

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

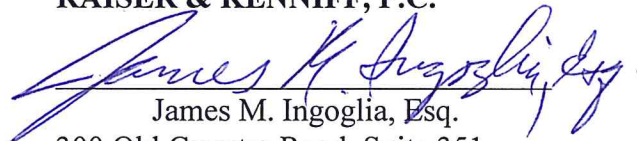
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ADAM SCARIMBOLO,	: Index No.
	: Date Purchased:
Plaintiff,	:
	: Plaintiff designates
-against-	: Kings County
	: as the place of trial.
THE DRAM SHOP and JOHN DOE #1,	:
Bartender Whose Name	: <u>SUMMONS</u>
Is Not Yet Known Or Identified,	:
	: Plaintiff resides at
	: 1654 10 th Avenue
Defendants.	: Brooklyn, New York 11215
-----X	: County of Kings

To the above-named Defendants:

YOU ARE HEREBY SUMMONED and required to serve upon Plaintiff's Attorney, at their address stated below, an answer to the attached complaint. If this summons was personally served upon you in the State of New York, the answer must be served within twenty days after such service of the summons, excluding the date of service. If the summons was not personally delivered to you within the State of New York, the answer must be served within thirty days after service of the summons is complete as provided by law. If you do not serve an answer to the attached complaint within the applicable time limitation stated above, a judgment may be entered against you, by default, for the relief demanded in the complaint, without further notice to you. The action will be heard in the Supreme Court of the State of New York, in and for the County of Kings. This action is brought in the County of Kings because it is the County of the Plaintiff's residence, which is 1654 10th Avenue, Brooklyn, New York 11215.

DATED: Mineola, New York
April 10, 2014

RAISER & KENNIFF, P.C.



James M. Ingoglia, Esq.

300 Old Country Road, Suite 351

Mineola, New York 11501

(516) 742-7600 (t)

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jingoglia@raiserkenniff.com

Attorneys For Plaintiff
Adam Scarimbolo

Defendants' Addresses:

The Dram Shop
339 9th Street
Brooklyn, New York 11215

John Doe #1
c/o The Dram Shop
339 9th Street
Brooklyn, New York 11215

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Plaintiff,	:
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-against-	:
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Bartender Whose Name Is	:
Not Yet Known Or Identified,	:
	:
Defendants.	:
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Index No.

VERIFIED COMPLAINT

Plaintiff, by and through his attorneys, RAISER & KENNIFF, P.C., complaining of
Defendants herein, respectfully shows to this Court and alleges the following:

NATURE OF THE CASE

1. This action arises from the tortious and negligent conduct perpetrated by Defendants that allowed and in fact exacerbated the harassment and vicious beating that Adam Scarimbolo suffered on or about March 18, 2013. Plaintiff, is a well-credentialed actor who has shared the big and small screens with marquis actors such as Robert Downey, Jr., Chazz Palmentieri, Rosario Dawson, and Channing Tatum (in the film "A Guide To Recognizing Your Saints") and James Gandolfini (in television shows such as Law & Order and The Sopranos). He was scheduled to audition for a new role the very week he was attacked at the Defendant establishment. While at the Dram Shop, several unruly and heavily intoxicated patrons became enraged and violent towards Plaintiff simply because a couple of women who had accompanied those patrons had engaged Plaintiff in friendly conversation.

2. The patrons who assaulted Mr. Scarimbolo became increasingly belligerent and aggressive towards Plaintiff despite his smaller size and their greater numbers, and one of the group of men knocked Mr. Scarimbolo to the floor. This assault was, upon information and belief, captured on the bar's video camera. The situation began to escalate, rapidly, and the bartender completely failed to intervene appropriately. Rather than protect Plaintiff by ejecting the aggressors from the Dram Shop, Defendant John Doe #1, the bartender at the pub that night, instead offered everyone free shots of alcohol, despite the fact that the assailants were already visibly inebriated. This was both an unfortunate and ironic turn of events, given that the establishment's name is based on laws to prevent the service of alcohol to intoxicated persons.

3. The bartender's *ad hoc* intervention unsurprisingly did nothing to deter the men who had attacked Plaintiff, and they continued their abuse of him. The bartender ultimately decided to simply escort *everyone* out, including Plaintiff, the victim of the assault. When Mr. Scarimbolo was forced to leave with his attackers, he was again assaulted just outside the bar by the entire group of men, this time more viciously. Unfortunately, no one from the Dram Shop helped Mr. Scarimbolo, or even gave a second thought to his safety, not even the barkeep who actually precipitated this turn for the worse. In fact, there was no security whatsoever either inside the Dram Shop or stationed at the door. Upon information and belief, the bartender never even bothered to call the police. Mr. Scarimbolo had to do that himself as he was defending himself from the assault.

4. As a result of the brutal attack that occurred outside the bar, Plaintiff was severely traumatized and continues to suffer both physical and psychological injuries that are serious and permanent in nature. Additionally, Plaintiff has lost numerous lucrative acting roles as a result of the attack and suffers from vision and hearing loss, scarring, as well as a sleep disorder that has prevented him from returning fully to his chosen profession on the screen and stage.

5. Defendants have refused to make Plaintiff whole or even acknowledge the pain and suffering that Plaintiff has undergone as a result of their misconduct, despite the fact that he was a long-time patron of the establishment. Consequently, Plaintiff has thus been forced to file this action to achieve some measure of justice.

JURISDICTION AND VENUE

6. Defendants are subject to jurisdiction in New York pursuant to C.P.L.R. §§ 301 and 302 in that they are domiciled and/or are doing business and/or registered to do business in New York State.

7. Venue is proper before this Court pursuant to CPLR § 503 in that at least one party resides in this county.

PARTIES

8. At all times hereinafter mentioned, Plaintiff ADAM SCARIMBOLO (“Plaintiff” or “Mr. Scarimbolo”) is and was at all relevant times herein a resident of the County of Kings and State of New York.

9. Upon information and belief, Defendant THE DRAM SHOP (the “Dram Shop”) did and does at all relevant times herein business in the State of New York, County of Kings.

10. Upon information and belief, the Dram Shop regularly does, or solicits, business, and receives substantial revenue from goods used or consumed, or services rendered, in the State of New York.

11. Upon information and belief, the Dram Shop employed Defendant JOHN DOE #1 (the “Bartender” or “Mr. Doe”), whose name is not yet known or identified, as a bartender at the Dram Shop and as an agent, servant, and/or employee.

12. Upon information and belief, the Bartender regularly did or does, or solicits, business, and received substantial revenue from goods used or consumed, or services rendered, in the State of New York.

AS AND FOR A FIRST CAUSE OF ACTION
(Negligence)

13. Upon information and belief, the Dram Shop either owned, managed, controlled, and/or maintained the premises and appurtenances and fixtures thereto, located at 339 9th Street, Brooklyn, New York 11215 (the “Premises”).

14. Upon information and belief, Defendant John Doe #1, functioned as an employee bartender at the Dram Shop, whose job was to serve alcohol appropriate and refuse to do so where appropriate. The Bartender was also employed to act as the agent, servant, and/or employee for the Dram Shop in maintaining order at the Bar and keeping patrons safe and/or not increasing dangers to them.

15. On or about March 18, 2013, Plaintiff was lawfully present at the Premises and was viciously assaulted and sustained serious and permanent injuries at the Dram Shop (the “Incident”).

16. Defendants, their agents, servants and/or employees were negligent, reckless and/or careless in failing to prevent the Incident.

17. The Incident was caused by the joint, several, and concurrent negligence of Defendants and/or said Defendants' servants, agents, employees and/or licensees in the ownership, operation, management, supervision, maintenance and control of the aforesaid Premises (including the Bartender).

18. No negligence on the part of Plaintiff contributed to the Incident alleged herein in any manner whatsoever.

19. As the result of Defendants' said negligent conduct, Plaintiff has become sick, sore, lame, and/or disabled, and has sustained serious, permanent injuries in and about diverse parts of his person. He has also suffered great physical pain, distress, mental shock, mental anguish and psychological trauma, as well as loss of employment opportunities and other direct and indirect injuries.

20. By reason of the foregoing, Plaintiff has been damaged in an amount to be determined at trial but which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION
(Negligent Supervision/Training/Retention)

21. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.

22. The Defendant Bar did not exercise reasonable care and diligence in the selection, engagement, employment, training, and retention of their agents, servants, and employees and were negligent in the hiring, training, and retaining of *inter alia* Defendant John

Doe #1, who negligently assisted the assailants in perpetrating the assault on Plaintiff by serving them additional alcohol, knowing they were already intoxicated, and in failing to call the authorities in response to the assault on the Premises.

23. The Defendant Bar had prior knowledge of the potential for inappropriate, unlawful, and improper conduct of those patrons like Plaintiff's assailants, which conduct is rampant in the pub industry and requires diligent training and supervision for employees as retention practices. Nonetheless, it failed to employ proper training, and retention policies and failed to arrange for proper supervision of employees at the Bar, including for Defendant Doe, and instead permitted the continued employ and use of the Bar and allowed its' employees to be in contact with the public at large without sufficient experience or training.

24. By reason of the foregoing, Plaintiff has damaged in an amount to be determined at trial but which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION
(Respondeat Superior)

25. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if fully set forth herein.

26. The above-described negligent and/or unlawful acts of the Defendant Bartender, at the Dram Shop on the night of March 18, 2013, were committed while he was acting as an agent, servant, and/or employee of Dram Shop.

27. His above-described improper acts as Bartender, were also committed within the scope of his agency and while furthering the business interests of the Dram Shop.

28. As a principal for the Bartender, the Dram Shop is responsible for all of the acts committed by him as a bartender (whose name is not yet known or identified), within the scope of his agency and Defendant Doe's service of additional alcohol to Plaintiff's assailant was clearly within the scope of his agency.

29. By reason of the foregoing, Plaintiff has been damaged in an amount to be determined at trial but which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION
(Prima Facie Tort)

30. Plaintiff repeats and realleges each and every allegation contained in preceding paragraphs above as if set forth fully herein at length.

31. Defendants intentionally attempted, without excuse or justification and motivated solely by malice to injure Plaintiff, when Plaintiff was being harassed and pushed to the floor, the Dram Shop's staff not only did nothing to assist Plaintiff; rather, they served the already intoxicated assailants more alcohol instead of escorting them off the Premises.

32. Even if the Defendant Bar was lawfully free to have not given Plaintiff any assistance, under these circumstances, and because of Defendants' sole motivation of malice without excuse or justification, Defendants committed a *prima facie* tort.

33. By reason of the foregoing, Plaintiff has been damaged in an amount to be determined at trial but which includes special damages and which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiff, Adam Scarimbolo, demands judgment against Defendants in an amount to be determined upon the trial of this action, together with attorney's fees, punitive damages, special damages and the costs and disbursements of this action, and such other and further relief as to this Court may deem just and proper.

Dated: Mineola, New York
April 10, 2014

RAISER & KENNIFF, P.C.


James M. Ingoglia, Esq.
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Mineola, New York 11501
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(516) 742 – 7618 (f)
jingoglia@raiserkenniff.com

*Attorneys For Plaintiff
Adam Scarimbolo*

VERIFICATION

STATE OF NEW YORK)
 SS.:)
COUNTY OF KINGS)

ADAM SCARIMBOLO, being sworn, deposes and says:

I am the Plaintiff in the action herein.

I have read the annexed SUMMONS AND VERIFIED COMPLAINT and know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true.


ADAM SCARIMBOLO

Sworn to before me this
14 day of March 2014


Notary Public



Index No.

Year 2014

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

ADAM SCARIMBOLO,

Plaintiff,

-against-

THE DRAM SHOP and JOHN DOE,
Bartender Whose Name
Is Not Yet Known Or Identified,
Defendants.

SUMMONS AND VERIFIED COMPLAINT

RAISER & KENNIFF, P.C.

Attorneys for Plaintiff
300 Old Country Rd., Suite 351
Mineola, New York 11501
(516) 742-7600

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated: 4/10/14

Signature 

Print Signer's Name J. INGOGLIA
