

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

\_\_\_\_\_ X

DIANA CLAIRE STAGNER and JERRY LANNING,

Plaintiffs,

-against-

TRADER JOE'S and EARLYBIRD DELIVERY SYSTEM LLC

Defendants.

\_\_\_\_\_ X

INDEX NO.:

VERIFIED COMPLAINT

Plaintiffs, Diana Claire Stagner ("Stagner") and Jerry Lanning ("Lanning"), by their attorneys, Philip A. Greenberg, P.C., hereby complain against Defendants, respectfully show to the Court and allege:

FIRST CAUSE OF ACTION

(On behalf of Plaintiff Stagner)

1. At all times hereinafter mentioned, Plaintiffs were and still are residents of the County of New York, State of New York.
2. Upon information and belief, Defendant Trade Joe's is a New York corporation, with its principal place of business in the State of New York, County of New York. Trader Joe's is a retail store chain.
3. Upon information and belief, Defendant Earlybird Delivery Systems LLC ("Earlybird") is a New York corporation, with its principal place of business in the

State of New York, County of New York. Earlybird is in the messenger or delivery business.

4. Defendant Earlybird does its business, on a regular basis, in the State of New York. The herein lawsuit resulted from said Defendant's activities in New York.
5. Defendant Trader Joe's does its business, on a regular basis, in the State of New York. The herein lawsuit arises out of said Defendant's activities in New York.
6. On or about September 6, 2013, in the evening of that day, Plaintiff Stagner was a customer in the store owned and operated by Defendant Trader Joe's at 2073 Broadway, New York, New York.
7. Plaintiff Stagner was at the checkout counter with goods which she was purchasing from Defendant Trader Joe's, when Defendant Earlybird negligently crashed into Plaintiff Stagner, with a six foot high wheeled cart ("Cart") completely filled with groceries, causing her to suddenly be thrown to the ground, and momentarily lose consciousness.
8. Defendant Earlybird was negligent in its use of the Cart which its employee or agent was pushing when it struck Plaintiff Stagner, in that, among other things, notwithstanding that the store was full of customers as it was Friday evening, he

failed to push the Cart at a safe speed, he failed to give any warning that he was coming, and he failed to observe and watch out for customers and other persons in Defendant Trader Joe's store.

9. Defendant Trader Joe's was negligent in that it allowed Defendant EarlyBird and its employees or agents to push the Cart within the premises of Trader Joe's, without supervision by Defendant Trader Joe's, even though Trader Joe's was well aware that there were numerous customers in the store, who had no reason to fear for their safety, or to watch out for the Cart being pushed by Defendant Earlybird.
10. The aforementioned accident occurred solely as a result of the negligence of either or both of said Defendants, with no contributory negligence of Plaintiff.
11. As a result of the foregoing accident caused by Defendants' negligence, Plaintiff was injured and had to seek medical care and treatment shortly thereafter up to and beyond the date of this Complaint, Plaintiff Stagner continues to receive medical treatment for the injuries which she suffered as a result of the aforementioned accident.
12. Among other personal injuries to Plaintiff Stagner, she has sustained a post-concussion syndrome, and suffered neurological damage resulting in frequent and painful and debilitating headaches. Since the time of the accident through the

present. Upon information and belief, Plaintiff Stagner will continue to suffer these severe and frequent headaches permanently.

13. Plaintiff's damages are in an amount yet to be determined, but in no event less than \$1 million dollars.

## SECOND CAUSE OF ACTION

(On behalf of Plaintiff Lanning)

14. Plaintiffs repeat and re-allege all of the allegations contained in paragraphs "1" through "13" above, as if fully set forth herein.
15. At all times relevant hereto, Plaintiff Lanning was and is the husband of Plaintiff Stagner. He did reside and continues to reside with Plaintiff Stagner.
16. By reason of the accident, Plaintiff has been deprived of the comfort, services companionship, and society of his wife. He will continue to incur great expense incident to her medical care and treatment.
17. Lanning suffered damages as a result of the foregoing in an amount yet to be determined, but in no event of less than \$100,000.00.

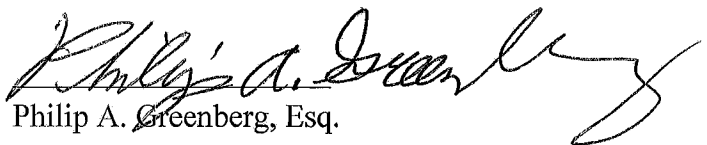
WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

1. On the First Cause of Action, in favor of Plaintiff Diana Clare Stagner, in the amount of \$1 million dollars;
2. On the Second Cause of Action, in favor of Plaintiff Lanning in the amount of \$100,000.00;
3. The costs and disbursements of this action;
4. All other relief which to this Court seems just and proper.

Dated: October 30, 2015  
New York, New York

Yours etc.,

Philip A. Greenberg, P.C.  
Attorney for Plaintiffs



Philip A. Greenberg, Esq.  
10 Park Avenue, Suite 2A  
New York, New York 10016  
(212) 279-4550

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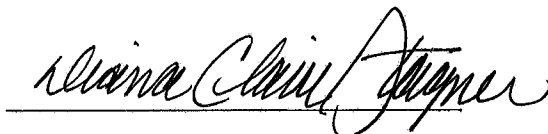
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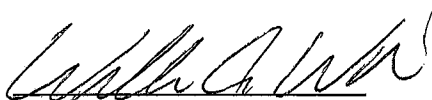
VERIFICATION

I, Diana Clare Stagner, being duly sworn, state that I am the Plaintiff in this action and that the foregoing Verified Complaint is true to my own knowledge, except as to the matters therein stated alleged to be on information and belief, and as to those matters I believe it to be true.



Diana Claire Stagner

Sworn to before me this  
2<sup>nd</sup> day of <sup>November</sup> October, 2015



Notary Public

WILLIAM A WILSON  
NOTARY PUBLIC STATE OF NEW YORK  
QUEENS COUNTY  
L.I.C. #01WI5020613  
COMM. EXP. 11/22/20 17

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**VERIFIED ANSWER WITH COUNTERCLAIM**

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**PHILIP A. GREENBERG, P.C.**  
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**10 Park Avenue, Suite 2A**  
**New York, New York 10016**  
**(212) 279-4550**