

SHORT FORM ORDER

**SUPREME COURT - STATE OF NEW YORK
COUNTY OF NASSAU**

Present:

Hon. Thomas Feinman
Justice

LAVONIA O'NEIL,

Plaintiff,

TRIAL/IAS PART 20
NASSAU COUNTY

INDEX NO. 12742/06

- against -

LAZARD HERNANDEZ LOPEZ and NATIONWIDE
NEPTUNE TILE & MARBLE, INC.

Defendants.

This matter appeared on this Court's calendar on January 23, 2008 pursuant to the Preliminary Conference Order dated October 10, 2007. Counsel for the defendants failed to appear. This Court adjourned the conference to February 6, 2008. Counsel for plaintiff failed to appear on February 6, 2008. This Court adjourned the conference to February 13, 2008. Counsel for plaintiff and counsel for the defendants failed to appear on February 13, 2008, whereby this Court issued an order dismissing this action pursuant to 22 NYCRR §202.27(b).

Plaintiff moved to restore this matter to the active calendar, and by way of this Court's order dated September 19, 2008, this matter was restored to the active calendar for a conference on October 15, 2008, 9:30 a.m., promptly. Counsel for plaintiff appeared at approximately 10:00 a.m. This Court placed three telephone calls to defendants' counsel in an effort to ascertain the whereabouts of defendants' counsel, to no avail. This Court directed plaintiff's counsel to notify defendants' counsel, by way of letter dated October 15, 2008, by fax and mail, that due to the fact that conferences in this matter have been adjourned several times, because either plaintiff's or defendants' counsel failed to appear, that this Court will impose sanctions at the next court conference scheduled on October 22, 2008. Plaintiff's counsel has provided this Court with a copy of such letter and notice dated October 15, 2008, forwarded to defendants' counsel by fax and mail.

Counsel for plaintiff and counsel for the defendants appeared before the undersigned on October 22, 2008. Counsel advised this Court that no discovery had taken place and that a preliminary conference has not been held, despite the fact that counsel entered into a Preliminary Conference Order on October 10, 2007. The parties have not complied with the Preliminary Conference Order, nor the further directives of this Court, by consistently failing to appear for court-ordered conferences in this matter. Counsel have advised that their respective offices have failed to comply with the directives of this Court as a result of several "law office failures".

It is hereby determined that counsels' failure to comply with the directives of this Court was without good cause.

Accordingly, it is hereby,

ORDERED that counsel for the plaintiff is hereby directed to pay the sum of Seven Hundred Fifty and 00/100 Dollars, (\$750.00), as sanctions to the Lawyers' Fund for Client Protection, 119 Washington Avenue, Albany, New York, 12210, within thirty (30) days of the date of this order, and it is further

ORDERED that counsel for the defendants are hereby directed to pay the sum of One Thousand and 00/100 Dollars, (\$1,000.00), as sanctions to the Lawyers' Fund for Client Protection, 119 Washington Avenue, Albany, New York, 12210, within thirty (30) days of the date of this order.

ENTERED:
ENTERED
OCT 28 2008
NASSAU COUNTY
COUNTY CLERK'S OFFICE
J.S.C.

Dated: October 23, 2008

cc: Krause & Associates, P.C.
Law Offices of Robert J. Adams, Jr., Esq.
Lawyers' Fund for Client Protection