

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER



000333883

-----X  
SEVEN SPRINGS, LLC,

Plaintiff,

Index No.  
Date Filed:

21162/09

-against-

SUMMONS

THE NATURE CONSERVANCY, ROBERT BURKE,  
TERI BURKE, NOEL B. DONOHOE and JOANN  
DONOHOE,

Defendants.  
-----X

**FILED**

SEP 22 2009

TIMOTHY C. IDONI  
COUNTY CLERK  
COUNTY OF WESTCHESTER

TO THE ABOVE NAMED DEFENDANTS:

**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 twenty (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). 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 designates Westchester County as the place of trial. The basis of venue is the Defendants reside or have a place of business in, and the cause of action arose in, the County of Westchester.

Dated: White Plains, New York  
September 22, 2009

DELBELLO DONNELLAN WEINGARTEN  
WISE & WIEDERKEHR, LLP  
Attorneys for Plaintiff

By: ALFRED E. DONNELLAN, ESQ.  
BRADLEY D. WANK, ESQ.  
One North Lexington Avenue  
White Plains, New York 10601  
(914) 681-0200

TO: THE NATURE CONSERVANCY  
570 Seventh Avenue  
New York, New York 10018

ROBERT BURKE  
2 Oregon Hollow Road  
Armonk, New York 10504

TERI BURKE  
2 Oregon Hollow Road  
Armonk, New York 10504

NOEL B. DONOHOE  
4 Oregon Hollow Road  
Armonk, New York 10504

JOANN DONOHOE  
4 Oregon Hollow Road  
Armonk, New York 10504

SUPREME COURT OF THE STATE OF NEW YORK  
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THE NATURE CONSERVANCY, ROBERT BURKE,  
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COMPLAINT

**FILED**

SEP 22 2009

TIMOTHY C. IDONI  
COUNTY CLERK

COUNTY OF WESTCHESTER

Plaintiff, Seven Springs, LLC, by its attorneys, DELBELLO DONNELLAN  
WEINGARTEN WISE & WIEDERKEHR, LLP, for its complaint against defendants, The Nature  
Conservancy, Robert Burke, Teri Burke, Noel B. Donohoe and Joanne Donohoe, alleges, upon  
information and belief, as follows:

1. Plaintiff, Seven Springs, LLC ("Seven Springs") is a New York Limited  
Liability Company duly organized under the laws of the State of New York, and having a  
principal place of business at c/o The Trump organization, 725 Fifth Avenue, New York, New  
York 10022.

2. Upon information and belief, Defendant, The Nature Conservancy is a  
District of Columbia Corporation authorized to do business in the State of New York, and has a  
place of business located in the Town of North Castle, Westchester County, New York.

3. Upon information and belief, Defendants Robert Burke and Teri Burke  
(collectively referred to herein as "Burke") are residents of the State of New York, residing at 2  
Oregon Hollow Road, Armonk, New York.

4. Upon information and belief, Defendants Noel B. Donohoe and Joann Donohoe (collectively referred to herein as "Donohoe") are residents of the State of New York, residing at 4 Oregon Hollow Road, Armonk, New York.

5. Seven Springs is the owner of a parcel of property (the "Seven Springs Parcel") comprising approximately 213 acres, and known on the tax assessment map of the Town of New Castle, County of Westchester as Section 94.17, Block 1, Lots 8 and 9, on the Tax Assessment Map of the Town of North Castle as Section 2, Block 6, Lots 1 and 2, and on the Tax Assessment Map of the Town of Bedford as Section 94.18, Block 1, Lot 1 and Section 94.14, Block 1, Lot 9.

6. Seven Springs acquired title to the Seven Springs Parcel from The Rockefeller University by deed dated December 22, 1995 and recorded in the Westchester County Clerk's Office on December 28, 1995 in Liber 11325 Page 243, which deed more particularly describes the Seven Springs Parcel.

7. Rockefeller University acquired title to the Seven Springs parcel from Seven Springs Farm Center, Inc. by deed dated April 12, 1984 and recorded in the Westchester County clerk's office on May 24, 1984 in liber 7923 page 639.

8. Seven Springs Farm Center, Inc. acquired title to the Seven Springs Parcel from Yale University pursuant to deed dated March 23, 1973 and recorded March 27, 1973 in liber 7115 page 592.

9. Yale University acquired title to the Seven Springs Parcel from the Eugene and Agnes E. Meyer Foundation (the "Foundation") pursuant to deed dated January 19, 1973 and recorded in the Westchester County Clerk's office on March 27, 1973 in liber 7115, page 577.

10. The only means by which access can be had to any public highway, street, road or avenue from the Seven Springs Parcel to the south is via the road known as Oregon Road.

11. As of 1973, and for some time prior thereto, Eugene Meyer, Jr. ("Meyer") was the owner of certain lands located in the County of Westchester and State of New York.

12. Included in these lands owned by Meyer was the Seven Springs Parcel as well as certain real property which would ultimately become the property of The Nature Conservancy (the "Nature Conservancy Property").

13. The Nature Conservancy Property and the Seven Springs Parcel were part of certain lands acquired over time by Meyer.

14. The Nature Conservancy acquired title to the Nature Conservancy Property from the Foundation by deed dated May 25, 1973 and recorded in the Westchester County Clerk's office on May 30, 1973 in liber 7127 page 719.

15. The Nature Conservancy Property is situated in the Towns of North Castle and New Castle, County of Westchester and is more particularly described in the aforesaid deed recorded in the Westchester County Clerk's office on May 30, 1973 in liber 7127 page 719.

16. The December 22, 1995 deed from the Rockefeller University referred to above, and the prior deeds thereto, conveyed fee simple absolute in the premises described therein together with the land lying in the bed of any streets and roads abutting the premises to the center lines thereof.

17. The Seven Springs Parcel has at all times abutted, and continues to abut, Oregon Road.

18. By reason of the foregoing and the December 22, 1995 Deed recorded in liber 11325 page 243 and the May 25, 1973 deed recorded in liber 7127 page 719, and the prior

deeds thereto, and the facts herein set forth, Plaintiff has fee title in and to the one-half portion of Oregon Road, as same street/roadway abuts said property on its westerly side, and has a right of way and/or easement of no less than 50 feet in width to use that portion of Oregon Road abutting the Seven Springs Parcel, and that portion of Oregon Road, more particularly identified and highlighted (the "Easement" or "Easement Area") on Exhibit "A", southerly to and from the Seven Springs Parcel to the public portion of Oregon Road, for ingress and egress, and for pedestrian and vehicular access. Annexed hereto as Exhibit "A", and made a part hereof, are copies of a portion of the Official Map of the Town of North Castle adopted by the Town Board on October 23, 1997 and portion of the official tax map of the Town of North Castle as of July 18, 1986.

19. At some point in time prior to 1973 Oregon Road became a public highway by virtue of its having been used as a public highway for a period of 10 years.

20. In or about 1990 the Town Board of the Town of North Castle purportedly closed a portion of Oregon Road pursuant to Highway Law § 205 as it was no longer used for public travel.

21. The said portion of Oregon Road referred to herein that was purportedly closed and that is referred to on Exhibit "A" "ends" at its southerly terminus, at the portion of Oregon Road, a legally opened public street, that has been improved and paved.

22. Upon information and belief, The Town of North Castle caused at some point in time to be erected and thereafter maintained a barrier on Oregon Road at or near the point designated as "Pole 40" and where the road abuts the public portion of Oregon Road, a barrier consisting of a gate and/or metal guide rail (the "Gate") thereby partially blocking and obstructing access to or from Oregon Road to the south by persons in vehicles and depriving

Plaintiff, Plaintiff's visitors, trades people and vehicles and the like their lawful right to pass unimpeded over the road and to have ingress and egress over the road to and from the Seven Springs Parcel to or from the publicly opened section of Oregon Road.

23. Plaintiff has sought to develop the Seven Springs Parcel, and in connection with the development submitted various plans and proposals to the Planning Board of The Town of North Castle and to the Planning Board of the Town of Bedford.

24. In order to develop the Seven Springs Parcel pursuant to certain plans and proposals the Town of Bedford Planning Board has required, among other things, that Plaintiff have secondary access to the Seven Springs Parcel.

25. That the Defendants have taken, and continue to take, the position that Plaintiff has no right to access the Seven Springs Parcel from the south over Oregon Road.

26. That the Defendants continue to unlawfully and wrongfully deprive Plaintiff of its right to access the Seven Springs Parcel, and to hinder, delay and/or preclude development of the Seven Springs Parcel.

27. Upon information and belief, said Defendants' acts are willful, without reasonable or probable cause and are without basis in law or fact.

28. That the injuries complained of are consistent and continuous and Plaintiff has suffered and will suffer injury, which injury will be continuous, and that to obtain any redress the Plaintiff will necessarily be involved in continued litigation with the Defendants and will suffer continuing damages.

29. That on or about February 13, 2008 a Decision was issued by the Appellate Division, Second Department in the matter entitled Seven Springs, LLC v. The Nature Conservancy, et al., (NYAD 2d Dept, 48 AD3d 545).

30. That the Decision provides in pertinent part that “the abandonment of a public highway pursuant to Highway Law § 205 does not serve to extinguish private easements, as Highway Law § 205 does not provide for compensation to the owners of any private easements that would be extinguished. (Citations omitted)”. That by reason of the foregoing Decision it has been judicially determined that the Town of North Castle never extinguished the Easement pursuant to Highway Law § 205.

31. On or about June 12, 2006 title to the property, which is adjacent to the easterly boundary line of the Burke and Donohoe properties, referred to above, to the center line of Oregon Road, was transferred from Realis Associates to Seven Springs by deed dated June 12, 2006 and recorded in the Westchester County Clerk’s office on March 17, 2008 in Control Number 480640315. The deed from Realis Associates to Seven Springs specifically provides, among other things, that “the premises being conveyed are, and are intended to be, the same premises retained by the party of the first part as set forth in deed from Realis Associates to Robert Burke and Teri Burke dated April 29, 1993 and recorded on May 12, 1993 in liber 10576 page 243, and as set forth in deed from Realis Associates to Noel B. Donohoe and Joann Donohoe dated July 27, 1994 and recorded August 8, 1994 in liber 10929 page 35”.

32. By reason of the foregoing, the Town of North Castle has no legal interest in and to the private use of the Easement Area by the private persons entitled to the benefits of the Easement, no claim to public use of the Easement Area or any claim of any kind or nature with regard to the Easement, no basis in law or fact to advance any claim with regard to the Easement and use of the Easement Area by the Town of North Castle, in its capacity as a municipal corporation, or by residents of the Town or the public generally, and Defendants The Nature Conservancy, Robert Burke, Teri Burke, Noel B. Donohoe and Joann Donohoe have no valid basis,



in law or fact, to maintain the Gate or any other obstruction and/or barrier on or over Oregon Road, or prevent, or attempt to prevent, Plaintiff from having unobstructed access to the Seven Springs Parcel over Oregon Road.

33. Based upon the foregoing, Defendants Burke and Donohoe have no right, title or interest in, or to, Oregon Road and/or the Easement Area.

34. By reason of the foregoing, the Defendants have no fee interest in, or right of use over, that portion of the said allegedly closed portion of Oregon Road as described above, or the Easement Area, to the exclusion of Plaintiff's right, title and interest in and to Oregon Road or the Easement Area.

35. As a result of the actions of Defendants The Nature Conservancy, Robert Burke, Teri Burke, Noel B. Donohoe and Joann Donohoe, Plaintiff has been, and will in the future be, deprived of the full use and enjoyment of the Seven Springs Parcel, and the value of the Seven Springs Parcel has been greatly diminished, and Plaintiff has suffered and will in the future suffer damages thereby.

36. By virtue of the foregoing Plaintiff has been damaged in an amount to be determined at trial but not less than \$30,000,000.00.

37. By virtue of Defendants' unlawful, improper and intentional acts, Plaintiff should be awarded punitive damages in an amount to be determined at trial but not less than \$30,000,000.00.

**WHEREFORE**, Plaintiff demands judgment:

(a) That Plaintiff have Judgment for damages against Defendants The Nature Conservancy, Robert Burke, Teri Burke, Noel B. Donohoe and Joann Donohoe, individually and

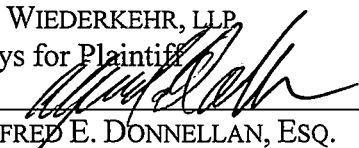
severally, an amount to be determined at trial but not less than \$30,000,000.00, with interest thereon and attorneys fees, for the injuries suffered as herein alleged.

(b) That Plaintiff have Judgment for punitive damages against Defendants The Nature Conservancy, Robert Burke, Teri Burke, Noel B. Donohoe and Joann Donohoe in an amount to be determined at trial but not less than the amount of \$30,000,000.00, with interest thereon.

(c) That the Plaintiff have such other, further and different relief as to the Court may seem just, equitable and proper, together with the costs and disbursements of this action.

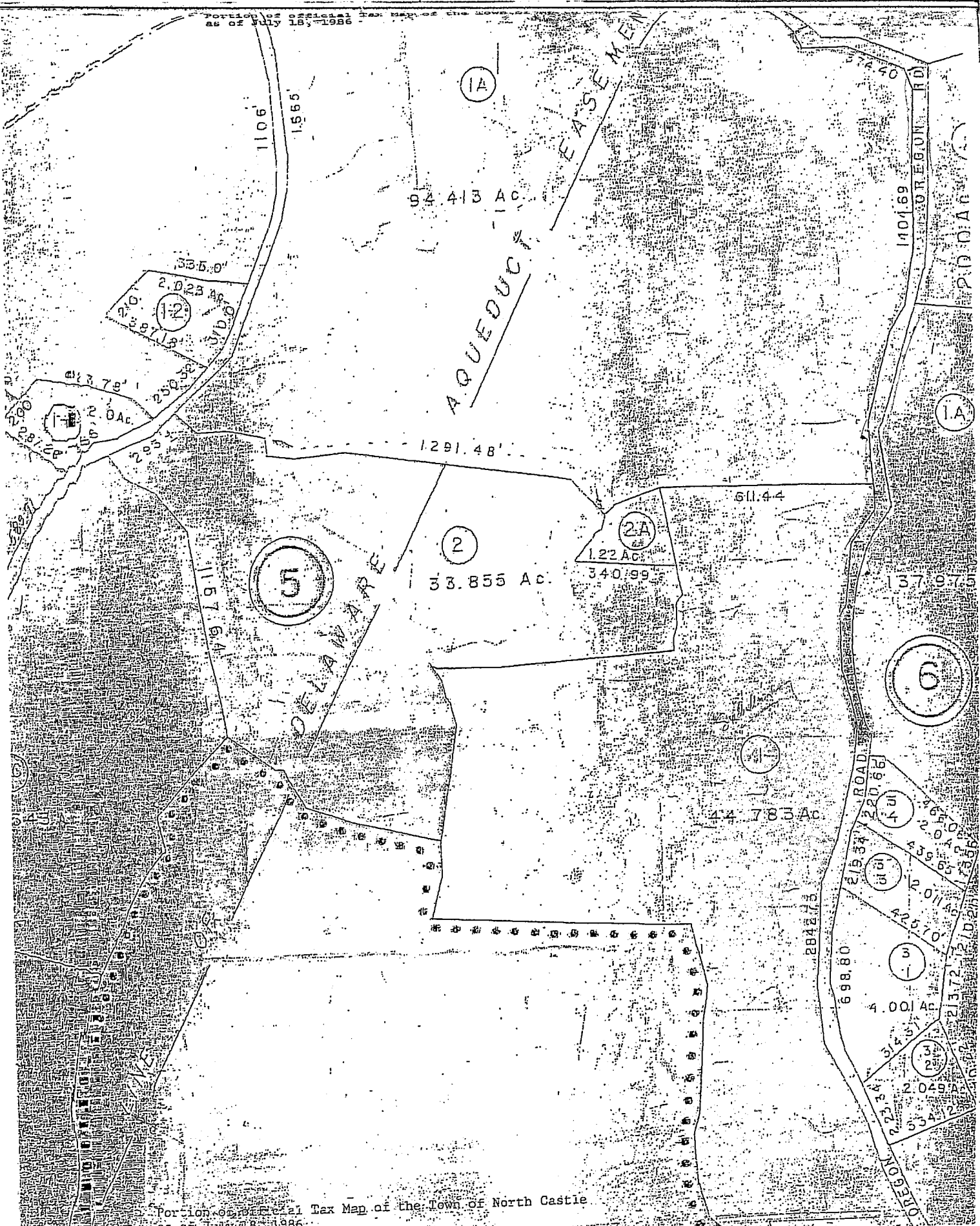
Dated: White Plains, New York  
September 22, 2009

DELBELLO DONNELLAN WEINGARTEN  
WISE & WIEDERKEHR, LLP  
Attorneys for Plaintiff

  
By: ALFRED E. DONNELLAN, ESQ.  
BRADLEY D. WANK, ESQ.

One North Lexington Avenue  
White Plains, New York 10601  
(914) 681-0200

A



Portion of Official Tax Map of the Town of North Castle  
as of July 18, 1986

7-11 SHEETS 5-6-10-11-12

Poor Quality



Portion of official Map of the Town of North Castle adopted by the Town Board on October 23, 1997

Poor Quality

Index No.

Year 20

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

SEVEN SPRINGS, LLC,

Plaintiff,

-against-

THE NATURE CONSERVANCY, ROBERT BURKE, TERI BURKE, NOEL B.  
DONOHOE and JOANN DONOHOE,

Defendants.

SUMMONS AND COMPLAINT

DELBELLO DONNELLAN WEINGARTEN  
WISE & WIEDERKEHR, LLP  
COUNSELLORS AT LAW

Attorneys for

Plaintiff

ONE NORTH LEXINGTON AVENUE  
WHITE PLAINS, NEW YORK 10601

(914) 681-0200

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: ..... Signature .....

Print Signer's Name.....

Service of a copy of the within ..... is hereby admitted.

Dated:

.....  
Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

that the within is a (certified) true copy of a  
NOTICE OF ENTERED IN THE OFFICE OF THE CLERK OF THE WITHIN-NAMED COURT ON 20

that an Order of which the within is a true copy will be presented for settlement to the  
NOTICE OF SETTLEMENT Hon. , one of the judges of the within-named Court,  
at  
on 20 , at M.

Dated:

DELBELLO DONNELLAN WEINGARTEN  
WISE & WIEDERKEHR, LLP  
COUNSELLORS AT LAW

Attorneys for

To:

ONE NORTH LEXINGTON AVENUE  
WHITE PLAINS, NEW YORK 10601

Attorney(s) for

STATE OF NEW YORK, COUNTY OF

ss:

I, the undersigned, am an attorney admitted to practice in the courts of New York, and

Check Applicable Box

Attorney's Certification

certify that the annexed has been compared by me with the original and found to be a true and complete copy thereof.

Attorney's Verification by Affirmation

say that: I am the attorney of record, or of counsel with the attorney(s) of record, for . I have read the annexed 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. My belief, as to those matters therein not stated upon knowledge, is based upon the following.

The reason I make this affirmation instead of is

I affirm that the foregoing statements are true under penalties of perjury.

Dated: (Print signer's name below signature)

STATE OF NEW YORK, COUNTY OF

ss:

being sworn says: I am

Check Applicable Box

Individual Verification

in the action herein; I have read the annexed 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.

Corporate Verification

the of a corporation, one of the parties to the action; I have read the annexed 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.

My belief, as to those matters therein not stated upon knowledge, is based upon the following:

Sworn to before me on , 20 (Print signer's name below signature)

STATE OF NEW YORK, COUNTY OF

ss:

being sworn says: I am not a party to the action, am over 18 years of

age and reside at

On , 20 , I served a true copy of the annexed in the following manner:

Check Applicable Box

Service by Mail

by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service, addressed to the address of the addressee(s) indicated below, which has been designated for service by the addressee(s) or, if no such address has been designated, is the last-known address of the addressee(s):

Personal Service

by delivering the same personally to the persons at the address indicated below:

Service by Facsimile

by transmitting the same to the attorney by facsimile transmission to the facsimile telephone number designated by the attorney for that purpose. In doing so, I received a signal from the equipment of the attorney served indicating that the transmission was received, and mailed a copy of same to that attorney, in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service, addressed to the address of the addressee(s) as indicated below, which has been designated for service by the addressee(s) or, if no such address has been designated, is the last-known address of the addressee(s):

Service by Electronic Means

by transmitting the same to the attorney by electronic means upon the party's written consent. In doing so, I indicated in the subject matter heading that the matter being transmitted electronically is related to a court proceeding:

Overnight Delivery Service

by depositing the same with an overnight delivery service in a wrapper properly addressed, the address having been designated by the addressee(s) for that purpose or, if none is designated, to the last-known address of addressee(s). Said delivery was made prior to the latest time designated by the overnight delivery service for overnight delivery. The address and delivery service are indicated below:

Sworn to before me on , 20

(Print signer's name below signature)