

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
L.E., a minor, by and through his father and natural guardian LUIS ESPINOSA; and LUIS ESPINOSA, individually,

Index #: _____ / _____

Plaintiffs,

-against-

Date Purchased: ____ / ____ / ____

CITY OF NEW YORK; NEW YORK CITY DEPARTMENT OF EDUCATION; SCHOOL IN THE SQUARE PUBLIC CHARTER SCHOOL; FRIENDS OF SCHOOL IN THE SQUARE, INC.; GOOD SHEPHERD SCHOOL; RC CH GOOD SHEPHERD; ; and "JOHN AND JANE DOES" NOS. 1-99; and "ABC CORPORATIONS" NOS. 1-99,

SUMMONS

Basis of Venue: CPLR § 503

Defendants.

-----X

To the above-named defendant(s):

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a Notice of Appearance, on the Plaintiffs' attorney(s) within twenty (20) days after the service of this summons, exclusive of the date of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

HELD & HINES, LLP
Attorneys for Plaintiffs

Dated: New York, New York
January 8, 2025

By: /s/ Carl E. Zapffe
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To: City of New York
100 Church St.
New York, NY 10007

New York City Department of Education
100 Church St.
New York, NY 10007

School in the Square Public Charter School
120 Wadsworth Ave.
New York, NY 10033

Friends of School in the Square, Inc.
99 Catherine Rd.
Scarsdale, NY 10583

Good Shepherd School
620 Isham St.
New York, NY 10034

RC CH Good Shepherd
620 Isham St.
New York, NY 10034

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
L.E., a minor, by and through his father and natural guardian LUIS ESPINOSA; and LUIS ESPINOSA, individually,

Index #: _____ / _____

Plaintiffs,

-against-

VERIFIED COMPLAINT WITH JURY DEMAND

CITY OF NEW YORK; NEW YORK CITY DEPARTMENT OF EDUCATION; SCHOOL IN THE SQUARE PUBLIC CHARTER SCHOOL; FRIENDS OF SCHOOL IN THE SQUARE, INC.; GOOD SHEPHERD SCHOOL; RC CH GOOD SHEPHERD; ; and “JOHN AND JANE DOES” NOS. 1-99; and “ABC CORPORATIONS” NOS. 1-99,

Defendants.

-----X

Co-Plaintiff L.E., a minor (hereinafter “L.E.”), by and through her father and natural guardian Luis Espinosa, and Co-Plaintiff Luis Espinosa, individually (“Luis Espinosa”), by and through their attorneys, Held & Hines, LLP, by way of Verified Complaint, hereby make the following allegations against the City of New York, New York City Department of Education, School in the Square Public Charter School, Friends of School in the Square, Inc., Good Shepherd School, RC CH Good Shepherd, “John and Jane Does” Nos. 1-99, and “ABC Corporations” Nos. 1-99 (collectively “Defendants”):

PARTIES

1. At all times hereinafter mentioned, Co-Plaintiff L.E. was and still is a resident of the State of New York, County of New York.

2. At all times hereinafter mentioned, L.E. was and still is a minor child.

3. At all times hereinafter mentioned, Co-Plaintiff Luis Espinosa, was and still is a resident of the State of New York, County of New York.

4. At all times hereinafter mentioned Luis Espinosa is the father and natural guardian of L.E.

5. At all times hereinafter mentioned, Co-Defendant City of New York (“New York City”) was and remains a municipal corporation organized and existing under and by virtue of the laws of the State of New York.

6. At all times hereinafter mentioned, Co-Defendant New York City Department of Education (“Dept. of Educ.”) was and remains a department of New York City that manages New York City’s public school system.

7. At all times hereinafter mentioned Co-Defendant, School in the Square Public Charter School (“School in the Square”) is a not-for-profit educational corporation chartered by the Board of Regents of the State of New York.

8. At all times hereinafter mentioned, School in the Square owns and/or operates several schools, one of which is named “Dos Amigos Elementary,” or simply “Dos Amigos” (“Dos Amigos”), which is for students at the pre-kindergarten to fifth-grade levels.

9. At all times hereinafter mentioned, Friends of School in the Square, Inc. (“Friends of School”), was and remains a not-for-profit corporation organized and existing under and by virtue of the laws of the State of New York.

10. At all times hereinafter mentioned, Friends of School is affiliated with School in the Square, through the use of shared members of each such entity’s Boards of Trustees, and Friends of School was established to support the creation of School in the Square, and to function as the fundraising arm for School in the Square.

11. At all times hereinafter mentioned, Co-Defendant Good Shepherd School (“Shepherd School”) owns real property known and designated as 108 Cooper Street, New York, NY 10034 (the “Subject Premises”), which is the location where the incident set forth herein (the “Subject Incident”) occurred.

12. At all times hereinafter mentioned, Co-Defendant RC CH Good Shepherd (“RC CH”) also owns real property located at the Subject Premises.

13. At all times hereinafter mentioned, Co-Defendants John and Jane Does Nos. 1-99 and ABC Corporations Nos. 1-99 (collectively the “Fictitious Defendants”) are fictitiously-named individuals and/or entities who are liable to Plaintiffs for the events described herein, but whose names are not yet known to Plaintiffs.

STATEMENT OF FACTS

14. At all times hereinafter mentioned, New York City controlled, and continues to control, School in the Square.

15. At all times hereinafter mentioned, New York City directed, and continues to direct, School in the Square.

16. At all times hereinafter mentioned, New York City managed, and continues to manage, School in the Square.

17. At all times hereinafter mentioned, New York City owned and continues to own the real property defined herein as the Subject Premises, or at least some portion thereof.

18. At all times hereinafter mentioned, New York City operated and continues to operate the real property defined herein as the Subject Premises, or at least some portion thereof.

19. At all times hereinafter mentioned, New York City maintained and continues to maintain the real property defined herein as the Subject Premises, or at least some portion thereof.

20. At all times hereinafter mentioned, New York City controlled and continues to control the real property defined herein as the Subject Premises, or at least some portion thereof.

21. At all times hereinafter mentioned, New York City managed and continues to manage the real property defined herein as the Subject Premises, or at least some portion thereof.

22. At all times hereinafter mentioned, New York City supervised and continues to supervise the real property defined herein as the Subject Premises, or at least some portion thereof.

23. At all times hereinafter mentioned, New York City inspected and continues to inspect the real property defined herein as the Subject Premises, or at least some portion thereof.

24. At all times hereinafter mentioned, New York City repaired and continues to repair the real property defined herein as the Subject Premises, or at least some portion thereof.

25. At all times hereinafter mentioned, New York City installed the water fountain (the "Subject Fountain"), or at least some portion thereof, that caused the Subject Incident, as set forth in greater detail herein.

26. At all times hereinafter mentioned, New York City financed the installation of the Subject Fountain, or at least some portion thereof.

27. At all times hereinafter mentioned, New York City authorized the installation of the Subject Fountain, or at least some portion thereof.

28. At all times hereinafter mentioned, New York City controlled the installation of the Subject Fountain, or at least some portion thereof.

29. At all times hereinafter mentioned, New York City supervised, or should have supervised, the installation of the Subject Fountain, or at least some portion thereof.

30. At all times hereinafter mentioned, New York City managed, or should have managed, the installation of the Subject Fountain, or at least some portion thereof.

31. At all times hereinafter mentioned, New York City inspected, or should have inspected the installation of the Subject Fountain, or at least some portion thereof.

32. At all times hereinafter mentioned, Dept. of Educ. controlled, and continues to control, School in the Square.

33. At all times hereinafter mentioned, Dept. of Educ. directed, and continues to direct, School in the Square.

34. At all times hereinafter mentioned, Dept. of Educ. managed, and continues to manage, School in the Square.

35. At all times hereinafter mentioned, Dept. of Educ. owned and continues to own the real property defined herein as the Subject Premises, or at least some portion thereof.

36. At all times hereinafter mentioned, Dept. of Educ. operated and continues to operate the real property defined herein as the Subject Premises, or at least some portion thereof.

37. At all times hereinafter mentioned, Dept. of Educ. maintained and continues to maintain the real property defined herein as the Subject Premises, or at least some portion thereof.

38. At all times hereinafter mentioned, Dept. of Educ. controlled and continues to control the real property defined herein as the Subject Premises, or at least some portion thereof.

39. At all times hereinafter mentioned, Dept. of Educ. managed and continues to manage the real property defined herein as the Subject Premises, or at least some portion thereof.

40. At all times hereinafter mentioned, Dept. of Educ. supervised and continues to supervise the real property defined herein as the Subject Premises, or at least some portion thereof.

41. At all times hereinafter mentioned, Dept. of Educ. inspected and continues to inspect the real property defined herein as the Subject Premises, or at least some portion thereof.

42. At all times hereinafter mentioned, Dept. of Educ. repaired and continues to repair the real property defined herein as the Subject Premises, or at least some portion thereof.

43. At all times hereinafter mentioned, Dept. of Educ. installed the Subject Fountain, or at least some portion thereof, that caused the Subject Incident, as set forth in greater detail herein.

44. At all times hereinafter mentioned, Dept. of Educ. financed the installation of the Subject Fountain, or at least some portion thereof.

45. At all times hereinafter mentioned, Dept. of Educ. authorized the installation of the Subject Fountain, or at least some portion thereof.

46. At all times hereinafter mentioned, Dept. of Educ. controlled the installation of the Subject Fountain, or at least some portion thereof.

47. At all times hereinafter mentioned, Dept. of Educ. supervised, or should have supervised, the installation of the Subject Fountain, or at least some portion thereof.

48. At all times hereinafter mentioned, Dept. of Educ. managed, or should have managed, the installation of the Subject Fountain, or at least some portion thereof.

49. At all times hereinafter mentioned, Dept. of Educ. inspected, or should have inspected the installation of the Subject Fountain, or at least some portion thereof.

50. At all times hereinafter mentioned, School in the Square controlled, and continues to control, Dos Amigos.

51. At all times hereinafter mentioned, School in the Square directed, and continues to direct, Dos Amigos.

52. At all times hereinafter mentioned, School in the Square managed, and continues to manage, Dos Amigos.

53. At all times hereinafter mentioned, School in the Square owned and continues to own the real property defined herein as the Subject Premises, or at least some portion thereof.

54. At all times hereinafter mentioned, School in the Square operated and continues to operate the real property defined herein as the Subject Premises, or at least some portion thereof.

55. At all times hereinafter mentioned, School in the Square maintained and continues to maintain the real property defined herein as the Subject Premises, or at least some portion thereof.

56. At all times hereinafter mentioned, School in the Square controlled and continues to control the real property defined herein as the Subject Premises, or at least some portion thereof.

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59. At all times hereinafter mentioned, School in the Square inspected and continues to inspect the real property defined herein as the Subject Premises, or at least some portion thereof.

60. At all times hereinafter mentioned, School in the Square repaired and continues to repair the real property defined herein as the Subject Premises, or at least some portion thereof.

61. At all times hereinafter mentioned, School in the Square installed the Subject Fountain, or at least some portion thereof, that caused the Subject Incident, as set forth in greater detail herein.

62. At all times hereinafter mentioned, School in the Square financed the installation of the Subject Fountain, or at least some portion thereof.

63. At all times hereinafter mentioned, School in the Square authorized the installation of the Subject Fountain, or at least some portion thereof.

64. At all times hereinafter mentioned, School in the Square controlled the installation of the Subject Fountain, or at least some portion thereof.

65. At all times hereinafter mentioned, School in the Square supervised, or should have supervised, the installation of the Subject Fountain, or at least some portion thereof.

66. At all times hereinafter mentioned, School in the Square managed, or should have managed, the installation of the Subject Fountain, or at least some portion thereof.

67. At all times hereinafter mentioned, School in the Square inspected, or should have inspected the installation of the Subject Fountain, or at least some portion thereof.

68. At all times hereinafter mentioned, Friends of School controlled, and continues to control, School in the Square.

69. At all times hereinafter mentioned, Friends of School directed, and continues to direct, School in the Square.

70. At all times hereinafter mentioned, Friends of School managed, and continues to manage, School in the Square.

71. At all times hereinafter mentioned, Friends of School owned and continues to own the real property defined herein as the Subject Premises, or at least some portion thereof.

72. At all times hereinafter mentioned, Friends of School operated and continues to operate the real property defined herein as the Subject Premises, or at least some portion thereof.

73. At all times hereinafter mentioned, Friends of School maintained and continues to maintain the real property defined herein as the Subject Premises, or at least some portion thereof.

74. At all times hereinafter mentioned, Friends of School controlled and continues to control the real property defined herein as the Subject Premises, or at least some portion thereof.

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78. At all times hereinafter mentioned, Friends of School repaired and continues to repair the real property defined herein as the Subject Premises, or at least some portion thereof.

79. At all times hereinafter mentioned, Friends of School installed the Subject Fountain, or at least some portion thereof, that caused the Subject Incident, as set forth in greater detail herein.

80. At all times hereinafter mentioned, Friends of School financed the installation of the Subject Fountain, or at least some portion thereof.

81. At all times hereinafter mentioned, Friends of School authorized the installation of the Subject Fountain, or at least some portion thereof.

82. At all times hereinafter mentioned, Friends of School controlled the installation of the Subject Fountain, or at least some portion thereof.

83. At all times hereinafter mentioned, Friends of School supervised, or should have supervised, the installation of the Subject Fountain, or at least some portion thereof.

84. At all times hereinafter mentioned, Friends of School managed, or should have managed, the installation of the Subject Fountain, or at least some portion thereof.

85. At all times hereinafter mentioned, Friends of School inspected, or should have inspected the installation of the Subject Fountain, or at least some portion thereof.

86. At all times hereinafter mentioned, Shepherd School controlled, and continues to control, School in the Square.

87. At all times hereinafter mentioned, Shepherd School directed, and continues to direct, School in the Square.

88. At all times hereinafter mentioned, Shepherd School managed, and continues to manage, School in the Square.

89. At all times hereinafter mentioned, Shepherd School owned and continues to own the real property defined herein as the Subject Premises, or at least some portion thereof.

90. At all times hereinafter mentioned, Shepherd School operated and continues to operate the real property defined herein as the Subject Premises, or at least some portion thereof.

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97. At all times hereinafter mentioned, Shepherd School installed the Subject Fountain, or at least some portion thereof, that caused the Subject Incident, as set forth in greater detail herein.

98. At all times hereinafter mentioned, Shepherd School financed the installation of the Subject Fountain, or at least some portion thereof.

99. At all times hereinafter mentioned, Shepherd School authorized the installation of the Subject Fountain, or at least some portion thereof.

100. At all times hereinafter mentioned, Shepherd School controlled the installation of the Subject Fountain, or at least some portion thereof.

101. At all times hereinafter mentioned, Shepherd School supervised, or should have supervised, the installation of the Subject Fountain, or at least some portion thereof.

102. At all times hereinafter mentioned, Shepherd School managed, or should have managed, the installation of the Subject Fountain, or at least some portion thereof.

103. At all times hereinafter mentioned, Shepherd School inspected, or should have inspected the installation of the Subject Fountain, or at least some portion thereof.

104. At all times hereinafter mentioned, RC CH controlled, and continues to control, School in the Square, or at least some portion thereof.

105. At all times hereinafter mentioned, RC CH directed, and continues to direct, School in the Square, or at least some portion thereof.

106. At all times hereinafter mentioned, RC CH managed, and continues to manage, School in the Square, or at least some portion thereof.

107. At all times hereinafter mentioned, RC CH owned and continues to own the real property defined herein as the Subject Premises, or at least some portion thereof.

108. At all times hereinafter mentioned, RC CH operated and continues to operate the real property defined herein as the Subject Premises, or at least some portion thereof.

109. At all times hereinafter mentioned, RC CH maintained and continues to maintain the real property defined herein as the Subject Premises, or at least some portion thereof.

110. At all times hereinafter mentioned, RC CH controlled and continues to control the real property defined herein as the Subject Premises, or at least some portion thereof.

111. At all times hereinafter mentioned, RC CH managed and continues to manage the real property defined herein as the Subject Premises, or at least some portion thereof.

112. At all times hereinafter mentioned, RC CH supervised and continues to supervise the real property defined herein as the Subject Premises, or at least some portion thereof.

113. At all times hereinafter mentioned, RC CH inspected and continues to inspect the real property defined herein as the Subject Premises, or at least some portion thereof.

114. At all times hereinafter mentioned, RC CH repaired and continues to repair the real property defined herein as the Subject Premises, or at least some portion thereof.

115. At all times hereinafter mentioned, RC CH installed the Subject Fountain, or at least some portion thereof, that caused the Subject Incident, as set forth in greater detail herein.

116. At all times hereinafter mentioned, RC CH financed the installation of the Subject Fountain, or at least some portion thereof.

117. At all times hereinafter mentioned, RC CH authorized the installation of the Subject Fountain, or at least some portion thereof.

118. At all times hereinafter mentioned, RC CH controlled the installation of the Subject Fountain, or at least some portion thereof.

119. At all times hereinafter mentioned, RC CH supervised, or should have supervised, the installation of the Subject Fountain, or at least some portion thereof.

120. At all times hereinafter mentioned, RC CH managed, or should have managed, the installation of the Subject Fountain, or at least some portion thereof.

121. At all times hereinafter mentioned, RC CH inspected, or should have inspected the installation of the Subject Fountain, or at least some portion thereof.

122. At all times hereinafter mentioned, Fictitious Defendants controlled, and continue to control, School in the Square.

123. At all times hereinafter mentioned, Fictitious Defendants directed, and continue to direct, School in the Square.

124. At all times hereinafter mentioned, Fictitious Defendants managed, and continue to manage, School in the Square.

125. At all times hereinafter mentioned, Fictitious Defendants owned and continue to own the real property defined herein as the Subject Premises or at least some portion thereof.

126. At all times hereinafter mentioned, Fictitious Defendants operated and continue to operate the real property defined herein as the Subject Premises or at least some portion thereof.

127. At all times hereinafter mentioned, Fictitious Defendants maintained and continue to maintain the real property defined herein as the Subject Premises or at least some portion thereof.

128. At all times hereinafter mentioned, Fictitious Defendants controlled and continue to control the real property defined herein as the Subject Premises or at least some portion thereof.

129. At all times hereinafter mentioned, Fictitious Defendants managed and continue to manage the real property defined herein as the Subject Premises or at least some portion thereof.

130. At all times hereinafter mentioned, Fictitious Defendants supervised and continue to supervise the real property defined herein as the Subject Premises or at least some portion thereof.

131. At all times hereinafter mentioned, Fictitious Defendants inspected and continue to inspect the real property defined herein as the Subject Premises or at least some portion thereof.

132. At all times hereinafter mentioned, Fictitious Defendants repaired and continue to repair the real property defined herein as the Subject Premises or at least some portion thereof.

133. At all times hereinafter mentioned, Fictitious Defendants installed the Subject Fountain, or at least some portion thereof, that caused the Subject Incident, as set forth in greater detail herein.

134. At all times hereinafter mentioned, Fictitious Defendants financed the installation of the Subject Fountain, or at least some portion thereof.

135. At all times hereinafter mentioned, Fictitious Defendants authorized the installation of the Subject Fountain, or at least some portion thereof.

136. At all times hereinafter mentioned, Fictitious Defendants controlled the installation of the Subject Fountain, or at least some portion thereof.

137. At all times hereinafter mentioned, Fictitious Defendants supervised, or should have supervised, the installation of the Subject Fountain, or at least some portion thereof.

138. At all times hereinafter mentioned, Fictitious Defendants managed, or should have managed, the installation of the Subject Fountain, or at least some portion thereof.

139. At all times hereinafter mentioned, Fictitious Defendants inspected, or should have inspected the installation of the Subject Fountain, or at least some portion thereof.

140. Dos Amigos is a New York City charter school, and offers classes to students who are between the approximate ages of three and ten years old (i.e., pre-kindergarten to fifth grade).

141. At the time of the Subject Incident, L.E. was an eight-year-old infant, who was enrolled in third-grade classes as Dos Amigos.

142. Prior to the events set forth below, and for the apparent purpose of allowing its staff members to more easily make coffee and other such hot beverages, Dos Amigos and/or its agents inexplicably connected a hot water heater to the Subject Fountain, which is a drinking fountain that was and is commonly used by the school's infant students.

143. Even more inexplicably, the specific drinking fountain Dos Amigos and/or its agents chose for this purpose, the Subject Fountain, was located right next to the gymnasium, and was, therefore, upon information and belief, one of the most heavily-used student drinking fountains in the entire school.

144. Additionally, Dos Amigos and/or its agents shockingly failed to turn off the water heater, attach an appropriate child safety lock or mechanism, or attach any type of appropriate safety and/or warning mechanism to the gym fountain that would prevent it from spraying scalding hot water on students who simply wanted to hydrate throughout the day.

145. On January 10, 2024, L.E. was attending her routine third-grade classes at Dos Amigos, and at some point during or after gym class, L.E. approached the Subject Fountain in order to get a cool drink of water.

146. L.E. was totally unaware that Dos Amigos and/or its agents had connected a hot water heater to the Subject Fountain.

147. L.E. proceeded to try to take a drink of water from the Subject Fountain, but instead, the Subject Fountain sprayed scalding hot water on her, causing L.E. to suffer severe and painful burns on her lips, mouth, and face.

148. Thereafter, Dos Amigos and/or its agents failed to send L.E. home, or even call L.E.'s parents to let them know what had happened.

149. Instead, Dos Amigos and/or its agents removed the Subject Fountain the very next day, in an apparent effort to hide the evidence and/or prevent L.E.'s parents from investigating the matter and/or taking any pictures of the Subject Fountain.

150. Dos Amigos and/or its agents initially denied the Subject Incident in its entirety, and suggested that L.E. had burned herself at home, and only later admitted their role in the Subject Incident.

151. Defendants and/or their agents, servants, and/or employees knew students used the Subject Fountain.

152. Defendants and/or their agents, servants, and/or employees were aware that there was not any type of appropriate child safety lock or other such mechanism to prevent scolding hot water from burning students, including and especially L.E.

153. Defendants and/or their agents, servants, and/or employees did not attach any type of child safety lock or other such mechanism to prevent the heater from burning students, including and especially L.E.

154. Defendants had actual notice of said defect and the dangerous condition.

155. Defendants had constructive notice of said defect and the dangerous condition.

156. Pursuant to General Municipal Law § 50-i, (a) a notice of claim was timely drafted and served (i.e., within ninety days from the date of the Subject Incident) upon New York City in

full compliance with § 50-e, and contained the date and location of the Subject Incident, as well as a description thereof; (b) at least thirty days have elapsed since service of the aforementioned notice of claim, and that adjustment or payment thereof has been neglected or refused; and (c) this action is being commenced within one year and ninety days from the date of the Subject Incident.

157. Plaintiffs in no way contributed to the happening of the Subject Incident.

158. This action falls within one or more exceptions of CPLR §1602.

**FIRST COUNT
NEGLIGENCE**

159. Plaintiffs repeat and reallege each and every paragraph contained above with the same force and effect as if such all such paragraphs were fully set forth herein.

160. Defendants, their agents, servants and/or employees, were negligent in the ownership, operation, supervision, installation, design, maintenance, inspection, repair, and control of the Subject Premises and/or Subject Fountain; in the ownership, operation, maintenance, supervision and control of the Subject Premises and/or Subject Fountain in a careless, wanton, and unsafe manner; in failing to ensure the safety, health and welfare of those persons making use of the Subject Premises and/or Subject Fountain, including but not limited to Plaintiffs herein; in causing, creating, and/or allowing a dangerous and/or defective condition to exist thereat; in causing, creating and/or allowing to remain a hazard thereat; in failing to properly maintain and/or repair the dangerous and/or defective condition that caused and/or contributed to the accident and injuries sustained by Plaintiffs; in failing to remedy the dangerous and/or defective condition; in negligently repairing the dangerous and/or defective condition; in failing to place barriers, signs or other warning devices around the subject location so that persons were aware of a hazard thereat; in failing to protect the plaintiff; in failing inspect the area; in setting a trap for Plaintiffs; in causing and creating the dangerous and/or defective condition; in allowing a nuisance to exist and/or

remain thereat; in failing to give the plaintiff warning; in failing to give the plaintiff notice; in failing to use proper and reasonable materials in the construction, maintenance and/or repair of the Subject Fountain; in failing to have and maintain adequate lighting at the Subject Premises and/or Subject Fountain; in negligently hiring, retaining, training, and promoting unqualified personnel to operate, supervise, install, maintain, repair, enforce, and control the Subject Fountain; in failing to provide Plaintiffs with a safe water fountain to drink from; in permitting the Subject Fountain to be and remain in an unsafe and dangerous condition so as to constitute a nuisance, menace, snare and/or danger to the life and limbs of the public in general and Plaintiffs in particular; in failing to maintain the Subject Premises and/or Subject Fountain in a reasonably safe condition by causing, creating and/or allowing the dangerous and/or defective condition to remain; in failing to timely remedy the defective condition complained of herein; in negligently maintaining and/or repairing the Subject Fountain; in failing to make adequate and sufficient inspections; in failing to exercise due care, diligence and prudence with regard to the Subject Fountain, all of which Defendants had notice of, or, in the exercise of reasonable care, should have had notice; and Defendants, their agents, servants and/or employees, were otherwise negligent, careless and reckless in the instance.

161. As a result of the foregoing, and due solely to the negligence of the Defendants, their agents, servants and/or employees, without Plaintiffs contributing thereto, Plaintiffs sustained serious, permanent, disfiguring, and disabling bodily injuries and disability from usual activities, has required medical attention, and has expended monies in an ongoing effort to cure Plaintiff of said injuries.

162. Plaintiffs' injury occurred without any negligence on the part of Plaintiffs contributing thereto.

WHEREFORE, Plaintiffs demands judgment against Defendants, joint and severally, as well as an award of compensatory damages in an amount to be determined at trial, an award of special damages in an amount to be determined at trial, and an award of punitive damages in an amount to be determined at trial, all of which are individually greater than the minimum jurisdiction of this Court, together with interest from the date of the Subject Incident, fees, and costs, and such other and further relief that this Court deems just and proper.

**SECOND COUNT
DOCTRINE OF RESPONDEAT SUPERIOR**

163. Plaintiffs repeat and reallege each and every paragraph contained above with the same force and effect as if such all such paragraphs were fully set forth herein.

164. Under the doctrine of respondeat superior, an employer will be held vicariously liable for the negligence of an employee causing injuries to third parties, if at the time of the occurrence, the employee was acting within the scope of his or her employment.

165. In the matter at hand, a master-servant relationship existed between the respective Defendants and the employees who committed the aforementioned tortious acts and/or omissions.

166. The aforementioned tortious acts and/or omissions occurred within the scope of employment as between the respective Defendants and said employees.

WHEREFORE, Plaintiffs demands judgment against Defendants, joint and severally, as well as an award of compensatory damages in an amount to be determined at trial, an award of special damages in an amount to be determined at trial, and an award of punitive damages in an amount to be determined at trial, all of which are individually greater than the minimum jurisdiction of this Court, together with interest from the date of the Subject Incident, fees, and costs, and such other and further relief that this Court deems just and proper.

**THIRD COUNT
NEGLIGENT HIRING, TRAINING, RETENTION, AND SUPERVISION**

167. Plaintiffs repeat and reallege each and every paragraph contained above with the same force and effect as if such all such paragraphs were fully set forth herein.

168. Defendants had knowledge, actual and/or constructive, that the negligent, reckless and/or careless operation, supervision, installation, design, maintenance, inspection, repair, and control of the Subject Fountain created a foreseeability of harm.

169. Defendants knew, or had reason to know, of the particular unfitness and/or incompetence of its employees such that it could have reasonably foreseen that such qualities created a risk of harm to third persons.

170. Through the negligence of Defendants in hiring, training, retaining, and/or supervising their employees, said employee's incompetence and/or unfitness proximately caused the injury to Plaintiffs.

WHEREFORE, Plaintiffs demands judgment against Defendants, joint and severally, as well as an award of compensatory damages in an amount to be determined at trial, an award of special damages in an amount to be determined at trial, and an award of punitive damages in an amount to be determined at trial, all of which are individually greater than the minimum jurisdiction of this Court, together with interest from the date of the Subject Incident, fees, and costs, and such other and further relief that this Court deems just and proper.

**FOURTH COUNT
BREACH OF DUTY OF CARE**

171. Plaintiffs repeat and reallege each and every paragraph contained above with the same force and effect as if such all such paragraphs were fully set forth herein.

172. Defendants owed Plaintiff a duty of reasonable care by providing to Plaintiff a safe water fountain free of defects and/or dangerous conditions to drink from.

173. By failing to properly install the Subject Fountain, Defendants breached this duty of care to Plaintiff.

174. As a direct and proximate result of Defendants' breach of their duty of care to Plaintiff, plaintiff suffered severe injuries as described above.

WHEREFORE, Plaintiffs demands judgment against Defendants, joint and severally, as well as an award of compensatory damages in an amount to be determined at trial, an award of special damages in an amount to be determined at trial, and an award of punitive damages in an amount to be determined at trial, all of which are individually greater than the minimum jurisdiction of this Court, together with interest from the date of the Subject Incident, fees, and costs, and such other and further relief that this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury in the above-captioned matter on all issues so triable.

HELD & HINES, LLP
Attorneys for Plaintiffs

Dated: Brooklyn, New York
January 8, 2025

By: /s/ Carl E. Zapffe
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VERIFICATION

STATE OF NEW YORK |
COUNTY OF NEW YORK | ss:

Luis Espinosa, being duly sworn deposes and says:

1. I am one of the named Plaintiffs in the Verified Complaint that is attached hereto and that is made a part hereof.
2. I have read the Verified Complaint that is attached hereto, and am fully familiar with the contents thereof.
3. I hereby confirm that the Verified Complaint is true and exact, based on my own personal knowledge, except as to the matters therein stated to be alleged upon information and belief.
4. With regards to the matters set forth in the Verified Complaint stated to be alleged upon information and belief, to the best of my knowledge, such matters are also true.

01/08/2025
(Date)

[Signature]
(Signature)

Luis Espinosa
(Printed Name)

Sworn to before me this 8th
day of January, 2025.

[Signature]
Notary Public

