

1 JOHNSTON & HUTCHINSON LLP
2 601 W. 5th Street, Suite 210
3 Los Angeles, CA 90071
4 Telephone: (213) 542-1978
5 Facsimile: (213) 542-1977
6 Thomas J. Johnston – SBN 210506
7 *tjj@johnstonhutchinson.com*
8 Brian F. Needelman, SBN 284670
9 *bfn@johnstonhutchinson.com*

10 Attorneys for Plaintiffs DAVID LAM and YINNA LAM

FILED
Superior Court of California
County of Los Angeles

DEC 04 2015

Sherri R. Carter, Executive Officer/Clerk
By Judi Lara, Deputy

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES

13 DAVID LAM, an individual; YINNA LAM,)
14 an individual;)
15 Plaintiffs,)
16 vs.)
17 CECIL HOTEL MANAGEMENT, INC., a)
18 California Corporation; DOES 1 through 25,)
19 inclusive,)
20 Defendants.)

21 CASE NO. BC521927 BC524875

22 **NOTICE OF ERRATA; PLAINTIFFS’
23 CORRECTED SEPARATE STATEMENT
24 OF DISPUTED AND UNDISPUTED
25 MATERIAL FACTS IN SUPPORT OF
26 PLAINTIFFS’ OPPOSITION TO
27 DEFENDANTS’ MOTION FOR
28 SUMMARY JUDGMENT; AND
CORRECTED EXHIBITS**

Date: December 14, 2015
Time: 8:30 A.M.
Dept: 93

Trial Date.: February 11, 2016

29 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

30 PLEASE TAKE NOTICE that on November 30, 2015, Plaintiffs filed documents titled: Separate
31 Statement of Disputed and Undisputed Material Facts in Support of Plaintiffs’ Opposition to
32 Defendants’ Motion for Summary Judgment (“Separate Statement”) and Exhibits in Support of

34 **NOTICE OF ERRATA; PLAINTIFFS’ CORRECTED SEPARATE STATEMENT OF DISPUTED AND
35 UNDISPUTED MATERIAL FACTS IN SUPPORT OF PLAINTIFFS’ OPPOSITION TO
36 DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT; AND CORRECTED EXHIBITS**

1 Opposition to Defendants' Motion for Summary Judgment and Declaration of Thomas J. Johnston
2 ("Declaration.")

3 Certain exhibits were inadvertently omitted from the Separate Statement and/or the
4 Declaration. Plaintiffs hereby submit corrected documents with the following changes:

5 SEPARATE STATEMENT:

- 6 1. Corrected evidence on Plaintiffs' Undisputed Material Fact 11 by adding: "Tovar Depo 39:
7 10-20" which was cited in Plaintiffs' Opposition but inadvertently omitted from the
8 Separate Statement.
9 2. Corrected evidence on Plaintiffs' Undisputed Material Fact 14 by removing "PUMF" and
10 adding: "Defendants Undisputed Material Facts 13 and 46; Tovar Depo 32:9-11."

11 DECLARATION:

- 12 1. Corrected Exhibit 1 by adding page 11, lines 19-25 of the Price Deposition, which was
13 erroneously cited as "19-25" on page 7 of Plaintiffs' Opposition, and by removing pages 19-
14 25 of the Price Deposition.
15 2. Corrected Exhibit 2 by adding the following pages of the Tovar Deposition which were
16 cited in the Plaintiffs' Opposition and/ or Separate Statement but inadvertently omitted from
17 the Declaration: page 32, lines 9-11; page 33, line 13 through page 34, line 1; page 35, line
18 17-20; page 39, lines 3 through 4; and page 41, lines 10-12.
19 3. Corrected Exhibit 3 by adding page 13, lines 5-17 of the Lopez Deposition, which was cited
20 in Plaintiffs' Opposition and Separate Statement but inadvertently omitted from the
21 Declaration.
22

23 ///

24 ///

25 ///

26 ///

27 ///

12/15/2015 11:29:55

1 4. Added Exhibit 6, relevant portions of the Tennelle Deposition which were cited in
2 Plaintiffs' Opposition and Separate Statement but inadvertently omitted from the
3 Declaration: page 23, line 25 through page 25, line 1; page 34 lines 8-13; and page 43 lines
4 3-14;

5
6
7 DATED: December 3, 2015

JOHNSTON & HUTCHINSON LLP

8
9
10 By: 

11 THOMAS J. JOHNSTON
12 BRIAN F. NEEDELMAN
13 Attorneys for Plaintiffs
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

12/03/15 12:01:00

12/08/2015
5102/80/21

TI CORRECTED
SEPARATE
STATEMENT

1 JOHNSTON & HUTCHINSON LLP
2 601 W. Fifth Street, Suite 210
3 Los Angeles, CA 90071
4 Telephone: (213) 542-1978
5 Facsimile: (213) 542-1977
6 Thomas J. Johnston – SBN 210506
7 *tjj@johnstonhutchinson.com*
8 Brian F. Needelman – SBN 284670
9 *bfn@johnstonhutchinson.com*

10 Attorneys for Plaintiffs David Lam and Yinna Lam

11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF LOS ANGELES

14	DAVID LAM, an individual; YINNA LAM, an individual;	)	CASE NO. BC521927
15	Plaintiffs,	)	CORRECTED SEPARATE STATEMENT
16	vs.	)	OF DISPUTED AND UNDISPUTED
17	CECIL HOTEL MANAGEMENT, INC., a California Corporation; DOES 1 through 25, inclusive,	)	MATERIAL FACTS IN SUPPORT OF
18	Defendants.	)	PLAINTIFFS' OPPOSITION TO
19		)	DEFENDANTS' MOTION FOR
20		)	SUMMARY JUDGMENT
21		)	Date: December 14, 2015
22		)	Time: 1:30 p.m.
23		)	Dept.: 93
24		)	Trial Date: February 11, 2016

25 Plaintiffs David Lam and Yinna Lam hereby submit the following Separate Statement of
26 Disputed and Undisputed Material Facts in support of their opposition to Defendant Cecil Hotel
27 Management, Inc.'s motion for summary judgment, pursuant to California Code of Civil Procedure
28 section 437c.

No.	<u>Defendants' Undisputed Material Fact and Supporting Evidence</u>	No.	<u>Plaintiffs' Response</u>
1	<p>The Defendants operate a 600 room hotel in downtown Los Angeles called Stay on Main.</p> <p>(Complaint for Damages, dated September 5, 2013 ("Complaint") ¶1(Exhibit A))</p>	1	Undisputed for the purposes of this motion.
2	<p>The Hotel is a 15 story building that was originally constructed in the 1920's.</p> <p>(Declaration of Pedro Tovar ("Tovar Decl.") ¶3)</p>	2	Undisputed for the purposes of this motion.
3	<p>The Hotel is configured in an "E" shape pattern with three separate wings that are connected.</p> <p>(Tovar Decl., ¶3; Deposition of Detective Wallace Tennelle ("Tennelle Depo"), p. 23:10-16.)</p>	3	Undisputed for the purposes of this motion.
4	<p>The Hotel roof is a restricted area that is off limits to hotel guests.</p> <p>(Declaration of Amy Price ("Price Decl.") ¶11; Tovar Decl. ¶4)</p>	4	Undisputed for the purposes of this motion.
5	<p>It is not marked nor indicated on any Hotel marketing material as a common service area for guests.</p> <p>(Price Decl., ¶11.)</p>	5	Undisputed for the purposes of this motion.
6	<p>It is not represented to any guests as a common service area, and it is not made available to guests even upon request.</p> <p>(Price Decl. ¶11; Tovar Decl. ¶4)</p>	6	Undisputed for the purposes of this motion.
7	<p>There are only four ways to gain roof access.</p> <p>(Tovar Decl., ¶¶5-6; Price Decl. ¶12; Tennelle Depo, p. 39:3-5.)</p>	7	Undisputed for the purposes of this motion.

1	8	Three of the ways are exterior fire escapes on the sides of the hotel which run the entire height of the building. (Tovar Decl., ¶¶5-6; Price Decl. ¶13; Tennelle Depo, p. 23:10-16.)	8	Undisputed for the purposes of this motion.
2				
3				
4				
5	9	The fourth and final means of roof access is through an interior staircase leading from the 14 th floor to the roof. (Tovar Decl., ¶¶5-6; Price Decl. ¶¶12-13; Tennelle Depo, p. 39:3-5.)	9	Undisputed for the purposes of this motion.
6				
7				
8				
9	10	The rooftop access door is equipped with an electronic alarm system which alerts hotel employees when the rooftop access door has been opened. (Tovar Decl., ¶6; Declaration of Santiago Lopez (“Lopez Decl. ¶5; Price Decl. ¶13; Tennelle Depo, pp. 29:22-30:4.)	10	Undisputed for the purposes of this motion.
10				
11				
12				
13				
14				
15	11	The electronic alarm is loud enough to be heard on the 14 th and 15 th floors, and there is a separate alarm which sounds at the front desk. (Tovar Decl., ¶6; Lopez Decl. ¶5; Price Decl. ¶14.)	11	Undisputed for the purposes of this motion.
16				
17				
18				
19	12	The alarm can only be deactivated or turned off with a key that is maintained by the Hotel maintenance staff. (Tovar Decl., ¶6; Lopez Decl. ¶5; Price Decl. ¶14)	12	Undisputed for the purposes of this motion.
20				
21				
22				
23	13	It is the Hotel’s policy that any time the roof top access door alarm is activated, an employee or security guard is immediately dispatched to manually check the roof area and the roof access door. (Price Decl. ¶¶14,15; Lopez Decl. ¶11; Tovar Decl. ¶¶9,10)	13	Undisputed for the purposes of this motion.
24				
25				
26				
27				
28				

1	14	The alarm for the roof top access door was not activated at any point in January or February 2013. (Price Decl. ¶16; Lopez Decl. ¶11; Tovar Decl. ¶9)	14	Objection. Lacks foundation. Records of the alarm going off were not kept during the relevant time. (Tovar Depo 32:9-11)
2				
3				
4				
5	15	All fire escape routes and the rooftop access door are clearly labeled that they are for emergency use only. (Price Decl. ¶12)	15	Undisputed for the purposes of this motion.
6				
7				
8	16	The rooftop of the hotel has four 1000 gallon water tanks which supply the hotel with water using a gravity operated system. (Tovar Decl. ¶7; Price Decl. ¶10)	16	Undisputed for the purposes of this motion.
9				
10				
11				
12	17	Water is pumped from a main water line at below street level to these four tanks. (Tovar Decl. ¶7; Price Decl. ¶10)	17	Undisputed for the purposes of this motion.
13				
14				
15	18	Each tank is approximately 10 feet high and 6 feet in diameter. (Tovar Decl. ¶7; Price Decl. ¶10)	18	Undisputed for the purposes of this motion.
16				
17				
18	19	The tanks are in a different access platform approximately 4 feet above the roof. (Tovar Decl. ¶8; Price Decl. ¶10)	19	Undisputed for the purposes of this motion.
19				
20				
21	20	To access the tanks, someone would have to climb a ladder up the platform, and then squeeze through the tanks and plumbing equipment to reach another narrow ladder and climb up the side of the 10 foot tall tank. Alternatively, someone could theoretically access the water tank by climbing to the top of an elevator utility room and jumping down upon the water tank from above. (Tovar Decl. ¶8)	20	Objection. Argumentative as to "squeeze." There is approximately 3 feet between each tank. (Tenelle Depo 34:8-13.)
22				
23				
24				
25				
26				
27				
28	21	The tanks are all fully covered with heavy metal lids that are approximately	21	Undisputed for the purposes of this

1	18" by 18"		motion.
2	((Tovar Decl. ¶8; Tennelle Depo, pp.		
3	34:14-35:4.)		
4	22 On or about January 26, 2013, Elisa made	22	Undisputed for the purposes of this
5	reservations on the internet for a shared		motion.
6	room at Stay on Main for a three (3) night		
7	stay, check in on January 28, 2013 and		
8	check out on January 31, 2013. It is		
9	believed that Elisa was traveling alone		
10	from Vancouver, Canada to California. It		
11	is further believed her trip began in San		
12	Diego and her eventual final destination		
13	was Santa Cruz.		
14	(Price Decl. ¶5; Tennelle Depo, p. 27:3-		
15	10.)		
16	23 Elisa Lam was not, nor has she ever been	23	Undisputed for the purposes of this
17	an employee of the Cecil/Stay on Main		motion.
18	Hotel.		
19	(Price Decl. ¶3)		
20	24 Elisa checked into Stay on Main on	24	Undisputed for the purposes of this
21	January 28, 2013 and was assigned a		motion.
22	shared room on the 5 th floor		
23	(Price Decl. ¶¶5-6; Tennelle Depo, pp.		
24	20:24-21:1.)		
25	25 However, two days into her stay, Elisa's	25	Undisputed for the purposes of this
26	roommates complained about certain odd		motion.
27	behavior by Elisa and she was then		
28	moved to a private room, also on the 5 th		
	floor.		
	(Price Decl. ¶¶6-7; Tennelle Depo, pp.		
	20:24-21:1.)		
	26 An extensive and exhaustive search of	26	Disputed. The search was not exhaustive
	the entire hotel, including the roof, was		as it did not include the area around the
	performed by the LAPD over the course		water tanks. (Tennelle Depo, p. 43:3-
	of the multiple days starting on February		14.)
	5, 2013.		
	(Tovar Decl. ¶¶13-15; Price Decl. ¶8;		

1		Tennelle Depo, pp. 41:23-43:7.)		
2	27	Particular attention was paid by the LAPD because it involved a foreign national. The LAPD set up a command post in the lobby of the Hotel and organized numerous search teams who were paired with a Hotel employee with a master key. (Tovar Decl. ¶¶13-15; Lopez Decl. ¶10; Price Decl. ¶8; Tennelle Depo, pp/ 13:10- 15:17, 41:23-43:7.)	27	Undisputed for the purposes of this motion.
3				
4				
5				
6				
7				
8				
9	28	The teams then searched “every nook and cranny” of the Hotel, including the roof. (Tovar Decl. ¶¶13-15; Price Decl. ¶8; Tennelle Depo, pp. 14:7-15:17, 41:23- 43:7.)	28	Disputed. The search was not exhaustive as it did not include the area around the water tanks. (Tennelle Depo, p. 43:3- 14.)
10				
11				
12				
13	29	The LAPD did not approach or inspect the water tanks during their searches. (Tennelle Depo, p. 43:3-14.)	29	Undisputed for the purposes of this motion.
14				
15				
16	30	The Hotel roof access door was checked to make sure it was functioning. (Tovar Decl. ¶¶11, 12; Tennelle Depo, pp. 29:25-30:21.)	30	Undisputed for the purposes of this motion.
17				
18				
19	31	After the LAPD detectives found nothing during their search, a second search of the entire Hotel, including the roof, was conducted by numerous K9 (canine) units. (Tovar Decl. ¶¶13-15; Price Decl. ¶8; Tennelle Depo, pp. 14:7-15:17, 41:23- 43:7.)	31	Undisputed for the purposes of this motion.
20				
21				
22				
23				
24				
25	32	Unfortunately, Elisa was not found during the LAPD searches. (Tovar Decl. ¶¶13-15; Price Decl. ¶8; Tennelle Depo, pp. 14:7-15:17, 41:23- 43:7.)	32	Undisputed for the purposes of this motion.
26				
27				
28				

1	33	On February 19, 2013 a Hotel guest complained about the water pressure while taking a shower and also about a strange odor.	33	Undisputed for the purposes of this motion.
2		(Price Decl. ¶9; Lopez Decl. ¶3; Tovar Decl. ¶16)		
3				
4				
5	34	At that point, maintenance employee Santiago Lopez went to the roof of the hotel to check the water system. Mr. Lopez took one of the two elevators to the 15 th floor, then preceded up the stairway to the roof top access door. He then deactivated the alarm on the door, entered the roof and walked to the area where the water tanks for the hotel are located.	34	Undisputed for the purposes of this motion.
6		(Price Decl. ¶10; Lopez Decl. ¶6; Tovar Decl. ¶16)		
7				
8				
9				
10				
11				
12				
13				
14	35	Next, he climbed up the platform upon which the water tanks sat and finally climbed a ladder up onto the main water tank. Mr. Lopez noticed that the hatch to the main water tank was open and he looked inside. It was there he found Elisa's body floating in the tank.	35	Undisputed for the purposes of this motion.
15		(Lopez Decl. ¶¶6,7)		
16				
17				
18				
19				
20	36	After discovering the body Mr. Lopez immediately contacted his supervisor, Pedro Tovar, by walkie-talkie. The two went down to the first floor office to advise Amy Price, the general manager, of the discovery and to notify the authorities.	36	Undisputed for the purposes of this motion.
21		(Lopez Decl. ¶8; Tovar Decl. ¶17)		
22				
23				
24				
25				
26	37	Elisa's body was extracted from the water tank by Los Angeles Fire Department who had to cut a hole in the bottom of the water tank.	37	Undisputed for the purposes of this motion.
27				
28				

1	(Tennelle Depo, p. 37:1-11.)			
2	38	The Los Angeles County Coroner's Office investigated and determined that Elisa's death did not involve any "foul play." Further, an autopsy was performed and the subsequent report identified the cause and manner of death as an accidental drowning with Bipolar Disorder as a contributing, but not related condition. Among Elisa's possessions found at the hotel were the prescription medications Lamotrigine, Quetiapine, Venlafaxine XR, and Wellbutrin XL.	38	Undisputed for the purposes of this motion.
3		(Deposition of Kelly Yagerlener ("Yagerlener Depo"), p. 7:14:8:4; County of Los Angeles, Department of Coroner Investigator's Narrative for Case No. 2013-01364)		
4	39	The LAPD eventually concluded their investigation of Elisa's death could not conclusively determine how she reached the roof or accessed the water tank.	39	Undisputed for the purposes of this motion.
5		(Tennelle Depo, pp. 38:22-39:9, 43:17-44:22.)		
6	40	Defendants had no prior knowledge or observation of any prior instances of anyone being injured at or by the rooftop water tanks before February 19, 2013.	40	Undisputed for the purposes of this motion.
7		(Tovar Decl. ¶¶18-20; Lopez Decl. ¶¶12-14; Price Decl. ¶¶19-21)		
8	41	In fact, Defendants had no prior knowledge or observation of any instances of trespass or unauthorized access to the rooftop water tanks before February 19, 2013.	41	Disputed. Defendants knew that guests and others often went to the roof, and took no steps to protect the water tanks, which were freely accessible.
9		(Tovar Decl. ¶¶18-20; Lopez Decl. ¶¶12-14; Price Decl. ¶18-21)		
10	42	In addition to there being no other instances of injury by means of	42	Undisputed for the purposes of this

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1	unauthorized rooftop water tank access, Defendants are unaware of any CAL/OSHA violations/citations regarding any of the roof top water tanks.		motion.
2			
3			
4	(Price Decl. ¶¶4, 22-24)		
5	43	Since at least 2010, the Hotel has passed all Los Angeles Fire Department Chief's Regulation 4 testing of fire protection equipment, which includes the three (3) exterior fire escapes.	43
6			Undisputed for the purposes of this motion.
7			
8			
9	(Price Decl. ¶24)		
10	44	Aside from the instance with Elisa, the Hotel has never had any other injuries to guests due to the roof top water tanks and there have been no citations by The City of Los Angeles Department of Building and Safety regarding the water tanks on the roof.	44
11			Undisputed for the purposes of this motion.
12			
13			
14	(Price Decl. ¶¶22, 23, 24)		
15	45	Between January 28, 2013 and February 19, 2013, the alarm to the roof top access door was functioning properly.	45
16			Objection. Lacks foundation as neither witness testified to checking the alarm each day, and records related to the alarm going off were not kept at that time.
17			
18	(Tovar Decl. ¶¶11, 12; Tennelle Depo, pp. 29:25-30:21.)		
19			(Tovar Depo 32:9-11)
20			
21	46	Defendants were not aware of any instances between January 28, 2013 and February 19, 2013, where the roof top access door alarm was unintentionally activated.	46
22			Undisputed for the purposes of this motion.
23			
24			
25	(Price Decl. ¶16; Tovar Decl. ¶9; Lopez Decl. ¶11)		
26	47	Defendants never expressly or impliedly approved authorized, consented, endorsed, invited or permitted guests or third parties to access the rooftop water	47
27			Disputed. Defendants knew that guests and others often went to the roof, and
28			

1	tanks.		took no steps to protect the water tanks
2	(Price Decl. ¶11; Tovar Decl. ¶4)		which were freely accessible. This could
3			be construed as permitting access.
4	48 Defendants never advertised or marketed	48	Undisputed for the purposes of this
5	the roof, nonetheless the water tanks, as		motion.
6	places available for guest access		
7	(Price Decl. ¶11)		
8	49 Despite the best efforts of investigators,	49	Objection. Argumentative. Without
9	there are no witnesses and no evidence to		waiving the objection: Disputed. There
10	identify the exact means of when, why or		is strong circumstantial evidence
11	how Ms. Lam accessed the roof and		indicating the means through which Ms.
12	water tanks.		Lam accessed the tank. See PUMF 3-6,
13	(Price Decl. 17; Tennelle Depo, pp.		which indicate that Ms. Lam climbed the
14	38:22-39:9, 43: 17-44:22		access ladder and entered the water tank
15			through the access hatch.
16			(Avrit Decl. Ex. B; Tovar Depo 33:18-
17			34; Avrit Decl. 11);

	<u>Plaintiffs' Undisputed Material Facts and Supporting Evidence</u>		<u>Defendants' Response</u>
18			
19			
20	1	1	
21	On the hotel rooftop was a "mechanical		
22	room" that was kept locked by two		
23	different locks because it was dangerous		
24	for others, specifically hotel employees.		
25	(Tovar Depo 42:25, 43:1-18.)		
26	2	2	
27	The hotel fire escapes which accessed the		
28	roof also connected to the hotel corridor.		
	(Tennelle Depo 23:25-26:4)		

1	3	The four foot platform containing the water tanks was accessible through a set of wooden stairs. (Avrit Decl. Ex. B)	3	
2				
3				
4				
5	4	Hotel employees used a portable wooden ladder to access the rooftop tanks when they needed to repair the tanks. (Tovar Depo 33:18-34:1.)	4	
6				
7				
8				
9	5	The wooden ladder was kept next to the water tanks at all times for approximately 10 years. (Tovar Depo 33:13-22.)	5	
10				
11				
12				
13	6	Each tank had a hatch on top so that the interior of the tank could be accessed. (Avrit Decl. 11.)	6	
14				
15				
16	7	The access hatches were capable of being locked by a simple padlock. (Lopez Depo 13:5-17; Tovar Depo 35:17-20.)	7	
17				
18				
19				
20	8	The access hatches were never padlocked before Ms. Lam's death. (Lopez Depo 13:5-17; Tovar Depo 35:17-20.)	8	
21				
22				
23				
24	9	Inside the water tanks, there were no grab bars, ladders, or other devices a person could use to escape the tanks. (Avrit Decl ¶9)	9	
25				
26				
27				
28	10	The hotel catered to young, single adults	10	

1		between the ages of 18 and 32. (Price 12:15-17.)		
2				
3	11	People would be found on the hotel roof every 5 to 6 months, often without any alarm going off. (Tovar Depo 38: 8-11, 39:10-20)	11	
4				
5				
6				
7	12	These people on the roof would usually be drinking or taking pictures. (Tovar Depo. 39:3-4.)	12	
8				
9				
10	13	Hotel employees would often find graffiti on the roof (Price Depo 19: 1-6; Tovar Depo 41:10- 17.)	13	
11				
12				
13				
14	14	On the night Ms. Lam accessed the Cecil Hotel's rooftop water tanks, no hotel employees responded to any alarm, if one went off. (Defendants Undisputed Material Facts 13, 46; Tovar Depo 32:9- 11)	14	
15				
16				
17				
18				
19				
20	15	After the body was found, the hotel began locking its water tanks using common padlocks (Price Depo 34:7-14)	15	
21				
22				
23				
24	16	Defendants distributed training manuals to their employees explaining the dangers posed by confined spaces including entrapment and engulfment hazards. (Johnston Decl. ¶6, Ex. 5)	16	
25				
26				
27				
28				

<p>1 2 3 4 5 6 7 8 9 10 11</p>	<p>17 The unsecured access ladders and unlocked hatch were unreasonably dangerous conditions and the Cecil Hotel breached the standard of care in the safety, building maintenance, and building management industries by allowing the conditions to exist, and that Defendants' breach of the standard of care was a substantial factor in Elisa Lam' death. (Avrit Decl. ¶1-13.)</p>	<p>17</p>	
--	--	-----------	--

12
13 DATED: December 3, 2015

JOHNSTON & HUTCHINSON LLP

14
15
16
17 By:



18 THOMAS J. JOHNSTON
19 BRIAN F. NEEDELMAN
20 Attorneys for Plaintiffs

1 2 3 0 8 6 2 0 4 1 5

1 JOHNSTON & HUTCHINSON LLP
2 601 West Fifth Street, Suite 210
3 Los Angeles, CA 90071
4 Telephone: (213) 542-1978
5 Facsimile: (213) 542-1977
6 Thomas J. Johnston, SBN 210506
7 *tjj@johnstonhutchinson.com*
8 Brian F. Needelman, SBN 284670
9 *bfn@johnstonhutchinson.com*

10 Attorneys for Plaintiffs DAVID LAM and YINNA LAM

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES

13 DAVID LAM, an individual; YINNA LAM,)
14 an individual;)

15 Plaintiffs,)

16 vs.)

17 CECIL HOTEL MANAGEMENT, INC., a)
18 California Corporation; DOES 1 through 25,)
19 inclusive,)

20 Defendants.)

CASE NO. BC521927

**CORRECTED EXHIBITS IN SUPPORT
OF OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT
AND DECLARATION OF THOMAS J.
JOHNSTON**

Date: December 14, 2015

Time: 1:30 p.m.

Dept.: 93

Trial Date: February 11, 2016

Complaint Filed: September 19, 2013

1 CORRECTED DECLARATION OF THOMAS J. JOHNSTON

2
3 I, Thomas J. Johnston, declare as follows:

- 4 1. I am an attorney duly licensed to practice before this Court. I am counsel for Plaintiffs and
5 have personal knowledge of the following facts. If called as a witness I could and would
6 testify competently to them.
- 7 2. Attached hereto as Exhibit 1 is a true and correct copy of portions of the deposition
8 transcript of Amy Price.
- 9 3. Attached hereto as Exhibit 2 is a true and correct copy of portions of the deposition
10 transcript of Pedro Tovar.
- 11 4. Attached hereto as Exhibit 3 is a true and correct copy of portions of the Santiago De Jesus
12 Lopez.
- 13 5. Attached hereto as Exhibit 4 is a true and correct copy of Pedro Tovar's declaration filed in
14 support of Defendant's summary judgment motion.
- 15 6. Attached hereto as Exhibit 5 is a true and correct copy of the relevant training manual given
16 to Defendants' employees.
- 17 7. Attached hereto as Exhibit 6 is a true and correct copy of the deposition transcript of
18 Detective Wallace Tennelle.

19
20 I swear under penalty of perjury that the foregoing is true and correct this 3rd day of December,
21 2015 at Los Angeles, CA.

22
23
24 
25 THOMAS J. JOHNSTON
26
27
28
29
30
31
32

1
2
3
4
5
6
7
8
9
10
11
12

EXHIBIT 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

DAVID LAM, an individual; YINNA)
LAM, an individual,)
)
Plaintiffs,)
)
vs.)
)
CECIL HOTEL MANAGEMENT, INC., a)
California Corporation; DOES 1)
through 25, inclusive,)
)
Defendants.)
_____)

No. BC521927

DEPOSITION OF AMY PRICE, a witness herein,
noticed by Johnston & Hutchinson LLP, taken at
601 West Fifth Street, Los Angeles,
California, at 2:43 p.m., on Tuesday,
October 27, 2015, before JUDITH E. THIEL,
CSR 2618, CP, RPR.

Hutchings Number 593152

1279823635

1 14:51 Q. It says that she was assigned a shared room,
2 506B.

3 What is a shared room?

4 A. We have a portion of our business that is
5 14:52 hostel -- considered hostel. So that particular room at
6 the time would have slept eight people, and they're
7 separated by male and female dorms.

8 Q. Would there be a bathroom in the room or on the
9 floor?

10 14:52 A. There would have been a bathroom in the room.

11 Q. How much was Elisa Lam charged per night?

12 A. The dorm rooms start at \$35 a night.

13 Q. What was the most expensive room at the hotel
14 per night?

15 14:52 A. At the time?

16 Q. Yes.

17 A. It goes by season. So I would imagine that it
18 would have been probably around \$90 at the time.

19 Q. At the time Elisa Lam checked in in January

20 14:52 2013, can you tell me a little bit about the customer

21 base that the hotel was trying to attract into its

22 hotel?

23 A. Sure. Our demographic is 18 to 32.

24 Q. Mostly single people, do you think?

25 14:53 A. Yes.

1 14:53 Q. Student types?
2 A. Yes. International travelers.
3 Q. Was the hotel always that -- seeking that
4 demographic since you worked there?
5 14:53 A. Yes.
6 Q. Was that a change from the history of the
7 hotel?
8 For example, was there a time before you became
9 involved that it attracted a different type of
10 14:53 clientele?
11 A. I don't know.
12 Q. How long had maybe the youth hostel demographic
13 been going to the Cecil Hotel, if you know?
14 A. Since I started in '07.
15 14:54 Q. What type of demographic does the hotel
16 currently have?
17 A. It hasn't changed. It's 18 to 32.
18 Q. At the time of Elisa Lam's death, who was the
19 security contractor?
20 14:55 A. Chase Protective Services.
21 Q. Did Chase report to you?
22 A. Yes.
23 Q. Before I go too deeply into what was happening,
24 can you describe your job duties as manager around the
25 14:55 time of Elisa Lam's death.

11 200870915

1 15:01 A. I trained them to do that.

2 Q. Why did you do that?

3 A. Well, if an alarm was going off, we need to
4 know why. The alarm is very loud.

5 15:01 Q. Were you particularly concerned about the
6 dangers that would be present if guests were going to
7 the rooftop?

8 A. No.

9 Q. Did you think the rooftop would be a dangerous
10 15:02 place for guests?

11 A. Well, it's restricted area. So guests are
12 not permitted to be on the roof, so I didn't consider
13 that.

14 Q. Did it ever come to your attention that guests
15 15:02 were going to the roof even though it was a restricted
16 area?

17 A. I would not want to call them guests.
18 Trespassers?

19 Q. Any term you feel comfortable with, tell me
20 15:02 about it, please.

21 A. Unauthorized access to the roof. I am aware
22 that has happened from time to time.

23 Q. Were you aware that that happened before Elisa
24 Iam died?

25 15:02 A. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

15:02 Q. Please tell me what you knew.

A. Just from time to time, I do many tours on the roof. I am up there very often. And if I had -- like you mentioned earlier, saw graffiti -- I have seen that

15:02 @ a few times while I've been up there. That's my knowledge of access to the roof.

Q. Why do you take tours to the roof?

A. I travel the -- our -- I tour investors for the hotel, so I -- I do a lot of tours all the time: Banks, businessmen, architects, designers.

15:03

Q. Let's say in a given year -- and let's say 2012, 2013, around the time of Elisa Lam's death -- how often were you going to the roof?

A. Probably been there 30 times.

15:03

Q. I'm sorry. I'm not sure I framed the question to receive that answer.

Do you think in 2012, before Elisa Lam died at the end of January 2013, how many times do you think you were on the roof?

15:03

A. You're speaking of calendar year?

Q. Yes.

A. Yes. 30 times.

Q. What would take you -- or what took you to the roof that 30 times?

15:03

A. Traveling -- Or, excuse me. Touring possible

11208820955

1 15:22 hatch, even if they were able to be locked, you would
2 have been okay with them not being locked?

3 A. It's a restricted area where we were only
4 working, so no.

5 15:22 Q. Are they locked now?

6 A. Yes.

7 Q. Why are they locked now if you wouldn't have a
8 problem with them not being locked before?

9 A. Based on the incident, I -- I got them -- locks
10 15:23 installed.

11 Q. Why?

12 A. I -- Based on the incident, what happened, I --
13 I just thought, as a preventative measure in the future,
14 that they should be locked.

15 15:23 Q. Is the area as restricted now as it was before?

16 A. Yes.

17 Q. Do you agree that the hatches -- Excuse me.

18 I'll rephrase that.

19 Do you agree that the water tanks are safer now

20 15:23 because they are locked than they would be without being
21 locked?

22 MR. HSU: Objection. May call for speculation.

23 Lacks foundation.

24 THE WITNESS: Can you repeat the question.
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

DAVID LAM, an individual; YINNA)
LAM, an individual,)

Plaintiffs,)

vs.)

No. BC521927

CECIL HOTEL MANAGEMENT, INC., a)
California Corporation; DOES 1)
through 25, inclusive,)

Defendants.)

DEPOSITION OF JOSE PEDRO TOVAR, a witness
herein, noticed by Johnston & Hutchinson LLP,
taken at 601 West Fifth Street, Los Angeles,
California, at 10:36 a.m., on Tuesday,
October 27, 2015, before JUDITH E. THIEL,
CSR 2618, CP, RPR.

Hutchings Number 593152

2015 OCT 27 10:36 AM

1 11:43 A. "This is Pedro from maintenance, and everything
2 is fine."

3 Q. Do you know if the front desk kept a log of
4 rooftop intrusion or access from the 15th floor?

5 11:43 MR. HSU: Objection. Vague as to time.

6 THE WITNESS: I know that, before, it was not kept.
7 I don't know now.

8 MR. JOHNSTON:

9 Q. Before Elisa Lam died, was there any record
10 11:44 kept of when the rooftop door alarm was activated?

11 A. Not that I know of.

12 Q. After Elisa Lam's death, is there a record kept
13 of rooftop access?

14 A. Yes. I think so.

15 11:44 Q. Please tell me what you understand is kept now.

16 A. I understand that there's a record there at the
17 office that they keep when the alarm goes off.

18 Q. Are there any security cameras on the roof?

19 A. Not that I know of.

20 11:45 Q. At the time of Elisa Lam's death, were there
21 security cameras on the roof?

22 A. Not -- No, not that I know of.

23 Q. Why not?

24 MR. HSU: Objection. May call for speculation.

25 11:46 THE WITNESS: Those are not my decisions.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

1 11:46 MR. JOHNSTON:
2 Q. Who makes those decisions, to your knowledge?
3 A. The managers and personnel more higher than me.
4 Q. At any time prior to Elisa Lam's death, did you
5 11:46 ever recommend security cameras to be placed on the
6 rooftop?
7 A. No.
8 Q. At any time prior to Elisa Lam's death, did
9 you, yourself, ever walk to the water tanks and climb up
10 11:46 the ladders there?
11 A. No. I walked around it only, but I did not go
12 up the tank.
13 Q. Do you know that wooden ladder that was kept up
14 against one of the tanks?
15 11:47 A. Yes.
16 Q. How long has that ladder been there?
17 A. For about ten years.
18 Q. Who put it there?
19 A. We did, probably, the maintenance.
20 11:47 Q. Why was it put there?
21 A. Because usually when the floater chain breaks,
22 we fix it.
23 Q. What's a floater chain, and how is it fixed?
24 A. We -- We replace a piece of the chain, or
25 11:48 sometimes it just kind of gets out of where it's

11255520355

1 11:48 supposed to be.

2 Q. What's its job?

3 A. To keep -- maintain the level of water and to

4 turn on the pumps in the basement so that the water can

5 11:48 go up.

6 Q. It's called a floater chain?

7 A. Yes. I think that that's the name. I don't

8 know.

9 Q. Is that like what's in my toilet when my wife

10 11:49 asks me to go fix the toilet?

11 A. Something similar. Not the same, but similar.

12 Q. What do those water tanks do?

13 A. Well, they are the ones that give water to the

14 whole building.

15 11:49 Q. How does the water get to the tanks?

16 A. When the floater goes down, it turns on a

17 switch, and the switch sends a signal to the basement so

18 that it can turn on the pumps.

19 Q. And then what happens?

20 11:49 A. So the water starts to go up. When the floater

21 goes up, it turns off.

22 Q. That system fills up the tanks with water?

23 A. Yes.

24 Q. Then how is that water accessed by the guests

25 11:50 or the workers at the hotel?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 11:50 A. Through the faucets in their rooms.
2 Q. Does that water go straight into the plumbing
3 that provides water to all the guests and the workers at
4 the hotel?
5 11:50 A. Yes.
6 Q. That provides the water for the showers?
7 A. Yes.
8 Q. Does it also provide the drinking water?
9 A. Yes.
10 11:51 Q. How long have those four tanks been on the
11 roof?
12 A. I've only been there for 30 years. I don't
13 know for how long.
14 Q. Were they the same tanks that were there when
15 11:51 you started working at the hotel?
16 A. Yes.
17 Q. At any time prior to Elisa Lam's death, in the
18 30 years that you've worked at the hotel, has the hatch
19 on the top of the water tanks been locked?
20 11:51 A. No. Until after the incident.
21 Q. At any time prior to Elisa Lam's death, did you
22 ever consider the safety implications of having a water
23 tank with an unlocked hatch?
24 A. No, never.
25 11:53 Q. Let's talk about your history at the hotel.

1 11:57 Q. I'll come back to that in a few minutes.

2 A. Okay.

3 Q. We'll talk about prior to Elisa Lam's death.

4 In the time period before Elisa Lam's death, was

5 11:57 there an increase in rooftop activity by guests or
6 others?

7 A. No. Normal.

8 Q. What was normal then?

9 A. To find a person up there like every five to

10 11:58 six months, something like that. You don't find people
11 there -- a lot of people there.

12 Q. Prior to Elisa Lam's death, were there records
13 kept of when people were found on the rooftop?

14 A. No. Not that I know of.

15 11:58 Q. Do you know if those records are kept now?

16 A. I don't think that there's records.

17 Q. When people were caught on the roof before
18 Elisa Lam's death, what were the people doing up there?

19 THE INTERPRETER: Will you repeat the question for

20 11:59 the interpreter.

21 MR. JOHNSTON: Yes.

22 Q. Before Elisa Lam's death, when people were
23 caught on the rooftop --

24 THE INTERPRETER: "Worked out"?

25 11:59 MR. JOHNSTON: "Caught."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 11:59 THE INTERPRETER: Oh, thank you.

2 MR. JOHNSTON:

3 Q. -- what were they doing up there?

4 A. They were drinking or taking pictures.

5 11:59 Q. What would happen when people were caught on
6 the roof?

7 A. We will tell them that they had to get out of
8 the building, to go down to the lobby. And if they
9 didn't live there, they will leave.

10 12:00 Q. In the times that you saw people on the rooftop
11 before Elisa Lam's death, were there times that you saw
12 people up there even though the alarm had not been
13 triggered?

14 A. Most of the time, I did see several when the
15 12:00 alarm had not gone off. We will suddenly find them
16 there.

17 Q. Did you ask those people how they accessed the
18 roof?

19 A. No. But for me, it was obvious that they had
20 12:01 gone up there through the fire escape stairways.

21 Q. At the time of Elisa Lam's death, were there
22 security guards at the hotel?

23 A. I think so.

24 Q. Do you recall how many security guards?

25 12:02 A. I think it was one.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 12:04 MR. JOHNSTON:
2 Q. Pardon me if I did.
3 I need the name of the tank repair company again,
4 please.
5 12:04 A. I think that that's Pacific Tank.
6 Q. Thank you.
7 Prior to Elisa Lam's death, did you ever notice
8 graffiti anywhere on the rooftop?
9 A. There was, but very little.
10 12:05 Q. Would your crew paint over graffiti that was on
11 the rooftop before Elisa Lam's death?
12 A. Yes.
13 Q. Before Elisa Lam's death, how many times per
14 year would you estimate your crew would paint over
15 12:05 graffiti on the rooftop?
16 A. Almost -- almost none. Maybe once a year,
17 maybe, but -- or once every two to three years.
18 Q. Did you ever see Elisa Lam prior to her death?
19 A. No.
20 12:07 Q. Do you know what room Elisa Lam was staying in
21 at the time of her disappearance?
22 A. I'm not sure anymore if it is 511.
23 Q. Where is the access point to the fire escape in
24 relation to Room 511?
25 12:09 A. Halfway in the hallway exit, in that door on

11/20/2015 11:00:00 AM

1 12:09 the left side.

2 Q. How many rooms down from Elisa Lam's room, if
3 her room was 511?

4 A. Two rooms, or three.

5 12:10 Q. In your time at the hotel, had anyone ever
6 jumped off the roof before?

7 A. Not that I know of.

8 MR. JOHNSTON: Why don't we take a break for a
9 couple minutes.

10 12:11 MR. HSU: Sure.

11 THE VIDEOGRAPHER: We are off the record. The time
12 is 12:11.

13 (Interruption in the proceedings.)

14 THE VIDEOGRAPHER: We are on the record. The time
15 12:14 is 12:15.

16 MR. JOHNSTON:

17 Q. Other than the four tanks, what other equipment
18 is located on the rooftop?

19 A. We have two air-conditioners for the elevator
20 12:15 rooms and another one for the penthouse.

21 And the antenna that they place there about five
22 years ago, DirecTV antenna.

23 Q. Is there a water heater up there?

24 A. No.

25 12:15 Q. What about the elevator controls?

1 12:16 (A.) (They are in the room up there, (the mechanical
2 room.) (And everything is locked up there.)

3 (Q.) (Was the mechanical room locked at the time of
4 (Elisa Lam's death?)

5 12:16 (A.) (I think so.)

6 (Q.) (How was it locked?)

7 (A.) (It has two locks.) (One is with the key and the
8 other one --)

9 (THE INTERPRETER:) (Interpreter needs to inquire.)

10 12:17 ((Witness and interpreter confer off the record in
11 Spanish.))

12 (THE WITNESS:) (It has two types of locks, (one that
13 is like a (regular lock and another one which is with a
14 key.) (And they are both locked.)

15 12:17 (MR.) (JOHNSTON:)

16 (Q.) (Why is it locked?)

17 (A.) (Because it's dangerous for -- for the
18 employees.) (Nobody is supposed to go in there.)

19 Q. Were there any security cameras that would look
20 12:17 at the fire escape access points, to your knowledge,
21 prior to Elisa Lam's death?

22 A. Not that I know of, no. I'm not aware that
23 there was any camera.

24 Q. The Pacific Tank Company made the repairs on
25 12:18 the tanks prior to Elisa Lam's death?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 12:18 A. I think that they only did the relining. They
2 only did the interior. And another company did the
3 welding.

4 Q. Did the what, sir?

5 12:18 A. They welded the piece that the fire department
6 had removed.

7 Q. Do you know what piece that was?

8 A. One that they open so that they could take
9 out -- they could take the deceased out.

10 12:19 Q. Was the welding done after Elisa Lam's death?

11 A. Yes. Yes.

12 Q. Besides Pacific Tank, what other vendors would
13 conduct any repairs on the roof of any equipment?

14 A. Otis and the air conditioner one.

15 12:19 Q. Is Otis the elevator company?

16 A. I think that it was that one at that time, or
17 I'm not sure if it is that one or if it is another one.

18 Q. Do you know if there was any ladder on the
19 inside of the tank where Elisa Lam drowned?

20 12:20 A. No, there is none.

21 Q. Do you know when the last time was that Pacific
22 Tank or anyone else performed any repair on a tank prior
23 to Elisa Lam's death?

24 A. Before? Like two years prior, I think. Like
25 12:21 two years prior, they had worked the tanks.

1 1 2 0 8 3 7 9 P 4 5

EXHIBIT 3

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

DAVID LAM, an individual; YINNA)
LAM, an individual,)

Plaintiffs,)

vs.)

No. BC521927

CECIL HOTEL MANAGEMENT, INC., a)
California Corporation; DOES 1)
through 25, inclusive,)

Defendants.)

DEPOSITION OF SANTIAGO DE JESUS LOPEZ, a
witness herein, noticed by Johnston &
Hutchinson LLP, taken at 601 West Fifth
Street, Los Angeles, California, at
12:52 p.m., on Tuesday, October 27, 2015,
before JUDITH E. THIEL, CSR 2618, CP, RPR.

Hutchings Number 593152

12308329855

1 13:07 MR. JOHNSTON:
2 Q. Keep turning.
3 MR. HSU: (Indicating.)
4 MR. JOHNSTON:
5 13:07 Q. That's okay, sir. I don't mean -- I'm sorry to
6 pick on you.
7 Do you recognize this picture to be the hatch on
8 the top of the water tank where you saw Ms. Lam?
9 A. For me, that doesn't show the way it is on top
10 13:08 of the tank. Because there's a square there that you
11 lift up (indicating), and this --
12 (Witness and interpreter confer off the record in
13 Spanish.)
14 (THE WITNESS:) And this doesn't show that.
15 13:08 This is where you lock it. There should be a
16 square right here that you lift it up.
17 MR. JOHNSTON:
18 Q. Tell me what you saw when you went up the
19 ladder to look into that water tank.
20 13:08 A. When I went up the ladder, I was going up there
21 without thinking anything; right? And so I went up
22 there, and I put my hands on the edge of the tank. And
23 I looked in there (indicating), and then I saw the
24 person like from this far (indicating).
25 13:09 So then I said, "Oh," I got frightened, and I got

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 13:09 down quickly, and I called him. And I called my
2 supervisor. And then he came up.

3 Q. We're going to go one at a time, though.

4 A. (In English) Uh-huh.

5 13:09 Q. When you climbed up the ladder and you put your
6 hands on the edge of the tank, was the hatch open?

7 A. Yes. Because she was there.

8 Q. The hatch was open? Yes?

9 A. Yes. I don't remember if it was open, but the
10 13:09 thing is that I looked in there.

11 Q. When you get to the top of the ladder, what was
12 the first thing you saw with your eyes?

13 A. The first thing that I did was to straighten
14 the ladder because it was like moved this way.

15 13:10 Q. Please tell us how it was moved.

16 A. To the side (indicating). So I straightened it
17 so that I could go up.

18 Q. And then what happened? One step at a time,
19 though.

20 13:10 A. What happened is that once I saw the body like
21 that on top of the water, I was surprised.

22 And I got down, and I called over the radio. I
23 called them, yes.

24 And once that happened, I got down from the roof.

25 13:11 Q. Was the entire tank top uncovered?

1 13:11 A. I don't remember if it was covered or if it was
2 closed, but it didn't -- it wasn't --
3 (Witness and interpreter confer off the record in
4 Spanish.)

5 13:11 THE WITNESS: -- but it was not locked. It didn't
6 have a lock at that time.

7 MR. JOHNSTON:

8 Q. How close were you to Ms. Lam when you saw her?

9 A. (Indicating.)

10 13:11 Very close, like this (indicating). She was
11 floating like that on the water (indicating), on top of
12 the water (indicating). And when I looked down like
13 this, she was like very close to me.

14 Q. Who was the first person you talked to after
15 13:12 you saw that?

16 A. With my supervisor (indicating), with Pedro.

17 Q. What did you say to him?

18 A. That I found -- that there was a body there on
19 top of the water. Yes, that's what I told him.

20 13:12 Q. And then what did he do?

21 A. We went down to the office, yes.

22 Q. Did he come up to see the body as well?

23 A. No. No. I was going down, and then we went
24 down to tell her.

25 13:12 Q. Who did you tell?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT 4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 James A. Murphy - 062223
Jeff C. Hsu - 246125
2 MURPHY, PEARSON, BRADLEY & FEENEY
550 S. Hope Street, Suite 650
3 Los Angeles, CA 90071
Telephone: (213) 327-3500
4 Facsimile: (213) 627-2445

5 Attorneys for Defendants
6 MAIN STREET MANAGEMENT LLC and
7 CECIL MAIN STREET LLC, erroneously
sued as CECIL HOTEL MANAGEMENT

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF LOS ANGELES

11 DAVID LAM, an individual; YINNA LAM, an
12 individual,
13 Plaintiffs,
14 v.
15 CECIL HOTEL MANAGEMENT, INC. a
16 California Corporation; DOES 1 through 25,
inclusive,
17 Defendants.

Case No.: BC521927

**DECLARATION OF PEDRO TOVAR IN
SUPPORT OF DEFENDANTS MOTION
FOR SUMMARY JUDGMENT**

Reservation No: 140902025798

Date: December 14, 2015
Time: 1:30 p.m.
Dept.: 93

Trial Date: February 11, 2016

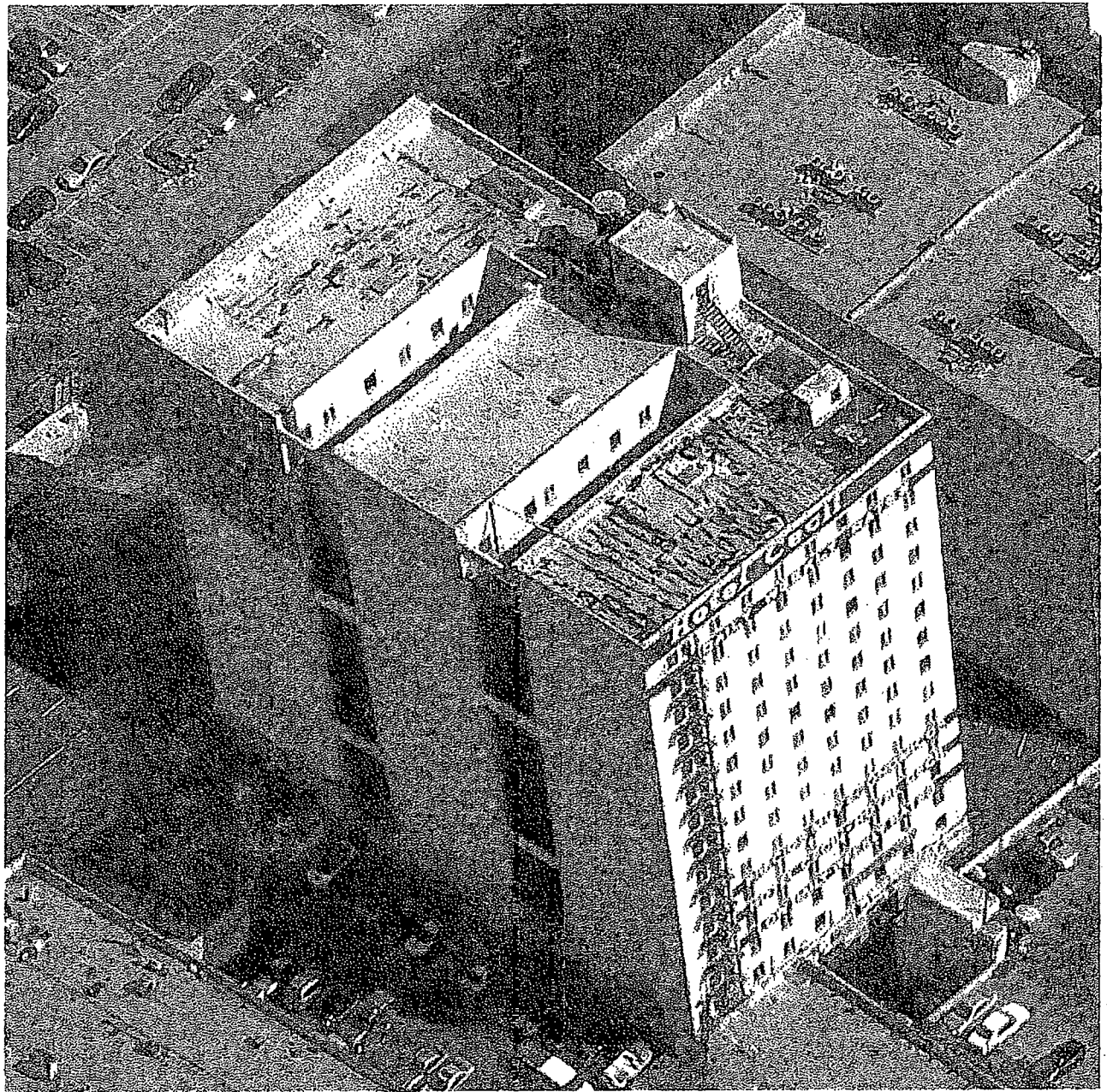
18
19
20 I, Pedro Tovar, declare that:

21 1. I have personal knowledge of the information set forth herein below, unless noted as
22 based on information and belief, all of which is true and correct of my own personal knowledge, and if
23 called upon to testify, I could and would competently testify thereto.

24 2. I have been employed at the Cecil/Stay on Main Hotel for 30 years. I am presently the
25 Chief Engineer and was the Chief Engineer during the January/February 2013 timeframe.

26 3. The hotel is a 15 story building that is configured in an "E" shape pattern with three
27 separate wings that are connected. The picture below is a true and accurate depiction of the hotel as it
28 looked in the January/February 2013 timeframe.

FILED
2016
FEB
11
AM
11:00
CLERK
OF
COURT
LOS ANGELES



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23 4. The roof of the hotel is a restricted area where hotel guests are not allowed.

24 5. There are only four ways to gain roof access. Three of the ways are exterior fire
25 escapes on the sides of the hotel which run the entire height of the building. There are interior doors in
26 the corridors of the hotel upon which access can be gained to the fire escapes. For safety reasons,
27 these doors are kept unlocked.

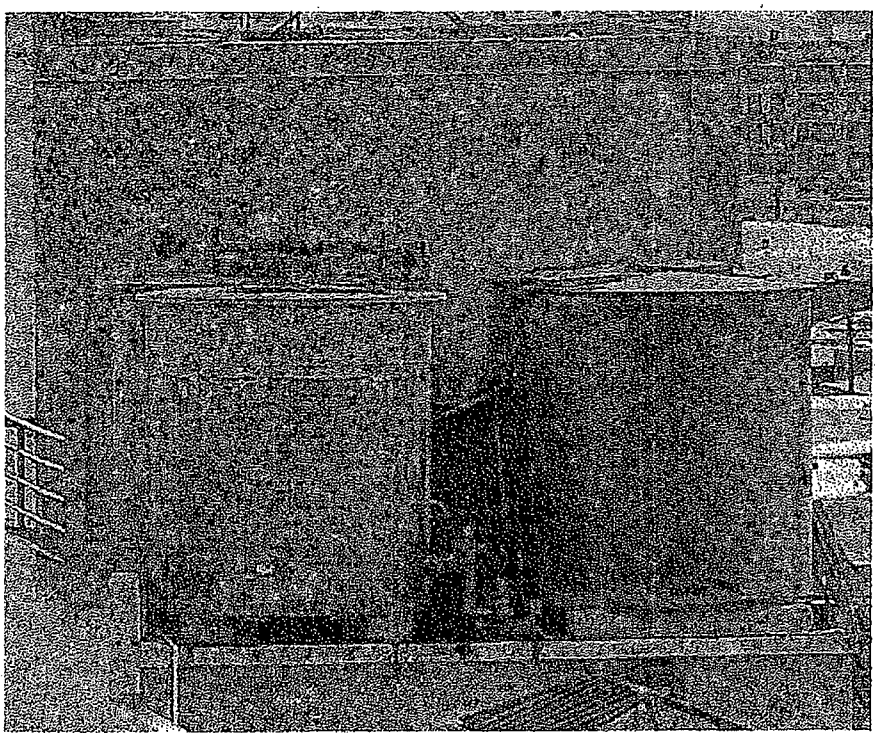
28 6. The fourth and final way to access the roof is through an interior staircase leading from

12709820055

1 the 14th floor to the roof. The rooftop access door is equipped with an electronic alarm system which
2 alerts hotel employees when the rooftop access door has been opened. Whenever someone opens the
3 door leading to the roof, it activates a very loud alarm which can be heard throughout the 14th and 15th
4 floors and also rings separately at the front desk. The alarm can only be turned off with a key by the
5 maintenance staff.

6 7. The rooftop of the hotel has four 1000 gallon water tanks which supply the hotel with
7 water using a gravity operated system. Water is pumped from a main water line at below street level to
8 these four tanks. Each tank is approximately 10 feet high and 6 feet in diameter.

9 8. The tanks are on a platform approximately 4 feet above the roof. To access the tanks,
10 someone would have to climb a ladder up the platform, and then squeeze through the tanks and
11 plumbing equipment to reach another ladder and climb up the side of the 10 foot tall tank. The tanks
12 are all fully covered though each has a heavy metal lid that is approximately 18" by 18". The picture
13 below is a true and accurate depiction of the rooftop water tanks as they looked in the
14 January/February 2013 timeframe.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

12708227055

1 9. I am informed of all instances where the alarm to the roof top access door is activated.
2 Between January 28, 2013 through February 19, 2013, I am unaware of any instances where the roof
3 top access door alarm was activated.

4 10. Between January 28, 2013 through February 19, 2013, I am unaware of any
5 maintenance workers being called to deactivate the roof top access door alarm.

6 11. I check the roof top access door on a weekly basis to make sure that the alarm is
7 functioning properly.

8 12. Between January 28, 2013 through February 19, 2013, the alarm for the roof top access
9 door was in proper working order.

10 13. I was aware that Ms. Lam was reported missing and assisted the Los Angeles Police
11 Department and other investigators with their search of the hotel for Ms. Lam.

12 14. I accompanied the Los Angeles Police Department and other investigators as they
13 searched the entire hotel, floor by floor with dogs.

14 15. The investigators also searched the roof, but nobody climbed up the tanks or looked
15 inside them.

16 16. On February 19, 2013, a guest in Room 320 complained of a lack of water pressure. A
17 maintenance employee, Santiago Lopez, was sent to Room 320 and confirmed the lack of water
18 pressure.

19 17. Sometime thereafter, Mr. Lopez contacted me via walkie talkie to inform me that he had
20 found a human body in one of the water tanks on the roof. We then went down to the office to advise
21 Amy Price of my discovery and to notify the authorities.

22 18. During my 30 years of employment at the Cecil/Stay on Main Hotel, other than the
23 incident with Ms. Lam, I am unaware of any instances of unauthorized access to any of the roof top
24 water tanks by anyone, including hotel guests.

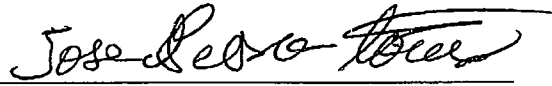
25 19. During my 30 years of employment at the Cecil/Stay on Main Hotel, other than the
26 incident with Ms. Lam, I am unaware of any instances of anyone, including hotel guests, being injured
27 at or near the roof top water tanks.

28 20. During my 30 years of employment at the Cecil/Stay on Main Hotel, other than the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 incident with Ms. Lam, I am unaware of any instances of anyone, including hotel guests, drowning in
2 one of the roof top water tanks.

3 I declare under penalty of perjury under the laws of the State of California that the foregoing is
4 true and correct and that this Declaration was executed on this 25th day of February 2015, in Los
5 Angeles, California.

6
7 
8 Pedro Tovar

9 JCH.20837125.doc

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5 25 甲 西 之 第 四 页 正 工

CERTIFICATE OF SERVICE

I, Teresa Harris, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 550 South Hope Street, Suite 650, CA 90071.

On September 25, 2015, I served the following document(s) on the parties in the within action:

DECLARATION OF PEDRO TOVAR IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

X	BY MAIL: I am familiar with the business practice for collection and processing of mail. The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at Los Angeles, California on this date, addressed as follows:
	BY HAND: The above-described document(s) will be placed in a sealed envelope which will be hand-delivered on this same date by _____, addressed as follows:

Thomas S. Johnston
Johnston & Hutchinson LLP
601 W. Fifth Street, Suite 210
Los Angeles, CA 90071

Attorney For Plaintiffs
DAVID LAM AND YINNA LAM

D. Scott Warmuth
Law Offices of Scott Warmuth APC
17700 Castleton Street
Suite 168
City of Industry, Ca. 91748

Attorney For Plaintiffs
DAVID LAM AND YINNA LAM

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on September 25, 2015.

By 
Teresa Harris

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CRS RECEIPT

INSTRUCTIONS

Please print this receipt and attach it to the corresponding motion/document as the last page. Indicate the Reservation ID on the motion/document face page (see example). The document will not be accepted without this receipt page and the Reservation ID.

STANLEY MOSK COURTHOUSE

CASE NO. 140902025798

MOTION FOR SUMMARY JUDGMENT

CREDIT ADVISORY TO PARTY

INTERCOMPLAINT

DATE: 12/14/2015

TIME: 01:30 pm

RES ID: 131112001085

RESERVATION INFORMATION

Reservation ID: 140902025798
Transaction Date: March 5, 2015
Case Number: BC521927
Case Title: DAVID LAM ET AL VS CECIL HOTEL MANAGEMENT INC
Party: CECIL HOTEL MANAGEMENT INC (Defendant/Respondent)
Courthouse: Stanley Mosk Courthouse
Department: 093
Reservation Type: Motion for Summary Judgment
Date: 12/14/2015
Time: 01:30 pm

FEE INFORMATION (Fees are non-refundable)

Reschedule Fee - Motion for Summary Judgment	\$20.00
Total Fees:	Receipt Number:
	1150305K5367
	\$20.00

PAYMENT INFORMATION

Name on Credit Card: Nancy Dullere
Credit Card Number: XXXX-XXXX-XXXX-1414

A COPY OF THIS RECEIPT MUST BE ATTACHED TO THE CORRESPONDING MOTION/DOCUMENT AS THE LAST PAGE AND THE RESERVATION ID INDICATED ON THE MOTION/DOCUMENT FACE PAGE.

1
2
3
4
5
6
7
8
9
10
11
12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

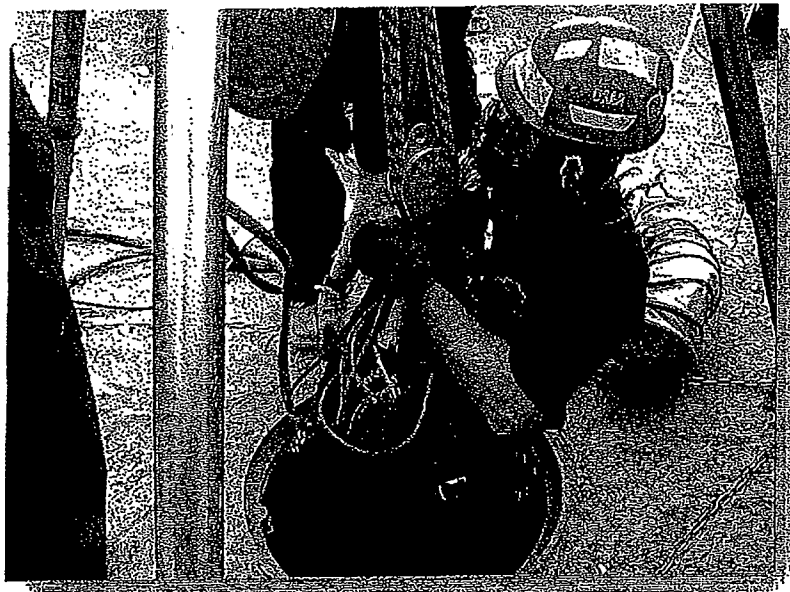
EXHIBIT 5

CONFINED SPACE PROGRAM

INTRODUCTION

At Stay on Main we recognize our responsibility under the California Labor Code and the California Occupational Safety and Health Act to provide and maintain a safe and healthful workplace for our employees. In keeping with our commitment to enhance the safety of our employees, we have developed and implemented a Confined Space Program in accordance with the requirements set forth by Cal/OSHA. Confined space is a term that refers to an area with limited access and enclosed conditions, such as silos, tanks, vats, vessels, boilers, compartments, ducts, sewers, pipelines, vaults, bins, tubs, and pits. The specific Cal/OSHA confined space regulations are found in T8 CCR sections 5156 – 5158. There are many hazards associated with confined space, so additional requirements may also apply.

- Section 5156 identifies operations and industries that are regulated under Section 5158.
- Section 5157 covers all other industries and contains the required procedures to protect employees when entering permit-required confined spaces.
- Section 5158 applies to construction, agriculture, marine terminals, shipyard operations, grain handlings, telecommunication, natural gas, and electric utilities.



5
4
3
2
1

DEFINITIONS

Attendant: an individual stationed outside permit spaces who monitors the authorized entrants and performs other duties as required.

Confined space: a space that is large enough for an employee to enter and perform assigned work, but has limited or restricted means for entry or exit and is not designed for continuous employee occupancy.

Emergency: any event involving the permit space, internal or external, that could endanger the entrants.

Engulfment: the surrounding or capture of an entrant by a liquid or a finely divided particle matter (such as sawdust or sand) that can be aspirated and cause death by filling or plugging the respiratory system or that can exert enough force on the torso so as to cause death by strangulation, constriction or crushing.

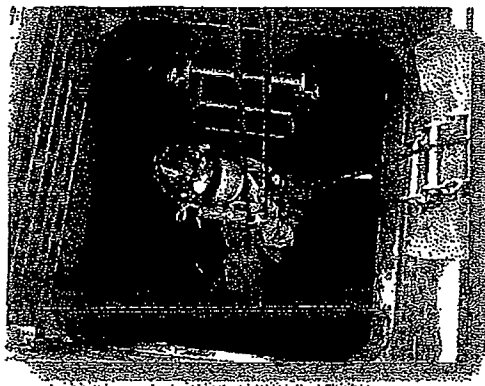
Entrant: a worker who passes through an opening into a permit-required confined space.

Entry: the action of passing through an opening into a permit-required confined space.

Entry permit: a written or printed document that is provided by the employer to allow entry into a confined space.

Entry supervisor: a person responsible for determining if acceptable entry conditions are present at a planned permit space, for authorizing the entry, overseeing entry operations, and for terminating entry as needed. An entry supervisor may also serve as an attendant or as an authorized entrant as long as he or she has received the appropriate training.

Zero-mechanical state: the mechanical potential energy of all portions of machinery or equipment is set so that the opening of the pipes, tubes, hoses, or actuation of any valve, lever or button will not produce a movement which could cause injury.



CONFINED SPACE

A confined space is defined as having the following characteristics:

- It is large enough to allow entry by an entrant to perform work.
- It has limited or restricted openings for entry and exit.
- It is not designed for continuous occupancy.
- Existing ventilation is insufficient to remove dangerous air contaminants or to correct oxygen deficiencies.
- Entry and exit from the space is difficult.

Confined spaces are hazardous by nature due to the following chemical and physical dangers:

- Small openings and inwardly converging walls can trap an entrant, restrict easy entry or exit, and hinder rescue.
- Atmospheric hazards combined with limited ventilation can cause asphyxiation resulting in loss of consciousness, brain damage, or death due to the immediate effects of the contaminants.
- Fire or explosion can result from the ignition of flammable contaminants.
- Materials such as sand, flour, fertilizer or grain stored in silos can become unstable and engulf an entrant causing death by inhalation, constriction, crushing, or strangulation.
- Entrants are closer to hazards such as moving machinery than they would otherwise be, increasing risk of injury.
- Falling objects can injure entrants, especially in spaces that have topside openings, and where work is being performed above the entrant.
- Temperature extremes can present problems for entrants.
- Noise, which can be amplified in a confined space, can result in damaged hearing.
- Wet or slippery surfaces can increase the likelihood of slips and falls.

At Stay on Main our Confined Space Program addresses the hazards of working in confined space. Our goal is to:

- Protect employees from job-related injuries and illnesses by eliminating or controlling confined space hazards.
- Reduce worker's compensation losses by promoting safe work practices.
- Understand and comply with the law.

In an ongoing effort to reduce the risks associated with working in confined space, the following precautions shall be implemented:

- Entrants working in confined spaces will undergo training specific to their job or assignment.
- Entrants or their representatives are given an opportunity to participate in and review calibrated air monitoring data before entry. Air is periodically tested, while continuous ventilation is applied.
- The atmosphere in confined spaces will be subject to both initial and ongoing testing when entries are being performed.
- An assigned attendant will monitor the work in confined spaces.
- Rescue procedures shall be developed and rehearsed.
- Rescue equipment shall be available on site at all times.



EEAP 1-800-734-3574

Stay on Main

127 P84 298 5

1234567890

EXHIBIT 6

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

DAVID LAM, an individual;)
YINNA LAM, an individual,)
)
Plaintiffs,)
) No. BC515523
vs.)
)
CECIL HOTEL MANAGEMENT,)
INC., a California)
Corporation; DOES 1 through)
25, inclusive,)
)
Defendants.)
_____)

DEPOSITION OF DETECTIVE WALLACE TENNELLE, a witness
herein, noticed by JOHNSTON & HUTCHINSON, LLP, at
601 West Fifth Street, Suite 210, Los Angeles,
California, at 1:39 p.m., on Wednesday,
July 22, 2015, before Kristine M. Hicks, CSR 13634.

Hutchings Number 580786

1720082015

1 A. Yes, sir.

2 Q. And then on Exhibit 3, I believe you can see
3 it's a side of the Cecil Hotel taken from 7th Street?

4 A. Correct.

5 14:06 Q. And you can see a stairwell?

6 MR. HSU: Do you have an extra copy of 3?

7 MR. JOHNSTON: Oh, I'm sorry.

8 MR. HSU: Thank you.

9 BY MR. JOHNSTON:

10 14:07 Q. I'm going to -- you can see the building is
11 divided into three -- I don't know what you call those.

12 A. Three wings.

13 Q. Three wings. Okay.

14 And I'll mark on here, starting from left to right,

15 14:07 A, B and C. Wings B and C also have stairwells or --

16 A. Fire escapes.

17 Q. -- fire escapes; correct?

18 A. Yes, sir.

19 Q. Do you know if the room that she had after she

20 14:07 left the multi-tenant room -- I'll refer to it as

21 that -- where she went by herself, did she have access

22 from her apartment onto the fire escape in that room?

23 A. Inside the room itself?

24 Q. Yes.

25 14:07 A. No. If I recall, the fire escape is accessible

5 15 申 酉 乙 亥 卯 辰 巳 午 未 申 酉 戌 亥 子

1 through the corridor.)

2 Q. So you don't have to go through a room to get to
3 the fire escape?

4 A. NO.

5 14:08 Q. I was wondering. I thought --

6 MR. JOHNSTON: Off the record.

7 (Discussion held off the record.)

8 BY MR. JOHNSTON:

9 Q. From your observation of the Cecil Hotel when
10 14:08 you were there, how do you access the fire escapes?

11 A. Each floor -- okay. This would be the --
12 looking at Exhibit 2, the fire escape is on the south
13 side or the --

14 Q. Front?

15 14:09 A. -- southwest corner of the building.

16 It's on Main Street, this one here. And the
17 corridor to access all the rooms -- there's a corridor --
18 the corridor leads south, dead ends, you make a right.
19 There's a window, and you can raise the window to access
20 14:09 the fire escape on each floor.

21 Q. Okay. So as I asked before, just to put it into
22 context, a person wanting to get out of the fire escape
23 does not need to go through a hotel apartment. You can
24 -- it's just common area. You can go through the -- down
25 14:09 any corridor and then open the window?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(A.) (Correct.)

Q. Okay. Do you recall if by the time you got there -- and I'm speaking into the room that she was last -- had last rented or the last occupied, according to Cecil Hotel people, did she have any belongings in there still? Do you know?

A. When I saw it, no. All her belongings had been taken out and locked in a basement storage room.

Q. Okay. Do you know when they did that?

A. It is noted in the book, the case book, but I don't remember the exact date. I think it might have been on the 1st, but I'm not sure. I would have to look at my book to know for sure.

Q. By the way, when you were doing this investigation at the Cecil Hotel the first day -- first or second day -- was there any member of Ms. Lam's family there with you?

A. No.

Q. When you were shown what they told you is what they retrieved from her last room -- when I use the word "they," I mean somebody from Cecil Hotel.

A. Yes.

Q. Did you ever talk to the person, actually, who said, "I took this from this room and took it into storage"?

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 Q. Was the ladder -- where was it placed against
2 that tank? Was it between?

3 A. Okay. The tanks -- there's four tanks in the
4 picture, and the tank in question is on the northeast
5 14:25 corner. And you have another tank in front of it that is
6 south of it, and it was between the southeast tank and
7 the northeast tank.

8 Q. How much space would you estimate there is
9 between the tanks? What's the distance between the
10 14:25 tanks?

11 A. We did measure it. I don't have that
12 measurement. I think it was maybe 3 feet or something.
13 It wasn't very much.

14 Q. And the top of the tank, I take it there's an
15 14:25 access into the tank from the top.

16 A. Yes, sir.

17 Q. When you got -- did you go up to look at it?

18 A. Yes, sir, I did.

19 Q. When you got up there, was the top of the tank
20 14:26 ajar? Was it off from where it was supposed to be?

21 A. Yes, sir.

22 Q. How would you describe that tank top?

23 A. The hatch itself is about 18 by 18, and it had a
24 lid that -- it wasn't on hinges. You could just take it
25 14:26 off and move it to the side, and it weighed about maybe

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 would call up for somebody to maybe open a door again or
2 whatever.

3 Q. Do you know how many teams searched the roof?

4 A. There was a team that was assigned to search the
5 14:40 roof, and then the K9 went up and searched the roof. So
6 that's twice the roof was looked at. So at least twice
7 the roof was checked.

8 Q. Okay. And do you know -- as part of the search
9 of the roof, do you know if the water tanks, in
10 14:41 particular, in that area were inspected or searched?

11 A. I don't think the water tanks were searched.

12 MR. JOHNSTON: Just -- when you say "water tanks,"
13 no one looked into them, but people looked around them?

14 THE WITNESS: Correct.

15 14:41 MR. JOHNSTON: Yeah.

16 BY MR. HSU:

17 Q. Has the LAPD investigation into Lam's death
18 concluded?

19 A. Yes.

20 14:42 Q. Earlier you testified that you had formed your
21 own opinion as to what you think may have occurred with
22 Ms. Lam.

23 Do you recall that?

24 A. Yes. It's just my opinion, yes.

25 14:42 Q. What is your opinion of what happened with

F
N4
G9
G5
N2
G0
F0
U4
U1

1 A. Yes, I did.

2 Q. I suspect that person had made that same trip
3 for other people many times. She knew what she was
4 doing. She was cleaning one person's stuff out and
5 14:11 storing it.

6 A. I'm sorry?

7 Q. I'll withdraw the question.

8 From your view of what you saw of Ms. Lam's in the
9 storage room, did you have any idea that she left and she
10 14:12 must have taken some stuff because she doesn't have
11 enough -- there's not enough here. She would have come
12 with more. You know what I'm saying?

13 MR. HSU: Objection. Vague and ambiguous.

14 MR. JOHNSTON: It is vague, but I'm --

15 14:12 BY MR. JOHNSTON:

16 Q. Did you think that you had all of Ms. Lam's
17 belongings?

18 MR. HSU: Objection. Calls for speculation.

19 THE WITNESS: Well, I would have no way of knowing
20 14:12 whether I had everything.

21 BY MR. JOHNSTON:

22 Q. Well, what I'm trying to -- I'm thinking
23 that -- I'm trying to think like a detective. You come
24 in; you see rooms -- well, I'll withdraw and get a little
25 14:12 bit of background first.

F
H
W
S
O
O
O
N
N
N
O
O
F
H
U
U

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a
4 party to the within action; my business address is 601 W. 5th St., Suite 210, Los Angeles, CA 90071.

5 On **December 3, 2015** I served the foregoing documents described as **NOTICE OF ERRATA;**
6 **PLAINTIFFS' CORRECTED SEPARATE STATEMENT OF DISPUTED AND**
7 **UNDISPUTED MATERIAL FACTS IN SUPPORT OF PLAINTIFFS' OPPOSITION TO**
8 **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT; AND CORRECTED**
9 **EXHIBITS** on all interested parties in this action in the following manner:

- 10 **BY U.S. MAIL:** I am familiar with this firm's practice of collection and processing
11 correspondence for mailing. Under that practice it would be deposited with U.S. postal
12 service on that same day with postage thereon fully prepaid at Los Angeles, California in the
13 ordinary course of business. I am aware that on motion of the party, service is presumed
14 invalid if postal cancellation date or postage meter date is more than one day after date of
15 deposit for mailing in affidavit.
- 16 **BY FACSIMILE:** In addition to service by mail as set forth above, a copy of said
17 document(s) was also delivered by facsimile transmission to the addressee(s) pursuant to
18 Code of Civil Procedure §1013(e).
- 19 **BY OVERNIGHT MAIL:** I caused said document(s) to be picked up by an overnight
20 delivery service company for delivery to the addressee(s) on the next business day.
- 21 **BY PERSONAL SERVICE:** By causing personal delivery by _____ of the
22 document(s) listed above to the person(s) at the address(es) set forth on the attached service
23 list.
- 24 **BY ELECTRONIC SERVICE:** Pursuant to Court Order, I caused the above document to
25 be sent to the listed addressee(s) in the attached service list via LexisNexis File & Serve.
- 26 (STATE) I declare under penalty of perjury under the laws of the State of California
27 that the above is true and correct.
- 28 (FEDERAL) I declare that I am employed in the office of the member of the bar of this
court at whose direction the service was made.

Executed on **December 3, 2015** at Los Angeles, California.


KATHERINE DWYER

SERVICE LIST

James A. Murphy, Esq.
Jeff C. Hsu, Esq.
MURPHY, PEARSON, BRADLEY & FEENEY
550 South Hope Street, Suite 650
Los Angeles, CA 90071

T: (213) 327-3500
F: (213) 627-2445

Attorneys for Defendant MAIN STREET MANAGEMENT LLC and CECIL MAIN STREET
LLC