

04-1238-CD
ALLSTATE INSURANCE CO VS BATH & BODY WORKS/WHITE BARN
subrogee of SANDRA SIMPSON CANDLE CO

Allstate ins vs Bath & Body Works
2004-1238-CD

WHITE AND WILLIAMS LLP

BY: BRIAN E. TETRO

Identification No. 83630

1800 One Liberty Place

Philadelphia, PA 19103-7395

215.864.7000

ATTORNEY FOR PLAINTIFF,

ALLSTATE INSURANCE COMPANY as

subrogee of SANDRA SIMPSON

3800 Electric Road

Suite 301

Roanoke, Virginia 24018

Plaintiff,

v.

BATH & BODY WORKS/WHITE BARN

CANDLE COMPANY

7 Limited Parkway East

Reynoldsburg, Ohio 43068

Defendant.

CLEARFIELD COUNTY

COURT OF COMMON PLEAS

TERM,

NO.: 04-1238-W

JURY TRIAL DEMANDED

FILED ^(E6K) ICC Amy
m/3:00 PM
AUG 12 2004 Amy pd.
85.00

William A. Shaw
Prothonotary/Clerk of Courts

COMPLAINT

Plaintiff, Allstate Insurance Company, as subrogee of Sandra Simpson, by and through their attorneys, White and Williams LLP, by way of Complaint against defendant, Bath & Body Works/White Barn Candle Company, hereby states the following:

1. Plaintiff, Allstate Insurance Company (hereinafter "Allstate"), is a corporation organized and existing under the laws of the State of Illinois. Allstate is authorized to conduct business and does conduct business in the Commonwealth of Pennsylvania.

2. At all times relevant hereto, Sandra Simpson, is an adult individual who owns property located at 35 Mowery Lane, Dubois, PA 15801 and insured this property with a policy issued by Allstate.

3. Defendant, Bath & Body Works/White Barn Candle Company (hereinafter "Bath & Body Works"), upon information and belief is a corporation duly organized and existing under the laws of the State of Ohio and which does conduct business in the Commonwealth of Pennsylvania.

COUNT ONE

NEGLIGENCE

PLAINTIFF VS. DEFENDANT

4. On September 16, 2003, a fire occurred at property owned by Sandra Simpson, which was located at 35 Mowery Lane, Dubois, Pennsylvania.

5. As a direct and proximate result of this September 16, 2003 incident, the property owned by Sandra Simpson and insured by plaintiff, Allstate, suffered extensive damages.

6. The above mentioned damages were caused, and resulted from the negligent, reckless and careless acts and/or omissions of defendant, Bath & Body Works, in designing and manufacturing a candle which caused the fire, White Barn Candle Company Real Essence Cucumber Melon Candle, product number 0452Z8A4B. Said acts consisted of:

- (a) Negligent design of the candle's glass container which housed the candle;
- (b) Negligent manufacturing of the glass container which housed the candle;
- (c) Negligent testing of the glass container which housed the candle to make sure it could withstand high thermal temperatures; and
- (d) Was otherwise negligent in designing, manufacturing and testing the candle and the glass container which housed the candle.

7. The above referenced fire damage to Simpson's property was caused by, and resulted from, the negligence, carelessness, recklessness and other liability-producing conduct of defendant as previously set forth and incorporated herein by reference in paragraph 6.

8. As a direct and proximate result of the foregoing and pursuant to its policy of insurance with Sandra Simpson, plaintiff, Allstate, incurred expenses in excess of \$100,000.00 when it indemnified Simpson for claims made under her policy due to the fire damage.

9. Pursuant to the application of the policy deductible, Sandra Simpson sustained uninsured losses of \$250.00.

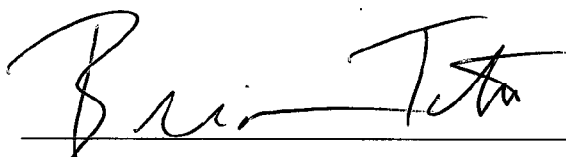
10. As a direct and proximate result of defendant's negligent, reckless, careless acts and/or omissions, plaintiff, in indemnifying Simpson, incurred incidental and consequential damages including, but not limited to, repair and replacement expenses, loss of use of the building, and other consequential damages resulting in an amount in excess of \$100,000.00.

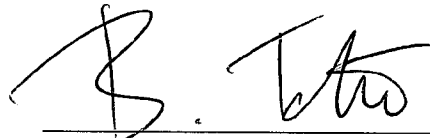
WHEREFORE, plaintiff demands judgment against defendant for damages in an amount in excess of \$100,000.00, together with interest, costs, and any other relief that the Court deems appropriate under the circumstances.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues.

WHITE AND WILLIAMS LLP

By:  _____



BRIAN E. TETRO
Attorney For Plaintiff
White and Williams LLP
1800 One Liberty Place
Philadelphia, PA 19103

Dated:

8/10/04

13
11
10

McCARTER & ENGLISH, LLP

By: Robert B. Anderson

Henry J. Noye

Identification Nos. 36215/82495

Mellon Bank Center

1735 Market Street

Suite 700

Philadelphia, PA 19103

215-979-3800

Attorneys for Defendant,

**Bath & Body Works, Inc., (incorrectly
captioned as "BATH & BODY
WORKS/WHITE BARN")**

FILED
m/11/19/04
SEP 15 2004

William A. Shaw
Prothonotary/Clerk of Courts

ALLSTATE INSURANCE COMPANY as
subrogee of SANDRA SIMPSON

Plaintiff

vs.

BATH & BODY WORKS/WHITE BARN

Defendant

: CLEARFIELD COUNTY

: COURT OF COMMON PLEAS

: NO. 04-1238-CS

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter our appearance on behalf of Bath & Body Works, Inc. (incorrectly
captioned as "BATH & BODY WORKS/WHITE BARN")

McCARTER & ENGLISH, LLP

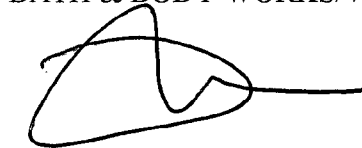
Attorneys for Defendant,

Bath & Body Works, Inc. (incorrectly captioned as
BATH & BODY WORKS/WHITE BARN)

Dated:

9-14-04

By:

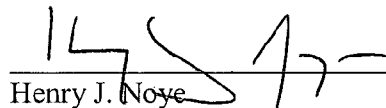


Robert B. Anderson

Dated:

9-14-04

By:



Henry J. Noye

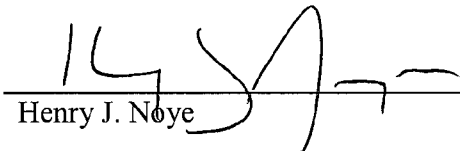
CERTIFICATE OF SERVICE

I, Henry J. Noye, certify that on this 14th day of September, 2004, I served a true and correct copy of the within Entry of Appearance via regular mail on the following:

Brian E. Tetro, Esq.
WHITE AND WILLIAMS, LLP
1800 One Liberty Place
Philadelphia, PA 19103-7395
215-864-700

McCARTER & ENGLISH, LLP
Attorneys for Defendant,
Bath & Body Works, Inc. (incorrectly captioned as
BATH & BODY WORKS/WHITE BARN)

Dated: 9/14/04

By: 
Henry J. Noye

Such action has effected the removal of this action to the United States District Court for the Western District of Pennsylvania, in accordance with the provisions of 28 U.S.C. §§ 1441 and 1446 and no further proceedings may be had in this state court action.

McCARTER & ENGLISH, LLP

Attorneys for Defendant,
Bath & Body Works, Inc. (incorrectly captioned as
"BATH & BODY WORKS/WHITE BARN")

Dated: September 27, 2004

By: Robert B. Anderson /s/ RBA
Robert B. Anderson (Attorney I.D. #36215)
Henry J. Noye (Attorney I.D. #82495)
Mellon Bank Center
Suite 700
1735 Market Street
Philadelphia, PA 19103
(215) 979-3800
(215) 979-3899 (fax)

CERTIFICATE OF SERVICE

I, Henry J. Noye, hereby certify that I caused a true and correct copy of defendant Bath & Body Works, Inc.'s **Notice of Filing Notice of Removal** to be served upon the attorney of record for plaintiff by hand delivery at the following address:

Brian E. Tetro, Esq.
WHITE AND WILLIAMS, LLP
1800 One Liberty Place
Philadelphia, PA 19103-7395
215-864-700


HENRY J. NOYE

Dated: September 27, 2004

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I.(a) PLAINTIFFS

Allstate Insurance Company as subrogee of Sandra Simpson
2775 Sanders Road
Northbrook, IL 60062

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF N/A

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEY'S (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)

Brian E. Tetra, Esquire
White and Williams LLP
1800 One Liberty Place
Philadelphia, PA 19103
(215) 864-7000
Attorney for Plaintiff

DEFENDANTS

Bath & Body Works, Inc.
7 Limited Parkway
East Reynoldsburg, OH 43068

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT N/A

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)

Robert B. Anderson, Esquire
McCarter & English, LLP
Mellon Bank Center
1735 Market Street, Suite 700
Philadelphia, PA 19103
(215) 979-3800
(215) 979-3899 (fax)
Attorneys for Defendant

04 SEP 21 10:10

FILED

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question
(U.S. Government Not a Party)
☐ 2 U.S. Government Defendant ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of this State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input checked="" type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign National | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury Med. Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability Personal property <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input checked="" type="checkbox"/> 385 Property Damage Product Liability CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 (DIWCIDWW (405(g))) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/ etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Claim for compensatory damages resulting from property damage sustained at the home of Sandra Simpson allegedly in connection with the burning of a candle sold by Bath & Body Works, Inc.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION ☐ UNDER F.R.C.P. 23 DEMAND CHECK YES only if demanded in complaint JURY DEMAND ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE

DOCKET NUMBER

DATE SEPTEMBER 20, 2004

SIGNATURE OF ATTORNEY OF RECORD

#36215

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44

Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other pages as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked the citizenship of the different parties must be checked. (See Section III below: federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under the authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

V. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suite. If the cause fits more than one nature of suit, select the most definitive.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF PENNSYLVANIA - DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff 3800 Electric Road, Suite 301, Roanoke, Virginia 24018

Address of Defendant: 7 Limited Parkway, East Reynoldsburg, OH, 45068

(Use Reverse Side for Additional Space)

Place of Accident, Incident or Transaction: 35 Mowery Lane, Dubois, PA 15801

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE IF ANY N/A

Case Number: _____

Judge _____

Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

Yes ☐ No ☒

Yes ☐ No ☒

CIVIL: (Place ☐ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contracts and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases.

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury : (Assault, Battery)
7. ☐ Products Liability
8. ☐ Products Liability - Asbestos
9. ☒ All other Diversity Cases (Please specify) Wrongful Termination Claim

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, _____, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: _____

Attorney-at-Law -

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: September 2, 2004

Attorney-at-Law - ROBERT B. ANDERSON

Attorney I.D.# 36215

CIV. 609 (7/95)

ALLSTATE INSURANCE COMPANY as)
subrogee of SANDRA SIMPSON) CIVIL ACTION
)
Plaintiff,)
)
v.)
)
BATH & BODY WORKS/WHITE BARN)
)
Defendant.) NO 04-CV-
)

3. Bath & Body desires to exercise its rights under the provisions of 28 U.S.C. §1441, *et seq.*, to remove this action from the Court of Common Pleas, Clearfield County, to the United States District Court for the Western District of Pennsylvania.

4. This action filed by plaintiff in state court is removable to this Court under 28 U.S.C. §1441(a) as an action of which this Court has original jurisdiction under 28 U.S.C. §1332. Plaintiff at the time the aforesaid action was commenced was and still maintains its principal place of business in the state of Illinois and is incorporated in a state other than Delaware. Petitioner Bath & Body, at the time said action was commenced, was and still is a Delaware corporation with its principal place of business in the State of Ohio. There is therefore diversity of citizenship and the defendant is a citizen of a state other than Pennsylvania. The amount in controversy exceeds the sum or value of \$75,000, exclusive of interest, fees and costs. See Copy of the Complaint of Allstate Insurance Company, attached hereto as Exhibit "A" in which damages "in excess of \$100,000" are sought. Accordingly, this Court has original jurisdiction of this action under 28 U.S.C. §1332.

5. This Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b) in that it is filed within thirty (30) days of service of the Summons and Complaint on the defendant. See Copy of correspondence from plaintiff's counsel memorializing service of the Complaint, attached hereto as Exhibit "B."

6. Accordingly, this action is a civil action which may be removed to this Court pursuant to 28 U.S.C. §§1441(a) and 1446(b).

7. Defendant Bath & Body will file a Notice of the Filing of this Notice of Removal and a copy of the Notice of Removal with the Clerk of the Court of Common Pleas, Clearfield County, Pennsylvania, pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Bath & Body Works, Inc. (incorrectly captioned as BATH & BODY WORKS/WHITE BARN) respectfully requests that this Court assume jurisdiction over this case and issue such further orders and processes as may be necessary to bring before it all parties necessary for the trial hereof.

McCARTER & ENGLISH, LLP
Attorneys for Defendant,
Bath & Body Works, Inc. (incorrectly captioned as
"BATH & BODY WORKS/WHITE BARN")

Dated: September 20, 2004

By: 

Robert B. Anderson (Attorney I.D. #36215)

CERTIFICATE OF SERVICE

I, Alexander Kerr, hereby certify that I caused a true and correct copy of defendant Limited Brands, Inc.'s Notice of Removal to be served upon the attorney of record for plaintiff by first class mail, postage prepaid at the following address:

Brian E. Tetra, Esq.
White and Williams LLP
1800 One Liberty Place
Philadelphia, PA 19103 -7395

A handwritten signature in black ink, appearing to be 'Robert B. Anderson', written over a horizontal line.

ROBERT B. ANDERSON

Dated: September 20, 2004

WHITE AND WILLIAMS LLP

BY: BRIAN E. TETRO

Identification No. 83630

1800 One Liberty Place

Philadelphia, PA 19103-7395

215.864.7000

ATTORNEY FOR PLAINTIFF,

ALLSTATE INSURANCE COMPANY as
subrogee of SANDRA SIMPSON
3800 Electric Road
Suite 301
Roanoke, Virginia 24018

Plaintiff,

v.

BATH & BODY WORKS/WHITE BARN
CANDLE COMPANY
7 Limited Parkway East
Reynoldsburg, Ohio 43068

Defendant.

CLEARFIELD COUNTY
COURT OF COMMON PLEAS

TERM,

NO.: 04-1238-CD

JURY TRIAL DEMANDED

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

AUG 12 2004

Attest.

L. J. R.
Prothonotary/
Clerk of Courts

COMPLAINT

Plaintiff, Allstate Insurance Company, as subrogee of Sandra Simpson, by and through their attorneys, White and Williams LLP, by way of Complaint against defendant, Bath & Body Works/White Barn Candle Company, hereby states the following:

1. Plaintiff, Allstate Insurance Company (hereinafter "Allstate"), is a corporation organized and existing under the laws of the State of Illinois. Allstate is authorized to conduct business and does conduct business in the Commonwealth of Pennsylvania.

2. At all times relevant hereto, Sandra Simpson, is an adult individual who owns property located at 35 Mowery Lane, Dubois, PA 15801 and insured this property with a policy issued by Allstate.

3. Defendant, Bath & Body Works/White Barn Candle Company (hereinafter "Bath & Body Works"), upon information and belief is a corporation duly organized and existing under the laws of the State of Ohio and which does conduct business in the Commonwealth of Pennsylvania.

COUNT ONE

NEGLIGENCE

PLAINTIFF VS. DEFENDANT

4. On September 16, 2003, a fire occurred at property owned by Sandra Simpson, which was located at 35 Mowery Lane, Dubois, Pennsylvania.
5. As a direct and proximate result of this September 16, 2003 incident, the property owned by Sandra Simpson and insured by plaintiff, Allstate, suffered extensive damages.
6. The above mentioned damages were caused, and resulted from the negligent, reckless and careless acts and/or omissions of defendant, Bath & Body Works, in designing and manufacturing a candle which caused the fire, White Barn Candle Company Real Essence Cucumber Melon Candle, product number 0452Z8A4B. Said acts consisted of:
- (a) Negligent design of the candle's glass container which housed the candle;
 - (b) Negligent manufacturing of the glass container which housed the candle;
 - (c) Negligent testing of the glass container which housed the candle to make sure it could withstand high thermal temperatures; and
 - (d) Was otherwise negligent in designing, manufacturing and testing the candle and the glass container which housed the candle.

7. The above referenced fire damage to Simpson's property was caused by, and resulted from, the negligence, carelessness, recklessness and other liability-producing conduct of defendant as previously set forth and incorporated herein by reference in paragraph 6.

8. As a direct and proximate result of the foregoing and pursuant to its policy of insurance with Sandra Simpson, plaintiff, Allstate, incurred expenses in excess of \$100,000.00 when it indemnified Simpson for claims made under her policy due to the fire damage.

9. Pursuant to the application of the policy deductible, Sandra Simpson sustained uninsured losses of \$250.00.

10. As a direct and proximate result of defendant's negligent, reckless, careless acts and/or omissions, plaintiff, in indemnifying Simpson, incurred incidental and consequential damages including, but not limited to, repair and replacement expenses, loss of use of the building, and other consequential damages resulting in an amount in excess of \$100,000.00.

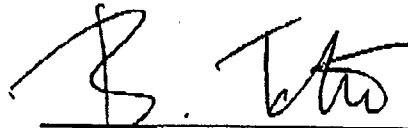
WHEREFORE, plaintiff demands judgment against defendant for damages in an amount in excess of \$100,000.00, together with interest, costs, and any other relief that the Court deems appropriate under the circumstances.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues.

WHITE AND WILLIAMS LLP

By: 



BRIAN E. TETRO
Attorney For Plaintiff
White and Williams LLP
1800 One Liberty Place
Philadelphia, PA 19103

Dated:

8/10/04

White and Williams LLP

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August 23, 2004

CERTIFIED MAIL, R.R.R.

Bath and Body Works/White Barn Candle Company
7 Limited Parkway East
Reynoldsburg, Ohio 43068
Attention: Risk Manager

RE: Insured: Sandra Simpson
Loss Location: 35 Mowery Lane; Dubois, PA 15801
Date of Loss: September 16, 2003
Claim Number: 513-2354597

Dear Sir/Madam:

Enclosed please find a copy of the Complaint which was filed on August 12, 2004 in the Clearfield County Court of Common Pleas, which names your company as the defendant. Please pass this matter along to your insurance company, and if you are not insured, to your attorney.

Thank you for your anticipated cooperation in this regard.

Very truly yours,

WHITE AND WILLIAMS LLP

By:

Brian E. Tetro

BET:ao
Enclosure

Allentown, PA • Cherry Hill, NJ • New York, NY • Paoli, PA
Paramus, NJ • Philadelphia, PA • Pittsburgh, PA • Wilmington, DE

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