

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

J.P. Molyneux Studio, Ltd. and)	
Juan Pablo Molyneux,)	
)	Plaintiffs,
)	
-against-)	
)	
)	
)	
)	
)	
)	Case No. 3:10-cv-00034
)	
Jeffrey Epstein and)	
L.S.J., LLC,)	
)	
)	Defendants.
_____)	

DISTRICT COURT OF THE VIRGIN ISLANDS)
) ss:
DIVISION OF ST. THOMAS AND ST. CROIX)

ROSH ALGER, attorney for Plaintiffs, being duly sworn, deposes and says:

1. It is respectfully submitted that should this Court grant this motion to dismiss there is sufficient merit to this action, as will be discussed below, to warrant this Court granting leave to file and serve a Second Amended Complaint pursuant to FRCP Rule 15(a)(2).

2. Plaintiff Juan Pablo Molyneux is a citizen of the State of New York.
Plaintiff J.P. Molyneux Studio, Ltd. is incorporated in the State of New York and maintains its principal place of business in the State of New York. Defendant Jeffrey Epstein is a citizen of the Territory of the U.S. Virgin Islands. Upon information and belief, the remaining Defendant, L.S.J., LLC, is organized in the

State of Delaware and maintains its principal place of business within the U.S. Virgin Islands.

3. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) because the amount in controversy exceeds \$75,000, exclusive of costs, interest and disbursements, and the Plaintiffs and Defendants are citizens of different states. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a) and (c).
4. The amount in controversy is at least \$250,000 and thereby exceeds \$75,000 exclusive of costs, interest and disbursements. (In time sequence, the Settlement Agreement between the parties which will be discussed below, is Exhibit A, but Exhibit B, the Design Services Agreement, paragraph 8, page.2, sets forth the amount in controversy.)
5. Juan Pablo Molyneux is a world-renowned interior designer. Jeffrey Epstein, via his company L.S.J., LLC, is the owner of Little Saint James, a 70 acre island within the U.S. Virgin Islands. In 2005, the parties entered into an agreement whereby the Plaintiffs would provide design services for the residential compound Epstein was constructing on Little Saint James. Subsequently, disputes arose between the parties with respect to the design services to be provided by Plaintiffs.
6. On May 15, 2009, the parties entered into a Settlement Agreement, (Exhibit A, which is incorporated into the First Amended Complaint), whereby the Defendants released all claims they might have had against the Plaintiffs in exchange for \$1.2 million. Following the Settlement Agreement, the parties entered into a written contract, also on May 15, 2009, entitled Agreement for Design Services (the "Design Services Agreement") (Exhibit B, which is incorporated into the First Amended Complaint), wherein the parties agreed that the Plaintiffs would perform certain design services related to the Office Pavilion

being constructed by Defendants on Little Saint James; that Plaintiffs would credit Defendants' account with Plaintiffs in the amount of \$250,000 to be applied toward such services; and, *were there a breach by Plaintiffs of any of the terms of the Design Services Agreement*, then Plaintiffs "shall pay Epstein as liquidated damages \$250,000...". (Design Services Agreement, page 2 paragraph 8) The specific services to be provided were itemized on Exhibit B to the Design Services Agreement (the "Exhibit B Services").

7. The Settlement Agreement specifically provided that the Design Services Agreement "shall not be treated as an inducement to the execution of the Settlement Agreement." Settlement Agreement, Exhibit A, paragraph 2.
8. Subsequent to the execution of the Design Services Agreement, Plaintiffs, with the assistance of an internationally-known woodworking craftsman, undertook to and did perform the Exhibit B Services, with the exception of the restaining and refinishing of the wood cabinetry. On January 26 and 27, 2010, Plaintiffs travelled to Little Saint James to supervise the final stages of the work required by the Design Services Agreement.. It was agreed that Epstein would be present in order to give his approval of the work. Epstein, however, failed to attend this agreed meeting.
9. On March 10, 2010, Defendants' agent created a Punch List cataloguing certain tasks remaining to be completed pursuant to the Design Services Agreement. On March 22, 2010, Plaintiffs again travelled to Little Saint James to meet with Epstein in an effort to finalize the work performed by Plaintiffs and their agents pursuant to the Design Services Agreement. Epstein again failed to attend the agreed meeting. In an effort to perform their obligations under the Design Services Agreement, Plaintiffs and their representatives, nevertheless, undertook to complete, and did complete, the Punch List items falling under the Design Services Agreement, except for the restaining and refinishing of the wood cabinetry. It was not possible to do the restaining and refinishing because

Defendants failed to install a dehumidifier to counter-act condensation on the wood resulting from air conditioning. As early as February 2009, Defendants were advised that unless there was a dehumidifier the wood would be wet and could not be restained or refinished.

10. On April 15, 2010, Defendants claimed that Plaintiffs had failed to perform their obligations pursuant to the Design Services Agreement and sent a Notice to Cure. (Exhibit C) In the Notice, Defendants' counsel also wrongly claimed that the Plaintiffs fraudulently induced Defendants to enter both the Settlement Agreement and the Design Services Agreement. In an effort to resolve the dispute, the parties communicated by and through counsel as well as directly, but were unable to resolve their differences as to the time for restaining and refinishing of the wood cabinetry and other items listed in Defendants' Notice to Cure.

11. There are justiciable controversies with respect to the following issues:

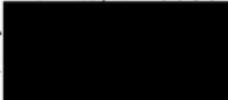
- a. Whether the Plaintiffs substantially performed their duties as required by the Design Services Agreement and whether Plaintiffs are liable for liquidated damages in the amount of \$250,000 to be paid to Defendants under paragraph 8, page 2 of the Design Services Agreement.
- b. Whether Defendants violated their duty of good faith and fair dealing under the Design Services Agreement by engaging in conduct that was inconsistent with the terms and purpose of that agreement and the reasonable expectations of the parties by, among other things: (a) wrongfully rejecting the Plaintiffs' work with respect to the Exhibit B Services; and (b) absenting themselves from the meetings between the parties which were held to resolve their differences, thereby interfering

with and failing to cooperate with Plaintiffs in the performance of their obligations; and

- c. Whether, as alleged in Defendants' April 15, 2010 Notice to Cure, Plaintiffs fraudulently induced Defendants to enter the Settlement Agreement and the Design Services Agreement.

12. A declaration of the rights among the parties is warranted pursuant to 28 U.S.C. § 2201. Defendants' motion should be denied.

Dated: August 25, 2010
St. Thomas, U.S. Virgin Islands

s/ Rosh D. Alger
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