

At an I.A.S. Trial Term, Part ⁹⁴ of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York, on the 7th day of May 20 18

P R E S E N T :

Hon. Pamela L. Fisher
Justice

LG Funding, LLC, Plaintiff(s)

Cal. No.

Index No. 500056 / 2018

- against -

United Senior Properties of Olathe, LLC, et al. Defendant(s)

The following papers numbered 1 to read on this motion

Papers Numbered

Notice of Motion - Order to Show Cause and Affidavits (Affirmations) Annexed	<u>1</u>
Answering Affidavit (Affirmation)	<u>2</u>
Reply Affidavit (Affirmation)	<u>3</u>
_____ Affidavit (Affirmation)	
Pleadings - Exhibits	
Stipulations - Minutes	
Filed Papers <u>Memoranda of Law</u>	<u>4, 5, 6</u>

Plaintiff LG Funding, LLC's motion, seq. #1, is denied. Plaintiff's motion pursuant to CPLR § 3211(a)(1) is denied because plaintiff's documentary submissions fail to resolve all factual issues as a matter of law. Plaintiff's motion pursuant to CPLR § 3211(a)(7) to dismiss defendants' affirmative defenses and counterclaims is denied. Lastly, plaintiff's motion pursuant to CPLR § 3212 is denied as there are triable issues of fact as to whether the transaction is a loan.

For Clerks use only
MG _____
MD
Motion Seq. # /

ENTER
[Signature]
ISC

HON. PAMELA L. FISHER

2018 MAY 15 AM 8:29
KINGS COUNTY CLERK
FILED
[Signature]