

STATE OF IDAHO }  
COUNTY OF KOOTENAI } ss  
FILED:

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CLERK DISTRICT COURT

*Cherry Hill*  
DEPUTY

**SUMMONS ISSUED**  
**AUG - 4 2009**

Gary I. Amendola  
**AMENDOLA & DOTY, PLLC**  
702 N. Fourth Street  
Coeur d'Alene, ID 83814  
Telephone: (208) 664-8225  
Facsimile: (208) 765-1046  
ISBN: 4872

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

OTIS LEON FEARS,  
Plaintiff,

v.

BLACK REALTY MANAGEMENT, INC.,  
dba PARK PLACE APARTMENTS,  
Defendant.

CASE NO. CV 09-

6229

**COMPLAINT FOR WRONGFUL  
DEATH AND DEMAND FOR  
JURY TRIAL**

**FEE CATEGORY: A  
FEE: \$88.00**

The Plaintiff Otis Leon Fears, through his attorney, Gary I. Amendola of Amendola & Doty, PLLC, complains against the Defendant Black Realty Management, Inc. dba Park Place Apartments and alleges as follows:

**PARTIES**

1. At all relevant times the Plaintiff Otis Leon Fears was, and still is, a resident of Kootenai County, Idaho.

2. On information and belief, Black Realty Management, Inc. is a Washington Corporation authorized to do business in the State of Idaho.

3. On information and belief, at all relevant times Black Realty Management, Inc. owned and/or operated Park Place Apartments. Park Place Apartments is an apartment complex located in Coeur d'Alene, Kootenai County, State of Idaho.

**JURISDICTION AND VENUE**

4. This Court has jurisdiction of this case under Idaho Code § 5-514 and Idaho Code § 5-311, and because the damages in this case exceed \$10,000.00.

5. Venue is appropriate in Kootenai County because the actions and/or omissions that gave rise to the causes of action stated in this Complaint arose in Kootenai County and the Defendant is doing business in Kootenai County.

**FACTUAL ALLEGATIONS**

6. Otis Leon Fears was married to Bette Fears and is her heir.

7. At the time of her death on August 8, 2007, Bette Fears was the manager of the Park Place Apartments.

8. On August 8, 2007, Evelyn Botto was a tenant at Park Place Apartments.

9. On information and belief, Evelyn Botto was known to the Defendant as a tenant who made unjustified and unfounded complaints against other tenants and guests.

10. On information and belief, Evelyn Botto was also known to the Defendant to be a tenant who had significant emotional and/or psychological problems.

11. On information and belief, the Defendant provided no training to Bette Fears about dealing with difficult and/or dangerous tenants.

12. On information and belief, the Defendant provided no training to Bette Fears about dealing with tenants with emotional and/or psychological problems.

13. On information and belief, the Defendant provided no security system nor did they take other steps to protect Bette Fears from difficult and/or dangerous tenants and/or tenants with emotional and/or psychological problems.

14. On August 8, 2007, Evelyn Botto shot and killed Bette Fears while Bette Fears was acting in the course and scope of her job as manager of the Park Place Apartments.

15. As a result of Bette Fears' death, Otis Leon Fears has incurred emotional distress with physical manifestations.

**CAUSE OF ACTION: NEGLIGENCE**

16. Otis Leon Fears incorporates by reference all other paragraphs in this Complaint.

17. As the employer of Bette Fears, the Defendant had a duty to provide her with a safe environment in which to work. The Defendant was negligent, careless, and/or reckless in which it fulfilled that duty and therefore, breached the duty owed to Bette Fears.

18. As a direct and/or proximate result of this negligent, careless and/or reckless conduct or omission of the Defendant, Otis Leon Fears sustained economic and non-economic damages in an amount to be proven at trial.

**CAUSE OF ACTION: NEGLIGENT TRAINING**

19. Otis Leon Fears incorporates by reference all other paragraphs in this Complaint.

20. As the employer of Bette Fears, the Defendant had a duty to train her on how to deal with and/or protect herself from difficult and/or dangerous tenants and/or tenants with emotional and/or psychological problems. The Defendant was negligent, careless, and/or reckless in which it fulfilled that duty, and therefore breached the duty owed to Bette Fears.

21. As a direct and/or proximate result of this negligent, careless and/or reckless conduct or omission of the Defendant, Otis Leon Fears sustained economic and non-economic damages in an amount to be proven at trial.

**CAUSE OF ACTION: NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS**

22. Otis Leon Fears incorporates by reference all other paragraphs in this Complaint.

23. As a direct and/or proximate result of the negligent, careless, and/or reckless conduct or omission of the Defendant, Otis Leon Fears was inflicted with emotional distress and sustained economic and non-economic damages in an amount to be proven at trial.

**CAUSE OF ACTION: LOSS OF CONSORTIUM, SOCIETY, AND COMPANIONSHIP**

24. Otis Leon Fears incorporates by reference all other paragraphs in this Complaint.

25. As a direct and/or proximate result of the negligent, careless, and/or reckless conduct or omission of the Defendant, Otis Leon Fears suffered a loss of consortium, society and companionship and sustained non-economic damages in an amount to be proven at trial.

**DEMAND FOR JURY TRIAL**

26. In accordance with Rule 38(b) of the Idaho Rules of Civil Procedure, Otis Leon Fears demands a trial by jury.

WHEREFORE, the Plaintiff prays for relief against the Defendant as follows:

- 1. For judgment in favor of the Plaintiff on his causes of action;
- 2. For economic and non-economic damages in an amount to be proven at trial;
- 3. For attorney fees and costs; and
- 4. For any other relief the Court deems proper.

DATED this 4 day of August, 2009.

AMENDOLA & DOTY, PLLC  
Attorneys for Plaintiff

By: \_\_\_\_\_

Gary I. Amendola

STATE OF IDAHO )  
 ) ss.  
 County of Kootenai )

Otis Leon Fears, being first duly sworn upon oath, deposes and says:

I am the Plaintiff in this case. I have read the foregoing Complaint for Wrongful Death and Demand for Jury Trial, know the contents of it and believe the same to be true to the best of my knowledge, information and belief.

Otis Leon Fears  
 Otis Leon Fears

SUBSCRIBED and SWORN to before me this 4 day of August, 2009.

Gary I. Amendola  
 Notary Public for Idaho  
 Residing at: CoA  
 Commission expires: 11, 28, 2013

