

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
FLINTLOCK CONSTRUCTION SERVICES, LLC,

Plaintiff,

Index No.: 158633/18

-against-

**NOTICE OF APPEAL**

RUBIN, FIORELLA & FRIEDMAN LLP,

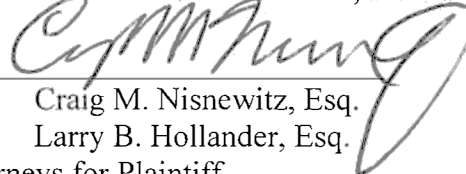
Defendant  
-----X

**PLEASE TAKE NOTICE**, that the Plaintiff, Flintlock Construction Services, LLC hereby appeals to the Appellate Division of the Supreme Court of the State of New York, First Judicial Department from the Decision and Order of the Hon. John J. Kelley, J.S.C., dated August 9, 2019 and entered in the Office of the Clerk of the County of New York on August 14, 2019, which Decision and Order granted the defendant's motion and dismissed the complaint, and this appeal is taken from each and every part of said Decision and Order. A copy of the Decision and Order with Notice of Entry is annexed hereto.

Dated: Great Neck, New York  
August 15, 2019

Yours, etc.

**HOLLANDER LAW GROUP, PLLC**

By:   
Craig M. Nisnewitz, Esq.  
Larry B. Hollander, Esq.

Attorneys for Plaintiff  
40 Cutter Mill Road, Suite 203  
Great Neck, N.Y. 11021  
(516) 498-1000

TO: **FURMAN KORNFELD & BRENNAN LLP**  
Attorneys for Defendant  
61 Broadway, 26<sup>th</sup> Floor  
New York, N.Y. 10006  
(212) 867-4100

Att: Jason A. Kayne, Esq.

G:\1324-161\8.15.19 1324-161 Notice of Appeal.docx

# Supreme Court of the State of New York

## Appellate Division: First Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

<b>Case Title:</b> Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.		<b>For Court of Original Instance</b>  Date Notice of Appeal Filed
Flintlock Construction Services, LLC <div style="text-align: right;">Plaintiff</div> <div style="text-align: center; margin: 10px 0;">- against -</div> Rubin, Fiorella, & Friedman, LLP <div style="text-align: right;">Defendants</div>		<b>For Appellate Division</b>
Case Type	Filing Type	
<input checked="" type="checkbox"/> Civil Action <input type="checkbox"/> CPLR article 75 Arbitration	<input type="checkbox"/> CPLR article 78 Proceeding <input type="checkbox"/> Special Proceeding Other <input type="checkbox"/> Habeas Corpus Proceeding	<input checked="" type="checkbox"/> Appeal <input type="checkbox"/> Original Proceedings <input type="checkbox"/> CPLR Article 78 <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Labor Law 220 or 220-b <input type="checkbox"/> Public Officers Law § 36 <input type="checkbox"/> Real Property Tax Law § 1278
<input type="checkbox"/> Transferred Proceeding <input type="checkbox"/> CPLR Article 78 <input type="checkbox"/> Executive Law § 298 <input type="checkbox"/> CPLR 5704 Review		
<b>Nature of Suit:</b> Check up to three of the following categories which best reflect the nature of the case.		
<input type="checkbox"/> Administrative Review	<input checked="" type="checkbox"/> Business Relationships	<input type="checkbox"/> Commercial
<input type="checkbox"/> Declaratory Judgment	<input type="checkbox"/> Domestic Relations	<input type="checkbox"/> Election Law
<input type="checkbox"/> Family Court	<input type="checkbox"/> Mortgage Foreclosure	<input type="checkbox"/> Miscellaneous
<input type="checkbox"/> Real Property (other than foreclosure)	<input type="checkbox"/> Statutory	<input type="checkbox"/> Taxation
		<input checked="" type="checkbox"/> Torts

Informational Statement - Civil

## Appeal

Paper Appealed From (Check one only):

If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> Amended Decree      | <input type="checkbox"/> Determination          | <input type="checkbox"/> Order              | <input type="checkbox"/> Resettled Order  |
| <input type="checkbox"/> Amended Judgement   | <input type="checkbox"/> Finding                | <input type="checkbox"/> Order & Judgment   | <input type="checkbox"/> Ruling           |
| <input type="checkbox"/> Amended Order       | <input type="checkbox"/> Interlocutory Decree   | <input type="checkbox"/> Partial Decree     | <input type="checkbox"/> Other (specify): |
| <input checked="" type="checkbox"/> Decision | <input type="checkbox"/> Interlocutory Judgment | <input type="checkbox"/> Resettled Decree   |   |
| <input type="checkbox"/> Decree              | <input type="checkbox"/> Judgment               | <input type="checkbox"/> Resettled Judgment |   |

Court: Supreme Court ☒County: New York ☒

Dated: August 9, 2019

Entered: August 14, 2019

Judge (name in full): Hon. John J. Kelley, J.S.C.

Index No.: 158633/18

Stage: ☒ Interlocutory ☐ Final ☐ Post-FinalTrial: ☒ Yes ☐ No If Yes: ☒ Jury ☐ Non-Jury

## Prior Unperfected Appeal and Related Case Information

Are any appeals arising in the same action or proceeding currently pending in the court? ☐ Yes ☒ No

If Yes, please set forth the Appellate Division Case Number assigned to each such appeal.

Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case:

No

## Original Proceeding

Commenced by: ☐ Order to Show Cause ☐ Notice of Petition ☐ Writ of Habeas Corpus Date Filed:

Statute authorizing commencement of proceeding in the Appellate Division:

## Proceeding Transferred Pursuant to CPLR 7804(g)

Court: Choose Court

County: Choose County

Judge (name in full):

Order of Transfer Date:

## CPLR 5704 Review of Ex Parte Order:

Court: Choose Court

County: Choose County

Judge (name in full):

Dated:

## Description of Appeal, Proceeding or Application and Statement of Issues

Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.

Appeal by plaintiff from Decision and Order of Hon. J. Kelley dated August 9, 2019 and entered August 14, 2019 which granted defendant's motion & dismissed the complaint pursuant to CPLR Sec. 3211 (a)(5) as time barred.

Informational Statement - Civil

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

Plaintiff contends that the action was timely commenced & dismissal as untimely was in error by the Supreme Court, County of New York.

### Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	Flintlock Construction Services, LLC	Plaintiff <input type="checkbox"/>	Appellant <input type="checkbox"/>
2	Rubin, Fiorella & Friedman LLP	Defendant <input type="checkbox"/>	Respondent <input type="checkbox"/>
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			

Informational Statement - Civil

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.