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16CV12155

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4 IN THE CIRCUIT COURT OF THE STATE OF CALIFORNIA

5 FOR THE COUNTY OF MULTNOMAH

6

7 RICHARD SPRING,

) No.

)

|  |  |  |
| --- | --- | --- |
| 8 | Plaintiff, | ) **COMPLAINT** |
|  | ) **(Personal Injury; ORS 20.080)** |
| 9 | v. | ) |
|  |  | ) **Subject to Mandatory** |
| 10 | DENISE LANDERS; WHOLE FOODS | ) **Arbitration** |
|  | MARKET PACIFIC NORTHWEST, INC. | ) |
| 11 | (doing business as Whole Food | ) **JURY TRIAL REQUESTED** |
|  | Market), a foreign business | ) |
| 12 | corporation; and | ) Amount claimed: $10,000 |
|  | ELLIOTT ASSOCIATES, INC., a | ) (aggregate) |
| 13 | domestic business corporation, | ) |
| 14 | Defendants. | Fee Authority: ORS 21.160(1)(a) |

15 Plaintiff RICHARD SPRING alleges:

16 **First Claim for Relief**

17 **(Negligence - Landers)**

18 1.

19 At all times material herein, defendant Denise Landers was and

20 is the owner of a dog (“Nola”); she resides in Portland, Multnomah

21 County, Oregon.

22 2.

23 At all times material herein, defendant WHOLE FOODS MARKET

24 PACIFIC NORTHWEST, INC., d/b/a Whole Food Market (hereinafter

25 “Whole Foods”) was and is a foreign business entity authorized to

26 conduct business in Oregon, and was the owner and/or operator of a

1 retail market on NE 15th Street in Portland, Oregon.

2 3.

3 At all times material herein, defendant ELLIOTT ASSOCIATES,

4 INC. was and is an Oregon corporation authorized to conduct

5 business in Oregon, and was the owner, operator, manager and/or

6 maintainer of certain real property on which defendant Whole Foods

7 operated a market (NE 15th St., Portland).

8 4.

9 At all times material herein, plaintiff was a pedestrian near

10 the entrance to the store/market operated by defendant Whole Foods.

11 5.

12 At all times pertinent, plaintiff was an invitee of Whole

13 Foods and an invitee of the commercial premises located on NE 15th

14 Street occupied by Whole Foods and maintained by Elliott

15 Associates.

16 6.

17 On November 20, 2015, plaintiff was walking towards the

18 entrance of the Whole Foods Market on NE 15th Street when he was

19 bitten by a dog owned by defendant Landers, causing bodily injuries

20 to plaintiff as hereinafter set forth.

21 7.

22 Defendant LANDERS was negligent in one or more of the

23 following particulars which caused injuries to plaintiff:

24 a) In failing to maintain proper control of her animal

25 (dog);

26

1 b) In failing to properly muzzle her animal (dog) while it

2 was in a place used by the general public.

3 8.

4 As a direct, proximate and foreseeable result of the acts and

5 omissions of defendant LANDERS, plaintiff Richard Spring sustained

6 a puncture injury to his right leg, all to plaintiff's non-economic

7 damage in an amount exceeding $10,000.

8 9.

9 As a direct and foreseeable result of the acts and omissions

10 of defendant LANDERS, plaintiff incurred health care expenses and

11 other economic damages. The total of plaintiff’s economic damages

12 not paid a health insurance, subject to direct reimbursement under

13 ORS 742.534, together with his non-economic damages, exceeds

14 $10,000 but plaintiff hereby limits the amount sought for both non-

15 economic damages and non-742.534 economic damages to $10,000 for

16 purposes of ORS 20.080.

17 10.

18 By letter dated February 15, 2016, plaintiff made demand upon

19 defendant LANDERS and her insurer for damages in the manner

20 provided by ORS 20.080.

21 11.

22 Plaintiff is entitled to recover attorney fees incurred herein

23 pursuant to ORS 20.080 as well as her damages and costs and

24 disbursements.

25 //

26 //

1 **Second Claim for Relief**

2 **(Negligence - Whole Foods)**

3 12.

4 Plaintiff re-alleges paragraphs 1-6 above.

5 13.

6 Defendant WHOLE FOODS was negligent in one or more of the

7 following particulars which caused injuries to plaintiff:

8 a) In providing an unsafe “tie-up” area near its store

9 entrance for the use of its patrons who owned animals;

10 b) In failing to properly monitor and/or safeguard the “tie-

11 up” area;

12 c) In failing to provide appropriate warning (via signs,

13 placards, cones, etc.) to members of the public that the

14 “tie-up” area could be in use by dangerous animals;

15 d) In failing to properly segregate the “tie-up” area (via

16 cones, fencing, distance, etc.) from business invitees

17 and other members of the public;

18 e) In failing to maintain its store premises, including the

19 entrance, in a safe condition for business invitees and

20 other members of the public.

21 14.

22 As a direct, proximate and foreseeable result of the acts and

23 omissions of defendant WHOLE FOODS, plaintiff Richard Spring

24 sustained a puncture injury to his right leg, all to plaintiff's

25 non-economic damage in an amount exceeding $10,000.

26

1 15.

2 As a direct and foreseeable result of the acts and omissions

3 of defendant WHOLE FOODS, plaintiff incurred health care expenses

4 and other economic damages. The total of plaintiff’s economic

5 damages not paid a health insurance, subject to direct

6 reimbursement under ORS 742.534, together with his non-economic

7 damages, exceeds $10,000 but plaintiff hereby limits the amount

8 sought for both non-economic damages and non-742.534 economic

9 damages to $10,000 for purposes of ORS 20.080.

10 16.

11 By letter dated February 15, 2016, plaintiff made demand upon

12 defendant WHOLE FOODS for damages in the manner provided by ORS

13 20.080.

14 17.

15 Plaintiff is entitled to recover attorney fees incurred herein

16 pursuant to ORS 20.080 as well as her damages and costs and

17 disbursements.

18 **Third Claim for Relief**

19 **(Negligence - Elliott Associates, Inc.)**

20 18.

21 Plaintiff re-alleges paragraphs 1-6 above.

22 19.

23 Defendant ELLIOTT ASSOCIATES, INC. was negligent in one or

24 more of the following particulars which caused injuries to

25 plaintiff:

26 a) In providing an unsafe animal “tie-up” area near the

1 Whole Foods store entrance;

2 b) In failing to properly monitor and/or safeguard the “tie-

3 up” area;

4 c) In failing to provide appropriate warning (via signs,

5 placards, cones, etc.) to members of the public that the

6 “tie-up” area could be in use by dangerous animals;

7 d) In failing to properly segregate the “tie-up” area (via

8 cones, fencing, distance, etc.) from business invitees

9 and other members of the public;

10 e) In failing to maintain its premises in a safe condition

11 for business invitees and other members of the public.

12 20.

13 As a direct, proximate and foreseeable result of the acts and

14 omissions of defendant ELLIOTT ASSOCIATES, INC., plaintiff Richard

15 Spring sustained a puncture injury to his right leg, all to

16 plaintiff's non-economic damage in an amount exceeding $10,000.

17 21.

18 As a direct and foreseeable result of the acts and omissions

19 of defendant ELLIOTT ASSOCIATES, INC., plaintiff incurred health

20 care expenses and other economic damages. The total of plaintiff’s

21 economic damages not paid a health insurance, subject to direct

22 reimbursement under ORS 742.534, together with his non-economic

23 damages, exceeds $10,000 but plaintiff hereby limits the amount

24 sought for both non-economic damages and non-742.534 economic

25 damages to $10,000 for purposes of ORS 20.080.

26 //

1 22.

2 By letter dated February 15, 2016, plaintiff made demand upon

3 defendant ELLIOTT ASSOCIATES, INC. for damages in the manner

4 provided by ORS 20.080.

5 23.

6 Plaintiff is entitled to recover attorney fees incurred herein

7 pursuant to ORS 20.080 as well as her damages and costs and

8 disbursements.

9

10 **WHEREFORE**, plaintiff RICHARD SPRING prays for Judgment

11 against defendants, and each of them, as follows:

12 1. For his non-economic damages and non-health insurer-paid

13 (ORS 742.534) economic damages, in the amount of $10,000;

14 2. For his attorney fees pursuant to ORS 20.080;

15 3. For his costs and disbursements herein.

16

17 **DATED** this 14th day of April, 2016.

18 GLAZER, MAURER & PETERSON, P.C.

19

20 s/ David L. Robinson David L. Robinson, OSB #115042

21 Of attorneys for Plaintiff

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23

24

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26