

**IN THE STATE COURT OF GWINNETT COUNTY  
STATE OF GEORGIA**

2018 JAN 23 PM 12:39

EDWARD ALEXANDER, CLERK

SUSAN BERNECKER, Individually and )  
as the Executrix of the Estate of )  
JOHN BERNECKER, Deceased, )  
 )  
Plaintiff, )

v. )

Civil Action No. 18C 00435-1

STALWART FILMS, LLC, )  
TWD PRODUCTIONS VIII, LLC, )  
AMC FILM HOLDINGS LLC, )  
AMC NETWORK ENTERTAINMENT, LLC, )  
AMC NETWORKS, INC., LARRY TENG, )  
POWDERED DRINK PRODUCTIONS, INC., )  
TOM LUSE, TELLTALE FILMS, INC., )  
JEFFREY F. JANUARY, JANUARY )  
LOUNGE PRODUCTIONS, LLC, )  
MATTHEW GOODWIN, MONTY SIMONS, )  
MONTSTER ACTION, INC., )  
AUSTIN AMELIO, )  
JOHN DOE CORPORATIONS A-Z, )  
 )  
Defendants. )

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff Susan Bernecker brings this action for wrongful death on behalf of her son, John Bernecker, and as the duly-appointed Executrix of his Estate, against Defendants Stalwart Films, LLC, TWD Productions VIII, LLC, AMC Film Holdings, LLC, AMC Network Entertainment, LLC, AMC Networks, Inc., Larry Teng, Powdered Drink Productions, Inc., Tom Luse, Telltale Films, Inc., Jeffrey F. January, January Lounge Productions, LLC, Matthew Goodwin, Monty Simons, Montster Action, Inc., Austin Amelio, and John Doe Corporations A through Z, showing the Court as follows.

## I. PARTIES, JURISDICTION, AND VENUE

1.

Plaintiff Susan Bernecker (“Plaintiff”) is a resident of Louisiana, the mother of John Bernecker (“John”), deceased, and the Executrix of John’s Estate. Plaintiff brings this action for the wrongful death of John and for the injuries he sustained and pain and suffering he endured prior to his death. Plaintiff submits to the jurisdiction and venue of this Court.

2.

John served as a stunt double performer on Episode 807 of the television series *The Walking Dead*. Season 8 of *The Walking Dead*, of which Episode 807 was a part, was filmed primarily in Georgia, including in the City of Senoia, Coweta County.

3.

John’s services as a stunt double performer were provided to Defendant Stalwart Films LLC through his “loan-out” corporation, Prodigy Stunts, LLC (“Prodigy Stunts”). A “loan-out” corporation is a company formed as a separate legal entity that enters into contracts with producers, production companies, etc. to “loan” or furnish the services of the producer, director, writer, actor, or artist that it employs.

4.

Defendant Stalwart Films, LLC (“Stalwart Films”) is a Delaware corporation with a principal office address in California and registered to do business in Georgia. Stalwart Films is a production services company that operates in Georgia and, at all times relevant to the events made the basis of this Complaint, was involved in the production of *The Walking Dead*. Stalwart Films may be served with process by delivering a summons and a copy of this Complaint to its registered agent for service of process, Cogency Global, Inc., 900 Old Roswell Lakes Parkway,

Suite 310, Roswell, Fulton County, Georgia, 30076. Stalwart Films is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-91.

5.

Defendant TWD Productions VIII, LLC (“TWD VIII”), is a Delaware corporation with its principal office in New York and registered to do business in Georgia. TWD VIII is a television production company that produces television programming throughout Georgia and, at all times relevant to the events made the basis of this Complaint, was responsible for the funding and production of Season 8 of *The Walking Dead*. TWD VIII may be served with process by delivering a summons and a copy of this Complaint to its registered agent for service of process, Corporation Service Company, 40 Technology Pkwy South, #300, Norcross, Gwinnett County, Georgia, 30092. TWD VIII is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-91.

6.

Defendant AMC Film Holdings, LLC (“AMC Film Holdings”) is a Delaware corporation with its principal office in New York. AMC Film Holdings is a mass-media corporation that produces, distributes, and broadcasts filmed entertainment throughout Georgia. On information and belief, AMC Film Holdings owns or controls TWD VIII and operates as the production company for *The Walking Dead*. AMC Film Holdings may be served with process by delivering a summons and a copy of this Complaint to its registered agent for service of process, Corporation Service Company, 251 Little Falls Dr., Wilmington, Delaware, 19808. AMC Film Holdings is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-91.

7.

Defendant AMC Network Entertainment, LLC (“AMC Network”) is a Delaware corporation with its principal office in New York. Upon information and belief, AMC Network exercises control and authority over all AMC production entities, including AMC Holdings and TWD VIII. AMC Network may be served with process by delivering a summons and copy of this Complaint to its registered agent for service of process, Corporation Service Company, 251 Little Falls Dr., Wilmington, Delaware, 19808. AMC Network is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-91.

8.

Defendant AMC Networks Inc. (“AMC Parent”) is a Delaware corporation with its principal office in New York. On information and belief, AMC Parent indirectly owns and wholly controls both AMC Holdings and AMC Network. AMC Parent may be served with process by delivering a summons and copy of this Complaint to its registered agent for service of process, Corporation Service Company, 251 Little Falls Dr., Wilmington, Delaware, 19808. AMC Parent is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-91.

9.

Defendant Larry Teng (“Teng”) served as the Director of Episode 807 of *The Walking Dead*. Teng may be served with process by delivering a summons and a copy of this Complaint to him at his place of residence, 3769 Vineland Ave, Studio City, California, 91604. Teng is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-91.

10.

Defendant Powdered Drink Productions, Inc. (“Powdered Drink Productions”) served as the “loan-out” corporation for Teng for Season 8 of *The Walking Dead*. Powdered Drink

Productions is a California corporation with a principal office address also in California.

Powdered Drink Productions may be served with process by delivering a summons and a copy of this Complaint to its registered agent for service of process, Arnold I. Fram, 11620 Wilshire Blvd., Suite 580, Los Angeles, California, 90025. Powdered Drink Productions is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-91.

11.

Defendant Tom Luse (“Luse”) served as the Unit Production Manager of Episode 807 of *The Walking Dead*. Luse may be served with process by delivering a summons and a copy of this Complaint to him at his place of residence, 175 Sampson St., N.E., Atlanta, Fulton County, Georgia, 30312. Luse is subject to the jurisdiction of this Court.

12.

Defendant Telltale Films, Inc. (“Telltale Films”) served as the “loan-out” corporation for Luse for Season 8 of *The Walking Dead*. Telltale Films is a Georgia corporation with a principle office address also in Georgia. Telltale Films may be served with process by delivering a summons and a copy of this Complaint to its registered agent for service of process, Norman Estes Smith, 1827 Independence Sq. #2, Dunwoody, DeKalb County, Georgia, 30338. Telltale Films is subject to the jurisdiction of this Court.

13.

Defendant Jeffrey F. January (“January”) served as First Assistant Director of Episode 807 of *The Walking Dead*. January may be served with process by delivering a summons and a copy of this Complaint to him at his place of residence, 9829 Dunning Circle, Highlands Ranch, Colorado, 80126. January is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-91.

14.

Defendant January Lounge Productions, LLC (“January Lounge Productions”) served as the “loan-out” corporation for January for Season 8 of *The Walking Dead*. January Lounge Productions is a Texas corporation. January Lounge Productions may be served with process by delivering a summons and a copy of this Complaint to its registered agent for service of process, Jeffrey F. January, 106 Malus Ct., Lakeway, Texas, 78734. January Lounge Productions is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-91.

15.

Defendant Matthew Goodwin (“Goodwin”) served as Key Second Assistant Director of Episode 807 of *The Walking Dead*. Goodwin may be served with process by delivering a summons and a copy of this Complaint to him at his place of residence, 23 Northwynn Drive, Sharpsburg, Coweta County, Georgia, 30277. Goodwin is subject to the jurisdiction of this Court.

16.

Defendant Monty Simons served as the Stunt Coordinator for Episode 807 and multiple other episodes of Season 8 of *The Walking Dead*. Simons may be served with process by delivering a summons and a copy of this Complaint to him at his place of residence, 200 Camford Stone Path, Fayetteville, Fayette County, Georgia, 30214. Simons is subject to the jurisdiction of this Court.

17.

Defendant Montster Action, Inc. (“Montster Action”) served as the “loan-out” corporation for Simons for Season 8 of *The Walking Dead*. Montstser Action is a California corporation with a principal office address in Georgia. Montster Action may be served with

process by delivering a summons and a copy of this Complaint to its registered agent for service of process, Kathleen Lillette Simons, 200 Camford Stone Path, Fayetteville, Fayette County, Georgia, 30214. Montster Action is subject to the jurisdiction of this Court.

18.

Defendant Austin Amelio (“Amelio”) served as an Actor on Season 8 of *The Walking Dead*. Amelio may be served with process by delivering a summons and a copy of this Complaint to him at his place of residence, 2855 Elliott Circle N.E., Atlanta, Fulton County, Georgia, 30305. Amelio is subject to the jurisdiction of this Court.

19.

Plaintiff has conducted a thorough and diligent investigation to learn the identities of all entities responsible for the wrongdoing alleged herein. However, Plaintiff believes that additional entities may exist that are presently unnamed due to Plaintiff’s inability to discover their identities or the extent of their involvement at this time. To that end, Defendant John Doe Corporations A through M are not-yet-identified corporations that contracted with one or more of the Defendants to provide the services of its principals for Season 8 of *The Walking Dead*. Defendant John Doe Corporations N through Z are not-yet identified entities that form part of the corporate structure that creates, manages, or enforces the production budget for Season 8 of *The Walking Dead*, or that derives profits from Season 8 of *The Walking Dead*.

20.

At the time of the events made the basis of this Complaint, John was working as an employee of Prodigy Stunts and as an independent contractor on *The Walking Dead*, alongside Defendants Stalwart Films, Teng, Luse, January, Goodwin, Simons, and their loan-out corporations (referred to collectively as the “Stalwart Film Defendants”).

21.

The Stalwart Film Defendants operated as independent contractors of each other.

22.

Venue is proper as to all Defendants residing, domiciled, organized, existing under, or authorized to do business in Georgia pursuant to O.C.G.A. § 9-10-31.

23.

Venue is proper as to all nonresident Defendants pursuant to O.C.G.A. § 9-10-93.

## II. FACTUAL ALLEGATIONS

24.

Plaintiff re-alleges and incorporates the preceding paragraphs as if set forth fully herein.

25.

John was an established, experienced stunt performer and actor, with nearly 100 different film and television credits to his name at only 33 years-old.

26.

In July 2017, John entered into a contract with Stalwart Films through his loan-out corporation, Prodigy Stunts, to provide his services as a stunt performer on Season 8 of *The Walking Dead*, a television program aired on the AMC television channel.

27.

The production of Season 8 of *The Walking Dead*, like seasons before it, had an emphasis on keeping production budgets low and profits high. Specifically, AMC Parent, AMC Network, and AMC Holdings, through production company TWD VIII (collectively referred to herein as the “AMC Defendants”), put pressure on the production services company, Stalwart Films, to produce episodes of *The Walking Dead* as cheaply as possible.



28.

The AMC Defendants orchestrated and enforced a pattern of filming and producing *The Walking Dead* cheaply and, ultimately, unsafely.

29.

As part of this emphasis, the AMC Defendants pressured Stalwart Films to maintain unreasonably low budgets and expenses for episodes, including the budget allotted to stunts. Accordingly, the production of *The Walking Dead* repeatedly cut corners on safety precautions, including as it pertained to stunt performances.

30.

Due to pressure from the AMC Defendants and their emphasis on prioritizing profit over safety, Stalwart Films allocated an unreasonably low budget for stunt performances for Season 8 of *The Walking Dead* and Episode 807.

31.

Defendant Simons, as Stunt Coordinator for Episode 807, was responsible for designing the action sequence and coordinating all the personnel and equipment needed to safely execute the action sequences. As Stunt Coordinator, Simons casts the stunt personnel, and supervises and oversees stunt and principal performers during stunt performances to ensure that the performances are done safely and in a manner consistent with industry practices and standards. As Stunt Coordinator, Simons was also responsible for working with the First Assistant Director to hold safety meetings before every action sequence. Simons' services as stunt coordinator were provided and contracted to Stalwart Films through his loan-out corporation, Defendant Montster Action.

32.

As Director for Episode 807, Defendant Teng retained responsibility for ultimate decision making when filming a scene, and was ultimately responsible for ensuring scenes were filmed safely and in compliance with applicable laws, regulations, and industry standards. On information and belief, Teng's services as director were provided and contracted through his loan-out corporation, Defendant Powdered Drink Productions.

33.

Defendant Luse served as both an Executive Producer and as Unit Production Manager ("UPM") for Episode 807. As UPM, Luse was responsible for managing the production of Episode 807 and regulating the cost and budget of the episode. On information and belief, Luse provided his services through his loan-out corporation, Defendant Telltale Films.

34.

Defendant January, as First Assistant Director, was assigned primary responsibility for taking care of the health and safety of the crew, by, among other things, holding safety meetings, ensuring safety precautions are in place, arranging for appropriate medical personnel and facilities at filming locations, and reporting any unsafe conditions. On information and belief, January provided his services through his loan-out corporation, Defendant January Lounge Films.

35.

On information and belief, Defendant January delegated or assigned a portion of the responsibilities related to the health and safety of the crew to Defendant Goodwin, Key Second Assistant Director.

36.

On July 12, 2017, as part of the filming of Episode 807, *The Walking Dead* production planned to film a stunt that required John to perform a stunt fall off of a 22-foot platform, transformed into a “balcony” for the scene, over a makeshift railing. The bars of the railing were partially covered on the outside by a piece of sheet metal.

37.

Defendant Amelio, an actor and not a trained stunt performer, was part of the scene and the only other individual on the balcony with John when the subject scene was filmed.

38.

In the subject scene, Amelio’s character, Dwight, was to “shoot” John, and “push” him over the railing and off of the balcony. Amelio was instructed not to actually touch John during the stunt performance.

39.

To allow John to propel himself up and over the balcony’s makeshift railing, John used an “apple box.” An apple box is a wooden box or crate used in film production for various purposes, and is used in stunt performances to provide additional height or leverage.

40.

On the ground below, the only fall protection for the scene consisted of an area of padding made up of “port-a-pit” pads on top of 22-inch cardboard boxes tied together by rope. No air bags were used, nor were any spotters in place. The padding did not fully extend under the balcony.

41.

Before filming, the fall was never rehearsed. While a medic was present at the filming location, there was no ambulance or medical transport at the filming location, contrary to established industry standards.

42.

During the performance of the scene, on information and belief, Defendant Amelio actually touched John, appearing to push John, yet pulling or grabbing the clothing at John's back. As John "fell" over the railing, his momentum was changed or inhibited, causing the trajectory of his fall to lead closer to and underneath the balcony. John was propelled to the ground under the balcony, where the ground was not padded or protected in any way. On information and belief, John landed on his head or shoulder area. John suffered blunt force trauma and severe traumatic injuries as a result of the fall. During and after John's fall, he suffered conscious pain and suffering.

43.

After John's fall, there was no ambulance on site. It took over 30 minutes from the time of the fall before John was evacuated by helicopter for medical treatment. Ultimately, due to the delay in transport, it took roughly one hour after John's fall before he was hospitalized for his injuries.

44.

John was declared dead on July 12, 2017, and removed from organ support on July 16, 2017.

The Stalwart Film Defendants failed to properly and safely produce, direct, and perform the subject scene using reasonable, minimum safety precautions. Among other things, the Stalwart Film Defendants failed to properly prepare for the subject scene and the accompanying fall hazard in the following ways:

- a. Failing to provide an adequate area of padding that covered a sufficient area of ground, including the area below and underneath the balcony where John was standing;
- b. Failing to utilize appropriate padding and construction, or preparation of a viable pad, for use in a stunt fall;
- c. Failing to utilize spotters around the padding to assist in protecting John and correcting his trajectory, in keeping with industry standards;
- d. Failing to pad or protect the ground area around the pads to provide for protection if John's fall extended beyond the padding;
- e. Failing to reduce the stunt fall distance for the scene when proper safety measures for the 22-foot fall could not be utilized;
- f. Failing to use any sort of catch, restraint, or deceleration system to prevent John from contacting the ground, especially if the fall is not planned to be filmed;
- g. Failing to secure the services of an independent safety specialist to assess the potential hazards and develop appropriate risk reduction strategies;
- h. Failing to provide and require the use of personal protective equipment that may have reduced the risk of injury to John;

- i. Allowing an actor untrained and inexperienced in the performance of stunts, Defendant Amelio, to participate in a stunt fall, rather than utilizing another stunt double performer to work with John, who was also performing as a stunt double;
- j. Providing an “apple box” that was insufficiently stabilized or equipped with grip material to allow John to gain the momentum necessary to propel him over the railing with the proper trajectory;
- k. Equipping the outside of the balcony railing with sheet metal, restricting John’s mobility and movement over the railing;
- l. Failing to have an ambulance on site at the filming location, in keeping with industry standards; and
- m. Failing to account for the time for medical transport when filming in a remote location.

46.

By committing these acts, or failures to act, the Stalwart Film Defendants operated without minimum reasonable safety precautions.

47.

On January 3, 2018, the U.S. Department of Labor, Occupational Safety and Health Administration (“OSHA”) issued a citation resulting from John’s death. OSHA cited Stalwart Films for exposing John to a fall hazard without implementing feasible and acceptable means to materially reduce the hazard including: reducing the stunt fall distance for the scene; using a catch system that takes into account the freefall distance, performer’s trajectory, and foreseeable mishaps; providing an adequate number of spotters equipped with individual crash pads to

protect performers; securing the services of an independent safety specialist to assess the potential hazards and develop appropriate risk reduction strategies; provide and require use of personal protective equipment that may reduce the risk to stunt performers; and using a restraint or deceleration system to prevent the stunt performer from contacting the ground.

48.

The Stalwart Film Defendants' numerous failures to take reasonable safety precautions were the direct result of the policies, pressure, and decisions from the AMC Defendants to produce *The Walking Dead* for minimum cost and maximum profit.

49.

Specifically, the AMC Defendants orchestrated a pattern of producing *The Walking Dead* cheaply and unsafely to maximize profits.

50.

As the ultimate decision-makers for *The Walking Dead* production, the AMC Defendants are each independently and ultimately responsible for the failure of *The Walking Dead* production to take reasonable safety precautions to protect its performer, John Bernecker.

51.

Each of the Defendants had knowledge, actual or constructive, that the filming of Season 8 of *The Walking Dead*, including Episode 807, was not being performed in a safe manner in accordance with industry standards.

52.

Each of the Defendants is independently liable to Plaintiff for the death of John Bernecker.

53.

Each of the Defendants' acts and omissions described in this Complaint constitutes an independent act of negligence on the part of Defendants, and one or more of all of the acts or failures to act described herein were a proximate cause of John Bernecker's injuries and death. As a result, Defendants are joint tortfeasors, and their individual and combined negligence renders them liable to Plaintiff for all damages recoverable under Georgia law.

### **III. ALLEGATIONS OF NEGLIGENCE**

54.

Plaintiff re-alleges and incorporates the preceding paragraphs as if set forth fully herein.

55.

Each of the Stalwart Film Defendants owed an independent duty to John Bernecker to take reasonable safety precautions on the set of Episode 807 and in the filming of the subject scene.

56.

Each of the Stalwart Film Defendants breached the duty owed to John Bernecker by failing to exercise ordinary care on and leading up to July 12, 2017, when the subject scene was filmed, by failing to protect its stunt double performer, John Bernecker, and by failing to take reasonable safety precautions, including those measures outlined in the OSHA citation issued January 3, 2018.

57.

Each of the AMC Defendants breached the duty owed to John Bernecker by failing to exercise ordinary care in the production of Season 8 of *The Walking Dead*, through their



orchestrated pattern and policy of prioritizing profits and the bottom line over reasonable expenditures to secure the safety of *The Walking Dead* cast and crew, including John Bernecker.

58.

Each of the Defendants had knowledge, both actual and constructive, of the dangers presented by failing to take appropriate safety measures during the filming of Season 8 of *The Walking Dead* and Episode 807.

59.

Each of the Defendants failed to warn John Bernecker of the dangers presented by the failure to take appropriate safety measures during the filming of the subject scene.

60.

Each of the Defendants' failures, individually and as a whole, amounted to a negligent breach of the duty to exercise reasonable care.

61.

Defendants' negligence actually and proximately caused John Bernecker's injuries and death, rendering Defendants liable to Plaintiff for John's injuries, pain and suffering, the full value of his life, and all other elements of damages allowed under the laws of the State of Georgia.

#### **IV. DAMAGES**

62.

Plaintiff re-alleges and incorporates the preceding paragraphs as if set forth fully herein.

63.

Plaintiff requests general and special damages resulting from John's injuries, pain and suffering, and death, in an amount to be determined by the enlightened conscience of the jury.

64.

Further, each of the Defendants' respective wrongful actions and/or inactions showed willful misconduct, wantonness, oppression, or that entire want of care which raises the presumption of a conscious indifference to consequences.

65.

Punitive damages should be imposed in an amount sufficient to penalize the Defendants and to deter such willful, wanton, and reckless conduct in the future, pursuant to O.C.G.A. § 51-12-5.1.

### **V. PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for the following relief:

1. That summons and process issue and Defendants be served with this Complaint as required by law and be required to appear and answer;
2. That Plaintiff receive a **TRIAL BY JURY**;
3. That judgment be entered against Defendants and in favor of Plaintiff;
4. That Plaintiff be awarded compensatory, general, special, and all other damages allowable by law in an amount determined by the enlightened conscience of the jury;
5. That Plaintiff be awarded punitive damages in an amount determined by the enlightened conscience of the jury;
6. That Plaintiff be awarded all attorneys' fees, costs, expenses, and interest attributable to this action; and
7. That Plaintiff be granted such other and further relief as the Court deems just and proper.

Respectfully submitted this 22 day of January, 2018.

**HARRIS LOWRY MANTON LLP**

  
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