



No. 00-0115

APPEAL TO THE ILLINOIS APPELLATE COURT
FIRST JUDICIAL DISTRICT

CERMAK PARTNERS III
LIMITED PARTNERSHIP,

Plaintiff-Appellee,

vs.

BAUM BROTHERS, L.L.C.,

Defendant-Appellant.

) Appeal from the Circuit Court of
) Cook County, Illinois, County
) Department, Chancery Division,
) No. 99 CH 8653

) The Honorable Ellis E. Reid, Judge
) Presiding

NOTICE OF LIS PENDENS

The undersigned, pursuant to 735 ILCS 5/2-1901, certifies that Baum Brothers, L.L.C. ("Baum"), by its attorneys, Goldberg, Kohn, Bell, Black, Rosenbloom & Moritz, Ltd., filed an Appeal to the Illinois Appellate Court, First Judicial District (the "Appeal") on January 10, 2000, and is now pending relative to the property commonly known as 500 West

Cermak, Chicago, Illinois (the "Property"). A copy of the Property's legal description is attached hereto as Exhibit A.

Baum has appealed the Interlocutory Decision and Order entered by the Circuit Court of Cook County, Illinois on December 17, 1999 ("Decision and Order"), in the case styled as Cermak Partners III Limited Partnership vs. Baum Brothers, L.L.C., Case No. 99 CH 8653. A copy of the Circuit Court's Decision and Order is attached hereto as Exhibit B and a copy of Baum's Second Amended Notice of Appeal is attached hereto as Exhibit C.

By the Appeal, Baum will ask the Appellate Court to vacate and reverse the Circuit Court's Decision and Order, which, among other things, extended the Plaintiff-Appellee's, Cermak Partners III Limited Partnership, option to purchase the Property.

In addition, Baum will ask the Appellate Court for any other relief that the Appellate Court deems just and equitable, including without limitation, an order voiding any sale, encumbrance, lien or deed recorded by the Plaintiff-Appellant or any third party relative to the Property should the Appellate Court grant all or part of the relief sought therein.

Dated: January 21, 2000

BAUM BROTHERS, L.L.C.

BY: 

One of Its Attorneys

Kenneth S. Ulrich
Everett J. Cygal
GOLDBERG, KOHN, BELL, BLACK,
ROSENBLOOM & MORITZ, LTD.
55 East Monroe Street, Suite 3700
Chicago, Illinois 60603
(312) 201-4000
Attorney No. 24139

UNOFFICIAL COPY

00055489

THIS DOCUMENT PREPARED BY AND AFTER RECORDING RETURN TO

Everett J. Cygal
GOLDBERG, KOHN, BELL, BLACK,
ROSENBLUM & MORITZ, LTD.
55 East Monroe Street
Suite 3700
Chicago, Illinois 60603

Property of Cook County Clerk's Office

UNOFFICIAL COPY

00055489

PARCEL 1:

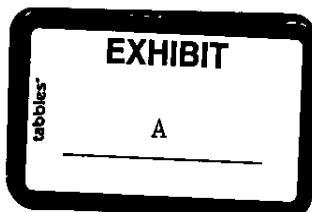
LOT 9 IN BLOCK 35 (EXCEPTING FROM SAID LOT 9 THAT PORTION THEREOF CONVEYED TO THE CITY OF CHICAGO BY DEED RECORDED MAY 2, 1871 AS DOCUMENT 95032 IN BOOK 647, PAGE 467, AND EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO THE SANITARY DISTRICT OF CHICAGO BY DEED RECORDED FEBRUARY 25, 1903 AS DOCUMENT 3356067 IN BOOK 7968, PAGE 528) IN THE CANAL TRUSTEE'S SUBDIVISION OF THE WEST 1/2 AND THAT PORTION WEST OF THE RIVER OF THE SOUTH EAST 1/4 OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF LOT 10 IN BLOCK 35 IN THE CANAL TRUSTEES' SUBDIVISION AFORESAID COMMENCING AT THE NORTHWEST CORNER OF SAID LOTS; THENCE EASTERLY ALONG THE NORTHERLY LINE THEREOF 184 FEET; THENCE SOUTHERLY TO A POINT IN THE SOUTH LINE OF SAID LOT WHICH IS 150 FEET DISTANT FROM THE SOUTHWEST CORNER THEREOF; THENCE WESTERLY ALONG SAID SOUTH LINE TO SAID SOUTHWEST CORNER; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT TO THE POINT OF BEGINNING, EXCEPTING THEREFROM THAT PART LYING EASTERLY OF A LINE DESCRIBED AS BEGINNING AT A POINT ON THE NORTH LINE OF 22ND STREET 153.94 FEET EAST OF THE NORTHEAST CORNER OF LUMBER AND 22ND STREETS MEASURED ALONG SAID NORTH LINE; RUNNING THENCE NORTHEASTERLY TO A POINT IN THE NORTH LINE OF SAID LOT 10, 152.31 FEET EASTERLY OF THE NORTHWEST CORNER OF SAID LOT CONVEYED BY DEED TO THE SANITARY DISTRICT OF CHICAGO RECORDED AS DOCUMENT 5167309; ALSO EXCEPTING THEREFROM THAT PART LYING SOUTH OF A LINE 14 FEET NORTH OF AND PARALLEL TO THE NORTH LINE OF 22ND STREET CONVEYED BY DEED TO THE CITY OF CHICAGO RECORDED AS DOCUMENT 3728622, ALL IN COOK COUNTY, ILLINOIS.

Tax Identification Number: 17-21-332-012-0000

Real Property Address: 500 West Cermak, Chicago, Illinois



Cermak Partners III
Limited Partnership

v.

Baum Brothers, L.L.C.

00055489

NO. 99 CH 8653

ORDER

This case coming on for evidentiary hearing, which began 11/8/99 and concluded today, and the court having heard testimony and having admitted certain exhibits into evidence, and having heard closing argument from both parties, the court rules as follows: This ~~is~~ court finds, based on all the evidence, that defendant frustrated plaintiff in its 7/3/99 effort to exercise its option. Wherefore, it is ordered as follows: 1) Defendant shall provide plaintiff with a firm written payoff amount containing a ~~disc~~ monetary figure within 28 days from today (on or before 11/14/00); 2) Defendant shall provide plaintiff with all

Atty No. 53289
Name Gen Moshowitz
Attorney for PLTF
Address 205 W Wacker #1600
City/Zip Chgo 60606
Telephone 236 3511

ENTERED
CLERK OF THE CIRCUIT COURT
AURELIA PUCINSKI
17 DEC 1999
JUDGE JILLIS E. REID 191
DEPUTY CLERK YLR

ENTER:

Judge

Judge's No.

AURELIA PUCINSKI, CLERK OF THE CIRCUIT COURT OF COOK COUNTY

EXHIBIT
B

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

12/2

Cermak

v.

Baum

NO. 99 CH 8653

ORDER

leases for 500 W. Cermak within 28 days from today (or on or before 11/14/00), including a certification thereof; 3) plaintiff's option to purchase 500 W. Cermak is extended 120 days herefrom (up to and including 4/17/00); 4) IF plaintiff cannot exercise the option in said time, then the option expires. Further, this court declares the rights of the parties as follows: 1) Defendant is not entitled to \$75,000 bonus; 2) Defendant is not entitled to ^{any} g.c. (general contracting) fees; 3) Defendant is not entitled to ^{and} interest on equity; 4) Defendant is only entitled to a ~~reasonable attorney's fee~~ fee of \$50, unless through 7/30/99, ^{totaling \$200,000.00} further, pursuant to Sup. Ct Rule 304(a), there is no just reason to delay enforcement of or appeal from this order, as stated by this court on the record. Further, this cause is set for status on 21 January 2000 at 9:30 A.M.

Atty No. 53289

Name Gene Malinowski, Atty.

Attorney for PLTF

Address 205 W. Wacker Dr. #1600

City / Zip Chgo, IL 60606

Telephone 236 3511

17 Dec. 1, 99

ENTER:

Judge Judge's No.

APPEAL TO THE ILLINOIS APPELLATE COURT FOR THE FIRST DISTRICT

FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

CERMAK PARTNERS III
LIMITED PARTNERSHIP,

Plaintiff-Appellee,

vs.

BAUM BROTHERS, L.L.C.,

Defendant-Appellant.

No. 99 CH 8653
Judge Ellis E. Reid

2000 JAN 18 PM 4:29
CIRCUIT COURT
COUNTY, ILLINOIS
CHANCERY DIVISION
AURELIA P. ...
C. RK

FILED-2

NOTICE OF FILING AND PROOF OF SERVICE OF BAUM BROTHERS
L.L.C.'S SECOND AMENDED NOTICE OF INTERLOCUTORY APPEAL

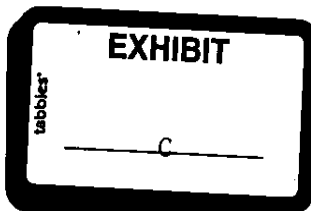
To: Gene K. Moskowitz
Wolf, Moskowitz and Holland
205 W. Wacker Drive
Suite 1600
Chicago, Illinois 60606

PLEASE TAKE NOTICE THAT on January 18, 2000, we filed with the Clerk of the Circuit Court of Cook County, Illinois, County Department, Chancery Division, Baum Brothers, L.L.C.'s Second Amended Notice of Interlocutory Appeal, a copy of which is attached hereto and herewith served upon you.

BAUM BROTHERS, L.L.C.,

By: [Signature]
One of Its Attorneys

Kenneth S. Ulrich
Everett J. Cygal
GOLDBERG, KOHN, BELL, BLACK,
ROSENBLOOM & MORITZ, LTD.
55 East Monroe Street
Suite 3700
Chicago, Illinois 60603
(312) 201-4000
Atty. No. 24139



APPEAL TO THE ILLINOIS APPELLATE COURT FOR THE FIRST DISTRICT
FROM THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

CERMAK PARTNERS III)
LIMITED PARTNERSHIP,)
)
Plaintiff-Appellee,)
)
vs.)
)
BAUM BROTHERS, L.L.C.,)
)
Defendant-Appellant.)

No. 99 CH 8653
Judge Ellis E. Reid

2000 JAN 18 PM 12: 29
CIRCUIT COURT OF COOK
COUNTY, ILLINOIS
CHANCERY DIV.
AURELIA PUCINSKI
CLERK

629
FILED-2

**BAUM BROTHERS, L.L.C.'S SECOND
AMENDED NOTICE OF INTERLOCUTORY APPEAL**

PLEASE TAKE NOTICE THAT Defendant Baum Brothers, L.L.C. ("Baum"), by its attorneys, Goldberg, Kohn, Bell, Black, Rosenbloom & Moritz, Ltd., hereby appeals from the Interlocutory Decision and Order entered by the Circuit Court of Cook County, Illinois on December 17, 1999 ("Decision and Order"), which is immediately appealable pursuant to Supreme Court Rule 307(a)(1) and pursuant to Supreme Court Rule 304(a), the trial court's order of October 12, 1999 denying Baum's request that the Plaintiff-Appellee file a complaint or pleading stating the factual and legal basis for the evidentiary hearing and the protective order entered by the trial court on November 2, 1999 (the "Protective Order"), both of which were made final and appealable at the conclusion of the evidentiary hearing. A copy of the Circuit Court's Decision and Order is attached hereto as Exhibit A , a copy of the trial court's October 12, 1999 order is attached hereto as Exhibit B and a copy of the Protective Order is attached hereto as Exhibit C.

By this appeal, Baum will ask the Appellate Court to vacate and reverse the Circuit Court's Decision and Order: (1) finding that Baum commercially frustrated the Plaintiff-Appellee's attempted exercise of its option to purchase the property commonly known as 500 West Cermak, Chicago, Illinois (the "Property"); and (2) declaring the parties' rights and obligations under the contract. In the alternative, Baum will ask the Appellate Court to vacate and reverse the Circuit Court's Decision and Order: (1) extending the Plaintiff-Appellee's option to purchase the Property by 120 days from December 17, 1999; and (2) entering penalties against Baum.

By this appeal, Baum will ask the Appellate Court to vacate and reverse the trial court's order denying Baum's request that the Plaintiff-Appellant file a complaint or other appropriate complaint or pleading setting forth the allegations and legal theories that the Plaintiff-Appellee intended to prove at the evidentiary hearing. Additionally, the Plaintiff-Appellee's Complaint for Declaratory Judgment and Other Relief does not address the issues raised in the evidentiary hearing. Because the Plaintiff-Appellee never set forth in a pleading its factual and legal allegations, the trial court's Decision and Order should be vacated and reversed.

By this appeal, Baum will ask the Appellate Court to vacate and reverse the Protective Order, which was a pre-hearing evidentiary ruling made by the Circuit Court on the motion of the Plaintiff-Appellee. Based upon the Circuit Court's ruling that there was no waiver of the attorney-client privilege, Defendant-Appellant was prohibited from using certain letters drafted by the Plaintiff-Appellee's counsel at the evidentiary hearing, which the Plaintiff-Appellee provided to a third party witness in preparation for the evidentiary hearing. Baum will also ask the Appellate Court to reverse various evidentiary rulings made by the

UNOFFICIAL COPY

00055489

Circuit Court during the course of the evidentiary hearing and remand this matter with instructions to enter a finding in favor of Baum and dismissing the action with prejudice.

In addition to the above relief, Baum will ask the Appellate Court for any other relief that the Appellate Court deems just and equitable, including without limitation, an order voiding any sale, encumbrance, lien or deed recorded by the Plaintiff-Appellant or any third party relative to the Property should the Appellate Court grant all or part of the relief sought herein.

DATED: January 18, 2000

Respectfully submitted,

BAUM BROTHERS, L.L.C.,

By: 

One of Its Attorneys

Kenneth S. Ulrich
Everett J. Cygal
GOLDBERG, KOHN, BELL, BLACK,
ROSENBLUM & MORITZ, LTD.
55 East Monroe Street
Suite 3700
Chicago, Illinois 60603
(312) 201-4000
Atty. No. 24139

Cermak Partners III
Limited Partnership

00055489

v.

NO. 99 CH 8653

Baum Brothers, L.L.C.

ORDER

This case coming on for evidentiary hearing, which began 11/8/99 and concluded today, and the court having heard testimony and having admitted certain exhibits into evidence, and having heard closing argument from both parties, the court rules as follows: This ~~is~~ court finds, based on all the evidence, that defendant frustrated plaintiff in its 7/3/99 effort to exercise its option. Wherefore, it is ordered as follows: 1) Defendant shall provide plaintiff with a firm written payoff amount containing a ~~disc~~ monetary figure within 28 days from today (on or before 11/14/00); 2) Defendant shall provide plaintiff with all

Atty No. 53289

Name Gen Moshowitz

Attorney for PLTF

Address 205 W Wacker #1600

City/Zip Chgo 60606

Telephone 236 3511

ENTERED	
CLERK OF THE CIRCUIT COURT AURELIA PUCINSKI	
17 DEC 17 1999	99
JUDGE <u>WILLIS E. REID 191</u>	
DEPUTY CLERK <u>YLR</u>	

ENTER:

Judge

Judge's No.

EXHIBIT
A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

1242
00055489

Cermak

v.

NO. 99 CH 8653

Baum

ORDER

leases for 500 W. Cermak within 28 days from today (or on or before 11/14/00), including a certification thereof; 3) plaintiff's option to purchase 500 W. Cermak is extended 120 days herefrom (up to and including 4/17/00); 4) IF plaintiff cannot exercise the option in said time, then the option expires.

Further, this court declares the rights of the parties as follows: 1) Defendant is not entitled to \$75,000 bonus; 2) Defendant is not entitled to ^{any} g.c. (general contracting) fees; 3) Defendant is not entitled to ^{any} interest on equity; 4) Defendant

is only entitled to a ~~reasonable attorney's fee~~ fee of \$50,000.00 through 7/31/99, ^{totaling \$200,000.00} further, pursuant to Sup. Ct. Rule 304(a), there is no just reason to delay enforcement of or appeal from this order,

Atty No. 53289

Name Gene Makowski, Atty.

Attorney for PLTF

Address 205 W. Wacker Dr. #1600

City / Zip Chgo, IL 60606

Telephone 236 3511

as stated by this court on the record. Further, this cause is set for status on 21 January 2000 at 9:30 A.M.

17 Dec. 1, 99

ENTER:

Judge

Judge's No.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Cermak Partners

00055489

v.

NO. 99CH8853

Baum Brothers

Property of Clerk of Court

ORDER

This cause coming to be heard for continued status, parties present in court through their attorneys, and the court being advised that a timely bond was posted pursuant to Oct. 5, 1999 order, IT IS HEREBY ORDERED AS FOLLOWS:

- 1. Nov. 1 and Nov. 2 dates set for evidentiary hearing are stricken and evidentiary hearing is hereby set for Nov. 8 and Nov. 9, 1999 at 11:00 a.m. without further notice.
- 2. Parties shall serve written discovery no later than 15 Oct. 99 and responded to within 5 days thereof.
- 3. Plaintiff to identify all witnesses and documents ~~it intends~~ that relate to the deal plaintiff claims defendant's actions frustrated, ^{by 15 Oct. 1999} and any ~~not~~ witnesses or documents not disclosed shall be barred from testifying and from evidence.
- 4. Defendant shall identify all witnesses and documents that it intends to use at trial by 19 Oct. 99, and any witnesses or documents not disclose shall be barred from use at ~~trial~~ ~~hearing~~ ~~on~~ ~~10/26/99~~.
- 5. Lisika Bludgett shall appear for deposition in Cgo on or before 10/26/99.

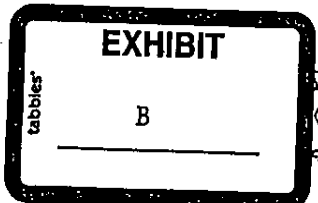
Atty No. 53289
 Name Gen. Moskowitz, Arthur
 Attorney for PLTF
 Address 205 W. Wabasha St. #1600
 City Cgo, IL 60606
 Telephone 236 3511

ENTERED 99

ENTER:

OCT 12 1999
JUDGE

JILLIS E. REID, 191
Judge Judge's No.



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Cermak Partners III
Ltd. Partnership

00055489

v.
Baum Brothers, L.L.C.

NO. 99 CH 8653

ORDER

This cause coming to be heard on plaintiff's emergency motion for protective order, plaintiff's emergency motion to take telephonic evidence of C. Chesterfield, defendant's emergency motion to preclude testimony of Julian Michelson, all parties present in court and the court having heard argument and being fully advised in the premises; IT IS HEREBY ORDERED AS FOLLOWS:

1. Plaintiff's motion for protective order is granted pending further order of court.
2. Plaintiff's motion to take telephonic evidence of Charles Chesterfield is denied;
3. Defendant's motion to preclude testimony of Julian Michelson is entered and continued until Nov. 8, 1999 at 11:00 AM.

Atty No. 53289
Name Gene Moskowitz & Assoc., Ltd.
Attorney for P1TF
Address 205 W. Wacker Dr.
#1600
City / Zip Chicago, IL 60606
Telephone 236 3511

2 ENTERED 99
ENTER: NOV 2 1999
JUDGE
ELLISE BEID-191
Judge's No.

AURELIA PUCINSKI, CLERK OF THE CIRCUIT COURT OF COOK COUNTY

EXHIBIT

C

tabbles

UNOFFICIAL COPY

00055489

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on January 18, 2000, he caused a copy of the foregoing **Notice of Filing and Proof of Service of Baum Brothers, L.L.C.'s Notice of Interlocutory Appeal and Baum Brothers, L.L.C.'s Second Amended Notice of Interlocutory Appeal**, to be served via messenger upon:

**TO: Gene Moskowitz
Wolf, Moskowitz and Holland
205 W. Wacker Drive
Suite 1600
Chicago, Illinois 60606**



Everett J. Cygal

Property of Cook County Clerk's Office