

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

E-FILE

ALLISON CLARK a/k/a LALA ABADDON,

Plaintiff,

-against-

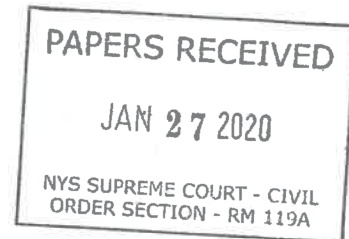
CASTOR AND POLLUX LIMITED
LIABILITY COMPANY d/b/a CASTOR
GALLERY, SEAN T. NICHOLAS, and
JUSTIN A. DEDEMKO,

Defendants.

Index No.: 655446/2017

Hon. Charles E. Ramos, JHO

[PROPOSED] ORDER AND JUDGMENT



WHEREAS, on April 4, 2019, the Honorable Anthony Cannataro, J.S.C., entered a Decision and Order (NYSCEF Doc. No. 120) disposing Motion Seq. No. #006 and holding, *inter alia*, “that the answers of defendants are stricken” and “[t]he only remaining issue in this case is damages”; and

WHEREAS, the Court’s Decision and Order entered on April 4, 2019 “ORDERED that a Judicial Hearing Officer (‘JHO’) or Special Referee shall be designated to determine the following issues of fact: (1) Actual, compensatory, consequential, exemplary and special damages; (2) Restitution for unjust enrichment; (3) Punitive damages; (4) Fees, expenses, costs, and interest;” and further “ORDERED that the powers of the JHO/Special Referee shall not be limited beyond the limitations set forth in the CPLR”; and

WHEREAS, pursuant to the Court’s reference, an inquest was held on July 17, 2019 before the Honorable Charles E. Ramos, JHO, to hear and determine the foregoing issues of fact (Motion Seq. No. #007); and

WHEREAS, on September 18, 2019, Hon. Charles E. Ramos, JHO, entered the annexed Decision / Order (NYSCEF Doc. No. 139) disposing the foregoing reference and held that: “Ms. Clark shall recover: \$44,750, consisting of \$39,700 in compensatory damages and \$5,050 in disgorged commissions, together with \$16,110 in prejudgment interest computed at a rate of nine percent per annum from August 21, 2015 through August 21, 2019; \$14,500 in appreciation damages, together with \$3,712.24 in prejudgment interest computed at a rate of nine percent per annum from October 16, 2016 through August 21, 2019; and \$500 in unpaid sale proceeds, together with \$200.11 in prejudgment interest computed at a rate of nine percent per annum from March 11, 2015 through August 21, 2019”; and

WHEREAS, the Decision / Order of Hon. Charles E. Ramos, JHO, entered on September 18, 2019 further held that: “Based on the foregoing, Ms. Clark shall have judgment against Defendants for \$59,750, together with \$20,022.35 in pre-judgment interest as set forth above; \$158,800 in punitive damages; and \$82,00.15 in reasonable attorney’s fees, costs, and expenses, for a total judgment amount of \$320,572.50, and post-judgment interest on the total sum at nine percent per annum, or \$79.05 per diem”; and

WHEREAS, on September 9, 2019, Plaintiff’s counsel informed Hon. Charles E. Ramos, JHO, by letter (NYSCEF Doc. No. 137) that Plaintiff Allison Clark had recovered some of the artworks at issue from Defendants; and

WHEREAS, the Decision / Order of Hon. Charles E. Ramos, JHO, entered on September 18, 2019 (NYSCEF Doc. No. 139) held that: “In order to be settled herein, counsel for Plaintiff may adjust the terms of the order and judgment to be settled to reflect such returns”; and

WHEREAS, on September 9, 2019, Plaintiff’s counsel filed an Amended Proposed Order and Judgment (NYSCEF Doc. No. 138) adjusting the relief sought to reflect such returns; and

WHEREAS, on September 23, 2019, Plaintiffs' counsel submitted a Notice of Settlement of Judgment (NYSCEF Doc. No. 141) and [Proposed] Order and Judgment (NYSCEF Doc. No. 142) for signature by Hon. Anthony Cannataro, J.S.C.; and

WHEREAS, on December 10, 2019, Hon. Charles E. Ramos, JHO, directed that the Clerk of the Court requested that Plaintiff submit a proposed judgment for signature by Hon. Charles E. Ramos, JHO; and

WHEREAS, upon due consideration and good cause appearing therefor;

UPON the Decision / Order of Hon. Charles E. Ramos, JHO, entered on September 18, 2019 (NYSCEF Doc. No. 139); it is hereby

ADJUDGED AND ORDERED, that pursuant to the Decision / Order of Hon. Charles E. Ramos, JHO, entered on September 18, 2019, Plaintiff Allison Clark has judgment and shall recover against Defendants Castor and Pollux Limited Liability Company d/b/a Castor Gallery, Sean T. Nicholas, and Justin A. DeDemko, jointly and severally, all the following sums:

1. **\$12,141.97** for compensatory damages for the artworks "Liminal Dwelling" (2015), "Over Spilled Milk" (2015), "The Dark Matter of Gravitrons" (2015), "How Ironic Is This?" (2015), and "(_)" (2014), together with pre-judgment interest at nine percent per annum pursuant to CPLR 5001(a) forward from August 21, 2017, as a single reasonable intermediate date pursuant to CPLR 5001(b), in the amount of \$_____, to be computed by the Clerk of the Court; and
2. **\$6,000** for compensatory damages for the artwork "Metaverse" (2015), together with pre-judgment interest at nine percent per annum from August 21, 2015 forward pursuant to CPLR 5001(a), in the amount of \$_____, to be computed by the Clerk of the Court; and

3. **\$3,250** for sale commissions, together with pre-judgment interest at nine percent per annum from August 21, 2015 forward pursuant to CPLR 5001(a), in the amount of \$_____, to be computed by the Clerk of the Court; and
4. **\$2,000** for consequential damages and restitution for the appreciation in value of “Metaverse” (2015), together with pre-judgment interest at nine percent per annum pursuant to CPLR 5001(a) forward from October 16, 2016, as a single reasonable intermediate date pursuant to CPLR 5001(b), in the amount of \$_____, to be computed by the Clerk of the Court; and
5. **\$500** for sale proceeds for the artwork “If the Sun Were to Spontaneously Combust” (2015), together with pre-judgment interest at nine percent per annum from March 11, 2015 forward pursuant to CPLR 5001(a), in the amount of \$_____, to be computed by the Clerk of the Court; and
6. **\$158,800** for punitive damages;
7. For a total judgment amount of \$_____, to be computed by the Clerk of the Court by adding all of the foregoing sums, including prejudgment interest; and
8. Post-judgment interest on the total sum of the judgment at nine percent per annum pursuant to CPLR 5004 in the amount of \$_____ per diem, to be computed by the Clerk of the Court; and it is hereby

ADJUDGED AND ORDERED, that Plaintiff Allison Clark shall have execution therefore; and it is hereby

ADJUDGED AND ORDERED, that pursuant to the Decision / Order of Hon. Charles E. Ramos, JHO, entered on September 18, 2019 (NYSCEF Doc. No. 139), Plaintiff Allison Clark has

judgment and shall recover against Defendant Justin A. DeDemko, individually, all the following sums:

1. **\$1,800** for sale commissions, together with pre-judgment interest at nine percent per annum from August 21, 2015 forward pursuant to CPLR 5001(a), in the amount of \$_____, to be computed by the Clerk of the Court, for a total judgment amount of \$_____, to be computed by the Clerk of the Court; and
2. Post-judgment interest on the total sum of the judgment at nine percent per annum pursuant to CPLR 5004 in the amount of \$_____ per diem, to be computed by the Clerk of the Court; and it is hereby

ADJUDGED AND ORDERED, that Plaintiff Allison Clark shall have execution therefore; and it is hereby

ADJUDGED AND ORDERED, that pursuant to the Decision / Order of Hon. Charles E. Ramos, JHO, entered on September 18, 2019 (NYSCEF Doc. No. 139), Plaintiff's counsel Quinn Emanuel Urquhart & Sullivan, LLP has judgment and shall recover against Defendants Castor and Pollux Limited Liability Company d/b/a Castor Gallery, Sean T. Nicholas, and Justin A. DeDemko, jointly and severally, all the following sums:

1. **\$82,000.15** for reasonable attorney's fees, costs, and expenses incurred through July 15, 2019; and
2. Post-judgment interest on that sum at nine percent per annum pursuant to CPLR 5004 in the amount of \$_____ per diem, to be computed by the Clerk of the Court; and it is hereby

ADJUDGED AND ORDERED, that Quinn Emanuel Urquhart & Sullivan, LLP shall have execution therefore; and it is hereby

ADJUDGED AND ORDERED, that all relief not granted herein is denied.

JUDGMENT SIGNED ~~AND ENTERED~~ THIS 24th DAY OF January 2020.

A handwritten signature in black ink, consisting of a large, stylized initial 'C' followed by a long horizontal stroke extending to the right.

Hon. Charles E. Ramos, JHO

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

E-FILE

ALLISON CLARK a/k/a LALA ABADDON,

Plaintiff,

-against-

CASTOR AND POLLUX LIMITED
LIABILITY COMPANY d/b/a CASTOR
GALLERY, SEAN T. NICHOLAS, and
JUSTIN A. DEDEMKO,

Defendants.

Index No.: 655446/2017

Hon. Charles E. Ramos, JHO

**NOTICE OF SETTLEMENT OF
JUDGMENT**

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JAN 27 2020

NYS SUPREME COURT - CIVIL
ORDER SECTION - RM 119A

PLEASE TAKE NOTICE that the annexed proposed judgment will be presented to the Hon. Charles E. Ramos, JHO at the Special Referees Part of the Supreme Court of the State of New York, New York County in the courthouse located at 60 Centre Street, Room 691, on the 20th day of January, 2020, at 9:30 in the forenoon of that day, or as soon thereafter as counsel can be heard, for settlement and signature.

PLEASE TAKE FURTHER NOTICE that, pursuant to N.Y. Ct. Rule § 202.48(c)(2), proposed counter-orders are also “returnable on the same date and at the same place, and shall be served on all parties by personal service, not less than two days, or by mail, not less than seven days, before the date of settlement.”

The proposed order is being submitted in accordance with the decision of the Honorable Charles E. Ramos, JHO, on September 18, 2019, attached hereto as Exhibit A.

DATED: New York, New York
January 8, 2020

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By: /s/ Nathan Goralnik

Nathan Goralnik
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New York, NY 10010
Tel: (212) 849-7000
Fax: (212) 849-7100
nathangoralnik@quinnemanuel.com

Counsel for Plaintiff Allison Clark

TO:

Russell M. Woods, Esq. (*pro hac vice*)
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DE LUCA & FORSTER
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delucafor@aol.com

*Attorneys for Defendants Castor and Pollux Limited Liability Company,
Sean T. Nicholas, and Justin A. DeDemko*

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JAN 27 2020

NYS SUPREME COURT - CIVIL
ORDER SECTION - RM 119A

Nathan Goralnik, pursuant to CPLR 2106 and under the penalties of perjury, affirms as follows:

1. I am an attorney admitted to practice in the Courts of New York State. I am employed in the County of New York, State of New York. I am over the age of eighteen years old and not a party to the above-captioned action.
2. I am counsel to Plaintiff Allison Clark a/k/a Lala Abaddon in the above-captioned action. My business address is 51 Madison Avenue, 22nd Floor, New York, New York 10010.
3. On January 8, 2020, I served true copies of the following documents described as: Notice of Settlement and Judgment; Exhibit A thereto; and [Proposed] Order and Judgment; by e-mail and first-class mail on the parties in this action as follows:

Russell M. Woods, Esq. (*pro hac vice*)
BRAMNICK, RODRIGUEZ, GRABAS, ARNOLD & MANGAN, LLC
1827 East Second Street
Scotch Plains, New Jersey 07076
Tel: (908) 322-7000
rwoods@jonbramnick.com

David M. Wise, Esq.
LAW OFFICES OF DAVID M. WISE P.A.
123 North Union Avenue, Suite 304
Cranford, New Jersey 07016
Tel: (908) 653-1700
dwise@cranfordlegal.com

Thomas G. De Luca, Esq.
DE LUCA & FORSTER
11 Commerce Drive
Cranford, New Jersey 07016
Tel: (908) 931-1100
delucafor@aol.com

4. Executed on January 8, 2020, at New York, New York.

/s/ Nathan Goralnik
Nathan Goralnik

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JAN 27 2020
NYS SUPREME COURT - CIVIL
ORDER SECTION - RM 119A

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: CHARLES E. RAMOS
Justice

PART 9/2

Index Number : 655446/2017
CLARK, ALLISON
vs.
CASTOR AND POLLUX LIMITED
SEQUENCE NUMBER : 007
HEAR AND DETERMINE
E-FILE

INDEX NO.
MOTION DATE
MOTION SEQ. NO.

The following papers, numbered 1 to , were read on this motion tofor

Notice of Motion/Order to Show Cause - Affidavits - Exhibits No(s)
Answering Affidavits - Exhibits No(s)
Replying Affidavits No(s)

Upon the foregoing papers, it is ordered that this motion is Disposed.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

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NYS SUPREME COURT - CIVIL
ORDER SECTION - RM 110A

Dated: 9/18/19

[Signature] J.S.C.

- 1. CHECK ONE: CASE DISPOSED, NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: MOTION IS: GRANTED, DENIED, GRANTED IN PART, OTHER
3. CHECK IF APPROPRIATE: SETTLE ORDER, SUBMIT ORDER, DO NOT POST, FIDUCIARY APPOINTMENT, REFERENCE

E-FILE

NEW YORK COUNTY SUPREME COURT - SPECIAL REFEREE CALENDAR (PART SRP) INFORMATION SHEET

Title of Action: Allison Clark v. Castor and Pollux Limited Liability Company, et al. Index No.: 655446/2017

Issues Referred: (1) Actual damages; (2) Restitution; (3) Punitive damages; (4) Fees, expenses, costs, and interest

IMPORTANT: IN ORDER THAT THIS MATTER MAY BE ASSIGNED EFFICIENTLY TO A JUDICIAL HEARING OFFICER/SPECIAL REFEREE, ALL COUNSEL MUST CONSULT ONE ANOTHER AND PROVIDE THE FOLLOWING ESSENTIAL INFORMATION AS ACCURATELY AS POSSIBLE:

Estimated Time Needed for Entire Hearing: 1 hour

Number of Witnesses to be Called by All Counsel: 2

Is an interpreter of a language other than Spanish required? No Yes (Language _____)

If a matrimonial case, has custody been resolved? : Yes No Not Applicable

If a matrimonial case, has there ever been, or is there now, an order of protection in effect? :
 Yes No Not Applicable If yes, date of expiration: _____

Attorney for Plaintiff/Petitioner: Nathan Goralnik, Esq., Quinn Emanuel Urquhart & Sullivan, LLP

Address: 51 Madison Avenue, 22nd Floor
New York (City) New York (State) 10010 (Zip)

Phone: (212) 849-7000 E-Mail: nathangoralnik@quinnemanuel.com

Fax: (212) 849-7100

Attorney for Defendant/Respondent Russell M. Woods (pro hac vice)

Address: 1827 East Second Street
Scotch Plains (City) New Jersey (State) 07076 (Zip)

Phone: (908) 322-7000 E-Mail: rwoods@jonbramnick.com

Fax: _____

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NYS SUPREME COURT - CIVIL
ORDER SECTION - RM 119A

Please submit this form (with additional pages if needed to identify other counsel), with a copy of the Order of Reference, as soon as possible after issuance of that Order and in any event within 15 days of the date thereof, to the Special Referee Clerk by fax ((212) 401-9186) or e-mail (spref@nycourts.gov). You will be notified of the date and time of the hearing or, if the court has ordered such, the prehearing conference.

Cases are assigned to a Judicial Hearing Officer/Special Referee on the original appearance date in Part SRP and the hearing or, if the Order of Reference directs a prehearing conference, the conference will commence on that date. Except where a prehearing conference is directed, counsel must appear with witnesses and evidence, and be prepared to proceed with the hearing, on the original date. If a conference is ordered, the hearing date will be fixed at the conference. See the Rules of the Special Referees Part for information about adjournments (which are limited) and other relevant matters. See also the Uniform Rules of the Judicial Hearing Officers and Special Referees. Please direct all inquiries to the Special Referee Clerk by phone (646-386-3028) or e-mail (address above).

9/20/16

E-FILE

**NEW YORK SUPREME COURT – SPECIAL REFEREE CALENDAR (PART SRP)
INFORMATION SHEET**

Additional Attorneys for Defendant/Respondent:

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