

SEP 25 2019

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA**

ABEL MONTANO,

Plaintiff,

vs.

THE GARAGE BAR; CITY OF VENTURA
and DOES 1 THROUGH 20, INCLUSIVE,

Defendants.

Case No.:

**COMPLAINT FOR DAMAGES,
STATUTORY LIABILITY**

JURY TRIAL DEMANDED

BY FAX

Comes now plaintiff, ABEL MONTANO, who alleges as follows:

PARTIES

1. Plaintiff, ABEL MONTANO, is a natural person and was at all times relevant herein a resident of the County of Ventura, State of California.
2. Defendant, THE GARAGE BAR (hereinafter "GARAGE BAR") and DOES 1 through 20 and each of them, were and now are an INCORPORATED MUNICIPALITY in State of California, County of Ventura. Defendants, CITY OF VENTURA (hereinafter "CITY"), and DOES 1 through 20 and each of them, were and now are authorized Governmental

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1 entities in State of California, County of Ventura.

2 3. Prior to the commencement of this action, Plaintiffs, filed Claims for Damages herein with
3 all Defendants within 180 days of the accrual of such action.

4 4. The true names and capacities of Defendants designated herein as DOES 1 through 20,
5 inclusive, and each of them, including each and every number between 1 and 20, are
6 unknown to Plaintiff, who therefore sues these Defendants by such fictitious names
7 pursuant to C.C.P. §474, and will seek leave of court to amend this Complaint when such
8 names have been ascertained. Plaintiff is informed and believes and thereon allege that
9 each Defendant designated herein as a "DOE" was responsible (negligently or in some
10 other legally actionable manner) for the events which legally caused injury to Plaintiff
11 under legal theories which include but are not limited to general negligence, strict liability
12 in tort, although the identity of said DOE Defendants may be known to Plaintiff, at the time
13 of the filing of this Complaint, Plaintiff is ignorant of the facts constituting a cause of action
14 against said DOE Defendants, and each of them.

15 5. At all times herein mentioned, Defendants, and each of them, were the agents, servants,
16 employees, assistants, consultants and the like of their co-Defendants and were as such
17 acting within the course and scope of such agency, service, and employment at all times
18 relevant herein, and each and every Defendant was negligent in the selection, hiring,
19 monitoring, supervising and continued employment of each and every other Defendant as
20 a servant, employee, assistant and consultant.
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22 **GENERAL ALLEGATIONS**

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24 6. On or about July 4, 2018 Plaintiff was severely injured while walking on the sidewalk in
25 front of 1091 Scandia Ave., Ventura, CA 93004. This area is under the administration,
26 supervision, management and/or control of GARAGE BAR and CITY and DOES 1
27 through 20, inclusive, and each of them.
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1 FIRST CAUSE OF ACTION LIABILITY OF A PUBLIC ENTITY FOR INJURY
2 CAUSED BY A DANGEROUS CONDITION OF PUBLIC PROPERTY UNDER
3 GOV. CODE SECTIONS 815.2, 820, 835 AND UNDER CIVIL CODE SECTION
4 1714 AGAINST CITY OF VENTURA

5 7. Plaintiff realleges all paragraphs set-forth above as though fully set forth herein. Plaintiff
6 alleges that on or about July 4, 2018 he fell and was injured due to the dangerous condition
7 of the sidewalk he was walking on. Defendants and each of them and DOES 1-20, and each
8 of them, were the owners, possessors and/or operators of the sidewalk/walkway located at
9 1091 Scandia Ave., in Ventura, CA. The Plaintiff alleges herein that the Defendants, and
10 each of them, were negligent in the administration, operation, management and/or control
11 of public sidewalk and pavement at 1091 Scandia Ave., in Ventura, CA. Plaintiff was a
12 foreseeable pedestrian in the area of where he encountered the dangerous wet and slippery
13 sidewalk/walkway. The sidewalk and pavement were wet with green slimy substance
14 which came from Defendant GARAGE BAR's "Jello Wrestling Event" and there were no
15 warning signs to warn the pedestrians of the dangerous condition. This wet sidewalk and
16 pavement caused him to slip and fall and injure himself by falling to the ground. The
17 sidewalk was wet with green slimy substance and there were no warning signs and was a
18 dangerous condition of public property.

19 8. Defendants each of them and DOES 1 through 20, inclusive, and/or their management,
20 administrative, designers, planners, engineers, maintenance personnel, inspectors and/or
21 other employees, staff, agents or contractors, acting within the course and scope of their
22 duties and/or employment failed to properly inspect, design, maintain and/or repair the
23 subject sidewalk such that on July 4, 2018 the sidewalk was dangerous. These failures, acts
24 and omissions were inherently dangerous and created a peculiar risk, nuisance and trap.

25 9. Defendants each of them and DOES 1 through 20, inclusive, and/or their management,
26 administrative, designers, planners, engineers, maintenance personnel, inspectors and/or
27 other employees, staff, agents or contractors, acting within the course and scope of their
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1 duties and through negligent or wrongful acts or omissions created, or allowed to be
2 created, a dangerous condition under Gov. Code § 835. Defendants each of them and DOES
3 1 through 20, inclusive, negligently, unreasonably and improperly allowed a dangerous
4 condition of public property to exist on the sidewalk where Plaintiff fell. The sidewalk and
5 pavement were wet with green slimy substance which came from Defendant GARAGE
6 BAR's "Jello Wrestling Event" and there were no warning signs thus making the area
7 dangerous for pedestrians. The wet and slippery sidewalk and pavement exposed its
8 intended users, the public, including Plaintiff, to a dangerous condition. There were no
9 warning signs. Furthermore, Defendants each of them and DOES 1 through 20, inclusive
10 inspection, maintenance and/or repair of the subject sidewalk was done negligently,
11 inadequately and improperly and created a hazard, trap and dangerous condition under
12 Gov. Code § 835. It also created a peculiar risk and trap, a wet and slippery sidewalk not
13 reasonably apparent to pedestrians on the sidewalk.

14 10. Sufficient time passed from the moment the dangerous condition was created such that
15 Defendants each of them and DOES 1 through 20, inclusive, knew or should have known
16 a dangerous condition was created and such that it had sufficient time to have remedied or
17 warned against the dangerous condition.

18 11. The injury was foreseeable to Defendants each of them and DOES 1 through 20, inclusive,
19 and, yet, they failed to warn users of the walkway. Defendants each of them and DOES 1
20 through 20, inclusive, had sufficient time in which to take action to remedy the dangerous
21 condition.

22 12. Defendants each of them and DOES 1 through 20, inclusive, and/or their management,
23 administrative, designers, planners, engineers, maintenance personnel, inspectors and/or
24 other employees, staff, agents or contractors, acting within the course and scope of their
25 duties and/or employment negligently, unreasonably and improperly owned, operated,
26 designed, planned, engineered, maintained, inspected, repaired, failed to repair, and
27 controlled the sidewalks and trees, including the subject sidewalk; thereby creating a
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1 dangerous condition and exposing pedestrians to this dangerous condition. This
2 governmental entity undertook to control sidewalks, invited reliance that the sidewalk was
3 safe, and is liable as it created a dangerous condition in doing so.

4 13. The dangerous condition created a reasonably foreseeable risk of the kind of injuries which
5 were incurred, and (a) a negligent or wrongful act or omission of Defendants and each of
6 them and Does 1-20 and/or (b) they had actual or constructive notice of the dangerous
7 condition a sufficient time prior to the injury to have taken measures to protect against the
8 dangerous condition.

9 14. This dangerous condition and these acts and omissions of the Defendants and each of them
10 and Does 1-20 proximately caused Plaintiff's injuries.

11 15. Furthermore, this dangerous condition was directly attributable, wholly or in substantial
12 part, to a negligent or wrongful act of these employees of Defendants each of them and
13 DOES 1 through 20, inclusive, and these employees had the authority and the funds and
14 other means immediately available to take alternative action which would not have created
15 the dangerous condition; and/or these employees had the authority and it was his/her/their
16 responsibility to take adequate measures to protect against the dangerous condition at the
17 expense of the public entity and the funds and other means for doing so were immediately
18 available to him/her/them, and he/she/they had actual or constructive notice of the
19 dangerous condition a sufficient time prior to the injury to have taken measures to protect
20 against the dangerous condition.

21 16. Further, signs, warnings or other devices were necessary to warn of this dangerous
22 condition which endangered the safe movement of pedestrians and which would not be
23 reasonably apparent to, and would not have been anticipated by, a person exercising due
24 care.

25 17. Further, Defendants and each of them and DOES 1 through 20, inclusive, and their
26 employees acting within the scope of their employment undertook, gratuitously or for
27 consideration, to avoid, remedy and/or abate these dangerous conditions. These
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1 undertakings and promises were the kind that they recognized as necessary for the
2 protection of third persons. These entities and their employees acting within the scope of
3 their employment failed to exercise reasonable care in the performance of these
4 undertakings and promises, the failure to exercise reasonable care resulted in physical harm
5 to the third persons; and either (a) their carelessness increased the risk of such harm, or (b)
6 the undertaking or promises were to perform a duty that the other owed to the third persons,
7 or (c) the harm was suffered because either the other or the third persons relied on the
8 undertaking.

9 18. Due to these acts and failures to act and dangerous conditions Defendants each of them and
10 Does 1-20 and its employees are liable for Plaintiff's injuries under the Govt Code,
11 including, but not limited to Sections 815.2(a), 820(a), 830.8, 835 and 840.2 and Civil Code
12 1714.

13 19. By reason of the foregoing, defendants are liable for, and Plaintiff is entitled to recover
14 from them, his general, special, actual and compensatory damages, including, but not
15 limited to, his necessary medical and related expenses, past, present and future lost
16 earnings, loss of future earning capacity, as well as mental, emotional and physical pain
17 and suffering, as proven at time of trial. The total amount of Plaintiff's damages is
18 presently unknown but is reasonably believed to be in excess of the minimum jurisdictional
19 limit of this Court.
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21 **SECOND CAUSE OF ACTION NEGLIGENCE AGAINST THE GARAGE**

22 **BAR AND DOES 1-20**

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25 20. Plaintiff realleges all paragraphs set-forth above as though fully set forth herein. Plaintiff
26 alleges that on or about July 4, 2018 he fell and was injured due to the dangerous condition
27 of the sidewalk he was walking on. Defendants and each of them and DOES 1-20, and each
28 of them, were the owners, possessors and/or operators of a bar called The Garage Bar

1 located at 1091 Scandia Ave., in Ventura, CA. The Plaintiff alleges herein that the
2 Defendants, and each of them, were negligent in the administration, operation,
3 management and/or control of their bar. Plaintiff was a foreseeable pedestrian in the area
4 of where he encountered the dangerous wet and slippery sidewalk/walkway. The sidewalk
5 and pavement were wet with green slimy substance which came from Defendant GARAGE
6 BAR's "Jello Wrestling Event" and there were no warning signs to warn the pedestrians of
7 the dangerous condition. This wet sidewalk and pavement caused him to slip and fall and
8 injure himself by falling to the ground. The Garage Bar negligently dumped the jello from
9 their jello wrestling event on the public sidewalk, thereby exposing pedestrians such as the
10 Plaintiff to unreasonable risks of harm.

11 21. By reason of the foregoing, defendant Garage Bar is liable for its negligence and such
12 negligence was the actual and proximate cause of the injuries suffered herein by Plaintiff.
13 Thus, Plaintiff is entitled to recover from them, his general, special, actual and
14 compensatory damages, including, but not limited to, his necessary medical and related
15 expenses, past, present and future lost earnings, loss of future earning capacity, as well as
16 mental, emotional and physical pain and suffering, as proven at time of trial. The total
17 amount of Plaintiff's damages is presently unknown but is reasonably believed to be in
18 excess of the minimum jurisdictional limit of this Court.

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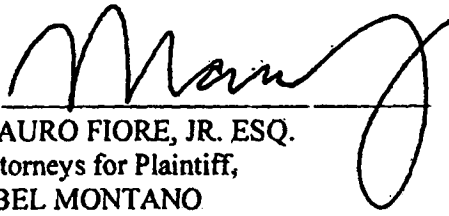
PRAYER

WHEREFORE, Plaintiff demands judgment against Defendants, and each of them, as follows:

1. For an award of Plaintiff's general, special, actual and compensatory damages as proven at time of trial, with interest thereon according to law;
2. For an award of the costs incurred by Plaintiff in bringing and maintaining this action; as well as
3. For such other and further relief which this Court deems just and proper.

Dated: September 23, 2019

LAW OFFICES OF MAURO FIORE, JR.

By: 
MAURO FIORE, JR. ESQ.
Attorneys for Plaintiff,
ABEL MONTANO