

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

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HEBREW HOME FOR THE AGED AT RIVERDALE,

Plaintiff,

-against-

ROY STEVENS and DIAN STEVENS,

Defendants.  
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Index No. 25228/2017e

**AFFIRMATION IN  
OPPOSITION TO  
ORDER TO  
SHOW CAUSE**

BRIAN J. HARAN, ESQ., an attorney at law duly admitted to practice in the Courts of the State of New York, affirms the following under the penalties of perjury that:

1. I am a senior associate at the law firm of GENSER DUBOW GENSER & CONA, LLP, attorneys for the plaintiff, THE HEBREW HOME FOR THE AGED AT RIVERDALE FOUNDATION, INC (hereinafter referred to as "HEBREW HOME"), in the above-captioned action.
2. As such, I am familiar with the facts and circumstances of this action and make this Affirmation upon the files maintained by the law firm of GENSER DUBOW GENSER & CONA, LLP.
3. This Affirmation is respectfully submitted in opposition to defendant, DIAN STEVENS's Order to Show Cause to Amend the Caption.
4. The Order to Show Cause is (was) dated and returnable on April 23, 2018 at 1:00pm. Plaintiff was not served with the Order to Show Cause until receiving the notification from the New York State E-Filing system on April 26, 2018, at 11:05am, almost three full days AFTER the return date. A copy of the emails are annexed hereto as Exhibit "A." Upon information and belief, this may have been filed earlier, but not accepted and available on the

New York State E-Filing System. Plaintiff has never seen an Affidavit of Service concerning this Order to Show Cause.

5. Roy Stevens was a resident of Hebrew Home from March 3, 2016 through December 22, 2017. Dian Steven is the spouse of Roy Stevens. Upon Roy Steven's admission to Hebrew Home, Dian Stevens executed an Admission Agreement as the responsible party for Roy Stevens. At no time was Dian Stevens ever a resident of Hebrew Home.

6. Dian Stevens has no authority, legal capacity or "standing" to bring the proposed counterclaim. In *Campbell v. Barclays Bank, LLC*, 24 Misc.3d 1210(A), 899 N.Y.S.2d 58 (Table), 2009 WL 1912098, 2009 N.Y. Slip Op. 51417(U), Plaintiff "lacks standing to pursue his human rights claims because the alleged injury is to his purported ancestors, not to him." In the instant case, Dian Stevens receive any care or services from Hebrew Home, only her husband did. The Order to Show Cause does not contain any Affidavit from Roy Stevens, who it is alleged was damaged by Plaintiff. Further, the "Proposed Amended Written Answer" is only signed by Dian Stevens. See Exhibit "B." "Standing is a threshold determination, resting in part on policy considerations, that a person should be allowed access to the courts to adjudicate the merits of a particular dispute that satisfies the other justiciability criteria" (*Society of Plastics Indus. v. County of Suffolk*, 77 N.Y.2d 761, 769, 570 N.Y.S.2d 778, 573 N.E.2d 1034 [1991] ).

7. Professor David Siegel, in N.Y. Prac, § 136, at 232 [4th ed] instructs that:  
\*5 [i]t is the law's policy to allow only an aggrieved person to bring a lawsuit ... A want of "standing to sue," in other words, is just another way of saying that this particular plaintiff is not involved in a genuine controversy, and a simple syllogism takes us from there to a "jurisdictional" dismissal: (1) the courts have jurisdiction only over controversies; (2) a plaintiff

found to **lack “standing”** is not involved in a controversy; and (3) the courts therefore have no jurisdiction of the case when such a plaintiff purports to bring it.

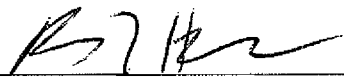
8. A review of the pleadings in this matter show a consistent pattern of DIAN STEVENS representing her husband, ROY STEVENS. This began at the Preliminary Conference on November 8, 2017 when DIAN appeared and Roy did not. A copy of the Preliminary Conference Order is attached as Exhibit “C.”

9. Further, Defendant’s responses to Plaintiff’s discovery demands are annexed hereto as “Exhibit D.” Only one of the three responses is signed by ROY STEVENS. The other two are signed only by “DIAN STEVENS Pro Se Defendant.”

9. Based on the foregoing, the Defendant’s Motion to Amend the caption to include a counterclaim must be denied as the “Proposed Amended Written Answer” is fatally defective. DIAN STEVENS is not legally authorized to bring this counterclaim on behalf of her husband. Further, Plaintiff requests the Court direct Ms. Stevens from further representing her husband in court.

Dated: Melville, New York  
May 1, 2018

Yours, etc.,



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BRIAN HARAN, ESQ.  
GENSER DUBOW GENSER & CONA, LLP  
Attorneys for Plaintiff  
225 Broadhollow Road, Suite 200  
Melville, New York 11747  
(631) 390-5000

TO: DIAN STEVENS  
*pro se* defendant  
on behalf of Dian Stevens  
and Roy Stevens