

1 JOHNSTON & HUTCHINSON LLP
2 350 S. Grand Ave., Suite 2220
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 Lauren Bullock, SBN: 136867
9 *lb@johnstonhutchinson.com*
10 Christopher F. Bostwick, SBN: 351197
11 *cfb@johnstonhutchinson.com*

Electronically FILED by
Superior Court of California,
County of Los Angeles
12/29/2023 2:23 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By P. Perez, Deputy Clerk

12 Attorney for Plaintiffs JENNIFER FLAGLER, J. FLAGLER, and B. FLAGLER

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF LOS ANGELES

15 JENNIFER FLAGLER, an individual; J.
16 FLAGLER, a minor by and through his
17 guardian ad litem JENNIFER FLAGLER;
18 B. FLAGLER, a minor, by and through his
19 guardian ad litem JENNIFER FLAGLER;

20 Plaintiffs,

21 vs.

22 TIMOTHY RACISZ; an individual; and
23 DOES 1 through 25, inclusive,

24 Defendants.

Case No. 23TRCV04321

COMPLAINT FOR DAMAGES

1. WRONGFUL DEATH
2. SURVIVAL ACTION - Pursuant to Code Civ. Proc., § 377.34

DEMAND FOR JURY TRIAL

GENERAL ALLEGATIONS

25 1. Plaintiffs JENNIFER FLAGLER, J. FLAGLER, and B. FLAGLER (collectively,
26 “PLAINTIFFS”) are the wife and children and successors in interest to JONATHAN
27 FLAGLER (“DECEDENT”).

28 2. PLAINTIFFS are and at all relevant times mentioned herein were residents of San
Clemente, California.

3. DECEDENT was a dedicated firefighter who tragically died as the result of

1 injuries he sustained while bravely battling a blaze at the residence of the Defendant,
2 TIMOTHY RACISZ (henceforth, “DEFENDANT”).

3 4. Jonathan “Jon” Flagler, a devoted firefighter, died on January 6, 2022,
4 succumbing to significant injuries he sustained during a courageous battle against a residential
5 structure fire in Rancho Palos Verdes. All line of duty deaths are tragic, this one particularly
6 so because it was caused by an unpermitted building addition that allowed the fire to spread
7 undetected in the walls of the home creating a trap for Firefighter Flagler that ultimately killed
8 him.

9 5. Firefighter Flagler was a seasoned 21-year veteran in the firefighting profession.
10 He had served with the Vernon Fire Department for 19 years before joining the Los Angeles
11 County Fire Department (LACOFD) in October 2020. His dedication and commitment to the
12 profession were well-known. Flagler was 47 years old when he died, leaving behind his wife
13 Jenny, and two sons.

14 6. DEFENDANT RACISZ is, and at all relevant times mentioned herein was, a
15 resident of Rancho Palos Verdes, California, where he owned, occupied, supervised,
16 maintained, and otherwise controlled the residence at 30751 Tarapaca Road (“the Subject
17 Residence”).

18 7. DEFENDANT RACISZ is also a professional architect licensed by the California
19 Architects Board since June 25, 1985.

20 8. PLAINTIFFS are informed and believe, and based thereon, alleges that before
21 January 6, 2022, DEFENDANT RACISZ knew or should have known that there was an
22 approximately 456 square foot addition added the Subject Residence (“the Addition”).

23 9. PLAINTIFFS are informed and believe, and based thereon, alleges that the
24 Addition was constructed without permits that are mandated by local regulatory authorities.

25 10. PLAINTIFFS are informed and believe, and based thereon, alleges that the
26 Addition was built without essential fire-mitigation elements which were crucial for preventing
27 the undetected spread of fire within the structure of the Addition. These essential fire
28 mitigation elements were mandated by the applicable building codes at the time of construction,

1 and DEFENDANT would not have obtained the required building permits or approval from
2 local regulatory authorities without them.

3 11. PLAINTIFFS are informed and believe, and based thereon, allege that
4 DEFENDANT RACISZ knew or should have known (particularly because he is a licensed
5 architect) that the ADDITION was unpermitted. In addition, it appears through public records
6 that DEFENDANT RACISZ supervised and bore responsibility for extensive electrical
7 modifications to the subject residence during his ownership. These modifications encompass
8 various alterations, including but not limited to the installation of solar panels on the roof of the
9 subject residence.

10 12. PLAINTIFFS are informed and believe, and based thereon allege, that
11 DEFENDANT did not obtain all required building permits or approval from local regulatory
12 authorities for the electrical modifications.

13 13. DEFENDANT knew or had reason to know that, in the event of fire in the subject
14 residence, the lack of proper permits, and the absence of code-compliant fire mitigation
15 elements in the addition increased the likelihood that a fire would spread rapidly and unnoticed
16 throughout the residence.

17 14. DEFENDANT was fully aware or had compelling reasons to recognize that the
18 hazardous conditions of the addition posed an unreasonably high risk of harm to others, notably
19 including emergency responders, in the event of a fire.

20 15. On January 6, 2023, at or about 2:00 a.m., firefighters with the Los Angeles
21 County Fire Department, including DECEDENT, responded to a 911 call reporting a fire at the
22 Subject Residence.

23 16. PLAINTIFFS are informed and believe, and based thereon, allege that
24 DEFENDANT's failure to repair the unsafe condition of the Addition was not the act which
25 ignited the fire at the subject residence on January 6, 2022.

26 17. PLAINTIFFS are informed and believe, and allege that the unlawful construction
27 of the addition, including but not limited to the absence of mandated fire-mitigation elements,
28 accelerated the fire's rapid and unnoticed progression through the walls of the subject

1 residence.

2 18. On January 6, 2022, the fire spread rapidly through the walls of the Addition,
3 trapping DECEDENT inside and causing him serious injuries which ultimately caused his
4 death.

5 19. PLAINTIFFS are informed and believe, and based thereon allege that DOES 1
6 through 25, inclusive, and each of them, are legally responsible in some manner for the events
7 and happenings hereinafter referred to, and thereby caused the injuries and damages to
8 PLAINTIFFS as hereinafter alleged.

9 20. At all times mentioned herein, the true names and/or capacities, whether
10 partnership, proprietorship, corporate, associate, individuals, or otherwise, of such Defendants
11 are currently unknown to PLAINTIFFS, who therefore sue said Defendants by such fictitious
12 names. PLAINTIFFS will seek leave of Court to amend this Complaint to insert the true names,
13 and/or capacities, of said fictitiously named Defendants when the same have been ascertained.

14 21. At all times mentioned herein, Defendants and each of them, and DOES 1
15 through 25, inclusive, and each of them were the agents, servants, employees, employer, and/or
16 joint ventures of Defendants, inclusive, and each of them, and the acts described herein
17 occurred while Defendants DOES 1 through 25, were acting within the course and scope of said
18 agency, servitude, employment, and/or venture.

19
20 **FIRST CAUSE OF ACTION**

21 **WRONGFUL DEATH**

22 (As Against Defendant TIMOTHY RACISZ and DOES 1-25)

23 22. PLAINTIFFS incorporate and reallege herein by reference paragraphs 1 through
24 21, inclusive, as though fully set forth herein.

25 23. At all times herein mentioned, DEFENDANT owned, occupied, supervised,
26 maintained, and otherwise controlled the Subject Residence where DECEDENT died by fire on
27 January 6, 2022.

28 24. On January 6, 2022 emergency responders with the Los Angeles County Fire

1 Department, including DECEDENT, responded to a fire at the Subject Residence.

2 25. DEFENDANT owed a duty to exercise the care of a reasonably prudent person to
3 prevent harm to emergency responders, including Decedent, by complying with all applicable
4 statutes, ordinances, and regulations including but not limited to local, state, and other
5 applicable building safety codes.

6 26. DEFENDANT owed a duty to exercise the care if a reasonably prudent person to
7 prevent harm to emergency responders, including Decedent, by obtaining from local, state, and
8 other regulatory authorities the proper building permits and approval for all construction to the
9 Subject Residence.

10 27. DEFENDANT breached his duty in so negligently maintaining and controlling
11 his premises, by failing to warn or make safe his premises, and otherwise so negligently
12 conducting himself, thereby creating a dangerous condition for emergency responders and the
13 public generally.

14 28. More specifically, DEFENDANT RACISZ while in legal possession of, and
15 otherwise in control of the Subject Residence, breached his duty by failing to install fire all
16 mandated fire-mitigation elements in the structure of the Addition to comply with local, state,
17 and other applicable building safety codes.

18 29. DEFENDANT'S conduct causing DECEDENT'S wrongful death was itself not
19 the event that precipitated either the response or presence of the Los Angeles County Fire
20 Department to the Subject Residence on January 6, 2022. However, DEFENDANT'S above-
21 mentioned acts and omissions were a substantial factor in causing fire to spread unnoticed
22 through the walls of the structure, ultimately consuming the residence and resulting in the death
23 of DECEDENT.

24 30. By reason of DEFENDANT'S negligence and carelessness, the PLAINTIFFS,
25 the lawful heirs of DECEDENT, have sustained pecuniary loss, including but not limited to loss
26 of support, care, protection, consideration, companionship, love, solace, affection, and society,
27 all to their general damages in an amount above the jurisdictional limits of this court, said
28 amount to be determined according to proof at time of trial.

1 31. As a further, proximate result of the acts and omissions of DEFENDANT,
2 PLAINTIFFS have incurred funeral and burial expenses in an amount to be determined as
3 required by this Court and will seek leave of court to amend this complaint at the time of trial to
4 insert the exact amount of such losses, according to proof.

5
6 **SECOND CAUSE OF ACTION**

7 **SURVIVAL ACTION (Code Civ. Proc., § 377.34)**

8 32. PLAINTIFFS incorporate and reallege herein by reference paragraphs 1 through
9 21, inclusive, as though fully set forth herein.

10 33. As a direct and proximate result of DEFENDANT'S aforementioned negligence,
11 DECEDENT suffered personal injuries before his death in the January 6, 2022 fire.

12 34. DECEDENT'S injuries included but were not limited to extraordinary physical
13 pain and mental suffering knowing that he was going to die, that there was nothing he could do
14 to prevent it, and that he would never see his wife and sons again.

15 35. Had DECEDENT survived the fire, he would have been legally entitled to seek
16 damages for his injuries from DEFENDANT RACISZ.

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

1 36. As successors in interest to DECEDENT, PLAINTIFFS are eligible to receive
2 compensation on his behalf pursuant to California Code of Civil Procedure Section 377.34.

3
4 **PRAYER FOR RELIEF**

5 WHEREFORE, PLAINTIFFS pray for judgment against the defendants, and each of
6 them, as follows:

- 7 1. For economic and non-economic damages in an amount according to proof;
- 8 2. For all damages that survive the death of Decedent Jonathan Flagler;
- 9 3. For funeral and burial expenses according to proof;
- 10 4. For costs of suit herein incurred; and
- 11 5. For prejudgment interest; and
- 12 6. For such other and further relief as the court may deem proper.

13
14 DATED: December 29, 2023

JOHNSTON & HUTCHINSON LLP

15
16
17 By: /s/ Thomas J. Johnston

18 THOMAS J. JOHNSTON
19 LAUREN BULLOCK
20 CHRISTOPHER F. BOSTWICK
21 Attorneys for Plaintiffs
22
23
24
25
26
27
28

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs hereby demand a trial by jury on all issues so triable.

3
4 DATED: December 29, 2023

JOHNSTON & HUTCHINSON LLP

5
6
7 By: /s/ Thomas J. Johnston

8 THOMAS J. JOHNSTON
9 LAUREN BULLOCK
10 CHRISTOPHER F. BOSTWICK
11 Attorneys for Plaintiffs
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28