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IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

ARTHUR C. LYNCH, Plaintiff, v. HY-VEE, INC., a foreign corporation, d/b/a HY-VEE, Defendant.	)))))))))	CASE NO. CI 16- **COMPLAINT**

Plaintiff states:

1. That Plaintiff is a resident of Omaha, Douglas County Nebraska.

2. That the Defendant, Hy-Vee, Inc., d/b/a Hy-Vee, ("Defendant"), is a foreign corporation, qualified to do, and is doing business in Omaha, Douglas County, Nebraska.

3. That on or about January 23, 2016, at approximately 2:15 o'clock p.m., Plaintiff had been sitting down having coffee at Hy-Vee's restaurant, located in its store at 7910 Cass Street, Omaha, Douglas County, Nebraska. He had finished drinking coffee, was on his way out when he on food served or finished causing him to fall to the floor, hitting his head and left knee. This fall has caused him to suffer severe and permanent personal injuries and damages as hereinafter more specifically set forth in paragraph 5.

4. That the Defendant, by and through its agents, representatives and employees, while in the scope and course of their employment and agency, knew or should have known that this area of the floor would have spilled food in this area and that such spillage is a hazard to its customers, including the Plaintiff, who were walking on it. That the safe maintenance of this floor was the responsibility of Defendant by and through its agents, representatives' food servers and employees in the course and scope of their employment.

5. That the Defendant, by and through its agents, representatives and employees, was negligent in one or more of the following particulars, to-wit:

a) In failing to use proper care under the circumstances;

b) In allowing its customers, including Plaintiff, to walk on food spilled on the floor;

c) In failing to warn its customers, including Plaintiff, of the dangers and hazardous spilled food on the restaurant floor;

d) In failing to make a timely inspection of this floor to determine if it was free of any hazards, including spilled food, and to make sure it was safe for its customers, including Plaintiff;

e) In failing to maintain its restaurant floor, in a safe condition when it knew or should have known that it is expected for this floor to have spilled food on it;

f) In failing to place a warning sign "caution food spillage on the floor";

g) In failing to mop up and/or clear this food off the floor when it knew that food on the floor made it unreasonably dangerous to its restaurant customers, including Plaintiff;

h) In failing to blockade this area food on its floor area to its customers, including Plaintiff, so they would be forced to walk around this hazard; and

i) In failing to train its employees especially its restaurant waiters and waitresses to recognize and dispose of food hazards on the floor.

6. That one or more of these acts of negligence, as heretofore set forth in Paragraph 5 above, caused this accident, injuries and damages to Plaintiff. That any and all allegations of negligence asserted against the agents, representatives and employees of the Defendant are imputed to the Defendant under the Doctrine of Respondent Superior.

7. That as a direct and proximate result of the negligence of the Defendant, as heretofore set forth in paragraph 5, the Plaintiff was seriously and permanently injured in that he suffered physical injury broken knew cap, swollen ankle and foot, severe shock to her nervous

system, loss of enjoyment of life, aggravation and inconvenience. That these injuries are all permanent in nature. That he has suffered, now suffers, and will in the future continue to suffer great and excruciating permanent physical pain and mental anguish. The Plaintiff has incurred fair and reasonable medical expenses because of these injuries, and will incur same in the future. That Plaintiff has lost income and wages and will lose income in the future because of these injuries. That because of these injuries, Plaintiff's earning capacity has been permanently diminished and impaired.

WHEREFORE, Plaintiff, prays for judgment against the Defendant, for special damages and general damages, together with her costs herein expended.

DATED: June 14th, 2016.

ARTHUR C. LYNCH, Plaintiff,

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