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PAULIA GILBERT

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**FIRST CIRCUIT**  
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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
STATE OF HAWAII

PAULIA GILBERT, )  
 ) CIVIL NO.  
 ) (Other Non-Motor Vehicle Tort)  
 )  
 Plaintiff, )  
 )  
 ) COMPLAINT; SUMMONS  
 vs. )  
 )  
 )  
 CITY AND COUNTY OF HONOLULU; )  
 HONOLULU FIRE DEPARTMENT; )  
 EMERGENCY MEDICAL SERVICES; )  
 and Doe Defendants 1-100, )  
 )  
 )  
 Defendants. )  
 )  
 )

COMPLAINT

Plaintiff PAULIA GILBERT, by and through her counsel undersigned, alleges and avers as follows:

1. Plaintiff PAULIA GILBERT (hereinafter "GILBERT") at all times relevant hereto was and continues to be a resident of Honolulu, State of Hawaii.
2. Defendant CITY AND COUNTY OF HONOLULU (hereinafter referred to as "Defendant City & County") is and continues to be a duly organized municipal corporation of the State of Hawai'i at all relevant times.

3. The Honolulu Fire Department (“HFD”) is a department and agency of Defendant City & County.

4. The City Charter of the City and County of Honolulu (City) designates the Honolulu Fire Department (HFD) as the fire protection agency for the City. The HFD’s responsibilities are to provide fire fighting, rescue, and hazardous materials response for the entire island of Oahu, among others.

5. Defendant EMERGENCY MEDICAL SERVICES (hereinafter referred to as “EMS”) is a department and agency of Defendant City & County.

6. Upon information and belief, the mission statement of Defendant EMS is to provide quality pre-hospital emergency medical care and services to residents and visitors of Oahu, 24 hours a day, 7 days a week.

7. DOE Defendants are sued herein under fictitious names for the reason that their true names and identities are presently unknown to the Plaintiff, except that they are connected in some manner with the named Defendants and/or were the agents, servants, employees, employers, representatives, co-venturers, associates, vendors, suppliers, manufacturers, subcontractors or contractors and/or owners, lessees, assignees, licensees, designees, and engineers of the named Defendants and/or in some manner presently unknown to the Plaintiff engaged in activities alleged herein and/or were in some manner responsible for the injuries or damages to Plaintiff and/or manufactured and/or designed, and/or placed on the market a product which was defective; which defect was a proximate cause of injuries or damages to Plaintiff and/or conducted some activity in a negligent or dangerous manner; which negligent or dangerous conduct was a proximate cause of injuries or damages to Plaintiff and/or were in some manner related to the named Defendants and Plaintiff prays for leave to insert herein their true

names, identities, capacities, activities and/or responsibilities when the same are ascertained. Plaintiff and her counsel have made a diligent and good faith effort to ascertain the full names and identities of all potential Defendants herein by examining all documents available to them in this manner.

8. Plaintiff GILBERT has obtained and reviewed documents concerning the incident which is described in this Complaint in an attempt to ascertain the names and identities of the persons and/or entities who are in some manner responsible for the injuries to Plaintiff. However, Plaintiff at this time, is unable to identify the names and identities of the persons and/or entities until Plaintiff proceeds with discovery. Plaintiff prays leave to insert herein their true names and capacities, activities, and/or responsibilities when the same are made known or ascertained.

9. All events described herein occurred in Honolulu, Hawaii, and within the jurisdiction of the Circuit Court of the First Circuit, State of Hawaii.

10. On March 2, 2020, Plaintiff GILBERT's mother, Paulia Tavita fell within her home located at 85-716 Piliuka Place, Waianae, Hawaii, 96792.

11. Defendants HFD and EMS responded to the 911 call.

12. Defendants HPD and EMS response teams were acting within the course and scope of their employment with said entities.

13. Defendant CITY AND COUNTY is liable for the conduct and actions of the employees of Defendants HFD and EMS under the Respondeat Superior Doctrine.

14. Defendants HFD and EMS arrived at Mrs. Paulia Tavita's home and, among things, intubated her.

15. Upon information and belief, after Mrs. Paulia Tavita was intubated, Defendants placed her on what appeared to be a sheet to extricate her.

16. Upon information and belief, while Defendants were moving Mrs. Paulia Tavita in the above-referenced sheet, her head struck the ground because one of the Defendants who responded, who was holding the sheet, lost his grip and caused her head to violently strike the ground .

17. Plaintiff PAULIA GILBERT lived with her mother, Paulia Tavita, at her mother's residence located at 85-716 Piliuka Place, Waianae, Hawaii, 96792, the situs of the subject occurrence.

18. Upon information and belief, Plaintiff PAULIA GILBERT was present at her mother's above-referenced home when Defendants responded to the 911 call. She witnessed how Defendants extricated her mother.

19. Given the above-referenced circumstances, the conduct and actions of Defendants was outrageous.

20. Defendant EMS transported Mrs. Paulia Tavita to The Queen's Medical Center and was admitted into the ICU due to her condition.

21. Mrs. Paulia Tavita expired on March 3, 2021 at the Queen's Medical Center.

22. Defendants owed Mrs. Paulia Tavita a duty to provide reasonably safe extrication services. Defendants breached said duty, inasmuch as Defendants caused her head to drop and impact the hard ground surface.

23. Plaintiff is informed and believes that the above-referenced death of her mother was the result of the negligent and/or intentional acts of Defendants, who were

acting in concert at the time of the subject occurrence.

24. Defendants are further negligent and liable to Plaintiff, *inter alia*, due to the following actions or failure to act:

- a. Failure to properly extricate Mrs. Paulia Tavita;
- b. Failure to monitor their employees;
- c. Failure to train their employees;
- d. Failure to supervise their employees;
- e. Failure to eliminate the risks of harm and dangerous hazards; and,
- f. Were otherwise negligent in the extrication of Mrs. Paulia Tavita.

25. Plaintiff's injuries were proximately caused by the negligence of Defendants, inasmuch as Defendants knew or should have known that the manner which they used to carry Mrs. Paulia Tavita was not reasonably safe.

26. As a direct and proximate result of Defendants' negligence, Plaintiff PAULIA GILBERT has sustained severe emotional distress and mental anguish, and has otherwise been injured and damaged in an amount to be proved at trial.

27. As a direct and proximate result of Defendants' actions, Defendants are liable to Plaintiff GILBERT for the loss of consortium of her mother.

28. That as a result of the wrongful and negligent acts of the Defendants, and each of them, Plaintiff was caused to suffer, and will continue to suffer in the future, loss of consortium, loss of society, affection, assistance, and fellowship, all to the detriment of her loving mother and daughter relationship.

29. Defendants are also liable to Plaintiff for negligent and/or intentional emotional distress claims.

30. As a further direct and proximate result of Defendants' actions, *inter alia*, as alleged above, Plaintiff has suffered and continues to suffer general damages including but not limited to significant and enduring emotional distress including , mental anguish and physical distress.

31. As a further direct and proximate result of Defendants' actions, Plaintiff GILBERT has incurred, *inter alia*, pecuniary loss due to the loss of her mother's economic support, which included living in her mother's home.

WHEREFORE, Plaintiff GILBERT demands judgment against Defendants, jointly and severally, as follows:

1. General damages in an amount to be proved at trial, but not less than the jurisdictional limits of this Court;
2. Special damages in an amount to be proved at trial, including loss of pecuniary support from her mother, and such other relief, both legal or equitable, as this Court deems appropriate under the circumstances.
3. Reasonable attorney fees and costs.
4. Pre judgment interest at the legal prevailing rate.
5. Filing fees and other allowable costs incurred in the instant litigation.

DATED: Honolulu, Hawaii, February 18, 2022

***Fernando L. Cosio***

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FERNANDO L. COSIO  
Attorney for Plaintiff  
PAULIA GILBERT

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STATE OF HAWAII

PAULIA GILBERT,

Plaintiff,

vs.

CITY AND COUNTY OF HONOLULU;  
HONOLULU FIRE DEPARTMENT;  
EMERGENCY MEDICAL SERVICES;  
and Doe Defendants 1-100,

Defendants.

) CIVIL NO.  
) (Other Non-Motor Vehicle Tort)

)  
)  
) SUMMONS

SUMMONS

STATE OF HAWAII

To the above-named Defendants:

You are hereby summoned and required to file with the court and to serve upon FERNANDO L. COSIO, ESQ., Plaintiff's attorney, whose address is 1050 Bishop Sreet #244, Honolulu, Hawaii 96813, an Answer to the Plaintiff PAULIA GILBERT'S Complaint which is herewith served upon you, within twenty (20) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in Plaintiff PAULIA GILBERT'S Complaint.

This summons shall not be personally delivered between 10 p.m. and 6 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, personal delivery during those hours.

A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.

DATED: Honolulu, Hawaii, \_\_\_\_\_

\_\_\_\_\_  
Clerk of the above-entitled Court