

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

-----X
CARLEY MAMBUCA,

PLAINTIFF,

-against-

**DAVID JURACICH, in his individual capacity
and as the next of kin and representative of
his minor child, W.J.,**

INDEX NO. _____/2024

**CATHERINE JURACICH, in her individual
capacity and as the next of kin and
representative of her minor child, W.J.,**

SUMMONS

**JOHN DOE NO. 1, in his individual capacity
and as the representative of the minor
child, W.J.,**

and

**JOHN DOE NO. 2, in his or her individual
capacity and as the representative of the
minor child, W.J.,**

DEFENDANTS.

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TO:

David Juracich
435 W 31ST ST., APT. 57K
NEW YORK, NY 10001-4728

Catherine Juracich
212 W 18TH ST. PH 6
NEW YORK, NY 10011-
4564

YOU ARE HEREBY SUMMONED TO ANSWER the complaint in this action and to
serve a copy of your answer on the plaintiff CARLEY MAMBUCA within twenty (20) days after
the service of this summons, exclusive of the day of service, or within thirty (30) days after
service is complete if this summons is not personally delivered to you within the State of New

York. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of the venue designated is the residence of the plaintiff and defendants, all of whom reside in the county of New York. Plaintiff designates New York County as the place of trial.

Date: New York, New York
February 6, 2024

By: *Robert N. Kaplan*
Robert N. Kaplan
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ATTORNEYS FOR PLAINTIFF
CARLEY MAMBUCA

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

-----X
CARLEY MAMBUCA,

PLAINTIFF,

-against-

COMPLAINT

**DAVID JURACICH, in his individual capacity
and as the next of kin and representative of
his minor child, W.J.,**

INDEX NO. _____/2024

**CATHERINE JURACICH, in her individual
capacity and as the next of kin and
representative of her minor child, W.J.,**

Jury Trial Demanded

**JOHN DOE NO. 1, in his individual capacity
and as the representative of the minor
child, W.J.,**

and

**JOHN DOE NO. 2, in his or her individual
capacity and as the representative of the
minor child, W.J.,**

DEFENDANTS.

-----X

Plaintiff Carley Mambuca (“Plaintiff”) complains of the actions of Defendants David Juracich, in his individual capacity and as the next of kin and representative of his minor child, W.J., Catherine Juracich, in her individual capacity and as the next of kin and representative of her minor child, W.J., John Doe No. 1, in his individual capacity and as the representative of the minor child, W.J., and John Doe No. 2, in his individual capacity and as the representative of the minor child, W.J. (collectively, “Defendants”), and respectfully show the following:

INTRODUCTION

1. This is a ski collision case. On February 19, 2023, a cloudless day bathed in sunshine, while Plaintiff was in a sitting position off to the side of the base of the Yodeler Alpine Ski Trail at Stratton Mountain Resort removing her skis, W.J., a minor child who was uphill of Plaintiff, and failed to maintain a proper lookout, failed to heed a warning, failed to exercise reasonable care, failed to slow down (she was skiing recklessly and too fast), failed to take corrective action, failed to issue a warning, and skied into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over and inflicting serious injuries on her.

2. At the time of the collision, W.J. was under the supervision and control of Defendant David Juracich, her father, Defendant Catherine Juracich, her mother, Defendant John Doe No. 1, on information and belief, her grandfather, and, on information and belief, possibly another adult, John Doe No. 2, all of whom negligently entrusted W.J. with a dangerous instrumentality (skis) without W.J. being properly trained, negligently allowed W.J. to ski, negligently failed to supervise and control her, negligently failed to maintain a proper lookout, negligently failed to exercise reasonable care, negligently failed to slow W.J. down (she was skiing recklessly and too fast), negligently failed to take corrective action, negligently failed to issue a warning, and negligently allowed W.J. to ski into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over and inflicting serious injuries on her. Defendants also actively concealed and knowingly failed, refused, and, in fact, directed Stratton Mountain Resort not to disclose their and W.J.'s identities so as to avoid this lawsuit and justice to Plaintiff, and shirk their responsibility to compensate Plaintiff for the serious injuries and harm Defendants and W.J. inflicted on her.

3. As a direct and proximate result of Defendants' and W.J.'s above-described wrongful actions, inaction, and/or omissions, and the resulting collision, Plaintiff suffered a torn MCL and a torn ACL in her right knee and a tibial fracture that required extensive surgery. Additional surgery may be necessary in the future. Plaintiff suffered, and continues to suffer, a great deal of excruciating pain and suffering and physical and emotional trauma. She also suffered (and will continue to suffer) the injuries, harm, and damages set forth below, all of which are in the past, present, and future, regardless of whether so specifically delineated in each paragraph in this Complaint.

PARTIES

4. Plaintiff Carley Mambuca, at all relevant times, was (and continues to be) a citizen and resident of New York, New York.

5. Defendant David Juracich, at all relevant times, was (and continues to be) a citizen and resident of New York, New York. At all relevant times, W.J. was (and continues to be) a citizen and resident of New York, New York. Defendant David Juaracich is the father of W.J., the minor child who was uphill of Plaintiff, and failed to maintain a proper lookout, failed to heed a warning, failed to exercise reasonable care, failed to slow down (she was skiing recklessly and too fast), failed to take corrective action, failed to issue a warning, and skied into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over and inflicting serious injuries on her—for which Defendant David Juracich, as the next of kin, who was responsible for, and the representative of W.J.—is liable. Defendant David Jurascich also is liable for Plaintiff's injuries in his individual capacity for negligently entrusting W.J. with a dangerous instrumentality (skis) without W.J. being properly trained, negligently allowing W.J. to ski, negligently failing to supervise and control her, negligently failing to maintain a proper

lookout, negligently failing to exercise reasonable care, negligently failing to slow W.J. down (she was skiing recklessly and too fast), negligently failing to take corrective action, negligently failing to issue a warning, and negligently allowing W.J. to ski into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over and inflicting serious injuries on her. Defendant David Juracich also is liable for actively concealing and knowingly failing, refusing, and directing the Stratton Mountain Resort to not disclose, his identity and the identities of Defendant John Doe No.1 (who has yet to be identified) and W.J. to Plaintiff to avoid this lawsuit and justice to Plaintiff and shirk his responsibility to compensate Plaintiff for the serious injuries and harm he and his daughter, W.J., inflicted on Plaintiff. Defendant David Juracich is being sued in his individual capacity, and as the next of kin and representative of W.J.

6. Defendant Catherine Juracich, at all relevant times, was (and continues to be) a citizen and resident of New York, New York. At all relevant times, W.J. was (and continues to be) a citizen and resident of New York, New York. Defendant Catherine Juaracich is the mother of W.J., the minor child who was uphill of Plaintiff, and failed to maintain a proper lookout, failed to heed a warning, failed to exercise reasonable care, failed to slow down (she was skiing recklessly and too fast), failed to take corrective action, failed to issue a warning, and skied into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over and inflicting serious injuries on her—for which Defendant Catherine Juracich, as the next of kin, who was responsible for, and the representative of W.J.—is liable. Defendant Catherine Jurascich also is liable for Plaintiff's injuries in her individual capacity for negligently entrusting W.J. with a dangerous instrumentality (skis) without W.J. being properly trained, negligently allowing W.J. to ski, negligently failing to supervise and control her, negligently failing to maintain a proper lookout, negligently failing to exercise reasonable care, negligently failing to

slow W.J. down (she was skiing recklessly and too fast), negligently failing to take corrective action, negligently failing to issue a warning, and negligently allowing W.J. to ski into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over and inflicting serious injuries on her. Defendant Catherine Juracich also is liable for actively concealing and knowingly failing, refusing, and directing the Stratton Mountain Resort to not disclose, her identity and the identities of Defendant John Doe No.1 (who has yet to be identified) and W.J. to Plaintiff to avoid this lawsuit and justice to Plaintiff and shirk her responsibility to compensate Plaintiff for the serious injuries and harm she and her daughter, W.J., inflicted on Plaintiff. Defendant Catherine Juracich is being sued in her individual capacity, and as the next of kin and representative of W.J.

7. Defendant John Doe No. 1, on information and belief, at all relevant times, was (and continues to be) a citizen and resident of New York, New York. Defendant John Doe No. 1, on information and belief, is the grandfather of W.J., the minor child who was uphill of Plaintiff, and failed to maintain a proper lookout, failed to heed a warning, failed to exercise reasonable care, failed to slow down (she was skiing recklessly and too fast), failed to take corrective action, failed to issue a warning, and skied into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over and inflicting serious injuries on her—for which Defendant John Doe No. 1, who was responsible for and the representative of W.J.—is liable. Defendant John Doe No. 1 also is liable for Plaintiff's injuries in his individual capacity for negligently entrusting W.J. with a dangerous instrumentality (skis) without W.J. being properly trained, negligently allowing W.J. to ski, negligently failing to supervise and control her, negligently failing to maintain a proper lookout, negligently failing to exercise reasonable care, negligently failing to slow W.J. down (she was skiing recklessly and too fast), negligently failing

to take corrective action, negligently failing to issue a warning, and negligently allowing W.J. to ski into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over and inflicting serious injuries on her. Defendant John Doe No. 1, on information and belief, also is liable for actively concealing and knowingly failing, refusing, and directing the Stratton Mountain Resort to not disclose, his identity and the identities of Defendant David Juracich and W.J. to Plaintiff to avoid and/or substantially delay this lawsuit and justice to Plaintiff and shirk his responsibility to compensate Plaintiff for the serious injuries and harm he and his daughter, W.J., inflicted on Plaintiff. Defendant John Doe No. 1 is being sued in his individual capacity, and as the representative of W.J. When Plaintiff learns the identity of Defendant John Doe No.1, Plaintiff will amend this Complaint to properly identify him.

8. Defendant John Doe No. 2, on information and belief, was (and continues to be) a citizen and resident of New York, New York. Defendant John Doe No. 2, on information and belief, was possibly another adult skiing with and/or responsible for W.J., the minor child who was uphill of Plaintiff, and failed to maintain a proper lookout, failed to heed a warning, failed to exercise reasonable care, failed to slow down (she was skiing recklessly and too fast), failed to take corrective action, failed to issue a warning, and skied into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over and inflicting serious injuries on her—for which Defendant John Doe No. 2, who was responsible for and the representative of W.J.—is liable. Defendant John Doe No. 2 also is liable for Plaintiff's injuries in his individual capacity for negligently entrusting W.J. with a dangerous instrumentality (skis) without W.J. being properly trained, negligently allowing W.J. to ski, negligently failing to supervise and control her, negligently failing to maintain a proper lookout, negligently failing to exercise reasonable care, negligently failing to slow W.J. down (she was skiing recklessly and too fast), negligently failing

to take corrective action, negligently failing to issue a warning, and negligently allowing W.J. to ski into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over and inflicting serious injuries on her. Defendant John Doe No. 2, on information and belief, also is liable for actively concealing and knowingly failing, refusing, and directing the Stratton Mountain Resort to not disclose, his identity (which has yet to disclosed) and the identities of Defendant David Juracich and W.J. to Plaintiff to avoid and/or substantially delay this lawsuit and justice to Plaintiff and shirk his responsibility to compensate Plaintiff for the serious injuries and harm he and his daughter, W.J., inflicted on Plaintiff. Defendant John Doe No. 2 is being sued in his or her individual capacity, and as the representative of W.J. When Plaintiff learns the identity of Defendant John Doe No.2, Plaintiff will amend this Complaint to properly identify him or her.

JURISDICTION AND VENUE

9. At all relevant times, Plaintiff was (and continues to be) a citizen and resident of New York, New York. At all relevant times, Defendant David Juracich, Defendant Catherine Juracich, and W.J. were (and continue to be) citizens and residents of New York, New York. On information and belief, Defendant John Doe No. 1, and Defendant John Doe No. 2, at all relevant times, also were (and continue to be) citizens and residents of New York, New York. Accordingly, this Court has jurisdiction over the Parties and Plaintiff's claims.

10. At all relevant times, Plaintiff was (and continues to be) a citizen and resident of New York, New York. At all relevant times, Defendant David Juracich, Defendant Catherine Juracich, and W.J. were (and continue to be) citizens and residents of New York, New York. On information and belief, Defendant John Doe No. 1 and Defendant John Doe

No. 2, at all relevant times, also were (and continue to be) citizens and residents of New York, New York. Accordingly, venue is proper in this Court.

FACTS

11. On February 19, 2023, a cloudless day bathed in sunshine, while Plaintiff was in a sitting position off to the side of the base of the Yodeler Alpine Ski Trail at Stratton Mountain Resort removing her skis (about 200 feet from the lodge), W.J., a minor child under Defendants' supervision and control, who was uphill of Plaintiff, failed to maintain a proper lookout, failed to heed a warning, failed to exercise reasonable care, failed to slow down (she was skiing recklessly and too fast), failed to take corrective action, failed to issue a warning, and skied into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over, and inflicting serious injuries on her.

12. At the time of the collision, W.J. was under Defendants' supervision and control. Defendants, nevertheless, negligently entrusted W.J. with a dangerous instrumentality (skis) without W.J. being properly trained, negligently allowed W.J. to ski, negligently failed to supervise and control her, negligently failed to maintain a proper lookout, negligently failed to exercise reasonable care, negligently failed to slow W.J. down (she was skiing recklessly and too fast), negligently failed to take corrective action, negligently failed to issue a warning, and negligently allowed W.J. to ski into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over and inflicting serious injuries on her.

13. Due to her injuries and excruciating pain, Plaintiff, at the time of the collision, did not obtain the name and contact information of the minor child (W.J.) and/or the other Defendants. But Stratton Mountain Resort knew their identities—yet refused to give the information to Plaintiff at Defendants' direction so as to avoid this lawsuit and justice to Plaintiff

and shirk their responsibility to compensate Plaintiff for the serious injuries and harm Defendants and W.J. inflicted on Plaintiff. It was only after repeated requests to Stratton Mountain Resort that Plaintiff learned the name of her assailant.

14. As a direct and proximate result of Defendants' and W.J.'s above-described wrongful actions, negligence, inaction, and/or omissions and the resulting ski collision, Plaintiff suffered a torn MCL and a torn ACL in her right knee that required extensive surgery. Additional surgery may be necessary in the future. Plaintiff has suffered, and continues to suffer, a great deal of excruciating pain and physical and emotional trauma. She also has suffered (and will continue to suffer) injury, harm, and economic and non-economic damages in the form of, *inter alia*, loss of earnings, lost employee benefits, loss of time, household expenses, medical and hospital expenses, other out-of-pocket expenses, physical pain and suffering, mental and emotional pain and suffering, inconvenience, emotional stress, impairment of the quality of life, loss of lifestyle, and/or loss of the enjoyment of life—for which Plaintiff is entitled to compensation.

CLAIMS FOR RELIEF/ CAUSES OF ACTION

COUNT I

NEGLIGENCE/GROSS NEGLIGENCE

15. The preceding factual statements and allegations are incorporated by reference.
16. W.J. owed a duty to Plaintiff to exercise reasonable care while skiing on February 19, 2023, at the Stratton Mountain Resort.
17. Defendants, as W.J.'s father, mother, grandfather (on information and belief), and another responsible as yet unnamed adult, respectively, who were supervising and controlling W.J., owed a duty to Plaintiff to properly supervise and control W.J. while she was skiing.

Defendants, as W.J.'s supervisors, also had the duty of knowing the range of W.J.'s ability to negotiate any slope or trail and to make sure she skied within the limits of such ability and the rules.

18. W.J. breached her duty to Plaintiff to exercise reasonable care while skiing by, *inter alia*, skiing at a high rate of speed at the end of the Yodeler Alpine Ski Trail, failing to maintain a proper lookout, failing to heed a warning, failing to slow down (she was skiing recklessly and too fast), failing to exercise reasonable care, failing to take corrective action, failing to issue a warning, and skiing into Plaintiff from an uphill approach at a high rate of speed and out of control, running Plaintiff over, and inflicting serious injuries on her.

19. Defendants breached their duties to Plaintiff to properly supervise and control W.J. while she was skiing by negligently entrusting W.J. with a dangerous instrumentality (skis) without W.J. being properly trained, allowing her to ski at a high rate of speed at the end of the Yodeler Alpine Ski Trail, failing to supervise and control her, failing to maintain a proper lookout, failing to exercise reasonable care, failing to slow W.J. down (she was skiing recklessly and too fast), failing to take corrective action, failing to issue a warning, and allowing W.J. to ski into Plaintiff from above at a high rate of speed and out of control, running Plaintiff over and inflicting serious injuries on her. Defendants also breached their duties to Plaintiff by actively concealing and knowingly failing, refusing, and directing Stratton Mountain Resort not to disclose their and W.J.'s identities for over one and a half years, so as to avoid and/or substantially delay this lawsuit and justice to Plaintiff and shirk their responsibility to compensate Plaintiff for the serious injuries and harm Defendants and W.J. inflicted on her.

20. As a direct and/or proximate result of W.J.'s and Defendants' above-described wrongful actions, negligence, inaction, omissions, and W.J. skiing into Plaintiff from an uphill

approach at a high rate of speed and out of control, Plaintiff has suffered (and will continue to suffer) injuries, harm, and economic and non-economic damages in the form of, *inter alia*, loss of earnings, lost employee benefits, loss of time, household expenses, medical and hospital expenses, out-of-pocket expenses, physical pain and suffering, physical impairment (which damages are not capped), mental and emotional pain and suffering, inconvenience, emotional stress, impairment of the quality of life, loss of lifestyle, loss of society, loss of the aid and comfort of each other, and/or loss of the enjoyment of life—all of which were reasonably foreseeable by Defendants. W.J.'s and Defendants' above-described wrongful actions, inaction, and/or omissions constitute negligence and/or gross negligence at common law. Defendants are liable for their own negligence in their individual capacities, and for the negligence of W.J., a minor child, as her next of kin and/or representatives.

RELIEF REQUESTED

21. The preceding factual statements and allegations are incorporated by reference.

22. **ACTUAL, CONSEQUENTIAL, COMPENSATORY, INCIDENTAL, AND/OR SPECIAL DAMAGES.** As a direct and/or proximate result of W.J.s and Defendants' above-described wrongful actions, inaction, omissions, and the resulting ski collision, Plaintiff has suffered (and will continue to suffer) injury, harm, and economic and non-economic damages in the form of, *inter alia*, loss of earnings, lost employee benefits, loss of time, household expenses, medical and hospital expenses, other out-of-pocket expenses, physical pain and suffering, mental and emotional pain and suffering, inconvenience, emotional stress, impairment of the quality of life, loss of lifestyle, and/or loss of the enjoyment of life—for which Plaintiff is entitled to compensation. All such injury, harm, and damages suffered (and to be suffered) by Plaintiff are

in the past, present, and future, and were reasonably foreseeable by Defendants. All conditions precedent to Plaintiff's claims for relief have been performed or occurred.

23. As a direct and/or proximate result of Defendants' above-described wrongful actions, inaction, omissions, Plaintiff has suffered (and will continue to suffer) injury, harm, and physical impairment damages, which are not capped under the law. All such damages suffered (and to be suffered) by Plaintiff are in the past, present, and future, and were reasonably foreseeable by Defendants. All conditions precedent to Plaintiff's claims for relief have been performed or occurred.

WHEREFORE, Plaintiff respectfully requests that Defendants and W.J. be cited to appear and answer this action, and, upon final trial or hearing, judgment be awarded against them in Plaintiff's favor for:

- (i) actual, consequential, compensatory, incidental, and/or special damages to be determined by the trier of fact;
- (ii) pre- and post-judgment interest at the highest legal rates;
- (iii) attorneys' fees, litigation expenses, and costs of suit incurred through the trial and any appeals of this case; and
- (iv) such other and further relief to which Plaintiffs are justly entitled.

JURY DEMAND

Plaintiff respectfully demands a trial by jury on all claims so triable.

Date: February 6, 2024

Respectfully submitted,

By: Robert N. Kaplan

Robert N. Kaplan

Matthew P. McCahill

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