

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

-----X		
ROBERT FLAY,	:	Index No.
	:	
	:	SUMMONS
	:	
Plaintiff,	:	
	:	
-against-	:	Venue is based upon the
	:	plaintiff's residence
	:	
JAMIE STERN DESIGN,	:	
	:	
	:	
Defendant.	:	
-----X		

To the above-named defendant:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer upon plaintiff's attorneys within 20 days after 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 the 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, New York
June 8, 2017

FERBER CHAN ESSNER & COLLER, LLP

By: _____

Robert M. Kaplan

Attorneys for Plaintiff
One Grand Central Place, Suite 2050
New York, New York 10165
(212) 944-2200

Defendant's Address:

Jamie Stern Design
634 Swan Street
Ramsey, NJ 07446

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

-----X		
ROBERT FLAY,	:	Index No.
	:	
Plaintiff,	:	
	:	COMPLAINT
	:	
-against-	:	
	:	
JAMIE STERN DESIGN,	:	
	:	
Defendant.	:	
-----X		

Plaintiff, by his attorneys, Ferber Chan Essner & Coller, LLP, as and for his complaint, states as follows:

1. At all relevant times, plaintiff was and is a resident of the County, City and State of New York.
2. At all relevant times, upon information and belief, defendant was and is a corporation organized and existing under the laws of the State of New Jersey and was and is doing and transacting business in New York State including maintaining a showroom in New York City.
3. At all relevant times, upon information and belief, defendant was and is engaged in design and manufacture of custom-made furniture.
4. In or around 2015, plaintiff and defendant entered into an agreement pursuant to which defendant agreed to manufacture a leather sectional sofa for plaintiff's residence in New York City (the "Sofa").

5. Plaintiff paid defendant \$19,046.35 for the Sofa including sales tax and transportation charges. The Sofa was delivered to plaintiff in New York City in February 2016.

6. However, the Sofa was deficient and not suitable for use in plaintiff's residence as it was intolerably uncomfortable to sit on for any extended period of time.

7. Despite numerous complaints by plaintiff, defendant failed to either repair the Sofa or reimburse plaintiff for the cost of the unusable Sofa.

FIRST CAUSE OF ACTION

8. Plaintiff repeats the allegations of paragraphs 1 through 7.

9. Defendant breached its agreement with plaintiff by manufacturing and delivering a Sofa that was unsuitable for use.

10. By reason of the foregoing, plaintiff has been damaged in the amount of \$19,046.35 representing the price paid by plaintiff for the Sofa.

SECOND CAUSE OF ACTION

11. Plaintiff repeats the allegations of paragraphs 1 through 10.

12. By operation of law, the agreement between plaintiff and defendant incorporated the implied warranty of merchantability pursuant to UCC §2-314 that the Sofa was fit for the ordinary purposes for which a sofa is used.

13. The Sofa breached this implied warranty because it could not be used for the ordinary purpose for which a sofa is used.

14. By reason of the foregoing, plaintiff has been damaged in the amount of \$19,046.35.

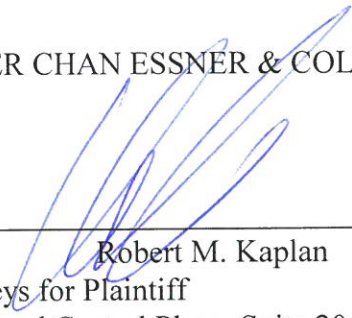
WHEREFORE, plaintiff demands judgment against defendant as follows:

- (1) On the first cause of action, damages in the amount of \$19,046.35 plus pre-judgment and post-judgment interest;
- (2) On the second cause of action, damages in the amount of \$19,046.35 plus pre-judgment and post-judgment interest; and
- (3) Such other and further relief as to this Court appears just and proper together with the costs and disbursements of this proceeding.

Dated: New York, New York
June 8, 2017

FERBER CHAN ESSNER & COLLER, LLP

By: _____


Robert M. Kaplan
Attorneys for Plaintiff
One Grand Central Place, Suite 2050
New York, New York 10165
(212) 944-2200