

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT PALMER

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CLERK TRIAL COURTS

BY: 94
DEPUTY CLERK

the ESTATE OF MICHAEL LEE CORNELL,)

Plaintiff,)

vs.)

WILLOW AREA SENIORS, INC.,)

DOYLE HOLMES, AND)

JOHN McCAREL)

Defendants.)

Case No. 3PA-24- 2472 CI

COMPLAINT

COMES NOW Plaintiff, the Estate of Michael Lee Cornell, appearing through Personal Representative Daniel Hyry, by and through counsel, Brogan Kirkman of Artio Law, to complain against Defendants, Willow Area Seniors, Inc., Doyle Holmes, and JOHN McCarel as stated and alleged herein.

THE PARTIES

1. Plaintiff, the Estate of Michael Lee Cornell (the "Estate"), is being probated in the Superior Court for the State of Alaska, Third Judicial District at Palmer, having case number 3PA-22-00678PR, and is in all respects capable and qualified to commence and maintain these proceedings before and within the courts of the State of Alaska pursuant to and as a result of the facts and circumstances herein set forth.
2. Personal Representative, Daniel Hyry ("Hyry"), was appointed on or about 08/24/2022, and is in all respects capable and qualified to act on behalf of the Estate to commence and maintain these proceedings before and within the courts

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of the State of Alaska pursuant to and as a result of the facts and circumstances herein set forth.

3. Defendant, Willow Area Seniors, Inc, ("Willow") at all relevant times, is believed to be a duly incorporated Alaskan Nonprofit Corporation doing business within the State of Alaska, was a party to the Lease Agreement referenced herein, was the employer or party exercising authority over Defendant Doyle Holmes who as acting an employee, contractors, or officer of Willow, and is in all particulars qualified to be a defendant to these proceedings pursuant to the facts herein set forth.
4. Defendant, Doyle Holmes ("Holmes"), is believed, at all relevant times, to be a resident of the State of Alaska, and is in all particulars qualified to be a defendant to these proceedings within the courts of the State of Alaska pursuant to and as a result of the facts and circumstances herein set forth.
5. Defendant Holmes is believed, at all relevant times, to be the President, Board Member Director, and employee, subcontractor, or agent of Willow, and is in all particulars qualified to be a defendant to these proceedings within the courts of the State of Alaska pursuant to and as a result of the facts and circumstances herein set forth.
6. Defendant, John McCarel ("McCarel"), is believed, at all relevant times, to be a resident of the State of Alaska, and is in all particulars qualified to be a defendant to these proceedings within the courts of the State of Alaska pursuant to and as a result of the facts and circumstances herein set forth.

JURISDICTION AND VENUE

7. The court obtains proper subject matter jurisdiction over this matter pursuant to the original jurisdiction granted in AS 22.10.020 and, more specifically, the court has exclusive and concurrent jurisdiction over matters related to the administration and devolution of the Estate, regardless of the monetary amount in controversy, in accordance with AS 13.16.025.
8. The court obtains personal jurisdiction pursuant to AS 09.05.015(a)(1)(D) over Defendant Willow, because it is engaged in substantial activities, such as renting apartments to seniors, in Alaska.

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9. The court obtains personal jurisdiction pursuant to AS 09.05.015(a)(1)(B) over Defendant Holmes, because, upon information and belief, he is domiciled in the State of Alaska.
10. The court obtains personal jurisdiction pursuant to AS 09.05.015(a)(1)(B) over Defendant McCarel, because, upon information and belief, he is domiciled in the State of Alaska.
11. The court is the proper venue in accordance with AS 22.10.030 and Alaska R. Civ. P. 3(c), because Palmer is the judicial district in which the claims stated herein arose.

FACTUAL ALLEGATIONS

12. Plaintiff hereby re-allege and incorporate by reference all of the paragraphs set out above and state as follows:
13. On 10/05/2008, Michael Lee Cornell ("Cornell") entered into a Lease Agreement with Willow to rent an apartment at Willow Haven Senior Housing.
14. Cornell used the apartment as his primary residence.
15. The Lease Agreement term was for twelve (12) months, but Cornell and Willow continued their relationship through a holdover tenancy with no formal update or amendment to the original Lease Agreement.
16. Cornell was divorced, had no living children or family nearby, and had a limited number of close friends.
17. On or about 08/11/2022, Cornell died.
18. Cornell was still living at Willow Haven Senior Housing when he died.
19. Willow Senior Housing did not provide Cornell with detention, medical, geriatric, educational, counseling, religious, or other similar services.
20. Cornell was known in the Willow Haven Senior Housing community for his firearm collection that included rare or unique pieces.
21. Cornell hid firearms throughout his apartment at Willow Haven Senior Housing.

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22. Upon information and belief, Defendant Holmes was acting as the property manager for Willow at Willow Haven Senior Housing.
23. Upon information and belief, after Cornell's death, Defendant Holmes entered Cornell's apartment on an unknown number of occasions and removed personal property that belonged to Cornell.
24. Upon information and belief, Defendant Holmes accessed Cornell's safe and removed personal belongings from the safe.
25. Upon information and belief, Defendant McCarel also entered Cornell's apartment on an unknown number of occasions and removed personal property that belonged to Cornell.
26. Upon information and belief, Defendant Holmes was acting on behalf of Defendant Willow when he entered Cornell's apartment and removed personal property.
27. Defendants did not have permission from Hyry to remove Cornell's personal property.
28. Upon information and belief, the property removed by Defendants Holmes and Willow included, but is not limited to, firearms, jewelry, an iPad, address book, and contents of a safe.
29. On 08/19/2022, Defendant Holmes sent Hyry a letter on behalf of Defendant Willow indicating Willow had photographed everything and taken "possession" of Cornell's personal property.
30. Upon information and belief, Defendant Holmes, on behalf of Defendant Willow, desired to be the personal representative of Cornell's estate.
31. Upon information and belief, Defendant Holmes, on behalf of Defendant Willow, has a history of acting as personal representatives for deceased tenants that do not have family or friends willing or able to serve.
32. Upon information and belief, Defendants have removed personal property from other deceased residents to sell or keep for themselves.

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33. Defendants Willow and Holmes refused to return any of Cornell's personal property to the Estate until the Estate paid a Claim made against the Estate by Willow.
34. Defendant Willow's Claim was deemed untimely after litigation and was denied.
35. Defendants Willow and Holmes have returned some of Cornell's personal property, but the most valuable items have either been sold, lost, or retained by the Defendants.

CAUSES OF ACTION

COUNT I

Conversion

36. Plaintiff hereby re-allege and incorporate by reference all of the paragraphs set out above and state as follows:
37. Defendants either directly, or through their agents, intentionally exercised dominion and control over Cornell's personal property when they removed the personal property from Cornell's apartment.
38. Plaintiff Estate has an ownership interest in Cornell's personal property.
39. Defendants' dominion and control over Cornell's personal property has interfered or permanently deprived the Estate of its ownership interest in Cornell's personal property.
40. As a result of Defendants' actions, the Plaintiff Estate has suffered damages in the amount of the full value of Cornell's converted personal property.

COUNT II

Violation of AS 34.03.260

41. Plaintiff hereby re-allege and incorporate by reference all of the paragraphs set out above and state as follows:



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42. Pursuant to AS 34.03.260, Defendants Willow and Holmes were statutorily obligated to permit Plaintiff Estate to collect Cornell's personal property prior to its disposition.
43. Defendants Willow and Holmes failed to provide proper notice and opportunity to Plaintiff Estate regarding Cornell's personal property as prescribed by AS 34.03.260.
44. As a result of Defendants' failure to comply with AS 34.03.260, Plaintiff Estate is entitled to actual damages and penal damages.

COUNT III

Violation of AS 34.03.250

45. Plaintiff hereby re-allege and incorporate by reference all of the paragraphs set out above and state as follows:
46. In accordance with AS 34.03.250, a landlord may not lien or obtain a security interest in household goods unless it was perfected before March 1974.
47. Defendants Willow and Holmes refusal to return Cornell's personal property to Plaintiff Estate unless Defendants' Claim against the Estate was paid is an unlawful lien or security interest under AS 34.03.250.
48. As a result of Defendants' failure to comply with AS 34.03.250, Plaintiff should be awarded penal damages to prevent Defendant Willow and Holmes from preying on other vulnerable seniors.

COUNT IV

Negligent Supervision

&

Respondeat Superior Negligence for Employees or Agents

49. Plaintiff hereby re-allege and incorporate by reference all of the paragraphs set out above and state as follows:

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50. At all times relevant to this litigation, Defendant Willow was the employer or principle of Defendant Holmes who was acting as the property manager for Defendant Willow.

51. Defendant Holmes, acting as an employee or agent under the direction, management, and control of Defendant Willow, through acts and omissions failed to exercise reasonable care.

52. Defendant Willow breached its duty of care owed to Plaintiff Estate by failing to properly supervise Defendant Holmes.

53. As a direct and proximate cause of Defendant Willow's actions and omissions Plaintiff Estate has suffered property damage.

PRAYER FOR RELIEF

1. Plaintiff hereby re-allege and incorporate by reference all of the paragraphs set out above and state as follows:
2. Judgment in favor of the Plaintiff Estate in an amount to be proven at trial for compensatory damages for the conversion of Cornell's personal property.
3. For an order compelling the return of Cornell's personal property that was not lost, sold, or disposed of.
4. Award prejudgment interest at the maximum legal rate.
5. Award Plaintiff Estate's costs, interest, and attorney's fees for brining and defending this case, and any full and reasonable attorney's fees pursuant to AS 34.03.350.
6. Award Plaintiff Estate's punitive damages.
7. Any other and further relief as the court shall deem just and proper under the circumstances so proven



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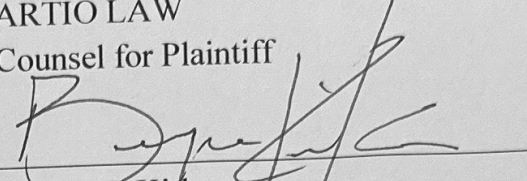
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Counsel for Plaintiff


Brogan B Kirkman
Alaska Bar Number 2009082

Dated 08/09/2024



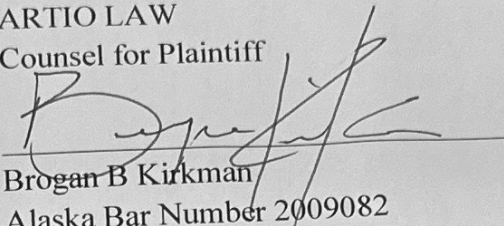
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