

IN THE CIRCUIT COURT OF THE
15th JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

MARK KAPLAN, and his wife,
KAREN KAPLAN,

Plaintiffs,

vs.

Case No.:

SW HOSPITALITY GROUP (BOCA), LLC,
a Florida Limited Liability Company, dba
SW GRILL, and SW HOSPITALITY GROUP LLC,
a Florida Limited Liability Company, dba
SW GRILL, and SW GRILL,

Defendants.

COMPLAINT

COME NOW, the Plaintiffs, MARK KAPLAN, and his wife, KAREN KAPLAN, by and through their undersigned attorneys, and sue the Defendants, SW GRILL, SW HOSPITALITY GROUP (BOCA), LLC, a Florida limited liability company, doing business as SW GRILL, and , and SW HOSPITALITY GROUP LLC, a Florida limited liability company, doing business as SW GRILL, and allege:

COMMON FACT ALLEGATIONS

1. This is an action for damages in excess of Fifty-Thousand Dollars (\$50,000.00), exclusive of interest, costs, and attorney's fees.
2. The Defendant, SW GRILL, was, and is, a restaurant doing business in Boca Raton, Palm Beach County, Florida, and is located at 17751 Boca Club Blvd., Boca Raton, Florida 33487.

3. The Defendant, SW HOSPITALITY GROUP (BOCA), LLC, was, and is, a Florida limited liability company authorized to do business, and was in fact, doing business in Boca Raton, Palm Beach County, Florida, owning and operating the "SW GRILL," located at 17751 Boca Club Blvd., Boca Raton, Florida 33487, which said Defendant owned, maintained, and/or controlled.

4. The Defendant, SW HOSPITALITY GROUP LLC, was, and is, a Florida limited liability company authorized to do business, and was in fact, doing business in Boca Raton, Palm Beach County, Florida, owning and operating the "SW GRILL," located at 17751 Boca Club Blvd., Boca Raton, Florida 33487, which said Defendant owned, maintained, and/or controlled.

5. On the 14th day of November, 2024, the Plaintiff, MARK KAPLAN, at approximately 6:00 AM, was lawfully on the premises of the Boca Raton Golf & Racquet Club, also located at 17751 Boca Club Blvd., Boca Raton, Florida 33487.

6. While the Plaintiff, MARK KAPLAN, was walking on the premises, the Plaintiff tripped and fell over a sign from the SW GRILL, that was improperly left in a common area hallway.

7. The Defendant, SW GRILL, owed the non-delegable duty to the Plaintiff to inspect and maintain the interior floors and walkways of the premises in a reasonably safe condition for its invitees and customers, and others, and to warn its customers and invitees, and others, including the Plaintiff, of any dangerous conditions present.

8. The Defendant, SW GRILL, breached its duty to the Plaintiff, MARK KAPLAN, by engaging in one or more of the following acts of commission and/or omission:

a) The Defendant, SW GRILL, created and/or permitted the sign to remain in an unauthorized and improper area, despite actual or constructive knowledge of the dangerous condition, and should have taken action to remedy it;

b) The Defendant, SW GRILL, knew of the existence of the said condition, or in the exercise of reasonable care, should have known of the existence of said condition;

c) The Defendant failed to warn the Plaintiff of said dangerous and defective condition and/or in the alternative, allowed said condition to exist for a length of time within which a reasonable inspection would have disclosed the same; and/or

d) The Defendant, SW GRILL, should have been aware of the dangerous condition as it occurred with regularity and was therefore foreseeable.

9. Due to the above breaches of duty by the Defendant, SW GRILL, the sign was allowed to remain in an improper, unauthorized, and unsafe manner, which caused the Plaintiff to trip and fall.

10. As a result of this fall, the Plaintiff, MARK KAPLAN, suffered serious and permanent injuries, as more fully described hereinbelow.

COUNT I

(Mark Kaplan - Negligence - SW GRILL)

The Plaintiff, MARK KAPLAN, reavers and realleges each and every allegation contained in Paragraphs 1 through 10 herein, and further alleges against the Defendant, SW GRILL, as follows:

11. As a direct and proximate result of the above-described negligence of the Defendant, SW GRILL, the Plaintiff, MARK KAPLAN, was caused to fall and suffered bodily injury and resulting pain and suffering, disability and disfigurement, mental anguish, loss of capacity for the normal enjoyment of life, expenses of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money and aggravation of a pre-existing condition. The Plaintiff's losses are either permanent or continuing in nature and the Plaintiff, MARK KAPLAN, will suffer such losses in the future.

WHEREFORE, the Plaintiff, MARK KAPLAN, sues the Defendant, SW GRILL, for compensatory damages, costs, and such further relief as this Court deems appropriate.

COUNT II

(Mark Kaplan - Vicarious Liability - SW HOSPITALITY GROUP (BOCA), LLC)

The Plaintiff, MARK KAPLAN, reavers and realleges each and every allegation contained in Paragraphs 1 through 11 herein, and further alleges against the Defendant, SW HOSPITALITY GROUP (BOCA), LLC, as follows:

12. As a direct and proximate result of the negligence of the Defendant, SW GRILL, as aforesaid, and consequent injuries and damages to the Plaintiff, MARK KAPLAN, the Defendant, SW HOSPITALITY GROUP (BOCA), LLC, is vicariously liable to the Plaintiff, MARK KAPLAN, for all suffered bodily injury and resulting pain and suffering, disability and disfigurement, mental anguish, loss of capacity for the normal enjoyment of life, expenses of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money and aggravation of a pre-existing condition. The Plaintiff's, MARK KAPLAN's, losses are either permanent or continuing in nature and the Plaintiff, MARK KAPLAN, will suffer such losses in the future.

WHEREFORE, the Plaintiff, MARK KAPLAN, sues the Defendant, SW HOSPITALITY GROUP (BOCA), LLC, for compensatory damages, costs, and such further relief as this Court deems appropriate.

COUNT III

(Mark Kaplan - Vicarious Liability - SW HOSPITALITY GROUP LLC)

The Plaintiff, MARK KAPLAN, reavers and realleges each and every allegation contained in Paragraphs 1 through 11 herein, and further alleges against the Defendant, SW HOSPITALITY GROUP LLC, as follows:

13. As a direct and proximate result of the negligence of the Defendant, SW GRILL, as aforesaid, and consequent injuries and damages to the Plaintiff, MARK KAPLAN, the Defendant, SW HOSPITALITY GROUP LLC, is vicariously liable to the Plaintiff, MARK KAPLAN, for all suffered bodily injury and resulting pain and suffering, disability and disfigurement, mental anguish, loss of capacity for the normal enjoyment of life, expenses of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money and aggravation of a pre-existing condition. The Plaintiff's, MARK KAPLAN's, losses are either permanent or continuing in nature and the Plaintiff, MARK KAPLAN, will suffer such losses in the future.

WHEREFORE, the Plaintiff, MARK KAPLAN, sues the Defendant, SW HOSPITALITY GROUP LLC, for compensatory damages, costs, and such further relief as this Court deems appropriate.

COUNT IV

(Karen Kaplan - Consortium - SW GRILL)

The Plaintiff, KAREN KAPLAN, reavers and realleges each and every allegation contained in Paragraphs 1 through 13 herein, and further alleges against the Defendant, SW GRILL, as follows:

14. At all times material hereto, the Plaintiff, KAREN KAPLAN, was and is the lawful spouse of the Plaintiff, MARK KAPLAN.

15. As a direct and proximate result of the negligence of the Defendant, SW GRILL, the Plaintiff, KAREN KAPLAN, has in the past and will in the future suffer diminishment of her husband's companionship, society, and consortium.

WHEREFORE, the Plaintiff, KAREN KAPLAN, demands judgment against the Defendant, SW GRILL, for damages, costs, interest and such further relief as this Court deems appropriate.

COUNT V

(Karen Kaplan - Consortium - SW HOSPITALITY GROUP (BOCA), LLC)

The Plaintiff, KAREN KAPLAN, reavers and realleges each and every allegation contained in Paragraphs 1 through 13 herein, and further alleges against the Defendant, SW HOSPITALITY GROUP (BOCA), LLC, as follows:

16. At all times material hereto, the Plaintiff, KAREN KAPLAN, was and is the lawful spouse of the Plaintiff, MARK KAPLAN.

17. As a direct and proximate result of the negligence of the Defendant, SW HOSPITALITY GROUP (BOCA), LLC, the Plaintiff, KAREN KAPLAN, has in the past and will in the future suffer diminishment of her husband's companionship, society, and consortium.

WHEREFORE, the Plaintiff, KAREN KAPLAN, demands judgment against the Defendant, SW HOSPITALITY GROUP (BOCA), LLC, for damages, costs, interest and such further relief as this Court deems appropriate.

COUNT VI
(Karen Kaplan - Consortium - SW HOSPITALITY GROUP LLC)

The Plaintiff, KAREN KAPLAN, reavers and realleges each and every allegation contained in Paragraphs 1 through 13 herein, and further alleges against the Defendant, SW HOSPITALITY GROUP LLC, as follows:

18. At all times material hereto, the Plaintiff, KAREN KAPLAN, was and is the lawful spouse of the Plaintiff, MARK KAPLAN.

19. As a direct and proximate result of the negligence of the Defendant, SW HOSPITALITY GROUP LLC, the Plaintiff, KAREN KAPLAN, has in the past and will in the future suffer diminishment of her husband's companionship, society, and consortium.

WHEREFORE, the Plaintiff, KAREN KAPLAN, demands judgment against the Defendant, SW HOSPITALITY GROUP LLC, for damages, costs, interest and such further relief as this Court deems appropriate.

DEMAND FOR JURY TRIAL

The Plaintiffs, MARK KAPLAN, and his wife, KAREN KAPLAN, demand a Trial by Jury of all issues so triable as a matter of right.

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