


IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA

  
Rebecca Keaton, Clerk of Superior Court  
Cobb County, Georgia

KENNY RIVERA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KALO GALOWAY, )  
KALO LALO INC., doing business as )  
CAFÉ ISTANBUL )  
 )  
Defendants. )

CIVIL ACTION FILE NO:

COMPLAINT FOR DAMAGES

COMES NOW KENNY RIVERA, [hereinafter sometimes "Plaintiff" or "Plaintiff Rivera"], Plaintiff in the above-captioned matter, and states his Complaint against the Defendants as follows:

1. Plaintiff Rivera is a resident of Fulton County, Georgia.
2. Defendant Kalo Galoway [hereinafter sometimes referred to as "Defendant Galoway"] is a resident of Alpharetta, Fulton County, Georgia, and may be served by second original at his residence at 5120 Forest Run Trace, Alpharetta, Fulton County, GA 30022 and is subject to the jurisdiction of this Court.
3. Defendant Kalo Lalo, Inc., is a corporation licensed to do business in the State of Georgia, and is doing business as Café Istanbul. Both Kalo Lalo, Inc. and Café Istanbul are doing business at 4200 Wade Green Road, Suite 19-22, Kennesaw, Cobb County, Georgia 30144, and are subject to the jurisdiction of this court.

4. Service of process may be made upon Kalo Lalo, Inc.'s registered agent, Kalo Galoway, at the address of 1519 Dickens Place, Kennesaw, Cobb County, Georgia 30144.
5. Defendant Kalo Lalo, Inc. is doing business as Café Istanbul and both are located at 4200 Wade Green Road, Suite 19-22, Kennesaw, Cobb County, Georgia 30144.
6. Venue in this case is proper in Cobb County, Georgia against all Defendants on the basis that the torts alleged herein occurred in Cobb County.
7. Defendants' Galoway and Kalo Lalo, Inc. d/b/a Café Istanbul employed Lee Plaza to provide security services to Café Istanbul, which is operated as a bar and restaurant.
8. On March 11, 2017, Lee Plaza was an employee of Defendants' Galoway and Kalo Lalo, Inc. d/b/a Café Istanbul.
9. On March 11, 2017, Lee Plaza was an agent of Defendants Galoway and Kalo Lalo, Inc. d/b/a Café Istanbul.
10. On March 11, 2017, Lee Plaza was working as a security guard at the subject Café Istanbul.
11. On March 11, 2017, Plaintiff Rivera was an invitee at Café Istanbul located at 4200 Wade Green Road, Suite 19-22, Kennesaw, Cobb County, Georgia 30144.
12. On March 11, 2017, Plaintiff was attacked at Café Istanbul by a patron wielding a box cutter and by Lee Plaza, and employee of defendants.
13. In the process of the attack, Lee Plaza grabbed Plaintiff Rivera from behind and held his arms to prevent him from defending himself, which allowed the attacking patron to severely injure Plaintiff Rivera.
14. Plaintiff Rivera was so severely injured, that he suffered lacerations which resulted in permanent scarring and nerve damage to his right arm.

15. Defendant Galoway is liable for the torts of Lee Plaza and Kalo Lalo, Inc. doing business as Café Istanbul on the basis that at all times herein, he was aware of the dangerous propensity of the patron wielding the box cutter, as well as Lee Plaza's friendship with said patron, and the propensity of Lee Plaza to participate in attacks against patrons.

**COUNT 1: RESPONDEAT SUPERIOR**

16. Plaintiff incorporates and reasserts herein by reference Paragraphs 1-15 of Plaintiff's Complaint.

17. Defendant Kalo Lalo, Inc. is liable for the torts of Lee Plaza under the theory of respondeat superior.

**COUNT 2: NEGLIGENCE PER SE FOR VIOLENT INJURY**

18. Plaintiff incorporates and reasserts herein by reference Paragraphs 1-17 of Plaintiff's Complaint.

19. The Defendants are guilty of negligence per se by violation of O.C.G.A. § 51-1-13, specifically by Lee Plaza causing injury to the person of Plaintiff Rivera.

20. The Defendants are guilty of negligence per se by violation of O.C.G.A. § 51-1-14, specifically by Lee Plaza's participation in committing a violent injury upon the person of Plaintiff Rivera by holding him while another patron stabbed him repeatedly with a box cutter.

**COUNT 3: NEGLIGENCE PER SE FOR FALSE IMPRISONMENT**

21. Plaintiff incorporates and reasserts herein by reference Paragraphs 1-20 of Plaintiff's Complaint.

22. The Defendants are guilty of negligence per se by violation of O.C.G.A § 51-7-20 based on Lee Plaza's committing the tort of false imprisonment by unlawfully restraining the personal liberty of Plaintiff Rivera by holding his arms, thereby allowing another patron to stab him repeatedly.

**COUNT 4: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

23. Plaintiff incorporates and reasserts herein by reference Paragraphs 1-22 of Plaintiff's Complaint.

24. The Defendants are liable in tort to Plaintiff Rivera for intentional infliction of emotional distress, specifically for Lee Plaza's intentionally committing acts of outrageous conduct beyond all bounds of decency, when Lee Plaza held Plaintiff's arms, thereby allowing another patron to stab him repeatedly.

**COUNT 5: ASSAULT**

25. Plaintiff incorporates and reasserts herein by reference Paragraphs 1-24 of Plaintiff's Complaint.

26. The Defendants are liable for the tort of assault against Plaintiff Rivera specifically by Lee Plaza for the unlawful touching of Plaintiff Rivera on March 11, 2017 by Lee Plaza.

**COUNT 6: BATTERY**

27. Plaintiff incorporates and reasserts herein by reference Paragraphs 1-26 of Plaintiff's Complaint.

28. The Defendants are liable to Plaintiff Rivera for the tort of battery, specifically by Lee Plaza holding and restraining Plaintiff Rivera on March 11, 2017.

### **COUNT 7: PUNITIVE DAMAGES**

29. Plaintiff incorporates and reasserts herein by reference Paragraphs 1-28 of Plaintiff's Complaint.
30. Punitive Damages should be awarded against the Defendants pursuant to O.C.G.A. § 51-12-5.1 as the Defendants have engaged in willful misconduct, malice, wantonness, oppression with an entire want of care which raises the presumption of conscious indifference to the consequences of their actions and with a specific intent to cause harm based on the facts outlined in this complaint.
31. As a result of the negligence of these Defendants, Plaintiff Rivera incurred medical bills in the past and will likely incur medical bills in the future.
32. As a result of the negligence of the Defendants, Plaintiff Rivera suffered lost wages.
33. As a result of the negligence of the Defendants, Plaintiff Rivera suffered permanent injuries.
34. As a result of the negligence of the Defendants, Plaintiff Rivera suffered emotional distress in the past and up through the present time which he will endure into the future.
35. As a result of the negligence of the Defendants, Plaintiff Rivera experienced physical suffering and pain in the past and will likely continue to experience this pain into the future.
36. As a result of the negligence of the Defendants, Plaintiff Rivera was severely injured.

### **COUNT 8: NEGLIGENT ENTRUSTMENT**

37. Plaintiff incorporates and reasserts herein by reference Paragraphs 1-36 of Plaintiff's Complaint.
38. The Defendants had knowledge, or in the exercise of reasonable care, should have had knowledge, of the propensity of Lee Plaza to commit hostile and offensive conduct. The

Defendants are liable for the negligent entrustment of their property and employment responsibilities to Lee Plaza; said negligent entrustment proximately caused injury to Plaintiff Rivera.

**COUNT 9: NEGLIGENT SUPERVISION**

39. Plaintiff incorporates and reasserts herein by reference Paragraphs 1-38 of Plaintiff's Complaint.

40. The Defendants had knowledge, or in the exercise of reasonable care, should have had knowledge, of the propensity of Lee Plaza to commit hostile and offensive conduct. The Defendants are liable for the negligent supervision of their employee and agent, Lee Plaza; said negligent supervision of their employee and agent was the proximate cause of damages to Plaintiff Rivera.

**COUNT 10: NEGLIGENT HIRING**

41. Plaintiff incorporates and reasserts herein by reference Paragraphs 1-40 of Plaintiff's Complaint.

42. The Defendants knew, or in the exercise of reasonable care, should have known of the propensity of Lee Plaza to use excessive force against persons, including but not limited to hostile and offensive conduct, and the Defendants are liable for the negligent hiring of Lee Plaza; said negligent hiring was the proximate cause of damages to Plaintiff Rivera.

**COUNT 11: NEGLIGENT RETENTION**

43. Plaintiff incorporates and reasserts herein by reference Paragraphs 1-42 of Plaintiff's Complaint.

44. The Defendants knew, or in the exercise of reasonable care, should have known of the propensity of Lee Plaza to use excessive force against persons, and the Defendants are liable for the negligent retention of their employee and agent, Lee Plaza; said negligent retention was the proximate cause of damages suffered by Plaintiff Rivera.

#### **COUNT 12: NEGLIGENT TRAINING**

45. Plaintiff incorporates and reasserts herein by reference Paragraphs 1-44 of Plaintiff's Complaint.

46. The Defendants knew, or in the exercise of reasonable care, should have known of the propensity of Lee Plaza to use excessive force against persons, and the Defendants are liable for the negligent training of their employee and agent, Lee Plaza, and said Defendants failed to recognize and remedy threats to the safety of customers and individuals such as Plaintiff Rivera; said negligent training was the proximate cause of damages to Plaintiff Rivera.

47. During events at issue in this case, the Defendants' management or employees failed to intervene in Lee Plaza's actions. Defendants are liable for negligent supervision, hiring, retention, entrustment and training of their employees.

48. The Defendants failed and refused to act and protect Plaintiff Rivera.

49. Defendant Kalo Lalo, Inc. d/b/a Café Istanbul is a Georgia business and as such has a duty to exercise ordinary care to keep its premises safe for its invitees.

50. Defendant Kalo Lalo, Inc. breached its duty to Plaintiff Rivera by failing to exercise ordinary care to keep its' premises safe.

51. Defendant Kalo Lalo, Inc. had superior knowledge, including actual and/or constructive knowledge, regarding the dangerous propensity of Lee Plaza; therefore, Defendant Kalo

Lalo, Inc. should have seen that it was likely that some injury would result from its' failure to take precautions to protect its invitees from Lee Plaza.

52. Defendant Kalo Lalo, Inc.'s breach of its duties to keep its premises safe was the proximate cause of Plaintiff Rivera's injuries.

53. The Defendants breached their duty of care owed to Plaintiff Rivera by failing to warn him of Lee Plaza's dangerous propensities.

54. Defendant Kalo Lalo's breach of duty to warn its invitees of the dangerous persons and employees at Café Istanbul was the proximate cause of Plaintiff Rivera's injuries.

55. Defendants are liable to Plaintiff Rivera directly for their negligence under theories of respondeat superior and agency principles.

56. The foregoing acts of the Defendants evidence bad faith which entitles Plaintiff Rivera to recover his necessary expenses of litigation, including an award of reasonable attorney's fees and expenses required by this action.

Wherefore, Plaintiff Rivera prays that service of process be issued and the Defendants served, as required by law, and the following relief:


- a. the Plaintiff have a trial by jury;
- b. that Plaintiff be awarded general, special, compensatory, and punitive damages in accordance with the enlightened conscience of an impartial jury;
- c. that the Plaintiff be awarded special damages in an amount to be shown at trial;
- d. that the Plaintiff be awarded attorney's fees, interest, and costs; and

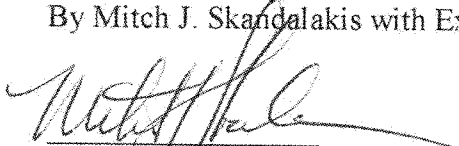


e. that the Plaintiff be awarded such other and further relief as this Court deems equitable and just.

This day of September, 2017.

ICHTER DAVIS, LLC

  
Cary Ichter  
Attorney for Plaintiff *w/ Express Permission*  
State Bar No. 382515  
By Mitch J. Skandalakis with Express Permission

  
Mitch J. Skandalakis  
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