

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH NO. 5

BROWN COUNTY

JULIE GUMBAN

Plaintiff,

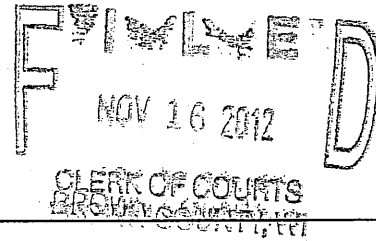
Case No.: 12-CV-479

-vs-

Case Code: 30301

RON VAN DEN HEUVEL,
KELLY VAN DEN HEUVEL,
TISSUE PRODUCTS TECHNOLOGY, CORP.,
TISSUE TECHNOLOGY, LLC, and
KYHKJG, LLC.

Defendants.



**AFFIDAVIT OF RANDALL L. GAST
IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

STATE OF WISCONSIN)
) ss
COUNTY OF BROWN)

Randall L. Gast, being first duly sworn on oath, deposes and states as follows:

1. I am an attorney with the Hanaway Ross law firm, counsel of record in the above entitled action for Plaintiff, Julie Gumban, and I make this affidavit in support of Plaintiff's motion for summary judgment.

2. On June 8, 2011, a Settlement Agreement and Mutual Release was executed by and between the Plaintiff, Julie Gumban (hereinafter "Gumban"), on the one hand, and the Defendants, Ron Van Den Heuvel, Kelly Van Den Heuvel, Tissue Products Technology, Corp., Tissue Technology, LLC and KYHKJG, LLC (hereinafter, collectively "RVDH Parties"), on the

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other hand. A true and correct copy of the Settlement Agreement is attached hereto as Exhibit "A," and is incorporated herein by reference.

3. Among other things, the Settlement Agreement provided for:

- a. The payment to Gumban by the RVDH Parties, jointly and severally, of ONE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS (\$125,000.00) in five (5) installment payments which were due as stated in paragraph 2 of the Settlement Agreement.
- b. In the event that the RVDH Parties defaulted in the payment of any installment required, and such default remained uncured for a period of ten (10) days following written notice, the total settlement proceeds due and payable under the Settlement Agreement were to increase to ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000.00), immediately due and payable, less any previous payments made (paragraph 4).

4. The RVDH Parties timely made the first installment of thirty-five thousand dollars (\$35,000.00), which was due at the time of the closing of the transactions contemplated by the Agreement. I have personal knowledge of this since the payment was made to the Hanaway Ross Trust Account.

5. The RVDH Parties, however, defaulted on the second installment payment of twenty-five thousand dollars (\$25,000.00), which was due on or before July 25, 2011.

6. On August 29, 2011, pursuant to and consistent with the Settlement Agreement, this law firm, as Gumban's counsel, issued a default notice to the RVDH Parties demanding that the defaulted payment be cured within ten days. A true and correct copy of the August 29, 2011 default notice is attached hereto as Exhibit "B," and is incorporated herein by reference.

7. The default, as stated in the notice, was not cured within the ten day grace

period. Subsequent to the effective date of default, but without curing the same, the RVDH Parties caused to be paid the further sum of forty-five thousand dollars (\$45,000.00) on or about October 26, 2011 to the Hanaway Ross Trust Account. The RVDH Parties have failed and refused, despite repeated assurances, to pay any further or additional sums due under the Settlement Agreement, thereby breaching the Agreement's terms.

8. Pursuant to the terms of the Settlement Agreement, as a consequences of the breach, on March 2, 2012, Gumban filed the present action, Brown County Circuit Court Case No. 12-CV-479.

9. On or about March 26, 2012, the RVDH Parties filed individual Answers to the Complaint, but did not interpose any meritorious defenses. Despite having executed the Settlement Agreement, the RVDH Parties, in their respective Answers, purported to deny in part the authenticity of the Settlement Agreement.

10. In order to pin the RVDH Parties down on the authenticity of the Settlement Agreement, on June 22, 2012 I caused to be served on opposing counsel Plaintiff's First Set of Requests to Admit, Interrogatories, and Document Requests (the "Discovery Requests"). A true and correct copy of the Discovery Requests is attached hereto as Exhibit "C." The RVDH Parties have failed to answer the Discovery Requests. Accordingly, pursuant to Wisconsin Statute, the Requests for Admissions are deemed admitted. The admitted requests confirm the authenticity of the Settlement Agreement, that each of the RVDH Parties executed the Settlement Agreement, and that the RVDH Parties received the notice of default.

11. Pursuant to the terms of the Settlement Agreement, Gumban is entitled to the

increased gross settlement proceeds of one-hundred fifty thousand dollars (\$150,000.00), less previous payments received.

12. The RVDH Parties previously made payments to Gumban totaling Eighty Thousand Dollars (\$80,000.00), thereby leaving a remaining balance due and immediately payable of Seventy Thousand Dollars (\$70,000.00), which is a joint and several obligation of the RVDH Parties, and each of them, under the terms of the Settlement Agreement.

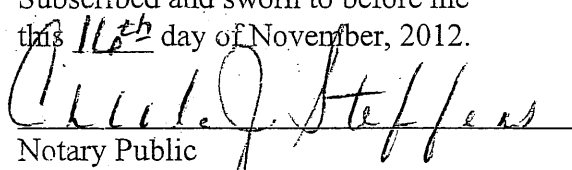
13. The Settlement Agreement further provides:

In the event of litigation related to the Agreement, the non-prevailing party is to pay to the prevailing party all expenses of such litigation, including reasonable attorneys' fees and other litigation costs (paragraph 17).

14. The attorney fees and costs incurred in this action and related to the enforcement of the Settlement Agreement terms will be submitted in itemized fashion to the Court for review, consideration, and approval following the grant of summary judgment.


Randall L. Gast

Subscribed and sworn to before me
this 16th day of November, 2012.


Notary Public

Brown County, Wisconsin

My Commission expires 9-27-2015