

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

KALAMATA CAPITAL GROUP, LLC

Plaintiff

-against-

J & D RESTAURANT ENTERPRISES LLC D/B/A
OLD SALEM CAFE ; OLD SALEM CAFE; J&D
RESTAURANT ENT. LLC; OLD SALEM CAFE, INC.
and
DONNA L ARMSTRONG

Defendants

Index No.:

Date Purchased

SUMMONS

Plaintiff address is
80 Broad St. Suite 1201
New York, New York 10004

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to serve upon Plaintiff attorney, at the address stated below, an answer to the attached complaint. If this summons was personally delivered upon you in the State of New York, the answer must be served within twenty days after such service of the summons, excluding the date of service. If the summons was not personally delivered to you within the State of New York, the answer must be served within thirty days after service of the summons is complete as provided by law.

If you do not serve an answer to the attached complaint within the applicable time limitation stated above, a judgment may be entered against you, by default, for the relief demanded in the complaint, without further notice to you.

The basis for venue is pursuant to the Contract entered into between the parties.

Dated: New York, New York
July 29, 2022

/s/ariel bouskila

Ariel Bouskila, Esq.
Berkovitch & Bouskila, PLLC
Attorneys for Plaintiff
80 Broad St Suite 3303
New York, New York 10004
Phone:(212)729-1477
Fax:(347)342-3192

Defendants to be served:

J & D RESTAURANT ENTERPRISES
LLC D/B/A OLD SALEM CAFE ; OLD
SALEM CAFE; J&D RESTAURANT
ENT. LLC; OLD SALEM CAFE, INC.
8162 BOTHA ROAD
WARRENTON, VA 20186

DONNA L ARMSTRONG
4197 WINCHESTER ROAD

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

KALAMATA CAPITAL GROUP, LLC

Plaintiff,

-against-

J & D RESTAURANT ENTERPRISES LLC D/B/A OLD SALEM
CAFE ; OLD SALEM CAFE; J&D RESTAURANT ENT. LLC;
OLD SALEM CAFE, INC. and
DONNA L ARMSTRONG

Defendants

Index No.:

**VERIFIED
COMPLAINT**

Plaintiff KALAMATA CAPITAL GROUP, LLC ("Plaintiff"), by its attorney, Ariel Bouskila Esq., for its complaint herein against J & D RESTAURANT ENTERPRISES LLC D/B/A OLD SALEM CAFE ; OLD SALEM CAFE; J&D RESTAURANT ENT. LLC; OLD SALEM CAFE, INC. (referred to collectively as "Company Defendant") and DONNA L ARMSTRONG ("Guarantor(s)") (Company Defendant and Guarantor(s) collectively "Defendants"), alleges as follows:

The Parties

1. At all relevant times, Plaintiff was and is an entity authorized to do business in the State of New York, with its principal place of business in the State of New York.
2. Upon information and belief, at all relevant times, Company Defendant was and is a company organized and existing under the laws of the State of VA.
3. Upon information and belief, at all relevant times, Guarantor(s) were and are an individual residing in the State of VA.
4. Venue is proper in Nassau pursuant to the Agreements entered into by and between the parties.

5. This Court maintains personal jurisdiction over the Defendants in this Action pursuant to the Agreements entered into by and between the parties.

The Facts

6. On or about September 20, 2021, Plaintiff and Defendants entered into an Agreement ("Agreement 1") whereby Plaintiff agreed to purchase all rights to Company Defendant's future receivables having an agreed upon value of \$38,700.00. A copy of the Agreements is annexed hereto as Exhibit A.

7. On or about October 22, 2021, Plaintiff and Defendants entered into an Agreement ("Agreement 2" collectively with Agreement 1 "Agreements") whereby Plaintiff agreed to purchase all rights to Company Defendant's future receivables having an agreed upon value of \$12,600.00. A copy of the Agreements is annexed hereto as Exhibit B.

8. Pursuant to the Agreements, Company Defendant agreed to remit to Plaintiff 15% ("Specified Percentage") of their receivables. Company Defendant further agreed to have one bank account approved by Plaintiff (the "Bank Account") from which Company Defendant authorized Plaintiff to make ACH withdrawals until \$38,700.00 and \$12,600.00 were fully paid to Plaintiff. Said withdrawals were a good faith estimate of the Specified Percentage of the Company Defendants' receivables at the time the Agreements were entered into.

9. In addition, Guarantor(s) agreed to guarantee any and all amounts owed to Plaintiff from Company Defendant upon a breach in performance by Company Defendant.

10. Plaintiff remitted the Purchase Price for the future receivables to Company Defendant as agreed. Initially, Company Defendant met its obligations under the Agreements.

11. Company Defendant ceased remitting to Plaintiff the Plaintiff's share of Purchased Receivables and otherwise breached the Agreements by intentionally impeding and preventing

Plaintiff from receiving the Specified Percentage of Company Defendants' receivables, while conducting regular business operations and collecting revenue.

12. Company Defendant made remitted \$25,972.00 of the receivables purchased by Plaintiff, leaving a balance of unremitted receivables in the amount of \$12,728.00. In addition, pursuant to the Agreements, Company Defendant incurred NSF fees in the amount of \$35.00 and Default Fees in the amount of \$2,500.00.

13. Company Defendant made remitted \$25,972.00 of the receivables purchased by Plaintiff, leaving a balance of unremitted receivables in the amount of \$7,564.80. In addition, pursuant to the Agreements, Company Defendant incurred NSF fees in the amount of \$35.00 and Default Fees in the amount of \$2,500.00.

14. Despite due demand, Company Defendant has failed to remit the purchased amount due and owing by Company Defendant to Plaintiff under the Agreements.

15. Additionally, Guarantor(s) were responsible for all amounts incurred as a result of any breach of the Company Defendant.

16. There remains a balance due and owing to Plaintiff on the Agreements in the amount of \$22,833.00 plus interest, costs, and disbursements.

AS AND FOR THE FIRST CAUSE OF ACTION

(Breach of Contract)

17. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 14 of this complaint as though fully set forth at length herein.

18. Plaintiff gave fair consideration to Company Defendant which was tendered for the right to receive the aforementioned receivables. Accordingly, Plaintiff fully performed under the Agreements.

19. Upon information and belief, Company Defendant is still conducting regular business operations and still collecting receivables.

20. Company Defendant has materially breached the Agreements by failing to remit to Plaintiff the Plaintiffs share of Future Receivables, as required under the Agreements and otherwise intentionally impeding and preventing Plaintiff from receiving the proceeds of the receivables purchased by them.

21. Upon information and belief, Company Defendant has also materially breached the Agreements by using more than one depositing bank (account which has not been approved by Plaintiff.

22. By reason of the foregoing, Plaintiff has suffered damages in the amount of \$22,833.00, plus interest, costs, and disbursements.

AS AND FOR A SECOND CAUSE OF ACTION
(Personal Guarantee)

23. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 20 of this complaint as though fully set forth at length herein.

24. Pursuant to the Agreements, Guarantor(s) personally guaranteed that Company Defendant would perform its obligations thereunder and that he would be personally liable for any loss suffered by Plaintiff as a result of a breach by Company Defendant.

25. Company Defendant has breached the Agreements as detailed above.

26. By reason of the foregoing, Plaintiff is entitled to judgment against Guarantor(s) based on his personal guarantee in the sum of \$22,833.00, plus interest, costs, and disbursements.

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