

No. 2008 - 12395

ZEFERINO GONZALEZ RIVAS and §
PETRA INES BECERRIL ZUNIGA §
Individually and as parents of ROSENDO §
GONZALEZ, Deceased, Plaintiffs §
§
V. §
§
CATCO HOMES, INC., Defendant §

IN THE DISTRICT COURT
OF HARRIS COUNTY, TEXAS

16th JUDICIAL DISTRICT

FILED
Theresa Chang
District Clerk
Time: FEB 29 2008
By _____
Deputy

PLAINTIFF'S ORIGINAL PETITION & REQUEST FOR DISCLOSURE

A. Discovery Control Plan

1. Plaintiffs intend to conduct discovery under Level 2 of Texas Rule of Civil Procedure because they seek monetary relief aggregating more than \$50,000.00.

B. Parties

2. Plaintiffs, ZEFERINO GONZALEZ RIVAS and PETRA INES BECERRIL ZUNIGA, bring this wrongful-death and survival action as the parents of ROSENDO GONZALEZ, decedent. Plaintiffs are residents of San Antonio Solis; decedent, at the time of death, was a resident of Harris County, Texas.

3. Defendant, CATCO HOMES, INC., is a Texas corporation whose registered office is located at 1998 FM 362, Brookshire, Waller County, Texas and may be served with process by serving its registered agent for service of process, Mingshan Zhu at 1998 FM 362, Brookshire, Waller County, Texas 77423.

C. Jurisdiction

4. The Court has jurisdiction over the lawsuit because the amount in controversy exceeds the minimum jurisdictional limits of the Court. Additionally, the Court has jurisdiction over the lawsuit under the provisions of Texas Civil Practice and Remedies Code §71.002 since this statutory wrongful death action and survival action.

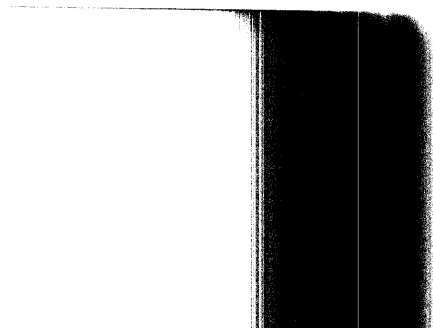
D. Venue

5. Venue is proper in Harris County, Texas under Texas Civil Practices and Remedies Code §15.002 because Defendant, a corporation, conducts business on a regular basis in Harris County, Texas and all or a substantial part of the events or omissions occurred in Harris County, Texas.

E. Facts

(3)

Courthouse News Service



6. On or about January 11, 2008, at a construction site located at Crawford and Wheeler streets in Houston, Harris County, Texas, decedent, ROSENDO GONZALEZ, while in the employ of Defendant, was carrying building materials to the roof of the building on which he was working. There was no ladder provided to decedent but there were boards nailed to the side of the building which were to take the place of a ladder. As decedent was ascending the side of the building one of the boards gave way and decedent fell four (4) stories to the ground, sustaining severe injuries which ultimately led to his death.

7. As a result of the fall, and prior to his death, decedent suffered the following damages: a) a blunt trauma aortic injury; b) severed aortic nerve; c) fracture to his right ankle; d) other massive internal traumatic injuries. In addition, in the days and weeks before he died, decedent suffered conscious pain and suffering as a result of the wrongful acts of Defendant.

F. Count 1 - Wrongful-Death Action

8. Plaintiffs are the surviving parents of ROSENDO GONZALEZ ("decedent").

9. Decedent died as a result of defendant's wrongful conduct in failing to provide decedent with necessary supplies, equipment, supervision and training to adequately perform his job duties.

10. Decedent would have been entitled to bring this action against defendant if decedent had lived.

11. The Defendant owed a duty to decedent to provide him with a safe working environment. Defendant breached that duty which resulted in decedent's damages and ultimately his death.

12. Defendant's conduct that caused decedent's death was a producing cause of injury to Plaintiffs, which resulted in the following damages: a) decedent's loss of earning capacity; b) loss of advice and counsel of decedent; c) loss of services of decedent; d) loss of society and companionship of decedent; e) loss of inheritance of decedent; f) expenses for psychological treatment; g) funeral expenses; and h) mental anguish.

13. Plaintiff seeks unliquidated damages within the jurisdictional limits of this court.

14. Exemplary damages. Decedent's death resulted from defendant's willful acts or omissions and/or from defendant's gross negligence, which entitles decedent's parents to exemplary damages under Texas Constitution article 16, section 26.

15. In the alternative/addition to other counts, decedent, before dying, had a cause of action for negligence against Defendant as enumerated above.

G. Count 2 Survival Action

16. Plaintiffs are the heirs to the estate of ROSENDO GONZALEZ, decedent. The estate has no debts, and distribution of estate property has been resolved, making an administration of the estate unnecessary.

17. Before dying, decedent had a cause of action for negligence, as alleged above, which could have been brought by decedent.

18. In the alternative/addition to other counts, Defendant is liable to Plaintiffs under the Texas Wrongful Death Act, as alleged and more fully set forth above.

H. Jury Demand

19. Plaintiffs demand a jury trial and tender the appropriate fee with this petition.

I. Request for Disclosure

18. Under Texas Rule of Civil Procedure 194, Plaintiffs request that Defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

J. Prayer

19. For these reasons, Plaintiffs ask that the court issue citation for Defendant to appear and answer, and that Plaintiffs be awarded a judgment against Defendant for the following:

- a. Actual damages.
- b. Exemplary damages.
- c. Prejudgment and postjudgment interest.
- d. Court costs.
- e. All other relief to which plaintiff is entitled.

Respectfully submitted,
LAW OFFICES OF MANUEL E SOLIS

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