

**IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS**

PATRICIA CLEARY and GERALD CLEARY,
as Husband and Wife, and JOSE SANTIAGO and
ELVIRA SANTIAGO, as Husband and Wife,

Plaintiffs,

v.

No. _____

JURY DEMANDED

ELVIS PRESLEY ENTERPRISES, INC.,
GRACELAND HOLDINGS, LLC, and
DAVEY TREE EXPERT COMPANY,

Defendants.

COMPLAINT

COME NOW the Plaintiffs, Patricia Cleary and Gerald Cleary, as husband and wife, and Jose Santiago and Elvira Santiago, as husband and wife, by and through the undersigned counsel, and, for cause of action against Defendants Elvis Presley Enterprises, Inc., Graceland Holdings, LLC, and the Davey Tree Expert Company, would respectfully show and state as follows:

PRELIMINARY STATEMENT

1. This is an action for personal injuries and other damages resulting from an incident that occurred in Shelby County, Tennessee, on September 4, 2016. Specifically, the incident occurred on the premises of Graceland, which is located on Elvis Presley Boulevard, Memphis, Tennessee 38116. Plaintiffs Patricia Cleary, Gerald Cleary, and Jose Santiago were visiting Graceland when Plaintiff Patricia Cleary and Plaintiff Jose Santiago were struck by a falling tree branch on the premises and severely injured.

PARTIES, JURISDICTION, AND VENUE

2. Plaintiffs re-allege and incorporate each of the foregoing allegations of this Complaint with the same force and effect as if fully set forth herein.

3. Plaintiffs Patricia Cleary and Gerald Cleary are adult resident citizens of England. At all times material hereto, Plaintiffs Patricia Cleary and Gerald Cleary were lawfully married.

4. Plaintiffs Jose Santiago and Elvira Santiago are adult resident citizens of Cook County, Illinois, residing therein at 6433 27th Street, Berwyn, Illinois 60402. At all times material hereto, Plaintiffs Jose Santiago and Elvira Santiago were lawfully married.

5. Upon information and belief, Defendant Elvis Presley Enterprises, Inc. (“Defendant Elvis Presley Enterprises”) is a Tennessee for-profit corporation and maintains its principal address at 3734 Elvis Presley Boulevard, Memphis, Tennessee 38116-4106. Upon information and belief, Defendant Elvis Presley Enterprises may be served with process through its Registered Agent for service of process, Cogency Global Inc., 992 Davidson Drive, Suite B, Nashville, Tennessee 37205-1051. Upon information and belief, Defendant Elvis Presley Enterprises owns and/or operates the grounds and facility known as Graceland, which is located on Elvis Presley Boulevard, Memphis, Shelby County, Tennessee 38116. Defendant Elvis Presley Enterprises is vicariously liable for the actions, omissions, and negligence of its employees, agents, and/or contractors, including, but not limited to, Defendant Davey Tree Expert Company.

6. Upon information and belief, Defendant Graceland Holdings, LLC (“Defendant Graceland Holdings”) is a Delaware limited liability company and may be served with process through its Registered Agent for service of process, Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808. Upon information and belief, Defendant Graceland Holdings is an owner and/or operator of Defendant Elvis Presley Enterprises and is therefore vicariously

liable for the actions, omissions, and negligence of Defendant Elvis Presley Enterprises and its employees, agents, and/or contractors, including, but not limited to, Defendant Davey Tree Expert Company.

7. Upon information and belief, Defendant Davey Tree Expert Company (“Defendant Davey Tree”) is an Ohio for-profit corporation that is licensed to do business in the State of Tennessee and maintains its principal address at 1500 N. Mantua Street, Kent, Ohio 44240-2372. Upon information and belief, Defendant Davey Tree may be served with process through its Registered Agent for service of process, CT Corporation System, 800 South Gay Street, Suite 2021, Knoxville, Tennessee 37929-9710. Upon information and belief, Defendant Davey Tree is an employee, agent, and/or contractor of Defendant Elvis Presley Enterprises and/or Defendant Graceland Holdings and performed tree maintenance, inspection, and consultation services for said Defendants as it relates to the premises of Graceland at all times material hereto.

8. Jurisdiction and venue are proper in this Court pursuant to Tenn. Code Ann. §§ 16-10-101, 20-4-101, and 20-4-104, as the Defendants maintain a principal office in Shelby County, Tennessee and/or conduct business, directly or vicariously, in Shelby County, Tennessee and the events giving rise to the instant Complaint occurred in Shelby County, Tennessee.

FACTS

9. Plaintiffs re-allege and incorporate each of the foregoing allegations of this Complaint with the same force and effect as if fully set forth herein.

10. On or about September 4, 2016, Plaintiffs Patricia Cleary and Gerald Cleary were visiting Graceland. Plaintiff Jose Santiago was also visiting Graceland on said date.

11. Said Plaintiffs were required to stand in front of the residence under a large tree on the premises of Graceland while waiting in line for their turn to tour the residence. While required

to stand under the tree, a large tree branch broke and fell, striking Plaintiff Patricia Cleary and Plaintiff Jose Santiago and causing them to fall to the ground.

12. The violent force of the impact caused by the falling tree branch was so great that it directly and proximately caused severe and permanent physical and emotional injuries to Plaintiff Patricia Cleary and Plaintiff Jose Santiago.

13. Specifically, the tree branch violently struck Plaintiff Patricia Cleary on her head and shoulder, and she sustained injuries to her left shoulder, arm, and ribs. Mrs. Cleary was transported by ambulance to Methodist Hospital – South, where she was diagnosed with a scapular fracture and placed in a sling. Mrs. Cleary was later diagnosed with rib fractures. As a result of said injuries, Mrs. Cleary required extensive physical therapy, was unable to work for an extended period of time, and permanently lost an extensive amount of her shoulder function.

14. As to Plaintiff Jose Santiago, the tree branch violently struck Mr. Santiago's head, rendering him unconscious, and he experienced a seizure and concussion. Mr. Santiago was transported by ambulance to Regional One Hospital, where he was diagnosed with a subarachnoid hemorrhage and remained in the Intensive Care Unit for several days. As a result of said injuries, Mr. Santiago required significant follow-up treatment, was placed on anti-seizure medication, and suffered lost wages.

15. At no point in time did Defendant Elvis Presley Enterprises or Defendant Graceland Holdings, through their agents, employees, and/or contractors, warn, expressly or constructively, that the area in which Plaintiffs were standing was, or potentially could be, a dangerous area. Furthermore, neither Defendant Elvis Presley Enterprises nor Defendant Graceland Holdings provided or advised Plaintiffs of any safer locations to wait to tour the residence.

16. As a direct and proximate result of Defendant Elvis Presley Enterprises and Defendant Graceland Holdings requiring Plaintiffs to wait under the aforementioned tree and Defendant Elvis Presley Enterprises and Defendant Graceland Holdings' failure to warn of a dangerous condition upon the premises of Graceland, failure to properly maintain the premises of Graceland, and failure to properly inspect the trees on the premises of Graceland, the tree branch from the tree located on the premises of Graceland violently struck Plaintiff Patricia Cleary and Plaintiff Jose Santiago, thereby directly and proximately causing severe and permanent physical injuries, emotional pain and suffering, medical expenses, lost earnings, loss of future earning capacity, and loss of consortium.

17. As a direct and proximate result of Defendant Davey Tree's failure to properly maintain, inspect, and treat the trees on the premises of Graceland, the tree branch from the tree located on the premises of Graceland violently struck Plaintiff Patricia Cleary and Plaintiff Jose Santiago, thereby directly and proximately causing severe and permanent physical injuries, emotional pain and suffering, medical expenses, lost earnings, loss of future earning capacity, and loss of consortium.

LIABILITY

NEGLIGENCE – DEFENDANT ELVIS PRESLEY ENTERPRISES AND DEFENDANT GRACELAND HOLDINGS

18. Plaintiffs re-allege and incorporate each of the foregoing allegations of this Complaint with the same force and effect as if fully set forth herein.

19. Defendant Elvis Presley Enterprises and Defendant Graceland Holdings owed a duty to visitors of Graceland, including, but not limited to, Plaintiffs, to maintain the premises of Graceland in a reasonably safe and prudent manner so as to prevent the occurrence of dangerous

conditions upon the premises and to assemble visitors in a safe waiting area away from hidden dangers.

20. Defendant Elvis Presley Enterprises and Defendant Graceland Holdings breached their duty to maintain the premises of Graceland in a reasonably safe and prudent manner, and said Defendants are therefore liable for the following acts of common law negligence, each and every one of which is a direct and proximate cause of the damages suffered by Plaintiffs, to-wit:

- a. Failing to expressly or constructively warn Plaintiffs of a dangerous condition upon the premises of Graceland;
- b. Failing to properly maintain the premises of Graceland in a reasonably safe and prudent manner;
- c. Failing to inspect the trees upon the premises of Graceland in a reasonably safe and prudent manner;
- d. Failing to hire qualified and appropriate individuals and/or entities to perform tree maintenance, inspection, and treatment services so as to prevent the occurrence of dangerous conditions upon the premises of Graceland;
- e. Negligently caring for, treating, and preserving the tree located adjacent to the entryway of the residence located upon the premises of Graceland;
- f. Negligently implementing an unsafe system, process, and/or design for the transportation, organization, and protection of visitors, including Plaintiffs, upon the premises of Graceland; and
- g. Negligently requiring visitors, including Plaintiffs, to congregate/assemble beneath trees upon the premises of Graceland.

21. Further, Defendant Elvis Presley Enterprises and Defendant Graceland Holdings knew or should have known that the trees had not been properly inspected and/or properly maintained and/or that requiring visitors to assemble beneath trees upon the premises created a dangerous, or potentially dangerous, condition upon the premises.

22. As a direct and proximate result of the above acts of common law negligence, Plaintiffs Patricia Cleary and Gerald Cleary and Plaintiffs Jose Santiago and Elvira Santiago suffered severe and permanent physical injuries, emotional pain and suffering, medical expenses, lost earnings, loss of future earning capacity, and loss of consortium, for which Defendant Elvis Presley Enterprises and Defendant Graceland Holdings are liable.

NEGLIGENCE – DEFENDANT DAVEY TREE

23. Plaintiffs re-allege and incorporate each of the foregoing allegations of this Complaint with the same force and effect as if fully set forth herein.

24. Defendant Davey Tree owed a duty to visitors of Graceland, including, but not limited to, Plaintiffs, to maintain, inspect, and treat the trees on the premises of Graceland in a reasonably safe and prudent manner so as to prevent the occurrence of dangerous conditions upon the premises.

25. Defendant Davey Tree breached its duty to maintain, inspect, and treat the trees on the premises of Graceland in a reasonably safe and prudent manner, and said Defendant is therefore liable for the following acts of common law negligence, each and every one of which is a direct and proximate cause of the damages suffered by Plaintiffs, to-wit:

- a. Failing to maintain, inspect, and treat the trees upon the premises of Graceland in a reasonably safe and prudent manner;
- b. Failing to hire qualified and appropriate employees to perform tree maintenance, inspection, and treatment services in a reasonably safe and prudent manner; and
- c. Negligently caring for, treating, and preserving the tree located adjacent to the entryway of the residence located upon the premises of Graceland.

26. As a direct and proximate result of the above acts of common law negligence, Plaintiffs Patricia Cleary and Gerald Cleary and Plaintiffs Jose Santiago and Elvira Santiago

suffered severe and permanent physical injuries, emotional pain and suffering, medical expenses, lost earnings, loss of future earning capacity, and loss of consortium, for which Defendant Davey Tree is liable.

DAMAGES

27. Plaintiffs re-allege and incorporate each of the foregoing allegations of this Complaint with the same force and effect as if fully set forth herein.

28. As a direct and proximate result of the aforementioned negligence of Defendant Elvis Presley Enterprises, Defendant Graceland Holdings, and Defendant Davey Tree, Plaintiffs Patricia Cleary and Gerald Cleary and Plaintiffs Jose Santiago and Elvira Santiago suffered damages, including, but not limited to, the following:

- a. Severe and permanent physical injuries of a past, present, and future nature as to Plaintiff Patricia Cleary and Plaintiff Jose Santiago;
- b. Severe physical and emotional pain and suffering of a past, present, and future nature as to Plaintiff Patricia Cleary and Plaintiff Jose Santiago;
- c. Impaired ability to enjoy the normal pleasures of life of a past, present, and future nature as to Plaintiff Patricia Cleary and Plaintiff Jose Santiago;
- d. Medical treatment and expenses of Plaintiff Patricia Cleary and Plaintiff Jose Santiago;
- e. Permanent impairment as to Plaintiff Patricia Cleary and Plaintiff Jose Santiago;
- f. Lost earnings and loss of future earning capacity as to Plaintiff Patricia Cleary and Plaintiff Jose Santiago; and
- g. Loss of consortium as to Plaintiffs Patricia Cleary and Gerald Cleary and Plaintiffs Jose Santiago and Elvira Santiago.

PRAYER FOR RELIEF

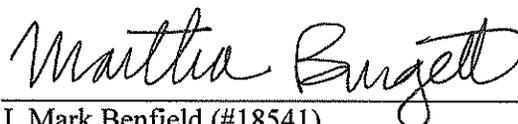
WHEREFORE, PREMISES CONSIDERED, the Plaintiffs respectfully pray as follows:

- a. That proper process issue against Defendants, requiring them to respond to this Complaint;
- b. That a jury be empaneled to hear the issues in this cause;
- c. That this Court render a judgment in favor of Plaintiffs and award compensatory damages against Defendants in such amount as may appear fair and reasonable to a jury, not to exceed such amount as is permitted by law;
- d. For an award of attorneys' fees and costs of litigating this case in such amount as is permitted by law;
- e. For an award of pre-judgment and/or post-judgment interest in such amount as is permitted by law; and
- f. For all other relief, general or special, to which Plaintiffs are entitled by law.

A JURY IS RESPECTFULLY DEMANDED.

Respectfully submitted,

APPERSON CRUMP PLC



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