

80030

IN THE CIRCUIT COURT OF THE  
15<sup>th</sup> JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA

CASE NO.: 502006CA004523XXXXMB AB

EDWARD MORSE and CAROL MORSE,  
  
Plaintiffs,

vs.

JAN JONES INTERNATIONAL, INC. a/k/a  
ICON BY JAN JONES,  
  
Defendant.

JAN JONES INTERNATIONAL, INC. a/k/a  
ICON BY JAN JONES,  
  
Third-Party Plaintiff,

vs.

DIGBY BRIDGES, MARSH & ASSOCIATES,  
P.A., a Florida professional association; and  
MARK MARSH, individually,  
  
Third-Party Defendants.

FILED  
09 SEP 28 PM 4:33  
EDWARD R. BOGGS, CLERK  
PALM BEACH COUNTY  
CIRCUIT CIVIL

**MOTION FOR ORDER TO SHOW CAUSE WHY EDWARD MORSE AND CAROL  
MORSE SHOULD NOT BE HELD IN CONTEMPT OF COURT**

COMES NOW the defendant, JAN JONES INTERNATIONAL, INC. a/k/a ICON BY JAN JONES, by and through its undersigned counsel and hereby moves this Honorable Court for order to show cause why EDWARD MORSE AND CAROL MORSE should not be held in contempt of court and as good grounds therefore would state as follows:

1. This lawsuit arises out of a claim and counterclaim between the parties related to services rendered for a home located in Boca Raton, Florida.

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Case No. 502006CA004523XXXXMB AB

2. The parties settled this case as evidenced by e-mails exchanged between the parties on March 11, 2009. Copies of the e-mails will be provided to the Court for an in camera inspection.

3. On or about June 4, 2009, June 23, 2009, July 6, 2009 and July 14, 2009 correspondence was sent to Plaintiffs' counsel requesting the executed Release and Stipulation for Order of Dismissal. (See Exhibit "A")

4. On or about September 1, 2009 the parties entered into an Agreed Order allowing the Plaintiff until September 7, 2009 to provide the executed settlement documents. (See Exhibit "B")

5. On September 9, 2009, a follow-up letter was sent, reminding Plaintiff's counsel the executed settlement documents had not been received. (See Exhibit "C")

6. Despite the settlement agreement and Agreed Order, Plaintiffs have failed and refused to provide the executed settlement papers.

7. This attorney has made a good faith effort to resolve this matter without the necessity of a hearing.

WHEREFORE, the Defendant respectfully requests this Honorable Court execute an Order to show cause why EDWARD MORSE AND CAROL MORSE should not be held in contempt of court for failure to provide the executed settlement documents and to grant sanctions for attorney's fees and costs for having to file this Motion and attend a hearing regarding same and for all such other relief as deemed appropriate by the Court.

**CERTIFICATE OF SERVICE**

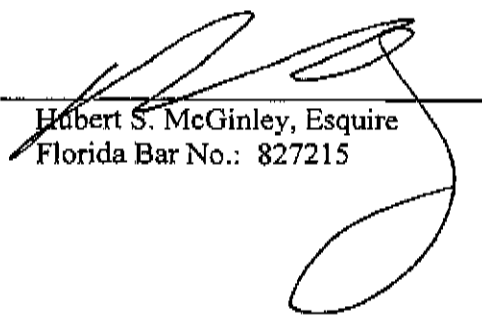
WE HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 2/17/11

Morse v. Jan Jones  
Case No. 502006CA004523XXXXMB AB

day of September, 2009 to all counsel on the attached service list.

SCHWED MCGINLEY & KAHLE, LLC  
*Counsel for Defendant/Third Party Plaintiff*  
11376 N. Jog Road, Suite 101  
Palm Beach Gardens, Florida 33418  
Telephone: (561) 273-4752  
Facsimile: (561) 694-0057

BY: \_\_\_\_\_

  
Hubert S. McGinley, Esquire  
Florida Bar No.: 827215

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IN THE CIRCUIT COURT OF THE  
15<sup>th</sup> JUDICIAL CIRCUIT IN AND FOR  
PALM BEACH COUNTY, FLORIDA

CASE NO.: 502006CA004523XXXXMB AB

EDWARD MORSE and CAROL MORSE,

Plaintiffs,

vs.

JAN JONES INTERNATIONAL, INC. a/k/a  
ICON BY JAN JONES,

Defendant.

JAN JONES INTERNATIONAL, INC. a/k/a  
ICON BY JAN JONES,

Third-Party Plaintiff,

vs.

DIGBY BRIDGES, MARSH & ASSOCIATES,  
P.A., a Florida professional association; and  
MARK MARSH, individually,

Third-Party Defendants.

*Agreed* **ORDER ON DEFENDANT'S MOTION FOR ORDER TO  
SHOW CAUSE WHY EDWARD MORSE AND CAROL  
MORSE SHOULD NOT BE HELD IN CONTEMPT OF COURT**

THIS CAUSE having come before this Honorable Court on Defendant's Motion for Order to Show Cause Why Edward Morse and Carol Morse Should Not Be Held in Contempt of Court, and the Court being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that Defendant's Motion for Order to Show Cause Why Edward Morse and Carol Morse Should Not Be Held in Contempt of Court is hereby \_\_\_\_\_

OCT 13 PM 4:01  
CLERK  
PALM BEACH COUNTY, FL  
CIRCUIT CIVIL 5

Continued by agreement for two weeks. Morzes shall pay \$1500.<sup>00</sup> for attorney fees incurred by Defendant to date for attorney fees associated with this motion. Morzes

shall pay a penalty of \$2500.<sup>00</sup> for each week from October 13, 2009

that they failed to provide settlement documents (fully executed), not to exceed two weeks. If settlement agreement is not \*  
DONE AND ORDERED in Chambers, in West Palm Beach, Palm Beach County, Florida,

this 13 day of Oct, 2009

  
\_\_\_\_\_  
JUDGE DONALD W. HAFELE

Copies furnished to all counsel on the attached Service List.

\* received by October 27, 2009 at 5:00 p.m. Defendants shall be able to immediately reset this Motion for hearing on order to show cause.

**SERVICE LIST**

Steven H. Osber, Esquire  
Rothstein Rosenfeldt Adler  
401 East Las Olas Boulevard  
Suite 1650  
Ft. Lauderdale, Florida 33301  
*Counsel for Plaintiffs*

Orlando Valle, Esquire  
Addison J. Meyers, Esquire  
Mintzer, Sarowitz, Zeris, Ledva & Meyers, LLP  
1000 NW 57 Court  
Suite 300  
Miami, Florida 33126-3281  
*Counsel for Digby Bridges, Marsh & Associates, P.A. & Mark Marsh*

Hubert S. McGinley, Esquire  
Schwed, McGinley & Kahle  
11376 N. Jog Road  
Suite 101  
Palm Beach Gardens, Florida 33418

EDWARD MORSE and CAROL MORSE

IN THE CIRCUIT COURT OF THE 15<sup>TH</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
PALM BEACH COUNTY, FLORIDA

Plaintiffs,

CASE NO.: 2006 CA 004523 XXXXMB

AB

vs.

JAN JONES INTERNATIONAL, INC. a/k/a  
ICON BY JAN JONES,

DR

Defendants.

06 AUG 28 AM 9:48  
CIRCUIT CIVIL

AMENDED COMPLAINT

Plaintiffs, EDWARD MORSE and CAROL MORSE (collectively "MORSE") by and through their undersigned counsel, file this, their Amended Complaint for damages against Defendant, JAN JONES INTERNATIONAL, INC. a/k/a ICON BY JAN JONES ("JONES, INC.") and allege:

1. This is an action for damages in excess of \$15,000 and is within the jurisdiction of this court.
2. At all times material hereto, MORSE were residents of BROWARD COUNTY and are otherwise sui juris.
3. At all times material hereto, Defendant JONES, INC was, and continues to be, a Florida corporation licensed to do and doing business in the State of Florida and is also known as ICON BY JAN JONES.
4. At all times material hereto, Defendant JONES, INC's president was, and is, JAN JONES who is a resident of Palm Beach County, Florida, and is otherwise sui juris.

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5. At all times material hereto, JAN JONES, on behalf of Defendant JONES, INC., held himself out to be its "licensed interior designer".

6. At all times material hereto, Defendant JONES, INC and JONES held itself out as an interior design firm, properly licensed by the State of Florida to do business in Palm Beach County, Florida.

7. At all times material, MORSE owned two high end luxury homes for which they sought to have interior design and decorating services, one home is located in Camden, Maine, and the other home is located in Boca Raton, Florida. MORSE sought to retain a qualified and licensed interior design firm and a licensed professional designer to perform these services.

8. On or about June 15, 2001, MORSE entered into a written agreement with JONES, INC to perform interior design services for the home located in Camden, Maine. (Camden Agreement). A copy of the agreement is attached as exhibit 1 and incorporated herein.

9. On or about April 3, 2003, MORSE entered into a written agreement with JONES, INC to perform interior design services for the home located in Boca Raton, Florida. (Mizner Agreement) A copy of the agreement is attached as exhibit 2 and incorporated herein.

10. Under the terms of both Agreements, JONES, INC and JONES were hired to design and decorate these homes in accordance with the specifications and conditions of MORSE, and in such a manner as consistent with the standards in the community for performing services suitable for high end luxury homes such as those owned by Plaintiffs MORSE.

11. Since entering into the contracts with Defendant JONES, INC. it became evident to MORSE that JONES, INC was not performing its obligations under the contracts; specifically, Defendant designed plans and purchased furniture and décor that was both

unacceptable to MORSE'S directives and substandard for the project. Also, MORSE learned that JONES, INC was improperly utilizing funds paid by MORSE as deposits intended to be used towards furniture, materials, and furnishings, for JONES, INC own purpose. Last, during the course of completion for the projects, MORSE learned that JAN JONES was not a State of Florida licensed interior designer, despite his representations to the contrary.

12. In fact, Defendant JONES, INC and its president JAN JONES have been investigated and cited by the State of Florida on at least three occasions for unlicensed activity as an interior designer. Moreover, upon information and belief, and unbeknownst to Plaintiff MORSE at the time of entering into the subject agreements, Defendant JONES, INC entered into a formal agreement with the State of Florida to cease and desist its actions in acting as an unlicensed interior designer in Florida. JONES, INC, through its president JAN JONES has acted in contumacious disregard of the laws of Florida and the cease and desist agreement.

13. At all times material, MORSE complied with all of its duties and obligations under both agreements.

14. All conditions precedent to bringing this action has been met, waived or excused.

15. As a result of this action, Plaintiffs MORSE have retained the undersigned law firm and have incurred attorneys fees and costs as a result. Pursuant to the terms of the subject agreements, Plaintiff MORSE, as prevailing party, is entitled to recover attorneys fees incurred in bringing this action.

**COUNT I - BREACH OF CONTRACT**  
**(Camden Agreement)**

Plaintiffs reallege and reaver paragraphs 1 through 15 as if fully set forth herein and would further state:

16. Pursuant to the terms of the Camden agreement, Defendant, JONES, was required to act as a Florida licensed interior designer for MORSE in exchange for a fee, and design and decorate the Camden home in accordance with the specifications and conditions of MORSE, and in such a manner as consistent with the standards in the community for performing services suitable for high end homes such as those owned by Plaintiffs MORSE.

17. Defendant, JONES, INC. breached the terms of the agreement when it failed to properly perform its obligations, as contemplated by the parties. Specifically, Defendant purchased furniture, materials, finishes and décor not approved or authorized by Plaintiff, failed to follow Plaintiffs directives with reference to the type of furniture, furnishings and décor to be used in the home, and was untimely in providing drawing, elevations, specifications, color samples, was otherwise unresponsive to Plaintiff's requests, failed to timely pay vendors for outstanding invoices, and otherwise failed to perform as necessary to execute the project, in violation of paragraphs 2.2 and 2.3 of the subject agreement.

18. As a direct and proximate result of Defendant, JONES, INC's, breach, MORSE has been damaged, and will continue to suffer damages, including, but not limited to, compensatory damages, interest and attorneys fees.

WHEREFORE, MORSE demands judgment against Defendant JONES, INC. for compensatory damages, attorneys' fees, court costs, interest and for such other and further relief as this Court deems just and proper and demands trial by jury on all matters so triable as a matter of right.

**COUNT II – FRAUD IN THE INDUCEMENT**  
**(Camden Agreement)**

Plaintiffs reallege and reaver paragraphs 1 through 15 as if fully set forth herein, and

further state:

19. Defendant, JONES, INC., represented to MORSE that it was a Florida licensed interior designer, and experienced in the design of upscale homes. Defendant, JONES, INC.'s promise was false.

20. Defendant, JONES, INC., intentionally made these false representations for the purpose of inducing MORSE to enter into the Camden Agreement and retain its services as an interior designer for the Camden home.

21. Defendant, JONES, INC., knew that the representation was false at the time that it made it.

22. Defendant, JONES, INC., intended for MORSE to rely on the false representation.

23. MORSE reasonably relied on Defendant, JONES, INC.'s false representations that it was a Florida licensed interior designer, and qualified to perform work on upscale homes such as Plaintiff's, to their detriment. Specifically MORSE paid significant sums of money to Defendant for interior design services and paid significant sums of money to Defendant for furniture, furnishing and materials which were not consistent with Plaintiff's specifications.

24. As a direct and proximate result, MORSE has suffered damages, and will continue to suffer damages, including, but not limited to, compensatory damages, interest and, attorneys fees.

WHEREFORE, Plaintiff, MORSE demands judgment against Defendant, JONES, INC., for compensatory damages set forth above, court costs, attorneys' fees, interest and for other

relief as this Court deems just and proper and demands trial by jury on all matters so triable as a matter of right.

**COUNT III – UNJUST ENRICHMENT**  
**(Camden Agreement)**

Plaintiffs reallege and reaver paragraphs 1 through 15 as if fully set forth herein, and further states:

25. MORSE conferred a benefit on Defendant, JONES, INC., that it has knowledge thereof, in that pursuant to the Camden Agreement, MORSE paid Defendant JONES, INC. fees for services as a licensed interior designer, and paid to defendant significant sums of money intended to be used as deposits for furniture, furnishings and materials which Defendant improperly allocated for its own use which provided significant financial benefit to Defendant JONES, INC..

26. Defendant JONES, INC. voluntarily accepted and retained the benefit conferred.

27. The circumstances are such that it would be inequitable for Defendant JONES, INC. to retain the benefit of the sums paid by Plaintiff without providing the agreed upon consideration to MORSE.

WHEREFORE, MORSE demands judgment against Defendant JONES, INC. for the benefits conferred therein, court costs, attorneys fees, interest and for other relief as this Court deems just and proper and demands trial by jury on all matters so triable as a matter of right.

**COUNT IV – BREACH OF CONTRACT**  
**(Mizner Agreement)**

Plaintiffs reallege and reaver paragraphs 1 through 15 as if fully set forth herein and would further state:

28. Pursuant to the terms of the Mizner agreement, Defendant, JONES, was required to act as a Florida licensed interior designer for MORSE in exchange for a fee, and design and decorate the Mizner home in accordance with the specifications and conditions of MORSE, and in such a manner as consistent with the standards in the community for performing services suitable for high end homes such as those owned by Plaintiffs MORSE.

29. Defendant, JONES, INC. breached the terms of the agreement when it failed to properly perform its obligations, as contemplated by the parties. Specifically, Defendant purchased furniture, materials, finishes and décor not approved or authorized by Plaintiff, failed to follow Plaintiffs directives with reference to the type of furniture, furnishings and décor to be used in the home, and was untimely in providing drawing, elevations, specifications, color samples, was otherwise unresponsive to Plaintiff's requests, failed to timely pay vendors for outstanding invoices, and otherwise failed to perform as necessary to execute the project, in violation of paragraphs 2.1, 2.2 and 2.3 of the subject agreement.

30. As a direct and proximate result of Defendant, JONES, INC's, breach, MORSE has been damaged, and will continue to suffer damages, including, but not limited to, compensatory damages, interest and attorneys fees.

WHEREFORE, MORSE demands judgment against Defendant JONES, INC. for compensatory damages, attorneys fees, court costs, interest and for such other and further relief as this Court deems just and proper and demands trial by jury on all matters so triable as a matter of right.

**COUNT V – FRAUD IN THE INDUCEMENT**  
**(Mizner Agreement)**

Plaintiffs reallege and reaver paragraphs 1 through 15 as if fully set forth herein, and

further state:

31. Defendant, JONES, INC., represented to MORSE that it was a Florida licensed interior designer, and experienced in the design of upscale homes. Defendant, JONES, INC.'s promise was false.

32. Defendant, JONES, INC., intentionally made these false representations for the purpose of inducing MORSE to enter into the Mizner Agreement and retain its services as an interior designer for the Mizner home.

33. Defendant, JONES, INC., knew that the representation was false at the time that it made it.

34. Defendant, JONES, INC., intended for MORSE to rely on the false representation.

35. MORSE reasonably relied on Defendant, JONES, INC.'s false representations that it was a Florida licensed interior designer, and qualified to perform work on upscale homes such as Plaintiff's, to their detriment. Specifically MORSE paid significant sums of money to Defendant for interior design services and paid significant sums of money to Defendant for furniture, furnishing and materials which were not consistent with Plaintiff's specifications.

36. As a direct and proximate result, MORSE has suffered damages, and will continue to suffer damages, including, but not limited to, compensatory damages, interest and attorneys fees.

WHEREFORE, Plaintiff, MORSE demands judgment against Defendant, JONES, INC., for compensatory damages set forth above, court costs, attorneys fees, interest and for other

relief as this Court deems just and proper and demands trial by jury on all matters so triable as a matter of right.

**COUNT VI – UNJUST ENRICHMENT**  
**(Mizner Agreement)**

Plaintiffs reallege and reaver paragraphs 1 through 15 as if fully set forth herein, and further states:

37. MORSE conferred a benefit on Defendant, JONES, INC., that it has knowledge thereof, in that pursuant to the Mizner Agreement, MORSE paid Defendant JONES, INC. fees for services as a licensed interior designer, and paid to defendant significant sums of money intended to be used as deposits for furniture, furnishings and materials which Defendant improperly allocated for its own use which provided significant financial benefit to Defendant JONES, INC..

38. Defendant JONES, INC. voluntarily accepted and retained the benefit conferred.

39. The circumstances are such that it would be inequitable for Defendant JONES, INC. to retain the benefit of the sums paid by Plaintiff without providing the agreed upon consideration to MORSE.

WHEREFORE, MORSE demands judgment against Defendant JONES, INC. for the benefits conferred therein, court costs, attorneys fees, interest and for other relief as this Court deems just and proper and demands trial by jury on all matters so triable as a matter of right.

**COUNT VII-VIOLATION OF FLORIDA DECEPTIVE AND UNFAIR  
TRADE PRACTICES ACT**

Plaintiffs MORSE realleges and reavers the allegations contained in paragraphs 1 through 15 as if fully set forth herein.

40. Defendant, JONES, INC made false and misleading advertisements and

representations to Plaintiffs that it was a licensed interior designer, in order to induce Plaintiff to retain its services. Defendant JONES, INC repeatedly engages in such an illegal course of conduct, and has done so on numerous occasions in the past to its clients.

41. Defendant, JONES, INC., in its customary manner, never intended to uphold the false and misleading advertisements and representations that it made to Plaintiff in order to induce Plaintiff to purchase its product.

42. Defendant's, JONES, INC., false and misleading advertisements and representations were made to Plaintiffs MORSE for the sole purpose of inducing Plaintiffs to retain its services are in violation of the Florida Deceptive and Unfair Trade Practices Act, § 501.201, *et seq.*, Fla. Stat.

43. As a direct and proximate result of Defendant's, JONES, INC., false and deceptive trade practices Plaintiffs MORSE have been damaged.

44. Pursuant to § 501.211, Fla. Stat., Plaintiff is entitled to recover its actual damages, together with its reasonable attorney's fees and costs incurred in this action.

**WHEREFORE**, Plaintiff, demands judgment against Defendant, JONES, INC. for compensatory damages, punitive damages together with pre-judgment interest and its reasonable attorney's fees and court costs incurred in connection with this action.

#### **COUNT VIII – CONSTRUCTIVE TRUST**

Plaintiffs MORSE realleges and reavers paragraphs 1 through 15 of this Complaint as it fully set forth herein.

45. MORSE entered into two Agreements with Defendant JONES, INC. to perform interior design services for the home located in Camden, Maine. ("Camden Agreement") and for the home located in Boca Raton, Florida. ("Mizner Agreement").

46. MORSE conferred a benefit on Defendant, JONES, INC. Pursuant to the Camden and Mizner Agreements, MORSE paid Defendant JONES, INC. fees for services as a licensed interior designer, and advanced monies to Defendant to be used as deposits for furniture, furnishings and materials.

47. Further, under the terms of both Agreements, JONES, INC was hired to design and decorate these homes in accordance with the specifications and conditions of MORSE, and in such a manner as consistent with the standards in the community for performing services suitable for high end luxury homes such as those owned by Plaintiffs MORSE.

48. Since entering into the contracts with Defendant JONES, INC., MORSE has learned that JONES, INC was has not preformed the services for which they contracted. Specifically, Defendant JONES, INC. has improperly utilized funds paid by MORSE for its own purpose by receiving large sums of money from Plaintiffs intended to be applied towards payment of the furniture, furnishing and materials, and utilizing the sums to its own use, either by holding the funds in its bank accounts for extended periods of time and retaining the interest earned on that money for its own benefit or by utilizing the deposits received from Plaintiffs to pay invoices incurred by Defendant unrelated to its contracts with MORSE and then replacing the funds are with subsequently received deposits.

49. Therefore, the improperly allocated funds still exist and have provided significant financial benefit to Defendant JONES, INC.

WHEREFORE Plaintiff demands that this Court impose a constructive trust upon the funds that were paid to Defendant JONES, INC. in accordance with the Camden and Mizner Agreements so that they are not improperly distributed and so that they will be available should the Court enter a judgment in favor of MORSE, plus any additional and further relief which the Court may deem just and proper.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent via US Mail to Andrew Dector, Esq. Shapiro & Dector, P.A. 7777 Glades Road, Suite 200 Boca Raton, FL 33434 this 24 day of August, 2006

**ROTHSTEIN ROSENFELDT ADLER  
Counsel for Plaintiffs**

401 East Las Olas Blvd., Suite 1650  
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Tel: (954) 522-3456

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By: \_\_\_\_\_

Scott W. Rothstein, Esq.

Fla. Bar No.: 765880

Steven H. Osber, Esq.

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