

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**-----X
BENJAMIN KEST,

Plaintiff,

-vs-

KMR INC., KMR WERNER BROTHERS,
KMR GROUP, SHIMMY WERNER,
BORUCH WERNER, and John Does 1-10,Defendants,
-----X**SUMMONS**

Index No.:

Date Index No. Purchased:

TO THE ABOVE-NAMED DEFENDANTS:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED and required to serve upon Plaintiff's attorney an answer to the complaint in this action within twenty days after the service of this summons, exclusive of the day of service, or within thirty days after service is complete if this summons is not personally delivered to you within the State of New York.

YOU ARE FURTHER NOTIFIED should you fail to answer a judgment will be entered against you by default for the relief demanded in the complaint.

Dated: Fresh Meadows, New York
August 17, 2020

/Jonathan E. Neuman/
JONATHAN E. NEUMAN, ESQ.
Attorney for Plaintiff
176-25 Union Turnpike, Suite 230
Fresh Meadows, New York 11366
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Defendant's Address:KMR INC.; KMR WERNER BROTHERS; KMR GROUP
403 Crown Street, Brooklyn, NY 11225

SHIMMY WERNER; BORUCH WERNER
c/o KMR INC., 403 Crown Street, Brooklyn, NY 11225

VENUE: Plaintiff designates Kings County as the place of trial. The basis of the venue designated is the address of Defendants.

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**VERIFIED
COMPLAINT**

Index No.

JURY TRIAL DEMANDED

Plaintiff, BENJAMIN KEST, by his attorney, JONATHAN E. NEUMAN, ESQ.,
as and for his Verified Complaint, alleges as follows:

1. Plaintiff BENJAMIN KEST ("BENJAMIN") is an individual with an address at 317 W 92 St., New York, NY 10025.
2. Upon information and belief, Defendant KMR INC. ("KMR") is an inactive domestic corporation, with an address at 403 Crown Street, Brooklyn, NY 11225.
3. According to the NYS Department of State Division of Corporations Entity Information database, KMR has been inactive since January 26, 2011, and has not been authorized to do business in the State of New York since that time.
4. Upon information and belief, KMR has been doing business within the State of New York without authorization since January 26, 2011.
5. Upon information and belief, KMR does business under various names, such as Defendant KMR WERNER BROTHERS and Defendant KMR GROUP, both with an address of 403 Crown Street, Brooklyn, NY 11225, however, neither of these names appear to be registered as entities authorized to do business within the State of New York.

6. Upon information and belief, Defendants SHIMMY WERNER and BORUCH WERNER are the two owners and principals of the various KMR entities.

FACTUAL BACKGROUND

7. Defendants are a group that run vacation programs catered to the Orthodox Jewish community.

8. One of the programs that Defendants run is an annual Passover program.

9. In February 2020, BENJAMIN was in contact with Defendant SHIMMY WERNER regarding KMR's 2020 Passover program.

10. On or about February 10, 2020, BENJAMIN was quoted a price by Defendant KMR WERNER BROTHERS for the 2020 Passover program for BENJAMIN and his various family members.

11. On or about February 24, 2020, BENJAMIN paid a \$60,000 deposit made out to "KMR" for the program.

12. Meanwhile, however, the following timeline of events was occurring:

- a. On January 9, 2020, the World Health Organization ("WHO") had announced a mysterious coronavirus-related pneumonia in Wuhan, China;
- b. On January 20, the U.S. Centers for Disease Control and Prevention ("CDC") announced that 3 U.S. airports (including JFK Airport in New York) would begin screening for coronavirus;
- c. On January 21, the CDC confirmed the first U.S. coronavirus case in the State of Washington;

- d. On January 23, China placed the entire city of Wuhan and its population of 11 million people under quarantine;
- e. On January 31, the WHO issued a global health emergency;
- f. On February 2, the United States began restricting global air travel;
- g. On February 3, the United States declared a public health emergency;
- h. On February 25, the CDC announced that COVID-19 was headed toward global pandemic status.

13. Seeing the writing on the wall, shortly thereafter BENJAMIN contacted Defendant SHIMMY WERNER and stated that he wanted to cancel his reservation in light of the impending pandemic.

14. This was only a short while after BENJAMIN had paid the deposit and at the time there were still 5-6 weeks before the scheduled start of the program.

15. SHIMMY WERNER agreed.

16. The pandemic in fact was realized, and the Pesach program never took place, with Defendants cancelling the program a few weeks later.

17. Despite the fact that SHIMMY WERNER agreed that BENJAMIN could cancel, and moreover that in fact no program took place, Defendants have refused to return BENJAMIN's money.

18. After some communication regarding the return of the money, WERNER then cut off communication with BENJAMIN.

19. However, WERNER recently contacted BENJAMIN stating that he needed more time to come up with the money.



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