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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF RIVERSIDE**

11 PAT AZARNOFF, an individual; KAREN
12 PALS, an individual; JULIE FONSECA, an
individual,

13 Plaintiffs,

14 vs.

15 FIRE MEMORIES INC., a California
16 Corporation; DEBBIE FRANKLIN, an
individual; and DOES 1 through 40,
17 inclusive,

18 Defendants.

Case No. RIC1308649

FIRST AMENDED COMPLAINT FOR:

1. **WRONGFUL DEATH DUE TO NEGLIGENCE**
2. **NEGLIGENCE**
3. **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

DEMAND FOR JURY TRIAL

19
20 Plaintiffs PAT AZARNOFF, an individual; KAREN PALS, an individual; JULIE
21 FONSECA, an individual, (collectively referred to as "Plaintiffs") hereby bring their Complaint
22 alleging against defendants FIRE MEMORIES INC., a California Corporation; and Does 1
23 through 40 inclusive (collectively referred to as "Defendants"), as follows:

24 This is a wrongful death action that occurred when Dr. Roy Arzanoff (then 80 years old)
25 was struck by an oncoming car while he was crossing a four lane street with his wife, in order to
26 retrieve his car following a birthday celebration that took place at the Fire Memories Museum on
27 West Wilson Street, in the city of Banning, California.
28

1 1. It was Defendants' negligence that placed Dr. Arzanoff and his wife in such a
2 dangerous situation. Defendants breached their duty to exercise reasonable care by failing to
3 provide adequate parking, as required under the applicable standard of care. Indeed, the event at
4 the Fire Memories Museum was required to have a Temporary Use Permit from the City of
5 Banning, which required the holder of the event provide "arrangements for temporary parking
6 facilities, including vehicular ingress and egress."

7 2. Defendants failed to provide parking for their 100 invited guests, and had prior
8 knowledge that the only alternative parking was across a 4 lane street with no reasonable passage
9 near the Fire Memories Museum. Indeed, this was a 70th birthday celebration that was being
10 attended by elderly guests – including the 80 year old Dr. Arzanoff and his wife.

11 3. If Defendants had fulfilled their obligations to provide adequate parking for the
12 birthday celebration, Dr. Arzanoff would be alive today.

13
14 **THE PARTIES**

15 4. At all times herein mentioned prior to his death, Decedent Roy Azarnoff was an
16 individual residing in the County of Riverside, State of California. The Decedent Roy Azarnoff
17 is survived by his spouse, Pat Azarnoff, and children Karen Pals and Julie Fonseca.

18 5. At all times herein mentioned, Plaintiff Pat Azarnoff was an individual residing in
19 the County of Riverside, State of California, and is the spouse of the Decedent Roy Azarnoff.

20 6. At all times herein mentioned, Plaintiff Karen Pals was an individual residing in
21 the County of Los Angeles, State of California, and is the biological daughter of the Decedent
22 Roy Azarnoff.

23 7. At all times herein mentioned, Plaintiff Julie Fonseca was an individual residing
24 in the County of Washington, State of Utah, and is the biological daughter of the Decedent Roy
25 Azarnoff.

26 8. Plaintiff is informed and believes and based thereon alleges that Defendant Fire
27 Memories Inc. is, and at all relevant times was, a California Corporation qualified to do business
28 and conducting business in the State of California, County of Riverside.

1 9. Plaintiff is informed and believes and based thereon alleges that Defendant
2 Debbie Franklin is, and at all relevant times, was an individual residing in the County of
3 Riverside, State of California.

4 10. Defendants DOES 1 through 40, inclusive, whether individuals, corporations,
5 associations or otherwise, are fictitious names of defendants whose true names and capacities are
6 unknown to Plaintiffs at this time. Each fictitiously named defendant, whether acting for itself or
7 as an agent, corporation, association, or otherwise, is in some way liable or responsible to
8 Plaintiffs based on the facts and proximately caused injuries and damages as alleged herein. At
9 such time as the DOE defendants' true names and capacities become known, Plaintiffs will ask
10 leave of Court to amend the Complaint to insert the DOE defendants' true names and capacities.

11 11. At all times relevant herein, Defendants and DOES 1 through 40, inclusive, were
12 the agents, employees, supervisors, servants and joint venturers of each other, and in doing the
13 things hereafter alleged, were acting within the course, scope and authority of such agency,
14 employment and joint venture and with the consent and permission of each of the other
15 Defendants and DOES 1 through 40. All actions of each defendant alleged in the causes of
16 action into which this paragraph is incorporated by reference were ratified and approved by the
17 officers or managing agents of every other defendant and DOES 1 through 40.

18 12. All allegations in this complaint are based on information and belief and/or are
19 likely to have evidentiary support after a reasonable opportunity for further investigation or
20 discovery. Whenever allegations in this complaint are contrary or inconsistent, such allegations
21 shall be deemed alternative.

22
23 **JURISDICTION AND VENUE**

24 13. This Court has jurisdiction over the entire action by virtue of the fact that this is a
25 civil action wherein the matter in controversy, exclusive of interest and costs, exceeds the
26 jurisdictional minimum of the Court. Defendants, and each of them, on information and belief,
27 and at all relevant times, reside and/or were qualified to do business and conducting business in
28 the State of California, County of Riverside.

1 14. The acts and omissions complained of in this action took place, in whole or in
2 part, in the State of California, County of Riverside. The injuries suffered by Plaintiffs were
3 suffered in the State of California, County of Riverside.

4 15. Venue is proper in this judicial district pursuant to California Code of Civil
5 Procedure § 395 because the events giving rise to the cause of action alleged herein occurred in
6 the State of California, County of Riverside, where Plaintiffs are informed and believe that
7 Defendants, and each of them reside and/or conduct business.

8 9 GENERAL ALLEGATIONS

10 16. On or about August 25, 2012, Decedent Roy Azarnoff and his wife, Plaintiff Pat
11 Azarnoff, were invited to attend a celebration with food and entertainment hosted by Defendant
12 Debbie Franklin, to celebrate the 70th birthday of her husband, Roy Franklin.

13 17. The celebration was at the Fire Memories Museum located at 5261 West Wilson
14 St., Banning, California 92220 (hereafter "PREMISES") with approximately 100 other invited
15 guests that was called for 7 p.m.

16 18. Plaintiffs are informed and believe, and thereupon allege that Defendant Debbie
17 Franklin and Defendant Fire Memories Museum entered into a binding contract for the event.

18 19. Plaintiffs are informed and believe, and thereupon allege that pursuant to Banning
19 Municipal Code Section 17.108.040, Defendants were required to apply for a Temporary Use
20 Permit from the City of Banning for the celebration at the PREMISES. (Attached as Exhibit 1).

21 20. Further, Plaintiffs are informed and believe, and thereupon allege that Defendant
22 Fire Memories Museum was also required to apply and obtain a Temporary Use Permit from the
23 City of Banning by the terms of its lease agreement with the City of Banning for the celebration
24 at the PREMISES.

25 21. For an event such as the 70th birthday celebration at the Fire Memories Museum,
26 the City of Banning requires under Municipal Code Section 17.108.040 that Defendants provide,
27 among other things, "arrangements for temporary parking facilities, including vehicular ingress
28 and egress." Defendants breached their obligations by failing to make arrangements for

1 temporary parking facilities for the 100 expected guests – a large number of who were expected
2 to be elderly.

3 22. Further, Plaintiffs are informed and believe, and thereupon allege that approval by
4 the City of Banning for a Temporary Use Permit was based on a required submittal by
5 Defendants of location(s) of informational and safety signage at the PREMISES for the
6 celebration.

7 23. Plaintiff are informed and believe, and thereupon allege that Defendants failed to
8 apply for and receive a Temporary Use Permit from the City of Banning, and failed to make
9 “arrangements for temporary parking facilities, including vehicular ingress and egress.”

10 24. When Decedent Roy Azarnoff and his wife, Plaintiff Pat Azarnoff arrived at the
11 celebration at approximately 7:15 p.m. the eight (8) parking spots located on the PREMISES
12 were full as well as the parking spaces located in the church parking lot next to the PREMISES.
13 There were vehicles also parked along both the north and south side of Wilson Street as far as the
14 eye could see.

15 25. No signage of available additional parking or pertaining to safety, if any, were
16 provided or visible for Decedent Roy Azarnoff and his wife, Plaintiff Pat Azarnoff.

17 26. Plaintiffs contend they eventually saw a parking spot just across Wilson Street
18 from the PREMISES where they parked their vehicle.

19 27. Plaintiffs allege that Wilson Street, in this area of Banning, comprises of two
20 travel lanes for both east and westbound traffic that merge to one lane immediately west of the
21 subject PREMISES.

22 28. At the time of this incident, Decedent Roy Azarnoff was 81 years old and his wife
23 was 79 years old. Given their age, and Mrs. Azarnoff’s pre-existing medical condition,
24 Decedent Roy Azarnoff and Plaintiff Pat Azarnoff carefully and cautiously preceded arm-in-arm
25 at a slow pace across the four lanes of travel in order to gain access to the PREMISES where the
26 celebration was being held due to the fact that there was inadequate parking for this event.
27 Defendants failed to exercise any reasonable care over the preparation, planning, management,
28 maintenance, possession, operation, and/or control of the PREMISES thereby exposing patrons,

1 including Plaintiffs, going to and from the PREMISES for the celebration to an unreasonable
2 foreseeable risk of injury and grave harm, as was the case in this instance.

3 29. Plaintiffs are informed and believe, and thereupon allege that the PREMISES is
4 located in an area of Banning, California that has a significant elderly population, many of which
5 who were attending the 70 year old birthday celebration, hosted by Defendant Debbie Franklin,
6 being held at the PREMISES on the date of this incident.

7 30. Decedent Roy Azarnoff and Plaintiff Pat Azarnoff decided to leave the
8 celebration at approximately 9 p.m. After saying their goodbyes, they preceded out the front door
9 of the PREMISES and headed towards their vehicle. By this time, the area was dark with limited
10 lighting.

11 31. Despite the number of guests, the age of the guests, and the type of celebration
12 being held, Defendants failed to implement any procedures and/or steps to secure safe passage of
13 its guests from reasonably foreseeable harm where they were elderly, and required to walk at
14 night across 4 lanes of travel in order access their vehicles due to acts and/or omissions of
15 unreasonable management, maintenance, possession, operation, and/or control over the
16 PREMISES by Defendants.

17 32. Decedent Roy Azarnoff and Plaintiff Pat Azarnoff, cognizant of their age and
18 speed of movement, waited curbside in front of the PREMISES for a long period of time in order
19 to make sure traffic was clear for them to cross, including, but not limited to, watch for
20 approaching headlight traffic, and listening for the sounds of approaching vehicles given there
21 was no other means of access from the PREMISES back to their vehicle as the nearest crosswalk
22 was at least three-quarters of a mile away from the PREMISES.

23 33. After carefully and cautiously considering the traffic conditions, the same careful
24 practice they had employed when arriving at the celebration and made their way to the
25 PREMISES, Decedent Roy Azarnoff and Plaintiff Pat Azarnoff walked arm-in-arm into the
26 number 2 westbound lane where the arrow within the number 2 lane pointed drivers heading
27 westbound to merge into the number 1 westbound lane.

28 34. As they continued to proceed across the four travel lanes of Wilson Street in the

1 absence of an effort on behalf of Defendants to control, management, and/or maintain safe access
2 to and from its property through the exercise of due care, Decedent Roy Azarnoff and Plaintiff
3 Pat Azarnoff were struck by an oncoming vehicle. Decedent Roy Azarnoff was thrown violently,
4 suffering fatal injuries witnessed by his wife of over sixty years.

5 35. In addition, as a direct and proximate result of this incident, Plaintiff Pat Azarnoff
6 suffered serious injuries, including but not limited to head trauma, loss of consciousness,
7 concussion, a contusion to her forehead, elbow abrasion, right knee trauma, lower torso trauma,
8 road burns, bruising on the right leg, and bruising of the arms, right toes and torso.

9 36. As this incident began within the PREMISES, Defendants had the power to have
10 taken measures on the PREMISES, which would have prevented Plaintiffs' injuries, including,
11 but not limited to providing, and/or requiring events at the PREMISES to provide guests utilizing
12 the PREMISES for the celebration with adequate means of safe access to and from the
13 celebration especially in light of the number of guests attending the celebration, the age of the
14 guests attending the celebration, the proximate of available additional parking, the lighting
15 conditions, and the distances guests would have to walk across Wilson Street in order to go to a
16 from the PREMISES.

17 37. Defendants failed to exercise reasonable due care and take affirmative action for
18 the protection of the guests coming upon and leaving the PREMISES, as required by the
19 applicable standard of care, and failed to make "arrangements for temporary parking facilities,
20 including vehicular ingress and egress" as required by the Municipal Code..

21 38. Further, Plaintiffs are informed and believe, and thereupon allege that Defendants
22 failed to obtain approval by the City of Banning for a Temporary Use Permit which would have
23 required location(s) of informational and safety signage for the guests attending the celebration
24 at the PREMISES.

25 39. The facts alleged herein, and others, demonstrate the extreme negligence,
26 carelessness, and overall failure to act with reasonable care, that cost Decedent Roy Azarnoff his
27 life and permanently deprived Plaintiffs Pat Azarnoff, Karen Pals, and Julie Fonseca of the love,
28 companionship, affection, solace, society, comfort, protection, guidance, advice, care, assistance,

1 services, financial contributions, and moral support, of their husband and father.

2
3 **FIRST CAUSE OF ACTION**

4 **FOR WRONGFUL DEATH DUE TO NEGLIGENCE**

5 **(By All Plaintiffs Against all Defendants and DOES 1 through 40)**

6 40. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as
7 though fully set forth herein.

8 41. Defendants, and each of them, had a duty to own, possess, lease, maintain,
9 operate, inspect, supervise, manage and/or control the PREMISES in a reasonable and safe
10 manner.

11 42. Despite the number of guests (a large number of whom were elderly) in
12 attendance at the celebration, Defendants failed to exercise any reasonable care to manage,
13 maintaining, posses, operate, and/or control the PREMISES in a reasonably safe condition
14 thereby exposing patrons going to and from the PREMISES for the celebration to an
15 unreasonable foreseeable risk of injury and grave harm.

16 44. Despite their obligation to provide safe and accessible parking for their guests (a
17 large number of whom were elderly) under the applicable standard of care and the City of
18 Banning Municipal Code, Section 17.108.040, Defendants failed to provide any parking for a
19 large portion of their elderly guests – who instead had to find parking across a 4 lane
20 thoroughfare. Defendants also failed to provide adequate signage for their guests.

21 45. The PREMISES, as the adjacent property to Wilson Street, created and invited a
22 dangerous condition to the general public, and specifically Decedent Roy Azarnoff and Plaintiff
23 Pat Azarnoff, who were exposed to a substantial risk of foreseeable injury when forced to cross
24 Wilson Street in order to access their vehicle due to inadequate and insufficient parking available
25 at the PREMISES and a significant distance to any marked crosswalk, despite the number of
26 guests and the relatively elderly composition of the invited guests.

27 46. Defendant had a duty to exercise reasonable care to prevent and/or mitigate the
28 exposure of persons to risks of injury that occur off site based upon acts and/or omissions of

1 unreasonable and deficient exercise of management, maintenance, possession, operation, and/or
2 control over the PREMISES thereby exposing users, including Plaintiffs, to foreseeable
3 unreasonable risks of substantial harm.

4 47. Further, Defendants failed to provide adequate and/or sufficient lighting at the
5 PREMISES exposing guests, such as Decedent Roy Azarnoff and Plaintiff Pat Azarnoff, to
6 unreasonable risks of foreseeable injury when going to and coming from the PREMISES and
7 having to cross Wilson Street at night. Defendants also failed to provide adequate parking
8 attended control so that elderly guests would not have to cross a four-lane thoroughfare to
9 retrieve their cars.

10 48. Due to Defendants' aforesaid failure to exercise reasonable due care in the
11 management, maintenance, possession, operation, and/or control over the condition on its
12 PREMISES, Decedent Roy Azarnoff and Plaintiff Pat Azarnoff were forced to park their vehicle
13 on the south side of Wilson Street, across the street from the PREMISES.

14 49. It was reasonably foreseeable that the acts and/or omissions by Defendants allow
15 for dangerous conditions to exist on the PREMISES and forced guests to park their vehicles on
16 the south side of Wilson Street, across the street from the PREMISES, exposing guests,
17 including Decedent Roy Azarnoff and Plaintiff Pat Azarnoff, to substantial risks of injury when
18 crossing the street at nighttime, which itself had volume of traffic, inadequate lighting, signage,
19 traffic control devices, speed controls, crossings, and obstructions to driver's line of sight.

20 50. Decedent Roy Azarnoff and Plaintiff Pat Azarnoff were particularly endangered
21 by the foreseeable and substantial risk of injury because they had to walk at a slow pace, given
22 their age, across the entire roadway of Wilson Street in order to return to their vehicle and would
23 have difficulty. The Decedent Roy Azarnoff and Plaintiff Pat Azarnoff, among others, were
24 lawfully using the PREMISES, and were at all times unaware of the defective and/or dangerous
25 condition(s) that existed at the PREMISES that resulted in Roy Azarnoff's demise and Plaintiff's
26 injuries.

27 51. Defendant, and each of them, breached their duty in the management,
28 maintenance, possession, operation, and/or control over the condition on its PREMISES, the

1 exercise of which could have prevented the foreseeable harm to Plaintiffs through minimal , cost
2 efficient methods, whether by valet service, parking accommodations or any other form of
3 procedure that allowed for safe access to and from the PREMISES.

4 52. Defendants, and each of them, so negligently and carelessly owned, possessed,
5 leased, maintained, operated, inspected, supervised, managed and controlled the PREMISES, as
6 set forth herein, as to cause and/or permit the area to be in a dangerous, defective, unsafe, and/or
7 hazardous condition.

8 53. Defendants, and each of them, whether through acts and/or omission to act,
9 breached their duty to Plaintiffs by their negligent ownership, possession, maintenance,
10 operation, inspection, supervision, management and control over the dangerous, defective,
11 unsafe, and/or hazardous condition that existed at the PREMISES that ultimately resulted in the
12 death of Decedent Roy Azarnoff.

13 54. Defendants, and each of them, knew, or in the exercise of reasonable care should
14 have known, of the dangerous, defective, unsafe, and/or hazardous condition that existed at the
15 PREMISES that resulted in Plaintiffs' injuries and damages.

16 55. As a direct and proximate result of the dangerous condition created by Defendants
17 and the ensuing injuries, Plaintiffs suffered damages, including, but not limited to, the
18 permanent deprivation of the love, companionship, affection, solace, society, comfort,
19 protection, guidance, advice, care, assistance, services, financial contributions, gifts, burial
20 expenses, and moral support of Decedent Roy Azarnoff in an amount according to proof at trial.

21
22 **SECOND CAUSE OF ACTION**

23 **FOR NEGLIGENCE**

24 **(By Plaintiff Patt Azarnoff Against All Defendants and DOES 1 through 40)**

25 56. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as
26 though fully set forth herein.

27 57. Defendants, and each of them, had a duty to own, possess, lease, maintain,
28 operate, inspect, supervise, manage and/or control the PREMISES in a reasonable and safe

1 manner.

2 58. Defendants, and each of them, had a duty to own, possess, lease, maintain,
3 operate, inspect, supervise, manage and/or control the PREMISES in a reasonable and safe
4 manner.

5 59. Despite the number of guests (a large number of whom were elderly) in
6 attendance at the celebration, Defendants failed to exercise any reasonable care to manage,
7 maintaining, possess, operate, and/or control the PREMISES in a reasonably safe condition
8 thereby exposing patrons going to and from the PREMISES for the celebration to an
9 unreasonable foreseeable risk of injury and grave harm.

10 60. Despite their obligation to provide safe and accessible parking for their guests (a
11 large number of whom were elderly) under the applicable standard of care and the City of
12 Banning Municipal Code, Section 17.108.040, Defendants failed to provide any parking for a
13 large portion of their elderly guests – who instead had to find parking across a 4 lane
14 thoroughfare. Defendants also failed to provide adequate signage for their guests.

15 61. The PREMISES, as the adjacent property to Wilson Street, created and invited a
16 dangerous condition to the general public, and specifically Decedent Roy Azarnoff and Plaintiff
17 Pat Azarnoff, who were exposed to a substantial risk of foreseeable injury when forced to cross
18 Wilson Street in order to access their vehicle due to inadequate and insufficient parking available
19 at the PREMISES and a significant distance to any marked crosswalk, despite the number of
20 guests and the relatively elderly composition of the invited guests.

21 62. Defendant had a duty to exercise reasonable care to prevent and/or mitigate the
22 exposure of persons to risks of injury that occur off site based upon acts and/or omissions of
23 unreasonable and deficient exercise of management, maintenance, possession, operation, and/or
24 control over the PREMISES thereby exposing users, including Plaintiffs, to foreseeable
25 unreasonable risks of substantial harm.

26 63. Further, Defendants failed to provide adequate and/or sufficient lighting at the
27 PREMISES exposing guests, such as Decedent Roy Azarnoff and Plaintiff Pat Azarnoff, to
28 unreasonable risks of foreseeable injury when going to and coming from the PREMISES and

1 having to cross Wilson Street at night. Defendants also failed to provide adequate parking
2 attended control so that elderly guests would not have to cross a four-lane thoroughfare to
3 retrieve their cars.

4 64. Due to Defendants' aforesated failure to exercise reasonable due care in the
5 management, maintenance, possession, operation, and/or control over the condition on its
6 PREMISES, Decedent Roy Azarnoff and Plaintiff Pat Azarnoff were forced to park their vehicle
7 on the south side of Wilson Street, across the street from the PREMISES.

8 65. It was reasonably foreseeable that the acts and/or omissions by Defendants allow
9 for dangerous conditions to exist on the PREMISES and forced guests to park their vehicles on
10 the south side of Wilson Street, across the street from the PREMISES, exposing guests,
11 including Decedent Roy Azarnoff and Plaintiff Pat Azarnoff, to substantial risks of injury when
12 crossing the street at nighttime, which itself had volume of traffic, inadequate lighting, signage,
13 traffic control devices, speed controls, crossings, and obstructions to driver's line of sight.

14 66. Decedent Roy Azarnoff and Plaintiff Pat Azarnoff were particularly endangered
15 by the foreseeable and substantial risk of injury because they had to walk at a slow pace, given
16 their age, across the entire roadway of Wilson Street in order to return to their vehicle and would
17 have difficulty. The Decedent Roy Azarnoff and Plaintiff Pat Azarnoff, among others, were
18 lawfully using the PREMISES, and were at all times unaware of the defective and/or dangerous
19 condition(s) that existed at the PREMISES that resulted in Roy Azarnoff's demise and Plaintiff's
20 injuries.

21 67. Defendant, and each of them, breached their duty in the management,
22 maintenance, possession, operation, and/or control over the condition on its PREMISES, the
23 exercise of which could have prevented the foreseeable harm to Plaintiffs through minimal , cost
24 efficient methods, whether by valet service, parking accommodations or any other form of
25 procedure that allowed for safe access to and from the PREMISES.

26 68. Defendants, and each of them, so negligently and carelessly owned, possessed,
27 leased, maintained, operated, inspected, supervised, managed and controlled the PREMISES, as
28 set forth herein, as to cause and/or permit the area to be in a dangerous, defective, unsafe, and/or

1 hazardous condition.

2 69. Defendants, and each of them, whether through acts and/or omission to act,
3 breached their duty to Plaintiffs by their negligent ownership, possession, maintenance,
4 operation, inspection, supervision, management and control over the dangerous, defective,
5 unsafe, and/or hazardous condition that existed at the PREMISES that ultimately resulted in the
6 death of Decedent Roy Azarnoff.

7 70. Defendants, and each of them, knew, or in the exercise of reasonable care should
8 have known, of the dangerous, defective, unsafe, and/or hazardous condition that existed at the
9 PREMISES that resulted in Plaintiffs' injuries and damages.

10 71. As a direct and proximate result of the dangerous condition created by Defendants
11 and the ensuing injuries, Plaintiffs suffered damages, including, but not limited to, the
12 permanent deprivation of the love, companionship, affection, solace, society, comfort,
13 protection, guidance, advice, care, assistance, services, financial contributions, gifts, burial
14 expenses, and moral support of Decedent Roy Azarnoff in an amount according to proof at trial.

15
16 **THIRD CAUSE OF ACTION**

17 **FOR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

18 **(By Plaintiff Pat Azarnoff Against All Defendants and DOES 1 through 40)**

19 72. Plaintiffs re-allege and incorporate by reference all preceding paragraphs as
20 though fully set forth herein.

21 73. Plaintiff Pat Azarnoff, in addition to suffering her own physical injuries, was
22 present at the scene of the injury when it occurred and was aware that Decedent Roy Azarnoff,
23 her husband of over 60 years, was severely injured, which injuries ultimately resulted in his
24 death.

25 74. Plaintiff Pat Azarnoff suffered serious emotional distress watching her husband
26 endure significant and substantial injury that resulted in his death.

27 75. The conduct of Defendants, and each of them, was a substantial factor in causing
28 and/or contributing to Plaintiff's serious emotional distress, suffering, anguish, fright, horror,

1 nervousness, grief, anxiety, worry, shock, humiliation, and shame in an amount according to
2 proof at trial.

3
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as
6 follows:

7 **FIRST CAUSE OF ACTION**

- 8 1. For general damages in an amount according to proof;
9 2. For special damages in an amount according to proof;
10 3. For legal interest on judgment from the filing of this Complaint to the date of
11 judgment;
12 4. For post-judgment interest at the legal rate;
13 5. For costs of suit incurred herein; and
14 6. For any other and further relief as the Court deems just and proper.

15 **SECOND CAUSE OF ACTION**

- 16 1. For general damages in an amount according to proof;
17 2. For special damages in an amount according to proof;
18 3. For legal interest on judgment from the filing of this Complaint to the date of
19 judgment;
20 4. For post-judgment interest at the legal rate;
21 5. For costs of suit incurred herein; and
22 6. For any other and further relief as the Court deems just and proper.

23 **THIRD CAUSE OF ACTION**

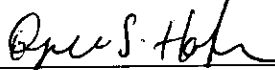
- 24 1. For general damages in an amount according to proof;
25 2. For legal interest on judgment from the filing of this Complaint to the date of
26 judgment;
27 3. For post-judgment interest at the legal rate;
28 4. For costs of suit incurred herein; and

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5. For any other and further relief as the Court deems just and proper.

DATED: December 2, 2013

KABATECK BROWN KELLNER LLP

By: 
Brian S. Kabateck, Esq.
Douglas A. Rothen, Esq.
Benjamin S. Hakimfar, Esq.
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury for themselves on all claims so triable.

DATED: December 2, 2013

KABATECK BROWN KELLNER LLP

By:



Brian S. Kabateck, Esq.
Douglas A. Rothen, Esq.
Benjamin S. Hakimfar, Esq.
Attorneys for Plaintiffs

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COMMUNITY DEVELOPMENT
DEPARTMENT

CITY OF BANNING

99 E. Ramsey Street, P.O. Box 998
Banning, California 92220
(951) 922-3125

TEMPORARY USE PERMIT SUBMITTAL REQUIREMENTS

Fee: (no fee)

All information is to be submitted in a neat and legible format and all drawings must be drawn by a professional architect, engineer, draftsman, or other qualified person using a standard architectural or engineering scale. All plans shall be individually folded prior to submittal.

In the event errors or omissions are discovered by Planning Division staff, the application will be returned to the applicant for revision and the application will be deemed incomplete. **Applications that include temporary structures shall be submitted at least 45 days in advance of the planned event. All other applications shall be submitted at least 30 days in advance of the event.**

Please note: If your special event will take place in a city park, or other city facility, or it affects a public street, please contact the Community Services Department at (951) 922-3240 or visit their public counter located at 769 N. San Geronio Avenue regarding your special event application. Please be advised that events that are held in a city park, or other city facility, or affecting a public street are subject to additional restrictions and guidelines specific to each park or facility. Please contact the Community Services Department for more information about a specific location.

Purpose:

The Temporary Use Permit allows for short-term activities which may be appropriate when regulated. For most Temporary Use Permits, the fixed period shall not exceed 90 days (BMC 17.108.040).

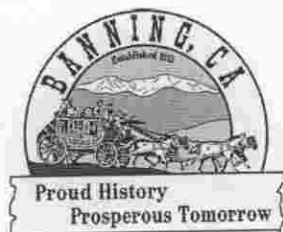
Submittal requirements:

1. One set of a site plan drawings drawn on paper no larger than 11" x 17".
2. One set of a floor plan drawings (when applicable) drawn on paper no larger than 11" x 17".
3. Location map showing general location of site in relation to Interstate 10.
4. Completed application attached.
5. Events taking place on City owned property or in the public right-of-way (city streets) require a minimum of \$1,000,000 **General Liability Insurance** policy naming the City as additional insured by policy endorsement. Additional amounts may be required for events with higher risk. The insurance company issuing the policy must be rated "A" or "B+" by Best's Key Rating Guide. The Carrier is required to provide notice of cancellation or reduction of coverage to the City. Special event insurance coverage is also available through the City's insurance carrier. Contact the City's Risk Manager for specific requirements. For information you may call (951) 922-3155.
6. One (1) copy of radius map showing all properties within 300 feet of the site (if required; consult with a planner in advance of application submittal).
7. One (1) list of property owners within 300 feet of site including two sets of mailing labels (if required; consult with a planner in advance of application submittal).

Information to be Included:

- Arrangements for temporary parking facilities, including vehicular ingress and egress.
- Location of temporary structures and facilities including height, size, and relation to other structures (see site plan preparation checklist for more information; please include dimensions).
- Location of sanitary facilities and medical aid facilities, if required.
- Location of solid waste handling facilities.
- Location of informational and safety signage.

The Planning Division will be unable to begin processing your Temporary Use permit application unless/until all of the information requested in this application form is completed and submitted with the required processing fees. Incomplete applications will be returned to the applicant and processing will not commence until all of the required information is provided. **Your signing and dating the application acknowledges your understanding of the application requirements and that submitting an incomplete application will cause delays in processing.** If you have any questions, please contact the Planning Department at (951) 922-3125.



CITY OF BANNING
 Community Development Department
 99 East Ramsey Street
 Banning, CA 92220
 (951)922-3125

**TEMPORARY USE
 PERMIT
 Part 1
 Application**

(Please type, or print clearly using ink)

GENERAL INFORMATION

Activity Location:	Staff Use Only File No:
Assessor's Parcel No(s):	Related Files
Legal Description(attach exhibits if necessary):	
Applicant's Name (if a corporation, please provide copies of articles of incorporation):	
Address, City, Zip:	
Phone:	Fax:
E-mail address:	

Type of Temporary Use Permit Requested (Please check applicable boxes):

- | | | |
|---|---|--|
| <input type="checkbox"/> Contractor's Construction Yard | <input type="checkbox"/> Christmas Tree-Other Sales Lot | <input type="checkbox"/> Farmers Market-Roadside Stand |
| <input type="checkbox"/> Temporary Residence | <input type="checkbox"/> Circus, Rodeo, and Carnival | <input type="checkbox"/> Other (describe): |
| <input type="checkbox"/> Commercial/Cargo Storage Container | <input type="checkbox"/> Fair, Festival, and Concert | _____ |
| <input type="checkbox"/> Outdoor Display-Vacant Lot | <input type="checkbox"/> City Sponsored Use | _____ |

DESCRIPTION OF TEMPORARY USE/ACTIVITY:

(Provide a detailed description of proposed activities; attach additional sheets if necessary)

DATE(S)/TIMES OF TEMPORARY USE:

APPLICANTS SIGNATURE:

I certify under penalty of perjury that the information submitted by the applicant is true and correct; that any false or misleading information shall be grounds for denial of the TUP; and, I/we agree to comply with the regulations of the City of Banning and any and all conditions of approval placed upon this use (If the undersigned is different from the legal property owner, a notarized letter of authorization from each property owner must accompany this form).

Date:	Signature:
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Print Name and Title:

Date Received	Time Received	Fees Received \$	Receipt No.	Received By
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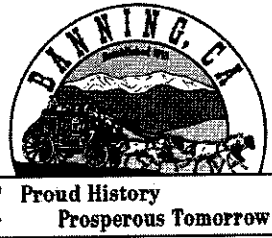


CITY OF BANNING
 Community Development Department
 99 East Ramsey Street
 Banning, CA 92220
 (951)922-3125

**TEMPORARY USE
 PERMIT
 Part 2
 Event Information**

Activity Location:	Staff Use Only File No:	
General Plan Land Use Designation:	Environmental Determination: Reference:	
Zoning District:	Planner Initials:	Date:

ACTIVITY AREA:	Acres	Square feet
Gross (including area to centerline of abutting streets)		
Net (exclude street rights-of-way)		
ESTIMATE OF ACTIVITY:	Week Day	Week End
Estimate of average daily attendance (number of persons)		
Estimate of total average daily traffic (number of cars) to and from site		
Estimate of average number of parking spaces required		
Number of private security personnel to be provided by applicant		
Number of toilets/sanitary facilities to be provided by applicant		
Number of waste collection receptacles		
Hours of Operation		
TENTS and MEMBRANE STRUCTURES: (A separate Building and Fire permit may be required)	Type	Floor Area SF
PARKING LOCATIONS PROVIDED:		Number of Spaces
Total number of parking spaces provided all locations:		
FOOD, BEVERAGE, and SOUND:		
Will food be served? (a Riverside County Health Department permit is required)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Will alcohol be served? (an Alcohol Beverage Control (ABC) permit is required)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Will vendors be at the event? (a City business license is required)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Will there be amplified sound or music? (see Chapter 8.44 "Noise" of the BMC)	<input type="checkbox"/> Yes	<input type="checkbox"/> No



CITY OF BANNING
 Community Development Department
 99 East Ramsey Street
 Banning, CA 92220
 (951)922-3125

**TEMPORARY USE
 PERMIT
 PART 3
 Contact Information**

Activity:	Activity Dates:
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The following information must be completed and submitted with all applications.

Applicant's Contact Person:

Address, City, Zip:

Phone:

Fax:

E-mail Address:

Additional Contact Person:

Address, City, Zip:

Phone:

Fax:

E-mail Address:

Emergency Contact (after hours):

Address, City, Zip:

Phone:

Fax:

E-mail Address:

Sanitary Facility Provider:

Contact Person:

Address, City, Zip:

Phone:

Fax:

E-mail Address:

Private Security Provider:

Contact Person:

Address, City, Zip:

Phone:

Fax:

E-mail Address:

Site Manager/Supervisor (during hours of operation):

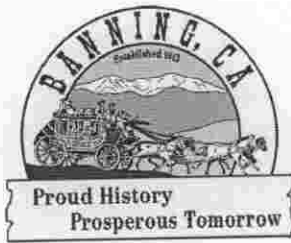
Contact Person:

Address, City, Zip:

Phone:

Fax:

E-mail Address:



CITY OF BANNING
 Community Development Department
 99 East Ramsey Street
 Banning, CA 92220
 (951)922-3125

TEMPORARY USE PERMIT
PART 4
 Conditions of Approval

Activity:	Activity Dates:
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STANDARD CONDITIONS OF APPROVAL:

- Solid waste handling services required.

Contact the City's solid waste handling provider:

Karen Blauvelt
 800 S. Temescal Street
 Corona, CA 92879
 Tel. (951) 280-5493; and, Fax. (951) 817-2402

- Dates and Hours of operation are restricted to the following: _____

- Provisions for sanitary waste facilities required _____

- Provisions for private security required _____

- Performance/Surety bond required in the amount of: \$ _____

OTHER CONDITIONS OF APPROVAL:

List all other conditions required (Attach additional sheets if necessary)

TEMPORARY USE PERMIT APPROVAL:

Reviewed Police:	Reviewed Fire:	Reviewed Public Works:	Reviewed Risk Management:	Reviewed Building & Safety:	Reviewed Community Services:
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Date: _____ Signature: _____

Community Development Director, City of Banning

List Attachments: _____

Letter of Authorization

APPLICATIONS FOR ZONING/LAND USE ENTITLEMENTS

TO: *Community Development Department
City of Banning
P.O. Box 998
Banning, CA 92220*

RE:

Property Address:
Assessor's Parcel Number(s):

I/We, the owner(s) of the above described real property, authorize _____

_____, located at _____

_____, to act as an agent on my/our behalf for the purpose of creating, filing, and/or managing any land use and building permit applications, or any other entitlements necessary to construct, operate, or otherwise gain approval for a project. I/We acknowledge that any application may be denied, modified, or approved with conditions, and that such conditions or modifications shall be complied with by the owner prior to issuance of any permits or project approval. Further, the owner agrees to notice the City of Banning immediately should this authorization be revoked for any reason.

The undersigned hereby certifies to being the fee owner(s) of the property described herein; that to the best of my/our knowledge the information contained within this authorization is true and correct.

Date _____

(Signature)

(Print name)

State of _____)

ss.

County of _____)

On _____ before me, _____ personally appeared
(Name and title of officer)

_____. Who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/ their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed this instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Notary seal)

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PROOF OF SERVICE
Azarnoff, et al. vs. Fire Memories, Inc.
Case No. : RIC1308649

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 644 S. Figueroa Street, Los Angeles, California 90017.

On **December 2, 2013**, I served the foregoing document described as:

FIRST AMENDED COMPLAINT

on the interested parties in the action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

BY OVERNIGHT MAIL I delivered the above document to an OVERNITE EXPRESS drop box for pick up by OVER NITE EXPRESS for overnight delivery to the following addressees:

BY E-MAIL, I transmitted a true copy of said document(s) by e-mail, and no error was reported.

MAIL I am familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepared at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

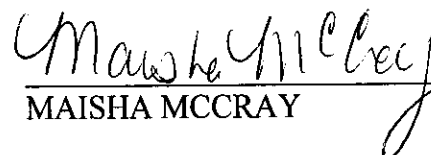
BY FAX I transmitted a true copy of said document(s) by facsimile machine, and no error was reported. Said fax transmission(s) were directed as indicated on the service list.

BY PERSONAL SERVICE: I caused such envelope(s) to be delivered by hand to the above addressee(s).

[STATE] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 2, 2013, at Los Angeles, California.



MAISHA MCCRAY

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PROOF OF SERVICE
Parker, et al. vs. Lubin, et al.
Case No. : TC026969

PROOF OF SERVICE LIST

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Attorneys for Defendant,
FIRE MEMORIES, INC.