

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

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

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

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.,

**NOTICE OF MOTION  
FOR PARTIAL  
SUMMARY JUDGMENT**

Defendants.

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**PLEASE TAKE NOTICE**, that upon the Statement of Undisputed Facts submitted herewith; the annexed Affidavit of Jonathan Troffa, sworn on the 1<sup>st</sup> day of March, 2022, and the exhibits annexed thereto; the annexed Affirmation of Linda U. Margolin, dated March 1, 2022, and the exhibits annexed thereto; and the accompanying Memorandum of Law; and upon all the pleadings and proceedings heretofore had herein, the undersigned will move this Court at the Individual Assignment Part of the Hon. Jerry Garguilo, at the Supreme Court of the State of New York, to be held in and for the County of Suffolk at the Courthouse located at 400 Carleton Avenue, Central Islip, New York 11722, on the 20<sup>th</sup> day of April, 2022, at 9:30 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an Order pursuant to CPLR § 3212 granting Plaintiffs partial summary judgment:

1. Adjudging Defendant Joseph Troffa liable to JOS. M. TROFFA LANDSCAPE AND MASON SUPPLY, INC. and its shareholders for breach of fiduciary duty, waste, self-dealing and usurpation of a corporate opportunity in connection with Defendant Joseph Troffa's acquisition in his own name of a 1.78 acre parcel of land located at 70A Comsewogue Road (a/k/a Parsonage Road) in East Setauket, New York, described in the Amended Complaint as the Compost Yard;


2. Awarding judgment in favor of JOS. M. TROFFA LANDSCAPE AND MASON SUPPLY, INC. against Joseph Troffa in the amount of \$355,372, plus interest;
3. Determining that Defendants Joseph M. Troffa, Laura Troffa and NIMT Enterprises, LLC are liable to JOS. M. TROFFA LANDSCAPE AND MASON SUPPLY, INC. for all rents paid to NIMT Enterprises, LLC as rent for the Compost Yard out of funds belonging to JOS. M. TROFFA LANDSCAPE AND MASON SUPPLY, INC., directing Defendants to supply discovery already requested by Plaintiffs with respect to such rents, and setting a hearing pursuant to CPLR 3212(c) to determine the damages due to JOS. M. TROFFA LANDSCAPE AND MASON SUPPLY, INC. as a consequence;
4. Setting a procedure for determining the amount of attorney's fees to be awarded to Plaintiff Jonathan Troffa pursuant to N.Y. Business Corporation Law §624(e);

together with such other and further relief as the Court may deem just, proper and equitable including attorneys' fees and the costs and expenses of this motion.

**PLEASE TAKE FURTHER NOTICE**, that pursuant to CPLR § 2214(b), answering affidavits, if any, are required to be served upon the undersigned at least seven (7) days before the return date of this motion.

Dated: Islandia, New York  
March 1, 2021

MARGOLINBESUNDER LLP



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By: Linda U. Margolin  
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