

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

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SFS DEPOT, INC.,

Index No.:

Plaintiff,

-against-

**EMERGENCY  
AFFIRMATION**

GRACE PROPERTIES LLC,

Defendant.  
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SIR(S):

Nicholas J. Mattia, Esq., an attorney duly admitted to practice before the Courts of the State of New York, affirms and says the following under the penalties of perjury:

1. That I am associated with the Law Offices of Arnold W. Drucker, PLLC, the attorneys for the plaintiff, SFS DEPOT, INC., and as such, I am fully familiar with all of the facts and circumstances had herein. My familiarity is based upon discussions had with my client's officer and a review of the documents, books, records and files maintained by my client and my office.
2. I am making this emergency affirmation in support of the within Order to Show Cause, seeking the immediate issuance of an Order: (1) granting a temporary restraining order and preliminary injunction pursuant to CPLR §§ 6301, 6311 and 6313, staying and restraining the defendant and all persons known and unknown acting on its behalf or in concert with it, in any manner or by any means, from taking any action to terminate the plaintiff's lease and/or to commence or maintain summary proceedings to evict the plaintiff or to otherwise interfere with the plaintiff's possession of the premises located at 131-37B 41<sup>st</sup> Avenue, Flushing, New York, ("the premises"), pending the disposition of this motion; and (2) declaring and determining the

plaintiff's right to exercise its option to renew the subject lease pursuant to its express terms and conditions, and issuing an Order declaring that the plaintiff's exercise of its option to renew its lease is valid and enforceable; and (3) for such other and further relief as the Court deems just and proper under the circumstances.

3. It is respectfully submitted that the plaintiff risks severe and irreparable harm and prejudice if an Order is not issued immediately, staying and restraining the defendant from taking any action to terminate the plaintiff's lease and/or to commence or maintain summary proceedings to evict the plaintiff or to otherwise interfere with the plaintiff's possession of the premises.

4. As more fully set forth in the supporting affidavit and affirmation, the defendant has threatened to commence, or continue pursuing a judgment against the plaintiff in a summary proceeding based upon the allegation that the plaintiff's lease has expired. However, based upon the plain language of the lease, the plaintiff has validly exercised its option to renew, and the lease has not expired. The defendant's attempt to reject the plaintiff's exercise of its option represents a breach of the lease, and in order to protect its valuable leasehold interest in the premises, the plaintiff requires a determination of the validity of its previously exercised option to renew.

5. The plaintiff stands ready, willing and able to comply with the terms and conditions of its lease and pay all sums validly owed to the defendant pursuant to said lease. However, by refusing to recognize the fact that the plaintiff exercised its option to renew, the defendant has refused to accept payments previously offered by the plaintiff, and is attempting to charge the plaintiff a "holdover" use and occupancy rate, which far exceeds the actual monthly rent as set forth in the lease.

5. It is respectfully submitted that this matter must be dealt with expeditiously to protect the plaintiff's valuable leasehold interest in the premises, and that the plaintiff should not be evicted or be required to pay a penalty rate of use and occupancy based upon the defendant's breach of the lease.

6. Pursuant to 22 NYCRR § 202.7(f), the undersigned notified the defendant of the plaintiff's intention to seek injunctive relief against the defendant, as well as the time and place of the filing. Notice was given to defendant's counsel, Peter Jeon Esq., by both facsimile and e-mail. A copy of said correspondence, with proof of delivery is annexed hereto and made a part hereof as Exhibit "H".

7. No prior application for the relief requested herein has been made by the plaintiff.

WHEREFORE, it is respectfully requested that the instant application be granted in its entirety together with such other and further relief as the Court deems just and proper.

Dated: Queens, New York  
August 10, 2016

LAW OFFICES OF  
ARNOLD W. DRUCKER, PLLC

By: 

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