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SHORT FORM ORDER

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

PRESENT:

**HON. IRA B. WARSHAWSKY,
Justice.**

TRIAL/IAS PART 7

LILLIAN ALEXANDER,

Plaintiff,

-against-

CYNTHIA J. WEINER,

Defendant.

INDEX NO.: 010574/2009
MOTION DATE: 7/13/2011
SEQUENCE NO.: 03

And Third-Party Action

CYNTHIA J. WEINER,

Third-Party Plaintiff,

-against-

LILLIAN ALEXANDER,

Third-Party Defendant.

The following papers were read on this matter:

Motion For Default Judgment and Sanctions 1

PRELIMINARY STATEMENT

Defendant and Third-party Plaintiff moves for a default judgment on the third-party complaint. There has been no opposition.

BACKGROUND

The complaint in this action alleges that defendant purchased a condominium in Florida with funds provided by her mother and now-deceased father. The parties agreed that the home was to be purchased in defendant's name, but held for the benefit of her parents. She was to make payments on account of the mortgage and for real estate taxes, and to be reimbursed by her brother.

According to the complaint, defendant re-financed the mortgage on the premises, kept the mortgage proceeds, and failed to make required payments, resulting in the home being lost in foreclosure, depriving her mother of her retirement home.

DISCUSSION

Two prior actions on behalf of Neil Alexander were previously dismissed, one in the Circuit Court of the Fifteenth Judicial Circuit, Palm Beach County, Florida, and the other in this Court. (Exhs. 2 and 3 to the motion). This action is brought in the name of Lillian Alexander, the mother of Neil Alexander and Cynthia Alexander Okon.

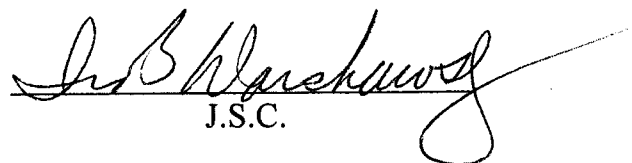
Defendant and Third-party plaintiff attaches an affidavit of service of the third-party summons and complaint upon Neil Alexander on April 22, 2011, by service on a person of suitable age and discretion at 452 E. Olive St., Long Beach, NY, allegedly the address given by Neil during a deposition.

The motion for default judgment on the third-party complaint is granted. Submit Judgment.

While defendant and third-party plaintiff asserts a claim for sanctions and counsel fees in the amount of \$35,000, they were not incurred in this action. Third-party defendant did nothing of a frivolous nature in this action, and was only brought in, albeit as a necessary party, by movant. The motion for sanctions and award of counsel fees is denied.

This constitutes the Decision and Order of the Court.

Dated: September 13, 2011


J.S.C.

ENTERED
SEP 20 2011
HASSACK COUNTY
COUNTY CLERK'S OFFICE