

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

BRETT CHANCE,

Plaintiff,

vs.

BTW ATLANTA, LLC D/B/A BUCKHEAD
SALOON AND JOHN DOES 1-10,

Defendants.

CIVIL ACTION FILE No.:

COMPLAINT

COMES NOW the Plaintiff Brett Chance, by and through his counsel of record, and hereby files this Complaint against the Defendants and shows this Honorable Court as follows:

PARTIES AND JURISDICTION

1.

Plaintiff was at all times relevant to the above-referenced matter a citizen and domiciliary of the State of Georgia.

2.

Defendant BTW Atlanta, LLC d/b/a Buckhead Saloon (hereinafter also referred to as “Buckhead Saloon”) is a Georgia for-profit corporation whose registered agent is Jeff Bolhous at 3227 Roswell Road, Atlanta, Georgia 30305. Buckhead Saloon has been served with this Summons and Complaint at that address.

3.

John Does 1-10 were employees and agents of Defendant Buckhead Saloon that acted as security and/or bouncers on or about June 12, 2017. Once the identities of Defendant John Does 1-10 are known, they will be substituted as parties as allowed by Georgia law.

FACTS

4.

On the evening of June 12, 2017, Plaintiff was an invitee at Buckhead Saloon. Plaintiff was at all times well-behaved and paid his bill at the end of the evening.

5.

As he was preparing to leave Buckhead Saloon, Plaintiff purchased a bottle of tequila to take home with him as allowed by law. Plaintiff paid for this purchase with the bartender and started to exit Buckhead Saloon.

6.

As he exited Buckhead Saloon, and without any opportunity to answer or protect himself, Defendants John Does 1 – 10, who were in the scope of their employment with Buckhead Saloon, brutally assaulted and beat Plaintiff. Upon information, knowledge, and belief these assailants are/were employed by Buckhead Saloon in various capacities including security, “bouncers”, and maintenance staff.

7.

Defendants John Does 1-10 punched, kicked, stomped, and beat Plaintiff all over his body including his head, face, eye, leg, and abdominal area causing extensive injury and bleeding.

8.

Plaintiff has incurred medical bills in excess of \$10,000.00. It is anticipated by Plaintiff and his Counsel that Plaintiff will incur additional medical expenses into the foreseeable future.

9.

As a result of the actions of Defendants, Plaintiff sustained pain and suffering past and present and for the foreseeable future.

RESPONDEAT SUPERIOR AND AGENCY

10.

Plaintiff incorporates by reference, as if fully stated herein, Paragraph Nos. 1-9 of his Complaint in their entirety.

11.

Defendants John Does 1-10 committed the assault and battery while in the course and scope of their employment and/or agency with Buckhead Saloon.

12.

Under Georgia law, the acts of a servant are the acts of the master, and, thus, Buckhead Saloon is responsible for the negligent and wrongful acts of Defendant John Does 1-10.

13.

Georgia law places a duty on a business owner, by an owner's implied invitation to customers, to protect customers against a wilful and intentional tort committed by an employee of the business owner when the employee commits a tort at the direction of the business owner or in the execution and scope of the owner's business.

14.

Every person shall be liable for torts committed by a servant by his command or in the prosecution and within the scope of his business, whether the same is committed intentionally or negligently.

15.

Under Georgia law, an employer is responsible for torts committed by his employee when the employee does not exercise an independent business and is subject to the immediate direction and control of the employer.

NEGLIGENCE

16.

Plaintiff incorporates by reference, as if fully stated herein, Paragraph Nos. 1-15 of his Complaint in its entirety.

17.

Defendants were negligent in the following particulars:

- (a) Failing to ask Plaintiff about the bottle of tequila to determine whether he purchased the bottle;
- (b) Failing to notify law enforcement of possible theft of the tequila so an investigation could be completed;
- (c) Failure to ask Plaintiff to return the bottle of tequila to Buckhead Saloon if, in fact, it was not purchased;
- (d) Failure to ask Plaintiff for a copy of his receipt showing that he purchased the bottle of Tequila;

- (e) Failure to supervise and train Defendants John Does 1-10 in the manner of making a non-physical inquiry of customers and/or employees when a question arises as to whether an item has been purchased or stolen; and
- (f) Harassing Plaintiff, both at the scene and afterward, in the form of verbal attacks, direct messaging through text and email, and social media insults.

ASSAULT

18.

Plaintiff incorporates by reference, as if fully stated herein, Paragraph Nos. 1 through 17 of his Complaint above in their entirety.

19.

Defendants intended to cause and did cause Plaintiff to suffer apprehension of an immediate harmful contact.

20.

Defendants John Does 1-10 assaulted Plaintiff by showing that they both intended and had the ability to injure Plaintiff prior to and during the time that Plaintiff tried to leave Defendant Buckhead Saloon by being physically and verbally threatening.

21.

Plaintiff was at all relevant times aware of Defendants John Does 1-10s' actions, intentions, and ability to injure Plaintiff.

22.

Even after being told by another employee of the establishment that the liquor had been paid for, Defendants John Does 1 – 10 continued to taunt, heckle, and threaten Plaintiff.

BATTERY

23.

Plaintiff incorporates by reference, as if fully stated herein, Paragraph Nos. 1 through 22 of his Complaint above in their entirety.

24.

Defendants John Does 1-10 battered Plaintiff when they intentionally punched, beat, blind-sided, and willfully injured Plaintiff when Plaintiff attempted to leave Defendant Buckhead Saloon's premises after legally purchasing a bottle of liquor.

25.

Defendants intended to cause and did cause harmful contact with Plaintiff's person.

26.

Plaintiff did not consent to the Defendants' acts.

27.

As a result of the Defendants' negligence and intentional acts, Plaintiff sustained the following injuries:

1. Left knee injuries;
2. Laceration of lower limb;
3. Cervical injuries;
4. Thoracic injuries;

5. Lumbar injuries;
6. Head trauma and concussion;
7. Contusions and lacerations to head and face.

28.

These injuries have caused Plaintiff to suffer medical damages in excess of \$10,000.00.

29.

As a further direct and proximate result of Defendants' conduct, Plaintiff was unable to work for a period of time and suffered a harm to his reputation in the business community, which has caused him to lose work and income. These amounts of damages will be proven at trial.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

30.

Plaintiff incorporates by reference, as if fully stated herein, Paragraph Nos. 1 through 29 of his Complaint above in their entirety.

31.

Defendants John Does 1-10 intentionally beat, battered, blind-sided and willfully injured the Plaintiff over a bottle of liquor that the Plaintiff had legally purchased minutes before the attack.

32.

Defendants' conduct towards Plaintiff was malicious, wilful, and wanton and caused emotional distress to Plaintiff whether they actually intended to cause such distress or not.

33.

Defendants' assault and battery of Plaintiff was meant to inflict extreme and outrageous emotional distress or, at a minimum, Defendants' recklessly and willfully disregarded the consequences of their actions and their knowledge that said actions would likely cause such significant emotional distress.

34.

As a direct and proximate result of the Defendants' conduct, Plaintiff suffered extreme emotional distress..

PUNITIVE DAMAGES

35.

Plaintiff incorporates by reference, as if fully set herein, Paragraph Nos. 1-34 of his Complaint in its entirety.

36.

Defendants' behavior on June 12, 2017 demonstrated, by clear and convincing evidence, that Defendants' actions showed willful misconduct, malice, fraud, wantonness, oppression or that entire want of care which would raise the presumption of conscious indifference to consequences.

37.

Further, the behavior of the Defendants on June 12, 2017, demonstrates that the Defendants acted with the specific intent to cause harm such that there is no limitation regarding the amount which may be awarded as punitive damages against Defendant John Does 1-10.

WHEREFORE, Plaintiff prays as follows:

- (a) That Complaint and Summons be issued requiring the Defendants to be served as required by law and requiring the Defendants to answer this Complaint;
- (b) For a trial by a fair and impartial jury, as by law provided;
- (c) That Plaintiff obtain a judgment against the Defendants in a sum in excess of \$50,000.00 to compensate him for his general and special damages;
- (d) That Plaintiff obtain a judgment against the Defendants for punitive damages as authorized by O.C.G.A. § 51-12-5.1 in an amount to be decided by a jury;
- (e) Attorney's fees should be awarded pursuant to O.C.G.A. § 13-6-11;
- (f) Costs of this action; and
- (g) For such other relief as this Honorable Court deems just and proper.

This 30th day of May 2019.

Respectfully submitted,

/s/ Scott M. Williamson
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