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

MICHAEL DENNIS,

Plaintiff,

CASE NO.

vs.

PUBLIX SUPER MARKETS, INC.
d/b/a PUBLIX PHARMACY,

Defendant.

_____ /

PLAINTIFF'S COMPLAINT FOR DAMAGES

The Plaintiff, MICHAEL DENNIS, sues the Defendant, PUBLIX SUPER MARKETS INC. d/b/a PUBLIX PHARMACY, (hereinafter referred to as "PUBLIX"), and alleges as follows:

JURISDICTIONAL STATEMENT AND IDENTIFICATION OF THE PARTIES

1. This is an action for damages that exceed Thirty Thousand Dollars (\$30,000.00), exclusive of interests and costs.
2. At all material times, Defendant, PUBLIX, was a Florida for-profit corporation organized and existing under the laws of the state of Florida, and operating a store located at 7060 Palmetto Park Road, Boca Raton, Florida and doing business in Palm Beach County, Florida,
3. At all material times, Defendant, PUBLIX, had a pharmacy for the transaction of its customary business in Palm Beach County, Florida, had agents and other representatives in Palm Beach County, Florida, and was actually doing business in Palm Beach County, Florida by virtue of its dispensing, distributing, shipping, promoting, packaging, selling and/or placing into the stream of commerce prescription drugs, including the drug which caused or contributed to cause severe and permanent neurological injuries to the plaintiff.

4. Defendant, PUBLIX, is subject to jurisdiction of this Court pursuant to Fla. Stat. §48.193(2) as it was/is engaged in substantial and not isolated activity within Florida. Defendant, PUBLIX, is also subject to jurisdiction of this Court pursuant to Fla. Stat. §48.193(1)(a)(1) and 48.193(1)(2) as it operates, conducts, engages in, or carries on a business or business venture in Florida and has an office or agency in Florida and the cause of action arises from such activity, and because it committed a tortious act within Florida.

FACTS GIVING RISE TO CAUSE OF ACTION

5. On May 3, 2020, a prescription for Lithium 600 mg, 90 pills with one refill, one in the morning and two at bedtime, was written by Dr. Irl Extein. The next day on May 4, 2020, the prescription was filled at Publix Pharmacy located at 7060 Palmetto Park Road, Boca Raton, Florida.

6. On May 4, 2020, a prescription for Lithium 300 mg, 90 pills, one in the morning and two at bedtime, was written by Dr. Irl Extein. The next day on May 5, 2020, the prescription was filled at Publix Pharmacy located at 7060 Palmetto Park Road, Boca Raton, Florida.

7. As a result of the negligence of Defendant, PUBLIX, the Plaintiff, MICHAEL DENNIS, was admitted to the hospital on July 5, 2020 with severe Lithium toxicity. As a result of the alleged negligence, the Plaintiff, MICHAEL DENNIS, suffers from severe and permanent neurological damages.

COUNT I

**CLAIM AGAINST PUBLIX SUPER MARKETS, INC.
d/b/a PUBLIX PHARMACY FOR ACTIVE NEGLIGENCE**

8. The Plaintiff adopts and realleges paragraphs 1 through 7 and further alleges the following.

9. Defendant, PUBLIX, by and through its agents, apparent agents, servants, employees, and/or contractors, had and undertook a duty to the plaintiff to provide pharmacy and dispensing services in accordance with the prevailing standards of care, which in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent and similar pharmacists in the same or similar community.

10. Notwithstanding the duty undertaken, Defendant, PUBLIX, by and through its agents, apparent agents, servants employees and/or contractors, breached these duties in one or more of the following respects:

- a. Failure to properly review Mr. Dennis' history on file;
- b. Failure to recognize an obvious error in the prescriptions that it filled for Mr. Dennis, which resulted in his being over-prescribed Lithium;
- c. Failure to exercise due care to correct any and all errors that a reasonably prudent pharmacist would have realized in filling Mr. Dennis' prescriptions;
- d. Failure to contact Mr. Dennis' physician who prescribed Lithium to determine if it was appropriate for Mr. Dennis to be taking 2 different Lithium prescriptions simultaneously;
- e. Failure to exercise due care to warn or advise Mr. Dennis that Lithium should be used with caution;
- f. Failure to reasonably and properly hire competent agents, apparent agents, servants employees and/or contractors;
- g. Failure to reasonably and properly train competent agents, apparent agents, servants employees and/or contractors;
- h. Failure to reasonably supervise its agents, apparent agents, servants employees and/or contractors; and
- i. Failure to otherwise exercise the degree of care and caution which reasonable pharmacies and/or pharmacists would have exercised under the same or similar circumstances.

11. As a direct and proximate result of the negligence of Defendant, PUBLIX, by and through its agents, apparent agents, servants employees and/or contractors acting within the course and scope of their agency, apparent agency, service and/or employment, the Plaintiff, MICHAEL DENNIS, suffers from severe and permanent neurological injuries.

12. As a direct and proximate result of the negligence of Defendant, PUBLIX, by and through its agents, apparent agents, servants employees and/or contractors, the Plaintiff makes the below listed claims for damages.

13. That as a further direct and proximate result of the negligence of Defendant, PUBLIX, by and through its agents, apparent agents, servants employees and/or contractors, the Plaintiff, MICHAEL DENNIS, has in the past undergone and will in the future undergo extensive medical care and treatment and has in the past incurred and will in the future incur medical bills and expenses, as well as loss of earnings and earnings potential.

14. That as a direct and proximate cause of the negligence of Defendant, PUBLIX, by and through its agents, apparent agents, servants employees and/or contractors, the Plaintiff, MICHAEL DENNIS, has in the past suffered and will in the future suffer severe emotional distress, great pain and anguish of the body and mind, and loss of capacity for the enjoyment of life, all of which conditions are permanent in nature.

WHEREFORE, the Plaintiff, MICHAEL DENNIS, demands judgment against the Defendant, PUBLIX, for compensatory damages in the amount of excess of the minimum jurisdictional limits of this Court, exclusive of interest and costs.

DEMAND FOR JURY TRIAL

15. The Plaintiff, MICHAEL DENNIS, hereby demands a trial by jury of all issues so triable by right.

WE HEREBY CERTIFY that on this 26th day of February 2021, we electronically filed the foregoing via the Florida Court's e-filing portal.

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