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HENRY KENT, **Plaintiff,** **vs.** **SMILES II RESTAURANT, John Does 1-10, John Does 11-20, ABC Corps. 1-20, ABC Corps. 11-20,** **Defendants.**	**SUPERIOR COURT OF NEW JERSEY** **LAW DIVISION: MORRIS COUNTY** **Docket No.: MRS-L-243-09** **Civil Action** **FIRST AMENDED COMPLAINT**

COMES NOW, Plaintiff, HENRY KENT, states his complaint against Defendant, SMILES II RESTAURANT, as follows:

PRELIMINARY STATEMENT

1.

This action arises out the gross negligence of SMILES II RESTAURANT which caused life threatening injuries to HENRY KENT on or about July 2, 2007 while he was lawfully on the premises of SMILES II RESTAURANT. Countless acts of violence and misdeeds have occurred on the premises of SMILES II RESTAURANT, many of which have involved law authorities. Despite these various acts of violence, over the course of several years, SMILES II RESTAURANT

nevertheless remains an extremely dangerous establishment. As a result of the underlying the negligence on the part of SMILES II RESTAURANT in failing to keep their restaurant safe, HENRY KENT was stabbed in the sternum and is now forced to wonder if each day may be his last.

THE PARTIES

2.

HENRY KENT was a citizen of the State of Alaska at all times pertinent and relevant to the incidents described in this Complaint.

3.

SMILES II RESTAURANT is a business located at 1135 Route 46 West, Ledgewood, New Jersey.

4.

John Does 1-10 and ABC Corps. 1-10 are persons and organizations who hired and paid employees responsible for the safety, welfare and care of the patrons of SMILES II RESTAURANT.

5.

John Does 11-20 and ABC Corps. 11-20 are persons employed by SMILES II RESTAURANT for the purposes of making the premises safe.

FACTS

6.

On or about July 2, 2007 HENRY KENT was lawfully on the

premises of SMILES II RESTAURANT.

7.

SMILES II RESTAURANT had a non-delegable duty to protect their patrons and insure that qualified, mature and conscientious security for HENRY KENT as persons who knowingly accepted responsibility for the well-being and safety of HENRY KENT while he was lawful patron on the premises of SMILES.

8.

On or about July 2, 2007 HENRY KENT was caused to sustain permanent injury when he was stabbed in the sternum with a knife by Joseph Green in the parking lot on the premises of SMILES II RESTAURANT. This tragedy would not have happened but for the gross negligence of SMILES II RESTURANT in their failure to provide adequate security and a safe premises.

9.

Upon information and belief, thereafter, a negligent employee of SMILES II RESTAURANT transported the unconscious body of HENRY KENT inside the premises of SMILES II RESTAURANT. Upon realizing that HENRY KENT in fatal condition, he was then placed back onto the concrete outside in the parking lot located on the premises of SMILES II RESTAURANT and left to die.

10.

As a result of SMILES II RESTAURANT's gross negligence HENRY KENT spent two (2) months in a drug induced coma. HENRY KENT

suffered and continues to suffer permanent physical and life threatening injuries as a result of the underlying gross negligence on the part of SMILES II RESTAURANT.

11.

As a result of the underlying acts of gross negligence described herein, HENRY KENT has suffered and will continue to suffer severe and permanent physical and life threatening injuries; emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, and other psychological injuries; was prevented and will be continued to be prevented from performing his normal daily activities and obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, and counseling; and incurred and will continue to incur loss of income and loss of earning capacity.

CLAIMS FOR RELIEF

NEGLIGENT SECURITY

12.

HENRY KENT adopts by reference the foregoing paragraphs.

13.

SMILES II RESTAURANT, individually, jointly, and severally, including its agents, servants and employees owed a duty of ordinary care by providing reasonable security to HENRY KENT and the other patrons of SMILES II RESTAURANT.

14.

SMILES II RESTAURANT breached said duties owed to HENRY KENT and were negligent in failing to provide reasonable security, which a reasonably prudent owner, supervisor, operator or employee would have provided security in order to prevent injury to HENRY KENT.

15.

SMILES II RESTAURANT failed to provide reasonable security for HENRY KENT as persons who knowingly accepted responsibility for the well-being of HENRY KENT as a patron of SMILES II RESTAURANT.

16.

SMILES II RESTAURANT, individually, jointly, and severally, including its agents, servants and employees knew or should have known through the exercise of reasonable care that the behavior of its guests would result in injury and near death to HENRY KENT.

17.

As a direct result of the failure to provide reasonable security described herein HENRY KENT has suffered and will continue to suffer severe and permanent physical injuries; emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, and other psychological

injuries; was prevented and will be continued to be prevented from performing his normal daily activities and obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, and counseling; and incurred and will continue to incur loss of income and loss of earning capacity.

WHEREFORE, Plaintiff demands:

(a) A trial by jury;

(b) That judgment be entered against Defendants for damages in an amount reasonable and just by the evidence;

(c) That all costs in this action be assessed against Defendants including attorney's fees, costs and expenses of this action; and

(d) That Plaintiff be awarded all other relief as this Court deems just and proper.

DRAM-SHOP LIABILITY

18.

HENRY KENT repeats the preceding allegations as if more fully stated herein.

19.

SMILES II RESTAURANT is an establishment that is licensed to sell alcoholic beverages.

20.

SMILES II RESTAURANT individually, jointly, and severally,

including its agents, servants and employees are liable for the foreseeable injuries and damages to HENRY KENT proximately caused by it's service of alcoholic beverages to visibly intoxicated persons.

21.

SMILES II RESTAURANT, individually, jointly, and severally, including its agents, servants and employees are liable in damages for the injuries suffered by HENRY KENT due to its negligent service of alcoholic beverages, failure to exercise reasonable care to protect HENRY KENT as a patron of SMILES II RESTAURANT, and failure to take reasonable measures to safeguard patrons while they are on the premises of SMILES II RESTAURANT.

WHEREFORE, Plaintiff demands:

(a) A trial by jury;

(b) That judgment be entered against Defendants for damages in an amount reasonable and just by the evidence;

(c) That all costs in this action be assessed against Defendants including attorney's fees, costs and expenses of this action; and

(d) That Plaintiff be awarded all other relief as this Court deems just and proper.

GROSS NEGLIGENCE

22.

HENRY KENT repeats the preceding allegations as if more

fully stated herein.

23.

SMILES II RESTAURANT, individually, jointly, and severally, including its agents, servants and employees omissions, conduct, breaches, failures, and negligence were grossly negligent and/or were in conscious willful, wanton and in reckless disregard of the safety of HENRY KENT.

WHEREFORE, Plaintiff demands:

(a) A trial by jury;

(b) That judgment be entered against Defendants for punitive damages in an amount reasonable and just by the evidence;

(c) That all costs in this action be assessed against Defendants including attorney's fees, costs and expenses of this action; and

(d) That Plaintiff be awarded all other relief as this Court deems just and proper.

POMPELIO, FOREMAN & GRAY, L.L.C.

Attorneys for Plaintiff
HENRY KENT

By:_____
PAUL S. FOREMAN, ESQ.
Attorneys for Plaintiff

DATED: August 28, 2009

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff hereby demands a jury trial.

_____
PAUL S. FOREMAN, ESQ.
Attorney for Plaintiff

DATED: August 28, 2009

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that Paul S. Foreman, Esq., is hereby designated as trial counsel in the above captioned matter.

_____
PAUL S. FOREMAN, ESQ.
Attorney for Plaintiff

DATED: August 28, 2009

DEMAND FOR INTERROGATORIES

Plaintiff demands that the defendant produces certified answers to the Form C and Form C(1) Interrogatories within sixty (60) days of service of this Complaint.

_ **PAUL S. FOREMAN, ESQ.**
Attorney for Plaintiff

DATED: August 28, 2009

DEMAND FOR DOCUMENTS

Plaintiff demands that the defendant produce copies of any and all documents in his possession with regard to any of the issues set forth in this Complaint.

_ **PAUL S. FOREMAN, ESQ.**
Attorney for Plaintiff

DATED: August 28, 2009

CERTIFICATION

The undersigned hereby certifies that the matter in controversy is not the subject of any other action pending in any court or of any pending arbitration proceeding and that no other or arbitration proceeding are presently contemplated.

The undersigned further certifies that there are no other parties of which he is presently aware or should be joined in this action.

_____

PAUL S. FOREMAN, ESQ.
Attorney for Plaintiff

DATED: August 28, 2009