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**SUMMONS**

Doc. No. 42545

IN THE DISTRICT COURT OF Dodge COUNTY, NEBRASKA  
428 N Broad St.  
Fremont NE 68025 4962

Agenda Item # 17  
Date 2/10/21

ROCKY YAZZIE v. THE COUNTY OF SAUNDERS

Case ID: CI 21 56

TO: THE COUNTY OF DODGE

**FILED BY**  
Clerk of the Dodge District Court  
02/01/2021

You have been sued by the following plaintiff(s):

ROCKY YAZZIE

Plaintiff's Attorney: F Matthew Aerni  
Address: 222 S 15th St, Suite 405N  
Omaha, NE 68102

Telephone: (402) 466-8444

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

RECEIVED  
2021 FEB -3 AM 11:2  
DODGE COUNTY, NEBRASKA  
FREMONT, DODGE COUNTY, NEBRASKA

Date: FEBRUARY 1, 2021

BY THE COURT:

*Linda Nelson*  
Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

THE COUNTY OF DODGE  
435 NORTH PARK  
FREMONT, NE 68025

Method of service: Certified Mail

You are directed to make such service within ten days after the date of issue, and file with the court clerk proof of service within ten days after the signed receipt is received or is available electronically, whichever occurs first.

IN THE DISTRICT COURT OF DODGE COUNTY, NEBRASKA

ROCKY YAZZIE,	)	CI 21 -
	)	
Plaintiff,	)	
	)	
-vs-	)	<b>COMPLAINT AND PRAECIPE</b>
	)	
THE COUNTY OF SAUNDERS	)	
NEBRASKA, and THE COUNTY OF	)	
DODGE, NEBRASKA	)	
	)	
Defendants.	)	

COMES NOW, the Plaintiff through counsel and as his causes of action against the Defendants and each of them states:

The parties

1. The Plaintiff is an adult, who was incarcerated in Nebraska at the time of the actions giving rise to this action.
2. Defendant the County of Saunders Nebraska (hereinafter, "Saunders") is a political subdivision organized under the laws of the State of Nebraska.
3. Defendant The County of Dodge Nebraska (hereinafter, "Dodge") is a political subdivision organized under the laws of the State of Nebraska.

Jurisdiction and Venue

4. The acts and/or omissions forming the basis of this action occurred within Dodge County, Nebraska.
5. The Plaintiff complied with all administrative procedural requirements prior to filing this action.

### Background facts

6. On January 29, 2019 the Plaintiff was in the custody of Defendant Saunders as an inmate at the Saunders County jail.
7. On that date, agents of either Saunders or Dodge transported the Plaintiff from the Saunders County jail to the Dodge County jail in order that the Plaintiff may attend court in Dodge County.
8. After arriving at the Dodge County Courthouse, the agents who transported the Plaintiff to Dodge County ordered the Plaintiff to step out of the van he had been transported in.
9. In order to exit the van the Plaintiff was transported in, the Plaintiff had to descend a set of steps attached to the van.
10. The Plaintiff was in leg chains which limit the movement of his feet. He was also in handcuffs which were attached to the leg chains via a metal chain. As a result, the Plaintiff's arm movement was restricted.
11. The Defendant agents who ordered the Plaintiff to exit the van did not assist the Plaintiff in his effort to step down from the van to the ground via the steps.
12. The van did not have any sort of rail the Plaintiff could try holding onto as he descended the van's steps.
13. The Plaintiff tripped as he descended the steps and fell to the ground. When he landed on the ground, he shattered the patella on each knee.
14. The Plaintiff incurred general damages in the form of pain and suffering due to the fractured patellas.
15. The Plaintiff sustained special damages in the form of the cost of medical

treatment to treat the fractured patellas.

16. It is unknown for certain at this time whether it was agents of Saunders, or agents of Dodge who transported the Plaintiff to Dodge County and failed to assist him as he descended the steps.

#### CAUSE OF ACTION ONE – NEGLIGENCE AS TO DEFENDANT SAUNDERS

17. Saunders was negligent in that:

- a. While in Saunders' care, custody and control, Saunders agents required the Plaintiff to descend a set of steps while his arm movement was restricted so that if he were to fall, he would not be able to reach out with his hands in an effort to try and control the manner in which he landed on the ground.
- b. Saunders agents knew the Plaintiff would be unable to reach out with his hands in an effort to try and stop his body from completely falling to the ground, if he started falling.
- c. Saunders agents knew or reasonably should have known that a person descending a set of steps while in leg chains could fall to the ground.
- d. Saunders agents knew or reasonably should have known that if a person falls to the ground and is unable to stop his body from completely falling to the ground, the person could sustain serious bodily injury.
- e. Saunders agents knew or reasonably should have known that assisting a person in leg chains down a set of steps would reduce the likelihood of the person falling to the ground. stop his body from completely falling to the ground.

- f. Notwithstanding the knowledge set forth above, Saunders' agents required the Plaintiff to descend the steps without assistance.
- g. As a result, when the Plaintiff tripped, he had no way to break his fall as he fell to the ground.
- h. As a direct and proximate cause of Saunders' failure to assist the Plaintiff as he descended the steps, the Plaintiff sustained general damages in an amount to be proven at trial, and special damages in an amount of no less than \$1000.
- i. Saunders is liable to the Plaintiff for the acts and/or omissions of Saunders' agents via *respondeat superior*.

#### COUNT TWO – NEGLIGENCE AS TO DEFENDANT DODGE

18. Dodge was negligent in that:

- a. Agents of Dodge communicated with agents of Saunders and therefore knew approximately when the Plaintiff would arrive at the Courthouse in Dodge County, where he was ordered to appear.
- b. Moreover, Dodge's agents knew or reasonably should have known the Plaintiff would arrive at the courthouse in custody, in leg chains, and in handcuffs which were shackled to the leg chains.
- c. Notwithstanding that knowledge, Dodge agents did not ensure the Plaintiff had assistance to descend a set of steps while his arm movement was restricted.
- d. Dodge knew or reasonably should have known the Plaintiff would have to descend a set of steps to get out of the van, and that he would be unable

to reach out with his hands in an effort to try and stop his body from completely falling to the ground, if he started falling.

- e. Dodge's agents knew or reasonably should have known that a person descending a set of steps while in leg chains could fall to the ground.
- f. Dodge's agents knew or reasonably should have known that if a person falls to the ground and is unable to stop his body from completely falling to the ground, the person could sustain serious bodily injury.
- g. Dodge's agents knew or reasonably should have known that assisting a person in leg chains down a set of steps would reduce the likelihood of the person falling to the ground. stop his body from completely falling to the ground.
- h. Notwithstanding the knowledge set forth above, Dodge's agents required the Plaintiff to descend the steps without assistance.
- i. As a result, when the Plaintiff tripped, he had no way to break his fall as he fell to the ground.
- j. As a direct and proximate cause of Dodge's failure to assist the Plaintiff as he descended the steps, the Plaintiff sustained general damages in an amount to be proven at trial, and special damages in an amount of no less than \$1000.
- k. Dodge is liable to the Plaintiff for the acts and/or omissions of Dodge's agents via *respondeat superior*.

WHEREFORE, the Plaintiff prays the court enter judgement against Defendant Dodge and Defendant Saunders jointly and severally for general damages as

may be determined at trial, and for special damages in an amount of no less than \$1000.

Respectfully submitted,  
Rocky Yazzie, Plaintiff

/s/ F. Matthew Aerni  
F. Matthew Aerni, #23617  
Berry Law Firm  
6940 O Street, Suite 400  
Lincoln, NE 68510  
402-466-8444  
matt@jsberrylaw.com  
Attorneys for the Plaintiff

To the Clerk of the Court:

Please issue a summons and deliver the same to the undersigned via email for service via certified mail upon Defendant The County of Saunders at:

County of Saunders  
C/O Clerk of The County of Saunders  
433 North Chestnut, Suite 300  
Wahoo, NE 68066

Please issue a summons and deliver the same to the undersigned via email for service via certified mail upon Defendant The County of Dodge at:

County of Dodge  
C/O Clerk of The County of Dodge  
435 North Park  
Fremont, NE 68025

/s/ F. Matthew Aerni  
F. Matthew Aerni, #23617