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Nebraska Judicial Branch

Case Summary

In the District Court of Douglas County
 The Case ID is CI 15 0010140
 Sharp v. M.B.C. CONSTRUCTION CO., INC.,
 The Honorable James T Gleason, presiding.
 Classification: Negligence-Vehicular
 Filed on 11/23/2015
 This case is Open as of 11/23/2015

Parties/Attorneys to the Case

Party	Attorney
Plaintiff ACTIVE Tony Sharp	Gregory R Abboud 6530 So 84th Street Omaha NE 68127 402-331-3555
Defendant ACTIVE M.B.C. CONSTRUCTION CO., INC., c/o A. Roger Stueckrath, RA 3108 South 67th Ave Omaha NE 68106	David M Woodke 619 N 90th Street Omaha NE 68114 402-391-6000
Third Party Defendant/Respondent ACTIVE Tamra J Bailey	Gregory R Abboud 6530 So 84th Street Omaha NE 68127 402-331-3555

Court Costs Information

Incurred By	Account	Date	Amount
Plaintiff	Petition	11/23/2015	\$35.00
Plaintiff	Filing Fee - State	11/23/2015	\$5.00
Plaintiff	Automation Fee	11/23/2015	\$8.00
Plaintiff	NSC Education Fee	11/23/2015	\$1.00
Plaintiff	Dispute Resolution Fee	11/23/2015	\$0.75
Plaintiff	Indigent Defense Fee	11/23/2015	\$3.00
Plaintiff	Uniform Data Analysis Fee	11/23/2015	\$1.00
Plaintiff	J.R.F.	11/23/2015	\$6.00
Plaintiff	Filing Fee-JRF	11/23/2015	\$2.00
Plaintiff	Legal Aid/Services Fund	11/23/2015	\$5.25
Plaintiff	Complete Record	11/23/2015	\$15.00

Incurring By	Account	Date	Amount
Plaintiff	Service Fees	12/16/2015	\$18.00

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
204769	Electronic Trans	11/23/2015	Sharp, Tony,	\$82.00
			Petition	\$35.00
			Filing Fee - State	\$5.00
			Automation Fee	\$8.00
			NSC Education Fee	\$1.00
			Dispute Resolution Fee	\$.75
			Indigent Defense Fee	\$3.00
			Uniform Data Analysis	\$1.00
			J.R.F.	\$6.00
			Filing Fee-JRF	\$2.00
			Legal Aid/Services Fun	\$5.25
			Complete Record	\$15.00

Register of Actions

01/05/2017 Withdraw Motion
This action initiated by party Tony Sharp
Re: Mot to Term Depo /mg
Image ID N17005WFGD01

09/13/2016 Motion-Compel
This action initiated by party Tony Sharp
RE: Discovery / RT
10 06 16 1130am CR 505

Image ID N162571ECD01

05/25/2016 Notice-Service
This action initiated by party Tony Sharp
RE: Interrogatories & Requests / RT
Image ID N16146NFGD01

05/12/2016 Stipulation
This action initiated by party Tony Sharp
RE: To Consolidate JOINT / RT
CI 10139

Image ID N16133BDAD01

03/22/2016 Notice-Service
This action initiated by party Tony Sharp
re: ans interrog & resp req prod docs jm

Image ID N16082UR2D01

03/22/2016 Motion-Consolidation
This action initiated by party Tony Sharp
re: w/ CI 15 10139 jm 4-28-16 9:00 AM #414
Image ID N16082UQAD01

02/08/2016 Answer-Third Party
This action initiated by party Tamra J Bailey
jm
Image ID N16039F4KD01

01/11/2016 Answer
This action initiated by party M.B.C. CONSTRUCTION CO., INC.,
kr
Image ID N16011BDWD01

12/16/2015 Return Summons/Alias Summons
The document number is 00358151
Served 12/14/2015, Douglas County Sheriff
Personal Service
Image ID 001238798D01

12/11/2015 Summons Issued on M.B.C. CONSTRUCTION CO., INC.,
The document number is 00358151
Image ID D00358151D01

12/10/2015 Praecipe-Summons/Alias
This action initiated by party Tony Sharp
MM
Image ID N15344PRYD01

11/23/2015 Summons Issued on M.B.C. CONSTRUCTION CO., INC.,
The document number is 00354813
Summons e-mailed
Image ID D00354813D01

11/23/2015 Complaint-Praecipe
This action initiated by party Tony Sharp
s1
Image ID N153270SAD01

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

TONY SHARP,)	CASE NO. CI 15 - _____
)	
Plaintiff,)	
)	
vs.)	COMPLAINT
)	
M.B.C. CONSTRUCTION CO., INC.,)	
A NEBRASKA CORPORATION)	
)	
Defendant.)	

COMES NOW, Plaintiff Tony Sharp, by and through his undersigned attorneys and for his cause of action against Defendant M.B.C. Construction Co., Inc., a Nebraska Corporation, states and alleges as follows:

PARTIES

1. Plaintiff was at all times relevant hereto a resident of Omaha, Douglas County, Nebraska.
2. Defendant was at all times relevant hereto a Nebraska Corporation, doing business in Omaha, Douglas County, Nebraska.

JURISDICTION AND VENUE

3. Plaintiff hereby incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every one of these paragraphs were set forth here in its entirety.
4. The events that gave rise to this action occurred in Omaha, Douglas County, Nebraska, and accordingly, venue is proper pursuant to Neb. Rev. Stat. § 25-403.01.

FACTS

5. Plaintiff hereby incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every one of these paragraphs were set forth here in its entirety.

6. On or about August 10, 2013, Plaintiff was a passenger in a vehicle being driven by Tamra J. Bailey and heading southbound on 96th Street at the intersection of 96th Street and Adams Street in Omaha, Douglas County, Nebraska, in a 1999 Pontiac Grand Prix. The vehicle in which Plaintiff was riding proceeded to travel southbound on 96th Street when the driver suddenly became aware that the lane in which they were travelling was unfinished and included a drop off in the pavement. About that same time, the driver also became aware that their path of travel was blocked by a large piece of Defendant's construction equipment which had been left in the middle of the lane. The driver attempted to stop to avoid the drop off at the end of the pavement and to avoid a collision with the Defendant's unmarked construction equipment. The driver was unable to stop the vehicle and continued to drive off the unfinished road and struck the Defendant's unmarked construction equipment, causing Plaintiff to sustain personal injuries.

CAUSE OF ACTION – NEGLIGENCE

7. Plaintiff hereby incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every one of these paragraphs were set forth here in its entirety.

8. Defendant, as the road construction contractor on the 96th Street road construction project, was responsible for the construction work zone at the time of Plaintiff's accident and had a duty to take appropriate precautions to prevent vehicle traffic accidents within the construction work zone.

9. Defendant failed to use reasonable care to make 96th Street safe or provide adequate warning, and Defendant knew or with the exercise of reasonable ordinary care, should have known, that the condition in which 96th Street was left on the day of Plaintiff's accident, created a hazard that was manifestly unsafe and dangerous to passing traffic.

10. The sole proximate cause of said collision and resulting injuries and damages to Plaintiff was the negligence of Defendant which existed in the following particulars and each of them:

- a. In failing to ensure that all construction practices on the day of Plaintiff's accident were safe according to industry standards.
- b. In leaving a road construction paving machine parked in the dirt at the end of the new paving surface drop off point, thereby creating an unreasonably dangerous situation presenting a public traffic vehicle impact accident hazard;
- c. In failing to place appropriate barriers, warning signs or lighting within the active construction paving work zone, thereby placing public traffic at significant risk of a construction work zone equipment impact accident;
- d. In failing to install proper traffic routing around the active construction paving work zone, thereby placing public traffic at significant risk of a construction work zone equipment impact accident;
- e. In failing to place flashing road safety warning lighting or reflective tape or markings on the stationary paving machine in the night-time darkness on a street with little or no ambient street lighting, thereby increasing the safety visibility risk factors.
- f. In failing to exercise reasonable care and failing to adequately supervise and inspect the construction activity and construction zone.

DAMAGES

11. Plaintiff hereby incorporates the preceding paragraphs of this Complaint, by this reference, as if each and every one of these paragraphs were set forth here in its entirety.

12. As a direct and proximate result of Defendant's negligence, Plaintiff sustained the following damages:

- a. Medical expenses in the approximate amount of \$5,319.30, itemized as follows:

Methodist Physicians Clinic	\$1,459.00
Methodist Hospital	3,860.30
TOTAL	<u>\$5,319.30</u>

- b. Permanent injury – NJI2nd §4.01(1);
- c. Disability in the past and future – NJI2nd §4.01(1);
- d. Medical care and expenses in the past and future – NJI2nd §4.01(2);
- e. Lost working time – NJI2nd §4.01(3).
- f. Loss of future earning capacity – NJI2nd §4.01(4);
- g. Physical pain, mental suffering, and emotional distress in the past, and it is reasonably certain that he will sustain physical pain, mental suffering and emotional distress in the future – NJI2nd §4.01(5); and,
- h. Inconvenience in the past and future – Neb. Rev. Stat. §25-21,185.08.

13. These injuries have caused Plaintiff to experience physical and mental pain and discomfort and have required Plaintiff to undergo protracted medical treatment and will require future medical treatment.

14. At the time of the collision, Plaintiff was forty-three (43) years of age, in good health and had a life expectancy of thirty-three (33.94) years.

WHEREFORE, Plaintiff, on his cause of action, prays for judgment against the Defendant for present special damages in the amount of \$5,319.30, future special damages, general damages, additional amounts which will fairly and adequately compensate Plaintiff for his injuries, past and future pain and suffering, loss of household services, present lost wages, future lost wages, lost earning capacity, prejudgment interest, costs of this action, attorney's fees, and further relief that the Court deems just and equitable.

DATED this 19 day of November, 2015.

TONY SHARP, Plaintiff,

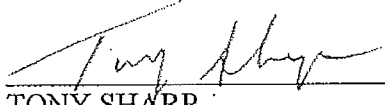
BY 

GREG ABBODD, #17232
ABBODD LAW FIRM
6530 South 84th Street
Omaha, NE 68127
Phone: (402) 592-5555
Facsimile: (402) 331-4569

ATTORNEYS FOR PLAINTIFF

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

TONY SHARP, being first duly sworn on oath, deposes and states that he is the Plaintiff in the foregoing action; that he has read the above Complaint, knows the contents thereof, and that the statements therein contained are true.



TONY SHARP

SUBSCRIBED AND SWORN to before me this 19 day of November 2015.





Notary Public

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

TONY SHARP,)	CASE NO. CI 15 - _____
)	
Plaintiff,)	
)	
vs.)	PRAECIPE
)	
M.B.C. CONSTRUCTION CO., INC.,)	
A NEBRASKA CORPORATION,)	
)	
Defendant.)	

TO THE CLERK OF SAID COURT:

PLEASE ISSUE a Summons to be served, along with a copy of the Complaint, by the Douglas County Sheriff personnel PERSONALLY upon the Defendant, M.B.C. CONSTRUCTION CO., INC., to its registered agent A. Roger Stueckrath, 3108 South 67th Avenue, Omaha, NE 68106.

DATED this 23 day of November, 2015.

TONY SHARP, Plaintiff,

BY/s/ Greg Abboud
GREG ABOUD, #17232
ABBOUD LAW FIRM
6530 South 84th Street
Omaha, NE 68127
Phone: (402) 592-5555
Facsimile: (402) 331-4569

ATTORNEYS FOR PLAINTIFF