

FILED

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

2020 SEP 23 PM 1:04

U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

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

Plaintiff,

v.

DAVID PAUL LIPINCZYK

Defendant.

Case No. 8:20-cv-00862

**BY SPECIAL APPEARANCE**

**NOTICE OF JOINDER TO MOTION TO DISMISS**

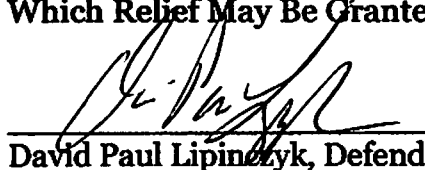
**FILED BY DEFENDANT ALAN JOHNSTON (DKT. 416)**

COMES NOW by Special Appearance, David Paul Lipinczyk, as Defendant pro per in the instant case moving this honorable Court to take note of this Joinder to Motion to Dismiss by Defendant Alan Johnston (Dkt. 416), (which is hereby incorporated in its entirety by reference) for one or more of the following reasons (1) Insufficient Process; (2) Lack of Personal Jurisdiction; (3) Failure to Join an Indispensable Party, and; (4) Failure to State a Claim Upon Which Relief May Be Granted.

1. The Plaintiff was statutorily divested of his conditional authority to issue summons to Defendant by failing to adhere to the requirements of 28 U.S.C. § 754.
2. The Summons issued to Defendant constituted insufficient process because Plaintiff failed to adhere to the 10-day filing requirement of the Complaint and Receivership

Appointment in the district court in which the Defendant resides.

3. The statutory time limit began at the Receiver's permanent appointment on April 30, 2019 (Dkt. 44). (Fed. R. Civ. Pro. Rule 12(b)(4)).
4. The Court may gain jurisdiction over Defendant through sufficient process or, in the alternative, voluntary appearance by Defendant.
5. Defendant has not voluntarily appeared nor has Plaintiff provided sufficient process according to the law and, therefore, this Court lacks personal jurisdiction over Defendant.
6. Plaintiff failed to state the elements of his Claim as required under Florida's Uniform Transfer Act or its alternative, unjust enrichment, with citations to legal authority to provide a well-pleaded complaint against Defendant.
7. Plaintiff's claims fail to identify which parts of §726 of the cited Florida law pertain to Defendant and there is no material evidence in the record to substantiate claims against Defendant. (FRCP Rule 12(b)(6)).
8. Judgment against Defendant may prejudice the interests of insiders not joined in violation of Rule 19. Absent joinder of certain indispensable parties, judgment against Defendant may result in exposure to risk of a double or otherwise inconsistent liability.
9. Defendant, therefore, moves the Court to Dismiss the Complaint for one or more of the following reasons (1) Insufficient Process; (2) Lack of Personal Jurisdiction; (3) Failure to Join an Indispensable Party, and; (4) Failure to State a Claim Upon Which Relief May Be Granted.

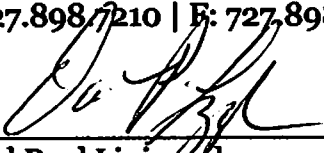
 Date: 9/21/2020  
David Paul Lipinzyk, Defendant

6336 Redman Road  
Brockport, NY 14420  
Email: dlipinczyk@aol.com

**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

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

Date: 9/21/2020

6336 Redman Rd.  
Brookport, NY 14420

SAM M. GIBBONS UNITED STATES COURTHOUSE  
ATT: CLERK OF THE COURT  
801 NORTH FLORIDA AVENUE  
TAMPA, FLORIDA 33602

ORIGIN ID:ROCA (585) 637-0720  
GEOFF DWYER  
TRADER SHAGS EMPORIUM  
84 MANI ST

SHIP DATE: 22SEP20  
ACTWGT: 0.10 LB MAN  
CAD: 0810953/CAFE3311

BROCKPORT, NY 14420  
UNITED STATES US

BILL SENDER

TO **CLERK OF THE COURT**  
**SAM M GIBBONS U.S. COURT HOUSE**  
**801 NORTH FLORIDA AVE**

**TAMPA FL 33602**

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**PRIORITY OVERNIGHT**

**XJ KYOA**

**33602**  
**FL-US TPA**

Part # 156148-434 NRIT V3 09-08

