

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

JAMES SRODON,)
)
Plaintiff,)
)
v.)
)
BLUE MAN PRODUCTIONS, INC., a New)
York Corporation, FOX BEVERAGES, INC.,)
an Illinois Corporation, f/k/a THE BRIAR)
STREET THEATRE & CABARET)
COMPANY, d/b/a THE BRIAR STREET)
THEATRE, SWELL PICTURES, INC., an)
Illinois Corporation, FOX THEATRICALS,)
LLC, a Missouri Limited Liability Company,)
and FOX ASSOCIATES, LLC, a Missouri)
Limited Liability Company,)
)
Defendants.)
)

No. 2008L000815
CALENDAR/ROOM B
TIME 00:00
Tort - Intentional
PLAINTIFF DEMANDS
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COURT OF CIRCUIT COURT
LAW DIVISION

COMPLAINT AT LAW

NOW COMES the Plaintiff, JAMES SRODON, by and through his attorneys, ROMANUCCI & BLANDIN, and complaining of the Defendants, BLUE MAN PRODUCTIONS, INC., a New York Corporation, FOX BEVERAGES, INC., an Illinois Corporation, f/k/a THE BRIAR STREET THEATRE & CABARET COMPANY, d/b/a THE BRIAR STREET THEATRE, SWELL PICTURES, INC., an Illinois Corporation, FOX THEATRICALS, LLC, a Missouri Limited Liability Company, and FOX ASSOCIATES, LLC, a Missouri Limited Liability Company, hypothetically and in the alternative, states as follows:

GENERAL ALLEGATIONS

1. Plaintiff, JAMES SRODON, is a citizen and resident of the State of California, and attended a production performed by The Blue Man Group at the Briar Street Theatre in Chicago, Illinois, on October 8, 2006.

2. At all times relevant hereto, Defendant, BLUE MAN PRODUCTIONS, INC., (hereinafter "BLUE MAN") was a corporation organized and existing under the laws of the State of New York, with its principal place of business located in New York, New York.

3. At all times relevant hereto, Defendant, FOX BEVERAGES, LLC, f/k/a THE BRIAR STREET THEATRE & CABARET COMPANY, d/b/a THE BRIAR STREET THEATRE (hereinafter "FOX BEVERAGE") was a corporation organized and existing under the laws of the State of Illinois, with its principal place of business in Chicago, Illinois.

4. At all times relevant hereto, Defendant, SWELL PICTURES, INC., (hereinafter "SWELL") was a corporation organized and existing under the laws of the State of Illinois.

5. At all times relevant hereto, Defendant, FOX THEATRICALS, LLC, (hereinafter "FOX THEATRICAL") was a limited liability company organized and existing under the laws of the State of Missouri.

6. At all times relevant hereto, Defendant, FOX ASSOCIATES, LLC, (hereinafter "FOX ASSOCIATES") was a limited liability company organized and existing under the laws of the State of Missouri.

7. At all times relevant hereto, Defendant FOX BEVERAGE, owned, operated, controlled, and/or maintained the property known as The Briar Street Theatre, located at 3133 North Halsted, Chicago, Illinois.

8. At all times relevant hereto, Defendant SWELL, owned, operated, controlled and/or maintained the property known as The Briar Street Theatre, located at 3133 North Halsted, Chicago, Illinois.

9. At all times relevant hereto, Defendant FOX THEATRICALS, controlled, maintained,

operated or had some legal or equitable interest in the property known as The Briar Street Theatre, located at 3133 North Halsted, Chicago, Illinois..

10. At all times relevant hereto, Defendant FOX ASSOCIATES, controlled, maintained, operated or had some legal or equitable interest in the property known as The Briar Street Theatre, located at 3133 North Halsted, Chicago, Illinois.

11. On October 8, 2006, Plaintiff JAMES SRODON, along with his eight (8) year-old grandson, attended the 1:00 p.m. performance of The Blue Man Group at the Briar Street Theatre in Chicago, Illinois.

12. On said date, Plaintiff, JAMES SRODON, and his grandson, took their seats in Row D, Seats 201 and 202, of the Briar Street Theater prior to the beginning of the performance.

13. According to Blue Man Group's website, "Blue Man Group is best known for their wildly popular theatrical shows and concerts which combine music, comedy and multimedia theatrics to produce a totally unique form of entertainment."

14. That as part of the performance, Blue Man actors use a variety of props, including but not limited to, food and liquids, which are frequently sprayed into the audience and onto the Theatre floor.

15. As part of the Blue Man actors' performance, they use an "esophagus cam", which is a video camera, with an attached light source, connected to a long cord.

16. The actors intend to use this "esophagus cam" on a member of the audience.

17. The "esophagus cam" is routinely dragged on the floor of the Theatre, causing the camera to become contaminated with the foods and liquids already on the floor.

18. That during the performance, the Blue Man actors came into the audience and circled around the Plaintiff, JAMES SRODON.

19. At this time, two of the actors intentionally held the Plaintiff's shoulders, neck and arms, and forced his head back causing Plaintiff to open his mouth, without notice to Plaintiff, without his express or implied permission, and against his will.

20. A Blue Man actor then intentionally forced the "esophagus cam" into the mouth of Plaintiff, JAMES SRODON, without notice, without his express or implied permission, and against his will.

21. At the time the "esophagus cam" was inserted into Plaintiff's mouth, it was covered in food, liquid, and grime from the Briar Street Theatre floor, including the thick blue paint used to cover the actors' faces.

22. That Plaintiff, JAMES SRODON, struggled to free himself and remove the "esophagus cam" from his mouth, but was forcibly restrained by the Blue Man actors.

23. That an image of Plaintiff JAMES SRODON's mouth and throat was then projected onto a large screen for all other audience members to see, including Plaintiff's 8 year old grandson.

24. That the "esophagus cam", when intentionally forced into Plaintiff's mouth, caused him injury to his throat, mouth and dental work.

COUNT I
Battery
(Srodon v. Blue Man Productions, Inc.)

1-24. Plaintiff hereby repeats and realleges Paragraphs 1 through 24 of the General Allegations as and for his allegations in Paragraphs 1 through 24 in Count I as though fully stated herein.

25. As a patron, customer, and/or invitee on the aforesaid premises at the aforesaid time, Defendant BLUE MAN had a duty to refrain from harmfully, offensively, and physically contacting the Plaintiff and others without notice and without their express or implied consent.

26. Notwithstanding the aforesaid duty, on October 8, 2006, on the aforesaid premises, Defendant, through its agents and employees, intentionally and forcibly restrained the Plaintiff, JAMES SRODON, into his seat, and intentionally forced an "esophagus cam" into Plaintiff's mouth, without notice and without his express or implied consent.

27. That the offensive touching by the Defendant was without the consent of Plaintiff, JAMES SRODON, and was without provocation, cause or necessity.

28. At the aforesaid time and place, Plaintiff, JAMES SRODON, was injured.

29. As a direct and proximate result of the aforesaid acts committed by the Defendant, Plaintiff, JAMES SRODON, has experienced pain, suffering, emotional distress, disability, disfigurement, loss of enjoyment of life, and has incurred medical bills, all of which are permanent in nature.

WHEREFORE Plaintiff prays for judgment against Defendant BLUE MAN PRODUCTIONS, INC., for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs and interest, and for any other such relief this Court deems fair and just.

COUNT II

Battery

(Srodon v. Fox Beverages, Inc., and Swell Pictures, Inc.)

1-24. Plaintiff hereby repeats and realleges Paragraphs 1 through 24 of the General Allegations as and for his allegations in Paragraphs 1 through 24 in Count II as though fully stated herein.

25. As a patron, customer, and/or invitee on the aforesaid premises at the aforesaid time, Defendants FOX BEVERAGE and SWELL had a duty to refrain from harmfully, offensively and physically contacting the Plaintiff and others without notice and without their express or implied consent.

26. Notwithstanding the aforesaid duty, on October 8, 2006, on the aforesaid premises, Defendants, through their agents, employees and/or licensees, intentionally and forcibly restrained the Plaintiff, JAMES SRODON, into his seat, and intentionally forced an “esophagus cam” into Plaintiff’s mouth, without notice and without his express or implied consent.

27. That the offensive touching by the Defendants was without the consent of Plaintiff, JAMES SRODON, and was without provocation, cause or necessity.

28. At the aforesaid time and place, Plaintiff, JAMES SRODON, was injured.

29. As a direct and proximate result of the aforesaid acts committed by the Defendants, Plaintiff, JAMES SRODON, has experienced pain, suffering, emotional distress, disability, disfigurement, loss of enjoyment of life, and has incurred medical bills, all of which are permanent in nature.

WHEREFORE Plaintiff prays for judgment against Defendants FOX BEVERAGES, INC., and SWELL PICTURES, INC., for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs and interest, and for any other such relief this Court deems fair and just.

COUNT III

Battery

(Srodon v. Fox Theatricals, LLC, and Fox Associates, LLC.)

1-24. Plaintiff hereby repeats and realleges Paragraphs 1 through 24 of the General Allegations as and for his allegations in Paragraphs 1 through 24 in Count III as though fully stated herein.

25. As a patron, customer, and/or invitee on the aforesaid premises at the aforesaid time, Defendants FOX THEATRICALS and FOX ASSOCIATES had a duty to refrain from harmfully, offensively and physically contacting the Plaintiff and others without notice and without their express or implied consent.

26. Notwithstanding the aforesaid duty, on October 8, 2006, on the aforesaid premises, Defendants, through their agents, employees and/or licensees, intentionally and forcibly restrained the Plaintiff, JAMES SRODON, into his seat, and intentionally forced an "esophagus cam" into Plaintiff's mouth, without notice and without his express or implied consent.

27. That the offensive touching by the Defendants was without the consent of Plaintiff, JAMES SRODON, and was without provocation, cause or necessity.

28. At the aforesaid time and place, Plaintiff, JAMES SRODON, was injured.

29. As a direct and proximate result of the aforesaid acts committed by the Defendants, Plaintiff, JAMES SRODON, has experienced pain, suffering, emotional distress, disability, disfigurement, loss of enjoyment of life, and has incurred medical bills, all of which are permanent in nature.

WHEREFORE Plaintiff prays for judgment against Defendants FOX THEATRICALS, INC., and FOX ASSOCIATES, INC., for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs and interest, and for any other such relief this Court deems fair and just.

COUNT IV
Negligence
(Srodon v. Blue Man Group Productions, Inc.)

1-24. Plaintiff hereby repeats and realleges Paragraphs 1 through 24 of the General Allegations as and for his allegations in Paragraphs 1 through 24 in Count IV as though fully stated herein.

25. At the aforesaid time and location, it was the duty of Defendant, BLUE MAN, to exercise reasonable and ordinary care and caution in and about the management, maintenance, control and operation of the above described event, the premises, the equipment, devices and/or materials used, to enable persons, including Plaintiff, to attend the same without harm or injury.

26. At the time and place aforesaid, Defendant BLUE MAN, committed one or more of the following careless and negligent acts and/or omissions, in breach of aforesaid duty:

- a. Failed to warn patrons attending the aforesaid show, including Plaintiff, of dangerous interactive stunts with the audience;
- b. Careless and negligently engaged in acts that Defendant knew, or should have known, would cause harm to Plaintiff.
- c. Carelessly and negligently restrained Plaintiff in his seat during the performance;
- d. Carelessly and negligently forced an "esophagus cam" into the mouth and/or throat of Plaintiff; and,
- e. Was otherwise careless and negligent during their performance.

27. As a direct and proximate result of the aforesaid acts committed by the Defendant, BLUE MAN PRODUCTIONS, INC., Plaintiff, JAMES SRODON, has experienced pain, suffering, emotional distress, disability, disfigurement, loss of enjoyment of life, and has incurred medical bills, all of which are permanent in nature.

WHEREFORE Plaintiff prays for judgment against Defendant BLUE MAN GROUP PRODUCTIONS, INC., for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs and interest, and for any other such relief this Court deems fair and just.

COUNT V
Negligence

(Srodon v. Fox Beverages, Inc., and Swell Pictures, Inc.)

1-24. Plaintiff hereby repeats and realleges Paragraphs 1 through 24 of the General Allegations as and for his allegations in Paragraphs 1 through 24 in Count V as though fully stated herein.

25. At the aforesaid time and location, it was the duty of Defendants, FOX BEVERAGE and SWELL, to exercise reasonable and ordinary care and caution in and about the ownership, management, maintenance, control and operation of the above described event, the premises, the equipment, devices and/or materials used, to enable persons, including Plaintiff, to attend the same without harm or injury.

26. At the time and place aforesaid, Defendants, FOX BEVERAGE and SWELL, through its agent, employees, and/or licensees, committed one or more of the following careless and negligent acts and/or omissions, in breach of aforesaid duty:

- a. Failed to warn patrons attending the aforesaid show, including Plaintiff, of dangerous interactive stunts with the audience;
- b. Careless and negligently engaged in acts that Defendant knew, or should have known, would cause harm to Plaintiff.
- c. Carelessly and negligently restrained Plaintiff in his seat during the performance;
- d. Carelessly and negligently forced an "esophagus cam" into the mouth and/or throat of Plaintiff; and,
- e. Were otherwise careless and negligent.

27. As a direct and proximate result of the aforesaid acts committed by the Defendants, Plaintiff, JAMES SRODON, has experienced pain, suffering, emotional distress, disability, disfigurement, loss of enjoyment of life, and has incurred medical bills, all of which are permanent in nature.

WHEREFORE Plaintiff prays for judgment against Defendants FOX BEVERAGES, INC., and SWELL PICTURES, INC., for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs and interest, and for any other such relief this Court deems fair and just.

COUNT VI
Negligence

(Srodon v. Fox Theatricals, LLC, and Fox Associates, LLC)

1-24. Plaintiff hereby repeats and realleges Paragraphs 1 through 24 of the General Allegations as and for his allegations in Paragraphs 1 through 24 in Count VI as though fully stated herein.

25. At the aforesaid time and location, it was the duty of Defendants, FOX THEATRICALS and FOX ASSOCIATES, to exercise reasonable and ordinary care and caution in and about the ownership, management, maintenance, control and operation of the above described event, the premises, the equipment, devices and/or materials used, to enable persons, including Plaintiff, to attend the same without harm or injury.

26. At the time and place aforesaid, Defendants, FOX THEATRICALS and FOX ASSOCIATES, through its agents, employees, and/or licensees, committed one or more of the following careless and negligent acts and/or omissions, in breach of aforesaid duty:

- a. Failed to warn patrons attending the aforesaid show, including Plaintiff, of dangerous interactive stunts with the audience;
- b. Careless and negligently engaged in acts that Defendant knew, or should

have known, would cause harm to Plaintiff.

- c. Carelessly and negligently restrained Plaintiff in his seat during the performance;
- d. Carelessly and negligently forced an "esophagus cam" into the mouth and/or throat of Plaintiff; and,
- e. Were otherwise careless and negligent.

27. As a direct and proximate result of the aforesaid acts committed by the Defendants, Plaintiff, JAMES SRODON, has experienced pain, suffering, emotional distress, disability, disfigurement, loss of enjoyment of life, and has incurred medical bills, all of which are permanent in nature.

WHEREFORE Plaintiff prays for judgment against Defendants FOX THEATRICALS, LLC, and FOX ASSOCIATES, LLC, for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs and interest, and for any other such relief this Court deems fair and just.

COUNT VII
Negligent Infliction of Emotional Distress
(Srodon v. Blue Man Group Productions, Inc.)

1-24. Plaintiff hereby repeats and realleges Paragraphs 1 through 24 of the General Allegations as and for his allegations in Paragraphs 1 through 24 in Count VII as though fully stated herein.

25. The aforesaid acts or omissions committed by Defendant, BLUE MAN, subjected Plaintiff, JAMES SRODON, to physical impact.

26. On the aforesaid time and place, the Defendant, BLUE MAN, was negligent in creating the risk of physical injury to the Plaintiff, JAMES SRODON.

27. At all times relevant hereto, Defendant BLUE MAN had a duty to Plaintiff, JAMES

SRODON, so as to not cause him harm or injury.

28. As a direct and proximate result of the aforesaid actions, Defendant BLUE MAN breached their duty to the Plaintiff, JAMES SRODON, by physically injuring him resulting in psychological and emotional damage of a severe and debilitating nature.

WHEREFORE Plaintiff prays for judgment against Defendant BLUE MAN for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs and interest, and for any other such relief this Court deems fair and just.

COUNT VIII
Negligent Infliction of Emotional Distress
(Srodon v. Fox Beverages, Inc., and Swell Pictures, Inc.)

1-24. Plaintiff hereby repeats and realleges Paragraphs 1 through 24 as and for his allegations in Paragraphs 1 through 24 in Count VIII as though fully stated herein.

25. The aforesaid acts and/or omissions committed by Defendants, FOX BEVERAGE and SWELL, through their agents, employees, and/or licensees, subjected Plaintiff, JAMES SRODON, to physical impact.

26. On the aforesaid time and place, the Defendants, FOX BEVERAGE and SWELL, were negligent in creating the risk of physical injury to the Plaintiff, JAMES SRODON.

27. At all times relevant hereto, Defendants, FOX BEVERAGE and SWELL had a duty to Plaintiff, JAMES SRODON, so as to not cause him harm or injury.

28. As a direct and proximate result of the aforesaid actions, Defendants, FOX BEVERAGE and SWELL breached their duty to the Plaintiff, JAMES SRODON, physically injuring him resulting in psychological and emotional damage of a severe and debilitating nature.

WHEREFORE Plaintiff prays for judgment against Defendants, FOX BEVERAGES, INC., and SWELL PICTURES, INC. for an amount in excess of FIFTY THOUSAND

DOLLARS (\$50,000.00), plus costs and interest, and for any other such relief this Court deems fair and just.

COUNT IX
Negligent Infliction of Emotional Distress
(Srodon v. Fox Theatricals, LLC, and Fox Associates, LLC)

1-24. Plaintiff hereby repeats and realleges Paragraphs 1 through 24 of the General Allegations as and for his allegations in Paragraphs 1 through 24 in Count IX as though fully stated herein.

25. The aforesaid acts or omissions committed by Defendants, FOX THEATRICALS and FOX ASSOCIATES, through their agents, employees, and/or licensees subjected Plaintiff, JAMES SRODON, to physical impact.

26. On the aforesaid time and place, the Defendants, FOX THEATRICALS and FOX ASSOCIATES, were negligent in creating the risk of physical injury to the Plaintiff, JAMES SRODON.

27. At all times relevant hereto, Defendants, FOX THEATRICALS and FOX ASSOCIATES had a duty to Plaintiff, JAMES SRODON, so as to not cause him harm or injury.

28. As a direct and proximate result of the aforesaid actions, Defendants, FOX THEATRICALS and FOX ASSOCIATES breached their duty to the Plaintiff, JAMES SRODON, physically injuring him resulting in psychological and emotional damage of a severe and debilitating nature.

WHEREFORE Plaintiff prays for judgment against Defendants, FOX THEATRICALS, LLC, and FOX ASSOCIATES, LLC, for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs and interest, and for any other such relief this Court deems fair and just.

COUNT X
Intentional Infliction of Emotional Distress
(Srodon v. Blue Man Group Production, Inc.)

1-24. Plaintiff hereby repeats and realleges Paragraphs 1 through 24 of the General Allegations as and for his allegations in Paragraphs 1 through 24 in Count X as though fully stated herein.

25. The aforesaid acts and conduct that Defendant BLUE MAN engaged in was extreme and outrageous.

26. That the Defendant was intentional and reckless when engaging in aforesaid acts and conduct.

27. As a direct and proximate result of the aforesaid egregious acts or omissions by the Defendant, Plaintiff, JAMES SRODON, was severely emotionally injured. Specifically, the actions of Defendant have resulted in Plaintiff, JAMES SRODON's physical injuries stated herein, and further caused the Plaintiff to suffer feelings of anxiousness, paranoia, fear, and to experience nightmares and mental distress which will continue into the unforeseeable future.

WHEREFORE Plaintiff prays for judgment against Defendant BLUE MAN PRODUCTIONS, INC., for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs and interest, and for any other such relief this Court deems fair and just.

COUNT XI
Intentional Infliction of Emotional Distress
(Srodon v. Fox Beverages, Inc., and Swell Pictures, Inc.)

1-24. Plaintiff hereby repeats and realleges Paragraphs 1 through 24 of the General Allegations as and for his allegations in Paragraphs 1 through 24 in Count XI as though fully stated herein.

25. The aforesaid acts and conduct that Defendant FOX BEVERAGE and SWELL

PICTURES, through its agents, employees and/or licensees, engaged in was extreme and outrageous.

26. That the Defendants were intentional and reckless when engaging in aforesaid acts and conduct.

27. As a direct and proximate result of the aforesaid egregious acts or omissions by the Defendants, Plaintiff, JAMES SRODON, was severely emotionally injured. Specifically, the actions of Defendants have resulted in Plaintiff, JAMES SRODON's physical injuries stated herein, and further caused the Plaintiff to suffer feelings of anxiousness, paranoia, fear, and to experience nightmares and mental distress which will continue into the unforeseeable future.

WHEREFORE Plaintiff prays for judgment against Defendants FOX BEVERAGES, INC., and SWELL PICTURES, INC., for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs and interest, and for any other such relief this Court deems fair and just.

COUNT XII

Intentional Infliction of Emotional Distress (Srodon v. Fox Theatricals, LLC, and Fox Associates, LLC)

1-24. Plaintiff hereby repeats and realleges Paragraphs 1 through 24 of the General Allegations as and for his allegations in Paragraphs 1 through 24 in Count XII as though fully stated herein.

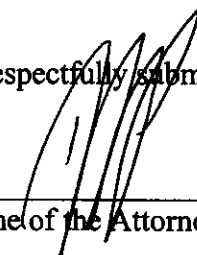
25. The aforesaid acts and conduct committed by Defendants FOX THEATRICALS and FOX ASSOCIATES, through their agents, employees, and/or licensees, was extreme and outrageous.

26. That the Defendants were intentional and reckless in committing the aforesaid acts and conduct.

27. As a direct and proximate result of the aforesaid egregious acts and conduct by the Defendants, Plaintiff, JAMES SRODON, was severely emotionally injured. Specifically, the actions of Defendants have resulted in Plaintiff, JAMES SRODON's physical injuries stated herein, and further caused the Plaintiff to suffer feelings of anxiousness, paranoia, fear, and to experience nightmares and mental distress which will continue into the unforeseeable future.

WHEREFORE Plaintiff prays for judgment against Defendants FOX THEATRICALS, LLC, and FOX ASSOCIATES, LLC, for an amount in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs and interest, and for any other such relief this Court deems fair and just.

Respectfully submitted,



One of the Attorneys for Plaintiff

Antonio M. Romanucci
David J. Vander Ploeg
ROMANUCCI & BLANDIN
33 N. LaSalle St. Ste. 2000
Chicago, Illinois 60602
(312) 458-1000
(312) 458-1004 *facsimile*
Attorney No.: 35875