

**CAUSE NO.**

**OSASU OKUNDAYE,**  
*Plaintiff,*

**VS.**

**O2 LOUNGE, LLC**  
*Defendant.*

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**IN THE DISTRICT COURT OF**

**HARRIS COUNTY, TEXAS**

**\_\_\_ JUDICIAL DISTRICT**

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **OSASU OKUNDAYE**, hereinafter referred to as "Plaintiff," and files this his Original Petition complaining of **O2 LOUNGE, LLC** hereinafter referred to as "Defendant" and for cause of action would respectfully show the Court as follows:

**I.**

**DISCOVERY LEVEL**

Pursuant to Rule 190.3 of the Texas Rules of Civil Procedure, Plaintiff alleges that discovery in this case should be conducted under Level 2.

**II.**

**PARTIES**

Plaintiff, **OSASU OKUNDAYE** is an individual residing in Harris County, Texas.

Defendant **O2 LOUNGE, LLC** is a Limited Liability Company LLC doing business in the State of Texas and may be served through its registered agent: Adedayo Arowolo, 3505 W Sam Houston Pkwy S Apt 3209, Houston, Texas 77042 or at his alternative address: 9200 Westheimer Rd Apt 1501, Houston, Texas 77063. Citation is requested at this time.

Plaintiff specifically invokes the right to institute this suit against whatever entity was conducting business using the assumed or common names of "O2 Lounge," with regard to the events described in this Petition. Plaintiff expressly invokes his right under Rule 28 of the Texas

Rules of Civil Procedure to have the true name of this party substituted at a later time upon the motion of any party or of the Court.

### **III.**

#### **VENUE AND JURISDICTION**

This court has jurisdiction in this cause since the damages to Plaintiff exceed the minimum jurisdictional limits of this Court. Venue is proper in HARRIS County, Texas, because it is the county in which all or a substantial part of the events and/or omissions giving rise to the claim occurred. TEX. CIV. PRAC. & REM. CODE § 15.002 (a)(2) and § 15.005.

### **IV.**

#### **FACTS**

On or about September 21, 2021, OSASU OKUNDAYE was an invitee at O2 LOUNGE. The premises were owned, occupied, operated, managed and/or controlled by Defendant. After having paid \$20.00 to park and an additional \$20.00 to enter O2 Lounge, Plaintiff returned to his car to get his cell phone. When Plaintiff tried to enter the premises, Defendants' security guard demanded Plaintiff pay another \$5.00 to enter the club. Plaintiff attempted to explain that he had only left the premises to obtain his cell phone. One of Defendants' other security guards negligently attempted to de-escalate by attempting to remove Plaintiff from the entrance by hitting Plaintiff in the face causing him to fall to the ground. As a result of Defendants' negligence, Plaintiff suffered a fracture to his orbital socket and significant lacerations to his face.

### **V.**

#### **NEGLIGENCE**

At the time and on the occasion in question, Defendant failed to use ordinary care as would have been done by a reasonable prudent owner/operator of a premises under the same or similar circumstances, including but not limited to:

- a. Failing to train security/employees to safely do their jobs;
- b. Failing to adequately supervise security/employees;
- c. Failing to develop policies and procedures for the protection and safety of invitees;
- d. Failing to enforce company safety policies and procedures for protection of invitees;
- e. Failing to comply with recognized safety rules, policies, procedures and industry standards;
- f. Negligently using excessive force;
- g. Negligently striking Plaintiff in the face;
- h. Failing to take preventative measures to prevent unnecessary injuries; and
- i. Other acts deemed negligent.

The above acts, errors and omissions of Defendant and those of their agents, servants and employees constituted negligence. At all relevant times, Defendant's agents, servants and employees were acting in the course and scope of their employment with Defendant. Defendant is therefore vicariously liable for all acts of its employees, agents and representatives under the theory of respondeat superior. Such negligence caused Plaintiff to sustain significant injuries for which he now sues. Each and all of the above and foregoing constitute negligence, either singularly or in combination, and were all proximate causes of the injuries in question to OSASU OKUNDAYE.

Further, Defendant was actually and subjectively aware of this risk, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of its employees. This conduct constitutes gross negligence as that term is defined in section 41.001(11) of the Texas Civil practice & Remedies Code. Plaintiff would show that such gross negligence proximately caused damages to Plaintiff more fully described below and therefore entitles Plaintiff to the recovery of exemplary damages under Chapter 41 of the Texas Civil Practices & Remedies Code. All conditions precedent to Plaintiff's cause of action have been performed or have occurred.

**VI.**

**DAMAGES**

As a result of the Defendant's negligence made the basis of this lawsuit, Plaintiff suffered permanent and debilitating injuries. Pursuant to chapter 47, Plaintiff pleads the maximum damages sought are worth at least \$250,000. As a direct and proximate result of Defendant's negligence, Plaintiff has sustained the following past and future damages:

- a. Physical Pain
- b. Mental Anguish;
- c. Physical Impairment; and
- d. Medical Care and Treatment.

**VII.**

**PRESERVING EVIDENCE**

Plaintiff hereby requests and demands that Defendant preserve and maintain all evidence pertaining to any claim or defense relate to the incident made the basis of this lawsuit or the damages resulting there from, including statements, photographs, videotapes, audiotapes, surveillance or security tapes or information, business or medical records, incident reports, insurance statements, claim files, periodic reports, financial statements, bills, telephone call slips/logs, invoices, checks, correspondence, facsimiles, email, voicemail, text messages, and any evidence involving the incident in question. Failure to maintain such items will constitute "spoliation" of the evidence.

**VIII.**

**RULE 193.7 NOTICE**

Defendant is hereby notified that Plaintiff intends to use all documents produced by Defendant in discovery at the trial of this cause,

**IX.**

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff, requests that Defendant be cited to appear and answer herein, and that upon final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the court, together with pre-judgment interest at the maximum rate allowed by law, post-judgment interest at the legal rate, costs of court, and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

***CROCKETT LAW, PC***

By: /s/ Brian Crockett

**Brian Crockett**

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**ATTORNEYS FOR THE PLAINTIFF**

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Brittany Williams on behalf of Brian Crockett  
Bar No. 24074094  
brittany@thetexasinjuryfirm.com  
Envelope ID: 63709335  
Status as of 4/20/2022 9:02 AM CST

#### Case Contacts

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Brian H.Crockett		efile@TheTexasInjuryFirm.com	4/19/2022 5:02:37 PM	SENT