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DEPT OF COURT RECORDS  
CIVIL/FAMILY DIVISION  
ALLEGHENY COUNTY PA

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

COVER SHEET

Plaintiff(s):

Victorian Wadsworth  
Abber Al-Dulaimi

VS.

Defendant(s):

Stay Alfred Inc.

NOTICE OF PRESENTATION

Kindly take notice that the within Motion to Gain Re-Entry shall be presented before the Civil Division Housing Court Judge via conference call on April 9th, 2020 at 10:00 a.m. or as soon thereafter as suits the convenience of the Court.

Case Number:

GD - 20 - 005021

Type of Pleading:

*Emergency Motion to Gain Re-Entry*

Filed on behalf of:

Victorian Wadsworth

(Name of the filing party)

Counsel of Record

Individual, If Pro Se

Name, Address, and Telephone Number:

Victorian Wadsworth  
3341 Forbes Ave  
Pittsburgh PA 15213  
212-470-0559

Attorney's State ID:

Attorney's Firm ID:

T109666

8 April 2020

14:17:59

GD-20-005021

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

Victorian Wadsworth  
Abber Al-Dulaimi

Plaintiff(s),  
vs.

Stay Alfred Inc.

Defendant(s),

) CIVIL DIVISION

) No. [redacted]

**Motion to Gain Re-Entry**

**Victorian Wadsworth**

AND NOW comes the Movant, [redacted], and presents

the following Motion to Gain Re-Entry and in support hereof avers as follows:

**1627 Penn Ave. Pittsburgh, PA 15222**

1. The property located at [redacted] is the subject of the above referenced action.
2. On or about **April 7th**, 2020, the undersigned was locked out and precluded from entering the subject property.
3. The undersigned needs to return to the property for the following reasons:

**SUMMARY**

4. On 20 March 2020, the plaintiffs commenced occupancy at 1627 Penn Ave, Apt 402 Pittsburgh PA 15222 (the "Subject Premises"), under the terms of a Rental Agreement attached hereto as "APPENDIX A" (the "Rental Agreement")
5. On April 2nd the tenants contacted Stay Alfred Inc to make payment for ongoing occupancy throughout April to which they declined, stating that they intended to close down all properties they manage for the next 8 weeks due to the COVID-19 emergency.

Stay Alfred requested that plaintiffs vacate the premises on April 4th, and would not accept payment of rent for any period beyond that date.

6. Following this, the plaintiffs thoroughly re-examined and reviewed the rental agreement presented upon commencement of the occupancy and determined that it is clear on its face that the agreement is so fundamentally defective that it is void and unenforceable in the Commonwealth of Pennsylvania.
7. On 4 April, the Plaintiffs advised Stay Alfred that occupancy will not be relinquished and rent will be withheld until such time that a court can determine the nature of the obligations owing under the ongoing tenancy established at common law.
8. On 6 April, Daniel Johnson, City Manager for Stay Alfred Inc., arrived at the premises and asked plaintiffs to vacate. The Plaintiffs refused and the police were called. The plaintiffs explained the totality of the circumstances and the police left without incident.
9. On 7 April, Daniel Johnson arrived again with different police officers who demanded that the plaintiffs leave the property and said the plaintiffs were trespassing. The plaintiffs left at that time.
10. Both plaintiffs reside at the subject premises as their sole residence and would suffer severe and irreparable harm should they not be granted re-entry.
11. Further, given the current State of Emergency, the inability of the plaintiffs to return to their place of domicile would endanger public health.

## DEFENDANTS

12. Stay Alfred, Inc. is a Delaware Corporation whose ordinary place of business is located at  
2818 N Sullivan Rd, Suite 100, Spokane Valley, WA 99216
  
13. Stay Alfred acts as a managing agent for several properties in numerous markets  
nationwide. The defendant manages properties at at least 3 properties in Pittsburgh.  
Daniel Johnson is the Pittsburgh City Manager for the defendant.
  
14. Stay Alfred, Inc is not a licenced managing agent and is not authorised to carry out real  
estate activities in the Commonwealth of Pennsylvania
  
15. 1627 Penn Ave LP is a limited partnership established in Pennsylvania. Property tax  
records indicate the partnership is the lawful owner of the subject premises.

## SUBJECT PREMISES

16. The subject premises are located at Apartment 402, 1627 Penn Ave, Pittsburgh PA  
15222.
  
17. The owner of the premises according to county records is 1627 Penn Ave LP
  
18. The premises are zoned as a multi unit residential building. Planning permission has not  
been obtained for any other use.

19. The zoning classification prohibits the use of the premises as a hotel, inn, bed and breakfast or any other short term or transient use.

## RENTAL AGREEMENT

20. The parties agreed to a rental agreement which entered into force upon commencement of the tenancy on 20 March 2020.

21. The agreement is established under the laws of the State of Washington and is subject to the exclusive jurisdiction of the courts of Spokane County in the State of Washington.

22. The agreement does not define a cost of rent, does not specifically define or describe the subject premises, does not disclose the owner of the property, and as such the agreement is void for uncertainty.

23. In the section marked "17. EVICTION" the agreement says "You and your party can also be evicted for failure to vacate the Rental Unit", which indicates that the defendant was aware of the necessity of and intended to use established court processes to remove tenants.

24. The agreement is written in a manner which attempts to assert rights similar to a hotel or innkeeper, when the respondent is not a hotel, does not possess a hotel license, and operates in a building which is exclusively zoned for residential use.

25. Given that the agreement is established under the laws of the State of Washington and subject to the exclusive jurisdiction of the courts thereof, the agreement is unenforceable in relation to residential property located entirely within the Commonwealth of Pennsylvania and is therefore void *ab initio* .

26. Further, or in the alternative, the contract seeks to establish the defendant as a hotelier when the defendant is not a licenced hotel and the use of a residential building for such use is unlawful and contrary to public policy, accordingly the agreement is void *ab initio* .

#### UNLAWFUL EVICTION

27. The defendant knew or ought to have known that the nature of their business activities did not entitle them to remove lawful tenants in any other manner than through established court processes.

28. The defendant made fraudulent misrepresentations in order to involve the police in assisting to effectuate an unlawful eviction through the threat of force and are liable in tort for their actions.

#### APPLICABLE LAW

29. The Supreme Court for the Middle District explored the concept of web-based rentals of single-family homes as short term rental properties in *Slice of Life, et al v. Hamilton Twp* [J-97-2018] . The Supreme Court concluded that pursuant to its prior decisions in *Albert*

*v. Zoning Hearing Bd. of N. Abington Twp.*, 854 A.2d 401 (Pa. 2004), and *In re Appeal of Miller*, 515 A.2d 904 (Pa. 1986), the purely transient use of a house is not a permitted use in a residential zoning district.

30. A lease can be written or oral, express or implied. In the absence of a valid and enforceable lease agreement, the nature of the tenancy would revert to an implied month to month tenancy at will. In the alternative, given that the occupancy was authorised, the plaintiffs were tenants-at-sufferance at the time of the unlawful eviction. *Pagano v. Redevelopment Authority* 249 Pa. Superior Ct. 303 (1977)

31. Self-help evictions are prohibited by the *Landlord Tenant Act 1951*, the exclusive process for a recovery of possession of the premises is available through the courts. *Wofford v. Vavreck* 22 Pa. D. & C. 3d 444 (1981)

## CONCLUSION AND RELIEF SOUGHT

32. The defendant's desire to operate in a manner similar to a hotel does not grant it rights similar to one. Particularly given that the defendant's business activities are unauthorised, unlawful and contrary to public policy.

33. Tenants today can have vastly inferior bargaining power compared with the landlord, as was recognized in *Reitmeyer v. Sprecher*, 431 Pa. 284, 243 A.2d 395 (1968). In *Reitmeyer* the Court stated:

*\*283 "Stark necessity very often forces a tenant into occupancy of premises far from desirable and in a defective state of repair. The acute housing shortage mandates that the average prospective tenant accede to the demands of the prospective landlord as to conditions of rental, which, under ordinary conditions with housing available, the average tenant would not and should not accept.*

In this instance, the defendants have removed housing from the residential housing supply and are seeking to use it in order to operate an unlawful business while also attempting to shield themselves from the responsibilities associated with operating residential rental properties. Nothing prevented the defendants from obtaining suitable commercial property and appropriate licencing to operate other than the defendants desire to avoid the effort and expense that lawful operators are required to undertake.

34. The plaintiffs maintain the subject premises as their sole and exclusive residence and are entitled to the protections of lawful tenants. The current public health crisis underscores the necessity in ensuring these rights are upheld as not only are other options virtually unavailable at this time, but failing to shelter in place as required by the emergency declaration could be life threatening.

35. The plaintiffs seek an order to re-enter the subject premises and any such further and other relief this court may see fit.

8 April 2020

Date

Respectfully submitted,

*Victorian Wadsworth*

Name



IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

[Empty box]

CIVIL DIVISION

Victorian Wadsworth  
Abber Al-Dulaimi

Plaintiff (s)

vs.

Stay Alfred Inc.

Defendant (s)

VERIFICATION

I, Victorian Wadsworth

certify that the facts contained in the foregoing motion are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are subject to the Penalties of 18 Pa.C.S. § 4904 related to unsworn falsification to authorities.

8 April 2020

Date

*Victorian Wadsworth*

Signature

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CIVIL DIVISION

Victorian Wadsworth  
Abber Al-Dulaimi

Plaintiff(s)

CASE NO.

Vs.

Stay Alfred Inc.

Defendant(s)

Order of Court

AND NOW, this  day of , 2020, it is

ORDERED that:

BY THE COURT,

J

LT \_\_\_\_\_

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the within **Emergency Motion to**  
**Gain Re-Entry** was served this **8th** day of **April**,

2020, by either:

- U.S. First Class Mail, postage pre-paid
- E-mail
- Hand Delivery

At the following address:

Stay Alfred Inc.  
2818 N Sullivan Rd., Suite 100  
Spokane Valley, WA 99216  
Attn. Daniel Johnson  
412-354-1750  
Daniel.johnson@stayalfred.com

**8 April 2020**

Date

*Victorian Wadsworth*

Victorian Wadsworth

Print and Sign Name