

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

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PERFORMLINE, INC.

Plaintiffs,

Index No.:

SUMMONS

-against-

APOGEE EVENTS INC.,

Defendants.

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TO THE ABOVE-NAMED DEFENDANT:

You are hereby summoned and required to serve upon all parties an answer to the annexed Complaint of Plaintiffs, which is hereby served upon you, within twenty (20) days after service thereof, exclusive of the day of service, or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York.

In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Date: New York, New York
January 12, 2021

**STONBERG MORAN, LLP
Attorneys for Plaintiff**

By:  _____

**Michael L. Stonberg, Esq.
505 Eighth Avenue, Suite 2302
New York, New York 10018
(212) 231-2220
Our File No.: 30800**

TO:

**Apogee Events, Inc.
10 Desbrosses Street
New York, NY 10013**

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

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PERFORMLINE, INC.	:
	: Index No.
Plaintiff,	:
	:
-against-	: COMPLAINT
	:
APOGEE EVENTS INC.,	:
	:
Defendant.	:
	:
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PerformLine, Inc., by and through its attorneys, Stonberg Moran, LLP, as and for its Complaint, alleges as follows:

Nature of the Action

1. This action arises out of Defendant Apogee Events Inc.’s (“Apogee” or “Defendant”) breach of contract in failing to return a refundable deposit.
2. Under the terms and conditions of their agreement, Apogee agreed to host an event for plaintiff on May 5 and 6, 2020. However, due to COVID-19 restrictions, defendant could not host the event. The agreement provided that, in such event, defendant would refund plaintiff’s deposit in full. Despite written requests, defendant only agreed to return a portion of the deposit.

The Parties

3. PerformLine, Inc. is a Delaware corporation with a principal place of business located in Morristown, NJ.
4. Defendant Apogee is a domestic business corporation organized under the laws of the State of New York. Apogee operates a catering facility known as Tribeca Rooftop.

Relevant Facts

5. Plaintiff and defendant Apogee entered into the Agreement on or about September 25, 2019. A copy of the Agreement is attached as Exhibit 1.

6. Under the terms and conditions of the Agreement, defendant Apogee agreed to host an event for plaintiff at its facility on May 5 and 6, 2020. Pursuant to the agreement, defendant Apogee collected a deposit from plaintiff in the amount of \$110,000.

7. Due to COVID-19 restrictions, defendant Apogee was unable to host plaintiff's event. Paragraph 11 of the agreement provides that in the event that defendant Apogee is unable to perform due to a force majeure such as orders of governmental authorities or an act of God, then defendant Apogee would refund plaintiff's deposit in full within 60 days.

8. Defendant Apogee returned \$70,000 of the deposit, but wrongfully refuses to return the entire deposit as required by the contract.

AS AND FOR A FIRST CAUSE OF ACTION

(Breach of Contract)

9. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs with the same force and effect as if fully set forth herein.

10. Plaintiff and defendant Apogee are parties to the Agreement, a valid and enforceable contract.

11. Under the terms and conditions of the Agreement, defendant Apogee agreed to host an event for plaintiff at its facility on May 5 and 6, 2020. Pursuant to the agreement, defendant Apogee collected a deposit from plaintiff in the amount of \$110,000.

12. Due to COVID-19 restrictions, defendant Apogee was unable to host plaintiff's event. Paragraph 11 of the agreement provides that in the event that defendant Apogee is unable

to perform due to a force majeure such as orders of governmental authorities or an act of God, then defendant Apogee would refund plaintiff's deposit in full within 60 days.

13. Defendant Apogee returned \$70,000 of the deposit, but wrongfully refuses to return the entire deposit as required by the agreement, in breach of the agreement.


PRAYER FOR RELIEF

Wherefore, plaintiff PerformLine respectfully requests that this Court award the following relief:

- a. On PerformLine's first cause of action, damages in the amount of \$40,000, plus interest from the time of breach, plus reasonable attorney's fees, court costs and other costs of collection; and
- b. such other and further relief as this Court deems just and proper.

Dated: New York, New York
December 16, 2020

STONBERG MORAN, LLP
Attorneys for Plaintiff

By: 

Michael L. Stonberg, Esq.
505 Eighth Avenue, Suite 2302
New York, New York 10018
(212) 231-2220
Our File No.: GEN 30800

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