in the circuit court of the state of oregon

for the county of MULTNOMAH

timothy walls, No.

Plaintiff, **COMPLAINT FOR UNLAWFUL**

v. **HOLDING AND BATTERY**

-**ORS 21.160(1)(c)**

COSTCO WHOLESALE CORPORATION, -**Not Subject to Mandatory Arbitration**

a foreign business corporation, -**Amount Claimed $670,000.00**

Defendant. **-Jury Trial Requested**

1.

Costco Wholesale Corporation (hereinafter referred to as “Costco”) is a foreign business corporation, that owns and operates private warehouse clubs throughout the world, including warehouses located in Multnomah County, State of Oregon.

2.

At all times material herein, plaintiff Timothy Walls was a Costco warehouse club member.

3.

A complete copy of the privileges and conditions governing Mr. Walls’ Costco club membership is attached hereto as Exhibit A.

4.

At all times material herein, Dale Holsclaw and Gavin McClaskey were employed by Costco and were acting within the course and scope of their employment with Costco and therefore Costco is vicariously liable for the acts and omissions as alleged herein of Dale Holsclaw and Gavin McClaskey.

5.

On January 28, 2013 at approximately 2:48 p.m., Mr. Walls purchased $102.66 in goods from Costco.

6.

After paying Costco for the goods, Mr. Walls placed his property in a Costco shopping cart.

7.

As Mr. Walls was exiting the Costco club warehouse, Costco employee Dale Holsclaw grabbed and held the shopping cart containing Mr. Walls’ property.

8.

At the same time, Mr. Holsclaw used words and gestures which conveyed to Mr. Walls that he was not free to leave with his personal property until Mr. Holsclaw was able to inspect Mr. Walls’ purchase receipt and merchandise pursuant to the terms of the Costco club’s membership conditions which provides in part:

1. To insure that all members are correctly charged for the merchandise purchased, all receipts and merchandise will be inspected as you leave the warehouse.

9.

As a result of Mr. Holsclaw’s actions described above, Mr. Walls was denied free and uninhibited use of his personal property.

10.

As a further result of Mr. Holsclaw’s actions described above, Mr. Walls reasonably believed that he was required to remain at the Costco warehouse club in order to regain possession of his property.

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11.

After verbally attempting to secure unrestricted possession of his property Mr. Walls grabbed Mr. Holsclaw by the shirt collar and pulling him away from the shopping cart holding his personal property. ORS 161.229.

12.

As Mr. Walls was attempting to gain unrestricted possession of his personal property as described above, Costco club employee Gavin McClaskey grabbed Mr. Walls and employed a martial arts type strike with his leg which fractured Mr. Walls’ tibia, described more fully below.

13.

The maneuver used by Gavin McClaskey to fracture Mr. Walls’ leg was learned by Mr. McClaskey as part of his training with the US Armed forces and/or as part of his recreational mixed martial arts fighting.

**FIRST CLAIM FOR RELIEF   
(Unlawful Holding/False Arrest)**

For his First Claim for Relief for unlawful holding/false arrest, plaintiff alleges:

14.

Mr. Walls realleges and incorporates by reference hereto, paragraphs 1 through 13 above as if set forth in full.

15.

As a result of Mr. Holsclaw’s and/or Mr. McClaskey’s actions described above, Mr. Walls was held against his will.

16.

The above described holding was unlawful.

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17.

As a foreseeable result of the above described conduct, Mr. Walls suffered the harms and losses described more fully below.

**SECOND CLAIM FOR RELIEF   
(Battery)**

For his Second Claim for Relief for battery, Mr. Walls alleges:

18.

Mr. Walls realleges and incorporates by reference hereto paragraphs 1 through 13 above as if set forth in full.

19.

As a foreseeable result of the actions described above, Mr. Walls suffered the harms and losses described more fully below.

**HARMS AND LOSSES**

20.

As a foreseeable result of the acts and omissions of Mr. Holsclaw and/or Mr. McClaskey described above, Mr. Walls suffered a loss of freedom and multiple fractures to his leg; and he has suffered and will continue to suffer pain and limitations with his leg, along with anguish, humiliation, frustration and fear, all to his noneconomic damage in a reasonable amount to be decided by the jury and not to exceed $500,000.00.

21.

As a further foreseeable result of the acts and omissions described above, Mr. Walls has incurred and will incur in the future reasonable and necessary medical expenses in a reasonable amount to be proven at trial and not to exceed $150,000.00.

22.

As a further foreseeable result of the above described acts and omissions, plaintiff incurred wage loss in a reasonable amount to be proven at trial, not to exceed $20,000.00.

WHEREFORE, plaintiff prays for judgment against the defendant as follows:

1. Non-economic damages in a reasonable amount to be decided by the jury and not to exceed $500,000.00;
2. Economic damages for medical expenses in a reasonable amount to be decided by the jury and not to exceed $150,000.00;
3. Economic damages for wage loss and loss of earning capacity in a reasonable amount to be decided by the jury and not to exceed $20,000.00; and
4. Costs and disbursements incurred herein.

LAW OFFICES OF CLAYTON H. MORRISON, LLC.

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CLAYTON H. MORRISON, OSB No. 74225

CLAYTON HUNTLEY MORRISON, OSB No. 98391

JURY TRIAL REQUESTED