

IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT IN AND
FOR DUVAL COUNTY, FLORIDA.

GENERAL JURISDICTION DIVISION

CASE NO.: 16-2024-CA-007105-AXXX-MA

FRANKIE WASHINGTON and ROBERT HINES, as
Co-Personal Representatives for the Estate
of MELANI AVA MIXSON, a deceased minor,
Plaintiffs,

vs.

BOWDEN ROAD HOUSING, LTD.
RICHMAN PROPERTY SERVICES, INC.
THE LAKE DOCTORS, INC.
Defendants.

THIRD AMENDED COMPLAINT

FRANKIE WASHINGTON and ROBERT HINES, as co-personal representatives for the Estate of MELANI AVA MIXSON, a deceased minor, sues Defendants, BOWDEN ROAD HOUSING, LTD., RICHMAN PROPERTY SERVICES, INC., and THE LAKE DOCTORS, INC., and as grounds states as follows¹:

ALLEGATIONS AS TO ALL COUNTS

1. This is an action for damages in excess \$50,000.00, exclusive of interest, costs, and attorney fees, and is within the jurisdiction of this Court.
2. FRANKIE WASHINGTON, the surviving great-grandmother, and ROBERT HINES, were appointed as the co-personal representatives for the estate and are the proper people to bring

¹ NOTE: A prior "Third Amended Complaint" was previously attached to a Motion for Leave to Amend, however, that motion was withdrawn and that complaint was never deemed filed. As such, while the instant proposed pleading is substantively different, it is also entitled "Third Amended Complaint"

this wrongful death action. AMAYA WHITE is the biological mother and the only statutory survivor of MELANI AVA MIXSON, a deceased minor, that is pertinent to the instant wrongful death claim.

3. At all material times, the Defendant, BOWDEN ROAD HOUSING, LTD., was and is a Florida Limited Partnership organized under the laws of the State of Florida, with its principal address located at 777 West Putnam Avenue, Greenwich, Connecticut 06830, with its registered agent, Cogency Global Inc., located at 115 North Calhoun St., Suite 4, Tallahassee, Florida 32301, and was doing business in the state of Florida, including ownership/management/operation of the Bennett Creek Apartments and the retention pond located therein, located at 6680 Bennett Creek Drive, Jacksonville, Florida 32216 (hereinafter “the Premises”) through the date of the subject drowning.

4. At all material times, the Defendant, RICHMAN PROPERTY SERVICES, INC., was and is a Foreign Profit Corporation organized under the laws of the State of Florida, with its principal address located at 777 West Putnam Avenue, Greenwich, Connecticut 06830, with its registered agent, Cogency Global Inc., located at 115 North Calhoun St., Suite 4, Tallahassee, Florida 32301, and was doing business in the state of Florida, including management/operation of the Bennett Creek Apartments and the retention pond located therein, located at 6680 Bennett Creek Drive, Jacksonville, Florida 32216 (hereinafter “the Premises”) through the date of the subject drowning.

5. At all material times, THE LAKE DOCTORS, INC. was and is a Florida Profit Corporation organized under the laws of the State of Florida, with its principal address located at 4651 Alisbury Road, Suite 155, Jacksonville, Florida 32256, and was doing business in the state of Florida, including serving as the aquatic expert serving the subject retention pond within the Bennett Creek Apartments, located at 6680 Bennett Creek Drive, Jacksonville, Florida 32216 (hereinafter “the

Premises”) through the date of the subject drowning.

6. On or about September 17, 2024, MELANI AVA MIXSON was a resident of the Bennett Creek Apartments when she gained access to the complex’s retention pond, became submerged, and drowned.

**COUNT I:
NEGLIGENCE CLAIM AGAINST
BOWDEN ROAD HOUSING, LTD.**

7. Plaintiff re-alleges all allegations set forth in paragraphs 1 through 6 of this Complaint.

8. At all material times, MELANI, a minor, was an invitee within the Premises owned, operated and controlled by Defendant.

9. At all material times, Defendant owed a non-delegable duty to MELANI to exercise reasonable care and to keep its premises in a reasonably safe condition for the safety of persons, including minors, lawfully on the Premises.

10. At all material times, Defendant owed a duty to MELANI to exercise reasonable care in keeping its retention ponds in a reasonably safe condition for the safety of all persons lawfully on the Premises such as MELANI.

11. At all material times, Defendants owed a duty to residents, including MELANI and her family, to reasonably inspect apartments and remedy dangerous conditions before leasing apartments out.

12. The above-described dangerous conditions existed for a sufficient period of time such that a reasonable person and/or corporation, for example Defendant, its agents, servants, and/or employees, knew or should have discovered and corrected same.

13. The Defendant, breached its non-delegable duty to maintain these Premises in a reasonably safe condition by committing one or more of the following acts or omissions:

- A. Allowing a dangerous and defective condition to be created and/or to remain on its premises, to wit: an unsecured retention pond, as well as one that had a dangerous side slope that did not comply with mandatory codes, thereby increasing the risk of drowning posed to children on the Premises;
- B. Failing to reasonably inspect the apartment leasing out to MELANI's family prior to doing so, or in the alternative conducting an unreasonably inadequate inspection that permitted the subject apartment to be leased with an ineffective/broken front door.
- C. Failing to comply with mandatory regulations pertaining to the maintenance of the retention pond where MELANI drowned, including but not limited to those proscribed by Florida's Administrative Code (FAC), including Sections 40C-4.091 and 40C-42.025-.029, and the St. John's Water Management District's Applicant's Handbook, which is incorporated by reference by the FAC. The aforementioned regulations specifically detail how the pond must be maintained, including but not limited to ensuring that periodic maintenance inspections are held to ensure that the pond functions as designed and permitted, that pond be fenced or otherwise restricted from public access, or have bank slopes that are maintained and no greater than 4:1 out to a depth of 2'-0" below the water control line, that the littoral zone must be maintained as to be no steeper than 6:1, and that the pond's side slopes be adequately stabilized to minimize erosion and sedimentation;
- D. Failing to maintain the subject retention pond in conformity with the minimum design specifications that were submitted to, and approved by the water management district;
- E. Failing to actively monitor the retention pond;

- F. Failing to warn residents and guests that the retention pond was dangerously not in compliance with mandatory safety regulations and even contained alligators;
- G. Failing to train its employees and/or ensure that employees trusted to maintain the Premises regarding how to safely maintain the retention pond;
- H. Failing to routinely commission necessary and effective inspections of the pond;
- I. Failing to reasonably maintain the flora around the pond;
- J. Failing to reasonably communicate with and/or monitor its vendors charged with maintaining the subject retention pond, including but not limited to THE LAKE DOCTORS, INC., and ensure that they were qualified to ensure that the subject retention pond was maintained in compliance with mandatory safety codes, including those pertaining to slope and flora, were aware that they were expected to play a role in ensuring code compliance, and were doing so.

14. As a direct and proximate result of Defendant's negligence, MELANI, decedent, suffered severe bodily harm which led to her death.

15. As a further direct and proximate result of the negligence of Defendant, which caused the death of MELANI, the Defendant is liable to the Plaintiff for all damages to which the Estate and/or the survivors and/or beneficiaries are entitled under the Florida Wrongful Death Statute, pursuant to *Fla. Stat.* §768.21. Specifically, the decedent's Estate, beneficiaries, and her survivors, have suffered and will continue to suffer damages into the future including, as authorized and allowed under the Wrongful Death Act, Section 768.16 et seq. Florida Statutes:

- A. The past and future mental pain and suffering of decedent's mother, AMAYA WHITE;
- B. Expenses of funeral arrangements arising from the injury and death of MELANI;
- C. Expenses related to all medical care rendered to Decedent as a result of the subject drowning; and
- D. Any and all other damages as specified in F.S. 768.21.

WHEREFORE, the Plaintiff sues the Defendant and demands judgment for damages exclusive of attorney's fees, costs, and interest against them in an amount in excess of the jurisdictional limits of this Court.

**COUNT II:
NEGLIGENCE CLAIM AGAINST
RICHMAN PROPERTY SERVICES, INC.**

- 16. Plaintiff re-alleges all allegations set forth in paragraphs 1 through 6 of this Complaint.
- 17. At all material times, MELANI, a minor, was an invitee within the Premises owned, operated and controlled by Defendant.
- 18. At all material times, Defendant owed a duty to MELANI to exercise reasonable care and to keep its premises in a reasonably safe condition for the safety of persons, including minors, lawfully on the Premises.
- 19. At all material times, Defendant owed a duty to MELANI to exercise reasonable care in keeping its retention ponds in a reasonably safe condition for the safety of all persons lawfully on the Premises such as MELANI.
- 20. At all material times, Defendants owed a duty to residents, including MELANI and her family, to reasonably inspect apartments and remedy dangerous conditions before leasing

apartments out.

21. The above-described dangerous conditions existed for a sufficient period of time such that a reasonable person and/or corporation, for example Defendant, its agents, servants, and/or employees, knew or should have discovered and corrected same.

22. The Defendant, breached duty to maintain these Premises in a reasonably safe condition by committing one or more of the following acts or omissions:

- A. Allowing a dangerous and defective condition to be created and/or to remain on its premises, to wit: an unsecured retention pond, as well as one that had a dangerous side slope that did not comply with mandatory codes, thereby increasing the risk of drowning posed to children on the Premises;
- B. Failing to reasonably inspect the apartment leasing out to MELANI's family prior to doing so, or in the alternative conducting an unreasonably inadequate inspection that permitted the subject apartment to be leased with an ineffective/broken front door.
- C. Failing to comply with mandatory regulations pertaining to the maintenance of the retention pond where MELANI drowned, including but not limited to those proscribed by Florida's Administrative Code (FAC), including Sections 40C-4.091 and 40C-42.025-.029, and the St. John's Water Management District's Applicant's Handbook, which is incorporated by reference by the FAC. The aforementioned regulations specifically detail how the pond must be maintained, including but not limited to ensuring that periodic maintenance inspections are held to ensure that the pond functions as designed and permitted, that pond be fenced or otherwise restricted from public access, or have bank slopes that are maintained and no greater than 4:1 out to a depth of 2'-0" below the water control line, that the littoral

zone must be maintained as to be no steeper than 6:1, and that the pond's side slopes be adequately stabilized to minimize erosion and sedimentation;

- D. Failing to maintain the subject retention pond in conformity with the minimum design specifications that were submitted to, and approved by the water management district;
- E. Failing to advise potential residents that Defendant also operated/managed a nearby apartment complex wherein the retention ponds were surrounded by fencing;
- F. Failing to warn residents and guests that the retention pond was dangerously not in compliance with mandatory safety regulations and even contained alligators;
- F. Failing to actively monitor the retention pond;
- G. Failing to warn residents and guests that the retention pond was dangerously not in compliance with mandatory safety regulations and even contained alligators;
- H. Failing to train its employees and/or ensure that employees trusted to maintain the Premises regarding how to safely maintain the retention pond;
- I. Failing to routinely commission necessary and effective inspections of the pond
- J. Failing to reasonably maintain the flora around the pond;
- K. Failing to reasonably communicate with and/or monitor its vendors charged with maintaining the subject retention pond, including but not limited to THE LAKE DOCTORS, INC., and ensure that they were qualified to ensure

that the subject retention pond was maintained in compliance with mandatory safety codes, including those pertaining to slope and flora, were aware that they were expected to play a role in ensuring code compliance, and were doing so.

23. As a direct and proximate result of Defendant's negligence, MELANI, decedent, suffered severe bodily harm which lead to her death.

24. As a further direct and proximate result of the negligence of Defendant, which caused the death of MELANI, the Defendant is liable to the Plaintiff for all damages to which the Estate and/or the survivors and/or beneficiaries are entitled under the Florida Wrongful Death Statute, pursuant to *Fla. Stat.* §768.21. Specifically, the decedent's Estate, beneficiaries, and her survivors, have suffered and will continue to suffer damages into the future including, as authorized and allowed under the Wrongful Death Act, Section 768.16 et seq. Florida Statutes:

- A. The past and future mental pain and suffering of decedent's mother, AMAYA WHITE;
- B. Expenses of funeral arrangements arising from the injury and death of MELANI;
- C. Expenses related to all medical care rendered to Decedent as a result of the subject drowning; and
- D. Any and all other damages as specified in F.S. 768.21.

WHEREFORE, the Plaintiff sues the Defendant and demands judgment for damages exclusive of attorney's fees, costs, and interest against them in an amount in excess of the jurisdictional limits of this Court.

**COUNT III:
NEGLIGENCE CLAIM AGAINST
THE LAKE DOCTORS, INC**

25. Plaintiff re-alleges all allegations set forth in paragraphs 1 through 6 of this Complaint.

26. At all material times, MELANI, a minor, was an invitee within the Premises where Defendant served as the residential community's aquatic expert charged with maintaining the subject retention pond.

27. At all material times, Defendant owed a duty to MELANI to exercise reasonable care in its maintenance of the subject retention pond for the safety of all persons lawfully on the Premises such as MELANI.

28. The above-described dangerous conditions existed for a sufficient period of time such that a reasonable person and/or corporation, for example Defendant, its agents, servants, and/or employees, knew or should have discovered and corrected same.

29. The Defendant, breached its duty to maintain these Premises in a reasonably safe condition by committing one or more of the following acts or omissions:

- A. Allowing a dangerous and defective condition to be created and/or to remain on its premises, to wit: one that had a dangerous side slope, thereby increasing the risk of drowning posed to children on the Premises;
- B. Failing to advise the property owners and/or managers of the safety laws and codes that applied to the subject retention pond and that said pond violated said laws and codes; including but not limited to those proscribed by the local water management district and Florida's Administrative Code;
- C. Failing to reasonably monitor and control the wildlife living within the pond or otherwise warn and/or protect residents and guests from same;

D. Failing to reasonably maintain the flora around the pond.

30. As a direct and proximate result of Defendant's negligence, MELANI, decedent, suffered severe bodily harm which lead to her death.

31. As a further direct and proximate result of the negligence of Defendant, which caused the death of MELANI, the Defendant is liable to the Plaintiff for all damages to which the Estate and/or the survivors and/or beneficiaries are entitled under the Florida Wrongful Death Statute, pursuant to *Fla. Stat.* §768.21. Specifically, the decedent's Estate, beneficiaries, and her survivors, have suffered and will continue to suffer damages into the future including, as authorized and allowed under the Wrongful Death Act, Section 768.16 et seq. Florida Statutes:

- A. The past and future mental pain and suffering of decedent's mother, AMAYA WHITE;
- B. Expenses of funeral arrangements arising from the injury and death of MELANI;
- C. Expenses related to all medical care rendered to Decedent as a result of the subject drowning; and
- D. Any and all other damages as specified in F.S. 768.21.

WHEREFORE, the Plaintiff sues the Defendant and demands judgment for damages exclusive of attorney's fees, costs, and interest against them in an amount in excess of the jurisdictional limits of this Court.

[Demand for Jury Trial on Following Page]

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury of all issues triable as of right by jury.

DATED THIS 17th DAY OF JUNE, 2025.

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was electronically served via Florida ePortal to all counsels of record on this ____ day of June, 2025.