



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

MICHELE OLIVER, an individual, : JURY TRIAL DEMANDED
and GARY F. OLIVER, an individual, :
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 Plaintiffs, :
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 v. : C.A. No.: S21C-08-
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 HOLIDAY INN EXPRESS, :
 DELAWARE ELEVATOR, INC. :
 AND LEWES FIRE DEPARTMENT a/k/a :
 LEWES FIRE DEPARTMENT, :
 INCOPORATED :
 :
 :
 Defendants :

COMPLAINT

1. Plaintiff Michele Oliver is a resident of the State of Pennsylvania residing at 201 Charles Road, Muncy, PA 17756.

2. Plaintiff Gary F. Oliver is a resident of the State of Pennsylvania residing at 201 Charles Road, Muncy, PA 17756.

3. Defendant Holiday Inn Express is a company doing business at 18438 Kates Lane, Rehoboth Beach, DE 19971.

4. Defendant Delaware Elevator, Inc., is a company doing business at 2210 Allen Drive, Salisbury, MD 21801, with a registered agent for service listed as Registered Agent Solutions, Inc., located at 838 Walker Road, Suite 21-2, Dover, Delaware 19904.

5. Defendant, Lewes Fire Department a/k/a Lewes Fire Department, Incorporated, is a company doing business at 347 Savannah Road, Lewes, DE 19958.

6. Plaintiffs demand that the Defendants deny the allegations contained in paragraphs 3, 4 and 5, if untrue, by Affidavit in accordance with the provisions of 10 Del.C. §3914 and §3915.

7. On or about March 27, 2021, Plaintiff Michele Oliver and Plaintiff Gary F. Oliver were staying at the Holiday Inn Express as business invitees/patrons/visitors.

8. On or about March 27, 2021, one of the elevators malfunctioned, individuals were trapped in the elevator, and Defendants, Fire Department and Delaware Elevator, Inc. were called out to assist.

9. During this time frame, Ms. Oliver was advised that the other elevator was operational and when Ms. Oliver began to step into the elevator, she was caused to fall as the elevator floor was not level with the hotel lobby floor.

10. Upon information and belief, Defendant Delaware Elevator, Inc. was responsible for the installation and the maintenance of the elevators.

11. Plaintiff Michele Oliver subsequently stumbled and fell into the elevator and sustained the serious injuries hereinafter set forth.

COUNT I- AS TO DEFENDANT, HOLIDAY INN EXPRESS

12. Plaintiffs hereby adopt and incorporate all the foregoing allegations contained in this Complaint as if the same were fully set forth herein.

13. The Defendant Holiday Inn Express was responsible for the safety and wellbeing of their patrons/invitees. It owed Plaintiffs and others the duty to maintain the premises in a reasonable and safe condition, and to take reasonable steps to make the premises safe, including the area at issue here, and not to cause harm to the Plaintiffs through their own misfeasance and improper acts and/or omissions.

14. Plaintiff Michele Oliver's fall was proximately caused by the negligence of the defendants, their agents, servants and/or employees, in that they:

a. failed to maintain the floor of the premises in a condition that is safe for customers;

- b. breached its duty to maintain the floors in a safe condition for Plaintiffs and its other patrons;
- c. failed to take reasonable actions to correct and/or eliminate the dangerous conditions existing on the premises;
- d. failed to have the premises inspected and/or maintained sufficiently to eliminate the aforesaid dangerous conditions;
- e. failed to warn the Plaintiffs of the aforesaid dangerous condition, having actual or constructive knowledge thereof, when all defendants knew or should have expected that its customers, such as the Plaintiffs, and other persons lawfully on the premises would not discover or realize the dangerous condition or would fail to protect themselves against it;
- f. failed to adequately and properly supervise, control and oversee the maintenance and upkeep of the area in question.

15. Defendant owed the Plaintiff Michele Oliver the duty to use reasonable care in providing a safe environment and failed to warn Plaintiffs and others similarly situated of a dangerous condition.

16. Defendant was negligent in that it failed to warn Plaintiff Michele Oliver that the elevators were or should have been placed out of service at the time of the incident with one of the elevators.

17. Defendant was negligent in breaching the duties described in the foregoing paragraph and in related ways.

18. As a direct and proximate result of this negligence of Defendants, Plaintiff Michele Oliver sustained injuries herein.

COUNT II – AS TO DELAWARE ELEVATOR, INC.

19. Plaintiffs hereby adopt and incorporate all the foregoing allegations contained in this Complaint as if the same were fully set forth herein.

20. Defendant, as the installer and contractor for repairs of the elevators at the Holiday Inn Express, owed a duty to patrons/visitors/business invitees, including the Plaintiffs, to maintain and properly repair in a reasonable and safe condition, and to take reasonable steps to make the premises safe, including the area at issue here, and not to cause to the Plaintiffs through its own misfeasance and improper acts and or omissions.

21. Plaintiff Michele Oliver's fall was proximately caused by the negligence of the defendant, its agents, servants, and or/employees, in that they:

- a. failed to properly install the elevators on the premises in a condition that was safe for visitors;
- b. failed to repair the elevators on the premises in a condition that was safe for visitors;
- c. breached its duty to properly fix the elevators in a safe condition for the Plaintiffs and others;
- d. failed to take reasonable actions to correct and or/eliminate the dangerous conditions;
- e. failed to sufficiently eliminate the aforesaid dangerous conditions;
- f. failed to warn the Plaintiff of the aforesaid dangerous condition, having actual or constructive knowledge thereof, when Defendant knew or should have expected that Plaintiff Michele Oliver and others lawfully on the premises would not discover or realize the dangerous condition or would fail to protect themselves against it;

g. failed to adequately and properly supervise, control and oversee the maintenance and upkeep of the area in question.

22. Defendant owed the Plaintiffs the duty to use reasonable care in providing a safe environment and failed to warn Plaintiffs and other similarly situated of a dangerous condition.

23. Defendant was negligent in that it improperly constructed, installed, maintained and repaired the elevators at the Holiday Inn Express making a dangerous condition for individuals at the Holiday Inn Express.

24. Defendant was negligent in that it failed to warn Plaintiff Michele Oliver that the elevators were or should have been placed out of service at the time of the incident.

25. Defendant was negligent in breaching the duties described in the foregoing paragraph and in related ways.

26. As a direct and proximate result of this negligence of Defendant, Plaintiff Michele Oliver sustained the injuries hereinafter set forth.

COUNT III – AS TO LEWES FIRE DEPARTMENT a/k/a

LEWES FIRE DEPARTMENT, INCORPORATED

27. Plaintiffs hereby adopt and incorporate all the foregoing allegations contained in this Complaint as if the same were fully set forth herein.

28. The Defendant Lewes Fire Department responded to a call for an elevator with trapped passengers on March 27, 2021, in one of the elevators at Defendant Holiday Inn Express.

29. Defendant Lewes Fire Company was at the time of the occurrence was given permission and access by Defendant, Holiday Inn Express to operate the elevators in order to evacuate the entrapped patrons/visors of the Holiday Inn Express and had a duty to maintain the elevators and the premises where they were working in a in a reasonable and safe condition, and

to take reasonable steps to make the premises safe, including the area at issue here, and not to cause harm to the Plaintiffs through their own misfeasance and improper acts and/or omissions.

30. Plaintiff Michele Oliver's fall was proximately caused by the negligence of the defendants, their agents, servants and/or employees, in that they:

a. failed to maintain the elevators on the premises in a condition that is safe for customers;

b. breached its duty to maintain the elevators in a safe condition for Plaintiffs and its other patrons;

c. failed to take reasonable actions to correct and/or eliminate the dangerous conditions existing on the premises;

d. failed to have the premises inspected and/or maintained sufficiently to eliminate the aforesaid dangerous conditions;

e. failed to warn the Plaintiffs of the aforesaid dangerous condition, having actual or constructive knowledge thereof, when all defendants knew or should have expected that its customers, such as the Plaintiffs, and other persons lawfully on the premises would not discover or realize the dangerous condition or would fail to protect themselves against it;

f. failed to adequately and properly supervise, control and oversee the maintenance and upkeep of the area in question.

31. Defendant owed the Plaintiffs the duty to use reasonable care in providing a safe environment and failed to warn Plaintiffs and others similarly situated of a dangerous condition.

32. Defendant was negligent in that it failed to warn Plaintiff Michele Oliver that the elevators were or should have been placed out of service at the time of the incident.

33. Defendant were negligent in breaching the duties described in the foregoing paragraph and in related ways.

34. As a direct and proximate result of this negligence of Defendants, Plaintiff Michele Oliver sustained injuries herein.

35. Plaintiffs hereby adopt and incorporate all the foregoing allegations contained in this Complaint as if the same were fully set forth herein.

COURT IV – AS TO DAMAGES TO MICHELE OLIVER

36. Plaintiffs hereby adopt and incorporate all the foregoing allegations contained in this Complaint as if the same were fully set forth herein.

37. As a proximate result of the defendant's negligence, Plaintiff Michele Oliver suffered from injuries including, but not limited to, her neck, back, left shoulder/surgeries, trapezius, left leg/knee/foot, left hip, right hip, right knee, hands/fingers and headaches. Said injuries have resulted in chronic pain and disability which have continued since the accident and may be permanent in nature.

38. As a consequence of her injuries, Plaintiff Michele Oliver has received in the past, and will continue to incur in the future, wage loss and medical expenses for the treatment of her injuries

39. As a further consequence of her injuries, Plaintiff Michele Oliver has experienced in the past, and will experience in the future, considerable pain, suffering, discomfort, anxiety and anguish, both mental and physical in nature.

COUNT V - LOSS OF CONSORTIUM
(AGAINST ALL DEFENDANTS)

40. Plaintiffs hereby adopts and reincorporates all the preceding allegations as though they are fully set forth herein.

41. At all times relevant, Plaintiff Michele Oliver was married to Plaintiff Gary F. Oliver.

42. Because of the actions of Defendants as recounted above, Gary F. Oliver was deprived of the companionship and services of his wife, Michele Oliver.

WHEREFORE Plaintiffs respectfully requests this Court:

- A. Enter judgment in their favor jointly and severally against Defendants;
- B. Award them special damages as they can prove;
- C. Award them compensatory damages;
- D. Award them punitive damages as appropriate;
- E. Award them pre- and post-judgment interest;
- F. Award them costs of the action; and
- G. Grant such other relief as the Court deems appropriate.

WHEREFORE, Plaintiffs request that judgment be entered in favor of Plaintiffs and against the Defendants, along with special damages, compensatory damages, interest, and costs of this action.

JACOBS & CRUMLAR, P.A.

By: /s/ David T. Crumplar, Esq.
David T. Crumplar, Esq. (#5876)
28412 Dupont Blvd., Suite 104
Millsboro, DE 19966
(302) 934-1234
Attorney for Plaintiffs

Date: March 23, 2023