

**Angelo Harmon, individually and as  
Administrator of the Estate of Juanita  
Harmon**

7505 Malvern Avenue  
Philadelphia, PA 19131

*And*

**Nadine White**

1449 Taylor Street  
Philadelphia, PA 19103

*And*

**Linda Bell**

1231 A. So. Webster Street  
Philadelphia, PA 19147

*And*

**Bernard DiTomo**

119 Harmil Road  
Broomall, PA 19008

*And*

**Jennifer Reynolds**

2210 A Naudain Street  
Philadelphia, PA 19146

*And*

**Felicia Hill**

2551 North 12<sup>th</sup> Street  
Philadelphia, PA 19133

*And*

**Rosemary Kreutzberg**

PO Box 2217  
Philadelphia, PA 19103

*And*

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



**July Term 2013**

**No. 720 – Lead Case**

Consolidated Cases:

130600987; 130601108; 130601235; 130601353;  
130601453; 130601752; 130700678; 130801874;  
130900159; 130901429; 130901903; 131201233

**JURY TRIAL DEMANDED**

**Rodney Geddis**  
7423 Fayette St.  
Philadelphia, PA 19138

*And*

**Shirley Ball and Stanley Ball, h/w**  
5722 W. Jefferson Street  
Philadelphia, PA 19131

*And*

**Betty Brown**  
2119 Kater Street  
Philadelphia, PA 19146

*And*

**Maggie Adams Davis, individually and as  
Adminisitratrix of the Estate of Borbor  
Davis**  
112 Summit Street  
Darby, PA 19023

*And*

**Mariya Plekan**  
4008 North Franklin Street  
Philadelphia, PA 19140

*And*

**George Simpson, Individually and as  
Administrator of the Estate of Mary  
Simpson**  
310 Crescent Village Circle  
Apt. 1337  
San Jose, CA 95134

*And*

**Aiah Gbessay, Aiah Boya, and Francis  
Sankoh, Individually and as Co-  
Administrators of the Estate of Roseline  
Conteh, deceased,**  
6327 Kingsessing Avenue

Philadelphia, PA 19131

*And*

**Nancy Winkler and John Bryan,  
Individually and as Administrators of the  
Estate of Anne Bryan**  
138 N. 22<sup>nd</sup> St.  
Philadelphia, PA 19103

*And*

**Margarita Agosta**  
561 East Godfrey Street  
Philadelphia, PA 19120

*And*

**Jonathan M. Finnegan, Individually and as  
Administrator of the Estate of Kimberly  
Finnegan**  
7925 Ridge Ave., Unit 37  
Philadelphia, PA 19128

*And*

**Bonnie B. Johnson, Individually and as  
Administratrix of the Estate of Danny C.  
Johnson**  
5143 Ranstead Street  
Philadelphia, PA 19139

***Plaintiffs***

v.

**The Salvation Army of Greater Philadelphia**  
701 North Broad Street  
Philadelphia, PA 19123

*And*

**(Trustees of) The Salvation Army in  
Pennsylvania**

701 North Broad Street  
Philadelphia, PA 19123

*And*

**The Salvation Army, a New York  
Corporation, d/b/a and/or a/k/a/ The  
Salvation Army Eastern Territory**  
440 West Nyack Road,  
West Nyack, NY 10994

*And*

**The National Headquarters of the Salvation  
Army a/k/a The Salvation Army National  
Corporation**  
615 Slaters Lane  
Alexandria, VA 22313

And

**Salvation Army a/k/a The Salvation Army  
Adult Rehabilitation Center**  
4555 Pechin Street  
Philadelphia, PA 19128

*And*

**John Cranford**  
2020 Spring Mill Rd.  
Lafayette Hill, PA 19444

*And*

**Charles Deitrick**  
25 Hemptor Rd.  
New City, NY 10956

*And*

**Alistair Fraser**  
13 Dussenbury Dr.  
Florida, NY 10921

*And*

**Richard Basciano**  
300 West 43<sup>rd</sup> Street  
Suite 400  
New York, NY 10036

*And*

**Lois Basciano**  
300 West 43<sup>rd</sup> Street  
Suite 400  
New York, NY 10036

*And*

**Frank Cresci**  
300 West 43<sup>rd</sup> Street  
Suite 400  
New York, NY 10036

*And*

**Thomas Simmonds**  
300 West 43<sup>rd</sup> Street  
Suite 400  
New York, NY 10036

*And*

**S T B Investments Corp. a/k/a/ STB  
Investment Corp.**  
300 West 43<sup>rd</sup> Street  
Suite 400  
New York, NY 10036

*And*

**2100 W Market St. Corp**  
2130 Arch Street  
2<sup>nd</sup> Floor  
Philadelphia, PA 19107

*And*

**303 W. 42<sup>nd</sup> St. Corp**  
300 West 43<sup>rd</sup> Street

Suite 400  
New York, NY 10036

*And*

**Plato Marinakos, Jr.**  
2000 Hamilton St.  
Suite 912  
Philadelphia, PA 19130

*And*

**Plato A. Marinako Architect, LLC d/b/a  
and/or a/k/a Plato Studio Architect, LLC**  
2000 Hamilton St.  
Suite 912  
Philadelphia, PA 19130

*And*

**Griffin T. Campbell**  
1605 Butler Street  
Philadelphia, PA 19140

*And*

**Nicetown House Development Corporation,  
a/k/a and/or d/b/a Griffin Campbell  
Construction**  
1605 Butler Street  
Philadelphia, PA 19140

*And*

**S&R Contracting**  
4945 N. 7<sup>th</sup> Street  
Philadelphia, PA 19120

*And*

**Sean Benschop**  
3945 N. 7<sup>th</sup> Street  
Philadelphia, PA 19120

*And*

**Alex Wolfington**  
31 Morris Avenue  
Bryn Mawr, PA 19010

*And*

**Wolfington Network, LLC d/b/a Wolfnet**  
31 Morris Avenue  
Bryn Mawr, PA 19010

*And*

**Jack Higgins**  
28 Old Sawmill Rd.  
Kunkletown, PA 18058

*And*

**Jack F. Higgins Architect, Inc.**  
28 Old Sawmill Rd.  
Kunkletown, PA 18058

***Defendants***

**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 an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgement 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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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.

PHILADELPHIA BAR ASSOCIATION  
LAWYER REFERRAL and INFORMATION SERVICE  
One Reading Center  
Philadelphia, Pennsylvania 19107  
(215) 238-1701"

**AVISO**

"Le han demandado en corte. Si usted quiere defenderse contra las demandas nombradas en las páginas siguientes, tiene veinte (20) días, a partir de recibir esta demanda y la notificación para entablar personalmente o por un abogado una comparecencia escrita y también para entablar con la corte en forma escrita sus defensas y objeciones a las demandas contra usted. Sea avisado que si usted no se defiende, el caso puede continuar sin usted y la corte puede incorporar un juicio contra usted sin previo aviso para conseguir el dinero demandado en el pleito o para conseguir cualquier otra demanda o alivio solicitados por el demandante. Usted puede perder dinero o propiedad u otros derechos importantes para usted.

USTED DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE ABOGADO (O NO TIENE DINERO SUFICIENTE PARA PAGAR A UN ABOGADO), VAYA EN PERSONA O LLAME POR TELEFONO LA OFICINA NOMBRADA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL. ESTA OFICINA PUEDE PROPORCIONARLE LA INFORMACION SOBRE CONTRATAR A UN ABOGADO.

SI USTED NO TIENE DINERO SUFICIENTE PARA PAGAR A UN ABOGADO, ESTA OFICINA PUEDE PROPORCIONARLE INFORMACION SOBRE AGENCIAS QUE OFRECEN SERVICIOS LEGALES A PERSONAS QUE CUMPLEN LOS REQUISITOS PARA UN HONORARIO REDUCIDO O NINGUN HONORARIO.

ASOCIACION DE LICENCIADOS DE FILADELFA  
SERVICO DE REFERENCIA E INFORMACION LEGAL  
One Reading Center  
Filadelfia, Pennsylvania 19107  
Telefono: (215) 238-1701"

**UNIFIED COMPLAINT**

1. On June 5, 2013, at approximately, 10:42 a.m., the building being demolished at 2136-2138 Market Street collapsed onto the neighboring Salvation Army Thrift Store while nineteen people were inside the store.

2. Seven of those nineteen people became trapped in the rubble of the collapse building and died agonizing and painful deaths.

3. The collapse occurred while the former apartment building at 2136-2138 Market Street, owned by Defendant STB Investments Corp. ("STB") and/or Richard Basciano, was being demolished in an incompetent, reckless, and outrageous manner.

4. STB and the Salvation Army knew for weeks leading up to this deadly collapse that this demolition project posed an imminent threat to the lives of the employees and customers of the Salvation Army Thrift Store.

5. STB and the Salvation Army failed to take the necessary steps to protect the customers and employees at the Salvation Army.

**The Negligent, Reckless, and Outrageous Conduct of Richard Basciano, Frank Cresci, Thomas Simmonds, and STB.**

6. STB blatantly violated federal OSHA law that requires an engineering survey to prevent the very incident that happened here and, in doing so, acted in reckless disregard for the safety of the customers and employees of the Salvation Army.

7. When performing demolition, safety starts at the top.

8. With regard to the demolition of 2136-2138 Market Street, the property owners, Richard Basciano and/or STB Investments Corp. were at the top of the safety hierarchy.

9. Basciano and/or STB were the owners of the property being demolished and, in that capacity, had a responsibility to make sure: (1) the federally required engineering survey was in place; (2) a competent contractor was performing the work; and (3) the work was carried out in a safe manner.

10. Basciano and STB failed to fulfill these requirements.



11. Basciano / STB proved by their own correspondence that they were aware of the fact that the demolition was being carried out in an unsafe manner and that they were thereby risking a catastrophe.

12. In 1994 Richard Basciano ("Basciano") through his company, STB, began purchasing properties between 21<sup>st</sup> and 23<sup>rd</sup> street along Market Street in Philadelphia.

13. Richard Basciano's wife, Lois, was also an owner actively involved in the operations of the company.

14. These properties were unmaintained and become dilapidated.

15. Richard Basciano and STB's properties along Market Street consisted of a rundown apartment building, vacant lots, pornographic supply stores, peep show parlors, and an adult movie theatre.

16. In approximately 2011, as the Rittenhouse Square Neighborhood began expanding west and the property values began to increase on Market Street, Basciano/STB began formulating re-development plans.

17. In 2012, Basciano shut down his porn operations along Market Street and planned to sell or redevelop his Market Street properties.

18. Acquiring the remaining properties along the 2100 and 2200 block of Market Street was critical to Basciano/STB obtaining top dollar for a global redevelopment plan.

19. The most important of these neighboring properties was the Salvation Army, which was necessary to extend Basciano/STB's properties to the corner of 22<sup>nd</sup> and Market. This type of corner access would have dramatically increased the value of all properties.

20. The Salvation Army was not willing to sell to Basciano.

21. When asked about the Salvation Army and other properties along the 2100 Block of Market Street being unwilling to sell to Basciano, he replied “They should be embarrassed for playing hardball.”

22. Basciano and STB wanted the Salvation Army out of their way.

23. In February 2013, STB retained architect, Defendant Plato A. Marinakos, Jr. (“Marinakos”), to conduct an architectural and structural analysis of the Salvation Army.

24. In a February 5, 2013 report, Marinakos warned STB of numerous structural problems with the Salvation Army thrift store.

25. Specifically, Marinakos noted:

**During our inspection, we determined that many areas of the building need immediate attention and repairs.**

1. Evidence of roof leaking. See photo 10 damaged ceiling tile
2. Roof membrane is bubbling and needs to be re-attached to the substrate see photo 14 thru 18
3. Install a new roof membrane over the entire existing building to keep the water from entering the building photo 14 thru 18
4. Repoint and stabilize existing brick in rear loading dock photo 9
5. The aluminum facing is missing sections near the loading dock photo 3
6. Plywood facing is exposed and needs to be replaced photo 3
7. Extensive water damaged interior plaster at stairs to the basement photo 11
8. Damage face brick along sidewalk photo 6,7,8
9. Roof drain not connected photo 4

26. The Report emphasized that the structural condition of the building was “barely sound and in an extreme state of neglect and disrepair.”

**Based on our field inspection and our engineering judgment, it is our conclusion that the structural condition of the subject building is barely sound and in extreme state of neglect and disrepair. All the structural defects and deteriorations noted above should be repaired per our recommendations. Please note that the owner may choose to further stabilize the building.**

27. Despite knowing that their property adjoined this structurally unsound building, STB elected to begin demolition on their properties while continuing attempts to acquire the neighboring properties.

28. In early 2013, Basciano and STB began accepting bids for the demolition work.

29. Upon information and belief, Basciano and STB obtained five bids for the demolition work.

30. Upon information and belief, the highest bid was in excess of \$500,000. The next three bids fell within the \$300,000-\$350,000 range. The lowest bid, submitted by Defendant, Griffin Campbell, was \$112,000.

31. The fact that Griffin Campbell's bid was approximately three times less than any other bid, should have been a red flag to Basciano and STB.

32. Basciano and STB had a responsibility to question Campbell as to his competence and how he could perform the demolition safely for so much less than the other bidders.

33. Had Basciano or STB behaved as a prudent building owner they would not have accepted the Campbell bid, which was excessively lower than all the other bids.

34. Basciano and STB elected do the job on the cheap and the customers and employees of the Salvation Army paid the price.

35. On February 1, 2013, Basciano and STB through their Architect/expeditor, Defendant Plato Marinakos, Jr./Plato Studio applied to begin demolition on the project at 2136-2138 Market Street.

36. Defendants completed the permit application at an estimated cost of \$10,000 although defendants, Basciano, STB, and Plato Marinakos, all knew the actual bid was \$112,000.

<b>BUILDING PERMIT</b>		City of Philadelphia Department of Licenses and Inspections 1401 John F. Kennedy Blvd. Philadelphia, PA 19102		Permit Number: 451309	
This permit may be revoked if the information has been misrepresented or not provided				Fee: \$1,460.00	Date Issued: 02/01/13
Location of work: 02136 MARKET ST PHILADELPHIA, PA 19103-3103 2136 THROUGH 2138 MARKET				District: Central District Phone Number: 215-685-3786	
Owner: S T B INVESMENTS CORP A PENNA CORP C/O OSHTRY SUITE 313 1819 JOHN F KENNEDY BLV PHILADELPHIA PA, 191031733		Licensed Contractor: GRIFFIN CAMPBELL CONSTRUCTION 1605 BUTLER STREET PHILADELPHIA, PA 19140  (215)459-4462 x		Area: 14552 S.F.	Estimated Cost: \$10,000.00
				Plan Examiner: JOHN DOHERTY	

37. Defendants intentionally falsified the estimated cost.

38. The demolition permit called for the “Complete demo of a (4) four story structure.”

39. Under Federal Law, before demolition begins, an engineering survey must be completed to determine the “possibility of unplanned collapse.”

40. Specifically, OSHA 1926.850(a) provides:



## Occupational Safety & Health Administration

### 1926.850(a)

Prior to permitting employees to start demolition operations, an engineering survey shall be made, by a competent person, of the structure to determine the condition of the framing, floors, and walls, and possibility of unplanned collapse of any portion of the structure. Any adjacent structure where employees may be exposed shall also be similarly checked. The employer shall have in writing evidence that such a survey has been performed.

41. It is the responsibility of the owner to ensure that a demolition/engineering survey is completed.

42. Basciano and STB failed to ensure that an engineering survey was completed and, in fact, an engineering survey was never completed.

43. Incredibly, Basciano and STB retained Defendant, Plato Marinakos, an architect to do a survey of the adjacent Salvation Army store in an attempt to convince the Salvation Army to sell, but never retained him to perform the federally required engineering survey necessary for safety.

44. On March 6, 2013, STB's project manager, Thomas Simmonds acknowledging that STB understood the Salvation Army was structurally compromised.

**Thomas Simmonds**

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**From:** Thomas Simmonds  
**Sent:** Wednesday, March 06, 2013 10:07 AM  
**To:** 'Alex Wolfington'  
**Subject:** RE: HAVE BEEN TRYING TO REACK YOU. 610-304-3345

Alex: We need to turn up the flame on this. demo is about to commence on the 2100 block - I am NOT going near 2140 Market Street w/o an acknowledgment from Salvation Army that they understand that their property is structurally compromised. If I need to involve Alan Greenberger I will. Please advise asap.

Thank you,  
Thom

**THOM SIMMONDS**  
**300 WEST 43RD STREET**  
**NEW YORK, NEW YORK 10036**  
**347.234.0468**

45. Demolition began in Spring 2013 without an engineering survey.

46. Additionally, Basciano and STB never notified the City that it was ready to begin demolition.

47. Such notification would have triggered the City to visit the project. Basciano and STB were cited for beginning work without giving this critical notice.

48. The only way to safely demolish 2136-2138 Market Street would have been by hand, from the top down.

49. This would have required either erecting a scaffolding system or using a boom lift to enable workers to access the top of the building.

50. In a May 15 2013 letter from Basciano/STB's lawyer, Joel Oshtry, to the Salvation Army lawyer, Steven Nudel, Basciano/STB proposed to protect the SA roof with a tarp and plywood, and to use a boom lift to "demolish the [2138] wall in a direction away from 2140 Market Street so that the wall is pushed out onto the 2138 Market Street parcel area."

51. Instead of following their own proposed demolition plan, Basciano/STB proceeded with the demolition in a reckless and unsafe manner, intentionally risking a catastrophe.

52. In the month leading up to the collapse Basciano/STB repeatedly warned the City and the Salvation Army that they were proceeding with demolition in an unsafe manner and risking a catastrophe.

53. On May 9, 2013, Defendant, Thomas Simmonds, the property manager for STB forwarded the February 7, 2013 Structural Report (discussed above) to Major Charles Dietrick, the General Secretary of the Salvation Army Eastern District.

54. In his May 9<sup>th</sup> email, STB's property manager, Defendant Simmonds, demonstrates that he and STB knew of the dangers of the demolition and stated that access was required to the SA roof to prevent accidents and damage to [SA] property; yet Basciano/STB proceeded with the demolition without the required access, thereby risking a catastrophe.



Thomas Simmonds  
<tsimmonds@realty42.com>  
05/09/2013 09:49 AM

To "Charles.Deitrick@USE.SalvationArmy.org"  
<Charles.Deitrick@USE.SalvationArmy.org>  
cc "Alan.Greenberger@Phila.gov"  
<Alan.Greenberger@Phila.gov>,  
"John.Mondlak@Phila.gov" <John.Mondlak@Phila.gov>,  
bcc  
Subject FW: 2140 Market Street, Phila., PA

Major Deitrick: It's unfortunate that more than 3 months have elapsed since I sent you the attached letter and -- with the exception of communicating that you received it to Alex Wolfington -- you have failed to respond to its contents that affect your property at 2140 Market Street. Our demolition is reaching its conclusion. Our property at 2136-38 Market Street (a four-story building) is about to be leveled and we have two issues: 1) the chimney on your property extends four stories and is supported by our property. Our architect has suggested that you arrange to have it reduced since its "support" (our building) will soon be gone; 2) to prevent any accidents and damage to your property from occurring, we would require access to your property (the roof) to temporarily install protection to avoid the aforementioned.

**TIME IS OF THE ESSENCE** so kindly get back to me today to discuss the aforementioned.

Thank you,  
Thom Simmonds

**THOM SIMMONDS**  
**PROPERTY MANAGER**  
S.T.B. Investments Corp.  
300 WEST 43RD STREET – Suite 400  
NEW YORK, NEW YORK 10036  
347.234.0468 (Mobile)  
212.247.4910 (201) (Office)

55. Major Deitrick responded to this email less than an hour later and the parties set up a conference call for the next morning, Friday, May 10, 2013 at 9:00am.

56. The following is the confirmation for the conference call which was occurred on May 10<sup>th</sup> with representatives from STB and the Salvation Army:

**From:** Alex Wolfington [alex@wolfnet.co]  
**Sent:** Thursday, May 09, 2013 2:40 PM  
**To:** Thomas Simmonds; Plato AIA Marinakos; John Mondlak; Major Cranford; Major Charles Deitrick; Carmelle A Rutella; Karen Cranford; Frank Cresci  
**Subject:** CONFERENCE CALL RE: 2100 BLOCK OF Market Street, Phila, PA

*Thursday May 9, 2013*

*Major and Tom;*

*We have scheduled a conference call for tomorrow with the following new call in details:*

**DAY:** Friday  
**DATE:** May 10, 2013  
**TIME:** 9:00 AM (EST)  
**CONF:** Call in Number: 712-775-7000  
**Code:** 807-187 #  
**TOPIC:** Demolition in the 2100 Block of Market Street, Philadelphia  
**PARTICIPANTS:**

*Major Charles Deitrick 845-732-4113*  
*Major John Cranford*  
*Karen Cranford*  
*Alistair Fraser*  
*Tom Simmonds*  
*Frank Cresci*  
*Plato AIA Marinakos*  
*Alex Wolfington*

*Please confirm your participation by an email response to all the parties. Thank you.*  
*Best,*

**ALEX (C: 610-304-3345)**

*Alex Wolfington*  
*Wolfnet*  
*O: (610)-526-9700*  
*C: (610)-304-3345*  
*E: <alex@wolfnet.co>*

*Major Charles Deitrick 845-732-4113*

57. The architects for The Salvation Army (Alistair Fraser) and STB (Plato Marinakos) were on the call.

58. Immediately following this call, at 9:36am, Alex Wolfington, STB's real estate consultant and agent, sent an email to all other parties to the conference call outlining the plan of action that was decided by the parties:



Friday, May 10, 2013

Allstair:

Pursuant to our conference call at 9:00 a.m. this morning, it is my understanding that we will implement the following steps regarding the demolition of 2138 Market Street (Philadelphia):

1) Joel Oshstry, Esq will reach out for the Salvation's Army Attorney at 717-236-5000 to mutually prepare an "Access Agreement" with the intent of reaching and executing an Agreement by the end of next week

2) Alistar Fraser will prepare a description of his concerns as it relates to the flashing, chimney and walls at 2140 Market Street throughout the "2138" demolition process

3) Plato Marinakos will prepare a description of what steps he will be taking regarding the post-demolition protection of 2140 Market Street

4) If need be, Alistar will come to Philadelphia early next week to meet with Plato for an onsite clarification of the demolition work to be completed

5) The parties will agree to work on collaborative and neighborly basis to expedite the completion of a smooth demolition process

Please let me know if I have not accurately set forth our understanding.

BEST,

ALEX (C:610-304-3345)

Alex Wolfington

Wolfnet

O: (610)-526-9700

C (610)-304-3345

E: < alex@wolfnet.ca >

E: < Alex@wolfingtonnetwork.com >

59. STB and Basciano retained Marinakos to prepare "a description of what steps he will be taking regarding the post-demolition protection of 2140 Market Street [the Salvation Army store]" but not the federally required demolition engineering survey.

60. Major Deitrick responded to this email minutes later, stating that the Salvation Army would fulfill their neighborly obligations, but would work to "protect [their] investment."

61. The Salvation Army was more interested in protecting their investment than protecting their patrons and employees.

**From:** Charles DeTrick [mailto:[Charles.DeTrick@USE.SalvationArmy.Org](mailto:Charles.DeTrick@USE.SalvationArmy.Org)]  
**Sent:** Friday, May 10, 2013 9:57 AM  
**To:** Alex Wolfington  
**Cc:** [Alistair.Fraser@USE.salvationarmy.org](mailto:Alistair.Fraser@USE.salvationarmy.org); Major Cranford; Plato Marinakos; Thomas Simmonds  
**Subject:** Re: POST CONFERENCE CALL ACTION PLAN

There is no commitment for Alistair to come to Philadelphia, We will have a local Architect represent us. This will be identified and shared . We will work at the timing of the professionals that are engaged. As was stated we will work to meet our neighborly goals but at same time protect our own investments. As stated no commitments are made at this point other than to work together in dialogue to proceed.

Thank you  
Have Blessed Day  
Major Charles DeTrick  
General Secretary  
Adult Rehabilitation Centers Command  
Phone 846-732-4113 Fax 846-732-9705  
440 West Nyack Rd West Nyack, N.Y. 10994  
PO Box 9134 Bardonia, N.Y. 10954  
[Charles.DeTrick@use.salvationarmy.org](mailto:Charles.DeTrick@use.salvationarmy.org)

62. STB's property manager responded asking the Salvation Army for their structural concerns from their architect.

Thomas Simmonds <[tsimmonds@realty2.com](mailto:tsimmonds@realty2.com)>  
05/10/2013 10:04 AM  
To: Charles DeTrick' <[Charles.DeTrick@USE.SalvationArmy.Org](mailto:Charles.DeTrick@USE.SalvationArmy.Org)>, "Alex Wolfington" <[salex@rollnet.co](mailto:salex@rollnet.co)>,  
cc: "Alistair.Fraser@USE.salvationarmy.org" <[Alistair.Fraser@USE.salvationarmy.org](mailto:Alistair.Fraser@USE.salvationarmy.org)>, Major Cranford <[mjcranford@use.salvationarmy.org](mailto:mjcranford@use.salvationarmy.org)>, Plato Marinakos <[plato@plato-studio.com](mailto:plato@plato-studio.com)>  
SubRE: POST CONFERENCE CALL ACTION PLAN  
ject

Major DeTrick/Mr. Fraser: Thank you again for the enlightening conversation we had earlier this morning. Will you be providing me with your roof/east wall concerns today for our architect to review or will that be coming from the local architect you reference below? Kindly advise.  
Thank you,  
Thom

**THOM SIMMONDS**  
300 WEST 43RD STREET  
NEW YORK, NEW YORK 10036  
347.234.0468

63. STB's property manager, Simmonds, acknowledged that the Salvation Army had expressed "east wall concerns."

64. Despite having "concerns" regarding the east wall the Salvation Army kept their store open, exposing its customers and employees to harm.

65. Major Dietrich told STB that the Salvation Army's architect would send a list of initial concerns but a more comprehensive list would be forthcoming.

**From:** Charles Deitrick [[mailto:Charles\\_Deitrick@USE\\_SalvationArmy.Org](mailto:Charles_Deitrick@USE_SalvationArmy.Org)]  
**Sent:** Friday, May 10, 2013 10:30 AM  
**To:** Thomas Simmonds  
**Cc:** Alex Wolfington; [Alistair\\_Fraser@USE.salvationarmy.org](mailto:Alistair_Fraser@USE.salvationarmy.org); Major Cranford; Plato Marinakos  
**Subject:** RE: POST CONFERENCE CALL ACTION PLAN

Alistair will send a list from his experience but , we will also work through our architect for a comprehensive response.

Thank you  
Have Blessed Day  
Major Charles Deitrick  
General Secretary  
Adult Rehabilitation Centers Command  
Phone 845-732-4113 Fax 845-732-9705  
440 West Nyack Rd West Nyack, N.Y. 10994  
PO Box 9134 Bardonia, N.Y. 10954  
[Charles\\_Deitrick@use.salvationarmy.org](mailto:Charles_Deitrick@use.salvationarmy.org)  
Web [www.SalvationArmyARC.org](http://www.SalvationArmyARC.org)

66. Thirty minutes later, the Salvation Army's architect, Alistair Fraser sent a list of his initial concerns.

**From:** Alistair Fraser [[mailto:Alistair\\_Fraser@USE\\_SalvationArmy.Org](mailto:Alistair_Fraser@USE_SalvationArmy.Org)]  
**Sent:** Friday, May 10, 2013 10:37 AM  
**To:** Thomas Simmonds  
**Cc:** Alex Wolfington; 'Charles Deitrick'; Major Cranford; Plato Marinakos  
**Subject:** 2140 Market Street

Gentlemen,

When 2138 Market is demolished -

1. Who is responsible for reducing the height of our chimney and verifying that it meets code ?
2. The roof flashing will be removed what will be done to with roof terminations to ensure that our building is watertight ?
3. The exterior of the common wall between 2138 and 2140 will be exposed who is responsible for ensuring that it is watertight ?
4. How do we ensure that our building retains it's structural integrity during and after the demolition of 2138 ?
5. Who is responsible for fixing any wall cracks or ceiling sacks that may result from vibrations caused by your demolition work ?

67. The Salvation Army posed the question of "How do we ensure that our building retains it's [sic] structural integrity during . . . demolition of 2138" but did nothing to protect its patrons and employees.

68. Having received these emails, Mr. Simmonds responded later that day to stress the time sensitive nature of their "comprehensive response."

69. Mr. Simmonds specifically warned in that email that the building "is nearly demolished and every minute that passes increases the liability exposure to all parties."

70. Mr. Simmonds requested the “comprehensive response” of the Salvation Army no later than Noon the following Monday, May 13, 2013.

**From:** Thomas Simmonds  
**Sent:** Friday, May 10, 2013 10:41 AM  
**To:** 'Charles Daitrick'  
**Cc:** Alex Woffington; Alistair.Fraser@USE.salvationarmy.org; Major Cranford; Plato Marinakos; 'oshtrylaw@aol.com'; 'Alan.Greenberger@Phila.gov'; 'John.Mondlak@Phila.gov'  
**Subject:** RE: POST CONFERENCE CALL ACTION PLAN

Major: Thank you for clarifying I just spoke to our architect Plato Mannakos (copied above) who stressed the **TIME SENSITIVE** nature of the “comprehensive response” since, as you are aware, 2136-38 Market Street is nearly demolished and every minute that passes increases the liability exposure for all parties. Accordingly I request receipt the aforementioned response no later than noon, Monday, May 13, 2013 so that none of the components of this matter are unduly delayed.

By way of introduction, I have copied our attorney Joel Oshtry above who will be contacting your attorney Steve Nudell (717-236-5000) re the “access agreement” per your advice.

Thank you,  
Thom

**THOM SIMMONDS**  
**300 WEST 43RD STREET**  
**NEW YORK, NEW YORK 10036**  
**347.234.0468**

71. STB and Marinakos knew that “every minute that passes increases the liability exposure for all parties.”

72. While STB was awaiting the Salvation Army’s plan, Sean Benschop, obtained a quote for the use of an aerial lift to demolish the building.

73. Mr. Benschop’s plan was to park the boom lift on 22<sup>nd</sup> Street, telescope the lift over the Salvation Army to access the top of 2136-2138 Market Street and then demolish the building by hand.

74. The quote from Ahern Rentals provides that the boom lift could have been rented for four weeks at a cost of \$4,224.21.

**SEND PAYMENTS TO:**

AHERN RENTALS  
 PO BOX 271390  
 LAS VEGAS NV 89127-1390  
 TEL: 702-362-0623  
 FAX: 702-966-4864



**CUSTOMER ASSISTANCE:**

PHILADELPHIA  
 10 MCDONALD BLVD  
 ASTON PA 19014-3202

TEL: 610-497-2290  
 FAX: 610-497-2291  
 MON - FRI 6:00-5:00  
 SATURDAY CLOSED  
 SUNDAY CLOSED

**CYCLE INVOICE**

<p><b>Customer:</b> 000001 001500 0010 000 ..... 000001                  S &amp; R CONTRACTING                  4945 N 7TH ST                  PHILADELPHIA PA 19120-3707</p>	<p>Customer #.. 276533                  Invoice #... 12080063-1                  Invoice Date 5/30/13                  Date Out... 5/13/13 7:00 AM                  Billed thru. 6/10/13                  Job Loc..... REMODEL/21ST AND MARKET;PHI                  Job #..... ONE COMMERCE                  P.O. #..... PENDING                  Ordered By.. TYNISHA/STEPHY/MJD                  Written By.. CYCLE BILL                  Sales Rep... 5028 - STEPH FRITZSCHE                  Terms..... Net 10 Days</p>
<p><b>Job Site:</b>                  REMODEL                  21ST AND MARKET                  PHILADELPHIA, PA 19019                  C#: 267-444-4008 J#: 267-444-4006                  Map page/grid: 3296/A9</p>	

Qty	Equipment	Min	Day	Week	4 Week	Amount
1	BOOM, TELESCOPING, 66', DSL, W/JIB, 4X4 EQ#: 73280 Make: JLG Model: 660SJ Ser #: 0300115176 HR OUT: 3732.40 HR IN: TOTAL: 3732.40 CUSTOMER CALL WHEN DONE	385.00	385.00	1342.00	3480.00	3480.00
<b>SALES ITEMS:</b>						
Qty	Item number	Unit	Price			
1	160642	EA	7.500			7.50
	ENVIRONMENTAL CHARGE					
	DELIVERY CHARGE - NORMAL		5/13/13 7:00 AM			80.00
S & R CONTRACTING: TYNISHA 267-444-4008 05/13 BETWEEN 0700-0900 CUSTOMER TO CALL OFF/SPECIAL RATES Taxable Sub-total: 3985.10						Rental-total: 3567.50 Damage waiver: 417.60 ( 6%) Tax: 239.11 Total: 4224.21
BILLED FOR FOUR WEEKS 5/13/13 THRU 6/10/13						

75. The boom lift plan was never accepted or implemented.

76. On May 13, 2013 at 12:31pm, with the noon deadline imposed by STB for the Salvation Army to submit their plan, Mr. Simmonds, emailed the Major Dietrick claiming that because the Salvation Army was 30 minutes late, the parties were now at an impasse.



Thomas Simmonds  
<tsimmonds@realty42.com>  
05/13/2013 12:31 PM

To 'Charles Detrick'  
<Charles.Detrick@USE.SalvationArmy.Org>  
cc 'Alex Wollington' <alex@wolfnet.co>,  
"Alistair.Fraser@USE.salvationarmy.org"  
<Alistair.Fraser@USE.salvationarmy.org>, 'Major Cranford'  
bcc

Subject RE: POST CONFERENCE CALL ACTION PLAN

Gentlemen: It is now 12:30 and I requested your architect's "comprehensive response" by noon – 30 minutes ago. Please advise – the next photo I send you via e-mail will show you that we're now at an impasse.

Thank you,  
Thom

**THOM SIMMONDS**  
**300 WEST 43RD STREET**  
**NEW YORK, NEW YORK 10036**  
**347.234.0468**

77. Moments later, Mr. Simmonds sent another email to Major Dietrich and Major Cranford indicating that there was danger to the properties and the public and that injunctive relief would be needed.



Thomas Simmonds  
<tsimmonds@realty42.com>  
05/13/2013 12:39 PM

To 'Major Cranford' <john.cranford@use.salvationarmy.org>,  
'Charles Detrick'  
<Charles.Detrick@USE.SalvationArmy.Org>,  
cc "Alan.Greenberger@Phila.gov"  
<Alan.Greenberger@Phila.gov>,  
"John.Mondlak@Phila.gov" <John.Mondlak@Phila.gov>,  
bcc

Subject 2136-38 Market Street

Gentlemen: As a follow-up to my last e-mail, attached please see photo of the captioned property. Your response is required to avoid potential danger to the subject properties as well as to the public. **PLEASE REPLY TO THIS URGENT MATTER WITHIN ONE (1) HOUR** or we will be required to seek injunctive relief due to your failure to timely respond.

**THOM SIMMONDS**  
**300 WEST 43RD STREET**  
**NEW YORK, NEW YORK 10036**  
**347.234.0468**

From: canon@realty42.com [mailto:canon@realty42.com]  
Sent: Monday, May 13, 2013 12:35 PM  
To: Thomas Simmonds  
Subject: Attached Image



1587\_001.pdf

78. Thus, STB, The Salvation Army and Basciano's attorney and agent knew that the failure to agree on a plan exposed the public to "potential danger."

79. Along with the 12:39pm email was the following photograph showing that certain demolition had already begun on the building. For example, the roof was already partially demolished.



80. Four hours later, Major Dietrick left a voicemail for Mr. Simmonds concerning the impasse the parties had reached.

81. Mr. Simmonds responded on May 13, 2013 at 5:29pm indicating that the attorneys for the respective parties were working on an "access agreement."



Thomas Simmonds  
<tsimmonds@realty42.com>  
05/13/2013 05:29 PM

To: 'Major Cranford' <john.cranford@use.salvationarmy.org>, 'Charles Detrick' <Charles.Detrick@USE.SalvationArmy.Org>, cc: "Alan.Greenberger@Phila.gov" <Alan.Greenberger@Phila.gov>, "John.Mondlak@Phila.gov" <John.Mondlak@Phila.gov>, bcc:

Subject: RE: 2136-38 Market Street

Major Detrick: I received your voice message (4:47PM) re the above property. Joel Oshtry spoke with Steve Nudell today about the "access agreement" but advised Joel that he is not aware of any architect's involvement on your behalf. Mr. Nudell advised Mr. Oshtry that he would be contacting your offices for that information. I suggest you coordinate communication among Mr. Nudell, your architect and Joel Oshtry immediately so that we can conclude the demolition on the block.

Thank you,  
Thom

**THOM SIMMONDS**  
300 WEST 43RD STREET  
NEW YORK, NEW YORK 10036  
347.234.0468

82. On May 15, 2013 Joel Oshtry, attorney for Basciano and STB sent a letter to Steven Nudell, attorney for the Salvation Army, outlining STB's plan for a safe demolition.

83. The use of a boom lift from 22<sup>nd</sup> Street was proposed in the letter so that "the worker will demolish the wall in a direction away from 2140 Market Street so that the wall is pushed out into the 2138 Market Street parcel area"

84. STB/Basciano never implemented their own plan.



May 15, 2013

Steven C. Nudel, Esquire  
Law Offices of Steven C. Nudel  
219 Pine Street  
Harrisburg, PA 17101

Via: Facsimile to 1-717-236-5080

Re: 2138 and 2140 Market Street, Philadelphia, Pennsylvania

Dear Mr. Nudel:

In follow up of our telephone conversations regarding the demolition of 2138 Market Street I can advise that my client, STB Corporation, the owner of 2138 Market Street, Philadelphia, Pennsylvania, proposes to do the following to safeguard the interests of the public, The Salvation Army and STB Corporation:

1. The roof of 2140 Market Street will be covered with a tarp and on top of the tarp plywood will be laid. This will protect the roof if any debris fall on the roof area;
2. Boom trucks which consist of a four wheel base and a long extending boom or arm at the end of which is a bucket/basket area for holding a worker will be stationed on the street and alleyway. The workers will be suspended over the roof and next to the wall to be demolished. Thus the worker will not be relying on 2140 Market Street or its roof for support. The worker will demolish the wall in a direction away from 2140 Market Street so that the wall is pushed out onto the 2138 Market Street parcel area;
3. Thus no equipment or personnel will be stationed on the roof of ~~2140~~<sup>2140</sup> Market Street.

It is now a matter of urgency that this demolition be accomplished immediately. The building at 2138 Market Street is in a state of partial demolition, the City has granted a demolition permit and the longer it remains undemolished the greater the risks to the public and all property owners of an uncontrolled collapse of part or loose debris. We are therefore requesting The Salvation Army's cooperation

so the demolition can be finished in an expeditious fashion as possible to minimize risks. Thank you for your prompt attention.

Very truly yours,



JOEL E. OSHTRY

JEO/se

85. This letter, sent three weeks before the collapse by STB and Basciano's attorney to Salvation Army's attorney specifically warned of the risk of "uncontrolled collapse." The very thing that killed sixed and injured more than a dozen.

86. The Salvation Army failed to respond.

87. The next day, on May 16, Mr. Simmonds emailed several City officials and Architect Marinakos to demolish the Salvation Army because it “has no regard for safety to life and limb.”

---

**From:** Thomas Simmonds [tsimmonds@realty42.com]  
**Sent:** Thursday, May 16, 2013 5:26 PM  
**To:** 'Oshtrylaw@aol.com'  
**Cc:** Alex Wolfington; Alan Greenberger; John Mondlak; 'plato@plato-studio.com'; Frank Cresci  
**Subject:** RE: Steve Nudell

Joel: It truly is unfortunate – and a disgrace – that the Salvation Army (purporting to be on a charitable mission) – obviously has no regard for safety to life and limb or our “mission” to redevelop a gaping hole in Center City’s landscape. I will bring this to the attention of the Majors and see if they can provide any “assistance”.

Thank you,  
Thom

THOM SIMMONDS  
300 WEST 43RD STREET  
NEW YORK, NEW YORK 10036  
347.234.0468

88. Minutes later, Mr. Simmonds sent another email to the Salvation Army, Marinakos, Basciano’s attorney and City representatives warning that The Salvation Army’s delay did **“pose a threat to life, limb and public safety.”**

**John Mondlak**

---

**From:** Thomas Simmonds [tsimmonds@realty42.com]  
**Sent:** Thursday, May 16, 2013 5:29 PM  
**To:** 'Alistair Fraser'  
**Cc:** Alex Wolfington; 'Charles Deltrick'; Major Cranford, Plato Marinakos; 'Oshtrylaw@aol.com'; Alan Greenberger; John Mondlak; Frank Cresci  
**Subject:** RE: 2140 Market Street

Gentlemen: Our attorney Joel Oshtry has yet to receive a response from your attorney Steve Nudell whom you advised me to contact in connection with completion of our demo work adjacent to your property. Please advise – your/his continued delays in responding pose a threat to life, limb and public safety.

Thank you,  
Thom

THOM SIMMONDS  
300 WEST 43RD STREET  
NEW YORK, NEW YORK 10036  
347.234.0468

89. STB Officer, Defendant Frank Cresci, received a copy of the email and knew that the demolition project posed “a threat to life, limb and public safety.”

90. Outrageously, the Salvation Army waited six days to re-join the conversation.

91. The next communication from the Salvation Army came on May 22, 2013 at 3:45pm, when the Salvation Army's architect, Alistair Fraiser emailed the representatives of STB to indicate that he had not heard back concerning the initial concerns he voice almost two weeks earlier on May 10<sup>th</sup>.

---

**From:** Alistair Fraiser [mailto:Alistair.Fraiser@USE.SalvationArmy.Org]  
**Sent:** Wednesday, May 22, 2013 3:45 PM  
**To:** Thomas Simmonds  
**Cc:** Alex Wolfington; 'Charles Detrick'; Major Cranford; Plato Marinakos  
**Subject:** Re: 2140 Market Street

Gentlemen,  
We have not yet received a response from your architect, Plato.

---

**From:** Alistair Fraiser/ARC/USE/SAArmy  
**To:** Thomas Simmonds <tsimmonds@realnet.com>  
**Cc:** 'Alex Wolfington' <awolf@realnet.com>, 'Charles Detrick' <Charles.Detrick@USE.SalvationArmy.Org>, Major Cranford <Major.Cranford@USE.SalvationArmy.Org>, Plato Marinakos <plato@realnet.com>  
**Date:** 05/10/2013 10:37 AM  
**Subject:** 2140 Market Street

---

Gentlemen,

When 2138 Market is demolished -

1. Who is responsible for reducing the height of our chimney and verifying that it meets code ?
2. The roof flashing will be removed what will be done to with roof terminations to ensure that our building is watertight ?
3. The exterior of the common wall between 2138 and 2140 will be exposed who is responsible for ensuring that it is watertight ?
4. How do we ensure that our building retains it's structural integrity during and after the demolition of 2138 ?
5. Who is responsible for fixing any wall cracks or ceiling sacks that may result from vibrations caused by your demolition work ?

92. Within an hour of receiving this email, Mr. Simmonds emailed City officials to Complain about the conduct of the Salvation Army.

93. The May 22<sup>nd</sup> email from STB's Mr. Simmonds, sent at 4:54pm, specifically stated that this situation posed a threat to life and limb and was caused by the Salvation Army's flagrant disregard. Mr. Simmonds warned that the impasse between the parties "must end before someone is seriously injured or worse: those are headlines none of us want to see or read."



Thomas Simmonds  
<tsimmonds@reality42.com>  
05/22/2013 04:54 PM

To: "Alan.Greenberger@Phila.Gov"  
<Alan.Greenberger@Phila.Gov>  
cc  
bcc  
Subject: FW: 2140 Market Street - Salvation Army

THOM SIMMONDS  
300 WEST 43RD STREET  
NEW YORK, NEW YORK 10036  
347.234.0468

From: Thomas Simmonds  
Sent: Wednesday, May 22, 2013 4:54 PM  
To: 'Alan.Greenberger@Phila.gov'  
Cc: 'John.Mondlak@Phila.gov'; Alex Wolfington; Plato Marinakos; oshbylaw@aol.com; Frank Cresci  
Subject: FW: 2140 Market Street - Salvation Army

Alan: I hope you are well. I am sending you this thread so you can see what I am confronted with concerning the Salvation Army. In spite of the numerous telephone conversations, countless e-mails and communications (most of which Salvation Army either ignores or responds to "late" for lack of a better word), this is how/when whoever this Mr. Fraser decides to respond to a situation that poses a threat to life and limb solely caused by Salvation Army's flagrant disregard for either my or my attorney's communications. Is there anything at all you can do to enable us to complete our demolition of the 2138 Market Street property in a professional, legal manner without having to deal with such unprofessional – and clearly uncaring – people who claim to be on a charitable mission? The job would have been completed last week if they cooperated with us as requested. This nonsense must end before someone is seriously injured or worse: those are headlines none of us want to see or read. Kindly advise.  
Thank you – I know you are extremely busy,  
Thom

BTW – this is their typical MO – they write an e-mail, I respond and they "disappear" for a few weeks.

THOM SIMMONDS  
300 WEST 43RD STREET  
NEW YORK, NEW YORK 10036  
347.234.0468

94. Despite STB's knowledge of the risks they pushed ahead with their unsafe demolition.

95. An email from later that day from Alex Wolfington, real estate consultant for STB indicates that he spoke with Major Deitrick and the parties were working together to reach an agreement for how the work could proceed.

**From:** Alex Wolfington [alex@wolfnet.co]  
**Sent:** Wednesday, May 22, 2013 5:44 PM  
**To:** Thomas Simmonds  
**Cc:** Alan Greenberger@Phila.gov; John Mondlak; ALEX WOLFINGTON ; Plato AIA Marinakos ; Joel Ostry ; Frank Cresci; Major Charles Deitrick  
**Subject:** FW: LET ME DISCUSS W/ MAJ DIETRICH AND COME BACK TO YOU.

*Wednesday May 22, 2013 5:30 PM EST*

*Tom;*

*Just spoke with Major Charle Deltrick at the Salvation Army who informed me that:*

*Steve Nudell*

*(1) SA Architect just completed a review of City Codes ("Codes") to determine which ones the Demolition Company have to adhere to as part of the demolition process.*

*(2) SA Architect submitted his list of Regulatory Code Compliance Issues to the Salvation Army Attorney, Steve Nudell, Esquire today (5-22-13).*

*(3) Steve Nudell, Esquire will incorporate these compliance into an agreement, which Steve will furnish your attorney, Joel Oshtry, Esquire as soon as tomorrow (Thursday) or Friday.*

*(4) Upon receipt of the Nudell Agreement, Joel would reach out to Steve in a mutual effort to prepare the Final Execution Agreement for the parties to sign.*

*(5) Would you kindly ask Joel Oshtry to reach out to Steve Nudell tomorrow to confirm my understanding of where we are in this process.*

*Thank you.*

*Best,*

*ALEX (C: 610-304-3345)*

96. That same day, the Salvation Army's attorney, Steve Nudell, wrote STB's attorney, stating "since [the Salvation Army] intends to remain open and operating, invitees and personnel will need to be protected."

97. The Salvation Army failed to follow its own mandate and failed to ensure that invitees and personnel from the store were protected.

98. The Salvation Army stubbornly remained open, as it said it would, despite clear warnings and undisputable knowledge that remaining opened posed an imminent threat to workers and customers.

99. In follow up emails on May 29<sup>th</sup> and May 31<sup>st</sup>, STB's attorney, Joel Oshtry, reiterated that STB would perform the work in a safe manner but to do so required access to the Salvation Army roof and repeated his concerns that the Salvation Army was causing delays.

100. As late as June 4, 2013, the day before the collapse, the Salvation Army's attorney, Steven Nudel, wrote to STB's attorney Joel Oshtry, voicing concerns over the vibrations that the demolition was causing at the Salvation Army and stating, "There is concern that your work will cause damage to **displayed items.**"

101. The Salvation Army's focus was not on the safety risk to the people in the store, but rather on damage to the items they were trying to sell.

102. Tragically, the Salvation Army kept its store open during this time despite clear knowledge that an appropriate and safe demolition plan was not in place.

103. Outrageously, STB proceeded with the demolition despite clear knowledge that an appropriate and safe demolition plan was not in place.

104. Instead, per the instructions of Basciano and Campbell, Mr. Benschop proceeded with the demolition, using an excavator to knock the building down, starting with the front and working his way back.

105. The following are still images from a video that was taken Sunday June 2, 2013 (three days before the collapse), which show the front of the building being torn down by an excavator:









106. As these images show, the excavator was demolishing the front of the building by ripping out the floors, removing the lateral stability that the floors provided to the four story brick walls.

107. The four story brick walls were free standing and did not contain columns or reinforcing steel.

108. The demolition of the front façade and floors at the front of the building violated OSHA 1926.850(j).

109. By Tuesday, June 4, 2013 at approximately Noon, most of the front of the building had been demolished, however the façade remained mostly intact. (See photo below)



110. By ripping out the front of the building, the lateral support for the side wall of the building had been removed.

111. As shown in the below photograph (facing West towards the Salvation Army), there was no lateral bracing of any kind to prevent the wall from collapsing.

112. This photo was taken on June 4, 2013, the day before the collapse.



113. Federal regulations require that during demolition no wall section over one story shall be permitted to stand alone without lateral bracing.

114. Specifically, OSHA Regulation 1926.854(b) provides:



## Occupational Safety & Health Administration

No wall section, which is more than one story in height, shall be permitted to stand alone without lateral bracing, unless such wall was originally designed and constructed to stand without such lateral support, and is in a condition safe enough to be self-supporting. All walls shall be left in a stable condition at the end of each shift.

115. By late afternoon on the day before the collapse the front façade had been taken down, thus removing the only remaining lateral support for the wall.

116. The photo below was taken on June 4, 2013 in late afternoon.



117. OSHA requires that “each story of the exterior wall and floor construction shall be removed and dropped into the storage space before commencing the removal of exterior walls and floors in the story below.”

118. Specifically, 1926.850(j) states:



**Occupational Safety & Health Administration**

**..1926.850(j)**

1926.850(j)

Except for the cutting of holes in floors for chutes, holes through which to drop materials, preparation of storage space, and similar necessary preparatory work, the demolition of exterior walls and floor construction shall begin at the top of the structure and proceed downward. Each story of exterior wall and floor construction shall be removed and dropped into the storage space before commencing the removal of exterior walls and floors in the story next below.

119. However, demolition did not occur from the top down, as required by 1926.850(j).

120. Before the collapse, the front portion of 2136-38 Market Street was removed from the roof to ground level in violation of this law.

121. Safe construction industry practices dictate that when demolishing a structure which is adjacent to an occupied structure (such as the Salvation Army) the roof of the occupied structure must be protected.

122. ANSI A10.6-2006; 6.14 provides:

**6.14 When an adjacent occupied structure is lower than the one being demolished, its roof shall be protected with acceptable barriers, debris catchers and other substantial and effective covering.**

123. This provision is equally applicable to Griffin Campbell Construction, S&R and the Salvation Army, all of whom exposed their employees to this hazard.

124. None of the safety precautions discussed above were taken. Instead, an incompetent contractor was tasked to do the demolition in the cheapest way possible.

125. The following photograph shows the construction site at 8:02am on the morning of the collapse:



126. Basciano and STB's knowledge of the imminent danger their construction posed is evidenced by their communication with the City and the Salvation Army in the weeks leading up to the collapse.

127. Despite their own warnings, STB proceeded with demolition without setting up a safer method.

128. The fact that demolition was being done in this manner was well known to Basciano and STB.

129. Richard and Lois Bascinio would frequently drive their car to the jobsite and Basciano would observe the work being performed.

130. In addition to observing the work, the Bascianos would meet with Griffin Campbell and managed virtually every aspect of the construction.

131. In doing so, Basciano effectively assumed the role of Construction Superintendent. Basciano exercised direct control over the means and methods of the work being performed.

132. On the morning of the accident, while the West Wall of 2136-2138 Market Street was un-braced and Sean Benschop was using the excavator to claw away at the remaining insides of the building, Richard Basciano and Lois Basciano were on site meeting with Griffin Campbell and observing and managing the work.

133. At the time Richard and Lois Basciano were on site on the morning of the collapse the front portion of 2136-2138 Market Street had been demolished, destroying the lateral support for the four story brick wall looming above the thrift store and in blatant violation of OSHA 1926.854(a).

134. Richard and Lois Basciano saw this with their own eyes the morning of the collapse.

135. Neither Richard nor Lois Basciano had neither visual nor mental deficits that would have prevented them from seeing and understanding that the wall was unbraced in violation of federal law and that a disastrous collapse was foreseeable.

136. As Richard and Lois Basciano stood on the demolition project on the morning of the collapse he and/or STB knew that the Salvation Army building would be open for business and occupied by customers and employees and that the four story free standing wall looming above the Salvation Army Store was unbraced and lacked lateral support.

137. The vibrations from the excavator or subway below were sufficient to cause the wall to collapse.

138. Richard and Lois Basciano saw the work being performed and allowed the work to continue to be performed while an unbraced wall loomed above the Salvation Army thrift store.

139. Eyewitnesses indicate that Richard and Lois Basciano were on site in the moments leading up to the collapse, however he was remarkably nowhere to be found as soon as the building fell.

140. For this demolition project – safety started at the top with Richard Basciano and STB Investments Corp.

141. Tragically, The Bascianos and/or STB ignored their fundamental safety obligations and required the work to be done in a reckless and dangerous fashion which posed an imminent risk to the lives of all customers and employees of the Salvation Army.

142. The Bascianos and STB caused the catastrophe.

143. The Bascianos and STB recklessly created the risk of catastrophe.

**The Negligent, Reckless and Outrageous Conduct of The Salvation Army**

144. Plaintiff hereby incorporates all preceding paragraphs of this Complaint.

145. When operating a commercial store, the safety of the customers and employees of that store comes first.

146. While this incompetent demolition was taking place, STB was in regular communication with the Salvation Army about the demolition hazards.

147. During the weeks leading up the collapse, the employees of the Salvation Army would regularly see the walls shake from the demolition. Additionally, ceiling tiles in the bathroom had begun to fall down.



148. Management at the Salvation Army was aware of these hazards and actively involved in communications with the contractors and architects as to how the work was being performed.

149. The store workers at the Salvation Army and management and would actively joke about how they wondered when their building would come crashing down.

150. These concerns were relayed to management.

151. Despite Salvation Army Management knowing that their building could come crumbling down any minute – The Salvation Army actively obstructed STB and its contractors from performing the demolition in a safe manner.

152. STB and its contractors requested access to the Salvation Army roof to erect a scaffold so that the building could be demolished by hand, however the Salvation Army refused.

153. STB asked the City to intervene to compel the Salvation Army to allow STB and its contractors “to complete [the] demolition of the 2138 Market Street Property in a professional, legal manner.” The Salvation Army refused.

154. The Salvation Army, instead replied to STB’s requests for collaboration that it would make no commitments and was concerned with “protecting its investment.”

155. Through these emails, the Salvation Army has admitted that it was more concerned with “protecting its investment” than protecting its customers and employees.

156. The Salvation Army was specifically warned by STB’s project manager that “2136-38 Market Street is nearly demolished and every minute that passes increases the liability exposure for all parties.”

157. On May 15, 2013, STB’s attorney specifically warned the Salvation Army of the possibility of “**uncontrolled collapse.**”

158. STB's attorney stated in an e-mail to the Salvation Army, "the building at 2138 Market Street is in a state of partial demolition . . . and the longer it remains undemolished the greater the risks to the public and all property owners of **an uncontrolled collapse** of part or loose debris."

159. On May 20, 2013, Salvation Army's architect inspected the demolition that was occurring yet failed to observe obvious problems.

160. On May 22, 2013, STB's project manager emailed the City's Deputy Mayor and informed him of a situation "that poses a threat to life and limb caused solely by Salvation Army's flagrant disregard" of the situation.

161. STB's project manager went on to state "This nonsense must end before someone is seriously injured or worse: those are headlines none of us want to see or read."

162. Salvation Army officials were warned that the demolition could threaten the Thrift Store and posed an imminent threat to life and limb of the store's employees and customers, yet outrageously, the Salvation Army took no action.

163. The Salvation Army had known for months of the hazardous nature of their building.

164. The Salvation Army had direct knowledge of the dangers the demolition posed to the store's employees and customers yet failed to take reasonable actions based on that knowledge.

165. Like STB and its contractor's the Salvation Army violated OSHA by failing to ensure that an engineering survey was performed.

166. OSHA 1926.850(a) provides that where demolition is occurring, any adjacent structures to the demolition must be checked for safety and the employer shall have in writing evidence that such a survey was performed:

## Occupational Safety & Health Administration



UNITED STATES  
DEPARTMENT OF LABOR

### 1926.850(a)

Prior to permitting employees to start demolition operations, an engineering survey shall be made, by a competent person, of the structure to determine the condition of the framing, floors, and walls, and possibility of unplanned collapse of any portion of the structure. Any adjacent structure where employees may be exposed shall also be similarly checked. The employer shall have in writing evidence that such a survey has been performed.

167. The Salvation Army failed to have an engineering survey done to ensure the structural integrity of its building during construction.

168. The Salvation Army owed a duty to its employees and its customers to provide them with a safe store in which to work and shop.

169. Salvation Army failed in its responsibilities by keeping the store open despite the imminent threat of collapse.

170. The Salvation Army knew that the store was unsafe yet intentionally kept the store open during construction.

171. By keeping the store open, The Salvation Army asserted to all customers and employees that the store was safe.

172. This assertion was relied upon by the customers and employees who entered the store.

173. The Salvation Army failed to disclose the risk of “uncontrolled collapse” to the customers and employees at the store.

174. The Salvation Army failed to disclose the imminent risk to life and limb that was present for any persons who entered their store.

175. The Salvation Army knew that by not closing their store or warning employees and potential customers of these hazards they were inducing potential customers and employees to enter the store.

176. The Salvation Army intentionally and fraudulently misrepresented to customers and employees that the store was safe, despite knowing that there was an imminent risk of “uncontrolled collapse” which threatened the safety of everyone in the store.

177. The negligence, recklessness, fraudulent and intentional misconduct and misrepresentation of the Salvation Army caused the damages, injuries, and deaths to Plaintiffs.

178. Pursuant to The Fair Share Act, 42 Pa.C.S. §7102, The Salvation Army, by engaging in the conduct described above, is jointly and severally responsible for the injuries and damages sustained by Plaintiff.

**The Negligent Conduct of Griffin Campbell and His Company**

179. Griffin Campbell and his company, Defendant Nicetown House Development Corporation, a/k/a and/or d/b/a Griffin Campbell Construction (“Griffin Campbell Construction”), gave an absurdly low bid for the demolition it promised to undertake.

180. In light of the impending dispute between Basciano and/or STB and the Salvation Army, Griffin Campbell had an obligation to not begin or continue demolition work.

181. Despite this dispute, Campbell bid to perform the work in an unsafe manner.

182. As the contractor listed on the demolition permit, Griffin Campbell, had a responsibility to ensure that OSHA and all necessary safety regulations were complied with. They were not.

183. By delegating and/or employing and/or subcontracting to Sean Benschop, Griffin Campbell had a responsibility to make sure that Sean Benschop was fit to perform the work which he was assigned.

184. Griffin Campbell was regularly on site monitoring the work being performed.

185. Griffin Campbell was aware that Benschop had obtained a quote to use an aerial lift and was complicit with Basciano and/or STB in rejecting this plan.

186. Mr. Campbell was less than 50 feet away from Sean Benschop while Mr. Benschop was using the excavator on site.

187. Mr. Campbell went into the Salvation Army on several occasions, yet failed to warn them to evacuate the store.

188. Campbell never prepared an engineering survey in violation of OSHA and sound demolition practices.

189. Campbell participated in the demolition of the front portion of the building from roof to ground thereby destroying the lateral stability of the side walls.

190. Campbell saw and knew that the side walls were unbraced in violation of OSHA 1926.854(b).

191. Campbell saw and knew that workers would secretly access the Salvation Army roof at night, put ladders on it, and attempt to demolish the west wall of 2138 Market Street.

192. Campbell knew that the west wall was unbraced on the morning of the accident and the store would be occupied by employees and customers.

193. At the time of his negligent conduct, Griffin T. Campbell was acting as an agent of Richard Basciano and/or STB Investments Corp. and/or was acting as an agent of Griffin Campbell Construction.

**The Negligent Conduct of Sean Benschop and his Company, S&R Contracting**

194. Sean Benschop owned S&R contracting.

195. Griffin Campbell claims that he hired S&R to perform the demolition work.

196. Mr. Benschop never should have been utilizing heavy equipment such as this excavator in such close proximity to an unbraced wall.

197. Mr. Benschop knew or should have known that the vibration from this equipment alone was enough to cause the wall to collapse.

198. Mr. Benschop knew that it safety demanded that an aerial lift be used to hoist workers to the top of the building so that the building can be demolished by hand.

199. This is evidenced by the fact that Mr. Benschop got a quote to use an aerial lift.

200. Basciano rejected Mr. Benschop's plan to use the aerial lift and Mr. Benschop had an obligation to refuse to proceed with the work.

201. However, Mr. Benschop continued with the work.

202. Rather than safely demolishing the building from top down, the front portion of the building was removed from roof to ground, robbing the west wall of its lateral stability.

203. Benschop was paid cash for his work at the demolition site.

204. Benschop was an agent and/or employee of Basciano and/or STB

**The Parties, Venue and Jurisdiction**

205. Plaintiff, Angelo Harmon, is the Administrator of the Estate of his mother Juanita Harmon.

206. Plaintiff, Angelo Harmon, is an adult citizen of Pennsylvania residing at the above captioned address.

207. Plaintiff Nadine White is an adult citizen of the Commonwealth of Pennsylvania who resides at the above captioned address.

208. Plaintiff Linda Bell is an adult citizen of the Commonwealth of Pennsylvania who resides at the above captioned address.

209. Plaintiff Bernard DiTomo is an adult citizen of the Commonwealth of Pennsylvania who resides at the above captioned address.

210. Plaintiff Jennifer Reynolds is an adult citizen of the Commonwealth of Pennsylvania who resides at the above captioned address.

211. Plaintiff Felicia Hill is an adult citizen of the Commonwealth of Pennsylvania who resides at the above captioned address.

212. Plaintiff Rosemary Kreutzberg is an adult citizen of the Commonwealth of Pennsylvania who resides at the above captioned address.

213. Plaintiff Rodney Geddis is an adult citizen of the Commonwealth of Pennsylvania who resides at the above captioned address.

214. Plaintiffs Shirley Ball and Stanley Ball are adult citizens of the Commonwealth of Pennsylvania who resides at the above captioned address.

215. Plaintiff Betty Brown is an adult citizen of the Commonwealth of Pennsylvania who resides at the above captioned address.

216. Plaintiff, Maggie Davis, is the administratrix of the Estate of her husband, Borbor Davis.

217. Plaintiff Maggie Davis is an adult citizen of the Commonwealth of Pennsylvania who resides at the above captioned address.

218. Plaintiff Mariya Plekan is an adult citizen of the Commonwealth of Pennsylvania who resides at the above captioned address.

219. Plaintiff, George Simpson, is the administrator of the Estate of Mary Simpson.

220. Plaintiff George Simpson is an adult citizen of the State of California who resides at the above captioned address.

221. Plaintiffs, Aiah Gbessay, Aiah Boya, and Francis Sankoh, are Co-Administrators of the Estate of Roseline Conteh.

222. Plaintiffs, Aiah Gbessay, Aiah Boya, and Francis Sankoh are adult citizens of the Commonwealth of Pennsylvania who reside at the above captioned address.

223. Plaintiffs Nancy Winkler and John Bryan, are the administrators of the Estate of their daughter, Anne Bryan.

224. Plaintiffs, Nancy Winkler and John Bryan, are adult citizens of the Commonwealth of Pennsylvania, residing at 138 N. 22<sup>nd</sup> Street, Philadelphia, PA 19103.

225. Plaintiff Margarita Agosta is an adult citizen of the Commonwealth of Pennsylvania who resides at the above captioned address.

226. Plaintiff, Jonathan M. Finnegan is the administrator of the Estate of Kimberly J. Finnegan, deceased.

227. Plaintiff, Jonathan M. Finnegan is an adult citizen of the Commonwealth of Pennsylvania who resides at the above captioned address.

228. Plaintiff, Bonnie B. Johnson, is the administrator of the Estate of her husband, Danny C. Johnson.



229. Plaintiff, Bonnie B. Johnson, is an adult citizen of the Commonwealth of Pennsylvania, residing at 5143 Ranstead Street, Philadelphia, PA 19139.

230. Defendant, The Salvation Army of Greater Philadelphia, is a corporation or other business entity organized and existing under the laws of the Commonwealth of Pennsylvania with a registered office at 701 North Broad Street, Philadelphia, PA 19123.

231. At all relevant times hereto, The Salvation Army of Greater Philadelphia, was acting by and through its agents, servants, and/or employees who were acting within the course and scope of their employment for defendant, The Salvation Army of Greater Philadelphia.

232. Defendant The Salvation Army of Greater Philadelphia purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic business activities in Pennsylvania, and regularly conducts and conducted business in Philadelphia County.

233. Defendant, (Trustees of) The Salvation Army in Pennsylvania, is a corporation or other business entity organized and existing under the laws of the Commonwealth of Pennsylvania with a registered office at 701 North Broad Street, Philadelphia, PA 19123.

234. At all relevant times hereto, (Trustees of) The Salvation Army in Pennsylvania, was acting by and through its agents, servants, and/or employees who were acting within the course and scope of their employment for defendant, The Salvation Army of Greater Philadelphia.

235. Defendant (Trustees of) The Salvation Army in Pennsylvania purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic business activities in Pennsylvania, and regularly conducts and conducted business in Philadelphia County.

236. Defendant, The Salvation Army, a New York Corporation a/k/a and/or d/b/a The Salvation Army Eastern Territory, is a corporation or other business entity organized and existing under the laws of the State of New York with its principal place of business located at 440 West Nyack Road, West Nyack, NY 10994.

237. At all relevant times hereto, The Salvation Army, a New York Corporation a/k/a and/or d/b/a The Salvation Army Eastern Territory, was acting by and through its agents, servants, and/or employees who were acting within the course and scope of their employment for defendant, The Salvation Army of Greater Philadelphia.

238. Defendant, The Salvation Army, a New York Corporation a/k/a and/or d/b/a The Salvation Army Eastern Territory purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic business activities in Pennsylvania, and regularly conducts and conducted business in Philadelphia County.

239. Defendant, The National Headquarters of the Salvation Army a/k/a The Salvation Army National Corporation, is a corporation or other business entity organized and existing under the laws of the Commonwealth of Virginia with its principal place of business at 615 Slaters Lane, Alexandria, VA 22313.

240. At all relevant times hereto, The National Headquarters of the Salvation Army, was acting by and through its agents, servants, and/or employees who were acting within the course and scope of their employment for defendant, The National Headquarters of the Salvation Army.

241. Defendant The National Headquarters of the Salvation Army purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out,

substantial, continuous, and systematic business activities in Pennsylvania, and regularly conducts and conducted business in Philadelphia County.

242. Defendant, Salvation Army a/k/a The Salvation Army Adult Rehabilitation Center, is a corporation or other business entity organized and existing under the laws of the Commonwealth of Pennsylvania with its principal place of business at 4555 Pechin Street, Philadelphia, PA 19128.

243. At all relevant times hereto, Salvation Army a/k/a The Salvation Army Adult Rehabilitation Center, was acting by and through its agents, servants, and/or employees who were acting within the course and scope of their employment for defendant, The Salvation Army Adult Rehabilitation Center.

244. Defendant, Salvation Army a/k/a The Salvation Army Adult Rehabilitation Center, purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic business activities in Pennsylvania, and regularly conducts and conducted business in Philadelphia County.

245. Defendants, The Salvation Army of Greater Philadelphia, (Trustees of) The Salvation Army in the Pennsylvania, The Salvation Army, a New York Corporation d/b/a and/or a/k/a The Salvation Army Eastern Territory, The National Headquarters of the Salvation Army a/k/a The Salvation Army National Corporation and Salvation Army a/k/a The Salvation Army Adult Rehabilitation Center are hereinafter referred to as "Salvation Army" except where otherwise noted.

246. John Cranford is the Administrator of the Salvation Army in Philadelphia and is an adult citizen of the Commonwealth of Pennsylvania, residing at 2020 Spring Mill Rd., Lafayette Hill, PA 19444.

247. Charles Dietrick is the General Secretary of the Adult Rehabilitation Command Center for the Salvation Army and a Citizen of New York, residing at 25 Hemptor Rd., New City, NY 10956.

248. Alistair Fraser is the architect and/or engineer for the Salvation Army Eastern Territory who resides at 13 Dussenbury Dr., Florida, NY 10921.

249. Defendants, Richard Basciano and/or and his company, STB Investments Corp. a/k/a A PENNA CORP. ("STB"), owned and/or controlled the former apartment building, located at 2136-2138 Market Street, that collapsed.

250. Defendant, Richard Basciano, is an adult individual residing at 300 West 43<sup>rd</sup> Street, Suite 400, New York, NY, 10036.

251. Defendant, Lois Basciano, is an adult individual residing at 300 West 43<sup>rd</sup> Street, Suite 400, New York, NY, 10036.

252. Richard and Lois Basciano maintained a residence in Philadelphia and own numerous properties throughout the City.

253. Defendant, STB, is a corporation or other business entity organized and existing under the laws of the Commonwealth of Pennsylvania with its principle place of business at 300 West 43<sup>rd</sup> Street, Suite 400, New York, NY, 10036.

254. Defendant, 2100 W. Market St. Corp., is a corporation or other business entity organized and existing under the laws of the Commonwealth of Pennsylvania with its principle place of business at 1230 Arch St., Philadelphia PA 19107.

255. Defendant 303 W. 42<sup>nd</sup> St. Corp. is a corporation or business entity organized and existing under the laws of the Commonwealth of Pennsylvania with its principal place of business at 300 W. 43<sup>rd</sup> Street, New York, NY 10036.

256. Various documents and permits filed by STB and its agents reference STB Investments, Inc., 2100 W. Market St. Corp. and 303 42<sup>nd</sup> St. Corp. as a potential property owner for 2136-2138 Market St.

257. All references to “STB” throughout this Complaint shall be deemed to refer to 2100 W. Market St. Corp. and/or 303 W. 42<sup>nd</sup> St. Corp., as well, to the extent that either entity is established to be the property owner.

258. Defendant Frank Cresci is the Secretary of STB and a Citizen of New York with a business address at 300 W. 43<sup>rd</sup> Street, New York, NY 10036.

259. Defendant Thomas Simmonds is the Property Manager for STB on this project and a Citizen of New York with a business address at 300 W. 43<sup>rd</sup> Street, New York, NY 10036.

260. At all relevant times hereto, STB, was acting by and through its agents, servants, and/or employees who were acting within the course and scope of their employment for defendant, STB.

261. Defendant STB purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic business activities in Pennsylvania, and regularly conducts and conducted business in Philadelphia County.

262. Defendants, Griffin T. Campbell and his company, Nicetown House Development Corporation, a/k/a and/or d/b/a Griffin Campbell Construction (“Campbell Construction”), were responsible for the demolition work at the former apartment building, located at 2136-2138 Market Street, that collapsed.

263. Defendant, Griffin T. Campbell, is an adult individual residing at 1605 Butler Street, Philadelphia, PA 19140.

264. Defendant, Campbell Construction, is a corporation or other business entity organized and existing under the laws of the Commonwealth of Pennsylvania with its principle place of business at 1605 Butler Street, Philadelphia, PA 19140.

265. At all relevant times hereto, Campbell Construction, was acting by and through its agents, servants, and/or employees who were acting within the course and scope of their employment for defendant, Campbell Construction.

266. Defendant, Campbell Construction, purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic business activities in Pennsylvania, and regularly conducts and conducted business in Philadelphia County.

267. Defendants, Sean Benschop and his company, S&R Contracting, owned and operated the excavator used in the demolition of 2136-2138 Market Street.

268. Defendant, Sean Benschop, is an adult individual residing at 4945 N. 7<sup>th</sup> Street, Philadelphia, PA 19120.

269. Defendant, S&R Contracting, is a corporation or other business entity organized and existing under the laws of the Commonwealth of Pennsylvania with its principle place of business at 4945 N. 7<sup>th</sup> Street, Philadelphia, PA 19120.

270. At all relevant times hereto, S&R Contracting, was acting by and through its agents, servants, and/or employees who were acting within the course and scope of their employment for defendant, S&R.

271. Defendant S&R Contracting purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic

business activities in Pennsylvania, and regularly conducts and conducted business in Philadelphia County.

272. Defendant, Plato Marinakos Architect, LLC d/b/a/ and/or a/k/a Plato Studio Architect, LLC, is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with an office at 2000 Hamilton St., Suite 912, Philadelphia, PA 19130.

273. At all relevant times hereto, Plato Marinakos Architect, LLC d/b/a/ and/or a/k/a Plato Studio Architect, LLC, was acting by and through its agents, servants, and/or employees who were acting within the course and scope of their employment for defendant, Plato Marinakos Architect, LLC d/b/a/ and/or a/k/a Plato Studio Architect, LLC.

274. Defendant, Plato Marinakos Architect, LLC d/b/a/ and/or a/k/a Plato Studio Architect, LLC, purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic business activities in Pennsylvania, and regularly conducts and conducted business in Philadelphia County.

275. Defendant Plato Marinakos is an adult citizen of the Commonwealth of Pennsylvania residing and/or working at 200 Hamilton St., Suite 912, Philadelphia PA 19130.

276. Throughout this Complaint Plato Marinakos Architect, LLC d/b/a/ and/or a/k/a Plato Studio Architect, LLC and Plato Marinakos are collectively referred to as "Marinakos".

277. Defendant, Alex Wolfington is an adult citizen of the Commonwealth of Pennsylvania residing and/or working at 31 Morris Avenue, Bryn Mawr, PA 19010.

278. Defendant Wolfington Network, LLC d/b/a Wolfnet is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with an office at 31 Morris Avenue, Bryn Mawr, PA 19010.

279. Defendant, Wolfington Network, LLC d/b/a Wolfnet was acting by and through its agents, servants, and/or employees who were acting within the course and scope of their employment for defendant, Wolfington Network, LLC d/b/a Wolfnet.

280. Defendant, Wolfington Network, LLC d/b/a Wolfnet purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic business activities in Pennsylvania, and regularly conducts and conducted business in Philadelphia County.

281. Throughout this Complaint, Defendants Alex Wolfington and Wolfington Network, LLC d/b/a Wolfnet are referred to collectively as "Wolfington".

282. Defendant, Jack Higgins, is an adult citizen of the Commonwealth of Pennsylvania residing and/or working at 28 Old Saw Mill Rd., Kunkletown, PA 18058.

283. Defendant, Jack F. Higgins Architect, Inc. is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania with an office at 28 Old Saw Mill Rd., Kunkletown, PA 18058.

284. Defendant, Jack F. Higgins Architect, Inc. was acting by and through its agents, servants, and/or employees who were acting within the course and scope of their employment for defendant, Jack F. Higgins Architect, Inc.

285. Defendant, Jack F. Higgins Architect, Inc. purposely established significant contacts in Pennsylvania, has carried out, and continues to carry out, substantial, continuous, and systematic business activities in Pennsylvania, and regularly conducts and conducted business in Philadelphia County.

286. By information and belief, the various Salvation Army, STB, Campbell, S&R Contracting, Plato Studio Architect, LLC, Wolfington Network, LLC, and Jack F. Higgins



Architect, Inc., corporations, partnerships and limited liability companies, and/or other business entities named as defendants herein were alter egos of individual defendants Cranford, Dietrick, Fraser, Richard Basciano, Lois Basciano, Cresci, Simmonds, Campbell, Benschop, Marinakos, Wolfington, and Higgins respectively and were formed as conduits to mask their ownership interests in their respective corporate undertaking in order to insulate the individual defendants from liability for failing to properly and safely secure, maintain, and/or demolish the properties at 2136-2138 and 2140 Market Street and as hereinafter alleged.

287. By information and belief, the defendant business entities had no separate existence other than as conduits for the individual defendants and the individual defendants consistently held themselves out as individually conducting business affairs without the proper use of corporate names and without identifying that their actions were taken as officers or employees of the various, respective defendant business entities.

288. By information and belief the defendant business entities:

- a. were insufficiently capitalized and maintained insufficient liability insurance coverage considering the woefully deficient demolition of the property, as alleged herein;
- b. were intermingling funds between and among their respective business entities and the personal assets of respective individual defendants;
- c. failed to have any functioning officers, directors, members and managers;
- d. failed to observe corporate formalities, including, but not limited to, failing to have shareholder meetings, failing to maintain separate bank accounts and failing to pay taxes; and
- e. failed to pay dividends in the regular and ordinary course of business.

289. The building collapse occurred on 22<sup>nd</sup> and Market Streets, within Philadelphia County.

290. Plaintiffs and several defendants are Citizens of Pennsylvania.

291. The Philadelphia Court of Common Pleas is the proper jurisdiction and venue for this litigation.

292. The conduct of defendants threatened the safety of the citizens of Philadelphia and specifically those in and around the Salvation Army Thrift Store on June 5, 2013.

**Damages Specific to the Estate of Juanita Harmon**

293. Plaintiff's decedent, Juanita Harmon, was shopping at the Salvation Army, where she was a regular customer on the morning of the collapse.

294. At approximately 10:42am, the east wall of the Salvation Army collapsed onto Juanita Harmon trapping her in the rubble.

295. Ms. Harmon's body was not pulled from the rubble for over 12 hours until 10:44pm.

296. Ms. Harmon suffered a C5 vertebral, right tibial fracture, contusion and abrasions to her face, back and lower extremities, blunt impact injuries to the head, neck, and torso.

297. Ms. Harmon did not sustain a skull fracture or other injury that would have caused her to lose consciousness. As a result she experienced pain and suffering while trapped in the rubble for hours before she died.

**Damages Specific to Nadine White**

298. Nadine White was 54 at the time of the building collapse. Her injuries include but are not limited to: pain in her head, neck, back and abdomen, cough, trauma from being hit and pinned by debris, abrasion to her head, abrasions and contusions all of which may be permanent

in nature. These injuries required her to be bedridden for eight days. She has sustained mental and emotional pain and suffering; chronic physical pain, suffering and loss of life's pleasures, past, present and future; loss of earnings and wages and loss of earning capacity, past, present and future; hospital, medical and rehabilitation expenses past, present and future, including medical equipment, supplies and other medical care and treatment; other psychological, psychiatric, and neurological injuries, the full extent of which is yet to be determined and some or all of which may be permanent in nature.

**Damages Specific to Linda Bell**

299. Linda Bell, a mother of three, was in the basement of the thrift store purchasing toys for needy children when the building collapsed. Linda was buried alive under the rubble of the collapsed building, from which she was pulled to safety through a small opening.

300. Linda was rushed by ambulance to the Hospital of the University of Pennsylvania, where she was admitted. At HUP, Linda was diagnosed and/or treated for global physical and psychic injuries, including neck, leg and back pain; emotional crisis; post-traumatic stress disorder; diffuse abdominal pain; and blunt trauma.

301. As a result of the building collapse, Linda Bell sustained severe and permanent injuries, including, but not limited to, the following:

- a) C3-C4 disc bulge indents the ventral thecal sac;
- b) C4-C5 disc bulge;
- c) C5-C6 central herniated disc indents the ventral thecal sac;
- d) C6-C7 central herniated disc indents the ventral thecal sac;
- e) L4-L5 broad-based disc bulge;
- f) L3-L4 disc bulge;
- g) sprains and strains of neck;
- h) sprains and strains of thoracic region;
- i) sprains and strains of lumbar region;
- j) sprains and strains of ankle;
- k) strains of elbow and forearm;
- l) headaches;

- m) acute neck pain and stiffness;
- n) right shoulder pain;
- o) right knee pain;
- p) left ankle pain;
- q) left foot pain;
- r) right elbow pain;
- s) diffuse anterior abdominal and chest wall pain;
- t) post-traumatic stress disorder;
- u) difficulty breathing;
- v) pain and suffering;
- w) mental anguish;
- x) humiliation;
- y) embarrassment
- z) disfigurement
- aa) emotional distress
- bb) wage and earning capacity loss;
- cc) medical expenses;
- dd) personal expenses;
- ee) loss of life's pleasures; and
- ff) economic losses.

#### **Damages Specific to Bernard DiTomo**

302. Bernard DiTomo was 61 at the time of the building collapse. His injuries include but are not limited to: congestion in his chest, shortness of breath, wheezing, frequent coughing, and right shoulder impingement requiring injections. He has sustained mental and emotional pain and suffering; chronic physical pain, suffering and loss of life's pleasures, past, present and future; loss of earnings and wages and loss of earning capacity, past, present and future; hospital, medical and rehabilitation expenses past, present and future, including medical equipment, supplies and other medical care and treatment; other psychological, psychiatric, and neurological injuries, the full extent of which is yet to be determined and some or all of which may be permanent in nature.

#### **Damages Specific to Jennifer Reynolds**

303. Jennifer Reynolds was 27 at the time of the building collapse. Her injuries include but are not limited to: closed head trauma, 3 cm laceration to her head requiring staples, a 7 cm

horizontal laceration to her head requiring sutures and staples and a 1.5 cm vertical laceration to her head requiring sutures and staples, multiple abrasions to her arms and back, cervical sprain and strain, cervical segmental dysfunction, bilateral trapezius Myofascitis, thoracic disc syndrome, thoracic spine strain and sprain, thoracic segment dysfunction, lumbar spine sprain and strain, lumbar segmental dysfunction, Myofascitis of the right thigh/contusion and right calf contusion. She has sustained mental and emotional pain and suffering; chronic physical pain, suffering and loss of life's pleasures, past, present and future; loss of earnings and wages and loss of earning capacity, past, present and future; hospital, medical and rehabilitation expenses past, present and future, including medical equipment, supplies and other medical care and treatment; other psychological, psychiatric, and neurological injuries, the full extent of which is yet to be determined and some or all of which may be permanent in nature.

**Damages Specific to Felicia Hill**

304. Felicia Hill was 36 at the time of the building collapse. Her injuries include but are not limited to bruising and Post Traumatic Stress Disorder. She has sustained mental and emotional pain and suffering; chronic physical pain, suffering and loss of life's pleasures, past, present and future; loss of earnings and wages and loss of earning capacity, past, present and future; hospital, medical and rehabilitation expenses past, present and future, including medical equipment, supplies and other medical care and treatment; other psychological, psychiatric, and neurological injuries, the full extent of which is yet to be determined and some or all of which may be permanent in nature.

**Damages Specific to Rosemary Kreutzberg**

305. Rosemary Kreutzberg was 66 at the time of the building collapse. Her injuries include but are not limited to: crushing injuries to her stomach, abdominal bruising, contusion to

her right lower abdominal-globular mass right flank and buttock, left leg/calf contusions, scattered ecchymosis on right inner thigh, left inner thigh, left knee and left ankle. Shoulder bruising. She has sustained mental and emotional pain and suffering; chronic physical pain, suffering and loss of life's pleasures, past, present and future; loss of earnings and wages and loss of earning capacity, past, present and future; hospital, medical and rehabilitation expenses past, present and future, including medical equipment, supplies and other medical care and treatment; other psychological, psychiatric, and neurological injuries, the full extent of which is yet to be determined and some or all of which may be permanent in nature.

**Damages Specific to Rodney Geddis**

306. Rodney Gettis was 21 at the time of the building collapse. His injuries include but are not limited to: closed head trauma, 3 cm laceration to her head requiring staples, a 7 cm horizontal laceration to her head requiring sutures and staples and a 1.5 cm vertical laceration to her head requiring sutures and staples, multiple abrasions to her arms and back, cervical sprain and strain, cervical segmental dysfunction, bilateral trapezius Myofascitis, thoracic disc syndrome, thoracic spine strain and sprain, thoracic segment dysfunction, lumbar spine sprain and strain, lumbar segmental dysfunction, Myofascitis of the right thigh/contusion and right calf contusion. He has sustained mental and emotional pain and suffering; chronic physical pain, suffering and loss of life's pleasures, past, present and future; loss of earnings and wages and loss of earning capacity, past, present and future; hospital, medical and rehabilitation expenses past, present and future, including medical equipment, supplies and other medical care and treatment; other psychological, psychiatric, and neurological injuries, the full extent of which is yet to be determined and some or all of which may be permanent in nature.

**Damages Specific to Shirley Ball and Stanley Ball**

307. Ms. Ball was a customer in the store. She was born on February 13, 1953. At the time of the collapse she was struck by falling debris and buried under rubble. She was dug out and rescued. She was taken to HUP, released and then sought follow up treatment at the E/R. She is currently being treated by Dr. Morton Silverman and Dr. Arlene Bennett. Her physical injuries include: her head, neck, shoulders, lower back, buttocks, hip, elbow and knees. She sustained a busted lip and hickey on her forehead. She sustained two cervical disc herniations and a tear to her distal supraspinatus tendon (shoulder) for which she is seeking physical therapy. She has ongoing emotional and psychological trauma, nightmares, sleeplessness, flashbacks, depression and anxiety. She has been diagnosed with post-traumatic stress disorder and is on medication and undergoing counselling. She will be making a lost wage claim as she has been unable to return to work as a caterer. Plaintiff will also be supplying a future life care plan for future medical treatment. She has unpaid medical bills which have not been itemized at present.

308. Plaintiff, Stanley Ball, is the married spouse of victim Shirley Ball and is making a claim for loss of consortium damages.

**Damages Specific to Betty Brown**

309. Betty Brown was 85 years old at the time of the building collapse. Ms. Brown was diagnosed with a concussion, right occipital abrasion, headaches, blurry vision, post-traumatic stress disorder and soft tissue injuries to the upper left extremity.

**Damages Specific to the Estate of Borbor Davis**

310. Plaintiff's decedent, Borbor Davis, was working in the basement of The Salvation Army Thrift Store when the building collapsed on him.

311. At approximately 10:42 a.m., the east wall of the Salvation Army collapsed onto Borbor Davis trapping him in the rubble.

312. Borbor Davis was pronounced dead at 7:54 p.m. on June 5, 2013, more than 9 hours after the collapse.

313. Borbor Davis suffered the following injuries and damages as a result of the collapse and being trapped in the rubble before he died:

- a. blunt trauma, crush injuries, asphyxiation;
- b. Psychological, Psychiatric, orthopedic and neurological injuries,
- c. Great physical, conscious pain, suffering, and terror;
- d. the loss of life's pleasures,
- e. Loss of earnings and wages and loss of earnings capacity, past, present and future;
- f. Hospital, medical, and burial expenses; and
- g. Other injuries occurring between the time of the collapse and Mr. Davis' time of death.

314. He was 68 years old at the time of his death.

**Damages Specific to Mariya Plekan**

315. Mariya Plekan was shopping at the Salvation Army, where she was a regular customer, on the morning of the collapse.

316. As a result of the collapse, Mariya Plekan was buried alive beneath heavy debris for approximately thirteen hours, causing her to suffer devastating permanent injuries, including bilateral hip disarticulation amputations that have led to the removal of her entire lower body.



317. Other catastrophic injuries include without limitation renal (kidney) failure, cardiac arrest, liver dysfunction, overwhelming sepsis, ventilator dependence and other complications as well as countless invasive surgical procedures at the Hospital of the University of Pennsylvania (“HUP”).

318. Ms. Plekan is fully and permanently disabled.

319. Ms. Plekan’s injuries also include substantial claims for her past and future pain and suffering, severe emotional distress, disfigurement and loss of enjoyment of life and life’s pleasures, as well as substantial claims for past and future medical expenses and lost earnings and earning capacity.

**Damages Specific to the Estate of Mary Simpson**

320. Plaintiff’s decedent, Mary Lea Simpson, was shopping with her dear friend Anne Bryan in the Salvation Army at the time of the collapse.

321. Mary was an adventurous and loving spirit who enjoyed walks, outings, entertainment and cherished time with her family and friends.

322. Mary majored in audio technology at the New England Institute of Art where she earned a student achievement award in audio production.

323. Mary had many hobbies, including trapeze, glass blowing, hiking, and ice skating, which was her teenage passion.

324. At approximately 10:42 a.m., the Salvation Army and the wall from 2136-38 Market Street collapsed on Mary while she was shopping in the store, traumatically compressing her chest and body.

325. As a result of the collapse, Mary experienced:

- a. Asphyxiation;

- b. Psychological, psychiatric, orthopedic, and neurological injuries;
- c. Great physical pain, suffering, and the loss of life's pleasures;
- d. Loss of earnings and wages and loss of earnings capacity, past, present and future;
- e. Hospital, medical, and burial expenses; and
- f. Other injuries occurring between the time of the collapse and the time of death.

326. Mary was pronounced dead at approximately 10:00 p.m. on June 5, 2013, almost 12 hours after the collapse.

327. Mary was 24 years old at the time of her death.

**Damages Specific to the Estate of Roseline Conteh**

328. Plaintiffs' decedent, Roseline Conteh, was shopping in the Salvation Army at the time of the collapse.

329. Roseline was a beloved wife, mother, grandmother, aunt, and friend, known for her caring nature and loyalty.

330. Roseline completed all her elementary, secondary, and college education in Sierra Leone, West Africa. After completing her secondary education, she furthered her education at the Makeni Teacher Training College, where she obtained her teacher's certificate.

331. In 2003, Roseline was granted a visa to enter the United States with permanent resident status. Upon her arrival she began studying for her nursing career and quickly became a Certified Nursing Assistant.

332. Roseline was friendly and caring to everyone at her workplace and in her neighborhood, earning her the nickname "Mother."

333. At approximately 10:42 a.m., the Salvation Army and the wall from 2136-38 Market Street collapsed on Roseline while she was shopping in the store, traumatically compressing her chest and body.

334. As a result of the collapse, Roseline experienced:

- a. Asphyxiation;
- b. Psychological, psychiatric, orthopedic, and neurological injuries;
- c. Great physical pain, suffering, and the loss of life's pleasures;
- d. Loss of earnings and wages and loss of earnings capacity, past, present and future;
- e. Hospital, medical, and burial expenses; and
- f. Other injuries occurring between the time of the collapse and the time of death.

335. Roseline was pronounced dead at approximately 11:10 p.m. on June 5, 2013, almost 13 hours after the collapse.

336. Roseline was 52 years old at the time of her death.

**Damages Specific to The Estate of Anne Bryan**

337. Plaintiff's decedent, Anne Bryan, was shopping at the Salvation Army at the time of the collapse.

338. Anne was a talented artist, majoring in painting at the Pennsylvania Academy of Fine Arts.

339. Anne was a camper and hiker with a joyful and infectious personality.

340. Anne volunteered in the community at habitat for humanity. She was passionate and generous.

341. At approximately 10:42am, the Salvation Army and the wall from 2136-38 Market Street collapsed on Anne while she was shopping in the store, traumatically compressing her chest.

342. As a result of the collapse, Anne experienced:

- a. blunt trauma, crush injuries, asphyxiation;
- b. Psychological, Psychiatric, orthopedic and neurological injuries,
- c. Great physical pain, suffering and the loss of life's pleasures,
- d. Loss of earnings and wages and loss of earnings capacity, past, present and future;
- e. Hospital, medical, and burial expenses; and
- f. Other injuries occurring between the time of the collapse and Anne's time of death.

343. Anne was pronounced dead at 10:05pm on June 5, 2013, almost 12 hours after the collapse.

344. Anne was 24 years old at the time of her death.

**Damages Specific to Margarita Agosta**

345. Mrs. Agosto was 37 years old at the time of the building collapse. She sustained injuries to her neck and back and her left shoulder and arm as a result of her being pulled out of the debris which had hit the left side of her head, body and leg. She sustained post-traumatic stress disorder with anxiety and depression for which she has received extensive treatment. She has been unable to return to work as the manager of the store on which the building collapsed.

**Damages Specific to the Estate of Kimberly Finnegan**

346. Plaintiff's decedent, Kimberly Finnegan was working at the Salvation Army store on the date of the collapse.

347. This was her first day on the job at this store.

348. Kimberly Finnegan was recently engaged looking forward to a life with her fiancé and the family they planned to have.

349. As a result of the collapse, Kimberly experienced:

- a. blunt trauma, crush injuries, asphyxiation;
- b. Psychological, Psychiatric, orthopedic and neurological injuries,
- c. Great physical pain, suffering and the loss of life's pleasures,
- d. Loss of earnings and wages and loss of earnings capacity, past, present and future;
- e. Hospital, medical, and burial expenses; and
- f. Other injuries occurring between the time of the collapse and Kim's time of death.

350. Kimberly was pronounced dead at 1:30pm on June 5, 2013, over 3 hours after the collapse.

351. Kimberly was 35 years old at the time of her death.

**Damages Specific to the Estate of Danny Johnson**

352. Danny Johnson was shopping at the Salvation Army at the time of the collapse.

353. At the time of the collapse, Danny's arms and legs were crushed and he became trapped under the rubble.

354. Danny inhaled a great deal of dust which caused pulmonary complications.

355. Approximately 1 hour after the collapse, Danny was rescued from the rubble and immediately rushed to the hospital with chest pains.

356. Danny underwent a myocardial infarction under the rubble, which continued in route to the hospital.

357. Over the next twenty three days, Danny suffered immensely from his injuries. He was unable to walk, struggled breathing and was in constant pain.

358. Danny was released from the hospital on June 14, 2013, however he promptly returned on June 17, 2013 via ambulance due to the injuries he sustained during the collapse.

359. Danny returned again to the hospital via ambulance on June 26, 2013 where he remained until he died on June 28, 2013.

360. Ultimately Danny died as a direct result of the injuries he sustained during the collapse.

361. As a result of the collapse, Danny experienced:

- a. blunt trauma, crush injuries, asphyxiation;
- b. Pulmonary injuries;
- c. Psychological, Psychiatric, orthopedic and neurological injuries,
- d. Great physical pain, suffering and the loss of life's pleasures,
- e. Loss of earnings and wages and loss of earnings capacity, past, present and future;
- f. Hospital, medical, and burial expenses; and
- g. Other injuries occurring between the time of the collapse and Danny's time of death.

362. Danny was 59 years old at the time of his death.

363. Defendants are jointly and severally responsible for the injuries and damages described above.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT I – INTENTIONAL AND FRAUDULENT MISREPRESENTATION  
PLAINTIFFS v. THE SALVATION ARMY<sup>1</sup>**

364. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

365. On June 5, 2013, The Salvation Army owed the lawful business invitees of its thrift store the highest duty of care.

366. At the time of the building collapse, Plaintiffs were lawful business invitees at the store.

367. The Salvation Army represented to its business invitees, including Plaintiffs that the thrift store located at 2140 Market Street was safe to enter on June 5, 2013.

368. This representation was material to Plaintiffs' presence in the thrift store at the time of the collapse.

369. The Salvation Army's representation that the building was safe was false.

370. This misrepresentation was made knowingly and intentionally.

371. The Salvation Army had *actual knowledge* of the risk of physical harm that was posed to its lawful business invitees on June 5, 2013.

372. The Salvation Army received multiple e-mails from the STB Defendants that contained architect Plato Marinakos' February 2013 Report expressing serious concern over the structural integrity of the 2140 Market Street thrift store.

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<sup>1</sup> All Plaintiffs except for Bernard DiTomo join in this count.

373. In that February 5, 2013 report, Marinakos warned Basciano and the STB Defendants of numerous structural problems with the Salvation Army's store:

During our inspection, we determined that many areas of the building need immediate attention and repairs.

1. Evidence of roof leaking. See photo 10 damaged ceiling tile
2. Roof membrane is bubbling and needs to be re-attached to the substrate see photo 14 thru 18
3. Install a new roof membrane over the entire existing building to keep the water from entering the building photo 14 thru 18
4. Repoint and stabilize existing brick in rear loading dock photo 9
5. The aluminum facing is missing sections near the loading dock photo 3
6. Plywood facing is exposed and needs to be replaced photo 3
7. Extensive water damaged interior plaster at stairs to the basement photo 11
8. Damage face brick along sidewalk photo 6,7,8
9. Roof drain not connected photo 4

374. Marinakos' Report further emphasized that the structural integrity of The Salvation Army thrift store was "barely sound and in extreme state of neglect and disrepair:"

**Based on our field inspection and our engineering judgment, it is our conclusion that the structural condition of the subject building is barely sound and in extreme state of neglect and disrepair. All the structural defects and deteriorations noted above should be repaired per our recommendations. Please note that the owner may choose to further stabilize the building.**

375. Moreover, an e-mail summary of the May 10 conference call (see ¶¶ 88-90) indicates that: (1) The Salvation Army brought in their own architect, Defendant Fraser, to survey the situation; and (2) the parties agreed to work "collaboratively" to prevent a catastrophic situation:

Friday, May 10, 2013

Alistair:

Pursuant to our conference call at 9:00 a.m. this morning, it is my understanding that we will implement the following steps regarding the demolition of 2138 Market Street (Philadelphia):

1) Joel Doherty, Esq. will reach out for the Salvation's Army Attorney at 717-236-5000 to mutually prepare an "Access Agreement" with the intent of reaching and executing an Agreement by the end of next week.

2) Alistair Fraser will prepare a description of his concerns as it relates to the flashing, chimney and walls at 2140 Market Street throughout the "2138" demolition process.

3) Plato Marinakos will prepare a description of what steps he will be taking regarding the post-demolition protection of 2140 Market Street.



4) If need be, Alistar will come to Philadelphia early next week to meet with Plato for an onsite clarification of the demolition work to be completed

5) The parties will agree to work on collaborative and neighborly basis to expedite the completion of a smooth demolition process

Please let me know if I have not accurately set forth our understanding.

BEST,

ALEX (C:510-304-3145)

Alex Worthington  
WorNet  
O: (610) 525-9700  
C: (610) 304-3145  
E: <alex@wornet.com>  
< Alex@wornet.com >

376. An email sent to Major Deitrick and Alistair Fraser on May 16, 2013 also warns the Salvation Army that its premises were unsafe prior to the collapse:

**John Mondlak**

---

**From:** Thomas Simmonds (tsimmonds@reality42.com)  
**Sent:** Thursday, May 16, 2013 5:29 PM  
**To:** 'Alistair Fraser'  
**Cc:** Alex Worthington; Charles Deitrick; Major Cranford; Plato Marinakos; 'Oshtrylaw@aol.com'; Alan Greenberger; John Mondlak; Frank Cresci  
**Subject:** RE: 2140 Market Street

Gentlemen: Our attorney Joel Oshtry has yet to receive a response from your attorney Steve Nudell whom you advised me to contact in connection with completion of our demo work adjacent to your property. Please advise – your/his continued delays in responding pose a threat to life, limb and public safety.  
Thank you,  
Thom

THOM SIMMONDS  
300 WEST 43RD STREET  
NEW YORK, NEW YORK 10036  
347.234.0468

me to contact in connection with completion of our demo work adjacent to  
**continued delays in responding pose a threat to life, limb and public safety.**  
Thank you

377. Fraser responded to the above e-mail six days later, but conversations between The Salvation Army and the STB Defendants ceased on May 22, 2013.

378. Despite knowledge of the extremely dangerous condition of its property, as well as the continuation of the demolition project and the risks the demolition project posed to business invitees of the 2140 Market Street thrift store, The Salvation Army continued to keep the thrift store open to the public for an additional fifteen (15) days prior to the incident.

379. The Salvation Army's motivation for intentionally misrepresenting the safety of the public while at the 2140 Market Street thrift Store was to make money.

380. The Salvation Army intentionally misrepresented and deceived the public into believing the 210 Market Street thrift store was safe so as to ensure that the public would continue shopping at the store.

381. In fact, on May 10, 2013, Major Deitrick, the Salvation Army's General Secretary admitted that the primary concern of the Salvation Army was to continue to make money, acknowledging the dangerous condition but stating it was necessary to "*protect our own investments.*"

From: Charles Deitrick (mailto:Charles.Deitrick@US.SalvationArmy.Org)  
Sent: Friday, May 10, 2013 9:57 AM  
To: Alex Wolfington  
Cc: Alister.Fraser@USE.salvationarmy.org; Major Cranford; Plato Marinakos; Thomas Simmonds  
Subject: Re: POST CONFERENCE CALL ACTION PLAN

There is no commitment for Alister to come to Philadelphia. We will have a local Architect represent us. This will be identified and shared. We will work at the timing of the professionals that are engaged. As was stated we will work to meet our neighborly goals but at same time protect our own investments. As stated no commitments are made at this point other than to work together in dialogue to proceed.

Thank you  
Have Blessed Day  
Major Charles Deitrick  
General Secretary  
Adult Rehabilitation Centers Command  
Phone 845-732-4113 Fax 845-732-9705  
440 West Nyack Rd West Nyack, N.Y. 10994  
PO Box 9134 Bardonia, N.Y. 10654  
Charles.Deitrick@usa.salvationarmy.org

**As was stated we will work to  
meet our neighborly goals but at same time protect our own investments.**

382. The Salvation Army invited Plaintiffs to their store, affirmatively announcing that it was open to the public.

383. The Salvation Army advertised and promoted its store and sales on its merchandise.

384. Plaintiffs justifiably relied upon the Salvation Army's false representation that its premises were safe on June 5, 2013.

385. The conduct of The Salvation Army, as described above, demonstrated a reckless disregard for the safety and health of the customers and employees that entered the Salvation Army's thrift store on June 5, 2013.

386. The Salvation Army knew that a four story, unbraced wall loomed over their store prior to opening for business on June 5, 2013.

387. The Salvation Army knew for months prior to the construction that The Salvation Army Store was a structurally unsound and unsafe building.

388. Salvation Army employees and management observed the walls shaking in the days and weeks leading up to the collapse and would joke that they expected the wall to come down.

389. The Salvation Army knew that the risk of uncontrolled collapse posed an imminent threat to the customers and employees at the thrift store.

390. The Salvation Army was specifically warned that this threat was imminent and posed a danger to life, limb, and safety.

391. Despite this knowledge, The Salvation Army held the store open, where the public was invited to enter the store and shop.

392. The Salvation Army gave no warning to customers or employees of the dangerous condition of the property.

393. The Salvation Army held their store out to the public as being safe to enter and knew that employees and customers would in fact enter the store in reliance on that representation.

394. Through this conduct the Salvation Army fraudulently and intentionally misrepresented the condition of its store.

395. Instead of focusing on the safety of their customers and employees, The Salvation Army was focuses on “**protecting [their] investment.**”

396. The deaths and injuries sustained by the Plaintiffs and Plaintiffs’ decedents were caused by the negligence, carelessness, gross negligence, recklessness, outrageous conduct, fraudulent misrepresentation, and intentional misrepresentation of Defendant, Salvation Army, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to close the thrift store despite the known dangers caused by the demolition;
- b. Keeping the thrift store open despite the known dangers caused by the demolition;
- c. Keeping the thrift store open despite a 4 story, unbraced wall looming over the store;
- d. Failing to warn customers and employees of the dangers cause by the demolition;
- e. Failing to close the thrift store despite having seen the walls shaking during demolition;
- f. Failing to close the thrift store despite being warned that danger to life and limb and the possibility of uncontrolled collapse;
- g. Failing to perform an engineering survey;
- h. Exposing customers and employees to unacceptable risks of harm;
- i. Not allowing the contractors proper and necessary access to the store;

- j. Not allowing contractors proper and necessary access to the roof of the stores;
- k. Failing to ensure that an engineering survey was performed;
- l. Failing to retain competent employees, contractors, and/or subcontractors;
- m. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- n. Failing to ensure that safe demolition practices were employed on site;
- o. Preventing workers from safely demolishing the building by not giving them the resources they need for safe demolition;
- p. Failing to adequately inspect the project for dangerous and hazardous conditions;
- q. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- r. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- s. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- t. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- u. Failing to train and supervise their employees properly;

- v. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- w. Breaching their duties under the Restatement of the Law of Torts (Second), including §310, 343, 344, 413, 414, 416, 427, 429, 525 and 557A;
- x. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;
- y. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;
- z. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- aa. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- bb. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- cc. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- dd. Exposing the customers and employees of the Salvation Army to unreasonable danger, by not informing the customers and employees of

- the Salvation Army of the dangers and hazards of the structural instability;
- ee. Failing to cease and/or postpone operations until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;
  - ff. Failing to engage and employ a local architect/engineer;
  - gg. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
  - hh. Failing to hire competent employees, inspectors, contractors and subcontractors;
  - ii. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
  - jj. Failing to close their store while a four story, unbraced, wall loomed above their store;
  - kk. Failing to close their store after receiving the Marinakos report of structural problems;
  - ll. Failing to have the store tested for stability;
  - mm. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
  - nn. Failing to address safety considerations by contract;
  - oo. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;

pp. Negligence per se; and

qq. Failing to properly sequence the work.

397. The Salvation Army's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

398. By reason of the carelessness, negligence, gross negligence, recklessness and outrageous conduct of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

399. By reason of the fraudulent misrepresentations of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

400. By reason of the intentional misrepresentations of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

401. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

402. This intentional misrepresentation qualifies as an exception to the Fair Share Act, 42 Pa.C.S. §7102, and therefore The Salvation Army is jointly and severally liable for the death of Anne Bryan and all injuries and damages related to this collapse.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.



**COUNT II – INTENTIONAL NON-DISCLOSURE**  
**PLAINTIFFS v. THE SALVATION ARMY**<sup>2</sup>

403. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

404. On June 5, 2013, The Salvation Army owed the lawful business invitees of its thrift store the highest duty of care.

405. At the time of the building collapse, Plaintiffs were lawful business invitees at the store.

406. The Salvation Army represented to its business invitees, including Plaintiffs that the thrift store located at 2140 Market Street was safe to enter on June 5, 2013.

407. The Salvation Army concealed that its store was not safe and faced the imminent risk of an uncontrolled collapse.

408. This representation was material to Plaintiffs' presence in the thrift store at the time of the collapse.

409. The Salvation Army concealed the unsafe condition of its store with the intent of misleading potential customers and inducing those customers to come into their store.

410. This non-disclosure was intentional.

411. The Salvation Army had *actual knowledge* of the risk of physical harm that was posed to its lawful business invitees on June 5, 2013.

412. The Salvation Army received multiple e-mails from the STB Defendants that contained architect Plato Marinakos' February 2013 Report expressing serious concern over the structural integrity of the 2140 Market Street thrift store.

413. In that February 5, 2013 report, Marinakos warned Basciano and the STB Defendants of numerous structural problems with the Salvation Army's store:

---

<sup>2</sup> All Plaintiffs except for Bernard DiTomo join in this count.

During our inspection, we determined that many areas of the building need immediate attention and repairs.

1. Evidence of roof leaking. See photo 10 damaged ceiling tile
2. Roof membrane is bubbling and needs to be re-attached to the substrate see photo 14 thru 18
3. Install a new roof membrane over the entire existing building to keep the water from entering the building photo 14 thru 18
4. Repoint and stabilize existing brick in rear loading dock photo 9
5. The aluminum facing is missing sections near the loading dock photo 3
6. Plywood facing is exposed and needs to be replaced photo 3
7. Extensive water damaged interior plaster at stairs to the basement photo 11
8. Damage face brick along sidewalk photo 6,7,8
9. Roof drain not connected photo 4

414. Marinakos' Report further emphasized that the structural integrity of The Salvation Army thrift store was "barely sound and in extreme state of neglect and disrepair:"

**Based on our field inspection and our engineering judgment, it is our conclusion that the structural condition of the subject building is barely sound and in extreme state of neglect and disrepair. All the structural defects and deteriorations noted above should be repaired per our recommendations. Please note that the owner may choose to further stabilize the building.**

415. Moreover, an e-mail summary of the May 10 conference call (see ¶¶ 88-90) indicates that: (1) The Salvation Army brought in their own architect, Defendant Fraser, to survey the situation; and (2) the parties agreed to work "collaboratively" to prevent a catastrophic situation:

Friday, May 10, 2013

Alistair:

Pursuant to our conference call at 9:00 a.m. this morning, it is my understanding that we will implement the following steps regarding the demolition of 2138 Market Street (Philadelphia):

1) Joel Oststry, Esq will reach out for the Salvation's Army Attorney at 717-236-5000 to mutually prepare an "Access Agreement" with the intent of reaching and executing an Agreement by the end of next week

2) Alistair Fraser will prepare a description of his concerns as it relates to the flashing, chimney and walls at 2140 Market Street throughout the "2138" demolition process

3) Plato Marinakos will prepare a description of what steps he will be taking regarding the post-demolition protection of 2140 Market Street

4) If need be, Alistar will come to Philadelphia early next week to meet with Plato for an onsite clarification of the demolition work to be completed

5) The parties will agree to work on collaborative and neighborly basis to expedite the completion of a smooth demolition process

Please let me know if I have not accurately set forth our understanding.

BEST,

ALEX (C: 610-104-3345)

Alex Wolfington  
Wolfnet  
O: (610)-526-9700  
C: (610)-304-3345  
F: < alex@wolfnet.ca >  
E: < Alex@bestinformation@work.com >

416. An email sent to Major Deitrick and Alistair Fraser on May 16, 2013 also warns the Salvation Army that its premises were unsafe prior to the collapse:

**John Mondlak**

---

**From:** Thomas Simmonds (tsimmonds@reality42.com)  
**Sent:** Thursday, May 16, 2013 5:29 PM  
**To:** 'Alistair Fraser'  
**Cc:** Alex Wolfington; Charles Deitrick; Major Cranford; Plato Marinakos; 'Oshrylaw@aol.com'; Alan Greenberger; John Mondlak; Frank Cresci  
**Subject:** RE: 2140 Market Street

Gentlemen: Our attorney Joel Oshry has yet to receive a response from your attorney Steve Nudell whom you advised me to contact in connection with completion of our demo work adjacent to your property. Please advise - your/his continued delays in responding pose a threat to life, Rmb and public safety.

Thank you,  
Thom

**THOM SIMMONDS**  
300 WEST 43RD STREET  
NEW YORK, NEW YORK 10036  
347.234.0468

THE TO CONTACT PERSONNEL WITH REGARDS TO THE DEMO WORK SUBJECT TO  
**continued delays in responding pose a threat to life, Rmb and public safety.**  
Thank you

417. Fraser responded to the above e-mail six days later, but conversations between The Salvation Army and the STB Defendants ceased on May 22, 2013.

418. Despite knowledge of the extremely dangerous condition of its property, as well as the continuation of the demolition project and the risks the demolition project posed to business invitees of the 2140 Market Street thrift store, The Salvation Army continued to keep the thrift store open to the public for an additional fifteen (15) days prior to the incident.

419. The Salvation Army's motivation for not disclosing this vital safety information to their business invitees was to make money.

420. The Salvation Army deceived the public into believing the 210 Market Street thrift store was safe so as to ensure that the public would continue shopping at the store.

421. In fact, on May 10, 2013, Major Deitrick, the Salvation Army's General Secretary admitted that the primary concern of the Salvation Army was to continue to make money, acknowledging the dangerous condition but stating it was necessary to "*protect our own investments.*"

From: Charles Deitrick (mailto:Charles.Deitrick@US.SalvationArmy.Org)  
Sent: Friday, May 10, 2013 9:57 AM  
To: Alex Wolfington  
Cc: Alstar; Eraser@USE.salvationarmy.org; Major Cranford; Plato Marinakos; Thomas Simmonds  
Subject: Re: POST CONFERENCE CALL ACTION PLAN

There is no commitment for Alstar to come to Philadelphia, We will have a local Architect represent us. This will be identified and shared. We will work at the timing of the professionals that are engaged. As was stated we will work to meet our neighborly goals but at same time protect our own investments. As stated no commitments are made at this point other than to work together in dialogue to proceed

Thank you  
Have Blessed Day  
Major Charles Deitrick  
General Secretary  
Adult Rehabilitation Centers Command  
Phone 845-732-4113 Fax 845-732-9705  
443 West Nyack Rd West Nyack, N.Y. 10994  
PO Box 9134 Bardonia, N.Y. 10894  
Charles.Deitrick@use.salvationarmy.org

**As was stated we will work to**

**meet our neighborly goals but at same time protect our own investments.**

422. Plaintiffs justifiably relied upon the Salvation Army's false representation that its premises were safe on June 5, 2013.

423. The conduct of The Salvation Army, as described above, demonstrated a reckless disregard for the safety and health of the customers and employees that entered the Salvation Army's thrift store on June 5, 2013.

424. The Salvation Army knew that a four story, unbraced wall loomed over their store prior to opening for business on June 5, 2013.

425. The Salvation Army knew for months prior to the construction that The Salvation Army Store was a structurally unsound and unsafe building.

426. Salvation Army employees and management observed the walls shaking in the days and weeks leading up to the collapse and would joke that they expected the wall to come down.

427. The Salvation Army knew that the risk of uncontrolled collapse posed an imminent threat to the customers and employees at the thrift store.

428. The Salvation Army was specifically warned that this threat was imminent and posed a danger to life, limb, and safety.

429. Despite this knowledge, The Salvation Army held the store open, where the public was invited to enter the store and shop.

430. The Salvation Army gave no warning to customers or employees of the dangerous condition of the property.

431. The Salvation Army held their store out to the public as being safe to enter and knew that employees and customers would in fact enter the store in reliance on that representation.

432. Through this conduct the Salvation Army fraudulently and intentionally misrepresented the condition of its store.

433. Instead of focusing on the safety of their customers and employees, The Salvation Army was focuses on “**protecting [their] investment.**”

434. The deaths and injuries sustained by the Plaintiffs and Plaintiffs’ decedents were caused by the negligence, carelessness, gross negligence, recklessness, outrageous conduct, and

intentional non-disclosure of Defendant, Salvation Army, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to close the thrift store despite the known dangers caused by the demolition;
- b. Keeping the thrift store open despite the known dangers caused by the demolition;
- c. Keeping the thrift store open despite a 4 story, unbraced wall looming over the store;
- d. Failing to warn customers and employees of the dangers cause by the demolition;
- e. Failing to disclose to its employees, customers, and potential customers that there was an imminent risk that the four story wall looming above them would collapse on the store and kill;
- f. Failing to close the thrift store despite having seen the walls shaking during demolition;
- g. Failing to close the thrift store despite being warned that danger to life and limb and the possibility of uncontrolled collapse;
- h. Failing to perform an engineering survey;
- i. Exposing customers and employees to unacceptable risks of harm;
- j. Not allowing the contractors proper and necessary access to the store;
- k. Not allowing contractors proper and necessary access to the roof of the stores;
- l. Failing to ensure that an engineering survey was performed;

- m. Failing to retain competent employees, contractors, and/or subcontractors;
- n. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- o. Failing to ensure that safe demolition practices were employed on site;
- p. Preventing workers from safely demolishing the building by not giving them the resources they need for safe demolition;
- q. Failing to adequately inspect the project for dangerous and hazardous conditions;
- r. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- s. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- t. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- u. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- v. Failing to train and supervise their employees properly;
- w. Failing to hire competent employees, safety inspectors, contractors and subcontractors;

- x. Breaching their duties under the Restatement of the Law of Torts (Second), including §310, 343, 344, 413, 414, 416, 427, 429, 525, 551 and 557A;
- y. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;
- z. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;
- aa. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- bb. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- cc. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- dd. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- ee. Exposing the customers and employees of the Salvation Army to unreasonable danger, by not informing the customers and employees of the Salvation Army of the dangers and hazards of the structural instability;



- ff. Failing to cease and/or postpone operations until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;
- gg. Failing to engage and employ a local architect/engineer;
- hh. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
- ii. Failing to hire competent employees, inspectors, contractors and subcontractors;
- jj. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
- kk. Failing to close their store while a four story, unbraced, wall loomed above their store;
- ll. Failing to close their store after receiving the Marinakos report of structural problems;
- mm. Failing to have the store tested for stability;
- nn. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
- oo. Failing to address safety considerations by contract;
- pp. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;
- qq. Negligence per se; and

rr. Failing to properly sequence the work.

435. The Salvation Army's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

436. By reason of the carelessness, negligence, gross negligence, recklessness and outrageous conduct of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

437. By reason of the intentional non-disclosure of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

438. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

439. This intentional non-disclosure qualifies as an exception to the Fair Share Act, 42 Pa.C.S. §7102, and therefore The Salvation Army is jointly and severally liable for the death of Anne Bryan and all injuries and damages related to this collapse.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT III – NEGLIGENCE, RECKLESSNESS, AND OUTRAGEOUS CONDUCT  
PLAINTIFFS v. THE SALVATION ARMY<sup>3</sup>**

440. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

441. The safety of customers and employees must come first for any commercial store.

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<sup>3</sup> All Plaintiffs join in this count.

442. However, in the weeks leading up to the collapse and on the day of the collapse, The Salvation Army knowingly exposed its customers and employees to the imminent risk of injury and death.

443. Plaintiffs were lawfully present business invitee to whom defendants owed the highest duty of care.

444. The deaths and injuries sustained by the Plaintiffs and Plaintiffs' decedents were caused by the negligence, carelessness, gross negligence, recklessness and outrageous conduct of Defendant, Salvation Army, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to close the thrift store despite the known dangers caused by the demolition;
- b. Keeping the thrift store open despite the known dangers caused by the demolition;
- c. Keeping the thrift store open despite a 4 story, unbraced wall looming over the store;
- d. Failing to warn customers and employees of the dangers cause by the demolition;
- e. Failing to close the thrift store despite having seen the walls shaking during demolition;
- f. Failing to close the thrift store despite being warned that danger to life and limb and the possibility of uncontrolled collapse;
- g. Failing to perform an engineering survey;
- h. Exposing customers and employees to unacceptable risks of harm;

- i. Not allowing the contractors proper and necessary access to the store;
- j. Not allowing contractors proper and necessary access to the roof of the stores;
- k. Failing to ensure that an engineering survey was performed;
- l. Failing to retain competent employees, contractors, and/or subcontractors;
- m. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- n. Failing to ensure that safe demolition practices were employed on site;
- o. Preventing workers from safely demolishing the building by not giving them the resources they need for safe demolition;
- p. Failing to adequately inspect the project for dangerous and hazardous conditions;
- q. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- r. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- s. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- t. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- u. Failing to train and supervise their employees properly;

- v. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- w. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;
- x. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;
- y. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;
- z. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- aa. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- bb. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- cc. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- dd. Exposing the customers and employees of the Salvation Army to unreasonable danger, by not informing the customers and employees of

the Salvation Army of the dangers and hazards of the structural instability;

- ee. Failing to cease and/or postpone operations until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;
- ff. Failing to engage and employ a local architect/engineer;
- gg. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
- hh. Failing to hire competent employees, inspectors, contractors and subcontractors;
- ii. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
- jj. Failing to close their store while a four story, unbraced, wall loomed above their store;
- kk. Failing to close their store after receiving the Marinakos report of structural problems;
- ll. Failing to have the store tested for stability;
- mm. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
- nn. Failing to address safety considerations by contract;
- oo. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;

pp. Negligence per se; and

qq. Failing to properly sequence the work.

445. The Salvation Army's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

446. By reason of the carelessness, negligence, gross negligence and recklessness of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

447. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT IV – NEGLIGENCE, RECKLESSNESS, OUTRAGEOUS CONDUCT, AND  
INTENTIONAL AND FRAUDULENT MISREPRESENTATION  
PLAINTIFFS v. JOHN CRANFORD AND CHARLES DEITRICK<sup>4</sup>**

448. Plaintiff hereby incorporates all preceding paragraphs of this Complaint.

449. Defendants John Cranford and Charles Dietrick were involved in the email exchange between the Salvation Army and STB.

450. Defendants Cranford and Dietrick had direct knowledge that the demolition at 2136-2138 Market Street posed a threat to life and limb of all persons in the Salvation Army store.

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<sup>4</sup> All Plaintiffs join in this count.

451. Despite this, Defendant Dietrick stated that his focus was not on the safety of the employees and customers at the Salvation Army, but rather to “protect our own investment.”

**From:** Charles Dietrick [<mailto:Charles.Dietrick@USE.SalvationArmy.Org>]  
**Sent:** Friday, May 10, 2013 9:57 AM  
**To:** Alex Wolfington  
**Cc:** [Alistair.Fraser@USE.salvationarmy.org](mailto:Alistair.Fraser@USE.salvationarmy.org); Major Cranford; Plato Marinakos; Thomas Simmonds  
**Subject:** Re: POST CONFERENCE CALL ACTION PLAN

There is no commitment for Alistair to come to Philadelphia, We will have a local Architect represent us, This will be identified and shared. We will work at the timing of the professionals that are engaged. As was stated we will work to meet our neighborly goals but at same time protect our own Investments. As stated no commitments are made at this point other than to work together in dialogue to proceed.

Thank you  
Have Blessed Day  
Major Charles Dietrick  
General Secretary  
Adult Rehabilitation Centers Command  
Phone 846-732-4113 Fax 845-732-9705  
440 West Nyack Rd West Nyack, N.Y. 10994  
PO Box 9134 Bardonia, N.Y. 10954  
[Charles.Dietrick@use.salvationarmy.org](mailto:Charles.Dietrick@use.salvationarmy.org)

452. Defendant Cranford was on this email.

453. Armed with the knowledge that the adjacent demolition posed the danger of “uncontrolled collapse” and was a threat to life and limb of anyone in the Salvation Army store, Defendants Cranford and Dietrick made the unforgiveable decision to keep the Salvation Army store open while collapse was imminent.

454. The deaths and injuries sustained by the Plaintiffs and Plaintiffs’ decedents were caused by the negligence, carelessness, gross negligence, recklessness and outrageous conduct of Defendants Cranford and Dietrick, as well as their intentional and fraudulent misrepresentation, acting by and through their agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to close the thrift store despite the known dangers caused by the demolition;
- b. Keeping the thrift store open despite the known dangers caused by the demolition;



- c. Keeping the thrift store open despite a 4 story, unbraced wall looming over the store;
- d. Failing to warn customers and employees of the dangers cause by the demolition;
- e. Failing to close the thrift store despite having seen the walls shaking during demolition;
- f. Failing to close the thrift store despite being warned that danger to life and limb and the possibility of uncontrolled collapse;
- g. Failing to perform an engineering survey;
- h. Exposing customers and employees to unacceptable risks of harm;
- i. Not allowing the contractors proper and necessary access to the store;
- j. Not allowing contractors proper and necessary access to the roof of the stores;
- k. Failing to ensure that an engineering survey was performed;
- l. Failing to retain competent employees, contractors, and/or subcontractors;
- m. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- n. Failing to ensure that safe demolition practices were employed on site;
- o. Preventing workers from safely demolishing the building by not giving them the resources they need for safe demolition;
- p. Failing to adequately inspect the project for dangerous and hazardous conditions;

- q. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- r. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- s. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- t. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- u. Failing to train and supervise their employees properly;
- v. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- w. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;
- x. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;
- y. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;

- z. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- aa. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- bb. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- cc. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- dd. Exposing the customers and employees of the Salvation Army to unreasonable danger, by not informing the customers and employees of the Salvation Army of the dangers and hazards of the structural instability;
- ee. Failing to cease and/or postpone operations until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;
- ff. Failing to engage and employ a local architect/engineer;
- gg. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
- hh. Failing to hire competent employees, inspectors, contractors and subcontractors;
- ii. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;

- jj. Failing to close their store while a four story, unbraced, wall loomed above their store;
- kk. Failing to close their store after receiving the Marinakos report of structural problems;
- ll. Failing to have the store tested for stability;
- mm. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
- nn. Failing to address safety considerations by contract;
- oo. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;
- pp. Ignoring warnings from STB that there was an imminent risk of uncontrolled collapse;
- qq. Ignoring warnings from STB that the construction posed a threat to life and limb of all those in the Salvation Army;
- rr. Failing to close the thrift store;
- ss. Failing to warn customers and employees of the risk of uncontrolled collapse;
- tt. Refusing to allow STB to safely demolish the building;
- uu. Refusing to grant STB access to the Salvation Army's roof;
- vv. Negligence per se; and
- ww. Failing to properly sequence the work.

455. Defendant Cranford and Dietrick's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

456. By reason of the carelessness, negligence, gross negligence and recklessness of defendants, as well as their intentional and fraudulent misrepresentation, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

457. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

458. Defendants are jointly and severally liable for Plaintiff's damages, injuries, and death.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT V -- PROFESSIONAL NEGLIGENCE**  
**PLAINTIFFS v. ALISTAIR FRASER AND THE SALVATION ARMY<sup>5</sup>**

459. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

460. Defendant Fraser performed design, architectural, engineering, and/or construction services on the construction project at issue, and was specifically tasked by the Salvation Army to review the demolition plan and to make sure it protected the Salvation Army.

461. It is believed and therefore averred that Defendant Fraser was employed by The Salvation Army at all relevant times.

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<sup>5</sup> All Plaintiffs join in this count.

462. Defendant, Fraser, had a duty to plaintiff to render architectural, design, or engineering services consistent with the standards of care in the engineering, design and architectural industry.

463. The care, skill and/or knowledge exercised by Defendant Fraser on this project fell below and deviated from the professional standards in the engineering industry.

464. The deaths and injuries sustained by the Plaintiffs and Plaintiffs' decedents were caused by the negligence, carelessness, gross negligence, recklessness and outrageous conduct of Defendant, Fraser, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to perform an engineering/demolition survey;
- b. Failing to preplan the work;
- c. Failing to perform an engineering analysis on the Salvation Army and failing to consider the analysis performed by Plato;
- d. Allowing demolition to proceed despite knowledge that the wall adjoining the Salvation Army was unbraced and likely to fall;
- e. Failing to properly calculate the stability needed to prevent collapse;
- f. Failing to properly calculate the necessary lateral bracing to prevent collapse;
- g. Failing to ensure that an engineering survey was performed;
- h. Failing to retain competent employees, contractors, and/or subcontractors;
- i. Failing to ensure that proper lateral bracing was in place to prevent collapse;

- j. Failing to ensure that safe demolition practices were employed on site;
- k. Allowing the demolition to take place without an adequate agreement in place with the Salvation Army to allow the work to safely proceed;
- l. Failing to periodically inspect the demolition site;
- m. Violating the NSPE Code of Ethics for Engineers;
- n. Failing to ensure that the building was demolished from the top down;
- o. Failing to correct the safety hazard of an unbraced wall looming above an occupied thrift store;
- p. Observing dangerous demolition practices and allowing them to continue;
- q. Failing to plan, plot, design and supervise the demolition work properly;
- r. Failing to adequately inspect the project for dangerous and hazardous conditions;
- s. Failing to request, implement, and/or enforce a shoring plan, a demolition plan, and/or an engineering plan;
- t. Failing to inspect sufficiently the construction site and allowing, inter alia, workers to work in or around an area that was inadequately braced and structurally unstable;
- u. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- v. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14

- w. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- x. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- y. Failing to train and supervise their employees properly;
- z. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- aa. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;
- bb. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- cc. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- dd. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- ee. Exposing the customers and employees of the Salvation Army to unreasonable danger, by using inadequate tools, materials and equipment and not informing the customers and employees of the Salvation Army of the dangers and hazards of the structurally instability;
- ff. Failing to engage and employ appropriate numbers of workers at the site;



- gg. Failing to recommend, provide and enforce frequent inspections of the work area;
- hh. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
- ii. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- jj. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
- kk. Failing to recommend, provide and enforce frequent inspections of the work area;
- ll. Failing to have the subject area tested for stability or safety prior to allowing the subject ironwork work to begin;
- mm. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
- nn. Failing to address safety considerations by contract;
- oo. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;
- pp. Ignoring warnings from STB that there was an imminent risk of uncontrolled collapse;
- qq. Ignoring warnings from STB that the construction posed a threat to life and limb of all those in the Salvation Army;
- rr. Failing to close the thrift store;

- ss. Failing to warn customers and employees of the risk of uncontrolled collapse;
- tt. Refusing to allow STB to safely demolish the building;
- uu. Refusing to grant STB access to the Salvation Army's roof;
- vv. Negligence per se; and
- ww. Failing to properly sequence the work.

465. Defendant Fraser's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

466. By reason of the carelessness, negligence, gross negligence and recklessness of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

467. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT VI – NEGLIGENCE OF SEPARATE CORPORATE ENTITIES  
PLAINTIFFS v. THE SALVATION ARMY DEFENDANTS<sup>6</sup>**

468. The Salvation Army is organized in the United States with a National Headquarters located in Alexandria, Virginia, and four Territorial Headquarters, the Central Territory in Des Plaines, Illinois with jurisdiction over the eleven north central States, the Eastern Territory in West Nyack, New York, with jurisdiction over the eleven northeastern

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<sup>6</sup> Plaintiffs, Estate of Borbor Davis, Estate of Kimberly Finnegan, Nadine White, Felicia Hill, Rodney Geddis, and Margarita Agosta participate in this count.

States, Puerto Rico and the Virgin Islands, the Southern Territory in Atlanta with jurisdiction over the 15 southeastern States, and the Western Territory in Long Beach, California, with jurisdiction over the 13 western States.

469. Defendant, "The Salvation Army National Corporation" located in Alexandria, Virginia, is where the National Commander of The Salvation Army is located and coordinates and oversees all of the activities of The Salvation Army Territorial corporations.

470. The National Commander of The Salvation Army in the United States accomplishes this task through his role as Chairman of the Board of all Salvation Army corporations, including all four Territorial corporations.

471. The Territorial Commanders of the four Territories comprise a majority of the Board of Trustees of The Salvation Army National Corporation.

472. The Salvation Army Eastern Territory located in West Nyack, NY is the fictitious name for "The Salvation Army, a New York Corporation".

473. At the time of the building collapse tragedy, Borbor Davis, Kimberly Finnegan, Nadine White, Felicia Hill, Rodney Geddis, and Margarita Agosta were employed by "Salvation Army a/k/a The Salvation Army Adult Rehabilitation Center" (hereinafter referred to "The ARC") located at 4555 Pechin Street, Philadelphia, PA 19128.

474. The ARC has retail profit centers known as Salvation Army Family Stores (formerly known as Thrift Stores) scattered throughout the Greater Philadelphia area.

475. The property at 2140 Market Street was the 'The ARC's" most profitable retail profit center.

476. This property was owned by "The Salvation Army, a New York Corporation".

477. Borbor Davis, Kimberly Finnegan, Nadine White, Felicia Hill, Rodney Geddis, and Margarita Agosta were working for "The ARC" at one of these Salvation Army Family Stores (formerly known as Thrift Stores) located at 2140 Market Street, Philadelphia, PA 19103 at the time of the collapse.

478. Borbor Davis, Kimberly Finnegan, Nadine White, Felicia Hill, Rodney Geddis, and Margarita Agosta's employer has a Federal Tax Employer Identification Number ("EIN") of 23-1352530.

479. The Salvation Army Defendants admit that the property at 2140 Market Street, Philadelphia, PA 19103 is owned by "The Salvation Army, a New York Corporation."

480. The Salvation Army, a New York Corporation, has a Federal Tax Employer Identification Number ("EIN") of 13-5562351.

481. The Salvation Army, a New York Corporation, has an address of 440 West Nyack Road, West Nyack, NY 10994.

482. The Salvation Army Defendants admit that the "Incorporated Trustees of The Salvation Army in Pennsylvania" was a former owner of the subject property at 2140 Market Street, Philadelphia, PA 19103.

483. The "Incorporated Trustees of The Salvation Army in Pennsylvania" was dissolved by Court Order dated July 16, 1957 according to the Salvation Army Defendants.

484. Borbor Davis, Kimberly Finnegan, Nadine White, Felicia Hill, Rodney Geddis, and Margarita Agosta were not employees of "The Salvation Army, a New York Corporation."

485. Borbor Davis, Kimberly Finnegan, Nadine White, Felicia Hill, Rodney Geddis, and Margarita Agosta were not employees of the Incorporated Trustees of The Salvation Army in Pennsylvania.

486. Neither “The Salvation Army, a New York Corporation” nor the Incorporated Trustees of The Salvation Army in Pennsylvania provided valuable consideration for the work performed by Borbor Davis, Kimberly Finnegan, Nadine White, Felicia Hill, Rodney Geddis, and Margarita Agosta at 2140 Market Street, Philadelphia, PA.

487. Neither “The Salvation Army, a New York Corporation” nor the Incorporated Trustees of The Salvation Army in Pennsylvania exercised any control over the work performed by Borbor Davis, Kimberly Finnegan, Nadine White, Felicia Hill, Rodney Geddis, and Margarita Agosta at 2140 Markey Street, Philadelphia, PA.

488. Borbor Davis, Kimberly Finnegan, Nadine White, Felicia Hill, Rodney Geddis, and Margarita Agosta were not operating in the course and scope of their employment for either “The Salvation Army, a New York Corporation” or the Incorporated Trustees of The Salvation Army in Pennsylvania when they were injured and killed on June 5, 2013.

489. The Salvation Army Defendants admit that Defendants Charles Deitrick, Alistair Fraser, and John Cranford are employed by “The Salvation Army, a New York Corporation.”

490. Defendants Charles Deitrick, Alistair Fraser, and John Cranford were not employed by “The ARC” with an address of 4555 Pechin Street, Philadelphia, PA 19128.

491. Defendants Charles Deitrick, Alistair Fraser, and John Cranford were not co-employees of Borbor Davis, Kimberly Finnegan, Nadine White, Felicia Hill, Rodney Geddis, and Margarita Agosta.

492. By reason of the carelessness, negligence, gross negligence and recklessness of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

493. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT VII – NEGLIGENCE, RECKLESSNESS, AND OUTRAGEOUS CONDUCT  
PLAINTIFFS v. RICHARD AND LOIS BASCIANO<sup>7</sup>**

494. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

495. Defendant, Richard Basciano, was the puppet master behind the demolition project at 2136-2138 Market Street in Philadelphia.

496. Defendant, Lois Basciano, is the wife of Richard Basciano who played an active role in overseeing the work.

497. Defendants Richard and Lois Basciano owned the property in question through their company, Defendant STB.

498. Defendants Basciano acted as more than just the property owner on this project, personally visiting the site on an almost daily basis, personally selecting bids, personally overseeing the work, and personally requiring the work to be performed in an unsafe and reckless manner.

499. Defendants Basciano maintained a constant presence on site and retained control over the means and methods of demolition.

500. At all relevant times, Defendants Basciano undertook the supervision of the project which was being performed, and in connection therewith, established plans, recommendations, designs, procedures and specifications for the performance of said work.

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<sup>7</sup> All Plaintiffs participate in this Count.

501. Defendants Basciano, having undertaken the inspection and supervision of the work, owed a duty to those persons affected by the work, including the employees and customers at the Salvation Army, to provide a reasonably safe environment, free from unreasonable hazards, such as a collapsing building

502. Defendants Basciano, was responsible for adopting, promulgating and enforcing proper, adequate, necessary and appropriate standards, guidelines and procedures to ensure the demolition project was safe for all those in its vicinity.

503. The deaths and injuries sustained by the Plaintiffs and Plaintiffs' decedents were caused by the negligence, carelessness, gross negligence, recklessness and outrageous conduct of Defendants Basciano, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to ensure that an engineering survey was performed;
- b. Failing to retain competent employees, contractors, and/or subcontractors;
- c. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- d. Failing to ensure that safe demolition practices were employed on site;
- e. Failing to properly examine bids to ensure that safety precautions were provided for;
- f. Choosing the lowest bidder despite knowing that this job could not safely be performed for the bid price;
- g. Allowing the demolition to take place without an adequate agreement in place with the Salvation Army to allow the work to safely proceed;

- h. Inadequately arranging for the permitting documents;
- i. Seeing and permitting heavy machinery to be used in proximity to an unbraced wall;
- j. Failing to demolish the building by hand;
- k. Failing to demolish the building from the top down;
- l. Allowing an excavator to be used to claw out the lateral support of the building;
- m. Failing to correct the safety hazard of an unbraced wall looming above an occupied thrift store;
- n. Observing dangerous demolition practices and allowing them to continue;
- o. Preventing workers from safely demolishing the building by not giving them the resources they need for safe demolition;
- p. Refusing to pay for an aerial lift that would allow workers to demolish the building from the top down;
- q. Failing to plan, plot, design and supervise the construction work properly;
- r. Failing to adequately inspect the project for dangerous and hazardous conditions;
- s. Failing to keep the adjacent properties safe from the risk of collapse;
- t. Failing to provide adequate and proper shoring;
- u. Failing to use any shoring;



- v. Failing to request, implement, and/or enforce a shoring plan, a demolition plan, and/or an engineering plan;
- w. Failing to inspect sufficiently the construction site and allowing, inter alia, workers to work in or around an area that was inadequately braced and structurally unstable;
- x. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- y. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- z. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- aa. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- bb. Failing to train and supervise their employees properly;
- cc. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- dd. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;
- ee. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;

- ff. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;
- gg. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- hh. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- ii. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- jj. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- kk. Exposing the customers and employees of the Salvation Army to unreasonable danger, by using inadequate tools, materials and equipment and not informing the customers and employees of the Salvation Army of the dangers and hazards of the structurally instability;
- ll. Failing to cease and/or postpone construction work until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;
- mm. Failing to engage and employ appropriate numbers of workers at the site;

- nn. Failing to recommend, provide and enforce frequent inspections of the work area;
- oo. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
- pp. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- qq. Failing to perform a Safety Task Analysis or Job Hazard Analysis;
- rr. Failing to require and enforce a requirement that workers sign off on site-specific safety rules;
- ss. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
- tt. Failing to recommend, provide and enforce frequent inspections of the work area;
- uu. Failing to have the subject area tested for stability or safety prior to allowing the work to begin;
- vv. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
- ww. Failing to address safety considerations by contract;
- xx. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;
- yy. Improperly using an excavator for demolition;
- zz. Negligence per se; and

aaa. Failing to properly sequence the work.

504. The conduct of Richard and Lois Basciano conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

505. By reason of the carelessness, negligence, gross negligence and recklessness of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

506. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT VIII- NEGLIGENCE, RECKLESSNESS, AND OUTRAGEOUS CONDUCT  
PLAINTIFFS v. STB INVESTMENTS CORP.<sup>8</sup>**

507. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

508. Defendant, STB, was the owner of the property located at 2136-38 Market Street, which collapsed onto the Salvation Army.

509. Defendant, STB's, lead representative, Richard Basciano, on behalf of STB maintained a constant present on site and retained control over the means and methods of demolition.

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<sup>8</sup> All Plaintiffs participate in this count.

510. At all relevant times, Defendant STB undertook the supervision of the project which was being performed, and in connection therewith, established plans, recommendations, designs, procedures and specifications for the performance of said work.

511. Defendant STB, having undertaken the inspection and supervision of the work, owed a duty to those persons affected by the work, including the employees and customers at the Salvation Army, to provide a reasonably safe environment, free from unreasonable hazards, such as a collapsing building

512. Defendant STB was responsible for adopting, promulgating and enforcing proper, adequate, necessary and appropriate standards, guidelines and procedures to ensure the demolition project was safe for all those in its vicinity.

513. The deaths and injuries sustained by the Plaintiffs and Plaintiffs' decedents were caused by the negligence, carelessness, gross negligence, recklessness and outrageous conduct of Defendant STB, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to ensure that an engineering survey was performed;
- b. Failing to retain competent employees, contractors, and/or subcontractors;
- c. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- d. Failing to ensure that safe demolition practices were employed on site;
- e. Failing to properly examine bids to ensure that safety precautions were provided for;

- f. Choosing the lowest bidder despite knowing that this job could not safely be performed for the bid price;
- g. Allowing the demolition to take place without an adequate agreement in place with the Salvation Army to allow the work to safely proceed;
- h. Inadequately arranging for the permitting documents;
- i. Seeing and permitted heavy machinery to be used in proximity to an unbraced wall;
- j. Failing to demolish the building by hand;
- k. Failing to demolish the building from the top down;
- l. Allowing an excavator to be used to claw out the lateral support of the building;
- m. Failing to correct the safety hazard of an unbraced wall looming above an occupied thrift store;
- n. Observing dangerous demolition practices and allowing them to continue;
- o. Preventing workers from safely demolishing the building by not giving them the resources they need for safe demolition;
- p. Refusing to pay for an aerial lift that would allow workers to demolish the building from the top down;
- q. Failing to plan, plot, design and supervise the construction work properly;
- r. Failing to adequately inspect the project for dangerous and hazardous conditions;

- s. Failing to keep the adjacent properties safe from the risk of collapse;
- t. Failing to provide adequate and proper shoring;
- u. Failing to use any shoring;
- v. Failing to request, implement, and/or enforce a shoring plan, a demolition plan, and/or an engineering plan;
- w. Failing to inspect sufficiently the construction site and allowing, inter alia, workers to work in or around an area that was inadequately braced and structurally unstable;
- x. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- y. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- z. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- aa. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- bb. Failing to train and supervise their employees properly;
- cc. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- dd. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;

- ee. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;
- ff. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;
- gg. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- hh. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- ii. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- jj. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- kk. Exposing the customers and employees of the Salvation Army to unreasonable danger, by using inadequate tools, materials and equipment and not informing the customers and employees of the Salvation Army of the dangers and hazards of the structurally instability;
- ll. Failing to cease and/or postpone construction work until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;



- mm. Failing to engage and employ appropriate numbers of workers at the site;
- nn. Failing to recommend, provide and enforce frequent inspections of the work area;
- oo. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
- pp. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- qq. Failing to perform a Safety Task Analysis or Job Hazard Analysis;
- rr. Failing to require and enforce a requirement that workers sign off on site-specific safety rules;
- ss. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
- tt. Failing to recommend, provide and enforce frequent inspections of the work area;
- uu. Failing to have the subject area tested for stability or safety prior to allowing the work to begin;
- vv. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structurally instability;
- ww. Failing to address safety considerations by contract;
- xx. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structurally instability;

yy. Improperly using an excavator for demolition;

zz. Negligence per se; and

aaa. Failing to properly sequence the work.

514. STB's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

515. By reason of the carelessness, negligence, gross negligence and recklessness of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

516. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT IX – NEGLIGENCE, RECKLESSNESS, AND OUTRAGEOUS CONDUCT  
PLAINTIFFS v. THOMAS SIMMONDS AND FRANK CRESCI<sup>9</sup>**

517. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

518. Defendants Simmonds and Cresci had direct knowledge of the threat the demolition project posed to life and limb of all persons in the Salvation Army thrift store.

519. Through the e-mails with the City and the Salvation Army discussed more fully above, Defendants Simmonds and Cresci has admitted that he was aware that the threat to life and limb of all persons in the Salvation Army was imminent and that the risk of uncontrolled collapse existed.

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<sup>9</sup> All Plaintiffs join in this count.

520. As the property manager and secretary of STB, respectively, Defendants Simmonds and Cresci had a responsibility to ensure that the demolition occurred in a safe fashion and had a responsibility to take corrective measures when the realized dangers existed.

521. The deaths and injuries sustained by the Plaintiffs and Plaintiffs' decedents were caused by the negligence, carelessness, gross negligence, recklessness and outrageous conduct of Defendants Cresci and Simmonds, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to ensure that an engineering survey was performed;
- b. Failing to retain competent employees, contractors, and/or subcontractors;
- c. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- d. Failing to ensure that safe demolition practices were employed on site;
- e. Failing to properly examine bids to ensure that safety precautions were provided for;
- f. Choosing the lowest bidder despite knowing that this job could not safely be performed for the bid price;
- g. Allowing the demolition to take place without an adequate agreement in place with the Salvation Army to allow the work to safely proceed;
- h. Inadequately arranging for the permitting documents;
- i. Seeing and permitting heavy machinery to be used in proximity to an unbraced wall;
- j. Failing to demolish the building by hand;

- k. Failing to demolish the building from the top down;
- l. Allowing an excavator to be used to claw out the lateral support of the building;
- m. Failing to correct the safety hazard of an unbraced wall looming above an occupied thrift store;
- n. Observing dangerous demolition practices and allowing them to continue;
- o. Preventing workers from safely demolishing the building by not giving them the resources they need for safe demolition;
- p. Refusing to pay for an aerial lift that would allow workers to demolish the building from the top down;
- q. Failing to plan, plot, design and supervise the construction work properly;
- r. Failing to adequately inspect the project for dangerous and hazardous conditions;
- s. Failing to keep the adjacent properties safe from the risk of collapse;
- t. Failing to provide adequate and proper shoring;
- u. Failing to use any shoring;
- v. Failing to request, implement, and/or enforce a shoring plan, a demolition plan, and/or an engineering plan;
- w. Failing to inspect sufficiently the construction site and allowing, inter alia, workers to work in or around an area that was inadequately braced and structurally unstable;

- x. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- y. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- z. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- aa. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- bb. Failing to train and supervise their employees properly;
- cc. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- dd. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;
- ee. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;
- ff. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;

- gg. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- hh. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- ii. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- jj. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- kk. Exposing the customers and employees of the Salvation Army to unreasonable danger, by using inadequate tools, materials and equipment and not informing the customers and employees of the Salvation Army of the dangers and hazards of the structurally instability;
- ll. Failing to cease and/or postpone construction work until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;
- mm. Failing to engage and employ appropriate numbers of workers at the site;
- nn. Failing to recommend, provide and enforce frequent inspections of the work area;
- oo. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;

- pp. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- qq. Failing to perform a Safety Task Analysis or Job Hazard Analysis;
- rr. Failing to require and enforce a requirement that workers sign off on site-specific safety rules;
- ss. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
- tt. Failing to recommend, provide and enforce frequent inspections of the work area;
- uu. Failing to have the subject area tested for stability or safety prior to allowing the work to begin;
- vv. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
- ww. Failing to address safety considerations by contract;
- xx. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;
- yy. Improperly using an excavator for demolition;
- zz. Negligence per se; and
- aaa. Failing to properly sequence the work.

522. Defendant Simmonds and Cresci's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

523. By reason of the carelessness, negligence, gross negligence and recklessness of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

524. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT X -- PROFESSIONAL NEGLIGENCE**  
**PLAINTIFFS v. PLATO MARINAKOS, JR. AND PLATO STUDIO<sup>10</sup>**

525. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

526. Defendants, Plato Marinakos Jr. and/or Plato Studio ("Plato"), performed design, architectural, engineering, and/or construction services on the construction project at issue, including serving as an expediter for demolition permits.

527. Defendant, Plato, had a duty to plaintiff to render architectural, design, or engineering services consistent with the standards of care in the engineering, design and architectural industry.

528. Defendant, Plato, prepared the contracts between STB and Griffin Campbell.

529. Defendant, Plato, prepared an engineering survey for the Salvation Army building at the request of STB or Basciano.

530. The care, skill and/or knowledge exercised by Plato on this project fell below and deviated from the professional standards in the engineering industry.

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<sup>10</sup> All Plaintiffs join in this count.



531. The deaths and injuries sustained by the Plaintiffs and Plaintiffs' decedents were caused by the negligence, carelessness, gross negligence, recklessness and outrageous conduct of Defendant, Plato, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to perform an engineering/demolition survey;
- b. Failing to preplan the work;
- c. Performing an engineering analysis on the Salvation Army building but not the building that was being demolished;
- d. Rushing the permitting process as an "expediter" without taking time to ensure that proper safety protocols were in place;
- e. Allowing demolition to proceed despite knowledge that the wall adjoining the Salvation Army was unbraced and likely to fall;
- f. Failing to properly calculate the stability needed to prevent collapse;
- g. Failing to properly calculate the necessary lateral bracing to prevent collapse;
- h. Failing to ensure that an engineering survey was performed;
- i. Failing to retain competent employees, contractors, and/or subcontractors;
- j. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- k. Failing to ensure that safe demolition practices were employed on site;
- l. Failing to properly examine bids to ensure that safety precautions were provided for;

- m. Choosing the lowest bidder despite knowing that this job could not safely be performed for the bid price;
- n. Allowing the demolition to take place without an adequate agreement in place with the Salvation Army to allow the work to safely proceed;
- o. Falsifying permitting documents;
- p. Allowing heavy machinery to be used in close proximity to an unbraced wall;
- q. Failing to periodically inspect the demolition site;
- r. Violating the NSPE Code of Ethics for Engineers;
- s. Failing to demolish the building by hand;
- t. Failing to ensure that the building was demolished from the top down;
- u. Allowing an excavator to be used to claw out the lateral support of the building;
- v. Failing to correct the safety hazard of an unbraced wall looming above an occupied thrift store;
- w. Observing dangerous demolition practices and allowing them to continue;
- x. Failing to plan, plot, design and supervise the demolition work properly;
- y. Failing to adequately inspect the project for dangerous and hazardous conditions;
- z. Failing to keep the adjacent properties safe from the risk of collapse;
- aa. Failing to provide adequate and proper shoring;
- bb. Failing to use any shoring;

- cc. Failing to request, implement, and/or enforce a shoring plan, a demolition plan, and/or an engineering plan;
- dd. Failing to inspect sufficiently the construction site and allowing, inter alia, workers to work in or around an area that was inadequately braced and structurally unstable;
- ee. Submitting a false permit;
- ff. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- gg. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- hh. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- ii. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- jj. Failing to train and supervise their employees properly;
- kk. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- ll. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;
- mm. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;

- nn. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;
- oo. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- pp. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- qq. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- rr. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- ss. Exposing the customers and employees of the Salvation Army to unreasonable danger, by using inadequate tools, materials and equipment and not informing the customers and employees of the Salvation Army of the dangers and hazards of the structurally instability;
- tt. Failing to cease and/or postpone construction work until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;
- uu. Failing to engage and employ appropriate numbers of workers at the site;

- vv. Failing to recommend, provide and enforce frequent inspections of the work area;
- ww. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
- xx. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- yy. Failing to perform a Safety Task Analysis or Job Hazard Analysis;
- zz. Failing to require and enforce a requirement that workers sign off on site-specific safety rules;
- aaa. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
- bbb. Failing to recommend, provide and enforce frequent inspections of the work area;
- ccc. Failing to have the subject area tested for stability or safety prior to allowing the subject ironwork work to begin;
- ddd. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
- eee. Failing to address safety considerations by contract;
- fff. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;
- ggg. Improperly using an excavator for demolition;
- hhh. Negligence per se; and

iii. Failing to properly sequence the work.

532. Plato's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

533. By reason of the carelessness, negligence, gross negligence and recklessness of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

534. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XI – NEGLIGENCE**  
**PLAINTIFFS v. GRIFFIN CAMPBELL<sup>11</sup>**

535. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

536. Defendant, Griffin Campbell, was the owner of the demolition contractor, retained to perform the demolition of property located at 2136-38 Market Street, which collapsed onto the Salvation Army.

537. Defendant, Griffin Campbell, maintained a presence on site overseeing and approving the means and methods of demolition.

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<sup>11</sup> All Plaintiffs join in this count.

538. Defendant, Griffin Campbell, was aware that there was an occupied building adjacent to this demolition project but failed to take necessary steps to protect those persons in the adjacent building.

539. At all relevant times, Defendant Griffin Campbell supervised the project and helped formulate and implement the method, sequence and scope of the demolition.

540. Defendant Griffin Campbell, having undertaken the inspection and supervision of the work, owed a duty to those persons affected by the work, including the employees and customers at the Salvation Army, to provide a reasonably safe environment, free from unreasonable hazards, such as a collapsing building

541. Defendant, Griffin Campbell, was responsible for adopting, promulgating and enforcing proper, adequate, necessary and appropriate standards, guidelines and procedures to ensure the demolition project was safe for all those in its vicinity.

542. The deaths and injuries sustained by the Plaintiffs and Plaintiffs' decedents were caused by the negligence and carelessness of Defendant Griffin Campbell, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to ensure that an engineering survey was created and followed;
- b. Failing to retain competent employees, contractors, and/or subcontractors;
- c. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- d. Failing to ensure that safe demolition practices were employed on site;

- e. Failing to properly examine bids to ensure that safety precautions were provided for;
- f. Placing an unreasonably low bid which did not account for necessary safety precautions;
- g. Allowing the demolition to take place without an adequate agreement in place with the Salvation Army to allow the work to safely proceed;
- h. Falsifying permitting documents;
- i. Allowing heavy machinery to be used in close proximity to an unbraced wall;
- j. Failing to demolish the building by hand;
- k. Failing to demolish the building from the top down;
- l. Allowing an excavator to be used to claw out the lateral support of the building;
- m. Failing to correct the safety hazard of an unbraced wall looming above an occupied thrift store;
- n. Observing dangerous demolition practices and allowing them to continue;
- o. Preventing workers from safely demolishing the building by not giving them the resources they need for safe demolition;
- p. Refusing to pay for an aerial lift that would allow workers to demolish the building from the top down;
- q. Failing to plan, plot, design and supervise the construction work properly;



- r. Failing to adequately inspect the project for dangerous and hazardous conditions;
- s. Failing to keep the adjacent properties safe from the risk of collapse;
- t. Failing to provide adequate and proper shoring;
- u. Failing to use any shoring;
- v. Failing to request, implement, and/or enforce a shoring plan, a demolition plan, and/or an engineering plan;
- w. Failing to inspect sufficiently the construction site and allowing, inter alia, workers to work in or around an area that was inadequately braced and structurally unstable;
- x. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- y. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- z. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- aa. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- bb. Failing to train and supervise their employees properly;
- cc. Failing to hire competent employees, safety inspectors, contractors and subcontractors;

- dd. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;
- ee. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;
- ff. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;
- gg. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- hh. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- ii. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- jj. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- kk. Exposing the customers and employees of the Salvation Army to unreasonable danger, by using inadequate tools, materials and equipment and not informing the customers and employees of the Salvation Army of the dangers and hazards of the structurally instability;

- ll. Failing to cease and/or postpone construction work until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;
- mm. Failing to engage and employ appropriate numbers of workers at the site;
- nn. Failing to recommend, provide and enforce frequent inspections of the work area;
- oo. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
- pp. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- qq. Failing to perform a Safety Task Analysis or Job Hazard Analysis;
- rr. Failing to require and enforce a requirement that workers sign off on site-specific safety rules;
- ss. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
- tt. Failing to recommend, provide and enforce frequent inspections of the work area;
- uu. Failing to have the subject area tested for stability or safety prior to allowing the subject ironwork work to begin;
- vv. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;

- ww. Failing to address safety considerations by contract;
- xx. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;
- yy. Improperly using an excavator for demolition;
- zz. Negligence per se; and
- aaa. Failing to properly sequence the work.

543. Griffin Campbell's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

544. By reason of the carelessness, and negligence of defendant, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

545. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, exemplary damages and delay damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XII – NEGLIGENCE**  
**PLAINTIFFS v. CAMPBELL CONSTRUCTION**<sup>12</sup>

546. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

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<sup>12</sup> All Plaintiffs join in this count.

547. Defendant, Campbell Construction, was the demolition contractor, retained to perform the demolition of property located at 2136-38 Market Street, which collapsed onto the Salvation Army.

548. Defendant, Campbell Construction, maintained a presence on site overseeing and approving the means and methods of demolition.

549. Defendant, Campbell Construction, was aware that there was an occupied building adjacent to this demolition project but failed to take necessary steps to protect those persons in the adjacent building.

550. At all relevant times, Defendant, Campbell Construction, supervised the project and helped formulate and implement the method, sequence and scope of the demolition.

551. Defendant, Campbell Construction, having undertaken the inspection and supervision of the work, owed a duty to those persons effected by the work, including the employees and customers at the Salvation Army, to provide a reasonably safe environment, free from unreasonable hazards, such as a collapsing building

552. Defendant, Campbell Construction, was responsible for adopting, promulgating and enforcing proper, adequate, necessary and appropriate standards, guidelines and procedures to ensure the demolition project was safe for all those in its vicinity.

553. The deaths and injuries sustained by the Plaintiffs and Plaintiffs' decedents were caused by the negligence and carelessness of Defendant, Campbell Construction, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to ensure that an engineering survey was created and followed;

- b. Failing to retain competent employees, contractors, and/or subcontractors;
- c. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- d. Failing to ensure that safe demolition practices were employed on site;
- e. Failing to properly examine bids to ensure that safety precautions were provided for;
- f. Placing an unreasonably low bid which did not account for necessary safety precautions;
- g. Allowing the demolition to take place without an adequate agreement in place with the Salvation Army to allow the work to safely proceed;
- h. Falsifying permitting documents;
- i. Allowing heavy machinery to be used in close proximity to an unbraced wall;
- j. Failing to demolish the building by hand;
- k. Failing to demolish the building from the top down;
- l. Allowing an excavator to be used to claw out the lateral support of the building;
- m. Failing to correct the safety hazard of an unbraced wall looming above an occupied thrift store;
- n. Observing dangerous demolition practices and allowing them to continue;

- o. Preventing workers from safely demolishing the building by not giving them the resources they need for safe demolition;
- p. Refusing to pay for an aerial lift that would allow workers to demolish the building from the top down;
- q. Failing to plan, plot, design and supervise the construction work properly;
- r. Failing to adequately inspect the project for dangerous and hazardous conditions;
- s. Failing to keep the adjacent properties safe from the risk of collapse;
- t. Failing to provide adequate and proper shoring;
- u. Failing to use any shoring;
- v. Failing to request, implement, and/or enforce a shoring plan, a demolition plan, and/or an engineering plan;
- w. Failing to inspect sufficiently the construction site and allowing, inter alia, workers to work in or around an area that was inadequately braced and structurally unstable;
- x. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- y. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- z. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;

- aa. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- bb. Failing to train and supervise their employees properly;
- cc. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- dd. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;
- ee. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;
- ff. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;
- gg. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- hh. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- ii. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- jj. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;



- kk. Exposing the customers and employees of the Salvation Army to unreasonable danger, by using inadequate tools, materials and equipment and not informing the customers and employees of the Salvation Army of the dangers and hazards of the structural instability;
- ll. Failing to cease and/or postpone construction work until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;
- mm. Failing to engage and employ appropriate numbers of workers at the site;
- nn. Failing to recommend, provide and enforce frequent inspections of the work area;
- oo. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
- pp. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- qq. Failing to perform a Safety Task Analysis or Job Hazard Analysis;
- rr. Failing to require and enforce a requirement that workers sign off on site-specific safety rules;
- ss. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
- tt. Failing to recommend, provide and enforce frequent inspections of the work area;

- uu. Failing to have the subject area tested for stability or safety prior to allowing the subject ironwork work to begin;
- vv. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
- ww. Failing to address safety considerations by contract;
- xx. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;
- yy. Improperly using an excavator for demolition;
- zz. Negligence per se; and
- aaa. Failing to properly sequence the work.

554. Campbell Construction's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

555. By reason of the carelessness and negligence of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

556. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, exemplary damages and delay damages interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XIII – NEGLIGENCE**  
**PLAINTIFFS v. SEAN BENSCHOP**<sup>13</sup>

557. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

558. Defendant, Sean Benschop, was the demolition/excavation contractor, retained to perform the demolition and excavation on the property located at 2136-38 Market Street, which collapsed onto the Salvation Army.

559. Defendant, Sean Benschop, operated the excavator on the day in question.

560. The deaths and injuries sustained by the Plaintiffs and Plaintiffs' decedents were caused by the negligence and carelessness of Defendant, Sean Benschop, acting by and through his agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to competently operate equipment, including the excavator;
- b. Operating the excavator in close proximity to an unbraced wall;
- c. Using the excavator to perform demolition;
- d. Removing the lateral support for the building walls;
- e. Violating manufacturer warnings;
- f. Failing to ensure that an engineering survey was performed;
- g. Failing to retain competent employees, contractors, and/or subcontractors;
- h. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- i. Failing to ensure that safe demolition practices were employed on site;

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<sup>13</sup> All Plaintiffs take part in this Count.

- j. Failing to properly examine bids to ensure that safety precautions were provided for;
- k. Placing an unreasonably low bid which did not account for necessary safety precautions;
- l. Allowing the demolition to take place without an adequate agreement in place with the Salvation Army to allow the work to safely proceed;
- m. Proceeding with demolition despite knowing that the safer alternative of hand-demolition had been rejected by the owner;
- n. Falsifying permitting documents;
- o. Allowing heavy machinery to be used in close proximity to an unbraced wall;
- p. Failing to demolish the building by hand;
- q. Failing to demolish the building from the top down;
- r. Allowing an excavator to be used to claw out the lateral support of the building;
- s. Failing to correct the safety hazard of an unbraced wall looming above an occupied thrift store;
- t. Observing dangerous demolition practices and allowing them to continue;
- u. Preventing workers from safely demolishing the building by not giving them the resources they need for safe demolition;
- v. Refusing to pay for an aerial lift that would allow workers to demolish the building from the top down;

- w. Failing to plan, plot, design and supervise the construction work properly;
- x. Failing to adequately inspect the project for dangerous and hazardous conditions;
- y. Failing to keep the adjacent properties safe from the risk of collapse;
- z. Failing to provide adequate and proper shoring;
- aa. Failing to use any shoring;
- bb. Failing to request, implement, and/or enforce a shoring plan, a demolition plan, and/or an engineering plan;
- cc. Failing to inspect sufficiently the construction site and allowing, inter alia, workers to work in or around an area that was inadequately braced and structurally unstable;
- dd. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- ee. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- ff. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- gg. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- hh. Failing to train and supervise their employees properly;

- ii. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- jj. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;
- kk. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;
- ll. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;
- mm. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- nn. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- oo. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- pp. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- qq. Exposing the customers and employees of the Salvation Army to unreasonable danger, by using inadequate tools, materials and

- equipment and not informing the customers and employees of the Salvation Army of the dangers and hazards of the structural instability;
- rr. Failing to cease and/or postpone construction work until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;
  - ss. Failing to engage and employ appropriate numbers of workers at the site;
  - tt. Failing to recommend, provide and enforce frequent inspections of the work area;
  - uu. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
  - vv. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
  - ww. Failing to perform a Safety Task Analysis or Job Hazard Analysis;
  - xx. Failing to require and enforce a requirement that workers sign off on site-specific safety rules;
  - yy. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
  - zz. Failing to recommend, provide and enforce frequent inspections of the work area;
  - aaa. Failing to have the subject area tested for stability or safety prior to allowing the subject ironwork work to begin;

- bbb. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
- ccc. Failing to address safety considerations by contract;
- ddd. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;
- eee. Negligence per se; and
- fff. Failing to properly sequence the work.

561. Sean Benschop's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

562. By reason of the carelessness, negligence, gross negligence and recklessness of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

563. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XIV – NEGLIGENCE**  
**PLAINTIFFS v. S&R CONTRACTING**<sup>14</sup>

564. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

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<sup>14</sup> All Plaintiffs join in this count.



565. Defendant, S&R, was the demolition/excavation contractor, retained to perform the demolition and excavation on the property located at 2136-38 Market Street, which collapsed onto the Salvation Army.

566. Defendant, S&R, by and through its agent, Sean Benschop, operated the excavator on the day in question.

567. The deaths and injuries sustained by the Plaintiffs and Plaintiffs' decedents were caused by the negligence and carelessness of Defendant, S&R, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to competently operate equipment, including the excavator;
- b. Operating the excavator in close proximity to an unbraced wall;
- c. Using the excavator to perform demolition;
- d. Removing the lateral support for the building walls;
- e. Violating manufacturer warnings;
- f. Failing to ensure that an engineering survey was performed;
- g. Failing to retain competent employees, contractors, and/or subcontractors;
- h. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- i. Failing to ensure that safe demolition practices were employed on site;
- j. Failing to properly examine bids to ensure that safety precautions were provided for;
- k. Placing an unreasonably low bid which did not account for necessary safety precautions;

- l. Allowing the demolition to take place without an adequate agreement in place with the Salvation Army to allow the work to safely proceed;
- m. Proceeding with demolition despite knowing that the safer alternative of hand-demolition had been rejected by the owner;
- n. Falsifying permitting documents;
- o. Allowing heavy machinery to be used in close proximity to an unbraced wall;
- p. Failing to demolish the building by hand;
- q. Failing to demolish the building from the top down;
- r. Allowing an excavator to be used to claw out the lateral support of the building;
- s. Failing to correct the safety hazard of an unbraced wall looming above an occupied thrift store;
- t. Observing dangerous demolition practices and allowing them to continue;
- u. Preventing workers from safely demolishing the building by not giving them the resources they need for safe demolition;
- v. Refusing to pay for an aerial lift that would allow workers to demolish the building from the top down;
- w. Failing to plan, plot, design and supervise the construction work properly;
- x. Failing to adequately inspect the project for dangerous and hazardous conditions;

- y. Failing to keep the adjacent properties safe from the risk of collapse;
- z. Failing to provide adequate and proper shoring;
- aa. Failing to use any shoring;
- bb. Failing to request, implement, and/or enforce a shoring plan, a demolition plan, and/or an engineering plan;
- cc. Failing to inspect sufficiently the construction site and allowing, inter alia, workers to work in or around an area that was inadequately braced and structurally unstable;
- dd. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- ee. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- ff. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- gg. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- hh. Failing to train and supervise their employees properly;
- ii. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- jj. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;

- kk. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;
- ll. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;
- mm. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- nn. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- oo. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- pp. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- qq. Exposing the customers and employees of the Salvation Army to unreasonable danger, by using inadequate tools, materials and equipment and not informing the customers and employees of the Salvation Army of the dangers and hazards of the structurally instability;
- rr. Failing to cease and/or postpone construction work until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;

- ss. Failing to engage and employ appropriate numbers of workers at the site;
- tt. Failing to recommend, provide and enforce frequent inspections of the work area;
- uu. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
- vv. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- ww. Failing to perform a Safety Task Analysis or Job Hazard Analysis;
- xx. Failing to require and enforce a requirement that workers sign off on site-specific safety rules;
- yy. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
- zz. Failing to recommend, provide and enforce frequent inspections of the work area;
- aaa. Failing to have the subject area tested for stability or safety prior to allowing the subject ironwork work to begin;
- bbb. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
- ccc. Failing to address safety considerations by contract;
- ddd. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;

eee. Negligence per se; and

fff. Failing to properly sequence the work.

568. S&R's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

569. By reason of the carelessness and negligence of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

570. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages and delay damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XV – NEGLIGENCE  
PLAINTIFFS v. ALEX WOLFINGTON  
AND WOLINGTON NETWORK, LLC d/b/a Wolfnet<sup>15</sup>**

571. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

572. Defendant Alex Wolfington and his company, Defendant, Wolfnet, were retained by STB to provide various Real Estate consultation services.

573. Defendants Wolfington undertook various construction management responsibilities and were actively pushing the project to proceed despite actual knowledge of the risks, dangers, and threats associated with the project.

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<sup>15</sup> All Plaintiffs join in this count.

574. Defendants Wolfington, despite knowledge of the risk to life and limb posed by proceeding with demolition elected to proceed and failed to warn employees and customers at the Salvation Army store of the imminent risk of severe injury and death.

575. The deaths and injuries sustained by the Plaintiffs and Plaintiffs' decedents were caused by the negligence, carelessness, gross negligence, recklessness and outrageous conduct of Defendant Wolfington, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to ensure that an engineering survey was performed;
- b. Failing to retain competent employees, contractors, and/or subcontractors;
- c. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- d. Failing to ensure that safe demolition practices were employed on site;
- e. Failing to properly examine bids to ensure that safety precautions were provided for;
- f. Choosing the lowest bidder despite knowing that this job could not safely be performed for the bid price;
- g. Allowing the demolition to take place without an adequate agreement in place with the Salvation Army to allow the work to safely proceed;
- h. Inadequately arranging for the permitting documents;
- i. Seeing and permitting heavy machinery to be used in proximity to an unbraced wall;
- j. Failing to demolish the building by hand;

- k. Failing to demolish the building from the top down;
- l. Allowing an excavator to be used to claw out the lateral support of the building;
- m. Failing to correct the safety hazard of an unbraced wall looming above an occupied thrift store;
- n. Observing dangerous demolition practices and allowing them to continue;
- o. Preventing workers from safely demolishing the building by not giving them the resources they need for safe demolition;
- p. Refusing to pay for an aerial lift that would allow workers to demolish the building from the top down;
- q. Failing to plan, plot, design and supervise the construction work properly;
- r. Failing to adequately inspect the project for dangerous and hazardous conditions;
- s. Failing to keep the adjacent properties safe from the risk of collapse;
- t. Failing to provide adequate and proper shoring;
- u. Failing to use any shoring;
- v. Failing to request, implement, and/or enforce a shoring plan, a demolition plan, and/or an engineering plan;
- w. Failing to inspect sufficiently the construction site and allowing, inter alia, workers to work in or around an area that was inadequately braced and structurally unstable;



- x. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- y. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- z. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- aa. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- bb. Failing to train and supervise their employees properly;
- cc. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- dd. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;
- ee. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;
- ff. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;

- gg. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- hh. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- ii. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- jj. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- kk. Exposing the customers and employees of the Salvation Army to unreasonable danger, by using inadequate tools, materials and equipment and not informing the customers and employees of the Salvation Army of the dangers and hazards of the structurally instability;
- ll. Failing to cease and/or postpone construction work until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;
- mm. Failing to engage and employ appropriate numbers of workers at the site;
- nn. Failing to recommend, provide and enforce frequent inspections of the work area;
- oo. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;

- pp. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- qq. Failing to perform a Safety Task Analysis or Job Hazard Analysis;
- rr. Failing to require and enforce a requirement that workers sign off on site-specific safety rules;
- ss. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
- tt. Failing to recommend, provide and enforce frequent inspections of the work area;
- uu. Failing to have the subject area tested for stability or safety prior to allowing the work to begin;
- vv. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
- ww. Failing to address safety considerations by contract;
- xx. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;
- yy. Improperly using an excavator for demolition;
- zz. Negligence per se; and
- aaa. Failing to properly sequence the work.

576. Wolfington's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

577. By reason of the carelessness, negligence, gross negligence and recklessness of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

578. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XVI – PROFESSIONAL NEGLIGENCE**  
**PLAINTIFFS v. JACK HIGGINS AND JACK F. HIGGINS ARCHITECT, INC.**<sup>16</sup>

579. Defendants, Jack Higgins and/or Jack F. Higgins Architect, Inc. ("Higgins"), performed design, architectural, engineering, and/or construction services on the construction project at issue, including analyzing the structural stability of the Salvation Army.

580. Defendant, Higgins, had a duty to plaintiff to render architectural, design, or engineering services consistent with the standards of care in the engineering, design and architectural industry.

581. Defendant, Higgins, visited the jobsite to offer his opinions to the Salvation Army concerning whether any safety hazards existed with proceeding with demolition.

582. The care, skill and/or knowledge exercised by Higgins on this project fell below and deviated from the professional standards in the engineering industry.

583. The deaths and injuries sustained by the Plaintiffs and Plaintiffs' decedents were caused by the negligence, carelessness, gross negligence, recklessness and outrageous conduct of

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<sup>16</sup> All Plaintiffs join in this count.

Defendant, Higgins, acting by and through its agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. Failing to perform an engineering/demolition survey;
- b. Failing to preplan the work;
- c. Allowing demolition to proceed despite knowledge that the wall adjoining the Salvation Army was unbraced and likely to fall;
- d. Failing to properly calculate the stability needed to prevent collapse;
- e. Failing to ensure that the Salvation Army closed the thrift store;
- f. Failing to close the thrift store;
- g. Failing to warn the Salvation Army to close the thrift store;
- h. Failing to warn the customers and employees at the Salvation Army of the known hazard
- i. Failing to properly test/calculate the structural stability of the Salvation Army;
- j. Failing to properly calculate the necessary lateral bracing to prevent collapse;
- k. Failing to ensure that an engineering survey was performed;
- l. Failing to retain competent employees, contractors, and/or subcontractors;
- m. Failing to ensure that proper lateral bracing was in place to prevent collapse;
- n. Failing to ensure that safe demolition practices were employed on site;

- o. Failing to properly examine bids to ensure that safety precautions were provided for;
- p. Allowing the demolition to take place without an adequate agreement in place with between STB and the Salvation Army to allow the work to safely proceed;
- q. Allowing heavy machinery to be used in close proximity to an unbraced wall;
- r. Failing to periodically inspect the demolition site;
- s. Violating the NSPE Code of Ethics for Engineers;
- t. Failing to demolish the building by hand;
- u. Failing to ensure that the building was demolished from the top down;
- v. Allowing an excavator to be used to claw out the lateral support of the building;
- w. Failing to correct the safety hazard of an unbraced wall looming above an occupied thrift store;
- x. Observing dangerous demolition practices and allowing them to continue;
- y. Failing to plan, plot, design and supervise the demolition work properly;
- z. Failing to adequately inspect the project for dangerous and hazardous conditions;
- aa. Failing to keep the adjacent properties safe from the risk of collapse;
- bb. Failing to provide adequate and proper shoring;
- cc. Failing to use any shoring;

- dd. Failing to request, implement, and/or enforce a shoring plan, a demolition plan, and/or an engineering plan;
- ee. Failing to inspect sufficiently the construction site and allowing, inter alia, workers to work in or around an area that was inadequately braced and structurally unstable;
- ff. Submitting a false permit;
- gg. Violating applicable OSHA regulations, including but not limited to 1926.850; 1926.854; and the General Duty Clause;
- hh. Violation applicable ANSI standards, including but not limited to ANSI A10.6-2006; 6.14
- ii. Failing to provide special precautions which would have protected customers and employees from the particular and unreasonable risks of harm which defendant recognized;
- jj. Failing to provide adequate materials and equipment to ensure proper shoring and structural stability of the building;
- kk. Failing to train and supervise their employees properly;
- ll. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- mm. Breaching their duties under the Restatement of the Law of Torts (Second), including §343, 413, 414, 416, 427 and 429;
- nn. Failing to adequately warn The Salvation Army of the peculiar and/or unsafe conditions and/or special dangers existing upon the subject project;

- oo. Failing to furnish and perform construction materials and services in conformity with the standard of practice prevailing in the construction industry at the time those materials and services were furnished and performed;
- pp. Violating and failing to comply with federal and state statutes, local ordinances and all other rules or regulations applicable, or in effect, pertaining to the performance of demolition work;
- qq. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
- rr. Performing and furnishing construction services in an inadequate, unsafe and negligent manner;
- ss. Promulgating and/or adopting insufficient plans for the work in or around the structurally instability;
- tt. Exposing the customers and employees of the Salvation Army to unreasonable danger, by using inadequate tools, materials and equipment and not informing the customers and employees of the Salvation Army of the dangers and hazards of the structurally instability;
- uu. Failing to cease and/or postpone construction work until proper and necessary precautions could be taken to safeguard the customers and employees of the Salvation Army;
- vv. Failing to engage and employ appropriate numbers of workers at the site;



- ww. Failing to recommend, provide and enforce frequent inspections of the work area;
- xx. Failing to adopt and/or enforce a site specific safety plan, demolition plan, engineering plan, and/or shoring plan;
- yy. Failing to hire competent employees, safety inspectors, contractors and subcontractors;
- zz. Failing to perform a Safety Task Analysis or Job Hazard Analysis;
- aaa. Failing to require and enforce a requirement that workers sign off on site-specific safety rules;
- bbb. Failing to ensure that all subcontractors performed all work in accordance with OSHA regulations;
- ccc. Failing to recommend, provide and enforce frequent inspections of the work area;
- ddd. Failing to have the subject area tested for stability or safety prior to allowing the subject ironwork work to begin;
- eee. Failing to eliminate the hazards or warn plaintiff about such hazards when defendant Owners expected or should have expected that plaintiff would not discover or realize the danger of structural instability;
- fff. Failing to address safety considerations by contract;
- ggg. Failing to ensure demolition work was not performed in or around areas that required shoring or areas of structural instability;
- hhh. Improperly using an excavator for demolition;
- iii. Negligence per se; and

jjj. Failing to properly sequence the work.

584. Higgins's conduct, as described above, demonstrated a wanton disregard for the safety and health of the customers and employees of the Thrift Store and for the citizens of Philadelphia.

585. By reason of the carelessness, negligence, gross negligence and recklessness of defendants, as aforesaid, plaintiffs were caused to sustain serious and permanent disabling personal injuries and death as set forth above.

586. By conducting itself as set forth above, defendants' acts and/or omissions were a substantial factor, a factual cause and/or increased the risk of harm of Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XVII – WRONGFUL DEATH**  
**ESTATE OF JUANITA HARMON v. ALL DEFENDANTS**<sup>17</sup>

587. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

588. Juanita Harmon is survived by her sons, Angelo and Andre Harmon.

589. By reason of the death of Juanita Harmon, her beneficiaries have in the past and will in the future continue to suffer great pecuniary loss, including, but not limited to, loss of support, loss of aid, loss of services, loss of companionship, loss of consortium and comfort, loss of counseling and loss of guidance.

590. As a direct and proximate result of the foregoing, decedent's wrongful death beneficiaries incurred or have been caused to incur and pay large and various expenses for

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<sup>17</sup> Only Plaintiff, Angelo Harmon, individually and as Administrator of the Estate of Juanita Harmon participates in this Count.

medical treatment, hospital care and medicine rendered to decedent until the time of her death and to incur various funeral, burial and estate and administration expenses for which plaintiffs are entitled to compensation in this preceding.

591. Plaintiffs, as Administrators of the Estate of Juanita Harmon, brings this action by virtue of the Wrongful Death Act, 42 Pa.C.S.A. §8301, and Pa.R.C.P. 2202, and claim all benefits and recoverable damages under the Wrongful Death Act on behalf of all other persons entitled to recover under law.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XVIII -- SURVIVAL**  
**ESTATE OF JUANITA HARMON v. ALL DEFENDANTS**<sup>18</sup>

592. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

593. Plaintiff claims on behalf of the Estate of Juanita Harmon all damages suffered by the Estate by reason of the death of Juanita Harmon, including without limiting the generality of the following: the severe injuries to Juanita Harmon, which resulted in her death; the anxiety, horror, fear of impending death, mental disturbance, pain, suffering and other intangible losses which Juanita Harmon suffered prior to her death; the loss of future earning capacity suffered by Juanita Harmon from the date of her death until the time in the future that she would have lived had she not died as a result of the injuries she sustained; the loss and the total limitation and deprivation of her normal activities, pursuits and pleasures from the date of her death until such time in the future as she would have lived had she not died as a result of the injuries sustained by

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<sup>18</sup> Only Plaintiff, Angelo Harmon, individually and as Administrator of the Estate of Juanita Harmon participates in this Count.

reason of the carelessness, strict liability, recklessness, negligence and gross negligence of defendants.

594. Plaintiff brings this action on behalf of the Estate of Juanita Harmon, deceased, by virtue of the Survival Act, 42 Pa.C.S.A. §8302, and claims all benefits of the Survival Act on behalf of Juanita Harmon's estate, and other persons entitled to recover under law.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XIX – WRONGFUL DEATH**  
**ESTATE OF BORBOR DAVIS v. ALL DEFENDANTS**<sup>19</sup>

595. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

596. The decedent, Borbor Davis, is survived by his wife, Plaintiff Maggie Adams Davis, who is entitled to recover damages by his death and on whose behalf this action is brought.

597. By reason of the death of Borbor Davis, his beneficiary and wife Maggie Adams Davis has in the past and will in the future continue to suffer great pecuniary loss, including, but not limited to, loss of support, services, companionship, aid, society, comfort, consortium, counseling, guidance, and care.

598. As a direct and proximate result of the foregoing, Maggie Adams Davis incurred and have been caused to incur and pay large and various expenses for medical treatment, hospital care and medicine rendered to decedent until the time of his death and to incur various funeral, burial and estate and administration expenses for which Plaintiff is entitled to compensation in this proceeding.

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<sup>19</sup> Only Plaintiff, The Estate of Borbor Davis participates in this Count.

599. The death of Plaintiff's decedent and the injuries and damages, resulted directly and proximately from the outrageous, reckless, careless and/or negligent conduct and the breach of duties, as set forth above and herein, by the defendants, jointly and/or severally, and was due in no part to any act or failure of the Plaintiff's decedent.

600. Plaintiff, as Administratrix of the Estate of Borbor Davis, brings this action by virtue of the Wrongful Death Act, 42 Pa. C.S.A. §8301, and Pa.R.Civ.P. 2202, and claims all benefits and damages recoverable under the Wrongful Death Act, including loss of contribution, services, and support and all expenses incurred on behalf of herself and all other persons entitled to recover under the law.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XX – SURVIVAL**  
**ESTATE OF BORBOR DAVIS v. ALL DEFENDANTS**<sup>20</sup>

601. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

602. Plaintiff claims on behalf of the Estate of Borbor Davis, all damages suffered by the Estate by the reason of the death of the decedent, including but not limited to, pre-impact fright, terror and anxiety, the pain and suffering which decedent endured prior to his death, the loss of earning capacity suffered by the decedent from the date of his death until such a time in the future as he probably would have lived, and total limitation and deprivation of his normal activities, pursuits, and pleasures from the date of his death until such a time in the future as he probably would have lived had he not died as a result of the injuries sustained by reason of the

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<sup>20</sup> Only Plaintiff, The Estate of Borbor Davis participates in this Count.

carelessness, recklessness, negligence, gross negligence, and outrageous conduct of the defendants, jointly and/or severally.

603. Plaintiff brings this action on behalf of the Estate of Borbor Davis, deceased, under 42 Pa. C.S.A. §8302 and claims all benefits of the Survival Act, on behalf of herself and all other persons entitled to recover under the law.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XXI – WRONGFUL DEATH**  
**ESTATE OF MARY SIMPSON v. ALL DEFENDANTS**<sup>21</sup>

604. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

605. Plaintiff George B. Simpson is the duly-appointed Administrator of the Estate of Mary Lea Simpson by grant of Letters of Administration by the Register of Wills of the County of Delaware, Commonwealth of Pennsylvania, dated June 28, 2013.

606. Plaintiff George B. Simpson brings this action for the benefit of those persons entitled by law to recover damages for the wrongful death of Plaintiff's decedent Mary Lea Simpson.

607. Plaintiff's decedent Mary Lea Simpson left surviving her only the following persons entitled to recover damages for her wrongful death and on whose behalf this action is brought: her father Dr. Zachary W. Simpson, her mother Starr Harris Simpson, and her brother George B. Simpson.

608. Plaintiff's decedent's father, Dr. Zachary W. Simpson, and mother, Starr Harris Simpson, reside at 630 Haydock Lane, Haverford, PA 19041.

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<sup>21</sup> Only Plaintiff, The Estate of Mary Simpson, participates in this Count.

609. Plaintiff's decedent, Mary Lea Simpson, did not bring any action during her lifetime for any act or omission leading to her death, nor has any action other than this instant Civil Action been commenced for any act or omission leading to Plaintiff's decedent's death.

610. As a result of the aforementioned tortious acts and/or omissions of each of the Defendants, Plaintiff's decedent's Wrongful Death beneficiaries have been required to spend money and incur obligations in an effort to treat and care for the aforementioned injuries to Plaintiff's decedent, have been deprived of the earnings and the value of the services of Plaintiff's decedent, have been deprived of the expected monetary contributions and the pecuniary value of the services, society, comfort, guidance, and tutelage of Plaintiff's decedent during her life expectancy, and have suffered a profound emotional and psychological loss as a result of the death of Plaintiff's decedent.

611. Plaintiff claims damages for the monetary and pecuniary loss occasioned by the death of Plaintiff's decedent, as well as, for reimbursement of hospital expenses, nursing expenses, medical expenses, funeral expenses, burial expenses, and expenses of Estate administration.

612. Plaintiff claims damages for the pecuniary losses sustained as a result of the decedent's death including damages for the loss of the contributions, services, society and comfort decedent would have provided had she survived.

613. Plaintiff brings this action by virtue of, *inter alia*, 42 Pa.C.S.A. § 8301 and claims all damages encompassed thereby.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XXII – SURVIVAL**  
**ESTATE OF MARY SIMPSON v. ALL DEFENDANTS**<sup>22</sup>

614. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

615. Plaintiff George B. Simpson is the duly-appointed Administrator of the Estate of Mary Lea Simpson by grant of Letters of Administration by the Register of Wills of the County of Delaware, Commonwealth of Pennsylvania, dated June 28, 2013.

616. Plaintiff brings this action on behalf of the Estate of Mary Lea Simpson.

617. Plaintiff claims damages for the aforesaid injuries suffered by Plaintiff's decedent specifically including but not limited to the physical pain, suffering, and mental distress undergone by plaintiff's decedent prior to her death, and for the loss of earnings and earning capacity suffered by plaintiff's decedent's Estate from the time of defendants' tortious acts and/or omissions to such time in the future as plaintiff's decedent probably would have lived had she not died as a result of the defendants' tortious acts and/or omissions as described hereinbefore.

618. Plaintiff brings this action by virtue of, *inter alia*, 42 Pa.C.S.A. § 8302 and claims all damages encompassed thereby.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XXIII – WRONGFUL DEATH**  
**ESTATE OF ROSELINE CONTEH v. ALL DEFENDANTS**<sup>23</sup>

619. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

620. Plaintiffs, Aiah Gbessay, Aiah Boya, and Francis Sankoh, are the duly-appointed Administrators of the Estate of Roseline Conteh by grant of Letters of Administration by the

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<sup>22</sup> Only Plaintiff, The Estate of Mary Simpson, participates in this Count.

<sup>23</sup> Only Plaintiff, The Estate of Roseline Conteh, participates in this Count.



Register of Wills of the County of Philadelphia, Commonwealth of Pennsylvania, dated January 17, 2014.

621. Plaintiffs bring this action for the benefit of those persons entitled by law to recover damages for the wrongful death of Plaintiff's decedent Roseline Conteh.

622. Plaintiffs' decedent, Roseline Conteh, left surviving her only the following persons entitled to recover damages for her wrongful death and on whose behalf this action is brought:

623. Her widow, co-administrator Aiah Boya, who formerly resided in Allentown, Sierra Leone, West Africa and presently resides in the Commonwealth of Pennsylvania at the above captioned address;

624. Her four (4) surviving sons: Francis Sankoh, Augustine Bai Sankoh, Aiah Gbessay, and Komba Gbessay.

625. Plaintiffs' decedent, Roseline Conteh, did not bring any action during her lifetime for any act or omission leading to her death, nor has any action other than this instant Civil Action been commenced for any act or omission leading to Plaintiff's decedent's death.

626. As a result of the aforementioned tortious acts and/or omissions of each of the Defendants, Plaintiffs' decedent's wrongful death beneficiaries have been required to spend money and incur obligations in an effort to treat and care for the aforementioned injuries to Plaintiffs' decedent, have been deprived of the earnings and the value of the services of Plaintiff's decedent, have been deprived of the expected monetary contributions and the pecuniary value of the services, society, comfort, guidance, and tutelage of Plaintiffs' decedent during her life expectancy, and have suffered a profound emotional and psychological loss as a result of the death of Plaintiffs' decedent.

627. Plaintiffs claim damages for the monetary and pecuniary loss occasioned by the death of Plaintiff's decedent, as well as, for reimbursement of hospital expenses, nursing expenses, medical expenses, funeral expenses, burial expenses, and expenses of Estate administration.

628. Plaintiffs claim damages for the pecuniary losses sustained as a result of the decedent's death including damages for the loss of the contributions, services, society and comfort decedent would have provided had she survived.

629. Plaintiffs bring this action by virtue of, inter alia, 42 Pa.C.S.A. § 8301 and claims all damages encompassed thereby.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XXIV – SURVIVAL**  
**ESTATE OF ROSELINE CONTEH v. ALL DEFENDANTS**<sup>24</sup>

630. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

631. Plaintiffs, Aiah Gbessay, Aiah Boya, and Francis Sankoh, are the duly-appointed Administrators of the Estate of Roseline Conteh by grant of Letters of Administration by the Register of Wills of the County of Philadelphia, Commonwealth of Pennsylvania, dated January 17, 2014.

632. Plaintiffs bring this action on behalf of the Estate of Roseline Conteh.

633. Plaintiffs claim damages for the aforesaid injuries suffered by Plaintiff's decedent specifically including but not limited to the physical pain, suffering, and mental distress undergone by plaintiff's decedent prior to her death, and for the loss of earnings and earning

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<sup>24</sup> Only Plaintiff, The Estate of Roseline Conteh, participates in this Count.

capacity suffered by plaintiff's decedent's Estate from the time of defendants' tortious acts and/or omissions to such time in the future as plaintiff's decedent probably would have lived had she not died as a result of the defendants' tortious acts and/or omissions as described hereinbefore.

634. Plaintiffs bring this action by virtue of, *inter alia*, 42 Pa.C.S.A. § 8302 and claims all damages encompassed thereby.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XXV – WRONGFUL DEATH**  
**ESTATE OF ANNE BRYAN v. ALL DEFENDANTS**<sup>25</sup>

635. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

636. Anne Bryan is survived by her parents, Nancy Winkler and John Bryan, and her brother Christopher Bryan

637. By reason of the death of Anne Bryan, her beneficiaries have in the past and will in the future continue to suffer great pecuniary loss, including, but not limited to, loss of support, loss of aid, loss of services, loss of companionship, loss of consortium and comfort, loss of counseling and loss of guidance.

638. As a direct and proximate result of the foregoing, decedent's wrongful death beneficiaries incurred or have been caused to incur and pay large and various expenses for medical treatment, hospital care and medicine rendered to decedent until the time of her death and to incur various funeral, burial and estate and administration expenses for which plaintiffs are entitled to compensation in this preceding.

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<sup>25</sup> Only Plaintiffs, Nancy Winkler and John Bryan, individually and as Administrators of the Estate of Anne Bryan participate in this Count.

639. Plaintiffs, as Administrators of the Estate of Anne Bryan, brings this action by virtue of the Wrongful Death Act, 42 Pa.C.S.A. §8301, and Pa.R.C.P. 2202, and claim all benefits and recoverable damages under the Wrongful Death Act on behalf of all other persons entitled to recover under law.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XXVI -- SURVIVAL**  
**ESTATE OF ANNE BRYAN v. ALL DEFENDANTS**<sup>26</sup>

640. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

641. Plaintiff claims on behalf of the Estate of Anne Bryan all damages suffered by the Estate by reason of the death of Anne Bryan, including without limiting the generality of the following: the severe injuries to Anne Bryan, which resulted in her death; the anxiety, horror, fear of impending death, mental disturbance, pain, suffering and other intangible losses which Anne Bryan suffered prior to her death; the loss of future earning capacity suffered by Anne Bryan from the date of her death until the time in the future that she would have lived had she not died as a result of the injuries she sustained; the loss and the total limitation and deprivation of her normal activities, pursuits and pleasures from the date of her death until such time in the future as she would have lived had she not died as a result of the injuries sustained by reason of the carelessness, strict liability, recklessness, negligence and gross negligence of defendants.

642. Plaintiff brings this action on behalf of the Estate of Anne Bryan, deceased, by virtue of the Survival Act, 42 Pa.C.S.A. §8302, and claims all benefits of the Survival Act on behalf of Anne Bryan's estate, and other persons entitled to recover under law.

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<sup>26</sup> Only Plaintiffs, Nancy Winkler and John Bryan, individually and as Administrators of the Estate of Anne Bryan participate in this Count.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XXVII - - WRONGFUL DEATH**  
**ESTATE OF KIMBERLY FINNEGAN v. ALL DEFENDANTS**<sup>27</sup>

643. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

644. Kimberly Finnegan is survived by her parents, Jean and Patrick Finnegan, and her brother Jonathan Finnegan.

645. By reason of the death of Kimberly Finnegan, her beneficiaries have in the past and will in the future continue to suffer great pecuniary loss, including, but not limited to, loss of support, loss of aid, loss of services, loss of companionship, loss of consortium and comfort, loss of counseling and loss of guidance.

646. As a direct and proximate result of the foregoing, decedent's wrongful death beneficiaries incurred or have been caused to incur and pay large and various expenses for medical treatment, hospital care and medicine rendered to decedent until the time of her death and to incur various funeral, burial and estate and administration expenses for which plaintiffs are entitled to compensation in this preceding.

647. Plaintiff, as Administrator of the Estate of Kimberly Finnegan, brings this action by virtue of the Wrongful Death Act, 42 Pa.C.S.A. §8301, and Pa.R.C.P. 2202, and claim all benefits and recoverable damages under the Wrongful Death Act on behalf of all other persons entitled to recover under law.

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<sup>27</sup> Only Plaintiff, Jonathan Finnegan, individually and as Administrator of the Estate of Kimberly Finnegan participates in this Count.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XXVIII - - SURVIVAL**  
**ESTATE OF KIMBERLY FINNEGAN v. ALL DEFENDANTS**<sup>28</sup>

648. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

649. Plaintiff claims on behalf of the Estate of Kimberly Finnegan all damages suffered by the Estate by reason of the death of Kimberly Finnegan, including without limiting the generality of the following: the severe injuries to Kimberly Finnegan, which resulted in her death; the anxiety, horror, fear of impending death, mental disturbance, pain, suffering and other intangible losses which Kimberly Finnegan suffered prior to her death; the loss of future earning capacity suffered by Kimberly Finnegan from the date of her death until the time in the future that she would have lived had she not died as a result of the injuries she sustained; the loss and the total limitation and deprivation of her normal activities, pursuits and pleasures from the date of her death until such time in the future as she would have lived had she not died as a result of the injuries sustained by reason of the carelessness, strict liability, recklessness, negligence and gross negligence of defendants.

650. Plaintiff brings this action on behalf of the Estate of Kimberly Finnegan, deceased, by virtue of the Survival Act, 42 Pa.C.S.A. §8302, and claims all benefits of the Survival Act on behalf of Kimberly Finnegan's estate, and other persons entitled to recover under law.

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<sup>28</sup> Only Plaintiff, Jonathan Finnegan, individually and as Administrator of the Estate of Kimberly Finnegan participates in this Count.

**COUNT XXIX - - WRONGFUL DEATH**  
**ESTATE OF DANNY JOHNSON v. ALL DEFENDANTS**<sup>29</sup>

651. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

652. Danny Johnson is survived by his widow, Bonnie B. Johnson.

653. By reason of the death of Danny Johnson, his beneficiaries have in the past and will in the future continue to suffer great pecuniary loss, including, but not limited to, loss of support, loss of aid, loss of services, loss of companionship, loss of consortium and comfort, loss of counseling and loss of guidance.

654. As a direct and proximate result of the foregoing, decedent's wrongful death beneficiaries incurred or have been caused to incur and pay large and various expenses for medical treatment, hospital care and medicine rendered to decedent until the time of his death and to incur various funeral, burial and estate and administration expenses for which plaintiffs are entitled to compensation in this preceding.

655. Plaintiff, as Administrator of the Estate of Danny Johnson, brings this action by virtue of the Wrongful Death Act, 42 Pa.C.S.A. §8301, and Pa.R.C.P. 2202, and claim all benefits and recoverable damages under the Wrongful Death Act on behalf of all other persons entitled to recover under law.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

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<sup>29</sup> Only Plaintiff, Bonnie Johnson, individually and as Administrator of the Estate of Danny Johnson participates in this Count.

**COUNT XXX -- SURVIVAL**  
**ESTATE OF DANNY JOHNSON v. ALL DEFENDANTS**<sup>30</sup>

656. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

657. Plaintiff claims on behalf of the Estate of Danny Johnson all damages suffered by the Estate by reason of the death of Danny Johnson, including without limiting the generality of the following: the severe injuries to Danny Johnson, which resulted in his death; the anxiety, horror, fear of impending death, mental disturbance, pain, suffering and other intangible losses which Danny Johnson suffered prior to his death; the loss of future earning capacity suffered by Danny Johnson from the date of his death until the time in the future that he would have lived had he not died as a result of the injuries he sustained; the loss and the total limitation and deprivation of his normal activities, pursuits and pleasures from the date of his death until such time in the future as he would have lived had he not died as a result of the injuries sustained by reason of the carelessness, strict liability, recklessness, negligence and gross negligence of defendants.

658. Plaintiff brings this action on behalf of the Estate of Danny Johnson, deceased, by virtue of the Survival Act, 42 Pa.C.S.A. §8302, and claims all benefits of the Survival Act on behalf of Danny Johnson's estate, and other persons entitled to recover under law.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

**COUNT XXXI – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**ALL PLAINTIFFS v. ALL DEFENDANTS**<sup>31</sup>

659. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint.

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<sup>30</sup> Only Plaintiff, Bonnie Johnson, individually and as Administrator of the Estate of Danny Johnson participates in this Count.

<sup>31</sup> All Plaintiffs join in this count.



660. Defendants' conduct described herein was extreme and outrageous when Defendants knew and/or should have known that it would cause severe emotional distress to Plaintiffs.

661. Defendants pushed forward with this hazardous and highly dangerous demolition while failing to take any steps to close the Salvation Army to its employees and the public despite knowledge of the risk of collapse that posed an imminent threat to life and limb.

662. This conduct was done with reckless disregard to the safety and wellbeing of the customers and/or employees of the thrift store, including Plaintiffs.

663. As a direct and proximate cause of Defendants' extreme and outrageous conduct, the building collapsed, Plaintiffs were trapped in the rubble of the Salvation Army for various amount of time and sustained severe and permanent injuries, as more fully set forth above.

664. As a result of the outrageous and reckless conduct of Defendants, Plaintiffs have suffered severe emotional distress including but not limited to the following:

- i. Severe emotional distress;
- ii. Embarrassment;
- iii. Humiliation;
- iv. Loss in the ordinary pleasures of life; and
- v. Mental anguish.

665. This intentional infliction of emotional distress qualifies as an exception to the Fair Share Act, 42 Pa.C.S. §7102, and therefore defendants jointly and severally liable for the all injuries and damages related to this collapse.

WHEREFORE, Plaintiffs demand judgment against defendants in an amount in excess of Fifty Thousand Dollars in compensatory damages, delay damages, and punitive damages, interest and allowable costs of suit and bring this action to recover such damages.

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By: s/ Jerome Gamburg  
JEROME GAMBURG

Date: September 16, 2014

*Attorneys for Plaintiffs*

**VERIFICATION**



The averments or denials of fact contained in the foregoing are true based on the signer's personal knowledge or information and belief. If the foregoing contains averments which are inconsistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. This Verification is made subject to the penalties of the 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

/s/ Robert J. Mongeluzzi  
ROBERT J. MONGELUZZI

Date: \_\_\_\_\_