

EARNEST MONEY DEPOSIT

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MylaFord

<probatereg@sanilaccounty.net>

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Jan 21, 2021, 1:41:55 PM (12 days ago)



to MADCM

Afternoon!

Would your court add the reason for your decision on a dismissal form? The Defendant has filed a motion to amend the "judgement" asking that the reason for the dismissal be added to the dismissal. Here's why:

Petitioner (Purchaser of real estate) filed a small claims asking for his earnest money deposit back. I ordered that petitioner/purchaser breached the contract and is not entitled to the deposit. The deposit is in escrow with the title company. The dismissal just says dismissed with prejudice. The title company is looking for assurance that the Plaintiff is not entitled to the deposit before they release the deposit to the Defendant.

Your feedback is greatly appreciated :)



matt.friedrich

<matt.friedrich@sbcglobal.net>

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Jan 21, 2021, 1:53:28 PM (12 days ago)



to madcm@googlegroups.com

I often indicate that I'm dismissing a case, after hearing, because I've found that there is no cause of action. In this case, could you add language indicating: "Court has found no cause of action and defendant is thereby entitled to a return of the EMD"?



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Milroy, Michael

<michael.milroy@kentcountymi.gov>

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to madcm@googlegroups.com

Spot on, Matt.

Milroy

63rd

From: ma...@googlegroups.com [mailto:ma...@googlegroups.com] **On Behalf Of** Matt Friedrich

Sent: Thursday, January 21, 2021 1:53 PM

To: ma...@googlegroups.com

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Sharon Brinks (brinkslawfirm@brinkslawfirm.net)

<brinkslawfirm@brinkslawfirm.net>

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to madcm@googlegroups.com

Does amending the judgment form start the appeal period over?



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Milroy,Michael

<michael.milroy@kentcountymi.gov>

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Jan 21, 2021, 2:03:44 PM (12 days ago)



to madcm@googlegroups.com

Good question Sharon. I would say “no.” The no cause of action and resulting dismissal is unchanged. The “amendment” is offered as explanation to allow release of the funds. Certainly, the court could extend the appeal period to wait for any response from plaintiff to be on the safe side. No harm to wait a little longer.

From: ma...@googlegroups.com [mailto:ma...@googlegroups.com] **On Behalf Of** Sharon Brinks

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steven.brunink
<steven.brunink@grcourt.org>
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to madcm@googlegroups.com
Mike, as a casual observer on the forum, your insight is most welcome and appreciated.

Steve

Sent from my Verizon, Samsung Galaxy smartphone



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Mark Nelson
<nelsonm@washtenaw.org>
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to madcm@googlegroups.com

In EMD agreements I have seen in the past there is a requirement that the title company be a party to the action. Is that the case here (or is that language not used in sales agreements anymore)?

From: ma...@googlegroups.com <ma...@googlegroups.com> **On Behalf Of** Matt Friedrich
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Milroy, Michael
<michael.milroy@kentcountymi.gov>
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to madcm@googlegroups.com

There is no need for the realty company to be a formal party. If they cannot get the consent of seller and buyer to release the funds, then they will wait for the decision of the court. It is a matter of contract between seller and buyer. Who breached the purchase agreement is the issue to resolve.

Milroy

From: ma...@googlegroups.com [<mailto:ma...@googlegroups.com>] **On Behalf Of** Mark Nelson
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MylaFord
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to madcm@googlegroups.com
That is a version of what I said. Technically, I think Defendant should have counter-sued the Plaintiff, then there wouldn't be a problem. But, it's one of those things when you have to ask exactly how strict do we enforce the procedural rules.

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MylaFord
<probatereg@sanilacounty.net>
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to madcm@googlegroups.com

The title company was not a party. I did not have a copy of the purchase agreement so not sure if it was included.

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