

Application for Index Number

ORANGE COUNTY CLERK

Application for INDEX NUMBER  
pursuant to CPLR § 8018(a).  
FEE \$210.00

INDEX NUMBER
<b>2003-7802</b>
NOV 12 2003
DO NOT WRITE IN THIS SPACE

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**Title of Action of Proceeding**

SANFORD ULLMAN,  
Plaintiff,

vs.

THE CITY OF NEWBURGH LOCAL DEVELOPMENT  
CORPORATION, RICHARD D. McGOEY, and  
WILLIAM J. HAUSER,  
Defendants.

TYPE BELOW NAME AND ADDRESS OF ATTORNEY(S) FOR PLAINTIFF(S)

Rapport, Meyers, Whitbeck, Shaw & Rodenhause, LLP  
436 Union Street - Hudson, NY 12534

TYPE BELOW NAME AND ADDRESS OF ATTORNEY(S) FOR DEFENDANT(S)

INDEXED AND ENTERED (CLOCK DATE)
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Indexed and Entered \_\_\_\_\_

DO NOT DETACH

*Title of Action or Proceeding to be TYPED or PRINTED by applicant.*

SUPREME COURT, ORANGE COUNTY

INDEX NUME  
FEE \$210.

SANFORD ULLMAN,  
Plaintiff,

vs.

THE CITY OF NEWBURGH LOCAL DEVELOPMENT  
CORPORATION, RICHARD D. McGOEY, and  
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INDEXED AND ENTERED (CLOCK DATE)
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Endorse this INDEX NUM  
on all Papers and advise  
adversary of the nu  
assigned.

Index No.  
Filed:

2003-7802

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## SUMMONS

STATE OF NEW YORK SUPREME COURT COUNTY OF ORANGE

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SANFORD ULLMAN,

Plaintiff,

-against-

THE CITY OF NEWBURGH LOCAL DEVELOPMENT CORPORATION,  
RICHARD D. McGOEY, and WILLIAM J. HAUSER,

Defendants.

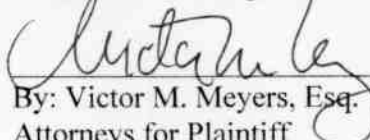
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To the above named defendants:

YOU ARE HEREBY SUMMONED and required to serve upon plaintiff's attorney an answer to the complaint in this action 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 answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: November 7, 2003

RAPPORT, MEYERS, WHITBECK,  
SHAW & RODENHAUSEN, LLP

  
By: Victor M. Meyers, Esq.  
Attorneys for Plaintiff  
436 Union Street  
Hudson, New York 12534  
(518) 828-9444

Trial is desired in the County of Orange.

The basis of venue designated above is that defendant The City of Newburgh Local Development Corporation is located in the County of Orange.

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ORANGE

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SANFORD ULLMAN,

Plaintiff,

**COMPLAINT**

-against-

Index No.

THE CITY OF NEWBURGH LOCAL DEVELOPMENT  
CORPORATION, RICHARD D. McGOEY,  
WILLIAM J. HAUSER, and DEN CASS ASSOCIATES,

Defendants.

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Plaintiff Sanford Ullman, by his attorneys Rapport, Meyers, Whitbeck, Shaw & Rodenhausen, LLP, as and for a complaint against the defendants herein, alleges as follows:

1. Upon information and belief, at all times herein mentioned, the defendant City of Newburgh Local Development Corporation (hereinafter "LDC") was and is a not-for-profit domestic corporation, having its principal office at City Hall, 83 Broadway, Newburgh, New York.
2. At all times herein mentioned, the defendant Den Cass Associates was and is a limited partnership having its principal place of business at 83 Broadway, Newburgh, New York.
3. Den Cass Associates was formed pursuant to a Certificate of Formation of Limited Partnership of Den Cass Associates dated January 9, 1990 (hereinafter "the Certificate"), a copy of which is annexed hereto as Exhibit "A".

4. Upon information and belief, subsequent to the formation of Den Cass Associates, general partner Community Development Group, Inc. transferred its interest to the remaining general partners and is no longer a general partner of Den Cass Associates.

5. At all times herein mentioned, the defendants LDC, Richard D. McGoey and William J. Hauser were, and upon information and belief, still are, the general partners of Den Cass Associates.

6. At all times herein mentioned, the plaintiff was and still is the sole limited partner of Den Cass Associates.

7. The principal purpose of the formation of Den Cass Associates was to purchase an interest in certain real property located in the City of Newburgh, New York known as the "Broadway School", to rehabilitate the structures thereon as a commercial office building (hereinafter "the Premises"), to manage the Premises, and to lease the same for profit.

8. The plaintiff contributed a total of \$150,000 capital to Den Cass Associates for the development of the Premises.

9. Paragraph "VIII" of the Certificate provides that the plaintiff shall receive 24% of the net cash flow of the partnership business.

10. Paragraph "XIII" of the Certificate provides:

XIII. The Compensation of the Limited Partner is as follows: 24% of the net profits which exceed 1% of total equity are credited to the capital account of the Limited Partner each fiscal year; 24% of net cash flow is distributed to the Limited Partner each fiscal year; and 24% of net proceeds are to be distributed to the Limited Partner in the event of sale or disposition in whole or part of the premises or from any syndication or refinancing.

11. By Agreement dated August 27, 1992, the defendants agreed to distribute to the plaintiff 24% of the net proceeds of the sale or refinancing of the Premises.

12. Upon information and belief, Den Cass Associates proceeded to acquire the Premises, to rehabilitate the same as a commercial building, to manage and to lease the Premises.

13. Upon information and belief, for at least since 1999, Den Cass Associates has operated profitably, with a positive net cash flow from the partnership business.

14. Pursuant to the Partnership Law of the State of New York, plaintiff, as a limited partner of Den Cass Associates, has the right to inspect and copy the partnership books, to have true and full information of all things affecting the partnership, and to have a formal account of the partnership affairs.

15. Since the formation of Den Cass Associates, the plaintiff has essentially been kept in the dark as to the affairs of the partnership, and the only financial information that the defendants have voluntarily provided to the plaintiff are the annual K-1 partnership returns for federal and state tax purposes.

16. Upon information and belief, on or about January 1, 2003, Den Cass Associates had approximately \$450,000 in undistributed liquid cash, which far exceeds the operating cost or necessary capital for the operation of the partnership business.

17. Upon information and belief, plaintiff is entitled to a distribution of his share of the net cash flow generated by the business of Den Cass Associates.

18. Upon information and belief, Den Cass Associates refinanced its assets in 1998

