



**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

PHILLIPPI GREEN

PLAINTIFF

VS.

CIVIL ACTION NO. 2:13CV238KS-MTP

**LOGAN'S ROADHOUSE, INC;
GIGI BEARD, INDIVIDUALLY; AND JOHN DOES 1-3**

DEFENDANTS

COMPLAINT

COMES NOW, Plaintiff, Phillippi Green and files this his Complaint against Logan's Roadhouse, Inc. and Gigi Beard, individually and in her capacity as manager of Logan's Roadhouse, Inc. and in support thereof would show unto this Honorable Court as follows:

PARTIES

1. Plaintiff, Phillippi Green, is an adult resident citizen of Marion County, Mississippi.
2. Defendant Logan's Roadhouse Inc. (hereinafter "Logan's") is a foreign corporations licensed to do business in the State of Mississippi with its principle place of business located at 3011 Armory Drive Suite 300, Nashville, TN. 37204 and may be served with process through its registered agent for process C.T. Corporation System, 645 Lakeland East Drive Suite 101, Flowood, Mississippi 39232.
3. Defendant, Gigi Beard (hereinafter "Beard"), is an adult resident citizen of Covington County, Mississippi. Process may be served in this cause on the Defendant by serving

her personally or via certified mail at her residence located at 6 Neal Drive, Seminary, Mississippi 39479.

JURISDICTION

4. This Court holds actual jurisdiction under provisions of 28 U.S.C. § 1332, since this action is a controversy wholly between citizens of different states, and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs. Since the incident occurred in the State of Mississippi, the substantive law of the State of Mississippi shall apply.

VENUE

5. This civil action arises out of the negligent acts and omissions of Defendants committed whole or in part in Lamar County, Mississippi against a resident of Marion County and of the State of Mississippi. This matter exceeds the amount in controversy of \$75,000.00. This Court holds *in personam* jurisdiction over the Defendant pursuant to Mississippi Code § 13-3-57-service on nonresidents, 28 U.S.C. § 1391 and Fed. R. Civ. P. 4.

FACTS

6. On or about November 4, 2012, the Plaintiff entered the Logan's Roadhouse at 6147 Highway 98 around 9 pm to have dinner. While Plaintiff was sitting at the table two men approached and began verbally assaulting Plaintiff's sister and friend who were sitting at his table over a previous dispute the Plaintiff was not involved in. The police were at the property for the previous dispute and told the assailants to leave and not come back and the manager was aware of this. The Plaintiff asked the men to leave and stop verbally assaulting persons at the table. The men began to threaten Plaintiff and demanded the Plaintiff come outside. The Plaintiff is African American and the two men kept saying to Plaintiff to "come outside n****r" (using the "N" word). The manager and bartender and other employees saw this occurring and moved

over to watch. The Plaintiff openly requested some help from the manager to remove the two men or get them away from the table but the manager and employees did not respond. The two men continued to make a scene and the one man removed his shirt and was pacing the floor demanding the Plaintiff go outside and using the "N" word repeatedly. The Plaintiff again asked for help from the manager and other employees and the bartender told Plaintiff just move to another table or just leave altogether. The manager and bartender refused to call the police as requested by the Plaintiff. At some point the Plaintiff got up from the table to try to get the manager to help stop the threats and verbal assault and the two men approached and began beating and assaulting the Plaintiff. They hit him and knocked him to the floor. One man got on top of the Plaintiff and placed Plaintiff in a choke hold and said, "go to sleep n****r." The manager and employees stood and watched and refused Plaintiff's pleas for help and his friends' requests for help. The Plaintiff's two female friends tried to pull the assailant off Plaintiff but the assailant's other friends knocked them off. The manager refused to intervene. At some point the police entered the property and ordered the assailant to stop. At no time did the manager or other employees intervene or render aid when requested by Plaintiff. When the assailant let go of the Plaintiff the assailant got up and high fived and announced to the manager and employees "I got me a n****r." The manager and employees laughed and cheered. The Plaintiff was taken by ambulance from the scene and the assailant was arrested by police.

7. At all times relevant hereto, Logan's was owned, operated, occupied, leased, managed, and/or controlled by Logan's Roadhouse, Inc. and Beard was acting under the direction and control of her employer Logan's.

8. Defendants failed to fulfill their joint, several, and collective duty to use reasonable care and to take adequate and reasonable security precautions or measures to protect

customers at Logan's from foreseeable harm and danger, including the harm suffered by Beard. These Defendants knew or should have been on notice of the attacker's violent nature and failed to take reasonable measures to secure the premises from the foreseeable attack. These Defendants failed to prevent or stop the attack, failed to have adequate security, failed to instruct employees regarding adequate security and the need to protect customers, failed to adequately train employees, and failed to adequately supervise the employees, failed to apply Logan's own policies regarding assault and battery, and failed to properly handle complaints by Plaintiff to intervene or prevent the assault from occurring.

NEGLIGENCE OF DEFENDANT LOGAN'S ROADHOUSE, INC.

9. Plaintiff adopts by reference the foregoing paragraphs as if fully set forth herein.

10. Plaintiff alleges the acts of Defendant manager Beard is imputed to Defendant Logan's under the theory of Respondent Superior. Defendant Logan's may also be held liable because Defendant Beard was acting within the course and scope of her employment and while on duty and was acting in the furtherance of the business at the time she did not have security on the property, allowed the assault to occur, participated in the assault by actively refusing to remove the assailants from the property and by not rendering aid among other things.

11. Plaintiff further charges Defendant Logan's with these independent acts of negligence; civil assault and battery; intentional/negligent infliction of emotional distress; failing to use reasonable care; with negligently contributing to and/or proximately causing the serious injuries of the Plaintiff by their negligence which are, but are not limited to, the lack of and/or inadequate amount of security, failure to have security present, failure to hire, failure to train, failure to supervise, failure to maintain qualified employees on the property, failure of the property controller to provide adequate instruction and supervision of the property's employees as well as

of management; failure to follow the policy and procedures of defendants, failure to instruct employees or the manager to not violate any hate crimes laws; failure to instruct employees or Beard to not assault or participate in an assault of customers; failure to train Beard to use non-confrontational or non-physical means to resolve a conflict; failure to instruct Beard to contact her superiors or police to resolve a conflict issue with a customer and trespassers; failure to prevent Beard from harming Plaintiff by not removing the assailants before the attack occurred; failure to train, instruct, monitor Defendant Beard's actions; failure to instruct its employees to a standard of behavior toward customers that excludes use of force and violence, failure to have in place and implement a policy and procedure for responding to or dealing with an upset or hostile trespasser; failure to have in place or implement a policy and procedure to instruct or train a employ on how to respond to requests from a customer for aid and to intervene; failure to have in place or implement a policy and procedure to allow the customers to use a third party mediator to resolve customer disputes; failure to train and supervise the manager to not assault a customer; failure to direct, train and supervise the manager to stop an assault of a customer; negligence per se, breach of contract, negligence based upon reasonable foreseeability, negligent entrustment, negligence based on assumption of duty; failure to complete the promise to stop the assailant from harassing, intimidating, and assaulting Plaintiff; failure to render aid, general negligence in the operation of the restaurant; creating a dangerous condition and not warning Plaintiff of the dangerous condition; abandoning the duty to render aid after creating the dangerous condition and any other acts of negligence that have not been exposed but may be found during discovery. Plaintiff alleges the independent negligent acts of Defendants were the direct and proximate cause of Plaintiff's injuries.

NEGLIGENCE OF DEFENDANT BEARD

12. Plaintiff adopts by reference the foregoing paragraphs as if fully set forth herein.

13. Contributing and/or proximate factors or causes of the serious injuries of the Plaintiff caused by the negligence of Defendant Beard include, but are not limited to civil assault and battery, intentional/negligent infliction of emotional distress; failure to follow the customer/manager contract agreement terms to provide a safe environment to customers; operating with the lack of and/or inadequate amount of training as a manager, failure to supervise the day to day operations by not instructing assailants to leave or calling the police before the assault occurred, lack of or failure to monitor or direct the monitoring or operation of the premises by allowing employees and herself to not remove the assailants, failure as the manager and overseer of the premises to provide adequate instruction, security, and supervision of customers; failure to prevent assaults and battery on the premises by trespassers, engaging in assaultive and abusive behavior against customers, failure to follow a standard of behavior toward customers that did not include assault, negligence per se, breach of contract, negligence based upon reasonable foreseeability, and negligence based on assumption of duty. Defendant Beard, as Manager, had a duty to the Plaintiff, as a customer, to present her employment responsibilities in a reasonably professional and non-violent manner. Defendant Beard breached that duty by participating in, condoning, and not stopping the physical assault of Plaintiff; Defendant acted negligently for not calling the police or not directing other employees to call the police; Defendant acted negligently for allowing the assailants back into the restaurant after the police had originally told them to leave. Defendant also acted negligently for violating the policies and procedures of the property, violating the employee handbook and instructions on how to handle trespassers and assailants and to protect customers; failure to follow her training in regards to

operating the property without using harassment, threats and violence; intentionally participating in a hate crime.

14. Plaintiff also charges Defendant Beard with knowingly or negligently disregarding instructions regarding assaultive behavior against customers and negligently failing to train and instruct other employees on the premises regarding policies on assaultive behavior against customers. Plaintiff also charges the Defendant Beard with failure to render aid, failure to prepare a written report of the incident to record the names of witnesses, failure to preserve any video of the event; negligence in not preparing a written incident statement so as to not preserve any independent witness information to help impede any litigation that would arise from the attack. Defendant also acted negligently for not directing the other employees to intervene or stop the assault. Defendant also acted negligently for failing to render aid to Plaintiff and for not providing medical attention after the Plaintiff was assaulted.

15. Defendant acted negligently for failure to have in place and implement a policy and procedure for responding to or dealing with an upset or hostile trespasser; failure to have in place or implement a policy and procedure to instruct or train a employ on how to respond to hate crimes occurring on the property; failure to instruct or train employees on the proper procedure for stopping an altercation from occurring or escalating; failure to have in place or implement a policy and procedure to instruct or train a employ on the proper procedure for stopping an assault; failure to have in place or implement a policy and procedure to allow a third party mediator to resolve customer disputes; failure to request to be trained and supervised to not participate in an assault of a customer; failure to request to be directed, trained and supervised to not assault a customer and not cheer and agree with the assaulter; failure to contact a supervisor or police on first notice of the trespasser creating a disturbance; negligence per se; breach of

contract, negligence based upon reasonable foreseeability, negligent entrustment, negligence based on assumption of duty; failure to complete the promise to stop the assailant from harassing, intimidating, and assaulting Plaintiff; failure to render aid, general negligence in the operation of the restaurant; creating a dangerous condition and not warning Plaintiff of the dangerous condition; abandoning the duty to render aid after creating the dangerous condition and any other acts of negligence that have not been exposed but may be found during discovery. Plaintiff alleges the independent negligent acts of Defendant Beard were the direct and proximate cause of Plaintiff's injuries.

NEGLIGENCE OF DEFENDANTS JOHN DOES #1-3

16. Plaintiff adopts by reference the foregoing paragraphs as if fully set forth herein.

17. John Does #1-3 are alleged employees and assistant managers on duty at the time of the attack who are residents of the State of Mississippi who were working on duty at the time of the incident and who may have negligently acted or otherwise been a contributing cause to the injuries of the Plaintiff. John Does #1-3 may have been employed or contracted by the Defendants at the time the Plaintiff was assaulted. The John Does #1-3 will be named when and if they are located and found to be party to this cause.

18. At the time of the serious injuries of the Plaintiff, all Defendants had failed to fulfill their joint, several, and/or collective duties of providing ordinary, reasonable security precautions or measures and to take other such reasonable precautions or measures to protect tenants and invitees from foreseeable harm and danger, including the harm suffered by Plaintiff, and failed to follow the policy and procedures and lease agreement.

DAMAGES

19. As a proximate result of the negligence alleged above, Plaintiff, Phillippi Green, suffered damages, including but not limited to, physical injuries, past pain, suffering, mental anguish, accrued medical expenses, lost earnings, and other damages to be proven at trial. Plaintiff's previous medical conditions to his back have been aggravated and Plaintiff has to undergo a shoulder surgery. Plaintiff reasonably anticipates future damages, proximately caused by said negligence of Defendants, including future medical expenses, future pain, suffering and mental anguish, future lost earnings, permanent physical impairment, permanent disfigurement, and other damages.

CLAIMS FOR RELIEF

20. Plaintiff adopts and incorporates by reference the foregoing paragraphs.

21. Defendants, individually, jointly and severally, owed to the Plaintiff an ordinary duty of care. Defendants breached said duty owed to the Plaintiff and were negligent by failing to provide adequate training, instruction and direction to employees regarding assault and battery and commission of hate crimes against customers.

22. Defendants knew or should have known that reasonable training, instruction and direction of employees was needed, and that reasonable duties should have been taken to protect customers and prevent attacks and that the measures provided were unreasonable and inadequate.

23. As a result and proximate consequence of all the Defendants' negligence, breach of their duty of care, and failure to provide adequately trained employees, the Plaintiff was violently assaulted and suffered physical pain and injuries, ongoing emotional pain and suffering and can reasonably be expected to incur further physical and emotional pain and suffering in the future. Plaintiff, therefore, is entitled to all damages of every type and variety that are permitted

by law, including but not limited to past, present and future physical and mental pain and suffering, past, present and future medical expenses, disability and impairment and lost wages. Plaintiff is further entitled to other general damages as well as punitive damages.

24. The acts of the Defendants were conducted in a willful, wanton and grossly negligent manner. The actions of the Defendants were beyond the realm of negligence and evidenced a manner of intent and gross negligence so that punitive damages may be warranted. Plaintiff claims all punitive damages permitted by law as allowed by the court.

WHEREFORE PREMISES CONSIDERED, the Plaintiff demands a trial and judgment from Defendants Beard, Individually and in the Capacity as Manager of Logan's Roadhouse Inc. and Logan's Roadhouse Inc. and John Does 1-3, jointly and severally for actual, compensatory, consequential and incidental damages in an amount exceeding the jurisdictional maximum limits of this Court for compensatory damages and for punitive damages, including all expenses and costs of this civil action, and such other general relief as the Court deems just.

THIS the 24 day of October, 2013.

Respectfully Submitted,

PHILLIPPI GREEN

By: 

J. Ashley Ogden

OF COUNSEL:

J. ASHLEY OGDEN, ESQ. (MSB #9842)
WENDY M. LOONEY, ESQ. (MSB #102867)
JAMES W. SMITH, JR. ESQ. (MSB #7534)
OGDEN & ASSOCIATES, PLLC
500 East Capitol Street, Suite 3
Jackson, Mississippi 39201
Telephone: (601) 969-0999
Facsimile: (601) 969-0089
ATTORNEYS FOR PLAINTIFF