

3. As a result of the Defendants' acts and omissions, Plaintiff Brian Williams has been made to suffer and sustain damages within the minimum jurisdictional requirements of this Court. The amount of monetary relief sought is within the sole discretion of the fact finders who will consider the evidence and decide what amount will compensate Deputy Williams for Defendants' acts and omissions. However, while Deputy Williams leaves the determination of the amount to the jury, he must also comply with Texas Rule of Civil Procedure 47. In fulfilling his duty under Rule 47, Deputy Williams pleads that he has been damaged by Defendants' actions and errors, and the damages he has sustained as well as the financial impact of those injuries can be quantified as monetary relief over \$1,000,000.

II. Parties

4. Plaintiff Brian Williams is a resident of Tomball, Harris County, Texas.

5. BK Shepherd Ltd. is a Texas entity with its principal place of business in Houston, Harris County, Texas. It may be served with citation and copy of this Petition by serving its registered agent for service of process, Kenneth S. Katz, at 3700 Buffalo Speedway, #400 Houston, Texas 77098, or wherever he may be found.

6. BK Fairmont, Ltd. is a Texas entity with its principal place of business in Houston, Harris County, Texas. It may be served with citation and copy of this Petition by serving its registered agent for service of process, Kenneth S. Katz, at 3700 Buffalo Speedway, #400 Houston, Texas 77098, or wherever he may be found.

7. Baker Katz Management, LLC is a Texas entity with its principal place of business in Houston, Harris County, Texas. It may be served with citation and copy of this Petition by serving its registered agent for service of process, M Marvin Katz, at 700 Louisiana Street, Suite 3600 Houston, Texas 77002, or wherever he may be found.

8. Raetta Building and Development Corporation is a Texas entity with its principal place of business in Houston, Harris County, Texas. It may be served with citation and copy of this Petition by serving its registered agent for service of process, M Marvin Katz, at 700 Louisiana Street, Suite 3600 Houston, Texas 77002, or wherever he may be found.

9. Baker Katz Management, LLC is a Texas entity with its principal place of business in Houston, Harris County, Texas. It may be served with citation and copy of this Petition by serving its registered agent for service of process, Kenneth S. Katz, at 3700 Buffalo Speedway, #400 Houston, Texas 77098, or wherever he may be found.

10. Five Guys Enterprises LLC is a foreign corporation with its principal place of business in Lorton, Virginia. It may be served with citation and copy of this Petition by serving its registered agent for service of process, CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201.

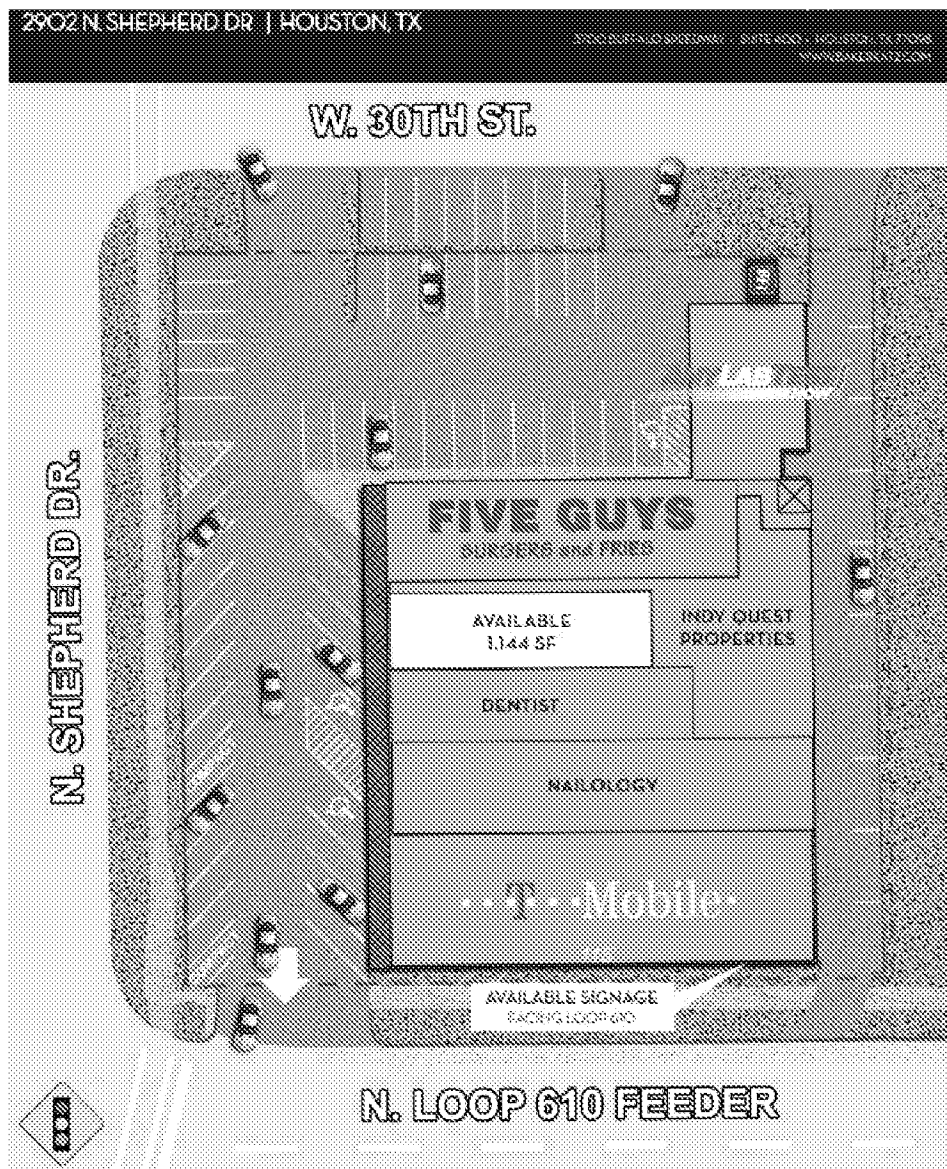
11. Five Guys Operations, LLC is a foreign corporation with its principal place of business in Lorton, Virginia. It may be served with citation and copy of this Petition by serving its registered agent for service of process, CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201.

III. Jurisdiction and Venue

12. Venue is proper in Harris County, Texas, because Harris County is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred. *See* TEX. CIV. PRAC. & REM. CODE §§ 15.002(a)(1).

13. Jurisdiction is proper in this Court because the damages sought are within the jurisdictional limits of this Court.

IV. Facts



14. 2902 N Shepherd Dr (the “Premises”) is in the greater Heights part of Houston. It is located at the corner of Shepherd and Loop 610. During the day, it is a busy area with multiple businesses open to the public.

15. But, at night, things change. Once the sun goes down, only one business remains open: Five Guys.

16. The owners and the managers of the Premises know it is dangerous. They know that crime picks up in that area after dark. They know that their parking lot has minimal, if any, light and that the light inside Five Guys is a beacon to all: both inviting to a criminal element and totally blinding to what is outside the door to anyone inside. The owners and managers of the Premises also knew all of these things well in advance of October 16, 2019.

17. Five Guys also knew these things. They asked for extra security. Deputy Brian Williams, Harris County Constable Precinct 5, was hired to give them that security, working an approved off-duty job. But quickly Deputy Williams told the Five Guys managers that he was a sitting duck inside the restaurant since he could not see out into the dark parking lot. These discussions went on for months. Recognizing that it was better for both his safety and the safety of the Five Guys patrons, Deputy Williams moved mostly to his vehicle, near the door of Five Guys, to try his best to observe the restaurant and parking lot.

18. Around 8:30pm, on October 16, 2019, a dark figure walked past Deputy Williams' SUV. Because there was no light in the parking lot, all Deputy Williams saw was a person, seemingly no different than any of the dozens of people he had watched walk into the Five Guys that night.

19. Once the person was inside, though, for the first time, Deputy Williams could see that this person was wearing a ski mask. At that moment, Deputy Williams saw the person brandish a firearm and begin robbing the customers inside Five Guys.

20. Deputy Williams jumped out of his car and approached the door. Before he could enter, though, the gunman spotted him and opened fire. Deputy Williams did not return fire, fearing for the safety of the customers inside Five Guys.

21. A Good Samaritan helped administer first aid to Deputy Williams and try to control the bleeding from his arm. Since then, Deputy Williams has had multiple surgeries and had to relearn how to do anything with his arm. Deputy Williams' life will never be the same.

22. Defendants' failure to provide additional safety or security—specifically lighting in a dark parking lot—is troubling in light of Defendants' knowledge of the dangerous nature of the Premises and surrounding area.

V. Causes of Action

23. The foregoing is incorporated by reference as if fully set forth herein.

Premises Liability

24. On or about October 16, 2019, Deputy Williams was an invitee of the Premises.

25. On or about October 16, 2019, Defendants were the owners, managers, and occupiers of the Premises.

26. As an owner, manager, occupier and possessor of the Premises, Defendants had a legal duty to use ordinary care to maintain the premises in a reasonably safe condition. This duty required Defendants to exercise ordinary care to protect its invitees from criminal acts of third parties if Defendants knew or had reason to know of an unreasonable and foreseeable risk of harm. Certainly, at a minimum, dangerous events occurred, and dangerous conditions existed, long enough prior to October 16, 2019 that Defendants had constructive knowledge of them and should have known of them through the exercise of reasonable care. There was a reasonable opportunity for Defendants to discover the conditions.

27. Defendants failed to provide adequate security measures to all people at the Premises, including Deputy Williams, by failing to add security features like parking lot lighting. This failure created an unreasonable risk of harm to anyone at the Premises after sundown and Defendants knew, or should have known, about them yet failed to address or correct.

28. Defendants' failure to protect the general public from foreseeable danger resulted in dozens of customers being robbed and brutalized and Deputy Williams being shot.

Negligence

29. Further and in the alternative, the area in which Deputy Williams was shot was a particularly dangerous part of the Premises that Defendants knew about.

30. Defendants owed a duty of care to keep such areas safe and free from dangerous conditions.

31. Defendants' breach of their duty was the proximate cause of Deputy Williams' injuries.

VI. Damages

32. Defendants' errors, omissions, negligence, and/or gross negligence proximately caused Deputy Williams to suffer serious injuries. Deputy Williams seeks recovery for the following elements of damages:

- a. Physical pain and mental anguish in the past and future;
- b. Loss of earning capacity in the past and future;
- c. Disfigurement in the past and future;
- d. Physical impairment in the past and future; and
- e. Medical care expenses in the past and future.

33. The nature of Defendant's actions and inactions entitles Plaintiff to exemplary damages under Texas Civil Practice & Remedies Code § 41.003(a).

VII. Conditions Precedent

34. All conditions precedent to Plaintiff's right to recover and to Defendants' liability have been performed or have occurred.

VIII. Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that Defendants be cited to appear and answer herein, and that upon final trial of this case, Defendants be held liable for Deputy Williams' injuries and damages and that the Court award the following relief:

- a) actual and exemplary damages;
- b) pre- and post-judgment interest;
- c) costs of court; and
- d) any other relief to which they may be entitled.

Respectfully submitted,

/s/ William G. Hagans
William G. Hagans
State Bar No. 24055612
whagans@hagans.law
Stephanie M. Taylor
State Bar No. 24090423
staylor@hagans.law

Hagans Montgomery Hagans
3200 Travis, Fourth Floor
Houston, Texas 77006
Tel - (713) 222-2700
Fax - (713) 547-4950

Russell Button

State Bar No. 24077428
russell@buttonlawfirm.com
Ashley Washington
State Bar No. 24102030
ashley@buttonlawfirm.com

The Button Law Firm
4315 West Lovers Lane, Suite A
Dallas, TX 75209
Phone: 214-699-4409

Attorneys for Brian Williams

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.

Faith Falcon on behalf of William Hagans
Bar No. 24055612
ffalcon@hagans.law
Envelope ID: 58229550
Status as of 10/15/2021 12:57 PM CST

Associated Case Party: Brian Williams

Name	BarNumber	Email	TimestampSubmitted	Status
Ashley Washington		ashley@buttonlawfirm.com	10/15/2021 12:17:41 PM	SENT
Russell Button		russell@buttonlawfirm.com	10/15/2021 12:17:41 PM	SENT
William G. Hagans		whagans@hagans.law	10/15/2021 12:17:41 PM	SENT
Faith Falcon		ffalcon@hagans.law	10/15/2021 12:17:41 PM	SENT
Stephanie Taylor		staylor@hagans.law	10/15/2021 12:17:41 PM	SENT