

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**

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ESTATE OF LAURA MCLOUGHLIN, ET A

Plaintiff(s)/Petitioner(s),

Index No. 506514/2014

- against -

MARK BERKOVICH, ET AL.

Defendant(s)/Respondent(s).

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**NOTICE REGARDING AVAILABILITY OF ELECTRONIC FILING
SUPREME COURT CASES**

PLEASE TAKE NOTICE that plaintiff(s)/petitioner(s) [defendant(s)/respondent(s)] in the case captioned above intends that this matter proceed as an electronically-filed case in the New York State Courts Electronic Filing System ("NYSCEF") in accordance with the procedures therefor, set forth in Uniform Rule 202.5-b and described below. Under that Rule, filing and service of papers by electronic means cannot be made by a party nor can electronic service be made upon a party unless that party has consented to use of the System for the case in question. Each party served with this Notice must promptly file with the court and serve on all other parties either a consent or a declination of consent to electronic filing and service through NYSCEF for this case. (See Instruction # 2 below.)

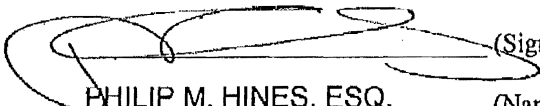
General Information

Electronic filing offers significant benefits for attorneys and litigants, permitting documents to be filed with the County Clerk and the court and served, between or among consenting parties, by posting the documents on the NYSCEF Website, which can be done at any time of the day or night on any day of the week. There is no fee to use the NYSCEF System, whether for filing, service, or consultation of the electronic docket, nor is there a charge to print documents from the docket. Normal filing fees must be paid, but this can be done by credit or bank card on-line. For additional procedures and information, see Uniform Rule 202.5-b, any e-filing protocol that may have been promulgated by the court in question, and the NYSCEF Website at www.nycourts.gov/efile.

Instructions

1. Service of this Notice constitutes consent to e-filing and a statement of intent by the undersigned to use the NYSCEF System in this case. When an action or proceeding is being commenced through the NYSCEF System, this Notice must accompany service of the initiating papers.
2. Each party served with this Notice may consent to e-filing either: (i) by filing with the court and serving on all parties of record a consent to e-filing, or (ii) if an authorized e-filing user, by filing a consent electronically in the manner provided at the NYSCEF site. Parties who do not wish to consent must file and serve a written declination of consent. If one party or some but fewer than all parties consent, NYSCEF may be used by and between or among consenting parties.
3. Each participating attorney, unless already registered, or self-represented party must **PROMPTLY** create a NYSCEF account and obtain the confidential Filing User Identification Number and Password necessary to use the system. To create a NYSCEF account, go to www.nycourts.gov/efile, click the Create an Account link, and follow the instructions.
4. For additional information about NYSCEF, see the *User's Manual* and *Frequently Asked Questions* on the Website, or contact the court in question or the NYSCEF Resource Center (at 646-386-3033 or efile@courts.state.ny.us).

Dated: 7/16/2014

 (Signature)

PHILIP M. HINES, ESQ. (Name)

HELD & HINES, LLP (Firm)

2004 RALPH AVENUE (Address)

BROOKLYN, NY 11234

Attorney(s) for PLAINTIFFS

(718) 531-9700 (Phone)

(718) 444-5768 (Fax)

phines@heldhines.com (E-mail)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
ESTATE OF LAURA MCLOUGHLIN, by Administratrix
Denise McLoughlin, and DENISE MCLOUGHLIN,
Individually,

Index No. 506514/14

Date Purchased: 7/16/14

Plaintiffs,

SUMMONS

-against-

MARK BERKOVICH and IRMA LIMENIS,

The basis of venue is CPLR
§503(a)

Defendants.
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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, or, if the complaint is not served with this summons, to serve a Notice of Appearance, on the Plaintiff's attorney(s) within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and 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: Brooklyn, New York
July 16, 2014

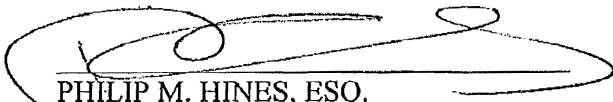
Defendants' Addresses:

Mark Berkovich
130 67th Street
Brooklyn, New York 11220

Irma Limenis
130 67th Street
Brooklyn, New York 11220

Yours, etc.,

HELD & HINES, L.L.P.


PHILIP M. HINES, ESQ.

Attorneys for Plaintiff(s)

Office and P.O. Address

2004 Ralph Avenue

Brooklyn, New York 11234

Tel: (718) 531-9700

Fax: (718) 444-5768

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
ESTATE OF LAURA MCLOUGHLIN, by Administratrix Index No.
Denise McLoughlin, and DENISE MCLOUGHLIN,
Individually,

VERIFIED COMPLAINT

Plaintiffs,

-against-

MARK BERKOVICH and IRMA LIMENIS,

Defendants.
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Plaintiffs, ESTATE OF LAURA MCLOUGHLIN, by Administratrix Denise McLoughlin, and DENISE MCLOUGHLIN, Individually, by their attorneys, HELD & HINES, LLP, allege, upon information and belief, that:

1. On November 9, 2013 Laura McLoughlin, died intestate, leaving next of kin, distributees and heirs at law.
2. Laura McLoughlin is the natural daughter of Denise McLoughlin.
3. At all times herein mentioned, Denise McLoughlin is the Administratrix of the Estate of Laura McLoughlin, having been appointed same by the Register of Wills and Clerk of Orphans' Court, York County, Pennsylvania on or about January 23, 2014, and granted the authority to prosecute the within action on behalf of the plaintiff, Estate of Laura McLoughlin.
4. At all times hereinafter mentioned, Plaintiff, Denise McLoughlin, was and remains a resident of the State of Pennsylvania.
5. At all times hereinafter mentioned, Defendant, Mark Berkovich, was and remains a resident of the State of New York, Kings County.

6. At all times hereinafter mentioned, Defendant, Irma Limenis, was and remains a resident of the State of New York, Kings County.

7. At all times hereinafter mentioned, Defendant, Mark Berkovich, was the owner of the real property located at 130 67th Street Brooklyn, New York 11220 (the "subject property").

8. At all times hereinafter mentioned, Defendant, Irma Limenis, was the owner of the subject property.

9. At all times hereinafter mentioned, Defendant, Mark Berkovich, resided at the subject property.

10. At all times hereinafter mentioned, Defendant, Irma Limenis, resided at the subject property.

11. At all times hereinafter mentioned, Defendant, Mark Berkovich, operated a portion of the subject property as a rental property.

12. At all times hereinafter mentioned, Defendant, Irma Limenis, operated a portion of the subject property as a rental property.

13. At all times hereinafter mentioned, Defendant, Mark Berkovich, managed the subject property, including the rental property located thereat.

14. At all times hereinafter mentioned, Defendant, Irma Limenis, managed the subject property, including the rental property located thereat.

15. At all times hereinafter mentioned, Defendant, Mark Berkovich, controlled the subject property, including the rental property located thereat.

16. At all times hereinafter mentioned, Defendant, Irma Limenis, controlled the subject property, including the rental property located thereat.

**AS AND FOR A FIRST CAUSE OF ACTION ON BEHALF
OF THE ESTATE OF LAURA MCLOUGHLIN:
NEGLIGENCE**

17. Plaintiffs repeat and reallege each and every allegation contained in paragraphs marked and designated "1" through "16" with the same force and effect as if herein alleged.

18. That prior to and on July 17, 2013, Laura McLoughlin (the "decedent") resided in a basement area at 130 67th Street Brooklyn, New York 11220, pursuant to a lease tenancy with the defendants.

19. At all times hereinafter mentioned, the subject property was designated as a single family dwelling.

20. At all times hereinafter mentioned, the subject property had a basement area located below the ground floor.

21. At all times hereinafter mentioned, the defendants rented the basement area of the subject property to the decedent, Laura McLoughlin.

22. Upon information and belief, the defendants, their agents, servants and/or employees, marketed, advertised and listed the basement area of the subject property as a lawful apartment for lease.

23. The subject property does not have a Certificate of Occupancy that provides for a lawful basement apartment.

24. The defendants did not obtain an amended Certificate of Occupancy at any time prior to or during the decedent's tenancy at the subject property.

25. At all times mentioned herein, the subject basement apartment lacked a smoke detector, as required by law.

26. At all times mentioned herein, the subject basement apartment lacked a fire extinguisher, as required by law.

27. At all times mentioned herein, the subject basement apartment was not fit for human habitation.

28. On July 17, 2013, the decedent was within the subject basement apartment when a fire erupted thereat.

29. Due to the negligence, recklessness and other culpable conduct of the defendants, the decedent was unable to escape the subject basement apartment safely and without injury.

30. The subject basement apartment had no direct fire exit, as required by law.

31. The subject basement apartment had no alternative means of ingress and egress, as required by law.

32. The fire was of such violent nature that Decedent sustained severe, permanent and painful burns and injuries to her person, pain and suffering, as well as psychological and emotional injuries.

33. Defendants, Mark Berkovich and Irma Limenis, were negligent in their ownership, operation, maintenance, inspection, supervision, repair and control of the subject property and Decedent's leased basement apartment; in unlawfully renting an illegal apartment; in failing to obtain and maintain proper certification for leasing a basement apartment; in failing to have smoke and fire detectors; in failing to have operational smoke and fire detectors; in leasing an apartment unsuitable for human occupation; in failing to have and provide a direct exit from the basement apartment to the outside; in illegally leasing this basement apartment to the decedent; in failing to have proper lighting; in failing to have and provide fire extinguishers; in failing to inspect; in setting a trap for the decedent; in failing to avoid the occurrence although

there was an opportunity to do so; and in being otherwise careless, reckless and negligent in the instance.

34. As a result of the defendants' negligence, the decedent sustained severe, serious and permanent injuries to her body, person, limbs, ligaments, nerves, tissues, bones and tendons to the extent that each was rendered scarred, traumatized, sick, sore, lame and disabled, and so remain until her death; sustained a loss of enjoyment of life; was rendered incapacitated and unable to attend to her usual activities and vocation; required medical assistance; and sustained personal injuries of a permanent and progressive nature.

35. As a result of the decedent's serious and significant injuries, pain and suffering aforesaid, Decedent was prescribed an extensive course of medical, surgical, and pharmacological treatment.

36. By virtue of the foregoing, the Estate of Laura McLoughlin, has been damaged in an amount which exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction over this matter.

**AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF
OF THE ESTATE OF LAURA MCLOUGHLIN:
SURVIVORSHIP AND WRONGFUL DEATH**

37. Plaintiffs repeat and reallege each and every allegation contained in paragraphs marked and designated "1" through "36" with the same force and effect as if herein alleged.

38. The decedent succumbed to her injuries and died on November 9, 2013.

39. Prior to her death, Decedent suffered conscious pain and suffering for nearly four (4) months.

40. During that time, Decedent suffered pain on a daily basis due to the burns all over her body as well her frequent infections, including but not limited to MRSA.

41. That due to the negligent, reckless and careless actions of the defendants, Mark Berkovich and Irma Limenis, Decedent suffered conscious pain and suffering.

42. That due to their negligent, reckless and careless conduct, Defendants are liable for the wrongful death of Laura McLoughlin.

43. By virtue of the forgoing, the Estate of Laura McLoughlin, has been damaged in an amount which exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction over this matter.

**AS AND FOR A CAUSE OF ACTION ON BEHALF OF DENISE MCLOUGHLIN:
LOSS OF SERVICES, LOVE AND COMPANIONSHIP**

44. Plaintiffs repeats and realleges each and every allegation contained in paragraphs marked and designated "1" through "43" with the same force and effect as if herein alleged.

45. Plaintiff, Denise McLoughlin, is the mother and natural guardian of the decedent, Laura McLoughlin.

46. Due to the negligent, careless and reckless conduct of the defendants, Plaintiff, Denise McLoughlin, has forever been deprived of the love, services and companionship of her daughter, Laura McLoughlin.

47. That by reason of the foregoing, Plaintiff, Denise McLoughlin, was caused to incur expenses and became obligated for obligated for medical aid, attention and medicines in an effort to cure the injuries sustained to her daughter, Laura McLoughlin, as well as funeral expenses and other pecuniary loss.

48. That by reason of the foregoing, Plaintiff, Denise McLoughlin, was caused to suffer emotional and psychological injuries.

49. That by reason of the foregoing, Plaintiff, Denise McLoughlin, has been damaged in an amount which exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction of this matter.

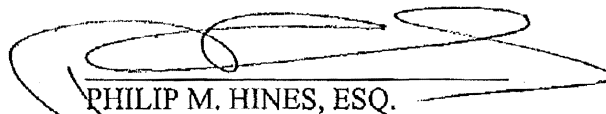
50. That this case falls within one of the exceptions enumerated in CPLR § 1602.

WHEREFORE, Plaintiffs demands judgment in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction over this action.

Dated: Brooklyn, New York
July 16, 2014

Yours, etc.,

HELD & HINES, LLP



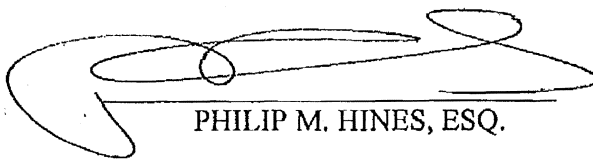
PHILIP M. HINES, ESQ.
Attorneys for Plaintiffs
2004 Ralph Avenue
Brooklyn, New York 11234
(718) 531-9700

ATTORNEY VERIFICATION

PHILIP M. HINES, an attorney duly licensed to practice in the courts of the State of New York, hereby affirms the following under penalties of perjury:

That I am a member of the law firm of HELD & HINES, L.L.P., attorneys for the plaintiffs in the within action; that I have read the foregoing VERIFIED COMPLAINT and know the contents thereof; and that the same is true to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters, I believe them to be true. The reason this Verification is made by me and not by the plaintiffs is that said plaintiffs reside outside of the County in which the Affirmant's office is located.

The grounds of my belief as to all matters stated upon my own knowledge are as follows: the records, reports, contracts, and documents contained in the plaintiffs' file.


PHILIP M. HINES, ESQ.

Affirmed to this 16th
day of July, 2014

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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ESTATE OF LAURA MCLOUGHLIN, by Administratrix Index No.
Denise McLoughlin, and DENISE MCLOUGHLIN,
Individually,

Plaintiffs,

-against-

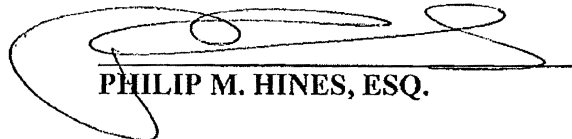
MARK BERKOVICH and IRMA LIMENIS,

Defendants.
-----X

VERIFIED COMPLAINT

HELD & HINES, LLP
Attorneys for Plaintiffs
Office & Post Office Address
2004 Ralph Avenue
Brooklyn, New York 11234
(718) 531-9700

Signature (Rule 130-1.1-a)



PHILIP M. HINES, ESQ.