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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By Cody Newlan, Deputy Clerk

5 Attorneys for Plaintiff: HANNA FALLON
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8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO – CENTRAL DIVISION**

10 HANNA FALLON, an individual;) CASE NO. 37-2016-00008311-CU-PO-CTL
11)
12 Plaintiff,)
13 vs.) **COMPLAINT FOR:**
14) **(1) NEGLIGENCE; and**
CORONADO UNIFIED SCHOOL DISTRICT;) **(2) GROSS NEGLIGENCE**
15 FULLOUT CHEER COMPANY INC, a)
suspended California corporation; JOYCE)
16 WINTER, an individual, and DOES 1 through) **“IMAGED FILE”**
10,)
17 Defendants.)
18)
19)
20)

21 Plaintiff Hanna Fallon (“Plaintiff”) complains of CORONADO UNIFIED SCHOOL
22 DISTRICT (“CUSD”), FULLOUT CHEER COMPANY INC. (“Fullout Cheer”), and JOYCE
23 WINTER (collectively, “Defendants”) as follows:

24 **NATURE OF CASE**

25 1. This action arises from an injury the plaintiff sustained while competing with the
26 Coronado High School competition cheer team (a sanctioned high school event) wherein
27 Plaintiff was injured and rather amazingly, the coach (defendant Joyce Winter), instead of
28 seeking first aid or medical attention for Plaintiff’s obvious injury, instructed Plaintiff to

1 continue because the team “needed” her. In doing so, Plaintiff was severely injured and
2 continues to suffer from the injury to this day. In pushing Plaintiff to continue to compete
3 despite her injuries and complaints, Defendants breached their duties to Plaintiff to avoid
4 increasing inherent risks and should be held accountable.

5 JURISDICTION AND VENUE

6 2. This action is properly filed in this Court because the principal place of business
7 and residence for all Defendants is San Diego, California. Venue in this Court is proper pursuant
8 to Code of Civil Procedure section 395(a) as this action is based upon an injury that occurred to
9 Plaintiff in San Diego County.

10 PARTIES

11 3. Plaintiff is an individual who at all relevant times resided in, and currently resides
12 in, the County of San Diego.

13 4. Plaintiff is informed and believes and thereon alleges, that CUSD is the public
14 school district for the city of Coronado in San Diego County, California. It includes two high
15 schools, one middle school, and two elementary schools as well as several specialized and
16 unconventional schools. It is governed by a five-member elected board.

17 5. Plaintiff is informed and believes and thereon alleges, that Fullout Cheer is a
18 suspended California corporation with its principle place of business located at 6318 Lambda
19 Drive, San Diego, CA 92129. As per the Fullout Cheer website, the company claims that it
20 “offers more than 20 years of experience in cheerleading instruction, choreography, and
21 competition. We began this cheer company to set a new standard for cheerleading competitions
22 in California, and to bring a high quality national cheerleading event to San Diego. Our
23 intricately detailed yet reasonably priced camps, competitions, and other productions always run
24 without a hitch.”

25 6. Plaintiff is informed and believes and thereon alleges, that Joyce Winter is an
26 individual who at all relevant times resided in, and currently resides in, the County of San Diego.

27 7. Plaintiff is ignorant of the true names and capacities of the defendants sued herein
28 as DOES 1-10, inclusive, and therefore sues these defendants by such fictitious names. In the

1 meantime, plaintiff is informed and believes that each of the fictitious named defendants is
2 legally responsible in some manner for the occurrences herein alleged, assisted in and about the
3 wrongs complained herein by providing financial support, advice, resources or other assistance.
4 Plaintiff will amend her complaint to allege their true names and capacities when ascertained.

5 8. Plaintiff is informed and believes that all of the defendants, including those
6 defendants sued in the name of DOE, were agents, servants and employees of their co-
7 defendants, and in doing the things hereinafter mentioned, were acting within the scope of their
8 authority as such agents, servants and employees with the permission and consent of their co-
9 defendants.

10 **FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

11 9. On or about February 15, 2015, Plaintiff attended a cheer competition as part of
12 the Coronado High School competition cheer team, at the Town and Country Resort located in
13 San Diego, California.

14 10. On information and belief, the cheer competition was hosted by Defendant
15 Fullout Cheer.

16 11. On information and belief, Plaintiff's cheer coach at the time, Joyce Winter
17 ("Coach Winter"), was employed by Defendants CUSD and/or Fullout Cheer.

18 12. During warm ups, Plaintiff injured her ankle and fell to the floor, crying. Coach
19 Winter failed to seek assistance from the first aid staff that was available on site.

20 13. The cheer team moved to the next mat and Plaintiff, limping and still crying, told
21 Coach Winter that she could not perform any moves. Coach Winter told Plaintiff to walk
22 through the moves so Plaintiff complied, which further aggravated the injury.

23 14. When the cheer team moved to the next mat, Coach Winter told Plaintiff that she
24 should perform the pyramid stunts, which involved running, lifting and throwing other people
25 into the air; and that the team "needed her" to perform them. Plaintiff complied with Coach
26 Winter's instruction and thereafter proceeded to perform in the actual competition, resulting in
27 greater injury to Plaintiff.

28 15. At no time did Coach Winter or any other staff seek first aid or assistance for

1 Plaintiff.

2 16. As a result of the above described conduct of Defendants, and each of them,
3 Plaintiff suffered injury to her ankle and still suffers injury to this day.

4 17. On or about August 11, 2015, Plaintiff submitted a verified claim to CUSD
5 pursuant to Government Code sections 910 and 910.2. On or about September 11, 2015, CUSD
6 provided notice that the claim was rejected, which effectively tolled the statute of limitations to
7 permit the filing of this Complaint on March 11, 2016.

8 **FIRST CAUSE OF ACTION**

9 **(Negligence against all Defendants)**

10 18. Plaintiff repeats and realleges paragraphs 1 through 17, inclusive, and
11 incorporates the same herein as though fully set forth.

12 19. On February 15, 2015, Plaintiff was competing as part of the Coronado High
13 School competition cheer team at a Fullout Cheer event. At that time, Defendants operated
14 and/or managed the cheer team and/or event; operated or supervised the cheer competition
15 and/or its employees; and otherwise were legally responsible for the event and the safety of the
16 participants. Defendants owed a duty to Plaintiff to conduct the event with reasonable care and
17 to not increase the risk of harm inherent in cheerleading.

18 20. Defendants breached their duties to Plaintiff by failing to exercise ordinary care
19 and due diligence in negligently permitting the circumstances to exist that led to Plaintiff's
20 increased injuries. Defendants' activities contributed in natural and/or continuous sequence to
21 Plaintiff's further injury, and each of their actions as alleged herein was a substantial factor in
22 causing her greater injury. At all times mentioned herein, Defendants, through their negligence
23 as alleged herein, ignored their responsibilities to Plaintiff and unreasonably jeopardized the
24 health and well-being of Plaintiff, increased her risk of harm and caused her to suffer greater
25 injury.

26 21. As a direct and proximate result of Defendants' negligence, Plaintiff was exposed
27 to and suffered greater harm than she otherwise would have. Plaintiff has suffered and continues
28 to suffer physical injuries and likewise incurred and will continue to incur, reasonable and

1 necessary medical expenses, the exact amount of which will be stated according to proof,
2 pursuant to California Code of Civil Procedure section 425.10, as well as emotional distress.

3 **SECOND CAUSE OF ACTION**

4 **(Gross Negligence against all Defendants)**

5 22. Plaintiff repeats and realleges paragraphs 1 through 21 inclusive, and incorporates
6 the same herein as though fully set forth.

7 23. As alleged herein, on February 15, 2015, Plaintiff was competing as part of the
8 Coronado High School competition cheer team at a Fullout Cheer event. At that time,
9 Defendants operated and/or managed the cheer team and/or event; operated or supervised the
10 cheer competition and/or its employees; and otherwise were legally responsible for the event and
11 the safety of the participants. Defendants owed a duty to Plaintiff to conduct the event with
12 reasonable care and to not increase the risk of harm inherent in cheerleading.

13 24. Defendants' conduct as alleged herein constitutes a want of scant care and an
14 extreme departure from the ordinary standard of conduct.

15 25. As a direct and proximate result of Defendants' grossly negligent conduct,
16 Plaintiff was exposed to and suffered greater harm than she otherwise would have. Plaintiff has
17 suffered and continues to suffer physical injuries and likewise incurred and will continue to
18 incur, reasonable and necessary medical expenses, the exact amount of which will be stated
19 according to proof, pursuant to California Code of Civil Procedure section 425.10, as well as
20 emotional distress.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, Plaintiff requests judgment against Defendants as follows:

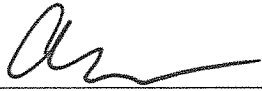
- 23 1. For judgment in favor of Plaintiff and against Defendants;
- 24 2. For general damages in an amount to be proven at trial;
- 25 3. For special damages, including past and future medical expenses, in an amount to
26 be proven at trial;
- 27 4. For costs of suit incurred herein;
- 28 5. For interest and damages awarded to Plaintiff, at the legal rate; and

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6. For such other and further relief as the Court may deem just and proper.

Dated: March 11, 2016

DEL MAR LAW GROUP, LLP

By: 
John H. Donboli
Azar M. Khazian
DEL MAR LAW GROUP, LLP
Attorneys for Plaintiff:
HANNA FALLON