

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
PEORIA COUNTY, ILLINOIS

THE ESTATE OF JOHN DOE,)
BY SPECIAL ADMINISTRATOR,)
JAVELYN MCGRANE,)

18-L-00229

Plaintiff,)

vs.)

Case No. 18 L

VILLAGE OF BARTONVILLE,)

Defendant.)

THIS CASE IS SET FOR A MANAGEMENT CONFERENCE
ON 3/08/2019 @9am IN COURTROOM 213/214
OF THE PEORIA COUNTY COURTHOUSE.
IF THE DEFENDANT(S) ANSWERS(S) MORE THAN 35 DAYS
BEFORE THIS DATE, THEN THE PARTIES SHALL
SCHEDULE A CASE MANAGEMENT CONFERENCE WITHIN
25 DAYS OF THE DATE THE ANSWER'S PLED

COMPLAINT

Now comes the Plaintiff, THE ESTATE OF JOHN DOE, BY SPECIAL ADMINISTRATOR, JAVELYN MCGRANE, by and through her attorneys, Jennifer Bonesteel and Christopher Doscotch, and in support of her cause of action against the Defendant, VILLAGE OF BARTONVILLE, hereby states as follows:

COUNT ONE- RESPONDEAT SUPERIOR & WRONGFUL DEATH

1. That the occurrence herein complained of took place on July 17, 2018.
2. That the incident herein complained of took place at 312 Buena Vista, Village of Bartonville, County of Peoria, State of Illinois.
3. At the aforementioned time and place, the Decedent, JOHN DOE, a minor child, was at the home of his father, John Nile Bankes, II, for a visit.
4. At the aforementioned time, John Nile Bankes, II, resided at 312 Buena Vista Village of Bartonville, County of Peoria, State of Illinois.
5. At the aforementioned time and place, Mr. Bankes stepped outside to walk his dog.
6. At the aforementioned time and place, the Decedent, JOHN DOE, was napping on the couch.

7. At the aforementioned time and place, as the Decedent, JOHN DOE, was napping on the couch and while Mr. Bankes was still outside with his dog, the house caught fire.

8. At the aforementioned time and place, Mr. Bankes phoned 911 with the call going into dispatch at 11:41 A.M. on July 17, 2018.

9. At the aforementioned time and place, as the house was on fire and the call came in, the Bartonville Fire Department notified its volunteer staff as well as several other local fire stations, including Trivoli and Creve Coeur.

10. However, at the aforementioned time and place, as the house was on fire and the call came in, the Bartonville Fire Department did not notify the Peoria Fire Department, even though its firehouse on Jefferson was the closest fire department location.

11. At the aforementioned time and place, it took the Bartonville Fire Department volunteers approximately eight minutes to arrive to their fire station after they received the 11:41 A.M. call.

12. At the aforementioned time and place, it took the Bartonville Fire Department volunteers approximately eight minutes to arrive to their fire station.

13. At the aforementioned time and place, it took the Bartonville Fire Department volunteers another approximately four minutes to arrive to their fire.

14. At the aforementioned time and place, it would have taken the Peoria Fire Department approximately eight minutes total to arrive from their fire station.

15. At the aforementioned time and place, the house burned down completely in approximately seventeen minutes total.

16. At the aforementioned time and place, Defendant, VILLAGE OF BARTONVILLE, through its employees and/or agents had the duty not to commit willful and wanton conduct in responding to a fire.

17. At the aforementioned time and place, the VILLAGE OF BARTONVILLE, via its employees and/or agents, called for backup based on preference, without regard for the danger the house fire posed.

18. That the back was based on preference, showed an utter disregard for Decedent's, JOHN DOE's, safety.

19. At the aforementioned time and place, Defendant, VILLAGE OF BARTONVILLE, through its agents and/or employees, committed willful and wanton conduct by failing to call the Peoria Fire Department for backup.

20. As a direct and proximate result of one or more of the aforementioned acts and/or omissions, JOHN DOE, died on July 17, 2018.

21. On July 17, 2018, JAVELYN MCGRANE, was appointed as Administrator of the Estate of JOHN DOE, Peoria County case number 18 P 353.

22. On July 17, 2018, JOHN DOE, left the following next of kin:

- a) Javelyn McGrane, mother;
- b) John Nile Bankes, II, father;
- c) Sibling #1, brother (minor);
- d) Sibling #2, brother (minor);
- e) Sibling #3, brother (minor);
- f) Sibling #4, sister (in gestation);
- g) Sibling #5, brother (minor).

23. On July 17, 2018, the Illinois Wrongful Death statute, 740 ILCS 180/1 et seq., was in full force and effect. The Illinois Wrongful Death statute provides that the representative of the deceased persons may bring an action against persons alleged to have caused the death of the deceased on behalf of surviving spouse and next of kin of such deceased persons Pursuant to the Wrongful Death statute, Plaintiff requests damages and compensation with reference to the following elements:

- a) Pecuniary damages resulting from the passing of JOHN DOE to include but not limited to funeral expenses, medical bills, and any other pecuniary

- damages to which Plaintiff is entitled;
- b) Grief to the next of kin of JOHN DOE;
- c) Sorrow to the next of kin of JOHN DOE;
- d) Mental suffering to the next of kin of JOHN DOE.

WHEREFORE, the Plaintiff, THE ESTATE OF JOHN DOE, BY SPECIAL ADMINISTRATOR, JAVELYN MCGRANE, prays that this Court enter judgment in favor of Plaintiff and against the Defendant, VILLAGE OF BARTONVILLE, for a sum to exceed Fifty Thousand Dollars, costs of this suit, and any further relief that this honorable Court finds fair and just.

COUNT TWO- DIRECT CONDUCT & WRONGFUL DEATH

24. Plaintiff re-states and re-alleges Paragraphs One through Fifteen of Count One as herein.

25. That the Defendant, VILLAGE OF BARTONVILLE, did not train their firefighters properly in requesting backup.

26. That the Defendant's, VILLAGE OF BARTONVILLE's, failure to train their firefighters to handle situations involving civilians with fires present shows an utter indifference for the safety of others.

27. That the Defendant, VILLAGE OF BARTONVILLE, did not supervise their firefighters properly in dealing with requests for backup.

28. That the Defendant's, VILLAGE OF BARTONVILLE's, failure to supervise their firefighters with requests for backup shows an utter indifference for the safety of others.

29. At the aforementioned time and place, Defendant, VILLAGE OF BARTONVILLE, committed willful and wanton conduct in one or more of the following ways:

- a) failing to properly train their agents and/or employees on how to call for backup;
- b) failing to properly supervise their agents and/or employees when calling for backup.

30. As a direct and proximate result of one or more of the aforementioned acts and/or omissions, JOHN DOE, died on July 17, 2018.

31. On July 17, 2018, JAVELYN MCGRANE, was appointed as Administrator of the Estate of JOHN DOE, Peoria County case number 18 P 353.

32. On July 17, 2018, JOHN DOE, left the following next of kin:

- a) Javelyn McGrane, mother;
- b) John Nile Bankes, II, father;
- c) Sibling #1, brother (minor);
- d) Sibling #2, brother (minor);
- e) Sibling #3, brother (minor);
- f) Sibling #4, sister (in gestation);
- g) Sibling #5, brother (minor).

33. On July 17, 2018, the Illinois Wrongful Death statute, 740 ILCS 180/1 et seq., was in full force and effect. The Illinois Wrongful Death statute provides that the representative of the deceased persons may bring an action against persons alleged to have caused the death of the deceased on behalf of surviving spouse and next of kin of such deceased persons Pursuant to the Wrongful Death statute, Plaintiff requests damages and compensation with reference to the following elements:

- a) Pecuniary damages resulting from the passing of JOHN DOE to include but not limited to funeral expenses, medical bills, and any other pecuniary damages to which Plaintiff is entitled;
- b) Grief to the next of kin of JOHN DOE;
- c) Sorrow to the next of kin of JOHN DOE;
- d) Mental suffering to the next of kin of JOHN DOE.

WHEREFORE, the Plaintiff, THE ESTATE OF JOHN DOE, BY SPECIAL ADMINISTRATOR, JAVELYN MCGRANE, prays that this Court enter judgment in favor of Plaintiff and against the Defendant VILLAGE OF BARTONVILLE, for a sum to exceed exceed Fifty Thousand Dollars, costs of this suit, and any further relief that this honorable Court finds fair and just.

COUNT THREE-VIOLATION OF STATUTE- & WRONGFUL DEATH

34. Plaintiff re-states and re-alleges Paragraphs One through Fifteen of Count One as herein.

35. At the aforementioned time and place, there was in existence 70 ILCS 705/11, which states that, “any fire protection district...[has the] legal duty and obligation to provide as nearly adequate protection from fire for all persons and property within the said district as possible...”

36. At the aforementioned time and place, Defendant, VILLAGE OF BARTONVILLE, both directly and through its agents and/or employees, committed willful and wanton conduct in violating the duty as set forth in 70 ILCS 705/11.

37. As a proximate result of the foregoing acts and/or omissions of the Defendant, VILLAGE OF BARTONVILLE, both directly and through its agents and/or employees, Plaintiff was injured.

38. As a direct and proximate result of one or more of the aforementioned acts and/or omissions, JOHN DOE, died on July 17, 2018.

39. On July 17, 2018, JAVELYN MCGRANE, was appointed as Administrator of the Estate of JOHN DOE, Peoria County case number 18 P 353.

40. On July 17, 2018, JOHN DOE, left the following next of kin:

- a) Javelyn McGrane, mother;
- b) John Nile Bankes, II, father;
- c) Sibling #1, brother (minor);
- d) Sibling #2, brother (minor);
- e) Sibling #3, brother (minor);
- f) Sibling #4, sister (in gestation);
- g) Sibling #5, brother (minor).

41. On July 17, 2018, the Illinois Wrongful Death statute, 740 ILCS 180/1 et seq., was in full force and effect. The Illinois Wrongful Death statute provides that the representative of the deceased persons may bring an action against persons alleged to have caused the death of the

deceased on behalf of surviving spouse and next of kin of such deceased persons Pursuant to the Wrongful Death statute, Plaintiff requests damages and compensation with reference to the following elements:

- a) Pecuniary damages resulting from the passing of JOHN DOE to include but not limited to funeral expenses, medical bills, and any other pecuniary damages to which Plaintiff is entitled;
- b) Grief to the next of kin of JOHN DOE;
- c) Sorrow to the next of kin of JOHN DOE;
- d) Mental suffering to the next of kin of JOHN DOE.

WHEREFORE, the Plaintiff, THE ESTATE OF JOHN DOE, BY SPECIAL ADMINISTRATOR, JAVELYN MCGRANE, prays that this Court enter judgment in favor of Plaintiff and against the Defendant VILLAGE OF BARTONVILLE, for a sum to exceed Fifty Thousand Dollars, costs of this suit, and any further relief that this honorable Court finds fair and just.

COUNT FOUR- RESPONDEAT SUPERIOR & SURVIVORSHIP

42. Plaintiff re-states and re-alleges Paragraphs One through Fifteen of Count One as herein.

43. At the aforementioned time and place, Defendant, VILLAGE OF BARTONVILLE, through its employees and/or agents had the duty not to commit willful and wanton conduct in responding to a fire.

44. At the aforementioned time and place, the VILLAGE OF BARTONVILLE, via its employees and/or agents, called for backup based on preference, without regard for the danger the house fire posed.

45. That the back was based on preference, showed an utter disregard for Decedent's, JOHN DOE's, safety.

46. At the aforementioned time and place, Defendant, VILLAGE OF BARTONVILLE, through its agents and/or employees, committed willful and wanton conduct by

failing to call the Peoria Fire Department for backup.

47. As a proximate result of the foregoing acts and/or omissions of the Defendant, VILLAGE OF BARTONVILLE, through its agents and/or employees, the Decedent suffered injuries before dying.

48. As a direct and proximate result of his injuries, the Decedent, JOHN DOE, suffered pain.

WHEREFORE, the Plaintiff, THE ESTATE OF JOHN DOE, BY SPECIAL ADMINISTRATOR, JAVELYN MCGRANE, prays that this Court enter judgment in favor of Plaintiff and against the Defendant, VILLAGE OF BARTONVILLE, for a sum to exceed Fifty Thousand Dollars, costs of this suit, and any further relief that this honorable Court finds fair and just.

COUNT FIVE- DIRECT CONDUCT & SURVIVORSHIP

49. Plaintiff re-states and re-alleges Paragraphs One through Fifteen of Count One as herein.

50. That the Defendant, VILLAGE OF BARTONVILLE, did not train their firefighters properly in requesting backup.

51. That the Defendant's, VILLAGE OF BARTONVILLE's, failure to train their firefighters to handle situations involving civilians with fires present shows an utter indifference for the safety of others.

52. That the Defendant, VILLAGE OF BARTONVILLE, did not supervise their firefighters properly in dealing with requests for backup.

53. That the Defendant's, VILLAGE OF BARTONVILLE's, failure to supervise their firefighters with requests for backup shows an utter indifference for the safety of others.

54. At the aforementioned time and place, Defendant, VILLAGE OF

BARTONVILLE, committed willful and wanton conduct in one or more of the following ways:

- a) failing to properly train their agents and/or employees on how to call for backup;
- b) failing to properly supervise their agents and/or employees when calling for backup.

55. As a proximate result of the foregoing acts and/or omissions of the Defendant, VILLAGE OF BARTONVILLE, through its agents and/or employees, the Decedent suffered injuries before dying.

56. As a direct and proximate result of his injuries, the Decedent, JOHN DOE, suffered pain.

WHEREFORE, the Plaintiff, THE ESTATE OF JOHN DOE, BY SPECIAL ADMINISTRATOR, JAVELYN MCGRANE, prays that this Court enter judgment in favor of Plaintiff and against the Defendant VILLAGE OF BARTONVILLE, for a sum to exceed exceed Fifty Thousand Dollars, costs of this suit, and any further relief that this honorable Court finds fair and just.

COUNT SIX- VIOLATION OF STATUTE- & SURVIVORSHIP

57. Plaintiff re-states and re-alleges Paragraphs One through Fifteen of Count One as herein.

58. At the aforementioned time and place, there was in existence 70 ILCS 705/11, which states that, “any fire protection district...[has the] legal duty and obligation to provide as nearly adequate protection from fire for all persons and property within the said district as possible...”

59. At the aforementioned time and place, Defendant, VILLAGE OF BARTONVILLE, both directly and through its agents and/or employees, committed willful and wanton conduct in violating the duty as set forth in 70 ILCS 705/11.

60. As a proximate result of the foregoing acts and/or omissions of the Defendant, VILLAGE OF BARTONVILLE, through its agents and/or employees, the Decedent suffered

injuries before dying.

61. As a direct and proximate result of his injuries, the Decedent, JOHN DOE, suffered pain.

WHEREFORE, the Plaintiff, THE ESTATE OF JOHN DOE, BY SPECIAL ADMINISTRATOR, JAVELYN MCGRANE, prays that this Court enter judgment in favor of Plaintiff and against the Defendant VILLAGE OF BARTONVILLE, for a sum to exceed Fifty Thousand Dollars, costs of this suit, and any further relief that this honorable Court finds fair and just.

Respectfully Submitted,
THE ESTATE OF JOHN DOE, BY SPECIAL
ADMINISTRATOR, JAVELYN MCGRANE,
Plaintiff

by: 
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