

IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT IN AND FOR SAINT LUCIE COUNTY, FLORIDA

WILLIAM SERGE as Personal Representative
of the Estate of GLORIA SERGE
Plaintiff

CASE No.
CIVIL DIVISION

v.

WYNNE BUILDING CORPORATION d/b/a
SPANISH LAKES FAIRWAYS
Defendant

COMPLAINT

The Plaintiff, WILLIAM SERGE as Personal Representative of the Estate of GLORIA SERGE, by and through his undersigned counsel, hereby files and serves this Complaint suing the Defendant, WYNNE BUILDING CORPORATION d/b/a SPANISH LAKES FAIRWAYS, and states as follows:

1. This is an action for legal and monetary damages in excess of the sum of fifty thousand dollars (\$50,000.00) exclusive of costs.

2. At all times material hereto, the Plaintiff, WILLIAM SERGE as Personal Representative of the Estate of GLORIA SERGE (hereinafter referred to as the Plaintiff or WILLIAM SERGE), has been the legal representative of an Estate created in the probate division of the Circuit Court in and for Saint Lucie County, Florida. The Estate was opened within the boundaries of Saint Lucie County, based upon the fact that the Decedent, GLORIA SERGE (hereinafter referred to as the Decedent, Ms. Serge or by her full name where appropriate) maintained a domicile within Saint Lucie County at the time of her death.

3. At all times material hereto, the Defendant, WYNNE BUILDING CORPORATION d/b/a SPANISH LAKES FAIRWAYS (hereinafter referred to as the Defendant, SPANISH LAKES or by its full name where appropriate) has been a Florida Profit Corporation that has been authorized to do business within the boundaries of Saint Lucie County, Florida. In particular, WYNNE BUILDING CORPORATION owned and operated a housing development in Fort Pierce, Florida known as the SPANISH LAKES FAIRWAYS, development.

4. The operative facts giving rise to the allegations in this Complaint occurred within the boundaries of Saint Lucie County, Florida.

5. Therefore, jurisdiction and venue are appropriate within the Circuit Court of the Nineteenth Judicial Circuit in and for Saint Lucie County, Florida.

GENERAL ALLEGATIONS

The Plaintiff hereby re-alleges and incorporates paragraphs 1-5 above as though they had been fully set forth herein, and further states as follows:

6. The Defendant is a real estate holding and management company that operates a housing subdivision in Fort Pierce, Florida under the name SPANISH LAKES FAIRWAYS. This housing development is structured in such a way that homes are privately owned by individual residents, but the land that each home occupies is owned by the Defendant. Likewise, the Defendant owns and/or manages the common areas of the development.

7. The Decedent, GLORIA SERGE, was a long-time resident of SPANISH LAKES FAIRWAYS having moved into the community nearly thirty (30) years prior to her death. For the last twenty-one (21) years of her life, Ms. Serge was the owner of a residence within SPANISH LAKES FAIRWAYS which was located at 14313 Aguila Avenue, Fort Pierce, Florida 34951.

8. The SPANISH LAKES FAIRWAYS development contains multiple retention ponds that were built by the Defendant and/or that have been maintained by the Defendant during that time that it has controlled the common areas of the community. These retention ponds are self-contained within the development, and they are actively managed and regulated. Therefore, they do not constitute a natural, unimproved area. One of these retention ponds was located in the backyard of the residence that Ms. Serge owned at 14313 Aguila Avenue.

9. The Defendant knew, or should have known, that the retention pond located directly behind Ms. Serge's residence contained multiple large, dangerous alligators that meet the definition of a nuisance under Florida law. These nuisance alligators constituted a dangerous condition on the property owned, managed and/or controlled by the Defendant.

10. As the entity in control of SPANISH LAKES FAIRWAYS, the manager of the property and the owner of the common areas, the Defendant had a non-delegable duty to maintain a safe premises free of dangerous conditions and to warn invitees, such as Ms. Serge, of the existence of any such dangers. The Defendant also had a general duty of reasonable care to prevent foreseeable harm, through its acts or omissions, to third-parties, including Ms. Serge.

11. The Defendant breached its duties of reasonable care by:

- A. Allowing residents and staff to feed the wildlife, including alligators, in the retention pond which had the effect of socializing the alligators toward human contact while downplaying the danger that these animals posed to residents;
- B. Allowing residents to keep non-motorized watercraft on the banks of the retention pond and to use these watercrafts in the pond;
- C. Allowing residents to walk near the retention pond, and to fish in the pond;
- D. Encouraging residents to sit on the banks of the retention pond by placing benches there for resident use;
- E. Failing to provide residents, including Ms. Serge, with any warnings regarding the existence of alligators in the retention pond and/or the dangerous nature of these animals; and
- F. Failing to make arrangement for the trapping and removal of alligators from this retention pond despite the fact that they met the definition of a nuisance, and were therefore eligible for removal, under the SNAP program facilitated by the Florida Fish and Wildlife Conservation Commission.

12. In other words, the Defendant knew that alligators constituting a dangerous condition existed on its property, it failed to take reasonable steps to remove this dangerous condition and instead actually made the condition more dangerous by permitting residents and employees to have regular contact with the alligators. At the same time, the Defendant failed to warn residents including Ms. Serge of the existence of the alligators, or the dangers that they posed.

13. On the contrary, despite its knowledge that one or more dangerous alligators occupied the retention pond behind Ms. Serge's home, the Defendant insisted that she walk her pet dog either: (a) at a specified dog run located more than a mile from her home; or (b) on her own property. Due to the distance to the dog-run, the feasibility of transporting a dog to this dog-run multiple times a day and the configuration

of the property, the Defendant had actual and/or constructive knowledge that its dog walking policy would force Ms. Serge to walk near the retention pond behind her home.

14. In other words, the Defendant encouraged, if not forced, the Decedent to walk her dog near a retention pond that it knew, or should have known, contained large, dangerous alligators that constituted a nuisance under the definition developed by the Florida Fish and Wildlife Conservation Commission.

15. On or about February 20, 2023, GLORIA SERGE was walking her dog near the retention pond behind her home within the SPANISH LAKES FAIRWAYS development when she was attacked by a large, nuisance alligator. The alligator grabbed Ms. Serge by the foot and dragged her into the pond where it disfigured her body and drowned her. Ms. Serge died as a result of this violent attack.

WRONGFUL DEATH – PREMISES LIABILITY

The Plaintiff hereby re-alleges and incorporates paragraphs 1-15 above as though they had been fully set forth herein, and further states as follows:

16. GLORIA SERGE was a resident of the SPANISH LAKES FAIRWAYS housing development located in Fort Pierce, Florida. This community was owned, managed and/or controlled by the Defendant giving rise to a non-delegable duty to take reasonable steps to eliminate dangerous conditions on the property and to warn residents and invitees, such as Ms. Serge of the existence and risk that they pose.

17. The Defendant knew or should have known that there was a dangerous condition on the property in the form of dangerous, nuisance alligators, but failed to take any reasonable steps to remove this condition or to warn residents and invitees, such as Ms. Serge, about: (a) their existence; or (b) the danger that they posed.

18. The Defendant therefore breached its non-delegable duty of care as a landowner, manager and/or occupier by:

- A. Failing to make arrangement for the trapping and removal of alligators from this retention pond despite the fact that they met the definition of a nuisance, and were therefore eligible for removal, under the SNAP program facilitated by the Florida Fish and Wildlife Conservation Commission.

- B. Failing to provide residents, including Ms. Serge, with any warnings regarding the existence of alligators in the retention pond and/or the dangerous nature of these animals.

19. As a direct and proximate result of the Defendant's negligent act and omissions, GLORIA SERGE died on or about February 20, 2023.

20. GLORIA SERGE was survived by her five (5) children: William Serge; Cathleen Labriola; Karen Van O'Linda; Patricia Healy; and, Charles Serge each of whom is entitled to recover for wrongful death damages.

21. As a direct and proximate cause of GLORIA SERGE's death, her survivors have suffered, and continue to suffer, lost companionship and protection as well as mental pain and suffering from the date of the loss. Further, as a direct and proximate result of GLORIA SERGE's death, her Estate and/or survivors have incurred medical and funeral expenses.

WHEREFORE, the Plaintiff, WILLIAM SERGE as Personal Representative of the Estate of GLORIA SERGE demands judgment against the Defendant, WYNNE BUILDING CORPORATION for damages to be determined by the trier-of-fact along with costs and further demands a trial by jury.

WRONGFUL DEATH – ACTIVE NEGLIGENCE

The Plaintiff hereby re-alleges and incorporates paragraphs 1-15 above as though they had been fully set forth herein, and further states as follows:

22. The Decedent, GLORIA SERGE, was a long-time resident of SPANISH LAKES FAIRWAYS having moved into the community nearly thirty (30) years prior to her death. For the last twenty-one (21) years of her life, Ms. Serge was the owner of a residence within SPANISH LAKES FAIRWAYS which was located at 14313 Aguila Avenue, Fort Pierce, Florida 34951.

23. The Defendant was the owner, manager and/or occupier of the common areas of SPANISH LAKES FAIRWAYS and was also responsible for creating and enforcing rules and policies within the community.

24. The Defendant had a duty to act with reasonable care for the prevention of foreseeable harm to its residents and invitees, including Ms. Serge.

25. The Defendant had actual and constructive knowledge that several large alligators, that met the definition of a nuisance as described by the Florida Fish and Wildlife Conservation Commission was located on the property, and within the retention pond behind Ms. Serge's home.

26. In fact, upon information and belief, employees and/or agents of the Defendant were known to feed the alligators located in the pond behind Ms. Serge's residence. Likewise, the Defendant permitted residents of the community to feed the alligators on the property. This feeding specifically included the large, dangerous alligator that ultimately attacked Ms. Serge. By feeding and interacting with this alligator, the employees, agents, and residents of SPANISH LAKES FAIRWAYS substantially increased the likelihood of an attack by socializing the animals toward human contact and ensuring that the associated humans with a known food source.

27. Additionally, the Defendant actively downplayed the risk and danger of these alligators by: (a) allowing residents to walk and fish along the shores of the retention pond; (b) allowing residents to maintain docks and watercraft on the retention pond; and (c) encouraging residents to sit on the banks of the retention pond. By actively minimizing this risk to its residents, including elderly residents such as Ms. Serge, the Defendant's actions substantially contributed to a foreseeable attack in which a resident was injured or killed by an alligator on the property.

28. In fact, the Defendant insisted that Ms. Serge walk her small dog, known to be a target for alligators in general, on her own property despite the fact that the configuration of the property meant that she would be walking her pet near the retention pond where they knew large, nuisance alligators existed.

29. Allowing its employees, agents, and residents to feed nuisance alligators on the property, actively minimizing the risk associated with these nuisance alligators to its residents and invitees and insisting that Ms. Serge walk her small dog on property adjacent to the nuisance alligators, under threat of eviction each constitute a breach of the Defendant's duty of reasonable care.

30. As a direct and proximate result of the Defendant's breach of its duty of reasonable care, GLORIA SERGE died on or about February 20, 2023.

31. GLORIA SERGE was survived by her five (5) children: William Serge; Cathleen Labriola; Karen Van O'Linda; Patricia Healy; and Charles Serge each of whom is entitled to recover for wrongful death damages.

32. As a direct and proximate cause of GLORIA SERGE's death, her survivors have suffered, and continue to suffer, lost companionship and protection as well as mental pain and suffering from the date of the loss. Further, as a direct and proximate result of GLORIA SERGE's death, her Estate and/or survivors have incurred medical and funeral expenses.

WHEREFORE, the Plaintiff, WILLIAM SERGE as Personal Representative of the Estate of GLORIA SERGE demands judgment against the Defendant, WYNNE BUILDING CORPORATION for damages to be determined by the trier-of-fact along with costs and further demands a trial by jury.

DEMAND FOR JURY TRIAL

The Plaintiff hereby demands a trial by jury of all issues so triable as a matter of right.

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s/Joshua D. Ferraro

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