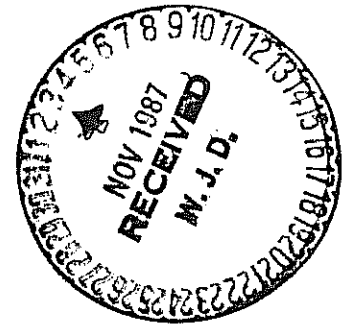


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Attorneys for

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

BOB D. JOY and KRISTINE L. JOY, )  
husband and wife, )

NO.: 44771

Plaintiffs, )

Division 2

vs. )

JOINT PRETRIAL STATEMENT

MIKE HODGES, et ux., et al., )

Defendants. )

Pursuant to Rule IV, Uniform Rules of Practice, the parties submit the following Pretrial Statement:

1. The following uncontested facts are deemed material:

a. On or about January 23, 1984, Plaintiff, Robert (Bob) Joy, went to work for his employer, Lokken Construction Company, at the Midas Muffler Shop construction site at 1243 Iron Springs Road, Prescott, Arizona;

b. At approximately 10:00 a.m. as Plaintiff Joy was working atop a rolling scaffold grouting the top of a block wall, the scaffold toppled to the ground. Plaintiff Joy suffered injuries in the fall.

c. Plaintiff Joy was an employee of Lokken Construction Company which was a subcontractor of the general

1 contractor, Partridge Enterprises, Inc. J.D. Kaufman was an  
2 employee of Partridge and was the superintendant of the job.  
3 Mike Hodges was the grout pumper sent to the job by Tim Yarbrough,  
4 owner of Tim's Concrete Pumping; Jim Higgs was an employee of  
5 Concrete Service.

6 d. The concrete floor of the Midas Muffler Shop  
7 contained a hole for the hydraulic lift equipment which had not  
8 been installed at the time of the accident.

9 2. Parties agree that the following contested issues  
10 of fact and law are material or applicable:

11 a. Whether Defendants were negligent;

12 b. Whether Plaintiff, Kristine Joy, suffered any loss  
13 of consortium or other damages as a result of the injuries sustained  
14 by Plaintiff, Robert Joy;

15 c. Whether the negligence of Defendants, if any,  
16 was a proximate cause of any injuries suffered by Plaintiffs,  
17 Robert Joy and Kristine Joy;

18 d. What is the extent of and value of the damages  
19 sustained by Plaintiffs, to the present and in the future, if any,  
20 as a proximate result of the negligence of Defendants, if any;

21 e. Was Mike Hodges a servant of any Defendant at  
22 the time of the accident?

23 3. Plaintiff believes that the following issues of law  
24 are material:

25 a. Issues of law:

26 i. This case is controlled by the 1984

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1 Arizona Comparative Fault and Contribution Statute.

2 b. Issues of fact:

3 i. J.D. Kaufman agreed to pay and did pay  
4 Mike Hodges for pushing the rolling scaffold which fell.

5 ii. Jim Higgs and Mike Hodges pushed the rolling  
6 scaffold to a point at which it toppled.

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12 4. Defendant believes that the following issues are  
13 material:

14 a. Issues of law: None.

15 b. Issues of fact:

16 i. The percentage fault of: Hodges, Kevin Long,  
17 Jim Higgs, Dave Ziesel, Plaintiff Robert Joy, Defendants, Four  
18 Seasons Rental, Halford Construction, Concrete Services Company;

19 ii. Whether Plaintiff, Robert Joy's, negligence  
20 was a proximate cause of any injury suffered by Plaintiffs,  
21 Robert Joy and Kristine Joy;

22 iii. Whether Plaintiff, Robert Joy, assumed the  
23 risks involved in working and riding the scaffolding;

24 iv. Whether Mike Hodges was a borrowed servant  
25 not in the employ of Defendants at the time of the incident;

26 v. Whether Partridge Construction retained

1 control over the method and manner of grouting;

2 VI. Whether Partridge Construction warned  
3 Lokken of the lift hole.

4 5. The parties intend to use the following witnesses  
5 at trial:

6 a. Plaintiffs' witnesses and Defendants' objections:

7 Robert Joy

8 Kristine Joy

9 Scott Joy

10 All Defendants

11 Mike Hodges

12 Dr. Edward Campbell

13 Dr. John Bennan

14 Dr. Larry Stokes, Economist

15 Richard Prestwood, Vocational Expert

16 Dave Ziesel

17 Jim Higgs

18 Kevin Long

19 Danny Watson

20 Jenney Collier, Physical Therapist

21 Jay Wilkinsen - OBJECTION - Cumulative, Rule 403;

22 Alan Sherman - OBJECTION - Cumulative, Rule 403;

23 Heidi Sherman - OBJECTION - Cumulative, Rule 403;

24 Ron Krebs - OBJECTION - Cumulative, Rule 403;

25 Jan Krebs - OBJECTION - Cumulative, Rule 403;

26 Sammey Aten

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Rick Lokken

Darl Boudrie - OBJECTION - not produced,  
relevance

Dan Horton, Safety Expert - OBJECTION - not  
produced, relevance

Vaughn Adams, Safety Expert - OBJECTION - not  
produced, relevance

Custodian of medical records and other records  
as necessary

All witnesses named by Defendants

b. Defendants' witnesses:

William Partridge

Mike Hodges

Jim Higgs

Michael Schlener

Dave Ziesel

Robert Joy

↓ David Beatty

↓ Dr. Michael J. Powers

↓ Thomas Mitchell

↓ Ralph Buehler

Kevin Long

Stan Peters - OBJECTION - not previously  
disclosed

↓ Dr. Richard C. Christensen

Danny Watson

↓ Rick Lokken

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6. The parties intend to use the following exhibits at trial:
- a. Plaintiffs' exhibits and Defendants' objections:
- All Plaintiff's medical bills and records since ~~January, 1981.~~
- OBJECTION: Foundation, relevancy.
- All depositions;
- OBJECTION: Hearsay.
- All Defendants' Answers to Interrogatories;
- OBJECTION: Hearsay.
- Video deposition of Dr. Campbell;
- Photographs of the floor of the Midas Muffler Shop and the building;
- Analysis of Economic Loss by Dr. Larry Stokes;
- OBJECTION: Hearsay.
- Income tax returns for the years 1981 to 1985 for Robert and Kristine Joy;
- OBJECTION: Relevancy.
- Witness statements from Mike Hodges and Jim Higgs;
- OBJECTION: Hearsay, foundation, relevancy.
- All exhibits listed by Defendants;
- A model of the building to be prepared from the plans to be produced by Defendant;
- OBJECTION: Not produced, relevancy, Rule 403.

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