

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

GARY DETTLAFF

Plaintiff,

-v-

KIRKWOOD COMMONS, L.L.C.
and METRO ENGINEERING, Inc.

Defendants.

LAW NO: _____

PLAINTIFF'S PETITION AT LAW
(Jury Trial Requested)

Comes now the Plaintiff, Gary Dettlaff, and for his cause of action against the Defendants, Kirkwood Commons, L.L.C. and Metro Engineering, Inc., states as follows:

1. Plaintiff, Gary Dettlaff, at all times material hereto was a resident of Polk County, Iowa.
2. Defendant, Kirkwood Commons, L.L.C., at all times material hereto was an Iowa limited liability company.
3. Defendant, Metro Engineering, Inc., at all times material hereto was an Iowa corporation.
4. The acts and omissions giving rise to Plaintiffs' causes of action occurred in Polk County, Iowa.
5. Venue is properly laid in this jurisdiction pursuant to Iowa Code § 616.18.
6. The damages sustained by Plaintiff exceed the jurisdictional amount of small claims court.

OPERATIVE FACTS

7. On the evening of October 31, 2006, Plaintiff Gary Dettlaff was walking southbound on the sidewalk on the west side of Fourth Street in Des Moines, Polk County, Iowa.
8. On the evening of October 31, 2006, the building known as the Kirkwood Commons was under construction.
9. The general contractor for all or part of this construction was Metro Engineering, Inc.
10. A temporary ramp from the sidewalk into the front door of the Kirkwood Commons had been set up for use by construction workers of Metro Engineering, Inc. or other persons or entities.
11. The ramp consisted of a wooden board that was laid with one end on the sidewalk and the other end on the ledge of the Kirkwood Commons' front door.
12. At its highest point the ramp stood only 2-4 inches above the sidewalk.
13. There was a dark-colored doormat, the same width and length as the wooden board, laid on the ramp such that it was covering the entire ramp.
14. The combination of the fact that the doormat covered the entire ramp and the fact that the ramp stood only a few inches off the ground made the ramp barely visible, appearing instead to just be a doormat lying on the sidewalk.
15. On the evening of October 31, 2006, the ramp was not removed when the construction work had ceased for the day.

16. Plaintiff, Gary Dettlaff, tripped and fell over the ramp, causing injuries and damages as more fully set forth herein.
17. The ramp was not observable to the Plaintiff.
18. As a result of the negligence of Defendants, Kirkwood Commons, L.L.C. and Metro Engineering, Inc., Plaintiff, Gary Dettlaff, has sustained injuries and damages as follows:
 - a. Past medical expenses;
 - b. Future medical expenses;
 - c. Past pain and suffering;
 - d. Future pain and suffering;
 - e. Past loss of full function of the body;
 - f. Future loss of full function of the body;
 - g. Past lost wages;
 - h. Future loss of earning capacity; and
 - i. Other miscellaneous out of pocket expenses.

COUNT I
NEGLIGENCE OF DEFENDANT KIRKWOOD COMMONS, L.L.C.

19. Plaintiffs reallege paragraphs 1-18 as if fully set forth herein.
20. Defendant, Kirkwood Commons, L.L.C., was negligent in one or more of the following ways:
 - a. Violating Des Moines Municipal Code § 102-42(a) by not maintaining the sidewalk abutting the Kirkwood Commons “in a safe condition, in a state of good repair, and free from defects.”

- b. Creating a tripping hazard along the sidewalk by causing a ramp to be erected on the sidewalk;
- c. Failing to correct the hazardous condition created by the subject ramp;
- d. Failing to adequately warn Plaintiff Gary Dettlaff of the subject ramp;
- e. Failing to create adequate lighting in the area around the subject ramp; and
- f. Failing to act reasonably under the circumstances then and there existing.

21. The negligence of Defendant, Kirkwood Commons, L.L.C., was a proximate cause of the injuries and damages sustained by the Plaintiffs.

COUNT II
NEGLIGENCE OF DEFENDANT METRO ENGINEERING, INC.

22. Plaintiffs reallege paragraphs 1-21 as if fully set forth herein.

23. Defendant, Metro Engineering, Inc., was negligent in one or more of the

following ways:

- a. Creating a tripping hazard along the sidewalk by causing a ramp to be erected on the sidewalk;
- b. Failing to correct the hazardous condition created by the subject ramp;
- c. Failing to adequately warn Plaintiff Gary Dettlaff of the subject ramp;
- d. Failing to create adequate lighting in the area around the subject ramp; and
- e. Failing to act reasonably under the circumstances then and there existing.

24. The negligence of Defendant, Metro Engineering, Inc., was a proximate cause of the injuries and damages sustained by the Plaintiffs.

DEMAND FOR JUDGMENT

WHEREFORE, Plaintiff prays for judgment of compensation against the Defendants, and each of them, jointly and severally, that will fully compensate Plaintiff for all of his injuries and damages and for legal interest, costs and such other relief that is just and equitable.

JURY DEMAND

Plaintiffs request a jury trial of all the issues so triable in this action.

Respectfully submitted,

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Original filed