

SHORT TITLE: QIXING YUAN, et al. v. THE LEGENDS AT WILLOW CREEK, LP, 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): THE LEGENDS AT WILLOW CREEK, LP

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):
Limited partnership
- (4) a public entity (describe):
- (5) other (specify):

c. except defendant (name): FF DEVELOPMENT, LP

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):
Limited partnership
- (4) a public entity (describe):
- (5) other (specify):

b. except defendant (name): JALSON CO., INC., DOING BUSINESS AS GERSON BAKAR & ASSOCIATES

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):
- (4) a public entity (describe):
- (5) other (specify):

d. except defendant (name): FAIRMARK DEVELOPMENT, LP

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe): Limited partnership
- (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 to 100 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): 1 to 100 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

- 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): Plaintiffs QIXING YUAN and YULIN YE claim survival damages and wrongful death damages. See Attachment 12.

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
- 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):

All paragraphs.

Date: November 4, 2015

MARY E. ALEXANDER, ESO.
(TYPE OR PRINT NAME)


(SIGNATURE OF PLAINTIFF OR ATTORNEY)

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ATTACHMENT (Number): 1

(This Attachment may be used with any Judicial Council form.)

List of Plaintiffs (continued):

YULIN YE, Individually and as Successor in Interest of Decedent SHUN XIANG YUAN,
 aka Decedent CHRIS YUAN;
 RUNFEN YUAN, aka FRANCES YUAN;
 KA CHUNG CHEUNG, aka CHARLES CHEUNG;
 JIA HUA MIAO, aka JEFF MIAO;
 QIAN XIN DENG, aka WINNIE DENG;
 YING YIP, aka JAYDE YIP

List of Defendants (continued):

FF DEVELOPMENT, LP
 FAIRMARK DEVELOPMENT, LP;
 FAIRFIELD DEVELOPMENT, LP;
 FAIRFIELD RESIDENTIAL, LLC;
 FAIRFIELD PROPERTIES, LP;
 FAIRFIELD RESIDENTIAL, INC.;
 WILLOW CROSSING APARTMENTS, LP;
 WILLOW CROSSING APARTMENTS, INC.;
 PACIFIC BAY COMPANY;
 RED RIVER COMPANY;
 DON BLESSEN, INC.;
 ARCHITECTS ORANGE;
 VAN DORPE CHOU ASSOCIATES, INC.;
 JAD CONSTRUCTION, INC.; and
 ALCO GENERAL CONTRACTORS

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5. (continued) Each defendant named above is a natural person

- e. except defendant: FAIRFIELD DEVELOPMENT LP
a limited partnership
- f. except defendant: FAIRFIELD RESIDENTIAL, LLC
a limited liability corporation
- g. except defendant: FAIRFIELD PROPERTIES, LP
a limited partnership
- h. except defendant: FAIRFIELD RESIDENTIAL, INC.
a corporation
- i. except defendant: WILLOW CROSSING APARTMENTS, LP
a limited partnership
- j. except defendant: WILLOW CROSSING APARTMENTS, INC.
a corporation
- k. except defendant: PACIFIC BAY COMPANY
a business entity, form unknown
- l. except defendant: RED RIVER COMPANY
a business entity, form unknown
- m. except defendant: ARCHITECTS ORANGE
a business entity, form unknown
- n. except defendant: DON BLESSEN, INC.
a corporation
- o. except defendant: VAN DORPE CHOU ASSOCIATES, INC.
a corporation
- p. except defendant: JAD CONSTRUCTION, INC.
a corporation
- q. except defendant: ALCO GENERAL CONTRACTORS
a business entity, form unknown

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FIRST _____ CAUSE OF ACTION—General Negligence
 (number)

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ATTACHMENT TO Complaint Cross - Complaint

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

GN-1. Plaintiff (name): QIXING YUAN; YULIN YE; RUNFEN YUAN, aka FRANCES YUAN; KA CHUNG CHEUNG, aka CHARLES CHEUNG; JIA HUA MIAO, aka JEFF MIAO; QIAN XIN DENG, aka WINNIE DENG; YING YIP, aka JAYDE YIP alleges that defendant (name): THE LEGENDS AT WILLOW CREEK, LP; JALSON CO., INC., DBA GERSON BAKAR & ASSOCIATES; FF DEVELOPMENT, LP; FAIRMARK DEVELOPMENT, LP; FAIRFIELD DEVELOPMENT, LP; FAIRFIELD RESIDENTIAL, LLC; FAIRFIELD PROPERTIES, LP; FAIRFIELD RESIDENTIAL, INC.; WILLOW CROSSING APARTMENTS, LP; WILLOW CROSSING APARTMENTS, INC.; PACIFIC BAY CO.; RED RIVER CO.; ARCHITECTS ORANGE; DON BLESSEN, INC.; VAN DORPE CHOU ASSOCIATES, INC.; JAD CONSTRUCTION, INC.; ALCO GENERAL CONTRACTORS; and

Does 1 to 100

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): July 3, 2015

at (place): Stairway of Building 8 of The Legends at Willow Creek apartment complex, 180 S. Lexington Drive, Folsom, California

(description of reasons for liability):

Decedent SHUN XIANG YUAN, aka CHRIS YUAN, and Plaintiffs FRANCES YUAN; CHARLES CHEUNG; JEFF MIAO; WINNIE DENG; and JAYDE YIP were present at Building 8 of The Legends at Willow Creek apartment complex, which was owned, leased, controlled, operated, managed, designed, consulted, developed, constructed, built, maintained and/or repaired by Defendants THE LEGENDS AT WILLOW CREEK, LP; JALSON CO., INC., DBA GERSON BAKAR & ASSOCIATES; FF DEVELOPMENT, LP; FAIRMARK DEVELOPMENT, LP; FAIRFIELD DEVELOPMENT, LP; FAIRFIELD RESIDENTIAL, LLC; FAIRFIELD PROPERTIES, LP; FAIRFIELD RESIDENTIAL, INC.; WILLOW CROSSING APARTMENTS, LP; WILLOW CROSSING APARTMENTS, INC.; PACIFIC BAY CO.; RED RIVER CO.; ARCHITECTS ORANGE; DON BLESSEN, INC.; VAN DORPE CHOU ASSOCIATES, INC.; JAD CONSTRUCTION, INC.; ALCO GENERAL CONTRACTORS; and DOES 1 through 100, inclusive. Decedent and Plaintiffs were on or near a stairway in Building 8 when it collapsed unexpectedly and without warning, killing Decedent and causing injuries and damages to Plaintiffs as described herein. The subject stairway and surrounding area ("INCIDENT SITE") were negligently, wantonly, recklessly and improperly owned, leased, controlled, operated, managed, designed, consulted, developed, constructed, built, maintained and/or repaired by Defendants.

In connection with their ownership, leasing, control, operation, management, design, consulting, development, construction, building, maintenance and/or repair of the INCIDENT SITE, said Defendants, and each of them, owed a duty of reasonable care to avoid exposing persons at the subject premises, including Decedent and Plaintiffs, to unreasonable and foreseeable risks of harm existing at and around the INCIDENT SITE. Defendants, and each of them, failed to exercise care in their duties and responsibilities concerning the INCIDENT SITE by, among other things, failing to comply with building codes, failing to use or using inadequate building plans, specifications, calculations, materials and/or methods resulting in water intrusion, dry rot, deterioration and weakening of the INCIDENT SITE causing the stairway's failure and collapse on July 3, 2015, failing to halt usage of the INCIDENT SITE despite a similar stairway collapse in 2014, and failing to safely shore the stairways subsequent to the 2014 stairway collapse. Defendants had actual and/or constructive notice of the dangerous and unsafe conditions. Defendants failed to warn Decedent and Plaintiffs of the dangerous and unsafe conditions at the INCIDENT SITE and failed to protect Decedent and Plaintiffs from the risk of harm.

Defendants are subject to local and state building codes regarding the safe ownership, leasing, control, operation, management, design, consulting, development, construction, building, maintenance and/or repair of the subject premises. Defendants violated local and state codes by allowing the INCIDENT SITE to deteriorate into a dangerous and unsafe condition, which were a direct and proximate cause of the subject incident and constitute negligence per se pursuant to Cal. Evid. Code Section 669.

Plaintiff FRANCES YUAN is the cousin of Decedent CHRIS YUAN. Defendants, and each of them, negligently caused Decedent's death on July 3, 2015, when their negligent ownership, leasing, control, operation, management, design, consulting, development, construction, building, maintenance and/or repair of the INCIDENT SITE resulted in the collapse of the subject stairway unexpectedly and without warning. FRANCES YUAN was present at the scene of the injury when it occurred and was aware that CHRIS YUAN was injured and killed at the scene.

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PETITIONER/PLAINTIFF: QIXIN YUAN, et al.	CASE NUMBER:
RESPONDENT/DEFENDANT: THE LEGENDS AT WILLOW CREEK, LP, et al.	

FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS FOR GENERAL NEGLIGENCE

(CONTINUED FROM PREVIOUS PAGE)

Plaintiff FRANCES YUAN is the natural cousin of Decedent CHRIS YUAN. Defendants, and each of them, negligently caused Decedent's death on July 3, 2015, when their negligent ownership, leasing, control, operation, management, design, consulting, development, construction, building, maintenance and/or repair of the INCIDENT SITE resulted in the collapse of the subject stairway unexpectedly and without warning. FRANCES YUAN was present at the scene of the injury when it occurred and was aware that CHRIS YUAN was injured and killed at the scene.

The negligence of Defendants, and each of them, was a direct and proximate cause of the subject incident which killed Decedent CHRIS YUAN, and caused injuries and damages to Plaintiffs QIXING YUAN and YULIN YE, which are alleged in Attachment 12 and incorporated herein as though fully set forth.

The negligence of Defendants, and each of them, was a direct and proximate cause of injuries and damages suffered by Plaintiffs FRANCES YUAN; CHARLES CHEUNG; JEFF MIAO; WINNIE DENG; and JAYDE YIP, including Post-Traumatic Stress Disorder, severe emotional distress, fright, anxiety, severe shock and disturbance to the nervous system, physiological harm, nervousness, worry, pain and suffering, and other injuries not fully known at this time. The conduct of the Defendants, and each of them, was a substantial factor in causing Plaintiffs' injuries and damages as explained herein.

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SECOND CAUSE OF ACTION—Premises Liability
(number)

ATTACHMENT TO Complaint Cross-Complaint

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

Prem.L-1. Plaintiff (name): QIXING YUAN; YULIN YE; RUNFEN YUAN; CHARLES CHEUNG; JIA MIAO; WINNIE DENG; and YING YIP alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.

On (date): July 3, 2015 plaintiff was injured on the following premises in the following fashion (description of premises and circumstances of injury):

A stairway of Building 8 at Legends at Willow Creek apt. complex in Folsom, CA collapsed, killing Decedent SHUN XIANG YUAN and causing injuries and damages to Plaintiffs. Defs., THE LEGENDS AT WILLOW CREEK, LP; JALSON CO., INC.; FF DEVELOPMENT, LP; FAIRMARK DEVELOPMENT, LP; FAIRFIELD DEVELOPMENT, LP; FAIRFIELD RESIDENTIAL, LLC; FAIRFIELD PROPERTIES, LP; FAIRFIELD RESIDENTIAL, INC.; WILLOW CROSSING APARTMENTS, LP; WILLOW CROSSING APARTMENTS, INC.; PACIFIC BAY CO.; RED RIVER CO.; ARCHITECTS ORANGE; DON BLESSEN, INC.; VAN DORPE CHOU ASSOCIATES, INC.; JAD CONSTRUCTION, INC.; ALCO GENERAL CONTRACTORS & DOES 1-100, had actual and/or constructive notice of the dangerous condition of the subject stairway and surrounding/adjacent property ("INCIDENT SITE"). Defs. failed to properly own, lease, control, operate, manage, design, consult, develop, construct, build, maintain and/or repair the INCIDENT SITE, failed to comply w/ building codes, failed to use or used inadequate bldg. plans, specifications, calculations, materials and/or methods resulting in water intrusion at the INCIDENT SITE and the subject stairway's failure and collapse, and failed to warn and/or protect against the harm. Defs. actions and omissions were a direct and proximate cause of the subject incident, Decedent's death, and Plaintiffs' injuries and damages. Plaintiffs incorporate herein all allegations in First cause of action.

Prem.L-2. **Count One--Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names): All Defendants, and

Does 1 to 100

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):

Does _____ to _____

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): All Defendants, and

Does 1 to 100

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):

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Exemplary Damages Attachment

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ATTACHMENT TO Complaint Cross-Complaint

EX-1. As additional damages against defendant (*name*): THE LEGENDS AT WILLOW CREEK, LP; JALSON CO., INC., DBA GERSON BAKAR & ASSOCIATES; DON BLESSEN, INC.; JAD CONSTRUCTION; ALCO GENERAL CONTRACTORS; and DOES 1 to 100, inclusive

Plaintiff alleges defendant was guilty of

malice

fraud

oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Defendants, by themselves and/or through their employees, agents, officers, directors and/or managing agents, acted with fraud, oppression and/or malice in that they acted, among other things, with a willful and conscious disregard for the rights and safety of the Decedent and Plaintiffs when they intentionally and knowingly conducted themselves in a manner in which they knew it was highly probable that harm, including death, could likely result to people accessing the subject Building 8 stairway, such as Decedent and Plaintiffs. Defendants, and each of them, by themselves and/or through their employees, agents, officers, directors and/or managing agents, had actual knowledge that a stairway in Building 9 collapsed in 2014, prior to the subject incident, because of Defendants' failure to comply with building codes and a failure to use or using inadequate building plans, specifications, calculations, materials and/or methods resulting in water intrusion, dry rot, deterioration and weakening of the stairway causing the stairway to collapse. The 2014 stairway collapse provided Defendants with specific knowledge that the stairways existed in a dangerous and unsafe condition for the public accessing them.

Subsequent to the collapse of the Building 9 stairway, Defendants, and each of them, by themselves and/or through their employees, agents, officers, directors and/or managing agents, took no action to repair the remaining stairways to prevent a similar collapse from occurring, took no action to halt usage of the stairways including the subject Building 8 stairway, and took no action to warn the Decedent and Plaintiffs of the risk of harm at the subject Building 8 stairway, and failed to protect them from the harm that resulted from the subject incident.

Defendants, and each of them, by themselves and/or through their employees, agents, officers, directors and/or managing agents, failed to secure the subject Building 8 stairway in reckless disregard of actual knowledge of the unsafe conditions of the stairways and foreseeable risk of collapse; failed to prevent the public, such as Decedent CHRIS YUAN and Plaintiffs from accessing the stairway; failed to repair the stairway into a condition safe for public access; and failed to warn of the stairway's hazardous conditions. Defendants knew that their despicable conduct, as described hereinabove, would likely and within a high degree of probability cause harm to Decedent and Plaintiffs.

SEE EXEMPLARY DAMAGES ATTACHMENT EX-4 FOR ADDITIONAL ALLEGATIONS

EX-3. The amount of exemplary damages sought is

a. not shown, pursuant to Code of Civil Procedure section 425.10.

b. \$

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ATTACHMENT (Number): EX-4

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CONTINUED FROM EXEMPLARY DAMAGES ATTACHMENT

Defendants knew that their despicable conduct, as described hereinabove, would likely and within a high degree of probability cause harm to Decedent and Plaintiffs.

Defendants, by themselves and/or through their employees, agents, officers, directors and/or managing agents, acted with malice in that their despicable conduct was carried on with a willful and conscious disregard of the rights or safety of the Decedent and Plaintiffs. The term "malice" includes conduct evincing a conscious disregard of the probability that defendant's conduct will result in injury to others. See *Grimshaw v. Ford Motor Co.*, 119 Cal.App.3d 757 (1981).

Defendants, by themselves and/or through their employees, agents, officers, directors and/or managing agents, acted with oppression in that their despicable conduct subjected Plaintiffs to cruel and unjust hardship in conscious disregard of the Plaintiffs' rights. "Oppression" in Civil Code Section 3294 "means despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights." "Conscious disregard" for purposes of proving "oppression" does not require "willful" actions. Cal. Civ. Code § 3294(c)(2); CACI 3940 & 3941, BAJI 14.71; *Major v. Western Home Ins. Co.*, 169 Cal. App. 4th 1197, 1225-1226 (2009).

Defendants, by themselves and/or through their employees, agents, officers, directors and/or managing agents, acted with fraud in that they intentionally misrepresented, deceived and/or concealed material information about the hazardous condition of the subject Building 8 stairway from people accessing the stairway, including Decedent and Plaintiffs, thereby causing Decedent's death and Plaintiffs' injuries. "Fraud" in Civil Code Section 3294 "means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury."

Defendants and each of their employees' and/or agents' despicable conduct were substantial factors in causing Decedent's death and Plaintiffs' harm.

An officer, director, and/or managing agent of Defendants, and each of them, authorized the employees' or agents' wrongful conduct described hereinabove, and/or adopted, ratified and/or approved the conduct after it occurred.

As a result of Defendants' despicable conduct, Plaintiffs are entitled to punitive and exemplary damages in an amount appropriate to punish or set an example of Defendants and deter such behavior by Defendants and others in the future. An award of punitive damages in a sum according to proof at trial is, therefore, justified, warranted and appropriate under the facts and circumstances of this case.

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ATTACHMENT (Number): 12

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As a result of the subject incident and the injuries sustained therein, SHUN XIANG YUAN, aka CHRIS YUAN (hereinafter "Decedent") died.

Plaintiffs QIXING YUAN and YULIN YE are the surviving, natural parents of the Decedent and seek all wrongful death and survival damages permitted under the law, including but not limited to the following general and special damages: the financial support that Decedent would have contributed to the Plaintiffs; the loss of gifts or benefits that Plaintiffs would have expected to receive from Decedent; funeral and burial expenses; and the reasonable value of household services that Decedent would have provided. Said Plaintiffs seek general damages for the loss of Decedent and his love, companionship, comfort, care, society, solace, assistance, protection, affection, moral support, training and guidance; costs, and other damages as permitted under applicable laws. Said Plaintiffs seek prejudgment interest on those damages attributable to an ascertainable economic value, in accordance with Cal. Civil Code section 3291.

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