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1 1090 DAVID C. McElhinney Transaction # 7676397 : csulezic 2 State Bar No. 0033 LEWIS ROCA ROTHGERBER CHRISTIE LLP 3 One East Liberty Street, Suite 300 Reno, Nevada 89501-2128 4 Telephone: (775) 823-2900 Fax: (775) 823-2929 5 Email: dmcelhinney@lrrc.com Attorneys for Plaintiffs 6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE 7 STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE 8 9 WENDY HAMMOND AND MITCH Case No. CV20-00042 HAMMOND, individually and for the wrongful 10 death of their daughter, ELIZABETH Dept. No. 6 HAMMOND, and as parents for the injuries to 11 their minor children, DANIEL HAMMOND and ABIGAIL HAMMOND, 12 FIRST AMENDED COMPLAINT Plaintiffs, 13 (JURY TRIAL DEMANDED) VS. 14 RHETT SCHULTZ dba BOUNCE HOUSE 15 GUY; JOHN AND JANE DOES 1-X; ABC PARTNERSHIPS I-X; BLACK AND WHITE 16 CORPORATIONS I-X. 17 Defendants. 18 Plaintiffs, WENDY HAMMOND and MITCH HAMMOND, individually and as parents 19 of ELIZABETH HAMMOND (deceased), DANIEL HAMMOND (a minor) and ABIGAIL 20 HAMMOND (a minor), collectively "Plaintiffs," allege as follows: 21 THE PARTIES & JURISDICTION 22

1. Plaintiffs Wendy Hammond and Mitch Hammond are married, residents of Washoe County, Nevada.

FILED Electronically CV20-00042 2020-01-09 09:29:24 AM Jacqueline Bryant

Clerk of the Court

- 2. Wendy and Mitch are the natural parents of Elizabeth Hammond, who is deceased. At the time of the Incident, Elizabeth was 9 years old.
- 3. As the surviving parents of Elizabeth, Wendy and Mitch comprise the known statutory claimants for Elizabeth's wrongful death under Nevada law.

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- 4. Wendy and Mitch are the parents of Daniel Hammond and Abigail Hammond, who are both minors. At the time of the Incident, Daniel was 4 years old and Abigail was 35 months old.
- 5. Wendy and Mitch, as the parents of Daniel and Abigail, are authorized to pursue these minors' claims set forth herein pursuant to the express terms of NRS 12.080.
- 6. Rhett Schultz was, at relevant times, a resident of Lyon County, Nevada, and doing business as the "Bounce House Guy."
- 7. On information and belief, John Does 1-10, Jane Does 1-10, ABC Partnerships 1-10, and Black and White Corporations 1-10 are persons or entities that may have caused or contributed to Plaintiffs' injuries and damages. Plaintiffs request leave to amend this pleading when the identities and roles played by these persons or entities, if any, are discovered.
- 8. Defendants caused an act to occur in Washoe County out of which the subject matter of this litigation arises.
- 9. The Washoe County District Court has jurisdiction over this action, and venue is proper in this Court.

## **GENERAL ALLEGATIONS**

- 10. Elizabeth died on July 16, 2019.
- 11. Wendy, Elizabeth, Daniel and Abigail were attending a children's birthday party on July 14, 2019.
- 12. The party was being held at a residence located at 4050 Lone Tree Lane, Reno, Nevada.
  - 13. At the party, there were two inflatable devices a bounce house and a water slide.
- 14. At relevant times, Rhett Schultz owned, leased, controlled, maintained, and/or operated the bounce house and the water slide used at the party.
- 15. Elizabeth, Daniel and another child were in the bounce house together. Wendy was sitting on the patio, talking with the host of the party and watching Abigail, Daniel and Elizabeth. Abigail was playing nearby.

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- 16. As a breeze picked up, Wendy moved quickly to pick up Abigail. As she did so, the water slide became uprooted and knocked her over. When Wendy got up, she saw and heard adults running and screaming towards the bounce house.
- 17. The bounce house, with the three children in it, became airborne and flew through the air; it became caught in electric power lines ("the Incident").
- 18. Wendy was carrying Abigail and chasing after the bounce house as it flew through the air.
- 19. When the bounce house became lodged in the power lines, Wendy stood beneath it. She felt frantic, desperate and helpless. She called 911. She thought she heard Elizabeth's voice, and she attempted to communicate with both Elizabeth and Daniel. All the while, the other child (Bode) was screaming.
- 20. Eventually, first responders were able to access the bounce house by a ladder truck. They brought Bode out of the bounce house first. They brought Daniel out next; he had Elizabeth's blood on him. They brought Elizabeth out last.
- 21. Wendy went with Elizabeth in the ambulance to the hospital. In doing so, she had to leave Daniel and Abigail in the custody of other adults at the party.
- 22. The Incident caused Elizabeth severe injuries, including pain, suffering and disfigurement. On information and belief, Elizabeth survived those injuries for a period of time. She was declared dead two days later, on July 16.
- 23. As a further result of the Incident, Plaintiffs suffered severe injuries, including pain, suffering, emotional distress and disfigurement; grief and sorrow for the loss of the decedent, Elizabeth Hammond; medical, funeral, burial, and other economic losses; and the loss of Elizabeth's companionship, society, and comfort.
- 24. As a result of the Incident, Daniel suffered physical injuries, with accompanying pain and suffering.
- 25. As a result of the Incident and related events, Wendy, Daniel and Abigail suffered severe emotional distress.

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26. Plaintiffs have incurred damages in an amount exceeding the minimum iurisdictional limit of this Court.

## **FIRST CLAIM FOR RELIEF**

Negligence (All Plaintiffs)

- 27. Plaintiffs reallege all of the above paragraphs.
- 28. Rhett Schultz had a duty to Plaintiffs to exercise reasonable and ordinary care in rental, selection, maintenance, equipping, setting up and anchoring of the inflatable devices at the party, including the bounce house.
- 29. Rhett Schultz negligently advertised, rented, selected, maintained, equipped, set up and anchored the inflatable devices. This includes, for example and without limitation, not properly anchoring the inflatable devices to the ground and preventing them from becoming airborne.
- 30. Rhett Schultz also negligently failed to adequately instruct and warn the renter and users of the inflatable devices regarding weather-related risks, the proper anchoring of inflatable devices to the ground, the proper use of the devices, and what to do under circumstances of increased wind or other weather conditions.
  - 31. Rhett Schultz's negligence caused the Incident.
- 32. Rhett Schultz's negligence caused Elizabeth's injuries and subsequent death and Plaintiffs' damages.
- 33. As a direct and proximate result of Rhett Schultz's actions, Plaintiffs suffered damages in excess of \$15,000, plus interest and costs, according to proof.

## SECOND CLAIM FOR RELIEF

Negligent Infliction of Emotional Distress (Plaintiffs Wendy, Daniel & Abigail Hammond)

- 34. Plaintiffs reallege all of the above paragraphs.
- 35. When the Incident occurred, Wendy, Daniel and Abigail Hammond were also at the

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party. Daniel was in the Bounce House with Elizabeth. Wendy and Abigail were just a few feet away.

- 36. Wendy, Daniel and Abigail were in the zone of danger such that Defendants' fault created an unreasonable and foreseeable risk of bodily harm to them.
- 37. Wendy, Daniel and Abigail witnessed the harm to Elizabeth and/or the ensuing events.
- 38. Wendy, Daniel and Abigail suffered emotional distress from being in the vicinity of the danger caused by the Incident as it occurred, and from witnessing the harm to Elizabeth and the events thereafter. Their shock and mental anguish were manifested in many ways, including severe emotional distress.
- 39. The Incident caused Wendy, Daniel and Abigail to suffer injuries and damages, as described above, and also including but not limited to: (a) the cost and reasonable value of their past and future medical care, (b) lost income (Wendy), (c) loss of enjoyment of life, and (d) pain, suffering, mental and emotional anguish and trauma.
- 40. As a direct and proximate result of the negligent infliction of emotional distress, Plaintiffs Wendy, Daniel and Abigail Hammond suffered damages in excess of \$15,000, plus interest and costs, according to proof.

THEREFORE, Plaintiffs request judgment against Defendants as follows:

- Α. General, special and compensatory damages, in excess of Fifteen Thousand Dollars (\$15,000.00), in an amount to be proved at trial.
- В. Any and all damages alleged above or to which Plaintiffs may be entitled.
- C. For costs incurred.
- D. Pre-judgment and post-judgment interest, as allowed by law.
- E. For any other relief permitted by law, as the Court may deem just and proper.

## **DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury of all claims and issues.

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## **AFFIRMATION**

The undersigned does hereby affirm that this document does not contain the social security number of any person.

DATED this 9th day of January, 2020.

LEWIS ROCA ROTHGERBER CHRISTIE, LLP

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