

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X Index No.:

ANGEL PERALTA ORDONEZ,

Plaintiff,

-against-

BOERUM HILL 82 LLC., KLEIN'S SAFETY,
INC., and TARGET CONSTRUCTION LLC.,

Defendants.

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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 attorneys 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 in the Complaint.

Dated: New York, New York
February 24, 2023

Yours, etc.,

Ross Barbour

Ross Barbour, Esq.

**WINGATE RUSSOTTI SHAPIRO
MOSES & HALPERIN, LLP***Attorneys for Plaintiff*ANGEL PERALTA ORDONEZ
420 Lexington Avenue, Suite 2700
New York, New York 10170
(212) 986-7353TO: **Via Secretary of State & Personal Service**BOERUM HILL 82 LLC.
1274 49th Street, Suite 444
Brooklyn, New York 11219KLEIN'S SAFETY, INC.
29-33 Mott Avenue
Far Rockaway, New York 11691

TARGET CONSTRUCTION LLC.
4118 14th Avenue, Suite 114
Brooklyn, New York 11219

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS-----X
ANGEL PERALTA ORDONEZ,

Index No.:

Plaintiff,

VERIFIED COMPLAINT

-against-

BOERUM HILL 82 LLC., KLEIN'S SAFETY,
INC., and TARGET CONSTRUCTION LLC.,

Defendants.

-----X

Plaintiff, by his attorneys, WINGATE RUSSOTTI SHAPIRO MOSES & HALPERIN,
LLP, complaining of the defendants herein, respectfully show to this Court, and allege as follows:

**AS AND FOR A FIRST CAUSE OF ACTION ON
BEHALF OF THE PLAINTIFF ANGEL PERALTA ORDONEZ**

1. That the subject accident occurred on November 8, 2022 at or about 82 Fourth Avenue, Brooklyn, New York.
2. That at all times mentioned herein, the defendant, BOERUM HILL 82 LLC., is, was and has been 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 mentioned herein, the defendant, BOERUM HILL 82 LLC., is, was and has been a foreign corporation and/or other foreign business entity, duly authorized to do business in the State of New York.
4. That at all times mentioned herein the defendant, BOERUM HILL 82 LLC., is, was and has been a domestic partnership and/or other domestic business entity doing business in the State of New York.

5. That at all times mentioned herein the defendant, BOERUM HILL 82 LLC., is, was and has been a franchisee authorized to do business in the State of New York.

6. That at all times mentioned herein, the defendant, BOERUM HILL 82 LLC., transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

7. That on or about November 8, 2022, and at all times hereinafter mentioned and upon information and belief, the defendant, BOERUM HILL 82 LLC., was the owner of a certain premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

8. At all times hereinafter mentioned, the defendant, BOERUM HILL 82 LLC., was the lessee of a certain premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

9. At all times hereinafter mentioned, the defendant, BOERUM HILL 82 LLC., was the lessor of a certain premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

10. At all times hereinafter mentioned, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees operated the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

11. At all times hereinafter mentioned, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees managed the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

12. At all times hereinafter mentioned, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees maintained the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

13. At all times hereinafter mentioned, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees controlled the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

14. At all times hereinafter mentioned, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees supervised the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

15. At all times hereinafter mentioned, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees hired contractors and/or subcontractors to perform construction work at the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

16. At all times hereinafter mentioned, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees directed the construction taking place at the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

17. At all times hereinafter mentioned, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees controlled the construction taking place at the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

18. At all times hereinafter mentioned, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees supervised the construction taking place at the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

19. That at all times hereinafter mentioned and upon information and belief, defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees were acting as construction manager providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

20. That at all times hereinafter mentioned and upon information and belief, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees were acting as construction manager pursuant to a contract and/or agreement to provide certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

21. That at all times hereinafter mentioned and upon information and belief, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees were acting as the general contractor providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

22. That at all times hereinafter mentioned and upon information and belief, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees were acting as the general contractor pursuant to a contract and/or agreement to provide certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

23. That at all times hereinafter mentioned and upon information and belief, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees were acting as a

contractor to provide certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

24. That at all times hereinafter mentioned and upon information and belief, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees were acting as a contractor pursuant to a contract and/or agreement providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

25. That at all times hereinafter mentioned and upon information and belief, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees were acting as the managing agent providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

26. That at all times hereinafter mentioned and upon information and belief, the defendant, BOERUM HILL 82 LLC., its agents, servants and/or employees were acting as the managing agent pursuant to a contract and/or agreement providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

27. That at all times mentioned herein, the defendant, KLEIN'S SAFETY, INC., is, was and has been a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

28. That at all times mentioned herein, the defendant, KLEIN'S SAFETY, INC., is, was and has been a foreign corporation and/or other foreign business entity, duly authorized to do business in the State of New York.

29. That at all times mentioned herein the defendant, KLEIN'S SAFETY, INC., is, was and has been a domestic partnership and/or other domestic business entity doing business in the State of New York.

30. That at all times mentioned herein the defendant, KLEIN'S SAFETY, INC., is, was and has been a franchisee authorized to do business in the State of New York.

31. That at all times mentioned herein, the defendant, KLEIN'S SAFETY, INC., transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

32. That on or about November 8, 2022, and at all times hereinafter mentioned and upon information and belief, the defendant, KLEIN'S SAFETY, INC., was the owner of a certain premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

33. At all times hereinafter mentioned, the defendant, KLEIN'S SAFETY, INC., was the lessee of a certain premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

34. At all times hereinafter mentioned, the defendant, KLEIN'S SAFETY, INC., was the lessor of a certain premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

35. At all times hereinafter mentioned, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees operated the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

36. At all times hereinafter mentioned, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees managed the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

37. At all times hereinafter mentioned, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees maintained the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

38. At all times hereinafter mentioned, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees controlled the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

39. At all times hereinafter mentioned, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees supervised the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

40. At all times hereinafter mentioned, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees hired contractors and/or subcontractors to perform construction work at the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

41. At all times hereinafter mentioned, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees directed the construction taking place at the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

42. At all times hereinafter mentioned, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees controlled the construction taking place at the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

43. At all times hereinafter mentioned, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees supervised the construction taking place at the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

44. That at all times hereinafter mentioned and upon information and belief, defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees were acting as construction manager providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

45. That at all times hereinafter mentioned and upon information and belief, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees were acting as construction manager pursuant to a contract and/or agreement to provide certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

46. That at all times hereinafter mentioned and upon information and belief, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees were acting as the general contractor providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

47. That at all times hereinafter mentioned and upon information and belief, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees were acting as the general contractor pursuant to a contract and/or agreement to provide certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

48. That at all times hereinafter mentioned and upon information and belief, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees were acting as a contractor to provide certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

49. That at all times hereinafter mentioned and upon information and belief, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees were acting as a contractor pursuant to a contract and/or agreement providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

50. That at all times hereinafter mentioned and upon information and belief, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees were acting as the managing agent providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

51. That at all times hereinafter mentioned and upon information and belief, the defendant, KLEIN'S SAFETY, INC., its agents, servants and/or employees were acting as the managing agent pursuant to a contract and/or agreement providing certain work, labor, services

and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

52. That at all times mentioned herein, the defendant, TARGET CONSTRUCTION LLC., is, was and has been a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

53. That at all times mentioned herein, the defendant, TARGET CONSTRUCTION LLC., is, was and has been a foreign corporation and/or other foreign business entity, duly authorized to do business in the State of New York.

54. That at all times mentioned herein the defendant, TARGET CONSTRUCTION LLC., is, was and has been a domestic partnership and/or other domestic business entity doing business in the State of New York.

55. That at all times mentioned herein the defendant, TARGET CONSTRUCTION LLC., is, was and has been a franchisee authorized to do business in the State of New York.

56. That at all times mentioned herein, the defendant, TARGET CONSTRUCTION LLC., transacted business within the State of New York; regularly did or solicited business within the State of New York or engaged in other persistent courses conduct and/or derived substantial revenue from goods used or consumed or services rendered in the State of New York and expected or should have reasonably expected its acts to have consequences within the State of New York and/or derived substantial revenue from interstate or international commerce.

57. That on or about November 8, 2022, and at all times hereinafter mentioned and upon information and belief, the defendant, TARGET CONSTRUCTION LLC., was the owner of a certain premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

58. At all times hereinafter mentioned, the defendant, TARGET CONSTRUCTION LLC., was the lessee of a certain premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

59. At all times hereinafter mentioned, the defendant, TARGET CONSTRUCTION LLC., was the lessor of a certain premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

60. At all times hereinafter mentioned, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees operated the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

61. At all times hereinafter mentioned, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees managed the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

62. At all times hereinafter mentioned, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees maintained the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

63. At all times hereinafter mentioned, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees controlled the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

64. At all times hereinafter mentioned, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees supervised the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

65. At all times hereinafter mentioned, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees hired contractors and/or subcontractors to perform

construction work at the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

66. At all times hereinafter mentioned, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees directed the construction taking place at the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

67. At all times hereinafter mentioned, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees controlled the construction taking place at the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

68. At all times hereinafter mentioned, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees supervised the construction taking place at the aforesaid premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

69. That at all times hereinafter mentioned and upon information and belief, defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees were acting as construction manager providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

70. That at all times hereinafter mentioned and upon information and belief, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees were acting as construction manager pursuant to a contract and/or agreement to provide certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

71. That at all times hereinafter mentioned and upon information and belief, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees were acting as the general contractor providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

72. That at all times hereinafter mentioned and upon information and belief, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees were acting as the general contractor pursuant to a contract and/or agreement to provide certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

73. That at all times hereinafter mentioned and upon information and belief, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees were acting as a contractor to provide certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

74. That at all times hereinafter mentioned and upon information and belief, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees were acting as a contractor pursuant to a contract and/or agreement providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

75. That at all times hereinafter mentioned and upon information and belief, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees were acting

as the managing agent providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

76. That at all times hereinafter mentioned and upon information and belief, the defendant, TARGET CONSTRUCTION LLC., its agents, servants and/or employees were acting as the managing agent pursuant to a contract and/or agreement providing certain work, labor, services and material with respect to certain work, repairs, construction and renovations to be conducted at the aforesaid premises/construction site located at 82 Fourth Avenue, Brooklyn, New York.

77. That at all times mentioned herein, and on or prior to November 8, 2022, the defendants, their agents, servants, associates and/or employees, were performing construction, demolition, repair, alteration, and/or rehabilitation work, labor and/or services, at the premises and/or building and/or land located at 82 Fourth Avenue, Brooklyn, New York.

78. That at all times relevant hereto, defendant, TARGET CONSTRUCTION LLC., rendered services to BOERUM HILL 82 LLC.

79. That prior to and including on November 8, 2022, defendant TARGET CONSTRUCTION LLC. launched an instrument or force of harm.

80. That prior to and including on November 8, 2022, defendant TARGET CONSTRUCTION LLC. launched an instrument or force of harm which caused plaintiff to be injured.

81. That prior to and including on November 8, 2022, plaintiff relied on the performance by defendant TARGET CONSTRUCTION LLC. of those services.

82. That prior to and including on November 8, 2022, plaintiff relied on the performance by defendant TARGET CONSTRUCTION LLC. of those services, to plaintiff's detriment.

83. That prior to and including on November 8, 2022, defendant TARGET CONSTRUCTION LLC. negligently, recklessly and carelessly performed those services.

84. That prior to and including on November 8, 2022, defendant TARGET CONSTRUCTION LLC.'s negligence, recklessness and carelessness in performing services caused plaintiff to be injured.

85. That prior to and including on November 8, 2022, defendant TARGET CONSTRUCTION LLC. launched an instrument or force of harm which caused injuries to plaintiff.

86. That prior to and including on November 8, 2022, defendant TARGET CONSTRUCTION LLC.'s duties displaced the duties of one or more of defendants.

87. That prior to and including on November 8, 2022, defendant TARGET CONSTRUCTION LLC. breached their duties which caused plaintiff to be injured.

88. That at all times mentioned herein and on or prior to November 8, 2022, construction and/or renovation and/or repair work and/or demolition work was underway at the premises and/or building and/or land as aforesaid.

89. Plaintiff asserts an exemption from the abolition of joint and several liability pursuant to Article 16 of the C.P.L.R.

90. That at all times mentioned herein, and on November 8, 2022, Sparkleening was acting as a contractor at the construction site as aforesaid.

91. That at all times mentioned herein the plaintiff, ANGEL PERALTA ORDONEZ, was employed by Sparkleening and was performing work at the construction site as aforesaid.

92. That on or about November 8, 2022, while acting within the scope of his employment at the construction site as aforesaid, plaintiff, ANGEL PERALTA ORDONEZ, was caused to trip and fall.

93. That the above occurrence was caused solely by and through the negligence of the defendants herein, without any negligence on the part of the plaintiff contributing thereto.

94. That the defendants, and/or each of them had both actual and constructive notice of the dangerous and defective conditions and practices complained of herein.

95. That the defendants, and/or each of them, and/or their agents, servants, associates and/or employees were negligent, careless and reckless, in that they:

- a) Negligently, carelessly and recklessly, failed and omitted to properly construct, shore, equip, guard, arrange, operate and conduct the construction activities at the construction site as aforesaid, so as to provide reasonable and adequate protection and safety to the persons so employed therein, and more particularly to the plaintiff herein;
- b) Failed and omitted to provide the plaintiff with a safe place to work;
- c) Failed and omitted to provide the plaintiff and the workers at the construction site with a work area free of defects and hazardous conditions;
- d) Failed and omitted to ensure that the working areas within the premises and/or building and/or land of the construction site as aforesaid were kept free of hazardous conditions;
- e) Failed and omitted to provide safe and reasonable equipment and/or safety devices permitting plaintiff to safely perform his work;

- f) Failed to properly inspect and maintain the premises;
- g) Failed and omitted to properly inspect the construction site as aforesaid;
- h) Failed and omitted to provide proper personal protective equipment permitting the plaintiff and workers to safely work from an elevated platform;
- i) Failed and omitted to construct and/or install barricades and/or other warnings so as to apprise workers, and more particularly the plaintiff herein, of the dangerous conditions existing thereat;
- j) Failed and omitted to comply with Section 240 of the Labor Law of the State of New York;
- k) Failed and omitted to comply with Section 241 of the Labor Law of the State of New York;
- l) Failed and omitted to comply with Section 241-a of the Labor Law of the State of New York;
- m) Failed and omitted to comply with Section 200 of the Labor Law of the State of New York;
- n) Failed and omitted to comply with Rule 23 of the Industrial Code;
- o) Failed and omitted to properly secure the work area so that plaintiff could perform his labor in a safe environment;
- p) Failed and omitted to keep the work areas free of debris and other material.
- q) Failed and omitted to provide the plaintiff with adequate lifting devices;
- r) Negligently, carelessly and recklessly failed and omitted to provide the plaintiff with an adequate and safe means to perform his duties;

- s) Negligently, carelessly and recklessly, failed and omitted to provide the plaintiff with the proper tools to perform his duties;
- t) Negligently, carelessly and recklessly, failed and omitted to prevent the plaintiff from falling from a height;
- u) Negligently, carelessly and recklessly, failed and omitted to prevent the plaintiff from falling off of a ladder;
- v) Were otherwise negligent, careless and reckless.

96. That as a result of the negligence of the defendants, and/or each of them, the plaintiff, ANGEL PERALTA ORDONEZ, became, still is and for a long time to come, will be sick, sore, lame, bruised, injured, disabled and wounded in and about the various parts of his head, limbs, body, blood vessels and surrounding tissues, and has suffered severe and extreme mental shock, anguish and psychic injuries, and that plaintiff was otherwise injured, and upon information and belief, said injuries are permanent. That by reason of the foregoing, the plaintiff was obligated to and did necessarily employ medical aid, hospital services, medicinal and medical supplies in an attempt to cure the aforesaid injuries, and has been prevented from his usual duties and will be so prevented for a long time to come.

97. That by reason of the foregoing, the plaintiff, ANGEL PERALTA ORDONEZ, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF,
ANGEL PERALTA ORDONEZ
BASED UPON A THEORY OF STATUTORY LIABILITY**

98. That the plaintiff, ANGEL PERALTA ORDONEZ, repeats, reiterates and realleges each and every allegation of the complaint in paragraphs numbered "1" through "97" with the same

force and effect as though each and every allegation were set forth more fully herein at length below.

99. That at all times mentioned herein, and on November 8, 2022, Section 200 of the Labor Law of the State of New York was in full force and effect.

100. That at all times mentioned herein, and on November 8, 2022, the defendants, and/or each of them were subject to the provisions of the statute as cited herein above.

101. That on or about, November 8, 2022, the defendants, and/or each of them were in violation of the Statute as cited as herein above.

102. That as a result of the statutory violation as cited herein above, the plaintiff, ANGEL PERALTA ORDONEZ, was caused to sustain the injuries as set forth herein above.

103. That as a result of the foregoing the plaintiff, ANGEL PERALTA ORDONEZ, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

**AS AND FOR A THIRD CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF,
ANGEL PERALTA ORDONEZ
BASED UPON A THEORY OF STATUTORY LIABILITY**

104. That the plaintiff, ANGEL PERALTA ORDONEZ, repeats, reiterates and realleges each and every allegation of the complaint in paragraphs numbered "1" through "103", with the same force and effect as though each and every allegation were set forth more fully herein at length below.

105. That at all times mentioned herein, and on November 8, 2022, Section 240 of the Labor Law of the State of New York was in full force and effect.

106. That at all times mentioned herein, and on November 8, 2022, the defendants, and/or each of them were subject to the provisions of the statute as cited herein above.

107. That on or about, November 8, 2022, the defendants, and/or each of them were in violation of the Statute as cited as herein above.

108. That as a result of the statutory violation as cited herein above, the plaintiff, ANGEL PERALTA ORDONEZ, was caused to sustain the injuries as set forth herein above.

109. That as a result of the foregoing the plaintiff, ANGEL PERALTA ORDONEZ, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

**AS AND FOR A FOURTH CAUSE OF ACTION ON BEHALF OF THE PLAINTIFF,
ANGEL PERALTA ORDONEZ
BASED UPON A THEORY OF STATUTORY LIABILITY**

110. That the plaintiff, ANGEL PERALTA ORDONEZ, repeats, reiterates and realleges each and every allegation of the complaint in paragraphs numbered "1" through "109" with the same force and effect as though each and every allegation were set forth more fully herein at length below.

111. That at all times mentioned herein, and on November 8, 2022, Section 241 of the Labor Law of the State of New York was in full force and effect.

112. That at all times mentioned herein, and on November 8, 2022, the defendants, and/or each of them were subject to the provisions of the statute as cited herein above.

113. That on or about, November 8, 2022, the defendants, and/or each of them were in violation of the Statute as cited as herein above.

114. That as a result of the statutory violation as cited herein above, the plaintiff, ANGEL PERALTA ORDONEZ, was caused to sustain the injuries as set forth herein above.

115. That as a result of the foregoing the plaintiff, ANGEL PERALTA ORDONEZ, has been damaged in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction.

ARTICLE 16 EXCEPTIONS

116. That the plaintiff, ANGEL PERALTA ORDONEZ, repeats, reiterates and realleges each and every allegation of the complaint in paragraphs numbered "1" through "115" with the same force and effect as though each and every allegation were set forth more fully herein at length below.

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

118. Pursuant to CPLR §1602(2)(iv), defendants are jointly and severally liable for all of plaintiff's damages, including but not limited to plaintiff's non-economic loss, irrespective of the conditions of CPLR §1601, by reason of the fact that defendants owed plaintiff a non-delegable duty of care.

119. Pursuant to CPLR §1602(7), defendants are jointly and severally liable for all of plaintiff's damages, including but not limited to plaintiff's non-economic loss, irrespective of the conditions of CPLR §1601, by reason of the fact that defendants acted with reckless disregard for the safety of others.

120. Pursuant to CPLR §1607(2)(iv), defendants are jointly and severally liable for all of plaintiff's damages, including but not limited to plaintiff's non-economic loss, irrespective of the conditions of CPLR §1601, by reason of the fact that defendants are vicariously liable for the negligent acts and omissions of each other or others who caused or contributed to plaintiff's damages.

WHEREFORE, plaintiff demands judgment against the defendants on the First, Second, Third, and Fourth Causes of action in a sum which exceeds the jurisdictional limit of all lower Courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Dated: New York, New York
February 24, 2023

Yours, etc.,

Ross Barbour

Ross Barbour, Esq.

WINGATE RUSSOTTI SHAPIRO

MOSES & HALPERIN, LLP

Attorneys for Plaintiff

ANGEL PERALTA ORDONEZ

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VERIFICATION BY ATTORNEY

Ross Barbour, Esq., an attorney duly admitted to practice before the Courts in the State of New York, hereby affirms, under the penalties of perjury, as follows:

1. That deponent is the attorney for the plaintiff in the action within; that deponent has read the foregoing and know the contents thereof; that the same is true to deponent's own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters' deponent believes it to be true.

2. The reason that this verification is not made by plaintiff and is made by deponent is that plaintiff does not reside in the county where the attorneys for the plaintiff have their office.

3. Deponent further says that the source of deponent's information and the grounds of deponent's belief as to all matters not stated upon deponent's knowledge are from investigations made on behalf of said plaintiff.

Dated: New York, New York
February 24, 2023

Ross Barbour
Ross Barbour, Esq.