

18-0564

Melissa Bennett vs. Seehafer Broadcasting Corporation et al

Electronic Filing Notice

Case No. 2018CV000191
Class Code: Other-Personal Injury

FILED
05-01-2018
Clerk of Circuit Court
Manitowoc County, WI
2018CV000191

THE CITY OF MANITOWOC
900 QUAY STREET
CITY HALL
MANITOWOC WI 54220

Process Sent
Date: 5/2/18 Time: 9:04 am/pm
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Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 920-683-4030.

BY THE COURT:

Electronically signed by
Lynn Zigmunt, Clerk of Circuit Court
Clerk of Circuit Court

05-01-2018
Date

RECEIVED

MAY 02 2018

CITY CLERKS OFFICE

STATE OF WISCONSIN: CIRCUIT COURT: MANITOWOC COUNTY

MELISSA BENNETT
an adult individual
813 South 23rd Street
Manitowoc, WI 54220

Case Code: 30107

CASE NO.:

Plaintiff,

and

WISCONSIN COLLABORATIVE
INSURANCE COMPANY
a domestic insurance company
N17 W24340 Riverwood Drive
Waukesha, WI 53188

Involuntary Plaintiff,

v.

SEEHAFER BROADCASTING
CORPORATION
a Minnesota corporation
3730 Mangin Street
PO Box 1385
Manitowoc, WI 54220

and

ABC INSURANCE COMPANY
a domestic or foreign insurance company

and

THE CITY OF MANITOWOC
a Wisconsin municipality
City Hall
900 Quay Street
Manitowoc, WI 54220

and

DEF INSURANCE COMPANY
a domestic or foreign insurance company

Defendants.

SUMMONS

THE STATE OF WISCONSIN, To each person named above as Involuntary Plaintiff and Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within 45 days of receiving this Summons, you must respond with a written answer, as that term is used in Wis. Stat. ch. 802, to the Complaint. The Court may reject or disregard an Answer that does not follow the requirements of the statutes. The Answer must be sent or delivered to the Court, whose address is Manitowoc County Clerk of Courts, 1010 South 8th Street, Manitowoc, Wisconsin 54220, and to Rohde Dales LLP, Plaintiff's attorneys, whose address is 909 North 8th Street, Suite 100, Sheboygan, Wisconsin 53081. You may have an attorney help or represent you.

If you do not provide a proper Answer within 45 days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 1st day of May, 2018.

ROHDE DALES LLP

By s/Lili C. Behm

An Associate of the Firm

State Bar No. 1107458

Kyle Borkenhagen

A Member of the Firm

State Bar No. 1084544

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STATE OF WISCONSIN: CIRCUIT COURT: MANITOWOC COUNTY

MELISSA BENNETT
an adult individual
813 South 23rd Street
Manitowoc, WI 54220

Case Code: 30107

CASE NO.:

Plaintiff,

and

WISCONSIN COLLABORATIVE
INSURANCE COMPANY
a domestic insurance company
N17 W24340 Riverwood Drive
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Involuntary Plaintiff,

v.

SEEHAFER BROADCASTING
CORPORATION
a Minnesota corporation
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and

ABC INSURANCE COMPANY
a domestic or foreign insurance company

and

THE CITY OF MANITOWOC
a Wisconsin municipality
City Hall
900 Quay Street
Manitowoc, WI 54220

and

DEF INSURANCE COMPANY
a domestic or foreign insurance company

Defendants.

COMPLAINT

Plaintiff Melissa Bennett, through her attorneys, Rohde Dales LLP, as a Complaint against Defendants, states as follows:

1. Plaintiff Melissa Bennett ("Bennett") is an adult resident of the City of Manitowoc, Manitowoc County, Wisconsin, residing at 813 South 23rd Street, Manitowoc, Wisconsin.

2. Involuntary Plaintiff Wisconsin Collaborative Insurance Company ("WCIC") is a domestic insurance company, with its principal place of business located at N17 W24340 Riverwood Drive, Waukesha, Wisconsin.

3. Defendant Seehafer Broadcasting Corporation ("Seehafer") is a Minnesota corporation with its principal office located at 3730 Mangin Street, Manitowoc, Wisconsin.

4. Plaintiff is ignorant of the true name of the liability insurance defendant that insures Seehafer in this action and designates it by a fictitious name until Plaintiff can ascertain its true name and move for an amendment of the summons, pleadings and proceedings. The liability insurance defendant is described respectfully as follows: ABC Insurance Company ("ABC"). Further upon information and belief, at all times material hereto, there was in full force and effect one or more policies of liability insurance issued by ABC to or covering Seehafer. ABC agreed to indemnify Seehafer with respect to any and all liability or damages suffered by a third person as a result of Seehafer's conduct as alleged in the claims for relief set forth in the Complaint. Therefore, ABC is a proper party to this action.

5. Defendant City of Manitowoc ("City") is a Wisconsin municipality with its City Hall located at 900 Quay Street, Manitowoc, Wisconsin.

6. Plaintiff is ignorant of the true name of the liability insurance defendant that insures the City in this action and designates it by a fictitious name until Plaintiff can ascertain its true name and move for an amendment of the summons, pleadings and proceedings. The liability insurance defendant is described respectfully as follows: DEF Insurance Company (“DEF”). Further upon information and belief, at all times material hereto, there was in full force and effect one or more policies of liability insurance issued by DEF to or covering City. DEF agreed to indemnify City with respect to any and all liability or damages suffered by a third person as a result of City’s conduct as alleged in the claims for relief set forth in the Complaint. Therefore, DEF is a proper party to this action.

7. Upon information and belief, WCIC, through its policy of insurance, has made payment of some of the hospital, medical and related expenses incurred by Bennett as a result of the injuries sustained. These payments were made pursuant to one or more contracts of insurance issued by WCIC to or covering Bennett. Further, upon information and belief, WCIC may have an interest in this action based on medical payments it alleges to have made on behalf of Bennett related to this claim whether by assignment, subrogation or reimbursement. Bennett disputes WCIC’s claims as they are unavailable under the holding of *Great-West Life and Annuity Ins. Co. v. Knudson*, 534 U.S. 204, 122 S. Ct. 708 (Jan. 8, 2002). WCIC is made an involuntary plaintiff by reason of Wis. Stat. § 803.03. In the event WCIC fails to answer, Bennett asks for default judgment with prejudice.

8. Seehafer worked with the City to organize and host a tennis tournament at Lincoln Park in Manitowoc on August 12, 2017.

9. Upon information and belief, Seehafer contacted the City to ask that a sign in the middle of a paved walkway at the park be removed before the tournament.

10. Upon information and belief, before the morning of August 11, 2017 the City removed the sign, leaving a short piece of pipe exposed; the pipe had held the sign in place.

11. Upon information and belief, none of the Defendants took any action before the morning of August 11, 2017 to warn the public that the exposed pipe was present.

12. By causing the sign to be removed, Seehafer and the City created a dangerous condition: a dark-colored piece of pipe sticking a short distance out of dark-colored pavement on a public walkway, which created a trip hazard and an impediment to safe use of the walkway.

CLAIM FOR RELIEF – NEGLIGENCE

13. Bennett incorporates as if fully set forth herein all of the preceding allegations of the Complaint contained in paragraphs 1 through 12.

14. On or about August 11, 2017 at approximately 9:10 A.M., Bennett was walking on a paved path at Lincoln Park in Manitowoc, Wisconsin, on her way to the tennis courts.

15. While walking on the park path, Bennett tripped over a short piece of pipe, which had held a sign that had been removed, sticking out of the middle of the pavement and fell onto the pavement, landing hard on her left side.

16. As a result of hitting the pavement, Bennett sustained injuries to her person, some of which may be permanent, resulting in past and future medical and related expenses, past and future pain and suffering, and past and future loss of earning capacity.

17. Defendants' conduct that resulted in Bennett falling hard to the pavement was negligent in that Defendants failed to exercise the ordinary care that reasonable persons would exercise under the circumstances. Defendants' conduct was such that a reasonable person would recognize as creating an unreasonable risk of injury or damage.

18. No warning or notice to pedestrians was provided by any of the Defendants, despite the presence of an obstruction located close to the ground and difficult for pedestrians to see without looking straight down.

19. On or about October 16, 2017, within 120 days after the happening of the damage, Bennett caused a notice of damage and of claim to be personally served on the City, stating in the notice the place where the damage occurred and that Bennett claimed satisfaction of the City in the amount of \$25,000.

20. The claim was denied by the City on or about November 6, 2017.

21. The City has not notified Bennett in writing that the claim was denied.

WHEREFORE, Plaintiff Melissa Bennett demands judgment against Defendants Seehafer Broadcasting Corporation and City of Manitowoc as follows:

- A. A determination of what, if any, interest Involuntary Plaintiff Wisconsin Collaborative Insurance Company has in this action, and for default judgment and dismissal with prejudice of whatever claim or claims it has in the event it fails to answer;
- B. Damages to be determined by the trier of fact;
- C. The costs and disbursements of this action; and
- D. For such other and further relief as the court deems just and equitable.

PLAINTIFF HEREIN DEMANDS TRIAL BY A 12-PERSON JURY.

Dated this 1st day of May, 2018.

ROHDE DALES LLP

By s/Lili C. Behm

An Associate of the Firm

State Bar No. 1107458

Kyle Borkenhagen

A Member of the Firm

State Bar No. 1084544

Attorneys for Plaintiff

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