

**IN THE NINTH JUDICIAL CIRCUIT COURT IN
AND FOR ORANGE COUNTY, FLORIDA**

CASE NO: 2018-CA

JESSICA AMADOR,

Plaintiff,

vs.

**LARRY GUNN AND WAL-MART
STORES EAST, LP.,**

Defendants.

COMPLAINT

COMES NOW Plaintiff, JESSICA AMADOR, and sues Defendants, LARRY GUNN and WAL-MART STORES EAST, LP., a foreign corporation and alleges:

1. This is an action for damages that exceeds Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs and attorneys' fees.
2. Plaintiff is a natural person residing in Orange County, Florida.
3. Defendant, LARRY GUNN, is a natural person residing in Orange County, Florida.
4. At all times material to this action, WAL-MART STORES EAST, LP., is a foreign limited partnership licensed to do business in Orange County and throughout the State of Florida.
5. At all times material to this cause of action, Defendant, WAL-MART STORES EAST, LP., owned and operated a business known as Wal-Mart store #955, located at 1700 South Orange Blossom Trail, Apopka, Orange County, Florida, which was open to the general public, including the Plaintiff herein.
6. On or about December 17, 2016, Plaintiff, JESSICA AMADOR, visited Defendant's premises located at the above address as a business invitee.

COUNT I
CLAIM OF NEGLIGENCE AGAINST
DEFENDANT, WAL-MART STORES EAST, LP.

Plaintiff realleges and incorporates herein by reference paragraphs 1 through 6 above, and further states:

7. At said time and place, Plaintiff, JESSICA AMADOR, was a guest at WAL-MART STORES EAST, LP, as described above, lawfully upon the premises of the Defendant, who owed Plaintiff a non-delegable duty to exercise reasonable care for her safety to maintain their premises in a clean and safe condition for all of their business invitees, like the Plaintiff, JESSICA AMADOR.

8. At said time and place, Defendant breached its duty owed to Plaintiff by committing one or more of the following omissions or commissions:

a) Negligently failing to maintain or adequately maintain the premises/flooring, thus creating a slip or trip hazard to members of the public utilizing said premises, including the Plaintiff herein, thus creating an unreasonably dangerous condition for Plaintiff;

b) Negligently failing to inspect or adequately inspect the premises/flooring, as specified above, to ascertain whether the transitory foreign substance/object constituted a slip or trip hazard to persons utilizing said premises, including the Plaintiff herein, thus creating an unreasonably dangerous condition to the Plaintiff;

c) Negligently failing to inspect or adequately warn the Plaintiff of the danger of the premises/flooring, when Defendant knew or through the exercise of reasonable care should have known that said premises/flooring was unreasonably dangerous and that Plaintiff was unaware of same;

d) Negligently failing to correct and/or maintain and/ repair and/or adequately correct and/or replace the unreasonably dangerous condition of the flooring on Defendant's premises, when said condition occurred with regularity and/or was either known to Defendant or had existed for a sufficient length of time such that Defendant should have known of same had Defendant exercised reasonable care;

e) Negligently failing to have adequate staff on duty and/or assigned to the task of inspecting/maintaining the premises/flooring for dangerous conditions;

f) Negligently failing to train and/or inadequately training its employees to inspect the premises for dangerous conditions;

- g) Negligently failing to follow its own corporate policy(ies) and procedures regarding the dangerous condition;
- h) Negligently failing to act reasonably under the circumstances;
- i) Negligently engaging in a mode of operations when Defendant knew, or should have known, that said mode of operations would result in dangerous conditions to the general public, including the Plaintiff herein;
- j) Negligently failing to render aid to the Plaintiff after her fall and/or negligently rendering aid to the Plaintiff after her fall; and
- k) Negligently engaging in a routine practice of business that was unreasonable to what is customary for the business community in and/or around where the subject incident occurred.

9. As a result, while Plaintiff was visiting Defendant's business, she slipped and fell on a transitory foreign substance/object, sustaining injuries as set forth herein.

10. As a direct and proximate result of the negligence of Defendant, Plaintiff suffered bodily injury in and about her body and extremities, resulting in pain and suffering, disability, disfigurement, permanent and significant scarring, inconvenience, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earning, loss of the ability to earn money, and aggravation of previously existing condition both in the past and into the future. The losses are either permanent or continuing and Plaintiff will suffer these losses into the future and has already suffered same in the past.

WHEREFORE, the Plaintiff, JESSICA AMADOR, sues the Defendant, WAL-MART STORES EAST, LP, for damages and demands judgment in excess of Fifteen Thousand Dollars (\$15,000.00), plus interest and costs, and demands trial by jury on all issues so triable.

COUNT II
CLAIM OF NEGLIGENCE AGAINST DEFENDANT, LARRY GUNN

Plaintiff realleges and incorporates herein by reference paragraphs 1 through 6 above, and further states:

11. At all times material to this action Defendant, LARRY GUNN, was employed by Defendant, WAL-MART STORES EAST, LP, as a manager and was directly responsible for maintaining, managing, supervising and/or operating the subject store and therefore is personally liable to Plaintiff. *White v. Wal-Mart Stores, Inc.*, 918 So. 2d 357, 358 (Fla. 1st DCA 2006); *Orlovsky v. Solid Surf*, 405 So. 2d 1363, 1364 (Fla. 4th DCA 1981).

12. At all times material to this action, Defendant, LARRY GUNN, was directly responsible for executing Defendant, WAL-MART STORES EAST LP's policies of store management and was personally involved in Defendant, WAL-MART STORES EAST LP's previously described tortious conduct and is therefore personally liable to Plaintiff. *White*, 918 So. at 358; *Orlovsky*, 405 So. 2d at 1364.

13. At all material times and by virtue of his position with Defendant, WAL-MART STORES EAST LP, Defendant, LARRY GUNN, owed Plaintiff a non-delegable duty to maintain the store in a reasonably safe and clean condition and to warn Plaintiff of any latent dangers in the store, or on its premises and for supervising the employees working at said premises to ensure that they reasonably and safely maintained, inspected, warned and/or cleaned the subject premises consistent and in compliance with the Defendant, WAL-MART STORES EAST LP's policies and procedures, and was reasonably customary for the business community in and/or around where the subject incident occurred and for the subject weather conditions that caused the subject incident.

14. At said time and place, Defendant, LARRY GUNN, breached his duty owed to Plaintiff by committing one or more of the following omissions or commissions:

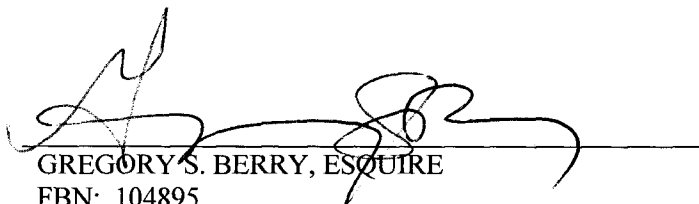
- l) Negligently failing to maintain or adequately maintain the premises/flooring, thus creating a slip or trip hazard to members of the public utilizing said premises, including the Plaintiff herein, thus creating an unreasonably dangerous condition for Plaintiff;
- m) Negligently failing to inspect or adequately inspect the premises/flooring, as specified above, to ascertain whether the transitory foreign substance/object constituted a slip or trip hazard to persons utilizing said premises, including the Plaintiff herein, thus creating an unreasonably dangerous condition to the Plaintiff;
- n) Negligently failing to inspect or adequately warn the Plaintiff of the danger of the premises/flooring, when Defendant knew or through the exercise of reasonable care should have known that said premises/flooring was unreasonably dangerous and that Plaintiff was unaware of same;
- o) Negligently failing to correct and/or maintain and/ repair and/or adequately correct and/or replace the unreasonably dangerous condition of the flooring on Defendant's premises, when said condition was either known to Defendant or had existed for a sufficient length of time such that Defendant should have known of same had Defendant exercised reasonable care;
- p) Negligently failing to have adequate staff on duty and/or assigned to the task of inspecting/maintaining the premises/flooring for dangerous conditions;
- q) Negligently failing to train and/or inadequately training its employees to inspect the premises for dangerous conditions;
- r) Negligently failing to follow its own corporate policy(ies) and procedures regarding the dangerous condition;
- s) Negligently failing to act reasonably under the circumstances;
- t) Negligently engaging in a mode of operations when Defendant knew, or should have known, that said mode of operations would result in dangerous conditions to the general public, including the Plaintiff herein;
- u) Negligently failing to render aid to the Plaintiff after her fall and/or negligently rendering aid to the Plaintiff after her fall; and
- v) Negligently engaging in a routine practice of business that was unreasonable to what is customary for the business community in and/or around where the subject incident occurred.

15. As a result, while Plaintiff was visiting Defendant's business, she slipped and fell on a transitory foreign substance/object, sustaining injuries as set forth herein.

16. As a direct and proximate result of the negligence of Defendant, Plaintiff suffered bodily injury in and about her body and extremities, resulting in pain and suffering, disability, disfigurement, permanent and significant scarring, inconvenience, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earning, loss of the ability to earn money, and aggravation of previously existing condition both in the past and into the future. The losses are either permanent or continuing and Plaintiff will suffer these losses into the future and has already suffered same in the past.

WHEREFORE, the Plaintiff, JESSICA AMADOR, sues the Defendants, LARRY GUNN, for damages and demands judgment in excess of Fifteen Thousand Dollars (\$15,000.00), plus interest and costs, and demands trial by jury on all issues so triable.

Respectfully submitted this 9th day of March, 2018.



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