

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHERYL HARRIS,

Plaintiff,

vs.

Case No.

Hon.

YUM! BRANDS, INC., PIZZA HUT OF
AMERICA, INC., REDBERRY RESTO
BRANDS INTL, INC., REDBERRY
RESTO-BRANDS INC., and JOHN DOE
ENTITIES 1 THROUGH 10, whose true
names are unknown,

Defendants.

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VERIFIED COMPLAINT

Plaintiff Cheryl Harris, for her Verified Complaint against Defendants

YUM! Brands, Inc., Pizza Hut of America, LLC, Redberry Resto Brands Intl, Inc.,

Redberry Resto-Brands, Inc.. and John Doe Entities 1 through 10, whose true names are currently unknown (collectively, “Defendants”), states:

NATURE OF ACTION

1. This is a diversity personal injury action arising from the amputation of the tip of Plaintiff Cheryl Harris’ left index finger at a Pizza Hut take-out restaurant located at 18435 Plymouth Road, Detroit, Michigan, on December 16, 2014. Because bullet-proof glass separated the restaurant’s customers from its employees, customers were required to take delivery of their pizza through a mechanical “pizza dispensary device” installed below the counter. When Ms. Harris attempted to withdraw her pizza, the metal components of the device suddenly and rapidly moved, amputating the tip of her left index finger.

2. The restaurant employees thereafter failed to take action to mitigate Ms. Harris’ injuries. They did not provide any physical or emotional assistance and they failed to arrange or obtain medical care for her. On the contrary, one employee eliminated any possibility of surgically reattaching the fingertip by placing it in a used dirty container with ice. Another customer in the restaurant called Ms. Harris’ family, who found Ms. Harris’ severed fingertip bleeding profusely when they arrived at the restaurant. Upon information and belief, that customer also called 911.

3. The sudden amputation of her left index fingertip has caused severe permanent physical and emotional injuries to Ms. Harris. Because she is left handed and the fingertip is in constant pain, Ms. Harris lost most of the use of her left hand and she has extreme difficulty writing and using electronic devices such as smart phones and computers. Before her fingertip was amputated, Ms. Harris' prior medical conditions were improving and she was planning on attending an entrepreneurial workshop in a few weeks in order to start her own business. The accident made it impossible for her to attend the workshop or return to work, however, and she has been forced to set aside plans to start her own business.

PARTIES

4. Ms. Harris is a Michigan citizen who resides in the City of Oak Park, Oakland County.

5. YUM! Brands, Inc. ("YUM!") is a North Carolina corporation with its principal place of business in Louisville, Kentucky. YUM! is therefore a citizen of North Carolina and Kentucky for diversity of citizenship purposes.

6. Pizza Hut of America, LLC ("Pizza Hut"), is a Delaware limited liability company with its principal place of business in Dallas, Texas. Pizza Hut is therefore a citizen of Delaware and Texas for diversity of citizenship purposes.

7. Redberry Resto Brands Intl, Inc. ("Redberry-Delaware") is a Delaware

corporation with its principal place of business in Ontario, Canada. Redberry-Delaware is therefore a citizen of Delaware for diversity of citizenship purposes.

8. Redberry Resto Brands, Inc. (“Redberry-Canada), is a Canadian corporation with its principal place of business in Quebec. Redberry-Canada is therefore a citizen of a foreign state for diversity of citizenship purposes.

9. John Doe Entities 1 through 10 are currently unidentified business organizations that designed, manufactured, or installed the pizza dispensary device that amputated Ms. Harris’ fingertip and/or provided training to operate that device. Upon information and belief, they are not citizens of Michigan.

JURISDICTION

10. Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States and in which citizens or subjects of a foreign state are additional parties as defined by 28 U.S.C. § 1332(c)(1).

VENUE

11. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

BACKGROUND

12. In the late afternoon of December 16, 2014, Ms. Harris decided to buy a pizza for her granddaughters to share for dinner. At approximately 6:30 p.m., she went into the Pizza Hut take-out restaurant at 18435 Plymouth Road, Detroit, Michigan. Although she had never been to that restaurant before, Ms. Harris chose it because it was located close to her destination, her daughter's house, and it was offering a \$5 special for a large pepperoni pizza.

13. When Ms. Harris arrived, however, the employee behind the service counter, Danyel Beanum, rudely told her that the special was \$10 for two large pizzas and that \$5 was the price of a single small pizza. Because she did not want to spend more than \$5, Ms. Harris ordered one small pizza.

14. Ms. Harris felt uncomfortable waiting for her pizza in the small restaurant because of the presence of a man who was selling bootleg DVD movies from a box on one of the two small benches where customers waited for their pizzas. When the man aggressively attempted to sell his products, Ms. Harris gracefully declined and returned to her car to wait for her pizza.

15. After a few minutes, Ms. Harris returned to the restaurant where the DVD salesman told her that he also had "designer perfume" for sale. This elevated Ms. Harris' concern because she had recently read internet news stories warning

that thieves were selling alleged “designer perfume” that in fact rendered their victims unconscious. She quickly declined his solicitations.

16. Mr. Beanum told Ms. Harris that her pizza was ready. Because bullet-proof glass separated Mr. Beanum from Ms. Harris and the other customers, he could not simply hand over the pizza. Instead, Mr. Beanum placed a small pizza box in the pizza dispensary device below the counter. He then walked away, horizontally down the counter, without saying anything to Ms. Harris.

17. Because Mr. Beanum had walked away, Ms. Harris believed that the transaction was at an end and she was supposed to retrieve her pizza from the pizza dispensary device. She saw a small opening in the device and she began to place her left hand inside to open the drawer and obtain her pizza. As she extended her left index finger into the opening, however, she saw Mr. Beanum in her peripheral vision turn toward her and appear to push a button or flip a switch. She heard a popping noise and immediately withdrew her hand without attempting to take the pizza. As she did so, she felt an excruciating pain in her left index finger at the same time she heard and felt metal components of the dispensary device move rapidly.

18. A photograph that depicts the counter, the bullet-proof glass, and the pizza dispensary device shortly after Ms. Harris’ fingertip was amputated is annexed hereto as Exhibit A.

19. Ms. Harris felt excruciating pain and was too shocked and scared to look at her left hand. Not knowing what had happened and unable to think straight because of the pain, Ms. Harris started screaming and put her left hand between her legs to attempt to place pressure on it. She saw blood dripping from where her hand was pressed against her legs and blood on the floor.

20. Mr. Beanum and the other restaurant employees appeared dazed and were unable to take any action to assist Ms. Harris. Another customer entered the restaurant, saw the blood, exclaimed “Oh, my god!” and immediately came to Ms. Harris’ assistance. He told her that he was a nursing student and helped her to raise her left hand above her head. It was at that moment that both Ms. Harris and the customer, whose first name was Devon, saw that her fingertip had been amputated. Ms. Harris felt her legs buckle and started to lose consciousness. Devon helped her to one of the benches to sit down. At Ms. Harris’ request, Devon called Ms. Harris’s daughter and, upon information and belief, called “911” to report the accident to EMS.

21. Devon asked Mr. Beanum for paper towels to attempt to stop the bleeding from Ms. Harris’ index finger. Mr. Beanum brought out very hard, rough, and unabsorbent paper, which could not be used for that purpose. Mr. Beanum got down on his hands and knees to inspect the pizza dispensary device. He found Ms.

Harris' severed fingertip and placed it into a dirty container with ice. The emergency hospital room staff later told Ms. Harris that by placing the fingertip directly on ice, Mr. Beanum eliminated any possibility of surgical reattachment.

22. Ms. Harris' daughter and two grandchildren arrived at the restaurant. They were accompanied by their neighbor and her boyfriend. They found Ms. Harris screaming in excruciating pain with blood spread over the customer area of the restaurant. EMS subsequently arrived, began to administer professional medical care and took Ms. Harris to Sinai Grace Hospital emergency room.

23. The loss of Ms. Harris' left index fingertip has caused her severe permanent physical and emotional injuries. She can no longer use her left hand without pain and she has had to learn new ways of performing everyday tasks such as operating smart phones, computers and other electronic devices. Though she has been forced to cope with her disability, she cannot use her left index finger and using her left hand is clumsy, difficult, painful, and slow, probably for the rest of her life.

24. For months after the accident, Ms. Harris was in constant intense pain. Even now, over two years from the accident, her left hand and wrist are very painful and the pain gets worse in the cold Michigan winters. She keeps her left hand partially closed to protect the index finger, which seems like it is always in

the way. If the index finger inadvertently hits an object, such as the edge of a table or door, a sharp pain shoots through her finger, wrist, and arm.

25. Ms. Harris has been diagnosed with Complex Regional Pain Syndrome (“CRPS”), a rare, chronic, and sometimes progressive medical condition, which accounts for her continuing severe pain. Also known as Reflex Sympathetic Dystrophy (“RSD”), CRPS results in severe, burning pain, inflammation, and changes in the skin. She has been treated at the University Pain Clinic in Detroit.

26. After the trauma of the accident and constant nausea from prescription pain medications, Ms. Harris has suffered from severe depression. She has been treated at the University of Michigan Department of Psychiatry and Depression Center and other clinics, and has struggled with the side effects of powerful pain and anti-depression drugs.

27. Ms. Harris is an experienced cosmologist and childcare provider, although at the time her fingertip was amputated she was on disability due to preexisting medical conditions. The conditions were in remission, however, and she was planning to start her own business and was scheduled to begin an entrepreneurial workshop in a few weeks. Her injury prevented her from implementing those plans, which are now on hold indefinitely.

COUNT ONE
(Negligence – against Redberry-Delaware)

28. Ms. Harris repeats the allegations set forth in paragraphs 1 through 27.

29. At all relevant times, Danyel Beanum and the other individuals in Pizza Hut uniforms present at the restaurant when Ms. Harris' fingertip was amputated were employed by Redberry-Delaware and was acting in the regular course of his employment.

30. Mr. Beanum failed to instruct Ms. Harris as to how to safely withdraw her pizza from the pizza dispensary device.

31. After placing the pizza in the pizza dispensary device, Mr. Beanum walked away from Ms. Harris, which suggested to any reasonable person that he considered the transaction to have ended and that it was Ms. Harris' responsibility to reach into the pizza dispensary device to withdraw the pizza.

32. Upon information and belief, after walking away from Ms. Harris, Mr. Beanum activated the pizza dispensary device in a manner that caused the internal drawer of the device to suddenly and rapidly move, thereby amputating Ms. Harris' left index fingertip.

33. After Ms. Harris' fingertip was amputated, Mr. Beanum and the other employees failed to take any action to mitigate Ms. Harris' injury or to assist her in arranging medical care, contacting her family, or calling the police.

34. On the contrary, Mr. Beanum exacerbated Ms. Harris' injury by placing her severed fingertip in a dirty container with ice, thereby eliminating any possibility that the fingertip could be reattached.

35. In addition, Mr. Beanum and the other employees failed to demonstrate any empathy or emotional support for Ms. Harris. On the contrary, they appeared to take her injuries lightly.

36. Redberry-Delaware owed the following duties to Ms. Harris:

- (i) a duty to exercise ordinary care to protect customers and other public invitees from unreasonable risks of injury;
- (ii) a duty to maintain the pizza dispensary device in reasonably safe condition;
- (iii) a duty to hire trained, qualified individuals to maintain the pizza dispensary device and operate it safely;
- (iv) a duty to properly supervise any individual that inspected or maintained the pizza dispensary device;
- (v) a duty to inspect the pizza dispensary device for any structural, hardware, mechanical, or design defects as well as to assure that all safety and manual-operation mechanisms in in the pizza dispensary device were maintained properly and in safe working condition;
- (vi) a duty to repair any structural, mechanical hardware, or unsafe conditions with the pizza dispensary device;
- (vii) a duty to instruct Ms. Harris on the use of the pizza dispensary device and how to withdraw her pizza safely from the device;

- (viii) a duty to warn Ms. Harris about any unsafe conditions with the pizza dispensary device;
- (ix) a duty to use reasonably safe operation methods with the pizza dispensary device; and
- (x) a duty to maintain the restaurant premises in a safe condition without subjecting Ms. Harris and other customers to unwanted solicitations from illegal salespersons.

37. Redberry-Delaware directly breached each of these duties owed to Ms. Harris.

38. Redberry-Delaware's breach of duties and negligence was a direct and proximate cause of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

Count Two
(Vicarious Liability – against Redberry-Delaware)

39. Ms. Harris repeats the allegations set forth in paragraphs 1 through 38.

40. Mr. Beanum and the other Redberry-Delaware employees on duty when Ms. Harris' fingertip was amputated on December 16, 2014 (the "Redberry-Employees") breached their duties of ordinary care owed to Ms. Harris by, *inter alia*,

- (i) operating the pizza dispensary device in an unsafe manner that caused Ms. Harris' fingertip to be amputated;

- (ii) failing to instruct Ms. Harris as to how to safely obtain her pizza from the device;
- (iii) failing to warn Ms. Harris of the risks of using the device;
- (iv) failing to provide assistance to Ms. Harris after her fingertip was amputated; and
- (v) placing the severed fingertip in a dirty container with ice, thereby eliminating any possibility of surgical reattachment.

41. The Redberry Employees committed their breaches of duty during the regular course of their employment.

42. The breach of duties and negligence of the Redberry Employees was a direct and proximate cause of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

43. Redberry-Delaware is liable for the breaches of duties and negligence of the Redberry Employees under the doctrines of vicarious liability and respondeat superior.

Count Three
(Premises Liability – against Redberry-Delaware)

44. Ms. Harris repeats the allegations set forth in paragraphs 1 through 43.

45. At all relevant times, Redberry-Delaware owned, controlled, or possessed the premises at 18435 Plymouth Road, Detroit, Michigan, which

consisted of a Pizza Hut take-out restaurant open to the public.

46. On December 16, 2014, Ms. Harris was a business invitee who ordered a pizza from the restaurant.

47. Redberry-Delaware owed Ms. Harris and other business invitees duties to assure that the premises were reasonably safe for their intended purpose as a restaurant open to the public, including but not limited to the duties set forth, *supra*, at paragraph 36.

48. Redberry-Delaware violated each of those duties listed in paragraphs 36 and 47.

49. Redberry-Delaware's breach of duties and negligence was a direct and proximate cause of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

Count Four
(Negligence – against Redberry-Canada)

50. Ms. Harris repeats the allegations set forth in paragraphs 1 through 49.

51. Upon information and belief, Redberry-Canada owns a 100% interest in Redberry-Delaware.

52. Upon information and belief, Redberry-Canada manages, operates, supervises, directs, and controls the operations of Redberry-Delaware.

53. Redberry-Canada owed duties to Ms. Harris and other customers of

Pizza Hut restaurants operated by Redberry-Delaware, including but not limited to:

- (i) supervising and monitoring Redberry-Delaware's operation of its Pizza Hut restaurants to assure customers were not exposed to unreasonable risk of injury;
- (ii) supervising and monitoring Redberry-Delaware's operation of its Pizza Hut restaurants to assure that customers were protected from sudden amputation of their fingertips from pizza dispensary devices;
- (iii) providing training and guidance to Redberry-Delaware in order to assure customers were not exposed to an unreasonable risk of injury; and
- (iv) providing training and guidance to Redberry-Delaware in order to assure that customers were protected from sudden amputation of their fingertips from pizza dispensary devices.

54. Redberry-Canada knew, or should have known, that Redberry-Delaware operated its Pizza Hut restaurants, including the restaurant located at 18435 Plymouth Road, Detroit, Michigan where Ms. Harris' fingertip was amputated, in an unsafe manner that exposed customers to unreasonable risk of injury.

55. Redberry-Canada directly breached each of its duties owed to Ms. Harris listed in paragraph 53.

56. Redberry-Canada's breach of duties and negligence was a direct and proximate cause of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

Count Five
(Third Party Beneficiary Breach of Contract
– against Redberry-Delaware and Redberry-Canada)

57. Ms. Harris repeats the allegations set forth in paragraphs 1 through 56.

58. Upon information and belief, Redberry-Canada and Redberry-Delaware entered into one or more contracts under which Redberry-Delaware was authorized to operate Pizza Hut franchises in the United States, including the Pizza Hut take-out restaurant at 18435 Plymouth Road, Detroit, Michigan where Ms. Harris' fingertip was amputated.

59. Upon information and belief, those contracts imposed duties on Redberry-Delaware to operate its franchise restaurants in a safe manner that did not expose customers to unreasonable risk of injury.

60. Upon information and belief, those contracts imposed duties on Redberry-Canada to supervise and monitor Redberry-Delaware to assure that Redberry-Delaware complied with its contractual obligations to operate its franchise restaurants in a safe manner that did not expose customers to unreasonable risk of injury.

61. Redberry-Delaware breached its contractual obligations set forth in paragraph 59 by, *inter alia*, breaching its duties to Ms. Harris set forth in paragraphs 36 and 47.

62. Redberry-Canada breached its contractual obligations set forth in paragraph 60 by failing to supervise and monitor Redberry-Delaware and to enforce Redberry-Delaware's contractual obligations set forth in paragraph 59.

63. Customers of Redberry-Delaware's Pizza Hut franchises, including Ms. Harris, are third party beneficiaries under the contracts entered into, upon information and belief, between Redberry-Delaware and Redberry-Canada.

64. The contractual breaches of Redberry-Delaware were direct and proximate causes of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

65. The contractual breaches of Redberry-Canada were direct and proximate causes of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

Count Six
(Negligence – against Pizza Hut of America)

66. Ms. Harris repeats the allegations set forth in paragraphs 1 through 65.

67. Upon information and belief, Redberry-Delaware entered into a franchise agreement with Pizza Hut of America under which Redberry-Delaware was authorized to operate Pizza Hut restaurant franchises in the United States, including the Pizza Hut take-out restaurant at 18435 Plymouth Road, Detroit, Michigan where Ms. Harris' fingertip was amputated.

68. Upon information and belief, Pizza Hut of America provided instructions, guidance, advice, supervision, and other assistance to Redberry-Delaware in order to assure that Redberry-Delaware's Pizza Hut franchises were operated in a safe manner that did not expose customers to unreasonable risk of injury.

69. Pizza Hut of America owed duties to Ms. Harris and other customers of Pizza Hut restaurants operated by Redberry-Delaware, including but not limited to:

- (i) supervising and monitoring Redberry-Delaware's operation of its Pizza Hut restaurants to assure customers were not exposed to unreasonable risk of injury;
- (ii) supervising and monitoring Redberry-Delaware's operation of its Pizza Hut restaurants to assure that customers were protected from sudden amputation of their fingertips from pizza dispensary devices;
- (iii) providing training and guidance to Redberry-Delaware in order to assure customers were not exposed to an unreasonable risk of injury; and
- (iv) providing training and guidance to Redberry-Delaware in order to assure that customers were protected from sudden amputation of their fingertips from pizza dispensary devices.

70. Pizza Hut of America knew, or should have known, that Redberry-Delaware operated its Pizza Hut restaurants, including the restaurant located at 18435

Plymouth Road, Detroit, Michigan where Ms. Harris' fingertip was amputated, in an unsafe manner that exposed customers to unreasonable risk of injury.

71. Pizza Hut of America directly breached each of its duties owed to Ms. Harris listed in paragraph 69.

72. Pizza Hut of America's breach of duties and negligence was a direct and proximate cause of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

Count Seven
(Third Party Beneficiary Breach of Contract
– against Redberry-Delaware and Pizza Hut of America)

73. Ms. Harris repeats the allegations set forth in paragraphs 1 through 72.

74. Upon information and belief, the franchise agreement between Pizza Hut of America and Redberry-Delaware imposed duties on Redberry-Delaware to operate its franchise restaurants in a safe manner that did not expose customers to unreasonable risk of injury.

75. Upon information and belief, the franchise agreement imposed duties on Pizza Hut of America to supervise and monitor Redberry-Delaware to assure that Redberry-Delaware complied with its contractual obligations to operate its franchise restaurants in a safe manner that did not expose customers to unreasonable risk of injury.

76. Redberry-Delaware breached its contractual obligations set forth in paragraph 74 by, *inter alia*, breaching its duties to Ms. Harris set forth in paragraphs 36 and 47.

77. Pizza Hut of America breached its contractual obligations set forth in paragraph 75 by failing to supervise and monitor Redberry-Delaware and to enforce Redberry-Delaware's contractual obligations set forth in paragraph 74.

78. Customers of Redberry-Delaware's Pizza Hut franchises, including Ms. Harris, are third party beneficiaries under the franchise agreement entered into, upon information and belief, between Redberry-Delaware and Pizza Hut of America.

79. The contractual breaches of the franchise agreement by Redberry-Delaware were direct and proximate causes of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

80. The contractual breaches of the franchise agreement by Pizza Hut of America were direct and proximate causes of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

Count Eight
(Negligence – against YUM!)

81. Ms. Harris repeats the allegations set forth in paragraphs 1 through 80.

82. Upon information and belief, YUM! owns a 100% interest in Pizza Hut of America.

83. Upon information and belief, YUM! manages, operates, supervises, directs, and controls the operations of Pizza Hut of America.

84. Upon information and belief, YUM! provides supervision, guidance, advice, instructions, and assistance to Pizza Hut of America in order to assure that Pizza Hut franchises, including the franchise restaurant located at 18435 Plymouth Road, Detroit, Michigan where Ms. Harris' fingertip was amputated, are operated in a safe manner that does not expose customers to unreasonable risk of injury.

85. YUM! owed duties to Ms. Harris and other customers of Pizza Hut restaurants operated by Redberry-Delaware, including but not limited to:

- (i) supervising and monitoring Pizza Hut of America to assure customers its franchises are not exposed to unreasonable risk of injury;
- (ii) supervising and monitoring Pizza Hut of America so that its customers are protected from sudden amputation of their fingertips from pizza dispensary devices;
- (iii) providing training and guidance to Pizza Hut of America in order to assure customers are not exposed to an unreasonable risk of injury; and
- (iv) providing training and guidance to Pizza Hut of America in order to assure that customers are protected from sudden amputation of their fingertips from pizza dispensary devices.

86. YUM! knew, or should have known, that Pizza Hut of America failed to assure that its Pizza Hut franchises, including the restaurant located at 18435

Plymouth Road, Detroit, Michigan where Ms. Harris' fingertip was amputated, were operated in a safe manner that protected customers from unreasonable risk of injury.

87. YUM! directly breached each of its duties owed to Ms. Harris listed in paragraph 85.

88. YUM!'s breach of duties and negligence was a direct and proximate cause of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

Count Nine
(Third Party Beneficiary Breach of Contract
– against Pizza Hut of America and YUM!)

89. Ms. Harris repeats the allegations set forth in paragraphs 1 through 88.

90. Upon information and belief, YUM! and Pizza Hut of America entered into one or more contracts that imposed duties on Pizza Hut of America to take steps to assure that its Pizza Hut franchise restaurants were operated in a safe manner that did not expose customers to unreasonable risk of injury.

91. Upon information and belief, those contracts imposed duties on YUM! to supervise and monitor Pizza Hut of America to assure that Pizza Hut of America complied with its contractual obligations to assure that its franchise restaurants were operated in a safe manner that did not expose customers to unreasonable risk of injury.

92. Pizza Hut of America breached its contractual obligations set forth in paragraph 90 by, *inter alia*, breaching its duties to Ms. Harris set forth in paragraph 69.

93. YUM! breached its contractual obligations set forth in paragraph 91 by failing to supervise and monitor Pizza Hut of America and to enforce Pizza Hut of America's contractual obligations set forth in paragraph 90.

94. Customers of Redberry-Delaware's Pizza Hut franchises, including Ms. Harris, are third party beneficiaries under the contracts entered into, upon information and belief, between Pizza Hut of America and YUM!.

95. The contractual breaches of the franchise agreement by Pizza Hut of America were direct and proximate causes of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

96. The contractual breaches of the franchise agreement by YUM! were direct and proximate causes of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

Count Ten
(Negligence – against John Doe Entities 1-10)

97. Ms. Harris repeats the allegations set forth in paragraphs 1 through 96.

98. Upon information and belief, John Doe Entities 1-10 designed, manufactured, assembled, tested, distributed, sold, installed, maintained, and/or

provided training in the use of, the pizza dispensary device that amputated Ms. Harris' left index fingertip.

99. John Doe Entities 1-10 owed customers of restaurants in which the pizza dispensary device would be installed a duty of care to design, manufacture, install, maintain, and provide training in the use of the device in a reasonable manner that would protect such customers from the risk of amputation of their fingertips or other injuries.

100. John Doe Entities 1-10 breached their duties of care owed to Ms. Harris by negligently designing, manufacturing, installing, maintaining, and providing training in the use of the pizza dispensary device that amputated Ms. Harris' left index fingertip.

101. The breach of duties and negligence of John Doe Entities 1-10 was a direct and proximate cause of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

Count Eleven
(Strict Product Liability
– against John Doe Entities 1-10)

102. Ms. Harris repeats the allegations set forth in paragraphs 1 through 101.

103. John Doe Entities 1-10 designed, manufactured, assembled, tested, distributed, and sold the pizza dispensary device so as to render it defective and

unsafe for its intended use.

104. The design, manufacture, assembly, inspection, distribution, and sale of the pizza dispensary device by John Doe Entities 1-10 caused the defective and unsafe condition as alleged in this complaint.

105. When Ms. Harris' fingertip was amputated by the pizza dispensary device, the device was in an unsafe and defective condition unreasonably dangerous to a user or consumer in that it was unfit, unsafe, not usable for the purpose it was intended, dangerous and defective in nature, design, and materials, defective in manufacture.

106. The defective and unsafe condition of the pizza dispensary device was not observable by Ms. Harris, who, lacking the technical knowledge and skill required to examine or determine said defects described above, relied on the duty of John Doe Entities 1-10, and each of them, to deliver and install the pizza dispensary device in a condition fit for use for the purpose intended and in a safe and operable condition.

107. The breach of such duties by John Doe Entities 1-10, and each of them, and such defective condition of the pizza dispensary device, was a direct and proximate cause of the amputation of Ms. Harris' left index fingertip and her resulting other serious injuries.

JURY DEMAND

108. Plaintiff demands trial by jury.

WHEREFORE, Plaintiffs Cheryl Harris prays for judgment against the Defendants in an amount to be proved at trial of at least \$2 million, together with interest, costs, and attorneys' fees.

Dated: January 18, 2017

Respectfully submitted,

CRAIG S. ROMANZI, P.C.

/s/ Craig S. Romanzi

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