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THIRD CIRCUIT
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IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

ERNEST WALTJEN,

Plaintiff,

vs.

MARILYNN KIKUNO HOAPILI; ANA
KAUVAKA; TELIKA O. RAHIUA;
MELEANA M. TAUMOEFOLOU; TAEILOA
M. TAUMOEFOLOU; JOHN DOES 1-10;
DOE CORPORATIONS 1-10; DOE
PARTNERSHIPS 1-10; and DOE ENTITIES
1-10,

Defendants.

Civil No. _____
(Non-Motor Vehicle Tort)

COMPLAINT; SUMMONS

COMPLAINT

Plaintiff ERNEST WALTJEN, by and through his attorney, Phillip L. Carey, for causes of action against Defendants above-named, allege and aver as follows:

1. This case arises from an attack by vicious dogs that seriously injured Plaintiff ERNEST WALTJEN.
2. At the time of the attack, Plaintiff ERNEST WALTJEN was a resident of Keaau, State of Hawaii.

3. At all times relevant herein, Defendant MARILYNN KIKUNO HOAPILI, was a resident of the County of Hawai'i, State of Hawai'i and subject to the jurisdiction of this Court.

4. At all times relevant herein, Defendant ANA KAUVAKA, was a resident of the County of Hawai'i, State of Hawai'i and subject to the jurisdiction of this Court.

5. At all times relevant herein, Defendant TELIKA O. RAHIUA, was a resident of the County of Hawai'i, State of Hawai'i and subject to the jurisdiction of this Court.

6. At all times relevant herein, Defendant MELEANA M. TAUMOEFOLAU, was a resident of the County of Hawai'i, State of Hawai'i and subject to the jurisdiction of this Court.

7. At all times relevant herein, Defendant TAEILOA M. TAUMOEFOLAU, was a resident of the County of Hawai'i, State of Hawai'i and subject to the jurisdiction of this Court.

8. JOHN DOES 1-10, DOE CORPORATIONS 1-10, DOE PARTNERSHIPS 1-10, and DOE ENTITIES 1-10 (collectively "Doe Defendants") are sued herein under fictitious names for the reason that their true names, identities, capacities, activities and/or responsibilities are presently unknown to Plaintiff or his attorneys, despite diligent and good faith efforts to ascertain their identities and responsibilities, except that they are connected in some manner with the named Defendants or may be liable to Plaintiff for their tortious conduct or other wrongdoing individually and/or as agents, servants, employees, alter egos of the named Defendants (one or more of them), employers, representatives, co-venturers, vendors, suppliers, manufacturers, designers, experts or consultants and/or were in some manner by their tortious conduct or other wrongdoing responsible for the injuries or damages to Plaintiff. If necessary, Plaintiff will seek leave of Court to amend his Complaint and/or certify as party defendants those individuals and/or entities presently named as Doe Defendants whose true names and capacities become known to Plaintiff.

9. Defendants ANA KAUVAKA, TELIKA O. RAHIUA, MELEANA M. TAUMOEFOLAU, and TAEILOA M. TAUMOEFOLAU are collectively referred to as “Defendant Vicious Dog Harborers” and Defendant MARILYNN KIKUNO HOAPILI is sometimes referred to as “Defendant Landlord”. All defendants named herein are sometimes collectively referred to as Defendants.

JURISDICTION

10. All events material to this Complaint occurred within the County of Hawai’i and within the jurisdiction of the Circuit Court of the Third Circuit, State of Hawai’i.

MISCONDUCT

11. Plaintiff restates and incorporate the preceding paragraphs as though fully set forth herein.

12. Upon information and belief, the home located at 15-1740 12th Avenue, Kea’au, Hawaii, 96749 (hereinafter “The Property”) is owned by Defendant Landlord.

13. Upon information and belief, Defendant Landlord rented The Property to and/or allowed The Property to be occupied by Defendant Vicious Dog Harborers prior to and on August 14, 2021.

14. Upon information and belief, Defendant Vicious Dog Harborers qualified for and received State of Hawai’i, Section 8 Housing Choice Landlord Incentive Voucher Program benefits to assist them with rental payments to reside at The Property.

15. Upon information and belief, Defendant Landlord received payments directly from governmental agencies for leasing of The Property pursuant to the State of Hawai’i, Section 8 Housing Choice Landlord Incentive Voucher Program.

16. Upon information and belief, Section 8 Housing Rules prohibit tenants and landlords from harboring or allowing to be harbored: 1) more than one dog; 2) pit bulls, attack dogs, or other vicious or fighting dogs.

17. Defendant Vicious Dog Harborers owned and/or harbored multiple dangerous Pit Bull dogs and/or Pit Bull mixes and/or Bull dogs and/or mixed breed dogs (collectively the "Vicious Dogs") at The Property.

18. The Property is located adjacent to the home of Jack E. Oskins and Dolores T. Oskins, located at 15-1744 12th Avenue, Kea'au, HI, 96749.

19. Prior to August 14, 2021, Defendants knew or should have known that the Vicious Dogs were escaping from The Property and attacking people and were therefore dangerous and/or deadly.

20. Defendants knew or should have known the Vicious Dogs were a potential danger to anyone who came into contact with the Vicious Dogs.

21. Defendants knew or should have known that the fence enclosing The Property was insufficient to contain the Vicious Dogs.

22. Upon information and belief, Defendant Vicious Dog Harborers treated the Vicious Dogs poorly and inhumanely thereby increasing and fostering the vicious, violent, and dangerous propensities of the Vicious Dogs.

23. Despite knowledge as to the dangerous and vicious nature of the Vicious Dogs, Defendants allowed the Vicious Dogs to remain at The Property.

24. Defendants knew or should have known that the Vicious Dogs had threatened, bitten and/or attacked people traveling by The Property.

25. Despite knowledge as to the dangerous, vicious nature of the Vicious Dogs, and the Vicious Dogs' previous attacks on others, Defendants allowed the Vicious Dogs to be harbored on The Property in violation of the law, including but not limited to Sec. 8 Housing rules and regulations, with inadequate and insufficient means to prevent the Vicious Dogs from attacking those who travel near or by The Property.

26. On August 14, 2021, sometime before 5:44 p.m., Plaintiff ERNEST WALTJEN was doing yard work for Dolores Oskins, who lived next to The Property. Without warning or provocation, Dolores Oskins was viciously attacked by the Vicious Dogs on or near The Property.

27. When Plaintiff ERNEST WALTJEN heard a commotion and saw the attack, he went to aid Dolores Oskins. Plaintiff ERNEST WALTJEN was then attacked himself, suffering traumatic injury including, but not limited to, gashes and puncture wounds,

28. Plaintiff ERNEST WALTJEN also witnesses his friend and employer having her body mutilated to such a degree that she finally died in the hospital.

29. The acts and omissions of Defendants, individually and collectively, as set forth above, were a violation of Hawai'i Revised Statutes § 663-9 (a) and (b) and the Hawaii County Code, Chapter 4.

30. The actions/failures to act of Defendants, individually and collectively, were:

- a. Negligent and/or;
- b. Grossly negligent and/or;
- c. Careless and/or;
- d. Reckless and/or;
- e. Heedless and/or;
- f. A reflection of extreme foolhardiness and/or;
- g. A reflection of callous disregard and/or callous indifference to the rights and safety of others, including Plaintiff and/or;

- h. Willful and/or;
- i. Wanton and/or; and
- j. Malicious.

31. The foregoing is collectively and/or individually referred to as the "misconduct" of Defendants.

32. The misconduct of Defendants, individually and collectively, was/were substantial factors in Plaintiff sustaining damages as set forth herein.

PLAINTIFF'S HARMS AND LOSSES/DAMAGES

33. Plaintiff restates and incorporate the preceding paragraphs as though fully set forth herein.

34. The misconduct of Defendants, individually and collectively, was/were substantial factors in Plaintiff sustaining multiple injuries, including, but not limited to, dog bites to the neck, chest, arm, hip, thigh, and leg, some of which ripped the flesh open, requiring at least 45 stiches, loss of approximately one-half of Plaintiff's ear, dental injury including broken teeth and dental work, partial loss of hearing, and infections.

35. The misconduct of Defendants, individually and collectively, was/were substantial factors in Jack sustaining special and general damages, including, but not limited to:

- a. Medical – rehabilitative expenses;
- b. Future medical care expenses;
- c. Out-of-pocket expenses;
- d. Fear of dogs which hinders his part-time operation of a yard business;
- e. Wage loss;
- f. Physical pain, extreme emotional distress, mental anguish, partial loss of enjoyment of life and all other general damages as allowed by law.

Plaintiff seeks leave to amend the Complaint at the time of trial to include such additional amounts and damages as may be appropriate.

36. Defendants' extreme and outrageous misconduct described herein constitutes negligent and/or intentional infliction of emotional distress.

37. Plaintiff has endured and will continue to endure emotional distress as a result of Defendants' intentional actions and extreme and outrageous conduct.

38. Defendants, individually and collectively, are liable to Plaintiff for their intentional and negligent infliction of emotional distress.

39. Plaintiff seeks all damages available by law.

PUNITIVE DAMAGES


40. Plaintiffs restate and incorporate the preceding paragraphs as though fully set forth herein.



41. The misconduct, actions, or failures to act of Defendants, individually and collectively, warrants the imposition of punitive and exemplary damages in an amount to be proven at trial.

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- a. For such special damages in an amount to be shown at the time of trial;
- b. General damages in an amount to be shown at the time of trial and in excess of the minimal jurisdictional amount of this Court;
- c. Punitive and exemplary damages;
- d. For prejudgment interest at the statutory rate from August 14, 2021, until judgment is entered;
- e. For attorneys' fees and costs of suit; and
- f. For such other and further relief as the Court deem just and equitable in the premises.

DATED: Hilo, Hawai'i, November 2, 2022


Phillip L. Carey
Attorney for Plaintiff ERNEST WALTJEN

STATE OF HAWAII CIRCUIT COURT OF THE THIRD CIRCUIT	SUMMONS TO ANSWER CIVIL COMPLAINT	CASE NUMBER
PLAINTIFF ERNEST WALTJEN	VS.	DEFENDANT(S) MARILYNN KIKUNO HOAPILI; ANA KAUVAKA; TELIKA O. RAHIUA; MELEANA M. TAUMOEFOLOU; TAEILOA M. TAUMOEFOLOU; JOHN DOES 1-10; DOE CORPORATIONS 1 10; DOE PARTNERSHIPS 1-10; and DOE ENTITIES
PLAINTIFF'S NAME & ADDRESS, TEL. NO. PHILLIP L. CAREY, attorney at law 688 Kinoole St. Suite 105 Hilo, HI 96720 808-934-9711 careylaw@hawaii.rr.com		
TO THE ABOVE-NAMED DEFENDANT(S) You are hereby summoned and required to file with the court and serve upon PHILLIP L CAREY, Attorney at Law, 688 Kinoole St. Suite 105, Hilo, HI 96720 <hr/> plaintiff's attorney, whose address is stated above, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. THIS SUMMONS SHALL NOT BE PERSONALLY DELIVERED BETWEEN 10:00 P.M. AND 6:00 A.M. ON PREMISES NOT OPEN TO THE GENERAL PUBLIC, UNLESS A JUDGE OF THE ABOVE-ENTITLED COURT PERMITS, IN WRITING ON THIS SUMMONS, PERSONAL DELIVERY DURING THOSE HOURS. A FAILURE TO OBEY THIS SUMMONS MAY RESULT IN AN ENTRY OF DEFAULT AND DEFAULT JUDGMENT AGAINST THE DISOBEYING PERSON OR PARTY.		
The original document is filed in the Judiciary's electronic case management system which is accessible via eCourt Kokua at: http://www.courts.state.hi.us	Effective Date of 28-Oct-2019 Signed by: /s/ Cheryl Salmo Clerk, 3rd Circuit, State of Hawai'i 	
 In accordance with the Americans with Disabilities Act, and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the Circuit Court Administration Office on HAWAII- Phone No. 808-961-7424, TTY 808-961-7422, FAX 808-961-7411, at least ten (10) working days prior to your hearing or appointment date.		