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Attorneys for Plaintiffs

**JOSEPH EDWARD BURLEIGH, III and
JACQUELINE M. BURLEIGH, Individually
and as Co-Administrators of the Estate of
JENNA NICOLE BURLEIGH, deceased**
346 Coddington Way
Harleysville, PA 19438

Plaintiffs

vs.

PUB WEBB

1527 Cecil B. Moore Ave
Philadelphia, PA 19121

and

WEBB BROTHERS, INC.,

t/a PUB WEBB

1527 W. Columbia Avenue
Philadelphia, PA 19121

and

GARUDA WEBB, LLC

1527 W. Columbia Avenue
Philadelphia, PA 19121

and

GRYPHON WEBB, LLC

1543 Morris Road
Lansdale, PA 19446

and

GRYPHON WEBB CO.

1543 Morris Road
Lansdale, PA 19446

and

JOSHUA HUPPERTERZ

State Correctional Facility at Huntingdon
1100 Pike Street
Huntingdon, PA 16654

Defendants

Filed and Attested by the
Office of Judicial Records
22 AUG 2019 02:35 pm
K. KALOGRIAS



**PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
TRIAL DIVISION**

AUGUST TERM, 2019

No.:

JURY OF 12 DEMANDED

NOTICE TO DEFEND

"NOTICE	"AVISO
<p>"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.</p> <p style="text-align: center;">"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.</p> <p><u>THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.</u> <u>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.</u></p> <p>PHILADELPHIA BAR ASSOCIATION LAWYER REFERRAL and INFORMATION SERVICE One Reading Center Philadelphia, Pennsylvania 19107 (215) 238-1701"</p>	<p>"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.</p> <p style="text-align: center;">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. <u>ESTA OFICINA PUEDE PROPORCIONARLE LA INFORMACION SOBRE CONTRATAR A UN ABOGADO.</u></p> <p style="text-align: center;"><u>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.</u></p> <p style="text-align: center;">ASOCIACION DE LICENCIADOS DE FILADELFAIA SERVICO DE REFERENCA E INFORMACION LEGAL One Reading Center Filadelfia, Pennsylvania 19107 Telefono: (215) 238-1701"</p>

CIVIL ACTION COMPLAINT

I. INTRODUCTION

1. In the early morning hours of August 31, 2017, Temple student Jenna Nicole Burleigh, twenty-two years of age, was brutally strangled and killed in the apartment of Defendant, Joshua Hupperterz, as the result of an unprovoked, alcohol-fueled altercation with Defendant Hupperterz.



2. At the time of the altercation, Defendant, Joshua Hupperterz (hereinafter “Defendant Hupperterz”), and Jenna Nicole Burleigh were impaired and intoxicated as the result of having been served excessive and unlawful amounts of alcohol for hours while at the establishment known as “Pub Webb”, located at 1527-29 Cecil B. Moore Ave, Philadelphia, PA 19121 throughout the night of August 30, 2017 and into the early morning hours of August 31, 2017.

3. Video surveillance from Pub Webb on the night of this tragedy clearly depicts Defendant Hupperterz showing obvious signs of visible intoxication while at Pub Webb and a post-mortem blood toxicology report that was completed showed that Jenna Nicole Burleigh’s concentration of alcohol by weight in whole blood (“BAC”) was .238.

4. As the result of over serving Defendant Hupperterz and Jenna Nicole Burleigh while visibly intoxicated, and the subsequent altercation that caused Jenna Nicole Burleigh to sustain fatal injuries, Defendants, Pub Webb, Webb Brothers, Inc., t/a Pub Webb, Garuda Webb, LLC, Gryphon Webb, LLC, and Gryphon Webb Co., the owners and operators of Pub Webb, and Defendant, Joshua Hupperterz, are subject to compensatory and punitive damages.

5. The over serving of Defendant Hupperterz and Jenna Nicole Burleigh was a substantial factor in causing Jenna Nicole Burleigh’s fatal injuries.

II. THE PARTIES

6. Plaintiffs, Joseph Edward Burleigh, III and Jacqueline M. Burleigh, are Co-Administrators of the Estate of Jenna Nicole Burleigh, deceased.

7. Plaintiffs, Joseph Edward Burleigh, III and Jacqueline M. Burleigh, are adult individuals and citizens of the Commonwealth of Pennsylvania, residing at 346 Coddington Way, Harleysville, PA 19438.

8. Plaintiffs, Joseph Edward Burleigh, III and Jacqueline M. Burleigh, are the parents of Jenna Nicole Burleigh, deceased.

9. Jenna Nicole Burleigh was an adult individual and a citizen of the Commonwealth of Pennsylvania, residing at 346 Coddington Way, Harleysville, PA 19438 at the time of her death.

10. Jenna Nicole Burleigh was born on November 4, 1994, and was twenty-two (22) years old at the time of her death on August 31, 2017.

11. Defendant, Pub Webb, is a business entity, organized and existing under the laws of the Commonwealth of Pennsylvania with its principal place of business located at 1527-29 Cecil B. Moore Ave, Philadelphia, PA 19121.

12. At all times relevant hereto, Defendant, Pub Webb, purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic activities and business in the Commonwealth of Pennsylvania and has regularly conducted business in Philadelphia County.

13. At all times relevant hereto, Defendant, Pub Webb, was acting by and through its employees, servants, and agents, acting within the course and scope of their employment, service and agency.

14. Defendant, Webb Brothers, Inc., t/a Pub Webb, is a business entity, organized and existing under the laws of the Commonwealth of Pennsylvania with its registered place of business located at 1527 W. Columbia Avenue, Philadelphia, PA 19121.

15. At all times relevant hereto, Defendant, Webb Brothers, Inc., t/a Pub Webb, purposely established significant contacts in Pennsylvania, has carried out, and continues to carry

out, substantial, continuous, and systematic activities and business in the Commonwealth of Pennsylvania and has regularly conducted business in Philadelphia County.

16. At all times relevant hereto, Defendant, Webb Brothers, Inc., t/a Pub Webb, was acting by and through its employees, servants, and agents, acting within the course and scope of their employment, service and agency.

17. Defendant, Garuda Webb, LLC, is a business entity, organized and existing under the laws of the Commonwealth of Pennsylvania with its registered place of business located at 1527 W. Columbia Avenue, Philadelphia, PA 19121.

18. At all times relevant hereto, Defendant, Garuda Webb, LLC, purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic activities and business in the Commonwealth of Pennsylvania and has regularly conducted business in Philadelphia County.

19. At all times relevant hereto, Defendant, Garuda Webb, LLC, was acting by and through its employees, servants, and agents, acting within the course and scope of their employment, service and agency.

20. Defendant, Gryphon Webb, LLC, is a business entity, organized and existing under the laws of the Commonwealth of Pennsylvania with its registered place of business located at 1543 Morris Road, Lansdale, PA 19446.

21. At all times relevant hereto, Defendant, Gryphon Webb, LLC, purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic activities and business in the Commonwealth of Pennsylvania and has regularly conducted business in Philadelphia County.

22. At all times relevant hereto, Defendant, Gryphon Webb, LLC, was acting by and through its employees, servants, and agents, acting within the course and scope of their employment, service and agency.

23. Defendant, Gryphon Webb Co., is a business entity, organized and existing under the laws of the Commonwealth of Pennsylvania with its registered place of business located at 1543 Morris Road, Lansdale, PA 19446.

24. At all times relevant hereto, Defendant, Gryphon Webb Co., purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic activities and business in the Commonwealth of Pennsylvania and has regularly conducted business in Philadelphia County.

25. At all times relevant hereto, Defendant, Gryphon Webb Co., was acting by and through its employees, servants, and agents, acting within the course and scope of their employment, service and agency.

26. Defendant, Joshua Hupperterz, is an adult individual and citizen of the Commonwealth of Pennsylvania, currently incarcerated at State Correctional Facility at Huntingdon, 1100 Pike Street, Huntingdon, PA 16654.

27. At all times relevant hereto, the business readily identifiable as Pub Webb, located at 1527-29 Cecil B. Moore Ave, Philadelphia, PA 19121, was a bar/restaurant that sold and/or dispensed alcoholic beverages.

28. At all times relevant hereto, Defendant, Webb Brothers, Inc., t/a Pub Webb, was the owner of a liquor license for the property located at 1527-29 Cecil B. Moore Ave, Philadelphia, PA 19121, upon which the bar Pub Webb operated, having a license number 58111, purchased with the approval of the Pennsylvania Liquor Control Board ("PLCB"), who

sold and/or dispensed alcoholic beverages under regulations imposed by the PLCB and the Pennsylvania Statutes, Title 40, Part I, Liquor Control Board and Title 47, Chapter 1, Liquor Code.

29. At all times relevant hereto, Defendants, Garuda Webb, LLC, Gryphon Webb, LLC, and Gryphon Webb Co., have owned the property on which Pub Webb is located and operates on.

30. As property owners, Defendants, Garuda Webb, LLC, Gryphon Webb, LLC, and Gryphon Webb Co., have a duty to ensure that the premises is reasonably safe for all those legally upon it, and to ensure that any business operating on the premises is operated in a reasonably safe manner.

31. A property owner has a duty to ensure that activity in violation of the common law, statutes and/or regulations of the Commonwealth of Pennsylvania is not occurring on their premises.

III. THE DEATH OF JENNA NICOLE BURLEIGH

32. On the evening of August 30, 2017 and during the early morning hours of August 31, 2017, Defendant Hupperterz was a business invitee lawfully on Pub Webb's premises at 1527-29 Cecil B. Moore Ave, Philadelphia, PA, consuming alcoholic beverages served to him by employees of Defendants, Pub Webb, Webb Brothers, Inc., t/a Pub Webb, Garuda Webb, LLC, Gryphon Webb, LLC, and Gryphon Webb Co. (hereinafter collectively referred to as the "Pub Webb Defendants"), who were acting within the scope of their authority.

33. While on the premises of Pub Webb, Defendant Hupperterz was in a visibly intoxicated condition.

34. The Pub Webb Defendants, by and through their agents, servants, workers and employees, willfully and unlawfully served and continued to serve alcoholic beverages to Defendant Hupperterz when he was in a visibly intoxicated condition, in direct violation of the Pennsylvania Dram Shop Act, 44 P.S. §§ 4-493 *et. seq.*, when they knew, or had reason to know, that Defendant Hupperterz constituted a risk of harm to himself and to others by virtue of being intoxicated.

35. On the evening of August 30, 2017 and early morning hours of August 31, 2017, Jenna Nicole Burleigh, deceased, was a business invitee lawfully on Pub Webb's premises at 1527-29 Cecil B. Moore Ave, Philadelphia, PA, consuming alcoholic beverages served to her by the Pub Webb Defendants' employees who were acting within the scope of their authority.

36. While on the premises of Pub Webb, Jenna Nicole Burleigh was in a visibly intoxicated condition.

37. The Pub Webb Defendants, by and through their agents, servants, workers and employees, willfully and unlawfully served and continued to serve alcoholic beverages to Jenna Nicole Burleigh when she was in a visibly intoxicated condition, in direct violation of the Pennsylvania Dram Shop Act, 44 P.S. §§ 4-493 *et. seq.*, when they knew, or had reason to know, that Jenna Nicole Burleigh constituted a risk of harm to herself and to others by virtue of being intoxicated.

38. The Pub Webb Defendants had an unquestionable, statutory duty to ensure that alcoholic beverages were not being sold to any visibly intoxicated patrons.

39. The Pub Webb Defendants had a common law duty to properly and adequately train and supervise their staff to ensure that alcoholic beverages were not being sold to any visibly intoxicated patrons.

40. The Pub Webb Defendants breached their duties set forth hereinabove.

41. The negligent sale of alcoholic beverages by the Pub Webb Defendants to Defendant Hupperterz and Jenna Nicole Burleigh was a direct and proximate cause of Jenna Nicole Burleigh's fatal injuries.

42. On the evening of August 30, 2017, Jenna Nicole Burleigh was at Pub Webb with her friends.

43. On the evening of August 30, 2017, Defendant Hupperterz was also at Pub Webb.

44. Upon information and belief, while at Pub Webb, Jenna Nicole Burleigh and Defendant Hupperterz were consuming alcoholic beverages served to them by the Pub Webb Defendants for a number of hours, while visibly intoxicated.

45. Upon information and belief, as it approached closing time at Pub Webb, Jenna Nicole Burleigh attempted to contact her friends for a place to stay.

46. Upon information and belief, after she was unable to contact her friends, in her drunken state, Jenna Nicole Burleigh left Pub Webb with Defendant Hupperterz after 2:00 a.m. on the morning of August 31, 2017.

47. Upon information and belief, after leaving Pub Webb, Jenna Nicole Burleigh and Defendant Hupperterz went back to Defendant Hupperterz's residence.

48. Upon information and belief, after arriving at Defendant Hupperterz's residence in a drunken state, a physical altercation ensued between Defendant Hupperterz and Jenna Nicole Burleigh.

49. Upon information and belief, during the physical altercation, Defendant Hupperterz viciously strangled Jenna Nicole Burleigh, slowly killing her while she struggled to break free.

50. Although the cause of death was strangulation, an autopsy of Jenna Nicole Burleigh's body revealed that she also sustained multiple blows to various parts of her body and suffered defensive wounds on her hands during the altercation.

51. Immediately preceding and during this altercation, Defendant Hupperterz was fueled by the excessive amounts of alcohol that he was negligently and/or recklessly sold and served by the Pub Webb Defendants.

52. At all times relevant hereto, Jenna Nicole Burleigh's ability to protect herself and to escape was significantly reduced due to the excessive amounts of alcohol that she was negligently and/or recklessly sold and served by the Pub Webb Defendants.

53. As a result of the carelessness, negligent, grossly negligent, and reckless conduct of the Pub Webb Defendants and Defendant Hupperterz, Jenna Nicole Burleigh sustained injuries that led to her death; she sustained conscious pain and suffering and fear of impending death; she sustained a permanent loss of earnings and loss of earning capacity; she sustained permanent loss of enjoyment of life, loss of life's pleasures and loss of life's hedonic pleasures; and she has been permanently prevented from performing all of her usual duties, occupations, recreational activities and avocations, all to her and her beneficiaries' loss and detriment.

54. Jenna Nicole Burleigh's death was the direct and proximate result of the negligence, carelessness, recklessness, and outrageous conduct of the Pub Webb Defendants and Defendant Hupperterz.

55. The Pub Webb Defendants and Defendant Hupperterz are jointly and severally liable for this tragedy and for the fatal injuries suffered by Jenna Nicole Burleigh.

COUNT I – NEGLIGENCE

JOSEPH EDWARD BURLEIGH, III and JACQUELINE M. BURLEIGH, Individually and as Co-Administrators of the Estate of JENNA NICOLE BURLEIGH, deceased v. PUB WEBB, WEBB BROTHERS, INC., t/a PUB WEBB, GARUDA WEBB, LLC, GRYPHON WEBB, LLC, and GRYPHON WEBB CO.

56. Plaintiffs incorporate herein by reference all preceding paragraphs of this Complaint, the same as if fully set forth hereinafter.

57. Defendants, Pub Webb, Webb Brothers, Inc., t/a Pub Webb, Garuda Webb, LLC, Gryphon Webb, LLC, and Gryphon Webb Co., by and through the acts and omissions of their agents, servants, workers and employees, in serving alcoholic beverages to the visibly intoxicated Defendant Hupperterz and to the visibly intoxicated Jenna Nicole Burleigh in the course and scope of their employment, violated the statutes of the Commonwealth of Pennsylvania and were negligent, grossly negligent, careless and reckless in numerous respects including, without limitation:

- a. Selling and continuing to sell and serve alcoholic beverages to Defendant Hupperterz when he was visibly intoxicated;
- b. Selling and continuing to sell and serve alcoholic beverages to Jenna Nicole Burleigh when she was visibly intoxicated;
- c. Failing to fully detect that Defendant Hupperterz was in a visibly intoxicated and inebriated condition as a result of their continual serving of alcoholic beverages to him;
- d. Failing to fully detect that Jenna Nicole Burleigh was in a visibly intoxicated and inebriated condition as a result of their continual serving of alcoholic beverages to her;
- e. Selling and continuing to sell alcoholic beverages to Defendant Hupperterz when the Pub Webb Defendants knew or had reason to know that the imbibing of multiple alcoholic beverages by an individual constitutes a risk of harm and renders him dangerous to himself and others by virtue of his being in an intoxicated condition;

- f. Selling and continuing to sell alcoholic beverages to Jenna Nicole Burleigh when the Pub Webb Defendants knew or had reason to know that the imbibing of multiple alcoholic beverages by an individual constitutes a risk of harm and renders her dangerous to herself and others by virtue of her being in an intoxicated condition;
- g. Violating the statutes and laws of the Commonwealth of Pennsylvania, including, but not limited to, The Pennsylvania Dram Shop Act, 47 P.S. §4-493, “Unlawful Acts relative to liquor, malt and brewed beverages and licensees,” which, in §4-493(1) expressly renders unlawful “Furnishing Liquor or Malt or Brewed Beverages to Certain Persons” including “any person visibly intoxicated;”
- h. Failing to establish, monitor, and administer training, programs and operating procedures designed to identify and assist visibly intoxicated patrons such as those model programs set forth in Pennsylvania Statute 47 P.S. §4-471.1, “Responsible alcohol management” recommending training not less than fifty percent of the alcohol service personnel as well as managers/owners of licensed establishments to properly serve alcoholic beverages;
- i. Failing to establish, monitor, and administer training, programs and operating procedures such as those model programs set forth in Pennsylvania Statute 47 P.S. §4-471.1, “Responsible alcohol management” whose purpose is to train alcohol service personnel as well as managers/owners of licensed establishments to prevent service to visibly intoxicated persons;
- j. Failing to establish, monitor, and administer training, programs and operating procedures such as those model programs set forth in Pennsylvania Statute 47 P.S. §4-471.1, “Responsible alcohol management” whose purpose is to train managers/owners of licensed establishments to monitor employees to assure that the establishment does not serve visibly intoxicated persons;
- k. Failing to establish, monitor, and administer training, programs and operating procedures such as those model programs set forth in Pennsylvania Statute 47 P.S. §4-471.1, “Responsible alcohol management” to develop an appropriate alcohol service policy;
- l. Failing to establish, monitor, and administer training, programs and operating procedures such as those model programs set forth in Pennsylvania Statute 47 P.S. §4-471.1, “Responsible alcohol management” to train alcohol service personnel as well as managers/owners of licensed establishments to know Pennsylvania law

relating to the sale of alcoholic beverages and particularly to the prohibitions against serving visibly intoxicated persons;

- m. Having a policy and practice of continuing to serve persons without adequately checking to see whether the person was in fact intoxicated or, exhibited signs of visible intoxication;
- n. Failing to have and enforce policies and practices which include a drink cut-off limit for alcoholic beverages;
- o. Failing to have and enforce policies and practices which include a time limit so that the Pub Webb Defendants' alcohol service personnel and managers would not sell alcohol and/or serve alcohol after patrons had been drinking alcohol for a defined period of time;
- p. Having a policy and practice to encourage patrons to continue drinking alcohol after they have become visibly intoxicated;
- q. Having a policy of permitting Defendant Hupperterz to be sold and served alcoholic beverages when he was visibly intoxicated because the Pub Webb Defendants' management and staff regularly purchased marijuana from Defendant Hupperterz;
- r. Having a policy of permitting Defendant Hupperterz to continue drinking alcohol after he became visibly intoxicated because the Pub Webb Defendants' management and staff regularly purchased marijuana from Defendant Hupperterz;
- s. Having a policy of permitting Defendant Hupperterz to continue drinking alcohol after Pub Webb closed because the Pub Webb Defendants' management and staff regularly purchased marijuana from Defendant Hupperterz;
- t. Allowing Defendant Hupperterz to exit the Pub Webb Defendants' bar after he became both intoxicated and visibly intoxicated;
- u. Allowing Jenna Nicole Burleigh to exit the Pub Webb Defendants' bar after she became both intoxicated and visibly intoxicated;
- v. Failing to have a policy or practice of helping intoxicated and visibly intoxicated persons sober up before exiting their facility;
- w. Failing to have a policy or practice of helping intoxicated and visibly intoxicated persons reach their homes in safety by providing direct transportation or by other means;

- x. Tacitly approving alcohol service personnel and other employees violating Pennsylvania law by selling and serving alcohol, liquor, malt and brewed beverages to patrons until they became intoxicated and, continuing thereafter to serve them alcohol while visibly intoxicated;
- y. Failing to have or enforce any policy or practice of disciplinary standards for their employees regarding the sale of alcoholic beverages;
- z. Failing to have or enforce any policy or practice of proactively and effectively monitoring their employees engaged in the serving of alcoholic beverages;
- aa. Negligence *per se*.
- bb. Failing to establish reasonable, prudent and safe hiring practices with respect to employees who would be placed in charge of Pub Webb's business activities;
- cc. Negligently hiring employees incapable of carrying out job related responsibilities in a safe and prudent manner;
- dd. Failing to properly establish and employ adequate training programs for employees of the Pub Webb Defendants;
- ee. Failing to adequately train employees of the Pub Webb Defendants; and
- ff. Failing to adequately supervise Pub Webb and the employees of the Pub Webb Defendants.

58. By reason of the negligence, gross negligence, carelessness, recklessness and statutory violations of Defendants, Pub Webb, Webb Brothers, Inc., t/a Pub Webb, Garuda Webb, LLC, Gryphon Webb, LLC, and Gryphon Webb Co., by and through their agents, servants, workers and employees, as aforesaid, Jenna Nicole Burleigh was caused to sustain fatal injuries as more fully described in the preceding paragraphs of this Complaint.

WHEREFORE, Plaintiffs, Joseph Edward Burleigh, III and Jacqueline M. Burleigh, Individually and as Co-Administrators of the Estate of Jenna Nicole Burleigh, deceased, claim of Defendants, Pub Webb, Webb Brothers, Inc., t/a Pub Webb, Garuda Webb, LLC, Gryphon Webb, LLC, and Gryphon Webb Co., jointly and severally, separate sums in excess of the

jurisdictional threshold, including punitive damages, exclusive of interest, costs, and delay damages pursuant to Pa.R.C.P. § 238 and bring this action to recover the same.

COUNT II – ASSAULT AND BATTERY

**JOSEPH EDWARD BURLEIGH, III and JACQUELINE M. BURLEIGH, Individually
and as Co-Administrators of the Estate of JENNA NICOLE BURLEIGH, deceased v.
JOSHUA HUPPERTERZ**

59. Plaintiffs incorporate herein by reference all preceding paragraphs of this Complaint, the same as if fully set forth hereinafter.

60. Defendant, Joshua Hupperterz, in viciously attacking, strangling, and killing Jenna Nicole Burleigh, engaged in intentional, wanton, willful and outrageous conduct, acted with deliberate malice, was grossly and outrageously negligent, acted with reckless disregard of and with deliberate callous and reckless indifference to the rights, interest, welfare and safety of Jenna Nicole Burleigh for the reasons articulated in this Complaint.

61. As a result of Defendant Hupperterz's, intentional, wanton, willful and outrageous conduct, Jenna Nicole Burleigh was caused to suffer an immediate and reasonable apprehension of a harmful or offensive contact with her body and was caused to sustain a harmful and offensive contact to her body, resulting in her death.

62. Defendant Hupperterz intentionally initiated a violent assault and bodily harm on Jenna Nicole Burleigh by inflicting serious physical wounds caused by viciously striking and strangling Jenna Nicole Burleigh, thereby violating the common law of the Commonwealth of Pennsylvania whose courts have adopted the principles of the Restatement (Second) of Torts concerning the offenses of assault and battery, including, without limitation:

§ 13 Battery: Harmful Contact

(1) An actor is subject to liability to another for battery if:

- a. he acts intending to cause a harmful or offensive contact with the person of the other or a third person, or an imminent apprehension of such a contact, and
- b. a harmful contact with the person of the other directly or indirectly results.

§ 15 What Constitutes Bodily Harm

Bodily harm is any physical impairment of the condition of another's body, or physical pain or illness

§ 18 Battery: Offensive Contact

- (1) An actor is subject to liability to another for battery if:
 - a. he acts intending to cause a harmful or offensive contact with the person of the other or a third person, or an imminent apprehension of such a contact, and
 - b. an offensive contact with the person of the other directly or indirectly results.

§ 21 Assault

- (1) An actor is subject to liability to another for assault if:
 - a. he acts intending to cause a harmful or offensive contact with the person of the other or a third person, or an imminent apprehension of such a contact, and
 - b. the other is thereby put in such imminent apprehension.

63. By reason of the carelessness, negligence, gross negligence, recklessness and/or intentional conduct of Defendant Hupperterz, Jenna Nicole Burleigh was caused to sustain fatal injuries as more fully described in the preceding paragraphs of this Complaint.

WHEREFORE, Plaintiffs, Joseph Edward Burleigh, III and Jacqueline M. Burleigh, Individually and as Co-Administrators of the Estate of Jenna Nicole Burleigh, deceased, claim of Defendant, Joshua Hupperterz, a sum in excess of the jurisdictional threshold, including punitive damages, exclusive of interest, costs, and delay damages pursuant to Pa.R.C.P. § 238 and bring this action to recover the same.

COUNT III – NEGLIGENCE

**JOSEPH EDWARD BURLEIGH, III and JACQUELINE M. BURLEIGH, Individually
and as Co-Administrators of the Estate of JENNA NICOLE BURLEIGH, deceased v.
JOSHUA HUPPERTERZ**

64. Plaintiffs incorporate herein by reference all preceding paragraphs of this Complaint, the same as if fully set forth hereinafter.

65. Defendant, Joshua Hupperterz, owed a duty to Jenna Nicole Burleigh and, in viciously attacking and strangling her, breached that duty by acting with excessive and unreasonable force, negligently and without due care for the reasons articulated in this Complaint.

66. Defendant Hupperterz was unreasonable, negligent, grossly negligent, careless and reckless generally and in the following respects:

- a. Provoking the physical altercation that resulted in Jenna Nicole Burleigh's fatal injuries;
- b. Acting unreasonably in the provocation of the physical altercation;
- c. Failing to exercise reasonable care;
- d. Failing to diffuse the altercation before assaulting and fatally injuring Jenna Nicole Burleigh;
- e. Failing to attempt to retreat from the altercation;
- f. Failing to use appropriate, proportionate and/or reasonable force;
- g. Using excessive, disproportionate and unreasonable force;
- h. Striking Jenna Nicole Burleigh when physical force was neither required nor permitted;
- i. Failing to attempt to flee the scene before inflicting devastating force;
- j. Acting unreasonably throughout the altercation; and
- k. Failing to exercise reasonable care.

67. By reason of the carelessness, negligence, gross negligence, and/or recklessness of Defendant Hupperterz, Jenna Nicole Burleigh was caused to sustain fatal injuries as more fully described in the preceding paragraphs of this Complaint.

WHEREFORE, Plaintiffs, Joseph Edward Burleigh, III and Jacqueline M. Burleigh, Individually and as Co-Administrators of the Estate of Jenna Nicole Burleigh, deceased, claim of Defendant, Joshua Hupperterz, a sum in excess of the jurisdictional threshold, including punitive damages, exclusive of interest, costs, and delay damages pursuant to Pa.R.C.P. § 238 and bring this action to recover the same.

COUNT IV – WRONGFUL DEATH

JOSEPH EDWARD BURLEIGH, III and JACQUELINE M. BURLEIGH, Individually and as Co-Administrators of the Estate of JENNA NICOLE BURLEIGH, deceased v. PUB WEBB, WEBB BROTHERS, INC., t/a PUB WEBB, GARUDA WEBB, LLC, GRYPHON WEBB, LLC, GRYPHON WEBB CO. and JOSHUA HUPPERTERZ

68. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

69. Jenna Nicole Burleigh is survived by her father, Joseph Edward Burleigh, III, and her mother, Jacqueline M. Burleigh.

70. By reason of the death of Jenna Nicole Burleigh, as caused by the aforementioned carelessness, negligence, gross negligence, recklessness, and/or other liability-producing conduct of Defendants, Pub Webb, Webb Brothers, Inc., t/a Pub Webb, Garuda Webb, LLC, Gryphon Webb, LLC, Gryphon Webb Co., and Joshua Hupperterz, Jenna Nicole Burleigh's beneficiaries have in the past and will in the future continue to suffer great pecuniary loss, including, but not limited to, loss of support, loss of aid, loss of services, loss of companionship, loss of consortium and comfort, loss of counseling and loss of guidance, among other damages.

71. As a direct and proximate result of the carelessness, negligence, gross negligence, recklessness, and/or other liability-producing conduct of Defendants, Pub Webb, Webb Brothers, Inc., t/a Pub Webb, Garuda Webb, LLC, Gryphon Webb, LLC, Gryphon Webb Co., and Joshua Hupperterz, Jenna Nicole Burleigh's wrongful death beneficiaries incurred, or have been caused to incur and pay, large and various funeral, burial, estate and administration expenses for which Plaintiffs are entitled to compensation in this proceeding.

72. Plaintiffs, as Co-Administrators of the Estate of Jenna Nicole Burleigh, deceased, bring this action by virtue of the Wrongful Death Act, 42 Pa.C.S.A. § 8301, and claim all benefits and recoverable damages under the Wrongful Death Act on behalf of The Estate of Jenna Nicole Burleigh, and all other persons entitled to recover under law.

WHEREFORE, Plaintiffs, Joseph Edward Burleigh, III and Jacqueline M. Burleigh, Individually and as Co-Administrators of the Estate of Jenna Nicole Burleigh, deceased, claim of Defendants, Pub Webb, Webb Brothers, Inc., t/a Pub Webb, Garuda Webb, LLC, Gryphon Webb, LLC, Gryphon Webb Co., and Joshua Hupperterz, jointly and severally, separate sums in excess of the jurisdictional threshold, including punitive damages, exclusive of interest, costs, and delay damages pursuant to Pa.R.C.P. § 238 and bring this action to recover the same.

COUNT V – SURVIVAL ACT

JOSEPH EDWARD BURLEIGH, III and JACQUELINE M. BURLEIGH, Individually and as Co-Administrators of the Estate of JENNA NICOLE BURLEIGH, deceased v. PUB WEBB, WEBB BROTHERS, INC., t/a PUB WEBB, GARUDA WEBB, LLC, GRYPHON WEBB, LLC, GRYPHON WEBB CO. and JOSHUA HUPPERTERZ

73. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

74. Jenna Nicole Burleigh is survived by her father, Joseph Edward Burleigh, III, and her mother, Jacqueline M. Burleigh.

75. The damages suffered by The Estate of Jenna Nicole Burleigh, as a result of the death of Jenna Nicole Burleigh include, but are not limited to, the following:

- a. The injuries to Jenna Nicole Burleigh, which resulted in her death;
- b. The anxiety, horror, fear of impending death, mental disturbance, pain, suffering and other intangible losses which Jenna Nicole Burleigh suffered prior to her death;
- c. The loss of future earning capacity suffered by Jenna Nicole Burleigh from the date of her death until the time in the future that she would have lived had she not died as a result of the injuries she sustained; and
- d. The loss and the total limitation and deprivation of Jenna Nicole Burleigh's normal activities, pursuits and pleasures from the date of her death until such time in the future as she would have lived, had she not died as a result of the injuries sustained by reason of the carelessness, recklessness, negligence, gross negligence, and other liability-producing conduct of Defendants, Pub Webb, Webb Brothers, Inc., t/a Pub Webb, Garuda Webb, LLC, Gryphon Webb, LLC, Gryphon Webb Co., and Joshua Hupperterz.

76. Plaintiffs, as Co-Administrators of the Estate of Jenna Nicole Burleigh, deceased, bring this action on behalf of The Estate of Jenna Nicole Burleigh, deceased, by virtue of the Survival Act, 42 Pa.C.S.A. § 8302, and claim all benefits available under the Survival Act on behalf of The Estate of Jenna Nicole Burleigh, and all other persons entitled to recover under law.

WHEREFORE, Plaintiffs, Joseph Edward Burleigh, III and Jacqueline M. Burleigh, Individually and as Co-Administrators of the Estate of Jenna Nicole Burleigh, deceased, claim of Defendants, Pub Webb, Webb Brothers, Inc., t/a Pub Webb, Garuda Webb, LLC, Gryphon Webb, LLC, Gryphon Webb Co., and Joshua Hupperterz, jointly and severally, separate sums in excess of the jurisdictional threshold, including punitive damages, exclusive of interest, costs, and delay damages pursuant to Pa.R.C.P. § 238 and bring this action to recover the same.

COUNT VI – PUNITIVE DAMAGES

JOSEPH EDWARD BURLEIGH, III and JACQUELINE M. BURLEIGH, Individually and as Co-Administrators of the Estate of JENNA NICOLE BURLEIGH, deceased v. PUB WEBB, WEBB BROTHERS, INC., t/a PUB WEBB, GARUDA WEBB, LLC, GRYPHON WEBB, LLC, and GRYPHON WEBB CO.

77. Plaintiffs incorporate all preceding paragraphs of this Complaint the same as if set forth herein at length.

78. As a result of the willful wanton, deliberate, and unprovoked conduct of the Pub Webb Defendants, Jenna Nicole Burleigh was caused to suffer horrific injuries resulting in her death.

79. At all times relevant hereto, the Pub Webb Defendants acted with actual malice and with willful and wanton indifference to and deliberate disregard for the safety and well-being of their patrons, including Jenna Nicole Burleigh.

80. The actions of the Pub Webb Defendants were reckless, willful and wanton and exhibited a reckless disregard for the safety of their patrons, including Jenna Nicole Burleigh.

WHEREFORE, Plaintiffs, Joseph Edward Burleigh, III and Jacqueline M. Burleigh, Individually and as Co-Administrators of the Estate of Jenna Nicole Burleigh, deceased, claim of Defendants, Pub Webb, Webb Brothers, Inc., t/a Pub Webb, Garuda Webb, LLC, Gryphon Webb, LLC, and Gryphon Webb Co., jointly and severally, separate sums in excess of the jurisdictional threshold, including punitive damages, exclusive of interest, costs, and delay damages pursuant to Pa.R.C.P. § 238 and bring this action to recover the same.

COUNT VII – PUNITIVE DAMAGES

JOSEPH EDWARD BURLEIGH, III and JACQUELINE M. BURLEIGH, Individually and as Co-Administrators of the Estate of JENNA NICOLE BURLEIGH, deceased v. JOSHUA HUPPERTERZ

81. Plaintiffs incorporate all preceding paragraphs of this Complaint the same as if set forth herein at length.

82. As a result of the willful wanton, deliberate, and unprovoked conduct of Defendant Hupperterz, Jenna Nicole Burleigh was caused to suffer an immediate and reasonable apprehension of a harmful or offensive contact with her body and was caused to sustain a harmful and offensive contact to her body, resulting in her death.

83. At all times relevant hereto, Defendant Hupperterz acted with actual malice and with willful and wanton indifference to and deliberate disregard for the safety and well-being of others, including Jenna Nicole Burleigh.

84. The actions of Defendant Hupperterz were reckless, willful and wanton and exhibited a reckless disregard for the safety of others, including Jenna Nicole Burleigh.

WHEREFORE, Plaintiffs, Joseph Edward Burleigh, III and Jacqueline M. Burleigh, Individually and as Co-Administrators of the Estate of Jenna Nicole Burleigh, deceased, claim of Defendant, Joshua Hupperterz, a sum in excess of the jurisdictional threshold, including punitive damages, exclusive of interest, costs, and delay damages pursuant to Pa.R.C.P. § 238 and bring this action to recover the same.

Respectfully submitted,

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

BY: /s/ Robert J. Mongeluzzi
ROBERT J. MONGELUZZI
ANDREW R. DUFFY
E. DOUGLAS DISANDRO, JR.
Attorneys for Plaintiffs

Dated: August 22, 2019

VERIFICATION

The averments or denials of fact contained in the foregoing document 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.

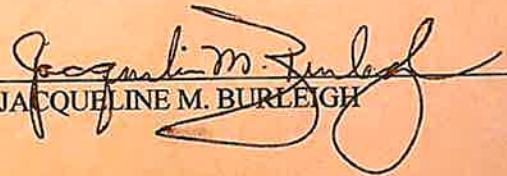
8/21/19
DATE


JOSEPH EDWARD BURLEIGH, III

VERIFICATION

The averments or denials of fact contained in the foregoing document 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.

8/21/1965
DATE


JACQUELINE M. BURLEIGH