

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE
COUNTY, FLORIDA

STATE OF FLORIDA,
OFFICE OF FINANCIAL REGULATION,

CASE NO.: 07-43672-CA-09

Plaintiff,

v.

BERMAN MORTGAGE CORPORATION,
a Florida corporation, M.A.M.C. INCORPORATED,
a Florida corporation, DANA J. BERMAN,
as Owner and Managing Member,

Defendants,

and

DB ATLANTA, LLC, et al.

Relief Defendants.

**RESPONSE TO SECOND MOTION FOR CONTEMPT
FILED BY NON-PARTY GILES CONSTRUCTION GROUP, INC.**

Non-party Skilled Services of Tampa Bay, LLC, ("Skilled Services") through its undersigned counsel, Ruden, McClosky, Smith, Schuster & Russell, P.A., hereby responds to the second motion for contempt (the "Motion for Contempt II") filed by non-party Giles Construction Group, Inc. ("Giles"), and states as follows.

1. Regrettably, the instant motion filed by non-party Giles is factually inaccurate, misleading and completely unnecessary.
2. Giles asks the Court to take the extraordinary action of holding Skilled Services and its counsel in contempt of court for what Giles claims is the reprehensible and contemptuous act of simply asking the Court to clarify its Order entered June 23, 2008.

3. This is the second time Giles has endeavored to hold Skilled Services and its counsel in contempt, having filed its first motion for contempt on August 27, 2008, which was heard and disposed of by the Court at the hearing on June 16, 2008 (the "Motion for Contempt I").

4. In its Motion for Contempt II, Giles erroneously tells the Court that it "did not enter any Order with respect to the Motion for Contempt I." (Giles Motion for Contempt II ¶ 2). On the contrary, as Giles well knows, the Court heard and denied the Motion for Contempt I as reflected in the Court's June 23, 2008; an order Giles itself prepared and submitted to the Court stating that "the Motion of Giles Construction Group, Inc., for contempt or for entry of an Order to Show Cause is DENIED." (June 23, 2008 Order p. 2).

5. In the instant motion, Giles goes on to tell the Court, again erroneously, that in seeking and securing the Judgment against Giles entered by Judge Crenshaw in the Hillsborough County Case,¹ Skilled Services "violated this Court's previous Injunction Order." No such finding has ever been made nor could it have been made given that Skilled Services proceeded with the express dictate of Judge Crenshaw after rejecting Giles' argument and the judgment stands. (Giles Motion for Contempt II ¶ 3). In reality, the Court found just the opposite in denying the Motion for Contempt and only then did the Court decide to extend the scope of the injunction to temporarily stay the enforcement of Skilled Services' judgment, which notably was entered in the unrelated dispute between these two non-parties, Giles and Skilled Services, who were never mentioned in the Injunction Order. The Court decided to enjoin Skilled Services from executing on its judgment against Giles for the time being.

¹ Skilled Services of Tampa Bay, LLC is the plaintiff in an action against Giles pending in the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, styled *Skilled Services of Tampa Bay, LLC v. Giles Construction Group, Inc. and DB Tampa, LLC, et al.*, Hillsborough County Circuit Court Case No.: 07-8540.
TPA:639859:1

6. Skilled Services timely moved for clarification from the Court as to whether Skilled Services could simply perfect (but not collect) its judgment to avoid losing any more of the judgment rights as awarded by Judge Crenshaw. Precisely contrary to Giles' suggestion that Skilled Services acted contemptuously in filing its motion for clarification, such action by Skilled Services reflects ultra-respect for the Court's ruling in seeking express permission from the Court concerning an unanswered issue prior to taking any action.

7. Enough is enough. The Motion for Contempt II should be denied and it is Giles that should be sanctioned for this type of vexatious practice.

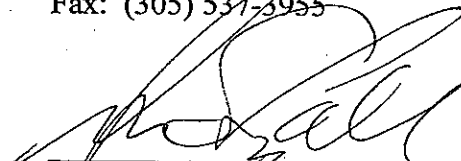
WHEREFORE, Skilled Services respectfully requests that the Court deny Giles' Motion for Contempt II and award Skilled Services its attorneys' fees and costs for having to defend this clearly improper motion.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent via facsimile and U.S. Mail, this 15th day of August, 2008 to: **Norman Malinski, Esq.**, as Attorney for Giles Construction Group, Inc., 2875 NE 191st Street, Suite 508, Aventura, Florida 33180; **Gabrielle D'Alemberte, Esq.**, Law Office of Robert Parks, 2121 Ponce de Leon Blvd., Suite 505, Coral Gables, FL; and **James D. Gassenheimer, Esq.**, Attorney for Michael I.

Goldberg, Berger Singerman, 200 S. Biscayne Boulevard, Suite 1000, Miami, FL 33131.

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