

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

SPE CLINTON SQUARE II, LLC
701 Seneca Street, Suite 200
Buffalo, NY 14210

Plaintiff,

- v -

MERCHANTS MUTUAL INSURANCE
COMPANY
250 Main Street
Buffalo, NY 14240

Defendant.

SUMMONS WITH NOTICE

Index No.: _____

*Presiding Judge to be determined
upon judicial assignment*

TO THE ABOVE NAMED DEFENDANT(S):

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to appear in this action by serving a notice of appearance on the plaintiff(s) at the address set forth below, and to do so within 20 days after the service of this Summons (not counting the day of service itself), or within 30 days after service is complete if the summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer or appear, a judgment will be entered against you by default for the relief demanded below.

Plaintiff designates the County of Erie as the place of trial because of the location of the Premises, wherein a substantial part of the events giving rise to the claims at issue occurred.

Dated: Buffalo, New York
March 1, 2022

DUKE HOLZMAN PHOTIADIS & GRESENS LLP

By: s/ Christopher M. Berloth
Christopher M. Berloth
Attorneys for Plaintiff
701 Seneca Street, Suite 750
Buffalo, New York 14210
Tel: (716) 855-1111
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TO: Merchants Mutual Insurance Company
250 Main Street
Buffalo, NY 14240

NOTICE: The nature of this action is for breach of contract seeking money damages as a result of Defendant Merchants Mutual Insurance Company's ("Defendant") failure to honor the terms and conditions of the Insurance Policy under Policy number BOP I 100323 and, specifically, for Defendant's failure to pay Plaintiff's claim in an amount to be determined at trial, plus interest, under the Policy as a result of the insurance loss due to COVID-19 which occurred on or about March 2020.

The relief sought is a money judgment set forth above; plus interest from the date of the loss; and the costs and disbursements in bringing this action, together with such other and further relief that the Court will deem just and proper.

PLEASE CONTACT THE ABOVE-MENTIONED LAW OFFICE UPON RECEIPT OF THIS SUMMONS