

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

BRIAN PATRICK KEEFE, SR.,)
Individually and as Court-Appointed)
Guardian of the Person and Estate of)
Megan Nichole Keefe, Incompetent)
13430 Trenton Trail)
Middleburg Heights, Ohio 44130)

and)

KIMBERLIE KEEFE)
13430 Trenton Trail)
Middleburg Heights, Ohio 44130)

Plaintiffs,)

vs.)

WAREHOUSE ENTERTAINMENT)
GROUP LLC)
c/o Statutory Agent)
George Nakhle)
1276 W. 6th Street)
Cleveland, Ohio 44113)

and)

SPIRITS)
1276 W. 6th Street)
Cleveland, Ohio 44113)

and)

SPIRITS RESTAURANT & BAR)
1276 W. 6th Street)
Cleveland, Ohio 44113)

and)

GEORGE NAKHLE)
17950 Parkside Drive)
North Royalton, Ohio 44133)

Case No.:

Judge:

COMPLAINT WITH ATTACHED
DISCOVERY

(Jury Demand Endorsed Hereon)

LAW OFFICES
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and)
)
SAMIR NAKHLE)
17590 Parkside Drive)
North Royalton, Ohio 44133)

and)
)
JOSEPH NAKHLE)
17950 Parkside Drive)
North Royalton, Ohio 44133)

and)
)
NAKHLE BROTHERS ENTERPRISE)
LLC)
c/o Statutory Agent)
Georges Nakhle)
6785 Wallings Road, Building C, Unit H1)
North Royalton, Ohio 44133)

and)
)
R.S.N. PROPERTIES LLC)
c/o Statutory Agent)
George Nakhle)
9762 Forge Drive)
Brecksville, Ohio 44141)

and)
)
THE DALAD GROUP)
6200 Rockside Woods Blvd., No. 105)
Cleveland, Ohio 44131)

ALSO SERVE:)
THE DALAD GROUP)
c/o Debbie L. Moss)
6055 Rockside Woods Blvd.,)
Suite 100)
Independence, Ohio 44131)

and)
)

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WD DOWNTOWN, LTD.)
1276 W. 6th Street)
Cleveland, Ohio 44113)

ALSO SERVE:)
WD DOWNTOWN, LTD.)
c/o Joseph A. Balog)
6055 Rockside Woods Blvd.,)
Suite 100)
Independence, Ohio 44131)

NICHOLAS PAUL URSO)
5427 Old State Road)
West Farmington, Ohio 44491)

ALSO SERVE:)
NICHOLAS PAUL URSO)
14721 Stone Road)
Newbury, Ohio 44065)

and)

JOHN DOE DEFENDANTS 1-20)
(Owners, Members, Partners, Joint)
Venturers, Managers, Supervisors,)
Employees, Independent Contractors)
or Agents of one or more of the)
Defendants and/or other persons or)
entities affiliated with one or more of the)
Defendants and/or other persons or)
entities who are otherwise liable to)
Plaintiffs for the injuries sustained on)
March 17, 2017, who are currently)
"Names Unknown" and whose names and)
addresses could not be ascertained)
despite Plaintiffs' due diligence))
c/o Warehouse Entertainment Group,)
LLC)
Statutory Agent, George Nakhle)
1276 W. 6th Street)
Cleveland, Ohio 44113)

ALSO SERVE:)
c/o Spirits)
1276 W. 6th Street)
Cleveland, Ohio 44113)

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ALSO SERVE:)
c/o Spirits Restaurant & Bar)
1276 W. 6th Street)
Cleveland, Ohio 44113)
))
ALSO SERVE:)
c/o George, Samir and Joseph)
Nakhle)
17950 Parkside Drive)
North Royalton, Ohio 44133)
))
ALSO SERVE:)
c/o Nakhle Brothers Enterprise)
LLC)
6785 Wallings Rd., Building C,)
Unit H1)
North Royalton, Ohio 44133)
))
ALSO SERVE:)
c/o R.S.N. Properties LLC)
Statutory Agent, George Nakhle)
9762 Forge Drive)
Brecksville, Ohio 44141)
))
ALSO SERVE:)
c/o The Dalad Group)
Statutory Agent Debbie L. Moss)
6055 Rockside Woods Blvd.,)
Suite 100)
Independence, Ohio 44131)
))
ALSO SERVE:)
c/o WD Downtown, Ltd.)
Statutory Agent Joseph A. Balog)
6055 Rockside Woods Blvd.,)
Suite 100)
Independence, Ohio 44131)
))
Defendants.)

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Parties and Background

1. At all times mentioned herein, Defendants Warehouse Entertainment Group, LLC, Spirits, Spirits Restaurant & Bar, Nakhle Brothers Enterprise, LLC, R.S.N. Properties, LLC and/or one or more of the John Doe Defendants 1-20 (hereinafter collectively "Spirits") were and are duly organized corporations and/or business associations recognized and existing under the laws of the State of Ohio who owned, managed and/or operated Spirits Restaurant & Bar located at 1276 W. 6th Street in Cleveland, Ohio, and at all relevant times owed various legal duties to business invitees and patrons, including Megan Nichole Keefe.

2. At all times mentioned herein, Defendants The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20 were and are duly organized corporations and/or business associations recognized and existing under the laws of the State of Ohio who: owned, managed, operated and/or controlled the building that Spirits operated out of at 1276 W. 6th Street in Cleveland, Ohio; created, maintained, had control over and/or permitted the defective railing(s) and condition(s) and/or nuisance at issue in this lawsuit to exist and persist both before leasing the premises to Spirits and continuing thereafter; failed to maintain, service, repair, replace or remove these pre-existing dangerous, hazardous and/or defective condition(s) and/or nuisance despite being responsible for the same; and who at all relevant times owed various legal duties to Spirits, its employees and its patrons who would foreseeably use and come into contact with the dangerous defect(s) and/or condition(s) and/or nuisance on the premises, including Megan Nichole Keefe. These duties included the duty to use reasonable care to have the premises in a reasonably safe condition, among others.

3. At all times mentioned herein, Defendants George Nakhle, Samir Nakhle and/or Joseph Nakhle were owners, members, partners, joint venturers, managers, supervisors,

employees and/or agents of one or more of the Spirits Defendants and also had shared responsibility for, among other things, the management, supervision, and/or oversight of the location where the incident that forms the basis of this lawsuit occurred, as well as over the employees, agents and/or independent contractors working on the premises on March 17, 2017, and at all relevant times owed various legal duties to Spirits' business invitees and patrons, including Megan Nichole Keefe. These duties included the duty to exercise reasonable care in relation to business invitees and patrons on the premises, among others.

4. At all relevant times mentioned herein, Defendant Nicholas Paul Urso (hereinafter "Urso") was an employee and/or agent of one or more of the Spirits Defendants and was a bartender and/or bouncer acting under and at the direction and control of Spirits and/or one of the other Defendants, and at all relevant times owed various legal duties to Spirits' business invitees and patrons, including Megan Nichole Keefe. These duties included the duty to exercise reasonable care in relation to business invitees and patrons on the premises, among others.

5. At all relevant times mentioned herein, John Doe Defendants 1-20 were: individuals or duly organized business associations who were owners, members, partners, joint venturers, property managers, supervisors, employees, independent contractors or agents of one or more of the Defendants who at all relevant times owed various legal duties to Spirits' business invitees and patrons, including Megan Nichole Keefe; other persons or entities affiliated with one or more of the Defendants who are also liable to Plaintiffs for the injuries sustained on March 17, 2017; and/or additional persons or entities who are unrelated to the currently named Defendants who are independently liable to Plaintiffs for the injuries sustained on March 17, 2017. The names and address of these "Name Unknown" Defendants and/or potential

Defendants are presently unknown by Plaintiffs despite their due diligence before filing this initial Complaint. These additional Defendants and/or potential Defendants may also include, but are not limited to, individuals or entities who at all relevant times had any responsibility (contractually, legally or otherwise) for: maintaining, servicing, repairing, replacing or removing the defective railing(s) and/or other dangerous or defective conditions or nuisance on the premises at 1276 W. 6th Street in Cleveland, Ohio; maintaining the premises in a safe condition so as to not unreasonably expose Spirits or its foreseeable business invitees and/or patrons like Megan Nichole Keefe to unreasonable risks or dangers; warning such entities and persons of hazardous, dangerous and/or latent defects known to it/them; hiring, supervising and/or training employees and/or agents involved in the March 17, 2017 incident; providing security on March 17, 2017 at Spirits; and/or who are otherwise liable to the Plaintiffs for their permanent and catastrophic injuries based on the unique facts and attendant circumstances of this case which will be further developed in discovery and proven at the time of trial.

6. At all relevant times, one or more of the Defendants were residents of and/or had their principal places of business in Cuyahoga County, Ohio, including Defendants Warehouse Entertainment Group, LLC, Spirits, Spirits Restaurant & Bar, George Nakhle, Samir Nakhle, Joseph Nakhle, Nakhle Brothers Enterprises, LLC, R.S.N. Properties, The Dalad Group, and WD Downtown, Ltd., such that venue is proper in this Court pursuant to Rule 3 of the Ohio Rules of Civil Procedure.

7. On March 17, 2017, Megan Nichole Keefe (“Megan”) was a business invitee and patron at Spirits, located at 1276 W. 6th Street in Cleveland, Ohio, and was attending an event and/or party at this location.

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8. Shortly after arriving, and while standing next to a railing overlooking the stairway, the railing suddenly gave way causing Megan to fall to the first floor below.

9. Megan hit her head on a granite counter during the fall, causing a large piece of granite to break off the counter, and she sustained an obvious critical head injury during the fall, which is permanent and debilitating in nature.

10. Megan's head, brain and/or spinal injuries sustained in the fall were or should reasonably have been apparent to all persons exercising due care under the attendant circumstances and based on her obvious condition due to the fall.

11. Shortly after the fall, one or more of the Defendants, including Defendant Urso, acting in the course and scope of his employment with Spirits and/or at the direction of one or more of the Defendants and/or their owners, managers and/or supervisors, negligently moved Megan's head, neck and body from the location where she fell to outside the premises, which aggravated and/or worsened Megan's already catastrophic fall-related injuries and medical condition.

12. An off-duty medical professional came upon Megan on the sidewalk outside Spirits and began administering life-saving measures until EMS and Cleveland police arrived.

13. Megan was promptly taken by EMS to MetroHealth Medical Center and was diagnosed with traumatic injuries that include, but are not limited to, subdural hematoma (brain bleed), severe closed head injury, lacerations to the skull, a skull fracture, a blood clot, a fractured left eye socket and fractured 7th vertebrae, and she underwent neurosurgery that included removing of a portion of her skull to reduce intra-cranial pressure.

14. As a direct and proximate result of the aforementioned incident and the negligence of one or more of the Defendants, Megan sustained traumatic, severe, debilitating,

and catastrophic injuries to her person which include, but are not limited to, a subdural hematoma, closed head injury, lacerations to the skull, a skull fracture, subsequent neurosurgery that included removal of a portion of her skull to reduce intra-cranial pressure, a fractured left eye socket, fractured 7th vertebrae, and a blood clot. Her injuries constitute permanent and substantial physical deformities and/or permanent physical functional injuries that permanently prevent her from being able to independently care for herself and/or to perform life-sustaining activities.

15. On or about June 5, 2017, Megan's father, Plaintiff Brian Patrick Keefe, Sr., was appointed Guardian of the Person and Estate of Megan Nichole Keefe in Cuyahoga County Court of Common Pleas (Probate Division) Case No. 2017GRD225409 due to the traumatic brain and other injuries she sustained on March 17, 2017 as described herein. (A true and accurate copy of the Letters of Guardianship issued by the Honorable Laura J. Gallagher in Case No. 2017GRD225409 are attached to this Complaint as Exhibit A). Plaintiff Brian Patrick Keefe, Sr. brings the following claims individually and as Guardian and on behalf of the Person and Estate of Megan Nichole Keefe, an Incompetent.

COUNT ONE

(Negligence and Premises Liability against Defendants Warehouse Entertainment Group, LLC, Spirits, Spirits Restaurant & Bar, George Nakhle, Samir Nakhle, Joseph Nakhle, Nakhle Brothers Enterprise, LLC, R.S.N. Properties, LLC, The Dalad Group, WD Downtown, Ltd., and John Doe Defendants 1-20)

16. Plaintiffs re-allege and fully incorporate the allegations and statements contained in Paragraphs 1 through 15 of this Complaint as if fully rewritten herein.

17. At all relevant times, Megan was a business invitee and patron at Spirits, was lawfully on the premises as a business invitee, and all Defendants named in this lawsuit,

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including those identified in other Counts set forth in this Complaint, owed her various duties, including but not limited to the duty to exercise ordinary care for her safety and protection on the premises.

18. At all relevant times, all Defendants named in this lawsuit, including those identified in others Counts set forth in this Complaint, owed a legal duty and responsibility to business invitees and patrons, including Megan, to protect them by maintaining the premises at Spirits in a reasonably safe condition so as to not unnecessarily or unreasonably expose them to unreasonable danger.

19. At all relevant times, Defendants owed a legal duty and responsibility to business invitees, including Megan, to maintain, service, repair, replace and/or remove hazardous, dangerous and/or defective conditions on the premises, including the defective railing(s) and surrounding areas at issue in this lawsuit.

20. At all relevant times, Defendants owed a legal duty and responsibility to business invitees, including Megan, to warn her of hazardous, dangerous and/or defective conditions on the premises of which they had actual and/or constructive knowledge, including the hazardous, dangerous and/or defective railing(s) and surrounding areas at issue in this lawsuit.

21. At all relevant times, Defendants individually and/or collectively, negligently created, installed, failed to maintain, failed to service, failed to repair, failed to replace, failed to remove and/or permitted this and/or other hazardous, dangerous and/or defective condition(s) and/or nuisances to exist and persist on the premises despite their actual and/or constructive knowledge of the same, including by negligently failing to maintain, service, repair, replace and/or remove the defective railing(s) surrounding a stairwell in an area of the premises that was foreeably and readily accessible to the public and to patrons like Megan and open for their use,

yet unreasonably dangerous due to the defective railing(s), their surrounding areas and/or due to additional defects which will be further developed during discovery and proven at trial.

22. At all times mentioned herein, Defendants had actual and/or constructive knowledge that the aforementioned railing(s) and surrounding areas were in a hazardous, dangerous and/or defective condition and, despite such knowledge, did nothing to change those conditions, including but not limited to by negligently failing to restrict access to this area of the premises and/or by negligently failing to maintain, service, repair, replace, remove and/or warn of the defective railing(s) and/or of other defects on the premises which will be further developed during discovery and proven at trial.

23. At all relevant times, Defendants named in this Complaint were negligent in their duties as owner(s) and/or manager(s) and/or operations entities by failing to keep the premises free from hazardous, dangerous and/or defective conditions and/or nuisances, including by failing to maintain, service, repair, replace or remove the defective railing(s) and surrounding areas at issue in this lawsuit.

24. At all times mentioned herein, Defendants were additionally negligent in failing to warn Megan and other business invitees and patrons like her of the hazardous, dangerous and/or defective condition of the railing(s) and surrounding areas, when they knew, or in the exercise of ordinary care should have known, that the railing(s) and surrounding areas were dangerous and hazardous to business invitees and/or patrons, including Megan, who would foreseeably use said areas and/or come into contact with the defective railing(s) and/or other defective conditions on the premises which will be further developed during discovery and proven at trial.

25. At all times mentioned herein, Defendants negligently failed to provide written or verbal warnings of the hazardous, dangerous and/or defective railing(s) to business invitees and patrons like Megan, which was a hidden or concealed defect and/or one which could not reasonably be discovered by reasonable or customary observation by Megan or other business invitees, and Defendants also negligently failed to have any warning signs posted in or near this area warning business invitees and patrons, including Megan, that the railing(s) and/or surrounding areas were unsafe, dangerous or defective.

26. The defective railing(s) was not an open or obvious condition to business invitees and patrons, including Megan, who were permitted to access and use the area where the incident occurred, including to attend an event and/or party held on the premises on March 17, 2017.

27. Business invitees, including Megan, were not aware of the hazards and/or dangers posed by the defective railing(s) and/or surrounding areas, and they could not reasonably be expected to discover and protect themselves against such hazards and/or dangers, including due to the attendant circumstances existing at Spirits both before and at the time of the March 17, 2017 incident described in this Complaint.

28. The Defendants named in this lawsuit negligently concealed and/or failed to disclose known dangerous, unsafe and/or hazardous defects on the premises, including the defective railing(s) at issue in this lawsuit.

29. One or more of the acts or omissions of negligence described herein and proximately causing the damages described herein are attributable to one or more of the officers, directors and/or management personnel of one or more of the Defendants, who are also liable for such negligent acts and/or omissions under the doctrine of *respondeat superior* and/or pursuant to other well-established agency principles under Ohio law.

30. At all times mentioned herein, Defendants were negligent in failing to comply with various City of Cleveland Ordinances, Ohio Basic Building Code provisions and/or other applicable state or local laws, and some of this conduct may also constitute negligence per se.

31. As a direct and proximate result of the Defendants' negligence as described herein and which will be further developed during discovery and proven at trial, Plaintiffs and Megan Nichole Keefe have suffered catastrophic and substantial harms, losses and damages as previously described, which will be permanent and ongoing for the remainder of Megan's life, and which includes both economic and non-economic damages.

32. As a direct and proximate result of the Defendants' negligence as described herein and which will be further developed during discovery and proven at trial, Megan was caused to suffer catastrophic injuries, severe pain, mental anguish, and disability, which continues at the time of this Complaint, and which with reasonable medical certainty will continue for the remainder of her life. This includes but is not limited to one or more injuries which constitute permanent and substantial physical deformities and/or permanent physical functional injuries that permanently prevent Megan from being able to independently care for herself and/or to perform life-sustaining activities.

33. As a direct and proximate result of Defendants' negligence as described herein and which will be further developed during discovery and proven at trial, Plaintiffs and/or their daughter Megan have been caused to incur in excess of One Million Dollars (\$1,000,000.00) in expenses necessary for her medical care and treatment and, with reasonable certainty, will incur in excess of Ten Million Dollars (\$10,000,000.00) in additional medical expenses for Megan's medical care, treatment, rehabilitation and needs over her expected lifetime.

34. As a direct and proximate result of Defendants' negligence as described herein and which will be further developed during discovery and proven at trial, Megan has been unable to return to her employment since the incident, resulting in a loss of income to her, and will to a reasonable degree of certainty suffer a permanent and total impairment of her earnings for the rest of her life.

35. Plaintiffs, therefore, say that they and/or Megan have been injured and damaged in a sum in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00).

COUNT TWO

**(Negligence and Nuisance Claims Against The Dalad Group, WD Downtown, Ltd.
and one or more of the John Doe Defendants 1-20)**

36. Plaintiffs re-allege and fully incorporate the allegations and statements contained in Paragraphs 1 through 35 of this Complaint as if fully rewritten herein.

37. The Defendants, including but not limited to The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20, negligently constructed, created, maintained and/or allowed to exist and persist the hazardous, dangerous and/or defective railing(s) and surrounding areas at issue in this lawsuit, and these hazardous and dangerous defects existed and were present on the premises before and when one or more of said Defendants leased or rented the premises to Spirits or one or more of the other Defendants.

38. In addition, and/or in the alternative, Defendants, including but not limited to The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20, negligently failed to maintain, service, repair, replace or remove the defective railing(s) and surrounding areas at issue in this lawsuit before leasing the premises to Spirits and/or one or more of the other Defendants despite having actual and/or constructive knowledge of the

foreseeability of harm to others, including to Spirits, its employees and its patrons, including Megan, if they failed to maintain, service, repair, replace and/or remove these hazardous, dangerous and defective conditions before leasing the premises for the intended purposes for which the premises was leased.

39. Before Defendants The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20 leased or rented the premises located at 1276 W. 6th Street in Cleveland, Ohio to Spirits and/or one or more of the Defendants named herein, the premises and/or the portion of them at issue in this lawsuit were in a ruinous, dangerous and/or defective condition, including due to the state of the railing(s) and surrounding areas at issue in this lawsuit, and Defendants The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20 had actual or constructive knowledge of these facts and circumstances.

40. In addition, and/or in the alternative, the condition of the railing(s) and surrounding areas at issue in this lawsuit constitute a nuisance that was created, maintained and/or permitted to exist and persist by Defendants The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20 before one or more of them leased or rented the premises to Spirits or any of its affiliates, and said Defendants knew that its premises were being leased for purposes which involved the admission of the public, including business invitees and patrons like Megan, and that the defective condition(s) and/or nuisance on its premises would involve an unreasonable and foreseeable risk of harm to such persons if they failed to abate or remedy the hazardous, dangerous and/or defective railing(s) and surrounding areas before leasing or renting the premises for these purposes. The Defendants, including The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20 knew that their owned premises contained a known nuisance to public at the time of leasing. Said

Defendants also had reason to expect that Spirits would admit business invitees and patrons like Megan before the premises were put in a safe condition and failed to exercise reasonable care to remedy the situation or otherwise protect such persons from the known defective condition(s) and/or nuisance.

41. In addition, and/or in the alternative, Defendants The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20 leased or rented the hazardous, dangerous and/or defective premises when they were in such want of repair or bad and dangerous condition as to be a nuisance, had control of the property at the time when the defective condition(s) and nuisance existed, had ample opportunities to remove the defective condition(s) and/or nuisance from the premises and yet chose not to do so, received rent for the use of the defective premises and are liable to Plaintiffs for the permanent and catastrophic injuries described in this Complaint.

42. In addition, and/or in the alternative, the defective condition(s) and/or nuisance existing on the premises before Spirits or any of its affiliates leased or rented the premises, including the defective railing(s) and surrounding areas at issue in this lawsuit, were either defects inherent in the construction of the premises and/or were caused by the failure of Defendants The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20 to maintain, service, repair, replace or remove the defective condition(s) and/or nuisance before leasing or renting the premises, including pursuant to contractual agreements to do so, warranties regarding the condition of the premises and/or their breach of their various duties to do so.

43. The Defendants, including but not limited to The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20, were negligent in the manner in which

they constructed, created, maintained, serviced and/or repaired (and/or failed to maintain, service or repair) the defective railing(s) and surrounding areas at issue in this lawsuit, including by failing to comply with various City of Cleveland Ordinances, Ohio Basic Building Code provisions and/or other applicable state or local laws, and some of this conduct may also constitute negligence per se.

44. In addition, and/or in the alternative, Defendants, including but not limited to The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20, agreed to make repairs to the hazardous, dangerous and/or defective conditions and/or nuisance on the premises, including the railing(s) and surrounding areas at issue in this lawsuit, and either negligently failed to make such repairs and/or were negligent in their performance of such repairs, thus exposing them to liability to Plaintiffs for the permanent and catastrophic injuries described in this Complaint.

45. In addition, and/or in the alternative, the dangerous and defective railing(s) and surrounding areas that resulted in catastrophic injuries to Megan were in existence before The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20 leased or rented the premises to Spirits or any of its affiliates, were known by The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants to be a dangerous, hazardous and defective condition and/or nuisance to persons entering the premises, and they failed to maintain, service, repair, replace or remove such known hazardous, dangerous and/or defective condition(s) despite that knowledge both before leasing or renting the premises and continuing thereafter.

46. In addition, and/or in the alternative, Defendants The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20 had actual or constructive

knowledge of the dangers posed by the defective railing(s) both before and after leasing the premises and, in addition to failing to maintain, service, repair, replace or remove the known defect(s), concealed the same from others who would foreseeably come into contact with the defect(s) and not be able to appreciate the dangers associated with them, including Spirits, its employees and/or patrons, including Megan.

47. In addition, and/or in the alternative, Defendants The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20 at all relevant times: had and exercised sufficient possession, power and/or physical control over the premises and/or the nuisance existing thereon, including over the defective railing(s) and surrounding areas known to them and which were already in existence before they leased or rented the premises to Spirits; had actual and/or constructive knowledge of the hazards and dangers posed by the pre-existing defects and/or nuisance on the premises; had the duty to maintain, repair, service, replace and/or remove the defective condition(s) and/or nuisance; had the absolute right and ability to enter the premises to do the same; had the right and power to admit, exclude or evict persons from the premises; and owed a duty of reasonable care to foreseeable users of the premises to maintain, repair, service, replace, remove and/or warn of the pre-existing defective condition(s) and/or nuisance on the premises, including to Spirits, its employees and its patrons, including Megan.

48. At all relevant times, it was foreseeable to Defendants The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20 that if they failed to maintain, service, repair, replace or remove the pre-existing and dangerous defective condition(s) and/or nuisance on the premises, this would unreasonably expose Spirits' employees and patrons to unreasonable risks of harm, including the foreseeability of serious and

permanent injuries, due to the hazardous, dangerous and/or latent characteristics of the defective condition(s) and/or nuisance existing on the premises and at issue in this lawsuit.

49. In addition, and/or in the alternative, Defendants The Dalad Group, WD Downtown, Ltd. and/or one or more of the John Doe Defendants 1-20 breached the duties of care they owed and/or were negligent in several respects, including by creating, maintaining and/or failing to service, repair, replace or remove the defective condition(s) at issue in this lawsuit and/or permitting said defective condition(s) and/or nuisance to exist and persist before and when leasing or renting the premises to one or more of the Spirits Defendants, failing to warn of the defective condition(s) and/or nuisance, and in other respects described elsewhere in this Complaint and/or which will be developed during discovery and proven at the time of trial.

50. One or more of the acts or omissions of negligence and/or the nuisance allegations described herein, which are a proximate cause of the injuries and damages alleged in this Complaint, are attributable to one or more of the officers, directors and/or management personnel of one or more of the Defendants, who are also liable for such negligence and/or nuisance under the doctrine of *respondet superior* and/or pursuant to other well-established agency principles under Ohio law.

51. As a direct and proximate result of Defendants' negligence and/or due to the nuisance they created, maintained and/or allowed to exist on and/or failed to service, repair, replace and/or remove from their owned premises, as described in this Complaint and which will be further developed during discovery and proven at trial, Plaintiffs and/or their daughter, Megan, have suffered catastrophic and substantial harms, losses and damages, which will be permanent and ongoing for the remainder of Megan's life, and which includes both economic and non-economic damages.

52. As a direct and proximate result of Defendants' negligence and/or due to the nuisance they created, maintained and/or allowed to exist on and/or failed to service, repair, replace and/or remove from their owned premises, as described in this Complaint and which will be further developed during discovery and proven at trial, Megan was caused to suffer catastrophic injuries, severe pain, mental anguish, and disability, which continues at the time of this Complaint, and which with reasonable medical certainty will continue for the remainder of her life. This includes but is not limited to one or more injuries which constitute permanent and substantial physical deformities and/or permanent physical functional injuries that permanently prevent Megan from being able to independently care for herself and/or to perform life-sustaining activities.

53. As a direct and proximate result of Defendants' negligence and/or due to the nuisance they created, maintained and/or allowed to exist on and/or failed to service, repair, replace and/or remove from their owned premises, as described in this Complaint and which will be further developed during discovery and proven at trial, Plaintiffs and/or Megan have incurred in excess of One Million Dollars (\$1,000,000.00) in expenses necessary for her medical care and treatment and, with reasonable certainty, will incur in excess of Ten Million Dollars (\$10,000,000.00) in additional medical expenses for her medical care, treatment, rehabilitation and needs over her expected lifetime.

54. As a direct and proximate result of Defendants' negligence and/or due to the nuisance they created, maintained and/or allowed to exist on and/or failed to service, repair, replace and/or remove from their owned premises, as described in this Complaint and which will be further developed during discovery and proven at trial, Megan has been unable to return to her employment since the incident, resulting in a loss of income to her, and will to a reasonable

degree of certainty suffer a permanent and total impairment of her earnings for the rest of her life.

55. Plaintiffs, therefore, say that they and/or Megan have been injured and damaged in a sum in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00).

COUNT THREE

(Additional Negligence Claims against Defendants Nicholas Paul Urso, George Nakhle, Samir Nakhle, Joseph Nakhle, Warehouse Entertainment Group, LLC, Spirits, Spirits Restaurant & Bar, Nakhle Brothers Enterprise LLC, R.S.N. Properties, and/or one or more of the John Doe Defendants 1-20, including Respondeat Superior)

56. Plaintiffs re-allege and fully incorporate the allegations and statements contained in Paragraphs 1 through 55 of this Complaint as if fully rewritten herein.

57. After the defective railing(s) gave way and Megan fell to the first floor due to the negligence of certain Defendants and/or nuisance existing on the premises as described in this Complaint, it was or should have been obvious to any person exercising due care, including all employees, independent contractors and/or agents working and present at Spirits, that Megan had sustained an obvious and significant head, neck and/or spine injury during the fall, particularly since she was bleeding profusely from the head after colliding with a granite counter located below during the fall.

58. One or more of the Defendants, including Defendant Nicholas Paul Urso, acting in the course and scope of his employment with Spirits and/or at the direction of one or more of the Defendants and/or their owners, managers and/or supervisors, negligently and without the exercise of ordinary care that was owed, moved Megan's head, neck and body from the location of where she fell to outside the premises despite her critical and life-threatening injuries.

59. These unreasonable and negligent actions by Defendant Urso, done in the course and scope of his employment and/or at the direction of one or more of the Defendants and/or their owners, managers and/or supervisors, proximately caused an aggravation and/or worsening of Megan's already catastrophic fall-related injuries and medical condition.

60. Defendants Warehouse Entertainment Group, LLC, Spirits, Spirits Restaurant & Bar, George Nakhle, Samir Nakhle, Joseph Nakhle, Nakhle Brothers Enterprises, LLC, R.S.N. Properties and/or one or more of the John Doe Defendants 1-20 are additionally liable for Defendant Urso's negligent acts and omissions under the doctrine of *respondeat superior* and/or pursuant to other well-recognized and applicable agency principles under Ohio law.

61. As a direct and proximate result of Defendants' negligence and aforementioned conduct as described herein and otherwise established during discovery and at trial, Plaintiffs and/or their daughter, Megan, have suffered catastrophic and substantial harms, losses and damages, which will be permanent and ongoing for the remainder of Megan's life, and which includes both economic and non-economic damages.

62. As a direct and proximate result of Defendants' negligence and aforementioned conduct, Megan has suffered catastrophic injuries, severe pain, mental anguish and total disability, which continues at the time of this Complaint, and with reasonable medical certainty she will incur pain, mental anguish, suffering, total disability for the rest of her life. This includes but is not limited to one or more injuries which constitute permanent and substantial physical deformities and/or permanent physical functional injuries that permanently prevent Megan from being able to independently care for herself and/or to perform life-sustaining activities.

63. As a direct and proximate result of Defendants' negligence and aforementioned conduct, as described herein and which will be further developed during discovery and proven at trial, Plaintiffs and/or their daughter Megan have been caused to incur in excess of One Million Dollars (\$1,000,000.00) in expenses necessary for her medical care and treatment and, with reasonable certainty, will incur in excess of Ten Million Dollars (\$10,000,000.00) in additional medical expenses for Megan's medical care, treatment, rehabilitation and needs over her expected lifetime

64. As a direct and proximate result of the Defendants' aforementioned negligence and conduct, Megan has been unable to return to her employment since the incident, resulting in a loss of income to her, and will further suffer a permanent and total impairment of her earnings for the rest of her life.

65. Plaintiffs, therefore, say that they and/or Megan have been injured and damaged in a sum in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00).

COUNT FOUR

(Conscious Disregard against All Defendants)

66. Plaintiffs re-allege and fully incorporate the allegations and statements contained in Paragraphs 1 through 65 of this Complaint as if fully rewritten herein.

67. At all times mentioned herein, the Defendants' actions represented a conscious disregard of the rights and safety of the Plaintiff, Megan Keefe, with a substantial likelihood and/or probability that a severe injury and/or death would occur.

68. As a direct and proximate result of Defendants' conscious disregard of the rights and safety of Megan Keefe, Plaintiffs have therefore been injured and damaged in a sum in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) in punitive damages.

COUNT FIVE

(Loss of Consortium)

69. Plaintiffs re-allege and fully incorporate the allegations and statements contained in Paragraphs 1 through 68 of this Complaint as if fully rewritten herein.

70. Plaintiffs Brian Patrick Keefe, Sr. and Kimberlie Keefe are the natural parents of Megan Nichole Keefe, and due to the traumatic, permanent, and life-altering injuries she sustained as a direct and proximate result of one or more of the Defendants' negligence and/or due to the nuisance one or more of them created, maintained and/or permitted to exist on the premises, they have incurred medical expenses necessary for her medical care and treatment and will reasonably continue to do so into the indefinite future.

71. As a direct and proximate result of Defendants' negligence, aforementioned conduct, and/or due to the nuisance one or more of them created, maintained and/or permitted to exist on the premises, Plaintiffs Brian Patrick Keefe, Sr. and Kimberlie Keefe have additionally been deprived of the aide, comfort, support, and society of their daughter, and will continue to incur these recoverable damages into the indefinite future.

72. Plaintiffs Brian Patrick Keefe, Sr. and Kimberlie Keefe have lost time and income from their employment in order to provide attendant care to their daughter Megan as a result of her permanent and catastrophic injuries. Under the Supreme Court's holding in *Hutchings v. Childress*, 119 Ohio St. 486, the reasonable and/or fair market value of the care they have provided to Megan, and will continue to provide to her into the indefinite future, are an element of Megan's recoverable damages in this lawsuit.

73. Plaintiffs, Brian Patrick Keefe, Sr. and Kimberlie Keefe, therefore, say that they and/or Megan have been injured and damaged in a sum in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00).

WHEREFORE, Plaintiffs pray for judgment against the Defendants, jointly and/or severally, in an amount in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) for compensatory damages and punitive damages, attorney fees, litigation expenses, their costs herein, and all additional legal or equitable relief and remedies deemed just by this Honorable Court.

RESPECTFULLY SUBMITTED,

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JURY DEMAND

Trial by jury is hereby demanded.



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