

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

Index No.:
Date of Purchase:

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EDITH GUTTENPLAN,

Plaintiff(s),

SUMMONS

-against-

Plaintiff designates
KINGS County
as the place of trial.

THE CITY OF NEW YORK,

Defendant(s).

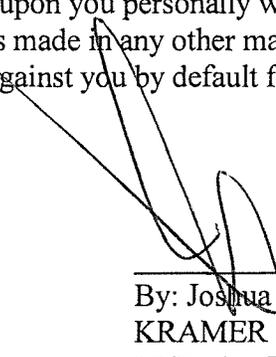
The basis of venue is:
Plaintiff's residence
3310 Nostrand Ave. #301
Brooklyn, NY 11229

Trial by Jury Demanded

To the above named Defendant(s)

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff's attorney(s) within twenty days after the services of this summons exclusive of the day of service, where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Mineola, New York
January 15, 2018



By: Joshua D. Pollack, Esq.
KRAMER & POLLACK, LLP
25 Roslyn Rd – 2nd Fl
Attorneys for Plaintiff
Mineola, New York 11501
(516) 742-8897

TO: The City of New York
100 Church Street
New York, NY 10007

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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EDITH GUTTENPLAN,

Plaintiff(s),

-against-

THE CITY OF NEW YORK,

Defendant(s).

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VERIFIED
COMPLAINT

Index No.503738/2017

Plaintiff, Edith Guttenplan, by her attorneys, KRAMER & POLLACK, LLP, as and for a cause of action alleges upon information and belief as follows:

1. At all times hereafter mentioned, plaintiff was and is a resident of the Brooklyn, County of Kings, City and State of New York.
2. At all times hereinafter mentioned, defendant, The City Of New York, was, and still is, a municipal corporation, duly organized and existing under and by the virtue of the law of the City and State of New York.
3. That prior to the commencement of this action, on March 17, 2017, the plaintiff moved by Order to Show Cause, dated February 23, 2017, for leave to serve a Notice of Claim, nunc pro tunc, upon the City of New York pursuant to General Municipal Law §50-(e)(5) which was granted by the Court pursuant to the Order of Hon. Katherine A. Levine, dated March 17, 2017, and entered in the clerk's office on April 19, 2017. Plaintiff thereafter served the Order with Notice of Entry upon the City of New York dated April 20, 2017.
4. The Notice of Claim, served nunc pro tunc, set forth the time when, and place where, the accident which is the subject matter of this lawsuit occurred, the nature and extent of the injuries and damages sustained and the amount claimed.

5. More than thirty (30) days have elapsed since such presentation of said claims, and defendant, The City Of New York, has not adjusted same and has failed and neglected to make any payment of such claim and cause of action.

6. That defendant, The City Of New York, did not request a Hearing be held pursuant to General Municipal Law §50(h).

7. This action is being commenced against defendants, The City Of New York within one year and ninety days after accrual of this cause of action, or within the time allowed by law.

8. That one or more of the exceptions of §1602 of the Civil Practice Law and Rules do apply to the within action.

AS AND FOR A FIRST CAUSE OF ACTION

9. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "8" inclusive, with the same force and effect as though same were more fully set forth at length herein.

10. That at all times hereinafter mentioned, on October 30, 2016, the aforementioned premises, 3310 Nostrand Avenue, Apt. 301, Brooklyn, NY 11229, is a private residence.

11. That at all times hereinafter mentioned, on October 30, 2016, defendant, City of New York, and its servants, agents, supervisees, employees and representatives, including the New York City Fire Department, responded to a call at 3310 Nostrand Avenue, Apt. 301, Brooklyn, NY 11229.

12. That at all times hereinafter mentioned, upon responding to a call on October 30, 2016, defendant, City of New York, and its servants, agents, supervisees, employees and representatives, including the New York City Fire Department, and its servants, agents, caused

and/or created a dangerous condition by placing a firefighter tool, similar to a pickaxe against a door within said premises.

13. That at all times hereinafter mentioned, on October 30, 2016, defendant, City of New York, and its servants, agents, supervisees, employees and representatives, including the New York City Fire Department, and its servants, agents, supervisees, employees and representatives, owned the firefighter tool, similar to a pickaxe at the aforesaid premises.

14. That at all times hereinafter mentioned, on October 30, 2016, defendant, City of New York, and its servants, agents, supervisees, employees and representatives, including the New York City Fire Department, and its servants, agents, supervisees, employees and representatives, controlled the firefighter tool, similar to a pickaxe at the aforesaid premises.

15. That at all times hereinafter mentioned, on October 30, 2016, defendant, City of New York, and its servants, agents, supervisees, employees and representatives, including the New York City Fire Department, and its servants, agents, supervisees, employees and representatives, managed the firefighter tool, similar to a pickaxe at the aforesaid premises.

16. That at all times hereinafter mentioned, on October 30, 2016, defendant, City of New York, and its servants, agents, supervisees, employees and representatives, including the New York City Fire Department, and its servants, agents, supervisees, employees and representatives, operated the firefighter tool, similar to a pickaxe at aforesaid premises.

17. That at all times hereinafter mentioned, on October 30, 2016, defendant, City of New York, and its servants, agents, supervisees, employees and representatives, including the New York City Fire Department, and its servants, agents, supervisees, employees and representatives, maintained the firefighter tool, similar to a pickaxe at aforesaid premises.

18. That at all times hereinafter mentioned, on October 30, 2016, defendant, City of New York, and its servants, agents, supervisees, employees and representatives, including the New York City Fire Department, and its servants, agents, supervisees, employees and representatives, caused and/or created a dangerous and defective condition at the aforesaid premises.

19. That at all times hereinafter mentioned, on October 30, 2016, defendant, City of New York, and its servants, agents, supervisees, employees and representatives, including the New York City Fire Department, and its servants, agents, supervisees, employees and representatives, had a duty to supervise, instruct, educate and monitor their agents, servants, assigns, employees and/or licensees, with respect to the proper manner of owning, controlling, operating, managing and maintaining the firefighter tool, similar to a pickaxe at the aforesaid premises to ensure that it was safe and free from defects, dangers and hazards.

20. That on October 30, 2016, in the course of responding to a call at the aforesaid premises, defendant, City of New York, and its servants, agents, supervisees, employees and representatives, including The New York City Fire Department, and its servants, agents, supervisees, employees and representatives, placed a firefighter tool, similar to a pickaxe against a door within said premises.

21. That on October 30, 2016, said accident was caused when defendant, City of New York, and its servants, agents, supervisees, employees and representatives, including the New York City Fire Department, and its servants, agents, supervisees, employees and representatives, breached its duty to plaintiff to own, manage, control, operate, and maintain the premises free from hazards, defects and dangers, thereby causing and creating a dangerous condition that caused the accident described herein.

22. That on October 30, 2016, said accident was caused when defendant, City of New York, and its servants, agents, supervisees, employees and representatives, including the New York City Fire Department, and its servants, agents, supervisees, employees and representatives, breached its duty to instruct, educate, monitor, supervise and observe their employees, agents, servants and representatives to ensure that the aforesaid premises was properly owned, managed, controlled, operated, and maintained to ensure there were no defective, hazardous and danger conditions at the premises, thereby causing and creating a dangerous condition that caused the accident described herein.

23. That at all times herein mentioned, the placement of the firefighter tool, similar to a pickaxe against a door within said premises constituted a dangerous, hazardous and defective condition that caused the accident described herein.

24. That on October 30, 2016, while plaintiff, Edith Guttenplan, was lawfully present within the aforesaid premises, she was struck by the firefighter tool that had been placed against a door and fell from where it was placed within the aforesaid premises, causing her to sustain severe and permanent injuries as a result of the aforesaid condition.

25. That the above-mentioned defective condition and occurrence were caused and created by the negligence of Defendants and/or their agents, servants, representatives and employees, in the negligent ownership, operation, maintenance, control, and management of the firefighter tool, similar to a pickaxe at the aforesaid premises without any fault or negligence on the part of the plaintiff contributing thereto.

26. That the above-mentioned defective condition and occurrence were caused and created by the negligence of Defendants by failing to monitor, instruct, educate and supervise their

agents, servants, employees and representatives in the proper manner of ownership, installation, maintenance, control and management of the firefighter tool, similar to a pickaxe at the aforesaid premises without any fault or negligence on the part of the plaintiff contributing thereto.

27. By reason of the foregoing, plaintiff sustained severe and personal injuries; plaintiff was caused to suffer severe physical pain and mental anguish as a result thereof; that these injuries were permanent and lasting nature; and plaintiff was incapacitated from attending to her regular activities; and there was caused to be expended sums of money for medical and hospital care on plaintiff's behalf.

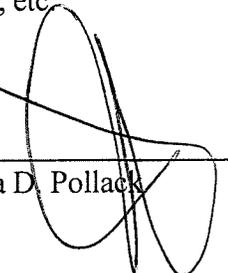
28. As a result of the foregoing, plaintiff sustained injuries and damages in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against defendants together with the costs and disbursements of this action.

Dated: Mineola, New York
January 15, 2018

Yours, etc

Joshua D. Pollack



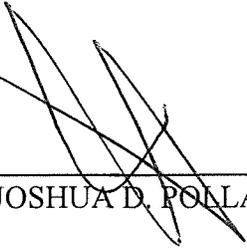
VERIFICATION

Joshua D. Pollack, affirms under penalty of perjury:

That affirmant is the attorney for the plaintiff(s) in the action within; that affirmant has read the foregoing COMPLAINT and knows the contents thereof; that the same is true to affirmant's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters affirmant believes it to be true and the reason that this verification is not made by plaintiff(s) and is made by affirmant is that plaintiff(s) is/are not presently in the county where the attorneys for the plaintiff(s) have their office.

Affirmant further says that the source of affirmant's information and the grounds of affirmant's belief as to all matters not stated upon affirmant's knowledge are from investigations made on behalf of said plaintiff(s).

Dated: Mineola, New York
January 15, 2018



JOSHUA D. POLLACK

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SUPREME COURT OF THE STATE OF NEW YORK
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Plaintiff(s),

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THE CITY OF NEW YORK,

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SUMMONS AND VERIFIED COMPLAINT

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