

Mirbourne NPN 2 LLC v Walker
2018 NY Slip Op 32675(U)
October 18, 2018
Supreme Court, Kings County
Docket Number: 510700/2014
Judge: Noach Dear
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

At IAS Part FRP1, of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse located at 360 Adams Street, Brooklyn, New York, on the 18th day of October, 2018

P R E S E N T:

HON. NOACH DEAR, J.S.C.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**

MS # 9

MIRBOURNE NPN 2 LLC,

Index No.: 510700/2014

Plaintiff,

-against-

AMENDED DECISION AND ORDER

VAN DOUGLAS WALKER,

Defendant.

FILED
KINGS COUNTY CLERK
OCT 19 PM 2:17

Plaintiff Mirbourne NPN2, LLC ("Plaintiff" or "Mirbourne"), by way of a September 2018 Order To Show Cause, seeks relief based on its contention that Defendant Van Douglas Walker willfully and repeatedly violated this Court's prior orders. Plaintiff, inter alia, seeks an order: (a) holding Defendant Van Douglas Walker in civil and criminal contempt for willfully refusing to comply with a series of this Court's prior orders including this Court's July 30, 2018 order; (b) imprisoning Defendant Van Douglas Walker in the common or county jail based on his criminal contempt of Court; (c) imprisoning Defendant Van Douglas Walker in the common or county jail based on his civil contempt of Court; (d) requiring Defendant Van Douglas Walker to immediately comply with all of the provisions set forth in this Court's July 30, 2018 Order, including the court's prior orders referenced therein; (e) appointing an individual as an attorney-in-fact (the "Attorney-In-Fact") for Defendant Van Douglas Walker for the limited purpose of withdrawing, striking and/or

removing any document filed by Defendant Van Douglas Walker that could impact or purports to impact title to the real property located at 494 Halsey Street, Brooklyn, New York (the "Property"); (f) fining Defendant Van Douglas Walker pursuant to Judicial Law §773; (g) holding that Plaintiff is immediately entitled to possession of the Property; and (h) directing the removal and dispossession of Defendant Van Douglas Walker and any other occupants of the Property immediately to be enforced by the Kings County Sheriff or other officials having such power and jurisdiction.

FACTUAL AND PROCEDURAL BACKGROUND

On March 22, 2016, and with the active assistance of this Court, Plaintiff and Defendant Van Douglas Walker entered into a written settlement agreement to resolve the pending disputes between them in this litigation (the "Settlement"). The Settlement was memorialized in a Stipulation that was "So Ordered" by this Court (the "Settlement Order"). Under the terms of the Settlement Order, Defendant Van Walker was granted six months to sell the Property and pay of Plaintiff's mortgage in a discounted amount. Per the Settlement Order, if Defendant Van Walker failed to sell the Property within this six month period, title to the Property would be transferred from Defendant Van Walker to the Plaintiff to be sold under the terms of the Settlement Order. Defendant Van Walker did not sell the Property within the six month period provided for in the Settlement Order and otherwise breached the terms of the Settlement Order. Plaintiff subsequently moved to enforce the terms of the Settlement Order and have this Court transfer title to the Property to Plaintiff so it could be sold pursuant to the express terms of the Settlement Order (Motion Seq. #2). Defendant Van Douglas Walker opposed Plaintiff's motion claiming the Settlement Order was the product of fraud.

On October 6, 2016, the Court granted Plaintiff's motion, denied Plaintiff's defenses to same, and entered an Order stating, in pertinent part, as follows:

Plaintiff's motion to enforce the parties' March 22, 2016 settlement agreement is granted. Plaintiff, pursuant to the settlement agreement, is now the title owner of 494 Halsey Street, Brooklyn, New York (the "Property"). The Property shall be sold, and the proceeds from the sale shall be distributed pursuant to the March 22, 2016 settlement agreement.

On May 19, 2017, Plaintiff filed an Order To Show Cause seeking to enjoin Defendant Van Douglas Walker from: (a) interfering with its attempts to access and market the Property; (b) interfering with its attempts to communicate with occupants living on the Property; (c) collecting rents from occupants of the Property; and (d) for related relief. A hearing was held on May 25, 2017 before this Court. Defendant Van Douglas Walker did not appear at the time of the hearing or make any submissions in opposition to Plaintiff's May 19, 2017 Order To Show Cause despite being served with a complete set of the application. (See NYSCEF Entry 62).

On May 25, 2017, this Court entered an Order stating as follows:

1. Defendant Van Douglas Walker is enjoined from engaging in any conduct, directly or indirectly, interfering with Plaintiff's attempt to access, market and sell the real property located at 494 Halsey Street, Brooklyn, New York (the "Property") including but not limited to: (i) interfering with any action or efforts Plaintiff's realtor, broker and/or agents to sell, market, maintain and/or repair the Property; (ii) interfering with Plaintiff or its agents written and/or oral communications with the occupants of the Property;
2. Defendant Van Douglas Walker is enjoined from collecting any rents or anything else of value from any of the occupants living on the Property;
3. Van Douglas Walker shall, within seven (7) days after service of this order, provide Plaintiff's counsel, Sean M. Lipsky, Esq., Lipsky Portales, P.A. 11 Broadway, Suite 615, New York, with: (i) an accounting of all sums (or anything else of value) that Defendant Van Walker, or anyone acting on his behalf, has collected from each and every occupant of the Property from October 6, 2016 to the present; (ii) the rent being charged to each current occupant located on the Property; (iii) the name and phone number of each current occupant located on the Property; (iv) the amount

of any security deposit for each current occupant located on the Property;
and (v) keys to each and every door and unit located on the Property;

- 4. **Defendant Van Walker** is enjoined from interfering with Plaintiff's written and oral communications with the occupants of the Property including, but not limited to, Plaintiff's attempts to provide notices to occupants enclosing the current and prior orders of this Court and, specifically enjoining Defendant Van Walker from intercepting, removing or interfering with any notices and/or written communications provided to the occupants of the Property or posted on the Property;
- 5. **Defendant Van Walker** is enjoined, directly or indirectly, from engaging in any conduct interfering with Plaintiff's access to the Property; and
- 6. **Defendant Van Walker** shall remit all money and/or anything of value, currently in Defendant's possession, custody and/or control, that Defendant Van Walker received for rent or its equivalent, from occupants of the Property from October 6, 2016 to the present, to the Attorney Trust Account of Lipsky Portales, P.A., which funds shall be held until further order of this Court.

Defendant Van Douglas Walker willfully violated each and every provision of this Court's **May 25, 2017 Order**. See June 21, 2017 Affirmation of Sean M. Lipsky, Esq., ¶¶4-6; June 21, 2017 Affidavit of Lt. David Chambers (Ret.), ¶¶7-16 and Exhibits B through D; June 21, 2017 Affidavit of Alex Mirbod, ¶4. Most notably, Defendant Van Douglas Walker and his agent physically barred Plaintiff and Plaintiff's agents from accessing the Property, including through implied threats of physical violence. Id. As noted in this Court's prior decisions, including this Court's July 30, 2018 Decision and Order, Defendant Van Douglas Walker did not dispute any of these facts. Accordingly, in the July 30, 2018 Decision and Order, the Court specifically found that Defendant Van Douglas Walker's indisputably violated each and every provision of this Court's May 25, 2017 Order.

On June 22, 2017, and based on Defendant Van Douglas Walker's refusal to comply with this Court's May 25, 2017 Order, Plaintiff filed a second Order To Show Cause. The

Order, signed by the Hon. Lisa S. Ottley, J.S.C., directed, inter alia, for Defendant Van Douglas Walker to immediately comply with all the terms of this Court’s prior May 25, 2017 Order pending a hearing on the Order To Show Cause. Defendant Van Douglas Walker willfully violated the June 22, 2017 by refusing to comply with any of the provisions of this Court’s May 25, 2017 Order. See July 12, 2017 Affidavit of Sean M. Lipsky, ¶¶11-13.

On July 7, 2017, Defendant Van Walker filed a cross-motion in response to the June 22, 2017 Order To Show Cause. Defendant Van Douglas Walker’s cross-motion primarily consisted of an improper attempt to reargue this Court’s October 6, 2016 Order without designating the application as a motion for reargument as required by CPLR 2221(d)(1). Defendant’s cross-motion was rejected on this ground. It was also denied on substantive grounds.

The Court conducted oral argument regarding Plaintiff’s June 22, 2017 Order To Show Cause on July 26, 2017. During oral argument, counsel for Defendant Van Douglas Walker did not dispute that his client has not complied with this Court’s May 25, 2017 and June 22, 2017 Orders. Further, there was no indication by Defendant Van Douglas Walker’s counsel that his client had any intention of complying with this Court’s orders in the future. Rather, the crux of Defendant Van Douglas Walker’s argument was that this Court did not have subject matter jurisdiction to enforce the terms of the settlement agreement entered into between Plaintiff and Defendant and “So Ordered” by this Court. This Court, in multiple decisions including, but not limited to its July 30, 2018 Decision and Order, found that Defendant Van Douglas Walker’s argument was without any basis. See Hallock v. State of New York, 474 N.E.2d, 1178, 1180, 64 N.Y.2d. 224, 230 (“strict enforcement [of settlement agreements] not only serves the interest of efficient dispute resolution but also is essential

the management of court calendars and integrity of the litigation process”); Natole v. Natole, 256 A.D.2d 558, 559, 682 N.Y.S.2d 864, 865 (citing to Hallock in enforcing terms of settlement agreement reached between the parties before the court).

On August 8, 2017, this Court issued an Order that inter alia: (a) directed Defendant Van Douglas Walker to immediately comply with paragraphs 1, 2, 4, 5 and 6 of the Court’s May 25, 2017 Order; (b) directed Defendant Van Douglas Walker to comply with paragraph 3 of the Court’s May 25, 2017 Order within seven (7) days; and (c) directed Van Douglas Walked to execute a deed confirming the prior transfer of the Property to Plaintiff as previously provided by the Court’s October 6, 2016 Order.

On September 8, 2017, and based on Defendant Van Douglas Walker’s refusal to comply with this Court’s May 25, 2017 and August 8, 2017 Orders, Plaintiff filed another Order To Show Cause. The Order, signed by this Court, directed, inter alia, for Defendant Van Douglas Walker to immediately comply with all the terms of this Court’s prior May 25, 2017 and August 8, 2017 Orders pending a hearing on the Order To Show Cause. Prior to the September 13, 2017 hearing date for the Order to Show Cause, Defendant Van Walker filed for bankruptcy in the United States Bankruptcy Court for the Eastern District of New York (the “Bankruptcy Court”). On May 23, 2018, the Bankruptcy Court issued an Order lifting the automatic stay to permit Plaintiff to continue its claims and action against Van Walked in this Court.

Based on the lifting of the automatic stay, the Court held a rescheduled hearing and shortly thereafter, issued a Decision and Order, dated July 30, 2018, stating in pertinent part as follows:

- 1. Plaintiff’s motion to adjudicate Defendant Van Douglas

Walker in civil contempt of Court is granted;

2. Plaintiff's motion to adjudicate Defendant Van Douglas Walker in criminal contempt of Court is granted and the Court hereby finds and declares the Defendant Van Douglas Walker guilty of contempt of court;

3. The Sheriff, the City Marshall and/or the County of Kings be and hereby is directed, upon delivery to him/her of a duly certified copy of this order, to collect the fines imposed upon Defendant Van Douglas Walker by the Court's August 8, 2017 Order and pay same over to the Plaintiff herein.

* * *

5. Defendant Van Douglas Walker shall comply with all of the provisions set forth in this Court's Order and the Court's prior orders of May 25, 2018 and August 8, 2017.

* * *

9. Plaintiff is entitled to immediate and complete possession of the Property without interference by Defendant Van Douglas Walker, any entity owned by Defendant Van Douglas Walker in whole or in part and any employee or agent of Van Douglas Walker and/or any entity owned by Van Douglas Walker in whole or in part.

* * *

10. The Kings County Sherriff's Office and/or Marshal/Constable . . . are hereby commanded to remove and dispossess Van Douglas Walker and all other occupants from the Property (494 Halsey Street, Brooklyn, New York) unless expressly authorized to continue to stay at the Property by Plaintiff in a writing provided directly to the Sheriff, Constable or Marshal, said Sherriff or Marshall to execute this Order without notification.

The Court specifically decided not to imprison Defendant Van Douglas Walker for his repeated and prior contumacious conduct, as detailed in this Court's July 30, 2018, in the hope that once Defendant Van Douglas Walker was physically removed from the Property that he would no longer interfere with Plaintiff's ownership and right to full physical possession of the

Property. **This has not come to pass** as Defendant Van Douglas Walker continued to repeatedly and willfully violate this Court's prior orders including, but not limited to: (a) this Court's July 30, 2018 Order finding that Plaintiff is entitled to immediate and complete possession of the Property and that Defendant Van Walker shall not interfere with Plaintiff's possession of the Property; and (b) this Court's August 8, 2017 Order stating that Plaintiff is entitled to change and maintain the locks to the main entrance to the Property without interference by Defendants Van Douglas Walker

On August 3, 2018, and pursuant to this Court's July 30, 2018, the Kings County Sheriff removed Defendant Van Douglas Walker and all of the other occupants from the Property. See September 14, 2018 Affidavit of Alex Mirbod at ¶4-6. As a result, on that date, Plaintiff was placed into exclusive physical possession of the Property and Mirbourne immediately changed all of the exterior and many of the interior locks on the Property. Id.; see also September 17, 2018 Affirmation of Sean M. Lipsky, Esq. at ¶6. The Sheriff also placed a Notice of Dispossession (the "Removal Notice") on the front door of the Property. Id. at Exhibit B.

On August 7, 2018, Van Walker filed an Order To Show Cause seeking a temporary restraining order and preliminary injunction with the State of New York, Appellate Division, Second Department (the "Appellate Division"), Appellate Index No.: 2018-09278 (the "Appeal") staying the enforcement of this Court's July 30, 2018 Order. On that same date, the Appellate Division denied Defendant Van Walker's application for a temporary restraining order staying the enforcement of this Court's July 30, 2018 Order. See September 17, 2018 Affirmation of Sean M. Lipsky, Esq., Exhibit C. Similarly, on August 28, 2018, the Appellate Division denied Defendant Van Walker's application for a

preliminary injunction staying the enforcement of this Court’s July 30, 2018 Order. Thereafter, Defendant’s son, Iquanne Wright and two other individuals who claimed to be occupants of the Property (the “Occupants”) filed with this Court an Order To Show Cause seeking temporary restraints staying the enforcement of this Court’s July 30, 2018 Order and placing them into possession of the Property. The application was heard by the Hon. Devin P. Cohen, J.S.C., who issued an order denying the Occupants’ application in full, except to allow them to remove all of their personal belongings from the Property on August 16, 2018 (which was consented to by Plaintiff). Id. at Exhibit F.

Plaintiff remained in exclusive physical possession of the Property until approximately September 12, 2018. See September 14, 2018 Affidavit of Alex Mirbod at ¶12. On September 13, 2018, Mirbourne’s real estate agent sought to show the Property to a prospective purchase. Id. ¶13. At that time, the real estate agent discovered that all of the locks on the Property had been changed and the Removal Notice had been torn down from the front door of the Property. Id. That same afternoon, Plaintiff contacted the New York City Police Department and reported someone had broken into the Property and changed the locks. Id. at ¶14. The New York Police Department did not respond to Plaintiff’s complaint that night. Id. The following morning, September 14, 2018, Mirbourne reported the incident again and the New York City Police Department responded and discovered Defendant Van Walker’s son, Iquanne Wright, in the Property. Id. at ¶15-16. Thereafter, Plaintiff’s representative showed the police the Court’s July 30, 2018 Order and the Removal Notice as well as other orders from this Court and the Appellate Division demonstrating Plaintiff’s legal entitlement to sole possession of the Property. Id. at ¶17. While this was taking place, Defendant Van Walker appeared at the Property and presented the police with a series of

documents he claimed demonstrated his ownership of, right to possess, the Property (the “Bogus Documents”). Id. at ¶18-22. Based on Defendant Van Walker’s contentions and through furnishing the Bogus Documents to the police, the police decided not to immediately remove him and the other occupants from the Property. Id.

On Monday, September 17, 2018, and based on Van Douglas Walker’s conduct, this Court entered an Order requiring Defendant Van Douglas Walker to Show Cause on October 4, 2018, why he should not be held in civil and criminal contempt of Court and why Plaintiff should not be granted other relief related to Defendant’s violations of this Court’s prior orders. Further, the September 17, 2018 Order granted Plaintiff temporary restraints including: (a) directing Van Walker to immediately comply with all provisions set forth in this Court’s July 30, 2018 Order; and (b) directing the New York City Police Department to immediately remove and dispossess Defendant Van Douglas Walker, his son, Iquanne Wright, and all other occupants on the Property and to place Plaintiff back in exclusive possession of the Property. Pursuant to the September 17, 2018 Order Plaintiff was placed back into exclusive possession of the Property by the New York City Police Department on or about September 18, 2018.

On September 17, 2018, Defendant Van Douglas Walker filed a pro se complaint in the United States District Court for the Eastern District of New York, with the caption entitled Van Douglas Walker v. Mirbourne NPN2, LLC, CV-18-5211 (the “Federal Action”), seeking a determination, inter alia, that: (a) this courts prior orders, including the July 30, 2018 Order, were invalid; (b) he was entitled to “unfettered possession and ownership” of the Property; and the (c) this Court’s prior order were unconstitutional. See October 2, 2018 Supplemental Affirmation of Sean M. Lipsky, Esq. Exhibit A. In his

Complaint in the Federal Action, Defendant Van Douglas Walker specifically acknowledged that he **had knowingly and willfully** defied this Court's prior orders, including this Court's July 30, 2018 Order, by removing Plaintiff's locks on the Property, replacing those locks on the Property, and taking possession of the Property. See October 2, 2018 Supplemental Affirmation of Sean M. Lipsky, Esq. Exhibit A at ¶9-13. Subsequently, on September 8, 2018, the Hon. Brian M. Cogan, U.S.D.J. entered an order, sua sponte, dismissing Defendant Van Walker's Complaint in the Federal Action with prejudice for want of subject matter jurisdiction. See October 2, 2018 Supplemental Affirmation of Sean M. Lipsky, Esq. Exhibit C.

The hearing for Plaintiff's Order To Show Cause was held on October 4, 2018. At that time, Defendant Van Walker did not appear nor did any counsel appear claiming they were representing Defendant Van Douglas Walker. Further, Defendant Van Walker has not submitted any affidavits or other proofs in opposition to Plaintiff's application. Thus, all of Plaintiff's proofs are undisputed. This Court did learn that Defendant Van Walker sought to avoid the consequence of his actions by apparently filing a "Notice of Removal" of this litigation with the United States District Court for the Eastern District of New York on October 3, 2018 right before the hearing.

This Court does not believe that jurisdiction of this matter was ever transferred to the federal court as the "Notice of Removal" was never filed with this Court by the time of the October 4, 2018 Order To Show Cause hearing. Further, and in any event, on October 4, 2018, the Hon. Brian M. Cogan, U.S.D.J., entered an order, sua sponte, remanding this action back to this court (the "Federal Order"). The Federal Order stated that the federal court lacks subject matter jurisdiction over this action and the Notice of Removal constitutes

the second attempt by Defendant Van Douglas Walker to seek to avoid the orders entered by this Court. This Court takes judicial notice of the Federal Order. In addition, the Court finds that the attempt by Defendant Van Douglas Walker to file the Notice of Removal even after the Federal Court stated in a prior order that it did not have subject matter jurisdiction and such action had no basis, further underscores Defendant Van Douglas Walker's attempt to completely contravene this Court's prior orders as well as the consequences of his contumacious conduct through frivolous filings in other courts.

The three elements of civil contempt are: (1) the existence of a lawful judicial order expressing an unequivocal mandate; (2) violation of the court's order; (3) the party to be held in contempt knowledge of the order; and (4) prejudice to the rights of a party to the litigation. Matter of Dep't of Environmental Protection of City of New York v. Dep't of Environmental Conservation of State of New Yew York, 70 N.Y.2d 233, 239, 518 N.Y.S.2d 539, 542-543 (1987). A claim for civil contempt must be demonstrated by clear and convincing evidence. Town of Southampton v. R.K.B. Realty, LLC, 91 A.D.3d 628, 629, 936 N.Y.S.2d 228, 231 (2d Dep't 2012); Tener v. Cremer, 89 A.D.3d 75, 78, 931 N.Y.S.2d 552, 554. (1st Dep't 2011).

Here, the Plaintiff has indisputably established that Defendant Van Douglas Walker knowingly and willfully violated this Court's July 30, 2018 Order: (a) by, either directly or through others acting on his behalf, breaking into the Property and removing the locks placed on the exterior doors to the Property on or about September 12, 2018; and (b) by taking physical possession of the Property on or about September 12, 2018 through September 18, 2018 when the New York City Police Department placed Plaintiff back in exclusive possession of the Property. The Plaintiff has also indisputably established that Defendant

Van Douglas Walker breached this Court's August 8, 2017 Order, which also was incorporated into the July 30, 2018 Order, by: (a) refusing to execute a deed confirming his transfer of all his right, title and interest in the Property to Plaintiff; and (b) changing the locks to the main entrance of the Property. Plaintiff has also indisputably established that Defendant Van Douglas Walker breached this Court's May 25, 2017 Order, which was incorporated into the July 30, 2018 Order, by interfering with Plaintiff's access to the Property.

In addition, Plaintiff has demonstrated that it has been prejudiced by Defendant Van Douglas Walker's refusal to comply with this Court's order by: (a) either being unable or being limited in his attempts to market and sell the Property; (b) losing actual physical of the Property; (c) being forced to incur carrying costs on the Property in the form of real estate taxes, insurance and related expenses without the full use and benefit of the Property; and (d) by being forced to incur substantial legal fees and expenses to recover possession of the Property and otherwise enforce this Court's prior orders. Accordingly, Defendant Van Douglas Walker is held in civil contempt of Court in violation Judiciary Law §753 et seq.

Pursuant to § 750 of the Judiciary Law, a party is guilty of criminal contempt of Court is he "willfully" disobeys or resists a lawful mandate of the Court. The standard of proof for criminal contempt is proof beyond a reasonable doubt. County of Rockland v. Civil Serv. Employees Ass'n., 62 N.Y.2d 11, 14, 475 N.Y.S.2d 817, 818 (stating the "applicable standard of proof to establish criminal contempt is proof beyond a reasonable doubt"). This Court specifically finds, beyond a reasonable doubt, that Defendant Van Douglas Walker knowingly and willfully violated this Court's July 30, 2018 Order: (a) by, either directly or through others acting on his behalf, removing the locks placed on the

exterior doors to the Property on or about September 12, 2018; (b) by taking physical possession of the Property on or about September 12, 2018 until September 18, 2018 when the New York City Police Department placed Plaintiff back in exclusive possession of the Property; and (c) interfering with Plaintiff's attempt to regain physical possession of the Property on September 13, 2018 through the New York Police Department. The Plaintiff has also proven beyond a reasonable doubt that Defendant Van Douglas Walker willfully violated this Court's August 8, 2017 Order, which also was incorporated into the July 30, 2018 Order, by changing the locks to the main entrance of the Property. Plaintiff has also demonstrated beyond a reasonable doubt that Defendant Van Douglas Walker knowingly and intentionally violated this Court's May 25, 2017 Order, which was incorporated into the July 30, 2018 Order, by interfering with Plaintiff's access to the Property.

THEREFORE, it is hereby ORDERED THAT

1. Plaintiff's motion to adjudicate Defendant Van Douglas Walker in civil contempt of Court is granted;
2. Plaintiff's motion to adjudicate Defendant Van Douglas Walker in criminal contempt of Court is granted and the Court hereby finds and declares the Defendant Van Douglas Walker guilty of contempt of court.
3. Defendant Van Douglas Walker by reason of his criminal contempt of court, misconduct and disobedience and neglect and refusal to comply with the multiple orders of this Court be and hereby is committed and directed to be imprisoned in the common or county jail of the City of New York, County of Kings for a period of SEVEN (7) DAYS. The Sheriff of the City of New York or the Sheriff of any county in the State of New York in which Defendant Van Douglas Walker are commanded forthwith to apprehend and arrest

Defendant **Van Douglas Walker** and deliver him to the Kings County Sherriff to serve his sentence. **The Kings County Sheriff** shall then deliver Defendant Van Douglas Walker directly to **the Manhattan Detention Complex** at 125 White Street, New York, New York, Civil Part, for Defendant **Van Douglas Walker** to serve his seven (7) day sentence. At the end of the **seven (7) day sentence**, Defendant Van Douglas Walker shall be released.

4. **The Sheriff, the City Marshall** and/or the County of Kings be and hereby is directed, **upon delivery to him/her** of a duly certified copy of this order, to collect the fines imposed **upon Defendant Van Douglas Walker** and pay same over to the Plaintiff herein.

5. **Defendant Van Douglas Walker** shall comply with all of the provisions set forth in **this Court's order and the Court's prior orders** of May 25, 2017, August 8, 2017 and July 30, 2018 **including all of the orders** incorporated by reference therein.

6. **Jeffrey Miller, Esq.**, 32 Broadway, Floor 13, New York, New York, is hereby appointed as an **attorney-in-fact (the "Attorney-In-Fact")** for Defendant Van Douglas Walker for the **purpose of signing, recording** or taking other related actions to withdraw, strike and/or **remove any document or filing** previously or in the future made by Van Douglas Walker **with the Kings County Clerk** and/or New York Department of Finance Office of the City Register **that could impact** or purports to impact Plaintiff's title to the real property located at **494 Halsey Street, Brooklyn**, New York (the "Property") including, but not limited to, a **document entitled Notice of Rescission of Transaction**, dated August 22, 2018, filed on or about **August 24, 2018 with the Kings County Clerk** and filed with the New York City Department of Finance Office of the City Register on or about August 27, 2018. The Plaintiff **shall outlay the reasonable** fees charged by the Attorney-In-Fact for this service, but is specially **entitled to reimbursement** for paying these charges from Defendant Van Walker

pursuant to Judiciary Law §773 and applicable law.

7. Defendant Van Douglas Walker is found be fined, pursuant to Judiciary Law §773, in **an amount equal to indemnify** Plaintiff for all damages Plaintiff incurred by virtue of his **civil contempt of this Court's** May 25, 2017, August 25, 2017 and July 30, 2018 orders and **their corresponding Orders To Show Cause** issued prior to the entry of each of the foregoing orders including, but not limited to, attorneys' fees and costs in seeking to enforce and/or **protect Plaintiff's rights** under all of the foregoing orders. Plaintiff shall submit affidavits **specifying these damages** in detail within sixty (60) days from the date of this Order.

8. Plaintiff is entitled to remove and dispose of any personal property that has been left **on the Property by Defendant Van Douglas Walker** or any of the prior occupants of the Property as **trash and/or refuse**.

9. In the event Defendant Van Douglas Walker, Iquanne Wright, Tymel Walker, Germaine Vargas or any other individual removes the locks from the Property, takes possession of the Property, interferes with Plaintiff's exclusive use possession of the Property **an/or attempts to do any** of the foregoing, said individuals should be deemed to be acting **illegally and contrary to law** and the all applicable governmental officials, including the New York Police Department and Kings County Sheriff, shall take all necessary action to place Plaintiff **Mirbourne NPN2, LLC** back into exclusive possession of the Property.

10. The Plaintiff shall serve a copy of this Order on Defendant Van Douglas Walker, **who is now acting pro se**, via NYSCEF, via email at vdoug.walker@gmail.com, and via **overnight mail at the following address** – 545 Halsey Street, Brooklyn, New York 11233. within **three (3) business days of receipt** of same from this Court.

This constitutes the Decision and Order of this Court. This decision and Order amends and modifies the Court's October 12, 2018 Decision and Order.

ENTER Forthwith.



Dated:

10/18/18

Hon. Noach Dear, J.S.C.

HON NOACH DEAR

FILED
KINGS COUNTY CLERK
2018 OCT 19 PM 3:01