

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X

RYAN KLIMAR,

Plaintiff,

-against-

SETAUKET FIRE DEPARTMENT, INC.,  
DAVID STERNE, and JANINE LEUTE

Defendants.

-----X

Civil Action No. 21-1966

**COMPLAINT**

Plaintiff Demands  
Trial by Jury

Plaintiff by his attorneys, DeTOFFOL & ASSOCIATES, Attorneys at Law, complains of the Defendants herein, alleging at all relevant and material times and upon information and belief, as follows:

**Nature Of The Case**

Plaintiff complains against Defendants for violations of The Americans With Disabilities Act 42 U.S.C. §12112; the New York State Human Rights Law under NYS Executive Law §296 et. seq. (“NYSHRL”); New York State Executive Law §296(7); New York State Executive Law §296(6); and seeks damages to redress the injuries Plaintiff has suffered as a result thereby for disability discrimination, hostile work environment, retaliation, and wrongful termination.

**Jurisdiction & Venue**

1. Plaintiff Mr. Klimar (hereinafter “employee” or “Mr. Klimar”) is a male individual, residing in the County of Suffolk, State of New York.

2. Defendant Setauket Fire Department, Inc. (hereinafter “Employer”) was and still is a domestic not-for-profit corporation duly organized and existing under and by virtue of the laws of the County of Suffolk and the State of New York.

3. Defendants Setauket Fire District controlled operations conducted at 190 Main Street, East Setauket, New York 11733 (hereinafter “Workplace”).

4. Jurisdiction of this action is conferred upon the Court insofar that this action involves a federal question under The Americans With Disabilities Act.

5. The Court, pursuant to *Gibb*, 38 U.S. 715 (1966), has supplemental jurisdiction over the Counts based on laws of the State of New York.

6. Venue is proper in this district under 28 U.S.C. §1391(b) and otherwise based upon the fact that a substantial part of the events or omissions giving rise to the claim occurred within the Eastern District of the State of New York, and Plaintiff was employed by Defendant Employer within the Eastern District of the State of New York.

7. Defendant Employer meets the statutory minimum number of employees that are required for an action under The Americans With Disabilities Act.

8. On February 2, 2021, the Equal Employment Opportunity Commission granted Plaintiff the right to sue [Annexed hereto].

9. This Complaint has been filed within 90 days of receipt of the aforementioned permission letter.

### **PRELIMINARY FACTS**

10. On or about May 9, 2018, Mr. Klimar was employed by Defendant Employer with the official title of Fire House Attendant.

11. Defendant David Sterne (hereinafter “District Manager”) was a district manager for Defendant Employer and Mr. Klimar’s supervisor at the Workplace, with supervisory authority, performance authority, and hiring and firing capacity over Mr. Klimar.

12. Defendant Janine Leute (hereinafter “Direct-Supervisor”) was a Dispatch Supervisor for Defendant Employer and Mr. Klimar’s supervisor at the Workplace, with supervisory authority, performance authority, and hiring and firing capacity over Mr. Klimar.

### **Facts Concerning Defendants’ Unlawful Actions**

13. Throughout the course of Plaintiff’s employment, Plaintiff was qualified for his position and performed his duties in a professional and competent manner.

7. During his time employed at the Workplace, Mr. Klimar was a hard-working employee who performed his job well.

8. In February 2020, Plaintiff was hospitalized for the onset of a mood depression episode and later discharged from the hospital on February 11, 2020.

9. On or about February 12, 2020, Plaintiff called the Direct-Supervisor and informed her that he was hospitalized related to his formally diagnosed depression.

10. Plaintiff was available to attend and did work his next scheduled shift at the Workplace on February 12, 2020 – that same day.

11. On February 14, 2020, the District Manager informed Mr. Klimar that he would not allow Mr. Klimar to work his upcoming shifts until further notice because of Mr. Klimar’s depression-diagnosed condition.

12. However, before Mr. Klimar’s next scheduled shift, the District Manager changed his position and allowed Mr. Klimar to continue to work his next shift.

13. On February 18, 2020, Plaintiff attended a meeting with the District Manager and the Direct-Supervisor.

14. In this meeting, the District Manager informed Mr. Klimar that he is not permitted to return work to the Workplace because of the diagnosis of depression.

15. In Response, and upon the District Manager's request, Mr. Klimar provided Defendants with a note from his regularly treating medical professional, clearing him as medically fit to work his position.

16. Despite Mr. Klimar's medical clearance, Defendants disallowed Mr. Klimar to return or resume any activity in the Workplace.

17. Rather than provide Plaintiff with reasonable, appropriate, effective and consistent accommodations, Defendants instead, disregarded Mr. Klimar's medical clearance and recommendation that he is fit for work.

18. Without engaging in any interactive process exploring any possible alternatives, Defendants terminated or constructively terminated Mr. Klimar's employment for the discriminatory and unfounded premise that he was lame and unable to work or be accommodated for his disability.

19. Mr. Klimar was a qualified individual who could perform the essential functions of his employment.

20. At all times material hereto, Plaintiff has been a member of a protected class as a result of a qualified disability, under the Americans with Disabilities Act, insofar that Mr. Klimar's depression constitutes a disability.

21. Mr. Klimar's depression constitutes a disability under the New York State Human Rights Law.

22. Defendants terminated Mr. Klimar's employment solely due to his disability.

### **Damages**

23. Defendants were completely unreceptive to Plaintiff's disability, and instead retaliated against him by treating him in a hostile manner different from other employees and terminating his employment, causing him to suffer economic and pecuniary loss, as well as additional emotional distress and humiliation.

24. Plaintiff's aforementioned disability, qualified his status under federal, and New York State law protecting him from disparate treatment due to his disability.

25. As a result of the unlawful acts and conduct complained of herein, Plaintiff has suffered pecuniary economic losses, as well as compensable emotional pain, suffering, and emotional loss in enjoyment of life damages.

26. Insofar that Defendants' conduct has been malicious, willful, outrageous, and conducted with full knowledge of the law, Plaintiff asserts a punitive damage assessment against Defendants.

27. In sum, Plaintiff seeks recovery for damages to past and future wages and earnings loss, emotional distress damages, punitive assessment, and attorneys' fees.

### **COUNT ONE FOR DISABILITY DISCRIMINATION UNDER FEDERAL AMERICANS WITH DISABILITIES ACT (Against Defendant Employer)**

28. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this Complaint.

29. The Americans With Disabilities Act 42 U.S.C. § 12112 et seq. ("ADA") provides that:

"No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or *discharge of employees*, employee compensation, job training, and other terms, conditions, and privileges of employment"

30. Plaintiff is a qualified individual with a disability within the meaning of 42 U.S.C. § 12111(8).

31. Defendants violated the section cited herein as set forth and discriminated against Plaintiff because of his disability by discharging him because of his medical condition.

**COUNT TWO FOR DISABILITY & RETALIATION DISCRIMINATION  
UNDER NEW YORK STATE EXECUTIVE LAW  
(Against Defendant Employer)**

32. Plaintiff repeats, reiterates and realleges each and every allegation made in the above paragraphs of this Complaint as if more fully set forth herein at length.

33. Executive Law § 296 provides that :

"1. It shall be an unlawful discriminatory practice: "(a) For an employer or licensing agency, because of an individual's age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim status, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment."

34. Defendants violated the section cited herein as set forth and engaged in an unlawful discriminatory practice by discriminating against the Plaintiff because of his disability and discharging him.

35. Plaintiff hereby makes this claim against Defendants under all of the applicable paragraphs of Executive Law § 296.

**COUNT THREE FOR AIDING & ABETTING DISABILITY DISCRIMINATION  
UNDER NEW YORK STATE EXECUTIVE LAW  
(Against All Defendants)**

36. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this Complaint.

37. New York State Executive Law §296(6) provides that it shall be an unlawful discriminatory practice: "For any person to aid, abet, incite compel or coerce the doing of any acts forbidden under this article, or attempt to do so."

38. Defendants engaged in an unlawful discriminatory practice in violation of New York State Executive Law §296(6) by aiding, abetting, inciting, compelling and coercing the discriminatory conduct.

**Relief**

WHEREFORE, Plaintiff respectfully demands against Defendants on each and every respective Count:

(a) An award to Plaintiff of compensatory damages in an amount to be determined at trial for all damages including but not limited to economic damages for lost past back pay and future front pay wages and attendant benefits;

(b) An award to Plaintiff of compensatory damages in an amount to be determined at trial for all damages including but not limited to past and future non-economic damages for humiliation, pain and suffering and emotional distress sustained;

- (c) An award to Plaintiff of the costs of this action, including their reasonable attorney's fees to the fullest extent permitted by law;
- (d) An award of punitive damages in an amount to be determined at trial; and
- (e) Such other and further relief as this Court deems necessary and proper.

**Jury Demand**

Plaintiff requests a jury trial on all issues to be tried.

Dated: New York, New York  
April 9, 2021



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Joshua Gittleman, Esq.  
DeTOFFOL & ASSOCIATES, Attorneys at Law  
125 Maiden Lane. Suite 5C  
New York, New York 10038  
Tel. (212) 962-2220  
Attorneys for Plaintiff



DISMISSAL AND NOTICE OF RIGHTS

To: Ryan Klimar
43 Northwood Boulevard
Central Islip, NY 11722

From: New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

Empty checkbox

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No. 16G-2020-03600
EEOC Representative Holly M. Shabazz, State & Local Program Manager
Telephone No. (929) 506-5316

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- Options for reasons for closing file: 1. Facts fail to state a claim... 2. Allegations did not involve a disability... 3. Respondent employs less than required... 4. Charge not timely filed... 5. EEOC issues determination... 6. EEOC has adopted findings... 7. Other (briefly state) Charging Party wishes to pursue matter in Federal District Court.

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost.

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

Handwritten signature of Judy A. Keenan

February 2, 2021

Enclosures(s)

Judy A. Keenan, District Director

(Date Issued)

cc: Attn: Director of Human Resources
SETAUKET FIRE DISTRICT
26 Hulse Road
East Setauket, NY 11733

Joshua Gittleman, Esq.
DeToffol & Associates

JS 44 (Rev. 10/20)

### CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p><b>I. (a) PLAINTIFFS</b>                  RYAN KLIMAR</p> <p><b>(b)</b> County of Residence of First Listed Plaintiff <u>Suffolk County</u>                  (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p><b>(c)</b> Attorneys (Firm Name, Address, and Telephone Number)                  DeTOFFOL &amp; GITTLEMAN, Attorneys at Law                  125 Maiden Lane – Suite 5C, New York, New York 10038                  Tel. (212) 962-2220</p>	<p><b>DEFENDANTS</b>                  SETAUKET FIRE DEPARTMENT, INC.,                  DAVID STERNE, and JANINE LEUTE</p> <p>County of Residence of First Listed Defendant _____                  (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:33%;">PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:33%;">PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td>PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6
Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4										
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Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6										

**IV. NATURE OF SUIT** (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p><b>PERSONAL PROPERTY</b></p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p><b>CIVIL RIGHTS</b></p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p><b>LABOR</b></p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p><b>LABOR</b></p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	
	<p><b>PRISONER PETITIONS</b></p> <p><b>Habeas Corpus:</b></p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p><b>Other:</b></p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<p><b>IMMIGRATION</b></p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<p><b>BANKRUPTCY</b></p> <p><b>PROPERTY RIGHTS</b></p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<p><b>SOCIAL SECURITY</b></p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<p><b>FEDERAL TAX SUITS</b></p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District (specify)     6 Multidistrict Litigation - Transfer     8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 The Americans With Disabilities Act 42 U.S.C. §12112


Brief description of cause:  
 redress the injuries Plaintiff has suffered as a result thereby for disability discrimination

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    **DEMAND \$** \_\_\_\_\_    CHECK YES only if demanded in complaint:  
**JURY DEMAND:**     Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 4/12/2021    SIGNATURE OF ATTORNEY OF RECORD 

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**CERTIFICATION OF ARBITRATION ELIGIBILITY**

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, David DeToffol, counsel for Plaintiff RYAN KLIMAR, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

**DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

**RELATED CASE STATEMENT (Section VIII on the Front of this Form)**

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

**NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)**

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County?  Yes  No
- 2.) If you answered "no" above:
  - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County?  Yes  No
  - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District?  Yes  No
  - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County?  Yes  No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

**BAR ADMISSION**

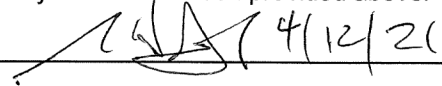
I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes  No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain)  No

I certify the accuracy of all information provided above.

Signature:  4/12/21

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Eastern District of New York

RYAN KLIMAR

Plaintiff(s)

v.

SETAUKET FIRE DEPARTMENT INC.,
DAVID STERNE, and JANINE LEUTE

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Setauket Fire Department, Inc.
190 Main Street
East Setauket, New York, 11733

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Joshua Gittleman, Esq.
DeTOFFOL & ASSOCIATES, Attorneys at Law
125 Maiden Lane – Suite 5C
New York, New York 10038
Tel. (212) 962-2220

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Eastern District of New York

RYAN KLIMAR

Plaintiff(s)

v.

SETAUKET FIRE DEPARTMENT INC.,
DAVID STERNE, and JANINE LEUTE

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Janine Leute via employer
190 Main Street
East Setauket, New York, 11733

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Joshua Gittleman, Esq.
DeTOFFOL & ASSOCIATES, Attorneys at Law
125 Maiden Lane – Suite 5C
New York, New York 10038
Tel. (212) 962-2220

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Eastern District of New York

RYAN KLIMAR

Plaintiff(s)

v.

SETAUKET FIRE DEPARTMENT INC.,
DAVID STERNE, and JANINE LEUTE

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

David Sterne via employer
190 Main Street
East Setauket, New York, 11733

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Joshua Gittleman, Esq.
DeTOFFOL & ASSOCIATES, Attorneys at Law
125 Maiden Lane – Suite 5C
New York, New York 10038
Tel. (212) 962-2220

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk