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Attorney for EARL JAMAR JORDAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

EARL JAMAR JORDAN,

Plaintiff,

vs.

CARL'S JR., INC., CKE RESTURANTS,
INC., CARL'S JR. SAN FRANCISCO,
Ta'DARREL E. POSEY, d/b/a CALIFORNIA
ADVANCE PATROL, RAFIQ DEMETRIUS
JONES, and DOES 1-50,

Defendants.

Case No.:

**COMPLAINT FOR NEGLIGENCE AND
INTENTIONAL TORTS**

-and-

REQUEST FOR DAMAGES

DEMAND FOR JURY TRIAL

EARL JAMAR JORDAN, by and through his attorney, Steven F. Gruel, hereby respectfully submits his COMPLAINT FOR NEGLIGENCE AND INTENTIONAL TORTS and REQUEST FOR DAMAGES and DEMAND FOR JURY TRIAL against defendants CARL'S JR., INC., CKE RESTURANTS, INC., CARL'S JR. SAN FRANCISCO, Ta'DARREL POSEY d/b/a CALIFORNIA ADVANCE PATROL, RAFIQ DEMETRIUS JONE, and DOES 1-50.

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I. GENERAL ALLEGATIONS

1. Plaintiff EARL JAMAR JORDAN (hereafter referred to as "Plaintiff") is an individual currently residing in San Francisco County, California.
2. Plaintiff is informed and believes that defendant CARL'S JR., INC. ("CARL'S JR.") is a corporation doing business in California with corporate headquarters located at 6307 Carpinteria Avenue, Suite A, Carpinteria, California. 09013.
3. Plaintiff is informed and believes that CARL'S JR. contracts, issues, sells, and distributes restaurant franchises in San Francisco, through-out the United States and the globe.
4. Plaintiff is informed and believes that defendant CKE RESTURANTS, INC. ("CKE") is a corporation doing business in California and with corporate headquarters located at 6307 Carpinteria Avenue, Suite A, Carpinteria, California. 09013.
5. Plaintiff is informed and believes that CKE contracts, issues, sells, and distributes restaurant franchises in San Francisco, through-out the United States and the globe.
6. Plaintiff is informed and believes that defendants CARL'S JR. and CKE may be one in the same or associated in fact or by law to be one in the same.
7. Plaintiff is informed and believes that defendant CARL'S JR. SAN FRANCISCO ("CARL'S JR. SAN FRANCISCO") is and, at all times relevant herein, was a franchisee of defendants CARL'S JR. and/or CKE and located at or near 908 Market Street, San Francisco, California.
8. Plaintiff is informed and believes that defendant Ta'DARREL E. POSEY is an individual d/b/a CALIFORNIA ADVANCE PATROL who currently resides in California and provides and did provide, at all times material herein, security guard services at CARL'S JR. SAN FRANCISCO.
9. Plaintiff is informed and believes that defendant RAFIQ DEMETRIUS JONES ("JONES") is an individual who currently resides in San Francisco County and at all times relevant herein was employed as a security guard by all defendants and working

1 in such scope, nature and capacity by and for defendants CARL'S JR. SAN
2 FRANCISCO, POSEY, d/b/a CALILFORNIA ADVANCE PATROL, CARL'S JR.
3 and CKE.

4 10. Plaintiff is informed and believes that if JONES was not employed as a security guard
5 and working in such capacity by defendants CARL'S JR. SAN FRANCISCO, POSEY
6 d/b/a CALILFORNIA ADVANCE PATROL, CARL'S JR. AND CKE, he was
7 employed by defendant(s) DOE(s) to provide such service to those defendants.

8 11. Plaintiff is informed and believes that defendant JONES has an extensive criminal
9 record dating back to 1999 with arrests and/or convictions for many criminal actions,
10 including but not limited to battery, assault, illegal use of tear gas, and disorderly
11 conduct.

12 12. The true names, identities, involvement and capacities, whether corporate, associate,
13 individual or otherwise, of defendants DOES 1-50, inclusive, are unknown to the
14 Plaintiff who therefore sues said defendants by such fictitious names and Plaintiff will
15 ask leave to amend this Complaint and Request for Damages to set forth their true
16 names, identities, involvement and capacities when the same are ascertained. Plaintiff
17 is informed and believes and on such basis alleges that each of the defendants named
18 herein as DOE was in some manner responsible for the injuries and losses suffered by
19 Plaintiff.

20 13. Plaintiff is informed and believes that the defendants named above and herein at all
21 times herein mentioned were acting as the partners, agents, managers, supervisors,
22 franchisors, franchisees, servants and/or employees of the other defendants and in
23 doing the acts, events and things hereinafter alleged were acting within the course and
24 scope of their partnership, agency, management, supervision, franchise, service and
25 employment and with the express or implied knowledge, notification, and/or consent
26 of the other defendants. Each of the defendants held out the other as its authorized
27 representative and each defendant ratified the conduct of the other.

- 1 14. Defendants had the obligation, duty, responsibility, duty of reasonable care, special
2 relationship to select, vet, review, train, supervise, retain, manage and control the
3 conduct of security guards, agents, representatives, and employees working at
4 CARL'S Jr., SAN FRANCISCO and to provide them with adequate guidelines and
5 training in performance of their duties and responsibilities.
- 6 15. Defendants had the obligation, duty, responsibility, duty to exercise reasonable care
7 and special relationship to provide a safe environment, premises, location and place
8 for all visitors, patrons, and invitees, including the Plaintiff, while at CARL'S JR.
9 SAN FRANCISCO.
- 10 16. Defendants had the obligation, duty, responsibility, duty to exercise reasonable care
11 and special relationship to protect from harm, fear, injury and warn of any danger all
12 visitors, patrons, and invitees, including the Plaintiff, while at CARL'S JR. SAN
13 FRANCISCO.
- 14 17. Defendants had the obligation, duty, responsibility, duty to exercise reasonable care
15 and special relationship to provide for all visitors, patrons and invitees, including the
16 Plaintiff, at CARL'S JR. SAN FRANCISCO a safe environment, premise and location
17 to be free from attack, battery, injury, harm and assault by security guard defendant
18 JONES.
- 19 18. Defendants knew or should have known, and had the duty, responsibility, duty to
20 exercise reasonable care, and special relationship to know, prevent, and warn that
21 defendant JONES was negligently trained, vetted, reviewed, selected, employed,
22 managed, supervised, retained, empowered and placed in the position of a security
23 guard at CARL'S JR. SAN FRANCISCO.
- 24 19. During all relevant times of this lawsuit, all defendants, including security guard
25 JONES, acted during and within the scope and nature of their employment,
26 responsibility, contracts, arrangements, relationships and positions. All defendants
27 failed in their duties, responsibilities and exercise of reasonable care as described
28 herein.

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- 1 27. Defendants had the obligation, duty, responsibility, duty to exercise reasonable care
2 and a special relationship to provide and manage a safe premises, location, and
3 environment for all visitors, patrons, invitees of CARL'S JR. SAN FRANCISCO free
4 from attack, harm, fear, injury, battery, stabbing, and assault by security guard
5 JONES.
- 6 28. On or about September 1, 2012, Plaintiff was present inside and outside CARL'S Jr.
7 SAN FRANCISCO where he was threatened, attacked, assaulted, battered, injured,
8 harmed, stabbed and cut with a box cutter or other sharp device by security guard
9 JONES while acting within the scope, capacity, tasks and nature of his employment as
10 a security guard.
- 11 29. At all relevant times herein, each of the defendants was an agent, servant, franchisee
12 or employee of the defendants and was at all times acting with the express or implied
13 knowledge, permission or consent of the defendants. Each of the defendants held out
14 the other as its authorized representative and each defendant ratified the conduct of its
15 agents, servants, franchisee and employee.
- 16 30. Plaintiff is informed and believes, and thereon alleges, that defendants, including the
17 DOE defendants, committed other acts and omissions currently unknown to him.
- 18 31. Plaintiff alleges other negligent acts according to proof at trial.
- 19 32. Each defendant is liable to Plaintiff because they each failed their obligation, duty,
20 duty to exercise reasonable care, responsibility and their special relationship to
21 Plaintiff to provide and manage a safe environment and protect Plaintiff from attack,
22 battery, stabbing, threats, harm, injury, fear and assault by their agent, employee, and
23 representative security guard JONES at CARL'S Jr. SAN FRANCISCO.
- 24 33. As a direct and proximate cause of the negligence of the defendants, and each of
25 them as detailed above, Plaintiff suffered serious and permanent personal and
26 emotional injuries. The Plaintiff brings this lawsuit to recover his damages.

27 **IV. SECOND CAUSE OF ACTION**

28 (Negligence – Failure to Use Reasonable and Due Care to

Warn and Protect of Possible Danger From Others on the
Premises and Location)

34. Plaintiff incorporates paragraphs 1-33 as if fully set forth herein.

35. Each defendant had an obligation, duty, responsibility, duty to exercise reasonable care and a special relationship to warn and protect others of the possible dangerousness at and on the premises and location of CARL'S Jr. SAN FRANCISCO and to reasonably warn and protect their patrons, visitors, and invitees, including the Plaintiff of any and all potentially dangerous conditions on the property and premises.

36. Each Defendant had the obligation, duty, responsibility, duty of reasonable care, and special relationship to warn and protect Plaintiff, and all visitors, patrons, invitees of CARL'S JR. SAN FRANCISCO of the possible dangerous situation presented by security guard JONES.

37. At all relevant times herein, each of the defendants was an agent, servant, franchisee or employee of the defendants and was at all times acting with the express or implied knowledge, permission or consent of the defendants. Each of the defendants held out the other as its authorized representative and each defendant ratified the conduct of its agents, servants, franchisee and employee.

38. Plaintiff is informed and believes, and thereon alleges, that defendants, including the DOE defendants, committed other acts and omissions currently unknown to them.

39. Plaintiff alleges other negligent acts according to proof at trial.

40. As a direct and proximate cause of the negligence of the defendants, and each of them as detailed above, Plaintiff suffered serious and permanent personal and emotional injuries. The Plaintiff brings this lawsuit to recover his damages.

41. Plaintiff is informed and believes, and thereon alleges, that defendants, including the DOE defendants, committed other acts and omissions currently unknown to him.

42. Plaintiff alleges other negligent acts according to proof at trial.

43. Each defendant is liable to Plaintiff because they each failed their obligation, duty, responsibility, duty to exercise reasonable care and their special relationship to warn

1 and protect Plaintiff of the danger presented by and injury and harm caused by
2 security guard JONES to Plaintiff at CARL'S Jr. SAN FRANCISCO.

3 44. As a direct and proximate cause of the negligence of the defendants, and each of
4 them as detailed above, Plaintiff suffered serious and permanent personal and
5 emotional injuries.

6 45. The Plaintiff brings this lawsuit to recover his damages.

7 **V. THIRD CAUSE OF ACTION**

8 (Negligence – Failure to Use Reasonable and Due Care to Hire, Train,
9 Supervise, Control, Retain and Manage)

10 46. Plaintiff incorporates paragraphs 1-45 as if fully set forth herein.

11 47. Defendants had the duty, obligation, responsibility, duty to exercise reasonable and
12 due and special relationship to train, supervise, control, manage, retain and watch
13 security guard JONES at all times while working at CARL Jr.'S SAN FRANCISCO .
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15 48. At all relevant times, defendants knew or should have known that security guard
16 JONES was negligently trained, supervised, hired, controlled, managed, retained,
17 empowered, placed in the position of and watched while working at CARL Jr.'S SAN
18 FRANCISCO.
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20 49. Defendants negligently placed JONES in a position of security guard at CARL'S Jr.
21 where he could commit foreseeable harmful acts to patrons, visitors and invitees.

22 50. Plaintiff is informed and believes, and thereon alleges, that defendants, including the
23 DOE defendants, committed other acts and omissions currently unknown to him.
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25 51. Plaintiff alleges other negligent acts according to proof at trial.

26 52. Each defendant is liable to Plaintiff because they each failed their obligation, duty,
27 responsibility and special relationship to provide hire, train, supervise, control,
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1 manage, retain, empower and place in the position of and watch security guard
2 JONES, who while performing this duties, and within the nature and scope of his
3 duties, attacked, battered, stabbed, harmed, injured and assaulted the Plaintiff at
4 CARL'S Jr. SAN FRANCISCO.

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6 53. As a direct and proximate cause of the negligence of the defendants, and each of
7 them as detailed above, Plaintiff suffered serious and permanent personal and
8 emotional injuries. The Plaintiff brings this lawsuit to recover his damages.

9 **VI. FOURTH CAUSE OF ACTION**

10 (Negligence – Failure to Use Reasonable and Due Care to Vet,
11 Review, Inspect, or Verify Security Guard Jones)

12 54. Plaintiff incorporates paragraphs 1-53 as if full set forth herein.

13 55. Defendants each had a duty of reasonable and due care and a special relationship to
14 vet, review, inspect and verify security guard JONES' qualifications, capabilities,
15 emotional well-being, criminal past, stability, competence and reasonableness to be
16 empowered and placed in the position as a security guard at CARL'S Jr. SAN
17 FRANCISCO.
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20 56. Defendants each failed their duty of reasonable and due care and special relationship
21 to vet, review, inspect and verify security guard JONES' qualifications, capabilities,
22 emotional well-being, criminal past, stability, competence and reasonableness to be
23 empowered and placed in the position as a security guard at CARL'S Jr. SAN
24 FRANCISCO.

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26 57. At all relevant times, defendants knew or should have known that security guard
27 JONES was not qualified, incapable, lacked emotional well-being, had a criminal past,
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1 was unstable and was not reasonable to empowered or placed in the position to be a
2 security guard at CARL'S Jr. SAN FRANCISCO.

3 58. Plaintiff is informed and believes, and thereon alleges, that defendants, including the
4 DOE defendants, committed other acts and omissions currently unknown to him.

5 59. Plaintiff alleges other negligent acts according to proof at trial.

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7 60. Each defendant is liable to Plaintiff because they each failed their obligation, duty,
8 responsibility, duty to exercise reasonable care and special relationship with respect to
9 security guard JONES' background, who while performing his duties, and within the
10 nature, capacity and scope of his duties, attacked, threatened, harmed, injured, battered,
11 stabbed, and assaulted the Plaintiff at CARL'S Jr. SAN FRANCISCO.

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13 61. As a direct and proximate cause of the negligence of the defendants, and each of them
14 as detailed above, Plaintiff suffered serious and permanent personal and emotional
15 injuries. The Plaintiff brings this lawsuit to recover his damages.

16 VII. **FIFTH CAUSE OF ACTION**

17 (Negligence – Failure to Use Reasonable and Due Care To Vet,
18 Review, Inspect, or Verify California Advance Patrol)

19 62. Plaintiff incorporates paragraphs 1-61 as if full set forth herein.

20 63. Defendants each had a duty and obligation to vet, review, inspect and verify
21 CALIFORNIA ADVANCE PATROL'S qualifications, capabilities, training, hiring
22 practices and procedures, abilities, vetting and competence to hire and provide
23 trained, competent, qualified, and safe and security guards at CARL'S Jr. SAN
24 FRANCISCO.
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1 64. At all relevant times, defendants knew or should have known that CALIFORNIA
2 ADVANCE PATROL was not qualified, incapable, and incompetent to provide
3 qualified, trained and safe security guards at CARL'S Jr. SAN FRANCISCO.

4 65. Defendants failed in their duty to use reasonable and due care to vet, review,
5 inspect and verify CALIFORNIA ADVANCE PATROL'S qualifications, capabilities,
6 training practices, hiring practices, selection methods, ability to supervise and
7 competence to hire, train and provide qualified, competent and safe security guards at
8 CARL'S Jr. SAN FRANCISCO.

9 66. Defendants failed in their duty to use reasonable and due care to vet, review,
10 inspect and verify CALIFORNIA ADVANCE PATROL'S qualifications, capabilities,
11 training practices, hiring practices, selection methods, supervision abilities, and
12 competence to hire, train, supervise and provide and place in a position as a security
13 guard JONES as a qualified, competent and safe security guards at CARL'S Jr. SAN
14 FRANCISCO.

15 67. Plaintiff is informed and believes, and thereon alleges, that defendants, including
16 the DOE defendants, committed other acts and omissions currently unknown to him.

17 68. Plaintiff alleges other negligent acts according to proof at trial.

18 69. Each defendant is liable to Plaintiff because they each failed their obligation, duty
19 and responsibility with respect to vetting, reviewing, scrutinizing and checking
20 CALIFORNIA ADVANCE PATROL and security guard JONES' background and
21 capabilities, who while performing his duties, and within the nature and scope of his
22 duties, attacked, threatened, harmed, injured, battered, stabbed, and assaulted the
23 Plaintiff at CARL'S Jr. SAN FRANCISCO.

1 70. As a direct and proximate cause of the negligence of the defendants, and each of
2 them as detailed above, Plaintiff suffered serious and permanent personal and
3 emotional injuries. The Plaintiff brings this lawsuit to recover his damages.

4 **VIII. SIXTH CAUSE OF ACTION**

5 (INTENTIONAL TORT – assault and battery)

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7 71. Plaintiff incorporates paragraphs 1-70 as if fully set forth herein.

8 72. On or about September 1, 2012, while performing his duties and tasks as a security
9 guard and within the nature and scope of those duties as a security guard at CARL
10 Jr.'s, defendant JONES attacked, assaulted, stabbed, threatened, cut, harmed, and
11 injured Plaintiff, including cutting Plaintiff with a box cutter or some similar sharp
12 device.

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14 73. Plaintiff is informed and believes that the defendants named above and herein at all
15 times herein mentioned were acting as the partners, agents, managers, supervisors,
16 franchisors, franchisees, servants and/or employees of the other defendants and in
17 doing the acts, events and things hereinafter alleged were acting within the course and
18 scope of their partnership, agency, management, supervision, franchise, service and
19 employment and with the express or implied knowledge, notification, and/or consent
20 of the other defendants. Each of the Defendants held out the other as its authorized
21 representative and each Defendant ratified the conduct of the other.

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23 74. Each defendant is vicariously liable in accordance with the theory of *respondeat*
24 *superior* for security guard JONES' attack, threats, assault, harm, stabbing, cutting and
25 injury to Plaintiff on or about September 1, 2012.
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1 75. Plaintiff is informed and believes, and thereon alleges, that defendants, including the
2 DOE defendants, committed other acts and omissions currently unknown to him.

3 76. Plaintiff alleges other intentional acts according to proof at trial.

4 77. Each defendant is liable to Plaintiff because security guard JONES was performing
5 his duties, and was within the nature and scope of his duties and employment, when he
6 attacked, battered, stabbed, and assaulted the Plaintiff at CARL'S Jr. SAN
7 FRANCISCO.
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9 78. As a direct and proximate cause of the intentional acts of the defendants, and each of
10 them as detailed above, Plaintiff suffered serious and permanent personal and
11 emotional injuries. The Plaintiff brings this lawsuit to recover his damages.
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13 **IX. PRAYER FOR RELIEF**

14 Wherefore, as the direct and proximate result of said tortous acts, omissions or conduct
15 of defendants, and each of them, as outlined above, Plaintiff has been injured and claims for
16 the following damages:
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- 18 a. Compensatory Damages;
- 19 b. Special Damages including, but limited to, medical and related expenses, past and
20 present, in accordance to proof;
- 21 c. General Damages, in an amount in accordance with proof, including but not limited to
22 pain and suffering, anguish, severe emotional distress, discomfort, worry and mental
suffering, loss of enjoyment of life;
- 23 d. Restitution in an amount to be proven at trial;
- 24 e. Disfigurement and scars;
- 25 f. Vision impairment;
- 26 g. Punitive damages and/or exemplary damages in an amount to be proven at trial;
- 27 h. Reasonable attorney fees;
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- 1 i. Costs of this suit;
2 j. Other and further relief and damages not specifically enumerated but for which
3 Plaintiff will seek leave of court to amend according to proof at trial;
4 k. For prejudgment interest; and
5 l. For such other and further relief as the Court deems proper.
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8 **X. DEMAND FOR JURY TRIAL**

9 Plaintiff, EARL JAMAR JORDAN, hereby demands a jury trial.

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11 Dated: August 25th, 2014

LAW OFFICES OF STEVEN F. GRUEL

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16 Steven F. Gruel
17 Attorney for Earl Jamar Jordan
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