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| SUPREME COURT OF THE STATE OF NEW YORKCOUNTY OF KINGS |
| -------------------------------------------------------------------------xRUBEN SAFIR, Plaintiff, -against- ROBERT JUDE WARD and LAUREN COHEN-WARD, Defendant.-------------------------------------------------------------------------x | Index No. 3452/13 **AFFIRMATION** **OF PLAINTIFF** |

RUBEN SAFIR, for religious reasons, hereby affirms under the penalty of perjury:

1. I am the plaintiff in this matter. I make this affirmation for religious reasons under the penalty of perjury. With this affirmation, I ask that the court grant me summary judgment in this matter and set it down for a trial on damages only.
2. As I testified to in my deposition of April 7, 2014, on the day of the accident at issue herein, I lived at 1163 E. 15th St., a three-story private house located in Brooklyn, NY.
3. At the time, the defendants in this action owned the house. I was a tenant in the building and paid rent to him. I had been living in the building for at least three years prior to the accident.
4. On April 10, 2011, at approximately 8:30 AM, I was injured while residing at that building. The accident occurred on the staircase between the second and first floor of the house. This staircase is the only staircase in the building.
5. On the second floor, there was a banister that included a series of thin rails, slats or pickets (all three words adequately describe it but in my deposition [pg. 40] I agreed to the word “pickets”) that extended from the handrail (railing) at the top of the banister to the floor of the second floor. The Purpose of the banister was to prevent people from falling from the second floor into the staircase itself and to provide support while walking down the stairs.
6. This second floor banister was in disrepair as it was missing a number of rails, leaving at least one gap between the rails. In addition, the other rails were loose and would, upon occasion, fall out of the banister.
7. Previously I had complained to Mr. Ward about the missing/broken rails. These complaints were made to him repeatedly when he came by to pick up the rent and check on the condition of his building. He would check all of the rails and the banister including the loose ones, state that it had always been like that since he lived in the house and not repair them. This pattern continued even as the rails began to fall out of the banister over the years.
8. On the morning of the accident, I was descending from the second floor to the first floor. The top spot had a little bit of a weak spot in it. I was wearing leather shoes at the time. My shoe slipped down the stair, my heel hit the top of the stair and then I lost my balance and fell forward. The banister at issue was on my right; to my left was a solid wall.
9. As I lost my balance, I reached out with my right hand to grab one of the slats that were part of the banister. It gave way so I had nothing to stop my fall. As a result, I fell forward down the steps.
10. There had been a rail affixed to the wall and continuing down to first floor (on my right) at the time of the accident, it was not affixed to the wall or anything else. . It was on the stairs.
11. I fell all the way down the first floor and banged my head onto the solid wall that was at end of the staircase.
12. Had the banister and its’ slats been in good repair, I would not have fallen that day.

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| Affirmed November \_\_\_\_\_, 2014\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Notary Public | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Ruben Safir |