

**IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY,
FLORIDA**

CASE NO. 09-18747-CA (05)

GERARD R. COLLINS, and Additional
Lenders organized by M.A.M.C.
Incorporated, and M.A.M.C., Incorporated,
a Florida corporation,

Plaintiffs,

v.

V-STRATEGIC GROUP, LLC, a Florida
limited liability company, JUAN CARLOS
VENTURA, an individual and JOSE M.
VENTURA, an individual,

Defendants.

RECEIVER'S MOTION TO TRANSFER CASE

Michael I. Goldberg, the receiver (the "Receiver") for M.A.M.C. Incorporated ("MAMC"), hereby files this *Motion to Transfer Case* (the "Motion"). In support of this Motion, the Receiver states as follows:

1. Michael I. Goldberg files this Motion in his capacity as the Receiver for plaintiff MAMC and with the consent of plaintiffs Gerard R. Collins and the additional lenders.

2. Pursuant to that certain *Temporary Injunction and Agreed Order Appointing Receiver*, dated December 11, 2007, the Receiver was appointed receiver over MAMC, Berman Mortgage Corporation, and Relief Defendants DB Atlanta, LLC, *et al.*, (the "Receivership Defendants") by the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade

County, Florida (the "Receivership Court") in *State of Florida, Office of Financial Regulation v. Berman Mortgage Corporation, et al.*, Case No. 07-43672 CA 09 (the "Receivership Case").

3. The Receiver was appointed to prevent the waste and dissipation of the Receivership Defendants' assets to the detriment of investors who entrusted over \$192 million ("Investor Funds") to the Receivership Defendants.

4. The Investor Funds were secured by mortgages on approximately 40 different real estate projects and properties, including a loan made to V-Strategic, LLC ("V-Strategic") for the purchase of a parcel of land located at 2101 East Hallandale Beach Boulevard, Hallandale Beach, Florida (the "Property"). The V-Strategic loan was evidenced by a Promissory Note and secured by a First Mortgage and Security Agreement (the "Mortgage") against the Property. Moreover, Juan Ventura and Jose Ventura (jointly, the "Guarantors") executed a Guaranty, personally guarantying full and prompt payment of obligations under the Promissory Note, including any modifications thereto. The total amount of the loan as modified, was \$8 million.

5. Prior to the receivership case, MAMC serviced the loan made to V-Strategic. After V-Strategic defaulted, on March 31, 2009, the Receiver's counsel, on behalf of Gerard R. Collins and the other investors who contributed to the V-Strategic loan (the "Lenders") and MAMC (collectively, the "Plaintiffs"), filed this case (the "Foreclosure Case") on behalf of the investors. The Plaintiffs asserted three causes of action: Count I - Foreclosure; Count II - Breach of Promissory Note; and Count III - Breach of Guaranty.

6. On November 12, 2009, upon the Plaintiffs' Motion for Partial Summary Judgment on Counts I and II, this Court entered a Partial Final Judgment in favor of the Plaintiffs. On July 22, 2010, the Plaintiffs assigned the Partial Final Judgment and right to bid at the foreclosure sale to MAMC V-Strategic, LLC, a single purpose entity created by the

Receiver to hold title to the Property. The foreclosure sale took place on July 28, 2010. MAMC V-Strategic, LLC was the successful bidder and on August 10, 2010, the Clerk of the Court filed a Certificate of Title on behalf of MAMC V-Strategic, LLC.

7. On August 17, 2010, the Receivership Court entered an Order expanding the receivership estate to include MAMC V-Strategic, LLC as a relief defendant. ("MAMC V-Strategic").

8. The Receiver marketed the Property for sale. On June 18, 2012, the Receivership Court entered an Order approving the sale of the Property to CVS Caremark Corporation ("CVS") through its affiliate, CVS 10078 FL, LLC, for the sum of \$5,900,000.

9. The sum of \$5,274,044.90 was available for distribution to the Lenders, after payment of prorated real property taxes and closing costs, attorney's fees and loans (made with other funds in the Receivership Case) to pay expenses and prior years' real property taxes. This sum represents a 65.93% return on the Lenders' principal investment. On September 19, 2012, the Receivership Court authorized the Receiver to make a partial distribution to the Lenders.

10. The Lenders engaged the Law Offices of Robert L. Parks PL to recover the remaining amounts owed on the V-Strategic loan. On September 27, 2012, the Lenders filed a Complaint against the Guarantors in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, Case No. 2012-038306-CA-01 (the "Contract Indebtedness Case").

11. As one of their affirmative defenses in the Contract Indebtedness Case, the Guarantors asserted that there are presently two pending actions in two separate circuit courts.

12. The Contract Indebtedness Case has been active since its inception. A true and correct copy of the docket for the Contract Indebtedness Case is attached hereto as Exhibit 1.

13. As demonstrated by the docket in this case, there has been no action in this Foreclosure Case since August 10, 2010, the date that the Certificate of Title was issued. A true and correct copy of the docket in the Foreclosure Case is attached hereto as Exhibit 2.

14. Through this Motion, the Receiver, seeks to transfer the remaining portion of the Foreclosure Case into the Contract Indebtedness Case.

MEMORANDUM OF LAW

Where two actions between the same parties are filed in different circuits, venue normally lies in the circuit where service of process is first perfected. See *Mabie v. Garden St. Management Corp.*, 397 So.2d 920, 921 (Fla.1981). In *Ray v. Williams Phosphate Co.*, 59 Fla. 598, 52 So. 589 (1910), the supreme court recognized that the facts of a given case may justify an exception to the general venue rules. See *Beckmann v. Burdette-Beckmann, Inc.*, 564 So.2d 649 (Fla. 4th DCA 1990) (reversing order changing venue because an exception to *Mabie* was not supported by facts in the record). Section 47.122, Florida Statutes, allows for such an exception in its provision that a court may transfer venue "in the interest of justice." See *Triad Discount Buying Services, Inc. v. Special Data Processing Corp.*, 761 So.2d 1181, 1182 (Fla. 4th DCA 2000).

The factors outlined in § 47.122, Florida Statutes authorize the transfer of the Foreclosure Case to Miami-Dade County and into the Contract Indebtedness Case. The statutory factors a court considers in determining whether to grant a motion pursuant to § 47.122 are (1) the convenience of the parties; (2) the convenience of the witnesses; and (3) the interest of justice. See *Ford Motor Co. v. James*, 33 So.3d 91, 92–93 (Fla. 4th DCA 2010); § 47.122, Fla. Stat. The Guarantors reside in Miami-Dade County; the foreclosure portion of the Foreclosure Case has been completed, so there is no longer a nexus to Broward County; the parties have been litigating

the Guarantors' liability in the Contract Indebtedness Case for three years, while there has been no activity of record on Count III in the Foreclosure Case.

A Court may transfer venue of action based on convenience of parties or in interest of justice. *See Imperatore v. NationsBank of Florida N.A.*, 677 So.2d 933 (Fla. 4th DCA 1996). Although venue in Broward County may not be improper, a court may grant a motion to change venue to another county which was strongly connected with suit for convenience of parties or witnesses or in interest of justice. *See Lanthan Const. Corp. v. McDaniel Grading, Inc.*, 695 So.2d 354 (Fla. 5th DCA 1996). The circumstances of these cases warrant the transfer of the Foreclosure Case to Miami-Dade County, Florida and into the Contract Indebtedness Case.

Wherefore, Michael I. Goldberg, in his capacity as Receiver of MAMC and related entities, respectfully requests this court enter an Order transferring this case to Miami-Dade County and into the Contract Indebtedness Case and for such other relief as is just and proper.

Respectfully submitted,

/s/ Joan Levit

Joan Levit, Esq.
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Phone: (954) 463-2700/Fax: (954) 463-2224
Counsel for the Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. mail this June 12, 2015 to Anthony M. Lopez, Esq., Counsel for the Defendants, Marin, Eijaiiek & Lopez PL, 2601 Bayshore Dr, Suite 850, Coconut Grove, FL 33133 and Gabriel Garay, Esq., Law Offices of Robert L. Parks, P.L., 799 Brickell Plaza, Suite 900, Miami, Florida 33131.

/s/ Joan Levit
Joan Levit, Esq.

EXHIBIT 1

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GROUP OF LENDERS ASSEMBLED ON THE LOAN VS VENTURA, JUAN CARLOS

Local Case Number: 2012-038306-CA-01
Filing Date: 09/27/2012
State Case Number: 132012CA038306000001
Case Type: Contract & Indebtedness (Greater than \$15,000)
Consolidated Case No.: N/A
Judicial Section: CA21
Case Status: OPEN



















Parties Number of Parties: 3 +

◀ **Hearing Details** Number of Hearing: 9 +

Dockets Dockets Retrieved: 64 -

Date	Book/Page	Docket Entry	Event Type	Comments
11/24/2014		Special Sets	Hearing	
11/18/2014		Special Sets	Hearing	
11/13/2014		Mot to File Amended Complaint	Event	

Date	Book/Page	Docket Entry	Event Type	Comments
	11/06/2014	Witness List	Event	<i>Parties: Ventura Juan Carlos; Ventura Jose M</i>
	11/05/2014	Deposition of	Event	MICHEAL GOLDBERG
	11/05/2014	Notice of Taking Deposition	Event	;
	11/05/2014	Notice of Filing:	Event	DEPOSITION
	11/05/2014	Notice of Taking Deposition	Event	
	11/05/2014	Notice of Taking Deposition	Event	
	11/05/2014	Notice of Taking Deposition	Event	
	10/24/2014	Notice of Hearing-	Event	SPECIAL APPT 11/18/2014 03:30 PM
	10/22/2014	Response to Request for Production	Event	
	10/10/2014	Witness List	Event	<i>Parties: Group Of Lenders Assembled On The Loan</i>
	10/02/2014	5 Minute Motion Calendar	Hearing	
	10/02/2014	Order on Motion to Compel	Event	
	09/25/2014	Motion for Summary Judgment	Event	
	09/24/2014	Notice of Taking Deposition	Event	
	09/23/2014	Notice of Taking Deposition	Event	
	09/22/2014	Request for Production	Event	
	09/22/2014	Notice of Hearing-	Event	MOTIONS 10/02/2014 09:00 AM
	09/22/2014	Request:	Event	FOR SPECIAL SET OF HEARING
	09/22/2014	Affidavit of:	Event	MOTION FOR FINAL SUMMARY JUDGMENT
	09/22/2014	Deposition of	Event	

	Date	Book/Page	Docket Entry	Event Type	Comments
	09/22/2014		Deposition of	Event	
	09/17/2014		Motion to Compel	Event	
	08/21/2014		Special Sets	Hearing	
	07/29/2014		Order Setting Non-Jury Trial	Event	11/24/2014 09:00 AM
	07/08/2014		5 Minute Motion Calendar	Hearing	
	07/08/2014		Order:	Event	ON MOTI FOR CONTINUANCE
	06/30/2014		Notice of Hearing-	Event	MOTIONS 07/08/2014 09:00 AM
	05/30/2014		Motion for Continuance	Event	
	04/29/2014		Order:	Event	OF REFERRAL TO MEDIATION
	04/29/2014		Order Setting Non-Jury Trial	Event	08/21/2014 01:30 PM
	04/21/2014		Notice:	Event	NON-JURY TRIAL
	04/21/2014		Notice of Trial (case at Issue)	Event	
	04/21/2014		Notice of Trial (case at Issue)	Event	
	01/24/2014		Request for Production	Event	
	12/18/2013		Reply to Affirmative Defenses	Event	
	12/10/2013		Order:	Event	FRO DEFAULT/DENIED
	12/09/2013		Notice of Taking Deposition	Event	JUAN CARLOS VENTURA, JOSE M VENTURA
	12/05/2013		5 Minute Motion Calendar	Hearing	
	12/04/2013		Motion for Protective Order	Event	
	12/03/2013		Answer and Affirmative Defense	Event	ATTORNEY:00013685 <i>Parties: Ventura Juan Carlos; Ventura Jose M</i>
	11/22/2013		Notice of Hearing-	Event	MOTIONS 12/05/2013 09:00 AM

	Date	Book/Page	Docket Entry	Event Type	Comments
	11/22/2013		Motion for Default	Event	
	11/15/2013		Notice of Taking Deposition	Event	
	10/11/2013		Order Denying Motion to Dismiss	Event	
	10/10/2013		5 Minute Motion Calendar	Hearing	
	10/01/2013		Notice of Hearing-	Event	MOTIONS 10/10/2013 09:00 AM
	08/19/2013		Motion to Dismiss	Event	
	07/30/2013		5 Minute Motion Calendar	Hearing	
	07/30/2013		Order:	Event	DENIED, DEF MTN TO QUASH SERVICE OF PROCESS
	07/12/2013		Notice of Hearing-	Event	MOTIONS 07/30/2013 09:00 AM
	07/11/2013		Order:	Event	MOTION TO QUASH SERVICE OF PROCESS.DEFERRED
	07/09/2013		5 Minute Motion Calendar	Hearing	
	07/01/2013		Notice of Taking Deposition	Event	
	06/07/2013		Notice of Hearing-	Event	MOTIONS 07/09/2013 09:00 AM
	01/24/2013		Notice of Appearance	Event	ATTORNEY:00013685 <i>Parties: Ventura Juan Carlos; Ventura Jose M</i>
	01/24/2013		Motion to Quash	Event	
	10/11/2012		Service Returned	Event	BADGE # 1320 P 10/05/2012 <i>Parties: Ventura Jose M</i>
	10/11/2012		Service Returned	Event	BADGE # 1320 P 10/05/2012 <i>Parties: Ventura Juan Carlos</i>
	09/27/2012		Summons Issued	Event	<i>Parties: Ventura Juan Carlos; Ventura Jose M</i>
	09/27/2012		Complaint	Event	
	09/27/2012		Civil Cover	Event	

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EXHIBIT 2

Case Detail

Broward County Case Number: **CACE09018747** State Reporting Number: **062009CA018747AXXXCE**
 Court Type: **Civil Division - Circuit Court** Case Type: ***Real Property MTG Foreclosure + (prior to 1/1/10)**
 Incident Date: **N/A** Filing Date: **03/31/2009**
 Court Location: **Central Courthouse** Case Status: **Disposition Entered**
 Magistrate ID / Name: **N/A** Judge ID / Name: **05 Lynch, Thomas M., IV**

Style: **Gerard R Collins, et al Plaintiff vs. V-Strategic Group Llc, et al Defendant**

Party(ies)	Disposition(s)	Event(s)
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[+] Expand All [-] Collapse All Document Options: Viewable Confidential

[+] Party Detail

[-] Disposition Detail

Date	Statistical Closure(s)
11/12/2009	Disposed by Judge

View	Date	Disposition(s)	Pages
	11/12/2009	Partial Final Judgment Comment (OF FORECLOSURE AGAINST DEFENDANT V-STRATEGIC GROUP, LLC, AS TO COUNTS I AND II OF THE AMENDED COMPLAINT) Foreclosure - Property Date of Order: 11/12/2009, Judgment Amount: Awarded To: Gerard Collins, et al Awarded Against: V-Strategic Group LLC, et al Foreclosure: Property Sale Cancelled Cancel Date: 01/14/2010 Reason: Per Plaintiff's Fax	

[-] Events, Hearings, Documents and Orders of the Court

View	Date	Description	Additional Text	Pages
	08/10/2010	Certificate of Title		
	07/30/2010	Bid Sheet		
	07/30/2010	Certificate of Sale		
	07/30/2010	Bid Sheet		
	07/30/2010	Certificate of Sale		
	07/28/2010	Foreclosure Sale	Hearing Time: 10:00 AM Not Applicable, , Location: On-line @ www.broward.realforeclose.com	
	07/27/2010	Notice of Filing	assignment of Jgmt & right to bid/attached Party: Plaintiff Collins, Gerard R Plaintiff Mamc Inc	
	07/22/2010	Foreclosure Sale Fee	Payor: Harrod, Rene D ; Userid: CTS-dfarcasiu ; Recelpt: 20101YE1J001614 ; Amount: \$70.00	
	07/14/2010	Proof of Publication	BERGER SINGERMAN 350 E LAS OLAS BLVD STE 1000 FT LAUD 33301 954-525-9900	
	07/14/2010	Notice of Filing	PROOF OF PUB	
	07/09/2010	Copies Mailed to all Parties; ORD/NSDB	(2nd mailing) of Order 05-26-10 and NSA 05-26-10 and CRESDA.	
	05/26/2010	Order	ON PLTF'S MOTION FOR CONTINUATION OF THIS ACTION AND TO RESET FORECLOSURE SALE DATE...GRANTED	
	05/26/2010	Notice of Sale		
	05/26/2010	Copies Mailed to all Parties; FJ/NSDB		
	05/26/2010	Consent/Request to Extend Sale Date	Party: Plaintiff Collins, Gerard R Plaintiff Mamc Inc	
	05/18/2010	Notice of Filing	order granting mot of secured creditor MAMC Inc for relief from the automatic stay (attached) Party: Plaintiff Collins, Gerard R Plaintiff Mamc Inc	

	05/07/2010	Notice of Hearing	5/26/10 8:45 Rm 1060 Party: <i>Plaintiff</i> Collins, Gerard R <i>Plaintiff</i> Mamc Inc
	05/07/2010	Motion	FOR CONTINUANCE OF THIS ACTION AND TO RESET FORECLOSURE SALE DATE (EXH ATTCHD)/ PLTF
	05/07/2010	Volume Created	#3
	01/14/2010	Suggestion of Bankruptcy	as to V-Strategic Group, LLC. sba# 10-10721 Party: <i>Plaintiff</i> Collins, Gerard R
	01/14/2010	Foreclosure Sale	CANCELED Per <i>Plaintiff's</i> Fax Hearing Time: 11:00 AM Not Applicable, , Location: On-line @ www.broward.realforeclose.com
	12/14/2009	Copies Mailed to all Parties; FJ/NSDB	
	11/12/2009	Notice of Sale	
	11/12/2009	Consent/Request to Extend Sale Date	Party: <i>Attorney</i> Harrod, Rene D
	11/12/2009	Foreclosure Form	MOTION TO DISMISS, ORIGINAL PROMISSORY NOTE, ORIGINAL/COPY OR FRCORDED MORTGAGE, ORIGINAL/COPY OF ASSIGNMENT OF MORTGAGE, AFFIDAVIT OF INDEBTEDNESS
	11/12/2009	Partial Final Judgment	
	10/19/2009	Motion for Partial Summary Judgment	Of Fclsre Against Df V-Strategic Group LLC On Counts I & II (Exhs Attached) Party: <i>Plaintiff</i> Mamc Inc
	10/19/2009	Notice of Hearing	11/12/09 at 08:45 rm 1060 Party: <i>Plaintiff</i> Collins, Gerard R <i>Plaintiff</i> Mamc Inc
	10/08/2009	Order	on Defts' Motion to Dismiss / Denied. Defts have 20 days to answer Amended Complaint
	09/23/2009	Re-Notice of Hearing	10/07/09 at 08:30 rm 1060/PL
	09/17/2009	Notice of Hearing	10/1/09 8:30 RM 1060 Party: <i>Plaintiff</i> Collins, Gerard R <i>Plaintiff</i> Mamc Inc
	09/14/2009	Motion to Dismiss	Amended Complaint Party: <i>Defendant</i> V-Strategic Group LLC <i>Defendant</i> Ventura, Juan Carlos <i>Defendant</i> Ventura, Jose M
	09/11/2009	Order Denying Motion	for default against V-Strategic Lic, Juan Carlos Ventura and Jose M Ventura
	08/05/2009	Notice of Hearing	09/10/09 At 08:30 Rm 1060-Notice Of Hearing (Copy Of Mot Attached) (Lms)
	08/05/2009	Volume Created	VOLUME 002 CREATED (TXH)
	08/04/2009	Motion for Default	Motion For Default/pl (Lms)
	07/09/2009	Motion for Extension of Time	Mo For Extension Of Time To Ro File Response To Amended Complaint/ Deft V Strategic Group Llc (Tdc)
	07/08/2009	Agreed Order	Agreed Order Granting Dfs Mot For Extension Of Time To File Response To Amended Complaint (Lms)
	06/04/2009	Amended Complaint	Amended Complaint/exhs Attchd/pls (9jj)
	05/07/2009	Motion for Extension of Time	Mo For Extension Of Time To File Response To Complaint/ Deft V Strategic Group Llc (Tdc)
	05/01/2009	Order Granting Motion	Order Granting Dfs'Mot For Extension Of Time To File Response To Complaint (Lms)
	04/13/2009	Summons Returned Served	Sums Retd Srvd R/a V-Strategic Group, Llc Cellaw R/a, Served On 04/02/09 (9de)
	04/13/2009	Summons Returned Served	Sums Retd Srvd Jose M Ventura C/O Santiago Eljalek, Served On 04/02/09 (9de)
	04/13/2009	Summons Returned Served	Sums Retd Srvd Juan Carlos Ventura C/O Santiago Eljalek, Served On 04/02/09 (9de)
	03/31/2009	Filing Fee	Filing Fee Paid (Mjc)
	03/31/2009	Petition	Petition: Fld (Mjc)
	03/31/2009	Civil Cover Sheet	Civil Cover Sheet (Mjc)
	03/31/2009	Lis Pendens	Lis Pendens: Fld & Rec (Mjc)
	03/31/2009	Summons Issued	Summons Issued-Fee Required 3 (Kzm)
	03/31/2009	Clock In Date of Case	03/31/09 Is Clock-In Date Of Case (Kzm)
	03/31/2009	Random Assignment	Random Assignment Subd:05 (Mjc)

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