YUE-KONG AU, M.D. : NUMBER: 564,989-B

VERSUS : FIRST JUDICIAL DISTRICT COURT

CHRISTUS HEALTH : CADDO PARISH, LOUISIANA

NORTHERN LOUISIANA

**REASONS FOR JUDGMENT**

**ON MOTION FOR PARTIAL SUMMARY JUDGMENT**

**(Filed 4-12-13 by Christus)**

The Court has considered the Motion for Partial Summary Judgment filed April 12, 2013 by Christus Health Shreveport-Bossier, f/k/a Christus Health Northern Louisiana (“Christus”), its exhibits and memoranda, the opposition filed May 1, 2013 by Yue-Kong Au, M.D. (Dr. Au), its exhibits and memoranda, the reply memoranda of Christus (faxed to the Court on June 7, 2013), oral arguments of June 17, 2013, the entire record and applicable law. For reasons set forth in two other Rulings issued this day and for reasons that follow, Christus’ Motion for Partial Summary Judgment is denied at its cost.

Of course, La.C.C.P. art 966 provides that if the pleadings, depositions, answers to interrogatories and admissions, together with the affidavits show that there is no genuine issue of material fact, and that mover is entitled to judgment as a matter of law, then summary judgment should be rendered forthwith. Counsel for Christus has relied on an improvidently issued order which the Court has recalled, rescinded and declared absolutely null. Dr. Au’s written responses to the request for admissions dated March 15, 2013 were not referenced in Christus’ motion for partial summary judgment filed April 12, 2013.

It is Dr. Au’s position that he verbally notified the agent for Christus within the term set forth in the Fourth Modification and Extension of Lease, a contract drawn by Christus. It is the position of Christus that the Fourth Modification contract relates back to the original lease contract which requires notices to be in writing. In the event there is ambiguity as to whether written notice is required or whether oral notification is sufficient or whether in fact Dr. Au actually notified Vintage verbally of his intent to avail himself of the renewal option are all genuine issues of material fact. Accordingly, the Motion for Partial Summary Judgment is denied.

The Rule to Evict Tenant (which allows for testimony and in the view of the Court is awkwardly combined with a motion for partial summary judgment, which does not allow for testimony and credibility determinations) should be scheduled forthwith.

Counsel shall submit a formal judgment consistent with this ruling and in accordance with La.D.Ct.R. 9.5. All court costs associated with this motion shall be borne by Christus.

Signed this 18th day of June, 2013, in Shreveport, Caddo Parish, Louisiana.

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SCOTT J. CRICHTON

DISTRICT JUDGE

DISTRIBUTION:

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