

INQUEST DECISION, DATED DECEMBER 30, 2020 [39 - 42]

FILED: QUEENS COUNTY CLERK 12/30/2020 11:46 AM

NYSCEF DOC. NO. 31

INDEX NO. 713988/2016

RECEIVED NYSCEF: 12/30/2020

ORIGINAL

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS : CIVIL TERM : PART 13

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DAVID BOROHOV,

Plaintiff,

Index No.
713988-2016

-against-

QUEENS FRESH MEADOWS, LLC

INQUEST DECISION

Defendant.
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Queens Supreme Courthouse
88-11 Sutphin Boulevard
Jamaica, New York 11435
September 8, 2020

B E F O R E:

THE HONORABLE MAUREEN A. HEALY,
JUSTICE OF THE SUPREME COURT

FILED
DEC 30 2020
COUNTY CLERK
QUEENS COUNTY

JOHANNE R. SMITH
Senior Court Reporter

PROCEEDINGS

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1 THE COURT: This is a decision after an inquest
2 that was held on July 8th of 2019 based on a default order
3 signed by Judge Rafael on October 18th of 2017 for an
4 accident that happened at the Fresh Meadows Development on
5 5/4 of 2016.

6 The Plaintiff, David Borohov, was leaving his
7 apartment and going down the staircase at his exterior
8 wooden staircase. When he reached the last step, he said
9 he tripped, hit his ankle and fell at about 8:30 in the
10 morning. His wife took him to Mount Sinai Queens emergency
11 department, where he was told he had a ligament tear and
12 prescribed narcotics. He was given a soft cast and
13 crutches.

14 He then came under the care of Dr. Katz,
15 podiatrist at NYU Langone, for a number of months still
16 wearing the soft cast and using crutches. He went then to
17 RTPT, a physical therapy group. When he did not get the
18 relief he needed, he consulted with a Dr. Bernstein, an
19 orthopedic surgeon, having had an MRI that confirmed a
20 ligament tear in his ankle and a hematoma and swelling.

21 Under the care of the surgeon he received two
22 Cortisone shots and was recommended with surgery. But the
23 doctor told him there is no guarantee that the surgery
24 would relieve his complaints. To this date he has not had
25 the surgery. Apparently his life events interfered with

PROCEEDINGS

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1 his having the surgery, including the birth of a child.

2 His employment is as a hairdresser, to which he
3 states he has to stand on his feet for the day and he
4 cannot do chemical treatments to the hair based on the
5 condition of his foot. Plaintiff's attorney indicated they
6 were looking for \$150,000 for past pain and suffering and a
7 similar amount of \$150,000 for future pain and suffering.
8 His past medical expenses were \$6,081.31, which the
9 attorney believes to be the amount that would be reflected
10 in a lien on the case. Dr. Bernstein estimated that if he
11 underwent surgery, future medical expenses would be
12 \$14,600.

13 (The transcript is continued on the next page to
14 include the certificate.)

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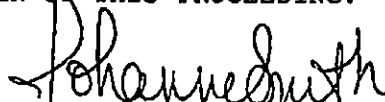
PROCEEDINGS

1 The Court awards \$130,000 for past pain and
 2 suffering, which should more than cover the amount of any
 3 liens, and the \$150,000 that was requested for future pain
 4 and suffering without surgery for a gentleman that makes
 5 his living standing on his feet all day long and was
 6 gainfully employed at the time of the accident to be
 7 considerable.

8 So the Court enters judgement for \$130,000 for
 9 past pain and suffering and medical expenses and \$150,000
 10 for future pain and suffering and possible medical
 11 expenses. Enter judgement.

12 That concludes the Court's decision. Thank you.

13 *****
 14 CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPT OF THE ORIGINAL
 15 STENOGRAPHIC MINUTES TAKEN OF THIS PROCEEDING.

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 17 _____
 18 JOHANNE R. SMITH
 19 Senior Court Reporter
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ORDER TO SHOW CAUSE, BY DEFENDANT, FOR AN ORDER TO VACATE THE JUDGMENT, FILED JUNE 7, 2021 [43 - 44]

FILED: QUEENS COUNTY CLERK 06/07/2021 02:04 PM
NYSCEF DOC. NO. 45

INDEX NO. 713988/2016
RECEIVED NYSCEF: 06/07/2021

SEQUENCE #3

FILED
6/7/2021
COUNTY CLERK
QUEENS COUNTY

At IAS Part __ of the Supreme Court of the State of New York, held in and for the County of Queens at the Courthouse thereof, 88-11 Sutphin Blvd, Jamaica, New York, on the 7th day of June 2021

HON. MAURICE E. NUJR
PRESENT HON. _____
Justice of the Supreme Court

-----X

DAVID BOROHOV,

Index No.: 713988/2016

Plaintiff,

ORDER TO SHOW CAUSE WITH
TEMPORARY RESTRAINTS

-against-

Motion Sequence No. 003

QUEENS FRESH MEADOWS, LLC,

Defendant.

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Upon the reading and filing of the underlying Affidavit of Ari Rosenfeld, sworn to June 3, 2021, along with the Exhibits thereto, the Affidavit of Leszek Ossolinski, sworn to June 3, 2021, the Emergency Affirmation of Howard S. Koh dated June 4, 2021, and the Memorandum of Law dated June 4, 2021, and good cause appearing therefor, it is hereby:

ORDERED that Plaintiff David Borohov ("Plaintiff") or his attorneys, appear and show cause at the Supreme Court of the State of New York, County of Queens, at the Courthouse located at 88-11 Sutphin Boulevard, Jamaica, New York 11435, IAS Part 42, Room 208 on June 8/19/21 10:00 a.m., 2021, at _____.m., or as soon thereafter as counsel can be heard, why an Order should not be made and entered, pursuant to CPLR 317 and/or 5015, vacating this Court's Judgment in this action dated January 8, 2021 (the "Default Judgement"), entered on default after inquest; and it is further

FILED: QUEENS COUNTY CLERK 06/07/2021 02:04 PM

NYSCEF DOC. NO. 45

INDEX NO. 713988/2016

RECEIVED NYSCEF: 06/07/2021

ORDERED that pending the hearing and determination of this application, Plaintiff and the New York City Office of the Sheriff are enjoined and restrained from enforcing the Default Judgment or otherwise restraining any of Defendant's assets; and it is further

ORDERED that service of a copy of this Order to Show Cause, together with the supporting papers upon which it is based, upon Cohen & Cohen Law Group, counsel for Plaintiff, 104-70 Queens Boulevard, Suite 312, Forest Hills, New York 11375 by Federal Express Overnight Delivery Service and by filing upon the NYSCEF System on or before June 18, 2021, shall be deemed good and sufficient service; and it is further

ORDERED that Plaintiff shall serve its opposing papers, if any, on the NYSCEF System, on or before June 8-2-21, 2021 and Defendant, Queens Fresh Meadows, LLC, shall serve its reply, if any, on or before June 8-19, 2021.

ENTER



J.S.C.

HON. MAURICE E. MURR

