

CAUSE NO. \_\_\_\_\_

JANE DOE § IN THE DISTRICT COURT OF  
§  
§ HARRIS COUNTY, TEXAS  
v. §  
§ \_\_\_\_\_ JUDICIAL DISTRICT  
BRENNANS OF HOUSTON, INC. d/b/a §  
BRENNANS OF HOUSTON § **JURY TRIAL DEMANDED**

**PLAINTIFF'S ORIGINAL PETITION**

Plaintiff Jane Doe<sup>1</sup> complains of Defendant Brennans of Houston, Inc. d/b/a Brennans of Houston ("Brennans") and, for cause of action, would respectfully show the Court the following:

**I. SUMMARY OF LAWSUIT**

Plaintiff is a lawyer and partner at the Houston office of a large international law firm. She has practiced law for twelve years.

On October 19, 2015, Plaintiff was raped and sexually assaulted by a Brennans bartender, Sean Kerrigan, after dining and drinking at Brennans. Plaintiff had never met Kerrigan prior to that evening.

Early in the evening on the night in question, Kerrigan slipped a drug into her drink. Plaintiff remembers almost nothing after her second drink. Further, on the night in question, Kerrigan over-served Plaintiff with alcohol.

Later in the evening, Plaintiff was joined at the bar by Brennans manager Chris Lockhart, who Plaintiff did not know prior to that evening. Surveillance video shows Lockhart taking a visibly incapacitated Plaintiff out of Brennans, with another Brennans manager looking on, but doing nothing. Plaintiff has learned from law enforcement that Kerrigan and Lockhart then took her from Brennans to another bar. From there, Kerrigan and Lockhart took Plaintiff to her home,

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<sup>1</sup> Plaintiff's identity has been provided to Brennans and its counsel.

where she lived alone. Kerrigan raped Plaintiff an unknown number of times at her home that night, and Lockhart, at a minimum, aided and abetted the rape and the attempted continuation of the assault the following morning.

Plaintiff went to the emergency room at Ben Taub Hospital the evening of the next day, where a physical examination was performed, a rape kit was collected, and significant vaginal and other physical injuries consistent with rape were documented. Plaintiff simultaneously received invasive and extremely painful treatment from Ben Taub so as to avoid sexually transmitted diseases Kerrigan might have otherwise transmitted to her.

In July 2018, Kerrigan was indicted for felony aggravated sexual assault of Plaintiff. On the same day, he was indicted for felony sexual assault of another female, for an unrelated sexual assault.

Ultimately, Plaintiff took medical leave from her law firm because of the emotional trauma. Plaintiff is currently undergoing treatment for Post-Traumatic Stress Disorder that the savage assault has caused her.

On November 15, 2018, Kerrigan passed away suddenly in Houston from an unknown cause.

## **II. DISCOVERY CONTROL PLAN**

Discovery is intended to be conducted under Level 3, Pursuant to Tex. R. Civ. P. 190.

## **III. PARTIES**

Plaintiff, Jane Doe, is a resident of Harris County, Texas.

Defendant, Brennans of Houston, Inc. d/b/a Brennans of Houston, is a Texas corporation with its principal place of business in Houston, Harris County, Texas. Defendant may be served

through its registered agent for service: Alex Brennan-Martin, 3300 Smith Street, Houston, Texas 77006.

#### **IV. JURISDICTION & VENUE**

This court has jurisdiction over this matter because the damages in question exceed the minimum jurisdiction of this court. Venue is proper in Harris County, Texas, pursuant to TEX. CIV. PRAC. & REM. CODE §15.002(a)(3) because the Defendant's principal place of business is in Harris County and because the incident at issue occurred in Harris County.

#### **V. BACKGROUND**

On October 19, 2015, Plaintiff went to Brennans restaurant in Houston with a male colleague from her firm. They arrived at Brennans at approximately 5:15 p.m., where they sat in the bar's patio area. At 6:45 pm, Plaintiff's colleague left, and she remained to eat dinner and sat at the bar. Sean Kerrigan was the sole bartender at Brennans at the time and the only one who served Plaintiff that evening.

Almost immediately upon the colleague's departure, Kerrigan "spilled" Plaintiff's drink and replaced it with a bourbon-based drink "on the house." Kerrigan drugged Plaintiff with this drink. Plaintiff has no memory of finishing the bourbon-based drink, and otherwise has almost no memory of the evening after approximately 6:45 p.m. Brennans surveillance video shows that Plaintiff remained at the bar, where she was served some food and several more drinks by Kerrigan. At some point in the evening, Plaintiff was joined by another woman who was sitting at the bar, who Plaintiff did not know and still does not know. This woman stayed for the rest of the evening, and presumably was an associate of Kerrigan and Brennans manager Chris Lockhart.

Later in the evening, Plaintiff and this other woman were joined by Brennans manager Lockhart. Plaintiff has no memory of meeting Lockhart.

At approximately midnight, Brennans surveillance video shows an obviously impaired Plaintiff being led out of Brennans by Brennans manager Lockhart and his female associate, in the presence of another Brennans manager and Kerrigan. The other Brennans manager did nothing to intervene. Although Plaintiff has no memory of this, she has been advised by prosecutors that Kerrigan and Lockhart took Plaintiff to a neighboring bar. From there, they went to Plaintiff's home; Plaintiff has no memory of arriving home. For whatever reason, Lockhart took it upon himself to videotape Plaintiff looking for her keys at her home. In the video, it is obvious that she is severely impaired. Plaintiff has no memory of these events.

Plaintiff's next memory is regaining consciousness briefly at some point before dawn, in her bed, nude, with Kerrigan on top of her, forcibly engaging in very rough vaginal intercourse. She felt extreme pain during the rapes, and said so in an attempt to get him to stop, but was too physically incapacitated to force him to stop. Plaintiff drifted in and out of consciousness for the remainder of these assaults.

The next morning, she again regained consciousness, nude in bed, with both Kerrigan and Lockhart pulling the covers off of her and laughing. Although still extremely disoriented, Plaintiff was able to remove them from her house shortly thereafter. Nonetheless, Kerrigan continued to aggressively attempt to rape Plaintiff again (as she was attempting to make them leave), including pushing her down on her back porch and groping her breasts and genitals while she, still disoriented, fought back. The men only left when they became concerned that a neighbor may hear the commotion and yelling. Plaintiff later discovered that the men had stolen prescription medication and money from her purse.

That evening, Plaintiff went to Ben Taub hospital where she reported the details of the evening and the rape, along with ongoing nausea and vomiting, extreme vaginal pain and difficulty urinating. Among other things, a rape assessment was done. The assessment confirmed significant vaginal injuries consistent with rape.

Plaintiff advised Alex Brennan-Martin of the incident. Brennan-Martin met with her and she provided Brennan with these details. Initially, Brennan-Martin advised that he had been counseled not to provide her with the names of the two men. Brennan-Martin advised that one of them (Lockhart) was a waiter, when in fact he was a front-of-house manager. Brennan-Martin advised that he had reviewed surveillance video and it showed only Lockhart carrying Plaintiff out of Brennans – which is also contradicted by the actual surveillance video. Brennan-Martin later advised Plaintiff that Brennans had terminated the employment of Kerrigan and Lockhart.

On July 19, 2018, Mr. Kerrigan was indicted for felony aggravated sexual assault of Plaintiff. On the day, he was also indicted for another felony sexual assault of another victim; that assault occurred subsequent to his rape of Plaintiff.

Prior to hiring Kerrigan, Brennans appears to have done no background check on him. Prior to being hired by Brennans, Kerrigan had recently moved to Houston from the New York/New Jersey area, where he had a criminal record. Lockhart had been a longtime employee of Brennans, and gradually rose to higher positions, despite a very checkered work history there, including infractions related to alcohol.

Plaintiff has suffered and continues to suffer extreme emotional distress from her rape and the aftermath. The distress has greatly interfered with both her emotional well-being and her work. On August 17, 2018, the distress reached a point where she has had to take medical leave from her firm, and she is currently undergoing treatment for PTSD. Her distress has cost her a

tremendous amount in lost earnings, along with medical and counseling expenses. At this point, she does not know when she will be able to return to work in any capacity, and she will undoubtedly continue to struggle with the emotional ramifications of this rape for the rest of her life.

**VI. CAUSES OF ACTION**

**CAUSE OF ACTION 1: SEXUAL ASSAULT AND BATTERY**

Plaintiff re-alleges the allegations above.

At the time of events described above, Sean Kerrigan was acting in the course and scope of his employment at Brennans when he drugged Plaintiff and over-served her with alcohol. He left with her from Brennans and took her to her home where he committed sexual abuse, sexual assaults, and sexual battery on Plaintiff. As a result of the abuse, Plaintiff has suffered damages as described below. Plaintiff's personal injuries arise as a result of conduct that violates:

- (1) Section 22.011(a)(1), Penal Code (sexual assault); and
- (2) Section 22.021(a)(1)(A), Penal Code (aggravated sexual assault).

In addition to actual damages, Plaintiff seeks punitive damages.

**CAUSE OF ACTION 2: AIDING AND ABETTING SEXUAL ASSAULT AND BATTERY**

Plaintiff re-alleges the allegations above.

At the time of events described above, Chris Lockhart was acting in the course and scope of his employment as a manager at Brennans took Plaintiff from Brennans to another bar, and then to her home where his accomplice, Kerrigan, committed sexual abuse, sexual assaults, and sexual battery on Plaintiff. According, Lockhart aided, abetted, assisted and facilitated Kerrigan's sexual assault and intentional infliction of emotional distress of Plaintiff. As a result

of the abuse, Plaintiff has suffered damages as described below. Plaintiff's personal injuries arise as a result of conduct that violates:

- (1) Section 22.011(a)(1), Penal Code (sexual assault); and
- (2) Section 22.021(a)(1)(A), Penal Code (aggravated sexual assault).

In addition to actual damages, Plaintiff seeks punitive damages.

**CAUSE OF ACTION 3: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

Plaintiff re-alleges the allegations above.

At the time of events described above, Kerrigan was acting in the course and scope of his employment at Brennans when he drugged Plaintiff and over-served her with alcohol. He left with her from Brennans and took her to her home, where he raped her and intentionally caused severe emotional distress to her. Kerrigan's conduct was extreme and outrageous. As a result, Plaintiff has suffered damages as described below. As a result of the abuse, Plaintiff has suffered damages as described below. Plaintiff's personal injuries arise as a result of conduct that violates:

- (1) Section 22.011(a)(1), Penal Code (sexual assault); and
- (2) Section 22.021(a)(1)(A), Penal Code (aggravated sexual assault).

In addition to actual damages, Plaintiff seeks punitive damages.

**CAUSE OF ACTION 4: PREMISES LIABILITY**

Plaintiff re-alleges the allegations above.

Plaintiff was an invitee at Brennans Restaurant, which is owner, operated and managed by Brennans. Brennans breached its duty of care owed to Plaintiff, as an invitee of the premises, by failing to properly manage and supervise its employee, Kerrigan, and its manager Lockhart. As a result, Kerrigan (with Lockhart's assistance) sexually assaulted Plaintiff. Brennans' acts

and omissions proximately caused Plaintiff to suffer damages as described below. Plaintiff's personal injuries arise as a result of conduct that violates:

- (1) Section 22.011(a)(1), Penal Code (sexual assault); and
- (2) Section 22.021(a)(1)(A), Penal Code (aggravated sexual assault).

In addition to actual damages, Plaintiff seeks punitive damages.

**CAUSE OF ACTION 5: NEGLIGENCE**

Plaintiff re-alleges the allegations above.

Brennans owed Plaintiff a duty of ordinary care to prevent Kerrigan from sexually assaulting her, with the aid and assistance of Lockhart, including the duty of care hiring, employing, managing and retaining Kerrigan and Lockhart. As set forth herein, Brennans breached this duty and this breach proximately caused Plaintiff to suffer damages as described below. Plaintiff's personal injuries arise as a result of conduct that violates:

- (1) Section 22.011(a)(1), Penal Code (sexual assault); and
- (2) Section 22.021(a)(1)(A), Penal Code (aggravated sexual assault).

In addition to actual damages, Plaintiff seeks punitive damages.

**CAUSE OF ACTION 6: GROSS NEGLIGENCE**

Plaintiff re-alleges the allegations above.

The acts and/or omissions of Brennans (including its employee and manager) as described above, when viewed objectively from Brennans' standpoint, involve an extreme degree of risk considering the probability and magnitude of potential harm to others. Brennans had subjective awareness of the risk involved, but nevertheless proceeded in conscious indifference to the rights, safety and/or welfare of others, including Plaintiff. Therefore, Brennans' acts and omissions constitute gross negligence and malice as those terms are



understood by law. Therefore, Plaintiff prays that punitive damages be awarded against Brennans.

Any caps on punitive damages, under state or federal law, should not be applied because Brennans, and its employee and manager's conduct disqualifies Brennans from the benefit of any caps on exemplary damages. Specifically, Brennans' actions fall under one or more of the exceptions to limits on punitive damages as set out in Section 41.008 of the Texas Civil Practice & Remedies Code.

**VII. RESPONDEAT SUPERIOR/AGENCY RELATIONSHIP**

Plaintiff incorporates the previous allegations.

At the time and on the occasion in question, Brennans operated the Brennans of Houston restaurant in question, located at 3300 Smith, Houston, Texas 77006. The employee and managers involved, including Kerrigan and Lockhart, were working within the course and scope of their employment for Brennans. As such, Brennans is vicariously liable for the conduct of its agents, employees and/or servants as well as for Plaintiff's injuries and damages under the doctrine of *respondeat superior*.

At all times relevant hereto, Brennans had the right to control the physical details of the manner and performance of the conduct of its employees and managers or agents, so as to subject Brennans to vicarious liability for the torts of their employees or agents.

Alternatively, at all relevant times, the acts of the employees and managers of Brennans were performed during their employment with Brennans, to further its business and to accomplish the objectives for which they were hired, and were within the course and scope of their employment or within the authority delegated to them, so as to subject Brennans to vicarious liability for their torts.

## **VIII. DAMAGES**

Plaintiff incorporates the previous allegations.

As a direct and proximate result of Brennans' acts and omissions described above, Plaintiff has incurred one or more of the following categories of damages:

- a. Conscious physical and mental pain, and suffering and anguish, past and future;
- b. Physical impairment, past and future;
- c. Loss of enjoyment of life and peace of mind, past and future;
- d. Reasonable and necessary medical, counseling, psychiatric, therapeutic and related expenses, past and future;
- e. Loss of earnings and earning capacity; and
- f. Such other damages that will be shown at trial.

Plaintiff also seeks exemplary damages in an amount within the jurisdictional limits of the court.

## **IX. PRESERVATION OF EVIDENCE**

Plaintiff hereby requests and demand that Brennans preserve and maintain all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit or the damages resulting therefrom, including statements, photographs, videotapes, audiotapes, surveillance or security tapes, business or medical records, incident reports, bills, telephone call slips or records, correspondence, facsimiles, email, voicemail, text messages, any evidence involving the incident in question, and any electronic image or information related to the referenced incident or damages. Failure to maintain such items will constitute "spoliation" of the evidence.

**PRAYER**

WHEREFORE, Plaintiff Jane Doe prays that Defendant Brennans of Houston, Inc. d/b/a Brennans of Houston answer this Petition, that this case be set for trial without delay, and that Plaintiff recover a judgment from Defendant for her damages in such amount as the evidence may show and the trier of fact may determine to be proper, of at least \$20,000,000.00, in addition to pre-judgment interest, post-judgment interest, costs, punitive damages, and all other and further relief to which Plaintiff may show herself justly entitled.

Plaintiff respectfully requests a trial by jury.

Unofficial Copy Office of Marilyn Burgess District Clerk

Respectfully submitted,

**THE BUZBEE LAW FIRM**

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