

**Supreme Court of the State of New York  
County of New York**

X

SOFIA RUSSO, as Administrator of the Goods,  
Chattels and Credits which were of ARIEL RUSSO,  
deceased, and KATIA GUTIERREZ

Plaintiff,

-against-

FRANKLIN REYES, RAMON ESTRADA, NEW YORK  
CITY FIRE DEPARTMENT, NEW YORK CITY  
EMERGENCY MEDICAL SERVICES, CALL  
OPERATOR/DISPATCHER "JANE DOE", NEW YORK  
CITY POLICE DEPARTMENT, POLICE OFFICERS  
"JOHN DOE" 1-6 and THE CITY OF NEW YORK

Defendants.

X

**Index No.**

**Date Purchased:**

**SUMMONS**

**Plaintiffs designate  
New York County as the  
place of trial**

The basis of venue is where the  
cause of action arose  
*See CPLR §504(3)*

Plaintiffs reside at  
830 Amsterdam Avenue  
New York, NY 10025

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**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(s) 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: New York, NY  
September 20, 2013

**Defendants' addresses:**

**SEE RIDER TO SUMMONS**

SANOCKI, NEWMAN & TURRET, LLP  
**Attorneys for Plaintiffs**

BY: 

Ira M. Newman

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RUBENSTEIN & RYNECKI, Esqs.  
16 Court Street - 17th Floor  
Brooklyn, New York 11241  
(718) 522-1020

**RIDER TO SUMMONS**

**RUSSO v. REYES, et al.**

**FRANKLIN REYES**

337 W. 21<sup>st</sup> Street, Apt. 1C  
New York, NY 10011

**RAMON ESTRADA**

265 W. 19<sup>th</sup> Street  
New York, NY 10011

**CALL OPERATOR/DISPATCHER "JANE DOE"**

**NEW YORK CITY FIRE DEPARTMENT**

**NEW YORK CITY EMERGENCY MEDICAL SERVICES**

9 Metrotech Center  
Brooklyn, NY 11201

**POLICE OFFICERS "JOHN DOE" 1-6**

**NEW YORK CITY POLICE DEPARTMENT**

1 Police Plaza  
New York, NY 10038

**THE CITY OF NEW YORK**

1 Centre Street  
New York, NY 10007

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

-----X  
SOFIA RUSSO, as Administrator of the Goods, Chattels,  
and Credits which were of ARIEL RUSSO, deceased,  
and KATIA GUTIERREZ,

Plaintiffs,

Index No.

- against -

**VERIFIED COMPLAINT**

FRANKLIN REYES, RAMON ESTRADA, NEW YORK  
CITY FIRE DEPARTMENT, NEW YORK  
CITY EMERGENCY MEDICAL SERVICES,  
CALL OPERATOR/DISPATCHER "JANE DOE",  
NEW YORK CITY POLICE DEPARTMENT,  
POLICE OFFICERS "JOHN DOE" 1-6, and  
THE CITY OF NEW YORK,

Defendants.

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Plaintiffs, SOFIA RUSSO, as Administrator of the Goods, Chattels, and Credits which  
were of ARIEL RUSSO, deceased, and KATIA GUTIERREZ complaining of the defendants, ,  
by their attorneys, SANOCKI NEWMAN & TURRET, LLP, respectfully allege upon  
information and belief at all times hereinafter as follows:

**THE PARTIES**

1. Plaintiff SOFIA RUSSO resides at 830 Amsterdam Avenue, City, County, and State  
of New York.

2. On or about the 4<sup>th</sup> day of June, 2013, plaintiff SOFIA RUSSO's decedent ARIEL  
RUSSO died.

3. Prior to her death, plaintiff plaintiff SOFIA RUSSO's decedent ARIEL RUSSO  
resided at 830 Amsterdam Avenue, City, County, and State of New York.

4. Plaintiff SOFIA RUSSO petitioned Surrogate's Court, New York County, to be appointed Administrator of the Goods, Chattels and Credits which were of ARIEL RUSSO.

5. By Decree of Hon. Nora S. Anderson, Surrogate's Court, New York County, Letters of Administration were issued to plaintiff SOFIA RUSSO in the Estate of ARIEL RUSSO on the 1st day of July, 2013.

6. Plaintiff KATIA GUTIERREZ resides at 830 Amsterdam Avenue, City, County, and State of New York.

7. Defendant FRANKLIN REYES resides at 337 W. 21<sup>st</sup> Street, Apt. 1C, City, County, and State of New York.

8. Defendant RAMON ESTRADA resides at 265 W. 19<sup>th</sup> Street, City, County, and State of New York.

9. Defendant NEW YORK CITY FIRE DEPARTMENT (hereinafter referred to as "NYFD") is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

10. Defendant NYFD maintains an office and principal place of business located at 9 Metrotech Center, County of Kings, State of New York.

11. Defendant EMS is subsidiary under the auspices of defendant THE CITY OF NEW YORK (hereinafter referred to as "CITY").

12. Defendant NEW YORK CITY EMERGENCY MEDICAL SERVICES (hereinafter referred to as "EMS") is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

13. Defendant EMS maintains an office and principal place of business located at 9 Metrotech Center, County of Kings, State of New York.

14. Defendant EMS is subsidiary under the auspices of defendant NYFD.

15. Defendant EMS is subsidiary under the auspices of defendant CITY.

16. Defendant CITY is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

17. Defendant CITY maintains an office and principal place of business located at One Centre Street, City, County and State of New York.

18. Defendant CALL OPERATOR/DISPATCHER "JANE DOE" is an agent, servant and/or employee of defendant NYFD.

19. Defendant CALL OPERATOR/DISPATCHER "JANE DOE" is an agent, servant and/or employee of defendant EMS.

20. Defendant CALL OPERATOR/DISPATCHER "JANE DOE" is an agent, servant and/or employee of defendant CITY.

21. Defendant NEW YORK CITY POLICE DEPARTMENT (hereinafter referred to as "NYPD") is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

22. Defendant NYPD maintains an office and principal place of business located at One Police Plaza, City, County, and State of New York.

23. Defendant POLICE OFFICER "JOHN DOE" 1 is an agent, servant and/or employee of defendant NYPD.

24. Defendant POLICE OFFICER "JOHN DOE" 1 is an agent, servant and/or employee of defendant CITY.

25. Defendant POLICE OFFICER "JOHN DOE" 2 is an agent, servant and/or employee of defendant NYPD.

26. Defendant POLICE OFFICER "JOHN DOE" 2 is an agent, servant and/or employee of defendant CITY.

27. Defendant POLICE OFFICER "JOHN DOE" 3 is an agent, servant and/or employee of defendant NYPD.

28. Defendant POLICE OFFICER "JOHN DOE" 3 is an agent, servant and/or employee of defendant CITY.

29. Defendant POLICE OFFICER "JOHN DOE" 4 is an agent, servant and/or employee of defendant NYPD.

30. Defendant POLICE OFFICER "JOHN DOE" 4 is an agent, servant and/or employee of defendant CITY.

31. Defendant POLICE OFFICER "JOHN DOE" 5 is an agent, servant and/or employee of defendant NYPD.

32. Defendant POLICE OFFICER "JOHN DOE" 5 is an agent, servant and/or employee of defendant CITY.

33. Defendant POLICE OFFICER "JOHN DOE" 6 is an agent, servant and/or employee of defendant NYPD.

34. Defendant POLICE OFFICER "JOHN DOE" 6 is an agent, servant and/or employee of defendant CITY.

#### **THE UNDERLYING FACTS**

37. On or about the 4<sup>th</sup> day of June, 2013, Amsterdam Avenue at or about its intersection with West 97<sup>th</sup> Street, City, County, and State of New York was and still is a public highway, roadway, and/or thoroughfare.

38. On or about the 4<sup>th</sup> day of June, 2013, defendant FRANKLIN REYES was the operator of a 2000 Nissan bearing New York State License Plate No. FPJ9995.

39. On or about the 4<sup>th</sup> day of June, 2013, defendant RAMON ESTRADA was the owner of a 2000 Nissan bearing New York State License Plate No. FPJ9995.

40. On or about the 4<sup>th</sup> day of June, 2013, defendant FRANKLIN REYES was operating the aforesaid 2000 Nissan bearing New York State License Plate No. FPJ9995 with the knowledge and consent of defendant RAMON ESTRADA.

41. On or about the 4<sup>th</sup> day of June, 2013, defendant FRANKLIN REYES was operating the aforesaid 2000 Nissan bearing New York State License Plate No. FPJ9995 northbound on Amsterdam Avenue at or about its intersection with West 97<sup>th</sup> Street, City, County and State of New York.

42. On or about the 4<sup>th</sup> day of June, 2013, defendant FRANKLIN REYES was operating the aforesaid 2000 Nissan bearing New York State License Plate No. FPJ9995 northbound on Amsterdam Avenue at or about its intersection with West 97<sup>th</sup> Street, City, County and State of New York with the knowledge and consent of defendant RAMON ESTRADA.

43. On or about the 4<sup>th</sup> day of June, 2013, the vehicle operated by defendant FRANKLIN REYES and owned by defendant RAMON ESTRADA was caused to come into contact with plaintiff SOFIA RUSSO's decedent ARIEL RUSSO while she was a pedestrian lawfully ambulating on the sidewalk on Amsterdam Avenue at or about its intersection with W. 97<sup>th</sup> Street, City, County, and State of New York.

44. On or about the 4<sup>th</sup> day of June, 2013, the vehicle operated by defendant FRANKLIN REYES and owned by defendant RAMON ESTRADA was caused to come into contact with plaintiff KATIA GUTIERREZ while she was a pedestrian lawfully ambulating on

the sidewalk on Amsterdam Avenue at or about its intersection with W. 97<sup>th</sup> Street, City, County, and State of New York.

45. On or about the 4<sup>th</sup> day of June, 2013, and prior and subsequent thereto, defendant CALL OPERATOR/DISPATCHER “JANE DOE” was on duty as a 911 call operator in the course of her employment with defendant FDNY.

46. On or about the 4<sup>th</sup> day of June, 2013, and prior and subsequent thereto, defendant CALL OPERATOR/DISPATCHER “JANE DOE” was on duty as a 911 call operator in the course of her employment with defendant EMS.

47. On or about the 4<sup>th</sup> day of June, 2013, and prior and subsequent thereto, defendant CALL OPERATOR/DISPATCHER “JANE DOE” was on duty as a 911 call operator in the course of her employment with defendant CITY.

48. On or about the 4<sup>th</sup> day of June, 2013, and prior and subsequent thereto, defendant CALL OPERATOR/DISPATCHER “JANE DOE” received a call for emergency medical assistance on behalf of plaintiff SOFIA RUSSO’s decedent ARIEL RUSSO.

49. It was the duty of defendant CALL OPERATOR/DISPATCHER “JANE DOE” to act in a reasonable manner and in accordance with good and accepted emergency medical services practice.

50. On or about the 4<sup>th</sup> day of June, 2013, a call for emergency medical assistance on behalf of plaintiff SOFIA RUSSO’s decedent ARIEL RUSSO was placed to defendant FDNY.

51. It was the duty of defendant FDNY to act in a reasonable manner and in accordance with good and accepted emergency medical services practice.

52. On or about the 4<sup>th</sup> day of June, 2013, a call for emergency medical assistance on behalf of plaintiff SOFIA RUSSO’s decedent ARIEL RUSSO was placed to defendant EMS.



53. It was the duty of defendant EMS to act in a reasonable manner and in accordance with good and accepted emergency medical services practice.

54. On or about the 4<sup>th</sup> day of June, 2013, a call for emergency medical assistance on behalf of plaintiff SOFIA RUSSO's decedent ARIEL RUSSO was placed to defendant CITY.

55. It was the duty of defendant CITY to act in a reasonable manner and in accordance with good and accepted emergency medical services practice.

56. As a result of the aforesaid, a special relationship existed between defendants NYFD, EMS, CITY, and CALL OPERATOR "JANE DOE".

57. Defendant CALL OPERATOR "JANE DOE" failed to attend, respond to, and/or ignored requests for provide first aid, basic life support, advanced life support and/or pre-hospital emergency medical services, care and treatment on behalf of the plaintiff SOFIA RUSSO's decedent ARIEL RUSSO while in the course and scope of her employment with defendant NYFD.

58. Defendant CALL OPERATOR "JANE DOE" failed to attend to, respond to, and ignored requests for provide first aid, basic life support, advanced life support and/or pre-hospital emergency medical services, care and treatment on behalf of the plaintiff SOFIA RUSSO's decedent ARIEL RUSSO while in the course and scope of her employment with defendant EMS.

59. Defendant CALL OPERATOR "JANE DOE" failed to attend to, respond to, and ignored requests for provide first aid, basic life support, advanced life support and/or pre-hospital emergency medical services, care and treatment on behalf of the plaintiff SOFIA RUSSO's decedent ARIEL RUSSO while in the course and scope of her employment with defendant CITY.

60. On or about the 4<sup>th</sup> day of June, 2013, and prior and subsequent thereto, defendant NYFD was the owner and operator of an Emergency Medical Service and/or 911 response system.

61. Defendant NYFD, its agents, servants and/or employees operated, maintained, managed, controlled and supervised the aforesaid Emergency Medical Service and/or 911 response system, which held itself out to the public at large and, more particularly, plaintiff SOFIA RUSSO's decedent ARIEL RUSSO as an entity duly qualified and capable of rendering timely and adequate emergency response, care and treatment to the public at large and for such purposes hired technicians, dispatchers, paramedics, and other personnel.

62. On or about the 4<sup>th</sup> day of June, 2013, and prior and subsequent thereto, defendant EMS was the owner and operator of an Emergency Medical Service and/or 911 response system.

63. Defendant EMS, its agents, servants and/or employees operated, maintained, managed, controlled and supervised the aforesaid Emergency Medical Service and/or 911 response system, which held itself out to the public at large and, more particularly, plaintiff SOFIA RUSSO's decedent ARIEL RUSSO as an entity duly qualified and capable of rendering timely and adequate emergency response, care and treatment to the public at large and for such purposes hired technicians, dispatchers, paramedics, and other personnel.

64. On or about the 4<sup>th</sup> day of June, 2013, and prior and subsequent thereto, defendant CITY was the owner and operator of an Emergency Medical Service and/or 911 response system.

65. Defendant CITY, its agents, servants and/or employees operated, maintained, managed, controlled and supervised the aforesaid Emergency Medical Service and/or 911

response system, which held itself out to the public at large and, more particularly, plaintiff SOFIA RUSSO's decedent ARIEL RUSSO as an entity duly qualified and capable of rendering timely and adequate emergency response, care and treatment to the public at large and for such purposes hired technicians, dispatchers, paramedics, and other personnel.

66. On or about the 4<sup>th</sup> day of June, 2013, defendants POLICE OFFICERS "JOHN DOE" 1-6 stopped the 2000 Nissan bearing New York State License Plate FPJ9995 operated by defendant FRANKLIN REYES and owned by defendant RAMON ESTRADA at or about W. 89<sup>th</sup> Street and Amsterdam Avenue, City, County and State of New York.

67. On or about the 4<sup>th</sup> day of June, 2013, defendants POLICE OFFICERS "JOHN DOE" 1-6 stopped the 2000 Nissan bearing New York State License Plate FPJ9995 operated by defendant FRANKLIN REYES and owned by defendant RAMON ESTRADA at or about W. 89<sup>th</sup> Street and Amsterdam Avenue, City, County and State of New York for reckless driving.

68. On or about the 4<sup>th</sup> day of June, 2013, defendants POLICE OFFICERS "JOHN DOE" 1-6, in the course and scope of their employment with defendant NYPD, attempted to effectuate a traffic stop upon the 2000 Nissan bearing New York State License Plate FPJ9995 operated by defendant FRANKLIN REYES and owned by defendant RAMON ESTRADA at or about W. 89<sup>th</sup> Street and Amsterdam Avenue, City, County and State of New York for reckless driving.

69. On or about the 4<sup>th</sup> day of June, 2013, defendants POLICE OFFICERS "JOHN DOE" 1-6, in the course and scope of their employment with defendant NYPD, attempted to effectuate a traffic stop upon the 2000 Nissan bearing New York State License Plate FPJ9995 operated by defendant FRANKLIN REYES and owned by defendant RAMON ESTRADA at

or about W. 89<sup>th</sup> Street and Amsterdam Avenue, City, County and State of New York for reckless driving.

70. In the course of the efforts of defendants POLICE OFFICERS "JOHN DOE" 1-6 to effectuate the traffic stop, the 2000 Nissan bearing New York State License Plate FPJ9995 operated by defendant FRANKLIN REYES and owned by defendant RAMON ESTRADA at or about W. 89<sup>th</sup> Street and Amsterdam Avenue, City, County and State of New York for reckless driving, defendant FRANKLIN REYES left the scene in his vehicle and traveled northbound on Amsterdam Avenue.

71. After defendant FRANKLIN REYES left the scene of the aforesaid traffic stop, defendants POLICE OFFICERS "JOHN DOE" 1-6 followed the vehicle operated by defendant FRANKLIN REYES in a police pursuit.

72. After defendant FRANKLIN REYES left the scene of the aforesaid traffic stop, defendants POLICE OFFICERS "JOHN DOE" 1-6 followed the vehicle operated by defendant FRANKLIN REYES in and commenced and pursued a high speed chase in the course and scope of their employment with defendant NYPD.

73. After defendant FRANKLIN REYES left the scene of the aforesaid traffic stop, defendants POLICE OFFICERS "JOHN DOE" 1-6 followed the vehicle operated by defendant FRANKLIN REYES and commenced and pursued a high speed chase in the course and scope of their employment with defendant CITY.

74. It was the duty of defendants POLICE OFFICERS "JOHN DOE" 1-6 to conduct said traffic stop and commenced and pursued a high speed chase in a reasonable and safe manner, and in accordance with good and accepted police practice.

75. It was the duty of defendant NYPD to conduct said traffic stop and police pursuit in a reasonable and safe manner, and in accordance with good and accepted police practice.

76. It was the duty of defendant CITY to conduct said traffic stop and police pursuit in a reasonable and safe manner, and in accordance with good and accepted police practice.

77. Prior to the commencement of this action, on or about the 12<sup>th</sup> day of June, 2013, a Notice of Claim and intention to commence an action was served on behalf of plaintiff SOFIA RUSSO as Administrator of the Goods, Chattels and Credits which were of ARIEL RUSSO, in writing, upon defendants NYFD, EMS, NYPD, CITY, CALL OPERATOR/DISPATCHER "JANE DOE, and POLICE OFFICERS "JOHN DOE" 1-6.

78. Plaintiff SOFIA RUSSO was required to appear and to submit to an examination, pursuant to General Municipal Law Section 50-h, and plaintiff did so appear and submit to such an examination on the 15<sup>th</sup> day of August, 2013.

79. Prior to the commencement of this action, on or about the 12<sup>th</sup> day of June, 2013, a Notice of Claim and intention to commence an action was served on behalf of plaintiff KATIA GUTIERREZ, in writing, upon defendants NYFD, EMS, NYPD, CITY, CALL OPERATOR/DISPATCHER "JANE DOE, and POLICE OFFICERS "JOHN DOE" 1-6.

80. Plaintiff KATIA GUTIERREZ was required to appear and to submit to an examination, pursuant to General Municipal Law Section 50-h, and plaintiff did so appear and submit to such an examination on the 15<sup>th</sup> day of August, 2013.

81. Although more than thirty (30) days have elapsed since the service of said Notice of Claims and intention to commence an action, defendants have failed, neglected and refused to pay said claim or adjust the same.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**NEGLIGENCE CLAIM AGAINST DEFENDANTS FRANKLIN REYES and RAMON ESTRADA ON BEHALF OF SOFIA RUSSO as Administrator of the Goods, Chattels and Credits which were of ARIEL RUSSO, deceased**

82. The aforesaid occurrence was caused by the carelessness and negligence of the defendants in the operation, ownership, inspection, maintenance, management, control and supervision of the aforesaid motor vehicles; in failing to keep and maintain said motor vehicles in proper operating condition; in failing to operate said vehicle in a reasonable, safe and proper manner; in operating said motor vehicles with disregard for the safety of others; in causing and/or allowing said vehicles to come into contact with the plaintiff; in causing and/or allowing said vehicles to come into contact with ARIEL RUSSO and KATIA GUTIERREZ while they were lawfully on the sidewalk; in striking ARIEL RUSSO and KATIA GUTIERREZ; in causing and/or allowing ARIEL RUSSO and KATIA GUTIERREZ to be stricken; in leaving the roadway; in causing and/or allowing the aforesaid vehicle to come up onto the sidewalk; in failing to yield the right of way; in failing to properly utilize braking and steering mechanisms; in failing to stop; in failing to sound horn; in failing to see what should have been seen; in operating the vehicle without a proper license; in failing to adhere to New York State VTL §§1101, 1142, 1146, 1180(a), and 1212; in fleeing the scene of a traffic stop; in failing to stop when directed to do so by police; in disobeying the police; in operating said vehicle at an excessive rate of speed; in operating said vehicle in a negligent and careless manner; in causing the occurrence complained of herein; and these defendants were otherwise careless and negligent.

83. As a result of the carelessness and negligence of the defendant, plaintiff's decedent ARIEL RUSSO was caused to sustain severe and permanent personal injuries, including, among other things, blunt force trauma; internal bleeding; multiple fractures; contusions,

lacerations and abrasions; was caused to sustain severe pain and suffering; was caused to suffer emotional distress, mental anguish and anxiety; fear of dying; wrongful death; was caused to incur medical expenses; and ARIEL RUSSO was otherwise damaged, all of which damages are permanent in nature and continuing into the future.

84. Plaintiff SOFIA RUSSO's decedent ARIEL RUSSO has suffered serious and permanent injuries as defined by the No-Fault Law of the State of New York.

85. Plaintiff SOFIA RUSSO as Administrator of the Goods, Chattels, and Credits which were of ARIEL RUSSO, deceased, is not seeking to recover those funds which are, or should be, paid to her through No-Fault Insurance.

86. Any release signed by SOFIA RUSSO as Administrator of the Goods, Chattels, and Credits which were of ARIEL RUSSO, deceased in this action is not intended to release No-Fault benefits or subrogation rights or any claims which belong to any insurance carrier.

87. By reason of the foregoing, these defendants are jointly and severally liable pursuant to the exceptions set forth in Article 16 of the CPLR.

88. By reason of the foregoing, plaintiffs are entitled to recover all their damages from the defendants pursuant to CPLR 3017(c), the amount of which exceeds the jurisdictional limits of all lower Courts.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**NEGLIGENCE CLAIM AGAINST DEFENDANTS FRANKLIN REYES and RAMON**  
**ESTRADA ON BEHALF OF KATIA GUTIERREZ**

89. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint numbered "1" through "87", inclusive, with the same force and effect as if more fully set forth at length herein.

90. As a result of the carelessness and negligence of the defendants as aforesaid, plaintiff KATIA GUTIERREZ was caused to sustain severe and permanent personal injuries, including, among other things, bimalleolar fracture, left ankle; stellate posterior left elbow wound with degloving; triceps avulsion; was caused to undergo a irrigation and debridement of left open ankle with open reduction and internal fixation as well as saline challenge left elbow with irrigation and debridement of the left open elbow and repair of triceps avulsion; blunt force trauma; was caused to be confined to a wheelchair; difficulty upon ambulation; unsteady gait; loss of balance; weakness of the left lower extremity; loss of range of motion of the left lower extremity; weakness of the left upper extremity; loss of range of motion of the left upper extremity; internal injuries to multiple organs; internal bleeding; fractured vertebrae; was and will be caused to undergo surgical procedures; trauma to the head, neck, back, and lower extremities; memory loss; neurological impairment; was caused to be rendered sick, sore, lame and disabled; contusions, lacerations and abrasions; scarring and cosmetic deformity was caused to sustain severe pain and suffering; was caused to suffer emotional distress, mental anguish and anxiety; was caused to be confined to hospital, home and bed, and will, in the future be so caused; was caused to seek medical care and attention and will, in the future, be so caused; was caused to undergo extensive diagnostic tests and procedures, and will in the future, be so caused; was caused to be incapacitated from her usual duties and occupation; was caused to incur medical expenses and may, in the future, be so caused and this plaintiff was otherwise damaged, all of which damages are permanent in nature and continuing into the future.

91. Plaintiff KATIA GUTIERREZ has suffered serious and permanent injuries as defined by the No-Fault Law of the State of New York.



92. Plaintiff KATIA GUTIERREZ is not seeking to recover those funds which are, or should be, paid to her through No-Fault Insurance.

93. Any release signed by KATIA GUTIERREZ in this action is not intended to release No-Fault benefits or subrogation rights or any claims which belong to any insurance carrier.

94. By reason of the foregoing, these defendants are jointly and severally liable pursuant to the exceptions set forth in Article 16 of the CPLR.

95. By reason of the foregoing, plaintiffs are entitled to recover all their damages from the defendants pursuant to CPLR 3017(c), the amount of which exceeds the jurisdictional limits of all lower Courts.

**AS AND FOR A THIRD CAUSE OF ACTION**  
**NEGLIGENCE CLAIM AGAINST DEFENDANTS NYFD, EMS, CITY, and CALL**  
**OPERATOR "JANE DOE" ON BEHALF OF SOFIA RUSSO as Administrator of the**  
**Goods, Chattels and Credits which were of ARIEL RUSSO, deceased**

96. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint numbered "1" through "87" and "89" through "94", inclusive, with the same force and effect as if more fully set forth at length herein.

97. Defendants NYFD, EMS, CITY, and CALL OPERATOR "JANE DOE" were careless and negligent in, among other things, failing to timely and properly respond to an emergency call for medical assistance; in failing to timely and properly answer and receive the emergency call for medical assistance; in ignoring the emergency call for medical assistance; in having and maintaining a problem plagued computer system and Emergency Medical Services response system; in implementing a new 911 system without adequate and proper testing and inspection of same; in failing to properly and adequately train its employees in the new 911 system prior to its implementation so as to eliminate the foreseeable possibility of human error; in having an unsafe and defective 911 system; in failing to inspect for and correct foreseeable

“glitches” and “bugs” in the system; in improperly selecting and purchasing and/or maintaining equipment and systems necessary for good, proper and safe emergency medical services; in selecting and purchasing and/or maintaining equipment and systems necessary for good, proper and safe emergency medical services which fail and/or are known to fail to function effectively, as intended, and as necessary to ensure the safety and well-being of those specific and identifiable individuals who place calls for emergency assistance and/or for whom calls for emergency assistance are placed; in implementing an Emergency Medical Service computer system that loses and delays messages for assistance; in failing to properly maintain and inspect such equipment and/or undertake to correct, repair, and/or replace said system in whole or part; in violating its own internal, rules, policies, regulations and procedures applicable to the proper selection, purchase, maintenance, inspection, and testing of its equipment, and more particularly, the 911 system; in negligently attending to the plaintiff’s decedent herein; in failing to timely attend to the plaintiff’s decedent; in causing and/or allowing a delay in treatment to the plaintiff’s decedent; in failing to properly and/or adequately treat the plaintiff’s decedent; in causing and/or allowing plaintiff’s decedent to bleed internally; in failing to timely stabilize plaintiff’s decedent and transfer her to a hospital for medical care and treatment; in failing to timely and/or properly respond to a call for emergency medical assistance; in failing to timely dispatch an ambulance in response to a request for emergency medical assistance; in ignoring a request for emergency medical assistance; in leaving a dispatch station unattended; in taking a break in a manner so as to leave a dispatch station unattended; in causing and/or allowing plaintiff’s decedent’s condition to progress, worsen and/or deteriorate; in failing to appreciate that plaintiff’s decedent necessitated prompt medical care and treatment; in ignoring plaintiff’s request for medical care and treatment; in failing to properly diagnose and/or take

heed of plaintiff's decedent's condition; in failing to timely take proper and adequate measure to ensure that plaintiff's condition did not further deteriorate; in failing to take appropriate measures to treat and/or improve plaintiff's decedent's condition; in compromising plaintiff's decedent's condition during the care and treatment rendered so as to interfere with and/or compromise and/or decrease her chances for a recovery; in failing to administer a course of therapy and treatment to treat the plaintiff's decedent's true condition; in allowing and permitting the plaintiff's decedent's condition to worsen and deteriorate; in abandoning the plaintiff's decedent; in failing to avoid unnecessary delay in treating the plaintiff's decedent; in failing to follow EMS/FDNY policies, procedures, protocols, rules and/or regulations; in failing to exercise the degree of skill, care and diligence to which this patient was entitled; in improperly retaining unqualified and unskilled personnel; in failing to review and evaluate staff at indicated intervals; in failing to employ sufficient, efficient, competent and qualified agents, servants and/or employees; in failing to adequately supervise their staff; and these defendants were otherwise careless and negligent.

98. These defendants' negligence is a substantial contributing cause of the injuries sustained by plaintiff SOFIA RUSSO's decedent ARIEL RUSSO, as set forth above.

99. By reason of the foregoing, these defendants are jointly and severally liable pursuant to the exceptions set forth in Article 16 of the CPLR.

100. By reason of the foregoing, plaintiffs are entitled to recover all their damages from the defendants pursuant to CPLR 3017(c), the amount of which exceeds the jurisdictional limits of all lower Courts.

**AS AND FOR A FOURTH CAUSE OF ACTION**  
**GROSS NEGLIGENCE CLAIM AGAINST DEFENDANTS NYFD, EMS, CITY, and**  
**CALL OPERATOR "JANE DOE" ON BEHALF OF SOFIA RUSSO as Administrator of**  
**the Goods, Chattels and Credits which were of ARIEL RUSSO, deceased**

101. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint numbered "1" through "87", "89" through "94", and "96" through "99" inclusive, with the same force and effect as if more fully set forth at length herein.

102. Defendants NYFD, EMS, CITY, and CALL OPERATOR "JANE DOE" were grossly negligent and reckless in, among other things, failing to timely and properly respond to an emergency call for medical assistance; in failing to timely and properly answer and receive the emergency call for medical assistance; in ignoring the emergency call for medical assistance; in having and maintaining a problem plagued computer system and Emergency Medical Services response system; in implementing a new 911 system without adequate and proper testing, monitoring, technological studies, and inspection; in failing to properly and adequately train its employees in the new 911 system prior to its implementation so as to eliminate the foreseeable possibility of human error; in having an unsafe and defective 911 system; in failing to inspect for and correct foreseeable "glitches" and "bugs" in the system; in improperly selecting and purchasing and/or maintaining equipment and systems necessary for good, proper and safe emergency medical services; in selecting and purchasing and/or maintaining equipment and systems necessary for good, proper and safe emergency medical services which fail and/or are known to fail to function effectively, as intended, and as necessary to ensure the safety and well-being of those specific and identifiable individuals who place calls for emergency assistance and/or for whom calls for emergency assistance are placed; in implementing an Emergency Medical Service computer system that loses and delays messages for assistance; in failing to properly maintain and inspect such equipment and/or

undertake to correct, repair, and/or replace said system in whole or part; in violating its own internal rules, policies, regulations and procedures applicable to the proper selection, purchase, maintenance, inspection, and testing of its equipment, and more particularly, the 911 system; in negligently attending to the plaintiff's decedent herein; in failing to timely attend to the plaintiff's decedent; in causing and/or allowing a delay in treatment to the plaintiff's decedent; in failing to properly and/or adequately treat the plaintiff's decedent; in causing and/or allowing plaintiff's decedent to bleed internally; in failing to timely stabilize plaintiff's decedent and transfer her to a hospital for medical care and treatment; in failing to timely and/or properly respond to a call for emergency medical assistance; in failing to timely dispatch an ambulance in response to a request for emergency medical assistance; in ignoring a request for emergency medical assistance; in leaving a dispatch station unattended; in taking a break in a manner so as to leave a dispatch station unattended; in causing and/or allowing plaintiff's decedent's condition to progress, worsen and/or deteriorate; in failing to appreciate that plaintiff's decedent necessitated prompt medical care and treatment; in ignoring plaintiff's request for medical care and treatment; in failing to properly diagnose and/or take heed of plaintiff's decedent's condition; in failing to timely take proper and adequate measure to ensure that plaintiff's condition did not further deteriorate; in failing to take appropriate measures to treat and/or improve plaintiff's decedent's condition; in compromising plaintiff's decedent's condition during the care and treatment rendered so as to interfere with and/or compromise and/or decrease her chances for a recovery; in failing to administer a course of therapy and treatment to treat the plaintiff's decedent's true condition; in allowing and permitting the plaintiff's decedent's condition to worsen and deteriorate; in abandoning the plaintiff's decedent; in failing to avoid unnecessary delay in treating the plaintiff's decedent; in failing to

follow EMS/FDNY policies, procedures, protocols, rules and/or regulations; in failing to exercise the degree of skill, care and diligence to which this patient was entitled; in improperly retaining unqualified and unskilled personnel; in failing to review and evaluate staff at indicated intervals; in failing to employ sufficient, efficient, competent and qualified agents, servants and/or employees; in failing to adequately supervise their staff; and these defendants were otherwise grossly negligence and reckless.

103. These defendants' gross negligence and recklessness is a substantial contributing cause of the injuries sustained by plaintiff SOFIA RUSSO's decedent ARIEL RUSSO, as set forth above.

104. By reason of the foregoing, these defendants are jointly and severally liable pursuant to the exceptions set forth in Article 16 of the CPLR.

105. By reason of the foregoing, plaintiffs are entitled to recover all their damages from the defendants pursuant to CPLR 3017(c), the amount of which exceeds the jurisdictional limits of all lower Courts.

**AS AND FOR A FIFTH CAUSE OF ACTION**  
**NEGLIGENCE CLAIM AGAINST DEFENDANTS NYPD, CITY, and POLICE**  
**OFFICERS "JOHN DOE" 1-6 ON BEHALF OF SOFIA RUSSO as Administrator of the**  
**Goods, Chattels and Credits which were of ARIEL RUSSO, deceased**

106. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint numbered "1" through "87", "89" through "94", "96" through "99", and "101" through "104" inclusive, with the same force and effect as if more fully set forth at length herein.

107. Defendants NEW YORK CITY POLICE DEPARTMENT, POLICE OFFICERS "JOHN DOE" 1-6, and THE CITY OF NEW YORK were careless and negligent in, among other things, failing to properly perform a traffic stop; in failing to properly and/or adequately

detain Franklin Reyes in the course of an attempted traffic stop; in causing and/or allowing Franklin Reyes to leave the scene of an attempted traffic stop; in failing to properly and/or adequately detain and/or intercept Franklin Reyes; in acting with reckless disregard and/or indifference for the safety of the public, and more particularly, plaintiffs SOFIA RUSSO's decedent, ARIEL RUSSO, and KATIA GUTIERREZ; in conducting a high speed chase/pursuit in a manner contrary to the requisite rules, protocols, and procedures; in violating their own rules, protocols and procedures; in causing and/or allowing Franklin Reyes to strike the claimant's decedent; in causing and/or allowing a high speed chase/pursuit to proceed through a school zone; in improperly conducting a high speed chase/pursuit; in failing to use proper tactics so as to stop the vehicle operated by Franklin Reyes; in causing and/or allowing a dangerous condition; in failing to follow police policies, procedure, protocol, rules, regulations, and applicable statutes, including NY VTL §1104; in failing to intercept and/or prevent the occurrence herein; in causing and /or allowing Franklin Reyes to strike the claimant's decedent; in improperly retaining unqualified and unskilled personnel; in failing to review and evaluate staff at indicated intervals; in failing to employ sufficient, efficient, competent and qualified agents, servants and/or employees; in failing to adequately supervise their staff; and these defendants were otherwise careless and negligent.

108. These defendants' negligence is a substantial contributing cause of the injuries sustained by plaintiff SOFIA RUSSO's decedent ARIEL RUSSO, as set forth above.

109. By reason of the foregoing, these defendants are jointly and severally liable pursuant to the exceptions set forth in Article 16 of the CPLR.

110. By reason of the foregoing, plaintiffs are entitled to recover all their damages from the defendants pursuant to CPLR 3017(c), the amount of which exceeds the jurisdictional limits of all lower Courts.

**AS AND FOR A SIXTH CAUSE OF ACTION**  
**GROSS NEGLIGENCE CLAIM AGAINST DEFENDANTS NYPD, CITY, and POLICE OFFICERS "JOHN DOE" 1-6 ON BEHALF OF SOFIA RUSSO as Administrator of the Goods, Chattels and Credits which were of ARIEL RUSSO, deceased**

111. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint numbered "1" through "87", "89" through "94", "96" through "99", "101" through "104", and "106" through "109" inclusive, with the same force and effect as if more fully set forth at length herein.

112. Defendants NEW YORK CITY POLICE DEPARTMENT, POLICE OFFICERS "JOHN DOE" 1-6, and THE CITY OF NEW YORK were grossly negligent and reckless in, among other things, failing to properly perform a traffic stop; in failing to properly and/or adequately detain Franklin Reyes in the course of an attempted traffic stop; in causing and/or allowing Franklin Reyes to leave the scene of an attempted traffic stop; in failing to properly and/or adequately detain and/or intercept Franklin Reyes; in acting with reckless disregard and/or indifference for the safety of the public, and more particularly, plaintiffs SOFIA RUSSO's decedent, ARIEL RUSSO, and KATIA GUTIERREZ; in conducting a high speed chase/pursuit in a manner contrary to the requisite rules, protocols, and procedures; in violating their own rules, protocols and procedures; in causing and/or allowing Franklin Reyes to strike the claimant's decedent; in causing and/or allowing a high speed chase/pursuit to proceed through a school zone; in improperly conducting a high speed chase/pursuit; in failing to use proper tactics so as to stop the vehicle operated by Franklin Reyes; in causing and/or allowing a dangerous condition; in failing to follow police policies, procedure, protocol, rules, regulations,



and applicable statutes, including NY VTL §1104; in failing to intercept and/or prevent the occurrence herein; in causing and /or allowing Franklin Reyes to strike the claimant's decedent; in improperly retaining unqualified and unskilled personnel; in failing to review and evaluate staff at indicated intervals; in failing to employ sufficient, efficient, competent and qualified agents, servants and/or employees; in failing to adequately supervise their staff; and these defendants were otherwise grossly negligent and reckless.

113. These defendants' grossly negligent and reckless is a substantial contributing cause of the injuries sustained by plaintiff SOFIA RUSSO's decedent ARIEL RUSSO, as set forth above.

114. By reason of the foregoing, these defendants are jointly and severally liable pursuant to the exceptions set forth in Article 16 of the CPLR.

115. By reason of the foregoing, plaintiffs are entitled to recover all their damages from the defendants pursuant to CPLR 3017(c), the amount of which exceeds the jurisdictional limits of all lower Courts.

**AS AND FOR A SEVENTH CAUSE OF ACTION**  
**NEGLIGENCE CLAIM AGAINST DEFENDANTS NYPD, CITY, and POLICE**  
**OFFICERS "JOHN DOE" 1-6 ON BEHALF OF KATIA GUTIERREZ**

116. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint numbered "1" through "87", "89" through "94", "96" through "99", "101" through "104", "106" through "109" and "111" through "114" inclusive, with the same force and effect as if more fully set forth at length herein.

117. These defendants' negligence as aforesaid is a substantial contributing cause of the injuries sustained by plaintiff KATIA GUTIERREZ as set forth above.

118. By reason of the foregoing, these defendants are jointly and severally liable pursuant to the exceptions set forth in Article 16 of the CPLR.

119. By reason of the foregoing, plaintiffs are entitled to recover all their damages from the defendants pursuant to CPLR 3017(c), the amount of which exceeds the jurisdictional limits of all lower Courts.

**AS AND FOR A EIGHTH CAUSE OF ACTION**  
**GROSS NEGLIGENCE CLAIM AGAINST DEFENDANTS NYPD, CITY, and POLICE**  
**OFFICERS "JOHN DOE" 1-6 ON BEHALF OF KATIA GUTIERREZ**

120. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint numbered "1" through "87", "89" through "94", "96" through "99", "101" through "104", "106" through "109", "111" through "114" and "116" through "118" inclusive, with the same force and effect as if more fully set forth at length herein.

121. These defendants' grossly negligent and reckless acts as aforesaid is a substantial contributing cause of the injuries sustained by plaintiff KATIA GUTIERREZ, as set forth above.

122. By reason of the foregoing, these defendants are jointly and severally liable pursuant to the exceptions set forth in Article 16 of the CPLR.

123. By reason of the foregoing, plaintiffs are entitled to recover all their damages from the defendants pursuant to CPLR 3017(c), the amount of which exceeds the jurisdictional limits of all lower Courts.

**AS AND FOR A NINTH CAUSE OF ACTION**  
**WRONGFUL DEATH CLAIM AGAINST ALL DEFENDANTS ON BEHALF OF**  
**SOFIA RUSSO as Administrator of the Goods, Chattels and Credits which were of**  
**ARIEL RUSSO, deceased**

124. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this Complaint numbered "1" through "87", "89" through "94", "96" through "99", "101" through "104", "106" through "109", "111" through "114", "116" through "118" and "120" through "122" inclusive, with the same force and effect as if more fully set forth at length herein.

125. As a result of the carelessness, negligence, gross negligence, and recklessness of the defendants as aforesaid, ARIEL RUSSO was caused to suffer her subsequent wrongful death on June 4, 2013.

126. As a result of the foregoing, the heirs, distributees and next-of-kin who SOFIA RUSSO represents were caused to sustain pecuniary loss, loss of society, services, support, financial support, loss of inheritance, and companionship and were caused to incur medical and funeral expenses.

127. By reason of the foregoing, the defendants are jointly and severally liable pursuant to the exceptions set forth in Article 16 of the CPLR.

128. By reason of the foregoing, plaintiffs are entitled to recover all their damages from the defendants pursuant to CPLR. 3017(c), the amount of which exceeds the jurisdictional limits of all lower courts.

**WHEREFORE**, plaintiffs demand judgment against these defendants in the First, Second, Third, Fourth, Fifth, and Sixth Causes of Action, pursuant to CPLR 3017(c), that plaintiffs be awarded all damages and relief to which they are entitled; together with the costs, disbursements and attorneys' fees of this action.

Dated: New York, NY  
September 20, 2013

SANOCKI NEWMAN & TURRET, LLP

By

  
Ira M. Newman

Attorneys for Plaintiffs  
225 Broadway - Eighth Floor  
New York, New York 10007  
(212) 962-1190

RUBENSTEIN & RYNECKI, Esqs.

16 Court Street - 17th Floor  
Brooklyn, New York 11241  
(718) 522-1020

**VERIFICATION**

STATE OF NEW YORK     )  
  ss:  
COUNTY OF NEW YORK    )

SOFIA RUSSO, being duly sworn, deposes and says:

That I am a plaintiff in the within action; that I have read the foregoing COMPLAINT and know the contents thereof; that the same is true to my own knowledge, except as to those matters therein stated to be alleged upon information and belief, and that as to those matters, I believe them to be true.

  
\_\_\_\_\_  
SOFIA RUSSO

Sworn to before me this  
19 day of September, 2013

  
\_\_\_\_\_  
NOTARY PUBLIC

**SHANELL V. CANARTE**  
Notary Public, State of New York  
No. 01CA6241120  
Qualified in Bronx County  
Commission Expires May 16, 2015

**VERIFICATION**

STATE OF NEW YORK     )

ss:

COUNTY OF NEW YORK    )

KATIA GUTIERREZ, being duly sworn, deposes and says:

That I am a plaintiff in the within action; that I have read the foregoing COMPLAINT and know the contents thereof; that the same is true to my own knowledge, except as to those matters therein stated to be alleged upon information and belief, and that as to those matters, I believe them to be true.

  
KATIA GUTIERREZ

Sworn to before me this  
19 day of September, 2013

  
NOTARY PUBLIC

SHANELL V. CANARTE  
Notary Public, State of New York  
No. 01CA6241120  
Qualified in Bronx County  
Commission Expires May 16, 2015

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Index No.

Year

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

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SOFIA RUSSO, as Administrator of the Goods, Chattels,  
and Credits which were of ARIEL RUSSO, deceased,  
and KATIA GUTIERREZ,

Plaintiffs,

- against -

FRANKLIN REYES, RAMON ESTRADA, NEW YORK  
CITY FIRE DEPARTMENT, NEW YORK  
CITY EMERGENCY MEDICAL SERVICES,  
CALL OPERATOR/DISPATCHER "JANE DOE",  
NEW YORK CITY POLICE DEPARTMENT,  
POLICE OFFICERS "JOHN DOE" 1-6, and  
THE CITY OF NEW YORK,

Defendants.

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**SUMMONS AND VERIFIED COMPLAINT**

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**SANOCKI NEWMAN & TURRET, LLP**

Attorneys for Plaintiff(s)  
Office and Post Office Address, Telephone

**225 Broadway**  
**New York, NY 10007**  
**(212) 962-1190**

TO:

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11/12/13 9:45

**In the Matter of the Notice of Claim of****KATIA GUTIERREZ,****-against-****NEW YORK CITY FIRE DEPARTMENT, NEW YORK CITY EMERGENCY MEDICAL SERVICES, CALL OPERATOR/DISPATCHER "JANE DOE", NEW YORK CITY POLICE DEPARTMENT, POLICE OFFICERS "JOHN DOE" 1-a, and THE CITY OF NEW YORK**

TO: NEW YORK CITY FIRE DEPARTMENT, NEW YORK CITY EMERGENCY MEDICAL SERVICES, NEW YORK CITY POLICE DEPARTMENT, CORPORATION COUNSEL OF THE CITY OF NEW YORK and COMPTROLLER'S OFFICE OF THE CITY OF NEW YORK

Please take notice that the undersigned claimant hereby makes claim and demand against New York City Fire Department, New York City Emergency Medical Services, Call Operator/Dispatcher "JANE DOE", New York City Police Department, Police Officers "John Doe" 1-a, and The City of New York, as follows:

1. The name and post-office address of each claimant and claimants' attorney are:

Katia Gutierrez  
830 Amsterdam Avenue, Apt 18D  
New York, NY 10025  
D.O.B.: 1/19/69

SANOCKI NEWMAN & TURREL LLP  
225 Broadway, 8<sup>th</sup> Floor  
New York, NY 10007

RE BENSTEIN & RYNEKLESON  
16 Court Street 17<sup>th</sup> Floor  
Brooklyn, New York 11241  
(718) 522-1020

2. The nature of the claim:

CALL OPERATOR/DISPATCHER "JANE DOE" and THE CITY OF NEW YORK, their agents, servants and/or employees, were careless and negligent in, among other things, failing to timely and properly respond to an emergency call for medical assistance; in failing to timely and properly answer and receive the emergency call for medical assistance; in ignoring the emergency call for medical assistance; in having and maintaining a problem plagued computer system and Emergency Medical Services response system; in implementing a new 911 system without adequate and proper testing and inspection of same; in failing to properly and adequately train its



employees in the new 911 system prior to its implementation so as to eliminate the foreseeable possibility of human error; in having an unsafe and defective 911 system; in failing to inspect for and correct foreseeable "glitches" and "bugs" in the system; in implementing an Emergency Medical Service computer system that loses and delays messages for assistance; in negligently attending to the claimant; in failing to timely attend to the claimant; in causing and/or allowing a delay in treatment to the; in failing to properly and/or adequately treat the claimant; in failing to timely stabilize claimant and transfer her to a hospital for medical care and treatment; in failing to timely and/or properly respond to a call for emergency medical assistance; in failing to timely dispatch an ambulance in response to a request for emergency medical assistance; in ignoring a request for emergency medical assistance; in leaving a dispatch station unattended; in taking a break in a manner so as to leave a dispatch station unattended; in causing and/or allowing claimant's condition to progress, worsen and/or deteriorate; in failing to appreciate that claimant necessitated prompt medical care and treatment; in failing to properly diagnose and or take heed of claimant's condition; in failing to timely take proper and adequate measure to ensure that claimant's condition did not further deteriorate; in failing to take appropriate measures to treat and/or improve claimant's condition; in compromising claimant's condition during the care and treatment rendered so as to interfere with and/or compromise and/or decrease her chances for a recovery; in failing to administer a course of therapy and treatment to treat the claimant's true condition; in allowing and permitting the claimant's condition to worsen and deteriorate; in abandoning the claimant; in failing to avoid unnecessary delay in treating the claimant; in failing to follow EMS/EDNY policies, procedures, protocols, rules and/or regulations; in failing to exercise the degree of skill, care and diligence to which this patient was entitled; in improperly retaining unqualified and unskilled personnel; in failing to review and evaluate staff at indicated intervals; in failing to employ sufficient, efficient, competent and qualified agents, servants and/or employees; in failing to adequately supervise their staff; and these respondents were otherwise careless and negligent.

Respondents NEW YORK CITY POLICE DEPARTMENT, POLICE OFFICERS JOHN DOE, E.G. and THE CITY OF NEW YORK were careless and negligent in, among other things, failing to properly perform a traffic stop; in failing to properly and/or adequately detain Franklin Reyes in the course of a traffic stop; in causing and/or allowing Franklin Reyes to flee the scene of a traffic stop; in causing and/or allowing Franklin Reyes to strike the claimant; in causing and/or allowing a high speed chase/pursuit to proceed through a school zone; in improperly conducting a high speed chase/pursuit; in failing to use proper tactics so as to stop the vehicle operated by Franklin Reyes; in causing and/or allowing a dangerous condition; in failing to follow police policies, procedure, protocol, rules and regulations; in failing

to intercept and/or prevent the occurrence herein; in causing and/or allowing Franklin Reyes to strike the claimant; in improperly retaining unqualified and unskilled personnel; in failing to review and evaluate staff at indicated intervals; in failing to employ sufficient, efficient, competent and qualified agents, servants and/or employees; in failing to adequately supervise their staff; and these respondents were otherwise careless and negligent.

**3. The time when, the place where and the manner in which the claim arose:**

The occurrence took place on or about the 4<sup>th</sup> day of June, 2013 at or about 8:15 AM, when Respondents NEW YORK CITY POLICE DEPARTMENT and THE CITY OF NEW YORK attempted to conduct a traffic stop upon the vehicle operated by Franklin Reyes, when Franklin Reyes fled the scene of said traffic stop resulting a high speed chase and/or pursuit, in the course of which he struck claimant KATIA GUTIERREZ while she was a pedestrian lawfully ambulating on Amsterdam Avenue at or about its intersection with 97<sup>th</sup> Street, City, County, and State of New York, and thereafter, when calls for emergency medical assistance for claimant ARIEL RUSSO were allowed to go unresponded to, thereby resulting in the care and treatment rendered to claimant KATIA GUTIERREZ to be delayed.

**4. The items of damage or injuries claimed are (include dollar amounts):**

Claimant KATIA GUTIERREZ sustained multiple personal injuries including, among other things, internal injuries to multiple organs; internal bleeding; fractured vertebrae; bilateral leg fractures; was and will be caused to undergo surgical procedures; difficulty upon ambulation; trauma to the head, neck, back, and lower extremities; memory loss; neurological impairment; was caused to be rendered sick, sore, lame and disabled; contusions, lacerations and abrasions; scarring and cosmetic deformity was caused to sustain severe pain and suffering; was caused to suffer emotional distress, mental anguish and anxiety; was caused to be confined to hospital home and bed, and will, in the future be so caused; was caused to seek medical care and attention and will, in the future, be so caused; was caused to undergo extensive diagnostic tests and procedures, and will in the future, be so caused, was caused to be incapacitated from her usual duties and occupation; was caused to incur medical expenses and may, in the future, be so caused and this plaintiff was otherwise damaged, all of which damages are permanent in nature and continuing into the future.

**TOTAL AMOUNT CLAIMED -**

KATIA GUTIERREZ TWENTY MILLION (\$20,000,000.00) DOLLARS

247

STATE OF NEW YORK  
JULY 11, 2011  
11th day of July, 2011  
Severn to before me, this

STATE OF NEW YORK  
JULY 11, 2011  
11th day of July, 2011  
Severn to before me, this

be true.  
stated to be relied on information and belief, and that as to those matters the deponent believes to  
thereof that the same is true to the deponent's own knowledge or belief, or to the matters therein  
within action that the deponent has read the foregoing Notice of Claim and knows the contents  
SANTA CRUZ-THORNTON being duly sworn, depose and say that the deponent is the claimant in the

State of New York, County of New York.

1225 Broadway, 8th floor  
New York, NY 10007  
(212) 667-1190

SANTA CRUZ-THORNTON  
JULY 11, 2011  
11th day of July, 2011  
Severn to before me, this

STATE OF NEW YORK  
JULY 11, 2011  
11th day of July, 2011  
Severn to before me, this

STATE OF NEW YORK  
JULY 11, 2011  
11th day of July, 2011  
Severn to before me, this

The undersigned deponent does hereby depose and say that the deponent is the claimant in the  
thereof that the same is true to the deponent's own knowledge or belief, or to the matters therein  
within action that the deponent has read the foregoing Notice of Claim and knows the contents  
SANTA CRUZ-THORNTON being duly sworn, depose and say that the deponent is the claimant in the