

DISTRICT COURT, COUNTY OF DOUGLAS, STATE OF COLORADO 4000 Justice Way Castle Rock, Colorado 80109	▲COURT USE ONLY▲
Plaintiff: JOHN PERRY v. Defendant: HOME DEPOT USA, INC.	
	Case Number: Courtroom:
COMPLAINT AND JURY DEMAND	

Plaintiff John Perry, through counsel, submits the following Complaint and Jury Demand against Defendant Home Depot USA, Inc.:

Parties, Jurisdiction, and Venue

1. John Perry (“Plaintiff”) is now, and has been at all times relevant hereto, a resident of Colorado.
2. Defendant Home Depot USA, Inc., (“Defendant Home Depot”) is a foreign corporation doing business in Colorado, with a principal place of business of 2455 Paces Ferry Road SE, Atlanta, GA 30339.
3. Jurisdiction and venue are proper in the District Court of Douglas County in the State of Colorado because the acts giving rise to this action occurred in Douglas County.

GENERAL ALLEGATIONS

4. On or around August 30, 2020, Defendant Home Depot owned or leased the building at 11111 South Parker Road, Parker, CO 80134.
5. On or around August 30, 2020, Defendant Home Depot operated the Home Depot store #1516 at 11111 South Parker Road, Parker, CO 80134.
6. The Home Depot store opened at 7:00 a.m.

7. The Home Depot's store was open to the public beginning at 7:00 a.m.
8. On the morning of August 30, 2020, Plaintiff visited the Home Depot store.
9. At or around 10:00 am, while at Home Depot's store #1516, Plaintiff entered the aisle containing electrical products.
10. The aisle contained a product display and an open ladder, which narrowed the aisle width.
11. The lower section of the display was damaged, and a sharp metal edge protruded into the narrowed aisle near the ladder.
12. The damaged edge on the display was not clearly visible.
13. As Plaintiff walked down the narrow portion of the aisle between the display and ladder, the protruding metal shelf sliced through Plaintiff's left lower leg.
14. Plaintiff sustained a deep laceration spanning approximately 8 centimeters across his left lower leg.
15. Plaintiff notified the store manager who applied gauze and tape to the wound.
16. Plaintiff was taken to Sky Ridge Medical Center, where he received 9 stitches.
17. On or around August 30, 2020, Defendant Home Depot owned or leased the property where the damaged edge display was located that sliced through Plaintiff's left lower leg.
18. On August 30, 2020, Defendant Home Depot owed Plaintiff the duty of care in maintaining the displays throughout the store where customers would likely be located.
19. Defendant Home Depot breached the duty of care owed to Plaintiff.
20. Defendant Home Depot failed to ensure that the store displays, aisles, and corridors were safe for customers.
21. No other party was responsible for maintaining the store displays, aisles, and corridors.
22. Other than the named Defendant in this action, no other party was responsible for Mr. Perry's injury.
23. The damaged display created a dangerous condition that Defendant Home Depot should have known of, yet failed to correct or adequately warn of the danger.

24. At all relevant times, Plaintiff was an invitee on the premises.
25. Plaintiff's physical injuries have necessitated medical treatment.
26. As a result of the laceration, Plaintiff suffered numerous serious and permanent injuries.
27. As a result of his physical injuries, Plaintiff has incurred substantial medical expenses.
28. Due to the August 30, 2020 event, Plaintiff has suffered injuries, damages, and losses.

First Claim for Relief

Premises Liability Under against Defendant Home Depot USA, Inc.

29. Plaintiff incorporates all other paragraphs as though fully set forth herein.
30. C.R.S. §13-21-115(1.5)(c) provides that landowners including, without limitation, an authorized agent or a person in possession of real property and a person legally responsible for the condition of real property or for activities conducted or circumstances existing on real property, are held to a higher standard of care with respect to an invitee than a licensee, and a higher standard of care with respect to a licensee than a trespasser.
31. Pursuant to C.R.S. §13-21-115(3)(c)(I), an invitee may recover for damages caused by Defendant Home Depot's failure to exercise reasonable care to protect against dangers of which it actually knew or should have known.
32. Defendant Home Depot was in possession and control of the property located at 11111 South Parker Road, Parker, CO 80134 on August 30, 2020.
33. Defendant Home Depot was in control of the activities conducted and/or circumstances that existed at the property located at 11111 South Parker Road, Parker, CO 80134 at all times relevant hereto.
34. On August 30, 2020, Defendant Home Depot was a landowner with respect to buildings, aisles, walkways, and common areas pursuant to C.R.S. § 13-21-115(1.5)(c) at all times relevant hereto.
35. On August 30, 2020, Defendant Home Depot owed a non-delegable duty to Plaintiff to maintain the premises in a safe condition at all times relevant hereto.
36. At the time Plaintiff was injured, he had the status of invitee as defined by C.R.S. §13-21-115(5)(a).

37. On August 30, 2020, Plaintiff was not a trespasser with respect to the incident and Home Depot.
38. On August 30, 2020, Plaintiff entered Home Depot store #1516 for the purpose of purchasing an item.
39. Defendant Home Depot knew or should have known that individuals such as Plaintiff would walk down the store aisles near store displays while shopping.
40. Defendant Home Depot implicitly invited Plaintiff and others similarly situated onto the premises for the purpose of conducting business.
41. Defendant Home Depot knew or should have known that the display was damaged at all times relevant hereto.
42. Defendant owed Plaintiff, as an invitee, the duty of reasonable care to protect against dangers on the property of which Defendant Home Depot knew or should have known at all times relevant hereto.
43. Defendant Home Depot had a legal duty to Plaintiff to be aware of the conditions and circumstances that existed during the time of the incident and, in particular, of conditions such as damaged displays.
44. Defendant Home Depot had an obligation to take reasonable action to ensure the subject property was safe at all times relevant hereto.
45. Plaintiff was injured by a dangerous condition of which Defendant Home Depot knew or should have known, and Defendant Home Depot failed to correct or adequately warn Plaintiff of said dangerous condition.
46. Defendant Home Depot failed to discharge its duties owed to Plaintiff at all times relevant hereto.
47. As a direct and proximate cause of the breach of the duty of care by Defendant Lowe's, Plaintiff suffered a lower leg laceration.
48. As a direct, proximate, and foreseeable result of Defendant Home Depot's failures, Plaintiff suffered physical and emotional injuries, and past and future damages, including physical pain and suffering, inconvenience, loss of enjoyment of life, mental anguish, medical, hospital, rehabilitation and therapy bills, and doctor bills, loss of earnings and earning capacity, disfigurement, permanency, and/or physical impairment in amounts to be determined at the time of trial.

WHEREFORE, Plaintiff, prays for judgment against Defendants for past and future economic, non-economic, physical disfigurement, and physical impairment damages, including, but not limited to: past and future medical expenses; past and future loss of earnings; reduced earning capacity; past and future physical and mental pain and suffering, inconvenience, emotional stress, and loss of enjoyment of life. Plaintiff seeks interest, costs, fees as permitted by law, and any further relief the Court deems just.

PLAINTIFF REQUESTS A TRIAL BY JURY

Respectfully submitted the 7th day of December 2021.

/s/ Francisco Martinez

Francisco Martinez, #50227

Michael P. Kane, #34878

Attorneys for Plaintiff

This document was filed electronically pursuant to Rule 121 § 1-26(7). The original signed document is on file in counsel's office.