

ELECTRONICALLY FILED
Superior Court of California,
County of Tulare
08/22/2023
By: Nay Saelee,
Deputy Clerk

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6
7 Attorneys for The Darling Group LLC
dba The Darling Hotel, improperly sued
herein as Courthouse Square Ventures,
8 (DBA "The Darling Hotel")

9 **SUPERIOR COURT OF STATE OF CALIFORNIA**

10 **COUNTY OF TULARE**

11 [REDACTED] CASE NO: VCU300238

Assigned to Dept: 01
Hon. David C. Mathias

12 Plaintiffs,

13 vs.

14 COURTHOUSE SQUARE VENTURES LLC,
15 (DBA "THE DARLING HOTEL") and DOES
1-30,

16 Defendants.

**CROSS-COMPLAINT BY THE DARLING
GROUP LLC DBA THE DARLING
HOTEL, IMPROPERLY SUED HEREIN
AS COURTHOUSE SQUARE
VENTURES, (DBA "THE DARLING
HOTEL")**

- 17 THE DARLING GROUP LLC DBA THE
DARLING HOTEL, IMPROPERLY SUED
18 HEREIN AS COURTHOUSE SQUARE
VENTURES, (DBA "THE DARLING
HOTEL")
19
- (1) **EQUITABLE INDEMNITY;**
(2) **CONTRIBUTION;**
(3) **DECLARATORY RELIEF**

Complaint filed: July 26, 2023

20 Cross-Complainant,

21 vs.

22 ONSITE SECURITY, INC, a California
corporation, VISALIANS INC. also known as
23 DOWNTOWN VISALIANS, a California
corporation and ROES 1-100, inclusive.
24

25 Cross-Defendants.

26 COMES NOW Defendant and Cross-Complainant THE DARLING GROUP LLC DBA
27 THE DARLING HOTEL, IMPROPERLY SUED HEREIN AS COURTHOUSE SQUARE
28 VENTURES, (DBA "THE DARLING HOTEL") (hereinafter referred to as "Cross-Complainant")

1 for causes of action against Cross-Defendants and each of them, and alleges as follows:

2 **FACTUAL ALLEGATIONS**

3 1. Cross-Complainant is informed and believes, and thereon alleges, that
4 Cross-Defendants were at all times operative for this Cross-Complaint approved to and actually were
5 doing business in the State of California, County of Tulare.

6 2. This is a wrongful death lawsuit arising out of a series of events that took place at the
7 DARLING HOTEL, which is owned and operated by the Cross-Complainant. The DARLING
8 HOTEL is a boutique hotel located at 210 North Court Street, Visalia, California and is herein
9 referred to as the "HOTEL". JEREMY BAKER ("BAKER") checked in as a guest at the HOTEL
10 on July 26, 2021. BAKER checked in by himself and was assigned Room 208. At about 4:20 p.m.
11 on July 26, 2021, BAKER went to the front desk of the HOTEL and advised HOTEL employee
12 CLAIRE CAVIGLIA that he was expecting his mother, named RANDA, as a guest. RANDA was
13 never a registered guest at the HOTEL but was given a room key. RANDA appears to have arrived
14 at the HOTEL later in the evening of July 26, 2021, and left early in the morning on the 27th. On
15 information and belief, RANDA has been described by certain law enforcement as a prostitute.
16 BAKER also got room service at 10:47 p.m. on July 26, 2021 with a charge of \$11.93. The charge
17 appears to have been for the delivery of an alcoholic beverage. Checkout was to be on Tuesday,
18 July 27, 2021 at 11:00 a.m. When BAKER did not check out, a house staff employee went into
19 Room 208, saw BAKER sleeping, and left. Shortly after, CLAIRE CAVIGLIA and another
20 employee, ASHLEY ISIDRO, went into Room 208 (at approximately noon) and tried to wake
21 BAKER. CLAIRE CAVIGLIA then contacted VISALIA DOWNTOWN SECURITY, whose legal
22 name is VISALIANS INC. doing business as DOWNTOWN VISALIANS ("DOWNTOWN
23 VISALIA") to do a wellness check. A security officer from DOWNTOWN VISALIA, believed to
24 be employed by ONSITE SECURITY, INC. ("ONSITE SECURITY"), then came to the HOTEL.
25 The name of the security officer is not known at this time but whose first name is believed to be
26 "Joey." The security officer, CLAIRE CAVIGLIA and ASHLEY ISIDRO went into Room 208
27 between 12:15 p.m. and 12:45 p.m. The security officer "gently shook" BAKER awake. The
28 security officer looked for drugs in Room 208 and saw none. BAKER did wake up. BAKER was

1 then booked for a second night. Around 5:00 p.m., CLAIRE CAVIGLIA again inquired about
2 BAKER. When the front desk indicated they had not seen him, CLAIRE CAVIGLIA then placed a
3 call into DOWNTOWN VISALIA, but they were not willing to come to the hotel room again. The
4 police were then called. CLAIRE CAVIGLIA and another HOTEL employee, TIENA HIDALGO,
5 then went to Room 208 and knocked on the door. There was no answer. The police then arrived. The
6 police officer went to the front door of Room 208, but was not willing to go inside (the officer was
7 only willing to knock on the door – and there was no response). Two additional employees of the
8 HOTEL then knocked on the door of Room 208 at about 9:15 p.m. When there was no answer,
9 CLAIRE CAVIGLIA and another employee of the HOTEL came to the HOTEL and went to Room
10 208 at about 9:45 p.m., went inside and saw that BAKER was deceased (apparently from drug use).
11 In the space of a number of hours, the HOTEL staff checked on BAKER at least four times, called
12 DOWNTOWN SECURITY and the police and had them go to Room 208. The HOTEL met any
13 applicable standard of care and BAKER assumed the risks of drug taking and waived any claim
14 against the HOTEL.

15 4. On or about July 26, 2023, Plaintiffs [REDACTED]
16 [REDACTED] ("Plaintiffs") filed a COMPLAINT FOR DAMAGES
17 FOR WRONGFUL DEATH AND SURVIVAL ACTION SOUNDING IN NEGLIGENCE in the
18 matter entitled [REDACTED]
19 vs. COURTHOUSE SQUARE VENTURES) LLC, DBA "THE DARLING HOTEL"), Tulare
20 Superior Court case number 300238 ("Complaint"). That Complaint is attached hereto as Exhibit 1
21 and is incorporated by reference in order to express the alleged facts, only. The HOTEL has
22 answered the Complaint, denying any liability.

23 **THE PARTIES**

24 5. Cross-Complainant (the HOTEL) is a California corporation which owns and
25 operates the HOTEL, located at 210 North Court Street, Visalia, California. The events described in
26 the Complaint and this Cross-Complaint all occurred in Tulare County Superior Court.

27 6. ONSITE SECURITY is a California Corporation which is believed to have offices
28 located at 107 S. Church Street, Visalia, California and operates a security services business there.

1 7. VISALIANS INC. doing business as DOWNTOWN VISALIANS (DOWNTOWN
2 VISALIA) is a California corporation which operates an organization assisting and promoting local
3 Visalia businesses and operates out of offices located at 120 S. Church Street, Visalia, California.

4 8. Cross-Complainant is ignorant of the true names and capacities of Cross-
5 Defendants sued herein as Roes 1 through 100 and therefore sues those Cross-Defendants by such
6 fictitious names. Cross-Complainant will amend this Cross-Complaint to show the true names and
7 capacities of each fictitiously named Cross-Defendant when such identities become ascertained.
8 Cross-Complainant is informed and believes and thereon alleges that each fictitiously named Roe
9 Cross-Defendant is responsible for or in some was participated in the acts and conduct hereinafter
10 alleged, and that each is therefore liable, jointly and severally with each other, for the damages and
11 other relief. Cross-Complainant is informed and believes and thereon alleges that at all times
12 relevant herein, each Roe Cross-Defendant was the agent, servant and employee of each other
13 Cross-Defendants, and in committing the acts and following the course of conduct set forth below,
14 were acting within the scope of such agency or employment, and that each Roe Cross-Defendant
15 ratified and affirmed the acts of each other Cross-Defendant.

16 **FIRST CAUSE OF ACTION**

17 **EQUITABLE INDEMNITY**

18 **(Against Cross-Defendants)**

19 9. Cross-Complainant incorporates paragraphs 1 through 8 as though fully set forth
20 herein.

21 10. Cross-Complainant alleges that its liability, if any, to Plaintiffs for damages or
22 injury as alleged in the Complaint was caused in whole or in part by the breaches of duty owed to
23 Plaintiff by Cross-Defendants. Cross-Complainant is therefore entitled to implied equitable
24 indemnity from Cross-Defendants. Cross-Defendants' failure to use reasonable care (as alleged
25 by Plaintiffs) was a cause of Plaintiffs' alleged damages for which Cross-Defendants are liable.
26 Cross-Complainant is therefore entitled to be indemnified by Cross-Defendants for any amount
27 which Cross-Complainant has or must pay in settlement or in judgment to Plaintiffs.
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SECOND CAUSE OF ACTION

CONTRIBUTION

(Against Cross-Defendants)

11. Cross-Complainant incorporates paragraphs 1 through 10 as though fully set forth herein.

12. If Cross-Complainant is held liable to Plaintiffs, which liability is specifically denied, said liability did not attach by virtue of the sole, active and primary negligence and carelessness of Cross-Complainant but rather in connection with the negligence and carelessness of the Cross-Defendants, and each of them in causing injuries and damages to Plaintiffs.

13. Cross-Complainant is entitled to contribution and reimbursement against Cross-Defendants, and each of them, for the full amount of any judgment entered against Cross-Complainant in addition to any and all costs of suit and legal expense to the extent that Plaintiffs' damages are attributable to the negligence, carelessness and imprudence of the Cross-Defendants, and each of them.

THIRD CAUSE OF ACTION

DECLARATORY RELIEF

(Against Cross-Defendants)

14. Cross-Complaint incorporates paragraphs 1 through 13 as though fully set forth herein.

15. An actual controversy has arisen and now exists between Cross-Complainant and Cross-Defendants concerning their respective rights and duties in that Cross-Complainant contends that it is entitled to indemnification from Cross-Defendants, and the Cross-Defendants are believed to contend otherwise.

16. Cross-Complainant desires a judicial determination of its rights and a declaration of the rights and duties of the respective parties. No adequate remedy at law exists.

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WHEREFORE, Cross-Complainant prays for judgment against Cross-Defendants as

follows:

1. For equitable indemnity and reimbursement from Cross-Defendants;
2. For contribution against Cross-Defendants for their pro rata share of such damages and reimbursement from Cross-Defendants;
3. For a declaration of rights, duties and responsibilities of the parties to this action;
4. For costs of suit;
5. For attorney’s fees; and
6. For such other relief as deemed just and proper by this Court.

DATED: August 22, 2023

THE MORRISON LAW GROUP

By: /s/Edward F. Morrison, Jr.
Edward F. Morrison, Jr.
Larry A. Schwartz
Attorneys for The Darling Group LLC dba The Darling Hotel, improperly sued herein as Courthouse Square Ventures, (DBA “The Darling Hotel”).

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**EXHIBIT 1
[COMPLAINT]**

FILED
TULARE COUNTY SUPERIOR COURT
VISALIA DIVISION

JUL 26 2023

STEPHANIE CAMERON, CLERK
BY: *[Signature]*

1 JOHN J. SARSFIELD (SBN 138971)
2 MARGUERITE MELO (SBN 167782)
3 LAW OFFICES OF MELO AND SARSFIELD LLP
4 4216 S. Mooney Blvd PMB 136
5 Visalia, CA 93277
6 Telephone: 559 732 3000

E-mail: meloandsarsfield@icloud.com CONFERENCE MANAGEMENT CONFERENCE

Attorneys for Plaintiffs

Hearing Date: 11-28-2023
Time: 8:30 am
Department: 1

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF TULARE

10) Case No. = 300238
11)
12)
13) Plaintiffs.) COMPLAINT FOR DAMAGES FOR
14) vs.) WRONGFUL DEATH AND SURVIVAL
15)) ACTION SOUNDING IN NEGLIGENCE
16)
17) COURTHOUSE SQUARE VENTURES)
18) LLC, (DBA "THE DARLING HOTEL"))
19) and DOES 1-30,)
20)
21) Defendants.)

21 COMES NOW Plaintiffs, *[Redacted]*
22 *[Redacted]* individually and as the Successor-in interest to THE ESTATE OF JEREMY BAKER
23 ("Plaintiffs"), for causes of action against Defendant COURTHOUSE SQUARE VENTURES
24 LLC, (DBA "THE DARLING HOTEL") and DOES 1-30,, who complain and allege as follows:

25 ///

26 ///

GENERAL ALLEGATIONS

1
2 On July 27, 2021, in the City of Visalia, County of Tulare, Jeremy Baker was a guest at
3 the "Darling Hotel." Mr. Baker was, at the time of his death, an adult male, and the father of the
4 individually named plaintiffs.
5

6 The Darling Hotel is the "DBA" of Defendant Courthouse Square Ventures LLC, a
7 California Corporation.
8

9 The Darling Hotel is a luxury hotel located in downtown Visalia, open for business to the
10 general public. Guests check into the hotel for a certain period of time, and then are required to
11 check out. The Darling Hotel has a duty of care to its guests, to include providing reasonable
12 assistance to them in medical emergencies.
13
14

15 Mr. Baker checked into the Darling Hotel on/about July 26, 2021, and was to check out
16 the next day. Checkout time was at 12 noon.
17

18 At approximately 2 PM, on the 27th of July, 2021, management of the Defendant hotel
19 noticed that Mr. Baker had not yet checked out at the required time (approximately 12 noon).
20

21 Management contacted a downtown security officer (an employee of a local security
22 business that provided security services to various downtown businesses such as The Darling
23 Hotel) to check on the welfare and status of Mr. Baker, as well as to ascertain why he had not
24 checked out of the hotel.
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1 When the security officer arrived, two Darling Hotel employees accompanied the security
2 officer to Mr. Baker's room. After knocking on the door with no answer, they all entered Mr.
3 Bakers's room.

4
5 The trio located Mr. Baker, non-responsive on his bed in the hotel room. They tried to
6 awaken him, without success. This was done by talking to Mr Baker and physically shaking
7 him.

8
9 A reasonable person and properly trained hotel operator would have immediately noticed
10 that Mr. Baker's non-responsive condition was a medical emergency and required immediate
11 medical aide and/or intervention.

12
13
14 The hotel (Defendant) had a duty of care to its guests such as Mr. Baker, to include a
15 duty to summon medical care, as well as a duty to not conceal his medical distress such that
16 other persons would be prevented from acting as a Good Samaritan.

17
18 Rather than call for an ambulance or take other steps to rescue, the trio decided there was
19 nothing to be done, closed his door, and left him in his room, unattended. They did not call 911
20 or otherwise request medical assistance. The act of leaving Mr. Baker in a locked room prevented
21 any other hotel guest or employee from being able to independently discover that he was in
22 distress and call for assistance. The trio were acting on behalf of Defendant hotel (in the course
23 and scope of their duties) and not in their personal capacities.

24
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26 Later that evening, at approximately 9:45 PM, hotel staff returned to Mr. Baker's room
27 and discovered him dead.
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An autopsy conducted on Mr. Baker's body determined that he died of a drug overdose (opiates). That is significant because on information and belief, a timely medical intervention could have prevented the overdose death.

Plaintiffs are informed and believe, and thereon allege, that had an ambulance been called when Mr. Baker was non-responsive and first contacted at 2 PM, medical intervention would have saved his life.

VENUE

The events complained of all occurred within the County of Tulare, State of California, therefore venue is in the County of Tulare Superior Court.

PARTIES

Plaintiffs [REDACTED] at all times herein relevant, are residents of Tulare County and are the children of Mr. Baker (the deceased).

Defendant Courthouse Square Ventures LLC, (DBA "The Darling Hotel,") at all times herein relevant, is a California corporation and is authorized to do business in California, with its office located Visalia, California (County of Tulare).

The true names and capacities, whether individual, plural, corporate, partnership, associate, or otherwise, of DOES 1 through 30, inclusive, are unknown to Plaintiffs who therefore sue said defendants by such fictitious names. The full extent of the facts linking such fictitiously sued defendants is unknown to Plaintiffs. Plaintiffs are informed and believe, and thereupon

1 allege, that each of the defendants designated herein as a DOE was, and is, negligent, or in some
2 other actionable manner; responsible for the events and happenings hereinafter referred to, and
3 thereby negligently, or in some other actionable manner, legally and proximately caused the
4 hereinafter described injuries and damages to Plaintiffs. Plaintiffs will hereafter seek leave of the
5 Court to amend this Complaint to show the defendants' true names and capacities after the same
6 have been ascertained. "Doe" Defendants also include any corporate or personal successors in
7 interest to Courthouse Square Ventures LLC, in the event that Courthouse Square Ventures LLC
8 no longer owns/operates/controls "The Darling Hotel."
9

10
11 Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
12 herein, COURTHOUSE SQUARE VENTURES LLC, (DBA "THE DARLING HOTEL" and
13 DOES I through 30, inclusive, were agents, servants, employees, successors in interest, partners,
14 and/or joint venturers of their co-defendants, and were, as such, acting within the course, scope,
15 and authority of said agency, employment, and/or venture, and that each and every defendant, as
16 aforesaid, when acting as principal, was negligent in the selection and hiring of each and every
17 other defendant as an agent, servant, employee, successor in interest, and/or joint venturer.
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21 **FIRST CAUSE OF ACTION**
22 **(Wrongful Death and Survival Action Sounding in Negligence Against COURTHOUSE**
23 **SQUARE VENTURES LLC, (DBA "THE DARLING HOTELES") and DOES 1 Through**
24 **30, Inclusive)**

25 Plaintiffs re-allege and incorporate herein by reference each and every allegation and
26 statement contained in the prior paragraphs.

27 Plaintiffs are informed and believe, and thereon allege, that at all times mentioned herein,
28 COURTHOUSE SQUARE VENTURES LLC, (DBA "THE DARLING HOTELS"), and DOES

1 1 through 30, inclusive, owed a duty of care to all reasonably foreseeable people, invitees and
2 guests, including Decedent Jeremy Baker and Plaintiffs, to own keep safe, install, maintain, and
3 control the premises in a reasonable manner, as well as to rescue guests who were in medical
4 distress.

5
6 Plaintiffs are informed and believe, and thereon allege, that on July 27, 2021, Defendants
7 failed to call for an ambulance for descendant, despite his obvious medical distress, and as a
8 foreseeable result, he died for lack of medical intervention.

9
10 The aforementioned subject incident giving rise to this wrongful death and survival
11 action proximately and legally caused Decedent JEREMY BAKER to die. Plaintiffs are further
12 informed and believe, and thereon allege, that COURTHOUSE SQUARE VENTURES LLC,
13 (DBA "THE DARLING HOTELS"), including DOES 1 through 30, inclusive, were agents,
14 servants, employees, successors in interest, and/or joint venturers of their co-defendants, and
15 were, as such, acting within the course, scope, and authority of said agency, employment and/or
16 venture, and that each and every defendant, as aforesaid, when acting as a principal, was
17 negligent in the selection of each and every other defendant as an agent, servant, employee,
18 successor in interest, and/or joint venturer.

19
20 As a legal, direct and proximate result of the reckless and negligent conduct of
21
22 COURTHOUSE SQUARE VENTURES LLC, (DBA "THE DARLING HOTELS"), including
23 DOES 1 through 30, Plaintiffs have sustained damages resulting from the loss of love, affection,
24 society, service, comfort, support, right of support, expectations of future support and counseling,
25 companionship, solace and mental support, as well as other benefits and assistance of Decedent
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28

1 Jeremy Baker, all to their general damages in a sum in excess of the jurisdictional limits of this
2 Court, which will be stated according to proof, pursuant to Section 425.10 of the California
3 Code of Civil Procedure.

4
5 As a legal, direct and proximate result of the conduct of COURTHOUSE SQUARE
6 VENTURES LLC, (DBA "THE DARLING HOTELS"), including DOES 1 through 30,
7 inclusive, Plaintiffs will be deprived of the financial support and assistance of Decedent Jeremy
8 Baker, the exact amount of such losses to be stated according to proof, pursuant to Section
9 425.10 of the California Code of Civil Procedure.

10
11
12 As a legal, direct and proximate result of the conduct of COURTHOUSE SQUARE
13 VENTURES LLC, (DBA "THE DARLING HOTEL"), inclusive, as aforesaid, on information
14 and belief, Plaintiffs have incurred property, medical, funeral and burial expenses in an amount
15 to be stated according to proof, pursuant to Section 425.10 of the California Code of Civil
16 Procedure.

17
18
19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiffs individually and as the Successor-in Interest to THE ESTATE
21 OF JEREMY BAKER pray judgment against all Defendants as follows:

22
23 For non-economic damages suffered by Plaintiffs including, but not limited to, loss of
24 love, affection, care, society, service, comfort, support, right to support, companionship, solace
25 or moral support, expectations of future support and counseling, other benefits and assistance of
26 Decedent JEREMY BAKER, in an amount in excess of the jurisdictional minimum, according to
27 proof;
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For economic damages suffered by Plaintiffs, related to loss of earnings and loss of financial support from Decedent Jeremy Baker, according to proof;

For funeral and burial expenses suffered by Plaintiffs according to proof;

For hospital, medical, professional and incidental expenses suffered by Plaintiffs by and through its Successor-in-Interest according to proof;

For loss of income suffered by Plaintiffs by and through its Successor-in-Interest according to proof

For prejudgment interest, according to proof;

For pre-trial interest, according to proof;

For damages for Plaintiffs other economic losses, according to proof;

For such other and further relief as this Court may deem just and proper and

Dated: 7/26/23

LAW OFFICES OF MELO AND SANSFIELD LLP
Attorneys for Plaintiffs



JOHN SANSFIELD, ESQ

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Riverside, State of California. My business address is 77530 Enfield Lane, Suite H-1, Palm Desert, CA 92211.

On August 22, 2023, I served true copies of the following document(s) described as **CROSS-COMPLAINT BY THE DARLING GROUP LLC DBA THE DARLING HOTEL, IMPROPERLY SUED HEREIN AS COURTHOUSE SQUARE VENTURES, (DBA "THE DARLING HOTEL")** on the interested parties in this action as follows:

John J. Sarsfield
Marguerite Melo
LAW OFFICES OF MELO AND
SARSFIELD LLP
4216 S. Mooney Blvd PMB 136
Visalia, CA 93277
Tel: (559) 732-3000
Email: meloandsarsfield@icloud.com

Attorneys for Plaintiffs

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address aldwin@morrisonlawgroup.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 22, 2023, at Palm Desert, California.

/s/Aldwin Hernandez
Aldwin Hernandez