

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

Index No.:

-----X
MICHAEL SELEMAN,

Date Filed:

SUMMONS

11101072

Plaintiff,

Plaintiff designates New York
County as the place of trial.

-against-

The basis of venue is:
Plaintiff's residence

BARNES & NOBLE, INC.,

Plaintiff resides at:
235 East 83rd Street
Apt. 4-H
New York, NY 10028
County of New York

Defendant.
-----X

To the above named Defendant(s):

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 days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. 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
January , 2011

ROSENBERG, MINC, FALKOFF
& WOLFF, LLP.

Attorneys for Plaintiff-

MICHAEL SELEMAN

122 East 42nd Street, Suite 3800

New York, NY 10168

(212) 697-9280

Our File No. 29450

FILED
JAN 27 2011
NEW YORK
COUNTY CLERK'S OFFICE

TO:

BARNES & NOBLE, INC.
150 East 86th Street
New York, NY

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

-----X
MICHAEL SELEMAN,

Plaintiff,

-against-

BARNES & NOBLE, INC.,

Defendant.
-----X

VERIFIED COMPLAINT

Index No.:

Plaintiff, MICHAEL SELEMAN, by his attorneys, ROSENBERG, MINC, FALKOFF & WOLFF, LLP, complaining of the defendants, BARNES & NOBLE, INC., respectfully sets forth as follows:

FIRST: That this action falls within one or more of the exemptions set forth in CPLR §1602.

SECOND: Upon information and belief, that at all times hereinafter mentioned, the defendant, BARNES & NOBLE, INC., was and is a foreign corporation, duly licensed to conduct business in the State of New York.

THIRD: Upon information and belief, that at all times hereinafter mentioned, the defendant, BARNES & NOBLE, INC., was and is a foreign corporation, doing business in the State of New York.

FOURTH: Upon information and belief, and at all times hereinafter mentioned, the defendant, BARNES & NOBLE, INC., owned the premises located at located at 150 East 86th Street, County of New York, City of New York, State of New York.

FIFTH: Upon information and belief, and at all times hereinafter mentioned, defendant, BARNES & NOBLE INC., operated, managed, maintained, repaired and/or controlled the aforesaid premises located at 150 East 86th Street, County of New York, City of New York, State of New York.

SIXTH: Upon information and belief, and at all times hereinafter mentioned, and more specifically on the November 4, 2010, the aforesaid premises located at 345 Park Avenue, County of New York, City of New York, State of New York was and is a commercial building.

SEVENTH: Upon information and belief, and at all times hereinafter mentioned, the defendants, BARNES & NOBLE, INC., had a duty to keep the aforesaid premises in a safe condition for those lawfully frequenting the premises and to provide a safe means of ingress and egress into the aforesaid premises located at 150 East 86th Street, County of New York, City of New York, State of New York was and is a commercial building.

EIGHTH: That on November 4, 2010, plaintiff, MICHAEL SELEMAN, was a lawful pedestrian at the above-mentioned location and more particularly, on the escalator located at 150 East 86th Street, in the County of New York, City of New York, State of New York.

NINTH: That on November 4, 2010, while the plaintiff, MICHAEL SELEMAN, was lawfully present on the aforesaid premises, located at 150 East 86th Street, County of New York, City of New York, State of New York, and plaintiff was caused to sustain severe and permanent injuries when slipped and fell on the wet and slippery escalator.

TENTH: That the above occurrence, and the results thereof, were caused by the negligence of the defendant and/or said defendant's servants, agents, employees and/or licensees in the ownership, operation, management, maintenance and control of the aforesaid premises without any negligence on the part of the plaintiff contributing thereto.

ELEVENTH: That the aforesaid occurrence was caused solely and wholly by reason of the negligence, carelessness and recklessness of the defendants herein, their agents, servants and/or employees in their ownership, maintenance, management, control, inspection and/or repair of the aforementioned premises; in allowing, permitting and maintaining a dangerous, slippery, wet and/or hazardous condition to exist in the aforesaid escalator; in allowing, permitting and maintaining the escalator to be in a dangerous, wet, slippery and/or hazardous condition; in maintaining a trap; in maintaining a nuisance;; in failing to repair; in failing to inspect; in failing to dry the aforesaid dangerous, wet, slippery and hazardous condition, although the aforesaid dangerous and hazardous condition existed for so long a period of time that the defendant knew or should have known of its existence of said condition; in failing to post warning signs, barricades or other protective devices in and about the area where the plaintiff fell; in failing to mop or dry the escalator; in failing to give this plaintiff a safe place to traverse; in violation of the Administrative Code of the City of New York §27-127 and 27-128; in violation of New York City Health Code §135.03 & 135.13; in violation of 12NYCRR 16.2 in failing to provide a proper lobby floor; in failing to take reasonable precautions to prevent water buildup on the escalator; in that the rain water on the floor and/or escalator was visible and apparent to security personal in the lobby for a long enough period of time prior to the happening of the

accident that the defendant should have discovered and remedied the condition; in failing to follow internal rules and regulations concerning cleaning during rainstorms; and the defendants were otherwise negligent herein.

TWELFTH: That because of the above stated accident, plaintiff, MICHAEL SELEMAN, was caused to sustain serious injuries and to have suffered pain, shock; that these injuries and their effects will be permanent; as a result of said injuries plaintiff was caused and will continue to be caused to incur expenses for medical care and attention; and plaintiff was and will continue to be rendered unable to perform plaintiff's normal activities and duties and has sustained a resultant loss therefrom.

THIRTEENTH: That by reason of the aforesaid, this plaintiff has sustained damages which exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction.

WHEREFORE, plaintiff, MICHAEL SELEMAN, demands judgment against the defendants herein in a sum which exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction, together with the interest, costs and disbursements of this action.

Dated: New York, New York
January , 2011

Yours, etc.,

ROSENBERG, MINC, BALKOFF
& WOLFF

By 

ROBERT H. WOLFF, ESQ.

Attorneys for Plaintiff -

MICHAEL SELEMAN
122 East 42nd Street, Suite 3800
New York, NY 10168
(212) 697-9280
Our File No. 29450

Index No.
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

MICHAEL SELEMAN,

Plaintiff,

-against-

BARNES & NOBLE, INC.,

Defendant.

11101072

SUMMONS & VERIFIED COMPLAINT

ROSENBERG, MINC, FALKOFF & WOLFF LLP
Attorneys for Plaintiff
122 EAST 42ND STREET
NEW YORK, NEW YORK 10168-0068
(212) 697-9280

FILED
JAN 27 2011
NEW YORK
COUNTY CLERK'S OFFICE

Sir:-Please take notice

NOTICE OF ENTRY

that the within is a (certified) true copy of
duly entered in the office of the Clerk of the within named court on

NOTICE OF SETTLEMENT

that an order of which the within is a true copy will be presented for
settlement to the HON. one of the judges
of the within named court, at
on , 2010 , at M.

Dated:

Yours, etc.

ROSENBERG, MINC, FALKOFF & WOLFF LLP
Attorneys for Plaintiff(s)
122 EAST 42ND STREET
NEW YORK, NEW YORK 10168-0068

TO:

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