

BUY™

SELL™

SHOP™



Downloaded From
www.TextBookDiscrimination.com



SELL YOUR OWN SAMPLES

(help others get the justice that they deserve)



BUY™

SELL™

SHOP™

www.TextBookDiscrimination.com

Get **Booked Up** on Justice!

© TBD Corporation. All Rights Reserved.

IN THE COUNTY COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA
Case No.: 2015-CC-14735
Division: K

Norma M. Martinez,

Petitioner,

-vs-

SunStar OrangePark Inc.,

Defendant.

_____ /

PETITIONER'S MOTION TO STRIKE RESPONDENT'S MOTION FOR DEFAULT

Petitioner Norma Martinez, by and through her undersigned counsel, files this Motion to Strike Respondent's Motion for Default and states as follows:

1. Petitioner Norma Martinez filed the subject petition for injunction with notice for prohibited practices of a landlord on December 30, 2015 and a hearing on Petitioner's request for injunction was held that same day.

2. As a result of the hearing during which testimony was taken from Respondent, this Court entered a preliminary injunction enjoining Respondent from violating Florida's landlord tenant act including that Respondent was prohibited from interfering with Ms. Martinez' access to her room, with her utilities etc.

3. Respondent has, since the date of the entry of the preliminary injunction, repeatedly violated the Order of the court by, among other things, limiting Ms. Martinez' access to her unit.

4. On February 16, 2016, Respondent filed its Motion for Default. Plaintiff's motion is inappropriate, not supported by the Rule and should be stricken.

5. Florida Rule of Civil Procedure 1.500, governing defaults, provides that a Clerk's default may be entered "[w]hen a party *against whom affirmative relief is sought* has failed to file or serve any paper in the action..." Fla. R. Civ. P. 1.500(a). (emphasis added) In this case affirmative relief is *sought against Respondent*. Default in this action is only available against Respondent, not against Petitioner.

6. Similarly, Rule 1.500(b) provides that default may be entered by the Court "[w]hen a party *against whom affirmative relief is sought* has failed to plead or otherwise defend ...the court may enter a default *against such party...*" Fla. R. Civ. P. 1.500(b) (emphasis added). Default can only be entered, according to the Rule, *against* Respondent as they are the only party "against whom affirmative relief is sought".

7. Respondent has not sought affirmative relief. Respondent did not file for an injunction. Respondent is not entitled to a default.

WHEREFORE, Respondent's Motion for Default should be stricken as Respondent seeks a remedy that is not available to it, as the party against whom affirmative relief has been sought in the instant injunction, pursuant to the Florida Rules of Civil Procedure.

DATED this 15th day of March, 2016, at Jacksonville, Florida.

RESPECTFULLY SUBMITTED,
JACKSONVILLE AREA LEGAL AID, INC.

/s/ Katherine Hanson
Katherine Mae Hanson, Esq.
126 West Adams Street
Jacksonville, FL 32202
(904)356-8371 x.370
Attorney for Defendant

CERTIFICATE OF SERVICE

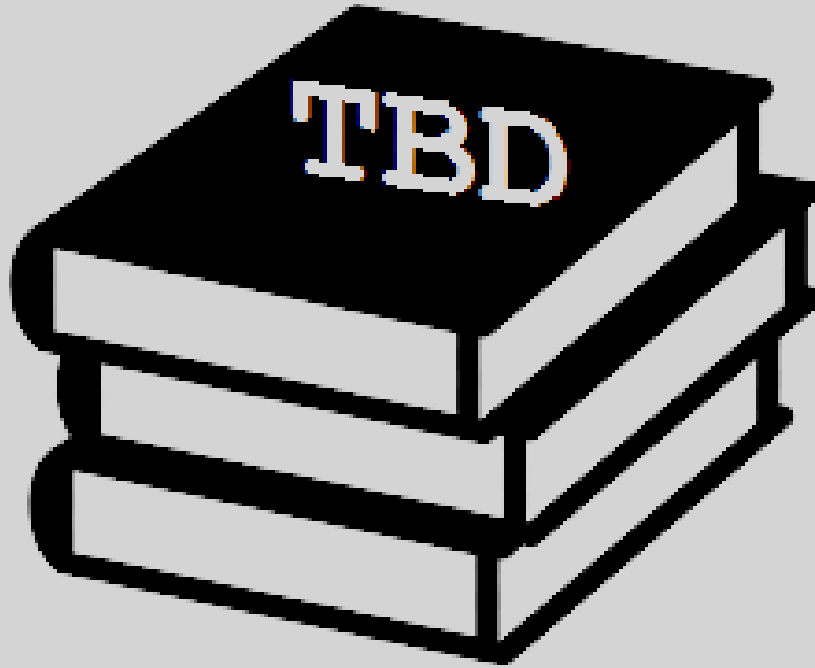
I HEREBY CERTIFY that a true copy of the foregoing has been electronically furnished to Iana Del Benjamin, Esq., at iana@darlingtonjordanlaw.com on this 15th day of March, 2016.

/s/ Katherine Hanson, Esq.
ATTORNEY

BUY™

SELL™

SHOP™



Downloaded From
www.TextBookDiscrimination.com



SELL YOUR OWN SAMPLES

(help others get the justice that they deserve)



BUY™

SELL™

SHOP™

www.TextBookDiscrimination.com

Get **Booked Up** on Justice!

© TBD Corporation. All Rights Reserved.