

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

Index #

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**SUMMONS**

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX,

Plaintiff(s) designate(s)  
New York County as the place  
of trial

Plaintiff,

The basis of venue is:  
Plaintiff's residence

-against-

Plaintiff(s) reside(s) at:

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.,

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 attorneys within twenty days after the service 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  
May 18, 2009

\_\_\_\_\_  
DANIEL FLANZIG  
FLANZIG AND FLANZIG, LLP  
323 Willis Avenue  
PO Box 669  
Mineola, N.Y. 11501-0669  
516-741-8222

TO:

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

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XXXXXXXXXXXXXXXXXXXX,

Plaintiff(s),

**VERIFIED COMPLAINT**

-against-

Index #:

XXXXXXXXXXXXXXXXXXXX,

Defendant(s).

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Plaintiff, complaining of the Defendant(s), by attorneys, FLANZIG and FLANZIG, LLP, respectfully set(s) forth and allege(s) as follows:

FIRST: That at all times hereinafter mentioned, Plaintiff was a resident of the County of New York, State of New York.

SECOND: That at all times hereinafter mentioned, and upon information and belief, Defendant, xxxxxxx, was a resident of the County of Richmond, State of New York.

THIRD: That at all times hereinafter mentioned, and upon information and belief, Defendant, xxxxxxxx, was a corporation duly organized and existing under and by virtue of the laws of the State of New York.

FOURTH: That at all times hereinafter mentioned, and upon information and belief, Defendant, xxxxxxxxxx, was the registered owner of a certain 2007 Ford bearing New York State registration number xxxx.

FIFTH: That at all times hereinafter mentioned, and upon information and belief, Defendant, xxxxxxxx, was the title owner of a certain 2007 Ford bearing New York State registration number xxxx.

SIXTH: That at all times hereinafter mentioned, and upon information and belief, Defendant, xxxxx, was a lessee of a certain 2007 Ford bearing New York State registration number xxxxxx.

SEVENTH: Those at all times hereinafter mentioned, and upon information and belief, Defendant, xxxxxx, operated and controlled the aforescribed motor vehicle with the consent, permission and knowledge of the said owner.

EIGHTH: That at all times hereinafter mentioned, and upon information and belief, one xxxxxxxxxx was lawfully a passenger in said vehicle at the time and place of occurrence, and subject to the provisions of §388 of the Vehicle and Traffic Law of the State of New York.

NINTH: That at all times hereinafter mentioned, and upon information and belief, Defendant, xxxxxxxxx, operated and controlled the aforescribed motor vehicle within the scope of his employment for the Defendant, RIBA TRANS CORP.

TENTH: That at all times hereinafter mentioned, Plaintiff, xxxxxx, operated, maintained, managed and controlled a bicycle and was struck by a door of Defendant's vehicle which was opened into traffic in violation of Vehicle and Traffic Law §1214.

ELEVENTH: That at all times hereinafter mentioned, Sixth Avenue and West 32<sup>nd</sup> Street, County of New York, State of New York, were and are public highways and/or thoroughfares in common use by the residents of the said County, State and others.

TWELFTH: That on or about the 22<sup>nd</sup> day of September, 2008, at approximately 12:00 p.m. on 6<sup>th</sup> Avenue at or near its intersection with West 32<sup>nd</sup> Street, County of New York, State of New York, the Defendants allowed the aforescribed motor vehicle door to be opened into traffic, striking the Plaintiff while a bicyclist traversing the aforescribed location.

THIRTEENTH: The negligence of the Defendant(s) consisted of owning and operating the motor vehicle(s) in a dangerous manner; failing to keep a proper lookout ahead; failing to obey and heed the road and traffic conditions then and there existing; failing to give warning or signal of approach; violating the "Rules of the Road" and the Vehicle and Traffic Regulations of the State of New York, including VTL §1214; failing to be provided with or timely utilize adequate, sufficient braking and/or other safety devices; placing Plaintiff(s) in imminent hazard; failing to comprehend, apprehend and/or anticipate a hazardous and dangerous situation; failing to take reasonable steps to avoid the accident; in failing to assure that the door of the vehicle would not be opened into traffic and supervise and control its passengers, and allowing the door of the vehicle to strike the bicycle of the Plaintiff; and the Defendants were otherwise reckless, careless and negligent in the premises.

FOURTEENTH: That solely by reason of the negligence of the Defendant(s) as hereinbefore alleged, Plaintiff, xxxxxxxx, was rendered sick, sore, lame and disabled and suffered and still suffers great pain and anguish and sustained severe and serious injuries in and about her head, body, limbs, nerves and nervous system and was obliged to and did seek medical treatment, aid and assistance and was disabled and incapacitated in the performance of her normal duties and her habits and pattern of life was varied.

FIFTEENTH: Plaintiff has sustained a serious injury as defined in Subdivision (d) of Section 5102 of the Insurance Law of the State of New York, or economic loss greater than basic economic loss, as defined in Subdivision(a) of Section 5102 of the Insurance Law.

SIXTEENTH: That this action falls within one or more of the exceptions set forth in C.P.L.R. 1602.

SEVENTEENTH: That as a result of the foregoing, Plaintiff, xxxxxx was damaged in a sum of money in excess of the jurisdictional limits of all lower Courts.

WHEREFORE, Plaintiff, xxxxxxxx, demands Judgment against the Defendants in a sum of money in excess of the jurisdictional limits of all lower Courts, all besides the costs and disbursements of the action.

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DANIEL FLANZIG, ESQ.  
FLANZIG and FLANZIG, LLP  
Attorneys for Plaintiff  
323 Willis Avenue, P.O. Box 669  
Mineola, NY 11501  
(516) 741-8222

**ATTORNEY'S VERIFICATION BY AFFIRMATION**

DANIEL FLANZIG, an attorney duly admitted to practice law in the courts of the State of New York, affirms that the following to be true under penalties of perjury.

I am an attorney at FLANZIG and FLANZIG, LLP, attorneys of record for Plaintiff, xxxxxx. I have read the annexed **COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

I make the foregoing affirmation because Plaintiff(s) is/are not presently in the county wherein I maintain my offices.

Dated: Mineola, New York  
May 21, 2009

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DANIEL FLANZIG, ESQ.

