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IN THE CIRCUIT COURT OF THE 15th
JUDICIAL CIRCUIT, IN AND FOR PALM
BEACH COUNTY, FLORIDA

CASE NO:

STUART FREILICH,

Plaintiff,

vs.

WALMART INC.,

Defendant.

COMPLAINT

Plaintiff, STUART FREILICH, by and through the undersigned counsel, hereby sues the Defendant, WALMART INC., and alleges as follows:

GENERAL ALLEGATIONS

Parties, Jurisdiction, and Venue

1. This is a cause of action for damages exceeding FIFTEEN THOUSAND DOLLARS (\$15,000), and is therefore within the subject-matter jurisdiction of this Honorable Court.

2. At all times material, the Plaintiff, STUART FREILICH ("Plaintiff"), was and is a resident of Palm Beach County, Florida.

3. At all times material, the Defendant, WALMART INC., ("Defendant") was a multinational retail corporation that was licensed to do and doing business in Palm Beach County, Florida.

4. Venue is proper in Palm Beach County, Florida, as Defendant regularly conducts business in said County. Additionally, the incident that gave rise to this Complaint took place, and cause of action against Defendant accrued, on property owned, operated, maintained, managed, and/or controlled by Defendant in Palm Beach County, Florida.

Statement of Facts

5. On or about June 13, 2018, Defendant owned, operated, controlled, and/or possessed the retail store located at 22100 S. State Road 7 in Boca Raton, Palm Beach County, Florida, known colloquially as the “Boca Raton Walmart Supercenter” and identified by Defendant as Store No. 3858 (“subject premises”)

6. At that time and place, Plaintiff was a business invitee upon the subject premises.

7. During the course of Plaintiff’s visit to the subject premises, Plaintiff was shopping for travel bags, which were stocked upon shelving located in one of the store aisles.

8. However, unbeknownst to Plaintiff, one or more of the component pieces of the shelving was broken and/or in a state of disrepair, and, as Plaintiff attempted to access a travel bag, a loose and broken strip of metal, along with multiple travel bags, fell onto him, causing him to sustain injuries.

9. Any and all prerequisites and/or conditions precedent to the filing of this action have occurred or have been waived.

COUNT I – NEGLIGENCE

10. Plaintiff adopts and realleges Paragraphs 1 – 9 as if fully set forth below and further alleges as follows:

11. At all times material, Defendant, through its agents, employees, and/or representatives, owed its business invitees, including Plaintiff, a duty to exercise reasonable care in addition to the following duties:

- a. A duty to conduct its business operations in a reasonably safe manner;
- b. A duty to maintain its premises in a reasonably safe manner;
- c. A duty to inspect and maintain its shelving and components thereof to ensure they were reasonably free from hazards and/or latent dangers;

- d. A duty to inspect and maintain its shelving and components thereof to ensure they were in an adequate condition and structurally sound;
- e. A duty to adopt and implement adequate and reasonable procedures for identifying and repairing or replacing shelving that was not reasonably free from hazards and/or latent dangers and was otherwise in an adequate condition and structurally sound;
- f. A duty to stock and arrange merchandise Defendant offers for sale to the general public in a reasonably safe manner and to ensure that any shelving used for supporting such merchandise was in an adequate and appropriate condition;
- g. A duty to comply with industry standards in the inspection, maintenance, repair, and/or replacement of inadequate or problematic shelving and components thereof;
- h. A duty to comply with industry standards in the stocking and arrangement of merchandise offered for sale to the general public;
- i. A duty to warn and/or notify business invitees, such as Plaintiff, regarding any and all hazards and/or latent dangers associated with problematic and unreasonably dangerous shelving and components thereof;
- j. A duty to ensure that any and all warnings and/or notices regarding hazards and/or latent dangers associated with problematic and unreasonably dangerous shelving and components thereof were reasonably clear and conspicuously placed;
- k. A duty to conduct reasonable training of its employees to familiarize them with any and all hazards and/or latent dangers associated with problematic and unreasonably dangerous shelving and components thereof, such that they are able to take reasonable steps to prevent customer access to such unreasonable dangerous conditions.

12. Defendant, through its agents, employees, and/or representatives, breached its duty of reasonable care and was negligent in one or more of the following ways:

- a. Defendant negligently failed to conduct its business operations in a reasonably safe manner;
- b. Defendant negligently failed to maintain its premises in a reasonably safe manner;

- c. Defendant negligently failed to inspect and maintain its shelving and components thereof to ensure they were reasonably free from hazards and/or latent dangers;
- d. Defendant negligently failed to inspect and maintain its shelving and components thereof to ensure they were in an adequate condition and structurally sound;
- e. Defendant negligently failed to adopt and implement adequate and reasonable procedures for identifying and repairing or replacing shelving that was not reasonably free from hazards and/or latent dangers and was otherwise in an adequate condition and structurally sound;
- f. Defendant negligently failed to stock and arrange merchandise Defendant offers for sale to the general public in a reasonably safe manner and to ensure that any shelving used for supporting such merchandise was in an adequate and appropriate condition;
- g. Defendant negligently failed to comply with industry standards in the inspection, maintenance, repair, and/or replacement of inadequate or problematic shelving and components thereof;
- h. Defendant negligently failed to comply with industry standards in the stocking and arrangement of merchandise offered for sale to the general public;
- i. Defendant negligently failed to warn and/or notify business invitees, such as Plaintiff, regarding any and all hazards and/or latent dangers associated with problematic and unreasonably dangerous shelving and components thereof;
- j. Defendant negligently failed to ensure that any and all warnings and/or notices regarding hazards and/or latent dangers associated with problematic and unreasonably dangerous shelving and components thereof were reasonably clear and conspicuously placed;
- k. Defendant negligently failed to conduct reasonable training of its employees to familiarize them with any and all hazards and/or latent dangers associated with problematic and unreasonably dangerous shelving and components thereof, such that they are able to take reasonable steps to prevent customer access to such dangerous conditions; and
- l. Defendant committed one or more additional acts or omissions constituting negligence and which have not yet been discovered;

13. At all times material, Defendant knew, or in the exercise of reasonable care should have known, that the subject shelving and/or components were not in a reasonably safe condition.

14. At all times material, Defendant knew, or in the exercise of reasonable care should have known, that the breaches identified in Paragraph 12, above, had not been cured.

15. The negligent condition was known to Defendant or had existed for a sufficient length of time so that Defendant should have known of it.

16. At all times material, the utility to Defendant of maintaining its premises in the unreasonably dangerous condition in which it existed on the date and at the time of the subject incident, was slight as compared to the risk it posed to store customers, the general public, and business invitees, such as Plaintiff.

17. As a result, Plaintiff suffered bodily injury and resulting pain and suffering, disability, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment. These losses are either permanent or continuing in nature, and Plaintiff will suffer these damages in the future.

WHEREFORE the Plaintiff, STUART FREILICH demands judgment against the Defendant, WALMART INC., for damages to exceed Fifteen Thousand Dollars, costs, and any additional relief the Court deems just and proper. Plaintiff further demands trial by jury of all issues so triable.

DATED this 11th day of October 2018.

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