

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

CASE NO: 20-00862-VMC-TGW

BURTON W. WIAND, AS RECEIVER FOR )  
OASIS INTERNATIONAL GROUP, LTD., )  
OASIS MANAGEMENT, LLC; AND )  
SATELLITE HOLDING COMPANY, )  
PLAINTIFF. )

v. )

CHRIS AND SHELLEY ARDUINI, ET. AL., )  
DEFENDANTS. )  
\_\_\_\_\_ )

2020 AUG 31 PM 12:56  
CLERK, US DISTRICT COURT  
MIDDLE DISTRICT FLORIDA  
TAMPA, FLORIDA

FILED

**NOTICE OF JOINDER**

**To**

**“BY SPECIAL APPEARANCE:  
DEFENDANT’S NOTICE OF FILING SUPPLEMENTAL EVIDENCE IN  
SUPPORT OF MOTION BY SPECIAL APPEARANCE TO QUASH SUMMONS  
AND OBJECT TO JURISDICTION”**

1. DAVID LIPINCZYK, Defendant pro per, joins Alan Johnston’s “NOTICE OF FILING SUPPLEMENTAL EVIDENCE IN SUPPORT OF MOTION BY SPECIAL APPEARANCE TO QUASH SUMMONS AND OBJECT TO JURISDICTION” (“Notice”) for the same reasons to which Mr. Johnston’s Notice refers:
2. Defendant is pro per and is not represented by Mr. Winters. See Exhibit B, Mr. Johnston’s Notice.
3. Defendant isn’t raising a new argument but is filing evidence that was not available to him at the time he filed his Motion to Quash Summons and Objection to Jurisdiction.

However, this Court has held that where a party's notice of filing supplemental authority does not raise a new argument, but "merely provides a recent case in support of the arguments already raised [in a] motion[,]" then it does not fall within the requirements of Rule 3.01(c). *Wuenstel v. Liberty Mut. Fire Ins. Co.*, Case No: 5:12-CV-422-Oc-10PRL, at \*1 (M.D. Fla. Feb. 5, 2013)

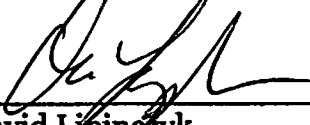
[Such] supplemental filings should direct the Court's attention to legal authority or evidence that was not available to the filing party at the time that that party filed the original brief to which the subsequent supplemental filing pertains. (emphasis added).

*Girard v. Aztec RV Resort, Inc.*, No. 10-62298-CIV-ZLOCH/ROSENBAUM, at \*4 (S.D. Fla. Sep. 16, 2011).

4. Englander-Fischer has known since at least Friday, July 31, 2020 NOT to contact Mr. Winters on behalf of Defendant because Mr. Winters does not represent Defendant in this case.
5. In two filings: (1) Motion for Extension of Time to Respond and (2) Omnibus Response to Motion to Quash Summons, Englander-Fischer refers to Defendant as pro se over 90 times admitting that Defendant is not represented by an attorney.
6. Englander-Fischer did not inform the Court that they knew Mr. Winters does not represent Defendant.

WHEREFORE, Defendant respectfully requests that this Court to consider the Supplemental Evidence provided when taking Defendant's *Motion by Special Appearance to Quash Summons and Object to Jurisdiction* into consideration.

Respectfully Submitted,

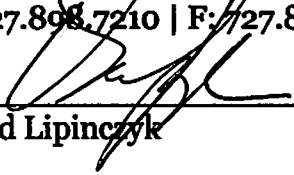
  
\_\_\_\_\_  
David Lipinczyk  
6336 Redman Road  
Brockport, New York 14420

8/27/2020  
Date

#### CERTIFICATE OF SERVICE

I certify that I filed a copy of the foregoing document with the Clerk of the Federal District Court of Middle Florida, Tampa Division, and sent a copy to:

Englander Fischer  
Att: Beatriz McConnell [bmccconnell@eflegal.com](mailto:bmccconnell@eflegal.com)  
721 First Avenue North  
St. Petersburg, Florida 33701  
P: 727.898.7210 | F: 727.898.7218

  
\_\_\_\_\_  
David Lipinczyk

Date: 8/27/2020

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**BURTON W. WIAND, as Receiver for  
OASIS INTERNATIONAL GROUP, LTD.;  
OASIS MANAGEMENT, LLC; AND  
SATELLITE HOLDINGS COMPANY,**

**Plaintiff,**

**v.**

**ALAN JOHNSTON**

**Defendant.**

Case No. 8:20-cv-00862

AUG 23 AM 8:56  
DISTRICT OF FLORIDA  
TAMPA, FLORIDA

**BY SPECIAL APPEARANCE:**

**DEFENDANT'S NOTICE OF FILING SUPPLEMENTAL EVIDENCE IN  
SUPPORT OF MOTION BY SPECIAL APPEARANCE TO QUASH SUMMONS  
AND OBJECT TO JURISDICTION**

FILED

AUG 24 PM 3:55  
CLERK, US DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

Defendant Alan Johnston ("Defendant"), pro per, pursuant to *Wuenstel v. Liberty Mut.*

*Fire Ins. Co.*, Case No: 5:12-CV-422-Oc-10PRL (M.D. Fla. Feb. 5, 2013) and *Girard v.*

*Aztec RV Resort, Inc.*, No. 10-62298-CIV-ZLOCH/ROSENBAUM (S.D. Fla. Sep. 16, 2011)

providing the exception to Local Rule 3.01(c), offers this Supplemental Evidence to his

*Motion to Quash Summons and Object to Jurisdiction* [Dkt. 241] ("Motion"), as follows:

## **AUTHORITY TO FILE SUPPLEMENTAL EVIDENCE**

**The cases cited above provide Defendant with authority to file this Supplemental Evidence in Support of his Motion.**

**However, this Court has held that where a party's notice of filing supplemental authority does not raise a new argument, but "merely provides a recent case in support of the arguments already raised [in a] motion[,] then it does not fall within the requirements of Rule 3.01(c).**

***Wuenstel v. Liberty Mut. Fire Ins. Co.*, Case No: 5:12-CV-422-Oc-10PRL, at \*1 (M.D. Fla. Feb. 5, 2013)**

**[Such] supplemental filings should direct the Court's attention to legal authority or evidence that was not available to the filing party at the time that that party filed the original brief to which the subsequent supplemental filing pertains.**

***Girard v. Aztec RV Resort, Inc.*, No. 10-62298-CIV-ZLOCH/ROSENBAUM, at \*4 (S.D. Fla. Sep. 16, 2011)**

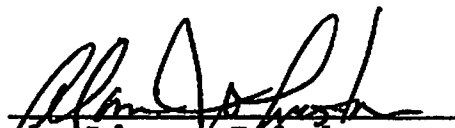
- 1. Defendant is not raising new issues nor arguments, but is providing to the Court important material evidence not available to Defendant at the time he filed his Motion. (See *id.*).**
- 2. Defendant presents himself pro per in this case: 8:20-cv-00862.**
- 3. Defendant is not represented by Mr. Winters. See Exhibit B.**

## **SUPPLEMENTAL EVIDENCE**

4. Despite clarifications, Englander-Fischer has not corrected the Court's nor the Receiver's misunderstanding regarding the relationship between Defendant and Mr. Winters. Rather, they included in their Omnibus Response a misleading email dated, Thursday, June 11, 2020 (Dkt. 326-9: Exhibit "I"), while omitting an email sent by Mr. Winters on Friday, July 31, 2020 where Mr. Winters clearly stated that he was not to be contacted because he was not Defendant's attorney. (See Exhibits A and B).
5. Englander-Fischer has known since at least Friday, July 31, 2020 NOT to contact Mr. Winters on behalf of Defendant because Mr. Winters does not represent Defendant in this case. (See Exhibits A and B).
6. On July 31, 2020, Englander-Fischer revealed their awareness that Mr. Winters did not represent Defendant in filing the "*Receiver's Motion for Extension of Time to File Omnibus Response to Motion to Quash...*" by identifying Defendants in this case (and their Motions) as "Pro Se" over 40 times (Dkt 293). Whether a Defendant is referred to as pro se or pro per, he is not represented by an attorney.
7. Similarly, "*Plaintiff's Omnibus Response...*" (Dkt. 326), revealed again that Mr. Winters did not represent Defendant by referring to Defendants in the Response as 'Pro Se' on 50 separate occasions and Defendant was one of the named defendants so identified. Despite the incorrect classification, Defendant's pro per appearance clearly classifies him as someone not otherwise represented.
8. Englander-Fischer, moreover, was aware that Defendant presented himself in this case pro per (8:20-cv-00862), referring to Defendant once again as "pro se" in the Certificate of Service, p. 12, col. 2, Dkt.326.

**WHEREFORE**, Defendant respectfully requests that this Honorable Court to consider the Supplemental Evidence provided when taking Defendant's *Motion by Special Appearance to Quash Summons and Object to Jurisdiction* into consideration.

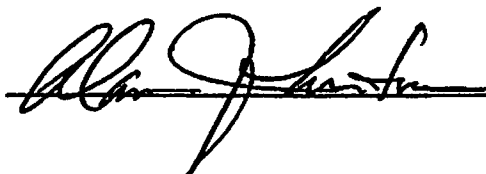
**RESPECTFULLY SUBMITTED** to this Honorable Court by Alan Johnston, pro per.

 Date: 8-20-2020  
Alan Johnston, Defendant  
2020 Holly Leaf Drive  
Tyler Texas 75703

### **CERTIFICATE OF SERVICE**

I certify that I filed a copy of the foregoing document with the Clerk of the Federal District Court of Middle Florida, Tampa Division, and sent a copy to:

Englander Fischer  
Att: Beatriz McConnell  
bmccconnell@eflegal.com  
721 First Avenue North  
St. Petersburg, Florida 33701  
P: 727.898.7210 | F: 727.898.7218

 Date: 8-20-2020

6336 Redman Rd.  
Brockport, NY 14420



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Sharon M. Gibbons US Court House  
ATT: CLERK OF THE COURT  
801 NORTH FREDRICK AVE  
TAMPA FLA 33602

33602-384999

