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LEGAL PROCESS #8

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7 Attorneys for Plaintiffs

8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF SACRAMENTO

11 WILLIAM A. STRANGE, individually,  
12 and as Guardian *ad Litem* for RYLAND  
13 STRANGE and JORIE STRANGE, minors;  
14 RONALD E. SIMS, as Guardian *ad Litem*  
15 for KEEGAN SIMS, a minor,

Case No.:  
**07AS00377**

16 Plaintiffs,

**COMPLAINT FOR WRONGFUL DEATH**

17 v.

18 ENTERCOM SACRAMENTO, LLC,  
19 ENTERCOM COMMUNICATIONS,  
20 CORP., JOHN GEARY, STEVE WEED,  
21 ROBIN PECHOTA, LIZ DIAZ, ADAM  
22 COX, STEVE MANEY, PATRICIA SWEET,  
23 MATT CARTER and DOES 1 through 40,  
24 inclusive,

25 Defendants.

26 Plaintiffs complain against Defendants and allege:

27 **FIRST CAUSE OF ACTION**

28 **(WRONGFUL DEATH: NEGLIGENCE)**

1. The true names and capacities, whether individual, corporate, associate or otherwise of Defendants, DOES 1 through 40, are unknown to Plaintiffs, who therefore sue Defendants by such fictitious names, and Plaintiffs will amend this Complaint to show their true names and capacities when the same have been ascertained. Plaintiffs are

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1 informed and believe and thereon allege that each of the Defendants, and DOES 1  
2 through 40, are responsible under law in some manner — negligently, in warranty, strictly,  
3 or otherwise, for the events and happenings referred to herein. Said Defendants thereby  
4 caused injuries and damages to Plaintiffs as herein alleged.

5       2. Plaintiffs are now, and at all times herein mentioned were, California  
6 citizens and residents. Plaintiffs are the sole surviving heirs of Jennifer Strange, deceased.  
7 Plaintiff WILLIAM A. STRANGE is the decedent's surviving spouse. RYLAND STRANGE,  
8 JORIE STRANGE, and KEEGAN SIMS are the decedent's only children. Plaintiff RONALD  
9 E. SIMS is the natural father of minor Keegan Sims. Defendants ENTERCOM  
10 SACRAMENTO, LLC, ENTERCOM COMMUNICATIONS, CORP. and DOES 11 through  
11 20 (hereinafter "ENTERCOM") are corporations, limited liability corporations,  
12 partnerships, and/or business entities of some other form licensed to do business, and  
13 actually doing business, in California. Defendants, JOHN GEARY, STEVE WEED, ROBIN  
14 PECHOTA, LIZ DIAZ, and DOES 21 through 30 (hereinafter "MANAGING AGENTS"), at  
15 all relevant times were employed by and officers, directors or managing agents of  
16 ENTERCOM and DOES 11 through 20. Defendants ADAM COX, STEVE MANEY,  
17 PATRICIA SWEET, MATT CARTER, and DOES 1 through 10 (hereinafter, "THE TALENT"),  
18 were at all times employees of Defendants ENTERCOM, and DOES 11 through 20, and  
19 acting in the course and scope of their employment. THE TALENT are all citizens of the  
20 State of California, and reside in Sacramento County. All of the events described herein  
21 occurred in Sacramento.

22       3. ENTERCOM and MANAGING AGENTS at all times owned, operated,  
23 managed, marketed and controlled a radio station identified as KDND 107.9 The End,  
24 broadcasting in the greater Sacramento area. ENTERCOM and MANAGING AGENTS at  
25 all relevant times employed THE TALENT to perform on Defendants' radio program called  
26 The Morning Rave, which was broadcast during the hours typically described as "the  
27 morning drive." The Morning Rave specialized in playing "Today's Hit Music" combined  
28 with juvenile, irreverent comedic routines.

1           4.     Leading up to January 12, 2007, THE TALENT on The Morning Rave  
2 promoted and advertised an on-air radio contest known as "Hold your Wee for a Wii."  
3 THE TALENT solicited listeners to apply to participate in this contest. Defendants, and  
4 each of them, created, devised, orchestrated, organized, arranged and publicized each  
5 element of this contest, including marketing the contest to various sponsors and  
6 advertisers. Defendants and each of them determined the rules of the contest, the criteria  
7 for contest participants, the duration of the contest, and the contest prizes. Defendants  
8 and each of them accepted applications for the contest, and screened and selected the  
9 final contestants, including decedent Jennifer Strange.

10           5.     The contestants, including decedent, competed for the right to receive a  
11 Nintendo Wii video gaming system that has been in high demand since its release to the  
12 public late in 2006. The decedent ardently wished to win the Nintendo Wii system for  
13 her children, and applied for the contest. The winner of the contest was selected based on  
14 which contestant could consume the most water in a three-hour period without urinating.  
15 Defendants provided the location and all facilities (including the drinking water) for the  
16 contest, which was conducted on-air and in-studio at KDND 107.9 in Sacramento.

17           6.     At no time before the contest did the decedent sign a release of liability  
18 contractually relieving any Defendants of their duty of care in organizing and running the  
19 contest.

20           7.     At all times, it was foreseeable to Defendants and each of them that the  
21 contestants were at risk for serious illness and/or death as the result of consuming  
22 extensive amounts of water in a relatively short period of time. At all relevant times  
23 preceding the contest, Defendants were aware that consumption of water to such an  
24 extent could result in physical injury or death. Defendants had specific knowledge of a  
25 relatively recent fraternity hazing incident in Northern California as a result of which a  
26 young man died from over-consumption of water. Defendants had specific knowledge of  
27 similar contests at other radio stations in California during which contestants required  
28 medical attention as a result of their participation. Defendants were specifically informed

1 before and/or during the contest that the contestants were subject to the risk of serious  
2 illness and/or death as a result of their participation.

3 8. Prior to commencement of the contest, Defendants and each of them failed  
4 to conduct a reasonable investigation to determine the relative health risks to prospective  
5 contest participants. Defendants negligently failed to consult with appropriate health  
6 authorities regarding the relative health risks posed by such an enterprise. Defendants  
7 negligently failed to identify specific health risks or inform contest participants, including  
8 decedent, of any such risks. Defendants negligently failed to post any health advisories for  
9 contest participants, and failed to take any steps to identify prospective participants who  
10 might be at risk of injury. Defendants negligently failed to secure any medical  
11 professional or para-professional services during the contest, even after the contestants  
12 begin feeling ill, and similarly failed to require an examination by a competent physician  
13 of each contest participant prior to commencement of the contest. Defendants  
14 individually and collectively knew or should have known of the health risks of such a  
15 contest, but took no reasonable steps to advise, warn, supervise or otherwise protect  
16 contest participants including decedent.

17 9. The decedent complained of feeling ill while in-studio and before claiming  
18 her second place prize on-air. Defendants negligently failed to provide any assistance,  
19 medical or otherwise, to any of the contestants, including decedent.

20 10. The negligence of Defendants caused the death of Jennifer Strange. Had the  
21 decedent been properly informed of the health risks associated with the contest, she  
22 would not have participated. Had medical professional or para-professional services been  
23 provided, the decedent would not have consumed the fatal doses of water, and would  
24 have had immediate access to life-saving medical care and treatment as she began to  
25 exhibit symptoms consistent with over-consumption of water.

26 11. Defendants and DOES 31 through 40 otherwise negligently caused or were  
27 a substantial factor in causing the death of Jennifer Strange.

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1 illness sustained as a result of participating in Defendants' contest. Plaintiffs and/or the  
2 decedent incurred medical and incidental expenses in connection therewith. The exact  
3 amount of such expense is unknown to Plaintiffs at this time.

4 17. Plaintiffs are entitled to punitive damages against Defendants and each of  
5 them. By cooperating in the orchestration, direction, promotion and marketing of the  
6 contest, THE TALENT, at all relevant times acting in the course and scope of their  
7 employment by ENTERCOM, MANAGING AGENTS and DOES 11 through 40, engaged  
8 in conduct that evidenced a willful and knowing disregard of decedent's safety, while  
9 ignoring the probable dangerous consequences of such a contest and deliberately failing  
10 to avoid those consequences, despite THE TALENTS' individual and collective awareness  
11 of the risks of such conduct. Such conduct was despicable and so vile, base or  
12 contemptible that it would be looked down upon and despised by reasonable people.  
13 Specifically, Defendants and each of them deliberately failed to undertake sufficient  
14 research or investigation to be able to recognize the onset of a medical problem relative to  
15 the consumption of vast quantities of water, despite their independent and collective  
16 knowledge that such consumption could lead to injury and death. THE TALENT admitted  
17 during the broadcast that they should have done more research once various participants,  
18 including decedent, began to report medical symptoms. Despite this admission,  
19 Defendants, and each of them, failed to act upon clear reports of medical symptoms from  
20 decedent that were consistent with the onset of hyponatremia. At no time did Defendants  
21 advise decedent to seek medical attention. At no time did Defendants advise decedent to  
22 drop out of the contest in response to her symptoms. Instead of offering to provide  
23 medical assistance after decedent reported feeling ill, THE TALENT verbally chastised and  
24 otherwise coerced her, exhorting her to remain in the contest by threatening that she  
25 would be disqualified if she "puked." THE TALENT similarly chastised other contest  
26 participants, instructing other personnel to make sure that a participant who appeared to  
27 be dead had "signed a release," and emphasizing on numerous occasions those  
28 contestants who vomited or urinated would be eliminated.

1 18. At all relevant times ENTERCOM, MANAGING AGENTS and DOES 11  
2 through 40 were officers, directors or managing agents of said Defendants, empowered to  
3 exercise substantial independent authority and judgment in corporate decision capable of  
4 determining corporate policy. In that capacity, ENTERCOM, MANAGING AGENTS and  
5 DOES 11 through 40 planned, orchestrated, managed, promoted, controlled, supervised,  
6 marketed and authorized the despicable conduct of THE TALENT, and otherwise ratified,  
7 adopted or approved that conduct, both before and after it occurred. Specifically, said  
8 Defendants further ratified the following conduct and on-air comments made by THE  
9 TALENT on January 12, 2007:

- 10 a. it is possible to die from "water poisoning";  
11 b. references to the Chico hazing incident;  
12 c. admissions that THE TALENT should have "researched" water  
13 intoxication before conducting the contest;  
14 d. contestants would be "out of the contest" if they vomited, which  
15 would occur "if this gets dangerous."  
16 e. when a nurse called in to complain on-air that drinking excess water  
17 would result in illness and possible, death, THE TALENT responded  
18 "Yeah, we're aware of that," and "Yeah, they signed releases so  
19 we're not responsible so it's okay," and "if they get to the point  
20 where they have to throw up then they are out of the game before  
21 they die so that's good, right?" THE TALENT then sarcastically  
22 thanked the nurse for "looking out for us";  
23 f. joking references to whether anyone was dying in the contestants'  
24 room;  
25 g. joking / laughing references to "we've got a guy just about to die,"  
26 and that THE TALENT should "make sure he signs a release";  
27 h. joking / sarcastic references to bringing in a stretcher for one of the  
28 contestants;

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- i. joking / sarcastic references to insurance in the context of reports that contestants were feeling ill;
- j. mocking references to the decedent's distended abdomen from excess water consumption, making her look pregnant, which THE TALENT declared was amusing;
- k. sardonic expressions of mock sympathy with the decedent, when she complained on-air that she was feeling ill;
- l. comments to the decedent that "This is what it feels like when you're drowning"; and
- m. mocking comments to decedent to "get you out of your misery" by offering her a second prize of tickets to a Justin Timberlake concert.

Plaintiffs pray for judgment against Defendants for:

- a. All past medical expenses incurred by the decedent, according to proof;
- b. Punitive damages, according to proof;
- c. Any and all other damages and/or penalties that the decedent would have been able to recover from Defendants, had she lived;
- d. All prejudgment interest;
- e. Costs of suit incurred herein; and
- f. Such other and further relief as the Court may deem just and proper.

As a separate third cause of action, Plaintiffs complain against Defendants and allege:

**THIRD CAUSE OF ACTION**  
**(WRONGFUL DEATH: INTENTIONAL / RECKLESS CONDUCT)**

19. Plaintiffs incorporate herein by reference all allegations of the first and second causes of action as though fully set forth.

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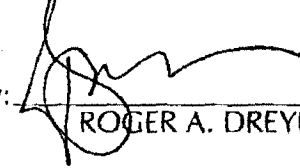


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- e. Costs of suit incurred herein; and
- f. Such other and further relief as the Court may deem just and proper.

DATED: 1-25-07

**DREYER, BABICH, BUCCOLA & CALLAHAM, LLP**

By:   
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ROGER A. DREYER