EXHIBIT 2

STATE OF SOUTH CAROLINA COUNTY OF HORRY GLORIA ORMAND-WARD by and through HER GUARDIAN AND CONSERVATOR, CDM CORPORATION, through its representative, STEPHEN MANTELL Plaintiff, vs. DAVID LITT, HOMEDEBONE, LLC, ROSARIA A. ALAGNA aka ROSE ALAGNA; CHRIS PARKER; CHICAGO LAND AGENCY SERVICES, INC.; CHICAGO TITLE INSURANCE COMPANY; PEREIRA PARTNERS, LLC; NB LABOR LLC dba NEWMAN BROTHERS GENERAL CONTRACTORS; JOHN NEWMAN; and TOORAK CAPITAL, LLC Defendants.	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTEENTH JUDICIAL CIRCUIT Case No.: 2021-CP-26-07668 **DEFENDANT CHICAGO TITLE INSURANCE COMPANY'S REPLY IN SUPPORT OF MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION**

SUMMARY OF THE ARGUMENT

Plaintiff is seeking to hold Defendant Chicago Title Insurance Company ("Chicago Title") subject to personal jurisdiction in this Court even though Chicago Title has no suit related contacts with South Carolina. Relying on a 1917 United States Supreme Court opinion that is no longer good law, Plaintiff argues that Chicago Title is subject to general personal jurisdiction because it complied with a South Carolina statute requiring licensed insurers to agree to the Department of Insurance serving as their agent for service of process. Numerous courts, including the Fourth Circuit, have acknowledged that the law upon which Plaintiff relies is no longer valid and, as set forth below, even if is still good law, it would not apply to confer general jurisdiction on Chicago Title in this case.

Plaintiff also argues that this Court can exercise specific personal jurisdiction over Chicago Title even though the case is based on the recording of a fraudulent deed by Chicago Land Agency

Services ("CLAS"), an Illinois corporation in which Chicago Title is a 49.9% shareholder. Plaintiff notes that three of the Board of Directors members for CLAS are representatives of Chicago Title and argues CLAS has the same address as one of Chicago Title's multiple Chicago offices. The law is clear that such overlap is insufficient to confer personal jurisdiction over a corporation's shareholder.

Not surprisingly, then, Plaintiff's specific jurisdiction relies almost entirely on its joint venture partnership argument, which arises exclusively out of a statement from CLAS's website that "CLAS is a joint venture partnership with Chicago Title Insurance Company." The problem is that, by definition, CLAS itself cannot be a joint venture since it is a corporation and a joint venture ceases to exist when it is incorporated. The fact that CLAS calls itself a joint venture on its website is meaningless considering that it is not a joint venture, by definition.

Moreover, the website does not state that CLAS and Chicago Title are in a joint venture partnership that is separate from CLAS (as that is not the case). However, even if CLAS and Chicago Title were in a separate joint venture, this would mean that CLAS has an existence and business purpose that is separate from the joint venture itself since it cannot be the joint venture itself and a separate joint venture partner. Yet there is no evidence or allegation that the recording of the fraudulent deed giving rise to this case was the result of this fictional joint venture rather than CLAS's business operations that are separate from the joint venture. Obviously, Chicago Title cannot be held responsible, or hauled into this Court, based on actions taken by CLAS in the course of its own business outside of the alleged joint venture.

1. <u>Plaintiff's general jurisdiction argument rests on old law that has been overturned.</u>

Plaintiff's argument that Chicago Title is subject to general jurisdiction in South Carolina rests upon *Pennsylvania Fire Insurance Co. of Philadelphia v. Gold Issue Mining & Milling Co.*, 243 U.S. 93 (1917), where the Supreme Court held that a foreign-corporation consented to general jurisdiction

in Missouri by complying with a state law requiring it to obtain a license and execute a power of attorney agreeing that service on the superintendent of insurance was the equivalent of personal service. Since Chicago Title is a licensed insurer in South Carolina, Plaintiff points to South Carolina Code Section 38-5-70, which requires licensed insurers to appoint the Director of the South Carolina Department of Insurance to be their "attorney upon whom all legal process in any action or proceeding against it must be served and in this writing shall agree that any lawful process against it which is served upon this attorney is of the same legal force and validity as if served upon the insurer . . ."

However, as the Fourth Circuit and other courts have held, *Pennsylvania Fire* is no longer good law. *Fidrych v. Marriott Intl., Inc.*, 952 F.3d 124, 136 (4th Cir. 2020) ("Given the number of states that subject foreign corporations to domestication requirements, foreign corporations would likely be subject to general jurisdiction in every state where they operate—a result directly at odds with the views expressed by the Court in *Daimler*.").[1] Although *Pennsylvania Fire* has not been good law since the end of World War II, the death nail for *Pennsylvania Fire*, came with the Supreme Court's recent decisions in *Daimler AG v. Bauman*, 571 U.S. 117, 122 (2014), *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915 (2011), and *BNSF Ry. Co. v. Tyrell*, 137 S. Ct. 1549

[1] *See also Waite v. All Acquisition Corp.*, 901 F.3d 1307, 1318 (11th Cir. 2018) ("After *Daimler*, there is 'little room' to argue that compliance with a state's 'bureaucratic measures' render a corporation at home in a state."); *AM Tr. v. UBS AG*, 681 F. App'x 587, 588 (9th Cir. 2017) (citation omitted) ("[The plaintiff] advocates a rule that would subject a large bank to general personal jurisdiction in any state in which the bank maintains a branch. However, *Daimler* explained that '[a] corporation that operates in many places can scarcely be deemed at home in all of them.'"); *Brown v. Lockheed Martin Corp.*, 814 F.3d 619, 640 (2d Cir. 2016) ("If mere registration and the accompanying appointment of an in-state agent—without an express consent to general jurisdiction—nonetheless sufficed to confer general jurisdiction by implicit consent, every corporation would be subject to general jurisdiction in every state in which it registered, and *Daimler*'s ruling would be robbed of meaning by a back-door thief."); *see also Humphries v. Allstate Ins. Co.*, CV-17-01606-PHX-JJT, 2018 WL 1510441, at *3 (D. Ariz. Mar. 27, 2018).

(2017).[2] These opinions establish that a corporation is only susceptible to general jurisdiction when its contacts are so continuous and systematic that it is "at home" in the forum, and that, other than exceptional cases, a corporation is only at home in two forums: the one where it is incorporated and the one where it maintains its principal place of business. Importantly, the inquiry "calls for an appraisal of a corporation's activities in their entirety" and "[a] corporation that operates in many places can scarcely be deemed at home in all of them." *BNSF Ry. Co.*, 137 S. Ct. at 1558. Applying this standard, the Supreme Court in *BNSF Ry. Co.* held that BNSF was not subject to general jurisdiction in Montana even though it had over 2,000 miles of railroad track and more than 2,000 employees in Montana.

Plaintiff asserts Chicago Title is a nationwide provider of title insurance, including substantial title insurance business in South Carolina, among others. (Pl. Opp. at 4, 7). It is akin to BNSF in that South Carolina is only one portion of its business, and under *BNSF Ry. Co.* and *Daimler*, it cannot be subject to general jurisdiction in all states where it does business. *See also Georgia Gaming Inv., LLC v. Chicago Title and Tr. Co.*, 20-CV-2882-SHM, 2021 WL 4317276, at *3 (W.D. Tenn. Sept. 22, 2021) (finding that "Plaintiffs' argument that the Court has general jurisdiction over Chicago Title

[2] At the time *Pennsylvania Fire* was decided, a state could not exercise jurisdiction outside its boundaries, and jurisdiction was akin to service of process. *See Tyler v. Ford Motor Co.*, 2:20-CV-584-WKW, 2021 WL 5361069, at *9 (M.D. Ala. Nov. 17, 2021), vacated sub nom., 2:20-CV-584-WKW, 2022 WL 129137 (M.D. Ala. Jan. 13, 2022). However, that framework was replaced with the minimum contacts analysis of *International Shoe Co. v. Washington*, 326 U.S. 310 (1945). *See id.*; *see also Fidrych*, 952 F.3d at 135. *International Shoe* overruled prior, inconsistent cases, such as *Pennsylvania Fire*. *See Shaffer v. Heitner*, 433 U.S. 186, 212 n.39 (1977) ("To the extent that prior decisions are inconsistent with this standard [set in *International Shoe*], they are overruled."). In fact, since that time, the Supreme Court has explained that state statutes regarding consent to jurisdiction, although initially upheld based on the old framework, were based on "pure[ ] fiction" and "[o]ur opinion in *International Shoe* cast those fictions aside . . . ." *Burnham v. Super. Ct. of California, County of Marin*, 495 U.S. 604, 618 (1990). Rather, "all assertions of state-court jurisdiction must be evaluated according to the standards set forth in *International Shoe* and its progeny." *Rush v. Savchuk*, 444 U.S. 320, 327 (1980) (quoting *Shaffer*, 433 U.S. at 212).

is not well taken" despite contracts with parties from multiple states, including Tennessee, since Chicago Title was not incorporated in or have a principal place of business in Tennessee).

Moreover, even if *Pennsylvania Fire* is still good law (which it is not), Chicago Title did not consent to general jurisdiction by complying with the insurance licensing statute. *Pennsylvania Fire* held that obtaining the necessary licensure in a given state amounts to consent to general jurisdiction in that state only if that condition is 1) explicit in the statute, or 2) the state court has interpreted the statute as imposing that condition. *See Fidrych*, 952 F. 3d at 137. Here, neither is present.

The condition is not explicit in South Carolina Code Section 38-5-70 since the term "jurisdiction" does not even appear in that statute. Indeed, the *Pennsylvania Fire* Court relied on the Missouri Supreme Court's interpretation of the Missouri statute rather than finding consent explicit in the statute. *See State ex rel. Norfolk S. Ry. Co. v. Dolan*, 512 S.W.3d 41, 53 n. 11 (Mo. 2017) ("*Pennsylvania Fire* made clear it simply accepted Missouri's interpretation of its own statute as allowing such broad jurisdiction over foreign insurers, without independently examining whether that statute actually made registration consent to general jurisdiction."). If the condition was not explicit in that statute, it is not explicit in South Carolina Code Section 38-5-70.

Moreover, no South Carolina court has ever held Section 38-5-70 as imposing that condition, nor should one do so here. In fact, although Section 38-5-70 was not at issue, the South Carolina Court of Appeals has held that a certificate of authority and appointment of an agent for service by a foreign corporation does not automatically subject a foreign corporation to jurisdiction in South Carolina courts, and that jurisdiction instead depends on sufficient South Carolina contacts by the foreign corporation. *Builders Mart of Am., Inc. v. First Union Corp.*, 349 S.C. 500, 563 S.E.2d 352 (S.C. Ct. App. 2002), overruled in part on other grounds by *Farmer v. Monsanto Corp.*, 353 S.C. 553, 579 S.E.2d 325 (2003)). In addition, while the *Pennsylvania Fire* Court relied on the Missouri

Supreme Court's interpretation of the Missouri statute to find that the statute provided for general jurisdiction, the Missouri Court's interpretation "specifically was overturned on this precise point by [*State ex rel. American Cent. Life Ins. Co. v. Landwehr*, 318 Mo. 181, 300 S.W. 294 (Mo. banc 1927)], which held that a foreign insurer's registration constituted consent **only to suit on related claims**." *Dolan*, 512 S.W.3d at 53 n. 11. Given the similarity of the language in that statute to the one at issue here, the Missouri Supreme Court's interpretation of that language as conferring consent to suit only on related claims is highly persuasive. Since this case does not arise out of policy issued by Chicago Title in South Carolina (or even any insurance policy), the statute does not apply.[3]

For these reasons, this Court cannot exercise general jurisdiction over Chicago Title.

2. Plaintiff has not shown a valid basis to disregard the corporate distinction between CLAS and Chicago Title; by definition, CLAS cannot be a joint venture since it is a corporation and the fact that Chicago Title representatives are on the CLAS Board of Directors reinforces the point that CLAS is a separate corporation in which Chicago Title is a shareholder.

Plaintiff's specific jurisdiction argument relies on the existence of a joint venture, or partnership as Plaintiff calls it at times in the Opposition. Plaintiff's argument for the existence of a joint venture rests on the statement on CLAS's website that "CLAS is a joint venture partnership with Chicago Title Insurance Company." The CLAS website does not, and cannot, say that CLAS and Chicago Title have a separate joint venture. It says that "CLAS is a joint venture partnership" yet it

[3] Plaintiff also quotes statements regarding the insurance statutes made in *Equilease Corp. v. Weathers*, 275 S.C. 478, 272 S.E.2d 789 (1980) and *White Oak Manor, Inc. v. Lexington Ins. Co.*, 407 S.C. 1, 753 S.E.2d 537 (2014). However, the defendants in these cases were arguing that service on the Department of Insurance was the exclusive means of obtaining service, and the Court was explaining that the statute was designed as a means of obtaining process and jurisdiction, not as a shield for insurance companies. These cases, however, say nothing about whether or not an insurance company can be hauled into a South Carolina court in a case that has nothing to do with any conduct by the insurance company in South Carolina. *See La Varre v. Intl. Paper Co.*, 37 F.2d 141, 147 (E.D.S.C. 1929) ("it is well settled that the fact that an agent of a nonresident corporation may be within the state for some more or less incidental matter in connection with the interest within the state does not render such corporation amenable to suit therein.")

is undisputed that CLAS is a corporation. (Amended Comp. ¶11). Because CLAS is a corporation, the law is clear that, **by definition**, it cannot be a joint venture partnership. *Gordon v. Rothberg*, 213 S.C. 492, 50 S.E.2d 202, 207 (1948) (defining a joint venture as "[a] special combination of two or more persons, where in some specific venture a profit is jointly sought **without any actual partnership or corporate designation**.") (emphasis added); *Peabody-Waterside Dev., LLC v. Islands of Waterside, LLC*, 995 N.E.2d 1021, 1024 (Ill. App. 5th Dist. 2013) (reversing the court's finding of a joint venture because such "finding ignores the corporate form of [an LLC] and the nature of the relationship between a limited liability company and its members. . . . Joint ventures are not distinct legal entities"). In *Future Plastics, Inc. v. Ware Shoals Plastics, Inc.*, 340 F. Supp. 1376, 1383 (D.S.C. 1972), the District Court applied this rule in holding that "[t]he evidence does not establish joint venture, **since the parties incorporated their effort as Future Plastics, Inc. . . . . A corporation is inconsistent with a joint venture**." (emphasis added).

Like the shareholders in Future Plastics, Inc., the shareholders of CLAS incorporated their effort as CLAS, which is inconsistent with a joint venture. CLAS is the culmination of the joint venture between what is now the shareholders of CLAS. Having incorporated, by definition, CLAS cannot be a joint venture.

The fact that CLAS erroneously called itself a "joint venture" on its own website does not mean that it was a joint venture under South Carolina law or any other applicable law and does not overcome the clear factual and legal conclusion that CLAS is, by definition, not a joint venture. *Andrews v. Primus Telecomms. Group*, 107 Fed. Appx. 301, 308 (4th Cir. July 16, 2004) (holding as a matter of law that a letter from the corporation to a third party indicating that the corporation "had partnered with" the company could not support a finding that there was a legal partnership or joint venture); *Presbyterian Church of Sudan v. Talisman Energy, Inc.*, 453 F. Supp. 2d 633, 686

(S.D.N.Y. 2006) ("The fact that Consortium Members may have viewed their relationship as a joint venture or described it informally as such is insufficient to create an issue of fact on joint venture liability"), judgment entered sub nom. 2006 WL 3469542 (S.D.N.Y. Dec. 1, 2006), and aff'd, 582 F.3d 244 (2d Cir. 2009). CLAS's Answers to Interrogatories state that Chicago Title is a 49.9% shareholder in CLAS and deny that CLAS is a party to a business venture. *See* CLAS Ans. to Interrog. at Nos. 8 & 12, **Exhibit 1** hereto.

Plaintiff does not directly address the argument that CLAS's incorporation prohibits it from being a joint venture. Plaintiff argues that Chicago Title's status as shareholder does not prevent it from being in a joint partnership and confusingly states that Chicago Title's argument "may be true if CTIC is the controlling party; otherwise the position is not supported by South Carolina law." (Pl. Opp. at 18). Plaintiff then cites to S.C. Code Section 33-41-210, which is part of the Uniform Partnership Act.[4] Although the application of the South Carolina Uniform Partnership Act to an alleged partnership between an Illinois Corporation and a Florida Corporation has questionable application (at best), this provision supports Chicago Title's position. The Act defines "Partnership" strictly, to exclude other corporate forms:

> A "partnership" is an association of two or more persons to carry on as co-owners a business for profit and includes, for all purposes of the laws of this State, a registered limited liability partnership. However, any association formed under any other statute of this State or any statute adopted by authority, other than the authority of this State, is not a partnership under this chapter unless the association would have been a partnership in this State before the adoption of this chapter on February 13, 1950.

S.C. Code § 33-41-210.

[4] Under South Carolina law, "[p]ractically the only difference between a 'joint adventure' and a 'partnership' is that a partnership is ordinarily for the transaction of a general business of a particular kind, while a joint adventure relates to a single transaction." *Gordon*, 213 S.C. 492, 50 S.E.2d at 207 (citing *Welling et al. v. Crosland et al.*, 129 S.C. 127, 141, 123 S.E. 776, 781 (1924).

CLAS cannot be a partnership within the meaning of S.C. Code § 33-41-210. CLAS is an Illinois corporation (Am. Complaint ¶11), so it is an association formed under a statute adopted by authority other than South Carolina. Furthermore, it would not have been a partnership in South Carolina before February 13, 1950 because, among other things, a corporation has been recognized as a distinct entity from joint ventures (and partnerships) since before 1950. *See Gordon*, 50 S.E.2d at 207; *see also Tocci v. Tocci,* 189 N.E.3d 241, 263 (Mass. 2022) (addressing the same provision of Massachusetts' Uniform Partnership Act and stating that business associations formed under other statutes may be considered partnerships if they would have been a partnership in the state before the state's adoption of the act, but noting that corporations have been recognized as distinct from partnerships since 1903). Thus, the fact that CLAS is a corporation prevents it from being a partnership by statute, just like its incorporation prevents it from being a joint venture.

Plaintiff also points to the fact that Chicago Title's website shows a Chicago Title metropolitan office (one of many addresses listed on the website)[5] at the same address that CLAS lists on its website. In September 2020, Chicago Title Company, LLC entered into a sublease with CLAS for a portion of the building being leased by CLAS. *See* **Exhibit 2** (portions of the Sublease). Chicago Title Company, LLC is a different entity from Defendant Chicago Title, (Defendant Chicago Title does not share office space with CLAS), but putting that aside, the fact is that there is a sublease with the sublessee paying rent CLAS. This reinforces that CLAS and Chicago Title are separate entities. A landlord-tenant relationship concerning a property in Illinois certainly does not justify the imposition of jurisdiction over Chicago Title in South Carolina.

Plaintiff also notes that three Chicago Title employees are on the Board of Directors at CLAS. This is consistent with Chicago Title being a 49.9% shareholder in CLAS and illustrates Chicago

[5] Chicago Title's principal address is in Jacksonville, FL. *See* Exh. E to Pl's Opp.

Title's point that it is a shareholder in CLAS and, since CLAS is a corporation, CLAS is not a joint venture. As such, to gain jurisdiction over Chicago Title, Plaintiff must show that Chicago Title and CLAS are alter egos. *See Marriott Intern., Inc. v. Am. Bridge Bahamas, Ltd.*, 193 So. 3d 902, 906 (Fla. 3d Dist. App. 2015) (stating that prohibition of a joint venture where there is incorporation "makes sense because the decision to incorporate is generally made due to the incorporators desire to shield themselves and their future investors from individual liability, and to permit the simultaneous existence of both a corporation and a joint venture would provide plaintiffs with an alternative method of holding such incorporators and shareholders liable without piercing the corporate veil."); *Sturkie v. Sifly*, 280 S.C. 453, 457, 313 S.E.2d 316, 318 (S.C. Ct. App. 1984) ("The party seeking to have the corporate entity disregarded has the burden of proving the doctrine should be applied.").

This is a high standard, with the presumption being that corporations are separate. *Fancy That! Bistro & Catering, LLC v. Sentinel Ins. Co.*, 2021 WL 4804974, at *4 (D.S.C. Oct. 14, 2021) ("South Carolina courts have consistently recognized that it is difficult to plead that one entity is the alter ego of another."); *Sturkie*, 280 S.C. at 457, 313 S.E.2d at 318 ("a corporation will be looked upon as a legal entity until sufficient reason to the contrary appears"). Significantly, alter-ego theory "'does not apply in the absence of fraud or misuse of control by the dominant entity which results in some injustice.'" *Oskin v. Johnson*, 400 S.C. 390, 408, 735 S.E.2d 459, 465 (2012) (quoting *Colleton Cnty. Taxpayers Ass'n v. Sch. Dist. of Colleton Cnty.*, 371 S.C. 224, 237, 638 S.E.2d 685, 692 (2006)); *see also Baker v. Equitable Leasing Corp.*, 275 S.C. 359, 367–68, 271 S.E.2d 596, 600 (1980) (holding that the alter-ego theory should be used only when retaining separate "personalities would promote fraud, wrong, or injustice or contravene public policy").

Accordingly, the South Carolina Supreme Court has specifically held that common ownership and directors is insufficient to show alter ego. *Yarborough & Co. v. Schoolfield Furniture Indus.,*

Inc., 275 S.C. 151, 268 S.E.2d 42, 44 (1980) ("Common officers and/or directors and public identification of one corporation as the other's subsidiary do not, without more, support the conclusion the subsidiary is its parent's alter ego or agent for the transaction of its business.").[6] Overlap in websites, marketing, and operations, has also been found insufficient. *See, e.g., Builder Mart of Am., Inc.,* 349 S.C. at 512, 563 S.E.2d at 358 ("unified marketing and advertising and holding out to the public as a single entity, without more, [is] insufficient to confer jurisdiction.").[7]

Finally, when a joint venture agreement is made outside of the forum state, "to satisfy Due Process, the agreement made outside of [the forum state] must contemplate **and** result in substantial performance within [the forum state]" for the joint venture partners to be subject to jurisdiction in the forum state. *Rae v. Celebrity Cruises, Inc.*, 1:21-CV-21668, 2022 WL 2981868, at *2 (S.D. Fla. July 28, 2022) (emphasis added); *Owen v. Carnival Corp.*, 18-25372-CIV, 2022 WL 1404602, at *3 (S.D.

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[6] *See also Jones v. Enterprise Leasing Company-Southeast*, 383 S.C. 259, 267, 678 S.E.2d 819, 823 (Ct. App. 2009) (same); *In re AuditHead, LLC*, 624 B.R. 134, 142–43 (Bankr. D.S.C. 2020) (same); *Gray v. Riso Kagaku Corp.*, No. 95–1741,1996 WL 181488, at *3 (4th Cir. Apr. 17, 1996) (affirming district court's dismissal of parent company for lack of personal jurisdiction even though the parent company made the subsidiary terminate a financing program on which the parent acted as a guarantor, a majority of the subsidiary's board of directors were also associated with the parent company, the parent funded the subsidiary, and the subsidiary relied on directions from the parent company to make hiring decisions and resolve complaint); *ScanSource, Inc. v. Mitel Networks Corp.*, 6:11-CV-00382-GRA, 2011 WL 2550719, at *5 (D.S.C. June 24, 2011) ("[T]he overlap of directors and officers between parent and subsidiary alone does not render the subsidiary a 'mere department' for jurisdictional purposes.") (quoting *Weiss v. La Suisse*, 69 F.Supp.2d 449, 458 (S.D.N.Y.1999)).

[7] *See also Fitzhenry v. One on One Marketing, LLC*, No. 2:14-cv-4782-DCN, 2015 WL 4459023, at *5 (D.S.C. July 21, 2015) (finding plaintiff has shown at most that defendants "share some administrative and marketing functions" by parent's website stating subsidiary opened a branch in South Carolina and parent had job postings for employees to work at South Carolina locations); *Wright v. Waste Pro USA Inc.*, 2019 WL 3344040, at *4 (D.S.C. July 25, 2019) ("Using a common logo on a hiring website is not enough to create an agency relationship sufficient to warrant personal jurisdiction, especially when the logo and hiring website are not relevant to the plaintiff's allegations"); *Scansource, Inc. v. Mitel Networks Corp.*, 2011 U.S. Dist. LEXIS 68342, at *15 (D.S.C. June 24, 2011) ("provision of support services, including advanced costs, by parent for subsidiary, 'are part and parcel of the normal incidents of a parent-subsidiary relationship.'").

Fla. May 4, 2022).[8] Here, even assuming there was a joint venture partnership between CLAS and Chicago Title, there is no evidence that the joint venture contemplated ***and*** actually involved substantial performance in South Carolina. Plaintiff has pointed to the recording by CLAS of one deed in South Carolina. Not only does this not amount to substantial performance in South Carolina (either contemplated or actual), there is no showing that this was within the contemplation or performance of the alleged joint venture at all. If CLAS is a partner in the joint venture rather than the joint venture itself, then CLAS must have some purpose and being separate from the joint venture. It cannot be the joint venture itself and a joint venture partner in its own joint venture. Yet Plaintiff cannot point to a single piece of evidence or a competent allegation that establishes the recording of the deed at issue in this case was within the scope of the joint venture as opposed to CLAS's own business that is separate from the joint venture. Moreover, CLAS's Answers to Interrogatories show, Litt "engaged **CLAS** to assist him in efforts to record [the] deed" and "**CLAS** acted on this request by submitting a requested filing through its third-party vendor's submission application tool." (CLAS Ans. to Interrog. No. 7 (**Exh. 1**)) (emphasis added). **CLAS** invoiced Litt and payment was to be made (and was made) to **CLAS**. *See* **Exhibit 3.**[9] CLAS recorded the deed, not a separate joint venture.

This is fatal to Plaintiff's claim. *S. Plastics Co. v. S. Com. Bank*, 310 S.C. 256, 261, 423 S.E.2d 128, 131 (1992) ("**the defendant's activities directed to a resident of this State must be its own and not the unilateral activities of some other entity**.") (emphasis added) (citing

[8] *See also*, e.g., *Gross v. Chevrolet Country, Inc.*, 655 So. 2d 873, 878 (Miss. 1995) (finding there was no personal jurisdiction over the defendant even if a joint venture existed since the defendant still did not purposely avail itself to the forum state where forum conduct did not benefit it); *Farina v. SAVWCL III, LLC*, 263 Cal. Rptr. 3d 756, 767 (Cal. App. 2d Dist. 2020) (finding lack of personal jurisdiction over investors' claims against joint venture entity because the joint venture's contact with the forum state was not related to the suit).

[9] **Exhibit 3** is part of the document production that CLAS provided to Plaintiff on September 15, 2022 and the undersigned counsel received a copy of that production that same date.

Aviation Associates & Consultants, Inc. v. Jet Time, Inc., 303 S.C. 502, 507, 402 S.E.2d 177, 180 (1991)).

CONCLUSION

For all of these reasons, the Court should dismiss Chicago Title Insurance Company from this action.

Respectfully submitted,

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September 16, 2022

EXHIBIT 1

STATE OF SOUTH CAROLINA COUNTY OF HORRY GLORIA ORMAND-WARD by and through HER GUARDIAN AND CONSERVATOR, CDM CORPORATION, through its representative, STEPHEN MANTELL, Plaintiff, v. DAVID LITT, HOMEDEBONE, LLC, CHICAGO LAND AGENCY SERVICES, INC.; ROSARIA A. ALAGNA aka ROSE ALAGNA; CHRIS PARKER; RCN CAPITAL, LLC; TOORAK CAPITAL, LLC; PEREIRA PARTNERS, LLC; NB LABOR, LLC dba NEWMAN BROTHERS GENERAL CONTRACTORS; JOHN NEWMAN; and PROVIDENCE PARK AT ANTIGUA PROPERTY OWNERS ASSOCIATION INC., Defendants.	IN THE COURT OF COMMON PLEAS Civil Action No: 2021-CP-26-07668 **CHICAGO LAND AGENCY SERVICES, INC.'S RESPONSES TO PLAINTIFF'S FIRST INTERROGATORIES**

Defendant Chicago Land Agency Services, Inc. ("CLAS" or "Defendant") objects to Answering these Interrogatories as it has filed a 12(b)(6) Motion to Dismiss on the grounds that Plaintiff has failed to state a claim against it. The issues framed by the pleadings do not justify the burden and expense to be incurred by CLAS in Answering these Interrogatories until a ruling on the Motion to Dismiss is entered by the Court. Subject to this objection, CLAS hereby responds to Plaintiff's First Interrogatories pursuant to Rule 33 of the South Carolina Rules of Civil Procedure. In setting forth these responses, CLAS does not waive the attorney-client, work product, or any other privilege or immunity from disclosure that may attach to information called for herein. CLAS does not concede the relevance or materiality of the discovery requests or the subject

matters to which they refer. These responses are submitted by CLAS subject to and without in any way waiving or intending to waive, but on the contrary, intending to reserve and reserving:

A. All questions as to competency, relevancy, materiality, privilege and admissibility of evidence for any purpose of any of the documents referred to or responses given, or the subject matter thereof and any subsequent proceeding, or the trial of this action or any other action or proceeding;

B. The right to object to other discovery procedures involving or relating to the subject matters of the Interrogatories herein responded to; and

C. The right at any time to revise, correct, add to or clarify any of the responses set forth herein or documents referred to herein.

GENERAL OBJECTIONS

CLAS objects to Plaintiff's Interrogatories on the grounds that they are vague, ambiguous, overbroad, unduly burdensome, unreasonable, and improperly seek to impose obligations beyond those required or authorized by the South Carolina Rules of Civil Procedure.

CLAS further objects to the Interrogatories to the extent they seek the disclosure of information protected by the attorney-client privilege, the work-product doctrine, and/or any other applicable privilege or immunity. To the extent that responsive documents contain privileged and non-privileged information, a copy or image of the document will be produced with privileged material redacted therefrom. Otherwise, CLAS's counsel will, upon request, provide a privilege log or similar disclosure that provides a reasonable description of the documents withheld and the basis on which privilege is asserted.

CLAS objects to the Interrogatories to the extent they require the disclosure of sensitive personal information, confidential business information, proprietary information, or trade-secret

information. Certain documents that are responsive but that contain confidential information about customers are being produced with appropriate redactions, otherwise, documents containing such information will be produced only under a protective order or a written agreement of counsel acceptable to CLAS. Production of materials other than pursuant to a protective order or agreement of counsel, however, shall not be deemed as a waiver of the objection.

ANSWERS TO INTERROGATORIES

1. Identify the name, address, and telephone of all persons answering or assisting with answering these interrogatories, and, if applicable, the person's official position or relationship with the party to whom the interrogatories are directed.

ANSWER: Representatives of CLAS assisted in answering these interrogatories, including Randall S. Moore, President.

2. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER: The following individuals are, or may be, witnesses concerning the facts of the case. No recorded statements have been taken from these persons except as otherwise stated in this response, however, correspondence and documents being produced may have been authored by, or contain statements of, these persons.

The following are current employees of CLAS, 1620 W. Belmont Avenue, Chicago, IL 60657, who may be contacted through Plaintiff's counsel of record:

(1) Randall S. Moore, President

Mr. Moore has knowledge of CLAS's limited involvement as related to efforts in February 2021 to assist in efforts to electronically record a deed with the Horry County Register of Deeds, as further described in the Answer to Interrogatory 7 (hereinafter the "Deed").

(2) Andrew Welk, Agency Department

Mr. Welk has knowledge of CLAS's limited involvement as related to efforts in February 2021 to assist in efforts to electronically record a Deed with the Horry

County Register of Deeds, as further described in the Answer to Interrogatory 7. Mr. Welk corresponded with David Litt on or about February 8 and 9, 2021 as to Mr. Litt's request for electronic filing and re-filing of the Deed with the Horry County Register of Deeds' office.

(3) Employees and Representatives of Hyman Law Group, including, but not limited to, Mr. Jordan W. Hyman, Esq.

Hyman Law Group
1208 3rd Avenue
Conway, SC 29526

Mr. Jordan W. Hyman, the closing attorney who represented Pereira Partners, LLC, in certain loan closings and other transactions, may have knowledge regarding the facts and circumstances of those transactions. Additionally, other employees and representatives of the Hyman Law Group may have knowledge of those transactions to the extent they participated in those transactions, or the execution of the documents related to those transactions.

(4) Certain representatives or employees of the Horry County Register of Deeds' office may have knowledge related to the facts of this case.

(5) Other potential witnesses include representatives of the Plaintiff and each of the named Defendants in the action and any witnesses named by those Defendants.

CLAS reserves the right to supplement this Answer as discovery proceeds.

3. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witness.

ANSWER: See Answer to Interrogatory 2.

4. Identify by full name, occupation, profession, address and telephone number each person whom you expect to call as an expert witness at the trial of this action and for each expert so identified, set forth in specific detail each of the following:

a. Each and every subject matter and/or field of expertise as to which each expert is expected to testify;

b. A complete statement of all opinions to be expressed by each expert and the basis and reasons therefor;

c. Identify any and all data and other information considered by the expert in forming the opinions;

d. Identify any and all exhibits, documents or other tangible evidence to be used as a summary of or support for the opinions; and

e. Identify any and all citations of treatises, texts or other authorities upon which each expert relied or will rely in the formation or support of such opinions.

ANSWER: CLAS has not named an expert at this time, but it reserves the right to do so and will supplement this response as necessary.

5. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

ANSWER: CLAS objects to the request as it has filed a 12(b)(6) Motion to Dismiss on the grounds that Plaintiff has failed to state a claim against it. The issues framed by the pleadings do not justify the burden and expense to be incurred by CLAS in the identification of and production of the requested documentation until a ruling on the Motion to Dismiss is entered by the Court.

Subject to this objection, CLAS is producing certain responsive documents included herewith.

6. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

ANSWER: CLAS is the insured under Professional Liability Insurance Policy No. SUA FEO 1884-2103 (the "Policy") issued by Certain Underwriters at Lloyd's, London.

7. Describe in detail and with specificity and particularity the facts which support any defenses you raise in your Answer to the Complaint filed herein.

ANSWER: CLAS objects to the interrogatory as overly broad to the extent it seeks disclosure of every possible fact supporting CLAS's defenses. Subject to this objection, Defendant David Litt engaged CLAS to assist him in efforts to record a deed subject of this action with the Horry County Register of Deeds. CLAS acted on this request by submitting a requested filing through its third-party vendor's submission application tool. Answering

further, CLAS relies on its pleadings, discovery responses, and additional records and testimony that may be presented hereafter.

8. Describe in detail and with specificity and particularity how you are affiliated, acquainted, associated or familiar with each and every other co-defendant in this action.

ANSWER: Except for CTIC, on information and belief CLAS is not affiliated, acquainted, associated or familiar with any co-defendant other than its actions related to its limited service as described in Answer to Interrogatory 7. CTIC is a shareholder (owning 49.9%) of CLAS.

9. Describe in detail and with specificity and particularity how you became aware of Gloria Ormand-Ward and/or her Home located at 682 Providence Drive, Myrtle Beach, SC 29572.

ANSWER: CLAS objects to the Interrogatory to the extent it states or implies any statement of fact. Subject to this objection, CLAS had no such knowledge or awareness of Gloria Ormand-Ward or her Home until at least the time it was presented information by Mr. Litt in or around February 2021 for the limited purpose of recording a deed, at which time CLAS may have become aware of Ormand-Ward and/or her Home from the specific contents of the deed subject of this case.

10. Describe in detail and with specificity each and every communication you had with each of the parties (Ms. Gloria Ormand-Ward and the co-defendants) from January 1, 2019 to the present, and include in your response the date, the form of communication (i.e., telephone call, SMS text message, direct message via social media, email, letter, etc.), who initiated the contact, the subject matter and details of the communication or conversation.

ANSWER: CLAS objects to the Interrogatory as requiring information beyond what is properly discoverable. Subject to this objection, the answer to this Interrogatory may be ascertained from a review of the business records being produced by CLAS. See Rule 33(c), SCRCP.

Additionally, on or about January 7, 2022, David Litt called the offices of CLAS. Mr. Welk immediately informed Mr. Litt that he was not authorized to speak with him about this matter. No further communications have occurred.

11. Identify each and every parcel of real property you have owned, purchased, sold, rented, or financed from January 1, 2019 to the present. Include within your response the street

EXHIBIT 2

SUBLEASE

THIS SUBLEASE (this "Sublease") is dated for reference purposes only as of September 1, 2020, and is entered into by and between Chicago Land Agency Services, Inc. ("Sublessor") and Chicago Title Company, LLC (the "Sublessee").

W I T N E S S E T H :

A. Pursuant to the Master Lease (hereinafter defined), Master Lessor (hereinafter defined) has leased to Sublessor the Premises (hereinafter defined); and

B. Sublessor desires to sublease to Sublessee, and Sublessee desires to sublease from Sublessor, the Sublease Premises (hereinafter defined), subject to the terms and conditions of the Master Lease and the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficient of which are hereby acknowledged, Sublessor and Sublessee hereby agree as follows:

1. Definitions. For purposes of this Sublease, the following terms shall have the meanings indicated:

Additional Rent. As defined in Section 4.3 hereof.

Base Rent. As defined in Section 4.1 hereof.

Building. That certain office building having a street address of 1620 Belmont Ave., Chicago, IL.

Master Lease. That certain Building Lease dated September 15, 2012, as extended by Lease Extension dated September 25, 2015, and as extended by Lease Extension dated July 31, 2018, by and between Master Lessor, as "landlord" thereunder, and Sublessor, as "tenant" thereunder, with respect to the Premises, a copy of which (including all amendments) is attached hereto as Exhibit B.

Master Lessor. 1620 Belmont Av, L.L.C., and its successors and assigns in, to and under the Master Lease.

Premises. A portion of the Building consisting of approximately 5,000 square feet of rentable area, as more particularly described in the Master Lease.

Sublease Premises. A portion of the Premises located on the first floor, consisting of approximately 2,500 square feet of rentable area, as more particularly described on the attached Exhibit A.

All other capitalized terms used but not defined in this Sublease shall have the same meaning as those defined in the Master Lease.

2. **Premises.** Sublessor hereby subleases to Sublessee, and Sublessee hereby subleases from Sublessor for the Term (as hereinafter defined), the Sublease Premises at the rental provided for within this Sublease, and upon all of the other terms and conditions set forth herein.

3. **Term.**

3.1 Term. The term of this Sublease ("Term") shall commence on the date ("Commencement Date") which is one (1) business days after Sublessor notifies Sublessee that this Sublease has been consented to by Master Lessor in accordance with Section 8 of this Sublease. The Term shall expire on the day that is three (3) years after the Commencement Date ("Termination Date"), subject to any earlier termination of the Master Lease.

3.2 Delay in Commencement/Consent. Sublessor agrees to use commercially reasonable efforts to deliver possession of the Sublease Premises on September 30, 2020 and to obtain the consent of Master Lessor in accordance with Section 8 of this Sublease on or before such date. The parties agree that if, despite said efforts, Sublessor is unable to deliver to Sublessee possession of the Sublease Premises and notice of such consent of Master Lessor on or before **September 30, 2020,** then Sublessee may terminate this Sublease upon delivery of notice to Sublessor any time after such date, but prior to delivery of possession of the Sublease Premises and notice of such consent of Master Lessor.

4. **Rent.**

4.1 Base Rent. Commencing on the Commencement Date and continuing through the remainder of the Term, Sublessee shall pay to Sublessor as annual base rent for the Sublease Premises ("Annual Base Rent") as follows (with the aggregate of all Annual Base Rent and Monthly Base Rent amounts being referred to as "Base Rent"):

Period	Annual Base Rent	Monthly Base Rent
Commencement Date-Termination Date	$[redacted]	$[redacted]

4.2 Payment. Monthly Base Rent shall be payable to Sublessor at such place or to such agent as Sublessor may from time to time designate in writing by good check, in advance, on the first day of each calendar month during the Term, without previous notice or demand therefor, and without deduction, counterclaim or set-off, except as otherwise permitted by this Sublease or the Master Lease.

4.3 Additional Rent. This Sublease is a full service "gross" sublease. As such, Sublessee shall have no obligation to pay additional rent that may be payable by Sublessor under the Master Lease except as defined herein. However, if Sublessee obtains additional services from Master Lessor or otherwise, Sublessee shall be solely responsible for the cost thereof.

4.4 Late Charge. In the event any installment of Monthly Base Rent or Additional Rent due hereunder is not paid within ten (10) calendar days after it is due, then

IN WITNESS WHEREOF, the parties hereto have executed this Sublease as of the date(s) set forth below.

"SUBLESSOR:"	"SUBLESSEE:"
Chicago Land Agency Services, Inc.	**Chicago Title Company, LLC**
By: Randall S. Moore	By:
Name: Randall S. Moore	Name: Todd A. Nelson
Title: President	Title: Vice President
SEPTEMBER 29, 2020	Sept. 23, 2020
Date	Date

EXHIBIT 3

Invoice

Chicago Land Agency Services
Assisting Real Estate Professionals since 1997

1620 W. Belmont Ave, Chicago IL 60657

Date	Invoice #
2/24/2021	RC682PROVID

PAID 03/03/2024

Bill To
DAVID LITT 904 S ROSELLE RD SUITE 345 SCHAUMBURG, IL 60193

Email	

Description	Amount
DOCUMENT RECORDING - WARRANTY DEED - 682 PROVIDENCE, MYRTLE BEACH - DOC # 2021000020326	15.00
DOCUMENT RECORDING FEE	25.00

THANK YOU FOR YOUR BUSINESS
PAYMENT OPTIONS:
PAY AT CLOSING
MAILING IN PAYMENT: CHECKS MADE PAYABLE TO CHICAGO LAND AGENCY SERVICES
1620 W BELMONT, CHICAGO IL 60657
CREDIT CARD BY PHONE: 773-384-8200 (3% FEE FOR TRANSACTIONS OF $1,000)

Customer E-mail
DAVIDLITT@LITTPROPERTIES.COM

Total	$40.00
Payments/Credits	-$40.00
Balance Due	$0.00