

JAN 17 2008

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

0801-00911

PATRICIA PIAZZA OF FARLEY,
PIAZZA AND ASSOCIATES,
Guardian *ad litem* for
ISABELLA C. WHITE,

Plaintiff,

v.

KEYS RENTAL MANAGEMENT,
LLC, dba Keys Rental Management;
KEYS RENTAL HOLDING
COMPANY, LLC; KEYS RENTAL
HOLDING COMPANY II, LLC; SEAN
T. KEYS; GREG KEYS; and RYANNE
ELAZMA, aka Ryanne Keys,

Defendants.

No. _____

COMPLAINT
(Personal Injury: Negligence)

CLAIM NOT SUBJECT TO MANDATORY
ARBITRATION

JURY TRIAL DEMANDED

Plaintiff alleges as follows:

PARTIES

1.

On January 17, 2008, Patricia Piazza of Farley, Piazza and Associates was appointed
Guardian *ad litem* for Isabella White, a minor, who was two years old at the time she was
injured. At all material times, Isabella White was a tenant of the subject premises.

2.

At all material times, Keys Rental Management, LLC (dba Keys Rental Management), an
Oregon limited liability company, Sean T. Keys, Greg Keys, and Ryanne ElAzma (aka Ryanne
Keys) managed the rental property located at 5963 SE 15th Loop, Gresham, Oregon 97080,

1 which is located in Multnomah County (hereinafter "rental property"), as agents of the owner or
2 owners and for the benefit of themselves and the owner or owners.

3 3.

4 At all material times, Keys Rental Holding Company, LLC (an Oregon limited liability
5 company), Keys Rental Holding Company II, LLC (an Oregon limited liability company), and/or
6 Sean T. Keys owned the rental property during the time that Isabella White's family rented the
7 property.

8 4.

9 At all material times, defendants were in the business of owning and/or managing rental
10 properties for profit.

11 5.

12 At all material times, defendants' employees and agents were acting in the course and
13 scope of their employment and agency responsibilities with defendants.

14 **BACKGROUND FACTS**

15 6.

16 In the spring of 2006, defendants rented the rental property to Jason White, Melisa
17 Yerdon and their two children, Isabella White (about 18 months old at the time) and Kaiden
18 White (about five years old at the time). The rental property was a two-story unit of a duplex.
19 The defendants were responsible for inspection, maintenance and repair of the rental property.

20 7.

21 Defendants expected their tenants to periodically open the windows of the rental property
22 to allow for ventilation of the premises.

23 8.

24 On April 13, 2007, Ms. Yerdon was planning to leave the house with her children. In
25 anticipation of leaving the house, Ms. Yerdon opened the sliding window of the master bedroom
26 to allow ventilation. The master bedroom was located on the second floor at the front of the

1 duplex. Isabella White was watching cartoons in the master bedroom while her mother was
2 preparing to get Isabella dressed and finishing some household chores in the master bedroom and
3 adjoining bathroom. At this time, Ms. Yerdon's son was outside in front of the house playing
4 with a playmate. Ms. Yerdon then heard a commotion and her son yelling. Ms. Yerdon ran
5 downstairs to investigate, thinking that her son may be hurt. She quickly learned that he was in
6 an argument with his playmate. She then went outside the front door and asked that the playmate
7 come into the house. As Ms. Yerdon was doing this, she saw Isabella fall to the ground from the
8 window above.

9 9.

10 Isabella White landed on her face and head. She was transported by ambulance to
11 Legacy Emanuel Hospital Trauma Center for treatment. She then was admitted to the pediatric
12 intensive care unit with diagnoses of multiple skull fractures, intracranial hemorrhage and related
13 injuries. Isabella White suffered pain, and she vomited during and after her transport to the
14 hospital. By two days after her fall her eyes had swollen shut.

15 10.

16 Isabella White's injuries were caused by the defendants' failure to take any steps to
17 prevent children from falling from the upstairs windows of their rental properties or otherwise
18 adequately warn about how the unsafe condition could be eliminated or reduced.

19 11.

20 Defendants knew or should have known that the unsafe condition of the window posed a
21 serious risk of severe injury to children before Isabella White suffered her fall. In the course of
22 defendants' business, they rent rental properties with second floors to families with children, and
23 defendants expect that their tenants will open the windows and that children will be near the
24 open windows.

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12.

Defendants had many opportunities to fix the unsafe condition or adequately warn about it before Isabella White fell, but they did not do so.

CLAIM FOR RELIEF

(Negligence)

13.

Plaintiff re-alleges paragraphs 1 – 12 above as if fully set forth here.

14.

Defendants were negligent in one or more of the following particulars:

(a) failing to take one or more of the following precautions to prevent Isabella White from falling from the window: (i) installation of a child-safe window screen; (ii) installation of a releasable or operable window guard; and/or (iii) installation of a releasable or operable window stop, lock or bolt device to prevent the window from opening more than 4 inches.

(b) failing to give, in the absence of any protective device, an adequate warning of a fall risk posed by the window and how it could be eliminated or reduced.

15.

Defendants created the unsafe condition, and this unsafe condition existed at the beginning and throughout the tenancy of the rental property at issue.

16.

Isabella White did not know and could not know about the unsafe condition.

DAMAGES

17.

As a direct result of defendants' negligence, as outlined above, Isabella White suffered at least the following injuries:

- (a) traumatic brain injury;
- (b) frontal, orbital and temporal skull fractures;

- 1 (c) intracranial hemorrhage;
- 2 (d) abrasions and lacerations to the face; and
- 3 (e) swollen face, including the eyes swollen shut.

4 18.

5 Some of the injuries to Isabella White are permanent. Her brain injury has been
6 classified as moderate to severe. The brain injury is expected to cause one or more of the
7 following problems: impaired mental planning, impaired impulse control, emotional liability,
8 behavioral difficulties, decreased reasoning and judgment, and decreased memory. Her doctors
9 are continuing to treat and evaluate her injuries.

10 19.

11 As a direct result of defendants' conduct, as outlined above, Isabella White incurred past
12 reasonable and necessary medical expenses in the amount of approximately \$38,268, and will
13 incur future reasonable and necessary medical, evaluative, rehabilitative and tutoring/counseling
14 expenses in the amount of approximately \$630,042 (adjusted for inflation and present value).

15 20.

16 Pursuant to ORS 31.700, the natural parents of Isabella White signed a consent and
17 transferred to Isabella White the right to claim all damages which may be just and which will
18 reasonably and fairly compensate for all past, present, and future doctor, hospital, counseling,
19 medical and related expenses caused by the injuries she has suffered.

20 21.

21 As a direct result of defendants' conduct, as outlined above, Isabella White will suffer an
22 impairment of earning capacity because of her permanent brain damage in the amount of
23 approximately \$295,601 or an amount to be proven at trial.

24 22.

25 As a direct result of defendants' conduct, as outlined above, Isabella White has suffered
26 and will continue to suffer pain, mental suffering, emotional distress, humiliation, discomfort,

1 inconvenience, and interference with her normal and usual activities. She has suffered human
2 (non-economic) damages of \$3,000,000.

3 23.

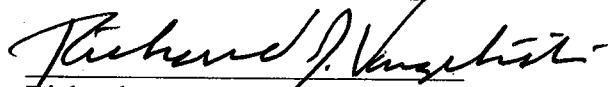
4 Plaintiff reserves the right to amend this Complaint to assert punitive damages.

5 WHEREFORE, plaintiff demands judgment against defendants for the following relief:

- 6 1. A judgment in favor of plaintiff and against defendants;
- 7 2. For plaintiff's economic damages in the amount of \$963,911 or an amount to be
8 proven at trial;
- 9 3. For plaintiff's human (non-economic) damages in the amount of \$3,000,000 or an
10 amount to be proven at trial;
- 11 4. For post judgment interest at the statutory rate;
- 12 5. For plaintiff's costs and disbursements; and
- 13 6. For such other relief as the Court deems appropriate.

14 DATED: January 17 2008.

17 VANGELISTI KOCHER LLP

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19 Richard J. Vangelisti
Oregon State Bar No. 994151
E-mail: richard@vangelisti.com

20
21 Scott F. Kocher
Oregon State Bar No. 015088
E-mail: scott@vangelisti.com

22 Attorneys for Plaintiff

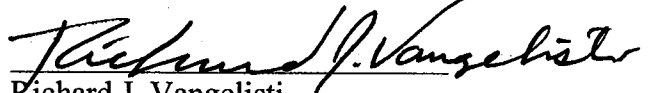
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24 Trial Attorney: Richard J. Vangelisti

1 **JURY DEMAND**

2 Plaintiffs hereby demand a trial by jury on all issues.

3 DATED: January 17, 2008.

4 VANGELISTI KOCHER LLP

5 

6 Richard J. Vangelisti
7 Oregon State Bar No. 994151
8 E-mail: richard@vangelisti.com

9 Scott F. Kocher
10 Oregon State Bar No. 015088
11 E-mail: scott@vangelisti.com

12 Attorneys for Plaintiff

13 Trial Attorney: Richard J. Vangelisti