

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

HOWARD LISTON,
Plaintiff,

v.
**CITIZENS TELECOMMUNICATIONS COMPANY
OF WEST VIRGINIA d/b/a FRONTIER
COMMUNICATIONS OF WEST VIRGINIA,**
a Connecticut corporation,
Defendant.

Case No. 16-C-279

AMENDED COMPLAINT

NOW COMES the Plaintiff, **HOWARD LISTON**, by and through his attorney, **KEVIN T. TIPTON**, and for his Amended Complaint against **CITIZENS TELECOMMUNICATIONS COMPANY OF WEST VIRGINIA D/B/A FRONTIER COMMUNICATIONS OF WEST VIRGINIA**, a Connecticut corporation, hereby states as follows:

PARTIES AND JURISDICTION

1. The Plaintiff, **HOWARD LISTON**, is, and was at all relevant times hereto, a resident of Morgantown, Monongalia County, West Virginia.
2. The Defendant, **CITIZENS TELECOMMUNICATIONS COMPANY OF WEST VIRGINIA D/B/A FRONTIER COMMUNICATIONS OF WEST VIRGINIA** (hereinafter referred to as "FRONTIER"), is, and was at all relevant times hereto, a Connecticut corporation doing business, for profit, in the State of West Virginia.
3. The incident complained of in this Complaint occurred in Morgantown, Monongalia County, West Virginia.

FACTS

4. Plaintiff incorporates each and every allegation contained in Paragraphs 1 through 3 as if fully restated verbatim herein.
5. At a time unknown to the Plaintiff, FRONTIER removed a utility pole adjacent to his rental

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JEAN FRIEND, CLERK

property located on Hite Street in Morgantown, Monongalia County, West Virginia.

6. At the time FRONTIER removed said utility pole, FRONTIER, by and through its employees, cut the pole at or near the level of the sidewalk which runs immediately adjacent to the Plaintiff's rental property.
7. Rather than remove the pole completely and repair the hole, FRONTIER negligently left the bottom portion of the pole in the ground, open to the elements.
8. Over time, water has infiltrated the area where the bottom portion of the utility pole was left, washing away the sediment and soil underneath the sidewalk that runs adjacent to the Plaintiff's rental property.
9. As a direct and proximate result, water has infiltrated the Plaintiff's rental property causing severe structural damage and mold. The infiltration and resulting damage continues at this time.
10. As a direct and proximate result of the structural damage and mold, the Plaintiff's property has been condemned and deemed uninhabitable.
11. FRONTIER's failure to properly and completely remove the utility pole at issue in this litigation was negligent.
12. As a further direct and proximate cause of the aforesaid negligence of FRONTIER, the Plaintiff has suffered and sustained damages and injuries, including, but not limited in any manner to the following: aggravation, annoyance, and inconvenience; substantial property damages, lost income; substantial foreseeable consequential damages; and substantial incidental damages.

WHEREFORE, the Plaintiff, **HOWARD LISTON**, demands judgment against the Defendant **CITIZENS TELECOMMUNICATIONS COMPANY OF WEST VIRGINIA D/B/A FRONTIER COMMUNICATIONS OF WEST VIRGINIA, a Connecticut**

corporation in this matter for all damages sustained as set forth herein, together with pre-judgment and post-judgment interest thereon; punitive damages; for all costs and attorney fees incurred in pursuit of this action to which he is entitled by law; and for such other relief as this Court deems proper.

Plaintiff hereby demands a **TRIAL BY JURY** in this matter.

HOWARD LISTON
Plaintiff, By Counsel




KEVIN T. TIPTON
West Virginia State Bar #8610

TIPTON LAW OFFICES
316 Merchant Street, Suite 100
Fairmont, WV 26554
(304) 366-9900
(304) 366-9902 (fax)

STATE OF WEST VIRGINIA, SS:

I, Jean Friend, Clerk of the Circuit/Family Court of Monongalia County State aforesaid do hereby certify the attached ORDER is a true copy of the original Order made and entered by said Court.



Circuit Clerk

(Amended) CIVIL CASE INFORMATION STATEMENT
(Civil Cases Other than Domestic Relations)**I. CASE STYLE:**Case No. 16-C-279**Plaintiff(s)**

Judge: _____

HOWARD LISTONc/o Tipton Law Offices316 Merchant St, Fairmont, WV 26554

vs.

**Days to
Answer****Type of Service****Defendant(s)**30WVSOSCitizens Telecommunications Comp. d/b/a Frontier

Name

c/o Corporate Service Company

Street Address

209 W. Washington St, Charleston WV 25302

City, State, Zip Code

II. TYPE OF CASE:

- ☒ General Civil
☐ Mass Litigation [As defined in T.C.R. 26.04(a)]
 ☐ Asbestos
 ☐ FELA Asbestos
 ☐ Other: _____
☐ Habeas Corpus/Other Extraordinary Writ
☐ Other: _____

- ☐ Adoption
☐ Administrative Agency Appeal
☐ Civil Appeal from Magistrate Court
☐ Miscellaneous Civil Petition
☐ Mental Hygiene
☐ Guardianship
☐ Medical Malpractice

III. JURY DEMAND: ☒ Yes ☐ No CASE WILL BE READY FOR TRIAL BY (Month/Year): 08 /**IV. DO YOU OR ANY
OF YOUR CLIENTS
OR WITNESSES
IN THIS CASE
REQUIRE SPECIAL
ACCOMMODATIONS?**☒ Yes ☐ No**IF YES, PLEASE SPECIFY:**

- ☐ Wheelchair accessible hearing room and other facilities
☐ Reader or other auxiliary aid for the visually impaired
☒ Interpreter or other auxiliary aid for the deaf and hard of hearing
☐ Spokesperson or other auxiliary aid for the speech impaired
☐ Foreign language interpreter-specify language: _____
☐ Other: _____

Attorney Name: Kevin T. TiptonFirm: Tipton Law OfficesAddress: 316 Merchant Street, Fairmont, WV 26554Telephone: (304) 366-9900

Representing:

- ☒ Plaintiff ☐ Defendant
☐ Cross-Defendant ☐ Cross-Complainant
☐ 3rd-Party Plaintiff ☐ 3rd-Party Defendant

☐ Proceeding Without an Attorney**FILED**Original and 1 copies of complaint enclosed/attached.

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Dated: 08 / 02 / 2016Signature: 

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