

CAUSE NO. DC-12-06130

JEFF AYUB,

Plaintiff,

v.

AMBER ROBERTS,

Defendant.

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IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

G-134TH JUDICIAL DISTRICT

PLAINTIFF’S ORIGINAL PETITION

Plaintiff, Jeff Ayub, files his Original Petition, complaining of Defendant, Amber Roberts, and would respectfully show the Court as follows:

I. Discovery Control Plan

Plaintiff intends to conduct discovery in this case under Level 2 pursuant to Rule 190.2 of the Texas Rules of Civil Procedure.

II. Parties

1. Plaintiff Jeff Ayub is a Texas resident residing in Dallas, Texas.
2. Amber Roberts is a Texas resident and employee of Cosmetic Procedures Clinic of North Dallas. She may be served at her normal place of business, Cosmetic Procedures Clinic of North Dallas, 7929 Brookriver Drive, Suite 165, Dallas, Texas 75247.

III. Jurisdiction

3. Personal jurisdiction over Amber Roberts because she is a resident of the State of Texas.
4. Subject matter jurisdiction is proper because the amount in controversy exceeds the minimum jurisdictional limits of this Court.

IV. Venue

5. Dallas County is the proper venue because all of the events and omissions giving rise to this suit occurred in Dallas County, Texas.

V. Facts

6. Defendant Cosmetic Procedures Clinic of North Dallas (“CPC”) is a laser hair removal facility.

7. Mr. Ayub received cosmetic laser hair removal at CPC’s Dallas, Texas facility, located at 12800 Preston Road Suite 101, Dallas, Texas 75230. Mr. Ayub sought laser hair removal from CPC for the cosmetic purpose of reducing unwanted hair. Mr. Ayub did not seek laser hair removal with the intent to treat, combat, or ameliorate any kind of medical condition, such as a disease, disorder, defect, or injury. Mr. Ayub has never been diagnosed with any such medical condition for which laser hair removal could be considered treatment.

8. Mr. Ayub arrived for his appointment on June 7, 2010, and underwent a near full body laser removal that included his ears, face, chest, stomach, back, arms, hands, feet and buttocks. The technician, Defendant Amber Roberts, without performing any sort of patch test to determine Mr. Ayub’s sensitivity, increased the setting on the laser in order to “remove more hair”. Mr. Ayub could smell burning skin and immediately began experiencing intense pain and excessive heat. Mr. Ayub even noticed, to his surprise and horror that the skin on his chest began to “bubble up” during the treatment. The technician explained that this was normal and continued with the treatment. Mr. Ayub, trusting that the technician knew what she was doing, allowed the incredibly painful treatment to continue. The pain from the procedure persisted for days, prompting Mr. Ayub to visit a doctor, who diagnosed him with first and second degree burns on his ears, chest, stomach, back, hands, feet, arms and legs as well as a ruptured eardrum.

9. As a result of the Defendant's unreasonable and negligent conduct, Mr. Ayub has experienced extreme pain, mental anguish, and permanent disfigurement for which he now seeks relief.

VI. Count I – Negligence

10. All preceding paragraphs are incorporated as if set forth fully herein.

11. Ms. Roberts, as the technician performing the hair removal on Mr. Ayub, owed him a duty to use the laser in a safe, prudent, and reasonable manner by, among other things, following the operating procedures and safety rules imposed by the manufacturer. Ms. Roberts breached this duty by, *inter alia*, failing to use the laser in a safe and prudent manner.

12. As a direct and proximate result of Defendant's acts and omissions, Plaintiff Jeff Ayub has not only suffered painful and disfiguring burns on his ears, chest, stomach, back, hands, feet, arms and legs, but also incurred economic and non-economic damages in an amount in excess of the jurisdictional limits of this Court. In addition, Mr. Ayub's left eardrum ruptured as a result of the technician's negligent use of the laser to treat his unprotected ear.

13. Further, Ms. Roberts is also liable under the theory of *res ipsa loquitor* because, but for her negligence, Mr. Ayub would not have sustained his injuries.

VII. Count II - Gross Negligence

14. Ms. Roberts's acts and omissions, which are described above and below, involved an extreme degree of risk and harm, when viewed from the standpoint of Ms. Roberts, considering the probability and magnitude of the potential harm to Mr. Ayub and others. Ms. Roberts had actual, subjective awareness of the risks of this conduct, but nevertheless proceeded with conscious indifference to the right, safety and welfare of Mr. Ayub and others.

15. As such, Ms. Roberts should be liable for exemplary damages in an amount calculated to punish and deter such conduct for occurring again in the future.

VIII. Count III - Assault

16. Mr. Ayub consented to hair removal, not first and second degree burns. As described above, Ms. Roberts acted intentionally, knowingly, and recklessly. Ms. Roberts made contact with Mr. Ayub through the negligent use of the laser. Ms. Roberts contact with Mr. Ayub caused him bodily injury.

17. This conduct caused economic damage, physical pain and suffering, mental anguish, inconvenience, loss of enjoyment of life and other nonpecuniary losses. In addition to these damages, Mr. Ayub requests that he be awarded exemplary damages in an amount to be determined by a jury.

IX. Damages for Jeff Ayub

18. Plaintiff Jeff Ayub, as a direct, foreseeable and proximate result of Defendants' negligent acts and/or omissions, has already and in reasonable probability will continue to suffer the following physical, pecuniary and emotional damages in the future:

- a. physical pain, mental anguish and emotional distress in the past and future;
- b. reasonable and necessary medical expenses in the past and future;
- c. pecuniary loss;
- d. lost enjoyment of life;
- e. past wages and future earning capacity.

19. Plaintiff seeks damages of no more than \$500,000.00 in actual and \$1,000,000.00 in punitive damages, from Defendant.

X. Jury Trial Requested

20. Plaintiffs request a jury trial and have tendered the required fee.

XI. Relief Requested

21. For these reasons, Plaintiff prays that a citation be issued ordering Ms. Roberts appear and that, following a jury trial he be awarded actual and exemplary damages, pre and post judgment interest, attorney's fees and such other and further relief to which Plaintiff is justly entitled.

XII. Request for Disclosure

22. With this Original Petition, Plaintiff additionally serves a request for the information and materials outlined in Texas Rule of Civil Procedure 194.2.

Respectfully submitted,



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