

CAUSE NO: _____

WILLIAM R. DOWLING	§	IN THE DISTRICT COURT OF
JACKI W. DOWLING, Individually and	§	
As Next Friend of	§	
FORREST D. DOWLING, minor	§	
FAITH C. DOWLING, minor	§	
FOSTER B. DOWLING, minor	§	
	§	HARRIS COUNTY, TEXAS
Vs.	§	
	§	
CRITERIUM SYSTEMS, INC. d/b/a	§	
SOUTHWEST INNS	§	
MATHURIA HARENDRA, Individually	§	
And d/b/a BHOJAN	§	_____ JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

WILLIAM R. DOWLING, JACKI W. DOWLING, Individually and a/n/f of FORREST D. DOWLING, FAITH C. DOWLING and FOSTER B. DOWLING, minors ("Plaintiffs") file this Plaintiffs' Original Petition complaining of **CRITERIUM SYSTEMS, INC., d/b/a SOUTHWEST INNS and MATHURIA HARENDRA, Individually and d/b/a BHOJAN a/k/a BHOJAN INDIAN RESTAURANT ("Defendants")** and show:

DISCOVERY CONTROL PLAN

1. Pursuant to Rule 190, Discovery Limitations, this lawsuit is governed by Rule 190.3, Discovery Control Plan Level 3.

REQUESTS FOR DISCLOSURE

2. Plaintiff requests that Defendants disclose the information or material described in Rule 194.2(a)-(l).

NATURE OF LAWSUIT

3. This is an action for damages arising out of Plaintiffs' serious, permanent and disabling personal injuries resulting from an incident that occurred on or about May 31, 2013, at or near the Southwest Inn, 6855 S.W. Freeway, Houston Texas 77074.

JURISDICTION & VENUE

4. This court has jurisdiction because the damages sought are in excess of the minimum jurisdictional limits of the court. In addition, the acts or omissions made the basis of this suit occurred in Harris County, Texas. Hence, venue is proper in Harris County pursuant to Texas Civil Practice & Remedies Code §15.002(a)(1).

THE PARTIES

5. Plaintiffs are individual residents of Montgomery County, Texas and their address is: 9118 Cascade Basin Falls, Tomball Texas 77375.

6. The last three numbers of the Plaintiff's driver's license are 716.

7. The last three numbers of the Plaintiff's Social Security Number are: 541.

8. Defendant **CRITERIUM SYSTEMS, INC.**, is a Foreign Corporation, duly formed and existing under the laws of the State of California. Defendant is qualified to transact business in the State of Texas, and may be served with process by serving its Registered Agent/President/Owner Roger Chen at 6855 Southwest Freeway, Houston Texas 77074.

9. Defendant **MATHURIA HARENDRA, Individually and d/b/a BHOJAN** a/k/a **BHOJAN INDIAN RESTAURANT** is an individual resident of Missouri City, Texas Fort Bend County, and may be served with Citation at her place of residence at 1123 Concord Place Drive, Missouri City, Texas 77459.

CAUSE(S) OF ACTION

10. Plaintiffs' injuries and damages resulted from an incident that occurred on May 31, 2013 at the Southwest Inn located at 6855 S.W. Freeway, Houston Texas 77074 which was proximately caused by Defendants' negligent and/or grossly negligent acts and/or omissions.

DAMAGES

11. Upon trial of this case, it will be shown that Plaintiff was caused to sustain injuries and damages as a proximate result of Defendants' negligence. Plaintiff will request the Court and Jury to determine the amount of loss Plaintiff has incurred in the past and will incur in the future, not only from a financial standpoint, but also in terms of good health and freedom from pain and worry. Plaintiff is entitled to have the Jury in this case separately consider certain elements of damages provided by law, to determine the sum of money for each element that will fairly and reasonably compensate Plaintiff for injuries, damages and losses incurred and to be incurred. Elements of damages from the date of the incident in question until the time of trial of this case and in the future beyond the time of trial are as follows:

- a. Physical pain that Plaintiff suffered from the date of the incident in question to the time of trial and in the future beyond the time of trial.
- b. Mental anguish that Plaintiff suffered from the date of the incident in question to the time of trial and in the future beyond the time of trial.
- c. Reasonable and necessary medical expenses actually paid or incurred by or on behalf of Plaintiff in the treatment of Plaintiff's injuries from the date of the incident in question to the time of trial and in the future beyond the time of trial.
- d. Lost wages and loss of wage-earning capacity sustained by Plaintiff from the date of the incident in question to the time of trial and in the future beyond the time of trial.
- e. Scarring and disfigurement suffered by Plaintiff from the date of the incident in question to the time of trial and in the future beyond the time of trial.

- f. Physical and mental impairment suffered by Plaintiff from the date of the incident in question to the time of trial and in the future beyond the time of trial.
- g. Loss of consortium, society, companionship, affiliation and services of spouse suffered by Plaintiff from the date of the incident in question to the time of trial and in the future beyond the time of trial.
- m. Miscellaneous expenses and losses, including mileage, parking, wheelchairs, rental cars, taxi fares and any other items of special needs.
- n. Loss of parental consortium that has resulted from the serious, permanent and disabling injury to William R. Dowling.

12. If the Defendants claim that Plaintiff had a pre-existing condition, disease or infirmity in his body, and if said condition or disease existed in any degree whatsoever, the above described accident aggravated, accelerated and/or made worse such condition, disease or infirmity so as to be a proximate cause of injuries, disability and/or damages. If the Defendant claims any doctor aggravated Plaintiff(s) injuries, the Plaintiff may recover for aggravation of his injuries brought about by improper medical treatment since he was not negligent in the selecting of his medical advisors.

13. **WILLIAM R. DOWLING** was born in 1973. According to the U.S. Life Tables (2007) (attached), U.S. Department of Vital Statistics, he has an additional 36.9 years within which to live. Plaintiffs hereby request this Honorable Court to take Judicial Notice of same, pursuant to Article II of the Texas Rules of Evidence.

14. **JACKI W. DOWLING** was born in 1972. According to the U.S. Life Tables (2007) (attached), U.S. Department of Vital Statistics, she has an additional 40.0 years within which to live. Plaintiffs hereby request this Honorable Court to take Judicial Notice of same, pursuant to Article II of the Texas Rules of Evidence.

15. **FORREST D. DOWLING** was born in 1995. According to the U.S. Life Tables (2007) (attached), U.S. Department of Vital Statistics, he has an additional 57.3 years within which to live. Plaintiffs hereby request this Honorable Court to take Judicial Notice of same, pursuant to Article II of the Texas Rules of Evidence.

16. **FAITH C. DOWLING** was born in 2000. According to the U.S. Life Tables (2007) (attached), U.S. Department of Vital Statistics, She has an additional 67.1 years within which to live. Plaintiffs hereby request this Honorable Court to take Judicial Notice of same, pursuant to Article II of the Texas Rules of Evidence.

17. **FOSTER B. DOWLING** was born in 2001. According to the U.S. Life Tables (2007) (attached), U.S. Department of Vital Statistics, he has an additional 64.1 years within which to live. Plaintiffs hereby request this Honorable Court to take Judicial Notice of same, pursuant to Article II of the Texas Rules of Evidence.

RULE 193.7 NOTICE

Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiffs hereby give notice that any and all documents produced by any Defendants may be used at any pretrial proceeding or at the trial of this matter.

PRAYER

18. Plaintiffs have been damaged and will be damaged in a sum equal to an amount within the jurisdictional limits of this Court, for which Plaintiff now brings suit. Plaintiffs seek monetary relief over \$1,000,000.00. Additionally, Plaintiffs request exemplary damages in an amount not to exceed those contemplated and/or allowed under Chapter 41 of the Texas Civil Practice and Remedies Code.

19. Plaintiffs reserve the right to amend the above monetary amounts after the full nature and extent of Defendants' negligence and Plaintiffs' injuries and damages have been determined.

Plaintiffs also reserve the right to amend the above amount after the verdict is returned in this case.

20. WHEREFORE, Plaintiffs pray:

- a. that Defendants be cited to appear and answer herein;
- b. that upon final trial Plaintiffs recover actual and exemplary damages specified above, plus costs of Court and prejudgment and post-judgment interest at the legal rate; and
- c. that Plaintiffs have all other relief, legal and equitable, to which Plaintiffs are entitled.

Respectfully submitted,

SIMMONS & FLETCHER

/s/ Keith M. Fletcher

KEITH M. FLETCHER

TBN# 07141800

9821 Katy Freeway Suite 925

Houston, TX 77024

Phone: 713-932-0777

Fax: 713-935-1410