

JASON GRAMMES and JEANINE	:	IN THE COURT OF COMMON PLEAS
GRAMMES, f/k/a JEANINE FIDLER,	:	OF BERKS COUNTY, PENNSYLVANIA
Plaintiffs	:	
	:	CIVIL ACTION - LAW
vs.	:	
	:	NO. 04-
CONRAD MAULFAIR and	:	
COLEEN MAULFAIR, t/a MAULFAIR	:	ASSIGNED TO: _____, J.
MEDICAL CENTER,	:	
Defendants	:	

COMPLAINT

1. The amount in controversy, exclusive of interest and costs, exceeds Fifty Thousand Dollars (\$50,000.00).

2. Plaintiffs Jason Grammes and Jeanine Grammes, f/k/a Jeanine Fidler, are adult individuals residing at 19 Smith Street, Longswamp Township, Berks County, Pennsylvania 19539.

3. Defendants Conrad Maulfair and Coleen Maulfair, t/a Maulfair Medical Center, are adult individuals having a place of business located at 403 North Main Street, Topton, Berks County, Pennsylvania 19562.

4. On or about July 14, 2003, Plaintiffs and Defendants entered into a certain Commercial Lease (“Commercial Lease”), whereby Plaintiffs agreed to lease a portion of the first floor of the building owned by the Defendants and located at 403 North Main Street, Topton, Berks County, Pennsylvania 19562, more fully described in the Commercial Lease (“Premises”). A true and correct copy of the Commercial Lease is attached hereto as Exhibit “A” and incorporated herein by reference.

5. Plaintiffs were the owners of, and operated, a restaurant known as Café del Giardino at the Premises.

6. During October, 2003, Plaintiffs and Defendants were negotiating for the Plaintiffs to lease additional space from the Defendants in the building where the Premises was located, for the expansion of the Plaintiffs' restaurant business.

7. Those negotiations included the Defendants financing the Plaintiffs' expansion of the restaurant business, in the form of an Eighty Thousand Dollar (\$80,000.00) loan.

8. In fact, the negotiations were such that the Plaintiffs were actually obtaining quotes from contractors to renovate the building to create additional space for the Plaintiffs' restaurant business.

9. During those negotiations, Defendant Coleen Maulfair, on behalf of the Defendants, informed the Plaintiffs that because the Plaintiffs were going to lease additional space from the Defendants, which would require the expansion of the Premises, with Defendants providing the financing for the expansion, that Plaintiffs did not need to make their rental payment for November, 2003.

10. Plaintiffs relied on this statement made on behalf of the Defendants by Defendant Coleen Maulfair, and did not pay the rent for the month of November, 2003, even though they were ready, willing and able to do so upon the request of the Defendants.

11. Consistent with the misrepresentation of Defendant Coleen Maulfair (on behalf of the Defendants) to the Plaintiffs, Defendants never requested the Plaintiffs' rent for the month of November, 2003.

12. Instead, Defendants used Plaintiffs' reliance on Defendant Coleen Maulfair's misrepresentation (on behalf of the Defendants) with respect to the November, 2003 rent as the basis for claiming that the Plaintiffs were delinquent on their rent obligations, and in breach of the Commercial Lease.

13. In violation of the terms and conditions of the Commercial Lease, and Pennsylvania law, Defendants used self-help measures to take possession of, and remove the Plaintiffs from, the Premises on or about November 11, 2003.

14. The self-help measures used by the Defendants to take possession of, and remove the Plaintiffs from, the Premises included changing the locks to the Premises, failing to provide Plaintiffs with keys to those new locks, and denying Plaintiffs access to the Premises so that they could operate their business.

15. Defendants failed to use any lawful measures, or legal process, to remove Plaintiffs from, and take possession of, the Premises.

16. As a direct result of Defendants' unlawful actions, Plaintiffs were unable to access the Premises on or after November 11, 2003, and as such, could no longer operate their business at the Premises.

17. Upon information and belief, Defendants committed the unlawful actions more fully described above against the Plaintiffs, because they had entered into, or were about to enter into, a separate lease agreement with a third party for the Premises, and that said third party is now ready to operate a restaurant business at the Premises.

18. As a direct result of the unlawful actions of the Defendants in denying Plaintiffs access to the Premises in order to operate their restaurant business, Plaintiffs have been damaged as follows:

- a. Loss of their investment in the business known as Café del Giardino, in the amount of One Hundred Fifteen Thousand Dollars (\$115,000.00);
- b. Loss of perishable and non-perishable food and supplies, in the amount of approximately Four Thousand Five Hundred Dollars (\$4,500.00);
- c. Loss of their leasehold interest in the Premises in the amount of Twenty-one Thousand Ten Dollars (\$21,010.00);
- d. Lost reservations for the restaurant business in the amount of approximately Five Hundred Seventy-five Dollars (\$575.00);
- e. Reimbursement for benefits paid to their employees in the amount of approximately Three Thousand Dollars (\$3,000.00);
- f. Reimbursement for gift certificates in the amount of Three Hundred Seventy-five Dollars (\$375.00);
- g. Loss of prepaid advertising in the amount of approximately One Thousand One Hundred Fifty Dollars (\$1,150.00);
- h. Loss of property improvements made to the Premises in the amount of approximately One Thousand Eight Hundred Fifty Dollars (\$1,850.00);
- i. Expense for the removal of personal property from the Premises after they were denied access to operate their business, in the amount of approximately One Hundred Dollars (\$100.00); and

j. Lost profits in the amount of approximately Three Hundred Thousand Dollars (\$300,000.00).

COUNT I - BREACH OF CONTRACT

19. Paragraphs 1 through 18 are incorporated herein by reference in their entirety.

20. Pursuant to the terms and conditions of the Commercial Lease, Plaintiffs were entitled to the quiet and peaceful enjoyment of the Premises for the term of the Commercial Lease, so long as they complied with its terms.

21. Defendants breached the Commercial Lease when they unlawfully used self-help measures to evict the Plaintiffs from the Premises, and prevented the Plaintiffs from the quiet and peaceful enjoyment of the Premises.

22. Plaintiffs fully complied with all of the terms and conditions of the Commercial Lease, up until the Defendants' material breach of same.

23. As a direct result of the Defendants' material breach of the Commercial Lease, Plaintiffs sustained the itemized damages set forth in Paragraph 18 above, which is incorporated herein by reference in its entirety.

WHEREFORE, Plaintiffs respectfully request this Court to enter judgment in their favor, and against Defendants, jointly and severally, in the amount of Four Hundred Forty-seven Thousand Five Hundred Sixty Dollars (\$447,560.00), plus interest and costs.

COUNT II - FRAUDULENT MISREPRESENTATION

24. Paragraphs 1 through 23 are incorporated herein by reference in their entirety.

25. On behalf of the Defendants, Defendant Coleen Maulfair fraudulently misrepresented to the Plaintiffs that they did not need to pay their rent for the month of November, 2003, in light of the negotiations by and between the parties with respect to the expansion of the Plaintiffs' business at the Premises.

26. The fraudulent misrepresentation set forth in Paragraphs 9 and 25 above made on behalf of the Defendants by Defendant Coleen Maulfair to Plaintiffs was material to the transaction in question, and was made on behalf of the Defendants by Defendant Coleen Maulfair with knowledge that it was false, or with recklessness as to whether it was true or false.

27. Further, the fraudulent misrepresentation set forth in Paragraphs 9 and 25 above made on behalf of the Defendants by Defendant Coleen Maulfair to Plaintiffs was done so with the intent of misleading the Plaintiffs into relying on that misrepresentation.

28. Being that the Defendants were the landlords for the Premises, and Plaintiffs were not, Plaintiffs were justified in relying on the fraudulent misrepresentation made to them on behalf of the Defendants by Defendant Coleen Maulfair.

29. As a direct result of their justifiable reliance on the fraudulent misrepresentation made on behalf of the Defendants by Defendant Coleen Maulfair, Plaintiffs sustained the itemized damages set forth in Paragraph 18 above, which is incorporated herein by reference in its entirety.

30. Defendants' conduct in making the fraudulent misrepresentation set forth in Paragraphs 9 and 25 above was willful, wanton and outrageous, entitling Plaintiffs to punitive damages.

WHEREFORE, Plaintiffs respectfully request this Court to enter judgment in their favor, and against Defendants, jointly and severally, in the amount of Four Hundred Forty-seven Thousand Five Hundred Sixty Dollars (\$447,560.00), plus punitive damages, interest and costs.

COUNT III - NEGLIGENT MISREPRESENTATION

31. Paragraphs 1 through 30 are incorporated herein by reference in their entirety.

32. In the alternative, on behalf of the Defendants, Defendant Coleen Maulfair negligently misrepresented to the Plaintiffs that they did not need to pay their rent for the month of November, 2003, in light of the negotiations by and between the parties with respect to the expansion of the Plaintiffs' business at the Premises.

33. The negligent misrepresentation set forth in Paragraphs 9 and 32 above made on behalf of the Defendants by Defendant Coleen Maulfair to Plaintiffs was material to the transactions in question.

34. On behalf of the Defendants, Defendant Coleen Maulfair made the negligent misrepresentation to Plaintiffs set forth in Paragraphs 9 and 32 above without knowledge of its truth or falsity, or in the alternative, should have known that said misrepresentation was false.

35. On behalf of the Defendants, Defendant Coleen Maulfair made the negligent misrepresentation to Plaintiffs set forth in Paragraphs 9 and 32 above with the intent to induce the Plaintiffs to rely on said misrepresentation, and to continue to pursue the transactions in question.

36. Being that the Defendants were the landlords for the Premises, and the Plaintiffs were not, Plaintiffs were justified in relying upon the negligent misrepresentation made to them on behalf of the Defendants by Defendant Coleen Maulfair.

37. As a direct result of their justifiable reliance on the negligent misrepresentation made to them on behalf of the Defendants by Defendant Coleen Maulfair, as more fully set forth in Paragraphs 9 and 32 above, Plaintiffs sustained the itemized damages set forth in Paragraph 18 above, which is incorporated herein by reference in its entirety.

WHEREFORE, Plaintiffs respectfully request this Court to enter judgment in their favor, and against Defendants, jointly and severally, in the amount of Four Hundred Forty-seven Thousand Five Hundred Sixty Dollars (\$447,560.00), plus interest and costs.

COUNT IV - INTENTIONAL INTERFERENCE WITH EXISTING AND PROSPECTIVE CONTRACTUAL/BUSINESS RELATIONS

38. Paragraphs 1 through 37 are incorporated herein by reference in their entirety.

39. In operating their restaurant business at the Premises, Plaintiffs had entered into contractual relationships with each of the customers that had purchased gift certificates and/or made reservations, and those contractual relationships were existing at the time that Defendants unlawfully took possession of, and removed Plaintiffs from, the Premises on or about November 11, 2003.

40. Further, given the state of the operations of the Plaintiffs' restaurant business at the time of the Defendants' unlawful actions, Plaintiffs would have entered into numerous additional contractual relationships with their customers, as actual patrons of the business, and/or to purchase gift certificates for use at the Premises, but for the Defendants' unlawful actions.

41. The purpose of the Defendants' unlawful actions was to interfere with the existing contractual relationships of the Plaintiffs and their customers, and to prevent the prospective contractual relationships of the Plaintiffs and their customers from occurring.

42. The Defendants' unlawful actions against the Plaintiffs were taken without privilege or justification.

43. As a direct result of the Defendants' unlawful actions in taking possession of, and removing the Plaintiffs from, the Premises, Plaintiffs sustained the itemized damages set forth in Paragraph 18 above, which is incorporated herein by reference in its entirety.

44. Defendants' unlawful conduct in taking possession of, and removing the Plaintiffs from, the Premises was willful, wanton and outrageous, entitling Plaintiffs to punitive damages.

WHEREFORE, Plaintiffs respectfully request this Court to enter judgment in their favor, and against Defendants, jointly and severally, in the amount of Four Hundred Forty-seven Thousand Five Hundred Sixty Dollars (\$447,560.00), plus punitive damages, interest and costs.

COUNT V - CIVIL CONSPIRACY

45. Paragraphs 1 through 44 are incorporated herein by reference in their entirety.

46. Plaintiffs believe, and therefore aver, that the Defendants acted in concert when they used self-help measures to take possession of, and remove the Plaintiffs from, the Premises on or about November 11, 2003.

47. Defendants' actions in using self-help measures to take possession of, and remove the Plaintiffs from, the Premises were unlawful.

48. Plaintiffs believe, and therefore aver, that Defendants took those unlawful actions with malice aforethought, and intended to injure the Plaintiffs by preventing them access to the Premises, and therefore, the operation of their business.

49. As a direct result of the Defendants' unlawful actions, Plaintiffs sustained the itemized damages set forth in Paragraph 18 above, which is incorporated herein by reference in its entirety.

50. Defendants' unlawful actions more fully set forth above were willful, wanton and outrageous, done with malice aforethought, and intended to injure the Plaintiffs, entitling Plaintiffs to punitive damages.

WHEREFORE, Plaintiffs respectfully request this Court to enter judgment in their favor, and against Defendants, jointly and severally, in the amount of Four Hundred Forty-seven Thousand Five Hundred Sixty Dollars (\$447,560.00), plus punitive damages, interest and costs.

Respectfully submitted,

BARLEY SNYDER

By: _____

Michael P. Giles, Esquire
Attorney for Plaintiffs
P.O. Box 942, 501 Washington Street
Reading, PA 19603-0942
(610) 376-6651
I.D. No. 57230

Exhibit "A"

VERIFICATION

Jason Grammes verifies that he is Plaintiff in the within matter, that the facts set forth in the within Complaint are true and correct to the best of his knowledge, information and belief. He understands that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

Date: _____

VERIFICATION

Jeanine Grammes, f/k/a Jeanine Fidler, verifies that she is Plaintiff in the within matter, that the facts set forth in the within Complaint are true and correct to the best of her knowledge, information and belief. She understands that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

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NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYERS' REFERRAL SERVICE OF
THE BERKS COUNTY BAR ASSOCIATION
544 COURT STREET
READING, PENNSYLVANIA 19601
TELEPHONE NO. (610) 375-4591