

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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NORTH STATE AUTOBAHN INC. d/b/a  
North State Custom,

Plaintiff,

-against-

MERCEDES-BENZ USA, LLC,  
CELEBRITY AUTO OF WESTCHESTER,  
LLC d/b/a Mercedes-Benz of Goldens  
Bridge, and S&L COLLISION CENTER,  
Inc.,

Defendants.

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Index No. 67559/2017

**THIRD PARTY SUMMONS**

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CELEBRITY AUTO OF WESTCHESTER,  
LLC d/b/a Mercedes-Benz of Goldens  
Bridge

Counterclaimants/and  
Third Party Plaintiff,

-against-

NORTH STATE AUTOBAHN INC. d/b/a  
North State Custom,

Counterclaim  
Defendant,

and

GREGORY COCCARO, JR.,

Third Party Defendant.

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Index No. 67559/2017

TO: THE ABOVE NAMED THIRD PARTY DEFENDANT:

***YOU ARE HEREBY SUMMONED*** to answer the third party complaint in this action and to serve a copy of your answer on the third party plaintiff within twenty (20) days after the service of this third party summons, exclusive of the day of service (or within thirty (30) days

after the service is complete if this third party summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the third party complaint.

Dated: November 22, 2017

**FOX ROTHSCHILD LLP**

By: /s/ Marc J. Gross  
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*Attorneys for Defendant Celebrity  
Auto of Westchester, LLC d/b/a  
Mercedes-Benz of Goldens Bridge*

To: Gregory Coccaro, Jr.  
114 Green Lane  
Bedford Hills, NY 10507

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

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NORTH STATE AUTOBAHN INC. d/b/a	:	
North State Custom,	:	
	:	
Plaintiff,	:	Index No. 67559/2017
	:	
-against-	:	
	:	
MERCEDES-BENZ USA, LLC,	:	
CELEBRITY AUTO OF WESTCHESTER,	:	
LLC d/b/a Mercedes-Benz of Goldens	:	
Bridge, and S&L COLLISION CENTER,	:	
Inc.,	:	
	:	
Defendants.	:	

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CELEBRITY AUTO OF WESTCHESTER,	:	
LLC d/b/a Mercedes-Benz of Goldens	:	
Bridge	:	
Counterclaimants/and	:	Index No. 67559/2017
Third Party Plaintiff,	:	
	:	
-against-	:	
	:	
NORTH STATE AUTOBAHN INC. d/b/a	:	
North State Custom,	:	
	:	
Counterclaim	:	
Defendant,	:	
	:	
and	:	
	:	
GREGORY COCCARO, JR.,	:	
	:	
Third Party Defendant.	:	

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**COUNTER-CLAIM/THIRD PARTY COMPLAINT & JURY DEMAND**

Defendant/Counterclaimant/Third Party Plaintiff Celebrity Auto of Westchester, LLC  
d/b/a Mercedes-Benz of Goldens Bridge, by and through its counsel Fox Rothschild LLP (Marc J.

Gross, appearing), hereby asserts the following Counterclaim/Third Party Complaint against Counterclaim Defendant North State Autobahn, Inc. d/b/a/ North State Custom and Third Party Defendant Gregory Coccaro, Jr. and alleges as follows:

**PARTIES**

1. Counterclaimant/Third Party Plaintiff Celebrity Auto of Westchester, LLC d/b/a Mercedes-Benz of Goldens Bridge (“Celebrity”) is a New Jersey limited liability company that conducts business in Westchester County, New York.

2. Counterclaim Defendant North State Autobahn, Inc. d/b/a/ North State Custom (“North State”) is a New York corporation that conducts business in Westchester County, New York.

3. Third Party Defendant Gregory Coccaro, Jr. (“Coccaro”), is a citizen of the State of New York with a business address of 114 Green Lane, Bedford Hills, NY 10507.

**JURISDICTION AND VENUE**

4. This Court has jurisdiction of this action and of the parties pursuant to Section 301 of the New York Civil Practice Law and Rules (“CPLR”).

5. Venue is proper in this County because the defamatory and libelous statements were made in this County and caused injury to Celebrity in this County.

**FACTUAL ALLEGATIONS**

6. Celebrity is a Mercedes-Benz automobile dealership and a registered, authorized and licensed New York repair shop. Specifically Celebrity has the following registrations with the New York State Department of Motor Vehicles: (i) Retail Motor Vehicle Dealer (New); (ii) Public Inspection Station; and (iii) licensed Repair Shop.

7. North State is an automobile collision repair shop located in Bedford Hills, New York.

8. Coccaro is the President and owner of North State.

9. In or about May, 2017, a dispute arose between North State and Celebrity, regarding the manner in which North State would bill Celebrity for parts used in North State's autobody operation.

10. As a result of the dispute, Celebrity exercised its lawful right to terminate its sponsorship of North State as a facility in the Mercedes-Benz Certified Collision Repair Program.

11. Upon information and belief, North State sought to undermine and avoid the lawful termination by, among other things, communicating directly with Mercedes Benz USA, LLC ("MBUSA"), as well as communications with third parties.

12. On or about October 18, 2017, North State filed a complaint against Celebrity, Mercedes Benz USA, LLC and S&L Collision Center, LLC (another collision repair shop that retained its certification from Celebrity).

13. In the Complaint, North State falsely claims that "Celebrity is not a registered authorized repair shop."

14. In the Complaint, North State falsely claims that Celebrity demanded "kick-backs" from North State.

15. In the Complaint, North State falsely claims that Celebrity violated 11 NYCRR 216.7(b)(2) and 11 NYCRR 216.7(b)(19)(ii).

16. 11 NYCRR 216.7(b)(2) and 11 NYCRR 216.7(b)(19)(ii) only apply to insurers and Celebrity is not an insurer.

17. North State contends that 11 NYCRR 216.7(b)(2) and 11 NYCRR 216.7(b)(19)(ii) prevent an insurer from negotiating a repair with an unauthorized repair shop – but that could have no bearing on Celebrity because Celebrity is a licensed, authorized repair shop.

18. The Complaint is verified by Coccaro.

19. North State and Coccaro published the false and damaging statements in the Complaint when they provided interviews to the press and repeated the allegations contained in the Complaint.

20. Separately, on or about October 18, 2017 North State and Coccaro issued a press-release to the collision repair industry (“Press Release”).

21. In the Press Release, North State and Coccaro falsely stated that Celebrity “conspired to demand ‘kick-backs’ and other concessions” from North State.

22. In the Press Release, North State and Coccaro falsely claimed that Celebrity violated New York law because it is not a licensed facility.

23. North State and Coccaro also reference North State’s lawsuit against Mercedes-Benz USA and Celebrity and state their intent to make “a significant impact on the collision repair industry”. Unquestionably, North State and Coccaro have admitted that their filing of and pursuit of legal process through their lawsuit is for an ulterior motive.

24. On or about October 20, 2017, Coccaro gave an interview to Repairer Driver News. During the interview, Coccaro not only repeated the false allegations in the Complaint after the issuance of process, but also falsely stated that Celebrity engaged in other unlawful activity by requesting that North State pay a “flat out mafia style bribe.”, i.e. that by clear implication Celebrity was engaging in unlawful activity and participating in organized crime.

25. North State and Coccaro made their false statements in reckless disregard for the truth in that a simple review of the New York State, Division of Motor Vehicle's website would have revealed that Celebrity operates a licensed, registered and fully approved repair shop.

26. Clearly, North State and Coccaro have no basis to make the false statements that they willfully made to third parties regarding Celebrity's business and its practices.

27. Accordingly, Celebrity brings this action to obtain redress for North State's and Coccaro's unlawful conduct.

**First Cause of Action**  
**(Defamation – Against North State and Coccaro)**

28. Celebrity repeats the preceding allegations of this Counterclaim and Third Party Complaint as if set forth fully herein at length.

29. North State and Coccaro made defamatory and slanderous statements of fact with respect to Celebrity, including, but not limited to, the statements that Celebrity is not licensed, Celebrity violated New York law, Celebrity demanded so-called "kick-backs" and Celebrity requested a "flat out mafia style bribe" i.e. is participating in organized crime.

30. North State and Coccaro communicated such claims to third parties, other than Celebrity, with the intent of lowering Celebrity's general reputation in the community and/or deterring third parties from associating with Celebrity.

31. North State and Coccaro published their false statements as statements of fact with negligence, actual knowledge of and/or in reckless disregard of their falsity.

32. As a direct and proximate result of North State's and Coccaro's defamation and slander, Celebrity has suffered damages.

**WHEREFORE**, Defendant/Counterclaimant Celebrity demands judgment against North State and Coccaro, jointly and severally, for compensatory, consequential and punitive damages, interest, attorney's fees, costs of suit and such other and further relief as the Court deems equitable and just.

**Second Cause of Action**  
**(Trade Libel – Against North State and Coccaro)**

33. Celebrity repeats the preceding allegations contained in the First Count of the Counterclaim and Third Party Complaint as if set forth fully herein at length.

34. North State and Coccaro engaged in the publication of certain material, derogatory and disparaging comments concerning Celebrity, its business practices and its services of a kind calculated and intended to prevent others from dealing with or conducting business with Celebrity, or to otherwise interfere adversely with Celebrity's business relations with others.

35. North State and Coccaro's publication of such material constituted communications to third parties that were false and played a material and substantial part in leading others and/or constituting a proximate cause for others to cease dealing with or not to deal with Celebrity.

36. North State and Coccaro's communications were false and such false statements were made intentionally and with malice. Indeed, in the Press Release, North State and Coccaro stated their intent to disrupt Celebrity's business practices.

37. As a direct and proximate result of North State and Coccaro's unlawful conduct, as set forth above, Celebrity has suffered and will continue to suffer irreparable harm, special damages and damages.



**WHEREFORE**, Defendant/Counterclaimant Celebrity demands judgment against North State and Coccaro, jointly and severally, for compensatory, consequential and punitive damages, interest, attorney's fees, costs of suit and such other and further relief as the Court deems equitable and just.

**Third Cause of Action**  
**(Abuse of Process Against North State and Coccaro)**

38. Celebrity repeats the preceding allegations contained in the First and Second Counts of the Counterclaim and Third Party Complaint as if set forth fully herein at length.

39. North State and Coccaro have instituted a law suit for an ulterior motive, for a purpose other than that which it was designed to accomplish, and have taken further action after the issuance of process, representing a perversion of the legitimate use of process.

40. As a direct and proximate result of North State's and Coccaro's abuse of process, Celebrity has suffered and continues to suffer irreparable harm and damages.

**WHEREFORE**, Defendant/Counterclaimant Celebrity demands judgment against North State and Coccaro, jointly and severally, for compensatory, consequential and punitive damages, interest, attorney's fees, costs of suit and such other and further relief as the Court deems equitable and just.

**Fourth Cause of Action**  
**(Tortious Interference with Prospective Economic Advantage)**

41. Celebrity repeats the preceding allegations contained in the First through Third Counts of the Counterclaim and Third Party Complaint as if set forth fully herein at length.

42. By intentionally, willfully and maliciously, interfering with Celebrity's business by and through their publication of false statements to third parties, North State and Coccaro have tortuously interfered with Celebrity's prospective economic advantage.

43. North State's and Coccaro's conduct was willful, intentional and with malice for the purpose of enriching themselves and at the expense of Celebrity.

44. As a direct and proximate result of North State's and Coccaro's tortious interference with Celebrity's prospective economic advantage, Celebrity has suffered and continues to suffer irreparable harm and damages.

**WHEREFORE**, Defendant/Counterclaimant Celebrity demands judgment against North State and Coccaro, jointly and severally, for compensatory, consequential and punitive damages, interest, attorney's fees, costs of suit and such other and further relief as the Court deems equitable and just.

**Fifth Cause of Action  
(False Light Against North State and Coccaro)**

45. Celebrity repeats the preceding allegations contained in the First through Fourth Counts of the Counterclaim and Third Party Complaint as if set forth fully herein at length.

46. By repeatedly and falsely claiming that Celebrity was operating as an unlicensed repair shop, and/or engaging in unlawful activity by paying "kick backs" and/or a "flat out mafia style bribe", among other statements as aforesaid, such statements were and are objectionable to ordinary reasonable persons under the circumstances.

47. Indeed, North State and Coccaro published such statements with knowledge of their falsity and/or in reckless disregard as to their falsity.

48. Thus, North State and Coccaro published to third parties certain false facts that are and/or would be highly offensive to reasonable persons and placed Celebrity in a false light.

49. As a direct and proximate result of North State's and Coccaro's unlawful conduct, as aforesaid, Celebrity has suffered and continues to suffer irreparable harm and damages.

**WHEREFORE**, Defendant/Counterclaimant Celebrity demands judgment against North State and Cocco, jointly and severally, for compensatory, consequential and punitive damages, interest, attorney's fees, costs of suit and such other and further relief as the Court deems equitable and just.

**JURY DEMAND**

Defendant/Counterclaimant/Third Party Plaintiff Celebrity Auto of Westchester, LLC, hereby demands a trial by jury as to all issues so triable.

Dated: New York, New York  
November 22, 2017

Respectfully Submitted,

**FOX ROTHSCHILD LLP**

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Mercedes-Benz of Goldens Bridge*