

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

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: Index No.  
PATSY COMUNALE, individually and as the  
Administrator of the Estate of JOSEPH A. COMUNALE : Date Purchased: November 10,  
a/k/a JOSEPH ANTHONY COMUNALE, 2017

Plaintiff, **SUMMONS**

- against - : The basis of the venue is  
: pursuant to CPLR § 503(a).

JAMES ARTHUR RACKOVER a/k/a JAMES  
ARTHUR BEAUDOIN, LAWRENCE DILIONE and  
MAX GEMMA


Defendants.

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To The Above-Named Defendants:

**YOU ARE HEREBY SUMMONED** to answer the Verified Complaint in this action and to serve a copy of your Answer, or, if the Verified Complaint is not served with this Summons, to serve a Notice of Appearance, on the Plaintiff’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 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 Verified Complaint.

Dated: November 10, 2017

ABRAMS, FENSTERMAN, FENSTERMAN,  
EISMAN, FORMATO, FERRARA, WOLF &  
CARONE, LLP

By:  \_\_\_\_\_

Robert Abrams, Esq.  
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*Pursuant to 22 NYCRR 130-1.1a*

*Attorneys for Plaintiff  
Patsy Comunale, individually and as the  
Administrator of the Estate of Joseph A. Comunale  
a/k/a Joseph Anthony Comunale*

To: James Rackover  
NYSID – 13217109P  
Manhattan Detention Complex  
125 White Street  
New York, New York 10013

Lawrence Dilione  
NYSID – 13714285Z  
Manhattan Detention Complex  
125 White Street  
New York, New York 10013

Max Gemma  
225 Warren Street  
Jersey City, New Jersey 07302

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

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	: Index No.
PATSY COMUNALE, individually and as the Administrator of the Estate of JOSEPH A. COMUNALE a/k/a JOSEPH ANTHONY COMUNALE,	:
	: <b>VERIFIED COMPLAINT</b>
	:
Plaintiff,	:
	:
- against -	:
	:
JAMES ARTHUR RACKOVER a/k/a JAMES ARTHUR BEAUDOIN, LAWRENCE DILIONE and MAX GEMMA	:
	:
Defendants.	:
	:
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Plaintiff, Patsy Comunale (“Mr. Comunale”), individually and as Administrator of the Estate of Joseph A. Comunale a/k/a Joseph Anthony Comunale (“Joey”), by and through his attorneys, Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone LLP, as and for his Verified Complaint against Defendants James Arthur Rackover a/k/a James Arthur Beaudoin (“Rackover”), Lawrence Dilione (“Dilione”) and Max Gemma (“Gemma”) (collectively, the “Defendants”), hereby alleges as follows:

**SUMMARY OF ACTION**

1. On Sunday, November 13, 2016, Defendants Rackover, Dilione and Gemma played an intricate role in the brutal killing of the victim, Joey Comunale, Plaintiff’s 26-year-old son, by engaging in, *inter alia*, unlawful and tortious conduct, which included assaulting, beating, punching, choking, stabbing and/or otherwise attacking Joey, placing Joey in a state of fear and apprehension of imminent death. As a result of this attack, Joey experienced excruciating pain, fear, anxiety and suffering. Eventually, Joey succumbed to the injuries

sustained by the conduct of the various Defendants and died. As a result of this horrific tragedy, consisting of various intentional acts, and extreme and outrageous conduct by, *inter alia*, the Defendants herein, Plaintiff suffered and continues to suffer extreme emotional distress, humiliation, mental and physical anguish and emotional and physical injuries, as well as economic losses.

2. As stated in the Press Release issued by the New York County District Attorney's Office on May 10, 2017 stated:

According to court documents and statements made on the record in court, Joseph Comunale was repeatedly stabbed on November 13, 2016, inside of RACKOVER's East 59th Street apartment, following a party attended by DILIONE and GEMMA. At approximately 9:45 p.m. that night, RACKOVER and DILIONE drove Mr. Comunale's body, which had been burned, from RACKOVER's apartment to Oceanport, New Jersey, where they buried it in a shallow ditch. Mr. Comunale's body was discovered by NYPD and Oceanport police officers on November 16, 2016.

See, Exhibit "A" incorporated herein by reference.

3. On Wednesday, November 16, 2016, Joey's lifeless body was discovered in a shallow grave in a wooded area in Oceanport, New Jersey. Having sustained, *inter alia*, sharp force injuries to his chest, including reportedly fifteen (15) stab wounds, the manner of Joey's death was deemed a homicide. As indicated by the District Attorney, an attempt was made to burn Joey's body with gasoline. In addition, Joey had sustained various other injuries, including, but not limited to, several skull fractures, a portion of his face was seriously fractured, most of his ribs on the right side of his body were fractured, and his legs were badly burned.

4. After the police conducted an extensive and thorough investigation Rackover, Dilione and Gemma were arrested and charged with a multitude of crimes.

5. Thereafter, Rackover and Dilione were indicted by a New York County Grand Jury and charged on Wednesday, May 10, 2017 with one count, each, of Murder in the Second Degree, a Class “A” Felony, for the slaying of Joey, by Indictment # 1616/2017. In addition, Rackover and Dilione were each charged with multiple counts of Concealment of a Human Corpse, a Class “E” Felony.

6. Moreover, Rackover and Dilione, as well as Gemma were also each charged with Hindering Prosecution in the First Degree<sup>1</sup>, a Class “D” Felony, and Tampering with Physical Evidence, a Class “E” Felony.

7. In addition to the charges listed above, Rackover was also charged with Aggravated Unlicensed Operation of a Motor Vehicle in the Second Degree, in violation of VTL § 511(2)(a)(ii), Aggravated Unlicensed Operation of a Motor Vehicle in the Third Degree, in violation of VTL § 511(1)(a), and Unlicensed Driving, in violation of VTL § 509(1), by the New York County District Attorney’s office, stemming from his actions involving the transportation of Joey’s remains.

### **PARTIES**

8. Mr. Comunale is Joey’s father, and resides in Fairfield County, Connecticut. By Decree Granting Administration or Probate of Will, dated March 9, 2017 (the “Decree”), Mr. Comunale was appointed Administrator of the Estate of Joseph A. Comunale, deceased, a/k/a Joseph Anthony Comunale. A true and accurate copy of the Decree is attached hereto as **Exhibit “B”** and is incorporated herein by reference. Mr. Comunale appears herein individually and in his capacity as Administrator of Joey’s Estate.

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<sup>1</sup> Although Rackover and Dilione were each charged with one count of Hindering Prosecution in the First Degree, Gemma was charged with three counts of Hindering Prosecution in the First Degree.

9. Defendant Rackover, born March 12, 1991, is currently in the custody of the New York City Department of Corrections at the Manhattan Detention Complex (NYSID number 13217109P), located at 125 White Street, New York, New York, and is being held without bail for the murder of Joey Comunale and the cover-up of that crime. Prior to his arrest, Rackover resided at 418 East 59<sup>th</sup> Street, Apartment 4C, New York, New York. Upon information and belief, Rackover is the so-called “son” of well-known, celebrity jeweler Jeffrey Rackover.

10. Lawrence Dilione, born July 27, 1988, is currently in the custody of the New York City Department of Corrections at the Manhattan Detention Complex (NYSID number 13714285Z), located at 125 White Street, New York, New York, and is being held without bail for the murder of Joey Comunale and the cover-up of that crime. Prior to his arrest, Dilione resided in Jersey City, New Jersey.

11. Upon information and belief, Max Gemma, born November 21, 1987, resides at 225 Warren Street, Jersey City, New Jersey, and is under indictment for various crimes relating to the cover-up of the murder of Joey Comunale and remains out of custody since posting a \$200,000 bond.

#### **OTHER RELATED/UNNAMED INDIVIDUALS**

12. Jeffrey Rackover, the so-called “jeweler-to-the-stars,” participated in the concealment of the body of the mutilated murder victim, Joey, by intentionally and knowingly providing the means to conceal Joey’s murder and interfering and/or otherwise preventing Patsy Comunale, as Joey’s next-of-kin, from recovering Joey’s body. Jeffrey Rackover is a named defendant in an action now pending in the United States District Court for the Southern District of New York before the Honorable Lorna G. Schofield (Case No. 17-cv-05689-LGS), which was commenced by Mr. Comunale in the New York State Supreme Court, County of New York

(Index No. 155752/2017) on June 25, 2017 and was subsequently removed to Federal Court by Jeffrey Rackover on July 27, 2017. Jeffrey Rackover resides at 418 East 59<sup>th</sup> Street, Apartment 32B, New York, New York. Upon information and belief, Rackover provided and bankrolled his “son” with, among other things, the apartment where the brutal murder took place and his black Mercedes Benz that moved Joey’s body from New York to New Jersey.

### **FACTS**

13. In or around September 2013, Defendant Rackover (then known as James Arthur Beaudoin) – a 25-year-old career criminal – met non-party Jeffrey Rackover, with whom he developed an intimate relationship.

14. By Verified Petition, dated March 4, 2015, Defendant Rackover sought to legally change his last name from Beaudoin to Rackover, with the consent and permission of Jeffrey Rackover. Both men submitted sworn statements to the Court which represented that Jeffrey Rackover was Defendant Rackover’s biological father (see, copies of the documents filed in connection with the Verified Petition for Adult Name Change annexed hereto as **Exhibit “C”** and incorporated herein by reference).

15. By Order Granting Leave to Change Name, dated March 16, 2015, the Honorable Alexander M. Tisch, granted Rackover the right to assume the name James Arthur Rackover. The matter was disposed of on March 16, 2015. A copy of the Order Granting Leave to Change Name is annexed hereto as part of **Exhibit “C”**.

16. Upon information and belief, the sworn statements made in official Court documents by Jeffrey Rackover and Defendant Rackover were false. Upon further information and belief, Jeffrey Rackover is not the biological father of Defendant Rackover, but rather the name change was sought by nefarious means and for nefarious purposes.

17. Upon information and belief, Rackover and Beaudoin/Rackover lived together in Rackover's 32<sup>nd</sup> floor apartment for approximately two years. Upon further information and belief, during their tenure as roommates, Rackover experienced sexual pleasure from Beaudoin/Rackover and, in return, Beaudoin/Rackover received drugs, money, a luxurious lifestyle and other benefits from Rackover.

18. As evidenced, in part, by the name change application, Defendant Rackover has a criminal history and extensive rap sheet, including, but not limited to, Rackover's violent behavior, which included burglary, attempted robbery with a deadly weapon and with a mask on two (2) separate occasions, strong-armed robbery, driving while impaired by drugs, as well as the suspension of Rackover's driver's license and parole violations.

19. In or around the end of 2015 or early 2016, Jeffrey Rackover and Defendant Rackover decided that they should no longer live together in the same apartment, but that they should remain in the same building.

20. Upon information and belief, Jeffrey Rackover arranged for and persuaded Chista Ghaffari – the owner of 418 East 59<sup>th</sup> Street, Apartment 4C, New York, New York – to rent her apartment, apartment 4C, in The Grand Sutton to Defendant Rackover. Apartment 4C is the apartment that was/is being rented/leased by Jeffrey Rackover and/or Defendant Rackover wherein the heinous killing of Joey occurred.

21. The facts surrounding how and by whom Joey was murdered is described in greater detail in the statements of the New York County District Attorney's Office in a Press Release, dated May 10, 2017, a copy of which is annexed hereto as **Exhibit "A"** and incorporated herein by reference.



22. Furthermore, Manhattan District Attorney, Cyrus R. Vance, Jr., stated, “[t]he brutality of this horrific murder was compounded by the defendants’ efforts to dispose of the victim’s body in an attempt to evade prosecution.”

23. Upon information and belief, on the night of Saturday, November 12, 2016, Joey went to the Gilded Lily nightclub, located at 408 West 15<sup>th</sup> Street, New York, New York, with a friend.

24. Upon information and belief, upon arriving at the Gilded Lily, Joey convened with Defendants Dilione and Gemma, and three females outside the nightclub.

25. Upon information and belief, later that night or early the next morning, Joey separated from his friend, and Joey and Defendants Dilione and Gemma, and the three females departed the nightclub together.

26. Upon information and belief, before separating from his friend, Joey lent his cell phone to the friend as the friend was getting into a taxi. The friend left without returning Joey’s phone to him.

27. Upon information and belief, at approximately 4:30 a.m. on Sunday, November 13, 2016, Joey and Defendants Dilione and Gemma, and the three females all went to Defendant Rackover’s apartment, The Grand Sutton, located at 418 E. 59<sup>th</sup> Street, New York, New York.

28. At approximately 6:30 a.m., Joey, Dilione, and the three females left The Grand Sutton.

29. Thereafter, Joey and Dilione returned to and re-entered The Grand Sutton at approximately 6:50 a.m. and returned to Defendant Rackover’s apartment.

30. Upon information and belief, thereafter, Defendant Rackover was captured on surveillance video taking the elevator from his 4<sup>th</sup> floor apartment up to Jeffrey Rackover's 32<sup>nd</sup> floor apartment where he sought the assistance of Rackover to cover-up this crime.

31. Upon information and belief, Defendant Rackover obtained supplies including, paper towels and cleaning supplies from Jeffrey Rackover. Upon information and belief, Defendant Rackover then returned to his apartment where he began the process of sanitizing the murder scene.

32. Thereafter, upon information and belief, Defendants Rackover and Dilione were captured on video surveillance in the basement of The Grand Sutton, attempting to reposition and move surveillance cameras. Upon further information and belief, they were seen briefly entering the gym, then darting into the stairwell.

33. Upon information and belief, building personnel witnessed the unusual and suspicious behavior exhibited by Defendants Rackover and Dilione – going up and down the stairwell and attempting to reposition the security camera – but said personnel failed to stop and question them.

34. Upon information and belief, once back in the apartment of Defendant Rackover, Rackover contacted The Grand Sutton's bellman to request a luggage cart and inquired into the length of time that the surveillance footage is stored.

35. Upon information and belief, after Defendant Rackover received a luggage cart from the bellman, Defendants Rackover and Dilione were observed wheeling the cart, which was loaded with several large bags, out of the building and placing the bags into the trunk of a Mercedes Benz vehicle owned, titled and registered to non-party Jeffrey Rackover. It was later confirmed that these bags contained the barely breathing and/or the lifeless remains of Joey as

well as the materials used to clean the bodily fluids that poured out of Joey's body during the vicious assault.

36. Upon information and belief, based upon a review of The Grand Sutton's surveillance footage, the New York City Police Department (hereinafter the "NYPD") became aware that Defendant Rackover was driving a black Mercedes Benz, owned by Jeffrey Rackover.

37. Upon information and belief, based upon Jeffrey Rackover's E-Z Pass records from November 13, 2016, Defendants Rackover and Dilione drove Jeffrey Rackover's Mercedes Benz to Oceanport, New Jersey to bury Joey's body in a shallow grave, near the childhood home of Defendant Dilione.

38. Upon information and belief, at approximately 9:45 p.m. on November 13, 2016, Jeffrey Rackover's Mercedes Benz traveled from the Upper East Side of Manhattan onto the FDR Drive and went through the Holland Tunnel to New Jersey. At approximately 3:00 a.m. on November 14, 2016, that same vehicle was registered coming back through the Holland Tunnel and proceeded north on the FDR Drive.

39. Upon information and belief, at the time that Defendant Rackover drove Jeffrey Rackover's vehicle to bury Joey's body, Defendant Rackover's driver license was suspended by the New York State Department of Motor Vehicles.

40. Upon information and belief, surveillance video recorded on November 14, 2016, at approximately 3:15 a.m., from the iPark garage located at 425 East 58<sup>th</sup> Street in Manhattan, the black Mercedes Benz, driven by Defendant Rackover, entered the garage and was parked, after which Defendant Rackover exited the vehicle.

41. Upon information and belief, after returning to Manhattan from Oceanport, New Jersey, Defendants Rackover, Dilione, and others, attempted to sterilize, clean and/or otherwise remove Joey's blood and other bodily fluids that spilled during the assault.

42. Upon information and belief, during a search of Jeffrey Rackover's vehicle by the New York City Police Department, a K-9 cadaver dog approached the vehicle and made a positive alert for the presence of a human cadaver or human bodily fluids in the area of the trunk and rear panels of the vehicle matching Joey's DNA/blood, though attempts had been made to sterilize, clean and/or otherwise remove Joey's blood from Jeffrey Rackover's black Mercedes Benz.

43. On or about noon on Sunday, November 13, 2016, Mr. Comunale and Joey's mother attempted to locate their son, as it was unlike Joey not to check in with them.

44. Mr. Comunale placed a phone call to Joey's friend – the friend with whom Joey went to the Gilded Lily on Saturday, November 12, 2016 – to inquire as to Joey's whereabouts. Joey's friend informed Mr. Comunale that they went out to the Gilded Lily the night before, but that he had not heard from Joey since.

45. After speaking with Joey's friend, Mr. Comunale filed a missing person report for Joey with the Stamford Police Department in Connecticut and contacted his brother (Joey's uncle), a Connecticut police officer, to inform him that Joey was missing.

46. Later that day, Mr. Comunale and other family members attempted a full-scale search to locate Joey, including making phone calls to various individuals and friends who they thought might have some information regarding Joey's whereabouts.

47. As a result of making these calls and through the use of social media, Mr. Comunale obtained Defendant Dilione's name and phone number.

48. Mr. Comunale's brother called Defendant Dilione. Defendant Dilione confirmed that he was with Joey the night before. In an attempt to deceive Joey's family and further interfere with them locating Joey, Defendant Dilione lied and stated that he and Joey left Defendant Rackover's apartment to buy cigarettes never to return. These statements were contradicted by the building's surveillance footage, as well as Defendant Dilione's later statements, wherein he admitted returning to the building with Joey.

49. On Monday, November 14, 2016, Mr. Comunale, accompanied by his brother, went to an NYPD station to report Joey missing.

50. Mr. Comunale remained vigilant in his search for his son Joey.

51. Mr. Comunale, his brother, and the NYPD went to The Grand Sutton together.

52. At his request, Mr. Comunale, his brother, and the NYPD reviewed the surveillance footage at The Grand Sutton, where it revealed, *inter alia*, the information stated herein.

53. Upon information and belief, the surveillance footage revealed that Defendants Rackover and Dilione disposed of certain articles into the building's garbage.

54. The NYPD's search of the building's garbage revealed evidence which implicated, *inter alia*, Defendants Rackover, Dilione and Gemma in Joey's disappearance and murder.

55. Upon information and belief, the apartment of Defendant Rackover was subsequently searched and the NYPD found evidence of the attempted clean-up of Joey's blood and remains.

56. Upon information and belief, NYPD records indicate that upon a search of Defendant Rackover's apartment, using a K-9 cadaver dog, the dog made a positive alert for the

presence of a human cadaver or human bodily fluids in apartment 4C, matching Joey's DNA/blood, though efforts had been made to sterilize, clean and/or otherwise remove Joey's blood from the apartment with, *inter alia*, bleach.

57. Upon information and belief, blood was found in various locations within Apartment 4C.

58. According to Robert K. Boyce, the NYPD's Chief of Detectives, investigators recovered 32 pieces of evidence from Defendant Rackover's blood-spattered apartment, including sheets, towels, and clothing that belonged to Joey. Mr. Boyce stated that Defendants Rackover and Dilione had tried to clean up the scene with bleach. Investigators also recovered a comforter with the name of Defendant Rackover on it.

59. The *People's Voluntary Disclosure Form*, dated May 22, 2017, submitted by Assistant District Attorney Antoinette Carter in connection with the criminal case against, *inter alia*, Defendant Rackover, itemizes certain property that was seized during the investigation of Joey's murder, including, but not limited to, underwear, cigarette butts, men's clothing, swabs of stains taken, fingerprint lifts taken by Crime Scene Unit, cleaning supplies, sheets, bath mats, belts, footwear, tape, identification for Joey, paper towels, plastic and glass bottles and tops, jackets, receipt, numerous knives, dog toys/leash, cell phones, laptop, iPad Mini, video/audio devices, plastic garbage bags, suitcases, duffle bags, jewelry, bath towels, plastic wrap, and materials recovered at the burial site.

60. After review of the surveillance footage, Mr. Comunale and his brother returned to the precinct, where they remained until approximately 2:00 a.m. (Tuesday morning) to assist the investigators.

61. Mr. Comunale and his brother went home and returned to the precinct later Tuesday morning to further assist the investigators.

62. Upon information and belief, on Tuesday, November 15, 2016, Defendants Rackover and Dilione were questioned by the NYPD.

63. Upon information and belief, Defendant Dilione revealed to the police that he and Defendant Rackover drove to Oceanport, New Jersey, dumped Joey's body, doused it in gasoline and set it ablaze in a shallow grave.

64. On Wednesday, November 16, 2016, Joey's charred, stabbed, dismembered and bludgeoned remains were discovered in a shallow grave in Oceanport, New Jersey by the NYPD using cadaver dogs.

65. At approximately 4:00 a.m. on Wednesday, November 16, 2016, Mr. Comunale and his family received the most devastating news – the NYPD arrived at Mr. Comunale's home in Stamford, Connecticut and notified him that they discovered Joey's body in the shallow grave in Oceanport, New Jersey.

66. Thereafter, upon information and belief, Defendant Dilione admitted that Defendants had a physical altercation with Joey on the morning of Sunday, November 13, 2016.

67. Upon information and belief, Defendant Dilione stated that he was only involved in assaulting Joey to the point of rendering him unconscious and that Defendant Rackover committed the murder. According to Dilione, Defendant Rackover kicked and beat the defenseless Joey, and, upon realizing Joey was severely injured, Rackover, fearing arrest, stated, "we have to kill him."

68. Upon information and belief, after Defendants Dilione and Rackover's initial assault, as Joey laid in excruciating pain on Defendant Rackover's apartment floor, Defendant

Rackover became concerned with the amount of blood that had spilled on the floor and knew that they had to kill Joey.

69. Upon information and belief, Defendants Gemma and Dilione voluntarily removed their clothes and provided same to Defendant Rackover so that Rackover could use the clothes to soak up Joey's blood that had spilled onto his hardwood floor, and then tied them around Joey's neck to assist Rackover in choking Joey.

70. Upon information and belief, although the injuries sustained by Joey from the initial attack by Defendant Dilione were so severe as to place Joey in peril of impending death, prior to succumbing to these injuries, Defendant Rackover further attacked Joey, causing additional pain and suffering, and inflicting additional injuries which, thereafter, resulted in Joey's death.

71. Upon information and belief, there was a period of time between the initial assault and Defendant Rackover stabbing Joey in the head with a knife, where Joey laid on Defendant Rackover's apartment floor in excruciating pain and agony.

72. Upon information and belief, Defendant Rackover choked Joey before stabbing him in the head with a knife. Upon further information and belief, Joey was placed in the bathtub, where Defendant Rackover unsuccessfully attempted to dismember him with a serrated blade, and at that point, an enraged Rackover stabbed Joey several more times in the torso.

73. Upon information and belief, it is unknown what knife wound actually caused Joey's death; although it is known, that Joey did survive for a period of time after the initial assault began.



74. Defendant Rackover has denied any involvement, claiming that Defendant Dilione and Joey left his apartment and only Dilione returned, which was directly contradicted by The Grand Sutton’s surveillance and by Dilione’s admission.

75. After an extensive and thorough investigation by the police, Defendants Rackover, Dilione and Gemma were arrested by the police and charged with various offenses.

76. After being charged with various penal law violations, Defendants Rackover, Dilione, and Gemma each attempted to shift the blame of Joey’s murder to the other party.

77. Thereafter, as previously discussed (see, paras. 5-7 hereinabove), Rackover and Dilione were indicted by a New York County Grand Jury and charged on Wednesday, May 10, 2017 with one count, each, of Murder in the Second Degree, a Class “A” Felony, for the slaying of Joey, by Indictment # 1616/2017. In addition, Rackover and Dilione were each charged with multiple counts of Concealment of a Human Corpse, a Class “E” Felony.

78. Moreover, Rackover and Dilione, as well as Gemma were also each charged with Hindering Prosecution in the First Degree<sup>2</sup>, a Class “D” Felony, and Tampering with Physical Evidence, a Class “E” Felony.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**BY PATSY COMUNALE AS THE ADMINISTRATOR OF THE ESTATE OF JOSEPH**  
**A. COMUNALE A/K/A JOSEPH ANTHONY COMUNALE**  
**(CONSCIOUS PAIN AND SUFFERING OF DECEDENT JOESPH A. COMUNALE**  
**A/K/A JOSEPH ANTHONY COMUNALE) AGAINST ALL DEFENDANTS**

79. Plaintiff repeats and realleges each and every allegation contained in paragraphs numbered “1” through “78” as if fully set forth hereat.

80. Defendants, James Rackover, Lawrence Dilione, and Max Gemma engaged in an unlawful and tortious course of conduct against Joseph A. Comunale a/k/a Joseph Anthony

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<sup>2</sup> Although Rackover and Dilione were each charged with one count of Hindering Prosecution in the First Degree, Gemma was charged with three counts of Hindering Prosecution in the First Degree.

Comunale, including, but not limited to, assaulting, beating, punching, choking, stabbing and/or otherwise attacking Joey.

81. While Joey was still breathing, after the initial assault committed by Defendants James Rackover and Lawrence Dilione, Defendant James Rackover continued to assault, beat, punch, choke, stab, and attempted to dismember Joey with the assistance of Defendants Lawrence Dilione and Max Gemma.

82. Upon information and belief, there was a period of time between the initial assault and Defendant Rackover stabbing Joey in the head and chest with a knife, where Joey laid on Defendant Rackover's apartment floor in excruciating pain and agony.

83. Upon information and belief, the Defendants beat and mercilessly attacked Joey and placed him in a state of fear and apprehension of imminent death.

84. As a result of the assault, Joey experienced excruciating pain, fear, anxiety, and suffering.

85. Patsy Comunale, as Administrator of the Estate of Joseph A. Comunale a/k/a Joseph Anthony Comunale, seeks the recovery of damages in an amount to be determined by proof at trial for these intentional acts committed against the deceased, Joey.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)**  
**AGAINST ALL DEFENDANTS**

86. Plaintiff repeats and realleges each and every allegation contained in paragraphs numbered "1" through "85" as if more fully set forth hereat.

87. Defendants, James Rackover, Lawrence Dilione and Max Gemma conspired and agreed to conceal the body of Joey, after he was murdered on November 13, 2017.

88. In furtherance of this conspiracy, Defendants, James Rackover, Lawrence Dilione and Max Gemma, attempted to dismember Joey, transported his body to New Jersey, where he was buried in a shallow grave and attempted to burn his remains with gasoline, and Defendants intentionally and with knowledge that Joey's parents, including Plaintiff, Patsy Comunale, were looking for their son, and that Joey was actively being searched for by law enforcement, intentionally lied regarding their knowledge that Joey was already dead, in order to prevent his next-of-kin, namely Joey's parents, including Plaintiff, Patsy Comunale, from recovering the body and to evade prosecution.

89. In furtherance of this conspiracy, Defendants James Rackover, Lawrence Dilione and Max Gemma, intentionally and with the knowledge that the next-of-kin were searching for Joey, did participate in and had knowledge that, after Joey was murdered, that his body was moved from the Defendant James Rackover's apartment using Jeffrey Rackover's vehicle, and subsequently buried in a shallow grave in Oceanport, New Jersey, in order to prevent the discovery of Joey's remains by Joey's next-of-kin, to wit: his parents, and by the police.

90. The actions taken by Defendants James Rackover, Lawrence Dilione and Max Gemma, in furtherance of the conspiracy, interfered with the next-of-kin's immediate possession of Joey's body following his murder.

91. The extreme and outrageous conduct of Defendants, James Rackover, Lawrence Dilione and Max Gemma, intentionally caused severe emotional distress to the next-of-kin of Joey, Patsy Comunale.

92. As a result of the extreme and outrageous conduct of Defendants, James Rackover, Lawrence Dilione and Max Gemma, the next-of-kin of Joey, namely his father, Patsy Comunale, has suffered and continues to suffer extreme emotional distress, humiliation, mental

and physical anguish, and emotional and physical injuries, as well as economic losses, in amounts to be proven at trial.

**WHEREFORE**, Plaintiff respectfully prays that this Court enters judgment against Defendants for:

1. General, compensatory, and special damages, in an amount to be determined by the Court, but in any event exceeding the jurisdictional limits of all lower Courts;
2. Punitive damages, in an amount to be determined by the Court, but in any event exceeding the jurisdictional limits of all lower Courts;
3. Reasonable attorneys' fees and costs; and
4. Such other and further relief as the Court deems just, proper and equitable.

Dated: November 10, 2017

ABRAMS, FENSTERMAN, FENSTERMAN,  
EISMAN, FORMATO, FERRARA, WOLF &  
CARONE, LLP



By: \_\_\_\_\_

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*Pursuant to 22 NYCRR 130-1.1a*

*Attorneys for Plaintiff  
Patsy Comunale, individually and as the  
Administrator of the Estate of Joseph A. Comunale  
a/k/a Joseph Anthony Comunale*

**ATTORNEY VERIFICATION**

The undersigned, being an attorney duly admitted to practice in all of the Courts of the State of New York, affirms the following under the penalty of perjury:

That I am the attorney for the Plaintiff in the within action. That I have read and know the contents of the foregoing Verified Complaint and that the same is true to my own knowledge except as to the matters therein stated to be alleged upon information and belief, and as to those matters, I believe same to be true.

This verification is made by the affirmant and not by the Plaintiff herein because the Plaintiff does not reside within the county where affirmant maintains his office.

This verification is based upon information furnished by the Plaintiff in this action, information contained in affirmant's file and information contained in court files.

Dated: November 10, 2017



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Robert Abrams

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

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:

PATSY COMUNALE, individually and as the  
Administrator of the Estate of JOSEPH A. COMUNALE :  
a/k/a/ JOSEPH ANTHONY COMUNALE, :

Plaintiff, :

-against- :

JAMES ARTHUR RACKOVER a/k/a JAMES  
ARTHUR BEAUDOIN, LAWRENCE DILIONE, and :  
MAX GEMMA :

Defendants. :

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**SUMMONS AND VERIFIED COMPLAINT**

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**ABRAMS, FENSTERMAN, FENSTERMAN,  
EISMAN, FORMATO, FERRARA, WOLF & CARONE, LLP**

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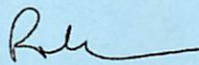
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*\*Not for Service*

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*Pursuant to 22 N.Y.C.R.R. Part 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry under the circumstances, (1) the presentation of the annexed document or the contentions contained therein are not frivolous as defined in 22 NYCRR 130-1.1(c) and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.*

Dated: 11/10/17

Signature:   
Print Signer's Name: Robert Abrams