

FILED
4/6/2020 11:44 AM
DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2020L003938

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – LAW DIVISION**

TONEY EVANS, Special Administrator)
Of the Estate of WANDO EVANS, Deceased)
)
Plaintiff)
v.)
)
WALMART, INC. , and J2M – EVERGREEN,)
LLC)
Defendants.)

Case No.: 2020L003938

COMPLAINT AT LAW

TONEY EVANS, Special Administrator of the Estate of WANDO EVANS, Deceased, by and through his attorneys, Tony S. Kalogerakos, Esq. and the Injury Lawyers of Illinois, complain of Defendants WALMART, INC. and J2M – EVERGREEN, LLC, as follows:

PARTIES

1. At all times hereinafter mentioned, TONEY EVANS, Special Administrator of the Estate of WANDO EVANS, Deceased, is and was a resident of Cook County, Illinois.
2. At all times hereinafter mentioned, Defendant, WALMART, INC. , was a corporation licensed to do business in the State of Illinois, and conducted business in the State of Illinois.
3. At all times hereinafter mentioned, J2M – EVERGREEN, LLC was a corporation licensed to practice within the State of Illinois, and conducted business in the State of Illinois.

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JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter hereof and the parties hereto pursuant to 735 Illinois Compiled Statute 5/2-209 (a)(1) and (2), because Defendant's negligent acts occurred in Cook County, Illinois.
2. Venue is proper under 735 Illinois Compiled Statute 5/2-101 because this action arose, in part, out of activities in Cook County, Illinois.

GENERAL ALLEGATIONS

1. On March 25, 2020, the Decedent, WANDO EVANS, passed away due to complications of COVID-19, also known as the "Coronavirus."
2. On and prior to March 25, 2020, the Decedent was an employee of the Walmart Supercenter located at 2500 W. 95th Street in Evergreen Park, Illinois.
3. Subsequent to the death of WANDO EVANS, another employee at the store, Phillip Thomas, passed away on March 29, 2020 due to complications of COVID-19.
3. On and prior to the deaths of WANDO EVANS and Phillip Thomas, several other employees who worked at the store had exhibited signs and symptoms of COVID-19.
4. On and prior to the deaths of WANDO EVANS and Phillip Thomas, management at the store knew that several employees and individuals at the store were exhibiting signs and symptoms of COVID-19.
4. WANDO EVANS, Phillip Thomas and other store employees contracted COVID-19 at the Walmart Supercenter location in Evergreen Park, Illinois.

5. At all relevant times, JM2 – EVERGREEN, LLC owned, managed, maintained and controlled the retail shopping center which contained the Walmart Supercenter building as well as other nearby commercial buildings which housed retail stores, restaurants and other establishments.

COUNT I – WALMART, INC. - NEGLIGENCE – WRONGFUL DEATH

1. Plaintiffs incorporate by reference all prior allegations contained in this Complaint.
2. At all relevant times, Defendant owed the Decedent a duty to exercise reasonable care in keeping the store in a safe and healthy environment and, in particular, to protect employees, customers and other individuals within the store from contracting COVID-19 when it knew or should have known that individuals at the store were at a very high risk of infection and exposure due to the high volume of individuals present at and circulating throughout the store on a daily basis.
3. Defendant violated the duty of care and was negligent in committing the following acts and/or omissions of negligence:
 - a. Failed to cleanse and sterilize the store in order to prevent infection of COVID-19;
 - b. Failed to implement, promote and enforce social distancing guidelines promulgated by the governments of the United States of America and the State of Illinois;
 - c. Failed to provide the Decedent and other employees with personal protective equipment such as masks, latex gloves and other devices designed to prevent the infection of COVID-19;

d. Failed to warn the Decedent and other employees that various individuals were experiencing symptoms at the store and may have been infected by COVID-19 which was present and active within the store;

e. Failed to adequately address and otherwise ignored other employees at the store who communicated to management that they were experiencing signs and symptoms of COVID-19;

f. Failed to follow the recommendations and descriptions of mandatory safety and health standards promulgated by the United States Department of Labor and the Occupational Health and Safety Administration as set out in *Guidance on Preparing Workplaces for COVID-19*;

g. Failed to follow the guidelines promulgated by the Center for Disease Control and Prevention ("CDC") to keep its workplace in a safe and healthy condition and to prevent employees and others within the store from contracting COVID-19;

h. Failed to develop an Infectious Disease Preparedness and Response Plan as is recommended by the CDC;

i. Failed to prepare or implement basic infection prevention measures as is recommended by the CDC;

j. Failed to conduct periodic inspections of the condition and cleanliness of the store to prevent and/or minimize the risk of employees and others from contracting COVID-19 as is recommended by the CDC;

k. Failed to provide employees with antibacterial soaps, antibacterial wipes and other cleaning agents as is recommended by the CDC;

l. Failed to develop policies and procedures for prompt identification and isolation of sick people as is recommended by the CDC;

m. Failed to develop, implement and communicate to its employees about workplace flexibilities and protections as is recommended by the CDC;

n. Failed to implement engineering controls designed to prevent COVID-19 infection including, but not limited to, installing high-efficiency air filters, increasing ventilation rates in the work environment and installing physical barriers such as clear plastic sneeze guards as is recommended by the CDC;

o. Failed to cease operations of the store and to otherwise close the store when it knew or should have known that various employees and others present at the store were experiencing symptoms of COVID-19;

p. Failed to properly train its personnel to implement and follow procedures designed to minimize the risk of contracting COVID-19;

q. Failed to periodically interview and/or evaluate its employees for signs and symptoms of COVID-19;

r. Failed to prohibit employees who were exhibiting signs and symptoms of COVID-19 from working at the store or otherwise entering the premises; and,

s. Hired employees via telephone and other remote means in an expedited process without personally interviewing or evaluating whether prospective employees had been exhibiting signs and symptoms of the COVID-19 prior to the commencement of their employment.

4. As a direct and proximate cause of the above acts and/or omissions of negligence, the Decedent was infected by COVID-19 and ultimately died due to complications of COVID-19.

5. As a direct and proximate result of the above acts and/or omissions of negligence, the Special Administrator TONEY EVANS, the brother of the Decedent, has suffered and will continue to suffer the loss of WANDO EVANS' society, love, and affection.

6. This count is brought pursuant to the Illinois Wrongful Death Act, 740 ILCS 180-1 et seq.

WHEREFORE, TONEY EVANS, Special Administrator of the Estate of WANDO EVANS, demands judgment against the Defendant, WALMART, INC., for a sum in excess of the jurisdictional limits of the Law Division of the Circuit Court of Cook County.

**COUNT TWO – WALMART, INC. - WILLFUL AND WANTON MISCONDUCT -
WRONGFUL DEATH**

1. Plaintiffs incorporate by reference all prior allegations contained in this Complaint.

2. At all relevant times, Defendant owed the Decedent a duty to be free of willful and wanton misconduct and reckless disregard as it pertained to the safe and health environment and, in particular, to protect employees, customers and other individuals within the store from contracting COVID-19 when it knew or should have known that individuals at the store were at a very high risk of infection and exposure due to the high volume of individuals present at and circulating about the store on a daily basis.

3. Defendant violated the aforesaid duty by committing the following acts and/or omissions of willful and wanton misconduct and reckless disregard for others:

- a. Failed to cleanse and sterilize the store in order to prevent infection of COVID-19;
- b. Failed to implement, promote and enforce social distancing guidelines promulgated by the governments of the United States of America and the State of Illinois;
- c. Failed to provide the Decedent and other employees with personal protective equipment such as masks, latex gloves and other devices designed to prevent the infection of COVID-19;
- d. Failed to warn the Decedent and other employees that various individuals were experiencing symptoms at the store and may have been infected by COVID-19 which was present and active within the store;
- e. Failed to adequately address and otherwise ignored other employees at the store who communicated to management that they were experiencing signs and symptoms of COVID-19;
- f. Failed to follow the recommendations and descriptions of mandatory safety and health standards promulgated by the United States Department of Labor and the Occupational Health and Safety Administration as set out in *Guidance on Preparing Workplaces for COVID-19*;
- g. Failed to follow the guidelines promulgated by the Center for Disease Control and Prevention ("CDC") to keep its workplace in a safe and healthy condition and to prevent employees and others within the store from contracting COVID-19;
- h. Failed to develop an Infectious Disease Preparedness and Response Plan as is recommended by the CDC;

i. Failed to prepare or implement basic infection prevention measures as is recommended by the CDC;

j. Failed to conduct periodic inspections of the condition and cleanliness of the store to prevent and/or minimize the risk of employees and others from contracting COVID-19 as is recommended by the CDC;

k. Failed to provide employees with antibacterial soaps, antibacterial wipes and other cleaning agents as is recommended by the CDC;

l. Failed to develop policies and procedures for prompt identification and isolation of sick people as is recommended by the CDC;

m. Failed to develop, implement and communicate to its employees about workplace flexibilities and protections as is recommended by the CDC;

n. Failed to implement engineering controls designed to prevent COVID-19 infection including, but not limited to, installing high-efficiency air filters, increasing ventilation rates in the work environment and installing physical barriers such as clear plastic sneeze guards as is recommended by the CDC;

o. Failed to cease operations of the store and to otherwise close the store when it knew or should have known that various employees and others present at the store were experiencing symptoms of COVID-19;

p. Failed to properly train its personnel to implement and follow procedures designed to minimize the risk of contracting COVID-19;

q. Failed to periodically interview and/or evaluate its employees for signs and symptoms of COVID-19;

r. Failed to prohibit employees who were exhibiting signs and symptoms of COVID-19 from working at the store or otherwise entering the premises; and,

s. Hired employees via telephone and other remote means in an expedited process without personally interviewing or evaluating whether prospective employees had been exhibiting signs and symptoms of the COVID-19 prior to the commencement of their employment.

4. As a direct and proximate cause of the above acts and/or omissions of willful and wanton and reckless disregard for others, the Decedent was infected by COVID-19 and ultimately died due to complications of COVID-19.

5. As a direct and proximate result of the aforesaid acts and/or omissions, the Special Administrator TONEY EVANS, the brother of the Decedent, has suffered and will continue to suffer the loss of WANDO EVANS' society, love, affection, and guidance.

6. This count is brought pursuant to the Illinois Wrongful Death Act, 740 ILCS 180-1 et seq.

WHEREFORE, TONEY EVANS, Special Administrator of the Estate of WANDO EVANS, demands judgment against the Defendant, WALMART, INC. , for a sum in excess of the jurisdictional limits of the Law Division of the Circuit Court of Cook County.

COUNT THREE – WALMART, INC. WRONGFUL DEATH – SURVIVAL

ACTION

1. Plaintiffs incorporate by reference all prior allegations contained in this Complaint.

2. As a direct and proximate result of the aforesaid acts of negligence and willful and wanton misconduct, WANDO EVANS was infected by COVID-19 which ultimately resulted in his death.

3. On March 25, 2020 and prior to his death, WANDO EVANS suffered injuries and illnesses that proximately caused pain and suffering and significant medical and hospital bills.

4. This count is brought pursuant to the Illinois Survival Act, 735 ILCS 5/13-29 and 755 ILCS 5/27-6.

WHEREFORE, TONEY EVANS, Special Administrator of the Estate of WANDO EVANS, demands judgment against the Defendant, WALMART, INC., for a sum in excess of the jurisdictional limits of the Law Division of the Circuit Court of Cook County.

COUNT FOUR – WALMART, INC. - WRONGFUL DEATH – ILLINOIS FAMILY

EXPENSE STATUTE

1. Plaintiffs incorporate by reference all prior allegations contained in this Complaint.

2. As a direct and proximate result of the aforesaid acts of negligence and willful and wanton misconduct, WANDO EVANS was infected by COVID-19 which ultimately resulted in his death.

3. On March 25, 2020 and prior to his death, WANDO EVANS suffered injuries and illnesses that proximately caused TONEY EVANS to incur significant expenses including medical bills, funeral bills and burial expenses.

4. This count is brought pursuant to the Illinois, "Family Expense Statute," 750 ILCS 65/15.

WHEREFORE, TONEY EVANS, Special Administrator of the Estate of WANDO EVANS, demands judgment against the Defendant, WALMART, INC., for a sum in excess of the jurisdictional limits of the Law Division of the Circuit Court of Cook County.

COUNT FIVE – J2M EVERGREEN, LLC – NEGLIGENCE – WRONGFUL DEATH

1. Plaintiffs incorporate by reference all prior allegations contained in this Complaint.
2. As the owner and manager of the retail shopping center including the commercial building in which WALMART, INC. was conducting its operations, this Defendant owed the Decedent a duty of ordinary care and to be free from negligence.
3. JM2 – EVERGREEN violated this duty of care and committed the following acts and/or omissions of negligence:
 - a. Failed to close the business operations of the Walmart Supercenter and adjacent businesses and buildings during the escalation of the COVID-19 pandemic when it knew, or should have known, that operation of a high volume retail facility would greatly increase the risk of infection;
 - b. Failed to inspect, clean, cleanse or sterilize the interior and exterior of the building in which the Walmart Supercenter conducted its operations;
 - c. Failed to implement any procedures or guidelines to be followed by Walmart Supercenter personnel and customers so as to prevent the spread of COVID-19 to other locations in the vicinity;
 - d. Failed to implement and/or enforce social distancing guidelines promulgated by the governments of the United States of America and the State of Illinois;and,

e. Failed to follow CDC regulations and guidelines regarding prevention of COVID-19 infection at commercial premises and buildings.

4. As a direct and proximate cause of the above acts and/or omissions of negligence, the Decedent was infected by COVID-19 and ultimately died due to complications of COVID-19.

5. As a direct and proximate result of the above acts and/or omissions of negligence, the Special Administrator TONEY EVANS, the brother of the Decedent, has suffered and will continue to suffer the loss of WANDO EVANS' society, love, affection, and guidance.

6. This count is brought pursuant to the Illinois Wrongful Death Act, 740 ILCS 180-1 et seq.

WHEREFORE, TONEY EVANS, Special Administrator of the Estate of WANDO EVANS, demands judgment against the Defendant, J2M - EVERGREEN, LLC., for a sum in excess of the jurisdictional limits of the Law Division of the Circuit Court of Cook County.

COUNT SIX – J2M EVERGREEN, LLC - WRONGFUL DEATH – SURVIVAL

ACTION

1. Plaintiffs incorporate by reference all prior allegations contained in this Complaint.

2. As a direct and proximate result of the aforesaid acts of negligence and willful and wanton misconduct, WANDO EVANS was infected by COVID-19 which ultimately resulted in his death.

3. On March 25, 2020 and prior to his death, WANDO EVANS suffered injuries and illnesses that proximately caused pain and suffering and significant medical and hospital bills.

4. This count is brought pursuant to the Illinois Survival Act, 735 ILCS 5/13-29 and 755 ILCS 5/27-6.

WHEREFORE, TONEY EVANS, Special Administrator of the Estate of WANDO EVANS, demands judgment against the Defendant, J2M – EVERGREEN, LLC for a sum in excess of the jurisdictional limits of the Law Division of the Circuit Court of Cook County.

COUNT SEVEN – J2M EVERGREEN, LLC - WRONGFUL DEATH – ILLINOIS

FAMILY EXPENSE STATUTE

1. Plaintiffs incorporate by reference all prior allegations contained in this Complaint.
2. As a direct and proximate result of the aforesaid acts of negligence and willful and wanton misconduct, WANDO EVANS was infected by COVID-19 which ultimately resulted in his death.
3. On March 25, 2020 and prior to his death, WANDO EVANS suffered injuries and illnesses that proximately caused TONEY EVANS to incur significant expenses including medical bills, funeral bills and burial expenses.
4. This count is brought pursuant to the Illinois, “Family Expense Statute,” 750 ILCS 65/15.

WHEREFORE, TONEY EVANS, Special Administrator of the Estate of WANDO EVANS, demands judgment against the Defendant, J2M – EVERGREEN, LLC for a sum in excess of the jurisdictional limits of the Law Division of the Circuit Court of Cook County.

Respectfully Submitted,

TONEY EVANS, Special Administrator of the
Estate of WANDO EVANS, Deceased

By:



Plaintiff's Attorney

Tony S. Kalogerakos, Esq.
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Firm No. 43776

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – LAW DIVISION

TONEY EVANS, Special Administrator
Of the Estate of WANDO EVANS, Deceased

Plaintiff

v.

WALMART, INC. and J2M - EVERGREEN,
LLC

Defendants.

Case No.:

AFFIDAVIT

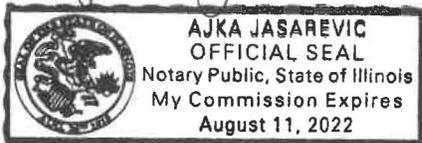
I, Tony S. Kalogerakos, one of the attorneys for Plaintiff, TONEY EVANS, Special Administrator of the Estate of WANDO EVANS, Decedent, first duly sworn state:

1. I am a licensed attorney in the State of Illinois.
2. This lawsuit arises from the wrongful death of WANDO EVANS which occurred on March 25, 2020.
3. Plaintiff seeks relief in an amount in excess of \$50,000.00 plus costs.
4. This Affidavit is submitted in compliance with Supreme Court Rule 222(b).

Further Affiant Sayeth Naught.

Tony S. Kalogerakos, Esq.

SUBSCRIBED AND SWORN TO
Before me this 6th day
Of April, 2020



FILED DATE: 4/16/2020 11:44 AM 2020L003938