

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

ANN MCCORMACK, by and through her attorney in fact
Carol Bamonte; CAROL BAMONTE; MARY HUGHES
and VIRGINIA MCKEON,

PLAINTIFFS,

VS.

ROBERT DURST,

DEFENDANT.

SUMMONS

Date Filed: 11/30/2015

Index No.:

Plaintiff designates Nassau
County as the place of trial.
The basis of venue is the
County of Residence of
Plaintiff Ann McCormack.

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the Verified Complaint of Plaintiffs, Ann McCormack, Carol Bamonte, Mary Hughes and Virginia McKeon, a copy of which is served upon you, and serve a copy of your Answer on the undersigned attorneys for Plaintiffs within twenty (20) days after service of this Summons and Verified Complaint, exclusive of the date of service (or within thirty (30) days after the service is complete if this Summons and Verified Complaint is not personally delivered to you within the State of New York).

In the event of your failure to answer the annexed Verified Complaint, judgment will be taken against you by default for the relief demanded in the Verified Complaint.

Dated: November 30, 2015

Yours, etc.



Robert Abrams, Esq.

Abrams, Fensterman, Fensterman, Eisman, Formato,
Ferrara & Wolf, LLP
Attorneys for Plaintiffs
1111 Marcus Avenue, Suite 107
Lake Success, New York 11042
(516) 328-2300

TO: ROBERT DURST
Care of Major Alvin Robinson
Warden
Nelson Coleman Correctional Center
5061 Highway 3127
Killona, Louisiana 70057

ROBERT DURST
2520 Robin Hood Street
Houston, Texas 77005

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

----- X
ANN MCCORMACK, by and through her attorney in
fact Carol Bamonte; CAROL BAMONTE; MARY
HUGHES and VIRGINIA MCKEON,

Plaintiffs,

-against-

ROBERT DURST,

Defendant.
----- X

: Index No.

:

:

:

:

:

VERIFIED COMPLAINT

Plaintiffs, Ann McCormack, acting through her attorney-in-fact, Carol Bamonte; Carol Bamonte; Mary Hughes; and Virginia McKeon, by and through their attorneys, Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara & Wolf, LLP, as and for their Verified Complaint against defendant, Robert Durst, hereby allege as follows:

SUMMARY OF ACTION

1. On or about March 21, 1988, Kathleen McCormack Durst ("Kathleen"), the wife of defendant, Robert Durst ("Durst"), was pronounced dead after being missing for over six years. Her body was never discovered.

2. In an episode of the HBO Show *The Jinx: The Life and Deaths of Robert Durst* ("The Jinx") that aired on March 15, 2015, defendant Durst admitted to killing Kathleen and others. In a chilling confession caught on tape, Durst says: "There it is . . . you're caught. What the hell did I do? Killed them all, of course."

3. For the past thirty-three years, Durst has concealed the whereabouts of Kathleen's body from her next of kin, the Plaintiffs. Through this action, Plaintiffs seek to hold Durst liable

for breaching their right of sepulcher by intentionally and knowingly preventing the Plaintiffs from providing a proper burial for Kathleen.

PARTIES

4. Plaintiff Ann McCormack, acting through her attorney-in-fact, Carol Bamonte, is the mother of Kathleen, and resides in Nassau County, New York. A copy of the General Durable Power of Attorney, dated March 22, 2001 is attached herewith as Exhibit "A".

5. Plaintiff Carol Bamonte is the sister of Kathleen and resides in Suffolk County, New York.

6. Plaintiff Mary Hughes is the sister of Kathleen and resides in New York County, New York.

7. Plaintiff Virginia McKeon is the sister of Kathleen and resides in Hampden County, Massachusetts.

8. Defendant, Robert Durst, is currently in the custody of the United States Marshal's Service at the Nelson Coleman Correctional Center, 5061 Highway 3127, Killona, Saint Charles Parish, Louisiana, awaiting trial on the Indictment filed in *United States v. Robert Durst*, E.D.L.A. Index No. 2:15-cr-00091, for the unlawful possession of a firearm by an individual who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year in violation of 18 U.S.C. § 922(g)(1).

9. Prior to his arrest in New Orleans, Louisiana, Durst resided at 2520 Robin Hood Street, Houston, Texas.

FACTS

10. On or about April 12, 1973, Durst married Kathleen in New York.
11. Durst was physically abusive to Kathleen. On or about January 1982, Kathleen was treated at Jacobi Hospital in the Bronx, New York for facial injuries sustained after Durst beat and hit her in the face.
12. On or about January 31, 1982, Kathleen attended a dinner party in Connecticut. While there, Kathleen received a threatening phone call from Durst demanding that she return to their home in South Salem, New York. Reluctantly, Kathleen left the party. On her way out, she told the hostess, Gilberte Najamy, "promise me if something happens to me, you'll check it out. I'm afraid of what Bobby might do."
13. That was the last time anyone other than Durst spoke with Kathleen.
14. Kathleen was reported missing in February 1982 to law enforcement.
15. Since then, Plaintiffs and law enforcement have conducted an exhaustive search for Kathleen; however, they have been unable to locate her whereabouts or resting place. It is as if she vanished from the face of the Earth.
16. During the investigation, law enforcement discovered a list, believed to be written in Durst's handwriting, which included the terms: "town dump," "bridge," "dig," "boat" and "shovel."
17. Durst initially told investigators that Kathleen returned to their home in South Salem, New York on the evening of January 31, 1982, and that they had an argument and fight, following which he drove Kathleen to the Katonah train station so she could return to their Riverside Drive apartment in Manhattan. Durst further stated to law enforcement officers that he later spoke to Kathleen by telephone at the Riverside Drive apartment.

18. Durst later admitted that this version of events was a fabrication and a diversion meant to make their investigation of Kathleen's disappearance "go away."

19. Kathleen body has never been recovered.

20. Upon information and belief, Durst murdered Kathleen on or about January 31, 1982.

21. The Surrogate's Court for New York County declared Kathleen deceased and her date of death was determined to be on or about March 21, 1988.

22. Since murdering Kathleen, Durst has engaged in a crime spree that includes killing at least two additional individuals: the execution-style slaying of his longtime friend Susan Berman, who was killed by Durst to prevent her from being called as a witness and providing testimony that Durst had murdered Kathleen, and the killing of Morris Black, whose body Durst dismembered and dumped in Galveston Bay after shooting him.

23. In addition to these heinous, violent acts, Durst was charged and convicted in 2004 of unlawfully possessing a firearm when he was a fugitive from justice, having jumped bail while awaiting trial for murdering and dismembering Morris Black.

24. On or about March 14, 2015, Durst was arrested in Louisiana following the execution of a California arrest warrant, which asserted there was probable cause to believe Durst murdered Susan Berman to prevent her from offering testimony that Durst had killed Kathleen. At the time of his arrest, Durst was unlawfully in possession of a firearm and is currently being held in the Nelson Coleman Correctional Center in St. Charles Parish, Louisiana, under Indictment from the United States District Court for the Eastern District of Louisiana for the unlawful possession of a firearm by an individual who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year.

25. The lead Assistant District Attorney for the action captioned *People of the State of California v. Robert Durst*, Assistant District Attorney John Lewin, has stated that the State of California will seek Defendant, Robert Durst's extradition, once the unlawful possession of a firearm action is fully adjudicated by the United States District Court for the Eastern District of Louisiana so that Durst can stand trial for the murder of Susan Berman

26. Following extensive interviews with Durst and others, in February and March 2015, HBO broadcasted a six-part documentary on Durst and his involvement in the murders of Kathleen, Susan Berman and Morris Black called "The Jinx: The Life and Deaths of Robert Durst."

27. Durst agreed to participate in this documentary and provide numerous interviews to answer questions regarding the murders of Kathleen, Susan Berman and Morris Black.

28. In an episode airing on or about March 15, 2015, after being confronted with evidence that he had murdered Susan Berman due to her knowledge of his murder of Kathleen, Durst confessed to murdering all three of them, including Kathleen, stating "There it is... you're caught. What the hell did I do? Killed them all, of course."

**AS AND FOR A FIRST CAUSE OF ACTION
RIGHT OF SEPULCHER**

29. Plaintiffs repeat and reallege each and every allegation contained in paragraphs of 1 through 28 as if fully set forth hereat.

30. Defendant Durst murdered his wife Kathleen on or about January 31, 1982 and disposed of her body.

31. Despite extensive efforts from law enforcement and others, Kathleen's body has never been discovered.

32. Durst knew that Plaintiffs, as Kathleen's next of kin, had filed a missing persons report with law enforcement and that the Plaintiffs and others were actively searching for her and later her body.

33. Nevertheless, Durst took no action to assist the Plaintiffs in their efforts. Rather, Durst intentionally lied to investigators regarding his knowledge that Kathleen was already dead in order to prevent Plaintiffs from recovering her body.

34. Durst intentionally, and with knowledge that the next of kin were searching for Kathleen, concealed Kathleen's body to prevent its discovery by the next of kin and law enforcement.

35. Defendant, Robert Durst, confessed to murdering Kathleen and the Plaintiffs first heard this confession on March 15, 2015.

36. Defendant, Robert Durst, intentionally and knowingly interfered with the next of kin's immediate possession of Kathleen's body.

37. As a result of Durst's outrageous and extreme conduct, Kathleen's next of kin, the Plaintiffs, have suffered and continue to suffer extreme emotional distress, humiliation, mental and physical anguish, as well as economic losses, all to their damage in amounts to be proven at trial.


WHEREFORE, the Plaintiffs respectfully pray that this Court enters judgment against the Defendant for:

1. General, compensatory, and special damages, in an amount to be determined at trial, but in no event less than \$50 million;
2. Punitive damages, in an amount to be determined at trial, but in no event less than \$50 million;

3. Reasonable attorneys' fees and costs; and,
4. Such other and further relief as the Court deems just and proper.

Dated: November 29, 2015

ABRAMS, FENSTERMAN, FENSTERMAN,
EISMAN, FORMATO, FERRARA & WOLF, LLP

By: 
Robert Abrams
1111 Marcus Avenue, Suite 107
Lake Success, New York 11042
(516) 328-2300
babrams@abramslaw.com

Attorneys for Plaintiffs

VERIFICATION

State of New York)

County of Suffolk) s.:

Plaintiff, CAROL BAMONTE, being duly sworn, deposes and says that deponent is a plaintiff in the within action; that deponent has duly read the foregoing Complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Carol Bamonte

Sworn to before me this
29th day of November, 2015

Ellyn S. Kravitz

Notary Public

ELLYN S. KRAVITZ
Notary Public, State of New York
No. 01KR4897313
Qualified in New York County
Commission Expires 5/26/2019

Exhibit A

GENERAL DURABLE POWER OF ATTORNEY

NAME OF PRINCIPAL: ANN C. McCORMACK

NAME OF AGENT: CAROL BAMONTE

DATED: MARCH 22, 2001

GENERAL DURABLE POWER OF ATTORNEY

Caution: This is an important document. It gives the person whom you designate (your "Agent") broad powers to handle your property during your lifetime, which may include powers to mortgage, sell, or otherwise dispose of any real or personal property without advance notice to you or approval by you. These powers will continue to exist even after you become disabled or incompetent. These powers are explained more fully in New York General Obligations Law, Article 5, Title 15, Sections 5-1502A through 5-1503, which expressly permit the use of any other or different form of power of attorney.

This document does not authorize anyone to make medical or other health care decisions. You may execute a health care proxy to do this.

If there is anything about this form that you do not understand, you should ask a lawyer to explain it to you.

This is intended to constitute a **GENERAL DURABLE POWER OF ATTORNEY**, pursuant to Article 5, Title 15 of the New York General Obligations Law:

I, ANN C. McCORMACK, residing at [REDACTED] County of Nassau, State of New York, do hereby appoint my daughter, CAROL BAMONTE, residing at [REDACTED] New York [REDACTED] telephone number [REDACTED], as my attorney-in-fact, **TO ACT**,

☐ Each agent may SEPARATELY act.

☐ All agents must act TOGETHER.


(If neither blank space is initialed, the agents will be required to act TOGETHER)

in my name, place and stead in any way which I myself could do if I were personally present with respect to the following matters, as defined in Title 15 of Article 5 of the New York General Obligations Law, to the extent that I am permitted by law to act through an agent:

(DIRECTIONS: Initial in the blank space to the left of your choice any one or more of the following lettered subdivisions as to which you WANT to give your agent authority. If the blank space to the left of any particular lettered subdivision is NOT initialed, NO AUTHORITY WILL BE GRANTED for matters that are included in the subdivision. Alternately, the letter corresponding to each power you wish to grant may be written or typed in the blank line in subdivision "(nn)", and you may then put your initials in the blank space to the left of subdivision "(nn)" in order to grant each of the powers so indicated.)

- ☐ (A) real estate transactions including all fixtures and articles of personalty therein;
- ☐ (B) chattel and goods transactions;
- ☐ (C) bond, share and commodity transactions;
- ☐ (D) banking transactions;
- ☐ (E) business operating transactions;
- ☐ (F) insurance transactions;
- ☐ (G) estate transactions;
- ☐ (H) claims and litigations;
- ☐ (I) personal relationships and affairs;
- ☐ (J) benefits from military service;
- ☐ (K) records, reports and statements;
- ☐ (L) retirement benefit transactions;
- ☐ (M) making gifts to my spouse, children and more remote descendants, and parents, not to exceed in the aggregate \$10,000 to each of such persons in any year; in addition, making unlimited gifts to my spouse and children up to the Federal Unified Credit amount;
- ☐ (N) tax matters;
- ☐ (O) all other matters;

- ☐] (P) full and unqualified authority to my attorney(s)-in-fact to delegate any or all of the foregoing powers to any person or persons whom my attorney(s)-in-fact shall select;
- ☐] (Q) lease, maintain and close out any safe deposit boxes in any banking or other institution and to enter any safe deposit box now or hereafter maintained in my name or on my behalf;
- ☐] (R) represent my interests in all tax matters before the IRS or any other tax authority; request and receive all confidential information, records, notices and all other written communications from the IRS or any other tax authority; sign and file all tax returns on my behalf together with the power to execute and file all elections, waivers, consents (including consent to split gifts), applications and claims relating thereto; and to receive, endorse and deposit any and all refund checks;
- ☐] (S) deal with all pension, retirement, incentive, IRA/Keogh and similar type plans, programs and annuities;
- ☐] (T) make application for, claim, negotiate, obtain and settle claims and actions for government entitlements and benefits of all kinds with all government administrations and agencies;
- ☐] (U) borrow funds to avoid forced liquidation of my assets;
- ☐] (V) make application for, procure and handle insurance including life, medical, long term care, homeowners, vehicle and other insurance, including litigation and settlement of claims and actions;
- ☐] (W) endorse, collect, negotiate, deposit and withdraw Social Security, Veterans and/or other pension, annuity or benefit checks and/or negotiable instruments;
- ☐] (X) transfer any and all of my assets into a standby or other existing inter vivos trust(s);
- ☐] (Y) create and fund standby and other inter vivos trusts, both revocable and irrevocable and appoint as Trustee any of my distributees, including said agent(s);
- ☐] (Z) execute and deliver valid disclaimers under the Internal Revenue Code and applicable state statutes;

- [] (aa) make reasonable family gifts (outright, in trust or otherwise), including gifts to my attorney-in-fact. This power may be exercised without regard to any laws concerning self-dealing provided such gifts are made in good faith and not to my detriment;
- [] (bb) compensate attorney-in-fact for services performed as such agent;
- [] (cc) employ and discharge attorneys, accountants, investment counsel and similar professionals concerning the principal's property and affairs;
- [] (dd) employ and discharge medical personnel;
- [] (ee) enter into buy/sell agreements;
- [] (ff) pay salaries of employees;
- [] (gg) forgive and collect debts;
- [] (hh) complete charitable pledges;
- [] (ii) have access to and disclose medical records and other personal information;
- [] (jj) cash or redeem Treasury securities;
- [] (kk) transfer property within or outside of the State;
- [] (ll) appoint my attorney-in-fact as my guardian under Mental Hygiene Law Article 81 or the applicable statute, if I become incapacitated;
- [] (mm) All other matters allowed by law EXCEPT: (1) the attorney-in-fact shall be precluded from exercising any fiduciary powers which may be held by the principal; and (2) the attorney-in-fact shall be precluded from using the principal's property to pay any of the attorney-in-fact's legal obligations.
- [] (nn) each of the above matters identified by the following letters: A, B, C, D, E, F, G, H, I, J, K, L, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, aa, bb, cc, dd, ee, ff, gg, hh, ii, jj, kk, ll, and mm.

It is my intention to return home if I should be in a hospital, rehabilitation center or nursing home and my attorney(s) in fact shall take steps to effectuate same.

THIS DURABLE POWER OF ATTORNEY SHALL NOT BE AFFECTED BY MY SUBSEQUENT DISABILITY OR INCOMPETENCE.

If my daughter, **CAROL BAMONTE**, is unable or unwilling to serve, I appoint my son, **JAMES McCORMACK**, residing at [REDACTED], to be my agent for all purposes hereunder. If my son, **JAMES McCORMACK**, is unable or unwilling to serve, I appoint my daughter, **VIRGINIA McKEON**, residing at [REDACTED], to be my agent for all purposes hereunder. If my daughter, **VIRGINIA McKEON**, is unable or unwilling to serve, I appoint my daughter, **MARY HUGHES**, residing at [REDACTED], to be my agent for all purposes hereunder.

To induce any third party to act hereunder, I hereby agree that any third party receiving a duly executed copy or facsimile of this instrument may act hereunder, and that revocation or termination hereof shall be ineffective as to such third party unless and until actual notice or knowledge of such revocation or termination shall have been received by such third party, and I for myself and for my heirs, executors, legal representatives and assigns, hereby agree to indemnify and hold harmless any such third party from and against any and all claims that may arise against such third party by reason of such third party having relied on the provisions of this instrument.

This Durable General Power of Attorney may be revoked by me at any time.

IN WITNESS WHEREOF, I have signed my name and affixed my seal this 22nd day of March, 2001.


ANN C. McCORMACK

STATE OF NEW YORK)
) SS.:
COUNTY OF NASSAU)

On March 22, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared **ANN C. McCORMACK**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

Prepared by: **Abrams, Fensterman, Fensterman & Flowers, LLP**
5 Dakota Drive - Suite 206
Lake Success, New York 11042
(516) 328-2300

ELLYN S. KRAVITZ
Notary Public, State of New York
No. 4897313
Qualified in Nassau County
Certificate filed in New York Court
Commission Expires May 26, 2001

GENERAL DURABLE POWER OF ATTORNEY

NAME OF PRINCIPAL: ANN C. McCORMACK

NAME OF AGENT: CAROL BAMONTE

DATED: MARCH 22, 2001

ABRAMS, FENSTERMAN, FENSTERMAN & FLOWERS, LLP

5 DAKOTA DRIVE

SUITE 206

LAKE SUCCESS, NEW YORK 11042-1109

516-328-2300