

STATE OF NEW YORK
SUPREME COURT COUNTY OF MADISON

TERRY L. OLMSTED,

Plaintiff,

VERIFIED BILL OF
PARTICULARS

-v-

PIZZA HUT OF AMERICA, INC.; FFCA CAPITAL
HOLDING CORPORATION; JOHN DOE GENERAL
CONTRACTING, CO. or JOHN DOE GENERAL
CONTRACTING, INC; JOHN DOE ELECTRICAL
CONTRACTING or JOHN DOE ELECTRICAL
CONTRACTING INC.,

Index No. 02-1930

Defendants.

Plaintiff, through her attorney Robert E. Lahm, PLLC, for her response to the Demand for a Verified Bill of Particulars made by Defendant Pizza Hut of America, Inc. provides as follows:

1. At or about 4:30 p.m. on December 13, 1999, Plaintiff was injured while working at the Pizza Hut, 500 Genesee Street, Chittenango, New York.
2. Plaintiff objects to the demand insofar as it requests the "exact place and location." Plaintiff was working in the kitchen near a metal work table by the dough machine. Plaintiff received the injury when she touched the metal work table surface.
3. Plaintiff will set forth the negligent conduct which she currently has knowledge but reserves the right to supplement these responses at the close of discovery and at a reasonable time before trial.

- A. The negligence of Defendant FFCA Capital Holding Corporation

(315) 472-3434

Syracuse, NY 13210

711 East Genesee Street

ROBERT E LAHM

is set forth in Plaintiff's responses to their Demands for a Bill of Particulars and will not be repeated here. Copies of Plaintiff's responses to such Demands are enclosed.

B. Defendant John Doe General Contracting, Co. or John Doe General Contracting, Inc. was responsible for the defective specifications and installation of the electrical wiring of the restaurant. The electrical outlet box which caused Plaintiff's injuries was installed in a negligent and dangerous manner. It was not flush to the wall, permitting the contamination of the ground fault interruption switch, thereby rendering it ineffective and permitting the electrification of the metal working surface in the kitchen. In addition, the electrical box was negligently installed one foot from the floor and not at the proper height of 45 inches above the floor, beneath and adjacent to a metal working surface holding metal pans and an electric pizza dough rolling machine. Defendant failed to install a ground carrying wire conductor to prevent corrosion on the electric box and ensure the safety of persons on the premises. Defendant negligently failed to ensure that the closure on the electrical outlet box was complete to prevent the contamination of the interior of the box and the release of electricity.

C. See "B" above.

4. Since discovery is not complete, Plaintiff cannot identify every violation of a statute, ordinance, rule or regulation that may have occurred. Plaintiff reserves the right to supplement this response at the conclusion of discovery and at a reasonable time prior to trial.

5. Plaintiff objects to the demand insofar as it requests an "exact and

itemized" statement of injuries. Plaintiff has experienced symptoms of pain, wooziness, tingling sensations, and diminished sensation. Plaintiff continues to suffer from constant pain. She experiences numbness of the entire left side of her body, and she has trouble holding things with her left hand. Her ability to walk is limited. Plaintiff has had bouts of shaking, palpitations, hyperventilation, and body aches. Plaintiff gets a burning sensation and numbness from the hips down through both legs, and a tingling sensation in her legs. Plaintiff has no release reflexes. Plaintiff also has radiculitis and myelopathy as a result of the electrical injury. She continues to require strong pain medication. She still has pains in her left hand (particularly in the left thumb) and both legs, which wake her at night; she also has aching in the legs, which is worse when ascending stairs and walking long distances, and she has difficulties with balance, some trouble with word retrieval, and some blurred vision. Plaintiff has also been diagnosed with glaucoma. At times, Plaintiff has blackouts or will feel "dazed," she has trouble finding words, and short term memory loss. She is unsteady when she walks. She has decreased sensation to touch and pin prick. Plaintiff continues to have left-sided pain and numbness starting from the neck and including her whole left upper extremity and lower extremity. She experiences numbness with any sustained exertion using the left upper or lower extremity.

6. It is believed that Plaintiff's conditions are permanent.

7.

A. Plaintiff was confined to North Medical Urgent Care from December 13, 1999 to December 14, 1999, when she was discharged to University

Hospital. Plaintiff was released from University Hospital on December 14, 1999.

B. Plaintiff was not confined to bed.

C. Plaintiff was confined to her home for approximately one month following the injury.

8.

Deborah J. Mann, M.D.
University Hospital
SUNY Health Science Center at
Syracuse
750 East Adams Street
Syracuse, New York 13210

Date: December 14, 1999

Pieter Kark, M.D., FACP, FAAN
Neurological Consultations
170 Intrepid Lane
Syracuse, New York, 13205

Dates: March 9, 2000; March 22, 2000; March 31, 2000; April 5, 2000; April 13, 2000; April 26, 2000; May 9, 2000; May 25, 2000; July 6, 2000; September 6, 2000; November 29, 2000; January 22, 2001; January 23, 2001; February 20, 2001; April 24, 2001; June 20, 2001; July 3, 2001; November 19, 2001; June 25, 2003; July 17, 2003; July 21, 2003; July 23, 2003; July 28, 2003; August 7, 2003; September 2, 2003; and October 14, 2003

David J. Seeley, MD.
St. Joseph's Hospital Health Center
301 Prospect Avenue
Syracuse, New York 13203-1898

Date: April 28, 2000

Thomas A. Grady, MD.
North Medical Cardiovascular
Group, PC
5100 West Taft Road, Suite 2J
Liverpool, New York 13088-4841

Date: May 24, 2000

Michael Vertino, MD.
University Hospital
SUNY Health Science Center at
Syracuse
750 East Adams Street
Syracuse, New York 13210.

Date: August 6, 2002

Jeremy M. Shefner, MD.
University Hospital
SUNY Health Science Center at
Syracuse
750 East Adams Street
Syracuse, New York 13210

Date: September 7, 2002

John Lalor, M.D./lw
Alexandra Melara, M.D.
Chittenango Medical
3004 Genesee Street
Chittangeo, New York 13037

Dates: January 4, 2002; January 22, 2002;
March 4, 2002; July 8, 2002; September
19, 2002; September 30, 2002; December
19, 2002; April 15, 2003; May 14, 2003;
May 28, 2003; June 17, 2003; June 27,
2003; July 08, 2003; August 29, 2003;
October 16, 2003; November 20, 2003;
December 23, 2003; and February 19,
2004

John P. Teixeira, M.D.
St. Joseph's Imaging Associates
Northeast Medical
4109 Medical Center Drive
Fayetteville, New York 13066

Date: May 21, 2003

9. Plaintiff's total expenses for medications and medical supplies will be

furnished upon receipt. Plaintiff's injuries are believed to be permanent. It is therefore expected that Plaintiff will incur further medical expenses in the future. The exact estimated cost of the future medical expenses and care will be the subject of medical and other expert testimony at trial. The bulk of Plaintiff's medical expenses have been paid by Worker's Compensation. Please take notice that those costs will constitute a lien and are, therefore, not collateral. The amount of the lien will be provided upon receipt.

10.

A. Plaintiff was a shift manager at the time of the injury.

B. Plaintiff's employer was Pizza Hut of America, Inc., 500 Genesee Street, Chittenango, New York.

C. Plaintiff was unable to work for one month after the incident.

During that period of time, she was confined to her home. After one month, she attempted to return to work, but the work aggravated her symptoms substantially. Three weeks after returning to work, she was forced to leave her position. Plaintiff is permanently and totally disabled.

D. At the time of the incident, Plaintiff's weekly salary varied from \$450-\$600, depending on the amount of overtime she worked that week.

E. The exact amount of Plaintiff's lost earnings will be the subject of expert testimony at trial. In an effort to comply, Plaintiff's total lost earning due to the injury she suffered are approximately \$124,500. Plaintiff reserves the right to supplement these responses at the conclusion of discovery and at a reasonable time prior to trial.

Robert E LAHM

711 East Genesee Street

Syracuse, NY 13210

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s/h/a FFCA Capital Holding Corporation
360 South Warren Street
HSBC Center, Fifth Floor
Syracuse, New York 13202

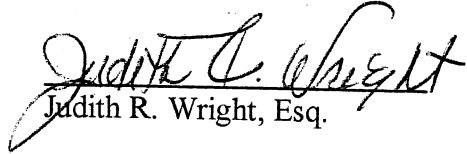
STATE OF NEW YORK
COUNTY OF ONONDAGA)

ss.:

Attorney's Verification

The undersigned, an attorney admitted to practice in the courts of New York State, shows: the deponent is attorney for the Plaintiff in the within action; deponent has read the foregoing Bill of Particulars and knows the contents thereof; that upon information and belief, the deponent believes it to be true. Deponent further says that the reason this verification is made by the deponent and not by Plaintiff is that the Plaintiff does not reside in the county where plaintiff's attorney maintains his offices.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows: review of case file, review of medical records and statements by Plaintiff.


Judith R. Wright, Esq.

Sworn to before me this
7th day of July, 2004.


Notary Public

SUSAN M. ARMSTRONG
Notary Public in the State of New York
Qualified in Onondaga County No. 4721919
My Commission Expires July 31, 2008

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Syracuse, NY 13210

711 East Genesee Street

Robert E LAHM