

Westchester County Clerk
Application for INDEX NUMBER pursuant to
CPLR §8018



000103689

FEE: \$210.00

09-28743

Spaces Below to be Typed or Printed by Applicant

Supreme

.....COURT: WESTCHESTER COUNTY

THIRD PARTY ACTION

TITLE OF ACTION OR PROCEEDING

ROSEANN M. GUZZO, As Administrator
of the Goods, Chattels and Credits of
GUY T. BASTARDI, Deceased,

and

ROSEANN M. GUZZO and IRVING ANOLIK,
as Co-Executors of the Goods, Chattels
and Credits of MICHAEL BASTARDI, SR.,
Deceased,

V.

OFFICE OF THE SUFFOLK COUNTY
PUBLIC ADMIMISTRATOR in its
Capacity as Administrator of the
Estate of DIANE SCHULER, and
WARREN J. HANCE,

Plaintiffs,

TO BE COMPLETED BY APPLICANT

Defendant

TYPE OF ACTION- RECORDS RETENTION

- FORECLOSURE
- MATRIMONIAL
- GUARDIANSHIP
- NAME CHANGE

- CERTIORARI
- CONTRACT
- TORT
- OTHER

000065410
INDEX # 2773-09
DEC 15 2009
TIMOTHY IDONI
COUNTY CLERK
COUNTY OF WESTCHESTER
JAPS CHECKS
11:00:27 AM '09

FILED

Brian A. Sichel, Sichel & Hicks, P.C.
139 Lafayette Avenue, P.O. Box 359, Suffern, NY 10901

Name and Address of Attorney for Plaintiff or Petitioner

Name and Address of Attorney for Defendant or Respondent

Name of Payor

DO NOT DETACH

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER



Index No.: 000103690
Date Purchased:

09-28743

ROSEANN M. GUZZO, as Administrator of the Goods,
Chattels and Credits of GUY T. BASTARDI, Deceased,

and

ROSEANN M. GUZZO and IRVING ANOLIK,
as Co-Executors of the Goods, Chattels and Credits of
MICHAEL BASTARDI, SR., Deceased,

Plaintiffs,

- against -

OFFICE of the SUFFOLK COUNTY PUBLIC ADMINISTRATOR
as Court Appointed Administrator of the Estate of
DIANE SCHULER, and WARREN J. HANCE,

Defendants.

Plaintiffs designate
Westchester County
as the Place of Trial

The basis of the venue is
**Residence of
Roseann M. Guzzo,
Administratrix and
Co-Executor**

SUMMONS

FILED

DEC 10 2009

TIMOTHY C. IDONI
COUNTY CLERK

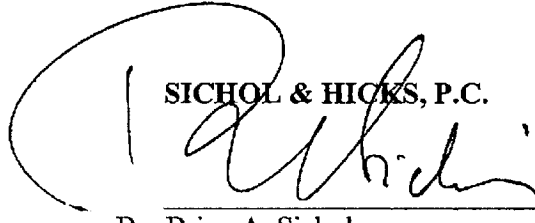
Plaintiff's Residence
46 Granite Springs Rd
Yorktown Heights, NY 10598

COUNTY OF WESTCHESTER

-----X
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(s) 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 herein.

Dated: Suffern, NY
December 10, 2009


SICHOL & HICKS, P.C.

By: Brian A. Sichol
Attorney(s) for Plaintiff(s)
Office and P.O. Address
139 Lafayette Avenue
Box 359 Lafayette Avenue
Suffern, New York 10901
(845) 357-4422

Defendant(s) address:

Office of the Suffolk County Public Administrator
300 Center Drive
Riverhead, New York 11901

Warren J. Hance
76 Vanderbilt Avenue
Floral Park, New York 11001

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X

ROSEANN M. GUZZO, as Administratrix of the Goods,
Chattels and Credits of GUY T. BASTARDI, Deceased,

and

ROSEANN M. GUZZO and IRVING ANOLIK,
as Co-Executors of the Goods, Chattels and Credits of
MICHAEL BASTARDI, SR., Deceased,

Plaintiffs,

- against -

OFFICE of the SUFFOLK COUNTY PUBLIC ADMINISTRATOR,
as Court Appointed Administrator of the Estate of
DIANE SCHULER, and WARREN J. HANCE,

Defendants.

-----X

SIRS:

The plaintiffs, Roseann M. Guzzo, as Administratrix of the Goods, Chattels and Credits of GUY T. BASTARDI, deceased, and Roseann M. Guzzo and Irving Anolik, as Co-Executors of the Goods, Chattels and Credits of MICHAEL BASTARDI, SR., deceased, complaining of the defendants allege, upon information and belief, as follows:

As and for a First, Separate and Distinct Cause of Action Brought on Behalf of ROSEANN M. GUZZO, Administratrix of the Goods, Chattels and Credits of GUY T. BASTARDI, Deceased

Index No.:
Date Purchased:

VERIFIED
COMPLAINT

FILED

DEC 10 2009

TIMOTHY C. IDONI
COUNTY CLERK
COUNTY OF WESTCHESTER

1. That at all times hereinafter mentioned the plaintiff, Roseann M. Guzzo, was and still is a resident of the County of Westchester and State of New York.

2. That by Order of the Honorable Anthony A. Scarpino, Jr., Judge of the Westchester County Surrogate's Court, Letters of Administration were issued to Roseann M. Guzzo on September 23, 2009, with respect to the Estate of Guy T. Bastardi, deceased, and that said Letters of Administration remain in full force and effect and that the Administrator is acting thereunder.

3. That by Order of the Honorable John M. Czygier, Jr., Judge of the Suffolk County Surrogate's Court, Letters of Administration were issued to the Public Administrator of Suffolk County on October 7, 2009, with respect to the Estate of Diane Schuler, and that said Letters of Administration remain in full force and effect and that the Public Administrator is acting thereunder.

4. That at all times hereinafter mentioned Guy T. Bastardi was the owner and operator of a certain 2004 Chevrolet motor vehicle bearing New York State registration number BHP3898 for the year 2009.

5. Upon information and belief, that at all times hereinafter mentioned, Diane Schuler was the operator of a certain 2003 Ford motor vehicle bearing New York State registration number BDR1916 for the year 2009.

6. Upon information and belief, that at all times hereinafter mentioned, the defendant, Warren J. Hance, was the owner of a certain 2003 Ford motor vehicle bearing New York registration number BDR1916 for the year 2009.

7. Upon information and belief, that at all times hereinafter mentioned, Diane Schuler was operating the aforementioned 2003 Ford motor vehicle with the knowledge, permission and consent of the owner.

8. That at all times hereinafter mentioned the Taconic State Parkway in the Town of Mt. Pleasant, County of Westchester and State of New York was and still is a public highway.

9. That on or about the 26th day of July, 2009, at approximately 1:35 p.m., Diane Schuler was operating the aforementioned 2003 Ford motor vehicle southbound in the northbound lanes of the Taconic State Parkway.

10. That on or about the 26th day of July, 2009, at approximately 1:35 p.m., Guy T. Bastardi was operating the aforementioned 2004 Chevrolet motor vehicle northbound in the northbound lanes of the Taconic State Parkway.

11. That on or about the 26th day of July, 2009, at approximately 1:35 p.m., the 2003 Ford motor vehicle being operated by Diane Schuler came in violent contact with the 2004 Chevrolet motor vehicle operated by Guy T. Bastardi which contact occurred wholly within the northbound lanes of the Taconic State Parkway at a distance of approximately ten feet north of mile post 4.1 of said public highway.

12. That as a result of the contact between the motor vehicles, as aforementioned, Guy T. Bastardi sustained serious injuries as defined in Section 5102 of the Insurance Law of the State of New York which resulted in his death.

13. That the contact between the respective motor vehicles, and the serious personal injuries sustained by Guy T. Bastardi which resulted in his death, were caused by the carelessness, negligence and want of care of the defendants, as hereinafter set forth.

14. That Diane Schuler, operator of the aforementioned 2003 Ford motor vehicle, herein represented by the Public Administrator of the County of Suffolk, NY, in his capacity as Administrator of the Estate of Diane Schuler, and Warren J. Hance, as owner of the aforementioned 2003 Ford motor vehicle, were both careless and negligent in that the motor vehicle which they operated and owned, respectively, was being operated, at the time of impact with the motor vehicle operated by Guy T. Bastardi, in the wrong direction upon the Taconic State Parkway, or southbound in the northbound traveled lanes; in that Diane Schuler, at the time of the accident, was deeply intoxicated due to her ingestion of alcohol which was well in excess of the limit provided by statute; in that Diane Schuler, at the time of the accident, was deeply intoxicated and significantly impaired by her use of marijuana; that the conduct of Diane Schuler, operator of the defendant's vehicle, was wanton, willful and reckless, constituted gross negligence, and imperiled the lives and wellbeing of all lawful users of the highway including, but not limited to, Guy T. Bastardi and Michael Bastardi, Sr.; that Diane Schuler entered upon the Taconic State Parkway by use of an off-ramp, ignoring all signage to the contrary, ignoring attempts by other motorists to alert her to the peril of her actions and the danger her grossly negligent conduct was creating for lawful users of the highway including, but not limited to, Guy T. Bastardi and Michael Bastardi, Sr.; in that Diane Schuler, operator of the defendant's motor vehicle, after entering upon said highway using an off-ramp, continued in the wrong direction, or southbound in the northbound lanes, for well over a mile while other lawful users of the highway attempted to alert her to the peril her actions were creating, all of which she chose to ignore; in that Diane Schuler, operator of the defendant's motor vehicle, failed to stop her motor vehicle, or to direct it off the paved portion of the Taconic State Highway, in order that she not imperil lawful users of the highway including, but not limited to, Guy T. Bastardi and Michael Bastardi,

Sr.; in that Diane Schuler, driver of the defendant's motor vehicle, failed to take any action with respect to the operation of her motor vehicle, necessary or appropriate under the circumstances, to prevent impact with the motor vehicle operated by Guy T. Bastardi; in that Diane Schuler, operator of the defendants vehicle, operated the same at an excessive speed and in a reckless manner under the circumstances then and there existing; in that the defendant's failed to equip their motor vehicle with the necessary and proper braking, steering, sounding, lighting and safety mechanisms and failed to make adequate timely use of those braking, steering, sounding, lighting and safety mechanisms as were then and there available; in that the defendants violated the rules of the road and the statutes duly made and provided and were otherwise careless and negligent with respect to the ownership, operation, maintenance and control of their motor vehicle upon the public highway.

15. That the limitation on liability set forth in Article 16 of the CPLR does not apply to this action as it is excluded therefrom by the application of CPLR 1602.

16. That as a result of the death of Guy T. Bastardi, the plaintiff, Roseann M. Guzzo, as Administratrix of the Estate of Guy T. Bastardi, deceased, makes claim against the defendants, or each of them, for pecuniary loss, funeral and burial expenses, and other items of damage.

17. That as a result of the foregoing, Roseann M. Guzzo, as Administratrix of the Estate of Guy T. Bastardi, deceased, demands damages against the defendants, or each of them, in an amount which exceeds the jurisdictional limits of all lower courts.

**As and for a Second, Separate and Distinct Cause of Action Brought
on Behalf of ROSEANN M. GUZZO, as Administratrix of the Goods,
Chattels and Credits of GUY T. BASTARDI, Deceased**

18. Plaintiff repeats and re-alleges paragraphs first through sixteenth of the First Cause of Action as though repeated here at length.

19. Upon information and belief, that prior to his death, the decedent, Guy T. Bastardi, sustained pre-impact terror, mental anguish, and serious personal injuries causing him acute pain and suffering.

20. That as a result of the foregoing, Roseann M. Guzzo, as Administratrix of the Goods, Chattels and Credits of Guy T. Bastardi, deceased, demands damages against the defendants, or each of them, in an amount which exceeds the jurisdictional limits of all lower courts.

**As and for a Third, Separate and Distinct Cause of Action Brought on by
Behalf of ROSEANN M. GUZZO and IRVING ANOLIK, as Co-Executors of
the Goods, Chattels and Credits of MICHAEL BASTARDI, SR., Deceased.**

21. These plaintiffs repeat and re-allege paragraphs first through sixteenth of the First Cause of Action as though repeated here at length and applied to the decedent, Michael Bastardi, Sr.

22. That by Order of the Honorable Anthony A. Scarpino, Jr., Judge of the Westchester County Surrogate's Court, Letters Testamentary were issued to Roseann M. Guzzo and Irving Anolik, as Co-Executors on August 19, 2009, with respect to the Estate of Michael Bastardi, Sr., deceased, and that said Letters Testamentary remain in full force and effect and the Co-Executors are acting thereunder.

23. That at the time of the alleged accident caused by the willful and wanton conduct, and gross negligence of the defendants, or each of them, Michael Bastardi was a front seat passenger in the 2004 Chevrolet motor vehicle operated by Guy T. Bastardi.

24. That as a result of the contact between the motor vehicles, as aforementioned, Michael Bastardi, Sr., sustained serious personal injuries as defined in Section 5102 of the Insurance Law of the State of New York, which resulted in his death.

25. That as a result of the death of Michael Bastardi, Sr., the plaintiffs, Roseann M. Guzzo and Irving Anolik, as Co-Executors of the Goods, Chattels and Credits of Michael Bastardi, Sr., deceased, make claim against the defendants, or each of them, for pecuniary loss, funeral and burial expenses, and other items of damage.

26. That as a result of the foregoing, Roseann M. Guzzo and Irving Anolik, as Co-Executors of the Goods, Chattels and Credits of Michael Bastardi, Sr., deceased, demand damages against the defendants, or each of them, in an amount which exceeds the jurisdictional limits of all lower courts.

As and for a Fourth, Separate and Distinct Cause of Action Brought on Behalf of ROSEANN M. GUZZO and IRVING ANOLIK, as Co-Executors of the Goods, Chattels and Credits of MICHAEL BASTARDI, SR., Deceased

27. These plaintiffs repeat and re-allege paragraphs first through sixteenth of the First Cause of Action and twenty-second through twenty-fifth of the Third Cause of Action as though repeated here at length.

28. Upon information and belief, that prior to his death, the decedent, Michael Bastardi, Sr., sustained pre-impact terror, mental anguish and serious personal injuries causing him acute pain and suffering.

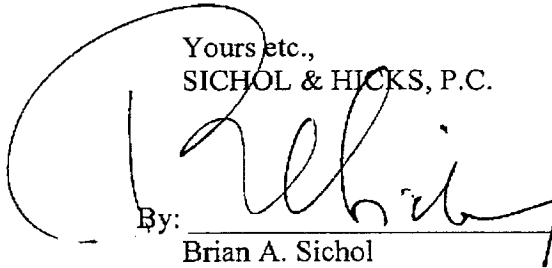
29. That as a result of the foregoing, Roseann M. Guzzo and Irving Anolik, as Co-Executors of the Goods, Chattels and Credits of Michael Bastardi, Sr., deceased, demand damages against

the defendants, or each of them, in an amount which exceeds the jurisdictional limits of all lower courts.

WHEREFORE, plaintiff Roseann M. Guzzo, as Administratrix of the Goods, Chattels and Credits of Guy T. Bastardi, deceased, seeks damages against the defendants, Estate of Diane Schuler and Warren J. Hance, in the First and Second Causes of Action, recited above, in amounts which exceed the jurisdictional limits of all lower courts together with the appropriate interest, costs and disbursements of this action; plaintiffs Roseann M. Guzzo and Irving Anolik, as Co-Executors of the Goods, Chattels and Credits of Michael Bastardi, Sr., deceased, seek damages against the defendants, Estate of Diane Schuler and Warren J. Hance, in the Third and Fourth Causes of Action, recited above, in amounts which exceed the jurisdictional limits of all lower courts together with the appropriate interest, costs and disbursements of this action.

Dated: Suffern, New York
December 10, 2009

Yours etc.,
SICHOL & HICKS, P.C.

By: 

Brian A. Sichol
Attorneys for Plaintiffs
Office & P.O. Address
139 Lafayette Avenue
Box 359
Suffern, New York
845-357-5702

STATE OF NEW YORK)
)ss.:
COUNTY OF ROCKLAND)

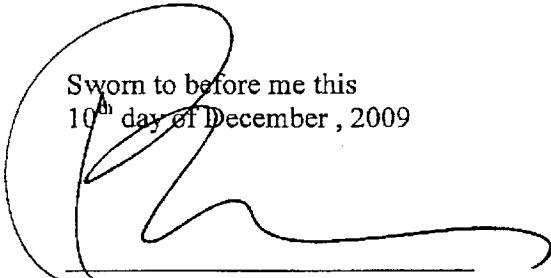
ROSEANN M. GUZZO, as Administratrix of the Goods, Chattels and Credits of GUY T. BASTARDI, Deceased and ROSEANN M. GUZZO, as Co-Executor of the Estate of MICHAEL BASTARDI, SR., Deceased, being duly sworn, says:

I am a plaintiff in the action herein; I have read the annexed **Summons and Verified Complaint** and know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief and as to those matters I believe them to be true.



ROSEANN M. GUZZO, Plaintiff

Sworn to before me this
10th day of December, 2009



Notary Public
BRIAN A. SICHOL
Notary Public, State of New York
No. 3655360
Qualified in Rockland County
Commission Expires June 30, 2011

Index No.:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

ROSEANN M. GUZZO, As Administratrix of the Goods,
Chattels and Credits of GUY T. BASTARDI, Deceased,

and

ROSEANN M. GUZZO and IRVING ANOLIK,
as Co-Executors of the Goods, Chattels and Credits of
MICHAEL BASTARDI, SR., Deceased,

Plaintiffs,

- against -

OFFICE of the SUFFOLK COUNTY PUBLIC ADMINISTRATOR,
As Court Appointed Administrator of the Estate of
DIANE SCHULER, and WARREN J. HANCE,

Defendants.

SUMMONS and COMPLAINT

SICHOL & HICKS, P.C.
Office & P.O. Address
139 Lafayette Avenue
P.O. Box 359
Suffern, New York 10901
(845) 357-4422

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed documents are not frivolous.

Dated: Suffern, New York

Signature: _____

Print Signature's Name: _____