

Jan 26 1980 3 PM

INDEX NO. .... YEAR 19 .....

STATE OF NEW YORK  
SUPREME COURT

County of ONEIDA COURT

**KENNETH P. CIRCELLI,**

Plaintiff,

-vs-

**JOHN IMHOFF and ROSE IMHOFF,**

Defendants.

*aka Williams*  
*Anderrod St. N Y Mills*

**SUMMONS & COMPLAINT**

COPY

**ROBERTS & PRATT**  
Attorneys for **Plaintiff**

Office and Post Office Address  
**10 Steuben Park**  
**UTICA, NEW YORK 13501**  
**(315) 735-2272**

To

Attorney for

Service of a copy of the within

Dated,

is hereby admitted.

*BS*  
*1/13/80*

6. On October 18, 1978, plaintiff, in the course of his employment, with Niagara Mohawk Power Corporation, went to the residence of defendant for the purpose of obtaining utilites meter information. Defendant, Imhoff, had left attached to the door handle of his front door a form containing the meter information. Plaintiff walked up onto the front porch of the Imhoff residence in order to

**FOR YOUR INFORMATION**

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF ONEIDA

KENNETH P. CIRCELLI,

Plaintiff,

AMENDED  
COMPLAINT

vs.

JOHN IMHOFF,

Defendant.

Index No.

Plaintiff, complaining of the defendant, through his attorneys, Roberts and Pratt, herein alleges:

DHE  
1. At all times hereinafter mentioned, plaintiff resides at 10 Glen Street, New Hartford, Oneida County, New York.

2. Upon information and belief, defendant, John Imhoff, is also known as John Imhoff, Jr., and said defendant resides at Henderson Street, Whitesboro, Oneida County, New York.

3. Upon information and belief, said defendant is the owner of the property where he resides, having been deeded the property by deed dated July 21, 1970, and recorded in the office of the County Clerk in Book of Deeds 1916 at Page 450.

4. Upon information and belief, said defendant purchases from Niagara Mohawk Power Corporation, utilities service.

DHE  
5. Plaintiff is regularly employed by Niagara Mohawk Power Corporation, and on October 18, 1978, was employed by such corporation as a "meter reader".

DHE  
6. On October 18, 1978, plaintiff, in the course of his employment, with Niagara Mohawk Power Corporation, went to the residence of defendant for the purpose of obtaining utilities meter information. Defendant, Imhoff, had left attached to the door handle of his front door a form containing the meter information. Plaintiff walked up onto the front porch of the Imhoff residence in order to

FOR YOUR INFORMATION

retrieve the form. At such time and place, the floor of the porch collapsed, causing plaintiff to fall.

D  
D  
D  
7. Said porch upon defendant's house was negligently constructed, designed and maintained, and constituted a trap which plaintiff could not reasonably have avoided.

8. As a result of the collapse of the porch and plaintiff's resultant fall, plaintiff was severely and permanently injured.

9. Plaintiff's injuries were brought about solely by reason of the negligence of the defendant, with no negligence on his part contributing thereto.

WHEREFORE, plaintiff demands judgment against the defendant in the amount of Two Hundred Thousand and no/100 (\$200,000.00) Dollars, together with the costs and disbursements of this action.

ROBERTS AND PRATT  
Attorneys for Plaintiff  
Office and P. O. Address:  
10 Steuben Park  
Utica, New York 13501  
Telephone: (315) 735-2272

**JAMES E. FEY**  
ATTORNEY AT LAW  
1211 THE BANKERS TRUST BUILDING  
185 GENESEE STREET  
UTICA, NEW YORK 13501  
797-7400

May 6, 1980

John Imhoff  
4950 Henderson St.  
Whitesboro, New York

Re: Circelli v. Imhoff

Dear Sir:

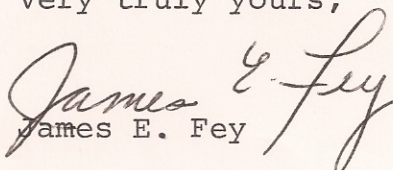
This is to advise that the undersigned attorney has been retained by the Allstate Insurance Company to defend you in the lawsuit brought against you by Kenneth Circelli.

This is to advise you that an examination before trial of the above entitled lawsuit is scheduled for Tuesday, May 13, 1980 in our offices, *at 1:30 P.M.*

It will be necessary for you to appear at the office and testify on such date. To confirm the above date, kindly call the undersigned at 797-7400 upon receipt of this letter.

Also, on the day of the scheduled examination, before you leave your home or place of employment, please call my office to verify that the examination will be heard as scheduled. We attempt to call if it is postponed but sometimes we are unable to reach our clients causing inconvenience.

Very truly yours,

  
James E. Fey

JEF:rlp  
Enc.

February 11, 1980

ROBERTS & PRATT, ESQS.  
Attorneys at Law  
10 Steuben Park  
Utica, New York 13501

Re: Circelli v. Imhoff

Dear Sir:

Enclosed herewith find copy of answer and demand  
for a verified bill of particulars on behalf of the  
defendant in the above matter.

Very truly yours,

James E. Fey

JEF:rlp  
Enc.

cc: John Imhoff

FOR YOUR INFORMATION

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF ONEIDA

KENNETH P. CIRCELLI,

Plaintiff,

-against-

JOHN IMHOFF and ROSE IMHOFF,

Defendants.

The defendant, John Imhoff, answering plaintiff's complaint, herein alleges:

FIRST: DENIES any knowledge or information sufficient to form a belief as to the allegations contained in paragraphs designated "1", "6" and "7" of plaintiff's complaint, and therefore DENIES same.

SECOND: DENIES the allegations contained in paragraphs designated "3", "4", "5", "8", "9" and "10" of plaintiff's complaint, insofar as they apply to the defendant, John Imhoff.

AS AND FOR AN AFFIRMATIVE DEFENSE

THIRD: Plaintiff was contributory negligent and assumed the risk for the accident and resulting injuries.

WHEREFORE, defendant, John Imhoff, demands judgment dismissing plaintiff's complaint herein together with the costs and disbursements of this action, or in the alternative that the amount of damages be diminished in proportion to the culpable conduct attributable to plaintiff or defendant.

JAMES E. FEY  
Attorney for Defendant, John Imhoff  
Office & P.O. Address  
1211 Bankers Trust Bldg.  
Utica, New York 13501  
Phone: 315-797-7400

TO: ROBERTS & PRATT  
Attorneys for Plaintiff  
Office & P.O. Address  
10 Steuben Park  
Utica, New York 13501

STATE OF NEW YORK  
SUPREME COURT

COUNTY OF ONEIDA

KENNETH P. CIRCELLI,

Plaintiff,

February 12, 1940 -against-

Your DEMAND FOR BILL OF  
PARTICULARS

JOHN IMHOFF and ROSE IMHOFF,

ROBERTS & PRATT  
Attorneys for Plaintiff  
Office & P.O. Address

Defendant.  
Attorney for Defendant  
JOHN IMHOFF

10 Stauben Park  
Utica, New York 13501

Office & P.O. Address  
1211 First National Bank Bldg.  
Utica, New York 13501  
13501

S I R :

PLEASE TAKE NOTICE, that the defendant, John Imhoff, hereby demands that you serve upon his attorney within ten days after the date of service hereof, a verified bill of particulars of the claim of plaintiff, specifying and stating the following:

1. A statement showing specifically the date, time and location of the incident alleged in the complaint.
2. A statement showing each act or omission to act on the part of the said defendant which the plaintiff will claim constituted negligence.
3. The particular statutes of the State of New York and ordinances, together with the sections and subdivision numbers thereof which the plaintiff will claim were violated by the said defendant.
4. A particular description of each and every injury sustained by each plaintiff, together with the nature, extent, location and duration thereof.
5. A particular description of each and every permanent injury sustained by each plaintiff, together with the nature and extent thereof.
6. The length of time of confinement of each plaintiff to a hospital, to bed at home, and to the home.
7. The nature of each plaintiff's usual occupation; the time during which each plaintiff was unable to follow such, together with an itemized statement covering all loss of earnings and dates thereof, and the name and address of employer.
8. An itemized statement of all sums expended or amounts incurred for (1) medical attendance; (2) medicine; (3) hospital; (4) nurses; (5) any other expenses.
9. In what respect and the extent that further sums will be expended in the future for the aforesaid items.
10. Any other items of loss or damage with which each plaintiff will seek to charge the said defendant upon the trial of this action.



Dated: February 12, 1980

Yours, etc.,

TO: ROBERTS & PRATT  
Attorneys for Plaintiff  
Office & P.O. Address  
10 Steuben Park  
Utica, New York 13501

JAMES E. FEY  
Attorney for Defendant  
John Imhoff  
Office & P.O. Address  
1211 First National Bank Bldg.  
Utica, New York 13501  
Phone: 315-797-7400