

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Emma Elizabeth Muller, Individually and
as Personal Representative of the Estate
of James Michael Muller

Plaintiff,

Vs.

Columbia Fire Department,

Defendants.

CASE NUMBER: 2025-CP-40-_____

SUMMONS

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served on you, and to serve a copy of your Answer to the said Complaint upon the subscribers at 2110 N. Beltline Boulevard, Columbia, South Carolina 29204, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in such Complaint.

Respectfully submitted,

RIKARD & PROTOPAPAS, LLC/s/ Brian M. Barnwell**RIKARD & PROTOPAPAS, LLC**

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April 23, 2025

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SUMMONS AND COMPLAINT
(Jury Trial Demanded)

COMES NOW Plaintiff Emma Elizabeth Muller individually and as Personal Representative of the Estate of James Michael Muller (“Plaintiff” or “Mrs. Muller”), complaining of Defendant Columbia Fire Department (“Defendant”) as follows:

SUMMARY OF EVENTS

James Muller was a young, devoted firefighter for the Irmo Fire Department. He was loved and respected by his fellow firefighters. He married the love of his life, Emma Muller, on October 20, 2019. After they married, James and Emma were blessed with a son. As a young husband and father, James continued to work hard as a firefighter to provide for his family and protect the citizens of South Carolina.

Tragically, on May 26, 2023, James was killed in a structure fire in Columbia, South Carolina. Pursuant to an Automatic Aid Agreement between the departments and cities, the Columbia Fire Department was responsible for organizing the emergency response efforts and maintaining safety. Defendant, however, failed to provide adequate training before the incident and failed to maintain proper communication channels during the incident.

As a result, James was sent into a structurally compromised building and became trapped. His mayday call went unanswered by Defendant's Incident Command and aid was not sent. While he was trapped, Defendant used deck guns to spray enormous amounts of water onto the burning building. The weight of the water caused the roof to collapse on top of James, who was then pinned to the ground. James maintained consciousness and continued talking while he was trapped for at least forty-five minutes. Unfortunately, he succumbed to his wounds and died of mechanical asphyxiation. He was just 25 years old.

PARTIES & JURISDICTION

1. Plaintiff Emma Elizabeth Muller is a citizen and resident of Lexington County, South Carolina and the duly appointed personal representative of the Estate of James Michael Muller. Mrs. Muller brings this action in her individual capacity and on behalf of her husband's statutory beneficiaries, as well as her capacity as the personal representative of her husband's Estate pursuant to S.C. Code Ann. § 15-51-10, *et seq.* and S.C. Code Ann. §15-5-90.

2. Defendant City of Columbia Fire Department is located in Richland County, South Carolina.

3. Jurisdiction and venue are proper in Richland County, South Carolina.

FACTUAL ALLEGATIONS

4. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs as if set forth verbatim herein.

5. On May 26, 2023, a fire broke out at the Tropical Ridge Apartment Complex located at 167 Stoneridge Road in Columbia South Carolina.

6. The Tropical Ridge Apartment Complex was built in 1985 with an open web parallel chord trusses and open chimney chases, which both lacked any fire stops. It is believed that this information was known or should have been known by the Columbia Fire Department Incident Command.

7. The construction of the apartment complex allowed for rapid and unrestricted fire spread.

8. Defendant and the Irmo Fire District ("IFD"), which is in Lexington County, have an Automatic Aid Agreement with one another.

9. The Automatic Aid Agreement allows the closest fire departments to respond to an incident even if that incident is not within a department's geographical boundary and jurisdiction.¹

10. Pursuant to the Automatic Aid Agreement, the IFD responded to the fire at the Tropical Ridge Apartment Complex located in Richland County.

11. One of the IFD firefighters that responded to the Tropical Ridge Apartment Complex fire was James Muller

12. Pursuant to the Automatic Aid Agreement, Defendant established Incident Command because the fire was in its jurisdiction.

13. As Incident Command, Defendant was also responsible for establishing Safety Command and for coordinating communications and rescue efforts between the IFD firefighters and Defendant's own firefighters.

¹ The Automatic Aid Agreement did not create any type of employment relationship between the departments and their personnel.

14. Defendant failed to properly supervise the rescue and fire suppression efforts at the Tropical Ridge Apartment Complex, which placed everyone in danger and, ultimately, caused Mr. Muller's death.

15. It also failed to provide adequate training to its firefighters, including training on procedures for on-site communications and procedures of communications when responding to incidents with adjacent jurisdictions.

16. As a result of Defendant's negligent acts and omissions, Mr. Muller was sent into the burning building even though a previous group of firefighters observed that the building's structural integrity was compromised, and its ceiling trusses were sagging.

17. While Mr. Muller and his team were inside the building, Defendant's firefighters used deck guns to spray large volumes of water on the already compromised roof of the structure.

18. These deck guns should not have been used while people were in the building.

19. The weight of the water sprayed by the deck guns caused the roof to collapse while Mr. Muller was inside.

20. Mr. Muller's team and a second team of firefighters on another floor sent out separate mayday calls for help.

21. Defendant, however, failed to maintain proper communication channels. As a result, when the second team was rescued, Incident Command considered all mayday calls resolved, ignored Mr. Muller's separate mayday call, and did not send any additional aid.

22. Mr. Muller was pinned by the debris.

23. He remained conscious while he was trapped and was able to continue breathing through his respirator and talking.

24. Medical records say he remained trapped in the burning building for at least forty-five minutes unable to escape.

25. He was eventually freed and transported to the hospital, where he eventually succumbed to his injuries and died.

26. The autopsy and death certificate list the cause of death as "Mechanical Asphyxia."

27. While official investigations are ongoing, the South Carolina Office of Occupational Safety and Health ("OSHA") has cited Defendant with multiple violations and found that it committed at least the following wrongful acts:

A. On or about May 26, 2023, supervisory personnel failed to take responsibility for the safety and health of responders and other authorized persons within their designated areas when failure to clear radio communications to allow mayday calls to be heard and addressed effectively resulted in a mayday call being cleared while firefighters remained trapped within the burning structure.

B. On or about May 26, 2023, supervisory personnel failed to take responsibility for the safety and health of responders and other authorized persons within their designated areas when defensive and offensive tactics were utilized together resulting in the use of deck guns on exterior portions of the structure while firefighters remained in the interior and no action was taken to correct this imminent hazard or to prevent firefighters from entering the structure.

C. On or about May 26, 2023, supervisory personnel failed to take responsibility for the safety and health of responders and other authorized persons within their designated areas when constant awareness of the position and function of all responders was not maintained and a safety officer was not appointed.

28. As a direct and proximate result of Defendant's negligence, Mr. Muller suffered injuries, endured sever physical and mental suffering, and death.

FOR A FIRST CAUSE OF ACTION
(Negligence-Wrongful Death)

29. The foregoing allegations are realleged and reincorporated as if fully set forth herein verbatim to the extent not inconsistent herewith.

30. The Defendant and its employees owed certain duties to all individuals including Mr. Muller.

31. The Defendant and its employees breached these duties as set forth in the particulars above and below.

32. The employees of Defendant were acting within the course and scope of their employment at all times relevant to this action.

33. Defendant is liable for the actions and omission of its employees pursuant to the South Carolina Tort Claims Act ("SCTCA").

34. Defendant and its employees were careless, reckless, negligent, grossly negligent, and negligent per se in the following particulars.

a. In failing to establish clear lines of communication between firefighters on the ground and Incident Command.

b. Failing to properly supervise and control the incident response.

c. Failing to perform adequate risk assessments for interior fire suppression activities.

d. Failing to establish adequate standard operating guidelines.

e. Failing to train employees on the standard operating guidelines.

f. Failing to train employees on responding to incidents with adjacent jurisdictions.

g. Failing to appreciate the increased risk of structural collapse.

h. Failing to appreciate the increased risk of collapse due to the use of master streams on structural portions of the apartment complex.

i. Failing to issue an evacuation order despite clear indication the apartment was susceptible to imminent collapse.

j. Violating nationally accepted industry standards.

k. Violation of individual departmental policies, procedures, and general orders.

l. In such other particulars as will be learned through discovery and proven at trial.

35. As a direct and proximate result of Defendant's negligence, Mr. Muller suffered fatal injuries.

36. As further direct and proximate result of the Defendant's negligence Mrs. Muller and Mr. Muller's beneficiaries suffered deep and profound grief and sorrow, permanent mental shock and suffering, and severe emotional distress. Additionally, James Muller's beneficiaries have been forever deprived of his love, affection, comfort, companionship and society.

37. Plaintiffs are entitled to recover compensatory damages, including, but not limited to, damages for pecuniary loss, mental shock and suffering, wounded feelings, grief and sorrow, loss of companionship, and deprivation of James Muller's love, affection and society.

FOR A SECOND CAUSE OF ACTION
(Negligence – Survival)

38. The foregoing allegations are realleged and reincorporated as if fully set forth herein verbatim to the extent not inconsistent herewith.

39. The Defendant and its employees owed certain duties to all individuals including Mr. Muller.

40. The Defendant and its employees breached these duties as set forth in the particulars above and below.

41. The employees of Defendant were acting within the course and scope of their employment at all times relevant to this action.

42. Defendant is liable for the actions and omission of its employees pursuant to the SCTCA.

43. Defendant and its employees were careless, reckless, negligent, grossly negligent, and negligent per se in the following particulars.

a. In failing to establish clear lines of communication between fire-fighters on the ground and Incident Command.

b. Failing to properly supervise and control the incident response.

c. Failing to perform adequate risk assessments for interior fire suppression activities.

d. Failing to establish adequate standard operating guidelines.

e. Failing to train employees on the standard operating guidelines.

f. Failing to train employees on responding to incidents with adjacent jurisdictions.

g. Failing to appreciate the increased risk of structural collapse.

h. Failing to appreciate the increased risk of collapse due to the use of master streams on structural portions of the apartment complex.

i. Failing to issue an evacuation order despite clear indication the apartment was susceptible to imminent collapse.

j. Violating nationally accepted industry standards.

k. Violation of individual departmental policies, procedures, and general orders.

l. In such other particulars as will be learned through discovery and proven at trial.

44. As a direct and proximate result of Defendant's negligent, grossly negligent, reckless, willful, and/or wanton acts, Mr. Muller endured excruciating pain and suffering and mental distress, incurred medical expenses, and suffered damages in an amount to be determined by a jury in the trial of this case.

FOR A THIRD CAUSE OF ACTION
(Loss of Consortium)

45. The foregoing allegations are realleged and reincorporated as if fully set forth herein verbatim to the extent not inconsistent herewith.

46. The Plaintiff, Emma Muller, was James Muller's legal wife.

47. As a direct and proximate result of Defendant's negligence, negligence per se, carelessness, gross negligence and/or recklessness as described herein, Emma Muller was forever deprived of the companionship, services, affection, and support of her husband.

48. As a direct and proximate result of Defendant's negligent, grossly negligent, reckless, willful, and/or wanton acts, Mrs. Muller endured excruciating pain and suffering and mental distress, incurred medical expenses, has had to change her living circumstances, and suffered damages in an amount to be determined by a jury in the trial of this case.

49. Plaintiff is entitled to recover compensatory damages, including, but not limited to, damages for pecuniary loss, mental shock and suffering, wounded feelings,

grief and sorrow, loss of companionship, and deprivation of her husband's love, affection and society.

WHEREFORE, Plaintiff prays for the Court to award judgement against Defendant for compensatory damages, actual damages, pain and suffering, loss of enjoyment of life, mental distress, pecuniary loss, mental shock and suffering, wounded feelings, grief and sorrow, loss of companionship, deprivation of James Muller's love, affections and society, loss of consortium, attorney's fees, the costs of this action, such other and further damages as may be revealed in discovery and proven at trial, and such other and further relief as the Court deems just and proper.

JURY TRIAL DEMANDED

Respectfully Submitted,

RIKARD & PROTOPAPAS, LLC

/s/ Brian M. Barnwell

RIKARD & PROTOPAPAS, LLC

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