



11-8653
Dikora

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA

OCT 31 2011

PATRICIA PRESLEY, COURT CLERK
by _____
DEPUTY

CHAD PEERY,
Plaintiff,

v.

JOSHUA BERNARD RINKEN;
CADMIO ANTONIO LOPEZ;
JIMMY DAN SMITH;
RUSTY REAL THERRIEN;
JOSEPH THERRIEN;
CONRAD THERRIEN;
JOE DALE DELEON;
TINA KAY COSSEY;
WILLIAM SIERER;
WJT, LLC, d/b/a THE NEW DAN
O'BRIENS, an Oklahoma Limited
Liability Company;
BOOTS OF OKLAHOMA, LLC, an
Oklahoma Limited Liability Company;
JOHN DOE; RICHARD ROE; and
DOB PUBS, LLC, an Oklahoma Limited
Liability Company,

Defendants.

CJ-2011-8653

Case No. _____

PETITION

COMES NOW Plaintiff, Chad Peery, and for his claims against Defendants, alleges and states as follows:

1. Plaintiff Chad Peery ("Peery") is a resident of the State of Oklahoma who resides in Oklahoma County, Oklahoma.
2. Defendants WJT, LLC, d/b/a The New Dan O'Brien's, and DOB Pubs, LLC are Oklahoma limited liability companies which were doing business in Oklahoma on the date of the events giving rise to Plaintiff's claims. At the time of the events giving rise to

Plaintiff's claims, it is believed Defendants WJT, LLC, d/b/a The New Dan O'Brien's, DOB Pubs, LLC, Rusty Real Therrien, Joseph Therrien, Conrad Therrien, Joe Dale Deleon, Tina Kay Cossey, William Sierer, John Doe and Richard Roe (collectively, "Defendant Operators") were, in their various capacities, responsible for the ownership and operation of Dan O'Brien's Public House ("Dan O'Brien's"). Defendant Operators are residents of Oklahoma, or were doing business in Oklahoma, at the time of the events giving rise to Plaintiff's claims.

3. Defendants Joshua Bernard Rinken, Jimmy Dan Smith, and Cadmio Antonio Lopez are each residents of the State of Oklahoma and each are incarcerated pending criminal trial for the acts described herein.

4. Defendant Boots of Oklahoma, LLC, is an Oklahoma limited liability company which owned the property on which Dan O'Brien's was operating at the time of the events giving rise to Plaintiff's claims.

5. Venue is proper in this judicial district because the events giving rise to Plaintiff's claims occurred in Oklahoma County, Oklahoma and because Defendants may be summoned in Oklahoma County due to the acts and omissions complained of herein, all of which occurred in Oklahoma County.

STATEMENT OF FACTS

6. On or about February 15, 2011, Peery, an off-duty Oklahoma City police officer, was a patron at Dan O'Brien's in his personal capacity.

7. Defendants Rinken, Smith and Lopez were also present at Dan O'Brien's at the time of the events giving rise to Plaintiff's claims. Defendant Operators, and their agents and/or employees, served alcoholic beverages to Defendants Rinken, Smith and Lopez.

Defendant Operators knew, or should have known, that Defendants Rincken, Smith and Lopez were intoxicated and posed an unreasonable risk of harm to patrons. Defendants Rincken, Smith and Lopez began making threats and harassing patrons of Dan O'Brien's. There was no security staff on duty during the events in question.

8. Defendant Operators asked Peery to assist in the removal Defendants Rincken, Smith and Lopez from Dan O'Brien's, which Peery did. Defendants Rincken, Smith and Lopez assaulted and battered Peery. As a result, Peery suffered significant and catastrophic injuries for which he has received, and will continue to receive, extensive medical care. Peery suffered significant pain and suffering, emotional trauma and lost income.

FIRST CAUSE OF ACTION – BATTERY

9. The allegations contained in Paragraph Nos. 1-8 are incorporated herein by reference.

10. Defendants Rincken, Smith and Lopez willfully and intentionally physically assaulted Peery. Such conduct constitutes battery.

11. The actions of Defendants Rincken, Smith and Lopez were the proximate cause of Peery's injuries and damages. The actions of Defendants Rincken, Smith and Lopez were in reckless disregard of Peery's rights. Said actions were malicious, intentional, willful and constitute life threatening conduct, warranting imposition of punitive damages under Oklahoma law.

SECOND CAUSE OF ACTION – NEGLIGENCE/GROSS NEGLIGENCE

12. The allegations contained in Paragraph Nos. 1-11 are incorporated herein by reference.

13. Defendant Operators owe and/or voluntarily assume duties to the public,

including Peery, to avoid service of alcoholic beverages to patrons who they know, or should know, are intoxicated. Defendant Operators know, or should know, that continued service to intoxicated patrons unreasonably increases the risk of criminal attack on invitees of Dan O'Brien's, such as Peery.

14. Defendant Operators owe and/or voluntarily assume duties to the public, including Peery, to provide adequate security so that invitees of Dan O'Brien's are not at risk of harm which could be inflicted by those who could become violent in its establishment, such as Defendants Rincken, Smith and Lopez.

15. Defendant Operators were aware that there had been prior criminal acts committed at Dan O'Brien's, including fights and disturbances caused by patrons. Defendant Operators failed to exercise reasonable care by providing security, warnings and protection to invitees of Dan O'Brien's, including Peery, to prevent such criminal attacks. The actions and omissions of Defendant Operators unreasonably enhanced the opportunity for criminal attacks on invitees at Dan O'Brien's, including Peery.

16. Defendant Operators breached their duties to Peery. The actions and omissions of Defendant Operators were the proximate cause of Peery's injuries and damages. Said actions were negligent, grossly negligent, and in reckless disregard of Peery's rights. The actions and omissions of Defendant Operators were malicious and willful, warranting imposition of punitive damages under Oklahoma law.

17. Defendant Boots of Oklahoma owes and/or voluntarily assumes duties to those who are lawfully on its property, including Peery, to ensure that said property is reasonably free from dangers and to warn of known dangers. Defendant Boots of Oklahoma knew, or should have known, of prior criminal activity on its property caused by patrons of

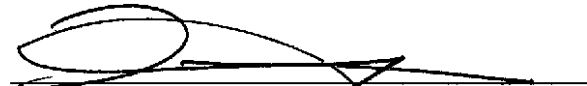
Dan O'Brien's, including previous fights and disturbances.

18. Defendant Boots of Oklahoma knew, or should have known, that the operation of a bar on its property without proper security, warnings and protection unreasonably enhanced the opportunity for criminal attacks to occur on its property. Defendant Boots of Oklahoma knew or should have known that the Defendant Operators were routinely serving alcoholic beverages to those who they knew, or should have known, were intoxicated and that continued service to such patrons unreasonably increased the risk of criminal attack and harm to individuals, such as Peery.

19. Defendant Boots of Oklahoma breached its duties to Peery. The actions and/or omissions of Defendant Boots of Oklahoma were the proximate cause of Peery's injuries and damages. The actions and/or omissions of Defendant Boots of Oklahoma were negligent, grossly negligent, and in reckless disregard of Peery's rights. The actions and omissions of Defendant Boots of Oklahoma were malicious and willful, warranting imposition of punitive damages under Oklahoma law.

WHEREFORE, Plaintiff prays for judgment against Defendants for actual and punitive damages in excess of the amount required for diversity jurisdiction pursuant to Section 1332 of Title 28 of the United States Code, plus costs, interest, attorney fees and any other relief which this Court may deem proper.

Respectfully Submitted,



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