

CAUSE NO. \_\_\_\_\_

**FERNANDO ADRIAN LOPEZ  
MORENO,  
*Plaintiff,***

vs.

**INNJOY HOSPITALITY, LLC D/B/A  
HOLIDAY BEACH RESORT and CV  
WELDING,  
*Defendants.***

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**IN THE DISTRICT COURT OF**

**HARRIS COUNTY, TEXAS**

\_\_\_\_ **JUDICIAL DISTRICT**

**PLAINTIFF’S ORIGINAL PETITION**

COMES NOW, FERNANDO ADRIAN LOPEZ MORENO, complaining of InnJoy Hospitality, LLC d/b/a Holiday Beach Resort and CV Welding (collectively “Defendants”), and would respectfully show as follows:

**I. DISCOVERY CONTROL PLAN**

1. Pursuant to Rules 190.1 and 190.4 of the Texas Rules of Civil Procedure, discovery in this lawsuit is intended to be conducted under Level 3.

**II. PARTIES**

2. Plaintiff Fernando Adrian Lopez Moreno is a resident of Texas.

3. Defendant **InnJoy Hospitality, LLC d/b/a Holiday Beach Resort** (“Holiday”), is a Domestic Limited Liability Company doing business in the state of Texas. This Defendant may be served through its registered agent, Anita G. Lozano, c/o JONES, GALLIGAN, KEY & LOZANO, L.L.P., 2300 W. Pike Blvd., Suite 300, Weslaco, Texas 78596.

4. Plaintiff specifically invokes the right to institute this suit against whatever entities were conducting business using the assumed or common names of “InnJoy Hospitality, LLC d/b/a Holiday Beach Resort” with regard to the events described in this Petition. Plaintiff expressly

invokes his right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later time on a motion by any party or on the Court's own motion.

5. Defendant **CV Welding**, is a general partnership with its principal office in Harris County, Texas. This Defendant may be served through its general partners, Cesar Vasquez-Guzman and Leticia Munoz Vasquez at their place of residence, 3852 Telephone Rd, Apt 7108, Houston, Texas 77023, or wherever they may be found.

6. Plaintiff specifically invokes the right to institute this suit against whatever entities were conducting business using the assumed or common names of "CV Welding" with regard to the events described in this Petition. Plaintiff expressly invokes his right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later time on a motion by any party or on the Court's own motion.

### **III. JURISDICTION AND RULE 47 STATEMENT**

7. This court has jurisdiction in this cause of action because the subject matter and the amount in controversy are within the jurisdictional limits of this Court. Plaintiff is seeking monetary relief over \$1,000,000 for his personal injuries that make the basis of this lawsuit.

### **IV. VENUE**

8. Venue is proper in Harris County, Texas under §§ 15.002(a)(3) and 15.005 of the Texas Civil Practice and Remedies Code because Defendant CV Welding maintains their principal office in Harris County, Texas.

### **V. FACTS**

9. The incident giving rise to this suit occurred on November 25, 2022.

10. On the day of the incident, Plaintiff was working on a jobsite belonging to Defendant Holiday ("Subject Jobsite").

11. On information and belief, Defendant CV Welding hired Plaintiff for welding services at the time of the incident.

12. Defendant CV Welding had been hired to Defendant Holiday to perform welding services on the Subject Jobsite.

13. On information and belief, during the course of Plaintiff's work at the Subject Jobsite, and while he was actively welding, a large piece of steel beam fell on Plaintiff from above.

14. As a result of the explosion, Plaintiff suffered severe injuries and significant damages. As set forth further below, Defendants' acts and omissions were the proximate cause of Plaintiff's injuries.

## **VI. CAUSES OF ACTIONS AGAINST DEFENDANT HOLIDAY**

### **A. NEGLIGENCE**

15. Plaintiff incorporates all paragraphs above herein by reference.

16. Defendant Holiday committed acts and omissions, which collectively and severally constituted negligence. Defendant Holiday had a duty to exercise ordinary care, meaning the degree of care that would be used by a company of ordinary prudence under the same or similar circumstances, and Defendants breached that duty. Specifically, Defendant Holiday breached their duty in one or more of the following ways:

- a. Failing to provide a safe work site;
- b. Failing to provide adequate staff, supervisors, and safety personnel;
- c. Failing to provide adequate equipment and/or tools;
- d. Failing to take adequate safety measures;
- e. Failing to provide adequate safety equipment and protective equipment;
- f. Failing to provide adequate training;

- g. Failing to provide adequate instruction;
- h. Failing to remove hazards and dangerous conditions on the property;
- i. Failing to warn of a dangerous condition;
- j. Violations of OSHA regulations and standards; and
- k. Other acts or omissions deemed negligent.

17. These breaches, among others, constituted negligence. Such negligence was a proximate cause of the occurrence in question and the injuries and damages sustained by Plaintiff.

**B. PREMISES LIABILITY**

18. Plaintiff incorporates all paragraphs above herein by reference.

19. Plaintiff alleges that Defendant Holiday possessed, operated, and/or controlled the Subject Jobsite on which Plaintiff was injured. As such, Defendant Holiday owed a duty of care to ensure that the property was maintained in a safe manner for invitees, such as Plaintiff.

20. Defendant Holiday knew, or reasonably should have known, that objects on the premises presented an unreasonably dangerous condition for work being done on the property.

21. Defendant Holiday breached their duty of ordinary care to Plaintiff by failing to inspect the Subject Jobsite and area of work, by failing warn Plaintiff and others of these dangerous conditions, and/or by failing to make the property reasonably safe.

22. Defendant Holiday's failure to exercise reasonable care proximately caused the incident in question and Plaintiff's injuries.

**C. GROSS NEGLIGENCE**

23. Plaintiff incorporates all paragraphs above herein by reference.

24. Plaintiff alleges that all acts and omissions on the part of the Defendant Holiday, taken singularly or in combination, constitute gross negligence and were the proximate cause of

Plaintiff's injuries and damages.

25. Defendant Holiday's acts and omissions, when viewed objectively from the Defendant Holiday's standpoint at the time such acts and omissions occurred, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Defendant Holiday had actual, subjective awareness of the risk, but proceeded with conscious indifference to the rights, safety and welfare of Plaintiff with an intentional state of mind. Such gross negligence was a proximate cause of the occurrence and Plaintiff's injuries and damages.

26. Because Defendant Holiday is liable for gross negligence, punitive and/or exemplary damages should be assessed against them in an amount to be determined by the jury, as a deterrent to future bad conduct and as a punishment for their bad acts and omissions.

## **VII. CAUSES OF ACTIONS AGAINST DEFENDANT CV WELDING**

### **A. NEGLIGENCE**

27. Plaintiff incorporates all paragraphs above herein by reference.

28. Defendant CV Welding committed acts and omissions, which collectively and severally constituted negligence. Defendant CV Welding had a duty to exercise ordinary care, meaning the degree of care that would be used by a company of ordinary prudence under the same or similar circumstances, and Defendant CV Welding breached that duty. Specifically, Defendant CV Welding breached their duty in one or more of the following ways:

- a. Failing to provide a safe work site;
- b. Failing to provide adequate staff, supervisors, and safety personnel;
- c. Failing to provide adequate equipment and/or tools;
- d. Failing to take adequate safety measures;
- e. Failing to provide adequate safety equipment and protective equipment;

- f. Failing to provide adequate training;
- g. Failing to provide adequate instruction;
- h. Failing to remove hazards and dangerous conditions on the property;
- i. Failing to warn of a dangerous condition;
- j. Violations of OSHA regulations and standards; and
- k. Other acts or omissions deemed negligent.

29. These breaches, among others, constituted negligence. Such negligence was a proximate cause of the occurrence in question and the injuries and damages sustained by Plaintiff.

**B. GROSS NEGLIGENCE**

30. Plaintiff incorporates all paragraphs above herein by reference.

31. Plaintiff alleges that all acts and omissions on the part of the Defendant CV Welding, taken singularly or in combination, constitute gross negligence and were the proximate cause of Plaintiff's injuries and damages.

32. Defendant CV Welding's acts and omissions, when viewed objectively from the Defendant CV Welding's standpoint at the time such acts and omissions occurred, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Defendant CV Welding had actual, subjective awareness of the risk, but proceeded with conscious indifference to the rights, safety and welfare of Plaintiff with an intentional state of mind. Such gross negligence was a proximate cause of the occurrence and Plaintiff's injuries and damages.

33. Because Defendant CV Welding is liable for gross negligence, punitive and/or exemplary damages should be assessed against them in an amount to be determined by the jury, as a deterrent to future bad conduct and as a punishment for their bad acts and omissions.

## VIII. DAMAGES

34. Plaintiff incorporates all paragraphs above herein by reference.

35. Plaintiff seeks compensation for the following damages that resulted from this incident:

- a. Past and future physical pain and suffering of Plaintiff;
- b. Past and future mental anguish of Plaintiff;
- c. The medical expenses that Plaintiff has incurred in the past and will, in all probability continue to incur in the future;
- d. Past and future bodily impairment and disability of Plaintiff;
- e. Past and future disfigurement and scarring;
- f. Past and future lost wages;
- g. Loss of earning capacity;
- h. Cost of suit;
- i. Pre- and post-judgment interest;
- j. Punitive and/or exemplary damages; and
- k. Any and all damages to which Plaintiff may be justly entitled under the law.

36. As a result of said occurrences, Plaintiff sustained severe injuries to his body, which resulted in physical pain, mental anguish, and other medical problems. Plaintiff has sustained severe pain, physical impairment, discomfort, mental anguish, and emotional distress. In all reasonable probability, Plaintiff's physical pain, physical impairment, and mental anguish will continue indefinitely.

37. Plaintiff would further show that the conduct of Defendant constitutes gross negligence, as that term is defined and understood under Texas law. Accordingly, Plaintiff seeks

exemplary damages from Defendants, in addition to actual and/or compensatory damages.

**IX. PRESERVATION OF EVIDENCE**

38. Plaintiff hereby requests and demands that Defendants preserve and maintain all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit and the damages resulting therefrom, including, but not limited to, photographs; videotapes; audiotapes; recordings; business or medical records; bills; estimates; invoices; checks; correspondence; memoranda; files; facsimiles; email; voice mail; text messages; investigation; cellular telephone records; calendar entries; and any electronic image, data, or information related to Plaintiff, the referenced incident, or any damages resulting therefrom. Failure to maintain such items will constitute spoliation of the evidence.

**X. PRAYER**

39. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that citation issue and be served upon Defendants in a form and manner prescribed by law, requiring that the Defendants appear and answer, and that upon final hearing or final trial hereof, the Court enter judgment in his favor for actual damages, exemplary damages, costs of court, pre- and post-judgment interest at the maximum rate allowed by law, and for each other and further relief to which he may be justly entitled.

Respectfully submitted,

**ABRAHAM, WATKINS, NICHOLS,  
AGOSTO, AZIZ & STOGNER**

*/s/ Muhammad S. Aziz*  
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Jessica Dean on behalf of Muhammad Aziz  
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Associated Case Party: FERNANDOADRIAN LOPEZMORENO

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