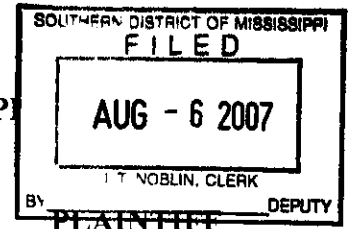


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION



MEGAN DURR

VS.

CIVIL ACTION NO. 3:07cv455736-JS

MBS CONSTRUCTION CORPORATION

DEFENDANT

COMPLAINT

Trial by Jury Requested

Comes now the Plaintiff, Megan Durr, and files this, her Complaint against the Defendant, MBS Construction ("MBS"), and in support thereof would respectfully show unto the Court the following facts to-wit:

PARTIES

1. Plaintiff, Megan Durr, is an adult resident citizen of Hinds County, Mississippi.
2. Defendant, MBS Construction, is a foreign business corporation believed to be organized and existing under the laws of the State of Texas and licensed to do business in the State of Texas. Process may be served in this cause on the Defendant by serving it personally or via certified mail at its principle place of business located at 1315 Highway 1187, Mansfield, Texas 76063.

JURISDICTION AND VENUE

3. This Court holds actual jurisdiction under provisions of 28 U.S.C. section 1332, since this action is a controversy wholly between citizens of different states, and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs. Since the incident occurred in

the State of Mississippi the substantive law of the State of Mississippi shall apply.

4. This Court holds in personam jurisdiction over the Defendants pursuant to Mississippi Code section 13-3-57-service on nonresidents, and Fed.R.Civ.P. Rule 4.

FACTS

5. At all pertinent times, the Defendant held a contract to perform work in Hinds County at the Target Department store located at 6365 I-55 North, Jackson Mississippi. At all pertinent times the Plaintiff was working as an employee of the Target Stores. Pursuant to agreement, MBS was performing construction work for Target. That theretofore on or about August 26, 2004, plaintiff was removing shoes from a wall shelving unit at the Target store located at 6365 I-55 North, Jackson, Mississippi 39213 when suddenly, carelessly, recklessly, negligently, and without warning, defendant caused wall next to plaintiff to fall or collapse onto plaintiff.

6. That as a direct proximate result of the careless, reckless, and negligent acts of the Defendant, MBS, the Plaintiff was caused to be thrown to the floor and was caused to suffer serious and permanent injuries to her person. The Plaintiff would show that she suffered injuries to her back, right arm, and hands, along with injury to her skeletal system, muscular system, and nervous system, including persisting headaches.

7. Plaintiff would show that she has had to be treated by doctors and other practitioners and has been caused to suffer great pain, severe shock, and intense mental anguish and is expected to suffer more of the same in the future as a result of the injuries she has sustained in this incident. The defendant's negligence has directly caused the plaintiff to have already incurred hospital, medical and drug expenses, and lost wages and she will reasonably expect to incur further such expenses in the future.

NEGLIGENCE OF CONSTRUCTION CREW

8. The plaintiff charges defendant MBS and its construction crew with gross and reckless negligence in failing to keep and maintain proper working conditions; with gross and reckless negligence in failing to keep and maintain standard safety measures; and with gross and reckless negligence in removing or disassembling the wall as to indicate a willful and wanton disregard for the safety of others; with general negligence for failing to warn plaintiff of the hazards in the area created by the defendants; failure to secure a work cite; failure to secure the work area to protect non-workers; failure in acting negligently while tearing down or deconstruction a wall. Plaintiff charges that as a direct and proximate result of the multiple acts of gross and reckless negligence of the construction crew operating on behalf of MBS, she was caused to suffer the aforesaid injuries and damages.

NEGLIGENCE OF MBS CONSTRUCTION

9. Plaintiff further charges that all of the aforesaid negligence of the construction crew is directly imputed to the defendant, MBS Construction, because the construction crew was employed by MBS Construction and was then, and at all times complained of, comprised of agents, employees, and servants of the aforesaid MBS Construction and was acting in the furtherance of the business of the aforesaid MBS Construction and within the course and scope of their employment. Plaintiff further charges the defendant, MBS Construction, with negligently failing to supervise its employees; failing to provide proper safety training courses to its employees; failing to instruct its employees on safe practices; failing to stress safe construction and work habits to its employees; and encouraging the employees' unsafe working

habits to further its cause. Plaintiff alleges that the negligent acts of MBS Construction and its construction crew were the direct and proximate causes of her injuries.

DAMAGES

10. As a proximate result of the negligence alleged above, the plaintiff, Megan Durr, has suffered damages, including but not limited to, past pain, suffering and mental anguish, accrued medical expenses, lost earnings, travel expenses, and other damages totaling to date \$29,998.81. Plaintiff, Megan Durr, reasonably anticipates future damages, proximately caused by said negligence of defendants, including future medical expenses, future pain, suffering and mental anguish, future lost earnings, permanent physical impairment, permanent disfigurement, future travel expenses, and other damages.

CLAIMS FOR RELIEF

11. Plaintiff adopts by reference the foregoing paragraphs.

12. The Defendant owed the Plaintiff a duty of ordinary care to provide reasonable safety precautions and safe employees to protect Plaintiff from foreseeable injury.

13. The Defendant breached said duty owed to Plaintiff and was negligent by failing to provide reasonable safety measures, maintain a safe work area, and for failing to protect the physical safety of Plaintiff, and by failing to hire properly trained, safe, and competent employees, who then failed to act in a safe and prudent manner.

14. The Defendant knew or should have known that reasonable safety measures and actions were needed for the MBS Construction project and that the measures provided and actions of its employees were unreasonable and inadequate.

15. Plaintiff's injuries were proximately caused by the negligent and grossly negligent acts and/or omissions of the Defendant or its agents or employees acting in the course and scope of their employment, making the Defendant liable under the doctrine of respondent superior.

16. The severe injury occurred as a result and proximate consequence of the Defendant's negligence, breach of duty of care, and failure to warn of foreseeable dangerous conditions. Plaintiff Megan Durr is entitled to all damages of every type and variety permitted by law, including but not limited to, hospital bills, medical bills, diagnostic charges, surgery charges, therapy charges, and lost wages.

WHEREFORE, PREMISES CONSIDERED, Plaintiff sues and demands judgment of and from the defendant, MBS Construction, and requests this Honorable Court award damages against the defendant to the plaintiff for accrued and future medical expenses, past and future pain, suffering and mental anguish, past and future lost earnings, permanent physical impairment, permanent disfigurement, past and future travel expenses, and other damages both general and specific, in an amount to be determined by a jury, reasonably believed to be in excess of this Court's jurisdictional minimum. Plaintiff further prays for punitive damages due to the willful, wanton, and grossly negligent actions of the defendant and plaintiff prays for general relief along with all attorneys' fees, cost and expenses incurred in bringing this action.

This the 6th day of August, 2007.

Respectfully Submitted,
MEGAN DURR

By: 
J. Ashley Ogden

OF COUNSEL:

J. ASHLEY OGDEN, MSB #9842
OGDEN & ASSOCIATES, PLLC
500 East Capitol Street, Suite 3
Jackson, Mississippi 39201
Telephone: (601) 969-0999
Facsimile: (601) 969-0089
ATTORNEY FOR PLAINTIFF