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Eugene "Gene" Moore Fee: \$32.00
Cook County Recorder of Deeds
Date: 06/27/2003 03:03 PM Pg: 1 of 5

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

ASUQUO ESANG,)
)
Plaintiff,)
)
v.)
)
GOLDEN FEATHER REALTY SERVICES;)
JAN PRUSINOWSKI; and JOHN DOE,)
)
Defendants.)

Recorder's Stamp
No. 01 C 5537

NOTICE OF TERMINATION OF LIS PENDENS

- **Property Description:** Lot 43 in Block 9 in the Subdivision made by the Calumet and Chicago Canal and Dock Company of part of Section 5 and 6 Township 37 North, Range 15 East of the Third Principal Meridian, in Cook County, Illinois.
- **Permanent Index No.:** 296-26-06-004-0000.

On May 30, 2003, judgment was entered in favor of Defendants Golden Feather Realty Services, Inc. and Jan Prusinowski (collectively "Defendants") and against Plaintiff Esang. Attached is a certified copy of the Court's final judgment in favor of Defendants. As a result, the lis pendens placed on 8709 South Commercial, Chicago, Illinois, (the "Property") has been terminated.

A lis pendens was placed on the Property by Asuquo Esang on or about July 10, 2001, while the litigation was still pending in the Circuit Court of Cook County under case number 01 CH 10000. The pin number of such lis pendens is: 296-26-06-203-004-0000. The United States Department of Housing and Urban Development ("HUD") removed this case to the Northern District of Illinois in July, 2001. The current case number is 01 C 5537.

On November 25, 2002, the Court dismissed Mr. Esang's case against HUD in its entirety. And on May 30, 2003, the Court entered an Order granting Summary Judgment in favor of Defendants and thereby dismissed the remaining counts of Plaintiff Esang's Amended Complaint.

Box 6

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Under Illinois law, a notice of lis pendens terminates upon entry of the final judgment. *See Duncan v. Farm Credit Bank of St. Louis*, 940 F.2d. 1099, 1011 (7th Cir. 1991). Upon a final judgment a party must seek, and be granted, a stay of judgment pending appeal to protect its interest in the underlying property. *Id.* But on June 16, 2003, the Court denied Plaintiff Esang's Motion to Stay. As such, the lis pendens that Mr. Esang placed on the Property has been terminated.

Respectfully submitted,

GOLDEN FEATHER REALTY SERVICES, INC.
and JAN PRUSINOWSKI

By: Andrea R. Harmon
Attorney for Defendants

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CERTIFIED COPY (Rev. 7/98)

*United States District Court
Northern District of Illinois
Eastern Division*

I, Michael W. Dobbins, Clerk of the United States District Court for the Northern District of Illinois, do hereby attest and certify that the annexed document(s) is(are) a full, true, and correct copy of the original(s) on file in my office and in my legal custody.

IN TESTIMONY WHEREOF: I have hereunto
subscribed my name and affixed the seal of the
foresaid court at Chicago, Illinois, on **JUN 16 2003**

MICHAEL W. DOBBINS, CLERK

By: 

Deputy Clerk

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Property of Cook County Clerk's Office

Minute Order Form (06/97)

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United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Matthew F. Kennelly	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	01 C 5537	DATE	5/30/2003
CASE TITLE	Esang vs. HUD		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) Filed motion of [use listing in "Motion" box above.]
- (2) Brief in support of motion due _____.
- (3) Answer brief to motion due _____. Reply to answer brief due _____.
- (4) Ruling/Hearing on _____ set for _____ at _____.
- (5) Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) Trial[set for/re-set for] on _____ at _____.
- (8) [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 - FRCP4(m) Local Rule 41.1 FRCP41(a)(1) FRCP41(a)(2).
- (10) [Other docket entry] For the reasons stated on the reverse side of this order, the Court grants defendants' motion for summary judgment [74-1]. Plaintiff's motion to vacate sale cancellation, award property, and amend correction [50-1, 50-2, 50-3], his motion to correct the record and to quash [84-1, 84-2], and his motion to correct [89-1], are denied. The Clerk is directed to enter judgment in favor of defendants. The Court also grants defendants' request for attorney's fees pursuant to 42 U.S.C. §1988. The Court waives compliance with Local Rule 54.3. Defendants are directed to file a properly-supported fee petition on or before 6/16/03. Plaintiff is directed to respond on or before 6/30/03. Defendant is directed to reply on or before 7/7/03. Ruling by mail.
- (11) [For further detail see order on the reverse side of the original minute order.]

<input type="checkbox"/> No notices required, advised in open court.				Document Number
<input type="checkbox"/> No notices required.		number of notices		
<input type="checkbox"/> Notices mailed by judge's staff.		5-30-03 date docketed		
<input type="checkbox"/> Notified counsel by telephone.		[Signature] docketing deputy initials		92
<input checked="" type="checkbox"/> Docketing to mail notices.		date mailed notice		
<input checked="" type="checkbox"/> Mail AO 450 form.				
<input type="checkbox"/> Copy to judge/magistrate judge.				
OK	courtroom deputy's initials			
	Date/time received in central Clerk's Office			
		mailing deputy initials		

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(Reserved for use by the Court)

ORDER

In early 2001, plaintiff Asuquo Esang attempted to purchase a home on the south side of Chicago. The home was owned by the United States Department of Housing and Urban Development, which had foreclosed on a mortgage that it held on the property. HUD sold the property through Golden Feather Realty Services, a private contractor acting as HUD's agent. Esang bid on the home, was awarded the bid, and had 48 hours to submit a contract package to Golden Feather. After various corrections in his documentation were requested and made, a purchase contract was approved by Golden Feather on April 5, 2001. The closing was set to occur on or before May 20, 2001. Esang was unable to close within this period and sought an extension. Golden Feather extended the date to June 5, 2001. Esang sought a second extension, but Golden Feather concluded that his request did not have the necessary supporting documentation, so it denied the request. Esang's earnest money was forfeited.

Though he had never met with anyone from Golden Feather, Esang claims that Golden Feather and one of its employees discriminated against him based on his race, ethnicity, and national origin, in violation of 42 U.S.C. §§1981 & 2000d. The defendants have moved for summary judgment. Pursuant to Local Rule 56.2, Esang was advised what was required of him in order to respond to defendants' motion.

Though the Court previously held that the allegation in Esang's amended complaint that he was discriminated against was sufficient to state a claim, at the summary judgment stage a plaintiff may not simply rely on the complaint's allegations; rather he must produce evidence in response to a properly-supported summary judgment motion like the one defendants filed. See, e.g., *Sparins v. Village of Olympia Fields*, 266 F.3d 684, 692 (7th Cir. 2001). If he does not do so, summary judgment is proper. Esang has offered no evidence of discrimination; indeed he has offered no evidence that anyone from Golden Feather was even aware of his race, national origin, or ethnicity. He cites to various claimed irregularities in the contracting process, but none of these are suggestive of race or national origin discrimination (particularly in view of the fact that there is no evidence that defendants knew his race, ethnicity, or national origin). For these reasons, defendants' motion for summary judgment is granted.

Esang has filed a flurry of motions of his own, all of which touch in one way or another on the perceived irregularities in the contracting process. To the extent that these motions suggest that he is entitled to specific performance of the real estate contract, he made no breach of contract claim against Golden Feather in his amended complaint, and even if he had done so, he cannot maintain such a claim against Golden Feather, which served simply as HUD's agent. See, e.g., *Gateway Erectors Div. of Imoco-Gateway Corp. v. Lutheran Gen. Hosp.*, 430 N.E.2d 20, 22-23 (1981) (an agent for a disclosed principal is not liable for non-performance of a contract). Esang's motions are therefore denied.

Defendants also seek an award of attorney's fees under 42 U.S.C. §1988 for moving to defend against a baseless lawsuit. Such awards are rare, and can be made only if the action was frivolous, unreasonable, or groundless, or the plaintiff continued to litigate after it clearly became so. *Hughes v. Rowe*, 449 U.S. 5, 15 (1980). Though this Court has never before assessed attorney's fees against a losing plaintiff in a civil rights case, it is appropriate to do so in this case. Esang knew what he had to show in order to support his claims – evidence of discrimination based on race or national origin – and he made no effort to do so. It is clear that he never had any basis other than surmise and speculation to allege that defendants had discriminated against him. Discrimination based on race and national origin is, unfortunately, still common in this country, but that does not mean that every person of a minority race or a foreign national origin who loses out on a business deal was the victim of discrimination. If Esang had simply pursued a breach of contract suit, it would have been without merit but not frivolous or groundless. But that is not what he did. Rather he made a specific accusation of discrimination which he could not support. In sum, Esang filed and maintained a frivolous and groundless lawsuit, and it is therefore appropriate for him to be required to pay Golden Feather and Prusinowski's attorney's fees for defending against his §1981 claim.