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DEC. 18 2014

TOWN OF MORRISTOWN  
TOWN CLERK'S OFFICE**LAW OFFICES OF JAMES C. DEZAO, P.A.**

322 Route 46 West, Suite 120

Parsippany, New Jersey 07054

(973) 808-8900

James C. DeZao, Attorney ID: 019511985

*Attorney for Plaintiff*

SHELLI KIERNAN,

Plaintiff,

v.

GEORGE & MARTHA, L.L.C., DOE  
 CORPORATION 1-5, JOHN DOE 1-5, and  
 MARY DOE 1-5, TOWN OF MORRISTOWN,  
 TOWN OF MORRISTOWN CODE  
 ENFORCEMENT, VILLA ENTERPRISES  
 MANAGEMENT, ABE REALTY LLC &  
 SCOTTO HOLDINGS, LLC, LIA  
 CONSTRUCTION, F.J. RAWDING, INC.,  
 STEVE BALAVIA, ABC CONTRACTING 1-5,  
 and ABC ARCHITECTS 1-5,

Defendants.

**SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MORRIS COUNTY**

Docket No.: MRS-L-2882-14

**SUMMONS**

THE STATE OF NEW JERSEY, TO THE ABOVE NAMED DEFENDANT( s):

**The Town of Morristown Code Enforcement**  
**200 South Street PO Box 914**  
**Morristown, NJ 07960**

YOU ARE HEREBY SUMMONED in a Civil Action in the Superior Court of New Jersey, instituted by the above named plaintiff(s), and required to serve upon the attorney(s) for the plaintiff(s), whose name and office address appears above, an answer the annexed complaint within 35 days after the service of the Summons and Complaint upon you, exclusive of the day of service. If you fail to answer, judgment by default may be rendered against you for the relief demanded in the Complaint. You shall promptly file your answer and proof of service thereof in duplicate with the Clerk of the County in which this matter is pending, in accordance with the rules of the Civil Practice and Procedure. The fee to file an Answer is \$135.00

An individual who is unable to obtain an attorney may communicate with the Lawyer Referral Service or, if you cannot afford to pay an attorney, call a Legal Service Office. The phone numbers for the county in which this action is pending are provided on the attached list. Persons who reside in New Jersey also call their County Lawyer Referral Service or Legal Services Office.

DATED:

12/17/14

Name of Defendant to be served:

Address for service:

DONALD F. PHELAN

Clerk of the Superior Court

**The Town of Morristown Code Enforcement**  
**200 South Street PO Box 914**  
**Morristown, NJ 07960**

**ATLANTIC COUNTY:**  
Deputy Clerk of the Superior Court  
Civil Division, Direct Filing  
1201 Bacharach Blvd., 1<sup>st</sup> Fl.  
Atlantic City, NJ 08401  
**LAWYER REFERRAL**  
(609) 345-3444  
**LEGAL SERVICES**  
(609) 348-4200

**BERGEN COUNTY:**  
Deputy Clerk of the Superior Court  
Case Processing Section - Rm 119  
Justice Center, 10 Main Street  
Hackensack, NJ 07601-0769  
**LAWYER REFERRAL**  
(201) 488-0044  
**LEGAL SERVICES**  
(201) 487-2188

**BURLINGTON COUNTY:**  
Deputy Clerk of the Superior Court  
Central Processing Office  
Attn: Judicial Intake  
First Fl., Courts Facility  
49 Rancocas Road  
Mt. Holly, NJ 08060  
**LAWYER REFERRAL**  
(856) 964-4520  
**LEGAL SERVICES**  
(856) 964-2010

**CAMDEN COUNTY:**  
Deputy Clerk of the Superior Court  
Civil Processing Office  
1<sup>st</sup> Fl., Hall of records  
101 S. Fifth St.  
Camden, NJ 08103  
**LAWYER REFERRAL**  
(856) 984-4520  
**LEGAL SERVICE**  
(856) 984-2010

**CAPE MAY COUNTY:**  
Deputy Clerk of the Superior Court  
Central Processing of the Superior  
9 N. Main St., Box DN-209  
Cape May Court House, NJ 08210  
**LAWYER REFERRAL**  
(609) 463-0313  
**LEGAL SERVICE**  
(609) 465-3001

**PASSAIC COUNTY:**  
Deputy Clerk of the Superior Court  
Civil Division  
Court House  
77 Hamilton St.  
Paterson, NJ 07505  
**LAWYER REFERRAL**  
(973) 278-9223  
**LEGAL SERVICE**  
(973) 345-7171

**CUMBERLAND COUNTY**  
Deputy Clerk of the Superior Court  
Civil Case Management Office  
Broad & Fayette Sts., P.O. Box 615  
Bridgeton, NJ 08302  
**LAWYER REFERRAL**  
(856) 892-8207  
**LEGAL SERVICES**  
(856) 451-0003

**ESSEX COUNTY:**  
Deputy Clerk of the Superior Court  
237 Hall of Records  
466 Dr. Martin Luther King Blvd.  
Newark, NJ 07102  
**LAWYER REFERRAL**  
(973) 822-6207  
**LEGAL SERVICES**  
(973) 824-4500

**GLOUCESTER COUNTY:**  
Deputy Clerk of the Superior Court  
Civil Case Management Office  
Attn: Intake First Fl., Court House  
1 North Broad St., P.O. Box 129  
Woodbury, NJ 08096  
**LAWYER REFERRAL**  
(856) 848-4589  
**LEGAL SERVICES**  
(856) 848-5360

**HUDSON COUNTY:**  
Deputy Clerk of the Superior Court  
Superior Court, Civil Records Department  
Brennan Court House - 1<sup>st</sup> Floor  
583 Newark Avenue  
Jersey City, NJ 07306  
**LAWYER REFERRAL**  
(201) 798-2727  
**LEGAL SERVICE**  
(201) 978-6383

**HUNTERDON COUNTY:**  
Deputy Clerk of the Superior Court  
Civil Division, Hall of Records  
71 Main Street  
Flemington, NJ 08822  
**LAWYER REFERRAL**  
(908) 735-2611  
**LEGAL SERVICE**  
(908) 782-7878

**MERCER COUNTY:**  
Deputy Clerk of the Superior Court  
209 S. Broad St., P.O. Box 8088  
Trenton, NJ 08660  
**LAWYER REFERRAL**  
(609) 585-6200  
**LEGAL SERVICES**  
(609) 695-8249

**MIDDLESEX COUNTY:**  
Deputy Clerk of the Superior Court  
Administration Bldg., 3<sup>rd</sup> Fl.  
1 Kennedy Sq., P.O. Box 2633  
New Brunswick, NJ 08903-2633  
**LAWYER REFERRAL**  
(732) 828-0053  
**LEGAL SERVICES**  
(732) 249-7800

**MONMOUTH COUNTY:**  
Deputy Clerk of the Superior Court  
71 Monument Park  
P.O. Box 1262  
Court House, East Wing  
Freehold, NJ 07728-1282  
**LAWYER REFERRAL**  
(732) 431-5544  
**LEGAL SERVICES**  
(732) 886-0020

**MORRIS COUNTY:**  
Deputy Clerk of the Superior Court  
Civil Division  
30 Schuyler Pl., P.O. Box 810  
Morristown, NJ 07960-0910  
**LAWYER REFERRAL**  
(973) 267-5882  
**LEGAL SERVICE**  
(973) 285-8911

**OCEAN COUNTY:**  
Deputy Clerk of the Superior Court  
Court House, Room 119  
118 Washington Street  
Toms River, NJ 08754  
**LAWYER REFERRAL**  
(732) 240-3666  
**LEGAL SERVICE**  
(732) 341-2727

**SALEM COUNTY:**  
Deputy Clerk of the Superior Court  
92 Market St., P.O. Box 18  
Salem, NJ 08079  
**LAWYER REFERRAL**  
(856) 678-6363  
**LEGAL SERVICES**  
(856) 451-0003

**SOMERSET COUNTY:**  
Deputy Clerk of the Superior Court  
Civil Division Office  
New Court House, 3<sup>rd</sup> Floor  
P.O. Box 3000  
Somerville, NJ 08876  
**LAWYER REFERRAL**  
(908) 685-2323  
**LEGAL SERVICES**  
(908) 231-0840

**SUSSEX COUNTY:**  
Deputy Clerk of the Superior Court  
Sussex County Judicial Center  
43-47 High Street  
Newton, NJ 07860  
**LAWYER REFERRAL**  
(973) 267-5882  
**LEGAL SERVICES**  
(973) 383-7400

**UNION COUNTY:**  
Deputy Clerk of the Superior Court  
1<sup>st</sup> Fl., Court House  
2 Broad Street  
Elizabeth, NJ 07207-8073  
**LAWYER REFERRAL**  
(908) 353-4715  
**LEGAL SERVICE**  
(908) 354-4340

**WARREN COUNTY:**  
Deputy Clerk of the Superior Court  
Civil Division Office - Court House  
413 Second Street  
Belvidere, NJ 07823-1500  
**LAWYER REFERRAL**  
(973) 267-5882  
**LEGAL SERVICE**  
(973) 475-2010

**LAW OFFICES OF JAMES C. DEZAO, P.A.**

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(973) 808-8900

James C. DeZao, Attorney ID: 019511985

*Attorney for Plaintiff*RECEIVED & FILED  
SUPERIOR COURT -

2014 NOV 19 P 2:46

MORRIS COUNTY  
CIVIL DIVISIONSHELLI KIERNAN,

Plaintiff,

v.

GEORGE & MARTHA, L.L.C., DOE  
CORPORATION 1-5, JOHN DOE 1-5, and  
MARY DOE 1-5, TOWN OF MORRISTOWN,  
TOWN OF MORRISTOWN CODE  
ENFORCEMENT, VILLA ENTERPRISES  
MANAGEMENT, ABE REALTY LLC &  
SCOTTO HOLDINGS, LLC, LIA  
CONSTRUCTION, F.J. RAWDING, INC.,  
STEVE BALAVIA, ABC CONTRACTING 1-5,  
and ABC ARCHITECTS 1-5,

Defendants.

**SUPERIOR COURT OF NEW JERSEY**  
**LAW DIVISION: MORRIS COUNTY**

Docket No.: *m25- L-2882-14*

Civil Action

**COMPLAINT AND JURY DEMAND**

The Plaintiff, Shelli Kiernan ("the Plaintiff"), complaining of the Defendants, George and Martha, L.L.C. ("George and Martha"), Doe Corporation 1-5, John Doe 1-5, and Mary Doe 1-5 (all Doe Defendants referred to collectively as "the Doe Defendants"), Town of Morristown ("Town"), Town of Morristown Code Enforcement ("Town Code Enforcement")(collectively, "Town Defendants"), ABE Realty LLC & Scotto Holdings LLC ("ABE"), Steve Balavia ("Balavia"), Villa Enterprises Management ("Villa Enterprises")("Balavia," "George and Martha," "ABE" and "Villa" collectively referred to as "the George and Martha Defendants"),

Lia Construction ("Lia"); F.J. Rawding, Inc. ("F.J."), ABC Contracting 1-5 ("ABC Contracting"), and ABC Architects 1-5 ("ABC Architects"), alleges:

#### **The Parties**

1. The Plaintiff is an individual residing in the township of Towaco, County of Morris, State of New Jersey.
2. George and Martha is a domestic limited liability company duly authorized to do business in the State of New Jersey.
3. George and Martha holds itself out as Restaurant and Bar, with a location at 67 Morris Street, Morristown, NJ (hereinafter referred to as "the Premises").
4. Upon information and belief, the Premises is owned by ABE.
5. George & Martha and/or ABE are, upon information and belief, owned, held, or operated by Villa.
6. Lia is an entity, duly authorized to do business in the State, in the business of construction with a location at 11 Craig Road, Morristown, NJ.
7. F.J. is an entity, duly authorized to do business in the State, in the business of architectural services with a location at 141 Morris Street, Morristown, NJ.
8. Balavia was, at all relevant times, a Manager or other person in a position of authority at George and Martha's.
9. The Doe Defendants were corporations or individuals whose identities are presently unknown to the Plaintiff responsible for the actions or omissions alleged herein, owners or operators of George and Martha's, and/or responsible for building inspections, including of the subject Premises.

10. Morristown was and is, upon information and belief, responsible for code enforcement in the Town of Morristown.
11. Morristown Code Enforcement was and is, upon information and belief, responsible for code enforcement in the Town of Morristown.
12. ABC Contracting 1-5 ("ABC Contracting") were and are, upon information and belief, contracting companies – the identity of which are unknown – responsible for constructing and/or maintaining/updating the subject stairs.
13. ABC Architects 1-5 ("ABC Architects") were and are, upon information and belief, the architects – the identity of which are unknown – responsible for the design and plans of the subject stairs.
14. John Does 1-5 and Mary Does 1-5 were and are – upon information and belief – individuals who are potentially responsible for the actions and/or omissions alleged herein whose identities are unknown to the Plaintiff.
15. Doe Corporation 1-5 are, upon information and belief, companies who are potentially responsible for the actions and/or omissions alleged herein whose identities are unknown to the Plaintiff.

#### **Facts**

16. At all times relevant hereto, the Town, Town Code Enforcement, and/or Doe Defendants were responsible for inspecting and approving building and restaurant designs in the Town of Morristown, including George & Martha and/or the Premises/property upon which it is situated.

17. At all times relevant hereto, Lia was a construction company employed to construct, work on, or otherwise perform services on the Premises and in particular the steps located at the Premises and described herein ("the Steps").
18. At all times relevant, F.J. was an architectural company employed to design, work on, or otherwise perform services on the Premises and particularly the Steps.
19. On or about March 30, 2013, the Plaintiff was a patron at George and Martha.
20. The George and Martha restaurant has a layout that requires patrons to navigate the Steps (or a rise), consisting of two steps, to go from the upper dining room to the lower dining room at the Premises.
21. As designed, constructed and/or maintained, the Steps forming the large raise are irregular in shape, height, and size, requiring patrons to take one larger step followed by one smaller step.
22. Furthermore, the lower step had and has dark red carpeting, which matched and matches the carpet on the floor of the lower dining room, while the upper step was and is hardwood, which matched and matches the floor of the upper dining room. Hence, the Steps blended and blend in with their immediate surroundings, further creating a hazardous condition.
23. Upon information and belief, the above irregularity in and condition of the Steps rendered them out of compliance with applicable codes and/or regulations.
24. Upon information and belief, the Steps were or should have been inspected and approved by the various Town and/or Doe entities responsible for such inspection and approval.

25. Upon information and belief, the named Defendants, less the Town Defendants, were or should have been aware of the aforementioned lack of compliance with applicable codes, and inherent hazard therein, at the time of the Steps' design, installation, maintenance, or upkeep.
26. Additionally, there are and were no railings on either side of the Steps, and none were present during the timeframe relevant to this lawsuit.
27. Upon information and belief, the lack of railings represented a code violation of which the Town/Doe entities should have been or were aware.
28. Upon information and belief, the lack of railings represented a code violation of which the other named Defendants, less the Town, should have been or were aware.
29. Moreover, the lighting in the area is dim, and was dim at the timeframe relevant hereto.
30. The dim lighting, coupled together with the aforementioned issues, conspired to further cause a hazardous condition that was unreasonably dangerous to business invitees.
31. All of the named Defendants were or should have been aware of the dim lighting in the area and its effect on the Steps.
32. Upon information and belief, there are no signs warning patrons to watch their step, nor were there any present at the timeframe relevant hereto.
33. Upon information and belief, the George and Martha Defendants were aware that the Steps were out of compliance with applicable rules, ordinances, or

regulations; presented a hazard to, *inter alia*, patrons of George and Martha; caused falls, trips, or accidents in the past; and that warnings were appropriate.

34. On or about March 30, 2013, the Plaintiff, a patron of George and Martha, was exiting the dining area by and through the Steps.
35. On her way out, the Plaintiff did not see the first of the two steps as she ascended the Steps due to the inadequate lighting, uneven measurements, lack of handrails, and lack of posted warning, and fell to the floor.
36. Due to the lack of hand railings, the Plaintiff was unable to catch her fall, badly twisting her ankle, tearing ligaments in the foot and ankle; hitting her head; passing out from the pain and falling down a second time as a result; suffering bulging and herniated discs; and otherwise suffering lasting and serious injury.
37. One of the George and Martha employees at the scene told the Plaintiff that patrons frequently fell or had fallen on the stairs.
38. As a result of her fall, the Plaintiff suffered severe and permanent injuries.
39. The Plaintiff retained counsel immediately after the accident.
40. Neither the Plaintiff, her Counsel, nor her Counsel's investigators had any reason to believe that the Town Defendants were potentially liable for her injuries or negligent in this matter until no earlier than June 4, 2014.
41. Upon diligent investigation, Plaintiff's Counsel's investigator learned, on or about June 4, 2014, that the Town had potentially been negligent in the matter by failing to inspect the subject Steps.
42. On or about August 14, 2014, also upon diligent investigation and OPRA request, Plaintiff's Counsel's investigator learned that the Town had first given notice to

the George & Martha Defendants about ~~the Steps being~~ out of compliance on or about August 7, 2014.

43. On or about July 28, 2014, within ninety (90) days of her June 4, 2014 discovery of potential liability on the part of the Town Defendants, the Plaintiff served the Town Defendants with a copy of a Notice of Tort Claim.
44. In or about September 2014, the Town Defendants rejected the Plaintiff's Notice of Tort Claim on the grounds of lack of timeliness and lack of responsibility for the Premises.
45. By letter dated October 7, 2014, the Plaintiff notified the Town Defendants that (a) the Notice of Tort Claim was timely because she was not put on notice until June 4, 2014 (at earliest) that the Town Defendants were potentially or actually liable for failing to inspect the Premises; and (b) the Town Defendants were responsible where they issued a letter to the George & Martha Defendants in about August 2014, advising of the non-conformity with the relevant Code and demanding immediate reparations.

### Causes of Action

#### Count I

Negligence (George and Martha Defendants; the Doe Defendants)

46. The Plaintiff repeats and restates the allegations contained in Paragraphs 1-45.
47. The Defendants had the duty of maintaining the Premises in a reasonably safe condition for patrons and guests, and refraining from creating any unnecessarily dangerous or unsafe condition thereat.
48. The Defendants breached that duty in failing to, *inter alia*, (a) create, design, and/or maintain the steps in a manner that was safe and compliant with all

applicable codes; (b) make the steps visible to the user; (c) properly light the area so that patrons could adequately see the steps; (d) erect and maintain warning signs about the steps; and/or (e) ensure that none of its actions taken with respect to the Steps increased danger to patrons.

49. As a direct, proximate, and foreseeable result of the Defendants' negligence, the Plaintiff suffered injury.

50. Wherefore, the Defendants are liable for damages.

### COUNT II

Gross Negligence (Town; Town Code Enforcement; Doe Defendants)

51. The Plaintiff repeats and re-alleges Paragraphs 1-50.

52. The Town Defendants and/or the Doe Defendants owed a duty of exercising minimal care to the Plaintiff and persons in her position to inspect and enforce coding regulations, and pursue violations, applicable to restaurants within the Town of Morristown.

53. Such duty included the Premises.

54. Upon information and belief, the Defendants named in this Count were responsible for reviewing and approving floor plans, architectural design, new construction, and actual businesses for compliance with all codes.

55. In breach of such duties, the Defendants named in this Count failed to inspect, approve, send notice of violation to the George and Martha Defendants for the Steps; follow-up to ensure that the construction of the Steps was in accord with the design therefor; or otherwise execute their basic responsibilities.

56. Upon information and belief, it was not until on or about August 7, 2014, that the Town Defendants, in response to actions taken in furtherance of the investigation

into this matter by the undersigned, sent the George & Martha Defendants a letter citing the Steps being out of compliance with local codes and directing that they be modified.

57. Upon information and belief, that was the first action that the Town Defendants took to rectify the problem at the Premises.
58. Such failings were so egregious as to constitute gross negligence, exhibiting a willful indifference to the rights of the persons intended to be protected, including the Plaintiff.
59. The Plaintiff was an intended beneficiary of these Defendants' obligations.
60. As a direct and foreseeable result of this breach, the Plaintiff suffered injury.
61. Wherefore, the aforementioned Defendants are liable for damages, including punitive damages.

### Count III

Negligence (F.J.; Lia; ABC Contracting 1-5; ABC Architecture 1-5)

62. The Plaintiff repeats the allegations contained in Paragraphs 1-61.
63. F.J., Lia, ABC Contracting 1-5, and/or ABC Architecture 1-5 were responsible for supplying floor plans, designs, schemes, maps, and/or construction services on or about the Steps at the Premises.
64. The aforementioned Defendants were responsible for ensuring compliance with all applicable zoning and other ordinances, codes, and/or regulations.
65. The aforementioned Defendants failed to ensure compliance with such ordinances, codes, and/or regulations in their planning, design, scheming, mapping, and/or construction of the Steps at the Premises.

66. The Plaintiff was an intended or third-party beneficiary of the contract/agreement the Defendants had with the George and Martha Defendants.
67. As a result of the negligence on the part of the aforementioned Defendants, the Plaintiff suffered foreseeable injury.
68. Wherefore, the aforementioned Defendants are liable for damages.

Count IV

Premises Liability (George and Martha Defendants; the Doe Defendants)

69. The Plaintiff repeats and realleges the allegations contained in Paragraphs 1-68.
70. The Plaintiff was at all times a business invitee of the Defendants referenced in this Count.
71. As such, the Defendants owed the Plaintiff the duty of maintaining the Premises in a reasonably safe condition, refraining from creating any hazards, and warning its patrons – including the Plaintiff – of any hazards of which they were or should have been aware.
72. Upon information and belief, the Defendants had notice of the hazardous condition of the Steps.
73. The Defendants breached their duty to the Plaintiff by failing to remedy those conditions and/or warn its patrons, including the Plaintiff, of them.
74. As a direct and proximate result of the Defendants' negligence, the Plaintiff suffered injury.
75. Having had knowledge of the danger inherent in the steps, their carpeting, lighting, and lack of warning, and the fact that other patrons had fallen on them, the Defendants' creation of the hazard and failure to remedy the problem exhibited reckless indifference to the Plaintiff's safety and welfare.

76. Wherefore, the Defendants are liable for damages, including punitive damages.

**Count V**

Gross Negligence (George and Martha Defendants; the Doe Defendants; Lia; F.J.; ABC Contracting 1-5; ABC Architecture 1-5)

77. The Plaintiff repeats and reallages the allegations contained in Paragraphs 1-76.
78. The Defendants referenced in this Count owed the Plaintiff the duty of maintaining the Steps in a safe condition; designing the Steps so that they would comply with relevant codes, ordinances, and rules, and be safe for patrons; ensuring that the Steps were construction in accord with their design; and executing work on the Steps that was in compliance with relevant codes, ordinances, and rules, and was safe for patrons.
79. The aforementioned Defendants were on notice that the Steps were not safe for passage and/or not compliant with applicable codes and/or had caused accidents in the past.
80. The Defendants failed to properly design, construct, modify, and/or maintain the Steps to make them safe, thereby exercising reckless indifference to the Plaintiff's rights.
81. The Defendants' actions and omissions aforesaid were grossly negligent in that they failed to comply with the Defendants' minimal expected responsibilities.
82. As a result of the Defendants' negligence, the Plaintiff suffered foreseeable injury.
83. Wherefore, the Defendants are liable for damages, including punitive damages.

**Count VI**

Negligence Per Se (the George and Martha Defendants; the Doe Defendants)

84. The Plaintiff repeats and restates the allegations contained in Paragraphs 1-83.

85. The Steps in the Premises were in violation of applicable municipal codes and regulations.
86. The Defendants referenced in this Count therefore violated applicable codes and regulations.
87. By letter dated August 7, 2014, the Town Defendants advised the Defendants referenced in this Count that the Steps in the Premises were in violation of applicable codes.
88. As a result of the Defendants' violation of the aforesaid, they committed negligence per se.
89. As a result of the Defendants' negligence per se, the Plaintiff suffered foreseeable and serious injury.
90. The Defendants' violation of the codes and regulations was committed in willful disregard of the Plaintiff's safety and well-being.
91. Wherefore, the Defendants are liable for damages, including punitive damages.

**Count VII**

Negligence (Town; Town Code Enforcement; Doe Defendants)

92. The Plaintiff repeats and re-alleges Paragraphs 1-92.
93. The Town Defendants and/or the Doe Defendants owed a duty of exercising reasonable care to the Plaintiff and persons in her position to inspect and enforce coding regulations, and pursue violations, applicable to restaurants within the Town of Morristown.
94. Such duty included the Premises.

95. Upon information and belief, the Defendants named in this Count were responsible for reviewing and approving floor plans, architectural design, new construction, and actual businesses for compliance with all codes.
96. In breach of such duties, the Defendants named in this Count failed to inspect, approve, send notice of violation to the George and Martha Defendants for the Steps; follow-up to ensure that the construction of the Steps was in accord with the design therefor; or otherwise execute their basic responsibilities.
97. Upon information and belief, it was not until on or about August 7, 2014, that the Town Defendants, in response to actions taken in furtherance of the investigation into this matter by the undersigned, sent the George & Martha Defendants a letter citing the Steps being out of compliance with local codes and directing that they be modified.
98. Upon information and belief, that was the first action that the Town Defendants took to rectify the problem at the Premises.
99. Such failings were negligent.
100. The Plaintiff was an intended beneficiary of these Defendants' obligations.
101. As a direct and foreseeable result of this breach, the Plaintiff suffered injury.
102. Wherefore, the aforementioned Defendants are liable for damages.

**WHEREFORE**, the Plaintiff demands judgment against the Defendants, jointly and severally, for compensatory damages, punitive damages, attorney's fees, costs of suit, and all other relief which the Court deems just and proper.

Law Offices of James C. DeZao, P.A.  
Attorneys for Plaintiffs

Date:

11/24/14

By:

James C. DeZao, Esq.

**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands a trial by jury as to all issues.

**NOTICE OF TRIAL COUNSEL**

Please take notice that James C. DeZao, Esq. is hereby designated as Trial Counsel in the above-captioned matter for the firm of Law Offices of James C. DeZao, P.A., pursuant to Rule 4:25 et seq.

**DEMAND FOR ANSWERS TO UNIFORM AND SUPPLEMENTAL INTERROGATORIES**

**PLEASE TAKE NOTICE** that pursuant to Rule 4:17-1(b)(ii)(2), Plaintiff hereby demands answers to **Uniform Interrogatories Form C and Form C(2)** within sixty (60) days of the filing of Defendant's Answer to this Complaint.

**PLEASE TAKE FURTHER NOTICE** that pursuant to Rule 4:17-1(b)(i)(1) and Rule 4:17-2, Plaintiff hereby demands answers to the attached **Supplemental Interrogatories** within sixty (60) days of the filing of Defendant's Answer to this Complaint.

**SUPPLEMENTAL INTERROGATORIES PERMITTED PURSUANT****TO RULE 4:17-1(b)(i)**

S1. State whether Defendant or anyone in Defendant's behalf has made or caused to be made any surveillance photographs, video tapes, movies or other recordings of the Plaintiff since the date of the accident, and if so, please state the date(s) upon which such surveillance photographs, video tapes, movies or other recordings were made, the name and address of the person taking or making such surveillance photographs, video tapes, movies or other recordings, what each surveillance photographs, video tapes, movies or other recordings depict. Pursuant to the Rules of Court, this interrogatory is deemed to be continuing and Plaintiff shall rely upon your answer to this interrogatory at the time of trial.

S2. If you contend or will contend that the permanency of Plaintiff's injuries should not be evidential or be considered by the finder of fact, state with detail and with particularity and specificity each and every basis of fact or law upon which you will rely to support such contention.

S3. State whether this Defendant occupied the premises where Plaintiff's incident occurred as of the date of Plaintiff's accident.

S4. If this Defendant did not own or occupy the premises where Plaintiff's accident occurred as of the date of the Plaintiff's accident, please state the name and address of the person, firm and/or corporation who did own and/or occupy the premises where Plaintiff's accident occurred as of the date of Plaintiff's accident.

S5. State whether this Defendant conducted any business on the premises where Plaintiff's accident occurred as of the date of Plaintiff's accident, and if so, set forth in detail and with particularity and specificity the nature of the business conducted.

S6. State whether any inspections or tests made of the accident site by Defendant, or anyone in Defendant's behalf, subsequent to the accident alleged by Plaintiff, and if so, please state the date of said inspection or test, an exact description of such inspection or test, the name, address and job title of the person who performed such inspection or test and the results of said inspection or test.

**CERTIFICATION**RECEIVED & FILED  
SUPERIOR COURT

2014 NOV 19 P 12:47

Pursuant to the requirements of Rule 4:5-1 (NOTICE OF OTHER ACTIONS), I, the undersigned, do hereby certify to the best of my knowledge, information and belief, that except as hereinafter indicated, the subject matter of the controversy referred to in the within pleading is not the subject of any other Cause of Action, pending in any other Court, or of a pending Arbitration Proceeding, nor is any other Cause of Action or Arbitration Proceeding contemplated;

1. OTHER ACTIONS PENDING?.....YES \_\_\_ NO X

A. If YES - Parties to other Pending Actions.

B. In my opinion, the following parties should be joined in the within pending Cause of Action.

2. OTHER ACTIONS CONTEMPLATED?.....YES \_\_\_ NO X

A. If YES - Parties contemplated to be joined, in other Causes of Action.

3. ARBITRATION PROCEEDINGS PENDING?.....YES \_\_\_ NO X

A. If YES - Parties to Arbitration Proceedings.

B. In my opinion, the following parties should be joined in the pending Arbitration Proceedings.

4. OTHER ARBITRATION PROCEEDINGS CONTEMPLATED?.....YES \_\_\_ NO X

A. If YES - Parties contemplated to be joined to

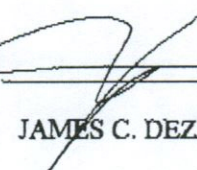
Arbitration Proceedings.

In the event that during the pendency of the within Cause of Action, I shall become aware of any change as to any facts stated herein, I shall file an amended certification and serve a copy thereof on all other parties (or their attorneys) who have appeared in said Cause of Action.

Law Offices of James C. DeZao, P.A

Attorneys for Plaintiffs

Dated: 11/14/14

By: 

JAMES C. DEZAO, ESQ.