

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DIANE KANCZES, Administratrix of the Estate of NATHAN WILLIAM KANCZES,
Deceased;

Plaintiff,

No.: GD-19-13836

v.

KON-O-KWEE SPENCER YMCA a/k/a **COMPLAINT IN A CIVIL ACTION**
YMCA CAMP KON-O-KWEE;

YOUNG MEN'S CHRISTIAN
ASSOCIATION OF GREATER
PITTSBURGH t/d/b/a YMCA OF GREATER
PITTSBURGH t/d/b/a CAMP KON-O-KWEE
SPENCER;

Filed on behalf of:

Plaintiff, DIANE KANCZES, Administratrix of the
Estate of NATHAN WILLIAM KANCZES,
Deceased.

Defendants.

Counsel of record for this party:

CHRISTINE ZAREMSKI-YOUNG, ESQUIRE
E-mail address: czaremski-young@edgarsnyder.com
PA I.D. No. 200219

CHRISTOPHER T. HILDEBRANDT, ESQUIRE
E-mail address: childebrandt@edgarsnyder.com
PA I.D. No. 82002

ADAM C. HAGGAG, ESQUIRE
E-mail address: ahaggag@edgarsnyder.com
PA I.D. No. 325711

Firm No. 1605
EDGAR SNYDER & ASSOCIATES, LLC
U.S. Steel Tower, 10th Floor
600 Grant Street
Pittsburgh, PA 15219-2705
(412) 394-1000

JURY TRIAL DEMANDED

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DEPT. OF PUBLIC SAFETY
CIVIL/FAMILY DIVISION
ALLEGHENY COUNTY PA

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.

Submitted By:
EDGAR SNYDER & ASSOCIATES, LLC


Christine Zaremski-Young, Esquire
Attorney No.: 200219

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DIANE KANCZES, Administratrix of the)	CIVIL DIVISION
Estate of NATHAN WILLIAM KANCZES,)	
Deceased;)	No.:
)	
Plaintiff,)	
)	
v.)	
)	
KON-O-KWEE SPENCER YMCA a/k/a)	
YMCA CAMP KON-O-KWEE;)	
)	
YOUNG MEN'S CHRISTIAN)	
ASSOCIATION OF GREATER)	
PITTSBURGH t/d/b/a YMCA OF)	
GREATER PITTSBURGH;)	
)	
Defendants.)	

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 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 [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE - THE ALLEGHENY COUNTY BAR ASSOCIATION
400 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219
TELEPHONE: (412) 261-6161

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DIANE KANCZES, Administratrix of the)	CIVIL DIVISION
Estate of NATHAN WILLIAM KANCZES,)	
Deceased;)	No.:
)	
Plaintiff,)	
)	
v.)	
)	
KON-O-KWEE SPENCER YMCA a/k/a)	
YMCA CAMP KON-O-KWEE;)	
)	
YOUNG MEN'S CHRISTIAN)	
ASSOCIATION OF GREATER)	
PITTSBURGH t/d/b/a YMCA OF)	
GREATER PITTSBURGH t/d/b/a CAMP)	
KON-O-KWEE SPENCER;)	
)	
Defendants.)	

COMPLAINT IN A CIVIL ACTION

AND NOW, comes the Plaintiff, DIANE KANCZES, Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, by and through her attorneys, EDGAR SNYDER & ASSOCIATES, LCC; CHRISTINE ZAREMSKI-YOUNG, ESQUIRE; CHRISTOPHER T. HILDEBRANDT, ESQUIRE; and ADAM C. HAGGAG, ESQUIRE; and files the within COMPLAINT IN A CIVIL ACTION, and in support thereof avers the following:

1. Plaintiff, DIANE KANCZES, is an adult individual who resides at 7189 Mansfield Lane, Irwin, Westmoreland County, Pennsylvania 15642.
2. Plaintiff, DIANE KANCZES, was appointed as the Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, on July 29, 2019 by the Register of Wills of Westmoreland County, Pennsylvania, at Estate Number 6519-1497.
3. Prior to his death, Plaintiff's Decedent, NATHAN WILLIAM KANCZES, was a minor, and resided at 7189 Mansfield Lane, Irwin, Westmoreland County, Pennsylvania 15642.

4. At the time of his death on July 15, 2019, Plaintiff's Decedent, NATHAN WILLIAM KANCZES, was fifteen (15) years of age, with a date of birth of November 5, 2003.

5. Plaintiff's Decedent, NATHAN WILLIAM KANCZES, died without a will and was survived by the following individuals, who are the only individuals entitled to share in any proceeds of either the Survival or Wrongful Death Actions pursuant to 42 Pa.C.S. § 8301; 20 Pa.C.S. § 3373; 20 Pa.C.S. § 2103; and Pennsylvania law:

- a. DIANE KANCZES, surviving mother of NATHAN WILLIAM KANCZES, having a residence of 7189 Mansfield Lane, Irwin, Westmoreland County, Pennsylvania 15642.
- b. WILLIAM KANCZES, surviving father of NATHAN WILLIAM KANCZES, having a residence of 1000 Clay Pike, North Huntingdon, Westmoreland County, Pennsylvania 15642.
- c. The ESTATE OF NATHAN WILLIAM KANCZES, Deceased.

6. The right to bring this action is conferred upon the Plaintiff, DIANE KANCZES, as Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, and as Personal Representative of NATHAN WILLIAM KANCZES, Deceased, by the following laws under which this action is brought:

- a. 42 Pa.C.S.A. § 8301 et seq. (survival action);
- b. 20 Pa.C.S.A. § 3371 et seq. (wrongful death action); and
- c. Any other wrongful death acts, fiduciary acts, survival acts, Supreme Court rulings and Pennsylvania Rules of Civil Procedure that might be applicable thereunder.

7. Defendant, KON-O-KWEE SPENCER YMCA, is a Pennsylvania non-profit organization authorized to transact and conduct business within the Commonwealth of Pennsylvania and has a principle place of business located at 126 Nagel Road, Fombell, Beaver County, Pennsylvania 16123, and advertised and/or otherwise conducted a significant amount of business in Allegheny County, Pennsylvania.

8. At all times material hereto, it is believed and therefore averred that Defendant, KON-O-KWEE SPENCER YMCA, was also known as YMCA CAMP KON-O-KWEE.

9. At all times material hereto, Defendant, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE, was acting by and through its officers, agents, servants and/or employees, which were working within the course and scope of their employment/agency relationship with Defendant, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE.

10. Defendant, YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH, is a Pennsylvania non-profit organization authorized to transact and conduct business within the Commonwealth of Pennsylvania with a principle place of business located at 680 Anderson Driver, Foster Plaza 10, Suite 400, Pittsburgh, Allegheny County, Pennsylvania 15220.

11. At all times material hereto, it is believed and therefore averred that Defendant, YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH, was trading and doing business as:

- a. YMCA OF GREATER PITTSBURGH; and/or
- b. CAMP KON-O-KWEE SPENCER.

12. At all times material hereto, Defendant, YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, was acting by and through its officers, agents, servants and/or employees, which were working within the course and scope of their employment/agency relationship with Defendant, YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER

PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER.

13. At all times material hereto, it is believed and therefore averred that Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, managed, supervised, and/or otherwise were responsible for and/or had control over an overnight camp for minor-children known as "Camp Kon-O-Kwee," the accommodations for which were located at 126 Nagel Road, Fombell, Beaver County, Pennsylvania 16123.

14. At all times material hereto, it is believed and therefore averred that Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, advertised to the parents of minor-children the opportunity for their children to participate in and be cared for in the aforementioned overnight camp known as "Camp Kon-O-Kwee," including but not limited to advertisements of a dedicated and trained staff, advertisements of a professionally trained staff to run programming and activities such as rock climbing, as well as advertisements that the camp would be operated with responsibility to campers and parents.

15. At all times material hereto, Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, charged a fee for minor-children to participate in the aforementioned overnight camp.

16. At all times material hereto, it is believed and therefore averred that as part of the aforementioned overnight camp, Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, transported minor-children in their care to the "Deer Valley YMCA Family Camp," which was also under the management, supervision and/or control of the aforementioned Defendants, located at 254 Deer Valley Drive, Forth Hill, Somerset County, Pennsylvania 15540, in order to participate in activities under the management, supervision and/or control of the aforementioned Defendants, including rock climbing and/or rappelling within the Forbes State Forest.

17. At all times material hereto, it is believed and therefore averred that as part of the aforementioned overnight camp, Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, managed, supervised, were responsible for, and/or had control over the equipment that was utilized as part of the rock climbing and/or rappelling activities taking place within the Forbes State Forest.

18. At all times material hereto, Plaintiff, DIANE KANCZES, paid the aforementioned fee for her minor-son, NATHAN WILLIAM KANCZES, to participate in the aforementioned overnight camp, and entrusted the care and supervision of her minor-son, NATHAN WILLIAM KANCZES, now deceased, to the Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER

PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER.

19. No action was brought by and/or on behalf of the Plaintiff's Decedent, NATHAN WILLIAM KANCZES, against the within named Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, during his lifetime.

20. The events hereinafter complained of occurred on or about July 15, 2019, at approximately 12:22 p.m., at or in close proximity to an area of the Forbes State Forest known as "Cove Rocks" and/or "Deer Valley Rocks" in Fort Hill, Somerset County, Pennsylvania.

21. At all times material hereto, Plaintiff's Decedent, NATHAN WILLIAM KANCZES, was participating in a rock climbing and/or rappelling activity that was offered as part of the activities of the aforementioned overnight camp, which was under the supervision, control, management, and/or responsibility of the Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER.

22. At all times material hereto it is believed and therefore averred that Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, selected the equipment that was to be utilized as part of the aforementioned rock climbing and/or rappelling activity.

23. At all times material hereto it is believed and therefore averred that Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, set-up the aforementioned equipment in an area at or in close proximity to an area of the Forbes State Forest known as "Cove Rocks" and/or "Deer Valley Rocks" in Fort Hill, Somerset County, Pennsylvania, and were responsible for the safety not only of the equipment utilization and the equipment set-up, but also the safety of the participants in such activities.

24. At all times material hereto it is believed and therefore averred that Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, permitted the selection of the aforementioned equipment, set-up of the aforementioned equipment, and overall supervision and/or management of the rock climbing and/or rappelling activities offered to the minor-children participating in the camping activities to be supervised by improperly experienced and/or improperly trained agents, servants, counsellors, and/or employees under the control of Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER.

25. At all times material hereto, it is believed and therefore averred that Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, failed to utilize the proper

equipment for the aforementioned rock climbing and/or rappelling activities, failed to set-up the aforementioned equipment in a safe manner, failed to properly train and/or select qualified counsellors to be in charge of such activities, and failed to properly supervise the activities as they were taking place.

26. As a result of the negligence of the Defendants, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE and/or YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, as set forth more fully, herein, Plaintiff's Decedent, NATHAN WILLIAM KANCZES, was caused to fall approximately 50 feet while participating in the aforementioned rock climbing and/or rappelling activities.

27. As a direct and proximate result of the aforementioned events, Plaintiff's Decedent, NATHAN WILLIAM KANCZES, was caused to sustain severe and ultimately fatal personal injuries as set forth in more detail, herein.

COUNT I
SURVIVAL ACTION

**DIANE KANCZES, Administratrix of the Estate of
NATHAN WILLIAM KANCZES, Deceased**

vs.

KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE

28. Paragraphs 1 through 27, inclusive, are incorporated herein by reference as though set forth at full length.

29. Plaintiff, DIANE KANCZES, as Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, brings this Survival Action pursuant to 20 Pa.C.S. §§ 3371, 3373 and 42 Pa.C.S. §8302.

30. Pursuant to 42. Pa.C.S. § 8301; 20 Pa.C.S. § 3373; and 20 Pa.C.S. § 2103 the persons who may be entitled to proceeds of the Survival Action brought on behalf of the Estate of NATHAN WILLIAM KANCZES, Deceased, are set forth as follows:

- a. DIANE KANCZES, surviving mother of NATHAN WILLIAM KANCZES, having a residence of 7189 Mansfield Lane, Irwin, Westmoreland County, Pennsylvania 15642.
- b. WILLIAM KANCZES, surviving father of NATHAN WILLIAM KANCZES, having a residence of 1000 Clay Pike, North Huntingdon, Westmoreland County, Pennsylvania 15642.
- c. The ESTATE OF NATHAN WILLIAM KANCZES, Deceased.

31. The severe and fatal injuries sustained by NATHAN WILLIAM KANCZES, Deceased, were a direct and proximate result of the negligence and carelessness of the Defendant, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE, which was working by and through its officers, agents, servants and/or employees, as well as in its individual capacity, generally and in the following particulars:

- a. in failing to hold the rope while “belaying” for Plaintiff’s Decedent, NATHAN WILLIAM KANCZES, causing Plaintiff’s Decedent to fall approximately 50 feet;
- b. in letting go of the rope while “belaying” for Plaintiff’s Decedent, NATHAN WILLIAM KANCZES, causing Plaintiff’s Decedent to fall approximately 50 feet;
- c. in failing to utilize appropriate equipment while “belaying” for Plaintiff’s Decedent, NATHAN WILLIAM KANCZES, causing Plaintiff’s Decedent to fall approximately 50 feet;
- d. in failing to utilize automatic braking equipment while “belaying” for Plaintiff’s Decedent, NATHAN WILLIAM KANCZES, which was readily available and located in close proximity to the activities in question;
- e. in allowing one of its agents, servants, employees, counsellors and/or other individuals under its control to act as the “belay” for rock climbing activities when said individual had never acted as a “belay” prior thereto;

- f. in allowing one of its agents, servants, employees, counsellors and/or other individuals under its control to act as the "belay" for rock climbing activities when said individual had never utilized ATC equipment prior thereto;
- g. in failing to conduct the aforementioned activities free of distraction;
- h. in causing, allowing, and/or otherwise permitting Plaintiff's Decedent, NATHAN WILLIAM KANCZES, to fall approximately 50 feet;
- i. in permitting improperly trained individuals to supervise and/or have control over the activities and equipment in question;
- j. in permitting improperly qualified individuals to supervise and/or have control over the activities and equipment in question;
- k. in failing to train its agents, servants, employees, counsellors and/or other individuals under its control to conduct rock climbing and/or rappelling activities with minor-children;
- l. in failing to train its agents, servants, employees, counsellors and/or other individuals under its control to utilize the necessary equipment to conduct rock climbing and/or rappelling activities with minor-children;
- m. in failing to properly supervise the rock climbing and/or rappelling activities offered to minor-children under its supervision and/or control;
- n. in causing, allowing and/or permitting its agents, servants, employees, counsellors and/or other individuals under its control to conduct rock climbing and/or rappelling activities with minor-children when it knew or should have knowns that said individuals were not appropriately and/or properly trained to conduct such activities;
- o. in causing, allowing and/or permitting its agents, servants, employees, counsellors and/or other individuals under its control to conduct rock climbing and/or rappelling activities with minor-children when it knew or should have knowns that said individuals would act in a negligent manner;
- p. in failing to establish and/or enforce safe and reasonable guidelines, regulations and/or instructions regarding rock climbing activities under its control;
- q. in failing to instruct, train, educate, observe and superintend its agents, servants, employees, counsellors, and/or other individuals under its control on activities involving minors, including rock climbing and/or rappelling activities;

- r. in failing to properly supervise its agents, servants, employees, counsellors, and/or other individuals under its control on activities involving minors, including rock climbing and/or rappelling activities;
- s. in permitting an improperly trained and/or improperly qualified individual to act as the "belay" for the aforementioned rock climbing and/or rappelling activities;
- t. in permitting an improperly trained and/or improperly qualified individual to supervise and otherwise be in charge of the aforementioned rock climbing and/or rappelling activities;
- u. in failing to properly inspect the aforementioned equipment utilized in the rock climbing and/or rappelling activities to make sure it was appropriate for the activities in question;
- v. in failing to properly inspect the aforementioned equipment to make sure it was appropriate set-up prior to the aforementioned rock climbing and/or rappelling activities;
- w. in failing to provide training to the minor-aged campers under its supervision and/or control relative to the aforementioned rock climbing and/or rappelling activities;
- x. in failing to promptly and properly utilize the ATC device to stop and/or prevent Plaintiff's Decedent, NATHAN WILLIAM KANCZES, from falling;
- y. in failing to keep a safe, careful and adequate lookout for the minor-children participating in the activities in question;
- z. in failing to take all reasonable measures to avoid the fall in question;
- aa. in failing to review and properly implement its own policies and procedures that were created relative to rock climbing and/or rappelling activities;
- bb. in failing to provide its agents, servants, employees, counsellors and/or other individuals under its control additional and/or proper training and/or education necessary for the activities in question;
- cc. in failing to appropriately respond to an emergency situation;
- dd. in failing to properly train its agents, servants, employees, counsellors and/or other individuals under its control in the manner in which to respond to an emergency situation;
- ee. in failing to use the degree of care and caution incumbent on individuals supervising and/or otherwise running the activities in question.

32. As a direct and proximate result of the aforesaid negligence and carelessness of the Defendant, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE, which was working by and through its officers, agents, servants and/or employees, as well as in its individual capacity, Plaintiff's Decedent, NATHAN WILLIAM KANCZES, sustained the following severe and fatal injuries:

- a. death;
- b. extreme conscious pain and suffering;
- c. blunt force trauma of the head;
- d. brain swelling and hemorrhage;
- e. multiple large lacerations of the scalp with exposure of the subjacent galea aponeurotica;
- f. subgaleal hemorrhage;
- g. temporalis muscle hemorrhage;
- h. temporoparietal skull fracture with extension into the right petrous ridge;
- i. blood and cerebrospinal fluid within the right external auditory meatus;
- j. bilateral subdural hemorrhage;
- k. basilar subdural hemorrhage;
- l. bilateral subarachnoid hemorrhage;
- m. cerebral edema;
- n. cortical contusions;
- o. left temporal pole subarachnoid hemorrhage;
- p. left cerebellar hemisphere subarachnoid hemorrhage;
- q. intraventricular hemorrhage;
- r. perivascular hemorrhage;
- s. multiple areas of abrasions and contusions, including to the right flank, right arm, right thigh, right calf, right lateral malleolus, and left foot;

- t. pre-impact fright;
- u. cardiac dysrhythmia;
- v. other serious and permanent injuries the exact natures of which are not known to the Plaintiff at this time.

33. As a direct and proximate result of the negligence and carelessness of the Defendant, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE, which was working by and through its officers, agents, servants and/or employees, as well as in its individual capacity, said Defendant is liable to the Estate of NATHAN WILLIAM KANCZES, Deceased, for the following damages:

- a. the permanent deprivation of the health, strength, and vitality of NATHAN WILLIAM KANCZES, Deceased;
- b. the permanent deprivation of the earnings and earning capacity of NATHAN WILLIAM KANCZES, Deceased; and
- c. the mental and physical pain, suffering, inconvenience, shock, emotional and mental anguish, distress, terror, fright, anticipation of death and loss of life's pleasures that NATHAN WILLIAM KANCZES, Deceased, endured until the time of his death.

WHEREFORE, the Plaintiff, DIANE KANCZES, as Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, respectfully requests judgment in her favor and against the Defendant, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE, in an amount in excess of the arbitration limits of Allegheny County including compensatory damages, interest, costs of suit, and attorneys' fees, plus court costs.

A JURY TRIAL IS DEMANDED.

COUNT II
WRONGFUL DEATH

**DIANE KANCZES, Administratrix of the Estate of
NATHAN WILLIAM KANCZES, Deceased**

vs.

KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE

34. Paragraphs 1 through 33, inclusive, are incorporated herein by reference as though set forth at full length.

35. Plaintiff, DIANE KANCZES, as Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, and as Personal Representative of NATHAN WILLIAM KANCZES, Deceased, brings this Wrongful Death Action pursuant to 42 Pa.C.S. § 8301 and Pa.R.C.P. 2202.

36. As a result of the aforementioned events, NATHAN WILLIAM KANCZES, Deceased, sustained severe and fatal injuries which were the direct and proximate result of the negligence and carelessness of the Defendant, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE, which was working by and through its officers, agents, servants and/or employees, as well as in its individual capacity, as more fully described in Count I, above.

37. NATHAN WILLIAM KANCZES, Deceased, did not bring an action for personal injuries during his lifetime and no other action for his death has been commenced against the Defendant, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE, which was working by and through its officers, agents, servants and/or employees, including JAMES A. SALVIO, as well as in its individual capacity.

38. NATHAN WILLIAM KANCZES, Deceased, was survived by the following persons who may be entitled to recover damages for the wrongful death of NATHAN WILLIAM KANCZES, Deceased, pursuant to 42 Pa.C.S. §8301:

- a. DIANE KANCZES, surviving mother of NATHAN WILLIAM KANCZES, having a residence of 7189 Mansfield Lane, Irwin, Westmoreland County, Pennsylvania 15642.
- b. WILLIAM KANCZES, surviving father of NATHAN WILLIAM KANCZES, having a residence of 1000 Clay Pike, North Huntingdon, Westmoreland County, Pennsylvania 15642.

39. Plaintiff, DIANE KANCZES, as Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, and as Personal Representative of NATHAN WILLIAM KANCZES, Deceased, asserts a claim under the Wrongful Death Act on behalf of the individuals listed in Paragraph 38, above.

40. As a direct and proximate result of the negligence and carelessness of the Defendant, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE, which was working by and through its officers, agents, servants and/or employees, as well as in its individual capacity, as more fully described in Count I, above, said Defendant is liable to the wrongful death beneficiaries of NATHAN WILLIAM KANCZES, Deceased, for the following damages:

- a. lost income and financial support which would have reasonably been expected to be received from NATHAN WILLIAM KANCZES, Deceased, during his lifetime;
- b. deprivation of the common society, companionship, services, contributions, tutelage, and education due to the death of NATHAN WILLIAM KANCZES, Deceased;
- c. entitlement to reasonable costs of any and all hospital, medical, funeral, burial and estate administrative expenses and other pecuniary losses due to the death of NATHAN WILLIAM KANCZES, Deceased; and
- d. all damages allowed under the Pennsylvania Wrongful Death Statute/Law.

WHEREFORE, Plaintiff, DIANE KANCZES, Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, respectfully requests judgment in her favor and against the Defendant, KON-O-KWEE SPENCER YMCA a/k/a YMCA CAMP KON-O-KWEE, in an amount in excess of the arbitration limits of Allegheny County, Pennsylvania, plus court costs.

A JURY TRIAL IS DEMANDED.

COUNT III
SURVIVAL ACTION

**DIANE KANCZES, Administratrix of the Estate of
NATHAN WILLIAM KANCZES, Deceased**

vs.

**YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a
YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER**

41. Paragraphs 1 through 40, inclusive, are incorporated herein by reference as though set forth at full length.

42. Plaintiff, DIANE KANCZES, as Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, brings this Survival Action pursuant to 20 Pa.C.S. §§ 3371, 3373 and 42 Pa.C.S. §8302.

43. Pursuant to 42. Pa.C.S. § 8301; 20 Pa.C.S. § 3373; and 20 Pa.C.S. § 2103 the persons who may be entitled to proceeds of the Survival Action brought on behalf of the Estate of NATHAN WILLIAM KANCZES, Deceased, are set forth as follows:

- a. DIANE KANCZES, surviving mother of NATHAN WILLIAM KANCZES, having a residence of 7189 Mansfield Lane, Irwin, Westmoreland County, Pennsylvania 15642.
- b. WILLIAM KANCZES, surviving father of NATHAN WILLIAM KANCZES, having a residence of 1000 Clay Pike, North Huntingdon, Westmoreland County, Pennsylvania 15642.
- c. The ESTATE OF NATHAN WILLIAM KANCZES, Deceased.

44. The severe and fatal injuries sustained by NATHAN WILLIAM KANCZES, Deceased, were a direct and proximate result of the negligence and carelessness of the Defendant, YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, which was working by and through its officers, agents, servants and/or employees, as well as in its individual capacity, generally and in the following particulars:

- a. in failing to hold the rope while "belaying" for Plaintiff's Decedent, NATHAN WILLIAM KANCZES, causing Plaintiff's Decedent to fall approximately 50 feet;
- b. in letting go of the rope while "belaying" for Plaintiff's Decedent, NATHAN WILLIAM KANCZES, causing Plaintiff's Decedent to fall approximately 50 feet;
- c. in failing to utilize appropriate equipment while "belaying" for Plaintiff's Decedent, NATHAN WILLIAM KANCZES, causing Plaintiff's Decedent to fall approximately 50 feet;
- d. in failing to utilize automatic braking equipment while "belaying" for Plaintiff's Decedent, NATHAN WILLIAM KANCZES, which was readily available and located in close proximity to the activities in question;
- e. in allowing one of its agents, servants, employees, counsellors and/or other individuals under its control to act as the "belay" for rock climbing activities when said individual had never acted as a "belay" prior thereto;
- f. in allowing one of its agents, servants, employees, counsellors and/or other individuals under its control to act as the "belay" for rock climbing activities when said individual had never utilized ATC equipment prior thereto;
- g. in failing to conduct the aforementioned activities free of distraction;
- h. in causing, allowing, and/or otherwise permitting Plaintiff's Decedent, NATHAN WILLIAM KANCZES, to fall approximately 50 feet;
- i. in permitting improperly trained individuals to supervise and/or have control over the activities and equipment in question;
- j. in permitting improperly qualified individuals to supervise and/or have control over the activities and equipment in question;

- k. in failing to train its agents, servants, employees, counsellors and/or other individuals under its control to conduct rock climbing and/or rappelling activities with minor-children;
- l. in failing to train its agents, servants, employees, counsellors and/or other individuals under its control to utilize the necessary equipment to conduct rock climbing and/or rappelling activities with minor-children;
- m. in failing to properly supervise the rock climbing and/or rappelling activities offered to minor-children under its supervision and/or control;
- n. in causing, allowing and/or permitting its agents, servants, employees, counsellors and/or other individuals under its control to conduct rock climbing and/or rappelling activities with minor-children when it knew or should have knowns that said individuals were not appropriately and/or properly trained to conduct such activities;
- o. in causing, allowing and/or permitting its agents, servants, employees, counsellors and/or other individuals under its control to conduct rock climbing and/or rappelling activities with minor-children when it knew or should have knowns that said individuals would act in a negligent manner;
- p. in failing to establish and/or enforce safe and reasonable guidelines, regulations and/or instructions regarding rock climbing activities under its control;
- q. in failing to instruct, train, educate, observe and superintend its agents, servants, employees, counsellors, and/or other individuals under its control on activities involving minors, including rock climbing and/or rappelling activities;
- r. in failing to properly supervise its agents, servants, employees, counsellors, and/or other individuals under its control on activities involving minors, including rock climbing and/or rappelling activities;
- s. in permitting an improperly trained and/or improperly qualified individual to act as the "belay" for the aforementioned rock climbing and/or rappelling activities;
- t. in permitting an improperly trained and/or improperly qualified individual to supervise and otherwise be in charge of the aforementioned rock climbing and/or rappelling activities;
- u. in failing to properly inspect the aforementioned equipment utilized in the rock climbing and/or rappelling activities to make sure it was appropriate for the activities in question;

- v. in failing to properly inspect the aforementioned equipment to make sure it was appropriate set-up prior to the aforementioned rock climbing and/or rappelling activities;
- w. in failing to provide training to the minor-aged campers under its supervision and/or control relative to the aforementioned rock climbing and/or rappelling activities;
- x. in failing to promptly and properly utilize the ATC device to stop and/or prevent Plaintiff's Decedent, NATHAN WILLIAM KANCZES, from falling;
- y. in failing to keep a safe, careful and adequate lookout for the minor-children participating in the activities in question;
- z. in failing to take all reasonable measures to avoid the fall in question;
- aa. in failing to review and properly implement its own policies and procedures that were created relative to rock climbing and/or rappelling activities;
- bb. in failing to provide its agents, servants, employees, counsellors and/or other individuals under its control additional and/or proper training and/or education necessary for the activities in question;
- cc. in failing to appropriately respond to an emergency situation;
- dd. in failing to properly train its agents, servants, employees, counsellors and/or other individuals under its control in the manner in which to respond to an emergency situation;
- ee. in failing to use the degree of care and caution incumbent on individuals supervising and/or otherwise running the activities in question.

45. As a direct and proximate result of the aforesaid negligence and carelessness of the Defendant, YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, which was working by and through its officers, agents, servants and/or employees, as well as in its individual capacity, Plaintiff's Decedent, NATHAN WILLIAM KANCZES, sustained the following severe and fatal injuries:

- a. death;
- b. extreme conscious pain and suffering;

- c. blunt force trauma of the head;
- d. brain swelling and hemorrhage;
- e. multiple large lacerations of the scalp with exposure of the subjacent galea aponeurotica;
- f. subgaleal hemorrhage;
- g. temporalis muscle hemorrhage;
- h. temporoparietal skull fracture with extension into the right petrous ridge;
- i. blood and cerebrospinal fluid within the right external auditory meatus;
- j. bilateral subdural hemorrhage;
- k. basilar subdural hemorrhage;
- l. bilateral subarachnoid hemorrhage;
- m. cerebral edema;
- n. cortical contusions;
- o. left temporal pole subarachnoid hemorrhage;
- p. left cerebellar hemisphere subarachnoid hemorrhage;
- q. intraventricular hemorrhage;
- r. perivascular hemorrhage;
- s. multiple areas of abrasions and contusions, including to the right flank, right arm, right thigh, right calf, right lateral malleolus, and left foot;
- t. pre-impact fright;
- u. cardiac dysrhythmia;
- v. other serious and permanent injuries the exact natures of which are not known to the Plaintiff at this time.

46. As a direct and proximate result of the negligence and carelessness of the Defendant, YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, which

was working by and through its officers, agents, servants and/or employees, as well as in its individual capacity, said Defendant is liable to the Estate of NATHAN WILLIAM KANCZES, Deceased, for the following damages:

- a. the permanent deprivation of the health, strength, and vitality of NATHAN WILLIAM KANCZES, Deceased;
- b. the permanent deprivation of the earnings and earning capacity of NATHAN WILLIAM KANCZES, Deceased; and
- c. the mental and physical pain, suffering, inconvenience, shock, emotional and mental anguish, distress, terror, fright, anticipation of death and loss of life's pleasures that NATHAN WILLIAM KANCZES, Deceased, endured until the time of his death.

WHEREFORE, the Plaintiff, DIANE KANCZES, as Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, respectfully requests judgment in her favor and against the Defendant, YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, in an amount in excess of the arbitration limits of Allegheny County including compensatory damages, interest, costs of suit, and attorneys' fees, plus court costs.

A JURY TRIAL IS DEMANDED.

COUNT IV
WRONGFUL DEATH

**DIANE KANCZES, Administratrix of the Estate of
NATHAN WILLIAM KANCZES, Deceased**

vs.

**YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a
YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER**

47. Paragraphs 1 through 46, inclusive, are incorporated herein by reference as though set forth at full length.

48. Plaintiff, DIANE KANCZES, as Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, and as Personal Representative of NATHAN WILLIAM KANCZES, Deceased, brings this Wrongful Death Action pursuant to 42 Pa.C.S. § 8301 and Pa.R.C.P. 2202.

49. As a result of the aforementioned events, NATHAN WILLIAM KANCZES, Deceased, sustained severe and fatal injuries which were the direct and proximate result of the negligence and carelessness of the Defendant, YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, which was working by and through its officers, agents, servants and/or employees, as well as in its individual capacity, as more fully described in Count III, above.

50. NATHAN WILLIAM KANCZES, Deceased, did not bring an action for personal injuries during his lifetime and no other action for his death has been commenced against the Defendant, YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, which was working by and through its officers, agents, servants and/or employees, as well as in its individual capacity.

51. NATHAN WILLIAM KANCZES, Deceased, was survived by the following persons who may be entitled to recover damages for the wrongful death of NATHAN WILLIAM KANCZES, Deceased, pursuant to 42 Pa.C.S. §8301:

- a. DIANE KANCZES, surviving mother of NATHAN WILLIAM KANCZES, having a residence of 7189 Mansfield Lane, Irwin, Westmoreland County, Pennsylvania 15642.
- b. WILLIAM KANCZES, surviving father of NATHAN WILLIAM KANCZES, having a residence of 1000 Clay Pike, North Huntingdon, Westmoreland County, Pennsylvania 15642.

52. Plaintiff, DIANE KANCZES, as Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, and as Personal Representative of NATHAN WILLIAM KANCZES, Deceased, asserts a claim under the Wrongful Death Act on behalf of the individuals listed in Paragraph 51, above.

53. As a direct and proximate result of the negligence and carelessness of the Defendant, YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, which was working by and through its officers, agents, servants and/or employees, as well as in its individual capacity, as more fully described in Count III, above, said Defendant is liable to the wrongful death beneficiaries of NATHAN WILLIAM KANCZES, Deceased, for the following damages:


- a. lost income and financial support which would have reasonably been expected to be received from NATHAN WILLIAM KANCZES, Deceased, during his lifetime;
- b. deprivation of the common society, companionship, services, contributions, tutelage, and education due to the death of NATHAN WILLIAM KANCZES, Deceased;
- c. entitlement to reasonable costs of any and all hospital, medical, funeral, burial and estate administrative expenses and other pecuniary losses due to the death of NATHAN WILLIAM KANCZES, Deceased; and
- d. all damages allowed under the Pennsylvania Wrongful Death Statute/Law.

WHEREFORE, Plaintiff, DIANE KANCZES, Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, respectfully requests judgment in her favor and against the Defendant, YOUNG MEN'S CHRISTIAN ASSOCIATION OF GREATER PITTSBURGH

t/d/b/a YMCA OF GREATER PITTSBURGH t/d/b/a CAMP KON-O-KWEE SPENCER, in an amount in excess of the arbitration limits of Allegheny County, Pennsylvania, plus court costs.

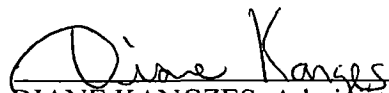
A JURY TRIAL IS DEMANDED.

Respectfully submitted,
EDGAR SNYDER & ASSOCIATES, LLC

By: 
Christine Zaremski-Young, Esquire
Christopher T. Hildebrandt, Esquire
Adam C. Haggag, Esquire
Attorneys for Plaintiffs

VERIFICATION

I, DIANE KANCZES, as Administratrix of the Estate of NATHAN WILLIAM KANCZES, Deceased, hereby verify that the foregoing averments of fact contained within the COMPLAINT IN A CIVIL ACTION are true and correct and based upon my personal knowledge, information or belief. I understand that these averments of fact are made subject to the penalties of 18 Purdons Consolidated Statutes Section 4904, relating to unsworn falsification to authorities.



DIANE KANCZES, Administratrix of the Estate of
NATHAN WILLIAM KANCZES, Deceased

Date: 9/30/19

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

Allegheny

County

For Prothonotary Use Only:

Docket No:

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:
Diane Kanczes

Lead Defendant's Name:
Kon-O-Kwee

Are money damages requested? ☒ Yes ☐ No

Dollar Amount Requested: ☐ within arbitration limits
☒ outside arbitration limits
(check one)

Is this a *Class Action Suit*? ☐ Yes ☒ No

Is this an *MDJ Appeal*? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Christine Zaremski-Young

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

SECTION B

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☒ Other:

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

☐ Employment Dispute:
Discrimination
☐ Employment Dispute: Other

☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other

☐ Zoning Board
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

