

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

GENERAL JURISDICTION DIVISION

CASE NO.:

50 2010 CA 005092 XXXXNB

GAVIN WILLIAMS, a minor, by and through
his natural parents and guardians, Ryan
Williams and Camille Williams, and RYAN
WILLIAMS, individually,

Plaintiffs,

v.

PALM BEACH SHORES RESORT AND
VACATION VILLAS ASSOCIATION,
INC., a Florida Corporation,

Defendant.

ON - Y

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SHARON B. BROWN, CLERK
PALM BEACH COUNTY
CIRCUIT COURT/JUDICIAL
2010 FEB 25 AM 8:54
FILED

COMPLAINT

Plaintiffs, GAVIN WILLIAMS, a minor, by and through his natural parents and guardians, Ryan Williams and Camille Williams, and RYAN WILLIAMS individually, sue Defendant, PALM BEACH SHORES RESORT AND VACATION VILLAS ASSOCIATION, INC., a Florida Corporation, ("PALM BEACH SHORES RESORT") and state:

JURISDICTION, VENUE, AND THE PARTIES

1. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs, and attorney's fees.
2. Venue is proper in Palm Beach County, Florida because the tortious conduct causing Plaintiffs' injuries occurred in Palm Beach County Florida.
3. At all times material hereto, Plaintiffs were and are residents of North Carolina.

4. At all times material hereto, Defendant, PALM BEACH SHORES, was and is a Florida Corporation with its principal place of business in Palm Beach County, Florida and doing business in Palm Beach County, Florida.

5. The acts and/or omissions of the Defendant, PALM BEACH SHORES which give rise to this action, and the incident that gives rise to this action, all occurred in Palm Beach County, Florida.

FACTS COMMON TO AND INCORPORATED IN ALL COUNTS

6. On October 9, 2009, Plaintiffs were invitees on the premises of PALM BEACH SHORES, and more particularly, at the restaurant named "the Tiki Bar," located on Defendant's premises at the Palm Beach Resort Hotel.

7. At that said date and place, Defendant owned, possessed, and/or maintained a Blue-and-Gold Macaw parrot for the benefit and pleasure of its invitees.

8. Blue-and-Gold Macaw parrots are wild, are not indigenous to the State of Florida, and are not domesticated animals.

9. The subject Blue-and-Gold Macaw parrot that Defendant owned, possessed, and/or maintained on the premises was a wild, domesticated animal.

10. The subject large Blue-and-Gold Macaw parrot presented a danger to Defendant's invitees, including the Plaintiffs, including due to its propensity to bite those who came in close proximity to it.

11. Upon arrival for their dinner reservations at the Tiki Bar, an employee of the Tiki Bar sat the Plaintiffs, and their family at a table in close proximity to the Blue-and-Gold Macaw parrot attraction.

12. At that said date and place, there were no visible warning signs displayed in view of the invitees of the Tiki Bar, including the Plaintiffs, to warn the Defendant's invitees, including Plaintiffs, that the Blue-and-Gold Macaw parrot was wild, dangerous, or had a propensity to bite, or that invitees on the premises, including minor children, to keep their hands or fingers away from the Blue-and-Gold Macaw parrot attraction, thereby rendering this parrot attraction unsafe for its invitees.

13. Similarly, no verbal instruction or warning was provided by the Defendant or its employees, including by an employee of Defendant verbally advising invitees, including the Plaintiffs, that the Blue-and-Gold Macaw parrot was wild, dangerous, or had a propensity to bite, or that invitees on the premises, including minor children, to keep their hands or fingers away from the Blue-and-Gold Macaw parrot attraction.

14. Plaintiff, GAVIN WILLIAMS, a minor and who was approximately 14 months of age at the time, became attracted to the Blue-and-Gold Macaw parrot attraction, which upon information and belief, was maintained on the premises for the benefit and pleasure of the Defendant's invitees.

15. Thereafter, Plaintiff, RYAN WILLIAMS, Gavin's father, accompanied his son to the parrot attraction maintained on the Defendant's premises.

16. Plaintiff, GAVIN WILLIAMS, suddenly and without prior warning extended his hand toward the Blue-and-Gold Macaw parrot and its cage when, without warning or provocation, the Blue-and-Gold Macaw parrot maintained by the Defendant on its premises swooped from its perch and grasped GAVIN WILLIAMS' left index finger in its beak.

17. Fearing for his son's safety, health and well-being, Plaintiff, RYAN WILLIAMS, took the Blue-and-Gold Macaw's large beak in his own hand, and attempted to pry the large beak from his son, GAVIN WILLIAMS', tiny left, index finger.

18. While Plaintiff, RYAN WILLIAMS, was in physical contact with and attempting to free his son's tiny, left index finger from the grasp of the large beak of the Blue-and-Gold Macaw parrot maintained by Defendant on its premises, the Blue-and-Gold Macaw parrot viciously bit down on Plaintiff, GAVIN WILLIAMS', left index finger, and in doing so, traumatically amputated a portion of Plaintiff, GAVIN WILLIAMS', left index finger.

19. Plaintiff, RYAN WILLIAMS, after passing GAVIN WILLIAMS to his mother to care for him, then attempted to locate and recover the portion of the finger that had been traumatically amputated, including to be able to attempt to save the finger for medical reattachment.

20. The Blue-and-Gold Macaw parrot maintained on the premises by Defendant, retained the amputated portion of the finger in its beak, returned to its perch, and proceeded to chew the amputated portion of Plaintiff, GAVIN WILLIAMS', finger until it was entirely consumed.

21. Plaintiff, RYAN WILLIAMS, observed the disturbing and grotesque consumption of his toddler son's finger by this wild and vicious Blue-and-Gold Macaw parrot that Defendant maintained on its premises.

22. As a result, the Plaintiff, GAVIN WILLIAMS, suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, and loss of capacity for the enjoyment of life. These losses are either permanent or continuing in nature, and Plaintiff will suffer future loss.

23. As a result of his son being attacked by the Blue-and-Gold Macaw parrot maintained by Defendant on its premises, while Plaintiff, RYAN WILLIAMS, was in physical contact with the subject Blue-and-Gold Macaw parrot, the Plaintiff, RYAN WILLIAMS, suffered mental anguish and extensive expenses due to his son's hospitalization, medical and nursing care, and treatment.

COUNT I: NEGLIGENCE—GAVIN WILLIAMS

Plaintiff realleges and incorporates into Count I, the allegations in paragraphs 1 through 23 above as if fully set forth herein, and further states:

24. Plaintiffs occupied the status of public invitees while on Defendant's premises.

25. As a result, Defendant, as the owner of the premises, owed Plaintiffs the following duties:

(a) to maintain the premises in a reasonably safe condition; and

(b) to guard against subjecting its invitees to dangers of which Defendant, as owner and occupier of the premises, is cognizant or should be cognizant.

26. Moreover, Defendant owed Plaintiff, GAVIN WILLIAMS, as a child invitee, a higher degree of care for his safety.

27. Defendant breached its duties owed to Plaintiff, GAVIN WILLIAMS, including but not limited in the following ways:

(a) maintaining a wild, non-domesticated Blue-and-Gold Macaw parrot on its premises, including one that posed a danger to invitees lawfully on the premises;

(b) maintaining the subject Blue-and-Gold Macaw parrot which presented a danger to Defendant's invitees, including the Plaintiffs, including due to its propensity to bite those who came in close proximity to it;

(c) failing to verbally warn Plaintiffs of the dangerous propensities of the Blue-and-Gold Macaw parrot which Defendant maintained on its premises;

(d) failing to provide or place written warnings as to the dangerous propensities of the Blue-and-Gold Macaw parrot which Defendant maintained on its premises, including on the parrot attraction in a location that would be viewable by invitees, including the Plaintiffs, while lawfully upon the premises of the Tiki Bar restaurant;

(e) placing the Plaintiffs—a family with a small child—at a table in close proximity to the dangerous Blue-and-Gold Macaw parrot which Defendant maintained on its premises;

(f) not securing the parrot in a cage that prevented Defendant's invitees, including minor children, from placing their hands or fingers near or inside the parrot's cage attraction;

(g) maintaining on its premises a Blue-and-Gold Macaw parrot, including one that posed a danger, including due to its propensity to bite, in a cage attraction that did not protect its invitees from the dangers presented by this Blue-and-Gold Macaw parrot; and

(h) all other actions and/or omissions that created an unsafe environment for Defendant's invitees, including the minor invitee, GAVIN WILLIAMS.

28. As a direct and proximate result of one or more Defendant's breaches of its duties as enumerated above, GAVIN WILLIAMS suffered the traumatic amputation of a portion of his left index finger.

29. As a further direct and proximate result of one or more of Defendant's breaches of its duties, as enumerated above, Plaintiff, GAVIN WILLIAMS, a minor, suffered bodily injury, including the traumatic amputation of a portion of his left index finger, and resulting medical

expenses and bills, hospitalization, medical and nursing care and treatment, and pain and suffering, disability, disfigurement, mental anguish, and loss of capacity for the enjoyment of life. These losses are either permanent or continuing in nature, and Plaintiff will suffer future loss.

WHEREFORE, the Plaintiff, GAVIN WILLIAMS, a minor, by and through his natural parents and guardians, Ryan Williams and Camille Williams, demands judgment for compensatory damages in an amount exceeding Fifteen Thousand Dollars (\$15,000.00), together with costs and such other and further relief as the Court deems appropriate against Defendant, PALM BEACH SHORES.

COUNT II: STRICT LIABILITY FOR WILD ANIMAL—GAVIN WILLIAMS

Plaintiff realleges and incorporates into Count II, the allegations in paragraphs 1 through 23 above as if fully set forth herein, and further states:

31. On or about October 9, 2009, Defendant was the owner, keeper, maintainer and/or possessor of a wild, non-domesticated Blue-and-Gold Macaw parrot upon its premises at the Tiki Bar in the Palm Beach Resort Hotel.

32. This wild and large Blue-and-Gold Macaw parrot on Defendant's premises bit and traumatically amputated a portion of Plaintiff, GAVIN WILLIAMS', left, index finger.

33. Because it owned, kept, maintained and/or possessed this wild, non-domesticated Blue-and-Gold Macaw parrot on its premises, and this wild, non-domesticated Blue-and-Gold Macaw caused injury to Plaintiff, GAVIN WILLIAMS, a minor, the Defendant, PALM BEACH SHORES is strictly liability for the injuries and damages caused to GAVIN WILLIAMS, a minor.

34. As a direct and proximate result, the Plaintiff, GAVIN WILLIAMS, suffered bodily injury and resulting medical expenses and bills, hospitalization, medical and nursing care, and treatment, and resulting pain and suffering, disability, disfigurement, mental anguish, and loss of capacity for the enjoyment of life. These losses are either permanent or continuing in nature, and Plaintiff will suffer future loss.

WHEREFORE, the Plaintiff, GAVIN WILLIAMS, by and through his natural parents Ryan Williams and Camille Williams, demands judgment for compensatory and punitive damages in an amount exceeding Fifteen Thousand Dollars (\$15, 000.00), together with costs and such other and further relief as the Court deems appropriate against Defendant, PALM BEACH SHORES.

COUNT III: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS—
RYAN WILLIAMS

Plaintiff, RYAN WILLIAMS, realleges and incorporates into Count III, the allegations contained in paragraphs 1 through 23 above as if fully set forth herein, and further states:

34. Plaintiff, RYAN WILLIAMS, was in physical contact with the Blue-and-Gold Macaw parrot, specifically its large beak, when the subject parrot bit down on and traumatically amputated the left index finger of his son, GAVIN WILLIAMS, minor.

35. Thereafter, Plaintiff, RYAN WILLIAMS watched as the subject Blue-and-Gold Macaw parrot retained the amputated portion of his minor son's left, index finger in its beak, returned to its perch, and chewed the amputated portion of his son, Plaintiff, GAVIN WILLIAMS', finger until it was entirely consumed.

36. Plaintiff, RYAN WILLIAMS, has suffered and continues to suffer emotional distress stemming from this incident.

37. As a direct and proximate result of his son being attacked by Defendant's Blue-and-Gold Macaw parrot while Plaintiff, RYAN WILLIAMS, was in physical contact with the subject parrot, the Plaintiff, RYAN WILLIAMS, suffered mental anguish, and expenses due to his son's hospitalization, medical and nursing care and treatment.

WHEREFORE, Plaintiff, RYAN WILLIAMS, demands judgment for compensatory damages in an amount exceeding Fifteen Thousand Dollars (\$15, 000.00), together with costs and such other and further relief as the Court deems appropriate against Defendant, PALM BEACH SHORES.

DEMAND FOR JURY TRIAL

Plaintiffs, GAVIN WILLIAMS, by and through his natural parents and guardians, Gavin Williams and Camille Williams, and RYAN WILLIAMS, individually, demand a jury trial as to all matters triable by jury as a matter of law or right.

Dated this 24th day of February, 2010.

Respectfully submitted,

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