

CAUSE NO. \_\_\_\_\_

M.R.,

*Plaintiff,*

v.

DOLLAR TREE STORES, INC., and  
FIDELIS REALTY PARTNERS, LTD.,

*Defendants.*

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

JUDICIAL DISTRICT

**PLAINTIFF’S ORIGINAL PETITION**

Plaintiff, M.R., files this Original Petition, complaining of Defendants, Dollar Tree Stores, Inc. and Fidelis Realty Partners, Ltd. (collectively “Defendants”), and alleges as follows:

**I. DISCOVERY CONTROL PLAN**

1. Plaintiff intends to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.4 and requests this Court enter an appropriate Scheduling Order so that discovery may be conducted under Level 3.

2. Plaintiff affirmatively pleads that this suit is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169 because Plaintiff seeks monetary relief over \$250,000.

**II. CLAIM FOR RELIEF**

3. Pursuant to Tex. R. Civ. P. 47(c)(5), Plaintiff seeks monetary relief over \$1,000,000.

**III. PARTIES**

4. Plaintiff, M.R. (“Plaintiff” or “M.R.”), is an individual residing in Harris County, Texas. The last three digits of Plaintiff’s driver’s license are 493; the last three digits of her Social

Security number are 459. Due to the inherently intimate and sensitive nature of the claims in this lawsuit, this petition and all subsequent pleadings will identify Plaintiff by her initials only. Plaintiff's identity will be timely disclosed to Defendants in accordance with the Texas Rules of Civil Procedure.

5. Dollar Tree Stores, Inc. ("Dollar Tree") is a corporation organized and existing under the laws of Virginia, whose principal office is located at 500 Volvo Parkway, Chesapeake, Virginia 23320. Dollar Tree is registered to do business in Texas and may be served by serving its registered agent for service of process, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 E. 7<sup>th</sup> St., Ste. 620, Austin, Texas 78701. Dollar Tree owns and operates the Dollar Tree located at 1430 W. Gray St., Houston, Texas 77019 ("the store").

6. Fidelis Realty Partners ("FRP"), a Texas corporation whose registered office is in Harris County, Texas at 19 Briar Hollow Lane, Ste. 100, Houston, Texas 77027, may be served with process by serving its registered agent for service of process, Alan Hassenflu, 4500 Bissonnet St., Ste. 300, Bellaire, Texas 77401. Based on information and belief, FRP manages River Oaks Plaza, the shopping center where the store is located ("the shopping center").

7. Plaintiff expressly invokes her right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of any of the above Defendants substituted at a later time upon the motion of any party or of the Court.

#### **IV. JURISDICTION AND VENUE**

8. The Court has subject-matter jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements.

9. There is no basis for federal-court jurisdiction over this matter, as Plaintiff has not pleaded, nor does she intend to plead, any claim cognizable under federal law or any federal code,

regulation, rule, statute, or otherwise. Moreover, this action may not be removed because Defendant FRP is a citizen of Texas. 28 U.S.C. § 1441(b)(2).

10. Venue is proper in Harris County pursuant to Texas Civil Practice & Remedies Code § 15.002(a)(1), as all or a substantial part of the events or omissions giving rise to the claim occurred in Harris County, Texas.

## V. FACTS

### A. Facts as to M.R.

11. On or about December 5, 2023, at approximately 10:30 a.m., Plaintiff, M.R., and her friend went to the Dollar Tree located at 1430 W. Gray St., Houston, Texas 77019 (“the store”) in River Oaks Plaza (“the shopping center”). Plaintiff, a business owner, planned to purchase a few items for an upcoming work event.

12. While Plaintiff was browsing inside the store, and her friend was in another aisle, an unidentified man (“the perpetrator”) came up behind Plaintiff and started saying sexually explicit things to her. Disgusted, Plaintiff hurried away from him, found her friend, and told her that they needed to leave. As she was paying for her things, Plaintiff saw the perpetrator leave the store and ride away on a bicycle.

13. As Plaintiff was getting into her car, her friend pointed out something wet and sticky all over the back of Plaintiff’s sweatshirt. Plaintiff realized that the perpetrator had ejaculated on her while making his vulgar remarks to her inside the store. Plaintiff’s friend helped her wipe off the semen with hand towels she had purchased inside.

14. Shocked, all Plaintiff could think about was going home to change clothes, shower, and rid her mind of the dirty, disturbing encounter. Once home, she called her sister, a law

enforcement officer, who told Plaintiff that she needed to preserve the evidence and report the incident.

15. Plaintiff and her friend then went back to the store and reported what happened to the Dollar Tree clerk—the only employee visible inside the store. The clerk shouted to her manager in the back office, “We got another one,” and then informed Plaintiff that **this was the third assault in four days** in the store by a man who matched the physical description of the perpetrator provided by Plaintiff. Plaintiff immediately called the police.

16. When police arrived on the scene, Plaintiff explained what happened and provided them with the towels that contained the DNA evidence of the perpetrator.

17. Additionally, a security guard for the shopping center interviewed Plaintiff, filled out her own report, and confirmed there were other similar incidents reported prior to Plaintiff’s assault. The security guard even drove Plaintiff around the shopping center in a golf cart to see if Plaintiff could identify the perpetrator as one of the several homeless men loitering in the area. However, Plaintiff and the security guard could not locate the perpetrator.

18. Although the Dollar Tree clerk originally told Plaintiff that there were cameras in the store, the store’s manager subsequently denied the existence of any footage when Plaintiff requested a copy.

19. As the result of the sexual assault, which was facilitated by the negligence of Defendants, Plaintiff has suffered severe mental anguish, emotional distress, and trauma. Her symptoms include, but are not limited to, nightmares, significant anxiety, fearfulness, and distrust of others, especially men.

## **B. Dollar Tree's Negligent Failure to Adequately Staff Its Stores**

20. Unfortunately, the assault described above is a symptom of a much larger issue with Dollar Tree. Specifically, Dollar Tree systematically understaffs its stores, often with only a single worker manning the register. See attached **Exhibit 1** (*As Dollar Stores Spread Across the Nation, Crime and Safety Concerns Follow*, CBS News, Sept. 6, 2023), p. 2. Consequently, “the stores have gained a reputation for being easy targets for criminals.” *Id.*

21. Dollar Tree has had longstanding theft issues due to operating stores with just a handful of employees who have at times been victims of violent robberies and other crimes. Dollar Tree CEO, Richard Dreiling, and CFO, Jeffrey Davis, acknowledged this issue in 2023, blaming a large drop in gross profit margin on “shrink,” the industry term for inventory losses due to theft, damages, and other causes. See attached **Exhibit 2** (*Dollar Tree Says Theft Is Such a Problem It Will Start Locking Up Items or Stop Selling Them Altogether*, CBS News, Aug. 24, 2023), p. 2. However, rather than addressing the root cause of the issue—namely, that the stores are sparsely staffed—Dollar Tree’s solution was to put some retail items behind the checkout stand or stop selling them altogether. *See id.*

22. Despite complaints by Dollar Tree employees about unsafe working conditions, the company has failed to adequately respond, demonstrating what one OSHA administrator called “a continued disregard for human safety” that “suggests the company thinks profits matter more than people.” *Id.*

## **VI. CAUSES OF ACTION**

### **A. Count 1 – Negligence of Dollar Tree**

23. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

24. Dollar Tree, as possessor of the store, owes customers like Plaintiff a duty of ordinary care in keeping the premises in a reasonably safe condition.

25. Dollar Tree breached this duty of ordinary care to Plaintiff in many ways, including, but not limited to the following:

- a. Failing to hire enough employees to work at Dollar Tree stores, including the store;
- b. Failing to implement sufficient security measures at the store, such as video surveillance and security guards;
- c. Failing to timely report the perpetrator and the other similar incidents preceding Plaintiff's assault to the police;
- d. Failing to ban the perpetrator from the store prior to Plaintiff's assault;
- e. Failing to warn customers like Plaintiff about a string of sexually motivated crimes within the store;
- f. Failing to adequately hire, train, supervise, and retain qualified employees; and
- g. Failing to create a safe environment for customers.

26. The breaches by Dollar Tree proximately caused Plaintiff's injuries and resulting damages, which were a foreseeable result of such negligence. But for Dollar Tree's negligent acts/omissions as described above, Plaintiff would not have been sexually assaulted in the store. It is foreseeable to a possessor exercising ordinary care that failing to provide sufficient staff and implement basic security measures, among the other acts/omissions detailed above, may result in crimes perpetrated on the premises and injuries to customers, similar to Plaintiff's injuries. Plaintiff's sexual assault was particularly foreseeable to Dollar Tree given the string of other similar incidents in the store within the days leading up to Plaintiff's assault.

**B. Count 2 – Gross Negligence of Dollar Tree**

27. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

28. Each and all of the foregoing negligent acts and omissions, taken singularly or in combination, constitute grossly negligent conduct on the part of Dollar Tree in that such conduct, when viewed objectively from the standpoint of Dollar Tree at the time of its occurrence, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and which Dollar Tree had actual, or subjective awareness of the risk involved, but nevertheless, proceeded with conscious indifference to the rights, safety, and welfare of Plaintiff.

29. Dollar Tree's gross negligence was a proximate cause of Plaintiff's injuries, and her injuries were the foreseeable result of such gross negligence.

30. Because Dollar Tree's conduct amounts to gross negligence, Plaintiff seeks exemplary damages under Tex. Civ. Prac. & Rem. Code Ann. 41.001 *et seq.*

### **C. Count 3 – Negligence of FRP**

31. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

32. FRP, as possessor of the shopping center, owes customers like Plaintiff a duty of ordinary care in keeping the premises in a reasonably safe condition.

33. FRP breached this duty of ordinary care to Plaintiff in many ways, including, but not limited to the following:

- a. Failing to hire enough security guards to work at the shopping center;
- b. Failing to implement sufficient security measures at the shopping center, such as video surveillance;
- c. Failing to timely report the perpetrator and the other similar incidents preceding Plaintiff's assault to the police;
- d. Failing to ban the perpetrator from the shopping center prior to Plaintiff's assault;
- e. Failing to warn customers like Plaintiff about a string of sexually motivated crimes in the shopping center;

- f. Failing to adequately hire, train, supervise, and retain qualified employees; and
- g. Failing to create a safe environment for customers.

34. The breaches by FRP proximately caused Plaintiff's injuries and resulting damages, which were a foreseeable result of such negligence. But for FRP's negligent acts/omissions as described above, Plaintiff would not have been sexually assaulted at the shopping center. It is foreseeable to a possessor exercising ordinary care that failing to provide sufficient security guards and implement basic security measures, among the other acts/omissions detailed above, may result in crimes perpetrated on the premises and injuries to customers, similar to Plaintiff's injuries. Plaintiff's sexual assault was particularly foreseeable to FRP given the string of other similar incidents at the shopping center in the days leading up to Plaintiff's assault.

**D. Count 4 – Gross Negligence of FRP**

35. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

36. Each and all of the foregoing negligent acts and omissions, taken singularly or in combination, constitute grossly negligent conduct on the part of FRP in that such conduct, when viewed objectively from the standpoint of FRP at the time of its occurrence, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and which FRP had actual, or subjective awareness of the risk involved, but nevertheless, proceeded with conscious indifference to the rights, safety, and welfare of Plaintiff.

37. FRP's gross negligence was a proximate cause of Plaintiff's injuries, and her injuries were the foreseeable result of such gross negligence.

38. Because FRP's conduct amounts to gross negligence, Plaintiff seeks exemplary damages under Tex. Civ. Prac. & Rem. Code Ann. 41.001 *et seq.*



### **E. Count 5 – Premises Liability**

39. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

40. Plaintiff, a customer of the store at the shopping center, was an invitee.

41. Defendants Dollar Tree and FRP (collectively “Defendants”) were possessors of the premises.

42. A condition on the premises—namely, the lack of sufficient staff and basic security measures—posed an unreasonable risk of harm to Plaintiff.

43. Given the frequency of crimes in Dollar Tree stores across the country, as well as the string of other similar incidents in the days leading up to Plaintiff’s sexual assault, Defendants knew or reasonably should have known of the danger.

44. Defendants breached their duty of ordinary care by failing to make the condition reasonably safe.

45. Defendants’ breach proximately caused Plaintiff’s injuries, and her injuries were the foreseeable result of such dangerous condition.

### **VII. DAMAGES**

46. Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

47. Defendants’ conduct proximately caused injury to Plaintiff, which resulted in the following damages:

- a. Past and future mental anguish;
- b. Past and future loss of earning capacity; and
- c. Past and future medical expenses.

48. The sum of Plaintiff’s damages is within the jurisdictional limits of the Court.

### **VIII. INTEREST**

49. Plaintiff seeks pre-judgment and post-judgment interest as authorized by law.

50. Plaintiff also claims damages in the amount of legal interest as allowed by law on all pecuniary and non-pecuniary damages as found by the jury at the maximum legal rate allowed by law: (a) accruing from a date beginning 180 days after the date Defendants received written notice of this claim or on the date of filing suit, whichever occurred first, until the time judgment against the defendant is rendered and (b) after judgment until same is paid.

### **IX. JURY DEMAND**

51. Plaintiff demands a jury trial and has tendered the appropriate fee.

### **X. PRAYER**

52. For these reasons, Plaintiff asks that she be awarded a judgment against Defendants for the following:

- a. Actual damages;
- b. Exemplary damages;
- c. Pre-judgment and post-judgment interest;
- d. Court costs; and
- e. All other relief to which Plaintiff is entitled.

Respectfully submitted,

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Unofficial Copy Office of Marilyn Burgess District Clerk