

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

JAMYA WHITSEY,

Plaintiff,

vs.

CITY OF MCKEESPORT,

Defendant.

CIVIL DIVISION

NO.: GD 17-012175

COMPLAINT

FILED ON BEHALF OF:

Plaintiff

COUNSEL OF RECORD FOR THIS
PARTY:

ANDREW J. LEGER, JR., ESQUIRE
PA. I.D. #43702
Law Office of Andrew J. Leger, Jr., P.C.
310 Grant Street
Suite 2630
Pittsburgh, PA 15219

A JURY TRIAL DEMANDED

FILED
2017 NOV -9 AM 9:49
DEPT. OF COURT RECORDS
CIVIL/FAMILY DIVISION
ALLEGHENY COUNTY, PA

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

JAMYA WHITSEY,

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Plaintiff,

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CITY OF MCKEESPORT,

Defendant.

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 the Complaint and notice are served, by entering a written appearance personally or by an attorney and by 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 plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE 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.

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 TO A REDUCED FEE OR NO FEE.

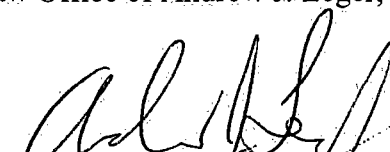
ACBA Lawyer Referral Service

436 7th Ave,
Pittsburgh, PA 15219
(412) 261-5555

The Law Office of Andrew J. Leger, Jr., P.C.

Date: November 9th 2017

By:



Andrew J. Leger, Jr., Esquire
Attorney for Plaintiff

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JAMYA WHITSEY,

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Plaintiff,

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COMPLAINT

A Jury Trial Demanded

And Now, comes the Plaintiff, Jamya Whitsey, by and through her attorney, Andrew J. Leger, Jr., Esquire and the Law Office of Andrew J. Leger, Jr., P.C. and files this Complaint upon a set of particulars of which the following is a statement:

1. Plaintiff, Jamya Whitsey, is an adult individual who resides at 3012 Boyd Street, McKeesport, Pennsylvania 15132 and who has a date of birth of October 1, 1998.
2. Defendant, City of McKeesport, is a political governmental municipality and/or subdivision, existing and doing business as such at 500 5th Avenue, McKeesport, Pennsylvania 15132.
3. That at all times pertinent and relevant to this cause of action, the City of McKeesport was the owner of real property between N. Grandview Avenue and Porter Street, was in possession and control of the premises and, as such, had a duty to Plaintiff and all others similarly situated to inspect, maintain, repair and keep it safe for use by members of the public.

4. At all times material and relevant hereto, the Defendant acted through its agents, servants and/or employees, acting within the scope of their agency, servitude and/or employment in the following respects.

5. The events upon which this Complaint is based occurred on or about January 28, 2015, at or about 6:55 a.m.

6. On and prior to this time, there existed on the real property a dangerous and unsafe and hazardous condition, to-wit, the premises contained hills and ridges of ice and snow, several inches in height, created by the Defendant's failure to remove and/or otherwise treat the ice and snow with and/or salt or use anti-skid material on the same, barricade the area and/or give warning of its dangerous condition.

7. At all times relevant hereto, the area identified above was unlit and/or poorly lit.

8. At or about the aforementioned time, Plaintiff entered the premises of the Defendant as an invitee.

9. On or about this time, Plaintiff was walking in a careful, reasonable, non-negligent and prudent manner, when she was caused to encounter ice and snow, which had been allowed to accumulate in the area being traversed by the Plaintiff, due to the neglect and negligence of the Defendant.

10. As a result, Plaintiff's feet slipped out from under her, causing her to fall and sustain serious and permanent injuries and damages.

11. The above described accident, resulting injures and damages were caused solely by and were the direct and proximate result of, the Defendant itself, acting through its agents,

servants, workmen and/or employees acting within the scope of their agency, servitude, workmanship and/or employment in general and, with respect to the following particulars:

- a) In failing to properly construct, design and/or maintain the property;
- b) In failing to inspect the property for dangerous conditions which an invitee would not be aware of;
- c) In failing to provide for the protection of an invitee who would be unaware of dangerous conditions on the property of the Defendant;
- d) In failing to inspect the area for the recurrence of snow and/or ice when the Defendant knew, or should have known, that snow and/or ice collected and froze in the same location;
- e) In failing to properly maintain, shovel, salt and/or anti-skid material the area when the Defendant knew, or should have known, that invitees would be walking in this area;
- f) In failing to protect Plaintiff from an unreasonable risk or harm posed by the condition of the slippery area, when Defendant expected or should have expected, that invitees such as Plaintiff would not realize the dangers that condition presented or would fail to protect themselves against the same;
- g) In creating the dangerous condition by their own actions or those of their agents, employees, servants and/or workers;
- h) In failing to make the premises safe for pedestrians;
- i) In failing to adequately barricade or otherwise limit access to the area where the hazardous and dangerous condition was located;
- j) In failing to exercise a proper degree of supervision regarding the maintenance, clean-up, use of salt and/or anti-skid material and/or properly repair the area on which there existed of snow and/or ice;
- k) In being vicariously liable for the failure of an independent contractor to properly construct, design, maintain, clean, remove, de-ice, use anti-skid material and/or repair the dangerous condition;
- l) In failing to take corrective measures to remedy said dangerous condition when the Defendant knew, or in the exercise of reasonable care, should have known of the existence of the dangerous condition;

- m) In failing to provide a safe passageway and/or alternative route for Plaintiff to ingress and egress from the area;
- n) In failing to warn the Plaintiff of the existence of a hazardous and dangerous condition;
- o) In failing to provide adequate lighting in the area so invitees, including Plaintiff could safely traverse the snow and/or ice covered area; and,
- p) In otherwise failing to exercise due care under the circumstances as more fully set forth hereinbefore.

12. The aforesaid snow and/or ice was an artificial condition created through Defendant's failure to maintain, repair and/or negligently maintain and/or repair the premises, resulting in a dangerous condition to the real property, which created a reasonably foreseeable risk of the kind of injury which was incurred by the Plaintiff herein.

13. The Defendant had actual and/or constructive notice of the aforesaid dangerous condition at a time sufficiently prior to the event to take appropriate measures to protect against this dangerous condition.

14. As the direct, legal and proximate result of the negligence of the Defendant, as aforesaid, Plaintiff was caused to suffer the following injuries all of which are or may be permanent in nature:

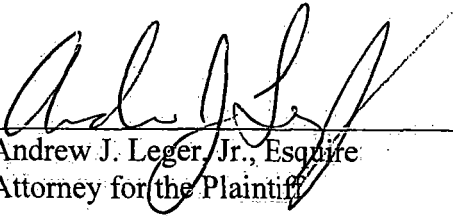
- a. fractured left fibula;
- b. Biamalleolar fracture to the left ankle with syndesmosis;
- c. injury to the left leg;
- d. contusions and bruises;
- e. shock to the nerves and nervous system; and,
- f. other serious and severe injuries.

14. That solely as a result of the aforesaid injuries Plaintiff sustained the following damages:

- a. she has suffered, and will continue to suffer great pain, suffering, inconvenience, embarrassment and mental anguish;
- b. she has been required to spend large sums of money for surgical and medical attention, hospitalization, medical supplies, surgical appliances, medicines and attendant services;
- c. she has been and/or will be deprived of her earnings;
- d. her earning capacity has been reduced and/or permanently impaired;
- e. she has been permanently disfigured;
- f. her general health, strength and vitality have been impaired; and,
- g. she has been and will be unable to enjoy the ordinary pleasures of life.
- h. she has sustained a permanent loss of a bodily function; and,
- i. she has medical expenses in excess of \$1,500.00.

WHEREFORE, Plaintiff claims damages from the Defendant in an amount in excess of the compulsory arbitration limits.

LAW OFFICE OF ANDREW J. LEGER, JR., P.C.

BY: 

Andrew J. Leger, Jr., Esquire
Attorney for the Plaintiff

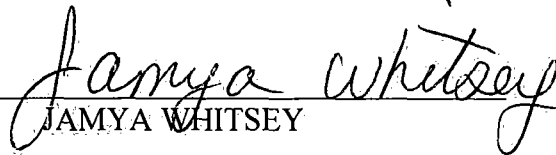
A JURY TRIAL DEMANDED

VERIFICATION

I, **JAMYA WHITSEY**, hereby verifies that the statements of fact made in the foregoing Complaint in Civil Action are true and correct to the best of my knowledge, information and belief; that I am authorized to execute this Verification and that I understand that any false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Date

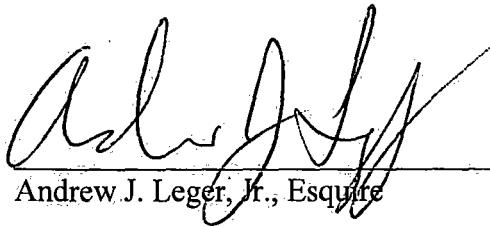
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JAMYA WHITSEY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **COMPLAINT**, has been served upon the following counsel of record via U.S. First Class mail, postage pre-paid, on this 9th day of November, 2017, at the following address:

Gregg A. Guthrie, Esquire
Summers, McDonnell, Hudock & Guthrie, P.C.
707 Grant Street, Suite 2400
Pittsburgh, PA 15219



Andrew J. Leger, Jr., Esquire