

_____)	
)	
)	
)	
Petitioner/Plaintiff,)	
)	
Vs.)	NO. _____
)	
)	
_____)	
Respondent/Defendant)	
)	

_____, ("_____"), individually and as Administrator of the Estate of _____, files this Complaint against _____, ("_____"), and _____, ("_____") and in support would show the following:

1. _____, an adult resident of the State of _____, is the only child of _____, deceased. _____ is the duly appointed administrator of the Estate _____, which has been opened in _____ County, _____.

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3. _____'s agent for service of process is _____, who may be served at _____, _____.

4. _____, ("_____"), is a corporation organized and existing under the laws of the State of _____, with its principal place of business in _____ County, _____. At the request of _____, _____ undertook activities to completely install the mobile home purchased by _____ from _____, including the installation of stairs necessary for ingress to and egress from the mobile home. _____ acted as the agent of _____ for the purpose of installing the mobile home purchased by _____. The above installation occurred within _____ County, _____.

5. _____'s agent for service of process is _____, who may be served at _____, _____.

6. This Court has jurisdiction over this cause and venue is proper.

II. FACTS.

7. _____ sold _____ a mobile home on or about the _____ day of _____, 20____. Included in the purchase price paid by _____ to _____ was the price for the delivery and complete installation of the mobile home. As agent of _____, _____ undertook the job to deliver and install the mobile home.

8. Installation of the mobile home included, among other things, constructing and setting up stairs leading to the front and back doors of the mobile home.

9. _____, as agent of _____, installed the front stairs on _____'s mobile home so that one would walk up the stairs beside and parallel to the home, rather than perpendicular to and facing the home. Installation of the stairs in this way

left a large "gap" at the top of the stairs which one had to jump over in order to enter the mobile home. A photograph accurately depicting the way in which _____ installed the stairs is attached hereto as Exhibit 1.

10. As a result of the improper construction and installation of the stairs, _____ fell from the stairs and sustained severe injuries, which proximately caused his death.

III. CLAIM ONE - NEGLIGENCE

11. _____ had a duty to exercise due care in installing the stairs to the mobile home of _____. _____ breached that duty in the manner in which they installed the stairs and as a proximate result, _____ sustained severe injuries.

12. _____ acted as the agent of _____ for the purpose of delivering and installing the mobile home purchased by _____, and installing the stairs necessary for ingress to and egress from _____'s mobile home through the front door of the mobile home.

13. Delivery and installation of the mobile home purchased by _____ and installation of the stairs necessary for ingress to and egress from _____'s mobile home through the front door of the mobile home is within the scope of the agency relationship between _____, as principal, and _____, as agent.

14. _____, as principal, is vicariously liable for the negligence of _____, its agent for the purpose of delivering and installing the mobile home purchased by _____, and installing the stairs necessary for ingress to and egress from _____'s mobile home through the front door of the mobile home.

IV. CLAIM TWO - WRONGFUL DEATH

15. Pursuant to _____ Sec. _____, _____ is a statutory beneficiary and entitled to bring this claim against _____ and _____ for the wrongful death of _____. As a direct and proximate result of the aforementioned negligent, wanton and reckless conduct of _____ and _____, _____ sustained severe injuries, which proximately resulted in his death. Thus, pursuant to _____ Sec. _____, a cause of action for wrongful death exists, and _____, as the only child of _____, is entitled to damages.

V. CLAIM THREE - PUNITIVE DAMAGES

16. The manner in which _____ constructed and installed the stairs to the mobile home of _____ evidenced a willful, wanton and/or reckless disregard for the rights of _____ and entitles the plaintiffs to receive punitive damages in an amount sufficient to punish _____ and _____ for such conduct and deter it from committing similar acts in the future.

VI. CLAIM FOUR - BREACH OF IMPLIED WARRANTY

17. _____ is a "merchant" under _____ Sec. _____ with respect to mobile homes. Mobile homes are "goods" under _____ Sec. _____. Stairs which are necessary for ingress to and egress from the mobile home are a necessary component of the overall "good". In accordance with _____ Sec. _____, an implied warranty by _____ that the mobile home was merchantable accompanied the sale of the mobile home to _____.

18. For the mobile home to be merchantable, the mobile home must be fit for the ordinary purpose of use as a dwelling by its purchaser and intended inhabitant and permit the inhabitant to live free of serious defects to health and safety. Failure to provide stairs installed in

such a manner as to permit safe ingress to and egress from the mobile home by _____ renders this good unfit for the ordinary purpose of use as a dwelling by _____ and constitutes a breach of the warranty of merchantability by _____.

19. As the proximate result from this breach of the implied warranty of merchantability, _____ fell from the stairs installed on the mobile home and suffered personal injury. Accordingly, the Estate of _____ is entitled to damages for this breach of the implied warranty of merchantability pursuant to _____ Secs. _____ and _____.

VII. RELIEF

20. _____ demands the following relief from the Defendants:

- (a) Actual damages including, without limitation, medical expenses, pain and suffering, and all other damages sustained by the deceased;
- (b) Punitive damages in an amount sufficient to punish _____ and deter similar conduct in the future;
- (c) Any and all other damages, costs or other charges which the Court deems appropriate.

Respectfully submitted,

Dated: _____

Name: _____

Title: _____

Address: _____

Address: _____

City, State, Zip: _____

Phone: _____

Fax: _____

E-Mail: _____

Attorney No.: _____

CERTIFICATE OF SERVICE

I, _____, do hereby certify that I have this day mailed,
U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing to
_____, at the following address;

THIS the ____ day of _____, 20____.
