

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

DEREK ROSE and DANIELLE ROSE
24 Heussy Avenue
Buffalo, New York 14220,

Plaintiffs,

vs.

RICHARD MANLEY
102 Turner Avenue
Buffalo, New York 14220

Defendant.

Index No.

Plaintiffs designate Erie
County as the place of trial

The basis of venue is
Plaintiffs' residence

SUMMONS

Plaintiffs reside in
Buffalo, New York

TO THE ABOVE-NAMED DEFENDANT:

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 attorneys within TWENTY (20) DAYS after the service of this Summons, exclusive of the day of service (or within THIRTY (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: Buffalo, New York
March 16, 2023

LIPSITZ GREEN SCIME CAMBRIA LLP

By: _____



WILLIAM P. MOORE, ESQ.

Attorneys for Plaintiffs
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42 Delaware Avenue, Suite 120
Buffalo, New York 14202
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DEREK ROSE and DANIELLE ROSE,

Plaintiffs,

vs.

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Defendant.

COMPLAINT

Index No.

Plaintiffs, DEREK ROSE and DANIELLE ROSE, by their attorneys, LIPSITZ GREEN SCIME CAMBRIA LLP, for their Complaint against the defendants, RICHARD MANLEY, allege:

**AS AND FOR A FIRST CAUSE OF ACTION
AGAINST THE DEFENDANT, RICHARD MANLEY,
THE PLAINTIFF, DEREK ROSE, ALLEGES:**

1. The plaintiffs, DEREK ROSE and DANIELLE ROSE, at all times hereinafter mentioned, were and still are residents of the City of Buffalo located within the County of Erie and the State of New York.

2. Upon information and belief, at all times hereinafter mentioned, the defendant, RICHARD MANLEY, was and still is a resident of the City of Buffalo located within the County of Erie and the State of New York.

3. On or about the 19th day of March, 2022, at the Blackthorn Restaurant and Pub, located at 2134 Seneca Street in the City of Buffalo,

County of Erie and the State of New York, the defendant, RICHARD MANLEY, caused injury to the plaintiff, DEREK ROSE, as hereinafter alleged.

4. Upon information and belief, the alleged incident hereinbefore described and the resultant injuries were caused as the result of the negligence, carelessness and reckless conduct on the part of the defendant, RICHARD MANLEY.

5. As a result of the alleged incident, the plaintiff, DEREK ROSE, sustained bodily injuries and was painfully and seriously injured, and some of the injuries may result in permanent defects; was rendered sick, sore, lame and disabled; sustained pain and suffering and shock to his nerves and nervous system; was caused to and did seek medical aid and attention; was caused to be confined to hospital, bed and home; was caused to and did incur great medical expense, and may incur further medical expense; was caused to be incapacitated from his usual activities and employment, and may be further incapacitated.

6. Upon information and belief, the defendant, RICHARD MANLEY, affirmatively created the dangerous and defective condition described herein.

7. This action falls within one or more of the exceptions set forth in CPLR §1602.

8. As a result of the foregoing, the plaintiff has sustained general and special damages in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION
AGAINST THE DEFENDANT, RICHARD MANLEY,
THE PLAINTIFF, DEREK ROSE, ALLEGES:**

9. Repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "8" of this Complaint with the same force and effect as if fully set forth herein.

10. Upon information and belief, the said injuries were caused by the defendant, RICHARD MANLEY, intentionally striking the plaintiff, DEREK ROSE.

11. As a result of the foregoing, the plaintiff has sustained general and special damages in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A THIRD CAUSE OF ACTION AGAINST
THE DEFENDANTS, ABOVE-NAMED,
THE PLAINTIFF, DANIELLE ROSE, ALLEGES:**

12. Repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "11" of this Complaint with the same force and effect as if fully set forth herein.

13. At all times herein mentioned, the plaintiff, DANIELLE ROSE, was the wife of the plaintiff, DEREK ROSE, and was entitled to the services, society, consortium and companionship of her spouse.

14. Upon information and belief, as a result of the aforesaid incident, the plaintiff, DANIELLE ROSE, was deprived of the services, society, consortium and companionship of her spouse.


15. Upon information and belief, as a result of the aforesaid incident, the plaintiff, DANIELLE ROSE, was caused to and did incur medical expenses, and may incur further medical expenses for the care and treatment of her spouse.

16. As a result of the foregoing, the plaintiff has sustained general and special damages in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, the plaintiffs demand judgment against the defendants, RICHARD MANLEY in the First, Second and Third Causes of Action in an amount which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction, and for such other, further or different relief as the Court may deem just and proper, together with the costs and disbursements of the action.

DATED: Buffalo, New York
March 16, 2023

LIPSITZ GREEN SCIME CAMBRIA LLP

By: 
WILLIAM P. MOORE, ESQ.

Attorneys for Plaintiffs
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