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SUMMONS.

Filed March 20, 1917.

The State of New Jersey to Max Balene and Harry J. Max.

You are summoned to answer the annexed complaint of Edward J. Mann, in an action at law in the Circuit Court of the County of Hudson. And take notice, that unless you file your answer to said complaint with the clerk of said Court, within twenty days after the service upon you of this writ and the annexed complaint, the plaintiff may proceed in the suit, and judgment may be entered against you.

WITNESS, Luther A. Campbell, Judge of the Circuit Court of the County of Hudson, at Jersey City, this twenty first day of February, nineteen hundred and seventeen.

JOHN J. McGOVERN,
Clerk.

ALEX. SIMPSON,
Attorney.

HUDSON CIRCUIT COURT.

EDWARD J. MANN, <i>Plaintiff,</i>	}	<i>Action at Law.</i>	30
<i>vs.</i>			
MAX BALENE AND HARRY J. MAX, <i>Defendants.</i>			

COMPLAINT.

The plaintiff who resides at No. 102 Baldwin avenue, in the city of Jersey City, in the County of Hudson, says that:

COMPLAINT

1. That by order of Hon. Luther A. Campbell, Judge of the Hudson Circuit Court, the plaintiff was permitted to issue a new summons and complaint, adding Harry J. Max as an additional defendant in the above action, which order is dated February 19, 1917.

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2. That at the time hereinafter mentioned, the defendant, Harry J. Max, was the owner and in possession of the premises and the building thereon erected on the west side of Tonnele avenue, between the Pennsylvania Railroad and Broadway, in Jersey City aforesaid.

3. That on the said day Max Balene was also the owner of the said premises and had a general contract for the erection of a building thereon.

20

4. That on the 11th day of October, 1915, at Jersey City aforesaid, the defendants negligently and knowingly permitted, created, constructed, maintained and suffered a large beam or scaffold to project from the said building over a public highway known as Tonnele avenue in Jersey City, so that it would strike persons walking along said highway and without giving any protection, or light or warning thereof.

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5. That on the said day, because of the negligence of the defendant aforesaid, the plaintiff while walking along said highway was struck by the said beam or scaffold and injured about his head, back and side, and suffered severe and permanent injuries to his brain and eyesight.

6. The plaintiff was at all times in the exercise of due care for his safety.

7. The said injuries have disabled the plaintiff from attending to his business and following the calling or trade of a butcher, and will hereafter

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ANSWER

prevent him from attending to his business; whereby he has lost a large sum of money in wages. He was also compelled to pay out \$200 for medical expenses and attendance.

The plaintiff demands \$10,000 damages.

ALEX. SIMPSON,
Attorney for Plaintiff.

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Filed March 8th, 1917.

HUDSON COUNTY CIRCUIT COURT.

EDWARD J. MANN,
Plaintiff,

vs.

MAX BALENE AND HARRY J. MAX,
Defendants.

Action at Law.

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ANSWER.

The defendants say:

1. They admit the allegations and facts set forth and contained in paragraph one of said complaint.

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2. They admit the allegations and facts set forth and contained in paragraph two of said complaint, except that they deny that Harry J. Max was in possession of said premises.

3. As to the facts set forth and contained in paragraph three of said complaint, the defendants admit that Max Balene had a general contract for the erection of a building, but deny the other allegations contained in said paragraph.

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DEFENSES

REPLY

4. They deny the allegations and facts set forth and contained in paragraphs four, five, six and seven of said complaint.

DEFENSES.

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1. That at the time of the happening of the said alleged accident set forth and contained in the complaint filed herein, said plaintiff was guilty of contributory negligence.

2. That the happening of the said alleged accident set forth and described in the complaint filed herein resulted solely from the negligence of the said plaintiff.

RUNYON & AUTENRIETH,

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Attorneys for Defendants.

Filed March 8th, 1917.

HUDSON COUNTY CIRCUIT COURT.

EDWARD J. MANN,
Plaintiff,

vs.

30

MAX BALENE AND HARRY J. MAX,
Defendants.

Action at Law.

REPLY.

The plaintiff denies the truth of the matters set forth in the answer under title "Defenses."

Dated March 8th, 1917.

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ALEX. SIMPSON,

Attorney for Plaintiff.

RULE TO SHOW CAUSE

Filed October 4, 1918.

HUDSON COUNTY CIRCUIT COURT.

EDWARD J. MANN,
Plaintiff,

vs.

HARRY J. MAX ET AL.,
Defendants.

Action at Law.

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RULE TO SHOW CAUSE.

Application being made within the time required
 by law for a rule to show cause why the verdict of
 the jury in the above entitled cause should not be
 set aside upon the grounds that the damages are
 excessive;

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It is, on this 3d day of October, 1918, on motion
 of Runyon & Autenrieth, Attorneys for the defend-
 ants, *ordered*, that the plaintiff show cause on the
 9th day of November, 1918, at the Court House in
 Jersey City, at ten o'clock in the forenoon or as
 soon thereafter as counsel can be heard, why the
 verdict rendered herein should not be set aside and
 a new trial ordered, and that there shall be re-
 served to the defendant for the purpose of appeal
 the refusal by the Court of the defendant's motion
 to non-suit and direct a verdict; and also all other
 objections made by the defendant to the rulings of
 the Court during such trial.

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WILLARD W. CUTLER,
 Circuit Court Judge.

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MEMORANDA

Filed Nov. 26, 1918.

HUDSON COUNTY CIRCUIT COURT.

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 EDWARD J. MANN,
Plaintiff,
vs.
 HARRY J. MAX ET ALS.,
Defendants.

 } *Action at Law.*
 } *Memoranda.*

CUTLER, J.:

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After a careful examination of the evidence and giving due consideration to the argument of counsel on the rule to show cause, I have reached the conclusion that the verdict is excessive and the amount of damages awarded was not warranted by the evidence.

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Unless the plaintiff will, within ten days after a true but uncertified copy of a rule drawn in accordance with this memoranda is served upon his attorney, consent that the verdict (or judgment, if judgment has been entered therein), be reduced to twelve hundred and fifty dollars (\$1,250), a new trial will be granted but on the question of damages only.

I will sign a rule drawn in accordance with this memoranda.

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ORDER

Filed Nov. 26, 1918.

HUDSON COUNTY CIRCUIT COURT.

EDWARD J. MANN,

*Plaintiff,**vs.*

HARRY J. MAX,

*Defendant.**Action at Law.*

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This matter coming on to be heard upon a rule to show cause why the verdict of the jury should not be set aside and a new trial ordered because the verdict of the jury was excessive, and the argument of counsel having been heard,

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It is, on this 22nd day of November, 1918, on motion of Runyon & Autenrieth, attorneys for defendant, *ordered*, that the verdict of the jury heretofore rendered in this cause and the judgment entered thereon be set aside as to damages only and a new trial as to the amount of the damages be granted, unless the plaintiff shall, within ten days from the service upon his attorney, of a true but uncertified copy of this order, file with the Clerk of this Court a written consent to reduce his judgment to the sum of twelve hundred and fifty dollars (\$1,250.)

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WILLARD W. CUTLER,
Judge.

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CONSENT

Filed November 25th, 1918.

HUDSON COUNTY CIRCUIT COURT.

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EDWARD J. MANN,
*Plaintiff,**vs*HARRY MAX,
*Defendant.**Action at Law.*

CONSENT.

20 It is hereby consented that rule be entered reducing the verdict in the above cause to \$1,250.00 pursuant to a statute made and provided and that judgment be entered for the sum of \$1,250.00, besides costs of suit to be taxed; and it is further ordered that judgment final is hereby entered in favor of the plaintiff and against the defendant for the sum of \$1,250.00 besides costs of suit to be taxed.

On motion of

ALEX. SIMPSON,
Attorney of Plaintiff.

30 Rule actually entered November 25th, 1918.