

Ball, hereby state Plaintiffs' intention to bring each and every claim permissible under Texas law arising from the injuries to and death of Kirsnick Khari Tiquon Ball, including all individual claims, personal injury claims, wrongful death claims, and estate-based claims for survival. Plaintiffs seek all medical expenses, funeral and burial expenses, necessary expenses, pain and suffering, wrongful death, estate damages, and all compensatory, special, actual, consequential, economic, general, punitive, and all other damages permissible under Texas law.

4.

Defendant 810 Houston LLC ("810 Houston" or "Defendants") is a domestic limited liability company organized under the laws of the state of Texas. Defendant 810 Houston can be served through its registered agent United States Corporation Agents, Inc., 9900 Spectrum Drive, Austin, Texas 78717. Upon information and belief, venue and jurisdiction are proper.

5.

Defendant LVA4 Houston Greenstreet, L.P. ("LVA4 Houston" or "Defendants") is a company authorized to do business in the state of Texas. Defendant LVA4 Houston can be served through its registered agent National Registered Agents, Inc., 1999 Bryan St., Ste. 900, Dallas, TX 75201. Upon information and belief, venue and jurisdiction are proper.

6.

Defendant Lionstone Partners LLC ("Lionstone" or "Defendants") is a domestic limited liability company organized under the laws of the state of Texas. Defendant Lionstone can be served through its registered agent National Registered Agents, Inc., 1999 Bryan St., Ste. 900, Dallas, TX 75201. Upon information and belief, venue and jurisdiction are proper.

7.

Defendant Midway Companies, LLC ("Midway" or "Defendants") is a domestic limited

liability company organized under the laws of the state of Texas. Defendant Midway can be served through its registered agent Lesley J. Mann, 800 Town & Country Blvd., Suite 210, Houston, TX 77024. Upon information and belief, venue and jurisdiction are proper.

8.

Defendant Cushman & Wakefield of Texas, Inc. (“Cushman & Wakefield” or “Defendants”) is a domestic for-profit corporation organized under the laws of the state of Texas. Defendant Cushman & Wakefield can be served through its registered agent CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, TX 75201. Upon information and belief, venue and jurisdiction are proper.

9.

Jurisdiction and venue are proper in Harris County, Texas because the shooting, injuries and death of Kirsnick Khari Tiquon Ball that are the bases of this lawsuit happened in Harris County, Texas.

10.

At all times herein, Defendants owned, operated, maintained, controlled, and/or managed the property located at 1201 San Jacinto St., Suite 321, Houston, Texas 77002 to include the common areas and the parking lot.

11.

On or about November 1, 2022, 28-year-old Kirsnick Khari Tiquon Ball was an invitee on the shopping center and premises located at 1201 San Jacinto St., Suite 321, Houston, Texas 77002.

12.

The subject property contained multiple establishments to include 810 Billiards &

Bowling, which is an event space and venue, as well as various other stores that shared a common parking lot and common entrances from the street.

13.

At all relevant times, Defendants were the owners of and/or management employees of Defendant 810 Houston, acting within the course and scope of their ownership and/or employment. Specifically, Defendants were responsible for the operation, management, access, and safety of 810 Houston and its invitees. Defendants are liable for the negligence of their employees and agents under the doctrine of *respondeat superior*.

14.

Prior to November 1, 2022, Defendants were informed that an event would be held at 810 Houston on the evening of October 31, 2022, and into November 1, 2022. At the outset and as discussed below, the event violated both the Defendants' and the facility's policies and procedures. Defendants were informed that the event required extra security and would draw a large crowd, many of whom could be celebrities, which in itself presents unique and advance security considerations, none of which were taken. Despite this knowledge, Defendants negligently failed to provide proper and adequate security for the event.

15.

On November 1, 2022, Decedent Kirsnick Khari Tiquon Ball was invited and arrived at the subject premises to attend the event at 810 Houston. While attending the event and toward the later part of the evening, one group of attendees began verbally, physically and openly causing trouble and trying to intimidate Mr. Ball and his group of friends. As a result, two people or groups of people began shooting at each other. Decedent Kirsnick Khari Tiquon Ball, an innocent bystander, was shot by stray bullets during the shootout, causing pain and suffering

and ultimately his death. Mr. Ball sustained pre-death injuries, conscious pain and suffering, and ultimately became aware of his impending death.

16.

At all relevant times and under the circumstances then existing, Kirsnick Khari Tiquon Ball exercised ordinary care and diligence and was a completely innocent victim free of any contribution to his death.

17.

Defendants breached their duty owed to Kirsnick Khari Tiquon Ball by failing to exercise ordinary care to keep the premises safe. Defendants owed a duty to keep the premises and approaches safe for their invitees, including Mr. Ball.

18.

Prior to and on November 1, 2022, Defendants negligently maintained, inspected, secured, patrolled, lighted, and managed the subject premises to include the parking areas. Defendants had actual and constructive knowledge of the need to properly maintain, secure, inspect, patrol, light, and manage said premises, but failed to exercise ordinary care to do so, thereby creating an unreasonable risk of injury to invitees, including Kirsnick Khari Tiquon Ball.

19.

Upon information and belief, the facility and premises were rented by a well-known music personality and hosted by Defendants knowing that it was taking place “after hours” and with potentially many artists, popular athletes and public figures. Despite these facts, Defendants provided no screening mechanisms, no after-hour controls or security measures, and no enforcement of rules or industry standards to deter crime against their invitees, to include Kirsnick Khari Tiquon Ball. In fact, social media posting in advance of the party made it clear

that not only basic security measures needed to be followed, but advance planning and consideration should have been taken into account, which Defendants were negligent in failing to do.

20.

Defendants knew or should have known that a significant number of violent crimes were committed at the subject premises and in the surrounding area, but negligently failed to protect invitees like Kirsnick Khari Tiquon Ball from the risks of violent crime. Moreover, in addition to prior crimes, Defendants negligently failed to take necessary and unique precautions due to the specific event and the attendees. Specifically, Defendants knew that based on the nature of the party, celebrities would more likely than not be in attendance and potentially be the targets of crime. Defendants negligently represented proper security would be in place, when in fact none was; this caused many people to come to the event without concern.

21.

Defendants had actual knowledge of the dangerous and hazardous conditions existing at the premises due to the knowledge of their employees and agents.

22.

Defendants had constructive knowledge of the dangerous and hazardous conditions existing on the premises through the knowledge of their employees and agents and due to the prior criminal activity and dangers associated with the property and surrounding areas.

23.

Because Defendants knew or should have known about the history of violent criminal activity at the subject property and in the surrounding high-crime area, as well as the risks associated with the event being held, the subject shooting was foreseeable to Defendants. Thus,

Defendants owed a duty to invitees like Kirsnick Khari Tiquon Ball to exercise ordinary care in keeping the premises and approaches safe from criminal activity, and negligently breached that duty.

24.

Defendants breached the duty owed to Kirsnick Khari Tiquon Ball by failing to exercise ordinary care to keep their premises and approaches safe.

25.

Defendants had actual and/or constructive knowledge of criminal activity existing on their premises and in the surrounding area before Kirsnick Khari Tiquon Ball was shot and killed. Defendants negligently permitted criminal activity to exist and remain at their premises.

26.

Defendants knew of, or in the exercise of ordinary care, should have known of the dangerous and hazardous conditions existing on the premises and the failure to maintain, inspect, secure, patrol, and manage the premises and that these conditions were likely to result in criminal attacks like the subject incident.

27.

Defendants had actual and constructive knowledge of criminal activity at the subject premises and in the high-crime area in which it was located prior to the subject shooting, but negligently failed to warn Kirsnick Khari Tiquon Ball.

28.

Defendants negligently failed to maintain adequate security devices and personnel to permit proper use of the property, thereby causing an unreasonable risk of injury to invitees, including Kirsnick Khari Tiquon Ball.

29.

At all times mentioned herein, Defendants controlled the management of the property, and had the legal duty to keep the premises in a state consistent with due regard for the safety of their invitees, including Kirsnick Khari Tiquon Ball. Defendants breached said duty and failed to act as similarly situated businesses would in like circumstances.

30.

Defendants were and are negligent *per se*.

31.

Defendants negligently failed to maintain a policy, procedure, or system of investigating, reporting, and warning of the aforementioned criminal activity and negligently maintained the subject property.

32.

Defendants failed to take appropriate action to remedy or reduce the danger to their invitees, including Kirsnick Khari Tiquon Ball, and allowed the dangerous environment on the subject property to worsen and continue to exist unabated, thereby creating a nuisance.

33.

Defendants failed to provide adequate and proper security measures in the common area and approaches, to include the parking areas.

34.

Defendants negligently represented to their invitees that the property at issue was properly maintained and that the premises was safe.

35.

Defendants were negligent and knew or should have known of the hazard presented to

invitees. Said negligence proximately caused Kirsnick Khari Tiquon Ball's injuries and death in the following ways, to-wit:

- a) Negligently failing to provide adequate and appropriate security personnel;
- b) Negligently failing to properly inspect and maintain the premises;
- c) Negligently posting and representing that adequate security would be provided, when in fact it was not;
- d) Negligently failing to provide screening and available deterrence, such as a metal detector, for those entering the premises with firearms or other weapons;
- e) Negligently disregarding and ignoring their own internal policies and rules on firearm allowance on the premises;
- f) Negligently violating their own policies and procedures on hours of operation;
- g) Negligently posting a sign indicating that security was provided 24/7, falsely and negligently signaling to invitees that security was present, trained and capable, creating a detrimental reliance on Defendants' actions;
- h) Negligently failing to properly train and supervise their employees regarding the maintenance and safety of said premises;
- i) Negligently failing to properly retain, hire, train, and supervise their employees;
- j) Negligently failing to ensure business policies, systems, and security were adequately followed and implemented;
- k) Negligently failing to inspect, patrol, or appropriately monitor the property;
- l) Negligently failing to employ other available security measures, personnel, and devices, such as proper lighting, adequate signage, cameras, patrols, inspections, and other measures available;

- m) Negligently failing to remediate a long history of crime at the subject property and others nearby in the area;
- n) Negligently failing to provide properly trained security personnel;
- o) Negligently failing to provide adequate security for the subject event;
- p) Negligently failing to warn invitees of known hazards at the property;
- q) Negligently misrepresenting to invitees that the property was safe;
- r) Negligently failing to communicate security issues; and
- s) All other acts of negligence to be proven at trial.

36.

Defendants are liable for the assault, battery, shooting, and death of Kirsnick Khari Tiquon Ball. These crimes were committed without necessity, privilege, or consent.

37.

Defendants' negligence was a cause in fact and a proximate cause of Plaintiffs' damages and Kirsnick Khari Tiquon Ball's death.

38.

Defendants are liable for the damages herein directly as well as under theories of *respondeat superior* and agency principles.

39.

Plaintiff Titania Davenport, as surviving parent of Kirsnick Khari Tiquon Ball, claims damages for Kirsnick Khari Tiquon Ball's wrongful death under Texas Civil Practice and Remedies Code section 71.004, representing the full value of the life of Kirsnick Khari Tiquon Ball to her and other wrongful death claimants including mental anguish in the past, mental anguish which, in all reasonable probability, will be suffered in the future, loss of companionship

and society in the past and future including, but not limited to, the loss of positive benefits flowing from the love, companionship, comfort and society that would have been received from Kirsnick Khari Tiquon Ball, had he lived. These damages were the direct and proximate cause of the incident made the basis of this lawsuit. Plaintiff Titania Davenport, as surviving parent of Kirsnick Khari Tiquon Ball, seeks all wrongful death damages permitted under Texas law in an amount to be determined by the enlightened conscious of a fair and impartial jury.

40.

Plaintiff Titania Davenport, as the Administrator of the Estate of Kirsnick Khari Tiquon Ball, claims all damages for all the elements of the personal injuries, conscious physical and mental pain and suffering, mental anguish, medical expenses, funeral expenses and all other injuries and damages endured by Kirsnick Khari Tiquon Ball prior to his death proximately caused by the November 1, 2022 incident at issue. Plaintiff Titania Davenport, as the Administrator of the Estate of Kirsnick Khari Tiquon Ball, seeks all survival damages permitted under Texas law in an amount to be determined by the enlightened conscious of a fair and impartial jury.

41.

As a proximate and foreseeable result of Defendants' negligence, Kirsnick Khari Tiquon Ball sustained catastrophic personal injuries, endured conscious pain and suffering, experienced mental anguish, became aware of his impending death, wrongfully died, and suffered other damages as will be proven at trial. Plaintiffs bring each and every claim permissible under Texas law against Defendants for injuries suffered in the incident at issue, and to recover for all special damages, economic losses, medical expenses, necessary expenses, pain and suffering, and all compensatory, special, actual, general and punitive damages permissible under Texas law.

Plaintiffs seek all compensatory, special, economic, consequential, general, punitive, and all other damages permissible under Texas law, including, but not limited to past and future:

- a) Personal injuries;
- b) Conscious pain and suffering;
- c) Mental anguish;
- d) Loss of the enjoyment of life;
- e) Wrongful death;
- f) Funeral expenses;
- g) Incidental expenses;
- h) Loss of earning capacity;
- i) Consequential damages to be proven at trial;
- j) All estate-based, including pre-death pain and suffering, and wrongful death damages permitted under Texas law; and
- k) All permissible special, compensatory, economic, punitive, and allowable damages.

42.

Each of the foregoing acts and omissions constitute an independent act of negligence on the part of the Defendants and one or more or all above-stated acts were the proximate causes of the injuries sustained by Kirsnick Khari Tiquon Ball. Defendants are liable for Kirsnick Khari Tiquon Ball and Plaintiffs' injuries sustained, pain and suffering, the expenses of treatment and all other elements of damages allowed under the laws of the State of Texas, including all special, compensatory, incidental, consequential, economic and punitive damages.

43.

Without waiving the foregoing, Plaintiffs seek exemplary damages pursuant to Texas

Civil Practices and Remedies Code §41.003 and pursuant to the definition of “Gross Negligence” as provided in §41.001. Defendants’ negligent acts and/or omissions constituted a conscious disregard of an extreme degree of risk, all of which led to the death of Kirsnick Khari Tiquon Ball and the resulting harms and losses to Plaintiffs.

44.

Although the amount to be awarded herein is a matter lying largely within the discretion of the Jury, Plaintiffs would show that this amount is within the jurisdictional limits of this Honorable Court. Plaintiffs seek, at this time, only monetary relief over \$1,000,000.00.

WHEREFORE, Plaintiffs respectfully pray that:

Defendants be cited to appear and answer herein and upon final trial of this cause, judgment be entered for the Plaintiffs and against Defendants, jointly and severally, for actual damages above the jurisdictional minimum of the Court as outlined above, pre-judgment and post-judgment interest at the maximum rate allowed by law, all costs of court, exemplary damages and for such other and further relief, special and general, at law and in equity, to which they may show themselves justly entitled.

TRIAL BY JURY IS HEREBY DEMANDED.

Respectfully submitted,

THE ESTEFAN FIRM, P.C.

By: /s/ Ron Estefan
RONALD M. ESTEFAN
TBA# 00785851
2306 MASON STREET
HOUSTON, TEXAS 77006
TELEPHONE: (713) 333-1100
FACSIMILE: (713) 333-1101
ron@ronestefanlaw.com
ATTORNEY FOR PLAINTIFFS

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Ron Estefan on behalf of Ron Estefan
Bar No. 00785851
ron@ronestefanlaw.com
Envelope ID: 76365904
Filing Code Description: Petition
Filing Description: Plaintiffs Original Petition
Status as of 6/7/2023 10:07 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Ron Estefan		ron@ronestefanlaw.com	6/7/2023 9:52:45 AM	SENT