

SAMPLE FORMAL BRIEF

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-001234-16

GOLDI LOCKS,
Plaintiff-Appellant,

v.

PAPA BEAR and
MOMMA BEAR,
Defendants-Respondents.

CIVIL ACTION

ON APPEAL FROM
SUPERIOR COURT,
LAW DIVISION
MERCER COUNTY

Honorable I.M. Faire, J.S.C.
Sat below

BRIEF FOR
APPELLANT GOLDI LOCKS

GOLDI LOCKS
APPELLANT
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SAMPLE FORMAL BRIEF

TABLE OF CONTENTS

	<u>Page</u>
PRELIMINARY STATEMENT	1
PROCEDURAL HISTORY	1
STATEMENT OF FACTS	2
ARGUMENT	5
I. THE TRIAL COURT ERRED IN GRANTING SUMMARY JUDGMENT TO DEFENDANTS BECAUSE DEFENDANTS BREACHED THEIR DUTY OF CARE TO PLAINTIFF AS AN INVITED GUEST TO THEIR HOME (Raised Below: Pa1; 1T24)	5
II. EVEN IF PLAINTIFF WAS A TRESPASSER ON DEFENDANTS' PROPERTY, THIS COURT SHOULD ADOPT THE "MISTAKEN TRESPASSER" DOCTRINE SO PLAINTIFF CAN BE COMPENSATED FOR HER LOSSES (Not raised below)	9
CONCLUSION	12

SAMPLE FORMAL BRIEF

TABLE OF JUDGMENTS, ORDERS AND RULINGS

Order granting summary judgment and dismissing complaint, filed November 4, 2016	Pa1
Oral Decision (November 4, 2016)	1T24

SAMPLE FORMAL BRIEF

TABLE OF APPENDIX

<u>Appendix document</u>	<u>Appendix page number</u>
Order Granting Summary Judgment, filed Nov. 4, 2016	Pa1
Complaint, filed January 11, 2016	Pa2
Answer, filed February 09, 2016	Pa5
Notice of Motion for Summary Judgment, filed Oct. 4, 2016	Pa7
Defendants' Statement of Material Facts in Support of Motion for Summary Judgment, filed Oct. 4, 2016	Pa8
Certification of Papa and Momma Bear in Support of Motion for Summary Judgment, filed Oct. 4, 2016	Pa9
Exhibit A to Certification of Papa and Momma Bear (Complaint)	Pa10
Exhibit B to Certification of Papa and Momma Bear (Deposition of Plaintiff)	Pa11
Exhibit C to Certification of Papa and Momma Bear (Photograph of Mat)	Pa15
Exhibit D to Certification of Papa and Momma Bear (Photograph of property)	Pa17
Exhibit E to Certification of Papa and Momma Bear (Deposition of Defendants)	Pa19
Plaintiff's Response to Defendants' Statement of Material Facts in Support of Motion for Summary Judgment, filed Oct. 28, 2016	Pa23
<u>Rule 2:6-1(a)(1)</u> Statement of All Items Submitted on Summary Judgment Motion	Pa24
Notice of Appeal, filed December 19, 2016	Pa25

SAMPLE FORMAL BRIEF

TABLE OF AUTHORITIES

<u>Authority</u>	<u>Brief page number</u>
Court Rules: <u>Rule 2:10-2</u>	11
<u>Rule 4:46-2</u>	6
Case Law: <u>Brill v. Guardian Life Ins. Co.</u> , 142 N.J. Super. 520 (App. Div. 1995)	6
<u>George Dumpty v. Wolf</u> , 123 New Grimm Reporter 456 (2010)	9
<u>Henry Dumpty v. Smith</u> , 78 S. Folktale Reporter 123 (2012)	10
<u>Humpty Dumpty v. King</u> , 1 N.J. Super. 24 (App. Div. 2000)	7, 9, 10
<u>Klutz v. Banana Peels Inc.</u> , 1 N.J. Super. 124 (App. Div. 2000)	6
<u>Partiman v. Smoe</u> , 1 N.J. 24 (2000)	6
<u>Prudential Prop. & Cas. Ins. Co. v. Boylan</u> , 307 N.J. Super. 162 (App. Div.), <u>certif.</u> <u>denied</u> , 154 N.J. 608 (1998)	6
<u>Walker v. Alt. Chrysler Plymouth</u> , 216 N.J. Super. 255 (App. Div. 1987)	6
Treatise: Mother H. Goose, <u>Personal Injury Law</u> § 15-4 at 1314 (2d ed. 1987)	9, 10

SAMPLE FORMAL BRIEF

PRELIMINARY STATEMENT

Plaintiff was injured on defendants' property, but the trial court dismissed her personal injury complaint against defendants. The trial court held that plaintiff was a trespasser on defendants' property and, therefore, defendants were not responsible to pay for plaintiff's injuries. This decision is wrong as a matter of law because plaintiff was an invited guest to the property, as demonstrated by defendants' open door, bowls of porridge, and "WELCOME FRIENDS" mat on the front porch. Also, defendants' property did not have any signs stating that it was private property or warning people to keep off the property. Alternately, even if this court agrees that plaintiff trespassed on defendants' property, it should adopt the "innocent trespasser" doctrine to allow plaintiff to be made whole. Therefore, plaintiff asks this court to reverse the trial court's decision to grant summary judgment to defendants.

PROCEDURAL HISTORY

Plaintiff filed a complaint against defendants on January 11, 2016 (Pa2 – Pa4).¹ Defendants filed an answer to the complaint on February 9, 2016 (Pa5 – Pa6). On October 4, 2016, defendants filed a Motion for

¹ Pa = plaintiff/appellant's appendix

SAMPLE FORMAL BRIEF

Summary Judgment (Pa7–Pa22). Plaintiff filed opposition to defendants' motion for summary judgment on October 28, 2016 (Pa23). The trial judge heard oral argument on defendants' motion for summary judgment on November 4, 2016 (1T).² After argument, the trial judge granted defendants' motion for summary judgment and dismissed plaintiff's complaint with prejudice by way of order filed November 4, 2016 (Pa1; 1T24). Plaintiff filed a Notice of Appeal to this court on December 19, 2016 (Pa25 – Pa26).

STATEMENT OF FACTS

On July 11, 2016, approximately between 9 a.m. and 1 p.m., plaintiff Goldi Locks participated in a yoga class at Forest Park Plaza in Pretend Ville, New Jersey. (Pa2; Pa14). At the end of class, plaintiff was unable to find a ride home. (Pa2; Pa14). She decided to walk home, although it was hot and humid that day, about 90 degrees Fahrenheit. (Pa2; Pa14).

At about 1:45 p.m., plaintiff was mid-way home and was walking on Warm Welcome Avenue in Fairytale, Mercer County, New Jersey. (Pa3). Plaintiff felt fatigued and hungry and decided to look for a place to stop and get rest and food before continuing her walk home. (Pa3; Pa13). At about 1:55 p.m., plaintiff came across a building with an open door and mat that said

² 1T = transcript of November 04, 2016. (Submitted separately per R. 2:6-1(a)(2).)

SAMPLE FORMAL BRIEF

"WELCOME FRIENDS." (Pa3; Pa13). There were no signs on the property indicating the building was private or warning people to keep off the property. (Pa3; Pa13; Pa23).

Plaintiff entered the building, hoping to get food and rest. (Pa3; Pa13). There were no people in the building, but plaintiff found three different sized bowls of porridge on a counter. (Pa3; Pa13). Since plaintiff was hungry, she decided to try a spoonful of porridge from the largest bowl first, but it was too hot and she burned her tongue. (Pa3; Pa13). Plaintiff then tried the porridge in the mid-sized bowl, and it was too cold. (Pa3; Pa13). Plaintiff finally tried the porridge in the smallest bowl and exclaimed, "Yummy! This one is just right!" (Pa3; Pa13).

After finishing the porridge, plaintiff decided to find a place to rest before continuing her walk back home. (Pa3; Pa13). Plaintiff saw three different-sized chairs nearby and decided to sit in the largest chair, but it was too hard, so plaintiff sat in the mid-sized chair, but it was too soft. (Pa3; Pa13). Plaintiff finally sat in the smallest chair, but it immediately broke, causing her to fall on her side and injure her left wrist. (Pa3; Pa13). As plaintiff attempted to get up, a piece of wood from the chair splintered off and punctured her right foot. (Pa3; Pa13). The pain from falling down and getting a splinter

SAMPLE FORMAL BRIEF

incapacitated plaintiff, so she laid on the floor motionless and in agonizing pain. (Pa3; Pa14).

Shortly thereafter, Papa Bear, Momma Bear, and their son Baby Bear returned to their residence in Fairytale, New Jersey. (Pa3; Pa14; Pa21). Baby Bear was the first to enter the building. (Pa3; Pa14; Pa21). Upon finding plaintiff lying on the floor, Baby Bear screamed and ran out of the building. (Pa3; Pa14; Pa21).

Instead of helping plaintiff, who was clearly suffering from injuries, Momma Bear and Papa Bear interrogated plaintiff about who she was, where she lived, how she entered the building, and what she intended to steal. (Pa3; Pa14). Even though plaintiff responded to their questions as best she could and emphasized the fact she did not intend to steal anything, Momma Bear and Papa Bear were still furious. (Pa3; Pa14). Momma Bear and Papa Bear threatened, "You are going to prison for trespassing on our property!" (Pa3; Pa14). Momma Bear then called the police. (Pa3; Pa14; Pa21). It was not until the police arrived at the building, that the paramedics were called. (Pa3; Pa14; Pa21).

Plaintiff was brought by ambulance to Happily Ever After Hospital. (Pa3; Pa14). Upon arrival, plaintiff was immediately treated for the wound on

SAMPLE FORMAL BRIEF

her right foot, and the open fracture on her left wrist. (Pa14). Dr. Goodwill, who was the acting physician at the time, treated plaintiff's wound and then placed a cast on plaintiff's wrist to stabilize it. (Pa14). Plaintiff stayed overnight at Happily Ever After Hospital for observation. (Pa14).

Since the incident, plaintiff has been in physical therapy for her wrist and foot in order to gain full mobility and strength. (Pa4; Pa14). She also has trouble sleeping and eating. (Pa4; Pa14). Due to her physical and mental state after the incident, plaintiff has not been able to return to work. (Pa4; Pa14). Consequently, she has and continues to lose wages. (Pa4; Pa14).

ARGUMENT

I. THE TRIAL COURT ERRED IN GRANTING
SUMMARY JUDGMENT TO DEFENDANTS
BECAUSE DEFENDANTS BREACHED THEIR
DUTY OF CARE TO PLAINTIFF AS AN INVITED
GUEST TO THEIR HOME
(Raised Below: Pa1; 1T24)

The trial court erred as a matter of law in granting summary judgment to defendants. Defendants owed plaintiff a duty to keep their premises safe and to warn of hidden dangers since plaintiff was an invited guest to their property, invited by the "WELCOME FRIENDS" mat, open door, and lack of private property signs. Defendants breached their duty to plaintiff by leaving a dangerously fragile chair in their home and failing to warn plaintiff that the

SAMPLE FORMAL BRIEF

chair was dangerously fragile. Plaintiff sustained grave injuries due to defendants' actions.

Rule 4:46-2 states that summary judgment shall be granted "if the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law." R. 4:46-2(c). The trial judge must decide whether "the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party[.]" Brill v. Guardian Life Ins. Co., 142 N.J. 520, 540 (1995).

An appellate court uses the same standard as the trial court when reviewing a trial court's decision to grant summary judgment. Prudential Prop. & Cas. Ins. Co. v. Boylan, 307 N.J. Super. 162, 167 (App. Div.), certif. denied, 154 N.J. 608 (1998). It decides first whether there was a genuine issue of fact. If there wasn't, it then decides whether the lower court's ruling on the law was correct. Walker v. Alt. Chrysler Plymouth, 216 N.J. Super. 255, 258 (App. Div. 1987).

Here, plaintiff admitted to all of the statements in defendants' Statement of Material Facts in Support of Summary Judgment (Pa8; Pa23), so there were

SAMPLE FORMAL BRIEF

no genuine issues of fact. The trial court was incorrect on the law because it held plaintiff was a trespasser on defendants' property and therefore defendants owed no duty of care to plaintiff to maintain their home in a safe condition.

A property owner can be required to pay damages for injuries to an invited guest on its property. That is because a property owner has a duty to invited guests to exercise reasonable care in maintaining the property in a safe condition and to provide warnings of the presence of any concealed dangerous condition. Klutz v. Banana Peels Inc., 1 N.J. Super. 124, 145 (App. Div. 2000).

The New Jersey Supreme Court has defined an invited guest as a: "person who is admitted into a residence or reasonably believed she was admitted into a residence." Partiman v. Smoe, 1 N.J. 24, 45 (2000) (holding plaintiff, who stayed too long at party, was still an invited guest when injured two days later). Admittance to a residence can be implied in certain circumstances where a reasonable person would believe she was admitted into a residence. Id. at 46-47.

Here, although defendants did not verbally invite Plaintiff into their residence, the "WELCOME FRIENDS" mat, the open door, and the three bowls of porridge were enough to imply it. Moreover, defendants' building did not have any signs stating it was private property or warning people to keep off the property. (Pa3; Pa5).

SAMPLE FORMAL BRIEF

In Humpty Dumpty v. King, 1 N.J. Super. 24, 48 (App. Div. 2000), the Appellate Division reversed the trial court's decision to grant summary judgment to the owner of a wall from which plaintiff had fallen and injured himself. Although the plaintiff had not been invited to sit on the wall, the court found there was a question of fact as to whether plaintiff reasonably believed he could sit on the wall since it was so close to a main thoroughfare and there was a ladder next to the wall. Id. at 48-49. The court found it significant that the wall did not have a sign telling people to keep off or warning that the wall was dangerous. Id. at 49.

Likewise here, plaintiff reasonably believed that she was an invited guest to defendants' house. There was a "WELCOME FRIENDS" mat on the front porch and upon entry, there were three bowls of porridge on a counter. (Pa3; Pa5). There was also no indication that plaintiff should not enter the home. (Pa3; Pa5). Plaintiff needed a place to rest and she reasonably thought defendants' home was that place. Although Momma Bear testified that plaintiff was not a friend of the Bear family (Pa21), plaintiff reasonably read the "WELCOME FRIENDS" mat as a general welcome to those who passed by the house.

Defendants' violated their duty of care by failing to keep their smallest chair in a safe condition and by failing to provide warnings on the dangerous

SAMPLE FORMAL BRIEF

condition of the extremely weak chair. These failures created a false sense of safety within the residence.

Plaintiff suffered grave injuries as a result of defendants' negligence. Plaintiff was compelled to and did employ the services of a hospital, a surgeon, and physicians to treat and care for her injuries, which resulted in several medical bills and related costs of treatment. Plaintiff also suffered pain, emotional distress, and loss of wages.

II. EVEN IF PLAINTIFF WAS A TRESPASSER ON DEFENDANTS' PROPERTY, THIS COURT SHOULD ADOPT THE "MISTAKEN TRESPASSER" DOCTRINE SO PLAINTIFF CAN BE COMPENSATED FOR HER LOSSES
(Not raised below)

Alternatively, even if plaintiff was a trespasser on defendants' property, which plaintiff strongly disputes, plaintiff is entitled to payment for her medical expenses because she made an innocent mistake in entering defendants' property. The Mother Goose Treatise on Personal Injury Law advocates the "mistaken trespasser" doctrine for situations where a person is injured while mistakenly trespassing on property. Mother H. Goose, Personal Injury Law § 15-4 at 1314 (2d ed. 1987). Two states, New Grimm and South Folktale, have adopted the "mistaken trespasser" doctrine, and this state should as well. It would be against public policy to deny plaintiff protection from the huge medical expenses and other damages she has incurred as a result of her

SAMPLE FORMAL BRIEF

injuries.

According to Mother Goose's Treatise on Personal Injury Law: "If a person gets hurt, s/he should be made whole again. It does not matter that the injury occurred on a stranger's land. What is important is that the person gets better." Mother H. Goose, Personal Injury Law § 15-4 at 1314 (2d ed. 1987). However, "if the person's intentions were to do bad things on the land," the mistaken trespasser doctrine would not apply. Id.

New Jersey has not adopted the "mistaken trespasser" doctrine yet. However, this court mentioned the doctrine and the Mother Goose treatise favorably in a footnote in Humpty Dumpty v. King, 1 N.J. Super. 24 (App. Div. 2000). This court noted: "we need not decide whether to adopt Mother Goose's 'mistaken trespasser' doctrine today as we can decide this appeal on an alternate basis; however, the doctrine does appear to be a fair way to handle trespasser injuries." Id. at 49 n.3.

Although New Jersey has not yet adopted the "mistaken trespasser" doctrine, two other states have adopted the doctrine. The Supreme Court of New Grimm in George Dumpty v. Wolf, 123 New Grimm Reporter 456 (2010), which coincidentally involved a cousin of plaintiff Humpty Dumpty, held that plaintiff was entitled to compensation for his injuries caused by falling off a wall on defendant's property. Id. at 467. The court cited Mother

SAMPLE FORMAL BRIEF

Goose's treatise and reasoned that it would be "unfair" and "just not nice" to not make plaintiff whole again. Id. at 468. The court reasoned that plaintiff was not behaving badly; he was sitting on the wall and caused no harm to defendant's property. Id.

Similarly, the Supreme Court of South Folktale in Henry Dumpty v. Smith, 78 S. Folktale Reporter 123 (2012), permitted compensation to another cousin of Humpty Dumpty who injured himself while attempting to climb up a rock wall. Id. at 145. The court held that "it was just the right thing to do." Id. at 148. The court also found that plaintiff had no intention to do bad things on the land. Id.

Because the "mistaken trespasser" doctrine was not raised in the trial court, per Rule 2:10-2, the standard of review for this court is plain error.

Rule 2:10-2 reads, in full:

Any error or omission shall be disregarded by the appellate court unless it is of such a nature as to have been clearly capable of producing an unjust result, but the appellate court may, in the interests of justice, notice plain error not brought to the attention of the trial or appellate court.

[R. 2:10-2.]

It would be unjust to not consider the "mistaken trespasser" doctrine here. Plaintiff innocently entered defendants' property and had no intention to do anything bad. However, she was seriously injured and has a lot of unpaid

SAMPLE FORMAL BRIEF

medical bills. It would be against public policy to not compensate her for her injuries and other losses, including ongoing therapy and loss of wages. It would be against the interests of justice to allow plaintiff to become penniless due to her innocent mistake.

CONCLUSION

Plaintiff therefore respectfully asks that this court reverse the trial court's order granting summary judgment to defendants, hold that plaintiff was an invited guest who was owed a duty of care, and remand the matter for a trial on the amount of damages. Alternatively, even if this court upholds the trial court's decision that plaintiff was a trespasser, this court should adopt the "mistaken trespasser" doctrine and remand the matter for a trial so that plaintiff can be compensated for her losses.

Respectfully submitted,

Goldi Locks

Goldi Locks

Dated: March 17, 2017

SAMPLE FORMAL BRIEF

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-001234-16

GOLDI LOCKS,
Plaintiff-Appellant,

v.

PAPA BEAR and
MOMMA BEAR,
Defendants-Respondents.

CIVIL ACTION

ON APPEAL FROM
SUPERIOR COURT,
LAW DIVISION
MERCER COUNTY

Honorable I.M. Faire, J.S.C.
Sat below

APPENDIX FOR
APPELLANT GOLDI LOCKS

GOLDI LOCKS
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SAMPLE FORMAL BRIEF

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SAMPLE FORMAL BRIEF

FILED
Nov. 04, 2016
SUPERIOR COURT
MERCER COUNTY

Goldi Locks
Plaintiff
vs.
Papa Bear and Momma Bear
Defendant(s)

Superior Court of
New Jersey
Law Division
Mercer County

Docket # L-0000-00

**ORDER GRANTING
SUMMARY JUDGMENT**

THIS MATTER having been opened to the Court upon the motion of Defendants Papa and Momma Bear (Defendants), and upon notice to plaintiff Goldi Locks (Plaintiff), and the court having considered the moving and opposing papers as well as oral argument,

IT IS IN THIS *4th* day of *November*, 2016;

ORDERED that Defendants' motion for summary judgment shall be and the same is hereby granted, dismissing the Plaintiff's Complaint in its entirety as against Defendants, with prejudice, for the reasons stated on the record on today's date; and it is further

ORDERED that a fully conformed copy of the within Order shall be served upon all parties within seven (7) days of its receipt from the Court.

I.M. Faire

Honorable I. M. Faire, J.S.C.

FILED
Jan. 11, 2016
SUPERIOR COURT
MERCER COUNTY

Plaintiff(s)
Goldi Locks
vs.
Defendant(s)
Papa Bear and Momma Bear

Superior Court of
New Jersey
Law Division
Mercer County

Docket #

Civil Action
Complaint, Demand for Jury Trial

Plaintiff Goldi Locks(hereinafter "Plaintiff") makes the following allegations against Defendant(s) Papa and Momma Bear (hereinafter "Defendants"):

Parties

1. Plaintiff has and currently resides in the County of Mercer at 28 Far Away Road, Neverland, New Jersey 08611.
2. Defendants have and currently reside in the County of Mercer at 44 Warm Welcome Avenue, Fairytale, New Jersey 08544, which is where the incident occurred. Defendants have owned the property located at 44 Warm Welcome Avenue, since April 1, 2000.

Jurisdiction and Venue

3. This Court has subject matter jurisdiction the incident from which this lawsuit arises occurred in Mercer County.
4. This Court has specific personal jurisdiction over Defendants because they are residents of NJ, Mercer County.

Statement of Facts

5. On July 11, 2016, approximately between 9 a.m. and 1 p.m., the Plaintiff participated in a yoga class at Forest Park, which is located in Pretend Ville, New Jersey. At the end of class, the Plaintiff was unable to obtain transportation back home. Although it was both hot and humid that day, about 90 degrees Fahrenheit, the Plaintiff decided to walk home.
6. At about 1:45, Plaintiff was about mid-way to reaching her destination and was walking on Warm Welcome Avenue in Fairytale, Mercer County, NJ. By this time, the Plaintiff was both fatigued and hungry, so the Plaintiff decided to look for a place to stop and rest before continuing to walk home. At about 1:55 p.m., the Plaintiff came across a residence that had a "WELCOME FRIENDS" mat on the front porch and whose door was wide open. There were no

SAMPLE FORMAL BRIEF

signs on the property that indicated that the residence was private or warning trespassers to keep off of the property. Therefore, Plaintiff was under the assumption that the residence was open to the public and walked into the building, hoping to get some food and rest.

7. Upon entering the residence the Plaintiff realized that no one was home. Instead, Plaintiff found three different sized bowls of porridge on the kitchen counter. Since the Plaintiff was hungry, the Plaintiff decided to try a spoonful of porridge until finding the most tasteful. After trying the mid-sized bowl, Plaintiff exclaimed, "Yummy! This one is just right!"

8. After finishing the mid-sized bowl of porridge, the Plaintiff decided to sit and rest on one of the three chairs nearby. The first and second chairs were too hard and too soft respectively, and the third chair broke upon plaintiff sitting on it. The fall from the chair caused plaintiff to fracture her left wrist. As plaintiff attempted to get up a splinter of wood from the chair splintered into her right foot. The pain from falling and the splinter incapacitated the Plaintiff from moving, so the Plaintiff laid on the floor motionless.

9. At approximately 2:25 p.m., the Defendant's returned home, along with their son Baby Bear. Baby Bear was the first to enter the home and panicked upon finding the Plaintiff lying on the bottom of the steps. Baby Bear screamed and ran out the house. Instead of helping the Plaintiff who was clearly suffering from injuries, the Defendant's interrogated the Plaintiff and yelled, "You are going to prison for trespassing on our property!" The Defendant's proceeded by calling the police. It was not until the police arrived at the scene, approximately 2:38 p.m., that the paramedics were called. Plaintiff was brought to the Happily Ever After Hospital.

First Cause of Action – Negligence

10. Plaintiff repeats and realleges paragraphs 1-9 as if fully set forth herein.

11. Plaintiff alleges that on July 11, 2016, the day of the incident, the Plaintiff was owed a duty of care by Defendants because the Plaintiff was an invitee in the Defendants' residence.

12. Although Defendants' did not verbally invite Plaintiff into their residence, the "WELCOME FRIENDS" mat, the open door, and the three bowls of porridge were enough to imply it.

13. As a result, Defendants' owed Plaintiff the duty to exercise reasonable care in maintaining the premise in safe conditions and to provide warnings of the presence of any concealed dangerous condition.

14. Defendants' violated their duty of care by failing to keep the chair in a safe condition and by failing to provide warnings on the dangerous condition that the chair was in. These failures created a false sense of safety within the residence.

15. Plaintiff suffered harm that included a puncture wound on Plaintiff's right foot, mild scrapes along the outer left foot, a twisted left ankle, and a fractured left wrist.

16. Prior to injuries suffered by Plaintiff, Plaintiff was a physically active adult who was in good physical and mental health.

SAMPLE FORMAL BRIEF

17. Plaintiff suffered said harm as a direct and proximate result of Defendants' actions.

18. It was reasonably foreseeable that, by failing to maintain the chair in good condition anyone who was in the Defendants' residence could be injured while attempting to sit down.

19. It was also reasonably foreseeable that, by failing to provide warnings regarding the dangerous condition the chair was in, anyone who was in the Defendants' residence would have false sense of safety within the residence and would not use precaution when using the chair or avoid using it completely.

20. Had it not been for the Defendants' failure to fix or maintain the chair or to provide warnings regarding the dangerous condition that the chair was in, the Plaintiff would have not suffered harm while in the Defendants' residence.

21. As a result of Defendants' actions, Plaintiff suffered actual damages. Due to the severity of the harm that plaintiff suffered, as mentioned in paragraph 15, Plaintiff was compelled to and did employ services of hospitals, nurses, surgeons, physicians, and physical therapists to treat and take care of Plaintiff, which resulted in several medical bills and related costs of treatment.

22. Other damages that the Plaintiff suffered include pain and suffering, emotional distress, and loss of wages.

Claim for Relief

Wherefore, Plaintiff respectfully requests judgement against Defendant as follows:

- A. Compensatory damages, according to proof, for the following:
- B. For all current and future medical expenses incurred and to be incurred
- C. For past and future loss of wages
- D. For emotional distress
- E. For loss of enjoyment and quality of life
- F. For such other and further relief as the Court may deem just and proper.

Plaintiff hereby requests a jury trial on all issues raised in this complaint.

Respectfully Submitted,

Goldi Locks

Dated: January 11, 2016

SAMPLE FORMAL BRIEF

FILED
Feb. 09, 2016
SUPERIOR COURT
MERCER COUNTY

Plaintiff(s)
Goldi Locks
vs.
Defendant(s)
Papa Bear and Momma Bear

Superior Court of
New Jersey
Law Division
Mercer County

Docket # L-000-00

ANSWER

Defendants, Papa and Momma Bear, Answer to the Complaint as follows:

Parties

1. Defendants neither deny nor admit the allegations contained in paragraph 1 of the Complaint and therefore, leaves plaintiff to her proofs.
2. Defendants admit the allegations contained in paragraph 2 of the Complaint.

Jurisdiction and Venue

3. Defendants admit the allegations contained in paragraph 3 of the Complaint.
4. Defendants admit the allegations contained in paragraph 4 of the Complaint.

Statement of Facts

5. Defendants deny having knowledge or information sufficient enough to form a belief as to the truth of the allegations in paragraph 5 of the Complaint and therefore, leaves plaintiff to her proofs.
6. Defendants admit that they do have a "WELCOME FRIENDS" mat on the front porch, that the door was open, and that there were no signs on the property indicating that the residence was private or warning trespasser to keep off of their property, and otherwise denies the rest of the allegations contained in paragraph 6 of the Complaint.
7. Defendants admit that no one was home the day of the incident and that there were 3 different sized bowls on the kitchen counter, and otherwise denies the rest of the allegations contained in paragraph 7 of the complaint.
8. Defendants admit that there were 3 chairs near the kitchen counter, and otherwise denies having knowledge or information sufficient enough to form a belief as to the rest of the allegations contained in paragraph 8 of the Complaint.

SAMPLE FORMAL BRIEF

9. Defendants admit the allegations contained in paragraph 9 of the Complaint.

First Cause of Action – Negligence

10. Defendants repeat and reallege Defendants' answers to paragraphs 1-9 of the Complaint as it fully set forth herein.

11. Defendants deny the allegations contained in paragraph 11 of the Complaint.

12. Defendants deny the allegations contained in paragraph 12 of the Complaint.

13. Defendants deny the allegations contained in paragraph 13 of the Complaint.

14. Defendants deny the allegations contained in paragraph 14 of the Complaint.

15. Defendants neither admit nor deny the allegations contained in Paragraph 15 of the Complaint.

16. Defendants deny having knowledge or information sufficient enough to form a belief as to the truth of the allegations in paragraph 16 of the Complaint and therefore, leaves plaintiff to her proofs.

17. Defendants deny the allegations contained in paragraph 17 of the Complaint.

18. Defendants deny the allegations contained in paragraph 18 of the Complaint.

19. Defendants deny the allegations contained in paragraph 19 of the Complaint.

20. Defendants deny the allegations contained in paragraph 20 of the Complaint.

21. Defendants deny the allegations contained in paragraph 21 of the Complaint.

22. Defendants deny having knowledge or information sufficient enough to form a belief as to the truth of the allegations in paragraph 22 of the Complaint and therefore, leaves plaintiff to her proofs.

Affirmative Defenses

23. No duty is owed to Plaintiff because Plaintiff was a trespasser, not an invited party, on Defendants' residence

24. Comparative negligence

25. Assumption of risk

Respectfully Submitted,

Papa Bear and Mamma Bear

Dated: February 9, 2016

SAMPLE FORMAL BRIEF

FILED
Oct. 04, 2016
SUPERIOR COURT
MERCER COUNTY

Papa and Momma Bear
44 Warm Welcome Avenue
Lawrenceville, NJ 08544

Goldi Locks
Plaintiff
vs.
Papa Bear and Momma Bear
Defendant(s)

Superior Court of
New Jersey
Law Division
Mercer County

Docket # L-0000-00

**NOTICE OF MOTION FOR
SUMMARY JUDGMENT**

TO: Goldi Locks
28 Far Away Road
Neverland, New Jersey 08611

PLAINTIFF:

PLEASE TAKE NOTICE that the original of this pleading, seeking summary judgment and the dismissal of Plaintiff's Complaint with prejudice and without costs as against defendants, has been filed with the Clerk of Court in accord with Court Rules; and

PLEASE TAKE FURTHER NOTICE that Defendants shall rely upon their Statement of Material Facts and Certification in support of motion for summary judgment, along with exhibits attached thereto; and

PLEASE TAKE FURTHER NOTICE that this motion is returnable on November 4, 2016, at 9:00 a.m., and that oral argument is requested.

Papa Bear and Momma Bear

Dated: October 4, 2016

SAMPLE FORMAL BRIEF

FILED
Oct. 04, 2016
SUPERIOR COURT
MERCER COUNTY

Goldi Locks
Plaintiff
vs.
Momma Bear and Papa Bear
Defendant(s)

Superior Court of
New Jersey
Law Division
Mercer County

Docket # L-0000-00

**DEFENDANTS '
STATEMENT OF MATERIAL FACTS
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

1. On January 11, 2016, plaintiff filed suit against Papa Bear and Momma Bear (Defendants) alleging that she sustained personal injury after she attempted to sit on a chair in defendants' home that broke upon impact, causing her to fall to the ground. See Complaint, attached to the Certification of Papa and Momma Bear in Support of Motion for Summary Judgment (Bear Certification) as Exhibit A.

2. Plaintiff Goldi Locks (Plaintiff) testified at deposition that the photographs, attached as Exhibits C and D to the Bear Certification, were accurate depictions of the "WELCOME FRIENDS" mat at the Defendants home and the Defendants' property respectively. See Deposition of Goldi Locks, attached to Bear Certification as Exhibit B; see also Exhibit C (picture of mat) and Exhibit D (picture of property).

3. Plaintiff testified at deposition that no one was in defendants home when she entered the home, the defendants did not verbally invite her into their building, and that she had never met Defendants before entering their home. See Deposition of Goldi Locks, attached to Bear Certification as Exhibit B.

4. Defendants testified that they had never met Goldi Locks prior to finding her in their home. See Deposition of Papa and Momma Bear, attached to Bear Certification as Exhibit E.

SAMPLE FORMAL BRIEF

Goldi Locks

Plaintiff(s),

vs.

Papa Bear and Momma Bear

Defendant(s).

Superior Court of
New Jersey
Law Division
Mercer County

Docket # L-0000-00

CERTIFICATION OF
PAPA AND MOMMA BEAR
IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT

I, Papa Bear, and I, Momma Bear, have personal knowledge of and certify to the following:

1. Exhibit A to this certification is a true and accurate copy of the complaint filed against us by Goldi Locks (plaintiff).

2. Exhibit B to this certification is a true and accurate copy of the transcript of deposition of plaintiff.

3. Exhibit C to this certification is a true and accurate copy of the photograph shown to plaintiff at her deposition of the "WELCOME FRIENDS" mat at our home.

4. Exhibit D to this certification is a true and accurate copy of the photograph shown to plaintiff at her deposition of our property.

5. Exhibit E to this certification is a true and accurate copy of the transcripts of deposition of us.

Papa Bear and Momma Bear

Dated: October 4, 2016

EXHIBIT A

COMPLAINT

*Per Rule 2:6-1(a)(2) – the copy of the Complaint attached to the Bears' Certification as Exhibit A has not been reproduced here because the Complaint can already be found in the appendix at Pa2.

EXHIBIT B

Deposition of Plaintiff

SAMPLE FORMAL BRIEF

Goldi Locks
Plaintiff(s)
vs.
Papa Bear & Momma Bear
Defendant(s)

Superior Court of
New Jersey
Law Division
Mercer County

Docket #

DEPOSITION OF:
GOLDI LOCKS

T R A N S C R I P T of deposition taken by and before RUMPEL STILSKIN, Fairyland Court Reporter, and Notary Public of Pretend Ville, at the offices of BIG BAD WOLF, LLC, 123 Fairytale Lane, Pretend Ville, New Jersey on September 12, 2016, commencing at 10:15 a.m., pursuant to Notice.

Rumpel Stilskin Associates, LLC – We get your name right

SAMPLE FORMAL BRIEF

GOLDI LOCKS

Page 1

1 28 Far Away Road, Neverland, New Jersey 08611,
2 having first been duly sworn testifies as follow:

3 - - - - -

4 ...

5 Q: Is the photograph attached as Exhibit C to Defendants'
6 Certification an accurate depiction of the "welcome
7 friends" mat located on defendants' front porch?

8 A: Yes.

9 Q: Is the photograph attached as Exhibit D to Defendants'
10 Certification an accurate depiction of Defendants'
11 property?

12 A: Yes.

13 Q: On the day you entered the Defendants' home, was the
14 front door open?

15 A: Yes, and I was really hungry and tired and needed a
16 place to rest. The mat said "welcome" so I went in.
17 There were no signs saying not to go in.

18 Q: What happened when you went into defendants' home?

19 A: Well, no one was there but there were three bowls of
20 porridge on a counter, so I tried each of them. The
21 first bowl was too hot and the second too cold, but
22 the third bowl was just right, so I exclaimed, "Yummy!
23 This one is just right!" I ate the whole thing.

24 Q: What happened next?

25 A: Well I was tired and had a belly full of porridge, so
26 I walked over to a set of three chairs and when I sat
27 on the first one, it was too hard, and then the second
28 one was too soft, but when I sat on the third and
29 smallest chair, it broke right underneath me!

30 Q: What happened to you when the chair broke?

31 A: Well I fell on my side and broke my left wrist. Then
32 as I was trying to get up from the floor, a piece of
33 wood from the chair caused me to get a splinter on my
34 right foot. It really hurt.

SAMPLE FORMAL BRIEF

Page 2

1 Q: What did you do next?

2 A: Well I sat on the floor motionless because I was in so
3 much pain. Then Baby Bear comes in screams and leaves.
4 Next thing Momma Bear comes in yelling questions at
5 me and accusing me of stealing and threatening me that
6 "You are going to prison for trespassing on our
7 property!"

8 Q: Did you get any help for your injuries?

9 A: No. Momma and Papa Bear were furious and called the
10 police. It wasn't until the police arrived that an
11 ambulance was called for me. I was brought to the
12 Happily Ever After Hospital.

13 Q: What happened at the hospital?

14 A: I was treated for the splinter on my right foot, and
15 my broken left wrist. The emergency physician when I
16 got there was Dr. Goodwill. He fixed the splinter and
17 put a cast on my wrist. I stayed overnight for
18 observation.

19 Q: Did you have any other medical care?

20 A: Yes. I have been in physical therapy for my wrist and
21 foot to regain full mobility and strength.

22 Q: What other symptoms have you had?

23 A: I have had trouble sleeping and eating. I have not
24 been able to return to work and have lost wages.

25 Q: Prior to this incident were you an active person?

26 A: Yes. Before I was injured I was walking home from a
27 yoga class at Forest Park Plaza in Pretendville, New
28 Jersey. I walked because I didn't have a ride home.
29 It was hot and humid and when I was half way home I
30 was tired and hungry, which is why I was so happy to
31 see an open door and "WELCOME FRIENDS" mat.

32 Q: How much were your medical bills?

33 A: Hundreds of thousands of dollars at least.

END OF DEPOSITION

CERTIFICATE

I, RUMPEL STILSKIN, a Fairyland Court Reporter, and Notary
Public of Pretend Ville do hereby certify that the above is an
accurate depiction of the testimony made today.

Pa14

EXHIBIT C

Photograph of "Welcome Friends" Mat



EXHIBIT D

Photograph of the Defendants' Property

SAMPLE FORMAL BRIEF



EXHIBIT E

Deposition of Papa and Momma Bear

SAMPLE FORMAL BRIEF

Goldi Locks
Plaintiff(s)
vs.
Papa Bear and Momma Bear
Defendant(s)

Superior Court of
New Jersey
Law Division
Mercer County

Docket #

DEPOSITION OF:
MOMMA BEAR AND
PAPA BEAR

T R A N S C R I P T of deposition taken by and
before RUMPEL STILSKIN, Fairyland Court Reporter, and
Notary Public of Pretend Ville, at the offices of BIG
BAD WOLF, LLC, 123 Fairytale Lane, Pretend Ville, New
Jersey on August 29, 2016, commencing at 10:03 a.m.,
pursuant to Notice.

Rumpel Stilskin Associates, LLC – We get your name right

SAMPLE FORMAL BRIEF

MOMMA BEAR

Page 1

1 44 Warm Welcome Avenue, Lawrenceville, New Jersey 08544,
2 having first been duly sworn testifies as follow:

3 - - - - -

4 ...

5 Q: Do you have a mat on your front porch that says
6 "welcome friends"?

7 A: Yes, but Goldi Locks is no friend of mine. She
8 trespassed on my property and scared my baby boy. She
9 even ate some of my porridge. Who does that? Shame
10 on her.

11 Q: Do you have signs on your property that indicate the
12 land is private or warning people to stay off the
13 property?

14 A: No. My 800 pound husband usually does a good job at
15 scaring people away. I live in a small house. No one
16 has ever mistaken it for a public place. And when
17 Ms. Locks trespassed into my house, no one was there.
18 Hello. Doesn't that tell you that you are not in a
19 public building?

20 Q: Did you see plaintiff in your residence?

21 A: Uh-hum, she scared my baby boy right out of the house,
22 he was like, "some crazy lady is on our floor." So I
23 ran in and called the police.

24 Q: Did you help plaintiff off of the floor?

25 A: No. She was in my house illegally and broke my baby
26 boy's chair. I was leaving her there for the police.

27 Q: Did you leave your front door open on the day you
28 found plaintiff in your residence?

29 A: I don't remember, but we do not lock our door. We are
30 bears. People do not usually bother us.

31 Q: Had you ever met plaintiff prior to finding her in
32 your home?

33 A: No.

SAMPLE FORMAL BRIEF

PAPA BEAR

1 44 Warm Welcome Avenue, Lawrenceville, New Jersey 08544,
2 having first been duly sworn testifies as follow:
3 - - - - -
4 Q: Had you ever met plaintiff prior to finding her in
5 your home?
6 A: No.

END OF DEPOSITION

CERTIFICATE

I, RUMPEL STILSKIN, a Fairyland Court Reporter, and Notary
Public of Pretend Ville do hereby certify that the above is an
accurate depiction of the testimony made.

SAMPLE FORMAL BRIEF

FILED
Oct. 28, 2016
SUPERIOR COURT
MERCER COUNTY

Goldi Locks
Plaintiff
vs.
Momma Bear and Papa Bear
Defendant(s)

Superior Court of
New Jersey
Law Division
Mercer County

Docket # L-0000-00

**PLAINTIFF'S RESPONSE TO DEFENDANTS'
STATEMENT OF MATERIAL FACTS**

1. ADMITTED.
2. ADMITTED. Plaintiff asserts that the "WELCOME FRIENDS" mat and lack of a private property sign invited her into defendants' house.
3. ADMITTED. Plaintiff asserts that the open door invited her into defendants' house.
4. ADMITTED. Plaintiff asserts that although she was not verbally invited to the defendants' house, the "WELCOME FRIENDS" mat, open door, and lack of a private property sign invited her into defendants' house.
5. ADMITTED.

SAMPLE FORMAL BRIEF

RULE 2:6-1(a)(1) STATEMENT OF ALL ITEMS SUBMITTED TO THE TRIAL COURT ON THE SUMMARY JUDGMENT MOTION

<u>ITEM SUBMITTED:</u>	<u>APPENDIX PAGE:</u>
• Notice of Motion for Summary Judgment	Pa7
• Defendants' Statement of Material Facts in Support of Motion for Summary Judgment	Pa8
• Certification of Papa and Momma Bear in Support of Motion for Summary Judgment	Pa9
○ Exhibit A, Complaint	Pa2
○ Exhibit B, Transcript of deposition of Goldi Locks	Pa11
○ Exhibit C, Photograph of mat	Pa15
○ Exhibit D, Photograph of property	Pa17
○ Exhibit E, Transcript of deposition of Papa and Momma Bear	Pa19
• Plaintiff's Response to Defendants' Statement of Material Facts	Pa23

*Per Rule 2:6-1(a)(2), briefs submitted to the trial court on the Motion for Summary Judgment are not included in the appendix.

SAMPLE FORMAL BRIEF

(11) Notice of appeal and attached case information statement have been served where applicable on the following:

	Name	Date of Service
Trial Court Judge	I.M. Faire, J.S.C.	12/19/2016
Trial Court Division Manager	Mother Goose	12/19/2016
Tax Court Administrator		
State Agency		
Attorney General or Attorney for other Governmental body pursuant to R. 2:5-1(a), (e) or (h)		
Other parties in this action:		
Name and Designation	Attorney Name, Address and Telephone No.	Date of Service
Papa and Momma Bear	Pro se, 44 Warm Welcome Avenue, Fairytale, NJ 08544	12/19/2016

(12) Attached transcript request form has been served where applicable on the following:

	Date of Service	Amount of Deposit
Trial Court Transcript Office	12/19/2016	\$500
Name Mercer County Transcriber's Office		
Court Reporter (if applicable)		
Supervisor of Court Reporters		
Clerk of the Tax Court		
State Agency		

(13) Exempt from submitting the transcript request form due to the following:

No verbatim record.

Transcript in possession of attorney or pro se litigant (four copies of the transcript must be submitted along with an electronic copy).

List the date(s) of the trial or hearing:

Motion for abbreviation of transcript filed with the court or agency below. Attach copy.

Motion for free transcript filed with the court below. Attach copy.

I certify that the foregoing statements are true to the best of my knowledge, information and belief. I also certify that, unless exempt, the filing fee required by N.J.S.A. 22A:2 has been paid.

<p>(14) <u>12/19/2016</u> Date</p>	<p>(15) <u>Goldi Locks</u> Signature of Attorney or Pro Se Litigant Goldi Locks</p>
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