

2020CI02830
CAUSE NO.

HANNAH HAGAN,

Plaintiff,

$$y,$$

DECOTY COFFEE COMPANY

Defendant.

IN THE DISTRICT COURT

131st
____ JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION, REQUEST FOR DISCLOSURE,
AND JURY DEMAND**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW HANNAH HAGAN, (hereinafter referred to as “Plaintiff”) complaining of Defendant DECOTY COFFEE COMPANY (hereinafter referred to as “Defendant”) for causes of action would respectfully show unto the Court as follows:

DISCOVERY

1. *Discovery Control Plan.* Pursuant to Rule 190.3 of the Texas Rules of Civil Procedure, Discovery Control Plan Level Two governs this lawsuit.
2. *Request for Disclosure.* Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant is requested to disclose, within 50 days of service of this request, the information described in Rule 194.2 of the Texas Rules of Civil Procedure.
3. *Production of Documents Self-Authenticating.* Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, each defendant named in this petition is hereby put on notice that your production of a document in response to written discovery authenticates the document for use against that defendant in any pretrial proceeding or at trial.

PARTIES

4. Plaintiff is a resident of the State of Texas. She currently resides in Bexar County, Texas, and has resided there at all times material to this lawsuit.
5. Defendant DECOTY COFFEE COMPANY is a corporation organized under the laws of
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the State of Texas. Defendant has a principal place of business located at 1920 Austin Street, San Angelo, Texas 76903. Defendant may be served with process by serving its registered agent, Michael J. Agan, at 1920 Austin Street, San Angelo, Texas 76903, and/or wherever any duly authorized agent may be found.

MISNOMER/MISIDENTIFICATION

6. In the event any parties are misnamed or are not included herein, it is Plaintiff's contention that such was a "misidentification," "misnomer" and/or such parties were "alter egos" of parties named herein. Alternatively, Plaintiff contends that such "corporate veils" should be pierced to hold such parties properly included in the interest of justice.

JURISDICTION & VENUE

7. This court has personal jurisdiction, both specific and general, over Defendant because it conducts business in the State of Texas. Additionally, venue is proper in Bexar County because a substantial amount of the events and omissions giving rise to the claim took place in Bexar County. TEX. CIV. PRAC. & REM. CODE §15.002(a)(1).

8. Plaintiff has suffered damages in an amount within the jurisdictional limits of this Court. Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiff in good faith pleads the value of this case to be more than one million dollars (\$1,000,000.00).

BRIEF FACTS

9. On or about October 19, 2018, Plaintiff sustained on-the-job injuries while performing duties for her employer, Pasha Mediterranean Grill (hereinafter referred to as "Pasha").

10. Prior to the incident made the basis to the suit, Pasha experienced a bad food poisoning outbreak. In an effort to minimize the negative effects of the outbreak, Pasha implemented a free tea and dessert program to all its customers. While Plaintiff was carrying a hot tea pitcher to a customer, her beverage tray became unbalanced and scalding water from the hot tea pitcher fell onto her. As a

result of the scalding water, Plaintiff suffered severe bodily injuries, including but not limited to severe burns to her body that required her to receive skin grafting.

11. At all times relevant to this cause of action, Defendant maintained the coffee and/or tea equipment and temperature settings for the hot water and had a duty to keep the water at a reasonable temperature. Additionally, Defendant did not warn Pasha or Pasha's employees on the dangers of serving water and/or tea at unreasonably high temperatures.

NEGLIGENCE

12. Plaintiff would show that the damages and injuries were caused by the negligence of Defendant, its employees, agents and representatives. Plaintiff would also show that Defendant owed a duty to Plaintiff, that Defendant breached said duty, and that such breach was a proximate cause of the injury and the resulting damages to Plaintiff. Defendant, its agents, representatives and employees were negligent by breaching its duty to Plaintiff in one or more of the following alternative theories of negligence:

- a. Negligence in setting the temperature on its machine to serve hot water and/or tea at unreasonably high temperatures;
- b. Failure to guard individuals such as Plaintiff from the high temperatures of hot water and/or tea;
- c. Negligence in failing to require its hot water and/or tea to be maintained at reasonable temperatures;
- d. Failure to maintain the hot water and tea equipment;
- e. Failure to train individuals on how to use its equipment;
- f. Failure to maintain the proper water and/or tea temperature for its equipment;
- g. Negligence in placing the tea and/or hot water at a temperature hot enough to pose burn risks;
- h. Failure to reduce the tea and/or water temperature knowing of the risks or likelihood of serious injury;
- i. Failure to warn Plaintiff of the dangers;
- j. Failure to adequately supervise;
- k. Negligent hiring of persons without adequate qualifications, training and safety experience;
- l. Failure to establish and enforce safety rules and regulations;
- m. Failure to have adequate equipment and policies in place to prevent injuries like the one that happened to Plaintiff;
- n. Failure to assess the workplace and determine if hazards are present that necessitate the use of personal protective equipment (PPE) in violation of OSHA § 1910.132(d)(1);

- o. Failure to require individuals who use its products to use personal protective equipment (PPE) to protect the individuals from incidents such as the one that happened to Plaintiff, in violation of OSHA § 1910.132(d)(1)(i);
- p. Negligence in failing to warn Pasha and Pasha employees of the hazards involved with handling its coffee and/or tea equipment;
- q. Negligence in failing to provide Pasha and Pasha employees with proper safety procedures when handling its coffee and/or tea equipment;
- r. Negligence in failing to provide Pasha and Pasha employees with the proper personal protective equipment (PPE) to prevent injury;
- s. Negligence in failing to provide Pasha and Pasha employees with waiter's cloths, hot pads, mitts, and/or any protective barriers to prevent the burns such as the one Plaintiff suffered;
- t. Negligence in failing to implement proper policies and procedures when handling its coffee and/or tea equipment;
- u. Failure to train Pasha and its employees on the proper ways to use its coffee and/or tea equipment; and
- v. Other acts of negligence.

One or more of the foregoing acts and omissions constituted negligence. Further, one or more of the foregoing acts or omissions was a proximate cause of the damages and injuries to Plaintiff.

DAMAGES

13. As a direct result of the occurrence, Plaintiff suffered bodily injuries. As a further result of the occurrence, Plaintiff has incurred expenses for medical care attention, and other expenses including but not limited to necessary surgeries and medical attention. These expenses incurred were necessary for the care and treatment of the injuries sustained by Plaintiff, and the charges made and to be made were the usual and customary charges for such services. Plaintiff will require further medical care and attention and will necessarily incur reasonable expenses in the future for such medical needs. Plaintiff makes a claim herein for all past and future medical care.

14. As a further result of the occurrence, Plaintiff was prevented from working and has lost wage earning capacity in the past and in the future. Plaintiff makes a claim herein for all past and future lost earnings and loss of earning capacity.

15. Plaintiff was prevented from performing her household duties and will continue to be unable to perform her household duties in the future.

16. Plaintiff has suffered pain and suffering in the past. Plaintiff will continue to suffer pain and

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suffering in the future. Plaintiff makes a claim herein for all past and future pain and suffering.

17. Plaintiff has suffered mental pain and anguish in the past. Plaintiff will continue to suffer mental pain and anguish in the future. Plaintiff makes a claim herein for all past and future mental anguish.

18. As a result of the injuries, Plaintiff has suffered and will continue to suffer impairment to her body. Plaintiff makes a claim herein for all past and future impairment.

19. Plaintiff has suffered disfigurement. Plaintiff makes a claim herein for all past and future disfigurement.

CLAIM FOR PUNITIVE DAMAGES

20. Plaintiff is entitled to punitive damages because of Defendant's gross negligence. Defendant's acts or omissions, when viewed objectively from the standpoint of Defendant at the time of their occurrence, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others and of which the Defendant had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others. Plaintiff is entitled to punitive damages in a sufficient amount to punish Defendant for their reckless, heedless and intentional conduct and to set an example for others that such conduct will not be tolerated.

JURY DEMAND

21. Plaintiff respectfully requests a trial by jury of the issues in this case.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendant be cited to appear and answer, and that upon final trial, Plaintiff has judgment against each respective Defendant for all relief requested, for pre-judgment interest, post-judgment interest, for costs of this suit, punitive damages and for such other and further relief, general and special, at law or in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'J. Espinoza', is written over a horizontal line.

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