

CASH KENNEDY

Plaintiff

V.

BAIERL CADILLAC, INC.

Defendant.

JURY TRIAL DEMANDED

CIVIL DIVISION

GD No.

COMPLAINT

Filed on behalf of Plaintiff,
CASH KENNEDY

Counsel of Record for this party:

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NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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436 Seventh Avenue
Pittsburgh, PA 15219
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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CASH KENNEDY

Plaintiff

v.

BAIERL CADILLAC, INC.

Defendant.

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CIVIL DIVISION

GD No.

JURY TRIAL DEMANDED

CIVIL ACTION COMPLAINT

1. Plaintiff, Cash Kennedy is an adult individual and citizen of the Commonwealth of Pennsylvania, residing therein at 760 Washington Drive, Pittsburgh, Pennsylvania 15229.

2. Baierl Cadillac, Inc. (hereinafter referred to as “Baierl Cadillac”), was and is now a business entity, believed to be an Pennsylvania corporation, which regularly and continuously conducts business in Allegheny County, with a place of business located therein at 10430 Perry Highway, Wexford, Pennsylvania 15090.

3. Venue is proper in Allegheny County because Baierl Cadillac regularly and continuously conducts business in Allegheny County and because Plaintiff’s cause of action accrued in Allegheny County.

4. At all times relevant hereto, Baierl Cadillac acted by and through its respective agents, servants, employees, workmen and/or other representatives, who were, in turn, acting within the course and scope of their employment, agency and/or service for the same.

5. At all times material herein, Baierl Cadillac, by and through its respective trustees, directors, agents, servants, workmen, employees and/or other representatives, acting within the course and scope of their employment with Baierl Cadillac, owned, operated, controlled, leased, inspected, possessed, managed and/or maintained the premises located at 10430 Perry Highway, Wexford, Pennsylvania 15090.

6. On or about June 29, 2019, and for a long time prior thereto, it was the duty of Baierl Cadillac, by and through its respective trustees, directors, agents, servants, workmen, employees and/or other representatives, to keep and maintain the aforesaid premises located at 10430 Perry Highway, Wexford, Pennsylvania 15090 in a reasonably safe condition for persons lawfully upon the premises, such as Plaintiff, Cash Kennedy.

7. On or about June 29, 2019, Plaintiff Cash Kennedy was an invitee at the Defendant's aforesaid premises located at 10430 Perry Highway, Wexford, Pennsylvania 15090.

COUNT I
CASH KENNEDY v. BAIERL CADILLAC
NEGLIGENCE – PREMISES LIABILITY

8. Plaintiff hereby incorporates by reference paragraphs one (1) through seven (7) of the within Complaint, as though the same were fully set forth at length herein.

9. On or about June 29, 2019, Plaintiff, Cash Kennedy, was lawfully on the aforesaid premises located at 10430 Perry Highway, Wexford, Pennsylvania 15090, when suddenly and without warning—and as a direct result of a defective and/or dangerous condition of the service garage door—the service garage door collapsed on the vehicle Plaintiff was the rear passenger in, causing him to sustain various severe and permanent bodily injuries as more fully set forth below.

10. The incident described in the preceding paragraphs of the within Complaint was caused by the negligence and carelessness of the Defendant, Baierl Cadillac, by and through its agents, servants, workmen, employees and/or other representatives acting within the course and scope of the employment, agency and/or service for the same, generally and in the following particular respects:

- (a) carelessly and negligently allowing the aforesaid service garage door to be kept in a dangerous condition for a prolonged period of time so as to cause injury to the Plaintiff, more specifically failing to timely repair and/or inspect the service garage door;
- (b) carelessly and negligently failing to inspect the premises in such a manner so as to identify defects and prevent potential bodily injuries to third parties, such as the Plaintiff;
- (c) carelessly and negligently failing to recognize individuals and/or cars under the service garage door on Defendant's aforesaid premises, which caused Plaintiff's injuries;
- (d) carelessly and negligently creating and allowing a dangerous condition to exist by failing to provide proper safety warnings to individuals lawfully on the Defendant's premises;
- (e) failing to ensure that the premises could be traversed in a manner which would not cause a danger to potential third parties, such as the Plaintiff;
- (f) failing to adequately and timely repair defects to the aforesaid premises;
- (g) failing to correct a dangerous and hazardous condition of which the Defendant was aware or should have been aware;
- (h) failing to warn people lawfully upon the Defendant's premises, such as the Plaintiff, of the aforesaid dangerous condition;
- (i) failing to install sensors on Defendant's premises that would have prevented the aforesaid service garage door from injuring third parties, such as Plaintiff; and
- (j) otherwise failing to provide a safe place for persons lawfully upon the Defendant's premises, such as the Plaintiff, to travel.

11. Plaintiff, Cash Kennedy, in no manner contributed to his own injuries, which were the direct and proximate result of the Defendant's own negligence and/or carelessness.

12. As a result of the aforesaid negligence of the Defendant, Plaintiff, Cash Kennedy, suffered severe injuries, including, but not limited to, a herniated disc in the L4-L5 region which required surgical repair, as well as aches, pains, mental anxiety and anguish, and a severe shock to his entire nervous system. Plaintiff has in the past and will in the future undergo severe pain and suffering as a result of which he has been in the past and will in the future be unable to engage in his usual activities, all to his great detriment and loss.

13. As a result of the aforesaid negligence of the Defendant, Plaintiff has been and will be obliged to receive and undergo medical attention and care and to expend various sums for the treatment of his injuries and incur such expenditures for an indefinite time in the future.

14. As a further result of the aforesaid accident, Plaintiff, Cash Kennedy, has in the past and may in the future suffer a loss of his earnings and/or earning power, and he may incur such loss for an indefinite period in the future.

15. Further, by reason of the aforesaid occurrence, Plaintiff has and/or may hereinafter incur other financial expenses all in an effort to treat and cure himself of the injuries sustained in the aforesaid accident.

16. As a further result of the aforesaid negligence of the Defendant, Plaintiff has or may have suffered injuries resulting in the serious and/or permanent loss of use of a bodily function, dismemberment, and/or scarring, which may be in full or part cosmetic disfigurements which are or may be permanent, irreparable and severe.

17. As a further result of the aforesaid accident, Plaintiff has suffered a loss of the enjoyment of his usual duties, avocations, life's pleasures and activities, and the shortening of his life expectancy, all to his great detriment and loss.

18. As a further result of the aforesaid accident, Plaintiff has suffered great and unremitting physical pain, suffering and mental anguish, all of which may continue in the future.

WHEREFORE, Plaintiff, Cash Kennedy, demands judgment against Defendant, Baierl Cadillac, Inc., in an amount in excess of Thirty-Five Thousand Dollars (\$35,000.00).

Respectfully,

SWARTZ CULLETON PC

By: /s/ Adam D. Shorr
Adam D. Shorr, Esquire
Anthony J. Giannetti, Esquire
Attorneys for Plaintiff
Cash Kennedy

Date: December 13, 2019

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

SWARTZ CULLETON PC

By: /s/ Adam D. Shorr
Adam D. Shorr, Esquire
Pa. Id. No. 328007

VERIFICATION

I, Cash Kennedy, hereby state that I am the Plaintiff in this action and verify that the statements made in the foregoing Civil Action Complaint are true and correct to the best of my knowledge, information and belief. The undersigned understands that the statements herein are made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsification to authorities.

X

Cash W. Kennedy