
IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA.

GENERAL JURISDICTION DIVISION

CASE NO. _____

LORRI C. HINTON and LONNIE
W. HINTON, JR., individually, and
as natural parents and guardians of
LOREN HINTON, a minor,

Plaintiffs,

VS.

2331 ADAMS STREET CORP, a Florida
Corporation,

Defendant.
_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, LORRI C. HINTON and LONNIE W. HINTON, JR., individually and as natural parents and guardians of minor child, LOREN HINTON, sue Defendant, 2331 ADAMS STREET CORP, a Florida Corporation, and state as follows:

ALLEGATIONS AS TO ALL COUNTS

1. This is an action for damages in excess of fifteen thousand dollars (\$15,000.00) exclusive of interest, costs, and attorney fees, and is within the jurisdiction of this Court.
2. At all material times, Plaintiffs are and were residents of Broward County, Florida and are otherwise sui juris.

3. At all material times, the Plaintiff, LOREN HINTON, was a minor and a citizen and resident of Broward County.
4. At all material times, the Plaintiff, LORRI C. HINTON, was the mother and natural guardian of LOREN HINTON, a minor.
5. At all material times, LONNIE W. HINTON, JR., was the father and natural guardian of LOREN HINTON, a minor.
6. At all material times, the Defendant, 2331 ADAMS STREET CORP, owned and operated the "TropiSun" Apartments and/or the apartments/premises located at 2331 Adams Street, which at all times was under their control.
7. At all material times, the Defendant, 2331 ADAMS STREET CORP, was and is a Florida Corporation doing business in the State of Florida with a principal place of business located at 1215 N. Ocean Dr., Hollywood, Florida.
8. At all material times, the Defendants, 2331 ADAMS STREET CORP, was and is a Florida corporation with a registered agent in Broward County, Florida.
9. On or about May 15, 2001, LOREN HINTON, a minor and resident of the "TropiSun" Apartments and/or the apartments/premises located at 2331 Adams Street, gained access to the unsupervised swimming pool area on the premises through a broken, defective and ill-maintained fences. She fell into the pool and became submerged and was deprived of oxygen to the point of unconsciousness, which in turn caused severe, permanent and

irreversible brain damage.

COUNT ONE
NEGLIGENCE CLAIM AGAINST DEFENDANT, 2331 ADAMS STREET CORP

10. Plaintiffs, LORRI C. HINTON and LONNIE W. HINTON, JR. individually and as natural parents and guardians of minor child, LOREN HINTON, adopt and reallege all allegations previously made in paragraphs 1-9 in this Complaint.
11. At all material times, LOREN HINTON, a minor, was a resident of the "TropiSun" Apartments and/or the apartments/premises located at 2331 Adams Street owned, operated and controlled by Defendant, 2331 ADAMS STREET CORP [hereinafter "ADAMS STREET"].
12. At all material times, ADAMS STREET owed a non-delegable duty to the Plaintiffs to exercise reasonable care and to keep its premises in a reasonably safe condition for the safety of persons, including minors, lawfully on the premises.
13. Specifically, ADAMS STREET owed a duty to Plaintiffs to exercise reasonable care in keeping its "Pool" and "Pool Area" in a reasonably safe condition through proper fencing, inspections, supervision, and maintenance for the safety of all persons lawfully on the premises such as the Plaintiffs and their daughter, LOREN HINTON.
14. ADAMS STREET breached its non-delegable duty to maintain these premises in a reasonably safe condition by committing one or more of the following

acts or omissions:

- A. Allowing an unreasonably dangerous and defective condition to be created and/or to remain on its premises, to wit: a "Pool" and "Pool Area" that was not sectioned off in its entirety from the rest of the premises by a fence;
- B. Allowing a dangerous and defective condition to be created and/or to remain on its premises, to wit: a "Pool" and "Pool Area" that was not sectioned off from the rest of the premises by an adequate, non-defective, operational fence, suitable for the purpose of preventing entry into the "Pool" or "Pool Area";
- C. Failing to utilize a fence which completely surrounded the "Pool" and "Pool Area";
- D. Failing to utilize a "gate" to that fence that closed and latched so as to make it impossible for small children and toddlers to gain access to the "pool area;"
- E. With respect to the "Pool" and "Pool Area", failing to comply or cause compliance with applicable South Florida Building Codes;
- F. Failing to protect LOREN HINTON, a member of a protected class pursuant to the South Florida Building Code, from the perils

of which the South Florida Building Codes were designed to protect against;

- G. Failing to utilize a fence having a properly situated and latching gate so that small children could not obtain access to the "Pool" and "Pool Area" through such gate;
- H. Permitting the fence and gate to remain in a state of disrepair and/or non-function ability for several weeks or months and in failing to repair the fence and fence gate so as to cause it to completely section off the "Pool" and "Pool Area", thereby creating an extremely dangerous condition and an unrestricted "attractive nuisance".
- I. Permitting a child's play area to remain within the fence and fence gate area next to the pool, including a brightly colored toy slide that went directly into the pool, thereby creating an extremely dangerous condition and an unrestricted "attractive nuisance".
- J. Defendant failed to warn Plaintiffs and their daughter of these dangerous conditions and neither Plaintiffs nor LOREN HINTON had prior knowledge of same.

15. The Defendant, 2331 ADAMS STREET CORPORATION, its agents, servants,

and/or employees, carelessly and negligently failed to have any procedures governing the maintenance, inspection and supervision of the area where the subject accident occurred; or in the alternative,

A. The Defendant, 2331 ADAMS STREET CORPORATION, its agents, servants and/or employees, did in fact have procedures governing the maintenance, inspection, and supervision of its premises, however, the Defendant negligently and carelessly failed to implement said procedures; or in the alternative,

B. The Defendant, 2331 ADAMS STREET CORPORATION, its agents, servants and/or employees, did in fact have procedures governing the maintenance, inspection, and supervision of its premises, but implemented same in a careless and negligent manner.

16. The above described dangerous conditions existed for a sufficient period of time such that a reasonable person, for example this Defendant, knew or should have discovered and corrected same.

17. As a direct and proximate result of the foregoing negligence of ADAMS STREET, and near drowning of LOREN HINTON, Defendant is liable to Plaintiffs for all damages to which they are entitled, including as applicable law may provide, but not limited to:

A. The Plaintiff, LOREN HINTON, a minor now suffers and will

continue to suffer severe, permanent and irreversible brain damage.

- B. The Plaintiff, LOREN HINTON, a minor, has incurred and continues to incur massive and insurmountable medical bills for round the clock care which will continue for the rest of her life to treat these permanent, severe and debilitating injuries.
- C. The Plaintiff, LOREN HINTON, a minor, suffered undescrivable pain and suffering while submerged and struggling in the pool. She has suffered great mental anguish and will continue to suffer such in the future.
- D. The Plaintiff, LOREN HINTON, a minor, has lost the capacity to enjoy life and will endure pain and suffering the remainder of her life.
- E. The Plaintiff, LOREN HINTON, a minor, has lost any future earning capacity and will suffer great economic hardship due to her total inability to ever earn an income during the remainder of her life.

WHEREFORE, the Plaintiffs LORRI C. HINTON and LONNIE W. HINTON, JR., individually and as natural parents and guardians of minor child, LOREN HINTON, sue the Defendant 2331 ADAMS STREET CORP, a Florida Corporation, and demand

judgment for damages exclusive of attorneys fees, costs and interest against them in an amount in excess of the jurisdictional limits of this Court.

COUNT TWO
NEGLIGENCE PER SE AGAINST 2331 ADAMS STREET CORP

18. Plaintiffs, LORRI C. HINTON and LONNIE W. HINTON, JR. individually and as natural parents and guardians of minor child, LOREN HINTON, adopt and reallege all allegations previously made in paragraphs 1-9 in this Complaint.
19. LOREN HINTON, a minor, while on the premises of the 'Tropisun" Apartments and/or the apartments/premises located at 2331 Adams Street was a lawful invitee, as well as a member of the protected class pursuant to the South Florida Building Code. Specifically, Defendant, ADAMS STREET, through its agents and employees, violated the South Florida Building Code by failing to completely enclose the "pool area" with a barrier and in failing to have a properly latching gate to the "pool area."
20. The above-described provisions of the South Florida Building Code were designed and intended for the protection of minor children from the attractive nuisance presented by outdoor swimming pools.
21. Defendant ADAMS STREET's violation of the South Florida Building constitutes prima facie evidence of negligence and amounts to *negligence per se*.
22. As a direct and proximate result of the drowning and Defendant, ADAMS

STREET's violation of South Florida Building Code, Defendant is liable to Plaintiffs for all damages to which they are entitled, including as applicable law may provide, but not limited to:

- A. The Plaintiff, LOREN HINTON, a minor now suffers and will continue to suffer severe, permanent and irreversible brain damage.
- B. The Plaintiff, LOREN HINTON, a minor, has incurred and continues to incur massive and insurmountable medical bills for round the clock care which will continue for the rest of her life to treat these permanent, severe and debilitating injuries.
- C. The Plaintiff, LOREN HINTON, a minor, suffered undescrivable pain and suffering while submerged and struggling in the pool. She has suffered great mental anguish and will continue to suffer such in the future.
- D. The Plaintiff, LOREN HINTON, a minor, has lost the capacity to enjoy life and will endure pain and suffering the remainder of her life.
- E. The Plaintiff, LOREN HINTON, a minor, has lost any future earning capacity and will suffer great economic hardship due to her total inability to ever earn an income during the remainder of

her life.

WHEREFORE, the Plaintiffs LORRI C. HINTON and LONNIE W. HINTON, JR., individually and as natural parents and guardians of minor child, LOREN HINTON, sue the Defendant 2331 ADAMS STREET CORP, a Florida Corporation, and demand judgment for damages exclusive of attorneys fees, costs and interest against them in an amount in excess of the jurisdictional limits of this Court.

DEMAND FOR JURY TRIAL

_____ Plaintiffs demand trial by jury of all issues triable as of right by jury.

DATED THIS _____ DAY OF JULY, 2001.

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