



1993-2019

June 2019

e-Beacon

June 2019

SAFE HARBOR TITLE

1529 Main St., Port Jefferson, NY 11777 • P: 631.473.0800 F: 631.473.7685

www.safeharbor-title.com • info@safeharbor-title.com

Welcome Aboard, Christine !

We cheerfully celebrated Lori's retirement with a most special evening in her honor this past week. Twenty five plus years dedicated to the betterment of Safe Harbor Title, with a gracious, Lori touch. While I sat enjoying the comic banter of our group of eighteen, (we love to laugh !) I reflected on what a wonderful group of people that are Safe Harbor Title. Dedication in all they do, quality individuals through and through. Much to be proud of ! How did we get so lucky ?

Good fortune has again found Safe Harbor Title with the welcome addition of Christine Gerig. Christine, a seasoned veteran of twenty plus years in the industry, has made a very positive impression on her co-workers and our valued clients. Her work ethic, attention to detail, professionalism and calm, respectful demeanor make Christine a most welcome addition to the team. We are lucky to have her !



Welcome aboard, Christine !



Brokers / Fiduciary Duty

The Defendant, a licensed real estate broker, submitted an offer to purchase on behalf of the Plaintiff. The Defendant also, without advising the Plaintiff, made a "backup offer" for herself, at the same price but with a greater down-payment. The property was sold to the Defendant, who advised the Plaintiff that the seller had accepted a different offer. The Plaintiff, alleging breach of fiduciary duty, sought the imposition of a constructive trust, a judgment requiring the transfer of the property to him for the price he bid, for damages in prima facie tort, and for punitive damages. The Supreme Court, Queens County, denied the branches of the Plaintiff's motion for summary judgment on the causes of action which alleged fraud and breach of fiduciary duty by the broker and breach of fiduciary duty by her firm, which was also a Defendant. The Appellate Division, Second Department, modified the Order to grant those branches of the motion. According to the Appellate Division, "...the Plaintiff had established his prima facie entitlement to judgment as a matter of law... The evidence was sufficient to demonstrate, prima facie, that [the Defendants] breached their fiduciary duty to the plaintiff".

The Appellate Division, however, held that the Plaintiff had not established that he was entitled to judgment as a matter of law on the causes of action for a constructive trust, specific performance and for tort liability. The Supreme Court had properly denied the Plaintiff's motion for summary judgment on those causes of action.

Continued on Page 2



Happy Father's Day!



www.SafeHarbor-Title.Com



www.DressForSuccess.org

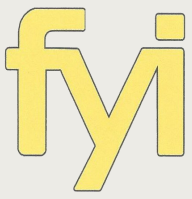


- John C. Meyer.....President
- Gina Lundy.....Vice President
- Deanna Whitney.....Vice President
- Lori Colletti.....Of Counsel

Integrity

Commitment

Reliability



Easements

Parcels within an industrial park were conveyed subject to an easement establishing "...a perpetual and unobstructed right of way...as a driveway and passageway for vehicles and pedestrians for ingress and egress..." over a private street to be known as Rewe Street. The grantor of the easement was responsible for the maintenance of the private street, until it became a public roadway; those costs would be assessed against the owners of the parcels appurtenant to Rewe Street, pro rata. One of the owners of a parcel adjoining the street, a Defendant, asserted that it had the right to store materials in the street for the use of its business under an agreement with Rewe Park, purportedly the owner of the street.

The Supreme Court, Kings County, held that the easement "provides for only unobstructed ingress and egress and no other use of Rewe Street is permissible by the parcel owners according to the specific intent of the grant". The Court ordered that any and all storage containers were to be removed within thirty days of service of the Order with Notice of Entry. According to the Court,


"An easement owned in common with others entitles each owner to full and complete use of the whole easement and one owner cannot make such use of the easement as will unduly interfere with the enjoyment of the easement by other owners. 49 N.Y. Jur. 2d Easements Section 112...[E]ven if Rewe Park was declared the owner of Rewe Street [which the Court did not determine], [the Defendant] would not be entitled to place storage units on Rewe Street in any way that obstructed the other parcel owners rights of egress and ingress".

The Court also held that the owners of lands appurtenant to the easement were responsible to pay the costs incurred for the maintenance and repair of the street, pro rata. *Green Hills (USA), LLC v. Marjam of Rewe Street, Inc., 2019 NY Slip Op 30108, decided January 9, 2019.*

"Brokers / Fiduciary Duty" Continued from Page 1

As to a constructive trust, "...the plaintiff failed to establish, prima facie, that any transfer was made in reliance on a promise, or that, only as a potential buyer, he possessed any legally cognizable interest in the property with which he could have parted [citations omitted]". As to specific performance, "...the plaintiff failed to establish the existence of any valid written contract between the parties pertaining to the sale of the property [citations omitted]". As to prima facie tort, the Plaintiff had "failed to establish that [the broker's] conduct in purchasing the house was motivated solely by disinterested malevolence [citation omitted]"; the Defendant only purchased the property because she liked the house.

The Appellate Division also held that the Defendants' affirmative defense asserting that the amended complaint failed to state a cause of action "was without merit as a matter of law [citations omitted]". *Edwards v. Walsh, 2019 NY Slip Op 01197, decided February 20, 2019.*

 Courtesy of First American Title

	 <p>Save Time ! Order Online</p> <p>Order your next title on the web at www.safeharbor-title.com</p>	<p><i>I Bet You Didn't Know...</i></p> <p><i>Iceland consumes more Coca Cola per capita than any</i></p> 
	Like us on Facebook 	



Their Mission: To empower women to achieve economic independence by providing a network of support, professional attire and the development tools to help women thrive in work and in life.

A most noble cause !

www.DressForSuccess.org



Choose To Be Happy!

Safe Harbor Title