

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

Index No.
Date Filed:

BESNIK MALECAJ

X

Plaintiff

Plaintiff designates
New York County as the
place of trial.

-against-

The basis of venue is the
Defendant's Residence

WEST 70TH OWNERS CORP. and
SEPI REALTY LLC

Defendant(s)

Plaintiff Resides at:
2455 Cruger Avenue
Bronx, NY 10467

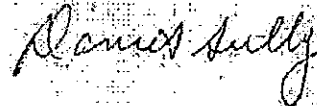
X

S U M M O N S

To the Above named Defendants

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 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 in the within Complaint.

Dated, Brooklyn, New York
June 2, 2024



Daniel E. Sully, Esq.
Of Counsel to Morgan Levin Dolan P.C.
Attorneys For Plaintiff
18 East 41 Street, 6th Fl.
New York, NY 10017
(917) 968-1975

Defendant(s) Address:

WEST 70TH OWNERS CORP. – C/O S&E Azriliant, P.C. 501 Fifth Avenue, 15th Floor,
New York NY 10017
SEPI REALTY LLC – 45 West 70 Street, Lower Level, New York, NY 10023

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

_____ X Index No.

BESNIK MALECAJ

Plaintiff

VERIFIED COMPLAINT

-against-

WEST 70 TH OWNERS CORP. and
SEPI REALTY LLC

Defendants

_____ X

Plaintiff, Besnick Malecaj, by and through his attorneys, Morgan Levin Dolan P.C., as and for his complaint alleges as follows:

PARTIES

1. Plaintiff BESNIK MALECAJ (“Malecaj”) is a natural person residing in the State of New York, County of Bronx.
2. Defendant WEST 70TH OWNERS CORP. (“Owners Corp”) is a corporation duly authorized by the State of New York and, according to its filings with the New York Secretary of State, maintains an office at c/o S&E Azriliant P.C., 501 Fifth Avenue, 15th Floor, New York, New York 10017.
3. Defendant SEPI REALTY LLC (“Sepi”) is a Delaware Limited Liability Company duly authorized by the laws of the State of New York and, according to its filings with the New York Secretary of State, maintains an office at 45 West 70 Street, Lower Level, New York, New York 10023
4. Upon information and belief, Owners Corp and Sepi are both owned and controlled by husband and wife, Russell Abrams and Sandra Piedrabuena Abrams.

BACKGROUND

5. During the course of certain renovations occurring at the property owned by Owners Corp located at 45 West 70th Street, New York, NY (“45 West 70th”), Malecaj was directed by a principal of Owners Corp to perform certain dangerous work that resulted in serious injuries to Malecaj.
6. Malecaj sued Owners Corp in Bronx County Supreme Court under index number 307346/2012, which was later converted to efile index number 307346/2012E (the “Bronx Action”).
7. On the eve of trial in the Bronx Action, and unbeknownst to Malecaj, on or about April 19, 2022, Owners Corp transferred 45 West 70th to Sepi for unfair, little or no consideration, and recorded the deed of the transfer on or about May 31, 2022 under City Register File Number (CRFN) 2022000217210 (the “April 19, 2022 Transfer”).
8. Upon information and belief, at the time of the April 19, 2022 transfer, Owners Corp was a single asset entity, with the single asset being the 45 West 70th property.
9. While jury deliberations were underway in the Bronx Action, Owners Corp and Malecaj entered into a \$1,500,000.00 - \$1,000,000.00 high low settlement on the record.
10. A verdict after trial resulted in damages against Owners Corp in excess of \$4,741,015.00 in favor of Malecaj and against Owners Corp and other defendants. 10% of fault was apportioned against Owners Corp.
11. After the verdict, the Court ordered that the apportionment of only 10% of fault against Owners Corp was to be retried, concluding that the percentage of fault attributable to Owners Corp was not consistent with the proofs.

12. Plaintiff now seeks to avoid the April 19, 2022 transfer which conveyed the 45 West 70th property to Sepi on the eve of trial in the Bronx Action for unfair, little or no consideration, and which thereby left Owners Corp with little or no assets from which to pay its portion of the verdict.

AS AND FOR A FIRST CAUSE OF ACTION
DCL 273

13. Plaintiff incorporates each allegation set forth heretofore as if set forth fully herein.

14. That the April 19, 2022 transfer was made with actual intent to hinder, delay and / or defraud creditor Malecaj of collecting on his claim against Owners Corp.

15. That the April 19, 2022 transfer was made without the transferor, Owners Corp, receiving a reasonably equivalent value or consideration in exchange for the transfer.

16. That the April 19, 2022 transfer was made at a time when Owners Corp was engaged, or was about to engage in a business or a transaction in which the remaining assets of the debtor were unreasonably small in relation to the business or transaction.

17. That the April 19, 2022 transfer was made at a time when Owners Corp believed or reasonably should have believed that it was about to incur debt beyond its ability to pay when it became due.

18. That the April 19, 2022 transfer was made at a time calculated by the transferor and the transferee to be prior in time to a judgment lien being placed on the 45 West 70th property as a result of the upcoming trial in the Bronx Action for the purpose of evading a judgment lien being placed on the 45 West 70th property.

19. That the April 19, 2022 transfer was made between Owners Corp and Sepi which were each owned and controlled by insiders common to each entity.

20. That the 45 West 70th property remained in the hands of the insiders of Owners Corp after the April 19, 2022 transfer.
21. That the April 19, 2022 transfer was made after the transferor Owners Corp had been sued and the transfer was on the eve of trial.
22. That the transfer consisted of substantially all of the debtor's assets.
23. That by the April 19, 2022 transfer, the transferor became an entity in name only, and, for all purposes, absconded.
24. As a result of the April 19, 2022 transfer, Owners Corp became insolvent.
25. That the April 19, 2022 transfer occurred shortly before Owners Corp incurred a substantial debt.

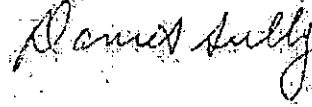
AS AND FOR A SECOND CAUSE OF ACTION
DCL 274

26. Plaintiff incorporates each allegation set forth heretofore as if set forth fully herein.
27. That the April 19, 2022 transfer was made without the transferor, Owners Corp, receiving a reasonably equivalent value or consideration in exchange for the transfer.
28. That the April 19, 2022 transfer caused Owners Corp to become insolvent.

WHEREFORE plaintiff demands judgment (1) granting to plaintiff avoidance of the April 19, 2022 transfer from WEST 70TH OWNERS CORP. to SEPI REALTY as set forth at City Register File Number (CRFN) 2022000217210 to the extent necessary to satisfy Besnik Malecaj's claim against West 70TH Owners Corp. (2) granting leave to Plaintiff to levy execution on 45 West 70th Street New York NY (3) Restraining defendants from further transfer or disposition of 45 West 70th Street New York NY (4) granting Plaintiff a money judgment against Sepi Realty LLC in an amount equal to that awarded Plaintiff in the Bronx Action (5)

awarding attorney fees to Plaintiff (6) such other further and additional relief as the Court deems just and proper.

Dated, Brooklyn, New York
June 4, 2024



Daniel E. Sully, Esq.
Of Counsel to Morgan Levin Dolan P.C.
Attorneys For Plaintiff
18 East 41 Street, 6th Fl.
New York, NY 10017
(917) 968-1975

VERIFICATION BY ATTORNEY

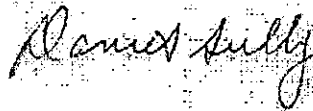
State of New York

County of Kings ss:

The undersigned, an Attorney duly admitted to practice law in the state of New York, Affirms the following statements to be true under penalties of perjury:

I am the attorney of record for the plaintiff and I have read the Complaint contained herein and the same is true to the knowledge of the affirmant, except as to those matters stated to be based upon information and belief, and as to those matters, I believe them to be true.

The reason this verification is made by affirmant and not the Plaintiff is that the Plaintiff is not within the county wherein I maintain my office at the time of the Complaint. My information and belief comes from conversations I have had with the Plaintiff and/or papers supplied to me by the Plaintiff.



Affirmed: June 4, 2024

Daniel Sully, Esq.

Of Counsel to Morgan Levin Dolan P.C.
Attorneys For Plaintiff
18 East 41 Street, 6th Fl.
New York, NY 10017
(917) 968-1975

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

Index No.
 Date Filed:

_____ X
 BESNIK MALECAJ

Plaintiff,

NOTICE OF PENDENCY

-against-

Block: 1123 Lot: 12

WEST 70TH OWNERS CORP. and
 SEPI REALTY LLC

Defendants.

_____ X

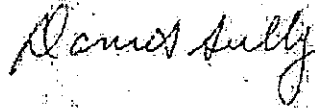
NOTICE IS HEREBY GIVEN that an action has been commenced and is pending in this Court upon the Verified Complaint of Plaintiff against the above named Defendants seeking the following relief, among other things:

(1) granting to plaintiff avoidance of the April 19, 2022 transfer from WEST 70TH OWNERS CORP. to SEPI REALTY as set forth at City Register File Number (CRFN) 2022000217210 to the extent necessary to satisfy Besnik Malecaj’s claim against West 70TH Owners Corp. (2) granting leave to Plaintiff to levy execution on 45 West 70th Street New York NY (3) Restraining defendants from further transfer or disposition of 45 West 70th Street New York NY (4) granting Plaintiff a money judgment against Sepi Realty LLC in an amount equal to that awarded Plaintiff in the Bronx Action (5) awarding attorney fees to Plaintiff (6) such other further and additional relief as the Court deems just and proper.

AND NOTICE IS FURTHER GIVEN, that the premises affected by this action, at the commencement of said action, and at the time of filing this notice are located at 45 West 70th Street, New York, NY (block 1123 lot 12) and are described in the manner set forth in Schedule A annexed hereto and made a part hereof.

The County Clerk of the County of New York is directed to index this notice to the names of the defendants.

Dated: Brooklyn, New York
June 4, 2024

A handwritten signature in cursive script that reads "Daniel Sully".

DANIEL SULLY, ESQ.
Of Counsel to Morgan Levine Dolan P.C.
Attorneys for Plaintiff
18 East 41 Street, 6th Floor
New York, NY 10017
(917) 968-1975

SCHEDULE A

45 West 70th Street New York NY

Beginning at a point on the northerly side of West 70th Street, distant 285 feet easterly from the corner formed by the intersection of the easterly side of Columbus Avenue with the said northerly side of West 70th Street; running thence northerly, parallel with the easterly side of Columbus Avenue and for a part of the distance through a party wall, 100 feet 5 inches to the center line of the block; since easterly, along the said centerline of the block, 20 feet; since southerly again parallel with the easterly side of Columbus Avenue and for a part of the distance through another party wall, 100 feet 5. inches to the northerly side of West 70th Street, thence westerly, along the side northerly side of West 70th Street, 20 feet to the point or place of beginning.