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and DOUGLAS FORBES

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ELENA MATYAS, individually and as Successor-in-
Interest to ROXIE MIRABELLE FORBES; and DOUGLAS
FORBES, individually and as Successor-in-Interest to
ROXIE MIRABELLE FORBES;

Plaintiffs,

v.

SUMMERKIDS, INC., a California Corporation; MARIA
DIMASSA, an individual; JOSEPH DIMASSA, an
individual; CARA DIMASSA, an individual;
GIANCARLO DIMASSA, M.D., an individual; ANGELUS
MOUNTAIN CENTER, entity type unknown; THE
ENOTECA, LLC, a California Limited Liability Company
(AKA THE ENOTECA, LLC, a California Limited Liability
Company); SEMPRE AVANTI, LLC, and California
Limited Liability Company; THE DIMASSA FAMILY
FOUNDATION, a 501(c)(3) corporation; JAIMI
HARRISON, an individual; JOSEPH NATALIZIO, an
individual; DANIEL H. RAINEY, an individual; FAITH
PORTER, an individual; ANDREW LARA CERVANTES,
an individual; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 19STCV39732

SECOND AMENDED COMPLAINT FOR DAMAGES:

1. NEGLIGENCE – WRONGFUL DEATH
2. NEGLIGENCE HIRING, RETENTION, SUPERVISION, AND TRAINING
3. SURVIVOR’S ACTION
4. FRAUD

DEMAND FOR JURY TRIAL

Complaint filed: November 5, 2019
Trial Date: December 13, 2021

1 COMES NOW PLAINTIFFS ELENA MATYAS, individually and as Successor-in-Interest to
2 ROXIE MIRABELLE FORBES; and DOUGLAS FORBES, individually and as Successor-in-Interest to
3 ROXIE MIRABELLE FORBES (“PLAINTIFFS”), to complain and allege against Defendants
4 SUMMERKIDS, INC., a California Corporation (“SUMMERKIDS”); MARIA DIMASSA, an individual;
5 JOSEPH DIMASSA, an individual, CARA DIMASSA, an individual; GIANCARLO DIMASSA, M.D., an
6 individual; GIANCARLO DIMASSA, M.D., P.C., a professional medical corporation; (MARIA
7 DIMASSA, JOSEPH DIMASSA, CARA DIMASSA and GIANCARLO DIMASSA are collectively referred
8 to herein as “THE DIMASSAS”); the TRUSTEE OF THE DIMASSA FAMILY TRUST, hereinafter
9 "FAMILY" TRUST, ANGELUS MOUNTAIN CENTER, entity type unknown; THE ENOTECA, LLC, a
10 California Limited Liability Company (AKA ENOTECA DIMASSA, LLC, a California Limited Liability
11 Company); SEMPRE AVANTI, a California Limited Liability Company; THE DIMASSA FAMILY
12 FOUNDATION, a 501(c)(3) corporation (SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER,
13 THE ENOTECA, SEMPRE AVANTI, and THE DIMASSA FAMILY FOUNDATION, are collectively
14 referred to herein as the “DIMASSA ENTITIES”); JAIMI HARRISON, an individual; JOSEPH
15 NATALIZIO, an individual; DANIEL H. RAINEY, an individual; FAITH PORTER, an individual;
16 NATALIE DEL CASTILLO. an individual; ANDREW LARA CERVANTES, an individual; TREVOR
17 BOREHAM, an individual, hereinafter BOREHAM; LIFE SAVING CERTIFIED, business form
18 unknown(hereinafter LSC); THE AMERICAN NATIONAL RED CROSS also known as the
19 AMERICAN RED CROSS, a non-profit, tax -exempt, charitable corporation (hereinafter referred
20 to as “ARC”), and DOES 1 through 50, inclusive, and each of them, (“DEFENDANTS”) as follows:

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INTRODUCTION

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2 1. On or about June 28, 2019 six-year-
3 old ROXIE MIRABELLE FORBES (“ROXIE”) tragically
4 perished, not as a result some unforeseen or
5 unstoppable cause, but as a direct result of the
6 grossly negligent, willful and fraudulent misconduct
7 of DEFENDANTS.



8 2. On or about June 28, 2019, while
9 attending Summerkids Camp under the direct care
10 and supervision of DEFENDANTS, ROXIE drowned in
11 a swimming pool at ANGELUS MOUNTAIN CENTER, the 57-acre home of Summerkids Camp
12 located at 3697 N. Fair Oaks Ave., Altadena, CA 91001, which was at all operative times,
13 controlled, owned, supervised and managed by the DEFENDANTS. Consequently, PLAINTIFFS
14 ELENA MATYAS (“MATYAS”) and DOUGLAS FORBES (“FORBES”) bring this complaint for (1)
15 Wrongful Death, (2) Negligent Hiring, Retention, Supervision and Training, (3) Survivor’s Action,
16 and (4) Fraud against DEFENDANTS and DOES 1-50 arising out of the tragic events that form the
17 basis of this lawsuit.

18 3. In February 2019, PLAINTIFFS MATYAS and FORBES applied for ROXIE to attend
19 the Summerkids Camp. On March 1, 2019, Plaintiff MATYAS received an email from
20 SUMMERKIDS, INC. advising her that ROXIE was accepted to attend the Summerkids Camp.
21 ROXIE’s parents signed up their six-year-old daughter to attend camp for eight (8) weeks in the
22 summer of 2019.

23 4. THE DIMASSAS and the DIMASSA ENTITIES advertised that Summerkids Camp was
24 a safe place to send young children with allegedly American Red Cross trained lifeguards and
25 competent camp personnel. Specifically, THE DIMASSAS and the DIMASSA ENTITIES represented
26 that non-swimmers would be carefully and specifically monitored, and that the allegedly
27 American Red Cross trained lifeguards and counselors would assist the children by introducing
28 swim techniques with a goal of making the children “water safe.” As such, PLAINTIFFS were

1 assured that the allegedly American Red Cross trained lifeguards and counselors with American
2 Red Cross water safety training were always present while children participated in swimming
3 activities, and that counselors and lifeguards worked with children who were not water safe to
4 make them water safe.

5 5. Additionally, THE DIMASSAS and the DIMASSA ENTITIES represented that
6 Defendants GIANCARLO DIMASSA, M.D., dba GIANCARLO DIMASSA, M.D., P.C., an emergency
7 medicine physician, was a staff member of Summerkids Camp.

8 6. PLAINTIFFS employed and trusted the specialized services of DEFENDANTS, and
9 each of them, including DOES 1-50 to supervise and care for their six-year-old daughter ROXIE,
10 who was attending summer camp for the first time. On the first day of Summerkids Camp,
11 Defendants' and their staff assessed ROXIE'S ability to swim, concluded that she was a "non-
12 swimmer," and restricted her to the steps in the shallow end of the swimming pool. Defendants
13 communicated these restrictions to PLAINTIFFS, and PLAINTIFFS relied on those restrictions in
14 permitting ROXIE to attend Summerkids Camp and participate in the water activities.
15 DEFENDANTS, and each of them, including DOES 1-50, were aware that ROXIE was a "non-
16 swimmer" and not "water safe." Defendants were also informed and aware that ROXIE was
17 diagnosed with gross motor delay. JAIMI HARRISON, the Assistant Director of Summerkids Camp,
18 represented to PLAINTIFFS that she would personally speak with the lifeguards and counselors
19 to ensure they were aware of ROXIE'S medical condition and status as a "non-swimmer." On or
20 about June 26, 2019, CARA DIMASSA personally acknowledged to ROXIE'S mom, MATYAS, that
21 ROXIE needed special attention, and assured her that Defendants were qualified and able to
22 provide this special attention.

23 7. On June 28, 2019 PLAINTIFFS dropped ROXIE off at Summerkids Camp, which is a
24 local day camp and not a sleepover camp. Her first activity of the morning was swimming.
25 According to witness accounts ROXIE entered the pool between 9:20 and 9:25 a.m. ROXIE was
26 placed on the swimming pool steps by her "buddy counselor" DANIEL H. RAINEY also known as
27 "Hank" ("RAINEY") who was an allegedly ARC trained lifeguard with additional water safety
28 training, CPR, and AED.

1 8. DEFENDANTS, and each of them, including DOES 1-50, knew it was unsafe for
2 ROXIE to have full access to the pool, but the Summerkids Camp staff including counselors and
3 lifeguards did nothing to actually restrict ROXIE to the steps or shallow end. Rather than
4 safeguard ROXIE, RAINEY, and JOSEPH NATALIZIO (“NATALIZIO”), who was an allegedly ARC
5 trained lifeguard with additional water safety training, CPR, and AED, were distracted and
6 preoccupied with other campers at the time of the tragic drowning.

7 9. At approximately 9:35 a.m., about ten (10) to fifteen (15) minutes after ROXIE
8 entered the swimming pool, Robert Antonucci, a counselor who was working with other campers
9 about thirty (30) to forty-five (45) feet outside the gate of the swimming pool was the first person
10 to finally notice ROXIE floating face down in the pool. When Robert Antonucci saw ROXIE, she
11 was floating approximately twenty (20) feet away from the steps in four (4) to four-and-a-half
12 (4.5) feet of water.

13 10. On June 28, 2019, one or more of THE DIMASSAS, and employees, agents, and
14 other personnel of the DIMASSA ENTITIES were present at the scene of ROXIE’S tragic death.
15 However, GIANCARLO DIMASSA, M.D. was not present at the Summerkids Camp this day and did
16 not provide any care whatsoever to ROXIE, instead Defendant GIANCARLO DIMASSA, M.D. was
17 actually in Hawaii at the time of ROXIE’S drowning and no doctor or other medical personnel was
18 scheduled by the Defendants at Summerkids camp to take his place.

19 11. The Summerkids Campers, including ROXIE, were under the immediate and direct
20 care and supervision of DEFENDANTS, and each of them, including DOES 1-50 who lacked the
21 requisite experience to safely supervise the pool area and to render aid to young swimmers and
22 particularly non swimmers in emergency situations.

23 12. The allegedly ARC trained lifeguards and/or counselors, who were employees of
24 Defendant SUMMERKIDS, INC., present in and around the swimming pool were completely
25 oblivious to ROXIE’S safety. DEFENDANTS and each of them, and DOES 1 – 50, demonstrated a
26 conscious disregard for ROXIE, constituting a lack of any care and/or an extreme departure from
27 what a reasonably careful person would do in the same situation to prevent harm to ROXIE
28 and/or other campers, constituting gross negligence. Due to the inattentiveness, negligence, and

1 gross negligence of DEFENDANTS, and each of them, including DOES 1-50 and in the absence of
2 competent, trained, and attentive staff (i.e. counselors and lifeguards), ROXIE died from a
3 preventable drowning. This tragedy occurred as a direct and proximate result of SUMMERKIDS,
4 INC.'S, THE DIMASSAS' and DIMASSA ENTITIES' negligent hiring of inadequately trained and
5 incompetent personnel, and failure to adequately provide a safe environment for campers.

6 13. PLAINTIFFS are informed and believe and allege, that the deficiencies of
7 Defendants, and DOES 1-50 and each of them, included, but were not limited to:

8 • Improper hiring and training of lifeguards, resulting in incompetent lifeguard
9 personnel being "on duty" when young children were in the pool;

10 • Inadequate number of personnel staffing Summerkids Camp;

11 • Inadequate emergency action plan, or absence of such protocols;

12 • Lack of training of counselors and lifeguards regarding the assignment of specific
13 children to specific counselors, including non-swimmers such as ROXIE, which would have
14 required the counselors to observe, monitor and protect the children in their care;

15 • Failure to adequately observe, monitor, supervise, and/or protect children
16 campers during "recreational swim time," resulting in increased and potentially life-threatening
17 danger to the children;

18 • Administering insufficient swim tests to ascertain swimming skill levels of
19 campers; failure to monitor the campers and ensure they swam only in the section of the pool
20 for which their ability allowed, resulting in increased and potentially life-threatening danger to
21 the children; and

22 • Improper pool activities; inadequate water safety and CPR training, procedures
23 and equipment;

24 • Providing childcare without a license and without meeting the criteria to be
25 license exempt in violation of California Health and Safety Code Sections 1596.80 and 1596.805.

26 14. Accordingly, despite DEFENDANTS and each of them, including DOES 1-50, having
27 a responsibility for ROXIE's safety and/or being on actual duty to watch over ROXIE, and the
28 campers as required, ROXIE was found floating face down in the pool for an extended period of

1 time with absolutely no intervention by Defendants and each of them.

2 15. PLAINTIFFS are informed and believe, and on that basis allege, that after learning
3 911 had been called, Defendant CARA DIMASSA never left her office to assist counselors and staff
4 in the aftermath of ROXIE'S drowning. PLAINTIFFS are further informed and believe, and on that
5 basis allege, that Defendant GIANCARLO DIMASSA, M.D. was either not present at the camp at
6 the time of ROXIE'S death, or chose not to perform CPR.

7 16. When paramedics arrived on the scene, they found ROXIE lifeless, without a pulse,
8 in full cardiac arrest. After approximately forty (40) minutes of extensive treatment, emergency
9 room doctors resuscitated her, and ROXIE was put on life support, she remained in the hospital
10 on life support until June 29, 2019 when she was removed from life support and died as a result
11 of a preventable drowning.

12 17. Seemingly unfazed by the circumstances surrounding the death of ROXIE, the
13 Summerkids Camp remained open throughout the day of her drowning and did not modify its
14 operations except to close the pool area at the direction of the County of Los Angeles until nine
15 (9) violations were resolved. THE DIMASSAS went to Huntington Hospital. CARA DIMASSA
16 entered the trauma room without permission and told PLAINTIFFS that ROXIE was at fault for her
17 own drowning. This willful, inappropriate conduct caused great emotional harm to PLAINTIFFS.

18 18. At all times herein Defendants and each of them and DOES 1 -50, represented to
19 the Plaintiffs that the lifeguards at SUMMERKIDS, INC. were fully trained in water safety and were
20 certified ARC lifeguards. Defendants and each of them intentionally misrepresented to Plaintiffs
21 that each and every lifeguard at SUMMERKIDS, INC. had fully completed all of the training that
22 ARC had required in its written manual materials. In fact, Defendants, including ARC and
23 CERVANTES, were not requiring in actual practice that ARC authorized instructors, including but
24 not limited to CERVANTES, to follow ARC written protocols, such that none of the alleged ARC
25 lifeguards at Summerkids Camp had received even one third of the required training in water
26 safety and lifeguarding as indicated by ARC's written materials and fraudulently verified by ARC's
27 certification of said Defendant lifeguards, as well as the fraudulent certification by Cervantes and
28 ARC of Defendant JOE DIMASSA as a certified an ARC Water Safety Instructor. Defendants and

1 each of them misrepresented to the public, including the Plaintiffs, that said lifeguards at
2 Summerkids, Inc. had received the full ARC water safety and lifeguard training. In truth, said
3 Defendants concealed from the public, including the Plaintiffs, that the lifeguards at
4 SUMMERKIDS, INC. camp had not received the complete ARC water safety and lifeguard training,
5 but had only received a third of such training, creating an extremely dangerous condition for all
6 swimmers, and especially non swimmers such as ROXIE, at SUMMERKIDS, INC. camp. As a result
7 of these fraudulent misrepresentations and concealment of the fact that the Summerkids, Inc.
8 lifeguards had not received the full ARC training, as ARC written materials required and said
9 lifeguards ARC certifications falsely indicated, the Plaintiffs enrolled ROXIE at Summerkids, Inc.
10 and entrusted ROXIE into SUMMERKIDS, INC.'S care, particularly in and around the swimming
11 pool, and as a result Roxie drowned.

12 19. The DEFENDANTS', and each of them, including DOES 1-50, conduct as alleged
13 herein establishes that the DEFENDANTS' actions constituted oppression, fraud, and/or malice
14 as defined in Civil Code Section 3294. DEFENDANTS, and each of them, including DOES 1-50, took
15 on the obligation of operating a child day care summer camp, which included swimming activities
16 for young children. In its knowingly unsafe operation of the child day care summer camp,
17 including the fraudulent ARC certification of DEFENDANTS' employees regarding water safety,
18 lifeguarding, CPR, AED, and First Aid in a blatant attempt to mislead the public that this was a
19 very safe place for parents, such as the Plaintiffs, to enroll their child, including non-swimmers
20 like ROXIE in DEFENDANTS' day camp. The DEFENDANTS exhibited a willful and conscious
21 disregard for the safety of the children and their parents, constituting gross negligence.
22 PLAINTIFFS are therefore entitled to recover, in addition to actual damages, exemplary and
23 punitive damages to make an example of and to punish DEFENDANTS, and each of them,
24 including DOES 1-50, in an amount according to proof.

25 **THE PARTIES**

26 20. Plaintiff, ELENA MATYAS ("MATYAS") is and was at all times pertinent, an
27 individual domiciled in the State of California, County of Los Angeles and was within the
28 jurisdiction of the County of Los Angeles. Plaintiff MATYAS is the surviving mother of ROXIE, who

1 died as a result of a preventable drowning at Summerkids Camp.

2 21. Plaintiff, DOUGLAS FORBES (“FORBES”) is and was at all times pertinent, an
3 individual domiciled in the State of California, County of Los Angeles and was within the
4 jurisdiction of the County of Los Angeles. Plaintiff FORBES is the surviving father of ROXIE, who
5 died as a result of a preventable drowning at Summerkids Camp.

6 22. PLAINTIFFS are authorized to bring this Complaint as a survival action, as the
7 successors in interest of ROXIE, pursuant to Code of Civil Procedure Section 377.30, and as a
8 wrongful death action, pursuant to Code of Civil Procedure Section 377.60.

9 23. PLAINTIFFS are informed and believe, and on that basis allege Defendant
10 SUMMERKIDS, INC. is and was at all times pertinent, a California Corporation within the
11 jurisdiction of County of Los Angeles. Defendant SUMMERKIDS, INC.’s principal place of business
12 is located at 1640 Knollwood Dr., Pasadena, CA 91103, operating a 57-acre camp facility located
13 at 3697 N. Fair Oaks Ave, Altadena, CA 91001 also known as “Summerkids Camp.” Both locations
14 are in the State of California, County of Los Angeles.

15 24. PLAINTIFFS are informed and believe, and on that basis allege Defendant
16 ANGELUS MOUNTAIN CENTER is and was at all times pertinent, an entity type unknown operating
17 as a 57-acre camp and swimming pool facility located at 3697 N. Fair Oaks Ave, Altadena, CA
18 91001. PLAINTIFFS are informed and believe, and on that basis allege, that ANGELUS MOUNTAIN
19 CENTER was at all times relevant herein, owned and operated by Defendant JOSEPH DIMASSA.

20 25. PLAINTIFFS are informed and believe, and on that basis allege Defendant THE
21 ENOTECA, LLC is and was at all times pertinent a California Limited Liability Company with a
22 principal place of business located at 1640 Knollwood Dr., Pasadena, CA 91103. PLAINTIFFS are
23 informed and believe that THE ENOTECA, LLC, is, and at all times relevant herein was, also known
24 as ENOTECA DIMASSA, LLC,¹ which is the entity in which THE DIMASSAS hold title to the 57 acre

25 _____
26 ¹ PLAINTIFFS are informed and believe, and on that basis allege, that ENOTECA DIMASSA, LLC’s
27 Articles of Organization were amended in 2002 to rename it THE ENOTECA, LLC. The real
28 property records for their properties continue to be in the name of ENOTECA DIMASSA, LLC,
which is no longer a registered entity per the California Secretary of State website. Plaintiff will
use the current registered name of the entity THE ENOTECA, LLC, in this Complaint.

1 camp facility located at 3697 N. Fair Oaks Ave, Altadena, CA 91001. PLAINTIFFS are informed and
2 believe, and on that basis allege, that this is the same piece of real property where THE DIMASSAS
3 operate the ANGELUS MOUNTAIN CENTER and Summerkids Camp. PLAINTIFFS are informed and
4 believe, and on that basis allege, that THE DIMASSAS use the names THE ENOTECA, LLC and
5 ENOTECA DIMASSA, LLC interchangeably and that they are one and the same entity.

6 26. PLAINTIFFS are informed and believe, and on that basis allege Defendant SEMPRE
7 AVANTI, LLC, is and was at all times pertinent a California Limited Liability Company with a
8 principal place of business located at 1640 Knollwood Dr., Pasadena, CA 91103. PLAINTIFFS are
9 informed and believe SEMPRE AVANTI, LLC is the entity in which THE DIMASSAS held title to their
10 homes located at 1630 and 1640 Knollwood Drive in Pasadena, which is the same location out of
11 which THE DIMASSAS operated Summerkids Camp and THE ENOTECA, LLC.

12 27. PLAINTIFFS are informed and believe, and on that basis allege, Defendant THE
13 DIMASSA FAMILY FOUNDATION, is a non-profit private foundation organized under Internal
14 Revenue Code Section 501(c)(3). Per the 2018 990 tax return filed for THE DIMASSA FAMILY
15 FOUNDATION, the only contributors to the foundation are Defendants JOSEPH AND MARIA
16 DIMASSA. The principal place of business for THE DIMASSA FAMILY FOUNDATION is now 840 E.
17 Green Street, #215, Pasadena, CA 91101. For calendar years 2014-17, PLAINTIFFS are informed
18 and believe, and on that basis allege, that the principal place of business of the Foundation was
19 1640 Knollwood Drive, in Pasadena, the same location out of which THE DIMASSAS operated
20 SUMMERKIDS INC., THE ENOTECA LLC, and SEMPRE AVANTI, LLC. PLAINTIFFS are further
21 informed and believe, and on that basis allege, that THE DIMASSA FAMILY FOUNDATION was
22 originally funded by Allegra Center Inc., another California Corporation with a principal place of
23 business now located at 840 E. Green Street, #215, Pasadena, CA 91101; that was previously at
24 1640 Knollwood Drive, in Pasadena.

25 28. PLAINTIFFS are informed and believe, and on that basis allege Defendants THE
26 DIMASSAS are now and were at all times mentioned herein adult residents of the State of
27 California, County of Los Angeles. PLAINTIFFS are informed and believe that (1) MARIA DIMASSA,
28 JOSEPH DIMASSA, CARA DIMASSA and GIANCARLO DIMASSA, M.D. are alter egos of

1 SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC,
2 THE TRUSTEE OF THE DIMASSA FAMILY TRUST and THE DIMASSA FAMILY FOUNDATION (2)
3 that they are co-owners of SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE
4 ENOTECA, LLC, SEMPRE AVANTI, LLC, THE TRUSTEE OF THE DIMASSA FAMILY TRUST and THE
5 DIMASSA FAMILY FOUNDATION, and (3) that they serve as officers, directors, managers and
6 principals of SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE
7 AVANTI, LLC, THE TRUSTEE OF THE DIMASSA FAMILY TRUST and THE DIMASSA FAMILY FOUNDATION.

8 29. PLAINTIFFS are informed and believe, and on that basis allege, Defendant DANIEL
9 H. RAINEY also known as “Hank” (“RAINEY”), is and was at all pertinent times, an individual adult
10 residing in the County of Los Angeles, State of California. PLAINTIFFS are informed and believe,
11 and on that basis allege, RAINEY was at all times herein mentioned employed by either
12 SUMMERKIDS, INC., THE DIMASSAS or one of the other DIMASSA ENTITIES as a lifeguard and
13 camp counselor for the Summerkids Camp. PLAINTIFFS are informed and believe, and on that
14 basis allege, RAINEY was on duty at the time of the tragic incident described herein, and he was
15 ROXIE’S “buddy counselor” assigned to watch over ROXIE at the time of her death. PLAINTIFFS
16 are informed and believe, and on that basis allege, RAINEY is and was at all pertinent times
17 represented to be a certified lifeguard, water safety instructor and certified to perform
18 Cardiopulmonary resuscitation (“CPR”) and Automated External Defibrillator (“AED”).

19 30. PLAINTIFFS are informed and believe, and on that basis allege, Defendant
20 ANDREW LARA CERVANTES (“CERVANTES”) is and was at all time pertinent, an individual adult
21 residing in the City and County of Los Angeles, State of California. PLAINTIFFS are informed and
22 believe, and on that basis allege, that CERVANTES was at all times mentioned contracted with
23 Defendant ARC as an ARC water safety and lifesaving instructor. PLAINTIFFS are informed and
24 believe, and on that basis allege, that CERVANTES was at all times herein mentioned contracted
25 and/or employed by SUMMERKIDS, INC., THE DIMASSAS or one of the other DIMASSA ENTITIES
26 and was responsible for testing and certifying lifeguards at the Summerkids Camp to receive ARC
27 certification to be used in Summerkids Camp’s advertising regarding safety. Under ARC’s
28 authorization and consent, CERVANTES wrongfully certified Summerkids Camp employees,

1 including JOSEPH NATALIZIO, RAINEY, NATALIE DEL CASTILLO, JOSEPH DIMASSA and FAITH
2 PORTER whereby each said lifeguard took no written examination and received less than half the
3 water safety and lifeguard training prescribed in ARC's writings and manuals. CERVANTES also
4 wrongfully certified HANK RAINEY as an ARC water safety instructor, without RAINEY taking a
5 written examination and receiving far less hours of training as required by ARC written materials
6 and manuals. PLAINTIFFS are informed and believe, and on that basis allege, CERVANTES is and
7 was at all pertinent times represented to be an ARC certified lifeguard, water safety instructor
8 and certified to train individuals in CPR and AED and at all times was acting with the permission
9 of ARC and in the course and scope of his agency with ARC.

10 31. PLAINTIFFS are informed and believe, and on that basis allege, Defendant TREVOR
11 BOREHAM (hereinafter "BOREHAM") is and was at all time pertinent, an individual adult and
12 owner of Defendant Life Saving Certified (hereinafter "LSC"), business form unknown and doing
13 business in the County of Los Angeles PLAINTIFFS are informed and believe, and on that basis
14 allege, that Defendant BOREHAM and Defendant LSC were at all times herein mentioned
15 contracted and/or employed by SUMMERKIDS, INC., THE DIMASSAS or one of the other DIMASSA
16 ENTITIES and were responsible for training, testing and certifying SUMMERKIDS, INC. employees
17 in CPR, AED, and First Aid in order to protect the children at Summerkids Camp

18 32. PLAINTIFFS are informed and believe, and on that basis allege, Defendant JOSEPH
19 NATALIZIO is and was at all times pertinent, an individual adult residing in the County of Los
20 Angeles, State of California. PLAINTIFFS are informed and believe, and on that basis allege
21 NATALIZIO was at all times herein mentioned employed by SUMMERKIDS, INC., THE DIMASSAS
22 or one of the other DIMASSA ENTITIES and was represented to be a senior counselor and certified
23 lifeguard assigned to the lifeguard chair at the Summerkids Camp when Roxie died due to a
24 preventable drowning.

25 33. PLAINTIFFS are informed and believe, and on that basis allege, Defendant JAIMI
26 HARRISON ("HARRISON") is and was at all pertinent times, an individual adult residing in County
27 of Los Angeles, State of California. PLAINTIFFS are informed and believe, and on that basis allege,
28 HARRISON was at all times herein mentioned employed by SUMMERKIDS, INC., THE DIMASSAS

1 or one of the other DIMASSA ENTITIES as the Assistant Director of the Summerkids Camp.

2 34. PLAINTIFFS are informed and believe, and on that basis allege, Defendant FAITH
3 PORTER ("PORTER"), is and was at all pertinent times, an individual residing in County of Los
4 Angeles, State of California. PLAINTIFFS are informed and believe, and on that basis allege,
5 PORTER was at all times herein mentioned employed by SUMMERKIDS, INC., THE DIMASSAS or
6 one of the other DIMASSA ENTITIES as a counselor and lifeguard to oversee the shallow end of
7 the pool at the Summerkids Camp.

8 35. PLAINTIFFS are informed and believe, and on that basis allege, Defendant NATALIE
9 DEL CASTILLO ("CASTILLO"), is and was at all pertinent times, an individual residing in County of
10 Los Angeles, State of California. PLAINTIFFS are informed and believe, and on that basis allege,
11 CASTILLO was at all times herein mentioned employed by SUMMERKIDS, INC., THE DIMASSAS or
12 one of the other DIMASSA ENTITIES as a counselor and lifeguard to oversee the shallow end of
13 the pool at the Summerkids Camp.

14 36. PLAINTIFFS are informed and believe, and on that basis allege, Defendant THE
15 AMERICAN NATIONAL RED CROSS also known as The American Red Cross ("ARC"), is and was at
16 all pertinent times, a non-profit, tax -exempt, charitable corporation, doing business in the
17 County of Los Angeles, State of California with its headquarters located at 1450 S. Central Ave.,
18 Los Angeles, CA 90021.

19 37. The true names of, capacities, whether individual, corporate, associate,
20 governmental or otherwise, of DEFENDANTS, and each of them, including DOES 1-50 are
21 unknown to PLAINTIFFS at this time, who therefore sue such Defendants by such fictitious names.
22 When the true names and capacities of such Doe Defendants are ascertained, PLAINTIFFS will
23 amend this Complaint accordingly.

24 38. PLAINTIFFS are informed and believe, and on that basis allege that each of the
25 Defendants designated herein as a Doe was negligent and guilty of the same conduct as the other
26 Defendants, and is responsible in some manner for the events and happenings herein referred
27 to, and that their negligence proximately caused the injuries and damages sustained by
28 PLAINTIFFS as herein alleged, either through such Defendants' own negligent conduct or through

1 the conduct of their agents, servants, partners, joint venturers, representatives, servants,
2 employees, managing agents, managing supervisors, and/or co-conspirators, or due to their
3 ownership, control, rental, use, and/or lease of the property or instrumentality by which
4 PLAINTIFFS' wrongful death injuries were caused, or in some other manner by Defendants
5 actions.

6 39. PLAINTIFFS are informed and believe, and on that basis allege that at all times
7 herein mentioned, each of the Defendants named herein, including each Doe Defendant, was the
8 agent, servant, partner, joint venturer, representative, servant, employee, managing agent,
9 managing supervisor, and/or co-conspirator of the remaining Defendants, and was at all such
10 times acting within the purpose and scope of said such agency, service, partnership and/or
11 employment, unless otherwise stated.

12 40. All allegations made in this Complaint are based upon information and belief,
13 except those allegations which pertain to the named PLAINTIFFS, which are based on personal
14 knowledge. The allegations of this complaint stated on information and belief are likely to have
15 evidentiary support after a reasonable opportunity for further investigation or discovery.

16 **JURISDICTION AND VENUE**

17 41. Venue is proper and this court has jurisdiction in this matter pursuant to California
18 Code of Civil Procedure § 410.10 and § 395(a) because the incident, death, injury, and/or harm
19 giving rise to this action occurred the County of Los Angeles, State of California.

20 42. At all times mentioned in this Complaint, the DIMASSA FAMILY Defendants owned
21 and operated a camp with their principal place of business at 1640 Knollwood Drive, Pasadena,
22 CA 91103, and the camp facility located at 3697 N. Fair Oaks Ave, Altadena, CA 91001.

23 **GENERAL ALLEGATIONS**

24 43. The Summerkids Campers, including ROXIE, were under the immediate and direct
25 supervision of an inadequate number of representatives, agents, and employees of
26 DEFENDANTS, and each of them, including DOES 1-50 who lacked the requisite experience and
27 training to supervise the pool area and to render aid to young campers in emergency situations.

28 44. PLAINTIFFS are the parents of ROXIE and hereby bring this claim against

1 DEFENDANTS, and each of them, including DOES 1-50 for the wrongful death of their daughter,
2 ROXIE MIRABELLE FORBES, they have standing to bring a wrongful death action pursuant to
3 California Code of Civil Procedure, Section 377.60. PLAINTIFFS are individuals who are, and at all
4 relevant times mentioned herein, were adult residents of Los Angeles County, California.

5 45. ROXIE was a minor (DOB 12/4/12) who was under the care of DEFENDANTS, and
6 each of them, including DOES 1-50 at Summerkids Camp, which is jointly owned by THE
7 DIMASSAS and the DIMASSA ENTITIES with their principal place of business at 1640 Knollwood
8 Drive, Pasadena, CA 91103, and the camp facility located at 3697 N. Fair Oaks Ave, Altadena, CA
9 91001. ROXIE died as a result of the incident described herein.

10 46. PLAINTIFFS are informed and believe, and thereupon allege, that THE DIMASSAS
11 and the DIMASSA ENTITIES are liable for any breach of duty by their employees, agents, servants
12 and/or joint venturers under the legal theory of respondeat superior.

13 47. PLAINTIFFS are further informed and believe, and thereon allege, that
14 DEFENDANTS' careless, negligent, grossly negligent, reckless and unlawful conduct in regard to
15 the events surrounding the subject incident was the direct, legal and proximate cause of the fatal
16 injuries sustained by ROXIE.

17 48. PLAINTIFFS are further informed and believe, and thereupon allege, that at all
18 times mentioned herein, DEFENDANTS, and each of them, including DOES 1-50 and their
19 employees, agents, servants and/or joint venturers had a special relationship existing with ROXIE,
20 as a paid invitee, to take reasonable protective measures, especially with young campers, to
21 ensure her safety and otherwise protect her from reasonably foreseeable dangerous conduct
22 and to warn her as to such reasonably foreseeable dangerous conduct during camp activities,
23 especially in and around the pool area.

24 49. PLAINTIFFS are further informed and believe, and thereon allege, that the later
25 misconduct of DEFENDANTS, and each of them, including DOES 1-50 including any employees,
26 agents, servants and/or joint venturers, after ROXIE was taken out of the pool, caused further
27 harm to her.

28 50. PLAINTIFFS are informed and believe, and on that basis allege, SUMMERKIDS, INC.,

1 THE DIMASSAS and DIMASSA ENTITIES are liable for any breach of duty by their employees,
2 agents, servants and/or joint venturers under the legal theory of respondeat superior.
3 PLAINTIFFS are further informed and believe, and thereon allege, that DEFENDANTS, and each of
4 them, including DOES 1-50 were careless, negligent, grossly negligent, reckless and engaged in
5 fraudulent, unlawful conduct with respect to the events surrounding the subject incident which
6 was the direct, legal and proximate cause of the fatal injuries sustained by ROXIE.

7 51. PLAINTIFFS are informed and believe, and on that basis allege, Defendants ARC
8 and DOES 36-50, are liable for any breach of duty by their employees, agents, servants and/or
9 joint venturers, including but not limited to defendant CERVANTES and DOES, 21 – 35, under the
10 legal theory of respondeat superior. At all times herein, Defendant ARC required Defendant
11 CERVANTES to be an "Authorized Provider" and said Defendant ARC had entered into a "Licensed
12 Training Provider Agreement" hereinafter "LTPA" with Defendants SUMMERKIDS, INC. and THE
13 DIMASSAS and DIMASSA ENTITIES who were responsible for collecting on behalf of Defendant
14 ARC fees and other payments for training, and Defendant ARC was responsible for ensuring that
15 said Defendants' personnel received ARC water safety and lifeguarding certificates. Plaintiffs are
16 further informed and believe, and thereon allege, that DEFENDANTS ARC, CERVANTES, and DOES
17 21-50, and each of them were careless, negligent, grossly negligent, reckless and engaged in
18 fraudulent, unlawful conduct with respect to the events surrounding the subject incident which
19 was the direct, legal and proximate cause of the fatal injuries sustained by ROXIE.

20 52. PLAINTIFFS are informed and believe, and on that basis allege, Defendants
21 BOREHAM, LSC and DOES 20-35, are liable for any breach of duty by their employees, agents,
22 servants and/or joint venturers under the legal theory of respondeat superior. Plaintiffs are
23 further informed and believe, and thereon allege, that DEFENDANTS BOREHAM, LSC, and DOES
24 20-35, and each of them were careless, negligent, grossly negligent, reckless and engaged in
25 fraudulent, unlawful conduct with respect to the events surrounding the subject incident which
26 was the direct, legal and proximate cause of the fatal injuries sustained by ROXIE.

27 53. As a result of the DEFENDANTS' negligence, gross negligence, ROXIE received
28 emergency medical care, and ultimately perished due to her fatal injuries.

1 54. As a result of ROXIE's untimely death, PLAINTIFFS have suffered damages in excess
2 of the jurisdictional minimum of this Court, including loss of love, companionship, care, and
3 affection.

4 55. Defendants' actions also constitute gross negligence, oppression, fraud, and/or
5 malice as defined in Civil Code Section 3294, and PLAINTIFFS should recover, in addition to actual
6 damages, exemplary and punitive damages to make an example of and to punish DEFENDANTS,
7 in an amount according to proof.

8 56. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to provide
9 the quality training needed to help defendant CERVANTES, SUMMERKIDS, INC., THE DIMASSAS
10 or one of the other DIMASSA ENTITIES and DOES 1-35 carry out Defendant CERVANTES',
11 SUMMERKIDS, INC.'s, THE DIMASSAS' or one of the other DIMASSA ENTITIES' responsibilities to
12 prepare for, conduct, report on and evaluate the ARC courses for water safety and lifeguarding,
13 including but not limited to the ARC water safety and ARC lifeguard programs provided to
14 Defendant Summerkids Camp, NATALIZIO, RAINEY, PORTER, CASTILLO and JOSEPH DIMASSA. As
15 a consequence of said failure, decedent Roxie Forbes drowned on June 28, 2019.

16 57. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to provide
17 the appropriate materials, including but not limited to written testing materials, supplies and
18 equipment needed by Defendant CERVANTES, SUMMERKIDS, INC., THE DIMASSAS or one of the
19 other DIMASSA ENTITIES and DOES 1-35 to meet the requirements of the ARC water safety and
20 lifeguarding courses, including providing written tests to prospective ARC water safety and
21 lifeguard applicants that Defendant CERVANTES, SUMMERKIDS, INC., THE DIMASSAS or one of
22 the other DIMASSA ENTITIES and DOES 21-35 taught to defendant Summerkids and its employees
23 and DOES 1-20. As a consequence of said failure, decedent Roxie Forbes drowned on June 28,
24 2019.

25 58. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to provide
26 timely course and instructor updates to Defendant CERVANTES, SUMMERKIDS, INC., THE
27 DIMASSAS or one of the other DIMASSA ENTITIES and DOES 1-35 regarding updates on safety
28 skills required by ARC lifeguards, including the lifeguards at Summerkids Camp, to safely perform

1 their duties. As a consequence of said failure, decedent Roxie Forbes drowned on June 28, 2019.

2 59. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to establish
3 and explain to Defendant CERVANTES. SUMMERKIDS, INC., THE DIMASSAS and/or one of the
4 other DIMASSA ENTITIES and DOES 1-35 all national and local policies, regulations, and
5 procedures that relate to Defendant ARC water safety and lifeguard instructors such as
6 Defendant CERVANTES', SUMMERKIDS, INC.'s, THE DIMASSAS' and/or one of the other DIMASSA
7 ENTITIES' and DOES 1-50 responsibilities, including but not limited to ARC certification
8 procedures and policies for lifeguards, water safety, and the ARC Code of Conduct. As a
9 consequence of said failure, decedent Roxie Forbes drowned on June 28, 2019.

10 60. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to provide
11 effective, timely support and guidance to its Water Safety and Lifeguard instructors, including
12 but not limited to Defendant CERVANTES, SUMMERKIDS, INC., THE DIMASSAS and/or one of the
13 other DIMASSA ENTITIES and DOES 1-35, regarding water safety and lifeguard instruction
14 provided to SUMMERKIDS, INC. and its employees. As a consequence of said failure, decedent
15 Roxie Forbes drowned on June 28, 2019.

16 61. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to evaluate
17 Defendant CERVANTES', SUMMERKIDS, INC.'s, THE DIMASSAS' and/or one of the other DIMASSA
18 ENTITIES' and DOES 1-35 teaching performance, including but not limited to Defendant
19 CERVANTES,' SUMMERKIDS, INC.'s, THE DIMASSAS' or one of the other DIMASSA ENTITIES' and
20 DOES 1-35 teaching performance of ARC Water Safety and Lifeguard skills to defendant
21 SUMMERKIDS, INC., RAINEY, JOSEPH DIMASSA, NATALIZIO, PORTER, CASTILLO and DOES 1-20. As
22 a consequence of said failure, decedent Roxie Forbes drowned on June 28, 2019.

23 62. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to confirm
24 and ensure that its Water Safety and Lifeguard instructors, including but not limited to Defendant
25 CERVANTES, SUMMERKIDS, INC., THE DIMASSAS and/or one of the other DIMASSA ENTITIES and
26 DOES 1-35 followed all the current policies, regulations and procedures of the ARC, including
27 policies and procedures regarding written testing of applicants, related to the conduct and
28 administration of ARC courses, including those Water Safety and Lifeguarding courses that were

1 provided to employees of defendant SUMMERKIDS, INC. and DOES 1-20, including but not limited
2 to Defendants RAINEY, JOSEPH DIMASSA, NATALIZIO, CASTILLO and PORTER. As a consequence
3 of said failure, decedent Roxie Forbes drowned on June 28, 2019.

4 63. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to recognize
5 that Defendant CERVANTES and DOES 21-35 had not completed appropriate instructor training
6 courses as a prerequisite of authorization as an ARC Instructor and that CERVANTES and DOES
7 21-35 was not authorized under Defendant ARC and DOES 36-50 rules and regulations which
8 Defendant ARC and DOES 36-50 failed to enforce. As a consequence of said failure, decedent
9 Roxie Forbes drowned on June 28, 2019.

10 64. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to make
11 certain and ensure that all ARC Water Safety and Lifeguarding Course classes assigned to/and/or
12 taught by Defendant CERVANTES, SUMMERKIDS, INC., THE DIMASSAS and/or one of the other
13 DIMASSA ENTITIES and DOES 1-35, included the completion of required records in a timely and
14 accurate manner and provided appropriate, accurate and true ARC Course Certificates or other
15 recognition to participants, for which said Defendant ARC and DOES 36-50 were required to have
16 completed. As a consequence of said failure, decedent Roxie Forbes drowned on June 28, 2019.

17 65. At all times herein ARC and DOES 36-50 received payment from Defendant
18 SUMMERKIDS, INC., THE DIMASSAS and/or one of the other DIMASSA ENTITIES and DOES 1-20
19 through CERVANTES and DOES 1-35 regarding Certification of Defendant SUMMERKIDS, INC.'s,
20 THE DIMASSAS' and/or one of the other DIMASSA ENTITIES' lifeguards. Said ARC lifeguard
21 Certification fee was ultimately paid in part from the tuition that Plaintiffs paid to SUMMERKIDS,
22 INC., THE DIMASSAS and/or one of the other DIMASSA ENTITIES on behalf of ROXIE to attend the
23 Summerkids Camp.

24 66. At all times relevant defendants BOREHAM and LSC, had a duty to properly train
25 SUMMERKIDS, INC. employees in CPR, AED, and First Aid Safety training. Instead of receiving the
26 full training Plaintiffs are informed and believe, and thereon allege, Defendants SUMMERKIDS,
27 INC., THE DIMASSAS or one of the other DIMASSA ENTITIES requested a dangerously short
28 training session for which BOREHAM AND LSC, and DOES 21-35 wrongfully agreed to do. At all

1 times Defendant BOREHAM and LSC and DOES 21-35 knew that this dangerously short training
2 session was severely insufficient and would almost certainly lead to a death or very serious
3 permanent injury if a drowning disaster occurred. As a result of the negligence and gross
4 negligence of BOREHAM and LSC, and DOES 21-35, regarding said training, Defendants BOREHAM
5 and LSC were responsible for Defendants SUMMERKIDS, INC. employees being unfit and
6 incompetent regarding CPR, AED, and First Aid, ultimately causing ROXIE's death.

7 **ALTER EGO ALLEGATIONS**

8 PIERCING THE CORPORATE VEIL AGAINST SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER,
9 THE ENOTECA, LLC, SEMPRE AVANTI, LLC, THE DIMASSA FAMILY FOUNDATION, THE TRUSTEE OF
10 THE DIMASSA FAMILY TRUST

11 67. PLAINTIFFS hereby re-allege and incorporate by reference each and every
12 allegation and statement contained in the prior paragraphs.

13 68. PLAINTIFFS are informed and believe, and on that basis allege, that MARIA
14 DIMASSA, JOSEPH DIMASSA, CARA DIMASSA, and GIANCARLO DIMASSA, M.D., on the one hand
15 and SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI,
16 LLC, THE TRUSTEE OF THE DIMASSA FAMILY TRUST and THE DIMASSA FAMILY FOUNDATION have
17 operated as alter egos of one another.

18 69. There exists, and at all times herein mentioned there existed, a unity of interest
19 and ownership between Defendants MARIA DIMASSA, JOSEPH DIMASSA, CARA DIMASSA, and
20 GIANCARLO DIMASSA, M.D., and SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE
21 ENOTECA, LLC, SEMPRE AVANTI, LLC, THE TRUSTEE OF THE DIMASSA FAMILY TRUST and THE
22 DIMASSA FAMILY FOUNDATION, such that any individuality and separateness between Defendants
23 THE DIMASSAS and such entities have ceased, and such entities are the alter egos of THE DIMASSAS.

24 70. PLAINTIFFS are informed and believe, and on that basis allege that THE DIMASSAS
25 have engaged in substantial commingling of corporate and personal affairs.

26 71. PLAINTIFFS are informed and believe, and on that basis allege Defendants
27 SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC,
28 THE TRUSTEE OF THE DIMASSA FAMILY TRUST and THE DIMASSA FAMILY FOUNDATION are

1 owned and controlled by THE DIMASSAS. These entities do not operate as entities, but rather as
2 one, with the separate entities used to shield assets and other revenues in a manner to best suit
3 their owners.

4 72. PLAINTIFFS are informed and believe, and on that basis allege, there is a unity of
5 interest and ownership between THE DIMASSAS on the one hand and the DIMASSA ENTITIES on
6 the other.

7 73. PLAINTIFFS are informed and believe, and on that basis allege THE DIMASSAS and
8 DIMASSA ENTITIES have transferred assets and revenues among and between themselves and
9 their alter egos to defraud creditors.

10 74. PLAINTIFFS are informed and believe, and on that basis allege, THE DIMASSAS
11 systematically engaged in a series of transactions intended to transfer assets from themselves
12 and SUMMERKIDS INC. to other entities such as ANGELUS MOUNTAIN CENTER, THE ENOTECA,
13 LLC, SEMPRE AVANTI, LLC, THE TRUSTEE OF THE DIMASSA FAMILY TRUST and the DIMASSA
14 FAMILY FOUNDATION intending to make the ANGELUS MOUNTAIN CENTER or their real
15 property, including, but not limited to those located at 1630 or 1640 Knollwood in Pasadena,
16 840 E. Green Street, #215, Pasadena, or 3697 N. Fair Oaks Avenue in Altadena, unavailable to
17 satisfy a judgment. The real property located at 3807 El Sereno Ave., Altadena, California and
18 3797 El Sereno Ave., Altadena, California allegedly owned by Defendant Sempre Avanti at all
19 times are used by Summerkids, Inc. for its camp functions/operations.

20 75. PLAINTIFFS are informed and believe, and on that basis allege, THE DIMASSAS
21 have at all times relevant herein exercised control and dominion over SUMMERKIDS, INC.,
22 ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC, THE TRUSTEE OF THE
23 DIMASSA FAMILY TRUST and THE DIMASSA FAMILY FOUNDATION with a disregard for the
24 separate legal status of these entities in an attempt to defraud creditors.

25 76. PLAINTIFFS are informed and believe, and on that basis allege, adherence to the
26 fiction of the separate existence of the Defendants SUMMERKIDS, INC., ANGELUS MOUNTAIN
27 CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC, THE TRUSTEE OF THE DIMASSA FAMILY TRUST
28 and THE DIMASSA FAMILY FOUNDATION as separate entities distinct from THE DIMASSAS would permit

1 an abuse of the privilege of organizing businesses under the laws of the State of California and
2 would sanction fraud and promote injustice.

3 77. PLAINTIFFS are informed and believe, and on that basis allege that SUMMERKIDS, INC.,
4 ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC, THE TRUSTEE OF THE
5 DIMASSA FAMILY TRUST and THE DIMASSA FAMILY FOUNDATION have such a unity of interest
6 and operations that separate personalities of these entities no longer exist and if the acts are treated as
7 those of the entities alone, an inequitable result will follow. PLAINTIFFS are informed and believe,
8 and on that basis allege Defendants SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA,
9 LLC, SEMPRE AVANTI, LLC, THE TRUSTEE OF THE DIMASSA FAMILY TRUST and THE DIMASSA FAMILY
10 FOUNDATION, are owned and controlled by THE DIMASSAS. These entities do not operate as
11 entities, but rather as one, with the separate entities used to shield assets and other revenues in a
12 manner to best suit their owners. Moreover, SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER,
13 THE ENOTECA, LLC, and SEMPRE AVANTI, LLC, THE TRUSTEE OF THE DIMASSA FAMILY TRUST are the alter
14 egos of each other, that they share some of the same ownership, management and marketing.

15 **FIRST CAUSE OF ACTION**

16 **Negligence – Wrongful Death**

17 **Against all DEFENDANTS and DOES 1-50 inclusive**

18 78. PLAINTIFFS hereby re-allege and incorporate by reference each and every
19 allegation and statement contained in the prior paragraphs.

20 79. PLAINTIFFS are informed and believe, and on that basis allege, DEFENDANTS and each
21 of them, including DOES 1-50, had a duty to exercise reasonable care in the ownership,
22 maintenance, operation, and management of their premises, and in the care and supervision of the
23 children in their custody, including the ROXIE, in order to avoid exposing them to an
24 unreasonable risk of harm. Said DEFENDANTS also had a duty to ensure that the Summerkids
25 Camp lifeguards and other SUMMERKIDS, INC. employees were fully and properly trained in
26 water safety and lifeguarding under the ARC guidelines set forth in ARC written materials and
27 manuals in order to keep the children including ROXIE safe while using the swimming pool on the
28 premises. Said DEFENDANTS also had a duty to ensure that all SUMMERKIDS, INC. employees

1 were fully trained in CPR, AED, and First Aid including, but not limited to, HARRISON, CARA
2 DIMASSA, JOSEPH DIMASSA, RAINEY, NATALIZIO, PORTER and CASTILLO and other SUMMERKIDS,
3 INC. employees on the premises at the time of ROXIE'S death. At all times herein mentioned said
4 DEFENDANTS were negligent in their duty to ensure that the Summerkids Camp lifeguards and
5 other SUMMERKIDS, INC. employees on duty at the time of ROXIE'S death were fully and properly
6 trained in water safety and lifeguarding under ARC guidelines. At all times herein mentioned, said
7 DEFENDANTS were further negligent in their duty to ensure that Summerkids Camp lifeguards
8 and other SUMMERKIDS INC. employees on duty at the time of ROXIE'S death were fully and
9 properly trained in CPR, AED, and First Aid. As a consequence of the negligence of said
10 DEFENDANTS and each of them and DOES 1-50, ROXIE drowned on June 28, 2019.

11 80. PLAINTIFFS are informed and believe, and on that basis allege, DEFENDANTS and
12 each of them, including DOES 1-50, had a special relationship existing with ROXIE, as a paid
13 invitee, to take reasonable protective measures, especially given she had been rated as a "non-
14 swimmer," to ensure her safety and otherwise protect her from reasonably foreseeable
15 dangerous conduct and to warn her as to such reasonably foreseeable dangerous conduct during
16 camp activities such as swimming.

17 81. The conduct of DEFENDANTS and each of them, including DOES 1-50, constituted
18 a lack of any care and an extreme departure from what a reasonably careful person would do in
19 the same situation to prevent harm to oneself or to others, constituting gross negligence.
20 DEFENDANTS were aware of the probable consequences of their acts, and willfully and
21 deliberately failed to avoid the likelihood of serious injury to decedent and others similarly
22 situated. PLAINTIFFS are informed and believe, and on that basis allege, DEFENDANTS and each
23 of them, including DOES 1-50, breached their duty of care when they carelessly and grossly
24 negligently supervised, protected, trained, and assisted in the supervision and control and safety
25 of campers in their care, such as ROXIE and to ensure that children and ROXIE were not subjected
26 to an unreasonable risk of harm while in their care and custody, and created a dangerous
27 condition by not adequately supervising campers while they were in the pool. At all times herein,
28 and particularly well in advance of ROXIE'S death, said DEFENDANTS knew that they had

1 improperly trained the Summerkids Camp lifeguards and other SUMMERKIDS, INC. employees in
2 water safety, lifeguarding, CPR, AED, and First Aid. At all times herein, and particularly well in
3 advance of ROXIE'S death, said DEFENDANTS knew that if the Summerkids Camp lifeguards and
4 other SUMMERKIDS, INC, employees were improperly trained in water safety, lifeguarding, CPR,
5 AED, and First Aid, as took place herein a non-swimmer child in their care could certainly drown
6 and die as occurred with ROXIE. As a direct and proximate result of DEFENDANTS', and each of
7 the, including DOES 1-50, ROXIE died from a preventable drowning for which DEFENDANTS, are
8 legally responsible.

9 82. PLAINTIFFS are informed and believe, and on that basis allege ROXIE was being
10 supervised on camp property by Defendants RAINEY, NATALIZIO, PORTER, CASTILLO, HARRISON,
11 CARA DIMASSA, AND JOSEPH DIMASSA and the lifeguards, agents employees and or independent
12 contractors of Defendants SUMMERKIDS, INC., THE DIMASSAS and the DIMASSA ENTITIES and
13 DOES 1-50, inclusive, with the consent, knowledge, and permission of said DEFENDANTS, which
14 renders DEFENDANTS and each of them, including DOES 1-50, vicariously liable for the negligent
15 acts and omissions of such agents, employees, and/or independent contractors.

16 83. The danger of a "non-swimmer" six-year-old child drowning in an unsupervised
17 pool setting was known to DEFENDANTS and DOES 1-50, or in the exercise of ordinary and
18 reasonable care, should have been known to DEFENDANTS and DOES 1-50.

19 84. PLAINTIFFS are informed and believe, and thereon allege, that ROXIE's death was
20 a direct and proximate result of the negligent acts and omissions of DEFENDANTS, and each of
21 them, including DOES 1-50 as described herein.

22 85. PLAINTIFFS are informed and believe, and thereon allege, that ROXIE's death was
23 a direct and proximate result of the grossly negligent acts and omissions of DEFENDANTS, and
24 each of them, including DOES 1-50 as described herein.

25 86. As a direct and proximate result of the aforementioned acts, omissions and
26 conduct of the DEFENDANTS, PLAINTIFFS have sustained damages in a sum in excess of the
27 minimum jurisdictional amount of this Court.

28 87. DEFENDANTS', and each of them, including DOES 1-50, actions, omissions,

1 conduct, and behavior, were a substantial factor in causing PLAINTIFFS' harm.

2 88. As a proximate result of the negligence of DEFENDANTS, and each of them,
3 including DOES 1-50, ROXIE died at the hospital on June 29, 2019.

4 89. At all times prior to ROXIE's death, except for when she was unconscious and in
5 the hospital from June 28, 2019, to June 29, 2019, ROXIE lived with PLAINTIFFS, and was a loving
6 and dutiful daughter.

7 90. As discussed herein, PLAINTIFFS are entitled under Section 377.60 of the California
8 Code of Civil Procedure to bring action on behalf of ROXIE. PLAINTIFFS have and will sustain
9 pecuniary and non-pecuniary losses by reasons of the death of ROXIE. DEFENDANTS, and each of
10 them, and DOES 1-50, inclusive, are liable for the wrongful death of ROXIE stemming from the
11 herein allegations.

12 91. As a proximate and legal result of DEFENDANTS' conduct, PLAINTIFFS have been
13 injured in an amount not presently ascertained. Such damages include loss of comfort and
14 companionship, loss of affection, society, moral support, emotional pain, distress and suffering,
15 and general damages in an amount to be determined at trial. PLAINTIFFS also seek compensation
16 for the emotional pain, torment, mental anguish and suffering that they have suffered and in
17 reasonable probability will continue to suffer in connection with the untimely death of ROXIE.

18 92. As a direct and proximate result of the foregoing wrongful death of ROXIE caused
19 by the tortious conduct of the DEFENDANTS, and each of them, including DOES 1-50 PLAINTIFFS
20 are entitled to and demand damages against all DEFENDANTS, jointly and severally, including but
21 not limited to general, special, and punitive damages.

22 **SECOND CAUSE OF ACTION**

23 **Negligent Hiring, Retention, Supervision, and Training**

24 **Against THE DIMASSAS, The DIMASSA ENTITIES, CERVANTES, ARC, SUMMERKIDS, INC.,**

25 **BOREHAM, LSC and DOES 1-50**

26 93. PLAINTIFF repeats, reiterates and re-alleges each and every fact and/or allegation
27 set forth in the prior paragraphs of this complaint with the same force and effect as though more
28 fully set forth at length herein.

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2 94. PLAINTIFFS are informed and believe that Defendants HARRISON, CARA DIMASSA,
3 JOSEPH DIMASSA, RAINEY, NATALIZIO, PORTER and CASTILLO were at all times herein mentioned
4 employed by either SUMMERKIDS, INC., THE DIMASSAS or one of the other DIMASSA ENTITIES
5 as lifeguard, water instructors and camp counselors for the Summerkids Camp.

6 95. PLAINTIFFS are informed and believe that Defendants CERVANTES and DOES 21-
7 35 were at all times herein mentioned contracted and/or employed by either SUMMERKIDS, INC.,
8 THE DIMASSAS or the DIMASSA ENTITIES and/or ARC and was responsible for ARC testing and
9 ARC certifying lifeguards at the Summerkids Camp. Plaintiffs are informed and believe that at all
10 times Defendant CERVANTES and DOES 21-35 were acting as an agent on behalf of Defendant
11 ARC and DOES 36-50 with the duty of properly training Defendants JOSEPH DIMASSA, RAINEY,
12 NATALIZIO, PORTER and CASTILLO and other SUMMERKIDS, INC. employees in water safety
13 training and becoming ARC certified lifeguards which CERVANTES and DOES 21-35 failed to do.

14 96. PLAINTIFFS are informed and believe that Defendants BOREHAM and LSC, and
15 DOES 21-35 were at all times herein mentioned contracted and/or employed by either
16 SUMMERKIDS, INC., THE DIMASSAS and/or the DIMASSA ENTITIES, and were responsible for
17 training, testing and certifying SUMMERKIDS, INC. employees in CPR, AED, and First Aid in order
18 to protect the children at Summerkids Camp.

19 97. PLAINTIFFS are informed and believe that Defendant HARRISON was at all times
20 herein mentioned employed by SUMMERKIDS, INC., THE DIMASSAS or one of the other DIMASSA
21 ENTITIES as the Assistant Director of the Summerkids Camp.

22 98. PLAINTIFFS are informed and believe that the Summerkids employees including
23 but not limited to JOSEPH DIMASSA, RAINEY, NATALIZIO, PORTER and CASTILLO and other
24 SUMMERKIDS, INC. employees employed by SUMMERKIDS, INC., THE DIMASSAS or one of the
25 other DIMASSA ENTITIES were unfit or incompetent to perform the work for which they were
26 hired.

27 99. At all times relevant defendants CERVANTES, ARC, and DOES 21-50, had a duty to
28 properly train JOSEPH DIMASSA, RAINEY, NATALIZIO, PORTER and CASTILLO and other

1 SUMMERKIDS, INC. employees in water safety and lifeguarding which required more than 26
2 hours of training and a written test as established by the ARC guidelines and ARC manuals.
3 Instead of receiving the full training Defendants SUMMERKIDS, INC., THE DIMASSAS or one of the
4 other DIMASSA ENTITIES requested a shortened one-day training for lifeguard certification and
5 water safety of less than 8 hours which CERVANTES, ARC, and DOES 21-50 wrongfully agreed to
6 do. At all times Defendant CERVANTES, ARC, and DOES 21-50 knew that this training was
7 insufficient and could lead to a drowning disaster. As a result of the negligence and gross
8 negligence of CERVANTES, ARC, and DOES 21-50, regarding said training, Defendants CERVANTES,
9 ARC, and DOES 21-50 were responsible for Defendants JOSEPH DIMASSA, RAINEY, NATALIZIO,
10 PORTER and CASTILLO and other SUMMERKIDS, INC. employees being unfit and incompetent
11 regarding water safety and lifeguarding skills, ultimately causing ROXIE's death by drowning.

12 100. Defendants SUMMERKIDS, INC., THE DIMASSAS and the DIMASSA ENTITIES knew
13 from the limited training that their Summerkids Camp employees received at their demand,
14 including but not limited to , JOSEPH DIMASSA, RAINEY, NATALIZIO, PORTER and CASTILLO and
15 other SUMMERKIDS, INC. employees, that said employees were unfit or incompetent to safely
16 operate, supervise or manage Summerkids Camp, staff and campers during swimming activities
17 and that such unfitness and/or incompetence created an extreme risk to campers engaging in
18 swimming activities while at Summerkids Camp, particularly non-swimmer campers such as
19 ROXIE. At all times said Defendants knew that, in order to save money in training their employees,
20 they requested CERVANTES, ARC, and DOES 21-50, to limit safety training and that CERVANTES,
21 ARC, DOES 21-50 should only provide less than 8 hours of water safety and lifeguard training.
22 Cervantes, ARC, and DOES 21-50, for their own financial gain, agreed to this limited training, all
23 in violation of ARC's own water safety and lifeguard training policies and procedures, requiring
24 more than 26 hours of such training.

25 101. Defendants SUMMERKIDS, INC., THE DIMASSAS and the DIMASSA ENTITIES'
26 negligence in hiring the Summerkids employees including but not limited to JOSEPH DIMASSA,
27 RAINEY, NATALIZIO, PORTER and CASTILLO and other SUMMERKIDS, INC. employees and
28 contractor and/or employee CERVANTES and ARC and DOES 21-50 was a substantial factor in

1 causing ROXIE's death and PLAINTIFFS' resulting harm.

2 102. At all times relevant defendants BOREHAM and LSC, had a duty to properly train
3 SUMMERKIDS, INC. employees in CPR, AED, and First Aid Safety training. Instead of receiving the
4 full training Plaintiffs are informed and believe, and thereon allege, Defendants SUMMERKIDS,
5 INC., THE DIMASSAS or one of the other DIMASSA ENTITIES requested a dangerously short
6 training session for which BOREHAM AND LSC, and DOES 21-35 wrongfully agreed to do. At all
7 times Defendant BOREHAM and LSC and DOES 21-35 knew that this dangerously short training
8 session was severely insufficient and would almost certainly lead to a death or very serious
9 permanent injury if a drowning disaster occurred. As a result of the negligence and gross
10 negligence of BOREHAM and LSC, and DOES 21-35, regarding said training, Defendants BOREHAM
11 and LSC were responsible for Defendants SUMMERKIDS, INC. employees being unfit and
12 incompetent regarding CPR, AED, and First Aid, ultimately causing ROXIE's death.

13 103. Defendants SUMMERKIDS, INC., THE DIMASSAS and the DIMASSA ENTITIES at all
14 times knew that from the limited training in CPR, AED and First Aid that their SUMMERKIDS, INC.
15 employees received from Defendants BOREHAM and LSC and Does 21-35, that said employees
16 were unfit or incompetent to keep safe, supervise and/or safely manage Summerkids Camp
17 children/campers, including ROXIE, during swimming activities and that such unfitness and/or
18 incompetence created an extreme risk of serious injury or death to campers engaging in
19 swimming activities while at Summerkids Camp. In order to save money in training their
20 employees, said Defendants knowingly requested BOREHAM and LSC and DOES 21-35, to
21 dangerously limit the time for CPR, AED and First Aid safety training to the SUMMERKIDS INC.
22 employee. At all times herein, Defendants BOREHAM and LSC and DOES 21-35 knew that if said
23 Defendants agreed to Defendants SUMMERKIDS, INC., THE DIMASSAS and the DIMASSA
24 ENTITIES' request, BOREHAM and LSC and DOES 21-35 would be providing dangerously
25 insufficient training in these life-or-death safety training areas. Despite this knowledge, for their
26 own financial gain, Defendant BOREHAM and LSC, and DOES 21-35 unlawfully agreed to this
27 limited training, all in violation of BOREHAM and LSC's and Does 21-35 own training policies and
28 procedures for teaching CPR, AED and First Aid to the public.

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104. Defendants SUMMERKIDS, INC., THE DIMASSAS and the DIMASSA ENTITIES' negligence in hiring Defendant BOREHAM and LSC AND Does 21-50 was a substantial factor in causing ROXIE's death and PLAINTIFFS' resulting harm.

105. At all times mentioned herein, Defendants SUMMERKIDS, INC., THE DIMASSAS, the DIMASSA ENTITIES CERVANTES, ARC and DOES 1-50, Inclusive, and their employees, counselors, lifeguards, agents, servants and/or joint venturers had a special relationship existing with ROXIE, as a paid invitee, to take reasonable protective measures, especially with a young non-swimmer, to ensure her safety and otherwise protect her from reasonably foreseeable dangerous conduct and to warn her as to such reasonably foreseeable dangerous conduct during camp activities.

106. By virtue of said special relationship, Defendants SUMMERKIDS, INC., THE DIMASSAS, the DIMASSA ENTITIES, CERVANTES, ARC, BOREHAM, LSC and DOES 1-50, inclusive, owed a duty to take reasonable measures to protect all campers under their control and supervision, including Decedent, from foreseeable injury at the hands of their lifeguards, employees, agents, servants and/or joint venturers acting negligently or intentionally, by not engaging in the negligent hiring, retention, training and supervision of those lifeguards, employees, servants, and/or independent contractors, with direct contact and/or interaction with campers under their control and supervision, including, but not limited to, Decedent.

107. Plaintiff is informed and believes, and thereupon alleges, that at all times mentioned herein, Defendants SUMMERKIDS, INC., THE DIMASSAS, the DIMASSA ENTITIES, CERVANTES, ARC, BOREHAM, LSC and DOES 1-50, Inclusive, and each of them, were negligent in the hiring, retention, training, and supervision of their employees including but not limited to certain lifeguards, camp counselors, camp directors, employees, agents, servants, joint venturers and/or caretakers in that Defendants SUMMERKIDS, INC., THE DIMASSAS, the DIMASSA ENTITIES, CERVANTES, ARC, BOREHAM, LSC and DOES 1-50, Inclusive, and each of them, knew or should have known that employees were unfit for specific and mandatory tasks to be carried out and performed during the course and scope of their employment. These tasks included, but were

1 not limited to the following: maintaining, inspecting, supervising, managing, regulating, warning,
2 patrolling, protecting, guarding, training, and controlling the subject swimming pool, which was
3 the legal and proximate cause of ROXIE suffering pre-death physical injuries, mental anguish,
4 terror, anxiety, unconsciousness, and ultimately death.

5 108. As a direct and proximate result of the negligence, gross negligence, carelessness,
6 recklessness, and violations of the law of Defendants SUMMERKIDS, INC., THE DIMASSAS, the
7 DIMASSA ENTITIES, CERVANTES, ARC, BOREHAM, LSC and DOES 1-50, inclusive, Decedent ROXIE
8 was injured in her health, strength and activity, sustaining injury to her body, and shock and injury
9 to her person, all of which caused ROXIE great physical, mental and emotional pain and suffering
10 prior to her untimely death, fighting to breathe when Roxie was first pulled out of the pool, all to
11 PLAINTIFFS' damages in an amount which will be stated according to proof.

12 109. As a direct and proximate result of the negligence, gross negligence, carelessness,
13 recklessness, and violations of the law of Defendants SUMMERKIDS, INC., THE DIMASSAS, the
14 DIMASSA ENTITIES, CERVANTES, ARC, BOREHAM, LSC and DOES 1-50, inclusive, PLAINTIFFS were
15 compelled to and did employ the services of physicians, surgeons, and other medical personnel,
16 and PLAINTIFFS were compelled to and did incur other incidental expenses, including, but not
17 limited to medical, funeral, and/or burial expenses related to the necessary care and treatment
18 of the Decedent, ROXIE.

19 110. As a direct and proximate result of the negligence, gross negligence, carelessness,
20 recklessness, and violations of the law of Defendants SUMMERKIDS, INC., THE DIMASSAS, the
21 DIMASSA ENTITIES, CERVANTES, ARC, BOREHAM, LSC and DOES 1-50, inclusive, PLAINTIFFS claim
22 general damages resulting from loss of love, affection, society, service, comfort, support, right of
23 support, expectations of future support and counseling, companionship, solace, and mental
24 support, as well as other benefits and assistance of the Decedent in a sum in excess of the
25 jurisdictional limits of this Court, which will be stated according to proof at the time of trial.
26 Plaintiffs request general, special and punitive damages as a result.

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2 **THIRD CAUSE OF ACTION**

3 **Survivor's Action**

4 **By PLAINTIFFS as Successors-In-Interest to Decedent**

5 **Against All DEFENDANTS and DOES 1-50 Inclusive**

6 111. PLAINTIFFS repeat, reiterate and re-allege each and every fact and/or allegation
7 set forth in the prior paragraphs of this complaint with the same force and effect as though more
8 fully set forth at length herein.

9 112. PLAINTIFFS ELENA MATYAS and DOUGLAS FORBES are successors-in-interest to
10 ROXIE MIRABELLE FORBES. As the successor-in-interest of ROXIE, PLAINTIFFS ELENA MATYAS
11 and DOUGLAS FORBES are the proper representatives to pursue a survival action in the present
12 proceeding, in accordance with Code of Civil Procedure § 377.30. PLAINTIFFS have and will
13 comply with Code of Civil Procedure § 377.32.

14 113. As alleged herein, on June 28, 2019, ROXIE was enrolled in SUMMERKIDS Camp
15 for the purpose of childcare. As further alleged herein, DEFENDANTS' conduct constituted a want
16 of even scant care and an extreme departure from the ordinary standard of conduct. Such
17 outrageous lack of care represents an extreme departure from the ordinary standard of conduct
18 in the context of this situation. This conduct resulted in ROXIE'S death.

19 114. As a proximate result of said conduct of all DEFENDANTS, and each of them,
20 including DOES 1-50 and the resulting untimely death of ROXIE, PLAINTIFFS were compelled to
21 incur expenses for ambulances, for services of hospitals, physicians, nurses, and other
22 professional services for the care and treatment of ROXIE, the decedent, and for the funeral and
23 burial of said deceased, all to PLAINTIFFS' damages in an amount to be shown according to proof.

24 115. As a proximate result of the drowning, ROXIE suffered severe and life ending
25 injuries. As a result of these severe injuries, ROXIE lost spontaneous circulation and required and
26 received administration of advanced life support.

27 116. Prior to her death, ROXIE sustained economic damages in an amount according to
28 proof at trial. The exact amount of such expense is unknown to PLAINTIFFS at this time.

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117. This tragedy happened because SUMMERKIDS, THE DIMASSAS or one of the other DIMASSA ENTITIES hired inadequately trained and incompetent personnel, failed to properly train and supervise camp personnel, and otherwise failed to adequately provide a safe environment for children at the Summerkids Camp. PLAINTIFFS are informed and believe and on that basis allege, that the deficiencies were known to DEFENDANTS, and each of them, including DOES 1-50 and included, but were not limited to,

a. With respect to SUMMERKIDS, MARIA DIMASSA, JOSEPH DIMASSA, CARA DIMASSA, GIANCARLO DIMASSA, THE ENOTECA, LLC and ANDREW CERVANTES

i. MARIA DIMASSA, JOSEPH DIMASSA, CARA DIMASSA and GIANCARLO DIMASSA were at all times relevant herein, the owners and officers of SUMMERKIDS Camp, and were responsible for the hiring and firing of staff, training of staff, oversight of training by others, and general operations of Summerkids Camp. MARIA DIMASSA, JOSEPH DIMASSA, CARA DIMASSA and GIANCARLO DIMASSA were at all times relevant herein, the owners and officers of THE ENOTECA, LLC, which owns the land on which SUMMERKIDS camp is operated.

ii. The DIMASSAS offered recreational programs for children Monday through Friday during daytime hours on their 57-acre property in Altadena, advertised as a “safe and secure location that includes beautiful meadows, a stream, lodge, cabins, pool, garden, sports fields, playgrounds, kitchen and more.” Parents dropped children off in the morning and relied upon the DIMASSAs and all Summerkids’ staff to keep their children safe.

iii. The DIMASSAS offered swimming at the pool on the SUMMERKIDS property as part of their summer program. The DIMASSAs welcomed non-swimmers to participate in swimming activities at Summerkids, with the advertised goal of making children who are not proficient in swimming “water-safe.”

iv. According to the CDC and CPSC, drowning is the 2nd leading cause of death among children 1-4, the leading cause of unintentional injury death for that same age group and the 3rd for children 5-14. Approximately 8,000 children require hospital care each year due to nonfatal submersions. The CPSC recently reported childhood drowning is on the rise and, California ranks 3rd in the nation for most fatal and nonfatal submersions.

1 v. Drowning is preventable, which is why it is imperative for camps like
2 SUMMERKIDS to afford safe and healthy environments, pay attention to kids in the water and
3 have exceptional staff training.

4 vi. It is imperative for childcare providers that offer swim activities, like
5 SUMMERKIDS, to have proper safety policies and training for their staff. Constant, active
6 supervision is essential to prevent drownings, as stated by the American Red Cross, the American
7 Academy of Pediatrics, the Center for Disease Control, and numerous other authorities.
8 According to the American Camp Association, the majority of drowning incidents at summer
9 camps are directly related to lack of supervision. Prevention is (or should be) 98 percent of
10 lifeguards' roles.

11 vii. SUMMERKIDS staff, at the direction of MARIA DIMASSA, JOSEPH DIMASSA,
12 CARA DIMASSA and GIANCARLO DIMASSA, failed to administer sufficient swim tests to ascertain
13 swimming skill levels of children. This wanton disregard for essential components of drowning
14 prevention resulted in the death of a child in their care, ROXIE MIRABELLE FORBES.

15 viii. CARA DIMASSA and JOSEPH DIMASSA, acting as officers and directors of
16 SUMMERKIDS, hired ANDREW CERVANTES to train counselors who were hired by SUMMERKIDS
17 and the DIMASSAS to be lifeguards at SUMMERKIDS camp. PLAINTIFFS are informed and believe
18 CARA DIMASSA and JOSEPH DIMASSA coordinated and managed the lifeguard and CPR training
19 process for SUMMERKIDS' staff with input from MARIA DIMASSA and GIANCARLO DIMASSA. All
20 training conducted at SUMMERKIDS was done with the oversight of THE DIMASSAS as officers
21 and directors of SUMMERKIDS.

22 ix. Throughout their many-year relationship, MARIA DIMASSA, JOSEPH DIMASSA,
23 CARA DIMASSA and GIANCARLO DIMASSA hired ANDREW CERVANTES to train, test and certify
24 SUMMERKIDS' staff counselors in lifeguarding, water safety instruction, first aid, CPR and use of
25 the automated external defibrillator ("AED"). This included the counselors who were purportedly
26 in the pool when ROXIE drowned. SUMMERKIDS' staff trained by ANDREW CERVANTES were
27 employed by SUMMERKIDS and the DIMASSAS to act as "lifeguards" and "water safety
28 instructors" to care for children as young as 3 years old who did not know how to swim.

1 x. Under the direct supervision of CARA and JOSEPH DIMASSA, CERVANTES did not
2 properly train or test SUMMERKIDS staff and failed to comply with the American Red Cross
3 procedures. From approximately 2011-2014, the training carried out by CERVANTES was
4 administered at the home of JOSEPH DIMASSA and MARIA DIMASSA using their swimming pool
5 on Knollwood Drive. At the time they did this, THE DIMASSAS and CERVANTES knew or should
6 have known that residential pools are not approved locations for American Red Cross
7 certification. The American Red Cross apparently approved SUMMERKIDS' pool facility (licensed
8 by the Los Angeles County Health Department under the name of Angelus Mountain Center) as
9 a training and testing site in 2015; CERVANTES then administered all training and testing at
10 SUMMERKIDS' facility from 2015-2019.

11 xi. PLAINTIFFS are informed and believe THE DIMASSAS never checked or verified
12 the credentials of CERVANTES before they hired him to train counselors in the essential safety
13 practices of First Aid, CPR and AED use, as well lifeguarding and water safety instruction. The
14 DIMASSA defendants never confirmed if ANDREW CERVANTES held valid certifications from the
15 American Red Cross to train and certify individuals in First Aid, CPR, AED use, lifeguarding or water
16 safety instruction. The DIMASSA defendants never performed a background check on ANDREW
17 CERVANTES or confirmed if ANDREW CERVANTES knew how to swim. Yet, the DIMASSA
18 defendants and SUMMERKIDS retained ANDREW CERVANTES year after year to purportedly train
19 their staff, who would be responsible for caring for up to 900 children three to fifteen years of
20 age in high risk activities.

21 xii. PLAINTIFFS are informed and believe and on that basis allege that at the time
22 CERVANTES was hired by CARA DIMASSA and JOSEPH DIMASSA, CERVANTES himself did not meet
23 all prerequisites for certification through the American Red Cross, and as a result, CERVANTES'
24 certifications have now been revoked.

25 xiii. CARA DIMASSA and JOSEPH DIMASSA directed CERVANTES to conduct training
26 for CPR, First Aid, AED use, lifeguarding and water safety instruction for Summerkids' employees
27 after such employees had already been hired by the DIMASSA defendants. THE DIMASSA
28 Defendants and Summerkids directed ANDREW CERVANTES to conduct and complete essential

1 lifesaving training skill on one weekend afternoon immediately prior to welcoming hundreds of
2 children to Summerkids.

3 xiv. American Red Cross lifeguard and water safety instructor certifications each
4 require multiple days, if not weeks, of in-pool and classroom-based training. Successful testing in
5 pool is a grueling multi-faceted exercise. In-class testing requires an 80 percent or better score.
6 ANDREW CERVANTES admitted that, under the direct supervision of CARA and JOSEPH DIMASSA,
7 he invested a mere fraction of requisite time, administered deeply flawed training and never
8 provided testing, nor did CARA and JOSEPH DIMASSA demand that he do so.

9 xv. The DIMASSA Defendants and SUMMERKIDS paid ANDREW CERVANTES for
10 certifications in CPR, AED, First Aid, Lifeguarding and Water Safety Instruction issued to
11 Summerkids' employees. However, if a Summerkids' employee obtained certification in CPR,
12 AED, First Aid, Lifeguarding and Water Safety Instruction independently from a source other than
13 ANDREW CERVANTES, the DIMASSA Defendants and SUMMERKIDS would NOT reimburse the
14 employee for such certification.

15 xvi. CERVANTES issued lifeguard and water safety instruction certificates to
16 SUMMERKIDS staff members without requiring that they complete the mandatory Red Cross
17 course material(s), and without testing their water skill(s) or swimming abilities. During the time
18 that CERVANTES certified counselors as lifeguards and water safety instructors at SUMMERKIDS
19 under the direction of the DIMASSA defendants, he never failed a single counselor who attended
20 his single day training.

21 xvii. PLAINTIFFS are informed and believe and, on that basis, allege that the
22 "lifeguard training" provided by SUMMERKIDS, CARA DIMASSA, JOSEPH DIMASSA, and
23 CERVANTES was deficient for the reasons discussed below.

24 1. CARA DIMASSA and JOSEPH DIMASSA hired counselors who were to become
25 lifeguards and water safety instructors at SUMMERKIDS Camp without making an inquiry into or
26 evaluating their swim skills. Though a prerequisite, CERVANTES did not administer a swimming
27 skills test to SUMMERKIDS counselors, including RAINEY, PORTER and NATALIZIO. The DIMASSA
28 Defendants and SUMMERKIDS employed individuals to serve as lifeguards and water safety
instructors for young children without ascertaining if their employees knew how to swim.

1 2. At the direction of CARA DIMASSA and JOSEPH DIMASSA, counselors who
2 were hired to become lifeguards at SUMMERKIDS Camp did not complete the number of hours
3 required for the full lifeguarding course (in person 25 hours, 20 minutes or blended 19.5 hours in
4 person, 7.5 hours online), but instead, only attended one day of training with CERVANTES.

5 3. The DIMASSA Defendants and SUMMERKIDS never inquired with ANDREW
6 CERVANTES as to the counselors' swimming abilities or competency to act as lifeguards or water
7 safety instructors.

8 4. Counselors who were employed by CARA DIMASSA and JOSEPH DIMASSA to
9 staff the pool as lifeguards at SUMMERKIDS Camp were never administered the CPR or first aid
10 skills tests, or the written lifeguard test. This included the "lifeguards" reportedly at the pool at
11 the time of ROXIE's drowning: PORTER, RAINEY and NATALIZIO.

12 5. At the direction of CARA and JOSEPH DIMASSA, counselors who were hired to
13 become water safety instructors to 3, 4 and 5 year old children at Summerkids did not complete
14 the number of hours required for the full water safety instruction course (approximately 25
15 hours), but instead, only attended a very short training session with ANDREW CERVANTES
16 commencing in the late afternoon, approximately 4:00 pm.

17 6. Counselors who were hired to become lifeguards and water safety instructors
18 at SUMMERKIDS Camp were certified despite not meeting the prerequisites for becoming
19 lifeguards and placed in positions where those counselor/lifeguards were responsible for
20 hundreds of young children from catastrophic injury.

21 xviii. PLAINTIFFS are informed and believe CARA DIMASSA, MARIA DIMASSA and
22 JOSEPH DIMASSA, as officers and directors of SUMMERKIDS, scheduled the SUMMERKIDS
23 counselor lifeguards to work in the pool area each period of camp. In doing so, CARA DIMASSA,
24 MARIA DIMASSA, GIANCARLO DIMASSA and JOSEPH DIMASSA willfully failed to put the lifeguards
25 in teams that trained together, as recommended by the American Red Cross. CARA DIMASSA,
26 MARIA DIMASSA and JOSEPH DIMASSA also failed to implement any sort of lifeguard rotation
27 system for the lifeguards on duty at the SUMMERKIDS pool, despite guidelines from the American
28 Red Cross instructing that to stay alert lifeguards should have periodic rotations and breaks from
surveillance.

1 xix. PLAINTIFFS are informed and believe MARIA DIMASSA, JOSEPH DIMASSA, CARA
2 DIMASSA and GIANCARLO DIMASSA, as officers and directors of SUMMERKIDS, willfully failed to
3 enforce the guidelines of the American Red Cross with the counselors they purported to have
4 “trained” to be lifeguards at their facility. This lack of enforcement is evidenced first and foremost
5 by the fact that the lifeguards failed to pay attention to kids in the water, and further by the fact
6 that NATALIZIO got down from the lifeguard station and turned his back on the pool in the
7 minutes before ROXIE’s drowning without having someone else take his place in the lifeguard
8 station to supervise the children in the pool. It is also evidenced by the fact that counselor Natalie
9 del Castillo was tossing dive sticks into the deep end for children to retrieve rather than
10 performing surveillance duties in the minutes before ROXIE was floating. When ROXIE was
11 spotted, lifeless in the SUMMERKIDS’ POOL, she was only about five (5) feet away from where
12 Natalie del Castillo had been standing.

13 xx. CARA DIMASSA, JOSEPH DIMASSA and their staff falsely represented to parents
14 interested in SUMMERKIDS Camp that SUMMERKIDS employed lifeguards who were certified by
15 the American Red Cross while knowing that those “lifeguards” did not meet the certification
16 requirements of the American Red Cross. Plaintiffs relied upon the representation made by the
17 DIMASSA Defendants and SUMMERKIDS, and expected that Roxie would be cared for by properly
18 certified lifeguards and supervised in accordance with well acceptable American Red Cross
19 guidelines.

20 xxi. According to the American Red Cross instruction manual provided to
21 SUMMERKIDS staff members, lifeguards should always carry a rescue tube, hip-packs containing
22 disposable gloves and resuscitation masks, and a whistle. PLAINTIFFS are informed and believe
23 that the lifeguards at SUMMERKIDS did not carry a hip-pack with such items at any time in 2019.
24 SUMMERKIDS staff who attempted to perform CPR on Roxie after her drowning did not wear
25 gloves or use a resuscitation mask.

26 xxii. The American Red Cross advises that young children and weak swimmers should
27 wear U.S. Coast Guard approved life jackets anytime they are near water. SUMMERKIDS and the
28 DIMASSA Defendants did not provide non-swimmers, including ROXIE with U.S. Coast Guard-
approved life jackets. As a non-swimmer, Roxie was designated by SUMMERKIDS staff to the

1 “steps area” and was to be monitored by counselors/lifeguards to ensure she did not go beyond
2 the area immediate surrounding the steps in the pool.

3 xxiii. At all times relevant herein, THE DIMASSAS and the DIMASSA ENTITIES
4 represented on their website that GIANCARLO DIMASSA M.D., an emergency medicine physician,
5 was a staff member of Summerkids Camp, who oversaw health and safety at the camp. At all
6 relevant times herein, SUMMERKID’s website stated that GIANCARLO DIMASSA rearranges his
7 ER shifts so that he can be at camp and campfire on a regular basis. PLAINTIFFS are informed and
8 believe that GIANCARLO DIMASSA did not participate in camp activities in 2019, and did not
9 regularly attend meetings with staff or counselors. Plaintiffs are further informed and believe
10 and, on that basis, allege, that GIANCARLO DIMASSA did not participate in the CPR training
11 provided to the lifeguards or in their general training program in the summers of 2018 or 2019.

12 xxiv. On the day of ROXIE’s drowning, CARA DIMASSA was situated in the
13 SUMMERKIDS camp office with HARRISON when they received a call over the radio that there
14 was an emergency situation at the pool. DEFENDANTS provided investigators with an estimate
15 of 0935 as the time that ROXIE was spotted floating face down in the pool. When CARA DIMASSA
16 and HARRISON received the call that NATALIZIO was dialing 911 and starting CPR, HARRISON ran
17 to the pool area while CARA DIMASSA stayed in the office, called her parents JOSEPH DIMASSA
18 and MARIA DIMASSA and printed paperwork. HARRISON had someone on the scene inform
19 CARA DIMASSA via radio that ROXIE was receiving CPR, so that CARA DIMASSA could call ROXIE’s
20 parents, as was general camp practice. However, CARA DIMASSA refused to call ROXIE’s parents
21 or make any efforts to notify PLAINTIFFS of the emergency until JAIMI HARRISON did so at 0952,
22 at least 13 minutes after ROXIE had been found lifeless in the SUMMERKIDS pool.

23 xxv. Basic water safety and lifeguard training emphasizes continuous and active
24 supervision of children in the pool. SUMMERKIDS’ staff including Defendants HANK RAINEY,
25 FAITH PORTER and JOSEPH NATALZIO willfully failed at the most basic of water safety skills. They
26 were not paying attention to the children in the pool. None of the SUMMERKIDS employees at
27 the pool noticed that Roxie was in peril. Rather, a SUMMERKIDS employee outside of the pool
28 area, Robert Antonucci, spotted Roxie floating lifeless in the pool, who then alerted the
Summerkids employees at the pool area. Roxie was floating in 4 feet of water, 12-15 feet away

1 from the “steps area.” None of the SUMMERKIDS’ staff noticed Roxie had floated away from the
2 steps area.

3 xxvi. After ROXIE was finally noticed floating “dead-man” in the pool, she was
4 removed from the pool by HANK RAINEY, who lifted ROXIE vertically from under her armpits
5 without securing her head or neck, which may have resulted in further harm to ROXIE. When
6 HANK RAINEY removed ROXIE from the pool, it became apparent that she was unresponsive,
7 pulseless.

8 xxvii. The staff at SUMMERKIDS including RAINEY and HARRISON failed to properly
9 clear ROXIE’S airway from copious amounts of vomit. Natalie del Castillo held Roxie’s head in a
10 manner that may have caused Roxie further harm. SUMMERKIDS staff improperly administered
11 CPR and the AED, which may have exacerbated Roxie’s perilous condition

12 xxviii. PLAINTIFFS are informed and believe that the CPR administered on ROXIE on the
13 date of ROXIE’S preventable drowning was performed inadequately, and had GIANCARLO
14 DIMASSA been on site (as PLAINTIFFS were led to believe he would be) ROXIE may have been
15 properly cared for and might be alive today.

16 xxix. After ROXIE’S preventable drowning, the ambulance arrived and transported her
17 to the hospital. No SUMMERKIDS staff members rode with ROXIE in the ambulance to the
18 hospital.

19 xxx. PLAINTIFFS are informed and believe CARA DIMASSA, JOSEPH DIMASSA and
20 MARIA DIMASSA rode to the hospital together. On their arrival at Huntington Hospital, CARA
21 DIMASSA entered the trauma room just after ROXIE’S heartbeat had been re-established, without
22 the permission of PLAINTIFFS, and had to be escorted out by staff of Huntington Hospital. CARA
23 DIMASSA and JAIMI HARRISON admitted in the past they have rode with children who were
24 injured at Summerkids and required medical attention at the hospital. A few weeks after Roxie
25 was killed at Summerkids, CARA DIMASSA accompanied a child during ambulance transport to
26 the hospital who suffered a compound fracture at Summerkids.

27 xxxi. CARA DIMASSA made no effort to enact the SUMMERKIDS emergency action
28 plan at any time between learning of ROXIE’S drowning over the radio and leaving for the
hospital. CARA DIMASSA described the scene at the pool after ROXIE drowned as “shocking.” LA

1 County Firefighter Paramedic Weston and LA County Sheriff's Deputy Cano both reported that
2 when they arrived at SUMMERKIDS they observed a chaotic scene, and children who had been
3 in the pool with ROXIE were still in the pool area as CPR was being performed on ROXIE. Deputy
4 Cano believed the chaotic scene at SUMMERKIDS created a dangerous environment for children,
5 and therefore filed a SCAR Report (Suspected Child Abuse Reporting System) with Department
6 of Children and Family Services ("DCFS") for suspected severe neglect.

7 xxxii. GIANCARLO DIMASSA was not present at Summerkids on the day of Roxie's
8 drowning. Although he was the primary medical representative at Summerkids and served as a
9 liaison to JAIMI HARRISON, he chose to take a vacation to Hawaii during the first 2 weeks of
10 Summerkids' summer session.

11 xxxiii. When Firefighter Paramedic Weston arrived at the scene, he was told that there
12 had been two (2) lifeguards in the pool area when ROXIE drowned, and Deputy Cano was told
13 that there had been three (3) lifeguards present on the date of ROXIE'S preventable
14 drowning. Deputy Duarte blocked the intersections for ROXIE's transport to Huntington
15 Memorial and later interviewed the counselors who were reportedly on-duty and present when
16 ROXIE drowned. Deputy Duarte did not interview PORTER. The whereabouts of PORTER were
17 unknown.

18 xxxiv. After ROXIE's death on June 29, 2019, CARA DIMASSA and JOSEPH DIMASSA met
19 with each of the SUMMERKIDS counselors and staff members purportedly involved in ROXIE's
20 drowning in JOSEPH DIMASSA'S office; reports of PORTER being on duty as a lifeguard suddenly
21 started to surface only after this meeting.

22 xxxv. On July 2, 2019 Detectives Lawler and Blagg visited SUMMERKIDS to interview
23 staff who had been involved in ROXIE's drowning; once again PORTER was not interviewed or
24 made available for interview.

25 xxxvi. Each of these acts and all of the conduct, actions and inactions taken as set forth
26 in paragraphs 93(a)(i)-93(a)(xxxv) was done at the direction of, with the approval of, or ratified
27 by THE DIMASSAS, as owners, officers and directors of SUMMERKIDS, and owners and officers of
28 THE ENOTECA, LLC.

1 xxxvii. PLAINTIFFS are informed and believe and on that basis allege that THE
2 DIMASSAS are collectively also the owners, officers and directors of all other entity defendants
3 in this action, as well as the alter egos of those other entity defendants as plead at Paragraphs
4 50-60 of this First Amended Complaint, and that the actions taken by THE DIMASSAS were
5 conducted and performed in their roles as officers and directors of those entity defendants and
6 ratified by those entity defendants, including but not limited to ANGELUS MOUNTAIN CENTER,
7 THE ENOTECA, LLC, SEMPRE AVANTI, LLC, THE DIMASSA FAMILY FOUNDATION, a 501(c)(3)
8 corporation, and all DOE entity defendants.

9 b. With respect to JAIMI HARRISON

10 i. HARRISON was, at all times relevant herein, the Assistant Director of
11 SUMMERKIDS.

12 ii. Plaintiff ELENA MATYAS expressed concerns to HARRISON regarding ROXIE's
13 "non-swimmer" status prior to ROXIE'S drowning. HARRISON assured ELENA MATYAS that she
14 would personally speak with all counselors to ensure they were aware of ROXIE's status as a
15 "non-swimmer." PLAINTIFFS are informed and believe that HARRISON may not have alerted all
16 SUMMERKIDS counselors of ROXIE's "non-swimmer" status.

17 iii. As the Assistant Director, HARRISON played a role in the interviewing and hiring
18 process at SUMMERKIDS. She was responsible for the screening process and initial questioning
19 of the interviewees. She participated in the interview process for RAINEY.

20 iv. As the Assistant Director, HARRISON managed the junior counselor program,
21 part of the counselor training for SUMMERKIDS, and all medical responsibilities related to
22 children at SUMMERKIDS camp. Children turned to HARRISON if they were injured, and she was
23 responsible for communicating with GIANCARLO DIMASSA regarding any medical issues that
24 arose at camp. PLAINTIFFS are informed and believe HARRISON was hired for this management
25 role by THE DIMASSAS despite the fact that HARRISON had no formal medical training.

26 v. As the Assistant Director, HARRISON's responsibilities also included monitoring
27 the SUMMERKIDS' pool log, updating children' swim capabilities, and ensuring lifeguards had
28 adequate first aid supplies by the pool. On the date of the incident, the lifeguards did not even
have basic CPR supplies such as a CPR shield to use in administering CPR to ROXIE. HARRISON

1 failed to provide adequate first aid supplies (e.g. CPR suction device, AED) or make them readily,
2 easily, and quickly accessible by the pool, a foreseeable location necessitating CPR at
3 SUMMERKIDS.

4 vi. HARRISON'S actions and conduct were authorized and directed by THE
5 DIMASSAS.

6 vii. HARRISON was present at the camp on the date of ROXIE'S preventable
7 drowning. Several minutes after ROXIE was pulled out of the water by HANK RAINEY, HARRISON
8 arrived and took over the CPR effort. PLAINTIFFS are informed and believe HARRISON was
9 unfamiliar with the process of providing rescue breaths; though time was of the essence,
10 HARRISON stopped to question the counselor lifeguards on their approach before taking over
11 and performing CPR on ROXIE. HARRISON inadequately performed CPR on ROXIE. JAIMI
12 HARRISON then placed adult (rather than pediatric) AED pads on ROXIE and failed to remove
13 ROXIE's wet bathing suit before applying the adult AED pads. PLAINTIFFS are informed and
14 believe HARRISON was responsible for overseeing and implementing CPR on ROXIE.

15 viii. According to the American Red Cross and American Heart Saver CPR manuals
16 apparently studied by SUMMERKIDS staff members, including HARRISON, it is critical to ensure
17 that there are no puddles of water around the rescuer, victim, or equipment and further critical
18 to remove the victim's wet clothing. When the AED indicated a shock was not advisable, JAIMI
19 HARRISON believed this to be a positive sign, not understanding that Roxie had no heartbeat.
20 JAIMI HARRISON, who was employed by SUMMERKIDS and the DIMASSA Defendants to manage
21 medical emergencies for hundreds of children, was improperly trained in CPR and AED.
22 HARRISON's erroneous implementation of CPR and AED on ROXIE had fatal consequences.

23 ix. HARRISON participated in a three (3) to four (4) hour AHA Heartsaver Pediatric
24 First Aid CPR AED course provided by SUMMERKIDS and taught at SUMMERKIDS. HARRISON, as
25 someone who underwent first aid training several times over many years, knew or should have
26 known that the AHA Heartsaver course takes seven (7) to nine (9) hours to complete. HARRISON
27 had not completed the AHA Heartsaver Pediatric First Aid CPR AED course prior to administering
28 the AED or CPR for ROXIE.

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c. With respect to DANIEL H. RAINEY

i. RAINEY received his lifeguarding certificate from CERVANTES. Plaintiffs are informed and believe that SUMMERKIDS and CERVANTES provided RAINEY with the American Red Cross manual. RAINEY understood that according to the American Red Cross manual, he needed close to 30-hours of training to become an American Red Cross certified lifeguard, yet he only participated in one day of training which was completed after about eight hours.

ii. HANK RAINEY was also employed by SUMMERKIDS and trained by ANDREW CERVANTES as a water safety instructor. According to the American Red Cross manual which RAINEY apparently studied, he needed approximately 25 hours of training to become an American Red Cross certified water safety instructor. However, RAINEY only participated in a few hours of training led by ANDREW CERVANTES on June 10, 2019. Furthermore, HANK RAINEY'S water safety instructor certification indicates that HANK RAINEY completed his certification on May 20, 2019 at the Rosemead Aquatics Center. HANK RAINEY admitted that he never attended any training at the Rosemead Aquatic Center.

iii. RAINEY'S job as a lifeguard was to prevent drownings, help children stay safe in the water and make sure they stayed in their respective zones (steps, shallow end or whole pool). Because ROXIE was in RAINEY's "buddy group" at SUMMERKIDS, RAINEY knew that ROXIE was tested at SUMMERKIDS for her swimming abilities and marked as a "steps swimmer;" this meant that ROXIE had to stay around the steps of the pool behind the pool's three-foot mark. RAINEY also understood that ROXIE was not water safe, and not capable of swimming in the shallow end.

iv. SUMMERKIDS maintained a "star rating system" wherein each camper was rated on a scale of one to three stars; children with three stars required a substantial amount of attention and assistance. Because ROXIE was in RAINEY's "buddy group" at SUMMERKIDS, RAINEY knew that ROXIE had three stars by her name and understood that meant ROXIE required extra consideration.

v. On the date of ROXIE's preventable drowning, RAINEY was present as an on-duty lifeguard assigned to oversee the shallow end of the pool from inside of the water. His duties included supervising the children, frequently scanning the pool, eliminating hazardous situations,

1 recognizing and responding to emergency situations, and essentially making sure children in the
2 pool were safe.

3 vi. On the date of ROXIE's preventable drowning, RAINEY was responsible for
4 paying attention to and watching children in the pool, including ROXIE. On the date of ROXIE's
5 preventable drowning, prior to her drowning, RAINEY saw ROXIE jumping into the pool in
6 between the two sets of steps, picked her up and moved her to the steps to his left, turned his
7 back on ROXIE and diverted his attention to another child without ensuring that other lifeguards
8 were paying attention to ROXIE who he knew was not water safe and had three stars by her
9 name, requiring extra attention. RAINEY did this with a blatant disregard for the health and safety
10 of ROXIE.

11 vii. According to the American Red Cross instructing manual provided to
12 SUMMERKIDS staff members, including RAINEY, lifeguards should always carry a rescue tube,
13 hip-packs containing disposable gloves and resuscitation masks, and a whistle. RAINEY was not
14 carrying such items on the date of the drowning, nor did he have such items handy to use when
15 he commenced CPR on ROXIE.

16 viii. PLAINTIFFS are informed and believe that on the date of ROXIE'S preventable
17 drowning, when he pulled ROXIE from the pool, RAINEY began administering chest compressions,
18 without first administering rescue breaths. After RAINEY performed rescue breathing on Roxie,
19 her stomach became distended. As a result of his improper training and willful disregard of
20 appropriate American Red Cross training safety protocol, HANK RAINEY inadequately performed
21 CPR on ROXIE. His erroneous rescue efforts may have caused ROXIE additional harm.

22 ix. RAINEY inadequately performed CPR on ROXIE.

23 d. With respect to JOSEPH NATALIZIO

24 i. NATALIZIO was a manager at SUMMERKIDS and served as both the head
25 lifeguard and lead counselor at SUMMERKIDS in 2019. He led part of the SUMMERKIDS counselor
26 training in 2019, worked with CARA DIMASSA on the schedule for counselors, conducted reviews
27 of counselors and oversaw the swim test program for children participating in open
28 swim. NATALIZIO was the most senior staff member and lifeguard in the pool area at the time of
ROXIE'S preventable drowning.

1 ii. NATALIZIO was also employed by SUMMERKIDS and trained by ANDREW
2 CERVANTES as a water safety instructor. According to the American Red Cross manual which
3 NATALIZIO apparently studied, he needed approximately 25 hours of training to become an
4 American Red Cross certified water safety instructor. However, NATALIZIO only participated in a
5 few hours of training led by ANDREW CERVANTES on June 10, 2019. Furthermore, NATALIZIO'S
6 water safety instructor certification indicates that he completed his certification on May 20, 2019
7 at the Rosemead Aquatics Center, rather than the SUMMERKIDS pool where ANDREW
8 CERVANTES conducted the training course.

9 iii. According to the American Red Cross instruction manual provided to
10 SUMMERKIDS staff members, including NATALIZIO lifeguards should always carry a rescue tube,
11 hip-packs containing disposable gloves and resuscitation masks, and a whistle. PLAINTIFFS are
12 informed and believe that the lifeguards at SUMMERKIDS, including NATALIZIO, did not carry a
13 hip-pack with such items at any time in 2019.

14 iv. On the date of ROXIE'S drowning, NATALIZIO was on-duty as a lifeguard
15 stationed at the tower in the lifeguard chair. NATALIZIO willfully got down from the chair and
16 turned his back on the children in the pool. NATALIZIO'S recklessness and disregard for his duties
17 as a lifeguard and his failure to pay attention to the kids in the pool led to ROXIE'S death.

18 v. PLAINTIFFS are informed and believe that NATALIZIO got down from the
19 lifeguard chair and turned his back on the pool, purportedly to help a child with a bee-sting. The
20 American Red Cross directs that lifeguards should always remain posted in the lifeguard chair,
21 unless the lifeguard is conducting a rescue. PLAINTIFFS are informed and believe that NATALIZIO
22 acted recklessly and with a blatant disregard for ROXIE'S life and the lives of other children by
23 getting down from the lifeguard chair and diverting his attention away from the children in the
24 pool, to assist a child when another counselor was capable of handling the bee-sting. PLAINTIFFS
25 are informed and believe that another counselor, Dillon Benacerraf-Gadja, was also assisting the
26 child with a bee-sting.

27 e. With respect to FAITH PORTER

28 i. PORTER received her lifeguarding certificate from CERVANTES. PLAINTIFFS are
informed and believe that SUMMERKIDS and CERVANTES provided PORTER with the American

1 Red Cross manual, and therefore she should have known that she needed close to 30-hours of
2 training to become an American Red Cross certified lifeguard; she also should have been aware
3 of the required prerequisites. However, she only participated in a total of about eight hours of
4 training prior to receiving her certificate and did not complete each required prerequisite (i.e.
5 written exam). FAITH PORTER willfully represented herself as a certified American Red Cross
6 lifeguard without ever completing requisite training or testing.

7 ii. According to the American Red Cross instruction manual provided to
8 SUMMERKIDS staff members, including PORTER lifeguards should always carry a rescue tube,
9 hip-packs containing disposable gloves and resuscitation masks, and a whistle. PLAINTIFFS are
10 informed and believe that the lifeguards at SUMMERKIDS, including PORTER, did not carry a hip-
11 pack with such items at any time in 2019.

12 iii. On the date of ROXIE'S preventable drowning, PORTER was present as a
13 counselor and on-duty lifeguard assigned to pay attention to kids in the pool, in particular to
14 oversee the shallow end of the pool. PORTER's job at the time of ROXIE's drowning was to
15 conduct surveillance over the shallow end, educate and inform children about rules, enforce
16 safety rules and make assists where necessary.

17 iv. PLAINTIFFS are informed and believe that PORTER was aware that ROXIE was
18 classified as a "step swimmer." PLAINTIFFS are informed and believe that PORTER was standing
19 nearby ROXIE immediately prior to her drowning and failed to notice and timely assist ROXIE.
20 Despite the fact that the SUMMERKIDS pool is quite small (25'x50'), PORTER failed to notice
21 ROXIE was in peril and had floated away from the steps area. FAITH PORTER also failed to spot
22 ROXIE floating lifeless in the pool at the time of her drowning. PORTER wantonly failed to exercise
23 the most basic water safety practice of constant supervision of children in the pool. FAITH
24 PORTER'S willful disregard for American Red Cross lifeguarding practices resulted in ROXIE's
25 death.

26 118. Because the SUMMERKIDS Camp counselor "lifeguards" and/or other personnel
27 failed to engage in any rescue efforts for an extended period of time, there was significant delay
28 in providing ROXIE with CPR.

1 119. Despite knowing that the lifeguards, counselors and employees manning the pool
2 were not fit to do so, DEFENDANTS, and each of them, including DOES 1-50 willfully, intentionally,
3 recklessly and wantonly allowed children to enter the pool and operated SUMMERKIDS Camp
4 knowing that their actions could unreasonably expose all of the attending children to injury,
5 damage and potential death.

6 120. DEFENDANTS were aware of the probable consequences of their acts, and willfully
7 and deliberately failed to avoid the likelihood of serious injury to ROXIE and others similarly
8 situated.

9 121. DEFENDANTS operated the SUMMERKIDS Camp and the pool at ANGELUS
10 MOUNTAIN CENTER in a reckless and erratic manner, up through the day and time of ROXIE'S
11 drowning.

12 122. As a result of the drowning, ROXIE suffered severe and life-ending injuries, as set
13 forth above.

14 123. DEFENDANTS' conduct would be despised by any reasonable person.
15 DEFENDANTS, and each of them, including DOES 1-50 held themselves out as owning and
16 operating a camp for children, and encouraged children to get in the pool regardless of their
17 swimming ability. The consequences of putting children who do not know how to swim in the
18 water are known to all adults. There is no excuse for conduct that endangers the lives of innocent
19 children. DEFENDANTS' conduct should be the subject of shame, scorn and rebuke.
20 DEFENDANTS' conduct was clearly despicable and done in conscious disregard for the safety of
21 others.

22 124. As alleged herein, DEFENDANTS' actions constitute willful misconduct, consciously
23 undertaken with a willful and conscious disregard of the probable consequences. These acts and
24 failures to act by DEFENDANTS were so unreasonable and dangerous that defendants knew or
25 should have known that injury was highly probable.

26 125. DEFENDANTS' actions also constitute oppression, fraud, and/or malice as defined
27 in Civil Code Section 3294, and PLAINTIFFS should recover, in addition to actual damages,
28 exemplary and punitive damages to make an example of and to punish defendants, in an amount

1 according to proof.

2 **FOURTH CAUSE OF ACTION**

3 **Fraud**

4 **By PLAINTIFFS as Successors-In-Interest to Decedent**

5 **Against THE DIMASSAS, THE DIMASSA ENTITIES, CERVANTES, ARC, SUMMERKIDS, INC.,**
6 **BOREHAM, LSC and DOES 1-50**

7 126. PLAINTIFFS repeat, reiterate and re-allege each and every fact and/or allegation
8 set forth in the prior paragraphs of this complaint with the same force and effect as though more
9 fully set forth at length herein.

10 127. That Defendants THE DIMASSAS, The DIMASSA ENTITIES, CERVANTES, ARC,
11 SUMMERKIDS, INC., BOREHAM, LSC and DOES 1-50, represented to Plaintiffs that the
12 SUMMERKIDS, INC. employees and/or contractors were ARC certified lifeguards and had ARC
13 water safety training as established by the ARC guidelines and written manuals and had certified
14 CPR, AED, and First Aid training in order to convince the Plaintiffs that they should enroll their six
15 year old child, ROXIE, in Summerkids Camp and that it would be safe to do so despite the fact
16 that at all times said defendants were aware that ROXIE was not water safe.

17 128. Defendants THE DIMASSAS, The DIMASSA ENTITIES, CERVANTES, ARC,
18 SUMMERKIDS, INC., BOREHAM, LSC and DOES 1-50's representation that the SUMMERKIDS, INC.
19 employees and/or contractors were ARC certified lifeguards and had ARC water safety training
20 as established by the ARC guidelines and written manuals and had certified CPR, AED, and First
21 Aid training, was false.

22 129. Defendants THE DIMASSAS, The DIMASSA ENTITIES, CERVANTES, ARC,
23 SUMMERKIDS, INC., BOREHAM, LSC and DOES 1-50 knew that the representation was false when
24 they made it, or they made the representation recklessly and without regard for its truth by way
25 of advertising, promising, and assuring parents including PLAINTIFFS that the employees were
26 ARC certified, and had certified CPR, AED, First Aid training while at all times knowing that the
27 ARC water safety and lifeguard certifications and CPR, AED, and First Aid certifications were
28 obtained illegally, deceitfully, and falsely. The truth was that none of the employees of THE

1 DIMASSAS, The DIMASSA ENTITIES, SUMMERKIDS, INC., and DOES 1-20 received the water safety
2 and lifeguard training from CERVANTES and ARC that ARC required in its writings and manuals of
3 more than 26 hours of training and a written test which the applicant must pass. At all times
4 defendant ARC and DOES 36-50 knew through its agent Defendant CERVANTES and DOES 21-35,
5 that THE DIMASSAS, The DIMASSA ENTITIES, SUMMERKIDS, INC. employees did not receive the
6 appropriate water safety and lifeguard training actually required for ARC certification.

7 130. The truth was also that none of the employees of THE DIMASSAS, The DIMASSA
8 ENTITIES, SUMMERKIDS, INC., BOREHAM, LSC and DOES 1-20 received certified CPR, AED, and
9 First Aid training from CERVANTES, ARC, BOREHAM, LSC, and DOES 21-50.

10 131. Defendants THE DIMASSAS, The DIMASSA ENTITIES, CERVANTES, ARC,
11 SUMMERKIDS, INC., BOREHAM, LSC and DOES 1-50 intended that Plaintiffs rely on the
12 representation that the SUMMERKIDS, INC. employees and/or contractors were ARC certified
13 lifeguards, had ARC water safety training as established by the ARC guidelines and written
14 manuals, and were certified in CPR, AED, and First Aid training so that PLAINTIFFS would feel safe
15 in enrolling their 6-year-old non swimmer, ROXIE, in Summerkids Camp and pay for her tuition
16 for the camp.

17 132. PLAINTIFFS reasonably relied on Defendants THE DIMASSAS, The DIMASSA
18 ENTITIES, CERVANTES, ARC, SUMMERKIDS, INC., BOREHAM, LSC and DOES 1-50 representation
19 that the SUMMERKIDS, INC. employees and/or contractors were ARC certified lifeguards, had
20 ARC water safety training as established by the ARC guidelines and written manuals and were
21 certified in CPR, AED, and First Aid training.

22
23 133. As a result of the representations made by Defendants THE DIMASSAS, The
24 DIMASSA ENTITIES, CERVANTES, ARC, SUMMERKIDS, INC., BOREHAM, LSC and DOES 1-50,
25 Plaintiffs enrolled ROXIE in the Summerkids Camp and paid ROXIE'S tuition for the camp.

26 134. Because the employees of THE DIMASSAS, The DIMASSA ENTITIES, and
27 SUMMERKIDS, INC. had not been properly trained in water safety, lifeguarding, CPR, AED, and
28

1 First Aid by CERVANTES, ARC, BOREHAM, LSC and DOES 21-50 which at all times Defendants THE
2 DIMASSAS, The DIMASSA ENTITIES, CERVANTES, ARC, SUMMERKIDS, INC. BOREHAM, LSC were
3 aware and concealed from the PLAINTIFFS, the PLAINTIFFS were harmed.
4

5 135. PLAINTIFFS' reliance on Defendants THE DIMASSAS, The DIMASSA ENTITIES,
6 CERVANTES, ARC, SUMMERKIDS, INC., BOREHAM, LSC and DOES 1-50's representation was a
7 substantial factor in causing PLAINTIFFS' harm. Had PLAINTIFFS known the truth that the
8 SUMMERKIDS, INC. camp employees were not properly trained in water safety, ARC lifeguarding,
9 CPR, AED, nor First Aid, PLAINTIFFS would have never entrusted their non-swimmer 6-year-old
10 daughter, ROXIE, to S[UMMERKIDS, INC. camp, and she would still be alive. PLAINTIFFS therefore
11 request all damages available to them under this cause of action, including punitive damages.
12

13
14 **PRAYER FOR RELIEF**

15 Wherefore, PLAINTIFFS pray for judgment against DEFENDANTS, and DOES 1-50, and
16 each of them, as follows:

17 **On all Causes of Action**

- 18 1. For past and future special damages;
- 19 2. For past and future general damages;
- 20 3. For interest allowable by law;
- 21 4. For costs of suit incurred herein;
- 22 5. For such other and further relief as the court may deem proper;
- 23 6. For medical, burial, celebration of life, and related expenses according to proof; and
- 24 7. For punitive damages.

25 DATED: April 1, 2021

LAW OFFICES OF VICTOR L. GEORGE

26
27 By: 

28 VICTOR L. GEORGE
MEYLIN P. ALFARO
Attorneys for PLAINTIFFS


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DEMAND FOR JURY TRIAL

PLAINTIFFS hereby demand, as a matter of right, trial by jury in this case on all causes of action.

DATED: April 1, 2021

LAW OFFICES OF VICTOR L. GEORGE

By: 

VICTOR L. GEORGE
MEYLIN P. ALFARO
Attorneys for PLAINTIFFS

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PROOF OF SERVICE - 1013a, 2015.5, 2015 C.C.P.

CASE NAME: MATYAS v. SUMMERKIDS
CASE NUMBER: 19STCV39732

State of California)
County of Los Angeles) ss:

I am over the age of 18 years, am employed in the aforesaid county and am not a party to the action or proceeding, and my business address is 20355 Hawthorne Blvd., First Floor, Torrance, CA 90503.

On April 1, 2021, I served: **SECOND AMENDED COMPLAINT FOR DAMAGES:**
1. NEGLIGENCE – WRONGFUL DEATH
2. NEGLIGENT HIRING, RETENTION, SUPERVISION, AND TRAINING
3. SURVIVOR’S ACTION
4. FRAUD
DEMAND FOR JURY TRIAL

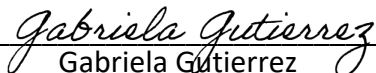
on the interested parties in the action, as follows:
SEE ATTACHED SERVICE LIST

ELECTRONIC TRANSMISSION. By e-mailing the document(s) to the e-mail address(es) on the attached service list. This is necessitated during the declared National Emergency due to the Coronavirus (Covid-19) pandemic. Because this office will be working remotely, and therefore not able to send physical mail as usual, this office is using electronic mail only, or in addition to other delivery methods as available. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

BY OVERNIGHT DELIVERY I caused such document(s) to be delivered via overnight service by FedEx Delivery Service.

(State) I declare under penalty of perjury under the laws of the state of California that the above is true and correct.

Executed on April 1, 2021, at Los Angeles, California



Gabriela Gutierrez

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SERVICE LIST

CASE NAME: Matyas v. Summerkids
CASE NUMBER: 19STCV39732

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<p>Andrew Lara Cervantes 5307 Edna Street Los Angeles, CA 90032</p> <p>drewc709@gmail.com</p>	<p>Defendant</p>