

2-06-09BTB140816

65100-1149LIT4782

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

JAMES T. SULLIVAN, etc., et al.,)	
Plaintiffs/Judgment Creditors,)	No. 08 C 2904
)	
v.)	Judge Virginia Kendall
)	
THOMAS H. LITVIN CO.,)	Magistrate Judge Nolan
Defendant/Judgment Debtor,)	
)	
and)	
)	
BOVIS LEND LEASE, INC.,)	
Citation Respondent.)	

JUDGMENT CREDITORS’ MOTION FOR
CONDITIONAL JUDGMENT AGAINST BOVIS LEND LEASE, INC.

Plaintiffs/Judgment Creditors, James T. Sullivan, etc., et al. (collectively, “Funds”), by their attorneys, Douglas A. Lindsay, John W. Loseman, and Brian T. Bedinghaus, with LEWIS, OVERBECK & FURMAN, LLP, of counsel, move the Court, pursuant to Fed. R. Civ. P. 69(a)(1), 735 ILCS 5/2-1402(c)(4), and 735 ILCS 5/12-706(a), to enter a conditional judgment against Citation Respondent, BOVIS LEND LEASE, INC. (“Bovis”), in the amount of \$1,052,498.73.

In support hereof, Funds state:

1. On July 15, 2008, Funds obtained a judgment against Defendant, THOMAS H. LITVIN CO., in the amount of \$1,036,149.90.

2. On September 11, 2008, Funds served a Citation to Discover Assets (Third Party) (“Third Party Citation”) upon Bovis. A true and correct copy of the Third Party Citation and Affidavit of Service of Citation to Discover Assets (Third Party) are attached hereto as Exhibit A.

3. The Third Party Citation was directed to the attention of Bovis Senior Vice President, John C. Morley. *Third Party Citation, p. 1, Exhibit A.*

4. The Third Party Citation requested that Bovis produce documents to Funds' attorneys concerning assets, property, income and indebtedness owed to the Judgment Debtor, by October 14, 2008. *Third Party Citation, p. 2, Exhibit A.*

5. The Third Party Citation further required Bovis to appear for examination on October 21, 2008, at 1:30 P.M. *Third Party Citation, p. 1, Exhibit A.*

6. Bovis failed to produce the requested documents and failed to appear for the examination.

7. On October 27, 2008, counsel for Funds sent a letter to John C. Morley at Bovis requesting compliance with the Third Party Citation. A true and correct copy of the letter to Morley is attached hereto as Exhibit B.

8. On November 18, 2008, Funds' attorney, Brian T. Bedinghaus, telephoned Morley and spoke to Morley's secretary, Sheila Hatten. Hatten stated that Morley was not in the office, and she requested that copies of the Citation documents be emailed to her. Bedinghaus emailed the documents to Hatten that same afternoon, and a true and correct copy of the email is attached hereto as Exhibit C.

9. As of the date of filing this motion, Funds have not received a response to the Third Party Citation issued to Bovis (Exhibit A), the October 27, 2008 letter to Morley (Exhibit B), or the November 18, 2008 email to Hatten (Exhibit C).

10. 735 ILCS 5/2-1402(c)(4), made applicable by Fed. R. Civ. P. 69(a), permits the Court hearing a citation to enter any order that could be entered in a garnishment proceeding.

11. 735 ILCS 5/12-706(a) provides that “[w]hen any person summoned as garnishee fails to appear and answer as required . . . the court may enter a conditional judgment against the garnishee for the amount due upon the judgment against the judgment debtor.”

12. The entire judgment plus post-judgment interest at the rate of 2.25% remains unsatisfied. As of February 9, 2009, the balance due on the judgment against THOMAS H. LITVIN CO. is \$1,052,498.73, consisting of (1) principal of \$1,039,149.90 and (2) interest of \$13,348.83. Interest continues to accrue at a rate of \$63.87 per day while the judgment remains unsatisfied.

13. Funds request that a conditional judgment be entered against Bovis in the amount of \$1,052,498.73 with a summons to issue to confirm said conditional judgment.

WHEREFORE, Plaintiffs/Judgment Creditors, James T. Sullivan, etc., et al., request the Court to: (1) enter a conditional judgment in favor of Plaintiffs/Judgment Creditors and against Citation Respondent, BOVIS LEND LEASE, INC., in the amount of \$1,052,498.73; (2) issue a Summons to confirm the conditional judgment; and (3) order additional relief as the Court deems necessary and appropriate.

James T. Sullivan, etc., et al., by their attorneys,
Douglas A. Lindsay, John W. Loseman, and
Brian T. Bedinghaus

By: s/ Brian T. Bedinghaus
Brian T. Bedinghaus
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Of Counsel:
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CERTIFICATE OF SERVICE

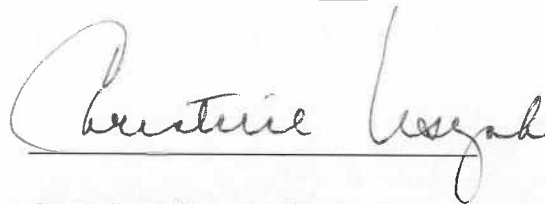
I served a copy of the foregoing JUDGMENT CREDITORS' MOTION FOR
CONDITIONAL JUDGMENT AGAINST BOVIS LEND LEASE, INC. upon:

Bovis Lend Lease, Inc.
Attn: John C. Morley, Senior Vice President
One North Wacker Drive
Suite 850
Chicago, Illinois 60606

by placing a true and correct copy thereof in a sealed envelope addressed as aforesaid, with
postage prepaid, and depositing the same in the United States Mail Box at 20 North Clark Street,
Chicago, Illinois on February 9, 2009, before 4:30 p.m.

In accordance with 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is
true and correct.

Executed on February 9, 2009



CHRISTINE USYAK

CERTIFICATE OF SERVICE

I served a copy of the foregoing JUDGMENT CREDITORS' MOTION FOR
CONDITIONAL JUDGMENT AGAINST BOVIS LEND LEASE, INC. upon:

David J. Schwab
Ralph, Schwab & Schiever, Chtd.
175 E. Hawthorn Parkway, Suite 345
Vernon Hills, IL 60061
djschwab@rss-ghtd.com

via the electronic filing (ECF) system of the United States District Court for the Northern District
of Illinois as a result of electronic filing made this 9th day of February, 2009.

In accordance with 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing
is true and correct.

Executed on February 9, 2009

s/ Brian T. Bedinghaus
Brian T. Bedinghaus