FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y
★ FEB 04 2010 ★
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SYLVIA REMER,

Plaintiff,

- against –

RICHARD S. FULD, JR., and
ERNST & YOUNG, LLP,

Defendants.

10 CV 0502

Removed from:

Civil Court of the City of New York
County of Queens

Index No. CV-130612-09/QU

ROSS, J.

MANN. M.J.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, 1446 and 28 U.S.C. §§ 1334(b) and 1452(a), defendant Richard S. Fuld, Jr., by his undersigned attorneys, Allen & Overy LLP, hereby removes the above-captioned civil action, and all claims and causes of action therein, from the Civil Court of the City of New York, County of Queens, to the United States District Court for the Eastern District of New York. Fuld appears for the purpose of removal only and for no other purpose and reserves all defenses and rights available to him, and states as follows:

1. On December 17, 2009, plaintiff Sylvia Remer purported to initiate this action by filing a complaint against Fuld and the accounting firm Ernst & Young LLP (collectively, the "Defendants") in the Civil Court for the City of New York, County of Queens, under Index No. CV-130612-09/QU. Pursuant to Rule 81.1(b) of the Local Civil Rules of this District and 28 U.S.C. § 1446(a), a true and correct copy of all records and proceedings in the state court is attached hereto as Exhibit A.

2. Plaintiff appears to seek recovery for damages pursuant to Sections 11, 12 and 15 of the Securities Act of 1933 (the "Securities Act"). Plaintiff also seeks to recover damages for

breach of contract or warranty, misrepresentation, violation of GAAP, and false accounting statements.

3. On September 15, 2008, Lehman Brothers Holdings Inc. ("Lehman") filed a voluntary petition for reorganization under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York, In re Lehman Brothers Holdings Inc., Case No. 08-13555, et seq. (the "Lehman Brothers Bankruptcy Proceedings"). The Lehman Brothers Bankruptcy Proceedings are currently pending before U.S. Bankruptcy Judge James M. Peck. On September 19, 2008, U.S. District Judge Gerald E. Lynch of the Southern District of New York ordered the liquidation of Lehman Brothers Inc. under the Securities Investor Protection Act of 1970. The liquidation has been referred to and is now being administered by Judge Peck.

4. This action is removable to this Court for two reasons. First, this action is within the original jurisdiction of this Court under 28 U.S.C. § 1331 because it purports to assert federal claims arising under the Securities Act. In particular, plaintiff purports to assert claims against the Defendants under Sections 11, 12 and 15 of the Securities Act.

5. In addition, Fuld has been named in multiple direct and putative class actions that are currently pending before U.S. District Judge Lewis A. Kaplan in the Southern District of New York. Those actions allege, among other things, violations of Sections 11, 12 and 15 of the Securities Act and have been consolidated for pretrial purposes and discovery under the caption In re Lehman Brothers Securities and ERISA Litigation, 09 MD 2017 (LAK).

6. Second, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1334(b), and this action may be removed to this Court by Fuld pursuant to 28 U.S.C. § 1452(a), because this lawsuit is "related to" a case under Chapter 11, namely the Lehman

Brothers Bankruptcy Proceedings. This lawsuit is related to the bankruptcy rights of Lehman because of Fuld's rights to indemnification and contribution from Lehman in the event a judgment is entered against him in this action, and his rights to indemnification and contribution of any costs and expenses incurred to defend against this action. The outcome of this case will thus have a direct effect on the Lehman bankruptcy estate. Furthermore, even though the complaint fails to identify a basis for plaintiff's claims -- specifically, what product plaintiff purchased from which Lehman entity -- plaintiff has apparently premised her claim on Lehman-issued securities.

7. Pursuant to an agreement containing certain indemnification provisions for the benefit of Fuld, and pursuant to statutory and common law, Lehman owes Fuld indemnification and/or contribution obligations for any claims relating to offerings of stock. Such claims include, without limitation, plaintiff's claims in this lawsuit of violation of Sections 11, 12 and 15 of the Securities Act. As District Judge Kaplan held in denying a motion to remand filed by certain California state plaintiffs in the multidistrict litigation, "As the outcome of any or all of these claims would have a 'conceivable effect' on the Lehman bankruptcy, all are 'related to' the Lehman bankruptcy case within the meaning of 28 U.S.C. § 1334(b) and therefore were properly removed under 28 U.S.C. § 1452(a)." (See Pretrial Order No. 8 (attached as Exhibit B hereto).)

8. Fuld was not served prior to January 28, 2010, and this notice is being filed within 30 days of service on Fuld and thus is timely filed under 28 U.S.C. § 1446(b). To the undersigned counsel's knowledge, defendant Ernst & Young LLP has not been served as of the date hereof.

9. Fuld promptly will serve a copy of this Notice of Removal on plaintiff who is appearing pro se, and will file a copy of this Notice of Removal with the Clerk of the Civil Court

of the City of New York, County of Queens, pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Fuld, under 28 U.S.C. §§ 1331, 1441, 1446 and 28 U.S.C. §§ 1334(b) and 1452(a), removes this action in its entirety from the Civil Court of the City of New York, County of Queens, to the United States District Court for the Eastern District of New York.

Dated: New York, New York
February 4, 2010

ALLEN & OVERY LLP

By: _____
Patricia M. Hynes
Todd S. Fishman
1221 Avenue of the Americas
New York, New York 10020
(212) 610-6300
patricia.hynes@newyork.allenovery.com
todd.fishman@newyork.allenovery.com

Attorneys for Defendant Richard S. Fuld, Jr.

EXHIBIT A

Civil Court of the City of New York
County of Queens

Index Number: **CV-130612-09/QU**

SYLVIA REMER
Plaintiff(s)
-against-
RICHARD S. FULD , JR; ANDREW KESSLER.
Defendant(s)

AMENDED SUMMONS WITH ENDORSED COMPLAINT
BASIS OF VENUE:
Defendant's Place of Business or Employment

Plaintiff's Address (s) :
SYLVIA REMER
209-80 18 AVE
APT 6D
Bayside, NY 11360-

To the named defendant (s)
SYLVIA REMER (Pltf), at 209-80 18 AVE, APT 6D, Bayside, NY 11360-
RICHARD S. FULD JR (Deft), at c/o MATRIX ADVISORS, 780 THIRD AVE - 42ND FLOOR, New York, NY 10017-2024 ANDREW KESSLER (Deft),at c/o ERNST & YOUNG ,5 TIMES SQUARE,36TH FLOOR ,N.Y.,N. Y. 10036

YOU ARE HEREBY SUMMONED to appear in the Civil Court of the City of New York, County of Queens at the office of the Clerk of the said Court at **89-17 Sutphin Boulevard** in the **County of Queens, City and State of New York,** within the time provided by law as noted below and to file your answer to the (endorsed summons) (annexed complaint) * with the Clerk; upon your failure to answer, judgment will be taken against you for the total sum of $24,000.00 and interest as detailed below.
Plaintiff's work sheet may be attached for additional information if deemed necessary by the clerk.

Date:November 4, 2009

Jack Baer
Chief Clerk, Civil Court

ENDORSED COMPLAINT

The nature and the substance of the plaintiff's cause of action is as follows: **Breach of Contract or Warranty , Misrepresentation,Violation of GAAP,False Accounting Statements,Violation of S.E.C. Section 11,12 &15, Loss of Principal and Interest for $24,000.00 with interest from 9/15/08**

NOTE TO THE DEFENDANT

*A) If the summons is served by its delivery to you personally within the City of New York, you must appear and answer within **TWENTY** days after such service; or*

*B) If the summons is served by delivery to any person other than you personally, or is served outside the City of New York, or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed **THIRTY** days after the proof of service thereof is filed with the Clerk of this Court within which to appear and answer.*

C) Following CPLR 321(a) corporations must be represented by an attorney.

** NOTE TO THE SERVER OF THE SUMMONS*

The person who serves the summons should complete the Affidavit of Service and shall file it in the Clerk's Office in the county where the action is brought.

PLAINTIFF'S CERTIFICATION
(See 22NYCRR, Section 130-1.1a)

SIGN NAME: _____
PRINT NAME: SYLVIA REMER

[redacted] of New York

[redacted] SYLVIA REMER
Plaintiff(s)
-against-
RICHARD S. FULD, JR; LEHMAN BROS. HOLDING INC.
Defendant(s)

Index No: CV-130612-09/QU

Ex-Parte Order
To Amend Summons and Complaint

AFFIDAVIT

SYLVIA REMER being duly sworn deposes and says:
I am the [X] *Plaintiff* [ ] *Defendant* in the above captioned case. The attached exhibits are copies of papers which were filed in the Court as part of the case.
I hereby request that the annexed Summons and Complaint be amended to read as follows:
[X] add new cause(s) of action

state new cause(s) of action and each additional amount sued for FRAUD, MISREPRESENTATION VIOLATION OF GAAP, FALSE ACCOUNTING STATEMENTS VIOLATION OF SEC SECTION 11, 12, & 15. LOSS OF PRINCIPAL AND INTEREST.

[ ] change total amount sued from _____ to _____
[X] add additional party's and addresses → ADD: ANDREW KESSLER C/O ERNST & YOUNG LLP 5 TIMES SQUARE, 36TH FLOOR NY NY 10036

REMOVE: [redacted] → LEHMAN BROS. HOLDING INC. C/O WILLIAM J. FOX [redacted] 1271 AVE OF AMERICAS NY NY 10020

Sworn before to me this 2 day of NOV. 2009

J. Lane, Assoc Cl Clk.
Signature of Court Employee and Title

Sylvia Remer
Signature of Affiant

Upon the affidavit of SYLVIA REMER the summons and/or complaint is amended.
The [X] *Plaintiff* [ ] *Defendant* is ordered to:
1. Serve a copy of this order upon the defendants old + new personal service or file an affidavit of service w/ court. by regular mail ~~obtaining a certificate of mailing from the Postal Service~~
2. The original order is to be retained by the clerk and routed to the proper department to make the ordered changes.

Judge, Civil Court

NOV 02 2009

HON. ANNA CULLEY

(Ex Parte)

AMENDED

Civil Court of the City of New York — **APPLICATION FOR A PRO SE SUMMONS**

PARTIES

PLAINTIFF: (YOUR name and complete address, including your apartment number and telephone number.)
[NOTE: If the claim is based on an auto accident, the claim must be *Owner* against *Owner*].

SYLVIA REMER
209-80 18 AVE.
BAYSIDE, NY 11360

DEFENDANT(S): (The full legal name and street address (no box number) of the party(ies) you are suing. Indicate whether you are suing this party as a person or a business.)
[NOTE: If you are suing a business, indicate whether it is a partnership, a corporation or an individual with a business certificate. This information can be obtained in the County Clerk's Office in the county in which the business exists. Failure to check this information may result in a judgment which cannot be executed.]

RICHARD S. FULD JR.
C/O MATRIX ADVISORS
780 THIRD AVE.
42ND FLOOR
NY NY 10017-2024

ANDREW KESSLER
C/O ERNST & YOUNG, LLP
5 TIMES SQUARE 36TH FL.
NY NY 10036

CLAIM

REASON FOR CLAIM:

Damage caused to:	☐ automobile	☐ person	☐ property other than automobile	
Failure to provide:	☐ repairs	☐ proper services	☐ goods ordered	
Failure to return:	☐ security	☐ property	☐ deposit	☐ money
Failure to pay for:	☐ wages ☐ rent	☐ services rendered ☐ commissions	☐ insurance claim ☐ goods sold and delivered	☐ money loaned
Breach of:	☒ contract	☐ lease		
Loss of:	☐ luggage	☐ property	☐ time from work	☐ use of property
Returned:	☐ check (bounced)	☐ merchandise (not reimbursed)		

Other: (Be brief) FRAUD, MISREPRESENTATION, VIOLATION OF GAAP, FALSE ACCOUNTING STATEMENTS. VIOLATION OF SEC SECTION 11, 12 & 15. LOSS OF PRINCIPAL & INTEREST.

DETAILS OF CLAIM:

Amount of Claim: (Limit $25,000 for each Cause of Action) $ 24,000.00

Date of Occurence: 9/15/08

Place of Occurence: _____

If Car Accident: YOUR license plate # _____ DEFENDANT'S license plate # _____

Identifying Number(s): _____
(Receipt #, Claim #, Account #, Policy #, Ticket #, etc.)

NOV. 2, 2009 — Today's Date

X Sylvia Remer — Signature of Plaintiff

Civil Court of the City of New York
County of Queens

Index Number: **CV-130612-09/QU**

SYLVIA REMER
Plaintiff(s)
-against-
RICHARD S. FULD , JR; LEHMAN BROS. HOLDING INC.
Defendant(s)

SUMMONS WITH ENDORSED COMPLAINT

BASIS OF VENUE:
Defendant's Place of Business or Employment

Plaintiff's Address (s) :
SYLVIA REMER
209-80 18 AVE
APT 6D
Bayside, NY 11360-

To the named defendant (s) Keep
RICHARD S. FULD JR (Deft), at c/o MATRIX ADVISORS, 780 THIRD AVE - 42ND FLOOR, New York, NY 10017-2024
2 LEHMAN BROS. HOLDING INC. (Deft), at c/o WILLIAM J. FOX, 1271 AVE OF AMERICAS, 35TH FLOOR, New York, NY 10020- REMOVE + ENTER ANDREW KESSLER c/o ERNST & YOUNG LLP instead

YOU ARE HEREBY SUMMONED to appear in the Civil Court of the City of New York, County of Queens at the office of the Clerk of the said Court at **89-17 Sutphin Boulevard** in the **County of Queens, City and State of New York,** within the time provided by law as noted below and to file your answer to the (endorsed summons) (annexed complaint) * with the Clerk; upon your failure to answer, judgment will be taken against you for the total sum of $24,000.00 and interest as detailed below.
Plaintiff's work sheet may be attached for additional information if deemed necessary by the clerk.

Date:October 27, 2009

Jack Baer
Chief Clerk, Civil Court

ENDORSED COMPLAINT

The nature and the substance of the plaintiff's cause of action is as follows:

Breach of Contract or Warranty for $24,000.00 with interest from 09/15/2008

NOTE TO THE DEFENDANT

*A) If the summons is served by its delivery to you personally within the City of New York, you must appear and answer within **TWENTY** days after such service; or*

*B) If the summons is served by delivery to any person other than you personally, or is served outside the City of New York, or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed **THIRTY** days after the proof of service thereof is filed with the Clerk of this Court within which to appear and answer.*

C) Following CPLR 321(a) corporations must be represented by an attorney.

** NOTE TO THE SERVER OF THE SUMMONS*

The person who serves the summons should complete the Affidavit of Service and shall file it in the Clerk's Office in the county where the action is brought.

PLAINTIFF'S CERTIFICATION
(See 22NYCRR, Section 130-1.1a)

SIGN NAME: _____
PRINT NAME: SYLVIA REMER

Civil Court of the City of New York Index Number: CV-15[illegible]

County of Queens

SYLVIA REMER
Plaintiff(s)
-against-
RICHARD S. FULD , JR; LEHMAN BROS. HOLDING INC.
Defendant(s)

SUMMONS WITH ENDORSED COMPLAINT

BASIS OF VENUE:
Defendant's Place of Business or Employment

Plaintiff's Address (s) :
SYLVIA REMER
209-80 18 AVE
APT 6D
Bayside, NY 11360-

To the named defendant (s)

RICHARD S. FULD JR (Deft), at c/o MATRIX ADVISORS, 780 THIRD AVE - 42ND FLOOR, New York, NY 10017-2024

LEHMAN BROS. HOLDING INC. (Deft), at c/o WILLIAM J. FOX, 1271 AVE OF AMERICAS, 35TH FLOOR, New York, NY 10020-

YOU ARE HEREBY SUMMONED to appear in the Civil Court of the City of New York, County of Queens at the office of the Clerk of the said Court at **89-17 Sutphin Boulevard** in the **County of Queens, City and State of New York,** within the time provided by law as noted below and to file your answer to the (endorsed summons) (annexed complaint) * with the Clerk; upon your failure to answer, judgment will be taken against you for the total sum of $24,000.00 and interest as detailed below.
Plaintiff's work sheet may be attached for additional information if deemed necessary by the clerk.

Date:October 27, 2009

Jack Baer
Chief Clerk, Civil Court

ENDORSED COMPLAINT

The nature and the substance of the plaintiff's cause of action is as follows:

Breach of Contract or Warranty for $24,000.00 with interest from 09/15/2008

NOTE TO THE DEFENDANT

*A) If the summons is served by its delivery to you personally within the City of New York, you must appear and answer within **TWENTY** days after such service; or*

*B) If the summons is served by delivery to any person other than you personally, or is served outside the City of New York, or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed **THIRTY** days after the proof of service thereof is filed with the Clerk of this Court within which to appear and answer.*

C) Following CPLR 321(a) corporations must be represented by an attorney.

** NOTE TO THE SERVER OF THE SUMMONS*

The person who serves the summons should complete the Affidavit of Service and shall file it in the Clerk's Office in the county where the action is brought.

PLAINTIFF'S CERTIFICATION
(See 22NYCRR, Section 130-1.1a)

SIGN NAME: _____
PRINT NAME: SYLVIA REMER

AMENDED

Civil Court of the City of New York — **APPLICATION FOR A PRO SE SUMMONS**

PARTIES

PLAINTIFF: (YOUR name and complete address, including your apartment number and telephone number.)
[NOTE: If the claim is based on an auto accident, the claim must be *Owner* against *Owner*].

SYLVIA REMER
209-80 18 AVE.
BAYSIDE, NY 11360

DEFENDANT(S): (The full legal name and street address (no box number) of the party(ies) you are suing. Indicate whether you are suing this party as a person or a business.)
[NOTE: If you are suing a business, indicate whether it is a partnership, a corporation or an individual with a business certificate. This information can be obtained in the County Clerk's Office in the county in which the business exists. Failure to check this information may result in a judgment which cannot be executed.]

RICHARD S. FULD JR.
C/O MATRIX ADVISORS
280 THIRD AVE.
4TH FLOOR
NY NY 10017-2024

ANDREW KESSLER
C/O ERNST & YOUNG, LLP
5 TIMES SQUARE 36TH FL.
NY NY 10036

CLAIM

REASON FOR CLAIM:

Damage caused to:	☐ automobile	☐ person	☐ property other than automobile	
Failure to provide:	☐ repairs	☐ proper services	☐ goods ordered	
Failure to return:	☐ security	☐ property	☐ deposit	☐ money
Failure to pay for:	☐ wages ☐ rent	☐ services rendered ☐ commissions	☐ insurance claim ☐ goods sold and delivered	☐ money loaned
Breach of:	☒ contract	☐ lease		
Loss of:	☐ luggage	☐ property	☐ time from work	☐ use of property
Returned:	☐ check (bounced)	☐ merchandise (not reimbursed)		

Other: (Be brief) FRAUD, MISREPRESENTATION, VIOLATION OF GAAP, FALSE ACCOUNTING STATEMENTS. VIOLATION OF SAFC SECTION 11, 12 & 15. LOSS OF PRINCIPAL & INTEREST.

DETAILS OF CLAIM:

Amount of Claim: (Limit $25,000 for each Cause of Action) $ 24,000.00

Date of Occurence: 9/15/08

Place of Occurence: _____

If Car Accident: YOUR license plate # _____ DEFENDANT'S license plate # _____

Identifying Number(s): _____
(Receipt #, Claim #, Account #, Policy #, Ticket #, etc.)

_____ X Sylvia Remer
Today's Date — Signature of Plaintiff

Civil Court of the City of New York
County of Queens

Index No: CV-130612-09/QU

SYLVIA REMER
Plaintiff(s)
-against-
RICHARD S. FULD , JR; LEHMAN BROS. HOLDING INC.
Defendant(s)

Ex-Parte Order
To Amend Summons and Complaint

CIVIL COURT
of the
City of New York
NOV - 2 2009
ENTERED
QUEENS COUNTY

AFFIDAVIT

SYLVIA REMER being duly sworn deposes and says:
I am the [X] *Plaintiff* [ ] *Defendant* in the above captioned case. The attached exhibit is copies of papers which were filed in the Court as part of the case.
I hereby request that the annexed Summons and Complaint be amended to read as follows:
[X] add new cause(s) of action
state new cause(s) of action and each additional amount sued for FRAUD, MISREPRESENTATION, VIOLATION OF GAAP FALSE ACCOUNTING STATEMENTS VIOLATION OF SEC SECTION 11, 12 + 15. LOSS OF PRINCIPAL AND INTEREST

[ ] change total amount sued from to
[X] add additional party's and addresses ADD: ANDREW KESSLER c/o ERNST + YOUNG LLP 5 TIMES SQUARE 36TH FLOOR NY NY 10036
REMOVE: WILLIAM J. FOX 1271 AVE. OF AMERICAS 35TH FLOOR NY NY 10020

Sworn before to me this 30 day of OCT. 2009

SCC
Signature of Court Employee and Title

Sylvia Remer
Signature of Affiant

Upon the affidavit of SYLVIA REMER the summons and/or complaint is amended.
The [X] *Plaintiff* [ ] *Defendant* is ordered to:
1. Serve a copy of this order upon the defendants by regular mail obtaining a certificate of mailing from the Postal Service
2. The original order is to be retained by the clerk and routed to the proper department to make the ordered changes.

DENIED
PLEASE CONFORM AND RETURN TO CLERK

Judge, Civil Court

OCT 30 2009

HON. CARMEN R. VELASQUEZ

Denied
So ordered
Denied
WILLIAM J. FOX IS NOT NAMED AS A DEFENDANT IN THIS ACTION + LEAVE OF COURT IS NOT REQUIRED TO AMEND COMPLAINT (SEE CPLR 3025a)

CARMEN R. VELASQUEZ
JUDGE, CIVIL COURT

Civil Court of the City of New York
County of Queens

Index No: CV-130612-09/QU

SYLVIA REMER
Plaintiff(s)
-against-
RICHARD S. FULD, JR; LEHMAN BROS. HOLDING INC.
Defendant(s)

Ex-Parte Order
To Amend Summons and Complaint

DENIED
PLEASE CONFORM AND RETURN TO CLERK

AFFIDAVIT

SYLVIA REMER being duly sworn deposes and says:
I am the [X] *Plaintiff* [ ] *Defendant* in the above captioned case. The attached exhibits are copies of papers which were filed in the Court as part of the case.
I hereby request that the annexed Summons and Complaint be amended to read as follows:
[X] add new cause(s) of action
state new cause(s) of action and each additional amount sued for FRAUD MISREPRESENTATION VIOLATION OF GAAP FALSE [illegible] VIOLATION OF SEC SECTION 11, 12 & 15 LOSS OF PRINCIPAL AND INTEREST

[ ] change total amount sued from _____ to _____
[X] add additional party's and addresses ANDREW ROSS
REMOVE c/o KRISTY YOUNG, ~~LLP~~ ~~LLP~~ LLP
WILLIAM V. FOX SEARS SUPL. ATT. [illegible]
~~LEHMAN BROS~~ NY NY [illegible]
HOLDING
(271) ALE OF AMERICAS NYNY [illegible]
Sworn before to me this 28 day of OCT 2009

Signature of Court Employee and Title

Signature of Affiant

Upon the affidavit of SYLVIA REMER the summons and/or complaint is amended.
The [X] *Plaintiff* [ ] *Defendant* is ordered to:
1. Serve a copy of this order upon the defendants by regular mail ~~obtaining a certificate of mailing from~~ the Postal Service
2. The original order is to be retained by the clerk and routed to the proper department to make the ordered changes.

DENIED
PLEASE CONFORM AND RETURN TO CLERK

Denied. Leave to file amended complaint (See CPLR 3025a) (also clarify for summons how many day are added)

Judge, Civil Court

OCT 29 2009

HON. CARMEN R. VELASQUEZ

[illegible] OF THE CITY OF NEW YORK APPLICATION FOR A SUMMONS

130612

FILED GENERAL CLERK OCT 27 2009 CIVIL COURT-QUEENS COUNTY 2009

PARTIES

PLAINTIFF: (Your name and complete address, including your apartment number and telephone number. If the claim is based on an auto accident, the claim must be *Owner* against *Owner*).

SYLVIA REMER
209-80 18 AVE., APT. 6D
BAYSIDE, NY 11360 718-224-7262

DEFENDANT(S): (The full legal name and street address (no box number) of the party(ies) you are suing. Indicate whether you are suing this party as a person or a business.) [NOTE: If you are suing a business, indicate whether it is a partnership, a corporation or an individual with a business certificate. This information can be obtained in the County Clerk's Office in the county in which the business is located. Failure to check this information may result in a judgment which cannot be executed.]

RICHARD S. FULD, JR.
c/o MATRIX ADVISORS,
780 THIRD AVE. - 42ND FLOOR
NEW YORK, NEW YORK 10017-2024

LEHMAN BROS. HOLDING INC
c/o WILLIAM T. FOX
1271 AVE. OF AMERICAS
35TH FLOOR
NEW YORK, NEW YORK 10020

CLAIM

REASON FOR CLAIM:

Damage cause to:	☐ automobile	☐ person	☐ property other than automobile	
Failure to provide:	☐ repairs	☐ proper service	☐ goods ordered	
Failure to return:	☐ security	☐ property	☐ deposit	☐ money
Failure to pay for:	☐ wages ☐ rent	☐ services rendered ☐ commissions	☐ insurance claim ☐ goods sold and delivered	☐ money loaned
Breach of:	☒ contract	☐ lease		
Loss of:	☐ luggage	☐ property	☐ time from work	☐ use of property
Returned:	☐ check (bounced)	☐ merchandise (not reimbursed)		

Other: (Be brief) SYLVIA REMER PLAINTIFF IS CREDITOR OF LEHMAN BROS INC. (LBHI) THE LAST SENIOR NOTE HOLDER.

CLAIMS: MISREPRESENTATION & FRAUD. HIDING THE TRUE STATE OF LEHMAN BROS. BALANCE SHEET, LIQUIDITY & ITS EXPOSURE TO REAL ESTATE. LOSS OF PRINCIPAL & FAILURE TO PAY INTEREST ON NOTES HELD BY PLAINTIFF.

DETAILS OF CLAIM:

Amount of Claim: (Limit $25,000 for each Cause of Action) $ 24,000.00

Date of Occurrence: 9/15/2008

Place of Occurrence: NEW YORK, NEW YORK

If Car Accident: YOUR license plate # _____ DEFENDANT'S license plate # _____

Identifying Number(s): _____
(Receipt #, Claim #, Account #, Policy #, Ticket #, etc.)

10/27/09
Date

x Sylvia Remer
Signature of Plaintiff

CIV-GP-59-i (Revised 7/04)

FREE CIVIL COURT FORM
No fee may be charged to fill in this form.
Form can be found at: http://www.nycourts.gov/courts/nyc/civil/forms.shtml.

Civil Court of the City of New York
County of QUEENS
Part 34

Index Number 13 CV 0/09
Motion Cal. # 21 Motion Seq. # _____

SYLVIA REMER

~~Claimant(s)~~/Plaintiff(s)/~~Petitioner(s)~~
against
RICHARDS FILD, JR., et al

Defendant(s)/~~Respondent(s)~~

DECISION/ORDER

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

Papers	Numbered
Notice of Motion and Affidavits Annexed	
Order to Show Cause and Affidavits Annexed	1
Answering Affidavits	
Replying Affidavits	
Exhibits	
Other	

Upon the foregoing cited papers, the Decision/Order on this Motion to toward Summons and Complaint is as follows:

The plaintiff's motion to amend the Summons and Complaint to delete the name of Andrew Kessler is granted, without opposition.

Plaintiff is directed to file an amended Summons and Complaint, with a copy of this Order, within ten days of entry of this Order.

Civil Court of the City of New York
DEC 17 2009
ENTERED
QUEENS COUNTY

DEC 17 2009
Date

CRW
Judge, Civil Court

CIV-GP-85 (Revised, September, 1999)

Civil Court of the City of New York

County of Queens

Index Number: **CV-130612-09/QU**

SYLVIA REMER
Plaintiff(s)
-against-
RICHARD S. FULD, JR.
ERNST & YOUNG, LLP
Defendant(s)

SUMMONS WITH ENDORSED AMENDED COMPLAINT

BASIS OF VENUE:
Defendant's Place of Business or Employment

Plaintiff's Address (s) :
SYLVIA REMER
209-80 18 AVE
APT 6D
Bayside, NY 11360-

To the named defendant (s)
SYLVIA REMER (Pltf), at 209-80 18 AVE, APT 6D, Bayside, NY 11360-
RICHARD S. FULD JR (Deft), at c/o MATRIX ADVISORS, 780 THIRD AVE - 42ND FL., New York,10017-2024;
ERNST & YOUNG, LLP , 5 TIMES SQUARE,36TH FLOOR ,N.Y.,N.Y. 10036

YOU ARE HEREBY SUMMONED to appear in the Civil Court of the City of New York, County of Queens at the office of the Clerk of the said Court at **89-17 Sutphin Boulevard** in the **County of Queens, City and State of New York,** within the time provided by law as noted below and to file your answer to the (endorsed summons) (annexed complaint) * with the Clerk; upon your failure to answer, judgment will be taken against you for the total sum of $24,000.00 and interest as detailed below.
Plaintiff's work sheet may be attached for additional information if deemed necessary by the clerk.

Date: December 17, 2009

Jack Baer
Chief Clerk, Civil Court

ENDORSED AMENDED COMPLAINT

The nature and the substance of the plaintiff's cause of action is as follows: **Breach of Contract or Warranty , Misrepresentation,Violation of GAAP,False Accounting Statements,Violation of S.E.C. Section 11,12 &15, Loss of Principal and Interest for $24,000.00 with interest from 9/15/08**

NOTE TO THE DEFENDANT

*A) If the summons is served by its delivery to you personally within the City of New York, you must appear and answer within **TWENTY** days after such service; or*

*B) If the summons is served by delivery to any person other than you personally, or is served outside the City of New York, or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed **THIRTY** days after the proof of service thereof is filed with the Clerk of this Court within which to appear and answer.*

C) Following CPLR 321(a) corporations must be represented by an attorney.

** NOTE TO THE SERVER OF THE SUMMONS*

The person who serves the summons should complete the Affidavit of Service and shall file it in the Clerk's Office in the county where the action is brought.

PLAINTIFF'S CERTIFICATION
(See 22NYCRR, Section 130-1.1a)

SIGN NAME: X Sylvia Remer
PRINT NAME: SYLVIA REMER

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

In re:

LEHMAN BROTHERS SECURITIES AND ERISA LITIGATION

09 MD 2017 (LAK)

This Document Applies to: 09 Civ. 1238, 09 Civ. 1239
09 Civ. 1944, 09 Civ. 3474
09 Civ. 3475, 09 Civ. 3476

- x

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED #: 4/22/09

PRETRIAL ORDER NO. 8
(Motions to Remand)

LEWIS A. KAPLAN, *District Judge.*

These six actions were commenced in California state courts, removed to federal district courts and transferred here by the Multidistrict Panel. Plaintiffs, unlike other plaintiffs in California actions that are similar situated, move to remand to the state courts. They argue that the claims against Ernst & Young ("E&Y") were not properly removed because they are not related to the bankruptcy of Lehman Brothers Holdings, Inc. ("Lehman") and thus do not fall within 28 U.S.C. § 1452(a). They contend also that these six cases should be remanded in their entirety, pursuant to 28 U.S.C. § 1452(b), as a matter of discretion.

1. Five of the six plaintiffs have filed claims against Lehman in the Lehman bankruptcy. To the extent they recover against E&Y in these actions, the amounts of those claims would be reduced. Further, E&Y has potential claims against the Lehman estate for contribution should plaintiffs prevail against it in these actions. As the outcome of any or all of these claims would have a "conceivable effect" on the Lehman bankruptcy, all are "related to" the Lehman bankruptcy case within the meaning of 28 U.S.C. § 1334(b) and therefore were properly removed under 28 U.S.C. § 1452(a). *E.g., Bondi v. Grant Thornton Int'l*, 322 B.R. 44, 47 (S.D.N.Y. 2005) (quoting *In re Cuyahoga Equip. Corp.*, 980 F.2d 110, 114 (2d Cir. 1992)); *In re Worldcom, Inc. Secur. Litig.*, 293 B.R. 308, 322-23 (S.D.N.Y. 2003).

2. The predominant inquiry in determining whether to grant a request for permissive abstention or equitable remand is whether a case presents a "particularly unusual question of State law." *In re Pan Am. Corp.*, 950 F.2d 839, 846 (2d Cir. 1991) (internal quotation marks omitted). Courts consider also the so-called *Drexel* factors. *See The Drexel Burnham Lambert Group, Inc. v. Vigilant Ins. Co.*, 130 B.R. 405, 407 (S.D.N.Y. 1991).

Plaintiffs here rely principally on a contention that these cases center on an expansive, little interpreted and important statutory scheme. Without intending to denigrate in any

way the importance of the California statutes to which they refer, the moving plaintiffs are attempting to have the tail wag the dog. These are, first and foremost, federal securities cases. The state law issues that may arise are not predominant, unusual or difficult. The state law claims, moreover, overlap the federal claims to a significant degree. Nor do the other *Drexel* factors support plaintiffs, either individually or collectively.

* * *

Accordingly, plaintiffs' motions to remand [09 MD 2017 docket item 54, 09 Civ. 1238 docket item 9, 09 Civ. 1239 docket item 8, 09 Civ. 1944 docket item 2 as well as the motions to remand on the transferor courts' docket sheets in 09 Civ. 3474, 09 Civ. 3975 and 09 Civ. 3976] all are denied.

SO ORDERED.

Dated: April 22, 2009

Lewis A. Kaplan
United States District Judge

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y
★ FEB 04 2010 ★
BROOKLYN OFFICE

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Sylvia Remer

(b) County of Residence of First Listed Plaintiff Queens County, NY
(EXCEPT IN U.S. PLAINTIFF CASES)

10 0502

(c) Attorney's (Firm Name, Address, and Telephone Number)

Pro se (209-80 18 Ave, Apt. 6D, Bayside, NY 11360)

DEFENDANTS

Richard S. Fuld, Jr. and Ernst & Young LLP

County of Residence of First Listed Defendant Fairfield County, CT
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

ROSS, J.
MANN, M.J.

Attorneys (If Known)

Patricia M. Hynes and Todd S. Fishman of Allen & Overy LLP represent Richard S. Fuld, Jr.

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☒ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):
28 U.S.C. §§ 1331, 1441, 1446, and 28 U.S.C. §§ 1334(b) and 1452(a)

Brief description of cause:
Related to a Chapter 11 bankruptcy proceeding.

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE Ross MAG. JUDGE Mann

502.

ARBITRATION CERTIFICATION

I,_____, counsel for _____ do hereby certify pursuant to the Local Arbitration Rule 83.10 that to the best of my knowledge and belief the damages recoverable in the above captioned civil action exceed the sum of $150,000 exclusive of interest and costs. _____Relief other than monetary damages is sought.

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more or its stocks:

RELATED CASE STATEMENT (SECTION VIII)

All cases that are arguably related pursuant to Division of Business Rule 50.3.1 should be listed in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County: No

2.) If you answered "no" above:

a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No

b) Did the events of omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? No

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes ✓ No_____

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes_____(If yes, please explain) No ✓

Please provide your E-MAIL address and bar code below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number or any other four digit number registered by the attorney with the Clerk of Court. (This information must be provided pursuant to local rule 11.1(b) of the civil rules).

Attorney Bar Code: _____

E-MAIL Address: todd.fishman@newyork.allenovery.com

Electronic filing procedures were adopted by the Court in Administrative Order No. 97-12, "In re: Electronic Filing Procedures (ECF)." Electronic filing became mandatory in Administrative Order 2004-08, "In re: Electronic Case Filing." Electronic service of all papers is now routine.

I certify the accuracy of all information provided above.

Signature: Todd Fishman