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Division: 1
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Cashier ID: Lcortis
Transaction Date: 05/10/2011
Payer Name: JACKUBOWITZ AND CHUANG LLP

CIVIL FILING FEE
For: JACKUBOWITZ AND CHUANG LLP
Case/Party: D-NYS-1-11-CV-003153-000
Amount: \$350.00

CHECK
Check/Money Order Num: 1037
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

JUDGE KAPLAN

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

MAY 10 2011

PLAINTIFFS

JEREMY LEBEWOHL, AND
UNCLE ABIES DELI INC. d/b/a 2nd AVE DELI, ET AL.

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Jakubowitz & Chuang LLP, Tel: (347) 542-8529
401 Broadway STE 408, New York, NY 10013.

DEFENDANTS

HEART ATTACK GRILL LLC, HAG LLC, and JON BASSO

ATTORNEYS (IF KNOWN)

William W. Chuang, Esq.

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Declaratory judgment (28 USC §§ 2201 2202) of non-infringement of Lanham Act (15 USC §§1114, 1125(a) and (c)).

Has this or a similar case been previously filed in SDNY at any time? No ☒ Yes ☐ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____ & Case No. _____

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

ACTIONS UNDER STATUTES

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
<input type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> 310 AIRPLANE	<input type="checkbox"/> 362 PERSONAL INJURY - MED MALPRACTICE	<input type="checkbox"/> 610 AGRICULTURE	<input type="checkbox"/> 422 APPEAL	<input type="checkbox"/> 400 STATE REAPPORTIONMENT				
<input type="checkbox"/> 120 MARINE	<input type="checkbox"/> 315 AIRPLANE PRODUCT LIABILITY	<input type="checkbox"/> 365 PERSONAL INJURY PRODUCT LIABILITY	<input type="checkbox"/> 620 OTHER FOOD & DRUG	<input type="checkbox"/> 28 USC 158	<input type="checkbox"/> 410 ANTITRUST				
<input type="checkbox"/> 130 MILLER ACT	<input type="checkbox"/> 320 ASSAULT, LIBEL & SLANDER	<input type="checkbox"/> 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY	<input type="checkbox"/> 625 DRUG RELATED SEIZURE OF PROPERTY	<input type="checkbox"/> 28 USC 157	<input type="checkbox"/> 430 BANKS & BANKING				
<input type="checkbox"/> 140 NEGOTIABLE INSTRUMENT	<input type="checkbox"/> 330 FEDERAL EMPLOYERS' LIABILITY	<input type="checkbox"/> 370 OTHER FRAUD	<input type="checkbox"/> 630 LIQUOR LAWS		<input type="checkbox"/> 450 COMMERCE				
<input type="checkbox"/> 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	<input type="checkbox"/> 340 MARINE LIABILITY	<input type="checkbox"/> 371 TRUTH IN LENDING	<input type="checkbox"/> 640 RR & TRUCK		<input type="checkbox"/> 460 DEPORTATION				
<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 345 MARINE PRODUCT LIABILITY	<input type="checkbox"/> 380 OTHER PERSONAL PROPERTY DAMAGE	<input type="checkbox"/> 650 AIRLINE REGS		<input type="checkbox"/> 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)				
<input type="checkbox"/> 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)	<input type="checkbox"/> 350 MOTOR VEHICLE	<input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY	<input type="checkbox"/> 660 OCCUPATIONAL SAFETY/HEALTH		<input type="checkbox"/> 480 CONSUMER CREDIT				
<input type="checkbox"/> 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS	<input type="checkbox"/> 355 MOTOR VEHICLE PRODUCT LIABILITY		<input type="checkbox"/> 690 OTHER		<input type="checkbox"/> 490 CABLE/SATELLITE TV				
<input type="checkbox"/> 160 STOCKHOLDERS SUITS	<input type="checkbox"/> 360 OTHER PERSONAL INJURY				<input type="checkbox"/> 810 SELECTIVE SERVICE				
<input type="checkbox"/> 190 OTHER CONTRACT					<input type="checkbox"/> 850 SECURITIES/COMMODITIES/EXCHANGE				
<input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY					<input type="checkbox"/> 875 CUSTOMER CHALLENGE				
<input type="checkbox"/> 196 FRANCHISE					<input type="checkbox"/> 12 USC 3410				
					<input type="checkbox"/> 890 OTHER STATUTORY ACTIONS				
					<input type="checkbox"/> 891 AGRICULTURAL ACTS				
					<input type="checkbox"/> 892 ECONOMIC STABILIZATION ACT				
					<input type="checkbox"/> 893 ENVIRONMENTAL MATTERS				
					<input type="checkbox"/> 894 ENERGY ALLOCATION ACT				
					<input type="checkbox"/> 895 FREEDOM OF INFORMATION ACT				
					<input type="checkbox"/> 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE				
					<input type="checkbox"/> 950 CONSTITUTIONALITY OF STATE STATUTES				

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: ☒ YES ☐ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☒ 1 Original Proceeding ☐ 2a. Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from (Specify District) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ 2b. Removed from State Court AND at least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

- ☐ 1 U.S. PLAINTIFF ☐ 2 U.S. DEFENDANT ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☐ 4 DIVERSITY

**IF DIVERSITY, INDICATE
CITIZENSHIP BELOW.
(28 USC 1322, 1441)**

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [] 1 [] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] 3 [] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [] 5 [] 5
CITIZEN OF ANOTHER STATE	[] 2 [] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] 4 [] 4	FOREIGN NATION	[] 6 [] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Jeremy Lebewohl, 157 East Houston St., 2nd Fl., New York, NY 10002
Uncle Abies Deli Inc. d/b/a 2nd Ave Deli, 162 East 33rd St., New York, NY 100016
Uncle Abies Deli on First Inc., 162 East 33rd St, New York, NY 10016.
Uncle Abies Deli Sandwich Trademarks LLC, 162 East 33rd St, New York, NY 10016.

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Heart Attack Grill LLC, 15090 N Northsight Boulevard #115, Scottsdale, Arizona 85260
HAG LLC, 37401 N Dream Street, Carefree, Arizona 85377
Jon Basso, 37401 N Dream Street, Carefree, Arizona 85377

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN
(DO NOT check either box if this a PRISONER PETITION.)

DATE May 10, 2011 SIGNATURE OF ATTORNEY OF RECORD

William W. Chung

RECEIPT #

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO 11 2008
[x] YES (DATE ADMITTED Mo. Yr.)
Attorney Bar Code #4486468

Magistrate Judge is to be designated by the Clerk of the Court.

FRANCIS

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

JEREMY LEBEWOHL,

UNCLE ABIES DELI INC. d/b/a 2nd AVE DELI,

UNCLE ABIES DELI ON FIRST INC., and

UNCLE ABIES DELI SANDWICH TRADEMARKS LLC,

Plaintiffs,

-against-

HEART ATTACK GRILL LLC, HAG LLC, and JON BASSO,

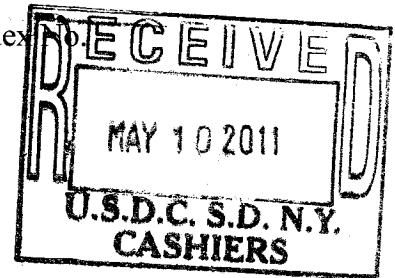
Defendants.

-----X

COMPLAINT

JURY TRIAL
DEMANDED

Index



Plaintiffs JEREMY LEBEWOHL, UNCLE ABIES DELI INC. d/b/a 2nd AVE DELI, UNCLE ABIES DELI ON FIRST INC., and UNCLE ABIES DELI SANDWICH TRADEMARKS LLC ("Plaintiffs"), for their Complaint against Defendants HEART ATTACK GRILL LLC, HAG LLC, and JON BASSO (collectively, "Defendants" or "The Heart Attack Grill") allege:

PARTIES

1. Plaintiff JEREMY LEBEWOHL is an individual residing at 157 East Houston St., 2nd Fl., New York, New York 10002.
2. Plaintiff UNCLE ABIES DELI INC. d/b/a 2nd AVE DELI is a New York corporation, with its principal place of business at 162 East 33rd St., New York, New York 10016. Uncle Abies Deli Inc. currently operates the 2nd Ave Deli.
3. Plaintiff UNCLE ABIES DELI ON FIRST INC. is a New York corporation with its principal place of business at 162 East 33rd St., New York, New York 10016.

4. Plaintiff UNCLE ABIES DELI SANDWICH TRADEMARKS LLC is a New York corporation with its principal place of business at 162 East 33rd St., New York, New York 10016.
5. Upon information and belief, Defendant HEART ATTACK GRILL LLC (the "Heart Attack Grill") is an Arizona limited liability company with its principal place of business at 15090 N Northsight Boulevard #115, Scottsdale, Arizona 85260.
6. Upon information and belief, Defendant HAG LLC (the "Heart Attack Grill") is an Arizona limited liability company with its principal place of business at 37401 N Dream St., Carefree, Arizona 85377.
7. Upon information and belief, Defendant JON BASSO is an individual residing at 37401 N Dream St., Carefree, Arizona 85377. He is an indispensable party, as US Patent and Trademark Office files show that he is the sole owner of the trademarks asserted against the Plaintiffs, with no assignment on record to either HEART ATTACK GRILL LLC or HAG LLC.

NATURE OF THE ACTION

8. This is an action seeking the Court's declaration that Plaintiffs have not violated any rights Defendants may have under the Lanham Act 15 U.S.C. §§ 1114, 1125(a) and (c), state unfair competition laws, and common law with regard to a few of Defendants' trademarks, specifically, "HEART ATTACK GRILL," Registration No. 3128169, "TRIPLE BYPASS BURGER," Registration No. 3180519, and its other "BYPASS" marks (collectively, the "Marks in Dispute").
9. Defendants have threatened to file suit in federal court to enforce these claimed rights.

10. Plaintiff Uncle Abies Deli On First Inc. operates the 2nd Ave Deli in New York. The 2nd Ave Deli has sold the “Instant Heart Attack Sandwich” since at least 2004, and is planning to sell the “Triple Bypass Sandwich,” having filed trademark registrations for both marks. The 2nd Ave Deli operates only within New York.
11. By letter dated March 29, 2011, Defendants alleged that Plaintiffs’ use of the terms “Instant Heart Attack Sandwich” and the “Triple Bypass Sandwich” in restaurant menus, advertisements, signs, menus, and promotional materials violated Defendants’ rights under the Lanham Act, as well as those under state and common law. All of the alleged violations occurred in New York City.
12. Defendants, in their March 29 letter, also unequivocally threatened a federal lawsuit against Plaintiffs. Defendants pointedly noted that they have sued many other parties in diverse jurisdictions for alleged infringement of the same marks.
13. As a result of the parties' conflicting positions, an actual and justiciable controversy exists over the parties' respective rights and obligations. This controversy can be fully resolved by way of a declaratory judgment pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201(a).

JURISDICTION AND VENUE

14. An actual and justiciable controversy exists between Plaintiffs and Defendants concerning the alleged violation of Defendants’ rights, if any, in the Marks in Dispute. Accordingly, subject matter jurisdiction for this declaratory action is proper in this Court under 28 U.S.C. §§ 1331, 1338, 1367, 2201, and 2202.
15. This Court has personal jurisdiction over Defendants pursuant to the New York long-arm statute, CPLR § 302(a)(1). Defendants sent correspondence to Plaintiffs in New York

threatening to file suit for the violation of various federal and state rights for actions allegedly performed in New York. This threatened federal action could only be filed in New York, as Plaintiffs lack any jurisdictional nexus with any other state. By virtue of these dealings in the State of New York, and this District, Defendants are subject to the personal jurisdiction of this Court under CPLR § 302(a)(1).

16. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claims asserted occurred in this District and because Defendants are subject to jurisdiction in this district. Defendants' activities in this judicial district make it fair and reasonable for it to be sued in this judicial district.

DECLARATORY JUDGMENT OF NON-INFRINGEMENT

17. Plaintiffs repeat and re-allege the previous paragraphs set forth herein.
18. The 2nd Ave Deli is a popular, family-run New York landmark that has been in business since the 1950's. Abe Lebewohl began what would become the 2nd Ave Deli in 1954. The business flourished through his hard work and devotion, and the help of his family. After Abe was tragically murdered during a botched robbery, his widow Eleanor and brother Jack reopened the restaurant. A decade later, the 2nd Ave Deli moved to its current address at 162 East 33rd Street. The 2nd Ave Deli is now in the hands of Jack's sons, Josh and Jeremy.
19. The 2nd Ave Deli's single-minded focus on serving the best kosher New York Delicatessen food available has earned it much publicity and praise. The New York Times referred to the 2nd Ave Deli as an "ethnic culinary legend" and published an article about the history of the restaurant in its Sunday Magazine. New York Magazine featured the Deli's famous chicken soup in a pot. CBS News devoted a segment to its potato

- latkes. On the Daily Show, Jon Stewart emphatically expressed his love for the deli's babka and corned beef sandwich. The 2nd Ave Deli Cookbook, published in 1999, contained anecdotes from the likes of Paul Reiser, Sam Levenson, and Raoul Felder.
20. The 2nd Ave Deli is proud to be one of the few kosher Jewish Delicatessens of its kind left in New York. Its former location had a dining room named after Molly Picon, a star of Yiddish theatre, as well as a "Walk of Stars of the Jewish stage," which featured a star for Fyvush Finkel. It serves traditionally Jewish fare such as corned beef, pastrami, brisket, chicken soup, chopped liver, and hummus.
 21. As of this filing, there is only one 2nd Ave Deli, and it is in Midtown East, Manhattan.
 22. Since late 2005, the Heart Attack Grill has operated the eponymous medically-themed hamburger restaurant in Phoenix, Arizona. The provocatively dressed waitresses are called "nurses." Patrons are called "patients" and are issued hospital wristbands upon entering the restaurant.
 23. The Heart Attack Grill proudly serves unhealthy and overly caloric fare such as hamburgers, fries cooked in lard, and milkshakes. Defendants contend that they are known nationally and internationally for serving this type of cuisine.
 24. The Heart Attack Grill has accused Plaintiffs of trademark infringement and other violations by virtue of the use of the phrases "INSTANT HEART ATTACK SANDWICH" and "TRIPLE BYPASS SANDWICH" in the 2nd Ave Deli's restaurant menus, signs, website, and other materials. Defendants have further alleged that Plaintiffs are deliberately imitating their medical theme and are creating a likelihood of confusion with its marks.

25. There is no likelihood of confusion. As an initial matter, the restaurants serve geographically distant markets. Defendants operate in Phoenix, Arizona and the 2nd Ave Deli operates solely in New York City. Furthermore, the food sold, as well as the clientele served, could not be more different. The Defendant's Triple Bypass Burger is more precisely a cheeseburger, and as such is decidedly not kosher and unsuitable for the 2nd Ave Deli's customer base. Similarly, anyone looking for a milkshake, cheeseburger, or French fries cooked in lard will not find them at the 2nd Ave Deli.
26. The 2nd Ave Deli has been in business for almost sixty years serving quality kosher food to New Yorkers, having earned renown in that market. It has no intention of becoming a medically-themed hamburger restaurant and grill.
27. The 2nd Ave Deli has been serving its popular Instant Heart Attack Sandwich since before the Heart Attack Grill even existed, much less used the trademark "Heart Attack Grill" in commerce.
28. Without a prompt determination as to whether the 2nd Ave Deli's use of the "Instant Heart Attack Sandwich" and "Triple Bypass Sandwich" infringes upon Defendants' claimed intellectual property rights, Plaintiffs cannot know with any certainty whether or not they are exposing themselves to liability if they do not accede to Defendants' demands.
29. Plaintiffs demand trial by jury on all issues so triable.

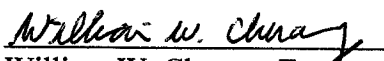
PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment in their favor against Defendants for the following relief:

- (1) A judgment declaring that Plaintiffs have not infringed upon any rights Defendants may have under the Lanham Act with regard to the Marks in Dispute or with regard to any other of Defendants' marks;
- (2) A judgment declaring that Plaintiffs did not violate any state or common law claim or right of Defendants with regard to the Marks in Dispute or with regard to any other of Defendants' marks;
- (3) Costs and reasonable attorneys' fees; and
- (4) Such other relief as the Court may deem just and proper.

Dated: New York, NY
May 10, 2011

Respectfully Submitted,


William W. Chuang, Esq.
Jakubowitz & Chuang LLP
Attorneys For Plaintiffs
401 Broadway, Suite 408
New York, NY 10013
Phone: (347) 542-8529

To: Robert C. Kain, Esq.
Kain and Associates
Attorneys For Defendants
900 Southeast Third Avenue, Suite 205
Fort Lauderdale, FL 33316

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE KAPLAN

-----X
JEREMY LEBEWOHL,

UNCLE ABIES DELI INC. d/b/a 2nd AVE DELI,

UNCLE ABIES DELI ON FIRST INC., and

UNCLE ABIES DELI SANDWICH TRADEMARKS LLC,

11 CIV 3153

SUMMONS

Plaintiffs,

Index No.

-against-

HEART ATTACK GRILL LLC, HAG LLC, and JON BASSO,

Defendants.
-----X

To: HEART ATTACK GRILL LLC
N Northsight Boulevard #115
Scottsdale, Arizona 85260

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jakubowitz & Chuang LLP
401 Broadway, Suite 408
New York, NY 10013

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: May 10, 2011

RUBY J. KRAJICK

CLERK OF COURT


Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE KAPLAN

-----X

JEREMY LEBEWOHL,

UNCLE ABIES DELI INC. d/b/a 2nd AVE DELI,

UNCLE ABIES DELI ON FIRST INC., and

UNCLE ABIES DELI SANDWICH TRADEMARKS LLC,

11 CIV 3153

SUMMONS

Plaintiffs,

Index No.

-against-

HEART ATTACK GRILL LLC, HAG LLC, and JON BASSO,

Defendants.

-----X

To: HAG LLC
37401 N Dream Street
Carefree, Arizona 85377

A lawsuit has been filed against you.

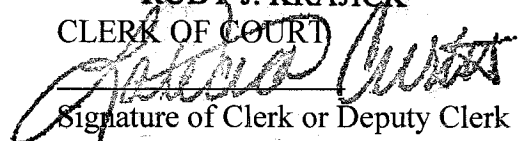
Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jakubowitz & Chuang LLP
401 Broadway, Suite 408
New York, NY 10013

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: May 10, 2011

RUBY J. KRAJICK
CLERK OF COURT


Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE KAPLAN

-----X

JEREMY LEBEWOHL,

UNCLE ABIES DELI INC. d/b/a 2nd AVE DELI,

UNCLE ABIES DELI ON FIRST INC., and

UNCLE ABIES DELI SANDWICH TRADEMARKS LLC,

11 CIV 3153

SUMMONS

Plaintiffs,

Index No.

-against-

HEART ATTACK GRILL LLC, HAG LLC, and JON BASSO,

Defendants.

-----X

To: JON BASSO
37401 N Dream Street
Carefree, Arizona 85377

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jakubowitz & Chuang LLP
401 Broadway, Suite 408
New York, NY 10013

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

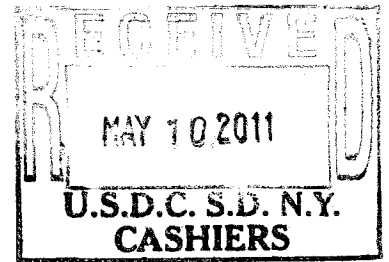
Date: May 10, 2011

RUBY J. KRAJICK

CLERK OF COURT

Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X

JEREMY LEBEWOHL,

UNCLE ABIES DELI INC. d/b/a 2nd AVE DELI,

UNCLE ABIES DELI ON FIRST INC., and

UNCLE ABIES DELI SANDWICH TRADEMARKS LLC,

RULE 7.1 STATEMENT

Plaintiffs,

Index No.

-against-

HEART ATTACK GRILL LLC, HAG LLC, and JON BASSO,

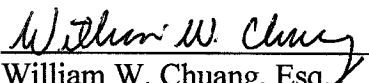
Defendants.

-----X

Pursuant to Federal Rule of Civil Procedure 7.1 [formerly Local General Rule 1.9] and to enable District Judges and Magistrate Judges of the Court to evaluate possible disqualification or recusal, the undersigned counsel for UNCLE ABIES DELI INC. d/b/a 2nd AVE DELI, UNCLE ABIES DELI ON FIRST INC., and UNCLE ABIES DELI SANDWICH TRADEMARKS LLC, all private non-governmental parties, certifies that the following are corporate parents, affiliates, and/or subsidiaries of said parties, which are publicly held: NONE.

Dated: New York, NY
May 10, 2011

Respectfully Submitted,


William W. Chuang, Esq.
Jakubowitz & Chuang LLP
401 Broadway, Suite 408
New York, NY 10013
Phone: (347) 542-8529
NY Bar No. 4486468
SDNY Bar No. WC 3050