

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

ALBERT TRUMMER,

.

Plaintiff(s),

-against-

CHRISTOPHER TIERNEY and HEATHER
TIERNEY

Defendant(s).

Index No. _____/2010

SUMMONS

Date Index No. Purchased:

The basis of venue is Plaintiff's
residence

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 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).

In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint, together with the costs of this action.

Dated: New York, NY
November 9, 2010

_____/s/_____
Kevin Sean O'Donoghue
Attorney for Plaintiffs
110 William Street, Ste 1410
New York, NY 10038
646.280.6903

Defendants' Address:

To:
Christopher Tierney
11 Doyers Street
New York, NY 10003

Heather Tierney
30 Water Street
New York, NY 10003

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VERIFIED COMPLAINT

Plaintiff ALBERT TRUMMER (hereinafter "TRUMMER"), by its attorney KEVIN SEAN O'DONOGHUE, as and for its Complaint herein, alleges as follows:

NATURE OF THE ACTON

1. This is a complaint for damages arising out of injuries and damages caused by the intentional torts of Assault, Intentional Infliction of Emotional Distress, Tortious Interference With Business Contracts and False Imprisonment by defendants, CHRISTOPHER TIERNEY and HEATHER TIERNEY

2. Defendant, CHRISTOPHER TIERNEY intentionally inflicted such injuries and cause such torts, causing substantial, permanent physical and pecuniary damages upon ALBERT TRUMMER. Upon information and belief, this was done at the urging and direction of defendant, HEATHER TIERNEY.

THE PARTIES

3. Plaintiff is and was a resident of New York County, City and State of New York.

4. Upon information and belief, defendant CHRISTOPHER TIERNEY is a resident of TK County, City and State of New York.

5. Upon information and belief, defendant HEATHER TIERNEY is a resident of New York County, City and State of New York.

JURISDICTION AND VENUE

6. Jurisdiction is properly in New York County Supreme Court based upon the residence of the plaintiff and the place the torts occurred, specifically 9 Doyers Street, New York, New York.

FACTS APPLICABLE TO ALL CAUSES OF ACTION

7. Plaintiff realleges items 1 through 5 as if fully stated herein.

8. ALBERT TRUMMER is a managing member of TRUMMER BAR LLC, which does business as Apotheke Bar and owns 35% of the LLC's shares.

9. CHRISTOPHER TIERNEY is a minority owner with 10% ownership in the LLC, given for sweat equity and contribution.

10. HEATHER TIERNEY is the sister of CHRISTOPHER TIERNEY and is the other managing member of the LLC, with a 35% interest in the LLC.

11. On or about September 20, 2010, as part of an ongoing internal dispute over a trademark and other corporate issues, CHRISTOPHER TIERNEY escalated his threats to TRUMMER to physical violence.

12. Upon information and belief, this was done at the urging and/or direction of HEATHER TIERNEY, who was seeking to exert additional leverage to resolve the issues in her favor.

13. On or about September 18, 2010, CHRISTOPHER TIERNEY cornered ALBERT TRUMMER in the sub-basement of the Apotheke Bar at 9 Doyers Street, New York, New York.

14. CHRISTOPHER TIERNEY verbally threatened ALBERT TRUMMER regarding the disputes, which was an extension of prior conversations and emails from CHRISTOPHER TIERNEY.

15. When ALBERT TRUMMER stated that he wanted to leave and attempted to leave the basement, CHRISTOPHER TIERNEY blocked the only doorway and continued to harangue TRUMMER.

16. ALBERT TRUMMER stated in sum and substance that he had criminal charges pending and he would not fight with CHRISTOPHER TIERNEY and asked him to move. CHRISTOPHER TIERNEY refused to move and instead grabbed TRUMMER by the hands, wrists and arms.

17. ALBERT TRUMMER then was able to escape to an exterior staircase. However, as he ran up the stairs to escape, CHRISTOPHER TIERNEY tackled him from behind, causing him to be smashed violently into the stairs, causing damage to his legs, knees, ankles and feet.

18. As TRUMMER was injured, he saw no way to escape from the stairs, was then forced to re-enter the sub-basement, CHRISTOPHER TIERNEY pushed him into a storeroom and held the door from the outside. TRUMMER tried to escape and demanded he be set free, but CHRISTOPHER TIERNEY held the door and would not allow him out, shouting various threats and demands.

19. An employee of Apotheke Bar came down to the sub-basement to see what the commotion was and attempted to free TRUMMER, but CHRISTOPHER TIERNEY would not allow him to do so.

20. It was not until TRUMMER kicked down the door that TIERNEY relented and left the premises.

21. As a result, CHRISTOPHER TIERNEY was arrested by the NYPD on September 18, 2010 and charged under Penal Law §120.00, Assault With Intent to Cause Physical Injury.

AS AND FOR A FIRST CAUSE OF ACTION

22. Plaintiff repeats and realleges paragraph 1 through 20 above as if fully stated herein.

23. CHRISTOPHER TIERNEY, without provocation or just cause, maliciously and intentionally restrained, attacked, beat, assaulted and battered Plaintiff, causing him to sustain serious and personal injuries.

24. Upon information and belief, this was done at the direction and urging of HEATHER TIERNEY for the purpose of resolving the internal business dispute.

25. That by reason of the foregoing, and the malicious and intentional acts of the Defendants, the Plaintiff, ALBERT TRUMMER, has been rendered sick, sore, lame, disabled; suffered pain, mental anguish, anxiety and emotional distress, shock, fright, apprehension, embarrassment, humiliation, and loss of enjoyment of life and will experience the same in the future; and that he has been forced to and obliged to expend, and to continue to expend in the future, sums of money for medical aid and attention; and that he has been unable to attend his usual avocation and activities and has suffered a loss of other benefits as a result and believes he will continue to suffer same in the future.

26. By reason of the foregoing, Plaintiff has sustained damages, both general and special, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION

27. Plaintiff repeats, reiterates and realleges each and every allegation contiened in the paragraphs set forth above with the same force and effect as if more fully set forth herein.

28. At all times hereinafter mentioned, and on or about September 18, 2010, at the sub-basement of 9 Doyens Street in New York County, defendant, CHRISTOPHER TIERNEY intentionally and aggressively verbally threatened and then attacked ALBERT TRUMMER.

29. The aforementioned conduct by the Defendant was intended to and did place the Plaintiff in apprehension of imminent bodily harm and offensive bodily contact.

30. That by reason of the foregoing, and the malicious and intentional acts of the Defendants, the Plaintiff, ALBERT TRUMMER, has been rendered sick, sore, lame, disabled; suffered pain, mental anguish, anxiety and emotional distress, shock, fright, apprehension, embarrassment, humiliation, and loss of enjoyment of life and will experience the same in the future; and that he has been forced to and obliged to expend, and to continue to expend in the future, sums of money for medical aid and attention; and that he has been unable to attend his usual avocation and activities and has suffered a loss of other benefits as a result and believes he will continue to suffer same in the future.

31. By reason of the foregoing, Plaintiff has sustained damages, both general and special, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION

32. Plaintiff repeats, reiterates and realleges the foregoing paragraphs as if set forth with the same force and effect as if more fully set forth herein.

33. That at all times herein mentioned, the aforesaid conduct of the Defendant toward the Plaintiff was intentional, shocking, outrageous and exceeded all reasonable boundaries of decency.

34. Upon information and belief, this was done on the urging or direction of HEATHER TIERNEY.

35. As a result of the above, the Plaintiff, ALBERT TRUMMER was caused to suffer severe emotional distress.

36. The Defendant, CHRISTOPHER TIERNEY, intended to cause such distress to Plaintiff, and/or acted under circumstances known to Defendant which made it substantially certain that Plaintiff would suffer emotional distress, and/or acted recklessly and with utter disregard of the consequences.

37. That by reason of the foregoing, and the malicious and intentional acts of the Defendants, the Plaintiff, ALBERT TRUMMER, has been rendered sick, sore, lame, disabled; suffered pain, mental anguish, anxiety and emotional distress, shock, fright, apprehension, embarrassment, humiliation, and loss of enjoyment of life and will experience the same in the future; and that he has been forced to and obliged to expend, and to continue to expend in the future, sums of money for medical aid and attention; and that he has been unable to attend his usual avocation and activities and has suffered a loss of other benefits as a result and believes he will continue to suffer same in the future.

38. By reason of the foregoing, Plaintiff has sustained damages, both general and special, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION

39. Plaintiff repeats reiterates and realleges each and every allegation in the paragraphs set forth above with the same force and effect as if more fully stated herein.

40. At all times, the conduct of the defendants was negligent, careless and reckless under the circumstances.

41. The aforementioned occurrence and the results thereof including the injuries sustained by the Plaintiff were caused wholly and solely by and due to the negligence, carelessness, and recklessness of the defendants, without culpable conduct on the part of the Plaintiff contributing thereto.

42. That by reason of the foregoing, and the malicious and intentional acts of the Defendants, the Plaintiff, ALBERT TRUMMER, has been rendered sick, sore, lame, disabled; suffered pain, mental anguish, anxiety and emotional distress, shock, fright, apprehension, embarrassment, humiliation, and loss of enjoyment of life and will experience the same in the future; and that he has been forced to and obliged to expend, and to continue to expend in the future, sums of money for medical aid and attention; and that he has been unable to attend his usual avocation and activities and has suffered a loss of other benefits as a result and believes he will continue to suffer same in the future.

43. By reason of the foregoing, Plaintiff has sustained damages, both general and special, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FIFTH CAUSE OF ACTION

44. Plaintiff repeats reiterates and realleges each and every allegation in the paragraphs set forth above with the same force and effect as if more fully stated herein.

45. On or about September 18, 2010, CHRISTOPHER TIERNEY attacked ALBERT TRUMMER as set forth above.

46. ALBERT TRUMMER, CHRISTOPHER TIERNEY and HEATHER TIERNEY are all parties to a valid Operating Agreement for TRUMMER BAR LLC.

47. CHRISTOPHER TIERNEY and HEATHER TIERNEY, as parties to the contract, are aware of the contract.

48. The defendants intentionally and improperly procured a breach of the contract by causing ALBERT TRUMMER to be unable and later afraid to carry out his duties as managing member of the LLC and as a working manager of the bar, as he feared additional attacks.

49. This caused significant damages to the defendant, including causing a toxic environment that eventually led to the defendant's seeking a restraining order, enjoining him from entering the bar, making it impossible for him to work.

50. The aforementioned occurrence and the results thereof including the injuries sustained by the Plaintiff were caused wholly and solely by and due to intentional acts of the defendants, without culpable conduct on the part of the Plaintiff contributing thereto.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff, ALBERT TRUMMER respectfully demands judgment from this Court in its favor against Defendants on all causes of action in an amount that exceeds jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with the costs and disbursements of this action, and such other relief as to this Court seems just and proper.

Dated: New York, New York
November _9_, 2010

_____/s/_____
Kevin Sean O'Donoghue
Attorney for Plaintiffs
110 William Street, Ste 1410
New York, NY 10038
646.280.6903

To:
Christopher Tierney
11 Doyers Street
New York, NY 10003

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SUMMONS and VERIFIED COMPLAINT

Kevin Sean O'Donoghue, Esq. P.C.
Attorneys for the Petitioners
110 William Street, Ste. 1410
New York, NY 10038
646.280.6903

CERTIFICATION PURSUANT TO 22 N.Y.C.R.R. §130-1.1a

KEVIN O'DONOGHUE hereby certifies that, pursuant to 22 N.Y.C.R.R. §130-1.1a, the foregoing is not frivolous nor frivolously presented.

Dated: November 9, 2010
New York, New York

KEVIN SEAN O'DONOGHUE, Esq.

PLEASE TAKE NOTICE

* *that the within is a true copy of a _____ entered in the office of the clerk of the within named Court
on _____
that a _____ of which the within is a true copy will be presented for settlement to the Hon. one of the judges of
the within named Court at _____, on at 9:30 a.m*
