

DC-20-09179
NO. _____

<p>GEORGE BRYANT,</p> <p>Plaintiff,</p> <p>V.</p> <p>McDONALD’S CORPORATION and McKAREN LIMITED PARTNERSHIP d/b/a McDONALD’S RESTAURANT #22114,</p> <p>Defendants.</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>IN THE DISTRICT COURT OF</p> <p>DALLAS COUNTY, TEXAS</p> <p>_____ JUDICIAL DISTRICT</p>
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**PLAINTIFF'S ORIGINAL PETITION AND
REQUEST FOR DISCLOSURE**

Plaintiff George Bryant files this Original Petition and Request for Disclosure, complaining of Defendants McDonald’s Corporation and McKaren Limited Partnership d/b/a McDonald’s Restaurant #22114, and states as follows:

I.

DISCOVERY CONTROL PLAN

Plaintiff intends to conduct discovery under Level III of TEXAS RULES OF CIVIL PROCEDURE 190.4 because he seeks monetary relief aggregating more than

\$50,000 and requests the Court enter a Discovery Control Plan to place this case under Level III.

II.

PARTIES

1. Plaintiff George Bryant is a resident of Dallas County, Texas.
2. Defendant McDonald's Corporation is a foreign for-profit corporation doing business in Texas. Service of process may be had upon Defendant by serving a citation to its register agent Prentice Hall Corp. System, 211 E. 7th Street Suite 620, Austin, TX 78701-3218.
3. Defendant McKaren Limited Partnership d/b/a McDonald's #22114 is a domestic limited partnership. Service of process may be had upon Defendant by serving a citation to its register agent Karen Skinner at 4131 N. Central Expressway, Suite 640, Dallas, Texas 75204.

III.

JURISDICTION

Jurisdiction is proper because the amount in controversy exceeds the minimum jurisdictional limits of this Court.

IV.

VENUE

Venue is proper in Dallas County pursuant to §15.001 *et seq.* of the TEXAS

CIVIL PRACTICE & REMEDIES CODE because a substantial part of the acts or omissions giving rise to Plaintiff's cause of action occurred in Dallas County.

V.

CLAIM FOR RELIEF

Plaintiff seeks relief in accordance with TEX. R. CIV. P. 47(c) (5) monetary relief over \$1,000,000.

VI.

FACTS

1. On October 23, 2018, at about 7:30 a.m., Plaintiff George Bryant went to the drive-through window of Defendant McKaren Limited Partnership d/b/a McDonald's Restaurant #22114 at 4151 N. Central Expwy. in Dallas, Texas, and bought a large cup of coffee with two cream. The McDonald's employee added the cream and handed the coffee to Bryant. As Bryant was driving out of the parking lot onto the service road and without knowledge that the coffee lid had not been properly secured by the McDonald's employee, Bryant lifted the cup and tried to take a drink.

2. As a result, Bryant suffered a second degree burn to his penis, second degree burn to his right thigh with peeling of skin, and redness of his right thigh from his groin to his knee and the backside of his left thigh.

3. At all times in question, Defendant McDonald's Corporation controlled, standardized the operations of, and trained Defendant McKaren Limited Partnership d/b/a McDonald's Restaurant #22114.

VII.

CAUSE OF ACTION AGAINST DEFENDANT MCDONALD'S CORPORATION

1. Defendant was the corporate owner, corporate operator, and/or policy maker of the McDonald's Restaurant where the hot coffee was served to Plaintiff.

2. Defendant knew that its hot coffee, if spilled onto skin, would pose an unreasonable risk of harm.

3. Defendant, independently and acting through its franchisee, owed a duty to exercise ordinary care in its operation to serve hot coffee. Defendant had knowledge of prior incidents of persons suffering burns by the hot coffee it served around the country and around the world, Defendant failed to exercise ordinary care to protect Plaintiff from the danger under the same or similar circumstances.

4. Defendant's negligent acts and omissions include:
- a. Failing to properly secure the lid of the coffee cup before giving it to Plaintiff on the occasion in question,
 - b. Failing to reduce the temperature of the coffee before giving it to Plaintiff on the occasion in question,
 - c. Failing to warn Plaintiff that the lid was not secured on the coffee cup on the occasion in question,

- d. Failing to provide proper training to secure a lid onto a coffee cup before giving the cup of hot liquid to a customer, and specifically to Plaintiff on the occasion in question,
- e. Failing to execute and maintain adequate procedures and safeguards to properly secure a lid onto a coffee cup before giving the cup of hot liquid to a customer, and specifically to Plaintiff on the occasion in question,
- f. Failing to provide and enforce adequate standards to safeguard against spillage of hot coffee,
- g. Failing to provide and enforce adequate standards to safeguard against the high temperature of hot coffee served to customers, and
- h. Maintaining a policy to serve hot coffee at a temperature that could cause burns.

5. Defendant's conduct constitutes negligence and gross negligence.

Defendant's breach proximately caused Plaintiff's injuries.

VIII.

CAUSE OF ACTION AGAINST DEFENDANT MCKAREN LIMITED PARTNERSHIP d/b/a MCDONALD'S RESTAURANT #22114

1. Defendant was the local owner or operator of the McDonald's Restaurant where the hot coffee was served to Plaintiff.

2. Defendant knew or should have known that its hot coffee, if spilled onto skin, would pose an unreasonable risk of harm.

3. Defendant, acting through its employees and agents, owed a duty to exercise ordinary care in its operation to serve hot coffee. Although Defendant had knowledge of prior incidents of persons suffering burns by the hot coffee it served, Defendant failed to exercise ordinary care to protect Plaintiff from the danger under the same or similar circumstances.

4. Defendant's negligent acts and omissions include:

- a. Failing to properly secure the lid of the coffee cup before giving it to Plaintiff on the occasion in question,
- b. Failing to reduce the temperature of the coffee before giving it to Plaintiff on the occasion in question,
- c. Failing to warn Plaintiff that the lid was not secured on the coffee cup on the occasion in question,
- d. Failing to properly train its employees to secure a lid onto a coffee cup before giving the cup of hot liquid to a customer, and specifically to Plaintiff on the occasion in question, and
- e. Failing to execute and maintain adequate procedures and safeguards to properly secure a lid onto a coffee cup before giving the cup of hot liquid to a customer, and specifically to Plaintiff on the occasion in question.

5. Defendant's conduct constitutes negligence and gross negligence.

Defendant's breach proximately caused Plaintiff's injuries.

IX.

DAMAGES

1. As a result of the incident described herein, Plaintiff has incurred

medical expenses in the past.

2. Plaintiff has experienced mental anguish and emotional distress in the past and in all reasonable probability such mental anguish and emotional distress will continue in the future.

3. Plaintiff has experienced physical pain and suffering in the past.

4. Plaintiff has experienced physical disfigurement in the past and in all reasonable probability will suffer disfigurement in the future.

5. Plaintiff has experienced physical impairment in the past.

6. Plaintiff has incurred other post-incident expenses in the past.

X.

CLAIM FOR PREJUDGMENT AND POST-JUDGMENT INTEREST

Plaintiff herein claims interest in accordance with TEXAS FINANCE CODE §304.001 *et seq.* and any other applicable law.

XI.

EXEMPLARY DAMAGES

Plaintiff's injury resulted from Defendants' gross negligence, which entitles Plaintiff to exemplary damages under TEXAS CIVIL PRACTICE & REMEDIES CODE §41.003(a).

XII.

REQUEST FOR DISCLOSURE AND PRESERVATION

1. Under TEXAS RULES OF CIVIL PROCEDURE 194, Plaintiff requests that Defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

2. The Defendant is hereby given notice that any document or other material, including electronically stored information, that may be evidence or relevant to any issue in this case is to be preserved in its present form until this litigation is concluded.

XIII.

NOTICE PURSUANT TO TEX. R. CIV. P. 193.7

Plaintiff provides notice to Defendant pursuant to Rule 193.7 of the TEXAS RULES OF CIVIL PROCEDURE that Plaintiff may utilize as evidence during the trial of this lawsuit all documents exchanged by the parties in written discovery in this case.

XIV.

PRAYER

WHEREFORE PREMISES CONSIDERED, Plaintiff prays that Defendants be cited to appear and answer herein and upon final hearing of this cause, Plaintiff have judgment against Defendants, jointly and severally, for damages described herein, for costs of suit, pre-judgment and post judgment interest permitted by law, and for such other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

TURLEY LAW FIRM

/s/ T Nguyen

T Nguyen

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