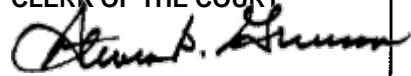


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CASE NO: A-19-791070-C
Department 8

1 **COMP**
2 JOSEPH L. BENSON II, ESQ.
3 Nevada Bar No. 7276
4 DANIELLE J. RICHARDSON, ESQ.
5 Nevada Bar No. 17452
6 **BENSON & BINGHAM**
7 11441 Allerton Park Drive, Suite 100
8 Las Vegas, NV 89135
9 (702) 382-9797, telephone
10 (702) 382-9798, facsimile
11 Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

11 EVANGELINA ESTRADA and OTONIEL) CASE NO.:
12 HERNANDEZ-GARCIA, individually and as) DEPT. NO.:
13 legal heirs of MYRIAM D. HERNANDEZ)
14 ESTRADA, deceased,)

15 Plaintiffs,)

16 vs.)

17 AMUSEMENT PINE SONOMA, LLC dba)
18 SOLAIRE APARTMENTS; WESTLAND)
19 INDUSTRIES, INC.; DOES 1 through 10; and)
20 ROE CORPORATIONS 1 through 10,)
21 inclusive,)

22 Defendants.)

COMPLAINT

23 COMES NOW, Plaintiffs, EVANGELINA ESTRADA and OTONIEL HERNANDEZ-
24 GARCIA, individually and as legal heirs of MYRIAM D. HERNANDEZ ESTRADA, deceased, by
25 and through their attorneys of record, BENSON & BINGHAM, and for their claims for relief against
26 Defendants, and each of them, alleges as follows:

27
28



GENERAL ALLEGATIONS

1
2 1. Upon information and belief, at all times relevant to this action, Plaintiffs were the
3 natural heirs to MYRIAM D. HERNANDEZ ESTRADA, deceased (hereinafter referred to as
4 “Myriam”), specifically EVANGELINA ESTRADA (hereinafter referred to as
5 Plaintiff Evangelina”) is the natural mother and OTONIEL HERNANDEZ-GARCIA (hereinafter
6 referred to as “Plaintiff Otoniel”) is the natural father; the decedent was and a resident of the City of
7 Las Vegas, County of Clark, State of Nevada upon her death; the Plaintiffs are residents of the City
8 of Las Vegas, County of Clark, State of Nevada.

9
10 2. Upon information and belief, at all times relevant to this action, Defendant,
11 AMUSEMENT PINE SONOMA, LLC dba SOLAIRE APARTMENTS (hereinafter referred to as
12 “Defendant Solaire” or “Defendants”), was and is a Delaware foreign limited liability company
13 conducting business in the State of Nevada and owner of the land and apartment complex located at
14 1500 Karen Avenue in the City of Las Vegas, County of Clark, State of Nevada (hereinafter
15 referred to as “apartment complex”).

16
17 3. Upon information and belief, at all times relevant to this action, Defendant,
18 WESTLAND INDUSTRIES, INC. (hereinafter referred to as “Defendant Westland” or
19 “Defendants”), was and is a California domestic stock company conducting business in the State of
20 Nevada.

21
22 4. That the true names or capacities, whether individual, corporate, associate or
23 otherwise of Defendants DOES 1 through 10 and ROE CORPORATIONS 1 through 10 are
24 unknown to Plaintiffs who therefore sue said Defendants by such fictitious names. Plaintiffs are
25 informed and believe and thereon allege that each of the Defendants designated herein as DOE and
26 ROE CORPORATIONS are responsible in some manner for the events and happenings herein
27 referred to and caused damage proximately to Plaintiffs as herein alleged; and Plaintiffs will ask
28



1 leave of this Court to amend this Complaint to insert the true names and capacities of DOES 1
2 through 10 and ROE CORPORATIONS 1 through 10, when the same have been ascertained and to
3 join such Defendants in this action.

4 **FIRST CLAIM FOR RELIEF: NEGLIGENCE**
5 **(against all Defendants)**

6 8. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1
7 through 7 and incorporate the same herein by reference as though fully set forth herein.

8 9. At all times relevant to this action, particularly on or about August 5, 2018,
9 Defendants owned, maintained, and controlled a certain apartment complex named Solaire
10 Apartments located at 1750 Karen Avenue, Las Vegas, Nevada, 89169.

11 10. On or about August 5, 2018, at approximately 3:00 p.m., Myriam was within her
12 rental apartment at Solaire Apartments with her mother, Plaintiff Evangelina, when the apartment
13 building #42 caught fire. Myriam was unable to exit the building and ultimately succumbed to the
14 fire.
15

16 11. At all times relevant hereto, Defendants negligently, carelessly, and recklessly cared
17 for the subject apartment complex as to not maintain its buildings and structures for its patrons
18 living use which is believed to have caused the fire.
19

20 12. At all times relevant hereto, Defendants caused this said dangerous condition to exist
21 upon the subject apartment complex, and knew, or should have known, of the existence of said
22 dangerous condition by not maintaining its buildings, structures and/or equipment.

23 13. At all times relevant hereto, the actions or inactions of Defendants to remedy the
24 aforesaid dangerous conditions or give adequate warning of the foreseeable risk of harm posed by
25 the existence of dangerous condition, breached the duty of care owed by the Defendants.
26

27 14. At all times relevant hereto, the subject apartment complex was maintained by
28 Defendants.





1 15. At all times relevant hereto, the events herein described were not due to any
2 voluntary action or contribution on the part of the Plaintiffs.

3 16. As a result of Defendants' aforesaid negligent actions and/or failures to act, in
4 particular its failure to maintain its structures, buildings, and equipment, Defendants violated the
5 Nevada Revised Statutes, building code, and/or other applicable safety ordinance, and are therefore
6 are also negligent per se.
7

8 17. As a result of Defendants aforementioned actions, Plaintiffs Angelina and Otoniel
9 have lost a close member of their family and have suffered severe grief and sorrow, pain and
10 suffering, past and future mental and emotional anguish, loss of life, loss of enjoyment of life, loss
11 of companionship, society, comfort, loss of probable support and services of Myriam, deceased, in
12 an amount in excess of FIFTEEN THOUSAND DOLLARS (\$15,000.00).
13

14 **SECOND CLAIM FOR RELIEF: WRONGFUL DEATH**
15 **(Statutory Wrongful Death under Nevada Revised Statute)**

16 18. Defendants owed a duty of care to Plaintiffs under NRS 41.085 in such a manner so
17 it is not unreasonably dangerous.

18 19. Defendants breached their duty of care that has directly and proximately caused
19 damages and injuries to Plaintiffs.

20 20. As a result of Defendants aforementioned actions, Plaintiffs Evangelina and Otoniel
21 have lost a close member of their family, Myriam, and have suffered severe grief and sorrow, pain
22 and suffering, past and future mental and emotional anguish, loss of life, loss of enjoyment of life,
23 loss of companionship, society, comfort, consortium, loss of probable support and services of the
24 decedent in an amount in excess of FIFTEEN THOUSAND DOLLARS (\$15,000.00).
25

26 21. As a result of Defendants aforementioned actions, Plaintiffs Evangelina and Otoniel
27 have incurred and continue to incur severe grief and sorrow, pain and suffering, past and future
28 mental and emotional anguish, loss of life, loss of enjoyment of life, loss of companionship, society,

1 comfort, consortium, actual economic loss in the nature of past and future loss of probable support
2 and services of Myriam, past and future medical expenses, and other actual expenses associated
3 with their injuries and loss, all to Plaintiffs' general damages in an amount in excess of FIFTEEN
4 THOUSAND DOLLARS (\$15,000.00).

5
6 22. Plaintiffs have been required to retain the services of an attorney to prosecute this
7 action and are entitled to an award of reasonable attorneys' fees.

8 **(Respondeat Superior/Vicarious Liability/Agency as to ALL CAUSES OF ACTION)**

9 23. At all times relevant hereto, Defendants Westland and Amusement Pine Sonoma,
10 LLC, owned, maintained, and controlled the subject apartment complex.

11 24. At all times relevant hereto, Defendants and/or their employees, agents or assigns
12 negligently, carelessly and recklessly maintained or mismanaged the subject apartment complex,
13 including its buildings, structures and/or equipment.

14 25. At all times relevant hereto, Defendants and/or their employees, agents or assigns
15 negligently, carelessly and recklessly maintained and controlled its personnel who did not have
16 property training or knowledge, thereby causing the subject accident.

17 26. As a direct and proximate result of the aforesaid acts and/or inactions of Defendants
18 and/or their employees, agents or assigns, were breaches of the duty of reasonable care owed by
19 Defendants to its customers and to the general public, and in particular to Plaintiffs.

20 27. As a result of Defendants aforementioned actions, Plaintiffs Evangelina and Otoniel
21 have lost a close member of their family and has suffered severe grief and sorrow, pain and
22 suffering, past and future mental and emotional anguish, loss of life, loss of enjoyment of life, loss
23 of companionship, society, comfort, consortium, loss of probable support and services of Myriam in
24 an amount in excess of FIFTEEN THOUSAND DOLLARS (\$15,000.00).
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1 28. As a result of Defendants aforementioned actions, Plaintiffs Evangelina and Otoniel
2 have incurred and continue to incur severe grief and sorrow, pain and suffering, past and future
3 mental and emotional anguish, loss of life, loss of enjoyment of life, loss of companionship, society,
4 comfort, consortium, actual economic loss in the nature of past and future loss of probable support
5 and services of Myriam, past and future medical expenses, and other actual expenses associated
6 with their injuries and loss, all to Plaintiffs' general damages in an amount in excess of FIFTEEN
7 THOUSAND DOLLARS (\$15,000.00).
8

9 29. Plaintiffs have been required to retain the services of an attorney to prosecute this
10 action and are entitled to an award of reasonable attorneys' fees.
11

12 **THIRD CLAIM FOR RELIEF: N.I.E.D.**
13 **(Negligent Infliction of Emotional Distress involving a family member)**

14 30. Defendants have negligently inflicted emotional distress to Plaintiffs as Plaintiff
15 Evangelina contemporaneously witnessed said injuries and the untimely death of Myriam.

16 31. Such negligent inflection of emotional distress entitles Plaintiffs, and each of them,
17 to recover separate and distinct damages in an amount in excess of FIFTEEN THOUSAND
18 DOLLARS (\$15,000.00).
19

20 32. Plaintiffs have been required to retain the services of an attorney to prosecute this
21 action and are entitled to an award of reasonable attorneys' fees.

22 WHEREFORE, Plaintiffs expressly reserve their right to amend this Complaint at the time
23 of trial of this action to include all items of damages not yet ascertained, including any causes of
24 action, demand judgment against the Defendants, and each of them, as follows:

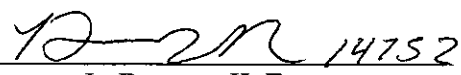
- 25 1. General damages in excess of FIFTEEN THOUSAND DOLLARS (\$15,000.00);
- 26 2. Special damages incidental thereto, when the same have been fully ascertained;
- 27 3. Prejudgment interest;
- 28 4. Reasonable attorney's fees;

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- 5. Costs of suit herein; and,
- 6. For such other and further relief as the Court may deem proper.

DATED this 11 day of March, 2019.

BENSON & BINGHAM

for  14752
JOSEPH L. BENSON II, ESQ.
Nevada Bar No. 7276
Attorney for Plaintiffs

