the factual allegations contained therein are definitively contradicted by the evidence submitted or a defense is conclusively established thereby. *Yew Prospect, LLC v. Szulman*, 305 A.D.2d 588 (2d Dept. 2003); *Sta-Bright Services, Inc. v. Sutton*, 17 A.D.3d 570 (2d Dept. 2005).

A motion interposed pursuant to CPLR § 3211 (a)(7), which seeks to dismiss a complaint for failure to state a cause of action, must be denied if the factual allegations contained in the



complaint constitute a cause of action cognizable at law. *Guggenheimer v. Ginzburg*, 43 N.Y.2d 268 (1977); *511 W. 232<sup>nd</sup> Owners Corp. v. Jennifer Realty Co.*, 98 N.Y.2d 144 (2002). When entertaining such an application, the Court must liberally construe the pleading. In so doing, the Court must accept the facts alleged as true and accord to the plaintiff every favorable inference which may be drawn therefrom. *Leon v. Martinez*, 84 N.Y.2d 83 (1994). On such a motion, however, the Court will not presume as true bare legal conclusions and factual claims which are flatly contradicted by the evidence. *Palazzolo v. Herrick, Feinstein*, 298 A.D.2d 372 (2d Dept. 2002).

#### B. Preliminary Injunction Standards

A preliminary injunction is a drastic remedy and will only be granted if the movant establishes a clear right to it under the law and upon the relevant facts set forth in the moving papers. *William M. Blake Agency, Inc. v. Leon*, 283 A.D.2d 423, 424 (2d Dept. 2001); *Peterson v. Corbin*, 275 A.D.2d 35, 36 (2d Dept. 2000). Injunctive relief will lie where a movant demonstrates a likelihood of success on the merits, a danger of irreparable harm unless the injunction is granted and a balance of the equities in his or her favor. *Aetna Ins. Co. v. Capasso*, 75 N.Y.2d 860 (1990); *W.T. Grant Co. v. Srogi*, 52 N.Y.2d 496, 517 (1981); *Merscorp, Inc. v. Romaine*, 295 A.D.2d 431 (2d Dept. 2002); *Neos v. Lacey*, 291 A.D.2d 434 (2d Dept. 2002). The decision whether to grant a preliminary injunction rests in the sound discretion of the Supreme Court. *Doe v. Axelrod*, 73 N.Y.2d 748, 750 (1988); *Automated Waste Disposal, Inc. v. Mid-Hudson Waste, Inc.*, 50 A.D.3d 1073 (2d Dept. 2008); *City of Long Beach v. Sterling American Capital, LLC*, 40 A.D.3d 902, 903 (2d Dept. 2007); *Ruiz v. Meloney*, 26 A.D.3d 485 (2d Dept. 2006).

#### C. Conversion

A conversion takes place when defendant, intentionally and without authority, assumes or exercises control over personal property belonging to someone else, interfering with that person's right of possession. *Colavito v. Organ Donor Network*, 8 N.Y.3d 43, 49-50 (2006). The two key elements of conversion are 1) plaintiff's possessory right or interest in the property, and 2) defendant's dominion over the property or interference with it, in derogation of plaintiff's rights. *Id* at 50.

#### D. Tortious Interference

To state a cause of action to recover damages for tortious interference with prospective contractual relations, the plaintiff must allege that the defendant engaged in culpable conduct that interfered with a prospective contractual relationship between the plaintiff and a third party. *Adler v. 20/20 Companies*, 82 A.D.3d 915, 918 (2d Dept. 2011), citing *Smith v. Meridian Techs., Inc.*, 52 A.D.3d 685 (2d Dept. 2008). As a general rule, such culpable conduct must amount to a crime or an independent tort, and may include wrongful means, defined as physical violence, fraud or misrepresentation, civil suits and criminal prosecutions, and some degrees of economic pressure. Mere knowing persuasion would be insufficient. *Id.*, quoting *Lyons v. Menoudakos & Menoudakos, P.C.*, 63 A.D.3d 801, 802 (2d Dept. 2009) (internal citations omitted).

#### E. Leave to Amend

Leave to amend is to be freely given, absent prejudice or surprise directly resulting from the delay in seeking leave, unless the proposed amendment is palpably insufficient or patently devoid of merit. *Aurora Loan Services, LLC v. Thomas*, 70 A.D.3d 986, 987 (2d Dept. 2010), citing CLR § 3025(b); *Lucido v. Mancuso*, 49 A.D.3d 220, 222 (2d Dept. 2008).

#### F. Application of these Principles to the Instant Action

The Court grants Defendants' motion to dismiss the seventh cause of action in the Amended Complaint against DD and BR based on the Court's conclusion that it fails to state a legally sufficient cause of action for conversion as against DD and BR. The allegations in the seventh cause of action are conclusory and provide inadequate details regarding, *inter alia*, Plaintiff's demand, including which Defendant(s) received the demand, and how DD and BR exercised dominion and control over the Collateral. The Court denies Defendants' application for sanctions without further comment.

The Court denies Plaintiff's applications for an Order 1) avoiding the transfers of the subject personal property collateral of the Plaintiff; 2) granting injunctive relief; 3) granting foreclosure of the Plaintiff's security interests; 4) requiring Defendants to immediately and forthwith account for, surrender and turnover the collateral in their possession, and the products and proceeds thereof; 5) granting an accounting of the products and proceeds of Plaintiff's collateral security at the Elmont, New York DD location from February 6, 2012; and 6) striking the Answer of the Defendant Simmons Foods for failure to comply with CPLR § 321(a). The

Court denies these applications in light of the fact that the Court has determined that the seventh cause of action is legally insufficient, and has not yet ruled on whether it will permit the requested amendment. The Court also denies these applications based on the Court's determination that Plaintiff's injury is compensable by money damages and, therefore, Plaintiff will not suffer irreparable harm without the requested injunctive relief. While the Court has denied Plaintiff's motion to strike the Answer of Simmons Foods, the Court anticipates Simmons Foods appearing by counsel with respect to all future matters before the Court regarding the Instant Action.

The Court reserves decision on the branch of Plaintiff's motion seeking leave to amend its complaint and file the proposed Second Amended Complaint included with Plaintiff's papers, and directs that there will be oral argument before the Court on that application which will be held on August 7, 2012 at 11:00 a.m. The Court would anticipate the parties addressing issues including 1) the viability of the proposed ninth cause of action for tortious interference with contract, particularly whether there are sufficient allegations that Defendants engaged in culpable conduct that amounted to a crime or independent tort, and 2) the sufficiency of the proposed causes of action asserted against A&S.

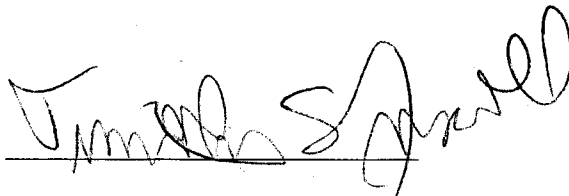
All matters not decided herein are hereby denied.

This constitutes the decision and order of the Court.

The Court reminds counsel for the parties of their required appearance before the Court on August 7, 2012 at 11:00 a.m. for oral argument as directed herein.

DATED: Mineola, NY

June 14, 2012



HON. TIMOTHY S. DRISCOLL

J.S.C.

**ENTERED**  
JUN 25 2012  
NASSAU COUNTY  
COUNTY CLERK'S OFFICE