

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 2019-10819

DIVISION "G"

ELIAS MEMBRENO, RONAL ENRIQUE BORJAS RODAS, MARIANO BONILLA, SONIA CONTREAS, EDGAR EDUARD GODAY, OSMAN SORIANO, HENRY ALEXANDER AGUILAR, MAURICIO CASTRO, SAMIR ENRIQUE ARZI GARCI, JUAN DOMINGUEZ, VOANI NOEL ZELAYA SANTOS, VICTOR VERDE PINEDA, JOANI ZELAYA HERNANDEZ, NATIVIDAD CABELLERO A/K/A VICTOR HERRERA, JUAN MIGUEL CHIRINOS GARCIA, VICTOR CHIRINOS, JAMES IVERY DAVIS, ANGELA OVEULA, LAKEIA FRITH, BRANDON BEARD, DAVIS HENSLEY, BELTER BERMUDEZ, LUIS ANGEL SONORA GARCIA aka GIANHEL MARFEI RODRIGUEZ, ENRIQUE CASTRO RODRIGUEZ, VICTOR CONTRERAS, TREY FOURNIER, JEANE LUSK, ADRIAN HERNANDEZ, JR., ADRIAN HERNANDEZ, SR., BRYCE MCGOVERN, GERALD MICKENS, ROLAND YOUNG, KENDRICK CALVIN, VICTOR WARD, GREGORY SCOTT, JESSICA LACOUR, JELISSA LACOUR, CALVIN GRANT, KAREN ACOSTA, MARLON TURNER, BRYAN RATLIFF AND HARRISON RODGERS

VS

1031 CANAL INVESTMENTS, L.L.C., KALAIS COMPANIES, LLC, HARRY BAKER SMITH ARCHITECTS II, PLLC, HEASLIP ENGINEERING, LLC, MOSES ENGINEERS, INC. AND CITADEL BUILDERS, LLC

FILED: _____

DEPUTY CLERK

**FIRST AMENDED, SUPPLEMENTAL, AND RESTATED
PETITION FOR DAMAGES**

The First Amended, Supplemental, and Restated Petition for Damages of ELIAS MEMBRENO, ET AL, persons of full age, residents of the State of Louisiana, adds additional petitioners, adds additional defendants, and makes supplements and restates and adds additional allegations of facts, respectfully represents upon information and belief as follows:

I. INTRODUCTION

1. On October 12, 2019, the French Quarter and surrounding areas were rocked by the collapse of an 18-story structure being constructed at 1031 Canal Street, New Orleans, LA 70112 (the "Building Collapse").

2. The falling construction debris, dislocated construction equipment, and accompanying dust cloud caused significant injuries to individuals located in and around the construction site and caused significant damage to buildings and businesses in the vicinity of the construction site.

3. Three persons have been pronounced dead as a result of injuries suffered by the building collapse. Many individuals have sought medical attention as a result of injuries suffered by the building collapse.

4. The construction site remains unstable and may continue to be unstable for some time.

II. VENUE

Venue in this Court is proper pursuant to La. C. C. P. Art. 74.

III. THE PARTIES

Parties named herein are as follows:

A. Named Petitioner herein are:

1. **ELIAS MEMBRENO**, a major domiciled in the Parish of Jefferson, State of Louisiana;
2. **SONIA CONTRERAS**, a major domiciled in the Parish of Jefferson, State of Louisiana;
3. **EDGAR EDUARD GODAY**, a major domiciled in the Parish of Jefferson, State of Louisiana;
4. **OSMAN SORIANO**, a major domiciled in the Parish of Jefferson, State of Louisiana;
5. **HENRY ALEXANDER AGUILAR**, a major domiciled in the Parish of Orleans, State of Louisiana;
6. **MAURICIO CASTRO**, a major domiciled in the Parish of Orleans, State of Louisiana;
7. **SAMIR ENRIQUE ARZI GARCI**, a major domiciled in the Parish of Jefferson, State of Louisiana;
8. **JUAN DOMINGUEZ**, a major domiciled in the Parish of Orleans, State of Louisiana;
9. **YOANI NOEL ZELAYA SANTOS**, a major domiciled in the Parish of Jefferson, State of Louisiana;
10. **VICTOR VERDE PINEDA**, a major domiciled in the Parish of Jefferson, State of Louisiana;
11. **JOANI ZELAYA HERNANDEZ**, a major domiciled in the Parish of Jefferson, State of Louisiana;
12. **NATIVIDAD CABALLERO AKA VICTOR HERRERA**, a major domiciled in the Parish of Jefferson, State of Louisiana;
13. **JUAN MIGUEL CHIRINOS GARCIA**, a major domiciled in the Parish of Jefferson, State of Louisiana;
14. **VICTOR CHIRINOS**, a major domiciled in the Parish of Jefferson, State of Louisiana;
15. **JAMES IVERY DAVIS**, a major domiciled in the County of Pearl River, State of Mississippi;
16. **ANGEL OYUELA**, a major domiciled in the Parish of Jefferson, State of

Louisiana;

17. **LAKEIA FRITH**, a major domiciled in the Parish of Jefferson, State of Louisiana;
18. **BRANDON BEARD**, a major domiciled in the Parish of Orleans, State of Louisiana;
19. **DAVID HENSLEY**, a major domiciled in the Parish of Jefferson, State of Louisiana;
20. **BELTER BERMUDEZ**, a major domiciled in the Parish of Orleans, State of Louisiana;
21. **LUIS ANGEL SONORA GARCIA AKA GIANHEL MARFEL RODRIGUEZ**, a major domiciled in the Parish of St. Tammany, State of Louisiana;
22. **ENRIQUE CASTRO RODRIGUEZ**, a major domiciled in the Parish of St. Tammany, State of Louisiana;
23. **VICTOR CONTRERAS**, a major domiciled in the Parish of Jefferson, State of Louisiana;
24. **TREY FOURNIER**, a major domiciled in the Parish of Jefferson, State of Louisiana;
25. **JEANE LUSK**, a major domiciled in the Parish of Jefferson, State of Louisiana;
26. **ADAN HERNANDEZ JR.**, a major domiciled in the County of Lee, State of Florida;
27. **ADAN HERNANDEZ SR.**, a major domiciled in the County of Lee, State of Florida;
28. **MARIANO BONILLA**, a major domiciled in the Parish of Jefferson, State of Louisiana;
29. **RONAL ENRIQUE BORJAS RODAS**, a major domiciled in the Parish of Jefferson, State of Louisiana;
30. **BRYCE MCGOVERN**, a major domiciled in the parish of St. Tammany, State of Louisiana;
31. **GERALD MICKENS**, a major domiciled in the State of Louisiana;
32. **ROLAND YOUNG**, a major domiciled in the State of Louisiana;
33. **KENDRICK CALVIN**, a major domiciled in the State of Louisiana;
34. **VICTOR WARD**, a major domiciled in the State of Louisiana;
35. **GREGORY SCOTT**, a major domiciled in the State of Louisiana;
36. **JESSICA LACOUR**, a major domiciled in the State of Louisiana;
37. **JELISSA LACOUR**, a major domiciled in the State of Louisiana;
38. **CALVIN GRANT**, a major domiciled in State of Louisiana;

39. **KAREN ACOSTA**, a major domiciled in the State of Louisiana.
40. **MARLON TURNER**, a major domiciled in the State of Louisiana.
41. **BRYAN RATLIFF**, a major domiciled in Harrison County, State of Mississippi.
42. **HARRISON RODGERS**, a major domiciled in the State of Louisiana.

B. Named Defendants are:

43. **1031 CANAL INVESTMENTS, LLC**, a limited liability company with its principal place of business located at 3516 Hessmer Ave., Metairie, LA authorized to do and doing business under the laws of the State of Louisiana and within the jurisdiction of this Honorable Court.
44. **KAILAS COMPANIES, L.L.C.** a Louisiana limited liability company with its principal place of business at 3525 N. Causeway Blvd., Ste. 1040, Metairie, LA 70002. It is an owner and developer of the building that collapsed on October 12, 2019, and owner of the land on which the collapsed building is situated.
45. **HARRY BAKER SMITH ARCHITECTS II, P.L.L.C.** is a Louisiana limited liability company with its principal place of business at 189 Maple Ridge Dr., Metairie, LA 70001. At all relevant times, HBSA served as architects and designed, oversaw, directed, and approved all details of architectural planning and engineering work at 1031 Canal St.
46. **HEASLIP ENGINEERING, L.L.C.** is a Louisiana limited liability company with its principal place of business at 3500 N. Causeway Blvd., Ste. 1100, Metairie, LA. 70002. At all relevant times, Heaslip acted as structural engineers and conducted, directed, oversaw, and approved all details of engineering work and planning at 1031 Canal St.
47. **CITADEL BUILDERS, L.L.C.** is a Louisiana limited liability company with its principal place of business at 3516 Hessmer Ave., Metairie, LA 70002. At all relevant times, Citadel acted as general contractor and conducted, directed, oversaw, and approved all details of contracting work and planning at 1031 Canal St.
48. **MOSES ENGINEERS, INC.** a corporation with its principal place of business located at 909 Poydras Street, New Orleans, LA authorized to do and doing business under the laws of the State of Louisiana and within the jurisdiction of this Honorable Court.
49. **1031 CANAL DEVELOPMENT, LLC** a corporation with its principal place of business located at 3525 N. Causeway Blvd., Suite 1040, Metairie, LA 70002 authorized to do and doing business under the laws of the State of Louisiana and within the jurisdiction of this Honorable Court.
50. **1031 CANAL, L.L.C.** a corporation with its principal place of business located at 3525 N. Causeway Blvd., Suite 1040, Metairie, LA 70002 authorized to do and doing business under the laws of the State of Louisiana and within the jurisdiction of this Honorable Court.
51. **ARCADIA REBAR INCORPORATED**, a Foreign Corporation with its principal place of business located at Carriere, MS authorized to do and doing business under the laws of this state.

52. **BIGGE CRANE and RIGGING CO.** a foreign corporation with its principal place of business located at San Leandro, CA, authorized to do and doing business under the laws of this state.
53. **CMC REBAR**, a foreign corporation with its principal place of business located at Birmingham, AL authorized to do and doing business under the laws of this state.
54. **CECO CONCRETE CONSTRUCTION, L.L.C.** a corporation with its principal place of business located in Metairie, LA authorized to do and doing business under the laws of this state.
55. **FOSTER STEEL, LLC**, a foreign corporation with its principal place of business located at Picayune, MS authorized to do and doing business under the laws of this state.
56. **C. MOHAN KAILAS**, a major domiciled in the Parish of Jefferson, State of Louisiana, and the President, Owner, and Founder of Kailas Companies.
57. **LAFARGE NORTH AMERICA** a domestic corporation with its principal place of business located in Metairie, LA, authorized to do and doing business under the laws of this state.
58. **RAY BROS., INC** a domestic corporation with its principal place of business located in Metairie, LA, authorized to do and doing business under the laws of this state.
59. **S & S CONSTRUCTION AND CONSULTING** a domestic corporation with its principal place of business located in Baton Rouge, LA, authorized to do and doing business under the laws of this state.
60. **GFRC 360, LLC dba GFRC CLADDING SYSTEMS**, a foreign corporation with its principal place of business located at Picayune, MS authorized to do and doing business under the laws of this state.
61. **REGUPOL AMERICA, LLC**, a domestic corporation with it principal place of business located in Metairie, LA, authorized to do and doing business under the laws of this state.

IV. FACTUAL ALLEGATIONS

62. On October 11, 2019 residents, business owners, and tourists in the French Quarter were enjoying what they believed to be another typical Saturday morning.
63. At approximately 9:12 a.m., a large structure intended to be the future Hard Rock Hotel collapsed, injuring numerous workers and bystanders, and causing significant damage to buildings and businesses in the vicinity.
64. Several individuals have died, dozens of individuals have sought medical treatment for injuries sustained by the collapse, and numerous businesses remain closed and unable to operate.
65. The consequences of this tragedy would be even more profound if the collapse occurred after the completion of the development, which was intended to host numerous

hotel rooms, conference rooms, bars, restaurants, entertainment spaces, and parking spaces.

66. The site at 1031 Canal St. remains in an unsafe, unstable, and dangerous condition, and continues to pose a threat to a several-block radius.

67. This major building collapse would not have occurred, but for the negligence and failures of the defendants.

68. The development project at 1031 Canal St. has problems since its inception. Redevelopment plans at the site were subject to a lengthy and contentious approval process before plans for demolition and reconstruction were allowed to proceed.

69. After approval was granted by the City of New Orleans, the redevelopment project at 1031 Canal St. was further delayed when Praveen Kailas, a developer and spokesman for the project, was convicted of conspiracy to commit theft of government funds from the Louisiana Road Home's Small Rental Property Program ("SRPP").

70. The project at 1031 was delayed yet again by the owner and developers' failure to pay hundreds of thousands of dollars in building fees.

71. The design, planning, and construction of the structure at 1031 Canal was inadequate, likely to cause harm, and did cause harm to plaintiffs and others.

72. Defendants failed to design the structure in a manner that could bear the loads the structure was intended to hold. Further, defendants failed to use equipment and materials necessary to bear such loads.

73. Defendants failed to take reasonable care in planning, assessing, and monitoring the construction of the collapsed structure. Prior to the building collapse, it was apparent that the structural supports of the building were inadequate to support the weight of concrete slabs on the upper floors, and an insufficient number of structural supports were used.

74. Delays, design changes, and shortcuts created extra challenges to the project. For example, pile load tests were supposed to be submitted to city planners demonstrating that the soil and the piles at the location could support a design load of 125 tons. However, the pile load tests submitted to the city were for a different project at a different location, and only tested load capacity up to 50 tons.

75. An insufficient number of horizontal beams, fill beams and pole jacks were used, and there was inadequate reshoring to support concrete decks for spans.
76. The structure had no steel frame on outside and no cross bracing.
77. The project continued to be behind schedule and inadequate time and care was taken to ensure that concrete was fully cured.
78. Workers complained that the decking materials and supports were too thin, and there was no expansion iron, and warned that the lack of adequate materials and support could jeopardize structural integrity.
79. Before the building collapse, several inch dips began appearing in concrete decking on the upper floors, indicating either that the concrete had not adequately cured, the building lacked adequate structural support, or both.
80. Several days prior to the collapse of the building, workers noticed support beams bowing and failing, however construction proceeded apace with no immediate stop in work or change in plans.
81. The inadequate strength of structural supports, the inadequate number of structural supports, the inadequate materials and equipment used, the inadequate architectural and engineering design, and the inadequate supervision of the construction site would have been apparent to any reasonable landowner, developer, architect, engineer, or general contractor.
82. However, instead of addressing and remedying their failures before disaster struck, defendants proceeded with construction and caused a major building collapse.

**FIRST CAUSE OF ACTION:
STRICT LIABILITY**

83. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 82 this Petition as if fully restated here:
84. At all times relevant to this action, Defendants had supervision, care, custody and control of the construction site at 1031 Canal Street.
85. The construction site posed an unreasonable risk of injury to others and was maintained in a defective and unsafe condition due to Defendants' failures to design, plan, monitor, and oversee the construction occurring at the site.
86. As a result of the defective and unsafe condition of the construction site, the

structure at 1031 Canal Street collapsed, causing injuries to Plaintiffs as alleged herein.

87. The defective and unsafe condition of the construction site was known, or in the exercise of reasonable care, should have been known to the Defendants.

88. The injuries sustained by Plaintiffs were the proximate result of Defendants' activities at 1031 Canal Street.

**SECOND CAUSE OF ACTION:
NEGLIGENCE**

89. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 82 this Complaint as if fully restated here.

90. At all times relevant to this action. Defendants had supervision, care custody and control of the construction site at 1031 Canal Street.

91. At all times relevant herein, Defendants designed, planned, and oversaw construction at 1031 Canal Street.

92. At all times relevant to this action, Defendants were under a continuing duty to protect Plaintiffs and members of the general public from being injured by the construction activities taking place at 1031 Canal Street.

93. Defendants breached this duty by failing to exercise the degree of professional care and skill customarily used by others in their profession or work and to adequately design, plan, and construct the structure at 1031 Canal Street. Defendants design, plan and construction of the structure at 1031 Canal Street posed an unreasonable risk of harm to plaintiffs and did cause harm to Plaintiffs and others.

94. The injuries sustained by Plaintiffs were a proximate result or legal cause of defendants' failure to adequately design, plan, and construct the structure at 1031 Canal Street. Defendants knew, or should have known, that the failure to ensure structural integrity at their construction site would result in a building collapse, the dislodging of debris, equipment, and materials, and injuries to individuals and buildings within the vicinity of the building collapse.

95. The harms suffered by Plaintiffs were and are the kind of harm that would be reasonably anticipated and foreseeable to result from the Defendants' failures to take adequate care in the design, plan, and construction of the structure at 1031 Canal Street.

96. As a direct and proximate result of Defendants' negligence, Plaintiffs suffered the

injuries alleged herein.

97. Defendant's behavior was grossly negligent, reckless and exhibited willful and wanton disregard for the rights of Plaintiffs.

98. As a direct and proximate result of Defendants' negligence, recklessness, and willful and wanton indifference to the rights of Plaintiffs, Plaintiffs have suffered legal injury and damages in an amount to be proven at trial.

99. Defendants are liable to Plaintiff for all damages arising from their negligence, recklessness, and wanton and willful indifference, including compensatory damages and attorney's fees.

PRAYER FOR RELIEF

Plaintiffs request judgment against Defendants as follows:

- a. For all recoverable compensatory, statutory, and other damages sustained by Plaintiffs and all other relief under applicable law;
- b. For costs and litigation expenses;
- c. For interest from date of judicial demand on any amounts awarded;
- d. For payment of attorneys' fees as may be allowable under applicable law;
- e. For such other further relief, including declaratory relief, as the Court may deem just and proper.

Respectfully submitted,

MIKE BRANDNER INJURY ATTORNEYS

BY: 

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