

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION

CASE NO. 10-10063-CIV-KING

ROBERT EDWARDS,  
*et. al.*,

Plaintiff,

vs.

OUT OF THE BLUE KEY WEST LLC,  
MARY JO PFUND, and KENNETH  
FRANCIOSE,

Defendants.

---

**ORDER DENYING CROSS MOTIONS FOR SUMMARY JUDGMENT  
AND LIMITING ISSUES TO BE TRIED**

**THIS CAUSE** comes before the Court upon the parties' Cross Motions for Summary Judgment filed on April 26, 2011 (DE # 28, 30). Upon careful review of the motions, the Court finds disputed issues of fact that need to be tried.

Accordingly, after a careful review of the record and the Court being otherwise fully advised, it is **ORDERED, ADJUDGED, and DECREED** as follows:

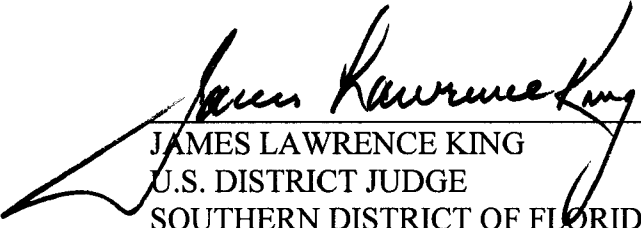
1. The Parties Motions for Summary Judgment (DE # 28, 30) be, and the same are both hereby **DENIED**.
2. Plaintiffs are entitled to default judgment against Defendants Francoise and Out of the Blue Key West LLC. Plaintiffs shall sworn affidavits of claimed damages, fees, and costs, together with proposed orders granting final default judgment by Thursday,

June 2, 2011.

3. Trial shall proceed as to Defendant Pfund on the limited issue of her personal liability. Damage issues are severed and will be considered by the Court after jury verdict, if Plaintiffs prevail.
4. Trial will commence on Monday, June 6, 2011 at 9:30 AM, at the United States Court House, 301 Simonton Street, Key West, Florida.
5. Counsel are ordered to submit the following documents on or before Thursday, June 2, 2011:
  - a. Counsel shall meet and number exhibits for identification and, if possible, stipulate and agree to admissibility.
  - b. Joint requested jury instructions.
  - c. Submit a brief joint statement of the case which the Court will read to the jury describing the issue to be tried (liability).
  - d. Prepare a list of the names of the witnesses each side intends to call, including a brief description of the substance of their testimony.
6. Counsel for the parties are required to be present at the court house at 9:00 AM. Counsel shall have all witnesses they expect to call present at the court house no later than 10:00 AM on June 6, 2011. Counsel should be aware that these cases proceed more rapidly than sometimes expected. Therefore, all witnesses must be present on Monday, June 6.
7. The Court must be notified of settlement (if any) no later than 12:00 noon on Friday, June 3, 2011 so that the jury panel may be cancelled prior to incurring the expense

of bringing them to Key West. Failure to inform the Court of a settlement may result in assessment of the cost of summoning a jury panel against the parties.<sup>1</sup>

**DONE and ORDERED** in chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida this 25th day of May, 2011.



JAMES LAWRENCE KING  
U.S. DISTRICT JUDGE  
SOUTHERN DISTRICT OF FLORIDA

**Copies furnished to:**

***Counsel for Plaintiff:***

**Todd William Shulby**  
4705 S.W. 148th Avenue, Suite 102  
Davie, FL 33330-2417

***Counsel for Defendant:***

**David Van Loon**  
Feldman Koenig Highsmith & Van Loon, P.A.  
3158 Northside Drive  
Key West, FL 33040

---

<sup>1</sup>This is the only jury trial the Court has on its June 6, 2011 trial calendar. Therefore the entire panel would be wasted if the parties miss the deadline for informing the Court of any settlement between the parties.