

IN THE STATE COURT OF COBB COUNTY



STATE OF GEORGIA

CARINA ROCK,)	
)	
Plaintiff,)	CIVIL ACTION FILE NO.
)	
v.)	
)	
JO-ANN L. MOORE,)	
)	
Defendant.)	

VERIFIED COMPLAINT FOR PERSONAL INJURY DAMAGES
AND DEMAND FOR TRIAL BY JURY

COMES NOW, Carina Rock, Plaintiff in the above styled action, and files this her Verified Complaint for Personal Injury Damages and Demand for Trial by Jury and shows this Court the following:

1.

Defendant, Jo-Ann L. Moore, ("Moore"), resided at 4872 Garrards Ridge, Roswell, Cobb County, Georgia 30075 ("Premises") on May 25, 2002.

2.

Moore is represented in this action by Stephen L. Cotter, Attorney at Law, at Swift, Currie, McGhee & Heirs, LLP, located at The Peachtree, Suite 300, 1355 Peachtree Street, N.E., Atlanta, Georgia 30309-3238.

3.

Attorney, Stephen L. Cotter, for Defendant Moore, has agreed to acknowledge service on behalf of his client, therefore not requiring Moore to be served by the Deputy Sheriff of the Cobb County, Georgia, Sheriff's Department, or a special process server.

4.

Moore is subject to the jurisdiction and venue of this Honorable Court.

5.

On the 25th of May, 2002 Moore was the owner of the residential real estate located at the Premises.

6.

At all times relevant hereto, Moore was and is the owner of the residential real estate property located at the Premises.

7.

On or about the 25th of May, 2002, Plaintiff, Carina Rock, ("Rock"), was a social guest of Moore at the Premises.

8.

On or about the 25th of May, 2002, Rock was present with other social guests on the elevated outside wooden deck attached to and a part of the Premises.

9.

On or about the 25th of May, 2002, the deck upon which Rock and other guests were standing separated from the house and collapsed.

10.

As a result of this collapse of this deck, Rock fell to the ground.

11.

As a direct result of the fall, Rock was seriously injured. Rock has incurred reasonable and necessary medical expenses in excess of \$102,000 to date.

12.

As a result of this deck collapse and fall, Rock suffered the following personal injuries:

- (a) Her left wrist was shattered. On the 25th of May, 2002, Rock underwent surgery to set an external fixture to her shattered left wrist.
- (b) Her right shoulder was broken at the clavicle and humerus bones. On July 26, 2002, Rock had surgery on her shoulder to implant a rod.
- (c) She has also experienced permanent scarring from this deck collapse incident.

13.

As a result of the injuries in this deck collapse incident, Rock has been unable to work for a certain time period and has suffered lost wages in the approximate amount of \$6,000.

14.

As a direct result of this deck collapse incident Rock has suffered and will suffer pain and suffering, past and future.

15.

The injuries sustained by Rock may cause her to incur additional medical expenses and may result in permanent injury.

16.

Moore owed a duty of care to Rock to exercise reasonable care to make Moore's

Premises safe.

17.

Moore had a duty to discover and correct dangerous conditions on her Premises.

18.

Moore was responsible for the maintenance, inspection, and repair of the deck on her Premises.

19.

Moore owed a duty of care to Rock to warn Rock of the dangerous condition that did or might exist on her Premises.

20.

Moore had actual knowledge of the defective and dangerous condition of the deck.

21.

Moore had constructive knowledge of the defective construction and condition of the deck.

22.

Moore breached the duty of care owed to Rock when Moore failed to maintain, inspect, and/or repair the defective deck.

23.

Moore breached the duty of care owed to Rock when Moore failed to warn Rock of the dangerous condition of the deck.

24.

Rock had no knowledge of the dangerous condition of the deck.

25.

Rock could not have reasonably been expected to discover the dangerous condition of the deck.

26.

Moore's failure to maintain, inspect, and/or repair the defective deck on the Premises and to correct the dangerous condition and to warn Rock of said condition constitutes negligence.

27.

Moore's negligence was the direct and proximate cause of Rock's injuries.

28.

Moore knew, or in the exercise of ordinary care should have known, the defective and dangerous condition of the deck on her Premises.

29.

Moore was negligent in failing to control the number of social guests and weight load on the deck at the time of its collapse.

30.

Prior to the collapse of the deck, Rock was exercising ordinary care for her own safety.

31.

The negligence of Moore in failing to keep the Premises safe, and failing to detect the defective and dangerous condition of the deck, and in failing to control the number of guest and weight load on the deck rises to the level of wilful or wanton

conduct.

WHEREFORE, Plaintiff Rock prays for the following relief:

- (a) Judgment against Defendant, Jo-Ann L. Moore, in favor of Plaintiff, Carina Rock, for compensatory damages in an amount determined by a fair and impartial jury;
- (b) For a trial by jury on all issues; and
- (c) For such other and further relief as this Court may deem just.

Respectfully submitted:

Matthew C. Flourney
Attorney for Plaintiff
State of Georgia Bar No. 265570

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