UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

ELLEN J. O'PHELAN and DAN J. O'PHELAN,

Plaintiffs,

vs.

CIVIL NO. 5:08-cv-1202

DEBRA HILL INVANOVSKIS, et al.,

Defendants.

Appearances:

Of Counsel:

For Plaintiff:

Ellen J. O'Phelan & Dan J. O'Phelan Pro Se 1736 Cara Loop Anchorage, AK 99515

For Defendant Debra Hill Invanovskis:

Harris, Beach Law Firm PO Box 580 119 East Seneca Street Ithaca, NY 14851-0580 Russell E. Maines, Esq.

For Defendants Cinquanti Real Estate, Inc., Steven R. Cinquanti & Susan Briggs

MacKenzie, Hughes Law Firm 101 South Salina Street PO Box 4967 Syracuse, NY 13221-4967 Stephen T. Helmer, Esq.

For Defendant Diann Potter

Hickey, Sheehan Law Firm 160 - 162 Hawley Street Binghamton, NY 13902 Gregory A. Gates, Esq.

For Defendant William Briggs

Smith, Sovik Law Firm 250 South Clinton Street Suite 600 Syracuse, NY 13202-1252 Patrick B. Sardino, Esq.

For Defendants Daniel P. Harding & Emily M. Harding

Williamson, Clune Law Firm 317 North Tioga Street Ithaca, NY 14851-0126 John H. Hanrahan, III, Esq.

GLENN T. SUDDABY, U.S. DISTRICT JUDGE

JUDGMENT DISMISSING ACTION BY REASON OF SETTLEMENT

The Court having been advised by counsel that the parties in this action have entered into an agreement in settlement of all claims in this action, and that they reasonably anticipate finalizing their agreement shortly, following which this action will be discontinued, with prejudice, by stipulation pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure. Counsel has also advised that no infant or incompetent is a party to this action. Based upon this development, I find that it is not necessary for this action to remain on the calendar of the Court. It is therefore hereby

ORDERED that this action is **DISMISSED** in its entirety **without prejudice** pursuant to the procedure as set forth in L.R. 68.2(a) of the Local Rules of this court. This judgment is issued without prejudice to the right of the parties to secure reinstatement of the case within thirty (30) days after the date of this judgment by making a showing that the settlement was not, in fact, consummated; and in the event that no request is made for reinstatement within thirty (30) days of the date of this judgment, the dismissal of this case shall thereafter be **with prejudice**; and it is further

ORDERED that the Clerk shall electronically serve copies of this Judgment upon the attorneys for the parties appearing in this action and to serve a copy of this judgment by mail on the Pro Se Plaintiffs.

Dated: March 20, 2009 Syracuse, New York

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Hon. Glenn T. Suddaby U.S. District Judge