



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

-----X Index No. 24690/2008

MARINA TYLO,

Plaintiff,

-- against --

ANDREW LAVOOTT BLUESTONE

Defendant.

-----X

SUMMONS WITH
NOTICE

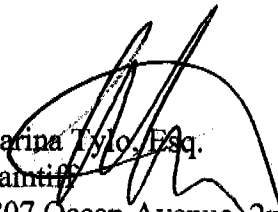
Kings County is
designated by Plaintiff
as the place of trial

Venue is based on
Plaintiff's residence and
place of business in
King's County

TO THE ABOVE NAMED DEFENDANT:

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 Plaintiff's Attorney 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 answer or appear, judgment will be taken against you by default for the relief demanded in the notice set forth below and in the complaint.

Dated: August 28 , 2008


Marina Tylo, Esq.
Plaintiff
2807 Ocean Avenue, 2nd Floor
Brooklyn, New York, 11229
718 934-4902

Index Number assigned:

RECEIVED
KINGS COUNTY CLERK
2008 AUG 28 11:34

Date of filing with Clerk of Court:

Plaintiff's Address:

2807 Ocean Avenue, 2nd Floor
Brooklyn, New York, 11229

Defendant's Address:

233 Broadway, Suite 2702
New York, New York, 10279

NOTICE: The object of this action is to obtain a judgment against defendant for inter alia, libel, gross negligence, negligence, intentional infliction of emotional distress, tortious interference with prospective contractual relations, stemming from, inter alia, a posting by Defendant dated September 5, 2007, on the New York Attorney Malpractice Blog, which contained the following phrase: "Here is the full text cite for a legal malpractice case in which plaintiff's attorney served a summons before buying the index number **Khlevner v. Tylo**, 10733/07." Said statement which was directed squarely at Plaintiff contained no truth or validity has forever besmirched Plaintiff's professional reputation, good name, existing and potential clientele and all future business developments. A demand for retraction has been made on numerous occasions. A copy of the above posting is attached to this Notice as Exhibit A.

THE RELIEF SOUGHT IS a judgment in favor of the Plaintiff in this action in sum of \$10,000,000.00, AND the following ancillary relief:

A retraction printed for libelous statements contained in, inter alia, Defendant's publication dated September 5, 2007 pertaining to Plaintiff;

Removal of above stated statements, as well as other like and similar statements, from all publications, blogs and other media.

That the Court grant such other and further relief as the Court may deem just and proper.

"Exhibit A"

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09 | 5 | 2007 Posted By Andrew Lavooott Bluestone

Serving a Summons before Buying an Index Number

Here is the full text cite for a legal malpractice case in which plaintiff's attorney served a summons before buying the index number. ***Khlevner v. Tylo***, 10733/07 Decided August 15, 2007
Justice Herbert Kramer

The case went on to judgment which was vacated. This legal malpractice case follows, and attorney 1 would like to keep attorney 2 in the case.

"Plaintiff sues her former attorney, defendant Marina Tylo asserting that attorney Tylo served the summons with notice upon her husband in the underlying matrimonial action several days before the summons with notice was actually filed and an index number purchased. Attorney Tylo was discharged several days later and replaced with defendant Robert Piken, Esq. Plaintiff claims that attorney Piken did not take any affirmative steps to rectify the defective service and inter alia failed to draft good and proper legal documents. The matrimonial matter had ripened into a judgment before the defect in service was discovered by the Judicial Hearing Officer conducting a hearing on the husband's motion to set aside the settlement agreement and vacate the judgment of divorce. The Judicial Hearing Officer vacated the judgment and along with it the settlement agreement which provided terms that were favorable to the plaintiff-wife.

Defendant Tylo moves to dismiss the complaint principally arguing that since there was time for the successor attorney to have rectified her error, plaintiff cannot establish the requisite causation in a malpractice case in that she cannot claim that "but for" attorney Tylo's negligence the judgment would not have been vacated. For this proposition defendant cites a number of cases that do appear to say just that under circumstances superficially similar to our own. See e.g. *Kozmol v. Law Firm of Allen L Rothenberg*, 241 A.D.2d 484(2d Dept. 1997); *Perks v. Lauto & Garabadian*, 306 A.D.2d 261(2d Dept. 2003); *Albin v. Pearson*, 289 A.D.2d 272(2d Dept. 2001). However these cases address negligent conduct that was far more open and obvious than what occurred here. In *Kozmol* there was a dismissal after a hearing attended by successor counsel who should have been aware of the statute that affords a period of some 120 days for the recommencement of the action. In *Perks*, the claim was that the attorney failed to properly investigate the assets and insurance coverage of the offending driver and the Court held that successor counsel had sufficient opportunity to protect the plaintiff's rights. Similarly, in *Albin*, the statute of limitations expired on a mortgage foreclosure action and the court held that the foreclosure remained a viable option for a period of time such



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 ALB@bluestonelawfirm.com

PRACTICE AREAS

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Additional Comments

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Submitting this form does not create an attorney-client relationship.



233 Broadway Suite 2702, New York, New York 10279
 Phone: 212.791.5600 Fax: 212.513.7206 Email: ALB@bluestonelawfirm.com

PLEASE take notice that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on

Dated,

Yours, etc

Attorney for

Office and Post Office Address

To

Attorney(s) for

PLEASE take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on

M

Yours, etc

Attorney(s) for

Office and Post Office Address

To

Attorney(s) for

Index No.

Year

Supreme Court of the State of N.Y.
Colony of Kings

MARINA ILO

v

Andrew Lavors Buevford

Summers v/Varred

Signature (Rule 130-1.1-2)

Print name beneath

MARINA ILO EAD

Attorney for

Plaintiff Prose

Office and Post Office Address Telephone

2807 Oce Ave #2
Brooklyn NY 11229
(718) 9844902

To Andrew Lavors Buevford

Attorney(s) for

Service of a copy of the within is hereby admitted.
Dated,

Attorney(s) for