

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO
CIVIL DIVISION

BARBARA A. MEREDITH
Administrator of the Estate of
James Russell Jenkins, Deceased
6303 Century City North
Apt. 2
Reynoldsburg, Ohio 43068

Plaintiff,

v.

HARTFORD ON THE LAKE, LLC
c/o CT Corporation System
4400 Easton Commons Way
Suite 125
Columbus, Ohio 43219

Defendant.

CASE NO.:

JUDGE:

COMPLAINT WITH JURY DEMAND

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Plaintiff BARBARA MEREDITH, AS EXECUTRIX OF THE ESTATE OF JAMES
RUSSELL JENKINS, DECEASED, by her attorneys, CHARLES E. BOYK LAW OFFICES,
LLC, brings this action against Defendant HARTFORD ON THE LAKE, LLC, and states as
follows:

PRELIMINARY STATEMENT

1. This is a wrongful death and survival action based upon the tragic, but avoidable death of James Russell Jenkins (“Russell”), a remarkable young man whose life heroically ended at the age of thirty.

2. At approximately 5:40 p.m., February 7, 2013, Russell and his girlfriend, Alana Gamble, were returning to her apartment at the Hartford on the Lake apartment complex in Columbus.

3. While driving through the complex, they heard screams and observed a crowd of people near the edge of the apartment complex’s pond.

4. Russell parked his car and ran to the site and Ms. Gamble followed.

5. The people who were gathered said that a small boy had fallen through the ice on the pond.

6. Without hesitation, Russell undertook an effort to rescue the boy, reaching him and keeping him afloat, while others, including bystanders, police, and firefighters, attempted to reach them both from the shore.

7. Regrettably, due to the negligence of Defendant and the conditions of its property, Russell and the child drowned.

STATEMENT OF JURISDICTION AND VENUE

8. The Franklin County Court of Common Pleas has jurisdiction over this matter through Ohio Revised Code § 2305.01.

9. This matter is properly venued with the Franklin County Court of Common Pleas pursuant to Ohio Civil Rule 3, in that:

- a. Defendant, Hartford on the Lake, LLC, is an Ohio Limited Liability Company;
- b. Defendant has its principal place of business in Franklin County; and/or
- c. Franklin County is the county in which all or part of the claims have arisen.

10. Pursuant to Ohio R. Civ. P. 8, Plaintiff states that the amount in controversy exceeds \$25,000.

PARTIES

11. Plaintiff Barbara Meredith is the mother of James Russell Jenkins, deceased, and is the Executrix of his Estate.

12. Hartford on the Lake, LLC is an Ohio registered Limited Liability Company. Service of process may be made upon Defendant by serving its registered agent at the address set forth in the caption hereof.

STATEMENT OF THE FACTS

13. In 2010, Hartford at the Lake, LLC, purchased a multi-family residential apartment complex in Columbus, Franklin County, Ohio from Graoch Associates for approximately \$2.3 million.

14. The apartment complex is located at 2400 Shore Boulevard West, Columbus, Ohio, 43232.

15. Since August 2010, Hartford has continuously owned, operated, and managed the apartment complex.

16. Hartford advertises the complex as “resort living” in a “lakeside setting”, with apartments having “lakeside views”.

17. Hartford invites residents to “leisurely stroll around [its] lake” or “spend a relaxing afternoon fishing at [its] fully stocked lake.”

18. Hartford invites and permits its residents to use the “lake” for recreational purposes such as fishing and boating.

19. Hartford furnishes the “lake” to the tenants as part of the consideration for their payment of rent.

20. Hartford markets to and solicits business from families with minor children.

21. Upon information and belief, the “lake” Hartford refers to, is a man-made and maintained retention pond that is approximately 5-6 surface acres in size.

22. Hartford does not provide the residents with any rules or regulations regarding the pond.

23. The embankment slopes for the pond are steeper than a 4:1 (horizontal:vertical) slope.

24. Upon information and belief, the pond does not have an aquatic bench or has an aquatic bench that is steeper than a 10:1 (horizontal: vertical) slope.

25. Upon information and belief, the pond, in spots, reaches or exceeds depths of 20 feet below the pond’s normal water elevation.

26. The water is regularly murky, turbid, cloudy, and polluted.

27. There have been multiple drowning deaths in the pond under Defendant’s brief ownership.

28. Those deaths include Shennell Mallory and her daughter, Kamiya, in February 2011; and Daynarro Hall, in April 2011.

29. Upon information and belief, under Defendant's ownership, more than 50% of the residents/tenants of the Hartford on the Lake complex have been minor children.

30. Children regularly walk and play near the pond.

31. On February 7, 2013, one or more of the following conditions existed relating to the pond on the Hartford's premises:

- a. The pond was not properly constructed or maintained; and/or
- b. The pond was not marked or equipped with depth markers; and/or
- c. Defendants did not have lighting around the pond or had inadequate lighting; and/or
- d. Defendant had no pond rules or regulations in place for the safety of residents or failed to communicate such rules or regulations to residents; and/or
- e. Defendant had no warning signs; and/or
- f. Defendant failed to warn residents regarding the dangerous and deceptive conditions of the pond; and/or
- g. Defendant had no barriers around the pond; and/or
- h. Defendant had no rescue or lifesaving equipment and/or easily observable and accessible rescue or lifesaving equipment on the premises, including but not limited to rope, telescopic poles, rescue buoys, or boats; and/or
- i. Defendant had no personnel observing or monitoring the pond area; and/or
- j. Defendant had no personnel trained or properly trained, certified, and/or prepared for emergency situations; and/or
- k. Defendant had no personnel available to engage in rescue or lifesaving efforts.

32. On February 7, 2013, Elijah Walker, age 5, was a minor resident at Hartford on the Lake Apartments.

33. Elijah, playing with some other minor resident children, went out on to the iced pond, which had been frozen over for some time.

34. Less than twenty (20) feet from the edge of the pond, the ice gave way and Elijah fell into the cold water.

35. Elijah held on to the edge of the ice, while the other children got help.

36. Residents came to the scene, but could not locate any item to rescue the child.

37. 911 was called at approximately 5:39 p.m.

38. At this same time, James Russell Jenkins ("Russell") had pulled into the complex with his girlfriend, Alana Gamble, who resided at Hartford.

39. While driving through the complex, Russell and Alana heard a loud commotion.

40. Russell and Alana got out of the car and ran to the screams of onlookers which were coming from the pond's edge nearest the corner of Shore Boulevard West and Lakeside South.

41. Upon reaching the scene, Russell and Alana could see that a boy had fallen through the ice.

42. The ice appeared solid except where the child had fallen in.

43. Russell immediately removed his coat and went out on the ice on his stomach.

44. Russell was able to reach the child and pull him from the water but the ice gave way and they both fell into the freezing water.

45. Russell held the boy, keeping him afloat.

46. People who had gathered at the scene continued to make rescue attempts despite having no rescue equipment.

47. Residents attempted rescues using human chains, jumper cables, and an extension cords tied to a shovel, but could not reach Russell and Elijah.

48. At approximately, 5:43 p.m., police and fire crews began to arrive on scene.

49. They likewise, did not have, and could not locate, water rescue equipment.

50. Officers entered the pond in an effort to reach Russell and Elijah, but were unable to do so, due to the steep drop-offs in the pond and freezing water.

51. At approximately, 5:50 p.m., after 10 minutes in the water, Russell announced he could not continue, took his last breath, went under the water, and lifted Elijah above the water as long as he could.

52. Officers made several attempts to reach Elijah and Russell but were unable to, for reasons including, but not limited to, slope and depth of the pond, lack of lighting, and the lack of water rescue equipment.

53. Shortly thereafter Columbus Fire Department Rescue Divers arrived on scene.

54. At approximately 6:32 p.m., divers recovered Russell's body.

55. Russell was recovered in an estimated twenty (20) feet of water.

56. Russell was transported via life-flight helicopter to Grant Hospital and pronounced dead at 7:09 p.m.

57. At approximately 6:42 p.m., divers recovered Elijah's body.

58. Elijah was recovered in an estimated twenty (20) feet of water.

59. Elijah was transported via life-flight helicopter to Nationwide Children's Hospital.

60. On February 10, 2013 at 5:15 p.m., Elijah was removed from life support and pronounced dead.

COUNT I

**Wrongful Death
(Negligence)**

61. Plaintiff incorporates by reference each preceding and succeeding paragraph as though set forth fully at length herein.

62. Defendant had a common law, statutory, and/or contractual duty to maintain and keep all common areas in a safe condition.

63. Defendant had a duty warn of hidden dangers.

64. Defendant knew, or by using ordinary care, should have known of the conditions described in Paragraph 31 of this Complaint.

65. Defendant failed to use ordinary care to remedy or correct any one or more of the conditions described in Paragraph 31 of this Complaint.

66. Defendant failed to adequately warn of dangers.

67. Defendant's failure and deviation from the appropriate standard of care that Defendant owed to tenants, residents, and licensees directly caused, or contributed to cause, Elijah to be put in peril and ultimately die.

68. Russell recognized Elijah's peril and undertook a rescue.

69. Pursuant to Ohio's rescue doctrine, Defendant is liable for Russell's death.

COURT II
**Wrongful Death
(Premise Liability)**

70. Plaintiff incorporates by reference each preceding and succeeding paragraph as though set forth fully at length herein.

71. Defendant knew children lived and played on its property.

72. Defendant knew that children were likely to, and did, play near the pond or go on ice on the pond.

73. Defendant knew that the water and the ice on the pond presented a risk of injury to children.

74. Defendant knew that children would or may not appreciate the risk of danger the ice and/or water presented.

75. The cost to reduce the risk or otherwise protect the children is nominal in comparison to the risk to the children.

76. Defendant failed to exercise care to eliminate or reduce the risk, or otherwise protect the children.

77. That failure directly caused or contributed to cause, Elijah to be put in peril and ultimately die.

78. Russell recognized Elijah's peril and undertook a rescue.

79. Pursuant to Ohio's rescue doctrine, Defendant is liable for Russell's death.

COUNT III
Survival Action

80. Plaintiff incorporates by reference each preceding and succeeding paragraph as though set forth fully at length herein.

81. Throughout his efforts to rescue Elijah, Russell was in immersed in the freezing water and conscious for more than 10 minutes.

82. Prior to his death, Russell verbally announced he could not hold on any further and, facing death, gave his life in a final effort to save Elijah.

83. Russell sustained pain and suffering as a result of his struggle prior to his drowning in the pond.

84. Pursuant to Ohio's rescue doctrine, Defendant is liable for Russell's pain and suffering.

COUNT IV
Punitive Damages

85. Plaintiff incorporates by reference each preceding and succeeding paragraph as though set forth fully at length herein.

86. Defendant's actions and inactions, as detailed in Paragraph 31, *infra*, were willful and malicious in that Defendant's conduct was carried out with a conscious disregard for the safety and rights of Elijah and Russell.

87. Defendant's conduct thereby warrants an assessment of exemplary and punitive damages in an amount appropriate to punish it and set an example of it.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment against Defendant Hartford on the Lake, LLC as follows:

- a. For an award of damages in an amount to be determined at trial, which amount, exceeds the sum of \$25,000.00;
- b. For an award of punitive damages in excess of \$25,000.00;
- c. Reasonable attorneys' fees and costs;
- d. For pre-judgment interest; and
- e. For such further and other relief the court deems just, equitable, and proper.

Respectfully submitted,

/s/ Charles E. Boyk
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Attorney for Plaintiff

JURY DEMAND

Plaintiff hereby respectfully demands a jury trial as to all issues contained herein.

/s/ Charles E. Boyk
Charles E. Boyk (0000494)