

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN AND
FOR GADSDEN COUNTY, FLORIDA

KIMBERLY BUTLER, as
Representative to the Estate
of LEWIS BUTLER, deceased,

Plaintiff,
vs.

CASE NO.:

FORTUNE MGT 2023 LLC.,
EVAN'S GROCERIES, LLC.,
MANISHKUMAR PATEL, and
SHAIKH WAHAB

Defendants.

COMPLAINT

Plaintiff KIMBERLY BUTLER, as Personal Representative of the Estate of LEWIS BUTLER, sues Defendant, FORTUNE MGT 2023 LLC. (hereinafter "FORTUNE MGT"), EVAN'S GROCERIES, LLC. ("EVAN'S GROCERIES"), MANISHKUMAR PATEL, and SHAIKH WAHAB and alleges:

JURISDICTION, VENUE, PARTIES

1. This is an action for wrongful death pursuant to § 768.16-768.26, Fla. Stat. (2012), with damages exceeding the minimum jurisdictional limit of this court, which is \$30,000.
2. Venue is proper in Gadsden County pursuant to section 47.051, Florida Statutes, as this is the County where the cause of action stated herein accrued.
3. All conditions precedent to the filing of this action have been met, have occurred, have been waived, or have been excused.
4. Plaintiff, KIMBERLY BUTLER, is the duly appointed personal representative for the estate of LEWIS BUTLER, who died on November 15, 2023.

5. Plaintiff, KIMBERLY BUTLER, is authorized pursuant to § 768.20, Fla. Stat. to bring this wrongful death action against Defendants on behalf of decedent's estate.
6. Defendant FORTUNE MGT was at all times material hereto a foreign corporation licensed to do business in the State of Florida with its principal place of business in Decatur, Georgia. FORTUNE MGT is the owner the property located at 6688 FLA-GA HWY HAVANA, FL 32333 (hereinafter "the premises"). Defendant MANISHKUMAR PATEL is the owner and/or agent for FORTUNE MGT.
7. Defendant EVAN'S GROCERIES was at all times material hereto a Florida limited liability company licensed to do business in the State of Florida with its principal place of business in Gadsden County, Florida. Defendant SHAIKH WAHAB is the owner and/or agent for EVAN'S GROCERIES.

GENERAL ALLEGATIONS

8. EVAN'S GROCERIES, located at 6688 FLA-GA HWY HAVANA, FL 32333, and owned by FORTUNE MGT, was running an "internet cafe" a location where gambling took place in violation of FL §849.01. This was known to its owners and managers including MANISHKUMAR PATEL.
9. EVAN'S GROCERIES was known for keeping cash at its principal location without the presence of law enforcement.
10. EVAN'S GROCERIES was robbed at gunpoint on October 25, 2023.
11. Following the robbery, no law enforcement was called nor was any police report filed. This was done to avoid scrutiny of the illegal gambling operation being conducted at EVAN'S GROCERIES and by MANISHKUMAR PATEL.

12. On or about November 14, 2023, decedent Lewis Butler was at the premises as a security guard to assist in providing security to EVAN'S GROCERIES and MANISHKUMAR PATEL.
13. Decedent Butler was not informed of the earlier robbery that took place on October 25, 2023, nor was he informed that a gun had been taken at the time of that robbery.
14. On the night of November 14, 2023, two assailants attempted to rob EVAN'S GROCERIES where Decedent was working as a security guard. On knowledge and belief these were the same two assailants who earlier robbed EVAN'S GROCERIES to obtain the funds from the internet gambling operation.
15. LEWIS BUTLER attempted to protect the other employees and was shot due to the gunfire that ensued at EVAN'S GROCERIES. Mr. Butler lost his life defending the establishment and its staff.
16. During the investigation of LEWIS BUTLER'S death, management for EVAN'S GROCERIES reported to the investigating officers that the two individuals who were captured on camera were the same individuals who had robbed EVAN'S GROCERIES previously.
17. As Personal Representative of the Estate of LEWIS BUTLER, KIMBERLY BUTLER brings the following claim for the wrongful death of LEWIS BUTLER, pursuant to §768.16-768.26, Florida Statutes, as well as on her behalf as Beneficiary.

**COUNT I – OPERATION OF AN ILLEGAL GAMBLING ESTABLISHMENT AND
NEGLIGENCE v. FORTUNE MGT AND MANISHKUMAR PATEL**

18. Plaintiff realleges paragraphs 1 through 17 as though fully set forth herein.

19. FORTUNE MGT, and MANISHKUMAR PATEL, was the owner and/or landlords of the above-described premises.
20. Defendant, FORTUNE MGT, and MANISHKUMAR PATEL, had a non delegable duty to maintain its premises in a reasonably safe condition and to protect invitees from dangerous conditions existing on its premises. Defendants knew or should have known that operating an illegal gambling establishment with lots of cash monies would and did draw criminal activities including the robbery of October 25, 2023 and the robbery attempt of November 14, 2023.
21. On November 14, 2023, decedent, LEWIS BUTLER, went upon the premises as described, to attempt to provide security at this location.
22. Decedent, LEWIS BUTLER, was shot during an attempted robbery by the same individuals who previously robbed the premises.
23. Defendant, FORTUNE MGT, and MANISHKUMAR PATEL, maintained some degree of control over the security and operations of its premises on November 14, 2023, and knew or should have known that an illegal gambling operation was being conducted there.
24. FORTUNE MGT, and MANISHKUMAR PATEL, took some portion of the proceeds as an owner or partner in the illegal gambling operation.
25. At the time of the occurrence of the subject incident, Defendant, FORTUNE MGT, and MANISHKUMAR PATEL, owed the following duties to LEWIS BUTLER:
 - a. The duty to reasonably inspect the premises in order to determine whether any unsafe or dangerous conditions and/or persons existed on the premises;
 - b. The duty to provide a reasonable amount of security and safety for the premises and invitees of the premises.

- c. The duty to secure the above-described premises in a reasonably safe condition;
- d. The duty to warn any and all invitees of the existence of any dangerous or unsafe conditions of which Defendant was aware or should have been aware through the exercise of reasonable care; including informing decedent Butler of the prior robbery and use of guns.
- e. A non-delegable duty of safety, security, and inspection over the property, especially in light of the knowledge of a great deal of criminal activity in the area and a previous robbery.
- f. The duty to contact or provide a police presence or assistance when Defendant knew or should have known about a previous robbery.

26. The Defendant, FORTUNE MGT, and MANISHKUMAR PATEL, engaged in a negligent and illegal mode of operation, negligently failed to provide adequate security, and breached their above described duty to LEWIS BUTLER and further were negligent in the following measures:

- a. Failing to provide adequate security for its invitees, despite the actual knowledge criminal activity;
- b. Failing to establish proper procedures to follow when dealing with situations involving physical assaults, shootings, and/or disorderly or suspicious persons;
- c. Failing to employ adequate staff and/or security to supervise and control invitees at its location;
- d. Failing to inform decedent of the previous robbery and providing additional security;

- e. Failing to contact law enforcement following the initial robbery despite having the assailants on camera;
- f. Conducting an illegal gaming operation involving large sums of cash which defendants knew made robbing of their premises likely.

27. Based upon the prior criminal activity at the premises, it was foreseeable that assailants would return since they did not have to worry about the police being contacted. FORTUNE MGT, and MANISHKUMAR PATEL, knew or should have known of this dangerous condition existing at their premises.

28. As a direct and proximate result of the subject incident, LEWIS BUTLER was shot and killed.

29. As a result of the death of LEWIS BUTLER, the Estate of LEWIS BUTLER has suffered damages including loss of prospective net accumulations, and medical and funeral expenses. The survivors of the Estate of LEWIS BUTLER have suffered damages including loss of support and services of LEWIS BUTLER and mental pain and suffering. WHEREFORE, Plaintiff demands judgment against the Defendant FORTUNE MGT, and MANISHKUMAR PATEL, for wrongful death damages, costs of this action, prejudgment interest as may be applicable, post judgment interest, and trial by jury on all issues so triable.

**COUNT II – OPERATION OF AN ILLEGAL GAMBLING ESTABLISHMENT AND
NEGLIGENCE v. EVAN'S GROCERIES AND SHAIKH WAHAB**

29. Plaintiff realleges Count 1-17 as though fully set forth herein.

30. EVAN'S GROCERIES and SHAIKH WAHAB managed and operated the internet café and its illegal gambling operation and was responsible for the accessibility of the funds from the gaming machines day-to-day operations of the casino.

31. The lack of police presence and refusal to contact law enforcement as a result of a previous robbery were likely known to the assailants and robbers and unknown to Mr. Butler.
30. As a result of the foregoing events, decedent, LEWIS BUTLER, was shot and killed during an attempted robbery.
31. Defendant, EVAN'S GROCERIES and SHAIKH WAHAB, maintained some degree of control over the security and operations of its premises on November 14, 2023, and shared the profits from the illegal gambling operation.
32. At the time of the occurrence of the subject incident, Defendant, EVAN'S GROCERIES and SHAIKH WAHAB, owed the following duties to LEWIS BUTLER:
 - a. The duty to reasonably inspect the premises in order to determine whether any unsafe or dangerous conditions and/or persons existed on the premises;
 - b. The duty to provide a reasonable amount of security and safety for the premises and invitees of the premises.
 - c. The duty to secure the above-described premises in a reasonably safe condition;
 - d. The duty to warn any and all invitees of the existence of any dangerous or unsafe conditions of which Defendant was aware or should have been aware through the exercise of reasonable care;
 - e. A non-delegable duty of safety, security, and inspection over the property, especially in light of the knowledge of a great deal of criminal activity in the area and a previous robbery.
 - f. The duty to contact or provide a police presence or assistance when Defendant knew or should have known about a previous robbery.

33. The Defendant, EVAN'S GROCERIES and SHAIKH WAHAB, engaged in a negligent mode of operation, negligently failed to provide adequate security, and breached their above described duty to LEWIS BUTLER and further were negligent in the following measures:

- a. Failing to provide adequate security for its invitees, despite the actual knowledge criminal activity;
- b. Failing to establish proper procedures to follow when dealing with situations involving physical assaults, shootings, and/or disorderly or suspicious persons;
- c. Failing to employ adequate staff and/or security to supervise and control invitees at its location;
- d. Failing to inform Decedent of the previous robbery, informing him that a gun was taken at that time, and providing additional security;
- e. Failing to contact law enforcement following the initial robbery despite having the assailants on camera

34. Based upon the prior criminal activity at the premises, it was foreseeable that assailants would return since they did not have to worry about the police being contacted. FORTUNE MGT and SHAIKH WAHAB knew or should have known of this dangerous condition existing at their premises.

35. As a direct and proximate result of the subject incident, LEWIS BUTLER was shot and killed.

36. As a result of the death of LEWIS BUTLER, the Estate of LEWIS BUTLER has suffered damages including loss of prospective net accumulations, and medical and funeral

expenses. The survivors of the Estate of LEWIS BUTLER have suffered damages including loss of support and services of LEWIS BUTLER and mental pain and suffering. WHEREFORE, Plaintiff demands judgment against the Defendant EVAN'S GROCERIES, for wrongful death damages, costs of this action, prejudgment interest as may be applicable, post judgment interest, and trial by jury on all issues so triable.

Respectfully submitted,

s/ Robert S. Cox
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