

IN THE CIRCUIT COURT OF THE
18th JUDICIAL CIRCUIT IN AND
FOR BREVARD COUNTY, FLORIDA

CASE NO:

H.H.,

Plaintiff,

vs.

**COUNTRY CLUB APARTMENTS
OF MERRITT ISLAND, LLC**, a
Florida limited liability company
for profit; and **WELLS BOYS
PROPERTY MANAGEMENT LLC**,
a Florida limited liability company
for profit;

Defendants.

***COMPLAINT FOR DAMAGES
AND DEMAND FOR JURY TRIAL***

Plaintiff, **H.H.**, sues Defendants **COUNTRY CLUB APARTMENTS OF MERRITT ISLAND, LLC**, a Florida limited liability company for profit, and **WELLS BOYS PROPERTY MANAGEMENT LLC**, a Florida limited liability company for profit, and alleges as follows:



ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action for damages in excess of the minimum jurisdictional limits of this Court of \$15,000.00, exclusive of interest and costs.

2. The Plaintiff, identified by her initials H.H., is a woman who was the victim of a violent sexual and aggravated battery and is being identified by this pseudonym to protect her privacy. The actual identity of the Plaintiff is known to the Defendants and/or her complete identity will be provided in discovery

3. At all times material, Plaintiff H.H. resided at Country Club Apartments, 1155 N. Courtenay Parkway, Apartment B230, Merritt Island, Brevard County, Florida, pursuant to a lease agreement between the Plaintiff and Defendant COUNTRY CLUB APARTMENTS (hereafter COUNTRY CLUB).

4. At all times material, Defendant COUNTRY CLUB was and is a Florida limited liability corporation for profit, doing business and authorized to do business in Brevard County, Florida with its principal place of business located at 1155 N. Courtenay Parkway, Merritt Island, Brevard County, Florida.

5. At all times material, and at the time of the incident complained of, Defendant, COUNTRY CLUB owned, managed, operated, maintained and/or controlled the subject apartment complex where this incident took place and where the Plaintiff resided pursuant to a lease, and exercised jurisdiction and control over the functioning of the apartment and employed agents, employees, officers, staff,

administrators, representatives, and/or servants, and said Defendant exercised jurisdiction and control over the procedures which said agents, employees, officers, staff, administrators, representatives, and servants, had the privilege and obligation to perform, and said Defendant determined the qualifications or lack of qualifications of said agents, employees, staff, administrators, representatives, and servants as the same related to those procedures and duties which were devised by said Defendant for the aforementioned agents, employees, staff, administrators, representatives, and servants.

6. At all times material, Defendant WELLS BOYS PROPERTY MANAGEMENT LLC (hereafter WELLS BOYS), operated, managed, maintained, supervised and/or controlled the premises known as “Country Club Apartments,” located at 1155 N. Courtenay Parkway, Merritt Island, Brevard County, Florida.

7. At all times material, Defendant WELLS BOYS was and is a Florida limited liability corporation for profit, doing business and authorized to do business in Brevard County, Florida, with its principal place of business located at 211 Caroline Street, Cape Canaveral, Brevard County, Florida.

8. On or about May 26, 2014, Plaintiff H.H. was lawfully in her apartment #B230 at COUNTRY CLUB APARTMENTS.

9. While in her apartment, Plaintiff H.H. responded to a knock on her door and upon opening her door was struck in the face, choked, strangled, and sexually assaulted inside her apartment.

COUNT I

CLAIM OF NEGLIGENCE AGAINST DEFENDANT COUNTRY CLUB

Plaintiff realleges and readopts paragraphs 1 through 9 above as if set forth fully herein and further states:

10. At all times hereinafter mentioned, and at the time of the incident complained of, Defendant, COUNTRY CLUB, held its apartment complex out to the public and the Plaintiff as a safe and secure residential apartment complex and encouraged members of the public to enter the premises and lease apartments in which to reside.

11. At all times material hereto, lawful invitees and residents, including the Plaintiff, had a right to and did in fact rely upon the ostensible security at the subject apartment complex owned, managed and operated by Defendant COUNTRY CLUB.

12. Defendant, COUNTRY CLUB, had a duty to the Plaintiff and to other invitees lawfully on its premises to maintain the premises in a reasonably safe

condition and to warn them of dangerous conditions existing at the subject apartment complex.

13. Defendant, COUNTRY CLUB, had a further non-delegable duty to provide reasonable security measures and/or responsible security personnel to control, patrol, and guard against the criminal activity which had been occurring at or near the immediate vicinity of the subject apartment complex.

14. Defendant, COUNTRY CLUB had a further duty to adequately supervise and enforce any security measures already instituted at the time of the incident complained of herein and to insure that the security measures were adequate and were being reasonably performed.

15. Defendant, COUNTRY CLUB, knew or should have known of the criminal activity occurring at the subject apartment complex and immediate vicinity and/or having the potential and/or opportunity to occur at the subject apartment complex and its immediate vicinity.

16. Defendant, COUNTRY CLUB, had actual or constructive notice or knowledge of a history of criminal activity, including crimes against persons, in and about the subject apartment complex prior to the incident in question.

17. Defendant, COUNTRY CLUB, knew or should have recognized the likelihood of criminal activity which would endanger residents and invitees lawfully present at the subject apartment complex.

18. Defendant, COUNTRY CLUB, knew or should have recognized that any security measures already implemented at the time of the incident complained of herein were inadequate and/or not being performed as expected or intended.

19. Defendant, COUNTRY CLUB, knew or should have known or recognized that inadequate or nonexistent security measures would increase the likelihood of criminal activity, which would endanger residents and lawful invitees at the subject apartment complex.

20. Defendant, COUNTRY CLUB, knew or should have known or recognized that any security measures implemented at the subject apartment complex at the time of the incident complained of herein were inadequate and unreasonable due to the reasonably foreseeable risk presented at and before this assault.

21. Defendant, COUNTRY CLUB, through its agents, employees, officers, staff, administrators, representatives, servants, and security personnel breached the duty owed to residents, lawful invitees and the Plaintiff by committing one or more of the following negligent acts of commission and/or omission:

- a. Negligently failed to provide adequate security;
- b. Negligently failed to provide adequate security despite knowledge, actual or constructive, of the unreasonable and unforeseeable risk of harm by conditions occurring at the subject apartment complex;
- c. Negligently exposed this resident (H.H.) to a foreseeable and unreasonable risk of harm or bodily assault;
- d. Negligently created a foreseeable and unreasonable risk of criminal assault;
- e. Negligently failed to warn of the foreseeable and unreasonable risk of harm created by conditions at the subject apartment complex of which this Defendant was aware or should have been aware and of which this Plaintiff was not aware, nor, in the exercise of reasonable care, of which she should or could have been aware;
- f. Negligently failed to control and adequately supervise the subject apartment complex, including known and suspected criminal activity which the Defendant had reason to know was taking place on the premises;
- g. Negligently failed to become apprised of the extent of the problem of criminal acts which occurred on or near the subject apartment complex and to take reasonable preventive action;
- h. Negligently failed to oversee and/or supervise existing security measures to insure that such measures were being adequately performed;
- i. Negligently failed to improve any existing security measures that said Defendant, knew or through the exercise of reasonable care should have known were inadequate and/or ineffective and/or inefficiently performed or executed;

- j. Negligently failed to investigate and act accordingly upon the suspicious presence of Plaintiff's assailant at or near the subject apartment complex;
- k. Negligently failed to establish adequate standards for the safe operation and management of the subject apartment complex;
- l. Negligently failed to provide reasonable and adequately trained personnel to provide protection for said Plaintiff, and lawful invitees;
- m. Negligently failed to provide reasonable and adequate orientation and supervision to employees, agents, representatives, servants, and/or security personnel in order to adequately prepare them for employment at or near the specific location, to wit: this subject apartment complex was known to have been the scene and location of prior criminal acts including drug dealing;
- n. By allowing an atmosphere of crime and lawlessness to exist and to expressly and/or impliedly condone illegal and illicit acts and behavior on the premises of the COUNTRY CLUB APARTMENTS;
- o. By negligently failing to remove trespassers from the parking lot and its surrounding area of the subject apartment when the Defendant knew or should have known of their existence;
- p. Negligently and/or recklessly made decisions about the maintenance and security of the subject apartment complex based on his own economic benefit and in reckless disregard for the safety of the public, including the Plaintiff;
- q. Negligently failed to properly maintain and repair the subject apartment complex in a reasonable manner which provided criminals and trespassers ingress and egress to the residents and authorized guests;
- r. Negligently failed to provide reasonable, appropriate and safe illumination and lighting in the hallways and common areas;

- s. Negligently failed to adopt such other security measures which were necessary and reasonable to protect and safeguard the lives of lawful invitees and individuals present at or near the subject apartment complex such as the Plaintiff herein; and were otherwise negligent in their management of the subject apartment complex;
- t. Negligently violated Florida's Residential Landlord-Tenant Act, Fla. Stat. §83.51.

22. As a direct and proximate result of Defendant COUNTRY CLUB's negligence, Plaintiff H.H. was beaten, battered, strangled, sexually assaulted, and traumatized and caused to suffer bodily injury including brain injury, mental pain and suffering, psychological injuries, scarring, disability, handicap, disfigurement, aggravation of pre-existing conditions, and the loss of the capacity for the enjoyment of life.

23. As a further direct and proximate cause of the negligence of the Defendant, Plaintiff has incurred in the past and will incur in the future medical and psychological expenses for the treatment of her injuries, and will incur lost earning capacity. All of said damages are permanent and continuing in nature.

WHEREFORE, Plaintiff H.H. sues Defendant COUNTRY CLUB for damages in excess of \$15,000, including pre-judgment and post-judgment interest to the extent allowed by law, plus costs and interest, and demand trial by jury of all issues.

COUNT II

CLAIM OF NEGLIGENCE AGAINST DEFENDANT WELLS BOYS

Plaintiff realleges and readopts paragraphs 1 through 23 above as if set forth fully herein and further states:

24. At all times hereinafter mentioned, and at the time of the incident complained of, Defendant, WELLS BOYS, managed said COUNTRY CLUB APARTMENTS pursuant to a written and/or oral contract with Defendant COUNTRY CLUB.

25. At all times material, WELLS BOYS held said apartment complex out to the public and the Plaintiff as a safe and secure residential apartment complex and encouraged members of the public to enter the premises and lease apartments in which to reside.

26. At all times material hereto, lawful invitees and residents, including the Plaintiff, had a right to and did in fact rely upon the ostensible security at the subject apartment complex managed and operated by Defendant WELLS BOYS.

27. Defendant WELLS BOYS had a duty to the Plaintiff and to other invitees lawfully on its premises to maintain the premises in a reasonably safe condition and to warn them of dangerous conditions existing at the subject apartment complex.

28. Defendant WELLS BOYS had a further non-delegable duty to provide reasonable security measures and/or responsible security personnel to control, patrol, and guard against the criminal activity which had been occurring at or near the immediate vicinity of the subject apartment complex.

29. Defendant WELLS BOYS had a further duty to adequately supervise and enforce any security measures already instituted at the time of the incident complained of herein and to insure that the security measures were adequate and were being reasonably performed.

30. Defendant WELLS BOYS knew or should have known of the criminal activity occurring at the subject apartment complex and immediate vicinity and/or having the potential and/or opportunity to occur at the subject apartment complex and its immediate vicinity.

31. Defendant WELLS BOYS had actual or constructive notice or knowledge of a history of criminal activity, including crimes against persons, in and about the subject apartment complex prior to the incident in question.

32. Defendant WELLS BOYS knew or should have recognized the likelihood of criminal activity which would endanger residents and invitees lawfully present at the subject apartment complex.

33. Defendant WELLS BOYS knew or should have recognized that any security measures already implemented at the time of the incident complained of herein were inadequate and/or not being performed as expected or intended.

34. Defendant WELLS BOYS knew or should have known or recognized that inadequate or nonexistent security measures would increase the likelihood of criminal activity, which would endanger residents and lawful invitees at the subject apartment complex.

35. Defendant WELLS BOYS knew or should have known or recognized that any security measures implemented at the subject apartment complex at the time of the incident complained of herein were inadequate and unreasonable due to the reasonably foreseeable risk presented at and before this assault.

36. Defendant WELLS BOYS through its agents, employees, officers, staff, administrators, representatives, servants, and security personnel breached the duty owed to residents, lawful invitees and the Plaintiff by committing one or more of the following negligent acts of commission and/or omission:

- a. Negligently failed to provide adequate security;
- b. Negligently failed to provide adequate security despite knowledge, actual or constructive, of the unreasonable and unforeseeable risk of harm by conditions occurring at the subject apartment complex;

- c. Negligently exposed this resident (H.H.) to a foreseeable and unreasonable risk of harm or bodily assault;
- d. Negligently created a foreseeable and unreasonable risk of criminal assault;
- e. Negligently failed to warn of the foreseeable and unreasonable risk of harm created by conditions at the subject apartment complex of which this Defendant was aware or should have been aware and of which this Plaintiff was not aware, nor, in the exercise of reasonable care, of which she should or could have been aware;
- f. Negligently failed to control and adequately supervise the subject apartment complex, including known and suspected criminal activity which the Defendant had reason to know was taking place on the premises;
- g. Negligently failed to become apprised of the extent of the problem of criminal acts which occurred on or near the subject apartment complex and to take reasonable preventive action;
- h. Negligently failed to oversee and/or supervise existing security measures to insure that such measures were being adequately performed;
- i. Negligently failed to improve any existing security measures that said Defendant, knew or through the exercise of reasonable care should have known were inadequate and/or ineffective and/or inefficiently performed or executed;
- j. Negligently failed to investigate and act accordingly upon the suspicious presence of Plaintiff's assailant at or near the subject apartment complex;
- k. Negligently failed to establish adequate standards for the safe operation and management of the subject apartment complex;

- l. Negligently failed to provide reasonable and adequately trained personnel to provide protection for said Plaintiff, and lawful invitees;
- m. Negligently failed to provide reasonable and adequate orientation and supervision to employees, agents, representatives, servants, and/or security personnel in order to adequately prepare them for employment at or near the specific location, to wit: this subject apartment complex was known to have been the scene and location of prior criminal acts including drug dealing;
- n. By allowing an atmosphere of crime and lawlessness to exist and to expressly and/or impliedly condone illegal and illicit acts and behavior on the premises of the COUNTRY CLUB APARTMENTS;
- o. By negligently failing to remove trespassers from the parking lot and its surrounding area of the subject apartment when the Defendant knew or should have known of their existence;
- p. Negligently failed to properly maintain and repair the subject apartment complex in a reasonable manner which provided criminals and trespassers ingress and egress to the residents and authorized guests;
- q. Negligently and/or recklessly made decisions about the maintenance and security of the subject apartment complex based on his own economic benefit and in reckless disregard for the safety of the public, including the Plaintiff;
- r. Negligently failed to provide reasonable, appropriate and safe illumination and lighting in the hallways and common areas;

- s. Negligently failed to adopt such other security measures which were necessary and reasonable to protect and safeguard the lives of lawful invitees and individuals present at or near the subject apartment complex such as the Plaintiff herein; and were otherwise negligent in their management of the subject apartment complex.

37. As a direct and proximate result of Defendant WELLS BOYS' negligence, Plaintiff H.H. was beaten, battered, strangled, sexually assaulted, and traumatized and caused to suffer bodily injury including brain injury, mental pain and suffering, psychological injuries, scarring, disability, handicap, disfigurement, aggravation of pre-existing conditions, and the loss of the capacity for the enjoyment of life.

38. As a further direct and proximate cause of the negligence of the Defendant, Plaintiff has incurred in the past and will incur in the future medical and psychological expenses for the treatment of her injuries, and will incur lost earning capacity. All of said damages are permanent and continuing in nature.

WHEREFORE, Plaintiff H.H. sues Defendant WELLS BOYS for damages in excess of \$15,000, including pre-judgment and post-judgment interest to the extent allowed by law, plus costs and interest, and demand trial by jury of all issues.

DATED THIS 20th day of April, 2015.

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