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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
MUNICIPAL DEPARTMENT, SECOND DISTRICT

RECEIVED 10/13/16 3:26

SINDESMOS HELLINKES-KINOTITOS of )  
CHICAGO, a/k/a HOLY TRINITY HELLENIC )  
ORTHODOX CHURCH, )  
Plaintiff, )  
v. )  
HELLENIC-AMERICAN ACADEMY )  
FOUNDATION, NFP, )  
Defendant. )

Case No. 2016-M2-003442

**NOTICE OF EMERGENCY MOTION**

TO: SEE SERVICE LIST

On October 14, 2016 at 10:00 a.m., or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Machnik, or any Judge presiding in his stead in courtroom 204 of the Circuit Court of Cook County, Illinois, located at 5600 Old Orchard Road, Skokie, Illinois 60077 and shall then and there present the attached **Emergency Motion for Petition to Intervene**, copies of which are attached and hereby served upon you.

Respectfully Submitted,  
GEORGIA KOKKALIAS,



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One of her Attorneys

J. Ryan Potts  
Chris L. Fotopoulos  
Scott A. Schaefer  
BROTSCHUL POTTS LLC  
30 N. LaSalle Street, #1402  
Chicago, Illinois 60602  
(312) 551-9003  
Cook Count Firm No.: 43421

**CERTIFICATE OF SERVICE**

I, Stephanie Olesch, a non-attorney, hereby certify that before the hour of 5:00pm on October 13, 2016, I served copies of the Notice of Emergency Motion and Petition to Intervene, either via facsimile and/or email to the parties on the service list below.



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[x] Under penalties as provided by law pursuant to 735 ILCS 5/1-109, we certify that the statements set forth herein are true and correct.

**Service List**

*Sindesmos Hellinikes-Kinotitos of Chicago a/k/a Holy Trinity Hellenic Orthodox Church v.  
Hellenic-American Academy Foundation, NFP*

**via facsimile**

Hon. Judge Machnik  
5600 Old Orchard Road  
Skokie, Illinois 60077  
Fax: (847) 470-5133

**via email and fax**

David R. Herzog  
Herzog Schwartz P.C.  
77 W. Washington Street  
Suite 1400  
Chicago, Illinois 60602  
Fax: (312) 977-9936  
Email: drhlaw@mindspring.com  
*Attorney for Plaintiff-Holy Trinity*

**via email and fax**

Konstantinos Markakos  
Law Offices of Konstantinos K. Markakos P.C.  
10 S. LaSalle St. Ste. 2160  
Chicago, Illinois 60603  
Fax: (847) 895-3863  
Email: kkmlaw@markakos.com  
*Attorney for Defendant-Hellenic-American Academy*

16-0326  
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
MUNICIPAL DEPARTMENT, SECOND DISTRICT

SINDESMOS HELLINKES-KINOTITOS of )  
CHICAGO, a/k/a HOLY TRINITY HELLENIC )  
ORTHODOX CHURCH, )

Plaintiff, )

v. )

HELLENIC-AMERICAN ACADEMY )  
FOUNDATION, NFP, )

Defendant. )

Case No. 2016-M2-003442

**VERIFIED PETITION OF GEORGIA KOKKALIAS FOR LEAVE TO INTERVENE AS  
A MATTER OF RIGHT OR, IN THE ALTERNATIVE, FOR LEAVE TO INTERVENE  
BY PERMISSION, AND MEMORANDUM OF LAW IN SUPPORT THEREOF**

NOW COMES Georgia Kokkalias, individually and as the parent of two students (the “Petitioner”) currently attending the Hellenic-American Academy Foundation, NFP (the “Hellenic Academy”), petitions this Honorable Court for leave to intervene as a matter of right in this cause, pursuant to 735 ILCS 5/2-408(a)(2) or, in the alternative, for leave to intervene by permission, pursuant to 735 ILCS 5/2-408(b)(2). In support of said motion, Petitioner states as follows:

1. On September 14, 2016, Sindesmos Hellinikes-Kinotitos of Chicago, a/k/a Holy Trinity Hellenic Orthodox Church (“Holy Trinity”) filed its Forcible Entry and Detainer Complaint against the Hellenic Academy seeking to immediately terminate possession of the property located in Deerfield, Illinois and commonly known as 1085 Lake Cook Road, Deerfield, Illinois 60015 (the “Property”). [See Complaint only attached hereto as Exhibit “A”].
2. In its prayer for relief, Holy Trinity seeks this Honorable Court terminate the interest of the Hellenic Academy, *only*.

3. Holy Trinity seeks to terminate the students' interest in the Property without naming the students as either a class unto themselves or as "*unknown occupants*" of the Property. [See Cook County Clerk of the Circuit Court Electronic Docket Search of case 2016-M2-003442 attached hereto as Exhibit "B"].
4. Holy Trinity intentionally omitted the students despite having knowledge the Hellenic Academy provides educational and cultural services to more than three hundred (300) students in order to undermine the true complex nature of this proceeding.
5. 735 ILCS 5/2-413 provides in part that "[i]f in any action there are persons interested therein whose names are unknown, it shall be lawful to make them parties to the action by the name and description of *unknown owners*."
6. Notwithstanding Holy Trinity's desire to terminate the Hellenic Academy's tenancy at the Property, it failed to name the students as a class as required under Illinois law.
7. Petitioner currently has two (2) children enrolled at the Hellenic Academy.
8. Petitioner's interest in this proceeding is not adequately represented by the Hellenic Academy in these proceedings and now seeks time to inform the remainder of the students and their parents.
9. WHEREFORE, Petitioner seeks to intervene in this action to defend the eviction and for any other relief this Honorable Court deems just and proper.

Respectfully submitted,  
GEORGIA KOKKALIAS



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One of her attorneys

J. Ryan Potts  
Chris L. Fotopoulos  
BROTSCHELL POTTS LLC  
30 N. LaSalle St. Ste. 1402  
Chicago, IL 60602  
T: (312) 551-9003  
F: (312) 277-3278  
Cook County Firm # 43421

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters reinstated to be on information and belief as to such matters the undersigned as aforesaid states that he/she verily believes the same to be true.

  
\_\_\_\_\_  
Georgia Kokkalias

## MEMORANDUM OF LAW

### I. PETITIONERS ARE ENTITLED TO INTERVENE AS A MATTER OF RIGHT.

Illinois Code of Civil Procedure §2-408(a)(2) states that “[u]pon timely application anyone shall be permitted as a matter of right to intervene in an action...when the representation of the applicant’s interest by existing parties is or may be inadequate and the applicant will or may be bound by an order or judgment in the action...” 735 ILCS 5/2-408(a)(2). Where a party asserts intervention as a matter of right, “the trial court’s jurisdiction is limited to determining timeliness, inadequacy of representation and sufficiency of interest; once these threshold requirements have been met, the plain language of the statute directs that the petition be granted.” *City of Chicago v. John Hancock Mutual Life Ins. Co.*, 127 Ill.App.3d 140, 144 (1st Dist. 1984). The Petitioner<sup>1</sup> satisfies all three requirements.

#### a. Timeliness.

The Petitioner’s application is timely as it is being filed less than one month after Holy Trinity filed its Complaint and less than two (2) weeks after the first return date<sup>2</sup>. This Court has not entertained or ruled upon any substantive motions.

#### b. Adequacy of Representation.

In order to determine the test for adequacy of representation, the Court must determine whether the Petitioner’s interest is represented by an existing party or whether the representation “is or may be inadequate.” 735 ILCS 5/2-408(a)(2). “Applicants for intervention can establish inadequate representation by showing that their interests are different from those of the existing parties.” *Joyce v. Explosives Technologies Int’l, Inc.*, 253 Ill.App.3d 613, 617 (3d Dist. 1987). Here, the

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<sup>1</sup> The Hellenic Academy currently provides educational and cultural activities to approximately 300 to 500 students.

<sup>2</sup> Holy Trinity has not served the *Unknown Occupants* of the Property and only after the last court date did she become aware of the pending eviction.

Petitioner's interest is distinct from the interests of the Hellenic Academy. First, if Holy Trinity is successful with its forcible entry and detainer claim against the Hellenic Academy, between 300 and 500 students will be forced to find a substitute school in late October or early November, two of which belong to the Petitioner. Second, dispossessing the number of students from the Hellenic Academy without a future location will undoubtedly tax the public school system into which the dispossessed students will seek to attend. Third, the students are not guaranteed they can transfer in the middle of the academic school year. Fourth, the emotional infraction upon the individual students will undoubtedly create angst among the students that could potentially alter their future educational careers. Fifth, the students will not be able to find a substitute school system in which they can adequately learn about their Greek Orthodox religion or their Hellenic descent.

For the foregoing reasons, Petitioner submits that the representation of her interest by the Hellenic Academy "is or *may* be inadequate." Accordingly, the Petitioner has satisfied the second requirement for intervention as a matter of right.

c. Sufficiency of Interest.

Petitioner also satisfies the third requirement – sufficiency of interest. Section 2-408(a)(2) "requires only that a party seeking to intervene 'will or may be bound'...and it is settled that an enforceable right or tangible detriment fulfills the requirement." *City of Chicago v. John Hancock Mutual Life Ins. Co.*, 127 Ill.App.3d at 144. A decision by this Court to terminate the interest of the Hellenic Academy would undoubtedly affect the students' rights. Such an order would leave between 300 and 500 students without a school.

“Basic notions of due process require that all parties whose interest will be materially affected be before the court to present their position and it is error for a court to adjudicate the merits of a cause without jurisdiction of indispensable parties.”

*Popovich v. Ram Pipe & Supply Co.*, 74 Ill.App. 3d 343, 347 (2d Dist. 1979).

Consequently, the Petitioner should be allowed to intervene as a matter of right.

## **II. ASSUMING ARGUENDO, PETITIONER SHOULD BE ALLOWED TO INTERVENE BY PERMISSION**

Assuming the Petitioner is not allowed to intervene as a matter of right, the Petitioner should still be allowed to intervene by permission. Section 2-408(b)(2) of the Code of Civil Procedure states in pertinent part, “[u]pon timely application anyone may in the discretion of the court be permitted to intervene in an action...where an applicant’s claim or defense and the main action have a question of law or fact in common.” 735 ILCS 5/2-408(b)(2). Petitioner satisfies both requirements.

First, the Petitioner’s application is timely. Second, Petitioner’s claim or defense and the main action have a question of law or fact in common. A “question of law” that Petitioner’s defenses and the main action have in common is whether this Court has jurisdiction over the unknown occupants of the Hellenic Academy since Holy Trinity failed to issue a summons to the Unknown Occupants of the Property. Another “question of law” that Petitioner’s defenses and the main action have in common is whether this Court can proceed in this matter without first having jurisdiction over all parties, including the unknown occupants. Assuming the Petitioner is not entitled to intervene as a matter of right under 2-408(a)(2), the Petitioner should be permitted to intervene under 2-408(b)(2) for the aforementioned reasons.

WHEREFORE, Georgia Kokkalias respectfully requests this Honorable Court grant her petition for leave to intervene as a matter of right in this cause, pursuant to 735 ILCS 5/2-



408(a)(2) or in the alternative, for leave to intervene by permission, pursuant to 735 ILCS 5/2-408(b)(2).

Respectfully submitted,  
GEORGIA KOKKALIAS



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One of her attorneys

J. Ryan Potts  
Chris L. Fotopoulos  
BROTSCUL POTTS LLC  
30 N. LaSalle St. Ste. 1402  
Chicago, Illinois 60602  
T: (312) 551-9003  
F: (312) 277-3278  
Cook County Firm#43421

**EXHIBIT "A"**

**Complaint**

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
MUNICIPAL DEPARTMENT/DISTRICT SECOND

SINDESMOS HELLINIKES-KINOTITOS of  
CHICAGO, a/k/a HOLY TRINITY HELLENIC  
ORTHODOX CHURCH,

Plaintiff(s)

v.

HELLENIC-AMERICAN ACADEMY FOUNDATION,  
NFP,

Defendant(s)

No.

16M2003442

Return Date

9-30 -  
9/05/2016

COMPLAINT

The Plaintiff(s) claim(s) as follows.

- The Plaintiff(s) is/are entitled to possession of the following described premises:  
1085 Lake Cook, Rd., Deerfield, IL 60015

- Defendant(s) unlawfully withhold possession of the premises from the Plaintiff(s) for the following reason:
  - The Defendant(s) failed to pay rent.
  - The Defendant(s) held over after the tenancy ended.
  - The Defendant(s) breached the terms of the lease by \_\_\_\_\_
  - Defendant has no lawful right to the possession or use of the Property. See attached ruling.

(Insert specific facts showing how Defendant is unlawfully withholding possession.)

(Strike "2a", "2b", "2c" or "2d" , as appropriate.)

- The Plaintiff(s) claim(s) possession of the property.

*David R. Herzog*  
Attorney for Plaintiff(s) / Plaintiff Pro Se

I/We David R. Herzog, on oath state that I/we  
am/are the Plaintiff(s) in the above entitled action. The allegations in this Complaint are true.

Atty No.: 37470

Name: David R. Herzog

Attorney for: Plaintiff

Address: 77 W. Washington St. #1400

City/State/Zip: Chicago, Illinois 60602

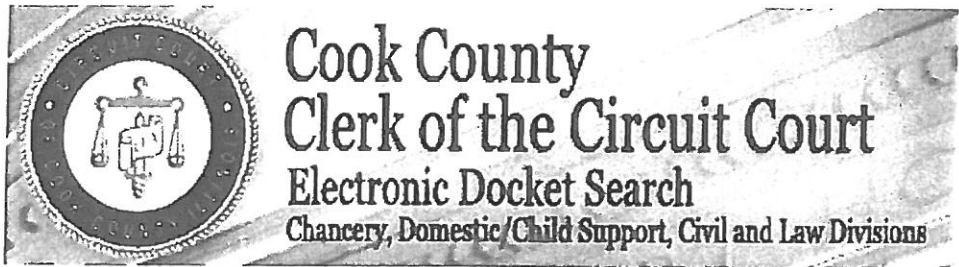
Telephone: (312) 977-1600

[x] Under penalties as provided by law pursuant to 735 ILCS  
5/1-109 the abovesigned certifies that the statements set  
forth herein are true and correct.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

ORIGINAL COURT FILE

**EXHIBIT "B"**  
**Electronic Docket Search**



Case Information Summary for Case Number  
2016-M2-003442

Filing Date: 9/14/2016  
Division: Suburban Municipal Division  
Ad Damnum: \$0.00

Case Type: FORCIBLE ENTRY AND DETAINER  
District: Skokie  
Calendar:

**Party Information**

**Plaintiff(s)**

SINDESMOS HELLENIK

**Attorney(s)**

HERZOG SCHWARTZ P.C.  
77 W WASHINGTON 1717  
CHICAGO IL, 60602  
(312) 977-1600

HOLY TRINITY CHURC

**Date of Service**

**Defendant(s)**

HELLENIC-AMERICAN

**Attorney(s)**

MARKAKOS KONSTANTINOS K  
10 S LASALLE 2160  
CHICAGO IL, 60603  
(847) 895-3860

**Case Activity**

Activity Date: 9/14/2016

Participant: SINDESMOS HELLENIK

FORCIBLE ENTRY AND DETAINER COMPLAINT FILED

Date: 9/30/2016

Court Time: 0900

Attorney: HERZOG SCHWARTZ P.C.

Court Room: 0204

Microfilm: SD000000000

Court Fee: 259.00

Activity Date: 9/14/2016

Participant: SINDESMOS HELLENIK

SUMMONS ISSUED AND RETURNABLE

Attorney: HERZOG SCHWARTZ P.C.  
Microfilm: SD000000000

Activity Date: 9/14/2016

Participant: SINDESMOS HELLENIK

CASE SET ON STATUS CALL

Date: 9/30/2016  
Court Time: 0900  
Court Room: 0204

Attorney: HERZOG SCHWARTZ P.C.  
Microfilm: SD000000000

Activity Date: 9/23/2016

Participant: HELLENIC-AMERICAN

SUMMONS SERVED - CORPORATION/COMPANY/BUSINESS

Date: 9/22/2016

Microfilm: SD000000000

Activity Date: 9/30/2016

Participant: SINDESMOS HELLENIK

CASE SET ON TRIAL CALL

Date: 10/14/2016  
Court Time: 1000  
Court Room: 0204

Judge: MACHNIK THADDEUS STEPHAN  
Microfilm: SD000000000

Activity Date: 10/7/2016

Participant: HELLENIC-AMERICAN

APPEARANCE FILED - FEE PAID - (JURY DEMAND)

Date: 10/7/2016  
Court Time: 0900  
Court Room: 0204  
Court Fee: 219.50

Attorney: MARKAKOS KONSTANTINOS K  
Microfilm: SD000000000

Activity Date: 10/7/2016

Participant: HELLENIC-AMERICAN

NOTICE OF FILING OF PROOF OF SERVICE FILED

Attorney: MARKAKOS KONSTANTINOS K

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