

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
LAUREN LEAKEY,

Plaintiff,

- against -

THE SETAI GROUP LLC, AND JASON TURNER,

Defendants.
-----X

To the above named Defendant (s):

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded herein.

Dated: New York, New York
January 30, 2014

HUBELL & ASSOCIATES, LLC
Attorneys for Plaintiff

By: _____ S/_____
Richard A. Hubell
100 Park Avenue, 20th Floor
New York, New York 10017
(212) 682-7195

The Setai Group LLC
405 Lexington Avenue
New York, NY 10174

Jason Turner
40 Pinelawn Avenue
Shirley, NY 11967

Index No.

Date Filed: February __, 2014
Plaintiff Designates:
New York County
Basis of Venue:
Defendant's place of business

SUMMONS

JURISDICTION & VENUE

4. New York Civil Practice Law and Rules §§ 313 et seq. are applicable since Defendants are domiciled in New York and the claims asserted herein arise from an occurrence in the City, County and State of New York.
5. Venue is proper in this Court pursuant to New York Civil Practice Law and Rule § 503.

ALLEGATIONS RELEVANT TO ALL CLAIMS FOR RELIEF

6. Defendant Setai does business as a top luxury spa under the name “The Setai Spa and Club.”
7. Defendant Setai is in the business of providing safe and secure spa treatments to its guests.
8. On or about April 26, 2013, Plaintiff was a guest of at The Setai Spa and Club located at 40 Broad Street, County, City and State of New York.
9. A substantial fee was paid to Defendant Setai for Plaintiff to receive spa services including a massage in a safe and protected environment.
10. Plaintiff was to receive spa services from well-trained, screened and supervised Setai employees.
11. On April 26, 2013 and all dates relevant hereto, Defendant Turner was an employee of the Setai.

12. Defendant Turner was assigned the task of providing spa services to Plaintiff including a massage.

13. In providing massage services to Plaintiff, Defendant Turner was acting within the normal and usual scope and course of his employment.

14. During the course of the massage, Defendant Turner fondled and touched Plaintiff in private and inappropriate areas of her body.

15. Specifically and without limitation, Defendant Turner inserted his finger or fingers into the vagina of Plaintiff.

16. This was done without the consent or permission of Plaintiff and against her will.

17. As a result thereof, Defendant Turner was charged with criminal offenses under the New York State Penal Law, including violation of Section 130.5 thereof, Sexual Abuse in the Third Degree, misdemeanor.

AS AND FOR A FIRST CAUSE OF ACTION

18. Plaintiff restates, reiterates and incorporates by reference paragraphs one (1) through seventeen (17) as if fully set forth herein.

19. Defendant Turner assaulted and humiliated Plaintiff.

20. As a result thereof, Plaintiff was rendered sick, sore, lame and disabled and sustained serious injuries including but not limited to, severe emotional distress, loss of enjoyment of life, shock to her nervous system, loss of sleep, loss of appetite, nightmares and physical injury.

21. Defendant Turner's actions were committed during the performance of his duties as an employee of the Setai.

22. Defendant Setai has effectively assaulted and humiliated Plaintiff.

23. Plaintiff's injuries are of a severe and permanent nature and as a result thereof, she has suffered great physical and emotional trauma and anguish and actually did incur expenses for hospital care, medical treatment and still suffers great pain.

24. Plaintiff intends to rely upon the exceptions set forth in Article 16 of the Civil Practice Law and Rules and specifically C.P.L.R. §§ 1602(1), 1602(2), 1602(5), 1602(7) and 1602(11).

25. The amount of damages sought exceed the jurisdictional limits of all lower courts which otherwise would have jurisdiction. By reason of the forgoing, Plaintiff has been damaged in a sum to be determined upon the trial of this action.

AS AND FOR A SECOND CAUSE OF ACTION

26. Plaintiff repeats, restates and realleges each and every statement set forth in paragraphs one (1) through twenty-five (25) as if fully set forth herein.

27. On or about April 26, 2013, Defendant Setai agreed and undertook to provide top luxury spa services to Plaintiff.

28. Defendant Setai was to provide reasonable and adequate protection to the lives, health and safety of its guests and business invitees including Plaintiff.

29. Defendant Setai negligently, carelessly and recklessly permitted and/or caused Plaintiff to be assaulted by its employee.

30. The negligence, carelessness and recklessness of Defendant Setai, its agent(s), servant(s) and/or employee(s) consisted of the following, without limitation:

- a. hiring Defendant Turner and failing to properly and carefully evaluate, investigate, screen and appraise his background, credentials, history character, record, abilities, stability, self-control and qualifications;
- b. knowing or in the exercise of reasonable care, should have known that Defendant Turner was unsuited, ill-equipped, incapable and unqualified to perform duties as a provider of spa services including massages to business invitees, guests and customers;
- c. failing to provide proper training, and guidance to its employee(s);
- d. failing to provide proper oversight and supervision of its employee(s);
- e. failing to adequately protect its business invitees, guests and customers; and
- f. failing to exercise reasonable, appropriate and proper control, influence, discipline and regulation over its employee(s).

31. As a result of the aforesaid negligence, Plaintiff sustained substantial injuries.

32. The amount of damages sought exceed the jurisdictional limits of all lower courts which otherwise would have jurisdiction. By reason of the forgoing the Plaintiff has been damaged in a sum to be determined upon the trial of this action.

AS AND FOR A THIRD CAUSE OF ACTION

33. Plaintiff repeats, restates and realleges each and every statement made in paragraphs one (1) through thirty-two (32) of the complaint as if fully set forth herein.

34. There existed a contractual agreement between the Plaintiff and Defendant Setai wherein Setai warranted and agreed that it would provide safe and proper care and services conforming to known and accepted practices.

35. Defendant Setai was to provide good, customary, competent, and safe services.

36. By reason of the negligent and willful acts, Setai breached its duties and obligations to Plaintiff.

37. Setai warranted to its business invitees, guests and customers including Plaintiff that it had screened and trained its employees to provide massages and that its personnel could and would perform said services in accordance with generally accepted standards and practice.

38. By reason of the aforesaid breaches of contract and warranties by Setai, Plaintiff was rendered sick, sore, lame and disabled and suffered serious internal and external physical and mental injuries including but not limited to severe emotional distress, loss of enjoyment of life, shock to her nervous system, loss of sleep, loss of appetite, nightmares and physical injury.

39. The amount of damages sought exceed the jurisdictional limits of all lower courts which otherwise would have jurisdiction. By reason of the forgoing the Plaintiff has been damaged in a sum to be determined upon the trial of this action.

AS AND FOR A FOURTH CAUSE OF ACTION

40. Plaintiff repeats, restates and realleges the allegations in paragraphs one (1) through thirty-nine (39) as if fully set forth herein.

41. As a result of the aforesaid actions the Defendants should reasonably have known that their actions would cause Plaintiff to undergo great mental distress and suffering.

42. The intentional acts, as described herein, were extreme and outrageous conduct exceeding the bounds tolerated by society.

43. The amount of damages sought exceed the jurisdictional limits of all lower courts which otherwise would have jurisdiction. By reason of the forgoing Plaintiff has been damaged in a sum to be determined upon the trial of this action.

WHEREFORE, Plaintiff prays for judgment against the Defendants on each and every cause of action set forth herein, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with punitive damages, interest where applicable, and the costs and disbursements of this action.

Dated: New York, New York
January 30, 2014

Respectfully submitted,

HUBELL & ASSOCIATES LLC

/S/

By:

Richard A. Hubell
Attorneys for Plaintiff
100 Park Avenue, 20th Floor
New York, New York 10017
(212) 682-7195