

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 11-22865 GAU3

ADEWALE OGUNLEYE,

Plaintiff,

vs.

MORGANS HOTEL GROUP
MANAGEMENT, LLC. d/b/a/
MONDRIAN SOUTH BEACH,
DANIEL ANAYA, Individually,

Defendants.

401
ISS 2
Rcpt #

FILED FOR RECORD
2011 JUL 22 PM 3:32
CLERK, CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA
CIVIL #192

COMPLAINT

Plaintiff, Adewale Ogunleye ("Ogunleye"), sues Defendants, Morgans Hotel Group Management, LLC, d/b/a/ the Mondrian South Beach ("Mondrian South Beach") and Daniel Anaya ("Anaya"), and alleges as follows:

NATURE OF THE ACTION, JURISDICTION. THE PARTIES AND VENUE

1. This is an action for trespass, invasion of privacy, negligent supervision, negligence, and respondeat superior.

2. This Court has subject matter jurisdiction over this action because the amount in controversy exceeds the sum of \$15,000.00, exclusive of costs, interest and attorneys' fees.

3. Defendant, Mondrian South Beach, is a Florida limited liability corporation whose principal place of business is in Miami Beach, Florida. The Mondrian South Beach is a hotel condominium that consists of studio apartments, one and two bedroom apartments and

penthouses.

4. Defendant, Anaya, is an individual, *sui juris*, that upon information and belief, resides in Miami-Dade County, Florida. Anaya was at all relevant times an employee of the Mondrian South Beach and all of his actions alleged herein were in the course and scope of his employment with the Mondrian South Beach.

5. Plaintiff, Ogunleye, is an individual, *sui juris*, that resides in Broward County, Florida. Ogunleye also owns two condominiums in the Modrian South Beach, one of which, unit 1010 (Unit 1010 is hereinafter referred to as the "condominium"), is relevant to the claims brought herein.

6. Venue is proper in Miami-Dade County, Florida because the cause of action alleged herein accrued in Miami-Dade County, and because the Mondrian South Beach maintains its principal place of business in Miami-Dade County.

GENERAL ALLEGATIONS

7. Although Ogunleye maintains his primary residence in Broward County, Florida, he also owns and makes use of his condominium at the Mondrian South Beach. As a professional athlete, Ogunleye appreciates the safety and security that a condominium hotel provides him. Ogunleye decided to purchase his two units in the Mondrian South Beach so that he could enjoy this safety and security.

8. On June 19, 2011, at 3:30 a.m., this safety and security were shattered. At that time, Ogunleye arrived in his room and dropped his overnight bag in his bedroom. Much to his shock and surprise, he heard a door inside his condominium slam shut. Upon further investigation, Ogunleye saw the silhouette of a large male behind the glass bathroom door. It appeared that the individual was bracing the door so it could not be opened.

9. Fearing for safety, and preparing to defend himself form an unknown intruder, Ogunleye

backed up and began to leave the room. When he asked the intruder who he was, and what was he doing in his room, the intruder responded, "Roberto, head of housekeeping." Ogunleye then notified the front desk and night manager of the incident and of the fact that he no longer felt safe staying at the hotel.

10. The intruder/trespasser was, in fact, an employee of the Mondrian South Beach that had been making use of Ogunleye's condominium for some time without being discovered by his employer. That particular evening, the intruder/trespasser had been eating a piece of cake in Ogunleye's condominium, had his phone charger plugged in, and, it appeared to Ogunleye, that he had been napping on the bed.

11. The reason that this egregious – and potentially deadly – misconduct was never discovered was because the Mondrian South Beach did not have any procedures or policies in place to protect Ogunleye from this type of misconduct. It did absolutely nothing to make sure that its employees did not unlawfully enter Ogunleye's condominium or otherwise use the condominium without Ogunleye's authorization. The invasion of privacy and trespass that harmed Ogunleye was reasonably foreseeable, and some steps -- ANY STEPS – should have been taken to prevent it. Unfortunately, the Mondrian South Beach did not live up to its promise of security and did nothing to protect Ogunleye. As a result, Ogunleye no longer feels safe staying in the condominium or in the other condominium he owns in the Mondrian South Beach.

12. All conditions precedent to bringing this action have occurred, have been performed or have been waived.

13. Ogunleye has retained undersigned counsel to bring this action and is obligated to pay undersigned counsel a reasonable fee for its services.

COUNT I: TRESPASS (AGAINST ANAYA)

14. Ogunleye realleges paragraphs 1 through 13 of this Complaint as if more fully stated

herein.

15. As discussed in paragraphs 8-11 of this Complaint, Anaya willfully and maliciously trespassed on Ogunleye's condominiums by living/taking up residence in the condominium without permission for an extended period of time.

16. Ogunleye has suffered damages as a direct and proximate result of this trespass, including but not limited to the substantial loss of the future enjoyment of the condominium insofar as Ogunleye does not feel safe or secure staying in the condominium.

WHEREFORE, Ogunleye respectfully requests that this Court enter judgment in his favor and against Anaya awarding compensatory damages, prejudgment and postjudgment interest, attorney's fees and costs incurred in prosecuting this action, and any further relief which the Court deems equitable and just. Ogunleye reserves the right to amend this Complaint to assert a claim for punitive damages once the requisite statutory record evidence is submitted.

COUNT II: INVASION OF PRIVACY (AGAINST ANAYA)

17. Ogunleye realleges paragraphs 1 through 13 of this Complaint as if more fully stated herein.

18. Ogunleye had a reasonable expectation of privacy inside of his condominiums.

19. As discussed in paragraphs 8 through 11 of this Complaint, Anaya invaded Ogunleye's privacy by taking up residence in the condominium without Ogunleye's knowledge or consent. The invasion of privacy by Anaya was willful and malicious, and could potentially have led to a disastrous result – the death of serious injury of either Ogunleye or Anaya in the event of a physical confrontation.

20. Ogunleye has suffered damages as a direct and proximate result of this invasion of privacy, including but not limited to, the substantial loss of the ability to enjoy his condominium in the future based on his well-grounded fear that his safety is not being protected.

WHEREFORE, Ogunleye respectfully requests that this Court enter judgment in his favor and against Anaya awarding compensatory damages, prejudgment and postjudgment interest, attorney's fees and costs incurred in prosecuting this action, and any further relief which the Court deems equitable and just. Ogunleye reserves the right to amend this Complaint to assert a claim for punitive damages once the requisite statutory record evidence is submitted.

COUNT III: NEGLIGENCE (AGAINST THE MONDRIAN SOUTH BEACH)

21. Ogunleye realleges paragraphs 1 through 13 of this Complaint as if more fully stated herein.

22. The Mondrian South Beach had a duty to implement reasonable procedures and policies to secure Ogunleye's condominiums, and to make sure that none of the Mondrian employees that had access to the units were engaging in any improper activity in the condominium.

23. The Mondrian South Beach breached this duty by failing to implement any policies and procedures to protect Ogunleye from the actions of its employee, Anaya, as discussed in more detail herein. The complete failure on the part of the Mondrian South Beach to implement any policies or procedures AT ALL constitutes gross negligence, which would entitle Ogunleye to recover punitive damages once the requisite statutory record evidence is submitted.

24. Ogunleye suffered damages as a direct and proximate result of the Mondrian South Beach's negligence.

WHEREFORE, Ogunleye respectfully requests that this Court enter judgment in his favor and against the Mondrian South Beach awarding compensatory damages, prejudgment and postjudgment interest, attorney's fees and costs incurred in prosecuting this action, and any further relief which the Court deems equitable and just. Ogunleye reserves the right to amend this Complaint to assert a claim for punitive damages once the requisite statutory record evidence is submitted.

COUNT IV: NEGLIGENT SUPERVISION (AGAINST THE MONDRIAN SOUTH BEACH)

25. Ogunleye realleges paragraphs 1 through 13 of this Complaint as if more fully stated herein.

26. The Mondrian South Beach had a duty to supervise Anaya to make sure that he was not engaging in any conduct that would threaten the safety of its invitees and unit owners, including but not limited to the duty to make sure that he was not improperly entering, or making unlawful use of, Ogunleye's condominiums and the condominiums of the other unit owners in the building. .

27. The Mondrian breached this duty by failing to properly supervise Anaya and allowing him to reside in Ogunleye's condominium, thereby placing Ogunleye's safety at substantial risk. The complete failure on the part of the Mondrian South Beach to implement any policies or procedures AT ALL constitutes gross negligence, which would entitle Ogunleye to recover punitive damages once the requisite statutory record evidence is submitted.

28. Ogunleye has suffered damages as a direct and proximate result of this negligent supervision.

WHEREFORE, Ogunleye respectfully requests that this Court enter judgment in his favor and against the Mondrian South Beach awarding compensatory damages, prejudgment and postjudgment interest, attorney's fees and costs incurred in prosecuting this action, and any further relief which the Court deems equitable and just.

COUNT V: RESPONDEAT SUPERIOR (AGAINST THE MONDRIAN SOUTH BEACH)

29. Ogunleye re-alleges paragraphs 1 through 20 of this Complaint as if more fully stated herein.

30. As discussed in paragraphs 8 through 11 of this Complaint, Anaya trespassed on Ogunleye's condominium, invaded his privacy, and placed Ogunleye at substantial risk of imminent harm.

31. All of Anaya's conduct discussed in this Complaint at all relevant times was in the course and scope of his employment and duties with the Mondrian South Beach, and proximately caused harm and damages to Ogunleye, including but not limited to the loss of his ability to enjoy his two

condominiums in the future based on his overall sense that he is not secure in the condominium. .

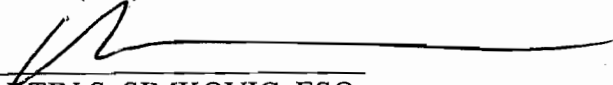
32. Accordingly, the Mondrian South Beach is vicariously liable to Ogunleye for Anaya's actions and for the damages sought herein.

WHEREFORE, Ogunleye respectfully requests that this Court enter judgment in his favor and against the Mondrian South Beach awarding compensatory damages, prejudgment and postjudgment interest, attorney's fees and costs incurred in prosecuting this action, and any further relief which the Court deems equitable and just. Ogunleye reserves the right to amend this Complaint to assert a claim for punitive damages once the requisite statutory record evidence is submitted.

DATED this 22nd day of July, 2011.

Respectfully submitted,

LYONS & LURVEY, P.A.
175 Southwest 7th Street
Suite 2009
Miami, Florida 33130
Telephone:(305) 379-5554
Facsimile:(305) 379-4548

By: 
MARTIN S. SIMKOVIC, ESQ.
Florida Bar No.: 870625