

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

ENIYA HALE, and
JOEY HALE, JR., and
BARBARA POPE

Plaintiffs,

vs.

GENCORP SERVICES, LLC
Serve Registered Agent:
Eric Martin
117 Chesterfield Business Parkway
Chesterfield, MO 63005,

and

GUARANTEE ELECTRICAL COMPANY
Serve Registered Agent:
CT Corporation Systems
120 South Central
Clayton, MO 63105,

and

BRANDSAFWAY, LLC d/b/a
BRANDSAFWAY INDUSTRIES, LLC d/b/a
SPIDER
Serve Registered Agent:
CT Corporation Systems
120 South Central
Clayton, MO 63105,

and

WORLD WRECKING AND SCRAP
SALVAGE SERVICES, INC
Serve:
Keith Hanford
7 Summerhill Lane
Town & Country, MO 63017,

and

Cause No. _____

Division No. _____

JURY TRIAL DEMANDED

LISBON HOIST, INC	)
Serve:	)
Michael Burlingame	)
321 S. Beaver Street	)
Lisbon, OH 44432	)
	)
and	)
	)
JOHN DOE	)
Co-Employee of Decedent	)
	)
<i>Defendants.</i>	)

PETITION FOR WRONGFUL DEATH

COMES NOW, Plaintiffs, Eniya Hale, Joey Hale, Jr, and Barbara Pope, by and through their attorneys, and hereby brings their Petition for Wrongful Death against the above referenced defendants and states as follows:

PARTIES, JURISDICTION AND VENUE

1. Joey Desmond Hale was at all times material hereto an individual residing in City of St. Louis, Missouri. Mr. Hale died on June 4, 2018, as a result of injuries sustained during the incident that is the subject of this lawsuit.

2. Plaintiff Eniya Hale is a citizen and resident of Missouri, residing in the County of St. Louis. At all times relevant hereto, Plaintiff Eniya Hale was the natural daughter of decedent Joey Hale and therefore is bringing an action for wrongful death pursuant to R.S.Mo. § 537.080.

3. Plaintiff Joey Hale, Jr. is a citizen and resident of Missouri, residing in the City of St. Louis. At all times relevant hereto, Plaintiff Joey Hale, Jr. was the natural son of decedent Joey Hale and therefore is bringing an action for wrongful death pursuant to R.S.Mo. § 537.080.

4. Plaintiff Barbara Pope is a citizen and resident of Missouri, residing in the County of Jackson. At all times relevant hereto, Plaintiff Barbara Pope was the natural mother of decedent Joey Hale and therefore is bringing an action for wrongful death pursuant to R.S.Mo. § 537.080.

5. Defendant GenCorp Services, LLC (“Gencorp”) is a Missouri corporation with its principal place of business located at 907 Dock Street, St. Louis, Missouri 63147.

6. Defendant Guarantee Electrical Company (“Guarantee”) is a Missouri corporation with its principal place of business located at 3405 Bent Avenue, St. Louis, Missouri 63116.

7. Defendant World Wrecking and Scrap Salvage Services, Inc. (“World Wrecking”) is a Missouri corporation with its principal place of business located at 7 Summerhill Lane, Town and Country, Missouri 63017.

8. Defendant Brandsafway, LLC, d/b/a, Brandsafway Industries, LLC, d/b/a, Spider (“Brandsafway”) is a foreign corporation that transacts business within the State of Missouri, purposefully directing its activities at Missouri residents. It is duly authorized to conduct business in Missouri and can be served through its registered agent: CT Corporation Systems, 120 South Central, Clayton, Missouri 63105.

9. Defendant Brandsafway continually and systematically conducts substantial business within the State of Missouri, purposefully directing its activities at Missouri residents. Not by limitation, but by means of illustration, Defendant Brandsafway’s activities in Missouri include:

- a. Selling products;
- b. Forming and performing contracts;

- c. Advertising to Missouri businesses; and
- d. Supplying and transporting products to Missouri businesses.

10. Jurisdiction over Defendant Brandsafway is proper under Missouri's long-arm statute, Mo. Rev. Stat. § 506.500.

11. Defendant Lisbon Hoist, Inc. ("Lisbon") is a Ohio corporation that transacts business throughout the United States, with its principal place of business located at 321 S. Beaver Street, Lisbon, Ohio 44432. It can be served at its Registered Agent, Michael Burlingame, 321 S. Beaver Street, Lisbon, Ohio 44432.

12. Defendant Lisbon continually and systematically conducts substantial business within the State of Missouri, purposefully directing its activities at Missouri residents. Not by limitation, but by means of illustration, Defendant Lisbon's activities in Missouri include:

- a. Selling products;
- b. Forming and performing contracts;
- c. Advertising to Missouri businesses; and
- d. Supplying and transporting products to Missouri businesses.

13. Jurisdiction over Defendant Lisbon is proper under Missouri's long-arm statute, Mo. Rev. Stat. § 506.500.

14. Defendant John Doe was, at all material times, an employee of Defendant World Wrecking, and co-employee of Decedent Joey Hale.

15. Venue in this Court is proper under Mo. Rev. Stat. 508.010.4 in that the tort occurred in the City of St. Louis, State of Missouri

GENERAL ALLEGATIONS OF FACT

16. The facts and allegations contained in the paragraphs above are incorporated herein by reference.

17. On June 4, 2018, due to the negligence and defective products stated below, Plaintiffs' decedent, Joey Hale, and his co-worker Ben Ricks were killed when the wire rope cable hoisting the work basket scaffold that decedents were occupying broke, causing decedents to fall to their deaths.

18. On June 4, 2018, decedents were at 1501 Washington Avenue, St. Louis, Missouri 63103, to perform demolition work inside the building's freight elevator shaft.

19. At the time of incident which is the subject of this lawsuit, the decedent, Joey Hale, and his co-worker, Ben Ricks, were occupying a single point adjustable work basket scaffold (hereinafter "work basket scaffold") that was located in the freight elevator shaft #1 at 1501 Washington Avenue.

20. Upon information and belief, but will be made known through lawful discovery pursuant to Rule 56.01, Defendant Brandsafway owned the work basket scaffold that decedents were occupying at the time of death.

21. At all times material hereto, Defendant Gencorp was the general contractor for the demolition work being performed at 1501 Washington Avenue, St. Louis, Missouri 63103.

22. At all times material hereto, Defendant World Wrecking was a subcontractor working at 1501 Washington Avenue, St. Louis, Missouri, on behalf of Defendant Gencorp.

23. Upon information and belief, but will be made known through lawful discovery pursuant to Rule 56.01, Defendant Brandsafway and/or Defendant Lisbon designed, developed, tested, manufactured, marketed, sold, and constructed the work basket scaffold and its components at issue in this case, and the wire rope cable and other rigging devices utilized during the subject demolition.

24. Upon information and belief, but will be made through lawful discovery pursuant to Rule 56.01, Defendant Guarantee provided the electricity and electrical equipment that was utilized at 1501 Washington Avenue, St. Louis, Missouri, on June 4, 2018.

25. At all times material hereto, Plaintiffs' decedent, Joey Hale, and his co-worker were construction workers employed by Defendant World Wrecking.

26. Upon information and belief, at the time of the incident at issue in this case, Plaintiffs' decedent, Joey Hale, and his co-worker were occupying and operating a fold up work basket scaffold that was located in an elevator shaft at 1501 Washington Avenue. The work basket was being hoisted up the elevator shaft by a motorized wire rope pulley system. The wire rope failed, causing the work basket which decedents were occupying to fall down the elevator shaft.

27. As a result of the work basket scaffold falling down the elevator shaft directly and proximately caused by the joint, combined, concurrent and/or several fault of the Defendants, as set forth in detail below, the decedent Joey Hale sustained or was caused to sustain physically and emotionally painful injuries and ultimately his wrongful death itself. Plaintiffs herein have been, and in the future will be deprived of decedent Joey Hale's services, education, consortium, companionship, comfort, instruction, guidance,

counsel, training and support. As a further result of said fault, Plaintiffs incurred medical, funeral and burial expenses for injuries to and the wrongful death of decedent.

COUNT I – NEGLIGENT SUPERVISION
Defendant Gencorp

28. The facts and allegations contained in the paragraphs above are incorporated herein by reference.

29. Defendant Gencorp had a duty to supervise the work of its subcontractor Defendant World Wrecking due to its special relationship with Defendant World Wrecking, and World Wrecking's dangerous propensities.

30. Defendant Gencorp entrusted the demolition of the elevator shaft where the incident occurred to subcontractor World Wrecking, but retained control of the work of all the demolition that was occurring at 1501 Washington Avenue.

31. Defendant Gencorp failed to exercise its control of the demolition of 1501 Washington Avenue with reasonable care and breached its duty to supervise its subcontractor Defendant World Wrecking in the following respects:

- a. Failing to prevent decedent's exposure to falling hazards during the demolition of 1501 Washington Avenue;
- b. Failing to protect decedent from the hazard of falling when occupying a folding work basket scaffold in the freight elevator shaft of 1501 Washington Avenue;
- c. Failing ensure that either ground fault circuit interrupters or an assured equipment grounding conductor program was used as specified in 29 CFR 1926.404(b)(1).

- d. Failing to ensure that the electrical distribution panel was tested under a proper load prior to operation by decedent Joey Hale.
- e. Failing to ensure that the wire rope support cable for the work basket scaffold which decedent occupied was inspected by a competent person prior to decedent's work shift as specified in 29 CFR 1926.451(d)(10).
- f. Failing to ensure that the clips on the work basket scaffold which decedent occupied were inspected and retightened to the manufacturer's recommendations at the start of each work shift as specified in 29 CFR 1926.451(d)(12)(iv).
- g. Failing to ensure that the work basket scaffold which decedent occupied was inspected for visible defects by a competent person before each work shift, and after any occurrence which could affect the work basket's structural integrity as specified in 29 CFR 1926.451(f)(3).
- h. Failing to ensure that decedent was provided with an adequate personal arrest fall system or guardrail system;
- i. Failing to ensure that decedent was protected by an adequate personal fall system as specified in 29 CFR 1926.451(g)(3);
- j. Permitting decedent to occupy a work basket scaffold that it knew or reasonably could have known was in a dangerous and defective condition;
- k. Failing to ensure that the decedent had received proper fall hazard training as specified in 29 CFR 1926.454(a)(1).

- l. Failing to ensure decedent was protected from the hazard of falling or being crushed by not conducting an inspection of the wire cable rope on the work basket scaffold; and
- m. Permitting the wire cable rope on the work basket scaffold decedent was occupying to be in dangerous proximity to electrical wiring that was not properly grounded.

32. Defendant Gencorp's failure to exercise its control of the demolition site and the work basket scaffold with reasonable care and breach of its duty to supervise its subcontractor Defendant World Wrecking directly caused or directly contributed to cause the injuries and death suffered by decedent Joey Hale.

33. That by reason of the foregoing premises, Plaintiffs are entitled to recover fair and reasonable damages for an amount in excess of Twenty-five Thousand Dollars (\$25,000) against Defendant Gencorp for the pecuniary losses suffered by reason of Joey Hale's death, funeral expenses, and the reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and support, and for such damages as the deceased suffered between the time of injury and the time of death and for the recovery of which the decedent would have maintained an action had he lived.

34. Defendant's conduct as described above was outrageous because of Defendant's evil motive or reckless indifference to the rights of others, and as a result of the intentional acts and reckless indifference to others, decedent Joey Hale suffered injuries which resulted in his death.

WHEREFORE, Plaintiffs pray for judgment against Defendant Gencorp on Count I for fair and reasonable damages under the circumstances, for punitive damages to punish

the Defendant and deter the Defendant and others from like conduct, for pre-judgment interest, for their costs and for such other relief as is just and proper.

COUNT II – NEGLIGENTLY SUPPLYING DANGEROUS INSTRUMENTALITY
Defendant Gencorp

35. The facts and allegations contained in the paragraphs above are incorporated herein by reference.

36. At the time of the occurrence which is the subject of this case, Defendant Gencorp had a work basket scaffold on its property which served its business interest.

37. Defendant Gencorp provided the work basket scaffold to be used in the freight elevator shaft at 1501 Washington Avenue.

38. The work basket scaffold was provided to allow contractors on the work site to go up and down the freight elevator shaft and perform demolition work.

39. The work basket scaffold on Defendant Gencorp's property was present and made available by Defendant Gencorp for decedent and others to use, but the work basket scaffold was not properly installed so as to allow for safe use, and therefore, the work basket scaffold was dangerous when put to a reasonably expected use.

40. Decedent and his co-employee, Ben Ricks, put the work basket scaffold to a reasonably expected use.

41. The work basket scaffold on Defendant Gencorp's property was supplied for decedent's use and it was a dangerous instrumentality. The dangerous instrumentality had a hazard and a defect and was therefore was dangerous when put to a reasonably expected use.

42. The work basket scaffold was a dangerous instrumentality, in that:

- a) The work basket scaffold did not have the proper supported outriggers;

- b) The work basket scaffold had a pinch point which caused fraying and splitting of the ropes;
- c) The electrical wiring for the work basket scaffold was in too close of proximity to the wire rope and work basket scaffold.

43. The work basket scaffold was put to a reasonably expected use by the decedent, and Defendant Gencorp knew or in the exercise of ordinary care could have known of the dangerous conditions, and Defendant Gencorp failed to exercise ordinary care to make the work basket scaffold reasonably safe or adequately warn of its dangerous condition, and as a direct result of such failure, Plaintiffs' sustained damages.

44. Defendant Gencorp was negligent, and failed to exercise ordinary care in the following respects:

- a) Failing to prevent decedent's exposure to falling hazards during the demolition of 1501 Washington Avenue;
- b) Failing to protect decedent from the hazard of falling when occupying a folding work basket scaffold in the freight elevator shaft of 1501 Washington Avenue;
- c) Failing ensure that either ground fault circuit interrupters or an assured equipment grounding conductor program was used as specified in 29 CFR 1926.404(b)(1).
- d) Failing to ensure that the electrical distribution panel was tested under a proper load prior to operation by decedent Joey Hale.

- e) Failing to ensure that the wire rope support cable for the work basket scaffold which decedent occupied was inspected by a competent person prior to decedent's work shift as specified in 29 CFR 1926.451(d)(10).
- f) Failing to ensure that the clips on the work basket scaffold which decedent occupied were inspected and retightened to the manufacturer's recommendations at the start of each work shift as specified in 29 CFR 1926.451(d)(12)(iv).
- g) Failing to ensure that the work basket scaffold which decedent occupied was inspected for visible defects by a competent person before each work shift, and after any occurrence which could affect the work basket's structural integrity as specified in 29 CFR 1926.451(f)(3).
- h) Failing to ensure that decedent was provided with an adequate personal arrest fall system or guardrail system;
- i) Failing to ensure that decedent was protected by an adequate personal fall system as specified in 29 CFR 1926.451(g)(3);
- j) Permitting decedent to occupy a work basket scaffold that it knew or reasonably could have known was in a dangerous and defective condition;
- k) Failing to ensure that the decedent had received proper fall hazard training as specified in 29 CFR 1926.454(a)(1).

- l) Failing to ensure decedent was protected from the hazard of falling or being crushed by not conducting an inspection of the wire cable rope on the work basket scaffold; and
- m) Permitting the wire cable rope on the work basket scaffold decedent was occupying to be in dangerous proximity to electrical wiring that was not properly grounded.

45. Defendant Gencorp had no reason to believe that those whose use of the work basket scaffold was supplied would realize its dangerous condition.

46. Defendant Gencorp knew or had information from which Defendant Gencorp, in the exercise of ordinary care should have known of this dangerous condition.

47. Defendant failed to adequately warn of such dangerous condition.

48. Defendant Gencorp's negligence, and failure to exercise ordinary care in one or more of the ways as stated above, directly caused or directly contributed to cause the injuries and death suffered by decedent.

49. That by reason of the foregoing premises, Plaintiffs are entitled to recover fair and reasonable damages for an amount in excess of Twenty-Five Thousand Dollars (\$25,000) against Defendant Gencorp for the pecuniary losses suffered by reason of Joey Hale's death, funeral expenses, and the reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and support, and for such damages as the deceased suffered between the time of injury and the time of death and for the recovery of which the decedent would have maintained an action had he lived.

50. Defendant's conduct as described above was outrageous because of Defendant's evil motive or reckless indifference to the rights of others, and as a result of

the intentional acts and reckless indifference to others, decedent Joey Hale suffered injuries which resulted in his death.

WHEREFORE, Plaintiffs pray for judgment against Defendant Gencorp on Count II for fair and reasonable damages under the circumstances, for punitive damages to punish the Defendant and deter the Defendant and others from like conduct, for pre-judgment interest, for their costs and for such other relief as is just and proper.

**COUNT III – NEGLIGENTLY SUPPLYING DANGEROUS
INSTRUMENTALITY - Defendant Brandsafway**

51. The facts and allegations contained in the paragraphs above are incorporated herein by reference.

52. At the time of the occurrence, which is the subject of this case, Defendant Brandsafway provided a work basket scaffold to be used in the freight elevator shaft at 1501 Washington Avenue.

53. The work basket scaffold was provided to allow contractors on the work site to go up and down the freight elevator shaft and perform demolition work.

54. The work basket scaffold at issue in this case was present and made available by Defendant Brandsafway for decedent and others to use, but the work basket scaffold was not properly installed so as to allow for safe use, and therefore, the work basket scaffold was dangerous when put to a reasonably expected use.

55. Decedent and his co-employee, Ben Ricks, put the work basket scaffold to a reasonably expected use.

56. The work basket scaffold at issue in this case was supplied for decedent's use and it was a dangerous instrumentality. The dangerous instrumentality had a hazard and a defect and therefore was dangerous when put to a reasonably expected use.

57. The work basket scaffold was a dangerous instrumentality, in that:
- a) The work basket scaffold did not have the proper supported outriggers;
 - b) The work basket scaffold had a pinch point which caused fraying and splitting of the ropes;
 - c) The electrical wiring for the work basket scaffold was in too close of proximity to the wire rope and work basket scaffold.

58. The work basket scaffold was put to a reasonably expected use by the decedent, and Defendant Brandsafway knew or in the exercise of ordinary care could have known of the dangerous condition, and Defendant Brandsafway failed to exercise ordinary care to make the work basket scaffold reasonably safe or adequately warn of its dangerous condition, and as a direct result of such failure, Plaintiffs' sustained damages.

59. Defendant Brandsafway failed to exercise ordinary care in the following respects:
- a) Failing to prevent decedent's exposure to falling hazards during the demolition of 1501 Washington Avenue;
 - b) Failing to protect decedent from the hazard of falling when occupying a folding work basket scaffold in the freight elevator shaft of 1501 Washington Avenue;
 - c) Failing ensure that either ground fault circuit interrupters or an assured equipment grounding conductor program was used as specified in 29 CFR 1926.404(b)(1).
 - d) Failing to ensure that the electrical distribution panel was tested under a proper load prior to operation by decedent Joey Hale.

- e) Failing to ensure that the wire rope support cable for the work basket scaffold which decedent occupied was inspected by a competent person prior to decedent's work shift as specified in 29 CFR 1926.451(d)(10).
- f) Failing to ensure that the clips on the work basket scaffold which decedent occupied were inspected and retightened to the manufacturer's recommendations at the start of each work shift as specified in 29 CFR 1926.451(d)(12)(iv).
- g) Failing to ensure that the work basket scaffold which decedent occupied was inspected for visible defects by a competent person before each work shift, and after any occurrence which could affect the work basket's structural integrity as specified in 29 CFR 1926.451(f)(3).
- h) Failing to ensure that decedent was provided with an adequate personal arrest fall system or guardrail system;
- i) Failing to ensure that decedent was protected by an adequate personal fall system as specified in 29 CFR 1926.451(g)(3);
- j) Permitting decedent to occupy a work basket scaffold that it knew or reasonably could have known was in a dangerous and defective condition;
- k) Failing to ensure that the decedent had received proper fall hazard training as specified in 29 CFR 1926.454(a)(1).
- l) Failing to ensure decedent was protected from the hazard of falling or being crushed by not conducting an inspection of the wire cable rope on the work basket scaffold; and

m) Permitting the wire cable rope on the work basket scaffold decedent was occupying to be in dangerous proximity to electrical wiring that was not properly grounded.

60. Defendant Brandsafway had no reason to believe that those whose use of the work basket scaffold was supplied would realize its dangerous condition.

61. Defendant Brandsafway knew or had information from which Defendant Brandsafway, in the exercise of ordinary care should have known of this dangerous condition.

62. Defendant failed to adequately warn of such dangerous condition.

63. Defendant Brandsafway's negligence, and failure to exercise ordinary care in one or more the ways stated above, directly caused or directly contributed to cause the injuries and death suffered by decedent.

64. Defendant Brandsafway's negligence in supplying the dangerous work basket scaffold directly caused or directly contributed to cause the injuries and death suffered by Joey Hale.

65. That by reason of the foregoing, Plaintiffs are entitled to recover fair and reasonable damages for an amount in excess of Twenty-Five Thousand Dollars (\$25,000) against Defendant Brandsafway for the pecuniary losses suffered by reason of Joey Hale's death, funeral expenses, and the reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and support, and for such damages as the deceased suffered between the time of injury and the time of death and for the recovery of which the decedent would have maintained an action had he lived.

66. Defendant's conduct as described above was outrageous because of Defendant's evil motive or reckless indifference to the rights of others, and as a result of the intentional acts and reckless indifference to others, decedent Joey Hale suffered injuries which resulted in his death.

WHEREFORE, Plaintiffs pray for judgment against Defendant on Count III for fair and reasonable damages under the circumstances, for punitive damages to punish the Defendant and deter the Defendant and others from like conduct, for pre-judgment interest, for their costs and for such other relief as is just and proper.

COUNT IV – STRICT LIABILITY
Defendant Lisbon and Defendant Brandsafway

67. The facts and allegations contained in the paragraphs above are incorporated herein by reference.

68. Upon information and belief, but will be made known through lawful discovery pursuant to Rule 56.01, Defendant Lisbon and/or Defendant Brandsafway designed, developed, tested, manufactured, marketed, sold, and constructed the work basket scaffold and its components at issue in this case.

69. The work basket scaffold and its components utilized during the subject demolition were in an unreasonably dangerous condition at the time the products left the Defendants' control.

70. On June 4, 2018, the work basket scaffold and its components utilized during the subject demolition were in substantially the same condition as at the time they were manufactured by Defendants.

71. The aforesaid injuries and wrongful death of Joey Hale were directly caused or contributed to be caused by the joint, combined, concurrent and/or several fault of the Defendants' defective unreasonably dangerous designs.

72. At the time Defendants constructed the work basket scaffold and its components, they were in a defective condition and unreasonably dangerous such that when put to reasonably anticipated use they had a propensity to fail suddenly and unexpectedly.

73. At the time Defendants manufactured and sold the work basket scaffold and other devices utilized during the subject demolition, they were in a defective condition and unreasonably dangerous such that when put to reasonably anticipated use they had a propensity to fail suddenly and unexpectedly.

74. Defendants failed to warn consumers of the propensity of the design defects of the work basket scaffold and its components utilized during the subject demolition, despite having knowledge of the risk.

75. The defective condition of the work basket scaffold and its components utilized during the subject demolition, directly caused or directly contributed to cause the fatal injuries suffered by Joey Hale.

76. That by reason of the foregoing premises, Plaintiffs are entitled to recover fair and reasonable damages for an amount in excess of Twenty-Five Thousand Dollars (\$25,000) against Defendants Lisbon and Defendant Brandsafway jointly and severally for the pecuniary losses suffered by reason of Joey Hale's death, funeral expenses, and the reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and support, and for such damages as the deceased suffered

between the time of injury and the time of death and for the recovery of which the decedent would have maintained an action had he lived.

WHEREFORE, Plaintiffs pray for judgment against Defendants Lisbon and Defendant Brandsafway on Count IV for fair and reasonable damages, for pre-judgment interest, for their costs and for such other relief as is just and proper.

COUNT V – NEGLIGENT DESIGN
Defendant Lisbon and Defendant Brandsafway

77. The facts and allegations contained in the paragraphs above are incorporated herein by reference.

78. Defendants were negligent and breached their duty of care in the design, testing, manufacture and assembly in that the work basket scaffold and its components utilized during the subject demolition, had a propensity to fail when being used in a reasonably foreseeable manner.

79. Defendants were further negligent and breached their duty of care when they failed to properly inspect the work basket scaffold and its components utilized during the subject demolition, for defects in assembly and manufacture.

80. Defendants were further negligent and breached their duty of care when they failed to design, manufacture, and/or assemble the work basket scaffold and its components utilized during the subject demolition, in a way that was safe for operating under foreseeable circumstances.

81. Defendants failed to warn of the propensity of the work basket scaffold and its components utilized during the subject demolition, to fail, despite having knowledge of the risk.

82. The negligence of Defendants was a direct and proximate cause of the injuries and death suffered by Joey Hale.

83. That by reason of the foregoing premises, Plaintiffs are entitled to recover fair and reasonable damages for an amount in excess of Twenty-Five Thousand Dollars (\$25,000) against Defendants Lisbon and Brandsafway jointly and severally for the pecuniary losses suffered by reason of Joey Hale's death, funeral expenses, and the reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and support, and for such damages as the deceased suffered between the time of injury and the time of death and for the recovery of which the decedent would have maintained an action had he lived.

WHEREFORE, Plaintiffs pray for judgment against Defendants Lisbon and Brandsafway on Count V for fair and reasonable damages, for pre-judgment interest, for their costs and for such other relief as is just and proper.

COUNT VI –
Defendant Guarantee

84. The facts and allegations contained in the paragraphs above are incorporated herein by reference.

85. At the time of the occurrence, which is the subject of the case, Defendant Guarantee supplied the electricity to the construction site at 1501 Washington Avenue.

86. At the time of the occurrence, which is the subject of the case, Defendant Guarantee provided the electrical equipment that was used at the construction site at 1501 Washington Avenue, including, but not limited to, the portable electrical power distributors and electrical panels.

87. On or about June 4, 2019, Defendant Guarantee placed high voltage electric power supply lines in freight elevator shaft #1. Defendant Guarantee placed the high voltage electric power supply line in extremely close proximity to the work basket scaffold and wire cable rope that hoisted the work basket scaffold.

88. The high voltage electric supply lines in freight elevator shaft #1 was not equipped with ground fault protection or assured grounding program.

89. The placement of the electric supply lines in freight elevator shaft #1 in close proximity to the work basket scaffold, and the failure to use proper ground fault protections created a dangerous condition and an unreasonable risk of harm to persons, including decedent, working in the freight elevator shaft #1 at 1501 Washington Avenue.

90. Defendant Guarantee knew or by the highest degree of care should have known of the dangerous condition.

91. Defendant Guarantee failed to exercise the highest degree of care in that:

- a. Defendant Guarantee failed to place the high voltage electrical lines in a proper location in the freight elevator shaft;
- b. Defendant Guarantee failed to have the high voltage electrical lines in the freight elevator shaft #1 properly grounded;
- c. Defendant Guarantee failed to properly test the portable electrical power supply used in freight elevator shaft #1.

92. Defendant Guarantee's failure to exercise the highest degree of care in one or more of the respects submitted above directly caused or directly contributed to cause Plaintiffs' damages, including the death of decedent.

93. That by reason of the foregoing premises, Plaintiffs are entitled to recover fair and reasonable damages for an amount in excess of Twenty-Five Thousand Dollars (\$25,000) against Defendant Guarantee for the pecuniary losses suffered by reason of Joey Hale's death, funeral expenses, and the reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and support, and for such damages as the deceased suffered between the time of injury and the time of death and for the recovery of which the decedent would have maintained an action had he lived.

94. Defendant's conduct as described above was outrageous because of Defendant's evil motive or reckless indifference to the rights of others, and as a result of the intentional acts and reckless indifference to others, decedent Joey Hale suffered injuries which resulted in his death.

WHEREFORE, Plaintiffs pray for judgment against Defendant on Count VI for fair and reasonable damages under the circumstances, for punitive damages to punish the Defendant and deter the Defendant and others from like conduct, for pre-judgment interest, for their costs and for such other relief as is just and proper.

95.

WHEREFORE, Plaintiffs pray for judgment against Defendant Guarantee on Count VI for fair and reasonable damages, for pre-judgment interest, for their costs and for such other relief as is just and proper.

COUNT VII - Co-Employee Liability
Defendant John Doe, Employee of Defendant World Wrecking

96. The facts and allegations contained in the paragraphs above are incorporated herein by reference.

97. At all relevant times, the Defendant John Doe was an employee of Defendant World Wrecking.

98. Defendant John Doe was a co-employee of decedent Joey Hale at the time of his death and/or at some point prior to his death.

99. Joey Hale's injuries, death and damages resulted in whole or in part from one or more of Defendant World Wrecking's employees' affirmative negligent acts that purposefully and dangerously caused or increased the risk of injury to decedent in one or more of the following particulars set out below.

100. At all relevant times, Defendant John Doe, Joey Hale's co-employee, owed a personal duty of care to Joey Hale to refrain from affirmative negligent acts that purposefully and dangerously caused or increased the risk of injury to their co-employees, including Joey Hale.

101. Defendant John Doe breached his personal duty of care to Joey Hale, and purposefully and dangerously caused or increased the risk of injury to Joey Hale in one or more of the following ways:

- a. Failing to prevent decedent's exposure to falling hazards during the demolition of 1501 Washington Avenue;
- b. Failing to protect decedent from the hazard of falling when occupying the work basket scaffold in the elevator shaft of 1501 Washington Avenue;
- c. Failing ensure that either ground fault circuit interrupters or an assured equipment grounding conductor program was used as specified in 29 CFR 1926.404(b)(1).

- d. Failing to ensure that the wire rope support cable for the work basket scaffold which decedent occupied was inspected by a competent person prior to decedent's work shift as specified in 29 CFR 1926.451(d)(10).
- e. Failing to ensure that the clips on the work basket scaffold which decedent occupied were inspected and retightened to the manufacturer's recommendations at the start of each work shift as specified in 29 CFR 1926.451(d)(12)(iv).
- f. Failing to ensure that the work basket scaffold which decedent occupied was inspected for visible defects by a competent person before each work shift, and after any occurrence which could affect the work basket's structural integrity as specified in 29 CFR 1926.451(f)(3).
- g. Failing to ensure that decedent was provided with an adequate personal arrest fall system or guardrail system;
- h. Failing to ensure that decedent was protected by an adequate personal fall system as specified in 29 CFR 1926.451(g)(3);
- i. Permitting decedent to occupy a work basket scaffold that it knew or reasonably could have known was in a dangerous and defective condition;
- j. Failing to ensure that the decedent had received proper fall hazard training as specified in 29 CFR 1926.454(a)(1).

- k. Failing to ensure decedent was protected from the hazard of falling or being crushed by not conducting an inspection of wire cable rope on the work basket scaffold; and
- l. Permitting the wire cable rope on the work basket scaffold decedent was occupying to be in dangerous proximity to electrical wiring that was not properly grounded.

102. The affirmative negligent acts of Defendant John Doe directly caused or directly contributed to cause the injuries and death suffered by Joey Hale.

103. That by reason of the foregoing premises, Plaintiffs are entitled to recover fair and reasonable damages for an amount in excess of Twenty-Five Thousand Dollars (\$25,000) against Defendant John Doe for the pecuniary losses suffered by reason of Joey Hale's death, funeral expenses, and the reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and support, and for such damages as the deceased suffered between the time of injury and the time of death and for the recovery of which the decedent would have maintained an action had he lived.

104. Defendant's conduct as described above was outrageous because of Defendant's evil motive or reckless indifference to the rights of others, and as a result of the intentional acts and reckless indifference to others, decedent Joey Hale suffered injuries which resulted in his death.

WHEREFORE, Plaintiffs pray for judgment against Defendant on Count VII for fair and reasonable damages under the circumstances, for punitive damages to punish the Defendant and deter the Defendant and others from like conduct, for pre-judgment interest, for their costs and for such other relief as is just and proper.

Count VIII – Conduct with the Specific Purpose of Injury
Defendant World Wrecking

105. The facts and allegations contained in the paragraphs above are incorporated herein by reference.

106. Joey Hale's injuries, death and damages resulted in whole or in part from Defendant World Wrecking's conduct in which it acted with the specific purpose of injuring Joey Hale and other employees.

107. Defendant World Wrecking acted intentionally and was substantially certain that injury to an employee would result based on its conduct that led to the injuries and death of Joey Hale and Ben Ricks.

108. Plaintiffs state that Joey Hale's injuries, death and damages resulted in whole or in part from Defendant World Wrecking's affirmative negligent acts that purposefully and dangerously caused or increased the risk of injury to decedent in one or more of the following particulars set out below.

109. Under the Occupational Safety and Health Act of 1970, Section (5)(a)(1), Defendants World Wrecking had a duty to furnish to each of its employees a place of employment which is free from recognized hazards that cause or are likely to cause death or serious physical harm to its employees.

110. Defendant World Wrecking breached this duty, and purposefully and dangerously caused or increased the risk of injury to decedent, and was substantially certain that injury to an employee would result based on its conduct in the following respects:

- a. Failing to prevent decedent's exposure to falling hazards during the demolition of 1501 Washington Avenue;

- b. Failing to protect decedent from the hazard of falling when occupying the work basket scaffold in the elevator shaft of 1501 Washington Avenue;
- c. Failing ensure that either ground fault circuit interrupters or an assured equipment grounding conductor program was used as specified in 29 CFR 1926.404(b)(1).
- d. Failing to ensure that the wire rope support cable for the work basket scaffold which decedent occupied was inspected by a competent person prior to decedent's work shift as specified in 29 CFR 1926.451(d)(10).
- e. Failing to ensure that the clips on the work basket scaffold which decedent occupied were inspected and retightened to the manufacturer's recommendations at the start of each work shift as specified in 29 CFR 1926.451(d)(12)(iv).
- f. Failing to ensure that the work basket scaffold which decedent occupied was inspected for visible defects by a competent person before each work shift, and after any occurrence which could affect the work basket's structural integrity as specified in 29 CFR 1926.451(f)(3).
- g. Failing to ensure that decedent was provided with an adequate personal arrest fall system or guardrail system;
- h. Failing to ensure that decedent was protected by an adequate personal fall system as specified in 29 CFR 1926.451(g)(3);

- i. Permitting decedent to occupy a work basket scaffold that it knew or reasonably could have known was in a dangerous and defective condition;
- j. Failing to ensure that the decedent had received proper fall hazard training as specified in 29 CFR 1926.454(a)(1).
- k. Failing to ensure decedent was protected from the hazard of falling or being crushed by not conducting an inspection of wire cable rope on the work basket scaffold; and
- l. Permitting the wire cable rope on the work basket scaffold decedent was occupying to be in dangerous proximity to electrical wiring that was not properly grounded.

111. The intentional acts of Defendant World Wrecking directly caused or directly contributed to cause the injuries and death suffered by decedent, and Defendant was substantially certain that injury or death to an employee would result based on its conduct.

112. That by reason of the foregoing premises, Plaintiffs are entitled to recover fair and reasonable damages for an amount in excess of Twenty-Five Thousand Dollars (\$25,000) against Defendant for the pecuniary losses suffered by reason of Joey Hale's death, funeral expenses, and the reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training, and support, and for such damages as the deceased suffered between the time of injury and the time of death and for the recovery of which the decedent would have maintained an action had he lived.

WHEREFORE, Plaintiffs pray for judgment against Defendants on Count VIII for fair and reasonable damages, for prejudgment interest, for their costs and for such other relief as is just and proper.

Jury Trial Demand

113. Plaintiffs demand a jury trial on all issues.

Respectfully submitted,

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