

00-1587-CD
CARRIE CASAMENTO -vs- AMES DEPARTMENT STORE, INC.

CARRIE CASAMENTO,

Plaintiff

vs.

AMES DEPARTMENT STORE,
INC.,

Defendant

: IN THE COURT OF COMMON PLEAS OF
: CLEARFIELD COUNTY, PENNSYLVANIA
: CIVIL ACTION - LAW
: No.

00-1587-CD

: COMPLAINT

: COUNSEL OF RECORD FOR PLAINTIFF:

: RONALD P. CARNEVALI, JR., ESQUIRE
: I.D. No.: 47733
: SPENCE, CUSTER, SAYLOR, WOLFE &
: ROSE
: U. S. BANK BUILDING
: POST OFFICE BOX 280
: JOHNSTOWN, PENNSYLVANIA 15907
: (814) 536-0735

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney, and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claims or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

DAVID S. MEHOLICK
COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830
TELEPHONE (814) 765-2641

FILED

DEC 22 2000

William A. Shaw
Prothonotary

| | | |
|------------------------|---|---------------------------------|
| CARRIE CASAMENTO, | : | IN THE COURT OF COMMON PLEAS OF |
| | : | CLEARFIELD COUNTY, PENNSYLVANIA |
| Plaintiff | : | CIVIL ACTION - LAW |
| | : | |
| vs. | : | No. |
| | : | |
| AMES DEPARTMENT STORE, | : | |
| INC., | : | |
| | : | |
| Defendant | : | |

COMPLAINT

NOW COMES, the Plaintiff, Carrie Casamento, by and through her counsel, Spence, Custer, Saylor, Wolfe and Rose and files the following Complaint:

1. The Plaintiff, Carrie V. Casamento, is an adult individual who resides at 828 Daisy Street, Clearfield, Clearfield County, Pennsylvania 16830.

2. The Defendant Ames Department Store, Inc. is a corporation which owns and operates a department store at the Clearfield Mall, Clearfield, Pennsylvania 16830.

3. The Defendant, Ames was offering a sale on Rubbermaid tote containers, large plastic bins with lids.

4. The Plaintiff wished to purchase a Rubbermaid tote container.

5. The containers were displayed in a crowded aisle of the store, stacked to such a height that one could not be selected without assistance.

6. As she was waiting for assistance in the purchase of a rubbermaid tote, the Plaintiff was selecting a gallon of washer fluid from a nearby display when the display of lids toppled crashing into the Plaintiff's back, elbow and foot.

7. As a result of the incident, the Plaintiff suffered the following:

a. Numerous compression fractures in her thoracic vertebrae;

b. Exacerbation of a pre-existing degenerative of the L1-L2 intervertebral disc; and

c. Multiple contusions.

8. As a result of the injuries she sustained in the accident, the Plaintiff's activities were limited during her recuperation during which she was fitted with a thoracolumbar brace and was prevented from performing any bending or heavy lifting.

9. The Plaintiff still suffers from pain and discomfort in her mid-back and has not achieved a level of function or activity that she enjoyed prior to the incident.

10. The Plaintiff's injuries sustained in the incident have caused her to endure pain and suffering and to suffer the loss of enjoyment of life's pleasures for which she seeks compensation.

11. The Plaintiff's injuries suffered in the incident have caused her to incur medical expenses related to the diagnosis and treatment of those injuries.

12. The Plaintiff may in the future require additional medical treatment for the injuries sustained in the incident.

13. The Plaintiff's injuries were caused solely and proximately by the negligence of the Defendant, Ames in the following particulars:

a. In failing to maintain their department store premises in a safe condition for its customers;

b. In creating a dangerous display of sale items which had the propensity to fall and strike customers causing injuries;

c. In failing to properly train or instruct their employees in a correct and safe manner of displaying goods or in retrieving goods for customers from displays which are inaccessible to customers;

d. In failing to routinely inspect merchandise displays to insure that they are safe and have not been disturbed in such a way as to make them dangerous to customers of the store; and

e. In failing to make, keep and insure that their premises would be safe for customers wishing to purchase goods.

WHEREFORE, the Plaintiff, Carrie V. Casamento demands judgment against the Defendant in amount in excess of the compulsory arbitration limits, plus interest and costs.

Respectfully submitted,

SPENCE, CUSTER, SAYLOR, WOLFE & ROSE

By



Ronald P. Carnevali, Jr., Esquire
Attorneys for Plaintiff,
Carrie V. Casamento

VERIFICATION PURSUANT TO 42 PA.C.S.A.
SECTION 102 AND PA.R.C.P. 76

I verify that the statements contained in the Plaintiff, Carrie V. Casamento's Complaint are true and correct to the best of my information, knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A., Section 4904, relating to unsworn falsification to authorities.

August 24, 2000

By Carrie V. Casamento
Carrie V. Casamento

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW
No.

CARRIE CASAMENTO,

Plaintiff

vs.

JAMES DEPARTMENT STORE, INC.,

Defendant

COMPLAINT

FILED

DEC 22 2000

William A. Shaw
Prothonotary

LAW OFFICES

SPENCE, CUSTER, SAYLOR, WOLFE & ROSE

UNITED STATES NATIONAL BANK BUILDING

P. O. BOX 280

JOHNSTOWN, PENNSYLVANIA 15907

80.00

100 SHS
11/15/00
Att'y pd.

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 10543

CASAMENTO, CARRIE

00-1587-CD

VS.

AMES DEPARTMENT STORE INC.

COMPLAINT

SHERIFF RETURNS

NOW JANUARY 3, 2001 AT 11:08 AM EST SERVED THE WITHIN COMPLAINT ON AMES DEPARTMENT STORE, INC., DEFENDANT AT EMPLOYMENT, CLEARFIELD MALL, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JOHN WESTEN, SR., ASSISTANT MANAGER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF. SERVED BY: MARSHALL/RYEN

Return Costs

| Cost | Description |
|-------|-----------------------------|
| 19.33 | SHFF. HAWKINS PD. BY: ATTY. |
| 10.00 | SURCHARGE PD. BY: ATTY. |

Sworn to Before Me This

th
10 Day Of January 2001
[Signature]

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co. Clearfield, PA.

So Answers,

[Signature]
by Marilyn Hamp
Chester A. Hawkins
Sheriff

FILED
JAN 10 2001 10:05 AM
EKL
William A. Shaw
Prothonotary

THOMAS, THOMAS & HAFFER, LLP

Jeffrey B. Rettig, Esquire
Identification Number: 19616
305 North Front Street
P.O. Box 999
Harrisburg, PA 17108-0999
717/255-7639

Attorneys for Defendant

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

CARRIE CASAMENTO,
Plaintiff

v.

AMES DEPARTMENT STORE, INC.,
Defendant

CIVIL ACTION - LAW

NO. 00-1587-CD

PRAECIPE

TO THE PROTHONOTARY:

Please enter the appearance of Jeffrey B. Rettig, Esquire of Thomas, Thomas & Hafer, LLP on behalf of Ames Merchandising Corporation, erroneously referred to as Ames Department Store, Inc., Defendant, in the above captioned matter.

Respectfully submitted

THOMAS, THOMAS & HAFFER, LLP

By: 

Jeffrey B. Rettig, Esquire

:118871.1

FILED

JAN 10 2001

William A. Shaw
Prothonotary

CERTIFICATE OF SERVICE

I, JEFFREY B. RETTIG, ESQUIRE, hereby certify that I have served a true and correct copies of the foregoing document on the following persons by placing same in the United States mail, postage prepaid, on the 8 of Jan, 2001:

Ronald P. Carnevali, Jr., Esquire
Spence, Custer, Saylor, Wolfe & Rose
U.S. Bank Building
P.O. Box 280
Johnstown, PA 15907

THOMAS, THOMAS & HAFFER, LLP

By: 

Jeffrey B. Rettig, Esquire

FILED

JAN 10 2001

11:38 AM

William A. Shaw

Prothonotary

WAS

THOMAS, THOMAS & HAFER, LLP

Jeffrey B. Rettig, Esquire
Identification Number: 19616
305 North Front Street
P.O. Box 999
Harrisburg, PA. 17108-0999
717/255-7639

Attorneys for Defendant

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

CARRIE CASAMENTC,
Plaintiff

v.

AMES DEPARTMENT STORE, INC.,
Defendant

CIVIL ACTION – LAW

NO. 00-1587-CD

NOTICE TO PLEAD

TO: Carrie Casamento, Plaintiff and Ronald P. Carnevali, Jr., Esquire, her attorney

You are hereby notified to plead to the enclosed New Matter within twenty (20) days from service hereof or a default judgment may be entered against you.

Respectfully submitted,

THOMAS, THOMAS & HAFER, LLP

By: 

Jeffrey B. Rettig, Esquire

FILED

JAN 22 2001

William A Shaw
Prothonotary

THOMAS, THOMAS & HAFFER, LLP

Jeffrey B. Rettig, Esquire
Identification Number: 19316
305 North Front Street
P.O. Box 999
Harrisburg, PA 17108-0999
717/255-7639

Attorneys for Defendant

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

CARRIE CASAMENTO,
Plaintiff

v.

AMES DEPARTMENT STORE, INC.,
Defendant

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CIVIL ACTION – LAW

NO. 00-1587-CD

ANSWER TO PLAINTIFF'S COMPLAINT WITH NEW MATTER

AND NOW, comes the Defendant, Ames Merchandising Corporation, erroneously referred to as Ames Department Store, Inc., and answers Plaintiff's Complaint as follows:

1. It is admitted that the Plaintiff is who she says she is. As to the balance of the allegations of this paragraph, after reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of these allegations and proof thereof is demanded.

2. Admitted as to Ames Merchandising Corporation only.

3. Admitted as to Ames Merchandising Corporation.

4. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of these allegations and proof thereof is demanded.

5. Denied as stated. It is admitted that the containers were displayed and that they were stacked to a given height. It is denied that they could not be selected without assistance.

6. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of these allegations and proof thereof is demanded.

7. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of these allegations and proof thereof is demanded.

8. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of these allegations and proof thereof is demanded.

9. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of these allegations and proof thereof is demanded.

10. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of these allegations and proof thereof is demanded.

11. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of these allegations and proof thereof is demanded.

12. Denied. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of these allegations and proof thereof is demanded.

13. Denied pursuant to Pa. R.C.P. 1029.

WHEREFORE, Defendant requests that Plaintiff's Complaint be dismissed without cost to it.

NEW MATTER

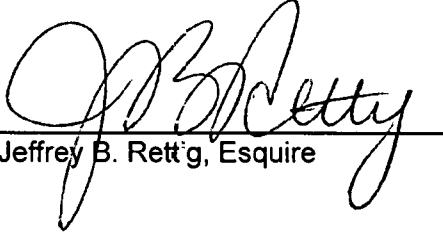
14. Plaintiff has or may have failed to mitigate her damages.

15. Plaintiff's injuries may have been due to acts of entities other than Defendant and for whom Defendant is not responsible.

WHEREFORE, Defendant requests that Plaintiff's Complaint be dismissed without cost to it.

Respectfully submitted,

THOMAS, THOMAS & HAFFER, LLP

By: 
Jeffrey B. Rettig, Esquire

:118904.1

VERIFICATION

I, James J. Pieretti, state that I am Vice President of Ames Merchandising Corporation, that I make this Verification on behalf of Ames Merchandising Corporation, and that I am familiar with the facts set forth in the foregoing Answer with New Matter. I have read the foregoing document and hereby affirm that it is true and correct to the best of my personal knowledge, information and belief. This Verification is made pursuant to 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Ames Merchandising Corporation

James J. Pieretti
Title: Vice President

Dated:

CERTIFICATE OF SERVICE

I, JEFFREY B. RETTIG, ESQUIRE, hereby certify that I have served a true and correct copies of the foregoing document on the following persons by placing same in the United States mail, postage prepaid, on the 29 of Jan 2001:

Ronald P. Carnevali, Jr., Esquire
Spence, Custer, Saylor, Wolfe & Rose
U.S. Bank Building
P.O. Box 280
Johnstown, PA 15907

THOMAS, THOMAS & HAFFER, LLP

By: 

Jeffrey B. Rettig, Esquire

FILED

JAN 22 2001

M 3:15 PM
William A. Shaw
Prothonotary
gls

CARRIE CASAMENTO,

Plaintiff

vs.

AMES DEPARTMENT STORE,
INC.,

Defendant

: IN THE COURT OF COMMON PLEAS OF
: CLEARFIELD COUNTY, PENNSYLVANIA
: CIVIL ACTION - LAW
: No. 00-1587-CD

:
: REPLY TO NEW MATTER

:
: **COUNSEL OF RECORD FOR PLAINTIFF:**

:
: RONALD P. CARNEVALI, JR., ESQUIRE
: I.D. No.: 47733
: SPENCE, CUSTER, SAYLOR, WOLFE &
: ROSE
: U. S. BANK BUILDING
: POST OFFICE BOX 280
: JOHNSTOWN, PENNSYLVANIA 15907
: (814) 536-0735

FILED

JAN 31 2001

William A. Shaw
Prothonotary

CARRIE CASAMENTO, : IN THE COURT OF COMMON PLEAS OF
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA
vs. : CIVIL ACTION - LAW
: No. 00-1587-CD
AMES DEPARTMENT STORE, :
INC., :
Defendant :

REPLY TO NEW MATTER

NOW COMES, the Plaintiff, Carrie Casamento, by and through her counsel, Spence, Custer, Saylor, Wolfe and Rose and files the following Reply to New Matter:

14. Denied. Paragraph 14 is denied. To the contrary, the Plaintiff has acted reasonably in mitigating her damages.

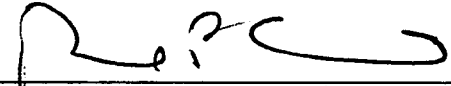
15. Denied. Plaintiff's injuries as alleged in her Complaint result solely from the incident of May 18, 1999.

WHEREFORE, the Plaintiff, Carrie V. Casamento demands judgment against the Defendant, Ames Department Store, Inc. as set forth in Plaintiff's Complaint.

Respectfully submitted,

SPENCE, CUSTER, SAYLOR, WOLFE & ROSE

By


Ronald P. Carnevali, Jr., Esquire
Attorneys for Plaintiff,
Carrie V. Casamento

VERIFICATION PURSUANT TO 42 PA.C.S.A.
SECTION 102 AND PA.R.C.P. 76

I verify that the statements contained in the Plaintiff, Carrie V. Casamento's Reply to New Matter are true and correct to the best of my information, knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A., Section 4904, relating to unsworn falsification to authorities.

Jan. 26, 2001, 2001

By Carrie V. Casamento
Carrie V. Casamento

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW
No. 00-1587-CD

CARRIE CASAMENTO,

Plaintiff

vs.

JAMES DEPARTMENT STORE, INC.,

Defendant

REPLY TO NEW MATTER

FILED

JAN 31 2001
mjb/mc
William A. Sherry
Prothonotary
Keb

LAW OFFICES
SPENCE, CUSTER, SAYLOR, WOLFE & ROSE
UNITED STATES NATIONAL BANK BUILDING
P. O. BOX 280
JOHNSTOWN, PENNSYLVANIA 15907

THOMAS, THOMAS & HAFER, LLP

Jeffrey B. Rettig, Esquire
Identification Number: 19616
305 North Front Street
P.O. Box 999
Harrisburg, PA 17108-0999
(717) 255-7639

Attorneys for Defendant

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION - LAW

CARRIE CASAMENTO,
Plaintiff

v.

AMES DEPARTMENT STORE, INC.,
Defendant

NO. 00-1587-CD

JURY TRIAL DEMANDED

PRAECIPE RE: SUGGESTION OF BANKRUPTCY

The Defendant, Ames Department Stores, Inc., has filed for bankruptcy. A copy of documentation establishing this is attached hereto.


THOMAS, THOMAS & HAFER, LLP

By:


Jeffrey B. Rettig, Esquire

FILED

OCT 29 2001


m122110cc
William A. Shaw
Prothonotary

SEP01
(6/91)

United States Bankruptcy Court

District of _____

In re Ames Department Stores, Inc

01-42217

Bankruptcy Case No.

Debtor*

Social Security No. _____

Employer Tax I.D. No. _____

BK JUDGE GERBER

CERTIFICATE OF COMMENCEMENT OF CASE

I certify that on AUG 20 2001
(date)

☒ the above named debtor filed a petition requesting relief
under chapter 11 of the Bankruptcy Code (title 11
of the United States Code), or

☐ a petition was filed against the above named debtor under
chapter _____ of the Bankruptcy Code (title 11 of the
United States Code), and

☐ that as of the date below the case has not been dismissed.

AUG 20 2001

Date

KATHLEEN FARRELL WILLOUGHBY

Clerk of the Bankruptcy Court

By: [Signature]

Deputy Clerk

*Set forth all names, including trade names, used by the debtor within the last 6 years. (Bankruptcy Rule 1005). For joint debtors set forth both social security numbers.

CERTIFICATE OF SERVICE

I, JEFFREY B. RETTIG, ESQUIRE, hereby certify that I have served a true and correct copy of the foregoing document on the following person by placing same in the United States mail, postage prepaid, on the 26th day of October , 2001:

Ronald P. Carnevali, Jr, Esquire
Spence, Custer, Saylor, Wolfe & Rose
U.S. Bank Building
P.O. Box 280
Johnstown, PA 15907

THOMAS, THOMAS & HAFFER, LLP

By: _____

Jeffrey B. Rettig, Esquire