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Nebraska Judicial Branch

Case Summary

In the District Court of Douglas County
 The Case ID is CI 16 0004590
 Robert Kirby v. F & J Enterprises, Inc.
 The Honorable Timothy P Burns, presiding.
 Classification: Negligence-Other
 Filed on 06/02/2016
 This case is Open as of 06/02/2016

Parties/Attorneys to the Case

Party	Attorney
Plaintiff ACTIVE Robert J Kirby	Vincent M Powers 411 S. 13th St., Suite 300 Lincoln NE 68508 402-474-8000
Defendant ACTIVE F & J Enterprises, Inc. c/o Frank R Krejci, Reg Agent 1505 North 203rd Street Elkhorn NE 68022	Karen K Bailey 1350 Woodmen Tower Omaha NE 68102 402-348-0900
Defendant DISMISSED Maple 144 LLC c/o Gary M Gotsdiner, Reg Agent 11404 W Dodge Road, Ste 500 Omaha NE 68154	Nicholas A Buda 1700 Farnam Street Suite 1500 Omaha NE 68102 402-344-0500
	Admitted Pro Hac Vice: Benjamin M Weston Lederer Weston Craig PLC 4401 Westown Pkwy STE 310 West Des Moines IA 50266
Defendant ACTIVE West Maple Road, LLC c/o David Paladino, Reg Agent 2702 Douglas Street Omaha NE 68131	Betty L Egan P.O. Box 540125 11240 Davenport St. Omaha NE 68154 402-330-6300
Defendant ACTIVE Fantasy's, Inc. c/o John Spaustat, Reg Agent 10302 Rockbrook Rd Omaha NE 68124	Thomas A Grennan 1500 Omaha Tower 2120 S 72nd St. Omaha NE 68124 402-392-1500
Defendant DISMISSED West Maple Fantasy's, L.L.C. c/o Fantasy's Inc, Reg Agent 8930 S 137th Circle #2 Omaha NE 68138	Travis W Tettenborn Sterling Ridge 12910 Pierce S., Ste 200 Omaha NE 68144 402-397-1700
Defendant DISMISSED Landmark Management Group, Inc. c/o David J Paladino, Reg Agent 2702 Douglas St Omaha NE 68131	Matthew B Reilly 10330 Regency Parkway Dr., #1 Omaha NE 68114 402-397-2200
Defendant DISMISSED Lerner Company c/o Salvadore Carta, Reg Agent 10855 W Dodge Road, Ste 270 Omaha NE 68154	David L Welch 10250 Regency Circle, Ste 300 Omaha NE 68117 402-397-5500
Defendant DISMISSED	

Frank Krejci 3202 N 216th Street #67 Elkhorn NE 68022	Karen K Bailey 1350 Woodmen Tower Omaha NE 68102 402-348-0900
Defendant ACTIVE Robert F Krejci 7820 N 207th Street Elkhorn NE 68022	Karen K Bailey 1350 Woodmen Tower Omaha NE 68102 402-348-0900
Defendant ACTIVE Gail Krejci 7820 N 207th Street Elkhorn NE 68022	Karen K Bailey 1350 Woodmen Tower Omaha NE 68102 402-348-0900
Defendant DISMISSED Vera J Krejci 18545 Cornish Road Springfield NE 68059	Karen K Bailey 1350 Woodmen Tower Omaha NE 68102 402-348-0900
Defendant DISMISSED Lori M Krejci 21506 Ridgewood Road Elkhorn NE 68022	Karen K Bailey 1350 Woodmen Tower Omaha NE 68102 402-348-0900
Defendant DISMISSED Larry D Smith 21506 Ridgewood Road Elkhorn NE 68022	Karen K Bailey 1350 Woodmen Tower Omaha NE 68102 402-348-0900

Court Costs Information			
Incurring By	Account	Date	Amount
Plaintiff	Petition	06/02/2016	\$35.00
Plaintiff	Filing Fee - State	06/02/2016	\$5.00
Plaintiff	Automation Fee	06/02/2016	\$8.00
Plaintiff	NSC Education Fee	06/02/2016	\$1.00
Plaintiff	Dispute Resolution Fee	06/02/2016	\$0.75
Plaintiff	Indigent Defense Fee	06/02/2016	\$3.00
Plaintiff	Uniform Data Analysis Fee	06/02/2016	\$1.00
Plaintiff	J.R.F.	06/02/2016	\$6.00
Plaintiff	Filing Fee-JRF	06/02/2016	\$2.00
Plaintiff	Legal Aid/Services Fund	06/02/2016	\$5.25
Plaintiff	Complete Record	06/02/2016	\$15.00
Plaintiff	Service Fees	07/12/2016	\$5.11
Plaintiff	Service Fees	07/12/2016	\$5.11
Plaintiff	Service Fees	07/12/2016	\$5.11
Plaintiff	Service Fees	07/12/2016	\$5.11
Plaintiff	Service Fees	07/12/2016	\$5.11
Plaintiff	Service Fees	07/12/2016	\$5.11
Plaintiff	Service Fees	07/12/2016	\$5.11
Plaintiff	Service Fees	07/12/2016	\$5.11

Incurring By	Account	Date	Amount
Plaintiff	Service Fees	07/12/2016	\$5.11
Plaintiff	Service Fees	07/12/2016	\$5.11
Plaintiff	Service Fees	07/12/2016	\$5.11
Plaintiff	Service Fees	07/12/2016	\$5.11
Defendant	Counsel-Discipline Cash Fun	11/18/2016	\$250.00

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
246484	Electronic Trans	11/18/2016	Maple 144 LLC	\$250.00
			Counsel-Discipline Cas	\$250.00
227866	Electronic Trans	06/02/2016	Kirby, Robert, J	\$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

07/13/2018 Statement
This action initiated by party Robert J Kirby
JB
Image ID N181940WMD01

07/03/2018 Amended Notice of Hearing
This action initiated by group F& J Enter., Robert & Gail Krejci
2nd AMD Re: Mot Sum Jdg 7/16/18 2:30pm CR 502 /mg
Image ID N18184GDGD01

06/20/2018 Amended Notice of Hearing
This action initiated by party F & J Enterprises, Inc.
Re: Mot Sum Jdg 6/28/18 10:30am CR 502 /mg
Image ID N18171SKYD01

06/14/2018 Motion-Summary Judgment
This action initiated by party west Maple Road, LLC
7-16-18 2:30 PM #502 JB
Image ID N181653ZCD01

06/08/2018 Notice Filed
This action initiated by party Fantasy's, Inc.
Re: Intent to Offer Evidence /mg
Image ID N18159C8WD01

06/08/2018 Motion-Summary Judgment
This action initiated by party Fantasy's, Inc.
6/28/18 10am CR 502 /mg
Image ID N18159C8ED01

06/05/2018 Motion-Summary Judgment
This action initiated by party F & J Enterprises, Inc.
6/28/18 10:30am CR 502 /mg
Image ID N18156X9WD01

04/24/2018 Order
This action initiated by Timothy P Burns
RE: Protective Order / RT eNotice Certificate Attached
Image ID 001663118D01

04/24/2018 Notice Filed
This action initiated by party Robert J Kirby
Re: agree for protect ord; joint
Image ID 001663121D01

04/20/2018 Motion-Compel

This action initiated by party Robert J Kirby
4/25/18 1:15pm /mg
Image ID 001669079D01

03/02/2018 Amended Notice of Hearing
This action initiated by party Robert J Kirby
Re: sched conf 4-12-18 10:00 AM #502
Image ID 001644108D01

02/20/2018 Motion-Limine
This action initiated by party Robert J Kirby
4-12-18 10:00 AM #502 JB
Image ID N18051SHGD01

02/13/2018 Pretrial Conference
04 12 18 100pm / RT

02/13/2018 Signed Scheduling Order
This action initiated by Timothy P Burns
RT eNotice Certificate Attached
Image ID 001633537D01

02/12/2018 Proposed Scheduling Order
This action initiated by Karen K Bailey
1ST AMD
Image ID 001623058D01

01/17/2018 Cert-Service
This action initiated by party Robert J Kirby
Re: req admissions & 3rd set interr
Image ID 001617755D01

11/29/2017 Signed Scheduling Order
This action initiated by Timothy P Burns
eNotice Certificate Attached
Image ID 001591314D01

11/28/2017 Proposed Scheduling Order
This action initiated by Vincent M Powers
Image ID 001561711D01

11/20/2017 Notice-Service
This action initiated by party Fantasy's, Inc.
Re: Responses /mg
Image ID N17324LRSD01

11/20/2017 Dismissal **without** Prejudice
This action initiated by Timothy P Burns

As to Frank Krejci Vera Jane Krejci Lori Krejci and Larry Smith / RT eNot
ice Certificate Attached
Image ID 001596771D01

11/17/2017 Motion-Dismiss
This action initiated by party Robert J Kirby
Re: DEFS Frank Krejci, Vera Jane Krejci, Lori Krejci & Larry Smith
Image ID 001596519D01

11/17/2017 Note from Court Staff
This action initiated by party Robert J Kirby
proposed order sent to judge

11/09/2017 Notice-Service
This action initiated by party Fantasy's, Inc.
re:discovery ag

Image ID N17313J4AD01

11/07/2017 Signed Scheduling Order
This action initiated by Timothy P Burns
RT eNotice Certificate Attached
Image ID 001589594D01

11/06/2017 Proposed Scheduling Order
This action initiated by Vincent M Powers
Image ID 001589997D01

11/06/2017 Motion-Summary Judgment
This action initiated by group DEFS
11-21-17 9:00 AM #502 JB
Image ID N17310ZC8D01

11/01/2017 Notice-Service
This action initiated by party Fantasy's, Inc.
Re: Answers /mg
Image ID N17305L7YD01

10/26/2017 Cert-Service
This action initiated by party Robert J Kirby
Re: 2nd Req for Adm /mg

Image ID 001572663D01

10/26/2017 Cert-Service
This action initiated by party Robert J Kirby
Re: 2nd Req for Adm /mg
Image ID 001572666D01

10/26/2017 Notice Issued

The document number is 00486354
Notice of Intent to Dismiss
Vincent M Powers vince@vpowerslaw.com
Image ID D00486354D01

10/26/2017 Notice Issued
The document number is 00486353
Notice of Intent to Dismiss
Karen K Bailey kbailey@ekoklaw.com
Image ID D00486353D01

10/26/2017 Notice Issued
The document number is 00486352
Notice of Intent to Dismiss
Thomas A Grennan tgrennan@grosswelch.com
Image ID D00486352D01

10/26/2017 Notice Issued
The document number is 00486351
Notice of Intent to Dismiss
Betty L Egan blegan@womglaw.com
Image ID D00486351D01

10/26/2017 Notice Issued
The document number is 00486350
Notice of Intent to Dismiss
Karen K Bailey kbailey@ekoklaw.com
Image ID D00486350D01

10/13/2017 Cert-Service
This action initiated by party Robert J Kirby
Re: Interrogs & Req /mg

Image ID 001564324D01

10/11/2017 Dismissal **Without** Prejudice
This action initiated by Timothy P Burns
As to **West Maple Fantasy's LLC** / RT eNotice Certificate Attached
Image ID 001571373D01

10/09/2017 Stipulation
This action initiated by party West Maple Fantasy's, L.L.C.
Re: dism DEF West Maple Fantasy's, LLC w/o prej; joint JB
Image ID N17282NZWD01

07/19/2017 Stipulation
Re: dism DEF The Lerner Co. w/o prej; joint
Image ID 001527953D01

07/19/2017 Dismissal **Without** Prejudice
This action initiated by Timothy P Burns
As to The Lerner Company ONLY / RT eNotice Certificate Attached
Image ID 001527950D01

07/18/2017 Stipulation
This action initiated by party Lerner Company

Re: dismiss DEF The Lerner Company w/o prej & PLF JB
Image ID N1719981WD01

06/30/2017 Appearance of Counsel
This action initiated by party west Maple Fantasy's, L.L.C.
Re: Travis Tettenborn JB
Image ID N17181ICKD01

06/26/2017 **Dismissal without Prejudice**

This action initiated by Timothy P Burns
As to LANDMARK GROUP ONLY / RT eNotice Certificate Attached
Image ID 001512788D01

06/23/2017 Withdraw Motion
This action initiated by party Robert J Kirby
Re: Mot to Determine Sched Order /mg
Image ID N17174RLSD01

06/19/2017 Motion-Dismiss
This action initiated by party Robert J Kirby
Image ID 001512133D01

06/19/2017 Note from Court Staff
P/O sent to judge

06/15/2017 Motion-Dismiss
This action initiated by party Robert J Kirby
As To Landmark Management Group Inc ONLY /mg
Image ID N17166QR8D01

05/15/2017 Notice-Service
This action initiated by party Fantasy's, Inc.
Re: Second Set Interrogs /mg
Image ID N17135C64D01

04/28/2017 Notice-Service
This action initiated by party west Maple Road, LLC
Re: answers JB
Image ID N17118OCCD01

04/28/2017 Notice-Take Deposition

This action initiated by party Robert J Kirby
Re: Frank Krejci 5/3/17 1:30pm /mg
Image ID 001492615D01

04/28/2017 Notice-Take Deposition
This action initiated by party Robert J Kirby
Re: Robert Krejci 5/3/17 2:30pm /mg
Image ID 001492612D01

04/28/2017 Motion Filed
This action initiated by party Robert J Kirby
Re: Determine Sched Order
5/23/17 1:30pm CR 502 /mg
Image ID 001492618D01

04/20/2017 Motion-Summary Judgment

This action initiated by party Landmark Management Group, Inc.
5/23/17 1:30pm CR 502 /mg
Image ID N17110Q8GD01

04/17/2017 Notice-Service

This action initiated by party Lerner Company
Re: Answers /mg
Image ID N17107BC4D01

04/04/2017 Dismissal without Prejudice
This action initiated by Timothy P Burns
As to **Maple 144 LLC ONLY** / RT eNotice Certificate Attached
Image ID 001477629D01

04/03/2017 Motion-Dismiss
This action initiated by party Robert J Kirby

Image ID 001477429D01

03/27/2017 Cert-Service
This action initiated by party Robert J Kirby
Re: interr & req for prod
Image ID 001475229D01

01/27/2017 Notice-Service
This action initiated by party Fantasy's, Inc.
Re: Answers /mg
Image ID N17027GYD01

01/18/2017 Notice-Service
This action initiated by party Fantasy's, Inc.
Re: Disc Responses /mg
Image ID N17018AISD01

01/09/2017 Order-Withdraw as Counsel
This action initiated by Timothy P Burns
James Lang / RT eNotice Certificate Attached
Image ID 001433403D01

01/05/2017 Motion-Withdraw as Counsel
This action initiated by party Robert F Krejci
Re: James Lang
1/31/17 1pm CR 502 /mg
Image ID N17005UZ0D01

01/05/2017 Note from Court Staff
P/Order sent to Crt Admin /mg

01/04/2017 Notice-Service

This action initiated by party West Maple Road, LLC
Re: Discovery /mg
Image ID N17004P16D01

01/03/2017 Notice-Service
This action initiated by party Lerner Company
Re: Answers /mg
Image ID N17003N7SD01

12/27/2016 Appearance of Counsel
This action initiated by group F&J Ent & Frank Krejci
Re: Karen Bailey /mg
Image ID N1636205ED01

11/29/2016 Order
This action initiated by Timothy P Burns

RE: Pro Hac Vice GRANTED Benjamin M Weston / RT eNotice Certificate Attached
Image ID 001416126D01

11/18/2016 Note from Court Staff
P/O sent to judge

11/18/2016 Motion-Pro Hac Vice Admission
This action initiated by party Maple 144 LLC
Atty Benjamin W Weston kr
Image ID N163233NMD01

11/02/2016 Order-Allow Motion
This action initiated by Timothy P Burns
RE: withdraw as Counsel and Stay Deadlines / RT
Michael F Coyle eNotice Certificate Attached

Image ID 001391276D01

10/28/2016 Motion-Withdraw as Counsel
This action initiated by party Robert J Kirby
Michael Coyle
11/28/16 2:30pm CR 502 /mg
Image ID N16302ZBUD01

10/04/2016 Answer
This action initiated by party Maple 144 LLC
kr
Image ID N16278AGSD01

09/30/2016 Notice-Service
This action initiated by party West Maple Road, LLC
re: disc jm

Image ID N16274YH8D01

09/20/2016 Answer
This action initiated by party Robert F Krejci
pm
Image ID N16264SPUD01

09/01/2016 Amended Notice of Hearing
This action initiated by party Landmark Management Group, Inc.
re: 2d 11-1-16 2:00 PM #502 jm
Image ID N16245Z7YD01

08/29/2016 Motion-Continuance
This action initiated by party Robert J Kirby
8-30-16 9:00 AM #502 jm
Image ID N16242GNCD01

08/24/2016 Appearance of Counsel
This action initiated by party Maple 144 LLC
Nicholas A Buda / RT
Image ID N162373E2D01

08/15/2016 Entry of Appearance
This action initiated by party West Maple Road, LLC
re: Betty Egan jm
Image ID N16228052D01

08/12/2016 Notice Filed
This action initiated by party West Maple Road, LLC
re: w/draw counsel Mary Sederstrom jm
Image ID N16225W38D01

08/12/2016 Order-Withdraw as Counsel
This action initiated by Timothy P Burns

Mary Sederstrom obo West Maple Rd LLC eNotice Certificate Attached
Image ID 001362130D01

08/10/2016 Amended Notice of Hearing
This action initiated by party Landmark Management Group, Inc.
RE: Motion for Summary Judgment on Landmark Group / RT
Hearing 08 30 16 900am CR 502
Image ID N16223KW2D01

08/09/2016 Notice-Service
This action initiated by party Fantasy's, Inc.
RE: Discovery / RT
Image ID N16222F92D01

08/08/2016 Answer
This action initiated by party Fantasy's, Inc.
PM
Image ID N162219GSD01

08/08/2016 Stipulation
This action initiated by party Robert F Krejci
RE: Additional time to plead further / RT
Image ID N162216MED01

08/05/2016 Answer
This action initiated by party West Maple Fantasy's, L.L.C.
kr
Image ID N162181PKD01

08/04/2016 Motion-Summary Judgment

This action initiated by party Landmark Management Group, Inc.
8-29-16 8:45 AM #502 jm
Image ID N16217XJUD01

08/04/2016 Answer
This action initiated by party West Maple Road, LLC
kr
Image ID N16217YBWD01

08/04/2016 Answer
This action initiated by group F&J Ent & Frank Krejci
kr
Image ID N16217X3MD01

07/21/2016 Notice-Service
This action initiated by party Lerner Company

Answer, Inter, request of documents kr
Image ID N162037L8D01

07/21/2016 Answer
This action initiated by party Lerner Company
kr
Image ID N162037KCD01

07/12/2016 Return Summons/Alias Summons
The document number is 00395251
s1
Served 07/08/2016, Certified Mail
Image ID N161949YOD01

07/12/2016 Return Summons/Alias Summons
The document number is 00395250

s1

Served 07/08/2016, Certified Mail
Image ID N161949YUD01

07/12/2016 Return Summons/Alias Summons
The document number is 00395249

s1

Served 07/09/2016, Certified Mail
Image ID N161949Z6D01

07/12/2016 Return Summons/Alias Summons
The document number is 00395248

s1

Served 07/09/2016, Certified Mail
Image ID N161949Z2D01

07/12/2016 Return Summons/Alias Summons
The document number is 00395247

s1

Served 07/09/2016, Certified Mail
Image ID N161949ZCD01

07/12/2016 Return Summons/Alias Summons
The document number is 00395246

s1

Served 07/08/2016, Certified Mail
Image ID N161949XGD01

07/12/2016 Return Summons/Alias Summons
The document number is 00395245

s1

Served 07/08/2016, Certified Mail

Image ID N161949XMD01

07/12/2016 Return Summons/Alias Summons
The document number is 00395244

s1

Served 07/08/2016, Certified Mail
Image ID N161949XWD01

07/12/2016 Return Summons/Alias Summons
The document number is 00395241

s1

Served 07/08/2016, Certified Mail
Image ID N161949YAD01

07/12/2016 Return Summons/Alias Summons
The document number is 00395240

s1

Served 07/08/2016, Certified Mail
Image ID N161949YGD01

07/12/2016 Return Summons/Alias Summons
The document number is 00395239

s1

Served 07/08/2016, Certified Mail
Image ID N161949Y0D01

07/12/2016 Return Summons/Alias Summons
The document number is 00395238

s1

Served 07/08/2016, Certified Mail
Image ID N161949Z0D01

07/06/2016 Summons Issued on Larry D Smith

The document number is 00395251
E-MAILED: mcoyle@fraserstryker.com
Image ID D00395251D01

07/06/2016 Summons Issued on Lori M Krejci
The document number is 00395250
E-MAILED: mcoyle@fraserstryker.com
Image ID D00395250D01

07/06/2016 Summons Issued on Vera J Krejci
The document number is 00395249
E-MAILED: mcoyle@fraserstryker.com
Image ID D00395249D01

07/06/2016 Summons Issued on Gail Krejci

The document number is 00395248
E-MAILED: mcoyle@fraserstryker.com
Image ID D00395248D01

07/06/2016 Summons Issued on Robert F Krejci
The document number is 00395247
E-MAILED: mcoyle@fraserstryker.com
Image ID D00395247D01

07/06/2016 Summons Issued on Frank Krejci
The document number is 00395246
E-MAILED: mcoyle@fraserstryker.com
Image ID D00395246D01

07/06/2016 Summons Issued on Lerner Company
The document number is 00395245

E-MAILED: mcoyle@fraserstryker.com
Image ID D00395245D01

07/06/2016 Summons Issued on Landmark Management Group, Inc.
The document number is 00395244
E-MAILED: mcoyle@fraserstryker.com
Image ID D00395244D01

07/06/2016 Summons Issued on west Maple Fantasy's, L.L.C.
The document number is 00395243
E-MAILED: mcoyle@fraserstryker.com
Image ID D00395243D01

07/06/2016 Summons Issued on Fantasy's, Inc.
The document number is 00395241
E-MAILED: mcoyle@fraserstryker.com

Image ID D00395241D01

07/06/2016 Summons Issued on west Maple Road, LLC
The document number is 00395240
E-MAILED: mcoyle@fraserstryker.com
Image ID D00395240D01

07/06/2016 Summons Issued on Maple 144 LLC
The document number is 00395239
E-MAILED: mcoyle@fraserstryker.com
Image ID D00395239D01

07/06/2016 Summons Issued on F & J Enterprises, Inc.
The document number is 00395238
E-MAILED: mcoyle@fraserstryker.com
Image ID D00395238D01

07/06/2016 Praecipe-Summons/Alias
s1 This action initiated by party Robert J Kirby
Image ID N16188MJGD01

06/02/2016 Complaint-Praecipe
ts no praecipe filed
Image ID N16154AQGD01

Judges Notes

11/01/2016
11-01-2016 Burns
Hearing held - parties appeared by counsel (no record). Mike Coyle
allowed to withdraw as counsel of record for Plaintiff. Motion for
summary judgment is withdrawn - counsel to call bailiff should the
matter need to be heard on a future date.
01/09/2017
Burns, Timothy, P.
signed order to withdraw
11/21/2017
Burns, Timothy, P.
Status hearing held - parties appeared by counsel. Matter continued
for further status hearing to 1-16-17 at 3:00 p.m.
01/16/2018
Burns, Timothy, P.
Status hearing held - parties appeared by counsel. Matter continued
for further status hearing until 4-12-18 at 1:00 p.m.
07/16/2018
Burns, Timothy, P.
Hearing held on motions for summary judgment - Leslie Anderson: court
reporter. Parties appeared through counsel - testimony given and
evidence adduced. Matter taken under advisement.

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

ROBERT J. KIRBY,)
)
) Plaintiff,)
)
) vs.)
)
) F & J ENTERPRISES, INC., a)
) Nebraska corporation, MAPLE 144 LLC,)
) a Nebraska limited liability company,)
) WEST MAPLE ROAD, LLC, a Nebraska)
) limited liability company, FANTASY'S,)
) INC., a Nebraska corporation, WEST)
) MAPLE FANTASY'S, L.L.C., a)
) Nebraska limited liability company,)
) LANDMARK MANAGEMENT GROUP,)
) INC., a Nebraska corporation, THE)
) LERNER COMPANY, a Nebraska)
) corporation, FRANK KREJCI, ROBERT)
) F. KREJCI, GAIL KREJCI, VERA JANE)
) KREJCI, LORI M. KREJCI, and LARRY)
) D. SMITH,)
)
) Defendants.)

CASE NO. CI 16-_____

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

COMES NOW the Plaintiff, Robert J. Kirby, and for his cause of action against the Defendants, states and alleges as follows:

PARTIES

1. At all material times, Robert J. Kirby, (the "Plaintiff") has been a resident of Omaha, Douglas County, Nebraska.
2. Defendant F & J Enterprises, Inc. is a Nebraska corporation with its principal office in Elkhorn, Douglas County, Nebraska.
3. Defendant Maple 144 LLC is a Nebraska limited liability company with its principal office in Omaha, Douglas County, Nebraska.
4. Defendant West Maple Road, LLC is a Nebraska limited liability company with its principal office in Omaha, Douglas County, Nebraska.
5. Defendant Fantasy's, Inc. is a Nebraska corporation with its principal office in Omaha, Douglas County, Nebraska.

6. Defendant West Maple Fantasy's, L.L.C. is a Nebraska limited liability company with its principal office in Omaha, Douglas County, Nebraska.

7. Defendant Landmark Management Group, Inc. is a Nebraska corporation with its principal office in Omaha, Douglas County, Nebraska.

8. Defendant The Lerner Company is a Nebraska corporation with its principal office in Omaha, Douglas County, Nebraska.

9. At all relevant times, Defendant Frank Krejci was an individual residing in Douglas County, Nebraska.

10. At all relevant times, Defendant Robert F. Krejci was an individual residing in Douglas County, Nebraska.

11. At all relevant times, Defendant Gail Krejci was an individual residing in Douglas County, Nebraska.

12. At all relevant times, Defendant Vera Jane Krejci was an individual residing in Douglas County or Sarpy County Nebraska.

13. At all relevant times, Defendant Lori M. Krejci was an individual residing in Douglas County, Nebraska.

14. At all relevant times, Defendant Larry D. Smith was an individual residing in Douglas County, Nebraska (all Defendants are collectively referred to herein as the "Defendants").

15. Upon information and belief, the Defendants are or were the owners, possessors, exercised control over, and/or had or assumed responsibility, individually, jointly, through a joint venture, or in concert with each other, for maintaining the real property and roadway located near North 147th Street and West Maple Road in Omaha, Douglas County, Nebraska, including the real property and roadway located on, near, and between the property referred to as 3715 N. 147th Street, Omaha, Nebraska 68116, 3725 N. 147th Street, Omaha, Nebraska 68116, and 3801 N. 147th Street, Omaha, Nebraska 68116, including the property referred to as Hillsborough Plaza Lots 1,2,3,4 and Hillsborough Plaza Re-Plat 1 Lot 2 (the "Property").

16. Each of the Defendants is vicariously responsible for the acts or omissions of their employees, agents, or other representatives acting within the course and scope

of their employment, agency, or other representation of the respective Defendants' business interests.

COMMON ALLEGATIONS

17. On or about June 3, 2012, Plaintiff was operating a bicycle on or near the roadway located on the Property.

18. Although unknown by Plaintiff, Defendants allowed a pothole, uneven portion of pavement, and/or a defective portion of the pavement on or near the roadway located on the Property to develop and remain present for an extended period of time.

19. Defendants failed to properly maintain the Property and the roadway located on the Property by failing to fix or remedy the pothole, uneven portion of pavement, and/or a defective portion of the pavement.

20. While operating his bicycle on the Property, Plaintiff's bicycle struck the pothole, uneven portion of pavement, and/or a defective portion of the pavement located on or near the roadway located on the Property.

21. Plaintiff sustained severe and permanent injuries when he fell off his bicycle after striking the pothole, uneven portion of pavement, and/or a defective portion of the pavement.

COUNT I: NEGLIGENCE AGAINST DEFENDANTS

22. The allegations set forth in paragraphs 1 through 21 are incorporated by reference as if fully set forth herein.

23. Defendants failed to exercise reasonable care to ensure the Property and the roadway located on the Property was reasonably safe for those persons, including Plaintiff, traversing the Property, including ensuring that the roadway was level, smooth, and without potholes.

24. Defendants were negligent in one or more of the following ways:

- a. Failing to inspect the Property and the roadway located on the Property;
- b. Failing to fix or remedy the pothole, uneven portion of pavement, and/or a defective portion of the pavement located on or near the roadway located on the Property; and/or

- c. Failing to warn of the unreasonable risk of injury that existed on the Property.

25. As a direct and proximate result of Defendants' negligence, Plaintiff suffered damages and injuries as follows:

- a. Past medical expenses incurred to the date of trial;
- b. Future medical expenses;
- c. Past and future loss of enjoyment of life;
- d. Past physical and emotional pain and suffering;
- e. Future physical and emotional pain and suffering;
- f. Loss of past earnings;
- g. Loss of future earning capacity; and
- h. Permanent injury.

COUNT II: PREMISES LIABILITY

26. The allegations set forth in paragraphs 1 through 25 are incorporated by reference as if fully set forth herein.

27. Defendants either created, knew of, or, in the exercise of reasonable care, should have discovered the unsafe condition presented by the pothole, uneven portion of pavement, and/or a defective portion of the pavement on the Property.

28. Defendants knew or, in the exercise of reasonable care, should have known, that the unsafe condition presented by the pothole, uneven portion of pavement, and/or a defective portion of the pavement on the Property involved an unreasonable risk of injury to Plaintiff.

29. Defendants knew or, in the exercise of reasonable care, should have known, that entrants, including Plaintiff, would not discover the condition, realize the condition presented an unreasonable risk of injury, and/or would not be able to protect himself from the condition.

30. Defendants failed to use reasonable care to protect lawful entrants, including Plaintiff, against the danger posed by the pothole, uneven portion of pavement, and/or a defective portion of the pavement.

31. As a direct and proximate result of Defendants' failure to exercise reasonable care, Plaintiff suffered damages and injuries as follows:

- a. Past medical expenses incurred to the date of trial;
- b. Future medical expenses;
- c. Past and future loss of enjoyment of life;
- d. Past physical and emotional pain and suffering;
- e. Future physical and emotional pain and suffering;
- f. Loss of past earnings;
- g. Loss of future earning capacity; and
- h. Permanent injury.

DEMAND FOR JURY TRIAL

32. Plaintiff hereby demands a jury trial on all issues presented herein.

WHEREFORE Plaintiff respectfully requests this Court enter judgment in Plaintiff's favor against Defendants, jointly and severally, for all of his general and special damages as set forth above, the costs of this action, prejudgment interest and any other relief this Court deems equitable and just.

ROBERT J. KIRBY, Plaintiff

BY: /s/ Michael F. Coyle
Michael F. Coyle #18299
FRASER STRYKER PC LLO
500 Energy Plaza, 409 South 17th Street
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(402) 341-6000
mcoyle@fslf.com
ATTORNEYS FOR PLAINTIFF

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

ROBERT J. KIRBY,)
)
Plaintiff,)
)
vs.)
)
F & J ENTERPRISES, INC., a Nebraska)
corporation, MAPLE 144 LLC, a Nebraska)
limited liability company, WEST MAPLE)
ROAD, LLC, a Nebraska limited liability)
company, FANTASY’S, INC., a Nebraska)
corporation, WEST MAPLE FANTASY’S,)
L.L.C., a Nebraska limited liability company,)
LANDMARK MANAGEMENT GROUP,)
INC., a Nebraska corporation, THE LERNER)
COMPANY, a Nebraska corporation, FRANK)
KREJCI, ROBERT F. KREJCI, GAIL KREJCI,)
VERA JANE KREJCI, LORI M. KREJCI, and)
LARRY D. SMITH,)
)
Defendants.)

Case No.: 16-4590

MOTION FOR SUMMARY JUDGMENT

COMES NOW Defendants, F&J Enterprises, Inc., Robert Krejci, and Gail Krejci, and pursuant to authority of Neb. Rev. Stat. § 25-1330, seq., respectfully moves the Court for an Order of Summary Judgment in their favor. In support of this Motion, Defendants F&J Enterprises, Inc., Robert Krejci, and Gail Krejci states the pleadings, discovery, and evidence demonstrate there are no genuine issues of material fact, and Defendants are entitled to judgment as a matter of law. Please see the attached brief in support of the Motion for Summary Judgment filed with this Motion, along with an index of evidence.

WHEREFORE, Defendants, F&J Enterprises, Inc., Robert Krejci, and Gail Krejci, respectfully pray for an Order sustaining its Motion for Summary Judgment and such other relief as the Court deems just and equitable.

F & J ENTERPRISES, INC., a Nebraska corporation, and
ROBERT F. KREJCI and GAIL KREJCI, Defendants,

By: Karen Bailey
ENGLES, KETCHAM, OLSON & KEITH, P.C.
1350 Woodmen Tower
Omaha, Nebraska 68102
(402) 348-0900
(402) 348-0904 (Facsimile)
Karen Bailey, #22984
L. Paige (Purdy) Hall, #25855
kbailey@ekoklaw.com
phall@ekoklaw.com

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED THAT the above matter will come for hearing on the 28th day of June 2018, before the Honorable Timothy Burns, Douglas County District Courthouse, Courtroom No. 502, Omaha, Nebraska at the hour of 10:30 a.m. or as soon thereafter as counsel may be heard.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above and foregoing was mailed to the following by regular United States mail, postage prepaid on June 5, 2018:

Valentine, O'Toole, McQuillan & Gordon, LLP
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Gross & Welch, PC, LLO
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Vincent M. Powers & Associates
Vincent M. Powers
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vince@vpowerslaw.com

/s/Anna Buhman

Certificate of Service

I hereby certify that on Wednesday, June 06, 2018 I provided a true and correct copy of the Motion-Summary Judgment to the following:

Kirby,Robert,J represented by Powers,Vincent,M (Bar Number: 15866) service method:
Electronic Service to powerslaw@me.com

West Maple Road, LLC represented by Egan,Betty,L (Bar Number: 16550) service method:
Electronic Service to blegan@womglaw.com

Fantasy's, Inc. represented by Grennan,Thomas,A (Bar Number: 15675) service method:
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Krejci,Gail, represented by Laurel Paige Hall (Bar Number: 25855) service method:
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Kirby,Robert,J represented by Alex Boyd (Bar Number: 25065) service method: Electronic
Service to aboyd@fraserstryker.com

Krejci,Robert,F represented by Laurel Paige Hall (Bar Number: 25855) service method:
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F & J Enterprises, Inc. represented by Laurel Paige Hall (Bar Number: 25855) service
method: Electronic Service to phall@ekoklaw.com

Signature: /s/ Weinhold,Karen Kay (Bar Number: 22984)

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

ROBERT J. KIRBY,)	CASE NO. CI 16-4590
)	
Plaintiff,)	
)	
v.)	
)	
F & J ENTERPRISES, INC., a)	
Nebraska corporation, MAPLE 144)	
LLC, a Nebraska limited liability)	MOTION FOR SUMMARY JUDGMENT
company, WEST MAPLE ROAD, LLC,)	BY DEFENDANT FANTASY'S, INC.
a Nebraska limited liability company,)	
FANTASY'S, INC., a Nebraska)	
corporation, WEST MAPLE)	
FANTASY'S, LLC, a Nebraska limited)	
liability company, LANDMARK)	
MANAGEMENT GROUP, INC., a)	
Nebraska corporation, THE LERNER)	
COMPANY, a Nebraska corporation,)	
FRANK KREJCI, ROBERT F.)	
KREJCI, GAIL KREJCI, VERA JANE)	
KRECJI, LORI M. KRECJI, and)	
LARRY D. SMITH,)	
)	
Defendants.)	

COMES NOW Defendant, Fantasy's, Inc., and moves the Court for a summary judgment in favor of the Defendant, Fantasy's, Inc., and against the Plaintiff, Robert Kirby, for the reason that no genuine issue of material fact exists, as against Defendant, Fantasy's, Inc., and, therefore, Defendant Fantasy's, Inc., is entitled to judgment as a matter of law. Specifically, but not by way of limitation, Defendant Fantasy's, Inc., states the following:

1. Plaintiff's bicycle accident happened on a street and not on property owned by Defendant Fantasy's, Inc.

2. Plaintiff's bicycle accident of June 3, 2012, occurred on a street for which Defendant Fantasy's, Inc., had no responsibility for either maintenance or repairs.

WHEREFORE, Defendant Fantasy's, Inc., prays for summary judgment in favor of Defendant Fantasy's, Inc., and against the Plaintiff, Robert Kirby, for the reasons set forth above.

Dated this 8 day of June 2018.

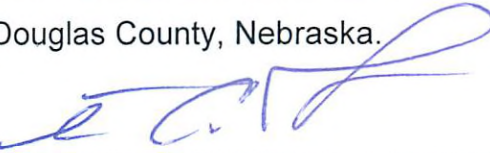
FANTASY'S, INC, Defendant

By: 

Thomas A. Grennan #15675
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tgrennan@grosswelch.com
Attorneys for Defendant Fantasy's

NOTICE OF HEARING

Defendant's above-referenced Motion for Summary Judgment will be called up for hearing on June 28, 2018 at 10:00 a.m. before the Honorable Timothy Burns, in Courtroom #502 in the District Court of Douglas County, Nebraska.



Thomas A. Grennan

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon the following individual(s) by regular United States Mail, postage prepaid, and/or by email transmission through the Nebraska.gov electronic filing system, this 8 day of June 2018, and addressed as follows:

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*Attorneys for Landmark
Management Group*



Certificate of Service

I hereby certify that on Friday, June 08, 2018 I provided a true and correct copy of the Motion-Summary Judgment to the following:

Krejci,Gail, represented by Laurel Paige Hall (Bar Number: 25855) service method:
Electronic Service to phall@ekoklaw.com

Krejci,Robert,F represented by Weinhold,Karen Kay (Bar Number: 22984) service method:
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Kirby,Robert,J represented by Alex Boyd (Bar Number: 25065) service method: Electronic
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method: Electronic Service to phall@ekoklaw.com

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method: Electronic Service to kbailey@ekoklaw.com

Signature: /s/ Grennan,Thomas,A (Bar Number: 15675)

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

ROBERT J. KIRBY,)
)
Plaintiff,)
)
vs.)
)
F & J ENTERPRISES, INC., a Nebraska)
corporation, MAPLE 144, LLC, a)
Nebraska limited liability company, WEST)
MAPLE ROAD, LLC, a Nebraska limited)
liability company, FANTASY'S, INC., a)
Nebraska corporation, WEST MAPLE)
FANTASY'S, L.L.C., a Nebraska limited)
liability company, LANDMARK)
MANAGEMENT GROUP, INC., a)
Nebraska corporation, FRANK KREJCI,)
ROBERT F. KREJCI, GAIL KREJCI,)
VERA JANE KREJCI, LORI M. KREJCI,)
and LARY D. SMITH,)
)
Defendants)

CASE NO. CI 16-4590

**DEFENDANT WEST MAPLE ROAD,
LLC'S MOTION FOR SUMMARY
JUDGMENT**

COMES NOW Defendant, West Maple Road, LLC, and through its attorneys of record, and pursuant to Neb.Rev.Stat. §25-1331 et seq, moves this Court to enter summary judgment in favor of the Defendant as the pleadings, depositions, and affidavits on file show there is no genuine issue of material fact and that Defendant is entitled to judgment as a matter of law.

Dated this 14th day of June, 2018

WEST MAPLE ROAD, LLC, Defendant

By:

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Betty L. Egan #16550
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(402) 330-6303, fax
blegan@womglaw.com
Attorneys for Defendant West Maple Road, LLC

NOTICE OF HEARING

You are hereby notified that the foregoing Motion for Summary Judgment will be called up for hearing on the 16th day of July, 2018 at 2:30 o'clock p.m. before the Honorable Timothy Burns. in courtroom #502 in the District Court of Douglas County, Nebraska.

/s/ Betty L. Egan

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Defendant West Maple Road, LLC'S Motion for Summary Judgment was sent by regular U.S. mail, postage prepaid on the 14th day of June, 2018 to the following counsel of record:

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Thomas A. Grennan
Gross & Welch, LLO
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Omaha, NE 68124

Betty L. Egan

Certificate of Service

I hereby certify that on Thursday, June 14, 2018 I provided a true and correct copy of the Motion-Summary Judgment to the following:

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method: Electronic Service to phall@ekoklaw.com

Signature: /s/ Egan,Betty,L (Bar Number: 16550)