

**SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.**  
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ATTORNEYS FOR  
PLAINTIFF

JASON L. DERKOSH, as Administrator and  
Personal Representative of the Estate of MADDOX  
DERKOSH, Deceased  
5385 Highgrove Road  
Pittsburgh, PA 15236  
And  
ELIZABETH DERKOSH  
5385 Highgrove Road  
Pittsburgh, PA 15236

Plaintiffs,

v.

PITTSBURGH ZOO & PPG AQUARIUM  
1 Wild Place  
Pittsburgh, PA 15206  
And  
ZOOLOGICAL SOCIETY OF PITTSBURGH  
1 Wild Place  
Pittsburgh, PA 15206

Defendants.

ALLEGHENY COUNTY  
COURT OF COMMON PLEAS

LAW DIVISION

No. **60 - 13 - 009348**

**JURY TRIAL DEMANDED**

FILED  
13 MAY 23 AM 10:59  
DEPT. OF COURT RECORDS  
CIVIL FAMILY DIVISION  
ALLEGHENY COUNTY PA

#### NOTICE

"You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

"YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

ALLEGHENY COUNTY BAR ASSOCIATION  
LAWYER REFERRAL SERVICE  
400 Koppers Building, 436 Seventh Avenue  
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"Le han demandado en corte. Si usted quiere defenderse contra las demandas nombradas en las páginas siguientes, tiene veinte (20) días, a partir de recibir esta demanda y la notificación para entablar personalmente o por un abogado una comparecencia escrita y también para entablar con la corte en forma escrita sus defensas y objeciones a las demandas contra usted. Sea avisado que si usted no se defiende, el caso puede continuar sin usted y la corte puede incorporar un juicio contra usted sin previo aviso para conseguir el dinero demandado en el pleito o para conseguir cualquier otra demanda o alivio solicitados por el demandante. Usted puede perder dinero o propiedad u otros derechos importantes para usted.

USTED DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE ABOGADO (O NO TIENE DINERO SUFICIENTE PARA PAGAR A UN ABOGADO), VAYA EN PERSONA O LLAME POR TELEFONO LA OFICINA NOMBRADA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL. ESTA OFICINA PUEDE PROPORCIONARLE LA INFORMACION SOBRE CONTRATAR A UN ABOGADO.

SI USTED NO TIENE DINERO SUFICIENTE PARA PAGAR A UN ABOGADO, ESTA OFICINA PUEDE PROPORCIONARLE INFORMACION SOBRE AGENCIAS QUE OFRECEN SERVICIOS LEGALES A PERSONAS QUE CUMPLEN LOS REQUISITOS PARA UN HONORARIO REDUCIDO O NINGUN HONORARIO.

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Pittsburgh, Pennsylvania 15219  
(412) 261-6161

### COMPLAINT-CIVIL ACTION

1. Plaintiffs Jason L. Derkosh and Elizabeth Derkosh are husband and wife residing at 5385 Highgrove Road, Pittsburgh, PA, and were the parents of their two- year-old only child, Maddox Derkosh, who was killed by a pack of African wild dogs at the Pittsburgh Zoo on November 4, 2012.

2. Plaintiff, Jason L. Derkosh, (hereinafter referred to as "Jason"), who was duly appointed Administrator of the Estate of Maddox Derkosh, brings this action as the Administrator of the Estate of Maddox Derkosh, deceased on behalf on the Estate and all statutory beneficiaries.

3. Defendant, Pittsburgh Zoological Society, is a non-profit domestic corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business located at 1 Wild Place, Pittsburgh, PA 15206 and at all times relevant herein

was located in and engaged in substantial, continuous, regular and systematic business in Allegheny County, Pennsylvania.

4. Defendant, the Pittsburgh Zoo & PPG Aquarium, is the fictitious name of a domestic corporation organized and existing under the laws of the Commonwealth of Pennsylvania with a principal place of business located at 1 Wild Place, Pittsburgh, PA 15206 and at all times relevant herein was located in and engaged in substantial, continuous, regular and systematic business in Allegheny County, Pennsylvania.

5. At all times material hereto, defendants, Pittsburgh Zoo & PPG Aquarium and/or Pittsburgh Zoological Society (herein after referred to as the "Zoo Defendants"), owned, controlled, possessed, leased, and/or managed the property located at 1 Wild Place, Pittsburgh, Allegheny County, PA 15206, including the Zoo.

6. At all times material hereto, the Zoo Defendants owned, controlled, operated, managed, possessed and maintained the Zoo located at 1 Wild Place, Pittsburgh, Allegheny County, PA 15206, where the events relevant to this cause of action occurred.

7. At all times material hereto, the Zoo Defendants, owned and/or leased and/or controlled the property at 1 Wild Place, Pittsburgh, Allegheny County, PA 15206, and were solely responsible for protecting Zoo visitors, from the wild animals housed at the Zoo by providing safe, secure, and hazard-free exhibits that permit Zoo visitors to view the animals in a safe and secure manner.

8. At all times material hereto, the Zoo Defendants, owned and/or leased and/or controlled the property at 1 Wild Place, Pittsburgh, Allegheny County, PA 15206, and were

solely responsible for providing Zoo visitors, including but not limited to Maddox Derkosh, a safe, secure, and hazard-free animal viewing experience.

9. The Zoo defendants, were warned by their own employee, Lou Nene, that parents would frequently and routinely lift their children up to see through the open and inadequately protected railing of the viewing window in the African wild dog exhibit (pictured below).



10. Lou Nene personally observed mothers lift their children to see through the unguarded viewing area or place, them on the inadequately protected railing of the viewing window in the African wild dog exhibit “every day.”

11. Lou Nene, in an interview broadcast November 28, 2012 on KDKA-TV admitted that he would see mothers place their children above or on the inadequately protected railing and opening “at least ten” times a day.

12. Lou Nene told his boss, Mr. Frank Pizzi, Curator of Horticulture at the Pittsburgh Zoo & PPG Aquarium of his observations and his fears and concerns that a child could fall into the African wild dog exhibit and was told, **"This is not your concern, go back to work."**

13. The Zoo defendants blatantly ignored a warning from their employee regarding the safety inadequacies of the African wild dog exhibit and the direct safety threat the African wild dog exhibit presented to children visiting the Zoo.

14. Before this accident the Zoo defendants armed its employees with unloaded and/or blank tranquilizer guns.

15. Before this accident the Zoo defendants had non-functioning tranquilizer darts.

16. On November 4, 2012, at approximately 9:45 am, Elizabeth Derkosh arrived with her two-year-old son, Maddox (pictured below on November 4, 2012), at the Pittsburgh Zoo & PPG Aquarium, located at 1 Wild Place, Pittsburgh, Allegheny County, PA 15206.



17. Elizabeth and Maddox attended “Zoo School,” a conservation education class for children, that is held at the Zoo and run by Pittsburgh Zoo & PPG Aquarium.

18. After attending “Zoo School,” Elizabeth and Maddox walked through the Zoo together, stopping to view different animals at various Zoo exhibits.

19. At approximately, 11:45 am, Elizabeth and Maddox entered the **Painted Dog Bush Camp Exhibit** (that simulates the Zoo’s actual Bush Camp joint research site in Zimbabwe, Africa), which housed African wild dogs (*Lycaon pictus*, or *painted wolf-life animal*, herein after referred to as “African wild dog exhibit”) for the purpose of exhibiting to visitors this endangered species of animals.

20. The African wild dogs are among the most ferocious predators in the wild and are widely considered the most efficient killers in the African plains, living in the wild on a diet of antelope, zebra, wildebeest, and other prey many times their size (typically 37-80 pounds).

21. The exhibit at the time was comprised of a visitor observation structure with a covered deck that is elevated directly above the ground where a pack of African wild dogs roam unrestrained and unsupervised.

22. This observation structure has a railing that runs along the interior perimeter of the structure (as pictured below).



23. Below the railing is discolored, dirty plastic.





24. In the areas above the railing, there is a protective, see-through wire mesh installed in all areas above the railing except the unprotected viewing area discussed below.

25. The only unprotected, open area of the exhibit is the center viewing area shown below. Directly below the unprotected opening is a narrow cantilevered netting structure. No other protective devices, barriers, or structural components are in place to prevent an individual from falling over the railing into the habitat portion of the exhibit below.





26. Elizabeth and Maddox entered the African wild dog exhibit, which housed 11 dogs, and approached the unprotected, open portion of the exhibit.

27. As Elizabeth approached the unprotected, open area of the exhibit, she attempted to lift Maddox with the intent of holding him in her arms so that he could get a better view of the African wild dogs below.

28. As Elizabeth was lifting and holding Maddox, he lurched forward and slipped out of her grasp and fell through the unprotected opening and into netting below.

29. When Maddox's body hit the netting, he bounced out of the inadequate netting structure and plunged into the African wild dog habitat just a few feet below.

30. No structure, fence, wall, moat, obstacle and/or protective barrier separated the helpless Maddox from the pack of African wild dogs once he landed directly below the unprotected, open viewing area.

31. At no time did Plaintiff Elizabeth Derkosh ever remove her hands from Maddox as she was lifting him.

32. At all times relevant, Christie Hurd, an adult individual, was present inside the observation platform at the African wild dog exhibit and was standing next to Elizabeth when she began to lift Maddox.

33. Christie Hurd saw Elizabeth lift Maddox with both of her hands, and while Elizabeth was lifting him and holding him with both hands, Maddox lurched forward, fell out of her hands into the netting and then fell to the ground below.

34. Maddox survived the fall and when he landed on the ground in the African wild dog exhibit, he was conscious, alert and aware of his surroundings.

35. The pack of African wild dogs approached and launched a ferocious attack, biting, ripping and mauling Maddox.

36. Elizabeth attempted to enter the African wild dog exhibit by climbing through the open viewing window in the observation deck, but was physically restrained by another Zoo visitor. She was forced to watch helplessly as the African wild dogs savagely mauled and literally tore apart her son in front of her.

37. As a direct result of the attack and mauling by the African wild dogs, Maddox Derkosh suffered the following injuries, including, but not limited to: having his body mauled and torn apart by a pack of wild dogs, evisceration of his organs of the chest, abdomen and pelvis; bilateral rib fractures; more than forty-six (46) wounds to his head and neck; two patterned puncture wounds to the left side of the head; multiple subgaleal hemorrhages; three abrasions and contusions

of the neck; two lacerations of the neck; extensive defects of skin, subcutaneous tissue, muscles, organs and surrounding tissues extending down to bone and the axial skeleton; more than sixty-six (66) abrasions and contusions of the trunk; more than seventeen (17) lacerations of the trunk; two patterned puncture wounds on the left upper chest; extensive defects of the skin, subcutaneous tissue and muscles of the left posterior thigh and right proximal thigh extending to bone; more than fifty-eight (58) wounds on the bilateral upper and lower extremities; more than seven lacerations on the right leg; a puncture wound on the right posterior thigh; and countless other traumatic injuries as a result of the attack and mauling by the African wild dogs.

38. As a direct result of being mauled by the African wild dogs, Maddox Derkosh suffered more than 220 total injuries resulting in extensive trauma to his head, neck, trunk and extremities.

39. Two-year old Maddox Derkosh was pronounced dead at 12:01 pm, on November 4, 2012, due to severe trauma caused by the mauling of the African wild dogs.

40. At the time of Maddox's fall on November 4, 2012, the African wild dog exhibit was in a defective, dangerous, and hazardous condition by containing an unguarded open and unprotected viewing window directly above the African wild dogs with inadequate fall protection below.

41. At the time of Maddox's fall on November 4, 2012, the railings and guards at the African wild dog exhibit were in a defective and dangerous condition as they were too low and insufficient to prevent Maddox, or any other visitor, from falling.

42. At the time of Maddox's fall on November 4, 2012, the protection devices, guards, rails, and/or the intended safety netting immediately below the opening, were insufficient, defective, and inadequate to prevent falls into this exhibit.

43. At all times relevant hereto, the Zoo defendants, were responsible for safety of the Zoo patrons, including Maddox Derkosh, and, as such, owed a duty to provide a reasonably safe environment for all Zoo visitors, and to allow all Zoo guests to safely view all the animals on display.

44. At all times relevant hereto, the Zoo defendants, knew or should have known the ferocious nature, the pack mentality, and the extreme efficiency by which the African wild dogs hunt and kill, and the inherent risk they posed to any animal and/or any human being that inadvertently entered their exhibit.

45. At all times relevant hereto, the Zoo defendants, knew or should have known that the unprotected open viewing window and/or the insufficient, defective, and inadequate fall protection devices could lead to an individual falling into the African wild dog exhibit.

46. At all times relevant hereto, the Zoo defendants, knew or should have known that in the event any human being would enter the African wild dog exhibit that would result in a fatality and/or serious injuries.

47. Although the Zoo defendants, knew or should have known that an unprotected open viewing window, with the insufficient, defective, and inadequate fall protection devices could lead to fatalities and/or serious injuries, the Zoo defendants failed to ensure that the

African wild dog exhibit had adequate and necessary safe guards and/or employed fall prevention methods to ensure Zoo visitors could not fall into the exhibit.

48. At all times relevant hereto, the Zoo defendants, knew and/or should have known that parents would hold their children near the open and unprotected viewing window in the African wild dog exhibit.

49. Despite having actual and constructive notice of children being exposed to falling into the African wild dog exhibit, and ultimately suffering fatalities and/or serious bodily injury, the Zoo Defendants took no steps to modify, alter, or change the open and unprotected viewing window and/or the insufficient, defective, and inappropriate fall protection devices under the unprotected viewing area.

50. At all times relevant hereto, the Zoo defendants, were responsible for hiring, recruiting, and training of their staff, including all Pittsburgh Zoo & PPG Aquarium employees and personnel.

51. The Zoo defendants knew or should have known that their employees were not adequately trained to provide the necessary response and appropriate care in the eventuality that a child would fall into a Zoo exhibit.

52. On the aforesaid day and location, plaintiff's decedent, Maddox Derkosh, was caused to sustain fatal injuries to his arms, legs, body, trunk, neck, face and head due to the negligence, carelessness and/or recklessness of the defendants, when he fell into the African wild dog exhibit and was viciously attacked and mauled.

53. Defendants, Pittsburgh Zoo & PPG Aquarium and the Pittsburgh Zoological Society, are individually, separately, jointly, and severally liable for the injuries and death of Maddox Derkosh.

54. Plaintiff Elizabeth Derkosh, was forced to helplessly witness, while restrained by others, as her only child was fatally mauled. As a result of these traumatic and tragic events, she has suffered severe emotional distress and other emotional maladies and their physical manifestations, the full extent of which have not yet been determined.

55. Defendants, Pittsburgh Zoo & PPG Aquarium and the Pittsburgh Zoological Society, are individually, separately, jointly, and severally liable for the injuries sustained by Plaintiff Elizabeth Derkosh.

#### **COUNT I – NEGLIGENCE**

**JASON L. DERKOSH, as ADMINISTRATOR and PERSONAL REPRESENTATIVE OF  
THE ESTATE OF MADDOX DERKOSH, DECEASED, and IN HIS OWN RIGHT and  
ON BEHALF OF DECEDENT'S WRONGFUL DEATH BENEFICIARIES v.  
PITTSBURGH ZOO & PPG AQUARIUM and ZOOLOGICAL SOCIETY OF  
PITTSBURGH**

56. At all times relevant herein, defendants, Pittsburgh Zoo & PPG Aquarium and the Pittsburgh Zoological Society, acted by and through their agents, servants, and employees, each of whom acted within the course and scope of their employment and/or authority with and for the defendants.

57. At all times relevant herein, the Zoo defendants, owned, controlled, leased, operated, managed, possessed, and maintained the Zoo and all of the related property and exhibits housed on said property, including the African wild dog exhibit where Maddox Derksoh was mauled to death.

58. At all times relevant hereto, the Zoo defendants, were responsible for safety of the patrons who entered the Zoo and, as such, owed a duty to provide a reasonably safe environment to the patrons and other persons within in the Zoo, including Maddox and Elizabeth Derkosh.

59. At all times relevant herein, the Zoo defendants knew, or should have known of the ferocious nature, the pack mentality, and the extreme efficiency by which the African wild dogs hunt and kill, and the inherent risk they posed to any creature, including a human being, that entered their exhibit.

60. At all times relevant herein, the Zoo defendants, were aware that parents continually, at least 10 times a day by one zoo employee's account, picked their children up at or near the open window of the African wild dog exhibit and were exposed to the certain death or serious bodily injury that would follow if the child were to fall into the exhibit, yet still permitted the exhibit to remain unprotected.

61. At all times relevant herein, there existed a particular danger to the plaintiff's decedent as a result of defendants' actions in permitting Zoo patrons to enter the African wild dog exhibit.



62. The Zoo defendants, by and through their agents, servants, and employees were careless and negligent with regard to the rights, welfare, and safety of plaintiff's decedent by:

- a. Failing to keep children, like Maddox Derkosh, who visited the Zoo safe;
- b. Failing to ensure that African wild dog exhibit was safe for Zoo patrons to observe the African wild dogs;
- c. Providing an unsafe environment for those Zoo patrons who entered the African wild dog exhibit;
- d. Failing to maintain a reasonably safe exhibit to view African wild dogs;
- e. Failing to take proper precautions in the housing of African wild dogs;
- f. Failing to warn Zoo patrons of the peculiar dangerous and unsafe conditions then and there existing upon the African wild dog exhibit;
- g. Failing to exercise due care under the circumstances for the safety of the Zoo patrons, including Maddox Derkosh;
- h. Failing to design an African wild dog exhibit where a child could not accidentally fall into the exhibit;
- i. Constructing an African wild dog exhibit which contained an open, unprotected viewing window where it was possible that a child could fall into the exhibit;
- j. Failing to provide railings at a height necessary to prevent individuals from being able to fall into the African wild dog exhibit;
- k. Failing to provide railings at a height necessary to prevent children from falling out of their parent's arms and into the African wild dog exhibit;
- l. Failing to use proper protection devices to prevent individuals from being able to fall into the African wild dog exhibit;
- m. Failing to provide a sufficient safety net and/or other fall prevention methods to make sure an individual would be caught prior to falling into the exhibit with the animals;
- n. Providing a defective and inadequate safety net and/or other fall prevention methods to prevent individuals from falling into the African wild dog exhibit;

- o. Failing to not use glass or other solid transparent substance to seal the open window and make it in possible for a child to fall into the exhibit;
- p. Failing to use mesh, wire, or fencing to seal the open viewing window and make it impossible for a child to fall into the exhibit;
- q. Failing to design in a safety zone below the unprotected viewing area that the African wild dogs could not access in the event a Zoo patron fell into the actual habitat of the exhibit;
- r. Failing to utilize an exhibit design where there was a dry moat utilized to separate the viewing patrons from the African wild dogs and prevent a child from falling into the exhibit;
- s. Failing to utilize an exhibit design where there was a wet moat utilized to separate the viewing patrons from the African wild dogs and prevent a child from falling into the exhibit;
- t. Failing to design and/or modify their exhibit by using glass to allow Zoo patrons to view the dogs, while simultaneously ensuring that it is impossible for a child to fall into the exhibit (as pictured below) at the African wild dog exhibit at the Albuquerque Biological Park/Rio Grande Zoo;



- u. Failing to design and/or modify their exhibit by using a combination of wood and glass to allows patrons to view the dogs while still being separated from them, making it impossible for a child to fall into the exhibit (as pictured below) at the African wild dog exhibit at the Binder Park Zoo, in Battle Creek Michigan;



- v. Failing to design and/or modify the exhibit which uses glass to separate the Zoo patrons from the African wild dogs and makes it impossible for a child to fall into the exhibit (as pictured below) at the African wild dog exhibit at the Bronx Zoo, ;



- w. Failing to design and/or modify the exhibit which utilizes glass to separate the Zoo patrons from the African wild dogs and makes it impossible for a child to fall into the exhibit (as pictured twice below) at the African wild dog exhibit at the Brookfield Zoo, in Chicago Illinois;



- x. Failing to design and/or modify the exhibit by using a glass barrier and a natural rock barrier that separates the Zoo patrons from the African wild dogs and makes it impossible for a child to fall into the portion of the



exhibit that houses African wild dogs (as pictured below) at the African wild dog exhibit at the Denver Zoo;



- y. Failing to design and/or modify the exhibit by using glass, a fence, and structural barrier to separates the viewing public from the African wild dogs and makes it impossible for a child to fall into the exhibit (as pictured below) at the African wild dog exhibit at the Gladys Porter Zoo, located in Brownsville, Texas;



- z. Failing to design and/or modify the exhibit to use a wooden barrier to keep the Zoo patrons behind a separate a glass barrier that makes it impossible for a child to fall into the exhibit (as pictured below) at the African wild dog exhibit at the Honolulu Zoo;



- aa. Failing to design and/or modify the exhibit to by using a wooden observation platform, that is removed from a completely separated fenced-in enclosure that secures the African wild dogs and makes it impossible for a child to fall into the exhibit (as pictured twice below) at the African wild dog exhibit at the Houston Zoo;







- bb. Failing to design and/or modify the exhibit to include a series of wooden fences that keeps the Zoo patrons a safe distance removed from the front of the exhibit, which is constructed of wire mesh and glass panels that makes it impossible for a child to fall into the exhibit (as pictured twice below) at the African wild dog exhibit at the Indianapolis Zoo;







- cc. Failing to design and/or modify the exhibit to by using a wood fence and viewing portion that is made out of thin wires that separates the Zoo patrons from the African wild dogs and make it impossible for a child to fall into the exhibit (as pictured twice below) at the African wild dog exhibit at the Kansas City Zoo;





- dd. Failing to design and/or modify the exhibit to utilizes a wire fence and guardrail that separates the animals from the Zoo Patrons, making it impossible for a child to fall into the exhibit where the African wild dogs are housed (as pictured below) at the African wild dog exhibit at the Lincoln Park Zoo;



- ee. Failing to design and/or modify the exhibit to utilizes glass to allow children to get within inches of the African Wild dogs with a unobstructed view and also making it impossible for a child to fall into the exhibit (as pictured below) at the African wild dog exhibit at the Naples Zoo;





- ff. Failing to design and/or modify the exhibit to by utilizing a raised observation platform that has wires closing the open window so that an individual could not fall from the raised platform and has the additional safe guard of having the raised platform removed from the animal exhibit making it impossible for a child to fall and/or for a child to fall into the portion of the exhibit that houses African wild dogs (as pictured below) at the African wild dog exhibit at the Philadelphia Zoo;



- gg. Failing to design and/or modify the exhibit to utilize a railing to keep the viewing public back and then an additional fence that extends outward over the exhibit, which is further separated by a water moat, making it impossible for a child to fall into the exhibit (as pictured below) at the African wild dog exhibit at the Phoenix Zoo;



- hh. Failing to design and/or modify the exhibit to utilize a rail, separated from the front of the exhibit by a series of bushes and then an additional wire fence that separates the viewing public from the exhibit, making it impossible for a child to fall into the exhibit (as pictured below) at the African wild dog exhibit at the San Diego Zoo ;



- ii. Failing to design and/or modify the exhibit to use a wire mesh fence to separate the viewing public from the exhibit, making it impossible for a child to fall into the exhibit (as pictured below) at the African wild dog exhibit at the Living Desert Zoo and Gardens, located near Palm Springs, California;



- jj. Violating applicable state, federal, and local regulations and codes;
- kk. Recruiting incompetent staff, administrators, and other Zoo employees;



- ll. Failing to adequately train, supervise, and monitor their staff, including but not limited to Zoo personnel who responded to the African wild dog exhibit after Maddox Derkosh fell;
- mm. Failing to respond the African wild dog exhibit in a timely manner once Maddox Derkosh fell into the exhibit on November 4, 2012;
- nn. Failing to have sufficient number of properly qualified personnel to ensure that there the Zoo could adequately respond in the event of an emergency;
- oo. Failing to provide the necessary supplies, tools, and equipment to their personnel to ensure that they were able to protect individuals in the event of a Zoo emergency;
- pp. Responding to the emergency created when Maddox Derkosh fell into the African wild dog exhibit with blank tranquilizer guns;
- qq. Responding to the emergency created when Maddox Derkosh fell into the African wild dog exhibit with dummy, non-functioning, and useless tranquilizer darts;
- rr. Improperly caring for the African wild dogs in such a way that it increased the propensity that the animals would be more likely to attack and maul;
- ss. Treating the African wild dogs in a manner that increased the propensity that the dogs would be more likely to attack and maul;
- tt. Failing to have adequate warnings regarding the handling of children in the African wild dog exhibit;
- uu. Failing to have adequate warnings regarding the fall hazard present in the African wild dog exhibit;
- vv. Failing to have adequate warnings regarding the lack of fall protection in the African wild dog exhibit;
- ww. Failing to properly protect Zoo patrons;
- xx. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- yy. Failing to adequately plan, plot and implement safety policies, procedures and responses;
- zz. Failing to require, use, and enforce proper and necessary safety measures;
- aaa. Failing to adequately adapt, adjust, enact, and enforce safety measures to prevent injuries to children visiting the Zoo; and

bbb. failing to provide a safe Zoo for Zoo patrons.

63. As a result of the negligence and carelessness of the Zoo defendants, plaintiff's decedent, Maddox Derkosh, was able to fall into the Africa wild dog exhibit where he was tragically mauled to death by a pack of African wild dogs. Maddox experienced excruciating agonizing pains and suffering; sustained a loss of future earnings and a loss of future earning capacity; sustained loss of enjoyment of life, loss of life's pleasures; as a result of his wrongful death, he has been prevented from performing all of his duties, occupations, recreational activities and avocations all to his and his beneficiaries' loss and detriment.

64. By conducting themselves as aforesaid, defendants, Pittsburgh Zoo & PPG Aquarium and the Pittsburgh Zoological Society, increased the risk of harm thereby causing the death of decedent, Maddox Derkosh.

WHEREFORE, Plaintiff, Jason L. Derkosh, as an Administrator and Personal Representative of the Estate of Maddox Derkosh, deceased, and in his own right, demands judgment against defendants, Pittsburgh Zoo & PPG Aquarium and the Pittsburgh Zoological Society, in amount in excess of Fifty Thousand Dollars (\$50,000.00), along with damages for delay in accordance with Pa.R.C.P. 238 and costs.

#### **COUNT II - WRONGFUL DEATH**

**JASON L. DERKOSH, as ADMINISTRATOR and PERSONAL REPRESENTATIVE OF  
THE ESTATE OF MADDOX DERKOSH, DECEASED, and IN HIS OWN RIGHT and  
ON BEHALF OF DECEDENT'S WRONGFUL DEATH BENEFICIARIES v.  
PITTSBURGH ZOO & PPG AQUARIUM and ZOOLOGICAL SOCIETY OF  
PITTSBURGH**



65. Plaintiff incorporates herein by reference all preceding paragraphs of this Complaint, the same as if fully set forth hereinafter.

66. Plaintiff, Jason L. Derkosh, brings this action under and by virtue of 42 Pa. C.S. §8301, commonly known as the Pennsylvania Wrongful Death Act as Maddox Derkosh's wrongful death beneficiary against defendants for wrongful death and claims all benefits of the Wrongful Death Act or law governing wrongful death actions.

67. As a direct and proximate result of the foregoing, decedent's wrongful death beneficiaries suffered and are suffering for an indefinite period of time in the future damages, injuries and losses, including, but not limited to, a loss of financial support and the beneficiaries have been wrongfully deprived of the contributions they would have received from decedent, Maddox Derkosh.

68. As a direct and proximate result of the foregoing, decedent's wrongful death beneficiaries have been, continue to be and will be in the future wrongfully deprived of large and various sums of money which decedent would have contributed to their support.

69. As a direct and proximate result of the foregoing, decedent's wrongful death beneficiaries incurred or have been caused to incur various funeral, burial, estate, and administrative expenses.

70. As a direct and proximate result of the foregoing, decedent's wrongful death beneficiaries have been, continue to be and will be in the future, wrongfully deprived of the

services, society and comfort which decedent would have provided including work around the home, physical comfort and services.

71. Plaintiff, on behalf of all persons entitled to recover under law, claims all medical, funeral, burial, and estate administration expenses, the loss of services, society, and comfort due to the death of Maddox Derkosh, all pecuniary loss suffered by decedent's next of kin/statutory beneficiaries by reason of the death of Maddox Derkosh and all other damages recoverable under applicable law.

WHEREFORE, Plaintiff, Jason L. Derkosh, as an Administrator and Personal Representative of the Estate of Maddox Derkosh, deceased, and in his own right, demands judgment against defendants, Pittsburgh Zoo & PPG Aquarium and the Pittsburgh Zoological Society, in amount in excess of Fifty Thousand Dollars (\$50,000.00), along with damages for delay in accordance with Pa.R.C.P. 238 and costs.

**COUNT III – SURVIVAL ACTION**  
**NEGLIGENCE**

**JASON L. DERKOSH, as ADMINISTRATOR and PERSONAL REPRESENTATIVE OF**  
**THE ESTATE OF MADDOX DERKOSH, DECEASED, and IN HIS OWN RIGHT and**  
**ON BEHALF OF DECEDENT'S WRONGFUL DEATH BENEFICIARIES v.**  
**PITTSBURGH ZOO & PPG AQUARIUM and ZOOLOGICAL SOCIETY OF**  
**PITTSBURGH**

72. Plaintiff incorporates herein by reference all preceding paragraphs of this Complaint, the same as if fully set forth hereinafter.

73. Plaintiff, Jason L. Derkosh, on behalf of the Estate of Maddox Derkosh, brings this action under and by virtue of 42 Pa. C.S. §8302, commonly known as the Pennsylvania Survival Act, and claims all benefits of the Survival Act or law governing the survival of actions.

74. As a direct and proximate result of the foregoing, decedent, Maddox Derkosh, has been, is being and will be in the future wrongfully deprived of earnings and the right to earn a living.

75. As a direct and proximate result of the foregoing, the Estate of Maddox Derkosh claims damages for decedent's loss of future earnings and loss of future earning capacity.

76. Plaintiff, on behalf of the Estate of Maddox Derkosh, claims all damages suffered by the Estate by reason of the death of Maddox Derkosh, including without limiting the generality of the foregoing: damages for the anxiety, fear, serious injuries, the great and unspeakable conscious pain and suffering, both physical and emotional, and other intangible losses which Maddox Derkosh underwent prior to his death; the loss of life and of life's pleasures, the loss of future earning capacity suffered by Maddox Derkosh from the date of his death until such time in the future that he would have lived had he not died as a result of the injuries he sustained; and the total limitation and deprivation of his normal activities, pursuits, and pleasures from the date of his death until such time in the future as he would have lived had he not died as a result of the injuries sustained by reason of the negligence, carelessness, recklessness, gross negligence and other liability-producing conduct of the defendants.

WHEREFORE, Plaintiff, Jason L. Derkosh, as an Administrator and Personal Representative of the Estate of Maddox Derkosh, deceased, and in his own right, demands judgment against defendants, Pittsburgh Zoo & PPG Aquarium and the Pittsburgh Zoological

Society, in amount in excess of Fifty Thousand Dollars (\$50,000.00), along with damages for delay in accordance with Pa.R.C.P. 238 and costs.

#### **COUNT IV – STRICT LIABILITY**

**JASON L. DERKOSH, as ADMINISTRATOR and PERSONAL REPRESENTATIVE OF  
THE ESTATE OF MADDOX DERKOSH, DECEASED, and IN HIS OWN RIGHT and  
ON BEHALF OF DECEDENT'S WRONGFUL DEATH BENEFICIARIES v.  
PITTSBURGH ZOO & PPG AQUARIUM and ZOOLOGICAL SOCIETY OF  
PITTSBURGH**

77. Plaintiff incorporates herein by reference all preceding paragraphs of this Complaint, the same as if fully set forth hereinafter

78. At all times relevant hereto, the Zoo defendants, possessed, maintained, housed, displayed and retained control of numerous types of wild animals.

79. At all times relevant hereto, the Zoo defendants, possessed, maintained, housed, displayed and retained control of a pack of African wild dogs.

80. At all times relevant hereto, the pack of African wild dogs that were possessed, maintained, housed, displayed and under the control of the Zoo defendants, were wild animals.

81. At all times relevant hereto, the pack of African wild dogs was housed, displayed, placed on exhibit, cared for and lived on the property that was owned, rented, leased, and/or lawfully controlled by the Zoo defendants.

82. At all times relevant hereto, Maddox Derkosh, was lawfully presented and permitted on the Zoo defendants' property.

83. At all times relevant herein, the Zoo defendants knew, or should have known of the ferocious nature, the pack mentality, and the extreme efficiency by which the African wild dogs hunt and kill, and the inherent risk they posed to any creature, including a human being, that entered their exhibit.

84. At all times relevant herein, the Zoo defendants, had a duty to protect Zoo patrons, including Maddox Derkosh, from the inherent danger that the pack of African wild dogs presented.

85. Pursuant to the laws of Pennsylvania, the Zoo defendants breached the duty owed to Maddox Derkosh when it failing to prevent Maddox Derkosh from being attacked and mauled by the pack of African wild dogs and/or by failing to provide an proper and safe exhibit that would have prevented Maddox Derkosh from being attacked and mauled by the African wild dogs.

86. As such, the Zoo defendants are strictly liable for all of the injuries, pain and suffering that Maddox Derkosh was subjected to by the pack of the African wild dogs, as more fully enumerated above, and specifically for the wrongful death of Maddox Derkosh.

WHEREFORE, Plaintiff, Jason L. Derkosh, as an Administrator and Personal Representative of the Estate of Maddox Derkosh, deceased, and in his own right, demands judgment against defendants, Pittsburgh Zoo & PPG Aquarium and the Pittsburgh Zoological Society, in amount in excess of Fifty Thousand Dollars (\$50,000.00), along with damages for delay in accordance with Pa.R.C.P. 238 and costs.

**COUNT V – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**  
**ELIZABETH DERKOSH v. PITTSBURGH ZOO & PPG AQUARIUM and**  
**ZOOLOGICAL SOCIETY OF PITTSBURGH**

87. Plaintiff, Elizabeth Derkosh, incorporates herein by reference all preceding paragraphs of this Complaint, the same as if fully set forth hereinafter.

88. At all times relevant herein, Elizabeth Derkosh was present with her son, Maddox at the African wild dog exhibit.

89. As a direct result of the direct result of the negligence of the Zoo defendants, Elizabeth Derkosh was forced to watch her only child fall into the African wild exhibit, she was forced to watch as the pack of African wild dogs swarmed and attacked her child, and she was forced to watch, helplessly, as her child was mauled to death and literally ripped apart by a pack of wild dogs.

90. As a direct result of the negligent conduct of the Zoo, Elizabeth Derkosh has suffered all of the below emotions and the physical manifestations of them:

- a. Terror;
- b. Fright;
- c. Grief;
- d. Anger;
- e. Rage;
- f. Anxiety;
- g. Worry;
- h. Other emotional maladies, the full extent of which have not yet been determined.

91. As a direct result of the negligent conduct of the Zoo defendants, Elizabeth Derkosh has suffered emotional, psychological and psychiatric injuries.

WHEREFORE, Plaintiff, Elizabeth Derkosh demands judgment against defendants, Pittsburgh Zoo & PPG Aquarium and the Pittsburgh Zoological Society, in amount in excess of Fifty Thousand Dollars (\$50,000.00), along with damages for delay in accordance with Pa.R.C.P. 238 and costs.

**COUNT VI – PUNITIVE DAMAGES**

**JASON L. DERKOSH, as ADMINISTRATOR and PERSONAL REPRESENTATIVE OF  
THE ESTATE OF MADDOX DERKOSH, DECEASED, and IN HIS OWN RIGHT and  
ON BEHALF OF DECEDENT'S WRONGFUL DEATH BENEFICIARIES v.  
PITTSBURGH ZOO & PPG AQUARIUM and ZOOLOGICAL SOCIETY OF  
PITTSBURGH**

92. Plaintiff incorporates herein by reference all preceding paragraphs of this Complaint, the same as if fully set forth hereinafter.

93. At all times relevant herein, the Zoo defendants knew, or should have known of the ferocious nature, the pack mentality, and the extreme efficiency by which the African wild dogs hunt and kill, and the inherent risk they posed to any creature, including a human being, that entered their exhibit.

94. At all times relevant, the Zoo defendants, knew and were on actual notice from their own employee, Lou Nene, that every day he worked at the zoo, he would personally see at least ten parents lift their children up and/or set their children on the open and inadequately protected railing of the viewing window in the African wild dog exhibit.



95. In response to Zoo employee Lou Nene's concern for the safety of children visiting the zoo, his boss told him **"This is not your concern, go back to work."**

96. At all times relevant herein, the Zoo defendants were aware that parents continually picked up their children at or near the open window of the African wild dog exhibit and were exposed to the certain death or serious bodily injury that would follow if the child were to fall into the exhibit, yet still permitted the exhibit to remain open despite lacking proper safety devices to protect the viewing patrons.

97. At all times relevant herein, the Zoo defendants, acted with willful disregard for and/or reckless indifference to the plaintiff's decedent's safety by failing to have a safe exhibit to house the African wild dogs.

98. At all times relevant herein, the Zoo defendants, acted with willful disregard for and/or reckless indifference to the plaintiff's decedent's safety and created a dangerous environment by knowing that potential likelihood on and child falling into the African wild dog exhibit and still permitting the viewing public to be placed in danger.

99. The Zoo defendants, by and through their agents, servants, and employees were careless, negligent, grossly negligent, and acted with a reckless indifference to the rights, welfare, and safety of plaintiff's decedent by knowing or having reason to know of facts, which created a high risk of physical harm to plaintiff's decedent and proceeding to act in conscious disregard of or with reckless indifference to the known risk of serious harm to plaintiff's decedent.

100. Despite being aware of and specifically warned by Lou Nene of this unsafe exhibit and the imminent danger it posed to Zoo patrons, and specifically young children, the Zoo Defendants made the conscious choice to disregard this safety risk.

101. The Zoo defendants, through their conscious choice to disregard the unsafe condition that they were aware of, caused Maddox Derkosh to suffer unbearable and excruciating pain as he was mauled by a ferocious and violent pack of African wild dogs.

102. The Zoo defendants, through their conscious choice to disregard the unsafe condition that they were aware of, caused the tragic death of two year old Maddox Derkosh.

103. Defendants' conduct rises to the level of outrageous conduct by willfully and recklessly ignoring the imminently dangerous exhibit which caused Maddox Derkosh's death.

104. Defendants acted in a willful, wanton and callous disregard for the safety of plaintiff's decedent, Maddox Derkosh.

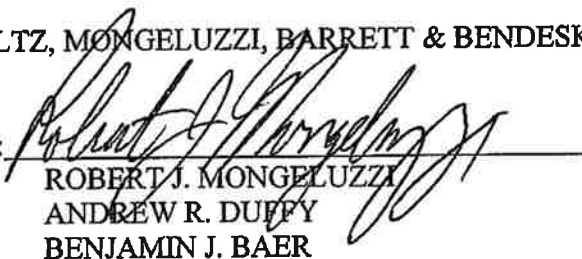
105. Defendants' actions constituted outrageous, willful and/or wanton misconduct, and manifested a reckless disregard and indifference to the rights of others to support an award of punitive damages.

WHEREFORE, Plaintiff, Jason L. Derkosh, as an Administrator and Personal Representative of the Estate of Maddox Derkosh, deceased, and in his own right, demands judgment against defendants, Pittsburgh Zoo & PPG Aquarium and the Pittsburgh Zoological Society, in amount in excess of Fifty Thousand Dollars (\$50,000.00), along with damages for delay in accordance with Pa.R.C.P. 238 and costs.

Respectfully submitted,

SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.

BY:

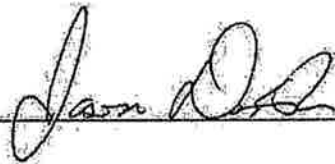


ROBERT J. MONGELUZZI  
ANDREW R. DUFFY  
BENJAMIN J. BAER

Attorneys for Plaintiffs, Jason Derkosh,  
Administrator and Personal Representative of the  
Estate of Maddox Derkosh, Deceased and for Plaintiff  
Elizabeth Derkosh, individually and in her own right.

VERIFICATION

The averments or denials of fact contained in the foregoing are true based upon the signer's personal knowledge or information and belief. If the foregoing contains averments which are inconsistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. This Verification is made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.



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DATED:

5/23/13

**VERIFICATION**

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DATED:

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