

Filing # 125666541 E-Filed 04/27/2021 11:35:33 AM

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

JESSICA FERNANDEZ DIAZ and
JORGE LUIS DIAZ,

Case No.

Plaintiffs,

vs.

RESTORATION HARDWARE, INC.,
a foreign corporation, JOHN DOE NO. 1
an individual and JOHN DOE NO. 2 an
individual,

Defendants.

_____ /

COMPLAINT

Plaintiffs, JESSICA FERNANDEZ DIAZ and JORGE LUIS DIAZ, (hereinafter referred to collectively as "Plaintiffs") sues Defendants, RESTORATION HARDWARE, INC. (hereinafter referred to as "RH"), JOHN DOE NO. 1, and JOHN DOE NO. 2. and alleges:

1. This is an action for damages that exceeds \$30,000.01, the jurisdictional limits of this Court.
2. Defendant, RESTORATION HARDWARE, INC. is a foreign corporation authorized to conduct business in Florida.
3. Defendant RH owns and operates a retail store located at 560 Okeechobee Boulevard, West Palm Beach, Florida.
4. Defendant, JOHN DOE NO. 1 is or was an employee of RH and installed the chandelier that fell on the Plaintiffs, as further alleged below, and is a resident of Florida.
5. Defendant JOHN DOE NO. 2 is an employee of RH and is or was the General Manager of the RH Gallery located in West Palm Beach, Florida, and is a resident of Florida.

6. Plaintiff JESSICA FERNANDEZ DIAZ is a resident of Florida and is *sui juris*.
7. Plaintiff JORGE LUIS DIAZ is a resident of Florida and is *sui juris*.

Count I

Negligence Against RH and JOHN DOES NOS. 1 AND 2

Plaintiffs incorporate the allegations contained in paragraphs 1 through 7 as if stated here in full.

8. On January 2, 2021, Plaintiffs were business invitees at the RH West Palm Gallery located at 560 Okeechobee Boulevard, West Palm Beach, Florida.

9. As the Plaintiffs were walking together, a chandelier that was for sale fell from the ceiling and struck the Plaintiffs.

10. Defendant RH and JOHN DOES NOS. 1 and 2 failed to ensure that the chandelier was installed according to the manufacturer's instructions so it fell onto the Plaintiffs.

11. At all times material, Defendants failed to exercise reasonable and ordinary care in the installation of the chandelier, which was the direct and proximate cause of Plaintiff's injuries.

12. JOHN DOES NOS. 1 and 2 were acting as agents or employees of RH while in the discharge of their duties, within the scope of their employment, and owed the Plaintiffs a duty of care to install the chandelier in a reasonably safe manner.

13. As a direct and proximate result of the negligence of Defendants, Plaintiffs were injured in and about their bodies and extremities, suffered pain therefrom, mental anguish, inconvenience, loss of capacity of the enjoyment of life, incurred medical expenses in the treatment of their injuries, and suffered physical impairment; the injuries are either permanent or continuing in nature and Plaintiffs will suffer the losses and impairment in the future.

WHEREFORE, Plaintiffs demands judgment against the Defendants RH and JOHN DOES NOS. 1 and 2 for damages, costs of this action and demands trial by jury of all issues so triable.

Count II

Premises Liability Against RH

Plaintiffs repeats the allegations contained in Paragraphs 1 through 9 as if stated here in full.

14. Defendant RH owed a duty to Plaintiffs as a business invitee to maintain its premises in a reasonably safe condition.

15. Defendant RH breached its duty by failing to properly install the chandelier so it was secure.

16. As a direct and proximate result of the negligence of Defendant RH, Plaintiffs were injured in and about their bodies and extremities, suffered pain therefrom, mental anguish, inconvenience, loss of capacity of the enjoyment of life, incurred medical expenses in the treatment of their injuries, and suffered physical impairment; the injuries are either permanent or continuing in nature and Plaintiffs will suffer the losses and impairment in the future.

WHEREFORE, Plaintiffs demands judgment against the Defendant RH, the costs of this action and demands trial by jury of all issues so triable.

Count III

Res Ipsa Loguitur Against Defendants RH and John Does N. 1 and 2

Plaintiffs repeats the allegations contained in Paragraphs 1 through 9 as if stated here in full.

17. Ordinarily, the chandelier would not have fallen without negligence.

18. The chandelier that fell causing injury to Plaintiffs was in the exclusive control of Defendants RH, and John Does No. 1 and 2 at the time it caused the injury.

19. As a direct and proximate result of the negligence of Defendants, Plaintiffs were injured in and about their bodies and extremities, suffered pain therefrom, mental anguish, inconvenience, loss of capacity of the enjoyment of life, incurred medical expenses in the

treatment of their injuries, and suffered physical impairment; the injuries are either permanent or continuing in nature and Plaintiffs will suffer the losses and impairment in the future.

WHEREFORE, Plaintiffs demands judgment against the Defendants RH and John Does Nos. 1 and 2 for damages, costs of this action and demands trial by jury of all issues so triable.

Count IV

Negligent Supervision And Training Defendant RH

Plaintiffs incorporate the allegations contained in paragraphs 1 through 9 as if stated here in full.

20. Defendant RH recruited, hired, instructed, trained, employed, and supervised John Does No. 1 and 2.

21. Therefore, Defendant RH owed Plaintiffs a duty of care to ensure that John Does No. 1 and 2 were qualified, properly instructed, trained and supervised to hang chandeliers that were for sale in its store.

22. Defendant RH knew or should have known that John Does No. 1 and 2 were unqualified to hang chandeliers in its stores.

23. Defendant RH breached its duty to the Plaintiffs by hiring unqualified employees, failing to implement, demonstrate, discuss and confer any policies, procedures, training and supervision of its employees regarding the safe installation of chandeliers.

24. As a direct and proximate result of the negligence of Defendant RH, Plaintiffs were injured in and about their bodies and extremities, suffered pain therefrom, mental anguish, inconvenience, loss of capacity of the enjoyment of life, incurred medical expenses in the treatment of their injuries, and suffered physical impairment; the injuries are either permanent or continuing in nature and Plaintiffs will suffer the losses and impairment in the future.

WHEREFORE, Plaintiffs demands judgment against the Defendant RH for damages,
costs of this action and demands trial by jury of all issues so triable.

LAW OFFICES OF BRIAN BREITER, LLP
5775 Blue Lagoon Drive
Suite 300
Miami, FL 33126
Tel.: (866) 954-9955
Fax: (855) 776-6747

By: s/ David Chonin
David Chonin
david@lawbreiter.com
Fla. Bar No. 066664
Brian Breiter, Esq.
brian@lawbreiter.com
Fla. Bar No. 054569

NOT A CERTIFIED COPY