

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
EVELYN GONZALEZ,

Plaintiff,

-against-

LAZY RIVER RESORT, LLC d/b/a YOGI BEAR'S
JELLYSTONE PARK CAMP RESORT,

Defendant.
-----X

Index No.: 502536/2018

**RESPONSE TO
PRELIMINARY
CONFERENCE
ORDER DATED
SEPTEMBER 11, 2018**

PLEASE TAKE NOTICE that the defendant, LAZY RIVER RESORT, LLC d/b/a YOGI BEAR'S JELLYSTONE PARK CAMP RESORT, by and through its attorneys, MALAPERO PRISCO & KLAUBER LLP, as and for their response to the preliminary conference order dated September 11, 2018, states as follows:

RESERVATION OF RIGHTS:

1. To the extent that defendant produces documents in response to said demands, it does so without conceding the materiality, authenticity, admissibility or relevance of any such documents, or of any substantive responses to demands.
2. Defendant reserves all objections to the use of these responses and if any documents produced in connection herewith. Such objections may be interposed by responding defendant at any time, including at the time of trial or as otherwise required by the rules and orders of this Court.
3. Defendant reserves the right to amend, supplement, modify or correct these responses, objections and production of documents, if any, as additional information and/or documents are identified and/or become available.
4. Insofar as the inadvertent production of any documents by the defendant pursuant to the demands may be deemed a waiver of any privilege or right, such waiver shall be deemed to be a limited waiver solely with respect to that particular document. The inadvertent production of any document shall not be deemed or construed to constitute a waiver of any privilege, right or obligation of defendant, and defendant reserves the right to demand that such document and all copies thereof be returned to defendant.

5. Defendant reserves the right to redact non-responsive material from any otherwise responsive documents that may be produced as part of defendant's response to the demands.

GENERAL OBJECTIONS:

- A. Defendant objects to the demands to the extent that they seek information, documents or other materials that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence.
- B. Defendant objects to the demands to the extent that they purport to seek information, documents or other materials protected by the attorney-client privilege, the work product doctrine or any other applicable privilege or immunity.
- C. Defendant objects to the demands to the extent that they purport to seek documents generated by or at the direction of their counsel. In responding to the demands, defendant will construe the demands as not requesting production of such documents.
- D. Defendant objects to the demands to the extent that they purport to require defendant to produce or to provide information or documents not within responding defendant's possession, custody or control.
- E. Defendant objects to the demands to the extent that they do not incorporate time limitations.
- F. Defendant objects to the demands to the extent that they seek to impose obligations extended beyond those imposed or authorized by the CPLR of this Court.
- G. Defendant objects to the demands to the extent that they purport to information, documents or other materials created, dated or generated after the date of the complaint that this action was filed.
- H. These general objections are continuing and are incorporated by reference and response to each of the demands set forth below. Any objection or lack of objection to any portion of the demands is not to be deemed an admission. Subject to and without waiver of these general objections, defendant responds to the demands of plaintiff as follows:

**RESPONSE TO PRELIMINARY CONFERENCE ORDER OF SUPREME COURT,
KINGS COUNTY, DATED SEPTEMBER 11, 2018**

1. Insurance: This responding defendant was issued a policy of commercial general liability insurance by Philadelphia Indemnity Insurance Company under policy number

PHPK1643477 for a policy period of April 25, 2017 to April 25, 2018, with a limit of liability of \$1,000,000 per occurrence.

2. Witnesses: This responding defendant is only aware of one individual who may have been a witness to some portion of the event that forms the basis of this litigation, Tanya Fernandez, address unknown. Ms. Fernandez is understood to be plaintiff's daughter.

3. Opposing Party Statements: This responding defendant is not in possession of any opposing party statements.

4. Photographs: This responding defendant is not in possession of any photographs of the location of the subject occurrence except that exchanged by plaintiff, annexed hereto. No representation is made that this photograph depicts Cabin 77 or the location of the subject occurrence.

5. Experts: This responding defendant has not yet retained any expert witnesses with respect to either liability or damages. If such a retention is made, a supplemental statement will be issued.

6. Responses to Plaintiff's Notice for Discovery and Inspection Dated August 19, 2018: This responding defendant previously responded to plaintiff's discovery demand of August 19, 2018. Copies of those responses are annexed hereto. Supplementation will be issued as appropriate under separate cover.

PLEASE TAKE FURTHER NOTICE that this responding defendant reserves the right to supplement this response to the preliminary conference order of Supreme Court, Kings County, dated September 11, 2018, if and when additional materials and information become available.

Dated: New York, New York
September 24, 2018

Yours, etc.



By: Andrew L. Klauber, Esq.
MALAPERO PRISCO & KLAUBER LLP
Attorneys for Defendant
LAZY RIVER RESORT, LLC d/b/a YOGI
BEAR'S JELLYSTONE PARK CAMP RESORT
271 Madison Avenue, 17th Floor
New York, New York 10016
(212) 661-7300

TO: Robert P. Sharron, Esq.
ROBERT P. SHARRON & ASSOCIATES, P.C.
Attorneys for Plaintiff EVELYN GONZALEZ
26 Broadway, 26th Floor
New York, NY 10004-1803
(212) 227-5550

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
EVELYN GONZALEZ,

Plaintiff,

-against-

LAZY RIVER RESORT, LLC d/b/a YOGI BEAR'S
JELLYSTONE PARK CAMP RESORT,

Defendant.
-----X

Index No.: 502536/2018

**RESPONSE TO
PLAINTIFF'S
AUGUST 19, 2018
DEMAND FOR
WITNESSES**

PLEASE TAKE NOTICE that the defendant, LAZY RIVER RESORT, LLC d/b/a YOGI BEAR'S JELLYSTONE PARK CAMP RESORT, by and through its attorneys, MALAPERO PRISCO & KLAUBER LLP, hereby responds to plaintiff's August 19, 2018 demand for witnesses.

RESERVATION OF RIGHTS:

1. To the extent that defendant produces documents in response to said demands, it does so without conceding the materiality, authenticity, admissibility or relevance of any such documents, or of any substantive responses to demands.
2. Defendant reserves all objections to the use of these responses and if any documents produced in connection herewith. Such objections may be interposed by responding defendant at any time, including at the time of trial or as otherwise required by the rules and orders of this Court.
3. Defendant reserves the right to amend, supplement, modify or correct these responses, objections and production of documents, if any, as additional information and/or documents are identified and/or become available.
4. Insofar as the inadvertent production of any documents by the defendant pursuant to the demands may be deemed a waiver of any privilege or right, such waiver shall be deemed to be a limited waiver solely with respect to that particular document. The inadvertent production of any document shall not be deemed or construed to constitute a waiver of any privilege, right or obligation of defendant, and defendant reserves the right to demand that such document and all copies thereof be returned to defendant.
5. Defendant reserves the right to redact non-responsive material from any otherwise responsive documents that may be produced as part of defendant's response to the

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.