

1 David S. Casey, Jr., SBN 060768
dcasey@cglaw.com
2 Frederick Schenk, SBN 086392
fschenk@cglaw.com
3 Angela Jae Chun, SBN 248571
ajc@cglaw.com
4 Jillian F. Hayes, SBN 297536
jhayes@cglaw.com
5 **CASEY GERRY SCHENK**
FRANCAVILLA BLATT & PENFIELD, LLP
6 110 Laurel Street
San Diego, CA 92101
7 Telephone: (619) 238-1811
Facsimile: (619) 544-9232
8

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Clerk of the Superior Court
By Tamara Parra, Deputy Clerk

9 Attorneys for Plaintiffs
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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**
13

14 ANDREW BALDWIN, an individual; and
15 BENJAMIN BALDWIN, an individual,

16 Plaintiffs,

17 v.

18 CITY OF CORONADO, a public entity; and
DOES 1 through 100, inclusive,

19 Defendants.
20

CASE NO. 37-2017-00010961-CU-PO-CTL

**COMPLAINT FOR DAMAGES FOR
WRONGFUL DEATH AND DEMAND
FOR JURY TRIAL**

21 Plaintiffs, ANDREW BALDWIN, an individual, and BENJAMIN BALDWIN, an
22 individual, as the surviving heirs of Decedent JOHN BALDWIN, and for causes of action
23 against CITY OF CORONADO, a public entity, alleges as follows:

24 **GENERAL ALLEGATIONS**

25 1. This court has jurisdiction of this matter in that all Defendants are residents of
26 the State of California and the amount in controversy exceeds the statutory limit of this
27 honorable court.

28 2. Venue before this court is proper in that certain wrongful acts that gave rise

1 to Plaintiffs' injuries occurred in the City of San Diego, County of San Diego, State of
2 California.

3 3. At all times mentioned, Decedent JOHN BALDWIN was a resident of the
4 State of Texas. Plaintiff BENJAMIN BALDWIN was and is a resident of the State of Texas.
5 Plaintiff ANDREW BALDWIN was and is a resident of the state of Connecticut.

6 4. At all times herein mentioned, Defendants CITY OF CORONADO was and is
7 a public entity.

8 5. Prior to the filing of this complaint and on or about September 22, 2016,
9 Plaintiffs presented a claim to Defendant CITY OF CORONADO, a public entity, pursuant
10 to Government Code Section 911.2. Plaintiffs' claim was denied on September 28, 2016.

11 6. Plaintiffs are informed and believes and thereon alleges that at all times
12 herein mentioned Defendants CITY OF CORONADO, a public entity; and DOES 1 through
13 100, inclusive, were in possession of and owned, operated, supervised, maintained,
14 repaired and controlled the certain premises located at Coronado beach at or near the Hotel
15 Del Coronado, between the 900 and 1500 block of Orange Avenue in the City of Coronado,
16 County of San Diego.

17 7. The true names and capacities, whether individual, corporate, associate or
18 otherwise of Defendants DOES 1 through 100, inclusive, are unknown to Plaintiffs, who
19 therefore sues said Defendants by such fictitious names. Plaintiffs are informed and
20 believes and thereon alleges that each of the Defendants herein designated as a DOE(S) are
21 responsible in some manner for the events and happenings herein referred to and caused
22 injuries and damages proximately thereby as hereinafter alleged.

23 8. Plaintiffs are informed and believes and thereon alleges that at all times
24 herein mentioned, each of the Defendants was the agent, servant and employee of each of
25 the remaining Defendants, and at all times herein mentioned, each was acting within the
26 purpose and scope of said agency and employment.

27 **FIRST CAUSE OF ACTION**

28 **(Dangerous Condition of Public Property - Government Code § 835)**

1 9. On or about **April 3, 2016**, Decedent JOHN BALDWIN, an invitee, drowned
2 while swimming due to high rip tide currents in the ocean at Coronado beach at or near the
3 Hotel Del Coronado, between the 900 and 1500 block of Orange Avenue in the City of
4 Coronado, County of San Diego.

5 10. On or about **April 3, 2016**, Defendants CITY OF CORONADO, a public
6 entity; and DOES 1 through 100, inclusive, including all of their subsidiaries and member
7 organizations, owned, possessed, or controlled the said premises located at Coronado
8 beach at or near the Hotel Del Coronado, between the 900 and 1500 block of Orange
9 Avenue in the City of Coronado, County of San Diego.

10 14. On or about **April 3, 2016**, Defendants CITY OF CORONADO, a public
11 entity; and DOES 1 through 100, inclusive, by and through its agents, employees and
12 independent contractors, created a dangerous condition on public property in that it
13 negligently owned, operated, maintained/failed to maintain, cleared, failed to clear,
14 constructed, approved, supervised, monitored beach goers and swimmers/failed to
15 monitor beach goers and swimmers, warned/failed to warn beach goers/swimmers of
16 dangerous rip tides and water current conditions, failed to educate the public, including
17 beach goers/swimmers, of the risk of dangerous rip tides and water current conditions and
18 how to guard against that risk, failed to post adequate signage to provide notice to beach
19 goers/swimmers of dangerous rip tides and water current conditions, failed to
20 prevent/protect beach goers and swimmers from entering/swimming in the ocean even
21 though it knew or should of known of the existence of dangerous rip tides and water
22 current conditions on the day of and at the time of the incident, inspected, and controlled
23 the premises, invited beach goers and swimmers to the premises by erecting restrooms,
24 showers, providing life guard services, and other amenities and promoting the premises as
25 a place to swim when knowing that the area had dangerous rip tides and water current
26 conditions. All of the foregoing resulted in a dangerous and hazardous condition to
27 persons lawfully on the premises such as decedent, and created a reasonably foreseeable
28 risk of the kind of incident that occurred, and which caused the subject incident and the

1 injuries to decedent.

2 15. Defendant CITY OF CORONADO, by and through its agents, servants,
3 employees and independent contractors, more fully identified above, knew or should have
4 known of the foregoing hazards, deficiencies and/or dangerous conditions at the location
5 and failed to remedy them and/or warn persons such as the Decedent of their presence, at
6 all times herein mentioned created and/or had notice of these dangerous conditions, in
7 that the rip tides and water current conditions were dangerous and known to them on the
8 day of the incident, and Defendant CITY OF CORONADO and its agents, employees,
9 servants, independent contractors more fully identified above knew of the hazards which
10 existed for a long enough period of time, yet created amenities for and promoted use by the
11 public when the Defendant CITY OF CORONADO should have protected the public
12 against them. Defendant CITY OF CORONADO, in the exercise of due care, should have
13 discovered, eliminated/fixed, warned, posted signage and otherwise protected the public
14 of these dangerous conditions.

15 16. As a direct and legal result of Defendants' negligence, Plaintiffs have been
16 deprived of Decedent JOHN BALDWIN's love, care, comfort, support, society, affection
17 and solace, all to their general damage in a sum which will be shown according to proof.

18 17. As a direct and legal result of Defendants' negligence, Plaintiffs have been
19 deprived of the financial support, gifts, or benefits that Plaintiffs would have expected to
20 receive from Decedent JOHN BALDWIN in a sum which will be shown according to proof.

21 18. As a direct and legal result of Defendants' negligence, Plaintiffs were
22 compelled to and did incur medical, funeral and burial expenses for the care, funeral and
23 burial of DECEDENT JOHN BALDWIN in a sum which will be shown according to proof.

24 **SECOND CAUSE OF ACTION**

25 **(Vicarious Liability of Public Employees - Government Code § 815.2)**

26 19. Plaintiffs hereby incorporate by reference each and every allegation
27 articulated above as though fully set forth herein.

28 20. On or about **April 3, 2016**, Defendants CITY OF CORONADO, a public

1 entity; and DOES 1 through 100, inclusive, owned, possessed, maintained, managed, or
2 controlled the said premises at Coronado beach at or near the Hotel Del Coronado,
3 between the 900 and 1500 block of Orange Avenue in the City of Coronado, County of San
4 Diego in the County of San Diego, State of California.

5 21. At all times relevant, the Defendant CITY OF CORONADO had or assumed a
6 legal duty owed to decedent, by and through its agents, servants, employees and
7 independent contractors, negligently failed to adequately instruct, oversee, supervise,
8 warn, post signage and monitor the area and the people swimming in the water, and/or
9 about to enter the water to prevent them from entering into the dangerous condition
10 explained more in detail above. Plaintiffs allege that on the date of the incident the beach
11 was not properly staffed nor supervised and included workers, employees, agents, and
12 independent contractors, including lifeguards, who were not qualified, competent or
13 trained to properly and safely perform the tasks assigned of them and who did not
14 properly and safely perform their duties. The Defendant CITY OF CORONADO, by and
15 through its agents, servants, employees and independent contractors, also negligently
16 failed to establish clear standards or protocols for the instruction, oversight, supervision,
17 warning, signage and monitoring of beach goers and swimmers to its employees and
18 lifeguards, and failed to follow the appropriate laws, standards, regulations, rules and
19 protocols applicable under the circumstances.

20 22. Defendant CITY OF CORONADO, by and through its employees, agents,
21 servants and independent contractors, negligently owned, operated, maintained,
22 controlled, constructed, planned, approved, supervised, designed, modified, inspected,
23 surveyed, oversaw, prepared, cleared, repaired, signed, erected or failed to erect any or
24 adequate warnings, failed to mark or adequately mark, failed to delineate or adequately
25 delineate, investigated, mapped out, failed to provide any or adequate barriers/barricades,
26 boundary lines, created a hazardous physical condition, failed to follow relevant and
27 appropriate rules, regulations, laws, standards, and/or guidelines, including its own
28 policies and procedures for public safety, monitored beach goers and swimmers/failed to

1 monitor beach goers and swimmers, warned/failed to warn beach goers/swimmers of
2 dangerous rip tides and water current conditions, failed to educate the public, including
3 beach goers/swimmers, of the risk of dangerous rip tides and water current conditions and
4 how to guard against that risk, failed to post adequate signage to provide notice to beach
5 goers/swimmers of dangerous rip tides and water current conditions, failed to
6 prevent/protect beach goers and swimmers from entering/swimming in the ocean even
7 though it knew or should of known of the existence of dangerous rip tides and water
8 current conditions on the day of and at the time of the incident, inspected, and controlled
9 the premises, invited beach goers and swimmers to the premises by erecting restrooms,
10 showers, providing life guard services, and other amenities and promoting the premises as
11 a place to swim when knowing that the area had dangerous rip tides and water current
12 conditions.

13 23. At all times relevant, the CITY OF CORONADO's agents, employees and/or
14 independent contractors more fully identified above involved were acting within the scope
15 of their employment and/or retention with the City. The CITY OF CORONADO is
16 vicariously liable for the acts and omissions of each and every one of its agents, servants,
17 employees, and independent contractors.

18 24. As a direct and legal result of Defendants' negligence, Plaintiffs have been
19 deprived of Decedent JOHN BALDWIN's love, care, comfort, support, society, affection
20 and solace, all to their general damage in a sum which will be shown according to proof.

21 25. As a direct and legal result of Defendants' negligence, Plaintiffs have been
22 deprived of the financial support, gifts, or benefits that Plaintiffs would have expected to
23 receive from Decedent JOHN BALDWIN in a sum which will be shown according to proof.

24 26. As a direct and legal result of Defendants' negligence, Plaintiffs were
25 compelled to and did incur medical, funeral and burial expenses for the care, funeral and
26 burial of DECEDENT JOHN BALDWIN in a sum which will be shown according to proof.

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1 WHEREFORE, Plaintiffs pray for judgment against the Defendants, and each
2 of them, as follows:

- 3 1. For general damages according to proof;
- 4 2. For economic damages according to proof;
- 5 3. For funeral and burial expenses and all incidental expenses according to
6 proof;
- 7 4. For interest from the date of accident to the time of judgment;
- 8 5. For attorneys' fees;
- 9 6. For costs of suit incurred herein; and
- 10 7. For such other and further relief as the Court deems proper.

11 **DEMAND FOR JURY TRIAL**

12 NOTICE IS HEREBY GIVEN that Plaintiff hereby demands trial by jury in the
13 above-captioned matter.

14 Dated: March 27, 2017

CASEY GERRY SCHENK
FRANCAVILLA BLATT & PENFIELD, LLP

By: 
FREDERICK SCHENK
Attorneys for Plaintiffs