

CAUSE NO. 20-DCV-270298

MAGDALENA JUAREZ

§ **THE _____ JUDICIAL DISTRICT**

§

§ **Fort Bend County - 268th Judicial District Court**

VS

§ **COURT OF**

§

§

FIESTA MART, L.L.C

§ **FORT BEND COUNTY, TEXAS**

§

PLAINTIFF'S ORIGINAL PETITION

NOW COMES Plaintiff MAGDALENA JUAREZ, complaining of Defendant FIESTA MART, L.L.C, and for cause of action would show the Court the following:

Discovery Control Plan

1. As provided in Rules 169 and 190.2, Texas Rules of Civil Procedure, Plaintiff intends to conduct discovery under Level 1. Plaintiff affirmatively pleads that this suit seeks only monetary relief aggregating \$125,000 or less, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and Adding Attorney's Fees.

Plaintiff

2. This Petition is filed by MAGDALENA JUAREZ, doing business as MAGDALENA JUAREZ, Plaintiff, an individual whose address is 1705 3rd St, #5, Rosenberg, Texas located Fort Bend County, Texas 77471. The last three digits of Plaintiff's Social Security number are 723.

Defendant

3. Defendant, FIESTA MART, L.L.C, is a Texas corporation and Defendant may be served with process by serving Lupe Ysaquirre at 3707 Avenue H, Rosenberg, Texas, 77471, and via certified mail at P.O. BOX 7481, Houston Texas 77248-7481 and or via Fax at 713-865-5539.

4. Additionally, via serving the defendants registered agent C T Corporation System at 1999 Bryant St., Ste 900, Dallas, Texas 75201-3136 and via serving the Defendants manage, Carlos Smith at 5444 Westheimer Road, Suite 101, Houston, Texas 77056.

5. This Court has jurisdiction over FIESTA MART, L.L.C because this incident occurred and Fort Bend County and in the State of Texas and the city Richmond / Rosenberg and county of Fort Bend where defendant is conducting business and, in the County, where the injuries occurred.

Venue

6. Therefore, venue is proper in this county in that the events giving rise to this cause of action which occurred within Fort Bend County, Texas.

Jurisdiction

7. The damages sought in this suit are within the jurisdictional limits of the Court. As required by Rule 47, Texas Rules of Civil Procedure, Plaintiff states that Plaintiff seeks only monetary relief of \$100,000 or less, and in addition to damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

Facts

8. This lawsuit involves injuries and damages resulting from an incident which occurred on April 4, 2018, hereinafter called “the injuries complained of here in that required in calls plaintiff to seek reasonable and necessary medical treatment all occurred on defendant’s premises wherein said defendant invited plaintiff in and verify a duty to assure plaintiff’s safety by making defendant’s premises safe for shopping. Plaintiff only reason for entering defendant’s premise was to shop free of injury as plaintiff was invited in to shop and had the expectation that the premise was safe and free of injuries while plaintiff was

shopping At all times relevant to this cause, FIESTA MART, L.L.C was in possession and or control of the premises as owner and manager and all supervisor regarding entry for customers like plaintiff as well as the safety for customers like plaintiff while the plaintiff was on defendant's property as invited for shopping on the property as invited by defendant.

9. Defendant failed to inspect and/or make safe said property for its invitee people like plaintiff. Due to defendant's failure to inspect and/or make safe plaintiff had suffered injury in terms of physical injuries suit needing medical treatment as well as mental anguish and other losses.

Cause of Action Against FIESTA MART, L.L.C

10. FIESTA MART, L.L.C owed MAGDALENA JUAREZ a duty to use reasonable care to protect Plaintiff from conditions that create an unreasonable risk of harm and that defendant FIESTA MART, L.L.C should have discovered through the exercise of reasonable care. Further defendant FIESTA MART, L.L.C breached its duty to plaintiff in failing to inspect and make safe and/or use reasonable care to make said and defendant FIESTA MART, L.L.C further caused harm and injury to plaintiff when defendant the ester failed to warn plaintiff of said conditions it knew of should have known of and/or should have discovered. Therefore, FIESTA MART, L.L.C's breach of duty was a proximate cause of the injuries and damages sustained by your Plaintiff. Mrs. Magdalena Juarez.

Damages - MAGDALENA JUAREZ

11. As a result of the above, **YOUR PLAINTIFF MAGDALENA JUAREZ** suffered and will continue to suffer, and now seeks actual damages for, the following:

- a. physical pain and suffering;

- b. future physical pain and suffering;
- c. medical or health care expenses;
- d. inconvenience;
- e. loss of earnings or income;
- f. future loss of earnings or income;
- g. mental or emotional pain and anguish;
- h. future mental or emotional pain and anguish;
- i. loss of consortium; and
- j. future loss of consortium.

Interest

12. Plaintiff seeks prejudgment and post-judgment interest on all damage awards.

Attorney's Fees and Costs

13. Plaintiff seeks judgment for reasonable attorney's fees and costs in the amount of \$17,500.00. Alternative Pleadings for an amount awarded by the Court and or Jury.

14. As provided in Rule 48, Texas Rules of Civil Procedure, claims for relief made in this Petition are presented in the alternative when necessary to preserve such claim.

Request for Disclosure

15. As provided in Rule 194, Texas Rules of Civil Procedure, Plaintiff requests disclosure of all items listed in Rule 194.2, Texas Rules of Civil Procedure.

Prayer

Plaintiff prays that citation be issued commanding Defendant to appear and answer herein and that Plaintiff be awarded judgment against Defendant for the relief requested herein in the amount of at least \$125,000.00 and for all other relief to which Plaintiff is entitled both in equity and at law.

Respectfully submitted,

/S/ _____

Ken Bryant

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