



SHORT TITLE: <b>Rossiter v. The Waterford, et al.</b>	CASE NUMBER:
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4.  Plaintiff (name):  
 is doing business under the fictitious name (specify):  
  
 and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person  
 a.  except defendant (name): **The Waterford Assn'**  
 (1)  a business organization, form unknown  
 (2)  a corporation  
 (3)  an unincorporated entity (describe):  
  
 (4)  a public entity (describe):  
  
 (5)  other (specify):

c.  except defendant (name):  
 (1)  a business organization, form unknown  
 (2)  a corporation  
 (3)  an unincorporated entity (describe):  
  
 (4)  a public entity (describe):  
  
 (5)  other (specify):

b.  except defendant (name): **Management Solution**  
 (1)  a business organization, form unknown  
 (2)  a corporation  
 (3)  an unincorporated entity (describe):  
  
 (4)  a public entity (describe):  
  
 (5)  other (specify):

d.  except defendant (name):  
 (1)  a business organization, form unknown  
 (2)  a corporation  
 (3)  an unincorporated entity (describe):  
  
 (4)  a public entity (describe):  
  
 (5)  other (specify):

Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.  
 a.  Doe defendants (specify Doe numbers): 1-5 were the agents or employees of other named defendants and acted within the scope of that agency or employment.  
 b.  Doe defendants (specify Doe numbers): 6-10 are persons whose capacities are unknown to plaintiff.

7.  Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because  
 a.  at least one defendant now resides in its jurisdictional area.  
 b.  the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.  
 c.  injury to person or damage to personal property occurred in its jurisdictional area.  
 d.  other (specify):

9.  Plaintiff is required to comply with a claims statute, and  
 a.  has complied with applicable claims statutes, or  
 b.  is excused from complying because (specify):

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10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a.  Motor Vehicle
- b.  General Negligence
- c.  Intentional Tort
- d.  Products Liability
- e.  Premises Liability
- f.  Other (specify):

Negligent Infliction of Emotional Distress

11. Plaintiff has suffered

- a.  wage loss
- b.  loss of use of property
- c.  hospital and medical expenses
- d.  general damage
- e.  property damage
- f.  loss of earning capacity
- g.  other damage (specify):

Pain and suffering and emotional distress

12.  The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a.  listed in Attachment 12.
- b.  as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1)  compensatory damages
- (2)  punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

- (1)  according to proof
- (2)  in the amount of: \$

15.  The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

all paragraphs

Date: October 29, 2019

Jennifer Snyder

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

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First \_\_\_\_\_ **CAUSE OF ACTION—General Negligence** Page 4  
 (number)

ATTACHMENT TO  Complaint  Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): Eric Rossiter

alleges that defendant (name): The Waterford Association, et al.

Does 1 to 10

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): August 17, 2018

at (place): The Waterford Condominiums, 6426 Buena Vista Drive, Newark, CA 94560

(description of reasons for liability):

On information and belief, on or about August 17, 2018 Plaintiff was taking his trash out to the designated trash area near bldg. 26 at the Waterford Condominiums located on Buena Vista Dr, Newark, CA 94560. Plaintiff entered the enclosed area where the trash bins were located and a skunk hissed and raised its tail in an aggressive manner frightening Plaintiff. Plaintiff turned to run but in the corner of the entry/exit path there is a cement cut-out that is filled with rocks causing an uneven surface which caused Plaintiff to trip and fall as he attempted to flee. The skunk was still aggressively pursuing Plaintiff, who got up and ran from home while being chased by the skunk.

On information and belief Defendants were aware of significant skunk activity, specifically around food sources but failed to keep the trash area free from skunks. Defendants were also aware of the placement of a single cement square filled with rocks causing an uneven and unsafe condition for residents using common areas. Defendants have a duty to inspect, maintain and repair the common areas located throughout the association's development, including but not limited to the trash area and walkways in the development. Defendants failed to use reasonable care to make safe, known dangerous conditions (uneven surface and wild animals) and failed to protect Plaintiff while he was in common areas, causing Plaintiff to trip and fall causing injury.

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Second                      **CAUSE OF ACTION—Premises Liability** Page   5    
 (number)

ATTACHMENT TO  Complaint  Cross - Complaint  
 (Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff (name): **Eric Rossiter**  
 alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.  
 On (date): **August 17, 2018** plaintiff was injured on the following premises in the following  
 fashion (description of premises and circumstances of injury):

Plaintiff was at the trash area near bldg. 26 at the Waterford Condominium, located on Buena Vista Dr, Newark, CA 94560. A skunk approached aggressively hissing and raised its tail at Plaintiff, Plaintiff turned to run but he tripped and fell in the cement cut-out that is filled with small rocks causing an uneven surface in the walkway. Plaintiff alleges Defendants are negligent in ownership, maintenance and control of property because they failed to remediate known hazards on the property.

Prem.L-2.  **Count One—Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names):  
**The Waterford Association, Don Murphy, Management Solutions, Raphael Contreras, Cynthia Schuester, Michael Heinman**  
 Does   1   to   10  

Prem.L-3.  **Count Two—Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were (names):  
**The Waterford Association, Don Murphy, Management Solutions, Raphael Contreras, Cynthia Schuester, Michael Heinman**  
 Does   1   to   10    
 Plaintiff, a recreational user, was  an invited guest  a paying guest.

Prem.L-4.  **Count Three—Dangerous Condition of Public Property** The defendants who owned public property on which a dangerous condition existed were (names):  
 Does                      to                       
 a.  The defendant public entity had  actual  constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.  
 b.  The condition was created by employees of the defendant public entity.

Prem.L-5. a.  **Allegations about Other Defendants** The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):  
**The Waterford Association, Don Murphy, Management Solutions, Raphael Contreras, Cynthia Schuester, Michael Heinman**  
 Does   1   to   10    
 b.  The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are  described in attachment Prem.L-5.b  as follows (names):

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Third                      CAUSE OF ACTION—General Negligence Page 6  
 (number)

ATTACHMENT TO  Complaint  Cross - Complaint  
 (Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): Eric Rossiter

alleges that defendant (name): The Waterford Association, et al.

Does 1 to 10

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff  
 on (date): August 17, 2018  
 at (place): The Waterford Condominiums, 6426 Buena Vista Drive, Newark, CA 94560

(description of reasons for liability):

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

1. All allegations of the complaint are incorporated in this cause of action.
2. Defendants owed a duty of care such that they must act as reasonably prudent people in managing their rental property and must reasonably protect tenants from severe emotional distress.
3. Defendant, each of them, knew or reasonably should have known that by engaging in the foregoing behavior, Plaintiff would suffer extreme mental distress, frustration, annoyance, sorrow, anger, grief, embarrassment, physical injuries, and discomfort.
4. As a direct and proximate result of the negligence of the Defendant, and each of them, as described here-in-above, Plaintiff has suffered extreme emotional distress and general and special damages in an amount that will be ascertained according to proof at time of trial.