

Filing # 125766535 E-Filed 04/28/2021 01:26:43 PM

IN THE CIRCUIT COURT
OF THE 15TH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

KAREN ORSAK, as Personal Representative
of the Estate of JOSEPH C. ORSAK, SR.,

CASE NO.:

Plaintiff,

-vs-

AMERICAN FLYER VALET INC. and
BOCA RATON REGIONAL HOSPITAL, INC.

Defendants.

COMPLAINT

COMES NOW the Plaintiff, KAREN ORSAK, as Personal Representatives of the Estate of JOSEPH C. ORSAK, SR., ("PLAINTIFF"), by and through the undersigned counsel, and sues the Defendants, AMERICAN FLYER VALET INC., and BOCA RATON REGIONAL HOSPITAL, INC., and alleges as follows:

1. This is an action for wrongful death and, in the alternative, a survival action arising from Defendants' negligence which resulted in damages that exceeds the minimum jurisdictional amount of this Court.

2. At all times material hereto, the Decedent, JOSEPH C. ORSAK, SR., was a resident of Palm Beach County, Florida.

3. On or about January 14, 2020, JOSEPH C. ORSAK, SR, died.

4. The Plaintiff, KAREN ORSAK, is the duly appointed, qualified and acting Personal Representative of the Estate of JOSEPH C. ORSAK, SR. A copy of the Letters of Administration

appointing the Plaintiff, KAREN ORSAK, as Personal Representative is attached to the Complaint as Exhibit "A".

5. At all times herein, the Plaintiff, KAREN ORSAK is and was a resident of Palm Beach County, Florida.

6. At all times herein, the Defendant, AMERICAN FLYER VALET INC. ("AMERICAN FLYER"), is and was a Florida corporation doing business in the State of Florida, and in fact doing business in Palm Beach County, Florida, and provided valet services on the premises of BOCA RATON REGIONAL HOSPITAL, INC. ("BRRH") for the benefit of the hospital and its patients and visitors.

7. At all times material hereto, the Defendant, BRRH, is and was a Florida not-for-profit corporation doing business in the State of Florida, and in fact doing business in Palm Beach County, Florida, and owned the subject premises and retained the services of AMERICAN FLYER to operate on BRRH's property, where the incident occurred.

8. At all times material hereto, the Defendant, BRRH, employed, contracted, partnered, and/or engaged in business activities with the Defendant, AMERICAN FLYER, by hiring and/or leasing, sub-leasing, and/or allowing AMERICAN FLYER to operate a valet service on the premises of the Boca Raton Regional Hospital and provide valet services to patrons of BRRH, including the Decedent and the Plaintiff, KAREN ORSAK.

9. All conditions precedent have been performed or occurred.

10. This Court has personal jurisdiction over the parties because the Defendants operate, conduct, and/or engage in business and substantial and not isolated activity in Palm Beach County, Florida.

FACTUAL ALLEGATIONS

Plaintiff re-alleges and incorporates by reference the allegations of paragraphs 1-10 as if fully set forth herein.

11. On or about December 11, 2019, JOSEPH C. ORSAK, SR., was driven by his daughter, KAREN ORSAK, to Boca Raton Regional Hospital for medical services. JOSEPH C. ORSAK, SR., was a back seat passenger in his daughter's vehicle.

12. On this date, KAREN ORSAK pulled her vehicle up to and parked in front of the valet stand being operated by AMERICAN FLYER at the entrance of BRRH. The AMERICAN FLYER valet attendant assisted KAREN ORSAK in removing a wheelchair from the trunk of the vehicle for the intended use of JOSEPH C. ORSAK, SR.

13. As the Plaintiff, KAREN ORSAK, was assisting her father from exiting the backseat of the vehicle and before she had closed the rear door, the valet attendant precipitously pulled the vehicle away from the curb, causing JOSEPH C. ORSAK, SR., to fall to the ground.

14. As a result, JOSEPH C. ORSAK, SR., sustained serious bodily injuries.

15. Subsequently, on or about January 14, 2020, JOSEPH C. ORSAK, SR., died at Trustbridge, Hospice by the Sea, in Boca Raton, Palm Beach County, Florida.

COUNT I:
NEGLIGENCE AGAINST THE DEFENDANT,
AMERICAN FLYER VALET, INC.

The Plaintiff, KAREN ORSAK, realleges and incorporates the allegations set forth in paragraphs 1-15 as if fully set forth herein.

16. The Defendant, AMERICAN FLYER, owed a duty of reasonable care to conduct its valet operations at the entrance of BRRH in a reasonably safe manner to ensure the safety of

others, which includes, but is not limited to, reasonable efforts to properly hire, train, and supervise its valet attendants, to check each and every vehicle's occupancy and confirm that each person has safely exited and cleared the vehicle's vicinity, and to visualize that all passengers are safely on the sidewalk or curb prior to driving and/or pulling the vehicle away, that might foreseeably give rise to loss, injury, or damage.

17. At all times material hereto, the Defendant, AMERICAN FLYER, through its employees, agents, servants, and/or partners, negligently failed to conduct its valet operations by negligently failing to confirm that JOSEPH C. ORSAK, SR. had safely cleared the vehicle before negligently operating KAREN ORSAK'S vehicle, causing JOSEPH C. ORSAK, SR. to fall and suffer serious injuries.

18. Plaintiff's survival claim: As a direct and proximate result of the Defendant, AMERICAN FLYER's negligence, JOSEPH C. ORSAK, SR., suffered a permanent injury. The Plaintiff claims the resulting bodily injury, pain and suffering, disability, physical impairment, disfigurement, mental anguish, inconvenience, loss of capacity for the enjoyment of life, the reasonable value or expense of hospitalization, medical and nursing care and treatment reasonably or necessarily obtained by JOSEPH C. ORSAK, SR., and aggravation of a previously existing condition. These losses are permanent.

19. Alternatively, Plaintiff's wrongful death claim: As a result of Defendant AMERICAN FLYER's negligence, JOSEPH C. ORSAK, SR., suffered severe trauma and substantial bodily injuries necessitating medical treatment, all of which ultimately caused his untimely death.

20. The potential beneficiaries of the recovery in the wrongful death claim and their relationship to the Decedent, JOSEPH C. ORSAK, SR., are:

Estate of JOSEPH ORSAK;

JOSEPH ORSAK, JR., son, date of birth March 11, 1952;

DAVID ORSAK, son, date of birth September 7, 1953;

DARLENE MYERS, daughter, date of birth November 2, 1954;

KAREN ORSAK, daughter, date of birth March 2, 1956;

JAMES E. ORSAK, son, date of birth January 9, 1967;

PATRICIA POSEY, daughter, date of birth June 12, 1969.

21. As a result of the death of JOSEPH C. ORSAK, SR., the Plaintiff, KAREN ORSAK, as Personal Representative of the Estate of JOSEPH C. ORSAK, SR., seeks all damages allowed under the Florida Wrongful Death Act, which include but are not limited to the following:

- (a) Loss of parental companionship, instruction and guidance and for mental pain and suffering, applicable to the survivors listed above;
- (b) The loss of net accumulations of the Estate of JOSEPH C. ORSAK, SR.;
- (c) Medical and funeral expenses incurred by the Estate of JOSEPH C. ORSAK, SR.;
- (d) Any and all other damages and relief available under the Florida Wrongful Death Act.

WHEREFORE, the Plaintiff, KAREN ORSAK, as Personal Representative of the Estate of JOSEPH C. ORSAK, SR., sues the Defendant, AMERICAN FLYER VALET INC. for

compensatory damages, costs and interest and demands trial by jury of all issues so triable as a matter of right.

COUNT II:
NEGLIGENCE AGAINST THE DEFENDANT
BOCA RATON REGIONAL HOSPITAL, INC.

The Plaintiff, KAREN ORSAK, realleges and incorporates the allegations set forth in paragraphs 1-15 as if fully set forth herein.

22. The Defendant, BRRH, owed a nondelegable duty of reasonable care to maintain, inspect, and provide reasonably safe valet services on its premises in a reasonably safe manner to ensure the safety of business invitees and/or visitors on its premises. Said duty includes reasonable efforts to ensure that any contractors, employees, agents, servants, and/or partners, providing valet services are properly hired, trained, and/or supervised, and that they reasonably check each and every vehicle's occupancy and confirm that each person has safely exited and cleared the vehicle's vicinity as well as visualizing that all passengers are safely on the sidewalk or curb prior to driving and/or pulling the vehicle away, that might foreseeably give rise to loss, injury, or damage.

23. At all times material hereto, the Defendant, BRRH, through its contractors, employees, agents, servants, and/or partners, negligently failed to hire, train, supervise, and/or conduct its on-site valet operations causing JOSEPH C. ORSAK, SR. to fall and suffer serious injuries.

24. Plaintiff's survival claim: As a direct and proximate result of the Defendant, BRRH's negligence, JOSEPH C. ORSAK, SR., suffered a permanent injury. The Plaintiff claims the resulting bodily injury, pain and suffering, disability, physical impairment, disfigurement, mental anguish, inconvenience, loss of capacity for the enjoyment of life, the reasonable value or

expense of hospitalization, medical and nursing care and treatment reasonably or necessarily obtained by JOSEPH C. ORSAK, SR., and aggravation of a previously existing condition. These losses are permanent.

25. Alternatively, Plaintiff's wrongful death claim: As a result of Defendant BRRH's negligence, JOSEPH C. ORSAK, SR., suffered severe trauma and substantial bodily injuries necessitating medical treatment, all of which ultimately caused his untimely death.

26. The potential beneficiaries of the recovery in the wrongful death claim and their relationship to the Decedent, JOSEPH C. ORSAK, SR., are:

Estate of JOSEPH ORSAK;

JOSEPH ORSAK, JR., son, date of birth March 11, 1952;

DAVID ORSAK, son, date of birth September 7, 1953;

DARLENE MYERS, daughter, date of birth November 2, 1954;

KAREN ORSAK, daughter, date of birth March 2, 1956;

JAMES E. ORSAK, son, date of birth January 9, 1967;

PATRICIA POSEY, daughter, date of birth June 12, 1969.

27. As a result of the death of JOSEPH C. ORSAK, SR., the Plaintiff, KAREN ORSAK, as Personal Representative of the Estate of JOSEPH C. ORSAK, SR., seeks all damages allowed under the Florida Wrongful Death Act, which include but are not limited to the following:

- (a) Loss of parental companionship, instruction and guidance and for mental pain and suffering, applicable to the survivors listed above;
- (b) The loss of net accumulations of the Estate of JOSEPH C. ORSAK, SR.;
- (c) Medical and funeral expenses incurred by the Estate of JOSEPH C.

Karen Orsak, as Personal Representative of the Estate of Joseph C. Orsak, Sr. vs. American Flyer Valet, Inc. and Boca Raton Regional Hospital, Inc.

Case No:
Complaint

ORSAK, SR.;

- (d) Any and all other damages and relief available under the Florida Wrongful Death Act.

WHEREFORE, the Plaintiff, KAREN ORSAK, as Personal Representative of the Estate of JOSEPH C. ORSAK, SR., sues the Defendant, BOCA RATON REGIONAL HOSPITAL, INC., for compensatory damages, costs and interest and demands trial by jury of all issues so triable as a matter of right.

RESPECTFULLY submitted this 26th day of April, 2021.

STEINGER, GREENE & FEINER

Attorneys for Plaintiff

1645 Palm Beach Lakes Boulevard, 9th Floor

West Palm Beach, FL 33401


Telephone: (561) 616-5550

Facsimile: (561) 616-5551

ccamacho@injurylawyers.com

sslater@injurylawyers.com

sedwards@injurylawyers.com



Concetta Camacho, Esquire

Florida Bar No.: 43462

IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA PROBATE DIVISION IN RE: ESTATE OF

JOSEPH C. ORSAK, SR.

Deceased.

File No. 2020CP002159

Division II

LETTERS OF ADMINISTRATION (single personal representative)

TO ALL WHOM IT MAY CONCERN

WHEREAS, Joseph C. Orsak, Sr, a resident of Palm Beach County, Florida, died on January 14, 2020, owning assets in the State of Florida, and

WHEREAS, Karen R. Orsak has been appointed personal representative of the estate of the decedent and has performed all acts prerequisite to issuance of Letters of Administration in the estate,

NOW, THEREFORE, I, the undersigned circuit judge, declare Karen R. Orsak duly qualified under the laws of the State of Florida to act as personal representative of the estate of Joseph C. Orsak, Sr, deceased, with full power to administer the estate according to law; to ask, demand, sue for, recover and receive the property of the decedent; to pay the debts of the decedent as far as the assets of the estate will permit and the law directs; and to make distribution of the estate according to law.

DONE AND ORDERED in Palm Beach Gardens, Palm Beach County, Florida.



STATE OF FLORIDA • PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy as recorded in my office and the same is in full force and effect.

THIS DAY OF AUG 2020 SHARON R. BOCK CLERK/COMPTROLLER

By DEPUTY CLERK

50-2020-CP-002159-XXXX-NB 08/03/2020 Karen M. Miller Judge

50-2020-CP-002159-XXXX-NB 08/03/2020 Karen M. Miller Judge

This estate shall be closed within 12 months of this order, pursuant to Florida Probate Rule 5.400.

