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10 Attorneys for Plaintiff,  
11 *MARIA MENDOZA*

12 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **COUNTY OF LOS ANGELES**

14 MARIA MENDOZA, an individual

15 Plaintiff,

16 vs.

17 ROBERTO RODRIGUEZ, an  
18 Individual; BO KUN SONG; an  
19 Individual; ALBERTO MENDOZA, an  
20 Individual and DOES 1 through 20,  
21 Inclusive.

22 Defendants.

Case No.  
Assigned to:  
Dept.

**COMPLAINT FOR:**  
**(1) MOTOR VEHICLE NEGLIGENCE**  
**(2) PREMISES LIABILITY**  
**(3) WRONGFUL DEATH**  
**(4) NEGLIGENCE**

23 COMES NOW, Plaintiff MARIA MENDOZA (“hereinafter Plaintiff”), individually, as heir-  
24 at-law, and as successor in interest to decedent GISELLE MENDOZA, who hereby complains and  
25 alleges against defendants ROBERTO RODRIGUEZ, BO KUN SONG, ALBERTO MENDOZA,  
26 and DOES 1 through 20 as follows:

27 **JURISDICTION AND VENUE**

28 1. This Court has jurisdiction over the Defendants in this litigation pursuant to Code of  
Civil Procedure section 410.10 as the accident that is the subject of this action took place in  
California and all the Defendants reside in California and the acts or omissions occurred within

1 California.

2 2. Venue is proper in this Court pursuant to Code of Civil Procedure section 395,  
3 subdivision (a), because the injury occurred in this County.

4 **PARTIES**

5 1. Plaintiff MARIA MENDOZA is, (hereinafter “Plaintiff”) and at all times relevant  
6 was, an individual residing in the County of Los Angeles in the State of California, and is the mother  
7 the deceased Giselle Mendoza.

8 2. Decedent GISELLE MENDOZA (hereinafter “Decedent”) was, at all times relevant,  
9 an individual residing in the County of Los Angeles in State of California and was the daughter of  
10 the Plaintiff.

11 3. Defendant ALBERTO MENDOZA (hereinafter “Defendant Mendoza”) is, and all  
12 times relevant was, an individual residing in County of Los Angeles in the State of California, and is  
13 the father of the Decedent; Defendant Mendoza is joined as a defendant in this action as a reluctant  
14 heir pursuant to Code of Civil Procedure section 382, so that all heirs-at-law may be before the court.

15 4. On information and belief, Defendant ROBERTO RODRIGUEZ (hereinafter  
16 “Defendant Rodriguez”) is, and at all times relevant was, an individual residing in the County of Los  
17 Angeles in the State of California.

18 5. On information and belief, Defendant BO KUN SONG (hereinafter “Defendant  
19 Song”) is, and at all times relevant was, an individual residing in the County of Orange in the State  
20 of California and owns, manages, maintains, and inspects the property at 1005 East Avenue R,  
21 Palmdale, CA 93550 (hereinafter “the Avenue R Property”).

22 6. The true names and capacities of Defendants sued herein as DOES 1 through 20,  
23 inclusive, are unknown to Plaintiff, who therefore sues such Defendants by such fictitious names  
24 pursuant to Code of Civil Procedure §474. Plaintiffs are informed and believe and thereon allege that  
25 each of the fictitiously named defendants is responsible in some manner for the occurrences alleged  
26 and that Plaintiffs’ damages alleged were proximately caused by those defendants. Plaintiffs will  
27 seek permission of this Court to amend this Complaint to show such true names and capacities when  
28 they have been determined.

**GENERAL ALLEGATIONS**

1  
2           7.       At all relevant times during the events described herein and before her death,  
3 decedent Giselle Mendoza occupied an apartment home with her mother, the Plaintiff, located at  
4 1005 E. Avenue R Apt. #3, Palmdale, California.

5           8.       At all times relevant during the events described herein and before the decedent’s  
6 death, Plaintiff occupied and rented the apartment located at 1005 E. Avenue R Apt. #3 from  
7 Defendant Song and/or Does 1-10.

8           9.       At all relevant times during the events described herein, in particular, on the early  
9 morning hours of April 20, 2014, Defendant Rodriguez drove the 2007 Nissan Pathfinder, bearing  
10 the license plate 5YXR045, while under the influence of alcohol and, as a result of his intoxication,  
11 Defendant Rodriguez crashed his vehicle through a railing and into the decedent’s bedroom at the  
12 Avenue R Property at 3:15 a.m., fatally injuring the decedent (hereinafter “the Collision”).

13           10.      On information and belief, at all times relevant during the events described herein  
14 and leading up to the events described herein since he became the owner of the Avenue R Property,  
15 Defendant Song and/or Does 1-10, had actual and/or constructive notice of other motor vehicle  
16 accidents that had occurred at the intersection of East Avenue R and 10<sup>th</sup> Street East, which among  
17 such accidents, at least one resulted in damage to the same railing negligently maintained by  
18 Defendant Song and/or Does 1-10, through which Defendant Rodriguez crashed his vehicle on  
19 April 20, 2014.

20           11.      On information and belief, at all times relevant and leading up to the events  
21 described herein, Defendant Song and/or Does 1-10, despite having knowledge of the unsafe  
22 condition of the railing that stood between the Avenue R Property and the thoroughfare at the  
23 intersection of E. Avenue R and 10<sup>th</sup> Street East, failed to exercise reasonable care to make safe or  
24 protect against harm from the condition of the railing in order to protect the occupants of the  
25 apartments located within the Avenue R Property from the unreasonable risk of harm posed by the  
26 railing’s deficient capacity to protect the Avenue R Property from motor vehicle collisions.

27           12.      On April 20, 2014 at 4:01 a.m. approximately 45 minutes after sustaining her fatal  
28 injuries, as a result of the all of the Defendants’ negligent acts and/or omissions, the Decedent

1 succumbed to her injuries and perished.

2 13. Plaintiff is the decedent's mother and brings this action as a wrongful death action,  
3 as the heir-at-law of the decedent, pursuant to Code of Civil Procedure section 377.60.

4  
5 **FIRST CAUSE OF ACTION**

6 **MOTOR VEHICLE NEGLIGENCE**

7 (Against Defendant Rodriguez)

8 14. Plaintiff re-alleges and incorporates herein by reference each and every allegation  
9 and statement contained in paragraphs 1-14, inclusive, as if fully set forth herein.

10 15. At all relevant times relevant and leading up to the events described herein,  
11 Defendant Rodriguez owed a duty to the decedent to use reasonable care while operating the 2007  
12 Nissan Pathfinder, bearing the license plate number 5YXR045, to abstain from injuring any other  
13 person or their property in the manner which the Collision occurred.

14 16. Defendant Rodriguez breached this duty of reasonable care by operating a motor  
15 vehicle at an unreasonable and unsafe speed in violation of California Vehicle Code section 22350  
16 and by maneuvering his vehicle to make an unsafe turn without care in violation of California  
17 Vehicle Code section 22107, all while Defendant Rodriguez was intoxicated and under the  
18 influence of alcohol, in violation of California Vehicle Code section 22352. As a result of his  
19 intoxication while operating the vehicle, Defendant Rodriguez crashed his vehicle into the  
20 decedent's bedroom in the Avenue R Property, fatally harming her.

21 17. Defendant Rodriguez' negligence caused or was a substantial factor in the  
22 decedent's death. Defendant Rodriguez' negligent conduct while operating a motor vehicle  
23 contributed in a natural and/or continuous sequence to the Collision which resulted in the fatal  
24 injury of the Decedent.

25 18. As a direct and proximate result of the negligent acts of Defendant Rodriguez, the  
26 Plaintiff, and Decedent's mother, has been deprived of a kind and loving daughter and has  
27 sustained damages consisting of (1) loss of the decedent's support, services, training, advice, love,  
28 support, society, companionship, comfort and protection according to proof at the time of trial; (2)

1 the loss of future financial support the Decedent would have provided according to proof at the time  
2 of trial; and (3) the value of funeral and burial expenses according to proof at the time of trial.

3  
4 **SECOND CAUSE OF ACTION**

5 **PREMISES LIABILITY**

6 (Against Defendant Song and Does 1-10)

7 19. Plaintiff re-alleges and incorporates herein by reference each and every allegation  
8 and statement contained in paragraphs 1-18, inclusive, as if fully set forth herein.

9 20. At all times relevant and leading up to the events described herein, Defendant Song  
10 and/or Does 1-10, owned, leased, controlled maintained, managed, and/or operated the Avenue R  
11 Property.

12 21. At all times relevant and leading up to the events described herein, the Avenue R  
13 Property was in a dangerous condition because the railing or fence that bordered the portions of the  
14 Avenue R Property facing the thoroughfare of E. Avenue R and 10<sup>th</sup> Street East was inadequate to  
15 protect occupants of the Avenue R Property such as the Decedent from an unreasonable risk of  
16 harm posed by vehicular collisions with the Avenue R Property.

17 22. At all times relevant and leading up to the events described herein, Defendant Song  
18 and/or Does 1-10 had a duty to use reasonable care to keep the Avenue R Property in a reasonably  
19 safe condition and/or to use reasonable care to discover any unsafe conditions and repair, replace,  
20 or give adequate warning of anything that could be reasonably expected to harm others, particularly  
21 occupants of the Avenue R Property, such as the decedent.

22 23. At all times relevant and leading up the events described herein, Defendant Song  
23 and/or Does 1-10, knew, or reasonably should have known about the unsafe condition of the railing  
24 surrounding the Avenue R Property, given the occurrence of prior motor vehicle accidents  
25 occurring at the intersection of E. Avenue R and 10<sup>th</sup> Street East, at least one of which resulted in  
26 damage to the negligently maintained fence or railing that borders the Avenue R Property.

27 24. Defendant Song and/or Does 1-10, breached their duty to the Plaintiff and the  
28 decedent by failing to exercise reasonable care to repair the unsafe condition of the railing, failing

1 to protect against harm from the condition of the railing, and/or by failing to give adequate warning  
2 of the unsafe condition of the railing.

3 25. At all times relevant and leading up to the events described herein, Defendant Song  
4 and/or Does 1-10, knew or should have known that the failure to take appropriate preventative  
5 measures to reduce the risk of harm created a dangerous condition which allowed a foreseeable risk  
6 of harm to exist.

7 26. Based on the foregoing, Defendant Song and/or Does 1-10 were negligent in the said  
8 ownership, maintenance, management, and operation of the Avenue R Property.

9 27. The negligence of Defendant Song and/or Does 1-10, contributed in a natural and  
10 continuous sequence to the events that lead to the death of the Decedent and was a substantial  
11 factor in causing the death of the decedent.

12 28. As a direct and proximate result of the negligent acts of Defendant Song and/or Does  
13 1-10, the Plaintiff, and Decedent's mother, has been deprived of a kind and loving daughter and  
14 has sustained damages consisting of (1) loss of the decedent's support, services, training, advice,  
15 love, support, society, companionship, comfort and protection according to proof at the time of  
16 trial; (2) the loss of future financial support the Decedent would have provided according to proof  
17 at the time of trial; and (3) the value of funeral and burial expenses according to proof at the time of  
18 trial.

19  
20 **THIRD CAUSE OF ACTION**

21 **WRONGFUL DEATH**

22 (Against Defendant Rodriguez, Defendant Song, and Does 1-20)

23 29. Plaintiff re-alleges and incorporates herein by reference each and every allegation  
24 and statement contained in paragraphs 1-28, inclusive, as if fully set forth herein.

25 30. As a direct and proximate result of the negligence and carelessness of Defendant  
26 Rodriguez, Defendant Song, and Does 1-20, and each of them, the Decedent died on April 20,  
27 2014.

28 31. As a direct and proximate result of the forgoing death of the Decedent, Plaintiff, the

1 Decedent's mother, has been deprived of a kind and loving daughter and has sustained damages  
2 consisting of (1) loss of the decedent's support, services, training, advice, love, support, society,  
3 companionship, comfort and protection according to proof; (2) the loss of future financial support  
4 the decedent would have provided according to proof; and (3) the value of funeral and burial  
5 expenses which will be established according to proof at trial.

6  
7 **FOURTH CAUSE OF ACTION**  
8 **NEGLIGENCE**

9 (Against all Defendants)

10 32. Plaintiff re-alleges and incorporates herein by reference each and every allegation  
11 and statement contained in paragraphs 1-40, inclusive, as if fully set forth herein.

12 33. Plaintiff is informed and believes, and thereon alleges, that she was further injured  
13 due to the general negligent acts or omissions of the Defendant Rodriguez, Defendant Song, and  
14 Does 1-20, and each of them. These acts included breaching of duties owed to the Plaintiff.

15 34. As a direct/proximate cause and result of the aforementioned carelessness and  
16 negligence of Defendant Rodriguez, Defendant Song, and Does 1-20, and each of them, Plaintiff  
17 sustained the heretofore and hereinafter described injuries and damages.

18 35. As a further direct/proximate cause and result of the conduct of Defendant  
19 Rodriguez, Defendant Song, and Does 1-20, and each of them, Plaintiff has been deprived of a  
20 kind and loving daughter and has sustained damages consisting of (1) loss of the decedent's  
21 support, services, training, advice, love, support, society, companionship, comfort and protection all  
22 to her general damage in a sum in excess of the minimal jurisdictional requirements of this Court to  
23 be determined according to proof at the time of trial; (2) the loss of future financial support the  
24 Decedent would have provided according to proof at the time of trial; and (3) the value of funeral  
25 and burial expenses according to proof at the time of trial.

26 36. As a direct and proximate cause of the negligence of all the Defendants, and each of  
27 them, Plaintiff has suffered general damages therefrom in an amount to be determined at trial  
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**PRAYER**


WHEREFORE, Plaintiff Maria Mendoza prays for judgment against Defendants in an amount to be proven at trial which includes the following categories of damages:

1. For special damages according to proof, with interest thereon according to law;
2. For general damages according to proof, with interest thereon according law;
3. For costs of suit incurred in this action;
4. For pre-judgment and post-judgment interest;
5. For an award of attorneys' fees as may be available by contract or statute; and
6. For such other and further relief as the court deems just and proper.

**Plaintiffs hereby demand trial by jury to the full extent permitted by law.**

Dated: March 13, 2015

**LAYFIELD & WALLACE, APC**

By:  \_\_\_\_\_

Philip J. Layfield, Esq.  
Ali Bushra, Esq.  
Attorneys for Plaintiff,  
MARIA MENDOZA, an Individual