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**MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY**

<p>DYLAN TURNER and JOSELIN TURNER, Plaintiffs, vs. ALBERTSON'S LLC and TREMPER SHOPPING CENTER, INC., Defendants.</p>	<p>Cause No. Judge COMPLAINT AND DEMAND FOR JURY TRIAL</p>
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Plaintiffs, through counsel, submit their Complaint against Defendants as follows:

1. Plaintiffs Dylan Turner (Dylan) and Joselin Turner (Joselin) are residents of Missoula County, Montana.
2. Defendant Albertson's LLC (Albertson's) is a foreign limited liability company doing business throughout Montana, including at 2205 Oxford Street, Missoula, Montana, located in Tremper Shopping Center.
3. Defendant Tremper Shopping Center, Inc. (Tremper Shopping Center) is a domestic profit corporation doing business in Missoula, Montana.

4. On July 25, 2021, Dylan and Joselin went to Tremper Shopping Center to shop when they were confronted, unprovoked, by Shane Roy Davis (Davis) in the parking lot.

5. Davis was acting erratically and aggressively toward Dylan and at one point shoved Dylan.

6. Davis, who was wearing an Albertson's uniform and/or vest, ran into Albertson's. Upon information and belief, Davis was at all times material hereto employed by Albertson's.

7. Dylan and Joselin believed the confrontation was over and continued walking toward Ace Hardware, also located in Tremper Shopping Center.

8. Davis returned from Albertson's with a knife and attacked Dylan, attempting to stab Dylan in the area of his neck.

9. Dylan blocked the knife attack with his right forearm. The knife attack sliced an artery in Dylan's forearm, causing, in Dylan's words, "a geyser of blood":



10. Dylan's blood was splayed across the Shopping Center:



11. Both Dylan and Joselin believed at the time of the knife attack that Davis was trying to kill Dylan.

12. Davis then ran back inside Albertson's.

13. Dylan was treated at the scene by a nurse and the Missoula Fire Department, both of which were unable to successfully stop the bleeding. Dylan was transported to Providence St. Patrick Hospital, where a trauma surgeon successfully closed Dylan's wounds.

14. Meanwhile, the Missoula Police Department responded to the scene and eventually located Davis inside Albertson's.

15. Davis is currently incarcerated in the Missoula County Jail on charges of assault with a weapon, tampering with evidence, and parole violations:



16. Davis is on parole for burglary, for which his original sentence included a commitment to the custody of the Department of Public Health & Human Services. This information is accessible to the public via the Montana Department of Corrections'

website. Therefore, upon information and belief, Davis has a documented history of a mental disease(s) or disorder(s).

17. As a direct and proximate result of Davis' tortious conduct, Dylan has suffered physical injuries. The full extent of Dylan's physical injuries has not yet been determined, but it is anticipated that he will require future medical care.

18. As a direct and proximate result of Davis' tortious conduct, Dylan has suffered financial damages in the form of lost wages. Prior to the knife attack, Dylan was an independent mechanic. He is right-arm dominant, the same arm which suffered physical injuries. He has been unable to work since the knife attack. Additionally, Dylan and Joselin were intending to move to Billings, Montana, and Dylan has had to cancel several interviews with prospective employers in Billings due to his inability to work.

19. As a direct and proximate result of Davis' tortious conduct, Dylan and Joselin have lost preapproval status for a home loan and have been unable to buy a home in Billings.

20. As a direct and proximate result of Davis' tortious conduct, Dylan and Joselin have suffered severe emotional distress. Both Dylan and Joselin have experienced physical symptoms associated with their severe emotional distress, including, without limitation, PTSD. Both Dylan and Joselin are seeing a trauma counselor.

COUNT 1: VICARIOUS LIABILITY FOR ACTIONS OF EMPLOYEE

21. Plaintiffs incorporate all preceding paragraphs as if set forth fully herein.

22. Pursuant to Restatement (Agency) Section 214, adopted in Montana as common law, Albertson's is vicariously liable for the actions of Davis as his employer.

23. Albertson's is fully responsible to the fullest extent of Davis for all injuries and damages caused to Dylan and Joselin.

**COUNT 2: NEGLIGENT HIRING AND SUPERVISION
(Against Albertson's)**

24. Plaintiffs incorporate all preceding paragraphs as if set forth fully herein.

25. In its hiring and supervising of its employees, including Davis, Albertson's owed a duty of reasonable care to members of the public who come in contact or otherwise interact with its employees.

26. Albertson's negligently hired Davis for a position where Davis came in contact or otherwise interacted with members of the public. At the time of Davis' hiring, Albertson's knew or should have known that Davis was on parole for burglary and had a documented history of mental disease(s) or disorder(s) associated with the burglary. It was therefore foreseeable to Albertson's that Davis' mental disease(s) or disorder(s) could result in him committing crimes against others.

27. A simple internet search of Davis would have revealed that Davis' burglary conviction related to breaking into a Missoula home and exposing himself to two female residents, including a 3 year old girl. See Nov. 20, 2012 Missoulian, ***Man accused of entering Missoula home, lying on sofa with pants down*** available at https://missoulian.com/news/state-and-regional/man-accused-of-entering-missoula-home-lying-on-sofa-with-pants-down/article_1f2cb482-334d-11e2-9b6a-001a4bcf887a.html

28. A simple internet search of Davis would have revealed that he had been committed to Warm Springs, the State's psychiatric hospital. See Montana Conweb available at <https://app.mt.gov/conweb/>:



29. Albertson's negligently supervised or negligently failed to control Davis. Albertson's knew or should have known that Davis was on parole for burglary and had a documented history of mental disease(s) or disorder(s) associated with the burglary, yet Albertson's failed to supervise or otherwise control Davis in a manner sufficient for Albertson's to identify and timely respond to Davis engaging in harmful conduct toward members of the public.

30. Upon information and belief, Davis was acting erratically towards customers and shoppers on the day of the attack. Albertson's failed to supervise him.

31. Under circumstances currently unknown, Albertson's allowed Davis- a convicted felon with a public history of mental illness, to secret a dangerous weapon in its store which Davis retrieved to attack Dylan. Albertson's conduct in this regard constitutes negligent supervision.

32. As a direct and proximate result of Davis' tortious conduct, Dylan has suffered physical injuries, financial damages, and emotional distress.

33. Because Albertson's was negligent in hiring, supervising, or otherwise controlling Davis, Albertson's is directly liable for Davis's tortious conduct.

**COUNT 3: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
(Against Albertson's)**

34. Plaintiffs incorporate all preceding paragraphs as if set forth fully herein.

35. As a direct and proximate result of Davis' tortious conduct, Dylan and Joselin have suffered serious or severe emotional distress.

**COUNT 4: PUNITIVE DAMAGES
(Against Albertson's)**

36. Plaintiffs incorporate all preceding paragraphs as if set forth fully herein.

37. Albertson's had knowledge of facts or intentionally disregarded facts that created a high probability of injury to Dylan and Joselin. At the time of Davis' hiring and on the date of incident, Albertson's knew or should have known that Davis was on parole for burglary and had a documented history of mental disease(s) or disorder(s) associated with the burglary. It was therefore foreseeable to Albertson's that commit crimes against others.

38. Albertson's deliberately proceeded to act with indifference to the high probability of injury to Dylan. Albertson's hired Davis knowing it was highly probably that he could commit crimes against others, and Albertson's placed Davis in a position where he could come in contact or otherwise interact with members of the public.

39. Albertson's is guilty of actual malice.

40. Albertson's should be fully punished consistent with Montana and federal law with the imposition of punitive damages consistent with its financial status.

**COUNT 5: PREMISES LIABILITY
(Against Tremper Shopping Center)**

41. Plaintiffs incorporate all preceding paragraphs as if set forth fully herein.

42. Tremper Shopping Center owns the premises on which Davis attacked Dylan with a knife.

43. Tremper Shopping Center leases space to Albertson's. Tremper Shopping Center, in turn, allowed its leasee, Albertson's, to employ a dangerous man to interact with the public, unsupervised.

44. Tremper Shopping Center owed its invitees, including Dylan and Joselin, a general duty of ordinary care to have its premises reasonably safe and to warn of any hidden or lurking dangers.

45. Tremper Shopping Center knew, or by the exercise of reasonable care should have discovered, that one or more conditions existed on the premises which could cause physical harm to its invitees.

46. Tremper Shopping Center should have expected that invitees such as Dylan and Joselin would not realize that a dangerous condition or conditions existed on the premises.

47. Tremper Shopping Center failed to exercise reasonable care to protect invitees, including Dylan, by failing to have an adequate security presence at the common parking lot and by failing to warn invitees of hidden or lurking dangers such as employees suffering mental diseases or disorders or violent employees.

48. As a direct and proximate result of Tremper Shopping Center's negligence, Dylan has suffered physical injuries, financial damages, and emotional distress.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

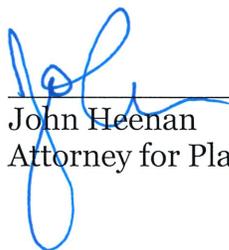
1. For compensatory damages against Albertson's and Tremper Shopping Center in an amount to be proven at trial.

2. For punitive damages against Albertson's in an amount to be proven at trial.
3. For any and all further legal or equitable relief as the Court deems just.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury.

Dated this 16th day of September, 2021.



John Heenan
Attorney for Plaintiffs