

IN THE DISTRICT COURT OF HALL COUNTY, NEBRASKA

THERESA SCHERER, as PR of the)	Case No. CI 25-_____
ESTATE OF TODD SCHERER,)	
)	
Plaintiff,)	
v.)	
)	
HALL COUNTY LIVESTOCK)	COMPLAINT
IMPROVEMENT ASSOCIATION,)	
FONNER PARK,)	
DOUBLE LOCKED SECURITY,)	
LOGAN HUNTS HORSE,)	
AUSTIN KELLY, LANE HARRIS,)	
and LOGAN RITZ,)	
)	
Defendants.)	

COMES NOW Plaintiff, in her role as Personal Representative of the Estate of Todd Scherer and alleges as follows:

FACTS COMMON TO ALL ALLEGATIONS

1. Plaintiff is the appointed Personal Representative of the Estate of Todd Scherer.
2. Defendant, Hall County Livestock Improvement Association (HCLA), is an entity organized and existing under the laws of the State of Nebraska, with its principal place of business in Hall County, Nebraska.
3. Defendant, Fonner Park (Fonner), is an entity organized and existing under the laws of the State of Nebraska, with its principal place of business in Hall County, Nebraska.
4. Defendant, Double Locked Security (DLS), is an entity organized and existing under the laws of the State of Nebraska, with its principal place of business in Hall County, Nebraska.
5. Defendants HCLA and/or Fonner, operate a horseracing track and facility in Hall County, Nebraska.

6. Defendant, Logan Hunts Horse, is an individual who is incarcerated by the Nebraska Department of Corrections but at all relevant times mentioned herein was present in Hall County, Nebraska.
7. Defendant, Austin Kelly, is an individual who is incarcerated by the Nebraska Department of Corrections but at all relevant times mentioned herein was a resident and present in Hall County, Nebraska.
8. Defendant, Lane Harris, is an individual who resides in Grand Island, Hall County, Nebraska, and at all relevant times on or about March 9, 2023, was present in Hall County, Nebraska.
9. Defendant, Logan Ritz, is an individual who resides in Grand Island, Hall County, Nebraska, and at all relevant times on or about March 9, 2023, was present in Hall County, Nebraska.
10. On or about March 9, 2023, Defendant HCLA owned, operated or occupied real property in Hall County, Nebraska.
11. On or about March 9, 2023, Defendant Fonner owned, operated or occupied real property in Hall County, Nebraska.
12. On or about March 9, 2023, Defendant DLS was tasked with and contracted to provide security services on, in and around real property owned, operated or occupied by Defendant HCLA in Hall County, Nebraska.
13. On or about March 9, 2023, Defendant DLS was tasked with and contracted to provide security services on, in and around real property owned, operated or occupied by Defendant Fonner in Hall County, Nebraska.
14. On or about March 9, 2023, Todd Scherer was assaulted and battered in Hall County, Nebraska.
15. On or about March 9, 2023, Todd Scherer was assaulted and battered on real property owned and/or operated by Defendant HCLA, in Hall County, Nebraska.
16. On or about March 9, 2023, Todd Scherer was assaulted and battered on real property owned and/or operated by Defendant Fonner, in Hall County, Nebraska.
17. On or about March 9, 2023, Todd Scherer was murdered in Hall County, Nebraska.

18. On or about March 9, 2023, Todd Scherer was murdered on real property owned and/or operated by Defendant HCLA, in Hall County, Nebraska.
19. On or about March 9, 2023, Todd Scherer was murdered on real property owned and/or operated by Defendant Fonner, in Hall County, Nebraska.
20. At the time Todd Scherer was assaulted, battered and murdered, he was a lawful entrant on property owned, operated, or occupied by Fonner and/or HCLA.
21. Defendants HCLA, Fonner, DLS, Hunts Horse, Kelly, Harris, and Ritz, are jointly and severally liable for the injuries, suffering and death experienced by Todd Scherer.

CAUSE OF ACTION I

HALL COUNTY LIVESTOCK IMPROVEMENT ASSOCIATION

22. Plaintiff incorporates paragraphs 1-21 as fully set forth above.
23. Defendant, HCLA, owed a duty to lawful entrants upon real property that it owned, operated, or occupied on or about March 9, 2023.
24. Prior to Todd Scherer's murder, Defendant, HCLA, knew or should have known that individuals were residing on its premises.
25. Prior to Todd Scherer's murder, Defendant, HCLA, permitted unlicensed and unauthorized individuals to the back of the race track area.
26. Prior to Todd Scherer's murder, Defendant, HCLA, knew or should have known that juveniles were accessing the back of the race track area.
27. Prior to Todd Scherer's murder, Defendant, HCLA, knew or should have known that alcohol and drugs were consumed on premises.
28. Prior to Todd Scherer's murder, Defendant, HCLA, knew or should have known that alcohol and drugs were consumed by minors on the premises.
29. Prior to Todd Scherer's murder, Defendant, HCLA, knew or should have known that firearms were being utilized by impaired individuals on the premises.

30. Prior to Todd Scherer's murder, Defendant, HCLA, knew or should have known that sex trafficking was occurring on the premises.
31. Defendant, HCLA, was either running or turning a blind eye to the hostel situation on its premises prior to March 9, 2023.
32. Defendant, HCLA, was negligent by maintaining a knowingly unsafe environment on its premises.
33. Defendant, HCLA, by its negligence created an unsafe environment for its lawful entrants prior to March 9, 2023.
34. Defendant, HCLA, by its negligence promoted criminal activity prior to March 9, 2023.
35. Had reasonable security efforts been employed by Defendant, HCLA, for the safety of its lawful entrants, Todd Scherer's death would have been avoided.
36. Defendant, HCLA, failed to use reasonable efforts to keep lawful entrants on its property safe from danger or harm.
37. The negligence of Defendant, HCLA, is a direct and proximate cause of the assault, battery and death suffered by Todd Scherer.

CAUSE OF ACTION II

FONNER PARK

38. Plaintiff incorporates paragraphs 1-37 as fully set forth above.
39. Defendant, Fonner, owed a duty to lawful entrants upon real property that it owned, operated, or occupied on or about March 9, 2023.
40. Prior to Todd Scherer's murder, Defendant, Fonner, knew or should have known that individuals were living on its premises.
41. Prior to Todd Scherer's murder, Defendant, Fonner, permitted unlicensed and unauthorized individuals to the back of the race track area.
42. Prior to Todd Scherer's murder, Defendant, Fonner, knew or should have known that juveniles were accessing the back of the race track area.
43. Prior to Todd Scherer's murder, Defendant, Fonner, knew or should have known that alcohol and drugs were consumed on premises.

44. Prior to Todd Scherer's murder, Defendant, Fonner, knew or should have known that alcohol and drugs were consumed by minors on the premises.
45. Prior to Todd Scherer's murder, Defendant, Fonner, knew or should have known that firearms were being utilized by impaired individuals on the premises.
46. Prior to Todd Scherer's murder, Defendant, Fonner, knew or should have known that sex trafficking was occurring on the premises.
47. Defendant, Fonner, was either running or turning a blind eye to the hostel situation on its premises prior to March 9, 2023.
48. Defendant, Fonner, was negligent by maintaining a knowingly unsafe environment on its premises.
49. Defendant, Fonner, by its negligence created an unsafe environment for its lawful entrants prior to March 9, 2023.
50. Defendant, Fonner, by its negligence promoted criminal activity on its premises, prior to March 9, 2023.
51. Had reasonable security efforts been employed by Defendant, Fonner, for the safety of its lawful entrants, Todd Scherer's death would have been avoided.
52. Defendant, Fonner, failed to use reasonable efforts to keep lawful entrants on its property safe from danger or harm.
53. The negligence of Defendant, Fonner, is a direct and proximate cause of the assault, battery and death suffered by Todd Scherer.

CAUSE OF ACTION III

DOUBLE LOCK SECURITY

54. Plaintiff incorporates paragraphs 1-53 as fully set forth above.
55. Defendants, Fonner and/or HCLA, contracted with Defendant, DLS, for DLS to provide security for the premises.
56. That contract was in effect on March 9, 2023.
57. Defendant, DLS, owed a duty to lawful entrants upon real property that it provided security services to on or about March 9, 2023.
58. Prior to Todd Scherer's murder, Defendant, DLS, knew or should have known that individuals were living on its premises.

59. Prior to Todd Scherer's murder, Defendant, DLS, permitted unlicensed individuals to the back of the race track area.
60. Prior to Todd Scherer's murder, Defendant, DLS, knew or should have known that juveniles were accessing the back of the race track area.
61. Prior to Todd Scherer's murder, Defendant, DLS, knew or should have known that alcohol and drugs were consumed on premises.
62. Prior to Todd Scherer's murder, Defendant, DLS, knew or should have known that alcohol and drugs were consumed by minors on the premises.
63. Prior to Todd Scherer's murder, Defendant, DLS, knew or should have known that firearms were being utilized by impaired individuals on the premises.
64. Prior to Todd Scherer's murder, Defendant, DLS, knew or should have known that sex trafficking was occurring on the premises.
65. Defendant, DLS, was either running or turning a blind eye to the hostel situation prior to March 9, 2023.
66. Defendant, DLS, by its negligence created an unsafe environment for lawful entrants to the property owned and operated by HCLA and/or Fonner prior to March 9, 2023.
67. Defendant, DLS, by its negligence promoted criminal activity prior to March 9, 2023.
68. Had reasonable security efforts been employed by Defendant, DLS, for the safety of the lawful entrants to property owned and operated by HCLA and/or Fonner, Todd Scherer's death would have been avoided.
69. Defendant, DLS, failed to use reasonable efforts to keep lawful entrants on the premises owned and operated by HCLA and/or Fonner, safe from danger or harm.
70. The negligence of Defendant, DLS, is a direct and proximate cause of the assault, battery and death suffered by Mr. Scherer.

CAUSE OF ACTION IV

LOGAN HUNTS HORSE

71. Plaintiff incorporates paragraphs 1-70 as fully set forth above.
72. Defendant, Hunts Horse, murdered Todd Scherer by shooting him with a firearm on or about March 9, 2023, in Hall County, Nebraska.

73. Defendant, Hunts Horse, physically assaulted and battered Todd Scherer with a bat after shooting him and finding him still alive hours later, in Hall County, Nebraska.
74. As a result of Defendant, Hunts Horse's actions, Todd Scherer suffered, pain, anguish, fear of imminent or impending death, and ultimately death.

CAUSE OF ACTION V

AUSTIN KELLY, LANE HARRIS, AND LOGAN RITZ

75. Plaintiff incorporates paragraphs 1-74 as fully set forth above.
76. Defendants, Kelly, Harris and Ritz, each participated in the assault, battery, and murder of Todd Scherer on March 9, 2023, in Hall County, Nebraska.
77. As a result of the action and inaction of Defendants, Kelly, Harris and Ritz, Todd Scherer suffered, pain, anguish, fear of imminent or impending death, and ultimately death.

FIRST CLAIM FOR RELIEF

WRONGFUL DEATH

78. Plaintiff incorporates paragraphs 1-77 as fully set forth above.
79. Todd Scherer, his Estate and/or next of kin have suffered the following damages proximately caused by the Defendants' actions:
- a. Funeral and burial expenses;
 - b. Loss of his companionship, comfort, care, and services.
80. At the time of his death on March 9, 2023, Todd Scherer was 62 years of age having been born on January 6, 1961.
81. At the time of his death on March 9, 2023, Todd Scherer's life expectancy was 19.0 years according to The National Center for Health Statistics, National Vital Statistics Reports, Vol. 72, Number 12, Page 17, November 7, 2023.

SECOND CLAIM FOR RELIEF

CONSCIOUS SUFFERING/SURVIVAL ACTION

82. Plaintiff incorporates paragraphs 1-81 as fully set forth above.

83. Todd Scherer was alert and aware prior to and while being shot by Defendant, Hunts Horse.
84. Todd Scherer was alert and aware for a period of time after being shot by Defendant, Hunts Horse.
85. Todd Scherer was alert and aware when Defendants Hunts Horse, Kelly, Harris and Ritz returned to him and assaulted and battered him.
86. Todd Scherer was alert and aware of his imminent or impending death when Defendants, Hunts Horse, Kelly, Harris and Ritz returned and assaulted and battered him.

WHEREFORE, the next of kin of Todd Scherer pray for judgment to be entered for damages jointly and severally against all defendants on the First Claim for Relief (Wrongful Death) for economic damages, non-economic and general damages as allowed by law, the costs of this action, prejudgment and post judgment interest as allowed by law, and such other and further relief as is allowed by law.

Plaintiff prays for judgment to be entered for damages jointly and severally against all defendants on the Second Claim for Relief (Conscious Suffering) for the conscious pain, suffering, and fear of impending or imminent death experienced by Todd Scherer prior to his death, including but not limited to non-economic and general damages as allowed by law, the costs of this action, interest as allowed by law, and such other and further relief as the law permits.

THERESA SCHERER, as Personal
Representative of the Estate of
Todd Scherer, Plaintiff

By: /s/ Brock D. Wurl
Brock D. Wurl
OF PALOUCHEK, HERMAN & WURL
LAW OFFICES
225 McNeel Lane
North Platte, NE 69101
Telephone (308) 534-9892
brock@midnelaw.com

Attorneys for Plaintiff