

CAUSE NO. _____

J'DA SONIER INDIVIDUALLY §
and AS NEXT FRIEND OF Z.S. §
and C.C. Minor Children and QUEEN BROWN, §
INDIVIDUALLY and on behalf of §
THE ESTATE OF ELMER CATHEY §
Plaintiffs §

IN THE DISTRICT COURT

HARRIS COUNTY, TEXAS

V §

_____ JUDICIAL DISTRICT

SERENITY SPRINGS KATY §
LIMITED PARTNERSHIP D/B/A §
HAVEN AT WESTGREEN APARTMENTS §
ADARA COMMUNITIES LLC, and §
SERENITY SPRINGS KATY §
MANAGEMENT LLC §
Defendants §

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff J'da Sonier Individually and as Next Friend of Z.S and C.C. minor children; and Queen Brown individually and as heir of the estate of Elmer Cathey ("Plaintiffs") complaining of Serenity Springs Katy Limited Partnership d/b/a Haven at Westgreen Apartments; Adara Communities LLC; and Serenity Springs Katy Management LLC (collectively referred to as "Defendants") and for cause of action shows:

I. DISCOVERY CONTROL PLAN

1. Plaintiffs intend that discovery be conducted under Level 2 of Rule 190 and affirmatively pleads that this suit is not governed by the expedited-actions process in Rule 169 because they seek monetary relief over \$1,000,000.

II. PARTIES

2. Plaintiff J'da Sonier, Individually and as Next Friend of minors Z.S. and C.C. is a resident of Harris County, Texas.

3. Z.S. is the minor son of J'da Sonier, he is a resident of Harris County, Texas.

4. C.C. is the minor son of J'da Sonier, he is a resident of Harris County, Texas.

5. Queen Brown individually and on behalf of the Estate of Elmer Cathey is a resident of Harris County, Texas.

6. Defendant, Serenity Springs Katy Limited Partnership d/b/a Haven at Westgreen Apartments, is a Texas limited partnership whose registered office is in Harris County, Texas at 4420 Cypress Creek Parkway, Suite 224, Houston, Texas 77068, and may be served with process by serving its registered agent for service of process, John R. Krugh in Harris County, Texas at 1800 Bering Drive, Suite 350, Houston, Texas 77057. **Citation is hereby requested.**

7. Defendant, Serenity Springs Katy Management, LLC, is a Texas limited liability company whose registered office is in Harris County, Texas at 4420 Cypress Creek Parkway, Suite 224, Houston, Texas 77068, and may be served with process by serving its registered agent for service of process, John. R. Krug in Harris County, Texas at 1800 Bering Drive, Suite 350, Houston, Texas 77057. **Citation is hereby requested.**

8. Defendant, Adara Communities, LLC., is a Texas limited liability company whose registered office is in Harris County, Texas at 4420 Cypress Creek Parkway, Suite 224, Houston, Texas 77068 and may be served with process by serving its registered agent for service of process, Robert D. Brown in a Bexar County, Texas at 70 NE Loop 410, Suite 305, San Antonio, Texas 78216. **Citation is hereby requested.**

III. JURISDICTION AND VENUE

9. The damages sought are within the jurisdictional limits of this Court.

10. Plaintiffs seek monetary relief over \$1,000,000.

11. Venue is proper in this Court because all or a substantial part of the events or omission giving rise to Plaintiffs' claims occurred in Harris County, Texas. Tex. Civ. Prac. & Rem. Code § 15.002(a)(1).

IV. FACTS

12. Defendant Adara Communities LLC owns the property known as "Haven at Westgreen Apartments," located at 510 Westgreen Blvd., Katy, Texas 77450. At all times relevant to Plaintiffs' claims, Haven at Westgreen Apartments was managed by defendants Adara Communities LLC and Serenity Springs Katy Management, LLC.

13. In January of 2021, J'da Sonier resided at Haven at Westgreen Apartments with her five-year-old son, Z.S., her three-months-old son C.C., and her boyfriend, Elmer Cathey (decedent).

14. On January 29, 2021 J'da Sonier and her family were scarred with a deep wound which will never heal. At approximately 3:30pm, Elmer Cathey, her boyfriend and soulmate, had picked up 5 year old Z.S. from school and approached the front door of their apartment with C. C., their three (3) months old son. An unknown assailant shot Elmer Cathey multiple times and shot five year old Z.S. three times. Elmer was life flighted to a hospital where he was later pronounced dead. The first hollow tipped bullet went through Z.S's left forearm and shattered bone as it exited though his left wrist. The second bullet tore through his left thigh. The third bullet traveled through his back-pack and grazed his back. Three months old C.C. was found upside down in his car seat which was riddled with bullets. The fact C.C. was not hit by a bullet or killed can only be described as the grace of God. Neighbors reported at least 9 gun shots and hearing children screaming and crying. There were fourteen calls to the police. Five year old Z.S. was rushed to the

hospital via ambulance where he immediately underwent surgery. Days later, upon returning home from the hospital, five year old Zayne froze in fear, and while staring at his bloody hand-prints on the front door of the apartment, he said “I was trying to get away when they were killing Daddy.” Five year old Zayne currently receives physical therapy/psychological counseling. The family will never heal from the loss of Elmer Cathey. This lawsuit seeks to hold defendants accountable for their responsibility in the horrific events which occurred at Haven at Westgreen Apartments.

15. At the time of the conduct which forms the basis of this lawsuit, defendants were aware (or had reason to know) of frequent violent criminal activity occurring in close proximity to Haven at Westgreen Apartments and on its premises. Said activity includes, but is not limited to, armed robbery, assault with a deadly weapon, attempted murder, aggravated assault with a deadly weapon, discharge of a firearm, drive-by shootings, and murder.

16. Defendants own and/or manage Haven at Westgreen Apartments and therefore knew and/or had reason to know that violent criminal activity was likely to occur on the premises. Residents reported this violent criminal activity to Defendants, and many of these incidents were witnessed by Defendants’ own employees. Despite the well-known risk posed by violent criminal activity, Defendants did not warn Plaintiffs of violent criminal activity and failed to engage in adequate reasonable measures to protect Plaintiffs from harm.

17. At the time of the bloody assault on Plaintiffs, the drive through entry gate was wide open and was not monitored, the walk-in entry gates were propped open, there were no security guards or courtesy officers on the premises, and there were no exterior security

cameras. **Adequate security measures were not unreasonable to implement and maintain, especially given the foreseeable risk of violent criminal activity to the tenants of The Haven at Westgreen Apartments.**

18. The shooting which forms the basis of this lawsuit was an incident that was avoidable and would have been prevented if Defendants had taken reasonable and prudent steps to prevent the occurrence of criminal acts at the property they own and manage. Defendants were aware of the need to: (1) prevent unauthorized persons from accessing the property; (2) prevent persons with certain criminal histories who did not qualify as tenants from living on or frequenting the property; (3) have an adequate security presence to prevent persons from committing crime on the premises; and (4) provide sufficient lighting to deter crime on the premises.

19. Prior to the shooting: (1) Defendants knew of the extensive and often violent criminal activity on the premises, including but not limited to shootings and other crimes committed with guns, aggravated assaults, robberies, burglaries, thefts, drug dealing, and gang activity; (2) Defendants knew there was a lack of adequate security on the premises; (3) Defendants knew the lack of security created a dangerous condition on the premises and posed a substantial and unreasonable safety hazard; and (4) Defendants failed to take steps necessary to reduce or eliminate the risk of harm.

20. Had Defendants acted prudently, Plaintiffs' injuries would have been prevented. Instead, Defendants knowingly allowed an unreasonably dangerous condition to develop, despite being aware that it posed a serious risk to Plaintiffs as well as other guests and tenants.

21. As a direct and proximate result of Defendants' failure to take appropriate action and properly safeguard the premises, decedent suffered the extreme injuries described herein which resulted in his suffering and death, Plaintiff Queen Brown lost her son, and C.C. lost his father. In addition, as a direct and proximate result of the failure of Defendants to take appropriate action and properly safeguard the premises, J'da Sonier, Z.S., C.C., and Queen Brown also suffered other injuries and bystander claims described herein. Defendants' conduct was the proximate cause of Plaintiffs' injuries.

22. Plaintiffs will further show that Defendants, in the years preceding the shooting of Decedent and up to the present, have managed numerous residential properties, including apartment complexes, and that Defendants have engaged in a practice of attempting to maximize profits by consistently refusing to provide proper security to the residents. Defendants are aware of the high rate of crime at these residences, but they have refused to take steps to provide proper security to the residents, including but not limited to the hiring of adequate security personnel to monitor and prevent criminal activity on the premises. During the years before the shooting of decedent and up to the present, Defendants have been made aware of numerous criminal incidents at the properties they managed, including criminal acts against residents. Despite this knowledge of rampant crime and unreasonably dangerous conditions posed to residents, Defendants have refused to provide the security needed to protect residents.

23. Furthermore, Defendants were aware when they became the owner and managers of Haven at Westgreen Apartments that there was an unacceptably high rate of crime and violent crime, which created an unreasonable risk of harm to residents and guests of the property. Although aware of the need for security to prevent crime against residents,

Defendants did not take steps to lessen the crime to protect residents and guests. Defendants have attempted to avoid their duty to residents by pretending they were unaware of the criminal acts at the properties. Defendants' pattern and practice in this regard has resulted in a complete failure to provide adequate security to residents, including but not limited to decedent and Plaintiffs.

V. PREMISES LIABILITY

24. Plaintiff incorporates by reference the facts set forth in the preceding paragraphs.

25. Plaintiff's injuries and the death of Elmer Cathey were of such a nature that defendants as the owners and/or managers of the apartment complex, should have reasonably anticipated them; additionally, Plaintiffs were so situated in relation to the wrongful acts that injury to them (or to one similarly situated to them) should have reasonably been foreseen.

26. Defendants had a duty to warn of or to make safe any hidden dangers and a duty not to cause injury through gross negligence because they tolerated frequent violent criminal activity.

27. At a minimum, defendants owed a duty not to intentionally, willfully, or through gross negligence cause injury to Plaintiffs.

28. Defendants breached the duty they owed to plaintiffs by (1) failing to maintain the apartment complex in a safe condition; (2) failing to adequately monitor the apartment complex; (3) tolerating individuals who committed criminal acts inside the apartment complex; (4) failing to engage in reasonable physical security measures (e.g., guards, perimeter gates, security systems/cameras, etc.) to prevent crime from occurring inside the

apartment complex; and/or (5) failing to take any meaningful steps to deter crime or to secure the apartment complex.

29. In the context of a premises liability case, one who controls the premises has a duty to use ordinary care to protect invitees from criminal acts of third parties if he or she knows or has reason to know of an unreasonable and foreseeable risk of harm to the invitees. *Timberwalk Apartments, Partners, Inc. v Cain*, 972 S.W.2d 749, 756 (Tex. 1998). Defendants breached the aforementioned duty.

30. Under Texas law, a plaintiff in a premises liability claim who is an invitee must prove that: (1) a condition of the premises created an unreasonable risk of harm; (2) the defendant knew or reasonably should have known of the condition; (3) the defendant failed to exercise ordinary care to protect the invitee from danger; and (4) the defendant's failure was a proximate cause of injury to the invitee. *Dallas Mkt. Ctr. Dev. Co. v. Liedeker*, 958 S.W.2d 382, 385 (Tex.1997), *overruled on other grounds by Torrington Co. v. Stutzman*, 46 S.W.3d 829 (Tex.2000).

31. In this case, Defendants are liable to Plaintiffs under a premises liability theory because, as a preliminary matter, Defendants knew or should have known of the dangerous conditions on the premises that created an unreasonable risk of harm and danger to invitees, including Plaintiffs. Defendants knew or reasonably should have known of the dangerous condition on the premises based, at least in part, on previous crimes that were committed on the premises and in the surrounding area. Defendants failed to exercise ordinary care to protect the Plaintiffs from danger by failing to implement reasonably prudent and necessary security measures to properly safeguard the premises. The failure of Defendants to use

ordinary care in a variety of respects was a direct and proximate cause of the incident and resulting injuries and damages suffered by the Plaintiffs.

VI. GROSS NEGLIGENCE

32. Plaintiffs incorporate by reference and re-allege all preceding sections of the Petition.

33. Prior to January 29, 2021, violent criminal activity frequently occurred at The Haven at Westgreen Apartments. The victims (who resided at the premises made the basis of this complaint) reported said conduct to Defendants. Despite being aware of violent criminal activity frequently occurring at or in close proximity to Haven at Westgreen, defendants failed to engage in reasonable measures to deter violent criminals from entering the property, or prevent violent criminals from engaging in other violent criminal acts at the premises given the foreseeable risk that individuals would engage in violent criminal activity on the premises. Said efforts would have required minimal effort and cost to defendants. When Elmer Cathey was murdered and minors Z.S. and C.C. were assaulted, said conduct was foreseeable and could have been prevented by Defendants at little cost or effort.

34. In fact, defendants were so derelict in discharging the duty they owed to Plaintiffs (and to other residents of the apartment complex, generally) that they acted with a conscious and voluntary disregard for the rights, safety and welfare of others, even though defendants were actually and subjectively aware of the dangers of such conduct.

35. In other words, defendants were grossly negligent.

36. As a result of the defendants' conduct, Elmer Cathey was murdered and Plaintiffs were injured.

37. Accordingly, defendants are liable for the wrongful death of Elmer Cathey and Plaintiffs' injuries.

VII. NEGLIGENCE

38. Plaintiffs incorporate by reference and re-allege all preceding sections of the Petition. Plaintiffs would show that Defendants are liable under a negligence theory because: They had a duty to manage the property in a reasonable prudent manner; (2) Defendants breached this duty by failing to exercise ordinary care (as set forth more fully above); and (3) Plaintiffs' injuries were proximately caused by Defendants' breach of their duties. Defendants' conduct was a proximate Plaintiffs' injuries. The conduct of the unknown assailant was a concurrent cause.

VIII. VIOLATIONS OF THE DECEPTIVE TRADE PRACTICES ACT

39. Plaintiffs incorporate by reference and re-allege all preceding sections of this Petition. In addition to Plaintiffs' common law claims, the Deceptive Trade Practices Act ("DTPA") provides additional protections and damages to consumers who are victims of deceptive, improper, or illegal practices. Plaintiffs have forward the requisite DTPA Demand letter in a timely manner and all conditions precedent have been satisfied.

40. Plaintiffs J'da Sonier, Elmer Cathey, Z.S., and C.C. were consumers who leased an apartment unit owned and operated by Defendants. Plaintiffs were consumers who sought and acquired, by lease, the Defendants' goods (leasehold right to use of real property) and services (apartment management and security).

41. At the time of the negotiation of the lease in question, and at numerous times during the pendency of the lease, Defendants made representations that were false, misleading and/or deceptive acts or practices which were in violation of the following:

1. 17.46(b)(5) by representing that the overall security of the apartments in question had characteristics or benefits which it did not have, including, but not limited to, adequate security personnel, operational vehicle and pedestrian gates, adequate security lighting; and functional security cameras;
2. 17.46(b)(7) by representing that the apartments were of a particular standard, quality or grade, when they were another;
3. 17.46(b)(9) by representing that the apartments had sufficient security personnel who were licensed security officers when in fact the apartments did not have such security personnel, and did not intend to provide same as represented (Section 1702.3835 of the Texas Occupations Code);
4. 17.46(b)(23) by inducing potential tenants into renting by failing to disclose information concerning the apartments, security, and the crime and criminality within the area which was known to the Defendants at the time;
5. 17.46(b) (23) by inducing potential tenants into staying on the property by failing to disclose information concerning the lack of repairs, or any plan to implement future repairs to the security devices and measures on the property;
6. 17.50(a)(2) by breaching their implied warranty to perform apartment management, security device repair, and security services in a good and workmanlike manner;
7. 17.50(a)(3) by acting in an unconscionable manner in that the Defendants took advantage, to a grossly unfair degree, of J'da Sonier's lack of knowledge, ability, or experience to evaluate security.

42. Plaintiffs have provided adequate notice of their DTPA claims, suffered emotional distress damages as a result of Defendants' knowing and/or intentional DTPA violations and seek damages based on defendants knowing and/or intentional violations.

IX. JOINT ENTERPRISE

43. Plaintiff incorporates by reference the facts set forth in the preceding paragraphs.

44. Defendants are engaged in a joint enterprise.

45. Defendants have an agreement (either express or implied) with each other with respect to the enterprise or endeavor.

46. Defendants' common purpose is to invest in, own and/or manage residential real property.

47. Defendants have a community of pecuniary interest in their common purpose, among the members of the group.

48. Defendants have an equal right to a voice in the direction of the enterprise, which gives an equal right of control.

49. As a joint enterprise, Defendants are each responsible for the negligent acts of the other members of the group.

X. ALTER EGO

50. Plaintiff incorporates by reference the facts set forth in the preceding paragraphs.

51. Defendants organized and operated Haven at Westgreen Apartments as a mere tool or business conduit.

52. There is such unity between Defendants that the separateness of these entities has ceased.

53. Additionally, Defendants were inadequately capitalized.

54. For these and other reasons, holding only Haven at Westgreen Apartments liable would result in injustice.

55. In other words, Serenity Springs Katy Management, LLC and Adara Communities LLC are the alter egos of Haven at Westgreen Apartments and are therefore liable to Plaintiff for the wrongful death of Elmer Cathey and Plaintiffs' injuries.

XI. SINGLE BUSINESS ENTERPRISE

56. Plaintiff incorporates by reference the facts set forth in the preceding paragraphs.

57. Defendants have common employees.

58. Defendants have common offices.

59. Defendants have centralized accounting.

60. Defendants pay wages to employees of other corporations that are a part of the group.

61. Employees of defendants render services on behalf of other corporations that are part of the group.

62. There are undocumented transfers of funds between the defendants.

63. There is an unclear allocation of profits and losses between the defendants.

64. In other words, defendants are operated as a single business enterprise and not as separate entities, but rather integrate their resources to achieve a common business purpose.

65. As such, each constituent corporation is liable for the acts of the other constituent corporations that were undertaken in furtherance of the enterprise's purpose.

XII. SURVIVAL CLAIM OF ESTATE OF ELMER CATHEY.

66. Decedent Elmer Cathey sustained injuries and death as a direct and proximate result of the acts and/or omissions of the Defendants, and Plaintiff's Estate therefore bring this survival action pursuant to Texas Civil Practice & Remedies Code section 71.021. Plaintiff's Estate will respectfully request the Court and jury to determine the sum of money

that would have reasonably compensated Decedent for his damages from the occurrence in question, as follows:

1. physical pain which he suffered as a result of the incident in question until the time of his death;
2. mental anguish which he suffered as a result of the incident in question until the time of his death; and
3. physical impairment he suffered from the time of the incident in question until the time of his death;
4. medical expenses; and
5. funeral expenses.

XIII. WRONGFUL DEATH CLAIM OF C.C.

67. Plaintiff C.C., as the son of Decedent, seeks recovery for the wrongful death of Elmer Cathey pursuant to Texas Civil Practice & Remedies Code section 71.001, et al. Plaintiff J'da Sonier at Next friend of C.C. seeks the following damages:

1. past and future mental anguish suffered as a result of the death of his father;
2. past and future loss of companionship and society suffered as a result of the death of his father;
3. past and future loss of consortium consisting of the loss of love, affection, protection, emotional support, companionship, care and society;
4. past and future pecuniary losses consisting of the loss of the Decedent's earning capacity, advice, counsel, services, care, maintenance, support and reasonable contributions of a pecuniary value.

XIV. WRONGFUL DEATH CLAIM OF PLAINTIFF QUEEN BROWN.

68. Plaintiff Queen Brown., as the mother of Decedent, seeks recovery for the wrongful death of Elmer Cathey pursuant to Texas Civil Practice & Remedies Code section 71.001, et al. Plaintiff Queen Brown seeks the following damages:

1. past and future mental anguish suffered as a result of the death of her son;
2. past and future loss of companionship and society suffered as a result of the death of her son;
3. past and future loss of consortium consisting of the loss of love, affection, protection, emotional support, companionship, care and society;

4. past and future pecuniary losses consisting of the loss of the Decedent's earning capacity, advice, counsel, services, care, maintenance, support and reasonable contributions of a pecuniary value.

XV. BYSTANDER CLAIM OF PLAINTIFF C.C.

69. Plaintiff J'da Sonier, as the next friend of C.C., further seeks recovery of mental anguish damages suffered as a result of contemporaneously witnessing the injuries resulting from the shooting of his father and brother on the premises controlled by Defendants. Plaintiff is entitled to recover such damages because: (1) the serious and fatal injuries to his father and the shooting of his brother resulted from Defendants' negligence; (2) Plaintiff was located at or near the scene of the incident; (3) Plaintiff suffered shock as a result of the emotional impact from the observance of the incident; (4) Plaintiff and the victims were closely related. For minor C.C.'s bystander claim, Plaintiff seeks past and future mental anguish suffered as a result of witnessing the incident described above.

XVI. BYSTANDER CLAIM OF PLAINTIFF Z.S

70. Plaintiff J'da Sonier as next friend of Z.S., a minor, further seeks recovery of mental anguish damages suffered as a result of contemporaneously witnessing the injuries resulting from the aggravated assault of his brother (C.C.) on the premises controlled by Defendants. Plaintiff is entitled to recover such damages because: (1) the serious injuries to his brother resulted from Defendants' negligence; (2) Plaintiff was located at or near the scene of the incident; (3) Plaintiff suffered shock as a result of the emotional impact from the observance of the incident; (4) Plaintiff and the victim were closely related. For his bystander claim, Plaintiff seeks past and future mental anguish suffered as a result of witnessing the incident described above.

XVIII. DTPA DAMAGES

71. In addition to the foregoing damages, Defendants' conduct was a producing cause of Plaintiffs' economic damages. As a result, pursuant to the DTPA, Plaintiffs are entitled to recover for past and future medical expenses, past and future loss of income, and any other indirect or consequential economic damages.

72. Defendants' conduct was also the producing cause of Plaintiffs' mental anguish damages.

73. Defendants' conduct was committed knowingly and intentionally, therefore, Plaintiffs are entitled to recover mental anguish damages as well, pursuant to Section 17.50 of the DTPA.

74. Defendants' conduct was committed knowingly, as defined by the DTPA, because they had actual awareness at the time of the acts, omissions, practices, and conduct complained of, of the falsity, deception, or unfairness giving rise to Plaintiffs' claims, and/or in the alternative, because of Defendants breach of express or implied warranties.

75. Defendants conduct was intentional, as defined by the DTPA, because at the time of the acts and practices complained of, it had actual awareness of the falsity, deception, or unfairness of the act or practice with a specific intent that Plaintiffs act in detrimental reliance on the falsity deception or unfair act.

76. Plaintiffs are entitled to recover treble damages because Defendants' actions were intentional and/or knowingly committed. Tex. Bus. Com. Code § 17.50(b)(1).

77. Plaintiffs are also entitled to recover reasonable and necessary attorney's fees for defendants' DTPA Violations. Tex. Bus. Com. Code § 17.50(d).

XIX. GROSS NEGLIGENCE AND PUBLIC NUISANCE AND REQUEST FOR EXEMPLARY DAMAGES

78. Plaintiffs incorporate by reference and re-allege all preceding sections of this Petition and would further show that Defendants' actions and inactions set forth above occurred in such a manner as to constitute gross negligence.

79. Defendants' actions, inactions and omissions, when viewed objectively from Defendants' standpoint at the time at issue, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others, including Plaintiffs. Further, Defendants had actual subjective awareness of the risks involved, but nevertheless proceeded with conscious indifference to the rights, safety, and/or welfare of others.

80. The probability of injury was great to the Plaintiffs because the Defendants could have eliminated the risk of harm to the Plaintiffs and others by making reasonably prudent and necessary safety modifications to the premises.

81. The burden on the Defendants to eliminate the risk was therefore extremely slight as compared to the likelihood of grave injury or death to invitees, including the Plaintiffs. Plaintiffs suffered severe injuries and damages as a direct and proximate result of the Defendants' gross negligence.

82. Plaintiffs further plead that exemplary damages may be awarded against Defendants pursuant to Texas Civil Practice and Remedies Code Section 41.005 because the criminal act occurred at a location where, at the time of the criminal act, the Defendants were maintaining a common nuisance under the provisions of Chapter 125 of the Civil Practice and Remedies Code, and had not made reasonable attempts to abate the nuisance. Plaintiffs further plead that persons habitually went to Haven at Westgreen Apartments to

engage in criminal acts listed in Civil Practice and Remedies Code section 125.0015, and that Defendants knowingly tolerated the activity and did not make reasonable attempts to abate the acts.

XX. PREJUDGMENT AND POST-JUDGMENT INTEREST

83. Plaintiffs incorporate by reference and re-allege all preceding sections of this Petition and would further show that many of the damages may be determined by known standards of value and accepted rules of interest as damages during the period beginning on the 180th day after the date Defendants received notice of the claim or on the day suit was filed, whichever occurred first, and ending on the day preceding the date judgment is rendered, or as the Court otherwise directs, calculated at the legal rate, or as otherwise set by the TEXAS FINANCE CODE, any statute or the common law.

XXI. ALTERNATIVE PLEADING

84. Plaintiffs incorporate by reference and re-allege all preceding sections of this Petition and would further show that all pleadings herein, if deemed inconsistent, are made and should be construed in accordance with Rule 48 of the TEXAS RULES OF CIVIL PROCEDURE.

XXII. AGENCY/RESPONDEAT SUPERIOR

85. Plaintiffs incorporate by reference and re-allege all preceding sections of this Petition and would further show that, at all times relevant, Defendants acted by and through their authorized agents and representatives. The employees, agents, and representatives of Defendants who provided services at or affecting Haven at Westgreen Apartments were at all times agents of Defendants; therefore, Defendants are liable for all acts and failures to act by such persons.

XXIII. STATEMENT OF AMOUNT OF RECOVERY SOUGHT

86. Pursuant to Texas Rule of Civil Procedure 47, Plaintiffs plead that they seek monetary relief over \$10,000,000.00.

XXIV. DEMAND FOR JURY TRIAL

87. Plaintiffs demand a trial by jury and have paid the appropriate jury fee.

XXV. AMENDMENT OF PLEADINGS

88. Pursuant to Texas Rules of Civil Procedure 62, 63, 64 and any other applicable rules, Plaintiff reserves the right to amend this petition.

XXVI. NOTICE OF AUTHENTICATION (TRCP 193.7)

89. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Defendants are hereby put on actual notice that any documents produced in response to written discovery will be used in pretrial proceedings and trial and will be deemed authentic unless Defendants make valid objections to their authenticity pursuant to Rule 193.7.

XXVII. CONDITIONS PRECEDENT

90. All conditions precedent have been performed or have occurred.

XXVIII. REQUESTS FOR DISCLOSURE

91. You are requested to disclose, within fifty days of service of this request, the information or material described in Rule 194.2.

XXIX. Prayer

92. WHEREFORE, Plaintiffs pray that the Defendants be cited to appear and answer and that Plaintiffs have judgment against Defendants, jointly and severally, for the following:

1. Actual damages in an amount in excess of the minimum jurisdictional limits of the Court;
2. Exemplary damages in an amount in excess of the minimum jurisdictional limits of the Court;
3. Prejudgment and post-judgment interest at the maximum legal amount allowed by law;
4. Court costs; and
5. All other relief to which Plaintiffs may show themselves entitled.

Respectfully submitted,

THE FOLEY LAW FIRM

By: /s/ Taft L. Foley II

Taft L. Foley II

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ATTORNEY FOR PLAINTIFFS

Certificate of Service

I certify that a true and correct copy of the foregoing PLAINTIFFS' ORIGINAL PETITION on this 19TH day of October 2022, was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure.

/s/ Taft L. Foley II

Taft L. Foley II