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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
04/15/2022 at 12:51:20 PM
Clerk of the Superior Court
By Lee McAlister, Deputy Clerk

Attorney for Plaintiff SHLOMIT AZOLAY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

SHLOMIT AZOLAY

Plaintiff,

v.

BEACH HOUSE, BELMONT PARK
ENTERTAINMENT, LLC and Does 1 through
100,

Defendant.

Case No.: 37-2022-00014198-CU-PO-CTL

COMPLAINT FOR:

- 1. PREMISES LIABILITY
NEGLIGENCE against BELMONT
PARK ENTERTAINMENT, LLC,
SYMPHONY ASSET POOL XVI,
LLC and DOES _1-100**

DEMAND FOR JURY TRIAL

Plaintiff SHLOMIT AZOLAY files this Complaint against Beach House, DBA Belmont Park Entertainment, LLC, and Symphony Asset Pool XVI, LLC, and DOES 1 Through 100, various business entities assigned fictitious names, (collectively, "Defendants") and alleges as follows:

INTRODUCTION

1. PLAINTIFF SHLOMIT AZOLAY (AZOLAY) was at all times relevant hereto is an individual residing in San Diego County.
2. At all relevant times, DEFENDANT BELMONT PART ENTERTAINMENT, LLC and/or DEFENDANT SYMPHONY ASSET POOL, LLC owns and operates a restaurant known as the Beach House located in the Mission Beach area of San Diego, with address of 3125 Ocean Front Walk, San Diego, CA 92109.

1 3. Defendants were in control of the grounds located at 3125 Ocean Front Walk.

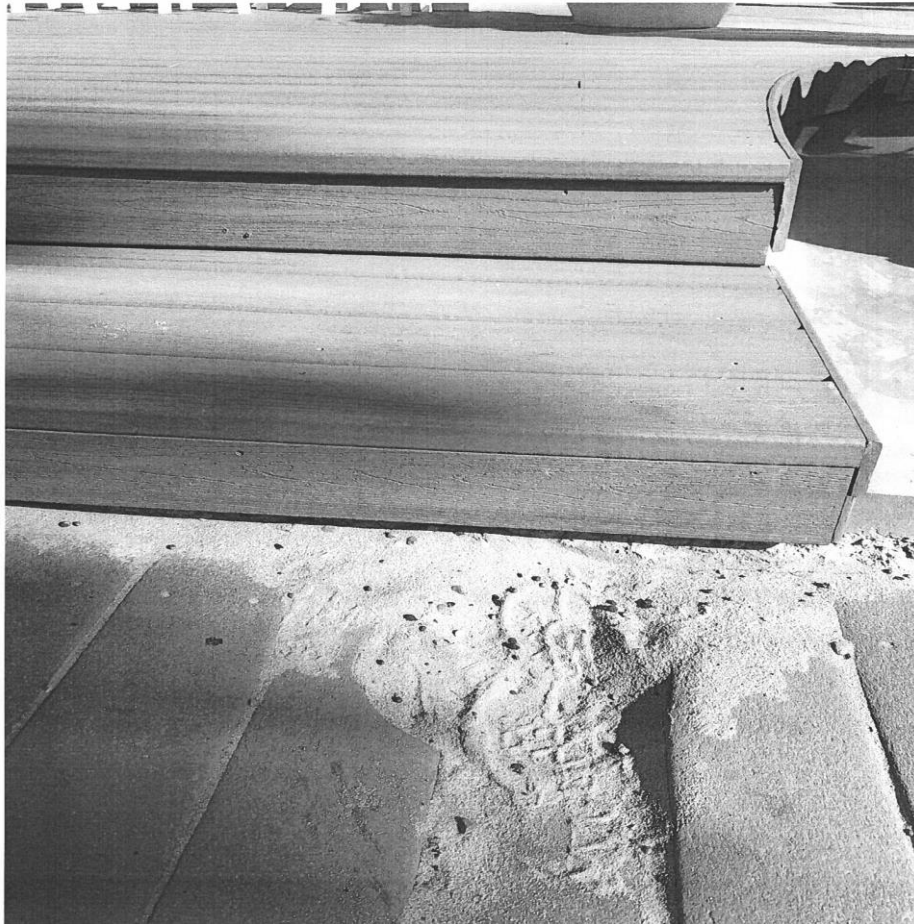
2 4. The true names of Defendant DOES 1 through 100 are unknown at this time. Plaintiffs
3 therefore sue these defendants by fictitious names and will amend this Complaint to allege their
4 true names and capacities when ascertained.
5

6 5. On Sunday, February 2, 2020 PLAINTIFF SHLOMIT AZOLAY, and her family were
7 patrons at the Beach House restaurant located in the Belmont Park amusement park located in the
8 Mission Bay area of San Diego, California.

9 6. While waiting for her food and drink order, PLAINTIFF walked the premises of the
10 Beach House.
11

12 7. At approximately 1:30 PM, PLAINTIFF, while remaining on property controlled by
13 all Defendants, descended a staircase.

14 8. Unbeknownst to PLAINTIFF, as she descended a flight of staircases--surrounded by
15 sand—she violently twisted her right ankle due to stepping into a sizable hole surrounded by sand near
16 or around the bottom rung of the staircase. (see picture below).
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9. It is alleged and believed that a light was missing from this area.

10. In noticeable pain, PLAINTIFF alerted employees of the Beach House who suggested to call an ambulance.

11. PLAINTIFF transported herself to Scripps Hospital in La Jolla where her right ankle was assessed by x-ray.

12. Thereafter, PLAINTIFF began treatment for her right ankle with Dr. Norman Kane and also received physical therapy to her right ankle.

PARTIES

JURISDICTION AND VENUE

13. This Court has personal jurisdiction over Defendants on the grounds that all Defendants live and/or conduct business in the State of California, Defendants have purposefully availed

1 themselves of the jurisdiction of this Court by residing in and/or transacting business in this state, and
2 the events which give rise to this Complaint occurred in California.

3 14. Pursuant to Cal. Code of Civil Procedure, § 395(a), venue is proper in this Court
4 because the actions underlying this complaint and the harms and injuries occurred in San Diego
5 County, California.
6

7 15. The filing of this complaint is timely under the Governor's Emergency Rule #9 that
8 tolled the statute of limitations for approximately five months.

9 **FIRST CAUSE OF ACTION**

10 **NEGLIGENCE --Premises Liability**

11 **AGAINST ALL DEFENDANTS and DOES (1-100)**
12

13 16. PLAINTIFF incorporates allegations 1-15, as if she repeated same herein.

14 17. All DEFENDANTS owed a duty of care to Plaintiff, to keep the Beach House grounds
15 in good repair, and to not expose Plaintiff—a restaurant patron—from unreasonable risk of harm.

16 18. All DEFENDANTS breached their duties of care to Plaintiff as they failed to use due
17 care to eliminate a dangerous condition—a large hole near or below the bottom rung of a
18 staircase.
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20 19. All DEFENDANTS owed a further duty to repair a defective and/or dangerous
21 condition, and protect individuals, such as PLAINTIFF from risk of injury.

22 20. All DEFENDANTS breached their duty of care owed to Plaintiff in that all
23 DEFENDANTS failed to repair, fix, nor warn of the defective condition at the bottom of the
24 staircase located on property either owned, controlled or maintained by all DEFENDANTS.
25 The failure to repair, warn, nor fix the defective condition directly led to and caused the injuries
26 to PLAINTIFF'S right lower extremity.
27

28 As a direct and foreseeable result of all DEFENDANTS breach of duties owed to PLAINTIFF,

1 and causing her injuries, PLAINTIFF suffered, and continues to suffer, physical pain to her
2 right lower extremity, reduced loss of motion, reduced loss of use in that extremity, future
3 medical treatment, damages for past medical treatment, anxiety about future use of that
4 extremity, mental anguish, pain of mind and body, physical manifestations of emotional
5 distress, loss of earnings and earning capacity.
6

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for Judgment against all Defendants as follows:

- 9 1. For general damages according to proof at the time of trial;
10 2. For special damages according to proof at the time of trial
11 3. For economic damages
12 4. For non- economic damages
13 5. For interest provided by law;
14 6. For all statutorily allowed damages;
15 7. For restitution of any property or money;
16

17 For other and further relief as the Court deems proper.

18 Dated: April 15, 2022

GILMOR LAW, APC

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20 By: _____

21 Neil G. Gilmor

22 Attorney for Plaintiff, SHLOMIT AZOLAY
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