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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

03/21/2024
Clerk of the Court
BY: DAEJA ROGERS
Deputy Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

RACHEL MERI DENOBLE;

Plaintiff,

v.

W HOTEL MANAGEMENT, INC.; BATH
AUTHORITY LLC dba DREAMLINE; KSSF
ENTERPRISES LTD.; KECK SENG GROUP
– NORTH AMERICA; C.W. HORTON
GENERAL CONTRACTOR, INC.; ATLAS
GLASS CO. INC.; MARRIOTT
INTERNATIONAL, INC.; AND DOES 1 TO
100;

Defendants.

CASE NO.:

CGC-24-613280

**PLAINTIFF RACHEL MERI
DENOBLE'S COMPLAINT FOR
DAMAGES FOR:**

- (1) GENERAL NEGLIGENCE;**
- (2) PREMISES LIABILITY;**
- (3) STRICT PRODUCTS LIABILITY –
MANUFACTURING DEFECT;**
- (4) STRICT PRODUCTS LIABILITY –
DESIGN DEFECT;**
- (5) STRICT PRODUCTS LIABILITY –
FAILURE TO WARN;**
- (6) NEGLIGENT FAILURE TO RECALL;**
- (7) INTENTIONAL FAILURE TO
RECALL;**

AND DEMAND FOR JURY TRIAL

1 Plaintiff RACHEL MERI DENOBLE (“Plaintiff” or “Ms. Denoble”), based on
2 knowledge as to herself and on information and belief as to all others, complains and alleges as
3 follows:

4 **THE PARTIES**

5 **THE PLAINTIFF**

6 1. Plaintiff is an individual residing in the County of San Francisco and the State of
7 California during all times relevant.

8 **THE DEFENDANTS**

9 2. Defendant W HOTEL MANAGEMENT, INC. (“Hotel Management”) is a State
10 of Delaware formed Corporation conducting business activities in the County of San Francisco
11 and the State of California during all times relevant.

12 3. BATH AUTHORITY LLC dba DREAMLINE (“Bath Authority”) is a State of
13 Pennsylvania formed Limited Liability Company conducting business activities in the County of
14 San Francisco and the State of California during all times relevant.

15 4. KSSF ENTERPRISES LTD. (“KSSF”) is a California corporation conducting
16 business activities in the County of San Francisco and the State of California during all times
17 relevant.

18 5. KECK SENG GROUP – NORTH AMERICA (“Keck Seng”) is a business entity
19 form unknown organized and existing under the law of the State of California and conducting
20 business activities in the County of San Francisco and the State of California during all times
21 relevant.

22 6. C.W. HORTON GENERAL CONTRACTOR, INC. (“C.W. Horton”) is a State of
23 California formed Corporation conducting business activities in the County of San Francisco and
24 the State of California during all times relevant.

25 7. ATLAS GLASS CO. INC. (“Atlas”) is a State of California formed Corporation
26 conducting business activities in the County of San Francisco and the State of California during
27 all times relevant.

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1 VENUE

2 12. The proper venue for this action is San Francisco County as this is the County
3 where Defendants have committed tortious acts which are the subject matter of this action, and
4 Defendants are all doing business in and/or reside in San Francisco County during April 2022
5 and at all times relevant.

6 ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

7 13. The incident herein occurred at the W Hotel San Francisco (the “Premises” or the
8 “W Hotel”), located at 181 Third Street, San Francisco, California. The W Hotel is owned,
9 operated, managed, maintained, and/or otherwise controlled by Defendants Hotel Management,
10 KSSF, Keck Seng, Marriot, and DOES 1 to 100.

11 14. Defendants Hotel Management, Bath Authority, KSSF, Keck Seng, C.W. Horton,
12 Atlas, Marriot, and DOES 1 to 100 manufactured, designed, assembled, installed, and/or were in
13 the chain of commerce for glass shower doors (referred to herein sometimes as “Dreamline
14 shower doors”) that were installed by Defendants at the Premises.

15 15. One of these Dreamline shower doors (the “Subject Door”) was inside the shower
16 of the hotel room that Plaintiff purchased for her stay at the W Hotel during April 2022.

17 16. On approximately April 27, 2022, while Plaintiff was using the Subject Door, the
18 Subject Door exploded and shattered into little shards of glass that resulted in penetrating and
19 piercing cuts, lacerations, wounds, and gashes being suffered by Ms. Denoble to her person,
20 including but not limited to her legs, feet, chest and hands (the “Incident”).

21 17. This was not the first time one of Defendant’s shower doors had exploded. The
22 dangers posed by the defective Subject Door were well known and/or reasonably should have
23 been known by Defendants prior to April 27, 2022.

24 18. At least fifteen Dreamline shower doors have previously exploded and shattered
25 at the W Hotel and there were numerous other such incidents of Dreamline shower doors
26 exploding that occurred at other locations—and this information was known by Defendants prior
27 to April 27, 2022.

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1 **FIRST CAUSE OF ACTION**

2 **GENERAL NEGLIGENCE**

3 **(By Plaintiff Against All Defendants)**

4 19. Plaintiff re-alleges and incorporates herein by reference each and every allegation
5 contained in paragraphs 1 through 18, inclusive, hereinabove.

6 20. Defendants owed a duty of reasonable and ordinary care in connection with the
7 installation, management, maintenance, operation, and/or control of the Subject Door and the
8 Premises so as to reasonably inspect and remove hazards and defects from the Premises, and/or
9 adequately warn of the existence of dangerous conditions at and around the Premises.

10 21. In breach of their duties of reasonable care, Defendants unreasonably caused and
11 allowed Plaintiff to enter the Premises and to be present in her hotel room without proper aid,
12 instruction and/or warning of the hazardous and dangerous conditions, and concealed dangerous
13 conditions, present at the Premises and in her hotel room, namely the Subject Door, when it was
14 in need of immediate removal, repair and/or abatement, and also without providing Plaintiff with
15 proper training, instruction, aid, and/or warnings regarding use and/or operation of the Subject
16 Door while at the Premises.

17 22. Plaintiff was a hotel guest at the Premises and was not aware (and had no way of
18 knowing) that the Subject Door was dangerous and defective.

19 23. An unwelcomed risk was thus created and caused by Defendants due to their
20 negligence and inappropriate acts and/or omissions in allowing dangerous conditions, and
21 concealed dangerous conditions, such as the Subject Door, to exist at the Premises when it was in
22 need of immediate removal, repair and/or abatement, adequate warnings, and Plaintiff suffered
23 the sort of catastrophic injuries that are the foreseeable result of these Defendants' negligence.

24 24. Defendants' negligence was a direct, proximate and legal cause of the injuries
25 sustained by Plaintiff in connection with the Incident.

26 25. As a proximate and direct result of these actions, these Defendants have caused,
27 and threaten to cause, substantial and irreparable harm to Plaintiff in an amount to be proven at
28 trial but believed to be in excess of \$35,000.00, and which include but are not limited to past and

1 future pain and suffering, medical care, and loss of earnings.

2 26. Additionally, in breach of Defendants' duties of care owed to Ms. Denoble, and
3 the public, these Defendants had long been on notice of the dangers posed by their shower doors
4 at the Premises, including the Subject Door, as there were prior instances of shower doors
5 exploding and shattering in their hotel rooms at the Premises and elsewhere.

6 27. The failure of Defendants' remedy and/or warn about the known dangers posed
7 by these Dreamline shower doors, including the Subject Door, exhibited a conscious, willful and
8 callous indifference to, or disregard of, the probable harm to Plaintiff and persons similarly
9 situated to her.

10 28. As set forth herein, Defendants were guilty of malice, fraud and oppression as
11 defined in California Civil Code section 3294, and Plaintiff should therefore recover, in addition
12 to actual damages, damages to make an example of and to punish Defendants.

13 29. Defendants and their officers, directors and managing agents knew that the
14 Subject Door was defective and the Premises was without proper protections and in a dangerous
15 condition for many months, and, yet Defendants and their officers, directors and managing
16 agents instead acted with conscious disregard for the rights, safety and well-being of Plaintiffs
17 and other members of the public in order to save money.

18 30. Defendants and their officers, directors and managing agents acted in the manner
19 described herein and/or failed to take the actions mentioned above, for reasons of economic gain
20 and to save money and increase their business profits. Defendants consciously, willfully and
21 wantonly decided that their profits were more valuable and important than human suffering and
22 life. In doing the acts herein alleged, Defendants and their officers, directors and managing
23 agents, directly and in authorizing and ratifying the conduct of each of them, acted despicably
24 and with willful and conscious disregard of the rights and safety of others and are liable under
25 California Civil Code Section 3294 for exemplary and/or punitive damages in an amount be
26 proven at trial.

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1 38. These dangerous conditions were known to Defendants and/or should have
2 reasonably been known by Defendants and yet Defendants failed to take any appropriate action
3 to protect Plaintiff from injury.

4 39. Defendants' negligence was a direct, proximate and legal cause of the injuries
5 sustained by Plaintiff in connection with the Incident.

6 40. As a proximate and direct result of these actions, these Defendants have caused,
7 and threaten to cause, substantial and irreparable harm to Plaintiff in an amount to be proven at
8 trial but believed to be in excess of \$35,000.00, and which include but are not limited to past and
9 future pain and suffering, medical care, and loss of earnings.

10 41. Additionally, in breach of Defendants' duties of care owed to Ms. Denoble, and
11 the public, these Defendants had long been on notice of the dangers posed by their shower doors
12 at the Premises, including the Subject Door, as there were prior instances of shower doors
13 exploding and shattering in their hotel rooms at the Premises and elsewhere.

14 42. The failure of Defendants' remedy and/or warn about the known dangers posed
15 by these Dreamline shower doors, including the Subject Door, exhibited a conscious, willful and
16 callous indifference to, or disregard of, the probable harm to Plaintiff and persons similarly
17 situated to her.

18 43. As set forth herein, Defendants were guilty of malice, fraud and oppression as
19 defined in California Civil Code section 3294, and Plaintiff should therefore recover, in addition
20 to actual damages, damages to make an example of and to punish Defendants.

21 44. Defendants and their officers, directors and managing agents knew that the
22 Subject Door was defective and the Premises was without proper protections and in a dangerous
23 condition for many months, and, yet Defendants and their officers, directors and managing
24 agents instead acted with conscious disregard for the rights, safety and well-being of Plaintiffs
25 and other members of the public in order to save money.

26 45. Defendants and their officers, directors and managing agents acted in the manner
27 described herein and/or failed to take the actions mentioned above, for reasons of economic gain
28 and to save money and increase their business profits. Defendants consciously, willfully and

1 wantonly decided that their profits were more valuable and important than human suffering and
2 life. In doing the acts herein alleged, Defendants and their officers, directors and managing
3 agents, directly and in authorizing and ratifying the conduct of each of them, acted despicably
4 and with willful and conscious disregard of the rights and safety of others and are liable under
5 California Civil Code Section 3294 for exemplary and/or punitive damages in an amount be
6 proven at trial.

7 46. Instead of removing the Subject Door, Defendants allowed the Subject Door to be
8 present and in use at the Premises until it inevitably exploded on a hotel guest. Defendants did
9 this because they valued saving the money that would be expended in replacing, removing and/or
10 recalling the Subject Door over the safety of hotel guests such as Plaintiff.

11 47. Defendants therefore exhibited gross negligence and reckless disregard for the
12 safety of others and thus punitive damages are properly awarded because Defendants acted with
13 fraud, malice, oppression, and caused unjust hardship to Plaintiff, entitling Plaintiff to a
14 judgment of punitive damages, in an amount to be proven at trial.

15 **THIRD CAUSE OF ACTION**

16 **STRICT PRODUCTS LIABILITY – MANUFACTURING DEFECT**

17 **(By Plaintiff Against Defendants Hotel Management, Bath Authority, KSSF, Keck Seng,**
18 **C.W. Horton, Atlas, Marriot, and DOES 1 to 100)**

19 48. Plaintiff re-alleges and incorporates herein by reference each and every allegation
20 contained in paragraphs 1 through 47, inclusive, hereinabove.

21 49. Defendants manufactured, designed, distributed, sold, purchased, installed, and/or
22 were involved in the overall producing and marketing enterprise responsible for placing the
23 Subject Door into the stream of commerce. These Defendants were the seller or other distributor,
24 member in the stream of commerce, and/or a predecessor in the commercial chain of distribution
25 of the Subject Door.

26 50. Defendants owed a to duty to purchasers and users of the Subject Door, including
27 Plaintiff, to exercise reasonable care in conducting their business to properly and reasonably
28 manufacture, design, research, develop, produce, process, assemble, inspect, install, supply,

1 distribute, deliver, broker, market, package, label, warn, maintain, repair, modify, recall, retrofit,
2 engineer, test, recommend, advertise, convey, rent, and/or sell the Subject Door.

3 51. Defendants knew, or in the exercise of reasonable and ordinary care should have
4 known, that the Subject Door was defective and unsafe for use by Plaintiff, who is a person
5 likely to use the Subject Door for the purpose and in the manner for which the Subject Door was
6 intended to be used and for purposes reasonably foreseeable to these Defendants.

7 52. The Subject Door contained manufacturing defects so that a user was exposed to
8 unnecessary danger including but not limited to the Subject Door suddenly exploding and
9 shattering into sharp pieces.

10 53. While Plaintiff was using the Subject Door on the date the Incident occurred, the
11 Subject Door completely exploded and shattered into shards of glass that resulted in penetrating
12 and piercing cuts, lacerations, wounds, and gashes all over Ms. Denoble's body including her
13 legs, feet, chest and hands.

14 54. The Subject Door contained manufacturing defects when it left Defendants'
15 possession.

16 55. The Subject Door also did not have sufficient instructions and/or warnings of
17 potential safety hazards and/or any defects.

18 56. Plaintiff suffered harm and the Subject Door was a substantial factor in causing
19 this harm.

20 57. Defendants' acts and/or omissions, and/or negligence was a direct, proximate and
21 legal cause of the injuries sustained by Plaintiff in connection with the Incident.

22 58. As a proximate and direct result of these actions, these Defendants have caused,
23 and threaten to cause, substantial and irreparable harm to Plaintiff in an amount to be proven at
24 trial but believed to be in excess of \$35,000.00, and which include but are not limited to past and
25 future pain and suffering, medical care, and loss of earnings.

26 59. Additionally, in breach of Defendants' duties of care owed to Ms. Denoble, and
27 the public, these Defendants had long been on notice of the dangers posed by their shower doors
28 at the Premises, including the Subject Door, as there were prior instances of shower doors

1 exploding and shattering in their hotel rooms at the Premises and elsewhere.

2 60. The failure of Defendants' remedy and/or warn about the known dangers posed
3 by these Dreamline shower doors, including the Subject Door, exhibited a conscious, willful and
4 callous indifference to, or disregard of, the probable harm to Plaintiff and persons similarly
5 situated to her.

6 61. As set forth herein, Defendants were guilty of malice, fraud and oppression as
7 defined in California Civil Code section 3294, and Plaintiff should therefore recover, in addition
8 to actual damages, damages to make an example of and to punish Defendants.

9 62. Defendants and their officers, directors and managing agents knew that the
10 Subject Door was defective and the Premises was without proper protections and in a dangerous
11 condition for many months, and, yet Defendants and their officers, directors and managing
12 agents instead acted with conscious disregard for the rights, safety and well-being of Plaintiffs
13 and other members of the public in order to save money.

14 63. Defendants and their officers, directors and managing agents acted in the manner
15 described herein and/or failed to take the actions mentioned above, for reasons of economic gain
16 and to save money and increase their business profits. Defendants consciously, willfully and
17 wantonly decided that their profits were more valuable and important than human suffering and
18 life. In doing the acts herein alleged, Defendants and their officers, directors and managing
19 agents, directly and in authorizing and ratifying the conduct of each of them, acted despicably
20 and with willful and conscious disregard of the rights and safety of others and are liable under
21 California Civil Code Section 3294 for exemplary and/or punitive damages in an amount be
22 proven at trial.

23 64. Instead of removing the Subject Door, Defendants allowed the Subject Door to be
24 present and in use at the Premises until it inevitably exploded on a hotel guest. Defendants did
25 this because they valued saving the money that would be expended in replacing, removing and/or
26 recalling the Subject Door over the safety of hotel guests such as Plaintiff.

27 65. Defendants therefore exhibited gross negligence and reckless disregard for the
28 safety of others and thus punitive damages are properly awarded because Defendants acted with

1 fraud, malice, oppression, and caused unjust hardship to Plaintiff, entitling Plaintiff to a
2 judgment of punitive damages, in an amount to be proven at trial.

3 66. These Defendants and their officers, directors and managing agents instead acted
4 with conscious disregard for the rights, safety and well-being of Plaintiff and other members of
5 the public and continued to allow the Subject Door to be manufactured, distributed, sold, used,
6 and installed in California and without proper recall and/or alerting, advising, warning or
7 otherwise adequately informing purchasers and/or users of the defective and dangerous Subject
8 Door.

9 67. Defendants and their officers, directors and managing agents also failed to
10 properly alert, advise, warn or otherwise adequately inform purchasers and/or users of the
11 Subject Door while knowing that the Subject Door would not be and/or were not likely to be
12 examined or inspected for certain design defects by their users.

13 68. Defendants' officers, directors and managing agents acted in the manner
14 described herein and/or failed to take the actions mentioned above, for reasons of economic gain
15 and to save money and increase their business profits. These Defendants consciously, willfully
16 and wantonly decided that their profits were more valuable and important than human suffering
17 and life. In doing the acts herein alleged, these Defendants and their officers, directors and
18 managing agents, directly and in authorizing and ratifying the conduct of each of them, acted
19 despicably and with willful and conscious disregard of the rights and safety of others and are
20 liable under California Civil Code Section 3294 for exemplary and/or punitive damages in an
21 amount be proven at trial.

22 **FOURTH CAUSE OF ACTION**

23 **STRICT PRODUCTS LIABILITY – DESIGN DEFECT**

24 **(By Plaintiff Against Defendants Hotel Management, Bath Authority, KSSF, Keck Seng,**
25 **C.W. Horton, Atlas, Marriot, and DOES 1 to 100)**

26 69. Plaintiff re-alleges and incorporates herein by reference each and every allegation
27 contained in paragraphs 1 through 68, inclusive, hereinabove.

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1 70. Defendants manufactured, designed, distributed, sold, purchased, installed, and/or
2 were involved in the overall producing and marketing enterprise responsible for placing the
3 Subject Door into the stream of commerce. These Defendants were the seller or other distributor,
4 member in the stream of commerce, and/or a predecessor in the commercial chain of distribution
5 of the Subject Door.

6 71. Defendants owed a duty to purchasers and users of the Subject Door, including
7 Plaintiff, to exercise reasonable care in conducting their business to properly and reasonably
8 manufacture, design, research, develop, produce, process, assemble, inspect, install, supply,
9 distribute, deliver, broker, market, package, label, warn, maintain, repair, modify, recall, retrofit,
10 engineer, test, recommend, advertise, convey, rent, and/or sell the Subject Door.

11 72. Defendants knew, or in the exercise of reasonable and ordinary care should have
12 known, that the Subject Door was defective and unsafe for use by Plaintiff, who is a person
13 likely to use the Subject Door for the purpose and in the manner for which the Subject Door was
14 intended to be used and for purposes reasonably foreseeable to these Defendants.

15 73. The Subject Door contained design defects so that a user was exposed to
16 unnecessary danger including but not limited to the Subject Door suddenly exploding and
17 shattering into sharp pieces.

18 74. While Plaintiff was using the Subject Door on the date the Incident occurred, the
19 Subject Door completely exploded and shattered into shards of glass that resulted in penetrating
20 and piercing cuts, lacerations, wounds, and gashes all over Ms. Denoble's body including her
21 legs, feet, chest and hands.

22 75. The Subject Door contained design defects when it left Defendants' possession.

23 76. The Subject Door also did not have sufficient instructions and/or warnings of
24 potential safety hazards and/or any defects.

25 77. Plaintiff suffered harm and the Subject Door was a substantial factor in causing
26 this harm.

27 78. Defendants' acts and/or omissions, and/or negligence was a direct, proximate and
28 legal cause of the injuries sustained by Plaintiff in connection with the Incident.

1 79. As a proximate and direct result of these actions, these Defendants have caused,
2 and threaten to cause, substantial and irreparable harm to Plaintiff in an amount to be proven at
3 trial but believed to be in excess of \$35,000.00, and which include but are not limited to past and
4 future pain and suffering, medical care, and loss of earnings.

5 80. Additionally, in breach of Defendants' duties of care owed to Ms. Denoble, and
6 the public, these Defendants had long been on notice of the dangers posed by their shower doors
7 at the Premises, including the Subject Door, as there were prior instances of shower doors
8 exploding and shattering in their hotel rooms at the Premises and elsewhere.

9 81. The failure of Defendants' remedy and/or warn about the known dangers posed
10 by these Dreamline shower doors, including the Subject Door, exhibited a conscious, willful and
11 callous indifference to, or disregard of, the probable harm to Plaintiff and persons similarly
12 situated to her.

13 82. As set forth herein, Defendants were guilty of malice, fraud and oppression as
14 defined in California Civil Code section 3294, and Plaintiff should therefore recover, in addition
15 to actual damages, damages to make an example of and to punish Defendants.

16 83. Defendants and their officers, directors and managing agents knew that the
17 Subject Door was defective and the Premises was without proper protections and in a dangerous
18 condition for many months, and, yet Defendants and their officers, directors and managing
19 agents instead acted with conscious disregard for the rights, safety and well-being of Plaintiffs
20 and other members of the public in order to save money.

21 84. Defendants and their officers, directors and managing agents acted in the manner
22 described herein and/or failed to take the actions mentioned above, for reasons of economic gain
23 and to save money and increase their business profits. Defendants consciously, willfully and
24 wantonly decided that their profits were more valuable and important than human suffering and
25 life. In doing the acts herein alleged, Defendants and their officers, directors and managing
26 agents, directly and in authorizing and ratifying the conduct of each of them, acted despicably
27 and with willful and conscious disregard of the rights and safety of others and are liable under
28 California Civil Code Section 3294 for exemplary and/or punitive damages in an amount be

1 proven at trial.

2 85. Instead of removing the Subject Door, Defendants allowed the Subject Door to be
3 present and in use at the Premises until it inevitably exploded on a hotel guest. Defendants did
4 this because they valued saving the money that would be expended in replacing, removing and/or
5 recalling the Subject Door over the safety of hotel guests such as Plaintiff.

6 86. Defendants therefore exhibited gross negligence and reckless disregard for the
7 safety of others and thus punitive damages are properly awarded because Defendants acted with
8 fraud, malice, oppression, and caused unjust hardship to Plaintiff, entitling Plaintiff to a
9 judgment of punitive damages, in an amount to be proven at trial.

10 87. These Defendants and their officers, directors and managing agents instead acted
11 with conscious disregard for the rights, safety and well-being of Plaintiff and other members of
12 the public and continued to allow the Subject Door to be manufactured, distributed, sold, used,
13 and installed in California and without proper recall and/or alerting, advising, warning or
14 otherwise adequately informing purchasers and/or users of the defective and dangerous Subject
15 Door.

16 88. Defendants and their officers, directors and managing agents also failed to
17 properly alert, advise, warn or otherwise adequately inform purchasers and/or users of the
18 Subject Door while knowing that the Subject Door would not be and/or were not likely to be
19 examined or inspected for certain design defects by their users.

20 89. Defendants' officers, directors and managing agents acted in the manner
21 described herein and/or failed to take the actions mentioned above, for reasons of economic gain
22 and to save money and increase their business profits. These Defendants consciously, willfully
23 and wantonly decided that their profits were more valuable and important than human suffering
24 and life. In doing the acts herein alleged, these Defendants and their officers, directors and
25 managing agents, directly and in authorizing and ratifying the conduct of each of them, acted
26 despicably and with willful and conscious disregard of the rights and safety of others and are
27 liable under California Civil Code Section 3294 for exemplary and/or punitive damages in an
28 amount be proven at trial.

1 **FIFTH CAUSE OF ACTION**

2 **STRICT PRODUCTS LIABILITY – FAILURE TO WARN**

3 **(By Plaintiff Against Defendants Hotel Management, Bath Authority, KSSF, Keck Seng,**
4 **C.W. Horton, Atlas, Marriot, and DOES 1 to 100)**

5 90. Plaintiff re-alleges and incorporates herein by reference each and every allegation
6 contained in paragraphs 1 through 89, inclusive, hereinabove.

7 91. Defendants sold, manufactured, designed, distributed, installed, and/or were
8 involved in the overall producing and marketing enterprise responsible for placing the Subject
9 Door into the stream of commerce. These Defendants were the seller or other distributor,
10 member in the stream of commerce, and/or a predecessor in the commercial chain of distribution
11 of the Subject Door, causing the Subject Door that suddenly exploded and shattered to be used
12 by Plaintiff at the Premises when the Incident occurred.

13 92. Defendants owed a duty to the purchasers and users of the Subject Door,
14 including Plaintiff, to exercise reasonable care in conducting their business to properly and
15 reasonably design, research, develop, manufacture, produce, process, assemble, inspect, install,
16 supply, distribute, deliver, broker, market, package, label, warn, maintain, repair, modify, recall,
17 retrofit, engineer, test, recommend, advertise, convey, rent, and/or sell the Subject Door.

18 93. Prior to the date of the Incident, Defendants knew, or in the exercise of reasonable
19 and ordinary care should have known, that the Subject Door had potential risks because it was
20 defective and unsafe for use by a person likely to use the Subject Door for the purpose and in the
21 manner for which the Subject Door was intended to be used and for purposes reasonably
22 foreseeable to these Defendants. These potential risks presented a substantial danger when the
23 Subject Door is used or misused in an intended or reasonably foreseeable way.

24 94. Ordinary consumers, users, and/or persons would not have recognized the
25 potential risks and/or the substantial danger when the Subject Door is used or misused in an
26 intended or reasonably foreseeable way.

27 95. Ordinary consumers, users, and/or persons would not have recognized the
28 potential risks and/or the substantial danger resulting from the inadequate manufacture and/or

1 design of the Subject Door.

2 96. Defendants failed to adequately warn Plaintiff about the potential risks of the
3 Subject Door and its defects and dangers.

4 97. Accordingly, while Plaintiff was using the Subject Door on the date the Incident
5 occurred, the Subject Door completely exploded and shattered into shards of glass that resulted
6 in penetrating and piercing cuts, lacerations, wounds, and gashes all over Ms. Denoble's body
7 including her legs, feet, chest and hands.

8 98. Plaintiff has suffered injuries, damages and harm and the lack of sufficient
9 instructions and/or warnings with regard to the Subject Door was a substantial factor in causing
10 these injuries, damages and harm to Plaintiff.

11 99. Plaintiff has suffered injuries, damages and harm, and the Subject Door was a
12 substantial factor in causing these injuries, damages and harm.

13 100. As a proximate and direct result of these actions, these Defendants have caused,
14 and threaten to cause, substantial and irreparable harm to Plaintiff in an amount to be proven at
15 trial but believed to be in excess of \$35,000.00, and which include but are not limited to past and
16 future pain and suffering, medical care, and loss of earnings.

17 101. As set forth herein, Defendants were guilty of malice, fraud and oppression as
18 defined in California Civil Code section 3294, and Plaintiff should therefore recover, in addition
19 to actual damages, damages to make an example of and to punish Defendants.

20 102. Defendants and their officers, directors and managing agents knew that the
21 Subject Door was defective and the Premises was without proper protections and in a dangerous
22 condition for many months, and, yet Defendants and their officers, directors and managing
23 agents instead acted with conscious disregard for the rights, safety and well-being of Plaintiffs
24 and other members of the public in order to save money.

25 103. Defendants and their officers, directors and managing agents acted in the manner
26 described herein and/or failed to take the actions mentioned above, for reasons of economic gain
27 and to save money and increase their business profits. Defendants consciously, willfully and
28 wantonly decided that their profits were more valuable and important than human suffering and

1 life. In doing the acts herein alleged, Defendants and their officers, directors and managing
2 agents, directly and in authorizing and ratifying the conduct of each of them, acted despicably
3 and with willful and conscious disregard of the rights and safety of others and are liable under
4 California Civil Code Section 3294 for exemplary and/or punitive damages in an amount be
5 proven at trial.

6 104. Instead of removing the Subject Door, Defendants allowed the Subject Door to be
7 present and in use at the Premises until it inevitably exploded on a hotel guest. Defendants did
8 this because they valued saving the money that would be expended in replacing, removing and/or
9 recalling the Subject Door over the safety of hotel guests such as Plaintiff.

10 105. Defendants therefore exhibited gross negligence and reckless disregard for the
11 safety of others and thus punitive damages are properly awarded because Defendants acted with
12 fraud, malice, oppression, and caused unjust hardship to Plaintiff, entitling Plaintiff to a
13 judgment of punitive damages, in an amount to be proven at trial.

14 106. These Defendants and their officers, directors and managing agents instead acted
15 with conscious disregard for the rights, safety and well-being of Plaintiff and other members of
16 the public and continued to allow the Subject Door to be manufactured, distributed, sold, used,
17 and installed in California and without proper recall and/or alerting, advising, warning or
18 otherwise adequately informing purchasers and/or users of the defective and dangerous Subject
19 Door.

20 107. Defendants and their officers, directors and managing agents also failed to
21 properly alert, advise, warn or otherwise adequately inform purchasers and/or users of the
22 Subject Door while knowing that the Subject Door would not be and/or were not likely to be
23 examined or inspected for certain design defects by their users.

24 108. Defendants' officers, directors and managing agents acted in the manner
25 described herein and/or failed to take the actions mentioned above, for reasons of economic gain
26 and to save money and increase their business profits. These Defendants consciously, willfully
27 and wantonly decided that their profits were more valuable and important than human suffering
28 and life. In doing the acts herein alleged, these Defendants and their officers, directors and

1 managing agents, directly and in authorizing and ratifying the conduct of each of them, acted
2 despicably and with willful and conscious disregard of the rights and safety of others and are
3 liable under California Civil Code Section 3294 for exemplary and/or punitive damages in an
4 amount be proven at trial.

5 **SIXTH CAUSE OF ACTION**

6 **NEGLIGENT FAILURE TO RETROFIT OR RECALL**

7 **(By Plaintiff Against Defendants Hotel Management, Bath Authority, KSSF, Keck Seng,**
8 **C.W. Horton, Atlas, Marriot, and DOES 1 to 100)**

9 109. Plaintiff re-alleges and incorporates herein by reference each and every allegation
10 contained in paragraphs 1 through 108, inclusive, hereinabove.

11 110. Defendants owed a duty to the purchasers and users of the Subject Door,
12 including Plaintiff, to exercise reasonable care in conducting their business to properly and
13 reasonably design, research, develop, manufacture, produce, process, assemble, inspect, install,
14 supply, distribute, deliver, broker, market, package, label, warn, maintain, repair, modify, recall,
15 retrofit, engineer, test, recommend, advertise, lease, and/or sell the Subject Door.

16 111. Defendants also owed a continuing duty to Plaintiff to remove, recall, or retrofit
17 the unsafe and/or defective Subject Door since these Defendants knew or reasonably should have
18 known, that the Subject Door was dangerous and not safe for use (without added protective
19 measures, if at all).

20 112. Defendants knew, or in the exercise of reasonable and ordinary care should have
21 known, that the Subject Door was defective and unsafe for Plaintiff, who is a person likely to use
22 and/or misuse the Subject Door for the purpose and in the manner for which the Subject Door
23 was intended to be used and for purposes reasonably foreseeable to these Defendants.

24 113. However, at all times, Defendants negligently breached said duties and
25 unreasonably and negligently allowed the Subject Door to be used by customers and Plaintiff
26 without proper recall or retrofit or adequate warning.

27 114. In failing to properly recall and/or retrofit the Subject Door, or even warn of the
28 serious safety risks the Subject Door poses to consumers and the public in a proper manner,

1 Defendants failed to act as a reasonable manufacturer, designer, distributor, installer, conveyor,
2 lessor, purchaser, owner, and/or seller would under the same or similar circumstances and failed
3 to exercise reasonable care.

4 115. As a result, Plaintiff suffered injuries, damages and harm and the Subject Door
5 was a substantial factor in causing these injuries, damages and harm.

6 116. Defendants' negligence was a direct, proximate and legal cause of the injuries,
7 damages and harm sustained by Plaintiff as a result of the Incident.

8 117. As a proximate and direct result of these actions, these Defendants have caused,
9 and threaten to cause, substantial and irreparable harm to Plaintiff in an amount to be proven at
10 trial but believed to be in excess of \$35,000.00, and which include but are not limited to past and
11 future pain and suffering, medical care, and loss of earnings.

12 118. Additionally, in breach of Defendants' duties of care owed to Ms. Denoble, and
13 the public, these Defendants had long been on notice of the dangers posed by their shower doors
14 at the Premises, including the Subject Door, as there were prior instances of shower doors
15 exploding and shattering in their hotel rooms at the Premises and elsewhere.

16 119. The failure of Defendants' remedy and/or warn about the known dangers posed
17 by these Dreamline shower doors, including the Subject Door, exhibited a conscious, willful and
18 callous indifference to, or disregard of, the probable harm to Plaintiff and persons similarly
19 situated to her.

20 120. As set forth herein, Defendants were guilty of malice, fraud and oppression as
21 defined in California Civil Code section 3294, and Plaintiff should therefore recover, in addition
22 to actual damages, damages to make an example of and to punish Defendants.

23 121. Defendants and their officers, directors and managing agents knew that the
24 Subject Door was defective and the Premises was without proper protections and in a dangerous
25 condition for many months, and, yet Defendants and their officers, directors and managing
26 agents instead acted with conscious disregard for the rights, safety and well-being of Plaintiffs
27 and other members of the public in order to save money.

28 122. Defendants and their officers, directors and managing agents acted in the manner

1 described herein and/or failed to take the actions mentioned above, for reasons of economic gain
2 and to save money and increase their business profits. Defendants consciously, willfully and
3 wantonly decided that their profits were more valuable and important than human suffering and
4 life. In doing the acts herein alleged, Defendants and their officers, directors and managing
5 agents, directly and in authorizing and ratifying the conduct of each of them, acted despicably
6 and with willful and conscious disregard of the rights and safety of others and are liable under
7 California Civil Code Section 3294 for exemplary and/or punitive damages in an amount be
8 proven at trial.

9 123. Instead of removing the Subject Door, Defendants allowed the Subject Door to be
10 present and in use at the Premises until it inevitably exploded on a hotel guest. Defendants did
11 this because they valued saving the money that would be expended in replacing, removing and/or
12 recalling the Subject Door over the safety of hotel guests such as Plaintiff.

13 124. Defendants therefore exhibited gross negligence and reckless disregard for the
14 safety of others and thus punitive damages are properly awarded because Defendants acted with
15 fraud, malice, oppression, and caused unjust hardship to Plaintiff, entitling Plaintiff to a
16 judgment of punitive damages, in an amount to be proven at trial.

17 **SEVENTH CAUSE OF ACTION**

18 **INTENTIONAL FAILURE TO RETROFIT OR RECALL**

19 **(By Plaintiff Against Defendants Hotel Management, Bath Authority, KSSF, Keck Seng,**
20 **C.W. Horton, Atlas, Marriot, and DOES 1 to 100)**

21 125. Plaintiff re-alleges and incorporates herein by reference each and every allegation
22 contained in paragraphs 1 through 124, inclusive, hereinabove.

23 126. Defendants owed a duty to the purchasers and users of the Subject Door,
24 including Plaintiff, to exercise reasonable care in conducting their business to properly and
25 reasonably design, research, develop, manufacture, produce, process, assemble, inspect, install,
26 supply, distribute, deliver, broker, market, package, label, warn, maintain, repair, modify, recall,
27 retrofit, engineer, test, recommend, advertise, lease, and/or sell the Subject Door.

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1 127. Defendants also owed a continuing duty to Plaintiff to remove, recall, or retrofit
2 the unsafe and/or defective Subject Door since these Defendants knew or reasonably should have
3 known, that the Subject Door was dangerous and not safe for use (without added protective
4 measures, if at all).

5 128. Defendants knew, or in the exercise of reasonable and ordinary care should have
6 known, that the Subject Door was defective and unsafe for Plaintiff, who is a person likely to use
7 and/or misuse the Subject Door for the purpose and in the manner for which the Subject Door
8 was intended to be used and for purposes reasonably foreseeable to these Defendants.

9 129. However, at all times, Defendants intentionally breached said duties and
10 intentionally allowed the Subject Door to be used by customers and Plaintiff without proper
11 recall or retrofit or adequate warning. Indeed, it appears that Defendants have failed and refused
12 to provide a report or other information to the Consumer Product Safety Commission, a
13 mandatory requirement for this type of known defect.

14 130. In failing to properly recall and/or retrofit the Subject Door, or even warn of the
15 serious safety risks the Subject Door poses to consumers and the public in a proper manner,
16 Defendants failed to act as a reasonable manufacturer, designer, distributor, installer, conveyor,
17 lessor, purchaser, owner, and/or seller would under the same or similar circumstances and failed
18 to exercise reasonable care.

19 131. As a result, Plaintiff suffered injuries, damages and harm and the Subject Door
20 was a substantial factor in causing these injuries, damages and harm.

21 132. Defendants' conduct was a direct, proximate and legal cause of the injuries,
22 damages and harm sustained by Plaintiff as a result of the Incident.

23 133. As a proximate and direct result of these actions, these Defendants have caused,
24 and threaten to cause, substantial and irreparable harm to Plaintiff in an amount to be proven at
25 trial but believed to be in excess of \$35,000.00, and which include but are not limited to past and
26 future pain and suffering, medical care, and loss of earnings.

27 134. Additionally, in breach of Defendants' duties of care owed to Ms. Denoble, and
28 the public, these Defendants had long been on notice of the dangers posed by their shower doors

1 at the Premises, including the Subject Door, as there were prior instances of shower doors
2 exploding and shattering in their hotel rooms at the Premises and elsewhere.

3 135. The failure of Defendants' remedy and/or warn about the known dangers posed
4 by these Dreamline shower doors, including the Subject Door, exhibited a conscious, willful and
5 callous indifference to, or disregard of, the probable harm to Plaintiff and persons similarly
6 situated to her.

7 136. As set forth herein, Defendants were guilty of malice, fraud and oppression as
8 defined in California Civil Code section 3294, and Plaintiff should therefore recover, in addition
9 to actual damages, damages to make an example of and to punish Defendants.

10 137. Defendants and their officers, directors and managing agents knew that the
11 Subject Door was defective and the Premises was without proper protections and in a dangerous
12 condition for many months, and, yet Defendants and their officers, directors and managing
13 agents instead acted with conscious disregard for the rights, safety and well-being of Plaintiffs
14 and other members of the public in order to save money.

15 138. Defendants and their officers, directors and managing agents acted in the manner
16 described herein and/or failed to take the actions mentioned above, for reasons of economic gain
17 and to save money and increase their business profits. Defendants consciously, willfully and
18 wantonly decided that their profits were more valuable and important than human suffering and
19 life. In doing the acts herein alleged, Defendants and their officers, directors and managing
20 agents, directly and in authorizing and ratifying the conduct of each of them, acted despicably
21 and with willful and conscious disregard of the rights and safety of others and are liable under
22 California Civil Code Section 3294 for exemplary and/or punitive damages in an amount to be
23 proven at trial.

24 139. Instead of removing the Subject Door, Defendants allowed the Subject Door to be
25 present and in use at the Premises until it inevitably exploded on a hotel guest. Defendants did
26 this because they valued saving the money that would be expended in replacing, removing and/or
27 recalling the Subject Door over the safety of hotel guests such as Plaintiff.

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