

STATE OF INDIANA) IN THE HAMILTON COUNTY SUPERIOR COURT 2
) SS:
COUNTY OF HAMILTON) CAUSE NO.: 29D02-2307-CT-_____

NIKKI STERLING, as Personal Representative of the)
ESTATE OF DYLAN KYLE McGINNIS, and)
NIKKI STERLING and DUNCAN KIP McGINNIS, as)
the surviving nondependent parents of decedent)
DYLAN KYLE McGINNIS,)

Plaintiffs,)

v.)

TRAVIS A. LANG, and THE BAIL PROJECT, INC.)

Defendants.)

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

Plaintiffs, Nikki Sterling, as Personal Representative of the Estate of Dylan Kyle McGinnis, and both Nikki Sterling and Duncan Kip McGinnis, as nondependent parents of decedent Dylan Kyle McGinnis (hereinafter “Plaintiffs”), by counsel, pursuant to the Indiana Adult Wrongful Death Act, and their Complaint against the Defendants, allege and state as follows:

1. At all times mentioned herein, Plaintiff Nikki Sterling, Personal Representative of the Estate of Dylan Kyle McGinnis and nondependent parent of Dylan Kyle McGinnis, is a resident of the City of Noblesville, County of Hamilton, State of Indiana. Nikki Sterling is the surviving biological mother of decedent, Dylan Kyle McGinnis.

2. At all times mentioned herein, Plaintiff Duncan Kip McGinnis, is a resident of the City of Westfield, County of Hamilton, State of Indiana. Duncan Kip McGinnis is the surviving biological father and nondependent parent of decedent, Dylan Kyle McGinnis.

3. Dylan Kyle McGinnis (hereinafter “Decedent” or “McGinnis”), an unmarried male, age twenty-four (24) at the time of his death, having been born on August 3, 1997, died intestate

on October 1, 2021, while domiciled in the City of Noblesville, County of Hamilton, State of Indiana.

4. Nikki Sterling has been appointed as Personal Representative of the Estate of Dylan Kyle McGinnis in the Hamilton County Superior Court 2 under Cause No. 29D02-2301-EU-000011.

5. At all times mentioned herein, Defendant Travis Lang (hereinafter “Defendant Lang”), date of birth January 21, 1998, was a resident of the City of Indianapolis, County of Marion, State of Indiana.

6. At the time of filing this Complaint, Defendant Lang was and remains incarcerated in the Marion County Jail under booking number 2126865 for causes 49D32-2110-MR-031535, 49D32-1909-F6-034712, 49D32-2012-F6-036172, 49D32-2012-F6-036233, and 49D32-2011-F5-034182.

7. At all times mentioned herein, Defendant The Bail Project, Inc. is a foreign nonprofit corporation with its principal place of business located in the City of Marina del Rey, State of California, having been incorporated in the State of New York, and is registered for doing business in the State of Indiana.

8. Preferred venue exists in the County of Hamilton, State of Indiana pursuant to Ind. Code § 29-1-7-1, Indiana Trial Rule 75(A)(10), and RJR Nabisco Holdings Corporations v. Dunn, 642 N.E.2d 538, 541 (Ind. Ct. App. 1995).

DEFENDANT TRAVIS LANG

9. On or about September 3, 2019, the Marion County Prosecuting Attorney’s Office (hereinafter “MCPAO”) filed charges against Defendant Lang for: Count 1: Resisting Law

Enforcement, a Level 6 Felony, and Count 2: Driving While Suspended, a Class A Infraction, under cause number 49G24-1909-F6-034712, for acts committed on or about September 2, 2019.

10. Under cause number 49G24-1909-F6-034712, a cash bond was posted for Defendant Lang's release on or about September 4, 2019, and he subsequently failed to appear for a pretrial conference scheduled for December 18, 2019; a warrant was thereafter issued for his arrest.

11. Under cause number 49G24-1909-F6-034712, Defendant Lang was thereafter rearrested, a subsequent surety bond was posted for his release (on or about December 24, 2019) until the filing of *State's Petition to Revoke Bond* on or about October 21, 2021 based upon Defendant Lang's violation of "his terms and conditions of bond by not maintaining good and lawful behavior" for the allegations under cause number 49D32-2110-MR-031535; the court granted the State's request.

12. On or about November 9, 2020, the MCPAO filed charges against Defendant Lang for: Count 1: Burglary, a Level 5 Felony, Count 2: Theft, a Class A Misdemeanor, and Count 3: Criminal Mischief, a Class B misdemeanor, under cause number 49D32-2011-F5-034182, for acts committed on or about November 4, 2020.

13. Under cause number 49D32-2011-F5-034182, a surety bond was posted for Defendant Lang's release on or about January 11, 2021, and Defendant remained released on said bond until the filing of *State's Petition to Revoke Bond* on or about October 21, 2021 based upon Defendant Lang's violation of "his terms and conditions of bond by not maintaining good and lawful behavior" for the allegations under cause number 49D32-2110-MR-031535; the court granted the State's request.

14. On or about December 3, 2020, the MCPAO filed charges against Defendant Lang for: Count 1: Residential Entry, a Level 6 Felony, under cause number 49D32-2012-F6-036172, for acts committed on or about November 21, 2020.

15. Under cause number 49D32-2012-F6-036172, a cash bond was posted for Defendant Lang's release – in the amount of \$500.00 – on or about January 10, 2021 by Kyra J. Harvey, an agent and/or employee of Defendant The Bail Project, Inc.

16. Defendant Lang remained released on the cash bond posted by Defendant The Bail Project, Inc. under cause number 49D32-2012-F6-036172 until he committed the tortious and criminal act of murder, resulting in the death of McGinnis; thereafter, the MCPAO filed *State's Petition to Revoke Bond* on or about October 21, 2021 based upon Defendant Lang's violation of "his terms and conditions of bond by not maintaining good and lawful behavior" for the allegations under cause number 49D32-2110-MR-031535, and the court granted the State's request.

17. On or about December 4, 2020, the MCPAO filed charges against Defendant Lang for: Count 1: Possession of Cocaine, a Level 6 Felony, under cause number 49D32-2012-F6-036233, for acts committed on or about December 3, 2020.

18. Under cause number 49D32-2012-F6-036233, a cash bond was posted for Defendant Lang's release – in the amount of \$5,000.00 – on or about January 10, 2021 by Kyra J. Harvey, an agent and/or employee of Defendant The Bail Project, Inc.

19. Defendant Lang remained released on the cash bond posted by Defendant The Bail Project, Inc. under cause number 49D32-2012-F6-036233 until he committed the tortious and criminal act of murder, resulting in the death of Decedent; thereafter, the MCPAO filed *State's Petition to Revoke Bond* on or about October 21, 2021 based upon Defendant Lang's violation of

“his terms and conditions of bond by not maintaining good and lawful behavior” for the allegations under cause number 49D32-2110-MR-031535, and the court granted the State’s request.

20. On or about July 13, 2021, the MCPAO filed charges against Defendant Lang for: Count 1: Visiting a Common Nuisance, a Class B Misdemeanor, under cause number 49D21-2107-CM-021517, for acts committed on or about July 9, 2021.

21. Under cause number 49D21-2107-CM-021517, a cash bond was posted for Defendant Lang’s release – in the amount of \$150.00 – on or about July 13, 2021.

22. Defendant Lang thereafter failed to appear under cause number 49D21-2107-CM-021517 on or about July 26, 2021, a warrant was issued for his arrest, which was subsequently recalled by the Court, and the Defendant remained released on the previously posted cash bond under that cause until his arrest under cause number 49D32-2110-MR-031535 for the murder of McGinnis.

23. On or about October 13, 2021, the MCPAO filed charges against Defendant Lang for the murder of McGinnis, among others, under 49D32-2110-MR-031535.

24. Specific to the death of McGinnis, Defendant Lang was charged with: Count 1: Murder, a Felony under Ind. Code § 35-42-1-1(1), Count 2: Murder, a Felony under Ind. Code § 35-42-1-1(2), and Count 3: Murder, a Felony under Ind. Code § 35-42-1-1(3)(D).

25. Count 1 under cause number 49D32-2110-MR-031535 reads as follows: “[o]n or about October 1, 2021, Travis A. Lang did knowingly or intentionally kill another human being, to-wit: Dylan K. McGinnis.”

26. Count 2 under cause number 49D32-2110-MR-031535 reads as follows: “[o]n or about October 1, 2021, Travis A. Lang, did kill another human being, to wit: Dylan K. McGinnis;

while committing or attempting to commit robbery, by demanding money from Dylan K. McGinnis and/or K.S. while armed with a handgun.”

27. Count 3 under cause number 49D32-2110-MR-031535 reads as follows: “[o]n or about October 1, 2021, Travis A. Lang did kill another human being, to-wit: Dylan K. McGinnis, while committing or attempting to commit dealing in a Schedule IV controlled substance (Ind. Code 35-48-4-3), to-wit: Alprazolam.”

28. Charges under cause number 49D32-2110-MR-031535 were supported by the filing of a Probable Cause Affidavit prepared and sworn to by Detective Ethan Smalley of the Indianapolis Metropolitan Police Department (“IMPD”). Said Probable Cause Affidavit is attached hereto as Plaintiff’s Exhibit A.

29. As a direct and proximate result of Lang’s conduct, McGinnis was killed.

30. As a direct and proximate result of Lang’s conduct, Plaintiffs lost the love, care, services, companionship, and affection of their child.

31. As a direct and proximate result of Lang’s conduct, Plaintiffs have incurred medical, hospital, funeral, and/or burial expenses as a result of Decedent’s death.

32. As a direct and proximate result of Lang’s conduct, Plaintiffs have been required to retain the services of an attorney to prosecute this claim and are entitled to be compensated for any costs incurred in the prosecution of this action, including without limitation, any and all costs and attorney’s fees.

DEFENDANT THE BAIL PROJECT, INC.

33. Plaintiffs repeat, re-allege, and incorporate the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.

34. The Bail Project, Inc. violated Indiana certain statute(s) and/or regulation(s) by performing the functions, duties, or powers described in the Indiana Bail Law, Ind. Code § 27-10-1-0.3 – Ind. Code § 27-10-1-11, without being qualified and/or licensed to do so.

35. Ind. Code § 27-10-2-4 requires that “[e]very surety for the release of a person on bail shall be qualified as: (1) an insurer as defined and meeting the qualifications prescribed in [Ind. Code §] 27-1-5-1, and represented by a bail agent as defined in and meeting the qualifications prescribed in this article; or (2) a person who: (A) has reached the age of eighteen (18) years; (B) is a citizen of the United States; (C) has been a bona fide resident of Indiana for at least one (1) year immediately preceding the execution of the bond; (D) is related to the person for whom release on bail is sought within the third degree of affinity; and (E) owns real or tangible personal property in Indiana with a net asset value that is acceptable to the proper authority approving the bond.”

36. The Bail Project, Inc. violated the statutory duties imposed under Ind. Code § 27-10-2-4.

37. The Bail Project, Inc. does not meet the qualifications prescribed in Ind. Code § 27-1-5-1.

38. Ind. Code § 27-10-3-1(a) provides that “[a] person may not act in the capacity of a bail agent or recovery agent or perform any of the functions, duties, or powers prescribed for bail agents or recovery agents under this article unless the person is qualified and licensed as provided in this article.”

39. Ind. Code § 27-10-3-1(c) provides that “[a] firm, a partnership, an association, a limited liability company, or a corporation may not be licensed.”

40. The Bail Project, Inc. acted in the capacity of a bail agent and/or recovery agent and performed the functions, duties, and/or powers prescribed for bail agents or recovery agents as detailed in Article 27.

41. The Bail Project, Inc. is not qualified and/or licensed as a bail agent under Ind. Code § 27-10-3-1.

42. The Bail Project, Inc. violated the statutory duties imposed under Ind. Code § 27-10-3-1.

43. The Bail Project, Inc. employee Kyra J. Harvey is not qualified and/or licensed as a bail agent under Ind. Code § 27-10-3-1.

44. Kyra J. Harvey, as employee and/or agent of The Bail Project, Inc., acted in the capacity of a bail agent or recovery agent and performed the functions, duties, and/or powers prescribed for bail agents or recovery agents as detailed in Article 27.

45. Indiana regulations require bail agents to do certain things, including continuing education courses on the following topics: (1) Ind. Code 27-10 *et seq.*; (2) the rule itself, 760 IAC 1-6.2-11; (3) practical application of the statutory requirements in the field of bail bonds; (4) other provisions of Indiana statutes that affect bail and recovery operation including, but not limited to, Ind. Code 35 *et seq.*; (5) ethics; (6) applicable federal laws; and (7) technological and procedural resources used in bail and recovery operations.

46. The Bail Project, Inc. negligently failed to fulfill any of the above regulatory requirements regarding continuing education.

47. Based upon certain public concerns, including the death of McGinnis, the Indiana legislature passed House Enrolled Act 1300 in 2022, which now requires The Bail Project, Inc. to

be certified with the Indiana Department of Insurance as a “Charitable Bail Organization” and precludes such organizations from paying cash bail for certain individuals such as Defendant Lang.

48. Plaintiffs do *not* allege a breach of duty based upon this subsequently enacted law.

49. A "bail bond" is a bond executed by a person who has been arrested for the commission of an offense for the purpose of ensuring: (1) the person's appearance at the appropriate legal proceeding; (2) *another person's physical safety*; or (3) *the safety of the community*. Ind. Code § 35-33-8-1 (emphasis added).

50. Upon information and belief, The Bail Project, Inc. violated certain contractual agreements made with the Marion County Judicial System and/or other local Marion County government agencies.

51. The Bail Project, Inc., acting as a bail agent and/or recovery agent and/or surety, without the proper licensing and/or approval, violated certain regulations and statutes, and in doing so committed negligence per se.

52. The Bail Project, Inc. owed a duty of care to Decedent, who was a foreseeable injured party, to act reasonably and to avoid unnecessary harm to him.

53. The Bail Project, Inc. owed a duty to persons such as Decedent to reasonably investigate incarcerated individuals prior to providing bail to determine whether the criminal defendant is a danger to the community.

54. The Bail Project breached its obligations and duty of care by not taking reasonable care to prevent unnecessary harm to Decedent by, among other things, not reasonably investigating some or all of the following: (1) the length and character of Lang’s residence in the community; (2) Lang’s employment status and history; (3) Lang’s family ties and relationships; (4) Lang’s character, reputation, habits, and mental condition; (5) Lang’s criminal or juvenile record, insofar

as it demonstrates instability and a disdain for the court's authority to bring him to trial; (6) Lang's previous record in not responding to court appearances when required; and/or (7) the nature and gravity of the offense and the potential penalty faced for Lang's pending criminal cases under 49G24-1909-F6-034712, 49D32-2011-F5-034182, 49D32-2012-F6-036172, 49D32-2012-F6-036233.

55. Lang objectively posed a risk of criminal harm to persons such as McGinnis.

56. Lang's actions against McGinnis as detailed herein were foreseeable.

57. The Bail Project, Inc. knew or should have known that Lang posed a risk of criminal harm to persons such as McGinnis and to the community at large.

58. The Bail Project, Inc. knew or should have known that they were creating a situation that Lang could and would avail himself of the opportunity to commit a violent crime against McGinnis and/or the community at large.

59. As a direct and proximate result of The Bail Project, Inc.'s conduct, McGinnis was killed.

60. As a direct and proximate result of The Bail Project, Inc.'s conduct, Plaintiffs lost the love, care, services, companionship, and affection of their child.

61. As a direct and proximate result of The Bail Project, Inc.'s conduct, Plaintiffs have incurred medical, hospital, funeral, and/or burial expenses as a result of McGinnis' death.

62. As a direct and proximate result of The Bail Project, Inc.'s conduct, Plaintiff has been required to retain services of an attorney to prosecute this claim and is entitled to be compensated for any costs incurred in the prosecution of this action, including without limitation, any and all costs and attorney's fees.

AS TO ALL DEFENDANTS

63. Plaintiffs repeat, re-allege, and incorporate the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.

64. As a direct and proximate result of the tortious acts and/or negligence of the Defendants, Nikki Sterling and Duncan Kip McGinnis lost the love, care, services, companionship, and affection of their child, Dylan Kyle McGinnis; and the Estate of Dylan Kyle McGinnis incurred medical, hospital, funeral and/or burial expenses, attorneys' fees related to the prosecution of this claim, costs of administration, and other intangible damages.

65. As a direct and proximate result of the tortious acts and/or negligence of Defendants, Plaintiffs have been damaged.

66. Plaintiffs seek all damages permitted under Indiana law and the Indiana Adult Wrongful Death Act.

67. Wherefore, Nikki Sterling, as Personal Representative of the Estate of Dylan Kyle McGinnis, and both Nikki Sterling and Duncan Kip McGinnis, as nondependent parents of decedent Dylan Kyle McGinnis, respectfully request judgment against the Defendants in an amount reasonable to commensurate them and the Estate for the damages sustained, the costs of this action, for attorneys' fees related to the prosecution of this claim, any and all statutory pre-judgment and post-judgment interest, for trial by jury, and any and all other relief deemed just and proper under the circumstances.

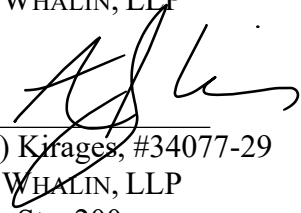
JURY DEMAND

Pursuant to Indiana Trial Rule 38(B), Plaintiffs respectfully demand a jury trial on all issues so triable under this cause.

Respectfully submitted:

DOLLARD EVANS WHALIN, LLP

/s/ Drew Kirages



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