

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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MICHAEL CHIRICHELLA, VINCENT G.
CHIRICHELLA and MICHAELA CHIRICHELLA

Plaintiffs,

Index No. 505985/17

- against -

NOTICE OF APPEAL

BCBS LORIMER, LLC

Defendant.
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PLEASE TAKE NOTICE that the above-named Defendant, BCBS LORIMER, LLC, by its attorneys, KUSHNICK PALLACI PLLC, hereby appeal to the Supreme Court, Appellate Division, Second Department, from the Order of the Supreme Court, Kings County, Hon. Paul Wooten, dated April 6, 2018 and entered on April 13, 2018, and this appeal is taken from each and every part thereof.

Dated: Bohemia, New York
April 16, 2018

Yours, etc.,

KUSHNICK PALLACI PLLC

By: 

Stephanie N. Hill

Attorneys for Plaintiff Renval Construction, LLC
630 Johnson Avenue, Suite 201
Bohemia, New York 11716

TO:

Joshua Spitalnik
The Law Office of Joshua D. Spitalnik, P.C.
Attorney for Plaintiffs
5 Terrace Court, Suite 201
Port Washington, NY 11050

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

Form A - Request for Appellate Division Intervention - Civil

See § 670.3 of the rules of this court for directions on the use of this form (22 NYCRR 670.3).

<p>Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.</p> <p>MICHAEL CHIRICHELLA, VINCENT G. CHIRICHELLA, and MICHAELA CHIRICHELLA,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">-against-</p> <p>BCBS LORIMER, LLC,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">For Court of Original Instance</p> <hr/> <p style="text-align: center;">Date Notice of Appeal Filed</p> <hr/> <p style="text-align: center;">For Appellate Division</p>
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Case Type	<input type="checkbox"/> CPLR article 78 Proceeding <input type="checkbox"/> Special Proceeding Other <input type="checkbox"/> CPLR article 75 Arbitration <input type="checkbox"/> Habeas Corpus Proceeding	Filing Type	<input type="checkbox"/> Transferred Proceeding <input type="checkbox"/> CPLR 5704 Review <input type="checkbox"/> Appeal <input type="checkbox"/> Original Proceeding
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Nature of Suit: Check up to five of the following categories which best reflect the nature of the case.

<p>A. Administrative Review</p> <input type="checkbox"/> 1 Freedom of Information Law <input type="checkbox"/> 2 Human Rights <input type="checkbox"/> 3 Licenses <input type="checkbox"/> 4 Public Employment <input type="checkbox"/> 5 Social Services <input type="checkbox"/> 6 Other	<p>D. Domestic Relations</p> <input type="checkbox"/> 1 Adoption <input type="checkbox"/> 2 Attorney's Fees <input type="checkbox"/> 3 Children - Support <input type="checkbox"/> 4 Children - Custody/Visitation <input type="checkbox"/> 5 Children - Terminate Parental Rights <input type="checkbox"/> 6 Children - Abuse/Neglect <input type="checkbox"/> 7 Children - JD/PINS <input type="checkbox"/> 8 Equitable Distribution <input type="checkbox"/> 9 Exclusive Occupancy of Residence <input type="checkbox"/> 10 Expert's Fees <input type="checkbox"/> 11 Maintenance/Alimony <input type="checkbox"/> 12 Marital Status <input type="checkbox"/> 13 Paternity <input type="checkbox"/> 14 Spousal Support <input type="checkbox"/> 15 Other	<p>F. Prisoners</p> <input type="checkbox"/> 1 Discipline <input type="checkbox"/> 2 Jail Time Calculation <input type="checkbox"/> 3 Parole <input type="checkbox"/> 4 Other	<p>I. Torts</p> <input type="checkbox"/> 1 Assault, Battery, False Imprisonment <input type="checkbox"/> 2 Conversion <input type="checkbox"/> 3 Defamation <input type="checkbox"/> 4 Fraud <input type="checkbox"/> 5 Intentional Infliction of Emotional Distress <input type="checkbox"/> 6 Interference with Contract <input type="checkbox"/> 7 Malicious Prosecution/Abuse of Process <input type="checkbox"/> 8 Malpractice <input type="checkbox"/> 9 Negligence <input type="checkbox"/> 10 Nuisance <input type="checkbox"/> 11 Products Liability <input type="checkbox"/> 12 Strict Liability <input type="checkbox"/> 13 Trespass and/or Waste <input type="checkbox"/> 14 Other
<p>B. Business & Other Relationships</p> <input type="checkbox"/> 1 Partnership/Joint Venture <input type="checkbox"/> 2 Business <input type="checkbox"/> 3 Religious <input type="checkbox"/> 4 Not-for-Profit <input type="checkbox"/> 5 Other	<p>E. Miscellaneous</p> <input type="checkbox"/> 1 Constructive Trust <input type="checkbox"/> 2 Debtor & Creditor <input type="checkbox"/> 3 Declaratory Judgment <input type="checkbox"/> 4 Election Law <input type="checkbox"/> 5 Notice of Claim <input type="checkbox"/> 6 Other	<p>G. Real Property</p> <input type="checkbox"/> 1 Condemnation <input type="checkbox"/> 2 Determine Title <input type="checkbox"/> 3 Easements <input type="checkbox"/> 4 Environmental <input type="checkbox"/> 5 Liens <input type="checkbox"/> 6 Mortgages <input type="checkbox"/> 7 Partition <input type="checkbox"/> 8 Rent <input type="checkbox"/> 9 Taxation <input type="checkbox"/> 10 Zoning <input checked="" type="checkbox"/> 11 Other	<p>J. Wills & Estates</p> <input type="checkbox"/> 1 Accounting <input type="checkbox"/> 2 Discovery <input type="checkbox"/> 3 Probate/Administration <input type="checkbox"/> 4 Trusts <input type="checkbox"/> 5 Other
<p>C. Contracts</p> <input type="checkbox"/> 1 Brokerage <input type="checkbox"/> 2 Commercial Paper <input checked="" type="checkbox"/> 3 Construction <input type="checkbox"/> 4 Employment <input type="checkbox"/> 5 Insurance <input type="checkbox"/> 6 Real Property <input type="checkbox"/> 7 Sales <input type="checkbox"/> 8 Secured <input type="checkbox"/> 9 Other	<p>H. Statutory</p> <input type="checkbox"/> 1 City of Mount Vernon Charter § § 120, 127-f, or 129 <input type="checkbox"/> 2 Eminent Domain Procedure Law § 207 <input type="checkbox"/> 3 General Municipal Law § 712 <input type="checkbox"/> 4 Labor Law § 220 <input type="checkbox"/> 5 Public Service Law § § 128 or 170 <input type="checkbox"/> 6 Other		

Form A - RAD1 - Civil

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V2.0.060293

Appeal	
Paper Appealed From (check one only):	
<input type="checkbox"/> Amended Decree	<input type="checkbox"/> Determination
<input type="checkbox"/> Amended Judgment	<input type="checkbox"/> Finding
<input type="checkbox"/> Amended Order	<input type="checkbox"/> Interlocutory Decree
<input checked="" type="checkbox"/> Decision	<input type="checkbox"/> Interlocutory Judgment
<input type="checkbox"/> Decree	<input type="checkbox"/> Judgment
<input checked="" type="checkbox"/> Order	<input type="checkbox"/> Order & Judgment
<input type="checkbox"/> Order & Judgment	<input type="checkbox"/> Partial Decree
<input type="checkbox"/> Resettled Decree	<input type="checkbox"/> Resettled Judgment
<input type="checkbox"/> Resettled Order	<input type="checkbox"/> Ruling
<input type="checkbox"/> Other (specify):	
Court: Supreme	County: Kings
Dated: April 6, 2018	Entered: April 13, 2018
Judge (name in full): Paul Wooten	Index No.: 505985/2017
Stage: <input checked="" type="checkbox"/> Interlocutory <input type="checkbox"/> Final <input type="checkbox"/> Post-Final	Trial: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury
Prior Unperfected Appeal Information	
Are any unperfected appeals pending in this case? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. If yes, do you intend to perfect the appeal or appeals covered by the annexed notice of appeal with the prior appeals? <input type="checkbox"/> Yes <input type="checkbox"/> No. Set forth the Appellate Division Cause Number(s) of any prior, pending, unperfected appeals:	
Original Proceeding	
Commenced by: <input checked="" type="checkbox"/> Order to Show Cause <input type="checkbox"/> Notice of Petition <input type="checkbox"/> Writ of Habeas Corpus	Date Filed:
Statute authorizing commencement of proceeding in the Appellate Division:	
Proceeding Transferred Pursuant to CPLR 7804(g)	
Court:	County:
Judge (name in full):	Order of Transfer Date:
CPLR 5704 Review of Ex Parte Order	
Court:	County:
Judge (name in full):	Dated:
Description of Appeal, Proceeding or Application and Statement of Issues	
<p>Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of the proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.</p> <p>This is an appeal from an Order granting plaintiff's request for attorneys' fees for bringing the petition and planning and negotiating with the defendant.</p> <p>Amount: If an appeal is from a money judgment, specify the amount awarded.</p> <p>Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review.</p> <p>Whether the lower Court erred in Ordering that Plaintiff's request for attorneys' fees for bringing the</p>	

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Issues Continued: petition and planning and negotiating with the defendant remain granted.

Use Form B for Additional Appeal Information

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

Examples of a party's original status include: plaintiff, defendant, petitioner, respondent, claimant, defendant third-party plaintiff, third-party defendant, and intervenor. Examples of a party's Appellate Division status include: appellant, respondent, appellant-respondent, respondent-appellant, petitioner, and intervenor.

No.	Party Name	Original Status	Appellate Division Status
1	MICHAEL CHIRICHELLA	PLAINTIFF	RESPONDENT
2	VINCENT G. CHIRICHELLA	PLAINTIFF	RESPONDENT
3	MICHAELA CHIRICHELLA	PLAINTIFF	RESPONDENT
4	BCBS LORIMER	DEFENDANT	APPELLANT
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