

**IN THE FIRST JUDICIAL CIRCUIT COURT
IN AND FOR ESCAMBIA COUNTY, STATE OF FLORIDA**

BRADY PITTS,

Plaintiff,

v.

CASE NO.:

DIVISION:

**SUNSHINE INVESTMENTS OF NORTHWEST
FLORIDA d/b/a/ WILD GREG'S SALOON
and KURT JUST,**

Defendants.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES plaintiff, BRADY PITTS ("PLAINTIFF"), by and through his undersigned counsel, Aaron L. Watson and The Watson Firm, and hereby files this Complaint and Demand for Jury Trial against defendants, SUNSHINE INVESTMENTS OF NORTHWEST FLORIDA d/b/a/ WILD GREG'S SALOON and KURT JUST and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. This Complaint arises from an assault and battery of PLAINTIFF by Defendant JUST on or about May 4, 2018. The assault and battery occurred while PLAINTIFF was seeking entry into Defendant WILD GREG'S business establishment located at 22 South Palafox Street, Pensacola, Florida 32502.

2. PLAINTIFF is an adult male and is now, and at all times mentioned in this Complaint was, a citizen and resident of Pensacola, Florida, Escambia County.

3. Defendant, SUNSHINE INVESTMENTS OF NORTHWEST FLORIDA d/b/a/ WILD GREG'S SALOON (Defendant "WILD GREG'S"), is a Florida business entity registered

to do business in the State of Florida as a Limited Liability Company. At all material times, Defendant WILD GREG'S owned and operated a business establishment (i.e., bar and restaurant) located at 22 South Palafox Street, Pensacola, Florida 32502, including its daily operations ranging from the hiring and supervision of employees, risk management, adoption and enforcement of policies relating to the safety of its patrons, and the prevention and reporting of assault and battery on its premises.

4. Defendant, KURT JUST (Defendant "JUST"), was a citizen and resident of Pensacola, Florida, Escambia County.

5. At all material times, JUST was an agent, servant, and/or employee of Defendant, WILD GREG'S, where he was engaged as a manager.

6. Venue properly lies in this judicial circuit in that the assault and battery and other tortious acts that are the subject of the lawsuit were committed at WILD GREG'S located in Pensacola, Florida, Escambia County.

7. This Court has jurisdiction in that this is a claim for monetary damages far above the fifteen thousand dollar (\$15,000) jurisdictional minimum of this Court, exclusive of interest, costs, and attorneys' fees.

FACTS COMMON TO ALL COUNTS

8. At all times material hereto, Defendant WILD GREG'S, had total control of the operation of the business at Wild Greg's Saloon, including total control over the actions of its agents, apparent agents, employees, managers, security personnel and bouncers, to include Defendants JUST.

9. At all times material hereto, Defendant WILD GREG'S had a duty to correct dangerous conditions, of which Defendant WILD GREG'S knew existed, or reasonably should have known existed, in the exercise of reasonable care.

10. At all times material hereto, PLAINTIFF was an invitee of Defendant WILD GREG'S.

11. On or about May 4, 2018, PLAINTIFF, was violently attacked and injured by agents, apparent agents, servants, employees, managers, security personnel and/or bouncers, including but not limited to Defendant JUST, resulting in severe and permanent injuries.

12. The acts of the agents, apparent agents, servants, employees, security personnel and bouncers, including but not limited to Defendant JUST, were committed within the course and scope of their employment, in the real and/or apparent scope of their business, and in furtherance of the interests of the owners and operators of WILD GREG'S.

13. On or about May 4, 2018, PLAINTIFF was enrolled as a student at University of West Florida.

14. On or about May 4, 2018, PLAINTIFF and three companions sought entrance into WILD GREG'S, but were denied access by the manager and called racial slurs as they obliged Defendant JUST'S request to leave and sought exit from the entrance area.

15. When PLAINTIFF and his companions reached the public sidewalk outside the entrance area, Defendant JUST cried out "Get Them," and Defendant JUST chased PLAINTIFF and his companions out onto the public sidewalk and/or South Palafox Street.

16. When on the public sidewalk adjacent to South Palafox Street, Defendant JUST pepper-sprayed PLAINTIFF in his eyes, face, and body.

17. PLAINTIFF was on the public sidewalk and/or street as he was pepper sprayed by Defendant JUST as PLAINTIFF kept stating that he did not want to engage in a physical altercation with Defendant JUST.

18. Some or all of PLAINTIFF'S companions were similarly pepper-sprayed and/or physically assaulted and battered.

19. PLAINTIFF felt paralyzed with fear and was in shock. PLAINTIFF was able to escape only after suffering severe injuries.

20. PLAINTIFF was admitted to Baptist Hospital Urgent Care to treat his injuries, which included injuries to his eyes, head, and body.

21. The assault and battery described herein occurred on, or near, the premises operated and/or controlled by Defendant, WILD GREG'S.

22. The assault and battery described herein occurred during the normal business hours of Defendant WILD GREG'S and occurred in the course and scope of the performance of the duties of Defendant JUST with Defendant WILD GREG'S

23. The wrongful acts of Defendants JUST were committed in the actual or apparent course and scope of his employment or agency with Defendant WILD GREG'S.

24. The wrongful acts were committed while Defendant JUST was doing what his employment or agency contemplated.

25. Defendant JUST was aided in accomplishing the tort upon PLAINTIFF by the existence of his agency relationship with WILD GREG'S. Specifically, Defendant JUST used the authority actually delegated to him by WILD GREG'S to cause an assault and battery upon PLAINTIFF.

26. At all times material hereto, WILD GREG'S was responsible for the actions of its agents, servants, and/or employees, to include Defendant JUST as all relevant actions of JUST were committed in the actual or apparent scope of his duties.

27. It was foreseeable or should had been foreseeable to Defendant WILD GREG'S that Defendant JUST, who assaulted and/or battered PLAINTIFF, would do so, as the security personnel had a history of violent behavior and dangerous propensities and/or was otherwise unfit for these particular duties.

28. As a direct and proximate cause of the foregoing, PLAINTIFF has suffered injury and expense, including but not limited to physical injuries, psychological and emotional injuries, embarrassment, mental anguish, and the loss of enjoyment of life.

WHEREFORE, PLAINTIFF demands judgment against Defendant MOEGENBURG, for compensatory damages, costs, and such other and further relief as this Court deems just and proper.

COUNT I
(ASSAULT AND BATTERY)
(Against Defendant JUST)

29. PLAINTIFF realleges and incorporates paragraphs one (1) through twenty-eight (28) as set forth above.

30. On or about May 4, 2018, as PLAINTIFF was exiting the entrance area to Defendant WILD GREG'S, Defendant JUST, an employee of WILD GREG'S, intentionally pepper-sprayed PLAINTIFF and violently and physically assaulted PLAINTIFF.

31. As a direct and proximate result of the unwanted harmful and/or offensive touching perpetrated by Defendant JUST, for which Defendant WILD GREG'S is vicariously liable, PLAINTIFF has suffered serious injury and expense, including but not limited to physical injuries,

psychological and emotional injuries, embarrassment, mental anguish, and the loss of enjoyment of life.

WHEREFORE, PLAINTIFF demands judgment against Defendant JUST compensatory damages, costs, and such other and further relief as this Court deems just and proper.

COUNT II
(VICARIOUS LIABILITY FOR ASSAULT AND BATTERY)
(Against Defendant WILD GREG'S)

32. PLAINTIFF realleges and incorporates paragraphs one (1) through twenty-eight (28) as set forth above.

33. Defendant WILD GREG'S hired management, security personnel and other staff members and employees, including Defendant JUST, who on May 4, 2018, attacked PLAINTIFF by personally committing battery and/or assault and other negligent and violent acts against PLAINTIFF.

34. At all times relevant to the attack, said managers, security personnel, or other employees and/or staff members, including Defendant JUST, were working in the course and scope of employment for the owners of WILD GREG'S and in the furtherance of duties prescribed by Defendant WILD GREG'S; therefore, Defendant WILD GREG'S is vicariously liable for the intentional acts of these individuals.

35. As a direct and proximate result of the battery and/or assault and violent acts of these persons employed by the owners and operators of WILD GREG'S, for which Defendant WILD GREG'S is vicariously liable, PLAINTIFF has suffered serious injury and expense, including but not limited to physical injuries, psychological and emotional injuries, embarrassment, mental anguish, and the loss of enjoyment of life.

36. WHEREFORE, PLAINTIFF demands judgment against Defendant WILD GREG'S for compensatory damages, costs, and such other and further relief as this Court deems just and proper.

COUNT III
(NEGLIGENCE)
(Against Defendant WILD GREG'S)

37. PLAINTIFF realleges and incorporates paragraphs one (1) through twenty-eight (28) as set forth above.

38. At all material times, Defendant WILD GREG'S was responsible for its agents, servants, and/or employees, including the manager and bouncers on duty on the night in question.

39. At all material times, the manager and bouncers on duty at Defendant WILD GREG'S had a duty of care to its patrons and the public seeking access to its bar.

40. At all times material hereto, Defendant WILD GREG'S owed PLAINTIFF a non-delegable duty to:

- a. Exercise reasonable care for the safety of PLAINTIFF;
- b. Maintain the premises in a reasonably safe condition;
- c. Protect patrons and invitees like PLAINTIFF from foreseeable harm;
- d. Protect patrons like PLAINTIFF from reasonably foreseeable risks; and/or
- e. Refrain from committing any act which could foreseeably and unreasonably result in injury to its patrons, including PLAINTIFF.

41. Defendant WILD GREG'S breached the duties to the PLAINTIFF in one or more of the following ways:

- a. Defendant WILD GREG'S allowed dangerous and or violent agents, apparent agents, servants, employees, security personnel and bouncers, to include

Defendant JUST, to be in and remain on the premises of the Defendant WILD GREG'S;

b. Defendant WILD GREG'S allowed dangerous and or violent agents, apparent agents, servants, employees, security personnel and bouncers that were under the employment and/or control of Defendant WILD GREG'S, to include Defendant JUST, to attack PLAINTIFF at or about the premises of the Defendant WILD GREG'S;

c. Failed to take appropriate action to remove dangerous or violent agents or employees, to include Defendant JUST, that attacked PLAINTIFF, despite the fact that Defendant WILD GREG'S knew or should have known that these agents, apparent agents, servants, employees, security personnel and bouncers posed a substantial risk of danger to patrons and the Plaintiff in this matter;

d. Failed to provide adequate and reasonable security on the premises of the Defendant WILD GREG'S for the protection of PLAINTIFF;

e. Failed to exercise reasonable care for the safety of PLAINTIFF while he was a business invitee on the premises of the Defendant WILD GREG'S;

f. Failed to maintain reasonable and adequate procedures for handling security measures within and outside of the club, including but not limited to those regarding the ejection of patrons;

g. Failed to maintain the premises of the Defendant WILD GREG'S in a reasonably safe condition;

h. Failed to warn of dangerous conditions that existed on its premises;

i. Failed to warn of violent agents, apparent agents, servants, employees, security personnel and bouncers to include Defendant JUST.

j. Negligently acted or failed to act in other presently undetermined ways.

42. At all material times hereto, Defendant WILD GREG'S was under a legal non-delegable duty or obligation to act with reasonable care to protect those legally upon its premises, and to provide reasonable, adequate and appropriate security for its patrons and business invitees, such as the Plaintiff.

43. At all material times hereto, Defendant WILD GREG'S had a further duty to warn and protect its patrons and business invitees such as the PLAINTIFF, from the risk of the criminal attacks on PLAINTIFF, which were reasonably foreseeable to Defendant WILD GREG'S in that Defendant WILD GREG'S had actual or constructive knowledge of prior criminal acts of its employees as well as prior criminal activities on its business premises that occurred in the course and scope of the operation of its business.

44. Defendant WILD GREG'S knew, or should have known of the present threat to PLAINTIFF and others similarly situated and their exposure to the risk of injury due to prior similar incidents and criminal activities that occurred on its premises.

45. As a direct and proximate cause of the foregoing, PLAINTIFF has suffered injury and expense, including but not limited to physical injuries, psychological and emotional injuries, embarrassment, mental anguish, and the loss of enjoyment of life.

WHEREFORE, PLAINTIFF demands judgment against Defendant WILD GREG'S for compensatory damages, costs, and such other and further relief as this Court deems just and proper.

COUNT IV
(NEGLIGENT HIRING, TRAINING, RETENTION AND SUPERVISION)
(Against Defendant WILD GREG'S)

46. PLAINTIFF realleges and incorporates paragraphs one (1) through twenty-eight (28) as set forth above.

47. At all material times, Defendant WILD GREG'S had a duty to hire, train, retain, and supervise its agents, servants, and/or employees that were *not* a danger to its patrons and the public wishing to enter its establishment.

48. At all material times, Defendant WILD GREG'S had a duty to hire, train, retain, and supervise its agents, servants, and/or employees that were properly trained and qualified to protect against reasonably foreseeable dangers and/or risks and to otherwise maintain order over crowds, patrons, and PLAINTIFF herein, and to maintain the premises of the Defendant WILD GREG'S in a reasonably safe condition.

49. Defendant WILD GREG'S breached that duty of reasonable care, and was negligent and careless in hiring of the agent, employee, security personnel and/or bouncer, who assaulted and/or battered PLAINTIFF, by hiring Defendant JUST without appropriately investigating his background to determine his suitability for the particular employment. An appropriate investigation of Defendant JUST would have revealed his unsuitability for the position of security personnel, manager, bouncer, or any employment position at Defendant WILD GREG'S.

50. Alternatively, Defendant WILD GREG'S was negligent in hiring Defendant JUST, despite knowledge of his violent propensities. It was unreasonable to hire Defendant JUST in light of the information the Defendant WILD GREG'S knew or should have known.

51. It was foreseeable or should have been foreseeable to the Defendant WILD GREG'S that Defendant JUST, who assaulted and/or battered PLAINTIFF, would do so, as the management and security personnel had a history of violent behavior and dangerous propensities towards invitees, guests and patrons and/or was otherwise unfit for these particular duties.

52. Defendant WILD GREG'S breached this duty of reasonable care by negligently retaining Defendant JUST, even after Defendant JUST had exhibited a hot temper, had failed to follow recognized procedures, had been violent, had used unreasonable force on the job in the past and/or demonstrated other unsuitable characteristics and behavior for the particular employment he was hired for.

53. Defendant WILD GREG'S failed to adequately supervise agents, apparent agents, servants, employees, security personnel and bouncers, including but not limited to Defendant JUST, while he was on duty to ensure that the individuals were acting professionally, responsibly, non-violently, lawfully, law-abidingly, and otherwise appropriately in performing his job duties.

54. Defendant WILD GREG'S failed to take any disciplinary action against agents, apparent agents, servants, employees, security personnel and bouncers, including but not limited to Defendant JUST, such as retraining or reassignment or termination.

55. Defendant WILD GREG'S failed to deter agents, apparent agents, servants, employees, security personnel and bouncers, including but not limited to Defendant JUST, from battering customers and business invitees, including, but not limited to the PLAINTIFF herein.

56. At all relevant times, Defendant WILD GREG'S knew, or in the exercise of reasonable care, should have known that Defendant JUST was unfit, dangerous, and/or a threat to the health, safety, and welfare of its patrons and/ or public seeking access to the establishment.

57. Despite such actual or constructive knowledge, Defendant WILD GREG'S hired, trained, and retained Defendant JUST and failed to exercise adequate supervision and placed PLAINTIFF in a position to be assaulted and battered.

58. As a direct and proximate cause of the foregoing, PLAINTIFF has suffered serious injury and expense, including but not limited to, physical injures, psychological and emotional injuries, embarrassment, mental anguish, and the loss of enjoyment of life.

WHEREFORE, PLAINTIFF demands judgment against Defendant WILD GREG'S for compensatory damages, costs, and such other and further relief as this Court deems just.

* * *

DEMAND FOR JURY TRIAL

PLAINTIFF hereby demands a trial by jury of all issues so triable.

Dated: July 25, 2018

Respectfully Submitted,

/s/ Aaron L. Watson
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* * *

CERTIFICATE RE: E-FILING AND E-SERVICE

I HEREBY CERTIFY that this Complaint was filed electronically in compliance with Florida Rules of Judicial Administration 2.515 and 2.516(e).

I FURTHER CERTIFY for purposes of service of any documents after initial process that `awatson@watsonfirmlaw.com` is primary and `mwhite@watsonfirmlaw.com` and `rruszat@watsonfirmlaw.com` are secondary.

Dated: July 25, 2018

Respectfully Submitted,

/s/ Aaron L. Watson

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