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Nebraska Judicial Branch

Case Summary

In the District Court of Douglas County
 The Case ID is CI 17 0007242
 Osborne v. Mount Michael Foundation
 The Honorable J. Russell Derr, presiding.
 Classification: Negligence-Other
 Filed on 08/24/2017
 This case is Open as of 08/24/2017

Parties/Attorneys to the Case

Party	Attorney
Plaintiff ACTIVE Angela E Osborne 16339 Dorcas St. Omaha NE 68130	Jason G Ausman 9850 Nicholas St Ste 305 Omaha NE 68114 402-933-8140
Defendant ACTIVE Mount Michael Foundation 22520 Mount Michael Road Elkhorn NE 68022	
Defendant ACTIVE Mount Michael Benedictine Abbey 22520 Mount Michael Road Elkhorn NE 68022	
Defendant ACTIVE Mount Michael Benedictine School 22520 Mount Michael Road Elkhorn NE 68022	
Third Party Plaintiff/Petitioner ACTIVE Creative Dining Services, Inc.	

Court Costs Information

Incurred By	Account	Date	Amount
Plaintiff	Petition	08/24/2017	\$35.00
Plaintiff	Filing Fee - State	08/24/2017	\$1.00
Plaintiff	Automation Fee	08/24/2017	\$8.00
Plaintiff	NSC Education Fee	08/24/2017	\$1.00
Plaintiff	Dispute Resolution Fee	08/24/2017	\$0.75
Plaintiff	Indigent Defense Fee	08/24/2017	\$3.00
Plaintiff	Uniform Data Analysis Fee	08/24/2017	\$1.00
Plaintiff	J.R.F.	08/24/2017	\$6.00
Plaintiff	Filing Fee-JRF	08/24/2017	\$6.00
Plaintiff	Legal Aid/Services Fund	08/24/2017	\$6.25

Incurred By	Account	Date	Amount
Plaintiff	Complete Record	08/24/2017	\$15.00
Plaintiff	Service Fees	08/30/2017	\$6.77
Plaintiff	Service Fees	08/30/2017	\$6.77
Plaintiff	Service Fees	08/30/2017	\$6.77

Financial Activity

No trust money is held by the court
No fee money is held by the court

Payments Made to the Court

Receipt	Type	Date	For	Amount
272848	Electronic Trans	08/24/2017	Osborne, Angela, E	\$83.00
			Petition	\$35.00
			Filing Fee - State	\$1.00
			Automation Fee	\$8.00
			NSC Education Fee	\$1.00
			Dispute Resolution Fee	\$7.75
			Indigent Defense Fee	\$3.00
			Uniform Data Analysis	\$1.00
			J.R.F.	\$6.00
			Filing Fee-JRF	\$6.00
			Legal Aid/Services Fun	\$6.25
			Complete Record	\$15.00

Register of Actions

08/30/2017 Return Summons/Alias Summons
The document number is 00474735

dth
Served 08/26/2017, Certified Mail
Image ID N1724291CD01

08/30/2017 Return Summons/Alias Summons
The document number is 00474734

dth
Served 08/26/2017, Certified Mail
Image ID N17242914D01

08/30/2017 Return Summons/Alias Summons
The document number is 00474733

dth

Served 08/26/2017, Certified Mail
Image ID N1724291AD01

08/24/2017 Summons Issued on Mount Michael Benedictine School
The document number is 00474735
Summons e-mailed
Image ID D00474735D01

08/24/2017 Summons Issued on Mount Michael Benedictine Abbey
The document number is 00474734
Summons e-mailed
Image ID D00474734D01

08/24/2017 Summons Issued on Mount Michael Foundation
The document number is 00474733
Summons e-mailed
Image ID D00474733D01

08/24/2017 Praecipe-Summons/Alias

s1 This action initiated by party Angela E Osborne
Image ID N17236NGWD01

08/24/2017 Praecipe-Summons/Alias
This action initiated by party Angela E Osborne
s1 Image ID N17236NGED01

08/24/2017 Praecipe-Summons/Alias
This action initiated by party Angela E Osborne
s1 Image ID N17236NG8D01

08/24/2017 Complaint-Praecipe
This action initiated by party Angela E Osborne

praecipe filed separate
s1 Image ID N17236NG6D01

IN THE DISTRICT COURT FOR DOUGLAS COUNTY, NEBRASKA

<p>ANGELA E. OSBORNE,</p> <p>Plaintiff,</p> <p>vs.</p> <p>MOUNT MICHAEL FOUNDATION, MOUNT MICHAEL BENEDICTINE ABBEY, and MOUNT MICHAEL BENEDICTINE SCHOOL,</p> <p>Defendants,</p> <p>and</p> <p>CREATIVE DINING SERVICES, INC.,</p> <p>Plaintiff/Subrogee.</p>	<p>CI 17 --</p> <p>COMPLAINT AND JURY DEMAND</p>
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COMES NOW the Plaintiff, ANGELA E. OSBORNE (hereinafter "Ms. Osborne"),
and for her causes of action, states and alleges:

1. At all relevant times herein, Ms. Osborne was and remains a resident of
Omaha, Douglas County, Nebraska.

2. The defendant, Mount Michael Foundation (hereinafter "FOUNDATION"),
was and is a domestic corporation which owns property for the benefit of Mount Michael
Benedictine Abbey and Mount Michael Benedictine School in Elkhorn, Douglas County,
Nebraska.

3. The defendant, Mount Michael Benedictine Abbey (hereinafter "ABBEY"),
was and is a domestic corporation which operates a boarding school for boys in Elkhorn,
Douglas County, Nebraska.

4. The defendant, Mount Michael Benedictine School (hereinafter "SCHOOL"), was and is a domestic corporation which operates Mount Michael Benedictine School in Elkhorn, Douglas County, Nebraska.

5. The plaintiff/subrogee, Creative Dining Services, Inc. (hereinafter "CREATIVE"), was and is a foreign corporation, which, at all relevant times herein, provided food service management for defendant SCHOOL.

6. CREATIVE was, at all relevant times herein, Ms. Osborne's employer. Through its workers' compensation insurer, The Hanover Insurance Group, Inc., CREATIVE has paid workers' compensation benefits to Ms. Osborne, and therefore, as provided by *Neb. Rev. Stat. § 48-118*, is joined herein as a plaintiff/subrogee for subrogation purposes only.

7. On or about August 29, 2013, at approximately 9:30 a.m., an accumulation of water existed on the floor of a produce cooler located within the SCHOOL cafeteria kitchen. The presence of water constituted a hazard.

8. At all relevant times, the defendants owned and/or were responsible for maintaining the aforementioned produce cooler.

9. On or about August 29, 2013, at approximately 9:30 a.m., Ms. Osborne was a lawful entrant on the premises of the defendants, and in an area of the premises, specifically the aforementioned produce cooler, where she was invited to be. Specifically, Ms. Osborne was on the defendants' premises for the purpose of fulfilling her employment responsibilities for CREATIVE, who contracted with the defendants to provide SCHOOL with a food service program.

10. While in the produce cooler, Ms. Osborne observed a leak from a condenser within the aforementioned produce cooler. Ms. Osborne exited said cooler to retrieve towels and a “wet floor” sign. Upon returning to the cooler, Ms. Osborne slipped and fell, causing her to strike her head.

11. As a result of her fall, Ms. Osborne sustained serious and permanent personal injuries, including but not limited to:

- a. traumatic brain injury;
- b. concussion;
- c. post-concussion syndrome;
- d. headaches;
- e. depression;
- f. visual impairment;
- g. tinnitus;
- h. neck injury; and
- i. back injury.

12. The defendants created or failed to prevent a hazardous condition on its premises that the defendants knew, or should have known, was capable of causing serious bodily injury to persons entering the premises.

FIRST THEORY OF RECOVERY

(GENERAL NEGLIGENCE)

13. Plaintiffs hereby set forth the allegations of paragraphs 1 through 12 as if set forth here.

14. The defendants were negligent in one or more of the following particulars and such negligence was a proximate cause of Ms. Osborne's injuries:

A. Failing to inspect the area and confirm the presence of a dangerous condition on the premises – namely, a leak within the SCHOOL cafeteria kitchen produce cooler, which created an unreasonable risk of harm for lawful entrants like Ms. Osborne walking in such areas when the defendants knew, or in the exercise of reasonable care should have known, of its presence and removed the dangerous condition.

B. Failing to use reasonable care to protect lawful entrants like Ms. Osborne against the dangers perpetuated by the defendants' failure to act, including the failure to maintain its premises in a reasonably safe condition;

C. Failing to remove the dangerous condition, which created an unreasonable risk of harm for lawful entrants like Ms. Osborne walking in such areas when the defendants knew, or in the exercise of reasonable care should have known, of the existence of these conditions and removed them.

D. Failing to properly instruct employees and/or agents responsible for the maintenance and inspection of its premises;

E. Failing to properly supervise employees and/or agents responsible for maintenance and inspection of its premises.

15. As a proximate result of the defendants' negligence, Ms. Osborne was injured and damaged, as set forth in this Complaint.

SECOND THEORY OF RECOVERY

(PREMISES LIABILITY)

16. Plaintiff hereby incorporates by reference paragraphs 1-15 as if set forth here, and further states:

17. The defendants either:

A. Created a condition of danger and hazard that was a proximate cause of Ms. Osborne's fall by choosing not to remove and/or maintain the dangerous condenser from its premises when the defendants knew, or should have known, of its existence and removed the same;

B. Knew of the condition of danger or hazard that was a proximate cause of Ms. Osborne's fall; or,

C. By the exercise of reasonable care, would have discovered the condition of danger or hazard(s) that was a proximate cause of Ms. Osborne's fall.

18. Defendants should have realized that the condenser leak created an unreasonable risk of harm to a lawful entrant like Ms. Osborne.

19. Defendants should have expected that a lawful entrant like Ms. Osborne either would not discover or realize the danger of the condenser leak; or would fail to protect herself against the danger.

20. Defendants failed to use reasonable care to protect lawful entrants like Ms. Osborne against the danger presented by the condenser leak.

21. As a proximate result of the condition of danger or hazard, Ms. Osborne fell and was injured as more fully described herein.

DAMAGES

22. Plaintiff hereby incorporates by reference paragraphs 1-21 as if set forth here, and further states:

23. The aforementioned negligent acts and omissions were the sole, direct, and proximate cause of Ms. Osborne's injuries, and she has suffered damages as a result and in the following particulars:

- A. Medical expenses in an amount not less than \$60,000.00, but to be determined at trial;
- B. Future medical expense;
- C. Wage Loss to be determined at trial;
- D. Loss of Earning Capacity;
- E. Past and future pain, suffering, loss of enjoyment of life and inconvenience in such amounts as are allowable by law.

24. At the time of her fall, Ms. Osborne was 42 years of age, and according to the Social Security Administration, maintained a life expectancy of 39.82 years, Ms. Osborne being born on December 3, 1970.

25. Plaintiff hereby requests a trial by jury of all theories of recovery alleged in this Complaint.

WHEREFORE, Plaintiff respectfully prays for judgment against the Defendants for all of the general and special damages as more specifically set forth in the previous paragraph, for costs, and for such other, further, and different relief as is just and equitable.

DATED this 24th day of August, 2017.

ANGELA E. OSBORNE, Plaintiff.

By: /s/ Jason G. Ausman
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