

**SHORT FORM ORDER**

**SUPREME COURT - STATE OF NEW YORK  
COUNTY OF NASSAU**

Present:

**Hon. Thomas Feinman**  
Justice

\_\_\_\_\_  
J. GIANNIK SIDING CORP. and  
JOSEPH GIANNIK, Individually,

Plaintiffs,

- against -

PATRICIA GIANNIKAKIS d/b/a PATTY'S TEA  
ROOM, VICTORIA TEA ROOM, INC. and  
PATRICIA GIANNIKAKIS, Individually,

Defendants.  
\_\_\_\_\_

TRIAL/IAS PART 13  
NASSAU COUNTY

INDEX NO. 12894/09

MOTION SUBMISSION  
DATE: 3/2/11

MOTION SEQUENCE  
NO. 2

The following papers read on this motion:

Notice of Motion and Affidavits.....	<u>X</u>
Affirmation in Opposition.....	<u>N/A</u>
Reply Affirmation.....	<u>N/A</u>

The plaintiffs move for an order striking the defendants' Answer for failure to comply with this Court's order dated October 27, 2010, ordering the defendants to comply with outstanding discovery demands and appear for court-ordered depositions, as the defendants failed to comply with this Court's prior Preliminary Conference Order. The defendant, Patricia Giannikakis, *pro se*, submits opposition, yet no proof of service of such opposition, and therefore, the opposition cannot be heard. In any event, assuming *arguendo*, that the opposition was served, the opposition is unavailing as it does not provide any proof of compliance with this Court's prior orders.

The plaintiff's motion for an order striking the defendants' Answer is granted.

A hearing is required on the issue of damages.


Subject to the approval of the Justice there presiding and **provided a note of issue has been filed at least ten (10) days prior thereto**, this matter shall appear on the calendar of CCP for the **13<sup>th</sup> day of July, 2011 at 9:30 a.m.**

A copy of this order shall be served on the Calendar Clerk and accompany the notice of issue when filed. **The failure to file a note of issue or appear as directed may be deemed an abandonment of the claims giving rise to the hearing.**

The directive with respect to a hearing is subject to the right of the Justice presiding in CCP to refer the matter to a Justice, or a Court Attorney/Referee, as he or she deems appropriate. In the event that the matter is referred to a Court Attorney/Referee, such Court Attorney/Referee is given the jurisdiction to hear and determine and resolve all issues.

Notwithstanding anything to the contrary, attorney for movant shall serve a copy of this order, with notice of entry, on the **defendants by regular and certified mail.**

ENTER



A handwritten signature in black ink, appearing to be 'J.S.C.', is written over a horizontal line.

J.S.C.

Dated: April 13, 2011

cc: Clark & Amadio, P.C.  
Patricia Giannikakis (2)  
Victorian Tea Room, Inc.

**ENTERED**  
APR 21 2011  
NASSAU COUNTY  
COUNTY CLERK'S OFFICE