

DSR #1

Aug 10/26/09

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
ELAINE LOPEZ and HECTOR LOPEZ,

Plaintiffs,

NOTICE OF MOTION

-against-

Index No. 3984/09

NEWBURGH COMMUNITY DEVELOPMENT AGENCY
and CITY OF NEWBURGH,

Defendants.

WITHDRAWN

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SIRS:

PLEASE TAKE NOTICE that upon the annexed affirmation of MICHAEL E. CATANIA, ESQ., dated July 29, 2009, together with the exhibits annexed thereto, and the Affidavit of LORENE VITEK, dated July 29, 2009, and upon all the prior pleadings and proceedings heretofore had herein, the undersigned will move this Court before the Assigned Justice at the Supreme Court, Orange County, in Goshen, New York on the 25th day of August, 2009 at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel may be heard, for an order pursuant to CPLR §3211(a)(1) for an order:

1. dismissing this action against the City of Newburgh, with prejudice, in its entirety; and
2. for such other and further relief as to this Court seems just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to CPLR §2214(b) answering affidavits, if any, must be served upon the undersigned at least seven (7) days prior to the return date of this motion.

Dated: Newburgh, New York
July 29, 2009

Yours, etc.,

TARSHIS, CATANIA, LIBERTH,
MAHON & MILLIGRAM, PLLC

By: 

MICHAEL E. CATANIA
Attorneys for Defendant
One Corwin Court
P.O. Box 1479
Newburgh, New York 12550
Tel. No. (845) 565-1100

TO: BONACIC, KRAHULIK, CUDDEBACK,
McMAHON & BRADY, LLP
Attorneys for Plaintiff
90 Crystal Run Road, Suite 104
Middletown, New York 10941
Tel. No. (845) 703-3101

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
ELAINE LOPEZ and HECTOR LOPEZ,

Plaintiffs,

ATTORNEY'S AFFIRMATION

-against-

Index No. 3984/09

NEWBURGH COMMUNITY DEVELOPMENT AGENCY
and CITY OF NEWBURGH,

Defendants.

-----X

MICHAEL E. CATANIA, ESQ., an attorney duly admitted to practice before the Courts of the State of New York, hereby affirms the following under the penalties of perjury:

1. I am associated with the law firm of Tarshis, Catania, Liberth, Mahon & Milligram, PLLC, attorneys for the CITY OF NEWBURGH, ("City") a defendant in the instant action. I am fully familiar with the facts and circumstances pertaining to this action as maintained in a file in this office.
2. This affirmation is respectfully submitted in support of the City's motion for an order, pursuant to CPLR §3211, dismissing Plaintiffs' complaint against it based upon the documentary evidence presented herein.

EXHIBITS

3. The following exhibits are submitted in support of this motion:
 - A copy of the complaint is annexed as Exhibit "A".
 - The Affidavit of City Clerk Lorene Vitek is annexed as Exhibit "B".

