

STATE OF INDIANA)
) SS: IN THE MARION _____ COURT
COUNTY OF MARION) CAUSE NO.:

KAYA P.R. STEWART, EUMEKA R.)
STEWART, and SAMUEL STEWART III)
in their Individual Capacities, and)
EUMEKA R. STEWART and SAMUEL)
STEWART III, as Parents and Legal)
Guardians of O.S., a Minor,)

Plaintiffs,)

v.)

SIMON PROPERTY GROUP, L.P.,)
a/k/a SIMON PROPERTY GROUP,)
Inc., and ALLIED UNIVERSAL)
EVENT SERVICES, INC.)

Defendants.)

COMPLAINT FOR DAMAGES

Come now Plaintiffs KAYA P.R. STEWART, and EUMEKA R. STEWART, in their individual capacities, and SAMUEL STEWART III AND EUMEKA STEWART, as parents and legal guardians of O.S., a Minor, (“the Stewarts”), by their attorneys, COHEN AND MALAD, LLP, and for their action against SIMON PROPERTY GROUP, INC., a/k/a/ SIMON PROPERTY GROUP, L.P., (“Simon”) and ALLIED UNIVERSAL EVENT SERVICES (“Allied”), state as follows:

PARTIES

1. The plaintiffs, Kaya P.R. Stewart, Eumeka R. Stewart, Samuel Stewart III, and O.S., a minor, are all natural persons, citizens of Indiana, and residents of Indianapolis, Marion County, Indiana. Eumeka Stewart, Kaya Stewart and O.S. were invitees and shoppers at Greenwood Park Mall at all relevant times.

2. Defendant Simon Property Group, L.P. (“Simon”) is a Delaware corporation, headquartered in Indianapolis, Marion County, Indiana, and which owns, runs, and operates shopping malls throughout North America, Europe and Asia, including the Greenwood Park Mall in Greenwood, Johnson County, Indiana.

3. Defendant Allied Universal Event Services, Inc. is a California corporation, headquartered in Santa Ana, California, which does business in Indiana; namely, it provides security for businesses and events, including at all relevant times Simon and the Greenwood Park Mall. Its registered agent is Corporation Service Company, which is located in Indianapolis, Marion County, Indiana.

JURISDICTION AND VENUE

4. At all relevant times, Simon owned, operated, managed and/or maintained the Greenwood Park Mall, which is located at 1251 U.S. Highway 31 North, Greenwood, Indiana, 46142.

5. Upon information and belief, at all relevant times Simon contracted with Allied to provide security services for the Greenwood Park Mall.

6. This court has jurisdiction over this action for personal injuries which arises out of a mass shooting at the Greenwood Park Mall, which is owned and managed by Simon, and for which Allied provided security at all relevant times.

7. Marion County is a preferred venue for this action under Indiana Trial Rule 75(A)(4) because it is the county where the principal office of defendant Simon is located, and where the registered agent of Defendant Allied is located.

GENERAL ALLEGATIONS

8. In the U.S. in 2021, 20,958 men, woman and children were intentionally shot and killed by firearms. This reflects a 23% increase since 2019, before the onset of the coronavirus pandemic. *Pew Research, citing the Centers for Disease Control. [Pewresearch.org/short-reads/2023/04/24/what-the-data-says-about-gun-deaths-in-the-u-s/](https://www.pewresearch.org/short-reads/2023/04/24/what-the-data-says-about-gun-deaths-in-the-u-s/)*. Between 2017 and 2021, there were approximately 2,401 mass shooting deaths and injuries in the United States. The FBI has found a marked increase in active shooter incidents between 2000 and 2021: there were three such incidents in 2000. By 2021, there were 61 active shooter incidents. *F.B.I. Confirms a Sharp Rise in Mass Shootings Since 2000,* *The New York Times*; [nytimes.com/2014/09/25/us/25shooters.html](https://www.nytimes.com/2014/09/25/us/25shooters.html)

9. The Rockefeller Institute of Government defines a mass shooting as “an incident of targeted violence carried out by one or more shooters at one or more public or populated locations. Multiple victims – both injuries and fatalities – are associated with the attack, and both the victims and location(s) are chosen either at random or for their symbolic value. The event occurs within a single 24-hour period, though most attacks typically last only a few minutes.” [Rockinst.org/gun-violence/mass-shooting-factsheet/](https://rockinst.org/gun-violence/mass-shooting-factsheet/)

10. In the past three years there have been at least four shootings at Simon malls in and around Indianapolis.

11. On December 27, 2023, at least two men wearing ski masks were able to enter Castleton Square Mall with assault-type weapons and high-capacity magazines. Fortunately, no shots were fired.

12. These terrifying numbers serve as a stark reminder that horrific criminal attacks are not only common but are a real and foreseeable risk any time individuals gather in public spaces, including shopping centers and other venues such as the Greenwood Park Mall.

13. At all relevant times, Simon wholly owned Greenwood Park Mall, which was under Simon's care, custody and control.

14. Upon information and belief, at all relevant times Allied was responsible for providing security to employees, customers and other invitees upon the premises of the Greenwood Park Mall.

15. Owners, operators and managers of malls and other spaces where people gather, and the security companies hired by them, including Simon and Allied, are responsible for assessing their specific vulnerabilities and taking reasonable precautions to mitigate risks and prevent tragedies, like this one, from occurring. This assessment includes development, implementation, and coordination of plans and programs to ensure security and emergency preparedness.

16. In 2022 Simon's portfolio included over 250 properties in 37 states and fourteen countries, including 196 properties in the U.S. Total market value of the Simon portfolio in 2022 was more than \$80 billion.

17. Simon reported \$5.3 billion in consolidated revenue and \$6.1 billion in combined net operating income for 2022. It has paid more than \$39 billion in dividends to its shareholders over its history as a public company.

18. Greenwood Park Mall covers approximately 1.2 million square feet of interior space.

19. Upon information and belief, Simon and Allied allocate their security resources unevenly from one demographic area to the other, and without proper regard to the specific threats received and dangers posed at certain malls such as the Greenwood Park Mall.

20. At all relevant times said premises posed an unreasonably dangerous risk to customers and invitees such as the Plaintiffs because Defendants had failed to take reasonable precautions to assure that the premises were safe and secure, and free of violent crimes and/or the risk of violent crime such as the mass shooting that is the subject of this lawsuit.

21. Upon information and belief, prior to July 17, 2022, Defendants were on notice that the subject premises posed an unreasonably dangerous risk to invitees and customers because this site, and others owned, operated and protected by the Defendants had been the sites of shootings, aggravated assaults, gang-related crimes, and/or race-based threats and intimidation.

22. Upon information and belief, Defendants were aware or should have been aware that past incidents of criminal activities and disturbances had taken place at their various malls in and around Indianapolis, including the Greenwood Park Mall.

23. Upon information and belief, on and before July 17, 2022, Defendants utilized security patrols in the parking lot of the Greenwood Park Mall, in order to detect suspicious individuals and activity.

24. Upon information and belief, on and before July 17, 2022, Defendants had in place dozens of video cameras inside and outside the Greenwood Park Mall (“the mall”), the purpose of which was to monitor the parking lots, entry ways and interior common spaces for security threats. It is unknown which of these cameras were working on July 17, 2022.

25. Upon information and belief, on and before July 17, 2022, Defendants tasked employees with monitoring the mall's video camera feeds for the presence of individuals who might pose a threat to the safety of shoppers and others.

26. Upon information and belief, on and before July 17, 2022, Defendants chose where to place or concentrate security employees depending on the size of crowds, location of crowds, and other factors.

27. Upon information and belief, Simon's security resources are not dedicated to proactively detecting suspicious activity, firearms, and other prohibited weapons of that nature that could harm its invitees and others, despite Simon's express prohibition of firearms.

28. Likewise, prior to July 17, 2022, Simon did not update its security policies, procedures or safeguards to reflect and/or be commensurate with the growing prevalence of threats of violence and mass shootings in our society.

29. It was foreseeable to Simon and Allied that something catastrophic and/or similar to this shooting could occur, particularly because the Assailant was seen, or should have been seen, walking through the parking lot of the mall, into the mall, and into a restroom near the food court while carrying a heavy, long black backpack, then remaining in that restroom for more than an hour while he prepared to shoot innocent patrons.

30. It was foreseeable to Simon and Allied on July 17, 2022, that this particular perpetrator -- given his age, appearance, behavior, and because of the unique backpack he was carrying -- all fit the well-recognized profile of a potential mass shooter.

FACTS

31. At all relevant times, Plaintiffs Eumeka Stewart, Kaya Stewart and O.S. were business invitees at Greenwood Park Mall ("the Mall").

32. Upon information and belief, on July 17, 2022, a person later identified as Jonathan Douglas Sapirman (“the Assailant”), walked from his nearby residence, through the parking lot of the Mall, and into the Mall, past multiple security patrols and video cameras, entering the building at approximately 4:54 p.m.

33. Upon information and belief, on July 17, 2022, throughout his journey through the parking lot and Mall, the Assailant was wearing or carrying a long, black backpack consistent with those used to tote rifles and other assault weapons.

34. Upon information and belief, after walking through the parking lot, the Assailant walked through the exterior courtyard, into the mall, and into the food court area and entered the men’s restroom in a vestibule adjacent to the food court.

35. Upon information and belief, the Assailant spent more than an hour inside a stall of the men’s restroom, during which time he donned an ammunition vest and assembled several weapons which he intended to use to carry out a mass shooting, including a Sig Sauer model 400M rifle, a Smith and Wesson M&P15 rifle, and a Glock model 33 handgun, six fully loaded 5.56 magazines and two Glock 33 magazines. He also attempted to flush his cell phone down the toilet.

36. More than an hour later, at 5:56 p.m., the Assailant exited the restroom carrying the loaded Sig Sauer rifle in his hands. He immediately shot and killed an adult Hispanic male outside the restroom.

37. Upon information and belief, the Assailant then held the rifle at or above his shoulder level and fired dozens of shots over the heads of nearby White patrons and down toward clusters of Black and Hispanic individuals in the food court. Two Hispanic adults – a married

couple -- were killed, and several others were injured, including Plaintiff Kaya Stewart, who was seated at a nearby table.

38. The assailant shot directly at Plaintiff O.S. as she first approached the table, observed that her sister had been shot, then turned and ran in terror. The bullets missed O.S. but struck several items she was carrying in her hands.

39. A legally armed bystander carrying a Glock handgun immediately engaged the Assailant, striking and killing him.

40. Upon information and belief, first responders arrived approximately 8 minutes after the Assailant was killed. Had the bystander with the handgun not stopped the Assailant after only approximately 15 seconds of his firing into the crowd, the Assailant could have expended hundreds of rounds, potentially killing or injuring dozens of women, men and children.

41. Upon information and belief, no action was taken by the Defendants to safely evacuate shoppers and other invitees, including the Plaintiffs, from the time the Assailant entered the Mall property, walked across the parking lot carrying a large backpack, entered the Mall, walked through the food court, and entered the bathroom where he spent more than an hour preparing for the shooting.

42. Upon information and belief, no Allied security personnel were present in the food court area of the Mall at the time of the shooting.

43. Upon information and belief, no Simon employees or Allied security personnel attended to the men's restroom in the food court area or checked on the Assailant as he lingered in a stall for more than an hour, during which time he assembled his weapon(s), attempted to destroy his cell phone, and otherwise made preparations to commit a mass shooting.

44. Upon information and belief, despite the fact that the food court area of the Mall was crowded with shoppers at the time of the shooting, at least one security guard had left the Mall through an exit near the food court just minutes before the Assailant exited the restroom and began firing, and an hour before the mall was scheduled to close.

45. A guard's presence in the parking lot, mall corridors, food court, and/or restroom, if noticed by the shooter, may have deterred the Assailant from carrying out the shooting.

46. The speed at which semi-automatic assault rifles such as the Assailant's Sig Sauer rifle, discharge lethal rounds is known or reasonably should have been known to the Defendants prior to the date of this mass shooting.

47. The Defendants knew or should have known that the only way to prevent multiple deaths and serious injuries when an Assailant such as this one fires into a crowd with a semi-automatic rifle is to take reasonable steps to prevent these shootings from occurring in the first place.

48. The Defendants' negligence caused Plaintiffs Kaya Stewart and O.S. to be put in fear for their safety, and such fear was shown by their physical consequences and/or long-term emotional distress, rather than only momentary fright, shock or immediate and fleeting emotional disturbance. The Plaintiffs' fear caused them bodily injuries and other damages alleged in detail herein.

49. Plaintiff Eumeka Stewart was inside the Mall outside a shop near the food court, and was walking toward the food court to meet Kaya and O.S. when she heard shots ring out, heard screaming, and smelled gunpowder. She faced a crowd of people running toward her, and turned and ran with them to exit the Mall. Once outside, she ran to her car and pulled it up near the entrance to Dick's Sporting Goods, terrified for the safety of her daughters. Her son, Samuel

Stewart IV, was in the vehicle with her. She tried repeatedly to reach Kaya or O.S. by phone but could not get a call through.

50. Eumeka Stewart and Samuel Stewart IV were in the vehicle near the Dick's Sporting Goods entrance when emergency vehicles descended on the Mall. She spoke with a first responder and learned that her daughter, Kaya, had been shot. At that point she had no idea whether Kaya was dead or alive.

51. On or about July 17, 2022, Samuel Stewart IV was in the vehicle with his mother, Eumeka Stewart, when he learned that his sister, Kaya, had been shot and might be dead. For several minutes he and Eumeka were unable to reach O.S. on her phone. Finally, O.S. reached her mother and reported she was hiding from the shooter with her friend inside the nearby movie theater. Samuel Stewart IV ran into the movie theater to find the girls, only to discover that O.S. had fainted. He carried her out of the movie theater in his arms, and also escorted her friend to his mother's vehicle.

52. Eumeka and Samuel Stewart IV later witnessed Kaya being brought out of the Mall on a stretcher, having suffered severe gunshot injuries. Eumeka followed the ambulance that carried her daughter to the hospital, all the while knowing her daughter was severely injured, but not knowing whether or not she would survive.

COUNT I: PREMISES LIABILITY AGAINST SIMON PROPERTIES

53. Plaintiffs incorporate by reference and re-allege the previous paragraphs of this Complaint.

54. At all relevant times, Defendant Simon Properties was a "landowner" operating and maintaining the subject Mall premises.

55. At all relevant times, Plaintiffs were “invitees” as to Defendant Simon and the Mall premises.

56. As such, Simon had a duty of reasonable care to protect Plaintiffs, and others like them, against dangers in which Simon Properties actually knew or should have known. Those dangers included the fact that dangerous and criminal activity had previously occurred at the Greenwood Park Mall, including race-based threats, and that mass shootings had occurred in many malls and public spaces throughout the U.S. in the months and years leading up to this shooting.

57. Defendant Simon breached this duty when it failed to engage in reasonable efforts to manage, maintain, inspect and monitor the premises and individuals upon it, and to make the subject premises safe, and consequently created and perpetuated an unreasonable risk of injury to persons lawfully on the premises such as the Plaintiffs.

58. Defendant Simon failed to use reasonable care in the inspection, management and/or maintenance of the subject premises, and the operation of the activities on the premises, including but not limited to:

- a. failing to properly train employees and provide reasonable surveillance procedures including, but not limited to, surveillance devices, monitors, cameras and human surveillance or monitoring of suspicious individuals and activity;
- b. failing to establish and/or failing to enforce an adequate inspection protocol of the premises, and particularly the parking lots, food court and restrooms;

- c. failing to develop, establish and institute adequate emergency or first-aid response and evacuation plans and procedures for invitees in the event circumstances called for such procedures;
- d. failing to use reasonable care under the circumstances to discover the foreseeable dangerous conditions of said premises, and to correct same or warn invitees and/or customers of their existence, as well as other potential risks known to Simon and of which Simon was on notice of, when shopping at Greenwood Park Mall specifically or Simon malls generally;
- e. failing to utilize an adequate number of staff to monitor video cameras on the Mall premises;
- f. failing to adequately train staff to recognize individuals carrying bags or backpacks that are indicative of weapons, and particularly long guns such as the assault rifle used in the July 17, 2022, shooting;
- g. failing to provide adequate security to protect invitees such as Plaintiffs from the unreasonable risk of violent crime in general, and mass shootings particularly, of which Simon was on notice before July 17, 2022.

59. As a direct and proximate result of these dangerous conditions, Plaintiffs were severely injured and suffered medical expenses, lost wages, economic and non-economic damages, losses and injuries, including extreme physical, mental and emotional pain and suffering, emotional distress, impairment and/or loss of enjoyment of life, fear, disfigurement, permanent physical impairment and embarrassment.

60. At law, the acts or omissions of all corporate employees while acting within the scope of their employment, and whose names are not yet known to the Plaintiffs, are the acts or omissions of the defendant corporation.

61. Simon Properties is vicariously liable for the actions and inactions of its employees, whose names are not yet known to the Plaintiffs.

62. As a direct, proximate and foreseeable result of the actions and inactions of Simon Properties' employees, whose names are not yet known to the Plaintiffs, Kaya Stewart suffered damages, injuries and losses, and will continue to be harmed for the rest of her life. Her damages include, but are not limited to the following:

- a. severe and permanent physical injuries;
- b. extreme pain and suffering;
- c. physical scarring and disfigurement;
- d. severe permanent psychological injuries and suffering;
- e. fear of public spaces;
- f. fear of crowds;
- g. paranoia;
- h. agoraphobia;
- i. lost present and future wages;
- j. loss of enjoyment of life; and
- k. present and future medical and psychotherapy bills.

63. As a direct, proximate and foreseeable result of the actions and inactions of Simons Properties' employees, whose names are not yet known to the Plaintiffs, Plaintiffs Eumeka Stewart and Kaya P.R. Stewart, in their individual capacities, and Eumeka Stewart and Samuel Stewart III, as parents and legal guardians of the minor, O.S. suffered damages, injuries and losses, and will continue to be harmed for the rest of their lives. Their damages include, but are not limited to the following:

- a. severe permanent psychological injuries and suffering;
- b. fear of public spaces;
- c. fear of crowds;
- d. paranoia;
- e. agoraphobia;
- f. lost present and future wages;
- g. loss of enjoyment of life; and
- h. present and future medical and psychotherapy bills.

COUNT II: NEGLIGENCE AGAINST ALL DEFENDANTS

64. Plaintiffs incorporate by reference and re-allege the previous paragraphs of this Complaint.

65. Defendant Simon hired Allied Universal Event Services (“Allied”) to provide its properties, including Greenwood Park Mall, with a reasonably secure environment for its customers and invitees.

66. Defendants Simon and Allied had a duty to provide a safe shopping mall for customers and other invitees, including the Plaintiffs.

67. The Defendants breached their duty of care toward their invitees, including the Plaintiffs, in the following manners:

- a. failing to provide appropriate security on and within the premises as well as generally failing to adequately secure the premises;
- b. failing to monitor potentially dangerous individuals, including the Assailant;
- c. failing to observe the Assailant enter the mall property, walk through the parking lot and an exterior courtyard, into the mall itself, into the men’s restroom and finally to the food court area, all the while carrying multiple assault weapons;

d. failing to provide proper security for the food court area, which contained a high concentration of the Mall's guests;

e. failing to inspect the men's restroom for more than an hour, contrary to the Defendants' own protocols and/or procedures;

f. and failing to remove the Assailant from the premises prior to the shooting.

68. As a direct result of the negligence of the Defendants, and each of them, the Plaintiffs were physically, economically, and emotionally injured and harmed, and will continue to be harmed for the rest of their lives, all as more fully set forth in Count I.

69. The trauma occasioned to the Plaintiffs described herein, horrific by nature, is ongoing, and the Plaintiffs will be dealing with the nightmarish events and their physical and psychological injuries for the rest of their lives.

COUNT III: GROSS NEGLIGENCE AGAINST ALL DEFENDANTS

70. Plaintiffs incorporate by reference and re-alleges all the previous allegations of this Complaint.

71. Plaintiffs allege that all acts, conduct and omissions on the part of Defendants, taken singularly or in combination, constitute gross negligence and were the proximate cause of Plaintiffs' injuries and damages. Defendants' acts and/or omissions, when viewed objectively from the Defendants' standpoint at the time such acts and/or omissions occurred, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Defendants had actual, subjective awareness of the risks, but proceeded with conscious indifference to the rights, safety and welfare of the Plaintiffs.

72. Defendants' conduct was reckless and/or done with an intentional state of mind. Such gross negligence was a proximate cause of the occurrence and Plaintiffs' injuries and damages.

73. As a direct and proximate result of Defendants' aforementioned tortious conduct, Plaintiffs were caused to incur injuries to their bodies and minds, past and future medical and psychotherapy expenses, past and future pain and suffering, past and future severe emotional distress, and past and anticipated future loss of income.

74. That the aforementioned acts and/or omissions were conducted in a wanton, willful, malicious manner, with conscious disregard for Plaintiffs' rights and the rights of those similarly situated. For these reasons, the Plaintiffs are entitled to punitive or exemplary damages from the Defendants.

COUNT IV: NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS
AGAINST ALL DEFENDANTS

75. Plaintiffs incorporate and re-allege all previous paragraphs of the Complaint as if fully set forth herein.

76. Eumeka Stewart is the mother and natural guardian of Kaya Stewart and O.S.

77. Defendants, through their tortious acts, did cause a negligent infliction of emotional distress upon Eumeka Stewart, when they endured the emotional fear, trauma and terror of discovering the gruesome aftermath of the shooting in the form of her severely wounded daughter and sister being removed from the Mall on a stretcher with multiple gunshot wounds, a tortious act rarely, if ever, witnessed by a parent, and severely impacting her emotional health.

78. Eumeka Stewart suffered from and continues to suffer from mental anguish and severe emotional trauma as a result of learning about the shooting inside the Mall, witnessing her daughter Kaya Stewart being brought to an ambulance on a stretcher after suffering a severe

injury from gunshot wounds, following the ambulance to the hospital in a state of terror, and witnessing her daughter's injuries, pain and suffering.

DAMAGES

79. The Defendants' above-alleged wrongful conduct caused the injuries and damages to the Plaintiffs, as set forth in Count I, and including but not limited to: past and future economic damages, including but not limited to medical and related expenses, lost wages, loss of earning capacity, past and future non-economic damages, including but not limited to bodily injury of a serious and permanent nature, pain and suffering, permanent physical disability, inconvenience, emotional stress, anxiety, loss of enjoyment of life, impairment of the quality of life, any and all other consequential losses arising from the Defendants' wrongful conduct as provided by law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request judgment and damages in their favor and against the Defendants, as set forth above, as well as pre-judgment and post-judgment interest pursuant to applicable law, and all other just and proper relief.

REQUEST FOR JURY TRIAL

Come now the Plaintiffs, by counsel, and request that the above Complaint and all issues therein be tried by jury.

Respectfully submitted,

COHEN & MALAD, LLP

/s/Gregory L. Laker

Gregory L. Laker, Atty No. 10322-49

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