

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.: 309974-2008

=====X
ELSIE DAMOUR PHILLIPE as Administrator
of the Estate of JDIMYTAI DAMOUR

Date Purchased: _____

Plaintiff(s),

-against-

Plaintiff designates
BRONX
County as
the place of trial
The basis of venue

is RESIDENCE OF
PLAINTIFF

WAL-MART STORES, INC., WAL-MART
STORES EAST, LP, GREEN ACRES MALL, LLC,
VORNADO REALTY TRUST, SECURITAS
SECURITY SERVICES USA, INC.,

SUMMONS

Plaintiff resides at
2454 Tiebout Avenue
Bronx, New York

Defendant(s).

=====X

County of BRONX

TO THE ABOVE NAMED DEFENDANT(S):

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 twenty (20) days after service of this summons, exclusive of the day of service (or within thirty (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: December 2, 2008
New York, New York

Yours, etc.,
HECHT, KLEEGER, PINTEL
& DAMASHEK

Defendant(s) address(es):
(SEE ATTACHED RIDER)

By: *Jordan Hecht*
JORDAN HECHT
Attorneys for Plaintiff
19 West 44th Street - Suite 1500
New York, NY 10016
Tel: (212) 490-5700

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THIS ACTION IS NOT BASED UPON A CONSUMER CREDIT TRANSACTION
THIS ACTION SEEKS RECOVERY FOR PERSONAL INJURY

RIDER:

Defendant(s) Address(es):

WAL-MART STORES, INC.,
c/o CT Corporation
111 Eighth Avenue
New York, New York

WAL-MART STORES EAST, LP
c/o CT Corporation
111 Eighth Avenue
New York, New York

GREEN ACRES MALL, LLC
2034 Green Acres Mall
Valley Stream, New York
and
c/o CT Corporation
111 Eight Avenue
New York, New York

VORNADO REALTY TRUST
888 Seventh Avenue
New York, New York

SECURITAS SECURITY SERVICES USA, INC.,
c/o National Registered Agents, Inc
875 Avenue of Americas – Suite 501
New York, New York

- PLEASE FORWARD THIS TO YOUR INSURANCE COMPANY -

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

=====X
ELSIE DAMOUR PHILLIPE as Administrator
of the Estate of JDIMYTAI DAMOUR

Plaintiff(s),

SUMMONS

-against-

Index No.

WAL-MART STORES, INC., WAL-MART
STORES EAST, LP, GREEN ACRES MALL, LLC,
VORNADO REALTY TRUST, SECURITAS
SECURITY SERVICES USA, INC.,

Defendant(s)

=====X
Plaintiff, by her attorneys HECHT, KLEEGER, PINTEL & DAMASHEK as and for her
complaint as to the defendants respectfully show to this Honorable Court and allege upon
information and belief as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. That prior to the commencement of this action, ELSIE DAMOUR PHILLIPE was
appointed Administrator of the Estate of JDIMYTAI DAMOUR, deceased, pursuant to the
Decree of the Honorable Robert L. Nahman dated December 2, 2008 of the Surrogate's Court,
County of Queens.

2. At all times hereinafter mentioned, the plaintiff ELSIE DAMOUR PHILLIPE
"hereinafter Administrator" was, and still is, a resident of the State of New York, County of
BRONX.

3. At all times hereinafter mentioned, the defendant WAL-MART STORES, INC, was
and still is, a domestic corporation with offices in the State of New York.

4. At all times hereinafter mentioned, the defendant WAL-MART STORES, INC, was

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and still is a foreign corporation which maintained an office in the State of New York.

5. At all times hereinafter mentioned, the defendant WAL-MART STORES, INC, was and still is a partnership which maintained an office in the State of New York, County of New York.

6. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP INC, was, and still is, a domestic corporation with offices in the State of New York.

7. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP was and still is a foreign corporation which maintained an office in the State of New York.

8. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP was and still is a domestic limited partnership which maintained an office in the State of New York.

9. At all times hereinafter mentioned, the defendant GREEN ACRES MALL, LLC was and still is a domestic corporation which maintained an office in the State of New York.

10. At all times hereinafter mentioned, the defendant GREEN ACRES MALL, LLC was and still is a foreign corporation which maintained an office in the State of New York.

11. At all times hereinafter mentioned, the defendant GREEN ACRES MALL, LLC was and still is a domestic limited liability corporation which maintained an office in the State of New York.

12. At all times hereinafter mentioned, the defendant GREEN ACRES MALL, LLC was and still is a foreign limited liability corporation which maintained an office in the State of New York.

13. At all times hereinafter mentioned, the defendant VORNADO REALTY TRUST was and still is a domestic corporation which maintained an office in the State of New York.

14. At all times hereinafter mentioned, the defendant VORNADO REALTY TRUST

was and still is a domestic limited partnership which maintained an office in the State of New York.

15. At all times hereinafter mentioned, the defendant VORNADO REALTY TRUST was and still is a domestic trust which maintained an office in the State of New York.

16. At all times hereinafter mentioned, the defendant SECURITAS SECURITY SERVICES USA, INC., was, and still is, a domestic corporation with offices in the State of New York.

17. At all times hereinafter mentioned, the defendant SECURITAS SECURITY SERVICES USA, INC., was, and still is, a foreign corporation which maintained an office in the State of New York.

18. At all times hereinafter mentioned and on November 28, 2008, the defendant WAL-MART STORES, INC owned the property located at 77 Green Acres Road, Valley Stream, New York and the sidewalk and parking lot thereat. (hereinafter "the aforementioned premises").

19. At all times hereinafter mentioned, the defendant WAL-MART STORES, INC operated the aforementioned premises, sidewalk and parking lot.

20. At all times hereinafter mentioned, the defendant WAL-MART STORES, INC controlled the aforementioned premises, sidewalk and parking lot.

21. At all times hereinafter mentioned, the defendant WAL-MART STORES, INC managed the aforementioned premises, restaurant and parking lot.

22. At all times hereinafter mentioned, the defendant WAL-MART STORES, INC leased the aforementioned premises, sidewalk and parking lot.

23. At all times hereinafter mentioned, the defendant WAL-MART STORES, INC was the lessee of the aforementioned premises, sidewalk and parking lot.

24. At all times hereinafter mentioned, the defendant WAL-MART STORES, INC utilized the aforementioned premises, sidewalk and parking lot.

25. At all times hereinafter mentioned, the defendant WAL-MART STORES, INC inspected the aforementioned premises, sidewalk and parking lot.

26. At all times hereinafter mentioned, the defendant WAL-MART STORES, INC repaired the aforementioned premises, sidewalk and parking lot.

27. At all times hereinafter mentioned, the defendant WAL-MART STORES, INC maintained the aforementioned premises, sidewalk and parking lot.

28. At all times hereinafter mentioned and on November 28, 2008, the defendant WAL-MART STORES, INC conducted business from the aforementioned premises.

29. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP owned the property located at 77 Green Acres Road, Valley Stream, New York and the sidewalk and parking lot thereat. (hereinafter "the aforementioned premises").

30. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP operated the aforementioned premises, sidewalk and parking lot.

31. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP controlled the aforementioned premises, sidewalk and parking lot.

32. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP managed the aforementioned premises, restaurant and parking lot.

33. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP leased the aforementioned premises, sidewalk and parking lot.

34. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP was the lessee of the aforementioned premises, sidewalk and parking lot.

35. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP utilized the aforementioned premises, sidewalk and parking lot.

36. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP

inspected the aforementioned premises, sidewalk and parking lot.

37. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP repaired the aforementioned premises, sidewalk and parking lot.

38. At all times hereinafter mentioned, the defendant WAL-MART STORES EAST, LP maintained the aforementioned premises, sidewalk and parking lot.

39. At all times hereinafter mentioned and the defendant WAL-MART STORES EAST, LP conducted business from the aforementioned premises.

40. At all times hereinafter mentioned and on November 28, 2008, the defendant GREEN ACRES MALL, LLC owned the aforementioned premises, sidewalk and parking lot.

41. At all times hereinafter mentioned, the defendant GREEN ACRES MALL, LLC controlled the aforementioned premises, sidewalk and parking lot.

42. At all times hereinafter mentioned, the defendant GREEN ACRES MALL, LLC managed the aforementioned premises, restaurant and parking lot.

43. At all times hereinafter mentioned, the defendant GREEN ACRES MALL, LLC leased the aforementioned premises, sidewalk and parking lot.

44. At all times hereinafter mentioned, the defendant GREEN ACRES MALL, LLC was the lessee of the aforementioned premises, sidewalk and parking lot.

45. At all times hereinafter mentioned, the defendant GREEN ACRES MALL, LLC utilized the aforementioned premises, sidewalk and parking lot.

46. At all times hereinafter mentioned, the defendant GREEN ACRES MALL, LLC inspected the aforementioned premises, sidewalk and parking lot.

47. At all times hereinafter mentioned, the defendant GREEN ACRES MALL, LLC repaired the aforementioned premises, sidewalk and parking lot.

48. At all times hereinafter mentioned, the defendant GREEN ACRES MALL, LLC

maintained the aforementioned premises, sidewalk and parking lot.

49. At all times hereinafter mentioned and on November 28, 2008, the defendant GREEN ACRES MALL, LLC was the property manager of the aforementioned premises.

50. At all times hereinafter mentioned, the defendant VORNADO REALTY TRUST owned the aforementioned premises, sidewalk and parking lot.

51. At all times hereinafter mentioned, the defendant VORNADO REALTY TRUST controlled the aforementioned premises, sidewalk and parking lot.

52. At all times hereinafter mentioned, the defendant VORNADO REALTY TRUST managed the aforementioned premises, restaurant and parking lot.

53. At all times hereinafter mentioned, the defendant VORNADO REALTY TRUST leased the aforementioned premises, sidewalk and parking lot.

54. At all times hereinafter mentioned, the defendant VORNADO REALTY TRUST was the lessee of the aforementioned premises, sidewalk and parking lot.

56. At all times hereinafter mentioned, the defendant VORNADO REALTY TRUST utilized the aforementioned premises, sidewalk and parking lot.

57. At all times hereinafter mentioned, the defendant VORNADO REALTY TRUST inspected the aforementioned premises, sidewalk and parking lot.

58. At all times hereinafter mentioned, the defendant VORNADO REALTY TRUST repaired the aforementioned premises, sidewalk and parking lot.

59. At all times hereinafter mentioned, the defendant VORNADO REALTY TRUST maintained the aforementioned premises, sidewalk and parking lot.

60. At all times hereinafter mentioned and on November 28, 2008 the defendant SECURITAS SECURITY SERVICES USA, INC., held themselves out to the general public as being in the business of providing security and patrol services.

61. At all times hereinafter mentioned, the defendant SECURITAS SECURITY SERVICES USA, INC., held themselves out to be duly licensed and accredited to perform security and patrol services for the aforementioned premises, sidewalk and parking lot.

62. At all times hereinafter mentioned, the defendant SECURITAS SECURITY SERVICES USA, INC., contracted to provide security and patrol services for the aforementioned premises, sidewalk and parking lot.

63. At all times hereinafter mentioned, the defendant SECURITAS SECURITY SERVICES USA, INC., contracted with defendants to provide security services and patrol for the aforementioned premises, sidewalk and parking lot.

64. At all times hereinafter mentioned, the defendant SECURITAS SECURITY SERVICES USA, INC., contracted with WAL-MART STORES, INC., to provide security and patrol services at the aforementioned premises.

65. At all times hereinafter mentioned, the defendant SECURITAS SECURITY SERVICES USA, INC., contracted with WAL-MART STORES EAST, LP, to provide security and patrol services at the aforementioned premises.

66. At all times hereinafter mentioned, the defendant SECURITAS SECURITY SERVICES USA, INC., contracted with GREEN ACRES MALL, LLC, to provide security and patrol services at the aforementioned premises.

67. At all times hereinafter mentioned, the defendant SECURITAS SECURITY SERVICES USA, INC., contracted with VORNADO REALTY TRUST to provide security and patrol services at the aforementioned premises.

68. At all times hereinafter mentioned, the defendant SECURITAS SECURITY SERVICES USA, INC., was under contract to provide security services for the aforementioned premises.

69. At all times hereinafter mentioned the decedent JDIMYTAI DAMOUR was a third-party intended beneficiary of said contract.

70. At all times hereinafter mentioned, the defendant SECURITAS SECURITY SERVICES USA, INC., was providing security, patrol and security related services at Green Acres Mall and more specifically the aforementioned Wal-Mart store including the exterior, front entrance area and/or parking lot.

71. At all times hereinafter mentioned, the defendant SECURITAS SECURITY SERVICES USA, INC., was providing security, patrol and security related services at Green Acres Mall and more specifically the aforementioned Wal-Mart store including the exterior, front entrance area and/or parking lot and had the duty to supervise, control and protect the aforementioned premises and the persons lawfully thereat.

72. At all times hereinafter mentioned, defendants and each of them advertised for the sale of various merchandise at the aforementioned premises.

73. At all times hereinafter mentioned, defendants and each of them intended to attract and gather large crowds at the aforementioned premises.

74. At all times hereinafter mentioned, defendants and each of them had the duty to provide for the safety of persons at the aforementioned premises, implement reasonably safety precautions for the management of the public and crowds invited to the aforementioned premises and prevent dangerous and/or hazardous conditions.

75. At all times hereinafter mentioned and on November 28, 2008, the decedent was an employee of Labor Ready.

76. At all times hereinafter mentioned and on November 28, 2008, the decedent was an independent contractor.

77. At all times hereinafter mentioned and on November 28, 2008, the decedent was

lawfully on the aforementioned premises.

78. At all times hereinafter mentioned and on November 28, 2008, the decedent was lawfully on the aforementioned premises when he was caused to suffer severe personal injuries and death.

79. That the plaintiff's injuries and death resulting therefrom were proximately caused by the carelessness, recklessness negligence, wanton disregard for public safety and gross negligence of the defendants and each of them and their agents, servants, and employees in the ownership, operation, management, maintenance, usage and control of the aforementioned premises, stores, shopping malls, sidewalks and parking lots without any negligence, want of care or assumption of risk on the part of plaintiff contributing thereto and in the staging, conducting and advertising for sales events.

80. the defendants and each of them, together with defendant's agents, servants and/or employees, was/were careless, reckless, negligent and grossly negligent with respect to the subject premises in that they failed, inter alia, to maintain the aforementioned premises; failed to afford protection to individuals lawfully on their premises; failed to provide adequate security; failed to properly train security personnel; failed to supervise security personnel; failed to provide for the safety of patrons; failed to provide for safety of general public; failed to discharge incompetent personnel; failed to take adequate security precautions; failed to properly supervise activities of tenants; failed to heed complaints of prior unsafe behavior at subject premises; failed to warn persons lawfully on their premises of the danger presented by their failings; failed to place signs or other warnings of the danger presented by their failings; failed to expel rowdy and dangerous patrons; failed to maintain proper control of their premises; failed to maintain a sufficient number of employees to ensure proper security and safety of patrons; failed to hire security, safety or other supervisory personnel to help control, instruct and protect the crowd; failed to preview the

location prior to the scheduling this event to ensure it was adequate for the event; failed to properly erect safety barricade, barriers, ropes and/or chains; failed to properly set up the aforementioned premises so as to provide for the safety of the persons attending same; failed to obtain proper permits to hold a public gathering/event of this magnitude; failed to properly inform and involve the municipal authorities; failed to heed warnings of the authorities; failed to monitor the size of the crowd; failed to prevent the premises from becoming overcrowded and unsafe; failed to prevent the gathering of an unsafe number of persons; failed to give directions and/or instructions to the persons on the premises as to safety measures and procedures; failed to have sufficient staffing at the premises; failed to properly locate security staffing to properly manage the crowd; failed to implement a crowd management plan; failed to queue the crowd; failed to account for overcrowding; failed to prevent unsafe and dangerous overcrowding; failed to comply with applicable rules, statutes, ordinances, regulations, codes, failed to provide adequate security; failed to hire competent security personnel; failed to train security personnel; failed to call proper authorities when danger presented; failed to discharge and remove from property all persons known to be dangerous; failed to ensure proper crowd control; failed to properly and safely discharge patrons; failed to properly secure their parking lots; failed to have adequate supervisory personnel on site; failed to abide by the standards set forth in the National Fire Prevention Code; failed to have the proper ratio of properly trained security personnel to persons attending the event; failed to communicate information to the crowd; failed to establish crowd management procedures; failed to meter the number of persons entering the premises; failed to discharge incompetent personnel; failed to obtain proper permits; failed to heed complaints which placed them on actual and constructive notice of the danger presented by their misconduct; failed to properly train their personnel; failed to adequately research backgrounds of personnel and employees; failed to contract with adequate security company. It is

further alleged that the defendants and each of them created an atmosphere of competition and anxiety amongst the crowd that caused the crowd to surge and enter into a crowd craze and further that the defendants and each of them engaged in specific marketing and advertising techniques to specifically attract a large crowd and create an environment of frenzy and mayhem and was otherwise careless, reckless and negligent.

81. The area where plaintiffs were injured was improperly and inadequately supervised, secured and maintained such that it constituted a severe hazard, a trap for the unwary, a public and private nuisance, and was in violation of applicable code.

82. As a result of the aforesaid, the decedent prior to his death was rendered sick, sore, lame, and disabled, was caused to suffer great pain and suffering and was internally and externally injured, including asphyxiation and painful and attenuated death, fear of impending death, shock, fear and emotional distress.

83. The acts and omissions on the part of the defendants and each of them constituting the negligence claimed were done with reckless, grossly negligent disregard for the welfare, health, and well being of the decedent

84. The defendants and each of them had both actual and constructive notice of the defective, dangerous and crowd conditions and persons in existence on said defendant's premises, but failed to remedy same in a timely fashion or warn the plaintiff of the dangerous conditions prior to the happening of the occurrence as herein alleged.

85. By reason of the foregoing, the plaintiff is entitled to compensatory damages from the defendants in a sum which exceeds the jurisdictional limits of all lower Courts which might otherwise have jurisdiction, and is further entitled to punitive and/or exemplary damages in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION

86. That plaintiff repeats, reiterates and realleges each and every allegation as contained in the First Cause of Action of the within Complaint with the same force and effect as though each were more fully set forth at length herein.

87. That on November 28, 2008 plaintiff died as a result of the injuries he suffered as a result of this accident.

88. That on December 2, 2008 Elsie Damour Phillipe was issued Letters of Administration by the Surrogate's Court, Queens County.

89. By reason of the above, plaintiff brings this action for the wrongful death of the plaintiff's decedent on behalf of herself, and on behalf of all others entitled to compensation for damages, both general and specific, in an amount which exceeds the jurisdictional limits of all lower Courts which might otherwise have jurisdiction, and is further entitled to punitive and/or exemplary damages in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff(s) demand judgment as against the defendant(s), jointly and severally, which exceeds the jurisdictional limits of all lower Courts which might otherwise have jurisdiction, in both the First and Second causes of action and further is entitled to punitive and/or exemplary damages in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction and other and further relief as to the Court may seem just and proper.

Dated: December 2, 2008
New York, New York

Yours, etc.

HECHT, KLEEGER, PINTEL &
DAMASHEK

By:

A handwritten signature in black ink, appearing to read 'J. Hecht', is written over a horizontal line.

JORDAN HECHT, ESQ.

Attorneys for Plaintiff

19 West 44th Street - Suite 1500

New York, NY 10016

Tel: (212) 490-5700

ATTORNEY VERIFICATION

JORDAN HECHT, ESQ., an attorney duly admitted to practice law before the Courts of the state of New York, affirms the truth of the following matters under penalty of perjury:

I am associated with the firm of HECHT, KLEEGER, PINTEL & DAMASHEK attorneys for the plaintiff in the within action, and as such am fully familiar with facts and circumstances constituting the within action.

I have read the foregoing COMPLAINT and know the contents thereof to be true to my own knowledge, except as to those matters alleged therein as upon information and belief, and as to those matters I believe them to be true.

The sources of my belief as those matters alleged as upon information and belief are as follows: conversations with my client(s), investigation, research, and review of the file in this matter.

The reason that this verification is being made by me and not the plaintiff(s) personally is that plaintiff(s) is/are presently not within the county where I maintain my office for the practice of law.

Dated: New York, New York
December 2, 2008



JORDAN HECHT, ESQ.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.:

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of the Estate of JDIMYTAI DAMOUR

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- against -

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ACRES MALL, LLC, VORNADO REALTY TRUST,
SECURITAS SECURITY SERVICES USA, INC.,

Defendant(s)

VERIFIED SUMMONS AND COMPLAINT

HECHT, KLEEGER, PINTEL & DAMASHEK

Attorneys for Plaintiff
19 West 44th Street -Suite 1500
New York, New York 10036
(212) 490-5700

Signature (Rule 130-1.1-a)

.....
Print name beneath
