

154

15-06985

STATE OF NORTH CAROLINA

File No.

15 CVS 5242

FORSYTH County

2015 SEP -3 AM 11:25

In The General Court Of Justice

District Superior Court Division

Name Of Plaintiff

MACMILLAN STEPHENSON WILLIAMS

Address

City, State, Zip

VERSUS

Name Of Defendant(s)

JORDAN ANTHONY GUNTER, and

ZIGGY'S WINSTON, INC.

CIVIL SUMMONS

ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

SEP 10 2015

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

JORDAN ANTHONY GUNTER

2102 W. JONES STREET

RAMSEUR

NC 27316

Name And Address Of Defendant 2

ZIGGY'S WINSTON, INC., by and through its registered agent,

Charles A. Womack, III

5500 Adams Farm Lane, Ste. 201

Greensboro

NC

27407

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

JOHN N. TAYLOR, JR./JOHN C. VERMITSKY

MORROW PORTER VERMITSKY FOWLER & TAYLOR, PLLC

P.O. BOX 25226

WINSTON SALEM

NC 27114-5226

Date Issued

8-27-15

Time

3:43

AM

PM

Signature

Sharon Jones

Deputy CSC

Assistant CSC

Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

AM

PM

Signature

Deputy CSC

Assistant CSC

Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served 04 SEPT 15 Time Served RETURNED AM PM Name Of Defendant JORDAN ANTHONY GUNTER

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

Other manner of service (specify)

BY FORSYTH CO., C.S.C. 2015 SEP - 9 P FILED

Defendant WAS NOT served for the following reason: DOES NOT LIVE AT GIVEN ADDRESS. STEP FATHER - DAVID HAYES LIVES ALONE AT GIVEN ADDRESS. SOME MAIL STILL COMES HERE BUT DAVID HASN'T SEEN NOR HEARD FROM

STEPSON - JORDAN GUNTER DEFENDANT 2 IN OVER (1) ONE YEAR. HEARD THAT JORDAN'S MAYBE IN CHARLOTTE / KANOPLASS AREA.

Date Served 03 SEPT 15 Time Served AM AM PM Name Of Defendant MAYNARD B. REID, JR.

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

Other manner of service (specify)

Defendant WAS NOT served for the following reason.

BY FORSYTH CO., C.S.C. 2015 SEP - 9 P 3:22 FILED

Service Fee Paid \$ Signature Of Deputy Sheriff Making Return Rogan L. Hunt #3546

Date Received 03 SEPT. '15 Name Of Sheriff (Type Or Print) MAYNARD B. REID, JR.

Date Of Return 04 SEPT. '15. County Of Sheriff RANDOLPH

STATE OF NORTH CAROLINA

File No. 15 CVS 5242

FORSYTH County

In The General Court Of Justice
District Superior Court Division

Name And Address Of Plaintiff 1
MACMILLAN STEPHENSON WILLIAMS

FILED

GENERAL

2015 AUG 27 P 3:43 CIVIL ACTION COVER SHEET
INITIAL FILING SUBSEQUENT FILING

Name And Address Of Plaintiff 2
VERSUS

Rule 5(b), Rules of Practice For Superior and District Courts
Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

John N. Taylor, Jr./John C. Vermitsky
Morrow Porter Vermitsky Fowler & Taylor, PLLC
P.O. Box 25226
Winston Salem NC 27114-5226

Name Of Defendant 1
JORDAN ANTHONY GUNTER

Telephone No. Cell Telephone No.
(336) 760-1400

NC Attorney Bar No. Attorney E-Mail Address
16064/35627

Summons Submitted Yes No

Initial Appearance in Case Change of Address

Name Of Defendant 2
ZIGGY'S WINSTON, INC.

Name Of Firm
Morrow Porter Vermitsky Fowler & Taylor, PLLC

FAX No.
(336) 760-4520

Summons Submitted Yes No

Counsel for All Plaintiffs All Defendants Only (List party(ies) represented)

Jury Demanded In Pleading
Complex Litigation

Amount in controversy does not exceed \$15,000
Stipulate to arbitration

TYPE OF PLEADING

CLAIMS FOR RELIEF FOR:

- (check all that apply)
Amended Answer/Reply (AMND-Response)
Amended Complaint (AMND)
Answer/Reply (ANSW-Response)
Complaint (COMP)
Confession of Judgment (CNFJ)
Counterclaim vs. (CTCL)
Crossclaim vs. (List on back) (CRSS)
Extend Statute of Limitations, Rule 9 (ESOL)
Extend Time For Answer (MEOT-Response)
Extend Time For Complaint (EXCO)
Rule 12 Motion In Lieu Of Answer (MDLA)
Third Party Complaint (List Third Party Defendants on Back) (TPCL)
Other: (specify)

- (check all that apply)
Administrative Appeal (ADMA)
Appointment of Receiver (APRC)
Attachment/Garnishment (ATTC)
Claim and Delivery (CLMD)
Collection on Account (ACCT)
Condemnation (CNDM)
Contract (CNTR)
Discovery Scheduling Order (DSCH)
Injunction (INJU)
Medical Malpractice (MDML)
Minor Settlement (MSTL)
Money Owed (MNYO)
Negligence - Motor Vehicle (MVNG)
Negligence - Other (NEGO)
Motor Vehicle Lien G.S. 44A (MVLN)
Limited Driving Privilege - Out-of-State Convictions (PLDP)
Possession of Personal Property (POPP)
Product Liability (PROD)
Real Property (RLPR)
Specific Performance (SPPR)
Other: (specify)

NOTE: Small claims are exempt from cover sheets.

ASSAULT AND BATTERY, NEGLIGENT RETENTION

Date 8/27/15

Signature Of Attorney/Party

NOTE: The initial filing in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a cover sheet or the filing must comply with G.S. 7A-34.1.

2015 AUG 27 P 3:43

MACMILLAN STEPHENSON WILLIAMS,)
FORSYTH COUNTY, G.S.C.)

Plaintiff, BY Sharon Gene)

v.)

COMPLAINT

JORDAN ANTHONY GUNTER, and)
ZIGGY'S WINSTON, INC.,)
Defendants.)

NOW COMES Plaintiff Macmillan Stephenson Williams ("Williams" or "Plaintiff"), for his complaint against Jordan Anthony Gunter ("Gunter") and Ziggy's Winston, Inc. ("Ziggy's"), and states and avers as follows:

1. Williams is a citizen and resident of Forsyth County, North Carolina.
2. Upon information and belief, Gunter is a citizen and resident of Randolph County, North Carolina.
3. Ziggy's is and was, at all relevant times, a corporation formed under the laws of the state of North Carolina duly authorized to conduct business within the state of North Carolina with its principal and registered office located at 5500 Adams Farm Lane, Suite 204, Greensboro, North Carolina 27407.
4. This Court has subject matter jurisdiction over this action pursuant to N.C. Gen. Stat. § 7A-240 and personal jurisdiction over defendants pursuant to N.C. Gen. Stat. § 1-75.4(1) and (3). Venue is proper in this Court pursuant to N.C. Gen. Stat. §§ 1-79 and 1-82.

5. On or about January 18, 2014, Ziggy's ~~leased a building~~ ("the premises") located at 170 West Ninth Street in Winston Salem, Forsyth County, North Carolina from ~~9th Street Properties, LLC.~~ On January 18, 2014, Ziggy's rented, leased, occupied, controlled and/or possessed the premises. On January 18, 2014, Ziggy's operated, managed, maintained and/or controlled a live music nightclub within the premises.
6. Prior to January 18, 2014, Ziggy's had been granted a permit by the North Carolina Alcohol Beverage Control Commission allowing the sale of malt beverages and unfortified wine on the premises and a permit to serve mixed beverages in a private club. Those permits were current and maintained by Ziggy's on January 18, 2014.
7. Prior to January 18, 2014, Ziggy's hired, employed, retained and/or contracted with Gunter and other individuals pursuant to which, on or about January 18, 2014, Gunter and other individuals ("Ziggy's security") provided security for patrons of Ziggy's live music nightclub on the premises. On information and belief, Gunter ~~served as the "Floor Manager" of Ziggy's, was the manager of~~ Ziggy's security, and ~~was an officer, director and/or corporate manager of~~ Ziggy's. At all relevant times, members of Ziggy's security were acting in the course and scope of their employment by Ziggy's and Ziggy's is liable for their conduct, including the conduct of Gunter, under the doctrine of respondeat superior.
8. On January 18, 2014, Ziggy's hosted a live music event on the premises.

9. During this event Plaintiff and his brother were accosted by a fellow invitee of the night club who began yelling at them. As a result of this Gunter, along with two security guards, grabbed Plaintiff's brother and forced him and Plaintiff to exit the premises.
10. Once outside, Plaintiff walked up to the security guard who was holding his brother and asked him what was going on and why the security guard was restraining his brother. In response Gunter and another unidentified security guard of Ziggy's grabbed Plaintiff and began to viciously punch him, grab him, and throw him to the ground. At no time did Plaintiff threaten or throw any punches at Gunter or throw any punches at any other employee of Ziggy's or any other individual on the premises.
11. On January 18, 2014, Gunter and Ziggy's security allowed Plaintiff to enter the premises where Ziggy's was hosting the live music event. Ziggy's had a duty to protect Williams from the negligent or wanton actions of its own employees and security personnel.
12. The wanton assault of Plaintiff occurred while Gunter was working within the scope of his employment with Ziggy's as security guard and Floor Manager and Gunter's conduct directly and proximately caused severe physical harm and injury to Plaintiff. In the alternative, Gunter was responding to a verbal altercation between Plaintiff and another patron of Ziggy's and Gunter negligently responded in a manner that was excessive and improper under the circumstances, directly and proximately causing severe physical harm and injury to Plaintiff.

13. ~~As a direct and proximate result of the wanton assault and battery by Gunter, and as a result of the wanton and willful actions of Gunter and Ziggy's security, Williams suffered serious and permanent injuries, pain and suffering, disfigurement, and significant medical expenses~~ entitling him to recover in excess of \$25,000.00.

First Claim for Relief

Assault and Battery – Gunter

14. The foregoing allegations of this Complaint are hereby re-alleged and incorporated herein by reference.
15. Gunter exhibited a display of imminent force and violence directed at Plaintiff, threatened the physical well-being of Plaintiff, caused Plaintiff to have reasonable apprehension of imminent harmful and offensive contact with his person, and intentionally punched Plaintiff about the head and face, choked him, and threw Plaintiff to the ground tearing his Anterior Cruciate Ligament and otherwise causing an intentional infliction of harmful conduct on Williams' person without William's consent.
16. Gunter's conduct directly and proximately caused severe, debilitating, painful and permanent injuries to Williams, including pain and suffering, mental anguish, scarring and disfigurement. Williams is entitled to recover compensatory damages as will be proven at trial in excess of \$25,000.00.

Second Claim for Relief

Willful and Wanton Negligence, Negligent Retention and Supervision - Ziggy's

17. The foregoing allegations of this Complaint are hereby re-alleged and incorporated herein by reference.
18. Ziggy's, by and through its employees, agents, and/or representatives, including but not limited to Gunter and Ziggy's security, was negligent and/or willfully or wantonly negligent in one or more of the following ways:
 - a. Ziggy's negligently hired, retained, and supervised Gunter in his role as Floor Manager on the night of this incident;
 - b. Ziggy's failed to properly monitor the actions of patrons on its premises;
 - c. Ziggy's failed to properly monitor the level of intoxication of patrons on its premises;
 - d. Ziggy's failed to remove Gunter as an employee or security guard when his disorderly conduct required such removal;
 - e. Ziggy's failed to provide a safe environment for its lawful entrants and patrons, including Williams, on its premises;
 - f. Ziggy's failed to adequately warn Williams and protect him from the unreasonable and virtually certain likelihood of harm posed by Gunter;
 - g. Ziggy's failed to adequately defuse a volatile situation and recklessly disregarded the virtually certain likelihood of harm created by Gunter, when it knew or should have known that said failure posed an unreasonable risk of harm to patrons on the premises, including Williams;

- h. Ziggy's allowed multiple employees and security guards to assault, unlawfully restrain, and injure Williams when he posed no risk of harm to any patron or employee;
 - i. Ziggy's failed to follow established rules, policies or procedures regarding the detention or restraint of patrons such as Williams and his brother on the premises;
 - j. Ziggy's failed to properly and adequately train Ziggy's security, including Gunter, to adequately address patrons on the premises;
 - k. Ziggy's had actual knowledge of the dangerous condition posed by Gunter to Williams but maliciously, willfully and/or wantonly permitted Gunter to confront Williams, thus creating a dangerous situation where virtually certain harm would befall Williams;
 - l. Ziggy's was otherwise negligent, malicious, willful and/or wanton as will be shown at trial.
19. As a direct and proximate result of one or more of the foregoing negligent and/or willful or wanton acts or omissions, Williams suffered serious and permanent injuries, pain and suffering, disfigurement and significant medical expenses entitling him to recover in excess of \$25,000.00.

Third Claim for Relief

Punitive Damages – Ziggy's

20. The foregoing allegations of this Complaint are hereby re-alleged and incorporated herein by reference.

21. In allowing its Floor Manager of security to assault Williams without justification and in ordering other employees to assist with the assault Ziggy's security engaged in malicious, willful and/or wanton conduct, specifically the conscious and intentional disregard of and indifference to the rights and safety of Williams, which Ziggy's security knew or should have known was substantially certain to result in injury, damage or other harm to Williams.
22. Williams is entitled to an award of punitive damages because Ziggy's is liable for compensatory damages. Malice and/or willful or wanton conduct accompanied the conduct of Ziggy's, and was related to Williams' injuries for which Ziggy's is liable for compensatory damages. Officers, directors or managers of Ziggy's participated in and/or condoned the conduct constituting the aggravating factors giving rise to Williams's claim for punitive damages.
23. Williams is entitled to recover punitive damages from Ziggy's in an amount to be determined by the jury in excess of \$25,000.00.

WHEREFORE, Plaintiff respectfully requests as follows:

1. That the Plaintiff recover compensatory damages from Defendants Gunter and Ziggy's Winston, Inc., jointly and severally, to be proven at trial in an amount greater than \$25,000.00;
2. That the Plaintiff recover punitive damages from Ziggy's Winston, Inc. to be proven at trial in an amount greater than \$25,000.00;
3. That the Court award pre-judgment and post-judgment interest and costs to Plaintiff as allowed by law;
4. That all issues herein be tried by a jury

5. That the Court award such further relief as the Court deems just and proper

This the 27th day of August, 2015.

MORROW PORTER VERMITSKY
FOWLER & TAYLOR, PLLC



John C. Vermitsky

NC State Bar No. 35627

John N. Taylor, Jr.

NC State Bar No. 16064

3890 Vest Mill Road (27103)

P.O. Box 25226

Winston Salem, NC 27114-5226

Tel: (336) 760-1400

Fax: (336) 760-4520

Email: jtaylor@morrowporter.com

Email: jvermitsky@morrowporter.com

Total: 200.00
 Clerk: SF

Forsyth County Clerk of Superior Court Civil Receipting

FILING FEES:

File Number(s) 15 CVS 5242

Plaintiff (Payor):

Williams, Macmillan, Stephenson

TO BE FLAGGED "Y"

CVSC SUPERIOR \$ 200.00

CVDC DISTRICT \$ _____

CVMC MAGISTRATE \$ _____

TO BE FLAGGED "N"

BK/PG EXECUTION (21400) \$ _____

BK/PG TRANSCRIPT (21400) \$ _____

WRIT OF POSSESSION (21400) \$ _____

NOTICE OF CONTRACT (21400) \$ _____

OTHER MISC. (21400) \$ _____

FINAL REPORT (21445) \$ _____

DRIVING PRIV (24335) \$ _____

BONDS (26210)

SPECIFY:

BOND AMOUNT: \$ _____

BOOKKEEPERS USE

FILE NUMBER: _____

PLAINTIFF: _____

DEFENDANT: _____

TO BE FLAGGED "N"

26600 DEPOSIT PAYABLE \$ _____

26130 CONDEMNATIONS \$ _____

26700 UP-SET BID \$ _____

SP (FORECLOSURE) (21445) \$ _____

SPSC (SPECIAL PROC) \$ _____

FORSYTH COUNTY CLERK OF COURT

G100186 09/02/15 08:45:57

PAYOR: WILLIAMS, MACMILLAN, STEPHENSON

PAYEE:

CASE#: 15CVS005242 VCAP:Y

CITA#:

21120 SC-CIVIL FEES	177.55
21121 SC-CV LAA FEES	2.45
24681 JUD TECH & FAC	4.00
22120 CO FAC FEE S CV	16.00

ND (26220)

TOTAL PAID	200.00
CO TENDERED	200.00
CHANGE	.00

0499 ID C33JA1