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Superior Court of California,
County of San Diego

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By Tamara Parra, Deputy Clerk

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8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

9 COUNTY OF SAN DIEGO CENTRAL DISTRICT

10 MOLLY FOX) Case No.: 37-2016-00042298-CU-PO-CTL
11)
Plaintiff,) COMPLAINT FOR NEGLIGENCE,
12 v.) AND PRODUCT LIABILITY
13)
HOTEL DEL CORONADO, LP, HOTEL)
14 DEL CORONADO, LP, a limited)
15 partnership and/or business)
16 entity, form unknown; KSL HdC)
2012 Management II, LLC, a)
17 limited liability company)
18 and/or business entity form)
19 unknown; BSK Del Partners, LLC,)
20 a limited liability)
company and/or business entity,)
21 form unknown; IRE Rinks)
California, LLC, a limited)
22 liability company and/or)
business entity, form)
unknown; York Chillers, a)
business entity form unknown;)
Johnson Controls, a business)
entity form unknown, and Does)
1-100, inclusive,)
Defendants.)
_____)

23 COMES NOW Plaintiff, Molly Fox (hereinafter "Fox"), who
24 complains against the defendants and each of them and alleges as
25 follows:

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FIRST CAUSE OF ACTION

(Negligence Against Hotel Del Coronado, LP; KSL HdC 2012 Management II, LLC; BSK Del Partners, LLC; IRE Rinks California, LLC; York Chillers; Johnson Controls; and Does 1-100, inclusive)

1. At all times herein mentioned, plaintiff was and is an individual residing in Orange County in the State of California.

2. At all times herein mentioned, defendant Hotel Del Coronado, LP("Hotel Del Coronado") was and is a limited partnership, and/or a business entity, form unknown, qualified to transact business and in fact transacting business in the State of California.

3. At all times herein mentioned, defendant KSL HdC 2012 Management II, LLC ("KSL"), was and is a limited liability company, and/or a business entity, form unknown, qualified to transact business and in fact transacting business in the State of California.

4. At all times herein mentioned, defendant BSK Del Partners, LLC (BSK), was and is a limited liability company, and/or a business entity, form unknown, qualified to transact business and in fact transacting business in the State of California.

5. At all times herein mentioned, defendant IRE Rinks California, LLC ("IRE"), was and is a limited liability company, and/or a business entity, form unknown, qualified to transact

1 business and in fact transacting business in the State of
2 California.

3 6. At all times herein mentioned, defendant York Chillers
4 is and was a business entity, form unknown, qualified to transact
5 business and in fact transacting business in the State of
6 California.

7 7. At all times herein mentioned, defendant Johnson
8 Controls, was and is a business entity, form unknown,
9 qualified to transact business and in fact transacting business
10 in the State of California.

11 8. Plaintiff is ignorant of the true names and
12 capacities of defendants whether corporate, associate,
13 successor, individual or otherwise sued herein as Does 1- 100,
14 inclusive, and therefore sues these defendants by such fictitious
15 names. Plaintiff will amend this complaint to allege their true
16 names and capacities when ascertained. Plaintiff is informed and
17 believes and thereon alleges, that each of the fictitiously named
18 defendants is responsible in some manner for the events,
19 occurrences, happenings, acts damages and liabilities
20 herein alleged, and caused injuries and damages proximately
21 thereby to the plaintiff, as hereinafter alleged.

22 9. Plaintiff is informed and believes, and thereon
23 alleges, that at all times relevant herein, each Defendant
24 designated, including DOES 1-100, herein was the agent, managing
25 agent, principal, owner, partner, joint venturer,

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1 representative, supervisor, manager, servant, employee and/or
2 co-conspirator of each of the other Defendants, and was at all
3 times mentioned herein acting within the course and scope of said
4 agency and employment, and that all acts or omissions
5 alleged herein were duly committed with the ratification,
6 knowledge, permission, encouragement, authorization and consent
7 of each Defendant designated herein.

8 10. At all times herein mentioned, Defendants, and DOES
9 1 - 100, and each of them, owned, operated, managed, leased,
10 possessed, maintained, repaired, supervised, renovated,
11 designed, manufactured, installed and controlled the ice skating
12 rink located on the premises at the Hotel Del Coronado
13 located at 1500 Orange Ave., Coronado, California, including, but
14 not limited to, all surfaces, including the ice, adjacent
15 areas, common areas, construction areas and all equipment used
16 to produce and maintain the ice or used in any way in conjunction
17 with the ice. Defendants and each of them recklessly
18 carelessly, unlawfully, improperly and negligently owned,
19 operated, managed, leased, possessed, maintained, manufactured,
20 installed, repaired, supervised, renovated, designed and
21 controlled said premises and equipment so as to cause the ice
22 surface to become dangerous and not fit for skaters to use, which
23 caused plaintiff to experience a fall from which she sustained
24 serious injury.

25 11. Defendants, and each of them, had owned,
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1 operated, managed, leased, possessed, maintained, manufactured,
2 installed, repaired, supervised, renovated, designed and
3 controlled the ice skating rink and the attendant equipment for
4 a number of years prior to the plaintiff's fall , charged each
5 skater a fee to skate and knew or should have known
6 of the dangerous condition(s) of the ice, created the
7 dangerous condition(s), failed to warn of the dangerous
8 condition or correct the dangerous condition(s), knowing full
9 well that the conditions created could cause serious bodily harm
10 to those skating on the ice. They exhibited a want of even scant
11 care for the public paying to skate on the rink; and an extreme
12 departure from the ordinary standard of conduct under
13 circumstances as to be contrary to a proper regard for the safety
14 of the skaters. Defendants and each of them knew that ice needed
15 to be kept at an adequate temperature and surface hardness and
16 texture to provide a safe surface on which to skate and recklessly
17 and with careless disregard for the safety of the skaters failed
18 to maintain the proper surface for safety. Defendants advertised
19 the rink to the general public and knew that many skaters paying
20 to use the rink were inexperienced and yet with a want of even
21 scant care for the public paying to skate on the rink failed to
22 warn the skaters that the surface of the rink was becoming
23 dangerous to skate upon; and with indifference to the
24 consequences of such failure which defendants, and each of them,
25 when they knew or should have known and/or could have reasonably
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1 foreseen that skaters skating on soft and melting ice were at
2 substantial risk of serious injury, failed to take close the ice
3 and perform the acts necessary to make the surface safe.

4 12. At all times mentioned in this complaint,
5 defendants Hotel Del Coronado, KSL, BSK and IRE and Does 1-50,
6 inclusive owned and/or operated the ice skating rink located on
7 the Hotel Del Coronado premises located at 1500 Orange Avenue in
8 the City of Coronado, the County of San Diego. Defendants invited
9 the general public, including plaintiff, to enter the premises
10 of the Hotel Del Coronado and, for a fee, to rent skates and skate
11 on the ice rink owned and/or operated by defendants.

12 13. On or about December 6, 2014, plaintiff went to the
13 Hotel Del Coronado with others for the purpose of using the ice
14 skating ring facilities. She duly paid the fee required for
15 entrance, was provided with skates and proceeded to skate on the
16 ice rink surface in the designated area. While so doing, the
17 improperly maintained surface of the ice caused her to suddenly
18 and without warning to fall violently backward, causing her head
19 and the back of her body to slam onto the ice, causing plaintiff
20 to sustain serious injury.

21 14. Defendants, among other acts, negligently failed to
22 maintain the surface of the ice in a reasonably safe condition;
23 allowed the surface of the ice to become melted and soft which
24 they knew or should have known created an unsafe surface for
25 skating; failed to properly maintain the ice skates which they

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1 rented to the public which they knew or should have known caused
2 the blades to be unsafe to use on soft ice; failed to warn the
3 plaintiff at any time that the condition of the ice or the ice
4 skates created a dangerous condition for skating.

5 15. As a direct and proximate result of the negligence
6 of defendants as set forth above, plaintiff fell while skating
7 and sustained serious injury, including but not limited to, a
8 severe concussion, bleeding in the brain, neck and back pain,
9 severe headaches, and nausea, with accompanying secondary
10 symptoms to severe concussion which symptoms have lasted for an
11 extended period of time and which required medical treatment,
12 including hospitalization. Plaintiff continues to suffer from
13 the injuries she sustained and anticipates future medical
14 treatment the exact extent of which is unknown at this time.
15 Plaintiff's injuries caused her pain and suffering and caused her
16 to be unable to work for a significant period of time and caused
17 her to lose the opportunity to interview for a new position, all
18 of which caused her to sustain additional damages.

19 16. Plaintiff has sustained general damages within the
20 jurisdictional limits of this court.

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SECOND CAUSE OF ACTION

(Product Liability Against Hotel Del Coronado, LP; KSL HdC 2012 Management II, LLC; BSK Del Partners, LLC; IRE Rinks California, LLC; York Chillers; Johnson Controls; and Does inclusive)

17. Plaintiff incorporates herein by reference Paragraphs 1 through 16 as though set forth in full herein.

18. Defendants York Chillers and Johnson Controls and Does 51 - 100, inclusive are now, and at all times mentioned in this complaint were, in the business of designing, manufacturing, constructing, assembling, inspecting, installing, maintain and/or selling chilling equipment for use under ice skating rinks, including outdoor rinks which they knew or should have known would be used by members of the general public.

19. Defendants Hotel Del Coronado, KSL, BSK and IRE and Does 51 - 100, inclusive are now, and at all times mentioned in this complaint were, in the business of installing, maintaining constructing, assembling, inspecting, and repairing an outdoor ice skating rink and the chilling equipment for used under the ice rink for the purpose of charging members of the public a fee to skate on the rink.

20. In the fall of 2014, Hotel Del Coronado, KSL, BSK and IRE obtained chilling equipment from defendants York Chillers and/or Johnson Controls and installed or had it installed under the outdoor ice skating rink at the Hotel Del Coronado.

1 21. At all times mentioned in this complaint, defendants
2 so negligently and carelessly, designed, manufactured,
3 constructed, assembled, inspected, and installed, repaired or
4 maintained the chiller assembly so that it was inadequate to
5 sufficiently chill the ice under the conditions present at the
6 Hotel Del Coronado, including its use outside in the sun with no
7 covering, thus creating a dangerous condition for the intended
8 users, the skaters.

9 22. As a direct and proximate result of the negligence
10 And carelessness of defendants as described above, the ice was
11 in a dangerous condition when plaintiff skated on it on
12 December 6, 2014, causing her to fall and to proximately cause
13 the injuries and damages set forth above.

14 WHEREFORE, Plaintiff prays for judgment against the
15 Defendants, and each of them as follows:

- 16 1. For general damages in an amount within the
17 jurisdictional limits of this Court, according to proof;
18 2. For medical expenses and related items of expense,
19 according to proof;
20 3. For loss of earnings, according to proof;
21 4. For exemplary and/or punitive damages, according to
22 proof;
23 5. For costs of suit incurred herein, according to proof;
24 6. For interest as permitted by law; and
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1 7. For such other and further relief as the Court may deem
2 just and proper.

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5 DATED: 12-2-16

KOZEL & RADY

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By: Nancy L. Rady
NANCY L. RADY
Attorneys for Plaintiff

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