

IN THE STATE COURT OF FULTON COUNTY  
STATE OF GEORGIA

CHARMAINE JOHNSON,  
Plaintiff,

vs.

FITNESS INTERNATIONAL, LLC; FITNESS  
INTERNATIONAL, LLC, D/B/A LA FITNESS, AND  
CHRISTOPHER MCDANIEL.  
Defendants.

CIVIL ACTION FILE NUMBER:

JURY TRIAL DEMANDED

*This complaint is served on Defendant LA Fitness with Requests  
To Admit, Requests for the Production of Documents, and  
Demand for Inspection of Premises*

**COMPLAINT FOR DAMAGES**

COMES NOW Plaintiff, Charmaine Johnson, by and through her undersigned counsel, who hereby makes and files this, her Complaint, and for such states and alleges as follows:

1.

Plaintiff is a resident of Gwinnett County, Georgia.

2.

Defendant Fitness International, LLC D/B/A L.A. Fitness (hereinafter, "L.A. Fitness") is a California corporation doing business in the State of Georgia with its registered agent, CT Corporation System, in Fulton County, Georgia. Defendant maintains a location at Stone Mountain Square, 5295 Stone Mountain Hwy, Stone Mountain, Gwinnett County, Georgia 30087, where many of the events precipitating this action took place; thus, jurisdiction and venue are proper in this Court.

Defendant LA Fitness may be served a copy of the Summons and Complaint and Discovery by delivering such to its registered agent at CT Corporation System, 1201 Peachtree Street N.E., Atlanta, Georgia 30361.

3.

Defendant Christopher McDaniel is a resident of Gwinnett County; he may be personally served with the Summons and Complaint at his residence [REDACTED] [REDACTED]. He may also be personally served at the L.A. Fitness located at 5295 Stone Mountain Hwy, Stone Mountain, Gwinnett County, Georgia 30087.

#### FACTUAL ALLEGATIONS

4.

Ms. Charmaine Johnson is a patron of L.A. Fitness and frequented its Stone Mountain location that is located at 5295 Stone Mountain Hwy, Stone Mountain, Georgia.

5.

On or about February 17, 2015, Ms. Johnson lawfully entered L.A. Fitness, Stone Mountain early in the morning to exercise. After her regiment concluded, she went into the women's sauna.

6.

Inside the women's sauna, Ms. Johnson took a seat on the sauna benches.

7.

Shortly after entering the sauna and taking a seat, Ms. Johnson lost consciousness and was severely burned. Ms. Johnson's body continued to slowly burn for nearly two hours.

8.

During the nearly two hours that Ms. Johnson languished inside the hot sauna, no L.A. Fitness employee stopped by to monitor the sauna or the patrons inside even though there is a clear glass door that would have easily allowed for such.

9.

Ms. Johnson was finally discovered unconscious in the sauna after approximately two (2) hours. She was unconscious and suffering from severe hyperthermia and burns.

10.

Ms. Johnson shows that her injuries resulted from a combination of the heat in the sauna and the duration of time that she remained inside the sauna unconscious, as well as other contributing factors.

11.

Ms. Johnson was rushed to the Eastside Medical Center in Snellville, Georgia, where she received emergency medical treatment for her burns, including the administration of necessary, emergency medications. Among these medications was a drug to address the hyperthermia. She remained at Emory Eastside for several days and ultimately regained consciousness, though she was suffering from horrible injuries.

12.

Because Ms. Johnson's condition was so dire, she was later rushed to the Burn Unit at Grady Memorial Hospital where she was admitted and remained from approximately February 23, 2015 until her discharge on approximately April 2, 2015.

13.

All ten of Ms. Johnson's toes and a portion of each foot were amputated as a direct result of the injuries she sustained inside the sauna.

14.

Ms. Johnson underwent multiple, painful skin grafts to treat the burns on her legs. Those skin grafts have left permanent scars on her body. She was also treated for other burns all over her body, including, though not limited to, her legs, hands and abdomen.

15.

Ms. Johnson spent a prolonged period of time in the hospital and underwent significant treatment for her injuries; she incurred hundreds of thousands of dollars in medical expenses.

16.

Because she no longer has her toes, Ms. Johnson will suffer permanent debilitation, she will incur future medical expenses, and she will have to wear burdensome boots in order to walk. She will never again be the same. She has suffered and will continue to suffer both physically and mentally.

#### **COUNT I – NEGLIGENCE**

17.

Plaintiff realleges and incorporates by reference herein the allegations contained in paragraphs 1 through 16 above.

18.

Ms. Johnson shows that Defendant L.A. Fitness owed her a duty of care as a patron of their establishment.

19.

Ms. Johnson shows that Defendant L.A. Fitness negligently breached their duty of care in many ways, including, though not limited to, the following: Defendant L.A. Fitness allowed the sauna to become too hot, posing an unsafe risk of unconsciousness and severe burns; L.A. Fitness failed to implement a safety inspection to provide for the care and safety of its patrons; L.A. Fitness failed to carry out any safety inspection; L.A. Fitness failed to carry out any safety inspection within a reasonable time; L.A. Fitness failed to adhere to the safety specifications for the saunas on L.A. Fitness' property as outlined by the sauna manufacturer; L.A. Fitness failed to properly vent the saunas on L.A. Fitness' property; L.A. Fitness failed to implement and carry out any method for tracking who went into the sauna and the time lapsed while that person was inside; L.A. Fitness failed to provide a reasonable means for patrons to ascertain how long they had been inside the sauna; L.A. Fitness failed to indicate the temperature settings in understandable terms; L.A. Fitness failed to indicate the timer settings in understandable terms; and L.A. Fitness failed to carry out a safety inspection particular to the saunas inside its facility within a reasonable time.

20.

Defendant L.A. Fitness' breach is both the actual and proximate cause of Ms. Johnson's injuries.

21.

Ms. Johnson shows that L.A. Fitness knew or should have known that their saunas posed a danger to L.A. Fitness patrons.

22.

Ms. Johnson shows that she incurred costs and permanent and debilitating injuries and that Defendant L.A. Fitness' negligence is the direct and proximate cause of said costs and injuries.

23.

Defendant Christopher McDaniel also had a duty as the manager of the subject premises to ensure that the policies referenced hereinabove were implemented, carried out and enforced.

24.

Defendant McDaniel breached this duty by failing to implement, carry out and enforce any such policies. Said failure is the actual and proximate cause of Ms. Johnson's injuries.

## **COUNT II – PREMISES LIABILITY**

25.

Plaintiff realleges and incorporates by reference herein the allegations contained in paragraphs 1 through 16 above.

26.

At all times relevant hereto, Ms. Johnson was legally on the premises of L.A. Fitness.

27.

At all times relevant hereto, Fitness International, LLC owned and/or operated a business known as L.A. Fitness on the premises where Ms. Johnson was injured.

28.

Defendant L.A. Fitness failed to take steps necessary to monitor for dangerous conditions then existing on its premises, failed to take step necessary to ensure that their premises were made safe, and failed to make safe conditions that L.A. Fitness knew were unsafe.

29.

Defendant L.A. Fitness knew of significant dangers associated with its saunas. L.A. Fitness' knowledge of these dangers was at all times superior to Ms. Johnson's knowledge of any dangers associated with the same saunas.

30.

Defendant L.A. Fitness failed to implement or carry out any regular walk through of its premises that would have enabled L.A. Fitness to discover dangers or render assistance to patrons who were injured on and remained on L.A. Fitness' premises.

31.

Defendant L.A. Fitness has a duty to protect its patrons from unreasonable risks. Defendant L.A. Fitness breached this duty in many respects, including though not limited to, by leaving Ms. Johnson inside the sauna for nearly two hours, thereby permitting her to be "cooked alive".

32.

Defendant L.A. Fitness breached its duty of care to Ms. Johnson, and said breach is both the actual and proximate cause of Ms. Johnson's injuries.

33.

Ms. Johnson has suffered permanent and debilitating injuries as a direct result of Defendant L.A. Fitness' negligence. Ms. Johnson has incurred significant medical costs as a result thereof.

34.

Defendant Christopher McDaniel also had a duty as the manager of the subject premises to ensure that the policies referenced hereinabove were implemented, carried out and enforced.

35.

Defendant McDaniel breached this duty by failing to do implement, carry out or enforce said inspections. Said failure is the actual and proximate cause of Ms. Johnson's injuries.

### **COUNT III - GROSS NEGLIGENCE**

36.

Plaintiff realleges and incorporates by reference herein the allegations contained in paragraphs 1 through 16 above.

37.

Ms. Johnson shows that Defendants were grossly negligent and that each lacked even that degree of care that men of common sense, however inattentive he or she may be, exercise in circumstances that are the same or similar as those outlined herein.

38.

Defendants failed to provide timers to individual sauna patrons so that patrons would know when they had reached or exceeded the recommended time inside the sauna.



Defendants did not regularly vent the sauna to allow new air in, leaving instead heated air that could become superheated and oxygen depleted. Defendants did not install the mechanical devices inside their saunas properly. Defendants did not leave the sauna door open; instead, the doors are governed by a mechanical device that automatically *closes* the door, contrary to the manufacturer's requirements. Defendants did not install vents inside the sauna as required by the manufacturer. Defendants failed to post critical warnings of the extreme dangers associated with the use of saunas in conspicuous areas. Defendants failed to obtain and post defibrillators inside their facility or close to the sauna.

39.

Ms. Johnson shows that Defendants had actual knowledge that its saunas posed an extreme risk of burns to its patrons. Defendants acquired this actual knowledge prior to the date that Ms. Johnson was injured. Defendants knew that there were prior similar incidents and complaints of their saunas being too hot. Defendants knew that previous L.A. Fitness patrons had been severely burned.

40.

Ms. Johnson shows that Defendants failed to take reasonable precautions to minimize the known risk of harm to her and other patrons. Defendants took no action to supervise its saunas or patrons in the sauna, took no action to prevent the sauna from overheating to unsafe temperatures, and took no action to warn patrons of any of these risks.

41.

Furthermore, despite knowing of these risks, Defendants failed to have a plan in place to monitor the saunas or the well-being of patrons inside the saunas.

42.

Alternatively, L.A. Fitness' employees failed to carry out this plan – assuming such a plan existed – on the day Ms. Johnson was severely injured, as evinced by the length of time that Ms. Johnson was unconscious and unaccounted for inside the sauna.

43.

Ms. Johnson also shows that Defendants were grossly negligent in designing and maintaining its sauna room. Defendants knew that its saunas posed an extreme risk of overheating and causing unconsciousness and that being near the sauna heater could cause severe burns or death; regardless, L.A. Fitness designed and continued to maintain its sauna room in an unsafe manner.

44.

Ms. Johnson shows that she incurred costs and permanent and debilitating injuries and that Defendants' gross negligence is the actual and proximate cause of said costs and injuries.

45.

Defendant Christopher McDaniel also had a duty as the manager of the subject premises to ensure that the policies referenced hereinabove were implemented, carried out and enforced.

46.

Defendant McDaniel breached this duty by failing to take any action whatsoever, even failing to exercise that degree of care that men of common sense, however inattentive he or she may be, exercise in circumstances that are the same or similar as those outlined herein. Said failure is the actual and proximate cause of Ms. Johnson's injuries.

#### **COUNT IV – NEGLIGENT DESIGN AND MAINTENANCE**

47.

Plaintiff realleges and incorporates by reference herein the allegations contained in paragraphs 1 through 16 above.

48.

Ms. Johnson shows that Defendant L.A. Fitness negligently designed the heater room exposing patrons to an unreasonable risk of harm.

49.

Defendants knew or had reason to know that its saunas posed an extreme risk of overheating and causing unconsciousness. Defendants knew that being near the sauna heater could cause severe burns or death. Despite this knowledge, however, Defendants negligently designed and negligently maintained its sauna room in an unsafe manner by placing the exposed heater unit directly adjacent to the sitting bench where patrons could easily come in contact with its extreme heat. Further, Defendants failed to install proper ventilation, failed to install heater sensors and automatic "kill switches", failed to install emergency manual "kill switches", and failed to provide any type of timers to individual sauna users.

50.

Ms. Johnson shows that she incurred costs and permanent and debilitating injuries and that negligent design of Defendant L.A. Fitness is the direct and proximate cause of said costs and injuries.

**COUNT V - WILLFUL AND WANTON CONDUCT**

51.

Plaintiff realleges and incorporates by reference herein the allegations contained in paragraphs 1 through 50 above.

52.

Plaintiff shows that Defendants' actions were willful and wanton and evince an entire want of care that therefore raise the presumption that Defendants were consciously indifferent to the consequences of their actions and omission. As such, punitive and exemplary should be awarded to deter Defendants from similar conduct in the future.

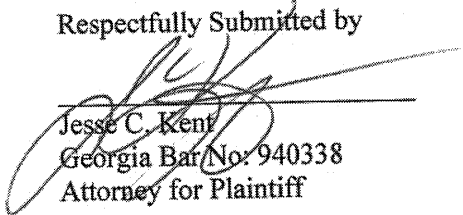
*Relief requested and signatures follow*

**WHEREFORE**, Plaintiff respectfully requests:

- A. That process issue and that service be had on each Defendant;
- B. That this matter be tried before a jury of at least 12 with an additional alternate;
- C. That Plaintiff recover from the Defendants damages to adequately compensate Charmaine Johnson for general damages for all physical injuries and pain and suffering, past present and future, in the amount to be determined at trial;
- D. That Plaintiff Charmaine Johnson recover from the Defendant damages to adequately compensate her, individually, for special damages for all medical bills, past, present and future;
- E. That Plaintiff Charmaine Johnson be awarded punitive damages;
- F. That Plaintiff be awarded expenses of litigation, including, without limitation, reasonable attorney's fees; and
- G. That this Honorable Court award Plaintiff such other relief as is just and proper.

This the 10<sup>th</sup> day of July, 2015.

Respectfully Submitted by

  
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Jesse C. Kent  
Georgia Bar No: 940338  
Attorney for Plaintiff

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