

No. 121995

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**IN THE  
SUPREME COURT OF ILLINOIS**

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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

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

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### **NATURE OF THE CASE**

This case involves the issue of whether the Defendant timely filed its motion to quash service of process where the motion was filed forty-nine days after the court vacated an earlier order that had dismissed the case for want of prosecution. Also at issue is whether the Plaintiff properly served the Defendant, a foreign limited liability company, by publication.

On April 13, 2013, Defendant filed its appearance. However, on that same day, the trial court, on its own motion, dismissed the case for want of prosecution. On May 30, 2013, the court granted Plaintiff's motion and vacated the dismissal for want of prosecution. Forty-nine days later, Defendant filed a motion to quash service of process, which it later amended.

The circuit court denied Defendant's amended motion to quash finding that Defendant had filed its motion beyond the 60 days as required by section 15-1505.6 of the Illinois Mortgage Foreclosure Law and that service by publication on Defendant was otherwise proper as Plaintiff had complied with the Mortgage Foreclosure Law.

The Appellate Court affirmed finding that the statute did not provide an exception that tolls the 60-day time period for filing a motion to quash while a DWP is in effect. Accordingly, the appellate court did not reach the second issue of whether Defendant was properly served by publication. The case was not tried by a jury. It does not raise a question on the pleadings.

**ISSUES PRESENTED FOR REVIEW**

1. Whether the Defendant timely filed its motion to quash service of process where the motion was filed forty-nine days after the court vacated an earlier order that dismissed the case for want of prosecution.
2. Whether the Defendant was properly served by publication as mandated by the Illinois Limited Liability Company Act.

**JURISDICTION**

The Appellate Court had jurisdiction over Defendant's appeal under Supreme Court Rules 301 and 303. On January 31, 2017, the Appellate Court issued its decision. (A.73) On March 7, 2017, Defendant filed a timely Petition for Leave to Appeal under Rule 315, which this court granted on May 24, 2017. (A.79) This Court has jurisdiction pursuant to Supreme Court Rule 315 (eff. Mar. 15, 2016).

## STATEMENT OF FACTS

On June 11, 2010, the Plaintiff, The Bank Of New York 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 (Bank of New York Mellon), filed a foreclosure complaint against Pacific Realty Group, LLC, among others.<sup>1</sup> R. C2. On that same day, a summons was issued indicating that Pacific Realty was to be served by publication "pursuant to 735 ILCS 5/2-205.1 and Business Corporation Law." R. C35-39. On July 1, 2010, Plaintiff filed an affidavit for service by publication. R. C40. The Plaintiff's attorney stated in the affidavit that upon diligent inquiry, Pacific Realty could not be found so that service could not be had upon it. *Id.* Plaintiff also filed an affidavit of due and diligence search in which Daniel Walton of ProVest LLC averred that the last known address for Defendant was "Unknown." According to the affidavit, Walton performed a directory assistance search, which did not produce a telephone number for the Defendant in Will County, Illinois. Finally, Walton averred in his affidavit that the Secretary of State showed no listing for Defendant and that no attempt was made to serve Defendant at an addresses because none was located. R. C.46-47.

Thereafter, Plaintiff published the notice of foreclosure. Pacific Realty did not appear or file a responsive pleading to the complaint. On July 5, 2012, the court entered an order of default against Defendant. R. C126.

On April 12, 2013, Plaintiff filed a motion for an Order Approving Report of Sale and Distribution. R. C297. Plaintiff's motion was noticed up for April 18, 2013. R. C295.

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<sup>1</sup> The complaint named other Defendants who are not parties to this appeal.

On April 18, 2013, Pacific Realty filed its appearance and its attorney appeared in court. R. C312. On that same day, the circuit court, on its own motion, dismissed the case for want of prosecution because Plaintiff's attorney was not present in court. R. C314.

On May 22, 2013, Plaintiff filed a motion to vacate the dismissal for want of prosecution. R. C317. On May 30, 2013, the court granted Plaintiff's motion and vacated the dismissal for want of prosecution. R. C318. The order also stated that the dismissal was entered in error and that Defendant was granted leave to file its appearance. R. C318.

On July 18, 2013, forty-nine days after the court vacated the dismissal for want of prosecution, Defendant filed a motion to quash service of process. R. C340. On September 26, 2013, the court denied Defendant's motion to quash without prejudice and granted Defendant 28 days to file an amended motion to quash. R. C375.

On October 23, 2013, Pacific Realty filed its amended motion to quash. R. C377. Pacific Realty alleged in its amended motion to quash that it was a foreign limited liability company registered in New Mexico, that it did not have a registered agent in Illinois and, therefore, the Plaintiff should have directed its process server to serve the Secretary of State. Pacific Realty, therefore, argued that service by publication was improper because the service did not comply with the requirements of the Limited Liability Company Act (805 ILCS 180/1-50 (West 2010)). R. C377-82.

On April 7, 2014, Plaintiff filed a response to Defendant's motion to quash. R. C507 Plaintiff argued that the court should deny Defendant's motion to quash because Defendant did not file its initial petition to quash within sixty days of its appearance and also because Plaintiff properly served Defendant by publication. Specifically, Plaintiff

argued that the Limited Liability Company Act has a catch-all phrase, which provides that "noting herein contained shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a limited liability company in any other manner now or hereafter permitted by law." 805 ILCS 180/1-50(d). The Plaintiff therefore argued that it was proper for the Defendant to be served by publication as provided for under section 2-206 of the Code of Civil Procedure. R. C509

On May 1, 2014, Defendant filed its reply to Plaintiff's response to its motion to quash. Defendant argued in its reply brief that its motion to quash was timely filed because it was filed within sixty days of the court's May 30, 2013 order that vacated the dismissal for want of prosecution. Defendant argued that it could not have filed its motion to quash while the case was closed as there was no active case within which to file a motion to quash. (R. C.534) Defendant also argued that it was not properly served by publication because it did not have a registered agent in the State and therefore the Plaintiff was required to serve the Illinois Secretary of State. Defendant also argued that even if the Plaintiff could have served Defendant by publication, such service would still be ineffective because Plaintiff failed to exercise due diligence in locating Defendant. R. C.535-37

On May 15, 2014, the court denied Defendant's motion to quash finding that: (1) Defendant had filed its motion beyond the 60 days as required by section 15-1505.6 of the Mortgage Foreclosure Law and (2) Plaintiff complied with the Illinois Mortgage Foreclosure Law in serving Defendant, who was not an Illinois limited liability company and therefore service by publication was permitted. R. C542. On June 19, 2014, the court approved the report of sale and distribution. R. C564. On July 18, 2014, Defendant filed a



timely notice of appeal. R. C567. The issues on appeal were (1) whether defendant's motion to quash was timely filed, and (2) whether the Defendant was properly served by publication.

On January 31, 2017, the Appellate Court issued an opinion with one Justice dissenting. The Appellate court held that the "statute did not provide an exception that tolls the 60-day time period when a DWP is in effect, and we cannot read such an exception into the plain language of the statute." *Bank of N.Y. Mellon v. Laskowski*, 2017 IL App (3d) 140566, ¶ 16 (A.73) The court therefore held that Defendant's motion was untimely filed. Accordingly, the court did not reach the second issue of whether Defendant was properly served by publication.

Justice Holdridge dissented. In his dissenting opinion, the Judge reasoned that "both the plain terms of the statute and fundamental principles of fairness and common sense suggest that this deadline should run only where there exists a *pending action*. In this case, defendant Pacific filed its initial appearance on April 18, 2013. On that same day, however, the trial court dismissed the case for want of prosecution because the plaintiff Bank failed to appear. The case was reinstated on May 30, 2013, and Pacific filed its motion to quash service of process fewer than 60 days later. Thus, in my view, Pacific's motion to quash was timely under section 15-1505.6(a)." *Laskowski*, 2017 IL App (3d) 140566, ¶ 22.

## ARGUMENT

### I. STANDARD OF REVIEW

This case involves a review of the appellate court's application of section 15-1505.6(a) of the Mortgage Foreclosure Law. Such a determination involves an issue of statutory interpretation, which is a question of law that is subject to *de novo* review. *Krautsack v. Anderson*, 223 Ill. 2d 541, 552-53, 861 N.E.2d 633, 643 (2006).

Additionally, the issue of whether the circuit court obtained personal jurisdiction over Defendant is purely a legal question and the standard of review on appeal is *de novo*. *National City Bank v. Majerczyk*, 2011 IL App (1st) 110640, ¶ 2.

### II. DEFENDANT'S MOTION TO QUASH WAS TIMELY AS IT WAS FILED WITHIN THE SIXTY DAYS AS MANDATED BY SECTION 15-1506 OF THE MORTGAGE FORECLOSURE LAW

The threshold issue here is whether Defendant timely filed its motion to quash service of process where the motion was filed forty-nine days after the court vacated an earlier order that had dismissed the case for want of prosecution. The circuit court and the appellate court held that Defendant's motion to quash was untimely because the motion was filed more than sixty days after Defendant filed its initial appearance on April 18, 2013. The circuit court and the appellate court erroneously counted the period of time that had elapsed between the time that the case was dismissed for want of prosecution and the date the case was reinstated.

The Illinois Mortgage Foreclosure Law provides certain time restrictions within which a defendant in a mortgage foreclosure action must bring a motion challenging service of process. Section 15-1505.6(a) of the Mortgage Foreclosure Law provides that:

"In any residential foreclosure action, the deadline for filing a motion to dismiss the entire proceeding or to quash service of process that objects to the court's jurisdiction over the person, unless extended by the court for good cause shown, is 60 days after the earlier of these events: (i) the date that the moving party filed an appearance; or (ii) the date that the moving party participated in a hearing without filing an appearance."

735 ILCS 5/15-1505.6(a)(West 2012).

In *BAC Home Loans Servicing, LP v. Pieczonka*, 2015 IL App. (1st) 133128, the Appellate court found that defendant's motion to quash was untimely because it was filed 82 days after defendant filed his initial appearance and the record showed that defendant did not seek or obtain an extension of that time frame for good cause shown, as would be allowed pursuant to the statute. *BAC Home Loans Servicing, LP v. Pieczonka*, 2015 IL App (1st) 133128, ¶ 12.

However, this case presents a unique scenario because on the same day that Defendant filed its appearance the case was dismissed for want of prosecution. Therefore, until the case was reinstated, there was no active case within which Defendant could have filed a motion to quash. In *Flores v. Dugan*, this Court held that dismissing the cause for want of prosecution is not a final order since the plaintiff had an absolute right to re-file the action against the same party or parties and to re-allege the same causes of action. *Flores v. Dugan*, 91 Ill. 2d 108, 112 (1982). Moreover, in *Storcz v. O'Donnell*, the court held that once the dismissal for want of prosecution was vacated, the posture of the case reverted to its status when the dismissal for want of prosecution was entered. *Storcz v. O'Donnell*, 256 Ill. App. 3d 1064, 1068 (1993).

In applying the holding of *Storcz*, once the dismissal for want of prosecution was vacated on May 30, 2013, the posture of the case reverted to its status on April 18, 2013 when the dismissal for want of prosecution was entered. *Storcz*, 256 Ill. App. 3d at 1068. Therefore, on May 30, 2013, the case would have reverted to the status of the case on April 13, 2013, the day Defendant filed its appearance. Accordingly, Defendant had 60 days from May 30, 2013, until July 30, 2013 to file a motion to quash.

Based on the above reasoning, Defendant's motion to quash was timely filed on July 18, 2013, which was 49 days from May 30, 2013 and well within the 60 days set forth in section 15-1505.6(a).

Additionally, as noted by Justice Holdridge in his dissent, in *Case v. Galesburg Cottage Hospital*, 227 Ill. 2d 207 (2007), this Court reached a similar conclusion while applying Rule 103(b) and section 13-217 of the Code of Civil Procedure. In *Case*, this Court held that "the time that elapses between the dismissal of a plaintiff's complaint and its refile pursuant to section 13-217 is not to be considered by a court when ruling on a motion to dismiss for violation of Rule 103(b)." *Case*, 227 Ill. 2d at 222.

This Court reasoned that "[t]he requirement of a pending action against which to measure diligence is rooted in simple logic. If an action is dismissed, and not pending, there is no reason to serve a defendant with process. As such, there is nothing to delay, and nothing to be diligent about." *Id.* at 217. In *Case*, this Court also discussed cases where the complaint was dismissed for want of prosecution (*Aranda v. Hobart Manufacturing Corp.*, 66 Ill. 2d 616 (1977); *Muskat v. Sternberg*, 122 Ill. 2d 41 (1988)). The Court reached the same conclusion in those cases on the issue of whether a plaintiff exercised reasonable diligent in obtaining service.

The same reasoning should apply here as reasoned by Justice Holdridge and in reliance on the *Case* decision. While the foreclosure action at issue here was dismissed, and not pending, there was no reason for Pacific Realty to contest service (and no way for it to do so). Thus, the 60-day deadline for contesting service could not have applied during that period. When the case was reinstated on May 30, 2013, the 60-day deadline for challenging service began to run from that date forward.

Moreover, as observed by the dissent, in determining whether Defendant's motion to quash was timely under section 15-1505.6, the time that passed between the Defendant's initial appearance and the dismissal of the action should be counted in addition to the time that passed after the case was reinstated. In *Muskat* this Court held, in relying on *Aranda*, that a court in passing on a motion to challenge the plaintiff's diligence in obtaining service may consider the overall lapse of time between the filing of the first complaint and the ultimate service of summons in the second case. *Muskat*, 122 Ill. 2d at 45. The Court in *Case* explained further that "the 'overall span of time' was meant to alert the circuit court that it must not focus solely on the time after refiling when making its determination \*\*\* but should also include the time prior to dismissal." *Case*, 227 Ill. 2d at 219 (citing *Muskat*, 122 Ill. 2d at 49). Thus, the court noted that the overall span of time refers to the sum total of days before a dismissal and after a refiling, but not the time that passes in between, when no action is pending. *Case*, 227 Ill. 2d at 219.

Therefore, applying the reasoning from *Case* and *Muskat* to the facts of this case, the court should have counted (1) the number of days that passed between April 18, 2013 when Defendant filed its initial appearance and the date that the case was dismissed for want of prosecution and (2) the number of days that elapsed from the day the case was

reinstated to the date Defendant filed its motion to quash. Here, the case was dismissed for want of prosecution on April 18, 2013, the same day Defendant filed its motion to quash. Therefore, the only time that the court should have considered was the time that passed from the day the case was reinstated on May 30, 2016 to July 18, 2016, when Defendant filed its motion to quash. Thus, the Appellate court erred when it considered the time that passed in between the dismissal for want of prosecution and time the case was reinstated because at that time there was no pending action. See *Case*, 227 Ill. 2d at 219.

Finally, even though the court stated in its May 30, 2013 order that the April 18, 2013 order dismissing the case for want of prosecution was entered in error, that should have no bearing on deciding whether Defendant filed a timely motion to quash. At the time of the dismissal for want of prosecution, Defendant had no way of knowing that the circuit court would later decide that its order was entered in error.

### **III. THE LIMITED LIABILITY COMPANY ACT DOES NOT ALLOW SERVICE BY PUBLICATION ON A FOREIGN LIMITED LIABILITY COMPANY**

Defendant argued in the circuit court and on appeal that because it is a foreign limited liability company and it did not have a registered agent within the State, the Plaintiff was required to serve the Secretary of State as the agent for Defendant in the manner prescribed by Illinois Law.

Service of summons on a limited liability company is governed by section 1-50 of the Illinois Limited Liability Company Act ("LLC Act"). 805 ILCS 180/1-50. Section 1-50(a) of the LLC Act 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). Additionally, section 1-50(b)(1) provides that "the Secretary of State shall be irrevocably appointed as a agent of a limited liability company upon whom any process, notice or demand may be served \*\*\* whenever the limited liability company shall fail to appoint or maintain a registered agent in this State." 805 ILCS 180/1-50(b)(1).

Thus, there are two ways in which a limited liability company can be served: (1) either by serving the appointed registered agent for the limited liability company or (2) by serving the Secretary of State where any one of the five enumerated circumstances under section 1-50(b) applies. 805 ILCS 180/1-50(a), (b).

Here, the LLC Act is clear and unambiguous. As such, the law is well settled that if a statute's commands are expressed in plain and unambiguous language, the courts are to effectuate those commands without searching elsewhere for legislative intent. *Fitzsimmons v. Norgle* 104 Ill. 2d 369, 373 (1984). Courts have declined to search beyond the plain and unambiguous language of a statute, recognizing that "[t]here is no rule of construction which authorizes a court to declare that the legislature did not mean what the plain language of the statute imports" *People ex rel. Scott v. Schwultst Blg. Center*, 89 Ill. 2d 365,371, quoting *Western National Bank v. Village of Kildeer*, 19 Ill. 2d 342, 350 (1960)."Where the language of the act is certain and unambiguous the only legitimate function of the courts is to enforce the law as enacted by the legislature. It is never proper for a court to depart from plain language by reading into a statute exceptions, limitations or conditions which conflict with clearly expressed legislative

intent. " *Certain Taxpayers v. Sheahen*, 45 Ill. 2d 75,84. *Gillespie Cmty. Unit Sch. Dist. No. 7 v. Wight & Co.*, 2014 IL 115330, ¶ 31.

Here, Defendant is a foreign limited liability company and it did not appoint or maintain a registered agent within Illinois. Therefore, pursuant to the plain language of Section 1-50 of the Limited Liability Company Act, Plaintiff was required to serve the summons and complaint on the Illinois Secretary of State. In this case, the Plaintiff did not serve the Illinois Secretary of State. Instead, Plaintiff attempted to serve the Defendant by publication.

Notwithstanding the above, Plaintiff argued that service by publication on Defendant was proper. Plaintiff cited to the rules for serving private corporations (735 ILCS 5/2-204)) and voluntary unincorporated associations (735 ILCS 5/2-205.1). Additionally, Plaintiff cited to section 1-50(d) of the LLC Act which provides that "Nothing herein contained shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a limited liability company in any other manner now or hereafter permitted by law." 805 ILCS 180/1-50(d).

First, it should be noted that sections 2-204 and 2-205.1 of the Code specifically allow for service by publication on a private corporation and a voluntary unincorporated association but those sections of the Code do not specifically require service on the Secretary of State. To the contrary, the Limited Liability Company Act does not provide for service by publication. Instead, section 1-50 specifically provides for service on the Secretary of State if, as here, the limited liability company fails to appoint or maintain a registered agent within the State. Therefore, Plaintiff's argument that the court should



follow sections 2-204 and 2-205.1 is misplaced because Illinois has a specific statute for serving process on limited liability companies.

Next, Plaintiff argues that the catch-all provision within section 1-50(b) of the LLC Act should be read in conjunction with section 2-206 of the Code of Civil Procedure, which provides for service of process by publication. While the general provision in section 2-206 of the Code of Civil Procedure allows for service by publication, the more specific provision governing service on LLCs under section 1-50 of the LLC Act requires service on the Secretary of State when the registered agent of the LLC cannot be served. See *People v. Latona*, 184 Ill. 2d 260, 269-70 (1998) (holding that the fundamental rules of statutory construction requires that the specific controls over the general). If the Plaintiff's process server was unable to serve the registered agent for the LLC, the only other option under the statute was to serve the Secretary of State. 805 ILCS 180/1-50.

Accordingly, Plaintiff's assertion that a limited liability company may be served by all methods of service of process authorized by law is misplaced because no efforts were made to serve the Secretary of State who is irrevocably appointed as agent for a limited liability company that does not maintain a registered agent within the State. 805 ILCS 180/1-50. Moreover, even assuming that Plaintiff could have served the Defendant by publication pursuant to section 2-206 of the Illinois Code of Civil Procedure, Plaintiff's affidavit for service by publication fail to establish that Plaintiff exercised due diligence and due inquiry in ascertaining Defendant's whereabouts prior to service by publication. The statutory prerequisites for service by publication, including due diligence and due inquiry, must be strictly complied with in order for a court to obtain

jurisdiction over a defendant. *Bank of New York v. Unknown Heirs & Legatees*, 369 Ill. App. 3d 472, 475-76 (2006). "Our courts have determined that these statutory prerequisites are not intended as *pro forma* or useless phrases requiring mere perfunctory performance but, on the contrary, require an honest and well-directed effort to ascertain the whereabouts of a defendant by inquiry as full as circumstances permit." *Id.* at 476.

In order for the plaintiff to properly execute an affidavit in support of its motion for service by publication, it must conduct *both* diligent inquiry in ascertaining the defendant's residence *and* due inquiry in ascertaining the defendant's whereabouts. *Citimortgage, Inc. v. Cotton*, 2012 IL App (1st) 102438, ¶ 27.

Here, the affidavit for service by publication shows that Plaintiff did not conduct due inquiry to ascertain Defendant's whereabouts. The only actions taken by Plaintiff to ascertain Defendant's whereabouts was a directory assistance search within Will County and a search at the Illinois Secretary of State. Therefore, Plaintiff failed to conduct due inquiry to ascertain Defendant's whereabouts in order to justify service by publication. Plaintiff's efforts were casual, routine and spiritless and did not justify service by publication. See *Am. Chtd. Bank v. USMDS, Inc.*, 2013 IL App (3d) 120397, ¶ 24. Accordingly, even if service by publication was allowed by the LLC Act, Plaintiff failed to strictly comply with section 2-206 of the Code where it did not conduct an honest and well directed effort to ascertain Defendant's whereabouts by inquiry as full as circumstances permitted. *Bank of New York*, 369 Ill. App. 3d at 476.

Based on the aforementioned, the circuit court failed to acquire personal jurisdiction over Defendant and all orders entered against Defendant are void.

## CONCLUSION

The Defendant's motion to quash was filed timely as the time that elapsed between the dismissal for want of prosecution and the reinstatement of the case should not have been considered by the court when calculating the timeliness of Defendant's motion. Additionally, the Plaintiff was required to serve the Secretary of State as Defendant's agent because Defendant did not have a registered agent within the State. Plaintiff, instead, served Defendant by publication, which is not specifically provided for by the LLC Act. Accordingly, the Appellate court erred when it affirmed the circuit court's decision finding that Defendant's motion to quash was untimely and it also erred by failing to rule on the substance of Defendant's motion to quash.

Based on the aforementioned reasons, the decision of the appellate court should be reversed.

Respectfully Submitted,

Pacific Realty Group, LLC

By: /s/Carla Sherieves

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One of Its Attorneys

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# APPENDIX

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**IN THE CIRCUIT COURT FOR THE 12TH JUDICIAL CIRCUIT  
WILL COUNTY - JOLIET, ILLINOIS**

THE BANK OF NEW YORK 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; )

Case No.: 10CH3572

Plaintiff

Address:  
772 Bonnie Brae Court  
Bolingbrook, IL 60440

v.


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

Defendants.

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WILL COUNTY COURT ANNEX

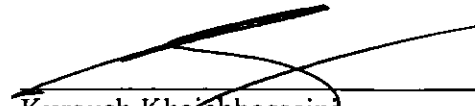
**APPEARANCE**

The undersigned, as attorney, enters the appearance of PACIFIC REALTY GROUP, LLC.

  
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I certify that a copy of the within instrument was served to all parties who have appeared.

  
Kuroush Khajehhosseini

WCCA 04192013

**A.01**

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS

BANK OF NEW YORK MELLON

Plaintiff

vs

PACIFIC REALTY GROUP, LLC et al.

Defendant

CASE NO: 10 CH 3572

COURT ORDER

THIS MATTER COMING BEFORE THE  
COURT ON PLAINTIFF'S MOTION FOR  
ENTRY OF AN ORDER APPROVING THE  
REPORT OF SALE AND AN ORDER OF  
POSSESSION, DEFENDANT PACIFIC  
REALTY GROUP LLC'S ATTORNEY  
KUROUSH KHAJEHHOSSEINI APPEARING.  
IT IS HEREBY ORDERED:

THIS MATTER IS DISMISSED FOR  
WANT OF PROSECUTION AT 1:58 P.M.

Attorney or Party, if not represented by Attorney

Name KUROUSH KHAJEHHOSSEINI

ARDC # 6307913

Firm Name CYRUS LAW GROUP

Attorney for PACIFIC REALTY GROUP LLC

Address 20 N. CLARK ST. STE 550

City & Zip CHICAGO, IL 60602

Telephone (312) 846-6477

Dated: 4-18

Entered: [Signature]

Judge

WCCA 04192013

PAMELA J. MCGUIRE, CLERK OF THE CIRCUIT COURT OF WILL COUNTY

12

09-022786

IN THE CIRCUIT COURT OF THE 12TH JUDICIAL CIRCUIT  
WILL COUNTY, JOLIET, ILLINOIS

THE BANK OF NEW YORK 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,

NO. 10 CH 3572

-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

ORDER

THIS CASE COMING TO BE heard on Motion of Plaintiff to vacate the Dismissal for  
Want of Prosecution, and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the Dismissal for Want of Prosecution entered April 18,  
2013, is hereby vacated, costs having been paid/waived, *as entered in error*

*Defendant's motion for judgment of acquittal is denied. Def is granted leave to file appearance.*

ENTERED: \_\_\_\_\_

JUDGE

5-30-13

FISHER AND SHAPIRO, LLC  
Attorney for Plaintiff  
2121 Waukegan Road, Suite 301  
Bannockburn, IL 60015  
(847) 498-9990

A.03

WCCA 05312013



IN THE CIRCUIT COURT FOR THE 12TH JUDICIAL CIRCUIT  
WILL COUNTY - JOLIET, ILLINOIS

2013 JUL 18 PM 12:20  
CIRCUIT COURT FOR THE 12TH JUDICIAL CIRCUIT  
WILL COUNTY ILLINOIS

FILED

THE BANK OF NEW YORK 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, )

Case No 10CH3572

Plaintiff

Address

v

772 Bonnie Brae Court  
Bolingbrook, IL 60440

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'S MOTION TO QUASH SERVICE**

NOW COMES the Defendant, PACIFIC REALTY GROUP, LLC, by and through its attorney, Kuroush Khajehhosseini, and as and for its Motion to Quash Pursuant to 735 ILCS 5/2-301(a) moves the court to Quash Service and states as follows

- 1 Pacific Realty Group, LLC (hereinafter "Pacific") is a named defendant in this case
- 2 Pacific Realty Group, LLC is, and has been, an active limited liability company formed on 10/22/2008 under the laws of the state of New Mexico (see New Mexico Corporations Division Search in Exhibit "A")
- 3 Pacific Realty Group, LLC was formed by Jeffrey Williams (Exhibit "A")

07/25/13 14:50:45 WCCH

- 4 Pacific Realty Group, LLC is located at 3900 Juan Tabo NE, Albuquerque, NM 87111 (see Letter to Public Regulation Commission Corporation Bureau in Exhibit "B")
- 5 Pacific Realty Group, LLC's registered agent is NM Corporate Services, LLC, located at 3900 Juan Tabo NE, Albuquerque, NM 87111 (Exhibit "B")
- 6 Pacific objects to the court's jurisdiction over its person
- 7 The Court does not have jurisdiction over its person
- 8 The Court does not have jurisdiction due to insufficiency of service of process
- 9 The Court does not have jurisdiction due to insufficiency of process
- 10 Pacific has never been served a summons or complaint in this case

**Pacific Realty Group, LLC was not served**

- 11 Daniel Walton (hereinafter "Walton") filed an Affidavit of Due and Diligent Search on Pacific (See attached as Exhibit "C" (hereinafter "Walton Affidavit"))
- 12 The Walton Affidavit states that service on Pacific was served "After diligent search and inquiry by affiant, the residence of the subject person is unknown to the affiant "
- 13 Pursuant to 805 ILCS 180/1-50, service of process on a limited liability company "shall be served either upon the registered agent "
- 14 Based on the Walton Affidavit it seems that Walton only searched for a telephone listing in Will County Illinois
- 15 There is a lack of due and diligent search to find Pacific Realty Group, LLC

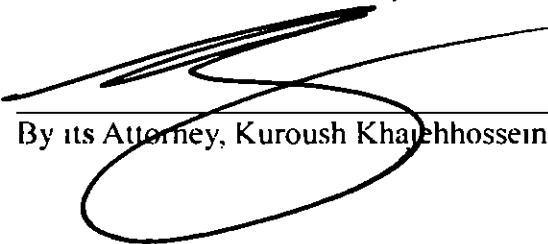
07/25/13 14:50:46 WCCH

16 Upon due and diligent search, Walton could have found that Pacific is a domestic limited liability company registered in New Mexico

**WHEREFORE, the Defendant moves this court to;**

- A Find that Daniel Walton could have found Pacific Realty Group, LLC through due and diligent search
- B Quash service on Pacific Realty Group, LLC
- C Vacate all orders in this case
- D Dismiss this case under Supreme Court Rule 103(b) for lack of diligence in service of process upon Pacific Realty Group, LLC
- E Award Pacific Realty Group, LLC its reasonable attorney's fees and costs for bringing this motion pursuant to 735 ILCS 5/15-1510
- F Award Pacific Realty Group LLC any other relief that the court deems just

Respectfully Submitted,  
PACIFIC REALTY GROUP, LLC



By its Attorney, Kuroush Khajehhosseini

Kuroush Khajehhosseini  
ARDC No 6307913  
20 N Clark St STE 550  
Chicago, Illinois 60602  
312 846 6477

10 CH 3572

CLERK CIRCUIT  
WILL COUNTY IL. CLP  
WILL COUNTY IL.

26.3 JUL 18 PM 12:20

FILED

EXHIBIT A

A.07

WCCH 07252013



# PUBLIC REGULATION COMMISSION

Corporations Division

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[Back to Search](#)

Name  
Type  
In New Mexico DBA.

PACIFIC REALTY GROUP, LLC  
Domestic Limited Liability Company

Corporations Division Contacts Phone 505 827 4508 OR Email [PRC.Corporations@state.nm.us](mailto:PRC.Corporations@state.nm.us)

## Filing Information

NMSCC 4096905  
Status Exempt  
Date of Incorporation Oct 22 2008  
State of Incorporation NM  
Fiscal Year Date  
Report Due date

## Address Information

1 MAILADDR  
12717 LOMAS BLVD NE  
ALBUQUERQUE NM 87112  
2 CORPADDR  
12717 LOMAS BLVD NE  
ALBUQUERQUE, NM 87112

## Agent Information

NM CORPORATE SERVICES, LLC  
12717 LOMAS BLVD NE,  
ALBUQUERQUE NM 87112

## Directors Information

NO RECORD(S) FOUND

## Officers Information

1 Organizer JEFFREY WILLIAMS

## Instrument History

1 Instrument  
Number 4096905  
Filing Date Oct 22 2008  
Type Certificate Of Organization  
Text PACIFIC REALTY GROUP LLC 3 PAGES PERPETUAL

[Back to Search](#)

New Mexico Public Regulation Commission Version 2.0

A.08

WCCH 07252013

## EXHIBIT B

**A.09**

**WCCH 07252013**

07/25/13 14:50:48 WCCH

**NM Corporate Services, LLC**

3900 Juan Tabo NE  
Albuquerque, NM 87111  
[nmcslc@gmail.com](mailto:nmcslc@gmail.com)

Date May 23, 2013

To

PUBLIC REGULATION COMMISSION  
CORPORATIONS BUREAU  
CHARTERED DOCUMENTS DIVISION  
PO BOX 1269  
SANTA FE, NEW MEXICO 87504-1269

Re **Pacific Realty Group, LLC NMSCC #4096905**

Dear PRC,

Please update your records to show the new address of the Registered Agent. The Registered Agent has relocated to the following address:

NM Corporate Services, LLC  
3900 Juan Tabo NE  
Albuquerque, NM 87111

Please note that they no longer use the previous address. Please remove any reference to the previous address so as not to confuse anyone.

You can email me at my address above if you have any questions.

Sincerely,

*Sharon DePriest*

Sharon DePriest  
Manager  
NM Corporate Services, LLC

**A.10**

**WCCH 07252013**

## EXHIBIT C

4

A.11

WCCH 07252013



07/25/13 14:50:50 WCCH

07/09/10 12:22:24 WCCH

IN THE CIRCUIT COURT OF  
WILL COUNTY, IL  
CASE NO 10 CH 3572

THE BANK OF NEW YORK 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, et seq  
**PLAINTIFF(S),**

VS

**Index Number:**

**MARK E LASKOWSKI A/K/A MARK EDWARD LASKOWSKI, et al**  
**DEFENDANT(S),**

**AFFIDAVIT OF DUE AND DILIGENT SEARCH****STATE OF:** Illinois**COUNTY OF:** Will

Before me, the undersigned authority, this day personally appeared, Daniel Walton, of ProVest LLC , IL Dept of  
Professional Regulations # 117-001336, who upon being first duly sworn, upon his/her oath, deposes and says

A diligent search and inquiry to discover the name and residence of the subject person was performed by the following  
acts set forth, as particularly as is known to affiant, below

After diligent search and inquiry by affiant, the residence of the subject person is unknown to the affiant

**NAME OF CORPORATION** Pacific Realty Group, LLC

**LAST KNOWN ADDRESS OF ABOVE CORPORATION:**  
UNKNOWN

**A: INQUIRY OF TELEPHONE COMPANY.****1 DIRECTORY ASSISTANCE SEARCH**

Directory assistance stated there is not a telephone listing for our subject in Illinois Will

No record found

**B: OTHER INQUIRIES:**

WCCH

07092010

**1 Status:** ...

Secretary of State shows no listing for this defendant

**A.12**

WCCH

07252013

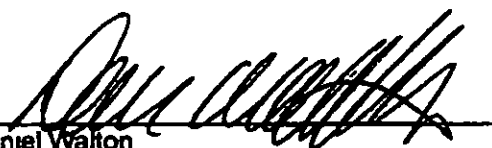
07/25/13 14:50:50 WCCH

07/09/10 12:22:25 WCCH

**C: ADDRESS(ES) ATTEMPTED BY PROCESS SERVER**

**No addresses have been located or attempted for this defendant**

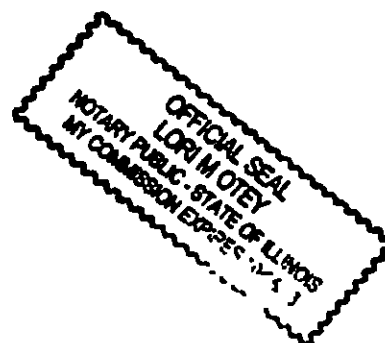
**AFFIANT**

  
Daniel Walton  
ProVest LLC  
977 N Oaklawn Avenue, Suite 203  
Elmhurst, IL 60126

**File # 09-022786 / case #2500125**

**SUBSCRIBED AND SWORN TO ME BEFORE ME THIS 16 DAY OF June, 2010 BY AFFIANT WHO IS  
PERSONALLY KNOWN TO ME**

  
NOTARY PUBLIC  
MY COMMISSION EXPIRES



**WCCH 07092010**

**A.13**

**WCCH 07252013**

STATE OF ILLINOIS )  
 )SS  
COUNTY OF WILL )

FILED

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS

AM 10:40

Bank of New York Mellon

Plaintiff

vs

Mark Laskowski et al

Defendant

CASE NO: 10 CH 3572

## COURT ORDER

This matter coming before the court on Defendant Pacific Realty Group, LLC's Motion to Quash Service, it is hereby ordered:

① Defendant's Motion is denied without prejudice.

② Defendant is granted 28 days to ~~replead~~ FILE AMENDED MOTION TO QUASH

③ PLAINTIFF'S MOTION FOR ENTRY OF AN ORDER CONFIRMING SALE IS ENTERED AND CONTINUED GENERALLY

④ THE HEARING ON PLAINTIFF'S MOTION FOR ENTRY OF AN ORDER CONFIRMING SALE OR SEPTEMBER 25, 2013 AT 1:30 P.M. IS ~~SET~~ STRICKEN

Attorney or Party, if not represented by Attorney

Name Ahmed MotiwalaARDC # 6305840Firm Name Ahmed Motiwala & AssociatesAttorney for PlaintiffAddress 2121 WaukeganCity & Zip Bannockburn, ILTelephone 847-291-1717Dated: 9-26, 20 13Entered: [Signature]  
Judge

A.14

PAMELA J. MCGUIRE, CLERK OF THE CIRCUIT COURT OF WILL COUNTY

**IN THE CIRCUIT COURT FOR THE 12TH JUDICIAL CIRCUIT  
WILL COUNTY – JOLIET, ILLINOIS**

THE BANK OF NEW YORK 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 )

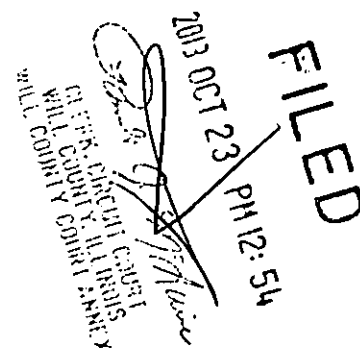
v. )

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

Defendants. )

Case No.: 10CH3572

Address:  
772 Bonnie Brae Court  
Bolingbrook, IL 60440



**PACIFIC REALTY GROUP, LLC'S AMENDED MOTION TO QUASH SERVICE  
PURSUANT TO 735 ILCS 5/2-301(a)**

NOW COMES the Defendant, PACIFIC REALTY GROUP, LLC, by and through its attorney, Kuroush Khajehhosseini, and as and for its Motion to Quash Pursuant to 735 ILCS 5/2-301(a) moves the court to Quash Service and states as follows:

1. Pacific Realty Group, LLC (hereinafter "Pacific") is a named defendant in this case.
2. Pacific Realty Group, LLC is, and has been, an active limited liability company formed on 10/22/2008 under the laws of the state of New Mexico (see New Mexico Corporations Division Search in Exhibit "A").

3. Pacific Realty Group, LLC was formed by Jeffrey Williams (Exhibit "A").
4. Pacific Realty Group, LLC is located at 3900 Juan Tabo NE, Albuquerque, NM 87111 (see Letter to Public Regulation Commission Corporation Bureau in Exhibit "B").
5. Pacific Realty Group, LLC's registered agent is NM Corporate Services, LLC, located at 3900 Juan Tabo NE, Albuquerque, NM 87111 (Exhibit "B")
6. Pacific objects to the court's jurisdiction over its person.
7. The Court does not have jurisdiction over its person.
8. The Court does not have jurisdiction due to insufficiency of service of process.
9. The Court does not have jurisdiction due to insufficiency of process.
10. Pacific has never been served a summons or complaint in this case.

**Pacific Realty Group, LLC was not served**

11. Daniel Walton (hereinafter "Walton") filed an Affidavit of Due and Diligent Search on Pacific. (See attached as Exhibit "C" (hereinafter "Walton Affidavit")).
12. The Walton Affidavit was subscribed and sworn to on June 16, 2010.
13. The Walton Affidavit states that service on Pacific was served "After diligent search and inquiry by affiant, the residence of the subject person is unknown to the affiant."
14. Based on the Walton Affidavit it seems that Walton only searched for a telephone listing in Will County Illinois.

15. However, prior to the filing of the Walton Affidavit, Plaintiff had already decided that it was going to attempt service on Pacific by publication.
16. There is a lack of due and diligent search to find Pacific Realty Group, LLC.
17. On June 11, 2010 Plaintiff filed its Summons with an attached Service List (see Exhibit "D").
18. The Service List attached to the Summons stated "Pacific Realty Group, LLC (Publication Pursuant to 735 ILCS 5/2-205.1 and Business Corporation Law)" (see Exhibit "D").
19. Pacific is a Limited Liability Company, not an "association" or a "corporation."
20. Plaintiff claims in their Service List filed on June 11, 2010 that 735 ILCS 5/2-205.1 allows for service by Publication on Pacific, however 735 ILCS 5/2-205.1 states:
- Service on voluntary unincorporated associations. A **voluntary unincorporated association** sued in its own name may be served by leaving a copy of the process with any officer of the association personally or by leaving a copy of the process at the office of the association with an agent of the association. A voluntary unincorporated association sued in its own name may also be notified by publication and mail in like manner and with like effect as individuals.
21. Furthermore, the Business Corporation Law does not apply since Pacific is a Limited Liability Company.
22. Upon due and diligent search, Walton could have found that Pacific is a foreign limited liability company registered in New Mexico.
23. Plaintiff should have however relied on 805 ILCS 180 which is the Limited Liability Company Act.
24. 805 ILCS 180/1-50 relates to the Service of Process on Limited Liability Company.

25. 805 ILCS 180/1-50(a) states:

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.**

26. Pacific does not have a registered agent in this State.

27. Therefore, the Secretary of State had to be served pursuant to 805 ILCS 180/1-50(b), which states that "The Secretary of State shall be irrevocably appointed as an agent of a limited liability company upon whom any process, notice, or demand may be serviced under any of the following circumstances:..."

28. 805 ILCS 180/1-50(b)(1) states that the Secretary of State shall be served "**whenever the limited liability company shall fail to appoint or maintain a registered agent in this State**" (emphasis added).

29. 805 ILCS 180/1-50(c) provides the details for Service under 805 ILCS 180/1-50(b) shall be made by the person instituting the action by doing all of the following:

(c) Service under subsection (b) shall be made by the person instituting the action by doing all of the following:

(1) Serving on the Secretary of State, or on any employee having responsibility for administering this Act, a copy of the process, notice, or demand, together with any papers required by law to be delivered in connection with service and paying the fee prescribed by Article 50 of this Act.

(2) Transmitting notice of the service on the Secretary of State and a copy of the process, notice, or demand and accompanying papers to the limited liability company being served, by registered or certified mail:

(A) at the last registered office of the limited liability company shown by the records on file in the Office of the Secretary of State; and

(B) **at the address the use of which the person instituting the action, suit, or proceeding knows or, on the basis of reasonable inquiry, has reason to believe, is most likely to result in**

**actual notice.**

(3) Attaching an affidavit of compliance with this Section, in substantially the form that the Secretary of State may by rule or regulation prescribe, to the process, notice, or demand.

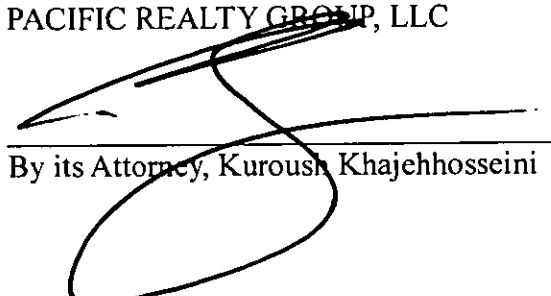
30. Plaintiff did not comply with 805 ILCS 180/1-50(c)(2)(B), because they did not make a reasonable inquiry into the address where Pacific could be found.
31. Pacific could have been found if Plaintiff looked at Memorandum and Affidavit of Equitable Interest on the premises at 772 Bonnie Brae Court, Bolingbrook, IL 60439 (hereinafter "the Premises"), which is recorded with the Will County Recorder with document number R2008142827 (attached as Exhibit "E").
32. The Memorandum and Affidavit of Equitable Interest for the Premises stated that "A copy of the Agreement verifying the equitable interest of the undersigned may be obtained by sending a request to Mark Laskowski whose mailing address is 5N758 Rochefort Lane, Wayne, IL 60184" (see Exhibit "E").
33. Plaintiff knew of the Memorandum and Affidavit of Equitable Interest for the Premises, and should have therefore, pursuant to 805 ILCS 180(c)(2)(B) and didn't make a reasonable inquiry into the equitable interest.
34. Furthermore, 805 ILCS 180/1-50(d) states "**Nothing herein contained shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a limited liability company in any other manner now or hereafter permitted by law.**" (emphasis added)
35. Plaintiff did not comply with any of the Limited Liability Company Act in their attempt to serve Pacific.



**WHEREFORE, the Defendant moves this court to;**

- A. Find that Daniel Walton could have found Pacific Realty Group, LLC through due and diligent search.
- B. Quash service on Pacific Realty Group, LLC for lack of due and diligent search.
- C. Quash service on Pacific Realty Group, LLC for Plaintiff not complying with the Limited Liability Company Act.
- D. Vacate all orders in this case.
- E. Dismiss this case under Supreme Court Rule 103(b) for lack of diligence in service of process upon Pacific Realty Group, LLC.
- F. Award Pacific Realty Group, LLC its reasonable attorney's fees and costs for bringing this motion pursuant to 735 ILCS 5/15-1510.
- G. Award Pacific Realty Group LLC any other relief that the court deems just.

Respectfully Submitted,  
PACIFIC REALTY GROUP, LLC

  
By its Attorney, Kuroush Khajehhosseini

Kuroush Khajehhosseini  
ARDC No.: 6307913  
20 N Clark St. STE 550  
Chicago, Illinois 60602  
312.846.6477

10CH 3572

EXHIBIT A

FILED  
2013 OCT 23 PM 12:54  
CLERK, CIRCUIT COURT  
WILL COUNTY, ILLINOIS  
WILL COUNTY COURT ANEX

A.21

WCCA 10242013



# PUBLIC REGULATION COMMISSION

## Corporations Division

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<b>Name</b> <b>Type</b> <b>In New Mexico DBA:</b>		<b>PACIFIC REALTY GROUP, LLC</b> <b>Domestic Limited Liability Company</b>	
Corporations Division Contacts Phone: 505-827-4508 OR Email: <a href="mailto:PRC.Corporations@state.nm.us">PRC.Corporations@state.nm.us</a>			
<b>Filing Information</b> NMSCC                      4096905 Status                      Exempt Date of Incorporation   Oct-22-2008 State of Incorporation   NM Fiscal Year Date Report Due date		<b>Address Information</b> 1. MAILADDR 12717 LOMAS BLVD NE, ALBUQUERQUE, NM - 87112 2. CORPADDR 12717 LOMAS BLVD NE, ALBUQUERQUE, NM - 87112	
<b>Agent Information</b> NM CORPORATE SERVICES, LLC 12717 LOMAS BLVD NE, ALBUQUERQUE, NM - 87112		<b>Directors Information</b> NO RECORD(S) FOUND	
<b>Officers Information</b> 1. Organizer - JEFFREY WILLIAMS			
<b>Instrument History</b> 1. Instrument Number                      4096905 Filing Date                Oct-22-2008 Type                        Certificate Of Organization Text                         PACIFIC REALTY GROUP, LLC 3 PAGES PERPETUAL			

[Back to Search](#)

New Mexico Public Regulation Commission, Version 0.0 7.2

A.22

WCCA 10242013

10/24/13 11:10:32 WCCA

## EXHIBIT B

A.23

WCCA 10242013

**NM Corporate Services, LLC**

3900 Juan Tabo NE  
Albuquerque, NM 87111  
[nmcslc@gmail.com](mailto:nmcslc@gmail.com)

Date: May 23, 2013

To:

PUBLIC REGULATION COMMISSION  
CORPORATIONS BUREAU  
CHARTERED DOCUMENTS DIVISION  
P.O. BOX 1269  
SANTA FE, NEW MEXICO 87504-1269

**Re: Pacific Realty Group, LLC NMSCC #4096905**

Dear PRC,

Please update your records to show the new address of the Registered Agent. The Registered Agent has relocated to the following address:

NM Corporate Services, LLC  
3900 Juan Tabo NE  
Albuquerque, NM 87111

Please note that they no longer use the previous address. Please remove any reference to the previous address so as not to confuse anyone.

You can email me at my address above if you have any questions.

Sincerely,

*Sharon DePriest*

Sharon DePriest  
Manager  
NM Corporate Services, LLC

**A.24**

**WCCA 10242013**

## EXHIBIT C

**A.25**

**WCCA 10242013**

10/24/13 11:10:34 WCCA

07/09/10 12:22:24 WCCB

IN THE CIRCUIT COURT OF  
WILL COUNTY, IL  
CASE NO. 10 CH 3572

THE BANK OF NEW YORK 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; et seq  
**PLAINTIFF(S),**

VS.

Index Number:

MARK E. LASKOWSKI A/K/A MARK EDWARD LASKOWSKI; et al  
**DEFENDANT(S),**

**AFFIDAVIT OF DUE AND DILIGENT SEARCH**

STATE OF: Illinois

COUNTY OF: Will

Before me, the undersigned authority, this day personally appeared, Daniel Walton, of ProVest LLC., IL Dept. of  
Professional Regulations # 117-001336, who upon being first duly sworn, upon his/her oath, deposes and says:

A diligent search and inquiry to discover the name and residence of the subject person was performed by the following  
acts set forth, as particularly as is known to affiant, below.

After diligent search and inquiry by affiant, the residence of the subject person is unknown to the affiant.

NAME OF CORPORATION Pacific Realty Group, LLC

LAST KNOWN ADDRESS OF ABOVE CORPORATION:  
UNKNOWN

**A: INQUIRY OF TELEPHONE COMPANY:****1. DIRECTORY ASSISTANCE SEARCH**

Directory assistance stated there is not a telephone listing for our subject in Illinois Will

No record found.

**B: OTHER INQUIRIES:**

WCCA 07092010

**1. Status: ...****A.26**

Secretary of State shows no listing for this defendant.

WCCA 10242013

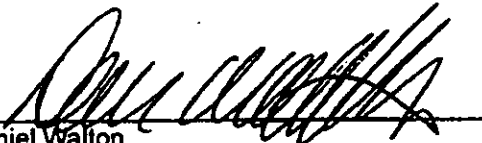
10/24/13 11:10:35 WCCA

07/09/10 12:22:25 WCCB

C: ADDRESS(ES) ATTEMPTED BY PROCESS SERVER

// No addresses have been located or attempted for this defendant.

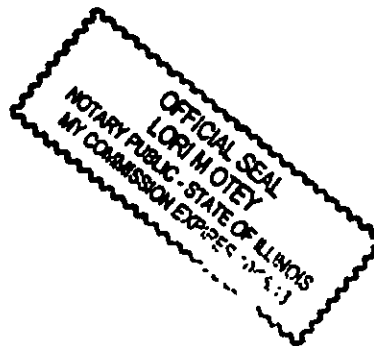
AFFIANT

  
Daniel Walton  
ProVest LLC.  
977 N. Oaklawn Avenue, Suite 203  
Elmhurst, IL 60126

File #:09-022786 / case #2500125

SUBSCRIBED AND SWORN TO ME BEFORE ME THIS 16 DAY OF June, 2010 BY AFFIANT WHO IS  
PERSONALLY KNOWN TO ME.

  
NOTARY PUBLIC  
MY COMMISSION EXPIRES:



WCCB 07092010

A.27

WCCA 10242013



## EXHIBIT D

A.28

WCCA 10242013

07/09/10 12:22:27 WCCB

09-022786

This is an attempt to collect a debt and any information obtained will be used for that purpose.

IN THE CIRCUIT COURT FOR THE TWELFTH JUDICIAL CIRCUIT OF ILLINOIS,  
WILL COUNTY, ILLINOIS

THE BANK OF NEW YORK 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,

-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

100-H 3 572

NO.  
(SEE ATTACHED FOR SERVICE LIST)

## SUMMONS

To each defendant:

YOU ARE SUMMONED and required to file an answer in this case, or otherwise file your appearance, in the office of the clerk of this court, WILL COUNTY COURTHOUSE, 57 N. OTTAWA, JOLIET, IL 60432, within 30 days after service of this summons, not counting the day of service. IF YOU FAIL TO DO SO, A JUDGMENT OR DECREE BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF PRAYED IN THE COMPLAINT.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with indorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed.

This summons may not be served later than 30 days after its date.

(Seal of Court)

WITNESS \_\_\_\_\_, 2010

(Clerk of the Circuit Court)

By: \_\_\_\_\_

(Deputy)

JUN 11 2010

Plaintiff's Attorney:

(or plaintiff, if he be not represented by attorney)

Jim DeMars  
Fisher and Shapiro, LLC  
Attorneys for Plaintiff  
2121 Waukegan Road, Suite 301  
Bannockburn, IL 60015  
(847)291-1717 Ext: 4279  
Attorney No: 6292689

WCCB 07092010

A.29

WCCA 10242013

### IMPORTANT INFORMATION FOR HOMEOWNERS IN FORECLOSURE

1. **POSSESSION:** The lawful occupants of a home have the right to live in the home until a judge enters an order for possession.
2. **OWNERSHIP:** You continue to own your home until the court rules otherwise.
3. **REINSTATEMENT:** As the homeowner you have the right to bring the mortgage current within 90 days after you receive the summons.
4. **REDEMPTION:** As the homeowner you have the right to sell your home, refinance, or pay off the loan during the redemption period.
5. **SURPLUS:** As the homeowner you have the right to petition the court for any excess money that results from a foreclosure sale of your home.
6. **WORKOUT OPTIONS:** The mortgage company does not want to foreclose on your home if there is any way to avoid it. Call your mortgage company **BAC Home Loans Servicing, LP** or its attorneys to find out the alternatives to foreclosure.
7. **PAYOFF AMOUNT:** You have the right to obtain a written statement of the amount necessary to pay off your loan. Your mortgage company (identified above) must provide you this statement within 10 business days of receiving your request, provided that your request is in writing and includes your name, the address of the property, and the mortgage account or loan number. Your first payoff statement will be free.
8. **GET ADVICE:** This information is not exhaustive and does not replace the advice of a professional. You may have other options. Get professional advice from a lawyer or certified housing counselor about your rights and options to avoid foreclosure.
9. **LAWYER:** If you do not have a lawyer, you may be able to find assistance by contacting the Illinois State Bar Association or a legal aid organization that provides free legal assistance.
10. **PROCEED WITH CAUTION:** You may be contacted by people offering to help you avoid foreclosure. Before entering into any transaction with persons offering to help you, please contact a lawyer, government official, or housing counselor for advice.

**PURSUANT TO THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT, YOU ARE ADVISED THAT THIS OFFICE IS DEEMED A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

WCCB 07092010

A.30

WCCA 10242013

Comenzando el 1° de enero de 2009, para todas las acciones de ejecución entabladas en Illinois, el prestamista debe adjuntar un aviso al Propietario con el citatorio. El aviso debe estar considerablemente similar a la siguiente forma:

**INFORMACION IMPORTANTE PARA PROPIETARIOS DE CASA EN  
PROCESO DE EJECUCION HIPOTECARIO:**

1. **POSESION:** Los ocupantes legítimos en la vivienda tienen el derecho de vivir en la casa hasta que el juez emita por escrito una Orden de Posesión judicial.
2. **TITULARIDAD:** Usted sigue como propietario de su casa hasta que el juez emita una decisión contraria.
3. **RESTABLECIMIENTO:** Como el propietario usted tiene el derecho de traer al corriente su hipoteca dentro de 90 días después de que usted recibe el Emplazamiento.
4. **REDENCION DE LA PROPIEDAD:** Como el propietario usted tiene el derecho de vender su casa, refinanciar, o pagar el total del préstamo durante el período de redención.
5. **EXCESO DE BIENES:** Como el propietario usted tiene el derecho de presentar una solicitud ante el tribunal para el exceso de dinero resultado de la venta de ejecución de su casa.
6. **OPCIONES DE NEGOCIACION:** El prestamista hipotecario no quiere ejecutar sobre su casa si hay cualquier modo de evitarlo. Llame a su prestamista hipotecario **BAC Home Loans Servicing, LP** o sus abogados para averiguar las alternativas a la ejecución hipotecaria.
7. **CANTIDAD DEL SALDO:** Usted tiene el derecho de obtener una declaración por escrita de la cantidad necesaria para pagar su préstamo. Su prestamista hipotecario (identificado arriba) debe proporcionarle esta declaración dentro de 10 días de haber recibido su petición, con tal de que su petición sea por escrita e incluye su nombre, la dirección de la propiedad y la cuenta de hipoteca o el número de préstamo. Su primera declaración del saldo será gratis.
8. **OBTENGA ASESORIA:** Esta información no es exhaustiva y no sustituye el consejo de un profesional. Usted puede tener otras opciones. Obtenga asesoría profesional de un abogado o de un consejero de vivienda certificado sobre sus derechos y opciones para evitar la ejecución hipotecaria.

WCCH 07092010

A.31

WCCA 10242013

10/24/13 11:10:37 WCCA

07/09/10 12:22:28 WCCH

9. **ABOGADO:** Si usted no tiene un abogado, usted podrá obtener asistencia comunicándose con la Barra de Asociación del Estado de Illinois o con una organización sin fines de lucro que proporcione asistencia legal gratuita.
10. **PROCEDA CON PRECAUCION:** Usted podría ser contactado por gente ofreciéndole ayuda para evitar la ejecución hipotecaria. Antes de entrar en cualquier transacción con personas ofreciéndole ayuda, por favor comuníquese con un abogado, representante gubernamental o consejero de vivienda para asesoría.

**SEGÚN LA LEY DE PRACTICAS JUSTA FEDERAL DE COBRO MOROSOS, USTED ES ADVERTIDO QUE ESTA OFICINA ES CONSIDERADA LEGALMENTE UNA COBRADORA DE DEUDAS EN ACCIÓN DE COBRAR UNA DEUDA Y CUALQUIER INFORMACIÓN OBTENIDA SERÁ UTILIZADA PARA ESTE PROPÓSITO.**

WCCH 07092010

A.32

WCCA 10242013

07/09/10 12:22:29 WCCB

09-022786

THE BANK OF NEW YORK 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,

NO.

-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

Please Serve:

Mark E. Laskowski a/k/a Mark Edward Laskowski, (Property) 772 Bonnie Brae Court,  
Bolingbrook, IL 60440

The Bank of Commerce, 171 East Irving Park Road, Wood Dale, IL 60191

Pacific Realty Group, LLC, (Publication Pursuant to 735 ILCS 5/2-205.1 and Business Corporation  
Law)

Mark E. Laskowski a/k/a Mark Edward Laskowski, 5N758 Rochefort Lane, Wayne, IL 60184

WCCB 07092010

A.33

WCCA 10242013

**EXHIBIT E**

**A.34**

**WCCA 10242013**

**R2008142827**

200812030142827

Receipt # T20080129205

**Karen A. Stukel** Will County Recorder **2P**

LR Date 12/03/2008

Time 12:07:29

Recording Fees:

\$24.75

IL Rental Hsng. Support Program:

\$10.00

**MEMORANDUM AND AFFIDAVIT OF EQUITABLE INTEREST**BEFORE ME, the undersigned personally appeared, PACIFIC REALTY GROUP LLC., who

after being duly sworn deposes that he/she has equitable interest in the following described real estate in

WILL County; to wit: **LEGAL DESCRIPTION:**

LOT 10 AND ALSO THAT PART OF LOT 12 DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 12, THENCE SOUTH 89 DEGREES 44 MINUTES 23 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 12, A DISTANCE OF 66.06 FEET TO THE WEST LINE OF LOT 10 IN SAID ST. ANDREW'S UNIT NUMBER 2 EXTENDED SOUTHWESTERLY; THENCE NORTH 38 DEGREES 25 MINUTES 36 SECONDS EAST ALONG THE SAID WEST LINE EXTENDED A DISTANCE OF 66.57 FEET TO THE WESTERLY MOST CORNER OF SAID LOT 10; THENCE SOUTH 18 DEGREES 2 MINUTES 49 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 10 A DISTANCE OF 38 FEET; THENCE SOUTH 39 DEGREES 22 MINUTES 49 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 10 A DISTANCE OF 20.34 FEET TO THE POINT OF BEGINNING, IN ST. ANDREW'S WOODS UNIT NUMBER 2, BEING A SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 2, TOWNSHIP 37 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 29, 1981 AS DOCUMENT NUMBER R81-18728, IN WILL COUNTY, ILLINOIS.

PIN: 02-02-103-041

also known by street address: 772 Bonnie Brae Court, Bolingbrook, IL 60439

An Agreement was entered into by and between the undersigned,

In the amount of ( \$750,000.00. )

**PACIFIC REALTY GROUP LLC.** as Grantee, and **Mark Laskowski** as Grantor, on this 22nd day of November, 2008. A copy of the Agreement verifying the equitable interest of the undersigned may be obtained by sending a request to **Mark Laskowski** whose mailing address is 5N758 Rochefort Lane, Wayne, IL 60184.

BE IT NOTED THAT ALL LENDERS AND THIRD PARTIES ARE HEREBY PUT ON NOTICE AND DULY WARNED THAT ANY MORTGAGES, LIENS, OPTIONS, OR PURCHASE AGREEMENTS OCCURRING SUBSEQUENT TO THE DATE OF THE AGREEMENT SPECIFIED IN THIS AFFIDAVIT ARE HEREBY DECLARED BY OWNER OF RECORD TO BE NULL AND VOID AND OF NO LEGAL FORCE AND EFFECT. ANY SUCH THIRD PARTIES MAY PROCEED AT THEIR OWN FINANCIAL PERIL.

WITNESS the hand and seal of said Affiant this 22nd day of November, 2008.
  
Affiant

PREPARED BY:  
MAIL TO: MARK LASKOWSKI  
5N758 ROCHEFORT LN  
WAYNE, IL 60184

11/22/08 WCCA 10242013



State of ILLINOISCounty of ~~COOK~~ KANE

The foregoing instrument was acknowledged by me this 25  
day of 4th, 2008 by Mark Gaskowski  
who is personally known by me or who has produced DL  
as identification.

Tonia L. Berke (SEAL)  
Notary Public



My Commission Expires:

A.36

WCCA 10242013

09-022786

**IN THE CIRCUIT COURT OF THE 12TH JUDICIAL CIRCUIT  
WILL COUNTY, JOLIET, ILLINOIS**

THE BANK OF NEW YORK 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,

NO. 10 CH 3572

-vs-

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

**FILED**  
2014 APR -7 PM 3:45  
CLERK, CIRCUIT COURT  
WILL COUNTY, ILLINOIS

**PLAINTIFF'S RESPONSE TO  
PACIFIC REALTY GROUP LLC'S AMENDED MOTION TO QUASH SERVICE**

NOW COMES Plaintiff, The Bank of New York 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-CB2, by and through its attorney, Fisher and Shapiro, LLC, and for its Response to Defendant Pacific Realty Group, LLC's Amended Motion to Quash Service pursuant to 735 ILCS 5/2-301(a), states as follows:

**I. Introduction.**

Defendant Pacific Realty Group, LLC has filed an amended motion to quash service in this matter and to vacate the judgment and subsequent sale of the Property. Defendant claims it should have been served via service on the Illinois Secretary of State pursuant to 805 ILCS 180/1-50(b) because it does not have a registered agent in this state. (Amended Motion at ¶ 27). Defendant further claims that Plaintiff's service on Defendant by publication was improper to

confer jurisdiction over Defendant. (Amended Motion at ¶¶ 6-9). For the reasons set forth below, Defendant's amended motion should be denied.

**II. Defendant's Amended Motion to Quash must be stricken with prejudice pursuant to 735 ILCS 5/15-1505.6 because the Motion was not timely filed.**

Counsel for Defendant filed his appearance on April 18, 2013. He further appeared before the Court on that date and an order dismissing this case for want of prosecution was entered. A copy of the Appearance and Court Order are attached hereto as Exhibit A. Thereafter, the case was reinstated and Defendant filed its initial Motion to Quash on July 18, 2013. A copy of the initial Motion to Quash is attached hereto as Exhibit B.

Section 15-1505.6 of the Illinois Mortgage Foreclosure Law states, in pertinent part:

Objection to jurisdiction over the person.

(a) In any residential foreclosure action, the deadline for filing a motion to dismiss the entire proceeding or to quash service of process that objects to the court's jurisdiction over the person, unless extended by the court for good cause shown, is 60 days after the earlier of these events: (i) the date that the moving party filed an appearance; or (ii) the date that the moving party participated in a hearing without filing an appearance.

735 ILCS 5/15-1505.6(a) (emphasis added).

Defendant's initial Motion to Quash was untimely because it was filed more than 60 days after Defendant filed its appearance in this matter and participated in a hearing. On that basis alone, Defendant's Amended Motion to Quash must be stricken.

**III. Even if timely filed, Defendant's Amended Motion to Quash is insufficient to overcome that Defendant was properly served by Publication.**

Even assuming Defendant's Amended Motion was timely filed, it is insufficient to overcome that Defendant was properly served. Defendant argues that service on a limited liability company such as Defendant may only be accomplished via service on the Illinois Secretary of State where the company has failed to appoint or maintain a registered agent in

Illinois. (Amended Motion at ¶ 28). Such a contention, however, completely ignores the plain language of the Limited Liability Company Act (the “Act”).

Section 1-50 of the Act first provides that “[a]ny 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.” 805 ILCS 180/1-50(a). But the Act goes on to state that “[n]othing herein contained shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a limited liability company in *any other manner now or hereafter permitted by law.*” 805 ILCS 180/1-50(d) (emphasis added).

Section 2-206 of the Illinois Code of Civil Procedure (the “Code”) allows for service by publication in any action affecting property where plaintiff or its attorney files “an affidavit showing that the *defendant resides or has gone out of this State, or on due inquiry cannot be found*, or is concealed within this State, so that process cannot be served upon him or her, and stating the place of residence of the defendant, if known, or that upon diligent inquiry his or her place of residence cannot be ascertained.” 735 ILCS 5/2-206 (emphasis added). Upon the filing of such an affidavit, “the clerk shall cause publication to be made in some newspaper published in the county in which the action is pending.” *Id.*

In addition, section 2-204 of the Code expressly provides that a “private corporation may also be notified by publication and mail in like manner and with like effect as individuals.” 735 ILCS 5/2-204. Although Defendant in this case is a limited liability company, the Illinois courts have found that limited liability companies may be served in like manner as corporations. *See, e.g., MB Fin. Bank, N.A. v. Ted & Paul, LLC*, 2013 IL App (1st) 122077, ¶ 29, 990 N.E.2d 764,

774-775 (1<sup>st</sup> Dist. 2013) (“[P]laintiff served defendant Ted & Paul, LLC, in yet another manner: via corporate service.”)

An affidavit for service by publication was filed in this case on July 1, 2010. An affidavit of due and diligence search was executed by Daniel Walton on June 16, 2010. (*See* Affidavit attached to Amended Motion as Exhibit C). In that affidavit, Mr. Walton swore under oath that a diligent search and inquiry failed to turn up an address for Defendant. The Affidavit provided that no listing was provided with the Secretary of State and no telephone listing for that company was found. *Id.* The affidavit also attached a copy of the Memorandum and Affidavit of Equitable Interest, which did not include any address or contact information for Defendant Pacific Realty Group, LCC. Instead, it provided that a “copy of the Agreement verifying the equitable interest” could be obtained by sending a written request to Defendant Mark Laskowski. However, Plaintiff’s attempts to serve Mr. Laskowski were similarly unsuccessful. *See* Affidavits of Special Process Server attached as Exhibit C.

Plaintiff conducted a due and diligent inquiry prior to publication and was unable to locate Defendant and Defendant has admitted that it resides outside of Illinois and has not appointed an agent for service in Illinois. Under the circumstances of this case, service on Defendant by publication was proper. Defendant’s Amended Motion to Quash should be denied.

**IV. Defendant’s assertion of an interest in this matter is purely to delay these proceedings.**

The interests of equity also militate for denial of Defendant’s Amended Motion to Quash. Defendant’s interest in the subject property is by virtue of a Memorandum and Affidavit of Equitable Interest, which was executed by Defendant borrower Mark Laskowski on November 22, 2008. *See* Exhibit E to Amended Motion. Defendant Laskowski’s default on the loan at

issue occurred when he failed to make the payment due on December 1, 2008, just over one week after the execution of the memorandum. *See* Complaint at ¶ 4(j).

In addition, as stated above, the Memorandum is not executed by any agent of Defendant Pacific Realty Group, LLC, but instead is executed by and contains contact information for only Defendant Mark Laskowski. The document further contains no explanation or basis for Defendant's alleged "equitable interest" in the property or any description of the "Agreement" in the amount of \$750,000. There is also no explanation or authority for the statement in the Memorandum that "any mortgages, liens, or purchase agreement occurring subsequent to the date of the Agreement specific in this affidavit are hereby declared by owner of record to be null and void and of no legal force and effect." Ex. E to Amended Motion.

A review of the documents recorded against this property in the Office of the Will County Recorder of Deeds makes clear that Defendant Laskowski has recorded numerous frivolous documents against this property in an attempt to avoid Plaintiff's lien. *See, e.g.*, documents recorded as R2009016453, R2009041699, R2009041700, R2009043071, R2009058996, and R2009058998. In fact, Memorandums and Affidavits of Equitable Interest granting Defendant Pacific Realty Group, LLC equitable interests in properties owned by Defendant Mark Laskowski have been recorded against other properties undergoing foreclosure proceedings. *See, e.g.*, document recorded as 0834555052 and Case No. 2009 CH 25261 in Cook County, Illinois; document recorded as 0834555050 and Case No. 2010 CH 21709 in Cook County, Illinois; document recorded as R2008142829 and Case No. 2009 CH 000051 in Will County, Illinois.

For all of these reasons, Defendant's Amended Motion to Quash Service should be denied and Plaintiff's pending Motion for Order Approving Sale granted.

WHEREFORE, Plaintiff The Bank of New York 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-CB2, respectfully requests this honorable Court deny Defendant Pacific Realty Group, LLC's Amended Motion to Quash Service pursuant to 735 ILCS 5/2-301(a), grant Plaintiff's Motion for Order Approving sale, and for such and further relief as this Court deems proper.

Respectfully submitted,

THE BANK OF NEW YORK 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-CB2

By: Michele D. Dougherty  
One of its Attorneys

Michele D. Dougherty  
Fisher and Shapiro, LLC  
Attorneys for Plaintiff  
2121 Waukegan Road, Suite 301  
Bannockburn, Illinois 60015  
(847) 291-1717  
Attorney No. 6293388

Michele D. Dougherty  
Attorney  
ARDC# 6293388

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. PLEASE BE ADVISED THAT IF YOUR PERSONAL LIABILITY FOR THIS DEBT HAS BEEN EXTINGUISHED BY A DISCHARGE IN BANKRUPTCY OR BY AN ORDER GRANTING IN REM RELIEF FROM STAY, THIS NOTICE IS PROVIDED SOLELY TO FORECLOSE THE MORTGAGE REMAINING ON YOUR PROPERTY AND IS NOT AN ATTEMPT TO COLLECT THE DISCHARGED PERSONAL OBLIGATION.**

10 CH 3572

FILED

2014 APR -7 PM 3:45

CLERK, CIRCUIT COURT  
WILL COUNTY, ILLINOIS

e

# EXHIBIT A

A.43



**IN THE CIRCUIT COURT FOR THE 12TH JUDICIAL CIRCUIT  
WILL COUNTY – JOLIET, ILLINOIS**

THE BANK OF NEW YORK 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

v.

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

Defendants.

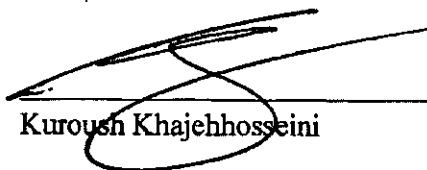
Case No.: 10CH3572

Address:  
772 Bonnie Brae Court  
Bolingbrook, IL 60440

**FILED**  
13 APR 18 PM 12:56  
CLERK OF CIRCUIT COURT  
JOLIET, ILLINOIS  
WILL COUNTY COURT ANNEX

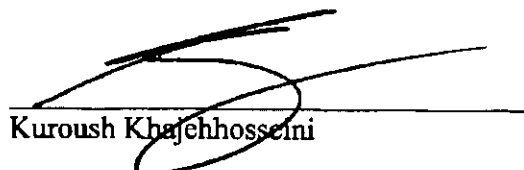
**APPEARANCE**

The undersigned, as attorney, enters the appearance of PACIFIC REALTY GROUP, LLC.

  
Kuroush Khajehhosseini

ARDC No.: 6307913  
Kuroush Khajehhosseini  
20 N. Clark St. STE 550  
Chicago, IL 60602  
312.846.6477

I certify that a copy of the within instrument was served to all parties who have appeared.

  
Kuroush Khajehhosseini

**A.44**

STATE OF ILLINOIS )  
 )SS  
COUNTY OF WILL )

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS

Plaintiff

VS

CASE NO: 10 CH 575

Defendant

COURT ORDER

Attorney or Party, if not represented by Attorney

Name \_\_\_\_\_

ARDC # \_\_\_\_\_

Firm Name \_\_\_\_\_

Attorney for \_\_\_\_\_

Address \_\_\_\_\_

City & Zip \_\_\_\_\_

Telephone \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

Entered: \_\_\_\_\_

Judge

PAMELA J. MCGUIRE, CLERK OF THE CIRCUIT COURT OF WILL COUNTY

A45

White - Court Yellow - Plaintiff Pink - Defendant

17 D Revised (06/06)

# EXHIBIT B

A.46

**IN THE CIRCUIT COURT FOR THE 12TH JUDICIAL CIRCUIT  
WILL COUNTY - JOLIET, ILLINOIS**

THE BANK OF NEW YORK MELLON )  
F/K/A THE BANK OF NEW YORK AS )  
TURSTEE FOR THE CERTIFICATE )  
HOLDERS OF CWALT. INC. )  
ALTERNATIVE LOAN TRUST 2006- )  
2CB MORTGAGE PASS-THROUGH ) Case No.: 10CH3572  
CERTIFICATES, SERIES 2006-2CB: )  
)  
)

Plaintiff

v.

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

Defendants.

Address:  
772 Bonnie Brae Court  
Bolingbrook, IL 60440

**NOTICE OF MOTION**

TO: Fisher and Shapiro  
2121 Waukegan Road  
Suite 301  
Bannockburn, IL 60015

On August 22, 2013 at 1:30 p.m. or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Siegel or any Judge sitting in that Judge's stead, in the courtroom usually occupied by him in Room 129 at Will County Court Annex, 57 N. Ottawa, Joliet, Illinois 60432 and present the attached PACIFIC REALTY GROUP, LLC'S MOTION TO QUASH SERVICE.

  
Kuroush Khajehhosseini

Attorney Number: 6307913  
Kuroush Khajehhosseini  
20 N. Clark St. STE 550  
Chicago, IL 60602  
312.846.6477

2013 JUL 18 PM 12:20

**A.47**

**IN THE CIRCUIT COURT FOR THE 12TH JUDICIAL CIRCUIT  
WILL COUNTY – JOLIET, ILLINOIS**

THE BANK OF NEW YORK 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; )

Case No.: 10CH3572

Plaintiff

Address:  
772 Bonnie Brae Court  
Bolingbrook, IL 60440

v.

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'S MOTION TO QUASH SERVICE**

NOW COMES the Defendant, PACIFIC REALTY GROUP, LLC, by and through its attorney, Kuroush Khajehhosseini, and as and for its Motion to Quash Pursuant to 735 ILCS 5/2-301(a) moves the court to Quash Service and states as follows:

1. Pacific Realty Group, LLC (hereinafter "Pacific") is a named defendant in this case.
2. Pacific Realty Group, LLC is, and has been, an active limited liability company formed on 10/22/2008 under the laws of the state of New Mexico (see New Mexico Corporations Division Search in Exhibit "A").
3. Pacific Realty Group, LLC was formed by Jeffrey Williams (Exhibit "A").

4. Pacific Realty Group, LLC is located at 3900 Juan Tabo NE, Albuquerque, NM 87111 (see Letter to Public Regulation Commission Corporation Bureau in Exhibit "B").
5. Pacific Realty Group, LLC's registered agent is NM Corporate Services, LLC, located at 3900 Juan Tabo NE, Albuquerque, NM 87111 (Exhibit "B")
6. Pacific objects to the court's jurisdiction over its person.
7. The Court does not have jurisdiction over its person.
8. The Court does not have jurisdiction due to insufficiency of service of process.
9. The Court does not have jurisdiction due to insufficiency of process.
10. Pacific has never been served a summons or complaint in this case.

**Pacific Realty Group, LLC was not served**

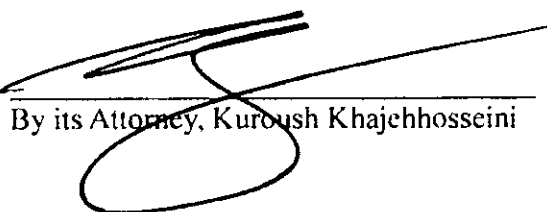
11. Daniel Walton (hereinafter "Walton") filed an Affidavit of Due and Diligent Search on Pacific. (See attached as Exhibit "C" (hereinafter "Walton Affidavit")).
12. The Walton Affidavit states that service on Pacific was served "After diligent search and inquiry by affiant, the residence of the subject person is unknown to the affiant."
13. Pursuant to 805 ILCS 180/1-50, service of process on a limited liability company "shall be served either upon the registered agent."
14. Based on the Walton Affidavit it seems that Walton only searched for a telephone listing in Will County Illinois.
15. There is a lack of due and diligent search to find Pacific Realty Group, LLC.

16. Upon due and diligent search, Walton could have found that Pacific is a domestic limited liability company registered in New Mexico.

**WHEREFORE, the Defendant moves this court to;**

- A. Find that Daniel Walton could have found Pacific Realty Group, LLC through due and diligent search.
- B. Quash service on Pacific Realty Group, LLC.
- C. Vacate all orders in this case.
- D. Dismiss this case under Supreme Court Rule 103(b) for lack of diligence in service of process upon Pacific Realty Group, LLC.
- E. Award Pacific Realty Group, LLC its reasonable attorney's fees and costs for bringing this motion pursuant to 735 ILCS 5/15-1510.
- F. Award Pacific Realty Group LLC any other relief that the court deems just.

Respectfully Submitted,  
PACIFIC REALTY GROUP, LLC


  
By its Attorney, Kuroush Khajehhosseini

Kuroush Khajehhosseini  
ARDC No.: 6307913  
20 N Clark St. STE 550  
Chicago, Illinois 60602  
312.846.6477

**EXHIBIT A**

**A.51**



		<b>PUBLIC REGULATION COMMISSION</b> Corporations Division		<a href="#">Login</a>
<a href="#">Home</a>	<a href="#">Lookup Corporations</a>	<a href="#">Paper Forms</a>	<a href="#">Help</a>	
<a href="#">Home - Corporations Details</a>				
<a href="#">Back to Search</a>				
Name Type In New Mexico DBA:		PACIFIC REALTY GROUP, LLC Domestic Limited Liability Company		
Corporations Division Contracts Phone: 505-827-4508 OR Email: <a href="mailto:PRC.Corporations@state.nm.us">PRC.Corporations@state.nm.us</a>				
<b>Filing Information</b>		<b>Address Information</b>		
NMSCC	4096905	1. MAILADDR		
Status	Exempt	12717 LOMAS BLVD NE,		
Date of Incorporation	Oct-22-2008	ALBUQUERQUE, NM - 87112		
State of Incorporation	NM	2. CORPADDR		
Fiscal Year Date		12717 LOMAS BLVD NE,		
Report Due Date		ALBUQUERQUE, NM - 87112		
<b>Agent Information</b>		<b>Directors Information</b>		
NM CORPORATE SERVICES, LLC		NO RECORD(S) FOUND		
12717 LOMAS BLVD NE,				
ALBUQUERQUE, NM - 87112				
<b>Officers Information</b>				
1. Organizer : JEFFREY WILLIAMS				
<b>Instrument History</b>				
1. Instrument				
Number	4096905			
Filing Date	Oct-22-2008			
Type	Certificate Of Organization			
Text	PACIFIC REALTY GROUP, LLC 3 PAGES PERPETUAL			
<a href="#">Back to Search</a>				

View this document in PDF format. Download the document.

**EXHIBIT B**

**A.53**

**NM Corporate Services, LLC**

3900 Juan Tabo NE  
Albuquerque, NM 87111  
[nmcslc@gmail.com](mailto:nmcslc@gmail.com)

Date: May 23, 2013

To:

PUBLIC REGULATION COMMISSION  
CORPORATIONS BUREAU  
CHARTERED DOCUMENTS DIVISION  
P.O. BOX 1269  
SANTA FE, NEW MEXICO 87504-1269

Re: **Pacific Realty Group, LLC NMSCC #4096905**

Dear PRC,

Please update your records to show the new address of the Registered Agent. The Registered Agent has relocated to the following address:

NM Corporate Services, LLC  
3900 Juan Tabo NE  
Albuquerque, NM 87111

Please note that they no longer use the previous address. Please remove any reference to the previous address so as not to confuse anyone.

You can email me at my address above if you have any questions.

Sincerely,

*Sharon DePriest*

Sharon DePriest  
Manager  
NM Corporate Services, LLC

**A.54**

**EXHIBIT C**

**A.55**

07/09/10 12:22:24 WCCA

IN THE CIRCUIT COURT OF  
WILL COUNTY, IL  
CASE NO. 10 CH 3572

THE BANK OF NEW YORK 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; et seq  
**PLAINTIFF(S),**

VS.

Index Number:

MARK E. LASKOWSKI A/K/A MARK EDWARD LASKOWSKI;et al  
**DEFENDANT(S),**

**AFFIDAVIT OF DUE AND DILIGENT SEARCH**

STATE OF: Illinois

COUNTY OF: Will

Before me, the undersigned authority, this day personally appeared, Daniel Walton, of ProVest LLC., IL Dept. of  
Professional Regulations # 117-001336, who upon being first duly sworn, upon his/her oath, deposes and says:

A diligent search and inquiry to discover the name and residence of the subject person was performed by the following  
acts set forth, as particularly as is known to affiant, below.

After diligent search and inquiry by affiant, the residence of the subject person is unknown to the affiant.

NAME OF CORPORATION Pacific Realty Group, LLC

LAST KNOWN ADDRESS OF ABOVE CORPORATION:  
UNKNOWN

**A: INQUIRY OF TELEPHONE COMPANY:****1. DIRECTORY ASSISTANCE SEARCH**

Directory assistance stated there is not a telephone listing for our subject in Illinois Will

No record found.

**B: OTHER INQUIRIES:**

WCCA 07092010

**1. Status:**

Secretary of State shows no listing for this defendant.

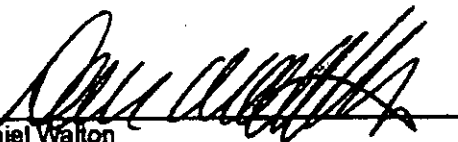
**A:56**

07/09/10 12:22:25 WCCB

C: ADDRESS(ES) ATTEMPTED BY PROCESS SERVER

No addresses have been located or attempted for this defendant.

AFFIANT



Daniel Walton  
ProVest LLC  
977 N. Oaklawn Avenue, Suite 203  
Elmhurst, IL 60126

File #:09-022786 / case #2500125

SUBSCRIBED AND SWORN TO ME BEFORE ME THIS 16 DAY OF June, 2010 BY AFFIANT WHO IS  
PERSONALLY KNOWN TO ME.



NOTARY PUBLIC  
MY COMMISSION EXPIRES:



WCCB 07092010

A.57

**IN THE CIRCUIT COURT FOR THE 12TH JUDICIAL CIRCUIT  
WILL COUNTY – JOLIET, ILLINOIS**

THE BANK OF NEW YORK 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

v.

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

Defendants.

Case No.: 10CH3572

Address:  
772 Bonnie Brae Court  
Bolingbrook, IL 60440

CLERK OF COURT  
WILL COUNTY COURT ADMIN

2014 MAY -1 AM 11:33

FILED

**PACIFIC REALTY GROUP, LLC'S REPLY IN SUPPORT OF ITS AMENDED MOTION  
TO QUASH SERVICE PURSUANT TO 735 ILCS 5/2-301(a)**

NOW COMES the Defendant, PACIFIC REALTY GROUP, LLC, by and through its attorney, Kuroush Khajehhosseini of Leading Legal LLC A Law Firm, and as and for its Reply in Support of its Amended Motion to Quash Pursuant to 735 ILCS 5/2-301(a) moves the court to Quash Service and states as follows:

1. Pacific Realty Group, LLC (hereinafter "Defendant") is a named defendant in this case.
2. Plaintiff, The Bank of New York Mellon, (hereinafter "BNYM") did not properly serve Defendant in this matter and that is the issue before this Court.

3. Defendant is a limited liability company formed in the state of New Mexico.
4. Plaintiff continues to argue that service was done according to service of process on corporate defendants.
5. Defendant is not a corporation.
6. 805 ILCS 180/1-50(a) states:

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).
7. Pacific does not have a registered agent in this State.
8. Therefore, the Secretary of State had to be served pursuant to 805 ILCS 180/1-50(b), which states that “The Secretary of State shall be irrevocably appointed as an agent of a limited liability company upon whom any process, notice, or demand may be serviced under any of the following circumstances:...”
9. 805 ILCS 180/1-50(b)(1) states that the Secretary of State shall be served “**whenever the limited liability company shall fail to appoint or maintain a registered agent in this State**” (emphasis added).
10. 805 ILCS 180/1-50(c) provides the details for Service under 805 ILCS 180/1-50(b) shall be made by the person instituting the action by doing all of the following:

(c) Service under subsection (b) shall be made by the person instituting the action by doing all of the following:

(1) Serving on the Secretary of State, or on any

employee having responsibility for administering this Act, a copy of the process, notice, or demand, together with any papers required by law to be



delivered in connection with service and paying the fee prescribed by Article 50 of this Act.

(2) Transmitting notice of the service on the

Secretary of State and a copy of the process, notice, or demand and accompanying papers to the limited liability company being served, by registered or certified mail:

(A) at the last registered office of the limited

liability company shown by the records on file in the Office of the Secretary of State; and

(B) at the address the use of which the person

**instituting the action, suit, or proceeding knows or, on the basis of reasonable inquiry, has reason to believe, is most likely to result in actual notice.**

(3) Attaching an affidavit of compliance with this

Section, in substantially the form that the Secretary of State may by rule or regulation prescribe, to the process, notice, or demand.

11. Plaintiff did not comply with 805 ILCS 180/1-50(c)(2)(B), because they did not make a reasonable inquiry into the address where Pacific could be found.

12. Furthermore, 805 ILCS 180/1-50(d) states “**Nothing herein contained shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a limited liability company in any other manner now or hereafter permitted by law.**” (emphasis added)

13. Plaintiff did not comply with any of the Limited Liability Company Act in their attempt to serve Pacific.

14. It is apparent that Defendant's Motion to Quash would not fail on its merits, but that Plaintiff followed the Business Corporations Act and service on private corporations, not the Limited Liability Company Act pursuant to 805 ILCS 180.
15. Furthermore, Plaintiff did not comply by the Limited Liability Company Act's requirements for proper service in 805 ILCS 180/1-50, and did not serve a registered agent in this state or the Secretary of State.
16. In fact, this Court should note that there was a great lack of diligence in service in this case, as Plaintiff completely disregarded the Limited Liability Company Act and attempted to serve process pursuant to the Business Corporations Act.

**Defendant's Motion was timely filed**

17. Plaintiff contends that on April 18, 2013 Defendant filed its appearance and appeared before this Court on that date and an order dismissing this case for want of prosecution was entered.
18. Defendant only appeared on that day to ask the Court for time to file a Motion to Quash Service, however was unable to do so because Plaintiff's counsel did not come to Court on the date of their Motion's presentment.
19. Plaintiff's had this case reinstated and their Motion to Vacate Dismissal for Want of Prosecution granted on May 30, 2013.
20. There was absolutely no reason for Defendant to file a Motion to Quash in a closed case between April 18, 2013 and May 30, 2013.
21. Defendant timely filed its Motion to Quash after the case was reinstated.

**Defendant was not properly served by Publication**

22. It is apparent in the record that Daniel Walton of ProVest LLC, the special process server, did not comply with Limited Liability Company Act's requirements for proper service in 805 ILCS 180/1-50, and did not serve the Secretary of State.
23. 805 ILCS 180/1-50(a) states:
- 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).
24. Daniel Walton's Affidavit, see Exhibit A, states that the Secretary of State shows no listing for this defendant, Plaintiff also concedes that is what the Affidavit states.
25. It was clear to Daniel Walton that Pacific does not have a registered agent in this State.
26. Daniel Walton, and Plaintiff's counsel, should have realized that Pacific Realty Group, LLC was in fact a LLC (Limited Liability Company), therefore, they had to comply the Limited Liability Company Act and served the Secretary of State.
27. The Secretary of State had to be served pursuant to 805 ILCS 180/1-50(b), which states that "The Secretary of State shall be irrevocably appointed as an agent of a limited liability company upon whom any process, notice, or demand may be serviced under any of the following circumstances:..."
28. 805 ILCS 180/1-50(b)(1) states that the Secretary of State shall be served "**whenever the limited liability company shall fail to appoint or maintain a registered agent in this State**" (emphasis added).

29. Plaintiff consistently avoids 805 ILCS 180/1-50(b) and in a sense attempts to leap over the first requirement of service on a Limited Liability Company, and tries to move the second step of service by publication and relying on Section 2-2-6 of the Illinois Code of Civil Procedure.
30. Plaintiff then attempts to rely of MB Fin. Bank, N.A. v. Ted & Paul, LLC, 2013 IL App (1<sup>st</sup>) 122077, however Defendant's counsel was counsel for Ted & Paul, LLC in that matter and is very familiar with the Appellate Court's decision.
31. The Appellate Court in Ted & Paul did not allow Ted & Paul, LLC to be served with corporate service or make a ruling that limited liability companies may be served in like manner as corporations, this is a gross misrepresentation to this Court of the issue that was presented before the Appellate Court in that matter.
32. The distinction between the Limited Liability Company Act and the Business Corporation Act, and the manners of service set forth in those two acts was never an issue presented to the Appellate Court in Ted & Paul.
33. In fact, the issue in Ted & Paul was whether a Defendant's wife could be served as an Agent for Ted & Paul.
34. The matter was remanded and the Circuit Court ruled, after evidentiary hearing, that the Defendant's wife was not an agent of Ted & Paul, and therefore the Court did not have jurisdiction over Ted & Paul, LLC in Cook County Case 09 CH 26861, thereby quashing service.

35. In this matter, the question before the Court is whether or not Plaintiff complied with the service requirements of the Limited Liability Company Act.

36. Daniel Watson did not conduct due and diligent inquiry prior to publication, as neither he nor Plaintiff served a copy of the Summons and Complaint on the Secretary of State once realizing that Pacific Realty Group, LLC did not have a registered agent in the State of Illinois.

**This Court should Strike Section IV of Plaintiff's Response**

37. Plaintiff's statements in Section IV of their Response has nothing to do with the matter before the Court, which is whether this Court had jurisdiction over Pacific Realty Group, LLC.

38. The statements made by Plaintiff in Section IV are irrelevant to the Motion before the Court, and are in fact an attempt to prejudice Pacific Realty Group, LLC.

39. Pacific Realty Group, LLC were a named Defendant by Plaintiff in this matter.

40. Plaintiff chose to name Pacific Realty Group, LLC, and therefore this Court must attain jurisdiction over Pacific Realty Group, LLC.

**WHEREFORE, the Defendant moves this court to;**

- A. Find that Daniel Walton could have found Pacific Realty Group, LLC through due and diligent search.
- B. Quash service on Pacific Realty Group, LLC for lack of due and diligent search.
- C. Quash service on Pacific Realty Group, LLC for Plaintiff not complying with the Limited Liability Company Act.

- D. Strike Section IV of Plaintiff's Response to Pacific Realty Group, LLC's Amended Motion to Quash Service.
- D. Vacate all orders in this case.
- E. Dismiss this case under Supreme Court Rule 103(b) for lack of diligence in service of process upon Pacific Realty Group, LLC.
- F. Award Pacific Realty Group, LLC its reasonable attorney's fees and costs for bringing this motion pursuant to 735 ILCS 5/15-1510.
- G. Award Pacific Realty Group LLC any other relief that the court deems just.

Respectfully Submitted,  
PACIFIC REALTY GROUP, LLC

By its Attorney, Kuroush Khajehhosseini

Kuroush Khajehhosseini  
Leading Legal LLC A Law Firm  
ARDC No.: 6307913  
20 N Clark St. Floor 32 Suite 3248  
Chicago, Illinois 60602  
312.585.1830

10 CH3572

EXHIBIT A

FILED  
2014 MAY -1 AM 11:33  
CLERK OF COURT  
WILL COUNTY ILLINOIS  
WILL COUNTY COURT ANNY

A.66

WCCA 05012014

07/09/10 12:22:24 WCCB

IN THE CIRCUIT COURT OF  
WILL COUNTY, IL  
CASE NO. 10 CH 3572

THE BANK OF NEW YORK 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; et seq  
**PLAINTIFF(S),**

VS.

Index Number:

MARK E. LASKOWSKI A/K/A MARK EDWARD LASKOWSKI; et al  
**DEFENDANT(S),**

**AFFIDAVIT OF DUE AND DILIGENT SEARCH**

STATE OF: Illinois

COUNTY OF: Will

Before me, the undersigned authority, this day personally appeared, Daniel Walton, of ProVest LLC., IL Dept. of  
Professional Regulations # 117-001336, who upon being first duly sworn, upon his/her oath, deposes and says:

A diligent search and inquiry to discover the name and residence of the subject person was performed by the following  
acts set forth, as particularly as is known to affiant, below.

After diligent search and inquiry by affiant, the residence of the subject person is unknown to the affiant.

NAME OF CORPORATION Pacific Realty Group, LLC

LAST KNOWN ADDRESS OF ABOVE CORPORATION:  
UNKNOWN

**A: INQUIRY OF TELEPHONE COMPANY:****1. DIRECTORY ASSISTANCE SEARCH**

Directory assistance stated there is not a telephone listing for our subject in Illinois Will

No record found.

**B: OTHER INQUIRIES:**

WCCA

07092010

**1. Status: ...**

WCCA

05012014

**A.67**

Secretary of State shows no listing for this defendant.

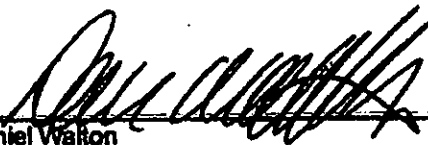


07/09/10 12:22:25 WCCB

C: ADDRESS(ES) ATTEMPTED BY PROCESS SERVER

✓ No addresses have been located or attempted for this defendant.

AFFIANT

  
Daniel Walton  
ProVest LLC.  
977 N. Oaklawn Avenue, Suite 203  
Elmhurst, IL 60126

File #:09-022786 / case #2500125

SUBSCRIBED AND SWORN TO ME BEFORE ME THIS 16 DAY OF June, 2010 BY AFFIANT WHO IS  
PERSONALLY KNOWN TO ME.

  
NOTARY PUBLIC  
MY COMMISSION EXPIRES:



WCCB 07092010

A.68

WCCA 05012014

STATE OF ILLINOIS )  
 )SS  
COUNTY OF WILL )

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS

The Bank of New York Mellon  
Plaintiff

vs

Mark Laskowski et al  
Defendant

CASE NO: 10 CH

FILED  
2014 MAY 15 PM 2:43  
Clerk, Circuit Court  
Will County, Illinois  
Pamela J. McGuire

ORDER

PLAINTIFF PRESENT	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	JUDGE <u>Thomas</u>	PLAINTIFF ATTORNEY <u>Michael Kalkowski</u>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
DEFENDANT PRESENT	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	GUARDIAN AD LITEM <input type="checkbox"/> YES <input type="checkbox"/> NO	DEFENDANT ATTORNEY <u>Patrick Drobinski</u> <u>Kusouk Khajehosseini</u>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

THE COURT BEING ADVISED IN THE PREMISES:

This matter coming on to be heard re Defendant Pacific Realty Group's amended motion to grant service, counsel for plaintiff and defendant both present, both sides having submitted briefs, the Court having received argument from both counsels, and being advised, the Court orders as follows.

It is hereby ordered that Defendant Pacific Realty Group's amended motion to grant service is denied, defendant having filed its motion beyond 60 days and not in compliance with 735 ILCS 5/15-1505.6, and Plaintiff otherwise complied with the Illinois Mortgage Foreclosure Law attempting to serve defendant who is not an Illinois limited liability company, service by publication permitted by IMFL.

Attorney or Party, if not represented by Attorney

Name Michael Kalkowski

ARDC # 66185654

Firm Name Fisher and Shapiro LLC

Attorney for Plaintiff

Address 2121 Waukegan Rd #301

City & Zip Barrington, IL 60015

Telephone 847-291-1717

Dated: 5/15/14, 20

Enter: Thomas A. Thomas

Judge

A.69

PAMELA J. MCGUIRE, CLERK OF THE CIRCUIT COURT OF WILL COUNTY

99

09-022786

IN THE CIRCUIT COURT OF 12TH JUDICIAL CIRCUIT  
WILL COUNTY, JOLIET, ILLINOIS

THE BANK OF NEW YORK 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,

NO. 10-CH 3572

-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

CLERK, CIRCUIT COURT  
WILL COUNTY, ILLINOIS  
WILL COUNTY COURT ANNEX

2014 JUN 19 PM 3:18

FILED

ORDER APPROVING REPORT OF SALE AND DISTRIBUTION  
AND ORDER OF POSSESSION AND ORDER FOR IN-REM DEFICIENCY

THIS CAUSE coming on to be heard on Plaintiff's motion for the entry of an Order Approving the Report of Sale and Distribution filed by the duly appointed Sheriff and for an Order of Possession;

The Court having examined said report finds that the Sheriff has in every respect proceeded in accordance with the terms of this Court's Judgment, and that said sale was fairly and properly made, and that the proceeds derived therefrom were properly distributed, but were not sufficient to pay in full the amount due the Plaintiff, leaving a deficiency of \$259,610.28, together with interest thereon at the rate of nine percent per annum from the date of sale.

IT IS ORDERED that the sale of the Property involved herein by said Sheriff, the distribution by him of the proceeds of sale, issuance of the Sheriff's Certificate of Sale and his Report of Sale and Distribution of proceeds of sale, be and the same are hereby approved and confirmed.

That the mortgagee's fees and costs arising between the entry of the judgment of foreclosure and the date of the Sheriff's sale are approved, ratified and confirmed.

That the Sheriff shall execute and deliver to the successful bidder, pursuant to 735 ILCS 5/15-1507, a certificate of sale and a duplicate thereof to be recorded with the Recorder of Deeds of Will County, Illinois.

That upon request by the successful bidder, the Sheriff shall execute and deliver to the successful bidder, pursuant to 735 ILCS 5/15-1509, a deed sufficient to convey title, provided that all required payments have been made.

That The Bank of New York 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 is entitled to possession of the Property, commonly known as:

LOT 10 AND ALSO THAT PART OF LOT 12, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 12, THENCE SOUTH 89 DEGREES 44 MINUTES 23 SECONDS WEST, ALONG THE SOUTH LINE OF SAID LOT 12, A DISTANCE OF 66.06 FEET TO THE WEST LINE OF LOT 10 IN SAID ST. ANDREW'S WOODS UNIT NO. 2 EXTENDED

A.70

WCCA 06202014

SOUTHWESTERLY; THENCE NORTH 38 DEGREES 25 MINUTES 36 SECONDS EAST ALONG THE SAID WEST LINE EXTENDED A DISTANCE OF 66.57 FEET TO THE WESTERLY MOST CORNER OF SAID LOT 10; THENCE SOUTH 18 DEGREES 2 MINUTES 49 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 10 A DISTANCE OF 38 FEET; THENCE SOUTH 39 DEGREES 22 MINUTES 49 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 10 A DISTANCE OF 20.34 FEET TO THE POINT OF BEGINNING, IN ST. ANDREW'S WOODS UNIT NO. 2, BEING A SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 2, TOWNSHIP 37 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 29, 1981, AS DOCUMENT NO. R81-18728, IN WILL COUNTY, ILLINOIS

Commonly known as 772 Bonnie Brae Court, Bolingbrook, IL 60440

Permanent Index No.: 12-02-02-103-041

Effective <sup>60</sup> ~~30~~ DAYS AFTER the entry of this order, the Sheriff of Will County is directed to evict and dispossess Mark E. Laskowski a/k/a Mark Edward Laskowski from the subject Property.

IT IS FURTHER ordered that said Property is subject to a special right of redemption for 30 days after the entry of this order which will allow defendant to redeem at the sale price plus all additional costs and expenses incurred by the mortgagee as set forth in the report of sale and confirmed by the court, and interest at the statutory rate from the date the purchase price was paid or credited as an offset. That if said redemption occurs there will remain an In Rem deficiency in the amount of \$259,610.28 with the same lien priorities as to the underlying mortgage herein foreclosed without any rights of homestead.

IT IS FURTHER ORDERED: The Court's Auctioneer is authorized to execute the Deed resulting from the Foreclosure Sale upon approval of the Sale by the Court

IT IS FURTHER ORDERED that there is no reason to delay enforcement of or appeal from this order.

Dated: 06-19-14

Entered: Thomas A. Therman  
Judge

**CERTIFICATE OF SALE AND/OR PURCHASER AT SALE INFORMATION**

1. DATE OF SALE: February 6, 2013
2. NAME OF SUCCESSFUL PURCHASER: THE BANK OF NEW YORK
3. CONTACT PERSON: Tasha Sigourney
4. ADDRESS: 2505 W Chandler BLVD  
Chandler, AZ 85224  
Mail Code: AZ1-805-03-03
5. PHONE NO.: AUN(800)-290-1112

Fisher and Shapiro, LLC  
Attorney for Plaintiff  
2121 Waukegan Road, Suite 301  
Bannockburn, IL 60015  
(847)291-1717

**APPEAL TO THE APPELLATE COURT OF ILLINOIS FROM THE CIRCUIT  
COURT OF WILL COUNTY – JOLIET, ILLINOIS**

**THE BANK OF NEW YOUR 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; )**

**NO. 10 CH 3572**

**Plaintiff )**

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

**Defendants )**

**FILED  
2014 JUL 18 PM 12  
CLERK CIRCUIT COURT  
WILL COUNTY, ILLINOIS**

**FILED  
2014 JUL 18 PM 12:54  
CLERK CIRCUIT COURT  
WILL COUNTY, ILLINOIS**

**NOTICE OF APPEAL**

The undersigned, Pacific Realty Group, LLC , hereby appeals from the Order  
entered on May 15, 2014 denying Defendant's, Pacific Realty Group, LLC , Motion to  
Quash

The undersigned seeks reversal of said order

Respectfully submitted,  
Pacific Realty Group, LLC

By   
The Law Offices of Matthew E Gurvey, P C

LAW OFFICES OF MATTHEW E GURVEY, P C  
111 W WASHINGTON ST, SUITE 841  
CHICAGO, ILLINOIS 60602  
TELEPHONE 312-924-5790  
ARDC # 6225090

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# Illinois Official Reports

## Appellate Court

### *Bank of New York Mellon v. Laskowski, 2017 IL App (3d) 140566*

Appellate Court Caption	THE BANK OF NEW YORK 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, v. 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).
District & No.	Third District Docket No. 3-14-0566
Filed	January 31, 2017
Decision Under Review	Appeal from the Circuit Court of Will County, No. 10-CH-3572; the Hon. Thomas A. Thanas, Judge, presiding.
Judgment	Affirmed.
Counsel on Appeal	Matthew E. Gurvey, of Law Offices of Matthew E. Gurvey, P.C., of Chicago, for appellant.  Michele D. Dougherty, of Shapiro Kreisman & Associates, LLC, of Chicago, and Meredith Pitts, of Heavner, Beyers & Mihlar, LLC, of Decatur, for appellee.

Panel

JUSTICE CARTER delivered the judgment of the court, with opinion.  
Justice Wright concurred in the judgment and opinion.  
Presiding Justice Holdridge dissented, with opinion.

## OPINION

¶ 1 Plaintiff, the Bank of New York Mellon (Bank), in its capacity as the trustee for the certificate holders of a certain alternative loan trust, brought an action against defendant Pacific Realty Group, LLC (Pacific) and others to foreclose upon a mortgage held on certain real property in Bolingbrook, Will County, Illinois. Well into the proceedings, after the subject property had already been sold at a sheriff's sale, Pacific filed its appearance in the case. On that same court date, the trial court entered a dismissal for want of prosecution (DWP) against the Bank for failing to appear. The DWP was later vacated. About 90 days after Pacific had filed its appearance, it filed a motion to quash service of process. The trial court denied Pacific's motion and later confirmed the sale of the property and the proposed distribution of the proceeds. Pacific appeals, arguing that the trial court erred in denying its motion to quash service of process. We affirm the trial court's judgment.

¶ 2 **FACTS**

¶ 3 On June 11, 2010, the Bank filed a complaint for mortgage foreclosure in the instant case. Among other things, the complaint alleged or indicated that (1) Mark Laskowski was the record owner of the subject property; (2) Laskowski had borrowed a certain sum from Cornerstone Mortgage, LLC, in December 2005 and had signed a note to that effect; (3) the debt was secured by a mortgage on the subject property; (4) Laskowski had failed to make monthly mortgage payments since December 2008 and was in default on the mortgage; (5) the Bank was the legal holder of the note and the mortgage; and (6) Pacific may have had some interest in the subject property as the result of a "Memorandum and Affidavit of Equitable Interest," which was recorded in December 2008. A copy of the note and the mortgage were attached to the complaint. The summons that was issued when the complaint was filed indicated that service was to be made on Pacific by publication.

¶ 4 In July 2010, the Bank's attorney filed an affidavit for service by publication on Pacific. In the affidavit, the Bank's attorney certified that upon diligent inquiry, Pacific could not be found so that process could be served upon it. Along with other documents that were filed later that month was an affidavit of due and diligent search. The affidavit had been subscribed and sworn on June 16, 2010. In the affidavit, the affiant averred that he had made a due and diligent search but was unable to locate the "residence" of Pacific. In attempting to find an address for service of process upon Pacific, the affiant had conducted a search of the directory assistance records but had found no telephone number listed for Pacific in Will County, Illinois. The affiant also had conducted a search of the Illinois Secretary of State records but had found no listing for Pacific. Pacific was then served by publication. A certificate of publication was later filed in the court file.

¶ 5 After service by publication was made, Pacific did not appear in court or otherwise respond to the complaint for foreclosure. In July 2012, the trial court entered an order of default and a

judgment of foreclosure and sale in the Bank's favor. In the judgment, the trial court specifically found that service of process was properly made. The subject property was sold at a sheriff's sale in February 2013.

¶ 6 In April 2013, the Bank filed a motion for an order approving the report of the sale of the property and the proposed distribution of the proceeds and also for an order of possession. The motion was noticed up for April 18, 2013. On that date, the attorney for Pacific appeared in court and filed his appearance. However, because neither a representative for the Bank nor the Bank's attorney was present in court for the scheduled court date, the trial court, on its own motion, dismissed the case for want of prosecution.

¶ 7 The following month, in May 2013, the Bank's attorney filed a motion to vacate the DWP, stating that the attorney had inadvertently failed to appear in court on the April court date due to a scheduling error. The Bank's motion was granted on May 30, 2013, and the case was reinstated. The order granting the Bank's motion indicated that the DWP was entered in error. The order also indicated that Pacific's attorney was being granted leave to file his appearance.

¶ 8 Following the reinstatement of the case, on July 18, 2013, Pacific filed a motion to quash service of process and for certain other relief. The motion was later amended. In the motion, Pacific alleged that it was a foreign limited liability company registered in New Mexico and that it did not have a registered agent in Illinois. Pacific alleged further that service by publication was improper in this case because the service did not comply with the requirements of the Limited Liability Company Act (805 ILCS 180/1-50 (West 2010)).

¶ 9 In May 2014, a hearing was held on Pacific's motion to quash service of process. By the time of the hearing, the parties had fully briefed the issues that had been raised before the trial court. After listening to the oral arguments of the attorneys, the trial court denied Pacific's motion to quash service. In doing so, the trial court found that the motion was untimely because it had not been filed within 60 days of the first appearance date as required by statute and that the motion lacked merit because service by publication in this case was proper and in compliance with the Illinois Mortgage Foreclosure Law (Foreclosure Law) (735 ILCS 5/15-1101 *et seq.* (West 2010)). The trial court subsequently entered an order approving the report of the sheriff's sale and the proposed distribution of the proceeds. Pacific appealed.

## ¶ 10 ANALYSIS

¶ 11 On appeal, Pacific argues that the trial court erred in denying its motion to quash service of process. Pacific asserts that the trial court's erroneous ruling was based upon two incorrect findings: (1) that the motion to quash service of process was untimely and (2) that the service by publication in this case was proper. We address only the first assertion because it is dispositive of the issue before us. As to that particular assertion, Pacific contends that the 60-day time period for filing a motion to quash service in a mortgage foreclosure action (see 735 ILCS 5/15-1505.6(a) (West 2012)) is tolled during the time period that a DWP is in effect.<sup>1</sup> The Bank disagrees with that contention and asserts that the trial court's finding of

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<sup>1</sup>In its reply brief, Pacific attempts to change its argument somewhat and to assert that its appearance was not effective until May 30, 2013, when the trial court granted it leave to file the appearance. However, because Pacific did not make that argument in its initial brief on appeal, that argument is forfeited and will not be considered. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013); *Cain v. Joe Contarino, Inc.*, 2014 IL App (2d) 130482, ¶ 56.



untimeliness was proper. The Bank argues, therefore, that the trial court's denial of Pacific's motion to quash service of process should be affirmed.

¶ 12 The issue of whether the trial court obtained personal jurisdiction over a party is subject to *de novo* review on appeal. *BAC Home Loans Servicing, LP v. Mitchell*, 2014 IL 116311, ¶ 17. The same is true as to a question of statutory construction, which is also involved in this case. *Gaffney v. Board of Trustees of the Orland Fire Protection District*, 2012 IL 110012, ¶ 50.

¶ 13 The statute at issue in this case, section 15-1505.6(a) of the Foreclosure Law, provides a 60-day time period for the filing of a motion to quash service of process in a mortgage foreclosure case, as follows:

“In any residential foreclosure action, the deadline for filing a motion to dismiss the entire proceeding or to quash service of process that objects to the court's jurisdiction over the person, unless extended by the court for good cause shown, is 60 days after the earlier of these events: (i) the date that the moving party filed an appearance; or (ii) the date that the moving party participated in a hearing without filing an appearance.” 735 ILCS 5/15-1505.6(a) (West 2012).

¶ 14 In the present case, Pacific did not file its original motion to quash service of process until July 18, 2013, approximately 90 days after it had filed its initial appearance in this case on April 18, 2013. The question before this court, then, is whether the statutory 60-day time period was tolled while the DWP was in effect from April 18, 2013, through May 30, 2013, so as to make Pacific's motion to quash service of process timely filed. That question is one of statutory construction.

¶ 15 The principles of statutory construction are well established. The fundamental rule of statutory construction is to ascertain and give effect to the intent of the legislature. *Gaffney*, 2012 IL 110012, ¶ 56. The most reliable indicator of that intent is the language of the statute itself. *Id.* In determining the plain meaning of statutory terms, a court should consider the statute in its entirety and keep in mind the subject the statute addresses and the apparent intent of the legislature in enacting the statute. *Blum v. Koster*, 235 Ill. 2d 21, 29 (2009); 5 ILCS 70/1.01 (West 2014) (in construing a statute, “[a]ll general provisions, terms, phrases and expressions shall be liberally construed in order that the true intent and meaning of the General Assembly may be fully carried out”). If the statutory language is clear and unambiguous, it must be applied as written, without resorting to further aids of statutory construction. *Gaffney*, 2012 IL 110012, ¶ 56. A court may not depart from the plain language of the statute and read into it exceptions, limitations, or conditions that are not consistent with the express legislative intent. *Id.*

¶ 16 In the instant case, section 15-1505.6(a) is clear and unambiguous. In a straightforward manner, it provides a 60-day time period for the filing of a motion to quash service of process in a mortgage foreclosure action. See 735 ILCS 5/15-1505.6(a) (West 2012). The 60-day time period begins to run on the date that the moving party filed an appearance or on the date that the moving party participated in a hearing without filing an appearance, whichever comes first. See *id.* Although no exceptions are listed in the statute, the statute does allow the trial court to extend the 60-day time period for good cause shown. See *id.* In the present case, however, Pacific did not seek such an extension. Under the plain and unambiguous language of the statute, therefore, Pacific's motion to quash service of process was not timely filed. See *id.*; *BAC Home Loans Servicing, LP v. Pieczonka*, 2015 IL App (1st) 133128, ¶ 12 (motion to quash service of process was properly denied as untimely); *U.S. Bank Trust, N.A. v. Colston*,

2015 IL App (5th) 140100, ¶ 20 (defendant's waived their objections to personal jurisdiction by participating in the case and by failing to file a motion to quash service of process within 60 days). The statute does not provide an exception that tolls the 60-day time period when a DWP is in effect, and we cannot read such an exception into the plain language of the statute. See *Gaffney*, 2012 IL 110012, ¶ 56. We, therefore, reject Pacific's argument on this issue.

¶ 17 Having determined that Pacific's motion to quash service of process was untimely, we must conclude that Pacific's motion was properly denied by the trial court. See *Pieczonka*, 2015 IL App (1st) 133128, ¶ 12; *Colston*, 2015 IL App (5th) 140100, ¶ 20. We need not address, therefore, whether the service by publication on Pacific in this case was proper.

¶ 18 CONCLUSION

¶ 19 For the foregoing reasons, we affirm the judgment of the circuit court of Will County.

¶ 20 Affirmed.

¶ 21 JUSTICE HOLDRIDGE, dissenting.

¶ 22 I dissent. Section 15-1505.6(a) of the Illinois Mortgage Foreclosure Law prescribes a 60-day deadline for a defendant to file a motion to quash service of process in "any residential foreclosure action." 735 ILCS 5/15-1505.6(a) (West 2012). In my view, both the plain terms of the statute and fundamental principles of fairness and common sense suggest that this deadline should run only where there exists a *pending action*. In this case, defendant Pacific filed its initial appearance on April 18, 2013. On that same day, however, the trial court dismissed the case for want of prosecution because the plaintiff Bank failed to appear. The case was reinstated on May 30, 2013, and Pacific filed its motion to quash service of process fewer than 60 days later. Thus, in my view, Pacific's motion to quash was timely under section 15-1505.6(a). In determining whether Pacific's motion was timely filed, we cannot count the time that passed while the case was dismissed for want of prosecution because, during that time period, there was no pending case. Thus, no motion to quash service could have been filed at that time.

¶ 23 In *Case v. Galesburg Cottage Hospital*, 227 Ill. 2d 207 (2007), our supreme court reached a similar conclusion while applying a different statute. In *Case*, the supreme court held that the time that elapses between the voluntary dismissal of a plaintiff's complaint and its refiling pursuant to section 13-217 of the Code of Civil Procedure (735 ILCS 5/13-217 (West 1994)) may not be considered by a court when ruling on a motion to dismiss for failure to exercise reasonable diligence to obtain service on a defendant under Illinois Supreme Court Rule 103(b) (eff. July 1, 1997). *Case*, 227 Ill. 2d at 222. The court reasoned that "[t]he requirement of a pending action against which to measure diligence is rooted in simple logic. If an action is dismissed, and not pending, there is no reason to serve a defendant with process. As such, there is nothing to delay, and nothing to be diligent about." *Id.* at 217. The same reasoning should apply here. While the foreclosure action at issue here was dismissed, and not pending, there was no reason for Pacific to contest service (and no way for it to do so). Thus, the 60-day deadline for contesting service could not have applied during that period. When the case was reinstated on May 30, the trial court gave Pacific the opportunity to file another appearance. In my view, the 60-day deadline for challenging service began to run from that date forward.

Because the defendant filed its motion to quash service 49 days after the case was reinstated, it should be deemed timely under section 15-1505.6(a).<sup>2</sup>

¶ 24

The contrary rule applied by the majority in this case could, in my view, lead to inequitable results. For example, a foreclosure plaintiff could effectively insulate itself from any motion to quash service under section 15-1505.6(a) by voluntarily dismissing the action on the date the defendant files its initial appearance (or shortly thereafter) and then refiling the action more than 60 days later. Under such circumstances, the defendant would be deprived of the opportunity to challenge service, even if it engaged in no delay and even if it were prepared to file a motion to quash service within 60 days of filing its initial appearance, as contemplated by section 15-1505.6(a). Because the statute does not countenance such an unfair result, I dissent. In my view, the majority should have addressed the merits of Pacific's appeal.

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<sup>2</sup>Arguably, in determining whether a motion to quash service is timely under section 15-1505.6(a), the time that passes between the defendant's initial appearance and the dismissal of the action should be counted, as would any time passing after the case is reinstated. See generally *Muskat v. Sternberg*, 122 Ill. 2d 41, 49 (1988). However, even if that were the case, it would not aid the Bank in this case. Here, the case was dismissed for want of prosecution on the same day that Pacific filed its initial appearance. Thus, only the time that elapsed after the case was reinstated should be counted.

**SUPREME COURT OF ILLINOIS**

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May 24, 2017

In re: The Bank of New York Mellon, etc., Appellee, v. Mark E.  
Laskowski, etc., et al. (Pacific Realty Group, LLC, Appellant).  
Appeal, Appellate Court, Third District.  
121995

The Supreme Court today ALLOWED the Petition for Leave to Appeal in the above entitled cause.

We call your attention to Supreme Court Rule 315(h) concerning certain notices which must be filed.

Very truly yours,

*Carolyn Taft Gosbell*

Clerk of the Supreme Court

STATE OF ILLINOIS

UNITED STATES OF AMERICA  
IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT

COUNTY OF WILL

THE BANK OF NEW YORK MELLON  
VS.  
PACIFIC REALTY GROUP

Case Number 2010CH003572

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No. 121995

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**IN THE  
SUPREME COURT OF ILLINOIS**

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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

---

**NOTICE OF FILING AND CERTIFICATE OF SERVICE**

TO: Joseph D. Kern  
Winston & Strawn, LLP  
35 W. Wacker Drive  
Chicago, IL 60601  
JKern@winston.com

PLEASE TAKE NOTICE that on July 6, 2017, I electronically filed the Appellant's Brief On Appeal, with the Clerk of The Illinois Supreme Court. A true and correct copy of the same is attached hereto and served upon you.

Respectfully Submitted,

By: /s/Carla Sherieves  
Law Offices of Matthew E. Gurvey, P.C.  
One of Its Attorneys

Law Offices of Matthew E. Gurvey, P.C.  
Attorney #: 6306986  
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Chicago, Illinois 60602  
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gurveylawpc@gmail.com

**CERTIFICATE OF SERVICE**

I, the undersigned attorney, certify that on July 6, 2017, I served this notice and true and correct copy of Defendant's 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/Carla Sherieves  
Law Offices of Matthew E. Gurvey, P.C.  
Carla Sherieves