

~~CA~~ CA Old Bridge 26-May-1981

OBY v. O.B.

D's

Notice of Motion to Dismiss

D's counterclaims with attached
memo in support.

page = ~~8~~ 5

CA 002319N

BRENER, WALLACK & HILL
ATTORNEYS AT LAW
15 CHAMBERS STREET
PRINCETON, NEW JERSEY 08540

HARRY BRENER
HENRY A. HILL
MICHAEL D. MASANOFF**
ALAN M. WALLACK*
ROBERT A. FELMEISTER
GULIET D. HIRSCH
JOSEPH C. MAHON**

(609) 924-0808
CABLE: "PRINLAW" PRINCETON
TELEX: 642244

Tim Koter
Henry A. Hill
Michael D. Masanoff
Alan M. Wallack
3 BURNT MILLS ROAD
POST OFFICE BOX 506
PLUCKEMIN, NEW JERSEY 07978
(201) 658-4130

May 27, 1981 RECEIVED AT JUDGES CHAMBERS

MAY 28 1981

JUDGE J. NORRIS HARDING

*MEMBER OF N. J. & D. C. BAR
**MEMBER OF N. J. & PA. BAR

W. Lewis Bambrick
Clerk of the Superior Court
P.O. Box 1300
Trenton, New Jersey 08625

Re: O & Y OLD BRIDGE DEVELOPMENT CORP. v.
TOWNSHIP OF OLD BRIDGE, et al.
Docket No.: L-32516-80

Dear Sir:

Enclosed herewith please find an original and 2 copies of documents listed below.

- | | |
|--|---|
| <input type="checkbox"/> Summons | <input type="checkbox"/> Notice pursuant to |
| <input type="checkbox"/> Complaint | <input type="checkbox"/> R.4:42-1(b) and Order |
| <input type="checkbox"/> Answer | <input type="checkbox"/> Order dated |
| <input type="checkbox"/> Interrogatories | <input type="checkbox"/> Request to Enter Default |
| <input type="checkbox"/> Answers to Interrogatories | <input type="checkbox"/> and Certification |
| <input type="checkbox"/> Notice to Take Oral Depositions | <input type="checkbox"/> Stipulation of Dismissal |
| <input type="checkbox"/> Notice of Motion & Certifications | <input type="checkbox"/> Judgment |
| <input checked="" type="checkbox"/> Notice of Motion | <input type="checkbox"/> Release |
| <input type="checkbox"/> Other | <input type="checkbox"/> |

Will you please:

- File
- File and Charge our account.
- File and list for argument on the date listed in the Notice.
- File and return conformed copy in enclosed stamped envelope.
- Serve.
- Sign and return to us for filing.
- Return original Acknowledgment of Service.
- Have signed by appropriate judge and return conformed copies to us for filing with Clerk of the Superior Court of N.J.
- Other

Also enclosed herewith please find our check in the amount of \$

Very truly yours,

BRENER, WALLACK & HILL

By: *Henry A. Hill*
Henry A. Hill

HAH/vwa
Enclosures
cc: Clerk of Middlesex County
Hon. J. Norris Harding
Antonio & Flynn, Esqs.

CA002319N

BRENER, WALLACK, ~~ROSENER~~ & HILL

15 CHAMBERS STREET
PRINCETON, NEW JERSEY 08540
(609) 924-0808
ATTORNEYS FOR Plaintiff

Plaintiff

O & Y OLD BRIDGE DEVELOPMENT CORP., a
Delaware Corporation

vs.

Defendant

OLD BRIDGE TOWNSHIP, et als.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, MIDDLESEX COUNTY

Docket No. L-32516-80

**CIVIL ACTION
NOTICE OF MOTION**

TO: ANTONIO & FLYNN, ESQUIRES
P.O. Box 515
Old Bridge, New Jersey 08857

SIRS:

PLEASE TAKE NOTICE that the undersigned, attorney for the defendant, will apply to the Superior Court, Law Division, Court House, New Brunswick, on June 19, 1981 at 9:00 o'clock in the forenoon or as soon thereafter as counsel may be heard for an Order to Dismiss Counterclaim.

Plaintiff shall rely on the attached Memorandum of Law.

BRENER WALLACK & HILL

By: 

HENRY A. HILL

dated: May 27, 1981

MEMORANDUM OF LAW

On May 20, 1981, the defendant, Old Bridge Municipal Utilities Authority filed an Amended Answer and Counterclaim pursuant to an Order signed May 14, 1981, by Judge J. Norris Harding, J.S.C.

The Amended Answer asserts five defenses that were not made part of the original Answer and Counterclaim. The Old Bridge Municipal Utilities Authority also counterclaimed. The Counterclaim is the same as the original Counterclaim which was the subject of a Summary Judgment Motion brought by plaintiff and heard on May 1, 1981, by Judge J. Norris Harding, J.S.C.. Judge Harding granted Summary Judgment for plaintiff with regard to defendant, Old Bridge Township Municipal Utilities Authority's Counterclaim for recovery on an exhaustion of administrative remedies cause of action.

Plaintiff respectfully requests this Court to dismiss the portion of the Counterclaim dealing with the failure of the plaintiff to exhaust administrative remedies since defendant has set forth an administrative remedies defense in its Amended Answer and Counterclaim. Plaintiff further requests that the Counterclaim be dismissed for failure to state a cause of action upon which relief can be granted.

BRENER, WALLACK & HILL
Attorneys for Plaintiff

By: _____

James R. Murphy

Dated: May 20, 1981

Attorney(s): BRENER, WALLACK & HILL
Office Address & Tel. No.: 15 Chambers Street, Princeton, N.J. 08540
(609) 924-0808
Attorney(s) for Plaintiff

O & Y OLD BRIDGE DEVELOPMENT CORP.
Plaintiff(s)
vs.
THE TOWNSHIP OF OLD BRIDGE, et al.
Defendant(s)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY

Docket No. L-32516-80

CIVIL ACTION
NOTICE OF MOTION

A copy of the within Notice of Motion has been filed with the Clerk of the County of Middlesex
at East Wing Court House, Lobby Floor, New Brunswick New Jersey 089

Henry A. Hill
Henry A. Hill
Attorney(s) for Plaintiff

The original of the within Notice of Motion has been filed with the Clerk of the Superior Court in Trenton, New Jersey.

Henry A. Hill
Henry A. Hill
Attorney(s) for Plaintiff

Service of the within

is hereby acknowledged this _____ day of _____ 19 _____

Attorney(s) for

I hereby certify that a copy of the within Answer was served within the time prescribed by Rule 4:6.

Attorney(s) for

PROOF OF MAILING: On May 27 19 81, I, the undersigned, mailed to
William E. Flynn, Esq.
Attorney(s) for Defendant Old Bridge Township Municipal Utilities Authority
at the office of Antonio & Flynn, P.O. Box 515-550, Old Bridge, N.J. 08857
by regular mail, ~~return receipt requested~~ the following:
Notice of Motion

R. 15-3 ~~The return receipt card is attached to the original hereof.~~

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

Dated: May 27 19 81 .

Valeska W. Andren
Valeska W. Andren, Secretary

G

BRENER, WALLACK & HILL
ATTORNEYS AT LAW

15 CHAMBERS STREET
PRINCETON, NEW JERSEY 08540

(609) 924-0808
CABLE: "PRINLAW" PRINCETON
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May 27, 1981

FILED
CLERK
MIDDLESEX COUNTY, N.J.
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(201) 858-4130

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BRENER, WALLACK & HILL

By: Henry A. Hill
Henry A. Hill

HAH/vwa
Enclosures
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