

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

DAVID HENRY SWABEY,

Plaintiff,

v.

CONSTABLE ROBERT A. STALEY, JR.,
ROUTE 40 AGGREGATES & FEED, AND
BILL NICHOLS, INDIVIDUALLY,

Defendants.

CIVIL DIVISION

CASE NO. _____

COMPLAINT

FILED ON BEHALF OF PLAINTIFF:
DAVID HENRY SWABEY

COUNSEL OF RECORD FOR THIS
PARTY:

CHRISTI WALLACE
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NOTICE TO DEFEND

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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.**

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LAWYER REFERRAL SERVICE – Washington County Bar Association

Contact information: 724.225.6710

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NOW COMES Plaintiff, David Henry Swabey, by and through his attorney, Christi Wallace, Esq., and files this Complaint alleging as follows:

Parties

1. Plaintiff, David Henry Swabey (hereinafter “Mr. Swabey”), is an adult individual residing at 813 Hill Street, PO Box 113, Labelle, PA 15450 in Fayette County, Commonwealth of Pennsylvania.
2. Defendant, Constable Robert A. Staley, Jr., (hereinafter “Constable Staley”), is a registered Constable for Washington County, Commonwealth of Pennsylvania, residing at 144 Spring Street, Coal Center, PA 15423.
3. Defendant, Route 40 Aggregates & Feed (hereinafter “Aggregates & Feed”), is a business located in Washington County at 800 National Pike West, Brownsville, PA 15417.
4. Defendant, Mr. Nichols (hereinafter “Mr. Nichols”), is owner of Route 40 Aggregates & Feed located at 800 National Pike West, Brownsville, PA 15417.

Facts

5. On April 25, 2013, Constable Staley arrived at Mr. Swabey's house to issue a bench warrant.
6. Constable Staley handcuffed Mr. Swabey.
7. Mr. Swabey was taken before Judge Joshua Kanalis at the Washington County Court of Common Pleas.
8. When Mr. Swabey was before Judge Joshua Kanalis, Constable Staley attempted to remove Mr. Swabey's handcuffs but was unable to using the key assigned to the handcuffs.
9. In an attempt to remove the handcuffs, Constable Staley took Mr. Swabey to Aggregates & Feed, a local store.
10. The owner of Aggregates & Feed, Mr. Nichols, assisted Constable Staley in removing Mr. Swabey's handcuffs.
11. Constable Staley unsuccessfully tried to remove Mr. Swabey's handcuffs using a bolt cutter.
12. Mr. Swabey was not physically hurt by this attempt to remove the handcuffs.
13. Constable Staley unsuccessfully tried to remove Mr. Swabey's handcuffs using a rebar cutter.
14. Mr. Swabey was not physically hurt by this attempt to remove the handcuffs.
15. Constable Staley then proceeded to use a four-inch angle grinder (hereinafter "grinder") to remove Mr. Swabey's handcuffs.
16. Mr. Swabey has been an ironworker for 10 years and told the Constable Staley that it was a bad idea to use the grinder.

17. Constable Staley paid no attention to Mr. Swabey's warning and proceeded to remove the handcuffs using the grinder.
18. Constable Staley placed a piece of wood underneath Mr. Swabey's hands and began to grind the handcuffs.
19. The grinder produced a lot of heat causing the metal handcuffs to overheat and burn Mr. Swabey's wrists.
20. As Constable Staley was using the grinder, Mr. Swabey was yelling "stop, you're burning me!"
21. Constable Staley continued to grind and instructed Mr. Nichols' wife to pour cold water onto the handcuffs in an attempt to prevent the metal from overheating.
22. The metal from the handcuffs continued to overheat and eventually fused with Mr. Swabey's wrists and burnt his skin. Exhibit A.

Count I
NEGLIGENCE

23. The preceding paragraphs 1-22 are incorporated herein.
24. Constable Staley, in carrying out his official duties as Constable, was negligent in the following ways:
 - a. Using a set of defective handcuffs that could not be unlocked;
 - b. Attempting to remove Mr. Swabey's handcuffs with the grinder, an unreasonably dangerous device not suited for such a purpose; and
 - c. Continuing to use the grinder after numerous complaints from Mr. Swabey that the grinder was causing the metal handcuffs to overheat and burn his wrists.
25. Mr. Nichols, in carrying out his duty as owner of Aggregates & Feed, was negligent in the following ways:

- a. Allowing Constable Staley to use a grinder from Aggregates & Feed to remove Mr. Swabey's handcuffs;
 - b. Assisting Constable Staley in using the grinder, an unreasonably dangerous device not suited for such a purpose, to remove Mr. Swabey's handcuffs although it was foreseeable it would cause injury to Mr. Swabey; and
 - c. Failing to stop the handcuff removal process after it became clear that the grinder was causing the metal handcuffs to overheat and burn Mr. Swabey's wrists.
26. Mr. Nichols, as an individual person, was negligent in the following ways:
- a. Assisting Constable Staley in using the grinder to remove Mr. Swabey's handcuffs although it was foreseeable it would cause injury to Mr. Swabey; and
 - b. Failing to stop the handcuff removal process after it became clear that the grinder was causing the metal handcuffs to overheat and burn Mr. Swabey's wrists.
27. As a direct and proximate result of the Constable Staley and Mr. Nichol's actions, Mr. Swabey suffered burns to his wrists and has permanent damage. Exhibit A.

Count II
ASSAULT AND BATTERY

28. The preceding paragraphs 1-27 are incorporated herein.
29. Constable Staley, with the assistance of Mr. Nichols, intentionally used a grinder to remove Mr. Swabey's handcuffs.
30. Mr. Swabey has been an ironworker for 10 years and knew it was a bad idea to use a grinder to remove his handcuffs.
31. As a result, Mr. Swabey knew he was going to incur injury before the grinder came into contact with his handcuffs.

32. Mr. Swabey warned Constable Staley and Mr. Nichols that it was a bad idea to use the grinder.

33. Constable Staley and Mr. Nichols intentionally continued to use the grinder knowing harm was substantially certain to occur.

34. Once the grinder came into contact with the metal handcuffs, it produced a lot of heat causing the handcuffs to overheat and burn Mr. Swabey's wrists.

35. As a direct and proximate result of using the grinder, Mr. Swabey suffered severe burns to his wrists. Exhibit A.

THEREFORE, Plaintiff, David Henry Swabey, respectfully requests this Honorable Court to enter judgment in favor of Plaintiff and against Defendants, jointly and severably, including interest, costs, attorneys fees, punitive damages, and all other amounts that the Court deems necessary.

Respectfully submitted,

Christi Wallace, Esq.
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U.S. Steel Building
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Exhibit A

Pictures of Mr. Swabey's injuries

