

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK		
ANDRE ZACHERY as administrator of the Estate of JORDAN NEELY and ANDRE ZACHERY individually, <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">-against-</p> DANIEL PENNY, <p style="text-align: center;">Defendant.</p>	Index No. Plaintiff designates NEW YORK County as the place of trial. <u>SUMMONS</u> The basis of venue is: Place of Occurrence County of New York State of New York	

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 twenty days after the service of this summons exclusive of the day of service where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. 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, New York
December 4, 2024

Mills & Edwards, LLP
By: *Donte Mills*
Donte Mills, Esq.
Attorneys for Plaintiff
14 Penn Plaza, 21st Floor
New York, NY 10122

Defendant address:
DANIEL PENNY
108 Milligan Road
West Babylon, NY 11704

FILED WITH THE CLERK OF THE COURT ON _____

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

-----X
ANDRE ZACHERY as administrator of the Estate of
JORDAN NEELY and ANDRE ZACHERY individually,

Plaintiff,

VERIFIED COMPLAINT

-against-

Index No.:

DANIEL PENNY,

Defendant.

-----X

Plaintiff, by his attorneys, MILLS & EDWARDS, LLP complaining of the defendant,
alleges upon information and belief as follows:

FIRST CAUSE OF ACTION

1. That at the time of the occurrence and thereafter, defendant DANIEL PENNY resides in the county of SUFFOLK, in the State of New York.
2. That at the time of the occurrence and thereafter, plaintiff resides in the county of KINGS, in the State of New York.
3. That on May 1, 2023, DANIEL PENNY was a passenger on a New York City Transit Authority train in the County of New York, State of New York.
4. That on May 1, 2023, JORDAN NEELY, DECEASED was a passenger on a New York City Transit Authority train in the County of New York, State of New York.
5. That on May 1, 2023, while JORDAN NEELY, DECEASED, was a passenger on the aforementioned train, he was contacted by the defendant, DANIEL PENNY.
6. That on May 1, 2023, while JORDAN NEELY, DECEASED, was a passenger on the aforementioned train, he was negligently contacted by the defendant, DANIEL PENNY.

7. That on May 1, 2023, while JORDAN NEELY, DECEASED, was a passenger on the aforementioned train, he was assaulted by the defendant, DANIEL PENNY.

8. That on May 1, 2023, while JORDAN NEELY, DECEASED, was a passenger on the aforementioned train, he was battered by the defendant, DANIEL PENNY.

9. The aforesaid incident, injuries, and death were caused by reason of defendant DANIEL PENNY's negligence.

10. As a result of the foregoing, JORDAN NEELY, DECEASED was injured.

11. As a result of the foregoing, JORDAN NEELY, DECEASED was seriously injured.

12. As a result of the foregoing, JORDAN NEELY, DECEASED died.

13. That the said occurrence was caused by the reason of the negligence, carelessness and recklessness of the defendant.

14. The limitations on liability set forth in CPLR §1601 do not apply.

15. The limitations on liability set forth in CPLR §1601 do not apply by reason of one or more of the exemptions set forth in CPLR §1602.

16. That by reason of the foregoing, plaintiff claims damages against the defendant in an amount that exceeds the jurisdictional limits of all lower courts in the State of New York which would otherwise have jurisdiction over this matter.

SECOND CAUSE OF ACTION FOR ASSAULT

17. That plaintiff repeats and reiterates each and every allegation set forth in paragraphs "1" through "16" as if set forth more fully at length herein.

18. That on May 1, 2023, while on the aforementioned train, defendant, DANIEL PENNY, did physically assault plaintiff JORDAN NEELY, DECEASED.

19. That as a result of said assault, JORDAN NEELY, DECEASED was injured.

20. That as a result of said assault, JORDAN NEELY, DECEASED was seriously injured.

21. That as a result of said assault, JORDAN NEELY, DECEASED died.

22. That by reason of the foregoing assault, plaintiff claims damages against the defendant in an amount that exceeds the jurisdictional limits of all lower courts in the State of New York which would otherwise have jurisdiction over this matter.

THIRD CAUSE OF ACTION FOR BATTERY

23. That plaintiff repeats and reiterates each and every allegation set forth in paragraphs “1” through “22” above as if set forth more fully at length herein.

24. That on May 1, 2023, while on the aforementioned train, DANIEL PENNY battered plaintiff JORDAN NEELY, DECEASED.

25. That as a result of said battery, plaintiff JORDAN NEELY, DECEASED was injured.

26. That as a result of said battery, plaintiff JORDAN NEELY, DECEASED was seriously injured.

27. That by reason of the foregoing battery, plaintiff claims damages against the defendant in an amount that exceeds the jurisdictional limits of all lower courts in the State of New York which would otherwise have jurisdiction over this matter.

WHEREFORE, plaintiff demands judgment awarding damages in a sum which exceeds the jurisdictional limits of all lower Courts which would otherwise have jurisdiction, and in such sum as a jury may find reasonable, fair, and just, together with interest and the costs and disbursements of this action, and such other and further relief as to this Court seems just and fair.

Dated: New York, New York
December 4, 2024

Yours, etc.,

Mills & Edwards, LLP
By: *Donte Mills*
DONTE MILLS, Esq.
Attorneys for Plaintiff
14 Penn Plaza, 21st Floor
New York, New York 10122
(212) 635-2969

VERIFICATION

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

DONTE MILLS, being an attorney duly licensed to practice law in the State of New York,
deposes and says:

I am a partner of the firm Mills & Edwards, LLP attorneys for the plaintiff herein.

I have read the foregoing Complaint and know the contents thereof, and upon information
and belief deponent believes the matters alleged therein to be true.

The reason this Complaint is verified by myself is the client lives in a County outside of the
County in which my office is located.

The source of deponent's information and the grounds of his belief are communications, papers,
reports and investigations contained in the file.

Dated: New York, New York
December 4, 2024

Donte Mills
DONTE MILLS, Esq.