

-----X
622A PRESIDENT STREET OWNERS CORP.,
Petitioner-Landlord,

-against

BRETT WYNKOOP and KATHLEEN KESKE

Respondent-Tenants,

“JOHN DOE” and “JANE DOE”

Respondent(s)-Undertenat(s)
-----X

ORDER TO SHOW CAUSE

Motion to Vacate Meaningless Void Order

**Oral Argument Demanded
Court Reporter Demanded**

PLEASE TAKE NOTICE that upon the annexed verified Memorandum of Law of Brett Wynkoop dated 1 November 2018 and the papers annexed thereto, 622A President Street Owners Corporation **SHOW CAUSE BEFORE THIS COURT**, at the courthouse thereof, located at 141 Livingston Place, Brooklyn, New York, 11201 on the _____ day of _____, 2018, at _____ o'clock in the forenoon/afternoon/evening of that date or as soon thereafter as counsel may be heard, why an order should not be made and entered:

1. Vacating the courts order of 30 October 2018.
2. Vacating any default that may have been entered after 30 October 2018.
3. Granting a **DISMISSAL OF THE INSTANT ACTION for lack of jurisdiction.**
4. Awarding costs to Respondent per the RPL.
5. Granting such other and further relief as to the court may seem just and equitable including costs for this action.

SUFFICIENT CAUSE THEREFORE APPEARING, it is **ORDERED** that pending the hearing and determination of this petition that the proceedings are otherwise stayed and any warrants of eviction are likewise stayed.

ORDERED that responsive papers if any shall be served upon Petitioner 21 days before the return date; and it is further,

ORDERED that service of a copy of this order to show cause and the papers upon which it was made upon all parties by:

_____ personal delivery pursuant to CPLR 2103(b)(1)	_____ office delivery pursuant to CPLR 2103(b)(3)
_____ by electronic mail pursuant to CPLR 308(5)	_____ overnight delivery pursuant to CPLR 2103(b)(6)

on or before _____, 2018 shall be deemed sufficient service thereof.

Dated: Brooklyn, New York
_____, 2018

Justice
Civil Court City of New York, County of Kings

<p>CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF KINGS HOUSING PART</p> <p>-----X</p> <p>622A PRESIDENT STREET OWNERS CORP., Petitioner-Landlord,</p> <p>-against</p> <p>BRETT WYNKOOP and KATHLEEN KESKE</p> <p>Respondent-Tenants,</p> <p>“JOHN DOE” and “JANE DOE” Respondent(s)-Undertenat(s)</p> <p>-----X</p>	<p>Index No. 081709-18</p> <p>Memorandum of Law</p> <p>In Support of</p> <p>Motion to Vacate Meaningless Void Order</p> <p>Motion Sequence - .</p>
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No Waiver of Jurisdictional Defects

This pre-answer motion motion does not waive jurisdictional defects and Respondents do not consent to the jurisdiction of this court. This submission is only a special appearance to inform the court of it’s error which compounded the original jurisdictional defects brought to this proceeding by Petitioner therefore the court can not proceed and must adhere to EX PARTE MCCARDLE, 74 U.S. 506 (Wall.) (1868).¹

This is a special appearance only to challenge jurisdiction and to have this matter dismissed.

Notice and Opportunity

1. Notice and Opportunity are the very foundation of the Judicial System in the United States of America. Without both Notice and Opportunity there is no due process. The principle of due process can be traced back to the roots of of our Judicial System.² Clearly the concept of Due Process is part of the ancient core of our system of Justice.
2. Procedural due process requires government officials to follow fair procedures before depriving a person of life, liberty, or property. When the government seeks to deprive a person of one of those interests, procedural due process requires the government to afford the person, at minimum, **notice, an opportunity to be heard, and a decision made by a neutral decision maker.**³

¹ “It is quite clear, therefore, that this court cannot proceed to pronounce judgment in this case, for it has no longer jurisdiction” - **Salmon P. Chase** Chief Justice of the Supreme Court of the United States

² The phrase "due process of law" first appeared in a statutory rendition of Magna Carta in 1354 during the reign of Edward III of England, as follows: No man of what state or condition he be, shall be put out of his lands or tenements nor taken (taken to mean arrested or deprived of liberty by the state), nor disinherited, nor put to death, without he be brought to answer by due process of law

Denial of Due Process

3. The court is referred to the attached affidavits from Wynkoop and Richmond in support.
4. In the instant action Respondents appeared before Judge Marcia J. Sikowitz, at first call on 30 October 2018, to be heard on Respondents Motion to Dismiss based upon lack of jurisdiction (Motion Sequence 1- MS-1).
5. When Wynkoop attempted to present his oral arguments for MS-1 Daniel P. Sodroski Esquire, attorney for the Alleged Plaintiff,⁴ falsely alleged that Respondents were barred from bringing MS-1 until they vacated their default.
6. At that time Judge Sikowitz declared that Wynkoop needed to vacate his default before he could proceed. She then wrote the absurd and impossible order attached as Exhibit-A.
7. At the time of the writing of the order there was no default recorded in the case file.
8. At noon there was no default recorded in the courts records.
9. At 1545 there was no default recorded in the courts records.
10. Judge Sikowitz has denied Respondents' right to due process by setting them the impossible task of vacating an order that does not exist.⁵

Relief Must Be Granted

11. Since it is impossible to vacate that which does not exist Judge Sikowitz has instituted a perpetual prior restraint on Respondents ability to be heard before this court on any motion they might bring.
12. Her order on MS-1 is therefore void, not voidable and to prevent harm to Respondents the court must vacate the absurd and impossible order lest unscrupulous actors use the event to their advantage.
13. Had the court jurisdiction prior to Judge Sikowitz's actions it certainly does not have it now.
Denial of Respondents' Constitutionally guaranteed right of due process has stripped the court

³ Glicksman, Robert L.; Levy, Richard E. (2010). *Administrative Law: Agency Action in Legal Context*. 9781599416106: Foundation Press.

⁴ Daniel P. Sodroski is employed by Ganfer Shore Leeds and Zauderer who claim to represent 622A President Street Owners, but in reality represent minority shareholders Rajeev Subramanyam and Kyle Taylor. Respondents Keske and Wynkoop hold in common 60% of the shares in 622A President Street Owners Corporation and have by shareholder resolution dismissed Ganfer Shore Leeds and Zauderer before the instant action was commenced. The instant action was commenced under false flag by Taylor and Subramanyam to gain from this court that which for 6 years Kings County Supreme Court has denied them, Keske and Wynkoop's shares in the COOP and their apartments.

⁵ If by some magic or malfeasance there is an order declaring Respondents to be in default in the file at this time it is of no moment and is void ab initio as Respondents were denied due process to present a motion which would have prevented the entry of any such order. This would compound the jurisdictional defects of the instant action.

of any jurisdiction in the instant matter and leaves the court to be bound by *Ex parte McCardle*, 74 U.S. (7 Wall.) 506 (1869), it must recognize that jurisdiction does not exist and dismiss.

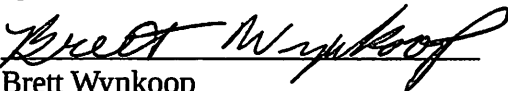

Brett Wynkoop, 622A President Street, Brooklyn, NY 11215

AFFIDAVIT OF VERIFICATION

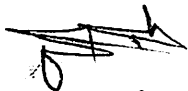
STATE OF NEW YORK:

COUNTY OF KINGS^{SS.}

Brett Wynkoop being duly sworn deposes and says that he is a Respondent in this proceeding; that he/has written the annexed Memorandum of Law for a Motion to Dismiss and knows the contents thereof; that the same is true to the knowledge of deponent except as to the matters therein stated to be alleged upon information and belief, and as to those matters he/she believes it to be true.


Brett Wynkoop
622A President Street
Brooklyn, NY 11215
917-642-6925

Subscribed and sworn to
before me this 1st day of
November 20 18


KAMAL P. SONI
Notary Public, State of New York
No. 01SO6089949
Qualified in Kings County
Commission Expires March 31, 2019

Wynkoop Affidavit

<p>CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF KINGS HOUSING PART</p> <p>-----x 622A PRESIDENT STREET OWNERS CORP., Petitioner-Landlord,</p> <p>-against</p> <p>BRETT WYNKOOP and KATHLEEN KESKE</p> <p>Respondent-Tenants,</p> <p>“JOHN DOE” and “JANE DOE” Respondent(s)-Undertenat(s)</p> <p>-----x</p>	<p>Index No. 081709 - 18</p> <p>Affidavit</p> <p>In Support of</p> <p>Motion to Vacate Meaningless Void Order</p> <p>Motion Sequence -</p>
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State of New York)
County of KINGS) ss.:

Brett Wynkoop being duly sworn under penalty of perjury does depose and say the following is true and known personally by me, except those things stated upon information and belief, which I believe to be true and have proper information upon which to form such a belief:

1. Kathleen Keske and I are shareholders in common in 622A President Street Owners Corporation (COOP). We hold 60% of the issued stock of the corporation.
2. Minority shareholders Kyle Taylor and Rajeev Subramanyam hold 20% each of the issued stock in the COOP.
3. The COOP’s only asset is an 1890s tenement building on President Street near the Gowanus canal.
4. My wife and I hold the Proprietary Leases on Duplex Unit 1 and Unit 2 of 622A President Street, consisting of 3 of the 5 habitable floors of the building.
5. Taylor and Subramanyam are currently engaged in a 6 year battle with my wife and me in Kings County Supreme Court under index number 507156-2013 where they are using the court as a weapon to force us to turn over our property to them.
6. Taylor and Subramanyam have, as part of a false flag operation, hired Ganfer Shore Leeds and Zauderer (G&S) to claim to represent the COOP and bring the instant action. Previously G&S represented Taylor and his wife personally in the ongoing litigation under 507156-2013 in Kings County Supreme Court.
7. On 30 October 2018 my wife and I arrived at room 509 of the Civil Court at about 0915. I waited by the door to the courtroom for it to open. When the courtroom opened at about 0930 I checked in with the court for both myself and my wife, and then asked to see the case file for

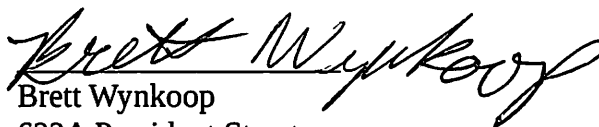
the instant action. I did a quick check of the file and found ex-parte communication between G&S and the court. At that time there was no default recorded in the file. After looking at the file I handed it back to the judge's clerk.

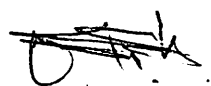
8. When the case was called at first call before I got more than a couple of sentences from my Oral argument out Daniel P. Sodroski Esquire of G&S claimed he had not received service of my papers.
9. Judge Sikowitz asked if I had proof of service and I produced a valid affidavit of service which she rejected saying it was not good because the person who preformed the service for me did not attach the receipt. This is of course an abuse of discretion as the affidavit of service was not facially defective and therefore was prima-facia proof of service.
10. Judge Sikowitz asked if I could provide another copy of my papers for Sodroski and suggested we adjourn until 1400 and I make a copy of the papers for Sodroski.
11. At that time Sodroski said there was no need, that I had no standing to bring any motion before I moved to vacate the default against me.
12. I protested there was no default and implored Judge Sikowitz to look in the file she held in her hand to see for herself that no such judgement existed, but she refused and wrote the nonsensical order denying my motion with leave to present it again when I had vacated the (non-existent) default.
13. I implored Judge Sikowitz to allow me to present my oral arguments and informed her that the motion and attached exhibits would prove that it was impossible for Respondents to be in default. **She refused to grant me opportunity to be heard on my own motion based only on the word of opposition counsel.**
14. Upon ^{BSW}~~further~~ my further protests she said "You can take it up with the Appellate Term". At which point she handed a copy of her order to me and suggested I go to room 404 for help.
15. My wife, Eric Richmond (John Doe), and I withdrew from the well and began to leave. I then returned and asked the judge's clerk if I could again examine the court file, a file he had just minutes before allowed me to look at in the front row of the gallery. His response was that I had to go to the Pro-Se window and make a request there. He stated they would send a runner for the file and I could look at it on the second floor.
16. My wife being handicapped with difficulty walking elected to remain on the 5th floor while Richmond and I retired to the second floor to examine the file. It took almost 2 hours for the court to produce the file on the second floor.
17. When Richmond and I examined the file we still could find no default judgement contained therein, but we did discover a REJECTED APPLICATION FOR DEFAULT.
18. We had a hearing on LT-081708-18 before Judge Harris later in the day. Since the facts and parties are the same as this case during conference with his law clerk the law clerk decided to pull the file for this case. At about 1545 the law clerk, Sodrowski, Richmond, Keske and I were

in conference. At that hour the law clerk examined both folders in our presence and there was still no judgement of default in the file.

19. I am an honorable discharged former United States ^{Naval} Officer. My only training in the law were 2 classes while I was a midshipman at the academy taught by Commander Gregory Peck. One was on General Maritime Law and the other on the Uniform Code of Military Justice. The thing I remember from my training was the concept of the Reasonable Man.
20. Looking at the situation as the Reasonable Man would it is an impossible task for me to vacate that which does not exist.
21. If there now exists a default judgement it is ex-post-facto, void and of no moment as no judgement existed when the order on MS-1 was put to paper. Upon information and belief this is the way the Reasonable Man would see the situation.
22. Given the foregoing the court must vacate it's nonsensical, impossible and void order.

Dated: , NY – 1 November 2018
STATE OF NEW YORK
COUNTY OF KINGS
Sworn to and subscribed before me this
1st day of November, 2018, by Brett Wynkoop


Brett Wynkoop
622A President Street
Brooklyn, NY 11215
917-642-6925


KAMAL P. SONI
Notary Public, State of New York
No. 01SO6089949
Qualified in Kings County
Commission Expires March 31, 2019

Richmond Affidavit

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS HOUSING PART

-----X
622A PRESIDENT STREET OWNERS CORP.,
Petitioner-Landlord,

Index No. LT-081709 - 2018
AFFIDAVIT OF JUDICIAL ACTS

-against

BRETT WYNKOOP and KATHLEEN KESKE
622A President Street - Apartment 2
Brooklyn, New York 11215,

Respondent-Tenants,

"JOHN DOE" and "JANE DOE"
622A President Street - Apartment 2
Brooklyn, NY 11225,

Respondent(s)-Undertenant(s)

-----X
AFFIDAVIT OF JUDICIAL ACTS

STATE OF NEW YORK)ss.
COUNTY OF KINGS)

Eric Richmond ("Affiant"), being duly sworn UNDER PENALTY OF PERJURY, deposes and says:

1. Upon information and belief, Affiant is the "John Doe" named in New York City Civil Court index number ~~LT-081709~~ ^{LT ER 11/1/2018} regarding 622A President Street, Apartment 2, Brooklyn, NY ("PETITION").
2. A Motion to Dismiss the PETITION was to be heard at 9:30 AM on October 30, 2018.
3. The Court refused to accept Affiant's papers in support of the motion to dismiss.
4. The Court then said Respondents could not move to dismiss absent vacating the default.
5. The Court then refused Affiant's request to be shown the Judgement of Default. ^{ER 11/1/2018}
6. The Court then issued Affiant/Respondents a decision denying any Motion ~~for default~~ until such time that Affiant/Respondents vacates the default.
7. Courtroom staff subsequently refused Affiant request to see the file of the case.
8. Affiant the reviewed the Docket in the hallway terminal and found no Judgement of Default.
9. Affiant then requested and reviewed the docket in the clerk's office and found the decision requiring the vacateur of a Default but yet no Judgment of Default to vacate.

Dated: Brooklyn, NY - November 1, 2018

STATE OF NEW YORK
COUNTY OF KINGS

Sworn to and subscribed before me this
1st day of November, 2018, by Eric Richmond



Eric Richmond
622A President Street
Brooklyn, NY 11215
(646) 256-9613 / gowanusx@gmail.com

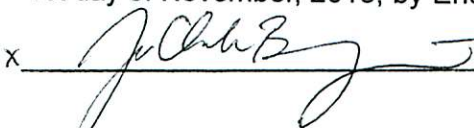
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Exhibit A



Decision/Order

622A President Street Owners Corp
Petitioner(s)

Present: Marcia J. Sikowitz
Judge

404

-against-
Brett Wynkoop; Kathleen Keske; "John" "Doe"; "Jane" "Doe"
Respondent(s)

Recitation, as required by CPLR 2219(A), of the papers considered in the review of this OSC for:
restoring the case to the calendar for a date certain to dismiss the proceeding

PAPERS	NUMBERED
Notice of Motion and Affidavits Annexed	
Order to Show Cause and Affidavits Annexed	12
Answering Affidavits	
Replying Affidavits	
Exhibits	
Stipulations	
Other	

Upon the foregoing cited papers, the Decision/Order in this Motion is as follows:

The OSC by respondent B. Wynkoop is denied without prejudice to renew by proper OSC. Respondent fails to request an order indicating his default and he fails to state an excusable default or meritorious defense.

Date: _____

MARCIA J. SIKOWITZ
JUDGE, HOUSING COURT
Judge, Civil/Housing Court

Generated: October 22, 2018

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