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6 Attorneys for Plaintiffs,
ELENA MATYAS, individually and as Successor-in-Interest to ROXIE MIRABELLE FORBES;
7 and DOUGLAS FORBES, individually and as Successor-in-Interest to ROXIE MIRABELLE
FORBES
8

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11
12 ELENA MATYAS, individually and as
Successor-in-Interest to ROXIE MIRABELLE
13 FORBES; and DOUGLAS FORBES,
14 individually and as Successor-in-Interest to
ROXIE MIRABELLE FORBES,

15
16 Plaintiffs,

17 v.

18 SUMMERKIDS, INC., a California
Corporation; MARIA DIMASSA, an
19 individual; JOSEPH DIMASSA, an
individual; CARA DIMASSA, an individual;
20 GIANCARLO DIMASSA, M.D., an
individual; ANGELUS MOUNTAIN
21 CENTER, entity type unknown; THE
ENOTECA, LLC, a California Limited
22 Liability Company (AKA THE ENOTECA,
LLC, a California Limited Liability
23 Company); SEMPRE AVANTI, LLC, and
California Limited Liability Company; THE
24 DIMASSA FAMILY FOUNDATION, a
501(c)(3) corporation; JAIMI HARRISON, an
25 individual; JOSEPH NATALIZIO, an
individual; DANIEL H. RAINEY, an
26 individual; FAITH PORTER, an individual;
ANDREW LARA CERVANTES, an
27 individual; and DOES 1 through 50, inclusive,
28 Defendants.

Case No. 2:21-cv-04163 JAK (JDEx)

[Assigned to the Hon. John A. Kronstadt,
Courtroom 10B]

THIRD AMENDED COMPLAINT FOR
DAMAGES:

1. NEGLIGENCE – WRONGFUL DEATH
2. NELIGENT HIRING, RETENTION, SUPERVISION, AND TRAINING
3. SURVIVOR’S ACTION
4. FRAUD

DEMAND FOR JURY TRIAL

Complaint filed: November 5, 2019
Trial Date: None Set.

1 COMES NOW PLAINTIFFS ELENA MATYAS, individually and as Successor-in-Interest
2 to ROXIE MIRABELLE FORBES; and DOUGLAS FORBES, individually and as Successor-in-
3 Interest to ROXIE MIRABELLE FORBES (“PLAINTIFFS”), to complain and allege against
4 Defendants SUMMERKIDS, INC., a California Corporation (“SUMMERKIDS”); MARIA
5 DIMASSA, an individual; JOSEPH DIMASSA, an individual, CARA DIMASSA, an individual;
6 GIANCARLO DIMASSA, M.D., an individual; GIANCARLO DIMASSA, M.D., P.C., a
7 professional medical corporation; (MARIA DIMASSA, JOSEPH DIMASSA, CARA DIMASSA
8 and GIANCARLO DIMASSA are collectively referred to herein as “THE DIMASSAS”); DOSSET
9 DIMASSA M.D., INC., JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES OF THE
10 DIMASSA FAMILY TRUST, ANGELUS MOUNTAIN CENTER, entity type unknown; THE
11 ENOTECA, LLC, a California Limited Liability Company (AKA ENOTECA DIMASSA, LLC, a
12 California Limited Liability Company); SEMPRE AVANTI, a California Limited Liability
13 Company; THE DIMASSA FAMILY FOUNDATION, a 501(c)(3) corporation (SUMMERKIDS,
14 INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC,
15 DOSSET DIMASSA M.D., INC., JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES
16 OF THE DIMASSA FAMILY TRUST, and THE DIMASSA FAMILY FOUNDATION are
17 collectively referred to herein as the “DIMASSA ENTITIES”); JAIMI HARRISON, an individual;
18 JOSEPH NATALIZIO, an individual; DANIEL H. RAINEY, an individual; FAITH PORTER, an
19 individual; NATALIE DEL CASTILLO. an individual; ANDREW LARA CERVANTES, an
20 individual; TREVOR BOREHAM, an individual, hereinafter BOREHAM; LIFE SAVING
21 CERTIFIED, business form unknown(hereinafter LSC); THE AMERICAN NATIONAL RED
22 CROSS also known as the AMERICAN RED CROSS, a non-profit, tax -exempt, charitable
23 corporation (hereinafter referred to as “ARC”), and DOES 1 through 50, inclusive, and each of them,
24 (“DEFENDANTS”) as follows:

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26 ///
27 ///
28 ///

INTRODUCTION

1
2 1. On or about June 28, 2019 six-year old ROXIE
3 MIRABELLE FORBES (“ROXIE”) tragically perished,
4 not as a result some unforeseen or unstoppable cause, but
5 as a direct result of the grossly negligent, willful and
6 fraudulent misconduct of DEFENDANTS and DOES 1-
7 50.



8 2. On or about June 28, 2019, while attending
9 Summerkids Camp under the direct care and supervision of DEFENDANTS, ROXIE drowned in a
10 swimming pool at ANGELUS MOUNTAIN CENTER, the 57-acre home of Summerkids Camp
11 located at 3697 N. Fair Oaks Ave., Altadena, CA 91001, which was at all operative times, controlled,
12 owned, supervised and managed by the DEFENDANTS. Consequently, PLAINTIFFS ELENA
13 MATYAS (“MATYAS”) and DOUGLAS FORBES (“FORBES”) bring this complaint for (1)
14 Wrongful Death, (2) Negligent Hiring, Retention, Supervision and Training, (3) Survivor’s Action,
15 and (4) Fraud against DEFENDANTS and DOES 1-50 arising out of the tragic events that form the
16 basis of this lawsuit.

17 3. In February 2019, PLAINTIFFS MATYAS and FORBES applied for ROXIE to attend the
18 Summerkids Camp. On March 1, 2019, Plaintiff MATYAS received an email from SUMMERKIDS,
19 INC. advising her that ROXIE was accepted to attend the Summerkids Camp. ROXIE’s parents
20 signed up their six-year-old daughter to attend camp for eight (8) weeks in the summer of 2019.

21 4. THE DIMASSAS and the DIMASSA ENTITIES advertised that Summerkids Camp was a
22 safe place to send young children with allegedly American Red Cross trained lifeguards and
23 competent camp personnel. Specifically, THE DIMASSAS and the DIMASSA ENTITIES
24 represented that non-swimmers would be carefully and specifically monitored, and that the allegedly
25 American Red Cross trained lifeguards and counselors would assist the children by introducing swim
26 techniques with a goal of making the children “water safe.” As such, PLAINTIFFS were assured that
27 the allegedly American Red Cross trained lifeguards and counselors with American Red Cross water
28 safety training were always present while children participated in swimming activities, and that

1 counselors and lifeguards worked with children who were not water safe to make them water safe.

2 5. Additionally, THE DIMASSAS and the DIMASSA ENTITIES represented that
3 Defendants GIANCARLO DIMASSA, M.D., dba GIANCARLO DIMASSA, M.D., P.C., and dba
4 DOSSET DIMASSA M.D., INC.. an emergency medicine physician, was a staff member of
5 Summerkids Camp.

6 6. PLAINTIFFS employed and trusted the specialized services of DEFENDANTS, and each
7 of them, including DOES 1-50 to supervise and care for their six-year-old daughter ROXIE, who was
8 attending summer camp for the first time. On the first day of Summerkids Camp, Defendants' and
9 their staff assessed ROXIE'S ability to swim, concluded that she was a "nonswimmer," and restricted
10 her to the steps in the shallow end of the swimming pool. Defendants communicated these restrictions
11 to PLAINTIFFS, and PLAINTIFFS relied on those restrictions in permitting ROXIE to attend
12 Summerkids Camp and participate in the water activities. DEFENDANTS, and each of them,
13 including DOES 1-50, were aware that ROXIE was a "nonswimmer" and not "water safe."
14 Defendants were also informed and aware that ROXIE was diagnosed with gross motor delay. JAIMI
15 HARRISON, the Assistant Director of Summerkids Camp, represented to PLAINTIFFS that she
16 would personally speak with the lifeguards and counselors to ensure they were aware of ROXIE'S
17 medical condition and status as a "non-swimmer." On or about June 26, 2019, CARA DIMASSA
18 personally acknowledged to ROXIE'S mom, MATYAS, that ROXIE needed special attention, and
19 assured her that Defendants were qualified and able to provide this special attention.

20 7. On June 28, 2019 PLAINTIFFS dropped ROXIE off at Summerkids Camp, which is a local
21 day camp and not a sleepover camp. Her first activity of the morning was swimming.

22 According to witness accounts ROXIE entered the pool between 9:20 and 9:25 a.m. ROXIE
23 was placed on the swimming pool steps by her "buddy counselor" DANIEL H. RAINEY also known
24 as "Hank" ("RAINEY") who was an allegedly ARC trained lifeguard with additional water safety
25 training, CPR, and AED.

26 8. DEFENDANTS, and each of them, including DOES 1-50, knew it was unsafe for ROXIE
27 to have full access to the pool, but the Summerkids Camp staff including counselors and lifeguards
28 did nothing to actually restrict ROXIE to the steps or shallow end. Rather than safeguard ROXIE,

1 RAINEY, and JOSEPH NATALIZIO (“NATALIZIO”), who was an allegedly ARC trained lifeguard
2 with additional water safety training, CPR, and AED, were distracted and preoccupied with other
3 campers at the time of the tragic drowning.

4 9. At approximately 9:35 a.m., about ten (10) to fifteen (15) minutes after ROXIE entered the
5 swimming pool, Robert Antonucci, a counselor who was working with other campers about thirty
6 (30) to forty-five (45) feet outside the gate of the swimming pool was the first person to finally notice
7 ROXIE floating face down in the pool. When Robert Antonucci saw ROXIE, she was floating
8 approximately twenty (20) feet away from the steps in four (4) to four-and-a-half (4.5) feet of water.

9 10. On June 28, 2019, one or more of THE DIMASSAS, and employees, agents, and other
10 personnel of the DIMASSA ENTITIES were present at the scene of ROXIE’S tragic death. However,
11 GIANCARLO DIMASSA, M.D. and dba DOSSET DIMASSA M.D., INC. was not present at the
12 Summerkids Camp this day and did not provide any care whatsoever to ROXIE, instead Defendant
13 GIANCARLO DIMASSA, M.D. dba DOSSET DIMASSA M.D., INC. was actually in Hawaii at the
14 time of ROXIE’S drowning and no doctor or other medical personnel was scheduled by the
15 Defendants at Summerkids camp to take his place.

16 11. The Summerkids Campers, including ROXIE, were under the immediate and direct care
17 and supervision of DEFENDANTS, and each of them, including DOES 1-50 who lacked the requisite
18 experience to safely supervise the pool area and to render aid to young swimmers and particularly
19 non swimmers in emergency situations.

20 12. The allegedly ARC trained lifeguards and/or counselors, who were employees of
21 Defendant SUMMERKIDS, INC., present in and around the swimming pool were completely
22 oblivious to ROXIE’s safety. DEFENDANTS and each of them, and DOES 1 – 50, demonstrated a
23 conscious disregard for ROXIE, constituting a lack of any care and/or an extreme departure from
24 what a reasonably careful person would do in the same situation to prevent harm to ROXIE and/or
25 other campers, constituting gross negligence. Due to the inattentiveness, negligence, and gross
26 negligence of DEFENDANTS, and each of them, including DOES 1-50 and in the absence of
27 competent, trained, and attentive staff (i.e. counselors and lifeguards), ROXIE died from a
28 preventable drowning. This tragedy occurred as a direct and proximate result of SUMMERKIDS,

1 INC.'S, THE DIMASSAS' and DIMASSA ENTITIES' negligent hiring of inadequately trained and
2 incompetent personnel, and failure to adequately provide a safe environment for campers.

3 13. PLAINTIFFS are informed and believe and allege, that the deficiencies of Defendants,
4 and DOES 1-50 and each of them, included, but were not limited to:

5 • Improper hiring and training of lifeguards, resulting in incompetent lifeguard
6 personnel being "on duty" when young children were in the pool;
7 • Inadequate number of personnel staffing Summerkids Camp;
8 • Inadequate emergency action plan, or absence of such protocols;
9 • Lack of training of counselors and lifeguards regarding the assignment of specific children
10 to specific counselors, including non-swimmers such as ROXIE, which would have required the
11 counselors to observe, monitor and protect the children in their care;

12 • Failure to adequately observe, monitor, supervise, and/or protect children
13 campers during "recreational swim time," resulting in increased and potentially life-
14 threatening danger to the children;

15 • Administering insufficient swim tests to ascertain swimming skill levels of campers; failure
16 to monitor the campers and ensure they swam only in the section of the pool for which their ability
17 allowed, resulting in increased and potentially life-threatening danger to the children; and

18 • Improper pool activities; inadequate water safety and CPR training, procedures and
19 equipment;

20 • Providing childcare without a license and without meeting the criteria to be license exempt
21 in violation of California Health and Safety Code Sections 1596.80 and 1596.805.

22 14. Accordingly, despite DEFENDANTS and each of them, including DOES 1-50, having a
23 responsibility for ROXIE's safety and/or being on actual duty to watch over ROXIE, and the campers
24 as required, ROXIE was found floating face down in the pool for an extended period of time with
25 absolutely no intervention by Defendants and each of them.

26 15. PLAINTIFFS are informed and believe, and on that basis allege, that after learning 911
27 had been called, Defendant CARA DIMASSA never left her office to assist counselors and staff in
28 the aftermath of ROXIE'S drowning. PLAINTIFFS are further informed and believe, and on that

1 basis allege, that Defendant GIANCARLO DIMASSA, M.D. dba DOSSET DIMASSA M.D., INC.
2 was either not present at the camp at the time of ROXIE'S death, or chose not to perform CPR.

3 16. When paramedics arrived on the scene, they found ROXIE lifeless, without a pulse, in full
4 cardiac arrest. After approximately forty (40) minutes of extensive treatment, emergency room
5 doctors resuscitated her, and ROXIE was put on life support, she remained in the hospital on life
6 support until June 29, 2019 when she was removed from life support and died as a result of a
7 preventable drowning.

8 17. Seemingly unfazed by the circumstances surrounding the death of ROXIE, the
9 Summerkids Camp remained open throughout the day of her drowning and did not modify its
10 operations except to close the pool area at the direction of the County of Los Angeles until nine (9)
11 violations were resolved. THE DIMASSAS went to Huntington Hospital. CARA DIMASSA entered
12 the trauma room without permission and told PLAINTIFFS that ROXIE was at fault for her own
13 drowning. This willful, inappropriate conduct caused great emotional harm to PLAINTIFFS.

14 18. At all times herein Defendants and each of them and DOES 1 -50, represented to the
15 Plaintiffs that the lifeguards at SUMMERKIDS, INC. were fully trained in water safety and were
16 certified ARC lifeguards. Defendants and each of them intentionally misrepresented to Plaintiffs that
17 each and every lifeguard at SUMMERKIDS, INC. had fully completed all of the training that ARC
18 had required in its written manual materials. In fact, Defendants, including ARC and CERVANTES,
19 were not requiring in actual practice that ARC authorized instructors, including but not limited to
20 CERVANTES, to follow ARC written protocols, such that none of the alleged ARC lifeguards at
21 Summerkids Camp had received even one third of the required training in water safety and
22 lifeguarding as indicated by ARC's written materials and fraudulently verified by ARC's certification
23 of said Defendant lifeguards, as well as the fraudulent certification by Cervantes and ARC of
24 Defendant JOE DIMASSA as a certified an ARC Water Safety Instructor. Defendants and each of
25 them misrepresented to the public, including the Plaintiffs, that said lifeguards at Summerkids, Inc.
26 had received the full ARC water safety and lifeguard training. In truth, said Defendants concealed
27 from the public, including the Plaintiffs, that the lifeguards at SUMMERKIDS, INC. camp had not
28 received the complete ARC water safety and lifeguard training, but had only received a third of such

1 training, creating an extremely dangerous condition for all swimmers, and especially non swimmers
2 such as ROXIE, at SUMMERKIDS, INC. camp. As a result of these fraudulent misrepresentations
3 and concealment of the fact that the Summerkids, Inc. lifeguards had not received the full ARC
4 training, as ARC written materials required and said lifeguards ARC certifications falsely indicated,
5 the Plaintiffs enrolled ROXIE at Summerkids, Inc. and entrusted ROXIE into SUMMERKIDS,
6 INC.'S care, particularly in and around the swimming pool, and as a result Roxie drowned.

7 19. The DEFENDANTS', and each of them, including DOES 1-50, conduct as alleged herein
8 establishes that the DEFENDANTS' actions constituted oppression, fraud, and/or malice as defined
9 in Civil Code Section 3294. DEFENDANTS, and each of them, including DOES 1-50, took on the
10 obligation of operating a child day care summer camp, which included swimming activities for young
11 children. In its knowingly unsafe operation of the child day care summer camp, including the
12 fraudulent ARC certification of DEFENDANTS' employees regarding water safety, lifeguarding,
13 CPR, AED, and First Aid in a blatant attempt to mislead the public that this was a very safe place for
14 parents, such as the Plaintiffs, to enroll their child, including non-swimmers like ROXIE in
15 DEFENDANTS' day camp. The DEFENDANTS exhibited a willful and conscious disregard for the
16 safety of the children and their parents, constituting gross negligence. PLAINTIFFS are therefore
17 entitled to recover, in addition to actual damages, exemplary and punitive damages to make an
18 example of and to punish DEFENDANTS, and each of them, including DOES 1-50, in an amount
19 according to proof.

20 **THE PARTIES**

21 20. Plaintiff, ELENA MATYAS ("MATYAS") is and was at all times pertinent, an individual
22 domiciled in the State of California, County of Los Angeles and was within the jurisdiction of the
23 County of Los Angeles. Plaintiff MATYAS is the surviving mother of ROXIE, who died as a result
24 of a preventable drowning at Summerkids Camp.

25 21. Plaintiff, DOUGLAS FORBES ("FORBES") is and was at all times pertinent, an
26 individual domiciled in the State of California, County of Los Angeles and was within the jurisdiction
27 of the County of Los Angeles. Plaintiff FORBES is the surviving father of ROXIE, who died as a
28 result of a preventable drowning at Summerkids Camp.

1 22. PLAINTIFFS are authorized to bring this Complaint as a survival action, as the successors
2 in interest of ROXIE, pursuant to Code of Civil Procedure Section 377.30, and as a wrongful death
3 action, pursuant to Code of Civil Procedure Section 377.60.

4 23. PLAINTIFFS are informed and believe, and on that basis allege Defendant
5 SUMMERKIDS, INC. is and was at all times pertinent, a California Corporation within the
6 jurisdiction of County of Los Angeles. Defendant SUMMERKIDS, INC.’s principal place of business
7 is located at 1640 Knollwood Dr., Pasadena, CA 91103, operating a 57-acre camp facility located at
8 3697 N. Fair Oaks Ave, Altadena, CA 91001 also known as “Summerkids Camp.” Both locations are
9 in the State of California, County of Los Angeles.

10 24. PLAINTIFFS are informed and believe, and on that basis allege Defendant ANGELUS
11 MOUNTAIN CENTER is and was at all times pertinent, an entity type unknown operating as a 57-
12 acre camp and swimming pool facility located at 3697 N. Fair Oaks Ave, Altadena, CA 91001.
13 PLAINTIFFS are informed and believe, and on that basis allege, that ANGELUS MOUNTAIN
14 CENTER was at all times relevant herein, owned and operated by Defendant JOSEPH DIMASSA.

15 25. PLAINTIFFS are informed and believe, and on that basis allege Defendant THE
16 ENOTECA, LLC is and was at all times pertinent a California Limited Liability Company with a
17 principal place of business located at 1640 Knollwood Dr., Pasadena, CA 91103. PLAINTIFFS are
18 informed and believe that THE ENOTECA, LLC, is, and at all times relevant herein was, also known
19 as ENOTECA DIMASSA, LLC¹, which is the entity in which THE DIMASSAS hold title to the 57
20 acre camp facility located at 3697 N. Fair Oaks Ave, Altadena, CA 91001. PLAINTIFFS are informed
21 and believe, and on that basis allege, that this is the same piece of real property where THE
22 DIMASSAS operate the ANGELUS MOUNTAIN CENTER and Summerkids Camp. PLAINTIFFS
23 are informed and believe, and on that basis allege, that THE DIMASSAS use the names THE
24 ENOTECA, LLC and ENOTECA DIMASSA, LLC interchangeably and that they are one and the

25
26 _____
27 ¹ PLAINTIFFS are informed and believe, and on that basis allege, that ENOTECA DIMASSA, LLC’s
28 Articles of Organization were amended in 2002 to rename it THE ENOTECA, LLC. The real
property records for their properties continue to be in the name of ENOTECA DIMASSA, LLC,
which is no longer a registered entity per the California Secretary of State website. Plaintiff will
use the current registered name of the entity THE ENOTECA, LLC, in this Complaint.

1 same entity.

2 26. PLAINTIFFS are informed and believe, and on that basis allege Defendant SEMPRE
3 AVANTI, LLC, is and was at all times pertinent a California Limited Liability Company with a
4 principal place of business located at 1640 Knollwood Dr., Pasadena, CA 91103. PLAINTIFFS are
5 informed and believe SEMPRE AVANTI, LLC is the entity in which THE DIMASSAS held title to
6 their homes located at 1630 and 1640 Knollwood Drive in Pasadena, which is the same location out
7 of which THE DIMASSAS operated Summerkids Camp and THE ENOTECA, LLC.

8 27. PLAINTIFFS are informed and believe, and on that basis allege, Defendant THE
9 DIMASSA FAMILY FOUNDATION, is a non-profit private foundation organized under Internal
10 Revenue Code Section 501(c)(3). Per the 2018 990 tax return filed for THE DIMASSA FAMILY
11 FOUNDATION, the only contributors to the foundation are Defendants JOSEPH AND MARIA
12 DIMASSA. The principal place of business for THE DIMASSA FAMILY FOUNDATION is now
13 840 E. Green Street, #215, Pasadena, CA 91101. For calendar years 2014-17, PLAINTIFFS are
14 informed and believe, and on that basis allege, that the principal place of business of the Foundation
15 was 1640 Knollwood Drive, in Pasadena, the same location out of which THE DIMASSAS operated
16 SUMMERKIDS INC., THE ENOTECA LLC, and SEMPRE AVANTI, LLC. PLAINTIFFS are
17 further informed and believe, and on that basis allege, that THE DIMASSA FAMILY
18 FOUNDATION was originally funded by Allegra Center Inc., another California Corporation with a
19 principal place of business now located at 840 E. Green Street, #215, Pasadena, CA 91101; that was
20 previously at 1640 Knollwood Drive, in Pasadena.

21 28. PLAINTIFFS are informed and believe, and on that basis allege Defendants THE
22 DIMASSAS and Does 1-50 are now and were at all times mentioned herein adult residents of the
23 State of California, County of Los Angeles. PLAINTIFFS are informed and believe that (1) MARIA
24 DIMASSA, JOSEPH DIMASSA, CARA DIMASSA and GIANCARLO DIMASSA, M.D. and Does
25 1-50 are alter egos of SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA,
26 LLC, SEMPRE AVANTI, LLC, DOSSET DIMASSA M.D., INC., JOSEPH DIMASSA AND
27 MARIA DIMASSA AS TRUSTEES OF THE DIMASSA FAMILY TRUST and THE DIMASSA
28 FAMILY FOUNDATION and Does 1-50, (2) that they are co-owners of SUMMERKIDS, INC.,

1 ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC, DOSSET
2 DIMASSA M.D., INC., JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES OF THE
3 DIMASSA FAMILY TRUST and THE DIMASSA FAMILY FOUNDATION, and Does1-50, and
4 (3) that they serve as officers, directors, managers and principals of SUMMERKIDS, INC.,
5 ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC, DOSSET
6 DIMASSA M.D., INC., JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES OF THE
7 DIMASSA FAMILY TRUST and THE DIMASSA FAMILY FOUNDATION and Does1-50.

8 29. At all times herein defendants JOSEPH DIMASSA and MARIA DIMASSA were both
9 owners of defendant SUMMERKIDS, INC. and were the TRUSTEES OF THE DIMASSA FAMILY
10 TRUST. At all times herein, the property used by SUMMERKIDS for their Camp where Roxie was
11 killed was owned and controlled in part or in whole by JOSEPH DIMASSA AND MARIA
12 DIMASSA as trustees of THE DIMASSA FAMILY TRUST. At the very same time defendants
13 JOSEPH DIMASSA and MARIA DIMASSA were the trustees who controlled the Property, both
14 JOSEPH DIMASSA and MARIA DIMASSA were owners and in charge of the defendant
15 SUMMERKIDS Camp and were directly responsible for grossly negligent drowning of Roxie due to
16 the intentionally inadequate safety training of the camp counselors which defendants MARIA
17 DIMASSA and JOSEPH DIMASSA ordered from defendants CERVANTES and BOREHAM. At
18 all times there was virtually no distinction between JOSEPH DIMASSA and MARIA DIMASSA as
19 owners of defendant SUMMERKIDS, INC. and as the TRUSTEES OF THE DIMASSA FAMILY
20 TRUST who owned and controlled the Camp and the property where the Camp was located, including
21 the swimming pool where Roxie drowned. Defendants husband-and-wife JOSEPH DIMASSA AND
22 MARIA DIMASSA, along with their two children, defendants CARA DIMASSA and GIANCARLO
23 DIMASSA, M.D, have engaged in substantial commingling of corporate and personal affairs,
24 including the co-mingling of funds and other assets of the DIMASSA FAMILY TRUST with those
25 of the SUMMERKIDS, INC. Camp. The reason for this co-mingling of funds and assets and in
26 particular the use of the DIMASSA FAMILY TRUST is for the DIMASSAS to unjustly hide and
27 protect those DIMASSA FAMILY TRUST assets utilized by the Camp from being reached by injured
28 children and their parents to pay for the injuries and medical expenses suffered by those children

1 which were caused by Defendant SUMMERKIDS' negligence. At all times, Defendant
2 SUMMERKIDS, Inc. was undercapitalized and underinsured for the types of risks that a camp with
3 a swimming pool such as theirs reasonably and regularly would encounter, including serious injury,
4 permanent brain injury and death from drowning. As a consequence of this undercapitalization for
5 the significant potential risks to young children in SUMMERKIDS' care, defendants the DIMASSAS
6 co-mingle their assets in particularly utilizing the DIMASSA FAMILY TRUST which were
7 controlled by defendants JOSEPH DIMASSA and MARIA DIMASSA as trustees to wrongfully and
8 unjustly hide, shuffle and shield Defendant DIMASSAS' assets from a judgment for their negligence.
9 The exact same owners of the Trust and the Camp, namely the DIMASSAS, were involved in this
10 scheme between Defendant SUMMERKIDS, INC. and the DIMASSA FAMILY TRUST, wrongfully
11 moving assets from one entity to the other in order to avoid liability, thereby allowing the Trust to
12 be a conduit for improperly shielding the Defendants' property from any judgment due to Defendants'
13 negligence at the Camp and any serious injury to a camper such as Roxie.

14 30. PLAINTIFFS are informed and believe, and on that basis allege, Defendant DANIEL H.
15 RAINEY also known as "Hank" ("RAINEY"), is and was at all pertinent times, an individual adult
16 residing in the County of Los Angeles, State of California. PLAINTIFFS are informed and believe,
17 and on that basis allege, RAINEY was at all times herein mentioned employed by either
18 SUMMERKIDS, INC., THE DIMASSAS or one of the other DIMASSA ENTITIES as a lifeguard
19 and camp counselor for the Summerkids Camp. PLAINTIFFS are informed and believe, and on that
20 basis allege, RAINEY was on duty at the time of the tragic incident described herein, and he was
21 ROXIE'S "buddy counselor" assigned to watch over ROXIE at the time of her death. PLAINTIFFS
22 are informed and believe, and on that basis allege, RAINEY is and was at all pertinent times
23 represented to be a certified lifeguard, water safety instructor and certified to perform
24 Cardiopulmonary resuscitation ("CPR") and Automated External Defibrillator ("AED").

25 31. PLAINTIFFS are informed and believe, and on that basis allege, Defendant ANDREW
26 LARA CERVANTES ("CERVANTES") is and was at all time pertinent, an individual adult residing
27 in the City and County of Los Angeles, State of California. PLAINTIFFS are informed and believe,
28 and on that basis allege, that CERVANTES was at all times mentioned contracted with Defendant

1 ARC as an ARC water safety and lifesaving instructor. PLAINTIFFS are informed and believe, and
2 on that basis allege, that CERVANTES was at all times herein mentioned contracted and/or employed
3 by SUMMERKIDS, INC., THE DIMASSAS or one of the other DIMASSA ENTITIES and was
4 responsible for testing and certifying lifeguards at the Summerkids Camp to receive ARC certification
5 to be used in Summerkids Camp’s advertising regarding safety. Under ARC’s authorization and
6 consent, CERVANTES wrongfully certified Summerkids Camp employees, including JOSEPH
7 NATALIZIO, RAINEY, NATALIE DEL CASTILLO, JOSEPH DIMASSA and FAITH PORTER
8 whereby each said lifeguard took no written examination and received less than half the water safety
9 and lifeguard training prescribed in ARC’s writings and manuals. CERVANTES also wrongfully
10 certified HANK RAINEY as an ARC water safety instructor, without RAINEY taking a written
11 examination and receiving far less hours of training as required by ARC written materials and
12 manuals. PLAINTIFFS are informed and believe, and on that basis allege, CERVANTES is and was
13 at all pertinent times represented to be an ARC certified lifeguard, water safety instructor and certified
14 to train individuals in CPR and AED and at all times was acting with the permission of ARC and in
15 the course and scope of his agency with ARC.

16 32. PLAINTIFFS are informed and believe, and on that basis allege, Defendant TREVOR
17 BOREHAM (hereinafter “BOREHAM”) is and was at all time pertinent, an individual adult and
18 owner of Defendant Life Saving Certified (hereinafter “LSC”), business form unknown and doing
19 business in the County of Los Angeles PLAINTIFFS are informed and believe, and on that basis
20 allege, that Defendant BOREHAM and Defendant LSC were at all times herein mentioned contracted
21 and/or employed by SUMMERKIDS, INC., THE DIMASSAS or one of the other DIMASSA
22 ENTITIES and were responsible for training, testing and certifying SUMMERKIDS, INC. employees
23 in the American Heart Association (AHA) Heartsaver Pediatric First Aid CPR AED (automated
24 external defibrillator) Course to SUMMERKIDS camp counselors who were not lifeguards including
25 defendants JAIMI HARRISON and CARA DIMASSA, Summerkids Camp administrators, in order
26 to protect the children at Summerkids Camp.

27 33. PLAINTIFFS are informed and believe, and on that basis allege, Defendant JOSEPH
28 NATALIZIO is and was at all times pertinent, an individual adult residing in the County of Los

1 Angeles, State of California. PLAINTIFFS are informed and believe, and on that basis allege
2 NATALIZIO was at all times herein mentioned employed by SUMMERKIDS, INC., THE
3 DIMASSAS or one of the other DIMASSA ENTITIES and was represented to be a senior counselor
4 and certified lifeguard assigned to the lifeguard chair at the Summerkids Camp when Roxie died due
5 to a preventable drowning.

6 34. PLAINTIFFS are informed and believe, and on that basis allege, Defendant JAIMI
7 HARRISON (“HARRISON”) is and was at all pertinent times, an individual adult residing in County
8 of Los Angeles, State of California. PLAINTIFFS are informed and believe, and on that basis allege,
9 HARRISON was at all times herein mentioned employed by SUMMERKIDS, INC., THE
10 DIMASSAS or one of the other DIMASSA ENTITIES as the Assistant Director of the Summerkids
11 Camp.

12 35. PLAINTIFFS are informed and believe, and on that basis allege, Defendant FAITH
13 PORTER (“PORTER”), is and was at all pertinent times, an individual residing in County of Los
14 Angeles, State of California. PLAINTIFFS are informed and believe, and on that basis allege,
15 PORTER was at all times herein mentioned employed by SUMMERKIDS, INC., THE DIMASSAS
16 or one of the other DIMASSA ENTITIES as a counselor and lifeguard to oversee the shallow end of
17 the pool at the Summerkids Camp.

18 36. PLAINTIFFS are informed and believe, and on that basis allege, Defendant NATALIE
19 DEL CASTILLO (“CASTILLO”), is and was at all pertinent times, an individual residing in County
20 of Los Angeles, State of California. PLAINTIFFS are informed and believe, and on that basis allege,
21 CASTILLO was at all times herein mentioned employed by SUMMERKIDS, INC., THE
22 DIMASSAS or one of the other DIMASSA ENTITIES as a counselor and lifeguard to oversee the
23 shallow end of the pool at the Summerkids Camp.

24 37. PLAINTIFFS are informed and believe, and on that basis allege, Defendant THE
25 AMERICAN NATIONAL RED CROSS also known as The American Red Cross (“ARC”), is and
26 was at all pertinent times, a non-profit, tax -exempt, charitable corporation, doing business in the
27 County of Los Angeles, State of California with its headquarters located at 1450 S. Central Ave., Los
28 Angeles, CA 90021.

1 38. The true names of, capacities, whether individual, corporate, associate, governmental or
2 otherwise, of DEFENDANTS, and each of them, including DOES 1-50 are unknown to PLAINTIFFS
3 at this time, who therefore sue such Defendants by such fictitious names. When the true names and
4 capacities of such Doe Defendants are ascertained, PLAINTIFFS will amend this Complaint
5 accordingly.

6 39. PLAINTIFFS are informed and believe, and on that basis allege that each of the
7 Defendants designated herein as a Doe was negligent and guilty of the same conduct as the other
8 Defendants, and is responsible in some manner for the events and happenings herein referred to, and
9 that their negligence proximately caused the injuries and damages sustained by PLAINTIFFS as
10 herein alleged, either through such Defendants' own negligent conduct or through the conduct of their
11 agents, servants, partners, joint venturers, representatives, servants, employees, managing agents,
12 managing supervisors, and/or co-conspirators, or due to their ownership, control, rental, use, and/or
13 lease of the property or instrumentality by which PLAINTIFFS' wrongful death injuries were caused,
14 or in some other manner by Defendants actions.

15 40. PLAINTIFFS are informed and believe, and on that basis allege that at all times herein
16 mentioned, each of the Defendants named herein, including each Doe Defendant, was the agent,
17 servant, partner, joint venturer, representative, servant, employee, managing agent, managing
18 supervisor, and/or co-conspirator of the remaining Defendants, and was at all such times acting within
19 the purpose and scope of said such agency, service, partnership and/or employment, unless otherwise
20 stated.

21 41. All allegations made in this Complaint are based upon information and belief, except those
22 allegations which pertain to the named PLAINTIFFS, which are based on personal knowledge. The
23 allegations of this complaint stated on information and belief are likely to have evidentiary support
24 after a reasonable opportunity for further investigation or discovery.

25 **JURISDICTION AND VENUE**

26 42. Venue is proper and this court has jurisdiction in this matter pursuant to California Code
27 of Civil Procedure § 410.10 and § 395(a) because the incident, death, injury, and/or harm giving rise
28 to this action occurred the County of Los Angeles, State of California.

1 43. At all times mentioned in this Complaint, the DIMASSA FAMILY Defendants owned
2 and operated a camp with their principal place of business at 1640 Knollwood Drive, Pasadena, CA
3 91103, and the camp facility located at 3697 N. Fair Oaks Ave, Altadena, CA 91001.

4 **GENERAL ALLEGATIONS**

5 44. The Summerkids Campers, including ROXIE, were under the immediate and direct
6 supervision of an inadequate number of representatives, agents, and employees of DEFENDANTS,
7 and each of them, including DOES 1-50 who lacked the requisite experience and training to supervise
8 the pool area and to render aid to young campers in emergency situations.

9 45. PLAINTIFFS are the parents of ROXIE and hereby bring this claim against
10 DEFENDANTS, and each of them, including DOES 1-50 for the wrongful death of their daughter,
11 ROXIE MIRABELLE FORBES, they have standing to bring a wrongful death action pursuant to
12 California Code of Civil Procedure, Section 377.60. PLAINTIFFS are individuals who are, and at all
13 relevant times mentioned herein, were adult residents of Los Angeles County, California.

14 46. ROXIE was a minor (DOB 12/4/12) who was under the care of DEFENDANTS, and each
15 of them, including DOES 1-50 at Summerkids Camp, which is jointly owned by THE DIMASSAS
16 and the DIMASSA ENTITIES with their principal place of business at 1640 Knollwood Drive,
17 Pasadena, CA 91103, and the camp facility located at 3697 N. Fair Oaks Ave, Altadena, CA 91001.
18 ROXIE died as a result of the incident described herein.

19 47. PLAINTIFFS are informed and believe, and thereupon allege, that THE DIMASSAS and
20 the DIMASSA ENTITIES are liable for any breach of duty by their employees, agents, servants
21 and/or joint venturers under the legal theory of respondeat superior.

22 48. PLAINTIFFS are further informed and believe, and thereon allege, that DEFENDANTS'
23 careless, negligent, grossly negligent, reckless and unlawful conduct in regard to the events
24 surrounding the subject incident was the direct, legal and proximate cause of the fatal injuries
25 sustained by ROXIE.

26 49. PLAINTIFFS are further informed and believe, and thereupon allege, that at all times
27 mentioned herein, DEFENDANTS, and each of them, including DOES 1-50 and their employees,
28 agents, servants and/or joint venturers had a special relationship existing with ROXIE, as a paid

1 invitee, to take reasonable protective measures, especially with young campers, to ensure her safety
2 and otherwise protect her from reasonably foreseeable dangerous conduct and to warn her as to such
3 reasonably foreseeable dangerous conduct during camp activities, especially in and around the pool
4 area.

5 50. PLAINTIFFS are further informed and believe, and thereon allege, that the later
6 misconduct of DEFENDANTS, and each of them, including DOES 1-50 including any employees,
7 agents, servants and/or joint venturers, after ROXIE was taken out of the pool, caused further harm
8 to her.

9 51. PLAINTIFFS are informed and believe, and on that basis allege, SUMMERKIDS, INC.,
10 THE DIMASSAS and DIMASSA ENTITIES are liable for any breach of duty by their employees,
11 agents, servants and/or joint venturers under the legal theory of respondeat superior. PLAINTIFFS
12 are further informed and believe, and thereon allege, that DEFENDANTS, and each of them,
13 including DOES 1-50 were careless, negligent, grossly negligent, reckless and engaged in fraudulent,
14 unlawful conduct with respect to the events surrounding the subject incident which was the direct,
15 legal and proximate cause of the fatal injuries sustained by ROXIE.

16 52. PLAINTIFFS are informed and believe, and on that basis allege, Defendants ARC and
17 DOES 36-50, are liable for any breach of duty by their employees, agents, servants and/or joint
18 venturers, including but not limited to defendant CERVANTES and DOES, 21 – 35, under the legal
19 theory of respondeat superior. At all times herein, Defendant ARC required Defendant CERVANTES
20 to be an "Authorized Provider" and said Defendant ARC had entered into a "Licensed Training
21 Provider Agreement" hereinafter "LTPA" with Defendants SUMMERKIDS, INC. and THE
22 DIMASSAS and DIMASSA ENTITIES who were responsible for collecting on behalf of Defendant
23 ARC fees and other payments for training, and Defendant ARC was responsible for ensuring that said
24 Defendants' personnel received ARC water safety and lifeguarding certificates. Plaintiffs are further
25 informed and believe, and thereon allege, that DEFENDANTS ARC, CERVANTES, and DOES 21-
26 50, and each of them were careless, negligent, grossly negligent, reckless and engaged in fraudulent,
27 unlawful conduct with respect to the events surrounding the subject incident which was the direct,
28 legal and proximate cause of the fatal injuries sustained by ROXIE.

1 53. At all times herein, Defendants TREVOR BOREHAM, LSC and DOES 21-35, had an
2 affirmative duty to control, warn, and protect Roxie, the six-year-old child attending the Summerkids
3 camp, by providing the complete, correct American Heart Association (AHA) Heartsaver First Aid
4 CPR AED (automated external defibrillator) Course to the counselors and staff at Summerkids camp.
5 At all times defendant BOREHAM knew that young campers such as ROXIE attending Summerkids
6 camp were vulnerable to severe injuries at the camp which would require proper techniques and usage
7 of CPR and AED, particularly because the camp had a swimming pool. At all times BOREHAM,
8 LSC and DOES 21-35knew that he owed a duty to this limited number of children who were attending
9 the camp that summer to provide to their camp counselors the complete, correct Heartsaver First Aid
10 CPR AED Course. At all times herein, BOREHAM, LSC and DOES 21-35 knew that any counselor
11 to whom he was teaching the Heartsaver First Aid CPR AED Course at Summerkids Camp might be
12 called upon to perform lifesaving CPR or AED to a child drowning victim at the camp. This was
13 particularly true of training received by defendants JAIMI HARRISON and CARA DIMASSA,
14 Summerkids Camp administrators, to whom BOREHAM, LSC and DOES 21-35 provided training
15 in 2019 just before Roxie drowned at the camp. BOREHAM, LSC and DOES 21-35 provided
16 HARRISON only a three (3) to three and one half hours AHA Heartsaver Pediatric First Aid CPR
17 AED course. At all times herein, Defendant TREVOR BOREHAM knew that the AHA Heartsaver
18 Pediatric First-aid CPR AED Course takes seven (7) to nine (9) hours to complete. BOREHAM knew
19 that by providing only a three (3) to three and one half hours AHA Heartsaver Pediatric First Aid
20 CPR AED course to the camp counselors and administrators at Summerkids Camp, those camp
21 counselors and administrators would not be sufficiently trained in CPR and AED to actually save a
22 life of a child whose heart stopped, but BOREHAM, LSC and DOES 21-35 concealed those facts
23 from the Plaintiffs who would never have allowed ROXIE to attend Summerkids Camp had Plaintiffs
24 known those facts. In fact, as a result of the improper training provided to Defendant JAMIE
25 HARRISON by BOREHAM,LSC and DOES 21-35, HARRISON did not understand how to properly
26 use the AED machine which was a cause of ROXIE’s death. At all times herein, BOREHAM, LSC
27 and DOES 21-35 had superior control over the means of protecting ROXIE which was known only
28 to him. At all times herein, BOREHAM, LSC and DOES 20-35 could have provided the 7 to 9 hour

1 course over one day period. Instead, BOREHAM, LSC and DOES 21-35 wrongfully agreed with the
2 DIMASSAS to shorten the course from 7 to 9 hours to 3 to 3 and one half hours and not to provide
3 the proper AHA Heartsaver Pediatric First Aid CPR AED course to the Summerkids camp counselors
4 and administrators, which resulted in ROXIE's death. Moreover, said defendants BOREHAM, LSC
5 and DOES 21-35 are liable for any breach of duty by their employees, agents, servants and/or joint
6 venturers under the legal theory of respondeat superior. Plaintiffs are further informed and believe,
7 and thereon allege, that DEFENDANTS BOREHAM, LSC, and DOES 21-35, and each of them were
8 careless, negligent, grossly negligent, reckless and engaged in fraudulent, unlawful conduct with
9 respect to the events surrounding the subject incident which was the direct, legal and proximate cause
10 of the fatal injuries sustained by ROXIE.

11 54. As a result of the DEFENDANTS' negligence, gross negligence, ROXIE received
12 emergency medical care, and ultimately perished due to her fatal injuries. 54. As a result of ROXIE's
13 untimely death, PLAINTIFFS have suffered damages in excess of the jurisdictional minimum of this
14 Court, including loss of love, companionship, care, and affection.

15 55. Defendants' actions also constitute gross negligence, oppression, fraud, and/or malice as
16 defined in Civil Code Section 3294, and PLAINTIFFS should recover, in addition to actual damages,
17 exemplary and punitive damages to make an example of and to punish DEFENDANTS, in an amount
18 according to proof,

19 56. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to provide the
20 quality training needed to help defendant CERVANTES, SUMMERKIDS, INC., THE DIMASSAS
21 or one of the other DIMASSA ENTITIES and DOES 1-35 carry out Defendant CERVANTES',
22 SUMMERKIDS, INC.'s, THE DIMASSAS' or one of the other DIMASSA ENTITIES'
23 responsibilities to prepare for, conduct, report on and evaluate the ARC courses for water safety and
24 lifeguarding, including but not limited to the ARC water safety and ARC lifeguard programs provided
25 to Defendant Summerkids Camp, NATALIZIO, RAINEY, PORTER, CASTILLO and JOSEPH
26 DIMASSA. As a consequence of said failure, decedent Roxie Forbes drowned on June 28, 2019.

27 57. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to provide the
28 appropriate materials, including but not limited to written testing materials, supplies and equipment

1 needed by Defendant CERVANTES, SUMMERKIDS, INC., THE DIMASSAS or one of the other
2 DIMASSA ENTITIES and DOES 1-35 to meet the requirements of the ARC water safety and
3 lifeguarding courses, including providing written tests to prospective ARC water safety and lifeguard
4 applicants that Defendant CERVANTES, SUMMERKIDS, INC., THE DIMASSAS or one of the
5 other DIMASSA ENTITIES and DOES 21-35 taught to defendant Summerkids and its employees
6 and DOES 1-20. As a consequence of said failure, decedent Roxie Forbes drowned on June 28, 2019.

7 58. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to provide timely
8 course and instructor updates to Defendant CERVANTES, SUMMERKIDS, INC., THE DIMASSAS
9 or one of the other DIMASSA ENTITIES and DOES 1-35 regarding updates on safety skills required
10 by ARC lifeguards, including the lifeguards at Summerkids Camp, to safely perform their duties. As
11 a consequence of said failure, decedent Roxie Forbes drowned on June 28, 2019.

12 59. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to establish and
13 explain to Defendant CERVANTES, SUMMERKIDS, INC., THE DIMASSAS and/or one of the
14 other DIMASSA ENTITIES and DOES 1-35 all national and local policies, regulations, and
15 procedures that relate to Defendant ARC water safety and lifeguard instructors such as Defendant
16 CERVANTES', SUMMERKIDS, INC.'s, THE DIMASSAS' and/or one of the other DIMASSA
17 ENTITIES' and DOES 1-50 responsibilities, including but not limited to ARC certification
18 procedures and policies for lifeguards, water safety, and the ARC Code of Conduct. As a consequence
19 of said failure, decedent Roxie Forbes drowned on June 28, 2019.

20 60. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to provide
21 effective, timely support and guidance to its Water Safety and Lifeguard instructors, including but
22 not limited to Defendant CERVANTES, SUMMERKIDS, INC., THE DIMASSAS and/or one of the
23 other DIMASSA ENTITIES and DOES 1-35, regarding water safety and lifeguard instruction
24 provided to SUMMERKIDS, INC. and its employees. As a consequence of said failure, decedent
25 Roxie Forbes drowned on June 28, 2019.

26 61. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to evaluate
27 Defendant CERVANTES', SUMMERKIDS, INC.'s, THE DIMASSAS' and/or one of the other
28 DIMASSA ENTITIES' and DOES 1-35 teaching performance, including but not limited to Defendant

1 CERVANTES,' SUMMERKIDS, INC.'s, THE DIMASSAS' or one of the other DIMASSA
2 ENTITIES' and DOES 1-35 teaching performance of ARC Water Safety and Lifeguard skills to
3 defendant SUMMERKIDS, INC., RAINEY, JOSEPH DIMASSA, NATALIZIO, PORTER,
4 CASTILLO and DOES 1-20. As a consequence of said failure, decedent Roxie Forbes drowned on
5 June 28, 2019.

6 62. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to confirm and
7 ensure that its Water Safety and Lifeguard instructors, including but not limited to Defendant
8 CERVANTES, SUMMERKIDS, INC., THE DIMASSAS and/or one of the other DIMASSA
9 ENTITIES and DOES 1-35 followed all the current policies, regulations and procedures of the ARC,
10 including policies and procedures regarding written testing of applicants, related to the conduct and
11 administration of ARC courses, including those Water Safety and Lifeguarding courses that were
12 provided to employees of defendant SUMMERKIDS, INC. and DOES 1-20, including but not limited
13 to Defendants RAINEY, JOSEPH DIMASSA, NATALIZIO, CASTILLO and PORTER. As a
14 consequence of said failure, decedent Roxie Forbes drowned on June 28, 2019.

15 63. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to recognize that
16 Defendant CERVANTES and DOES 21-35 had not completed appropriate instructor training courses
17 as a prerequisite of authorization as an ARC Instructor and that CERVANTES and DOES 21-35 was
18 not authorized under Defendant ARC and DOES 36-50 rules and regulations which Defendant ARC
19 and DOES 36-50 failed to enforce. As a consequence of said failure, decedent Roxie Forbes drowned
20 on June 28, 2019.

21 64. At all times herein mentioned, Defendant ARC and DOES 36-50 failed to make certain
22 and ensure that all ARC Water Safety and Lifeguarding Course classes assigned to/and/or taught by
23 Defendant CERVANTES, SUMMERKIDS, INC., THE DIMASSAS and/or one of the other
24 DIMASSA ENTITIES and DOES 1-35, included the completion of required records in a timely and
25 accurate manner and provided appropriate, accurate and true ARC Course Certificates or other
26 recognition to participants, for which said Defendant ARC and DOES 36-50 were required to have
27 completed. As a consequence of said failure, decedent Roxie Forbes drowned on June 28, 2019.

28 65. At all times herein ARC and DOES 36-50 received payment from Defendant

1 SUMMERKIDS, INC., THE DIMASSAS and/or one of the other DIMASSA ENTITIES and DOES
2 1-20 through CERVANTES and DOES 1-35 regarding Certification of Defendant SUMMERKIDS,
3 INC.'s, THE DIMASSAS' and/or one of the other DIMASSA ENTITIES' lifeguards. Said ARC
4 lifeguard Certification fee was ultimately paid in part from the tuition that Plaintiffs paid to
5 SUMMERKIDS, INC., THE DIMASSAS and/or one of the other DIMASSA ENTITIES on behalf
6 of ROXIE to attend the Summerkids Camp.

7 66. At all times relevant defendants BOREHAM and LSC, had a duty to properly train
8 SUMMERKIDS, INC. employees in CPR, AED, and First Aid Safety training. Instead of receiving
9 the full training Plaintiffs are informed and believe, and thereon allege, Defendants SUMMERKIDS,
10 INC., THE DIMASSAS or one of the other DIMASSA ENTITIES requested a dangerously short
11 times Defendant BOREHAM and LSC and DOES 21-35 knew that this dangerously short training
12 session was severely insufficient and would almost certainly lead to a death or very serious permanent
13 injury if a drowning disaster occurred. As a result of the negligence and gross negligence of
14 BOREHAM and LSC, and DOES 21-35, regarding said training, Defendants BOREHAM and LSC
15 were responsible for Defendants SUMMERKIDS, INC. employees being unfit and incompetent
16 regarding CPR, AED, and First Aid, ultimately causing ROXIE's death.

17 67. This tragedy happened because SUMMERKIDS, THE DIMASSAS or one of the other
18 DIMASSA ENTITIES hired inadequately trained and incompetent personnel, failed to properly train
19 and supervise camp personnel, and otherwise failed to adequately provide a safe environment for
20 children at the Summerkids Camp. PLAINTIFFS are informed and believe and onthat basis allege,
21 that the deficiencies were known to DEFENDANTS, and each of them, including DOES 1-50 and
22 included, but were not limited to,

23 68. With respect to SUMMERKIDS, MARIA DIMASSA, JOSEPH DIMASSA, CARA
24 DIMASSA, GIANCARLO DIMASSA, THE ENOTECA, LLC and ANDREW CERVANTES

25 69. MARIA DIMASSA, JOSEPH DIMASSA, CARA DIMASSA and GIANCARLO
26 DIMASSA were at all times relevant herein, the owners and officers of SUMMERKIDS Camp, and
27 were responsible for the hiring and firing of staff, training of staff, oversight of training by others,
28 and general operations of Summerkids Camp. MARIA DIMASSA, JOSEPH DIMASSA, CARA

1 DIMASSA and GIANCARLO DIMASSA were at all times relevant herein, the owners and officers
2 of THE ENOTECA, LLC, which owns the land on which SUMMERKIDS camp is operated.

3 70. The DIMASSAS offered recreational programs for children Monday through Friday
4 during daytime hours on their 57-acre property in Altadena, advertised as a “safe and secure location
5 that includes beautiful meadows, a stream, lodge, cabins, pool, garden, sports fields, playgrounds,
6 kitchen and more.” Parents dropped children off in the morning and relied upon the DIMASSAs and
7 all Summerkids’ staff to keep their children safe.

8 71. The DIMASSAS offered swimming at the pool on the SUMMERKIDS property as part
9 of their summer program. The DIMASSAs welcomed non-swimmers to participate in swimming
10 activities at Summerkids, with the advertised goal of making children who are not proficient in
11 swimming “water-safe.”

12 72. According to the CDC and CPSC, drowning is the 2nd leading cause of death among
13 children 1-4, the leading cause of unintentional injury death for that same age group and the 3rd for
14 children 5-14. Approximately 8,000 children require hospital care each year due to nonfatal
15 submersions. The CPSC recently reported childhood drowning is on the rise and, California ranks
16 3rd in the nation for most fatal and nonfatal submersions.

17 73. Drowning is preventable, which is why it is imperative for camps like SUMMERKIDS to
18 afford safe and healthy environments, pay attention to kids in the water and have exceptional staff
19 training.

20 74. It is imperative for childcare providers that offer swim activities, like SUMMERKIDS, to
21 have proper safety policies and training for their staff. Constant, active supervision is essential to
22 prevent drownings, as stated by the American Red Cross, the American Academy of Pediatrics, the
23 Center for Disease Control, and numerous other authorities. According to the American Camp
24 Association, the majority of drowning incidents at summer camps are directly related to lack of
25 supervision. Prevention is (or should be) 98 percent of lifeguards’ roles.

26 75. SUMMERKIDS staff, at the direction of MARIA DIMASSA, JOSEPH DIMASSA,
27 CARA DIMASSA and GIANCARLO DIMASSA, failed to administer sufficient swim tests to
28 ascertain swimming skill levels of children. This wanton disregard for essential components of

1 drowning prevention resulted in the death of a child in their care, ROXIE MIRABELLE FORBES.

2 76. CARA DIMASSA and JOSEPH DIMASSA, acting as officers and directors of
3 SUMMERKIDS, hired ANDREW CERVANTES to train counselors who were hired by
4 SUMMERKIDS and the DIMASSAS to be lifeguards at SUMMERKIDS camp. PLAINTIFFS are
5 informed and believe CARA DIMASSA and JOSEPH DIMASSA coordinated and managed the
6 lifeguard and CPR training process for SUMMERKIDS' staff with input from MARIA DIMASSA
7 and GIANCARLO DIMASSA. All training conducted at SUMMERKIDS was done with the
8 oversight of THE DIMASSAS as officers and directors of SUMMERKIDS.

9 77. Throughout their many-year relationship, MARIA DIMASSA, JOSEPH DIMASSA,
10 CARA DIMASSA and GIANCARLO DIMASSA hired ANDREW CERVANTES to train, test and
11 certify SUMMERKIDS' staff counselors in lifeguarding, water safety instruction, first aid, CPR and
12 use of the automated external defibrillator ("AED"). This included the counselors who were
13 purportedly in the pool when ROXIE drowned. SUMMERKIDS' staff trained by ANDREW
14 CERVANTES were employed by SUMMERKIDS and the DIMASSAS to act as "lifeguards" and
15 "water safety instructors" to care for children as young as 3 years old who did not know how to swim.

16 78. Under the direct supervision of CARA and JOSEPH DIMASSA, CERVANTES did not
17 properly train or test SUMMERKIDS staff and failed to comply with the American Red Cross
18 procedures. From approximately 2011-2014, the training carried out by CERVANTES was
19 administered at the home of JOSEPH DIMASSA and MARIA DIMASSA using their swimming pool
20 on Knollwood Drive. At the time they did this, THE DIMASSAS and CERVANTES knew or should
21 have known that residential pools are not approved locations for American Red Cross certification.
22 The American Red Cross apparently approved SUMMERKIDS' pool facility (licensed by the Los
23 Angeles County Health Department under the name of Angelus Mountain Center) as a training and
24 testing site in 2015; CERVANTES then administered all training and testing at SUMMERKIDS'
25 facility from 2015-2019.

26 79. PLAINTIFFS are informed and believe THE DIMASSAS never checked or verified the
27 credentials of CERVANTES before they hired him to train counselors in the essential safety practices
28 of First Aid, CPR and AED use, as well lifeguarding and water safety instruction. The DIMASSA

1 defendants never confirmed if ANDREW CERVANTES held valid certifications from the American
2 Red Cross to train and certify individuals in First Aid, CPR, AED use, lifeguarding or water safety
3 instruction. The DIMASSA defendants never performed a background check on ANDREW
4 CERVANTES or confirmed if ANDREW CERVANTES knew how to swim. Yet, the DIMASSA
5 defendants and SUMMERKIDS retained ANDREW CERVANTES year after year to purportedly
6 train their staff, who would be responsible for caring for up to 900 children three to fifteen years of
7 age in high risk activities.

8 80. PLAINTIFFS are informed and believe and on that basis allege that at the time
9 CERVANTES was hired by CARA DIMASSA and JOSEPH DIMASSA, CERVANTES himself did
10 not meet all prerequisites for certification through the American Red Cross, and as a result,
11 CERVANTES' certifications have now been revoked.

12 81. CARA DIMASSA and JOSEPH DIMASSA directed CERVANTES to conduct training
13 for CPR, First Aid, AED use, lifeguarding and water safety instruction for Summerkids' employees
14 after such employees had already been hired by the DIMASSA defendants. THE DIMASSA
15 Defendants and Summerkids directed ANDREW CERVANTES to conduct and complete essential
16 life saving training skill on one weekend afternoon immediately prior to welcoming hundreds of
17 children to Summerkids.

18 82. American Red Cross lifeguard and water safety instructor certifications each require
19 multiple days, if not weeks, of in-pool and classroom-based training. Successful testing in pool is a
20 grueling multi-faceted exercise. In-class testing requires an 80 percent or better score. ANDREW
21 CERVANTES admitted that, under the direct supervision of CARA and JOSEPH DIMASSA, he
22 invested a mere fraction of requisite time, administered deeply flawed training and never provided
23 testing, nor did CARA and JOSEPH DIMASSA demand that he do so. xv. The DIMASSA
24 Defendants and SUMMERKIDS paid ANDREW CERVANTES for certifications in CPR, AED,
25 First Aid, Lifeguarding and Water Safety Instruction issued to Summerkids' employees. However, if
26 a Summerkids' employee obtained certification in CPR, AED, First Aid, Lifeguarding and Water
27 Safety Instruction independently from a source other than ANDREW CERVANTES, the DIMASSA
28 Defendants and SUMMERKIDS would NOT reimburse the employee for such certification.

1 83. CERVANTES issued lifeguard and water safety instruction certificates to
2 SUMMERKIDS staff members without requiring that they complete the mandatory Red Cross course
3 material(s), and without testing their water skill(s) or swimming abilities. During the time that
4 CERVANTES certified counselors as lifeguards and water safety instructors at SUMMERKIDS
5 under the direction of the DIMASSA defendants, he never failed a single counselor who attended his
6 single day training.

7 84. PLAINTIFFS are informed and believe and, on that basis, allege that the “lifeguard
8 training” provided by SUMMERKIDS, CARA DIMASSA, JOSEPH DIMASSA, and CERVANTES
9 was deficient for the reasons discussed below.

10 85. CARA DIMASSA and JOSEPH DIMASSA hired counselors who were to become
11 lifeguards and water safety instructors at SUMMERKIDS Camp without making an inquiry into or
12 evaluating their swim skills. Though a prerequisite, CERVANTES did not administer a swimming
13 skills test to SUMMERKIDS counselors, including RAINEY, PORTER and NATALIZIO. The
14 DIMASSA Defendants and SUMMERKIDS employed individuals to serve as lifeguards and water
15 safety instructors for young children without ascertaining if their employees knew how to swim.

16 86. At the direction of CARA DIMASSA and JOSEPH DIMASSA, counselors who were
17 hired to become lifeguards at SUMMERKIDS Camp did not complete the number of hours required
18 for the full lifeguarding course (in person 25 hours, 20 minutes or blended 19.5 hours in person, 7.5
19 hours online), but instead, only attended one day of training with CERVANTES.

20 87. The DIMASSA Defendants and SUMMERKIDS never inquired with ANDREW
21 CERVANTES as to the counselors’ swimming abilities or competency to act as lifeguards or water
22 safety instructors.

23 88. Counselors who were employed by CARA DIMASSA and JOSEPH DIMASSA to staff
24 the pool as lifeguards at SUMMERKIDS Camp were never administered the CPR or first aid skills
25 tests, or the written lifeguard test. This included the “lifeguards” reportedly at the pool at the time of
26 ROXIE’s drowning: PORTER, RAINEY and NATALIZIO.

27 89. At the direction of CARA and JOSEPH DIMASSA, counselors who were hired to become
28 water safety instructors to 3, 4 and 5 year old children at Summerkids did not complete the number

1 of hours required for the full water safety instruction course (approximately 25 hours), but instead,
2 only attended a very short training session with ANDREW CERVANTES commencing in the late
3 afternoon, approximately 4:00 pm.

4 90. Counselors who were hired to become lifeguards and water safety instructors at
5 SUMMERKIDS Camp were certified despite not meeting the prerequisites for becoming lifeguards
6 and placed in positions where those counselor/lifeguards were responsible for hundreds of young
7 children from catastrophic injury.

8 91. PLAINTIFFS are informed and believe CARA DIMASSA, MARIA DIMASSA and
9 JOSEPH DIMASSA, as officers and directors of SUMMERKIDS, scheduled the SUMMERKIDS
10 counselor lifeguards to work in the pool area each period of camp. In doing so, CARA DIMASSA,
11 MARIA DIMASSA, GIANCARLO DIMASSA and JOSEPH DIMASSA willfully failed to put the
12 lifeguards in teams that trained together, as recommended by the American Red Cross. CARA
13 DIMASSA, MARIA DIMASSA and JOSEPH DIMASSA also failed to implement any sort of
14 lifeguard rotation system for the lifeguards on duty at the SUMMERKIDS pool, despite guidelines
15 from the American Red Cross instructing that to stay alert lifeguards should have periodic rotations
16 and breaks from surveillance.

17 92. PLAINTIFFS are informed and believe MARIA DIMASSA, JOSEPH DIMASSA, CARA
18 DIMASSA and GIANCARLO DIMASSA, as officers and directors of SUMMERKIDS, willfully
19 failed to enforce the guidelines of the American Red Cross with the counselors they purported to have
20 “trained” to be lifeguards at their facility. This lack of enforcement is evidenced first and foremost
21 by the fact that the lifeguards failed to pay attention to kids in the water, and further by the fact that
22 NATALIZIO got down from the lifeguard station and turned his back on the pool in the minutes
23 before ROXIE’s drowning without having someone else take his place in the lifeguard station to
24 supervise the children in the pool. It is also evidenced by the fact that counselor Natalie del Castillo
25 was tossing dive sticks into the deep end for children to retrieve rather than performing surveillance
26 duties in the minutes before ROXIE was floating. When ROXIE was spotted, lifeless in the
27 SUMMERKIDS’ POOL, she was only about five (5) feet away from where Natalie del Castillo had
28 been standing.

1 93. CARA DIMASSA, JOSEPH DIMASSA and their staff falsely represented to parents
2 interested in SUMMERKIDS Camp that SUMMERKIDS employed lifeguards who were certified
3 by the American Red Cross while knowing that those “lifeguards” did not meet the certification
4 requirements of the American Red Cross. Plaintiffs relied upon the representation made by the
5 DIMASSA Defendants and SUMMERKIDS, and expected that Roxie would be cared for by properly
6 certified lifeguards and supervised in accordance with well acceptable American Red Cross
7 guidelines.

8 94. According to the American Red Cross instruction manual provided to SUMMERKIDS
9 staff members, lifeguards should always carry a rescue tube, hip-packs containing disposable gloves
10 and resuscitation masks, and a whistle. PLAINTIFFS are informed and believe that the lifeguards at
11 SUMMERKIDS did not carry a hip-pack with such items at any time in 2019. SUMMERKIDS staff
12 who attempted to perform CPR on Roxie after her drowning did not wear gloves or use a resuscitation
13 mask.

14 95. The American Red Cross advises that young children and weak swimmers should wear
15 U.S. Coast Guard approved life jackets anytime they are near water. SUMMERKIDS and the
16 DIMASSA Defendants did not provide non-swimmers, including ROXIE with U.S. Coast Guard
17 approved life jackets. As a non-swimmer, Roxie was designated by SUMMERKIDS staff to the
18 “steps area” and was to be monitored by counselors/lifeguards to ensure she did not go beyond the
19 area immediate surrounding the steps in the pool.

20 96. At all times relevant herein, THE DIMASSAS and the DIMASSA ENTITIES represented
21 on their website that GIANCARLO DIMASSA M.D., [**MEDICAL CORPORATION**] an
22 emergency medicine physician, was a staff member of Summerkids Camp, who oversaw health and
23 safety at the camp. At all relevant times herein, SUMMERKID’s website stated that GIANCARLO
24 DIMASSA rearranges his ER shifts so that he can be at camp and campfire on a regular basis.
25 PLAINTIFFS are informed and believe that GIANCARLO DIMASSA did not participate in camp
26 activities in 2019, and did not regularly attend meetings with staff or counselors. Plaintiffs are further
27 informed and believe and, on that basis, allege, that GIANCARLO DIMASSA did not participate in
28 the CPR training provided to the lifeguards or in their general training program in the summers of

1 2018 or 2019. xxiv. On the day of ROXIE’s drowning, CARA DIMASSA was situated in the
2 SUMMERKIDS camp office with HARRISON when they received a call over the radio that there
3 was an emergency situation at the pool. DEFENDANTS provided investigators with an estimate of
4 0935 as the time that ROXIE was spotted floating face down in the pool. When CARA DIMASSA
5 and HARRISON received the call that NATALIZIO was dialing 911 and starting CPR, HARRISON
6 ran to the pool area while CARA DIMASSA stayed in the office, called her parents JOSEPH
7 DIMASSA and MARIA DIMASSA and printed paperwork. HARRISON had someone on the scene
8 inform CARA DIMASSA via radio that ROXIE was receiving CPR, so that CARA DIMASSA could
9 call ROXIE’s parents, as was general camp practice. However, CARA DIMASSA refused to call
10 ROXIE’s parents or make any efforts to notify PLAINTIFFS of the emergency until JAIME
11 HARRISON did so at 0952, at least 13 minutes after ROXIE had been found lifeless in the
12 SUMMERKIDS pool.

13 97. Basic water safety and lifeguard training emphasizes continuous and active supervision
14 of children in the pool. SUMMERKIDS’ staff including Defendants HANK RAINEY, FAITH
15 PORTER and JOSEPH NATALZIO willfully failed at the most basic of water safety skills. They
16 were not paying attention to the children in the pool. None of the SUMMERKIDS employees at the
17 pool noticed that Roxie was in peril. Rather, a SUMMERKIDS employee outside of the pool area,
18 Robert Antonucci, spotted Roxie floating lifeless in the pool, who then alerted the Summerkids
19 employees at the pool area. Roxie was floating in 4 feet of water, 12-15 feet away from the “steps
20 area.” None of the SUMMERKIDS’ staff noticed Roxie had floated away from the steps area.

21 98. After ROXIE was finally noticed floating “dead-man” in the pool, she was removed from
22 the pool by HANK RAINEY, who lifted ROXIE vertically from under her armpits without securing
23 her head or neck, which may have resulted in further harm to ROXIE. When HANK RAINEY
24 removed ROXIE from the pool, it became apparent that she was unresponsive, pulseless.

25 99. The staff at SUMMERKIDS including RAINEY and HARRISON failed to properly clear
26 ROXIE’s airway from copious amounts of vomit. Natalie del Castillo held Roxie’s head in a manner
27 that may have caused Roxie further harm. SUMMERKIDS staff improperly administered CPR and
28 the AED, which may have exacerbated Roxie’s perilous condition

1 100. PLAINTIFFS are informed and believe that the CPR administered on ROXIE on the date
2 of ROXIE’S preventable drowning was performed inadequately, and had GIANCARLO DIMASSA
3 been on site (as PLAINTIFFS were led to believe he would be) ROXIE may have been properly cared
4 for and might be alive today.

5 101. After ROXIE’s preventable drowning, the ambulance arrived and transported her to the
6 hospital. No SUMMERKIDS staff members rode with ROXIE in the ambulance to the hospital.

7 102. PLAINTIFFS are informed and believe CARA DIMASSA, JOSEPH DIMASSA and
8 MARIA DIMASSA rode to the hospital together. On their arrival at Huntington Hospital, CARA
9 DIMASSA entered the trauma room just after ROXIE’s heartbeat had been re-established, without
10 the permission of PLAINTIFFS, and had to be escorted out by staff of Huntington Hospital. CARA
11 DIMASSA and JAIMI HARRISON admitted in the past they have rode with children who were
12 injured at Summerkids and required medical attention at the hospital. A few weeks after Roxie was
13 killed at Summerkids, CARA DIMASSA accompanied a child during ambulance transport to the
14 hospital who suffered a compound fracture at Summerkids.

15 103. CARA DIMASSA made no effort to enact the SUMMERKIDS emergency action plan
16 at any time between learning of ROXIE’s drowning over the radio and leaving for the hospital. CARA
17 DIMASSA described the scene at the pool after ROXIE drowned as “shocking.” LA County
18 Firefighter Paramedic Weston and LA County Sheriff’s Deputy Cano both reported that when they
19 arrived at SUMMERKIDS they observed a chaotic scene, and children who had been in the pool with
20 ROXIE were still in the pool area as CPR was being performed on ROXIE. Deputy Cano believed
21 the chaotic scene at SUMMERKIDS created a dangerous environment for children, and therefore
22 filed a SCAR Report (Suspected Child Abuse Reporting System) with Department of Children and
23 Family Services (“DCFS”) for suspected severe neglect.

24 104. GIANCARLO DIMASSA [**CORPORATION ISSUE**] was not present at Summerkids
25 on the day of Roxie’s drowning. Although he was the primary medical representative at Summerkids
26 and served as a liaison to JAIMI HARRISON, he chose to take a vacation to Hawaii during the first
27 2 weeks of Summerkids’ summer session.

28 ///

1 105. When Firefighter Paramedic Weston arrived at the scene, he was told that there had been
2 two (2) lifeguards in the pool area when ROXIE drowned, and Deputy Cano was told that there had
3 been three (3) lifeguards present on the date of ROXIE’S preventable drowning. Deputy Duarte
4 blocked the intersections for ROXIE’s transport to Huntington Memorial and later interviewed the
5 counselors who were reportedly on-duty and present when ROXIE drowned. Deputy Duarte did not
6 interview PORTER. The whereabouts of PORTER were unknown.

7 106. After ROXIE’s death on June 29, 2019, CARA DIMASSA and JOSEPH DIMASSA met
8 with each of the SUMMERKIDS counselors and staff members purportedly involved in ROXIE’s
9 drowning in JOSEPH DIMASSA’S office; reports of PORTER being on duty as a lifeguard suddenly
10 started to surface only after this meeting.

11 107. On July 2, 2019 Detectives Lawler and Blagg visited SUMMERKIDS to interview staff
12 who had been involved in ROXIE’s drowning; once again PORTER was not interviewed or made
13 available for interview.

14 108. Each of these acts and all of the conduct, actions and inactions taken as set forth in
15 **[paragraphs 66-107]** was done at the direction of, with the approval of, or ratified by THE
16 DIMASSAS, as owners, officers and directors of SUMMERKIDS, and owners and officers of THE
17 ENOTECA, LLC.

18 109. PLAINTIFFS are informed and believe and on that basis allege that THE DIMASSAS
19 and Does 1-50 are collectively also the owners, officers and directors of all other entity defendants
20 and Does 1-50 in this action, as well as the alter egos of those other entity defendants as plead at
21 Paragraphs 67-77 of this Third Amended Complaint, and that the actions taken by THE DIMASSAS
22 and Does 1-50 were conducted and performed in their roles as officers and directors of those entity
23 defendants and ratified by those entity defendants, including but not limited to SUMMERKIDS,
24 INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC,
25 DOSSET DIMASSA M.D., INC., JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES
26 OF THE DIMASSA FAMILY TRUST and THE DIMASSA FAMILY FOUNDATION, a 501(c)(3)
27 corporation, and all DOES 1-50.

28 ///

1 110. With respect to JAIMI HARRISON, HARRISON was, at all times relevant herein, the
2 Assistant Director of SUMMERKIDS.

3 111. Plaintiff ELENA MATYAS expressed concerns to HARRISON regarding ROXIE's
4 "non-swimmer" status prior to ROXIE'S drowning. HARRISON assured ELENA MATYAS that she
5 would personally speak with all counselors to ensure they were aware of ROXIE's status as a "non-
6 swimmer." PLAINTIFFS are informed and believe that HARRISON may not have alerted all
7 SUMMERKIDS counselors of ROXIE's "non-swimmer" status.

8 112. As the Assistant Director, HARRISON played a role in the interviewing and hiring
9 process at SUMMERKIDS. She was responsible for the screening process and initial questioning of
10 the interviewees. She participated in the interview process for RAINEY.

11 113. As the Assistant Director, HARRISON managed the junior counselor program, part of
12 the counselor training for SUMMERKIDS, and all medical responsibilities related to children at
13 SUMMERKIDS camp. Children turned to HARRISON if they were injured, and she was responsible
14 for communicating with GIANCARLO DIMASSA regarding any medical issues that arose at camp.
15 PLAINTIFFS are informed and believe HARRISON was hired for this management role by THE
16 DIMASSAS despite the fact that HARRISON had no formal medical training.

17 114. As the Assistant Director, HARRISON's responsibilities also included monitoring the
18 SUMMERKIDS' pool log, updating children' swim capabilities, and ensuring lifeguards had
19 adequate first aid supplies by the pool. On the date of the incident, the lifeguards did not even have
20 basic CPR supplies such as a CPR shield to use in administering CPR to ROXIE. HARRISON failed
21 to provide adequate first aid supplies (e.g. CPR suction device, AED) or make them readily, easily,
22 and quickly accessible by the pool, a foreseeable location necessitating CPR at SUMMERKIDS.

23 115. HARRISON'S actions and conduct were authorized and directed by THE DIMASSAS.

24 116. HARRISON was present at the camp on the date of ROXIE'S preventable drowning.
25 Several minutes after ROXIE was pulled out of the water by HANK RAINEY, HARRISON arrived
26 and took over the CPR effort. PLAINTIFFS are informed and believe HARRISON was unfamiliar
27 with the process of providing rescue breaths; though time was of the essence, HARRISON stopped
28 to question the counselor lifeguards on their approach before taking over and performing CPR on

1 ROXIE. HARRISON inadequately performed CPR on ROXIE. JAIMI HARRISON then placed adult
2 (rather than pediatric) AED pads on ROXIE and failed to remove ROXIE's wet bathing suit before
3 applying the adult AED pads. PLAINTIFFS are informed and believe HARRISON was responsible
4 for overseeing and implementing CPR on ROXIE.

5 117. According to the American Red Cross and American Heart Saver CPR manuals
6 apparently studied by SUMMERKIDS staff members, including HARRISON, it is critical to ensure
7 that there are no puddles of water around the rescuer, victim, or equipment and further critical to
8 remove the victim's wet clothing. When the AED indicated a shock was not advisable, JAIMI
9 HARRISON believed this to be a positive sign, not understanding that Roxie had no heartbeat. JAIMI
10 HARRISON, who was employed by SUMMERKIDS and the DIMASSA Defendants to manage
11 medical emergencies for hundreds of children, was improperly trained in CPR and AED.
12 HARRISON's erroneous implementation of CPR and AED on ROXIE had fatal consequences.

13 118. HARRISON participated in a three (3) to three and one half hours AHA Heartsaver
14 Pediatric First Aid CPR AED course provided by SUMMERKIDS and taught at SUMMERKIDS by
15 defendant TREVOR BOREHAM. HARRISON, as someone who underwent first aid training several
16 times over many years, knew or should have known that the AHA Heartsaver Pediatric course takes
17 seven (7) to nine (9) hours to complete. HARRISON had not completed the 7 to 9 hour AHA
18 Heartsaver Pediatric First Aid CPR AED course prior to administering the AED or CPR for ROXIE.
19 As a consequence, defendant HARRISON improperly administered CPR and AED to ROXIE and
20 was ultimately a cause of Roxie's death.

21 119. With respect to DANIEL H. RAINEY, RAINEY received his lifeguarding certificate
22 from CERVANTES. Plaintiffs are informed and believe that SUMMERKIDS and CERVANTES
23 provided RAINEY with the American Red Cross manual. RAINEY understood that according to the
24 American Red Cross manual, he needed close to 30-hours of training to become an American Red
25 Cross certified lifeguard, yet he only participated in one day of training which was completed after
26 about eight hours.

27 120. HANK RAINEY was also employed by SUMMERKIDS and trained by ANDREW
28 CERVATES as a water safety instructor. According to the American Red Cross manual which

1 RAINEY apparently studied, he needed approximately 25 hours of training to become an American
2 Red Cross certified water safety instructor. However, RAINEY only participated in a few hours of
3 training led by ANDREW CERVANTES on June 10, 2019. Furthermore, HANK RAINEY’S water
4 safety instructor certification indicates that HANK RAINEY completed his certification on May 20,
5 2019 at the Rosemead Aquatics Center. HANK RAINEY admitted that he never attended any training
6 at the Rosemead Aquatic Center.

7 121. RAINEY’S job as a lifeguard was to prevent drownings, help children stay safe in the
8 water and make sure they stayed in their respective zones (steps, shallow end or whole pool). Because
9 ROXIE was in RAINEY’s “buddy group” at SUMMERKIDS, RAINEY knew that ROXIE was tested
10 at SUMMERKIDS for her swimming abilities and marked as a “steps swimmer;” this meant that
11 ROXIE had to stay around the steps of the pool behind the pool’s three-foot mark. RAINEY also
12 understood that ROXIE was not water safe, and not capable of swimming in the shallow end.

13 122. SUMMERKIDS maintained a “star rating system” wherein each camper was rated on a
14 scale of one to three stars; children with three stars required a substantial amount of attention and
15 assistance. Because ROXIE was in RAINEY’s “buddy group” at SUMMERKIDS, RAINEY knew
16 that ROXIE had three stars by her name and understood that meant ROXIE required extra
17 consideration.

18 123. On the date of ROXIE’s preventable drowning, RAINEY was present as an on-duty
19 lifeguard assigned to oversee the shallow end of the pool from inside of the water. His duties included
20 supervising the children, frequently scanning the pool, eliminating hazardous situations, recognizing
21 and responding to emergency situations, and essentially making sure children in the pool were safe.

22 124. On the date of ROXIE’s preventable drowning, RAINEY was responsible for paying
23 attention to and watching children in the pool, including ROXIE. On the date of ROXIE’s preventable
24 drowning, prior to her drowning, RAINEY saw ROXIE jumping into the pool in between the two
25 sets of steps, picked her up and moved her to the steps to his left, turned his back on ROXIE and
26 diverted his attention to another child without ensuring that other lifeguards were paying attention to
27 ROXIE who he knew was not water safe and had three stars by her name, requiring extra attention.
28 RAINEY did this with a blatant disregard for the health and safety of ROXIE. vii. According to the

1 American Red Cross instructing manual provided to SUMMERKIDS staff members, including
2 RAINEY, lifeguards should always carry a rescue tube, hip-packs containing disposable gloves and
3 resuscitation masks, and a whistle. RAINEY was not carrying such items on the date of the drowning,
4 nor did he have such items handy to use when he commenced CPR on ROXIE.

5 125. PLAINTIFFS are informed and believe that on the date of ROXIE'S preventable
6 drowning, when he pulled ROXIE from the pool, RAINEY began administering chest compressions,
7 without first administering rescue breaths. After RAINEY performed rescue breathing on Roxie, her
8 stomach became distended. As a result of his improper training and willful disregard of appropriate
9 American Red Cross training safety protocol, HANK RAINEY inadequately performed CPR on
10 ROXIE. His erroneous rescue efforts may have caused ROXIE additional harm.

11 126. One cause of Roxie's death was that RAINEY improperly performed CPR on ROXIE
12 as a result of his inadequate training in CPR which was intentionally caused by The DIMASSAS,
13 SUMMERKIDS, INC. CERVANTES and BOREHAM giving RAINEY that intentionally
14 inadequate training.

15 127. With respect to JOSEPH NATALIZIO, NATALIZIO was a manager at SUMMERKIDS
16 and served as both the head lifeguard and lead counselor at SUMMERKIDS in 2019. He led part of
17 the SUMMERKIDS counselor training in 2019, worked with CARA DIMASSA on the schedule for
18 counselors, conducted reviews of counselors and oversaw the swim test program for children
19 participating in open swim. NATALIZIO was the most senior staff member and lifeguard in the pool
20 area at the time of ROXIE'S preventable drowning.

21 128. NATALIZIO was also employed by SUMMERKIDS and trained by ANDREW
22 CERVANTES as a water safety instructor. According to the American Red Cross manual which
23 NATALIZIO apparently studied, he needed approximately 25 hours of training to become an
24 American Red Cross certified water safety instructor. However, NATALIZIO only participated in a
25 few hours of training led by ANDREW CERVANTES on June 10, 2019. Furthermore,
26 NATALIZIO'S water safety instructor certification indicates that he completed his certification on
27 May 20, 2019 at the Rosemead Aquatics Center, rather than the SUMMERKIDS pool where
28 ANDREW CERVANTES conducted the training course.

1 129. According to the American Red Cross instruction manual provided to SUMMERKIDS
2 staff members, including NATALIZIO lifeguards should always carry a rescue tube, hip-packs
3 containing disposable gloves and resuscitation masks, and a whistle. PLAINTIFFS are informed and
4 believe that the lifeguards at SUMMERKIDS, including NATALIZIO, did not carry a hip-pack with
5 such items at any time in 2019.

6 130. On the date of ROXIE'S drowning, NATALIZIO was on-duty as a lifeguard stationed
7 at the tower in the lifeguard chair. NATALIZIO willfully got down from the chair and turned his
8 back on the children in the pool. NATALIZIO's recklessness and disregard for his duties as a
9 lifeguard and his failure to pay attention to the kids in the pool led to ROXIE's death. v. PLAINTIFFS
10 are informed and believe that NATALIZIO got down from the lifeguard chair and turned his back on
11 the pool, purportedly to help a child with a bee-sting. The American Red Cross directs that lifeguards
12 should always remain posted in the lifeguard chair, unless the lifeguard is conducting a rescue.
13 PLAINTIFFS are informed and believe that NATALIZIO acted recklessly and with a blatant
14 disregard for ROXIE's life and the lives of other children by getting down from the lifeguard chair
15 and diverting his attention away from the children in the pool, to assist a child when another counselor
16 was capable of handling the bee-sting. PLAINTIFFS are informed and believe that another counselor,
17 Dillon Benacerraf-Gadja, was also assisting the child with a bee-sting.

18 131. With respect to FAITH PORTER, PORTER received her lifeguarding certificate from
19 CERVANTES. PLAINTIFFS are informed and believe that SUMMERKIDS and CERVANTES
20 provided PORTER with the American Red Cross manual, and therefore she should have known that
21 she needed close to 30-hours of training to become an American Red Cross certified lifeguard; she
22 also should have been aware of the required prerequisites. However, she only participated in a total
23 of about eight hours of training prior to receiving her certificate and did not complete each required
24 prerequisite (i.e. written exam). FAITH PORTER willfully represented herself as a certified
25 American Red Cross lifeguard without ever completing requisite training or testing.

26 132. According to the American Red Cross instruction manual provided to SUMMERKIDS
27 staff members, including PORTER lifeguards should always carry a rescue tube, hip-packs
28 containing disposable gloves and resuscitation masks, and a whistle. PLAINTIFFS are informed and

1 believe that the lifeguards at SUMMERKIDS, including PORTER, did not carry a hippack with such
2 items at any time in 2019.

3 133. On the date of ROXIE’S preventable drowning, PORTER was present as a counselor
4 and on-duty lifeguard assigned to pay attention to kids in the pool, in particular to oversee the shallow
5 end of the pool. PORTER’s job at the time of ROXIE’s drowning was to conduct surveillance over
6 the shallow end, educate and inform children about rules, enforce safety rules and make assists where
7 necessary.

8 134. PLAINTIFFS are informed and believe that PORTER was aware that ROXIE was
9 classified as a “step swimmer.” PLAINTIFFS are informed and believe that PORTER was standing
10 nearby ROXIE immediately prior to her drowning and failed to notice and timely assist ROXIE.
11 Despite the fact that the SUMMERKIDS pool is quite small (25’x50’), PORTER failed to notice
12 ROXIE was in peril and had floated away from the steps area. FAITH PORTER also failed to spot
13 ROXIE floating lifeless in the pool at the time of her drowning. PORTER wantonly failed to exercise
14 the most basic water safety practice of constant supervision of children in the pool. FAITH
15 PORTER’S willful disregard for American Red Cross lifeguarding practices resulted in ROXIE’s
16 death.

17 **ALTER EGO ALLEGATIONS**

18 PIERCING THE CORPORATE VEIL AGAINST SUMMERKIDS, INC., ANGELUS
19 MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC, DOSSET DIMASSA
20 M.D., INC., JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES OF THE DIMASSA
21 FAMILY TRUST, and THE DIMASSA FAMILY FOUNDATION and DOES1-50

22 135. PLAINTIFFS hereby re-allege and incorporate by reference each and every allegation
23 and statement contained in the prior paragraphs.

24 136. PLAINTIFFS are informed and believe, and on that basis allege, that MARIA
25 DIMASSA, JOSEPH DIMASSA, CARA DIMASSA, and GIANCARLO DIMASSA, M.D., and
26 Does 1-50 on the one hand and SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE
27 ENOTECA, LLC, SEMPRE AVANTI, LLC, DOSSET DIMASSA M.D., INC., JOSEPH DIMASSA
28 AND MARIA DIMASSA AS TRUSTEES OF THE DIMASSA FAMILY TRUST, and THE

1 DIMASSA FAMILY FOUNDATION and DOES1-50 have operated as alter egos of one another.

2 137. There exists, and at all times herein mentioned there existed, a unity of interest and
3 ownership between Defendants MARIA DIMASSA, JOSEPH DIMASSA, CARA DIMASSA, and
4 GIANCARLO DIMASSA, M.D., and SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER,
5 THE ENOTECA, LLC, SEMPRE AVANTI, LLC, DOSSET DIMASSA M.D., INC., JOSEPH
6 DIMASSA AND MARIA DIMASSA AS TRUSTEES OF THE DIMASSA FAMILY TRUST and
7 THE DIMASSA FAMILY FOUNDATION entities and Does 1-50, such that any individuality and
8 separateness between Defendants THE DIMASSAS and such entities have ceased, and such entities
9 are the alter egos of THE DIMASSAS and DOES 1-50.

10 138. PLAINTIFFS are informed and believe, and on that basis allege that THE DIMASSAS
11 and Does 1-50 have engaged in substantial commingling of corporate and personal affairs, including
12 the co-mingling of funds and other assets with those of SUMMERKIDS, INC., ANGELUS
13 MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC, DOSSET DIMASSA
14 M.D., INC., JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES OF THE DIMASSA
15 FAMILY TRUST and THE DIMASSA FAMILY FOUNDATION entities and Does 1-50 such that
16 there is no distinction of who or what entity **owns** such funds or such assets between all of the entities.
17 At all times the DIMASSAS and Does 1-50 have treated the funds and assets of SUMMERKIDS,
18 INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC,
19 DOSSET DIMASSA M.D., INC., JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES
20 OF THE DIMASSA FAMILY TRUST and THE DIMASSA FAMILY FOUNDATION entities and
21 Does 1-50 as if those funds and assets were their own and have used those funds and assets in any
22 manner the DIMASSAS and Does 1-50 desired.

23 139. PLAINTIFFS are informed and believe, and on that basis allege Defendants
24 SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE
25 AVANTI, LLC, SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA,
26 LLC, SEMPRE AVANTI, LLC, DOSSET DIMASSA M.D., INC., JOSEPH DIMASSA AND
27 MARIA DIMASSA AS TRUSTEES OF THE DIMASSA FAMILY TRUST and THE DIMASSA
28 FAMILY FOUNDATION entities and Does 1-50 are all owned and controlled by THE DIMASSAS

1 and Does 1-50. Defendants SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE
2 ENOTECA, LLC, SEMPRE AVANTI, LLC, SUMMERKIDS, INC., ANGELUS MOUNTAIN
3 CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC, DOSSET DIMASSA M.D., INC.,
4 JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES OF THE DIMASSA FAMILY
5 TRUST and THE DIMASSA FAMILY FOUNDATION entities and Does 1-50 do not operate as
6 separate entities, but rather operate as one entity, using the separate entities fiction to shield assets
7 and other revenues in a manner to best suit the DIMASSAS and Does 1-50.

8 140. There is a unity of interest and ownership between THE DIMASSAS on the one hand
9 and Defendants SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC,
10 SEMPRE AVANTI, LLC, DOSSET DIMASSA M.D., INC., JOSEPH DIMASSA AND MARIA
11 DIMASSA AS TRUSTEES OF THE DIMASSA FAMILY TRUST and THE DIMASSA FAMILY
12 FOUNDATION entities and Does 1-50 on the other and that there is identical equitable ownership
13 by the DIMASSAS of all of the other entities whereby the DIMASSAS and Does 1-50 exercise
14 dominion and control over Defendants SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER,
15 THE ENOTECA, LLC, SEMPRE AVANTI, LLC, DOSSET DIMASSA M.D., INC., JOSEPH
16 DIMASSA AND MARIA DIMASSA AS TRUSTEES OF THE DIMASSA FAMILY TRUST and
17 THE DIMASSA FAMILY FOUNDATION entities and Does 1-50, with THE DIMASSAS and Does
18 1-50 as the sole owners, directors and officers responsible for supervision and management of
19 Defendants SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC,
20 SEMPRE AVANTI, LLC, DOSSET DIMASSA M.D., INC., JOSEPH DIMASSA AND MARIA
21 DIMASSA AS TRUSTEES OF THE DIMASSA FAMILY TRUST and THE DIMASSA FAMILY
22 FOUNDATION entities and Does 1-50 and utilizing the same employees to perform the duties for
23 all of the entities.

24 141. PLAINTIFFS are informed and believe, and on that basis allege THE DIMASSAS and
25 Defendants SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC,
26 SEMPRE AVANTI, LLC, SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE
27 ENOTECA, LLC, SEMPRE AVANTI, LLC, DOSSET DIMASSA M.D., INC., JOSEPH DIMASSA
28 AND MARIA DIMASSA AS TRUSTEES OF THE DIMASSA FAMILY TRUST and THE

1 DIMASSA FAMILY FOUNDATION entities and Does 1-50 have diverted and transferred assets
2 and revenues among and between themselves and their alter egos to defraud creditors. The purpose
3 of these entities created by THE DIMASSAS is to conceal and misrepresent the identity of the
4 responsible ownership, management, financial interest and business activities of THE DIMASSAS
5 and Does 1-50, ultimately for the purpose of defraud creditors, in particular, the children and their
6 families that THE DIMASSAS AND THE DIMASSA ENTITIES, especially SUMMERKIDS, have
7 seriously injured, including their gross negligence that caused the death of Roxie. This concealment
8 and misrepresentation of the ownership and management creates an injustice for anyone who is
9 injured by the negligence of the defendants and the purposeful difficulty that is created by the
10 defendants concealment of responsible ownership, management, financial interests in business
11 activities of THE DIMASSAS and the DIMASSA ENTITIES and Does 1-50 responsible for injury
12 to Plaintiffs and other campers and parents at Summer kids camp. It is highly unjust that these
13 defendants are allowed to avoid compensating the children in families they have injured by
14 unlawfully hiding behind fraudulent entities who still purpose is to protect the defendants assets from
15 their own wrongdoing.

16 142. PLAINTIFFS are informed and believe, and on that basis allege, THE DIMASSAS
17 systematically engaged in a series of transactions intended to transfer assets from themselves and
18 SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE
19 AVANTI, LLC, DOSSET DIMASSA M.D., INC., JOSEPH DIMASSA AND MARIA DIMASSA
20 AS TRUSTEES OF THE DIMASSA FAMILY TRUST, and THE DIMASSA FAMILY
21 FOUNDATION and DOES1-50 intending to make the ANGELUS MOUNTAIN CENTER or their
22 real property, including, but not limited to those located at 1630 or 1640 Knollwood in Pasadena, 840
23 E. Green Street, #215, Pasadena, or 3697 N. Fair Oaks Avenue in Altadena, unavailable to satisfy a
24 judgment. The real property located at 3807 El Sereno Ave., Altadena, California and 3797 El Sereno
25 Ave., Altadena, California allegedly owned by Defendant Sempre Avanti at all times are used by
26 Summerkids, Inc. for its camp functions/operations.

27 143. PLAINTIFFS are informed and believe, and on that basis allege, THE DIMASSAS have
28 at all times relevant herein exercised control and dominion over SUMMERKIDS, INC., ANGELUS

1 MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC, DOSSET DIMASSA
2 M.D., INC., JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES OF THE DIMASSA
3 FAMILY TRUST, and THE DIMASSA FAMILY FOUNDATION and DOES1-50 with a disregard
4 for the separate legal status of these entities in an attempt to defraud creditors.

5 144. PLAINTIFFS are informed and believe, and on that basis allege, adherence to the fiction
6 of the separate existence of the Defendants SUMMERKIDS, INC., ANGELUS MOUNTAIN
7 CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC, DOSSET DIMASSA M.D., INC.,
8 JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES OF THE DIMASSA FAMILY
9 TRUST, and THE DIMASSA FAMILY FOUNDATION and DOES1-50 as separate entities distinct
10 from THE DIMASSAS would permit an abuse of the privilege of organizing businesses under the
11 laws of the State of California and would sanction fraud and promote injustice.

12 145. PLAINTIFFS are informed and believe, and on that basis allege that SUMMERKIDS,
13 INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC,
14 DOSSET DIMASSA M.D., INC., JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES
15 OF THE DIMASSA FAMILY TRUST, and THE DIMASSA FAMILY FOUNDATION and
16 DOES1-50 have such a unity of interest and operations that separate personalities of these entities no
17 longer exist and if the acts are treated as those of the entities alone, an inequitable result will follow.
18 PLAINTIFFS are informed and believe, and on that basis allege Defendants SUMMERKIDS, INC.,
19 ANGELUS MOUNTAIN CENTER, THE ENOTECA, LLC, SEMPRE AVANTI, LLC, DOSSET
20 DIMASSA M.D., INC., JOSEPH DIMASSA AND MARIA DIMASSA AS TRUSTEES OF THE
21 DIMASSA FAMILY TRUST, and THE DIMASSA FAMILY FOUNDATION and DOES1-50 are
22 owned and controlled by THE DIMASSAS. These entities do not operate as entities, but rather as
23 one, with the separate entities used to shield assets and other revenues in a manner to best suit their
24 owners. Moreover, SUMMERKIDS, INC., ANGELUS MOUNTAIN CENTER, THE ENOTECA,
25 LLC, SEMPRE AVANTI, LLC, DOSSET DIMASSA M.D., INC., JOSEPH DIMASSA AND
26 MARIA DIMASSA AS TRUSTEES OF THE DIMASSA FAMILY TRUST, and THE DIMASSA
27 FAMILY FOUNDATION and DOES1-50 are the alter egos of each other, that they share some of the
28 same ownership, management, and marketing.

1 **FIRST CAUSE OF ACTION**

2 **Negligence – Wrongful Death**

3 **Against all DEFENDANTS and DOES 1-50 inclusive**

4 146. PLAINTIFFS hereby re-allege and incorporate by reference each and every allegation and
5 statement contained in the prior paragraphs.

6 147. PLAINTIFFS are informed and believe, and on that basis allege, DEFENDANTS and each of
7 them, including DOES 1-50, had a duty to exercise reasonable care in the ownership, maintenance,
8 operation, and management of their premises, and in the care and supervision of the children in their
9 custody, including the ROXIE, in order to avoid exposing them to an unreasonable risk of harm. Said
10 DEFENDANTS also had a duty to ensure that the Summerkids were fully trained in CPR, AED, and
11 First Aid including, but not limited to, HARRISON, CARA DIMASSA, JOSEPH DIMASSA,
12 RAINEY, NATALIZIO, PORTER and CASTILLO and other SUMMERKIDS, INC. employees on
13 the premises at the time of ROXIE’S death. At all times herein mentioned said DEFENDANTS were
14 negligent in their duty to ensure that the Summerkids Camp lifeguards and other SUMMERKIDS,
15 INC. employees on duty at the time of ROXIE’S death were fully and properly trained in water safety
16 and lifeguarding under ARC guidelines. At all times herein mentioned, said DEFENDANTS were
17 further negligent in their duty to ensure that Summerkids Camp lifeguards and other SUMMERKIDS
18 INC. employees on duty at the time of ROXIE’S death were fully and properly trained in CPR, AED,
19 and First Aid. As a consequence of the negligence of said DEFENDANTS and each of them and
20 DOES 1-50, ROXIE drowned on June 28, 2019.

21 148. PLAINTIFFS are informed and believe, and on that basis allege, DEFENDANTS and
22 each of them, including DOES 1-50, had a special relationship existing with ROXIE, as a paid invitee,
23 to take reasonable protective measures, especially given she had been rated as a “nonswimmer,” to
24 ensure her safety and otherwise protect her from reasonably foreseeable dangerous conduct and to
25 warn her as to such reasonably foreseeable dangerous conduct during camp activities such as
26 swimming.

27 149. The conduct of DEFENDANTS and each of them, including DOES 1-50, constituted a
28 lack of any care and an extreme departure from what a reasonably careful person would do in the

1 same situation to prevent harm to oneself or to others, constituting gross negligence. DEFENDANTS
2 were aware of the probable consequences of their acts, and willfully and deliberately failed to avoid
3 the likelihood of serious injury to decedent and others similarly situated. PLAINTIFFS are informed
4 and believe, and on that basis allege, DEFENDANTS and each of them, including DOES 1-50,
5 breached their duty of care when they carelessly and grossly negligently supervised, protected,
6 trained, and assisted in the supervision and control and safety of campers in their care, such as ROXIE
7 and to ensure that children and ROXIE were not subjected to an unreasonable risk of harm while in
8 their care and custody, and created a dangerous condition by not adequately supervising campers
9 while they were in the pool. At all times herein, and particularly well in advance of ROXIE'S death,
10 said DEFENDANTS knew that they had Camp lifeguards and other SUMMERKIDS, INC.
11 employees were fully and properly trained in water safety and lifeguarding under the ARC guidelines
12 set forth in ARC written materials and manuals in order to keep the children including ROXIE safe
13 while using the swimming pool on the premises. Said DEFENDANTS also had a duty to ensure that
14 all SUMMERKIDS, INC. employees improperly trained the Summerkids Camp lifeguards and other
15 SUMMERKIDS, INC. employees in water safety, lifeguarding, CPR, AED, and First Aid. At all
16 times herein, and particularly well in advance of ROXIE'S death, said DEFENDANTS knew that if
17 the Summerkids Camp lifeguards and other SUMMERKIDS, INC, employees were improperly
18 trained in water safety, lifeguarding, CPR, AED, and First Aid, as took place herein a non-swimmer
19 child in their care could certainly drown and die as occurred with ROXIE. As a direct and proximate
20 result of DEFENDANTS', and each of the, including DOES 1-50, ROXIE died from a preventable
21 drowning for which DEFENDANTS, are legally responsible.

22 150. PLAINTIFFS are informed and believe, and on that basis allege ROXIE was being
23 supervised on camp property by Defendants RAINEY, NATALIZIO, PORTER, CASTILLO,
24 HARRISON, CARA DIMASSA, AND JOSEPH DIMASSA and the lifeguards, agents employees
25 and or independent contractors of Defendants SUMMERKIDS, INC., THE DIMASSAS and the
26 DIMASSA ENTITIES and DOES 1-50, inclusive, with the consent, knowledge, and permission of
27 said DEFENDANTS, which renders DEFENDANTS and each of them, including DOES 1-50,
28 vicariously liable for the negligent acts and omissions of such agents, employees, and/or independent

1 contractors

2 151. The danger of a “non-swimmer” six-year-old child drowning in an unsupervised pool
3 setting was known to DEFENDANTS and DOES 1-50, or in the exercise of ordinary and reasonable
4 care, should have been known to DEFENDANTS and DOES 1-50.

5 152. PLAINTIFFS are informed and believe, and thereon allege, that ROXIE’s death was a
6 direct and proximate result of the negligent acts and omissions of DEFENDANTS, and each of them,
7 including DOES 1-50 as described herein.

8 153. PLAINTIFFS are informed and believe, and thereon allege, that ROXIE’s death was a
9 direct and proximate result of the grossly negligent acts and omissions of DEFENDANTS, and each
10 of them, including DOES 1-50 as described herein.

11 154. As a direct and proximate result of the aforementioned acts, omissions and conduct of
12 the DEFENDANTS, PLAINTIFFS have sustained damages in a sum in excess of the minimum
13 jurisdictional amount of this Court.

14 155. DEFENDANTS’, and each of them, including DOES 1-50, actions, omissions, conduct,
15 and behavior, were a substantial factor in causing PLAINTIFFS’ harm.

16 156. As a proximate result of the negligence of DEFENDANTS, and each of them, including
17 DOES 1-50, ROXIE died at the hospital on June 29, 2019.

18 157. At all times prior to ROXIE’s death, except for when she was unconscious and in the
19 hospital from June 28, 2019, to June 29, 2019, ROXIE lived with PLAINTIFFS, and was a loving
20 and dutiful daughter.

21 158. As discussed herein, PLAINTIFFS are entitled under Section 377.60 of the California
22 Code of Civil Procedure to bring action on behalf of ROXIE. PLAINTIFFS have and will sustain
23 pecuniary and non-pecuniary losses by reasons of the death of ROXIE. DEFENDANTS, and each of
24 them, and DOES 1-50, inclusive, are liable for the wrongful death of ROXIE stemming from the
25 herein allegations.

26 159. As a proximate and legal result of DEFENDANTS’ conduct, PLAINTIFFS have been
27 injured in an amount not presently ascertained. Such damages include loss of comfort and
28 companionship, loss of affection, society, moral support, emotional pain, distress and suffering, and

1 general damages in an amount to be determined at trial. PLAINTIFFS also seek compensation for the
2 emotional pain, torment, mental anguish and suffering that they have suffered and in reasonable
3 probability will continue to suffer in connection with the untimely death of ROXIE.

4 160. As a direct and proximate result of the foregoing wrongful death of ROXIE caused by
5 the tortious conduct of the DEFENDANTS, and each of them, including DOES 1-50 PLAINTIFFS
6 are entitled to and demand damages against all DEFENDANTS, jointly and severally, including but
7 not limited to general, special, and punitive damages.

8 **SECOND CAUSE OF ACTION**

9 **Negligent Hiring, Retention, Supervision, and Training**

10 **Against THE DIMASSAS, The DIMASSA ENTITIES, CERVANTES, ARC,**

11 **SUMMERKIDS, INC., BOREHAM, LSC and DOES 1-50**

12 161. PLAINTIFF repeats, reiterates and re-alleges each and every fact and/or allegation set
13 forth in the prior paragraphs of this complaint with the same force and effect as though more fully set
14 forth at length herein.

15 162. PLAINTIFFS are informed and believe that Defendants HARRISON, CARA
16 DIMASSA, JOSEPH DIMASSA, RAINEY, NATALIZIO, PORTER and CASTILLO were at all
17 times herein mentioned employed by either SUMMERKIDS, INC., THE DIMASSAS or one of the
18 other DIMASSA ENTITIES as lifeguard, water instructors and camp counselors for the Summerkids
19 Camp.

20 163. PLAINTIFFS are informed and believe that Defendants CERVANTES and DOES 21-
21 35 were at all times herein mentioned contracted and/or employed by either SUMMERKIDS, INC.,
22 THE DIMASSAS or the DIMASSA ENTITIES and/or ARC and was responsible for ARC testing
23 and ARC certifying lifeguards at the Summerkids Camp. Plaintiffs are informed and believe that at
24 all times Defendant CERVANTES and DOES 21-35 were acting as an agent on behalf of Defendant
25 ARC and DOES 36-50 with the duty of properly training Defendants JOSEPH DIMASSA,
26 RAINEY, NATALIZIO, PORTER and CASTILLO and other SUMMERKIDS, INC. employees in
27 water safety training and becoming ARC certified lifeguards which CERVANTES and DOES 21-35
28 failed to do.

1 164. PLAINTIFFS are informed and believe that Defendants BOREHAM and LSC, and
2 DOES 21-35 were at all times herein mentioned contracted and/or employed by either
3 SUMMERKIDS, INC., THE DIMASSAS and/or the DIMASSA ENTITIES, and were responsible
4 for training, testing and certifying SUMMERKIDS, INC. employees in CPR, AED, and First Aid in
5 order to protect the children at Summerkids Camp.

6 165. PLAINTIFFS are informed and believe that Defendant HARRISON was at all times
7 herein mentioned employed by SUMMERKIDS, INC., THE DIMASSAS or one of the other
8 DIMASSA ENTITIES as the Assistant Director of the Summerkids Camp.

9 166. PLAINTIFFS are informed and believe that the Summerkids employees including but
10 not limited to JOSEPH DIMASSA, RAINEY, NATALIZIO, PORTER and CASTILLO and other
11 SUMMERKIDS, INC. employees employed by SUMMERKIDS, INC., THE DIMASSAS or one of
12 the other DIMASSA ENTITIES were unfit or incompetent to perform the work for which they were
13 hired.

14 168. At all times relevant defendants CERVANTES, ARC, and DOES 21-50, had a duty to
15 properly train JOSEPH DIMASSA, RAINEY, NATALIZIO, PORTER and CASTILLO and other
16 SUMMERKIDS, INC. employees in water safety and lifeguarding which required more than 26 hours
17 of training and a written test as established by the ARC guidelines and ARC manuals. Instead of
18 receiving the full training Defendants SUMMERKIDS, INC., THE DIMASSAS or one of the other
19 DIMASSA ENTITIES requested a shortened one-day training for lifeguard certification and water
20 safety of less than 8 hours which CERVANTES, ARC, and DOES 21-50 wrongfully agreed to do.
21 At all times Defendant CERVANTES, ARC, and DOES 21-50 knew that this training was insufficient
22 and could lead to a drowning disaster. As a result of the negligence and gross negligence of
23 CERVANTES, ARC, and DOES 21-50, regarding said training, Defendants CERVANTES, ARC,
24 and DOES 21-50 were responsible for Defendants JOSEPH DIMASSA, RAINEY, NATALIZIO,
25 PORTER and CASTILLO and other SUMMERKIDS, INC. employees being unfit and incompetent
26 regarding water safety and lifeguarding skills, ultimately causing ROXIE's death by drowning.

27 100. Defendants SUMMERKIDS, INC., THE DIMASSAS and the DIMASSA ENTITIES knew
28 from the limited training that their Summerkids Camp employees received at their demand, including

1 but not limited to , JOSEPH DIMASSA, RAINEY, NATALIZIO, PORTER and CASTILLO and
2 other SUMMERKIDS, INC. employees, that said employees were unfit or incompetent to safely
3 operate, supervise or manage Summerkids Camp, staff and campers during swimming activities and
4 that such unfitness and/or incompetence created an extreme risk to campers engaging in swimming
5 activities while at Summerkids Camp, particularly non-swimmer campers such as ROXIE. At all
6 times said Defendants knew that, in order to save money in training their employees, they requested
7 CERVANTES, ARC, and DOES 21-50, to limit safety training and that CERVANTES, ARC, DOES
8 21-50 should only provide less than 8 hours of water safety and lifeguard training. Cervantes, ARC,
9 and DOES 21-50, for their own financial gain, agreed to this limited training, all in violation of ARC's
10 own water safety and lifeguard training policies and procedures, requiring more than 26 hours
11 of such training.

12 169. Defendants SUMMERKIDS, INC., THE DIMASSAS and the DIMASSA ENTITIES'
13 negligence in hiring the Summerkids employees including but not limited to JOSEPH DIMASSA,
14 RAINEY, NATALIZIO, PORTER and CASTILLO and other SUMMERKIDS, INC. employees and
15 contractor and/or employee CERVANTES and ARC and DOES 21-50 was a substantial factor in
16 causing ROXIE's death and PLAINTIFFS' resulting harm.

17 170. At all times relevant defendants BOREHAM and LSC, had a duty to properly train
18 SUMMERKIDS, INC. employees in CPR, AED, and First Aid Safety training. Instead of receiving
19 the full training Plaintiffs are informed and believe, and thereon allege, Defendants SUMMERKIDS,
20 INC., THE DIMASSAS or one of the other DIMASSA ENTITIES requested a dangerously short
21 training session for which BOREHAM AND LSC, and DOES 21-35 wrongfully agreed to do. At all
22 times Defendant BOREHAM and LSC and DOES 21-35 knew that this dangerously short training
23 session was severely insufficient and would almost certainly lead to a death or very serious permanent
24 injury if a drowning disaster occurred. As a result of the negligence and gross negligence of
25 BOREHAM and LSC, and DOES 21-35, regarding said training, Defendants BOREHAM and LSC
26 were responsible for Defendants SUMMERKIDS, INC. employees being unfit and incompetent
27 regarding CPR, AED, and First Aid, ultimately causing ROXIE's death.

28 171. Defendants SUMMERKIDS, INC., THE DIMASSAS and the DIMASSA ENTITIES at

1 all times knew that from the limited training in CPR, AED and First Aid that their SUMMERKIDS,
2 INC. employees received from Defendants BOREHAM and LSC and Does 21-35, that said
3 employees were unfit or incompetent to keep safe, supervise and/or safely manage Summerkids Camp
4 children/campers, including ROXIE, during swimming activities and that such unfitness and/or
5 incompetence created an extreme risk of serious injury or death to campers engaging in swimming
6 activities while at Summerkids Camp. In order to save money in training their employees, said
7 Defendants knowingly requested BOREHAM and LSC and DOES 21-35, to dangerously limit the
8 time for CPR, AED and First Aid safety training to the SUMMERKIDS INC. employee. At all times
9 herein, Defendants BOREHAM and LSC and DOES 21-35 knew that if said Defendants agreed to
10 Defendants SUMMERKIDS, INC., THE DIMASSAS and the DIMASSA ENTITIES' request,
11 BOREHAM and LSC and DOES 21-35 would be providing dangerously insufficient training in these
12 life-or-death safety training areas. Despite this knowledge, for their own financial gain, Defendant
13 BOREHAM and LSC, and DOES 21-35 unlawfully agreed to this limited training, all in violation of
14 BOREHAM and LSC's and Does 21-35 own training policies and procedures for teaching CPR, AED
15 and First Aid to the public.

16 172. Defendants SUMMERKIDS, INC., THE DIMASSAS and the DIMASSA ENTITIES'
17 negligence in hiring Defendant BOREHAM and LSC AND Does 21-50 was a substantial factor in
18 causing ROXIE's death and PLAINTIFFS' resulting harm.

19 173. At all times mentioned herein, Defendants SUMMERKIDS, INC., THE DIMASSAS,
20 the DIMASSA ENTITIES CERVANTES, ARC and DOES 1-50, Inclusive, and their employees,
21 counselors, lifeguards, agents, servants and/or joint venturers had a special relationship existing with
22 ROXIE, as a paid invitee, to take reasonable protective measures, especially with a young non-
23 swimmer, to ensure her safety and otherwise protect her from reasonably foreseeable dangerous
24 conduct and to warn her as to such reasonably foreseeable dangerous conduct during camp activities.

25 174. By virtue of said special relationship, Defendants SUMMERKIDS, INC., THE
26 DIMASSAS, the DIMASSA ENTITIES, CERVANTES, ARC, BOREHAM, LSC and DOES 1-50,
27 inclusive, owed a duty to take reasonable measures to protect all campers under their control and
28 supervision, including Decedent, from foreseeable injury at the hands of their lifeguards, employees,

1 agents, servants and/or joint venturers acting negligently or intentionally, by not engaging in the
2 negligent hiring, retention, training and supervision of those lifeguards, employees, servants, and/or
3 independent contractors, with direct contact and/or interaction with campers under their control and
4 supervision, including, but not limited to, Decedent.

5 175. Plaintiff is informed and believes, and thereupon alleges, that at all times mentioned
6 herein, Defendants SUMMERKIDS, INC., THE DIMASSAS, the DIMASSA ENTITIES,
7 CERVANTES, ARC, BOREHAM, LSC and DOES 1-50, Inclusive, and each of them, were negligent
8 in the hiring, retention, training, and supervision of their employees including but not limited to
9 certain lifeguards, camp counselors, camp directors, employees, agents, servants, joint venturers
10 and/or caretakers in that Defendants SUMMERKIDS, INC., THE DIMASSAS, the DIMASSA
11 ENTITIES, CERVANTES, ARC, BOREHAM, LSC and DOES 1-50, Inclusive, and each of them,
12 knew or should have known that employees were unfit for specific and mandatory tasks to be carried
13 out and performed during the course and scope of their employment. These tasks included, but were
14 not limited to the following: maintaining, inspecting, supervising, managing, regulating, warning,
15 patrolling, protecting, guarding, training, and controlling the subject swimming pool, which was the
16 legal and proximate cause of ROXIE suffering pre-death physical injuries, mental anguish, terror,
17 anxiety, unconsciousness, and ultimately death.

18 176. As a direct and proximate result of the negligence, gross negligence, carelessness,
19 recklessness, and violations of the law of Defendants SUMMERKIDS, INC., THE DIMASSAS, the
20 DIMASSA ENTITIES, CERVANTES, ARC, BOREHAM, LSC and DOES 1-50, inclusive,
21 Decedent ROXIE was injured in her health, strength and activity, sustaining injury to her body, and
22 shock and injury to her person, all of which caused ROXIE great physical, mental and emotional pain
23 and suffering prior to her untimely death, fighting to breathe when Roxie was first pulled out of the
24 pool, all to PLAINTIFFS' damages in an amount which will be stated according to proof.

25 177. As a direct and proximate result of the negligence, gross negligence, carelessness,
26 recklessness, and violations of the law of Defendants SUMMERKIDS, INC., THE DIMASSAS, the
27 DIMASSA ENTITIES, CERVANTES, ARC, BOREHAM, LSC and DOES 1-50, inclusive,
28 PLAINTIFFS were compelled to and did employ the services of physicians, surgeons, and other

1 medical personnel, and PLAINTIFFS were compelled to and did incur other incidental expenses,
2 including, but not limited to medical, funeral, and/or burial expenses related to the necessary care and
3 treatment of the Decedent, ROXIE.

4 178. As a direct and proximate result of the negligence, gross negligence, carelessness,
5 recklessness, and violations of the law of Defendants SUMMERKIDS, INC., THE DIMASSAS, the
6 DIMASSA ENTITIES, CERVANTES, ARC, BOREHAM, LSC and DOES 1-50, inclusive,
7 PLAINTIFFS claim general damages resulting from loss of love, affection, society, service, comfort,
8 support, right of support, expectations of future support and counseling, companionship, solace, and
9 mental support, as well as other benefits and assistance of the Decedent in a sum in excess of the
10 jurisdictional limits of this Court, which will be stated according to proof at the time of trial. Plaintiffs
11 request general, special and punitive damages as a result.

12 **THIRD CAUSE OF ACTION**

13 **Survivor's Action**

14 **By PLAINTIFFS as Successors-In-Interest to Decedent**

15 **Against All DEFENDANTS and DOES 1-50 Inclusive**

16 179. PLAINTIFFS repeat, reiterate and re-allege each and every fact and/or allegation set
17 forth in the prior paragraphs of this complaint with the same force and effect as though more fully set
18 forth at length herein.

19 180. PLAINTIFFS ELENA MATYAS and DOUGLAS FORBES are successors-in-interest
20 to ROXIE MIRABELLE FORBES. As the successor-in-interest of ROXIE, PLAINTIFFS ELENA
21 MATYAS and DOUGLAS FORBES are the proper representatives to pursue a survival action in the
22 present proceeding, in accordance with Code of Civil Procedure § 377.30. PLAINTIFFS have and
23 will comply with Code of Civil Procedure § 377.32.

24 181. As alleged herein, on June 28, 2019, ROXIE was enrolled in SUMMERKIDS Camp for
25 the purpose of childcare. As further alleged herein, DEFENDANTS' conduct constituted a want of
26 even scant care and an extreme departure from the ordinary standard of conduct. Such outrageous
27 lack of care represents an extreme departure from the ordinary standard of conduct in the context of
28 this situation. This conduct resulted in ROXIE'S death. 114. As a proximate result of said conduct of

1 all DEFENDANTS, and each of them, including DOES 1-50 and the resulting untimely death of
2 ROXIE, PLAINTIFFS were compelled to incur expenses for ambulances, for services of hospitals,
3 physicians, nurses, and other professional services for the care and treatment of ROXIE, the decedent,
4 and for the funeral and burial of said deceased, all to PLAINTIFFS' damages in an amount to be
5 shown according to proof.

6 182. As a proximate result of the drowning, ROXIE suffered severe and life ending injuries.
7 As a result of these severe injuries, ROXIE lost spontaneous circulation and required and received
8 administration of advanced life support.

9 183. Prior to her death, ROXIE sustained economic damages in an amount according to proof
10 at trial. The exact amount of such expense is unknown to PLAINTIFFS at this time.

11 184. Because the SUMMERKIDS Camp counselor "lifeguards" and/or other personnel failed
12 to engage in any rescue efforts for an extended period of time, there was significant delay in providing
13 ROXIE with CPR.

14 185. Despite knowing that the lifeguards, counselors and employees manning the pool were
15 not fit to do so, DEFENDANTS, and each of them, including DOES 1-50 willfully, intentionally,
16 recklessly and wantonly allowed children to enter the pool and operated SUMMERKIDS Camp
17 knowing that their actions could unreasonably expose all of the attending children to injury, damage
18 and potential death.

19 186. DEFENDANTS were aware of the probable consequences of their acts, and willfully
20 and deliberately failed to avoid the likelihood of serious injury to ROXIE and others similarly
21 situated.

22 187. DEFENDANTS operated the SUMMERKIDS Camp and the pool at ANGELUS
23 MOUNTAIN CENTER in a reckless and erratic manner, up through the day and time of ROXIE'S
24 drowning.

25 188. As a result of the drowning, ROXIE suffered severe and life-ending injuries, as set forth
26 above.

27 189. DEFENDANTS' conduct would be despised by any reasonable person. DEFENDANTS,
28 and each of them, including DOES 1-50 held themselves out as owning and operating a camp for

1 children, and encouraged children to get in the pool regardless of their swimming ability. The
2 consequences of putting children who do not know how to swim in the water are known to all adults.
3 There is no excuse for conduct that endangers the lives of innocent children. DEFENDANTS’
4 conduct should be the subject of shame, scorn and rebuke. DEFENDANTS’ conduct was clearly
5 despicable and done in conscious disregard for the safety of others.

6 190. As alleged herein, DEFENDANTS’ actions constitute willful misconduct, consciously
7 undertaken with a willful and conscious disregard of the probable consequences. These acts and
8 failures to act by DEFENDANTS were so unreasonable and dangerous that defendants knew or
9 should have known that injury was highly probable.

10 191. DEFENDANTS’ actions also constitute oppression, fraud, and/or malice as defined in
11 Civil Code Section 3294, and PLAINTIFFS should recover, in addition to actual damages, exemplary
12 and punitive damages to make an example of and to punish defendants, in an amount according to
13 proof.

14 **FOURTH CAUSE OF ACTION**

15 **Fraud**

16 **Intentional Misrepresentation; Concealment**

17 **By PLAINTIFFS as Successors-In-Interest to Decedent**

18 **Against THE DIMASSAS, THE DIMASSA ENTITIES, CERVANTES, SUMMERKIDS,**
19 **INC., ARC, BOREHAM, LSC and DOES 1-50**

20 192. PLAINTIFFS repeat, reiterate and re-allege each and every fact and/or allegation set
21 forth in the prior paragraphs of this complaint with the same force and effect as though more fully set
22 forth at length herein.

23 193. In or about January 2019, prior to ROXIE’s parents applying for ROXIE to attend the
24 Summerkids camp, Plaintiffs read the statement on the Summerkids Camp website regarding the
25 Camp’s swimming pool and swimming pool safety at the Camp. The Summerkids Camp website
26 written, adopted, accepted, and approved of by Defendants THE DIMASSAS, The DIMASSA
27 ENTITIES, and SUMMERKIDS, INC. and DOES 1-50 stated: “A beautiful, recently resurfaced pool
28 is a centerpiece of our camp. We consider swimming a fun and exciting part of our program, but it is

1 safety that is our biggest concern.... We have float ropes in place separating deep and shallow ends.
2 A lifeguard sits in the lifeguard chair at all times while children are in the pool. Other lifeguards are
3 on duty both on the sides of the pool and in the pool itself. We have regular training sessions with
4 our lifeguards throughout the summer to review safety rules and to deal with any issues that may
5 arise.” The Summerkids Camp website went on to state regarding swimming safety at the camp:
6 “Each year, we conduct rigorous training sessions-both before camp starts and continuing throughout
7 the summer-for all our staff. All of our counselors have received basic first aid and CPR training, and
8 more than half are certified lifeguards.” The same Summerkids Camp website then states:
9 “LIFEGUARDS AND RATIOS-We will continue to exceed American Red Cross Lifeguard
10 Association and American Camp Association standards for pool supervision. All of our counselors
11 who work in the pool have been certified as Lifeguards by the American Red Cross. This summer,
12 we have 27 counselors on staff who were certified as American Red Cross Lifeguards. Nine of them
13 are also certified as American Red Cross Water Safety Instructors. The counselors who teach
14 swimming lessons at camp have a particular focus on teaching young swimmers.”

15 194. The statements quoted above in the Summerkids Camp website, in or just before
16 January, 2019, and thereafter were written adopted, accepted, and approved by Defendants THE
17 DIMASSAS, The DIMASSA ENTITIES, and SUMMERKIDS, INC. and DOES 1-50, falsely
18 representing to Plaintiffs that the SUMMERKIDS, INC. employees and/or contractors who would
19 be overseeing and protecting ROXIE in the Summerkids Camp swimming pool were ARC certified
20 lifeguards and had ARC water safety training as established by the ARC guidelines and written
21 manuals and had certified CPR, AED, and First Aid training. The purpose of these written
22 misrepresentations by said defendants was in order to convince the Plaintiffs that they should enroll
23 their six year old child, ROXIE, in Summerkids Camp and that it would be safe to do so despite the
24 fact that at all times said defendants THE DIMASSAS, The DIMASSA ENTITIES, and
25 SUMMERKIDS, INC. and DOES 1-50 were aware that ROXIE was not water safe, and it would not
26 be safe to enroll ROXIE in Summerkids Camp because Summer kids lifeguards had not been ARC
27 certified and did not received proper ARC and AHA lifesaving training in CPR and AED.

28 195. In February, 2019, defendant JAIMI HARRISON, the Assistant Dir. For

1 SUMMERKIDS, Inc. on behalf of Defendants THE DIMASSAS, The DIMASSA ENTITIES, and
2 SUMMERKIDS, INC. and DOES 1-50 reiterated to Plaintiff MATAYAS in a telephone call that the
3 Summerkids Camp lifeguards on staff were all certified by ARC despite HARRISON’S knowledge
4 that this was false.

5 196. At all times herein, Defendants THE DIMASSAS, The DIMASSA ENTITIES,
6 SUMMERKIDS, INC., SUMMERKIDS, INC., CERVANTES, ARC, JAIMI HARRISON and
7 DOES 1-50 knew that the representation on the website in January and February of 2019 that the
8 SUMMERKIDS, INC. employees and/or contractors were ARC certified lifeguards and had ARC
9 water safety training as established by the ARC guidelines and written manuals and had certified
10 CPR, AED, and First Aid training, was false.

11 197. Defendants THE DIMASSAS, The DIMASSA ENTITIES, SUMMERKIDS, INC.,
12 CERVANTES, ARC, JAIMI HARRISON and DOES 1-50 knew that the representations were false
13 when THE DIMASSAS, The DIMASSA ENTITIES, and SUMMERKIDS, INC., and JAIMI
14 HARRISON made said representations, by way of advertising, promising, and assuring parents of
15 potential children Campers including PLAINTIFFS that the employees were ARC certified, and had
16 certified CPR, AED, First Aid training while at all times knowing that the ARC water safety and
17 lifeguard certifications and CPR, AED, and First Aid certifications of Summerkids employees were
18 obtained illegally, deceitfully, and falsely. The truth was that none of the employees of THE
19 DIMASSAS, The DIMASSA ENTITIES, and SUMMERKIDS, INC., and DOES 1-20 received the
20 water safety and lifeguard training from CERVANTES and ARC that ARC required in its writings
21 and manuals of more than 27 hours of training and a written test which the applicant must pass.
22 Unfortunately for ROXIE, the Summerkids, Inc. employees received only 1/3 of that training time
23 from CERVANTES, ARC’s agent, who had the duty of providing the full 27 hours of training. Instead
24 a providing the full amount of time required to properly train the lifeguards with the lifesaving
25 knowledge they needed to save ROXIE’s life, CERVANTES colluded with THE DIMASSAS, The
26 DIMASSA ENTITIES, and SUMMERKIDS, INC. for their financial gain to provide only 1/3 of the
27 training required by the ARC for lifeguard certification which was a cause of ROXIE’s death.

28 198. At all times prior to the opening of the 2019 Summerkids Camp session in June 2019

1 defendant ARC and DOES 36-50 knew through its agent Defendant CERVANTES and DOES 21-
2 35, that THE DIMASSAS, The DIMASSA ENTITIES, and SUMMERKIDS, INC. employees did
3 not receive the appropriate water safety and lifeguard training, including proper and complete First
4 Aid, CPR and AED training, actually required for ARC certification and concealed this fact from the
5 Plaintiffs for ARC's and DOES 36-50 financial benefit. Despite this knowledge, ARC and DOES 36
6 -50 did not take any measures to notify or warn the parents of children campers at Summerkids Camp
7 of this fact, including the plaintiffs. Said defendants did not warn the parents, including Plaintiffs,
8 even though the Summerkids campers including ROXIE were foreseeable victims of that illegal and
9 highly dangerous conduct by ARC's own agent, Cervantes, were highly dependent upon the
10 lifeguards to receive proper lifesaving training in CPR and AED, and the warning was to a very
11 limited group of people, namely the parents, including the Plaintiffs, of the children campers at
12 Summerkids Camp. Under all circumstances defendant ARC and DOES 36-50 had superior control
13 over the means of protection of the campers who ARC's own agent had put in jeopardy by the
14 improper training to Summerkids staff charged with the duty to protect these children from drowning
15 and death.

16 199. At all times defendant BOREHAM and LSC and DOES 21-35 knew that THE
17 DIMASSAS, The DIMASSA ENTITIES, and SUMMERKIDS, INC. employees did not receive the
18 appropriate American Heart Association Heartsaver Pediatric First Aid, CPR and AED training,
19 actually required for AHA Heartsaver certification because defendants BOREHAM and LSC and
20 DOES 21-35 provided the Heartsaver training and in just half the time, 3 to 3 ½ hours instead of
21 seven hours required by the AHA for this lifesaving training. Defendants BOREHAM and LSC and
22 DOES 21-35 along with THE DIMASSAS, The DIMASSA ENTITIES, and SUMMERKIDS, INC.
23 intentionally failed to disclose and concealed these facts for their financial gain from the parents of
24 the children attending Summerkids Camp, including the Plaintiffs, which were only known to these
25 Defendants, that the Summerkids, Inc. employees, including assistant director Defendant JAMIE
26 HARRISON, did not receive the appropriate AHA Heartsaver Pediatric First Aid, CPR and AED
27 training to properly and correctly administer CPR and AED sufficient to save a life of the child in
28 cardiac arrest, including ROXIE. As a result of the improper AHA Heartsavers Pediatric First Aid

1 CPR AED training which defendant BOREHAM and LSC and DOES 21-35 provided to Defendant
2 JAMIE HARRISON, HARRISON failed to administer proper CPR to ROXIE and was a cause of
3 ROXIE's death.

4 200. At all times BOREHAM and LSC and DOES 21-35 had a duty to notify or warn the
5 parents, including the Plaintiffs, of children campers at Summerkids Camp of the facts regarding the
6 improper AHA training of Summerkids staff. These Summerkids campers, including ROXIE, were
7 foreseeable victims of that conduct by BOREHAM, LSC and DOES 21-35 and THE DIMASSAS,
8 The DIMASSA ENTITIES, and SUMMERKIDS, INC. The required warning of these facts was to a
9 very limited group of people, namely the parents, including the Plaintiffs, of the children campers at
10 Summerkids Camp. Under all circumstances, defendant BOREHAM, LSC and does 21-35 had
11 superior control over the means of protection of the campers which said Defendants had put in
12 jeopardy by the improper training to Summerkids staff charged with the duty to protect these children
13 from drowning and death by effectively administering lifesaving procedures which Defendants failed
14 to provide. Instead, BOREHAM, LSC and DOES 21-35 and THE DIMASSAS, The DIMASSA
15 ENTITIES, and SUMMERKIDS, INC. concealed these facts from the parents of the children
16 Summerkids campers, including the Plaintiffs.

17 201. The truth was also that none of the employees of THE DIMASSAS, The DIMASSA
18 ENTITIES, and SUMMERKIDS, INC. received certified CPR, AED, and First Aid training from
19 defendants CERVANTES and ARC and DOES 36-50, and none of the employees of THE
20 DIMASSAS, The DIMASSA ENTITIES, and SUMMERKIDS, INC. received certified AHA
21 Heartsaver First Aid CPR AED training from defendants BOREHAM, LSC, and DOES 21-35.
22 Instead, all said defendants misrepresented to and/or concealed these facts from the parents, including
23 the Plaintiffs of the Summerkids campers that included ROXIE.

24 202. Defendants THE DIMASSAS, The DIMASSA ENTITIES, CERVANTES, ARC,
25 SUMMERKIDS, INC., BOREHAM, LSC and DOES 1-50 intended that Plaintiffs rely on the
26 intentional misrepresentation that the SUMMERKIDS, INC. employees and/or contractors were
27 ARC certified lifeguards, had ARC water safety training as established by the ARC guidelines and
28 written manuals, and were certified in CPR, AED, and First Aid training and concealment of the true

1 facts that the Summerkids employees were not properly trained and certified in lifesaving so that
2 PLAINTIFFS would feel safe in enrolling their 6-year-old non swimmer, ROXIE, in Summerkids
3 Camp and pay for her tuition for the camp.

4 203. PLAINTIFFS reasonably relied on Defendants THE DIMASSAS, The DIMASSA
5 ENTITIES, CERVANTES, ARC, SUMMERKIDS, INC., JAIMI HARRISON, BOREHAM, LSC
6 and DOES 1-50 representation that the SUMMERKIDS, INC. employees and/or contractors were
7 ARC certified lifeguards, had ARC water safety training as established by the ARC guidelines and
8 written manuals and were certified in CPR, AED, and First Aid training either by ARC or AHA.

9 204. As a result of the representations and the concealment of the actual facts by Defendants
10 THE DIMASSAS, The DIMASSA ENTITIES, CERVANTES, ARC, SUMMERKIDS, INC.,
11 BOREHAM, LSC and DOES 1-50, Plaintiffs enrolled ROXIE in the Summerkids Camp and paid
12 ROXIE'S tuition for the camp which the Plaintiffs would not have done if they knew the actual facts
13 which the Defendants had intentionally misrepresented and concealed from the Plaintiffs

14 205. Because the employees of THE DIMASSAS, The DIMASSA ENTITIES, and
15 SUMMERKIDS, INC. had not been properly trained in water safety, lifeguarding, CPR, AED, and
16 First Aid by CERVANTES, ARC, BOREHAM, LSC and DOES 21-50 which at all times Defendants
17 THE DIMASSAS, The DIMASSA ENTITIES, CERVANTES, ARC, SUMMERKIDS, INC.
18 BOREHAM, LSC were aware and intentionally misrepresented and concealed from the
19 PLAINTIFFS, the PLAINTIFFS were harmed.

20 206. PLAINTIFFS' reliance on Defendants THE DIMASSAS, The DIMASSA ENTITIES,
21 CERVANTES, ARC, SUMMERKIDS, INC., BOREHAM, LSC and DOES 1-50's
22 misrepresentations and concealment of the actual facts were substantial factors in causing
23 PLAINTIFFS' harm. Had PLAINTIFFS known the truth that the SUMMERKIDS, INC. camp
24 employees were not properly trained in water safety, ARC lifeguarding, CPR, AED, nor AHA First
25 Aid CPR AED training, Plaintiffs would not have enrolled ROXIE at Summerkids Camp. At no time
26 did the Plaintiffs know that Defendants' representations were untrue. At no time were Plaintiffs aware
27 of the facts concealed by the Defendants which were intended to deceive the Plaintiffs. If Plaintiffs
28 would have been aware of the truth which Defendants intentionally misrepresented and aware of the

1 facts which Defendants intentionally concealed, PLAINTIFFS would have never entrusted their non-
2 swimmer 6-year-old daughter, ROXIE, to S[UMMERKIDS, INC. camp, and she would still be alive.
3 PLAINTIFFS therefore request all damages available to them under this cause of action, including
4 punitive damages.

5
6 **PRAYER FOR RELIEF**

7 Wherefore, PLAINTIFFS pray for judgment against DEFENDANTS, and DOES 1-50, and each of
8 them, as follows:

9 On all Causes of Action

- 10 1. For past and future special damages;
- 11 2. For past and future general damages;
- 12 3. For interest allowable by law;
- 13 4. For costs of suit incurred herein;
- 14 5. For such other and further relief as the court may deem proper;
- 15 6. For medical, burial, celebration of life, and related expenses according to proof; and
- 16 7. For punitive damages.

17
18
19 Dated: June 6, 2022

LAW OFFICES OF VICTOR L. GEORGE

20
21 */s/ Meylin P. Alfaro*
22 By: _____
23 VICTOR L. GEORGE
24 MEYLIN P. ALFARO
25 Attorneys for Plaintiffs,
26 ELENA MATYAS, individually and as
27 Successor-in-Interest to
28 ROXIE MIRABELLE FORBES; and
DOUGLAS FORBES, individually and as
Successor-in-Interest to
ROXIE MIRABELLE FORBES

DEMAND FOR JURY TRIAL

PLAINTIFFS hereby demand, as a matter of right, trial by jury in this case on all causes of action.

Dated: June 6, 2022

LAW OFFICES OF VICTOR L. GEORGE

/s/ Meylin P. Alfaro

By: _____

VICTOR L. GEORGE
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DOUGLAS FORBES, individually and as
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