

**IN THE CIRCUIT COURT OF TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS**

**KENNETH DAWSON, JR., and
LINDA DAWSON,**

Plaintiffs,

VS.

NO.: CT-003247-17, DIV 9

**GUEST HOUSE AT GRACELAND, LLC,
And ELVIS PRESLEY ENTERPRISES, INC.,**

Jury Demanded

Defendants.

COMPLAINT

COME NOW the Plaintiffs, Kenneth Dawson, Jr., and Linda Dawson, and file this Complaint against the Defendants, Guest House of Graceland, LLC (herein "Guest House") and Elvis Presley Enterprises, Inc. (herein, "EPE"), and would respectfully show the Court the following facts to-wit:

PARTIES

1. Plaintiffs, Kenneth Dawson, Jr. and Linda Dawson are adult resident citizens of Shelby County, Tennessee.

2. Defendant, Guest House at Graceland ("Guest House") is a duly qualified and licensed limited liability company in the State of Tennessee with its principal address identified as 3734 Elvis Presley Boulevard, Memphis, Tennessee. Upon information and belief and in addition and/or in the alternative, at all relevant times herein, Defendant Guest House was the owner, co-owner, operator and/or manager of a hotel known as "The

Guest House,” located at 3600 Elvis Presley Boulevard, Memphis, Tennessee, 38116. Defendant Guest House’s registered agent for service of process is Cogency Global, Inc., 992 Davidson Drive, Suite B, Nashville, Tennessee, 37205-1051.

3. Defendant, Elvis Presley Enterprises (“EPE”) is a duly qualified and licensed corporation in the State of Tennessee with its principal address identified as 3734 Elvis Presley Boulevard, Memphis, Tennessee. Upon information and belief and in addition and/or in the alternative, at all relevant times herein, Defendant EPE was the owner, co-owner, operator and/or manager of a hotel known as “The Guest House,” located at 3600 Elvis Presley Boulevard, Memphis, Tennessee, 38116. Defendant EPE’s registered agent for service of process is Cogency Global, Inc., 992 Davidson Drive, Suite B, Nashville, Tennessee, 37205-1051.

JURISDICTION AND VENUE

4. This Court has *in personam* jurisdiction over Defendants because the negligent acts and omissions of Defendants were committed in whole or in part in the State of Tennessee against a resident of the State of Tennessee.

5. Venue is proper in Shelby County, Tennessee pursuant to T.C.A. § 20-4-101 since the alleged acts of negligence occurred in Shelby County and because one or more of the Defendants reside in Shelby County.

6. This Complaint is filed within the applicable statute of limitations.

NATURE OF DEFENDANTS’ LIABILITY

7. Defendants Guest House and EPE are directly liable for their own corporate negligence as well as for the acts and omissions of their servants, employees, and agents by

virtue of the doctrines of agency, apparent agency, implied agency, employer/employee relations, master-servant relations, loaned servant relations joint venture, joint and several liability, respondeat superior, vicarious liability, and contract.

FACTS

8. Plaintiffs adopt by reference the foregoing paragraphs as if fully set forth herein.

9. At all pertinent times, Defendants owned, managed, possessed, controlled, and/or operated "The Guest House" located at 3600 Elvis Presley Boulevard, Memphis, TN 38116.

10. Defendants' operation of The Guest House is supported solely on the basis of business invitees. Upon information and belief, Defendants, through various advertising media, solicit the business of individuals, including Plaintiffs, Kenneth Dawson, Jr. and Linda Dawson, and invites all members of the general public, including Plaintiffs, Kenneth Dawson, Jr. and Linda Dawson, to its premises for the purpose of renting rooms therein.

11. Legionella bacteria can grow and multiply in water systems. It poses a significant danger to people utilizing contaminated water systems. Such contaminated water can easily cause illness when water vapor or mist is inhaled. Once inhaled, the Legionella bacteria can cause Legionnaires' Disease (Legionellosis) which is a severe form of pneumonia.

12. Approximately one in ten people who contract Legionnaires' Disease will die from its complications and symptoms, which include coughing, shortness of breath, fever, muscle aches, and headache. Persons with weakened immune systems are at a heightened risk for Legionnaires' Disease.

13. Hotels which have large scale water systems such as pools, hot tubs, fountains, cooling systems, refrigeration systems, and potable water systems are frequently the source of

Legionnaires' Disease outbreaks. As a result, hotels and their proprietors are aware of the inherent dangers of such outbreaks and the necessity to maintain their water systems so as to prevent contamination. Because of the well-known risks posed by Legionella bacteria in large scale water systems, responsible hotel owners use water management plans that include testing and sanitizing systems designed to prevent the bacteria.

14. Defendants herein thus knew or should have known that its water systems could become contaminated with Legionella bacteria if not properly maintained.

15. In a report released on June 7, 2016, the Centers for Disease Control and Prevention (herein "CDC") stated that Legionnaires' Disease outbreaks generally result from a combination of deficiencies, usually classified as process failures and human errors. In the majority of outbreaks, inadequate water disinfectant levels and temperatures in the optimal range of Legionella growth were observed. The CDC and others set standards for developing a water management program that is appropriate for a particular facility. For example, the CDC publishes a guide called "Developing a Water Management Program to Reduce Legionella Growth and Spread in Buildings" that is widely available.

16. Any such management plan must account for the unique aspects of the building's design and function. As such, large hotels with multiple possible Legionella reservoirs should take additional steps to protect its guests and patrons from Legionella.

17. Prior to the Legionnaires' Disease outbreak described herein, Defendants did not implement a water management plan sufficient to protect its guests and patrons it housed at its hotel known as The Guest House.

18. The Guest House is a large hotel which held its grand opening in October 2016. The Guest House is owned, co-owned, operated, managed, and maintained by the Defendants.

The Guest House uses multiple water systems to serve its guests and patrons, including a fountain, large swimming pool, and hot tub.

19. In May 2017, the Shelby County Health Department began investigating a series of Legionnaires' Disease cases. Subsequently, the Health Department determined that each ill individual had visited the Guest House prior to developing Legionnaires' Disease.

20. On July 19, 2017, the Shelby County Health Department had confirmed that nine persons, including Plaintiff Kenneth Dawson, had developed Legionnaires' Disease following visits to the Guest House, specifically dealing with its pool area.

21. The Shelby County Health Department also announced that individuals who visited the hotel between May 15, 2017 and June 26, 2017 could have been exposed to Legionnaires' Disease.

22. On June 11-13, 2017, Plaintiffs were business invitees of Defendant Guest House and stayed overnight in the hotel. Plaintiffs used the pool and hot tub facilities at the property on Monday, June 12, 2017.

23. While at the Guest House, Plaintiffs came into contact with Legionella bacteria through the normal and anticipated use of the Guest House water system.

24. As a direct and proximate result of the aforementioned dangerous condition, Kenneth Dawson, Jr. contracted Legionnaires' Disease, suffered ongoing symptoms, and required medical treatment. Mr. Dawson was hospitalized from June 18, 2017 until July 15, 2017. He was intubated with a ventilator for several weeks in the intensive care unit.

25. Mr. Dawson continues to experience weakness, coughing, and other symptoms as he seeks to recuperate.

26. At roughly the same time that Plaintiff Kenneth Dawson, Jr. developed symptoms

of Legionnaires' Disease, his wife, Linda Dawson, developed symptoms consistent with Pontiac Fever, a systemic disease with symptoms resembling influenza caused by Legionella. She exhibited symptoms of cough, headache, and muscle aches. She was treated by her doctor with two rounds of antibiotics along with other medication and is still treating with her doctors.

27. As a direct and proximate result of contact with Legionella contaminated water at the Guest House, Plaintiff Kenneth Dawson, Jr. contracted Legionnaires' Disease, incurred substantial medical expenses, suffered lost wages, and endured significant pain and suffering.

28. At all times relevant hereto, Plaintiffs Kenneth Dawson, Jr. and Linda Dawson acted in a careful, prudent, and cautious manner and were in no way negligent.

LIABILITY

COUNT I - NEGLIGENCE

29. Plaintiffs adopt by reference the foregoing paragraphs as if fully set forth herein.

30. As a proprietor inviting persons onto its premises and encouraging invitees to partake in its amenities, Defendants owed a duty to the invitees, including Plaintiffs Kenneth Dawson, Jr. and Linda Dawson, to use ordinary and reasonable care under the circumstances, including keeping the rooms and water systems free from harmful pathogens like Legionella.

31. Defendants breached their duty to the Plaintiffs in each of, but not limited to, the following ways:

- a. Failing to adequately treat its water system;
- b. Failing to adequately analyze and assess the safety of its water supply and systems in light of the risks posed by Legionella;
- c. Failing to install or implement proper chemical treatments of its water supply;
- d. Failing to adequately perform regular and proper assessments of its water

supply and systems, including inadequate testing protocols;

- e. Failing to adequately train, supervise, inform, and instruct its employees, agents, contractors or those acting on their behalf regarding the safe operation of its water supply in light of the risks of Legionella contamination;
- f. Failing to adhere to relevant portions of the American Society of Heating, Refrigeration and Air Conditioning Engineers guidelines and other applicable standards;
- g. Failing to maintain the hotel with the degree of care and caution required of a reasonable and prudent person or party under similar circumstances;
- h. Failing to properly maintain the hotel in a reasonable and safe condition;
- i. Failing to inspect the hotel for a dangerous condition in a timely manner;
- j. Failing to remove and/or repair a dangerous condition from the hotel;
- k. Failing to enact and enforce policies and procedures to keep the hotel in a reasonable and safe condition; and
- l. Failing to timely warn guests, including Plaintiffs, Kenneth Dawson, Jr. and Linda Dawson, of the dangerous condition.

32. Defendants created a dangerous condition at the hotel which resulted in the widespread presence of Legionella by maintaining it in a manner that threatened the health and safety of their guests, including Plaintiffs, Kenneth Dawson, Jr. and Linda Dawson, and failed to timely and properly remedy this condition and warn its guests and patrons.

33. The dangerous and defective condition complained of herein existed for a

protracted period of time prior to Plaintiffs' illness such that Defendants, in the exercise of reasonable care, knew or should have known of the dangerous and defective condition and should have warned their guests.

34. Defendants, by and through their employees, contractors, agents or those acting on their behalf, had actual notice and knowledge of the dangerous and defective condition - that is, a water supply at risk for Legionella contamination and particularly ill-suited for a large hotel - and nonetheless failed to timely and properly remedy it or warn their guests.

35. In the alternative, Defendants, by and through their employees, contractors, agents or those acting on their behalf, had constructive notice and knowledge of the dangerous and defective condition - that is, a water supply at risk for Legionella contamination and particularly ill-suited for a large hotel - and nonetheless failed to timely and properly remedy it or warn their guests.

36. In the alternative, Defendants, by and through their employees, contractors, agents or those acting on their behalf, caused, permitted, and/or allowed the premises to be, become, and remain in the dangerous and defective condition and failed to warn their guests.

37. The events alleged and the dangerous and defective condition that caused Plaintiffs' illnesses does not occur in the absence of negligence.

38. As a direct and proximate result of Defendants' negligence, Plaintiff Kenneth Dawson, Jr. became infected with Legionella and suffered great mental anguish and bodily injuries, pain and suffering, loss of enjoyment of life, diminished quality of life, lost wages, lost earning capacity, and other damages to be proved at trial.

39. As a direct and proximate result of the Defendants' negligence, Plaintiffs also incurred and will incur in the future medical and prescription expenses.

COUNT II – RES IPSA LOQUITUR

40. Plaintiffs adopt by reference the foregoing paragraphs as if fully set forth herein.

41. Defendants, their employees, agents, contractors or those acting on their behalf, were solely responsible for maintaining the water systems at the Guest House and solely responsible for preventing Legionella from infecting their guests.

42. At all times material hereto, the water systems at the Guest House were under the exclusive dominion, control, and management of Defendants, their employees, agents, contractors or those acting on their behalf.

43. The outbreak of Legionnaires' Disease, including Plaintiff Kenneth Dawson, Jr.'s illness, would not have occurred in the ordinary course of events had Defendants used reasonable care in the operation and maintenance of its water systems.

44. No action of Plaintiffs or other outbreak victims in any way caused the contamination and outbreak.

45. Plaintiffs' actions in no way contributed to the outbreak of Legionnaires' Disease or Plaintiff Kenneth Dawson, Jr.'s infection.

COUNT III – LOSS OF CONSORTIUM

46. Plaintiffs adopt by reference the foregoing paragraphs as if fully set forth herein.

47. Plaintiff, Linda Dawson, alleges that as a direct and proximate result of the hereinabove described negligent conduct, acts, and/or omissions of the Defendants and resulting injuries to her husband, Kenneth Dawson, Jr., she has sustained the loss of his love, affection, companionship, and society, and sues for loss of consortium, past, present and future. Plaintiff Linda Dawson therefore seeks a judgment against Defendants, jointly and severally.

DAMAGES

48. Plaintiffs adopt by reference the foregoing paragraphs as if fully set forth herein.

49. As a direct and proximate result of the negligent acts and omissions of Defendants, Kenneth Dawson, Jr. and Linda Dawson suffered injuries and damages. Plaintiffs seek compensation from Defendants for any damages to which they are entitled under the law, including but not limited to the following:

- a. Physical pain and suffering of a past, present, and future nature;
- b. Emotional pain and suffering of a past, present, and future nature;
- c. Medical bills and expenses of a past, present, and future nature;
- d. Permanent impairment;
- e. Lost wages;
- f. Lost earning capacity;
- g. Loss of enjoyment of life;
- h. Loss of consortium;
- i. Incidental and consequential damages stemming from attending to the injuries

of her husband, Kenneth Dawson, Jr.;

- j. Post-judgment interest;
- k. Statutory and discretionary costs; and
- l. All such further relief, both general and specific, to which they may be entitled under the premises.

PRAYER FOR RELIEF

50. Plaintiffs adopt by reference the foregoing paragraphs as if fully set forth herein.

51. WHEREFORE, PREMISES CONSIDERED, Plaintiffs Kenneth Dawson, Jr. and Linda Dawson pray that this Honorable Court enter a judgment against Defendant for the following:

a. Plaintiff Kenneth Dawson, Jr. prays that he be awarded compensatory damages in an amount that appears fair and reasonable to the jury, and which exceeds Twenty-Five Thousand dollars (\$25,000.00), and for all such further relief, both general and specific, to which he may be entitled under the premises.

b. Plaintiff Linda Dawson prays that she be awarded compensatory damages in an amount that appears fair and reasonable to the jury, and which exceeds Twenty-Five Thousand dollars (\$25,000.00), and for all such further relief, both general and specific, to which she may be entitled under the premises.

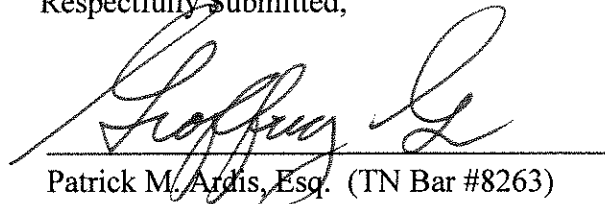
c. That the Plaintiffs be awarded post-judgment interest as equity requires;

d. That all costs of this action be taxed to Defendants; and

e. All such further relief, both general and specific, which the Court deems just and proper.

51. A jury is respectfully demanded.

Respectfully Submitted,



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