

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

-----X
LOUIS A. RUSSO, AS EXECUTOR OF THE ESTATE OF RONALD
E. PECUNIES,

Plaintiff,

SUMMONS

- against -

Index No.

DAVID ROZENHOLC, DAVID ROZENHOLC & ASSOCIATES,
MAHESH AGASHIWALA, LOMA AGASHIWALA, JOHN C.
ALEXANDER, THEODORE BAER, BERTINA BAER, NOLAN
BAER, JUDY BECKER, JOHANNA BENNETT, MARIEL
BENNETT, JACK BIDERMAN, ISABEL BARNARD BIDERMAN,
BARBARA E. BISHOP, LEIGHTON C. CANDLER, MARJORIE
CANTOR, TERRY CHABROWE, PAULA CHABROWE, AMY R.
COUSINS, CATHY MARSHALL, LORI METZ, BRIGID
O'CONNOR, LUCILLE PETINO, BERTRAM H. SCHAFFNER,
DEBRA LYN SCHINASI, HYMAN SCHINASI, JEAN SCHINASI,
KALIA SHALLECK AND JEAN SHIMOTAKE,

Defendants.
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TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the plaintiff's attorneys 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 answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of the venue designated is Defendant's place of business. Defendant David Rozenholc maintains an office at 400 Madison Ave., 19th Floor, New York, NY 10017.

Dated: February 17, 2012

Nicholas J. Damadeo
NICHOLAS J. DAMADEO, P.C.
Attorneys for Plaintiff
27 West Neck Road
Huntington, NY 11743
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
LOUIS A. RUSSO, AS EXECUTOR OF THE ESTATE
OF RONALD E. PECUNIES,

COMPLAINT

Plaintiff,

- against -

Index No.

DAVID ROZENHOLC, DAVID ROZENHOLC &
ASSOCIATES, MAHESH AGASHIWALA, LOMA
AGASHIWALA, JOHN C. ALEXANDER, THEODORE
BAER, BERTINA BAER, NOLAN BAER, JUDY
BECKER, JOHANNA BENNETT, MARIEL BENNETT,
JACK BIDERMAN, ISABEL BARNARD BIDERMAN,
BARBARA E. BISHOP, LEIGHTON C. CANDLER,
MARJORIE CANTOR, TERRY CHABROWE, PAULA
CHABROWE, AMY R. COUSINS, CATHY
MARSHALL, LORI METZ, BRIGID O'CONNOR,
LUCILLE PETINO, BERTRAM H. SCHAFFNER,
DEBRA LYN SCHINASI, HYMAN SCHINASI, JEAN
SCHINASI, KALIA SHALLECK AND JEAN
SHIMOTAKE,

Defendants.

-----X
Plaintiff, by his attorney Nicholas J. Damadeo, P.C., herein sets forth his
Complaint against the defendants upon information and belief as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. Plaintiff Louis A. Russo is the duly appointed Executor of the Estate of Ronald E. Pecunies, deceased.
2. Upon information and belief, defendant David Rozenholc (hereinafter "Rozenholc") is an attorney duly licensed to practice law in the State of New York.

3. Upon information and belief, defendant David Rozenholc & Associates (hereinafter “DRA”) is a law firm.
4. Upon information and belief, “David Rozenholc & Associates” is an assumed business name of defendant David Rozenholc.
5. At all relevant times, from at least prior to 2005 and until his death in May, 2010, Ronald E. Pecunies (hereinafter “Pecunies”) was the tenant of a rent stabilized apartment located at 220 Central Park South, New York, New York (hereinafter “the Premises”).
6. Pecunies’ apartment, known as Unit 16AB, was originally two separate apartments, which Pecunies combined to create one larger single apartment (hereinafter “Unit 16AB”).
7. Upon information and belief, in or about 2005, the Premises were purchased by Vornado Realty Trust and the Clarett Group (hereinafter “the Owners”).
8. The Owners sought to remove the Premises’ tenants in order to erect a new building.
9. The Owners commenced a proceeding under the name “Madave Properties SPE, LLC” before the New York State Division of Housing and Community Renewal (“DHCR”) seeking permission not to renew the rent stabilized tenants’ leases.
10. After the Owners obtained said permission, the tenants commenced an Article 78 Proceeding in the Supreme Court, County of New York, challenging the DHCR’s rulings.

11. Pecunies retained Rozenholc and DRA to represent him in connection with the DHCR proceedings, the Article 78 Proceeding, and in negotiations with the Owners to resolve any outstanding issues between the Owners and Pecunies.

12. Rozenholc and DRA advised Pecunies that he was entitled to two separate payments from the Owners, one for each of his two apartments.

13. In reliance upon that advice, Pecunies agreed to pay Rozenholc and DRA double the legal fees any other tenant of one apartment would have paid Rozenholc and DRA for the same representation.

14. Subsequent to Pecunies' death, in November, 2010, Rozenholc and DRA negotiated a settlement with the Owners.

15. The settlement amount for each apartment was \$1,750,000.

16. Rozenholc and DRA's legal fee was 25% of the settlement amount above \$1,000,000, less any legal fees advanced by Pecunies.

17. Upon information and belief, Pecunies advanced legal fees of \$2,000 per month from April, 2009 through May, 2010, a total of \$28,000.

18. Upon information and belief, Rozenholc and DRA paid \$1,750,000, less a legal fee of \$187,500, directly to Emel Dilek, who occupied Unit 16AB with Pecunies.

19. Upon information and belief, Rozenholc and DRA paid said sum to Emel Dilek because she had statutory occupancy rights under the applicable rent stabilization law.

20. Upon information and belief, Rozenholc and DRA informed Emel Dilek that Unit 16AB was considered one apartment under applicable rent stabilization

law, and, therefore, she was entitled to the settlement amount for one apartment, not for two.

21. Had Pecunies survived, Rozenholc and DRA would have paid to Pecunies the amount paid to Emel Dilek.

22. Had Pecunies survived, Rozenholc and DRA would not have paid to Pecunies the settlement amount for two apartments.

23. Rozenholc and DRA distributed to other tenants the amount they advised Pecunies he would have received for a second apartment.

24. Rozenholc and DRA failed to exercise the degree of care, skill and diligence commonly possessed by a member of the legal profession.

25. As a result of the foregoing malpractice, the plaintiff has sustained monetary damages.

AS AND FOR A SECOND CAUSE OF ACTION

26. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 10 as if the same were fully set forth herein.

27. Upon information and belief, defendant Mahesh Agashiwala is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

28. Upon information and belief, defendant Loma Agashiwala is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

29. Upon information and belief, defendant John C. Alexander is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

30. Upon information and belief, defendant Theodore Baer is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

31. Upon information and belief, defendant Bertina Baer is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

32. Upon information and belief, defendant Nolan Baer is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

33. Upon information and belief, defendant Judy Becker is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

34. Upon information and belief, defendant Johanna Bennett is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

35. Upon information and belief, defendant Mariel Bennett is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

36. Upon information and belief, defendant Jack Biderman is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

37. Upon information and belief, defendant Isabel Barnard Biderman is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

38. Upon information and belief, defendant Barbara E. Bishop is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

39. Upon information and belief, defendant Leighton C. Candler is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

40. Upon information and belief, defendant Marjorie Cantor is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

41. Upon information and belief, defendant Terry Chabrowe is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

42. Upon information and belief, defendant Paul Chabrowe is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

43. Upon information and belief, defendant Amy R. Cousins is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

44. Upon information and belief, defendant Cathy Marshall is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

45. Upon information and belief, defendant Lori Metz is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

46. Upon information and belief, defendant Brigid O'Connor is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

47. Upon information and belief, defendant Lucille Petino is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

48. Upon information and belief, defendant Bertram H. Schaffner is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

49. Upon information and belief, defendant Debra Lyn Schinasi is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

50. Upon information and belief, defendant Hyman Schinasi is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

51. Upon information and belief, defendant Jean Schinasi is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

52. Upon information and belief, defendant Kalia Shalleck is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

53. Upon information and belief, defendant Jean Shimotake is a resident of the State of New York and formerly resided at 220 Central Park South, New York, New York.

54. Pursuant to a written Retainer Agreement dated April 3, 2009 (hereinafter “the Agreement”), each of the aforesaid defendants who formerly resided at 220 Central Park South, New York, New York (hereinafter “the tenants”) and Pecunies retained Rozenholc and DRA to represent them in connection with the DHCR proceedings, the Article 78 Proceeding, and in negotiations with the Owners to resolve any outstanding issues between the Owners, the tenants, and Pecunies.

55. The Agreement provided in part that regardless of the actual value of each of their respective apartments, the tenants and Pecunies would “share equally in any settlement offer made by landlord and, as such, each apartment represents a single share under this agreement, unless otherwise indicated herein.”

56. The Agreement also provided in part that “Ronald Pecunies who occupies combined apartment 16AB will receive two (2) shares and agrees to pay two (2) shares of any legal fees owed.”

57. The Agreement makes no provision for any non-signatories to the Agreement who may have had statutory occupancy rights under the applicable rent stabilization law.

58. At the time the settlement was made, Rozenholc, DRA, and each of the tenants was aware that Pecunies had died.

59. Rozenholc and DRA failed to inform the plaintiff of the existence of the Agreement.

60. The Agreement, and the proceeds therefrom, was an asset of the plaintiff.

61. Rozenholc and DRA failed to distribute any part of the settlement to the plaintiff.

62. Rozenholc and DRA distributed to the tenants, and the tenants accepted from Rozenholc and DRA, one of the two settlement shares to which Pecunies was entitled under the Agreement.

63. Rozenholc and DRA and the tenants failed to pay, or otherwise caused Rozenholc and DRA not to pay, to Pecunies the second of the two settlement shares to which Pecunies was entitled under the Agreement.

64. As a result of the foregoing breach of the Agreement, plaintiff has sustained monetary damages.

WHEREFORE, plaintiff demands judgment against defendants as follows:

- A. On the first cause of action against defendants David Rozenholc and David Rozenholc & Associates in the amount of \$1,778,000, plus interest from May 2, 2011;
- B. On the second cause of action against the defendants in the amount of \$3,528,000, plus interest from May 2, 2011;
- C. Together with the costs and disbursements of this action.

Dated: February 17, 2012

Nicholas J. Damadeo
NICHOLAS J. DAMADEO, P.C.
Attorneys for Plaintiff
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Huntington, NY 11743
(631) 271-7400