

IN THE STATE COURT OF BULLOCH COUNTY, STATE OF GEORGIA

MO FLO LLC
1267 NORTHSIDE DRIVE EAST
STATESBORO, GA 30458
DBA: FLOORS OUTLET

Plaintiff(s)

VS

WILHELMINA ALEXANDER
204 HIGHLAND RD
STATESBORO, GA 30458
Defendants

EDWIN ALEXANDER
204 HIGHLAND RD
STATESBORO, GA 30458

) State Court: STCV2022000202
) Magistrate Court : 2022-11739CS
)
) Motion for Joinder
) and
) Motion to Correct the Party Names and
) Clarify Whether Brian McDonald has
) Already Appeared or Needs to be Served

MOTION FOR JOINDER OF PERSON NEEDED FOR JUST ADJUDICATION AND MOTION TO CORRECT THE PARTY NAMES AND CLARIFY WHETHER BRIAN MCDONALD HAS ALREADY APPEARED OR NEEDS TO BE SERVED

MOTION FOR JOINDER OF PERSON NEEDED FOR JUST ADJUDICATION

1. Defendants show to the court that Brian McDonald is a resident of 208 Spotted Fawn Rd, Statesboro, GA 30458, Bulloch County and that he is subject to the jurisdiction of this court.
2. Defendants show to the court that Randy Childs is a resident of 1218 Plantation Cir, Statesboro, GA 30458, Bulloch County and that he is subject to the jurisdiction of this court.
3. Defendants show to the court that Prince Preston was a resident of 2604 Old Mill Way, Statesboro, GA 30458, Bulloch County as of our August 9, 2022 request in Defendant's Answer paragraphs 16 through 21 to adjust the parties to the case. His office in Bulloch County is located at 440 Matthews Rd, Statesboro, GA 30458, Bulloch County. He regularly attends work at that location within Bulloch County and is a resident of Georgia.
4. Each of these parties, Brian McDonald, Randy Childs, and Prince Preston is a person needed for just adjudication of the above-styled action as shown in paragraphs 16 through 21 of our August 9, 2022 Defendant's Answer already on file with the court having been transferred from Bulloch County Magistrate Court.

5. **Wherefore**, defendant moves the court, pursuant to O.C.G.A. § 9-11-19, for an order directing that said Brian McDonald, Randy Childs, and Prince Preston be joined in this action as party plaintiffs. We notarized our Defendant's Answer as a sworn statement, and we request that you treat it as an affidavit suitable for joinder.

MOTION TO CORRECT THE PARTY NAMES AND CLARIFY WHETHER BRIAN MCDONALD HAS APPEARED AND DOES NOT NEED TO BE SERVED

6. The Bulloch County Magistrate Court and Bulloch County State Court have referred to Wilhelmina Randtke using various last names, none of which she has ever used.
7. **Wherefore**, Defendants request the court to correct the names of Defendants to read "Edwin Alexander" and "Wilhelmina Randtke" and to remove all other Defendant names.
8. The Bulloch County Magistrate Court suit against Defendants listed "Plaintiff(s)" as "MO FLO LLC 1267 NORTHSIDE DRIVE EAST STATESBORO, GA 30458 DBA: FLOORS OUTLET" and was signed by Brian McDonald who has consistently identified himself as the owner of Floors Outlet either solely or with partners. In our August 9, 2022 Defendant's Answer we treated this as a single plaintiff, Floors Outlet either a sole proprietorship or a partnership. In case of there being two plaintiffs, we did list a counterclaim against "Mo Flo LLC" in paragraph 98 of our August 9, 2022 Defendant's Answer, if it is recognized as a party to this case.
9. In our August 9, 2022 Defendant's Answer we brought all counterclaims against Floors Outlet who we believed was suing us either as a sole proprietorship or as a partnership and against Brian McDonald who is the owner of Floors Outlet either as a sole proprietorship or as a partnership.
10. Opposing counsel filed a notice of appearance on September 2, 2022 for "Mo Flo, LLC" only, but not for any named Plaintiff on the proceedings which were transferred from the Magistrate Court of Bulloch County. The name in the notice of appearance is a different party name from "Mo Flo LLC" in the Statement of Claim filed against us in Magistrate Court of Bulloch County. Neither "Mo Flo, LLC" nor "Mo Flo LLC" is a registered LLC with the Georgia Corporations Division. We will note that the online docket at peachcourt.com still says "Mo Flo LLC" as of today.
11. Floors Outlet is not a fictitious name for any LLC legally domiciled in Bulloch County. Floors Outlet operates its primary office at 1267 Northside Drive East, Statesboro, GA 30458, Bulloch County and does not have any other offices, showrooms, or physical locations. According to OCGA 10-1-490, any corporation using a fictitious name must register the fictitious name with the Superior Court of the county in which it is located. On July 12, 2022 when Floors Outlet sued us, no corporation had registered "Floors Outlet" as a fictitious name.

12. Further, the suit against us in the Magistrate Court of Bulloch County seems to indicate a single plaintiff in the July 12, 2022 Statement of Claim. The header of opposing counsel's September 2, 2022 Notice of Appearance indicates two plaintiffs, both "Mo Flo, LLC" and "DBA: Floors Outlet".
13. **Wherefore**, Defendants move the court to adjust the parties and the case header to clarify as to how many plaintiffs exist, and the names of each plaintiff regarding plaintiffs "Mo Flo, LLC", and "Mo Flo LLC".
14. The Statement of Claim filed against us July 12, 2022 reads in its entirety, "Floors outlet was contracted by above mentioned defendants to install tile at their home. Defendant refuses to allow us to finish job and has stopped communication. Floors outlet has not been paid for work performed." No other entities were alleged to have claims against us nor a contractual relationship with us within the Statement of Claim.
15. Our contract to install tile, which was attached to our August 9, 2022 Defendant's Answer as Exhibit A, lists only Floors Outlet, does not list any other corporate entity, and is signed by Brian McDonald as "Contractor".
16. Assuming Mo Flo LLC or Mo Flo, LLC is later alleged to be a principal of Floors Outlet, "to relieve himself of personal liability the agent ordinarily has the burden of proving by direct or circumstantial evidence the fact of agency as well as knowledge thereof by the opposite party". *Yarbrough & Co. v. Travis Pruitt & Assocs.*, 130 Ga. App. 49, 49, 202 S.E.2d 227, 228 (1973); *Chambliss v. Hall*, 113 Ga.App. 96, 99, 147 S.E.2d 334, 338 (1966).
17. **Wherefore**, Defendants move the court to adjust the parties and the case header to change "DBA: Floors Outlet" to "Floors Outlet".
18. **Wherefore**, Defendants request the court to determine as to whether Brian McDonald, who signed the sworn statement on behalf of Floors Outlet in the Statement of Claim which was filed July 12, 2022 in the Magistrate Court of Bulloch County which Statement of Claim was later transferred to this case on August 19, 2022 is already a party to this case, either as sole proprietor or as a partner owning Floors Outlet, and has already appeared in this case or is not yet a plaintiff and must be joined and served.

This day of September 8, 2022.



Wilhelmina Randtke, Defendant
204 Highland Rd.
Statesboro, GA 30458



Edwin Alexander, Defendant
204 Highland Rd.
Statesboro, GA 30458

CERTIFICATE OF SERVICE

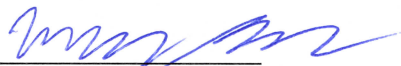
I certify that I filed a copy of this MOTION FOR JOINDER OF PERSON NEEDED FOR JUST ADJUDICATION AND MOTION TO CORRECT THE PARTY NAMES with the State Court of Bulloch County and will mail copies to:

Mo Flo LLC
1267 Northside Drive East
Statesboro, GA 30458
DBA: Floors Outlet

Brian McDonald
208 Spotted Fawn RD N
Statesboro, GA 30458

R. Matthew Shoemaker
Jones Cork LLP
435 Second Street
Fifth Floor, SunTrust Bank Building
P.O. Box 6437
Macon, Georgia 31208-6437

Signed September 8, 2022



Wilhelmina Randtke
204 Highland Rd
Statesboro, GA 30458