

CITY OF NEW ROCHELLE, COUNTY OF
WESTCHESTER, GEORGE A. FULLER COMPANY, INC.,
TRUMP PLAZA NEW ROCHELLE CONDOMINIUM AND
UNITED WATER NEW ROCHELLE INC.,

Hon. Joan B. Lefkowitz, J.S.C.

FILED

DEC 18 2012

TIMOTHY C. IDONI
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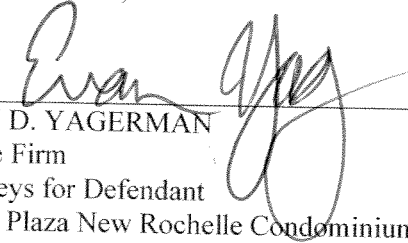
Defendants.

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PLEASE TAKE NOTICE that, upon the affirmation of Evan D. Yagerman dated July 24, 2012, and upon all the pleadings and proceedings had herein, the undersigned will move this Court at an Individual Assignment Part at the Courthouse located at 111 Dr. Martin Luther King, Jr. Boulevard, White Plains, NY 10601, on August 22, 2012 at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an order consolidating Action No. 2 with Action No. 1 for all purposes, vacating plaintiff's Statement of Readiness in Action No. 1, striking the Note of Issue in Action No. 1 and keeping Action No. 1 from the trial calendar or keeping the case from being placed thereon until compliance with the rules of calendar practice of this Court, as well extending all parties time to file a summary judgment motion and granting such other and further relief as to the Court may seem just, proper, and equitable.

The above-entitled action is to recover monetary damages for bodily injury.

SMITH MAZURE DIRECTOR WILKINS YOUNG
& YAGERMAN, P.C.



EVAN D. YAGERMAN
For the Firm
Attorneys for Defendant
Trump Plaza New Rochelle Condominium
111 John Street
New York, NY 10038
(212) 964-7400
Our File No. ZUR-01946

TO:
(County of Westchester has been granted Summary Judgment)

The County of Westchester
c/o Office of County Attorney
148 Maritime Avenue, Room 600
White Plains, NY 10601
(914) 285-2690

Corporation Counsel of the City of New Rochelle
515 North Avenue
New Rochelle, NY 10801-3416
(914) 654-2120
Attorney for Defendant
City of New Rochelle, NY

Harrington, Oeko & Monk, LLP
81 Main Street, Suite 215
White Plains, NY 10601
(914) 686-4800/(914) 686-4824 (F)
Attorney for Defendant

George A. Fuller Company, Inc.
and Defendant in Action No. 2
Cappelli Enterprises

Litchfield Cavo, LLP
420 Lexington Avenue, Suite 2104
New York, NY 10170
(212) 434-0100/(212) 434-0105 (F)
Attorney for Defendant
United Water New Rochelle Inc.

Segal & Lax, Esqs.
501 Fifth Avenue, Suite 2004
New York, NY 10017
(212) 922-0891/(212) 922-0896 (F)
Attorney for Plaintiff
Elaine Hudson

EDY/kxt
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CITY OF NEW ROCHELLE, COUNTY OF
WESTCHESTER, GEORGE A. FULLER COMPANY, INC.,
TRUMP PLAZA NEW ROCHELLE CONDOMINIUM AND
UNITED WATER NEW ROCHELLE INC.,

Defendants.

-----X
ELAINE HUDSON

Plaintiff,

Action No. 2 Index No. 58588/2012

-against-

CAPPELLI ENTERPRISES AND CERUZZI PROPERTIES,
LLC.,

Defendants.

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Evan D. Yagerman, an attorney duly admitted to practice law in the Courts of New York,
hereby affirms the truth of the following under penalty of perjury and pursuant to CPLR 2106:

1. I am an associate of the firm of Smith Mazure Director Wilkins Young &
Yagerman, P.C., attorney for defendant Trump Plaza New Rochelle Condominium and I am
fully familiar with the facts and circumstance surrounding the within action.

2. This affirmation is made in support of the instant motion for an order
consolidating Action No. 2 with Action No. 1 for all purposes, vacating plaintiff's Statement of
Readiness in Action No. 1, striking the Note of Issue in Action No. 1 and keeping Action No. 1
from the trial calendar or keeping the case from being placed thereon until compliance with the
rules of calendar practice of this Court, as well extending all parties time to file a summary

or around June 3, 2010. Defendant Trump Plaza New Rochelle Condominium interposed an Answer on July 2, 2012. Further, all other defendants interposed Answers. Copies of all pleadings are annexed hereto as *Exhibit "A"*. Plaintiff's Verified Bill of Particulars is annexed hereto as *Exhibit "B"*.

4. This action stems from an alleged slip and fall which occurred outside of the premises known as 175 Huguenot Street, New Rochelle, New York. The County of Westchester was dismissed from the case as a result of a motion to dismiss prior to depositions. Plaintiff Elaine Hudson was deposed on March 8, 2012. A copy of her transcript is annexed hereto as *Exhibit "C"*. At plaintiff's Examination before Trial she identified the area where her accident took place which is adjacent to 175 Huguenot Street in front of what is alleged to be a commercial premises. Further, photographs were identified at plaintiff's Examination before Trial which are annexed hereto as *Exhibit "D"*.

5. All defendants were deposed on varying dates. However, Danielle Dibene was deposed on behalf of moving defendant on April 27, 2012. A copy of her transcript is annexed hereto as *Exhibit "E"*. The witness testified at her Examination Before Trial that the area where plaintiff identified her accident took place is a commercial premises not owned, managed, controlled, or maintained by Trump Plaza New Rochelle Condominium. Ms. Dibene testified that Cappelli Enterprises owns the commercial unit and is managed by Ceruzzi Properties, LLC.

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