

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

MARK CONN,

Plaintiff,

vs.

McDONALD'S CORPORATION and
SANTONASTASSO ENTERPRISES, LLC
d/b/a McDONALD'S RESTAURANT,

Defendants.

CIVIL DIVISION
Case No.: G.D. 19-

ELECTRONICALLY FILED

Pleading Type:

COMPLAINT

Filed on behalf of the Plaintiff:
Mark Conn

Counsel of Record for this Party:
William F. Goodrich, Esquire
Pa.I.D. #30235

Joshua P. Geist, Esquire
Pa.I.D. #85745

Bianca M. DiNardo, Esquire
Pa.I.D. #327917

Goodrich & Geist, P.C.
3634 California Avenue
Pittsburgh, PA 15212-1854
Phone: (412) 766-1455
Facsimile: (412) 766-0300
Email: josh@goodrichandgeist.com

“JURY TRIAL DEMANDED”

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

MARK CONN,) CIVIL DIVISION
) Case No.: G.D. 19-
Plaintiff,)
)
vs.)
)
McDONALD'S CORPORATION and)
SANTONASTASSO ENTERPRISES,)
LLC d/b/a McDONALD'S)
RESTAURANT,)
) **ELECTRONICALLY FILED**
Defendants.)

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defense or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER (OR CANNOT AFFORD ONE), GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW (TO FIND OUT WHERE YOU CAN GET LEGAL HELP). THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THESE OFFICES MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE
THE ALLEGHENY COUNTY BAR ASSOCIATION
11TH FLOOR KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PENNSYLVANIA 15219

TELEPHONE: (412) 261-5555

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

MARK CONN,)	CIVIL DIVISION
)	Case No.: G.D. 19-
Plaintiff,)	
)	
vs.)	
)	
McDONALD'S CORPORATION and)	
SANTONASTASSO ENTERPRISES,)	
LLC d/b/a McDONALD'S)	
RESTAURANT,)	
)	ELECTRONICALLY FILED
Defendants.)	

COMPLAINT

AND NOW comes the Plaintiff, Mark Conn, by and through his attorneys, and files the within Complaint:

1. Plaintiff, Mark Conn is an adult individual, who resides in Allegheny County, Pennsylvania.
2. Defendant, McDonald's Corporation (referred to as "McDonald's Corporate") is a corporation with its principal place of business located at 1 McDonald's Plaza, Oakbrook, Illinois 60523, and regularly conducts business in Allegheny County, Pennsylvania.
3. Defendant Santonastasso Enterprises, LLC (referred to as "McDonald's Franchise") is a Pennsylvania corporation that regularly conducts business in Allegheny County with a principal place of business located at 230 Bill George Drive, Greene County, Pennsylvania.
4. At all times relevant, Defendant Santonastasso Enterprises, LLC was trading and doing business as McDonald's Restaurant.

5. McDonald's Corporate provides oversight, management, training and control of more than 36,000 McDonald's restaurants throughout the world.
6. On and before November 4, 2019, McDonald's Corporate exercised control over McDonald's Franchise's daily operations.
7. On and before November 4, 2019, McDonald's Corporate held itself out as the owner and/or controller of McDonald's Franchise.
8. On and before November 4, 2019, customers, including Plaintiffs, of McDonald's Franchise were led to believe they were customers of McDonald's Corporate.
9. On and before November 4, 2019, employees at the Wood Street restaurant wore uniforms bearing the McDonald's Corporate logo.
10. On and before November 4, 2019, the Wood Street restaurant was advertised as "McDonalds" and displayed McDonald's Corporate's logo.
11. On and before November 4, 2019, the Wood Street restaurant displayed multiple signs, both inside and outside of the restaurant, bearing the McDonald's Corporate logo.
12. On and before November 4, 2019, the Wood Street restaurant advertised and displayed the McDonald's Corporate's menu.
13. On and before November 4, 2019, McDonald's Franchise operated and managed the McDonald's restaurant located at 608 Wood Street, Pittsburgh, Allegheny County, Pennsylvania.
14. On and before November 4, 2019, McDonald's Corporate owned the property located at 608 Wood Street, Allegheny County, Pennsylvania.

15. On and before November 4, 2019, McDonald's Corporate was responsible for the training, supervision, operation and management of McDonald's franchise owners, including McDonald's Franchise and the restaurant located at 608 Wood Street.

16. On and before November 4, 2019, McDonald's Franchise was responsible for the hiring, training, supervision, operation and management of the McDonald's restaurant located at 608 Wood Street.

17. On and before November 4, 2019, McDonald's Corporate and McDonald's Franchise acted through their agents, servants, and/or employees.

18. On and before November 4, 2019, Kaniya Martin (referred to as "McDonald's Employee 1") was an actual and/or ostensible agent, servant, and/or employee of McDonald's Corporate and McDonald's Franchise.

19. On and before November 4, 2019, Roneese Davis (referred to as "McDonald's Employee 2") was an actual and/or ostensible agent, servant, and/or employee of McDonald's Corporate and McDonald's Franchise.

20. On and before November 4, 2019, McDonald's Corporate and/or McDonald's Franchise knew or should have known of McDonald's Employee 2's criminal convictions, including a violent assault in 2017 that left a victim permanently blind.

21. At the time McDonald's Employee 2 was hired by McDonald's Corporate and/or McDonald's Franchise, McDonald's Employee 2 was on probation for the violent 2017 assault.

22. On and before November 4, 2019, Sharondia Lett (referred to as "McDonald's Employee 3") was an actual and/or ostensible agent, servant, and/or employee of McDonald's Corporate and McDonald's Franchise.

23. On and before November 4, 2019, McDonald's Employee 1, McDonald's Employee 2, and McDonald's Employee 3 were controlled and/or subject to the right of control of Defendant McDonald's Corporate.

24. On and before November 4, 2019, McDonald's Employee 1, McDonald's Employee 2, and McDonald's Employee 3 were controlled and/or subject to the right of control of Defendant McDonald's Franchise.

25. In 2009, there were three McDonald's restaurants in downtown Pittsburgh located at 608 Wood Street, 505 Smithfield Street and 500 Liberty Avenue.

26. In 2009, an array of prescription drugs and narcotics, including, but not limited to, Vicodin, morphine, methadone and heroin were being sold out of the three Downtown McDonald's restaurants, including 608 Wood Street.

27. In 2009, the McDonald's restaurants in downtown Pittsburgh, including 608 Wood Street, were used for drug sales as it was easy for the loiterers to linger for hours without being asked to leave by McDonald's employees.

28. In 2009, District Attorney Stephen A. Zappala, Jr. threatened to take legal action against the three McDonald's restaurants in downtown Pittsburgh due to the criminal activity in and around the three McDonald's restaurants, including 608 Wood Street.

29. In 2009, in less than a 6-month period of time, over 100 individuals had been arrested for selling or possessing drugs as part of a sting at the McDonald's restaurants in downtown Pittsburgh, including 608 Wood Street.

30. In 2013, in less than a 4-month period, over 30 individuals had been arrested for selling or possessing drugs as part of a law enforcement sting at the McDonald's restaurants in downtown Pittsburgh, including 608 Wood Street.

31. In January 2018, a fight between forty individuals occurred at the Wood Street T Station, which is directly across the street from 608 Wood Street.

32. In September 2018, a fight and stabbing occurred between two individuals on Wood Street in downtown Pittsburgh, within yards of 608 Wood Street.

33. In August 2019, a knife fight and stabbing occurred between two individuals on Wood Street, within yards of 608 Wood Street

34. On or about October 18, 2019, a shooting occurred directly outside of the entrance to the McDonald's restaurant at 608 Wood Street.

35. At some time before November 4, 2019 the McDonald's Restaurant located at 505 Smithfield Street, Pittsburgh, Pennsylvania closed, in part, due to the criminal activity, drugs, lack of safety and the requests of law enforcement and the District Attorney's office.

36. On and before November 4, 2019, McDonald's Corporate advertised security positions at restaurants throughout the United States.

37. On and before November 4, 2019, McDonald's Corporate advertised security guard positions at McDonald's restaurants with job descriptions stating that the security guard will maintain a high visibility presence and prevent all illegal or inappropriate actions.

38. At no time before November 4, 2019 did McDonald's Corporate or McDonald's Franchise hire a security guard and/or off duty police officer at the 608 Wood Street restaurant.

39. On and before November 4, 2019, McDonald's Corporate and/or McDonald's Franchise advertised that the restaurant at 608 Wood Street was "open late."

40. Before November 4, 2019, there were multiple incidents, arrests, and complaints involving drugs, violence and criminal activity in the general area where the Wood Street McDonald's restaurant is located.

41. On and before November 4, 2019, McDonald's Corporate and/or McDonald's Franchise permitted their employees, while on duty, to socialize and congregate outside of the McDonald's restaurant at 608 Wood Street with non-McDonald's employees.

42. On and before November 4, 2019, McDonald's Corporate and/or McDonald's Franchise knew of and permitted individuals to loiter inside and outside of the McDonald's restaurant at 608 Wood Street.

43. On and before November 4, 2019, there was a "no loitering" sign posted on a window of the McDonald's restaurant at 608 Wood Street, but neither McDonald's Corporate nor McDonald's Franchise enforced the "no loitering" rule.

44. On and before November 4, 2019, Defendants knew or should have known of the criminal activity, violence, loitering and complaints regarding safety surrounding the McDonald's restaurant located at 608 Wood street.

45. On November 4, 2019 at approximately 10:00 p.m., Plaintiff Mark Conn and his wife, entered the McDonald's restaurant at 608 Wood Street, Pittsburgh, Pennsylvania to purchase food.

46. After ordering their food, Plaintiff and his wife sat down at a table and started eating.

47. As Plaintiff and his wife were eating, a male individual entered McDonald's and sat directly behind Plaintiff, but within Plaintiff's wife's view.

48. The male individual, a friend of McDonald's employees, including Employee 1, did not purchase food and was loitering on Defendants' property for a period of time before Plaintiff and his wife entered the restaurant.

49. While the male individual sat behind Plaintiff he stared at Plaintiff's wife.

50. Eventually, the male individual made a threatening and derogatory comment to Plaintiff's wife, but then immediately exited the restaurant.

51. Within seconds of exiting the restaurant, the male individual re-entered the restaurant and initiated a verbal confrontation with Plaintiff's wife.

52. At this time, McDonald's Employee 1 entered from outside the restaurant and inserted herself into the verbal confrontation.

53. As McDonald's Employee 1 and the male individual began aggressively arguing with Plaintiff's wife and verbally berating her, Plaintiff attempted to break up the verbal confrontation.

54. As Plaintiff attempted to deescalate the verbal confrontation, McDonald's Employee 1 began pushing and punching Plaintiff's wife.

55. While Plaintiff continued to try to diffuse the situation, McDonald's Employee 2 entered the altercation and began pushing and shoving Plaintiff.

56. While inside the McDonald's restaurant, McDonald's Employee 1 was striking and/or pushing Plaintiff and Plaintiff's wife.

57. While inside the McDonald's restaurant, McDonald's Employee 2 was striking and/or pushing Plaintiff.

58. McDonald's Employee 2 began to physically and forcefully throw Plaintiff and his wife out of the McDonald's restaurant and onto the sidewalk where McDonald's employees and their friends were milling around and socializing.

59. At no time did any McDonald's employee remove the male individual involved in the verbal confrontation.

60. Once Plaintiff and his wife were forced onto the sidewalk directly in front of McDonald's, McDonald's Employee 3 and a female individual began verbally harassing Plaintiff's wife.

61. Plaintiff and his wife attempted to re-enter the McDonald's restaurant to retrieve their belongings, luggage and small service dog.

62. McDonald's employees, including Employee 2, refused to permit Plaintiff and his wife to re-enter the restaurant.

63. While on the sidewalk in front of the McDonald's restaurant, Plaintiff called 911 for help.

64. While on the sidewalk in front of the McDonald's restaurant, a female individual pulled Plaintiff's wife's hair, causing her to fall to the ground while McDonald's Employee 3 punched Plaintiff's wife while Plaintiff's wife was on the ground.

65. While Plaintiff's wife was on the ground, McDonald's Employee 1 began punching Plaintiff's wife in the face.

66. Plaintiff attempted to help his wife and stop McDonald's Employee 1 and the female individual from hitting his wife.

67. As Plaintiff attempted to help his wife, McDonald's Employee 2 blindsided Plaintiff and struck Plaintiff from behind in the back of the head and neck.

68. As a result of the blow, Plaintiff became limp and fell to the ground landing face first on the pavement.

69. As a result of the incident, Plaintiff, Mark Conn, suffered the following injuries:

- a. Fractured vertebrae (C3, C4 and C5) of the cervical spine;
- b. Spinal cord impingement;

- c. Quadriplegia;
- d. Quadriparesis;
- e. Blood on the spinal cord;
- f. Traumatic brain injury
- g. Paralysis;
- h. Generalized trauma and injury to his neck and spinal cord;
- i. Shock and injury to nerves and nervous system; and
- j. Emotional tension and anxiety.

70. As a result of his injuries, Plaintiff, Mark Conn, has sustained the following damages in the past and into the future:

- a. Medical expenses;
- b. Pain and suffering;
- c. Embarrassment and humiliation;
- d. Loss of enjoyment of life's pleasures; and
- e. Disfigurement.

COUNT I-NEGLIGENCE
Plaintiff v. McDonald's Corporation

71. Each of the above paragraphs are incorporated by reference.

72. Plaintiff's injuries and damages were the direct and proximate result of the negligence of Defendant McDonald's Corporate, by and through its agents, servants, and/or employees, in the following particulars:

- a. In failing to adequately hire, train and/or supervise franchise owners with regard to potential security and safety concerns;

- b. In failing to require security in franchises located in dangerous and/or high crime areas and/or areas known to have a history of violence, crime and/or altercations;
- c. In failing to have an adequate hiring process in place for franchises and franchise owners that requires criminal background checks of all employees and potential employees;
- d. In failing to provide a security officer and/or other methods of security at the Wood Street restaurant;
- e. In failing to establish and/or enforce policies to safely intervene in altercations between customers and/or employees;
- f. In failing to establish and/or enforce adequate security measures at its franchises, including the Wood Street restaurant;
- g. In failing to monitor franchises for violence, criminal activity and safety including the Wood Street restaurant;
- h. In failing to establish and/or enforce policies regarding violence and/or altercations at its franchises, including the Wood Street restaurant;
- i. In failing to establish and/or enforce policies regarding notifying, alerting, and/or warning law enforcement of altercations at their franchises, including the Wood Street restaurant;
- j. In failing to respond to numerous complaints regarding drug activity, criminal activity, assaults, violence, loitering and a public nuisance, made by customers, law enforcement, the District Attorney's office and McDonald's employees at its franchises, including the Wood Street restaurant;
- k. In failing to establish and/or enforce policies regarding the hiring of potential employees with violent criminal backgrounds;
- l. In failing to require franchises to hire a security officer, specifically franchises in dangerous or high crime locations such as the Wood Street restaurant; and
- m. In striking Plaintiff in the neck from behind and causing him to fall to the ground.

73. As a direct and proximate result of the negligence of Defendant McDonald's Corporate by and through their agents, servants, and/or employees, Plaintiff, Mark Conn, suffered the injuries and damages set forth above.

74. The actions of McDonald's Employee 1, McDonald's Employee 2 and McDonald's Employee 3 were in furtherance of the interests of Defendant McDonald's Corporate. Therefore, Defendant McDonald's Corporate is subject to liability for the conduct of their employees.

75. The actions of McDonald's Employee 1, McDonald's Employee 2 and McDonald's Employee 3 were within the scope of their authority and constitute outrageous behavior, egregious conduct and reckless indifference to the rights and interests of Plaintiff. Therefore, Defendant McDonald's Corporate should be subject to the imposition of punitive damages.

76. McDonald's Corporate's conduct, as specifically described above, is willful and wanton conduct and a gross act of recklessness and in reckless disregard for the safety of others, including Plaintiff. Therefore, McDonald's Corporate should be subject to the imposition of punitive damages.

WHEREFORE, Plaintiff, Mark Conn, respectfully requests judgment in his favor and against Defendant McDonalds Corporation, in an amount in excess of the jurisdictional arbitration limit, plus interest, costs and punitive damages.

COUNT II-NEGLIGENCE
Plaintiff v. Santonastasso Enterprises, LLC

77. Each of the above paragraphs are incorporated by reference.

78. Plaintiff's injuries and damages were the direct and proximate result of the negligence of Defendant McDonald's Franchise, by and through its agents, servants, and/or employees, in the following particulars:

- a. In hiring individuals known to have violent tendencies towards the public when they knew or should have known of the individuals' violent propensities;

- b. In retaining dangerous and violent employees when it knew or should have known of the individuals' violent propensities.
- c. In failing to adequately train its employees regarding altercations and/or security on and around the restaurant;
- d. In failing to adequately supervise its employees regarding altercations and/or security on and around the restaurant;
- e. In failing to provide adequate security when it knew or should have known of the necessity of security due to the high crime area and history of complaints, criminal activity and loitering;
- f. In failing to have adequate security measures in place in order to prevent patrons and/or employees from causing injury to others, specifically, the Plaintiff;
- g. In failing to adequately hire, train and/or supervise security guards inside and around the restaurant so as to deter and prevent criminal activity, violence and loitering;
- h. In failing to train, supervise and/or take appropriate steps to control McDonald's Employee 1 as to the scope and duties of her employment so as to prevent her from causing bodily harm to individuals like Plaintiff;
- i. In failing to train, supervise and/or take appropriate steps to McDonald's Employee 2 as to the scope and duties of her employment so as to prevent her from causing bodily harm to individuals like Plaintiff;
- j. In failing to train, supervise and/or take appropriate steps to control McDonald's Employee 3 as to the scope and duties of her employment so as to prevent her from causing bodily harm to individuals like Plaintiff;
- k. In failing to adequately warn the public, including the Plaintiff, of the lack of adequate security and/or the resulting dangers in the restaurant and the area surrounding the restaurant;
- l. In failing to protect Plaintiff against the acts of other business invitees and/or loiterers;
- m. In failing to protect Plaintiff against the acts of its employees;
- n. In permitting employees to socialize and congregate outside of the restaurant while on duty;
- o. In permitting loiterers, such as the male individual, to frequent the restaurant;

- p. In disregarding the known history of criminal activity, violence and/or altercations inside the restaurant and immediately outside the restaurant;
- q. In failing to determine an employee's propensity for violence in an environment that required regular interaction with the public;
- r. In failing to develop a policy and/or procedure to control loiterers and/or customers and/or employees during an altercation;
- s. In failing to enforce adequate security measures, including calling law enforcement, separating individuals involved in altercations and removing loiterers from the premises;
- t. In failing to monitor the restaurant for violence, criminal activity and customer safety;
- u. In failing to remove the male individual without resorting to physical violence;
- v. In failing to establish and/or enforce policies regarding violence and/or altercations;
- w. In ignoring numerous complaints of patrons, law enforcement and the District Attorney's office regarding criminal activity in and around the Wood Street restaurant;
- x. In hiring an individual with a known violent criminal record and permitting her to interact with the public and/or handle security issues at the restaurant;
- y. In failing to hire a trained security guard and/or off duty police officer at the restaurant, especially during late night hours;
- z. In failing to call law enforcement when the verbal confrontation started; and
- aa. In relying on untrained and unsupervised employees for security at their restaurant; and
- bb. In striking Plaintiff in the neck from behind and causing him to fall to the ground.

79. As a direct and proximate result of the negligence of Defendant McDonald's Franchise, by and through their agents, servants, and/or employees, Plaintiff, Mark Conn, suffered the injuries and damages previously set forth.

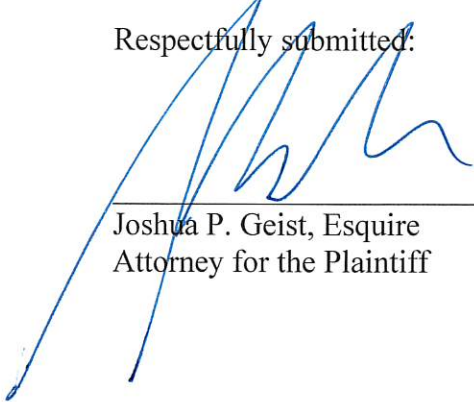
80. The actions of McDonald's Employee 1, McDonald's Employee 2 and McDonald's Employee 3 were in furtherance of the interests of Defendant McDonald's Franchise. Therefore, Defendant McDonald's Franchise is subject to liability for the conduct of its employees.

81. The actions of McDonald's Employee 1, McDonald's Employee 2 and McDonald's Employee 3 were within the scope of their authority and constitute outrageous behavior, egregious conduct and reckless indifference to the rights and interests of Plaintiff. Therefore, Defendant McDonald's Franchise should be subject to the imposition of punitive damages.

82. McDonald's Franchise's conduct, as described above, is willful and wanton conduct and a gross act of recklessness and a reckless disregard for the safety of others, including Plaintiff. Therefore, McDonald's Franchise should be subject to the imposition of punitive damages.

WHEREFORE, Plaintiff, Mark Conn, respectfully requests judgment in his favor and against Defendant Santonastasso Enterprises, LLC, in an amount in excess of the jurisdictional arbitration limit, plus interest, costs and punitive damages.

Respectfully submitted:



Joshua P. Geist, Esquire
Attorney for the Plaintiff

JURY TRIAL DEMANDED

VERIFICATION

I, Mark Conn, hereby certify that the facts alleged in the above Complaint are true and correct to the best of my knowledge. This statement is made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsifications to authorities.

Date: 12/11/19

Mark Conn
Mark Conn