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Hearing Set for:

Date: 2-7-14

Time: 8:30 AM

Dept: S-31

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

AUG 08 2013

BY Paula Rogers
DEPUTY

Attorneys for the Plaintiffs,
Ernest M. Santana Jr. Et Al.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO CIVIL DIVISION**

ERNEST MESA SANTANA JR.; RACHEL
INES ARREOLA; and INES SANTANA
Plaintiffs,

vs.

RASOR ROAD SERVICES (Form of
Business Unknown), STARLING
VALADEZ, DAVID VALADEZ;
BARSTOW COMMUNITY HOSPITAL;
KAISER PERMANENTE HOSPITAL and
DOES 1 to 100
Defendants.

Case No. CIVDS1309397

COMPLAINT FOR:

1. WRONGFUL DEATH

DEMAND FOR JURY TRIAL

\$435-130808-0500

COMES NOW, the Plaintiffs, above named, for causes of action against the
Defendants, allege as follows:

CAUSE OF ACTION-WRONGFUL DEATH

(By Plaintiffs Against All Defendants and Does 1 to 100 Inclusive)

1. The true names and capacities, whether individual, corporate, associate or
otherwise of each Defendant designated herein as a DOE are unknown to Plaintiff, who sues
said Defendants by such fictitious names pursuant to Code of Civil Procedure Section 474.
Each DOE Defendant is legally responsible in some manner for events and happenings herein

1 and caused damages thereby to Plaintiffs as herein alleged. Plaintiffs will ask leave to amend
2 this complaint to show their true names and capacities when ascertained.

3 2. Plaintiff ERNEST MESA SANTANA JR. (Hereinafter "SANTANA JR.") is the
4 father of the decedent Ernest Arreola Santana III.

5 3. Plaintiff RACHEL INES ARREOLA (Hereinafter "ARREOLA") is the mother
6 of the decedent Ernest Arreola Santana III.

7 4. Plaintiff INES SANTANA (Hereinafter "Inez") is the sister of the decedent
8 Ernest Arreola Santana III.

9 5. Decedent Ernest Arreola Santana III (Hereinafter "Santana III or Mr. Santana")
died on August 9, 2011 in the manner described herein below.

10 6. Plaintiffs SANTANA JR., ARREOLA, and INEZ, are the lawful heirs of
11 decedent Santana III, and pursuant to Section 377.60 of the Civil Code of procedure are the
12 persons entitled to bring an action for the death of the decedent Ernest Arreola Santana III.

13 7. Plaintiffs are informed and believe and thereon allege that Defendant Rasor
14 Road Services is a towing company with its principal place of business at I-15 & Rasor Road.
15 Baker CA 92309

16 8. Plaintiffs are informed and believe and thereon allege that Defendant
17 STARLING VALADEZ is, and was at all times mentioned herein, was an individual residing
18 in the City of Riverside, California.

19 9. Plaintiffs are informed and believe and thereon allege that Defendant DAVID
20 VALADEZ is, and was at all times mentioned herein an individual, residing in the City of
21 Riverside, California.

22 10. Plaintiffs are informed and believe and thereon allege that Defendant
23 BARSTOW COMMUNITY HOSPITAL is, and was at all times mentioned herein, a hospital
operating at 555 South 7th. Street, Barstow, California 92311.

24 11. Plaintiffs are informed and believe and thereon allege that Defendant KAISER
25 PERMANENTE HOSPITAL, is, and was at all times mentioned herein, a hospital operating
26 at 10800 Magnolia Ave. Riverside, CA 92505-3043

27 12. Venue is proper in this court under California Code of Civil Procedure, Section
28 395 (a) as San Bernardino is the county where the injury causing death of Ernest Arreola
Santana III occurred.

1 13. Plaintiffs are informed and believe and thereon allege that at all times
2 mentioned herein and on or about August 9, 2011 Defendant DAVID VALADEZ was driving
3 from Las Vegas Nevada toward Riverside California.

4 14. DAVID VALADEZ was driving a car that belonged to defendant STARLING
5 VALADEZ (hereinafter "The Car"). Decedent Ernest Arreola Santana III was a passenger in
6 the aforementioned car.

7 15. Plaintiffs are informed and believe and thereon allege that on August 9, 2011 on
8 or about 8:00 a.m. on the I-15 freeway near Baker California The Car overheated and broke
9 down.

10 16. Defendant DAVID VALADEZ whose cell phone was running out of battery
11 called among other people his parents in an attempt to alert their insurance to send a tow
12 truck.

13 17. However a tow truck could not be called because of problems with DAVID
14 VALADEZ' car insurance.

15 18. Plaintiffs are informed and believe and thereon allege that on or about 12:00
16 p.m. a CHP officer took Mr. VALADEZ and Mr. Santana from the broken down car to a Del
17 Taco in Baker California.

18 19. Plaintiffs are informed and believe and thereon allege that one of Mr.
19 VALADEZ' family members was finally able to obtain a tow truck to come to the location of
20 his broken down car. However a representative of the tow truck company told Mr.
21 VALADEZ that he would have to come to the location of his car so it could be towed.

22 20. Mr. VALADEZ and Mr. Santana started walking to The Car and got there after
23 approximately 2 hours.

24 21. When they got to The Car, Mr. Santana seemed extremely exhausted. He went
25 to the back sit of The Car and appeared to have fallen asleep. However, Mr. Santana was not
26 sleep but was suffering from extreme overheating.

27 22. Plaintiffs are informed and believe and thereon allege that after much needless
28 delay, a tow truck from Defendant RASOR TOW SERVICES arrived at the location of The
Car.

1 23. Plaintiffs are informed and believe and thereon allege that instead of
2 immediately calling the ambulance, the tow truck driver towed The Car with Mr. Santana
3 passed out from heat exhaustion in the back of The Car.

4 24. Plaintiffs are informed and believe and thereon allege that it is against
5 California Law for a tow truck driver to tow a car with a passenger inside of it.

6 25. While towing the car with Mr. Santana passed out inside from heat exhaustion,
7 the tow truck driver told Mr. VALADEZ that he has seen a lot of people who were stranded
8 suffer from overheating and fatalities.

9 26. Plaintiffs are informed and believe and thereon allege that had the tow truck
10 driver called an ambulance upon finding Mr. Santana passed out in the back of The Car, Mr.
11 Santana would not have died from heat exhaustion.

12 27. The tow truck driver took Mr. VALADEZ and Mr. Santana back to the Baker
13 Del Taco.

14 28. Plaintiffs are informed and believe and thereon allege that upon arrival Mr.
15 VALADEZ noticed that Mr. Santana was not being responsive and sought help from the tow
16 truck driver. However the tow truck driver told him to call 911 and left.

17 29. Mr. Santana was transported by an ambulance to defendant Barstow
18 Community Hospital with extreme heat exhaustion.

19 30. Plaintiffs are informed and believe and thereon allege Barstow Community
20 Hospital was not equipped to render effective treatment to Mr. Santana and should have made
21 immediate arrangement for his transportation by a helicopter to defendant Kaiser Permanente.

22 31. Plaintiffs are informed and believe and thereon allege that Defendant Kaiser
23 Permanente was notified about Mr. Santana's extreme overheating and the need for his
24 immediate transfer. However, Kaiser Permanente needlessly delayed the transportation of
25 Mr. Santana. By the time Mr. Santana got to Kaiser Permanente, he had passed away.

26 32. As a direct and proximate result of the negligence of said defendants, as herein
27 stated, decedent Ernest Arreola Santana III sustained serious injuries as a result of which he
28 died on or about August 9, 2011.

 33. At the time of his death, Ernest Arreola Santana III was 23 years old and was a
loving, affectionate son and brother and would have continued as same had he not died as a
result of the acts defendants, and each of them, as herein alleged.

1 34. As a proximate result of the negligence of Defendants, and each of them, and of
2 the death of decedent Ernest Arreola Santana III, plaintiffs have sustained pecuniary loss and
3 a loss resulting from the loss of the love, society, comfort, attention, affection, solace,
4 companionship, services, and support of decedent Ernest Arreola Santana III in an amount
5 presently unknown, but exceeding the minimum jurisdictional limit of this court and as
6 proven at the time of trial.

7 35. As a further approximate result of the negligence of defendants, and each of
8 them, and of the death of decedent, Plaintiffs have incurred funeral and burial expense; that
9 the exact amounts thereof are at this time unknown to plaintiffs who therefore asks leave to
10 prove and if required by the court to amend the complaint to show the exact amounts thereof at
11 time of trial.

12 **REQUEST FOR JURY TRIAL**

13 36. Plaintiffs request a trial by jury.

14 **WHEREFORE**, plaintiff prays for judgment against defendants, and each of them, as more
15 fully set forth below.

16 **FIRST CAUSE OF ACTION**

- 17 A. General damages in a sum according to proof;
18 B. Special damages for loss of financial support according to proof;
19 C. For burial and funeral expenses incurred according to proof;
20 D. For interests on all economic damages in the legal amount from the date of Decedents'
21 death to the date of judgment.
22 E. Costs of suit and for such other and further relief as the court deems proper.
23

24 Dated August 7, 2013

25 LAW OFFICES OF PAUL AGHABALA & ASSOCIATES INC.

26
27 By: Paul Aghabala
28 PAUL AGHABALA ESQ