

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X  
JONATHAN TROFFA and JOS. M. TROFFA LANDSCAPE  
AND MASON SUPPLY, INC.,

Index No. 609510/2016  
(Garguilo, J.)

Plaintiffs,

-against-

**VERIFIED  
AMENDED  
COMPLAINT**

JOSEPH M. TROFFA, LAURA J. TROFFA,  
JOS. M. TROFFA MATERIALS CORPORATION,  
NIMT ENTERPRISES, LLC, L.J.T. DEVELOPMENT  
ENTERPRISES, INC., and JOS. M. TROFFA LANDSCAPE  
AND MASON SUPPLY, INC.,

Defendants.

-----X

Plaintiffs JONATHAN TROFFA and JOS. M. TROFFA LANDSCAPE AND MASON  
SUPPLY, INC., by their attorneys, BRACKEN MARGOLIN BESUNDER LLP, complaining of  
the Defendants, as and for their Amended Complaint, allege as follows:

**PARTIES**

1. Plaintiff JONATHAN TROFFA (“Jonathan”) is a natural person who, at all  
relevant times hereinafter mentioned resided and presently resides in the County of Suffolk, State  
of New York.

2. Plaintiff JOS. M. TROFFA LANDSCAPE AND MASON SUPPLY, INC. (the  
“Corporation”) and nominal Defendant under the Fourth Cause of Action, is an active  
corporation, in good standing, which was incorporated in 1975 under the laws of the State of  
New York, with its principal place of business at 70 Comsewogue Road, East Setauket, in the  
County of Suffolk, State of New York.

3. Defendant JOSEPH M. TROFFA (“Joseph”) is a natural person who, upon information and belief, at all relevant times hereinafter mentioned, resided and presently resides at 11 North Ridge Road, Setauket, in the County of Suffolk, State of New York.

4. From about 1995 through the present, Joseph was and is an officer and director of the Corporation.

5. Upon information and belief, from 1995 to the present, Jonathan was and is currently the Vice-President of the Corporation.

6. Upon information and belief, from 1995 to the present, Jonathan was and is a director of the Corporation.

7. Defendant LAURA J. TROFFA (“Laura”) is a natural person who, upon information and belief, at all relevant times hereinafter mentioned, resided and presently resides at 11 North Ridge Road, Setauket, in the County of Suffolk, State of New York. Laura and Joseph are presently married to each other.

8. Upon information and belief, from 1997 to the present, Laura was and is an officer of the Corporation.

9. Upon information and belief, Defendant JOS. M. TROFFA MATERIALS CORPORATION (“Materials Corp.”) is a New York corporation with its principal place of business at 70 Comsewogue Road, East Setauket, in the County of Suffolk, State of New York.

10. Upon information and belief, Defendant NIMT ENTERPRISES, LLC (“NIMT”) is a New York limited liability company with its principal place of business at 70 Comsewogue Road, East Setauket, in the County of Suffolk, State of New York.

11. Upon information and belief, Laura is an equity owner of NIMT, and Jonathan holds a 1% (one percent) membership interest in NIMT.

12. Upon information and belief, Defendant L.J.T. DEVELOPMENT ENTERPRISES, INC. ("LJT") is a New York corporation with its principal place of business at 70 Comsewogue Road, East Setauket, in the County of Suffolk, State of New York.

13. Upon information and belief, Laura is the sole shareholder of LJT.

### **NATURE OF THE COMPLAINT**

14. Jonathan, who, upon information and belief, is an officer and director of the Corporation, brings this action in the name and on behalf of the Corporation, pursuant to New York Business Corporation Law and under common law principles, asserting causes of action against Defendants sounding, *inter alia*, in breaches of fiduciary duty, breaches of the duty of loyalty, diversion of corporate opportunities, self-dealing, corporate waste, undisclosed conflicts of interest and misrepresentation. Plaintiffs seek recovery of damages, disgorgement of profits, return of compensation to the Corporation, imposition of constructive trusts and conveyance to the Corporation of real property beneficially owned by the Corporation but titled in the name of one or more of the Defendants.

### **BACKGROUND**

15. The Corporation filed its Certificate of Incorporation on August 12, 1975.

16. The Corporation engages primarily in the wholesale landscape and mason supply business. The Corporation's three main business segments are bulk materials, ready-mix and hard goods. The bulk materials sold by the Corporation include sand, gravel, boulders, mulch, compost, top soil, decorative gravel and recycling. Many of these items are produced onsite. The bulk materials segment of the business also includes the collecting and recycling of yard waste such as trees, grass, leaves, soil, brick and concrete. The ready-mix segment of the business delivers concrete to residential and commercial customers and produces various pre-

cast items. The hard goods sold by the Corporation include brick, pavers, cement blocks, tools, building stone, stone veneer, flagstone, cobblestone and chimney supplies.

17. Jonathan manages the sales and customer service for all three segments of the business, along with the scheduling and dispatching of inbound and outbound deliveries. Jonathan manages the Corporation's truck drivers, forklift operators and yard help. He is responsible for roughly 90% (ninety percent) of the purchases from suppliers and vendors across all segments of the business.

18. Joseph primarily supervises the bulk materials segment of the business. He also purchases some bulk materials.

19. Upon information and belief, from the inception of the Corporation until 1995, Joseph was the sole shareholder, having been issued stock certificate #1 for 10 (ten) common shares of the Corporation.

20. On or around December 28, 1995, Jonathan was issued stock certificate #2 for 40 (forty) shares of the common stock of the Corporation.

21. Upon information and belief, on or around January 1, 2002, Joseph caused to be issued to himself an additional 30 (thirty) shares of the common stock of the Corporation, represented by stock certificate #3.

22. Upon information and belief, no additional stock of the Corporation has thereafter been issued.

23. The number of issued and outstanding shares of the Corporation entitled to vote at an annual meeting for election of directors is 80 (eighty) of which 40 (forty) shares are owned by Joseph and 40 (forty) shares are owned by Jonathan.

24. Upon information and belief, based on the records of the Corporation, since January 2002 and at all times up to the present, Joseph and Jonathan have each been the record owners of 50% (fifty percent) of the common stock of the Corporation.

25. Upon information and belief, in or around October 1990, Joseph married Laura, his second wife.

26. At all relevant times hereinafter mentioned, the Corporation has conducted and still conducts its business on six adjacent pieces of property in an industrial park in East Setauket, New York.

27. Of the aforementioned six parcels, four were acquired after Laura became an officer of the Corporation, and as to all four of those parcels, Jonathan was told by Joseph that they were each acquired for the benefit of the Corporation and that the Corporation was to be the beneficial owner of said parcels, but that the deeds would be titled in the names of entities which would hold the properties and title for the Corporation.

28. The foregoing representations were false, were known to be false at the time they were made, were made for the purpose of inducing Jonathan to acquiesce in the transactions, were reasonably relied upon by Jonathan and were part of an overarching scheme and conspiracy by Laura and Joseph to defraud the Corporation, and to divert corporate opportunities from the Corporation for the purposes of enriching themselves.

29. Upon information and belief, a fifth property was deeded to Laura or an entity owned by Laura at a time prior to her formal appointment as an officer of the Corporation, but either while she was Joseph's wife or while Joseph was in the process of divorcing his first wife.

30. Upon information and belief, three of the aforementioned five parcels are presently titled in the name of NIMT, including the approximately three-acre property upon

which is located the Corporation's warehouse and showroom, and two of these parcels are presently titled in the name of LJT (the five parcels referred to above are referred to herein collectively as the "Laura Properties").

31. Based on the aforementioned representations by Joseph, Jonathan did not object to the acquisition of the Laura Properties on behalf of the Corporation.

32. The foregoing representations were false, were known to be false when they were made, and were made for the purpose of defrauding and misleading Jonathan. Jonathan only recently discovered, based on statements made by Joseph, that the properties that were placed in entities owned by Laura were not being used for the Corporation but for the personal financial benefit of Laura and Joseph at the expense of the Corporation.

33. Joseph did not offer the Corporation the opportunity to acquire any of the Laura Properties and the neither the Corporation's board of directors nor Jonathan waived the Corporation's right to acquire these properties.

34. Upon information and belief, each of the Laura Properties was purchased, all or in large part with funds derived or diverted from the Corporation, without proper authorization or the consent of Jonathan, and unauthorized capital improvements to the Laura Properties were paid for by the Corporation for the sole benefit of Defendants.

35. Upon information and belief, Joseph used the Corporation's funds to make irregular payments to the Laura Properties' nominal owners.

36. Upon information and belief, the payments by the Corporation to the title holder(s) of the Laura Properties were not authorized or approved by the board of directors of the Corporation or by Jonathan, as a 50% shareholder, officer or director, and such payments constituted a conflict of interest of and self-dealing by Joseph and Laura.

37. Upon information and belief, payments which were purportedly “rent” payments made by the Corporation to the entities holding title to the Laura Properties were exorbitant and constituted a waste of the Corporation’s assets and were made without Jonathan’s consent.

38. The sixth piece of property on which the Corporation conducts business is referred to as the “Compost Yard Property” and consists of approximately 1.78 acres located at 70 A Comsewogue Road (a/k/a Parsonage Road).

39. Upon information and belief, in or around 1999, the Corporation entered into a lease/purchase agreement with the then owners of the Compost Yard Property, Laurence and Ronald Schreiber or an entity under their control, to buy the Compost Yard Property for \$390,000, pursuant to which the Corporation would make monthly payments to be applied against the purchase price.

40. Upon information and belief, in or around 2004, the lease/purchase agreement was modified and/or reconfirmed, and the credit for prior payments made by the Corporation of \$133,000 was applied and the balance remaining as of April 1, 2004, was \$257,000.

41. Upon information and belief, on or about March 12, 2013, without disclosing his intent to Jonathan and without Jonathan’s knowledge or consent, Joseph purchased the Compost Yard Property in his own name, taking a credit of \$355,372 given to and earned by the Corporation, toward the \$390,000 purchase price and paying a balance of \$39,628.

42. Upon information and belief, the funds accounting for the \$355,372 credit were funds paid by the Corporation.

43. Upon information and belief, the final payment was made by Joseph from funds derived from an equity line of credit advance, the amount of which was later paid to Joseph by NIMT which was, in turn, paid to NIMT by the Corporation.

44. The acquisition of the Compost Yard Property constitutes a diversion of a corporate opportunity, self-dealing and conflict of interest, which were breaches of Joseph's fiduciary duty and duty of loyalty to the Corporation and to Jonathan.

45. Upon information and belief, Joseph caused the Corporation to make irregular payments to NIMT, an entity owned by Laura, purportedly as rent for the Compost Yard Property, even though the Compost Yard Property was deeded to him and paid for with funds from the Corporation.

46. The payments by the Corporation to NIMT as rent for the Compost Yard Property were never authorized or approved by the board of directors of the Corporation and constituted a conflict of interest of and self-dealing by Joseph and Laura.

47. Upon information and belief, the rents paid by the Corporation to NIMT as rent for the Compost Yard Property were exorbitant and constituted a waste of the Corporation's assets, represented self-dealing and a breach of fiduciary duty by Joseph and Laura.

48. Upon information and belief, Defendants have intermingled funds and assets, arbitrarily transferred funds between Defendant entities to conceal Joseph's and Laura's illicit conduct, failed to adhere to corporate formalities, and have each treated the Defendant entities as their alter egos. For example, when Laura needed money to acquire a Laura Property for one of her entities, Joseph caused the Corporation to make unsupported and unjustified payments to one or more of Laura's entities, which in turn used the funds to conduct transactions which violated Joseph's and Laura's fiduciary duties.

49. In or about May 2014, without authorization, Joseph secretly closed the Corporation's long-standing bank account and opened a new account at a new bank in order to remove Jonathan as a signatory on the Corporation's bank account, and he added his wife, Laura,



as a signatory, thereby usurping complete control over the Corporation's cash receipts, disbursements and finances, to the exclusion of Jonathan.

50. Since late 2014, Joseph has been purchasing equipment without authorization or Jonathan's consent, including, without limitation, installation of a phone system in a location used primarily by Joseph and Laura and not for the Corporation's business, building structures and committing to capital projects, and upon information and belief, filtering the Corporation's funds through other entities they control, where the principal use of the equipment is for Joseph's own competing business and is not in the Corporation's best interests. Such expenditures were the result of self-dealing and breaches of fiduciary duty by Joseph and Laura.

51. In early 2015, upon information and belief, Joseph formed Materials Corp., and in or around March 2015, Joseph candidly announced to Jonathan that he was going to use Materials Corp. to divert the bulk materials and ready mix segments of the Corporation's business to this new corporation, for himself and thereafter, dissolve the Corporation. Joseph told Jonathan that Jonathan was to set up his own business to take on the hard goods segment immediately.

52. Jonathan objected to the formation of Materials Corp. and Joseph did not offer to make Materials Corp. a subsidiary of the Corporation or to include Jonathan as an equity owner.

53. Joseph, Laura and Jonathan are all employed by the Corporation.

54. Laura's responsibilities are limited to preparation of the Corporation's payroll and oversight of the health insurance for employees and employee benefits. She works roughly six hours per week.

55. Over Jonathan's objections, Joseph paid his wife, Laura, excessive compensation, which constitutes a waste of the Corporation's assets, self-dealing and a breach of fiduciary duty.

56. Jonathan's compensation is presently about the same as Laura's, even though Jonathan's duties and responsibilities far exceed those of Laura, and his working hours are far greater, and for many years, Laura's compensation was even higher than Jonathan's.

57. Upon information and belief, on Sunday, May 15, 2016, without Jonathan's knowledge or consent, and without authorization, Laura and Joseph moved a computer, certain files, a printer and miscellaneous office supplies from the Corporation's office into a trailer for the purpose of placing them and the information they contained out of Jonathan's reach and for the purpose of using same for their own businesses other than the Corporation's business.

58. Laura has actual knowledge that Jonathan is a 50% stockholder of the Corporation and that Joseph's conduct, acts and omissions, and their concealment from Jonathan, for which she has provided substantial assistance, constitute breaches of Joseph's fiduciary duty.

59. To the extent that Laura may be an officer of the Corporation, her conduct is a breach of fiduciary duty and duty of loyalty, for which Joseph has knowingly provided substantial assistance.

60. Upon information and belief, Laura and Joseph have been using the Corporation's funds to pay for their own personal expenses without authorization and without Jonathan's consent.

61. Laura and Joseph have not provided evidence confirming that the funds they took from the Corporation were actually for legitimate reasonable expenses of the Corporation.

**FIRST CAUSE OF ACTION**  
**Breach of Fiduciary Duty and Duty of Loyalty - Accounting**

62. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1-61 as if fully set forth at length herein.

63. Jonathan brings this action directly on behalf of the Corporation against Defendants.

64. Upon information and belief, assets belonging to the Corporation, including business opportunities like the opportunities to acquire the Laura Properties and the Compost Yard Property, were diverted to Defendants.

65. Upon information and belief, the Laura Properties were transferred to LJT and NIMT and not to the Corporation, in violation of Laura's and Joseph's fiduciary duties and their duty of undivided loyalty to the Corporation.

66. Laura and Joseph must account to the Corporation for the profits they derived, for which they were unjustly enriched to the Corporation's detriment, for wasting Corporation assets, and for self-dealing.

67. The Corporation demands that Laura and Joseph return and pay back to the Corporation excessive and unauthorized compensation they have received, along with all compensation they received while breaching their fiduciary duties to the Corporation, violating their duty of loyalty, engaged in self-dealing and intentionally wasting the Corporation's assets.

68. The Corporation demands that Defendants account for and disgorge all profits obtained as a result of the duty breaches of Laura and Joseph.

69. Joseph, Laura and the Defendant entities are also liable to the Corporation for aiding and abetting and acting in concert to help Joseph and Laura breach their respective duties to the Corporation.

70. The aforementioned tortious conduct is repugnant to the moral and ethical sensibilities of the community, and merits the award of punitive damages.

**SECOND CAUSE OF ACTION**  
**Constructive Trust**

71. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1-70 as if fully set forth at length herein.

72. The Corporation is entitled to the imposition of a constructive trust on the diverted properties and opportunities, and upon the traceable funds and assets derived therefrom, and an accounting.

73. The acquisition of the Compost Yard Property and the Laura Properties was fraudulent, and constituted a breach of Joseph's and Laura's fiduciary duties to the Corporation, entitling the Corporation to the remedy of a constructive trust on the Compost Yard and the Laura Properties.

74. Jonathan first learned that Joseph and Laura had been engaged in an overarching scheme and conspiracy to defraud the Corporation and Jonathan as its 50% shareholder within the last two years, and that the fraud and false representations set forth above had been concealed from him.

75. The Corporation demands conveyance of the aforementioned properties to the Corporation in return for the actual amount paid by the purchasers from funds other than those of the Corporation.

**THIRD CAUSE OF ACTION**  
**Action to Quiet Title**

76. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1-75 as if fully set forth at length herein.

77. This cause of action is brought pursuant to Article 15 of the Real Property Actions and Proceedings Law of the State of New York, to compel the determination of claims to the real property hereinafter described.

78. Pursuant to one certain Bargain and Sale Deed (copy annexed hereto as Exhibit A) dated March 12, 2013, Joseph apparently obtained sole title to the premises referred to above as the Compost Yard, and described therein to wit:

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING AT SETAUKET, IN THE TOWN OF BROOKHAVEN, COUNTY OF SUFFOLK AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY SIDE OF PARSONAGE ROAD, SAID POINT BEING THE NORTHEASTERLY CORNER OF A LOT DESIGNATED AS DISTRICT 0200 SECTION 134.00 BLOCK 04.00 LOT 07.000 ON THE SUFFOLK COUNTY TAX MAP WHERE IT INTERSECTS THE WESTERLY SIDE OF A RIGHT OF WAY DESIGNATED AS DISTRICT 0200 SECTION 135.00 BLOCK 02.00 LOT 002.000 ON THE SUFFOLK COUNTY TAX MAP;

RUNNING THENCE FROM SAID POINT OF BEGINNING THE FOLLOWING TWO (2) COURSES AND DISTANCES:

- 1) SOUTH 19° 51' 34" WEST, A DISTANCE OF 312.98 FEET TO A POINT;
- 2) SOUTH 21° 31' 44" WEST, A DISTANCE OF 195.52 FEET TO THE TRUE POINT OF BEGINNING;

RUNNING THENCE FROM SAID POINT OF BEGINNING THE FOLLOWING NINE (9) COURSES AND DISTANCES:

- 1) SOUTH 21° 31' 44" WEST, A DISTANCE OF 18.52 FEET TO A POINT;
- 2) SOUTH 24° 12' 00" WEST, A DISTANCE OF 12.49 FEET TO A POINT;
- 3) NORTH 68° 26' 00" WEST, A DISTANCE OF 146.15 FEET TO A POINT;
- 4) SOUTH 24° 12' 00" WEST, A DISTANCE OF 148.46 FEET TO A POINT;
- 5) SOUTH 17° 35' 00" WEST, A DISTANCE OF 143.45 FEET TO A POINT;
- 6) NORTH 68° 30' 39" WEST, A DISTANCE OF 226.42 FEET TO A POINT;

- 7) NORTH 21° 34' 00" EAST, A DISTANCE OF 288.48 FEET TO A POINT;
- 8) SOUTH 86° 30' 28" EAST, A DISTANCE OF 110.32 FEET TO A POINT;
- 9) SOUTH 68° 26' 00" EAST, A DISTANCE OF 265.11 FEET TO THE POINT OR PLACE OF BEGINNING.

TOGETHER WITH EASEMENT RIGHTS OVER THE RIGHT OF WAY SET FORTH IN LIBER 6963 PAGE 511.

As to Lots 006.006, 006.007 and 006.011

Being and intended to be the same premises as described in deed dated 12.14.01 and recorded 12/21/01 in Liber 12159, page 695; And

As to Lot 006.015

Being and intended to be the same premises as described in deed dated 8/24/06 and recorded 9/30/05 in Liber 12412, page 412.

SCTM # 0200-13400-0400-006.007 and p/o 006.006, 006.011 and 006.015 (referred to herein as the "Compost Yard Property").

79. The aforementioned Bargain and Sale Deed was recorded in the office of the Clerk of the County of Suffolk on April 19, 2013, in Liber 12727 of Deeds at Page 158.

80. As set forth above, the Corporation is the rightful owner in fee of the Compost Yard Property and Joseph is constructive trustee thereof.

81. Joseph is known and is not an infant, mentally retarded, mentally ill or an alcohol abuser.

82. Any judgment granted herein will not affect any person or persons not in being or ascertained at the commencement of this action, who by any contingency contained in a devise or grant or otherwise, could afterward become entitled to a beneficial estate or interest in the aforesaid premises, and every person in being who would have been entitled to such estate or interest, if such event had happened immediately before the commencement of the action is named as a party hereto.

**FOURTH CAUSE OF ACTION**  
**Derivative Action**

83. Plaintiffs repeat and re-allege the allegations contained in Paragraphs 1-82 as if fully set forth at length herein.

84. Under oath, Joseph has averred that Jonathan was only a “nominal” officer of the Corporation. As such, upon information and belief, Jonathan possessed no authority or actual duties customarily residing in that office.

85. In the event it is determined that Jonathan is neither an officer nor director of the Corporation or that he is not authorized to commence and maintain this action directly on behalf of the Corporation, Jonathan brings this action derivatively as a 50% shareholder of the Corporation.

86. At all relevant times, Jos. M. Troffa Landscape and Mason Supply, Inc. was and is a close corporation.

87. Demand would be futile because Joseph exercises control over and dominates the Corporation, and he is engaged in the wrongful acts alleged above.

88. Pursuant to BCL § 626(e), Jonathan seeks reimbursement of reasonable expenses incurred in instituting and maintaining this action, including reasonable legal fees.

**WHEREFORE**, Plaintiffs Jonathan Troffa and Jos. M. Troffa Landscape and Mason Supply, Inc. demand judgment against Defendants Joseph M. Troffa, Laura J. Troffa, Jos. M. Troffa Materials Corporation, NIMT Enterprises, LLC and L.J.T. Development Enterprises, Inc. as follows:

1. On the First and Fourth Causes of Action, ordering an accounting and requiring Defendants Joseph M. Troffa, Laura J. Troffa, Jos. M. Troffa Materials Corporation, NIMT Enterprises, LLC and L.J.T. Development Enterprises to disgorge profits and pay such damages as may be proven at trial, return all compensation received during the period of their disloyalty, repay the Corporation for wasted assets estimated to exceed \$1,000,000 (ONE MILLION

DOLLARS) and punitive damages in an amount determined by the Court to be just, proper and equitable and on the Fourth Cause of Action awarding Plaintiffs reasonable attorneys' fees pursuant to New York BCL §626(e);


2. On the Second Cause of Action, impressing a constructive trust on the six identified properties, and the assets traceable thereto, and compelling Defendants Joseph M. Troffa, Laura J. Troffa, Jos. M. Troffa Materials Corporation, NIMT Enterprises, LLC and L.J.T. Development Enterprises to convey the properties to the Corporation in return for the amounts they can show they actually paid from funds that were not derived from the Corporation;

3. On the Third Cause of Action: (a) compelling Defendant Joseph M. Troffa and every person claiming under him be barred from all claims to an estate or interest in the property described as the Compost Yard Property in Paragraph 75 and Exhibit A of this Complaint; (b) adjudging and finally determining that the Corporation is vested with an absolute and unencumbered title in fee to the property described as the Compost Yard Property in Paragraph 75 and Exhibit A of this Complaint; (c) that Defendant Joseph M. Troffa be compelled to deed and/or convey the property described as the Compost Yard Property in Paragraph 75 and Exhibit A of this Complaint to the Corporation and account for any profits derived therefrom; and (d) that possession of the said property described as the Compost Yard Property in Paragraph 75 and Exhibit A of this Complaint be awarded to the Corporation and that the Corporation be put in full possession thereof; and

awarding Plaintiffs Jonathan Troffa and Jos. M. Troffa Landscape and Mason Supply, Inc. the costs and disbursements of this action plus interest and such other and further relief, as the Court deems just, proper and equitable.

Dated: Islandia, New York  
August 16, 2016

BRACKEN MARGOLIN BESUNDER LLP



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By: Jeffrey D. Powell  
Karen I. Hansen

*Attorneys for Plaintiffs*  
1050 Old Nichols Road, Suite 200  
Islandia, New York 11749  
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Via NYSCEF:

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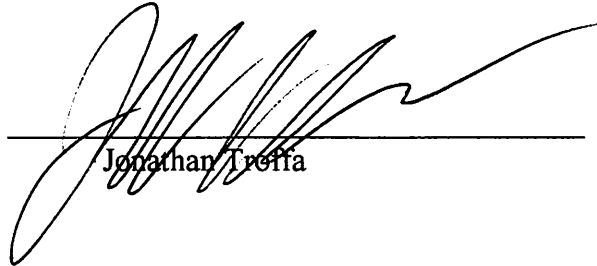
*Attorneys for Defendants*

## VERIFICATION

STATE OF NEW YORK )  
COUNTY OF SUFFOLK ) ss.:

Jonathan Troffa, being duly sworn, deposes and says:

I am one of the Plaintiffs in the within action. I have read the foregoing *Amended Complaint* and know the contents thereof. The contents are true to my own knowledge, except as to matters stated to be on information and belief, and as to those matters, I believe them to be true.



Jonathan Troffa

Sworn to before me this  
16<sup>th</sup> day of August, 2016



Notary Public

**SUSANN INGBRETSEN**  
Notary Public, State of New York  
No. 01IN4772845  
Qualified in Suffolk County  
Commission Expires April 30, 2018

Index No. 609510/2016

Year 20

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

JONATHAN TROFFA and JOS. M. TROFFA LANDSCAPE AND MASON SUPPLY, INC.,

Plaintiffs,

-against-

JOSEPH M. TROFFA, LAURA J. TROFFA, JOS. M. TROFFA MATERIALS CORPORATION,  
NIMT ENTERPRISES, LLC, L.J.T. DEVELOPMENT ENTERPRISES, INC., and JOS. M. TROFFA  
LANDSCAPE AND MASON SUPPLY, INC.,

Defendants.

Verified Amended Complaint with Exhibit

BRACKEN MARGOLIN BESUNDER LLP

Attorney(s) for *Plaintiffs*  
Office and Post Office Address  
1050 Old Nichols Road  
Suite 200  
Islandia NY 11749  
TEL 631 234 8585

To

Signature (Rule 130-1.1-a)

Attorney(s) for

Print name beneath

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for

.....

Sir: Please take notice

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a  
duly entered in the office of the clerk of the within named court on

20

☐ NOTICE OF SETTLEMENT

that an order  
settlement to the HON.

of which the within is a true copy will be presented for  
one of the judges

of the within named Court, at  
on the day of

20 at M.

Dated,

Yours, etc.

BRACKEN MARGOLIN BESUNDER LLP

Attorney(s) for

Office and Post Office Address  
1050 Old Nichols Road  
Suite 200  
Islandia NY 11749  
TEL 631 234 8585

To

Attorney(s) for