

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X  
DAWN BURKE as Administrator of the goods, chattels  
and credits which were of ANN E. STAHLBERG,  
deceased and DAWN BURKE. individually,

Index No.

Plaintiff,

-against-

**SUMMONS**

**NORTH BELLMORE FIRE DEPARTMENT,  
NORTH BELLMORE FIRE DISTRICT  
And THE COMMISSIONER OF THE NORTH  
BELLMORE FIRE DISTRICT**

Defendants

Plaintiff designates  
Nassau County as  
the place of trial.  
Plaintiff resides at  
2714 Wallace Avenue  
N. Bellmore, NY 11710  
Venue designated based  
on plaintiff's residence.

-----X  
**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 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); and in case of your failure to  
appear or answer, judgment will be taken against you by default for the relief  
demanded in the complaint.

Dated: St. James, New York  
November 29, 2017

Yours, etc.



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JAKUBOWSKI, ROBERTSON, MAFFEI  
GOLDSMITH & TARTAGLIA, LLP

By: Frank M. Maffei, Jr.  
Attorneys for Plaintiff  
969 Jericho Turnpike  
St. James, NY 11780  
(631) 360-0400

Defendants' addresses:

NORTH BELLMORE FIRE DIST  
1500 NEWBRIDGE ROAD  
N. BELLMORE, NY 11710

NORTH BELLMORE FIRE DISTRICT  
1500 NEWBRIDGE ROAD  
N. BELLMORE, NY 11710

THE COMMISSIONER OF THE NORTH BELLMORE FIRE DISTRICT  
1500 NEWBRIDGE ROAD  
N. BELLMORE, NY 11710

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X  
DAWN BURKE, As Administrator of the goods,  
Chattels and credits which were of ANN E. STAHLBERG  
And DAWN BURKE, individually,

Plaintiffs,

-against-

VERIFIED  
COMPLAINT

NORTH BELLMORE FIRE DEPARTMENT,  
NORTH BELLMORE FIRE DISTRICT and  
THE COMMISSIONER OF THE NORTH  
BELLMORE FIRE DISTRICT

Index No.

Defendants.

-----X  
Plaintiffs, by their attorneys, JAKUBOWSKI, ROBERTSON, MAFFEI,  
GOLDSMITH & TARTAGLIA, LLP sets forth and alleges the following as and for their  
Verified Complaint against the defendants:

**AS AND FOR A FIRST CAUSE OF ACTION:**

1. That at all times herein mentioned, DAWN BURKE, was appointed Administratrix of the goods, chattels and credits which were of ANN E. STAHLBERG, deceased, by the issuance of Certificate of Appointment of Administrator by the Surrogate's Court of Nassau County on March 20, 2017.
2. That at all times hereinafter mentioned, the defendant NORTH BELLMORE FIRE DEPARTMENT, was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

3. That at all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DEPARTMENT, was a foreign corporation duly organized and existing under and by virtue of the laws of the State of New York.
4. That at all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DEPARTMENT, was a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.
5. That at all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DEPARTMENT, was the owner of a certain ambulance.
6. That at all times hereinafter mentioned the defendant, NORTH BELLMORE FIRE DEPARTMENT, was the registered owner of a certain ambulance.
7. That at all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DEPARTMENT, its agents, servants and/or employees operated a certain ambulance and the equipment contained therein.
8. That at all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DEPARTMENT, its agents, servants and/or employees managed a certain ambulance and the equipment contained therein.
9. That all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DEPARTMENT, its agents, servants and/or

employees maintained a certain ambulance and the equipment contained therein.

10. That at all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DEPARTMENT, its agents, servants and/or employees controlled a certain ambulance and the equipment contained therein.
11. That at all times hereinafter mentioned, the defendant NORTH BELLMORE FIRE DISTRICT, was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.
12. That at all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DISTRICT, was a foreign corporation duly organized and existing under and by virtue of the laws of the State of New York.
13. That at all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DISTRICT, was a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.
14. That at all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DISTRICT, was the owner of a certain ambulance.
15. That at all times hereinafter mentioned the defendant, NORTH BELLMORE FIRE DISTRICT, was the registered owner of a certain ambulance.

16. That at all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DISTRICT, its agents, servants and/or employees operated a certain ambulance and the equipment contained therein.
17. That at all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DISTRICT, its agents, servants and/or employees managed a certain ambulance and the equipment contained therein.
18. That all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DISTRICT, its agents, servants and/or employees maintained a certain ambulance and the equipment contained therein.
19. That at all times hereinafter mentioned, the defendant, NORTH BELLMORE FIRE DISTRICT, its agents, servants and/or employees controlled a certain ambulance and the equipment contained therein.
20. That at all times hereinafter mentioned, the defendant THE COMMISSIONER OF THE NORTH BELLMORE FIRE DISTRICT, was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.
21. That at all times hereinafter mentioned, the defendant, THE COMMISSIONER OF THE NORTH BELLMORE FIRE DISTRICT, was a foreign corporation duly organized and existing under and by virtue of the laws of the State of New York.
22. That at all times hereinafter mentioned, the defendant, THE COMMISSIONER OF THE NORTH BELLMORE FIRE DISTRICT, was a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

23. That at all times hereinafter mentioned, the defendant, THE COMMISSIONER OF THE NORTH BELLMORE FIRE DISTRICT, was the owner of a certain ambulance.
24. That at all times hereinafter mentioned the defendant, THE COMMISSIONER OF THE NORTH BELLMORE FIRE DISTRICT, was the registered owner of a certain ambulance.
25. That at all times hereinafter mentioned, the defendant, THE COMMISSIONER OF THE NORTH BELLMORE FIRE DISTRICT, its agents, servants and/or employees operated a certain ambulance and the equipment contained therein.
26. That at all times hereinafter mentioned, the defendant, THE COMMISSERION OF THE NORTH BELLMORE FIRE DISTRICT, its agents, servants and/or employees managed a certain ambulance and the equipment contained therein.
27. That all times hereinafter mentioned, the defendant, THE COMMISSIONER OF THE NORTH BELLMORE FIRE DISTRICT, its agents, servants and/or employees maintained a certain ambulance and the equipment contained therein.
28. That at all times hereinafter mentioned, the defendant, THE COMMISSIONER OF THE NORTH BELLMORE FIRE DISTRICT, its agents, servants and/or employees controlled a certain ambulance and the equipment contained therein.
29. That on or about the 1st day of JANUARY, 2017, while this plaintiff's decedent was lawfully being transported by the defendants, their agents,

servants and/or employees carelessly, recklessly and negligently caused, allowed and permitted the plaintiff's decedent to fall off the gurney while being brought into St. Joseph's Hospital, 4295 Hempstead Turnpike, Bethpage, New York, causing the plaintiff's decedent to sustain traumatic injuries resulting in her untimely demise.

30. That the said defendants, their agents, servants and/or employees were **careless, reckless and negligent** in the ownership, operation, maintenance, management and control of the aforesaid ambulance and the equipment contained therein; **in failing to properly transport** the plaintiff's decedent; in failing to adhere to proper guidelines and protocols in transporting the plaintiff's decedent; **in failing to provide sufficient personnel to transport** the plaintiff's decedent; in carelessly, recklessly and negligently causing, allowing and permitting the aforesaid gurney to tip over on its side causing the plaintiff's decedent to strike her head on the cement thereat; **in failing to properly strap the plaintiff's decedent onto the gurney** before being transported out of said ambulance into the hospital; in failing to utilize safety devices for the proper protection of the plaintiff's decedent, including, but not limited to, straps, belts, braces, pulleys or ramps; in failing to ascertain the plaintiff's decedent was safely secured prior to moving her; in failing to have the gurney under reasonable and proper control; in carelessly, recklessly and negligently placing the plaintiff's decedent in a dangerous and hazardous situation; **in failing to properly train its personnel**; in **hiring** incompetent personnel; in failing to protect the plaintiff's decedent; in failing to take the proper means and



precautions to avoid and guard against the happening of this occurrence; that defendants knew, or by reasonable inspection thereof, should have known of the dangerous and defective condition existing thereat and failed to remedy the same; in failing to exercise due care and caution in the operation, maintenance, management and control of the aforesaid ambulance and gurney therein; in deviating from good and property safety protocols; in failing to act as reasonable and prudent persons under the circumstances then and there existing; in failing in their non delegable duties to the plaintiff herein; and in other ways acting in a dangerous, careless and reckless manner.

31. That at all times herein, the defendants had actual and/or constructive notice of the aforesaid dangerous and defective condition.
32. That heretofore and prior to this date, there was served on the defendants, a verified Notice of Claim which set forth the nature and extent of the damages sustained by the plaintiff. That the said verified Notice of Claim was duly served on the said defendants within ninety (90) days after the occurrence of the said accident as set forth herein. That more than 30 days have elapsed since the verified Notice of Claim and intention to sue the said defendants was served, and no adjustment or payment has been made in said verified Notice of Claim and that payment has been refused.
33. That as a result of the aforesaid, plaintiff's decedent was caused to sustain severe personal injuries and conscious pain and suffering ultimately resulting in her untimely wrongful death.

34. That by reason of the premises, plaintiffs, next-of-kin and distributees who survived plaintiff's decedent's death and who suffered pecuniary loss resulting therefrom have been damaged in a sum in excess of the monetary limits of any lower courts.
35. The plaintiff's decedent sustained a serious injury resulting in basic economic loss and non economic loss, as defined by Section 5102 of the Insurance Law of the State of New York, and has the right of recovery against the defendants herein for personal injuries, basic economic loss and non economic loss, pursuant to Section 5104 of the Insurance Law of the State of New York.
36. Plaintiff's decedent sustained a serious injury as defined in sub-division (d) of Section 5102 of the Insurance law of the State of New York, or economic loss greater than the basic economic loss, as defined in sub-division (a) of Section 5102 of the Insurance Law of the State of New York.
37. That this action falls within one or more of the exceptions set forth in C.P.L.R 1602.

**AS AND FOR A SECOND CAUSE OF ACTION:**

38. That at all times hereinafter mentioned, this plaintiff repeats, reiterates and realleges each and every allegation as set forth above with the same force and effect as though the same were set forth at length herein.
39. That as a result of the aforesaid, plaintiff's decedent was caused to sustain severe personal injuries, resulting in her untimely death.

- 40. That at all times hereinafter mentioned, the defendants inflicted injury and harm upon the person of plaintiff's decedent.
- 41. That by reason of the premises and the conscious pain and suffering sustained by plaintiff's decedent, plaintiff, next-of-kin and those entitled to share in the distribution of the estate have been damaged in a sum in excess of the monetary limits of any lower courts.
- 42. That this action falls within one or more of the exceptions set forth in C.P.L.R. 1602.

WHEREFORE, plaintiffs demand judgment against the defendants in the first cause of action in a sum in excess of monetary limits of any lower courts; against the defendants in the second cause of action in a sum in excess of the monetary limits of any lower courts, together with the costs and disbursements of these actions.

Dated: St. James, New York  
November 29, 2017

**JAKUBOWSKI, ROBERTSON,  
MAFFEI, GOLDSMITH &  
TARTAGLIA, LLP**

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**BY: FRANK M. MAFFEI, JR.**  
**Attorneys for Plaintiffs**  
**969 Jericho Turnpike**  
**St. James, NY 11780**  
**631-360-0400**



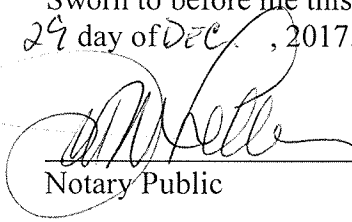
**VERIFICATION**

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

The undersigned, being duly sworn deposes and says that the deponent is one of the parties in the within action; that the deponent has read the attached Summons and Complaint and knows the contents thereof; that the same is true to deponent's own knowledge except as to matters herein stated to be alleged upon information and belief and as to those matters deponent believes them to be true.

  
\_\_\_\_\_  
DAWN BURKE

Sworn to before me this  
29 day of Dec., 2017.

  
\_\_\_\_\_  
Notary Public

JEANNE M. LETTIERI  
NOTARY PUBLIC - STATE OF NEW YORK  
NO. 02LE6171648  
QUALIFIED IN NASSAU COUNTY  
MY COMMISSION EXPIRES JULY 30, 2019

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU INDEX NO.:

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DAWN BURKE, as Administrator of the goods, chattels and  
Credits which were of ANN E. STAHLBERG, deceased  
And DAWN BURKE, individually

PLAINTIFFS,

-against-

NORTH BELLMORE FIRE DEPARTMENT,  
NORTH BELLMORE FIRE DISTRICT and THE  
COMMISSIONER OF THE NORTH BELLMORE FIRE DISTRICT

DEFENDANTS.

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SUMMONS & COMPLAINT

**Law Office of  
JAKUBOWSKI, ROBERTSON,  
MAFFEI, GOLDSMITH & TARTAGLIA, LLP  
Attorneys for Plaintiff  
969 Jericho Turnpike  
St. James, NY 11780  
(631) 360-0400**

**TO:**

**Attorneys for**

*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 document are not frivolous.*

Dated: 1-5-17

Signature [Handwritten Signature]

Print Signer's Name Frank Maffei

Service of a copy of the within is hereby  
admitted.

Dated: .....

Attorney(s) for

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**NOTICE OF ENTRY**

PLEASE TAKE NOTICE that the within is a (certified) true copy of a entered in the  
office of the within named Court on

Dated:

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

Dated: