

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ORLEANS

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**EDWARD KANE, as Administrator of the  
Estate of KAREN KANE  
4131 Lake Road  
Holley, New York 14470**

and

**EDWARD KANE  
4131 Lake Road  
Holley, New York 14470**

*Plaintiffs,*

v.

**SUMMONS**  
Served with Complaint

Index No. \_\_\_\_\_

**JOSEPH L. PENNA, as Administrator of the  
Estate of JOSEPH A. PENNA,  
3973 Lake Road  
Holley, New York 14470,**

and

**LISA PENNA  
3973 Lake Road  
Holley, New York 14470**

*Defendants.*

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**TO THE ABOVE NAMED DEFENDANT:**

**YOU ARE HEREBY SUMMONED AND REQUIRED** to serve upon the Plaintiff's attorney, at the address stated below, a written Answer to the attached Complaint.

If this Summons is served upon you within the State of New York by personal service you must respond within TWENTY (20) days after service, not counting the day of service. If this Summons is not personally delivered to you within the State of New York you must respond within THIRTY (30) days after service is completed, as provided by law.

If you do not respond to the attached Complaint within the applicable time limitation stated above, a Judgment will be entered against you, by default, for the relief demanded in the Complaint, without further notice to you.

This action is brought in the County of Orleans because of Plaintiffs' residence.

DATED: Buffalo, New York  
June 22, 2005

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**DAVID W. POLAK, ESQ.**  
**John Feroletto - Attorneys at Law**  
***Attorneys for Plaintiffs***  
**1220 Liberty Building, 424 Main Street**  
**Buffalo, New York 14202**  
**Telephone: (716) 854-0700**

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ORLEANS

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**EDWARD KANE, as Administrator of the  
Estate of KAREN KANE, deceased,**

**and**

**EDWARD KANE,**

*Plaintiffs,*

**COMPLAINT**

**v.**

Index No: \_\_\_\_\_

**JOSEPH L. PENNA, as Administrator of the  
Estate of JOSEPH A. PENNA, deceased,**

**and**

**LISA PENNA,**

*Defendants.*

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The plaintiffs, EDWARD KANE, as Executor of the Estate of KAREN KANE, and EDWARD KANE, through their attorney, John P. Feroletto, Esq., submit the following as and for their Complaint herein and allege that:

1. Plaintiff EDWARD KANE, as Administrator of the Estate of KAREN KANE, is a resident of the Town of Holley, County of Orleans and State of New York.
2. Plaintiff EDWARD KANE is a resident of the Town of Holley, County of Orleans and State of New York.
3. Upon information and belief, the defendant JOSEPH L. PENNA, as Administrator of the Estate of JOSEPH A. PENNA, is a resident of the Town of Holley, County of Orleans, State of New York.
4. Upon information and belief, the defendant LISA PENNA is a resident of the Town

of Holley, County of Orleans, State of New York.

**AS AND FOR THE FIRST CAUSE OF ACTION  
AGAINST JOSPEH L. PENNA, AS ADMINISTRATOR OF THE  
ESTATE OF JOSEPH A. PENNA, JOSEPH L. PENNA, AND LISA PENNA:**

5. That on or about June 24, 2003 at approximately 3:57 p.m., the late KAREN KANE was lawfully proceeding on Route 31 in the Town of Murray when her vehicle was struck by a vehicle owned by the defendant(s) JOSEPH L. PENNA as Administrator of the Estate of JOSEPH A. PENNA, and LISA PENNA and operated by the late JOSEPH A. PENNA.

6. The accident was caused solely and wholly by the negligence of defendants, JOSEPH L. PENNA as Administrator of the Estate of JOSEPH A. PENNA, and LISA PENNA, without any fault on the part of the plaintiffs.

7. The late KAREN KANE was at all times exercising due care.

8. That by reason of the negligence of the late JOSEPH A. PENNA, the late KAREN KANE sustained serious injuries as defined by Subdivision D of Section 5102 of the New York State Insurance Law.

9. That by reason of the negligence of the late JOSEPH A. PENNA and defendant(s) JOSEPH L. PENNA as Administrator of the Estate of JOSEPH A. PENNA, and LISA PENNA, the accident on the foregoing time and date resulted in the death of the late KAREN KANE all to the damage of EDWARD KANE as Administrator of the Estate of KAREN KANE, in a sum in excess of all lower courts that would otherwise have jurisdiction along with cost, and disbursements in this action and for such other and further relief as the court may deem just and proper.

**AS AND FOR A SECOND CAUSE OF ACTION  
AGAINST DEFENDANTS JOSEPH L. PENNA AS EXECUTOR  
OF THE ESTATE OF JOSEPH A. PENNA, JOSEPH L. PENNA, AND LISA PENA:**

10. Plaintiffs repeat and reallege paragraphs 1 through 9 as if fully set forth herein.

11. At all times herein relevant, the plaintiff, EDWARD KANE, was the spouse of the late KAREN KANE, and as such was and is entitled to the services, society, companionship, love, solace, consortium, and affection of his spouse and will suffer from such deprivation in the future all to his great monetary damage and loss.

12. By reason of all the foregoing, the plaintiff, EDWARD KANE, has been damaged in a sum in excess of all lower courts that would otherwise have jurisdiction along with cost, and disbursements in this action and for such other and further relief as the court may deem just and proper.

**AS AND FOR A THIRD CAUSE OF ACTION  
AGAINST DEFENDANTS JOSEPH L. PENNA AS ADMINISTRATOR OF THE  
ESTATE OF JOSEPH A. PENNA, AND LISA PENNA**

13. Plaintiffs repeat and reallege paragraphs 1 through 12 as if fully set forth herein.

14. Defendants recklessly, negligently and wantonly entrusted JOSEPH A. PENNA, purchased for or provided to JOSEPH A. PENNA a high performance red vehicle or other vehicle when they knew or should have known it was unreasonable to do so due to the propensities of JOSEPH A. PENNA to act wildly, drive dangerously, recklessly, speed and endanger the life of and welfare of the public and did provide the vehicle to JOSEPH A. PENNA on the date of the collision when it unreasonable to do so.

15. By reason of the above acts or omission the collision at the above time and date resulted in the death of the late KAREN KANE all to the damage of EDWARD KANE personally and as Administrator of the Estate of KAREN KANE in a sum in excess of all lower courts that would otherwise have jurisdiction along with cost and disbursements in

this action and for such other further relief as the court may deem just and proper.

**WHEREFORE**, the plaintiffs demand judgment against the defendants JOSEPH L. PENNA as Administrator of the Estate of JOSEPH A. PENNA, and LISA PENNA as follows:

- 1) As and for the first cause of action, plaintiffs demand judgment against the defendants herein in an amount in excess of all lower courts that would otherwise have jurisdiction,
- 2) As and for the second cause of action, plaintiffs demand judgment against the defendants herein in an amount in excess of all lower courts that would otherwise have jurisdiction,
- 3) As and for the third cause of action, plaintiffs demand judgement against the defendants herein in an amount in excess of all lower courts that would otherwise have jurisdiction.
- 4) Together with the costs and disbursements of this action and for such other and further relief as to this Court may deem just and proper.

DATED: Buffalo, New York  
June 22, 2005

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**DAVID W. POLAK**  
**John Feroletto - Attorneys at Law**  
***Attorneys for Plaintiff***  
**1220 Liberty Building**  
**424 Main Street**  
**Buffalo, New York 14202**  
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