

CAUSE NO. 2017-36224

3S REAL ESTATE INVESTMENTS, LLC, § **IN THE DISTRICT COURT**
Plaintiff, §
§
v. § **OF HARRIS COUNTY, TEXAS**
§
THIRD COAST DEVELOPMENT, LLC, §
Defendant. § **281st JUDICIAL DISTRICT**

PLAINTIFF'S MOTION TO RETAIN

Plaintiff, 3S Real Estate Investments, LLC, asks the Court to retain its suit on the Court's docket.

INTRODUCTION

1. Plaintiff, 3S Real Estate Investments, LLC, sued defendant, Third Coast Development, LLC, for conversion and breach of contract.
2. Plaintiff's diligent attempts to personally serve defendant's registered agent at its registered office have proved unsuccessful.
3. To continue diligently prosecuting its suit, Plaintiff has served a copy of the Citation and Plaintiff's Original Petition in the above-captioned suit upon the Secretary of State of the State of Texas on July 27, 2017.

BACKGROUND

4. On September 25, 2017, the Court sent a notice that it intended to dismiss the suit.
 - (A) because no answer has been filed in the case.
 - (B) if plaintiff did not file a verified motion to retain or secure a default judgment against defendant.

ARGUMENT & AUTHORITIES

Diligent prosecution of suit

5. A court should not dismiss a case if the plaintiff shows that it has diligently prosecuted its suit. *See Villarreal v. San Antonio Truck & Equip.*, 994 S.W.2d 628, 630 (Tex. 1999); *Tex. Mut. Ins. Co. v. Olivas*, 323 S.W.3d 266, 274 (Tex. App.—El Paso 2010, no pet.).
6. The Court should retain this case because plaintiff has diligently prosecuted its suit. Although attempts to locate and personally serve defendant's registered agent have been unsuccessful, plaintiff has successfully served a copy of the Citation and Plaintiff's Original

Petition in the above-captioned case upon the Secretary of State of the State of Texas. *See* **Ex. A** (“Affidavit of Due Diligence”); and **Ex. B** (“Certificate of Service”).

7. Plaintiff intends to continue diligently prosecuting its suit.

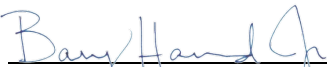
CONCLUSION

8. This case should not be dismissed and this motion to retain should be granted because plaintiff continues to diligently prosecute its suit and intends to file a motion for default judgment if defendant fails to file an answer to Plaintiff’s Original Petition now that the Certificate of Service is on file with the Court.

PRAYER

9. For these reasons, plaintiff asks the Court to retain its suit on the docket.

Respectfully submitted,

By:  _____

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