

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

CASE NO.: 09-CIV-20865-HURLEY/HOPKINS

JONATHAN E. PERLMAN, Esq., as Court  
Appointed Receiver of Creative Capital  
Consortium, LLC, et al.,

Plaintiff,

v.

GABRIELLE ALEXIS, et al.,

Defendants.

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**RESPONSE TO ORDER TO SHOW CAUSE WHY PLAINTIFF'S MOTION  
FOR PARTIAL SUMMARY JUDGMENT SHOULD NOT BE GRANTED**

COMES NOW, the Defendants, GABRIELLE ALEXIS, LAW OFFICE OF GABRIELLE ALEXIS, P.A., and MONDESIR & ALEXIS TITLE SERVICES, INC., (hereinafter collectively "Alexis"), by and through their undersigned counsel, and pursuant to the applicable Federal Rule of Civil Procedure, respectfully respond to this Honorable Court's Order to Show Cause Why Plaintiff's Motion for Partial Summary Judgment Should Not be Granted [D.E. 36], and in support thereof states as follows:

1. On December 21, 2009, the Plaintiff, JONATHAN E. PERLMAN, as Court Appointed Receiver of Creative Capital Consortium, LLC, et al., ("Plaintiff") filed his Motion for Partial Summary Judgment [D.E. 28].

2. On December 22, 2009, the parties filed an Agreed Motion to Extend Court's Pre-Trial Deadlines [D.E. 29] pursuant to the Court's Order Setting Trial Date & Discovery Deadlines, Referring Case to Mediation & Referring Discovery to United States Magistrate Judge [D.E. 12].

3. On January 7, 2010, the Court granted the Agreed Motion to Continue Trial and Extend Pretrial Deadlines [D.E. 30].

4. The deadline for Alexis to file their Memorandum in Opposition to the Plaintiff's Motion for Partial Summary Judgment was January 7, 2010. Alexis filed an unopposed Motion for Extension of Time to Respond [D.E. 31] which was granted by Order of the Court [D.E. 32]. Pursuant to this Order, the deadline for Alexis to file their Memorandum in Opposition to the Plaintiff's Motion for Partial Summary Judgment was February 1, 2010.

5. On February 1, 2010, Alexis filed an Unopposed Motion for Further Extension of Time [D.E. 33] which was granted by Order of the Court [D.E. 34]. Pursuant to this Order, the deadline for Alexis to file their Memorandum in Opposition to the Plaintiff's Motion for Partial Summary Judgment was February 22, 2010.

6. The basis for these extensions of time was that the parties had been engaged in protracted settlement discussions over the past several months that were well underway.

7. The parties believed that it would be prudent to finalize the settlement negotiations rather than spend time and money litigating this case and responding to the Plaintiff's Motion for Partial Summary Judgment at this time.

8. On February 15, 2010, after extensive negotiations, Alexis executed the settlement agreement that the parties had worked diligently to finalize.

9. As such, Alexis anticipated that the settlement documents would be filed for the Court's approval prior to the February 22, 2010, deadline for their Response to Plaintiff's Motion for Summary Judgment.

10. However, the Plaintiff was not able to execute and file the settlement papers until February 23, 2010. Plaintiff's Motion for Court Approval of this settlement agreement [D.E. 37] is set for hearing March 11, 2010, pursuant to Order of the Court [D.E. 38].

11. Alexis' failure to file a Response in Opposition to Plaintiff's Motion for Partial Summary Judgment was neither willful, nor prejudicial to the Plaintiff. Rather, Alexis was endeavoring to, and did, execute a settlement agreement prior to the deadline to file a Response in Opposition.

12. The parties each believe that the negotiated settlement is in the best interest of all interested parties. Moreover, in light of the executed settlement agreement, the Motion for Partial Summary Judgment is moot.

13. Accordingly, Alexis would respectfully ask the Court to accept the above a showing of good cause, not grant Plaintiff's Motion for Partial Summary Judgment, and evaluate the settlement presented to the Court for approval.

DATED: March 5, 2010  
Boca Raton, Florida

**SHENDELL & POLLOCK, P.L.**

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**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, on this 5<sup>TH</sup> day of March 2010. I also certify that the foregoing document is being served this day on all counsel of record or *pro se* parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: /s/ Kenneth S. Pollock  
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