

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

DESTINI ALLEN
280 Davidson Avenue, Lower
Buffalo, New York 14215

Plaintiff

- vs -

BRIAN SMITH
205 O'Connell Avenue
Buffalo, New York 14210

J&L JANITORIAL SERVICES, INC.
10 Broughton Street
Tonawanda, New York 14150

J&L JANITORIAL SERVICES, INC.
d/b/a K&K JANITORIAL SERVICE, INC.
10 Broughton Street
Tonawanda, New York 14150

K&K JANITORIAL SERVICE, INC.
10 Broughton Street
Tonawanda, New York 14150

Defendants

SUMMONS

**IMMEDIATELY TURN THESE
PAPERS OVER TO YOUR
INSURANCE REPRESENTATIVE.
YOUR FAILURE TO DO THIS
MAY SUBJECT YOU TO PERSONAL
FINANCIAL RESPONSIBILITY IN
THIS MATTER.**

Index No.: _____

Date Filed: _____

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to Answer the Complaint in this action, and to serve a copy of your Answer, or, if the Summons is not served with a Complaint, to serve a Notice of Appearance, on the Plaintiff's attorneys within 20 days after the service of this Summons, exclusive of the day of service, or within 30 days after completion of service where service is made in any other manner than by personal delivery within the State. In case of your failure to appear or Answer, Judgment will be taken against you by default for the relief demanded in the Complaint.

COMPLAINT ENDORSEMENT: That Plaintiff's Complaint against you is in the amount of: see **WHEREFORE** clauses of Plaintiff's Complaint, together with the costs of this action based on a cause of action for negligence and others.

Erie County is designated as the place of trial on basis of residence of Defendant who resides in Erie County, New York.

DATED: July 21, 2020
Buffalo, New York

Joseph A. Todoro, Esq.
SPADAFORA & VERRASTRO, LLP
Attorneys for Plaintiff
2 Symphony Circle
Buffalo, New York 14201-1340
(716) 854-1111

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

DESTINI ALLEN,

Plaintiff,

- vs -

COMPLAINT

Index No. _____

Date Filed _____

BRIAN SMITH,
J&L JANITORIAL SERVICES, INC.,
J&L JANITORIAL SERVICES, INC.
d/b/a K&K JANITORIAL SERVICE, INC., and
K&K JANITORIAL SERVICE, INC.,

Defendants.

Plaintiff, above-named, for her Complaint and causes of action against the Defendants, above-named, upon information and belief, herein alleges:

1. As to any time limitations relating to the commencement of this matter and all claims included herein, set forth by and/or under any law, statute, rule, regulation and/or requirement otherwise applicable as to this matter and all claims set forth herein, the same have been tolled pursuant to any/all pertinent provisions of the New York Civil Practice Law and Rules (CPLR), and/or as a direct result of the onset of coronavirus and the COVID-19 pandemic, by executive orders and/or proclamations of the Hon. Andrew M. Cuomo, Governor of the state of New York.

2. As to any time limitations relating to the filing of this matter, set forth by and/or under any law, statute, rule, regulation and/or requirement otherwise applicable as to this matter and all claims set forth herein, the same have been tolled pursuant to any/all pertinent provisions of the New York Civil Practice Law and Rules (CPLR), and/or as a direct result of the onset of coronavirus and the COVID-19 pandemic, by executive orders and/or proclamations of the Hon. Andrew M. Cuomo, Governor of the state of New York.

3. As to any time limitations relating to the filing of this matter, set forth by and/or under any law, statute, rule, regulation and/or requirement otherwise applicable as to this matter and all claims set forth herein, the same have been tolled pursuant to any/all pertinent provisions of the New York Civil Practice Law and Rules (CPLR), and/or as a direct result of the onset of coronavirus and the COVID-19 pandemic, by specific administrative orders and/or directives of the Office of Court Administration, and/or pertinent orders and/or directives of the Administrative Judges of the State of New York, Fourth Department and/or County of Erie.

4. That each and every cause of action set forth herein falls within one or more of the exceptions set forth in CPLR 1602. That this action and all claims set forth herein falls within one or more exceptions set forth in CPLR §1602; §1602(7); §1602(11) and §1601, as to limitations to the doctrine of joint and several liability.

5. That prior to, on or about July 21, 2017, and at all times herein mentioned, the Plaintiff, DESTINI ALLEN, hereinafter referred to as "Plaintiff" was and still is a resident of the County of Erie and State of New York.

6. That at all times herein mentioned, the Defendant, BRIAN SMITH, hereinafter referred to as "BRIAN", was and still is a resident of the County of Erie and State of New York.

7. That on or about July 21, 2017, the Defendant, BRIAN, was an operator and/or owner of a motor vehicle involved in a crash and collision involving Plaintiff's motor vehicle. The crash and collision occurred wholly and solely as a result of the negligent, careless and/or reckless acts and/or omissions of one or more of the Defendants, above-named, jointly and/or severally, without any fault or lack of due care on Plaintiff's part.

8. That on or about July 21, 2017, the Defendant, BRIAN, did produce license information to the Police Officer investigating the crash, which did identify him under the name of Brian J. Smith, with an address designated as 205 O'Connell Avenue, Buffalo, New York 14210.

9. That on or about July 21, 2017, the Defendant, BRIAN, did produce registration information to the Police Officer investigating the crash, which did identify the owner of the motor vehicle as, Defendant, J&L Janitorial Services, with an address designated as 10 Broughton Street, Tonawanda, New York 14150.

10. That at all times herein mentioned, the Defendants, J&L JANITORIAL SERVICES, INC., J&L JANITORIAL SERVICES, INC. d/b/a K&K JANITORIAL SERVICE, INC., and K&K JANITORIAL SERVICE, INC., hereinafter referred to as "J&L", was a resident and/or a non-resident owner and/or registrant of the motor vehicle operated by the Defendant, BRIAN, on or about July 21, 2017, said motor vehicle being involved in a crash and collision with Plaintiff's motor vehicle.

11. That upon information and belief, at all times herein mentioned, the Defendant, J&L, were the employers of Defendant, BRIAN.

12. That at all times herein mentioned, the Defendants, J&L, was a foreign corporation, limited liability company, limited liability partnership, partnership, division, or other type of business entity, authorized to conduct business in the State of New York and/or in the alternative, was a foreign corporation, limited liability company, limited liability partnership, partnership, division, or other form of business entity, not authorized to conduct business within the State of New York, however, having offices located therein, and/or there-out of the State for the purpose of conducting its business enterprise, and/or was non-resident of the State of New York.

13. That at all times herein mentioned, the Defendants, J&L, was/were a domestic corporation, domestic limited liability company, limited liability partnership, partnership, division, or other type of business entity, authorized to conduct business in the State of New York and/or in the alternative, is a foreign corporation, limited liability company, limited liability partnership, partnership, division, or other form of business entity, not authorized to conduct business within the State of New York and having offices located therein, and/or there-out of the State for the purpose of conducting its business enterprise.

14. That at all times herein mentioned, the Defendants, J&L, did regularly solicit business within the State of New York, and did engage in a permanent course of conduct or business which would include, without limitation thereto, using New York State public streets, highways and/or thoroughfares for the purpose of transportation, into, out of, or across the State of New York, and/or further, for the purpose of transportation of goods, product, services, materials or the like, to and/or for the public for profit, within the State of New York, and/or in other states within the United States and/or Canada, and as a result thereof, derives substantial revenues gained from products transported and/or goods and/or services used, rented, leased, transported sold and/or otherwise rendered in the State of New York.

15. That at all times herein mentioned, the Defendants, J&L, did transact business within the State of New York; and/or did commit a tortuous act within the State of New York and/or did expect or should have reasonably expected the acts or omissions of said Defendants, J&L and/or BRIAN, to have consequences in the State of New York, and derive substantial revenue from Interstate or International Commerce; and/or owns, uses or possesses real property located within the State of New York and/or does regularly solicit business or engage in any other persistent course of conduct and/or derives substantial revenue from goods used or consumed or services rendered in the State of New York.

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