

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

CIVIL DIVISION

Patrick Tabor
344 Colony Park Dr.
Pickerington , Ohio 43147
Plaintiff

Case No.:

-vs-

Judge:

R. E. Michel Company LLC
C/O CT CORPORATION SYSTEM
1300 EAST NINTH STREET
CLEVELAND, OHIO 44114
Defendant

Schwartz Rental LLC
C/O RENIA SCHWARTZ
P.O. BOX 13256
COLUMBUS, OHIO 43213

Defendant,

A S Development Company Inc
C/O JOEL L. SCHWARTZ
3120 E MAIN ST
COLUMBUS, OHIO 43209
Defendant

SARAH MORRISON, ADMINISTRATOR
OHIO BUREAU OF WORKERS' COMPENSTATION
30 W. Spring Street
Columbus, OH 43215

Defendant,

And

JOHN DOES 1-10
Identity Unknown
Address Unknown

Defendant,

And

ABC CORPORATIONS 1-10

Identity Unknown

Address Unknown

Defendant.

**COMPLAINT FOR DAMAGES
(JURY TRIAL DEMANDED)**

FIRST CLAIM

1. All of the events set forth in this Complaint occurred in Franklin County, Ohio.
2. On March 24th 2015 at approximately 7:30 AM ., Plaintiff, Patrick Tabor drove up to 406 McCormick Blvd to pick up HVAC parts for his company from Defendant R.E. Michel Company.(hereinafter known as Michel). Plaintiff Tabor parked on the sloped driveway leading to the only entrance Plaintiff Tabor was aware of.
3. 406 McCormick Blvd is owned by Defendant Schwartz Rental LLC(hereinafter known as Schwartz) and managed by Defendant A S Development Company Inc.(hereinafter known as A S Development)
4. Plaintiff Tabor noticed that a full grown goose(hereinafter known as "Mother Goose") was near the entrance door near a nest of what was believed to be goose eggs. This was at least the second year that Defendants Michel, Schwartz, and A S Development had negligently allowed the "Mother Goose" to build a nest for the eggs near the entrance. Defendants Michel, Schwartz, amd A S Developments conduct in permitting a full grown goose to build a nest for eggs so close to the entrance to a business place open to

the public constituted a unreasonable hazard and fell below the standard of care required for a business open to the public. Plaintiff Tabor retrieved a broomstick from the rear of his panel van to protect himself from the "Mother Goose" as he approached the entrance to buy his needed parts. However, as he came around the passenger side of the van, which had no windows on the sides, "Mother Goose" was flying directly at him. Plaintiff Tabor raised the broomstick to protect himself striking "Mother goose" in the chest and knocking Plaintiff Tabor to the concrete driveway causing injuries to his wrist, left elbow, forearm, left arm and other injuries both known and unknown. His injuries are permanent.

5. As a direct and proximate result of the negligence of the Defendants Michel. Schwartz, and A S Development, Plaintiff suffered injury to his left hand, left elbow, as well as other unknown injuries. Plaintiff, Patrick Tabor injuries are permanent.

SECOND CLAIM

6. Plaintiff, Patrick Tabor realleges the allegations contained in Paragraphs 1 through 5
7. As a direct and proximate result of the negligence of the Defendants Michel, Schwartz, and A S Development, Plaintiff, Patrick Tabor has sustained medical expenses in excess of \$10,000

THIRD CLAIM

8. Plaintiff, Patrick Tabor, realleges the allegations contained in Paragraphs 1 through 7
9. As a further and proximate result of the negligence of Defendants Michel, Schwartz and A S Development, Plaintiff, Patrick Tabor, has sustained pain, suffering and mental anguish and will continue to sustain these into the future. These conditions are permanent.

FOURTH CLAIM

10. Plaintiff, Patrick Tabor, realleges the allegations contained in Paragraphs 1 through 9.

11. As a direct and proximate result of the negligence of Defendants Michel, Schwartz, and

A S Development Plaintiff, Patrick Tabor, has sustained lost income and expects to sustain further loss of income in the future. His income loss and inability to earn income is permanently impaired

FIFTH CLAIM

12. Plaintiff Patrick Tabor, realleges the allegations contained in Paragraphs 1 thorough 11..

13. At the date and time of the accident referred to herein, Plaintiff, Patrick Tabor, was acting

within the course and scope of employment. As a direct and proximate result of the injuries caused by the negligence of Defendants Michel, Schwartz and A S Development Plaintiff, Patrick Tabor, was eligible and did receive workers' compensation benefits from the Defendant, Ohio Bureau of Workers' Compensation.

14. Defendant, Ohio Bureau of Workers' Compensation, may claim a right of subrogation

pursuant to Ohio Revised Code Section 4123.93 and Ohio Revised Code Section 4123.931 for benefits paid to or for the benefit of Plaintiff, Patrick Tabor, from the proceeds of any settlement agreement obtained by Plaintiff.

SEVENTH CLAIM

15. Plaintiff, Patrick Tabor, realleges the allegations contained in Paragraphs 1 through 18.

16. At all times relevant hereto, Defendants John Does #1-10, inclusive, after diligent but unsuccessful search , are persons or entities whose names and addresses Plaintiff does not

know and have been unable to presently ascertain, but are people and/or entities involved in this action.

17. Defendants and Involuntary Defendants John Does #1-10, inclusive, presently unidentified, will in no way be prejudiced in the maintenance of their defense on the merits within the meaning of Rule 15(D) of the Ohio Rules of Civil Procedure because of their constructive or actual notice of the institution of this case. Except for the inability of the Plaintiff to discover the names and addresses of Defendants and/or Involuntary Defendants John Does #1-10, inclusive, this action would be brought against them in their proper, true and exact names addresses and capacities, and said information will be provided by the Plaintiff when such information becomes fully known to the Plaintiff.

EIGHTH CLAIM

18. Plaintiff, Patrick Tabor, realleges the allegations contained in Paragraphs 1 through 17.
19. At all times relevant hereto, Defendants ABC Corporations #1-10, inclusive, after diligent but unsuccessful search , are persons or entities whose names and addresses Plaintiff does not know and have been unable to presently ascertain, but are people and/or entities involved in this action.
20. Defendants and Involuntary Defendants ABC Corporations #1-10, inclusive, presently unidentified, will in no way be prejudiced in the maintenance of their defense on the merits within the meaning of Rule 15(D) of the Ohio Rules of Civil Procedure because of their constructive or actual notice of the institution of this case. Except fo the inability of the Plaintiff to discover the names and addresses of Defendants and/or Involuntary Defendants ABC Corporations #1-10, inclusive, this action would be brought against them in their proper, true and exact names addresses and capacities, and said information

will be provided by the Plaintiff when such information becomes fully known to the Plaintiff.

WHEREFORE, Plaintiff, Patrick Tabor, demands judgement as follows:

- 1) Against Defendants Michel, Schwartz, and A S Development , in an amount to exceed \$25,000 as compensatory damages and costs in this matter; and,
- 2) A declaratory judgment requiring Defendant, Ohio Bureau of Workers' Compensation, to prove the legal and factual basis for its claims of subrogation and/or recoupment and an order from this Court determining the rights and responsibilities of the parties herein;
- 3) Such other relief as is just and equitable in the premises.

Respectfully Submitted

/s/ Dennis P. Evans

Dennis P. Evans (0030857)
655 Metro Place South
Suite 600-010
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Cell 614-565-9265
Counsel for Plaintiff

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

/s/ Dennis P. Evans

Dennis P. Evans (0030857)
Counsel for Plaintiff