

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

THOMAS PETRUZZELLA and
JUDY PETRUZZELLA

Plaintiff's

vs.

CHURCH ON THE ROCK OF PALM COAST, INC.

Defendant.

CASE NO:

2012 CA 000923

IN THE OFFICE
CLERK OF COURT
FLAGLER COUNTY, FLA.
2012 JUN 25 PM 2:48
BY
PAPER NO.

COMPLAINT AND DEMAND FOR JURY TRIAL JURISDICTION AND VENUE

1. This action alleges damages in excess of \$15,000.00 exclusive of interest, costs and fees.
2. At all times relevant to this complaint, THOMAS PETRUZZELLA (PLAINTIFF, ”), was a resident of Flagler County, Florida.
3. All times relevant to this complaint, CHURCH ON THE ROCK OF PALM COAST, INC. (“DEFENDANT”) did business in Flagler County, Florida.
4. The actions that gave rise to this complaint occurred in Flagler County, Florida.

FACTUAL ALLEGATIONS

5. PLAINTIFF, THOMAS PETRUZZELLA is an active member of CHURCH ON THE ROCK OF PALM COAST, INC., the DEFENDANT.
6. PLAINTIFF, THOMAS PETRUZZELLA began volunteering for the DEFENDANT to play drums in or about 2009 for Defendant’s choir.
7. The majority of the drum set was owned by the DEFENDANT and some pieces were owned by PLAINTIFF, THOMAS PETRUZZELLA.

8. The stage the musicians performed upon was owned by the DEFENDANT.
9. The DEFENDANT accepted and approved the design of the stage prior to its construction.
10. The DEFENDANT determined the layout of the stage.
11. There was no railing around the stage to prevent someone from falling off. There was only one handrail near each set of stairs to enter or exit the stage.
12. The wiring, cords, electrical, public address system and instrument cords were not secured to the stage nor was any affordable device used to cover these items to prevent trip and fall accidents, prior to PLAINTIFF, THOMAS PETRUZZELLA's accident .
13. The majority of the volunteers who provided the music for the DEFENDANT were in the age range of fifty (50) to seventy (70) years old.
14. On or about the evening of May 24, 2011 PLAINTIFF, THOMAS PETRUZZELLA was on the stage at choir practice at the DEFENDANT playing drums. He got up to exit the stage to get some water.
15. PLAINTIFF, THOMAS PETRUZZELLA tripped on unsecured cords and fell approximately three (3) feet or more off of the stage onto a commercially carpeted, concrete floor.
16. PLAINTIFF, THOMAS PETRUZZELLA was fifty-three (53) years old at the time of his trip and fall incident.
17. After PLAINTIFF, THOMAS PETRUZZELLA's trip and fall incident, the DEFENDANT began to tape wires to the stage to secure the wires to the stage floor and then completely redesigned the stage layout to secure wires and cords with boxes and rubber mats to cover them. Additionally, the Defendant changed the location of instruments, amplifiers and monitors.

18. On or about May 25, 2011, PLAINTIFF, THOMAS PETRUZZELLA was taken to Florida Hospital Flagler in extreme pain in his right hip and pain in his right elbow and neck.
19. PLAINTIFF, THOMAS PETRUZZELLA was given a CT scan of his pelvis which revealed a comminuted fracture involving the roof of the right acetabulum extending posteriorly.
20. PLAINTIFF, THOMAS PETRUZZELLA was stabilized and sent by ambulance to Halifax Medical Center.
21. PLAINTIFF, THOMAS PETRUZZELLA was kept stabilized while undergoing tests in preparation for surgery the following day.
22. Dr. Todd A. McCall, an Orthopedic Surgeon, evaluated PLAINTIFF, THOMAS PETRUZZELLA and discussed surgery with him and his wife, Judy, (JUDY PETRUZZELLA, PLAINTIFF). PLAINTIFF, THOMAS PETRUZZELLA had surgery on May 26, 2011.
23. Dr. McCall visualized a large posterior wall fragment. Two Synthes spring plates were placed over the large fragment and screws were placed over the plate. Another plate was placed to apply added compression to the fracture. Several screws were used to stabilize the three plates.
24. As a result of the trip and fall incident and subsequent surgery, PLAINTIFF, THOMAS PETRUZZELLA sustained permanent scarring and disfigurement.
25. On or about May 27, 2011, PLAINTIFF, THOMAS PETRUZZELLA began physical therapy at Halifax Health Rehabilitation Department.
26. PLAINTIFF, THOMAS PETRUZZELLA was discharged from Halifax Medical Center on May 30, 2011 and transferred to Grand Oaks Health and Rehab Center by ambulance.

27. PLAINTIFF, THOMAS PETRUZZELLA remained at Grand Oaks Health and Rehab Center for three (3) weeks.
28. On or about June 20, 2011, PLAINTIFF, THOMAS PETRUZZELLA was discharged from Grand Oaks Health and Rehab Center to return to his home.
29. PLAINTIFF, THOMAS PETRUZZELLA required medical equipment at home including a hospital bed, rolling walker, trapeze bar, commode and a reclining wheel chair.
30. PLAINTIFF, THOMAS PETRUZZELLA continued rehabilitation at home through Grand Oaks Health and Rehab Center who provided home visits by a registered nurse, physical therapist, occupational therapist and a home health aide.
31. PLAINTIFF, THOMAS PETRUZZELLA continued to have pain in his neck and developed headaches. He went to Dr. William Kuhn and had an MRI of his neck.
32. When PLAINTIFF, THOMAS PETRUZZELLA became able, on or about September 26, 2011, he began physical therapy with Affordable Health Center, Inc..
33. PLAINTIFF, THOMAS PETRUZZELLA has reached maximum medical improvement and has a permanent impairment as a proximate result of this trip and fall incident according to his treating physician.
34. PLAINTIFF, THOMAS PETRUZZELLA's total medical expenses for treatment for his injuries proximately caused by this incident are approximately eighty thousand dollars (\$80,000.00).
35. As a result of PLAINTIFF, THOMAS PETRUZZELLA's injuries, his wife JUDY PETRUZZELLA, PLAINTIFF has lost the consortium of her husband, Tom.

COUNT I

**PLAINTIFF, THOMAS PETRUZZELLA'S CLAIM FOR NEGLIGENCE BY
DEFENDANT FOR FAILURE TO MAINTAIN ITS PREMISES IN A REASONABLY
SAFE CONDITION**

36. Plaintiffs restate and reallege the factual allegations in paragraphs five (5) through thirty-five (35).
37. Defendant knew of the dangerous condition of the wires and cords on its stage which were not secured or covered and presented a trip and fall hazard to those using the stage.
38. PLAINTIFF, THOMAS PETRUZZELLA was an invitee of Defendant at the time of the incident which caused him personal injury.
39. Defendant had the ability to cost effectively maintain its stage in a reasonably safe condition exercising reasonable care but failed to do so.
40. Defendant breached its duty of reasonable care to maintain its stage in a reasonably safe condition to prevent trip and fall accidents.
41. Defendant's breach of the duty to maintain its stage in a reasonably safe condition was the proximate cause of the PLAINTIFF, THOMAS PETRUZZELLA's injuries.
42. Plaintiff's injuries and disfigurement are permanent.

WHEREFORE, Plaintiff, THOMAS PETRUZZELLA requests judgment against Defendant for economic damages, emotional distress and pain and suffering damages, pre-judgment and post-judgment interests and taxable costs.

COUNT II

**PLAINTIFF THOMAS PETRUZZELLA'S CLAIM FOR NEGLIGENCE BY THE
DEFENDANT FOR NEGLIGENTLY FAILING TO CORRECT A DANGEROUS
CONDITION WHICH DEFENDANT EITHER KNEW OR SHOULD HAVE KNOWN
ABOUT BY THE USE OF REASONABLE CARE**

43. Plaintiffs restate and reallege the factual allegations in paragraphs five (5) through thirty-five (35).
44. Defendant knew or should have known or should have reasonably anticipated that the unsecured wires and cords on its stage presented a trip and fall hazard, a dangerous condition.
45. PLAINTIFF, THOMAS PETRUZZELLA was an invitee of Defendant at the time of the incident which caused him personal injury.
46. Defendant had the ability to cost effectively correct this dangerous condition through the exercise of reasonable care.
47. Defendant breached its duty of reasonable care to correct a dangerous condition on its stage of loose cords and wires that it knew or should have known about.
48. Defendant's breach of its duty of reasonable care to correct a dangerous condition on its stage was the proximate cause of PLAINTIFF, THOMAS PETRUZZELLA's injuries.
49. Plaintiff, Thomas Petruzzella's injuries and disfigurement are permanent.

WHEREFORE, PLAINTIFF, THOMAS PETRUZZELLA requests judgment against Defendant for economic damages, emotional distress and pain and suffering damages, pre-judgment and post-

judgment interests and taxable costs.

COUNT III

JUDY PETRUZZELLA'S LOSS OF CONSORTIUM CLAIM

50. The Plaintiffs restate and realleges the factual allegations contained in paragraphs 5 through 35.
51. At the time of the trip and fall incident, the Plaintiffs Thomas and Judy Petruzzella were married and continue to be married.
53. That as a proximate result of the negligent acts of the Defendant, the Plaintiff Judy Petruzzella was caused to suffer, and will continue to suffer in the future, loss of consortium.

WHEREFORE, PLAINTIFF, JUDY PETRUZZELLA requests judgment be entered against the Defendant for her loss of consortium damages, pre-judgment and post-judgment interest and taxable costs.

DEMAND FOR JURY TRIAL

The Plaintiffs demand a trial by jury on all issues so triable.

DATED: 6-25-12



FREDERICK C. MORELLO, P.A.
Frederick C. Morello, Esq.
Florida Bar No.: 0714933
111 North Frederick Avenue, 2nd Floor
Daytona Beach, FL 32114
(386) 252-0754
Fax (386) 252-0921
Attorney for Plaintiff