IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

| | | |
|---|---|---|
| ROBERT NOBLE and<br>MARLO NOBLE, h/w<br>13 Brooklyn Avenue<br>Batavia, NY 14020 | : | |
| | : | NO. |
| v. | : | |
| OUTSIDE INSIGHT, INC.<br>163 Valleyview Drive<br>Exton, PA 19341 | : | JURY TRIAL DEMANDED |

**COMPLAINT**

1. Plaintiffs, Robert and Marlo Noble, h/w, are adult individuals who are citizens and residents of the state of New York residing at the above address.

2. Defendant, Outside Insight, Inc., is a Pennsylvania corporation presently doing business at the above address and having a principal place of business, citizenship and residence at 163 Valleyview Drive, Exton, PA 19341 and registered office at 1128 New Hampshire Lane, Downingtown, PA 19335.

**JURISDICTION AND VENUE**

3. This action is brought in the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C.A. 1332(a)(1) in that the amount of controversy exceeds the value of $75,000.00, exclusive of the interest and costs in the actions between citizens and parties of different states.

4. Venue is appropriate in this judicial district pursuant to 28 U.S.C.A. §1391(a)(1) in that the sole defendant resides within the district and §1391(a)(2) in that a substantial part of the events or omissions giving rise to the claims occurred in this judicial district.

**COUNT I**

5. Plaintiffs incorporate by reference herein Paragraphs 1 through 4 as if same were set forth at length herein.

6. Defendant, Outside Insight, Inc., was at all relevant times engaged in the business of construction, management, project management, enviromental cleanup contracts, and the maintenance and repair of properties, and at all times material hereto was responsible for the construction project at a property otherwise known as 1801 Ridgeview Drive in Coatesville, Pennsylvania.

7. Defendant Outside Insight, Inc., was, at all times, the possessor of such property.

8. Defendant acted and/or failed to act through its employees and agents.

9. On or about October 31, 2008, Robert Noble was lawfully on the premises otherwise known as 1801 Ridgeview Drive in Coatesville, Pennsylvania to recover industrial fans that had been left in the basement.

10. Mr. Noble, who is employed by RestoreCore, was at all relevant times in the course and scope of his employment and was there to remove these fans after hours.

11. At or about the same time, but before Robert Noble arrived at the subject property, Defendant removed the basement stairway from the kitchen and concealed the removal with a black plastic dust barrier that was placed over the open doorway.

12. Plaintiff, Robert Noble, who was unaware that the stairway had been removed from the kitchen doorway, went to step onto the top step and, because the stairway had been removed, fell approximately 8 to 10 feet through the basement opening and onto the basement floor.

13. Outside Insight, Inc. was employed as a subcontractor to perform construction

work and was a possessor of the property and at all times owed a duty to those persons engaged in the performance of their employment, and those on the property, including Plaintiff, to provide a reasonably safe environment, free from unreasonable hazards.

14. Defendant, Outside Insight, Inc., by and through its agents, servants, workmen and/or employees, were careless and negligent in the following:

(a) failing to provide Plaintiff a safe place in which to work;

(b) failing to adequately inspect the construction project for hazardous conditions;

(c) failing to coordinate with other contractors, subcontractors, laborers and workers, including but not limited to, Plaintiff and Plaintiff's employer;

(d) failing to adequately plan, plot and supervise the construction project, particularly the removal of the stairway;

(e) violating applicable OSHA violations, particularly OSHA CFR 1926.501 and 1926.502;

(f) failing to properly train employees;

(g) removing the stairway and then concealing its removal with a black plastic dust barrier, making it impossible for individuals, including Plaintiff, to appreciate that the stairway had been removed from the doorway;

(h) failing to warn Plaintiff of the dangerous and unsafe condition existing on the construction premises, including but not limited to, the removal of the stairway;

(I) concealing the dangerous condition by placing a black plastic dust barrier, so as to conceal that the stairway had been removed;

(j) failing to adopt, enact and enforce proper and adequate safety programs to insure that cautionary procedures, measures and plans were being taken;

(k) violating and failing to comply with federal and state statutes, local ordinances, building code requirements and all other rules, enactments and regulations applicable or in effect, be they administrative, industry-wide or otherwise, pertaining to the performance of construction work;

(l) failing to perform and furnish construction services in conformity with the standard of care then and there prevailing in the construction industry at the time said services were performed and furnished;

(m) failing to exercise reasonable care under all circumstances;

(n) failing to provide and require adequate protection of all unguarded openings;

(o) creating and/or permitting an unprotected edge with a height greater than 6 feet.

15. By reason of the carelessness and negligence of the Defendant as stated above, Plaintiff was caused to suffer severe and serious injuries, including but not limited to, injuries to his neck, back, arms, shoulders, knees, quadricep atrophy, chronic synovitis, chronic pain syndrome, SLAP tear of the shoulder, medial meniscus tear of the knee, avascular necrosis, subchondral edema of the medial plateau, chondromalacia of the patella, cyst formation in the medial tibial plateau, decreased memory, dizziness, blurred vision, traumatic brain injury, brachial plexopathy, cervical radiculopathy, multiple surgeries, extensive hospitalizations, extensive outpatient visits, home care, all of which are permanent and which have resulted in pain, suffering, inconvenience, embarrassment, disfigurement, humiliation, mental anguish, and

the loss of enjoyment of life and life's pleasures.

16. As a direct and proximate result of the aforementioned incident, Plaintiff, Robert Noble, has been required to undergo hospital, medical, surgical and nursing care and treatment and may continue to need such care for the injuries described above, all to his great detriment, financial and otherwise.

17. As a direct and proximate result of the carelessness and negligence as stated above, Plaintiff, Robert Noble, has in the past and may in the future be unable to attend to and perform the duties of his vocation and may suffer loss of earnings and future earning capacity, all to his great detriment, financial and otherwise.

WHEREFORE, Plaintiffs demand judgment against Defendant in an amount in excess of $75,000.00, exclusive of costs, pre-judgment interest and post-judgment interest as the law may allow.

**COUNT II**

18. Plaintiffs incorporate by reference herein Paragraphs 1 through 17 as if same were set forth at length herein.

19. Plaintiff, Marlo Noble, residing at the above address, is the wife of Plaintiff, Robert Noble.

20. Due to the carelessness and negligence of the Defendant, Plaintiff, Marlo Noble, has been deprived of the usual services and consortium of her husband, Robert Noble, all to her great detriment and loss.

WHEREFORE, Plaintiffs demand judgment against Defendant in an amount in excess of $75,000.00, exclusive of costs, pre-judgment interest and post-judgment interest as the law may allow.

**SOLOFF & ZERVANOS, P.C.**

/S/ John N. Zervanos, Esquire

BY:_____
JOHN N. ZERVANOS

1525 Locust Street, Eighth Floor
Philadelphia, PA 19102
(215) 732-2260
(215) 732-2289 (Fax)
Attorney for Plaintiffs

DATED: October 22, 2010

JS 44 (Rev. 12/07)

# CIVIL COVER SHEET

RK

10-CV-5595

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Robert Noble and Marlo Noble, h/w
13 Brooklyn Avenue
Batavia, NY 14020

(b) County of Residence of First Listed Plaintiff Genesee
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
John N. Zervanos, Esquire, Soloff & Zervanos, P.C.
1525 Locust Street, 8th Floor
Philadelphia, PA 19102 - 215-732-2260

## DEFENDANTS

Outsight Insight, Inc.
163 Valleyview Drive
Exton, PA 19341

10 5595

County of Residence of First Listed Defendant Chester
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

| | PTF | DEF | | PTF | DEF |
|---|---|---|---|---|---|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated *or* Principal Place of Business In This State | ☐ 4 | ☒ 4 |
| Citizen of Another State | ☒ 2 | ☐ 2 | Incorporated *and* Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

**CONTRACT**
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

**REAL PROPERTY**
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

**TORTS**

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☒ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

**CIVIL RIGHTS**
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

**PRISONER PETITIONS**
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

**FORFEITURE/PENALTY**
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

**LABOR**
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

**IMMIGRATION**
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

**BANKRUPTCY**
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

**PROPERTY RIGHTS**
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

**SOCIAL SECURITY**
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

**FEDERAL TAX SUITS**
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

**OTHER STATUTES**
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

## V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing **(Do not cite jurisdictional statutes unless diversity)**:
28 U.S.C.A. 1332 (a) (1)

Brief description of cause:
Negligence

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23

**DEMAND $** excess of 150,000.00 CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 10/22/10

SIGNATURE OF ATTORNEY OF RECORD John Zervanos

OCT 22 2010

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**UNITED STATES DISTRICT COURT**

**FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.**

RK

Address of Plaintiff: 13 Brooklyn Avenue, Batavia, New York, 14020

Address of Defendant 163 Valleyview Drive, Exton, PA 19341

10 5595

Place of Accident, Incident or Transaction : 1801 Ridgeview Drive in Coatesville, Pennsylvania
(*Use Reverse Side For Additional Space*)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes☐ No☑

Does this case involve multidistrict litigation possibilities? Yes☐ No☑

*RELATED CASE, IF ANY:*
Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes☐ No☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes☐ No☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes☐ No☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes☐ No☒

CIVIL: (Place ✔ in ONE CATEGORY ONLY)

A. *Federal Question Cases:*
1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. *Diversity Jurisdiction Cases:*
1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

**ARBITRATION CERTIFICATION**
(*Check Appropriate Category*)

I, John N. Zervanos, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

OCT 22 2010

DATE: 10/22/10 John Zervanos Attorney-at-Law 49615 Attorney I.D.#

**NOTE:** A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.**

DATE: 10/22/10 John Zervanos Attorney-at-Law 49615 Attorney I.D.#

CIV. 609 (6/08)

RK

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

## CASE MANAGEMENT TRACK DESIGNATION FORM

| | | |
|---|---|---|
| Robert Noble and Marlo Noble, h/w<br>13 Brooklyn Avenue<br>Batavia, NY 14020 | : | CIVIL ACTION |
| v. | : | |
| Outsight Insight, Inc.<br>163 Valleyview Drive<br>Exton, PA 19341 | : | NO. 10 5595 |

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )

(f) Standard Management – Cases that do not fall into any one of the other tracks. (✓)

| October 21, 2010 | | Robert and Marlo Noble |
|---|---|---|
| **Date** | **Attorney-at-law** | **Attorney for** |
| 215-732-2260 | 215-732-2289 | jzervanos@lawsz.com |
| **Telephone** | **FAX Number** | **E-Mail Address** |

(Civ. 660) 10/02

OCT 22 2010