

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

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EMILY KLAINBERG and ADOLF KLAINBERG,

Index:

Plaintiff(s),

-against-

SUMMONS

CHRISTOPHER FEINSTEIN AS EXECUTOR OF
THE ESTATE OF BARBARA FEINSTEIN,

Basis of Venue:
Plaintiff's Residence

Defendant(s).

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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 within 20 days after the service of this summons, exclusive of the day of service (or within 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.

Plaintiff's residence: 39 Great Jones Street Apartment 4, New York, NY 10012

Dated: New York, New York
January 8, 2016

Yours, etc.

HACH & ROSE, LLP
Attorneys for Plaintiff(s)
185 Madison Avenue, 14th Floor
New York, NY 10016

T. 212.779.0057
F. 212.779-0028

By: 

Michael A. Rose

To: CHRISTOPHER FEINSTEIN AS EXECUTOR OF
THE ESTATE OF BARBARA FEINSTEIN
1701 S. Garland St
Lakewood CO 80232

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

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EMILY KLAINBERG and ADOLF KLAINBERG,

Index No.

Plaintiff(s),

-against-

VERIFIED COMPLAINT

CHRISTOPHER FEINSTEIN AS EXECUTOR
OF THE ESTATE OF BARBARA FEINSTEIN,

Defendant(s).

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Plaintiff(s), EMILY KLAINBERG, by his/her/their attorneys, HACH & ROSE, LLP, as
and for a cause of action allege upon information and belief as follows:

**AS AND FOR A FIRST CAUSE OF ACTION
ON BEHALF OF PLAINTIFF EMILY KLAINBERG**

1. On or about November 27, 2014, and at all times herein mentioned, the Plaintiff(s), EMILY KLAINBERG, were and still are resident(s) of the County of New York, State of New York;
2. This action falls within one or more of the exceptions set forth in CPLR Section 1602;
3. The cause of action herein arose in the County of Madison, State of New York;
4. On or about November 27, 2014, and at all times herein mentioned, Defendant(s) decedent, BARBARA FEINSTEIN, was/were a resident(s) of the County of Cayuga, State of New York;
5. Defendant(s) CHRISTOPHER FEINSTEIN is the executor of the estate of Defendant(s) decedent BARBARA FEINSTEIN;

6. Defendant(s) CHRISTOPHER FEINSTEIN is the executor of the estate of Defendant(s) decedent BARBARA FEINSTEIN, pursuant to letters of administration;
7. On or about November 27, 2014, and at all times herein mentioned, Defendant(s) decedent, BARBARA FEINSTEIN was/were the owner(s) of a 2003 Subaru bearing New York State license plate number BETWIN;
8. On or about November 27, 2014, and at all times herein mentioned, Defendant(s) decedent, BARBARA FEINSTEIN, was/were the registrant of the aforesaid vehicle;
9. On or about November 27, 2014, and at all times herein mentioned, Defendant(s) decedent, BARBARA FEINSTEIN, operated the aforesaid motor vehicle, bearing license plate number BETWIN;
10. On or about November 27, 2014, and at all times herein mentioned, Defendant(s) decedent, BARBARA FEINSTEIN, controlled the aforesaid motor vehicle;
11. On or about, November 27, 2014, and at all times herein mentioned, Plaintiff(s), EMILY KLAINBERG, was a passenger in the vehicle operated by Defendant(s) decedent BARBARA FEINSTEIN;
12. On or about, November 27, 2014, and at all times herein mentioned, I90 Westbound, City of Oneida NY, was a public roadways and/or thoroughfares;
13. On or about, November 27, 2014, at the aforesaid location, the vehicle owned and operated by Defendant(s) decedent, BARBARA FEINSTEIN, in which Plaintiff EMILY KLAINBERG was a passenger, struck a guard rail and subsequently a tree;
14. As a result of the occurrence, Plaintiff(s), EMILY KLAINBERG, was/were seriously injured;

15. That the aforesaid occurrence was caused wholly and solely by reason of the negligence of the Defendant(s) without any fault or negligence on the part of the Plaintiff(s) contributing thereto;
16. That the negligence of the Defendant(s) consisted of, but not limited to, operating the aforesaid motor vehicles in a negligent, reckless and careless manner; in failing to keep the aforesaid motor vehicles under reasonable and proper control; in failing to operate the aforesaid motor vehicles with due regard for the safety of the public and others; in failing to keep a proper lookout, in failing to observe what was available to be observed; in failing to observe the vehicle in which the Plaintiff was a passenger; in operating the aforesaid motor vehicles in a manner contrary to, and in violation of, the statutes, ordinances, rules and regulations applicable and in existence on the date of the occurrence; in failing to provide and/or make prompt and timely use of adequate and efficient brake and steering mechanisms; in operating the aforesaid motor vehicles in such a negligent, careless and reckless manner as to precipitate the aforesaid occurrence; in failing to take defensive action; and in failing to warn of the approach of the aforesaid motor vehicles, in going through a red light;
17. That by reason of the foregoing, Plaintiff(s), EMILY KLAINBERG, has sustained a serious injury as defined by Section 5102 of the Insurance Law;
18. That by reason of the foregoing, Plaintiff(s), EMILY KLAINBERG, has been damaged in an amount exceeding the jurisdictional limits of all lower courts of the State of New York.

**AS AND FOR A SECOND CAUSE OF ACTION
ON BEHALF OF PLAINTIFF, ADOLF KLAINBERG:**

19. That the Plaintiff(s), repeats, reiterates and realleges each and every allegation of the complaint in paragraphs numbered "1" through "16", with the same force and effect as though each and every allegation were set forth more fully herein at length below;
20. That at all times hereinafter mentioned, Plaintiff, ADOLF KLAINBERG, was the lawful spouse of the Plaintiff, EMILY KLAINBERG and as such said Plaintiff, ADOLF KLAINBERG was entitled to the society, services and consortium of the said Plaintiff, EMILY KLAINBERG;
21. By reason of the afore-described negligence of the Defendant(s), their agents, servants and/or employees, the Plaintiff, ADOLF KLAINBERG, was deprived of the aforesaid society, services and consortium of the Plaintiff, EMILY KLAINBERG, and shall forever be deprived of said society, services and consortium;
22. That by reason of the foregoing negligence on the part of the Defendant(s), the Plaintiff(s), ADOLF KLAINBERG, has been damaged in an amount exceeding the jurisdictional limits of all lower courts of the State of New York, together with the costs and disbursements of this action.

WHEREFORE, Plaintiff(s), EMILY KLAINBERG, demands judgment against the Defendant(s) herein on The First Cause of Action in an amount exceeding the jurisdictional limits of all lower courts of the State of New York, together with the interests, costs and disbursements of this action.

WHEREFORE, Plaintiff(s), ADOLF KLAINBERG, demands judgment against the Defendant(s) herein on The Second Cause of Action in an amount exceeding the jurisdictional limits of all lower courts of the State of New York, together with the interests, costs and disbursements of this action.

Dated: New York, New York
January 08, 2016

Yours, etc.,



Michael A. Rose
HACH & ROSE, LLP
Attorneys for Plaintiff(s)
EMILY KLAINBERG
And ADOLF KLAINBERG
185 Madison Avenue, 14th Floor
New York, NY 10016
(212) 779-0057

STATE OF NEW YORK }
 } ss.
COUNTY OF NEW YORK }

Michael A. Rose, being duly sworn, deposes and says:

That deponent is a member with HACH & ROSE, L.L.P., attorneys for Plaintiff(s), in the within action; that the deponent has read the foregoing **SUMMONS AND COMPLAINT** and knows the contents thereof; that the same is true to deponents knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true and the reasons that this verification is not made by the Plaintiff(s) and is made by deponent is that Plaintiff(s) does/do not reside in the county where the attorney for the Plaintiff(s) have their office.

Deponent further says that the source of deponent's information and the grounds of deponent's beliefs as to all matters not stated upon deponent's knowledge are from investigation made on behalf of Plaintiff(s).

DATED: NEW YORK, NEW YORK
 January 08, 2016



Michael A. Rose
HACH & ROSE, LLP
185 Madison Avenue, 14th Floor
New York, NY 10016
(212) 779-0057

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

EMILY KLAINBERG and ADOLF KLAINBERG,

Plaintiff(s),

-against-

CHRISTOPHER FEINSTEIN AS EXECUTOR
OF THE ESTATE OF EMILY KLAINBERG,

Defendant(s).

SUMMONS AND COMPLAINT

HACH & ROSE, LLP

Attorneys for Plaintiff(s)

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