

# **DEBOUR AFFIDAVIT**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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J. ARMAND MUSEY,

Plaintiff,

Index No. 157316/2014

-against-

**AFFIDAVIT OF  
KAREL DE BOER**

425 EAST 86 APARTMENTS CORP., DOUGLAS  
ELLIMAN PROPERTY MANAGEMENT,  
FRANK CHANEY, PATRICIA CARBON,  
DAVID MUNVES, MICHAEL CONSIDINE,  
SUZANNE KEANE a/k/a SUZANNE JULIG,  
JENNIFER KRUEGER, GEORGE GREENBERG,  
ALEXANDER SHAPIRO and LESLIE SPITALNICK,

Defendants.

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STATE OF NEW YORK )

ss.

COUNTY OF NEW YORK )

**KAREL DE BOER**, being duly sworn, deposes and says:

1. I am an account executive employed by Residential Management Group, LLC d/b/a Douglas Elliman Property Management (“DEPM”), a property management company operating in New York City and a named defendant herein. Through my employment by DEPM, since approximately May 15, 2008, I have been the managing agent for 425 East 86 Apartments Corp. (the “Co-op”), another defendant in the above-captioned matter. As such, I am fully familiar with the facts and circumstances underlying this action and relevant to the present motion. I submit this affidavit in support of the dismissal motion filed on behalf of the Co-op, DEPM and all other individual defendants other than George Greenberg, who is – as I understand it – represented by separate counsel.

2. Based upon my review of the complaint filed in this matter, it appears that the plaintiff, J. Armand Musey (“Plaintiff”), is of the belief that when PH-A (the “Apartment”) was owned and occupied by its prior owner/occupant – Elaine Kaufman – the roof space immediately outside the Apartment had on it a covering over the roof membrane such as to allow this space to be used for entertainment purposes. This was not the case.

3. The roof space immediately outside the Apartment was – since the time that I came to be the property manager for the Co-op – a “service” rather than an “entertainment” roof.

4. What I mean by that it is that it was set up in such a way so as to facilitate access to building apparatus in the event necessary, but that it was not improved so as to invite or enable comfortable use thereof for dining, entertaining, relaxing, etc.

5. Certainly, neither the Co-op nor Ms. Kaufman had ever, to my knowledge, installed any decking or other surface over the roof membrane.

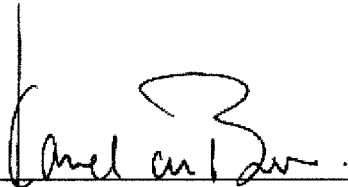
6. To my knowledge, while she did have doors leading out from the Apartment to this roof area, Ms. Kaufman did not use the roof space for entertaining or for any purpose than opening the doors to let some fresh air in to the Apartment.

7. Certainly, at the time that the Apartment was being shown for sale after Ms. Kaufman’s death, all that was on this area of the roof were building materials that were being used in connection with the façade restoration project that was going on at that time.

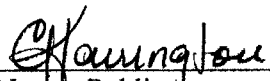
8. This roof area was not set up as an “entertainment terrace” at any time that I have been managing this property.

9. I should also note that back in the mid-1980’s, I was a real estate broker and in that capacity, I showed the Apartment to prospective purchasers (who, ultimately, were outbid by

space immediately outside the Apartment at that time was also in “service” roof, rather than “entertainment” roof, condition.

  
Karl de Boer

Sworn to me this  
29<sup>th</sup> day of October, 2014

  
Notary Public

CINDY HARRINGTON  
Notary Public - State of New York  
No. 01HA698204  
Qualified in Kings County  
Commission Expires on December 8, 2016