

IN THE SUPERIOR COURT OF COLUMBIA COUNTY

STATE OF GEORGIA

CLERK OF SUPERIOR &
JUVENILE COURTS
FILED FOR RECORD

2015 DEC -1 PM 3:40

CINDY MASON CLERK
COLUMBIA COUNTY GEORGIA

RHETTA CADLE,

Plaintiff

vs.

MARSHALL SQUARE RETIREMENT
COMMUNITY, LLC; RESORT
LIFESTYLE COMMUNITIES, INC.;
CAMERON GENERAL CONTRACTORS,
INC.; GOODMAN COMPANY, L.P.;
ZACKERY M. FREEHOF; CHRIS BRYDE;
and JOHN/JANE DOE 1-10

Defendants



CIVIL ACTION FILE NO.

2015CV0882

COMPLAINT FOR DAMAGES

COMES NOW Rhetta Cadle, Plaintiff herein, and files this, her Complaint for Damages against Marshall Square Retirement Community, LLC, Resort Lifestyle Communities, Inc., Cameron General Contractors, Inc., Goodman Company, L.P., Zackery M. Freehof, Chris Bryde, and John/Jane Doe 1-10 as Defendants and respectfully shows the following:

PARTIES, JURISDICTION, AND VENUE

1. Defendant Marshall Square Retirement Community, LLC is a foreign corporation that is authorized to transact business in the state of Georgia and is subject to the jurisdiction of this Court. Said Defendant may be served by serving its registered agent for service, Registered Agent Solutions, Inc., 900 Old Roswell Lakes Parkway, Suite 310, Roswell, Georgia 30076.

CARL C. BROWN

2. Defendant Resort Lifestyle Communities, Inc. is a foreign corporation that is authorized to transact business in the state of Georgia and is subject to the jurisdiction of this Court. Said Defendant may be served by serving its registered agent for service, Registered Agent Solutions, Inc., 900 Old Roswell Lakes Parkway, Suite 310, Roswell, Georgia 30076.

3. Defendant Cameron General Contractors, Inc. is a foreign corporation that is transacting business in the state of Georgia and is subject to the jurisdiction of the Court. Said Defendant may be served by serving its registered agent for service, Breck Collingsworth, 8040 Eiger Drive, Lincoln, Nebraska 68516.

4. Defendant Goodman Company, L.P. is a Delaware corporation that transacts business in the state of Georgia. Said Defendant is subject to the jurisdiction of this Court and may be served by serving its registered agent for service, CT Corporation Systems, 1201 Peachtree Street, NE, Atlanta, Fulton County, Georgia 30361.

5. Defendant Zackery Freehof is a resident of Columbia County, Georgia and is subject to the jurisdiction of the Court.

6. Defendant Chris Bryde is a resident of Columbia County, Georgia and is subject to the jurisdiction of the Court.

7. It is Plaintiff's intention to name as additional defendants any other persons or entities whose negligent acts and omissions caused or contributed to the fire at Marshall Square on or about June 2, 2015. The John/Jane Doe 1-10 Defendants are the presently unknown individuals and entities whose negligent acts or omissions caused or contributed to Plaintiff's injuries and damages alleged herein.

8. Venue is proper in this Court as to all Defendants in that Zackery M. Freehof and Chris Bryde are residents of Columbia County, Georgia.

9. This case is related to Charles Moye, Margaret Moye, individually and on behalf of all other persons similarly situated v. Marshall Square Retirement Community, LLC, Resort Lifestyle Communities, Inc., Cameron General Contractors, Inc., Goodman Company, L.P., Zackery Freehof, Chris Bryde, and John/Jane Doe 1-10, civil action 2015-CV-0751, which is currently pending in the Superior Court of Columbia County.

FACTUAL ALLEGATIONS

10. Plaintiff incorporates by reference the allegations of paragraphs 1 through 9 above as if set forth fully herein.

11. The Marshall Square Retirement Community was designed, constructed, owned, managed, controlled, and operated by Defendants Marshall Square Retirement Community, LLC, Resort Lifestyle Communities, Inc., and Cameron General Contractors, Inc. (hereafter sometimes collectively referred to as the “Marshall Square Defendants”).

12. The Marshall Square Defendants are affiliated and related corporate entities that jointly design, construct, own, manage, and operate a number of retirement living facilities like Marshall Square Retirement Community.

13. Defendant Goodman Company, L.P. manufactured and distributed packaged terminal air conditioner/heat pump (“PTAC”) units that were purchased and installed in Marshall Square Retirement Community by the Marshall Square Defendants sometime before June 2, 2015.

14. At all times relevant hereto, Defendants Zackery M. Freehof and Chris Bryde were the agents, servants, and management employees of one or all of the Marshall Square Defendants and were acting within the course and scope of their employment therewith. Defendant Freehof was the night concierge on duty at the time of the fire and

Defendant Bryde was the property manager on duty at the time of the fire. The Marshall Square Defendants are vicariously liable for the negligent of Defendants Freehof and Bryde.

15. On and before June 2, 2015, Plaintiff was a resident of Marshall Square Retirement Community in apartment number 329 under a rental agreement.

16. At all times relevant hereto, Plaintiff was over eighty (80) years of age. This fact was known to the Defendants yet, despite that knowledge, Plaintiff was placed in an apartment on the third floor of the building when Defendants knew it would be difficult or impossible to evacuate Plaintiff safely from her apartment in case of fire or other disaster.

17. On or about June 2, 2015, a massive fire occurred at Marshall Square Retirement Community.

18. Upon information and belief, the fire at Marshall Square Retirement Community was caused by and originated in a PTAC unit manufactured and distributed by Goodman Company, L.P. and installed by the Marshall Square Defendants in the billiard room on the third floor of Marshall Square Retirement Community.

19. The Marshall Square Defendants negligently promulgated and implemented a "shelter in place" fire evacuation plan for the residents of the facility, including Plaintiff. Under this "shelter in place" policy, Plaintiff and all other residents were negligently instructed by Defendants Freehof and Bryde to remain in their apartments and not evacuate in the event of a fire at the facility.

20. Prior to June 2, 2015, the Columbia County Fire Marshal alerted the Marshall Square Defendants and Defendant Bryde of the common sense deficiencies in the "shelter in place" policy, including the probability that the policy violated the state fire

code and industry standards. Despite these warnings, the Marshall Square Defendants and Defendants Freehof and Bryde negligently failed to abandon or revise the “shelter in place policy”, which placed Plaintiff at a high risk of injury or death.

21. During the fire on or about June 2, 2015, Defendants Bryde and Freehof instructed residents to “shelter in place” in their rooms as they downplayed and minimized the danger of the fire that was rapidly spreading throughout Marshall Square Retirement Community.

22. The negligent actions of the Marshall Square Defendants and Defendants Freehof and Bryde alleged herein diverted firefighters and public safety workers from putting out the fire because they had to initially evacuate the building based on the “shelter in place” policy of the Marshall Square Defendants and Defendants Freehof and Bryde.

23. At first, Plaintiff abided by the Defendants’ “shelter in place” policy and did not evacuate the building. However, as the fire continued to rage, and circumstances became more dire, Plaintiff attempted to escape. When she opened the door, she found blistering flames that prevented her safe passage and escape. Under the circumstances Plaintiff had no choice but to lock herself in the bathroom of her apartment, fearing that her death was certain and imminent.

24. Plaintiff remained confined in her bathroom for the next several hours as the building burned around her. Over that period she covered herself in wet towels to counter the effects of the extreme heat and smoke caused by the fire. As she lay helpless in the bathroom, water began gushing into the bathroom through a hole in the ceiling caused by the fire. The gushing water would rise, recede, and then pour in again. As a result, Plaintiff’s life and safety were threatened by the dual forces of fire and water.

25. Plaintiff's rescue was delayed because the fire caused the ceiling and HVAC units to come crashing down around her. As a result of the destruction, rescue personnel's access to Plaintiff was impaired.

26. Plaintiff was unaccounted for and presumed dead for approximately seven (7) hours. Indeed, Plaintiff's family had given up any hope of seeing her alive again. It was only after rescue personnel heard Plaintiff's cries and pleas for help amidst the rubble of the destroyed building that she was located.

27. After this prolonged period of terror of impending death, rescue personnel rescued Plaintiff from the bathroom of her apartment.

28. Plaintiff suffered serious bodily injury as a result of this incident. Additionally, Plaintiff continues to suffer great emotional trauma as she relives the tragic events of that night.

29. Also as a result of this incident, Plaintiff suffered a total loss of the personal property in her living space.

ENUMERATIONS OF NEGLIGENCE

30. Plaintiff incorporates by reference the allegations of paragraphs 1 through 29 above as if set forth fully herein.

31. The Marshall Square Defendants were negligent in constructing Marshall Square Retirement Community with a flawed architectural design, an inadequate fire protection and alarm system, and highly combustible building materials that failed to meet industry standards for a facility that houses elderly residents suffering from mental and physical limitations and impairments.

32. Defendants were negligent in that they knew or should have known that the power cord in the PTAC unit from which the fire originated was defective and prone to overheating, thus posing a clear and present danger and fire hazard to persons at the facility.

33. The Marshall Square Defendants and Defendants Freehof and Bryde were negligent by failing to get elderly residents, including Plaintiff, to evacuate the premises. Rather, Defendants Freehof and Bryde negligently instructed residents, including Plaintiff, to remain in their apartments and not evacuate even as the flames engulfed the building.

34. Defendants Freehof and Bryde negligently failed to recognize and appreciate how serious the fire was and negligently failed to provide accurate and timely information and instructions for the safe evacuation of persons from the facility.

DAMAGES

35. Plaintiff incorporates by reference the allegations of paragraphs 1 through 34 above as if set forth fully herein.

36. As a result of Defendants' negligence, Plaintiff suffered serious personal injury and mental anguish.

37. As a result of Defendants' negligence, Plaintiff suffered a total loss of the personal property in her living space.

38. Plaintiff's injuries are the direct result of the Defendants' defective design, construction, management, and operation of the building and equipment in Marshall Square Retirement Community.

39. As a sole and proximate cause of Defendants' negligence, Plaintiff is entitled to recover compensatory damages from Defendants in an amount to be shown at trial.

PUNITIVE DAMAGES

40. Plaintiff incorporates by reference the allegations of paragraphs 1 through 39 above as if set forth fully herein.

41. The conduct of Defendants and the negligent acts or omissions by Defendants' employees, agents, and servants show willful misconduct, malice, fraud, wantonness, oppression, and that entire want of care which raises the presumption of conscious indifference to consequences.

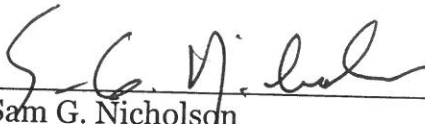
42. Punitive damages in the amount of \$5,000,000.00 should be awarded to Plaintiff and against Defendants in order to penalize, punish, and deter Defendants from engaging in similar conduct in the future.

WHEREFORE, Plaintiff prays as follows:

- A. That process issue and Defendants be served according to law;
- B. That Plaintiff have a trial by jury;
- C. That Plaintiff have and recover of Defendants all damages allowed under Georgia law, including, but not limited to, recovery for general and special damages, including pain and suffering, both mental and physical in an amount to be shown by the evidence at trial;
- D. That Plaintiff have and recover of Defendants all damages allowed under Georgia law for the total loss of personal property in her living space;
- E. That Plaintiff have and recover of Defendants punitive damages in the amount of \$5,000,000.00;

- F. That Plaintiff have and recover all costs of this litigation; and
- G. That this Court award such other and further relief as it deems just and proper.

Respectfully submitted this 1st day of December, 2015.



Sam G. Nicholson
Georgia Bar No. 543875
Harry D. Revell
Georgia Bar No. 601331
Adam W. King
Georgia Bar No. 965389
George S. Nicholson
Georgia Bar No. 241836
Attorneys for Plaintiff

NICHOLSON REVELL LLP
Gateway Professional Center
4137 Columbia Road
Augusta, Georgia 30907
(706) 722-8784 Telephone
(706) 722-6495 Fax