

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RNS SERVICING, LLC, and Illinois Limited
Liability Company,

Plaintiff,

v.

SPIRIT CONSTRUCTION SERVICES, INC.,
a Delaware Corporation, STEVEN VAN DEN
HEUVEL, a citizen of the State of Wisconsin,
and SHARAD TAK, a Citizen of the State of
Florida,

Defendants.

Case No. 17-cv-108

Judge Edmond E. Chang

**PLAINTIFF RNS SERVICING, LLC’S UNOPPOSED MOTION FOR LEAVE TO FILE
(1) THE DECLARATIONS REBECCA ELLI, STEPHEN CSAR, MARC LANGS, AND
BRIAN LANGS IN OPPOSITION TO DEFENDANTS’ MOTION FOR SUMMARY
JUDGMENT; (2) ITS RESPONSE TO DEFENDANTS’ RULE 56.1(A)(3) STATEMENT
OF FACTS AND ITS RULE 56.1(B)(3)(C) STATEMENT OF ADDITIONAL
UNDISPUTED FACTS THAT REQUIRE DENIAL OF DEFENDANTS’ MOTION FOR
SUMMARY JUDGMENT; AND (3) ITS MEMORANDUM OF LAW IN OPPOSITION
TO DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT, *INSTANTER***

Plaintiff, RNS Servicing, LLC (“RNS Servicing”), by and through its undersigned attorneys, hereby moves this Honorable Court for leave to file (1) The Declarations of Rebecca Elli, Stephen Csar, Marc Langs, and Brian Langs In Opposition To Defendants’ Motion For Summary Judgment; (2) Its Response To Defendants’ Rule 56.1(A)(3) Statement Of Facts And Its Rule 56.1(B)(3)(C) Statement Of Additional Undisputed Facts That Require Denial Of Defendants’ Motion For Summary Judgment; and (3) Its Memorandum Of Law In Opposition To Defendants’ Motion For Summary Judgment, *Instanter*. In support, RNS Servicing states as follows:

1. On December 19, 2018, this Court's entered the following briefing schedule for Defendants' Combined Motion for Summary Judgment:

- a. Defendants to file Combined Motion on March 18, 2019 with a 25-page limit;
- b. Plaintiff to file a single Response on April 22, 2019 with a 25-page limit;
- c. Defendants to file a Joint Reply on May 17, 2019.

See 12/19/18 Order [ECF 63].

2. On March 18, 2019, Defendants filed their 3-page Combined Motion [Dkt. 64]; 13-page Rule 56.1 Statement of Facts [ECF 65]; 3-page Affidavit in support of their Combined Motion [ECF 66] with more than 300 pages of exhibits [ECF 66-1 – 66-12]; and their 20-page Memorandum in support of their Combined Motion [ECF 67].

3. On April 22, 2019, Plaintiff's counsel emailed counsel for all three Defendants and inquired whether they would object to a “**2-week extension** for the response to your joint MSJ so that the response would be due on 5/2 and your reply is would be due on 5/31 instead of 5/17.” *See* 4/22/19 Email Exchange, attached as Exhibit A (emphasis added).

4. Counsel for RNS Servicing made a scrivener's error and inadvertently wrote May 2 in his email (less than two weeks from 4/22) rather than May 6 (two weeks from 4/22 deadline). Counsel for RNS Servicing also proposed a two-week extension for Defendants' reply.

5. Counsel for Defendants stated that they would not object to the motion. *See* Exhibit A.

6. Counsel for RNS Servicing then filed an unopposed Motion to Modify the briefing schedule for Defendant's joint summary judgment motion on April 22, 2019 [ECF 68]. In that motion, RNS Servicing made the same scrivener's error and proposed that the briefing schedule be modified so that Plaintiff's response would be due on May 2 (less than two weeks

from 4/22) rather than May 6 (two weeks from 4/22 deadline). Counsel for RNS Servicing also proposed in his motion that the court enter a two-week extension for Defendants' reply to be due on May 31, instead of May 17. *See* 4/22/19 Motion [ECF 68].

7. On April 22, 2019, this Court granted Plaintiff's motion to modify the briefing schedule and made Plaintiff's response due on May 2 (the date Plaintiff's counsel inadvertently requested which was less than two weeks) and Defendants' response due on May 31 (a two-week extension from May 17). *See* 4/24/19 Order [ECF 70].

8. Plaintiff's counsel then inadvertently calendared Plaintiff's response for May 6 thinking that the two-week extension he had thought he requested was granted.

9. On May 6, 2019, Plaintiff's counsel was deposing a witness in Denver, CO in another case. *See* 5/6/2019 NOD, attached as Exhibit B.

10. On May 6, 2019, after the deposition session in that case concluded, Plaintiff's counsel electronically filed the Declarations of Rebecca Elli, Stephen Csar, Marc Langs, and Brian Langs In Opposition To Defendants' Motion for Summary Judgment [ECF 71-74] from his hotel room in Denver.

11. On May 6, 2019 at 11:27 PM Mountain Time (which is also May 7, 2019 at 12:27 AM Central Time), Plaintiff's counsel electronically filed (1) RNS Servicing's Response To Defendants' Rule 56.1(A)(3) Statement Of Facts and Its Rule 56.1(B)(3)(C) Statement Of Additional Undisputed Facts That Require Denial Of Defendants' Motion For Summary Judgment [ECF 75] and (2) RNS Servicing's Motion to Strike Defendants' Affirmative Defenses Based on the Statute of Limitations and Its Memorandum Of Law In Opposition To Defendants' Motion For Summary Judgment [ECF 76], also from his hotel room in Denver.

12. After filing and receiving emails confirming the filings from ECF system, Plaintiff's counsel realized that due to the time zone differences, he filed ECF 75 and ECF 76 twenty-seven minutes late according to Central Time. *See* Screenshots, attached as Exhibit C.

13. Plaintiff's counsel was traveling from Denver to Chicago for most of the day on May 7, 2019.

14. On May 8, 2019, in drafting the present motion for leave to file ECF 75 and ECF 76 (what he thought was) twenty-seven minutes late, Plaintiff's counsel reviewed the April 24 order [ECF 70] and realized his first error regarding his April 22 request for a two-week extension in the first place—*i.e.*, that according to the April 24 order [ECF 70], all of the above were actually due on May 2 (less than two weeks from the original April 22 deadline), rather than May 6 (two weeks from the original April 22 deadline).

15. Since according to the April 24 Order, (1) Defendants were afforded a two-week extension for their Reply and (2) the hearing for Defendants' motion was reset for September 5, 2019, Plaintiff does not believe an order granting Plaintiff leave to file ECF 71-76, *instanter*, will prejudice Defendants.

16. On May 8, 2019, counsel for each of the Defendants stated in email correspondence that Defendants do not oppose this motion.

Dated: May 8, 2019

Brian C. Langs
Johnson & Bell, Ltd.
33 West Monroe Street, Suite 2700
Chicago, Illinois 60603
Phone: (312) 372-0770
Fax: (312) 372-9818
E-mail: langsb@jbltd.com

Respectfully submitted,

JOHNSON & BELL, LTD.,

By: /s/ Brian C. Langs

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2019, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ Brian C. Langs

Brian C. Langs

From: Brian C. Langs
Sent: Monday, April 22, 2019 9:16 AM
To: Spahn, Brian; Romashko, Robert
Subject: RE: RNS v Spirit/Tak - Motion for an Extension

Thanks.

From: Spahn, Brian [<mailto:BSpahn@gklaw.com>]
Sent: Monday, April 22, 2019 9:14 AM
To: Romashko, Robert; Brian C. Langs
Subject: RE: RNS v Spirit/Tak - Motion for an Extension

Same. No objection.

Brian Spahn
Attorney

GODFREY & KAHN S.C.
833 East Michigan Street
Suite 1800
Milwaukee, Wisconsin 53202-5615
TEL • 414.273.3500
DIR • 414.287.9314
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 Please consider the environment before printing this e-mail

From: Romashko, Robert <Robert.Romashko@huschblackwell.com>
Sent: Monday, April 22, 2019 9:04 AM
To: Brian C. Langs <langsb@jbltd.com>; Spahn, Brian <BSpahn@gklaw.com>
Subject: RE: RNS v Spirit/Tak - Motion for an Extension

Brian,

No objection on Spirit/Steve's part.

Robert M. Romashko
Attorney
Direct: 312.662.4665
Robert.Romashko@huschblackwell.com

From: Brian C. Langs [<mailto:langsb@jbltd.com>]
Sent: Monday, April 22, 2019 7:10 AM
To: Romashko, Robert <Robert.Romashko@huschblackwell.com>; Spahn, Brian <BSpahn@gklaw.com>
Subject: RNS v Spirit/Tak - Motion for an Extension

[EXTERNAL EMAIL]

Bob/Brian,

I am going to file a motion for a 2-week extension for the response to your joint MSJ so that the response would be due on 5/2 and your reply is would be due on 5/31 instead of 5/17.

I do not see any need to change the date of the 6/12 status hearing, but am happy to do so if you would like.

Per Judge Chang's rule, any objection?

Brian

Brian C. Langs, Attorney at Law



33 West Monroe Street, Suite 2700
Chicago, Illinois 60603-5404
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All contents of this e-mail and any attachment are private & confidential. If received or viewed by anyone other than the intended recipient, neither this e-mail nor any attachments, or anything derived from these, may be used or passed on for any purpose whatsoever, and all materials must be destroyed and the sender notified immediately.

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

MARK MICHEL, Independent Administrator)
of the ESTATE OF ROBERT BRIAN MICHEL,)
Deceased,)

Plaintiff,)

v.)

No. 17 L 010934

ISOBEL S. THOMAS, individually, and)
CLIFFORD LAW OFFICES, P.C., an Illinois)
Professional Corporation,)

Defendant.)

RE- NOTICE OF VIDEO DEPOSITION (with Rider)

TO: Brian C. Langs, Esq.
Joseph Marconi, Esq.
Johnson & Bell
33 West Monroe Street, Ste. 2700
Chicago, IL 60603-5404
langsb@jbltd.com
marconij@jbltd.com

YOU ARE HEREBY NOTIFIED that pursuant to the provisions of Section 2-1003 of the Code of Civil Procedure and Rule 202 of the Rules of the Supreme Court, the VIDEO deposition of **ISOBEL THOMAS**, will be taken for the purposes of discovery, before a Notary Public, beginning at the hour of 10:00am--Mountain time (11:00am Central) **on May 6, 2019** at:

Allen Vellone Wolf Helfrich & Factor P.C.
1600 Stout Street, Suite 1100
Denver, CO 80202

upon interrogatories to be propounded to the said witness orally. This is a request for you to produce said deponent. **Plaintiff's counsel shall appear via videoconference at Lexitas, 180 N. LaSalle Street, Ste. 2800, Chicago, IL.**

/s/ Donald R. McGarrah
McNabola Law Group P.C.
55 W. Wacker Drive - 9th Floor
Chicago, IL 60601
312/629-2900
Firm I.D. No. 49780

EXHIBIT B

CERTIFICATION

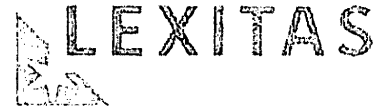
Under penalties as provided by law, pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies it to be true and correct that he/she served the above and foregoing Notice of Deposition upon the attorneys indicated above by EMAIL to the said person to whom said Notice of Video Deposition is directed on **April 23, 2019**.

/s/ Tracey Battistoni

**RIDER FOR
DEPOSITION OF ISOBEL THOMAS**

- 1) Process used to identify proper Defendants.
 - a) Discovery methods to identify proper Defendants.
 - b) The use of Requests for Production for this purpose.
 - c) The use of Interrogatories for this purpose.
 - d) Use of depositions for this purpose.
- 2) Pleadings methods to identify proper Defendants.
- 3) Use of Requests for Admission to identify proper Defendants.
- 4) Investigation methods to identify proper Defendants.
- 5) Research methods to identify proper Defendants.
- 6) Organization of case to identify proper Defendants before expiration of statute of limitations.
 1. Internal docketing system and/or process.
 2. Manner in which such system/process is structured, implemented and utilized.
- 7) Methods to conduct legal research.
- 8) Motions filed in underlying litigation.
 - a) Legal research conducted in connection with the substance and content of the Motions and in connection with preparation and filing a response to any such Motion.
 - b) Process by which such motions are assessed, including potential effect on case.
- 9) Staffing of underlying litigation.
 - a) Supervision of all attorneys assigned to the case.
 - b) Identification of all attorneys and others who worked on the underlying litigation and their respective responsibilities.
- 10) Value of underlying litigation.
- 11) Experts used in underlying litigation.
- 12) Basis for proceeding with underlying litigation.
 - a) Substantive legal basis.
 - b) Substantive basis regarding medical care rendered to ROBERT BRIAN MICHEL.
- 13) Contract executed by Thomas Prindible in the underlying litigation.
 - a) Terms and conditions of the Contract
 - b) Isobel Thomas' responsibilities under the terms and conditions of the Contract.
- 14) Isobel Thomas employment with CLO.
 - a) Her responsibilities.
 - b) Her training.
 - c) Supervision of her work
- 15) Illinois Court of Claims.
 - a) Experience in Court of Claims.
 - b) Law applicable to proceeding with Claims in the Court of Claims
- 16) Illinois Code of Professional Responsibility.
- 17) All duties/responsibilities of licensed Illinois attorneys.
- 18) All aspects of conflicts of interest between attorneys and clients.
- 19) All aspects of communicating with clients.
- 20) All aspects of informed consent by and between an attorney and a client.

Acknowledgement of Scheduling



180 North LaSalle Street, Suite 2800
Chicago, Illinois 60601
Phone: 312-236-6936 Fax: 312-236-6968
www.lexitaslegal.com

Job No.	196524	Scheduled Date	4/15/2019 4:52:36 PM
Attn	Tracey	Attorney	Don McGarrah
Firm	McNabola Law Group 55 West Wacker Drive 9th Floor Chicago, IL 60601 Phone: (312) 629-2900 Fax: (312) 629-2916		

This fax/email is being sent as confirmation of the following scheduled deposition:

Style of Case	Michel vs. Thomas		
Witness(es)	Isobel Thomas		
Deposition Date	05/06/2019	Time	10:00 AM - 12:00 PM (GMT-07:00) Mountain Time (US & Canada)
Location	Allen Vellone Wolf Helfrich & Factor P.C. 1600 Stout Street Suite 1100 Denver, CO 80202 Phone: Room No.: Detail:		
Requested Services	<u>Service Item</u>		<u>Units</u>
Remarks	Reporter, Videographer & Jensen Connect (Webconference) 10 am (MST) 11 am (CST) Reporter, videographer & deponent will appear via Jensen Connect from Denver, CO Counsel will appear via Jensen Connect from Lexitas in Chicago, IL Videographer will arrive 1 hour early to set up <i>To confirm via E-mail, please send confirmation to chicago@lexitaslegal.com.</i>		

**** Ask us about our free online office. This convenient option for scheduling reporters, downloading transcripts, and more is available to you 24/7! ****

****Videography: We are proud to offer highly skilled and professional videographers, along with state-of-the-art video equipment.****

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Cancellation Policy - Chicago Loop: The minimum 2-hour attendance fee will apply if a reporter has left the office for the job.
Cancellation Policy - Suburban: Cancellations will incur a 2-hour minimum late cancellation fee if cancelled two hours or less from the start of the job.

****CONTACT OUR OFFICE BY PHONE IF YOU HAVE A SAME DAY CANCELLATION****

United States District Court

Northern District of Illinois - CM/ECF LIVE, Ver
6.2.2

Notice of Electronic Filing

The following transaction was entered by Langs,
Brian on 5/7/2019 at 0:26 AM CDT and filed on
5/7/2019

Case Name: RNS Servicing, LLC v. Spirit
Construction Services, Inc. et al

Case
Number: [1:17-cv-00108](#)

Filer: RNS Servicing, LLC

Document
Number: [75](#)

Docket Text:

**RULE 56 Rules 56.1(b)(3) Statement in
Opposition to Defts' Joint Motion for Summary
Judgment (Langs, Brian)**

1:17-cv-00108 Notice has been electronically
mailed to:



document is a transcript, the free copy and 30 page limit do not apply.

United States District Court

Northern District of Illinois - CM/ECF LIVE, Ver
6.2.2

Notice of Electronic Filing

The following transaction was entered by Langs, Brian on 5/7/2019 at 0:26 AM CDT and filed on 5/7/2019

Case Name: RNS Servicing, LLC v. Spirit
Construction Services, Inc. et al

Case
Number: [1:17-cv-00108](#)

Filer: RNS Servicing, LLC

Document
Number: [76](#)

Docket Text:

**MEMORANDUM by RNS Servicing, LLC in
Opposition to motion for summary judgment[64]
(Langs, Brian)**

