

**IN THE COMMON PLEAS COURT OF PORTAGE COUNTY, OHIO**

RANDY J. MAYNARD, Individually and  
as natural father of minor child, Kalee  
Maynard  
4764 County Road 248  
Arcadia, OH 44804

and

SHERRI L. MAYNARD  
4764 County Road 248  
Arcadia, OH 44804

Plaintiffs,

v.

CIRCLE-K STORE  
1304 State Route 183  
Atwater, OH 44201

and

REALTY INCOME CORP.  
C/O Statutory Agent,  
Csc-Lawyers Incorporating Service  
50 W. Broad Street, Suite 1800  
Columbus, OH 43215

and

Case No.: 2010CV01005

Judge John A. Enlow

**AMENDED COMPLAINT WITH JURY  
DEMAND AND ATTACHED DISCOVERY  
REQUESTS**

Charles E. Boyk (0000494)  
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Attorneys for Plaintiffs

JOHN DOES I, II, III, IV AND V  
Names and Addresses Currently  
Unknown

Defendants.

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Now come the Plaintiffs, by and through counsel, and for their  
Complaint state as follows:

1. Plaintiffs are residents of Arcadia, Hancock County, Ohio.
2. Defendant Circle-K Store (hereinafter referred to as "Defendant Circle-K"), is a gas station and convenience store located at 1304 State Route 183, Atwater, Portage County, Ohio.
3. Defendant Realty Income Corp. (hereinafter referred to as "Defendant Realty"), is a corporation or other business entity doing business in the State of Ohio, and owns a business outlet at 1304 State Route 183, Atwater, Portage County, Ohio.

#### **FIRST CAUSE OF ACTION**

For the first claim of relief against the Defendants, the Plaintiff states:

4. Plaintiff incorporates by reference the allegations contained in paragraphs one through three as though fully restated herein.
5. On or about July 25, 2008, Plaintiff Randy Maynard, an adult male, was a customer and invitee on the premises of the Circle-K gas station and convenience store located at 1304 State Route 183, Atwater, Portage County, Ohio.

6. While Plaintiff Randy Maynard was at the above-mentioned location, he went inside to purchase a store item and returned to his motorcycle to leave. He and his wife got on their motorcycle to leave and as they were about to accelerate, Plaintiff Randy Maynard's foot became stuck on the Spill Containment Manhole grating that was defective. His bike continued to accelerate and proceeded to run over his right leg.
7. On or about said date, Defendants Circle-K and Realty were negligent in failing to protect Plaintiff Randy Maynard from injury either by not keeping the premises in a reasonably safe condition or warning of known dangers.
8. As a direct and proximate result of Defendants Circle-K and Realty's negligence, Plaintiff Randy Maynard was injured. He sustained injuries to his right leg, right ankle, right knee and entire body. Plaintiff was required to undergo medical care, incurred medical care costs, as well as lost wages, incurred great pain, suffering, and severe mental anguish and emotional distress. The Plaintiff believes that his injuries are permanent in nature and will require future medical care; future medical care costs and he will continue to endure great pain, suffering, mental anguish and emotional distress.

## **SECOND CAUSE OF ACTION**

For the second claim of relief against the Defendants, the Plaintiff states:

9. Plaintiffs incorporate by reference the allegations contained in paragraphs one through eight as though fully restated herein.
10. Defendant Realty does business in Ohio and on or about July 25, 2008, Defendant Realty owned and/or operated the premises located at 1304 State Route 183, Atwater, Portage County, Ohio and was in possession and control of said premises.
11. Defendant Realty is believed to be an Ohio corporation licensed to do business in Ohio. At all times material hereto, Defendant Realty conducted operations at the aforesaid premises and employed persons on the premises and held the premises open to the public.
12. On or about said date, Plaintiff Randy Maynard lawfully entered Defendant Realty's premises at the express or implied invitation of the Defendant Realty and for a purpose for which the premises were open to visitors and/or customers. Plaintiff Randy Maynard was a customer and/or invitee at said premises in Atwater, Portage County, Ohio when his foot became stuck in the gas cap, causing severe injuries to his body. Plaintiff Randy Maynard at all times was acting with due care for his own safety.
13. At the aforesaid time and place, Defendant Realty breached its obligation to exercise ordinary care to keep the premises

reasonably safe for invitees and/or customers and further failed in their duty not to unreasonably expose Plaintiff Randy Maynard to danger and to prevent, remove, or warn against latent hazards on said property.

14. At the aforesaid time and place, Defendant Realty failed to exercise ordinary care for Plaintiff Randy Maynard's safety in that they, among other things, failed to keep the premises in a reasonably safe condition, and failed to use ordinary care to provide notice of concealed dangers of which Defendant Realty had knowledge, or which by using ordinary care, Defendant Realty should have discovered; and at said time and place Defendant Realty failed to do everything reasonably necessary to protect the safety and welfare of invitees or guests on the aforesaid premises; and Defendant Realty occupied and/or maintained premises that were not safe.
15. Defendant Realty's acts and/or failure to act constituted a nuisance.
16. As a direct and proximate result of the negligence of Defendant Realty and the nuisance which existed, Plaintiff Randy Maynard was injured, incurred medical expenses, and a diminution in his quality of life as set forth in the previous paragraphs.

### **THIRD CAUSE OF ACTION**

For the third claim of relief against the Defendants, the Plaintiff states:

17. Plaintiffs incorporate by reference the allegations contained in paragraphs one through sixteen as though fully restated herein.
18. Plaintiff Sherri Maynard is the lawful spouse of Plaintiff Randy Maynard. Plaintiff Sherri Maynard states that as a result of the negligence of the Defendants, she has been deprived of the love, affection, services, consortium and society of her spouse, Plaintiff Randy Maynard; and that the enjoyment and quality of life and her ability to carry on the normal activities of her daily life with her spouse have been impaired.

### **FOURTH CAUSE OF ACTION**

For the fourth claim of relief against the Defendants, the Plaintiff states:

19. Plaintiffs incorporate by reference the allegations contained in paragraphs one through eighteen as though fully restated herein.
20. Defendants John Doe I, II, III, IV and V are persons, organizations, business entities or others who despite due diligence of Plaintiff Randy Maynard, are unknown and couldn't be discovered as of the filing of this complaint and may be liable to Plaintiff Randy Maynard as owners of, and/or maintainers of and/or lessors and/or lessees of the subject premises and/or may have had a

duty to properly maintain said gas cap at 1304 State Route 183, Atwater, Portage County, Ohio on or before July 25, 2008 or had a duty to warn Plaintiff about the latent danger.

21. Defendants John Doe I, II, III, IV and V breached their respective duties and said breach directly and proximately resulted in injury to Plaintiff.

**WHEREFORE**, Plaintiff prays that judgment be entered against the Defendants in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) together with interest, costs and reasonable attorney fees associated herewith.

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Charles E. Boyk, Esq.  
Attorney for Plaintiff

**JURY DEMAND**

Now comes the Plaintiff, by and through counsel, and hereby demands a jury trial on all issues triable by right herein.

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Charles E. Boyk, Esq.  
Attorney for Plaintiff

**PRAECIPE**

**TO THE CLERK:**

Please serve summons and amended complaint upon Defendant Circle-K Store and Defendant Realty Income Corp. by certified mail, return receipt requested at their addresses listed on the caption.

Please serve Defendants John Doe I through V personally with summons (indicating 'name unknown') and amended complaint.

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Charles E. Boyk, Esq.  
Attorney for Plaintiff

**TO THE DEFENDANT CIRCLE-K STORE:** The plaintiff hereby requests that Defendant Circle-K Store, pursuant to Rules 26, 33 and 34 of the Ohio Rules of Civil Procedure, respond to the following Request for Production of Documents and Interrogatories within twenty-eight (28) days of service hereof. Defendant is required to produce said documents and tangible evidence hereinafter described by mailing same to Plaintiffs' counsel of record: Charles E. Boyk, 405 Madison Ave., Suite 1200, Toledo, Ohio 43604-1304 within twenty-eight (28) days of the date of service. Pursuant to Rule 26(e) of the Ohio Rules of Civil Procedure, Plaintiffs request that the Defendant, reasonably supplement his responses after date of return or before the time of trial.

**INSTRUCTIONS FOR RESPONDING**

- A. In answering the Request for Production, you are required not only to furnish such documents and tangible evidence as you possess personally, but also documents and tangible evidence which are in the possession of your relative or other who are holding those documents or that tangible evidence on your behalf, your attorneys, your agents, or your employees.
- B. When after a reasonable and thorough investigation using due diligence, you are unable to provide a document because of lack of availability, identify said document and specify in full and complete detail the reason the document is not available to you and what has been done to locate and obtain such document.

- C. Where the Request for Production calls for the production of a document as to which you claim a privilege as a ground for non-production, please set forth with respect to the document, in addition to any other information requested, its date, author, addressee if any, title, type of tangible thing (letter, memorandum, telegram, chart, report, tape recording), subject matter (without revealing the information as to which privilege is claimed), and with sufficient specificity to permit the Court to make a full determination whether the claim of privilege is valid, each and every fact or basis on which you claim such privilege.
- D. If any document called for by this discovery is not available or accessible, or does not provide information in the full detail requested, this discovery shall be deemed to call for the vest documents available on the subject matter.
- E. This Request for Production and answers to interrogatories is deemed to be continuing and to require the furnishing of additional documents and seasonable supplementation of responses whenever additional, updated or revised documents or information become available to you.

**DEFINITION OF TERMS USED IN THESE INTERROGATORIES**

- A. As used herein, the term "document" means any writing or any other tangible thing of any kind and description, however produced or reproduced, whether draft or final, original or reproduction, in your

actual or constructive possession, including, but not limited: letters, correspondence, resumes, memoranda, notes, films, transcripts, contracts, agreements, licenses, memoranda of telephone or personal conversations, microfilm, microfiche, telegrams, books, magazines, newspapers, brochures, press releases, advertisements, periodicals, bulletins, circulars, pamphlets, statements, notices, reports, rules, regulations, directive, teletype, or telefax messages, communications, minutes of records of meeting, expression of or statements of policy, lists of persons attending meetings or conferences, reports and/or summaries of investigations, opinions or reports of consultations, appraisals, reports or summaries of negotiations, interoffice communications, financial statements, ledgers, books of account, proposals, prospectuses, offers, orders, receipts, working papers, desk calendars, appointment books, diaries, time sheets, logs, movies, tapes for visual or audio reproduction, recordings, or materials similar to any of the foregoing, however, denominated, and including drawings, graphs, charts, photographs, phone-records, data-processing paper results, data print-outs, data computations (both in existence and in memory components), and other data compilations from which information can be obtained and translated, if necessary, by you through devices into reasonably usual form. The term "document" also includes any copies of each document if the copies are in any way

whatsoever not identical copies of the original, by reason of additional writing or notations or otherwise.

B. Person includes natural persons, corporations, trusts, partnerships, joint venture, associations and any other business or legal entity.

C. Identify means the following:

1. If referring to a person it means a statement as to:

a. The full name, business affiliation, and business title of such person;

b. The last known business and home address of such persons;

c. The last known business and home telephone number of such person; and

d. If such person is not a natural person, state:

i. Its name;

ii. Its last known business address;

iii. Its character, e.g.: corporation, partnership;

iv. The name(s) and last known residence address(es) of its officers, directors, partners, and/or principals.

2. If referring to a writing, it means a statement as to:

a. The nature of such writing and the date it bears;

b. The title or designation of such writing;

c. The date or dates of preparation of such writing;

- d. The name of the person or persons who prepared such writing;
- e. The name of the person or person who executed such writing;
- f. The name of the person or persons to whom such writing is addressed;
- g. Any file number used in connection with such writing;
- h. The portion of such writing, described by page and line number, which bears upon the subject inquired of this interrogatory;
- i. The present location of such writing and each copy thereof;
- j. The name and address of the person(s) presently possessing or having custody or control of such writing;
- k. A description of the means and circumstances by which you came into possession of such writing;
- l. The date upon which you came into possession of such writing;
- m. A description of the means and circumstances by which you first became aware of such writing;
- n. The date upon which you first became aware of such writing; and
- o. A brief summary of the contents of such writing; in lieu

thereof, a true and complete copy of the writing may be appended to your answers to these interrogatories.

3. If referring to an oral communication, it means a statement as to:

- a. The nature of such oral communication and the date it occurred;
- b. Whether such oral communication was made by person or telephone;
- c. The name of the person(s) who participated in or had knowledge of such oral communication;
- d. The geographical location of each such person at the time of such communication;
- e. The precise words used in the communication by each person present when such communication took place, or if the precise words cannot be stated, what was said by each person in words of substance or effect, or if this cannot be stated, a general description of the subject matter of the communication;
- f. A description of the means and circumstances by which you became aware of such oral communication; and
- g. The date upon which you first became aware of such oral communication.

**INTERROGATORY NO. 1:** State the name, address and title or capacity of each person participating in answering these Interrogatories.

**ANSWER:**

**INTERROGATORY NO. 2:** With respect to the incident alleged in the Complaint, state the date, time and location of the occurrence.

**ANSWER:**

**INTERROGATORY NO. 3:** Identify by name and address all those persons who Defendant knows has information concerning the subject matter of the claims asserted in this lawsuit.

**ANSWER:**

**INTERROGATORY NO. 4:** State the name, address and telephone number of each and every witness to the subject incident in question, known to you, your attorney or any agent or employee of you or your attorney.

**ANSWER:**

**INTERROGATORY NO. 5:** State the name, address and telephone number of each person known to you, your attorney or any agent or employee of you or your attorney who observed the area of the incident referred to in the Complaint on the date of the subject incident (whether before or after the occurrence).

**ANSWER:**

**INTERROGATORY NO. 6:** Please state the name, address and telephone number of each and every employee of Defendants who were working on July 25, 2008 and for each such employee, state his/her job title and hours of work on said date.

**ANSWER:**

**INTERROGATORY NO. 7:** Identify by name and address each person who Defendant expects to call to testify as a fact witness at trial.

**ANSWER:**

**INTERROGATORY NO. 8:** Identify by name and address each person who Defendant expects to call as an expert witness at trial.

- (a) The subject matter upon which the expert is expected to testify;
- (b) The substance of the facts to which the expert is expected to testify;
- (c) The opinions to which the expert is expected to testify;
- (d) Whether any written or recorded report was made by him or her; and
- (e) Please attach a copy of each report to your answers to these Interrogatories pursuant to Civil Rule 34.

**ANSWER:**

**INTERROGATORY NO. 9:** State the name, address and telephone number of each person whom you intend to call to testify at trial and, for each such person, summarize the nature of the anticipated testimony.

**ANSWER:**

**INTERROGATORY NO. 10:** Describe any documents which Defendants intend to offer into evidence or otherwise make reference to at trial. Please attach copies of each such document pursuant to Civil Rule 34.

**ANSWER:**

**INTERROGATORY NO. 11:** State whether you, your attorney, your insurance carrier or anyone acting on your or their behalf have or know of the existence of any photographs, videos, drawings, diagrams, measurements, surveys or other alleged descriptions concerning:

- (a) the events and happenings alleged in the Complaint;
- (b) the scene of the incident which is the subject of the Complaint; and
- (c) any persons or items of property involved, whether made before, after or at the time of the events in question, including any photographs or videotapes made of Plaintiff herein at any time since the incident referred to in the Complaint and, if so, describe the date and nature of each item and attach a copy of each item to your answers hereto in accordance with Civil Rule 34.

**ANSWER:**

**INTERROGATORY NO. 12:** State whether or not you are an insured under any policy of insurance which may provide you liability coverage with respect to the claims set forth in Plaintiff's Complaint and, if your response is in the affirmative, state:

- (a) The type of policy under which you are an insured;
- (b) The name of the insurer which provided said policy of insurance;
- (c) The policy number of each such policy of insurance;
- (d) The named insured under each such policy of insurance;
- (e) The limits of liability coverage provided by each such policy of insurance;
- (f) Whether any of the insurers listed in your response to subsection "b" of this Interrogatory have advised you and/or your agents that it is denying coverage to you with respect to Plaintiff's claims or is defending you in this action upon a reservation of rights.

**ANSWER:**

**INTERROGATORY NO. 13:** State the name and address of any person known to Defendants who obtained a statement from Plaintiff at the scene of the incident or otherwise interviewed, spoke with, and/or assisted Plaintiff on the date of incident alleged in the Complaint at 1304 State Route 183, Atwater, Ohio.

**ANSWER:**

**INTERROGATORY NO. 14:** Please identify by name and last known address all persons, entities, businesses and/or partnerships who had any interest in the property located at 1304 State Route 183, Atwater, Ohio, including improvements as of July 25, 2008. As to each disclosure, please include the nature of the interest held.

**ANSWER:**

**REQUEST FOR PRODUCTION NO. 1:** Any statement, whether written or recorded by videotape or audiotape means, made by Plaintiff Randy Maynard to Defendants or any person acting on behalf of Defendants.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 2:** Any and all photographs, diagrams, floor plans, and/or other documents or things which depict the interior and exterior of Defendants location at 1304 State Route 183, Atwater, Ohio as of the date of the incident alleged in the Complaint.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 3:** Any and all personnel manuals, instruction documents, training documents, or other materials, whether written or recorded by videotape, audiotape or electronic means, employed by Defendants for the purpose of training and/or instructing employees of Defendants.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 4:** As to any person, entity, business and/or partnership disclosed in Interrogatory No. 14, please produce a duplicate of any written instrument evidencing the interest held in the property located at 1304 State Route 183, Atwater, Ohio.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 5:** A copy of any and all applicable insurance policies of any kind including the face sheet that list specific policy limits that were in effect at the time of the incident alleged in this complaint.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 6:** A list of names, addresses and phone numbers of any witnesses that may have seen the incident that is the subject matter of this complaint.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 7:** A copy of any and all incident reports taken for the injury plaintiff sustained that is the subject matter of this complaint.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 8:** A list of names, addresses and phone numbers of all the employees that were working in and around the area where the plaintiff was injured.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 9:** A copy of any digital or video photos and/or recordings that might have captured the incident that is the subject matter of this complaint.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 10:** A copy of any photographs in whatever medium they may exist depicting the gas cap where the incident at issue took place prior to July 25, 2008.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 11:** A copy of any photographs in whatever medium they may exist depicting the gas cap where the incident at issue took place after July 25, 2008.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 12:** An itemized list and/or copies of any and all payments made to or on behalf of plaintiff for any and all medical bills and/or wage loss as a result of the incident alleged in the complaint.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 13:** A copy of any and all inspection reports either made by the Ohio State Fire Marshal, by Defendants or by anyone else with regards to the subject matter of this complaint.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 1:** Do you admit that Circle-K Store was properly served with the complaint in this case?

**ANSWER:**

**REQUEST FOR ADMISSION NO. 2:** Do you admit that Randy Maynard was a customer or invitee of the gas station and convenience store located at 1304 State Route 183, Atwater, Portage County, Ohio and owned by Realty Income Corp. on or about July 25, 2008?

**ANSWER:**

Respectfully submitted,

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Charles E. Boyk, Esq.

**TO THE DEFENDANT REALTY INCOME CORP.:** The plaintiff hereby requests that Defendant Realty Income Corp., pursuant to Rules 26, 33 and 34 of the Ohio Rules of Civil Procedure, respond to the following Request for Production of Documents and Interrogatories within twenty-eight (28) days of service hereof. Defendant is required to produce said documents and tangible evidence hereinafter described by mailing same to Plaintiffs' counsel of record: Charles E. Boyk, 405 Madison Ave., Suite 1200, Toledo, Ohio 43604-1304 within twenty-eight (28) days of the date of service. Pursuant to Rule 26(e) of the Ohio Rules of Civil Procedure, Plaintiffs request that the Defendant, reasonably supplement his responses after date of return or before the time of trial.

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- G. When after a reasonable and thorough investigation using due diligence, you are unable to provide a document because of lack of availability, identify said document and specify in full and complete detail the reason the document is not available to you and what has been done to locate and obtain such document.

- H. Where the Request for Production calls for the production of a document as to which you claim a privilege as a ground for non-production, please set forth with respect to the document, in addition to any other information requested, its date, author, addressee if any, title, type of tangible thing (letter, memorandum, telegram, chart, report, tape recording), subject matter (without revealing the information as to which privilege is claimed), and with sufficient specificity to permit the Court to make a full determination whether the claim of privilege is valid, each and every fact or basis on which you claim such privilege.
- I. If any document called for by this discovery is not available or accessible, or does not provide information in the full detail requested, this discovery shall be deemed to call for the vest documents available on the subject matter.
- J. This Request for Production and answers to interrogatories is deemed to be continuing and to require the furnishing of additional documents and reasonable supplementation of responses whenever additional, updated or revised documents or information become available to you.

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- D. As used herein, the term "document" means any writing or any other tangible thing of any kind and description, however produced or reproduced, whether draft or final, original or reproduction, in your

actual or constructive possession, including, but not limited: letters, correspondence, resumes, memoranda, notes, films, transcripts, contracts, agreements, licenses, memoranda of telephone or personal conversations, microfilm, microfiche, telegrams, books, magazines, newspapers, brochures, press releases, advertisements, periodicals, bulletins, circulars, pamphlets, statements, notices, reports, rules, regulations, directive, teletype, or telefax messages, communications, minutes of records of meeting, expression of or statements of policy, lists of persons attending meetings or conferences, reports and/or summaries of investigations, opinions or reports of consultations, appraisals, reports or summaries of negotiations, interoffice communications, financial statements, ledgers, books of account, proposals, prospectuses, offers, orders, receipts, working papers, desk calendars, appointment books, diaries, time sheets, logs, movies, tapes for visual or audio reproduction, recordings, or materials similar to any of the foregoing, however, denominated, and including drawings, graphs, charts, photographs, phone-records, data-processing paper results, data print-outs, data computations (both in existence and in memory components), and other data compilations from which information can be obtained and translated, if necessary, by you through devices into reasonably usual form. The term "document" also includes any copies of each document if the copies are in any way

- whatsoever not identical copies of the original, by reason of additional writing or notations or otherwise.
- E. Person includes natural persons, corporations, trusts, partnerships, joint venture, associations and any other business or legal entity.
- F. Identify means the following:
1. If referring to a person it means a statement as to:
    - a. The full name, business affiliation, and business title of such person;
    - b. The last known business and home address of such persons;
    - c. The last known business and home telephone number of such person; and
    - d. If such person is not a natural person, state:
      - i. Its name;
      - ii. Its last known business address;
      - iii. Its character, e.g.: corporation, partnership;
      - iv. The name(s) and last known residence address(es) of its officers, directors, partners, and/or principals.
  2. If referring to a writing, it means a statement as to:
    - a. The nature of such writing and the date it bears;
    - b. The title or designation of such writing;
    - c. The date or dates of preparation of such writing;

- d. The name of the person or persons who prepared such writing;
- e. The name of the person or person who executed such writing;
- f. The name of the person or persons to whom such writing is addressed;
- g. Any file number used in connection with such writing;
- h. The portion of such writing, described by page and line number, which bears upon the subject inquired of this interrogatory;
- i. The present location of such writing and each copy thereof;
- j. The name and address of the person(s) presently possessing or having custody or control of such writing;
- k. A description of the means and circumstances by which you came into possession of such writing;
- l. The date upon which you came into possession of such writing;
- m. A description of the means and circumstances by which you first became aware of such writing;
- n. The date upon which you first became aware of such writing; and
- o. A brief summary of the contents of such writing; in lieu

thereof, a true and complete copy of the writing may be appended to your answers to these interrogatories.

3. If referring to an oral communication, it means a statement as to:

- a. The nature of such oral communication and the date it occurred;
- b. Whether such oral communication was made by person or telephone;
- c. The name of the person(s) who participated in or had knowledge of such oral communication;
- d. The geographical location of each such person at the time of such communication;
- e. The precise words used in the communication by each person present when such communication took place, or if the precise words cannot be stated, what was said by each person in words of substance or effect, or if this cannot be stated, a general description of the subject matter of the communication;
- f. A description of the means and circumstances by which you became aware of such oral communication; and
- g. The date upon which you first became aware of such oral communication.

**INTERROGATORY NO. 1:** State the name, address and title or capacity of each person participating in answering these Interrogatories.

**ANSWER:**

**INTERROGATORY NO. 2:** With respect to the incident alleged in the Complaint, state the date, time and location of the occurrence.

**ANSWER:**

**INTERROGATORY NO. 3:** Identify by name and address all those persons who Defendant knows has information concerning the subject matter of the claims asserted in this lawsuit.

**ANSWER:**

**INTERROGATORY NO. 4:** State the name, address and telephone number of each and every witness to the subject incident in question, known to you, your attorney or any agent or employee of you or your attorney.

**ANSWER:**

**INTERROGATORY NO. 5:** State the name, address and telephone number of each person known to you, your attorney or any agent or employee of you or your attorney who observed the area of the incident referred to in the Complaint on the date of the subject incident (whether before or after the occurrence).

**ANSWER:**

**INTERROGATORY NO. 6:** Please state the name, address and telephone number of each and every employee of Defendants who were working on July 25, 2008 and for each such employee, state his/her job title and hours of work on said date.

**ANSWER:**

**INTERROGATORY NO. 7:** Identify by name and address each person who Defendant expects to call to testify as a fact witness at trial.

**ANSWER:**

**INTERROGATORY NO. 8:** Identify by name and address each person who Defendant expects to call as an expert witness at trial.

- (a) The subject matter upon which the expert is expected to testify;
- (b) The substance of the facts to which the expert is expected to testify;
- (c) The opinions to which the expert is expected to testify;
- (d) Whether any written or recorded report was made by him or her; and
- (e) Please attach a copy of each report to your answers to these Interrogatories pursuant to Civil Rule 34.

**ANSWER:**

**INTERROGATORY NO. 9:** State the name, address and telephone number of each person whom you intend to call to testify at trial and, for each such person, summarize the nature of the anticipated testimony.

**ANSWER:**

**INTERROGATORY NO. 10:** Describe any documents which Defendants intend to offer into evidence or otherwise make reference to at trial. Please attach copies of each such document pursuant to Civil Rule 34.

**ANSWER:**

**INTERROGATORY NO. 11:** State whether you, your attorney, your insurance carrier or anyone acting on your or their behalf have or know of the existence of any photographs, videos, drawings, diagrams, measurements, surveys or other alleged descriptions concerning:

- (a) the events and happenings alleged in the Complaint;
- (b) the scene of the incident which is the subject of the Complaint; and
- (c) any persons or items of property involved, whether made before, after or at the time of the events in question, including any photographs or videotapes made of Plaintiff herein at any time since the incident referred to in the Complaint and, if so, describe the date and nature of each item and attach a copy of each item to your answers hereto in accordance with Civil Rule 34.

**ANSWER:**

**INTERROGATORY NO. 12:** State whether or not you are an insured under any policy of insurance which may provide you liability coverage with respect to the claims set forth in Plaintiff's Complaint and, if your response is in the affirmative, state:

- (a) The type of policy under which you are an insured;
- (b) The name of the insurer which provided said policy of insurance;
- (c) The policy number of each such policy of insurance;
- (d) The named insured under each such policy of insurance;
- (e) The limits of liability coverage provided by each such policy of insurance;
- (f) Whether any of the insurers listed in your response to subsection "b" of this Interrogatory have advised you and/or your agents that it is denying coverage to you with respect to Plaintiff's claims or is defending you in this action upon a reservation of rights.

**ANSWER:**

**INTERROGATORY NO. 13:** State the name and address of any person known to Defendants who obtained a statement from Plaintiff at the scene of the incident or otherwise interviewed, spoke with, and/or assisted Plaintiff on the date of incident alleged in the Complaint at 1304 State Route 183, Atwater, Ohio.

**ANSWER:**

**INTERROGATORY NO. 14:** Please identify by name and last known address all persons, entities, businesses and/or partnerships who had any interest in the property located at 1304 State Route 183, Atwater, Ohio, including improvements as of July 25, 2008. As to each disclosure, please include the nature of the interest held.

**ANSWER:**

**REQUEST FOR PRODUCTION NO. 1:** Any statement, whether written or recorded by videotape or audiotape means, made by Plaintiff Randy Maynard to Defendants or any person acting on behalf of Defendants.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 2:** Any and all photographs, diagrams, floor plans, and/or other documents or things which depict the interior and exterior of Defendants location at 1304 State Route 183, Atwater, Ohio as of the date of the incident alleged in the Complaint.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 3:** Any and all personnel manuals, instruction documents, training documents, or other materials, whether written or recorded by videotape, audiotape or electronic means, employed by Defendants for the purpose of training and/or instructing employees of Defendants.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 4:** As to any person, entity, business and/or partnership disclosed in Interrogatory No. 14, please produce a duplicate of any written instrument evidencing the interest held in the property located at 1304 State Route 183, Atwater, Ohio.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 5:** A copy of any and all applicable insurance policies of any kind including the face sheet that list specific policy limits that were in effect at the time of the incident alleged in this complaint.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 6:** A list of names, addresses and phone numbers of any witnesses that may have seen the incident that is the subject matter of this complaint.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 7:** A copy of any and all incident reports taken for the injury plaintiff sustained that is the subject matter of this complaint.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 8:** A list of names, addresses and phone numbers of all the employees that were working in and around the area where the plaintiff was injured.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 9:** A copy of any digital or video photos and/or recordings that might have captured the incident that is the subject matter of this complaint.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 10:** A copy of any photographs in whatever medium they may exist depicting the gas cap where the incident at issue took place prior to July 25, 2008.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 11:** A copy of any photographs in whatever medium they may exist depicting the gas cap where the incident at issue took place after July 25, 2008.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 12:** An itemized list and/or copies of any and all payments made to or on behalf of plaintiff for any and all medical bills and/or wage loss as a result of the incident alleged in the complaint.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 13:** A copy of any and all inspection reports either made by the Ohio State Fire Marshal, by Defendants or by anyone else with regards to the subject matter of this complaint.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 1:** Do you admit that Circle-K Store was properly served with the complaint in this case?

**ANSWER:**

**REQUEST FOR ADMISSION NO. 2:** Do you admit that Randy Maynard was a customer or invitee of the gas station and convenience store located at 1304 State Route 183, Atwater, Portage County, Ohio and owned by Realty Income Corp. on or about July 25, 2008?

**ANSWER:**

Respectfully submitted,

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Charles E. Boyk, Esq.