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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

Becki Marchinek,  
  
Plaintiff,

v.

MCDONALD'S CORPORATION,  
MCDONALD'S USA, LLC,  
MCDONALD'S RESTAURANTS OF  
OREGON, INC., IVORY COAST  
MANAGEMENT, LLC, JHBC, INC., JO  
EPSILON, LLC, and JANE DOE,  
  
Defendants.

Case No. \_\_\_\_\_

COMPLAINT  
(Tort)

Prayer: \$10,000.00

ORS 21.160

SUBJECT TO MANDATORY  
ARBITRATION

Plaintiff, Becki Marchinek, alleges:

1.

At all material times herein, Ms. Marchinek was a customer at a McDonald's restaurant located at 12440 SE 82nd in Clackamas, Oregon (referred to as the McDonald's restaurant).

2.

At all material times herein, the McDonald's restaurant was owned and operated by Defendant McDonald's Corporation (referred to as McDonald's) and or

1 in the alternative, one or more of the following: Defendant McDonald's USA, LLC  
2 (referred to as McDonald's LLC), Defendant McDonald's Restaurants of Oregon,  
3 Inc., an Oregon Corporation (referred to as McDonald's of Oregon), Defendant Ivory  
4 Coast Management, LLC (referred to as Ivory Coast), Defendant JHBC, Inc.  
5 (referred to as JHBC), or Defendant Jo Epsilon, LLC (referred to as Jo Epsilon).

6 3.

7 At all material times herein, Defendant Jane Doe (referred to as the  
8 McDonald's employee), a resident of Oregon, was acting within the course and scope  
9 of her employment for McDonald's, and or McDonald's LLC, McDonald's of Oregon,  
10 Ivory Coast, JHBC, and or Jo Epsilon.

11 4.

12 At all material times herein, Defendant McDonald's does regular sustained  
13 business in Multnomah county.

14 **COUNT 1 - NEGLIGENCE**

15 5.

16 Plaintiff re-alleges, and incorporates by reference, paragraphs 1-4.

17 6.

18 On February 10, 2018, Ms. Marchinek was using the soda fountain machine  
19 at the McDonald's restaurant when a piece of metal fell from it, striking her upper  
20 arm, near her arm pit, as well as her wrist and hand. This impact caused minor  
21 injuries laid out more fully below.

22 ///

1 7.

2 After the piece of metal struck Ms. Marchinek, her husband informed the  
3 McDonald's employee what happened. The employee then approached Ms.  
4 Marchinek, said McDonald's needed to document her injuries, and told Ms.  
5 Marchinek that she needed to accompany her to the bathroom.

6 8.

7 The McDonald's employee then escorted Ms. Marchinek to the bathroom.

8 9.

9 Upon entering the bathroom, the McDonald's employee asked Ms. Marchinek  
10 to fill-out a piece of paper with her name and address. After doing so, the  
11 McDonald's employee then asked Ms. Marchinek to take her top off so that she  
12 could photograph her injuries.

13 10.

14 Ms. Marchinek told the McDonald's employee she was not comfortable taking  
15 her top off, and said "I will just go," and then started to leave.

16 11.

17 As Ms. Marchinek started to leave, the McDonald's employee stepped  
18 between her and the bathroom door, blocking her only means of exit, and told her  
19 she did not have a choice, and that she had to be photographed.

20 ///

21 ///

22 ///

23

1 12.

2 After the McDonald's employee blocked her from leaving and said she had to  
3 be photographed, Ms. Marchinek said "this is stupid, I just want to go," but the  
4 McDonald's employee refused to step aside and replied only, "it's policy."

5 13.

6 Believing she would not be allowed to leave unless she gave consent to the  
7 McDonald's employee to take topless photographs of her injury, Ms. Marchinek took  
8 her shirt off and let the McDonald's employee take pictures of her, in the hope that  
9 she could just get out bathroom, and rejoin her family.

10 14.

11 At all material times herein, Defendants were negligent by unreasonably  
12 creating a foreseeable risk of harm to Ms. Marchinek in one or more, but possibly  
13 other particulars:

- 14 a. Enacting policies and procedures requiring employees to detain  
15 injured customers, even with minor injuries, until they remove their  
16 clothing and allow their injuries to be photographed;
- 17 b. Failing to enact policies and procedures prohibiting the confinement of  
18 customers;
- 19 c. Failure to properly train employees regarding proper policies and  
20 procedures for collecting information after a customer has been  
21 injured;

22 ///

- d. Failure to properly supervise employees in the proper implementation of company policies and procedures regarding collecting information from customers who have been injured;
- e. Failure to properly inspect and or repair equipment used by business invitees such as Ms. Marchinek;
- f. Failure to warn about dangers or defects in the machines used by business invitees.; and or
- g. Failure to make the premises reasonably safe.

15.

As a direct and proximate cause of one or more of Defendants' negligence, Ms. Marchinek suffered the following injuries:

- a. Temporary Loss of her freedom of movement
- b. Embarrassment;
- c. Invasion of privacy;
- d. Inconvenience;
- e. Hand and or wrist injury; and
- f. Injury to her upper arm in the area of her arm pit.

16.

In addition to the aforesaid injuries, Defendant's negligence was the direct and proximate cause of the following economic injuries to Ms. Marchinek: Medical treatment costs in the approximate amount of \$2,211.06.

1 17.

2 Ms. Marchinek is entitled to recover for non-economic injuries in the amount  
3 of \$7,788.94.

4 **COUNT 2 – FALSE IMPRISONMENT**

5 18.

6 Plaintiff re-alleges and incorporates by reference paragraphs 1-17.

7 19.

8 At all material times herein, the McDonald's employee confined Ms.  
9 Marchinek in the bathroom against her will until she consented to being  
10 photographed topless.

11 20.

12 At all material times herein, the actions taken by the McDonald's employee  
13 were intended, and did in fact cause Ms. Marchinek 's confinement.

14 21.

15 At all material times herein, Ms. Marchinek was aware that she was confined  
16 against her will.

17 22.

18 At all material times herein, the McDonald's employee's confinement of Ms.  
19 Marchinek was unlawful.

20 23.

21 Ms. Marchinek issued a demand on Defendants and Defendants' known  
22 agents for \$10,000.00 or less more than 30 days prior to the filing of this complaint.

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24.

Ms. Marchinek is entitled to reasonable attorneys fees pursuant to ORS 20.080.

25.

PLAINTIFF demands a jury trial.

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- a. \$2,211.06 in economic damages;
- b. \$7,788.94 in non-economic damages;
- c. Attorney fees; and
- d. All other costs, disbursements, fees, and awards as the Court sees fit.

DATED this 8th day of January, 2019.

s/NEAL PETON  
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