

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

NATIONAL BUILDERS & ACCEPTANCE
CORP.,

CIVIL DIVISION

Plaintiff,

No: GD-21-007843

vs.

SOUTH SIDE SIN CITY, INC.,

Defendant.

**BRIEF IN OPPOSITION TO NATIONAL
BUILDERS & ACCEPTANCE CORP.'S
MOTION FOR SPECIAL AND/OR
PRELIMINARY INJUNCTION**

Filed on behalf of: South Side Sin City,
Inc.

Counsel of Record:

PAUL R. ROBINSON, ESQUIRE
PA I.D. No. 65581
JONATHAN McCLOSKEY, ESQUIRE
PA I.D. No. 320574
EDWARD BRANDENSTEIN, ESQUIRE
PA I.D. No. 73672

MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.
U.S. Steel Tower, Suite 4850
600 Grant Street
Pittsburgh, PA 15219
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Email: jmccloskey@mdbbe.com

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

NATIONAL BUILDERS & ACCEPTANCE
CORP.,

Plaintiff,

vs.

SOUTH SIDE SIN CITY, INC.,

Defendant.

CIVIL DIVISION

No: GD-21-007843

**BRIEF IN OPPOSITION TO NATIONAL BUILDERS & ACCEPTANCE CORP.'S
MOTION FOR SPECIAL AND/OR PRELIMINARY INJUNCTION**

AND NOW, comes the defendant, SOUTH SIDE SIN CITY, INC. ("Tenant-Defendant"), by its attorneys, Meyer, Darragh, Buckler, Bebenek & Eck, PLLC, and presents the following reply to the Brief in Opposition to Plaintiff's Motion for Special and/or Preliminary Injunction of National Builders & Acceptance Corp. ("Landlord"), averring in support thereof:

I. Plaintiff's Motion for Injunction and Complaint are Premised on the Findings of an Engineering Report which Have Since Been Withdrawn. Accordingly, the Motion for Injunctive Relief.

As acknowledged by section Paragraph 10 of Plaintiff's complaint, "On or about April 18, 2021, a section of the ceiling in the portion of the Property rented by Sin City collapsed due to damage on the roof." On April 5, 2021, Plaintiff hired Dirk Taylor, P.E. of Taylor Structural Engineers, Inc. to visit the Property and advise on the extent of the deterioration to the roof structure and to recommend repairs. Mr. Taylor authored a professional report in which he opined that the roof structure "is in unsatisfactory

condition and needs to be reinforced. . . by installing cold-formed metal joists beneath the badly deteriorated sections.” Taylor’s report also included photos of the corrosion and deterioration of the roof structure, which are collectively marked as “exhibit A” and made a part hereof. On or around May 7, 2021, Mike Cenkner of Cenkner Engineering Associates originally visited the real estate located at 233 Atwood St., Pittsburgh, PA (the “Property”) on May 7, 2021 for the purpose of observing the underside of the concrete joist roof structure and potential structural deficiencies and required repairs. Mr. Cenkner released a report dated May 10, 2021 which recommended a much less extensive scope of work that did not include reinforcement of the metal joints but rather applying a polymer modified repair mortar without any reinforcement of the metal joists. (Cenkner’s Expert Report is attached hereto, marked as Exhibit “B” and made a part hereof.)

In reliance of the Cenkner’s Expert Report, Plaintiff-Landlord obtained a building permit which is attached to its complaint as Exhibit “D” and demanded that Defendant-Tenant allow Vegely Welding to enter the property and perform the repairs set forth in Cenkner’s Expert Report. (See, Complaint, ¶¶ 11-16). Tenant, concerned that Cenkner’s proposed “repairs” were insufficient and dangerous to the safety of Tenant’s patrons, attempted to negotiate with Landlord to implement the repairs set forth in Taylor Engineering’s report. Landlord commenced the instant injunction action based upon Tenant-Defendant’s refusal to comply to allow the work proposed in Cenkner’s Expert Report to occur on the leased premises.

On July 13, 2021, Michael Cenkner, P.E. write a letter to Ken Vegely of Vegely Welding, formally withdrawing his report dated May 10, 2021. (attached hereto as

exhibit "C" and made a part hereof) Mr. Cenkner's letter states that he based his conclusions on "additional information presented to us reveal[ing] that the existing conditions are far worse than what was observed in the limited areas we [Cenkner Engineering] examined in May." Based on the withdrawal of Cenkner's May 10, 2021 letter, plaintiff's motion for injunction is effectively requesting this Court compel entry to landlord's contractor Vegely Welding to conduct work on the Property based on an engineering report that has been withdrawn and a building permit which should clearly be deemed null and void. It is hard to imagine a more absurd or dangerous request to make of this Court.

Plaintiff's counsel Marco Attisano was provided with a copy of Cenkner's Withdrawal Letter on Friday, July 16, 2021 and a request that the instant lawsuit be withdrawn. Attorney Attisano was further advised that, to the extent that this litigation is not withdrawn by the end of business on Friday, July 16, 2021 and counsel is forced to expend additional time and resources in preparation for the hearing, then defendant is requesting sanctions and attorney's fees against plaintiff for presenting this Court with knowingly false pleadings. (True and correct copy of the correspondence with attorney Attisano is appended hereto and marked as Exhibit "D")

Under Pennsylvania law, a petitioner for preliminary injunction must establish: 1) that the injunction is necessary to prevent immediate and irreparable harm that could not be compensated by damages; 2) that greater injury would result by refusing the injunction than by granting it; 3) that the injunction restores the parties to the status quo that existed immediately before the alleged wrong; 4) that the wrong is manifest and the injunction is reasonably suited to abate it; and **5) the applicant's right to relief is**

clear. *City of Philadelphia v. District Council* 598 A.2d 256 (Pa. 1991). To establish a clear right to relief, the applicant must show that it is likely to succeed on the merits [emphasis added]. *Id. In re Milton Hershey Sch. Tr.*, 807 A.2d 324, 326–27 (Pa. Cmwlt. 2002)

Here, plaintiff's case is not "likely to succeed on the merits" because plaintiff's motion for injunction is effectively requesting this Court compel entry for landlord's contractor Vegely Welding to perform work on the Property based on an engineering report that has been now withdrawn and a building permit which should clearly be deemed null and void. It is a violation of Pennsylvania law and building codes to perform commercial construction work pursuant to an invalid building permit. Here, the permit attached to plaintiff's complaint in Exhibit "D" is premised upon an engineering report that is withdrawn, and therefore, said building permit should also be deemed invalid.

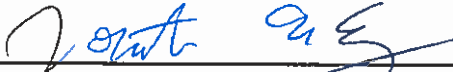
On July 16, 2021, defendant-tenant issued subpoenas for engineers Michael Cenknor and Dirk Taylor to testify at the hearing on this matter scheduled for July 19, 2021 at 9AM. (Subpoenas are attached hereto as Exhibit "E"). Given the expedited nature of plaintiff's preliminary injunction request and the foregoing subpoenas, the defendant-tenant respectfully requests that this Court provide leave for Engineers Taylor and Cenknor to be able to testify telephonically or via Microsoft Teams at the July 19, 2021 hearing.

Accordingly, Defendant, South Side Sin City Inc., requests 1) the dismissal and/or denial of the instant Motion for Special and/or Preliminary Injunction and underlying complaint and 2) an award of attorneys' fees and costs incurred by South

Side Sin City Inc. in defending this litigation because plaintiff's counsel knew that Mr. Cenkner's report was withdrawn yet misrepresented to the court that Cenkner's May 10, 2021 was in full force and effect.

Respectfully submitted,

MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, PLLC

By: 
PAUL R. ROBINSON, ESQUIRE
JONATHAN McCLOSKEY, ESQUIRE
Attorney for South Side Sin City, Inc.

PROOF OF SERVICE / CERTIFICATE OF COMPLIANCE

This is to certify that a true and correct copy of the foregoing document has been served upon all parties on the date and in the manner listed below and I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.


_____	First Class Mail, Postage Prepaid
_____	Certified Mail - Return Receipt Requested
_____	Hand Delivery
_____	Facsimile Transmission
_____	Overnight Delivery
<u> X </u>	Electronic Mail
_____	CM/ECF Filing

at the following address:

Marco S. Attisano, Esquire (marco@arlawpitt.com)
429 Fourth Avenue, Suite 1705
Pittsburgh, PA 15219
(Counsel for plaintiff)

MEYER, DARRAGH, BUCKLER,
BEBENEK & ECK, P.L.L.C.

Date: July 16, 2021



PAUL R. ROBINSON, ESQUIRE
PA I.D. No. 65581
JONATHAN McCLOSKEY, ESQUIRE
PA I.D. No. 320574



Taylor Structural Engineers, Inc.
2275 Swallow Hill Road, Bldg. 100, Pittsburgh, PA 15220
Phone: 412.722.0880 | Fax: 412.722.0887
TSEpgh.com

April 19, 2021

Mr. Neal Scratow
National Builders
4203 Murray Ave. Suite C
Pittsburgh, PA 15217

Subject: Structural Assessment of Deteriorated Roof Deck above Garage Door Saloon
223 Atwood Street, Pittsburgh, PA
TSE Project No. 6655

Dear Neal,

At your request, I met you at your building on Atwood Street in Oakland on April 5th to assess the existing structural condition of roof structure above the Garage Door Saloon tenant space. At the time of that meeting, we were able to see significant deterioration of the roof structure, but most of the structure was generally inaccessible for thorough observation because of existing ceiling and utilities. I then requested that you have the ceiling removed to allow better access for the assessment.

Within the next several days you had the ceiling removed and I returned to the building on April 12th to complete the assessment. During that second visit I was able to determine that an 8' x 19' section of the roof structure was badly deteriorated above the center portion of the Saloon, and that most of the roof structure was also badly deteriorated above the rear section of the saloon. The following is a summary of the observations, conclusions, and recommendations that we discussed at that time.

Observations:

1. The rear section of the Saloon (where most of the severe deterioration has occurred) is a 1-story space. The middle third of the center section of the Saloon is also a 1-story space, but the two outer thirds of the center section of the Saloon are part of 3-story building space with two additional floors above. The front section of the Saloon is part of 4-story building space with three additional floors above.
2. The floor and roof decks above the Saloon consist of reinforced concrete "ribbed-slabs" with 5" wide by 4" deep reinforced concrete ribs spaced at 17" on center, supporting a concrete slab of unknown thickness. 12" wide strips of 4" thick hollow clay tile were included in the ribbed-slab design as permanent form-work to reduce the volume of concrete needed for the original building construction. The concrete ribbed-slabs are supported on a grid of steel beams and columns. (This was a very common construction method for building construction in Pittsburgh a century ago.)
3. Concrete has broken off and fallen away from the bottom surface of numerous sections of the concrete ribs throughout the center and rear sections of the Saloon, exposing moderately to severely corroded reinforcing steel bars in many locations. (See attached Photos 1 and 2.) In addition, many sections of hollow clay tile have also broken loose and have either fallen away from the structure or appear to be on the verge of doing so in the future.



4. Exposed portions of the steel beams that support the ribbed-slab are moderately corroded, but I observed no evidence of any severe corrosion of the steel beams.
5. During our initial (April 5th) meeting, it was brought to my attention that the center and rear sections of the Saloon had suffered years of significant stormwater leaking problems, but leaking problems were eventually repaired, and stormwater no longer leaks through the ceilings.

Conclusions and Recommendations:

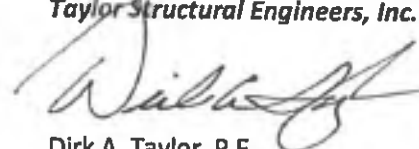
Based on my observations at the building on April 5th and 12th, it is my conclusion that the years of stormwater leaking problems caused the concrete ribbed-slabs to become saturated with water during wet weather periods, with the saturated condition causing corrosion (rusting) of the steel reinforcing bars within the concrete. When the reinforcing bars corroded, they also expanded, causing the concrete to break off and fall away from the bottom surface of the structure. As the concrete broke away, it caused the hollow clay tile to also break loose and fall away. While much of the concrete and tile have already fallen away, it appears that more sections are loose and will continue to fall away over time, posing a danger to occupants of the saloon. The deterioration appears to be limited to the roof structure and does not extend into portions of the building that have additional floors above the Saloon.

The deteriorated roof structure is in unsatisfactory condition at the present time and needs to be reinforced. Because of the risk of falling pieces of concrete and tile, the rear two-thirds of the building should not be occupied until the repairs are completed.

The attached structural calculation and detail package shows a relatively economical and less-invasive way to repair the roof by installing cold-formed metal joists beneath the badly deteriorated sections. The cold-formed framing shown on sketches SK-1 and SK-2 has been sized to carry the full load of the roof (including the dead load and live loads), thus the original deteriorated concrete structure will no longer be required for support. Other repair methods are also available, but this method should provide the quickest, least expensive, and least invasive way to restore the require structural load capacity to the roof structure.

I hope that this report provides what you need to move forward with the roof repairs, but please do not hesitate to contact me if you have any questions or desire the preparation of more complete, formal construction documents for bidding to multiple contractors. And thank you for giving Taylor Structural Engineers the opportunity to be of service.

Sincerely,
Taylor Structural Engineers, Inc.



Dirk A. Taylor, P.E.
President



Attachments: Photos 1 and 2
PE-sealed Structural Calculations and Details



Photo 1 - Deteriorated roof structure above Garage Door Saloon



Photo 2 - Deteriorated roof structure above Garage Door Saloon

Cenkner Engineering Associates, Inc.

Structural HVAC Plumbing, Fire Protection, and Electrical Systems

May 10, 2021, Rev00

Ken Vegely
Vegely Welding, Inc.
1100 Walnut St.
McKeesport, PA 1513

Re: Garage Door Saloon
Roof Joist Review & Repairs
Garage Door Saloon
233 Atwood Street
Pittsburgh, PA
Project 21031

Ken,

At your request, we visited the site with you and the landlord on May 7, 2021 for the purpose of observing the underside of the concrete joist roof structure attempting to estimate if any structural deficiencies are noticeable and recommend any repairs, if they can be determined.

Be aware that our investigation is based solely on visual observations. No exploratory demolition or load testing was performed nor requested by you. We do not believe that these services are warranted at this time. We are attempting to describe conditions based on observations only and on past experience with similar projects. If unforeseen conditions are discovered during future exploratory demolition or renovation work, we may need to alter the conclusions and recommendations presented in this report.

This report is prepared to transmit a professional opinion from Cenkner Engineering Associates, Inc. to Vegely Welding, Inc and the landlord and is considered an instrument of professional service between the parties. Use of this report by others not mentioned above is not permitted unless express written consent is obtained from Cenkner Engineering Associates, Inc. Extrapolation of opinions and conclusions beyond and outside the scope of those stated below by others will be done under their own liability and in no way hold Cenkner Engineering Associates, Inc. responsible for such conclusions.

While at the site the following items were noted.

- F1. The area in question and under review is limited to the roof of the one story section of the building.
- F2. The existing roof structure appears to be a combination of one way poured in place reinforced concrete joists, steel beams, and clay tiles. The clay tiles appear to be used primarily as form work and do not appear to structural in nature.
- F3. Loose clay tiles and spalled concrete had fallen to the floor in several areas throughout the roof in question and additional loose tiles and concrete were noted as well.
- F4. The loose and spalled concrete appears to be limited to the bottom of the concrete joist ribs exposing the rib reinforcing inside.
- F5. Water stains were noticed on the concrete joists throughout the facility probably from former roof leaks.
- F6. No excessive cracks or structural deflections were visibly noticed on the concrete roof joists or the steel beams.



Cenkner Engineering Associates, Inc.

Ken Vegely
Garage Door Saloon
Roof Joist Reviews
May 10, 2021
Page 2 of 2

Based on the above findings, the following conclusions are reached.

- C1. The spalled concrete and loose clay tiles appear to be related to water penetration from roof leaks in the past.
- C2. The water penetration appears to have made the clay tiles weak and cracked which led to them falling.
- C3. The spalled concrete on the concrete joist bottoms appears to be related to roof leaks in the past which caused corrosion forming on the reinforcing inside which expanded and cracked the bottom concrete cover.

Based on the above conclusions, the following recommendations are made.

- R1. The landlord's contractors should determine the extent of the loose concrete and clay tiles by tapping with a hammer. The loose material will make a distinctive hollow sound. All loose materials shall be removed from the site.
- R2. At locations where the concrete rib bottom reinforcing is exposed, additional concrete should be removed from the bottom of the existing concrete joists to create a gap above the existing reinforcing.
- R3. A polymer modified repair mortar should be applied to the bottom of the concrete joists. The product chosen should be rated for overhead application. It should be worked around the top of the existing rib reinforcing for proper bonding and fire proofing protection. A sample of an acceptable product is attached for review. This is NOT the only acceptable product available; just one of many.

If you have any questions or need to discuss these items in more detail, please call.

Sincerely,



Michael E. Cenkner, PE, President
Cenkner Engineering Associates, Inc.

MEC/lac

Attachments

Cenkner Engineering Associates, Inc.

Structural HVAC, Plumbing, Fire Protection, and Electrical Systems

July 13, 2021, Rev00

Ken Vegely
Vegely Welding, Inc.
1100 Walnut St.
McKeesport, PA 15113

Re: Garage Door Saloon
Roof Joist Review & Repairs
Update Withdrawing the Previous Report
233 Atwood Street
Pittsburgh, PA
Project 21031

Ken,

Considering recent information revealed to us by Taylor Engineers, we are withdrawing our report and repair recommendations previously sent on May 10, 2021. The additional information presented to us revealed that the existing conditions are far worse than what was observed in the limited areas we examined in May. We understand from Taylor engineers that the proposed structure suggested by them was to entirely support the existing roof due to areas where the reinforcing was missing due to severe corrosion over an extended period.

Be aware that we have NOT performed additional observations, site visits, or exploratory demolitions to confirm Taylor's recommendations; we are only withdrawing our suggested repair method at this time due to the additional problem areas mentioned. If unforeseen conditions are discovered during future exploratory demolition or renovation work, the landlord may need to pursue additional repairs.

Extrapolation of opinions and conclusions beyond those stated above by others will be done under their own liability and in no way hold Cenkner Engineering Associates, Inc. responsible for such conclusions.

If you have any questions or need to discuss these items in more detail, please call.

Sincerely,



Michael E. Cenkner, PE, President
Cenkner Engineering Associates, Inc.



Jonathan McCloskey

From: Jonathan McCloskey
Sent: Friday, July 16, 2021 12:49 PM
To: 'Marco Attisano'
Cc: Paul R. Robinson; Edward G. Brandenstein
Subject: RE: Engineer Cenker's Report Withdrawal Letter / National Builders v. South Side Sin City Inc. / Allegheny County GD 2021-7843

Follow Up Flag: Copied to Worldox (CLIENT WORK\F\121437\P1658537.MSG)

Marco –given the fact that today is the last business day before the hearing on Monday, here are my client's updated demands:

Demand #1 is edited to mean that tenant demands the lawsuit be withdrawn and discontinued on the docket by the end of business today, proof of which must be sent to me by the close of business. My client should not have to pay legal fees for a court hearing scheduled on Monday when it is clear that landlord has no case.

Jonathan

Meyer Darragh Buckler Bebenek & Eck, PLLC

600 Grant St., Suite 4850, Pittsburgh, PA 15219
www.mdbbe.com

Jonathan McCloskey

Attorney at Law

412-261-6600 Main
412-553-7157 Direct
412-471-2754 Fax
jmccloskey@mdbbe.com

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From: Jonathan McCloskey
Sent: Friday, July 16, 2021 12:28 PM
To: 'Marco Attisano'
Cc: Paul R. Robinson; Edward G. Brandenstein
Subject: RE: Engineer Cenker's Report Withdrawal Letter / National Builders v. South Side Sin City Inc. / Allegheny County GD 2021-7843
Importance: High

Marco –



Attached is a letter from Michael Cenker, C.E. dated July 13, 2021 where he unequivocally withdrew his report and repair recommendations previously sent on May 10, 2021 based on additional information received after-the-fact from Taylor Engineers.

This letter proves that the allegations in your complaint and preliminary injunction action are based on a report that is now proven to be withdrawn.

Tenant South Side Sin City Inc. demands the following:

1. Immediately withdraw your Complaint and Motion for Preliminary Injunction captioned at GD-2021-7843, which is premised on an engineering report which is now withdrawn and therefore null and void.
2. Immediately consent to an inspection of the Property to be conducted by the City of Pittsburgh Department of Permits, Licenses, and Inspections. They have already been informed of this imminent safety hazard and will not allow your client to endanger the lives and safety of my client or its patrons going forward by conducting work dependent on an engineering report that is now withdrawn.
3. Immediately report all of these developments to Bill Kelley, Inspection Supervisor of Construction at the City of Pittsburgh so that the issued building permit at BP-2021-09742 can be duly revoked.
4. Immediate produce your client's application for Building Permit that was ultimately issued at BP-2021-09742.

If your lawsuit is not fully withdrawn by the hearing scheduled on Monday at 9am, then we will be requesting attorneys' fees and sanctions for knowingly making false representations to the court and causing my client to incur the resulting attorneys' fees and harm.

Sincerely,

Jonathan

Meyer Darragh Buckler Bebenek & Eck, PLLC

600 Grant St., Suite 4850, Pittsburgh, PA 15219

www.mdbbe.com

Jonathan McCloskey

Attorney at Law

412-261-6600 Main

412-553-7157 Direct

412-471-2754 Fax

jmccloskey@mdbbe.com

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From: Marco Attisano [<mailto:marco@arlawpitt.com>]

Sent: Thursday, July 15, 2021 3:09 PM

To: Jonathan McCloskey

Cc: Paul R. Robinson

Subject: RE: Demand for Documentation and Withdrawal of Lawsuit / National Builders v. South Side Sin City Inc. / Allegheny County GD 2021-7843



www.mdbbe.com

Matthew C. Ashby
Paralegal

MEYER ♦ DARRAGH
BUCKLER BEBENEK & ECK, P.L.L.C.

Attorneys-at-Law

U.S. Steel Tower • Suite 4850 • 600 Grant Street • Pittsburgh, PA 15219

Phone: (412) 261-6600 • Fax: (412) 471-2754

Direct Dial: (412) 553-7053

E-mail: mashby@mdbbe.com

July 16, 2021

VIA PROCESS SERVER AND E-MAIL

MR. MICHAEL E. CENKER
CENKER ENGINEERING ASSOCIATES, INC.
1314 Fourth Ave.
Coraopolis, PA 15108

Re: National Builders & Acceptance Corp. v. South Side Sin City, Inc.
Case No: G.D. 21-7843, Court of Common Pleas of Allegheny County
Our File #: ALFA-TEMP

Dear Mr. Cenker:

As you know, our firm represents South Side Sin City, Inc., in the above referenced matter. I am enclosing a subpoena to attend and testify regarding a court ordered hearing on Monday July, 19, 2021 at 9:00 a.m., which requires you to attend to testify on behalf of South Side Sin City, Inc. I am also including the court's order referencing the scheduling of the hearing.

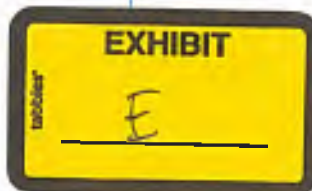
Please contact me upon receipt of this subpoena – thank you in advance for your assistance.

Very truly yours,

MATTHEW C. ASHBY
Paralegal to JONATHAN McCLOSKEY

:MCA
Enclosures

{P1658545 1}



**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA**

NATIONAL BUILDERS & ACCEPTANCE CORP.

vs.

SOUTH SIDE SIN CITY, INC.

No. G.D. 21-7843

SUBPOENA TO ATTEND AND TESTIFY

Pursuant to Pa.R.Civ.P 234.1

To: MR. MICHAEL E. CNEKER

CENKER ENGINEERING ASSOCIATES, INC.

1314 Fourth Ave., Coraopolis, PA 15108

1. You are ordered by the Court to come to:
Courtroom 816, City County Bldg, 414 Grant St. at Pittsburgh
Specify courtroom or place

Pennsylvania, on Monday, July 19, 2021 at 9:00 o'clock A M., to
testify on behalf of South Side Sin City, Inc.
in the above case and to remain until excused.
2. And bring with you the following: n/a

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

REQUESTED BY A PARTY/ATTORNEY IN COMPLIANCE WITH Pa. R.C.P. No. 234.2 (a)

Attorney's or Party's Name: JONATHAN MCCLOSKEY, ESQUIRE

Address: U.S. Steel Tower, Suite 4850
600 Grant St., Pittsburgh, PA 15219

Telephone: 412-261-6600

Supreme Court ID # 320574

Attorney for: SOUTH SIDE SIN CITY, INC.



By The Court:

Date: 7/16/2021

By: Michael McGeever

Michael McGeever
Director, Department of Court Records

By: Max Homer

Max Homer
Deputy Director, Department of Court Records

No 30391

Note: This form of subpoena shall be used whenever a subpoena is issuable under Rule 234.1, including Hearing in connection with depositions and before arbitrators, masters, commissioners, etc.
To require the production of documents or things in addition to testimony, complete paragraph 2.

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

NATIONAL BUILDERS & ACCEPTANCE
CORP.,

Plaintiff,

CASE NO. GD21-7843

vs.

SOUTH SIDE SIN CITY, INC.,

Defendant.

ORDER OF COURT

AND NOW, this ____ day of July, 2021, it is ORDERED that the hearing on Plaintiff's motion for preliminary injunction will be held before me on July 19, 2021 at 9:00 a.m. at courtroom 816 City-County Building.

BY THE COURT:


_____, J.



MEYER ♦ DARRAGH
BUCKLER BEBENEK & ECK, P.L.L.C.

Attorneys-at-Law

U.S. Steel Tower • Suite 4850 • 600 Grant Street • Pittsburgh, PA 15219
Phone: (412) 261-6600 • Fax: (412) 471-2754

Matthew C. Ashby
Paralegal

Direct Dial: (412) 553-7053
E-mail: mashby@mdbbe.com

July 16, 2021

VIA PROCESS SERVER AND E-MAIL

MR. DIRK TAYLOR
TAYLOR STRUCTURAL ENGINEERS, INC.
2275 Swallow Hill Road, Bldg 100
Pittsburgh, PA 15220

Re: National Builders & Acceptance Corp. v. South Side Sin City, Inc.
Case No: G.D. 21-7843, Court of Common Pleas of Allegheny County
Our File #: ALFA-TEMP

Dear Mr. Taylor:

As you know, our firm represents South Side Sin City, Inc., in the above referenced matter. I am enclosing a subpoena to attend and testify regarding a court ordered hearing on Monday July, 19, 2021 at 9:00 a.m., which requires you to attend to testify on behalf of South Side Sin City, Inc. I am also including the court's order referencing the scheduling of the hearing.

Please contact me upon receipt of this subpoena – thank you in advance for your assistance.

Very truly yours,

MATTHEW C. ASHBY
Paralegal to JONATHAN McCLOSKEY

:MCA
Enclosures

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA

NATIONAL BUILDERS & ACCEPTANCE CORP.

vs.

SOUTH SIDE SIN CITY, INC.

No. G.D. 21-7843

SUBPOENA TO ATTEND AND TESTIFY

Pursuant to Pa.R.Civ.P 234.1

To: MR. DIRK TAYLOR

TAYLOR STRUCTURAL ENGINEERS, INC.

2275 Swallow Hill Road, Bldg 100, Pittsburgh, PA 15220

1. You are ordered by the Court to come to:
Courtroom 816, City County Bldg, 414 Grant St. at Pittsburgh
Specify courtroom or place

Pennsylvania, on Monday, July 19, 2021 at 9:00 o'clock A M, to
testify on behalf of South Side Sin City, Inc.
in the above case and to remain until excused.
2. And bring with you the following: _____

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

REQUESTED BY A PARTY/ATTORNEY IN COMPLIANCE WITH Pa. R.C.P. No. 234.2 (a)

Attorney's or Party's Name: JONATHAN MCCLOSKEY, ESQUIRE

Address: U.S. Steel Tower, Suite 4850

600 Grant St., Pittsburgh, PA 15219

Telephone: 412-261-6600

Supreme Court ID # 320574

Attorney for: SOUTH SIDE SIN CITY, INC.



By The Court:

Date: 7/16/2021

By:

Michael McGeever

Michael McGeever

Director, Department of Court Records

By:

Max Homer

Max Homer

Deputy Director, Department of Court Records

Nº 27281

Note: This form of subpoena shall be used whenever a subpoena is issuable under Rule 234.1, including hearing in connection with depositions and before arbitrators, masters, commissioners, etc. To require the production of documents or things in addition to testimony, complete paragraph 2.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

NATIONAL BUILDERS & ACCEPTANCE
CORP.,

Plaintiff,

CASE NO. GD21-7843

vs.

SOUTH SIDE SIN CITY, INC.,

Defendant.

ORDER OF COURT

AND NOW, this _____ day of July, 2021, it is ORDERED that the hearing on Plaintiff's motion for preliminary injunction will be held before me on July 19, 2021 at 9:00 a.m. at courtroom 816 City-County Building.

BY THE COURT:

 J.