

Jan 31 2022 10:20AM

Kane Poudyel

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THIS IS A MAJOR CASE
Assessment of Damages
Hearing Required.
JURY TRIAL DEMANDED

ATTORNEYS FOR PLAINTIFF

DANIELLE BENNETT
1120 Columbia Avenue (Rear)
Lancaster, PA 17603

vs.

CARLITO MONTANEZ
601 Rockland Street
Lancaster, PA 17602

and

MONTANEZ PROPERTIES, LLC
601 Rockland Street
Lancaster, PA 17602

: COURT OF COMMON PLEAS
: OF PENNSYLVANIA
:

: LANCASTER COUNTY CI-22-00570

: NO.:
:
:
:
:

CIVIL ACTION - COMPLAINT - NOTICE TO DEFEND

2S - PREMISES LIABILITY

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 NOTICES ARE SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY AN 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 OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHT 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. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

Lancaster Bar Association
Lawyer Referral Service
28 East Orange Street
Lancaster, PA 17602
(717) 393-0737

LE HAN DEMANDADO A USTED EN LA CORTE. SI USTED QUIERE DEFENDERSE DE ESTAS DEMANDAS EXPUESTAS EN LAS PAGINAS SIGUIENTES, USTED TIENE VIENTE (20) DIAS, DE PLAZO AL PARTIR DE LA FECHA DE LA DEMANDA Y LA NOTIFICACION. HACE FALTA ASENTAR UNA COMPARENCIA EXCRITA O EN FORMA EXCRITA SUS DEFENSAS O SUS OBJECIONES A LAS DEMANDAS EN CONTRA DE SU PERSONA. SEA AVISADO QUE SI USTED NO SE DEFIENDE, LA CORTE TOMARA MEDIDAS Y PUEDE CONTINUAR LA DEMANDA EN CONTRA SUYA SIN PREVIO AVISO O NOTIFICACION. ADEMAS, LA CORTE PUEDE DICI DIR A FAVOR DEL DEMANDANTE Y REQUIERE QUE USTED CUMPLA CON TODAS LAS PROVISIONES DE ESTA DEMANDA. USTED PUEDE PERDER DINERO O SUS PROPIEDADES U OTROS DERECHOS IMPORTANTES PARA USTED. LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINEOR SUFICIENTE DE TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA EXCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Asociacion de Liceneados de Lancaster
Servicio de Referencia Legal
28 East Orange Street
Lancaster, PA 17602
(717) 393-0737

paid Fee 173.25

K.P 2-1-22

Receipt # 146346

ack # 67276151

CIVIL ACTION - COMPLAINT

1. Plaintiff, **DANIELLE BENNETT**, is an adult individual who resides at 1120 Columbia Avenue (Rear), Lancaster, PA 17603.

2. Defendant, **CARLITO MONTANEZ** (hereinafter referenced as "Defendant **MONTANEZ**"), is an adult individual who resides at 601 Rockland Street, Lancaster, PA 17602. At all times relevant hereto, Defendant **MONTANEZ** owned, leased, possessed, occupied, operated, managed and/or maintained the real property located at 607 Rockland Street, Lancaster, PA 17602 (hereinafter referenced as "the **PREMISES**"), where the Plaintiff resided as a tenant.

3. Defendant **MONTANEZ PROPERTIES, LLC** (hereinafter referenced as "Defendant **PROPERTIES**"), is a limited liability corporation with its principal place of business at 601 Rockland Street, Lancaster, PA 17602. At all times relevant hereto, Defendant **PROPERTIES** owned, leased, possessed, occupied, operated, managed and/or maintained the **PREMISES**.

4. At all times material hereto, the Defendants operated the **PREMISES** as a rooming-house and Plaintiff, **DANIELLE BENNETT**, leased a single room in the **PREMISES**.

5. At all times relevant hereto, each Defendant acted by and through authorized agents, servants, workmen and/or employees, all acting within the course and scope of their agency and/or employment with each Defendant.

6. On June 16, 2020, Defendants possessed, maintained, occupied, managed, and/or controlled the **PREMISES**, including the bedrooms, living area(s), bathroom(s), and the kitchen and common areas situated therein.

7. On June 16, 2020, and for a period of time prior thereto, there existed defects and irregularities in the **PREMISES**, that included missing or faulty smoke detectors, and improperly installed and maintained electrical wiring in the exhaust fan of the second-floor

bathroom. This condition rendered the **PREMISES** defective and/or non-functional so that it was not safe to inhabit the **PREMISES**, causing a danger, menace, nuisance, trap and/or hazard to persons lawfully inside the **PREMISES**.

8. Defendants exclusively owned, operated, maintained, possessed, controlled and/or managed the said **PREMISES** where Plaintiff, **DANIELLE BENNETT**, was injured.

9. On June 16, 2020, at approximately 1:00 PM, Plaintiff, **DANIELLE BENNETT**, was present inside the **PREMISES** when a fire broke out on the second floor of the **PREMISES**, causing her to become trapped on the third floor, and to suffer severe smoke inhalation and injuries (more fully hereinafter described).

10. Plaintiff, **DANIELLE BENNETT**, was evaluated by fire rescue personnel at the scene of the incident, a breathing tube was inserted into her airway, and she was then transported by ambulance to Lancaster General Hospital.

11. Plaintiff, **DANIELLE BENNETT**, was subsequently transferred from Lancaster General Hospital to the Nathan Spear Regional Burn Treatment Center, located at the Crozer-Chester Medical Center, where she was hospitalized from June 16, 2020 to July 2, 2020.

12. The defective condition of the **PREMISES** existed for a considerable time prior to June 16, 2020, such that the Defendants had actual and/or constructive notice of the defective condition.

13. As a direct result of the negligence of Defendants (more fully hereinafter described) Plaintiff, **DANIELLE BENNETT**, sustained injuries and damages (more fully hereinafter described).

COUNT I

DANIELLE BENNETT VS. DEFENDANTS CARLITO MONTANEZ and
MONTANEZ PROPERTIES, LLC
Negligence

14. Plaintiff, **DANIELLE BENNETT**, incorporates herein by reference all of the averments contained in paragraphs 1 through 13 above as fully as though the same were set forth here at length.

15. The Defendants knew or should have known of the existence of the dangerous and defective condition of the **PREMISES** prior to the date of the Plaintiff's injury, and the Defendants had a duty to correct, remedy, repair, warn about and/or eliminate the said defective condition(s).

16. The carelessness and negligence of each Defendant, by and through their agents, servants, workmen and/or employees, who were acting within the scope of their authority, consisted of the following acts or omissions:

- a. Failing to properly install electrical wiring in the **PREMISES**, thereby posing an unreasonable risk of injury to Plaintiff and other persons lawfully upon the **PREMISES**;
- b. Failing to make a reasonable inspection of the **PREMISES** which would have revealed the existence of the dangerous conditions posed by the wiring in the premises in general, and the wiring in the exhaust fan of the second floor bathroom in particular, thereby allowing the same to be and remain a dangerous condition;
- c. Failing to ensure the electrical wiring in the **PREMISES** was maintained in a safe condition to prevent injury to the Plaintiff and other persons lawfully upon the **PREMISES**;

- d. Failing to provide working or adequate smoke detection devices in the **PREMISES**;
- e. Failing to properly inspect, service, and maintain smoke detection devices in the **PREMISES**;
- f. Failing to provide working or adequate fire alarms in the **PREMISES**;
- g. Failing to properly inspect, service, or maintain fire alarms in the **PREMISES**;
- h. Failing to provide working or adequate sprinkler systems or fire suppression systems in the **PREMISES**;
- i. Failing to properly inspect, service, or maintain sprinkler systems or fire suppression systems in the **PREMISES**;
- j. Failing to select and hire competent employees and/or contractors to maintain and/or repair the **PREMISES**;
- k. Failing to correct and/or repair the defective conditions in the **PREMISES** in a manner which would protect and safeguard persons lawfully occupying the **PREMISES**;
- l. Creating and/or allowing the aforesaid defective conditions to continue to exist, so as to constitute a menace, danger, nuisance, trap and/or hazard to the Plaintiff and other persons lawfully occupying the **PREMISES**;
- m. Operating a rooming house in the **PREMISES** in violation of local codes and ordinances; and,
- n. Violating the building codes, statutes, and ordinances applicable to the **PREMISES**;

17. As a direct result of the aforesaid negligence of the Defendants, Plaintiff **DANIELLE BENNETT** suffered severe and permanent injuries, including but not limited to: thermal inhalation injury; smoke inhalation; pneumonia; lung infection; right elbow fracture; acute deep venous thrombosis; inhalation injury with upper airway edema and elevated carboxyhemoglobin; leukocytosis; upper airway stridor with copious secretions; soot from fire in the airway; lower and upper airway injury due to smoke and hot air inhalation; sore throat; anxiety; agitation; and aggravation of pre-existing conditions; severe shock to the nerves and nervous system; and, she was or may have been otherwise injured, whereby Plaintiff has suffered and may continue to suffer in the future.

18. Plaintiff, **DANIELLE BENNETT**, believes and therefore avers that her injuries are serious and permanent in nature.

19. As a direct result of the aforesaid negligence of the Defendants, Plaintiff, **DANIELLE BENNETT**, has been compelled, in order to effectuate a cure for her aforesaid injuries, to expend sums of money for medicine and medical attention, and may be required to expend additional sums for the same purposes in the future.

20. As a direct result of the aforesaid negligence of the Defendants, Plaintiff, **DANIELLE BENNETT**, has been prevented from attending to her usual activities and duties, and may be so prevented for an indefinite time in the future, all to her great detriment and loss.

21. As a direct result of the aforesaid negligence of the Defendants, Plaintiff, **DANIELLE BENNETT**, has suffered physical pain and mental anguish and humiliation and she may continue to suffer same for an indefinite period of time in the future.

22. As a direct result of the aforesaid negligence of the Defendants, Plaintiff,

DANIELLE BENNETT, has suffered damage to, and/or the loss of, items of her personal property.

WHEREFORE, Plaintiff, DANIELLE BENNETT, demands damages of the Defendants, CARLITO MONTANEZ and MONTANEZ PROPERTIES, LLC, individually, jointly, and/or severally, in a sum in excess of FIFTY THOUSAND (\$50,000.00) DOLLARS plus costs.

JEFFREY R. LESSIN & ASSOCIATES, P.C.

BY: Jeffrey R. Lessin
JEFFREY R. LESSIN, ESQUIRE
MARK T. RICHTER, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

Danielle Bennett , state that I am the Plaintiff in this matter and that the statements made in the foregoing Civil Action Complaint are true and correct to the best of my knowledge, information and belief; and that this statement is made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Danielle bennett

10-09-2017 17:22:17

Daniell Bennett

Supreme Court of Pennsylvania

Court of Common Pleas

Civil Cover Sheet

LANCASTER

County

ENTERED AND FILED
PROTHONOTARY'S OFFICE

LANCASTER, PA	
For Prothonotary Use Only *** Electronically Filed ***	
Jan 31 2022 10:20AM	
Docket No.	Kape Poudye

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A	Commencement of Action:			
	<input checked="" type="checkbox"/> Complaint	<input type="checkbox"/> Writ of Summons	<input type="checkbox"/> Petition	
	<input type="checkbox"/> Transfer from Another Jurisdiction		<input type="checkbox"/> Declaration of Taking	
	Lead Plaintiff's Name: Danielle Bennett		Lead Defendant's Name: Carlito Montanez, et al.	
	Are money damages requested? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Dollar Amount Requested: (check one) <input type="checkbox"/> within arbitration limits <input checked="" type="checkbox"/> outside arbitration limits	
SECTION B	Is this a <i>Class Action Suit</i> ? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Is this an <i>MDJ Appeal</i> ? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	Name of Plaintiff/Appellant's Attorney: JEFFREY R. LESSIN, ESQUIRE			
	<input type="checkbox"/> Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)			

SECTION C	Nature of the Case: Place an "X" to the left of the <u>ONE</u> case category that most accurately describes your PRIMARY CASE . If you are making more than one type of claim, check the one that you consider most important.		
	TORT (do not include Mass Tort) <input type="checkbox"/> Intentional <input type="checkbox"/> Malicious Prosecution <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Nuisance <input checked="" type="checkbox"/> Premises Liability <input type="checkbox"/> Product Liability (does not include mass tort) <input type="checkbox"/> Slander/Libel/ Defamation <input type="checkbox"/> Other:	CONTRACT (do not include Judgments) <input type="checkbox"/> Buyer Plaintiff <input type="checkbox"/> Debt Collection: Credit Card <input type="checkbox"/> Debt Collection: Other <input type="checkbox"/> Employment Dispute: Discrimination <input type="checkbox"/> Employment Dispute: Other <input type="checkbox"/> Other:	CIVIL APPEALS Administrative Agencies <input type="checkbox"/> Board of Assessment <input type="checkbox"/> Board of Elections <input type="checkbox"/> Dept. of Transportation <input type="checkbox"/> Statutory Appeal: Other <input type="checkbox"/> Zoning Board <input type="checkbox"/> Other:
	MASS TORT <input type="checkbox"/> Asbestos <input type="checkbox"/> Tobacco <input type="checkbox"/> Toxic Tort - DES <input type="checkbox"/> Toxic Tort - Implant <input type="checkbox"/> Toxic Waste <input type="checkbox"/> Other:	REAL PROPERTY <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Ground Rent <input type="checkbox"/> Landlord/Tenant Dispute <input type="checkbox"/> Mortgage Foreclosure: Residential <input type="checkbox"/> Mortgage Foreclosure: Commercial <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Other:	MISCELLANEOUS <input type="checkbox"/> Common Law/Statutory Arbitration <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Mandamus <input type="checkbox"/> Non-Domestic Relations <input type="checkbox"/> Restraining Order <input type="checkbox"/> Quo Warranto <input type="checkbox"/> Replevin <input type="checkbox"/> Other:
	PROFESSIONAL LIABILITY <input type="checkbox"/> Dental <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional:		