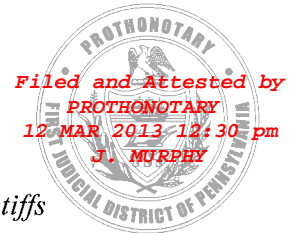


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Attorneys for Plaintiffs

**SEAN J. DANIELS, as Co-Executor
of the ESTATE of ROBERT C. DANIELS,
Deceased,**
1230 Horn Avenue # 605
Los Angeles, CA 90069

and

**CHRISTOPHER E. DANIELS, as Co-Executor
of the ESTATE of ROBERT C. DANIELS,
Deceased,**
703 Old Gulph Road
Bryn Mawr, PA 19010

and

DIANE C. DANIELS
416 Spring Garden Lane
West Conshohocken, PA 19428,

Plaintiffs

v.

SHERRIE R. SAVETT
1124 Springmont Circle
Bryn Mawr, PA 19010

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

MARCH TERM, 2013
NO. _____

JURY TRIAL DEMANDED

NOTICE TO PLEAD

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 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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. 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.

Lawyer Referral Service
Philadelphia Bar Association
1101 Market Street, 11th Floor
Philadelphia, Pennsylvania 19107
(215) 238-6338

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE, SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMACION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NINGUN HONORARIO.

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and :
BETTY THE CATERER, INC. :
 7037 North Broad Street :
 Philadelphia, PA 19126 :
 and :
ELLSWORTH SCOTT & STAFF, INC. :
 a/k/a **ELLSWORTH SCOTT, INC.** :
 7037 North Broad Street :
 Philadelphia, PA 19126 :
 :
 :
 Defendants :

CIVIL ACTION - COMPLAINT
2S - PREMISES LIABILITY

Plaintiffs Sean J. Daniels and Christopher E. Daniels, as Co-Executors of the Estate of Robert C. Daniels, deceased, by and through their undersigned counsel, bring this civil premises liability and negligence-based wrongful death and survival action, and Diane C. Daniels, individually, by and through her undersigned counsel, brings this negligent infliction of emotional distress action, against the above-named defendants and demand damages in a combined sum in excess of the local arbitration limits, exclusive of interest, costs, and damages for prejudgment delay, upon the causes of action set forth below. In support of their Complaint, plaintiffs state as follows:

SUMMARY OF THE ACTION

1. This action arises out of the tragic, unnecessary and wholly preventable death of former Pennsylvania Superior Court Judge, The Honorable Robert C. Daniels (“Judge Daniels”), on October 3, 2011 from massive head trauma and irreversible brain damage suffered when he was forced backward into an open stairwell and caused to fall down a flight of 12 stairs at the Bryn Mawr home of defendant Sherrie R. Savett during an engagement party for defendant’s daughter, Lauren Savett.

2. Judge Daniels’ fatal injuries were the direct result of defendants’ collective negligence, an ill-conceived party plan, and a number of unreasonably dangerous and defective conditions that were

allowed to exist on the premises that night, including a negligent catering staff attempting to navigate large trays of food in an overcrowded space, over an open stairwell fitted with an oversized, malpositioned and ungraspable handrail, which exposed invited guests to an unreasonable risk of serious physical injury, and set the stage for precisely the type of disaster that ended up costing Judge Daniels his life.

3. The fall was witnessed by Judge Daniels' wife, Diane Daniels, who watched helplessly as her husband fell backward, grabbing at the doorway and then the handrail in a futile effort to break his fall.

4. Mrs. Daniels watched in horror as her husband's head slammed against the steps on the way down, fracturing his skull. As he hit the bottom landing, she ran to his side and screamed for help.

5. Immediately after the fall, Mrs. Daniels witnessed her husband turn his head from side to side, and heard him moaning in pain and making gurgling sounds as he lay at the bottom of the stairs, still conscious.

6. Judge Daniels' son, Christopher Daniels, arrived on the scene after being called from his home within 15 minutes of the fall and witnessed his father mumbling and gasping for air as the paramedics attended to him.

7. After paramedics prepared Judge Daniels for transport and carried him out through the back entrance to the Savett home, Judge Daniels was rushed by ambulance to the Hospital of the University of Pennsylvania ("HUP"), where he underwent an emergent hemicraniotomy to relieve extensive pressure, swelling and bleeding from within his skull and brain.

8. While Judge Daniels was being urgently evaluated for his life-threatening injuries at HUP, the Savett party continued throughout the evening and into the early morning hours of the following day, uninterrupted and with assurances being made to party goers that Judge Daniels' fall was not serious.

9. At no time did defendant Savett come to HUP to offer support to Judge Daniels' family or to check on the severity of the injuries that he had suffered in her home.

10. Despite aggressive intervention and treatment by the neurosurgical team at HUP, Judge Daniels suffered massive and irreversible brain damage secondary to his fall, and his condition could neither be improved nor salvaged.

11. After doctors informed his wife and children that he had zero chances of recovery, and brain death was confirmed, artificial means of life support were withdrawn.

12. At 1:40 pm on October 3, 2011, Judge Daniels died with his family at his side.

13. Judge Daniels is survived by Diane Daniels, his devoted wife of eight years, and his three cherished children - - sons Sean and Christopher, and daughter Samantha.

14. The senseless and unspeakable tragedy of Judge Daniels' death is further compounded by the fact that on the evening of the incident, the Savett party continued, without interruption, until the early morning hours of October 2, 2011, the following day, and without the attendees who knew of the fall being informed of its severity, and for those who were not even aware of the fall at all, they were not made aware that a fellow guest had fallen to his eventual death in the midst of their ongoing celebration.

PARTIES AND JURISDICTIONAL FACTS

15. Plaintiff Sean J. Daniels is an adult individual and resident of the State of California, residing at 1230 Horn Avenue # 605 in Los Angeles, California.

16. Plaintiff Christopher E. Daniels is an adult individual and citizen of the Commonwealth of Pennsylvania, residing at 703 Old Gulph Road in Bryn Mawr, Pennsylvania.

17. Plaintiffs Sean J. Daniels and Christopher E. Daniels are the surviving sons and Co-Executors of the Estate of their late father, The Honorable Robert C. Daniels.

18. Letters Testamentary were granted to Sean J. Daniels and Christopher E. Daniels by the Register of Wills in and for Montgomery County, in the Commonwealth of Pennsylvania, on November 3, 2011. *See* Certificate of Grant of Letters Testamentary, attached as **Exhibit A**.

19. Plaintiff Diane C. Daniels is an adult individual and citizen of the Commonwealth of Pennsylvania, residing at 625 Creighton Road in Villanova, Pennsylvania at the time of the incident.

20. Diane Daniels is the surviving wife of Judge Daniels, to whom she was married for eight years up to and including the date of his unfortunate and unexpected death.

21. The Honorable Robert. C. Daniels, deceased, was an adult individual and citizen of the Commonwealth of Pennsylvania, who, at the time of his death, was residing with his wife at 625 Creighton Road in Villanova, Pennsylvania.

22. Plaintiffs Sean Daniels and Christopher Daniels, as Co-Executors of the Estate, bring this action on behalf of themselves, their sister and Mrs. Daniels, under and by virtue of the Wrongful Death Act, 42 Pa. C.S.A. §8301, the Survival Act, 42 Pa. C.S.A. §8302, and the applicable Rules of Civil Procedure and decisional law interpreting those Acts.

23. Notice of the institution of this action, as required by Pa. R. Civ. P. 2205 and Philadelphia Civ. R. *2205, was given to the following individuals:

- a. Sean J. Daniels - surviving son
1230 Horn Avenue #605
Los Angeles, CA 90069
- b. Christopher E. Daniels - surviving son
703 Old Gulph Road
Bryn Mawr, PA 19010
- c. Samantha S. Daniels - surviving daughter
99 Warren Street, #11H
New York, NY 10007

d. Diane C. Daniels - surviving wife
416 Spring Garden Lane
West Conshohocken, PA 19428

24. Defendant Sherrie R. Savett (“Defendant Savett”) is an adult individual and citizen of the Commonwealth of Pennsylvania, residing at 1124 Springmont Circle in Bryn Mawr, Pennsylvania (“the Savett property” or “the Savett home”).

25. Defendant Betty the Caterer, Inc. is a corporation or other legal entity organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with a principal place of business located at 7037 North Broad Street in Philadelphia, Pennsylvania. At all relevant times, Betty the Caterer owned, maintained, operated and/or controlled a catering business which provided food and catering services for private parties and events in clients’ homes, among other places.

26. Defendant Betty the Caterer was retained by and contracted with Defendant Savett to plan and to cater a private party in her home on October 1, 2011 and to provide competent staff, sufficient in number, skill and training in the proper planning, set-up, transportation, service, clearing and break-down of food and beverages to guests and invitees before, during and after the party on October 1, 2011, without exposing such guests and invitees to an increased risk of physical harm, or otherwise causing them to suffer physical injuries during the party.

27. In doing so, Betty the Caterer held itself out as being competent in party planning and in the provision of catering services, including staff sufficient in number, skill and training to set-up, transport, serve, clear and break-down food and beverages to guests and invitees in attendance at the Savett party on October 1, 2011, without exposing such guests and invitees to an increased risk of physical harm, or otherwise causing them to suffer physical injuries during the party.

28. Betty the Caterer undertook and assumed a duty to the guests and invitees of the Savett party, including Judge Daniels, to perform professional services in a safe, careful, prudent and non-negligent manner, and to avoid creating a risk of harm or causing physical injury to them.

29. At all relevant times, Betty the Caterer was acting directly and/or by and through its duly authorized agents, servants and employees who were involved in the planning and/or were present for and working at the party at the Savett home on October 1, 2011, who themselves were acting within the course and scope of their employment and/or agency with defendant and under its exclusive control. The identities of the latter are within the exclusive control and known only to defendant, and are not presently known or knowable by plaintiffs after reasonable investigation, and will be the subject of ongoing discovery.

30. Accordingly, defendant Betty the Caterer is vicariously liable for the negligent acts and/or omissions of its agents, servants and/or employees under theories of *respondeat superior*, master-servant, agency, and right of control.

31. Defendant Ellsworth Scott & Staff, Inc. a/k/a Ellsworth Scott, Inc. ("Ellsworth") is a corporation or other legal entity organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with a principal place of business located at 7037 North Broad Street in Philadelphia, Pennsylvania. At all relevant times, Ellsworth owned, maintained, operated and/or controlled a catering business which provided food and catering services for private parties and events in clients' homes, among other places, and/or supplied party planners, wait staff, servers, caterers and/or other catering service providers to Betty the Caterer, Inc.

32. Defendant Ellsworth was retained by and contracted with Defendant Savett to plan and to cater a private party in her home on October 1, 2011 and to provide competent staff, sufficient in number,

skill and training in the proper planning, set-up, transportation, service, clearing and break-down of food and beverages to guests and invitees before, during and after the party on October 1, 2011, without exposing such guests and invitees to an increased risk of physical harm, or otherwise causing them to suffer physical injuries during the party.

33. In doing so, Ellsworth held itself out as being competent in party planning and the provision of catering services, including staff sufficient in number, skill and training to set-up, transport, serve, clear and break-down food and beverages to guests and invitees in attendance at the Savett party on October 1, 2011, without exposing such guests and invitees to an increased risk of physical harm, or otherwise causing them to suffer physical injuries during the party.

34. Ellsworth undertook and assumed a duty to the guests and invitees of the Savett party, including Judge Daniels, to perform its professional services in a safe, careful, prudent and non-negligent manner, and to avoid creating a risk of harm or causing physical injury to them.

35. At all relevant times, Ellsworth was acting directly and/or by and through its duly authorized agents, servants and employees who were involved in the planning and/or were present for and working at the party at the Savett home on October 1, 2011, who themselves were acting within the course and scope of their employment and/or agency with defendant and under its exclusive control. The identities of the latter are within the exclusive control and known only to defendant, and are not presently known or knowable by plaintiffs after reasonable investigation, and will be the subject of ongoing discovery.

36. Accordingly, defendant Ellsworth is vicariously liable for the negligent acts and/or omissions of its agents, servants and/or employees under theories of *respondeat superior*, master-servant, agency, and right of control.

37. Defendants Betty the Caterer and Ellsworth shall hereafter be referred to collectively as “Betty the Caterer.”

38. At all relevant times, plaintiffs relied on the knowledge, care and skill of all defendants in the maintenance of safe and proper conditions on the Savett property, and in the provision of professional services in a safe and non-negligent manner during the Savett party on October 1, 2011.

39. Defendants are vicariously liable to plaintiffs for injuries sustained as a result of the negligent acts and omissions of persons or entities whose conduct was under their supervision, control or right of control, and which conduct increased the risk of harm and, in fact, did cause Judge Daniels’ catastrophic and fatal injuries and losses, as well as the injuries and losses suffered by Judge Daniels’ survivors, as described herein.

40. The catastrophic and fatal injuries suffered by Judge Daniels, the significant injuries suffered by Diane Daniels individually and as a result of the loss of her husband, and the tremendous damages suffered by Judge Daniels’ three children as a result of the loss of their father, were caused solely and exclusively by the combined negligence of defendants, their agents, servants and/or employees, and were due in no manner to any act or failure to act on the part of Judge Daniels or Mrs. Daniels.

41. The amount in controversy exceeds the prevailing local arbitration limits.

42. Venue for this action is properly laid in Philadelphia County as to all defendants pursuant to Pennsylvania Rules of Civil Procedure 1006 and 2179 and related decisional law.

FACTS COMMON TO ALL COUNTS

43. On October 1, 2011, Judge Daniels and his wife, Diane Daniels, attended a party hosted by defendant Sherrie Savett at her home, located at 1124 Springmont Circle in Bryn Mawr, as defendant’s invited guests.

44. At the request of defendant Savett, the party was catered and staffed by Betty the Caterer.

45. Defendants Savett and Betty the Caterer jointly planned the party, including designating which areas of the home would be utilized for the party and open to guests and catering staff, and which would not.

46. The party plan was ill-conceived in several respects, including the decision to overcrowd guests into confined spaces within the main floor of the home, while not using the living room and dining room, which are located on the same floor and in close proximity to the kitchen, breakfast room and great room.

47. The catering was buffet-style and/or used tray service, which required the catering staff to carry large platters of food in and out of the kitchen area and through the breakfast room to other areas of the home.

48. The party plan was further ill-conceived in that defendants decided to leave open during the party, a door leading from the breakfast room down to the basement, thereby requiring guests and catering staff, competing for space in an already overcrowded and confined area of the home, to stand and cross in front of an open stairwell and a flight of 12 stairs.

49. Furthermore, on the left side of the stairwell and overhanging the first several steps, are a set of floor-to-ceiling shelves which were made available to guests to dispose of used dinnerware and glassware, while standing and/or leaning precariously over the open stairway.

50. Mounted on the opposite wall is a large handrail that was unreasonably dangerous, defective and unfit for use in preventing or foreshortening someone from falling down the stairs in that the handrail was oversized in its perimeter dimension, failed to provide graspable finger recess areas, and was positioned too close to and virtually flush with the wall.

51. Upon their arrival at the Savett home, Judge and Mrs. Daniels noted the property to be packed with guests, with people standing in line inside the front door to check their coats.

52. Judge and Mrs. Daniels made their way through the crowd to congratulate defendant Savett's daughter, Lauren Savett, on her engagement.

53. Thereafter, Judge Daniels and his wife made their way to the breakfast room and were standing in front of the door leading to the basement when a member of the catering staff suddenly and without warning barreled out of the kitchen area, with his arms outstretched in front of him, carrying a large platter of food, and ordering guests to "move!" and "get out of the way!"

54. The server never broke stride as he negligently charged directly in front of, and too close to, Judge Daniels, forcing him out of the way and causing him to lose his footing and propel backward into the open stairwell.

55. Judge Daniels' wife, Diane Daniels, watched in horror as her husband reflexively and desperately grasped at the doorway and then at the handrail before he fell down the entire flight of 12 stairs, striking his head repeatedly against the steps and/or the wall on the way down.

56. Mrs. Daniels heard a loud "crack" as her husband's skull fractured from the impact.

57. As Judge Daniels hit the bottom landing, Mrs. Daniels ran down the stairs to his side and screamed for help.

58. Immediately after the fall, Mrs. Daniels witnessed her husband turn his head from side to side, and heard him moaning in pain and making gurgling sounds as he lay at the bottom of the stairs, still conscious.

59. At or about 8:40 pm, someone called 911.

60. An ambulance arrived at the scene at or about 8:47 pm.

61. In an apparent effort not to disturb the ongoing party, the EMS team was directed to the back of the property through the side yard and away from the partygoers, who were oblivious to the calamity unfolding in the basement of the Savett home.

62. Judge Daniels' son, Christopher Daniels, Arrived on the scene after being called from his home within 15 minutes of the fall and witnessed his father mumbling and gasping for air as the paramedics attended to him, and they handed to him his father's glasses which they had removed.

63. Judge Daniels was stabilized at the scene and transported to the Hospital of the University of Pennsylvania ("HUP") in Philadelphia at or about 9:21 pm; Mrs. Daniels was permitted to ride in the front seat of the emergency vehicle, not wanting to leave her husband's side.

64. Christopher Daniels followed the ambulance in a separate vehicle while frantically calling his siblings to alert them of their father's severe situation.

65. After Judge Daniels was taken away from the Savett residence in an ambulance, the door to the basement stairwell was closed and kept shut.

66. En route to the hospital, Judge Daniels was able to maintain his own respirations and breathing and did not require intubation.

67. Upon his arrival at HUP, Judge Daniels was immediately assessed by the awaiting trauma team.

68. A stat CT scan was performed which revealed diffuse bleeding in the brain and multiple skull fractures, including an oblique fracture traversing from the right anterior temporo-parietal to the left posterior parietal bones. He had evidence of both subarachnoid and subdural hemorrhages with diffuse brain edema and midline shift suggestive of uncal herniation.

69. Judge Daniels coded while in the CT suite and suffered a pulseless electrical activity (PEA) arrest requiring chest compressions with restoration of spontaneous circulation (ROSC).

70. While Judge Daniels was being urgently evaluated for his life-threatening injuries at HUP, the Savett party continued into the early morning hours of October 2, 2011, the following day, uninterrupted.

71. At no time did defendant Savett come to HUP to offer support to Judge Daniels' family or to check on the severity of the injuries that he had suffered in her home.

72. Meanwhile, shortly before midnight, Judge Daniels underwent an emergent right-sided decompressive hemicraniotomy. A portion of his skull had to be removed to relieve massive pressure and swelling from within his skull and brain, and to evacuate bleeding from the surface of his brain.

73. Postoperatively, Judge Daniels remained non-responsive and comatose.

74. He was maintained on an intravenous infusion of narcotics, including fentanyl, for continued sedation and pain relief.

75. When his wife and children were finally allowed to see him, the husband and father they knew was barely recognizable to them: his face was swollen beyond its normal dimensions, his eyes were black blue, and his head was wrapped in blood-soaked bandages.

76. Despite swift and aggressive intervention by the neurosurgical team at HUP, the damage to Judge Daniels' brain proved to be irreversible and his condition could not be salvaged.

77. On the evening of October 2, 2011, the medical team met with Diane, Sean, Christopher and Samantha Daniels and delivered the devastating news that Judge Daniels had only minimal brainstem reflexes left, had no chance for any meaningful recovery, and eventually would progress to brain death over the next period of hours to days.

78. The following day, October 3, 2011, doctors informed Judge Daniels' wife and children that he then had zero chances of recovery, and brain death was confirmed; thereafter, artificial means of life support were withdrawn.

79. At 1:40 pm on the date of October 3, 2011, Judge Daniels succumbed to his injuries and died with his family by his side.

80. According to the Death Certificate, the immediate cause of death was "blunt craniocerebral injury" secondary to Judge Daniels' violent fall down defendant Savett's stairwell.

81. In the weeks that followed Judge Daniels' death, defendant Savett's mother, Fran Raiken, with whom Mrs. Daniels did not share either a close or personal relationship, but knew only casually, began calling Mrs. Daniels on the telephone, frequently and repeatedly.

82. More than once, Mr. Raiken indicated to Mrs. Daniels that she "wanted to speak to her about something," presumably related to Judge Daniels' tragic death, but would not elaborate any further.

83. In fact, on one occasion, Mrs. Daniels answered a call from Fran Raiken in her car, which was audible to her passenger, Judge Daniels' son, Sean Daniels, wherein Fran Raiken said, "Diane, I need to ask you something," but upon hearing that Sean Daniels was present, Mrs. Raiken replied, "I will call you another time."

84. After several months of Mrs. Daniels' not responding to Mrs. Raiken's calls to her, and a letter was sent by Plaintiffs' counsel to defendant Savett regarding this action, the phone calls finally stopped and Mrs. Daniels never heard from Mrs. Raiken again.

85. Inexplicably, just three months after Judge Daniels' death, in or about February 2012, the original floor plans of the Savett home, where the incident occurred, the safety of which is at issue in this case, were removed from Lower Merion Township's Building and Planning Department ("BPD").

86. Review of the BPD file further indicates that the identity and/or signature of the individual who signed out the original floor plans was “whited out” in the registry, in an apparent effort to conceal her identity.

87. Upon information and belief, as of the date of the filing of this action, the original floor plans have not been returned to the BPD by whomever signed them out.

88. Subsequent thereto, Mrs. Daniels learned that defendant Savett was in the process of planning renovations to her home including the basement area where the very incident resulting in her husband’s death had occurred.

89. As a direct and proximate result of the collective negligence of defendants, and each of them, in creating and allowing to exist on the Savett premises on October 1, 2011, unreasonably dangerous and defective conditions which posed a significant risk of catastrophic physical injuries to guests, as described above and in the following counts, Judge Daniels was caused to fall down the steps in the Savett home and suffered catastrophic injuries which proved to be fatal.

90. As a direct consequence of defendants’ collective negligence and the dangerous conditions that existed and were allowed to exist on the Savett premises during the party on October 1, 2011, Judge Daniels endured a horrific and traumatic death, marked by significant, conscious physical pain, suffering, discomfort, panic and fright.

91. Judge Daniels’ violent fall was the direct result of defendants’ negligence in formulating, approving and implementing an ill-conceived party plan combined with a number of dangerous conditions that were allowed to exist on the premises that night, including a negligent catering staff who imprudently pushed their way through an overcrowded space, immediately adjacent to an open stairwell, forcing guests out of the way, with nowhere else to go.

92. In violation of appropriate safety and engineering principles, and/or applicable Building Code provisions, the stairwell leading to the basement was fitted with an unsafe, oversized, malpositioned and ungraspable handrail that was not safe for its intended use in either preventing or minimizing a fall down the stairs, such as that suffered by Judge Daniels.

93. As a direct and proximate result of the dangerous and defective conditions that existed on the premises, as recited above, Judge Daniels was forced off of his footing and backed into the open stairwell by the catering staff.

94. As a direct and proximate result of the dangerous and defective conditions that existed on the premises, as recited above, Judge Daniels was unable to grab the handrail adequately either before or during his fall in order to prevent or minimize his injuries.

95. At all relevant times, defendants knew, or in the exercise of due care should have known, about the dangerous and defective conditions that existed on the premises on October 1, 2011, and yet, despite this knowledge, they failed to take any action to eliminate these dangerous and hazardous conditions, and/or to warn guests and invitees, including Judge Daniels, about them.

96. The defective, dangerous and hazardous conditions described herein had been present and existed for some time prior to Judge Daniels' fall and were of defendants' own making as described herein.

97. Some or all of the defendants herein had actual and/or constructive knowledge and/or notice that the Property was defective as described above, that these defects posed a significant and foreseeable risk of catastrophic physical injury to the health, safety and well-being of invitees on the premises, including Judge Daniels, and, further, that defendants consciously and recklessly disregarded those risks by failing to act and/or to take reasonable measures to correct those conditions, thereby exposing invitees on the premises, including Judge Daniels, to an unreasonable and unnecessary risk of harm.

98. The catering defendants further knew about the open stairwell and that several guests and invitees were permitted to be standing in the doorway, immediately adjacent to an open flight of stairs, and, nevertheless and in conscious and reckless disregard for the risk of injury to those standing in the area, including Judge Daniels, came barreling through the kitchen with large trays of food, forcing Judge Daniels to back up out of the way and into the open stairwell, causing him to lose his footing and fall backwards down the entire flight of stairs.

99. As a direct result of the negligence of defendants, jointly and severally, Judge Daniels needlessly suffered catastrophic and permanent injuries to the nerves, vessels, tissues, muscles and vital organs of his body, including to his brain.

100. As a direct result of the negligence of defendants, jointly and severally, Judge Daniels was exposed to an increased risk of harm and was caused to suffer the following injuries and losses, all of which were avoidable:

- a. multiple fractures, bruises and contusions;
- b. internal and external injuries;
- c. skull fractures;
- d. subdural hematoma;
- e. subarachnoid hemorrhage;
- f. brain herniation;
- g. irreversible brain damage;
- h. traumatic brain injury;
- i. PEA arrest;
- j. need for hemicraniotomy to alleviate brain swelling, increased intracranial pressure and bleeding;
- k. loss of brainstem reflexes;
- l. cessation of breathing;
- m. all other injuries described in the medical records;
- n. conscious physical pain, suffering and discomfort;
- o. fear, panic and sense of impending injury and/or death;
- p. disfigurement;
- q. embarrassment and humiliation;
- r. medical expenses;

- s. loss of past and future earnings;
- t. loss of enjoyment of life and life's pleasures;
- u. diminution of life expectancy; and
- v. hastened death.

101. As a direct result of the negligence of defendants, jointly and severally, the Estate of The Honorable Robert C. Daniels and the beneficiaries of his Estate, have suffered and will continue to suffer substantial economic and non-economic injuries, damages and losses, including:

- a. medical expenses;
- b. funeral and burial expenses;
- c. costs of Estate administration;
- d. loss of the comfort, care, society, support, guidance, tutelage and moral upbringing of their husband and father;
- e. such other injuries, damages and losses as described more fully herein

COUNT I - NEGLIGENCE
Plaintiffs v. All Defendants

102. The preceding paragraphs are incorporated by reference as if set forth fully herein.

103. Defendants owed a duty of care to Judge Daniels as a guest and invitee on the premises on the evening of October 1, 2011.

104. Defendants breached their duty of care to Judge Daniels in the manners described herein.

105. Judge Daniels' violent fall and resultant injuries, damages and losses were caused by the negligence, carelessness and recklessness of defendants, jointly and severally, acting individually and by and through their agents, servants and/or employees, in one or more of the following respects:

- a. adopting, approving and implementing an ill-conceived party plan which included overcrowding guests and invitees in limited areas of the premises;
- b. adopting, approving and implementing an ill-conceived party plan which included leaving the door to the basement open and the stairway to the basement unprotected and exposed;
- c. failing to provide sufficient space to safely accommodate the number of guests and invitees inside the premises on October 1, 2011;

- d. failing to limit the number of individuals inside the premises and permitting an overcrowded and unsafe condition to exist on the premises on October 1, 2011;
- e. negligently deciding to leave open during the party a door leading from the breakfast room down to the basement, requiring guests and catering staff, competing for space in an already overcrowded and confined area of the home, to stand and cross in front of the open stairwell and a flight of 12 stairs;
- f. negligently creating a zone of danger in front of an open stairwell and over a flight of 12 steps, where guests and invitees were expected to be standing with catering staff coming and going through the kitchen;
- g. negligently making available to guests and invitees the shelving hovering above the open stairwell as a place to dispose of used dinnerware and glassware, while standing and/or leaning into an open stairwell;
- h. carelessly and negligently permitting and allowing the property to be unsafe for guests and invitees to walk, move and/or stand safely and free from an unreasonable risk of injury and harm, including falls;
- i. creating unreasonably dangerous and defective conditions on the premises on October 1, 2011, as described herein;
- j. allowing and permitting unreasonably dangerous and/or defective conditions to exist on the premises on October 1, 2011;
- k. failing to take reasonable steps to eliminate dangerous and/or defective conditions as they existed on the premises on October 1, 2011;
- l. failing to warn and/or notify guests and invitees, including the decedent, of the existence of dangerous and/or defective conditions as they existed on the premises on October 1, 2011;
- m. failing to maintain the premises in a safe and proper condition on October 1, 2011;
- n. failing to properly inspect the premises for unreasonably dangerous and defective conditions prior to inviting guests to the party on October 1, 2011;
- o. failing to discover or take proper steps and/or measures to discover the existence of a dangerous and/or defective condition under the circumstances;
- p. failing to properly supervise, maintain and/or control the premises on October 1, 2011;
- q. failing to implement adequate safety precautions under the circumstances;
- r. failing to hire and/or to provide catering staff sufficient in number, skill and training to service the party on October 1, 2011;
- s. failing to hire and/or to provide catering staff sufficient in number, skill and training to set-up, transport, serve, clear and break-down food and beverages to guests and invitees in attendance on October 1, 2011, without exposing such guests and invitees to an increased risk of physical injury, or otherwise causing them to suffer physical injuries during the party;
- t. failing to properly supervise the catering staff and/or employees;
- u. failing to properly train the catering staff and/or employees;

- v. negligently navigating a confined space with oversized serving trays and forcing guests and invitees out of the way, causing the decedent to back up into an open stairwell;
- w. negligently navigating a confined space with oversized serving trays and forcing guests and invitees out of the way, causing the decedent to lose his footing and fall down a flight of stairs;
- x. failing to use due care in directing guests and invitees to move out of the way while transporting food from the kitchen into other areas of the party occupied by guests and invitees;
- y. failing to transport and serve food to guests in a reasonably safe manner;
- z. failing to transport and serve food to guests via a reasonably safe route;
- aa. failing to transport and serve food to guests in a reasonably safe location;
- bb. failing to maintain and/or install a safe and appropriate handrail in the stairwell leading to the basement;
- cc. failing to comply with appropriate safety and/or engineering principles, and/or applicable safety and/or building codes to prevent an unreasonably dangerous condition from existing on the property as of October 1, 2011;
- dd. failing to equip the premises with an appropriate sized handrail leading to the basement;
- ee. failing to equip the premises with a handrail with graspable finger recess areas;
- ff. failing to equip the premises with a properly positioned handrail that is not flush or near-flush with the wall;
- gg. failing to conform the premises to industry standards for engineering safety; and
- hh. having actual knowledge of the defective condition(s) that posed a significant risk to the safety, health and well-being of guests and invitees on the premises, including the decedent, and consciously disregarding that risk by failing to correct or eliminate the known defect(s) and/or by failing to warn invitees of the known defect(s) on the premises.

106. As a direct and proximate result of the negligence of defendants, jointly and severally, Judge Daniels was exposed to an increased risk of harm and needlessly suffered catastrophic and fatal injuries, damages and losses, as described herein.

WHEREFORE, plaintiffs demand judgment against all defendants, individually, jointly and severally, and damages in an amount in excess of Fifty-Thousand Dollars (\$50,000.00), and in excess of the prevailing arbitration limits, exclusive of pre-judgment interest, post-judgment interest and costs.

COUNT II- NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

Plaintiff Diane Daniels v. All Defendants

107. The preceding paragraphs are incorporated by reference as if set forth fully herein.

108. As a result of the negligence of all defendants, individually, jointly and severally, and the negligence of their agents, servants and/or employees, Diane Daniels has suffered compensable mental anguish and emotional distress under the doctrine of *Sinn v. Burd*, 404 A.2d 672 (Pa. 1979), including, but not limited to, severe emotional distress, anxiety, depression, nightmares, nausea and a profound sense of loss.

109. Mrs. Daniels was present for and/or witnessed the negligent acts and omissions of defendants, as described herein, that resulted in catastrophic, permanent and ultimately fatal injuries to her husband, Judge Robert Daniels.

110. Mrs. Daniels was present for and watched helplessly as her husband fall backward into the open stairwell and grasp at the doorframe and handrail in a desperate effort to break his fall.

111. She saw the look of panic and fright on his face as he fell down the stairs.

112. She also witnessed her husband's head strike the stairs repeatedly, and heard a loud "crack" as his skull fractured.

113. She ran to her husband's side, saw him turn his head from side to side, heard him moan as he languished in pain and observed his condition deteriorate as he began to lose consciousness.

114. Mrs. Daniels remained with her husband in the ambulance during the 20-minute drive to HUP and was aware of the potential criticality of his injuries.

115. At HUP, Mrs. Daniels was present for and witnessed her husband's condition progressively deteriorate as a result of his irreversible brain damage, to the point where he lost all major brainstem

reflexes, was declared brain dead, was subsequently removed from artificial means of life support, and ultimately died.

116. As a result of defendants' negligence and having witnessed and experienced first-hand the horrific injuries suffered by her husband, Mrs. Daniels has in the past experienced, presently experiences, and will in the future continue to experience, numerous physical manifestations of her severe emotional distress, including but not limited to sleeplessness, stress, anxiety, depression, nervousness, hopelessness, despair, mental anguish, nightmares, headaches, stomach upset, nausea, loss of appetite, and a profound sense of loss.

WHEREFORE, plaintiff Diane Daniels demands judgment against all defendants, individually, jointly and severally, and damages in an amount in excess of Fifty-Thousand Dollars (\$50,000.00), and in excess of the prevailing arbitration limits, exclusive of pre-judgment interest, post-judgment interest and costs.

FIRST CAUSE OF ACTION - WRONGFUL DEATH ACT
Plaintiffs v. All Defendants

117. The preceding paragraphs are incorporated by reference as if set forth fully herein.

118. Plaintiffs Sean J. Daniels and Christopher E. Daniels, as Co-Executors of the Estate of The Honorable Robert C. Daniels, Deceased, bring this action on behalf of themselves and the remaining Wrongful Death beneficiaries under and by virtue of the Wrongful Death Act, 42 Pa.C.S.A. §8301, the applicable Rules of Civil Procedure and decisional law interpreting the Act.

119. Under the Wrongful Death Act, Judge Daniels, left surviving him as his heirs-at-law his devoted wife of eight years, Diane C. Daniels, and his three adult children, Sean J. Daniels, Christopher E. Daniels and Samantha S. Daniels, with whom he shared particularly close relationships right up until

the date of his death. These individuals, who have been notified of the commencement of this action, are listed below, and are the beneficiaries believed to be entitled to recover damages under the Wrongful Death Act:

- a. Sean J. Daniels - surviving son
1230 Horn Avenue, #605
Los Angeles, CA 90069
- b. Christopher E. Daniels - surviving son
703 Old Gulph Road
Bryn Mawr, PA 19010
- c. Samantha S. Daniels - surviving daughter
99 Warren Street, #11H
New York, NY 10007
- d. Diane C. Daniels - surviving wife
416 Spring Garden Lane
West Conshohocken, PA 19428

120. As a result of the negligent acts and omissions of the defendants, as described herein, plaintiffs' decedent, Robert C. Daniels, was caused to suffer catastrophic, permanent and fatal injuries and death resulting in the entitlement to damages by the aforementioned beneficiaries under the Wrongful Death Act.

121. Plaintiffs claim the full measure of all damages recoverable under and by virtue of the Wrongful Death Act and the decisional law interpreting the Act, including but not limited to damages for all hospital and medical expenses, funeral and burial expenses, costs of estate administration, the monetary support that the decedent could have been expected to provide to the beneficiaries during his lifetime had his death not occurred, and the substantial pecuniary value of the services, comfort, care, society, guidance, tutelage and moral upbringing that the decedent could have been expected to provide to his family during his lifetime had his death not occurred, including the value of the profound emotional and

psychological losses suffered by each of the beneficiaries by reason of the decedent's premature death under *Rettger v. UPMC*, 991 A.2d 915 (Pa. 2010).

WHEREFORE, plaintiffs demand judgment against all defendants, individually, jointly and severally, and damages in an amount in excess of Fifty-Thousand Dollars (\$50,000.00), and in excess of the prevailing arbitration limits, exclusive of pre-judgment interest, post-judgment interest and costs.

SECOND CAUSE OF ACTION - SURVIVAL ACT
Plaintiffs v. All Defendants

122. The preceding paragraphs are incorporated by reference as if set forth fully herein.

123. Plaintiffs also bring this Survival Action on behalf of the Estate of The Honorable Robert C. Daniels, Deceased, and claim the full measure of damages recoverable under the Survival Act, 42 Pa.C.S.A. §8302, the applicable Rules of Civil Procedure, and the decisional law interpreting the Act.

124. As a result of the negligent acts and omissions of all defendants, as described herein, plaintiffs' decedent, Robert C. Daniels, was caused to suffer catastrophic, permanent and fatal injuries and death resulting in the entitlement to damages by his Estate under the Survival Act.

125. At the time of his death, Judge Daniels was an active member of the legal and business communities, and had an active legal practice in the private sector.

126. On behalf of decedent's Estate, plaintiffs claim damages for all economic losses to the Estate, including but not limited to the decedent's lost earnings between the time of decedent's injury and the time of his death, as well as the decedent's total estimated past and future earnings, less his personal maintenance costs.

127. On behalf of decedent's Estate, plaintiffs also claim damages for the decedent's conscious physical discomfort, pain and suffering, mental anguish, fright, loss of enjoyment of life and life's

pleasures, and all other damages and losses recoverable under the Survival Act and the decisional law interpreting the Act.

WHEREFORE, plaintiffs demand judgment against all defendants, individually, jointly and severally, and damages in an amount in excess of Fifty-Thousand Dollars (\$50,000.00), and in excess of the prevailing arbitration limits, exclusive of pre-judgment interest, post-judgment interest and costs.

ROSS FELLER CASEY, LLP

BY: /s/ Matthew A. Casey
MATTHEW A. CASEY, ESQUIRE
JENNIFER L. RUSSELL, ESQUIRE
GREGORY N. HAROUTOUNIAN, ESQUIRE

Dated: March 12, 2013

EXHIBIT “A”

SHORT CERTIFICATE
COMMONWEALTH OF PENNSYLVANIA
COUNTY OF MONTGOMERY



I, D. Bruce Hanes, Register of Wills in the County of Montgomery, in the Commonwealth of Pennsylvania,
DO HEREBY CERTIFY that on the 3rd day of November, 2011

LETTERS TESTAMENTARY on the Estate of ROBERT C DANIELS (AKA ROBERT DANIELS),

deceased, were granted to

SEAN J DANIELS and CHRISTOPHER E DANIELS

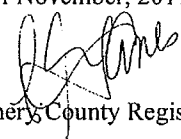
having first been qualified well and truly to administer the same. And I further certify that no revocation of said
Letters appears of record in my office.

Date of Death: 10/03/2011

Social Security Number: 162-30-6121

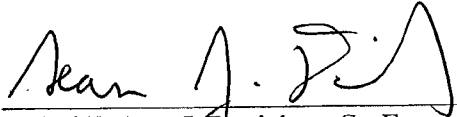
Given under my hand and seal of office this

3rd day of November, 2011


Montgomery County Register of Wills

VERIFICATION

Plaintiff, Sean J. Daniels as Co-Executor of the Estate of Robert C. Daniels, deceased, hereby verifies that the within Civil Action Complaint is based on first-hand information and on information furnished to his counsel and obtained by counsel in the course of this lawsuit. The language of the document is that of counsel and not of the affiant. To the extent that the contents of the document are based on information furnished to counsel and obtained by counsel during the course of this lawsuit, the affiant has relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Plaintiff, Sean J. Daniels as Co-Executor of
the Estate of Robert C. Daniels, deceased

VERIFICATION


Plaintiff, Christopher E. Daniels as Co-Executor of the Estate of Robert C. Daniels, deceased, hereby verifies that the within Civil Action Complaint is based on first-hand information and on information furnished to his counsel and obtained by counsel in the course of this lawsuit. The language of the document is that of counsel and not of the affiant. To the extent that the contents of the document are based on information furnished to counsel and obtained by counsel during the course of this lawsuit, the affiant has relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Plaintiff, Christopher E. Daniels as
Co-Executor of the Estate of Robert C. Daniels,
deceased

VERIFICATION

Plaintiff, Diane C. Daniels, hereby verifies that the within Civil Action Complaint is based on first-hand information and on information furnished to her counsel and obtained by counsel in the course of this lawsuit. The language of the document is that of counsel and not of the affiant. To the extent that the contents of the document are based on information furnished to counsel and obtained by counsel during the course of this lawsuit, the affiant has relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.


Plaintiff, Diane C. Daniels