

Filings

Title: INGERSOLL SQUARE PARTNERS LLC VS MICHAEL MCCULLOUGH

Case: 05771 LACL140923 (POLK)

Citation Number:

<u>Event</u>	<u>Filed By</u>	<u>Filed</u>	<u>Create Date</u>	<u>Last Updated</u>	<u>Action Date</u>
NOTICE	LALOR BRIAN JAMES	08/27/2018	08/28/2018	08/28/2018	
<i>Comments:</i> OF SERVING SUBPOENA					
<i>Documents:</i> <u>NOTICE</u>					
NOTICE OF DISCOVERY RESPONSE	LALOR BRIAN JAMES	07/27/2018	07/30/2018	07/30/2018	
<i>Comments:</i> INITIAL DISCLOSURE					
<i>Documents:</i> <u>NOTICE OF DISCOVERY RESPONSE</u>					
ORDER SETTING TRIAL		07/10/2018	07/10/2018	07/10/2018	
<i>Comments:</i> NON JURY TRIAL 3/20/2019 @ 9:00 AM					
<i>Documents:</i> <u>ORDER SETTING TRIAL</u>					
TRIAL SCHEDULING AND DISCOVERY PLAN	LALOR BRIAN JAMES	07/10/2018	07/11/2018	07/11/2018	
<i>Documents:</i> <u>TRIAL SCHEDULING AND DISCOVERY PLAN</u>					
ORDER FOR TRIAL SCHEDULING CONFERENCE	SCOTT PAUL	06/20/2018	06/20/2018	06/20/2018	
<i>Comments:</i> 7/10/2018 @ 10:45 AM					
<i>Documents:</i> <u>ORDER FOR TRIAL SCHEDULING CONFERENCE</u>					
ANSWER	CHARNETSKI SAMUEL EDMUND	05/29/2018	05/29/2018	05/29/2018	
<i>Comments:</i> OF DEFT MICHAEL MCCULLOUGH					
<i>Documents:</i> <u>ANSWER</u>					

APPEARANCE CHARNETSKI 05/18/2018 05/21/2018 05/21/2018
 SAMUEL
 EDMUND

Comments: ON BEHALF OF DEFT MICHAEL MCCULLOUGH

Documents: APPEARANCE

OTHER AFFIDAVIT LALOR BRIAN 05/07/2018 05/07/2018 05/07/2018
 JAMES

Comments: AFFIDAVIT FOR ATTORNEY FEES

Documents: OTHER AFFIDAVIT

NOTICE LALOR BRIAN 05/07/2018 05/07/2018 05/07/2018
 JAMES

Comments: OF INTENT TO FILE WRITTEN APPLICATION FOR DEFAULT

Documents: NOTICE

RETURN OF DUEA MARSHA 04/19/2018 04/19/2018 04/19/2018
ORIGINAL NOTICE L

Comments: PROOF OF SERVICE MICHAEL MCCULLOUGH

Documents: RETURN OF ORIGINAL NOTICE

APPEARANCE GIBSON TERRY 04/17/2018 04/17/2018 04/17/2018
 L

Comments: ON BEHALF OF PLAF INGERSOLL SQUARE PARTNERS LLC

Documents: APPEARANCE

CIVIL ORIGINAL LALOR BRIAN 04/16/2018 04/17/2018 04/17/2018
NOTICE JAMES

Documents: CIVIL ORIGINAL NOTICE

PETITION FILED LALOR BRIAN 04/16/2018 04/17/2018 04/17/2018
 JAMES

Comments: DEBT COLLECTION

Documents: PETITION ATTACHMENT ATTACHMENT ATTACHMENT
ATTACHMENT ATTACHMENT ATTACHMENT ATTACHMENT

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

INGERSOLL SQUARE PARTNERS, LLC, Plaintiff, vs. Michael McCullough, individually, Defendant.	Case No. PETITION AT LAW
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COMES NOW, Plaintiff, Ingersoll Square Partners, LLC, (hereinafter “Ingersoll Square”) by and through its attorneys of record, Wandro & Associates, P.C., and for its Petition states as follows:

1. Plaintiff, Ingersoll Square, is an Iowa limited liability company with its principal place of business in Polk County, Iowa.
2. Ingersoll Square owns real property in Polk County, Iowa
3. Michael McCullough (hereinafter “McCullough”) is an individual residing in Polk County, Iowa.
4. Ingersoll Square’s damages claimed hereunder exceed the minimum jurisdictional requirements.
5. Jurisdiction and venue are proper in the Iowa District Court for Polk County.
6. On April 12, 2008, McCullough submitted an Application for Residency to rent property locally known as 1900 High Street, Unit E103, Des Moines, IA 50309 (hereinafter the “Condo”) and at the same time submitted personal money order numbered 084840411 in the amount of five hundred dollars (\$500.00) for security deposit, ultimately culminating in the execution of a Residential Lease Agreement dated June 3, 2008 (hereinafter “June 2008 Lease”). Copies of the personal money order for security deposit and June 2008 Lease are attached hereto as Exhibits 1 and 2.

7. On June 1, 2009, McCullough entered into a written Residential Lease Agreement with High Land Co., L.C., to continue renting the Condo. A copy of the Residential Lease Agreement between High Land Co, L.C., and Michael McCullough is attached hereto as Exhibit 3 (hereinafter "July 2009 Lease").
8. On February 28, 2011, High Land Co., L.C., conveyed all right, title, interest, estate, claim and demand to property which included the Condo to Ingersoll Square, LLC. A copy of the Quit Claim Deed conveying this interest as Recorded with the Polk County Recorder at Book 13784, Page 893-895, is attached hereto as Exhibit 4.
9. Ingersoll Square, LLC, acted as the successor in interest with respect to the July 2009 Lease thereafter.
10. On August 30, 2012, McCullough executed a lease renewal for the Condo sent by KLC Property Management Solutions, acting as property manager for Ingersoll Square, LLC. A copy of the lease renewal is attached hereto as Exhibit 5 (hereinafter "2012 Renewal").
11. On July 6, 2015, McCullough executed lease amendment with Newbury Living, as property manager for Ingersoll Square, LLC. A copy of the July 6, 2015, lease renewal is attached hereto as Exhibit 6 (hereinafter "2015 Amendment").
12. The 2012 Renewal and 2015 Amendment changed the term and amount of rent to be paid, leaving all other terms from the July 2009 Lease in effect.
13. On March 8, 2016, Ingersoll Square, LLC, merged with Ingersoll Square Partners, LLC, by filing Articles of Merger with the Iowa Secretary of State and adopted Ingersoll Square Partners, LLC, as the surviving organization the Ingersoll Square has acted as the successor in interest by merger to Ingersoll Square, LLC, with respect to the July 2009

Lease, 2012 Renewal and 2015 Amendment at all time thereafter. Copies of the Articles of Merger are attached hereto as Exhibit 7.

14. On or about April 30, 2017, McCullough vacated the Condo and returned possession to Ingersoll Square.
15. Upon McCullough vacating the Condo, employees of Newbury Management and Ingersoll Square discovered that the Condo had been damaged by cigarette smoke during McCullough's possession of the Condo.
16. Article XII, subpart D of the July 2009 Lease provided in part, "D. **SMOKING:** Smoking is prohibited on or in the Premise. Resident shall be responsible any charges for the removal of any and all smoke odor, or damage to the Premise at Move out."
17. McCullough breached the terms of the July 2009 Lease by smoking and/or allowing others to smoke in the Condo.
18. Ingersoll Square has been damaged as a result of McCullough's breach, having to remediate smoke odor and damage.
19. McCullough's breach was willful and pursuant to Iowa Code § 562A.27(3) and Article XVIII of the July 2009 Lease, Landlord is entitled to recover reasonable attorney fees for collection in this matter.

WHEREFORE, Plaintiff, Ingersoll Square Partners, LLC, prays the Court enter judgment against Defendant, Michael McCullough, for damages as a result of Defendant's breach, attorney fees, costs of this action and all other relief as the Court deems just and equitable.

Respectfully submitted,

/s/ Brian J. Lalor

Steven P. Wandro

Brian J. Lalor

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