

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NUMBER: SBN: 180998</p> <p>NAME: Sharona Eslamboly Hakim, Esq.</p> <p>FIRM NAME: Law Offices of Sharona Eslamboly Hakim</p> <p>STREET ADDRESS: 8730 Wilshire Blvd., Suite 500</p> <p>CITY: Beverly Hills STATE: CA ZIP CODE: 90211</p> <p>TELEPHONE NO.: (310) 289-9100 FAX NO.: (310) 289-9101</p> <p>EMAIL ADDRESS: geoffrey@sehlawfirm.com</p> <p>ATTORNEY FOR (name): ALEJANDRO NERI FAUSTO, Plaintiff</p>	<p><i>FOR COURT USE ONLY</i></p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara</p> <p>STREET ADDRESS: 191 North First Street</p> <p>MAILING ADDRESS: 191 North First Street</p> <p>CITY AND ZIP CODE: San Jose 95113</p> <p>BRANCH NAME: Downtown Superior Court (DTS)</p>	
<p>PLAINTIFF: ALEJANDRO NERI FAUSTO</p> <p>DEFENDANT: SAN JOSE CAPITOL FLEA MARKET, SYUFY ENTERPRISES, LP, AND</p> <p><input checked="" type="checkbox"/> DOES 1 TO 25, Inclusive</p>	
<p>COMPLAINT—Personal Injury, Property Damage, Wrongful Death</p> <p><input type="checkbox"/> AMENDED (Number):</p> <p>Type (check all that apply):</p> <p><input type="checkbox"/> MOTOR VEHICLE <input checked="" type="checkbox"/> OTHER (specify): General Negligence and Premise Liability</p> <p><input checked="" type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death</p> <p><input checked="" type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> Other Damages (specify): according to proof</p> <p>Jurisdiction (check all that apply):</p> <p><input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE (does not exceed \$35,000)</p> <p>Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000</p> <p><input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$35,000)</p> <p><input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint</p> <p><input type="checkbox"/> from limited to unlimited</p> <p><input type="checkbox"/> from unlimited to limited</p>	<p>CASE NUMBER:</p>

1. **Plaintiff (name or names):** **ALEJANDRO NERI FAUSTO**
 alleges causes of action against **defendant (name or names):**
SAN JOSE CAPITOL FLEA MARKET, SYUFY ENTERPRISES, LP, AND DOES 1 TO 25, INCLUSIVE

2. This pleading, including attachments and exhibits, consists of the following number of pages: **Five (5)**

3. Each plaintiff named above is a competent adult

a. **except** plaintiff (name):

(1) a corporation qualified to do business in California.

(2) an unincorporated entity (describe):

(3) a public entity (describe):

(4) a minor an adult

(a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed.

(b) other (specify):

(5) other (specify):

b. **except** plaintiff (name):

(1) a corporation qualified to do business in California.

(2) an unincorporated entity (describe):

(3) a public entity (describe):

(4) a minor an adult

(a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed.

(b) other (specify):

(5) other (specify):

Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE:

Fausto v. San Jose Capitol Flea Market, et al

CASE NUMBER:

4. Plaintiff (*name*):
is doing business under the fictitious name (*specify*):
- and has complied with the fictitious business name laws.
5. Each defendant named above is a natural person
- a. **except** defendant (*name*): SAN JOSE CAPITOL FLEA MARKET
- (1) a business organization, form unknown.
- (2) a corporation.
- (3) an unincorporated entity (*describe*):
- (4) a public entity (*describe*):
- (5) other (*specify*):
- c. **except** defendant (*name*):
- (1) a business organization, form unknown.
- (2) a corporation.
- (3) an unincorporated entity (*describe*):
- (4) a public entity (*describe*):
- (5) other (*specify*):
- b. **except** defendant (*name*): SYUFY ENTERPRISES, LP
- (1) a business organization, form unknown.
- (2) a corporation.
- (3) an unincorporated entity (*describe*):
- (4) a public entity (*describe*):
- (5) other (*specify*):
Limited Partnership
- d. **except** defendant (*name*):
- (1) a business organization, form unknown.
- (2) a corporation.
- (3) an unincorporated entity (*describe*):
- (4) a public entity (*describe*):
- (5) other (*specify*):
- Information about additional defendants who are not natural persons is contained in Attachment 5.
6. The true names of defendants sued as Does are unknown to plaintiff.
- a. Doe defendants (*specify Doe numbers*): **1 - 15, Inclusive** were the agents or employees of other named defendants and acted within the scope of that agency or employment.
- b. Doe defendants (*specify Doe numbers*): **16 - 25, Inclusive** are persons whose capacities are unknown to plaintiff.
7. Defendants who are joined under Code of Civil Procedure section 382 are (*names*):
8. This court is the proper court because
- a. at least one defendant now resides in its jurisdictional area.
- b. the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
- c. injury to person or damage to personal property occurred in its jurisdictional area.
- d. other (*specify*):
9. Plaintiff is required to comply with a claims statute, **and**
- a. has complied with applicable claims statutes, **or**
- b. is excused from complying because (*specify*):

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10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):

- a. Motor Vehicle
- b. General Negligence
- c. Intentional Tort
- d. Products Liability
- e. Premises Liability
- f. Other (*specify*):

11. Plaintiff has suffered (*check all that apply*)

- a. wage loss.
- b. loss of use of property.
- c. hospital and medical expenses.
- d. general damage.
- e. property damage.
- f. loss of earning capacity.
- g. other damage (*specify*):
According to Proof

12. The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. listed in Attachment 12.
- b. as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. **Plaintiff prays** for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) compensatory damages.
- (2) punitive damages.
- b. The amount of damages is (*in cases for personal injury or wrongful death, you must check (1)*):
 - (1) according to proof.
 - (2) in the amount of: \$

15. The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):
GN-1, Prem.L-1, Prem.L-2, Prem.L-3, Prem.L-5

Date: **May 31, 2024**

Sharona Eslamboly Hakim, Esq.

 (TYPE OR PRINT NAME)



 (SIGNATURE OF PLAINTIFF OR ATTORNEY)

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FIRST _____ **CAUSE OF ACTION—General Negligence** Page 4
 (number)

ATTACHMENT TO Complaint Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): **ALEJANDRO NERI FAUSTO**

alleges that defendant (name): **SAN JOSE CAPITOL FLEA MARKET, SYUFY ENTERPRISES, LP, AND**

Does 1 to 25, INCLUSIVE

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): **or about June 1, 2022**

at (place): **3630 Hillcap Ave., in the City of San Jose, County of Santa Clara, State of California**

(description of reasons for liability):

On or about June 1, 2022, Plaintiff ALEJANDRO NERI FAUSTO was seriously injured in the premises located at 3630 Hillcap Ave., in the City of San Jose, County of Santa Clara, State of California. On or about June 1, 2022, Defendants and each of them negligently and carelessly owned, occupied, maintained, inspected, supervised, operated, controlled, managed, cleaned, used, repaired, directed and superintended the above-described premises so as to cause Plaintiff ALEJANDRO NERI FAUSTO to trip and fall when he came into contact with a dangerous condition on the subject property. As a direct and proximate result of the negligence and carelessness of Defendants, and each of them, Plaintiff ALEJANDRO NERI FAUSTO sustained injuries and damages. Due to the acts and failures to act, Defendants and each of them are liable for the injuries to Plaintiff ALEJANDRO NERI FAUSTO.

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SECOND _____ **CAUSE OF ACTION—Premises Liability** Page 5
 (number)

ATTACHMENT TO Complaint Cross - Complaint
 (Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff (name): **ALEJANDRO NERI FAUSTO**
 alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.
 On (date): **or about June 1, 2022** plaintiff was injured on the following premises in the following
 fashion (description of premises and circumstances of injury):
Plaintiff ALEJANDRO NERI FAUSTO while at the premises owned, occupied, maintained, leased, used, controlled, managed, directed, inspected, repaired, cleaned, supervised, and operated by Defendants and each of them, located at 3630 Hillcap Ave., in the City of San Jose, County of Santa Clara, State of California, came into contact with a dangerous and hazardous condition which caused Plaintiff ALEJANDRO NERI FAUSTO to trip and fall, thereby sustaining injuries and damages.

Prem.L-2. **Count One—Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names):
SAN JOSE CAPITOL FLEA MARKET, SYUFY ENTERPRISES, LP, AND

Does 1 to 25, INCLUSIVE

Prem.L-3. **Count Two—Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were (names):
SAN JOSE CAPITOL FLEA MARKET, SYUFY ENTERPRISES, LP, AND

Does 1 to 25, INCLUSIVE

Plaintiff, a recreational user, was an invited guest a paying guest.

Prem.L-4. **Count Three—Dangerous Condition of Public Property** The defendants who owned public property on which a dangerous condition existed were (names):

Does _____ to _____

- a. The defendant public entity had actual constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.
- b. The condition was created by employees of the defendant public entity.

Prem.L-5. a. **Allegations about Other Defendants** The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):
SAN JOSE CAPITOL FLEA MARKET, SYUFY ENTERPRISES, LP, AND

Does 1 to 25, INCLUSIVE

- b. The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are described in attachment Prem.L-5.b as follows (names):