

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

NICOLE BERNIER,

Case No.

Plaintiff.

v.

THROW SOCIAL DELRAY BEACH LLC,
a Florida Limited liability Company.

Defendant.

_____ /

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

COMES NOW, the Plaintiff, NICOLE BERNIER (hereinafter "Plaintiff"), by and through her undersigned counsel, hereby brings this action against Defendant, THROW SOCIAL DELRAY BEACH LLC, *a Florida Limited Liability Company* (hereinafter referred to as "Defendant"), and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. This is an action for damages in excess of One Hundred thousand dollars (>\$100,000), exclusive of interest and attorneys' fees and costs, and for other relief within the subject matter jurisdiction of this Court.
2. This is an action that involves parties and property located within the Venue of this Court, and venue is otherwise proper pursuant to Chapter 47, Florida Statutes. Moreover, Venue is proper in Palm Beach County, Florida as the subject incident occurred in Palm Beach County.
3. At all times material hereto, the Plaintiff, NICOLE BERNIER, is and was an individual residing in Palm Beach County, Florida, and is sui juris, and was injured in Palm Beach County, Florida.

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4. At all times material hereto, Defendant, THROW SOCIAL DELRAY BEACH LLC, is and was a Florida limited liability company, licensed and authorized to conduct business in the State of Florida, and doing business within this Judicial Circuit.
5. At all times material hereto, on the date of the subject incident, Defendant, THROW SOCIAL DELRAY BEACH LLC, was operating a restaurant and/or bar business in Palm Beach County, Florida, which included bottle service in crowded patron areas involving bartenders carrying lit sparklers.
6. This Court has personal jurisdiction over the above-named Defendant, because, among other things, this Corporate Defendant is licensed and authorized to conduct business in Florida and engages in substantial and not isolated activity within Palm Beach County, Florida, and this company and or through its agents, operates, conducts, engages in, or carries on a business or business venture in this State, and/or committed a tortious act within this State.

GENERAL & FACTUAL ALLEGATIONS

7. On or about March 16, 2024, the Plaintiff, NICOLE BERNIER, was a business invitee at THROW SOCIAL DELRAY BEACH LLC, located at 29 SE 2nd Avenue, Delray Beach, Florida, 33444, in Palm Beach County, Florida.
8. This location was at that time, and continues to be, owned, operated and/or maintained by Defendant, THROW SOCIAL DELRAY BEACH LLC.
9. At all times material, on the above-referenced date, the Plaintiff was severely injured when a bottle-service bartender carrying a lit sparkler walked through the crowd and burned Plaintiff on the back of her arm, causing significant and permanent injuries.

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10. At all relevant times, Defendant, THROW SOCIAL DELRAY BEACH LLC, had a duty or duties to use reasonable care in maintaining the premises in a reasonably safe condition and to give the Plaintiff, as a business invitee, warning(s) of concealed perils and/or dangerous conditions which were or should have been known to the Defendant, and which were unknown to the Plaintiff. This duty included the duty to safely supervise, control, and conduct bottle-service operations involving lit sparklers in and around patrons.
11. However, Defendant, THROW SOCIAL DELRAY BEACH LLC, breached all applicable duties by failing to use reasonable care in maintaining the premises and its operations in a reasonably safe condition and by failing to give the Plaintiff, as a business invitee, any warning(s) of the concealed peril(s) and/or dangerous condition(s) which were known or should have been known to this Defendant.
12. Moreover, Defendant not only created and/or allowed the dangerous condition which injured Plaintiff, but failed to take any steps to avert said danger and/or to rectify it.
13. Thus, as a result of the Defendant's failures and breaches outlined above, the Plaintiff was burned by a passing bottle service sparkler that was lit and accordingly, she suffered significant injuries.

COUNT I: NEGLIGENCE

Plaintiff re-adopts and re-alleges each and every allegation contained in Paragraphs 1 through 13 as if they were fully set forth herein and further alleges:

14. On 03/16/2024, Defendant, THROW SOCIAL DELRAY BEACH LLC, by and through its employees, agents, and assigns, owed several non-delegable duties to the Plaintiff, as its business invitee, to maintain its premises in a reasonably safe condition, to safely operate and

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supervise bottle service involving lit sparklers, and to warn Plaintiff of latent or concealed dangers, which were or should have been known to Defendant and which were unknown to Plaintiff and could not be discovered through the exercise of reasonable care.

15. Moreover, Defendant also had duties to take steps to avert said dangerous condition(s) which it created and/or permitted and to rectify same but failed to do so.

16. Defendant breached its non-delegable duties to the Plaintiff in one or more of the following ways:

- a. Negligently creating and/or allowing a hazardous condition to exist on its premises and in its bottle-service operations which was reasonably foreseeable to cause injury to Plaintiff;
- b. Negligently failing to maintain or adequately maintain the premises and operations so as to prevent Plaintiff from encountering a hazardous condition;
- c. Negligently failing to inspect or adequately inspect the premises and bottle-service operations to ascertain whether the aforesaid condition constituted a hazard to Plaintiff;
- d. Negligently failing to correct or adequately correct a dangerous and hazardous condition which was and/or should have been known to the Defendant;
- e. Negligently failing to warn the Plaintiff of said dangerous condition when said condition was either known to Defendant or had existed for a sufficient length of time such that Defendant should have known of same had Defendant exercised reasonable care;
- f. Negligently failing to have policies and procedures in place for the safe use, handling, carrying, and monitoring of lit bottle service sparklers on the premises and about patrons.

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- g. Negligently failing to enforce compliance with its internal policies and procedures, to the extent they exist, regarding the maintenance of safe conditions and the use of lit bottle-service sparklers on the premises;
- h. Negligently training and/or supervising its employees and agents in the use of lit sparklers in crowded areas;
- i. Negligently allowing an employee and/or agent to walk through a crowded venue with a lit bottle service sparkler in close proximity to patrons.

17. Thus, as a direct and proximate result of the negligence of Defendant, THROW SOCIAL DELRAY BEACH LLC, as described in Paragraphs 1 - 13 above, the Plaintiff, NICOLE BERNIER, has suffered bodily injury including permanent injuries to the body as a whole, including but not limited to burns to the upper extremity/arm, scarring, disfigurement, deformity, pain and suffering, disability, mental anguish, inconvenience, emotional trauma, loss of capacity for the enjoyment of life, the expense(s) of hospitalization and medical and nursing care and treatment, future medical expenses, and/or aggravation of a previously existing condition(s). The losses are either permanent or continuing, and NICOLE BERNIER will suffer the losses in the future.

18. Thus, as a direct and proximate result of Defendant, THROW SOCIAL DELRAY BEACH LLC's negligence and carelessness, the Plaintiff was burnt by a passing bottle service sparkler and has suffered damages accordingly.

WHEREFORE, the Plaintiff, NICOLE BERNIER, hereby demands judgment against the Defendant, THROW SOCIAL DELRAY BEACH LLC., for damages, costs, and any other relief as this Honorable Court may deem just and appropriate to achieve justice in this matter in light of

the circumstances outlined herein. *The Plaintiff hereby demands a trial by jury for all issues so triable as a matter of right.*

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, NICOLE BERNIER, prays for judgment against the above-named Defendant as follows:

- a. For Compensatory damages;
- b. That this Honorable Court take Jurisdiction of this Action and all Parties named in this Complaint, and that this Court permits Plaintiff to join in this action by appropriate amended pleading any such additional parties as may be necessary for a full and complete determination of Plaintiff's rights; and
- c. For such other and further relief as this Honorable Court deems just and proper.

DEMAND FOR JURY TRIAL

The Plaintiff, NICOLE BERNIER hereby respectfully demands a Trial by Jury of all issues so triable as a matter of right by a Jury.

Dated: March 16, 2026.

Respectfully submitted,

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