

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

-----X
FRANK DIETL,

Index No.:

Plaintiff(s),

-against-

DR. MEHMET OZ, M.D.
ZOCO PRODUCTIONS, L.L.C.,
NBC STUDIOS, L.L.C.,
SONY PICTURES TELEVISION INC.,
HARPO PRODUCTIONS, INC.
THE DR. OZ SHOW,

Defendant(s).
-----X

**NOTICE OF COMMENCEMENT OF ACTION
SUBJECT TO MANDATORY ELECTRONIC FILING**

PLEASE TAKE NOTICE that the matter captioned above, which has been commenced by filing of the accompanying documents with the County Clerk, is subject to mandatory electronic filing pursuant to Section 202.5-bb of the Uniform Rules for the Trial Courts. This notice is being served as required by Subdivision (b) (3) of that Section.

The New York State Courts Electronic Filing System ("NYSCEF") is designed for the electronic filing of documents with the County Clerk and the court and for the electronic service of those documents, court documents, and court notices upon counsel and self-represented parties. Counsel and/or parties who do not notify the court of a claimed exemption (see below) as required by Section 202.5-bb(e) must immediately record their representation within the e-filed matter on the Consent page in NYSCEF. Failure to do so may result in an inability to receive notice of document filings.

Exemptions from mandatory e-filing are limited to: 1) attorneys who certify in good faith that they lack the computer equipment and (along with all employees) the requisite knowledge to comply; and 2) self-represented parties who choose not to participate in e-filing. For additional information about electronic filing, including access to Section 202.5-bb, consult the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center at 646-386-3033 or efile@courts.state.ny.us.

Dated: Brooklyn, New York
March 15, 2013



DOMINICK GULLO, ESQ.
Aidata & Bertuna, P.C.
Attorney for Plaintiff(s)
8118 13th Avenue
Brooklyn, New York 11228
(718) 238-9898

To: DR. MEHMET OZ, M.D.
30 Rockefeller Plaza
New York, New York 10112

ZOCO PRODUCTIONS, L.L.C.
C/O CT Corporation System
111 Eighth Avenue
New York, NY 10011

NBC STUDIOS, L.L..C.
30 Rockefeller Plaza
New York, New York 10112
C/O CT Corporation System
111 Eighth Avenue
New York, NY 10011

SONY PICTURES TELEVISION INC.
10202 West Washington Boulevard
Culver City, CA 90232
C/O National Registered Agents, Inc.
111 Eighth Avenue
New York, NY 10011

HARPO PRODUCTIONS, INC.
1058 W. Washington Boulevard
Chicago, IL 60607

THE DR. OZ SHOW
30 Rockefeller Plaza
New York, New York 10112

SUPREME COURT OF THE STATE OF NEW YORK
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FRANK DIETL,

Plaintiff,

- against -

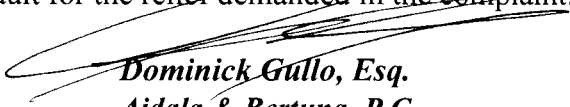
DR. MEHMET OZ, M.D.,
ZOCO PRODUCTIONS, L.L.C.,
NBC STUDIOS, L.L.C.,
SONY PICTURES TELEVISION INC.,
HARPO PRODUCTIONS, INC.
THE DR. OZ SHOW,

Defendants,
-----X

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) Attorneys 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 complaint.

Dated: Brooklyn, New York
March 15, 2013


Dominick Gullo, Esq.
Aidala & Bertuna, P.C.
Attorney for Plaintiffs
8118 13th Avenue
Brooklyn, New York 11228
(718) 238-9898

DEFENDANTS' ADDRESSES:

DR. MEHMET OZ, M.D.
30 Rockefeller Plaza
New York, New York 10112

ZOCO PRODUCTIONS, L.L.C.
C/O CT Corporation System
111 Eighth Avenue
New York, NY 10011

Index No.:

Filed:

Plaintiffs designate

New York

County as Place of trial

The place of venue is

Occurrence location

SUMMONS

PLAINTIFFS RESIDE AT

68 Huntington Drive
Southampton, NJ 08088

NBC STUDIOS, L.L.C.
30 Rockefeller Plaza
New York, New York 10112
C/O CT Corporation System
111 Eighth Avenue
New York, NY 10011

SONY PICTURES TELEVISION INC.
10202 West Washington Boulevard
Culver City, CA 90232
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THE DR. OZ SHOW
30 Rockefeller Plaza
New York, New York 10112

NOTICE:

***UPON RECEIPT OF THIS SUMMONS TO PROTECT YOUR RIGHTS, YOU
MUST TURN IT OVER TO YOUR INSURANCE CARRIER IMMEDIATELY.***

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

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FRANK DIETL,

Index No.:
Filed:

Plaintiff(s),

- against -

VERIFIED COMPLAINT

**DR. MEHMET OZ, M.D.
ZOCO PRODUCTIONS, L.L.C.,
NBC STUDIOS, L.L.C.,
SONY PICTURES TELEVISION INC.,
HARPO PRODUCTIONS, INC.
THE DR. OZ SHOW**

Defendants.
-----x

Plaintiff, by his attorneys, AIDALA & BERTUNA, P.C., complaining of the Defendants, respectfully alleges as follows:

1. That Plaintiff FRANK DIETL is a natural person and was and still is a resident of the County of Burlington, City of Southampton and State of New Jersey.

2. Upon information and belief, that at all times herein mentioned, Defendant Dr. MEHMET OZ, M.D. was and still is a medical doctor and television personality licensed to practice medicine in the State of New York doing business at 30 Rockefeller Plaza New York, New York 10112 .

3. Upon information and belief, that at all times herein mentioned, Defendant Dr. MEHMET OZ, M.D. hosts and stars in a syndicated television program called THE DR. OZ SHOW that airs on NBC channel four and is produced and taped in New York County, City and State of New York duly organized and existing under and by virtue of the laws of the State of New York and doing business at 30 Rockefeller Plaza New York, New York 10112.

4. Upon information and belief, that at all times herein mentioned, Defendant ZOCCO PRODUCTIONS, L.L.C was and still is a foreign limited liability company duly organized and existing under and by virtue of the laws of the State of New York and doing business at 111 Eighth Avenue New York, New York 10011.

5. Upon information and belief, that at all times herein mentioned, Defendant NBC STUDIOS, L.L.C. was and still is a domestic limited liability company duly organized and existing under and by virtue of the laws of the State of New York and doing business at 30 Rockefeller Plaza New York, New York 10112.

6. Upon information and belief, that at all times herein mentioned, Defendant SONY PICTURES TELEVISION INC. was and still is a foreign corporation duly organized and existing under and by virtue of the laws of the State of New York doing business in New York at 111 Eighth Avenue New York, New York 10011.

7. Upon information and belief, that at all times herein mentioned, Defendant HARPO PRODUCTIONS INC. was and still is a foreign corporation duly organized and existing under and by virtue of the laws of the State of New York maintaining corporate offices at 110 N. Carpenter Street Chicago, Illinois 60607.

8. Upon information and belief, that at all times herein mentioned, Defendant THE DR. OZ SHOW was and still is a syndicated television talk show hosted by Defendant Dr. Mehmet Oz, M.D. and produced, managed, operated, directed, and aired by all the defendants herein either jointly or severally.

9. Upon information and belief, that at all times hereinafter mentioned, Defendant THE DR. OZ SHOW is produced and directed at NBC Studios 30 Rockefeller Plaza, New York, County, City and State of New York.

10. Upon information and belief, that at all times hereinafter mentioned, the Defendants jointly, separately or individually, own, operate, direct, produce, and/or manage the television talk show known as THE DR. OZ SHOW.

11. Upon information and belief, that at all times hereinafter mentioned, the Defendants jointly, separately or individually, controlled the aforesaid THE DR. OZ SHOW.

12. Upon information and belief that at all times herein mentioned the Dr. Oz Show is a syndicated talk show where defendant Dr. Mehmet Oz discusses various medical issues and offers

remedies intended to advise the television audience how to self treat various medical maladies including, but not limited to, those persons suffering from cold feet at night while trying to sleep.

13. Upon information and belief, that at all times herein mentioned the Defendants, were under a duty and obligation to warn the viewing audience as to the possible effects of following the advice offered on the Dr. Oz Show and to warn against certain effects of said medical advice as to those persons suffering from other additional medical conditions different from and concurrent with, the one being discussed on the Dr. Oz Show that day, to wit cold feet, whereby a person following the medical advice given on the show that day could be put in risk and danger of harm and injury as a result of following the advice given on the show that day.

14. That on or about the 17th day of April, 2012, Plaintiff FRANK DIETL was at home watching the Dr. Oz Show, season 3, episode 137 titled “Dr. Oz’s 24-Hour Ultimate Energy Boost Plan” and one segment which offered medical advice for a self at home remedy for cold feet was titled “Knapsack Heated Rice Footsie”.

15. During the aforesaid segment “Knapsack Heated Rice Footsie”, defendant Dr. Mehmet Oz provided viewers suffering from cold feet with a home remedy to cure sleeplessness due to cold feet, that involved filling up a pair of socks with uncooked rice and warming the socks in a microwave oven and then placing the socks on one’s feet and then going to bed.

16. Upon information and belief, defendants were under a duty to properly instruct the audience as to the proper procedure for any home remedy offered on the show and were under a further duty to warn against any reasonably foreseeable risk of harm to a person attempting such home remedy.

17. Upon information and belief Dr. Mehmet Oz failed to properly instruct the audience, and thereby Plaintiff, as to the proper procedure for the home remedy titled “Knapsack Heated Rice Footsie”.

18. Upon information and belief Dr. Mehmet Oz failed to properly warn and instruct the home audience, and thereby Plaintiff, as to the possible risks of harm that could be sustained by an

individual who utilized the aforesaid home remedy who also suffered from neuropathy of the lower extremities.

19. On or about April 17, 2012 Plaintiff filled a pair of socks with uncooked rice and heated the socks in his microwave oven as per the instructions he received from the Dr. Oz Show. Plaintiff then placed the socks on his feet and went to bed.

20. Upon information and belief, Plaintiff suffers from neuropathy in his lower extremities as a result of his diabetes and therefore a diminished sensation in his feet.

21. As a result of utilizing the aforementioned home remedy that aired on the Dr. Oz Show, Plaintiff was caused to sustain third degree burns to both his feet. That is was reasonably foreseeable that an individual suffering from neuropathy in his lower extremities as a result of his diabetes and therefore a diminished sensation in his feet would utilize the aforementioned home remedy and thereby sustain serious physical injury.

22. That the aforesaid injuries resulting there from were due solely and wholly as a result of the careless and negligent manner in which the defendants offered medical advice and home remedies, specifically, “Knapsack Heated Rice Footsie”.

23. That by reason of the foregoing and the negligence of the Defendants, the Plaintiff FRANK DIETL, was severely injured, bruised and wounded, suffered, still suffers and will continue to suffer for some time physical pain and bodily injuries and became sick, sore, lame and disabled and so remained for a considerable length of time.

24. That by reason of the foregoing, the plaintiff, FRANK DIETL, was compelled to and did necessarily require medical aid and attention, and did necessarily pay and become liable therefore for medicines and upon information and belief, the plaintiff, FRANK DIETL, will necessarily incur similar expenses.

25. That by reason of the foregoing, the plaintiff, FRANK DIETL, has been unable to attend to his usual daily living in the manner required.

26. That by reason of the wrongful, negligent and unlawful actions of the Defendant, as aforesaid, the plaintiff, FRANK DIETL, sustained serious injuries as defined in Section 5102(d) of the Insurance Law of The State of New York, and has sustained economic loss greater than basic economic loss as defined in Section 5102 of the said Insurance Law.

27. That one or more of the provisions of §1602 of the Civil Practice Law and Rules do apply to the within action.

28. That as a result of the foregoing, the plaintiff, FRANK DIETL, sustained damages in excess of the jurisdictional amounts of the lower Courts all together with the costs and disbursements of this action.

29. That by reason of the aforesaid occurrence, Plaintiff FRANK DIETL was rendered sick, sore, lame and disabled and was caused to and did sustain severe, protracted personal injuries which injuries are upon information and belief permanent and that this Plaintiff has, as a result thereof, been confined to bed and home, has required medical attention, and has been prevented for some time to come, from pursuing his usual and ordinary activities, and has required the expenditure of sums of money for hospital and medical aid and attention and will, in the future, be required to expend further sums for such medical aid and attention, all in an effort to be cured of his said injuries.

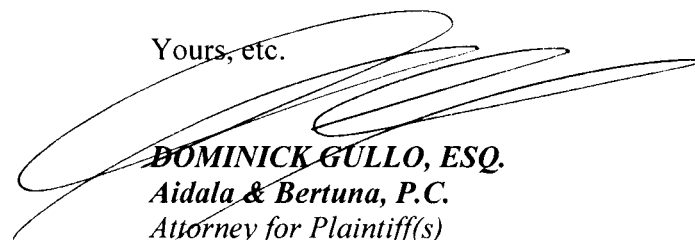
30. That the aforesaid occurrence and the injuries resulting there from were caused by the negligence, carelessness and recklessness of the Defendants, their agents, servants and/or employees of the Defendants and without any negligence or carelessness or want of care on the part of the plaintiff contributing in any way thereto.

31. That as a result of the foregoing, FRANK DIETL, has been damaged and asks for an award of money damages as just compensation for those injuries.

WHEREFORE, Plaintiff, FRANK DIETL, demands judgment against the Defendants in excess of the jurisdictional amounts of the lower Courts, all together with the costs and disbursements of this action.

Dated: Brooklyn, New York
March 15, 2013

Yours, etc.

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

DOMINICK GULLO, ESQ.

Aidala & Bertuna, P.C.

Attorney for Plaintiff(s)

8118 13th Avenue

Brooklyn, New York 11228

(718) 238-9898

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Defendants,

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SUMMONS AND VERIFIED COMPLAINT

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Brooklyn, New York 11228
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