

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS - EASTERN DIVISION

CAROLYN JEAN PLUMMER, )  
)  
Plaintiff, )  
)  
v. )  
)  
THOMAS J. KNUTH, MARY ANNE KNUTH, )  
DONALD JOHNSON and NANCY JOHNSON, )  
d/b/a ANNIE'S CAFÉ & ICE CREAM, )  
)  
Defendants. )

FILED

NOV - 9 2004 PG

No.: 04 C 340 MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

Judge Grady

Magistrate Judge Mason

DOCKETED

NOV 22 2004

ANSWER TO AMENDED COMPLAINT

NOW COMES Defendants DONALD JOHNSON and NANCY JOHNSON, by and through their attorneys, SCARIANO, HIMES AND PETRARCA, CHTD., to present their Answer to Plaintiff's Amended Complaint. In support of said answer, Defendants state as follows:

Count I

1. That the Plaintiff, CAROLYN JEAN PLUMMER, is a citizen of the State of Indiana.

**ANSWER: Defendants are without knowledge of the allegation contained in paragraph 1 and, therefore, denies the same.**

2. That the Defendants, THOMAS J. KNUTH and MARY ANNE KNUTH, are citizens of the State of Illinois who own the property and real estate from which is operated a business known as ANNIE'S CAFÉ & ICE CREAM, in Crete, Illinois. That upon information and belief, DONALD JOHNSON and NANCY JOHNSON, are the owners and operators of ANNIE'S CAFÉ & ICE CREAM.

**ANSWER: Defendants admit the allegations contained in paragraph 2.**

3. The matter in controversy exceeds \$75,000 exclusive of interest and costs. Jurisdiction is based upon diversity of citizenship, 28 U.S.C. 1332.

**ANSWER: Defendants admit that Plaintiff bases her jurisdiction of this suit upon diversity of citizenship. Defendants are without knowledge of the remaining allegations contained in paragraph 3 and, therefore, deny the same.**

4. That on the 18<sup>th</sup> day of January, 2004, at approximately 2:27 p.m., Plaintiff was a customer of Annie's Café in Crete, Illinois.

**ANSWER: Defendants deny the allegations contained in paragraph 4.**

5. As owners of said property, Defendants THOMAS J. KNUTH and MARY ANNE KNUTH did there and then owe Plaintiff, and other customers lawfully upon the aforesaid premises, the duty to maintain said property with such care so that unnatural accumulations of ice would not occur.

**ANSWER: Defendants are without sufficient knowledge to form a belief as to the allegations contained in paragraph 5 and, therefore, deny the same.**

6. That at said time and place as a result of negligence of the Defendants THOMAS J. KNUTH and MARY ANNE KNUTH, as hereinafter set forth, the Plaintiff was then and there injured when she slipped and fell on the sidewalk in front of said café, due to ice that had unnaturally accumulated in that area from a leak in the roof of the overhang of the café.

**ANSWER: Defendants are without sufficient knowledge to form a belief as to the allegations contained in paragraph 6 and, therefore, deny the same.**

7. Notwithstanding the duty owed by Defendants THOMAS J. KNUTH and MARY ANNE

KNUTH, to Plaintiffs and others, as owners of said property, were then and there guilty of one or more of the following negligent acts or omissions:

- (a) Knowingly permitted the roof to remain in a damaged condition, when they knew or should have known that such condition existed;
- (b) Knowingly permitted and allowed water and ice to trickle down from the damaged roof and unnaturally accumulate on the steps and sidewalk in front of the café;
- (c) Failed to properly maintain their premises in a safe condition;
- (d) Failed to properly warn Plaintiff, or those similarly situated, as to the existence of a dangerous condition;
- (e) Failed to take any precautions to prevent injury to Plaintiff, or those similarly situated, that might occur due to the unnatural accumulation of water and ice on the steps and sidewalk in front of the café;
- (f) Failed to provide safe access along said sidewalk and steps, thereby disregarding the safety of Plaintiff, and those similarly situated.

**ANSWER: Defendants are without sufficient knowledge to form a belief as to the allegations contained in paragraph 7 and each and every one of its subparts and, therefore, deny the same.**

8. That by reason of the premises and as a direct and proximate result thereof, the Plaintiff, CAROLYN JEAN PLUMMER, then and there sustained severe and permanent injuries, both externally and internally, and she was thereby greatly hurt, bruised and wounded; the neck, back, spine, arms, legs, body, head and the bones, joints, muscles, tendons, nerves, membranes, ligaments and vessels thereof were seriously contused, bruised, sprained, wrenched and weakened; she suffered nausea, vertigo, and sleeplessness; the function and use of all the aforesaid parts and organs were seriously diminished, impaired and made painful; and she became therefrom sick, sore, lame and disordered and so remained for a long period of time, to wit; from thence to hitherto, during all of which time she suffered great

back, spine, arms, legs, body, head and the bones, joints, muscles, tendons, nerves, membranes, ligaments and vessels thereof were seriously contused, bruised, sprained, wrenched and weakened; she suffered nausea, vertigo, and sleeplessness; the function and use of all the aforesaid parts and organs were seriously diminished, impaired and made painful; and she became therefrom sick, sore, lame and disordered and so remained for a long period of time, to wit; from thence to hitherto, during all of which time she suffered great pain and anguish both in mind and body and will, in the future, continue to suffer, and she was by reason of said injuries hindered and prevented, and permanently will be hindered and prevented from attending to her usual duties and affairs, and she has thereby lost and will in the future, thereby lose large sums of money which would otherwise have accrued to her, and she was compelled to expend and become liable for large sums of money for hospital and medical services, nursing care and attention in and about endeavoring to become healed and cured of her injuries, all to her damage for a sum in excess of SEVENTY-FIVE THOUSAND and 00/100 (\$75,000.00) Dollars.

**ANSWER: Defendants deny the allegations contained in paragraph 8.**

Respectfully submitted,

DONALD JOHNSON and  
NANCY JOHNSON

By: William F. Gleason  
One of Their Attorneys

RAYMOND A. HAUSER  
WILLIAM F. GLEASON  
MICHEAL A. DeBARTOLO  
SCARIANO, HIMES AND PETRARCA, CHTD.  
1450 Aberdeen  
Chicago Heights, IL 60411  
(708)755-1900