

**CAUSE NO. 2023-11078**

**STACY DELARIOS,  
INDIVIDUALLY, AND AS  
REPRESENTATIVE OF THE  
ESTATE OF JOHN CHASE  
DELARIOS, AND DEREK  
DELARIOS**

*Plaintiffs,*

v.

**MONTGOMERY KINGS MILL  
HOMEOWNER'S ASSOCIATION,  
INC., ETHEL MCANULTY  
MCCORMICK F/K/A KINGWOOD  
ASSOCIATION MANAGEMENT,  
PRESTIGE ASSOCIATION  
MANAGEMENT GROUP  
CORPORATION AND  
LETICIA THOMAS FRANK,**

*Defendants.*

**IN THE COURT OF**

**HARRIS COUNTY, TEXAS**

**189<sup>TH</sup> JUDICIAL DISTRICT**

**PLAINTIFFS' FIRST AMENDED PETITION**

Plaintiffs Stacy deLarios, individually, and as representative of the estate of John Chase deLarios, and Derek deLarios (collectively "Plaintiffs") file this, their First Amended Petition against Defendants Montgomery Kings Mill Homeowner's Association, Inc., Ethel McAnulty McCormick f/k/a Kingwood Association Management, Prestige Association Management Group Corporation, and Leticia Thomas Frank (collectively "Defendants") and would show as follows:

**I. NATURE OF ACTION**

1. Plaintiffs sue for negligence and gross negligence, bringing claims for the wrongful death of John Chase deLarios (“Decedent”) and a survival action on behalf of Decedent’s estate.

**II. DISCOVERY CONTROL PLAN**

2. Discovery in this matter may be conducted under Level 2 of the Texas Rules of Civil Procedure.

**III. JURISDICTION AND VENUE**

3. The claims asserted arise under the laws of Texas.

4. Venue is proper because the incident occurred within the jurisdictional bounds of Harris County and Defendants Montgomery Kings Mill Homeowner’s Association, Inc. and Leticia Thomas Frank are residents of Harris County.

5. Pursuant to Texas Rule of Civil Procedure 47, Plaintiffs seek monetary relief in excess of \$1,000,000.00.

**IV. PARTIES**

6. Plaintiffs Derek deLarios and Stacy deLarios (collectively “Plaintiffs”) are adult residents that live within the jurisdictional bounds of Harris County and citizens of Texas. Plaintiffs have standing to pursue their own wrongful death claims pursuant to Texas Civil Practice and Remedies Code § 71.001, et seq. with respect to the death of their son, John Chase deLarios, Decedent. Stacy deLarios, likewise brings claims as Representative of the Estate of Decedent.

7. Defendant Montgomery Kings Mill Homeowner’s Association, Inc. is a Texas corporation with its principal place of business in Harris County, Texas. It may be served through its registered agent Prestige Association Management Group located at 1849 Kingwood Drive, No.

103, Kingwood, Texas 77339. Defendant Montgomery Kings Mill Homeowner's Association, Inc. has already been served.

8. Defendant Ethel McAnulty McCormick formerly did business as Kingwood Association Management. Defendant Ethel McAnulty McCormick has already been served.

9. Defendant Prestige Association Management Group Corporation is a Texas corporation that may be served through its registered agent Sarah Eldridge located at 6102 Palm Ridge Court, Kingwood, Texas 77345.

10. Defendant Leticia Thomas Frank ("Defendant Frank") is an individual residing in Harris County, Texas. Defendant Leticia Thomas Frank has already been served.

11. Plaintiffs additionally demand that Defendants answer in their true names if they differ from the outlined above. Plaintiffs also demand that Defendants answer in their true names if there is a misnomer.

## **V. STATEMENT OF FACTS**

12. This lawsuit has become necessary due to the untimely death of Decedent, an 8-year-old boy, who was struck and fatally injured in an auto-pedestrian accident on or about September 26, 2022 at the intersection of Gallant Knight Lane and Kings Mill Lane in Houston, Harris County, Texas ("Intersection"). As a result of Defendants Montgomery Kings Mill Homeowner's Association, Inc.'s, Ethel McAnulty McCormick f/k/a Kingwood Association Management's, and Prestige Association Management Group Corporation's (collectively "HOA Defendants") negligent conduct, as well as the negligent conduct of Defendant Frank, John Chase deLarios suffered devastating injuries resulting in his death.

13. The Kings Mill subdivision markets itself as being a family friendly community. However, residents of the Kings Mill subdivision have alerted the HOA Defendants for years of

the dangers Kings Mill Lane, also known as the “Racetrack,” presents to the community, particularly the many young children that reside in the community. At all relevant times, the Intersection, community, roads, sidewalks, crosswalks, common areas, adjacent property, and residents of the Kings Mill subdivision were managed by and under the purview of the HOA Defendants. Despite knowing of the extreme dangers the Racetrack presented to members of the community, the HOA Defendants did nothing to alleviate the known dangers and protect the members of its community, including Decedent.

14. Decedent died as a direct result of Defendants’ negligent and/or grossly negligent conduct. Derek deLarios, Decedent’s father, witnessed the injuries, suffering, and death of his son and as a consequence sustained damages for which he now seeks recovery.

## VI. CAUSES OF ACTION

15. Plaintiffs incorporate all paragraphs above herein by reference.

### **Count 1: Negligence and Gross Negligence – HOA Defendants**

16. HOA Defendants committed acts of negligence and gross negligence, including:

- a. Failing to properly maintain its community;
- b. Failing to implement adequate safety policies and/or procedures;
- c. Failing to enforce adequate safety policies and/or procedures;
- d. Failing to properly mark and maintain its roads, sidewalks, crosswalks, common areas and adjacent areas;
- e. Failing to implement appropriate signage;
- f. Failing to enforce community rules and regulations;
- g. Failing to implement policies and procedures to make the “Racetrack” safe for community residents and pedestrians;
- h. Ignoring warnings from Kings Mill community members regarding the dangers the “Racetrack” presented to the community;

- i. Other acts and/or omissions that would be deemed negligent, negligent *per se*, and/or grossly negligent.

17. Under the doctrine of Respondeat Superior, HOA Defendants are liable for the negligence of their employees, agents, and representatives because they were acting in the course and scope of their respective employment with HOA Defendants. As a result of HOA Defendants' negligence, Plaintiffs are entitled to recover for their injuries.

18. HOA Defendants' acts and/or omissions proximately caused Plaintiffs' injuries and resulting damages. Furthermore, HOA Defendants' acts or omissions, when viewed from HOA Defendants' standpoint at the time of the act or omission, involved an extreme degree of risk considering the probability and magnitude of the potential harm to Decedent and others. HOA Defendants had actual, subjective awareness of the risks involved in the above-described acts or omissions, but nevertheless acted with conscious disregard to the rights, safety, and welfare of Decedent and others. As a result of HOA Defendants' grossly negligent conduct, Decedent suffered devastating injuries resulting in his untimely death. Accordingly, Plaintiffs seek exemplary damages.

**Count 2: Negligence and Gross Negligence – Defendant Leticia Thomas Frank**

19. Defendant Leticia Thomas Frank committed acts of negligence and gross negligence, including:

- a. Failing to control her vehicle's speed;
- b. Failing to timely apply her brakes;
- c. Failing to yield the right-of-way;
- d. Failing to operate her vehicle safely;
- e. Failing to maintain a proper lookout;

- f. Failing to maintain a safe distance;
- g. Violating applicable, local and state, and laws and/or regulations; and
- h. Other acts and/or omissions that would be deemed negligent, negligent *per se*, and/or grossly negligent.

20. Defendant Frank's and/or omissions proximately caused Plaintiffs' injuries and resulting damages. Furthermore, Defendant Frank's acts or omissions, when viewed from Defendant Frank's standpoint at the time of the act or omission, involved an extreme degree of risk considering the probability and magnitude of the potential harm to Decedent and others. Defendant Frank had actual, subjective awareness of the risks involved in the above-described acts or omissions, but nevertheless acted with conscious disregard to the rights, safety, and welfare of Decedent and others. As a result of Defendant Frank's grossly negligent conduct, Decedent suffered devastating injuries resulting in his untimely death. Accordingly, Plaintiffs seek exemplary damages.

**Count 3: Wrongful Death – Defendants**

- 21. Plaintiffs repeat and reallege each allegation set forth above.
- 22. Plaintiffs further allege, without waiving the foregoing, that Defendants are liable to Plaintiffs under the Texas Wrongful Death Act. Tex. Civ. Prac. & Rem. Code § 71.001–71.012.
- 23. Plaintiffs Derek and Stacy deLarios are the parents of Decedent, and are, thus, statutory beneficiaries.
- 24. Plaintiffs allege that Decedent died as a result of Defendants' wrongful negligent acts, as described in this Petition. Defendants' conduct that caused Decedent's death was also a producing cause of injury to Decedent. Accordingly, Plaintiff Stacy deLarios, as Representative of the estate of John Chase deLarios brings claims for wrongful death and for the appropriate damages therewith to which the estate is entitled.

**Count 4: Survival – Defendants**

25. Plaintiffs repeat and reallege each allegation set forth above.

26. As the mother of John Chase deLarios, Stacy deLarios is the representative of John Chase deLarios' estate. Before he died, Decedent had a cause of action against Defendants for personal injuries sustained resulting from the subject incident. Had Decedent lived, he would have been entitled to bring this cause of action against Defendants.

**VII. JURY DEMAND**

27. Plaintiffs respectfully request and demand a trial by jury and tendered the appropriate fee with the petition.

**VIII. DAMAGES**

28. As a result of said occurrences, John Chase deLarios sustained severe physical pain, mental anguish, emotional distress, and ultimately lost his life. Plaintiffs likewise suffered the loss of their young son.

29. Pursuant to Texas Civil Practice and Remedies Code § 71.002, Plaintiffs plead for pecuniary damages against the Defendants jointly and severally as follows:

- a. Pecuniary loss sustained in the past, meaning the loss of care, maintenance, support, services, advice, counsel and reasonable contributions of pecuniary value, excluding loss of inheritance, that Plaintiffs in all reasonable probability would have received from Decedent;
- b. Pecuniary loss that in all reasonable probability Plaintiffs will sustain in the future;
- c. Loss of companionship and society sustained by Plaintiffs in the past. That is, the loss of the positive benefits flowing from the love, comfort, companionship

and society that Plaintiffs in all reasonable probability would have received from Decedent had he lived;

- d. Loss of companionship and society that in all reasonable probability Plaintiffs will sustain in the future;
- e. Mental anguish sustained in the past by Plaintiffs in the emotional pain, torment and suffering experienced by Plaintiffs because of the death of their son, the Decedent;
- f. Mental anguish that in all reasonable probability Plaintiffs will sustain in the future;

30. Pursuant to the Texas Civil Practice and Remedies Code § 71.009, Plaintiffs plead for exemplary damages because the death of Decedent was caused by willful acts or omissions of the Defendants, or alternatively the gross negligence of the HOA Defendants' employee(s), agent(s) or representative(s).

31. Pursuant to the Texas Civil Practice and Remedies Code § 71.021, Plaintiffs plead for personal injury damages suffered by John Chase deLarios before his tragic death as follows:

- a. Pain and mental anguish;
- b. Medical expenses; and
- c. Funeral and burial expenses.

32. Plaintiffs have been damaged in a sum far in excess of the minimum jurisdictional limits of this Court, for which they now sue.

33. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.



**IX. DAMAGES**

34. Plaintiffs pray that this citation issue and be served upon Defendants in a form and manner prescribed by law, requiring that Defendants appear and answer, and that upon final hearing, Plaintiffs have judgment against Defendants, both jointly and severally, in a total sum in excess of the minimum jurisdictional limits of this Court, plus pre-judgment and post-judgment interest, all cost of Court, attorneys' fees, punitive damages, and all such other and further relief, to which they may show themselves justly entitled.

Respectfully submitted,

**DANIELS & TREDENNICK, PLLC**

/s/ Eugene R. Egdorf

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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that on May 16, 2023, a true and correct copy of the foregoing document was served on all counsel of record in accordance with the Texas Rules of Civil Procedure.

/s/ Eugene R. Egdorf

Eugene R. Egdorf

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Kasia Olkowski on behalf of Eugene Roger Egdorf  
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Envelope ID: 75702092  
Filing Code Description: Amended Filing  
Filing Description: Plaintiffs' First Amended Petition  
Status as of 5/17/2023 8:41 AM CST

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