

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

IN RE NORVERGENCE LITIGATION,)	
)	Case No. 04 L 12891
(IFC CREDIT CORPORATION, assignee of)	
Norvergence, Inc.),)	(transferred/consolidated)
)	Judge James C. Murray

Preliminary Injunction Order

This matter coming on to be heard on Defendant Leases Motion for Sanction, Court having taken judicial notice of IFC Credit Corporation Appellate Brief in IFC Credit Corporation v. Rieker Shoe Corporation relating to the appeal taken from the Judgment of the Honorable Paddy H. McNamara in case number 04 L 13472 and IFC Credit Corporation Appellate Brief relating to the appeals from judgments from the Honorable Daniel M. Locallo and James T. Ryan from the 3rd Municipal District (Case Number 04 M3 2654, 04 M3 2658, 2646, 2665, 2655, 2667, 2668, 2673 and 2660. The Court having taken judicial of the agreed order approving a class settlement with IFC Credit Corporation by a trial judge from the State of Jersey and this Court being fully advised in the premises:

This Court enters the following finding of facts and conclusions of law:

1. IFC Credit Corporation (IFC) is an Illinois Corporation with its principal place of business in Morton Grove, Illinois.

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This Court enters the following finding of facts and conclusions of law:

1. IFC Credit Corporation (IFC) is an Illinois Corporation with its principal place of business in Morton Grove, Illinois.

2. At the time the leases were entered into, NorVergence, Inc. assigned the agreements to IFC shortly after the Defendants in the consolidated cases signed the lease agreements.
3. IFC has filed over 700 cases as assignee of the NorVergence Inc. agreements in the Circuit Court of Cook County claiming Defendants had breached their contractual obligation.
4. A substantial number of those cases were filed in 2004.
5. The cases are consolidated before this Court.
6. Counsel has worked diligently to provide a procedure to resolve these cases on expedite basis.
7. Despite these efforts, IFC has entered in a class settlement in the Superior Court of New Jersey, Law Division (See Exhibit B of the Motion for Sanctions and by that reference incorporate herein).
8. Under the lease agreements assigned to IFC, there is a choice of law and forum selection provision which states:

APPLICABLE LAW:*** This agreement shall be governed by, construed and enforced (*9) in accordance with the laws of the State in which Rentor's principal offices are located or, if this Lease is assigned by Rentor, the State in which the assignee's principal offices are located, without regard to such State's choice of law considerations and all legal actions relating to this Lease shall be venued exclusively in a state ^{or} federal court located within that State, such court to be chosen at Rentor or Rentor's assignee's sole option. You hereby waive right

to a trial by jury in any lawsuit in any way relating to this rental.”

(hereinafter referred to as “Applicable Law Provision” or in the alternative “Forum Selection Clauses”).

9. IFC has maintained the Applicable Law Provision is a Forum Selection Clause with mandatory language that fixes the forum in Illinois (IFC Appellate Brief in Case No. 04 L 13472 p. 4-5).
10. IFC has stated the Forum Selection Clause contained in the Applicable Law Provision is enforceable under the plain meaning rule of contract interpretation (IFC Appellate Brief in Case No. 04 L 13472 – p. 5-8).
11. IFC has stated that the Forum Selection Clause must be enforced such that Venue in Illinois is proper (IFC Appellate Brief in Case No. 04 L 1374 – p.14).
12. IFC has stated the Forum Selection Clause is presumptively valid and unenforceable (IFC Appellate Brief in Case No. 04 L 13472- p. 19-21).
13. IFC has stated the Forum Selection Clause is not against public policy (IFC Appellate Brief No. 04 L 13472 p. 21, 23).
14. IFC has stated a Forum Selection does not have to identify a particular forum by name.
15. IFC stated the presence of a Forum Selection Clause precludes any analysis of whether the Defendants are subject to general jurisdiction or specific jurisdiction in Illinois (IFC Appellate Brief in Case No. 04 L 13472 p.p. 31-54).
16. IFC has stated the Forum Selection Clause is not contrary to public policy (IFC Appellate Brief in Cases 04 M3 2654, 04 M3 2658, 2646, 2665, 2655, 2667, 2668, 2673 and 2660 p.p. 7-13).

17. In IFC Credit Corporation v. Rieker Shoe Corporation, 2007 Ill.App. Lexis 1277 (1st Dist. 2007) rehearing denied January 14, 2008, the Appellate Court held the Forum Selection Clause set forth in paragraph 8 of the Preliminary Injunction Order was valid and enforceable between experienced business people.
18. All litigation relating to the lease agreements assigned to IFC are exclusively venue in the state or federal courts of Illinois.
19. The doctrine of judicial estoppel prevents IFC from submitting itself to the jurisdiction of another state court under the terms of the Forum Selection Clause. Marc Cohen v. Blockbuster Entertainment, Inc., 376 Ill.App.3d.588, 878 NE.2d 132 (1st. Dist. 2007); Wolf v. Wolf, 375 Ill. App.3d 702, 874 N.E.2d 582 (1st Dist. 2007); Johnson v. DuPage Airport Authority, 268 Ill.App.3d 409, 644 N.E.2d 802 (2nd Dist. 1994).
20. IFC has violated the Forum Selection Clause when IFC entered with a class action settlement in the State of New Jersey.
21. The attempt to oust this Court of jurisdiction of the cases before the Court by entering into a class action settlement requires this Court to enter a Preliminary Injunction to preserve this Court's jurisdiction and require IFC to adhere to the Forum Selection Clause.
22. The Court determines that IFC violation of the Forum Selection can result in irreparable harm to the rights of the Defendants since it's effective eliminates their claims against IFC and deprives Defendants of their attorneys of choice .
23. This Court determines that there is no adequate remedy of law.

24. This Court has balanced the interests of parties and that interest favor the Defendants to preserve this Court's jurisdiction.
25. This Court in the interest of comity and to prevent a multiplicity of actions has the inherent power to issue an injunction to maintain the status quo and provide mandatory relief.

BASED UPON THIS COURTS FINDINGS OF FACT AND CONCLUSION OF LAW – IT IS HEREBY ORDERED ADJUDGED AND DECREED:

1. IFC Credit Corporation, (IFC) its Board of Directors, Officers, Employers, Agents, Attorneys and any and all person acting directly or indirectly on behalf of IFC are enjoined and restrained from implementing, consummating, or acting directly or indirectly concerning or relating to Order of Apparent Merit and Other Relief in the case entitled Exquiste Caterers, LLC, et.al. Plaintiff vs. Popular Leasing USA, Inc. et.al. Defendants currently pending in the Superior Court of New Jersey Law Division, Monmouth County Docket No. L-3686-04 (the "New Jersey Litigation") entered on February 26, 2008.
2. IFC Credit Corporation its Board of Directors, Officers, Employees, Agents, and Attorneys are enjoined and restrained from agreeing to any and all settlements from the alleged IFC class members action in the New Jersey Litigation.
3. IFC Credit Corporation its Board of Directors, Officers, Employees, Agents, and Attorneys shall use every effort to be dismissed from the New Jersey Litigation and enforce the Forum Selection Clause.

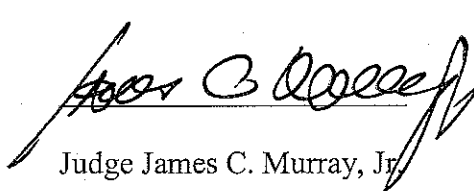
4. IFC Credit Corporations Attorneys in Illinois and New Jersey shall bring to the attention to the New Jersey trial judge in the New Jersey litigation a certified copy of the Preliminary Injunction Order and make said Order a part of the record in the New Jersey Litigation.
5. IFC Corporation attorneys are directed and instructed that each member of the IFC Board of Directors and each IFC Officer are to receive a copy of this Court's Preliminary Injunction Order.
6. IFC Corporation shall post in various locations in their offices in Morton Grove, Illinois a copy of this Court's Preliminary Injunction Order.
7. Nothing in the Preliminary Injunction Order is to be construed that IFC is prohibited from making individual settlements with Defendants in the consolidated cases as long as the Attorneys for said Defendants are advised of the settlements offer.
8. The Court sets a bond amount to be posted by Defendants in the total amount \$100 cash bond.
9. This matter is set for further hearing on March 20, 2008 at 1:30 p.m. in Room 2005 of the Daley Center in Chicago.

ENTER:

Judge James C. Murray, Jr.

MAR 20 2008

Circuit Court - 1825


Judge James C. Murray, Jr.

March 20, 2008