

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

HOWARD LISTON,
Plaintiff,

Case No. 16-C-279

v.
FRONTIER WEST VIRGINIA, Inc.,
a Connecticut corporation,
and
T.A. CHAPMAN, INC., a West Virginia
Corporation,
Defendants.

SECOND AMENDED COMPLAINT

NOW COMES the Plaintiff, **HOWARD LISTON**, by and through his attorney, **KEVIN T. TIPTON**, and for his Second Amended Complaint against **FRONTIER WEST VIRGINIA, INC.**, a Connecticut corporation, and **T.A. CHAPMAN, INC.**, a West Virginia 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, **FRONTIER WEST VIRGINIA, INC.** (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. Upon information and belief, Defendant **T.A. CHAPMAN, INC.** (hereinafter referred to as T.A. CHAPMAN) was at all relevant times hereto a West Virginia corporation doing business, for profit, in the State of West Virginia.
4. The incident complained of in this Complaint occurred in Morgantown, Monongalia County, West Virginia.

FACTS

5. Plaintiff incorporates each and every allegation contained in Paragraphs 1 through 4 as if fully

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restated verbatim herein.

6. At a time unknown to the Plaintiff, between 1990 and 1992, FRONTIER removed a utility pole adjacent to his rental property located on Hite Street in Morgantown, Monongalia County, West Virginia.
7. In the alternative, at an exact time unknown to the Plaintiff between 1990 and 1992, FRONTIER hired or otherwise contracted with T.A. CHAPMAN to remove said utility pole.
8. At the time FRONTIER and/or T.A. CHAPMAN removed said utility pole, FRONTIER and/or T.A. CHAPMAN, 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.
9. Rather than remove the pole completely and repair the hole, FRONTIER and/or T.A. CHAPMAN negligently left the bottom portion of the pole in the ground, open to the elements.
10. 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.
11. 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.
12. As a direct and proximate result of the structural damage and mold, the Plaintiff's property has been condemned and deemed uninhabitable.
13. FRONTIER and/or T.A. CHAPMAN's failure to properly and completely remove the utility pole at issue in this litigation was negligent.
14. As a further direct and proximate cause of the aforesaid negligence of FRONTIER and/or T.A. CHAPMAN, 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 Defendants **FRONTIER WEST VIRGINIA, INC.**, a Connecticut corporation, and **T.A. CHAPMAN, INC.** a West Virginia corporation, jointly and severally, 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

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