

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

FATHER OF DECEDENT,

Address

City, State, ZIP

Plaintiff,

v.

DEFENDANT

Address

City, State, ZIP

&

DEFENDANT BIG COMPANY

Address

City, State, ZIP

Defendants.

Case No.

Division

PETITION FOR DAMAGES FOR WRONGFUL DEATH

For his Petition for Damages for Wrongful Death, Plaintiff alleges the following:

1. Decedent suffered fatal injuries on the morning of "Month, Date, Year" after falling from a balcony at the property of Defendant Big Company.
2. Plaintiff is the surviving father of Decedent and is a resident of Kansas City, Missouri.
3. Plaintiff brings this action pursuant to §537.080, R.S.Mo., *et seq.* Plaintiff is a member of the class of persons authorized to pursue a wrongful death claim pursuant to §537.080(1), R.S.Mo.
4. There are no other members of the class under §537.080(1), R.S.Mo.

5. Defendant is a business registered and in good standing with the Missouri Secretary of State.
6. Defendant is the owner of the fictitious name Big Company.
7. At all times relevant to this action, Defendant was the owner of the property located at Road, Kansas City MO.
8. Defendant Big Company is a business registered and in good standing with the Missouri Secretary of State.
9. At all times relevant to this action, Defendant Big Company operated the property located at Road, Kansas City MO.
10. This Court has jurisdiction because the Defendants committed a tortious act within the State of Missouri.
11. Venue is proper under §508.010 because Plaintiff's cause of action arose in Jackson County, Missouri.

COUNT I

PREMISES LIABILITY OF DEFENDANT DUE TO UNSAFE BALCONY

12. Plaintiff incorporates the paragraphs above as though fully set forth herein.
13. As the owner of the property at Road, Defendant had a duty to exercise reasonable care to make its premises reasonably safe for Decedent and others on the premises.
14. On "Month, Date, Year" the balcony that Decedent fell from was not reasonably safe, and as a result the premises were not reasonably safe.
15. By using ordinary care, Defendant knew or could have known that the balcony was not reasonably safe, and could cause death or serious bodily harm to persons on the premises.

16. The unsafe condition was of such a nature that Defendant had reason to believe that persons on the property would not discover it.
17. Defendant failed to use ordinary care and was negligent in the following respects:
 - a. Defendant created a balcony that was not reasonably safe.
 - b. Defendant failed to fix the unsafe condition before allowing Defendant Big Company to occupy the property.
 - c. Defendant allowed Defendant Big Company to occupy the property without warning Defendant Big Company that the balcony was not reasonably safe.
 - d. Defendant failed to warn the public, particularly Plaintiff, of the dangerous and unsafe balcony.
 - e. Defendant failed to prevent access to the balcony.
 - f. Defendant failed to take other protective measures as may be discovered during the course of this litigation to prevent Plaintiff from falling from the unsafe balcony.
18. Decedent did not know and did not receive notice or warning about the unsafe balcony, and thus the dangerous condition was not readily apparent.
19. As a direct and proximate result of Defendant's negligence, Decedent fell from the unsafe balcony and suffered serious injuries resulting in his death.

WHEREFORE, Plaintiff prays for judgment in his favor and against Defendant for a reasonable sum of money damages in excess of \$25,000, and for Plaintiff's costs, and for such other and further relief as the Court may deem just and proper.

COUNT II

NEGLIGENCE OF DEFENDANT

20. Plaintiff incorporates the paragraphs above as though fully set forth herein.

21. Defendant and/or its agents designed and/or constructed and/or maintained the property at Road knowing that it would be used by the public for meetings, events, dining, and hotel accommodations.
22. Defendant and/or its agents designed and/or constructed and/or maintained the balcony in question on the property at Road.
23. The balcony was unreasonably dangerous when put to a reasonably expected use.
24. Defendant failed to use ordinary care to design, construct, and maintain the balcony to be reasonably safe, and failed to adequately warn of the risk of harm from the balcony.
25. As a direct result of such failure, Decedent fell from the unsafe balcony and suffered serious injuries resulting in his death.

WHEREFORE, Plaintiff prays for judgment in his favor and against Defendant for a reasonable sum of money damages in excess of \$25,000, and for Plaintiff's costs, and for such other and further relief as the Court may deem just and proper.

COUNT III

PREMISES LIABILITY OF DEFENDANT BIG COMPANY DUE TO UNSAFE BALCONY

26. Plaintiff incorporates the paragraphs above as though fully set forth herein.
27. As the occupier of the property at Road, Defendant Big Company had a duty to exercise reasonable care to make its premises reasonably safe for Decedent and others on the premises.
28. On "Month, Date, Year," the balcony that Decedent fell from was not reasonably safe, and as a result the premises were not reasonably safe.

29. By using ordinary care, Defendant Big Company knew or could have known that the balcony was not reasonably safe, and could cause death or serious bodily harm to persons on the premises.
30. The unsafe condition was of such a nature that Defendant Big Company had reason to believe that persons on the property would not discover it.
31. Defendant Big Company failed to use ordinary care and was negligent in the following respects:
 - a. Defendant Big Company failed to fix the unsafe condition before allowing hotel guests to occupy the room with the balcony.
 - b. Defendant Big Company failed to warn guests who used the room that the balcony was not reasonably safe.
 - c. Defendant Big Company failed to warn the public, particularly Plaintiff, of the dangerous and unsafe balcony.
 - d. Defendant Big Company failed to prevent access to the balcony.
 - e. Defendant Big Company failed to take other protective measures as may be discovered during the course of this litigation to prevent Decedent from falling from the unsafe balcony.
32. Decedent did not know and did not receive notice or warning about the unsafe balcony, and thus the dangerous condition was not readily apparent.
33. As a direct and proximate result of Defendant Big Company's negligence, Decedent fell from the unsafe balcony and suffered serious injuries resulting in his death.

WHEREFORE, Plaintiff prays for judgment in his favor and against Defendant for a reasonable sum of money damages in excess of \$25,000, and for Plaintiff's costs, and for such other and further relief as the Court may deem just and proper.

COUNT IV

NEGLIGENCE OF DEFENDANT BIG COMPANY

34. Plaintiff incorporates the paragraphs above as though fully set forth herein.
35. Defendant Big Company had a duty to use the same degree of care that an ordinarily careful and/or very careful person, or a member of Defendant Big Company business and/or profession would use under the same or similar circumstances.
36. Defendant Big Company failed to use due care under the circumstances and was thereby negligent in the performance of such duties.
37. Specifically, Defendant Big Company failed to use ordinary care and was negligent in the following respects:
 - a. Defendant Big Company failed to provide adequate security;
 - b. Defendant Big Company failed to provide enough personnel to supervise and otherwise deter crime such as underage drinking on the property;
 - c. Defendant Big Company failed to properly hire, train, and supervise its security personnel;
 - d. Defendant Big Company failed to prevent and/or stop underage drinking that it knew or through the exercise of reasonable care could have known about;
 - e. Defendant Big Company failed to follow safety rules and industry standards about the number of guests allowed in a room;
 - f. Defendant Big Company failed to follow safety rules and industry standards about hotel security;
 - g. Defendant Big Company failed to follow safety rules and industry standards and about the prevention of underage drinking; and

h. In other ways to be demonstrated at trial.

38. As a direct and proximate result of Defendant Big Company negligence, Decedent fell from the balcony and suffered serious injuries resulting in his death.

WHEREFORE, Plaintiff prays for judgment in his favor and against Defendant Big Company for a reasonable sum of money damages in excess of \$25,000, and for Plaintiff's costs, and for such other and further relief as the Court may deem just and proper.

COUNT V

NEGLIGENCE PER SE OF DEFENDANT BIG COMPANY

39. Plaintiff incorporates the paragraphs above as though fully set forth herein.

40. Section 311.310.2 of the Missouri Revised Statutes is designed to protect minors under the age of twenty-one from drinking or possessing intoxicating liquor, unless they are on the property of their parent or guardian;

41. Defendant Big Company violated Section 311.310.2 of the Missouri Revised Statutes, which forbids an owner or occupant of a property from knowingly allowing a person under the age of twenty-one to drink or possess intoxicating liquor on such property.

42. Defendant Big Company violated Section 311.310.2 of the Missouri Revised Statutes, which forbids an owner or occupant from knowingly failing to stop a person under the age of twenty-one from drinking or possessing liquor on such property.

43. Decedent was a member of the class of persons intended to be protected by this statute.

44. Decedent's injuries were of the kind the statute was designed to prevent.

45. As a direct and proximate result of Defendant Big Company's violation of the statute, Decedent suffered severe injuries resulting in his death.

WHEREFORE, Plaintiff prays for judgment in his favor and against Defendant Big Company for a reasonable sum of money damages in excess of \$25,000, and for Plaintiff's costs, and for such other and further relief as the Court may deem just and proper.

COUNT VI

PUNITIVE DAMAGES AGAINST DEFENDANT BIG COMPANY

46. Plaintiff incorporates the paragraphs above as though fully set forth herein.
47. At the time of the conduct as described above, Defendant Big Company knew or should have known of the aforesaid dangerous condition of their property and thereby showed complete indifference to and/or conscious disregard for the safety of others including Decedent.
48. At the time of the negligent conduct as described above, Defendant Big Company knew or should have known that its conduct could lead to serious injury and/or death, and thereby showed complete indifference and/or conscious disregard for the safety of others including Decedent.
49. By violating Section 311.310.2 of the Missouri Revised Statutes in the aforementioned manner, Defendant Big Company committed a class B misdemeanor.
50. The willful, wanton, illegal, and malicious acts of Defendant Big Company, as more fully set forth above, evidence Defendant Big Company's complete indifference to and/or conscious disregard for the safety of Plaintiff and others similarly situated, justifying the submission of punitive damages in this case.

WHEREFORE, Plaintiff prays for judgment against Defendant Big Company and for punitive damages in such an amount that will serve to punish and deter Defendant Big Company and others similarly situated from engaging in like conduct.

REQUEST FOR JURY TRIAL

Plaintiff requests a jury trial on all issues so triable.

Respectfully submitted,

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