

245818

IN THE CIRCUIT COURT OF DAVIDSON COUNTY, TENNESSEE

HERMAN HUNTER)
)
 PLAINTIFF,)
)
 vs.)
)
 CAPTAIN D'S, LLC., a foreign limited)
 liability company, CAPTAIN D'S)
 ENTERPRISES, LLC.,)
 SHANERA JONES,)
)
 DEFENDANTS.)

No. 19C221

Return Date:



D.C.

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 RICHARD R. ROOKER, CLERK

FILED

COMPLAINT

Now comes the Plaintiff, HERMAN HUNTER, by and through his attorneys THE VRDOLYAK LAW GROUP, LLC., and complaining of Defendant, CAPTAIN D'S, LLC, states as follows:

COUNT I – HERMAN HUNTER v. CAPTAIN D's, LLC

1. That on or about February 8, 2018, the Defendant, CAPTAIN D'S, LLC, was a foreign limited liability company licensed to do business in the State of Tennessee.
2. That on or about February 8, 2018 and at all relevant times herein, the Defendant CAPTAIN D'S, LLC, did own and have responsibility for the management, maintenance, supervision, control, operation, and security of the premises located at 2705 Murfreesboro Rd., within the City of Nashville, the County of Davidson, and the State of Tennessee.
3. That at the aforesaid time and place, Defendant, as principal by and through its employees and/or authorized and/or ostensible agents, did operate a fast food restaurant on said premises.

4. That at the aforesaid time and place, and at all relevant times herein, the Defendant, CAPTAIN D'S, LLC, employed, and controlled, authorized/ostensible agent, Defendant, SHANERA JONES.

5. On February 8, 2018, the Plaintiff, HERMAN HUNTER, was lawfully upon the aforementioned premises.

6. The Defendant, CAPTAIN D'S, LLC, operating as a principal by and through its employee and/or authorized and/or ostensible agent, SHANERA JONES, owed a duty of reasonable care to the Plaintiff.

7. The Defendant, CAPTAIN D'S, LLC, operating as a principal by and through its employee and/or authorized and/or ostensible agent, SHANERA JONES, owed a duty to ensure the safety of its patrons.

8. On February 8, 2018, notwithstanding said duty, the Defendant, CAPTAIN D'S, LLC, operating as a principal by and through its employee and/or ostensible agent, SHANERA JONES, was then and there guilty of one or more of the following acts and/or omissions:

- (a) carelessly and negligently kept improperly trained restaurant personnel on aforesaid premises;
- (b) failed to instruct and train restaurant staff in the procedures adequate to interact with patrons at said premises;
- (c) caused injury to Plaintiff when Defendant, by and through Shanera Jones, threw ice at Plaintiff's face;
- (d) or was otherwise negligent in managing, maintaining, and/or operating a restaurant.

9. As a direct and proximate result of one or more of the aforesaid negligent and careless acts and/or omissions by the Defendant, CAPTAIN D'S, LLC, the Plaintiff, HERMAN HUNTER, suffered injuries and damages of a personal, pecuniary, and permanent in nature.

WHEREFORE, the Plaintiff, HERMAN HUNTER, demands judgment against the Defendant, CAPTAIN D'S, LLC, a foreign limited liability company, for a sum in excess of ONE MILLION DOLLARS (\$1,000,000.00) plus costs of this suit.

COUNT II- HERMAN HUNTER v. CAPTAIN D's, LLC

Assault

1. That on or about February 8, 2018, the Defendant, CAPTAIN D'S, LLC, was a foreign limited liability company licensed to do business and existing under the law of the State of Tennessee.

2. That on or about February 8, 2018, and at all relevant times herein, the Defendant, CAPTAIN D'S, LLC, did own and have a responsibility for the management, maintenance, supervision, control, operation, and security of the premises located at 2705 Murfreesboro Rd., within the City of Nashville, the County of Davidson, and the State of Tennessee.

3. That on or about February 8, 2018, and at all relevant times herein, the Defendant, CAPTAIN D'S, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, violently assaulted the Plaintiff, and struck the Plaintiff on/or about his person with Defendant's person, persons, and/or ice, during the course of said agent's employment.

4. Specifically, at the aforesaid time and place, and all relevant time herein, the Defendant, CAPTAIN D'S, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, threw a cup of ice at the Plaintiff, HERMAN HUNTER.

5. That on or about February 8, 2018, and at all relevant times herein, the Defendant, CAPTAIN D'S, LLC, as owner and principal through its agent, employee, and/or authorized

ostensible agent, SHANERA JONES, intended to cause apprehension of imminent harmful or offensive contact to the Plaintiff, HERMAN HUNTER.

6. That on or about February 8, 2018, and at all relevant times herein, the Defendant, CAPTAIN D'S, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, did cause apprehension in the Plaintiff, HERMAN HUNTER, that harmful or offensive contact was imminent when she threw a cup of ice at the Plaintiff, HERMAN HUNTER.

7. That the assault reflected a conscious disregard for the safety of others, including the Plaintiff, HERMAN HUNTER, relative to the described occurrence.

8. As a direct and proximate result of one or more of the aforementioned assault by the Defendant, CAPTAIN D'S, LLC, the Plaintiff suffered injuries and damages of a personal and a pecuniary nature.

WHEREFORE, the Plaintiff, HERMAN HUNTER, demands judgment against the Defendant, CAPTAIN D'S, LLC, a foreign limited liability company, for a sum in excess of ONE MILLION DOLLARS (\$1,000,000.00) plus costs of this suit.

COUNT III - HERMAN HUNTER v. CAPTAIN D'S LLC

Battery

1. That on or about February 8, 2018, the Defendant, CAPTAIN D'S, LLC, was a foreign limited liability company licensed to do in the State of Tennessee.

2. That on or about February 8, 2018, Plaintiff, HERMAN HUNTER, was present at the Defendant, CAPTAIN D'S, LLC, place of business, located at 2705 Murfreesboro Rd., within the City of Nashville, the County of Davidson, and the State of Tennessee.

3. That on or about February 8, 2018, and at all relevant times herein, the Defendant,

CAPTAIN D'S, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, intentionally struck the Plaintiff on/or about his person with Defendant's person, persons, and/or ice, during the course of said agent's employment.

4. Specifically, at the aforesaid time and place, and all relevant time herein, the Defendant, CAPTAIN D'S, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, threw a cup of ice at the Plaintiff, HERMAN HUNTER.

5. That on or about February 8, 2018, and at all relevant times herein, the Defendant, CAPTAIN D'S, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, threw ice at the Plaintiff, HERMAN HUNTER, in a harmful and offensive manner.

6. That on or about February 8, 2018, and at all relevant times herein, the Plaintiff, HERMAN HUNTER, did not consent to this harmful and offensive touching.

7. That as a direct and proximate result of said intentional contact by the Defendant, CAPTAIN D'S, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, the Plaintiff, HERMAN HUNTER, suffered serious, permanent and pecuniary injuries.

WHEREFORE, the Plaintiff, HERMAN HUNTER, demands judgment against the Defendant, CAPTAIN D'S, LLC, for a sum in excess of ONE MILLION DOLLARS (\$1,000,000.00) plus costs of this suit.

COUNT IV – HERMAN HUNTER v. CAPTAIN D’S, LLC
Negligence

1. That on or about February 8, 2018, the Defendant, CAPTAIN D’S, LLC, was a foreign limited liability company licensed to do business in the State of Tennessee.

2. That on or about February 8, 2018 and at all relevant times herein, the Defendant CAPTAIN D’S, LLC, did own and have responsibility for the management, maintenance, supervision, control, operation, and security of the premises located at 2705 Murfreesboro Rd., within the City of Nashville, the County of Davidson, and the State of Tennessee.

3. That at the aforesaid time and place, and at all relevant times herein, the Defendant, CAPTAIN D’S, LLC, operating as principal by and through its employee and/or authorized and/or ostensible agent, SHANERA JONES, negligently threw a drink with ice at the Plaintiff, HERMAN HUNTER, causing injury to Plaintiff’s person.

4. That at all relevant times herein, the Plaintiff was in the exercise of all due care and caution for his own safety and the safety of others; that care being commensurate with his age, intellect and mental capacity and with the physical circumstances existent at such time and place.

5. At the aforesaid time and place and at all relevant times herein, Defendant owed a duty to the Plaintiff, and to the public generally, to exercise due and proper care and caution.

6. That at the aforesaid time and place and all relevant times herein, the Defendant, breached the aforesaid duty to the Plaintiff by negligently allowing their employee, SHANERA JONES, to throw a drink with ice at the Plaintiff, HERMAN HUNTER, or was otherwise negligent.

7. As a direct and proximate result of the aforesaid negligent acts or omissions of the Defendant, CAPTAIN D'S, LLC, the Plaintiff suffered injuries and damages of a personal and a pecuniary nature.

WHEREFORE, the Plaintiff, HERMAN HUNTER, demands judgment against the Defendant, CAPTAIN D'S, LLC, for a sum in excess of ONE MILLION DOLLARS (\$1,000,000.00) plus costs of this suit.

COUNT V – HERMAN HUNTER v. CAPTAIN D'S ENTERPRISES, LLC

1. That on or about February 8, 2018, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, was a foreign limited liability company licensed to do business in the State of Tennessee.

2. That on or about February 8, 2018 and at all relevant times herein, the Defendant CAPTAIN D'S ENTERPRISES, LLC, did own and have responsibility for the management, maintenance, supervision, control, operation, and security of the premises located at 2705 Murfreesboro Rd., within the City of Nashville, the County of Davidson, and the State of Tennessee.

3. That at the aforesaid time and place, Defendant, as principal by and through its employees and/or authorized and/or ostensible agents, did operate a fast food restaurant on said premises.

4. That at the aforesaid time and place, and at all relevant times herein, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, employed, and controlled, authorized/ostensible agent, Defendant, SHANERA JONES.

5. On February 8, 2018, the Plaintiff, HERMAN HUNTER, was lawfully upon the aforementioned premises.

6. The Defendant, CAPTAIN D'S ENTERPRISES, LLC, operating as a principal by and through its employee and/or authorized and/or ostensible agent, SHANERA JONES, owed a duty of reasonable care to the Plaintiff.

7. The Defendant, CAPTAIN D'S ENTERPRISES, LLC, operating as a principal by and through its employee and/or authorized and/or ostensible agent, SHANERA JONES, owed a duty to ensure the safety of its patrons.

8. On February 8, 2018, notwithstanding said duty, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, operating as a principal by and through its employee and/or ostensible agent, SHANERA JONES, was then and there guilty of one or more of the following acts and/or omissions:

- (a) carelessly and negligently kept improperly trained restaurant personnel on aforesaid premises;
- (b) failed to instruct and train restaurant staff in the procedures adequate to interact with patrons at said premises;
- (c) caused injury to Plaintiff when Defendant, by and through Shanera Jones, threw ice at Plaintiff's face;
- (d) or was otherwise negligent in managing, maintaining, and/or operating a restaurant.

9. As a direct and proximate result of one or more of the aforesaid negligent and careless acts and/or omissions by the Defendant, CAPTAIN D'S ENTERPRISES, LLC, the Plaintiff, HERMAN HUNTER, suffered injuries and damages of a personal, pecuniary, and permanent in nature.

WHEREFORE, the Plaintiff, HERMAN HUNTER, demands judgment against the Defendant, CAPTAIN D'S ENTERPRISES, LLC, a foreign limited liability company, for a sum in excess of ONE MILLION DOLLARS (\$1,000,000.00) plus costs of this suit.

COUNT VI- HERMAN HUNTER v. CAPTAIN D'S ENTERPRISES, LLC
Assault

1. That on or about February 8, 2018, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, was a foreign limited liability company licensed to do business and existing under the law of the State of Tennessee.

2. That on or about February 8, 2018, and at all relevant times herein, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, did own and have a responsibility for the management, maintenance, supervision, control, operation, and security of the premises located at 2705 Murfreesboro Rd., within the City of Nashville, the County of Davidson, and the State of Tennessee.

3. That on or about February 8, 2018, and at all relevant times herein, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, violently assaulted the Plaintiff, and struck the Plaintiff on/or about his person with Defendant's person, persons, and/or ice, during the course of said agent's employment.

4. Specifically, at the aforesaid time and place, and all relevant time herein, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, threw a cup of ice at the Plaintiff, HERMAN HUNTER.

5. That on or about February 8, 2018, and at all relevant times herein, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, intended to cause apprehension of imminent harmful or offensive contact to the Plaintiff, HERMAN HUNTER.

6. That on or about February 8, 2018, and at all relevant times herein, the Defendant, CAPTAIN D'S, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, did cause apprehension in the Plaintiff, HERMAN HUNTER, that harmful or offensive contact was imminent when she threw a cup of ice at the Plaintiff, HERMAN HUNTER.

7. That the assault reflected a conscious disregard for the safety of others, including the Plaintiff, HERMAN HUNTER, relative to the described occurrence.

8. As a direct and proximate result of the aforesaid assault by the Defendant, CAPTAIN D'S ENTERPRISES, LLC, the Plaintiff, HERMAN HUNTER, suffered injuries and damages of a personal, pecuniary, and permanent in nature.

WHEREFORE, the Plaintiff, HERMAN HUNTER, demands judgment against the Defendant, CAPTAIN D'S ENTERPRISES, LLC, a foreign limited liability company, for a sum in excess of ONE MILLION DOLLARS (\$1,000,000.00) plus costs of this suit.

COUNT VII – HERMAN HUNTER v. CAPTAIN D'S ENTERPRISES, LLC
Battery

1. That on or about February 8, 2018, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, was a foreign limited liability company licensed to do business and

existing to under the law of the State of Tennessee.

2. That on or about February 8, 2018, Plaintiff, HERMAN HUNTER, was present at the Defendant, CAPTAIN D'S ENTERPRISES, LLC, place of business, located at 2705 Murfreesboro Rd., within the City of Nashville, the County of Davidson, and the State of Tennessee.

3. That on or about February 8, 2018, and at all relevant times herein, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, intentionally struck the Plaintiff on/about his person with Defendant's person, persons, and/or ice, during the course of said agent's employment.

4. Specifically, at the aforesaid time and place, and all relevant time herein, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, threw a cup of ice at the Plaintiff, HERMAN HUNTER.

5. That on or about February 8, 2018, and at all relevant times herein, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, as owner and principal through its agent, employee, and/or authorized ostensible agent, SHANERA JONES, threw ice at the Plaintiff, HERMAN HUNTER, in a harmful and offensive manner.

6. That on or about February 8, 2018, and at all relevant times herein, the Plaintiff, HERMAN HUNTER, did not consent to this harmful and offensive touching.

7. That as a direct and proximate result of said intentional contact by the Defendant, CAPTAIN D'S ENTERPRISES, LLC, as owner and principal through its agent, employee,

and/or authorized ostensible agent, SHANERA JONES, the Plaintiff, HERMAN HUNTER, suffered serious, permanent and pecuniary injuries.

WHEREFORE, the Plaintiff, HERMAN HUNTER, demands judgment against the Defendant, CAPTAIN D'S ENTERPRISES, LLC, for a sum in excess of ONE MILLION DOLLARS (\$1,000,000.00) plus costs of this suit.

COUNT VIII – HERMAN HUNTER v. CAPTAIN D'S ENTERPRISES, LLC
Negligence

1. That on or about February 8, 2018, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, was a foreign limited liability company licensed to do business in the State of Tennessee.
2. That on or about February 8, 2018 and at all relevant times herein, the Defendant CAPTAIN D'S ENTERPRISES, LLC, did own and have responsibility for the management, maintenance, supervision, control, operation, and security of the premises located at 2705 Murfreesboro Rd., within the City of Nashville, the County of Davidson, and the State of Tennessee.
3. That at the aforesaid time and place, and at all relevant times herein, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, operating as principal by and through its employee and/or authorized and/or ostensible agent, SHANERA JONES, negligently threw a drink with ice at the Plaintiff, HERMAN HUNTER, causing injury to Plaintiff's person.
4. That at all relevant times herein, the Plaintiff was in the exercise of all due care and caution for his own safety and the safety of others; that care being commensurate with his age, intellect and mental capacity and with the physical circumstances existent at such time and

place.

5. At the aforesaid time and place and at all relevant times herein, Defendant owed a duty to the Plaintiff, and to the public generally, to exercise due and proper care and caution.

6. That at the aforesaid time and place and all relevant times herein, the Defendant, CAPTAIN D'S ENTERPRISES, LLC, breached the aforesaid duty to the Plaintiff, HERMAN HUNTER, by negligently allowing their employee to throw a drink with ice at the plaintiff, or was otherwise negligent.

7. As a direct and proximate result of the aforesaid negligent acts and/or omissions of the Defendant, CAPTAIN D'S ENTERPRISES, LLC, the Plaintiff, HERMAN HUNTER, suffered injuries and damages of a personal and a pecuniary nature.

WHEREFORE, the Plaintiff, HERMAN HUNTER, demands judgment against the Defendant, CAPTAIN D'S ENTERPRISES, LLC, for a sum in excess of ONE MILLION DOLLARS (\$1,000,000.00) plus costs of this suit.

COUNT IX HERMAN HUNTER v. SHANERA JONES

Assault

1. That on or about February 8, 2018, the Plaintiff, HERMAN HUNTER, and the Defendant, SHANERA JONES, were present at the Captain D's Restaurant located at 2705 Murfreesboro Rd., within the City of Nashville, the County of Davidson, and the State of Tennessee.

2. At the aforesaid time and place, and at all relevant times herein, the Defendant, SHANERA JONES, battered the Plaintiff, HERMAN HUNTER, and struck the Plaintiff on/or about his face with Defendant's person, persons, and/or ice.

3. Specifically, at the aforesaid time and place, and all relevant time herein, the Defendant, SHANERA JONES, threw a cup with ice at the Plaintiff, HERMAN HUNTER, causing injury to Plaintiff's face.

5. That on or about February 8, 2018, and at all relevant times herein, the Defendant, SHANERA JONES, intended to cause apprehension of imminent harmful or offensive contact to the Plaintiff, HERMAN HUNTER.

6. That on or about February 8, 2018, and at all relevant times herein, the Defendant, SHANERA JONES, did cause apprehension in the Plaintiff, HERMAN HUNTER, that harmful or offensive contact was imminent when she threw a cup of ice at the Plaintiff, HERMAN HUNTER.

7. That the assault reflected a conscious disregard for the safety of others, including the Plaintiff, HERMAN HUNTER, relative to the described occurrence.

8. As a direct and proximate result of one or more of aforementioned assault by the Defendant, SHANERA JONES, acts of the Defendant, the Plaintiff suffered injuries and damages of a personal and a pecuniary nature.

WHEREFORE, the Plaintiff, HERMAN HUNTER, demands judgment against the Defendant, SHANERA JONES, for a sum in excess of ONE MILLION DOLLARS (\$1,000,000.00) plus costs of this suit.

COUNT X HERMAN HUNTER v. SHANERA JONES
Battery

1. That on or about February 8, 2018, Plaintiff, HERMAN HUNTER, and the Defendant, SHANERA JONES, were present at Captain D's Restaurant, located at 2705 Murfreesboro Rd., within the City of Nashville, the County of Davidson, and the State of

Tennessee.

2. That on or about February 8, 2018, and at all relevant times herein, the Defendant, SHANERA JONES, intentionally struck the Plaintiff on/about his person with Defendant's person, persons, and/or ice.

3. Specifically, at the aforesaid time and place, and all relevant time herein, the Defendant, SHANERA JONES, threw a cup with ice at the Plaintiff, HERMAN HUNTER, causing injury to Plaintiff's face.

4. That on or about February 8, 2018, and at all relevant times herein, the Plaintiff, HERMAN HUNTER, did not consent to this harmful and offensive touching.

5. That as a direct and proximate result of said intentional contact by the Defendant, SHANERA JONES, the Plaintiff, HERMAN HUNTER, suffered serious, permanent and pecuniary injuries.

WHEREFORE, the Plaintiff, HERMAN HUNTER, demands judgment against the Defendant, SHANERA JONES, for a sum in excess of ONE MILLION DOLLARS (\$1,000,000.00) plus costs of this suit.

COUNT XI HERMAN HUNTER V. SHANERA JONES

Negligence

1. That on or about February 8, 2018, Plaintiff, HERMAN HUNTER, and the Defendant, SHANERA JONES, were present at Captain D's Restaurant, located at 2705 Murfreesboro Rd., within the City of Nashville, the County of Davidson, and the State of Tennessee.

2. That at the aforesaid time and place, and at all relevant times herein, the Defendant, SHANERA JONES, negligently threw a drink with ice at the Plaintiff, HERMAN

HUNTER, causing injury to Plaintiff's face.

3. That at all relevant times herein, the Plaintiff, HERMAN HUNTER, was in the exercise of all due care and caution for his own safety and the safety of others; that care being commensurate with his age, intellect and mental capacity and with the physical circumstances existent at such time and place.

4. At the aforesaid time and place and at all relevant times herein, Defendant owed a duty to the Plaintiff, and to the public generally, to exercise due and proper care and caution.

5. That at the aforesaid time and place and all relevant times herein, the Defendant, breached the aforesaid duty to the Plaintiff by negligently throwing a drink with ice at the Plaintiff, or was otherwise negligent.

6. As a direct and proximate result of the aforesaid negligent acts of the Defendant, SHANERA JONES, the Plaintiff, HERMAN HUNTER, suffered injuries and damages of a personal and a pecuniary nature.

WHEREFORE, the Plaintiff, HERMAN HUNTER, demands judgment against the Defendant, SHANERA JONES, for a sum in excess of ONE MILLION DOLLARS (\$1,000,000.00) plus costs of this suit.



Attorney for Plaintiff

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