

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,

Index No.: 161364/2024

Plaintiffs,

-against-

VERIFIED ANSWER

DANIEL PENNY,

Defendant.

-----X
Defendant, DANIEL PENNY by and through his attorneys, RAISER & KENNIFF, P.C.,
as and for his Answer to the Plaintiff's Verified Complaint, states upon information and belief:

FIRST CAUSE OF ACTION

1. Defendant denies each and every allegation contained in Paragraph "1" of the Verified Complaint.
2. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegation contained in Paragraph "2" of the Verified Complaint.
3. Defendant admits to the allegation contained in Paragraph "3" of the Verified Complaint.
4. Defendant admits to the allegation contained in Paragraph "4" of the Verified Complaint.
5. Defendant denies each and every allegation contained in Paragraph "5" of the Verified Complaint.
6. Defendant denies each and every allegation contained in Paragraph "6" of the Verified Complaint.
7. Defendant denies each and every allegation contained in Paragraph "7" of the Verified Complaint.

8. Defendant denies each and every allegation contained in Paragraph “8” of the Verified Complaint.

9. Defendant denies each and every allegation contained in Paragraph “9” of the Verified Complaint.

10. Defendant denies each and every allegation contained in Paragraph “10” of the Verified Complaint.

11. Defendant denies each and every allegation contained in Paragraph “11” of the Verified Complaint.

12. Defendant denies each and every allegation contained in Paragraph “12” of the Verified Complaint.

13. Defendant denies each and every allegation contained in Paragraph “13” of the Verified Complaint.

14. Defendant denies each and every allegation contained in Paragraph “14” of the Verified Complaint and refers all questions of law to the Court.

15. Defendant denies each and every allegation contained in Paragraph “15” of the Verified Complaint and refers all questions of law to the Court.

16. Defendant denies each and every allegation contained in Paragraph “16” of the Verified Complaint.

SECOND CAUSE OF ACTION FOR ASSAULT

17. Defendant reasserts each and every Paragraph 1-16 as it is set out above in this Answer in response to Plaintiff’s Verified Complaint.

18. Defendant denies each and every allegation contained in Paragraph “18” of the Verified Complaint.

19. Defendant denies each and every allegation contained in Paragraph “19” of the Verified Complaint.

20. Defendant denies each and every allegation contained in Paragraph “20” of the Verified Complaint.

21. Defendant denies each and every allegation contained in Paragraph “21” of the Verified Complaint.

22. Defendant denies each and every allegation contained in Paragraph “22” of the Verified Complaint.

THIRD CAUSE OF ACTION FOR BATTERY

23. Defendant reasserts each and every Paragraph 1-22 as it is set out above in this Answer in response to Plaintiff’s Verified Complaint.

24. Defendant denies each and every allegation contained in Paragraph “24” of the Verified Complaint.

25. Defendant denies each and every allegation contained in Paragraph “25” of the Verified Complaint.

26. Defendant denies each and every allegation contained in Paragraph “26” of the Verified Complaint.

27. Defendant denies each and every allegation contained in Paragraph “27” of the Verified Complaint.

AS FOR DEFENDANT’S AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

28. Plaintiff’s Verified Complaint fails, in whole or in part, to state a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

29. All injuries or damages sustained by Plaintiff as alleged in the Verified Complaint, if any, were caused in whole or in part by the culpable conduct, negligence, carelessness, and lack of care on the part of Plaintiff and any recovery against this Defendant must be diminished in proportion to Plaintiff's relative wrongdoing, fault, misfeasance, malfeasance, failure to exercise due care and/or other culpable conduct.

THIRD AFFIRMATIVE DEFENSE

30. All injuries or damages allegedly sustained by Plaintiff as alleged in the Verified Complaint, if any, were caused in whole or in part by the culpable conduct, negligence, carelessness or lack of care of those other than this answering Defendant.

FOURTH AFFIRMATIVE DEFENSE

31. The liability of this answering Defendant, if any, to Plaintiff is limited to its equitable share to be determined in accordance with the relative culpability of all persons contributing to the alleged losses sustained pursuant to Article 16 of the CPLR.

FIFTH AFFIRMATIVE DEFENSE

32. All damages allegedly sustained by Plaintiff as alleged in the Verified Complaint, if any, were caused in whole or in part by others over whom this answering Defendant exercised no supervision, direction, control or responsibility.

SIXTH AFFIRMATIVE DEFENSE

33. Any damages sustained by Plaintiff were not proximately caused by any acts or omissions of this answering Defendant.

Defendant reserves the right to assert any and all additional defenses that may appear and prove applicable during the course of this action. Defendant further reserves the right to amend

its Answer or otherwise plead in response to Plaintiff's Verified Complaint, and to file such other Motions as it may deem advisable in defense of the case or as warranted by information adduced through the discovery process.

WHEREFORE, Defendant, DANIEL PENNY demands judgment, (a) dismissing the Verified Complaint of the Plaintiff herein; (b) awarding of costs and disbursements of this action, and; (c) as well as such other and further relief as this Court deems just, equitable and proper.

Dated: Mineola, New York
January 3, 2025

Yours, etc.

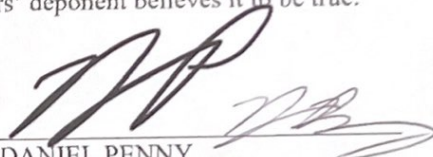
/s/

Steven M. Raiser, Esq.
Raiser & Kenniff, P.C.
Attorneys for Defendant
300 Old Country Road, Suite 351
Mineola, New York 11501
(516) 742-7600
steven@raiserandkenniff.com

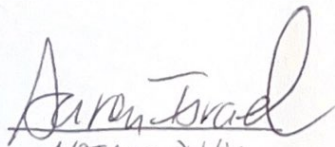
VERIFICATION

State of NEW YORK)
County of Nassau) ss:

DANIEL PENNY, being duly sworn, deposes and says that deponent is a Defendant in the within action; that he has read the forgoing ANSWER and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matter therein stated to be alleged on information and belief, and that as to those matters' deponent believes it to be true.


DANIEL PENNY

Sworn to before me this
6th day of January 2025


NOTARY PUBLIC

AARON J ISRAEL
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 011S6416749
Qualified in QUEENS County
Commission Expires 04-26-2025