

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK****SULLIVAN PROPERTIES, L.P.,****Index No.: 153974/2020****Plaintiff,****-against-****AFFIRMATION OF
SHARI S. LASKOWITZ****BARIS DINCER,****Defendant.**

SHARI S. LASKOWITZ, an attorney duly admitted to practice before the Courts of the State of New York, hereby affirms the following to be true, under penalty of perjury, pursuant to CPLR 2106:

1. I am of counsel to Ingram Yuzek Gainen Carroll & Bertolotti LLP, attorneys for Sullivan Properties, L.P. ("Plaintiff"), in the above-captioned action. As such, I am familiar with the facts and circumstances set forth herein.

2. This affirmation is respectfully submitted in further support of Plaintiff's application seeking a preliminary injunction against defendant, Baris Dincer ("Defendant"), in accordance with Article 20 of the subject lease, enjoining Defendant from: (a) smoking in the Building hallways and leaving cigarette butts in the hallways; (b) conducting any sort of work in his apartment – construction or otherwise – that could damage the Building or any Building-wide systems; (c) threatening other residents in any manner, including, but not limited to, screaming at them or throwing liquid substances on their apartment doors and breaking apartment windows; and (d) otherwise continuing his course of conduct that is endangering the health, safety and well-being of other residents at 111 Sullivan Street, New York, New York (the "Building").

Defendant's Purported Cross-Motion Should Not Be Entertained By The Court

3. Since July 21, 2020, Defendant has filed no less than 170 documents via NYSCEF, several of which are duplicates and the majority of which have nothing to do with the instant case.

4. As part of the 170 documents filed, several different documents are denoted as a 'cross-motion' – some of which appear to request that this case be dismissed. Notwithstanding the fact that the Defendant is representing himself and may therefore be unfamiliar with court procedures, these documents and cross-motion(s) were e-filed long after the July 21, 2020 date upon which Defendant was to oppose Plaintiff's Order to Show Cause. In fact, Defendant e-filed 32 documents on July 21, 2020 purportedly in opposition to Plaintiff's Order to Show Cause – none of which were a cross-motion. Thereafter, Defendant continued to e-file a plethora of documents – very few, if any, having any bearing on the motion before the Court.

5. Plaintiff cannot and should not be required to respond to Defendant's belated cross-motion, to the extent that it seeks any relief. At best, Defendant's thesaurus-like motion papers are comprised of nonsensical statements, and to the extent that any of the statements make sense, they are self-serving and contrary to the documentation proffered by Plaintiff.

6. Based on the foregoing, Defendant's purported cross-motion should be given no credence by this Court. If the Court is so inclined to entertain Defendant's ramblings as a cross-motion, Plaintiff respectfully requests a brief amount of time to adequately and properly oppose said motion.

Not Only Has The Behaviors That Predicated The Request For A Temporary Restraining Order Continued, But Plaintiff Has Moved To Hold Defendant In Contempt Of The Temporary Restraining Order

7. The Court issued the limited Temporary Restraining Order on June 23, 2020 (the “TRO”; NYSCEF Doc. # 37), enjoining Defendant from: (a) smoking in the Building hallways and leaving cigarette butts in the hallways; (b) conducting any kind of work in the apartment – construction or otherwise – that could damage the Building or any building-wide systems; and threatening violence to other residents in the Building, including throwing liquid substances on their apartment doors and breaking apartment windows (the “TRO”; NYSCEF Doc. # 37).

8. As more fully set forth below, in violation of the TRO, Defendant has: (a) damaged the surveillance cameras in the building, leading to him being arrested and charged with two (2) counts of misdemeanor criminal mischief (CR-013375-20NY); (b) drilled a hole through the wall of the Premises into the hallway, causing foam and insulation to seep out, thus damaging the wall and ruining the carpet in the hallway; (c) entered the superintendent’s office and disconnected all of the electrical equipment contained in the office; (d) spit at a Building employee from the window of the Premises – which is inappropriate on a good day but could be deadly due to Covid-19.

9. In addition to the foregoing, Defendant has continued his campaign of disrupting the life of the sole tenant remaining in the Building, as well as that of the Building staff.

June 27, 2020 – Defendant Damages The Building

10. On June 27, 2020 – just five (5) days after the Court issued the TRO - Defendant drilled a hole through the wall of his apartment into the hallway outside of his apartment, causing foam and other materials to seep out of the hole ruining the rug outside of his apartment. See, NYSCEF Doc. # 44-47.

11. In fact, after drilling the hole, Defendant sent your affirmant an email with the re: line “Disgusting”, informing of ‘gunk’ outside of the Premises and demanding that the porter clean it immediately. See, NYSCEF Doc. # 42.

12. As a result of Defendant’s flagrant disregard for the TRO, Plaintiff moved by Order to Show Cause to hold Defendant in contempt (NYSCEF Doc. # 39-50), which is returnable at the same time as the instant motion.

13. Notwithstanding the clear conditions set forth in the TRO, the recalcitrant Defendant has flouted this Court’s order. Defendant has knowingly violated the TRO by drilling through the wall of the Premises, causing damage to the wall and the carpet outside of the Premises. Unfortunately, Plaintiff is unaware of the extent of the damage done within the Premises.

Defendant Spit At A Building Employee And Tampered With Electrical Equipment In The Superintendent’s Office

14. As more fully set forth in the affidavit of Adnan Utic, submitted in support of the Order to Show Cause to hold Defendant in contempt of the TRO (NYSCEF Doc. # 44), in addition to drilling a hole through the wall of the Premises into the hallway of the Building, which caused foam and/or insulation to seep out from the wall onto the carpet – which was damaged - on June 29, 2020, at approximately 9:16 am, Mr. Dincer was seen on surveillance video throwing items out of his window at a Building employee who was hosing down the courtyard outside of the Building. The employee informed Mr. Utic that in addition to Defendant throwing items at him, he also spit at him from the window. This is outrageous behavior towards anyone, and particularly in the time of Covid-19. A series of photographs of Defendant throwing items out of his window and spitting out of his window are filed on NYSCEF Doc. # 48.

15. Thereafter at approximately 9:22 am on June 29, 2020 Defendant was seen on surveillance video entering Mr. Utic's office and leaving a short time after. Although Mr. Utic was not in the office at the time, he returned to find that all of the electrical equipment in the office was disconnected and unplugged. The surveillance video does not show anyone else entering my office before or after Mr. Dincer (see, NYSCEF Doc. #44). NYSCEF Doc. # 49 is a series of photographs depicting Defendant entering and leaving Mr. Utic's office. NYSCEF Doc. # 50 is the invoice for the reconnection of all of the electrical equipment in Mr. Utic's office that was disconnected.

Defendant Is Arrested And Charged With Two (2) Counts Of Misdemeanor Criminal Mischief

16. Starting on the evening of July 2, 2020 and into the morning of July 3, 2020, Plaintiff received numerous complaints regarding Defendant's behavior. A resident in the neighboring building informed Plaintiff that Defendant had thrown something at her window – which is something that he has done on numerous other occasions. See, email from building neighbor, **Exhibit 1** annexed hereto.

17. That same evening, Plaintiff received complaints from a Building resident that Defendant had stolen his work boots that were left outside of the resident's apartment. The work boots were later discovered to have been thrown into an alleyway near a neighboring building but unfortunately, Plaintiff and the resident were unable to access the alleyway and the resident was forced to purchase new work boots for his job that requires him to wear work boots when on site. See, accompanying Rispoli Affidavit.

18. At some point during the evening of July 2, 2020 through the morning of July 3, 2020, Defendant removed at least two (2) of the surveillance cameras in the Building. **Exhibit 2 and 3** annexed hereto are still photographs taken from the surveillance videos showing

Defendant tampering with two (2) different cameras, after which the picture on each camera disappear.

19. In the early morning of July 3, 2020, Defendant broke into at least two (2) apartments in the Building via the first floor windows to those apartments. **Exhibit 4** annexed hereto as still photographs taken from the surveillance video showing Defendant opening windows in first floor apartments and entering into a least one of them from the waist up.

20. That same morning, Defendant can be seen on the surveillance video cutting wires outside of the Building. **Exhibit 5** annexed hereto as still photographs taken from the surveillance video showing Defendant cutting the wires, which turned out to be internet/cable wires for the tenant in the Building.

21. The Defendant was ultimately arrested at the Building and charged with two (2) counts of misdemeanor criminal mischief (CR-013375-20NY; see, **Exhibit 6** annexed hereto) as a result of Defendant physically removing and damaging the video surveillance cameras from the Building. Annexed hereto as **Exhibit 7** are photographs of the cameras that Defendant removed and threw into an alley outside of the Building.

22. Thereafter, on July 16, 2020 – after the video surveillance cameras that Defendant removed were replaced, Defendant was again seen on surveillance video tampering with the camera. Annexed hereto as **Exhibit 8** are still photographs taken from the surveillance video showing Defendant tampering with the camera.

Defendant's Other Behaviors

23. In addition to the foregoing, Defendant's continues to exhibit conduct that is calculated to, and actually did, defeat, impair, impede or prejudice Plaintiff's rights or remedies, as well as that of the tenant in the Building to whom Plaintiff must provide quiet enjoyment.

24. As more fully set forth in the accompanying Rispoli Affidavit, Defendant's neighbor – who lives two (2) floors above Defendant - has had to endure Defendant, on an almost nightly basis, hammering, drilling, using power tools, blasting music at all hours of the day and night, slamming doors and the smell of smoke permeating his apartment – in spite of the Building being a no-smoking building.

25. In fact, there is a No-Smoking Addendum to the Lease (NYSCEF Doc. # 6), which states, in relevant part:

[Defendant] agrees and acknowledges that the premises to be occupied by [Defendant] and members of [Defendant's] household have been designated as a smoke-free living environment. [Defendant] and members of [Defendant's] household shall not smoke anywhere in the unit rented by [Defendant], or the building where the [Defendant's] dwelling is located or in any of the common areas or adjoining grounds of such building nor shall [Defendant] permit any guests or visitors under the control of [Defendant] to do so.

26. Moreover, Article 13 of the Lease (NYSCEF Doc. # 6) states, in relevant part:

As a tenant in the Building, You will not engage in objectionable conduct. Objectionable conduct means behavior which makes or will make the Apartment or the Building less fit to live in for You or other occupants. It also means anything which interferes with the right of others to properly and peacefully enjoy their apartments, or causes conditions that are dangerous, hazardous unsanitary and detrimental to other tenants in the Building. Objectionable conduct by You gives Owner the right to end this Lease. You shall not make or permit any disturbing noises in the Apartment or Building or permit anything to be done that will interfere with the rights, comfort or convenience of other tenants. You shall not play a musical instrument or operate or allow to be operated audio or video equipment so as to disturb or annoy any other occupant of the Building.

26. Finally, Defendant has even emailed your affirmant screen-shots of a purported text message conversation with someone regarding sexual activities. A copy of the screen-shot that Defendant sent to your affirmant is annexed hereto as **Exhibit 9**. Such emails to your affirmant – having nothing whatsoever to do with the case – are inappropriate and further demonstrate Defendant's blatant disregard for anyone other than himself.

Conclusion

27. It is clear that Defendant has no regard for anyone other than himself – not the Plaintiff who has provided the apartment in which he lives, not the building staff who keep the building clean and operational, and not his fellow neighbors who, like Defendant, want to reside in their apartments and not be harassed or subject to Defendant’s continuous objectionable conduct.

28. Therefore, in addition to the request made by Plaintiff to enjoin Defendant in accordance with Article 20 of the Lease, from: (a) smoking in the Building hallways and leaving cigarette butts in the hallways; (b) conducting any sort of work in his apartment – construction or otherwise – that could damage the Building or any Building-wide systems; (c) threatening other residents in any manner, including, but not limited to, screaming at them or throwing liquid substances on their apartment doors and breaking apartment windows; and (d) otherwise continuing his course of conduct that is endangering the health, safety and well-being of other residents at 111 Sullivan Street, New York, New York (the “Building”), Plaintiff respectfully requests that the preliminary injunction also include the following: no smoking in Defendant’s apartment, no playing of music that is audible outside of Defendant’s apartment, no more hammering, drilling or using power tools in Defendant’s apartment, no more slamming of doors, no threatening building staff – in addition to Building residents, no more touching and/or tampering with the surveillance cameras, and doing any further work to ‘improve’ the apartment.

WHEREFORE, for the reasons set forth herein, as well as in Plaintiff’s moving papers and it’s Order to Show Cause for Contempt, Plaintiff requests that this Court Plaintiff a preliminary injunction enjoining Defendant from the following: (a) smoking in the Building hallways and leaving cigarette butts in the hallways; (b) conducting any sort of work in his

apartment – construction or otherwise – that could damage the Building or any Building-wide systems; (c) threatening other residents in any manner, including, but not limited to, screaming at them or throwing liquid substances on their apartment doors and breaking apartment windows; and (d) otherwise continuing his course of conduct that is endangering the health, safety and well-being of other residents at the Building; (e) smoking in Defendant’s apartment; (f) playing music at a high volume/that is audible outside of Defendant’s apartment; (g) hammering, drilling or using power tools in Defendant’s apartment; (h) slamming of doors in his apartment – including the front door to the Premises; (i) threatening building staff – in addition to Building residents – in any manner whatsoever, including, but not limited to, spitting at or yelling at them; (j) touching and/or tampering with the surveillance cameras; (k) doing any further work in and to the apartment to ‘improve’ it; together with such other and further relief that this Court deems just and proper.

Dated: New York, New York
August 4, 2020

Shari S. Laskowitz

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