Electronically Filed 5/15/2017 3:33 PM Steven D. Grierson CLERK OF THE COURT

COMP

1

3

4

5

7

8

9

10

11

12

13

14

RICHARD S. JOHNSON, ESQ.

² | Nevada Bar No. 6361

LAW OFFICE OF RICHARD S. JOHNSON

5542 South Fort Apache Rd., #120

Las Vegas, Nevada 89148

Telephone: (702) 425-8233

Facsimile: (702) 818-3201

6 | Attorney for Plaintiff

DISTRICT COURT CLARK COUNTY, NEVADA

KENT JACOBS BOUTWELL, an Individual,

A-17-755518-C

Plaintiff,

CASE NO.: DEPT. NO.:

Department 31

VS.

PHWLV, LLC, a Nevada Limited Liability Company d/b/a PLANET HOLLYWOOD RESORT AND CASINO; DOES I through V, inclusive; and ROE CORPORATIONS VI through X, inclusive,

15

Defendant.

1617

18

19

20

21

22

23

24

25

26

27

28

<u>COMPLAINT</u>

Plaintiff, KENT JACOBS BOUTWELL, by and through his counsel of record, RICHARD S. JOHNSON, ESQ., of the LAW OFFICE OF RICHARD S. JOHNSON, as and for his causes of action against Defendant, PHWLV, LLC d/b/a PLANET HOLLYWOOD RESORT AND CASINO, hereby alleges as follows:

- 1. Plaintiff, KENT JACOBS BOUTWELL, (hereinafter "Plaintiff") is and was a resident of the State of California.
- 2. Upon information and belief, at all times relevant hereto Defendant, PHWLV, LLC is and was a Nevada limited liability company lawfully authorized to conduct business in the State of Nevada, County of Clark doing business as PLANET HOLLYWOOD RESORT AND CASINO (hereinafter "Defendant").
- 3. The true names and capacities, whether individual, corporate, associate or otherwise of Defendants named herein as DOES I through V and ROE CORPORATIONS VI through X are

unknown to Plaintiff who therefore, sues said Defendants by said fictitious names. Plaintiff is informed, believes and thereon alleges that each of the Defendants designated as DOES I through V and ROE CORPORATIONS VI through X are responsible in some manner for the events and happenings referred to, and caused injury and damages proximately to Plaintiff as herein alleged, and Plaintiff will ask leave of this Court to amend this Complaint to insert the true names and capacities of Defendants DOES I through V, inclusive and ROE CORPORATIONS VI through X, inclusive, when the same have been ascertained and to join such Defendants in this action. At all times mentioned herein, each Defendant was acting as the agent, servant, and employee of each other Defendant, and therefore is liable, vicariously, for the acts of the other.

- 4. At all times relevant hereto, Defendant was the owner and/or operator of the Planet Hollywood Resort and Casino located at 3667 S. Las Vegas Blvd., Las Vegas, NV 89109 (hereinafter the "Premises").
 - 5. On or about May 16, 2015, Plaintiff was a guest and patron of the Premises.
- 6. On or about the aforementioned date, Plaintiff entered his darkened hotel room and was shocked and surprised by a human figure in the room. Thinking there was a person in the room intending to harm him and scared for his safety, he was seriously injured when attempting to escape.
- 7. Eventually, Plaintiff was able to ascertain that the human figure in his room was a mannequin in a locked glass cabinet displaying a life-sized "Miller Lite" racing suit.
- 8. The presence of a life-sized human figure in a darkened room was a dangerous and/or hazardous condition.
- 9. Defendant maintained and was in control of the Premises, and had a duty to exercise reasonable care to keep the Premises safe and free of any dangerous conditions which may cause injury
 - 10. The Dangerous Condition was accessible to the public, including Plaintiff.
- 11. Defendant owed Plaintiff a duty of care to maintain the Premises in a reasonably safe condition.

- 12. Upon information and belief, the Dangerous Condition was caused as a direct and proximate result of Defendant's failure to maintain the Premises in a reasonable and safe manner.
- 13. The maintenance and care of the Premises, and the correction and repair of dangerous conditions such as that which caused Plaintiff's incident and injuries as alleged herein were included in the specific duties and tasks of certain of Defendant's agents and employees at the time of the incident.
- 14. Defendant knew, or should have known, that the Dangerous Condition existed on or about the Premises and Defendant had a duty to warn patrons of the existence of such a condition.
 - 15. Defendant created the Dangerous Condition.
- 16. Defendant failed to place signs, caution, warn, or otherwise make safe, the Dangerous Condition existing on or about the Premises. Accordingly, Defendant negligently, carelessly, and recklessly maintained and allowed the Dangerous Condition to exist.
- 17. Defendant should have warned or otherwise made safe the Dangerous Condition because that condition was non-obvious to Plaintiff.

FIRST CAUSE OF ACTION (Negligence)

- 18. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as through fully set forth herein.
- 19. Defendant negligently failed to maintain the premises in a reasonably safe condition by failing to exercise reasonable care to keep the Premises safe and free of any dangerous conditions such as that which caused Plaintiff's incident and injuries as alleged herein.
- 20. Defendant had a duty of care to warn Plaintiff, and others similarly situated, of the Dangerous Condition.
- 21. Defendant breached this duty of care by failing to place signs, caution, warn, or otherwise make safe, the Dangerous Condition existing on or about the Premises.
- 22. Defendant's negligence directly and proximately caused Plaintiff's serious injury.

- 23. As a direct and proximate result of Defendant's negligence, Plaintiff has been limited in certain occupational and recreational activities, which have caused, and shall continue to cause, loss of earning capacity, lost wages, and loss of enjoyment of life all to Plaintiff's damage in an amount in excess of Ten Thousand Dollars (\$10,000.00).
- 24. As a direct and proximate result of Defendant's negligence, Plaintiff received medical and other treatments for injuries sustained to body, limbs, organs and nervous systems, all or some of which conditions may be permanent and disabling and, all to Plaintiff's damage in a sum in excess of Ten Thousand Dollars (\$10,000.00).
- 25. Plaintiff has been required to engage the services of an attorney, incurring attorney's fees and costs to in the prosecution of this action.

SECOND CAUSE OF ACTION (Assault)

- 26. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as through fully set forth herein.
- 27. Defendant intentionally placed a mannequin dressed in human clothing in the guest room assigned to Plaintiff.
- 28. Defendant created the situation that caused Plaintiff to feel apprehension of harmful or offensive contact
- 29. Plaintiff reasonably believed that the human figure placed in the guest room by Defendant would cause him bodily injury and harm.
- 30. As a direct and proximate result of Defendant's breach, Plaintiff was seriously injured and caused to suffer great pain of body and mind, some of which is permanent and disabling, all to his general damages in an amount in excess of Ten Thousand Dollars (\$10,000.00).
- 31. The conduct of the Defendants and each of them individually and in concert with one another as herein alleged was willful, intentional, oppressive, malicious, and done in a wanton and reckless disregard of Plaintiff's rights and thereby warrant the imposition of punitive damages in excess of Ten Thousand Dollars (\$10,000.00). Further, Defendant has both

expressly implied and ratified the use of use of mannequins in its guest rooms. As such, Defendant is liable to Plaintiff for punitive damages in excess of Ten Thousand Dollars (\$10,000.00).

32. Plaintiff has been forced to retain the service of an attorney for this action, and as such is entitled to reasonable attorney's fees and litigation costs.

WHEREFORE, Plaintiff, expressly reserving the right to amend this Complaint at the time of trial of the actions herein to include all items of damages not yet ascertained, demands judgment against Defendant as follows:

- 1. For general and special damages in excess of \$10,000.00;
- 2. For past and future medical expenses in a sum to be determined at trial;
- 3. For general damages for pain, suffering, mental distress, anguish and fear, to be determined at trial;
- 4. For past and future loss of earnings, to be determined at trial;
- 5. For any and all pre- and post- judgment interest allowed under the law;
- 6. For reasonable attorney's fees plus costs of suit; and
- 7. For such other and further relief as the court may deem just and proper.

DATED this _____ day of May, 2017.

LAW OFFICE OF RICHARD S. JOHNSON

RICHARD S. JOHNSON, ESQ.

Nevada Bar No. 6361

5542 South Fort Apache Rd., #120

Las Vegas, Nevada 89148 Phone: (702) 425-8233 Attorney for Plaintiff

1	IAFD	
2	RICHARD S. JOHNSON, ESQ. Nevada Bar No. 6361	
3	LAW OFFICE OF RICHARD S. JOHNSON	
4	5542 South Fort Apache Rd., Ste. 120 Las Vegas, Nevada 89148	
	Telephone: (702) 425-8233	
5	Facsimile: (702) 818-3201 Attorney for Plaintiff	
6	DISTRICT COURT	
7	CLARK COUNTY, NEVADA	
8	VENT IACORS BOUTWELL on Individual	
9	KENT JACOBS BOUTWELL, an Individual,	
10 11	Plaintiff, vs.	CASE NO.: DEPT. NO.:
12	PHWLV, LLC, a Nevada Limited Liability	
13	Company d/b/a PLANET HOLLYWOOD	
	RESORT AND CASINO; DOES I through V, inclusive; and ROE CORPORATIONS VI through	
14	X, inclusive,	
15	Defendant.	
16	INITIAL APPEARANCE FEE DISCLOSURE	
17	(NRS Chapter 19)	
18	Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are hereby	
	r disdant to tyres enapter 15, as amended	-,
19	submitted for parties appearing in the above-entitled	
19 20		
19 20 21	submitted for parties appearing in the above-entitled a	action as indicated below:
19 20	submitted for parties appearing in the above-entitled a KENT JACOBS BOUTWELL Total:	action as indicated below: \$270.00
19 20 21	submitted for parties appearing in the above-entitled a KENT JACOBS BOUTWELL Total: DATED this day of May, 2017.	\$270.00 \$ 270.00
19 20 21 22	submitted for parties appearing in the above-entitled a KENT JACOBS BOUTWELL Total: DATED this day of May, 2017.	action as indicated below: \$270.00
19 20 21 22 23	submitted for parties appearing in the above-entitled a KENT JACOBS BOUTWELL Total: DATED this day of May, 2017.	\$270.00 \$ 270.00
19 20 21 22 23 24	submitted for parties appearing in the above-entitled a KENT JACOBS BOUTWELL Total: DATED this day of May, 2017.	\$270.00 \$ 270.00
19 20 21 22 23 24 25	submitted for parties appearing in the above-entitled a KENT JACOBS BOUTWELL Total: DATED this day of May, 2017. LAW O	\$270.00 \$270.00 \$FFICE OF RICHARD S. JOHNSON CHARDS. JOHNSON, ESQ.
19 20 21 22 23 24 25 26	submitted for parties appearing in the above-entitled a KENT JACOBS BOUTWELL Total: DATED this day of May, 2017. LAW O	\$270.00 \$270.00 \$270.00 \$CHARDS. JOHNSON CHARDS. JOHNSON, ESQ. Joyada Bar No. 6361 542 South Fort Apache Rd., Ste. 120
19 20 21 22 23 24 25 26 27	submitted for parties appearing in the above-entitled a KENT JACOBS BOUTWELL Total: DATED this day of May, 2017. LAW O By: F	\$270.00 \$270.00 \$270.00 FFICE OF RICHARD S. JOHNSON CHARD S. JOHNSON, ESQ. Jevada Bar No. 6361