

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
IN AND FOR DUVAL COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION
CASE NO: 16-2023-CA-002984

CONSUELO HARTLEY, as Personal
Representative of the Estate of
MARVIN GAY OUSLEY, JR., deceased,

Plaintiff,

vs.

WATERS EDGE JACKSONVILLE, LLC,
a Foreign Limited Liability Company,
PRINCETON ENTERPRISES, LLC,
a Foreign limited liability company,
WATERS EDGE APTS LLC, a Florida
limited liability company,

Defendants,

/

COMPLAINT

COMES NOW Plaintiff, CONSUELO HARTLEY, as Personal Representative of the Estate of MARVIN GAY OUSLEY, JR., deceased, by and through undersigned counsel, hereby sues Defendants, WATERS EDGE JACKSONVILLE, LLC, a Foreign Limited Liability Company, PRINCETON ENTERPRISES, LLC, a Foreign limited liability company, WATERS EDGE APTS LLC, and alleges as follows:

ALLEGATIONS AS TO ALL COUNTS

1. This is an action for damages in excess of Fifty Thousand Dollars exclusive of interest, costs, and attorney's fees and is being brought pursuant to the Florida Wrongful Death Act, Fla. Stat. § 768.16, *et seq.*
2. Plaintiff, CONSUELO HARTLEY, is or will be the duly appointed, qualified, an acting Personal Representative of the Estate of MARVIN GAY OUSLEY, JR., and is the proper individual and party to bring this action.

3. Plaintiff CONSUELO HARTLEY is the natural mother of Plaintiffs' decedent, MARVIN GAY OUSLEY, JR., and is *sui juris*.
4. At the time of the subject incident, Plaintiff, CONSUELO HARTLEY, and Plaintiff's decedent, MARVIN GAY OUSLEY, JR., resided in Duval County.
5. The survivors of Plaintiff's decedent, MARVIN GAY OUSLEY, JR., as defined by Florida Statutes, are the Plaintiff's decedent's minor children, M.P.O., K.N.C., G.A.O., R.C.M.O., H.M.O. and L.E.K.
6. At all material times, Defendant, WATERS EDGE JACKSONVILLE, LLC, was authorized to and doing business as a Foreign limited liability company with a principal address of 2550 Telegraph Road, Suite 200, West Bloomfield, MI 48302.
7. At all material times, Defendant, WATERS EDGE JACKSONVILLE, LLC, owned, operated, managed, maintained, and/or controlled the apartment complex (including its common areas) which has a primary address of 800 Broward Rd, Jacksonville, FL 32218 (the "subject premises").
8. At all material times, Defendant, PRINCETON ENTERPRISES, LLC, was authorized to and doing business as a foreign limited liability company with a principal address of 26600 Telegraph Rd., #200, Southfield, MI 48033.
9. At all material times, Defendant, PRINCETON ENTERPRISES, LLC, owned, operated, managed, maintained, and/or controlled the apartment complex (including its common areas) which has a primary address of 800 Broward Rd, Jacksonville, FL 32218 (the "subject premises").
10. At all material times, Defendant, WATERS EDGE APTS LLC, was authorized to and doing business as a Florida limited liability company with a principal address of 1102 A1A N, Suite 206, Ponte Vedra Beach, Florida 32082.

11. At all material times, Defendant WATERS EDGE APTS LLC, owned, operated, managed, maintained, and/or controlled the apartment complex (including its common areas) which has a primary address of 800 Broward Rd, Jacksonville, FL 32218 (the “subject premises”).
12. At all material times, Defendants, WATERS EDGE JACKSONVILLE, LLC, and WATERS EDGE APTS LLC, were responsible and vicariously liable for the acts and omissions of their agents, employees, representatives, and/or servants, including but not limited to any property management company they hired to manage the subject premises, including but not limited to Defendants PRINCETON ENTERPRISES, LLC.
13. At all material times, Defendants, WATERS EDGE JACKSONVILLE, LLC, PRINCETON ENTERPRISES, LLC, and WATERS EDGE APTS LLC, were responsible and vicariously liable for the acts and omissions of their agents, employees, representatives, and/or servants, including any security guard or security guard company they hired or retained to provide security at the subject premises.
14. At the time and date of the subject incident, the Plaintiff was a lawful invitee at the subject premises, which is the location of the subject incident (as described in the following paragraph).
15. On or about October 2, 2021, Plaintiff’s decedent, MARVIN GAY OUSLEY, JR., was shot and killed while upon the subject premises.
16. Venue is proper in this Court because, *inter alia*, the incident giving rise to the claims within this Complaint occurred within Duval County, Florida.

COUNT I
NEGLIGENCE CLAIM AGAINST WATERS EDGE JACKSONVILLE, LLC

17. The Plaintiff readopts and re-alleges all allegations contained in Paragraphs 1-16.
18. At all material times, Defendant, through its agents and employees, owed a duty to the

residents and invitees of the subject premises to exercise reasonable and ordinary care to keep and maintain the premises and its common areas in a reasonably safe condition. In particular, Defendant had a duty to take such precautions as were reasonably necessary to protect residents and invitees, including Plaintiff's decedent, MARVIN GAY OUSLEY, JR., from reasonably foreseeable criminal attacks.

19. At all material times, Defendant, through its agents and employees, knew or in the exercise of reasonable care should have known that the subject premises and areas adjacent thereto were in a high-crime area. Moreover, at all material times, Defendant, through its agents and employees, knew or in the exercise of reasonable care should have known that prior to the date of the subject incident numerous violent criminal acts including, but not limited to, shootings, aggravated assaults, batteries, and robberies had occurred at the subject premises and areas adjacent thereto and attacks were reasonably likely to be perpetrated on residents and invitee unless Defendant took steps to provide proper security for such individuals.
20. Defendant, through its agents and employees, knew or in the exercise of reasonable care should have known that no individual, including MARVIN GAY OUSLEY, JR., had it within their power to take the measures necessary to provide for their own security on the premises.
21. In light of the foregoing, at all material times, the criminal attack and shooting of MARVIN GAY OUSLEY, JR. was reasonably foreseeable and Defendant was in a superior position to appreciate such hazards and take necessary steps to prevent such harm.
22. Defendant, by and through its agents and employees, breached its duty to exercise reasonable care for the safety and protection of residents and invitees of the subject premises, including MARVIN GAY OUSLEY, JR., and acted in a careless and negligent

manner through the following acts of omission or commission:

- A. Failing to provide adequate security for residents, invitees, and the public;
- B. Failing to warn residents, invitees, and the public of the nature and character of its premises when it knew or in the exercise of reasonable care should have known that numerous criminal incidents of a similar nature to the one at issue had occurred on the subject premises and areas adjacent thereto prior to the date of the subject incident;
- C. Failing to warn, protect, guard, and secure the safety of residents, invitees, and the public;
- D. Failing to police, patrol, guard, deter, and otherwise provide adequate protection for residents, invitees, and the public;
- E. Failing to hire and/or retain adequate security personnel to patrol and/or monitor the premises;
- F. Failing to have a sufficient number of guards in visible areas to deter crime;
- G. Failing to have an adequate number of security guards to protect residents, invitees, and the public;
- H. Failing to hire and/or retain competent security guards to protect residents, invitees, and the public;
- I. Failing to properly train security guards to be reasonably skillful, competent, and/or qualified to exercise appropriate and proper security measures so that they could protect residents, invitees, and the public;
- J. Failing to provide proper and sufficient lighting for the complex;
- K. Failing to have surveillance cameras throughout the complex;
- L. Failing to have an adequate number of surveillance cameras at the premises and surrounding areas, including, but not limited to, the area where the subject incident occurred;
- M. Failing to position surveillance cameras in appropriate locations such that said cameras would act as a deterrent against criminal activity within the community;
- N. Failing to have and/or maintain surveillance cameras in working condition such that every camera was able to monitor and record activity in its line of view;
- O. Failing to implement adequate security policies, security measures, and

security procedures necessary to protect residents, invitees, and the public;

- P. Failing to take additional security measures after being put on notice that the security measures in force were inadequate;
 - Q. Failing to adequately provide an overall security plan that would meet the known industry standards and customs for safety in the community;
 - R Failing to provide a reasonably safe structural layout of the property upon taking control of the community and its common areas;
 - S. Failing to provide security gates/access control to the community;
 - T. The preceding paragraphs “A” through “S”, individually and/or as a whole, represent strict deviations from the existing standard of care with regard to security as recognized by similar businesses and properties in the local community;
 - V. Additional acts of negligence not yet discovered.
23. Defendant, through its agents and employees, negligently failed to have any procedures governing the inspection, supervision, and/or security of the area where the subject incident occurred; or in the alternative, Defendant did in fact have procedures governing the inspection, supervision, and security of the area where the subject incident occurred, but implemented said procedures in a careless and negligent manner.
24. At all material times, Defendant, through its agents and employees, negligently failed to hire persons, employees, and/or agents reasonably suited for providing, implementing, and maintaining proper security measures to ensure the safety of the complex’s residents, invitees, and the public.
25. Defendant, through its agents and employees, created and/or allowed to be created said dangerous conditions on the subject premises. Further, Defendant failed to warn the residents, invitees, and the public of the existence of said dangerous conditions; or in the alternative, did allow said dangerous conditions to exist for a length of time in which a reasonable inspection would have disclosed same.

26. The negligence of Defendant proximately caused the death MARVIN GAY OUSLEY, JR., and directly led to his criminal attack in that:
- A. There was inadequate and/or nonexistent visible deterrence to prevent said criminal assault;
 - B. There was inadequate and/or nonexistent physical deterrence to prevent said criminal assault;
 - C. Criminals could carry out physical assaults within the community without fear of being caught, discovered, or prosecuted; or
 - D. An atmosphere was created at the community that facilitated the commission of crimes against persons.
27. As a direct and proximate result of the Defendant's negligence, Plaintiff's decedent, MARVIN GAY OUSLEY, JR., suffered great bodily harm October 2, 2021, from an assault on the above-referenced premises, which caused his death.
28. The Estate of MARVIN GAY OUSLEY, JR. and Plaintiff's decedent's surviving children have suffered and will continue to suffer damages into the future as authorized and allowed under the Florida Wrongful Death Act, Fla. Stat. § 768.16, *et seq.* This includes, but is not limited to the following:
- A. The past and future mental pain and suffering of all survivors;
 - B. The past and future loss of support and services to all survivors;
 - C. The past and future cost of therapy and mental health treatment for all survivors resulting from the death of Plaintiff's Decedent;
 - D. Loss of the care, maintenance, support, services, companionship, advice, counsel, inheritance and other reasonable contributions of pecuniary and non-pecuniary value that the survivors would have otherwise received during Plaintiff's Decedent's life had it not been for his untimely, tragic and wrongful death;
 - E. The expense of medical care and funeral arrangements arising from the injury and death of Plaintiff's decedent;
 - F. The prospective net accumulations of the Estate of MARVIN GAY OUSLEY, JR.; and

G. Any and all other damages that the applicable laws allow.

WHEREFORE, Plaintiff, CONSUELO HARTLEY, as Personal Representative of the Estate of MARVIN GAY OUSLEY, JR., sues Defendant, WATERS EDGE JACKSONVILLE, LLC, and demands trial by jury and judgment against it for damages exclusive of attorney fees, costs, and interest, in an amount in excess of the jurisdictional limits of this Court.

COUNT II
NEGLIGENCE CLAIM AGAINST PRINCETON ENTERPRISES, LLC

29. The Plaintiff readopts and re-alleges all allegations contained in Paragraphs 1-16.
30. At all material times, Defendant, through its agents and employees, owed a duty to the residents and invitees of the subject premises to exercise reasonable and ordinary care to keep and maintain the premises and its common areas in a reasonably safe condition. In particular, Defendant had a duty to take such precautions as were reasonably necessary to protect residents and invitees, including Plaintiff's decedent, MARVIN GAY OUSLEY, JR., from reasonably foreseeable criminal attacks.
31. At all material times, Defendant, through its agents and employees, knew or in the exercise of reasonable care should have known that the subject premises and areas adjacent thereto were in a high-crime area. Moreover, at all material times, Defendant, through its agents and employees, knew or in the exercise of reasonable care should have known that prior to the date of the subject incident numerous violent criminal acts including, but not limited to, shootings, aggravated assaults, batteries, and robberies had occurred at the subject premises and areas adjacent thereto and attacks were reasonably likely to be perpetrated on residents and invitee unless Defendant took steps to provide proper security for such individuals.
32. Defendant, through its agents and employees, knew or in the exercise of reasonable care should have known that no individual, including MARVIN GAY OUSLEY, JR., had it

within their power to take the measures necessary to provide for their own security on the premises.

33. In light of the foregoing, at all material times, the criminal attack and shooting of MARVIN GAY OUSLEY, JR. was reasonably foreseeable and Defendant was in a superior position to appreciate such hazards and take necessary steps to prevent such harm.
34. Defendant, by and through its agents and employees, breached its duty to exercise reasonable care for the safety and protection of residents and invitees of the subject premises, including MARVIN GAY OUSLEY, JR., and acted in a careless and negligent manner through the following acts of omission or commission:
 - A. Failing to provide adequate security for residents, invitees, and the public;
 - B. Failing to warn residents, invitees, and the public of the nature and character of its premises when it knew or in the exercise of reasonable care should have known that numerous criminal incidents of a similar nature to the one at issue had occurred on the subject premises and areas adjacent thereto prior to the date of the subject incident;
 - C. Failing to warn, protect, guard, and secure the safety of residents, invitees, and the public;
 - D. Failing to police, patrol, guard, deter, and otherwise provide adequate protection for residents, invitees, and the public;
 - E. Failing to hire and/or retain adequate security personnel to patrol and/or monitor the premises;
 - F. Failing to have a sufficient number of guards in visible areas to deter crime;
 - G. Failing to have an adequate number of security guards to protect residents, invitees, and the public;
 - H. Failing to hire and/or retain competent security guards to protect residents, invitees, and the public;
 - I. Failing to properly train security guards to be reasonably skillful, competent, and/or qualified to exercise appropriate and proper security measures so that they could protect residents, invitees, and the public;
 - J. Failing to provide proper and sufficient lighting for the complex;

- K. Failing to have surveillance cameras throughout the complex;
 - L. Failing to have an adequate number of surveillance cameras at the premises and surrounding areas, including, but not limited to, the area where the subject incident occurred;
 - M. Failing to position surveillance cameras in appropriate locations such that said cameras would act as a deterrent against criminal activity within the community;
 - N. Failing to have and/or maintain surveillance cameras in working condition such that every camera was able to monitor and record activity in its line of view;
 - O. Failing to implement adequate security policies, security measures, and security procedures necessary to protect residents, invitees, and the public;
 - P. Failing to take additional security measures after being put on notice that the security measures in force were inadequate;
 - Q. Failing to adequately provide an overall security plan that would meet the known industry standards and customs for safety in the community;
 - R. Failing to provide a reasonably safe structural layout of the property upon taking control of the community and its common areas;
 - S. Failing to provide security gates/access control to the community;
 - T. The preceding paragraphs “A” through “S”, individually and/or as a whole, represent strict deviations from the existing standard of care with regard to security as recognized by similar businesses and properties in the local community;
 - V. Additional acts of negligence not yet discovered.
35. Defendant, through its agents and employees, negligently failed to have any procedures governing the inspection, supervision, and/or security of the area where the subject incident occurred; or in the alternative, Defendant did in fact have procedures governing the inspection, supervision, and security of the area where the subject incident occurred, but implemented said procedures in a careless and negligent manner.
36. At all material times, Defendant, through its agents and employees, negligently failed to hire persons, employees, and/or agents reasonably suited for providing, implementing, and

maintaining proper security measures to ensure the safety of the complex's residents, invitees, and the public.

37. Defendant, through its agents and employees, created and/or allowed to be created said dangerous conditions on the subject premises. Further, Defendant failed to warn the residents, invitees, and the public of the existence of said dangerous conditions; or in the alternative, did allow said dangerous conditions to exist for a length of time in which a reasonable inspection would have disclosed same.

38. The negligence of Defendant proximately caused the death MARVIN GAY OUSLEY, JR., and directly led to his criminal attack in that:

- A. There was inadequate and/or nonexistent visible deterrence to prevent said criminal assault;
- B. There was inadequate and/or nonexistent physical deterrence to prevent said criminal assault;
- C. Criminals could carry out physical assaults within the community without fear of being caught, discovered, or prosecuted; or
- D. An atmosphere was created at the community that facilitated the commission of crimes against persons.

39. As a direct and proximate result of the Defendant's negligence, Plaintiff's decedent, MARVIN GAY OUSLEY, JR., suffered great bodily harm October 2, 2021, from an assault on the above-referenced premises, which caused his death.

40. The Estate of MARVIN GAY OUSLEY, JR. and Plaintiff's decedent's surviving children have suffered and will continue to suffer damages into the future as authorized and allowed under the Florida Wrongful Death Act, Fla. Stat. § 768.16, *et seq.* This includes, but is not limited to the following:

- A. The past and future mental pain and suffering of all survivors;
- B. The past and future loss of support and services to all survivors;

- C. The past and future cost of therapy and mental health treatment for all survivors resulting from the death of Plaintiff's Decedent;
- D. Loss of the care, maintenance, support, services, companionship, advice, counsel, inheritance and other reasonable contributions of pecuniary and non-pecuniary value that the survivors would have otherwise received during Plaintiff's Decedent's life had it not been for his untimely, tragic and wrongful death;
- E. The expense of medical care and funeral arrangements arising from the injury and death of Plaintiff's decedent;
- F. The prospective net accumulations of the Estate of MARVIN GAY OUSLEY, JR.; and
- G. Any and all other damages that the applicable laws allow.

WHEREFORE, Plaintiff, CONSUELO HARTLEY, as Personal Representative of the Estate of MARVIN GAY OUSLEY, JR., sues Defendant, PRINCETON ENTERPRISES, LLC, and demands trial by jury and judgment against it for damages exclusive of attorney fees, costs, and interest, in an amount in excess of the jurisdictional limits of this Court.

COUNT III
NEGLIGENCE CLAIM AGAINST WATERS EDGE APTS LLC

- 41. The Plaintiff readopts and re-alleges all allegations contained in Paragraphs 1-16.
- 42. At all material times, Defendant, through its agents and employees, owed a duty to the residents and invitees of the subject premises to exercise reasonable and ordinary care to keep and maintain the premises and its common areas in a reasonably safe condition. In particular, Defendant had a duty to take such precautions as were reasonably necessary to protect residents and invitees, including Plaintiff's decedent, MARVIN GAY OUSLEY, JR., from reasonably foreseeable criminal attacks.

43. At all material times, Defendant, through its agents and employees, knew or in the exercise of reasonable care should have known that the subject premises and areas adjacent thereto were in a high-crime area. Moreover, at all material times, Defendant, through its agents and employees, knew or in the exercise of reasonable care should have known that prior to the date of the subject incident numerous violent criminal acts including, but not limited to, shootings, aggravated assaults, batteries, and robberies had occurred at the subject premises and areas adjacent thereto and attacks were reasonably likely to be perpetrated on residents and invitee unless Defendant took steps to provide proper security for such individuals.
44. Defendant, through its agents and employees, knew or in the exercise of reasonable care should have known that no individual, including MARVIN GAY OUSLEY, JR., had it within their power to take the measures necessary to provide for their own security on the premises.
45. In light of the foregoing, at all material times, the criminal attack and shooting of MARVIN GAY OUSLEY, JR. was reasonably foreseeable and Defendant was in a superior position to appreciate such hazards and take necessary steps to prevent such harm.
46. Defendant, by and through its agents and employees, breached its duty to exercise reasonable care for the safety and protection of residents and invitees of the subject premises, including MARVIN GAY OUSLEY, JR., and acted in a careless and negligent manner through the following acts of omission or commission:
- A. Failing to provide adequate security for residents, invitees, and the public;
 - B. Failing to warn residents, invitees, and the public of the nature and character of its premises when it knew or in the exercise of reasonable care should have known that numerous criminal incidents of a similar nature to the one at issue had occurred on the subject premises and areas adjacent thereto prior to the date of the subject incident;

- C. Failing to warn, protect, guard, and secure the safety of residents, invitees, and the public;
- D. Failing to police, patrol, guard, deter, and otherwise provide adequate protection for residents, invitees, and the public;
- E. Failing to hire and/or retain adequate security personnel to patrol and/or monitor the premises;
- F. Failing to have a sufficient number of guards in visible areas to deter crime;
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- H. Failing to hire and/or retain competent security guards to protect residents, invitees, and the public;
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- R. Failing to provide a reasonably safe structural layout of the property upon taking control of the community and its common areas;

- S. Failing to provide security gates/access control to the community;
 - T. The preceding paragraphs “A” through “S”, individually and/or as a whole, represent strict deviations from the existing standard of care with regard to security as recognized by similar businesses and properties in the local community;
 - V. Additional acts of negligence not yet discovered.
47. Defendant, through its agents and employees, negligently failed to have any procedures governing the inspection, supervision, and/or security of the area where the subject incident occurred; or in the alternative, Defendant did in fact have procedures governing the inspection, supervision, and security of the area where the subject incident occurred, but implemented said procedures in a careless and negligent manner.
48. At all material times, Defendant, through its agents and employees, negligently failed to hire persons, employees, and/or agents reasonably suited for providing, implementing, and maintaining proper security measures to ensure the safety of the complex’s residents, invitees, and the public.
49. Defendant, through its agents and employees, created and/or allowed to be created said dangerous conditions on the subject premises. Further, Defendant failed to warn the residents, invitees, and the public of the existence of said dangerous conditions; or in the alternative, did allow said dangerous conditions to exist for a length of time in which a reasonable inspection would have disclosed same.
50. The negligence of Defendant proximately caused the death MARVIN GAY OUSLEY, JR., and directly led to his criminal attack in that:
- A. There was inadequate and/or nonexistent visible deterrence to prevent said criminal assault;
 - B. There was inadequate and/or nonexistent physical deterrence to prevent said criminal assault;
 - C. Criminals could carry out physical assaults within the community without

fear of being caught, discovered, or prosecuted; or

D. An atmosphere was created at the community that facilitated the commission of crimes against persons.

51. As a direct and proximate result of the Defendant's negligence, Plaintiff's decedent, MARVIN GAY OUSLEY, JR., suffered great bodily harm October 2, 2021, from an assault on the above-referenced premises, which caused his death.

52. The Estate of MARVIN GAY OUSLEY, JR. and Plaintiff's decedent's surviving children have suffered and will continue to suffer damages into the future as authorized and allowed under the Florida Wrongful Death Act, Fla. Stat. § 768.16, *et seq.* This includes, but is not limited to the following:

- A. The past and future mental pain and suffering of all survivors;
- B. The past and future loss of support and services to all survivors;
- C. The past and future cost of therapy and mental health treatment for all survivors resulting from the death of Plaintiff's Decedent;
- D. Loss of the care, maintenance, support, services, companionship, advice, counsel, inheritance and other reasonable contributions of pecuniary and non-pecuniary value that the survivors would have otherwise received during Plaintiff's Decedent's life had it not been for his untimely, tragic and wrongful death;
- E. The expense of medical care and funeral arrangements arising from the injury and death of Plaintiff's decedent;
- F. The prospective net accumulations of the Estate of MARVIN GAY OUSLEY, JR.; and
- G. Any and all other damages that the applicable laws allow.

WHEREFORE, Plaintiff, CONSUELO HARTLEY, as Personal Representative of the Estate of MARVIN GAY OUSLEY, JR., sues Defendant, WATERS EDGE APTS, LLC, and demands trial by jury and judgment against it for damages exclusive of attorney fees, costs, and interest, in an amount in excess of the jurisdictional limits of this Court.

DEMAND FOR JURY TRIAL

The Plaintiff demands a trial by jury of all issues triable as of right by a jury.

DATED: March 20, 2023

THE HAGGARD LAW FIRM, PA

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BY: /s/ PEDRO P. ECHARTE, III

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