

SCANNED ON 09/09/05

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK PART 61**

**DECISION/ORDER**

Sterling National Bank as Assignee of  
Norvergence, Inc.,

Index No. 11753804

Plaintiff,

Motion Seq. 1

-- against--

**Present:**

P.A.W. of Ocean, Inc. d/b/a PAW of Ocean,  
Inc., and Paul Wishnick, Individually,

**Hon. Rolando T. Acosta**  
Supreme Court Justice

Defendants.

**FILED**

SEP 09 2005

The following documents were considered in reviewing Defendant's motion for an order dismissing this action on the grounds that this Court lacks personal jurisdiction, dismissing the action as there are pending actions involving the same parties and subject matter, or in the alternative, staying the action pending the resolution of those actions:

**Papers**

**Numbered**

**Defendant's Notice of Motion, Affirmation &  
Memorandum of Law**

**1- 3 (Exhibits A-I)**

**Plaintiff's Affirmation In Opposition &  
Memorandum of Law**

**4-5 Exhibits A-E)**

**Defendant's Reply Affirmation & Memorandum  
of Law**

**6-7 (Exhibits A-E)**

Defendant P.A.W. of Ocean, Inc. is a New Jersey Company that leased telecommunications equipment from NorVergence, Inc., a now-defunct New Jersey based corporation, apparently engaged in widespread fraud (see Office of New York State Attorney General Elliot Spitzer, Press Release, December 6, 2004)<sup>1</sup> that is the

1. The Court has taken judicial notice of the fact that the New York State Attorney General's Office negotiated a settlement with GE Capital Corporation, a financing institution, regarding its NorVergence fraud claims, whereby GE Capital will forgive over two million dollars in payments due from New York customers who

subject of a Chapter 7 liquidation proceeding in the United States Bankruptcy Court for the District of New Jersey. NorVergence assigned the lease to plaintiff before bankruptcy.

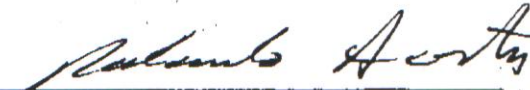
Plaintiff has been named in a class-action in New Jersey, where the plaintiffs are seeking a finding that the financing companies participated in the fraud with NorVergence, and defendant fits squarely within the definition set forth in the complaint in the class-action. Moreover, defendant will undoubtedly be a party to the class-action once that action is certified. In addition, there are two other pending actions in New Jersey dealing with the alleged fraud. See In Re Norvergence, Inc.: 1<sup>st</sup> Step Financial Services, et als, v. Norvergence Inc. And Sterling National Bank, Docket No. 04-32079-RG in the United States Bankruptcy Court, District of New Jersey, and Federal Trade Commission v. Norvergence, Inc., Civil Action 04-5414 (DRD). Accordingly, it is

ORDERED that the instant matter is stayed pending the determination by the New Jersey Superior Court on whether the New Jersey action will be certified as a class action or a determination in the bankruptcy or Federal Trade Commission matter that would impact on this action. Defendant is granted leave to renew that portion of instant motion for an order dismissing the action following the above determination.

This constitutes the Decision and Order of the Court.

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Dated: August 29, 2005

  
ROLANDO T. ACOSTA, J.S.C.

**FILED**  
SEP 09 2005  
NEW YORK  
COUNTY CLERK'S OFFICE

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had signed long-term contracts with NorVergence. The New York State Attorney General has also notified 19 other financial institutions of his impending legal action in connection with the fraudulent Norvergence telecommunications agreements.