

NO. A-0173174

PARTY PROPS, INC.,

Plaintiff,

V.

POPULAR LEASING USA, INC.,

Defendant.

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IN THE DISTRICT COURT

58TH JUDICIAL DISTRICT OF

JEFFERSON COUNTY, TEXAS

**ORDER ON
DEFENDANT'S OBJECTION TO PLAINTIFF'S
SUMMARY JUDGMENT EVIDENCE**

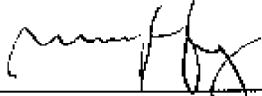
On this day, this Court heard Defendant Popular Leasing USA, Inc.'s Objections to Plaintiff's Summary Judgment Evidence and having heard argument of counsel and reviewed the proposed summary judgment evidence, the Court issues the following rulings on the objections:

1. Defendant's Objection to the affidavit of William Waites on the grounds that it expresses opinions contrary to or not disclosed in his expert report is ~~sustained~~ **overruled**.
2. Defendant's Objection to the affidavit of William Waites on the grounds that it is conclusory is ~~sustained~~ **overruled**.
3. Defendant's Objection to the affidavit of William Waites on the grounds that it is speculation without a basis to support such a conclusion is ~~sustained~~ **overruled**.
4. Defendant's Objection to the affidavit of William Waites on the basis that he has not established a foundation for his conclusions concerning the basis for his projection two years into the future is ~~sustained~~ **overruled**.

5. Defendant's Objection to the affidavit of William Waites on the basis that he has not established a foundation for his conclusions concerning the value of the matrix box at the time of the lease is ~~sustained~~/**overruled**.
6. Defendant's Objection to the affidavit of William Waites on the basis that his opinion lacks reliability is ~~sustained~~/**overruled**.
7. Defendant's Objection to the affidavit of William Waites on the basis that the literature, materials and pages from various websites are improperly authenticated, constitute impermissible hearsay and lack reliability is ~~sustained~~/**overruled**.
8. Defendant's Objection to the use of the Default Judgment against Norvergence, Inc. because there is no proof of citation nor service of process demonstrating that Popular Leasing was a party to the case and therefore its use violates Popular Leasing's due process rights is ~~sustained/overruled~~/**moot because claim withdrawn by Plaintiff.**
9. Defendant's Objection concerning the use of the excerpts of the deposition of Daniel Kinealy from Florida as not being properly authenticated and hearsay is ~~sustained~~/**overruled**.
10. Defendant's Objection as to the use of the Default Judgment in *State of Texas v. Norvergence* because the documents showing that the Court rendering the Judgment had jurisdiction over Popular Leasing have not been submitted as summary judgment evidence is ~~sustained/overruled~~/**moot because claim withdrawn by Plaintiff**.

11. Defendant's objection to issues and grounds, including the IFC judgment and other evidence, that were contained in Plaintiff's Brief but not Plaintiff's Second Amended Motion for Summary Judgment as grounds or a basis for summary judgment is ~~sustained~~ **overruled**.
12. Defendant's objection to Plaintiff's Brief in Support of Plaintiff's Second Amended Motion for Summary insofar as it is construed as amending or supplementing the Second Amended Motion for Summary Judgment is ~~sustained~~ **overruled**.
13. Defendant's objection to the attached portion of Dan Kinealy's deposition by Plaintiff's to Plaintiff's Second Amended Motion for Summary Judgment in the Florida litigation is ~~sustained~~ **overruled**.

Signed this 8th day of November 2006.



HON. JAMES W. MEAHY, 58TH DISTRICT COURT

Approved as to form only:

John R. Jones
Attorney for Popular Leasing USA

Paul Cross
Attorney for Party Props, Inc.