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SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK - NASSAU COUNTY

Present:

HON. ANTHONY L. PARGA

Justice

-----X PART 8

JAISON GEORGE,

Plaintiff(s),

INDEX NO. 19813/10

XXX

MOTION DATE: 12/16/10

SEQUENCE NO: 02

-against-

ERIC ACLUFI,

Defendant(s).

-----X

Notice of Motion, Affs, & Exs.....1

Plaintiff's motion for summary judgment in lieu of complaint, pursuant to CPLR §3213, is granted without opposition.

The following facts are taken from pleadings and submitted papers and do not constitute findings of fact by this Court.

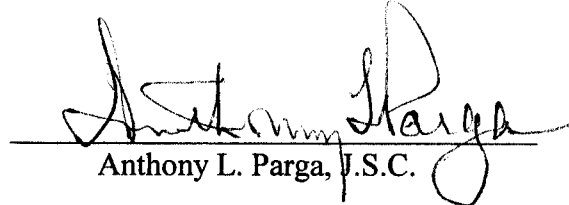
Plaintiff alleges that Defendant is a jeweler doing business at 21 West 47th Street in New York, New York. On or about May 14, 2009, plaintiff went to defendant's store to purchase an engagement ring. On that date, plaintiff gave defendant the first installment of \$10,200 toward the purchase of the ring. On or about June 10, 2009, plaintiff paid the defendant the second installment of \$9,200, bringing the total amount paid to the defendant to \$19,200. After said payment and many alleged inquiries and demands, defendant never gave the diamond engagement ring to the plaintiff. On or about May 11, 2010, defendant issued a personal check to plaintiff in the amount of \$19,200.00 for the monies paid for the ring. The check, however, was dishonored by the bank (i.e., bounced) due to defendant's "insufficient funds." The Court notes that the plaintiff has submitted a copy of the notice of the dishonored check, along with a "Returned Item Notice," as well as, a Notice of Protest, allegedly filed with defendant's bank.

Plaintiff attests that he is unaware of any defense to this action.

Accordingly, plaintiff has established a prima facie showing of entitlement to summary judgment and plaintiff's summary judgment motion in lieu of complaint is granted without opposition. (See, *First Inter-County Bank of New York v. DeFilippis*, 160 A.D.2d 288 (1st Dept. 1990)).

Submit judgment on notice.

Dated: February 3, 2011


Anthony L. Parga, J.S.C.

cc: Marcus E. Loglisci
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Commack, NY 11725

Eric Aclufi
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ENTERED
FEB 09 2011
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