

III.

Statement Regarding Monetary Relief Sought

3. Pursuant to Texas Rule of Civil Procedure 47(c), Plaintiffs seek monetary relief over \$1,000,000.00. Discovery in this matter has just commenced and, therefore, Plaintiffs cannot reliably state a maximum amount of damages they are seeking at this time and reserve the right to supplement in accordance with the Texas Rules of Civil Procedure.

IV.

Parties

4. Plaintiff is a resident of Harris County, Texas.

5. Defendant Turbo Restaurants, LLC d/b/a Turbo US Restaurants (“Turbo Restaurants”) is a Texas entity that may be served through its registered agent, Corporate Creations Network, Inc. at 2425 W. Loop South #200, Houston, Texas 77027.

6. Sun Holdings, Inc. (“Sun Holdings”) is a Texas entity that may be served through its registered agent, Corporate Creations Network, Inc. at 2425 W. Loop South #200, Houston, Texas 77027.

7. Arby’s Restaurant Group, Inc. (“Arby’s Group”) is a Delaware company that may be served through its registered agent, Corporation Service Company at 211 E. 7th Street, Suite 620, Austin, Texas 78701.

8. Arby’s, Inc. (“Arby’s Corporate”) is a Delaware company that may be served through its registered agent, Corporation Service Company at 251 Little Falls Drive, Wilmington, DE 19808.

9. Inspire Brands, Inc. (“Inspire Brands”) is a Delaware company that may be

served through its registered agent, Corporation Service Company at 2 Sun Court, Suite 400, Peachtree Corners, GA 30092.

Facts

10. Nguyet Le worked for Turbo Restaurants, which is a subsidiary of Sun Holdings, Inc. Ms. Le was a widow and mother to four children—Nguyen, Tiffani, Nina and Trina. Nguyen was the eldest child and lived with Ms. Le because he was somewhat disabled. Similarly, Nguyen also worked for Turbo Restaurants.

11. According to their websites Turbo Restaurants and Sun Holdings own over one thousand Applebee's, Arby's Burger Kings, Golden Corral's, IHOPs, McAlister's, Papa John's and Taco Buenos across twelve states. They claim to be the second largest franchisee organization in the United States.

12. Ms. Le worked at a Houston Arby's located at 3055 S. Loop W., Houston, Texas 77054 (Store #8610) as a General Manager. She was classed as a Texas worker by Turbo Restaurant's workers' compensation carrier. In February 2023, her direct supervisor—Mr. Finster asked her to temporarily take an assignment as General Manager of the New Iberia, Louisiana Arby's located at 1120 E. Admiral Doyle Drive, New Iberia, Louisiana 70560. Her temporary assignment was to last four weeks.

13. In speaking to a former employee at the New Iberia location Plaintiffs have learned some key information: (1) the walk-in freezer latch had been broken at least since August 2022; (2) company policy was to keep the freezer at least at -10 degrees if not colder; (3) employees used a screwdriver to help open and close the door; (4) employees used a box of oil to help keep the freezer door open; (5) management at the New Iberia Arby's reported

locally to a district manager but also to Mr. Finster in Texas—the regional manager; and (6) Mr. Finster personally visited the New Iberia Arby's after August 2022 wherein this former employee personally showed him the broken freezer door.

14. While Ms. Le's assignment was only supposed to last 4 weeks, Mr. Finster extended that time by another 2 weeks. On May 11, 2023, Ms. Le was dropped off at the New Iberia Arby's so she could perform some opening duties. Other employees did not begin to arrive until 10:00 a.m. One of those employees was her son, Nguyen. During the time she was dropped off and other employees arrived for work, Ms. Le got trapped in the walk-in freezer. The investigating officer relayed that inside of the door of the freezer had been bloodied leading him to conclude Ms. Le panicked once locked inside and beat her hands bloody trying to escape or get someone's attention. Ultimately, she collapsed into a fetal position face down on the frozen floor. The preliminary autopsy findings were hypothermia as the cause of death.

15. Tragically, the employee to find Ms. Le's body was her son, Nguyen. He did so after coming in for his shift at approximately 10:00 a.m. Plaintiffs bring claims against Turbo Restaurants, Sun Holdings and Arby's Corporate for negligence and gross negligence as detailed below.

VI.

Negligence and Gross Negligence

16. **Turbo Restaurants, LLC** – As an apparent subscriber to the Texas workers' compensation scheme, Plaintiffs maintain a cause of action for gross negligence. As heirs of the body of Ms. Le, Plaintiffs are proper wrongful death beneficiaries under TEX. LAB. CODE § 408.001. On balance gross negligence exists if when viewed objectively from the standpoint

of the actor at the time of its occurrence involves an extreme degree of risk considering the probability and magnitude of the potential harm to others; and the actor has actual, subjective awareness of risk involved but nevertheless proceeds with conscious indifference to the rights, safety or welfare of others. Mr. Finster—regional manager—had actual knowledge of the broken freezer latch. Thus, Turbo Restaurants had knowledge of an extremely dangerous condition at its restaurant since at least August 2022. However, they acted with conscious indifference in failing to repair the latch for nearly 9 months. This was the cause in fact and proximate cause of Ms. Le’s death.

17. **Sun Holdings, Inc.** – From a control standpoint, it is apparent just from Sun Holding’s website that they are involved in the day to day operations of their chain stores. A press release issued in February 2016 revealed that Sun Holdings dictated the updating and upgrading of a number of Arby’s locations – “we believe guests will love the new Inspire restaurant design and the abundance of new and exciting product offerings . . . Plaintiffs maintain both negligence and gross negligence claims against Sun Holdings for:

- Failing to cause to have the freezer at the subject location repaired;
- Failing to properly supervise its franchise location;
- Failing to provide proper training regarding the franchise location;
- Having knowledge of the broken freezer at the subject location but failing to take any action to remedy that problem; and
- Other acts deemed negligent and grossly negligent.

These actions and inactions were the cause in fact and proximate cause of Ms. Le’s death.

18. **Arby’s Restaurant Group, Inc.** – Upon information and belief, Arby’s Group

had the right to inspect the subject location and the building and equipment and operations therein. Moreover, Arby's has a management training program, for which it requires its franchisees to send personnel for training. Upon information and belief, Arby's Group maintained control over hiring for Arby's locations including the subject location. Upon information and belief, hiring for the subject restaurant and other locations franchised by Turbo Restaurants was completed through an Arby's website. Upon information and belief, these are but a few examples of the many instances of Arby's Group being involved in the day-to-day operations of its franchisees. Arby's was negligent and grossly negligent in failing to inspect and train the personnel at the subject location.

19. **Arby's, Inc.** – Upon information and belief, Arby's Corporate had the right to inspect the subject location and the building and equipment and operations therein. Moreover, Arby's has a management training program, for which it requires its franchisees to send personnel for training. Upon information and belief, Arby's Corporate maintained control over hiring for Arby's locations including the subject location. Upon information and belief, hiring for the subject restaurant and other locations franchised by Turbo Restaurants was completed through an Arby's website. Upon information and belief, these are but a few examples of the many instances of Arby's Corporate being involved in the day-to-day operations of its franchisees. Arby's Corporate was negligent and grossly negligent in failing to inspect and train the personnel at the subject location.

20. **Inspire Brands, Inc.** – Upon information and belief, Inspire Brands is the owner and franchisor of Arby's. Upon information and belief, Inspire Brands, had the right to inspect the subject location and the building and equipment and operations therein. Moreover,

Arby's has a management training program for which it requires its franchisees to send personnel for training. Upon information and belief, Inspire Brands maintained control over hiring for Arby's locations including the subject location. Upon information and belief, hiring for the subject restaurant and other locations franchised by Turbo Restaurants was completed through an Arby's website. Upon information and belief, these are but a few examples of the many instances of Inspire Brands being involved in the day-to-day operations of its franchisees. Arby's Corporate was negligent and grossly negligent in failing to inspect and train the personnel at the subject location.

21. By virtue of the actions and conduct of the Defendants set forth above, Decedent suffered fatal injuries. Plaintiff is entitled to punitive damages because the aforementioned actions of Defendants were grossly negligent. Defendants acted with flagrant and malicious disregard of Plaintiffs' health and safety and for the health and safety of others. Defendants' acts and omissions involved an extreme degree of risk considering the probability and magnitude of potential harm to Plaintiffs and others. Defendants had actual, subjective awareness of the risk, and consciously disregarded such risk.

VIII.

Jury Demand

22. Plaintiff hereby demands a trial by jury.

IX.

Prayer

23. Plaintiffs pray that these citations issue and be served upon Defendants in a form and manner prescribed by law, requiring that Defendants appear and answer, and that upon

final hearing, Plaintiff have judgment against Defendants, jointly and severally, in a total sum in excess of the minimum jurisdictional limits of this Court, plus pre-judgment and post judgment interests, all costs of Court, exemplary damages, and all such other and future relief, to which they may show themselves justly entitled including:

- All damages available to a wrongful death beneficiary under law;
- Loss of consortium;
- Past and future mental anguish;
- Conscious pain and suffering as to the Estate;
- Loss of Support; and
- Loss of love and affection.

Respectfully submitted,

PIERCE SKRABANEK, PLLC

/s/ M. Paul Skrabanek

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Kerin Quiroz on behalf of M. Skrabanek
Bar No. 24063005
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Envelope ID: 75998602
Filing Code Description: Petition
Filing Description: Plaintiffs' Original Petition
Status as of 5/25/2023 11:27 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Office E-Service		service@psbfirm.com	5/25/2023 11:08:03 AM	SENT