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FILED
SAN MATEO COUNTY

AUG 26 2009

6 Plaintiff In Pro Per

Clerk of the Superior Court
By *William Reagen*
DEPUTY CLERK

7 SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF SAN MATEO, UNLIMITED JURISDICTION

9 STANLEY G. HILTON,)
10)
11 Plaintiff,)
12 v.)
13 RIM PACIFIC MANAGEMENT,)
14 CASIOPEA BOVET, OTIS ELEVATOR)
15 COMPANY, DEE KETCHAM,)
16 and DOES 1 through 30,)
Defendants.)

Case No.: **CIV 487288**

COMPLAINT FOR DAMAGES

Jury Trial Requested

17 **INTRODUCTORY ALLEGATIONS**

- 18 1. Plaintiff is a person that lives in San Mateo County.
- 19 2. Defendant, Rim Pacific Management, is a business operating in San Mateo
20 County, California, which manages the building ("The Building") at 177 Bovet Road, San
21 Mateo, California, where the elevator incident in this case occurred.
- 22 3. Defendant, Dee Ketcham, was the property manager at 177 Bovet Road, San
23 Mateo, California, at the time of the incident..
- 24 4. Defendant, Casiopea Bovet, was the owner of 177 Bovet Road, San Mateo,
25 California, at the time of the incident..
- 26 5. Plaintiff is ignorant of the true names and capacities of defendants sued herein as

1 does one through thirty, inclusive, and therefore sues these defendants by such fictitious names.
2 Plaintiff will amend this Complaint to allege their true names and capacities when ascertained.
3 Plaintiff is informed and believes and thereon alleges that each of these fictitiously named
4 defendants is responsible in some manner for the occurrences herein alleged, and that plaintiff's
5 injuries as herein alleged were proximately caused by the aforementioned defendants.

6 6. Plaintiff is informed and believes and thereon alleges that at all times herein
7 mentioned each of the defendants were the agent and employee of each of the remaining
8 defendants and, in doing the things hereinafter alleged, were acting within the course and scope
9 of such agency and employment.

10 7. Jurisdiction and venue are proper in this county because all actions complained of,
11 in this case, happened in this county.

12 **FIRST CAUSE OF ACTION**

13 **PREMISES LIABILITY**

14 8. The allegations of paragraphs 1 through 7 are realleged and incorporated herein by
15 reference. This cause of action is pled against each and every defendant.

16 9. On or about August 28, 2008, plaintiff entered the building at 177 Bovet Road, in
17 San Mateo, California ("The Building") in order to visit a tenant on the 5th floor in Suite 540, in
18 that building, Dr. Randall Sclar. This was for purposes of a child custody evaluation study in
19 plaintiff's divorce case for which Sclar had been appointed by this Court.

20 10. Plaintiff entered an elevator in The Building at 177 Bovet Road, at approximately
21 3:15 PM on August 28, 2008, and pressed the button for floor number 5. This elevator was in
22 defective condition and the plaintiff is informed and believes that defendants knew that the
23 elevator was in a defective condition, but they failed to post any warning signs whatsoever,
24 anywhere. Plaintiff boarded the elevator in the lobby of the building and the elevator began to
25 climb but became stuck between floors. The temperature was extremely hot that day (over 90
26 degree Fahrenheit and probably over 100 degrees Fahrenheit) and plaintiff suffered and has long

1 suffered from a respiratory and cardiac condition. He had difficulty breathing in the elevator
2 when it got stuck. He yelled for help and soon the defendants' property manager, Dee Ketcham,
3 and other employees and agents of defendants, responded by yelling down to plaintiff from some
4 floors. Plaintiff yelled and told defendants that he was suffering from cardiac and respiratory
5 illnesses and could not breathe and was about to faint and could die and he demanded that
6 defendants pry open the doors of the elevator to release him. Defendants refused to pry open the
7 door and told plaintiff that they did not want to "damage the property" of the elevator and
8 defendants forced the plaintiff to stay in the elevator for approximately one hour until they
9 brought a "maintenance man" who finally managed to open the elevator door after approximately
10 one hour. Plaintiff also demanded that the defendants call the San Mateo Fire Department to
11 force open the door and release him, but defendants refused.

12 11. As a proximate result of defendants forcing plaintiff to remain in the stuck
13 elevator between floors, for about an hour, on August 28, 2008, plaintiff suffered extreme mental
14 and physical pain and suffering, claustrophobia, and incurred medical costs in an amount
15 according to proof. Plaintiff also developed a phobia of riding in elevators in any building due to
16 this incident and this severely hampered his ability to function, in general. This claustrophobia
17 and phobia of riding in elevators for fear of getting stuck again has persisted to the present day.
18 Plaintiff is entitled to recover special damages for medical costs and general damages for pain
19 and suffering of \$5 million dollars, *and LOST income and diminished income earning capacity* and
20 was forced to miss his 3:30 PM appointment with Dr. Sclar and this prejudiced his rights and had
21 long term ramifications in his divorce case regarding the custody of 3 minor children. *RM*

22 12. Because defendants refused to pry open the elevator door, and thus forced plaintiff
23 to remain in a dangerous and claustrophobic situation for an hour, on August 28, 2008,
24 defendants acted maliciously, oppressively, and with total disregard of the safety and rights and
25 interests of the plaintiff. The defendants' recklessness and malicious and cynical refusal to pry
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1 open the door for an hour, because they wanted to “avoid property damage”, justifies an award of
2 \$20 million dollars in punitive damages against each defendant.

3 WHEREFORE, plaintiff prays for relief as hereinafter set forth.

4 **SECOND CAUSE OF ACTION**

5 **NEGLIGENCE**

6 13. The allegations of paragraphs 1 through 12 are realleged and incorporated herein
7 by reference. This cause of action is pled against each and every defendant.

8 14. On or about August 28, 2008, plaintiff entered The Building at 177 Bovet Road,
9 San Mateo, California, as a member of the public and in order to see a tenant, for an
10 appointment, in that building, on the 5th floor in Suite 540, Dr. Randall Sclar. This was for
11 purposes of a child custody evaluation study in plaintiff’s divorce case for which Sclar had been
12 appointed by this Court.

13 15. All defendants owed a duty of due care to plaintiff, as a member of the public and
14 as a customer entering The Building, and, since all offices of tenants require elevator travel up
15 and down, in that building, defendants had a duty of due care to plaintiff to keep the elevator safe
16 and in running condition and to warn plaintiff of any defects and dangers in the elevator. Also,
17 the defendants owed a duty to plaintiff to pry open the doors of the elevator immediately when
18 the elevator became stuck between floors, especially when the defendants were informed that the
19 plaintiff had a respiratory and cardiac and emotional condition and could not breathe in the
20 intense heat and claustrophobic atmosphere inside a stuck elevator.

21 16. On or about August 28, 2008, defendants breached their duty of due care to
22 plaintiff and defendants acted negligently regarding said elevator in the building by failing to
23 maintain the elevator in a safe condition and in an operating condition and by failing to pry open
24 the doors of the elevator to enable the plaintiff to escape when they became aware that the
25 elevator was stuck with plaintiff inside and when they became aware of the plaintiff’s medical
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1 condition when he told them. Defendants also breached their duty and acted negligently by
2 failing to post a warning sign that the elevator was defective before plaintiff entered into the
3 elevator for a trip to the 5th floor.

4 17. As a proximate result of defendants forcing plaintiff to remain in the stuck
5 elevator between floors, for about an hour, on August 28, 2008, plaintiff suffered extreme mental
6 and physical pain and suffering, claustrophobia and incurred medical costs in an amount
7 according to proof. Plaintiff also developed a phobia of riding in elevators in any building due to
8 this incident and this severely hampered his ability to function, in general. This claustrophobia
9 and phobia of riding in elevators for fear of getting stuck again has persisted to the present day.
10 Plaintiff is entitled to recover special damages for medical costs and general damages for pain
11 and suffering of \$5 million dollars. Also, as a proximate result of defendants actions, plaintiff
12 was forced to miss his 3:30 PM appointment with Dr. Sclar and this prejudiced his rights and had
13 long term ramifications in his divorce case regarding the custody of 3 minor children.

14 18. Because defendants refused to pry open the elevator door, and forced plaintiff to
15 remain in a dangerous and claustrophobic situation for an hour, on August 28, 2008, defendants
16 acted maliciously, oppressively and with total disregard of the safety and rights and interests of
17 the plaintiff. The defendants recklessness and malicious and cynical refusal to pry open the door
18 for an hour, because they wanted to "avoid property damage", justifies an award of \$20 million
19 dollars in punitive damages against each defendant.

20 WHEREFORE, plaintiff prays for relief as hereinafter set forth.

21 **THIRD CAUSE OF ACTION**

22 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

23 19. The allegations of paragraphs 1 through 18 are realleged and incorporated herein
24 by reference. This cause of action is pled against each and every defendant.

25 20. The actions of defendants, on or about August 28, 2008, at The Building, at 177
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1 Bovet Road, San Mateo, California, in refusing to pry open the doors of the stuck elevator to
2 release plaintiff, were outrageous and shocking and irresponsible and would shock the conscious
3 of any civilized person. Specifically, the defendants knew that plaintiff suffered from cardiac,
4 respiratory, and emotional illnesses when he told them this when he shouted to them from inside
5 the stuck elevator. Plaintiff repeatedly demanded that the defendants pry open the door to release
6 him and defendants knew that the heat inside the elevator was intense and over 90 degrees
7 Ferenheit and probably over 100 degrees Ferenheit. Defendants ruthlessly ignored plaintiff's
8 plea for help when they could have easily pried open the door to release him because defendants
9 said they wanted to avoid "property damage" to the elevator. This outrageous conduct in forcing
10 plaintiff to remain stuck in the elevator for an hour constitutes intentional infliction of emotional
11 distress.

12 21. As a proximate result of defendants forcing plaintiff to remain in the stuck
13 elevator between floors, for about an hour, on August 28, 2008, plaintiff suffered extreme mental
14 and physical pain and suffering, claustrophobia and incurred medical costs in an amount
15 according to proof. Plaintiff also developed a phobia of riding in elevators in any building due to
16 this incident and this severely hampered his ability to function, in general. This claustrophobia
17 and phobia of riding in elevators for fear of getting stuck again has persisted to the present day.
18 Plaintiff is entitled to recover special damages for medical costs and general damages for pain
19 and suffering of \$5 million dollars. Also, as a proximate result of defendants actions, plaintiff
20 was forced to miss his 3:30 PM appointment with Dr. Sclar and this prejudiced his rights and had
21 long term ramifications in his divorce case regarding the custody of 3 minor children.

22 22. Because defendants refused to pry open the elevator door, and forced plaintiff to
23 remain in a dangerous and claustrophobic situation for an hour, on August 28, 2008, defendants
24 acted maliciously, oppressively, and with total disregard of the safety and rights and interests of
25 the plaintiff. The defendants recklessness and malicious and cynical refusal to pry open the door
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1 for an hour, because they wanted to “avoid property damage”, justifies an award of \$20 million
2 dollars in punitive damages against each defendant.

3 WHEREFORE, plaintiff prays for relief as hereinafter set forth.

4 **FOURTH CAUSE OF ACTION**

5 **PRODUCTS LIABILITY**

6 23. The allegations of paragraphs 1 through 22 are realleged and incorporated herein
7 by reference. This cause of action is pled against each and every defendant.

8 24. The elevator at The Building, 177 Bovet Road, San Mateo, California, in which
9 plaintiff was stuck for an hour on or about August 28, 2008, was defectively designed and
10 manufactured, and installed and operated and maintained by defendants. Specifically,
11 defendant, Otis Elevator Company, designed a defective elevator which defects caused it to get
12 stuck between floors in this building. This constitutes product liability.

13 25. Defendants knew and should have known, on August 28, 2008, and before that,
14 that their defective product would endanger plaintiff and the public because plaintiff would get
15 stuck in the elevator between floors. Defendants did nothing to correct the defect of this product
16 and did nothing to warn plaintiff of the defective elevator and are guilty of products liability.

17 26. As a proximate result of defendants forcing plaintiff to remain in the stuck
18 elevator between floors, for about an hour, on August 28, 2008, plaintiff suffered extreme mental
19 and physical pain and suffering, claustrophobia, and incurred medical costs in an amount
20 according to proof. Plaintiff also developed a phobia of riding in elevators in any building due to
21 this incident and this severely hampered his ability to function, in general. This claustrophobia
22 and phobia of riding in elevators for fear of getting stuck again has persisted to the present day.
23 Plaintiff is entitled to recover special damages for medical costs and general damages for pain
24 and suffering of \$5 million dollars. Also, as a proximate result of defendants actions, plaintiff
25 was forced to miss his 3:30 PM appointment with Dr. Sclar and this prejudiced his rights and had
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1 long term ramifications in his divorce case regarding the custody of 3 minor children.

2 27. Because defendants refused to pry open the elevator door, and force plaintiff to
3 remain in a dangerous and claostropic situation for an hour on August 28, 2008, defendants
4 acted maliciously, oppressively and with total disregard of the safety and rights and interests of
5 the plaintiff. The defendants recklessness and malicious and cynical refusal to pry open the door
6 for an hour, because they wanted to "avoid property damage", justifies an award of \$20 million
7 dollars in punitive damages against each defendant.

8 WHEREFORE, plaintiff prays for relief as hereinafter set forth.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, for
11 each cause of action above alleged, as follows:

- 12 1. For special damages for medical costs and all other costs; *and lost income; SU*
13 2. For general damages for physical and emotional pain and suffering for \$5 million
14 dollars; *and lost income and income earn capacity SU*
15 3. For punitive damages of \$20 million dollars;
16 4. For costs of suit; and.
17 5. For all other appropriate relief.

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19 Dated: August 26, 2009

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22 STANLEY G. HILTON, Plaintiff In Pro Per
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