

EXHIBIT E

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

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JACKELINE MONTOYA,

Plaintiff,

-against-

BAY PLAZA APPLE, LLC, BAY PLAZA COMMUNITY
CENTRE, LLC AND SP CENTER, LLC, DAFFY'S, INC., and
ACCOLADE BUILDING MAINTENANCE CORP.,

Defendants.
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Index No.: 21612/2011E

RESPONSE TO
COURT ORDER OF
NOVEMBER 24, 2015

C O U N S E L O R S :

PLEASE TAKE NOTICE, that the defendants, BAY PLAZA COMMUNITY CENTRE, LLC AND SP CENTER, LLC, by and through their attorneys, MALAPERO & PRISCO LLP, respond to the Court's Order of November 24, 2015 which directed that defendants respond to plaintiff's "combined demands of June 17, 2012." A review of defendants' file confirms that "plaintiff's combined demands of June 17, 2012" does not exist. However, in a good faith effort to respond to this Court's Order of November 24, 2015, defendants, BAY PLAZA COMMUNITY CENTRE, LLC AND SP CENTER, LLC, state upon information and belief as follows:

RESERVATION OF RIGHTS:

- A. To the extent that defendant produces documents in response to said demands, they do so without conceding the materiality, authenticity, admissibility or relevance of any such documents, or of any substantive responses to demands.
- B. Defendant reserves all objections to the use of these responses and if any documents produced in connection herewith. Such objections may be interposed by responding defendants at any time, including at the time of trial or as otherwise required by the rules and orders of this Court.

- C. Defendant reserves the right to amend, supplement, modify or correct these responses, objections and production of documents, if any, as additional information and/or documents are identified and/or become available.
- D. Insofar as the inadvertent production of any documents by the defendants pursuant to the demands may be deemed a waiver of any privilege or right, such waiver shall be deemed to be a limited waiver solely with respect to that particular document. The inadvertent production of any document shall not be deemed or construed to constitute a waiver of any privilege, right or obligation of defendants, and defendants reserve the right to demand that such document and all copies thereof be returned to defendants.
- E. Defendant reserves the right to redact non-responsive material from many otherwise responsive documents that may be produced as part of defendants' responses to the demands.

GENERAL OBJECTIONS:

- A. Defendant objects to the demands to the extent that they seek information, documents or other materials that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence.
- B. Defendant objects to the demands to the extent that they purport to seek information, documents or other materials protected by the attorney-client privilege, the work product doctrine or any other applicable privilege or immunity.
- C. Defendant objects to the demands to the extent that they purport to seek documents generated by or at the direction of their counsel. In responding to the demands, defendants will construe the demands as not requesting production of such documents.
- D. Defendant objects to the demands to the extent that they purport to require defendants to produce or to provide information or documents not within responding defendants' possession, custody or control.
- E. Defendant objects to the demands to the extent that they do not incorporate time limitations.

- F. Defendant objects to the demands to the extent that they seek to impose obligations extended beyond those imposed or authorized by the CPLR of this Court.
- G. Defendant objects to the demands to the extent that they purport to demand information, documents or other materials created, dated or generated after the date of the complaint that this action was filed.
- H. These general objections are continuing and are incorporated by reference and response to each of the demands set forth below. Any objection or lack of objection to any portion of the demands is not to be deemed an admission. Subject to and without waiver of these general objections, defendants respond to the demands of co-defendant as follows:

RESPONSES

MAINTENANCE, REPAIR AND CONSTRUCTION RECORDS

Upon information and belief, defendants BAY PLAZA COMMUNITY CENTER, LLC i/s/h/a BAY PLAZA COMMUNITY CENTRE, LLC, and SP CENTER, LLC, are not in possession of any records of maintenance, repair, construction, contractors, work records, permits, bids, applications, engineering plans, or surveys regarding the subject bathroom.

STORE MONITORING VIDEO / DIGITAL FOOTAGE

Upon information and belief, defendants, BAY PLAZA COMMUNITY CENTER, LLC i/s/h/a BAY PLAZA COMMUNITY CENTRE, LLC, and SP CENTER, LLC, are not in possession of any store monitoring video / digital footage of the subject bathroom, however, defendants are conducting a good faith search, and should same exist defendants reserve the right to supplement this response.

STATEMENTS

Upon information and belief, defendants, BAY PLAZA COMMUNITY CENTER, LLC i/s/h/a BAY PLAZA COMMUNITY CENTRE, LLC, and SP CENTER, LLC, are not in possession of any statements issued by plaintiff.

INSURANCE

Upon information and belief, defendants BAY PLAZA COMMUNITY CENTER, LLC i/s/h/a BAY PLAZA COMMUNITY CENTRE, LLC, and SP CENTER, LLC were issued a policy of insurance by Philadelphia Indemnity Insurance Company with policy number PHPK560471, with effective dates of April 25, 2010 to April 25, 2011, in the amount of Two Million (\$2,000,000.00) Dollars in the general aggregate limit; and One Million (\$1,000,000.00) Dollars per occurrence.

ACCIDENT / INCIDENT REPORTS

Upon information and belief, defendants BAY PLAZA COMMUNITY CENTER, LLC i/s/h/a BAY PLAZA COMMUNITY CENTRE, LLC, and SP CENTER, LLC, are not in possession of any accident / incident reports, however, defendants are conducting a good faith search, and should same exist defendants reserve the right to supplement this response.

WITNESSES

Upon information and belief, defendants BAY PLAZA COMMUNITY CENTER, LLC i/s/h/a BAY PLAZA COMMUNITY CENTRE, LLC, and SP CENTER, LLC, are unaware of any witnesses other than those disclosed by the plaintiff.

EXPERT WITNESSES

Upon information and belief, defendants BAY PLAZA COMMUNITY CENTER, LLC i/s/h/a BAY PLAZA COMMUNITY CENTRE, LLC, and SP CENTER, LLC, have exchanged Dr. Allen E. Rubenstein on October 29, 2015, and Dr. Benjamin E. Rosenstadt on October 29, 2015, pursuant to CPLR §3101(d).

PHOTOGRAPHS

Upon information and belief, defendants BAY PLAZA COMMUNITY CENTER, LLC i/s/h/a BAY PLAZA COMMUNITY CENTRE, LLC, and SP CENTER, LLC, are not in

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