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

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GLORIA BAKMEZIAN, Individually and as the  
Administratrix of the Estate of JACK BAKMEZIAN,  
Deceased,

**SUPPLEMENTAL  
SUMMONS**

Plaintiffs,

Index No. 125653/02

-against-

JERROLD S. PARKER, JERROLD S. PARKER, P.C.,  
HERBERT L. WAICHMAN, HERBERT L.  
WAICHMAN, ESQ., P.C., PARKER & WAICHMAN,  
LLP and BRUCE D. KATZ,

Defendants.

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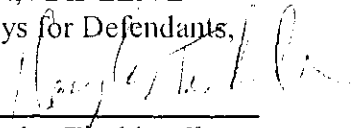
**FILED**  
JUN 17 2003  
CO: [unclear]

**TO THE DEFENDANT BRUCE D. KATZ:**

**You are hereby summoned** to answer the cross-claim in defendants' Jerrold S. Parker, Jerold S. Parker, P.C., Herbert L. Waichman, Esq. P.C. and Parker & Waichman LLP's amended verified answer to the amended verified complaint in this action and to serve a copy of your answer, or, if the answer is not served with this summons, to serve a notice of appearance, on the Defendant's Attorney(s) within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is completed 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 cross-claim.

Dated: Uniondale, New York  
June 6, 2003

RIVKIN, RADLER LLP  
Attorneys for Defendants,

By: 

Douglas Tischler, Esq.

JERROLD S. PARKER, JERROLD S. PARKER,  
P.C., HERBERT L. WAICHMAN, HERBERT L.  
WAICHMAN, ESQ., P.C., PARKER &  
WAICHMAN, LLP and BRUCE D. KATZ

EAB Plaza

Uniondale, New York 11556-0111

(516) 357-3000

RR&K File No. 011590-00264

To: BARTON, BARTON & PLOTKIN, LLP  
Attorneys for Plaintiff  
420 Lexington Avenue  
New York, New York 10170  
(212) 687-6262

BRUCE D. KATZ  
233 Broadway  
New York, New York 10279

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

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GLORIA BAKMEZIAN, Individually and as the  
Administratrix of the Estate of JACK BAKMEZIAN,  
Deceased,

Plaintiffs,

-against-

JERROLD S. PARKER, JERROLD S. PARKER, P.C.,  
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WAICHMAN, ESQ., P.C., PARKER & WAICHMAN,  
LLP and BRUCE D. KATZ,

Defendants.  
-----X

**AMENDED VERIFIED**  
**ANSWER TO AMENDED**  
**VERIFIED COMPLAINT**

**AN ANSWER TO THE CROSS-  
CLAIM IS DEMANDED**

Index No. 125653/02

Defendants, JERROLD S. PARKER, JERROLD S. PARKER, P.C., HERBERT L.

WAICHMAN, HERBERT L. WAICHMAN, ESQ., P.C. and PARKER & WAICHMAN, LLP, by  
their attorneys, RIVKIN RADLER LLP, state upon information and belief for their amended verified  
answer to plaintiffs' amended verified complaint:

**ANSWERING THE FIRST CAUSE OF ACTION**

First: Defendants deny having knowledge or information sufficient to form a belief as to  
each and every allegation contained in paragraph numbered "1" of the plaintiffs' amended verified  
complaint.

Second: Defendants deny having any knowledge or information sufficient to form a belief  
as to each and every allegation contained in paragraph numbered "2" and refer to the subject Letters  
of Administration of the Estate of Jack Bakmezian for the terms, conditions and legal effect.

Third: Defendants deny having any knowledge or information sufficient to form a belief  
as to each and every allegation contained in paragraph numbered "4" of the plaintiffs' amended

verified complaint, except admit that JERROLD S. PARKER, as a shareholder of JERROLD S. PARKER, P.C., and said professional corporation, being a partner in PARKER & WAICHMAN, maintained an office for the practice of law at 111 Great Neck Road, Great Neck, New York.

Fourth: Defendants deny each and every allegation contained in paragraphs numbered "6" and "7" of the plaintiffs' amended complaint, except admit that JERROLD S. PARKER, P.C. as a partner in PARKER & WAICHMAN was a firm that was in the business of practicing law with offices located at 111 Great Neck Road, Great Neck, New York.

Fifth: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered "8", "9" and "10" of the plaintiffs' amended verified complaint, except admit that JERROLD S. PARKER was an officer and shareholder of defendant JERROLD S. PARKER, P.C.

Sixth: Defendants deny each and every allegation contained in paragraph numbered "11" of the plaintiffs' amended verified complaint, except admit that JERROLD S. PARKER was a shareholder and officer of JERROLD S. PARKER, P.C., and that said professional corporation was a partner of PARKER & WAICHMAN.

Seventh: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "13" of the plaintiffs' amended verified complaint, except admit that HERBERT L. WAICHMAN, as a shareholder and officer of HERBERT L. WAICHMAN, P.C., and said professional corporation, being a partner in PARKER & WAICHMAN, maintained an office for the practice of law at 111 Great Neck Road, Great Neck, New York.

Eighth: Defendants deny each and every allegation contained in paragraphs numbered "15" and "16" of the plaintiffs' amended verified complaint, except admit that HERBERT L.

WAICHMAN, P.C. was a partner of PARKER & WAICHMAN which firm was in the business of practicing law with offices for the practice of law at 111 Great Neck Road, Great Neck, New York.

Ninth: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered "17", "18" and "19", except admit that defendant HERBERT L. WAICHMAN was an officer and shareholder of defendant HERBERT L. WAICHMAN, P.C.

Tenth: Defendants deny each and every allegation contained in paragraph numbered "20" of the plaintiffs' amended verified complaint, except admit that HERBERT L. WAICHMAN was a shareholder and officer of HERBERT L. WAICHMAN, P.C. and that said professional corporation was a partner of PARKER & WAICHMAN.

Eleventh: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "21" of the plaintiffs' amended verified complaint, except admit that PARKER & WAICHMAN was a general partnership until July 2002, and thereafter became a limited liability partnership.

Twelfth: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "22" of the plaintiffs' amended verified complaint, except admit that PARKER & WAICHMAN was in the business of practicing law when it existed.

Thirteenth: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "23" of the plaintiffs' amended verified complaint, except admit that PARKER & WAICHMAN maintained an office at 111 Great Neck Road, Great Neck, New York until July 2002.

Fourteenth: Defendants deny each and every allegation contained in paragraphs numbered “24”, “25”, “26”, “27”, “31”, “33”, “34”, “35”, “36”, “37”, “38”, “39”, “40”, “41”, “42”, “43”, “50”, “51”, “52”, “53”, “56”, “57”, “58” and “59” of the plaintiffs’ amended verified complaint.

Fifteenth: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered “28” of the plaintiffs’ amended verified complaint, except admit that BRUCE D. KATZ is an attorney duly licensed to practice law in the State of New York.

Sixteenth: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered “29” of the plaintiffs’ amended verified complaint, except admit that BRUCE D. KATZ maintained an office at 233 Broadway, New York, New York.

Seventeenth: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered “30” of the plaintiffs’ amended verified complaint and refer all issues of law to the Court.

Eighteenth: Defendants deny each and every allegation contained in paragraph numbered “32”, except admit that Gloria Bakmezian consulted defendant JERROLD S. PARKER after the death of Jack Bakmezian.

Nineteenth: Defendants deny each and every allegation contained in paragraphs numbered “44” and “45” of the plaintiffs’ amended verified complaint, except admit that the firm of PARKER & WAICHMAN was consulted and retained by Gloria Bakmezian and refer to the terms of the retainer agreement for the scope of services and the complaint in the *Bakmezian, et al. v. St. Lukes Hospital, et al.*, for the identity of the parties and the claims stated therein.

Twentieth: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “47” and “48” of the plaintiffs’ amended verified complaint, except deny that Jack Bakmezian was Gloria Bakmezian’s husband and refer to the subject retainer agreement with BRUCE D. KATZ concerning its true and accurate terms and conditions.

Twenty-first: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered “49” of the plaintiffs’ amended verified complaint and refer to the files of the Office of Court Administration of the State of New York to determine if BRUCE D. KATZ filed a retainer statement and the contents therein.

Twenty-second: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered “54” of the plaintiffs’ amended verified complaint, except admit that PARKER & WAICHMAN retained BRUCE D. KATZ as trial counsel with plaintiffs’ knowledge and consent, and refer to the summons and complaint for the identity of the parties and the claims that were made.

Twenty-third: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered “55” of the plaintiffs’ amended verified complaint and refer to the files of the Office of the Court Administration of the State of New York to determine if BRUCE D. KATZ filed a retainer statement and the contents therein.

Twenty-fourth: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered “60” and “61” of the plaintiffs’ amended verified complaint, except admit that BRUCE D. KATZ, as trial counsel to

PARKER & WAICHMAN, commenced an action on behalf of plaintiff and refer to the summons and complaint that was filed for its true and accurate terms, conditions and legal effect.

Twenty-fifth: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "62", "63", "64", "65", "66" and "67" of the plaintiffs' amended verified complaint and refer all issues of law to the Court.

Twenty-sixth: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "68" of the plaintiffs' amended verified complaint and refer to the subject Court Order for its true and accurate terms, conditions and legal effect.

Twenty-seventh: Defendants deny each and every allegation contained in paragraphs numbered "69", "73", "74", "75" and "76" of the plaintiffs' amended verified complaint and refer all issues of law to the Court.

Twenty-eighth: Defendants deny each and every allegation contained in paragraphs numbered "70", "71" and "72" of the plaintiffs' amended verified complaint as it pertains to JERROLD S. PARKER, JERROLD S. PARKER, P.C., HERBERT L. WAICHMAN, HERBERT L. WAICHMAN, ESQ., P.C. and PARKER & WAICHMAN, LLP, and deny having any knowledge or information sufficient to form a belief as to each and every allegation as they pertain to BRUCE D. KATZ.

ANSWERING THE SECOND CAUSE OF ACTION

Twenty-ninth: Answering paragraph numbered "77" of the plaintiffs' amended verified complaint herein, defendants, JERROLD S. PARKER, JERROLD S. PARKER, P.C., HERBERT L. WAICHMAN, HERBERT L. WAICHMAN, ESQ., P.C. and PARKER & WAICHMAN, LLP, repeat and reiterate each and every denial heretofore made in regard to each and every paragraph of

plaintiffs' amended verified complaint, designated as "1" through "76" inclusive with the same force and effect as though more fully set forth at length herein.

Thirtieth: Defendants deny each and every allegation contained in paragraphs numbered "78", "79", "80", "81", "86", "87" and "88" of the plaintiffs' amended verified complaint.

Thirty-first: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "82" of the plaintiffs' amended verified complaint, except admit that Gloria Bakmezian retained defendant PARKER & WAICHMAN and refer to the subject retainer agreement with PARKER & WAICHMAN for the scope of services and causes of action agreed to be prosecuted.

Thirty-second: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "83" of the plaintiffs' amended verified complaint and refer to the retainer agreement with BRUCE D. KATZ concerning its true and accurate terms and conditions.

Thirty-third: Defendants deny each and every allegation contained in paragraph numbered "84" of the plaintiffs' amended verified complaint as it pertains to JERROLD S. PARKER, JERROLD S. PARKER, P.C., HERBERT L. WAICHMAN, HERBERT L. WAICHMAN, ESQ., P.C. and PARKER & WAICHMAN, LLP, and deny having any knowledge or information sufficient to form a belief as to each and every allegation as they pertain to BRUCE D. KATZ.

Thirty-fourth: Defendants deny having any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph numbered "85" of the plaintiffs' amended verified complaint and refer all issues of law to the Court.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

Thirty-fifth: If the plaintiffs have been injured and damaged as alleged in plaintiffs' amended verified complaint, upon information and belief, such injuries and damages were caused, in whole or in part, or were contributed to by reason of the carelessness, negligence or want of care on the part of the plaintiffs and not by any carelessness, negligence or want of care, on the part of the defendants, JERROLD S. PARKER, JERROLD S. PARKER, P.C., HERBERT L. WAICHMAN, HERBERT L. WAICHMAN, ESQ., P.C. and PARKER & WAICHMAN, LLP, and if any carelessness, negligence or want of care other than that of the plaintiffs caused or contributed to said alleged injuries and damages, it was the carelessness, negligence or want of care on the part of some other party or persons, firm or corporation, his, its or their agents, servants or employees over whom defendants, JERROLD S. PARKER, JERROLD S. PARKER, P.C., HERBERT L. WAICHMAN, HERBERT L. WAICHMAN, ESQ., P.C. and PARKER & WAICHMAN, LLP, had no control and for whose, carelessness, negligence or want of care defendants were not and are not responsible or liable.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

Thirty-sixth: The plaintiffs' amended verified complaint fails to state a cause of action as against these answering defendants.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Thirty-seventh: Upon information and belief, any past costs and/or expenses incurred for Jack BAKMEZIAN's medical care, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from a collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules.

Thirty-eighth: If any damages are recoverable against the said answering defendants, the amount of such damages shall be diminished by the amount of the funds which plaintiffs have or shall receive from such collateral source.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Thirty-ninth: The plaintiff, GLORIA BAKMEZIAN, lacks standing to bring the claims asserted herein asserted herein.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

Fortieth: The plaintiff, GLORIA BAKMEZIAN, lacks the capacity to bring the claims asserted herein insofar as she is not the real party in interest.

AS AND FOR A CROSSCLAIM AGAINST THE CO-  
DEFENDANT, BRUCE D. KATZ, THE DEFENDANTS,  
JERROLD S. PARKER, JERROLD S. PARKER, P.C.,  
HERBERT L. WAICHMAN, HERBERT L. WAICHMAN, ESQ.,  
P.C. and PARKER & WAICHMAN, LLP, ALLEGE UPON  
INFORMATION AND BELIEF:

Forty-first: If the plaintiffs recover herein, it will be by virtue of the recklessness, carelessness and negligence of the co-defendant above-named, and not of the defendants, JERROLD S. PARKER, JERROLD S. PARKER, P.C., HERBERT L. WAICHMAN, HERBERT L. WAICHMAN, ESQ., P.C. and PARKER & WAICHMAN, LLP, for which these answering defendants demand judgment for contribution and/or indemnification according to the respective degrees of negligence of the defendants to be ascertained, determined and adjudicated at trial. An answer to this cross-claim is requested pursuant to CPLR § 3011.

WHEREFORE, defendants, JERROLD S. PARKER, JERROLD S. PARKER, P.C., HERBERT L. WAICHMAN, HERBERT L. WAICHMAN, ESQ., P.C. and PARKER & WAICHMAN, LLP, demand judgment dismissing the plaintiffs' amended verified complaint herein, and further demand judgment over and against the co-defendant, BRUCE D. KATZ, for the

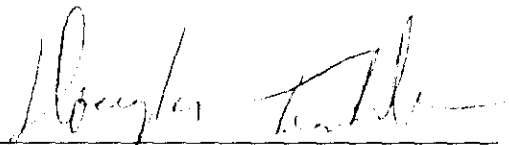
amount of any judgment obtained against these answering defendants on the basis of apportionment of responsibility in such amounts as a jury or Court may direct, together with the costs and disbursements of this action.

DATED: Uniondale, New York  
June 6, 2003

Yours, etc.,

RIVKIN RADLER LLP  
Attorneys for Defendants  
JERROLD S. PARKER, JERROLD S. PARKER,  
P.C., HERBERT L. WAICHMAN, HERBERT L.  
WAICHMAN, ESQ., P.C. AND PARKER &  
WAICHMAN, LLP

By:

  
DOUGLAS TISCHLER  
EAB PLAZA  
Uniondale, New York 11556-0111  
(516) 357-3000  
File No.: 011590-00264

TO: BARTON, BARTON & PLOTKIN, LLP  
Attention: Sherri L. Plotkin, Esq.  
Attorneys for Plaintiff  
420 Lexington Avenue  
New York, New York 10170  
(212) 687-6262

BRUCE D. KATZ  
233 Broadway  
New York, New York 10279



AFFIDAVIT OF SERVICE


STATE OF NEW YORK            )  
                                          ) SS.:  
COUNTY OF NASSAU         )

I, Susan Brenner being sworn, say:

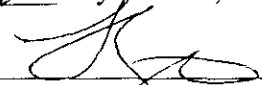
I am not a party to the action, am over 18 years of age and reside in Nassau County, New York.

On June 6, 2003, I served the within **SUPPLEMENTAL SUMMONS AND AMENDED VERIFIED ANSWER TO AMENDED VERIFIED COMPLAINT.** by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

Barton, Barton & Plotkin, LLP  
420 Lexington Avenue  
New York, New York 10170

  
Susan Brenner

Sworn to before me this  
6<sup>th</sup> day of June, 2003

  
\_\_\_\_\_  
Notary Public

LINDA T. CRISPO  
Notary Public, State of New York  
No. 30-4644741  
Qualified in Nassau County  
Commission Expires June 30, 2003