

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
LAW OFFICES OF CATALANO & PLACHE, PLLC,

Plaintiff(s)

-against-

NICK JOEL BRUSTIN, ESQ., NEUFELD SCHECK
& BRUSTIN, LLP, COCHRAN, NEUFELD & SCHECK,
LLP, EMERY CELLI BRINCKERHOFF & ABADY, LLP.

Defendant(s)

-----X

To the above named Defendant(s)

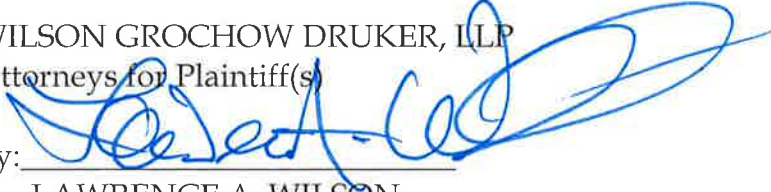
YOU ARE HEREBY SUMMONED to answer the Verified Complaint in this action and to serve a copy of your Answer, or, if the Verified Complaint is not served with this Summons, to serve a Notice of Appearance, on the Plaintiff attorney(s) within 20 days after the service of this Summons, exclusive of the day 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 the 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
October 12, 2012

Defendant's address:

NICK JOEL BRUSTIN:
99 Hudson St., 8th Floor
New York, NY 10013
-and-
Secretary of State
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231

WILSON GROCHOW DRUKER, LLP
Attorneys for Plaintiff(s)

By: 
LAWRENCE A. WILSON
233 Broadway, 5th Floor
New York, New York 10279-0003
(212) 608-4400

Index No.
Dated Filed:
Plaintiff designates
New York County as
the place of trial

The basis of venue is
defendant's principal
place of business.

SUMMONS

Defendants' principal
place of business is
99 Hudson Street,
New York, New York.

NEUFELD SCHECK & BRUSTIN, LLP:

99 Hudson Street, 8th Floor

New York, NY 10013

-and-

Secretary of State

One Commerce Plaza

99 Washington Avenue

Albany, NY 12231

COCHRAN NEUFELD & SCHECK, LLP

99 Hudson Street, 8th Floor

New York, NY 10013

-and-

Secretary of State

One Commerce Plaza

99 Washington Avenue

Albany, NY 12231

EMERY CELLI BRINCKERHOFF & ABADY, LLP

75 Rockefeller Plaza, 20th Floor

New York, NY 10019

-and-

Secretary of State

One Commerce Plaza

99 Washington Avenue

Albany, NY 12231

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X Index No.:
LAW OFFICES OF CATALANO & PLACHE, PLLC,

Plaintiff(s),

-against-

VERIFIED COMPLAINT

NICK JOEL BRUSTIN, ESQ., NEUFELD SCHECK &
BRUSTIN, LLP, COCHRAN, NEUFELD & SCHECK,
LLP, EMERY CELLI BRINCKERHOFF & ABADY, LLP.

Defendant(s).

-----X
Plaintiff, the Law Offices of Catalano & Plache, PLLC, by its attorneys Wilson,
Grochow, & Druker, LLP as and for their complaint against the defendants, Neufeld
Scheck & Brustin, LLP, Cochran Neufeld & Scheck, L.L.P., Emery Celli Brinckerhoff &
Abady, LLP and Nick Joel Brustin alleges as follows:

AS AND FOR A FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

1. At all times relevant herein, plaintiff, the Law Offices of Catalano & Plache, PLLC, ("Catalano & Plache, PLLC") was and is a professional limited liability company, with a principal place of business in Washington, DC.
2. At all times relevant herein, Albert Catalano was and is an attorney with Catalano & Plache, PLLC, duly admitted to practice law in Washington D.C., and the State of New York.
3. At all times relevant herein, defendant Neufeld Scheck & Brustin, LLP was and is a limited liability partnership, with a principal place of business in the County of New York, and State of New York.

4. At all times relevant herein, defendant Cochran, Neufeld & Scheck, LLP was and is a limited liability partnership, with a principal place of business in the County of New York, and State of New York.
5. At all times relevant herein, defendant, Nick Joel Brustin, Esq. was and is an attorney duly admitted to practice law in the State of New York.
6. At all times relevant herein, defendant, Neufeld Scheck & Brustin, LLP was f/k/a Cochran Neufeld & Scheck, LLP, a New York based law firm.
7. At times relevant herein, defendant, Neufeld Scheck & Brustin, LLP was and is also known as Cochran Neufeld & Scheck, LLP.
8. At all times relevant herein, defendant Emery Celli Brinckerhoff & Abady, LLP was and is a limited liability partnership, with a principal place of business in the County of New York, and State of New York.
9. At all times relevant herein, defendant, Emery Celli Brinckerhoff & Abady, LLP, was and is a New York based law firm.
10. At all times relevant herein, defendant Nick Joel Brustin, was an attorney at Cochran Neufeld & Scheck, LLP.
11. At all times relevant herein, defendant Nick Joel Brustin, was a partner at Cochran Neufeld & Scheck, LLP.
12. At all times relevant herein, defendant Nick Joel Brustin, was and is a partner at Neufeld. Scheck, & Brustin, LLP.
13. This dispute arises out of an agreement between plaintiff and defendants.

14. The plaintiff and defendants entered into an agreement pursuant to which, defendants agreed to a division of legal fees; see **Exhibit A, attached, joint retainer agreement.**
15. The underlying claim from which the joint retainer agreement arose involved an incident on April 1, 2006 where Emil Mann, a New York State resident was shot and killed by Police Officer Chad Walder.
16. Emil Mann, Jr. is the son of Emil Mann.
17. Emil Mann, Jr., who resided in New York was an administrator/executor ("executor") of the estate of Emil Man and signed the joint retainer agreement; **Exhibit A.**
18. At all times relevant, Emil Mann, Jr., was and is a resident of the State of New York.
19. Emil Mann at the time of the shooting was a resident of the State of New York.
20. Emil Mann at the time of his death was a resident of the State of New York.
21. At the time of Emil Mann's shooting, plaintiff, Catalano & Plache, PLLC, had an ongoing relationship with the Ramapough Tribe of which Emil Mann and his family were a part of.
22. At the time of Emil Mann's shooting, Albert Catalano had represented the Ramapough's interests for over seventeen years.
23. As a result of Emil Mann being shot by a police officer, plaintiff, Catalano & Plache, PLLC, was asked to represent Emil Mann's estate in a civil rights claim, negligence claim, and the wrongful death claim of Emil Mann.

24. Cochran Neufeld & Scheck LLP was asked if they wanted to jointly represent Emil Mann and his estate with Catalano & Plache, PLLC.
25. Cochran Neufeld & Scheck LLP agreed to be jointly retained by the estate of Emil Mann with Catalano & Plache, PLLC.
26. Cochran Neufeld & Scheck LLP asked Catalano & Plache, PLLC if Emery Celli Brinckerhoff & Abady, LLC could also assist in the joint representation.
27. Emery Celli Brinckerhoff & Abady, LLC agreed to be jointly retained by the estate of Emil Mann with Catalano and Plache PLLC.
28. Catalano & Plache, PLLC, Cochran Neufeld & Scheck, LLP, and Emery Celli Brinckerhoff & Abady, LLP signed a joint retainer agreement; **Exhibit A.**
29. Emil Mann, Jr., an executor of the estate of Emil Mann also signed the joint retainer agreement; **Exhibit A.**
30. Plaintiff and Defendants entered into a written agreement for the division of the legal fees; **Exhibit A.**
31. Pursuant to written agreement, Emil Mann, Jr., executor of the estate of Emil Mann retained the firms, Cochran Neufeld & Scheck, LLP, Emery Celli Brinckerhoff & Abady, LLP, and Catalano & Plache, PLLC, to jointly represent the estate; **Exhibit A.**
32. Pursuant to written agreement, the defendants and plaintiff herein were jointly responsible to Emil Mann's estate; **Exhibit A.**
33. The firms were jointly liable to the estate of Emil Mann under the joint retainer agreement.

34. Catalano & Plache, PLLC performed work and services pursuant to the joint retainer agreement.
35. Pursuant to the joint retainer agreement, plaintiff, Catalano & Plache, PLLC, and defendants, Cochran Neufeld & Scheck, LLP, and Emery Celli Brinckerhoff & Abady, LLP agreed that *“any attorneys’ fees recovered will be divided among the firms”*; **Exhibit A.**
36. The defendants agreed in the joint retainer agreement that *“Catalano & Plache, PLLC’s percentage share shall be half of the percentage that the attorneys’ fees are with respect to the recovery”*; **Exhibit A.**
37. Emil Mann, Jr., Executor of Emil Mann’s estate, signed the written joint retainer agreement consenting to the participation of the law firms and the division of the fees; **Exhibit A.**
38. An action was brought on behalf of the estate of Emil Mann.
39. After a trial, the action, brought on behalf of the Estate of Emil Mann was settled without appeal.
40. The settlement of the case provided for \$2,376,427.31 to the estate for compensatory damages, \$1,188,213.66 for attorneys’ fees and \$185,359.03 for attorneys disbursements, for a total settlement of \$3,750,000.00 dollars.
41. After subtracting the disbursements of \$185,359.03 from \$3,750,000.00 the recovery was \$3,564,640.97.
42. The attorneys’ fees were \$1,188,213.66.
43. The attorneys’ fees totaling \$1,188,213.66 were found to be reasonable.

44. Following the resolution of the claim and receipt of the attorneys' fee, defendants failed to pay plaintiff, Catalano & Plache, PLLC, as required under the agreement.
45. Following receipt of the attorneys' fees, although due demand had been made by plaintiff, defendants claimed Catalano & Plache, PLLC, were not entitled to a division of the attorneys' fees; see **Exhibit C, letters from plaintiff and defendants.**
46. The causes of action sued upon hereunder arise out of the actions of defendants either individually or collectively through their agents, and employees that took place during the time the defendants were employees, agents, associates, partners, joint ventures, or co-conspirators of the named defendants herein.
47. An affidavit was submitted by defendants in support of the settlement, and a so ordered stipulation of settlement was submitted to the court in New Jersey which failed to name Catalano & Plache PLLC as counsel to the estate.
48. An affidavit was submitted in support of the wrongful death compromise in the Surrogate Court, Orange County, State of New York, emanating from the shooting of Emil Mann Jersey which failed to name Catalano & Plache PLLC as counsel to the estate.
49. The Defendants made material omissions, false statements, deceptive and misleading representations to the plaintiff and the courts; to wit: defendants falsely indicated their willingness to divide the legal fees with Catalano & Plache; defendants intentionally failed to inform the courts that Catalano & Plache, PLLC were jointly retained; defendants intentionally did not inform Catalano & Plache, PLLC that they were submitting affidavits and a so ordered stipulation for approval

of the attorneys' fee to the court(s) wherein they failed to inform the court(s) that Catalano & Plache, PLLC were jointly retained; defendants claimed plaintiff was not entitled to division of the legal fee. See **Exhibit A joint retainer agreement, Exhibit B, affidavits and so ordered stipulation filed with courts, and Exhibit C, letters from plaintiff and defendants.**

50. The joint retainer agreement signed by Cochran Neufeld & Scheck, LLP, Emery Celli Brinckerhoff & Abady, LLP, and Catalano & Plache, PLLC, is attached to the complaint as **Exhibit A**

51. Defendants filed the affidavits attached as **Exhibit B** with the courts.

52. The defendants engaged in a pattern of conduct in an effort to defraud and deceive plaintiff, to wit: defendants falsely indicated their willingness to divide the legal fees with Catalano & Plache; defendants intentionally failed to inform the courts that Catalano & Plache, PLLC were jointly retained by the estate; defendants intentionally did not inform Catalano & Plache, PLLC that they were submitting affidavits and a so ordered stipulation for approval of the attorneys' fee to the court(s) wherein they failed to inform the court(s) that Catalano & Plache, PLLC were jointly retained; defendants falsely claimed plaintiff was not entitled to a division of the legal fee.

53. Defendants intentionally, willfully, wantonly, and deceptively failed to inform the court in New Jersey and the court in New York of their joint retainer agreement with Catalano & Plache, PLLC. **See, Exhibit B.**

54. After signing a joint retainer agreement, defendants deceptively claimed in writing that Catalano & Plache, PLLC were not jointly retained. **See Exhibit A joint retainer agreement and Exhibit C, letters from plaintiff and defendants.**
55. Defendants are scheming and attempting to avoid their legal, moral and ethical obligations.
56. Defendants made these false, deceptive and misleading representations, they knew them to be, or should have known them to be false, and made these representations with the intention to deceive and defraud Catalano & Plache, PLLC and the courts.
57. The conduct of defendants, individually and/or jointly, were misrepresentations, deceitful, and/or concealment of a material fact known to the defendants with the intention on the part of the defendants of thereby depriving plaintiff of property or interest or otherwise causing injury, and was despicable conduct that justifies an award of exemplary and punitive damages.
58. Defendants owed the plaintiff herein a duty of good faith and fair dealing.
59. The defendants breached their duty of good faith and fair dealing to the plaintiff and departed from accepted standards.
60. Defendants breached their duty of good faith and fair dealing to the plaintiff when defendants failed to inform the courts that Catalano & Plache, PLLC were jointly retained; when defendants did not inform Catalano & Plache, PLLC that they were submitting affidavits and a so ordered stipulation for approval of the attorneys' fee to the court(s) wherein the affiant failed to inform the court(s) that Catalano &

Plache, PLLC were jointly retained; when defendants claimed plaintiff was not entitled to a division of the legal fee after agreeing to the same.

61. The defendants breached the covenant of good faith and fair dealing that in the course of performance is implied in every contract.

62. Defendants breached the implied covenant of good faith and fair dealing, a pledge that neither party will do anything which destroys or injures the right of the other party to receive the benefits of the contract. **See Exhibits A, B, and C.**

63. Defendants breached the duty of good faith and fair dealing which encompasses any promise that a reasonable person in the position of the promisee would be justified in understanding were included.

64. The defendants agreed to exercise ordinary skill care and prudence that any reasonable attorney would exercise in the legal community.

65. Defendants were negligent, including but not limited to when: they failed to inform the courts that Catalano & Plache, PLLC were jointly retained; when defendants did not inform Catalano & Plache, PLLC that they were submitting affidavits and a so ordered stipulation for approval of the attorneys' fee to the court(s) wherein the affiant failed to inform the court(s) that Catalano & Plache, PLLC were jointly retained; defendants proximately caused injury to the plaintiff.

66. Defendants were in a confidential relationship with Catalano & Plache, PLLC.

67. Defendants breached their confidential relationship with Catalano & Plache, PLLC.

68. The defendants had a fiduciary duty to Catalano & Plache, PLLC.

69. Defendants breached their fiduciary duty to Catalano & Plache, PLLC.

70. Defendants have engaged in a pattern of misconduct and deceit.
71. Defendants are equally and jointly and severally liable as partners and joint ventures.
72. The defendants misappropriated and converted plaintiff's money entrusted to them and the firm without plaintiff's authority or permission.
73. The plaintiff detrimentally relied on the representations of defendants that they would divide the attorneys' fees and have been financially harmed as a result.
74. Plaintiff, at the time representations was made by defendants, was unaware of defendants' false representations.
75. Defendants held themselves out as experienced litigation counsel with knowledge in civil rights litigation being able to perform all the obligations in the agreement.
76. Upon information and belief, Catalano & Plache, PLLC is not the first firm with which defendants have tried to avoid honoring their legal agreement.
77. This is a complaint for a declaratory judgment, breach of contract, breach of good faith and fair dealing, conversion, unjust enrichment, constructive fraud, negligence, negligent and or intentional misrepresentation, and under §487 of the Judiciary Law.
78. Defendants' conduct as stated herein is violative of Section 487 of the New York State Judiciary Law.
79. Section 487 of the Judiciary law provides that an attorney who engages in deceit is liable to the injured party in treble damages.

80. As a result of defendants' actions, plaintiff has been damaged in the sum of \$594,106.83, plus interest, and are entitled to treble damages in the sum of \$1,782,320.49, plus interest.

81. As a result of the defendants' actions, plaintiff is entitled to damages, compensatory, treble, and punitive, together with interest, costs and disbursements.

82. That defendants acted willfully, wantonly, and maliciously and were guilty of wanton and willful disregard of the rights, of the plaintiff herein, and by reason thereof, the plaintiff demands exemplary and punitive damages in an amount exceeding the jurisdictional limits of all lower Courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS
(Declaratory Judgment)**

83. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth above and below with the same force and effect as if more fully set forth at length herein.

84. Catalano & Plache, PLLC, Cochran Neufeld & Scheck, LLP, and Emery Celli Brinckerhoff & Abady, LLP signed a joint retainer agreement agreeing to a division of the attorneys' fees.

85. Emil Mann, Jr., executor of Emil Mann's estate signed the written joint retainer agreement retaining the law firms named herein and consenting to the division of the legal fees.

86. Pursuant to written agreement, the defendants and plaintiff herein were jointly responsible to Emil Mann's estate.

87. The settlement of the case provided for \$2,376,427.31 to the estate for compensatory damages, \$1,188,213.66 for attorneys' fees and \$185,359.03 for attorneys disbursements, for a total settlement of \$3,750,000.00 dollars.
88. After subtracting the disbursements of \$185,359.03 from \$3,750,000.00 the recovery was \$3,564,640.97.
89. The attorneys' fees were \$1,188,213.66.
90. The attorneys' fees of \$1,188,213.66 were found to be reasonable.
91. Pursuant to the agreement, Catalano & Plache, PLLC, Cochran Neufeld & Scheck, LLP, and Emery Celli Brinckerhoff & Abbady, LLC agreed that any attorneys' fees were to be divided between the firms.
92. The defendants agreed that "*Catalano & Plache's percentage share shall be half of the percentage that the attorneys' fees are with respect to the recovery*".
93. The percentage that the attorneys' fees are with respect to the recovery is one third (33.3%) of the recovery for a total attorney fee of \$1,188,213.66.
94. Half of the percentage that the attorneys' fees are with respect to the recovery is sixteen point sixty-five (16.65%) percent.
95. Pursuant to the agreement Catalano & Plache, PLLC, PLLC is owed \$594,106.83.
96. Plaintiff respectfully requests that this Honorable Court issue an order declaring that Neufeld Scheck & Brustin, LLP and Emery Celli Brinckerhoff & Abbady, LLC release from their escrow account \$594,106.83 and a draft for that amount, plus interest, be immediately issued to Catalano & Plache, PLLC.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Contract)

97. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth above and below with the same force and effect as if more fully set forth at length herein.
98. Defendants had a duty to act in good faith and deal fairly.
99. Defendants breached their duty to act in good faith and deal fairly.
100. Defendants received said monies and have refused to pay Catalano & Plache, PLLC and are enriched thereby.
101. The underlying claim was brought to a satisfactory conclusion.
102. Defendants have refused to pay the outstanding monies owed to plaintiff, although due demand for payment has been made.
103. Said refusal by defendants, and each of them, to satisfy the monies owed to plaintiff constitutes a breach of the contract agreement.
104. Said breach occurred without any actions on the part of plaintiff either contributing thereto, or justifying said breach.
105. Pursuant to the terms of the agreement, said breach is ongoing.
106. Defendants were obligated to divide the legal fees pursuant to the terms of the written agreement between the parties.
107. Defendants knew that plaintiff would be jointly responsible to the estate under the joint retainer agreement.

108. Defendants made false statements, including that there would be a division of the legal fees between the plaintiff and defendants with the intent that plaintiff rely on the same.
109. Plaintiff at all times relevant to this matter understood and relied upon the existence of a confidential and or special relationship between the plaintiff and defendants.
110. Defendants held themselves out to be reputable, competent and professional attorneys.
111. Defendants by failing to fulfill their duties to plaintiff, with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims breached their duty to the plaintiff.
112. Defendants failed to inform the courts of the joint retainer agreement.
113. Defendants have failed to fulfill their obligations and duties toward the plaintiff.
114. Defendants' actions stated herein were in self-interest and in bad faith.
115. Plaintiff reasonably expected to receive a division of the attorney fee pursuant to agreement; **Exhibit A.**
116. Defendants' conduct has injured plaintiff's right to receive those benefits.
117. In taking the actions described herein and other actions, defendants acted in bad faith.

118. By reason of the foregoing, plaintiff has been damaged in the amount of \$594,106.83 plus interest.
119. As a result of the defendants' breach of contract, plaintiff is entitled to damages, compensatory, treble, and punitive, together with interest, costs and disbursements.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Conversion)

120. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth above and below with the same force and effect as if more fully set forth at length herein.
121. The defendants for their own use have willfully and wrongfully converted funds belonging to the plaintiff.
122. The defendants have acted without authorization, and have exercised dominion over the monies owed to plaintiff and have claimed a right of ownership over the monies belonging to the plaintiff.
123. The plaintiff herein has made demand that the monies be turned over and the defendants have refused.
124. Plaintiff has been damaged in the sum of \$594,106.83, plus interest, and are entitled to treble damages in the sum of \$ 1,782,320.49, plus interest.
125. As a result of the defendants' actions, plaintiff is entitled to damages, compensatory, treble, and punitive, together with interest, costs and disbursements.

AS AND FOR A FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Constructive Fraud)

126. Plaintiff repeats, reiterates and re-allege each and every allegation set forth above and below with the same force and effect as if more fully set forth at length herein.
127. Defendants represented that they would divide the attorneys' fee between the firms who were signatories to the joint retainer agreement.
128. Defendants made the representation that "*the Firms will divide any attorneys' fee*" with the intent that Catalano & Plache, PLLC would rely on the same.
129. Defendants falsely represented that they would divide the attorneys' fees.
130. The defendants falsely represented that "*Catalano & Plache, PLLC's percentage share shall be half of the percentage that the attorneys' fees are with respect to the recovery*".
131. Catalano & Plache, PLLC relied on defendants' representation that the attorneys' fees would be divided.
132. Catalano & Plache, PLLC relied on defendants' representation that the attorney fees would be divided, without knowledge of the falsity.
133. The Parties are in a confidential relationship.
134. The Parties are in a fiduciary relationship.
135. Catalano & Plache, PLLC was injured as a result of defendants' false representation.

136. Plaintiff has been damaged in the sum of \$594,106.83, plus interest, and is entitled to treble damages in the sum of \$ 1,782,320.49, plus interest.
137. As a result of the defendants' actions, plaintiff is entitled to damages, compensatory, treble, and punitive, together with interest, costs and disbursements.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Misrepresentation)

138. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth above and below with the same force and effect as if more fully set forth at length herein.
139. Defendants represented that they would divide the attorneys' fees between the firms. See **Exhibit A**.
140. Defendants falsely represented that they would divide the attorneys' fees.
141. Defendants made the representation that the attorneys' fees would be divided with the intent that Catalano & Plache, PLLC would rely on the same.
142. Catalano & Plache, PLLC relied on defendants' representation that the attorneys' fees would be divided.
143. Defendants either knew the representation that they would divide the attorney fees was false when they made it, or should have known the representation that they would divide the attorney fees was false when they made it.
144. The Parties are in a fiduciary relationship.
145. The Parties are in a confidential relationship.

146. Catalano & Plache, PLLC was injured as a result of defendants' false representations.
147. Plaintiff has been damaged in the sum of \$594,106.83, plus interest, and are entitled to treble damages in the sum of \$ 1,782,320.49, plus interest.
148. As a result of the defendants' actions, plaintiff is entitled to damages, compensatory, treble, and punitive, together with interest, costs and disbursements.

AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Unjust Enrichment)

149. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth above and below with the same force and effect as if more fully set forth at length herein.
150. Plaintiff procured the matter for the joint retainer agreement.
151. Plaintiff was jointly responsible for the litigation.
152. Plaintiff performed work and services.
153. Executor, Emil Mann, Jr., consented to the joint retainer and division of the fees.
154. The defendants have collected attorneys' fees as a result of plaintiff's work and services.
155. The defendants received monies as a result of plaintiff's work.
156. The defendants have failed to divide the legal fees as agreed and have kept the monies that Catalano & Plache, PLLC are entitled to receive.
157. The defendants have been unjustly enriched.

158. Plaintiff has been damaged in the sum of \$594,106.83, plus interest.

AS AND FOR A EIGHTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Judiciary Law 487)

159. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth herein with the same force and effect as if more fully set forth at length herein.

160. Defendants made fraudulent representations that they would divide the attorneys' fees.

161. Defendants knowingly made fraudulent representations of material fact to the courts regarding who was jointly retained by the estate.

162. Defendants had knowledge that Catalano & Plache, PLLC, was jointly retained with their offices.

163. Defendants engaged in a pattern of deceit.

164. Defendants made deliberate material misrepresentations and or omissions are attempting to profit therefrom.

165. Defendants' conduct as stated above is violative of Section 487 of the New York State Judiciary Law, and constitutes deception.

166. Such violation of Judiciary Law 487 subjects defendants to treble damages.

167. By reason of the foregoing, plaintiff has been damaged in an amount, believed to be no less than \$594,106.83, along with consequential and incidental damages.

168. By reason of the foregoing, plaintiff is entitled to treble damages in the sum of \$1,782,320.49 Dollars, to date together with interest, costs and disbursements.

AS AND FOR AN NINTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Specific Performance)

169. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth above with the same force and effect as if more fully set forth at length herein.
170. Insofar as, by virtue of the agreement, defendants were obligated to retain the monies in escrow and release them to plaintiff upon receipt, plaintiff is hereby entitled to specific performance of said agreement, *to wit*, the release from defendants' escrow accounts of the monies owed to plaintiff.
171. By virtue of the foregoing, plaintiff requests that the Court order the release of the sums owed to plaintiff that are held in defendants' escrow account, in satisfaction, either partial or full, of defendants' obligations.
172. This action falls within one or more of the exceptions set forth in C.P.L.R. 1602.
173. Pursuant to CPLR Section 1602(2)(iv), the 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 provisions of the CPLR Section 1601, by reason of the fact that said defendants are vicariously liable for the negligent acts and omissions of others who caused or contributed to the plaintiff's damages.
174. Pursuant to CPLR 1602(5) 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 provisions of CPLR 1601, by reason of the fact that defendants' wrongful conduct was intentional.

WHEREFORE, plaintiff respectfully requests that this Honorable Court issue an order declaring that Neufeld Scheck & Brustin, LLP and Emery Celli Brinckerhoff & Abbady, LLC release from their escrow account \$594,106.83 and a draft for that amount, plus interest, be immediately issued to Catalano & Plache, PLLC.

Further, plaintiff demands judgment against the defendants, the amount sought on each cause of action exceeding the monetary jurisdictional limits of any and all lower courts which would otherwise have jurisdiction herein, together with treble and punitive damages, the costs and disbursements of this action, and with interest and such other and further relief, as this Honorable Court may deem just and proper.

Dated: New York, New York
October 12, 2012



Lawrence A. Wilson
Wilson, Grochow & Druker, LLP
Attorneys for Plaintiff,
233 Broadway
New York, New York 10279-0003
Tel: (212) 608-4400

ATTORNEY'S VERIFICATION

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

I, the undersigned, am an attorney admitted to practice law in the courts of New York State, and say that:

I am a partner with the firm of WILSON GROCHOW DRUKER, LLP attorneys of record for the plaintiff, LAW OFFICES CATALANO & PLACHE, PLLC.


I have read the annexed **COMPLAINT**, know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following:

Investigation, interviews with client, records, reports, documents, correspondence, data, memoranda, etc., in the file.

The reason I make this affirmation instead of the plaintiffs is that the plaintiffs reside outside of the County of New York wherein I maintain my offices.

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

DATED: New York, New York
 October 12, 2012



Lawrence A. Wilson

INDEX NO.:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

LAW OFFICES OF CATALANO & PLACHE, PLLC,

Plaintiff,

-against-

NICK JOEL BRUSTIN, ESQ., NEUFELD SCHECK &
BRUSTIN, LLP, COCHRAN, NEUFELD & SCHECK,
LLP, EMERY CELLI BRINCKERHOFF & ABADY, LLP,

Defendants.

SUMMONS AND VERIFIED COMPLAINT

LAWRENCE A. WILSON
Attorneys for Plaintiffs

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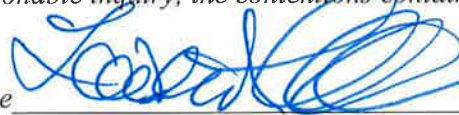
Service of copy of the within is hereby admitted.
Dated:

.....
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:

Signature



Lawrence A. Wilson, Esq.

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