

Sir : PLEASE TAKE NOTICE that the within is a true-certified-copy of a

duly entered in the office of the clerk of

on 19

Dated: 19 Yours, etc.

LEVINE, KIRSHON & SCHAPS

Attorneys for

Office and Post Office Address

1501 BROADWAY

New York, N. Y. 10036

To

Attorney for

NOTICE OF SETTLEMENT

Sir : PLEASE TAKE NOTICE that

of which the within is a true copy will be presented for settlement to Mr. Justice

one of the Justices of the within named Court

at on the day of 19

at M.

Dated: 19 Yours, etc.

LEVINE, KIRSHON & SCHAPS

Attorneys for

Office and Post Office Address

1501 BROADWAY

New York, N. Y. 10036

To

Attorney for

SUPREME COURT: WESTCHESTER COUNTY
HAROLD WEISBERG, Plaintiff,

against

DIAMONDSTEIN BOOK COMPANY, INC., Defendant.

VERIFIED ANSWER AND DEMAND FOR BILL OF PARTICULARS

LEVINE, KIRSHON & SCHAPS

Attorneys for Defendant

Office and Post Office Address

1501 BROADWAY

New York, N. Y. 10036

TEL. NO. CH 4-1023

To Esq.

Attorney for

Service of a copy of the within

is hereby admitted.

Dated, N. Y., 19

Attorney for

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
HAROLD WEISBERG,

Plaintiff,

INDEX NO. 1845-77

-against-

DIMONDSTEIN BOOK COMPANY, INC.,

ANSWER

Defendant.
-----X

Defendant, by its attorneys, Levine, Kirshon & Schaps, as and for its answer to the Third Cause of Action, pursuant to the order of Mr. Justice Walsh dated July 5, 1977, shows and alleges:

1. Upon information and belief, denies each and every allegation of the complaint contained in Paragraphs numbered "17", "18", "19" and "21".
2. Upon information and belief, denies each and every allegation of the complaint contained in Paragraph "20", except admits that plaintiff demanded that defendant pay him for the shipment of 1000 books and that defendant has not made payment because it has no record of receiving same.
3. Upon information and belief, denies each and every allegation of the complaint contained in Paragraph "16" thereof, except denies knowledge or information sufficient to form a belief as to each and every allegation which is repeated and realleged

from Paragraphs "1" and "3" of the complaint, admits each and every allegation which is realleged from Paragraph "2" of the complaint and denies knowledge and information sufficient to form a belief that plaintiff mistakenly shipped 1000 books to Bookazine and that plaintiff mistakenly billed Bookazine as realleged from Paragraph "13" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE AND COMPLETE DEFENSE. +

4. Upon information and belief, that defendant has paid plaintiff in full for any and all merchandise purchased and received from plaintiff.

AS AND FOR A SECOND AFFIRMATIVE AND COMPLETE DEFENSE.

5. Upon information and belief, the plaintiff is precluded from recovering under his third cause of action because of the applicable provisions of the Statute of Frauds requiring a written note or memorandum of the transaction in question.

WHEREFORE, defendant demands judgment dismissing the complaint together with the costs and disbursements of this action.

LEVINE, KIRSHON & SCHAPS
Attorneys for defendant
Office & P.O. Address
1501 Broadway
New York, N.Y. 10036

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
HAROLD WEISBERG,

Plaintiff,

Index No. 1845-77

-against-

DIMONDSTEIN BOOK COMPANY, INC.,

DEMAND FOR BILL OF
PARTICULARS

Defendant.
-----X

S I R:

PLEASE TAKE NOTICE that you are hereby required to serve and file particulars as to the following within ten days of service of this demand upon you.

1. Set forth a true copy of the bill which plaintiff alleges that he sent to Bookazine by mistake and a true copy of all answers and replies from Bookazine in response to said bill.

2. Set forth a true copy of all correspondence, contracts, agreements and written memoranda between the parties hereto or sent by one part to the other.

3. Set forth in what manner it will be alleged that defendant concealed the receipt of the 1000 books referred to in Paragraph 19 of the complaint.

4. Set forth when, by what means and from whom, plaintiff learned that defendant allegedly received the 1000 books referred to in Paragraph 19 of the complaint.

5. Set forth a true copy of each and every demand made by plaintiff upon defendant for payment for 1000 books. if

in writing, if oral, the substance of same, the date, place and who was present at the time said demand or demands were made.

6. Set forth a true copy of the bill which plaintiff allegedly sent to defendant for the 1000 books referred to in the third cause of action.

7. Set forth how plaintiff arrives at the sum of \$2,475.00 as alleged in Paragraph 21 of the complaint.

8. Set forth a true copy of the delivery receipt which allegedly shows that defendant received the 1000 books referred to in the third cause of action.

PLEASE TAKE FURTHER NOTICE that demand is hereby made for the residence address and post office address of the plaintiff, Harold Weisberg.

Dated; New York, N.Y.
July 13, 1977

Yours, etc.,

TO: JAMES H. LESAR, ESQ.
Attorney for Plaintiff
910 16th Street, N.W., Suite 600
Washington, D. C. 20006

LEVINE, KIRSHON & SCHAPS
Attorneys for Defendant
Office & P.O. Address
1501 Broadway
New York, N.Y. 10036
(212) 354-0966

STATE OF NEW YORK, COUNTY OF

ss.:

INDIVIDUAL VERIFICATION

he is the read the foregoing that the same is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true. , being duly sworn, deposes and says that in the within action; that he has and knows the contents thereof;

Sworn to before me, this day of 19

STATE OF NEW YORK, COUNTY OF

ss.:

CORPORATION VERIFICATION

he is the of the read the foregoing to his own knowledge, except as to the matters herein stated to be alleged upon information and belief, and as to those matters he believes it to be true. Deponent further says that the reason this verification is made by deponent and not by the is because the said corporation, and deponent an officer thereof, to wit, its , being duly sworn, deposes and says that herein; that he has and knows the contents thereof, and that the same is true

Sworn to before me, this day of 19

STATE OF NEW YORK, COUNTY OF

ss.:

CERTIFICATION BY ATTORNEY

The undersigned attorney hereby certifies that the within copy. has been compared by h with the original and found to be a true and complete

Dated: 19

STATE OF NEW YORK, COUNTY OF ~~New York~~

ss.:

ATTORNEY'S AFFIRMATION

The undersigned, being an attorney duly admitted to practice in the courts of this state, and being the attorney of record or an attorney acting as of counsel to the attorney of record for ~~Levine, Kirshon & Schaps, attorneys for defendant~~ in this action, affirms the following under penalty of perjury: That deponent has read the foregoing ~~answer~~ and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

The grounds of the undersigned's belief as to all matters not stated upon deponent's knowledge are as follows: ~~Conversations with employees of defendant.~~

Dated: July 13 19 77 Charles J. Pine

STATE OF NEW YORK, COUNTY OF

ss.:

AFFIDAVIT OF SERVICE BY MAIL

is over the age of 18 years and is not a party to the action and resides at , being duly sworn, deposes and says, that deponent

That on the day of 19 the deponent served a copy of the within attorney(s) for upon in the within action, at the address(s) designated by said attorney(s) by enclosing same in a postpaid properly addressed wrapper and depositing same in a post office box which is an official depository under the care and exclusive custody of and regularly maintained by the United States Post Office at State of New York.