

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK**

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JBGR LLC, ELLIOTT WR GOLF LLC, INSURE NEW
YORK AGENCY LLC, HURNEY WR GOLF LLC,
DEMPSEY WR GOLF LLC, and WALSH WR GOLF
LLC,

Index No.: 35140/2011

Plaintiffs,

-against-

CHICAGO TITLE INSURANCE COMPANY,

Defendant.

**NOTICE OF MOTION OF
CHICAGO TITLE TO
AMEND ITS ANSWER TO
ADD ADDITIONAL
DEFENSES, AND TO
AMPLIFY EXISTING
DEFENSES**

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PLEASE TAKE NOTICE, that upon the Affirmation of Donald G. Davis, Esq., dated January 13, 2017, the exhibits annexed thereto, including the proposed amended pleading marked to show the changes [**Exhibit 1** thereto], and upon all the pleadings and proceedings heretofore had herein, Defendant Chicago Title Insurance Company (“Chicago Title”) will move this Court, at the Courthouse located at Arthur M. Cromarty Court Complex, 210 Center Drive, Riverhead, New York 11901, on the 22nd day of February 2017 at 9:30 a.m. of that day, or as soon thereafter as counsel can be heard, for an order, pursuant to CPLR 3025(b), granting leave to Chicago Title to amend its Answer to the Complaint, to: (i) interpose six (6) additional defenses – the new “**THIRTEENTH**” through “**EIGHTEENTH**” defenses; (ii) amend three (3) existing defenses, so as to amplify such defenses: the “**SECOND**,” “**FOURTH**” (formerly “Fifth”), and “**TENTH**” (formerly “Eleventh”) Defenses; (iii) withdraw two existing defenses: (a) the former “Third Defense” based on the doctrine of collateral estoppel; and (b) the former “Fourteenth Defense” relating to the reservation of additional defenses subject to further discovery; and (iv) for such other and further relief as to this Court may seem just and proper.

The grounds for this motion are that, *inter alia*: (i) the proposed new and amplified defenses are meritorious and amply supported by evidence; (ii) the evidence supporting these new and amplified defenses was not available to Chicago Title at the time that its original Answer was served, as Chicago Title first learned of such evidence through discovery in this action; (iii) Chicago Title will be seriously prejudiced if such new and amplified defenses are not allowed to be interposed; and (iv) the addition of such new and amplified defenses is not prejudicial to Plaintiffs, particularly as Plaintiffs had knowledge of the facts underlying Chicago Title's proposed new and amplified defenses prior to Plaintiffs' commencement of this action, which Plaintiffs withheld from Chicago Title.

PLEASE TAKE FURTHER NOTICE, that pursuant to the So-Ordered Stipulation of this Court, dated November 16, 2016, any answering papers of Plaintiffs are to be served upon the undersigned counsel for Chicago Title by February 3, 2017, and any reply papers of Chicago Title are to be served upon counsel for Plaintiffs by February 22, 2017.

Dated: New York, New York
January 13, 2017

FIDELITY NATIONAL LAW GROUP,

By: 

Donald G. Davis, Esq.
350 Fifth Avenue
New York, New York 10118
(646) 708-8087
(212) 594-8378 (fax)
Attorneys for Defendant Chicago Title
Insurance Company

TO:

Brian Brick, Esq. – via NYSECF efiling
Marc J. Bern & Partners LLP
60 East 42nd Street, Ste 950
New York, NY 10165
Attorneys for Plaintiffs JBGR LLC, InsureNew York Agency LLC,
Hurney WR Golf LLC, Dempsey WR Golf LLC, and Walsh WR Golf LLC

Eric J. Bressler, Esq. – via NYSECF efiling
Wickham, Bressler & Geasa, P.C.
13015 Main Road
P.O. Box 1424
Mattituck, New York 11952
Attorneys for Plaintiff Elliott WR Golf LLC