

ORIGINAL

FILED
JAN 11 5 05 PM '10
Clerk of the Court

270

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COMP
ROBERT W. COTTLE, ESQ.
Nevada Bar No.: 4576
DAVID A. TANNER, ESQ.
Nevada Bar No.: 8282
MAINOR EGLET COTTLE, TRIAL LAWYERS
City Centre Place
400 South Fourth Street Suite/Floor 6
Las Vegas, Nevada 89101
(702) 450-5400
Attorneys for Plaintiff

DISTICT COURT

CLARK COUNTY, NEVADA

JEAN BARTOLI,)
)
Plaintiff,)
)
vs.)
)
VICTORIA PARTNERS LIMITED)
PARTNERSHIP d/b/a MONTE CARLO)
RESORT AND CASINO)
and DOES I through X, and inclusive,)
ROE CORPORATIONS I through X)
)
Defendants.)
_____)

CASE NO.: A-10-607456-C
DEPT NO.: 3021

Arbitration Exemption Claimed
Damages in Excess of \$50,000.00

A-10-607456-C
624158


COMPLAINT

COMES NOW, Plaintiff, JEAN BARTOLI, by and through her attorneys of record
ROBERT W. COTTLE and DAVID A. TANNER, of the law firm of MAINOR EGLET
COTTLE, TRIAL LAWYERS, and for their cause of action against Defendants, and each of
them, complain and allege as follows:

THE PARTIES

1. At all times relevant hereto, Plaintiff was and is a resident of Plantation, state of Florida.
2. Plaintiff is informed and believes, and thercupon allege, that Defendant

RECEIVED
MAINOR EGLET COTTLE
TRIAL LAWYERS

RECEIVED
JAN 11 2010
CLERK OF THE COURT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VICTORIA PARTNERS dba MONTE CARLO RESORT & CASINO, is and at all times herein relevant was, a corporation organized and existing under the laws of the State of Nevada doing business in the County of Clark as MONTE CARLO RESORT and CASINO.

3. DOES I through X are persons whose conduct gives rise to this Complaint; specifically, these DOE Defendants are individuals who participated in the conduct alleged herein, including, but not limited to planning, designing, control, supervision, repair, cleaning, and maintenance, stet, or installation of any product that reasonably contributed to Plaintiff's injuries, but their identities are unknown as this time; Plaintiff reserves the right to amend this Complaint to specifically name these individuals when their identities are ascertained.

4. ROE CORPORATIONS I through XX are business entities whose conduct gives rise to the allegations of the Complaint contained herein; specifically, these business entities participated in the conduct alleged herein, including, but not limited to planning, designing, control, supervision, repair, cleaning, and maintenance, stet, or installation of any product that contributed to Plaintiff's injuries, but their identities are unknown as this time; Plaintiffs reserves the right to amend this Complaint to specifically name these entities when their identities are ascertained.

5. All the facts and circumstances that give rise to this lawsuit occurred in Clark County, State of Nevada.

FACTS COMMON TO ALL CAUSES OF ACTION

6. Plaintiff is informed and believes and thereon alleges that at all times mentioned herein, Defendants, and each of them, were the agents, servants, employees, partners or joint venturers of their co-defendants, and that in doing the acts herein alleged, were acting within the course and scope of authority of said agency, employment, partnership, or joint venture. Each and every Defendant aforesaid was acting as a principal and was negligent or grossly negligent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

in the selection, hiring, and training of each and every other Defendant or ratified the conduct of every other Defendant as an agent, servant, employee or joint venturer.

7. Defendants owned and operated, and were responsible for the planning, designing, maintenance, control supervision, repair, cleaning, and maintenance of The Monte Carlo Resort and Casino.

8. On or January 25, 2008, Defendants, while in the course and scope of their employment and agency with other Defendants, negligently failed to plan, design and control, supervise, repair, clean, and maintain the premises of the Monte Carlo Resort and Casino located 3770 Las Vegas Blvd. South, Las Vegas, Nevada. This failure allowed a fire to ignite in the premises and to spread to other parts of the premises with little or no measures taken to control the fire or to warn guests of it.

9. At the time of the fire, Plaintiff was a guest of the Monte Carlo Resort and Casino.

10. After the fire was discovered, Defendants undertook to assist guests, including Plaintiff, to an area that was supposedly safe. Guests, including Plaintiff, were told to remain in a specific location until further notice. Guests, including Plaintiff remained there but were continually subjected to smoke, fumes, and other airborne toxins resulting from the nearby fire.

11. As a direct and proximate result of the negligence and other actions of Defendants, Plaintiff suffered serious and permanent injuries to her general damage, in an amount in excess of TEN THOUSAND DOLLARS (\$10,000.00).

12. That Plaintiff has been forced to retain the service of an attorney to represent her in this action, and as such is entitled to reasonable attorneys' fees and litigation costs.

FIRST CAUSE OF ACTION
(Negligence; Premises Liability)

13. That Plaintiff incorporates by reference each and every allegation previously made in this Complaint, as if fully set forth herein.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

14. That on or about January 25, 2008, Plaintiff, while legally on the subject premises herein above described, was subjected to smoke, fumes, and other airborne toxins as a result of a fire that ignited on the premises.

15. At said time and place, Defendants negligently caused, permitted, constructed, managed and maintained, inspected, and supervised said premises, in particular, the area where the fire started and all areas where smoke, fumes, and other airborne toxins spread.

16. Defendants failed to maintain, repair, and upkeep these premises in such a manner as to allow for an adequate warning of a fire or to properly and adequately extinguish or stop the spread of the fire, thereby rendering the premises to be in a dangerous, defective, and hazardous condition in an area allowed for usage by persons lawfully on the subject premises, such as Plaintiff.

17. As a direct and proximate result of the conduct of the Defendants described hereinabove, Plaintiff has sustained damages in excess of TEN THOUSAND DOLLARS (\$10,000.00).

18. As a result of Defendants' conduct, as set forth herein, Plaintiff has been required to retain the services of an attorney, and, as direct, natural, and foreseeable consequence thereof, has been damaged thereby, and is entitled to reasonable attorneys' fees and costs.

19. Defendants have acted willfully and maliciously, and with oppression, fraud, or malice, and as a result of Defendants' wrongful conduct, Plaintiff is entitled to an award of exemplary or punitive damages.

SECOND CAUSE OF ACTION
(Negligence)

20. That Plaintiff incorporates by reference each and every allegation previously made in this Complaint, as if fully set forth herein.

21. Defendants had a duty to plan, design, control, supervise, repair, clean and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

maintain the subject premises in such a manner that it did not present a hazard to guests including, but not limited to, Plaintiff.

22. Defendants negligently failed to plan, design, control, supervise, repair, clean, maintain and keep up the premises and failed to warn Plaintiff of the hazards there.

23. Further, Defendants had a duty, once they undertook to rescue or provide assistance to Plaintiff, to do so in a safe manner and not to put Plaintiff in further harm or in a dangerous area.

24. Defendants and each of them breached their duties as set forth above by their negligent, careless, wanton, willful, and indifferent actions and failure to act including their failure to repair, maintain, and keep up the premises.

25. As a direct and proximate result of the conduct of the Defendants described hereinabove, Plaintiff has sustained damages in excess of TEN THOUSAND DOLLARS (\$10,000.00).

26. As a result of Defendants' conduct, as set forth herein, Plaintiff has been required to retain the services of an attorney, and, as direct, natural, and foreseeable consequence thereof, has been damaged thereby, and is entitled to reasonable attorneys' fees and costs.

27. Defendants have acted willfully and maliciously, and with oppression, fraud, or malice, and as a result of Defendants' wrongful conduct, Plaintiff is entitled to an award of exemplary or punitive damages.

THIRD CAUSE OF ACTION
(Negligence Per Se)

28. That Plaintiff incorporates by reference each and every allegation previously made in this Complaint, as if fully set forth herein.

29. At all times mentioned herein, there were in force statutes, ordinances, and regulations prohibiting the conduct exhibited by Defendants, and each of them.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

30. That Plaintiff was a member of the class of persons for whose protection said statutes, ordinances, and regulations were enacted or promulgated.

31. That the injuries suffered by Plaintiff were the type of injuries which said statutes, ordinances, and regulations were intended to prevent.

32. As a direct and proximate result of the conduct of the Defendants described hereinabove, Plaintiff has sustained damages in excess of TEN THOUSAND DOLLARS (\$10,000.00).

33. As a result of Defendants' conduct, as set forth herein, Plaintiff has been required to retain the services of an attorney, and, as direct, natural, and foreseeable consequence thereof, has been damaged thereby, and is entitled to reasonable attorneys' fees and costs.

34. Defendants have acted willfully and maliciously, and with oppression, fraud, or malice, and as a result of Defendants' wrongful conduct, Plaintiff is entitled to an award of exemplary or punitive damages.

///
///
///

WHEREFORE, Plaintiff prays judgment of this Court as follows:

1. For general damages in an amount in excess of Ten Thousand Dollars (\$10,000.00);
2. For special damages in an amount in excess of Ten Thousand Dollars (\$10,000.00);
3. For punitive or exemplary damages in an amount in excess of Ten Thousand Dollars (\$10,000.00);
4. For judgment for interest;
5. For attorneys fees and costs of suit incurred herein; and
6. For such other and further relief as may be just and reasonable in the premises.

DATED on this 11 day of January, 2010.

MAINOR EGLET COTTLE, TRIAL LAWYERS

ROBERT W. COTTLE, ESQ.

Nevada Bar No.: 4576

DAVID A. TANNER, ESQ.

Nevada Bar No.: 8282

City Centre Place

400 South Fourth Street Suite/Floor 6

Las Vegas, Nevada 89101

(702) 450-5400

Attorneys for Plaintiff

III
MAINOR EGLET COTTLE
TRIAL LAWYERS