

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

SUPERIOR COURT
CIVIL ACTION NO:

LINDA RODERIKUES, wife of decedent, DONALD :
RODERIKUES; LINDA RODERIKUES mother and :
Next Friend of MANDI RODERIKUES, daughter of :
the decedent DONALD RODERIKUES; DESIREE :
PHILLIPS, As Guardian and Next Friend of the Minor, :
KAYLA MARIE DOROTHY ABBENANTE AYER, :
daughter of the decedent, TINA MARIE AYER, :
Plaintiffs :

VS. :

TOWN OF WEST WARWICK; DENNIS LAROCQUE; :
INDIVIDUALLY AND AS FIRE INSPECTOR FOR :
TOWN OF WEST WARWICK; DERCO d/b/a "THE :
STATION"; MANIC MUSIC MANAGEMENT, INC; :
AMERICAN FOAM COMPANY MANUFACTURER :
OF SOUND PROOFING FOAM; JOHN DOE :
COMPANY PYROTECHNICS; MICHAEL :
DERDERIAN; JEFFREY DERDERIAN; JACK RUSSELL; :
MARK KENDELL; DAVE FILICE; ERIC POWERS; :
PAUL WOOLNOUGH; DANIEL BIECHELE; :
Defendants :

COMPLAINT

NOW COME the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Marie Dorothy Abbenante Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques; and Linda Roderiques, as Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques, pursuant to R.I.G.L. § 10-7-1.2, for their loss of consortium, allege and state the following causes of action:

JURISDICTIONAL AMOUNT

The amount in controversy in this matter is sufficient to satisfy the jurisdictional amount of this Court.

PLAINTIFFS

1. The plaintiff, Desiree Phillips, brings this action as Guardian and Next Friend of the Minor, Kayla Marie Dorothy Abbenante Ayer, (herein referred to as Kayla Ayer) a citizen of the State of Rhode Island, residing at [REDACTED], East Providence, Rhode Island.
2. The plaintiff, Linda Roderiques, wife of the decedent, Donald Roderiques, is a citizen of the Commonwealth of Massachusetts, residing at [REDACTED], Fall River, Massachusetts.
3. The plaintiff, Linda Roderiques, brings this action as Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques, is a citizen of the Commonwealth of Massachusetts, residing at [REDACTED], Fall River, Massachusetts.

DEFENDANTS

4. The defendant, Michael Derderian (hereinafter "Derderian"), is an individual with a residential address of [REDACTED], Saunderstown, Rhode Island. He is also a co-owner of the defendant, "DERCO" and "The Station".
5. The defendant, Jeffrey Derderian (hereinafter "Derderian"), is an individual with a residential address of Narragansett, Rhode Island. He is also a co-owner of the defendant, "DERCO" and "The Station".
6. The defendant, Town of West Warwick, (hereinafter "Town"), is a municipal corporation in the State of Rhode Island that employs persons for the safety and well being of the public, with a principal address of 1170 Main Street, West Warwick, Rhode Island.
7. The defendant, Dennis Larocque, (hereinafter "Inspector"), is the Fire Inspector for the Town of West Warwick in the State of Rhode Island, with a business address of West Warwick Fire Department, 1176 Main Street, West Warwick, Rhode Island.
8. The defendant, DERCO d/b/a "The Station" (hereinafter "The Station"), is a corporation doing business under and by virtue of the laws of the State of Rhode Island, with a principal place of business located at 115 Chestnut Street in the Town of West Warwick, Rhode Island, whose agent for service of process is Michael P. O'Connor at 115 Chestnut Street, in the Town of West Warwick, Rhode Island.
9. The defendant, Manic Music Management, Inc. (hereinafter "Manic"), is a corporation doing business under and by virtue of the laws of the State of California, with a principal place of business located at 17337 Ventura Boulevard, #218, Encino, California 91316, whose agent for service of process is Paul Woolnough at 17337 Ventura Boulevard, #218, Encino, California 91316.

10. The defendant, "American Foam Company, manufacturer of sound proofing foam", (hereinafter "Sound Proofing"), is a corporation doing business under virtue of the laws of the State of Rhode Island with a principle place of business located at 61 John Street, Johnston, Rhode Island.
11. The defendant, "John Doe manufacturer of pyrotechnics, (hereinafter "Pyrotechnics"), is a company doing business under and by virtue of the laws currently of parts unknown.
12. The defendant, Jack Russell, (hereinafter "Great White"), is a citizen of the State of California.
13. The defendant, Mark Kendell, (hereinafter "Great White"), is a citizen of the State of California.
14. The defendant, Dave Filice, (hereinafter "Great White") is a citizen of the State of California.
15. The defendant, Eric Powers, (hereinafter "Great White") is a citizen of the State of California.
16. The defendant, Paul Woolnough, (hereinafter "Woolnough") is a citizen of the State of California, with an address of 17337 Ventura Boulevard, #218, Encino, California.
17. The defendant, Daniel Biechele, (hereinafter "Biechele") is a citizen of the State of California, residing in Tapanga, California.

FACTS

18. That on or about February 20, 2003, the decedent, Tina Ayer, the mother of the minor plaintiff, Kayla Marie Ayer, and Donald Roderiques, husband of Linda Roderiques, and daughter, Mandi Roderiques, while attending a rock concert at "The Station", located at 115 Chestnut Street, West Warwick, Rhode Island, was caused to sustain serious and fatal injuries as a result of a fire that occurred at that location.
19. The defendant, DERCO d/b/a "The Station" was a wooden structure erected in the 1940's and operated by the defendants, Michael Derderian and Jeffrey Derderian, co-owners, of a night club that would feature rock bands and other entertainment.
20. Approximately eighteen (18) months prior to February 20, 2003, the defendants installed soundproofing materials on the walls behind the stage and on the ceiling, due to complaints by the neighbors to Town Officials. The Town Officials threatened that unless sound proofing was completed they would not allow "The Station" to be re-licensed.

21. The sound proofing that was installed consisted of a grayish-black spongy material that was non-flame retardant. Said material was installed with a non-flame retardant spray adhesive.
22. Pursuant to its use as a night club, "The Station" was licensed by the Town of West Warwick as a night club. The license specified an occupancy limit of 300 persons.
23. The interior of "The Station" consisted of a stage that was rectangular in shape, and had a small niche in the back where the drummer sat. The opening to the niche was approximately eight (8) feet across and six (6) to (7) feet high. In addition, there was room in front of the stage where the spectators would stand to observe the event and/or concert.
24. That sometime prior to February 20, 2003, the defendants, Derderian and DERCO, contracted with the defendant, "Great White", a hard rock band, whose members consisted of the following defendants: "Russell", "Kendell", "Filice", and "Powers", to perform in a rock concert at "The Station" on February 20, 2003.
25. That the defendant, "Manic", is the management company for "Great White" and through the defendant, "Woolnough", was responsible for negotiating the above contract between defendants, "Derderians", "DERCO", and "Great White", for the scheduled rock concert.
26. That in addition to "Great White", two other bands, "Fathead" and "Trip", were scheduled on February 20, 2003, to precede "Great White", which was the main attraction on the above named date.
27. On or about November 20, 2002, the West Warwick Fire Department Inspector, defendant, Dennis Larocque, inspected "The Station". At some later date, after November 20, 2002, the defendant, "Larocque", documented on the original Inspection Report "All OK" with his initials; however, said "Inspector" did not date his additional comments.
28. On the date of the fire, the first band to play, "Fathead", took the stage at approximately 8:30 p.m., and played for approximately 45 minutes; the second band to play, "Trip", took the stage at approximately 9:45 p.m., and also played a 45 minute set. The band, "Trip", was on tour with "Great White".
29. At the start of the performance for "Great White", there were in excess of 300 patrons in attendance, in violation of the Class C license and occupancy permit obtained by the defendants, "Derderians" and "DERCO".
30. At some point, the band, "Great White", its agents, servants, or employees, setup pyrotechnic devices at the opening of the niche in front of the drummer and behind the rest of the band.
31. On at least a dozen occasions, prior to February 20, 2003, other rock bands had used pyrotechnics and fireworks at "The Station". The practice persisted until the date of the incident.

32. Under R.I.G.L., Title 23, Health and Safety c. 23-28.11, Fireworks and Pyrotechnics, the defendants were required to possess and display permits, issued by the West Warwick Fire Department, prior to the use of pyrotechnics at "The Station".
33. R.I.G.L. § 23-28.11-4, requires every person desiring to possess or display commercial fireworks and/or pyrotechnics to obtain a "Certificate of Competency", that attests to the applicant's experience and ability to conduct commercial fireworks and/or pyrotechnics demonstrations competently.
34. That at no time prior to February 20, 2003, "The Station's" agents, owners, and employees never received or applied for a permit from the West Warwick Fire Department to possess or use pyrotechnics inside the club as required by R.I.G.L. § 23-28.11-3.
35. Prior to the incident, the defendants, "Derderians" and "DERCO", were warned by the manager of "The Station", Paul Vanner, of the danger of the use of pyrotechnics during performances at the club.

"THE FIRE"

36. On February 20, 2003, prior to the performance by "Great White" as before stated, pyrotechnics, in violation of R.I.G.L. 23-28.11 were installed by defendant, "Great White", its agents, servants and employees, for the purpose of detonation at the commencement of "Great White's" performance.
37. That the defendant, Jeffrey Derderian, his agents, servants, and employees, were at "The Station" when the pyrotechnics were installed and detonated.
38. The band, "Great White", took the stage at approximately 11:00 p.m.
39. At the commencement of the first set by "Great White", fireworks/pyrotechnics began spewing from the pyrotechnic cones that were placed in a vertical formation, that shot toward the sixteen (16) - eighteen (18) foot ceiling above the stage. There were also two (2) pyrotechnic cones shooting flames to the two (2) sides of the stage at approximately forty-five (45) degree angles that were impacting and showering flames on the sound proofing foam at the rear of the stage.
40. Within minutes, "the sound proofing foam" on the rear wall behind the band, erupted into flames, which quickly spread to the ceiling, causing the entire building to quickly become engulfed in flames, with heavy black smoke filling the building.
41. The patrons, employees and other personnel attending the concert attempted to vacate the building, however, the interior lights quickly failed, eliminating all visibility, resulting in panic and the tragic death of Tina Ayer, Donald Roderiques, and 94 other persons who were present at the concert. In addition, 187 persons were burned or injured, the fourth worst fire in United States history. There were no emergency or security lights to illuminate "The Station" after the interior lights failed.

COUNT I
Jeffrey Derderian
(Negligence)

42. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 41 as though fully stated herein.
43. The defendant, Jeff Derderian, as owner and manager of the night club known as "The Station" was negligent on the evening of Thursday, February 20, 2003, as follows:
- a. The defendant failed to properly manage, maintain, control and inspect "The Station" on the evening of Thursday, February 20, 2003, prior to the concert by "Great White".
 - b. The defendant failed to install, maintain, inspect, and supervise the sound proofing material that was installed in the night club prior to the date of the incident to ensure that the material installed was fire resistant.
 - c. The defendant failed to obtain the necessary permits prior to the use of pyrotechnics at "The Station" in violation of R.I.G.L. c. 23-28.11.
 - d. The defendant allowed the use of pyrotechnic devices at "The Station" in violation of R.I.G.L. c. 23-28.11.
 - e. The defendant failed to install, maintain, inspect, and manage "The Station" such that proper emergency lighting and exit signs were available and operable in the event of fire.
44. As a direct result of the defendant's negligence, a fire ignited from the use of pyrotechnics in a highly flammable environment which then engulfed the entire structure.
45. As a direct result and proximate cause of the defendant's negligence and recklessness in the operation of said premises, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.

WHEREFORE, plaintiffs request that this Honorable Court:

- 1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
- 2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;

3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate; and
5. Trial by jury.

COUNT II
Michael Derderian
(Negligence)

46. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 45 as though fully stated herein.
47. The defendant, Michael Derderian, as owner and manager of the night club known as "The Station" was negligent on the evening of Thursday, February 20, 2003, as follows:
 - a. The defendant failed to properly manage, maintain, control and inspect "The Station" on the evening of Thursday, February 20, 2003, prior to the concert by "Great White".
 - b. The defendant failed to install, maintain, inspect, and supervise the sound proofing material that was installed in the night club prior to the date of the incident to ensure that the material installed was fire resistant.
 - c. The defendant failed to obtain the necessary permits prior to the use of pyrotechnics at "The Station" in violation of R.I.G.L. c. 23-28.11.
 - d. The defendant allowed the use of pyrotechnic devices at "The Station" in violation of R.I.G.L. c. 23-28.11.
 - e. The defendant failed to install, maintain, inspect, and manage "The Station" such that proper emergency lighting and exit signs were available and operable in the event of fire.
 - f. As a direct result of the defendant's negligence, a fire ignited from the use of pyrotechnics in a highly flammable environment which then engulfed the entire structure.
48. As a direct result and proximate cause of the defendant's negligence and recklessness in the operation of said premises, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.

WHEREFORE, plaintiffs request that this Honorable Court:

1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;
3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate; and
5. Trial by jury.

COUNT III

DERCO, d/b/a "The Station"
(Negligence)

49. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 48 as though fully stated herein.
50. The defendant, Jeff Derderian, as owner and manager of the night club known as "The Station" was negligent on the evening of Thursday, February 20, 2003.
51. That the defendant, "The Station", was licensed by Town of West Warwick to have theatrical performances and live bands.
52. That the defendant, "The Station", was licensed by the Town of West Warwick for a restaurant license and a Class C liquor license.
53. That the defendant, "The Station", owed a duty of care to insure the safety of all patrons and employees.
54. That the defendant, "The Station", had a responsibility to ensure the facility was obeying all codes as imposed by the Town of West Warwick and the West Warwick Fire Department.
55. That the defendant, "The Station", did not have fire resistant sound proofing material.
56. The defendant failed to properly manage, maintain, control and inspect "The Station" on the evening of Thursday, February 20, 2003, prior to the concert by "Great White".
57. The defendant failed to install, maintain, inspect, and supervise the sound proofing material that was installed in the night club prior to the date of the incident to ensure that the material installed was fire resistant.
58. The defendant failed to obtain the necessary permits prior to the use of pyrotechnics at "The Station" in violation of R.I.G.L. c. 23-28.11.

59. The defendant allowed the use of pyrotechnic devices at "The Station" in violation of R.I.G.L. c. 23-28.11.
60. The defendant failed to install, maintain, inspect, and manage "The Station" such that proper emergency lighting and exit signs were available and operable in the event of fire.
61. As a direct result of the defendants negligence, a fire ignited from the use of pyrotechnics in a highly flammable environment which then engulfed the entire structure.
62. As a direct result and proximate cause of the defendant's negligence and recklessness in the operation of said premises, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.

WHEREFORE, plaintiffs request that this Honorable Court:

1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;
3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate; and
5. Trial by jury.

COUNT IV

Town of West Warwick
(Negligence)

63. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 62 as though fully stated herein.
64. That the defendant, "Town", was negligent on the evening of Thursday, February 20, 2003, as follows:
 - a. That the defendant, "Town", knew or should have known during the inspection performed by the defendant, "Inspector", on November 20, 2000, that the sound proofing material was not flame retardant.

- b. That the defendant knew or should have known that the defendants, "Derderians", and "DERCO", were using pyrotechnics at "The Station", in violation of state law and failed to take appropriate action.
 - c. That the defendant issued a license to the defendants, "Derderians" and "DERCO", without proper investigation, inquiry or provision for emergency lighting in the event of a fire.
65. As a direct result of the defendant's negligence a fire ignited from the use of pyrotechnics in a highly flammable environment which then engulfed the entire structure.
66. As a direct result and proximate cause of the defendant's negligence and recklessness in the operation of said premises, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.

WHEREFORE, plaintiffs request that this Honorable Court:

1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;
3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate; and
5. Trial by jury.

COUNT V

"Inspector", Dennis Larocque
(Negligence)

67. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 66 as though fully stated herein.
68. The negligence of the "Inspector" is as follows:
- a. That the defendant, "Town", knew or should have known during the inspection performed by the defendant, "Inspector", on November 20, 2000, that the sound proofing material was not flame retardant.

- b. That the defendant knew or should have known that the defendants, "Derderians" and "DERCO", were using pyrotechnics at "The Station", in violation of state law and failed to take appropriate action.
 - c. That the defendant issued a license to the defendants, "Derderians" and "DERCO", without proper investigation, inquiry or provision for emergency lighting in the event of a fire.
69. As a direct result of the defendant's negligence a fire ignited from the use of pyrotechnics in a highly flammable environment which then engulfed the entire structure.
70. As a direct result and proximate cause of the defendant's negligence and recklessness in the operation of said premises, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.

WHEREFORE, plaintiffs request that this Honorable Court:

1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;
3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate; and
5. Trial by jury.

COUNT VI

"Great White", its agents, servants, and employees
(Negligence)

71. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 70 as though fully stated herein.
72. That the defendant, "Great White", its agents, servants, and employees, Filice, Powers, Daniel Biechele, Kendell, Russell, Woolnough and Mainic, were negligent in the use, operation, management, and installation of the pyrotechnics used during the performance on February 20, 2003, resulting in the wrongful deaths of the decedents, Tina Marie Ayer and Donald Roderiques.

73. As a direct result of the defendant's negligence, a fire ignited from the use of pyrotechnics in a highly flammable environment which then engulfed the entire structure.
74. As a direct result and proximate cause of the defendant's negligence and recklessness in the operation of said premises, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.

WHEREFORE, plaintiffs request that this Honorable Court:

1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;
3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate; and
5. Trial by jury.

COUNT VII

American Foam Company, Manufacturer of Sound Proofing Material
(Negligence)

75. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 74 as though fully stated herein.
76. That the defendant, "American Foam Company", produced and sold sound proofing foam products to the defendants, "Derderians" and "DERCO", for the purpose of providing sound proofing foam to "The Station".
77. That the defendant, "American Foam Company's", sale of flammable sound proofing foam to the defendant was negligent.
78. The defendant knew or should have known that said sound proofing foam would be subjected to heat sources, including lighting equipment, matches, cigarettes, and pyrotechnics and, nevertheless, utterly failed to warn or advise the "Derderians" or others that the product was not flame retardant and, in fact, was highly flammable.
79. As a direct result of the defendant's negligence, a fire ignited from the use of pyrotechnics in a highly flammable environment which then engulfed the entire structure.

80. As a direct result and proximate cause of the defendant's negligence and recklessness in the sale of sound proofing foam, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.

WHEREFORE, plaintiffs request that this Honorable Court:

1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;
3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate; and
5. Trial by jury.

COUNT VIII

Daniel Biechele Pyrotechnics Installer/Igniter
(Negligence)

81. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 80 as though fully stated herein.
82. That the defendant, "Biechele", on the evening of February 20, 2003, was the person hired by "Great White" to set off, plan, organize, and design the pyrotechnics display for the concert scheduled on February 20, 2003, that he so negligently designed, organized, planned and set off pyrotechnics, so as to cause the sound proofing foam to ignite resulting in deaths of the decedents herein.
83. That the defendant, "Biechele", failed to obey R.I.G.L. § 23-28.11-3. The defendant was required to obtain a "Certificate of Competency" which requires every person desiring to possess or display commercial fireworks and/or pyrotechnics, attest to the applicant's experience and ability to conduct commercial fireworks and/or pyrotechnic demonstrations competently and in a safe environment.
84. As the result of the defendant's failure to obtain a certificate, the pyrotechnics were negligently ignited in an unsafe environment.

85. As a direct result and proximate cause of the defendant's negligence and recklessness in the display of pyrotechnics, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.

WHEREFORE, plaintiffs request that this Honorable Court:

1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;
3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate; and
5. Trial by jury.

COUNT IX

American Foam Company, Manufacturer of Sound Proofing Foam
(Strict Liability)

86. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 84 as though fully stated herein.
87. That the defendant is a manufacturer of the sound proofing foam and is strictly liable to the plaintiffs for designing, creating, manufacturing, distributing, selling, and placing into the stream of commerce the sound proofing foam.
88. That the sound proofing foam manufactured and/or supplied by the defendant was defective in its design and its formulate, in that when it left the hands of the manufacturer and/or the supplier it was unreasonably dangerous, it was more dangerous than an ordinary consumer would expect, and it was more dangerous than other forms of sound proofing foam.
89. The sound proofing foam supplied or manufactured by the defendant was defective in design or formulation in that, when it left the hands of the manufacturer or the supplier, the foreseeable risks exceeded the benefits.
90. The sound proofing foam manufactured or supplied by the defendant was defective due to inadequate warning or instruction because the manufacturer knew or should have known that the product created a risk of fire due to its flammable nature.

91. As a direct and proximate cause of the defective condition of the sound proofing foam, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.
92. That as a result thereof, the defendant is strictly liable for the sale of same.

WHEREFORE, plaintiffs request that this Honorable Court:

1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;
3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate; and
5. Trial by jury.

COUNT X

American Foam Company, Manufacturer of Sound Proofing Foam
(Breach of Implied Warranty of Merchantability R.I.G.L. § 6A-2-314)

93. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 92 as though fully stated herein.
94. That the American Foam Company placed on the market for purchase by consumers a product called sound proofing foam.
95. That the defendant made implied representations as to the safety of the sound proofing foam which induced customers to use the products and with the intention that they should rely upon said representations.
96. That the defendants purchased the sound proofing foam and placed same in "The Station" located on Route 3 in West Warwick, Rhode Island.
97. That the defendant had a duty to design against the reasonably foreseeable risks of the use of the sound proofing foam at "The Station" including the risk of fire, and the defendant breached that duty by supplying a product that was highly flammable.
98. That on February 20, 2003, due to the defective condition of the sound proofing foam, in breach of the implied warranty of merchantability of the defendant herein, a fire ignited causing severe and grievous injury resulting in death.

99. As a direct result and proximate cause of the defendant's breach of warranty the operation of said premises, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.

WHEREFORE, plaintiffs request that this Honorable Court:

1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;
3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate; and
5. Trial by jury.

COUNT XI

Pyrotechnics
(Negligence)

100. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 99 as though fully stated herein.
101. That the defendant, "Pyrotechnics", produced and sold fireworks and pyrotechnics products to the defendant, "Great White", its agents, servants, and employees, for the purpose of providing fireworks and/or pyrotechnics during their performances.
102. The defendant knew or should have known, that said pyrotechnics would be used during indoor performances and that said pyrotechnics were extremely dangerous and flammable and failed to warn defendant, "Great White", in the proper use and management of same.
103. As a direct result of the defendant's negligence, a fire ignited from the use of pyrotechnics in a highly flammable environment which then engulfed the entire structure.
104. As a direct result and proximate cause of the defendant's negligence and recklessness in the sale of pyrotechnics, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.

WHEREFORE, plaintiffs request that this Honorable Court:

1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;
3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate; and
5. Trial by jury.

COUNT XII
Pyrotechnics
(Strict Liability)

105. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 104 as though fully stated herein.
106. That the defendant is a manufacturer of the pyrotechnics and is strictly liable to the plaintiffs for designing, creating, manufacturing, distributing, selling, and placing into the stream of commerce the pyrotechnics.
107. That the pyrotechnics manufactured and/or supplied by the defendant was defective in its design and formulation, in that when it left the hands of the manufacturer and/or the supplier, it was unreasonably dangerous, and it was more dangerous than an ordinary consumer would expect.
108. The pyrotechnics manufactured and/or supplied by the defendant was defective in design or formulation in that, when it left the hands of the manufacturer and/or the supplier, the foreseeable risks acceded the benefits.
109. The pyrotechnics manufactured and/or supplied by the defendant was defective due to inadequate warning or instruction because the manufacturer knew or should have known that the product created a foreseeable risk of fire due to its flammable nature.
110. As a direct and proximate cause of the defective condition of the pyrotechnics, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.
111. That as a result thereof, the defendant is strictly liable for the sale of same.

WHEREFORE, plaintiffs request that this Honorable Court:

1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;
3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate, and
5. Trial by jury.

COUNT XIII

Pyrotechnics

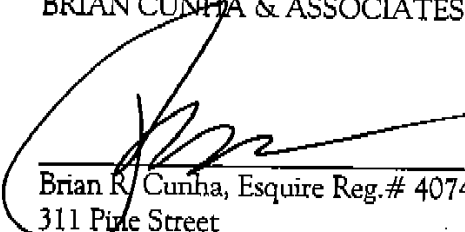
(Breach of Implied Warranty of Merchantability R.I.G.L. ' 6A-2-314)

112. Plaintiffs hereby incorporate by reference, Paragraphs 1 through 111 as though fully stated herein.
113. That the defendant "Pyrotechnics", placed on the market, for purchase by consumers, a product called pyrotechnics.
114. That the defendant herein implied warranty that pyrotechnics were reasonable and suitable for safe use at indoor locations.
115. That pyrotechnics are not safe for indoor use and that the defendant had a duty to design against the reasonable, foreseeable risks attending the use of pyrotechnics in an indoor location, including the risk of fire. The defendant breached that warranty by supplying a product that the defendant knew or should have known would be used indoors.
116. That on February 20, 2003, due to the defective condition of the pyrotechnics, in breach of the implied warranty of merchantability of the defendant herein, a fire ignited causing severe and grievous injury resulting in death.
117. As a direct result and proximate cause of the defendants breach of implied warranty the operation of said pyrotechnics, Tina Marie Ayer and Donald Roderiques died resulting in a loss of consortium, including companionship, maintenance and support to the plaintiffs, Desiree Phillips, as Guardian and Next Friend of the Minor, Kayla Ayer, daughter of the decedent, Tina Marie Ayer; Linda Roderiques, wife of the decedent, Donald Roderiques, and Linda Roderiques, Mother and Next Friend of Mandi Roderiques, daughter of the decedent, Donald Roderiques.

WHEREFORE, plaintiffs request that this Honorable Court:

1. Award compensatory damages against each of the defendants in an amount that this Court deems meet and just;
2. Award punitive damages against each of the defendants in an amount that this Court deems meet and just;
3. Award costs of this action including attorneys' fees to the plaintiffs;
4. Award such other and further relief as this Court may deem appropriate; and
5. Trial by jury.

By his Attorneys,
BRIAN CUNHA & ASSOCIATES



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