

FILED

2019 OCT 17 AM 10:25

CIVIL
DISTRICT COURT

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 19-10819

DIVISION "L"

ELIAS MEMBRENO, ET AL.

VS

1031 CANAL INVESTMENTS, LLC, ET AL.

FILED: _____

DEPUTY CLERK

EX PARTE MOTION FOR PRESERVATION OF EVIDENCE

NOW INTO COURT, though undersigned counsel, come plaintiffs, Elias Membreño, Ronal Enrique, Borjas Rodas, and Mariano Bonilla, who move this Honorable Court to enter an Order for non-destruction and preservation of all evidence relating to the incident that occurred at the Hard Rock Hotel Construction site located at 1031 Canal Street in the City of New Orleans, Parish of Orleans on 12 October 2019.

Plaintiffs move the Court to enter an Order restraining and enjoining **1031 CANAL INVESTMENTS, LLC., CITADEL BUILDERS, HARRY SMITH BAKER ARCHITECTS, HEASLIP ENGINEERING AND MOSES ENGINEERS**, and their insurers, their insurers, agents, servants, employees, attorneys, and any other person who or which may act at the discretion or direction of the defendants herein and including those persons in active concert and participation with the defendants herein from destroying, alienating, disposing of, altering or defacing evidence or documents of any nature, said evidence to include, but not be limited to the following:

- All equipment, machine, tangible items and their component parts involved in the incident and the events, activities and persons surrounding the incident including any specific info about the equipment being used at the time of the accident;

VERIFIED
10-17-19

- All information and electronically stored information (ESI) involved these events, activities and persons surrounding the incident; including, but is not limited to, any paper or hard copy records, reports, books, letters, memoranda and the like; all computer and electronic files and data generated by and/or stored in any computer systems and storage media (e.g., hard disks, floppy disks, backup disks/tapes, etc.), and other electronic data such as voicemail, e-mail and text; photographs, videotape, and other photographic images stored in digital, film or other format; ECM, RCM and any other vehicle-related recorded data.
- All investigative material (e.g. photographs, video, recorded images of all kind and nature, witness statements, audio recordings, measurements, field notes, the incident;
- All safety materials including but not limited to JSA's, Tool-box talks, and work permits, manuals of equipment and procedures.

Respectfully submitted,

DELISE & HALL

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-AND-

MIKE BRANDNER INJURY ATTORNEYS

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Counsel for Plaintiffs,
Elias Membreño, Ronald Enrique Borjas
Rodas, and Mariano Bonilla

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STATE OF LOUISIANA

NO. 19-10819

DIVISION "L"

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DEPUTY CLERK

MEMORANDUM IN SUPPORT OF PETITIONER'S
EX PARTE MOTION FOR PRESERVATION OF EVIDENCE

Plaintiffs, Elias Membreño, Ronal Enrique, Borjas Rodas, and Mariano Bonilla, have moved this Honorable Court for the entering of an Order for non-destruction and preservation of all evidence relating to the incident that occurred at the Hard Rock Hotel Construction site located at 1031 Canal Street in the City of New Orleans, Parish of Orleans on 12 October 2019.

Plaintiffs have moved the Court to enter an Order restraining and enjoining **1031 CANAL INVESTMENTS, LLC., CITADEL BUILDERS, HARRY SMITH BAKER ARCHITECTS, HEASLIP ENGINEERING AND MOSES ENGINEERS**, and their insurers, their insurers, agents, servants, employees, attorneys, and any other person who or which may act at the discretion or direction of the defendants herein and including those persons in active concert and participation with the defendants herein from destroying, alienating, disposing of, altering or defacing evidence or documents of any nature, said evidence

Media reports and other information secured by counsel for plaintiffs suggest that evidence is being destroyed or altered and, as such plaintiffs will sustain irreparable damage and will be

prejudiced by such actions. In light of the irreparable and damage of such destruction, in the interests of justice this Order should be entered.

Respectfully submitted,

DELISE & HALL

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skoloski@mikebrandner.com

Counsel for Plaintiffs,
Elias Membreno, Ronal Enrique Borjas
Rodas, and Mariano Bonilla

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DISTRICT COURT

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 19-10819

DIVISION "L"

ELIAS MEMBRENO, ET AL.

VS

1031 CANAL INVESTMENTS, LLC, ET AL.

FILED: _____

DEPUTY CLERK

ORDER

Considering the foregoing *Ex Parte* Motion for Preservation of Evidence;

IT IS HEREBY ORDERED, that **1031 CANAL INVESTMENTS, LLC., CITADEL BUILDERS, HARRY SMITH BAKER ARCHITECTS, HEASLIP ENGINEERING AND MOSES ENGINEERS**, and their insurers, agents, servants, employees, attorneys, and any other person who or which may act at the discretion or direction of them, and including those persons in active concert and participation with them defendants be restrained and enjoined from destroying, alienating, disposing of, altering or defacing evidence or documents of any nature, said evidence to include, but not be limited to, the following:

- All equipment, machine, tangible items and their component parts involved in the incident and the events, activities and persons surrounding the incident including any specific info about the equipment being used at the time of the accident;
- All information and electronically stored information (ESI) involved these events, activities and persons surrounding the incident; including, but is not limited to, any paper or hard copy records, reports, books, letters, memoranda and the like; all computer and electronic files and data generated by and/or stored in any computer systems and storage media (e.g., hard disks, floppy disks, backup disks/tapes, etc.), and other electronic data such as voicemail, e-mail and text; photographs, videotape, and other photographic

images stored in digital, film or other format; ECM, RCM and any other vehicle-related recorded data.

- All investigative material (e.g. photographs, video, recorded images of all kind and nature, witness statements, audio recordings, measurements, field notes, the incident;
 - All safety materials including but not limited to JSA's, Tool-box talks, and work permits, manuals of equipment and procedures.

So ordered, in New Orleans, Louisiana this 12 day of July, 2019.

JUDGE

JUDGE KERN A. REESE

John R. Pelt

VERIFIED

FILED

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
2019 OCT 17 AM 10:24
STATE OF LOUISIANA

NO. 19-10819

CIVIL
DISTRICT COURT

DIVISION "L"

ELIAS MEMBRENO, ET AL.

VS

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FILED: _____

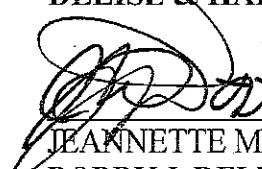
DEPUTY CLERK

MOTION TO ENROLL COUNSEL

NOW INTO COURT, though undersigned counsel, comes plaintiffs, Elias Membreño, Ronal Enrique Borjas Rodas, and Mariano Bonilla, who moves this Honorable Court to enroll Walter Leger (La. Bar No. 8278 (T.A.), Franklin G. Shaw, (La. Bar No. 1794) and Brigid E. Collins, (La. Bar No. 28538) of the New Orleans based law firm Leger and Shaw as additional counsel of record for plaintiffs.

Respectfully submitted,

DELISE & HALL



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VERIFIED
10.17.19

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Counsel for Plaintiffs,
Elias Membreno, Ronal Enrique Borjas
Rodas, and Mariano Bonilla

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CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA CIVIL
DISTRICT COURT

NO. 19-10819

DIVISION "L"

ELIAS MEMBRENO, ET AL.

VS

1031 CANAL INVESTMENTS, LLC, ET AL.

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DEPUTY CLERK

ORDER

Considering the foregoing Motion to Enroll Counsel;

IT IS HEREBY ORDERED that Walter Leger (La. Bar No. 8278 (T.A.), Franklin G. Shaw, (La. Bar No. 1794) and Brigid E. Collins, (La. Bar No. 28538) of the New Orleans based law firm Leger and Shaw be added as additional counsel of record for plaintiffs, Elias Membreno, Ronal Enrique Borjas Rodas, and Mariano Bonilla.

New Orleans, Louisiana this 18th day of Oct., 2019.



JUDGE

JUDGE KERN A. REESE



CLERK

VERIFIED