

File No. 9MNLY09088FL
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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COLLETTE FORDE,

Index No. 502343/14

Plaintiff,

-against-

CERTIFICATION PURSUANT
TO PART 130

OLIVIA HARRIS, LOXLEY RODNEY, JOHN W.
FREDRICK and MAUREEN PAUL,

Defendants,

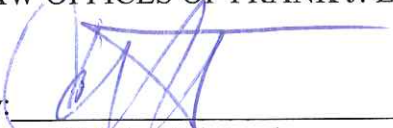
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The accompanying papers are served/filed/submitted pursuant to 22NYCRR Section 130-1.1-a:

- Answer to Complaint
- Affirmative Defenses
- Cross Claim
- 3101(d) Demand for Expert Witness Information
- Demand for Bill of Particulars
- Demand for Medical Reports
- Notice for Discovery and Inspection
- Demand for Collateral Sources
- Demand for Production of Insurance Agreement
- Notice Pursuant to CPLR 2103(E)
- Notice to Take Deposition upon Oral Examination
- Notice for Physical Examination
- Demand for Statement of Damages
- Demand Pursuant to Mandatory Insurer Reporting Law
- Demand for Production as to Prior and Subsequent Related Injuries and Conditions
- Verification

Dated: Bethpage, New York
April 09, 2014

Yours, etc.
LAW OFFICES OF FRANK J. LAURINO

By: 
Calvin Weintraub
Attorneys for Defendants
John W. Fredrick and Maureen Paul
999 Stewart Avenue
Bethpage, NY 11714
Tel. No.: (516) 349-0111
File No.: 9MNLY09088FL

TO: Spar & Bernstein, P.C.
Attorney(s) for Plaintiff(s)
225 Broadway
Suite 512
New York, NY 10007
(646) 688-4744

Olivia Harris
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Johnstown, Pennsylvania 15906

Loxley Rodney
664 Linwood Street
Brooklyn, NY 11208

9MPLY09088FL
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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COLLETTE FORDE,

Index No. 502343/14

Plaintiff,
-against-

OLIVIA HARRIS, LOXLEY RODNEY, JOHN W.
FREDRICK and MAUREEN PAUL,

ANSWER, CROSS-CLAIM,
DEMAND FOR BILL OF
PARTICULARS AND
VARIOUS DEMANDS

Defendants,
-----X

The Defendants, John W. Fredrick and Maureen Paul, by their attorneys, LAW OFFICES OF FRANK J. LAURINO, answering the Complaint herein, alleges upon information and belief as follows:

1. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the paragraphs marked "1", "2", "3", "4", "5", "6", "7", "8", "9", "13", "14", "15", "21", "22" and "23" of the complaint herein.
2. Deny any knowledge or information sufficient to form a belief as to the allegations contained in the paragraph marked "10" of the complaint herein, except admits that on September 8, 2012 PAUL was the owner of a motor vehicle bearing New York license plate No.: FDF222.
3. Deny the allegations contained in the paragraphs marked "16", "17", "18", "19", "20", and "24" of the complaint herein.

**AS AND FOR A FIRST SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE
TO THE ENTIRE ACTION, THE DEFENDANTS RESPECTFULLY
ALLEGE UPON INFORMATION AND BELIEF:**

If the Plaintiff sustained any injuries and/or damages at the time and place alleged in the complaint, the Plaintiff assumed the risk inherent in the activity in which Plaintiff was then engaged and further such injuries and/or damages were caused by reason of the culpable conduct and/or negligence of the Plaintiff without any negligence on the part of the Defendants contributing thereto.

**AS AND FOR A SECOND SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE
TO THE ENTIRE ACTION, THE DEFENDANTS RESPECTFULLY
ALLEGE UPON INFORMATION AND BELIEF:**

That the said action is barred and precluded by virtue of Article 51, Sections 5101, 5102, 5103 and 5104 of the New York State Insurance Law.

**AS AND FOR A THIRD SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE
TO THE ENTIRE ACTION, THE DEFENDANTS RESPECTFULLY
ALLEGE UPON INFORMATION AND BELIEF:**

Plaintiff did not use the seat belts provided, and the injuries claimed to have been sustained were caused by the lack of use of the seat belts, and Plaintiff did not avail herself/himself of the protective device to mitigate the injuries, and further, by not fastening the available automobile seat belts, acted unreasonably and disregarded her/his own best interests and thus contributed to the happening of the injuries.

**AS AND FOR A FOURTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE
TO THE ENTIRE ACTION, THE DEFENDANTS RESPECTFULLY
ALLEGE UPON INFORMATION AND BELIEF:**

Upon information and belief, any past or future costs or expenses incurred or to be incurred by the Plaintiff for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from the collateral source as defined in Section 4545(a) of the New York Civil Practice Law and Rules. If any damages are recoverable against these said answering Defendants, the amount of such damages shall be diminished by the amount of the funds which Plaintiff has or shall receive from such collateral source.

**AS AND FOR A FIFTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE
TO THE ENTIRE ACTION, THE DEFENDANTS RESPECTFULLY
ALLEGE UPON INFORMATION AND BELIEF:**

That the Defendant was suddenly confronted with, and was called upon to act in, an emergency situation not created by Defendant's own acts.

**AS AND FOR A SIXTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE
TO THE ENTIRE ACTION, THE DEFENDANTS RESPECTFULLY
ALLEGE UPON INFORMATION AND BELIEF:**

Plaintiff(s) recovery must be offset by a settlement pursuant to General Obligations Law Section 15-108.

**AS AND FOR A SEVENTH SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE
TO THE ENTIRE ACTION, THE DEFENDANT(S) RESPECTFULLY
ALLEGE(S) UPON INFORMATION AND BELIEF:**

That the Court lacks jurisdiction over the person of the Defendants, John W. Fredrick and Maureen Paul.

AS AND FOR A CROSS-COMPLAINT AGAINST THE CO-DEFENDANT(S), OLIVIA HARRIS and LOXLEY RODNEY, THE DEFENDANTS, JOHN W. FREDRICK and MAUREEN PAUL, UPON INFORMATION AND BELIEF, ALLEGE:

That if the Plaintiff(s) sustained damages as alleged in the complaint through any fault other than his/her own, then such damages were sustained due to the primary and active and sole fault of the Co-Defendant(s), Olivia Harris And Loxley Rodney, and the fault, if any, of these answering Defendants were secondary and passive only; and if the Plaintiff(s) should obtain and/or recover judgment against these answering Defendants, then the Co-Defendant(s), Olivia Harris And Loxley Rodney, shall be liable over these answering Defendants for the full amount of said judgment or for any part thereof obtained and/or recovered on the basis of apportionment of responsibility for the alleged occurrence as found by the Court and/or Jury.

Further, by reason, of this action, the said answering Defendants have incurred, and will in the future incur, costs and expenses including counsel fees.

WHEREFORE, the Defendants, John W. Fredrick and Maureen Paul, demand judgment dismissing plaintiff's complaint or, alternatively, judgment over and against the co-Defendants(s), Olivia Harris And Loxley Rodney, for the full amount of any judgment obtained and/or recovered against these answering Defendants by the Plaintiff(s) or any part of such judgment obtained and/or apportionment of responsibility between the Defendants, together with the costs, disbursements and expenses of this action, including attorney's fees.

Dated: Bethpage, New York
April 09, 2014

Yours, etc.

LAW OFFICE OF FRANK J. LAURINO

By: 

Calvin Wentraub

Attorneys for Defendants

John W. Fredrick and

Maureen Paul

Office and P.O. Address

999 Stewart Avenue

Bethpage, New York 11714

Telephone: (516) 349-0111

File No.: 9MNLY09088FL

TO: Spar & Bernstein, P.C.
Attorneys for Plaintiff(s)
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Olivia Harris
255 Cooper Avenue, Apt. 466
Johnstown, Pennsylvania 15906

Loxley Rodney
664 Linwood Street
Brooklyn, NY 11208

ATTORNEY'S VERIFICATION

The undersigned, an attorney admitted to practice in the Courts of New York State, hereby affirms as true under all the penalties of perjury that affirmant is associated with the LAW OFFICES OF FRANK J. LAURINO, attorneys of record for the Defendants, John W. Fredrick and Maureen Paul, in the within action; that affirmant has read the foregoing ANSWER and knows the contents thereof; that the same is true to affirmant's own knowledge, except as to the matter therein stated to be alleged upon information and belief, and that as to those matters affirmant believes them to be true. Affirmant further states that the reason this verification is made by affirmant and not by Defendants, is because Defendants reside outside the County of affirmant's office.

The grounds of affirmant's belief as to all matters not stated upon affirmant's knowledge are as follows:

Investigations and information received by affirmant in the course of representing Defendants.

Dated: Bethpage, New York
April 09, 2014



Calvin Weintraub