

IN THE STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

Witsell H. Beach, Jr.,

Plaintiff,

vs.

Donald S. O'Bryan, Jr.; Wynn Farms LLC; and
Brandon Linder,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL
CIRCUIT

Civil Action No. 2024-CP-15-_____

SUMMONS

(Jury Trial Demanded)

YOU ARE HEREBY SUMMONED AND REQUIRED to Answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer on the subscribers at their office located at 3 Morris Street, Suite A (29403), Post Office Box 21624, Charleston, South Carolina, 29413, within thirty (30) days of the service, exclusive of the day of such service; and if you fail to answer the Complaint within this time, the Plaintiff will move for entry of Default Judgment and apply to the Court for the relief sought therein.

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January 5, 2024
Charleston, South Carolina

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COMPLAINT

(Jury Trial Demanded)

Plaintiff, Witsell H. Beach, Jr., by and through his undersigned attorneys, would allege and show unto the Court the following:

JURISDICTION AND VENUE

1. This suit arises out of a hunting incident that occurred on December 29, 2022, in Colleton County.
2. Plaintiff is a citizen and resident of Colleton County.
3. Defendant Donald S. O'Bryan, Jr. ("O'Bryan") is, upon information and belief, a citizen and resident of Georgia.
4. Defendant Wynn Farms, LLC is a limited liability company organized under South Carolina law. Upon information and belief, Wynn Farms has its principal place of business in Ladson, South Carolina, and operates as a hunt club.
5. Defendant Brandon Linder is, upon information and belief, a citizen and resident of Colleton County and is a member and/or principal of Wynn Farms hunt club.
6. This Court has subject matter jurisdiction over Plaintiff's claims and personal jurisdiction over the parties.

7. Venue is proper in Colleton County pursuant to S.C. Code Ann. § 15-7-30 because the most substantial part of the alleged act or omission giving rise to the cause of action occurred in Colleton County.

FACTS

8. Defendant Wynn Farms operates a hunt club consisting of several members. Brandon Linder is principal and operator of the hunt club.

9. During deer season in 2022, Wynn Farms entered into a lease which allowed the hunt club and its members and guests to hunt a parcel of land in Colleton County.

10. On December 29, 2022, on a clear, sunny day, Defendant Wynn Farms and Defendant Linder organized a deer hunt on the leased land.

11. The hunt was organized as a dog drive, in which dogs are used to flush deer out of the woods and into a clearing where hunters were spaced out waiting for the deer to emerge. The waiting hunters are often referred to as “standers.”

12. Defendant Linder and/or other Wynn Farms hunt club members invited Plaintiff, Defendant Donald O’Bryan, and approximately 20 other hunters to participate in the hunt.

13. Some participants in the hunt released approximately 70 dogs within a set perimeter to “drive” deer to positions where the standers could shoot the deer.

14. Defendant O’Bryan—an inexperienced deer hunter—set up on the edge of the clearing and waited for deer to enter the clearing. Defendant O’Bryan was not properly equipped for the hunt and was carrying a borrowed firearm.

15. At the same time, Plaintiff—who was wearing blaze orange clothing and exercising reasonable care—positioned himself as a stander in the bed of his pickup truck approximately 200 yards away.

16. As the standers lay in wait, a group of deer ran from the woods into the clearing between Plaintiff and Defendant O’Bryan, turned away from Defendant O’Bryan, and began running toward Plaintiff.

17. In reckless disregard for the safety of other persons, including Plaintiff, Defendant O’Bryan ran backward before firing multiple shots in the direction of the running deer—and in the direction of Plaintiff—with a 12-gauge shotgun.

18. Defendant O’Bryan missed the deer and instead shot Plaintiff, severely injuring Plaintiff’s hand.

19. As a result of the shooting, Plaintiff suffered an open fracture of the second metacarpal bone in his left hand and underwent multiple surgical procedures to explore the penetrating wound, remove the embedded projectile, and insert a screw to fixate the displaced fracture.

20. As a result of the gunshot and injuries, Plaintiff was forced to miss nearly a month of work and was able to perform only limited duties once he returned to work.

21. After the surgical procedures, Plaintiff underwent several months of extensive physical therapy in an effort to regain the lost function of his left hand and resolve the severe pain he continued to suffer from the shooting.

22. Plaintiff continues to suffer pain and other adverse effects from the shooting.

FOR A FIRST CAUSE OF ACTION
(Negligence/Gross Negligence/Recklessness as to all Defendants)

23. Plaintiff realleges and reincorporates the preceding paragraphs as if set forth herein verbatim.

24. A basic rule of firearm safety is that a person using a firearm must be sure of his target and what is beyond it. According to the National Shooting Sports Foundation, a shooter

must “Be sure that your bullet will not injure anyone or anything beyond your target. Firing at a movement or a noise without being absolutely certain of what you are shooting at constitutes disregard for the safety of others. No target is so important that you cannot take the time before you pull the trigger to be absolutely certain of your target and where your shot will stop.”

25. Safety is the most important aspect of a properly planned and executed dog drive.

26. A properly planned and executed dog drive should include a pre-hunt safety briefing in which the participants discuss, among other things, safe zones of fire, whether a stander is permitted to move from his position and when he may do so, start and stop times for shooting, prescribed shooting zones for each stander, that firearms should be unloaded until a stander is in position and then unloaded again when a stander leaves his position, a plan for regrouping after the drive, and information about the topography and land.

27. During a properly planned and executed dog drive, all standers must know the location of other standers on either side. Each stander should have a prescribed shooting zone and limit his shooting to his prescribed zone.

28. During a properly planned and executed dog drive, standers should not fire at deer until the deer have reached a safe shooting zone such that the standers are absolutely certain they are shooting at a deer and that no other persons are in front of or behind the target. Further, standers should not fire at a running deer.

29. Under no circumstances should a stander fire to his left or right toward the location of other standers.

30. Defendants, individually and collectively, owed each of the above duties of care to Plaintiff.

31. Defendants breached their duties of care to Plaintiff and were negligent, grossly negligent, reckless, willful, and wanton in one or more of the following particulars:

- a. Failing to properly plan and execute a safe dog drive;
- b. Failing to establish proper safety protocols for the dog drive, including but not limited to establishing safe zones of fire;
- c. Failing to ensure that all participants in the dog drive were experienced, competent, and safe hunters;
- d. Failing to ensure that all participants in the dog drive were properly equipped;
- e. Failing to ensure that all standers knew the location of all other standers;
- f. Failing to ensure that all standers followed proper safety protocols, including but not limited to shooting only within their prescribed safe zones of fire;
- g. Firing at running deer;
- h. Firing in the direction of other standers;
- i. Firing without knowing what is beyond the target; and
- j. Such other particulars as the evidence may show.

32. As a direct and proximate result of Defendants' negligent, grossly negligent, willful, wanton, careless, and reckless conduct, Plaintiff suffered (and will in the future suffer) damages, including but not limited to the following:

- a. Medical expenses – past and future;
- b. Loss or impairment of earning capacity;
- c. Out of pocket expenses;
- d. Loss of income;
- e. Future damages resulting from permanent injury;
- f. Disfigurement and scarring;

- g. Alteration of lifestyle;
- h. Psychological trauma;
- i. Mental anguish;
- j. Mental distress;
- k. Apprehension;
- l. Anxiety;
- m. Emotional injury;
- n. Depression;
- o. Pain and suffering; and
- p. Loss of enjoyment of life.

33. As a direct and proximate result of Defendants' negligent, grossly negligent, reckless, willful and/or wanton conduct, Plaintiff is entitled to actual damages as allowable by law, as well as punitive damages as may be allowable by law and supported by the evidence at trial.

FOR A SECOND CAUSE OF ACTION
(Battery as to Defendant Donald O'Bryan)

34. Plaintiff realleges and reincorporates the preceding paragraphs as if set forth herein verbatim.

35. Defendant O'Bryan shot Plaintiff with a 12-gauge shotgun.

36. Defendant O'Bryan's shooting of Plaintiff was not consensual and constituted a harmful and offensive touching—a battery.

37. As a direct and proximate result of the battery, Plaintiff is entitled to recover actual damages and punitive damages from Defendant O'Bryan.

WHEREFORE, Plaintiff prays for the following:

- i. Judgment against Defendants for actual and punitive damages in an amount to be determined by a jury;
- ii. The costs of this action; and
- iii. Such other and further relief as this Court deems just and proper.

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