

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT-- CHANCERY DIVISION

)	
)	
ROD SACHARNOSKI,)	
)	
Plaintiff,)	
)	No. 01 L 015378
)	
v.)	Transferred to
)	Chancery Division
DON CUNNINGHAM and JEFF BOLER,)	
)	
Defendants.)	

**MOTION OF DEFENDANT CUNNINGHAM TO DISMISS PURSUANT TO
CODE OF CIVIL PROCEDURE SECTION 2-107**

Defendant Don Cunningham, by his attorney, moves for the dismissal of this action pursuant to Code of Civil Procedure Section 2-107. In support of this motion, Cunningham states as follows:

1. On June 4, 2003, this Court granted Cunningham's motion to transfer this case to DuPage County, Illinois, the court of proper venue, pursuant to Code Section 2-106. The orders are attached as Group Exhibit A.

2. Code of Civil Procedure Section 2-107 states:

The costs attending the transfer shall be taxed by the clerk of the court from which the transfer is granted, and, together with the filing fee in the transferee court, shall be paid by plaintiff....If the costs and fees are not paid within a reasonable time, the transferring court shall upon motion dismiss the action.

3. The plaintiff has not paid the costs attending the transfer and more than a reasonable time has passed.

4. Section 2-107 stipulates that this Court "shall upon motion dismiss the action". No discretion is allowed. No distinction is made between the separate causes of action or defendants.

WHEREFORE, Cunningham prays that the entire action be dismissed as to all defendants.

DON CUNNINGHAM
Defendant
by: _____
his attorney

Gregory J. Bueche
Attorney for Defendant Cunningham
Suite 200
184 Shuman Boulevard
Naperville, IL 60563
630-717-2962
Atty No. 29332

Certificate of Service

I, Gregory J. Bueche, attorney of record for defendant Don Cunningham in this matter, certify that I served the forgoing Motion and Notice of Motion by placing a copy in the U.S. Mail, postage prepaid, and addressed to:

Mr. Champ Davis
Davis, Mannix and McGrath
Suite 1700
125 South Wacker Drive
Chicago, IL 60606

Jeff Boler
1025 Birchwood Avenue
Frankfort, KY 40601

on or before _____, 2003.
