

Comm of Pa vs Iconoclast Comics & Games
2007-9-CD

07-09-CD
Comm of PA vs Iconoclast Comics

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE

CERTIFIED COPY OF LIEN

07-09-CD

COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY,
PENNSYLVANIA

ICONOCLAST COMICS & GAMES
602 W DUBOIS AVE STE 8
DU BOIS PA 15801-3905

TEMP: 100049555/000
 Notice Date: December 17, 2006
 Notice Number: 712-790-606-121-2

To the Prothonotary of said court: Pursuant to the laws of the Commonwealth of Pennsylvania, there is herewith transmitted a certified copy of a lien to be entered of record in your county.

1 TAX TYPE	2 ACCOUNT ID	3 TAX PERIOD BEGIN	4 TAX PERIOD END	5 EVENT NUMBER	6 TAX DUE	7 TOTAL DUE
SALES	83111737	07-01-05	09-30-05	1	638.83	964.11
SALES	83111737	10-01-05	12-31-05	1	430.25	600.41
TOTAL:					1,069.08	1,564.52
FILING FEE(S):						25.00

FILED *ICC PHF*
m710:1964 *PHF pd.*
 JAN 03 2007 *SM* *25.00*

William A. Shaw
 Prothonotary/Clerk of Courts

INTEREST COMPUTATION DATE: 12-27-06

The undersigned, the Secretary of Revenue (or an authorized delegate) of the Commonwealth of Pennsylvania, certifies this to be a true and correct copy of a lien against the above named taxpayer for unpaid TAX, INTEREST, ADDITIONS or PENALTIES therein due from such taxpayer and which, after demand for payment thereof, remains unpaid. The amount of such unpaid TAX, INTEREST, ADDITIONS or PENALTIES is a lien in favor of the Commonwealth of Pennsylvania upon the taxpayer's property, real, personal, or both, as the case may be.

Keith J. Anderson
 SECRETARY OF REVENUE
 (OR AUTHORIZED DELEGATE)

December 17, 2006

DATE

COMMONWEALTH OF PENNSYLVANIA

VS

ICONOCLAST COMICS & GAMES

ED 03 2007
ED 03 2007
Shaw
NOTICE OF TAX LIEN
filed this JAN 03 2007
Prothonotary's Work of Courts
William A. Shaw
day of , at m.

LIENS FOR TAXES

Liens for Corporation Taxes arise under Section 1401 of the Fiscal Code, 72 P.S. Section 1404, as amended.

Liens for Personal Income Tax and Employer Withholding Tax arise under Section 345 of the Tax Reform Code of 1971, 72 P.S. Section 7345, as amended.

Liens for Realty Transfer Tax arise under Section 1112-C of the Tax Reform Code of 1971, 72 P.S. Section 8112-C, as amended.

Liens for Liquid Fuels Tax arise under Section 13 of the Liquid Fuels Tax Act, 72 P.S. Section 2611-M, as amended.

Liens for Fuel Use Tax arise under Section 13 of the Fuel Use Tax Act, 72 P.S. Section 2614.13, as amended.

Liens for Motor Carriers Road Tax arise under Chapter 96 of the PA Vehicle Code, (75 PA. C.S. 9615).

Liens for Inheritance Tax and Estate Tax arise under the Inheritance and Estate Tax Act of 1982, Act of December 13, 1982, P.L. 1086, No. 225 Section 1 et. seq., 72 PA. C.S.A. Section 1701 et. seq. (For descendants with date of death prior to December 13, 1982, liens arise under the Inheritance and Estate Tax Act of 1961, 72 P.S. Section 2485 - 101 et. seq.).

Liens for State, or State and Local Sales, Use and Hotel Occupancy Tax and Public Transportation Assistance Fund Taxes and Fees arise under Section 242, Act of March 4, 1971, No. 2 as amended, 72 P.S. Section 7242.

Liens for Motorbus Road Tax arise under Chapter 98 of PA Vehicle Code, (75 PA. C.S. 9815).

LIENS FOR TAXES, PENALTIES AND INTEREST

GENERAL INFORMATION:

Corporation Tax Liens provided under the Fiscal Code arise at the time of settlement (assessment) and are liens upon the franchises and property, both real and personal, with no further notice. The filing of a Notice of Lien with a county Prothonotary is not a requisite, and the lien remains in full force and validity without filing of revival until paid.

Inheritance Tax Liens are liens on real estate which continue until tax is paid.

Personal Income Tax, Employer Withholding Tax, Realty Transfer Tax, Sales and Use Tax, Liquid Fuels Tax, Fuel Use Tax, Motor Carriers Road Tax and Motorbus Tax liens are liens upon the franchises as well as real and personal property of taxpayers, but only after they have been entered and docketed of record by the Prothonotary of the county where such property is situated and shall not attach to stock of goods, wares, or merchandise regularly used in the ordinary course of business of the taxpayer. The lien has priority from the date of entry of record.

PLACE OF THE FILING NOTICE FORM

PLACE OF FILING: The notice of lien shall be filed: (a) In the case of Real Property, in the office of the Prothonotary of the county in which the property subject to the lien is situated and (b) in the case of Personal Property, whether tangible or intangible, in the office of the Prothonotary of the county in which the property subject to lien is situated.

AUTOMATIC REVIVAL OF NOTICE AND PRIORITY OF NOTICE

GENERAL RULE: According to the Fiscal Code, the Notice of Lien is automatically revived and does not require refiling of the Notice by the Commonwealth. Any Notice of Lien filed by the Commonwealth shall have priority to, and be paid in full, before any other obligation, judgement, claim, lien, or estate is satisfied from a subsequent judicial sale or liability with which the property may be charged. EXCEPTION: The Commonwealth does not maintain priority of tax liens over any existing mortgages or liens which are properly recorded at the time that the tax lien is filed. SEE: Act of December 12, 1994, P.L. 1015, No. 138.

RELEASE OF LIEN

Subject to such regulation as the Secretary or his delegate may prescribe, the Secretary or his delegate may issue a certificate of release of any lien imposed with respect to any tax if: (1) the liability is satisfied, satisfaction consisting of payment of the amount assessed together with all interest and costs in respect thereof; or (2) the liability has become legally unenforceable. EXCEPTION: Interest on Corporation Taxes is computed after a lien is paid.

SETTLEMENT OF ACCOUNT

The "Total" column (Column 7) for each type of tax listed on this Notice of Lien comprises the balance of Tax Due (Column 6) plus assessed additions and/or penalties, and assessed and accrued interest up to the interest computation date on the face of this notice.

If payment or settlement of account is made after the interest computation date, the payment must include the lien filing costs and accrued interest from the interest computation date to and through the payment date.

For any delinquent taxes due on or before December 31, 1981, interest is imposed at the following rates:

C.S., F.F., C.L., C.N.I.	- 6% PER ANNUM (DUE DATE TO PAYMENT DATE)
C.I., G.R., C.A., S.T.	- 6% PER ANNUM (DUE DATE TO PAYMENT DATE)
B.L., N.E., G.P., M.I.	- 6% PER ANNUM (DUE DATE TO PAYMENT DATE)
P.U.R.	- 1% PER MONTH OR FRACTION (DUE DATE TO PAYMENT DATE)
P.I.T., E.M.T.	- 3/4 OF 1% PER MONTH OR FRACTION
S. & U.	- 1% PER MONTH OR FRACTION
R.T.T.	- 6% PER ANNUM
INH & EST.	- 6% PER ANNUM
L.F.T., F.U.T.	- 1% PER MONTH OR FRACTION
M.C.R.T.	- 1% PER MONTH OR FRACTION
O.F.T.	- 18% PER ANNUM

For all taxes that are originally due and payable on and after January 1, 1982, the PA Department of Revenue will calculate daily interest on all tax deficiencies using an annual interest rate that will vary from calendar year. Interest is calculated on a daily basis at the following rates:

DELINQUENT DATE	INTEREST RATE	DAILY INTEREST FACTOR
1/1/82 THRU 12/31/82	20%	.000548
1/1/83 THRU 12/31/83	16%	.000438
1/1/84 THRU 12/31/84	11%	.000301
1/1/85 THRU 12/31/85	13%	.000356
1/1/86 THRU 12/31/86	10%	.000274
1/1/87 THRU 12/31/87	9%	.000247
1/1/88 THRU 12/31/91	11%	.000301
1/1/92 THRU 12/31/92	9%	.000247
1/1/93 THRU 12/31/94	7%	.000192
1/1/95 THRU 12/31/98	9%	.000247
1/1/99 THRU 12/31/99	7%	.000192
1/1/00 THRU 12/31/00	8%	.000219
1/1/01 THRU 12/31/01	9%	.000247
1/1/02 THRU 12/31/02	6%	.000164
1/1/03 THRU 12/31/03	5%	.000137
1/1/04 THRU 12/31/04	4%	.000110
1/1/05 THRU 12/31/05	5%	.000137
1/1/06 THRU 12/31/06	7%	.000192

---Taxes that become delinquent on or before December 31, 1981 will remain a constant interest rate until the delinquent balance is paid off.

---Taxes that become delinquent on or after January 1, 1982 are subject to a variable interest that changes each calendar year.

---Interest is calculated as follows:

$$\text{INTEREST} = (\text{BALANCE OF TAX UNPAID}) \times (\text{NUMBER OF DAYS DELINQUENT}) \times (\text{DAILY INTEREST FACTOR})$$



BUREAU OF COMPLIANCE
PO BOX 280948
HARRISBURG, PA 17128-0948

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
V.

ICONOCLAST COMICS & GAMES
602 W DUBOIS AVE STE 8
DU BOIS PA 15801-3905

AUTHORITY TO SATISFY

COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY,
PENNSYLVANIA

DOCKET NUMBER: 07-09-CD
DATE FILED: January 3, 2007
TEMP: 100049555/000
NOTICE NUMBER: 780-165-007-062-7

FILED

JUL 09 2007
m 18:30 / wa (GW)
William A. Shaw
Prothonotary/Clerk of Courts

To the Prothonotary of CLEARFIELD County:

The Commonwealth of Pennsylvania, Department of Revenue, the Plaintiff in the above action, acknowledges that the above captioned Lien/Judgment note should be removed from the records thereof.

AND you, the Prothonotary of said Court, upon receipt by you of your costs of satisfaction are hereby authorized and empowered, in the name and stead of the Plaintiff, to enter full satisfaction upon the record as fully and effectually, to all intents and purposes, as we could were we present in person to do so; and for doing so, this shall be sufficient warrant of authority.

IN TESTIMONY WHEREOF, there is hereunto affixed the Seal of the Department of Revenue, Commonwealth of Pennsylvania, this 27 day of June, 2007.

Thomas W. Wolf
Secretary of Revenue

Keith J. Richardson
Director, Bureau of Compliance

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

NO. TERM, 2007

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE

v.

ICONOCLAST COMICS & GAMES

AUTHORITY TO SATISFY

William A. Shaw
Prothonotary/Clerk of Courts
JUL 09 2007
TLE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,
Plaintiffs,

vs.

WAL-MART STORES, INC. and
PEPSI BOTTLING GROUP, INC.,
Defendants.

No. 07 - 05-CD

Type of case: Civil

Praecipe to Issue Writ of Summons

Filed on behalf of: Plaintiffs

Counsel for Plaintiffs:
Frederick M. Neiswender, Esquire
Supreme Court No. 74456

NEISWENDER & KUBISTA
211½ North Second Street
Clearfield, Pennsylvania 16830
(814) 765-6500

May 22, 2007 Document
Reinstated/Reissued to Sheriff/Attorney
for service.

Will A. Shaw
Deputy Prothonotary.

FILED Atty pd. \$5.00
01/17/07 10:16 AM
JAN 02 2007
to Atty
01/17/07 10:16 AM
ICCA 6 Writs

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,
Plaintiffs,

vs.

No. 07 - 05 - CD

WAL-MART STORES, INC. and
PEPSI BOTTLING GROUP, INC.,
Defendants.

Type of case: Civil

Writ of Summons

Filed on behalf of: Plaintiffs

Counsel for Plaintiffs:
Frederick M. Neiswender, Esquire
Supreme Court No. 74456

NEISWENDER & KUBISTA
211½ North Second Street
Clearfield, Pennsylvania 16830
(814) 765-6500

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

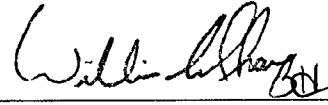
KACEY M. LEIGEY, a Minor, :
by ANGEL M. DIXON, Guardian, :
Plaintiffs, :
: vs. : No. 07 -OS - CD
: :
WAL-MART STORES, INC. and :
PEPSI BOTTLING GROUP, INC., :
Defendants. :
:

WRIT OF SUMMONS

TO: WAL-MART STORES, INC., of Bentonville, AR 72716-8611 and PEPSI
BOTTLING GROUP, INC., of 1 Pepsi Way, Somers, NY 10589-2201:

You are hereby notified that KACEY M. LEIGEY, a Minor, by ANGEL M. DIXON,
Guardian, of 478 E. 9th Street, Clearfield, PA 16830, has commenced an action against you.

Date 1/21/2007



Prothonotary

By _____

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

Plaintiffs,

vs.

WAL-MART STORES, INC. and
PEPSI BOTTLING GROUP, INC.

Defendants.

CIVIL DIVISION

No. 07-05-CD

**PRAECIPE FOR ENTRY OF
APPEARANCE**

Filed on behalf of: Defendant,
PEPSI BOTTLING GROUP, INC.

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

JURY TRIAL DEMANDED

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

(412) 566-2970

FILED

APR 18 2007

ml 1:40pm
William A. Shaw
Prothonotary/Clerk of Courts

no cover paper

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,
Plaintiffs,

CIVIL DIVISION

No. 07-05-CD

vs.

WAL-MART STORES, INC. and
PEPSI BOTTLING GROUP, INC.

Defendant.

PRAECIPE FOR ENTRY OF APPEARANCE

To: Prothonotary

Kindly enter my appearance on behalf of the Defendant, Pepsi Bottling Group, Inc.,
with regard to the above-captioned matter.

A JURY TRIAL IS DEMANDED.

Respectfully submitted,

WAYMAN, IRVIN & McAULEY

BY:

Michael L. Magulick

Michael L. Magulick, Esquire
Attorney for Defendant,
Pepsi Bottling Group, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praeclipe for Appearance has been served on the following counsel of record by first class U.S. mail, postage pre-paid, or by hand delivery, this 16th day of April, 2007:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 ½ North Second Street
Clearfield, Pennsylvania 16830

Wal-Mart Stores, Inc.
501 East Market Street
Clearfield, PA 16830

WAYMAN, IRVIN & McAULEY

BY: Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendant,
Pepsi Bottling Group, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

CIVIL DIVISION

No. 07-05-CD

Plaintiffs,

vs.

WAL-MART STORES, INC. and
PEPSI BOTTLING GROUP, INC.

**PRAECIPE FOR RULE TO FILE
COMPLAINT**

Defendants.

Filed on behalf of: Defendant,
PEPSI BOTTLING GROUP, INC.

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

JURY TRIAL DEMANDED

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

(412) 566-2970

FILED

APR 18 2007

William A. Shaw
Prothonotary/Clerk of Courts

~~RECEIVED~~ *RECEIVED*
TO *ATT*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,
Plaintiffs,

CIVIL DIVISION

No. 07-05-CD

vs.

WAL-MART STORES, INC. and
PEPSI BOTTLING GROUP, INC.

Defendant.

PRAECIPE FOR RULE TO FILE A COMPLAINT

To: Prothonotary

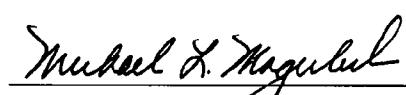
Kindly issue a Rule upon the Plaintiffs, Kacey M. Leigey, a Minor, by Angel M. Dixon, Guardian, in the above-captioned matter to file a Complaint within twenty (20) days from the date of service hereof or suffer a Judgment of Non Pros.

A JURY TRIAL IS DEMANDED.

Respectfully submitted,

WAYMAN, IRVIN & McAULEY

BY:


Michael L. Maguire, Esquire
Attorney for Defendant,
Pepsi Bottling Group, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praeclipe for Rule to
File a Complaint has been served on the following counsel of record by first class U.S.
mail, postage pre-paid, or by hand delivery, this 16th day of April, 2007:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

Wal-Mart Stores, Inc.
501 East Market Street
Clearfield, PA 16830

WAYMAN, IRVIN & McAULEY

BY: *Michael L. Magulick*
Michael L. Magulick, Esquire
Attorney for Defendant,
Pepsi Bottling Group, Inc.

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

Kacey M. Leigey, a Minor
by Angel M. Dixon, Guardian

Vs. Case No. 2007-00005-CD
Wal-Mart Stores, Inc. and
Pepsi Bottling Group, Inc.

RULE TO FILE COMPLAINT

TO: Kacey M. Leigey, Minor, by Angel M. Dixon, Guardian

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within twenty (20) days from service hereof, or a judgment of non pros may be entered against you.

William A. Shaw, Prothonotary

Dated: April 18, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

KACEY M. LEIGEY, a Minor, :
by ANGEL M. DIXON, Guardian, :
Plaintiffs, :
v. : No. 07-05-CD
: :
WAL-MART STORES, INC. and :
PEPSI BOTTLING GROUP, INC., : Type of Case: Civil
Defendants. :
: **Entry of Appearance**
: Filed on behalf of: Wal-Mart Stores East,
LP, incorrectly identified in the Writ of
Summons as Wal-Mart Stores, Inc.
: :
: RAWLE & HENDERSON, LLP
: Angela M. Heim, Esquire
: I.D. No. 75852
: The Henry W. Oliver Bldg., Suite 1000
: 535 Smithfield Street
: Pittsburgh, PA 15222
: (412) 261-5700
: Attorneys for Defendant Wal-Mart
: Stores, Inc.

FILED *No CC*
m 12/4/07
APR 23 2007 *(6K)*

William A. Shaw
Prothonotary/Clerk of Courts

RAWLE & HENDERSON LLP
By: Angela M. Heim Esquire
PA Identification No.: 75952
The Henry Oliver Building
535 Smithfield Street, Suite 1000
Pittsburgh, PA 15222
(412) 261-5700

Counsel for Defendant
Wal-Mart Stores East, LP,
incorrectly identified as
Wal-Mart Stores, Inc.

KACEY M. LEIGEY, a Minor, : COURT OF COMMON PLEAS
by ANGEL M. DIXON, Guardian, : CLEARFIELD COUNTY, PENNSYLVANIA
Plaintiff, :
v. :
: CIVIL ACTION
WAL-MART STORES, INC., and :
PEPSI BOTTLING GROUP, INC. : NO. 07-05-CD
Defendants. :
:

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter the appearance of Angela M. Heim, Esquire, on behalf of Defendant Wal-Mart Stores East, LP, incorrectly identified in the Writ of Summons as "Wal-Mart Stores, Inc.," in this case.

RAWLE & HENDERSON LLP

By: Angela M. Heim
Angela M. Heim, Esquire
The Henry W. Oliver Building
535 Smithfield Street, Suite 1000
Pittsburgh, PA 15222
(412) 261-5700
Counsel for Defendant
Wal-Mart Stores East, LP

Date: April 20, 2007

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the within Entry of Appearance was sent by U.S. first-class mail, postage prepaid, to all counsel of record as follows:

Frederick M. Neiswender, Esquire
NEIRWENDER & KUBISTA
211 ½ North Second Street
Clearfield, PA 16830
Counsel for Plaintiffs

RAWLE & HENDERSON LLP
By: Angela M. Heim
Angela M. Heim, Esquire
The Henry W. Oliver Building
535 Smithfield Street, Suite 1000
Pittsburgh, PA 15222
(412) 261-5700
Counsel for Defendant
Wal-Mart Stores East, LP

Date: April 20, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

KACEY M. LEIGEY, a Minor, :
by ANGEL M. DIXON, Guardian, :
Plaintiffs, :
v. : No. 07-05-CD

WAL-MART STORES, INC. and :
PEPSI BOTTLING GROUP, INC., :
Defendants. : Type of Case: Civil

**PRAECIPE FOR RULE TO FILE
COMPLAINT**

Filed on behalf of: Wal-Mart Stores East,
LP, incorrectly identified in the Writ of
Summons as Wal-Mart Stores, Inc.

RAWLE & HENDERSON, LLP
Angela M. Heim, Esquire
I.D. No. 75852
The Henry W. Oliver Bldg., Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700
Attorneys for Defendant Wal-Mart
Stores, Inc.

FILED

APR 30 2007
4/11/55/4
William A. Shaw
Prothonotary/Clerk of Courts

Lent w/ rule to
Nelswenzel

Lent w/ rule to
Att'l

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the within Praeclipe for Rule to File Complaint was sent by U.S. first-class mail, postage prepaid, to all counsel of record as follows:

Frederick M. Neiswender, Esquire
NEIRWENDER & KUBISTA
211 ½ North Second Street
Clearfield, PA 16830
Counsel for Plaintiffs

RAWLE & HENDERSON LLP
By: Angela M. Heim
Angela M. Heim, Esquire
The Henry W. Oliver Building
535 Smithfield Street, Suite 1000
Pittsburgh, PA 15222
(412) 261-5700
Counsel for Defendant
Wal-Mart Stores East, LP

Date: April 26, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

KACEY M. LEIGEY, a Minor, :
by ANGEL M. DIXON, Guardian, :
Plaintiffs, :
vs. : No. 07 - 05 - CD

WAL-MART STORES, INC. and :
PEPSI BOTTLING GROUP, INC., :
Defendants. :

: Type of case: Civil

: **Praecipe to Reinstate Writ of Summons**

: Filed on behalf of: Plaintiffs

: Counsel for Plaintiffs:
: Frederick M. Neiswender, Esquire
: Supreme Court No. 74456

: NEISWENDER & KUBISTA
: 211½ North Second Street
: Clearfield, Pennsylvania 16830
: (814) 765-6500

FILED *PA 87.00*
01/20/07 3 wirts reinstated
MAY 22 2007 to *Att*
Neiswender
William A. Shaw *UN*
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

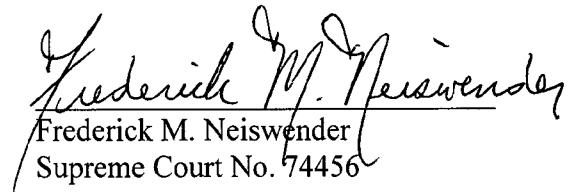
KACEY M. LEIGEY, a Minor, :
by ANGEL M. DIXON, Guardian, :
Plaintiffs, :
vs. : No. 07 - 05 - CD
: :
WAL-MART STORES, INC. and :
PEPSI BOTTLING GROUP, INC., :
Defendants. :

PRAECIPE TO ISSUE WRIT OF SUMMONS

TO THE PROTHONOTARY:

Please reinstate the Writ of Summons filed on January 2, 2007 in the above-captioned matter on behalf of the Plaintiffs, KACEY M. LEIGEY, a Minor, by ANGEL M. DIXON, Guardian, of 478 E. 9th Street, Clearfield, PA 16830.

Date: 5/22/07


Frederick M. Neiswender
Supreme Court No. 74456

NEISWENDER & KUBISTA
211½ North Second Street
Clearfield, PA 16830
(814) 765-6500

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

KACEY M. LEIGEY, a Minor, :
by ANGEL M. DIXON, Guardian, :
Plaintiff, :
: vs. : No. 07 - 05 - CD

WAL-MART STORES EAST, LP and :
THE PEPSI BOTTLING GROUP, INC., :
Defendants. :

: Type of case: Civil
:

: Type of pleading: Complaint

: Filed on behalf of: Plaintiff

: Counsel for Plaintiff:
: Frederick M. Neiswender, Esquire
: Supreme Court No. 74456

: NEISWENDER & KUBISTA
: 211½ North Second Street
: Clearfield, Pennsylvania 16830
: (814) 765-6500

FILED 4th Atty
0/2.00pm Neiswender
MAY 22 2007
WM
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

KACEY M. LEIGEY, a Minor, :
by ANGEL M. DIXON, Guardian, :
Plaintiff, :
:
vs. : No. 07 - 05 - CD
:
WAL-MART STORES EAST, LP and :
THE PEPSI BOTTLING GROUP, INC., :
Defendants. :

NOTICE TO DEFEND

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 claim 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.**

COURT ADMINISTRATOR
1 North Second Street
Clearfield, Pennsylvania 16830
(814) 765-2641

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

KACEY M. LEIGEY, a Minor, :
by ANGEL M. DIXON, Guardian, :
Plaintiff, :
:
vs. : No. 07 - 05 - CD
:
WAL-MART STORES EAST, LP and :
THE PEPSI BOTTLING GROUP, INC., :
Defendants. :

COMPLAINT

AND NOW, comes the Plaintiff, KACEY M. LEIGEY, a Minor, by ANGEL M. DIXON, Guardian, by and through his attorney, FREDERICK M. NEISWENDER, ESQUIRE, and files this Complaint against the Defendants, WAL-MART STORES EAST, LP and PEPSI BOTTLING GROUP, INC., on a cause of action upon which the following is a statement:

1. The Plaintiff is Kacey M. Leigey, a Minor, by Angel M. Dixon, Guardian residing at 478 East 9th Street, Clearfield, Clearfield County, Pennsylvania 16830.
2. The Defendant, Wal-Mart Stores East, LP [hereinafter "Defendant Wal-Mart"], is a limited partnership and a subsidiary of Wal-Mart Stores, Inc., a Delaware corporation licensed to do business in the Commonwealth of Pennsylvania with an address of 702 SW 8th Street, Bentonville, Arkansas 72716.
3. The Defendant, The Pepsi Bottling Group, Inc. [hereinafter "Defendant Pepsi"], is a Delaware corporation licensed to do business in the Commonwealth of Pennsylvania with an address of 1 Pepsi Way, Somers, New York 10589-2201.

4. That Defendant Wal-Mart owns and maintains real estate designated as store number 2129 located at 100 Supercenter Drive, Clearfield, Clearfield County, Pennsylvania 16830.

5. That Defendant Pepsi constructs and maintains displays for its products inside store number 2129 owned by Defendant Wal-Mart.

6. That on or about the 31st day of December, 2004, at approximately 12:30 p.m., the Plaintiff was shopping in Wal-Mart store number 2129 with his Stepfather and Sister.

7. That Plaintiff's Stepfather pulled his shopping cart next to a skid of Pepsi products that was in the middle of an aisle and stacked approximately six feet (6') high.

8. That Plaintiff's Stepfather instructed the Plaintiff, who was seven (7) years old, to remain next to the shopping cart while he spoke to Plaintiff's Mother on his cell phone.

9. That while Plaintiff's Stepfather had his back turned to Plaintiff, numerous twelve pack boxes of Pepsi product cans fell from the top level of the skid with at least one (1) full twelve pack box striking Plaintiff directly on top of the head.

10. That Defendant Wal-Mart's Store Manager provided ice for the Plaintiff's head and filled out an incident report.

11. That at the above mentioned date and time and all times pertinent hereto, the Plaintiff acted with due care and was not contributorily negligent.

COUNT I

KACEY M. LEIGEY, A MINOR, BY ANGEL M. DIXON,
GUARDIAN V. WAL-MART STORES EAST, LP

12. That Plaintiff hereby incorporates by reference the allegations in Paragraphs 1 through 11, above, as though set forth at length herein.

13. That the injuries and damages suffered by the Plaintiff as hereinafter set forth were the sole, legal, direct and proximate result of the negligence of Defendant Wal-Mart, which consisted, among other things, of the following:

- (a) In causing the Plaintiff to be hit on the head by twelve pack boxes of Pepsi product cans;
- (b) In allowing a dangerous and defective condition of the real estate to exist when Defendant Wal-Mart, knew or should have known of the dangers created thereby;
- (c) In failing to repair and maintain the real estate in a proper and timely manner;
- (d) In failing to timely inspect the real estate;
- (e) In allowing the real estate to exist in a dangerous state of disrepair;
- (f) In failing to maintain the real estate in such a condition that it was safe for its ordinary and intended use by customers;
- (g) In failing to provide warning or other notice to Plaintiff and others of the defective condition of the real estate;
- (h) In making or causing to be made improper, inadequate, insufficient and untimely repairs to the real estate on some date prior to December 31, 2004;
- (i) In allowing Defendant Pepsi to set up and maintain displays when Defendant Wal-Mart knew or should have known of the dangers created thereby.

14. As a sole, legal, direct and proximate result of the negligence of Defendant Wal-Mart, as stated above, the Plaintiff sustained the following serious and severe injuries, some or all of which may be permanent in nature:

- (a) Injuries and damage in and about the muscles, ligaments, tissues, nerves, bones, joints and intervertebral disks of the back and spine, including, but not limited to the cervical and thoracic regions;
- (b) Injuries and damage in and about the skull and brain;
- (c) A possible aggravation of a pre-existing, non-disabling and asymptomatic condition;
- (d) Shock and injuries to the nerves and nervous system;
- (e) Internal injuries;
- (f) Other serious and severe injuries.

15. As a sole, legal, direct and proximate result of the negligence of Defendant Wal-Mart, as stated above, the Plaintiff suffered the following damages:

- (a) He has suffered great bodily pain and suffering, inconvenience, embarrassment and mental anguish, to his great detriment and loss;
- (b) He has sustained serious and permanent injury, for the treatment of which he has incurred medical bills and expenses and will probably incur additional medical bills in the future;
- (c) He has suffered a loss of earning capacity;
- (d) He has suffered and interruption of his daily habits and pursuits to his great and permanent detriment and loss;
- (e) His general health, strength and vitality have been impaired;
- (f) He has been unable to enjoy the ordinary pleasures of life;

(g) He stands at risk for the onset of future serious and severe medical conditions;

(h) He stands at risk for further surgeries, medical services and/or treatments.

16. That at the above mentioned date and time and all times pertinent hereto, the Plaintiff acted with due care and was not contributorily negligent.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment on his behalf and against the Defendant, Wal-Mart Stores East, LP, generally, jointly and severally in an amount in excess of Twenty Thousand Dollars (\$20,000.00), exclusive of interest and cost of the suit.

COUNT II

**KACEY M. LEIGEY, A MINOR, BY ANGEL M. DIXON,
GUARDIAN V. THE PEPSI BOTTLING GROUP, INC.**

17. That Plaintiff hereby incorporates by reference the allegations in Paragraphs 1 through 16, above, as though set forth at length herein.

18. That the injuries and damages suffered by the Plaintiff as hereinafter set forth were the sole, legal, direct and proximate result of the negligence of Defendant Pepsi, which consisted, among other things, of the following:

- (a) In causing the Plaintiff to be hit on the head by twelve pack boxes of Pepsi product cans;
- (b) In allowing a dangerous and defective condition of the display to exist when Defendant Pepsi knew or should have known of the dangers created thereby;
- (c) In failing to repair and maintain the display in a proper and timely manner;
- (d) In failing to timely inspect the display;
- (e) In allowing the display to exist in a dangerous state of disrepair;
- (f) In failing to maintain the display in such a condition that it was safe for its ordinary and intended use by customers;
- (g) In failing to provide warning or other notice to Plaintiff and others of the defective condition of the display;
- (h) In making or causing to be made improper, inadequate, insufficient and untimely repairs to the display on some date prior to December 31, 2004;
- (i) In setting up and maintaining displays when Defendant Pepsi knew or should have known of the dangers created thereby.

19. As a sole, legal, direct and proximate result of the negligence of Defendant Pepsi, as stated above, the Plaintiff sustained the following serious and severe injuries, some or all of which may be permanent in nature:

- (a) Injuries and damage in and about the muscles, ligaments, tissues, nerves, bones, joints and intervertebral disks of the back and spine, including, but not limited to the cervical and thoracic regions;
- (b) Injuries and damage in and about the skull and brain;
- (c) A possible aggravation of a pre-existing, non-disabling and asymptomatic condition;
- (d) Shock and injuries to the nerves and nervous system;
- (e) Internal injuries;
- (f) Other serious and severe injuries.

20. As a sole, legal, direct and proximate result of the negligence of Defendant Pepsi, as stated above, the Plaintiff suffered the following damages:

- (a) He has suffered great bodily pain and suffering, inconvenience, embarrassment and mental anguish, to his great detriment and loss;
- (b) He has sustained serious and permanent injury, for the treatment of which he has incurred medical bills and expenses and will probably incur additional medical bills in the future;
- (c) He has suffered a loss of earning capacity;
- (d) He has suffered and interruption of his daily habits and pursuits to his great and permanent detriment and loss;
- (e) His general health, strength and vitality have been impaired;
- (f) He has been unable to enjoy the ordinary pleasures of life;

(g) He stands at risk for the onset of future serious and severe medical conditions;

(h) He stands at risk for further surgeries, medical services and/or treatments.

21. That at the above mentioned date and time and all times pertinent hereto, the Plaintiff acted with due care and was not contributorily negligent.

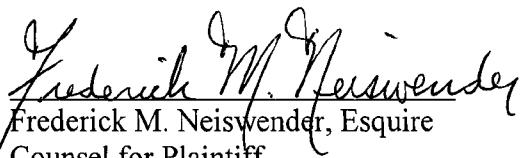
WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment on his behalf and against the Defendant, The Pepsi Bottling Group, Inc., generally, jointly and severally in an amount in excess of Twenty Thousand Dollars (\$20,000.00), exclusive of interest and cost of the suit.

DEMAND FOR JURY TRIAL

Plaintiff by and through his undersigned counsel hereby demands a trial by jury.

Respectfully submitted,

NEISWENDER & KUBISTA



Frederick M. Neiswender
Frederick M. Neiswender, Esquire
Counsel for Plaintiff

KACEY M. LEIGEY, a Minor, by ANGEL M. DIXON, Guardian, hereby states that he is the Plaintiff in this action and that the statements of fact made in the foregoing Complaint are true and correct upon personal knowledge. The undersigned understands that the statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

DATE: 3-14-07

Angel M. Dixon
ANGEL M. DIXON

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

Plaintiffs,

vs.

WAL-MART STORES, INC. and
PEPSI BOTTLING GROUP, INC.

Defendants.

CIVIL DIVISION

No. 07-05-CD

**AFFIDAVIT OF SERVICE RULE TO
FILE COMPLAINT**

Filed on behalf of: Defendant,
PEPSI BOTTLING GROUP, INC.

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

JURY TRIAL DEMANDED

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

(412) 566-2970

:243753.1

FILED
MUNICIPAL COURT
JUN 04 2007
NO. C
W.A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

CIVIL DIVISION

No. 07-05-CD

Plaintiffs,

vs.

WAL-MART STORES, INC. and
PEPSI BOTTLING GROUP, INC.

Defendant.

AFFIDAVIT OF SERVICE RULE TO FILE COMPLAINT

To: Prothonotary

Before me, the undersigned authority, personally appeared Michael L. Magulick, Esquire, who deposes and says that he served the Rule to File a Complaint in the above entitled lawsuit to Frederick M. Neiswender, Esquire, Neiswender & Kubista, 211 1/2 North Second Street, Clearfield, Pennsylvania 16830, on April 20, 2007 by Certified Mail, Return Receipt Requested, Article #7004 2510 0002 3821 9251, attached hereto and marked as Exhibit "A."

A JURY TRIAL IS DEMANDED.

Respectfully submitted,

WAYMAN, IRVIN & McAULEY

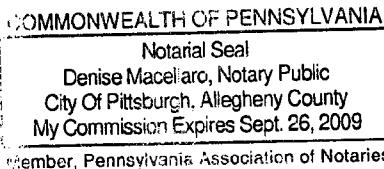
BY:

Michael L. Magulick

Michael L. Magulick, Esquire
Attorney for Defendant,
Pepsi Bottling Group, Inc.

Sworn to and Subscribed
before me this 29th day
of May, 2007.

Denise Macelaro
Notary Public



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second St.
Clearfield, PA 16830

COMPLETE THIS SECTION ON DELIVERY**A. Signature***Cathy J. Fey* Agent Addressee**B. Received by (Printed Name)***1/4/01***C. Date of Delivery****D. Is delivery address different from item 1? Yes****If YES, enter delivery address below: No****3. Service Type**

<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee) Yes**2. Article Number***(Transfer from service label)**7004 2510 0002 3821 9251*

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

EXHIBIT "A"

CERTIFICATE OF SERVICE

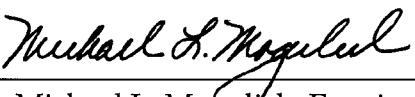
I hereby certify that a true and correct copy of the foregoing Affidavit of Service of Rule to File a Complaint has been served on the following counsel of record by first class U.S. mail, postage pre-paid, or by hand delivery, this 29th day of May, 2007:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

Wal-Mart Stores, Inc.
501 East Market Street
Clearfield, PA 16830

WAYMAN, IRVIN & McAULEY

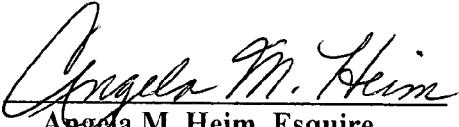
BY:



Michael L. Magulick, Esquire
Attorney for Defendant,
Pepsi Bottling Group, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

KACEY M. LEIGEY, a Minor, :
by ANGEL M. DIXON, Guardian, :
Plaintiffs, :
: v. : No. 07-05-CD
: :
WAL-MART STORES EAST, LP, and :
PEPSI BOTTLING GROUP, INC., :
Defendants. : Type of Case: Civil
: :
: ANSWER TO COMPLAINT
: WITH NEW MATTER AND NEW
: MATTER CROSSCLAIM
: :
: Filed on behalf of: Wal-Mart Stores East, LP
: :
: RAWLE & HENDERSON, LLP
: Angela M. Heim, Esquire
: I.D. No. 75852
: The Henry W. Oliver Bldg., Suite 1000
: 535 Smithfield Street
: Pittsburgh, PA 15222
: (412) 261-5700
: Attorneys for Defendant Wal-Mart
: Stores, Inc.
: :
: TO PLAINTIFF and CO-DEFENDANT
: PEPSI BOTTLING GROUP, INC.: You
: are hereby notified to file a written
: response to the enclosed NEW MATTER
: and NEW MATTER CROSSCLAIM
: within twenty (20) days from service
: hereof or a judgment may be entered
: against you.

By: 
Angela M. Heim, Esquire
Attorney for Defendant,
Wal-Mart Stores East, LP

FILED
MILLION
AUG 09 2007
NO CC
GK

William A. Shaw
Prothonotary/Clerk of Courts

RAWLE & HENDERSON LLP
By: Angela M. Heim Esquire
PA Identification No.: 75952
The Henry Oliver Building
535 Smithfield Street, Suite 1000
Pittsburgh, PA 15222
(412) 261-5700

Counsel for Defendant
Wal-Mart Stores East, LP,
incorrectly identified as
Wal-Mart Stores, Inc.

KACEY M. LEIGEY, a Minor, : COURT OF COMMON PLEAS
by ANGEL M. DIXON, Guardian, : CLEARFIELD COUNTY, PA
Plaintiff, :
v. :
: CIVIL ACTION
WAL-MART STORES, EAST, LP and :
and PEPSI BOTTLING GROUP, INC. : NO. 07-05-CD
Defendants. :
:

**ANSWER TO COMPLAINT WITH NEW MATTER
AND NEW MATTER CROSSCLAIMS**

Defendant Wal-Mart Stores East, L.P. (referred to hereafter as "Wal-Mart"), by and through its attorneys, Rawle & Henderson LLP, hereby answers plaintiff's Complaint and asserts New Matter and New Matter Crossclaims against co-defendant Pepsi Bottling Group, Inc., as follows:

1. After reasonable investigation, defendant Wal-Mart is without knowledge or information sufficient to form as to the truth of the allegations set forth in paragraph 1 of the Complaint and, therefore, denies same and demands strict proof thereof at trial.
2. Admitted.
3. After reasonable investigation, defendant Wal-Mart is without knowledge or information sufficient to form as to the truth of the allegations set forth in paragraph 3 of the Complaint and, therefore, denies same and demands strict proof thereof at trial.

4. It is admitted only that defendant Wal-Mart maintains a store, No. 2129, at 100 Super Center Drive, Clearfield County, Pennsylvania 16930. The remaining allegations in paragraph 4 of the Complaint are denied.

5. It is admitted only that a Pepsi company constructs and maintains product displays inside Store No. 2129. The allegations in paragraph 5 of the Complaint concerning ownership of Store No. 2129 are denied. By way of further answer, however, defendant Wal-Mart was responsible for operating and maintaining Store No. 2129 at all times material hereto.

6. Admitted.

7. After reasonable investigation, defendant Wal-Mart is without knowledge or information sufficient to form as to the truth of the allegations set forth in paragraph 7 of the Complaint and, therefore, denies same and demands strict proof thereof at trial.

8. After reasonable investigation, defendant Wal-Mart is without knowledge or information sufficient to form as to the truth of the allegations set forth in paragraph 8 of the Complaint and, therefore, denies same and demands strict proof thereof at trial.

9. After reasonable investigation, defendant Wal-Mart is without knowledge or information sufficient to form as to the truth of the allegations set forth in paragraph 9 of the Complaint and, therefore, denies same and demands strict proof thereof at trial.

10. Admitted.

11. The allegations set forth in paragraph 11 of the Complaint constitute conclusions of law, and therefore, are neither admitted nor denied. However, to the extent the averments in paragraph 11 do not constitute conclusions of law, they are denied.

COUNT I

Kacey M. Leigey, a minor, by Angel M. Dixon, Guardian v. Wal-Mart Stores East, L.P.

12. Defendant Wal-Mart incorporates by reference its responses to paragraphs 1 through 11 of plaintiff's Complaint as though fully set forth herein at length.

13. It is denied that defendant Wal-Mart was negligent as alleged in paragraph 13, subparagraphs (a) through (i) of plaintiff's Complaint. Rather, defendant Wal-Mart exercised due care at all times material hereto. Although it is admitted that defendant Wal-Mart permitted defendant Pepsi to set up and maintain product displays at the Wal-Mart store in question, defendant Wal-Mart specifically denies that it caused plaintiff to be hit on the head by 12-pack boxes of Pepsi products; allowed a dangerous or defective condition of the real estate to exist; knew or should have known of any dangers created by the Pepsi display; failed to repair or maintain the store in a proper and timely manner; failed to timely inspect the subject store; allowed the store to exist in a dangerous state of disrepair; failed to maintain the store in such a condition that was safe for its ordinary intended use by customers; failed to provide warnings or other notice to plaintiff, or others, of any defective condition therein; made or caused to be made improper, inadequate, insufficient and/or untimely repairs to the store at any time prior to December 31, 2004; or knew or should have known of any dangers created by the subject Pepsi display. Rather, as noted above, defendant Wal-Mart exercised due care at all times material hereto.

14. It is denied that defendant Wal-Mart was negligent as alleged in paragraph 14 of the plaintiff; rather, defendant Wal-Mart exercised due care at all times material hereto. After reasonable investigation, defendant Walmart is without knowledge or information sufficient to form a belief as to the truth of the remaining averments set forth in paragraph 14,

subparagraphs (a) through (f), of the Complaint and, therefore, denies same and demands strict proof thereof at trial.

15. It is denied that defendant Wal-Mart was negligent as alleged in paragraph 15 of the plaintiff; rather, defendant Wal-Mart exercised due care at all times material hereto.⁷ After reasonable investigation, defendant Wal-Mart is without knowledge or information sufficient to form a belief as to the truth of the remaining averments set forth in paragraph 15, subparagraphs (a) through (h), of the Complaint and, therefore, denies same and demands strict proof thereof at trial.

16. The allegations set forth in paragraph 16 of plaintiff's Complaint constitute conclusions of law and, therefore, are neither admitted nor denied. To the extent said allegations do not constitute conclusions of law, they are denied.

WHEREFORE, defendant Wal-Mart respectfully requests judgment in its favor and against plaintiff, together with interests, costs and other expenses as are permitted by law.

COUNT II

Kacey M. Leijey, a minor, by Angel M. Dixon, Guardian v. Pepsi Bottling Group, Inc.

17. Defendant Wal-Mart incorporates by reference its responses to paragraphs 1 through 16 of plaintiff's Complaint as though fully set forth herein at length.

18-20. The allegations set forth in paragraph 18 through 20 of plaintiff's Complaint are directed to defendant other than defendant Wal-Mart and, therefore, no response by defendant Wal-Mart is required.

21. The allegations set forth in paragraph 21 of plaintiff's Complaint constitute conclusions of law and, therefore, are neither admitted nor denied. To the extent the said allegations do not constitute conclusions of law, they are denied.

WHEREFORE, defendant Wal-Mart respectfully requests judgment in its favor and against plaintiff, together with interests, costs and other expenses as are permitted by law.

NEW MATTER

22. Defendant Wal-Mart hereby incorporates by reference its responses to paragraphs 1 through 21 of plaintiff's Complaint as though fully set forth herein at length.

23. The claims for relief set forth in plaintiff's Complaint are barred and/or limited by the Comparative Negligence Act, 42 Pa. C.S.A. § 7102, and not the negligence of plaintiff caused or contributed to causing the accident, as set forth hereafter.

Plaintiff's Complaint fails to state a cause of action against defendant Wal-Mart.

24. Plaintiff's Complaint fails to state a claim upon which relief can be granted against defendant Wal-Mart.

25. Defendant had no notice of any condition on the premises or area under its control which constituted a danger or hazard to plaintiff or any other person.

26. No act, action, or omission on the part of the defendant Wal-Mart was the proximate cause of plaintiff's alleged injuries.

27. Plaintiff's alleged injuries were the result of intervening superseding acts of negligence outside the control of defendant Wal-Mart.

28. Plaintiff's injuries and damages, if any, were approximately caused by the acts or omissions of third parties over whom defendant Wal-Mart had no control, nor any duty to control.

29. Defendant Wal-Mart contracted with a Pepsi company for the construction and maintenance of Pepsi-product displays at the store in question.

30. Service of process against defendant Wal-Mart was improper.

WHEREFORE, defendant Wal-Mart respectfully requests judgment in its favor and against plaintiff, together with interests, costs and other expenses as are permitted by law.

**NEW MATTER CROSSCLAIM AGAINST CO-DEFENDANT,
THE PEPSI BOTTLING GROUP, INC.**

31. Defendant Wal-Mart hereby incorporates by reference its responses to paragraphs 1 through 21 of plaintiff's Complaint, and its New Matter, as though fully set forth herein at length.

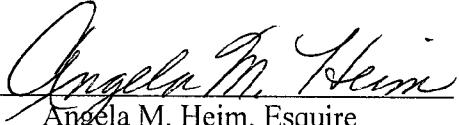
32. In the event that the allegations in plaintiff's Complaint are proven at trial, which defendant Wal-Mart denies, then plaintiff's damages were caused in whole or in part by the conduct of co-defendant The Pepsi Bottling Group, Inc.

33. In the event that a judgment is entered against defendant Wal-Mart and in favor of plaintiff, Wal-Mart asserts that co-defendant The Pepsi Bottling Group, Inc., is solely liable over to plaintiff, jointly and severally liable with defendant Wal-Mart, and/or liable over to defendant Wal-Mart for contractual and/or common law indemnification and/or contribution.

WHEREFORE, defendant Wal-Mart requests that if judgment is entered in favor of plaintiff, that said judgment be entered solely against co-defendant The Pepsi Bottling Group, Inc. Alternatively, in the event a judgment is entered in favor of plaintiff and against defendant Wal-Mart, defendant Wal-Mart requests that his Honorable Court thereafter hold co-defendant The Pepsi Bottling Group, Inc., jointly and severally liable over to defendant Wal-Mart and/or liable for contribution and/or indemnification. Defendant Wal-Mart further requests that this Honorable Court enter judgment in its favor and against co-defendant The Pepsi Bottling Group,

Inc., on its Crossclaim, together with attorneys' fees, costs and expenses as this Court deems appropriate.

RAWLE & HENDERSON LLP

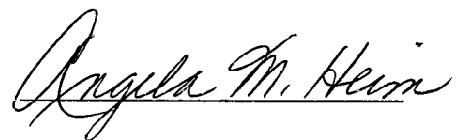
By: 
Angela M. Heim, Esquire
The Henry W. Oliver Building
535 Smithfield Street, Suite 1000
Pittsburgh, PA 15222
(412) 261-5700
Counsel for Defendant
Wal-Mart Stores East, LP

Date: 8/8/07

VERIFICATION

I, Angela M. Heim, hereby state that I am counsel for defendant Wal-Mart Stores East, LP., and am authorized to make this verification on behalf of same. The statements made in Plaintiff's Complaint with New Matter are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities and further understand that any false statement made herein is punishable by law.

Dated: 8/8/07



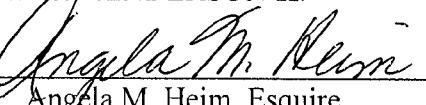
CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the within Answer to Complaint with New Matter and New Matter Crossclaims was sent by U.S. first-class mail, postage prepaid, to all counsel of record as follows:

Frederick M. Neiswender, Esquire
Neiswender & Kubista
211 ½ North Second Street
Clearfield, PA 16830
Counsel for Plaintiffs

Michael L. Magglick, Esquire
Wayman, Urban & McAuley, LLC
Frick Building, Suite 1624
437 Grant Street
Pittsburgh, PA 15219-6101
Counsel for Defendant,
The Pepsi Bottling Group, Inc.

RAWLE & HENDERSON LLP

By: 

Angela M. Heim, Esquire
The Henry W. Oliver Building
535 Smithfield Street, Suite 1000
Pittsburgh, PA 15222
(412) 261-5700
Counsel for Defendant
Wal-Mart Stores East, LP

Date: August 8, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendants.

CIVIL DIVISION

No. 07-05-CD

ANSWER

Filed on behalf of: Defendant,
BOTTLING GROUP, LLC

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

JURY TRIAL DEMANDED

(412) 566-2970

FILED NO CC
NOV 05 2007
GK

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

CIVIL DIVISION

No. 07-05-CD

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendant.

ANSWER

AND NOW, comes Defendant, Bottling Group, LLC, and hereby files
the following Answer to Plaintiffs' Complaint:

1. With respect to the allegations contained in Paragraphs 1, 2, 6, 7, 8, 9 and
10 of Plaintiffs' Complaint, after a reasonable investigation this Defendant, Bottling
Group LLC, is without sufficient knowledge and information to form a belief as to the
truth of the averments contained therein. Therefore, the same are denied and strict
proof is demanded thereof at the time of trial.

2. With respect to the allegations contained in Paragraph 3 of Plaintiffs'
Complaint, this Defendant, Bottling Group LLC, admits that it is a Delaware
Corporation licensed to do business in Pennsylvania. The remaining allegations
contained in Paragraph 3 of Plaintiffs' Complaint are denied.

3. With respect to the allegations contained in Paragraph 5 of Plaintiffs' Complaint, the same are admitted in part and denied in part. It is admitted that this Defendant, Bottling Group LLC, services the Wal-Mart Store at issue by supplying it with Pepsi products and assisting in the setting up of the displays of Pepsi products. However, it is affirmatively averred that at all times material hereto the Defendant, Wal-Mart Stores East, LP, provided specifications for the construction of the Pepsi product display and that the product display was constructed in accordance with the Defendant Wal-Mart Stores East, LP's specifications.

4. With respect to the allegations contained in Paragraph 11 of Plaintiffs' Complaint, this Defendant is informed that upon advice of counsel believes that the allegations contained therein are conclusions of law which require no response.

COUNT I

5. With respect to the allegations contained in Paragraphs 12 through 16 of Plaintiffs' Complaint, this Defendant is informed that upon advice of counsel believes that no response is required since the allegations contained in those Paragraphs are directed to the Co-Defendant, Wal-Mart Stores East, LP.

COUNT II

6. With respect to the allegations contained in Paragraphs 17 of Plaintiffs' Complaint, this Defendant incorporates by reference hereto as though set forth at length herein its response to Paragraphs 1 through 16 of Plaintiffs' Complaint.

7. With respect to the allegations contained in Paragraph 18 of Plaintiffs'

Complaint, this Defendant is informed that upon advice of counsel believes that the allegations contained therein are denied by the entry of appearance and operation of Rule 1029(e) of the Pennsylvania Rules of Civil Procedure.

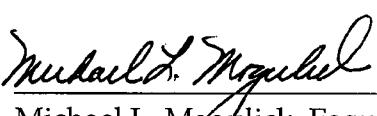
8. With respect to the allegations contained in Paragraphs 19 and 20 of Plaintiffs' Complaint, after a reasonable investigation, this Defendant is without sufficient knowledge and information to form a belief as to the truth of the averments contained therein. Therefore, the same are denied and strict proof is demanded thereof.

9. With respect to the allegations contained in Paragraph 21 of Plaintiffs' Complaint, this Defendant is informed that upon advice of counsel believes that the allegations contained therein are conclusions of law which require no response.

WHEREFORE, this Defendant, Bottling Group, LLC, denies that they are indebted to any party in any sums whatsoever.

Respectfully submitted,

WAYMAN, IRVIN & McAULEY

BY: 
Michael L. Magulick, Esquire
Attorney for Defendant,
Bottling Group, LLC

VERIFICATION

I, Richard Butterbaugh have read the foregoing Answer to Complaint and verify that the statements contained therein are true to the best of my knowledge, information and belief.

This statement is made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: 11/1/07

BOTTLING GROUP, LLC
By: 
Richard Butterbaugh

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer has been served on the following counsel of record by first class U.S. mail, postage pre-paid, or by hand delivery, this 18 day of November, 2007:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

Angela M. Heim, Esq.
Rawle & Henderson, LLP
The Henry W. Oliver Building
Suite 1000, 535 Smithfield Street
Pittsburgh, PA 15222

WAYMAN, IRVIN & McAULEY

BY: Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendant,
Bottling Group, LLC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendants.

CIVIL DIVISION

No. 07-05-CD

**REPLY OF BOTTLING GROUP, LLC
TO NEW MATTER PURSUANT
TO PENNSYLVANIA RULE OF CIVIL
PROCEDURE 2252(d) FILED ON
BEHALF OF WAL-MART STORES
EAST, LP**

Filed on behalf of: Defendant,
BOTTLING GROUP, LLC

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

JURY TRIAL DEMANDED

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

(412) 566-2970

FILED NO
NOV 05 2007
cc
CR

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,
Plaintiffs,

CIVIL DIVISION

No. 07-05-CD

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendant.

**REPLY OF BOTTLING GROUP, LLC TO NEW MATTER
PURSUANT TO PENNSYLVANIA RULE OF CIVIL PROCEDURE
2252(d) FILED ON BEHALF OF WAL-MART STORES EAST, LP**

AND NOW, comes Defendant, Bottling Group, LLC, and hereby files
the following Reply to New Matter Filed on Behalf of Wal-Mart Stores East, LP:

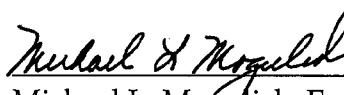
1. With respect to the allegations contained in Paragraph 31 of the New
Matter Pursuant to Rule 2252(d) of the Pennsylvania Rules of Civil Procedure, this
Defendant is informed that upon advice of counsel believes that no response is required
to the allegations set forth in Defendant, Wal-Mart Stores East, LP, Answer and New
Matter.

2. With respect to the allegations contained in Paragraphs 32 and 33 of the
New Matter Pursuant to Rule 2252(d) of the Pennsylvania Rules of Civil Procedure, this
Defendant is informed that upon advice of counsel believe that the allegations
contained therein are conclusions of law which require no response.

WHEREFORE, this Defendant, Bottling Group, LLC, denies that they are indebted to any party in any sums whatsoever.

Respectfully submitted,

WAYMAN, IRVIN & McAULEY

BY: 
Michael L. Magulick, Esquire
Attorney for Defendant,
Bottling Group, LLC

VERIFICATION

I, Richard Butterbaugh have read the foregoing Reply to New Matter and verify that the statements contained therein are true to the best of my knowledge, information and belief.

This statement is made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: 11/1/07

BOTTLING GROUP, LLC

By:

Richard Butterbaugh

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply to New Matter has been served on the following counsel of record by first class U.S. mail, postage prepaid, or by hand delivery, this 1/18 day of November, 2007:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

Angela M. Heim, Esq.
Rawle & Henderson, LLP
The Henry W. Oliver Building
Suite 1000, 535 Smithfield Street
Pittsburgh, PA 15222

WAYMAN, IRVIN & McAULEY

BY:

Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendant,
Bottling Group, LLC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,
Plaintiffs,

v.

WAL-MART STORES EAST, LP, and
PEPSI BOTTLING GROUP, INC.,
Defendants.

No. 07-05-CD

Type of Case: Civil

**NOTICE OF SERVICE OF
INTERROGATORIES AND
REQUEST FOR PRODUCTION
OF DOCUMENT TO PLAINTIFF**

Filed on behalf of: Wal-Mart Stores East, LP

RAWLE & HENDERSON, LLP
Angela M. Heim, Esquire
I.D. No. 75852
The Henry W. Oliver Bldg., Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700
Attorneys for Defendant Wal-Mart
Stores East, LP

2217090-1

FILED NO CC
MJA:4084
DEC 10 2007
LM
William A. Shaw
Prothonotary/Clerk of Courts

KACEY M. LEIGEY, a Minor, by ANGEL M. DIXON, Guardian, Plaintiffs,	:	IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PA
v.	:	No. 07-05-CD
WAL-MART STORES EAST, LP, and PEPSI BOTTLING GROUP, INC., Defendants.	:	Type of Case: Civil

**DEFENDANT'S NOTICE OF SERVICE OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF**

To: William A. Shaw, Prothonotary

Defendant Wal-Mart Stores East, LP, hereby notifies you that on the 5th date of December, 2007, it served Interrogatories Directed to Plaintiff and Request for Production of Documents Directed to the Plaintiff, by mailing copies of same via First-Class United States Mail, postage prepaid, address to the following:

Frederick M. Neiswender, Esquire
Neiswender & Kubista
211 ½ North Second St.
Clearfield, PA 16830

RAWLE & HENDERSON LLP

By: Angela M. Heim
Angela M. Heim, Esq.
I.D. No. 75852
Henry W. Oliver Bldg., Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700
Attorneys for Defendant
Wal-Mart Stores East, LP

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of Defendant Wal-Mart Stores East, LP's Notice of Service of Interrogatories and Request for Production of Documents was sent by U.S. first-class mail, postage prepaid, to all counsel of record as follows:

Frederick M. Neiswender, Esquire
Neiswender & Kubista
211 ½ North Second Street
Clearfield, PA 16830
Counsel for Plaintiffs

Michael L. Magglick, Esquire
Wayman, Urban & McAuley, LLC
Frick Building, Suite 1624
437 Grant Street
Pittsburgh, PA 15219-6101
Counsel for Defendant,
The Pepsi Bottling Group, Inc.

RAWLE & HENDERSON LLP

By: 
Angela M. Heim, Esquire

Dated: 12-4-07

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

KACEY M. LEIGEY, a Minor, :
by ANGEL M. DIXON, Guardian, :
Plaintiffs, :

v. :

WAL-MART STORES EAST, LP, and :
PEPSI BOTTLING GROUP, INC., :
Defendants. :

No. 07-05-CD

Type of Case: Civil

FILED

DEC 10 2007

3:00 PM
William A. Shaw
Prothonotary/Clerk of Courts

1 copy to Atty

**NOTICE OF SERVICE OF
INTERROGATORIES AND
REQUEST FOR PRODUCTION
OF DOCUMENT TO PLAINTIFF**

Filed on behalf of: Wal-Mart Stores East, LP

RAWLE & HENDERSON, LLP

Angela M. Heim, Esquire

I.D. No. 75852

The Henry W. Oliver Bldg., Suite 1000

535 Smithfield Street

Pittsburgh, PA 15222

(412) 261-5700

Attorneys for Defendant Wal-Mart
Stores East, LP

KACEY M. LEIGEY, a Minor, : IN THE COURT OF COMMON PLEAS
by ANGEL M. DIXON, Guardian, : CLEARFIELD COUNTY, PA
Plaintiffs, :
: :
v. : No. 07-05-CD
: :
WAL-MART STORES EAST, LP, and :
PEPSI BOTTLING GROUP, INC., : Type of Case: Civil
Defendants. :
:

**DEFENDANT'S NOTICE OF SERVICE OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF**

To: William A. Shaw, Prothonotary

Defendant Wal-Mart Stores East, LP, hereby notifies you that on the 5th date of December, 2007, it served Interrogatories Directed to Plaintiff and Request for Production of Documents Directed to the Plaintiff, by mailing copies of same via First-Class United States Mail, postage prepaid, address to the following:

RAWLE & HENDERSON LLP

By: Angela M. Heim
Angela M. Heim, Esq.
I.D. No. 75852
Henry W. Oliver Bldg., Suite 1000
535 Smithfield Street
Pittsburgh, PA 15222
(412) 261-5700
Attorneys for Defendant
Wal-Mart Stores East, LP

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of Defendant Wal-Mart Stores East, LP's Notice of Service of Interrogatories and Request for Production of Documents was sent by U.S. first-class mail, postage prepaid, to all counsel of record as follows:

Frederick M. Neiswender, Esquire
Neiswender & Kubista
211 ½ North Second Street
Clearfield, PA 16830
Counsel for Plaintiffs

Michael L. Magglick, Esquire
Wayman, Urban & McAuley, LLC
Frick Building, Suite 1624
437 Grant Street
Pittsburgh, PA 15219-6101
Counsel for Defendant,
The Pepsi Bottling Group, Inc.

RAWLE & HENDERSON LLP

Dated: 12.5.07

By: Angela M. Heim
Angela M. Heim, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.,

Defendants.

CIVIL DIVISION

No. 07-05-CD

**MOTION TO AMEND THE CAPTION
AND COMPLAINT**

Filed on behalf of: Defendant,
BOTTLING GROUP, LLC

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

JURY TRIAL DEMANDED

(412) 566-2970

:248559.1

FILED *No cc*
12/00/07
DEC 14 2007 *(6K)*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

CIVIL DIVISION

No. 07-05-CD

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.,

Defendant.

MOTION TO AMEND THE CAPTION AND COMPLAINT

AND NOW, comes Defendant, Bottling Group, LLC, by and through their attorneys, WAYMAN, IRVIN & McAULEY, LLC, and file the following Motion to Amend the Caption, and avers as follows:

1. On or about May 22, 2007, Plaintiff, Kacey M. Leigey, a Minor, by Angel M. Dixon, Guardian, filed a complaint in civil action against "Wal-Mart Stores East, LP, and The Pepsi Bottling Group, Inc."
2. Plaintiff alleges generally that the defendants were negligent in the creation and maintenance of a display on Defendant Wal-Mart's premises. (Complaint, ¶¶14 and 18).

3. Paragraph 3 of the Plaintiff's Complaint alleges that "The Defendant, The Pepsi Bottling Group, Inc. [hereinafter "Defendant Pepsi"] is a Delaware corporation licensed to do business in the Commonwealth of Pennsylvania with an address of 1 Pepsi Way, Somers, New York 10589-2201." (Complaint, ¶ 3).

4. Plaintiff further alleges that "...Defendant Pepsi constructs and maintains displays for its products inside store number 2129 owned by Defendant Wal-Mart." (Complaint, ¶ 4).

5. Plaintiff alleges that "...the injuries and damages suffered by the Plaintiff...were the sole, legal, direct and proximate result of the negligence of Defendant Pepsi, which consisted, among other things, of the following:

- (a) in causing the Plaintiff to be hit on the head by twelve pack boxes of Pepsi product cans;
- (b) in allowing a dangerous and defective condition of the display to exist when Defendant Pepsi knew or should have known of the dangers created thereby;
- (c) in failing to repair and maintain the display in a proper and timely manner;
- (d) in failing to timely inspect the display;
- (e) in allowing the display to exist in a dangerous state of disrepair;
- (f) in failing to maintain the display in such a condition that it was safe for its ordinary and intended use by customers;

- (g) in failing to provide warning or other notice to Plaintiff and others of the defective condition of the display;
- (h) in making or causing to be made improper, inadequate, insufficient, and untimely repairs to the display on some date prior to December 31, 2004;
- (I) in setting up and maintaining displays when Defendant Pepsi knew or should have known of the dangers created thereby."

(Complaint, ¶ 18).

6. The Pepsi Bottling Group, Inc. has no day-to-day control over the operations of the local bottling facilities, or the creation and maintenance of store displays.

7. The company responsible for local bottling operations including the maintenance and sale of "Pepsi" brand products to local retailers such as the Wal-Mart Store involved in this litigation is Bottling Group, LLC.

8. Bottling Group, LLC employs the merchandisers who are responsible for delivery and service of the customer stores, such as the Wal-Mart Store involved in this case.

9. As Plaintiff's claims arises from alleged injuries that were allegedly sustained when Pepsi soft drink merchandise allegedly fell on minor Plaintiff, Bottling Group, LLC is the proper and appropriate defendant in this case.

10. In the interest of judicial economy, counsel for the proper Defendant, Bottling

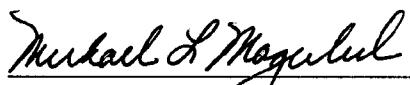
Group, LLC has on numerous occasions advised counsel for Plaintiff of the identity of the proper corporate Defendant.

11. Despite these efforts, counsel for Plaintiff has not agreed to voluntarily amend the caption and Complaint to identify Bottling Group, LLC as the proper corporate Defendant.

WHEREFORE, Defendants respectfully request this Honorable Court to grant its Motion to Amend the Caption to read "Kacey M. Leigey, a Minor, by Angel M. Dixon, Guardian, Plaintiffs, vs. Wal-Mart Stores East, LLP, and Bottling Group, LLC, Defendants" and remove "Pepsi Bottling Group, Inc." from the caption of this civil action and all reference to "Pepsi Bottling Group, Inc. in the body of the Complaint shall be amended to read "Bottling Group, LLC".

Respectfully submitted,

WAYMAN, IRVIN & McAULEY, LLC

By: 
Michael L. Magulick, Esq.
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,
Plaintiffs,

CIVIL DIVISION
No. 07-05-CD

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendant.

ORDER OF COURT

AND NOW, to wit this _____ day of December, 2007, it is hereby ORDERED,
ADJUDGED and DECREED that the caption of this civil action shall be amended to as
follows:

Kacey M. LEIGEY, a Minor, By Angel M. Dixon, Guardian, Plaintiffs

v.

Wal-Mart Stores, Inc., and Bottling Group, LLC, Defendants.

And any reference to Pepsi Bottling Group, Inc. shall be amended to read "Bottling
Group, LLC".

_____, J.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Amend Caption and Complaint has been served on the following counsel of record by first class U.S. mail, postage pre-paid, or by hand delivery, this 11/6 day of December, 2007:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

Angela M. Heim, Esq.
Rawle & Henderson, LLP
The Henry W. Oliver Building
Suite 1000, 535 Smithfield Street
Pittsburgh, PA 15222

WAYMAN, IRVIN & McAULEY

BY: Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendant,
Bottling Group, LLC

WA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.,

Defendants.

CIVIL DIVISION

No. 07-05-CD

PRAECIPE FOR ARGUMENT

Filed on behalf of: Defendant,
BOTTLING GROUP, LLC

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

(412) 566-2970

JURY TRIAL DEMANDED

FILED
m/2/00/64 NO C
DEC 14 2007
④

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

CIVIL DIVISION

No. 07-05-CD

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.,

Defendant.

PRAECIPE FOR ARGUMENT

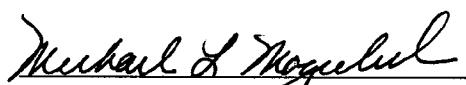
TO: WILLIAM A. SHAW, PROTHONOTARY

Kindly schedule an argument date on the Motion to Amend Caption and
Complaint filed on behalf of Pepsi Bottling Group, Inc.

Respectfully submitted,

WAYMAN, IRVIN & McAULEY, LLC

By:



Michael L. Magulick, Esq.
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praeclipe for Argument has been served on the following counsel of record by first class U.S. mail, postage prepaid, or by hand delivery, this 12th day of December, 2007:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 ½ North Second Street
Clearfield, Pennsylvania 16830

Angela M. Heim, Esq.
Rawle & Henderson, LLP
The Henry W. Oliver Building
Suite 1000, 535 Smithfield Street
Pittsburgh, PA 15222

WAYMAN, IRVIN & McAULEY

BY: Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendant,
Bottling Group, LLC

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

FILED

KACEY M. LEIGEY, a Minor, by ANGEL M. DIXON, *
Guardian, *
Plaintiffs *
vs. *
WAL-MART STORES EAST, LP and *
PEPSI BOTTLING GROUP, INC., *
Defendants *

NO. 07-05-CD

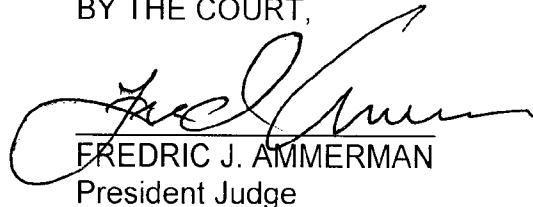
11/15/07
William A. Shaw
Prothonotary/Clerk of Courts

RECEIVED TO
Nursery
Harm
L
Maguire
(GK)

ORDER

NOW, this 19th day of December, 2007, upon receipt of the Motion to Amend
Caption and Complaint filed on behalf of the Defendant, it is the ORDER of this Court
that argument on the Defendants' Motion is scheduled for the 23rd day of
January, 2008 at 2:30 p.m. in Courtroom No. 1 of the Clearfield County Courthouse,
Clearfield, PA 16830.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

DATE: 12-21-07

You are responsible for serving all appropriate parties.
 The Prothonotary's office has provided service to the following parties:
 Plaintiff(s) Plaintiff(s) Attorney Other
 Defendant(s) Defendant(s) Attorney

Special Instructions:

William A. Shaw
Prothonotary/Clerk of Courts

DEC 21 2007

FILED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.,

Defendants.

CIVIL DIVISION

No. 07-05-CD

PRAECIPE TO WITHDRAW MOTION

Filed on behalf of: Defendant,
BOTTLING GROUP, LLC

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

(412) 566-2970

JURY TRIAL DEMANDED

FILED NOCC
M/12/5/08
JAN 24 2008

W.A. Shaw
Prothonotary/Clerk of Courts
PLA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

CIVIL DIVISION

No. 07-05-CD

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.,

Defendant.

PRAECIPE TO WITHDRAW MOTION

TO: WILLIAM A. SHAW, PROTHONOTARY

Kindly withdraw the Motion to Amend Caption filed on behalf of Pepsi Bottling Group, LLC scheduled for argument before Judge Fredric Ammerman on Wednesday, January 23, 2008 at 2:30 p.m.

Respectfully submitted,

WAYMAN, IRVIN & McAULEY, LLC

By:

Michael L. Magulick

Michael L. Magulick, Esq.
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praeclipe to Withdraw Motion has been served on the following counsel of record by first class U.S. mail, postage pre-paid, or by hand delivery, this 2nd day of January, 2008:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

Angela M. Heim, Esq.
Rawle & Henderson, LLP
The Henry W. Oliver Building
Suite 1000, 535 Smithfield Street
Pittsburgh, PA 15222

WAYMAN, IRVIN & McAULEY

BY: Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendant,
Bottling Group, LLC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendants.

CIVIL DIVISION

No. 07-05-CD

STIPULATION OF COUNSEL

Filed on behalf of: Defendant,
PEPSI BOTTLING GROUP, INC.

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

(412) 566-2970

JURY TRIAL DEMANDED

.247101.1

FILED
JAN 31 2006
Clerk
60

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

CIVIL DIVISION
No. 07-05-CD

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendant.

STIPULATION OF COUNSEL

It is hereby stipulated by and between all counsel that the caption is amended to read Kasey M. Leigey, a Minor, by Angel M. Dixon, Guardian vs. Wal-Mart Stores East LLP, and Bottling Group, LLC.

It is further stipulated that any reference in the Complaint filed on behalf of Kasey M. Leigey, a Minor, by Angel M. Dixon to Pepsi Bottling Group, Inc. shall now be amended to reference Bottling Group, LLC.

Frederick M. Neiswender
Frederick M. Neiswender, Esquire
Counsel for Plaintiff

Angela M. Heim
Angela M. Heim, Esquire
Counsel for Wal-Mart Stores East LP

Michael L. Magulick
Michael L. Magulick, Esquire
Counsel for Bottling Group, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Stipulation of Counsel has been served on the following counsel of record by first class U.S. mail, postage pre-paid, or by hand delivery, this 29th day of January, 2008:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

Angela M. Heim, Esq.
Rawle & Henderson, LLP
The Henry W. Oliver Building
Suite 1000, 535 Smithfield Street
Pittsburgh, PA 15222

WAYMAN, IRVIN & McAULEY

BY: Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendant,
Pepsi Bottling Group, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL ACTION)

KACEY M. LEIGEY, a Minor, :
by ANGEL M. DIXON, Guardian, :
Plaintiffs, :
:
v. : No. 07-05-CD
:
WAL-MART STORES EAST, LP, and :
PEPSI BOTTLING GROUP, INC., :
Defendants. : Type of Case: Civil
:
: **Withdrawal of Appearance and**
: **Entry of Appearance**
:
: Filed on behalf of: Wal-Mart Stores East, LP
:
: RAWLE & HENDERSON, LLP
: Angela M. Heim, Esquire
: I.D. No. 75852
: The Henry W. Oliver Bldg., Suite 1000
: 535 Smithfield Street
: Pittsburgh, PA 15222
: (412) 261-5700
: Attorneys for Defendant Wal-Mart
: Stores East, L

2343261-1

FILED NO CC
M/11/2008
APR 10 2008
copy to CIA
William A. Shaw
Prothonotary/Clerk of Courts
GK

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Withdrawal of Appearance and Entry of Appearance has been served on the following counsel of record by first class U.S. mail, postage pre-paid, or by hand delivery, this 3rd day of March, 2008:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 ½ North Second Street
Clearfield, Pennsylvania 16830

Angela M. Heim, Esq.
Rawle & Henderson, LLP
The Henry W. Oliver Building
Suite 1000, 535 Smithfield Street
Pittsburgh, PA 15222

WAYMAN, IRVIN & McAULEY

BY: *Michael L. Magulick*
Michael L. Magulick, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,
Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendants.

CIVIL DIVISION

No. 07-05-CD

MOTION TO COMPEL DISCOVERY

Filed on behalf of: Defendants
WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

JURY TRIAL DEMANDED

(412) 566-2970

FILED
MAY 05 2008
NO. 2561
6K
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,
Plaintiffs,

CIVIL DIVISION

No. 07-05-CD

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendant.

MOTION TO COMPEL DISCOVERY

AND NOW, comes Defendant, Wal-Mart Stores East, LP, and hereby files the
the following Motion to Compel Discovery and state as follows:

1. Defendant, Wal-Mart Stores East, LP's Interrogatories and Request for
Production of Documents directed to Plaintiffs were served on or about December 7, 2007.
2. Plaintiffs have not, at the present time, filed Answers to the Interrogatories or
a Response to the Request for Production of Documents.
3. This discovery must be completed so that the case may be prepared for trial.
4. The failure to respond to the written discovery will severely prejudice the
defense of this litigation.

WHEREFORE, Defendants, Wal-Mart Stores East, LP, moves this Honorable Court
to enter an Order compelling Plaintiffs to file Answers to Interrogatories and a Response to
the Request for Production of Documents within 30 days of the date of this Order or suffer

such sanctions as may be issued by the Court.

Respectfully submitted,

WAYMAN, IRVIN & McAULEY

BY: Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

CIVIL DIVISION

No. 07-05-CD

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendant.

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2008, it is
hereby ORDERED, ADJUDGED and DECREED that Plaintiffs shall serve Answers to
Interrogatories and Responses to Request for Production of Documents within thirty
(30) days.

J.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Compel Discovery has been served on the following counsel of record by first class U.S. mail, postage pre-paid, or by hand delivery, this 1st day of May, 2008:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

WAYMAN, IRVIN & McAULEY

BY: Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.,

Defendants.

CIVIL DIVISION

No. 07-05-CD

PRAECIPE FOR ARGUMENT

Filed on behalf of: Defendant,
BOTTLING GROUP, LLC

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

(412) 566-2970

JURY TRIAL DEMANDED

FILED
MAY 05 2008
No. 2530
GK
cc

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

CIVIL DIVISION

No. 07-05-CD

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.,

Defendant.

PRAECIPE FOR ARGUMENT

TO: WILLIAM A. SHAW, PROTHONOTARY

Kindly schedule an argument date on the Motion to Compel Discovery filed on
behalf of Defendants, Wal-Mart Stores East, LP.

Respectfully submitted,

WAYMAN, IRVIN & McAULEY, LLC

By: Michael L. Magulick
Michael L. Magulick, Esq.
Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praeclipe for Argument has been served on the following counsel of record by first class U.S. mail, postage prepaid, or by hand delivery, this 1st day of May, 2008:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

WAYMAN, IRVIN & McAULEY

BY: Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendants

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

KACEY M. LEIGEY, a Minor, by
ANGEL M. DIXON, Guardian,
Plaintiffs

vs
WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.,
Defendants

ORDER

NOW, this 6th day of May, 2008, upon consideration of the Defendants' Motion to Compel Discovery filed by Michael L. Magulick, Esquire, it is the ORDER of this Court that argument on said Motion be and is hereby scheduled for the 4th day of June, 2008 at 11:15 A.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT

FREDRIC J. AMMERMAN
President Judge

FILED
01/15/08
MAY 06 2008
William A. Shaw
Prothonotary/Clerk of Courts
cc Atlys:
Neiswender
m. Magulick
612

FILED

MAY 06 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 5/6/08

You are responsible for serving all appropriate parties.

The Prothonotary's Office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

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

KACEY M. LEIGEY, a Minor, *
by ANGEL M. DIXON, Guardian, *
Plaintiffs *
vs. * NO. 07-05-CD
WAL-MART STORES, INC. and *
PEPSI BOTTLING GROUP, INC., *
Defendants *

ORDER

NOW, this 4th day of June, 2008, the Court notes this being the date scheduled for argument of the Defendants' Motion to Compel and that no representative or counsel appeared on the Defendants' behalf, it is the ORDER of this Court that the Defendants' Motion to Compel be and is hereby DISMISSED.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED
O 10:14 am 6K
JUN 05 2008
2CL Atty's:
NEISWENDER
MAGULLICK

William A. Shaw
Prothonotary/Clerk of Courts

6K

FILED

JUN 05 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6-5-08

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendants.

CIVIL DIVISION

No. 07-05-CD

**AMENDED NOTICE OF DEPOSITION
OF KACEY LEIGEY**

Filed on behalf of: Defendants
WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

JURY TRIAL DEMANDED

(412) 566-2970

FILED NO
JAN 29 2009
S C
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,
Plaintiffs,

CIVIL DIVISION
No. 07-05-CD

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendants.

AMENDED NOTICE OF DEPOSITION OF KACEY LEIGEY

To: Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 ½ North Second Street
Clearfield, Pennsylvania 16830

KINDLY TAKE NOTICE that Michael L. Magulick, Esquire, counsel
Defendants, will take the oral deposition of **Kacey Leigey** for the purpose of discovery
pursuant to the applicable Pennsylvania Rules of Civil Procedure, before a Notary
Public duly authorized by law to administer oaths on **Monday, February 23, 2009**
beginning at **11:00 a.m.**, at the offices of Sargeant's Court Reporting, 106 North Second
Street, Clearfield, Pennsylvania 16830, and continuing until concluded, and the said
deponent is required to appear at the aforesaid time at the above address and submit to
such examination.

The scope and purposes of this deposition will deal with facts and circumstances

of the incident described in the Complaint, the damages being sought and all other matters not privileged.

Respectfully submitted,

WAYMAN, IRVIN & McAULEY

BY: Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Amended Notice of Deposition has been served on the following counsel of record by first class U.S. mail, postage pre-paid, or by hand delivery, this 26th day of January, 2009:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

WAYMAN, IRVIN & McAULEY

BY: Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendants

FILED

JAN 29 2009

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,

Plaintiffs,

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendants.

CIVIL DIVISION

No. 07-05-CD

**AMENDED NOTICE OF DEPOSITION
OF RODNEY DIXON**

Filed on behalf of: Defendants
WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Counsel of Record for this Party:

Michael L. Magulick, Esquire
Pa. ID 17338

WAYMAN, IRVIN & McAULEY
Firm # 583
437 Grant Street
1624 Frick Building
Pittsburgh, PA 15219

JURY TRIAL DEMANDED

(412) 566-2970

:256679.1

FILED NO CC
M 1/1/2009
JAN 29 2009 G10

5
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

KACEY M. LEIGEY, a Minor,
by ANGEL M. DIXON, Guardian,
Plaintiffs,

CIVIL DIVISION
No. 07-05-CD

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendants.

AMENDED NOTICE OF DEPOSITION OF RODNEY DIXON

To: Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

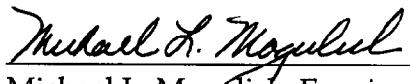
KINDLY TAKE NOTICE that Michael L. Magulick, Esquire, counsel for Defendants, will take the oral deposition of **Rodney Dixon** for the purpose of discovery pursuant to the applicable Pennsylvania Rules of Civil Procedure, before a Notary Public duly authorized by law to administer oaths on *Monday, February 23, 2009* beginning at **12:00 p.m.**, at the offices of Sargeant's Court Reporting, 106 North Second Street, Clearfield, Pennsylvania 16830, and continuing until concluded, and the said deponent is required to appear at the aforesaid time at the above address and submit to such examination.

The scope and purposes of this deposition will deal with facts and circumstances

of the incident described in the Complaint, the damages being sought and all other matters not privileged.

Respectfully submitted,

WAYMAN, IRVIN & McAULEY

BY: 
Michael L. Magulick, Esquire
Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Amended Notice of Deposition has been served on the following counsel of record by first class U.S. mail, postage pre-paid, or by hand delivery, this 26~~th~~ day of January, 2009:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

WAYMAN, IRVIN & McAULEY

BY: Michael L. Magulick
Michael L. Magulick, Esquire
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

KACEY M. LEIGEY, a Minor, by
ANGEL M. DIXON, Guardian,

Plaintiffs,

v.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

Defendants.

) CIVIL DIVISION

) NO. 07-05-CD

) PRAECIPE TO REQUEST A
) STATUS CONFERENCE PURSUANT
) TO RULE 212.1

) Filed on Behalf Of: Defendants
) WAL-MART STORES EAST, LP and
) PEPSI BOTTLING GROUP, INC.

) Counsel for this Party:

) Michael L. Magulick, Esquire
) Pa. ID No. 17338

) WAYMAN, IRVIN & MCAULEY, LLC

) Firm #583
) 437 Grant Street
) Frick Building, Suite 1624
) Pittsburgh, PA 15219
) Phone: 412-566-2970
) Fax: 412-391-1464

) *Jury Trial Demanded*

S FILED

MAY 28 2009
m/12-30/09
William A. Shaw
Prothonotary/Clerk of Courts

No 9c

GW

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

KACEY M. LEIGEY, a Minor, by) CIVIL DIVISION
ANGEL M. DIXON, Guardian,)
Plaintiffs,) NO. 07-05-CD
v.)
WAL-MART STORES EAST, LP and)
PEPSI BOTTLING GROUP, INC.)
Defendants.)

PRAECIPE TO REQUEST A STATUS CONFERENCE PURSUANT TO RULE 212.1

TO THE PROTHONOTARY:

Pursuant to Clearfield County Local Rule 212.1, please schedule a status conference regarding the above-entitled litigation.

Respectfully Submitted,

WAYMAN, IRVIN & MCAULEY

By:

Michael L. Maguire

Michael L. Maguire
Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Praeclipe to Request a Status Conference has been served on the following counsel of record by first class U.S. mail, postage pre-paid, or by hand delivery, this 27th of May, 2009:

Frederick M. Neiswender, Esq.
Neiswender & Kubista
211 1/2 North Second Street
Clearfield, Pennsylvania 16830

WAYMAN, IRVIN & MCAULEY

By: Michael L. Magulick
Michael L. Magulick

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

KACEY M. LEIGEY, a Minor, by :
ANGEL M. DIXON, Guardian :
:
vs. :
:
WAL-MART STORES : No. 07-05-CD
EAST, LP and PEPSI BOTTLING GROUP, INC :
:

O R D E R

AND NOW, this 5th day of October, 2009, it is the ORDER of the Court that a Status Conference shall be and is hereby scheduled for Monday, November 2, 2009 at 11:00 A.M. in Judges Chambers, Clearfield County Courthouse, Clearfield, PA.

FILED

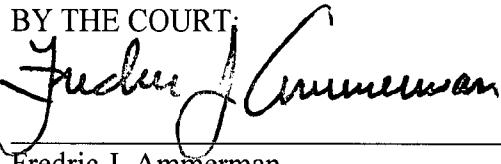
02:59 AM
OCT 06 2009

6
S William A. Shaw
Prothonotary/Clerk of Courts

2cc Atlys:

Neiswender
Magulick

BY THE COURT:



Fredric J. Ammerman
President Judge

FILED

OCT 06 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/06/09

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)

Plaintiff(s) Attorney

Other

Defendant(s)

Defendant(s) Attorney

Other

Special Instructions:

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

KACEY M. LEIGEY, a Minor by
ANGEL M. DIXON, Guardian

* NO. 07-05-CD

vs.

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.

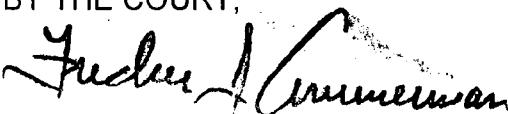
*
*
*
*

ORDER

NOW, this 2nd day of November, 2009, it is the ORDER of this Court that a pre-trial conference be and is hereby scheduled, in Chambers, for the **26th day of February, 2010 at 11:30 a.m.**

Thirty minutes has been reserved for this proceeding.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED 1CC

04:00 PM
NOV 03 2009

Attns: Neiswender
Magulich

W.A. Shaw
Notary/Clerk of Courts

卷之三

NOV 03 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/31/09

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

KACEY M. LEIGEY, a Minor, by
ANGEL M. DIXON, Guardian

vs.

NO. 07-05-C.D.

WAL-MART STORES EAST, LP
And PEPSI BOTTLING GROUP, INC.

SCHEDULING ORDER

AND NOW, this 15th day of December 2009, it hereby ORDERED that a Status Conference in the above captioned matter shall be and is hereby rescheduled from **February 26, 2010 at 11:30 A.M. to Thursday, March 4, 2010 at 1:30 p.m.** in Chambers, of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:


Fredric J. Ammerman
President Judge

5 FILED
02/29/2010
DEC 15 2009


William A. Shaw
Prothonotary/Clerk of Courts

1CC Attns:
Nobswender
Magulich

FILED

DEC 15 2009

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/15/09

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) Plaintiff(s) Attorney Other

Defendant(s) Defendant(s) Attorney

Special Instructions:

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

KACEY M. LEIGEY, a Minor by
ANGEL M. DIXON, Guardian
Plaintiffs,

vs. : No. 07-05-CD

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.
Defendants.

Type of Action:
Personal Injury

Type of Pleading:
**PETITION FOR LEAVE TO
COMPROMISE MINOR'S ACTION**

Filed on Behalf of:
Plaintiff

Counsel of Record for this Party:

Frederick M. Neiswender, Esquire
Supreme Court I.D. 74456

NEISWENDER & KUBISTA
211 ½ North Second Street
Clearfield, PA 16830
(814) 765-6500

FILED
0135701 30e
JUN 04 2010 Atty
S William A. Shaw
Prothonotary/Clerk of Courts
Neiswender
64

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

KACEY M. LEIGEY, a Minor by	:	
ANGEL M. DIXON, Guardian	:	
Plaintiffs,	:	
	:	
vs.	:	No. 07-05-CD
	:	
WAL-MART STORES EAST, LP and	:	
PEPSI BOTTLING GROUP, INC.	:	
Defendants.	:	
	:	

PETITION FOR LEAVE TO COMPROMISE MINOR'S ACTION

Pursuant to Pa.R.C.P. No. 2039, Angel M. Dixon, parent and natural guardian of Kacey M. Leigey, a minor, by her attorney, Frederick M. Neiswender, Esquire, petitions this Court to enter an Order permitting settlement in compromise of this action and in support thereof avers the following:

1. That Angel M. Dixon is the parent and natural guardian of the minor-plaintiff, Kacey M. Leigey, who was born on December 25, 1997 and who is presently 12 years of age.
2. That the minor-plaintiff was injured on December 31, 2004 at Wal-Mart store number 2129 when two six packs of Pepsi product plastic bottles fell from the top level of a skid onto his head, knocking him to the floor.
3. That the injuries sustained by the minor-plaintiff were vertebral subluxation of C2, cervical whiplash, vertebral subluxation of T2, neuritis/neuralgia and ligament and paravertebral structure damage of the above segments. The minor-plaintiff has recovered fully from all of the injuries. Attached hereto and marked as Exhibit "A" is a report from Gary M. Casteel, D.C., who treated the minor-plaintiff.

4. That the Pennsylvania Department of Public Welfare has a lien related to the injuries sustained in the December 31, 2004 incident and the treatment received thereafter in the amount of \$371.54, which will be paid from the settlement proceeds. Attached hereto and marked as Exhibit "B" is a letter from the Pennsylvania Department of Public Welfare which shows their acceptance of payment in the above amount to satisfy the lien.

5. That the minor-plaintiff's remaining medical expenses have all been paid and there are no outstanding medical bills anticipated.

6. That counsel was retained by the Petitioner to represent the minor-plaintiff on a contingency fee basis. Attached hereto and marked as Exhibit "C" is a copy of said Agreement to Provide Legal Services. In prosecuting this action on behalf of the minor-plaintiff, counsel has incurred the following expenses:

a.	William A. Shaw, Prothonotary (Writ/Complaint filing fees)	\$ 92.00
b.	Sargent's Court Reporting Service (Deposition transcripts)	324.60
c.	United States Postal Service (Certified mailing fees)	<u>28.82</u>
	TOTAL	\$ 445.42

7. That the Petitioner and her counsel seek approval of the settlement on behalf of the minor-plaintiff in the amount of Six thousand dollars (\$6,000.00). Attached hereto and marked as Exhibit "D" is a copy of a Full and Final Release presented to Petitioner by counsel for the Defendants.

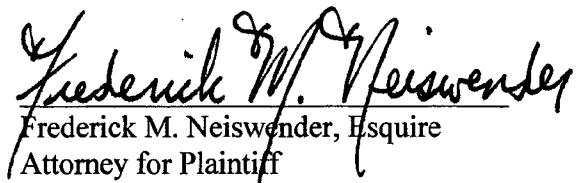
8. That the Petitioner approves the proposed settlement because she considers it fair and reasonable and it adequately compensates minor-plaintiff for the injuries sustained and expenses incurred.

9. That the Petitioner further approves the proposed distribution contained in the proposed Order submitted with this Petition.

10. That the Petitioner will cause to have the docket in this matter marked "settled and discontinued" following receipt of the settlement proceeds.

WHEREFORE, the Petitioner respectfully requests that this Court enter an Order approving the settlement and compromise, allowing counsel fees and ordering distribution as set forth in the proposed Order submitted with this Petition.

Respectfully submitted,


Frederick M. Neiswender, Esquire
Attorney for Plaintiff

Frederick M. Neiswender, ESQ
501 East Market Street
Clearfield, PA 16830

Re: Leigey, Kacey M., Mr.

Date of Injury/Onset: December 31, 2004

On February 18, 2005, Kacey M. Leigey presented himself for an initial examination and evaluation following a personal injury accident at Wal Mart which occurred December 31, 2004.

DESCRIPTION OF INJURY/ONSET:

Mrs. Dixon, Kacey's mother, stated that while shopping at Wal Mart, a six foot skid of Pepsi fell onto her sons head knocking him to the floor.

INITIAL COMPLAINTS:

Mrs. Dixon stated that Kacey complained of neck pain and that his eyes hurt. He was also waking up during the night crying from severe headaches.

CURRENT COMPLAINTS:

Kacey Leigey's current signs and symptoms were assessed today. His first symptom is pain and stiffness in his neck. His second symptom is severe headaches. They occur between three fourths and all of the time when he is awake, and causes serious diminution in his capacity to carry out daily activities. He has missed school due to the pain. He further indicated the symptom is brought on by the time evening arrives.

HISTORY:

Kacey and his mother both indicated that he had not experienced prior symptoms similar to his current complaints, and was symptom free at the time of the aforementioned accident/onset of December 31, 2004.

I have determined that Mr. Leigey's history has not contributed to his present condition.

Prior Treatment Information:

The patient reported that prior to his first visit to this office, he saw Dr. Rowles.

X-RAY STUDIES:

Cervical Spine:

Anterior-Posterior

Lateral

APOM

Radiographic Analysis:

There is no evidence of fractures, gross osseous pathology, significant anomalies, developmental distortions or pathological calcinosis present. Also, the facet joints appear normal and the joints of Luschka (Uncinate processes) appear intact.

ASSESSMENT/DIAGNOSIS:

It is expected that Mr. Leigey will experience favorable results from his treatments.

839.08 Vertebral subluxation of C2, 6,7

847/0 Cervical whiplash

839.21 Vertebral subluxation of T2, 6

729.2 Neuritis/neuralgia

Ligament and paravertebral structure damage of the above listed segments.

PROGNOSIS:

At this time, Kacey Leigey's prognosis is excellent. His is an uncomplicated case and continuous improvement is expected.

TREATMENT:

Today's Modalities & Procedures: These were the procedures that were performed and/or recommended today: chiropractic adjustments.

The above was for the purpose of decreasing pain, decreasing spasms, increasing range of motion, increasing the ability to perform normal activities of daily living, returning the patient to his pre-accident status, increasing function and achieving maximum chiropractic improvement.

FUTURE CARE PLAN:

Present Care Phase: Mr. Leigey is presently in a relief phase of care.

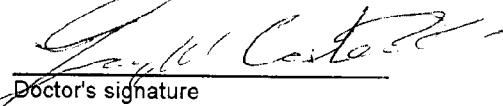
Future Treatment Plan: My recommendation for future treatment consists of chiropractic adjustments three times a week.

Goals of Treatment Plan: The preceding treatment plan has the goal of decreasing pain, decreasing spasms, increasing range of motion, increasing the ability to perform normal activities of daily living, increasing function and achieving maximum chiropractic improvement.

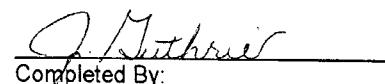
CLOSING COMMENTS:

Applied kinesiological challenge and motion and static palpation, verifying all subluxations on each office visit.

Gary M. Casteel, D.C.
538 South Second Street
Clearfield, PA 16830
814 765-7111



Doctor's signature



Completed By:



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
BUREAU OF PROGRAM INTEGRITY
DIVISION OF THIRD PARTY LIABILITY
CASUALTY UNIT
P.O.BOX 8466
HARRISBURG, PA 17105-8466

March 25, 2010

NEISWENDER & KUBISTA
FREDERICK M NEISWENDER ESQUIRE
211 1/2 NORTH SECOND STREET
CLEARFIELD PA 16830

Re: Kacey Leigey (minor)
CIS #: 590140102
Incident Date: 12/31/2004

Dear Mr. Neiswender:

The Department of Public Welfare maintains a claim in the amount of \$636.90 for the above-referenced incident.

The Department has agreed to reduce its claim by 33.33% plus a prorata share of expenses and accept the net payment of \$371.54 to satisfy the total claim amount.

Checks should be made payable to the Department of Public Welfare and sent to my attention at the above address. We request that with all transmittal of funds, you provide the Department with a copy of the final distribution sheet.

In the event you have already brought or will bring any action resulting in a further recovery, we reserve the right to seek recovery of any additional unpaid portion of our medical/cash claim. This settlement in no way affects our future rights.

Thank you for your cooperation in this matter. If you have any further questions, please contact me.

Sincerely,

Jessica L. Strawbridge
TPL Program Investigator
717-772-6238
717-772-6553 FAX

AGREEMENT TO PROVIDE LEGAL SERVICES

THIS AGREEMENT, dated January 24, 2005, is made

BETWEEN the Client, Angel M. Dixon, for Kacey M. Leigey.

whose address is 478 East 9th Street, Clearfield, PA 16830, referred to as "You".

AND FREDERICK M. NEISWENDER, ATTORNEY AND COUNSELLOR AT LAW

whose address is 501 East Market Street, Suite 3, Clearfield, Pennsylvania 16830, referred to as the "Law Firm".

1. Your Injury or Damages. Your Son has been injured or suffered damages as a result of an:

Pepsi products falling on your Son at Wal Mart.

You agree that the Law Firm will make a claim on your behalf against others who are responsible for your injuries or damages. You feel those who are responsible are:

Wal Mart.

2. Legal Services. The Law Firm will protect your legal rights and do all necessary legal work to properly represent you in this matter.

3. Costs and Expenses. In addition to legal fees, you may be required to pay the following costs and expenses:

Experts' fees, court costs, accountants' fees, appraisers' fees, service fees, investigators' fees, deposition costs, messenger services, photocopying charges, telephone toll costs, postage and any other necessary expenses in this matter.

The Law Firm may require that you pay these costs and expenses in advance or that you repay the Law Firm if they make these payments for you.

4. Legal Fees. If the Law Firm recovers money for you, which is greater than your costs and expenses (see paragraph 3), you will pay the Law Firm a legal fee. The fee will be based on a percentage of the net recovery (the total recovered for all clients named in this Agreement, minus your costs and expenses). The fee will be as follows:

Thirty-three and one-third percent (33 1/3%)

5. Alternative Fee Plan. The Law Firm has offered to represent you and charge you legal fees which you will be required to pay even if you recover no money. You have rejected this and have, instead, agreed to pay the contingent fees, as set forth in this Agreement.

Signatures. You have read this Agreement. The Law Firm has answered all of your questions and fully explained this Agreement to your complete satisfaction. You have been given a signed copy of this Agreement.

Law Firm: Frederick M. Neiswender
Attorney and Counsellor at Law

By Frederick M. Neiswender Angel M. Dixon
Frederick M. Neiswender Angel M. Dixon

FULL AND FINAL RELEASE

FOR AND IN CONSIDERATION of the sum of Six Thousand Dollars (\$6,000) to be paid to ANGEL M. DIXON, Guardian of KACEY M. LEIGEY to her in hand paid by or on behalf of WAL-MART STORES EAST, LP and PEPSI BOTTLING GROUP, INC., with the receipt of which is hereby acknowledged, being of lawful age, hereby fully and forever release, acquit and discharge the said WAL-MART STORES EAST, LP and PEPSI BOTTLING GROUP, INC. its insurers, heirs, administrators, executors, successors and assigns from any and all actions, causes of action, claims and demands of whatsoever kind or nature on account of any and all known and unknown injuries, losses and damages sustained by KACEY M. LEIGEY as a result of an accident on December 31, 2004 that occurred at Wal-Mart located at 100 Supercenter Drive, Clearfield, Pennsylvania and more fully set forth in the Complaint filed at Civil Action No.: 07-05 CD in the Court of Common Pleas of Clearfield County, Pennsylvania, for which injuries, losses and damages I claim WAL-MART STORES, LP and PEPSI BOTTLING GROUP, INC. be liable, **it being understood and agreed that the acceptance of said sum is in full accord and satisfaction of a disputed claim and that the payment of said sum is not an admission of liability.**

It is expressly understood and agreed that this release and settlement is intended to cover and does cover not only all now known injuries, losses and damages, but any future injuries, losses and damages not now known or anticipated, but which may later develop or be discovered, including all the effects and consequences thereof;

And I hereby declare that I fully understand the terms of this settlement; that the amount stated herein is the sole consideration of this release and that we voluntarily accept said sum for the purpose of making a full and final compromise, adjustment and settlement of all claims for injuries, losses and damages resulting or to result from said accident.

It is further understood and agreed that this is the complete release agreement, and that there are no written or oral understandings or agreements, directly or indirectly connected with this release and settlement that are not incorporated herein.

This agreement shall be construed that wherever applicable the use of the singular number shall include the plural number and shall be binding upon and inure to the successors, assigns, heirs, executors, administrators, and legal representatives of the respective parties hereto.

It is hereby agreed that Releasor, their heirs, successors, assigns, executors and/or administrators promise and guarantee that they will fully pay and satisfy from the proceeds of this settlement, as discussed above, any liens against Releasor, their heirs, successors, assigns, executors and/or administrators, arising from monies or value which they may have received because of matters at issue, and/or claims of subrogation by any third-parties claiming through or on behalf of Releasor, their heirs, successors, assigns, executors and/or administrators.

In making this Settlement Agreement and Release, it is understood that the Releasee, their agents, representatives and insurers herein, are relieved of any legal obligation with regard to such liens or subrogation claims potentially incumbent upon them relative to the payment of settlement monies to Releasor, their heirs, successors, assigns, executors and/or administrators. The Releasor, their heirs, successors, assigns, executors and/or administrators, agree to defend, indemnify and save harmless

Releasee's agents, representatives and insurers herein, from all liability, damages, costs and expenses of every kind and nature, including counsel fees, from further liability to Releasor, their heirs, successors, assigns, executors and/or administrators or any other person, corporation or entity making claim for reimbursement, contribution or indemnification arising out of the damages allegedly incurred by Releasor, their heirs, successors, assigns, executors and/or administrators.

I agree that the amount of all sums paid or to be paid hereunder and the other terms of this release shall be and remain strictly confidential. None of the terms or the financial arrangements of this Release shall be divulged, published or discussed by the subrogee or their attorneys, agents or representatives to or with anyone at all not a party hereto, except as a result of an Order to do so by a court of competent jurisdiction. This confidentiality provision shall extend to the amount, the nature and the character of the settlement.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of
_____, 2009.

Witness:

ANGEL M. DIXON, Guardian of
KACEY M. LEIGY

Commonwealth of Pennsylvania

County of _____

On this _____ day of _____, 2009, before me personally appeared
_____ to me known to be the person named in and who executed
the above Release and acknowledged that he/she executed the same as his/her free act
and deed.

Witness my hand and notarial seal the date aforesaid.

My commission expires:

NOTARY PUBLIC

I, Angel M. Dixon, parent and natural guardian of Kacey M. Leigey, verify that the statements made in the foregoing Petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsifications to authorities.

Date: 6/3/10

Angel M. Dixon

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

KACEY M. LEIGEY, a Minor by :
ANGEL M. DIXON, Guardian :
Plaintiffs, :
vs. :
No. 07-05-CD
WAL-MART STORES EAST, LP and :
PEPSI BOTTLING GROUP, INC. :
Defendants. :
:

FILED
07-05-10
JUN 04 2010

William A. Shaw
Prothonotary/Clerk of Courts
300 Atty Neiswender
(will serve)

ORDER OF COURT

NOW, this 4th day of June, 2010, upon presentation of the Petition for Leave to Compromise Minor's Action filed by the Plaintiffs, IT IS ORDERED that the Petition is granted and that settlement of the minor's claim for the gross proceeds of \$6,000.00 is approved. The minor's parent and natural guardian, Angel M. Dixon, is hereby authorized to sign all releases or other documentation necessary to secure the settlement proceeds.

Distribution of the settlement proceeds is also approved as follows:

1. \$2,886.70 to be paid to Petitioner, Angel M. Dixon, parent and natural guardian of Kacey M. Leigey, a minor child, now 12 years of age born December 25, 1997. Said sum shall be deposited in one or more savings accounts in the name of the minor in banks, building and loan associations, savings and loan associations, or credit unions, the deposits in which are insured by a federal government agency or in one or more accounts in the name of the minor investing only in securities guaranteed by the United States government or a federal governmental agency managed by responsible financial institutions. Said account shall contain a provision that no withdrawal can be made from any such account until the minor attains the age of majority except as authorized by a prior order of this Court. Proof of the deposit into the authorized accounts shall be promptly filed of record in accordance with Pa.R.C.P. 2039(b)(2).

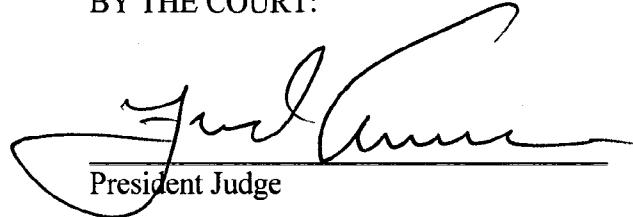
2. \$371.54 to be paid to the Pennsylvania Department of Public Welfare as payment in full of a subrogation claim held by the department in the above-captioned matter.

3. \$445.00 to be paid to Casteel Chiropractic as payment in full for chiropractic services rendered to the above-captioned minor.

4. \$1,851.34 to Neiswender & Kubista Attorneys at Law for counsel fees.

5. \$445.42 to Neiswender & Kubista Attorneys at Law for reimbursement of costs advanced.

BY THE COURT:



A handwritten signature in black ink, appearing to read "President Judge", is enclosed within a stylized oval frame. The signature is fluid and cursive, with a horizontal line extending from the right side of the oval.

President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

KACEY M. LEIGEY, a Minor by
ANGEL M. DIXON, Guardian,
Plaintiffs,

vs.

No. 2007-05-CD

WAL-MART STORES EAST, LP and
PEPSI BOTTLING GROUP, INC.
Defendants.

Type of case: Civil Action

Type of Pleading: **PRAECIPE TO
DISCONTINUE**

Filed on behalf of: Plaintiff,
Kacey M. Leigey

Counsel for Plaintiff:
Frederick M. Neiswender, Esquire
Supreme Court No. 74456

NEISWENDER & KUBISTA
211 ½ North Second Street
Clearfield, Pennsylvania 16830
(814) 765-6500

FILED *3cc*
ATH Neiswender
1/3:09pm
AUG 25 2010 COPY TO CJA
S
William A. Shaw
Prothonotary/Clerk of Courts
LM

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

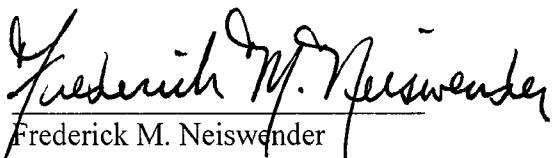
KACEY M. LEIGEY, a Minor by :
ANGEL M. DIXON, Guardian, :
Plaintiffs, :
vs. : No. 2007-05-CD
WAL-MART STORES EAST, LP and :
PEPSI BOTTLING GROUP, INC. :
Defendants. :

PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY:

Please mark the case in the above-captioned matter, SETTLED and DISCONTINUED.

Respectfully submitted,



Frederick M. Neiswender
Counsel for Plaintiff

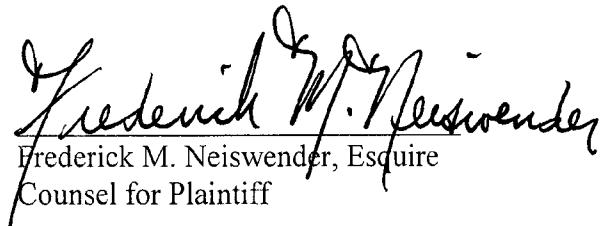
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

KACEY M. LEIGEY, a Minor by :
ANGEL M. DIXON, Guardian, :
Plaintiffs, :
vs. : No. 2007-05-CD
: :
WAL-MART STORES EAST, LP and :
PEPSI BOTTLING GROUP, INC. :
Defendants. :

CERTIFICATE OF SERVICE

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Praeclipe to Discontinue was made on August 25, 2010 upon Walmart Stores East, LP and Pepsi Bottling Group, Inc, by mailing, first class, postage prepaid, a true copy to their attorney of record at the following address:

Michael L. Magulick, Esquire
Wayman, Irvin and McAuley, LLC
Three Gateway Center
401 Liberty Avenue, Suite 1700
Pittsburgh, PA 15222-1004


Frederick M. Neiswender, Esquire
Counsel for Plaintiff

NEISWENDER & KUBISTA
211 ½ North Second Street
Clearfield, Pennsylvania 16830