

CAUSE NO. 20-DCV-270152

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| BRIGETT BENTLEY | § | IN THE DISTRICT COURT OF |
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| <i>Plaintiff,</i> | § | |
| | § | |
| VS. | § | FORT BEND COUNTY, TEXAS |
| | § | |
| KROGER TEXAS, L.P. | § | |
| | § | Fort Bend County - 268th Judicial District Court |
| <i>Defendant.</i> | § | _____ JUDICIAL DISTRICT |

PLAINTIFF’S ORIGINAL PETITION AND FIRST SET OF DISCOVERY

NOW COMES, BRIGETT BENTLEY, Plaintiff, complaining of KROGER TEXAS, L.P., Defendant, and for cause would show unto the Court as follows:

I. DISCOVERY CONTROL PLAN

1.1 Plaintiff intends to conduct discovery in this matter under Level 3 of the Texas Rules of Civil Procedure 190.4.

II. PARTIES

2.1 Plaintiff Brigett Bentley is an individual who resides in Fort Bend County, Texas.

2.2 Defendant, Kroger Texas, L.P. (“Kroger” and “Defendant”), is a foreign limited partnership doing business for profit in the state of Texas and may be served by serving its Registered Agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at 211 E. 7th Street, Suite 620, Austin, TX 78701-3218, or anywhere Defendant may be found.

III. JURISDICTION AND VENUE

3.1 Venue is proper in Fort Bend County, Texas, pursuant to Texas Civil Practice & Remedies Code section 15.002(a)(1) and (3) as Fort Bend County is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.

3.2 This Court has jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements. Diversity does not exist as Defendant has principal places of business in Texas and removal of this action is improper.

IV. FACTS

4.1 On or about September 21, 2019, Plaintiff was an invitee at Defendant's Kroger store #336 located at 22150 Westheimer Parkway, Katy, Texas 77450.

4.2 As Plaintiff was shopping within the store, she slipped and fell after stepping on a slippery substance on the floor. As a result of this incident, Ms. Bentley suffered multiple bodily injuries. Plaintiff did not have any knowledge of the hazardous condition and could not have reasonably been expected to discover it.

4.3 Defendant either created the condition and/or failed to correct the condition or to warn Plaintiff about the hazardous condition, which constituted negligence, and such negligence was a proximate cause of the occurrence in question and Plaintiff's resulting injuries. Defendant was responsible for ensuring that the Premises were safe for all visitors and/or patrons.

V. CAUSES OF ACTION

A. Negligence

5.1 Defendant Kroger, owed Plaintiff and general public a duty to:

- a. Prevent injury to others if it reasonably appears or should appear that in the exercise of their lawful right others may be injured by a dangerous condition that was created by Defendant;
- b. Exercise reasonable care to avoid foreseeable risk of injury to others;
- c. Take affirmative action to control or avoid increasing the danger from a condition that has been at least partially created by the Defendant's conduct;
- d. Use ordinary care in aiding or protecting others from peril when peril is under the Defendant's control;
- e. Use ordinary care in maintaining the premises in a safe condition by inspecting the property for any dangerous conditions and by making safe any latent defect or giving warning of any defect; and,
- f. Provide a safe manner of passing through the Premises.

5.2 Defendant Kroger, breached these duties in one or more of the following ways:

- a. Failing to protect Plaintiff from peril created by and under the control of Defendant;
- b. Failing to maintain the Premises in a safe condition;
- c. Failing to inspect the property for any dangerous conditions;
- d. Failing to make safe any latent defects on the Premises;
- e. Failing to give Plaintiff any warning of any defects on the property;
- f. Failing to provide effective safeguards where business patrons, such as Plaintiff, may be injured as a result of Defendant's operations; and,
- g. Failing to set forth appropriate safety guidelines and procedures to avoid foreseeable injuries, such as that made the basis of this suit.

5.3 Defendant's wrongful acts, errors, omissions, neglect, and carelessness, as set forth in the preceding paragraphs, were proximate cause of Plaintiff's injuries and damages.

5.4 Defendant is vicariously liable for the negligent acts of its employees, agents, and/or servants under the legal theory of *respondeat superior*.

B. Premises Liability

5.5 Plaintiff was an “invitee” as that term is defined under Texas Law.

5.6 Defendant was in possession and control of the premises located at 22150 Westheimer Parkway, Katy, Texas 77450.

5.7 A condition on the premises posed an unreasonable risk or harm, the danger of which, Defendant knew or should have reasonably known.

5.8 Defendant breached its duty of ordinary care by both (1) failing to adequately warn the Plaintiff of the condition, and (2) failing to make the conditions reasonably safe.

5.9 Defendant’s wrongful acts, errors, omissions, neglect, and carelessness, as set forth in the preceding paragraphs, were proximate cause of Plaintiff’s injuries and damages.

5.10 Defendant is vicariously liable for the negligent acts of its employees, agents, and/or servants under the legal theory of *respondeat superior*.

VI. DAMAGES

6.1 Plaintiff seeks the following elements of damage, which exceeds the minimum jurisdictional limits of this Court excluding interest and costs:

- a) Past and future medical expenses;
- b) Past and future pain, suffering and mental anguish;
- c) Past and future physical impairment;
- d) Past and future physical disfigurement;
- e) Past lost wages and future loss of earning capacity;

- f) Pre-judgment and post-judgment interest; and,
- g) All other damages to which Plaintiff is justly entitled.

6.2 Plaintiff is seeking damages in the amount greater than \$200,000.00, but no more than \$1,000,000.00.

VII. JURY DEMAND

7.1 Plaintiff hereby requests a trial by jury and has paid the appropriate fee.

VIII. RULE 193.7 NOTICE

8.1 Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff hereby gives actual notice to Defendant that any and all documents produced may be used against the Defendant producing the documents at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

IX. REQUEST FOR DISCLOSURE

9.1 Pursuant to Texas Rules of Civil Procedure 194.2, Plaintiff requests that Defendant disclose, within 50 days of service of this request, the information or materials described in Texas Rule of Civil Procedure 194.2(a)-(l).

X. OTHER DISCOVERY

10.1 Plaintiff refers you to the attached Request for Disclosures, Admissions, Interrogatories and Request for Production and notify/notifyes you that a response is required within 50 days of service of these requests.

XI. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays Defendant be cited to appear and answer herein, and that upon final trial thereof, Plaintiff recover from said Defendant, a sum within the jurisdictional limits of the Court, pre-judgment and post-judgment interest at the legal rate, all costs of Court, and all such other and further relief, to which Plaintiff may be justly entitled.

Respectfully submitted,

MORRELL LAW FIRM, PLLC

/s/ Christopher Morrell

CHRISTOPHER L. MORRELL

Texas State Bar No. 24077383

3730 Kirby Drive, Suite 1020

Houston, Texas 77098

Phone: (833) 667-7355

Fax: (713) 322-5998

Email: cmorrell@themorrellfirm.com

ATTORNEY FOR THE PLAINTIFF

CAUSE NO. _____

BRIGETT BENTLEY

Plaintiff,

VS.

KROGER TEXAS, L.P.

Defendant.

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IN THE DISTRICT COURT OF

FORT BEND COUNTY, TEXAS

_____ JUDICIAL DISTRICT

PLAINTIFF'S FIRST SET OF INTERROGATORIES TO
DEFENDANT, KROGER TEXAS, L.P.

TO: Defendant, KROGER TEXAS, L.P., by and through its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at 211 E. 7th Street, Suite 620, Austin, TX 78701-3218.

Pursuant to Rule 168 of the Texas Rules of Civil Procedure, Plaintiff serves the following requests Interrogatories to Defendant KROGER TEXAS, L.P. You are reminded that under Rule 168, the Answers to Interrogatories are to be signed and sworn to by the party and not by the attorney of record for the party.

The original of the sworn Answers are to be provided within fifty (50) days after your receipt of these Interrogatories to Christopher Morrell, The Morrell Law Firm, 3730 Kirby Dr., Ste. 1020, Houston, TX 77098, attorney for Plaintiff.

For each answer or objection in which you rely upon any type of privilege or discovery exemption, please state the exact privilege or exemption relied upon and the basis for asserting it.

Please take NOTICE that Plaintiff intends to use all documents produced by Defendant in trial of this cause and therefore requests that Defendant assert any objection to the authenticity of any document Defendant produces within ten days of its production.

Respectfully submitted,

MORRELL LAW FIRM, PLLC

/s/ Christopher Morrell

CHRISTOPHER L. MORRELL

Texas State Bar No. 24077383

3730 Kirby Drive, Suite 1020

Houston, Texas 77098

Phone: (833) 667-7355

Fax: (713) 322-5998

Email: cmorrell@themorrellfirm.com

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument has been sent in accordance with the TEXAS RULES OF CIVIL PROCEDURE to all interested counsel and pro se parties of record on this the 8th day of January, 2020.

/s/ Christopher Morrell

CHRISTOPHER L. MORRELL

DEFINITIONS

1. "You" or "your" or "Defendant" means the party to which these interrogatories are propounded, and includes, but is not limited to, any agents, employees, representatives or attorneys for said party.

2. "Identify" or "identity" when referring (a) to a person, means to state a present or last known address, telephone number, title or position and place of employment; (b) to document, means if a legible copy of the document is not provided with your answer, a complete description of the document referred to, including its title, if it has any, the date it was prepared, the name of the person who prepared it, and the identity of the person or persons who have custody of, control over or access to it; (c) to any other matter, means to give a reasonable, detailed description thereof, including, if applicable, for a tangible matter: when, where and how it was made, and to identify who has made it or who has present or last known possession, control or custody thereof; (d) if referring to other lawsuits or other actions of any type in any court, means separately for each such action, the identity of all parties, the court and cause number, the date on which such action was initiated, the identity of the opposing attorneys, the outcome of the case, including the description of any judgment or any other relief granted in each such action, and if a civil action, the nature of the cause of action.

3. "Document" and "documents" is to be defined as synonymous in meaning and equal in scope to the usage of this term in the TEXAS RULES OF CIVIL PROCEDURE and shall be used in their broadest sense and shall mean and include all written, printed, typed, electronic, recorded or graphic material of every kind and description, both originals and copies and all attachments and appendices thereto. Without limiting the foregoing, the term "document" and "documents" shall include all agreements, contracts, communications, correspondence, letters, telegrams, facsimiles, telexes, minutes, messages, memoranda, interoffice communication, e-mail, records, reports, books, summaries or other records of telephone conversations or interviews, summaries or other records of personal conversations, summaries or other records of negotiations, other summaries, diaries, diary entries, calendars, appointment books, time records, instructions, work assignments, visitor records, forecasts, statistical data, statistical statements, financial statements, work sheets, work papers, drafts, graphs, maps, charts, tables, accounts, analytical records, consultants' reports, appraisals, bulletins, brochures, pamphlets, circulars, trade letters, press releases, notes, notices, marginal notations, notebooks, telephone bill or records, bills, statements, records of obligation and expenditure, invoices, lists, journals, advertising, recommendations, files, printouts, compilations, tabulations, purchase orders, receipts, sell orders, confirmations, checks, canceled checks, letters of credit, envelopes or folders or similar containers, vouchers, analyses, studies, surveys, transcripts of hearings, transcripts of testimony, expense reports, microfilm, microfiche, articles, speeches, tape or disc recordings, sound recordings, video recordings, film, photographs, punch cards, programs, data compilations from which information can be obtained (including matter used in data processing), and other printed, written, handwritten, typewritten, recorded, stenographic, computer-generated, computer-stored, or electronically stored matter, however and by whomever produced, prepared, reproduced, disseminated, or made. The terms "document" and "documents" shall include all copies of documents by whatever means made, except that where a document is identified or produced, identical copies thereof which do not contain any markings, additions, or deletions different from the original need not be separately produced. A DRAFT OR NON-IDENTICAL COPY IS A SEPARATE DOCUMENT WITHIN THE MEANING OF THIS TERM.

4. Electronic Data Directive: Pursuant to the TEXAS RULES OF CIVIL PROCEDURE, all electronic data responsive to the requests below shall be provided via CD, DVD, or Floppy Disk in user readable format (.txt or similar file types), or as otherwise agreed in a supplemental writing by the parties.

5. “Document” and “documents” shall mean and include all matter within the foregoing description that are in your possession, control or custody or in the possession, control or custody of any attorney for you or the existence of which you are aware and that you have access to or to which you can secure access. Without limiting the term “control,” a document is deemed to be within your control if you have ownership, possession or custody of the document, or the right to secure the document or copy thereof from any person or public or private entity having physical possession thereof.

6. The term “communication” includes, without limitation, every manner or means of statement, utterance, notation, disclaimer, transfer, or exchange of information of any nature whatsoever, by or to whomever, whether oral, written, or face-to-face, by telephone, U.S. Mail, personal delivery, electronic mail, computer, or otherwise, specifically including, without limitation, correspondence, conversations, dialogue, discussions, interviews, consultations, agreements, and other understandings.

7. “Entity” or “Entities” shall mean any corporation, corporate form (such as a limited partnership, limited liability partnership, or limited liability company), parent company affiliate, subsidiary, partner, member, venture, partnership, or any other structure (or chain of successive entities) that conducts business, has conducted business, or anticipates to conduct business.

8. The term “damages” shall mean all claims for relief alleged by Plaintiff in the latest Complaint.

9. “Plaintiff” shall mean Brigett Bentley.

10. “Defendant” shall mean Kroger Texas L.P., or representatives of such entity or person, including all other natural persons or legal entities acting or purporting to act for or on behalf of the person or entity to whom these Requests are directed.

PLAINTIFF'S REQUEST FOR INTERROGATORIES TO DEFENDANT
KROGER TEXAS L.P.

INTERROGATORY NO. 1: Provide the identities and addresses for the owner(s) of Kroger store #336 located at located at 22150 Westheimer Parkway, Katy, Texas 77450.

ANSWER:

INTERROGATORY NO. 2: Please name all eyewitnesses to the events for the date of the injury for which this lawsuit was filed and provide the names, addresses, and telephone numbers of those witnesses.

ANSWER:

INTERROGATORY NO. 3: If you have not been correctly named or served in or by the Plaintiff's Original Petition, state your correct legal name and the correct manner in which you can be designated as a party defendant and served with process in this action under the allegations set forth in Plaintiff's Original Petition.

ANSWER:

INTERROGATORY NO. 4: Please state what procedure you follow in inspecting, repairing, and making safe the Premises. If such procedures are in writing, please quote the exact language of the written procedures, give the name and location of the documents containing them, and the dates any such procedures were in effect from a period dating from three years prior to Plaintiff's injuries to the present time. Further, state what inspections and corrective actions had been taken before Plaintiff was injured and the date or dates and times of each.

ANSWER:

INTERROGATORY NO. 5: Fully describe what warning you gave Plaintiff before her injuries at the Premises and when you gave them, including whether any signs or other items were placed near the water to warn of the condition.

ANSWER:

INTERROGATORY NO. 6: State fully all the efforts you made prior to Plaintiff's injuries to learn about the general hazards of individuals being injured on your Premises and what you did to try to prevent injuries similar to Plaintiff's.

ANSWER:

INTERROGATORY NO. 7: Give the name, last known address, and telephone numbers of each person who has complained about being injured on your Premises between January 2017 through the present.

ANSWER:

INTERROGATORY NO. 8: Identify your employees, agents or officers, including the manager on duty, who worked at the Premises on September 21, 2019 when Ms. Bentley was injured and identify all individuals who participated in her care on the date she was injured.

ANSWER:

INTERROGATORY NO. 9: Was a report or study made by any person or entity concerning Plaintiff's accident and injuries on September 21, 2019? If so, state the name, title, identification number, employer of the person who made the report, and the date and type of report made. If you claim any response is privileged, please set forth in detail the basis for your claim of privilege and when you first anticipated litigation.

ANSWER:

INTERROGATORY NO. 10: Was a report or study made by any person or entity concerning the possibility of individuals being injured from hazards at you Premises? If so, state the name, title, identification number, employer of the person who made the report, and the date and type of report made.

ANSWER:

INTERROGATORY NO. 11: At the time Plaintiff was injured at the Premises on September 21, 2019, do you contend that any person or entity other than you and your employees and agents were responsible for the maintenance, upkeep, and inspection of the floor? If so, identify all individuals or entities responsible.

ANSWER:

INTERROGATORY NO. 12: Do you contend that the negligence of any other person or entity, whether or not a party hereto, caused or contributed to the injury and damages of Plaintiff as alleged in Plaintiff's Original Petition and any Amended Petitions? If so, identify all facts which support this contention, and identify all individuals with knowledge of relevant facts that support this contention.

ANSWER:

INTERROGATORY NO. 13: If you contend that any injury and damages of Plaintiff was unavoidable, that is, not caused by the negligence of any person or persons, state for each reason you believe that it was unavoidable; and list all facts, documents, and people with knowledge of relevant facts that support your contention, in whole or in part.

ANSWER:

INTERROGATORY NO. 14: Was any individual reprimanded or disciplined as a result of Plaintiff's accident? If so, identify the individual and the nature of the reprimand.

ANSWER:

INTERROGATORY NO. 15: Do you contend any other individuals or entity was responsible for the condition of the floor at the time of the accident? If so, identify all individuals and entities.

ANSWER:

INTERROGATORY NO. 16: Identify any individual or entity, including management companies, responsible for the operation of the Premises, including the floor.

ANSWER:

INTERROGATORY NO. 17: Identify who is responsible for inspecting and/or maintaining the floor at the Premises, including general cleaning and maintenance.

ANSWER:

INTERROGATORY NO. 18: State the date and time you discovered the floor was not in a safe condition at the premises.

ANSWER:

INTERROGATORY NO. 19: Identify any corrective action taken with regard to the area where Plaintiff was injured.

ANSWER:

INTERROGATORY NO. 20: If you are going to contend that Plaintiff was injured due to some undetectable defect in the condition or functioning of equipment where Plaintiff was injured at the time of the accident, please list all facts (not the thought processes or mental impressions of counsel) that support your defense.

ANSWER:

CAUSE NO. _____

BRIGETT BENTLEY

Plaintiff,

VS.

KROGER TEXAS, L.P.

Defendant.

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IN THE DISTRICT COURT OF

FORT BEND COUNTY, TEXAS

_____ JUDICIAL DISTRICT

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION TO DEFENDANT,
KROGER TEXAS L.P.

TO: Defendant, KROGER TEXAS, L.P., by and through its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at 211 E. 7th Street, Suite 620, Austin, TX 78701-3218.

Pursuant to Rule 167 of the Texas Rules of Civil Procedure, you are here requested to produce any and all of the documents described below, or true and correct copies thereof, that are within your possession or subject to your control to Christopher Morrell, The Morrell Law Firm, 3730 Kirby Dr., Ste. 1020, Houston, TX 77098, attorney for Plaintiff, fifty (50) days after your receipt of these Request for Production.

For each answer or objection in which you rely upon any type of privilege or discovery exemption, please state the exact privilege or exemption relied upon and the basis for asserting it.

Please take NOTICE that Plaintiff intends to use all documents produced by Defendant in trial of this cause and therefore requests that Defendant assert any objection to the authenticity of any document Defendant produces within ten days of its production.

Respectfully submitted,

MORRELL LAW FIRM, PLLC

/s/ Christopher Morrell

CHRISTOPHER L. MORRELL

Texas State Bar No. 24077383

3730 Kirby Drive, Suite 1020
Houston, Texas 77098
Phone: (833) 667-7355
Fax: (713) 322-5998
Email: cmorrell@themorrellfirm.com
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument has been sent in accordance with the TEXAS RULES OF CIVIL PROCEDURE to all interested counsel and pro se parties of record on this the 8th day of January, 2020.

/s/ Christopher Morrell
CHRISTOPHER L. MORRELL

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION TO DEFENDANT,
KROGER TEXAS L.P.

REQUEST FOR PRODUCTION NO. 1: Any and all incident reports, accident reports, investigations, and all documents concerning the incident in question made the basis of Plaintiff's suit, which were created prior to the filing of Plaintiff's lawsuit.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: All policies of liability insurance, both primary and excess, relating to insurance coverage for any defendant (both named and unnamed) insofar as it has any interest or involvement with the premises which were in effect at the time of the occurrence in question or which are now available to satisfy a settlement or judgment in this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: All documents relating to a reservation of rights (if any) from any insurance carrier related to this claim.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: All contracts, agreements and/or documents between any owners and management company(ies) of the premises between **01/01/2017** and up to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: All contracts or agreements between you and any individual or entity responsible for cleaning, maintaining, installing, or monitoring the floor area where Plaintiff's incident occurred.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: Your company policy and procedure for completing accident or incident reports at the time of Plaintiff's incident.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: All company policy and procedure manual(s), in effect for Defendant between **01/01/2017** and up to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8: All materials used in training property management personnel, including but not limited to videos, outlines, manuals, and seminars outline, utilized by Defendant between **01/01/2017** up to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9: All documents evidencing any in-service or training given to your employees on monitoring hazards or safety issues at your Premises since 01/01/2017.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: Any documents evidencing any repairs, modifications, work orders or service requests for the floor from January 1, 2017 through the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11: Color photographs both prior to and subsequent to Plaintiff's injury/incident which depict the wet floor area that Plaintiff alleges injured her.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12: Any and all documents pertaining to the care, upkeep, and maintenance of the floor at the Premises, including inspection records, cleaning records, maintenance and repair records from January 1, 2017 through the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13: Any and all manuals, company rules, regulations, guidelines, and/or standards reflecting your procedures for reporting accidents that were in effect in 20019.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14: Your employee handbook in effect on the date of Plaintiff's accident.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15: All documents evidencing any repairs, modifications, alterations, or service requests to the floor area for the two-year period before Plaintiff's incident.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16: All investigations, studies, surveys, audits and or research that was conducted by or on behalf of the defendant in the ordinary course of business, prior to the occurrence in question, relevant to identifying and/or quantifying the risk of an occurrence of the general nature claimed in this instance occurring at and/or immediately within the vicinity of the incident giving rise to this suit.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17: Any and all records necessary to show the amount of any and all management fees and/or fees of any designation, passing between any Defendant and/or any other parent, subsidiary, or affiliate entity or corporation of Defendant at any time from **01/01/2017** up to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18: A list of all employees who provided care to Plaintiff on September 21, 2019 at the Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 19: All contracts, agreements, job description, and/or others documents between the owners and/or management company and the manager(s), assistant manager(s), leasing agent, and maintenance personnel of the premises between **01/01/2017** to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20: All investigative reports, incident reports, statement, and/or other documentation of the incident involving BRIGETT BENTLEY on or about September 21, 2019, including any statement taken from BRIGETT BENTLEY.

RESPONSE:

REQUEST FOR PRODUCTION NO. 21: All personnel files for all personnel providing management and/or maintenance services at the premises commonly known as Walmart Supercenter store located at Kroger store #336 located at located at 22150 Westheimer Parkway, Katy, Texas 77450 from **01/01/2017** to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 22: All request or complaints from anyone regarding maintenance including but not limited to leaks from the roof or wet and/or slippery floors at the premises from **01/01/2017** up to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 23: All incident reports filed or prepared by management personnel at Kroger store #336 located at located at 22150 Westheimer Parkway, Katy, Texas 77450 from September 21, 2019 to the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 24: All documents evidencing any sweep logs for the Premises for September 21, 2019.

RESPONSE:

REQUEST FOR PRODUCTION NO. 25: All notes, memoranda, treatises, correspondence, and reports prepared by or for any expert witness whom you expect to call to testify at trial.

RESPONSE:

REQUEST FOR PRODUCTION NO. 26: All surveillance reports, investigative notes, photographs, movies, or videotapes taken during an investigation of BRIGETT BENTLEY at any time prior to trial of this case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 27: All communications between you and Plaintiff or her representative.

RESPONSE:

REQUEST FOR PRODUCTION NO. 28: Any and all medical records pertaining to Plaintiff in your possession.

RESPONSE:

REQUEST FOR PRODUCTION NO. 29: Any and all employees, agents, and contractors with their respective duties who were working on September 21, 2019 at the Premises.

RESPONSE:

REQUEST FOR PRODUCTION NO. 30: All indemnity agreement between Defendant and any other party, including but not limited to any subsidiary or parent company.

RESPONSE:

REQUEST FOR PRODUCTION NO. 31: Copies of any and all accident reports filed regarding similar incidents that occurred at Kroger store #336 located at located at 22150 Westheimer Parkway, Katy, Texas 77450 from September 21, 2019 to the present for the period **01/01/2017 to present**.

RESPONSE:

REQUEST FOR PRODUCTION NO. 32: A list f all lawsuits filed against you between January 1, 2017 through the present.

RESPONSE:

REQUEST FOR PRODUCTION NO. 33: All documents, handbooks, procedure manuals, training manuals, or written policies of the defendant relating to maintenance and cleaning crew employees. Including but not limited to those documents, handbooks, procedure manuals, training manuals, and written policies issued to outside contractors.

RESPONSE:

REQUEST FOR PRODUCTION NO. 34: A copy of any and all videos, surveillance videos, or other motion picture videos displaying the events giving rise to this lawsuit that occurred on or about September 21, 2019.

RESPONSE:

REQUEST FOR PRODUCTION NO. 35: A copy of all correspondence, emails, letters, messages or other communications between defendant and/or any of its agents or employees from September 21, 2019, and up to the present, regarding this incident or incidents which occurred in the same first entrance to the store in the vicinity where this incident occurred.

RESPONSE:

REQUEST FOR PRODUCTION NO. 36: A copy of all correspondence, emails, letters, messages or other communications between defendant and any repair or maintenance company and/or any of its agents or employees from September 21, 2019, and up to the present, regarding this incident or incidents which occurred in the same first entrance to the store in the vicinity where this incident occurred.

RESPONSE:

REQUEST FOR PRODUCTION NO. 37: A copy of all employee time cards or employee log-in sheets for the date of and the two weeks prior to the incident the subject of this lawsuit.

RESPONSE:

REQUEST FOR PRODUCTION NO. 38: All contracts, agreements and/or documents between any owners and lessees of the premises between September 21, 2019. and up to the present.

RESPONSE:

CAUSE NO. _____

BRIGETT BENTLEY

Plaintiff,

VS.

KROGER TEXAS, L.P.

Defendant.

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IN THE DISTRICT COURT OF

FORT BEND COUNTY, TEXAS

_____ JUDICIAL DISTRICT

PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS TO DEFENDANT,
KROGER TEXAS L.P.

TO: Defendant, Kroger Texas L.P. by and through its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, at 211 E. 7th Street, Suite 620, Austin, TX 78701-3218.

COMES NOW Plaintiff, Brigett Bentley, and under the provisions of Rule 198 of the Texas Rules of Civil Procedure, serves the following Request for Admissions to Defendant, Kroger Texas L.P. (hereinafter "Kroger").

Respectfully submitted,

MORRELL LAW FIRM, PLLC

/s/ Christopher Morrell

CHRISTOPHER L. MORRELL

Texas State Bar No. 24077383

3730 Kirby Drive, Suite 1020

Houston, Texas 77098

Phone: (833) 667-7355

Fax: (713) 322-5998

Email: cmorrell@themorrellfirm.com

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument has been sent in accordance with the TEXAS RULES OF CIVIL PROCEDURE to all interested counsel of record on this the 8th day of January, 2020.

/s/ Christopher Morrell
CHRISTOPHER L. MORRELL

REQUEST FOR ADMISSIONS TO DEFENDANT

1. Admit that on or about September 21, 2019 Plaintiff slipped and fell at the Kroger store #336 located at located at 22150 Westheimer Parkway, Katy, Texas 77450.

RESPONSE:

2. Admit that Plaintiff was at your property on September 21, 2019.

RESPONSE:

3. Admit that water on the floor caused Plaintiff to slip.

RESPONSE:

4. Admit that the water had not been cleaned up off the floor.

RESPONSE:

5. Admit that the condition of the premises posed an unreasonable risk of harm to Plaintiff and others.

RESPONSE:

6. Admit that on or about September 21, 2019, Plaintiff suffered an injury at your property.

RESPONSE:

7. Admit you were negligent in causing Plaintiff's injuries.

RESPONSE:

8. Admit venue is proper.

RESPONSE:

11. Admit this is a convenient forum.

RESPONSE:

12. Admit the Court has jurisdiction over you.

RESPONSE:

13. Admit you were properly named in Plaintiff's Original Petition.

RESPONSE:

14. Admit that Plaintiff was not negligent in causing this accident.

RESPONSE:

15. Admit that Plaintiff's injuries complained of in this lawsuit were caused by the accident in question.

RESPONSE:

16. Admit that Plaintiff was an invitee on your premises.

RESPONSE:

17. Admit that you knew that the premises were inadequately clean at the time of the accident.

RESPONSE:

18. Admit that you knew that the premises were unsafe on or near the time of the accident.

RESPONSE:

19. Admit that you did nothing to warn or notify Plaintiff of the danger posed.

RESPONSE:

20. Admit that you should have known about the premises being unsafe.

RESPONSE:

CAUSE NO. _____

BRIGETT BENTLEY

Plaintiff,

VS.

KROGER TEXAS, L.P.

Defendant.

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IN THE DISTRICT COURT OF

FORT BEND COUNTY, TEXAS

_____ JUDICIAL DISTRICT

REQUESTS FOR DISCLOSURE

Plaintiff in the above-styled and numbered cause and, pursuant to Rule 194 of the Texas Rules of Civil Procedure, requests that Defendant answer the following requests for disclosure separately and fully in writing. The answers to the requests shall be preceded by the request to which the answer pertains. The answers shall be returned to Plaintiff's attorney, Christopher Morrell, 3730 Kirby Dr, Suite 1020, Houston, Texas 77098. Pursuant to Rule 194, you are requested to disclose, within fifty (50) days of service of this request, the information and material described in Rule 194.2. With your response, please serve copies of all relevant documents and other tangible items. Specifically, please disclose:

- (a) The correct names of the parties to the lawsuit;
- (b) The name, address, and telephone number of any potential parties;
- (c) The legal theories and, in general, the factual basis of your claims or defenses;
- (d) The amount and any method of calculating economic damages;
- (e) The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;
- (f) For any testifying expert

- (1) The expert's name, address, and telephone number;
- (2) The subject matter on which the expert will testify;
- (3) The general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by you, employed by you, or otherwise subject to your control, documents reflecting such information;
- (4) If the expert is retained by you, employed by you, or otherwise subject to your control:
 - (A) All documents, tangible items, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
 - (B) The expert's current resume and bibliography;
- (g) Any discoverable indemnity and insuring agreements described in Rule 192.3(f);
- (h) Any discoverable settlement agreements described in Rule 192.3(g);
- (i) Any witness statements described in Rule 192.3(h);
- (j) All medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills;
- (k) All medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.
- (l) The name, address, and telephone number of any person who may be designated as a responsible third party.

Respectfully submitted,

MORRELL LAW FIRM, PLLC

/s/ Christopher Morrell

Christopher Morrell

Texas State Bar No. 24077383

3730 Kirby Drive, Suite 1020

Houston, Texas 77098

Phone: (713) 834-1151

Fax: (713) 322-5998

Email: cmorrell@themorrellfirm.com

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument has been sent in accordance with the TEXAS RULES OF CIVIL PROCEDURE to all interested counsel of record on this the 8th day of January, 2020.

/s/ Christopher Morrell
CHRISTOPHER L. MORRELL