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

03 DEC -9 AM 11:27

ROD SACHARNOSKI,

Plaintiff,

v.

DON CUNNINGHAM and JEFF BOLER,

Defendants.

No. 02 L 068

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

Defendant Don Cunningham, by and through his attorney, requests that this Court enter an Order dismissing this action with prejudice 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. On October 9, 2003, Cunningham presented his Motion of Defendant Cunningham to Dismiss Pursuant to Code of Civil Procedure Section 2-107. On that date, this Court entered an Order denying Defendant Cunningham's Motion provided Plaintiff paid the transfer fee by October 16, 2003. A true and correct copy of the October 16 Order is attached hereto and incorporated herein

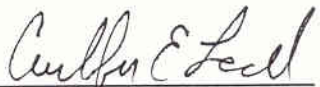
by reference as Exhibit B.

4. On information and belief, Plaintiff has still not paid the transfer fee.

5. 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 of defendants.

WHEREFORE, Defendant Cunningham requests that this Court enter an Order dismissing the entire action as to all defendants.

DON CUNNINGHAM

By: 
One of his attorneys

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