

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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JONATHAN TROFFA,

Index No. 609510/2016
(Garguilo, J.)

Petitioner/Plaintiff,

JOS. M. TROFFA LANDSCAPE AND MASON SUPPLY, INC.,

Plaintiff,

-against-

JOSEPH M. TROFFA,

Respondent/Defendant,

**NOTICE OF
MOTION FOR
LEAVE TO
REARGUE**

LAURA J. TROFFA, JOS. M. TROFFA MATERIALS
CORPORATION, NIMT ENTERPRISES, LLC,
L.J.T. DEVELOPMENT ENTERPRISES, INC., and JOS. M.
TROFFA LANDSCAPE AND MASON SUPPLY, INC.,

Motion Seq. #004

Defendants.

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PLEASE TAKE NOTICE, that upon the annexed Affirmation of Jeffrey D. Powell, dated February 15, 2016, the exhibits annexed thereto, the accompanying Memorandum of Law, and upon all the pleadings and proceedings had herein, Petitioner/Plaintiff JONATHAN TROFFA by his attorneys Bracken Margolin Besunder LLP, will move this Court at the Individual Assignment Part of Hon. Jerry Garguilo, to be held in and for the County of Suffolk, at the Courthouse of the Supreme Court of the State of New York, located at One Court Street, Riverhead, New York, on the 15th day of March, 2017, at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard for an Order pursuant to CPLR § 2221 seeking leave to reargue the Court's Decision dated January 11, 2017, on the grounds that the Court overlooked and misapprehended both facts and law in its determination and that upon reargument, the Court reinstate the following claims in the Amended Complaint:

1. The First Cause of Action to the extent it seeks: (a) conveyance of the Compost Yard and Parcels #3, 4, and 5 to the Corporation; (b) an accounting relative to said properties; and (c) disgorgement of Joseph's and Laura's compensation during the period(s) of their disloyalty for six years from the commencement of this action.

2. The Second Cause of Action for Constructive Trust as it concerns Parcels #3, 4 and 5 and the Compost Yard, and an accounting relative to these properties.

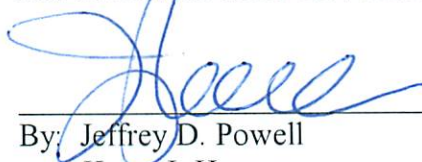
3. The Third Cause of Action to Quiet Title.

Plaintiff also requests that the Court grant such other and further relief as may be just, equitable or proper.

PLEASE TAKE FURTHER NOTICE, that pursuant to CPLR § 2214(b), answering affidavits, if any, are required to be served upon the undersigned at least seven (7) days before the return date of this motion.

Dated: Islandia, New York
February 15, 2017

BRACKEN MARGOLIN BESUNDER LLP



By: Jeffrey D. Powell
Karen I. Hansen
Attorney for Petitioner/Plaintiff
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TO (VIA NYSCEF):

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