



IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

ALONDAN M. TURNER, individually,)
and as mother and next friend of)
ALONDAN "Angel" TURNER, a deceased)
minor; ANYEA MUSE, individually, and)
as father and next friend of CATHERINE)
ANNE MUSE, a deceased minor; and)
DAWN BERRY, individually, and as)
mother and next friend of CATHERINE)
ANNE MUSE, a deceased minor;)

Plaintiffs,

vs.

PAPASHA, INC. d/b/a DAYS INN)
SOUTH, BIRMINGHAM; SPP, INC.;)
CHRIS PAREKH; DHIRAJLAL)
BHAGAT; and Fictitious Party)
Defendants, No. 1 through No. 23,)
hereinafter described.)

Defendants.

CIVIL ACTION NUMBER:

- No. 1, whether singular or plural, Plaintiffs hereby intending to designate the correct legal designation of the entity known only to the Plaintiffs as Papasha, Inc. d/b/a Days Inn South, Birmingham;
- No. 2, whether singular or plural, Plaintiffs hereby intending to designate the correct legal designation of the entity known only to the Plaintiffs as SPP, Inc.;
- No. 3, Plaintiffs hereby intending to designate that individual who is known only to Plaintiff as Chris Parekh;
- No. 4, Plaintiffs hereby intending to designate that individual or who is known only to Plaintiffs as Dhirajlal Bhagat;
- No. 5, whether singular or plural, Plaintiffs hereby intending to designate the firm, corporation, or entity who or which owned, operated and/or leased the premises involved in the incident made the basis of this suit;
- No. 6, whether singular or plural, Plaintiffs hereby intending to designate the firm, person, corporation or entity for whom the person or persons who caused the fire was/were acting as agents, servants or employees on the occasion made the basis of this suit;
- No. 7, whether singular or plural, Plaintiffs hereby intending to designate the corporation or entity whose negligence contributed/caused the death of Plaintiffs' decedents on the occasion made the basis of this suit;

No. 8, whether singular or plural, the entity or those entities who or which afforded any insurance coverage to any of the lessors, lessees, operators and/or the owner(s) of the premises involved in the occurrence made the basis of this lawsuit;

No. 9, whether singular or plural, the entity or those entities who or which provided maintenance and upkeep on the premises involved in the occurrence made the basis of this lawsuit;

No. 10, whether singular or plural, that entity or those entities who or which did any repair work on the premises involved in the occurrence made the basis of this lawsuit;

No. 11, whether singular or plural, that entity or those entities who or which were responsible for notifying the Plaintiffs' decedent of the fire occurring on or adjacent to the subject property prior to the incident which is made the basis of this lawsuit;

No. 12, whether singular or plural, that entity or those entities who or which were the manufacturer and/or distributor of the fire extinguisher(s) that were defective during the event made the basis of this lawsuit;

No. 13, whether singular or plural, that entity or those entities who or which were the employer, master, or principal of the fictitious parties described herein;

No. 14, whether singular or plural, that entity or those entities who or which was responsible for the condition or state of repair of the premises involved in the occurrence made the basis of this lawsuit;

No. 15, whether singular or plural, that entity or those entities, that individual or those individuals who or which repaired, altered, or maintained the premises involved in the occurrence made the basis of this lawsuit;

No. 16, whether singular or plural, that entity or those entities who or which issued, or had a duty to issue warnings or instructions regarding the evacuation in the event of fire from the premises involved in the occurrence made the basis of this lawsuit;

No. 17, whether singular or plural, that entity or those entities who or which tested, inspected, approved, or issued any approval of any of the condition of the premises involved in the occurrence made the basis of this lawsuit,

No. 18, whether singular or plural, that entity or those entities who or which had supervisory authority relating to the maintenance, repair, or to the selection, training and hiring of personnel maintaining or repairing the premises involved in the occurrence made the basis of this lawsuit;

No. 19, whether singular or plural, that entity or those entities who or which issued any policy of insurance which provided coverage for the death of Plaintiffs' decedents on the occasion made the basis of this lawsuit;

No. 20, whether singular or plural, that entity or those entities other than those entities described above whose breach of contract or warranty contributed to cause the occurrence made the basis of this lawsuit;

No. 21, whether singular or plural, that entity or those entities, other than those entities described above, which is the successor in interest of any of those entities described above;

No. 22, whether singular or plural, that entity or those entities, other than those entities described above, which was the predecessor corporation of any of the entities described above;

No. 23, whether singular or plural, that entity or those entities, or individual, other than those named above whose negligence, wantonness or other wrongful conduct contributed to cause the occurrence made the basis of this lawsuit;

Plaintiffs aver that the identities of the Fictitious Party Defendants are otherwise unknown to Plaintiffs at this time, or if their names are known to Plaintiffs at this time their identities as proper party defendants are not known to Plaintiffs at this time, but their true names will be substituted by amendment when ascertained.

COMPLAINT
Parties

1. Plaintiff Alondan M. Turner is a resident citizen of Walker County, Alabama, and over the age of nineteen years. Ms. Turner is the mother and next friend of Alondan “Angel” Turner, a deceased minor.

2. Plaintiff Anyea Muse is a resident citizen of Fulton County, Georgia, and over the age of nineteen years. Mr. Muse is the father and next friend of Catherine Anne Muse, a deceased minor.

3. Plaintiff Dawn Berry is a resident citizen of Pasco County, Florida, and over the age of nineteen years. Ms. Berry is the mother and next friend of Catherine Anne Muse, a deceased minor.

4. Defendant Papasha, Inc. d/b/a Days Inn South, Birmingham, an Alabama corporation with its principal place of business in Jefferson County, Alabama, owns the Days Inn South, Birmingham (hereinafter “Days Inn South”).

5. Defendant SPP, Inc., an Alabama corporation with its principal place of business in Jefferson County, Alabama, operates the Days Inn South.

6. Defendant Chris Parekh is believed to be a resident citizen of Jefferson County, Alabama, and is over the age of nineteen years. Mr. Parekh, one of the owners of the Days Inn South, was also the manager of the motel at the time of the incident made the basis of this litigation.

7. Defendant Dhirajlal Bhagat is over the age of majority and is believed to be a resident citizen of India. Defendant Bhagat was employed as a maintenance man by Days Inn South at the time of the incident made the basis of this lawsuit.

8. Fictitious parties Nos. 1 through 23, are the persons or entities, whether singular or plural, who or which caused or contributed to cause the death of Plaintiffs' decedents as set forth herein. Plaintiffs hereby adopt and incorporate by reference the fictitious parties in interest, described as No. 1 through No. 23, fully and completely as if set out herein. The identities of these fictitious party defendants are unknown to the Plaintiffs or their identities as proper party defendants are unknown, and whose true names will be substituted by amendment when the aforesaid lacking knowledge is ascertained.

Facts

9. On January 16, 2010, the Plaintiffs' decedents, Alondan "Angel" Turner and Catherine Anne Muse were business invitees on the premises owned, maintained, operated and/or controlled by the Defendants, Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; Dhirajlal Bhagat; and one or more of the Fictitious Party Defendants, located at 1535 Montgomery Highway, Hoover, Alabama 35216.

10. At said time and place, the motel caught on fire and was subsequently engulfed in flames. Upon information and belief, the fire started in the room of the motel's maintenance man, Dhirajlal Bhagat, an illegal immigrant who left incense burning unattended on a prayer shrine in the room. Before notifying the management or the authorities or warning the motel guests of the fire, Bhagat attempted unsuccessfully to extinguish the fire himself.

11. By the time Alondan "Angel" Turner and her cousin, Catherine Anne Muse were aware of the fire, the girls were trapped in their motel room and died as a result of the fire.

COUNT I
Negligence/Wantonness

12. Plaintiffs adopt each and every material allegation of the preceding paragraphs as if fully set out herein and incorporate same by reference.

13. On January 16, 2010, the Defendants, Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; and one or more of the Fictitious Party Defendants, employed Defendant Dhirajlal Bhagat as a maintenance worker at the Days Inn South, and allowed him to live at said motel and maintain a prayer shrine in his room. According to information and belief, Defendant Bhagat had been living at the motel for several years and was allowed to continue working at the motel after his work visa had expired. At the time of the incident made the basis of this lawsuit, Defendant Bhagat was an illegal immigrant and had been for several years.

14. On January 16, 2010, Defendant Bhagat, while acting as agent, servant or employee of Defendants, Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; and one or more of the Fictitious Party Defendants, negligently and/or wantonly left incense burning unattended in his motel room. When he returned to his room, he discovered a fire. Before notifying the management or the authorities or warning the motel guests of the fire, Defendant Bhagat wasted precious time by attempting unsuccessfully to extinguish the fire himself. As a result, the fire engulfed the motel and trapped Alondan “Angel” Turner and Catherine Anne Muse in their room.

15. At the aforesaid time and place, Defendant Bhagat was engaged in the regular course and scope of his employment for the Defendants, Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; and one or more of the Fictitious Party Defendants, and while so engaged, he negligently and/or wantonly left incense burning unattended in his motel

room. Further, after discovering the fire, Defendant Bhagat negligently and/or wantonly failed to notify the management or the authorities or warn the motel guests of the fire, until unsuccessfully attempting to extinguish the fire himself. As a proximate result of the individual and combined negligence and/or wantonness of the Defendants, Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; Dhirajlal Bhagat; and one or more of the Fictitious Party Defendants, Plaintiffs' decedents were fatally injured.

WHEREFORE, ABOVE PREMISES CONSIDERED, the Plaintiffs demand judgment against the Defendants, both named and fictitious party, jointly and severally, in an amount to be determined by jury along with interests and costs.

COUNT II
Negligence/Wantonness

16. Plaintiffs adopt each and every material allegation of the preceding paragraphs as if fully set out herein and incorporate same by reference.

17. On January 16, 2010, the Defendants, Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; Dhirajlal Bhagat; and one or more of the Fictitious Party Defendants, undertook to and did provide motel services to Alondan "Angel" Turner and Catherine Anne Muse at the Days Inn South, and in doing so Defendants negligently and/or wantonly committed the following acts and/or omissions:

- a. Allowed a fire to be started on the premises by Dhirajlal Bhagat;
- b. Failed to properly respond to the fire started by Dhirajlal Bhagat;
- c. Failed to maintain the fire extinguishers on the premises;
- d. Failed to timely notify authorities of the fire;
- e. Failed to warn motel guests of the fire;

f. Failed to take adequate safety measures to prevent the deaths of the Plaintiffs' decedents; and

g. Failed to provide a safe premises.

18. As a direct and proximate result of the negligent and/or wanton conduct of the Defendants as set forth hereinabove the Plaintiffs' decedents were fatally injured.

WHEREFORE, ABOVE PREMISES CONSIDERED, the Plaintiffs demand judgment against the Defendants, both named and fictitious party, jointly and severally, in an amount to be determined by jury along with interests and costs.

COUNT III

(Negligent and/or Wanton Hiring, Supervision, Training and Retention)

19. Plaintiffs adopt each and every material allegation of the preceding paragraphs as if fully set out herein and incorporate same by reference.

20. Defendants Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; and one or more of the Fictitious Party Defendants, owed a duty to Plaintiffs' decedents to hire staff qualified and/or competent to maintain the motel in a fit, safe and habitable condition, to supervise their employees, and to provide staff trained in providing a fit, safe and habitable environment for their business invitees.

21. At all times material, Defendant Bhagat was employed by Defendants, Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; and one or more of the Fictitious Party Defendants, and under the direct supervision and control of Defendants, or was an agent or employee thereof when he committed the wrongful acts alleged herein.

22. Defendant Bhagat engaged in the wrongful conduct while acting in the course and scope of his employment or work with Defendants, Papasha, Inc. d/b/a Days Inn South,

Birmingham; SPP, Inc.; Chris Parekh; and one or more of the Fictitious Party Defendants, which proximately caused the fatal injuries Plaintiff's decedents.

23. At all times material and for some time prior thereto, Defendant Chris Parekh was the manager of the Days Inn, as well as one of the owners.

24. Defendants, Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; and one or more of the Fictitious Party Defendants, negligently and/or wantonly failed to exercise ordinary care in supervising Defendant Bhagat in his position, negligently and/or wantonly failed to train Defendant Bhagat in the proper procedures to follow in the event of fire, and negligently and/or wantonly failed to prevent the foreseeable misconduct of Defendant Bhagat. Further, Defendants, Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; and one or more of the Fictitious Party Defendants, negligently and/or wantonly retained Defendant Bhagat as an employee long after his work visa had expired.

25. As a direct result of Defendants' negligent and/or wanton conduct, Plaintiffs' decedents were fatally injured.

WHEREFORE, ABOVE PREMISES CONSIDERED, the Plaintiffs demand judgment against the Defendants, both named and fictitious party, jointly and severally, in an amount to be determined by jury along with interests and costs.

COUNT IV
BREACH OF CONTRACT

26. Plaintiffs reallege and adopt by reference the allegations in the preceding paragraphs of this Complaint as if fully set forth herein

27. At the time of the incident made the basis of this lawsuit, Alondan "Angel" Turner and Catherine Anne Muse, for valuable consideration, contracted with Defendants

Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; and one or more of the Fictitious Party Defendants, to provide them with a room in which they would be guests.

28. At the time of the incident made the basis of this lawsuit, a motel room was rented to Alondan “Angel” Turner and Catherine Anne Muse by Defendants Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; and one or more of the Fictitious Party Defendants. When Defendants Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; and one or more of the Fictitious Party Defendants, rented a room to Alondan “Angel” Turner and Catherine Anne Muse, Defendants undertook a contractual obligation to Alondan “Angel” Turner and Catherine Anne Muse to provide a fit, safe and habitable room.

29. Defendants Papasha, Inc. d/b/a Days Inn South, Birmingham; SPP, Inc.; Chris Parekh; and one or more of the Fictitious Party Defendants, breached their obligation to Alondan “Angel” Turner and Catherine Anne Muse by:

- a. Allowing a fire to be started on the premises by Dhirajlal Bhagat;
- b. Failing to properly respond to the fire started by Dhirajlal Bhagat;
- c. Failing to maintain the fire extinguishers on the premises;
- d. Failing to timely notify authorities of the fire;
- e. Failing to warn motel guests of the fire;
- f. Failing to take adequate safety measures to prevent the deaths of the

Plaintiffs’ decedents; and

- g. Failing to provide a safe premises.

30. As a direct result of Defendants’ breach of contract, Plaintiffs’ decedents were fatally injured.

WHEREFORE, ABOVE PREMISES CONSIDERED, the Plaintiffs demand judgment against the Defendants, both named and fictitious party, jointly and severally, in an amount to be determined by jury along with interests and costs.

COUNT V
Fictitious Parties

31. Plaintiffs adopt and reallege each and every previously stated provision of this Complaint as if fully set out herein.

32. Plaintiff alleges that the wrongful conduct of the fictitious party defendants combined and concurred with the wrongful conduct of the named defendants and as a proximate consequence thereof Plaintiffs' decedents were fatally injured. All foregoing Counts and causes of action stated herein or contained in any subsequent amendment are hereby adopted and alleged against any fictitious party described in the caption and style of this or any Amended Complaint.

WHEREFORE, ABOVE PREMISES CONSIDERED, the Plaintiffs demand judgment against the Defendants, both named and fictitious party, jointly and severally, in an amount to be determined by jury along with interests and costs.

s/ Jason A. Shamblin
Annesley H. DeGaris (DEG002)
Jason A. Shamblin (SHA054)
Douglas A. Dellaccio, Jr. (DEL016)
CORY, WATSON, CROWDER & DEGARIS, P.C.
2131 Magnolia Avenue, Suite 200
Birmingham, Alabama 35205
Telephone: (205) 328-2200
Fax: (205) 324-7896
Email: adegar@cwcd.com
jshamblin@cwcd.com
ddellaccio@cwcd.com
Attorneys for the Plaintiffs

PLAINTIFFS HEREBY DEMAND A TRIAL BY JURY.

s/Jason A. Shamblin

OF COUNSEL

Plaintiffs' Addresses:

c/o Jason A. Shamblin
CORY, WATSON, CROWDER & DEGARIS, P.C.
2131 Magnolia Avenue, Suite 200
Birmingham, AL 35205

PLEASE SERVE DEFENDANTS BY CERTIFIED MAIL AS FOLLOWS:

Papasha, Inc.

c/o Chris Parekh
3317 Alta Loma Drive
Birmingham, AL 35216

SPP, Inc.

c/o Chris Parekh
3317 Alta Loma Drive
Birmingham, AL 35216

Chris Parekh

3317 Alta Loma Drive
Birmingham, AL 35216

Dhirajlal Bhagat

c/o Chris Parekh
3317 Alta Loma Drive
Birmingham, AL 35216