

EXHIBIT C

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

-----X
RICHARD C. EDELSON,

Plaintiff,

-against-

**VERIFIED ANSWER TO
AMENDED VERIFIED
COMPLAINT**

ROBERT A. AZUD, THE CAPITOL THEATRE,
THE CAPITOL THEATRE, LLC., PETER SHAPIRO,
M. RAVIKOFF ASSOCIATES, INC., MARVIN
RAVIKOFF, TELCO HOLDING CORP., and GARCIA'S,
CAPITOL ENTERPRISES, INC., THE BOWERY
PRESENTS, LLC.,

Index No. 2015-50602

Defendants.
-----X

Defendants, **CAPITOL ENTERPRISES, INC. s/h/a THE CAPITOL THEATRE,
THE CAPITOL THEATRE, LLC., PETER SHAPIRO, CAPITOL ENTERPRISES, INC.,
s/h/a GARCIA'S and CAPITOL ENTERPRISES, INC.,** by their attorneys, RENDE, RYAN
& DOWNES, LLP, answering the Amended Verified Complaint of the plaintiff herein upon
information and belief:

**AS TO THE FIRST CAUSE OF ACTION ON BEHALF OF PLAINTIFF
RICHARD C. EDELSON:**

1. Deny knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs designated "1", "2", "12A", "32", "33", "34", "42", "51", "52", "82", "83", "85A", "91", "92", "93", "94", "95", "96", "97", "99", "102", "103", "107", "111", "112" and "113" thereof.
2. Deny knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs designated "76" and refer questions of law to the Court.
3. Deny knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs designated "77" and refer questions of law to the Court.

4. Deny knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs designated “78” except admit certain agents or employees of Capitol Enterprises, Inc. were acting within the scope of their employment on February 14, 2015.

5. Deny each and every allegation contained in the paragraphs designated “3”, “4”, “5”, “6”, “7”, “7A”, “8”, “9”, “10”, “11”, “12”, “14”, “15”, “16”, “17”, “18”, “19”, “20”, “21”, “22”, “23”, “24”, “25”, “26”, “27”, “27A”, “28”, “29”, “30”, “31”, “35”, “36”, “37”, “37A”, “38”, “39”, “40”, “41”, “43”, “44”, “45”, “46”, “46A”, “47”, “48”, “49”, “50”, “53”, “54”, “55”, “56”, “56A”, “57”, “58”, “59”, “60”, “61”, “62”, “63”, “64”, “65”, “66”, “66A”, “67”, “68”, “69”, “70”, “72”, “79”, “80”, “84”, “85”, “86”, “87”, “88”, “89”, “90”, “100”, “101”, “104”, “105”, “106”, “108”, “109”, “110”, “114” and “115” thereof.

6. Deny each and every allegation contained in the paragraphs designated “73” except admit Capitol Enterprises, Inc. owned and operated a business known as The Capitol Theatre located at 145-149 Westchester Avenue, Port Chester, New York.

7. Deny each and every allegation contained in the paragraphs designated “74” except admit Capitol Enterprises, Inc. owned and operated a business known as The Capitol Theatre located at 145-149 Westchester Avenue, Port Chester, New York.

8. Deny each and every allegation contained in the paragraphs designated “75” except admit Capitol Enterprises, Inc. owned and operated a business within The Capitol Theatre known as Garcia’s.

**AS TO THE SECOND CAUSE OF ACTION FOR VIOLATIONS OF THE
DRAM SHOP ACT & THE ALCOHOL BEVERAGE CONTROL LAW
ON BEHALF OF PLAINTIFF RICARD C. EDELSON:**

9. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated “1” through “115” insofar as said allegations are repeated, reiterated and realleged in paragraph “116” thereof.

10. Deny each and every allegation contained in the paragraphs designated "117", "118", "119", "120", "121", "122", "123", "124", "125" and "126" thereof.

**AS TO THE THIRD CAUSE OF ACTION FOR VIOLATIONS OF
THE DRAM SHOP ACT & THE ALCOHOL BEVERAGE CONTROL
LAW ON BEHALF OF PLAINTIFF RICHARD C. EDELSON:**

11. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "126" insofar as said allegations are repeated, reiterated and realleged in paragraph "127" thereof.

12. Deny each and every allegation contained in the paragraphs designated "128", "129", "130", "131", "132", "133", "134", "135", "136" and "137" thereof.

**AS TO THE FOURTH CAUSE OF ACTION FOR VIOLATIONS OF THE DRAM
SHOP ACT & THE ALCOHOL BEVERAGE CONTROL LAW
ON BEHALF OF PLAINTIFF RICHARD C. EDELSON:**

13. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "137" insofar as said allegations are repeated, reiterated and realleged in paragraph "138" thereof.

14. Deny each and every allegation contained in the paragraphs designated "139", "140", "141", "142", "143", "144", "145", "146", "147" and "148" thereof.

**AS TO THE FIFTH CAUSE OF ACTION FOR VIOLATIONS OF THE
DRAM SHOP ACT & THE ALCOHOL BEVERAGE CONTROL LAW
ON BEHALF OF PLAINTIFF RICHARD C. EDELSON:**

15. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "148" insofar as said allegations are repeated, reiterated and realleged in paragraph "149" thereof.

16. Deny each and every allegation contained in the paragraphs designated "150", "151", "152", "153", "154", "155", "156", "157", "158" and "159" thereof.

**AS TO THE SIXTH CAUSE OF ACTION FOR VIOLATIONS OF THE
DRAM SHOP ACT & THE ALCOHOL BEVERAGE CONTROL LAW
ON BEHALF OF PLAINTIFF RICHRAD C. EDELSON:**

17. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "159" insofar as said allegations are repeated, reiterated and realleged in paragraph "160" thereof.

18. Deny each and every allegation contained in the paragraphs designated "161", "162", "163", "164", "165", "166", "167", "168", "169" and "170" thereof.

**AS TO THE SEVENTH CAUSE OF ACTION FOR VIOLATIONS OF THE
DRAM SHOP ACT & THE ALCOHOL BEVERAGE CONTROL LAW
ON BEHALF OF PLAINTIFF RICHRAD C. EDELSON:**

19. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "170" insofar as said allegations are repeated, reiterated and realleged in paragraph "171" thereof.

20. Deny each and every allegation contained in the paragraphs designated "172", "173", "174", "175", "176", "177", "178", "179", "180" and "181" thereof.

**AS TO THE EIGHTH CAUSE OF ACTION FOR VIOLATIONS OF THE
DRAM SHOP ACT & THE ALCOHOL BEVERAGE CONTROL LAW
ON BEHALF OF PLAINTIFF RICHRAD C. EDELSON:**

21. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "181" insofar as said allegations are repeated, reiterated and realleged in paragraph "182" thereof.

22. Deny each and every allegation contained in the paragraphs designated "183", "184", "185", "186", "187", "188", "189", "190", "191" and "192" thereof.

**AS TO THE NINTH CAUSE OF ACTION FOR VIOLATIONS OF THE
DRAM SHOP ACT & THE ALCOHOL BEVERAGE CONTROL LAW
ON BEHALF OF PLAINTIFF RICHRAD C. EDELSON:**

23. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "192" insofar as said allegations are repeated, reiterated and realleged in paragraph "193" thereof.

24. Deny each and every allegation contained in the paragraphs designated "194" except admit Capitol Enterprises, Inc. owned and operated a business known as The Capitol Theatre located at 145-149 Westchester Avenue, Port Chester, New York.

25. Deny knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs designated "195" thereof.

26. Deny each and every allegation contained in the paragraphs designated "196", "197", "198", "199", "200", "201", "202" and "203" thereof.

**AS TO THE TENTH CAUSE OF ACTION FOR VIOLATIONS OF THE
DRAM SHOP ACT & THE ALCOHOL BEVERAGE CONTROL LAW
ON BEHALF OF PLAINTIFF RICHRAD C. EDELSON:**

27. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "203" insofar as said allegations are repeated, reiterated and realleged in paragraph "204" thereof.

28. Deny each and every allegation contained in the paragraphs designated "205", "206", "207", "208", "209", "210", "211", "212", "213" and "214" thereof.

**AS TO THE ELEVENTH CAUSE OF ACTION FOR NEGLIGENT HIRING,
TRAINING AND SUPERVISION ON BEHALF OF PLAINTIFF
RICHARD C. EDELSON:**

29. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "214" insofar as said allegations are repeated, reiterated and realleged in paragraph "215" thereof.

**AS TO THE FIFTEENTH CAUSE OF ACTION FOR NEGLIGENT HIRING,
TRAINING AND SUPERVISION ON BEHALF OF PLAINTIFF
RICHARD C. EDELSON:**

37. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "254" insofar as said allegations are repeated, reiterated and realleged in paragraph "255" thereof.

38. Deny each and every allegation contained in the paragraphs designated "256", "257", "258", "259", "260", "261", "262", "263" and "264" thereof.

**AS TO THE SIXTEENTH CAUSE OF ACTION FOR NEGLIGENT HIRING,
TRAINING AND SUPERVISION ON BEHALF OF PLAINTIFF
RICHARD C. EDELSON:**

39. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "264" insofar as said allegations are repeated, reiterated and realleged in paragraph "265" thereof.

40. Deny each and every allegation contained in the paragraphs designated "266", "267", "268", "269", "270", "271", "272", "273" and "274" thereof.

**AS TO THE SEVENTEENTH CAUSE OF ACTION FOR NEGLIGENT HIRING,
TRAINING AND SUPERVISION ON BEHALF OF PLAINTIFF
RICHARD C. EDELSON:**

41. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "274" insofar as said allegations are repeated, reiterated and realleged in paragraph "275" thereof.

42. Deny each and every allegation contained in the paragraphs designated "276", "277", "278", "279", "280", "281", "282", "283" and "284" thereof.

**AS TO THE EIGHTEENTH CAUSE OF ACTION FOR NEGLIGENT HIRING,
TRAINING AND SUPERVISION ON BEHALF OF PLAINTIFF
RICHARD C. EDELSON:**

43. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "284" insofar as said allegations are repeated, reiterated and realleged in paragraph "285" thereof.

44. Deny each and every allegation contained in the paragraphs designated "286", "287", "288", "289", "290", "291", "292", "293" and "294" thereof.

**AS TO NUMBERS "295" THROUGH "304" CAUSE OF ACTION FOR NEGLIGENT
HIRING, TRAINING AND SUPERVISION ON BEHALF OF PLAINTIFF
RICHARD C. EDELSON:**

45. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "294" insofar as said allegations are repeated, reiterated and realleged in paragraph "295" thereof.

46. Deny each and every allegation contained in the paragraphs designated "296", "297", "298", "299", "300", "301", "302", "303" and "304" thereof.

**AS TO NUMBERS "305" THROUGH "314" CAUSE OF ACTION FOR NEGLIGENT
HIRING, TRAINING AND SUPERVISION ON BEHALF OF PLAINTIFF
RICHARD C. EDELSON:**

47. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "304" insofar as said allegations are repeated, reiterated and realleged in paragraph "305" thereof.

48. Deny each and every allegation contained in the paragraphs designated "306", "307", "308", "309", "310", "311", "312", "313" and "314" thereof.

**AS TO NUMBERS "315" THROUGH "324" CAUSE OF ACTION FOR NEGLIGENT
HIRING, TRAINING AND SUPERVISION ON BEHALF OF PLAINTIFF
RICHARD C. EDELSON:**

49. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "314" insofar as said allegations are repeated, reiterated and realleged in paragraph "315" thereof.

50. Deny each and every allegation contained in the paragraphs designated "316", "317", "318", "319", "320", "321", "322", "323" and "324" thereof.

**AS TO NUMBERS "325" THROUGH "327" SECOND CAUSE OF ACTION FOR
NEGLIGENT HIRING, TRAINING AND SUPERVISION ON BEHALF OF PLAINTIFF
RICHARD C. EDELSON:**

51. Defendants repeat, reiterate and reallege each and every denial to the allegations contained in the paragraphs designated "1" through "324" insofar as said allegations are repeated, reiterated and realleged in paragraph "325" thereof.

52. Deny each and every allegation contained in the paragraphs designated "326" and "327" thereof.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

53. That the occurrence complained of was caused in whole or in part by the culpable conduct attributable to the plaintiff including contributory negligence that by reason thereof the amount of damages recoverable, if any, shall be diminished in whole or in part by that portion to which the culpable conduct attributable to the plaintiff bears to the alleged conduct of the defendants which allegedly caused the damages.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

54. In the event plaintiff recovers a verdict or judgment against the defendant, then such verdict or judgment must be reduced pursuant to CPLR §4545(c) by those amounts which

have been or will, with reasonable certainty, replace or indemnify plaintiff, in whole or in part, for any past or future claimed economic loss, from any collateral source.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

55. Plaintiff has not established a right to recover in accordance with Article 51 – Comprehensive Automobile Insurance Reparations – of the Insurance Law of the State of New York and by reason thereof, the Court does not have jurisdiction over the subject matter of this action.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

56. The injuries and damages alleged to have been sustained were, in whole or in part, largely contributed to by reason of the failure of the plaintiff to wear seatbelts provided for his use.

**AS AND FOR A CROSS CLAIM AGAINST
CODEFENDANT ROBERT A. AZUD:**

It is alleged in the original complaint that the damages sustained by the plaintiff were the result of the negligence of the defendants. The cross complaining defendant begs leave to refer to the original complaint at the time of trial. If the plaintiff was caused to sustain the damages as alleged in the complaint, said damages will have been sustained by reason of the negligence of the co-defendant ROBERT A. AZUD.

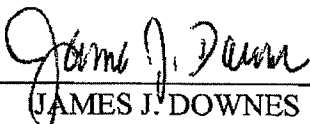
If the cross complaining defendant is also found negligent then this defendant will be entitled to contribution in part from the co-defendant for the portion of the plaintiff's damages which were caused by the negligent co-defendant, together with all attorneys fees, cost of investigation and disbursements.

WHEREFORE, the defendants, **THE CAPITOL THEATRE, THE CAPITOL THEATRE, LLC., PETER SHAPIRO, GARCIA'S and CAPITOL ENTERPRISES, INC.**, demand judgment against the plaintiff dismissing the complaint and against the co-defendant on the cross complaint plus interest, and against the plaintiff and co-defendant for costs and disbursements.

Dated: May 18, 2015
White Plains, New York

Yours, etc.,

RENDE, RYAN & DOWNES, LLP.

By: 

JAMES J. DOWNES

Attorneys for Defendants
THE CAPITOL THEATRE, THE
CAPITOL THEATRE, LLC., PETER
SHAPIRO, GARCIA'S and CAPITOL
ENTERPRISES, INC.,
202 Mamaroneck Avenue
White Plains, New York 10601
(914) 681-0444

TO:

THE LAW OFFICE OF RICHARD R. MOGG, P.C.
Attorneys for Plaintiff
5 Walden Street
Somers, New York 10589
(212) 269-5252

STATE OF NEW YORK
COUNTY OF WESTCHESTER

JAMES J. DOWNES deposes and says:

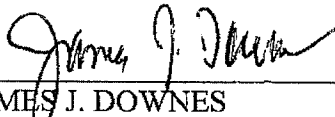
I am a member of the firm of RENDE, RYAN & DOWNES, LLP, the attorneys for the defendants, **THE CAPITOL THEATRE, THE CAPITOL THEATRE, LLC., PETER SHAPIRO, GARCIA'S and CAPITOL ENTERPRISES, INC.** , in the above entitled action.

I have read the foregoing Verified Answer and know the contents thereof; it is true to my knowledge, except as to the matters therein stated to be alleged upon information and belief; and as to those matters I believe them to be true. The sources of my information and the grounds of my belief are file materials examined by me relative to the issues referred to in the Verified Answer.

The reason this verification is made by me instead of by the defendants, **THE CAPITOL THEATRE, THE CAPITOL THEATRE, LLC., PETER SHAPIRO, GARCIA'S and CAPITOL ENTERPRISES, INC.** is that I am in possession of the material information on which this action is based.

I affirm that the above is true under the penalties of perjury pursuant to Rule 2106 of the Civil Practice Law and Rules.

Dated: White Plains, New York
May 18, 2015



JAMES J. DOWNES