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IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

FILED
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RICHARD R. RODNER, CLERK
Smalley

THOMAS J. PRATHER,)
)
 Plaintiff,)
)
 vs.)
)
 CT NASHVILLE, LLC d/b/a CRAZY)
 TOWN, T.C. RESTAURANT GROUP,)
 LLC and 306 BROADWAY, LLC,)
)
 Defendants.)

Civil Action No.: 19C280
JURY DEMAND (12)

COMPLAINT

Comes now the Plaintiff, Thomas J. Prather¹, by and through counsel, and for cause of action against the Defendants, CT Nashville, LLC d/b/a Crazy Town, T.C. Restaurant Group, LLC and 306 Broadway, LLC², would show unto the Court the following:

PARTIES

1. Plaintiff is a citizen and resident of Lexington, Henderson County, Tennessee.
2. Defendant CT Nashville, LLC is a foreign limited liability company existing under and by virtue of the laws of the state of Ohio, and it is registered to conduct business in the state of Tennessee. Service of process may be effectuated through its registered agent, *to wit*: Rob Pinson, 511 Union Street, Suite 2700, Nashville, Tennessee 37129-1780.
3. Defendant T.C. Restaurant Group, LLC is a foreign limited liability company existing under and by virtue of the laws of the state of Ohio, and it is registered to conduct

¹ The Plaintiff, Thomas J. Prather, will be referred to hereinafter as "Mr. Prather" or more commonly as "Plaintiff."
² The Defendants, CT Nashville, LLC d/b/a Crazy Town, T.C. Restaurant Group, LLC and 306 Broadway, LLC, will be referred to hereinafter collectively as "Defendants" or individually.

business in the state of Tennessee. Service of process may be effectuated through its registered agent, *to wit*: Rob Pinson, 511 Union Street, Suite 2700, Nashville, Tennessee 37219-1780.

4. Defendant 306 Broadway, LLC is a domestic limited liability company existing under and by virtue of the laws of the state of Tennessee. Service of process may be effectuated through its registered agent, *to wit*: Ernest D. Bennett, III, 2021 Richard Jones Road, Suite 220, Nashville, Tennessee 37215-2860.

JURISDICTION AND VENUE

5. The averments contained in paragraphs 1 through 4 of the Complaint are hereby incorporated by reference as if set forth herein by virtue of Tenn. R. Civ. P. 10.04.

6. Plaintiff's cause of action arises in tort under and by virtue of the laws of the state of Tennessee.

7. Subject matter jurisdiction over this civil action is proper pursuant to Tenn. Code Ann. § 16-10-101.

8. Venue for a trial on the merits in Davidson County, Tennessee is proper pursuant to Tenn. Code Ann. § 20-4-101.

FACTUAL BACKGROUND

9. The averments contained in paragraphs 1 through 8 of the Complaint are hereby incorporated by reference as if set forth herein by virtue of Tenn. R. Civ. P. 10.04.

10. On February 23, 2018, Mr. Prather was a patron of Crazy Town along with a group of friends for a bachelor party.

11. Crazy Town is a three-story restaurant and bar located at 308 Broadway, Nashville, Tennessee 37201.

12. Upon information and belief, Crazy Town is owned, operated and controlled by Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC.

13. Defendant 306 Broadway, LLC owns the real property where Crazy Town is located. Thus, there is a landlord-tenant relationship.

14. During the course of the evening, Mr. Prather was brutally assaulted by employees and/or agents of Crazy Town in an area that was within the view of other patrons. Prior to the assault, Mr. Prather had been upstairs with his friends. Subsequently, Mr. Prather went downstairs with some of his friends whom he was talking with, which is where the assault occurred.

15. Through the use of force, employees and/or agents of Crazy Town subsequently placed Mr. Prather in a room that was not within the view of other patrons whereupon the brutal assault continued and escalated.

16. Mr. Prather did nothing to warrant, provoke or otherwise justify the brutal assault perpetrated upon him by employees and/or agents of Crazy Town.

17. As a result of the assault, Mr. Prather suffered severe and extensive facial injuries, among various other injuries, and was subsequently transported by ambulance to the emergency department of Centennial Medical Center.

18. Mr. Prather presented to the emergency department of Centennial Medical Center with significant and extensive facial injuries, among various other injuries. CT imaging showed a left zygomaticomaxillary complex fracture, a left Le Fort level paranasal fracture and a left nasal septal fracture.

19. Due to the severity and extent of Mr. Prather's facial injuries, he underwent surgery on February 24, 2018 at Centennial Medical Center. Dr. Adam Pitts performed an open

reduction and internal fixation surgical procedure for a complex comminuted left zygomaticomaxillary fracture and a left paranasal fracture, and he performed a closed reduction surgical procedure for a nasal septal fracture.

20. Mr. Prather has type one diabetes and the medicine he now takes to treat the injuries he suffered in the brutal assault will likely cause complications concerning the management of his diabetes.

21. Defendants are responsible for the brutal assault of Mr. Prather in which he sustained painful injuries and other harms and losses.

22. Mr. Prather suffered painful injuries that are permanent in nature and other harms and losses, including loss of income and disfigurement, as a result of the brutal assault described herein, necessitating medical and other expenses that will extend into the future

COUNT 1: ASSAULT AND BATTERY

23. The averments contained in paragraphs 1 through 22 of the Complaint are hereby incorporated by reference as if set forth herein by virtue of Tenn. R. Civ. P. 10.04.

24. The acts of physical violence perpetrated upon Plaintiff by employees and/or agents of Defendants constitute an assault, as the conduct was an intentional attempt to cause Plaintiff harm and/or to frighten him. At all times material hereto, the employees and/or agents of Defendants who brutally assaulted Plaintiff had the unmistakable appearance of the present ability to cause harm and/or to fright Plaintiff, and they actually carried out the ability to cause harm by engaging in and carrying out a brutal and unprovoked attack upon Plaintiff.

25. The acts of physical violence perpetrated upon Plaintiff by employees and/or agents of Defendants constitute a battery, as the conduct was intentional, unlawful and involved harmful physical contact.

26. Plaintiff has suffered and continues to suffer from severe mental and physical injuries, for which he is entitled to compensatory and punitive damages.

COUNT II: FALSE IMPRISONMENT

27. The averments contained in paragraphs 1 through 26 of the Complaint are hereby incorporated by reference as if set forth herein by virtue of Tenn. R. Civ. P. 10.04.

28. Employees and/or agents of Defendants unlawfully violated Plaintiff's personal liberty by intentionally restraining and confining him against his will through the use of force.

29. Plaintiff has suffered and continues to suffer from severe mental and physical injuries, for which he is entitled to compensatory and punitive damages.

COUNT III: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

30. The averments contained in paragraphs 1 through 29 of the Complaint are hereby incorporated by reference as if set forth herein by virtue of Tenn. R. Civ. P. 10.04.

31. The acts of physical violence perpetrated upon Plaintiff by employees and/or agents of Defendants were intentional or reckless, and this outrageous conduct is not tolerated by a civilized society.

32. The conduct of the employees and/or agents of Defendants who brutally assaulted Plaintiff caused him severe mental and physical injuries, for which he is entitled to compensatory and punitive damages.

COUNT IV: NEGLIGENCE

33. The averments contained in paragraphs 1 through 32 of the Complaint are hereby incorporated by reference as if set forth herein by virtue of Tenn. R. Civ. P. 10.04.

34. At all times material hereto, Defendants owned, operated, controlled, maintained, managed, supervised and/or were otherwise responsible for Crazy Town, including the premises.

located at 308 Broadway, Nashville, Tennessee 37201.

35. At all times material hereto, Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC were the agents and/or joint venturers of each other, and were, as such, acting within the course, scope and authority of said agency, and/or venture. Defendant CT Nashville, LLC d/b/a Crazy Town, when acting as a principal, was negligent in the selection, hiring, training, and supervision of the employees, agents and/or joint venturers of Crazy Town. Defendant T.C. Restaurant Group, LLC, when acting as a principal, was negligent in the selection, hiring, training, and supervision of the employees, agents and/or joint venturers of

Crazy Town. Further, Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC were associated entities with the goal of carrying out a specific enterprise for profit. Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC had a community of interest in Crazy Town, a proprietary interest in Crazy Town, a right to govern the policies of Crazy Town, and they shared in the profits and losses of Crazy Town.

36. Defendants, individually, and by and through their agents and/or joint venturers, had a duty to exercise reasonable and ordinary care and caution in and about the ownership, management, maintenance, supervision, control and operation of Crazy Town and each of their employees, agents, servants and independent contractors, all to the benefit of patrons like Plaintiff.

37. Defendants owed Plaintiff a duty to maintain the premises in a reasonably safe condition, which included making provision for appropriate security, as it was reasonably foreseeable that patrons would be subjected to violence and injury if Defendants failed to provide adequate and reasonable security. Defendants breached this duty of care owed to Plaintiff by failing to provide adequate and reasonable security.

38. Defendants knew of the hazardous condition posed by their failure to provide adequate and reasonable security or should have known about the hazardous condition posed thereby.

39. Defendants failed to maintain the premises in a reasonably safe condition by failing to provide adequate and reasonable security and failing to warn Plaintiff of the danger posed thereby, the existence of which they knew, or, in the exercise of ordinary care, should have known.

40. Defendants had actual and/or constructive notice that their failure to provide adequate and reasonable security posed a danger to patrons; namely, Plaintiff.

41. Defendants created and knew of the danger posed to patrons as a result of their failure to provide adequate and reasonable security and, consequently, failed to protect Plaintiff from the unreasonable risk of harm posed thereby.

42. Defendants maintained the danger posed to patrons as a result of their failure to provide adequate and reasonable security, despite the feasibility of doing so, and, consequently, failed to protect Plaintiff from the unreasonable risk of harm posed thereby.

43. As a direct and proximate result of Defendants' negligent acts and omissions, Plaintiff suffered painful and permanent mental and physical injuries necessitating medical and other expenses that will extend into the future, for which he is entitled to compensatory and punitive damages.

COUNT V: NEGLIGENT HIRING, SUPERVISION, TRAINING AND RETENTION

44. The averments contained in paragraphs 1 through 43 of the Complaint are hereby incorporated by reference as if set forth herein by virtue of Tenn. R. Civ. P. 10.04.

45. Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC owed Plaintiff a duty as a patron in Crazy Town to provide adequate and reasonable security, including, without limitation, competent security guards. Further, Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC had a duty to properly train, supervise and discipline their employees and/or agents, including the employees and/or agents who brutally assaulted Plaintiff. Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC were negligent and breached their duty of care in the following ways:

- (a) Failure to hire adequate and reasonable security in that the employees and/or agents who brutally assaulted Plaintiff did not have the proper experience, education, training and/or skills to act as security guards;
- (b) Failure to properly instruct, train and/or supervise their employees and/or agents, including, without limitation, security guards, in the use of force and as to the proper methods of providing security;
- (c) Failure to properly train their employees and/or agents for employment as a security guard; and
- (d) Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC had actual knowledge that the employees and/or agents involved in the brutal assault perpetrated upon Plaintiff had a propensity for such violence;

46. Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC have engaged in a pattern and practice of these actions despite of holding themselves out as a premier establishment to dine, dance and listen to music on lower Broadway, which is evidenced by prior litigation and other such complaints.

47. At all times material hereto, Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC had a duty to act in a reasonable and prudent manner toward its patrons; namely, Plaintiff. Employees and/or agents of Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC, however, breached their duty of care by engaging

in negligent, grossly negligent and/or reckless conduct by brutally assaulting Plaintiff without provocation or justification.

48. Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC's negligent acts and omissions were the direct and proximate cause of the brutal assault perpetrated upon Plaintiff and his resulting mental and physical injuries, for which he is entitled to compensatory and punitive damages.

VICARIOUS LIABILITY

49. The averments contained in paragraphs 1 through 48 of the Complaint are hereby incorporated by reference as if set forth herein by virtue of Tenn. R. Civ. P. 10.04.

50. Defendants CT Nashville, LLC d/b/a Crazy Town and T.C. Restaurant Group, LLC are vicariously liable under the laws of agency and/or the doctrine of *respondeat superior* for the negligent acts and/or omissions of their employees and/or actual or apparent agents. Consequently, the negligence of their employees and/or agents is, as a matter of law, imputed to them under the principles of actual or apparent agency and/or the doctrine of *respondeat superior*.

DAMAGES

51. The averments contained in paragraphs 1 through 50 of the Complaint are hereby incorporated by reference as if set forth herein by virtue of Tenn. R. Civ. P. 10.04

52. As the direct and proximate cause of Defendants' negligence, Plaintiff has suffered and continues to suffer permanent injuries for which ongoing medical treatment is required, and he has incurred medical expenses and other expenses that will extend into the future. Further, Plaintiff is entitled to all other applicable economic damages prescribed by

Tenn. Code Ann. § 29-39-101(1), including, without limitation, loss of income and all other objectively verifiable monetary losses.

53. In addition to the above-mentioned economic damages, Plaintiff is entitled to noneconomic damages pursuant to Tenn. Code Ann. § 29-39-101(2) for physical and emotional pain; suffering; inconvenience; physical impairment; disfigurement; mental anguish; emotional distress; loss of enjoyment of normal activities, benefits and pleasures of life and loss of mental and physical health, well-being and bodily functions; and all other nonpecuniary losses of any kind or nature.

54. Plaintiff has suffered noneconomic damages in excess of the statutory cap of \$750,000 that is set forth in Tenn. Code Ann. § 29-39-102(a)(2) and is entitled to those damages as a matter of law and justice. The Constitution of the State of Tennessee protects Plaintiff's right to full recovery of those damages. Article 1, Section 6 of the Tennessee Constitution preserves, inviolate, the right of Plaintiff to recover his full damages as assessed by a jury of the citizens of the State of Tennessee.

55. Article I, Section 17 of the Tennessee Constitution guarantees the courts of this State to be open to its citizens where they may seek redress for wrongs without interference by the legislature and regardless of the favor sought by lobbyists for corporate and special interests.

56. Article II of the Tennessee Constitution guarantees the citizens of this State an independent judiciary with separate authority and not dominated or controlled by a partisan legislature.

57. A copy of this Complaint will be served on the Attorney General and Reporter of the State of Tennessee in accordance with Tenn. R. Civ. P. 24.04, notifying him that Plaintiff is challenging the constitutionality of Tenn. Code Ann. § 29-39-102.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for the following relief:

(a) For the Clerk of this Court to issue process, that the Summons and Complaint be served upon Defendants and that Defendants be required to answer within the time period prescribed by the Tennessee Rules of Civil Procedure;

(b) For a jury of 12 persons to be empaneled to try all issues related to this civil action;

(c) That Plaintiff be awarded a judgment against Defendants for compensatory damages in the amount of \$2,500,000;

(d) That Plaintiff be awarded a judgment against Defendants for punitive damages in the amount of \$5,000,000;

(e) For the costs of this cause to be taxed against Defendants; and

(f) For all other, further and general relief, at law or in equity, to which Plaintiff be entitled.

Respectfully submitted,

Samuel W. Hinson

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