

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS-----X
JILL ROSE

Plaintiff,


-against-

MME GROUP LLC d/b/a MMEink

Defendant
-----XIndex No:
Date Filed:
SUMMONSPlaintiff's Address
376 Clinton Street
Brooklyn, NY 11231The basis of venue is:
Plaintiff's residence

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 (20) days after the service of this summons, exclusive of the date of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York) and 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
August 4, 2020

Dean Dreiblatt
ROSE & ROSE
Attorneys for Plaintiff
291 Broadway, 13th floor
New York, New York 10007
(212) 349-3366

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS-----X
JILL ROSE

Index No:

Plaintiffs,

-against-

COMPLAINT

MME GROUP LLC d/b/a MMEink

Defendant
-----X

PLAINTIFF, by its attorneys, ROSE & ROSE, complaining of the Defendant hereby allege
as follows:

BACKGROUND

1. Plaintiff Jill Rose is a resident of Kings County, City and State of New York.
2. Defendant MME Group LLC ("MME") is a limited liability company established under the laws of the State of New York. MME does business as and is also known as "MMEink". MME has its principal office in Nassau County, New York. MME is in the business of, inter alia, providing entertainment services for events such as weddings, bar mitzvahs and parties.
3. On or about July 9, 2019, Plaintiff entered into a contract with Defendant for entertainment services for the Bar Mitzvah of Plaintiff's son, Jake Rose ("Jake") scheduled for May 2, 2020. The entertainment services were to include, inter alia, the services of an MC and DJ, sports gaming, other games and entertainment for the bar mitzvah and the guests, including the children attending. Jake's Bar Mitzvah was to take place at the Water Club, in New York, New York on May 2, 2020.
4. Plaintiff paid Defendant \$8,000.00 as a "Retainer Fee" or security deposit in connection with the aforesaid contract.

5. Said contract was entered into in Kings County, State of New York, and was for services to be rendered in the City, County and State of New York.

6. On March 20, 2020, Governor Andrew Cuomo issued Executive Order 202.8 as a result of the COVID-19 pandemic. Executive Order 202.8 essentially directed all non-essential business to close their offices and prohibited events such as Jake's bar mitzvah. As a result of Executive Order 202.8 and the COVID-19 pandemic, it was impossible to have Jake's bar mitzvah at the Water Club or at any other location in the City, County or State of New York.

7. As a result of Executive Order 202.8 and the COVID-19 pandemic, Jake's Bar Mitzvah at the Water Club was cancelled, and the Water Club refunded Plaintiff's monies that she paid to the Water Club.

8. On March 27, 2020, Plaintiff requested in writing that Defendant return the \$8,000.00 Retainer Fee on the basis of the cancellation of Jake's Bar Mitzvah, Executive Order 202.8 and other city and state mandates prohibiting Jake's bar mitzvah from taking place as planned.

9. Defendant refused to return the Retainer Fee, claiming that the Fee was "nonrefundable".

10. Pursuant to subsequently issued Executive Orders and city and state mandates, Plaintiff is still prohibited from holding Jake's Bar Mitzvah as a party or event requiring Defendant's entertainment services.

11. It is impossible to postpone or reschedule Jake's Bar Mitzvah, as there is no indication when governmental mandates will permit a party or event at the Water Club or similar location. This cannot go on forever. Jake cannot perpetually and eternally study the pertinent Torah passages. Therefore, Plaintiff has been compelled to replan Jake's Bar Mitzvah as a "Zoom" Bar Mitzvah on August 15, 2020. The "Zoom" Bar Mitzvah will take place in Plaintiff's residence

and will be limited to Plaintiff's immediate family. There will be no guests and no children to entertain. As such, there will be no need for Defendant's services.

**AS FOR A FIRST CAUSE OF ACTION: RESCISSION ON THE BASIS OF
IMPOSSIBILITY OF PERFORMANCE**

12. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 11 as if fully set forth herein.

13. Unanticipated events beyond the control of the parties, such as the coronavirus pandemic and government orders and mandates have made performance under the contract impossible. The Water Club and other similar locations are prohibited from having or hosting events, parties and other gatherings such as Jake's Bar Mitzvah. In fact, The Water Club and similar locations were closed as a result of Executive Order 202.8 and the coronavirus pandemic and remained closed beyond June 2020. Defendant is barred by government laws and mandates from performing its services.

14. Therefore, Plaintiff is entitled to rescission of the contract between the parties pursuant to the impossibility of performance doctrine and to the return of the Retainer Fee in the amount of \$8,000.00.

**AS FOR A SECOND CAUSE OF ACTION: RESCISSION ON THE BASIS OF
COMMERCIAL IMPRACTICABILITY**

15. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 11 as if fully set forth herein.

16. The basic assumption of the parties underlying the contract was that Jake's Bar Mitzvah would be held at the Water Club on May 2, 2020. The contract was predicated upon the holding of the bar mitzvah at the Water Club on that date. Absent Jake's Mitzvah, there would be no need for Defendant's services.

17. Performance of Defendant's services pursuant to the contract has been rendered impracticable and impossible by the coronavirus epidemic and by state and city mandates.

18. Therefore, Plaintiff is entitled to rescission of the contract between the parties pursuant to the doctrine of commercial impracticability and to the return of the Retainer Fee in the amount of \$8,000.00.

**AS FOR A THIRD CAUSE OF ACTION: RESCISSION ON THE BASIS OF
FRUSTRATION OF PURPOSE**

19. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 18 as if fully set forth herein.

20. Defendant's performance of entertainment services at Jake's Bar Mitzvah at the Water Club was completely and totally the basis of the contract. Absent Jake's Bar Mitzvah at the Water Club (or even a similar location, the contract would have made little sense. At the current time, such Bar Mitzvah event and Defendant's services are prohibited by government mandate and precluded by the coronavirus pandemic, and there is no indication when such event could be held. Plaintiff has been compelled to have a "Zoom" Bar Mitzvah, in which Defendant's services make no sense.

21. Performance of Defendant's services pursuant to the contract has been rendered impracticable and impossible by the coronavirus epidemic and by state and city mandates.

22. Therefore, Plaintiff is entitled to rescission of the contract between the parties pursuant to the doctrine of frustration of purpose and to the return of the Retainer Fee in the amount of \$8,000.00.

AS FOR A FOURTH CAUSE OF ACTION: UNJUST ENRICHMENT

23. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 22 as

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