

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR LAKE COUNTY, FLORIDA**

LESLIE TROBAUGH and ASHLEY
MAZUR, on behalf of themselves and
all others similarly situated

CASE NO.

Plaintiffs,

Class Representation

vs.

CURALEAF FLORIDA, LLC

Defendant.

_____ /

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiffs, LESLIE TROBAUGH and ASHLEY MAZUR, by and through the undersigned counsel, on behalf of themselves and all others similarly situated, and for causes of action against Defendant, CURALEAF FLORIDA LLC allege and state as follows:

INTRODUCTION

1. Plaintiffs bring this class action against Defendant, Curaleaf Florida, LLC in relation to its ownership and operation of a marijuana growing facility located at 4055 Britt Road Mount Dora, Lake County, State of Florida (the “Facility”).

2. Through Defendant’s construction, operation, and maintenance of the Facility, it wrongfully and tortiously releases substantial and unreasonable noxious odors, and noise that invades the Plaintiffs’ and putative Class’ properties, causing damages through private nuisance, public nuisance, and negligence.

PARTIES

3. Plaintiff, Leslie Trobaugh resides at a home owned by 795 Family Trust to which she the trust beneficiary located at 21107 Horse Ranch Road, Mount Dora, Lake County, State of Florida.

4. Plaintiff, Ashley Mazur owns and resides at a home located at 21041 Horse Ranch Road, Mount Dora, Lake County, State of Florida.

5. Defendant, Curaleaf Florida, LLC is a Florida corporation with a principal place of business at 10720 SW Caribbean Blvd, Suite 500, Town of Cutler Bay, County of Miami-Dade, State of Florida. It owns and/or operates the Facility.

6. Defendant may be served with process through its registered agent, Corporation Service Company, which is located at 1200 Hays Street, City of Tallahassee, County of Leon, State of Florida.

JURISDICTION AND VENUE

7. This Court has personal jurisdiction over Defendant pursuant to Fla. Stat. Ann. § 48.193 because Defendant carries on business in this state and has offices in this state, it committed tortious acts within this state, and it owns, uses, and/or possesses real property within this state.

8. This Court has original subject matter jurisdiction over this action because it is a tort action where the amount in controversy exceeds \$50,000.00.

9. Venue is proper in this Court pursuant to Fla. Stat. Ann. § 47.011 because Defendant operates its business in Lake County and the causes of action accrued in Lake County.

GENERAL ALLEGATIONS

10. Defendant, its predecessors, and/or its agents constructed or directed construction of the Facility.

11. Defendant exercises control of the Facility, which is situated on a 28-acre plot surrounded by residential properties under a lease agreement with GA NA 3 (Mount Dora) LLC.

12. The Plaintiffs and putative Class (“Class” defined below) all reside within 2 miles of the Facility property boundary (the “Class Area”).

13. Defendant uses the Facility to grow, cultivate, and process large quantities of marijuana, which is a highly odiferous plant.

14. A license granted by the State of Florida is required to operate marijuana growth, cultivation, process and dispense this product.

15. On or about April, 2019, DeLeon’s Bromeliads and Orchids (“DeLeon’s”) were granted a medical marijuana treatment center (MMTC) license by way of settlement with the State of Florida.

16. On or about August 2020, Defendant purchased the MMTC operating license and assumed use and control of the Facility and the Facility property from DeLeon’s for fourteen (14) million dollars as reported by the media.

17. In late 2020 and early part of 2021 the Facility operations expanded its operations through the growth, processing, cultivation, and/or drying of marijuana causing excessive noxious odors and noise and excessive blinding light beyond its property boundary.

18. The Plaintiffs’ and putative Class’ properties have been, and continue to be, invaded by fugitive noxious odors and noise along with excessive blinding lighting emitted from the Facility.

19. The expansion of the Facility constituted a change to a more excessive farm operation with regard to noise, odor, dust, and/or fumes, noise and lighting.

20. The Facility is adjacent to homesteads that were established on or before March 15, 1982.

21. Plaintiff Mazur's home was an established homestead in 1971 and is adjacent to and shares a boundary with the Defendant's Facility.

22. A properly designed, operated, and maintained marijuana facility will adequately capture, process, and destroy noxious odors and prevent them from escaping into the ambient air as fugitive emissions.

23. A properly designed, operated, and maintained marijuana facility will adequately prevent noxious noise to prevent them from escaping its property.

24. A properly designed, operated, and maintained facility will not have excessive blinding light escaping its property.

25. Defendant has a common law duty not to interfere with or render its neighbors unsafe or insecure in the use of their property.

26. Defendant has not and/or failed to use adequate odor and noise mitigation strategies, processes, technologies, and/or equipment to control noxious odor and noise emissions and excessive lighting from the Facility and prevent them from invading the homes and properties of the Plaintiffs and putative Class.

27. Defendant's failures to prevent off-site emissions include, but are not limited to:

- a) Failing to install, maintain, and operate adequate odor and noise mitigation systems, such as carbon filtration systems, air treatment systems, and oxidization systems;
- b) Failing to purchase, possess, and/or maintain appropriate equipment;
- c) Insufficient monitoring and/or inspection of the Facility;

- d) Failing to utilize other odor and noise prevention, elimination, and mitigation measures and technology available to Defendant; and
- e) Failing to limit the excessive lighting from the facility onto the public street and residential properties.

28. The Facility and its noxious odor and noise emissions and excessive lighting have been the subject of frequent complaints by citizens in the nearby area.

29. Noxious odor and noise emissions and excessive lighting from the Facility have interfered with activities in the surrounding areas, and they have precluded the reasonable use and enjoyment of private and public spaces in those areas.

30. Defendant's well-documented pattern of failing to control the Facility's offensive emissions is further demonstrated by numerous complaints to various state and local governmental offices and officials about the noxious odors and noise as well as excessive lighting attributed to the Facility.

31. There have been multiple media reports and Lake County and City of Mount Dora resolutions concerning the Facility's noxious odors and noises and/or excessive lighting.

32. The Facility has emitted, and continues to emit, preventable noxious odors and noise that are noticeable beyond the bounds of its property.

33. The Facility has excessive lighting continues to light the areas outside of its property that is noticeable beyond its property.

34. The noxious odors and noises and excessive lighting are offensive to the Plaintiffs and putative Class Members and would be offensive to reasonable people of ordinary health and sensibilities.

35. The noxious odors and noises and excessive lighting have caused property damage and substantially interfered with the abilities of the Plaintiffs and the putative Class to reasonably use and enjoy their homes and properties.

36. The invasion of the Plaintiffs' and putative Class' properties by the noxious odors and noises and excessive lighting have reduced the value of those properties.

37. The Plaintiffs and the putative Class are a limited subset of individuals in Lake County and the Class Area, which includes only owners/occupants and renters of residential properties who live within the Class Area and fit within the Class definition.

38. Members of the public including, but not limited to, businesses, employees, commuters, tourists, visitors, minors, customers, clients, students, and patients have been harmed by the fugitive noxious odors and noise and excessive lighting emitted from the Facility into public spaces. However, unlike the Plaintiffs and the putative Class, members of the public who are outside of the Class definition have not suffered damages in the form of diminished property values and/or the loss of use and enjoyment of their private property.

39. Defendant knew about its substantial noxious odor and noise emissions and excessive lighting through numerous complaints, and media attention throughout Lake County.

40. Defendant intentionally, knowingly, willfully, recklessly, and/or negligently failed to properly construct, maintain, and/or operate the Facility. Defendant caused an invasion of the Plaintiffs' and putative Class' properties by noxious odors and noise and excessive lighting on daily, frequent, intermittent, and/or reoccurring occasions too numerous to list individually.

41. Defendant is vicariously liable for all damages suffered by the Plaintiffs and the putative Class that were caused by Defendant's employees, representatives, and agents, who, in the course and scope of their employment, created, allowed, or failed to correct the deficiencies

which caused noxious odors and noise and excessive lighting to physically invade the Plaintiffs' and putative Class' properties.

CLASS ALLEGATIONS

A. Definition of the Class

42. Plaintiffs bring this action individually and on behalf of all persons that the Court may determine to be appropriate for class certification, pursuant to Fla. R. Civ. P. 1.220 (the "Class" or "Class Members"). Plaintiffs seek to represent a Class of persons preliminarily defined as:

All owners/occupants and renters of residential property within two miles (2) of the Facility property boundary.

The definitional Class boundary is subject to modification as discovery discloses the location of all persons properly included in the Class. Plaintiffs reserve the right to propose one or more sub-classes if discovery reveals that such sub-classes are appropriate.

43. This case is properly maintainable as a class action pursuant to and in accordance with Fla. R. Civ. P. 1.220 in that:

- a) The Class, which includes thousands of members, is so numerous that joinder of all members is impracticable;
- b) There are substantial questions of law and fact common to the Class, including those set forth in greater particularity herein;
- c) Questions of law and fact, such as those enumerated below, which are all common to the Class, predominate over any questions of law or fact affecting only individual members of the Class;
- d) The claims of the representative parties are typical of the claims of the Class;
- e) A class action provides a fair and efficient method for adjudication of the controversy;

- f) The relief sought in this class action will effectively and efficiently provide relief to all members of the Class;
- g) There are no unusual difficulties foreseen in the management of this class action; and
- h) Plaintiffs, whose claims are typical of those of the Class, through their experienced counsel, will zealously and adequately represent the Class.

B. Numerosity

44. There are in excess of 800 separate residences within the Class Area. Accordingly, the members of the Class are so numerous that joinder of all parties is clearly impracticable.

45. The prosecution of separate lawsuits by Class Members would risk inconsistent or varying adjudications. Class-wide adjudication of these claims is, therefore, appropriate.

C. Commonality

46. Numerous common questions of law and fact predominate over any individual questions affecting Class Members, including, but not limited to the following:

- a) Whether and how Defendant wrongfully, intentionally, knowingly, recklessly, and/or negligently failed to maintain and operate the Facility, causing noxious odors and noise and lighting to invade their properties;
- b) Whether Defendant owed any duties to the Class Members;
- c) Which duties Defendant owed to the Class Members;
- d) Which steps Defendant has and has not taken in order to control the emission of noxious odors, noise and lighting through the maintenance and operation of the Facility;
- e) Whether and to what extent the Facility's noxious odors, noise and lighting were dispersed over the Class Area;
- f) Whether it was reasonably foreseeable that Defendant's failure to properly maintain and operate the Facility would result in an invasion of the Class Members' property interests;

- g) Whether the degree of harm suffered by the Class Members constitutes a substantial annoyance or interference with their use and enjoyment of their properties; and
- h) The proper measure of damages incurred by the Class Members.

D. Typicality

47. The claims of the named Plaintiffs are typical of the claims of all members of the Class. If brought and prosecuted individually, the claims of each Class Member would require proof of many of the same material and substantive facts, utilize the same complex evidence (e.g. expert testimony), rely upon the same legal theories, and seek the same type of relief.

48. The claims of the named Plaintiffs and the other Class Members have a common cause and their damages are of the same type. The claims originate from the same failures of Defendant to properly maintain and operate the Facility.

49. All Class Members have suffered injury in fact as a result of the invasion of their properties by noxious odors and noise, and excessive lighting emitted by Defendant's Facility. The noxious odors and noise as well as the excessive lighting interfere with their ability to use and enjoy their homes and have diminished their property values.

E. Adequacy of Representation

50. Plaintiffs' claims are sufficiently aligned with the interests of the absent Class Members to ensure that the Class' claims will be prosecuted with diligence and care by Plaintiffs as representatives of the Class. Plaintiffs will fairly and adequately represent the interests of the Class and they do not have interests adverse to the Class.

51. Plaintiffs have retained the services of counsel and will vigorously prosecute this action, and will otherwise protect and fairly and adequately represent the Plaintiffs and all absent Class Members.

F. Class Treatment Is The Superior Method of Adjudication

52. A class action is superior to other methods for the fair and efficient adjudication of the controversies raised in this Complaint because:

- a) Individual claims by the Class Members would be impracticable as the costs of pursuit would far exceed what any one Class Member has at stake;
- b) Individual claims by Class Members would create a risk of inconsistent or varying adjudications, which would present Defendant with incompatible standards of conduct;
- c) Individual claims by individual Class Members would create a risk of adjudications which would, as a practical matter, be dispositive of the interests of other individuals who are not parties to the adjudications, or substantially impair or impede their ability to protect and pursue their interests;
- d) Little or no individual litigation has been commenced over the controversies alleged in this Complaint and individual Class Members are unlikely to have an interest in separately prosecuting and controlling individual actions;
- e) In view of the complexity of the issues and the expenses of litigation, the separate claims of individual Class Members are likely insufficient in amount to support the costs of filing and litigating separate actions;
- f) Plaintiffs seek equitable relief relating to Defendant's common actions and failures to act, and the equitable relief sought would commonly benefit the Class as a whole;
- g) Litigating these claims in one action will achieve efficiency and promote judicial economy; and
- h) The proposed class action is manageable.

53. Notice can be provided to Class Members by U.S. Mail and/or publication.

CAUSE OF ACTION I

PRIVATE NUISANCE

54. Plaintiffs restate the allegations contained in paragraphs 1–41 of this Complaint as if fully restated herein.

55. Defendant owed, and continues to owe, a duty to the Plaintiffs and to the Class to prevent and abate the unreasonable interference with, and the invasion of, their private property interests.

56. The noxious odors and noise which entered the Plaintiffs' and Class' properties originated from the Facility, which was improperly and unreasonably constructed, maintained, and/or operated by Defendant.

57. The noxious odors and noise invading the Plaintiffs' and Class' properties are indecent and offensive to people with ordinary health and sensibilities, and they obstruct the free use of their properties so as to substantially and unreasonably interfere with the enjoyment of life and property. This includes but is not limited to:

- a) Forcing the Plaintiffs and Class Members to remain inside their homes and forego the use of their yards, porches, and other spaces, and to generally refrain from outdoor activities;
- b) Causing the Plaintiffs and Class Members to keep their doors and windows closed when they would otherwise have them open;
- c) Depriving the Plaintiffs and Class Members of the value of their homes and properties;
- d) Causing the Plaintiffs and Class Members embarrassment, inconvenience, and discomfort including, but not limited to, creating a reluctance to invite guests to their homes and preventing the Plaintiffs and Class Members from utilizing the outdoor areas of their respective properties.

58. The Plaintiffs' and Class' properties are situated in such proximity to Defendant's Facility as to constitute "neighboring" properties, in that they are near enough to be impacted by the tangible effects of noxious odors and noise emitted from the Facility.

59. By constructing and then failing to reasonably repair, maintain, and operate the Facility, thereby causing noxious odors and noise to physically invade the Plaintiffs' and Class' properties,

properties, Defendant intentionally, knowingly, recklessly, and/or negligently created a nuisance that substantially and unreasonably interferes with the Plaintiffs' and Class' properties.

60. As a foreseeable, direct, and proximate result of the forgoing misconduct of Defendant, the Plaintiffs and the Class suffered damages to their properties as alleged herein.

61. The Plaintiffs and Class Members did not consent to the invasion of their properties by Defendant's noxious odors and noises, which is ongoing and which constitutes a nuisance.

62. Any social utility that is provided by the Facility is patently outweighed by the harm suffered by the Plaintiffs and the Class, who have on frequent occasions been deprived of the full use and enjoyment of their properties and have endured substantial loss in the use and value of their properties.

63. Defendant's substantial and unreasonable interference with the Plaintiffs' and Class' use and enjoyment of their properties constitutes a private nuisance. Defendant is liable for all damages arising from such nuisance, including compensatory, and injunctive relief.

CAUSE OF ACTION II
PUBLIC NUISANCE

64. Plaintiffs restate the allegations contained in paragraphs 1-41 of this Complaint as if fully restated herein.

65. The Plaintiffs and Class utilize their properties as residences and reside within the Class Area.

66. The noxious odors and noises and excessive lighting which entered the Plaintiffs' and Class' properties originated from the Facility, which is in close proximity to the Class Area.

67. The unreasonable noxious odors and noises and excessive lighting emitted by Defendant's Facility have been, and continue to be, dispersed across public and private land throughout the Class Area.

68. Defendant's noxious odors have interfered with the public's right to unpolluted and uncontaminated air.

69. Defendant's noxious noises have interfered with the public's right to peace and quiet.

70. By failing to reasonably design, operate, repair, and maintain the Facility, Defendant has caused an invasion of the Plaintiffs' and Class' properties by noxious odors and noises and excessive lighting on frequent occasions that are too numerous to individually list herein.

71. The noxious odors and noise and excessive lighting invading the Plaintiffs' and Class' properties are indecent and offensive to people with ordinary health and sensibilities. They obstruct the free use of the Plaintiffs' and Class' properties so as to substantially and unreasonably interfere with the enjoyment of life and property. This includes, but is not limited to:

- a) Forcing the Plaintiffs and Class Members to remain inside their homes and forego the use of their yards, porches, and other spaces, and to generally refrain from outdoor activities;
- b) Causing the Plaintiffs and Class Members to keep their doors and windows closed when they would otherwise have them open;
- c) Depriving the Plaintiffs and Class Members of the value of their homes and properties; and
- d) Causing the Plaintiffs and Class Members embarrassment, inconvenience, and reluctance to invite guests to their homes.

72. As a foreseeable, direct, and proximate result of the forgoing misconduct by Defendant, the Plaintiffs and the Class have suffered special damages to their properties as alleged herein.

73. The damages suffered by the Plaintiffs and Class are uniquely injurious to those parties because they suffer harm relating to the use and enjoyment of their lands and properties, and decreased property values, which are not harms suffered by the general public.

74. The general public is also impacted by the Facility's emissions. Many members of the general public are impacted by the noxious odors and noises and excessive lighting when they work, study, commute, shop, or engage in recreation in the Class Area, but they suffer no harm to the use and enjoyment of their land or property, or decreased property values.

75. The repeated, substantial, and unreasonable interferences with public and private rights have been documented by state and local governmental officials.

76. The Plaintiffs and Class Members did not consent to the invasion of their properties by Defendant's noxious odors and noises and excessive lighting, which is ongoing, and which constitutes a nuisance.

77. By failing to reasonably operate, repair, and/or maintain the Facility so as to abate nuisances such as noxious odor and noise emissions and excessive lighting, Defendant has acted, and continues to act, intentionally, knowingly, recklessly, and/or negligently, and with conscious disregard for public health, safety, peace, comfort, and convenience.

78. The Plaintiffs and Class suffered, and continue to suffer, harm and damages that are of a different kind and in addition to those suffered by the public at large.

79. Any social utility that is provided by the Facility is patently outweighed by the harm suffered by the Plaintiffs and the Class, who have on frequent occasions been deprived of the full use and enjoyment of their properties and have endured substantial loss in the use and value of their properties.

80. Defendant's substantial and unreasonable interference with the Plaintiffs' and Class' use and enjoyment of their properties arises from a public nuisance, from which the Plaintiffs and Class Members have uniquely suffered. Defendant is liable to the Plaintiffs and Class Members for all damages arising from such nuisance, including compensatory, and injunctive relief.

CAUSE OF ACTION III
NEGLIGENCE

81. Plaintiffs restate the allegations contained in paragraphs 1–41 of this Complaint as if fully restated herein.

82. Defendant owed, and continues to owe, a duty to the Plaintiffs and to the Class to operate and maintain the Facility in a reasonable manner and to reasonably prevent fugitive emissions of noxious odors and noises and excessive lighting from the Facility.

83. Defendant breached its duties by negligently and improperly maintaining and operating the Facility, which was the direct and proximate cause of the invasion by noxious odors and noises and excessive lighting upon the Plaintiffs' and Class' homes, lands, and properties on occasions too numerous to list individually.

84. Such invasions by noxious odors and noises and excessive lighting were the foreseeable result of the foregoing conduct of Defendant, and the Plaintiffs and Class suffered damages to their properties as alleged herein. Such damages include, but are not limited to, the loss of use and enjoyment of their properties and the diminution of property values.

85. By failing to properly maintain and operate the Facility, Defendant failed to exercise the duty of ordinary care and diligence.

86. Defendant knowingly, recklessly, and with a conscious disregard for the rights of the Plaintiffs and Class allowed conditions to exist and perpetuate, which caused noxious odors and noises to invade the Plaintiffs' and Class' properties.

87. Defendant's negligence was committed with a conscious indifference to the harm caused to the Plaintiffs' and Class' properties, which entitles the Plaintiffs and Class to an award for compensatory, and injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs, individually and on behalf of the proposed Class, pray for judgment as follows:

- A. Certification of the proposed Class by order pursuant to Fla. R. Civ. P. 1.220;
- B. Designation of Plaintiffs as representatives of the proposed Class and designation of their counsel as Class Counsel;
- C. Judgment in favor of the Plaintiffs and the Class Members as against Defendant;
- D. An award to the Plaintiffs and the Class Members for compensatory damages, including pre- and post-judgement interest;
- E. An award of attorneys' fees and costs, including pre- and post-judgement interest;
- F. An Order holding that the entrance of the aforementioned noxious odors and noise and excessive lighting upon the Plaintiffs' and Class' properties constitutes a nuisance;
- G. An Order holding that Defendant was negligent in causing noxious odors and noises and excessive lighting to repeatedly invade and interfere with the Plaintiffs' and Class' private residential properties;
- H. An award to the Plaintiffs and the Class Members for injunctive relief not inconsistent with Defendant's state and federal regulatory obligations; and
- I. Such further relief, both general and specific, that this Honorable Court deems just and proper.

JURY DEMAND

Plaintiffs respectfully demand a trial by jury on all issues raised in this Complaint.

Date: May 22, 2023

Respectfully submitted:
/s/ Denise M. Blackwell-Pinda, Esq.
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