

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

ANDREW CANNON,

Plaintiff,

-against-

14 JOSEPHINE STREET, INC., KUMAR UDAY
and SAFA DUNIA,

Defendants.

**AMENDED
VERIFIED
COMPLAINT**

Index No.:150460/14

Plaintiff, by his attorneys, THE NOLL LAW FIRM, P.C., complaining of the Defendants,
respectfully alleges, upon information and belief, as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. At the time of the commencement of this action, Plaintiff was a resident of the County of Monmouth, State of New Jersey.

2. The cause of action alleged herein arose in the County of Richmond, State of New York.

3. That at all times herein mentioned, Defendant, 14 JOSEPHINE STREET, INC., (hereinafter, "JOSEPHINE") was and still is a domestic corporation duly authorized and existing under the laws of the State of New York with its principal place of business located in the County of Richmond and State of New York.

4. That at all times hereinafter mentioned, defendant, KUMAR UDAY ("UDAY"), was and still is a resident of the County of Richmond, City and State of

New York.

5. That at all times hereinafter mentioned, defendant, SAFA DUNIA (“DUNIA”), was and still is a resident of the County of Richmond, City and State of New York.

6. That at all times hereinafter mentioned, and on June 19, 2011, defendant, JOSEPHINE, owned a building and structure located at 14 Josephine Street, Staten Island, New York 10314 (hereinafter “PREMISES”).

7. That at all times hereinafter mentioned, defendant JOSEPHINE, operated the premises.

8. That at all times hereinafter mentioned, defendant JOSEPHINE, maintained the premises.

9. That at all times hereinafter mentioned, defendant JOSEPHINE, managed the premises.

10. That at all times hereinafter mentioned, defendant JOSEPHINE, repaired the premises.

11. That at all times hereinafter mentioned, defendant, JOSEPHINE, controlled the premises.

12. That at all times hereinafter mentioned, defendant JOSEPHINE, was the lessor of the premises.

13. That at all times hereinafter mentioned, defendant, JOSEPHINE, was a tenant in possession of the premises.

14. On and before June 19, 2011, defendant, KUMAR UDAY, owned the premises located at 14 Josephine Street, Staten Island, New York 10314.

15. On and before June 19, 2011, defendant, UDAY, was an occupant of the aforesaid premises.

16. On and before June 19, 2011, defendant, UDAY, leased the aforesaid premises.

17. On and before June 19, 2011, defendant, UDAY, operated the aforesaid premises.

18. On and before June 19, 2011, defendant, UDAY, maintained the aforesaid premises.

19. On and before June 19, 2011, defendant, UDAY, controlled the aforesaid premises.

20. On and before June 19, 2011, defendant, UDAY, managed the aforesaid premises.

21. On and before June 19, 2011, defendant, UDAY, repaired the aforesaid premises.

22. On and before June 19, 2011, defendant, DANIA, was tenant at the aforesaid premises.

23. On and before June 19, 2011, defendant, DANIA, was an occupant of the aforesaid premises.

24. On and before June 19, 2011, defendant, DANIA, leased the

aforesaid premises.

25. On and before June 19, 2011, defendant, DANIA, operated the aforesaid premises.

26. On and before June 19, 2011, defendant, DANIA, maintained the aforesaid premises.

27. On and before June 19, 2011, defendant, DANIA, controlled the aforesaid premises.

28. On and before June 19, 2011, defendant, DANIA, managed the aforesaid premises.

29. On and before June 19, 2011, defendant, DANIA, repaired the aforesaid premises.

30. On June 19, 2011, plaintiff, ANDREW CANNON, was employed as a firefighter with the Fire Department of the City of New York.

31. On June 19, 2011, the Fire Department of the City of New York responded to an alarm at the aforesaid premises.

32. On June 19, 2011, the plaintiff, ANDREW CANNON, was at the premises in the course and performance of his duties as a firefighter with the Fire Department of the City of New York.

33. On June 19, 2011, during the course of and in the performance of his duties as a firefighter with the Fire Department of the City of New York, plaintiff, ANDREW CANNON, was caused to be injured.

34. On June 19, 2011, while plaintiff, ANDREW CANNON, in the course of and in his performance of his duties as a firefighter was injured at the premises.

35. The aforesaid was caused by reason of the negligence, carelessness and recklessness of the defendants, their agents, servants and/or employees, in the ownership, lease, operation, maintenance, management, rent, repair and control of the aforesaid fire premises and premises.

36. The limitations on liability set forth in CPLR Section 1601 do not apply by reason of one or more of the exemptions set forth in CPLR Section 1602, including but not limited to Section 1602(2)(iv) and (vii).

37. By reason of the aforesaid, plaintiff, ANDREW CANNON, has been damaged in a sum exceeding the jurisdictional limits of all lower courts.

AS AND FOR A SECOND CAUSE OF ACTION

38. Plaintiff repeats, reiterates and realleges the allegations of the First Cause of Action with the same force and effect as though set forth at length herein.

39. That at all times hereinafter mentioned, General Municipal Law, Section 205-a (amended on October 9, 1996), provided among other things, as follows:

**SECTION 205-a. ADDITIONAL RIGHT OF ACTION TO CERTAIN
INJURED OR REPRESENTATIVES OF CERTAIN DECEASED FIREMEN.**

1. In addition to any other right of action or recovery under any other provision of law, in the event any accident, causing injury, death or a disease which results in death, occurs directly or indirectly as a

result of any neglect, omission, willful or culpable negligence of any person or persons in failing to comply with the requirements of any of the statutes, ordinances, rules, orders and requirements of the federal, state, county, village, town or city governments or of any and all their departments, divisions and bureaus, the person or persons guilty of said neglect, omission, willful or culpable negligence at the time of such injury or death shall be liable to pay any officer, member, agent or employee of any fire department injured, or whose life may be lost while in the discharge or performance at any time or place of any duty imposed by the fire commissioner, fire chief or other superior officer of the fire department, or to pay to the wife and children, or to pay to the parents, or to pay to the brothers and sisters, being the surviving heirs-at-law of any deceased person thus having lost his life, a sum of money, in case of injury to person, not less than ten thousand dollars, and in such case of death not less than forty thousand dollars, such liability to be determined and such sums recovered in an action to be instituted by any person injured or the family or relatives of any person killed as aforesaid.

2. Notwithstanding any other provision of law, including sections fifty-e and fifty-i of this chapter, section thirty-eight hundred thirteen of the education law, section ten of the court of claims act and the provisions of any general, special or local law or charter requires as a condition precedent to commencement of an action or special proceeding that a notice of claim be filed or present, every cause of action for the personal injury or wrongful death of a firefighter which was pending on or after January first, nineteen hundred eighty-seven, or which was dismissed on or after January first, nineteen hundred eighty-seven, because this section was not yet effective, or which would have been actionable on or after January first, nineteen hundred eighty-seven had this section been effective is hereby revived and an

action thereon may be commenced at any time provided that such action is commenced on or before June thirtieth, nineteen hundred ninety-seven.

3. This action shall be deemed to provide a right of action regardless of whether the injury or death is caused by the violation of a provision which codifies a common-law duty and regardless of whether the injury or death is caused by the violation of a provision prohibiting activities or conditions which increase the dangers already inherent in the work of any officer, member, agent or employee of any fire department.

40. By reason of the foregoing and by reason of the defendants having violated the applicable statutes, ordinances, rules, orders and requirements of building owners, operators and those in control thereof, including, but not limited to, the Administrative Code of the City of New York, Sections 27-2005, 27-424, 27-127, 27-128; and the New York City Fire Code, Sections 304.1, 304.1.1, 304.2, 304.3, 304.3.1, 305.1, 315.2, 315.2.3, 1027.1, 1027.2, 1027.3; and the Multiple Dwelling Law of the State of New York § 52.

41. By reason of the aforesaid, plaintiff, ANDREW CANNON, has been damaged in a sum exceeding the jurisdictional limits of all lower courts.

WHEREFORE, Plaintiff demands judgment on the First and Second Causes of Action in amounts to be determined by the triers of fact together with the costs, fees and disbursements of this action.

Yours, etc.

RICHARD E. NOLL