

IN THE STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA

SABRINA D. MILLER,

Plaintiff;

v.

MONSURA ANNISTOWN, LLC D/B/A
WESTLAKE FOOD MART, SAJIDA
PARVEZ, INDIVIDUALLY AND D/B/A
STAR DISCOUNT FOOD, AND
CONSTANCE REGINA MASON,

Defendants.

Civil Action No. 20A79938

Jury Trial Demanded

FIRST AMENDED COMPLAINT FOR DAMAGES

Parties and Jurisdiction

1.

Plaintiff is a citizen and resident of the State of Georgia.

2.

Defendant Monsura Annistown, LLC d/b/a Westlake Food Mart is a domestic corporation registered with the Georgia Secretary of State and is subject to the jurisdiction of this Court. Defendant may be served in any manner allowed by Georgia law by and through its registered agent for service: Mohin Uddin, 11211 Skyline Drive, Atlanta, Dekalb County, Georgia 30345.

3.

Defendant Sajida Parvez is a resident of Cherokee County, and owns the property located at 1576 Joseph E Boone Blvd, Atlanta, Georgia 30314. Upon information and belief, she operated a corporation named Star Food Discount at this location, a corporation not registered with the Georgia Secretary of State, and is subject to the jurisdiction of this Court. Defendant may be served by second original in any manner allowed by Georgia law at 110 Rehoboth Circle, SW, Atlanta, Fulton County, Georgia 30331.

4.

Defendant Constance Regina Mason is a resident of the state of Georgia and may be served by second original in any manner allowed by Georgia law at her residence: 2886 3rd Avenue, SW, Atlanta, Fulton County, Georgia 30315.

5.

Venue and jurisdiction are proper in Dekalb County, Georgia pursuant to O.C.G.A. § 14-2-510(b) (1) and O.C.G.A. 9-10-31(b).

Factual Allegations

6.

On May 31, 2019, Defendant Sajida Parvez, individually and as the principal of the unregistered corporation, Star Discount Food, was in legal possession of the premises located at 1576 Joseph E Boone Boulevard, Atlanta, Georgia 30314.

7.

On or about May 31, 2019, Defendant Monsura Annistown, LLC d/b/a Westlake Food Mart was operating a cafeteria inside the Star Discount Food building on the premises referred to above, by agreement and/or contract with Defendant Parvez, individually or in her capacity as principal in Defendant Star Discount Foods.

8.

On or about May 31, 2019, Plaintiff entered said premises for the purpose of purchasing food from the subject Westlake Food Mart and/or Star Food Discount.

9.

On or about May 31, 2019, upon entering said premises, Plaintiff assumed the legal status of an invitee as the term is defined under Georgia Law.

10.

On or about May 31, 2019, while Plaintiff was waiting for her food order, she got into a discussion with Defendant Constance Regina Mason, which escalated and ended with Defendant Mason throwing hot grease on Plaintiff, causing severe burns and injuries.

11.

At all times relevant hereto, Defendant Constance Regina Mason was an employee of Defendant Westlake Food Mart and/or Defendant Star Discount Food, and was acting within the course and scope of her employment with one or both corporate Defendants.

12.

Defendants Westlake Food Mart and/or Star Food are responsible for the actions of Defendant Constance Regina Mason under the theory of respondeat superior.

13.

Plaintiff had no knowledge of the unsafe and dangerous condition, in the person of Defendant Mason, in the subject Star Discount Food/Westlake Food Mart and it was not discoverable by her in the exercise of reasonable care.

14.

Plaintiff exercised reasonable care for her own safety and was not the instigator of the altercation.

Count I

Negligence of Defendants

15.

Paragraphs 1 through 14 are hereby re-adopted and re-alleged as though fully set out herein.

16.

At all relevant times, it is believed that Defendants owned and managed the subject Star Discount Food/Westlake Food Mart and owed a legal duty of reasonable care to invitees to inspect and keep the premises in a safe condition, including its employees and to warn Plaintiff of hidden dangers that were not discoverable in the exercise of reasonable care.

17.

At all relevant times, Defendants, by and through their employee, had actual or constructive knowledge of the hazardous condition presented by Defendant's employee, and failed to protect or warn Plaintiff of the danger.

18.

At all relevant times, Defendants breached their duty of reasonable care as follows:

- (a) Defendants, individually and collectively, failed to properly train and supervise Defendant Mason;
- (b) Defendants, individually and collectively, failed to warn Plaintiff of a dangerous condition, in the person of Defendant Mason, that they knew or should have known existed on the premises; and
- (c) Defendants, individually and collectively, failed to remove or fire the dangerous employee when they knew or should have known a danger to the public existed.

19.

Defendant Mason, while in the course and scope of her employment with the other Defendants, negligently and wrongfully committed a battery on Plaintiff by throwing hot grease, causing painful and disfiguring burns to Plaintiff's body.

20.

As a result of the foregoing, Defendants, individually and collectively, breached a legal duty to Plaintiff in violation of O.C.G.A. § 51-3-1.

21.

As a direct and proximate result of the aforesaid negligence and breaches of duty by Defendants, Plaintiff suffered substantial injuries and damages including medical and other necessary expenses, mental and physical pain and suffering both past and future due to the injuries to her body and nervous system, personal inconvenience, plus an inability to lead a normal life. As a result of the subject incident, Plaintiff has incurred in excess of \$204,789.89 in past medical expenses.

Prayer for Relief

WHEREFORE, Plaintiff respectfully demands trial by a fair and impartial jury on all issues and for the following:

- (a) That Defendants be found liable for recklessness, carelessness, negligence, and negligence *per se*;
- (b) That Plaintiff Sabrina Miller be awarded an amount for special damages in excess of \$204,789.89 for said recklessness, carelessness, negligence, and negligence *per se* of Defendants, pursuant to O.C.G.A. § 51-12-1 *et seq*;
- (c) That Plaintiff Sabrina Miller be awarded an amount for general damages to be proven at trial for said recklessness, carelessness, negligence, and negligence *per se* of Defendants, pursuant to O.C.G.A. § 51-12-1 *et seq*;
- (d) That Plaintiff be granted a trial by jury;

(e) That Plaintiff be awarded any and all additional relief that this Honorable Court deems just, proper, and reasonable.

This 21st Day of July, 2020.

MONGE & ASSOCIATES

/s/ Joseph D. Perrotta

Joseph D. Perrotta

Georgia State Bar No. 572499

Attorney for Plaintiff

8205 Dunwoody Place
Building 19
Atlanta, GA 30350
(800) 899-5750
joe@monge.lawyer

STATE COURT OF
DEKALB COUNTY, GA.
7/21/2020 10:34 AM
E-FILED
BY: Patricia Harris