

STATE OF INDIANA)
)
COUNTY OF PORTER)

IN THE PORTER SUPERIOR COURT
SITTING AT VALPARAISO, INDIANA

JOSHUA J. COOPER b/n/f
JAMES E. COOPER and SHANNON
COOPER, Parents and Natural
Guardians and Individually,

PLAINTIFFS,

-vs-

64D02-9505-CT-1078

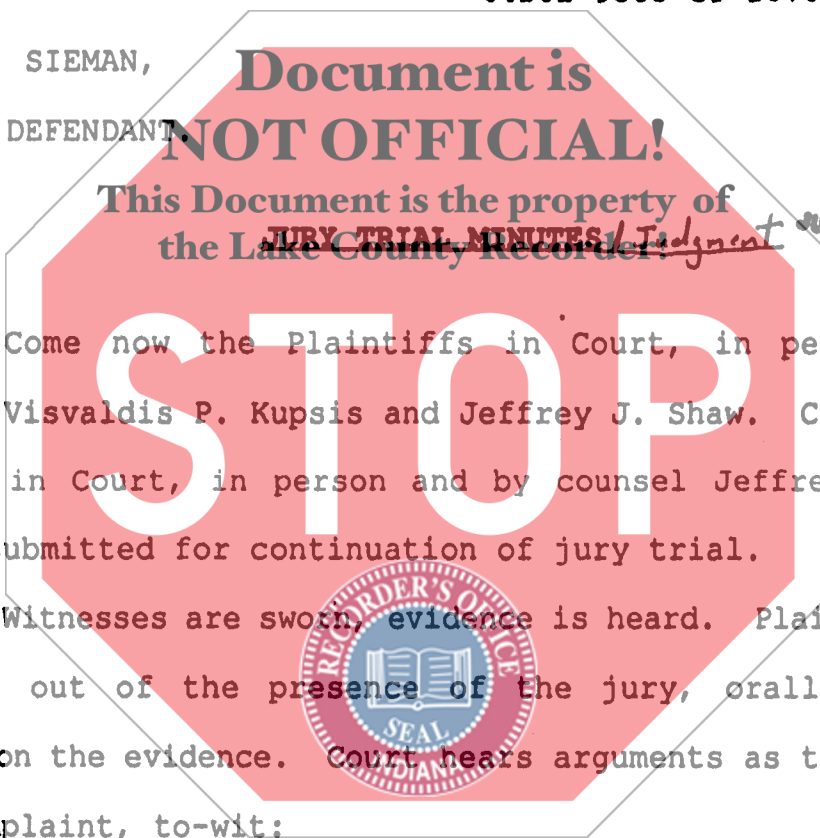
TIMOTHY C. SIEMAN,

DEFENDANT.

FILED
IN OPEN COURT

SEP 26 1996

John W. Williams
JUDGE PORTER SUPERIOR COURT



Come now the Plaintiffs in Court, in person and by counsel, Visvaldis P. Kupsis and Jeffrey J. Shaw. Comes now the Defendant in Court, in person and by counsel Jeffrey S. Sturm. Cause is submitted for continuation of jury trial.

Witnesses are sworn, evidence is heard. Plaintiff rests. Defendant, out of the presence of the jury, orally moves for judgement on the evidence. Court hears arguments as to each Count of the Complaint, to-wit:

COUNT I: NEGLIGENCE - Arguments. Motion is denied.

COUNT II: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS Arguments. Motion is denied.

COUNT III: NEGLIGENCE (LATENT DEFECTS) - Arguments. Plaintiff agrees to merge this Count with Count I.

COUNT IV: NEGLIGENCE (RES IPSA LOQUITUR) - Arguments. Court reserves ruling on this issue.

COUNT V: NEGLIGENCE (STRICT LIABILITY) - Arguments. Motion is

96068080

96 OCT 11 PM 3:44

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

EMMA RENE CLEVELAND
RECORDER

1500

#1467

Vis Kupsis
6286 Central Ave. Portage 46368

granted.

COUNT VI: NEGLIGENCE (PER SE) - Plaintiff agrees. Motion is granted.

COUNT VII: BREACH OF CONTRACT (IMPLIED WARRANTY OF HABITABILITY) - Arguments. Motion is denied.

Defendant's witnesses and evidence. Defendant rests. No rebuttal evidence. Court now denies Defendant's Motion For Judgment on Count IV. Plaintiff moves to dismiss Count IV of the Complaint. Motion is granted. Plaintiff makes oral Motion for Judgment on the issue of Defendant being a professional landlord. Arguments are heard. Motion is denied. Plaintiff moves for judgment on the issue of privity. Court denies motion. Defendant renews his motion for directed verdict on all Counts previously denied. Court denies motions.

Closing arguments are now made to the jury. Court gives final instructions as follows, to-wit: (H.I.) Indiana Pattern Jury Instructions Nos. 9.03, 1.05, 1.09, 3.05, 3.13, 3.15, 3.17, 3.31, 3.33, 4.01, 4.02, 4.03, 4.04, 5.01, 5.03, 5.06, 5.25, 5.41, 25.31 modified, 25.33 modified; also Plaintiff proposed Nos. 1, 2, 5, 7 as modified and 8; also Defendant's proposed Nos. 7, 9 and 10; also Court's Instruction No. 1.

Court reads and submits Comparative Fault Calculations Form along with four possible Verdicts. Deliberations are commenced and concluded. Jury now returns into open Court with the following verdicts, to-wit: (H.I.)

"COMPARATIVE FAULT CALCULATIONS FORM"

If you find the Defendant is not at fault, you should proceed to Verdict Form "B" which should be signed and dated by the jury Foreperson.

If you find the Defendant was at fault, you should attribute fault as follows:

Percentage of fault attributable to defendant	<u>55 %</u>
Percentage of fault attributable to plaintiff	<u>45 %</u>
James E. Cooper and SHANNON Cooper, Parents	= <u>100%</u>

If you found that the plaintiff parents' fault, if any, was more than fifty percent (50%) of the total fault involved in the incident that proximately caused the plaintiff's injuries, you are to find that the defendant is not liable to the plaintiff parents. You should proceed to Verdict Form "B" which should be dated and signed by the jury Foreperson.

However, if you found that the plaintiff parents' fault, if any, was fifty (50%) or less than the total fault involved in the incident that proximately caused the plaintiff parents' injuries, and you found any percentage of fault was attributable to the defendant, you are to find the defendant liable to the plaintiff parents. You should proceed to Verdict Form "A" which should be dated and signed by the jury foreman.

(SIGNED) JOE WALKER, FOREPERSON

DATE: September 26, 1996"

and,

"VERDICT FOR PLAINTIFF JOSHUA J. COOPER"

We, the Jury, find against the Defendant and on behalf of Joshua J. Cooper and assess Joshua J. Cooper's damages in the sum of (\$525,000.00) Five Hundred Twenty Five Thousand and Zero Cents.

(SIGNED) JOE WALKER, FOREPERSON

DATE: September 26, 1996"

and,

"VERDICT FORM "A"

We, the Jury, find against the Defendant and in favor of the Plaintiff Parents and assess damages in the sum of Sixty four Thousand and no cents (\$64,000.00).

(SIGNED) JOE WALKER, FOREPERSON

DATE: September 26, 1996"

Parties request the jury to be polled. Bailiff polls jury. Court enters judgment on the verdicts as rendered. Costs versus Defendant. Jury is now released and discharged.

ALL OF WHICH IS ORDERED, ADJUDGED AND DECREED BY THE COURT THIS 26TH DAY OF SEPTEMBER, 1996.



CC: KUPSIS/SHAW - STURM

REPORTER: LINDA DIAZ

IN TESTIMONY, that the foregoing is a true copy taken from the records of Porter Circuit/Superior Court, I, Douglas W. Olson, Clerk thereof set my hand and affix Seal of Said Court.
This 10-10-96
[Signature] CLERK
CIRCUIT/SUPERIOR COURTS COUNTY OF PORTER, INDIANA
By *[Signature]* Deputy Clerk

