

Marcus Turner

CAUSE NO. DC-19-14528

JANE DOE,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
V.	§	DALLAS COUNTY, TEXAS
	§	
CLAUDE J. SPILLMAN, DALLAS	§	
COWBOYS FOOTBALL CLUB,	§	
LTD. (d/b/a and/or a/k/a DALLAS	§	
COWBOYS), and JWJ	§	
CORPORATION,	§	
	§	
Defendants.	§	____ JUDICIAL DISTRICT

PLAINTIFF’S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff JANE DOE, files this Original Petition and Request for Disclosure, complaining of Defendants CLAUDE J. SPILLMAN, DALLAS COWBOYS FOOTBALL CLUB, LTD. (d/b/a and/or a/k/a DALLAS COWBOYS) and JWJ CORPORATION (Defendants Dallas Cowboys Football Club, Ltd. (d/b/a and a/k/a Dallas Cowboys) and JWJ Corporation hereinafter collectively referred to as “DALLAS COWBOYS”) and, and alleges as follows:

I. DISCOVERY CONTROL PLAN

Plaintiff intends to conduct discovery under Level III of Texas Rules of Civil Procedure 190.4 because she seeks monetary relief aggregating more than \$50,000 and requests the Court enter a Discovery Control Plan to place this case under Level

III.

II. PARTIES

1. Plaintiff JANE DOE is a resident of Maricopa County, Arizona.

2. Defendant CLAUDE J. SPILLMAN is a resident of Dallas County, Texas. Service of process may be had upon Defendant by serving a citation on him at his residence 901 Longmeadow Lane, DeSoto, TX 75115 or wherever Defendant may be found.

2. Defendant DALLAS COWBOYS FOOTBALL CLUB, LTD. (d/b/a and/or a/k/a DALLAS COWBOYS) is a Domestic Limited Partnership organized under the laws of Texas, with its main office located at: One Cowboys Way, Frisco, TX 75034 in Collin County, Texas. Service of process may be had upon Defendant by serving a citation on its Registered Agent: C T Corporation System, 1999 Bryan St, Ste 900, Dallas TX 75201.

3. Defendant JWJ CORPORATION is a domestic for-profit corporation organized under the laws of Texas, with its main office located at: One Cowboys Way, Ste 100, Frisco, TX 75034 in Collin County, Texas. Service of process may be had upon Defendant by serving a citation on its Registered Agent: C T Corporation System, 1999 Bryan St Ste 900, Dallas TX 75201.

III. JURISDICTION

Jurisdiction is proper because the amount in controversy exceeds the minimum jurisdictional limits of this Court.

IV. VENUE

Venue is proper in Dallas County pursuant to §15.001 *et seq.* of the Texas Civil Practice & Remedies Code because at the time this action accrued Defendants' main offices were located at their Dallas Cowboys Valley Ranch Practice Facility, in Dallas County, Texas.

V. CLAIM FOR RELIEF

Plaintiff seeks relief in accordance with TEX. R. CIV. P. 47(c)(5).

VI. FACTS

1. On or about September 1, 2014, Defendant Spillman was signed to play football for the Dallas Cowboys NFL football team. The Defendants and Dallas Cowboys NFL football team hired Defendant Spillman when it knew or should have known of Defendant Spillman's propensities for physical assault and sexual violence.

2. Defendant Spillman previously assaulted his ex-girlfriend, who had a restraining order against him. Defendant Spillman had been required to attend anger management classes. Defendants knew or reasonably should have known of Defendant Spillman's past violent history.

3. Shortly thereafter, Defendant Spillman asked Jane Doe to visit him where he was residing at the Gaylord Texan Hotel, in Grapevine, Texas. The Gaylord Texas Hotel is advertised as the Official Hotel of the Dallas Cowboys NFL football team and was used as its base for home game weekends.

4. Jane Doe eventually agreed to come to Dallas to visit Defendant Spillman at the hotel provided for him by Defendants. Defendant Spillman advised Jane Doe he would be picking her up with a vehicle service and driver provided to him by the Defendants. Defendant Spillman explained to Jane Doe that Defendants provided him and other football players with a vehicle service and driver to take them wherever they needed to go.

5. On September 19, 2014, before Jane Doe boarded her plane to Dallas, Texas, she spoke with Defendant Spillman again and discussed his expectations of her during the trip to Dallas. They both specifically agreed there would be no sexual activities occurring.

6. Defendant Spillman picked up Jane Doe from the DFW Airport with the Defendants' vehicle service and driver. Defendant Spillman and Jane Doe were driven back to the Gaylord Texan Hotel.

7. When Jane Doe first arrived at the Gaylord Texan Hotel, she did not have a separate room as previously agreed but instead Defendant Spillman's room provided two separate beds. Defendant Spillman informed Jane Doe, a second room

was not available and asked if she would use the second bed, which she agreed. Defendant Spillman was in hotel room number 4378 which was registered under “Dallas Cowboy camp reservations” and was provided to Defendant Spillman by Defendants Dallas Cowboys Football Club, Ltd. and JWJ Corporation as a newly signed player for the Dallas Cowboys NFL football team.

8. During her visit, Defendant Spillman smoked marijuana in Jane Doe’s presence while driving them to the mall. Jane Doe declined to smoke marijuana with Defendant Spillman and began planning to leave and return to her home.

9. Later that day, when Jane Doe and Defendant Spillman returned to his hotel room 4378, Jane Doe informed Defendant Spillman she wanted to leave and asked Defendant Spillman how she could change her return flight. Defendant Spillman took her phone from her possession.

10. Defendant Spillman stood in front of her, told her she was not leaving, and that she was going to listen to him. Jane Doe tried to move away again, but Defendant pushed her back on the bed and placed a chair in front of the bed where Jane Doe was sitting. Defendant Spillman refused to change her flight.

11. Jane Doe did not feel she could safely remove herself from the situation with Defendant Spillman at that time in hotel room numbered 4378.

12. During the early morning hours on or about September 20, 2014, Defendant Spillman forcefully sexually assaulted Jane Doe. During the sexual

assault, Defendant Spillman placed his hand around her neck while instructing her to stop screaming. Defendant Spillman also held Jane Doe's hands above her head where she could not get away from him, while he was sexually assaulting her.

13. After the sexual assault, Defendant Spillman departed the Gaylord Texan Hotel room for a Dallas Cowboys NFL football practice. Immediately after Defendant Spillman left the room, Jane Doe, still crying and emotionally upset, cleaned herself off, grabbed her belongings, and left the hotel room. Jane Doe went down to the front desk and asked for someone to bring her to the DFW Airport.

14. After Jane Doe arrived at the DFW Airport, called her mother and explained what had happened. Jane Doe's mother then 3-way called 911, to speak with Jane Doe who was distraught. Grapevine Police Department came to the DFW Airport and took Jane Doe's report of sexual assault made against Defendant Spillman. Jane Doe's police report was made on the same date that she was sexually assaulted and raped.

15. Defendants, Defendant Spillman, Gaylord Texan Hotel's security, and Defendants' security were advised of the charges against Defendant Spillman which occurred in Gaylord Texan Hotel's room numbered 4378.

16. Defendants allowed Defendant Spillman to continue as an employee/member of the Dallas Cowboys NFL Football team, despite being charged for sexual assault and rape.

17. Thereafter, Defendant Spillman was convicted of a second-degree felony for the sexual assault and rape of Jane Doe.

18. At all relevant times, Defendants were aware of Defendant Spillman's history of assault.

19. At all relevant times, Defendant Spillman posed an unreasonable risk of harm.

20. At all relevant times, Defendants knew or reasonably should have known of the danger posed by Defendant Spillman.

21. At all relevant times, Defendants foresaw or reasonably could have foreseen the danger posed by Defendant Spillman.

22. At all relevant times, Defendants failed to properly monitor and/or supervise Defendant Spillman.

23. The intentional and negligent acts and omissions of Defendants, as set out herein, separately and collectively, and otherwise, were a direct and proximate cause of the incident in question and the resulting injuries and damages sustained by Plaintiff.

VII. CAUSE OF ACTION AGAINST DEFENDANT SPILLMAN

1. Plaintiff incorporates by reference, as if set forth at length herein, all factual allegations set forth in the prior paragraphs of this Petition.

a. Infliction of Bodily Injury

2. Defendant Spillman acted intentionally, knowingly, and/or recklessly in making direct physical contact with Jane Doe's person. This included sexual assault and rape. Defendant Spillman's contact caused bodily injury to Jane Doe.

b. Offensive Physical Contact

3. Defendant Spillman acted intentionally and/or knowingly in making direct physical contact with Jane Doe's person.

4. Defendant Spillman knew or reasonably should have known that Jane Doe would regard the contact as offensive or provocative.

5. Defendant Spillman's offensive physical contact caused injury to Jane Doe.

**VIII. CAUSE OF ACTION AGAINST DEFENDANTS
DALLAS COWBOYS FOOTBALL CLUB, LTD. d/b/a DALLAS COWBOYS
and JWJ CORPORATION**

1. Plaintiff incorporates by reference, as if set forth at length herein, all factual allegations set forth in the prior paragraphs of this Petition.

Negligence

2. At all relevant times, Defendant Spillman was an employee of Defendants and was acting within the scope of his employment with Defendants Dallas Cowboys Football Club, Ltd. d/b/a Dallas Cowboys and JWJ Corporation.

3. At all relevant times, Defendant Spillman was residing at the Gaylord Texan Hotel, which was provided to Defendant Spillman and paid for by Defendants

Dallas Cowboys Football Club, Ltd. d/b/a Dallas Cowboys and JWJ Corporation in the course and scope of his employment with the Dallas Cowboys.

4. At all relevant times, Jane Doe was invited by Defendant Spillman to the Gaylord Texan Hotel as a guest on room number 4378, which was provided to Defendant Spillman and paid for by Defendants Dallas Cowboys Football Club, Ltd. d/b/a Dallas Cowboys and JWJ Corporation.

5. At all relevant times, Defendant Spillman was residing at the Gaylord Texan Hotel in room number 4378, which was provided to Defendant Spillman and paid for by Defendants Dallas Cowboys Football Club, Ltd. d/b/a Dallas Cowboys and JWJ Corporation for the performance of Defendant Spillman's regular or specifically assigned duties for the benefit of his employers – Defendants Dallas Cowboys Football Club, Ltd. d/b/a Dallas Cowboys and JWJ Corporation.

6. Defendant Spillman sexually assaulted Jane Doe in the residence provided for him by the Dallas Cowboys in the course and scope of his employment with the Dallas Cowboys.

7. At all relevant times, Defendants had authority and control over Defendant Spillman that exceeded the typical employer-employee relationship by way of implementing player conduct rules and restrictions.

8. Defendant Claude J. Spillman was employed by Defendants as an NFL football player at the time of his assault, battery, and sexual assault of Jane Doe.

Defendant Spillman's sexual assault and rape of Jane Doe was incident to his employment due to the rape occurring, at the Defendants' room and board provided to Defendant Spillman in the course and scope of his employment with Defendants, and is, therefore, imputed to Defendants, who are liable under the common-law doctrine of *respondeat superior* or vicarious liability.

9. Defendants were negligent in hiring, supervising, retaining, and/or continuing the employment of Defendant Spillman when they knew or should have known, as early as August 30, 2014, prior to hiring Defendant Spillman, that he was volatile and had been accused of sexual and physical abuse, by others.

10. Defendants failed to report, investigate, and/or otherwise take appropriate action, including contacting authorities and/or law enforcement personnel or agencies and removing Defendant Spillman from Defendants' employment after learning of Defendant Spillman prior assaults.

11. Defendants' failure to properly monitor and supervise Defendant Spillman, and their failure to discontinue his employment despite knowledge of his prior assault, allowed Defendant Spillman's inappropriate sexual behavior and rape to occur to Jane Doe.

12. As a result of Defendants' conduct, jointly and severally, Jane Doe has suffered, and will continue to suffer, severe emotional and mental distress and harm from the brutal sexual assault and rape she endured.

13. Defendants' negligent actions and omissions were a proximate cause of the sexual assault and rape of Jane Doe and the resulting harm and damages to Plaintiff.

IX. DAMAGES

1. As a result of the incident described herein, Plaintiff has incurred medical expenses in the past and in all reasonable probability such medical expenses will continue in the future.

2. Plaintiff has experienced mental anguish and emotional distress in the past and in all reasonable probability such mental anguish and emotional distress will continue in the future.

3. Plaintiff has experienced physical pain and suffering in the past and in all reasonable probability such physical pain and suffering will continue in the future.

4. Plaintiff has suffered lost earnings in the past and in all reasonable probability such lost earning capacity will continue in the future.

5. Plaintiff has incurred other post-incident expenses in the past and in all reasonable probability such other post-incident expenses will continue in the future.

XII. CLAIM FOR PREJUDGMENT AND POST-JUDGMENT INTEREST

Plaintiff herein claims interest in accordance with Texas Finance Code §304.001 *et seq.* and any other applicable law.

XIII. JURY DEMAND

Plaintiff demands a jury trial and tenders the appropriate fee with the Original Petition.

XIV. REQUEST FOR DISCLOSURE AND PRESERVATION

1. Under Texas Rules of Civil Procedure 194, Plaintiff requests that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

2. Defendants are hereby given notice that any document or other material, including electronically stored information, that may be evidence or relevant to any issue in this case is to be preserved in its present form until this litigation is concluded.

XX. NOTICE PURSUANT TO TEX. R. CIV. P. 193.7

1. Plaintiff provides notice to Defendants pursuant to Rule 193.7 of the Texas Rules of Civil Procedure that Plaintiff may utilize as evidence during the trial of this lawsuit all documents exchanged by the parties in written discovery in this case.

XXI. PRAYER

WHEREFORE PREMISES CONSIDERED, Plaintiff prays that Defendants be cited to appear and answer herein and upon final hearing of this cause, Plaintiff have judgment against Defendants (jointly and severally), for damages described

herein, for costs of suit, pre-judgment and post judgment interest permitted by law,
and for such other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

TURLEY LAW FIRM

/s/ Lacey Turley Most

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