

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

GREG ABARAY,

Plaintiff

v.

Case No.

WALT DISNEY PARKS AND RESORTS U.S., INC.,
and CHUCK DOE

Defendants.

COMPLAINT

Plaintiff, GREG ABARAY, (hereinafter referred as "ABARAY"), and by and through the undersigned attorney hereby sue Defendants, WALT DISNEY PARKS AND RESORTS U.S., INC. (hereinafter "DISNEY"), and CHUCK DOE (hereinafter referred as "DOE"), and state:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action for damages in excess of \$50,000.00, exclusive of interest and costs.
2. Plaintiff, ABARAY, was at all times relevant hereto a resident of Polk County, Florida.
3. The Defendant, DISNEY, was at all times relevant hereto a Florida corporation a business within Orange County, Florida.
4. The Defendant, DOE, was at all times relevant hereto a resident of Orange County, Florida.

5. At all material times, Defendant, DOE, was employed by the Defendant, DISNEY, as a manager/bouncer at Jellyrolls at the Disney Boardwalk located in Lake Buena Vista, Florida.

6. Plaintiff, ABARAY, and his wife entered into Jellyrolls at approximately 11:30 pm to meet their daughter and her friend who already were inside Jellyrolls. In order to enter the Plaintiff, ABARAY, and his wife had to pay \$36.00 for an entrance fee.

7. Plaintiff, ABARAY, and his wife, went to the bar within minutes of entry to purchase three drinks. The Plaintiff's wife ordered an alcoholic drink, and the Plaintiff, ABARAY, ordered a red bull for himself and a "blowjob" for his daughter.

8. The bartender ultimately came back with a Michelob Ultra and a red bull and stated she was going to have to make the "blowjob" drink.

9. The Michelob Ultra was already opened by the bartender and so the Plaintiff, ABARAY, pushed the bottle back towards the back of the bar to ensure that the Plaintiff, ABARAY, would not be paying for the unordered drink.

10. When the bartender came back with the "blowjob" drink, the Plaintiff, ABARAY, told her that they did not order the Michelob Ultra. The bartender responded that she thought I said "Mic Ultra".

11. The bartender then stated she would need her managers approval to not charge the Plaintiff, ABARAY, or his wife for the unordered Michelob Ultra.

12. The bartender ultimately got the Defendant, DOE, over to the bar who immediately insisted that the Plaintiff, ABARAY, and his wife pay for the unordered Michelob Ultra since Plaintiff, ABARAY, touched the bottle.

13. Plaintiff, ABARAY's, wife instead paid for the three ordered drinks, at which the Defendant, DOE, ordered the Plaintiff, ABARAY, and his wife, to leave without taking the \$45.00 of drinks that were just ordered.

14. Plaintiff, ABARAY, looked back at some commotion by the stairs leading down to the stage and noticed that Defendant, DOE, had backed up Plaintiff, ABARAY's, wife up against a pillar and was angrily yelling in her face.

15. Plaintiff, ABARAY, went over to investigate what was going on and was immediately told by Defendant, DOE, that he had to leave the establishment. Defendant, DOE, insisted that the Plaintiff, ABARAY, and his wife had to leave for failing to pay for the unordered Michelob Ultra.

16. Plaintiff, ABARAY, explained to the Defendant, DOE, that the Michelob Ultra was not ordered, and that since the bartender opened the bottle, the drink could not be served to another customer regardless if Plaintiff, ABARAY, touched the bottle to push it back to the bartender.

17. Plaintiff, ABARAY, asked for a refund of the \$36.00 for the entrance fees paid only minutes earlier only to be laughed at by Defendant, DOE. Defendant, DOE, asked that the Plaintiff, ABARAY, leave.

18. When Plaintiff, ABARAY, requested to retrieve his cellular telephone, Defendant, DOE, ordered that Plaintiff, ABARAY, leave without his cellular telephone that was left on the table by the stage along with his recently purchased drink.

19. When Plaintiff, ABARAY, attempted to retrieve the cellular telephone the Defendant, DOE, blocked the Plaintiff, ABARAY, from going down the stairs to get the cellular telephone by lunging in front of the Plaintiff, ABARAY, and impeded his path by

touching him. When Plaintiff, ABARAY, attempted to retrieve the cellular telephone from the other side of the stairs the Defendant, DOE, again blocked the Plaintiff, ABARAY, from going down the stairs to get the cellular telephone and in the process of this blocking unlawfully touched the Plaintiff, ABARAY.

20. The Defendant, DOE, was at all times hereto acting within the scope of his employment on December 10, 2022 as a manager/bouncer.

21. All conditions precedent to this cause of action, have occurred, been performed, or have been waived.

COUNT I
(Assault - DOE)

22. Plaintiff realleges paragraphs 1 through 21 above.

23. Defendant, DOE, threatened Plaintiff, ABARAY, with physical harm and thereby willfully, intentionally and unlawfully caused a fear and apprehension of imminent bodily harm to Plaintiff, ABARAY.

24. Plaintiff, ABARAY'S fear and apprehension was appropriate and reasonable under the circumstances as Defendant, DOE, had the apparent ability to effectuate his threat and did in fact carry out a battery upon the Plaintiff, ABARAY.

25. As a direct and proximate result of the aforesaid acts, Plaintiff, ABARAY, suffered bodily injury and resulting pain and suffering, mental anguish, loss of capacity for the enjoyment of life, expensive medical treatment, loss of ability to earn money and aggravation of a pre-existing condition.

WHEREFORE, Plaintiff, ABARAY, demands judgment against Defendant DOE for compensatory damages, costs and other such relief deemed appropriate by the Court.

COUNT II
(Battery - DOE)

26. Plaintiff realleges paragraphs 1 through 21 above.

27. Defendant, DOE used unlawful force and wrongfully struck the Plaintiff, ABARAY, causing bodily injury.

28. As a direct and proximate result of the aforesaid acts, Plaintiff, ABARAY, suffered bodily injury and resulting pain and suffering, mental anguish, and loss of capacity for the enjoyment of life.

WHEREFORE, Plaintiff, ABARAY, demands judgment against the Defendant, DOE for compensatory damages, costs, and any other such relief as deemed appropriate by the Court.

COUNT III
(Negligence-DOE)

29. Plaintiff realleges paragraphs 1 through 21 above.

30. Defendant, DOE, owed a duty to all of the guests to act in a non-violent manner, to prevent the guests from being harmed to both their person and their property, to ensure that he could control his emotional and mental state of mind towards the guests, in general and the Plaintiff, ABARAY, in particular from harm, failing to maintain safe premises for patrons, in general the Plaintiff, ABARAY, in particular, and to otherwise perform his employment duties in the least restrictive manner to avoid harm.

31. Defendant, DOE, breached this duty to the Plaintiff, ABARAY, by causing physical harm and the loss of the \$36.00 entrance fee and \$45.00 in drinks purchased.

32. As a direct and proximate result of the aforesaid acts, Plaintiff, ABARAY, suffered bodily injury and resulting pain and suffering, mental anguish, loss of capacity for

the enjoyment of life, and the loss of the \$36.00 entrance fee and \$45.00 in drinks purchased.

WHEREFORE, Plaintiff, ABARAY, demands judgment against the Defendant, DOE for compensatory damages, costs, and any other such relief as deemed appropriate by the Court.

COUNT IV
(False Imprisonment- DOE/DISNEY)

33. Plaintiff realleges paragraphs 1 through 28 above.

34. Defendant, DISNEY's, employees, including, Defendant, DOE, wrongfully and maliciously restrained Plaintiff ABARAY, without color of law, during the scope and course of their employment with Disney.

35. Defendant, DISNEY's, employees, including, Defendant, DOE, lunged in front of Plaintiff, ABARAY, on two occasions to restrict his movement from retrieving his cellular telephone so he could not go anywhere without the threat of force against him.

36. Defendant, DISNEY's, employees, including, Defendant, DOE, then physically touched Plaintiff ABARAY preventing him from retrieving his cellular telephone so he could not go anywhere without the threat of force against him.

37. As a result of Defendant, DISNEY's, employees' tortious conduct, including, Defendant, DOE, Plaintiff ABARAY has suffered injuries including, but not limited to, deprivation of his civil liberty, physical insult to his bodily integrity, humiliation, bodily discomfort, pain and suffering, mental and emotional anguish and embarrassment, and loss of the capacity for enjoyment of life. These losses are permanent and continuing and Plaintiff ABARAY will suffer these losses in the future.

WHEREFORE, Plaintiff ABARAY demands judgment against Defendant DISNEY and Defendant DOE for damages, costs, together with such other and further relief this Court deems equitable and just.

COUNT V
(Intentional Infliction of Emotional Distress – DOE)

38. The Plaintiff realleges paragraphs 1 through 28, and 34 through 37 above.

39. The conduct by Defendant DOE upon the Plaintiff was deliberate or was performed in such a reckless nature to cause mental suffering upon the Plaintiff.

40. The conduct by the Defendant DOE upon the Plaintiff was so outrageous.

41. The conduct by the Defendant DOE has caused extreme and severe mental suffering upon the Plaintiff.

42. Defendant DOE did such acts maliciously, in bad faith, or in a manner exhibiting wanton and willful disregard of human rights, safety or property.

WHEREFORE, the Plaintiff, ABARAY, demands judgment against the Defendant, DOE for pain and suffering, mental anguish, discomfort, inconvenience, loss of time, expense, injury to reputation and any other such relief as deemed appropriate by the Court.

COUNT VI
(Assault-Respondent Superior-DISNEY)

43. Plaintiff realleges paragraphs 1 through 14 and 22 through 25 above.

44. Defendant, DOE, threatened Plaintiff, ABARAY, with physical harm or unlawfully touched and thereby willfully, intentionally and unlawfully caused a fear and apprehension of imminent bodily harm to Plaintiff, ABARAY.

45. Plaintiff, ABARAY'S fear and apprehension was appropriate and reasonable under the circumstances as Defendant, DOE, had the apparent ability to effectuate his threat and did in fact carry out a battery upon the Plaintiff, ABARAY.

46. As a direct and proximate result of the aforesaid acts, Plaintiff, ABARAY, suffered bodily injury and resulting pain and suffering, mental anguish, loss of capacity for the enjoyment of life, and the loss of the \$36.00 entrance fee and \$45.00 in drinks purchased.

47. At all material times, the Defendant, DOE, was acting within the scope of his employment for Defendant, DISNEY.

WHEREFORE, Plaintiff, ABARAY, demands judgment against Defendant DISNEY for compensatory damages, costs and other such relief deemed appropriate by the Court.

COUNT VII
(Battery –Respondent Superior-DISNEY)

48. Plaintiff realleges paragraphs 1 through 21 and 26- 28 above.

49. Defendant, DOE used unlawful force and wrongfully struck the Plaintiff, ABARAY, causing serious bodily injury.

50. As a direct and proximate result of the aforesaid acts, Plaintiff, ABARAY, suffered bodily injury and resulting pain and suffering, mental anguish, loss of capacity for the enjoyment of life, and the loss of the \$36.00 entrance fee and \$45.00 in drinks purchased.

51. At all material times, the Defendant, DOE, was acting within the scope of his employment for Defendant, DISNEY.

WHEREFORE, Plaintiff, ABARAY, demands judgment against Defendant DISNEY for compensatory damages, costs and other such relief deemed appropriate by the Court.

COUNT VIII
(Negligence-Respondent Superior-DISNEY)

52. Plaintiff realleges paragraphs 1 through 21 and 29 through 32 above.

53. Defendant, DOE, owed a duty to all of the guests to act in a non-violent manner, to prevent the guests from being harmed to both their person and their property, to ensure that he could control his emotional and mental state of mind towards the guests, in general and the Plaintiff, ABARAY, in particular from harm, failing to maintain safe premises for patrons, in general the Plaintiff, ABARAY, in particular, and to otherwise perform his employment duties in the least restrictive manner to avoid harm.

54 Defendant, DOE, breached this duty to the Plaintiff, ABARAY, by causing physical harm.

55. As a direct and proximate result of the aforesaid acts, Plaintiff, ABARAY, suffered bodily injury and resulting pain and suffering, mental anguish, loss of capacity for the enjoyment of life, and the loss of the \$36.00 entrance fee and \$45.00 in drinks purchased.

56. At all material times, the Defendant, DOE, was acting within the scope of his employment for Defendant, DISNEY.

WHEREFORE, Plaintiff, ABARAY, demands judgment against Defendant DISNEY for compensatory damages, costs and other such relief deemed appropriate by the Court.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

DATED this the 28th day of February, 2024.

Gregory P. Abaray

GREGORY P. ABARAY, ESQUIRE
Florida Bar # 0093017
Attorney for Plaintiff
Law Offices of Allen & Abaray, P.A.
5835 U.S. Hwy 98, South
Lakeland, Florida 33812
Tel: (863) 669-9999
Fax: (863) 669-0699
Greg@allenandabaray.com
civilfiling@allenandabaray.com