

MICHAEL K. JEANES
Clerk of the Superior Court
By Kristy Kee, Deputy
Date 10/16/2009 Time 15:13:01

Description	Amount
CASE# CV2009-032849	
CIVIL NEW COMPLAINT	301.00
TOTAL AMOUNT	301.00
Receipt# 20107886	

1 Lewis B. Moore III (#013065)
 2 PHILLIPS & ASSOCIATES
 20 East Thomas Road, Suite 2500
 Phoenix, Arizona 85012
 3 Tel: (602) 258-8900
 Fax: (602) 279-9155
 4 minute_entries@phillipslaw.ws

5 Attorney for Plaintiff

6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

7 IN AND FOR THE COUNTY OF MARICOPA

8 ReANNA M. HEDRICK, individually,

9 Plaintiff,

10 vs.

11 3RD BASE, INC., an Arizona corporation;
 12 T.W.A. RESTAURANT GROUP, INC., a
 Nevada corporation licensed to do business in
 the State of Arizona; FAMOUS SAM'S
 13 PHOENIX ARIZONA ADVERTISING CO-OP,
 LLC, an Arizona corporation; JOHN DOES 1-5;
 14 JANE DOES 1-5; BLACK CORPORATIONS
 AND COMPANIES 1-5; and WHITE
 15 PARTNERSHIPS 1-5,

16 Defendants.

CV 2009-032849

Case No.:

COMPLAINT

(Tort - Non-Motor Vehicle)

Assigned to:

18 COMES NOW Plaintiff, ReAnna Hedrick (hereinafter "ReAnna Hedrick"), by and
 19 through her undersigned attorneys, and for her Complaint alleges:

20 I.

21 Plaintiff is, and was at all times material herein, a resident of the County of Maricopa,
 22 State of Arizona.

23 II.

24 Upon information and belief, Defendant, 3RD Base, Inc., (hereinafter "Defendant 3RD
 25 Base") was at all times material herein, an Arizona corporation, doing business as Famous

1 Sam's (a bar/restaurant) on Power Road in Mesa, Arizona on the date of the accident alleged
2 herein.

3 III.

4 Upon information and belief, Defendant T.W.A. Restaurant Group, (hereinafter
5 "Defendant T.W.A"), was at all times material herein, a Nevada corporation, licensed to do
6 business in the State of Arizona on the date of the accident alleged herein. Defendant T.W.A.
7 operates restaurants in Tucson, Phoenix, Chandler, Mesa, Gilbert, Glendale, Yuma, Payson,
8 Sierra Vista and Casa Grande and creates managing partners and inspires those partners to
9 improve daily operations, increase sales, decrease operating costs and increase profitability.

10 IV.

11 Defendant Famous Sam's Phoenix Area Advertising Co-op, LLC, (hereinafter
12 "Defendant Famous Sam's Phoenix Area"), was at all times material herein, organized and
13 existing under the laws of the State of Arizona and doing business in the State of Arizona on
14 the date of the accident alleged herein. Upon information and belief, Defendant Famous
15 Sam's Phoenix Area provides advertising for the various Famous Sam's in the Phoenix area.
16 However, discovery may conclude that Defendant Famous Sam's Phoenix Area managed
17 and/or operated the Famous Sam's on Power Road in Mesa, Arizona.

18 V.

19 In the alternative, Defendants John Does and Jane Does 1-5, and Black Corporations 1-
20 5, and White Partnerships 1-5 (hereafter "fictitious Defendants") are, and were at all times
21 material herein, principals and/or employers for which Defendant was acting as an agent,
22 servant, or employee within the scope of his agency or employment at the time of the
23 accident alleged hereafter. As soon as their true names become known, Plaintiff will amend
24 this Complaint. Said fictitious Defendants should be held liable to Plaintiff for the actions of
25

1 Defendant on the theories of respondeat superior, agency, equitable estoppel, or other
2 applicable law.

3 VI.

4 Upon belief, all fictitious Defendants were residents of the County of Maricopa, State
5 of Arizona, and/or were organized and existing under the laws of Arizona and doing
6 business in the State of Arizona; and/or were foreign corporations, businesses, etc., qualified
7 to do business within the State of Arizona, and actually doing business therein on the date of
8 the accident alleged herein.

9 VII.

10 All acts and events alleged hereinafter occurred within the County of Maricopa, State
11 of Arizona.

12 VIII.

13 The minimum jurisdictional amount established for filing this action has been
14 satisfied. This Court has jurisdiction and venue is proper.

15 COUNT ONE: NEGLIGENCE

16 IX.

17 Plaintiff re-alleges and incorporates Paragraphs I-IX above as if fully set forth herein.

18 X.

19 On September 3, 2008, Plaintiff ReAnna Hedrick was a business invitee of Power Road
20 Famous Sam's, 430 North Power Road, Mesa, Arizona, as Defendants 3RD Base, Inc., T.W.A.
21 and Famous Sam's Phoenix Area who actively invite the public to come to the premises and
22 to purchase food and beverages and to participate in advertized activities while on the
23 premises. On September 3, 2008, Plaintiff ReAnna Hedrick went to the Famous Sam's on
24 Power Road in Mesa, Arizona for "Ladies Night."

25 // // // //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

XI.

On this particular "Ladies Night" (September 3, 2008), Defendants, and each of them, had constructed two special stages - one that ran the length of the inside of the Power Road Famous Sam's building and the other faced the disc jockey booth and contained a dancer pole in the middle. The pole was approximately ten feet long.

XII.

ReAnna Hedrick arrived at the Power Road Famous Sam's at approximately 8:00 o'clock p.m. She socialized, watched while other patrons spin/dance around the dancer pole, and, likewise, took a few turns spinning around the dancer pole herself. Sometime after 10:00 o'clock p.m., ReAnna was spinning on the dancer pole when it suddenly, and without warning, came loose, broke, and fell away from the ceiling causing ReAnna to crash into the floor. During the fall to the ground, ReAnna attempted to hold onto the top of the pole. The top of the pole was jagged and became lodged in ReAnna's left ring finger. In addition, the force of the impact to the floor caused Plaintiff severe injuries to her left side and shoulder.

XIII.

Defendants, and each of them, as owners and operators of Famous Sam's, a bar/restaurant, negligently:

- A. Failed to properly assemble, erect and/or build the subject dancing pole and, dance stage and therefore, created an unsafe condition for the patrons of Power Road Famous Sam's.
- B. Failed to inspect and secure the subject dancing pole/stage area for patrons to dance and allowed a dangerous condition to exist when Defendants, and each of them, knew or in the exercise of reasonable care should have known, that the dancing pole/stage created an unreasonable risk of harm to patrons of the bar/restaurant;

- 1 C. Failed to warn Plaintiff ReAnna Hedrick of the danger presented by the
- 2 improper assembly and lack of inspection of the dancing pole and stage;
- 3 D. Failed to install some form of safety padding or netting in the event of dance
- 4 pole failure in order to minimize injuries to patrons; and
- 5 E. Failed to otherwise exercise due care with respect to the matters alleged in this
- 6 Complaint.
- 7 F. As a result of the injuries proximately caused by Defendants' strict liability,
- 8 Plaintiff sustained horrific, permanent injuries as enumerated in Paragraph XIX
- 9 above.

XIV.

11 As a direct and proximate result of the negligent, reckless and careless conduct of
12 Defendants by and through their officers, employees and/or agents as set forth above,
13 Plaintiff ReAnna Hedrick sustained the following serious injuries and damages:

- 14 A. Comminuted tuft fracture with associated soft tissue injury of the distal
- 15 phalanx of the left hand fourth digit;
- 16 B. Laceration and nail avulsion, left ring finger;
- 17 C. Reconstructive surgery of left ring finger;
- 18 D. Neck pain;
- 19 E. Radiating left shoulder pain, increases with movement. Decreased range of
- 20 motion left shoulder;
- 21 F. Left shoulder bursitis;
- 22 G. Left side bruising, including bruises on left knee, elbow and leg; and
- 23 H. Severe scarring and deformity of her finger/hand.

24 // // //

25 // // //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

XV.

As a result of the injuries proximately caused by Defendants' negligence, Plaintiff incurred medical expenses and will likely necessitate future medical treatment.

XVI.

As a further result of the injuries proximately caused by Defendants' negligence, Plaintiff suffered pain, distress, humiliation, mental and emotional anguish, depression, anxiety and a general decrease in her quality of life, entitling her to a judgment for general damages.

COUNT TWO: NEGLIGENCE PER SE

XVII.

Plaintiff re-alleges and incorporates Paragraphs I-XVI above as if fully set forth herein.

XVIII.

Defendants violated the applicable International Building Code, International Existing Building Code and the Mesa Existing Building Code with regard to construction, maintenance and compliance by failing to comply with the requirements of said Codes materially affecting health and safety and are negligent *per se*.

XIX.

Defendants violated the applicable International Building Code, International Existing Building Code and the Mesa Existing Building Code with regard to construction, maintenance and compliance by failing to obtain the applicable and necessary building and/or construction permit to build the stage and dance pole materially affecting health and safety and as a result are negligent *per se*.

XX.

Defendants violated the applicable International Building Code, International Existing Building Code and the Mesa Existing Building Code with regard to construction,

1 maintenance and compliance by failing to keep all common areas of the premises in a safe
2 condition and are negligent *per se*.

3 **XXI.**

4 As a direct and proximate result of the negligent, reckless and careless conduct of
5 Defendants by and through their officers, employees and/or agents as set forth above,
6 Plaintiff ReAnna Hedrick sustained the following serious injuries and damages:

- 7 I. Comminuted tuft fracture with associated soft tissue injury of the distal
- 8 phalanx of the left hand fourth digit;
- 9 J. Laceration and nail avulsion, left ring finger;
- 10 K. Reconstructive surgery of left ring finger;
- 11 L. Neck pain;
- 12 M. Radiating left shoulder pain, increases with movement. Decreased range of
- 13 motion left shoulder;
- 14 N. Left shoulder bursitis;
- 15 O. Left side bruising, including bruises on left knee, elbow and leg; and
- 16 P. Severe scarring and deformity of her finger/hand.

17 **XXII.**

18 As a result of the injuries proximately caused by Defendants' negligence *per se*,
19 Plaintiff incurred medical expenses and will likely necessitate future medical treatment.

20 **XXIII.**

21 As a further result of the injuries proximately caused by Defendants' negligence *per*
22 *se*, Plaintiff suffered pain, distress, humiliation, mental and emotional anguish, depression,
23 anxiety and a general decrease in her quality of life, entitling her to a judgment for general
24 damages.

25 // // //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNT THREE: STRICT LIABILITY

XXIV.

Plaintiff re-alleges and incorporates Paragraphs I-XXIII above as if fully set forth herein.

XXV.

Defendants, and each of them, are strictly liable to Plaintiff pursuant to Section 402(A) of the Restatement (Second) of Torts in that, as set forth herein, Defendants built, constructed and supervised the installation of a defective dance stage and dance pole.

XXVI.

Defendants' dance stage and dance pole contained defect(s) which resulted in the products failing to perform safely as an ordinary customer would expect when these products were used in a reasonably foreseeable manner and the defect was the cause of Plaintiff's injuries.

XXVII.

As a result of the injuries proximately caused by Defendants' strict liability, Plaintiff sustained horrific, permanent injuries as enumerated in Paragraph XXI above.

XXVIII.

As a result of the injuries proximately caused by Defendants' strict liability, Plaintiff incurred medical expenses and will likely necessitate future medical treatment.

XXIX.

As a result of the injuries proximately caused by Defendants' strict liability, Plaintiff suffered pain, distress, humiliation, mental and emotional anguish, depression, anxiety and a general decrease in her quality of life, entitling her to a judgment for general damages.

WHEREFORE, Plaintiff prays for judgment against Defendants named herein, jointly and severally, as follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

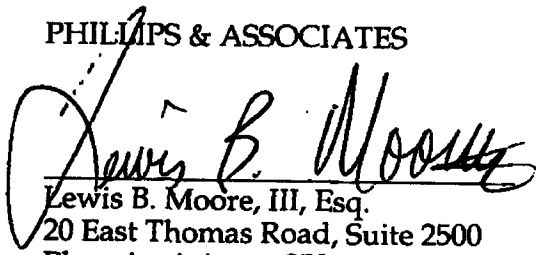
- a. General damages;
- b. Special damages;
- c. Court costs; and
- d. Such other relief as the Court deems proper.

JURY DEMAND

Plaintiff requests a trial by jury.

DATE: October 15, 2009

PHILLIPS & ASSOCIATES

By: 
 Lewis B. Moore, III, Esq.
 20 East Thomas Road, Suite 2500
 Phoenix, Arizona 85025
 Attorneys for Plaintiff

ORIGINAL filed and a COPY
mailed on October 15, 2009, to:

Harry L. Howe, Esq.
 10505 North 69th Street
 Suite 101
 Scottsdale, Arizona 85253
 Attorneys for 3RD Base, Inc.