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Attorney for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN BERNARDINO

\_JANE ZOE,

Plaintiff

vs.

ABC MOUNTAIN RESORT, LLC, a  
California Limited Liability Company,  
Employee Roe and DOES ONE through  
TEN, inclusive.

Defendants.

Case No.

**PLAINTIFF'S COMPLAINT FOR  
DAMAGES FOR PERSONAL INJURY**

**1) NEGLIGENCE;**

**DEMAND FOR JURY TRIAL**

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Plaintiff complains and alleges as follows:

INTRODUCTION

1. This is a civil action for a money judgment arising from personal injury

suffered in the negligent operation of a ski chair lift by ABC Mountain Resort, LLC on March 7, 2010.

2. The Plaintiff is a person injured in the aforementioned negligent operation of a ski chair lift by ABC Mountain Resort, LLC.

3. Defendant ABC Mountain Resort, LLC negligently instructed and supervised its employees in the operation of its ski chair lifts which caused, enabled and facilitated the events in which the Plaintiff was injured.

PARTIES

4. The Plaintiff (“Zoe”) is, and at all times material hereto was, a citizen of the State of California, residing in Orange County, California.

5. The Plaintiff is informed and believes, and upon that basis alleges, the Defendant, ABC Mountain Resort, LLC (“ABC”) is and was at all times material hereto, a California limited liability company, authorized to do business in California, having its principal place of business located at or near \_\_\_\_\_, in the City of \_\_\_\_\_, County of San Bernardino, State of California.

6. The true names and capacities of the Defendants, DOES 1 through 10, inclusive, whether individual, corporate, associate or otherwise, are unknown to Plaintiff at the time of filing this Complaint and Plaintiff, therefore, sues said Defendants by such fictitious names and will ask leave of court to amend this Complaint to show their true names or capacities when the same have been ascertained. Plaintiff is informed and

believes, and thereon alleges, that each of the TEN DOE Defendants is, in some manner, responsible for the events and happenings herein set forth and proximately caused injury and damages to the Plaintiff as herein alleged.

7. At all times herein mentioned, each of the Defendants were the agent and employee of each of the remaining Defendants, and were, at all times herein mentioned, acting within the scope of said agency or employment authority as such, with knowledge, express or implied, of ABC.

#### GENERAL ALLEGATIONS

8. At all times herein mentioned, Defendant, Employee Roe, and DOES 1 through 10, were involved in operating Ski Chair Lift Number One (“Chair Number One”), on the premises of ABC Mountain Resort, within the scope of his/her employment and with the permission and consent of the co-defendants, and each of them.

9. That on \_\_\_\_\_, 201\_, the Defendant, and DOES 1 through 10, among other things, owned and operated and maintained ABC Mountain Resort, including Chair Number One, located at or near \_\_\_\_\_, in the City of \_\_\_\_\_, County of San Bernardino, State of California, an establishment open to members of the public for purposes of which a fee is charged to utilize the facilities of ABC Mountain Resort, including Chair Number One, for the economic benefit of Defendant, ABC.

FIRST CAUSE OF ACTION

(Negligence)

10. On \_\_\_\_\_, 201\_, Plaintiff, Roe, purchased a lift ticket and was lawfully upon the aforementioned premises of ABC Mountain Resort located at or near \_\_\_\_\_, in the City of \_\_\_\_\_, County of San Bernardino, State of California, for the purpose of recreational snowboarding when he was caused to fall due to, among other reasons: the negligent operation of a Chair Number One by Employee Roe in the failure to suspend operation of Chair Number One to clear fallen snowboarders from the ski chair lift unloading area, depriving Plaintiff of any safe avenue of exit, leading to Plaintiff unavoidably colliding with one of the fallen snowboarders, resulting in the fracturing of the radius bone, a chip fracture to ulna bone, together with spraining several ligaments in Plaintiff's right wrist. As a result of the fall, Plaintiff sustained serious injury and damages herein claimed.

11. "Every one who offers to the public to carry persons, property, or messages, excepting only telegraphic messages, is a common carrier of whatever he thus offers to carry." (Civ. Code, § 2168.) California courts have held that statutory definition of common carrier in § 2168, includes ski lifts. See *Squaw Valley Ski Corp. v. Superior Court*, 2 Cal.App.4th 1499, 1506-1510 (1992). Defendant, ABC, in its operation of ski chair lifts at ABC Mountain Resort, including Chair Number One, is a Common Carrier and as such, Defendant has a duty to ensure that passengers are able to safely enter, ride, and exit its ski chair lifts. Common Carriers must use the highest care and the vigilance of a very cautious person. They must do all that human care, vigilance, and foresight

reasonably can do under the circumstances to avoid harm to passengers. Defendant breached this standard of care

12. As a direct and proximate result of the negligence, carelessness, recklessness, and unlawfulness of defendants, and each of them, as aforesaid, Plaintiff, Zoe, sustained severe and serious injury to his person, all to Plaintiff's damage in a sum within the jurisdiction of this court and to be shown according to proof.

13. On [date], Plaintiff presented his claim, pursuant to G.C. §910 to Defendants, ABC, Employee Roe, and DOES 1 through 10, inclusive. Said Claim was rejected in its entirety on [date].

14. By reason of the foregoing, Plaintiff has been required to employ the services of hospitals, physicians, surgeons, nurses and other professional services and Plaintiff has been compelled to incur expenses for fluoroscope machines, x-rays and other medical supplies and services. Plaintiff is informed and believes, and thereon alleges, that further services of said nature may be required by Plaintiff in an amount to be shown according to proof.

15. As a direct and proximate result of the negligence, carelessness, recklessness, and unlawfulness of Defendants, and each of them, and the resulting collision, as aforesaid, Plaintiff sustained severe and serious injury to her person, all to Plaintiff's damage in a sum within the jurisdiction of this court and to be shown according to proof.

16. At the time of the injury, as aforesaid, Plaintiff, Zoe, was regularly and gainfully employed; by reason of the foregoing, Plaintiff was unable to engage in his employment for a time subsequent to said accident, including additional lost wages due to follow-up doctor examinations and physical therapy sessions, all to Plaintiff's damage in an amount to be shown according to proof.

WHEREFORE, Plaintiff, Beebe, prays for judgment against the Defendants, and each of them as follows:

FIRST CAUSE OF ACTION

- A. General damages in a sum according to proof;
- B. Sums incurred and to be incurred for services of hospitals, physicians, surgeons, nurses and other professional services, x-rays and other medical supplies and services;
- C. Loss of income incurred according to proof;
- D. For interest provided by law including, but not limited to, California Civil Code, Section 3291; and
- E. Costs of suit and for such other and further relief as the court deems proper.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE THAT Plaintiff, Zoe, hereby demands trial by jury for the claims set forth in its complaint.

DATED. \_\_\_\_\_, 2010

Daniel Beebe.

By: \_\_\_\_\_

Attorney for Plaintiff

DRAFT