

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

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M.A.V.G., and Infant by His Mother and Natural  
Guardian MARIA GOMEZ and MARIA GOMEZ,  
Individually,

Plaintiffs,

- against -

Plaintiffs Designate:  
New York County  
Basis of Venue:  
CPLR §504

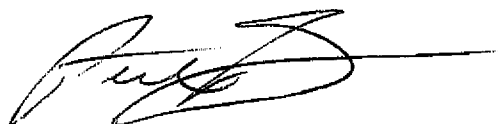
**SUMMONS**

THE CITY OF NEW YORK,

Defendant.

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**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 Attorney(s) within 20 days after the service of this  
summons, exclusive of the day of service (or within 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 herein.

Dated: New York, New York  
November 30, 2023



Patrick Benn, Esq.  
ESTRIN & BENN, LLC  
Attorneys for Plaintiff  
225 Broadway, Suite 1200  
New York, New York 10007  
(212) 962-0800

Defendant's Address:

THE CITY OF NEW YORK  
100 Church Street  
New York, New York 10007

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

-----X  
M.A.V.G., and Infant by His Mother and Natural  
Guardian MARIA GOMEZ and MARIA GOMEZ,  
Individually,

Plaintiff,<sup>s</sup>

COMPLAINT  
Index No.

-against-

THE CITY OF NEW YORK,

Defendant.

-----X

The Plaintiffs, by their attorneys ESTRIN & BENN, LLC, as and for their Verified Complaint,  
respectfully allege at all times mentioned herein that:

FOR A FIRST CAUSE OF ACTION:

1. The infant Plaintiff was a resident of the County, the City and State of New York.
2. The Defendant THE CITY OF NEW YORK (hereinafter "CITY") was and remains a Municipal Corporation organized and existing under and by virtue of the laws of the State of New York.
3. On or about November 29, 2022, the Plaintiffs served Notices of Claim upon the Defendant in full compliance with the provisions of General Municipal Law Section 50-e.
4. Prior to the commencement of this action, at least thirty (30) days have elapsed since service of such Notice of Claim and adjustment or payment thereof has been neglected and/or refused.
5. One year and ninety (90) days have not elapsed since the happening of the event upon which this action is based and commencement of this action.
6. The Defendant owned, operated, maintained and controlled a playground, known and

designated as the Audubon Playground, located on Audubon Playground, between West 169<sup>th</sup> Street and West 170<sup>th</sup> Street, New York, New York (hereinafter the “Playground”).

7. On or about September 1, 2022, the Defendant owned the Playground.
8. On or about September , 2022, the Defendant operated the Playground.
9. On or about September 1, 2022, the Defendant maintained the Playground.
10. On or about September 1, 2022, the Defendant controlled the Playground.
12. The Defendant, through itself, its servants, agents and/or employees, had a duty to use reasonable care and diligence in the management, operation and control of the Playground.
13. The Defendant, through itself, its servants, agents and/or employees, had a duty to provide for the safety and well-being of those individuals visiting and utilizing the Playground.
14. The Defendant, through itself, its servants, agents and/or employees, had a duty to make and keep safe the Playground, for those individuals residing at and visiting and utilizing the Playground, including the infant Plaintiff.
15. On or about September 1, 2022, the infant Plaintiff, while visiting the aforesaid premises, sustained severe and permanent injuries when he fell on the infant water slide in the Playground, due to the negligence of the Defendant.
16. The infant Plaintiff was caused to suffer severe and permanent injuries due to the negligence of the Defendant.
17. The Defendant, through itself, its servants, agents and/or employees, was negligent in failing to properly design, construct, repair and maintain the infant water slide at the

- Playground, thereby creating a defective, unsafe, dangerous and hazardous condition.
18. The Defendant, through itself, its servants, agents and/or employees, was negligent, reckless and careless in designing, constructing and maintaining the steps of the infant water slide, in allowing the treads and risers of the steps to become and remain of varying heights and lengths, in failing to provide adequate padding around the infant water slide, thereby creating a defective, unsafe, dangerous, and hazardous condition.
  19. Upon information and belief, the Defendant had actual knowledge and prior written notice of the dangerous and hazardous condition of the infant water slide or the same existed for a sufficient length of time prior to the accident herein alleged that the Defendant could have and should have had such knowledge and notice.
  20. Upon information and belief, the Defendants created the aforesaid dangerous and hazardous conditions.
  21. The Defendant failed to give notice and warning of these dangerous and hazardous conditions and failed to exercise the necessary caution and care required under said circumstances, thereby causing the infant Plaintiff to sustain severe and permanent injuries.
  22. The aforesaid accident and the injuries suffered therefrom were caused solely through the negligence of the Defendant without any negligence on the part of this infant Plaintiff contributing thereto.
  23. As a result of the negligence of the Defendant, the infant Plaintiff was caused to sustain severe and personal injuries, obliging the infant Plaintiff to incur expenses for medical care and which injuries prevented and will prevent the infant Plaintiff in the performance of his usual duties. Upon information and belief, these injuries are of a

permanent nature.

24. As a result of the foregoing, the infant Plaintiff has been damaged in an amount which exceeds the jurisdictional limits of all lower courts.

FOR A SECOND CAUSE OF ACTION:

25. The Plaintiffs repeat and reiterate each and every allegation contained in paragraphs "1" through "24", inclusive of this complaint, with the same force and effect as if set forth herein at length.
26. The Plaintiff MARIA GOMEZ is the mother and natural guardian of the infant Plaintiff.
27. At and during all the times hereinbefore mentioned, and prior thereto, the Plaintiff MARIA GOMEZ' child was in good health.
28. By reason of the foregoing, the Plaintiff MARIA GOMEZ' child will for a long period of time be prevented from attending to his duties and be unable to labor, consort, etc., so that by reason thereof, the Plaintiff MARIA GOMEZ has necessarily lost, and will continue to lose her child's services and usefulness, and has necessarily expended and will continue to expend large sums of money in an effort to cure or minimize her child's injuries, and she has been deprived and will continue to be deprived of the comfort and happiness in her child's society which has been impaired, and the Plaintiff MARIA GOMEZ believes that such deprivation and impairment will result in damage to her in an amount which exceeds the jurisdictional limits of all lower courts.

WHEREFORE, the Plaintiffs demands judgment against the Defendant with costs and disbursements, and for such other further relief as this Court may deem just and appropriate.

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