IN THE SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

LUCKY DEVELOPMENT CO., LTD. Plaintiff, vs. TOKAI U.S.A., INC., VICTORINO N. IGITOL and URSULA L. ALDAN, Defendants.	CIVIL ACTION NO. 90-828 **DECISION AND ORDER**

The parties in this case have expended a great deal of time, trouble and paper in order to litigate what is essentially a very simple contract action. This suit involves two parcels of land located in Sadog Dogas, Saipan. These parcels have been referred to throughout this litigation as Lots B and C. Ursula L. Aldan holds the fee simple interest in Lot B. Victorino Igitol holds the fee simple interest in Lot C.

The plaintiff, Lucky Development Co., Inc., filed suit seeking specific performance of lease agreements it alleges it entered with agents of Mrs. Aldan and Mr. Igitol. Other facts that are relevant

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to this litigation will be discussed under the headings to which they relate.

The defendants have filed motions for summary judgment pursuant to Commonwealth Rule of Civil Procedure 56. The plaintiff did not file a motion opposing either motion for summary judgment. Therefore, the court will accept all averments made in defendants' motions as true. Commonwealth R. Civ. Pro. 8(d). In addition to considering the defendants' motions for summary judgment, the court will address the plaintiff's motion for summary judgment with respect to Count II of Tokai's counterclaim as well as all other motions pending in this matter.

Summary judgment is proper "only if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Ito v. Macro Energy, Inc. et al., slip. op. at 6 (N.M.I. Super. Ct. December 17, 1990). The dispute before the court must contain a genuine dispute where the evidence is such "that a reasonable jury could return a verdict for the nonmoving party." Borja v. Rangamar, Appeal No. 89-009, slip op. at 7 (N.M.I. September 17, 1990). The existence of a genuine issue of fact is dependent on "the existence of a viable legal theory." Marianas Land Corp. v. Guerrero, Civil Action No. 88-685, slip. op. at 5 (N.M.I Super. July 12, 1990).

I. TOKAI'S and ALDAN'S COUNTERCLAIMS FOR INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS

The plaintiff seeks summary judgment with respect to the separate counterclaims filed on behalf of Tokai and Mrs. Aldan

seeking relief for Interference With Prospective Economic Relations. The basis of these claims lie in the fact that the plaintiff filed this lawsuit for the purpose of affecting the Defendants' business relations. Under this factual scenario, the court cannot apply this theory. This court simply will not apply the tort of Interference With Prospective Economic Relations where the prima facie case is based on the fact that the opposing party initiated frivolous legal proceedings.

The Defendants cite several cases in support of their claims. Blake v. Levy, 191 Conn. 257, 464 A.2d 52 (1983); Leigh Furniture v. Isom, 657 P.2d 293, 304 (Utah 1982); Top Serv. Body Shop v. Allstate Ins. Co., 582 P.2d 13645, 1371 (Ore. 1978). None of these courts allowed the application of this tort where the initiation of a legal proceeding was the basis of the claim. In fact, the Blake court expressly rejected the very theory the Defendants urge on this court. Blake v. Levy, supra at 191 Conn. at _____, 464 A.2d at 56 (allowing "[s]uch a suit would have interfered with the societal policy permitting the parties to petition the government") citing Baker Driveway Co. v. Bankhead Enterprises, 478 F. Supp. 857 (E.D. Mich. 1979).

The only case that the court could find that supports defendants' counterclaims is Erlandson v. Pullen, 608 P.2d 1169 (Or. App. 1980). In Erlandson, the court allowed a claim for Interference With a Business Relationship where a plaintiff maliciously brought a fraud action without probable cause for the purpose of affecting the defendants' business relations. The court offered no reason for

allowing this cause of action, nor did it weigh the underlying policy considerations. This court declines to adopt the Erlandson court's misguided approach.

If a cause of action is brought "in bad faith," is filed without probable cause, and is resolved in the defendant's favor, a cause of action for Wrongful Use of Legal Proceedings already exists to attack the plaintiff's abusive use of the legal processes. Restatement (Second) of Torts, § 674 (1977). The court sees no reason to create an additional cause of action in this factual scenario since the aggrieved parties already have existing remedies available to them. Since a suit for interfering with business relations cannot exist under these circumstances, the court grants summary judgment with respect to both of these counterclaims.

The Court does not share the plaintiff's opinion that the filing of these counterclaims rises to the level of a Rule 11 violation. The court finds that these motions were filed for the express purpose of making a good faith argument for the extension of existing law in this jurisdiction. No vexatious motive or other improper purpose for its filing were evident. The plaintiff's motions for sanctions against Tokai and Aldan on these counts is, therefore, **denied**.

II. PLAINTIFF'S MOTION FOR SANCTIONS BASED ON TOKAI SAIPAN'S FILING OF THIRD PARTY COMPLAINT

The plaintiff also seeks sanctions against Tokai Saipan under Commonwealth Rule of Civil Procedure 11 for filing a Third Party Complaint in the suit at a time when it was not a named party. The court agrees with plaintiff's assessment of Tokai Saipan's actions.

On October 29, 1990, the attorney for Tokai Saipan and Tokai U.S.A. filed a first amended complaint, counterclaim, summons, and third party complaint. For some unknown reason, the third party complaint named Tokai Saipan, as the third-party complainant. Clearly, Tokai Saipan was not a named party in this lawsuit at the time this motion was filed. Being an existing party to the lawsuit at the time of filing is a prerequisite to filing a third party complaint. Commonwealth Rule of Civil Procedure 14 states quite clearly that "[a]t any time after commencement of the action a defending party, as a third-party plaintiff, may cause a summons and complaint to be served upon a person not a party to the action . . . ." (emphasis added).

Not only is Tokai Saipan not a defending party, but the alleged third-party complaint would be against Lucky which is a party to the suit. This is in direct conflict with the rule since third-party complaints cannot be filed against existing parties to a suit.

The only defense offered by Tokai is that the pleading was merely mislabeled as a third-party complaint when it should have been marked as a counterclaim. Tokai correctly argues that the court can treat an improperly designated defense as a counterclaim and vice versa if "justice so requires." Wright & Miller, Federal Pract. & Proc: Civil § 1407 at 39-40 (2d ed. 1990). However, this argument is misplaced because Tokai Saipan was not even in a position to file a counterclaim at the time it filed the third-party complaint since it was not yet a party to this action. Therefore, Tokai Saipan apparently asks the court to treat its mislabeled Third-Party

Complaint as both a motion for intervention and as a counterclaim. The court may be able to correct an improper designation on a pleading, but it cannot completely rewrite Tokai Saipan's pleadings to correct it mistakes.

The court also finds that Rule 11 sanctions are warranted under the circumstances. It is obvious that the motion is not well grounded in fact or warranted by existing law. Golden Eagle Distrib. Corp. v. Burroughs Corp., 801 F.2d 1531, 1538 (9th Cir. 1986). The signing of this motion by Tokai's attorney, John P. Manaut, was not done after a reasonable inquiry into the relevant law in this jurisdiction. Zaldivar v. City of Los Angeles, 780 F.2d 823, 830-31 (9th Cir. 1986). Since Mr. Manaut has already been given an opportunity to be heard on plaintiff's motion for sanctions, the court orders the plaintiff to submit, in writing, a summary of the expenses it incurred in defending Tokai Saipan's Third-Party Complaint. This summary must be filed within five (5) days of the date of this Decision and Order. If the court finds these expenses reasonable, it will order the payment of those expenses to the plaintiff.

III. PLAINTIFF'S MOTION FOR RELIEF FROM THE NOVEMBER 9, 1990, SANCTIONS ORDER

The plaintiff also seeks relief from portions of the court's November 9, 1990 order for sanctions directed against plaintiff's prior attorney in this matter. In support of this motion, the plaintiff cites the text of Commonwealth Rule of Civil Procedure 60(b) in its entirety. The plaintiff then goes on to argue that

"Lucky seeks relief from the November 9, 1990 Order to the extent that the Order goes to the merits of the action . . . ." This statement does not fit within any of the grounds for relief from an order stated in Rule 60(b).

Furthermore, Rule 60 only applies to final judgments and orders. 11 Wright & Miller. Fed. Pract. & Proc. § 2851 (1973). The November 9, 1990 order for sanctions is not a final judgment with respect to the plaintiff because the sanctions were directed against the plaintiff's previous attorney, not the plaintiff. Therefore, Lucky does not even have standing to file a Rule 60(b) motion with respect to the sanction order. See, Reynolds v. East Dyer Dev. Co., 882 F.2d 1249 (7th Cir. 1989).

Finally, plaintiff's current counsel cannot seek relief from the judgment in his own name since the sanctions were against plaintiff's prior counsel. The plaintiff's current counsel, therefore, lacks standing to contest the contents of the order.

Therefore, Plaintiff's motion for relief from the sanction order is **denied**.

IV. THE DEFENDANT'S MOTIONS FOR SUMMARY JUDGMENT

Because the facts that are relevant to each Defendants' motion for summary judgment vary, the court will discuss their respective positions individually.

A. Victorino Igitol

On February 9, 1990, Juan Demapan contacted Antonio Guerrero to ascertain whether he had any beach front property available for

lease. Mr. Demapan was making this inquiry on behalf of the plaintiff. On the same day, Mr. Guerrero signed a document that plaintiff's claim is an offer to lease both Lots B and C. This document included the price to be paid for the land and the phrase "[t]he balance to be termed and discussed at a date to be set by the parties." Though nothing in this document discloses the existence of an agency relationship between Mr. Igitol and Mr. Guerrero, the plaintiff alleges that this agreement was entered on behalf of Victorino Igitol.

On February 14, 1990, Soo Jo Lee, an agent for the plaintiff, transmitted an acceptance of the February 9, 1990 offer to Mr. Guerrero. This acceptance letter extended to Mr. Guerrero an invitation to visit Seoul "to discuss the detailed terms and conditions of the lease."

On February 27, 1990, Mr. Guerrero went to Seoul and signed a document labeled "Conditional Lease Agreement For Real Property." The plaintiff also contends that Mr. Guerrero signed this document as an agent for Mr. Igitol. The parties agreed that a more detailed lease would be drafted at a later date. Consequently, a more detailed lease was drafted. At this point, Mr. Guerrero indicated that the final lease would have to be signed by Mr. Igitol.

On March 2, 1990, Mr. Guerrero informed the plaintiff that he was not authorized to act for Mrs. Aldan[1]. Therefore, on March 12,

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[1] The plaintiff apparently does not contest this fact since its own complaint concedes this point. See, Plaintiff's First Amended Complaint at 7. ("He [Guerrero] informed Lucky that he was not able, after all, to act for defendant Aldan with respect to Lot B.")

1990, an addendum was drafted and signed by Mr. Guerrero and the plaintiff's agent, Mob Youl Lee. This addendum cites a conditional lease agreement dated February 27, 1990. It also claims the agreement is attached to the addendum. No agreement was ever attached to the addendum. The addendum states that "[t]he Parties desire to enter into a new agreement modifying certain provisions of the Conditional Lease Agreement."

On April 29, 1990, Mr. Igitol entered a written agreement with Tokai U.S.A. for the lease of Lot C. The plaintiff subsequently filed this suit against Mr. Igitol.

THE STATUTE OF FRAUDS

2 CMC §§ 4911 - 4916 contain the Statute of Frauds for this Commonwealth. Section 4912 states in its entirety:

> Interests in Real Property: Writing Required.
>
> No estate or interest in real property other than for leases not exceeding one year, nor any trust or power in manner relating thereto, can be created, granted, assigned, surrendered, declared or otherwise transferred except by operation of law, or by written conveyance or other written instrument subscribed by the party creating, granting, assigning, surrendering, declaring, or transferring the same, or by the party's lawful agent in writing.

2 CMC § 4912.

The writing requirement applies to "all transactions involving real property in the Commonwealth." Id. at § 4915(a). Therefore, the statute obviously applies to an agreement to lease real property. In order for the plaintiff to succeed on its claims against Mr. Igitol in this case, the statute clearly requires that it either produce a lease agreement containing Mr. Igitol's signature as lessor

or offer an agency agreement signed by Mr. Igitol granting Mr. Guerrero the right to legally bind him to a transfer of his interest in Lot C. The plaintiff has offered no documentation of any kind that would indicate that it complied with § 4912.[2] Therefore, the court grants Mr. Igitol's motion for summary judgment on this basis alone.

B. Ursula L. Aldan

Following the March 2, 1990 meeting at which Mr. Guerrero disclosed that he was not acting on behalf of Mrs. Aldan, the plaintiff hired the law firm of Miguel Demapan & Antonio Atalig to seek an agreement with Mrs. Aldan for the lease of Lot B. Edward Manibusan represented Mrs. Aldan in these negotiations. Frank L.G. Aldan, Mrs. Aldan's husband, also participated in the negotiations.

On March 10, 1990, Mr. Atalig sent a letter to Mr. Manibusan.

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2 The only defense the plaintiff has offered to rebut this glaring defect in its case is that somehow Mr. Igitol conspired with Mr. Guerrero to defraud it for some unknown purpose. Plaintiff, therefore, wishes to continue the deposition of Mr. Igitol in order to pursue this theory. Plaintiff's Motion for Discovery Conference, at 14-15 (filed June 7, 1991).

It is the court's responsibility to see to it that the discovery process is not used for vexatious or manipulative purposes. The filing of a law suit is supposed to offer a plaintiff the opportunity to seek redress for some legal harm, not as "fishing expedition" designed to seek out a viable cause of action. See, Segal v. Gordon, 467 F.2d 602, 607-09 (2nd Cir. 1972). Since the plaintiff's entire case had no basis in fact or law at the time it was filed, the court refuses to indulge the plaintiff in its search for a reason to delay the resolution of this matter. The courts of this Commonwealth will not allow plaintiff's to file frivolous lawsuits in an effort to determine whether they can either find a cause of action during the discovery process or otherwise harass an opposing party for an improper purpose.

This letter contained negotiations regarding two alternatives for payments to be made "upon execution of [a] Conditional lease Agreement." (emphasis added). The letter concluded by stating "[p]lease discuss these matters with your client and hope that we can arrive at an agreement."

Mr. Manibusan responded to this letter by sending a letter to Mr. Atalig containing the following passage: "we are ready to sign an agreement to lease based on Alternative No. 1 with modifications." (emphasis added). "My client, in addition would like me to draft a lease agreement for your review."

On March 11, 1990, Miguel Demapan sent a letter to Mr. Manibusan regarding a telephone conversation between the two men on March 19, 1990. This letter contained the following passage, "[w]e are ready to begin review of your proposed lease. Also, please note that Juan S. Demapan will be the lessee in the lease agreement instead of Lucky Development Co., Ltd." (emphasis added). It is plaintiff's contention that this letter constituted an acceptance of the terms of the alleged lease.

Apparently, an agreement was subsequently drafted, but never signed. This document is labeled "Agreement to Lease Real Property." At the top of the first page, this document states that "this agreement is a binding legal instrument and it is recommended that each party have it reviewed by their attorney." The document also contains handwriting stating that it is a "final draft." This agreement was never signed by anyone. Furthermore, this "Agreement to Lease" made reference to a lease agreement that was to be attached

as an exhibit. Not only was this agreement not attached, it was never even prepared.

On March 13, 1990, Mr. Atalig sent a letter to Mr. Manibusan allegedly accepting the alleged offer to lease Lot B. In that letter, Mr. Atalig stated, "[w]e are still waiting for your clients to execute the Agreement to Lease."

On March 14, 1990, Mr. Manibusan sent a letter to Miguel Demapan stating that his clients did not wish to lease Lot B to Juan Demapan or Lucky Development.

The file contains a type-written letter dated March 16, 1990. This letter has Ursula Aldan's name typed at the bottom, but it is unclear whether she typed it and it is unclear whether it was ever sent. The letter was not signed. Furthermore, even if she did send the letter, the letter indicates that she needed additional time to discuss the terms with Mr. Igitol. Therefore, it could not be deemed an acceptance of the terms of the Conditional Lease Agreement.

On March 21, 1990, Mr. Manibusan sent another letter to Miguel Demapan reiterating that his clients did not wish to execute a lease with Lucky or Juan Demapan and that no delivery of a lease agreement would be forthcoming.

On March 22, 1990, Mr. Atalig sent a letter to Mr. Manibusan claiming that the parties had entered an enforceable agreement on March 10, 1990. In this letter, Mr. Atalig states, "we are still waiting for your client <u>to execute</u> the agreement to lease. Otherwise, we will take appropriate legal action for specific performance." (emphasis added).

On April 20, 1990, Mrs. Aldan entered a lease agreement with Tokai U.S.A. This agreement was thereafter filed in the Commonwealth Recorder's Office. Consequently, this suit was filed.

The plaintiff alleges that at some point during the negotiations between the parties, a specifically enforceable agreement was reached. The court strongly disagrees and is somewhat disturbed by plaintiff's current attorney's pursuit of this matter.

THE STATUTE OF FRAUDS

Apparently, plaintiff's only contention is that somewhere within all of the paper that changed hands during the negotiations, a lease of land occurred. The plaintiff does not offer any written documentation possessing the signature of Mrs. Aldan. The plaintiff offers no writing establishing an agency agreement between Mrs. Aldan and Mr. Guerrero. Similarly, no such writing exists granting either her husband or her attorney, Mr. Manibusan, authority to convey Lot B on her behalf. On this basis alone, the plaintiff's claims against Mrs. Aldan must fail. Since plaintiff has not complied with the Commonwealth's Statute of Frauds, the court orders summary judgment on behalf of Ursula L. Aldan.

The Terms of the Alleged Lease Negotiated by Mr. Manibusan

Even if Mr. Manibusan had the authority to bind Mrs. Aldan to a contract, the terms were not specific enough to be enforceable. It is clear from the previously described negotiations process that no agreement was ever reached between Mr. Manibusan and the plaintiff's attorney. Every piece of correspondence between the parties gave

some indication that terms were to be left open for future agreement or until the attorneys discussed the terms with their clients. Therefore, the collective correspondence represented nothing more than a series of agreements to agree. See, Reyna Corp. v. Janpol Volkswagon, Inc., 800 P.2d 731, 733 (N.M. 1990) (parties discussions regarding what will happen in future set the stage for a contract, they do not operate as one).

The plaintiff contends that a binding written agreement was reached between Mr. Manibusan and Mr. Atalig on March 10, 1990. As previously noted, Mr. Atalig's March 10, 1990 letter to Mr. Manibusan contained two alternatives for payment of the rent under the alleged lease. This letter concluded by stating "[p]lease discuss these matters with your client and hope that we can arrive at an agreement." Mr. Manibusan's undated correspondence in response to this letter indicated that "we are ready to sign an agreement to lease based on Alternative No. 1 with modifications." (emphasis added). The same letter also included the following statement, "[m]y client, in addition, would like me to draft a lease agreement for your review." It is apparently plaintiff's contention that this letter bound Mrs. Aldan to a lease agreement.

Where a party knows or has reason to know that the person with whom he or she is negotiating does not intend for a statement to constitute an offer until some additional manifestation of assent is made, no offer can be said to exist. Restatement (Second) of Contracts, § 26. Clearly, the words "with modifications" indicated that further negotiation was necessary before an offer capable of

acceptance would be made. Therefore, it should have been obvious to the plaintiff's agent that no offer was being made. This letter was clearly nothing more than an offer to negotiate further at some later date. See, Reyna Corp. v. Janpol Volkswagon, Inc., supra.

Further proof that no agreement was reached can be found in Miguel Demapan's March 11, 1990 letter to Mr. Manibusan. In this letter, Mr. Demapan indicated that "[w]e are ready to begin review of your proposed lease." (emphasis added). He then attempted to change the offeree to Juan Demapan. Clearly, this was a counter-offer even if an offer could be said to have originally existed. Where a party purports to accept an offer while simultaneously interjecting terms which are "additional to or different from those offered [it] is not an acceptance but is a counter-offer." Restatement (Second) of Contracts, § 59. Changing the offeree is the most material change that can be made to an offer.

Even more damaging to plaintiff's claim is the deposition testimony of Juan Demapan wherein he conceded that Mrs. Aldan had strongly refused to deal with any local person acting as an intermediary in any agreement between herself and the plaintiff. Deposition Testimony of Juan Demapan, at 196-97 (January 16, 1991). It is inconceivable how Mr. Demapan could have this knowledge and still believe that Mrs. Aldan granted Mr. Manibusan the authority to sell Lot B to him. It is even more perplexing that a person with such knowledge would not seek assurances regarding Mr. Manibusan's authority to act on behalf of Mrs. Aldan.

Based on the foregoing analysis, the court finds the defendant's

characterization of plaintiff's claim to be accurate. The plaintiff does not seek to have the court compel the execution of a lease agreement. Instead, the plaintiff seeks to have the court enforce an agreement to execute an agreement to lease which itself contains no lease. There simply was no agreement as to the final contents of the alleged lease. For these reasons alone, the court would grant summary judgment for Mrs. Aldan.

Tokai

Tokai's success in this suit is dependent on the resolution of the claims against Mrs. Aldan and Mr. Igitol. Since the court has found that those parties presented viable defenses to the plaintiff's contract claims, the cloud over Tokai's title has been simultaneously cleared.

V. SANCTIONS

A. Rule 11

As previously noted, the court is both perplexed and disturbed by Mr. Theodore Mitchell's pursuit of this matter. The court will give its factual reasons for raising this motion sua sponte and ask that the defendants file a brief or briefs[3] supporting the issuance of Rule 11 sanctions against Theodore Mitchell. The defendants brief must be filed within ten (10) days of the date of this Decision and Order. Mr. Mitchell will then have ten (10) days after the filing of

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[3] In the interest of financial economy to Mr. Mitchell, the court asks that the parties consider consolidating their efforts into a single brief insofar as their claims are substantially similar,

defendants' brief to respond. The court will entertain oral arguments in this matter on July 31, 1991 at 9:00 a.m. in Courtroom B. The defendants' brief or briefs should contain all reasonable costs and attorneys fees incurred in this lawsuit from the date Mr. Mitchell's first offensive pleading was filed. The brief or briefs should address, but are in no way limited to, all issues raised in the following assessment of Mr. Mitchell's actions.

This entire suit has no basis in the law. The facts and circumstances arising and continuing from the time Mr. Mitchell filed his initial pleading in this case present a textbook example of the reasons for the existence of Commonwealth Rule of Civil Procedure 11. This entire matter could have been resolved in a matter of minutes if Mr. Mitchell had taken the time to look at the Commonwealth's Statute of Frauds. Mr. Mitchell made no arguments for the extension or modification of existing law. He merely argued that a trial was necessary to determine the "intent" of the parties involved. Since a cursory examination of the relevant statute in this jurisdiction reveals otherwise, Mr. Mitchell failed to conduct reasonable research into the factual and legal foundation of his claim before filing his initial pleading.

Furthermore, this court finds that Mr. Mitchell deliberately filed motions to vacate the transfer of the case to this court and for recusal in order to prolong the inevitable result in this matter. In doing so, he has abused the processes of the court and violated the trust of his client. It is disheartening to know that the Commonwealth's Rules of Civil Procedure can be manipulated to extend

the life of a lawsuit that a first semester law student could quickly dispose of as having no merit.

B. Inherent Power of the Court

The United States Supreme Court recently stated in Chambers v. Nasco, Inc., No. 90-256 (U.S. June 6, 1991) (WESTLAW Federal Courts Library, Allfeds File), that "[a]lthough a court ordinarily should rely on [the Rules of Civil Procedure] when there is bad-faith conduct in the course of litigation that could be adequately sanctioned under the rules, the court may safely rely on its inherent power if, in its informed discretion neither the statutes nor the rules are up to the task." Id. at 2. Therefore, the existence of alternative methods for protecting against abuse of the judicial system does not foreclose the courts from resorting to its inherent powers so that justice may be done. Zaldivar v. Los Angeles, 780 F.2d 823, 830 (9th Cir. 1986). In the current case, the court does not believe that the Rule 11 sanction is sufficient to protect the interests of justice.

Though the court realizes it is an extraordinary measure, it will exercise its inherent powers and order that Mr. Mitchell explain in writing why this court should not order that he return to his client all fees received during his pursuit of this matter. The extraordinary nature of this proposed sanction is no more extraordinary than Mr. Mitchell's blatant disregard for the responsibilities inherent in being an officer of the court in this Commonwealth. He has ignored the trust his client has placed in him by pursuing a matter in which he must have known that no resolution

in his client's favor was forthcoming. To this extent, a fraud has been perpetrated on Lucky Development for which this court is contemplating restitution. Mr. Mitchell shall have ten (10) days from the date of this Decision and Order to respond separately in writing to this proposed sanction. There will be no oral argument on this portion of the proposed sanctions. The defendants need not brief the issues presented under the heading "Inherent Power of the Court."

SO ORDERED this 3 day of July, 1991.

Alexandro C. Castro, Associate Judge