

**IN THE CIRCUIT COURT OF THE NINTH
JUDICIAL CIRCUIT IN AND FOR
ORANGE COUNTY, FLORIDA**

CASE NO:

MICHAEL FERRER, JR.,

Plaintiff,

vs.

SIZZLING PLATTER LLC.,

Defendant.

_____ /

COMPLAINT

COMES NOW Plaintiff, MICHAEL FERRER, JR., and sues Defendants, SIZZLING PLATTER LLC, and alleges:

1. This is an action for damages that exceeds the sum of THIRTY THOUSAND DOLLARS (\$30,000.00), exclusive of costs, interest and attorneys' fees (The estimated value of Plaintiff's claim is in excess of the minimum jurisdictional threshold required by this Court). Accordingly, Plaintiff has entered "\$30,001" in the civil cover sheet for the "estimated amount of the claim" as required in the preamble to the civil cover sheet for *jurisdictional purposes only* (the Florida Supreme Court has ordered that the estimated "amount of claim" be set forth in the civil cover sheet for data collection and clerical purposes only). The actual value of Plaintiff's claim will be determined by a fair and just jury in accordance with Article 1, Section 21, Fla. Const.

2. Plaintiff is a natural person residing in Orange County, Florida.

3. At all times material to this action, SIZZLING PLATTER LLC is a Nevada corporation licensed to do business in the State of Florida.

4. At all times material hereto, Defendant, SIZZLING PLATTER LLC, was the owner and in possession of that certain business located at 495 N. Semoran Boulevard, Winter Park, Florida 32792, said business being that of a restaurant, open to the general public, including the Plaintiff herein.

5. On or about July 14, 2020, Plaintiff visited Defendant's premises located at the above address as a business invitee, to get a refund for his pizza order and was being assisted by Defendant's employee, LANDEN RUSH, who was within the course and scope of his employment with the Defendant at all times material hereto.

6. At said time and place, MICHAEL FERRER, JR., was a guest at SIZZLING PLATTER LLC, lawfully upon the premises of the Defendant, who owed Plaintiff a non-delegable duty to exercise reasonable care for his safety and to maintain the premises in a safe condition for all their business invitees, like MICHAEL FERRER, JR.

7. The Defendant did not thoroughly and/or adequately contact LANDEN RUSH'S job references on his application and failed to conduct a criminal background investigation and/or otherwise failed to document and/or preserve in LANDEN RUSH'S personnel file what background investigation was made, if any, regarding LANDEN RUSH'S prior criminal history, prior job history, experience, references or fitness to work as an employee for the Defendant, and that would have direct, constant, daily conduct with the general public to include MICHAEL FERRER, JR., at all times material hereto.

COUNT I
NEGLIGENT HIRING

Plaintiff reasserts the allegations in paragraphs 1 through 7, and further states,

8. At all times material to this lawsuit, Defendant was responsible for conducting background criminal investigations, requiring post-employment physicals, completion of medical questionnaires, checking references, documenting reference checks, performing pre-employment interviews and screening of prospective employees of Defendant, including but not limited to LANDEN RUSH, to determine their suitability and/or disqualifying prior history per their own internal hiring policies and procedures for interacting on a daily basis and the day of the incident with business invitees at Defendant's restaurant, which included MICHAEL FERRER, JR., on or about July 14, 2020.

9. At all times material to this complaint, Defendant was responsible for supervising the work of LANDEN RUSH, and had a duty to assure that LANDEN RUSH properly performed the duties of his job.

10. Defendant's responsibilities and duties included conducting the necessary background criminal investigations, requiring post-employment physicals, completion of medical questionnaires, checking references, documenting reference checks, performing pre-employment screening and interviews to determine if employees or prospective employees, including but not limited to, LANDEN RUSH, applying for employment positions requiring direct interaction with business invitees, to include MICHAEL FERRER, JR., had the mental, medical, and/or emotional qualifications to perform the job functions and responsibilities.

11. Defendant, was careless and negligent in the hiring of, LANDEN RUSH as a waiter/server in that they failed to act and breached their duty to protect and ensure the safety of the Defendant's customers on the premises, to include MICHAEL FERRER, JR., on the date of incident, and failing to act in a reasonable, prudent and careful manner by hiring LANDEN RUSH without requiring him to complete a post-employment physical, medical questionnaire, checking his references or criminal history, contacting his probation/work release officer/supervisor, and failing to keep documentation regarding the reference checks of LANDEN RUSH prior to allowing him to work as a waiter/server as evidenced by the lack of any such written documentation in LANDEN RUSH 's personnel file. The Defendant's failure and breach of their duty to fully investigate LANDEN RUSH as described in the sentence above would have revealed that LANDEN RUSH ad a prior history of extreme violence and mayhem toward the general public and for which he became a convicted felon prior to beginning work as a waiter/server for the Defendant.

12. Defendant, knew, or should have known, that LANDEN RUSH failed to possess the requisite training, skill, and/or judgment to properly and safely perform the duties required of him as a waiter/server who was required to deal with the public and business invitees, and his job requirements to maintain a safe environment free from violence and abuse of any kind that injured MICHAEL FERRER, JR., herein as well as based on their actual or imputed knowledge of LANDEN RUSH's previous violent criminal history, convictions, and anger management issues.

13. Despite Defendant's actual or imputed knowledge that LANDEN RUSH lacked the necessary training, skill, and/or judgment to properly and safely interact with business invitees and the public at large and requirements to maintain a safe and secure environment free from violence and abuse of any kind that injured MICHAEL FERRER, JR., the Defendant, negligently hired LANDEN RUSH anyway and Defendant negligently approved the hiring of LANDEN RUSH and placed him in a position when it was foreseeable that such a decision would permit or require him to interact with the public and business invitees when his job performance, work history, and prior violent criminal history, convictions and anger management issues showed he was ill-suited, or disqualified for hire based on the Defendant's own internal hiring policies for that type of job and Defendant should not have hired LANDEN RUSH to work in the position of waiter/server knowing that he would have direct, daily, and constant interaction with the general public at large, as he did with MICHAEL FERRER, JR., on the date of incident. On or about July 14, 2020, LANDEN RUSH was assisting MICHAEL FERRER, JR., while working as an attendant on the Defendant's premises, which directly lead to the catastrophic injuries sustained by MICHAEL FERRER, JR., .

14. As a direct and proximate result of the negligence of Defendant, MICHAEL FERRER, JR., suffered bodily injury in and about his body and extremities, resulting in pain and suffering, disability, disfigurement, permanent and significant scarring, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earning, loss of the ability to earn money, and aggravation of previously existing condition. The losses are either permanent or continuing and MICHAEL FERRER, JR., will suffer the losses into the future, and has already suffered from same in the past.

COUNT II
NEGLIGENT RETENTION

Plaintiff reasserts the allegations of paragraphs 1 through 7, and further states:

15. LANDEN RUSH failed to possess the required training, skill, and/or judgment to properly and safely perform the duties required of him in working with the public at large and business invitees on defendant's premises as is evidenced by the lack of any written documentation in his personnel file to show that LANDEN RUSH completed a post-employment physical, medical questionnaire, and or otherwise checked on his references, criminal history, while continuing to employ him. Defendant had a continuing duty to ensure the safety of its customers to include MICHAEL FERRER, JR., by ensuring that the Defendant did not retain employees who were unfit to perform the duties of attendant as applicable to LANDEN RUSH .

16. During the course of LANDEN RUSH's employment Defendant became aware, and/or had a legal duty to become aware, that LANDEN RUSH failed to possess the requisite training, skill, and/or judgment to properly and safely perform the duties required of him as an attendant, based on their actual or imputed knowledge of LANDEN RUSH 'S previous work history, job performance, and attitude towards business invitees or people in general. Specifically, Defendant breached their duty to ensure the safety of its customers, to include MICHAEL FERRER, JR., by continuing to employ LANDEN RUSH as an attendant when the Defendant knew or should have known that LANDEN RUSH had a violent history and anger management issues, which made LANDEN RUSH unfit to work as an attendant in direct contact with the general public, including MICHAEL FERRER, JR., and there is no written documentation to show otherwise in the personnel file of LANDEN RUSH .

17. Despite Defendant's, actual or imputed knowledge that LANDEN RUSH lacked the necessary training, skill, and/or judgment to properly and safely perform the duties required of him as he had, violent history and anger management issues prior to and during his employment, Defendant, negligently permitted LANDEN RUSH to remain in a position that would foreseeably permit or require him to interact with the public at large and business invitees on defendant's premises without the proper training, skill, and/or judgment and supervision necessary for safe and proper completion of his duties, which was the direct and proximate cause of MICHAEL FERRER, JR., 's injuries as alleged in this Complaint.

18. As a direct and proximate result of the negligence of Defendant, MICHAEL FERRER, JR., suffered bodily injury in and about her body and extremities, resulting in pain and suffering, disability, disfigurement, permanent and significant scarring, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earning, loss of the ability to earn money, and aggravation of previously existing condition. The losses are either permanent or continuing and MICHAEL FERRER, JR., will suffer the losses into the future, and has already suffered from same in the past.

COUNT III
NEGLIGENT SUPERVISION AND/OR TRAINING

Plaintiff reasserts the allegations in paragraphs 1 through 7 and further states:

19. Defendant owed MICHAEL FERRER, JR., a duty to ensure that all of the Defendant's employees were properly supervised and trained for the tasks for which they were employed.

20. Defendant and/or its employees did not follow corporate policy and/or failed to have a corporate policy and/or otherwise failed to act with reasonable care as to how to protect the general public, specifically MICHAEL FERRER, JR., from mental, physical, and/or emotional injury on or about July 14, 2020, when he was injured on the Defendant's premises as a direct and proximate result of the active negligence of the Defendant's employee, LANDEN RUSH, whose direct responsibility as an attendant at all times material hereto, gave rise to the direct and proximate result of the MICHAEL FERRER, JR., 's injuries as alleged herein.

21. Defendant breached their duty to MICHAEL FERRER, JR., by negligently allowing LANDEN RUSH to work as an attendant, based on their actual or imputed or constructive knowledge of LANDEN RUSH'S previous work history, job performance and violent history and, without assuring that LANDEN RUSH received the necessary supervision and/or training required for the safe and proper completion of his duties and or interaction with the public at large. The Defendant's failure to properly train and/or supervise LANDEN RUSH prior to and on or about July 14, 2020 breached the Defendant's duty to ensure the safety of their customers, including MICHAEL FERRER, JR., on or about July 14, 2020, as LANDEN RUSH Defendant was directly responsible for the injuries MICHAEL FERRER, JR., sustained, herein and at all times material hereto, and led to the later, foreseeable injuries suffered by to MICHAEL FERRER, JR., on or about July 14, 2020, and as outlined below.

As a direct and proximate result of the negligence of Defendant, MICHAEL FERRER, JR., suffered bodily injury in and about her body and extremities, resulting in pain and suffering, disability, disfigurement, permanent and significant scarring, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of

earning, loss of the ability to earn money, and aggravation of previously existing condition. The losses are either permanent or continuing and MICHAEL FERRER, JR., will suffer the losses into the future, and has already suffered from same in the past.

WHEREFORE, the Plaintiff, MICHAEL FERRER, JR., sues the Defendant, SIZZLING PLATTER LLC., for damages and demands judgment in excess of Thirty Thousand and One Dollars (\$30,001.00), plus interest and costs, and demands trial by jury of all issues so triable.

RESPECTFULLY submitted this 30 day of June, 2021.

/s/VARUN RAMNARINE, ESQUIRE

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