

FILED
1/17/2017 3:19:17 PM
Donna Kay McKinney
Bexar County District Clerk
Accepted By: Laura Rodriguez

CAUSE NO **2017CI00903**

**ALICE ANDRADE Individually
CASSANOVA ARAGON,
IGNACIO ARAGON, III, As Minor
Children and Next Friends, and ANGEL
GONZALEZ, As Next Friend and as
Representatives of the Estate of
IGNACIO ARAGON, JR., Deceased**

Plaintiffs

VS

**BROWN ENTERTAINMENT INC.,
DBA FLYING TIGER SPORTS BAR &
JOHN DOE SECURITY COMPANY**

Defendants

IN THE DISTRICT COURT

131st TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURES

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, ALICE ANDRADE Individually, CASSANOVA ARAGON, IGNACIO ARAGON, III As Minor Children and Next Friends, and ANGEL GONZALEZ, As Next Friend and as Representatives of the Estate of IGNACIO ARAGON, JR., Deceased hereinafter called (Plaintiffs), bring this cause of action against Flying Tiger hereinafter called (Defendants) seeking actual damages that resulted in the Death of Ignacio Aragon, Jr., (Decedent), and for cause of action would show unto the Court the following:

I. DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends to conduct discovery in this action under Level 3 pursuant to Tex. R. Civ. P. §190, and hereby requests the Court's permission to enter into a discovery control plan.

II. PARTIES AND SERVICE

2. Plaintiff, ALICE ANDRADE, is a resident of San Antonio, Bexar County, Texas. Plaintiff brings this lawsuit as a survival and wrongful death action. Plaintiff is the mother and

statutory wrongful death beneficiary of Decedent.

3. Plaintiff CASSANOVA ARAGON, a minor child is a resident of San Antonio, Bexar County, Texas. Plaintiff brings this lawsuit as a survival and wrongful death action. Plaintiff is the Son and statutory wrongful death beneficiary of Decedent.
4. Plaintiff IGNACIO ARAGON, III., is a minor child is a resident of San Antonio, Bexar County, Texas. Plaintiff brings this lawsuit as a survival and wrongful death action. Plaintiff is the Son and statutory wrongful death beneficiary of Decedent.
5. Plaintiff ANGEL GONZALEZ, is a resident of San Antonio, Bexar County, Texas. Plaintiff brings this lawsuit as a survival and wrongful death action as the appointed representative of the estate of Decedent. Plaintiff is the daughter of and statutory wrongful death beneficiary of Decedent.
6. Defendant BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR, is a domestic for profit corporation doing business in the State of Texas. Defendant owns, operated and/or controls Flying Tiger Sports Bar, located at 2619 S. E. Military Drive, San Antonio Texas 78223, in which Decedent has entered into the premises as an invitee at the time of his death. The Defendant maybe served with process by its registered agent Patrick M. Karam, 4742 Shavano Oak, San Antonio, Texas 78249 or wherever he may be found.
7. Defendant, JOHN DOE SECURITY COMPANY, is a domestic corporation doing business in the State of Texas. Upon information and belief Plaintiff believes BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR, Defendant hired a security company the time of the incident located at 2619 S. E. Military Drive, San Antonio Texas 78223. The name of the Security Company is unknown at this time, and after discovery, said Defendant will be amended to reflect the true name of the security company

and will be duly served.

8. Defendant, Santiago Hernandez, is a resident of Bexar County, San Antonio Texas. That the Defendant maybe served at the Texas Department of Corrections, 815 12th Street, Huntsville Texas, 77348.
9. At the time of his death, Decedent was a resident of Bexar County, San Antonio, Texas.

III. REQUEST PURSUANT TO RULE 28/MISNOMBER/ALTER EGO

10. To the extent that any Defendants are conducting business pursuant to a trade name or assumed name, then suit is brought against said Defendant pursuant to the terms of Rule 28 of the Texas Rules of Civil Procedure, and Plaintiff's demand that, upon answer to this petition Defendant's answer in its correct legal name.

11. In the event any parties are misnamed or are not included herein, it is Plaintiffs' contention that such was a "misidentification", "misnomer" and /or such parties are/were "alter egos" of parties named herein. Alternatively, Plaintiffs contend that such "corporate veils" should be pierced to hold such parties properly included in the interest of justice.

IV. JURISDICTION AND VENUE

12. The subject matter in controversy is within the jurisdictional limits of this court.
13. Plaintiff asserts claims and causes of action are being brought under Texas law and Plaintiff's seeks monetary relief over (1,000,000.00) one million dollars. The amount in controversy in this case is within the jurisdictional limits of this Court.
14. This Court has personal jurisdiction over each Defendant because each Defendant is doing business in Bexar County, San Antonio, Texas and also because all acts giving rise to the present litigation occurred in Bexar County, San Antonio Texas.

V. FACTS

15. At all times material hereto, BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR, were the possessors in control of the premises located at 2619 SE. Military, Drive San Antonio Texas 78223.
16. At all times material hereto, BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR trade-name was "The Flying Tiger Sports Bar."
17. At all times material hereto, The Flying Tiger Sports Bar, was a mere tool or business conduit of, BROWN ENTERTAINMENT INC, and its predecessor in interest, if any, and was used as a means of evading tort liability. Both have not been maintained as separate entities and have integrated their resources to achieve a common business purpose by, but not limited to, simultaneously conducting business at 2619 SE. Military, Drive San Antonio Texas 78223. Simultaneously, conducting business under the trade-name "The Flying Tiger Sports Bar".
18. On or about January 17, 2015, Ignacio Aragon, Decedent, was an Invitee on property controlled by the Defendants, and shot and killed by Defendant, Santiago Hernandez, while he was on the premises known as the "Flying Tiger Sports Bar". Decedent, was an invitee to the premises and he was sitting with friends was threatened by Defendant Santiago Hernandez, that he was going to return to the premises and kill Decedent. Santiago Hernandez, left the Flying Tiger and returned with a gun and shot Decedent multiple times and killed Decedent.
19. At all times, Defendants BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR and JOHN DOE SECURITY COMPANY were aware that the Defendant, Santiago Hernandez, was leaving the premises and threatened to return with a gun. At

all times, Defendants BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR, and JOHN DOE SECURITY COMPANY failed to provide proper security to ensure that the invitees were protected and protected from such incidents.

20. At all times, Defendants BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR, and JOHN DOE SECURITY COMPANY, knew or should of known that the Defendant Santiago Hernandez, would return and shoot the Decedent and present a clear and present danger to all invitees in the premises and failed to provide a safe premises for all invitees. As a result, Defendants acts or omissions knowingly or recklessly caused Decedent death and Plaintiffs damages.

21. Defendants were aware of the potential danger to which its customers are exposed, and that the Defendant is consciously indifferent to the rights and welfare of those customers. Due to the gross negligence of Defendants, Plaintiff suffered a tragic loss of life and damages to Plaintiffs.

VI. CAUSE OF ACTION- TEXAS WRONGFUL DEATH ACT

22. Plaintiffs re-allege each and every allegation set forth above.

23. As the Surviving children, Angel Gonzalez, Ignacio Aragon, III, and Casanova Aragon of the Decedent, Ignacio Aragon, Jr., (collectively referred to as Plaintiffs Children) are entitled to bring this action against both Defendants, for their wrongful acts, negligence, carelessness, unskillfulness, and/or default that caused the death of their father.

Plaintiffs have suffered, and will continue to suffer, a loss of consortium and damage to the child/parent relationship, including the loss of love, affection, solace, comfort, companionship, society, assistance, and emotional support from their father as a proximate result of defendants' negligence. As a result, Plaintiff children have suffered pecuniary losses, the loss

of their father's advice and counsel, the loss of parental services, and will continue to suffer, a loss of consortium and damage to the child/parent relationship, including the loss of love, affection, solace, comfort, companionship, society, assistance, mental anguish, loss of companionship and society, loss of inheritance and emotional support from their father as a proximate result of defendants' negligence.

24. In addition, Plaintiffs are entitled to exemplary damages for Defendant's willful acts, omissions, and/or gross negligence that led to their father's death.

25. Plaintiff, Alice Andrade is entitled to bring this action against both Defendant's for their wrongful acts, negligence, carelessness, unskillfulness, and/or default that caused the death of her only son. As a result, Plaintiff has suffered pecuniary losses, and will continue to suffer, a loss of consortium and damage to the child/parent relationship she had with her son, including the loss of love, affection, solace, comfort, companionship, society, assistance, mental anguish, loss of companionship and society, loss of inheritance and emotional support from her only son as a proximate result of defendants' negligence.

26. As a result, Plaintiff has suffered pecuniary losses, the loss of her son's advice and counsel, services of a son, loss of consortium, mental anguish, loss of companionship and society, and loss of inheritance.

27. In addition, Plaintiff is entitled to exemplary damages for Defendant's willful acts, omissions, and/or gross negligence that led to her son's death.

VII. CAUSE OF ACTION TEXAS SURVIVAL STATUTE

28. Plaintiffs re-allege each and every allegations set forth above.

29. Plaintiffs bring this survival action in their capacity as the legal heirs of decedent pursuant to Tex. Civ. Prac. & Rem. Code § 71.021. Defendants' negligent acts were a

proximate cause of tremendous conscious pain, suffering, terror, mental anguish to Ignacio Aragon, Jr., preceding his eventual death. The estate of Ignacio Aragon, Jr., is entitled to recover damages for:

1. Ignacio Aragon, Jr.'s, conscious physical pain and suffering suffered prior to his death;
2. His conscious mental anguish suffered prior to his death; and
3. Funeral and burial expenses for Ignacio Aragon, Jr.

30. In addition, the Estate of Ignacio Aragon, Jr., is entitled to exemplary damages based on Defendants' actions and inactions.

VIII. CAUSE OF ACTION PREMISES LIABILITY AND DEFECT

31. Defendants BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR, is the listed owner of the property and premises located at 2619 SE. Military, Drive San Antonio Texas 78223. Decedent, Ignacio Aragon Jr., was an "invitee" upon the premises, in that he entered the premises for a business purpose, for the mutual benefit of himself and Defendant, with Defendants knowledge and consent. As invitee, Decedent Ignacio Aragon, Jr., was owed the highest duty of care by Defendant to be warned of or made safe from any conditions or activities on the property that posed a danger or a risk of harm to Plaintiffs that Defendant BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR either knew of, or through the exercise of reasonable diligence, should have known of, Defendant was on notice of such dangerous condition because it had a similar incident of extreme violent nature previously on its premises, less than four (4) months prior to this incident. Defendant knew and had actual knowledge of the danger or conditions and by breaching its duty to warn of such conditions or correct, resulting in personal injury, or even death.

32. Defendants knew that it lacked adequate security, and that by such act or omission posed an

extreme danger and risk of harm to its invitees. It therefore had actual and subjective knowledge and awareness of such problem because of its prior incident. Defendant, BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR failed to keep the premises safe from the unreasonably dangerous condition, and it was foreseeable that Plaintiffs would have been harmed and injured as a result.

IX. RESPONDEAT SUPERIOR AND AGENCY

33. Under the doctrine of *respondeat superior, and Agency* Defendants are liable for the actions of its employees, agents, contractual agents, true agent officers, directors, servants, and employees of BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR, at the time of the incident in which they were acting within the scope of their employment, agency or contract during the incident in question. Defendants are liable for the actions and inactions actions and/or omissions.

34. Additionally, Defendant, hired a security company, on information and belief, Defendant negligently hired which they negligently failed to train, supervise or adequately train or supervise. The negligence of such security company was also a proximate cause if the death of Ignacio Aragon.

35. Furthermore, Defendants are liable for breaching their duty to supervise and secure the premises when they knew of the Defendant Santiago Hernandez' extreme degree of recklessness and disregard for the safety of the general public, including Plaintiff.

36. As a direct and proximate result of these Defendants conduct as alleged in this petition where the proximate cause of Plaintiff's damages.

X. RES IPSA LOQUITOR

37. Plaintiffs re-allege each and every allegation set forth above.

38. Plaintiff also specifically pleads the doctrine of *res ipsa loquitur*. Plaintiffs would show that the character of the Decedent's death is such that it would not ordinarily happened is the absence of negligence, or gross negligence the acts of omissions of the personnel that were under control of the both Defendants, their agents, servants employees and premises at all relevant times.

XI. CAUSE OF ACTION -NEGLIGENCE

39. Plaintiffs re-allege each and every allegations set forth above.

40. Upon information and belief, Plaintiffs aver that Decedent's injuries that led to his death were caused by the negligence and fault of Defendants in several acts and omissions, including but not limited to the negligent failure to provide proper security, as outlined further in this petition.

XII. CAUSE OF ACTION –NEGLIGENCE *PER SE*

41. Plaintiffs re-allege each and every allegations set forth above.

42. Defendants were negligent *per se* in their violations of applicable state and federal statutes and regulations.

XIII. CAUSE OF ACTION GROSS NEGLIGENCE

43. Plaintiffs re-allege each and every allegations set forth above.

44. Defendants' conducts constitutes gross negligence Under Texas Law and Plaintiffs seek exemplary damages as allowed by Texas Law and magnitude of the potential harm to others. Furthermore, Defendants has actual, subjective awareness of the risk(s) but proceeded with a conscious indifference to the rights, safety and welfare of others. Plaintiff will show that Defendants were aware that they needed to provided sufficient security and

were on notice of such need when a previous incident has occurred. Plaintiff hereby makes reference to the December 15, 2014, Stabbing at the Flying Tiger Sports Bar, Under cause of action 2016CI0584, In the 288th Judicial District Court of Bexar Count, San Antonio Texas.

45. Ignacio Aragon, Jr., would be alive if BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR, and JOHN DOE SECURITY COMPANY had adequately trained and supervised its staff, agents, representatives and employees. BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR, and JOHN DOE SECURITY COMPANY had notice that the premises lacked proper security that had the knowledge of the standards and requirements and that without proper security there was a risk or danger to others, yet failed to take steps to limit these risks. Liability is imputed to BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR, and JOHN DOE SECURITY COMPANY under the doctrine of *res ipsa loquitur* because the incident could not have happened in the absence of BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR, and JOHN DOE SECURITY COMPANY's negligence and gross negligence. BROWN ENTERTAINMENT INC., DBA FLYING TIGER SPORTS BAR, and JOHN DOE SECURITY COMPANY acted with reckless disregard for the safety of the public, most notably Ignacio Aragon, Jr., by not properly hiring, training, providing and supervising security staff or providing a safe environment for invitees. Decedent, Ignacio Aragon, Jr., suffered fatal injuries as a result leaving his mother without a son and 3 children without a father. Such actions or inactions constitute negligence, negligence per se and gross negligence.

XIV. VICARIOUS AND DERIVATIVE LIABILITY

46. Plaintiffs re-allege each and every allegations set forth above.

47. Defendants are legally responsible to Plaintiffs for the negligent conduct of their respective employees, agents servants and representatives under the legal doctrines of respondeat superior, agency and/or ostensible agency because Defendants' employees were at all times material hereto agents ostensible agents, servants and/or employees of Defendants and were acting within the course and scope of their respective agency, servitude and employment. As a result the Defendants are vicarious liable for all negligence of its employees, agents servants and representatives.

XV. DAMAGES

48. Plaintiffs, hereby incorporates and realleges the matters set forth above as if set forth at length in this section.

49. Defendants multiple breaches of the standard of care proximately cause injuries to Plaintiffs and Decedent, which resulted in damages to Plaintiffs and the Estate of Decedent which include but are not limited to the following:

Wrongful Death Action Damages:

- a. Mental anguish in the past and future, and
- b. Loss of companionship and society in the past and future
- c. Pecuniary losses:
- d. Loss of inheritance and emotional support

Survival Action Damages

- a. Pain and suffering of Decedent

- b. Mental anguish of Decedent
- c. Physical impairment of Decedent
- d. Funeral Expenses, and
- e. Past medical expenses incurred for Decedents treatment.

XVI. DEMAND FOR TRIAL BY JURY

50. Plaintiff's demand a jury trial and tender the appropriate fee with this petition.

XVII. CONDITIONS PRECEDENT

51. All conditions precedent have been performed or have occurred, notice has been given to Defendants.

XVIII. PRESERVING EVIDENCE

52. Plaintiffs request and demand that defendants preserve and maintain all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit or the damages resulting therefrom, including statements, photographs, videotapes, audiotapes, surveillance or security tapes or information, business or medical records, incident reports, tenant files, periodic reports, financial statements, bills, telephone call slips or records, estimates, invoices, checks, measurements, correspondence, facsimiles, email, voice mail, text messages, and any electronic image or information related to the referenced incident or damages. Failure to maintain such items will constitute "spoliation" of the evidence.

XIX. REQUEST FOR INITIAL DISCLOSURE TO ALL DEFENDANTS

53. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff requests that Defendants, disclose to Plaintiff, within fifty (50) days of the service of this request, the information and materials described in Rule 194.2(a) through (k), to be produced at the Law

Office of McKnight & Bravenec, 405 S. Presa, San Antonio, Texas 78205. All Defendants stated above are hereby given notice that any document(s) or other material, including electronically stored information, that may be evidence or relevant to any issue in this case is to be preserved in its present form until this litigation is concluded.

XX.PRAYER

54. **WHEREFORE, PREMISES CONSIDERED,** Plaintiffs, respectfully prays that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants, jointly and severally, for damages in an amount within the jurisdictional limits of the Court; exemplary damages, as addressed to each Defendant per Section 41.006, Chapter 41, Texas Civil Practice and Remedies Code, excluding interest, and as allowed by Sec. 41.008, Chapter 41, Texas Civil Practice and Remedies Code; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiffs may be entitled at law or in equity.

Respectfully submitted,

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