

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

\_\_\_\_\_  
**SENECA COUNTY, NEW YORK,**

Index No. \_\_\_\_\_

Plaintiff,

Plaintiff designates  
Westchester County  
as the place of trial.  
Venue is based on  
Defendant's place of business

-against-

**HARRIS BEACH PLLC,**

**SUMMONS**

Defendants.  
\_\_\_\_\_

To the above-named Defendants:

**YOU ARE HEREBY SUMMONED** to answer the Complaint in this action and to serve a copy of your answer on the Plaintiff's Attorney 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  
May 23, 2016

**LAW OFFICES OF SANFORD F. YOUNG, P.C.**  
Attorneys for Plaintiff Seneca County, New York

By: \_\_\_\_\_

Sanford F. Young

225 Broadway  
New York, New York 10007  
(212) 227- 9755

Defendants' address:

445 Hamilton Avenue, Suite 1206  
White Plains, New York 10601

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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**SENECA COUNTY, NEW YORK,**

Plaintiff,

Index No.

-against-

**VERIFIED COMPLAINT**

**HARRIS BEACH PLLC,**

Defendant.  
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Plaintiff SENECA COUNTY, NEW YORK, by its attorneys, THE LAW OFFICES OF SANFORD F. YOUNG, P.C., alleges as its Verified Complaint against Defendant HARRIS BEACH PLLC, the following:

**THE PARTIES**

1. Plaintiff SENECA COUNTY, NEW YORK [referred to as the “County”] is a political subdivision of the State of New York.
2. Upon information and belief, Defendant HARRIS BEACH PLLC is at present and has been at all times relevant in this action a domestic professional service limited liability company organized and existing under the laws of the State of New York.
3. Upon information and belief, Defendant HARRIS BEACH PLLC is at present and has been at all times relevant in this action a law firm comprised of various attorneys licensed and practicing law in the State of New York.
4. Upon information and belief, Defendant HARRIS BEACH PLLC at present and at all times relevant in this action has maintained offices to practice law at, among other locations, 445 Hamilton Avenue, Suite 1206, White Plains, New York 10601.

## **BACKGROUND AND NATURE OF DEFENDANT'S NEGLIGENCE**

5. The County repeats and realleges each and every of the foregoing allegations as if fully and completely repeated herein.

6. Defendant was engaged to represent the County in connection with the County's efforts to maintain foreclosure proceedings to collect overdue real estate taxes that were owed to the County on property in Seneca County owned by the Cayuga Indian Nation of New York [referred to as "CIN"].

7. In or about 2010, the County commenced a tax enforcement proceeding (Seneca County Index Number 42044) [referred to as the "Foreclosure Proceeding"] to foreclose on certain properties owned by CIN on which real estate taxes due to the County were unpaid and overdue.

8. On or about January 2, 2011, in response to receiving notice of the commencement of the Foreclosure Proceeding, CIN commenced an action against the County in the United States District Court for the Western District of New York (Docket No. 11-cv-6004-CJS) [referred to as the "USDC Action"] seeking, among other things, declaratory and injunctive relief to enjoin the County from maintaining or effectuating its foreclosure proceeding against CIN on the grounds that, among other things, CIN is immune from suit by reason of, *inter alia*, sovereignty, treaties and statute.

9. Defendant was thus engaged and undertook to represent and defend the County in the USDC Action and the appellate proceedings that followed in the United States Court of Appeals for the Second Circuit and the United States Supreme Court [all the federal proceedings beginning with the USDC Action and appellate proceedings that followed are collectively referred to as the "CIN's Federal Action"].

10. In a Decision and Order dated August 20, 2012, the District Court held that the Foreclosure Action was barred by, among other things, CIN's Tribal sovereign immunity from suit and thereby granted CIN a preliminary injunction enjoining the County from foreclosing on CIN's subject property.

11. Defendant was engaged and as part of its representation of the County, Defendant prosecuted an appeal of the District Court's Decision and Order to the United States Court of Appeals for the Second Circuit (Docket Number 12-3723-cv).

12. By Decision and Order dated July 31, 2014, the Second Circuit affirmed the Order of the District Court (reported at 761 F.3d 218).

13. Following the Second Circuit's affirmance, Defendant continued to be engaged and as part of its representation of the County agreed to seek and prosecute an appeal to the United States Supreme Court for which, as a necessary first step, Defendant agreed to and was required to timely file a Petition for Writ of *Certiorari* to the United States Supreme Court.

14. Upon information and belief, Defendant filed or attempted to file a Petition for Writ of *Certiorari* with the United States Supreme Court on behalf of the County.

15. However, sometime in or about 2014, Defendant informed the County that Defendant's filing or attempted filing of the Petition for Writ of *Certiorari* was untimely and thereby rejected by the United States Supreme Court.

16. Upon information and belief, on or about November 12, 2014, Defendant filed a motion with the United States Supreme Court for leave to file an out-of-time Petition for Writ of *Certiorari*, a copy of which motion is annexed hereto as Exhibit "A" and incorporated within this Complaint as if fully restated and reproduced herein.

17. By Order dated December 8, 2014, the United States Supreme Court denied the motion to file an out-of-time Petition for Writ of *Certiorari*.

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

18. Plaintiff repeats and realleges each and every of the foregoing allegations as if fully and completely repeated herein.

19. By reason of its failure to file a timely Petition for Writ of *Certiorari* with the United States Supreme Court, Defendant has failed to prosecute Plaintiff's Federal Action in a professional, proper, skillful, timely and diligent manner, and acted negligently and carelessly.

20. Had Defendants properly handled Plaintiff's Federal Action, Defendant's Petition for Writ of *Certiorari* and appeal to the United States Supreme Court would have been successful, thereby allowing Plaintiff to resume and maintain its Foreclosure Proceeding, which upon resumption, would have been successful and resulted in the foreclosure of the CIN properties upon which the County's real estate taxes were unpaid and in arrears.

21. Said successful decisions would have thus firmly established the County's ability to enforce and collect its real estate taxes from CIN and any other Native American groups with similar claims of immunity.

22. However, by reason of Defendant's negligence, the Second Circuit affirmance and the District Court Order and Decision are final and binding against the County, and thereby arguably preclude the County from maintaining any foreclosure proceedings against CIN, and arguably against any other Native American groups with similar claims of immunity.

23. Accordingly, by reason of Defendant's negligence, the County has no remedy to enforce or compel payment of real estate taxes by CIN or any other Native American groups

with similar claims of immunity and thereby will be unable to collect and will lose said real estate taxes, past, present and future.

24. By reason of Defendant's negligence, the County has been damaged in an amount exceeding \$10,000,000.

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

25. Plaintiff repeats and realleges each and every of the foregoing allegations as if fully and completely repeated herein.

26. Defendant has been paid, upon information and belief, in excess of \$300,000 in legal fees and disbursements for its representation of the County in the Federal Action.

27. Said fees and disbursements were paid on behalf of and for the benefit of the County.

28. By reason of the foregoing errors and omissions, Defendant was in breach and violation of Defendant's agreement and duty to represent Plaintiff in a professional, proper, skillful, timely and diligent manner in the Federal Action, whereby Defendant's legal services lost any value or benefit and were of no value or benefit to Defendant.

29. By reason thereof, the County has been damaged in an amount exceeding \$300,000.

**AS AND FOR A THIRD CAUSE OF ACTION (JUDICIARY LAW §487)**

30. Plaintiff repeats and realleges each and every of the foregoing allegations as if fully and completely repeated herein.

31. Judiciary Law §487 provides that:

An attorney or counselor who:

1. Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party; or,

2. Wilfully delays his client's suit with a view to his own gain; or, wilfully receives any money or allowance for or on account of any money which he has not laid out, or becomes answerable for,

Is guilty of a misdemeanor, and in addition to the punishment prescribed therefor by the penal law, he forfeits to the party injured treble damages, to be recovered in a civil action.

32. Defendant, by his actions, is guilty of and in violation of Judiciary Law §487.

33. By reason thereof, Defendant should forfeit and be liable to Plaintiff for treble damages.

**WHEREFORE**, Plaintiff demands judgment against Defendant, jointly and severally, on the First Cause of Action set forth above in the sum of in excess of \$10,000,000 with interest; on the Second Cause of Action for the total amount of all legal fees and disbursements received by Defendant in an amount believed to exceed \$300,000 with interest; on the Third Cause of Action for treble damages; for the costs and disbursements of this action, including reasonable attorney's fees; and for such other and additional relief as the Court may deem proper.

Yours, etc.,

**THE LAW OFFICES OF SANFORD F. YOUNG, P.C.**  
Attorneys for Plaintiff

By: \_\_\_\_\_  
Sanford F. Young  
225 Broadway  
New York, New York 10007  
(212) 227-9755

**VERIFICATION**

SANFORD F. YOUNG, an attorney duly admitted to practice before the Courts of this State, affirms under penalties of perjury the following:

I am the principal of LAW OFFICES OF SANFORD F. YOUNG, P.C., attorneys for Plaintiff.

I have read the annexed Complaint and know the contents thereof, which are believed to be true.

The reason this verification is being made by me, as attorney, is because Plaintiff resides in a county other than the county in which the undersigned has an office for the practice of law.

The basis of this verification is the file, investigations and discussions.

Dated: New York, New York  
May 23, 2016

\_\_\_\_\_  
Sanford F. Young

