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

CASE NO:

DENIS DUDDY,

Plaintiff

vs.

WHITEHALL CONDOMINIUM
ASSOCIATION, INC.,

Defendant.

COMPLAINT

COMES NOW, Plaintiff, DENIS DUDDY, and sues Defendant, WHITEHALL CONDOMINIUM ASSOCIATION, INC. (hereafter "WHITEHALL ASSOCIATION"), and alleges:

JURISDICTIONAL ALLEGATIONS

1. This is an action for damages which exceeds Fifteen Thousand (\$15,000.00) Dollars.
2. At all times material hereto, Plaintiff, DENIS DUDDY resided in a luxury condominium building called "Whitehall Condominium", located at 2000 S. Ocean Blvd. in Boca Raton, Florida, in Palm Beach County. The high-rise condominium was located on the beach within walking distance to Deerfield Beach bars and nightclubs.
3. Said condominium building was controlled, managed and supervised by WHITEHALL ASSOCIATION
4. At all times material hereto, Defendant WHITEHALL ASSOCIATION was a Florida corporation operating in Palm Beach County, in the State of Florida, and was

administering a homeowner's association enforcing comprehensive rules and regulations specifically relating to the health, safety, security and general welfare of the owners and lessors of residential real property in the community known as "Whitehall Condominiums."

FACTS GIVING RISE TO THIS ACTION

5. At all times material hereto, Defendant WHITEHALL ASSOCIATION was tasked with providing and maintaining security within the "Whitehall Condominium" community.

6. To accomplish this, WHITEHALL ASSOCIATION hired employees and third-party agents to secure the property. Said employees, staff and personnel were under the control of WHITEHALL ASSOCIATION while working on the Whitehall property.

7. On or about February 25, 2017, at or around 11:41 PM, a 240-pound naked man entered the Whitehall property. The nude trespasser was high on drugs (LSD) and was not authorized to be on the Whitehall property.

8. Security staff failed to appropriately respond to the naked man high on drugs. As a result, the man was able to run up and down the Whitehall property unimpeded, including entering the lobby that was supposed to have 'manned security' present. The naked intruder physically entered the front glass doors of the Whitehall lobby at approximately 12:05 AM, about 25 minutes after the man first appeared on the Whitehall property. No one stopped him.

9. Once inside, the naked man high on drugs was able to walk freely through the Whitehall lobby and eventually enter the private elevator which allowed access to Mr. Duddy's penthouse.

10. The naked man took the elevator to the top floor, which opens up to two penthouse units. The intruder then proceeded to noisily kick down Mr. Duddy's door, eventually gaining access to his apartment.

11. Once inside, the 18-year-old, 240-pound naked man, high on drugs, physically beat 50-year-old resident DENIS DUDDY with his fists, a vase and a metal table. DENIS DUDDY suffered repeated direct blows to his head, his neck and his body. The beating lasted for at least 10 minutes.

12. As a result of this physical assault and prolonged beating inside his private penthouse condominium, DENIS DUDDY suffered brain injury, spinal injuries, pain, suffering and property damage.

Count I

NEGLIGENCE CLAIM AGAINST DEFENDANT WHITEHALL ASSOCIATION

Plaintiff re-alleges and incorporates each and every allegation set forth in paragraphs 1 through 12, and further alleges:

13. Prior to this incident involving the naked intruder on drugs, WHITEHALL ASSOCIATION was aware, or should have been aware, of the likelihood of trespassing intruders intending to do harm to its residents.

14. Despite this actual and/or constructive knowledge of the risk to its residents, WHITEHALL ASSOCIATION did not take appropriate steps to secure its property and keep its residents safe.

15. At all times material hereto, Defendant WHITEHALL ASSOCIATION had a fiduciary duty to act in the best interests and for the safety of all its residents including, but not limited to, the Plaintiff DENIS DUDDY.

16. At all times material hereto, Defendant WHITEHALL ASSOCIATION is liable for its own negligent acts and is vicariously liable for the negligent actions of its Board of Directors, officers, agents, apparent agents, employees and/or servants, acting within the course and scope of their service, office, agency, apparent agency, employment and/or servitude including, but not limited to, all members of the Board of Directors of the Corporation and/or security personnel working on its property.

17. At all times material hereto, Defendant WHITEHALL ASSOCIATION had continuing and ongoing duties including, but not limited to:

- a. ensuring that its condominium building was safe and secure;
- b. ensuring that intruders and trespassers are not allowed on condominium property;
- c. providing adequate security measures, including personnel, lighting, fencing, cameras, gates, locks and entry fobs;
- d. properly maintaining community property;
- e. following the governing documents of the community;
- f. following the rules of the homeowner's association; and
- g. ensuring resident safety in the community.

18. Notwithstanding these duties owed, Defendant WHITEHALL ASSOCIATION breached or failed to perform these duties owed under circumstances which were known or reasonably should have been known to likely result in injury to residents including, but not limited to, the Plaintiff DENIS DUDDY.

19. Specifically, WHITEHALL ASSOCIATION was negligent as follows:

- a. failing to keep the community safe for its residents;
- b. failing to enforce the Association's published Bylaws;
- c. failing to follow governing documents for the community;
- d. failing to adequately secure its condo property;
- e. failing to create policies, rules and bylaws aimed at preventing intruders;
- f. failing to respond to complaints regarding inadequate security on the property;
- g. failing to investigate and follow-up on actual or constructive notice and reports of inadequate security on community property;
- h. failing to follow the community's governing documents and rules of the association; and
- i. failing to provide that level of care, duty and responsibility in light of all relevant surrounding circumstances which is recognized as acceptable and appropriate by reasonably prudent similar homeowner's associations in the community.

20. As a direct and proximate result, Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of

ability to earn money, property damage and aggravation of a previously existing condition. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff DENIS DUDDY, demands judgment against Defendant WHITEHALL ASSOCIATION for compensatory damages in an amount in excess of Fifteen Thousand (\$15,000.00) plus taxable costs, and pursuant to Florida Statute § 718.303(1), attorney's fees and additional amounts as determined by the Court to be necessary to reimburse Plaintiff for his share of assessments levied by the association.

Count II
BREACH OF GOVERNING DOCUMENTS CLAIM AGAINST DEFENDANT
WHITEHALL ASSOCIATION

Plaintiff re-alleges and incorporates each and every allegation set forth in paragraphs 1 through 20, and further alleges:

21. The Plaintiff has had to retain legal counsel and incurred attorneys' fees and costs as a result of bringing this action against Defendant, WHITEHALL ASSOCIATION.

22. Defendant, WHITEHALL ASSOCIATION had an obligation pursuant to Florida law to enforce its bylaws, and restrictions and covenants, and its contract with its residents, and failed to do so, and as such is liable for attorneys' fees and costs pursuant to Florida Statute §718.303(1).

23. Defendant, WHITEHALL ASSOCIATION breached its governing documents (Exhibit A+B) and in doing so, is liable for attorneys' fees and costs pursuant to Florida Statute §718.303(1).

24. WHITEHALL ASSOCIATION breached its governing documents and in doing so, is liable for attorneys' fees and costs pursuant to Florida Statute §718.303(1) by violating various provisions of the Association's governing documents, including but not limited to, Section 5.2(a) of the Declaration of Condominium, as amended:

Paragraph 5.2(a) The maintenance, repair, replacement, protection and operation of the common elements are the responsibility of the Association and a common expense.

See, Ex. A, 2010 Amendment.

WHEREFORE, Plaintiff DENIS DUDDY, demands judgment against Defendant WHITEHALL ASSOCIATION for compensatory damages in an amount in excess of Fifteen Thousand (\$15,000.00) plus taxable costs, and pursuant to Florida Statute §718.303(1), attorney's fees and additional amounts as determined by the Court to be necessary to reimburse Plaintiff for his share of assessments levied by the association.

DATED this 1st day of June, 2017.

/s/ Michael J. Brevda

MICHAEL J. BREVDA, ESQ.

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