

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No.:

WEST TOWN PLAZA ASSOCIATES, LTD.,

Plaintiff,

v.

CITI TRENDS, INC.,

Defendant.

---

**COMPLAINT**

Plaintiff West Town Plaza Associates, Ltd., sues Defendant Citi Trends, Inc., for damages and says:

**Nature of the Action**

1. This is an action for breach of contract for damages against Citi Trends, Inc. The action is being brought due to Citi Trends, Inc.'s breach of the Shopping Center Lease ("the Lease Agreement") between West Town Plaza Associates, Ltd. and Citi Trends, Inc. Relevant portions of the Lease Agreement are incorporated in the Complaint and attached as Exhibit A.

**Parties, Jurisdiction and Venue**

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and the action is between citizens of different States.

3. Plaintiff West Town Plaza Associates, Ltd. (“West Town Plaza”) is a Florida limited partnership with its principal place of business located at 20155 N.E. 38th Court, Suite 201, Aventura, Florida 33180. For diversity jurisdiction purposes, West Town Plaza is a citizen of the State of Florida. *See* 28 U.S.C. § 1332(c)(1). West Town Plaza is the owner of the commercial property that is the subject of the Lease Agreement.

4. Citi Trends, Inc. (“Citi Trends”) is a Georgia corporation and, upon information and belief, has an office at 104 Coleman Blvd., Savannah, Georgia 31408.

5. According to its website, Citi Trends operates 553 retail stores selling clothing and home furnishings throughout the United States, with 52 of those stores located in Florida. Citi Trends is a public company, and its shares are traded on NASDAQ.

6. According to the Florida Department of State’s website, Citi Trends is registered in Florida as an active foreign profit corporation. *See* Fla. Stat. § 48.091. The same website indicates that Citi Trends has appointed CT Corporation as its registered agent, and that CT Corporation is located at 1200 South Pine Island Road, Plantation, Fl 33324. When it registered as an active foreign profit corporation and designated a registered agent in Florida, Citi Trends consented to personal jurisdiction in Florida.

7. Citi Trends was required to make all payments due under the Lease Agreement to West Town Plaza’s office in Aventura, Florida. Of those payments that it made, Citi Trends

made such payments under the Lease Agreement to West Town Plaza's office in Aventura, Florida until it unlawfully stopped making payments due under the Lease Agreement.

8. In a diversity action, a federal court can exercise personal jurisdiction over a nonresident defendant as permitted by the long-arm statute of the forum state, in this case, Florida. Thus, this Court has general personal jurisdiction over Citi Trends pursuant to Florida's long-arm statute, Fla. Stat. § 48.193(2). Specifically, this Court has general personal jurisdiction over Citi Trends because it (1) operates 52 stores in Florida, approximately 10% of the total number of its stores, (2) is registered as a foreign profit corporation in Florida, (3) appointed a registered agent in Florida, (4) negotiated and renewed a contract with West Town Plaza, a Florida resident, (5) made payments to West Town Plaza's Aventura, Florida office and otherwise conducted communications with that office, including agreeing that all notices (such as those due under Section 2.2 of the Lease Agreement) to West Town Plaza would be sent there, and (6) agreed that it could inspect West Town Plaza's books in Florida. Citi Trends' contacts with Florida are so systematic and continuous that Florida can be considered its home.

9. Furthermore, this Court also has specific personal jurisdiction over Citi Trends pursuant to Florida's long-arm statute, Fla. Stat. § 48.193(1), including but not limited to Fla. Stat. § 48.193(1)(a)(1), (1)(a)(6), and/or (1)(a)(7) because of all the contacts mentioned above and Citi Trends' failure to remit payment to West Town Plaza's office in Florida as agreed by the parties. Citi Trends has purposefully availed itself of the privilege of conducting activities within Florida, thereby invoking the benefits and protections of its laws. Citi Trends' contacts with Florida are such that it should have reasonably anticipated being haled into court here.

10. The Lease Agreement has a substantial or reasonable relation to Florida because Plaintiff is organized under the laws of Florida, has its principal place of business in Florida, it

conducts substantial business within the Florida, the Lease Agreement was negotiated in Florida, communications with respect to the Lease Agreement were conducted in Florida, and payments under the Lease Agreement were to be made in Florida and to the extent that some were made, they were made in Florida. When it failed to make payments due to be made in Florida under the Lease Agreement, Citi Trends breached the Lease Agreement in Florida. Without entering into lease agreements such as the one that it entered into here, Citi Trends could not operate the more than 500 retail stores that it operates throughout the United States. The negotiation of and compliance with lease agreements with landlords such as West Town Plaza who reside in Florida and in other states is a core part of Citi Trends' business.

11. Venue is proper in this District Court and in the Miami Division because a substantial part of the events giving rise to this action occurred in this District. Further, by entering into the Lease Agreement, Citi Trends consented to venue in Miami-Dade County, Florida.

#### **Factual Allegations**

12. On January 10, 2007, West Town Plaza entered into a Lease Agreement with Citi Trends initially for a five-year term running from May 1, 2007 until April 30, 2012. *See* Exhibit A. Citi Trends agreed to pay a minimum rent monthly "Minimum Rent" and an additional percentage rent annually "Percentage Rent" under Sections 1.1, 2.1 and 2.2 of the Lease Agreement. The first payment of Minimum Rent was due on May 1, 2007. *See* Exhibit B. In addition, Citi Trends agreed to pay its pro rata share of taxes, insurance and common area maintenance for the shopping center. The Lease also granted Citi Trends the right to four additional five-year options running consecutively to extend the Lease.

13. Under the first five-year term of the Lease Agreement, Citi Trends was obligated to pay Minimum Rent monthly in the total amount of \$70,000 for the year under Sections 1.1(e) and 2.1. *See* Exhibit A. An additional amount of Percentage Rent was due at the end of the year in the amount of three percent (3%) of Citi Trends' gross sales at the Bessemer location to be calculated with reference to stated base amounts. *Id.* 1.1(e) and 2.2. In addition, Citi Trends agreed to pay its pro rata share of taxes, insurance and common area maintenance for the shopping center.

14. On January 26, 2012, Citi Trends elected to renew the Lease Agreement without modification for a further five-year term running from May 1, 2012 until April 30, 2017. *See* Exhibit C. Under this second five-year term of the Lease Agreement, Citi Trends was obligated to pay Minimum Rent monthly in the total amount of \$77,000 for the year under Sections 1.1(e) and 2.1. *See* Exhibit A. An additional amount of Percentage Rent was due at the end of the year in the amount of three percent (3%) of Citi Trends' gross sales at the Bessemer location to be calculated with reference to stated base amounts. *Id.* 1.1(e) and 2.2, in addition to being obligated to pay its pro rata share of taxes, insurance and common area maintenance

15. Thereafter on January 9, 2017, Citi Trends elected to renew the Lease Agreement without modification for a further five-year term running from May 1, 2017 until April 30, 2022. *See* Exhibit D. Under this third five-year term of the Lease Agreement, Citi Trends was obligated to pay Minimum Rent monthly in the total amount of \$84,700 for the year under Sections 1.1(e) and 2.1. *See* Exhibit A. An additional amount of Percentage Rent was due at the end of the year in the amount of three percent (3%) of Citi Trends' gross sales at the Bessemer location to be calculated with reference to stated base amounts. *Id.* 1.1(e) and 2.2, in addition to

being obligated to pay its pro rata share of taxes, insurance and common area maintenance. See Citi Trend extension letter dated January 9, 2017.

16. Under Section 2.1 of the Lease Agreement, Citi Trends agreed to pay the Minimum Rent monthly on the first day of each month, beginning with May 1, 2007. *See* Exhibits A-D. Under Section 2.2 of the Lease Agreement, Citi Trends agreed to pay the Percentage Rent annually at the end of the year. *See* Exhibit A.

17. Citi Trends failed to pay the Minimum Rent and the Percentage Rent due under the Lease Agreement beginning on March 1, 2017.

18. Citi Trends also agreed to pay a proportionate share of real estate taxes, common area costs and insurance costs pursuant to Sections 1.1(f), (g) and (h) and 2.3, 2.4 and 5.2 of the Lease Agreement. *See* Exhibit A. As of March 1, 2017, Citi Trends has failed to pay these amounts as well.

19. As of the date of this Complaint, Citi Trends has failed to pay any sums to Landlord as required by the Lease since March 1, 2017, and although Landlord has made timely and due demand and further has provided a notice of default, Citi Trends refuses to comply with its lease obligations pursuant to its contract with Landlord. There is due and owing at this time a sum in excess of \$100,000 in unpaid rents. Notwithstanding its failure to remit rent which is obligated pursuant to the Lease to pay, Citi Trends continues to operate its business at the leased premises and has done so continuously.

**COUNT ONE: BREACH OF CONTRACT**

20. Plaintiff incorporates as though fully set forth herein the allegations in Paragraphs 1 through 19 above.

21. West Town Plaza and Citi Trends entered into a valid and enforceable agreement that required Citi Trends to pay amounts including but not limited to rent, real estate taxes, common area costs, and insurance costs.

22. At all times, West Town Plaza performed the duties required of it by the Lease Agreement.

23. Beginning in March of 2017, Citi Trends breached and defaulted on the Lease Agreement by failing to pay amounts including but not limited to rent, real estate taxes, common area costs and insurance costs as required by the Lease Agreement.

24. Plaintiff notified Defendant of its breach, but Citi Trends failed to cure.

25. As a result of Citi Trends' wrongful conduct, Plaintiff has suffered and will suffer certain calculable damages in an amount to be determined at trial.

26. Plaintiff has retained the undersigned attorney after all efforts to collect the unpaid sums were exhausted and has agreed to pay said attorneys a reasonable fee. The contract between the parties at Paragraph 14.13 provides for the payment of attorneys' fees and expenses.

27. Pursuant to the current leasehold obligations, Citi Trends' rent continues to accrue at the rate of \$7,058.33 per month plus its common area maintenance, taxes and insurance obligations since March 1, 2017.

WHEREFORE, Plaintiff respectfully requests this Court enter judgment against Citi Trends, Inc. in an amount to be determined at trial, together with interest thereon, and for all monies that have been and will be spent in connection with this litigation to enforce Plaintiff's rights under the Lease Agreement, including the costs of this action and reasonable attorneys' fees, and grant such other relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

MANDEL & MANDEL LLP  
169 East Flagler Street, Suite 1200  
Miami, Florida 33131  
Telephone: (305) 374-7771  
Facsimile: (305) 374-7776  
dsm@mandel.law

/s/ David S. Mandel

David S. Mandel

Florida Bar No. 38040

*Attorneys for Plaintiff West Town Plaza  
Associates, Ltd.*