

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

EDNA JESTER,
4916 Myrtle Avenue
Blue Ash, OH 45242

Plaintiff,

v.

KELLY TANIS,
4920 Myrtle Avenue
Blue Ash, OH 45242;

and

PAUL TANIS,
4920 Myrtle Avenue
Blue Ash, OH 45242

Defendants.

CASE NO. A0811747

JUDGE:

<input checked="" type="checkbox"/> ORIG, COMP, PARTIES, SUMMONS
<input checked="" type="checkbox"/> CERT MAIL () SHERIFF () WAVE
() PROCESS SERVER () NONE
CLERKS FEES _____ TIC
SECURITY FOR COST _____
DEPOSITED BY _____
FILING CODE <u>11840/24573</u>

COMPLAINT FOR DECLARATORY
INJUNCTIVE, AND MONETARY
RELIEF

FILED
DEC 19 P 1:16
GREGORY HARTMANN
CLERK OF COURTS
HAMILTON COUNTY, OH

I. INTRODUCTION

1.1 Plaintiff, Edna Jester, brings this action under the laws of the State of Ohio, alleging that Defendants Kelly and Paul Tanis engaged in conduct constituting both private nuisance and trespass, and that the conduct proximately caused severe emotional distress. By this complaint, Jester seeks monetary damages in the amount commensurate with the physical and emotional damage she has incurred, as well as declaratory and injunctive relief prohibiting additional action that constitutes either a private nuisance or trespass.

II. PARTIES

2.1 Plaintiff, Edna Jester, is a citizen of Hamilton County, Ohio. She owns residential property in Blue Ash, where she resides.



2.2 Defendant, Kelly Tanis, is a citizen of Hamilton County. Kelly Tanis resides in Blue Ash on rental property neighboring that belonging to Jester.

2.3 Defendant, Paul Tanis, is a citizen of Hamilton County. Paul Tanis resides in Blue Ash on rental property neighboring that belonging to Jester.

III. JURISDICTION AND VENUE

3.1 This Court has jurisdiction over this matter pursuant to R.C. § 2305.01, § 2721.01, et seq., and § 2727.03.

3.2 Venue is proper pursuant to Civ. Rule 3(B).

IV. STATEMENT OF FACTS

4.1 Plaintiff Edna Jester, 88, has lived at 4916 Myrtle Avenue for decades. She and her husband, who has since passed away, purchased the property shortly after their marriage.

4.2 Despite being in poor health, Ms. Jester lives alone in her home, where she is most comfortable.

4.3 Defendants Kelly and Paul Tanis rent the home neighboring Ms. Jester's property to the east.

4.4 Kelly and Paul Tanis and their minor children regularly, and without permission, enter Ms. Jester's property, often to retrieve footballs, frisbees, and other play items that have been carelessly tossed into her yard.

4.5 Members of the Tanis household have thrown objects against the side of Ms. Jester's house, into her gardens, and onto her porch.

4.6 For over a year, Ms. Jester has attempted, in vain, to keep the Tanis' from crossing the boundaries of her property.

- 4.7 Ms. Jester has, on numerous occasions, been required to call the police for assistance with maintaining the security and tranquility of her property.
- 4.8 Ms. Jester also posted a “No Trespassing” sign to discourage the Tanis family from continuing to interrupt her peaceful enjoyment of her private property. Much to Ms. Jester’s distress, these efforts have not dissuaded the Tanis’ from continuing to throw objects onto and to retrieve them from Ms. Jester’s yard.
- 4.9 Ms. Jester suffers from severe diabetes; as a result, her doctor has ordered her to keep her blood pressure low and avoid unnecessary movement. The extent of her deteriorating condition has been communicated to Defendants.
- 4.10 The distress placed upon Ms. Jester by the Tanis family has resulted in deterioration of her physical health and well-being.

V. FIRST CAUSE OF ACTION
(Trespass)

- 5.1 Kelly and Paul Tanis have repeatedly entered Ms. Jester’s property without her consent and against her expressed demands, contrary to and in violation of R.C. 2911.21 and 2911.21.1.
- 5.2 Kelly and Paul Tanis have permitted and encouraged their minor children to enter Ms. Jester’s property without her consent and against her expressed demands, contrary to and in violation of R.C. 2911.21 and 2911.21.1.
- 5.3 Neither Kelly nor Paul Tanis have any privilege or authority to physically invade Ms. Jester’s private premises.
- 5.4 Damage to Ms. Jester’s property directly resulted from the Tanis’ unlawful entrance.
- 5.5 Therefore, Ms. Jester is entitled to damages and injunctive relief.

VI. SECOND CAUSE OF ACTION
(Private Nuisance)

- 6.1 Defendants and their minor children have repeatedly thrown items into Plaintiff's yard, onto her porch, and against the side of her home.
- 6.2 Defendants have negligently or recklessly engaged in and allowed the conduct creating a potential and unreasonable risk of injury.
- 6.3 Defendants' conduct has invaded Ms. Jester's interest in the private use and enjoyment of her property; the conduct annoys and disturbs Ms. Jester, rendering its ordinary use physically uncomfortable to her.
- 6.4 Therefore, Ms. Jester is entitled to damages and injunctive relief.

VII. THIRD CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)

- 7.1 Ms. Jester informed Kelly and Paul Tanis that she was suffering as a result of the regular throwing of objects onto Ms. Jester's property and then entering the premises for retrieval.
- 7.2 Despite this communication, Kelly and Paul Tanis continued to engage in, and to allow their minor children to engage in, the damaging conduct.
- 7.3 Kelly and Paul Tanis demonstrated their intention to continue causing Ms. Jester's emotional distress by repeatedly ignoring her requests.
- 7.4 Choosing to blatantly ignore the pleadings of Ms. Jester, an 88 year old woman in declining health, with knowledge of the detrimental effect Ms. Jester was thus forced to endure, is extreme and outrageous behavior that society does not recognize as tolerable.
- 7.5 Kelly and Paul Tanis' conduct proximately caused the severe emotional and physical trauma Ms. Jester suffered and continues to suffer.

7.6 Therefore, Ms. Jester is entitled to damages and injunctive relief.

VIII. FOURTH CAUSE OF ACTION
(Negligent Infliction of Emotional Distress)

8.1 Even if the Court determines that Kelly and Paul Tanis' intentions cannot be sufficiently proven to ultimately prevail on a claim of intentional infliction of emotional distress, the Tanis' remain liable to Ms. Jester under the theory of negligent infliction of emotional distress.

8.2 Kelly and Paul Tanis were put on notice both that Ms. Jester did not authorize or appreciate their conduct, and that she was enduring property, physical, and emotional damage as a result.

8.3 Despite these warnings, Kelly and Paul Tanis recklessly or negligently continue to engage in the causal conduct.

8.4 Acting with reckless disregard of both Ms. Jester's reasonable requests and the detrimental effect she was and is enduring as a result of continued action is extreme and outrageous behavior that society does not recognize as tolerable.

8.5 Kelly and Paul Tanis' conduct proximately has caused and is continuing to cause the severe emotional and physical trauma Ms. Jester suffered and continues to suffer.

8.6 Therefore, Ms. Jester is entitled to damages and injunctive relief.

PRAYER FOR RELIEF

Based upon the foregoing facts and claims, Plaintiff respectfully requests that this Court:

1. Enjoin Defendants from further activities, similar to the ones described in this complaint, that constitute either a private nuisance or a trespass;
2. Award monetary damages equivalent to Plaintiff's injuries and property damage;

3. Grant such other relief to Plaintiff as the Court deems to be just, proper, and equitable under the circumstances.

Respectfully submitted,

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COMMON PLEAS COURT
HAMILTON COUNTY, OHIO

Edna Jester

CASE NO. A0811747

VS

WRITTEN REQUEST FOR SERVICE
TYPE OF PAPERS TO BE SERVED ARE

Kelly Tanis

Complaint

Paul Tanis

() PLEASE CHECK IF THIS IS A
DOMESTIC CASE

PLAINTIFF/DEFENDANT REQUESTS:

CERTIFIED MAIL SERVICE X

PERSONAL SERVICE _____

PROCESS SERVICE _____

EXPRESS MAIL SERVICE _____

REGULAR MAIL SERVICE _____

RESIDENCE SERVICE _____

FOREIGN SHERIFF _____

FILED
2008 DEC 19 P 1:15
GREGORY HARTMANN
CLERK OF COURTS
HAMILTON COUNTY, OH

ON 1. Kelly Tanis, 4920 Myrtle Avenue, Blue Ash, Ohio 45242

2. Paul Tanis, 4920 Myrtle Avenue, Blue Ash, Ohio 45242

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