

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

LAURA HALLISY,)	
)	
PLAINTIFF,)	
)	
VS.)	CIVIL ACTION FILE
)	NO. 16EV001279
)	
)	
OTB ACQUISITION, LLC)	
d/b/a ON THE BORDER,)	
and KEN WARDLE)	DEMAND FOR JURY TRIAL
)	
DEFENDANTS.)	

PLAINTIFF'S AMENDED COMPLAINT FOR DAMAGES

NOW COMES LAURA HALLISY, Plaintiff herein, by and through her counsel of record, and files this, her Amended Complaint for Damages, and shows this Honorable Court the following:

1.

This is a personal injury action which arises from a fall which occurred on March 8, 2015.

PARTIES, JURISDICTION AND VENUE

2.

Laura Hallisy is a resident of the State of Georgia, was injured on the premises and/or approaches of Defendant(s), due to a hazard created and/or maintained by the Defendants, and is the proper party to maintain this action for her injuries, damages, and harms, past and future.

3.

Defendant OTB Acquisition, LLC d/b/a On The Border, hereinafter “On The Border”, is a corporation operating for the purpose of pecuniary profit and gain.

4.

Unless service is acknowledged, a Complaint should be issued along with Summons which may be served on Defendant, On The Border, by serving its registered agent, CT Corporation, 1201 Peachtree Street, NE, Atlanta, Georgia 30361.

5.

Once served with process, Defendant On The Border is subject to the jurisdiction and venue of this Court.

6.

Defendant, Ken Wardle is a resident of the State of Georgia, County of Gwinnett, and at all times relevant Ken Wardle was the manager of the premises owned by Defendant On The Border and was in charge of safety and maintenance.

7.

Unless service is acknowledged, a Complaint should be issued along with Summons which may be served on Defendant Ken Wardle personally at his place of residence at 511 Plantation Trace Drive, Duluth, Georgia 30096.

8.

Once served with process, Defendant Ken Wardle is subject to the jurisdiction and venue of this Court.

COUNT ONE
(NEGLIGENCE)

9.

On March 8, 2015, Plaintiff Laura Hallisy went upon the premises and approaches of Defendant On The Border located at 790 Cobb Place Blvd, Kennesaw, Georgia 30144 as an invitee.

10.

Defendant On The Border was the owner, occupier and/or manager of the aforementioned premises and approaches, and by express or implied invitation, induced or led others, including Plaintiff Laura Hallisy, to come upon said premises and approaches.

11.

Defendant, Ken Wardle, manager of the aforementioned premises and approaches, and by express or implied invitation, induced or led others, including Plaintiff Laura Hallisy, to come upon said premises and approaches.

12.

On March 8, 2015, Defendants On The Border and Ken Wardle, had possession and control of the walking surface of the premises located at 790 Cobb Place Blvd, Kennesaw, Georgia 30144.

13.

On and before March 8, 2015, Defendants On The Border and Ken Wardle, had a duty to inspect and maintain the premises with regard to the walking surface of the premises located at 790 Cobb Place Blvd, Kennesaw, Georgia 30144.

14.

Defendant On The Border is liable to the Plaintiff because they failed to exercise ordinary care in keeping the subject premises and approaches safe on March 8, 2015.

15.

Defendant, Ken Wardle is liable to the Plaintiff because he failed to exercise ordinary care in keeping the subject premises and approaches safe on March 8, 2015.

16.

Defendant, On The Border is liable to the Plaintiff because they failed to exercise ordinary care in keeping the exterior walking surface at the subject premises and approaches safe on and before March 8, 2015.

17.

One or more of the Defendants are liable to Plaintiff for carelessness and/or negligence in the ownership, operation, management and/or maintenance of the subject premises and approaches on March 8, 2015.

18.

At all times relevant hereto, neither Defendant warned Laura Hallisy of the hazard which they created and/or maintained, nor were there any visible and conspicuous environmental indicators that there was a hazard present on the premises of 790 Cobb Place Blvd, Kennesaw, Georgia 30144.

19.

As a result of the negligence of one or more Defendants, Laura Hallisy fell fast and hard upon the walking surface of the exterior of the premises at 790 Cobb Place Blvd, Kennesaw, Georgia 30144.

20.

Laura Hallisy at all times acted with ordinary care, and had no implied or actual knowledge of the hazard.

21.

Each Defendant knew and/or should have known that the single-step riser leading from the restaurant to the parking lot at the time Laura Hallisy was present was a camouflaged hazard.

22.

The camouflaged single-step riser constituted a hazard to invitees, such as Laura Hallisy.

23.

Each Defendant was negligent in failing to keep the premises and/or approaches safe by failing to warn invitees of the hazard by verbal warning, signage or other conspicuous environmental indicators.

24.

The condition of the walking surface was an unsafe condition.

25.

A reasonable safety inspection would reveal the camouflaged single-step riser presented a hazard to pedestrian traffic on the exterior of the premises.

26.

A combination of the Defendants are joint tortfeasors with regard to the allegations of this Complaint, and are jointly and severally liable for the damages caused to Plaintiff.

27.

As a direct and proximate result of the negligence of one or more Defendants, Plaintiff Laura Hallisy incurred significant medical and related expenses, suffered great pain and suffering, lost income, and will suffer and incur personal injury damages in the future.

COUNT TWO

(STRICT LIABILITY)

28.

Plaintiff repeats and incorporates by reference paragraphs 1 through 27 of this complaint as it fully set forth verbatim herein.

29.

At all times material hereto, Defendants had a duty to comply with the Life Safety Code setting forth requirements for design and construction of commercial buildings in Cobb County.

30.

Life Safety Code Section A.7.1.7.2 requires that handrails be placed along the entire natural path of egress travel on single step risers.

31.

Defendants failed to comply with Life Safety Code Section A.7.1.7.2 by not placing a handrail along the entire subject single step riser.

32.

Defendants breached the duties imposed on them by Life Safety Code Section A.7.1.7.2 by failing to place a handrail along the entire subject single step riser.

33.

Defendants are strictly liable for their acts and omissions under Life Safety Code Section A.7.1.7.2.

34.

Defendants' violation of Life Safety Code Section A.7.1.7.2. was the direct and proximate cause of injuries to the Plaintiff.

COUNT TWO

(PUNITIVE DAMAGES)

35.

Plaintiff repeats and incorporates by reference paragraphs 1 through 34 of this Complaint as if fully set forth verbatim herein.

36.

The actions of Defendants complained of herein evidence such willful misconduct, wantonness, oppression, and an entire want of care which would raise a presumption of conscious indifference to the consequences thereby making appropriate the imposition of punitive damages against the Defendants. The amount of that award should be such as to deter the Defendants from such egregious conduct in the future to punish them for such egregious conduct.

37.

As a result of Defendants' deliberate, reckless and consciously indifferent actions, Plaintiff suffered significant mental pain and suffering and continues to suffer mental pain and suffering.

COUNT THREE

(DAMAGES, ATTORNEYS' FEES AND EXPENSES)

38.

Plaintiff repeats and incorporates by reference paragraphs 1 through 37 of this Complaint as if fully set forth verbatim herein.

39.

Plaintiff seeks damages for her past, present and future physical and mental pain and suffering, for his past and present medical expenses in the amount of \$91,436.96 to date and for

his future medical expenses and for her lost income incurred to date the amount and for future lost income.

40.

Defendants willful and wanton acts constitute acts of bad faith entitling Plaintiff to recover reasonable attorneys' fees and costs of litigation under O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiff prays for the following:

- (a) That process issue and service be had on the Defendants;
- (b) That judgment be granted in favor of the Plaintiff Laura Hallisy and against Defendants, jointly and severally, in an amount to be determined by the enlightened conscience of a fair and impartial jury, for medical and related expenses, pain and suffering, and lost income, past and future;
- (c) That she recovers against the Defendants a judgment for punitive damages for the willful, wanton and reckless acts of Defendants as set forth herein to be determined by the enlightened conscious of the jury;
- (d) That plaintiff be awarded her reasonable attorneys' fees and costs and expenses of litigation;
- (e) For a jury trial on all issues so triable; and
- (f) For such other and further relief as the Court deems just and proper.

Respectfully submitted this 21th day of June, 2017.

[SIGNATURE ON FOLLOWING PAGE]

/s/ Adam P. Taylor

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the within and foregoing document by filing electronically with the Clerk of Court using the eFileGA system which will automatically send email notification of such filing to all counsel of record as follows:

Paul Bushmann, Esq.
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This 21st day of June, 2017.

By: /s/ Scott M. Zahler
Scott M. Zahler
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