

No. 121995

**IN THE
SUPREME COURT OF ILLINOIS**

THE BANK OF NY MELLON F/K/A THE BANK
OF NEW YORK AS TRUSTEE FOR THE
CERTIFICATE HOLDERS OF CWALT, INC.
ALTERNATIVE LOAN TRUST 2006-2CB
MORTGAGE PASS-THROUGH CERTIFICATES,
SERIES 2006-2CB,

PLAINTIFF-APPELLEE,

VS.

MARK E. LASKOWSKI A/K/A MARK EDWARD
LASKOWSKI; THE BANK OF COMMERCE;
PACIFIC REALTY GROUP, LLC; UNKNOWN
OWNERS AND NON-RECORD CLAIMANTS,

DEFENDANTS.

PACIFIC REALTY GROUP, LLC,

DEFENDANT-APPELLANT

Appeal from the Appellate Court of Illinois,
Third Judicial District

Appeal No. 3-14-0566

There Heard on Appeal From The Circuit
Court Of The 12th Judicial Circuit,
Will County, Illinois
Circuit Court No. 10-CH-3572

The Honorable Thomas A. Thanas,
Judge Presiding

**REPLY BRIEF OF DEFENDANT-APPELLANT PACIFIC REALTY GROUP,
LLC**

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ARGUMENT

Plaintiff argued in its response brief that Defendant failed to acknowledge that section 1-50(d) of the LLC Act allows service upon a limited liability company "in any manner now or hereafter permitted by law." 805 ILCS 180/1-50(d). Pl.'s Brief, Page 11. However, Pacific Realty maintains that because it was a foreign limited liability company and it did not appoint or maintain a registered agent within the State, the only available means to serve Defendant was by serving the Secretary of State.

In *Isfan Construction Inc. v. Longwood Towers, LLC*, 2016 IL App (1st) 143211, Longwood Towers, the LLC, was registered with the Illinois Secretary of State, but it had been dissolved for more than a year when the plaintiff commenced the 2006 lawsuit. *Longwood Towers, LLC*, 2016 IL App (1st) 143211, ¶ 39. On appeal, the defendants argued that service of the complaint on Longwood's former registered agent was ineffective to vest the court with jurisdiction over Longwood. Specifically, the defendants argued that service on a defunct company must be made through the Secretary of State pursuant to the LLC Act. *Id.* ¶ 35, 36.

The First District Appellate Court explained that service on a limited liability company is governed by section 1-50 of the LLC Act. *Id.* ¶ 38. The court reasoned that "when any of the conditions of subsection (b) are present, a plaintiff is required to serve process upon the Secretary of State, and it must also serve copies at the company's last registered office as well as the address that the Plaintiff believes is most likely to result in actual notice." *Id.* Under subsection (b), one of the conditions for serving process upon the Secretary of State is when the limited liability company shall fail to appoint or

maintain a registered agent in the State, as was present in this case when the Plaintiff served Pacific Realty by publication.

Here, similar to *Longwood Towers*, it is undisputed that the Plaintiff did not serve or attempt to serve the Secretary of State with the summons and complaint for the underlying foreclosure case. *See id.* Instead, Plaintiff served Defendant by publication, which is contrary to the plain language of the LLC Act, which provides that “any process, notice, or demand required or permitted by law to be served upon either a limited liability company *or foreign limited liability company* shall be served either upon the registered agent appointed by the limited liability company or upon the Secretary of State as provided in this Section.” (Emphasis added) 805 ILCS 180/1-50 (a). Moreover, because Defendant did not appoint or maintain a registered agent in the State, the Secretary of State was irrevocably appointed as the agent for Defendant. Accordingly, the court did not acquire jurisdiction over Defendant as the Plaintiff failed to serve Defendant as mandated by the LLC Act.

Respectfully Submitted,

By: /s/C. Sherieves

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CERTIFICATE OF COMPLIANCE

I, the undersigned attorney, certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(c) Certificate of Compliance and the certificate of service is two (2) pages.

/s/ C. Sherieves
Carla Sherieves

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NOTICE OF FILING AND CERTIFICATE OF SERVICE

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PLEASE TAKE NOTICE that on September 29, 2017, I electronically filed
Defendant/Appellant's Reply Brief On Appeal, with the Clerk of The Illinois Supreme
Court. A true and correct copy of the same is hereby served upon you.

Respectfully Submitted,
By: /s/C. Sherieves
Carla Sherieves

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CERTIFICATE OF SERVICE

I, the undersigned attorney, certify that on October 2, 2017, I served this notice and true and correct copy of Defendant-Appellant's Reply Brief on Appeal by E-Mailing a copy to each person to whom it is directed at the e-mail address listed above.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

By: /s/C. Sherieves

Carla Sherieves