

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. _____

KAREN ADKINSON-GILLIAM, as the Personal
Representative of the ESTATE OF KALEENA
GILLIAM,

Plaintiffs,

vs.

HOLDING RIU HOTELS, INC.; RIUSA II S.A.; RIU
ACQUISITIONS, INC.; RIU MARKETING U.S.A.
L.L.C.; RIUTEL BEACH, INC.; CLUBHOTEL RIU
NEGRIL; TUI AG, HOLDING; RIUTEL FLORIDA,
INC.; RIUTEL ORLANDO, INC.,

Defendants.

_____ /

COMPLAINT

1. This is an action for the wrongful death of Kaleena Gilliam resulting from a fatal allergic reaction caused by the negligence of Defendants RIUSA II S.A.; HOLDING RIU HOTELS, INC.; RIU ACQUISITIONS, INC.; RIU MARKETING U.S.A., L.L.C.; RIUTEL BEACH, INC.; CLUBHOTEL RIU NEGRIL; TUI AG, HOLDING; RIUTEL FLORIDA, INC.; RIUTEL ORLANDO, INC. (collectively "RIU HOTELS"). On July 9, 2010, while staying at the Defendant's ClubHotel Riu Negril in Jamaica, Kaleena Gilliam died from a fatal allergic reaction because she unknowingly consumed a dish prepared with shellfish after a restaurant employee assured her the dish did not contain shellfish.

Jurisdiction and Venue

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because the action involves an amount in controversy exceeding \$75,000 and is between citizens of different States or citizens of a State and citizens or subjects of a foreign state.

3. Plaintiff is a citizen of the state of Pennsylvania.

4. Defendant RIUSA II S.A. is a Spanish corporation having its principal place of business in Palma de Mallorca, Spain. Defendant TIU AG, Holding, is a German Corporation with its headquarters in Hanover, Germany. RIUSA II S.A., and TIU AG Holding jointly own and operate the international chain of hotels including ClubHotel Riu Negril in Jamaica and subsidiary corporations with their principal place of business in the State of Florida including: Holding Riu Hotels, Inc.; Riu Acquisitions, Inc.; Riu Marketing U.S.A., L.L.C.; Riutel Beach, Inc.; Riutel Florida, Inc.; Riutel Orlando, Inc. Further, Defendants operate, market, and sell travel packages and hotel/resort accommodations around the world, including the travel package purchased by Kaleena Gilliam for her stay at ClubHotel Riu Negril.

5. This Court has jurisdiction pursuant to section 49.193, Florida Statutes, over Defendants collectively known as Riu Hotels, as they have in the past and continue to engage in substantial and not isolated business activity on a continuous and systematic basis in the State of Florida.

PARTIES

6. Plaintiff, Karen Adkinson-Gilliam, on behalf of Cami Gilliam, the decedent's minor daughter, is the Personal Representative of the Estate of KALEENA GILLIAM, and is a permanent resident of Lansdowne, PA. At the time of her death, Kaleena Gilliam was a permanent resident of Upper Darby, Pennsylvania.

7. Plaintiff, Karen Adkinson-Gilliam, brings this action as the Personal Representative of the Estate of Kaleena Gilliam, on behalf of the Estate, and Kaleena's beneficiary, including her minor daughter, Cami Gilliam.

8. Cami Gilliam was age six at the time of her mother's death.

9. As a result of the death of her mother, Cami Gilliam has sustained severe emotional trauma, mental anguish, suffering, including loss of services, support, and parental companionship.

10. Defendant RIUSA II S.A. ("RIUSA II") was and is a corporation organized and existing under the laws of Spain, with its principal place of business at Riu Center. Llaud s/n, 07610 Playa de Palma, Mallorca, Spain. RIUSA II operates all Riu brand hotels around the world.

11. At all times material, Defendant RIUSA II conducted ongoing and systematic business through its subsidiary companies which are registered with the State of Florida with their offices located at 4000 Hollywood Boulevard, Suite 265-S Hollywood, FL 33021 and 3101 Collins Avenue, Miami Beach, FL 33140, giving this court jurisdiction under section 48.091, Florida Statutes.

12. Defendant CLUBHOTEL RIU NEGRIL ("CLUBHOTEL") was and is a corporation organized and existing under the laws of Jamaica, with its principal place of business at Norman Manley Boulevard, Bloody Bay Beach, Negril, Jamaica.

13. Defendant HOLDING RIU HOTELS, INC was and is a corporation organized and existing under the laws of the State of Florida, with its principal place of business at 3101 Collins Avenue, Miami Beach, FL 33140.

14. Defendant RIU ACQUISITIONS, INC. was and is a corporation organized and existing under the laws of the State of Florida, with its principal place of business at 3101 Collins Avenue, Miami Beach, FL 33140.

15. Defendant RIU MARKETING U.S.A., L.L.C. was and is a corporation organized and existing under the laws of the State of Florida, with its principal place of business at 4000 Hollywood Boulevard, Suite 265-S Hollywood, FL 33021.

16. Defendant RIUTEL BEACH, INC. was and is a corporation organized and existing under the laws of the State of Florida, with its principal place of business at 3101 Collins Avenue, Miami Beach, FL 33140.

17. Defendant RIUTEL ORLANDO, INC. was and is a corporation organized and existing under the laws of the State of Florida, with its principal place of business at 3101 Collins Avenue, Miami Beach, FL 33140.

18. Defendant RIUTEL FLORIDA, INC. was and is a corporation organized and existing under the laws of the State of Florida, with its principal place of business at 3101 Collins Avenue, Miami Beach, FL 33140.

19. Defendant TUI AG, HOLDING (“TUI AG”) was and is a corporation organized and existing under the laws of the Federal Republic of Germany. TIU AG has its headquarters at Karl-Wiechert-Allee 4, 30625 Hanover, Germany. (TIU AG is a holding company and with a 49% equity stake in Riu Hotels)

20. At all times material, Gary Brown, Esq., is and was the Registered Agent for the domestic subsidiaries of RIUSA II S.A., and is authorized to accept service of process at 4000 Hollywood Boulevard, Suite 265-S, Hollywood, FL 33021, pursuant to section 48.091, Florida Statutes.

21. At all times material, LUIS RIU GUELL and CARMEN RIU GUELL were and are the Officers of both RIUSA II S.A. and the domestic subsidiaries listed above, and operate, manage, and implement the policies and procedures for Riu Hotels across the world from their principal place of business at 4000 Hollywood Boulevard, Suite 265-S Hollywood, FL 33021 and 3101 Collins Avenue, Miami Beach, FL 33140, giving this court jurisdiction under section 48.091, Florida Statutes.

GENERAL ALLEGATIONS APPLICABLE TO ALL COUNTS

22. On Thursday, July 8, 2010, at approximately 10:00 am (est.), Kaleena Gilliam arrived in Negril, Jamaica for a friend's wedding with her boyfriend, Brian Mosely.

23. Along with Kaleena and Mr. Mosely on this trip in Jamaica were several other couples who all reside in the United States.

24. Kaleena and Mr. Mosely purchased their vacation package in the United States. They had reservations at the ClubHotel Riu Negril resort.

25. That evening, Kaleena and three others that had traveled to Jamaica from the United States, including Mr. Mosely, went to a restaurant in ClubHotel.

26. Kaleena went to get food for Mr. Mosely. Before preparing the plate, Kaleena advised a restaurant employee that she was allergic to shellfish and asked if the food contained any shellfish. The restaurant employee responded that there was no shellfish in the food.

27. Kaleena had a severe shellfish allergy.

28. Upon returning to the table, Kaleena ate two spoonfuls of the rice off of the plate that she had prepared for Mr. Mosely. About one minute after she ate the rice, Kaleena complained that her throat was itching. At that point, recognizing the symptoms of her allergy, she dug through the rice and found a shrimp.

29. Despite Kaleena and Mr. Mosely's attempts to seek help and save Kaleena's life, after Kaleena collapsed in the hallway of the resort, a doctor arrived on the scene and found that Kaleena had no pulse and fixed pupils before he pronounced her dead.

30. Because the restaurant employee incorrectly and negligently informed Kaleena Gilliam that there was no shellfish in the food, Kaleena suffered a fatal allergic reaction in the ClubHotel restaurant.

31. As a result of her severe allergic reaction to the shellfish, Ms. Kaleena Gilliam's windpipe swelled shut and she died.

32. Upon information and belief, RIUSA II develops and implements a substantial portion of the policies and procedures for its worldwide hotels from the United States.

Count I
(Riu Hotels)
Negligence Resulting in Wrongful Death

33. Plaintiff restates and realleges Paragraphs 1 through 43 above and further alleges:

34. At all times material, Defendant Riu Hotels owned and operated ClubHotel Riu Negril.

35. Defendant, Riu Hotels, as the owner of the resort where Ms. Gilliam stayed, owed a duty to Ms. Gilliam to protect her, as a guest of the hotel, from unreasonable risks of physical harm. The Hotel's duties include accurately describing the contents of food served to an inquiring guest.

36. Defendants breached their duty of care to Ms. Gilliam when, among other things, they:

- a. Failed to establish proper protocols or procedures to ensure all food service employees were aware of the potentially deadly allergens used in preparing food for guests;

- b. Failed to properly train its employees on the importance of knowledgeable and truthful disclosures to guests concerning the contents of food;
- c. Failed to warn customers by not requiring signs or other information be provided to guests as to which food contained common allergens including but not limited to shellfish; and/or
- d. Failed to develop and implement a response procedure to assist guests who have a reaction from common food allergies.

37. As a direct and proximate result of the Defendants' negligence, Ms. Gilliam had a fatal allergic reaction to the dish containing shellfish provided by ClubHotel.

38. The Plaintiff therefore brings this action under the Florida Wrongful Death Act and/or whatever law the court deems applicable and claims all damages to which the Estate, its survivors and/or beneficiaries may be entitled including, but not limited to:

- a. pain and suffering of the Decedent prior to death;
- b. pain and suffering of the survivors, beneficiaries and heirs of Decedent;
- c. lost society, companionship, guidance and services of the Decedent to the survivors, beneficiaries and heirs;
- d. loss of future value of support and services;
- e. lost net accumulations;
- f. lost value of life;
- g. funeral expenses; and/or
- h. any and all other damages to which Plaintiff, the survivors, beneficiaries and/or the Estate of Kaleena Gilliam may be entitled or which this Court may find applicable.

WHEREFORE, the Plaintiff respectfully requests the entry of a Judgment in his favor and for damages against this Defendant, and further requests a trial by jury of all issues triable as a matter of right.

Count II
(Riu Hotels)
Vicarious Liability/Respondeat Superior

39. Plaintiff restates and realleges Paragraphs 1 through 43 above and further alleges:

40. At all times material, Defendant Riu Hotels owned and operated the ClubHotel Riu Negril and employed the food service employees in the restaurant.

41. Defendant Riu Hotels is vicariously liable for the restaurant employee's negligent actions carried out in the scope of his employment or agency of ClubHotel.

42. On the day of the accident, the restaurant employee, in his capacity as an agent or employee of ClubHotel, and while acting within the course and scope of his agency or employment, negligently informed Ms. Gilliam that the food she was about to eat did not contain shellfish.

43. The restaurant employee owed a duty to Ms. Gilliam, as the serving restaurant employee to have knowledge of and/or accurately describe the contents of the meal being served.

44. The restaurant employee breached his duty of care to Ms. Gilliam when he:

- a. Affirmatively misinformed Ms. Gilliam about the contents of the food being served;
- b. Negligently, and incorrectly, assured Ms. Gilliam that the food was not prepared with shellfish; and/or
- c. Negligently failed to become aware of the contents of the food being served.

45. As a direct and proximate result of the restaurant employee's negligence, Ms. Gilliam had a fatal allergic reaction to the dish containing shellfish provided by ClubHotel.

46. The Plaintiff therefore brings this action under the Florida Wrongful Death Act and claims all damages to which the Estate, its survivors and/or beneficiaries may be entitled including, but not limited to:

- a. pain and suffering of the Decedent prior to death;
- b. pain and suffering of the survivors, beneficiaries and heirs of Decedent;
- c. lost society, companionship, guidance and services of the Decedent to the survivors, beneficiaries and heirs;
- d. loss of future value of support and services / support in money or in kind;
- e. lost net accumulations;
- f. lost value of life;
- g. funeral expenses; and/or
- h. any and all other damages to which Plaintiff, the survivors, beneficiaries and/or the Estate of Kaleena Gilliam may be entitled or which this Court may find applicable.

WHEREFORE, the Plaintiff respectfully requests the entry of a Judgment in his favor and for damages against this Defendant, and further requests a trial by jury of all issues triable as a matter of right.

Dated: July 3, 2012

Respectfully submitted,

s/ Lea P. Valdivia

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