

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

JANE DOE,)
)
 Plaintiff,)
)
 vs.) Case Number 1131-*****
)
 MISSOURI COMPANY,)
)
 and)
)
 INDIANA COMPANY)
)
 Defendants.)

FIRST AMENDED PETITION FOR DAMAGES

COMES NOW Plaintiff, Jane Doe, by and through her attorneys of record, O'Reilly, Jensen & Preston, LLC, and for her causes of action against Defendants, states, alleges, and otherwise avers as follows:

GENERAL FACTS APPLICABLE TO ALL COUNTS

1. Plaintiff is a resident of Springfield, Greene County, Missouri.
2. Defendant Missouri Company is a not-for-profit corporation, doing business and in good standing in the state of Missouri, which can be served with process as referenced above.
3. Defendant Indiana Company, Inc. is a corporation, doing business and in good standing in the State of Indiana, which can be served with process as referenced above.
4. Jurisdiction and venue are proper in this court in that the slip and fall accident which is the subject of this litigation occurred in Springfield, Greene County,

Missouri, and the amount of controversy exceeds Twenty-Five Thousand Dollars (\$25,000.00)

COUNT I – NEGLIGENCE

COMES NOW Plaintiff, and hereby asserts the following cause of action against Defendants:

5. Plaintiff hereby incorporates by reference each and every previously pled paragraph.
6. On January 31, 2009, Plaintiff was visiting the Tourist Attraction, sometimes referred to as the “Attraction” which is controlled and operated by Defendant Missouri Company, attending an auction.
7. Defendant Indiana Company, Inc. assumed a duty of care to ensure the walking areas were clear and safe on January 31, 2009.
8. Plaintiff was a business invitee of the Defendants.
9. Defendants had a duty to keep the premises in a reasonably safe condition so that members of the general public would not be injured.
10. The Defendant Missouri Company’s duty, referenced above, is a non-delegable duty.
11. In the alternative, Defendants together had a duty to provide reasonably safe means of ingress and egress to the Attraction.
12. On January 31, 2009, there existed dangerous and defective conditions on the Attraction’s walking areas and parking lots which were not reasonably safe, in one or more of the following respects:
 - a. A recent snowstorm had deposited large amounts of snow and ice

on the Attractions;

- b. The snow and ice had been pushed into large piles;
 - c. The piles were allowed to thaw and melt;
 - d. The melted water re-froze in cold temperatures;
 - e. The ice which resulted from the thawed and re-frozen water was not salted or plowed in any way; and
 - f. As a result, there were large amounts of ice, invisible to the naked eye, present on Defendants' property, walking lanes, and parking lots.
 - g. Said condition of the walking areas were no longer natural conditions, but areas attempted to be cleaned by Defendants and done so negligently.
13. Defendants, their agents, servants, and employees knew, or by using ordinary care should have known, of the defective, dangerous and/or hazardous conditions set forth above, and they created such foreseeable conditions.
14. Defendants failed to use ordinary care to protect Plaintiff and other members of the public from the aforementioned dangers and unsafe conditions in one or more of the following respects, and was therefore negligent:
- a. Failure to post or place warnings, pylons, tape, barricades or other warnings or protective devices to draw attention to the ice, or to keep patrons and visitors off the ice;
 - b. Failure to properly or adequately inspect, monitor, control, and maintain the walking areas and parking lots;

- c. Failure to plow the snow into areas of the parking lots where people would be less likely to walk and possibly suffer injury;
 - d. Placing the snow piles in the immediate vicinity of the doors and/or walking areas used for ingress and egress into and out of the facility;
 - e. Failure to adequately remove, plow, or salt the ice; and
 - f. Failure to use ordinary care in plowing the parking lots of snow and ice, or in the alternative, in the areas of the parking lots that retained ice.
 - g. Creating an icy condition by placing melting snow piles adjacent to a known walkway.
15. Defendant created the invisible ice condition, and it was not a natural condition or natural accumulation of snow and ice.
16. As a direct result of Defendants' negligence and the above-described dangers and hazardous conditions, Plaintiff fell and injured herself when she slipped on the unseen ice, and fell to the ground, causing permanent and progressive injury to her right upper extremity.
17. As a direct result of the above referenced slip and fall, Plaintiff was injured and damaged in one or more of the following respects:
- a. Trauma and injury to her body including her right hand, right wrist, right forearm, and right arm generally, including scarring and disfigurement from multiple surgeries;
 - b. Past, present and future pain, discomfort, and suffering;

- c. Permanent impairment of use, function, and range of motion of her right upper extremity;
 - d. Past medical and health care expenses, including seven different surgeries at present, in an amount which is presently unknown, but which upon information and belief exceeds One Hundred Thirty Thousand Dollars (\$130,000.00);
 - e. Future medical and health care expenses in an amount which is presently unknown;
 - f. Diminution of quality and enjoyment of life; and
 - g. Past, present, and future lost income, earning capacity, benefits, insurance coverage, and the ability to work and/or pursue employment.
18. Plaintiff's out-of-pocket or special damages, upon information and belief, exceed One Hundred Thirty Thousand Dollars (\$130,000.00).
19. Plaintiff has given notice to Defendants of her claim and injuries.

WHEREFORE, under Count I, Plaintiff prays for *Judgment* against Defendants, for damages in a fair and reasonable amount, for all court costs and expenses incurred herein, and for any such other and further relief as the Court deems just and proper under the circumstances.

DEMAND FOR JURY TRIAL

20. Plaintiff demands a jury trial of all counts of this *Petition for Damages*.

O'REILLY, JENSEN & PRESTON, LLC

By _____

ERIC G. JENSEN
Missouri Bar No. *****

2808 S. Ingram Mill Road, Building A-104
Springfield, Missouri 65804
Telephone: (417) 890-1555
Facsimile: (417) 890-1778
E-mail: eric@ojplaw.com