

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

FILED
1st JUDICIAL DISTRICT COURT
Santa Fe County
6/5/2019 1:11 PM
STEPHEN T. PACHECO
CLERK OF THE COURT
Breanna Aguilar

JAMES RAZO and
SUSAN WEINMULLER,

Plaintiffs,

v.

CASE NO.: D-101-CV-2019-01495

Case assigned to Ortiz, Raymond Z.

NO EXIT FILM, LLC, BLACK LABEL
MEDIA, LOS ALAMOS SKI CLUB,
PAJARITO RECREATION, LP, DUKE
WILDFIRE AND LAND MANAGEMENT
SERVICES, L.L.C., and BRIAN HENINGTON,

Defendants.

**COMPLAINT TO RECOVER DAMAGES
FOR PERSONAL INJURY AND PUNITIVE DAMAGES**

COME NOW Plaintiff James Razo and Susan Weinmuller, by and through their attorneys, Hunt Law Firm, and for their Complaint to Recover Damages for Personal Injury and Punitive Damages, state as follows:

Parties, Jurisdiction and Venue

1. James Razo is a resident of Valencia, California. The facts and circumstances giving rise to this lawsuit occurred in New Mexico.
2. Susan Weinmuller is a resident of Valencia, California. James and Susan are married and Susan is a party to this suit to assert a loss of consortium claim.
3. No Exit Film, LLC is a foreign limited liability company with its principal place of business at 2968 Rodeo Park Drive West, Santa Fe, New Mexico, 87505 and its registered agent is CT Corporation System, 206 South Coronado Avenue, Espanola, New Mexico 87532-

2792. No Exit Film, LLC was formed in 2016 solely for the production of the movie, *Only the Brave: The Story of the Granite Mountain Hotshots*.

4. Black Label Media is a foreign limited liability company with its principal place of business at 9301 Wilshire Blvd., Suite 604, Beverly Hills, California 90210. Black Label Media was directly involved in filming the movie, *Only the Brave: The Story of the Granite Mountain Hotshots*, which was headquartered in Santa Fe County.

5. Black Label Media transacted business in the State of New Mexico relating to filming the movie, *Only the Brave: The Story of the Granite Mountain Hotshots*. Because this lawsuit arises out of those contacts, Black Label Media maintained sufficient contacts to be subject to suit in New Mexico courts and such contacts give rise to this lawsuit.

6. Duke Wildfire and Land Management Services, L.L.C., is a domestic limited liability company with its principal place of business at 1518 White Pine Drive, NE, Rio Rancho, New Mexico 87144. Its registered agent is Brian Graham Henington who may be served at the same address.

7. Upon information and belief, Brian Henington is a resident of Rio Rancho, New Mexico. Henington and/or Duke Wildfire and Land Management Services, L.L.C., was/were hired by Black Label Media as the safety director for *Only the Brave: The Story of the Granite Mountain Hotshots*.

8. Los Alamos Ski Club is a domestic nonprofit corporation with its principal place of business at 397 Camp May Road, Los Alamos, New Mexico and its registered agent is Tom Long at the same address. At the time of the incident at issue, Los Alamos Ski Club owned Pajarito Mountain Ski Area in Los Alamos, New Mexico.

9. Pajarito Recreation, LP is a foreign limited partnership with a principal place of business at 100 Jenkins Ranch Road, Suite E-1, Durango, Colorado and its registered agent is Corporation Service Company, 123 East Marcy, Santa Fe, New Mexico 87501. At the time of the incident at issue, Pajarito Recreation, LP, operated Pajarito Mountain Ski Area in Los Alamos, New Mexico.

10. Jurisdiction and venue are appropriate in Santa Fe County, New Mexico.

Facts Relevant to All Claims

11. James Razo is a professional cameraman employed in the movie industry and based in California.

12. On June 16, 2016, James Razo was hired by Cast and Crew Entertainment, a business that provides personnel to movie production companies, to work as a cameraman on the *Only the Brave* production in Santa Fe, New Mexico.

13. James Razo was instructed to gather the equipment needed to shoot *Only the Brave*, travel to New Mexico with this equipment, and be ready to begin the shoot on June 20, 2016.

14. The job required the use of a mobile camera crane unit in challenging mountainous terrain.

15. On June 17, 2016, James Razo gathered and loaded the equipment for the shoot.

16. On June 18, 2016, James Razo made the 15-hour drive from Los Angeles, California, to Albuquerque, New Mexico, with equipment for the shoot, including the mobile camera crane unit.

17. On June 19, 2016, James Razo prepped equipment until 9:00 p.m.

18. The mobile crane unit, when fully loaded, weighed over 3000 pounds.

19. The mobile crane unit can be equipped with rubber tires or tank tracks.
20. The location of the shoot on June 20, 2016, was at the top of the Pajarito Mountain Ski Area in Los Alamos, New Mexico.
21. A service road winds from the base of Pajarito Mountain Ski Area to the top of the ski mountain. It is a minimally maintained road with rough terrain but not overly steep.
22. During the staging for the film, vehicles used the service road to get to the top of the mountain. There was a designated loop from the base to the top and back to the base providing for one-way traffic on the mountain.
23. Approximately 200 yards from the top of the mountain, the road forks. The road to the right is the designated route to the top. The road that goes straight is steep and has loose gravel.
24. On June 20, 2016, James Razo was required to depart his hotel in Santa Fe, New Mexico, at 4:20 a.m. At 5:20 a.m., he attended a ten-minute safety meeting that solely addressed the risk of live fire on the scene that day.
25. No information provided at the safety meeting addressed how to reach the shoot location, a description of the route to the shoot or any hazards associated with reaching the location.
26. At 5:50 a.m., James Razo was told that the mobile camera crane unit was needed onsite at the top of Pajarito Mountain Ski Area immediately.
27. Tank treads had been specified on the mobile camera crane unit for the drive to that shoot location, and it would take three hours to install the tank treads.
28. Time was needed to scout the terrain in order to determine the equipment that was needed to safely drive the mobile camera crane unit to the shoot location.

29. James Razo's requests to scout the terrain or install the tank treads were denied. On the contrary, James Razo was instructed to proceed up the mountain with the mobile camera crane unit immediately.

30. At 6:20 a.m., James Razo began to drive the mobile camera crane unit up the mountain, following David Santos, Best Boy Grip, who was serving as an escort for the mobile camera crane unit. Joe Datri, another cameraman, was riding in the mobile camera crane unit with James Razo.

31. While James Razo was proceeding up the mountain, several calls came over the radio expressing the urgent need for the mobile camera crane unit at the shoot location.

32. At 6:50 a.m., James Razo approached the fork in the road.

33. There were no signs indicating the designated route to the top. There were no barriers blocking the steep route to the top. There were no personnel directing traffic.

34. Instead of leading James Razo up the designated route to the right, David Santos, the driver of the escort vehicle, led him straight, up the steeper route with a loose surface.

35. James Razo and Joe Datri were discussing how to approach the steep road when they received another call over the radio expressing an urgent need for the mobile camera crane unit at the top of the mountain.

36. Joe Datri exited the vehicle and watched while James Razo proceeded to drive the mobile camera crane unit up the steep road.

37. The front end of the mobile camera crane unit began to lose traction and the unit started to slide backwards. The mobile camera crane unit then stood up on its rear wheels, before tipping over backwards on top of James Razo.

38. James Razo was knocked unconscious and was trapped under the crane.

39. James Razo was freed from under the crane unit and airlifted to University of New Mexico Hospital.

40. James Razo survived but suffered extensive and permanent injuries, including spinal cord damage, which severely limit his life activities.

Count I
Negligence Against No Exit Film and Black Label Media

41. Plaintiffs incorporate the foregoing allegations as if fully set forth below, and for their cause of action against Defendants No Exit Film and Black Label Media, state as follows:

42. James Razo was employed by Cast and Crew Entertainment, an employment agency that handles hiring, payroll and other human resources type functions for the film industry.

43. James Razo was not, and has never been, employed by No Exit Film or Black Label Media.

44. No Exit Film and Black Label Media owed a duty of care relating to persons injured as a result of safety failures on the set.

45. No Exit Film and Black Label Media owed a duty of care relating to persons, including but not limited to, Cast and Crew Entertainment employees, such as James Razo, who could potentially be injured as a result of safety failures on the set.

46. No Exit Film and Black Label Media maintained the right to create safety policies and procedures to ensure the safety of Cast and Crew Employees, like James Razo, working on *Only the Brave*.

47. Despite the fact that the safety professional for the shoot was employed by Black Label Media, Black Label Media failed to implement safety precautions that were reasonably necessary to safely drive the mobile camera crane unit to the site, including but not limited to:

- a. Providing adequate signage indicating the designated route up the mountain to the shoot;
- b. Allowing the crane operator adequate time to scout the route;
- c. Allowing the crane operator adequate time to properly prepare the equipment, including installing the tank treads designated by the manufacturer for driving to the shoot and necessary to safely navigate the route;
- d. Allowing the crane operator sufficient time to ensure equipment specified for the shoot was adequate, operating properly, and safe for use; and
- e. Failing to train the escort vehicle driver on the proper route up the mountain.

48. No Exit Film and Black Label Media were aware, or should have been aware, of the risk of using the steep route in the absence of any signage, traffic directors, or briefing on the route.

49. No Exit Film and Black Label Media were aware that tank treads were necessary on this terrain and that the manufacturer of the mobile crane unit had designated tank treads for driving the crane to this location, but refused to allow James Razo time to install the treads.

50. No Exit Film and Black Label Media provided inadequate safety training, inadequate safety policies and procedures, and inadequate equipment for the shoot.

51. No Exit Film and Black Label Media acted negligently, with gross negligence or recklessness, in one or more of the following ways:

- a. Failing to provide signage indicating the designated route up the mountain to the shoot;
- b. Failing to allow the crane operator time to scout the route;
- c. Failing to allow the crane operator adequate time to properly prepare the equipment, including installing the tank treads specified for driving to the shoot;

- d. Failing to train the person designated to escort the crane up the mountain on the proper route; and
- e. Failing to allow the crane operator sufficient time to ensure mobile crane unit specified for the shoot, which had never been used before, was adequate, operating properly, and safe for use.

52. In addition to their own negligence, No Exit Film and Black Label Media are jointly and severally liable for all of the negligent acts or omissions resulting in James Razo's injuries.

53. As a direct result of the foregoing acts or omissions, James Razo suffered injuries and damages.

54. In accordance with New Mexico law, James Razo seeks damages for lost wages, lost future wages, pain, suffering, emotional distress, disfigurement, and lost value of life in an amount to be proven at trial.

Count II
Negligence Against Brian Henington and
Duke Wildfire and Land Management Services, L.L.C.

55. Plaintiffs incorporate the foregoing allegations of the Complaint as if fully set forth below, and for their cause of action against Defendant Brian Henington and Duke Wildfire and Land Management Services, L.L.C., state as follows:

56. Brian Henington and/or Duke Wildfire and Land Management Services, L.L.C., was hired by Black Label Media as the safety director for *Only the Brave*.

57. Brian Henington was the safety director on site on June 20, 2016.

58. As the safety director, Brian Henington had a duty to maintain a safe movie set for everyone on the set, including James Razo.

59. Brian Henington breached his duty to maintain a safe movie set for all involved, including James Razo, when he:

- a. Failed to provide signage indicating the designated route up the mountain to the shoot location;
- b. Failed to allow the crane operator time to scout the route;
- c. Failed to allow the crane operator adequate time to properly prepare the equipment, including installing the tank treads specified for driving to the shoot.
- d. Failed to train the person designated to escort the crane up the mountain on the proper route.
- e. Failed to allow the crane operator sufficient time to ensure the mobile crane unit specified for the shoot, which had never been used before, was operating properly and safe for intended use.
- f. Failed to provide a safety briefing to the crane operator on the route to the shoot.

60. As a direct result of the foregoing acts or omissions, James Razo suffered injuries and damages.

61. In accordance with New Mexico law, James Razo seeks damages for lost wages, lost future wages, pain, suffering, emotional distress, disfigurement, and lost value of life in an amount to be proven at trial.

Count III
Negligence against Los Alamos Ski Club and Pajarito Recreation, LP

62. Plaintiffs incorporate the foregoing allegations as if fully set forth below, and for their cause of action against Defendant Los Alamos Ski Club and Defendant Pajarito Recreation, LP, state as follows:

63. At the time of the incident at issue, Defendant Los Alamos Ski Club was the owner of Pajarito Mountain Ski Area.

64. At the time of the incident at issue, Defendant Pajarito Recreation, LP, operated Pajarito Mountain Ski Area.

65. Defendant Los Alamos Ski Club and Defendant Pajarito Recreation, LP, owed a duty to visitors, like James Razo, to use ordinary care to keep the premises safe for use by a visitor whether or not a dangerous condition is obvious.

66. Defendant Los Alamos Ski Club and Defendant Pajarito Recreation, LP, granted permission for the shooting of *Only the Brave* on its property.

67. Defendant Los Alamos Ski Club and Defendant Pajarito Recreation, LP, knew that the shooting of *Only the Brave* would entail cast and crew members driving to the top of Pajarito Mountain Ski Area.

68. James Razo was at Pajarito Mountain Ski Area with the express permission of the Los Alamos Ski Club.

69. Defendant Los Alamos Ski Club and Defendant Pajarito Recreation, LP, knew, or should have known, that the steep route up the mountain posed a foreseeable risk of injury to visitors driving movie filming equipment, like the mobile crane unit, to the shoot location at the top of the mountain.

70. It was foreseeable to Defendant Los Alamos Ski Club and Defendant Pajarito Recreation, LP, that vehicles associated with the movie, like a mobile crane unit, could take the wrong road at the fork and encounter the dangerous, steep road.

71. Defendant Los Alamos Ski Club and Defendant Pajarito Recreation, LP, breached its duty to exercise ordinary care to keep its premises safe for use by visitors when it failed to mark the safe route to the top of Pajarito Mountain and failed to prevent visitors from inadvertently taking the steep route up the mountain.

72. As a direct result of the foregoing acts or omissions, James Razo suffered injuries and damages.

73. In accordance with New Mexico law, James Razo seeks damages for lost wages, lost future wages, pain, suffering, emotional distress, disfigurement, and lost value of life in an amount to be proven at trial.

**Count IV
Loss of Consortium**

74. Plaintiffs incorporate the foregoing allegations as if fully set forth below, and for their cause of action against all Defendants, state as follows:

75. At the time of James Razo's injuries, he and Susan Weinmuller had been married for many years.

76. The injuries to James Razo are permanent and have been life-changing for the entire family. Susan Weinmuller has a loss of consortium claim pursuant to New Mexico law and hereby asserts that claim.

77. As a direct result of the foregoing acts or omissions, Susan Weinmuller suffered injuries and damages.

78. In accordance with New Mexico law, Susan Weinmuller seeks damages available to a spouse, pursuant to New Mexico law, including loss of consortium damages in an amount to be proven at trial.

**Count V
Punitive Damages**

79. Plaintiffs incorporate the foregoing allegations as if fully set forth below, and for their cause of action against all Defendants, state as follows:

80. The aforesaid actions of Defendants, and each of them, were willful, reckless, or wanton so as to warrant an additional award of punitive damages as punishment and to deter others from committing like offenses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs James Razo and Susan Weinmuller respectfully request that this Court grant the following relief:

- a. Compensatory damages for past and future medical expenses, lost wages, lost future wages, pain, suffering, emotional distress, disfigurement, lost value of life, and loss of consortium in an amount to be proven at trial;
- b. Pre-judgment and post-judgment interest and costs in accord with New Mexico law. *See* NMSA 1978, § 56-8-4(A) & (B);
- c. Punitive damages; and
- d. Such other and further relief as is just and proper under the circumstances.

Respectfully submitted,

HUNT LAW FIRM

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