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STATE OF NEW YORK
SUPREME COURT : COUNTY OF BROOME

SAMIR MUHAMMAD AL-SALIHI, Individually,
as representative of the estate
of LAYLA SALMAN KHALIL, Deceased,

Plaintiff,

vs.

GANDER MOUNTAIN, INC.,

Defendant.

SUMMONS WITH NOTICE

Index No.: 2011000845

FILED

APR 01 2011

BROOME COUNTY
CLERK'S OFFICE

TO THE ABOVE NAMED DEFENDANTS:

You are hereby summoned and required to serve upon plaintiffs' attorney an answer to the complaint in this action within twenty (20) days after the service of this summons, exclusive of the day of service, or within thirty (30) days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint.

The nature of the accident is personal injury, wrongful death and survivor's action based upon negligence.

The damages sought are money damages in an amount in excess of the jurisdictional limits of this Court.

The basis of venue designated is the place of the accident and the plaintiffs' residence.

Dated: March 30, 2011
Binghamton, New York

FISCHER & FISCHER
Attorneys for Plaintiff

By: Kelly E. Fischer
Kelly E. Fischer
142 Front Street
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STATE OF NEW YORK
SUPREME COURT: COUNTY OF BROOME

SAMIR MUHAMMAD AL-SALII, Individually,
as representative of the estate
of LAYLA SALMAN KHALIL, Deceased,

Plaintiff,

COMPLAINT

vs.

Index No.:

GANDER MOUNTAIN, INC.,

Defendant.

Plaintiff, Samir Muhammad Al-Salihi, Individually, and as representative of the estate of Layla Salman Khalil, deceased (hereafter "plaintiff"), by his attorneys, Fischer & Fischer, Kelly E. Fischer, Esq., of counsel, for his complaint against the defendant, states as follows:

1. Plaintiff is now and at all times relevant hereto was a resident of the County of Broome, State of New York.
2. By a decree of the Broome County Surrogate's Court plaintiff, Samir Muhammad Al-Salihi, was granted letters authorizing him to act as the lawful executor of the estate of Layla Salman Khalil.
3. Prior to April 3, 2009 plaintiff and Layla Salman Khalil were married, resided as husband and wife, and had three children of the marriage.

4. Upon information and belief, at all times relevant to this action the defendant, Gander Mountain, (hereafter referred to as "defendant") was and is a business corporation with a place of business at 528 Harry L. Drive, Village of Johnson City, Town of Union, County of Broome and State of New York (hereafter "defendant's location").

5. Upon information and belief, at all times relevant to this action defendant was doing business at defendant's location.

6. Defendant transacted business at the defendant's location, and the transactions giving rise to liability in the matter which is the subject of this action arose out of said transactions.

7. Upon information and belief, based upon investigation of this matter, in the years 2008 and 2009 defendant sold to one Jiverly Wong at least four (4) semi-automatic pistol handguns, and an unnumbered quantity of ammunition to be used in said weapons.

8. Upon information and belief, based upon investigation of this matter, on or about March 21, 2008 defendant sold to one Jiverly Wong a Beretta 9mm pistol, Model 92FS, serial# BER430241.

9. Upon information and belief, based upon investigation of this matter, on or about March 21, 2009 defendant sold to one Jiverly Wong a Beretta .45 ACP pistol, model BER Px4 Storm, serial# PK07133.

10. Prior to and at the time of the sales of weapons by defendant to Jiverly Wong, the said Jiverly Wong had repeatedly and regularly exhibited behaviors that indicated that Jiverly Wong was mentally unstable, angry, upset, aggressive, and was a person who was likely to use the weapons in a manner involving unreasonable risk of physical injury to Jiverly Wong or others.

11. Upon information and belief, on or about March 18, 2009, days **before** defendant sold him a semi-automatic pistol handgun, Jiverly Wong wrote a letter indicating that he intended to commit killings, which letter evidences that he was a person likely to use the weapons in a manner involving unreasonable risk of injury to Jiverly Wong or others. A copy of said letter is annexed as Exhibit "A". Exhibit "A", having been created before defendant sold to Jiverly Wong the weapon Jiverly Wong used to kill Layla Salman Khalil, is clear evidence that Jiverly Wong was in an unstable mental condition, and should not have been allowed to hold, buy or use any weapon.

12. For another example, on several occasions prior to March 21, 2009 employees of defendant had encounters with Jiverly Wong, both at defendant's location and elsewhere, and during those encounters Jiverly Wong was observed by defendant's employees to be "angry", and to have said "fuck you" to said employees on at least two occasions; furthermore, at least one of defendant's employees,

while waiting on Jiverly Wong for the purpose of selling Jiverly Wong a pistol handgun, found the conduct of Jiverly Wong so difficult that said employee had to discontinue the relationship with Jiverly Wong, and send Jiverly Wong to another of defendant's employees so that Wong could continue to shop at defendant's location for a handgun. Said transactions constitute both actual and constructive notice that Jiverly Wong was mentally unstable, aggressive, angry and aggressive, and should have put defendant on notice of the likelihood that Jiverly Wong would use the weapons sold him by defendant in a manner harmful to himself or others.

13. Defendant's sales of the weapons described above to Jiverly Wong under the circumstances described above was negligent, with lack of due care and reasonable prudence, and constitutes the tort of negligent entrustment.

14. As a result of the foregoing facts, on or about April 3, 2009 ("the date of the shooting") Jiverly Wong barricaded the rear door of the American Civic Association, located at 131 Front Street in the City of Binghamton, County of Broome and State of New York (hereafter "the place of the killing"), and entered the front door of the building, where Layla Salman Khalil and many others who were taking "English as a second language" classes were present; Jiverly Wong used the weapons sold him by defendant, as described above, to shoot 17 people, killing 13, before shooting and killing himself.

15. Layla Salman Khalil was one of the 13 people killed by Jiverly Wong on the date of the shooting with the weapons wrongfully sold him by defendant.

16. Upon information and belief, based upon investigation, on the date of the shooting Layla Salman Khalil suffered extreme and excruciating pain and suffering, including physical pain and suffering, and emotional pain and suffering, both from terror before she was shot, and from having been shot.

17. On and after the date of the shooting Layla Salman Khalil required extensive medical treatment, resulting in expenses incurred for said medical care.

18. After the date of the shooting the funeral of Layla Salman Khalil was held; said funeral resulted in costs and expenses.

19. As a result of the death of Layla Salman Khalil, her husband, Samir Muhammad Al-Salihi, has been deprived of the care, comfort, consortium and attention of his wife, the deceased, Layla Salman Khalil, and so has suffered damages; the couple's three children, one of whom was under the age of 18 years at the time of the incident, have also suffered damages as a result of the premature and violent death of their mother.

AS AND FOR A FIRST CAUSE OF ACTION

20. Plaintiff repeats herein each and every allegation set

forth in paragraphs numbered "1" through "20" above, as if more fully set forth herein.

21. Defendant's negligence was a substantial factor in causing the injuries and death of Layla Salman Khalil, including, but not limited to her having been terrorized, shot, having endured unimaginable pre-shooting terror and unimaginable terror, pain, knowledge of impending death, and suffering, and ultimately, her death.

22. Defendant's negligence resulted in medical and funeral expenses incurred by her estate.

AS AND FOR A SECOND CAUSE OF ACTION

23. Plaintiff repeats herein each and every allegation set forth in paragraphs numbered "1" through "20" above, as if more fully set forth herein.

24. Defendant's negligence, as alleged above, was a substantial factor in causing the premature death of Layla Salman Khalil; as a result thereof plaintiff, Samir Muhammad Al-Salihi has incurred, and will in the future continue to incur, pecuniary loss by reason of the loss of care, comfort, consortium, assistance, household help, guidance, and maintenance of his wife; furthermore, as a result of her death, the children of Layla Salman Khalil have been and will in the future be deprived of the care, comfort, assistance, household help, and other help of their mother.

25. As a result of the foregoing, plaintiff's distributees have suffered pecuniary loss.

WHEREFORE, plaintiff demands from defendant the following relief:

A. As to the first cause of action, compensatory damages only in the sum of Three Million Dollars (\$3,000,000.00);

B. As to the second cause of action, compensatory damages only in the sum of Seven Hundred Fifty Thousand Dollars (\$750,000.00); and

C. Such other and further relief as the Court deems just and proper, including, but not limited to, the costs and disbursements of this action.

Dated: March 31, 2011
Binghamton, New York

FISCHER & FISCHER
Attorneys for Plaintiff

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