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14 REBECCA ZAHAU, deceased,
15 ROBERT ZAHAU, deceased,
16 ESTATE OF REBECCA ZAHAU,
17 ESTATE OF ROBERT ZAHAU,
18 MARY ZAHAU-LOEHNER,
19 and PARI Z. ZAHAU

20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
21 **COUNTY OF SAN DIEGO**

22 REBECCA ZAHAU, deceased, through
23 her personal representative, MARY
24 ZAHAU-LOEHNER; ROBERT
25 ZAHAU, deceased, through his personal
26 representative, MARY
27 ZAHAU-LOEHNER; ESTATE OF
28 REBECCA ZAHAU; ESTATE OF
ROBERT ZAHAU; both estates
represented by MARY
ZAHAU-LOEHNER, an individual; and
PARI Z. ZAHAU, an individual,

Case No. 37-2013-00075418-CU-PO-CTL
[PROPOSED] THIRD AMENDED
COMPLAINT FOR:
(1) WRONGFUL DEATH
(2) BATTERY
(3) ASSAULT
(4) CONVERSION
JURY TRIAL DEMANDED

Plaintiffs,

vs.

ADAM SHACKNAI, an individual; and
DOES 1 through 50, inclusive,

Defendants.

REBECCA ZAHAU, deceased, through her personal representative MARY
ZAHAU-LOEHNER; ROBERT ZAHAU, deceased, through his personal

1 representative MARY ZAHAU-LOEHNER; ESTATE OF REBECCA ZAHAU;
2 ESTATE OF ROBERT ZAHAU; both estates represented by MARY
3 ZAHAU-LOEHNER, an individual; and PARI Z. ZAHAU, an individual
4 (hereinafter collectively referred to as "Plaintiffs"), complain of Defendants
5 ADAM SHACKNAI, an individual, and DOES 1 through 50, inclusive,
6 (hereinafter collectively referred to as "Defendants") on information and belief as
7 follows:

8 JURISDICTION AND VENUE

9 1. The acts and omissions described herein took place in San Diego
10 County, in the State of California.

11 2. Venue is proper in that the acts and omissions giving rise to the claims
12 for relief occurred in San Diego County, in the State of California.

13 3. Plaintiffs are informed and believe and thereon allege that all times
14 mentioned herein, Defendants, and each of them, were all present in San Diego
15 County, in the State of California, during the events giving rise to the claims for
16 relief.

17 EQUITABLE AND STATUTORY TOLLING

18 4. On July 12, 2013, one day prior to the two-year statute of limitations
19 expiring on claims arising from the July 13, 2011 murder of Rebecca Zahau,
20 Plaintiffs filed an action against Defendants ADAM SHACKNAI, DINA
21 SHACKNAI, NINA ROMANO and DOES 1 through 50, in the United States
22 District Court, Southern District of California (Case Number:13-CV-1624-W-NLS)
23 based on diversity jurisdiction over the first cause of action (wrongful death)
24 pursuant to 28 U.S.C. § 1332 and supplemental jurisdiction over the second cause
25 of action (assault and battery), third cause of action (negligence) and fourth cause
26 of action (conversion) pursuant to 28 U.S.C. § 1367 (collectively, the "survival
27 actions").

28 5. On November 12, 2013, the District Court dismissed the federal action

1 without prejudice. Therefore, the statute of limitations for all causes of action of
2 the named Plaintiffs arising from the murder of Rebecca Zahau are tolled under the
3 doctrine of equitable tolling to this date, November 13, 2013. Thus, this action is
4 timely filed. Plaintiffs pursued jurisdiction in Federal Court in good faith and this
5 Court's denial of jurisdiction would result in the survival claims of Rebecca Zahau
6 being without a judicial forum for resolution. The Defendants are not prejudiced by
7 this court accepting jurisdiction as they were given notice of the claims alleged
8 herein when the were previously served wit the timely filed Federal complaint.

9 6. Moreover, because the Federal Court subsequently granted, in part,
10 Plaintiff's motion for leave to file an amended complaint, holding that the
11 applicable statute of limitations related back to the original filing on July 12, 2011,
12 the Federal Court's dismissal with prejudice of Plaintiff Rebecca Zahau's survivor
13 claims did not occur until the date of that order, i.e., March 13, 2014. Therefore,
14 pursuant to 28 U.S.C. 1367(d), the statute of limitations on the survivor claims is
15 tolled until 30 days after the dismissal with prejudice, i.e., March 12, 2014. Since
16 the instant complaint was filed before this date, it is also timely filed on statutory
17 grounds.

18 **DEMAND FOR JURY TRIAL**

19 7. Plaintiffs demand a jury trial.

20 **IDENTIFICATION OF THE PARTIES**

21 8. Plaintiff, PARI Z. ZAHAU ("PARI") is a competent adult who is the
22 mother and only surviving parent of REBECCA ZAHAU, deceased. PARI is also
23 the surviving spouse of ROBERT ZAHAU, the father of REBECCA ZAHAU, who
24 passed away on July 9, 2013. PARI is, and at all times herein mentioned was, a
25 citizen and resident of Buchanan County, State of Missouri.

26 9. MARY ZAHAU-LOEHNER ("MARY") is a competent adult who is
27 the sister and personal representative for REBECCA ZAHAU, deceased, and the
28 daughter and personal representative of ROBERT ZAHAU, deceased, and is acting

1 as the executor of the ESTATE OF REBECCA ZAHAU and the ESTATE OF
2 ROBERT ZAHAU. Per Cal. Code Civ. Proc. § 377.30, MARY, as the personal
3 representative for REBECCA ZAHAU, has standing to commence REBECCA's
4 survival actions. Per Cal. Code Civ. Proc. § 377.30, MARY, as the personal
5 representative for ROBERT ZAHAU, has standing to bring ROBERT's wrongful
6 death action. MARY is, and at all times herein mentioned was, a citizen and
7 resident of Buchanan County, State of Missouri.

8 10. Plaintiff, REBECCA ZAHAU, deceased, ("REBECCA" or
9 "DECEDENT") will be represented by MARY, as personal representative.
10 REBECCA died intestate without a surviving or predeceased spouse or domestic
11 partner, and had no issue. At the time of her death on July 13, 2011, REBECCA
12 was a citizen and resident of the State of Arizona. Therefore, at the time of her
13 death, her mother PARI and now deceased father, ROBERT ZAHAU were her only
14 legal heirs pursuant to Arizona Revised Statutes, Section 14-2103.

15 11. Plaintiff, ROBERT ZAHAU, deceased, ("ROBERT") is represented by
16 MARY, as personal representative. ROBERT died intestate on July 9, 2013. At the
17 time of his death and at all times herein mentioned herein, ROBERT was a citizen
18 and resident of Buchanan County, State of Missouri. Pursuant to Revised Statutes
19 of Missouri, Section 474.010, PARI, his surviving spouse, is ROBERT's sole heir.

20 12. Defendant, ADAM SHACKNAI ("ADAM") is a competent adult who
21 is, and at all times mentioned in this Complaint was, a citizen and resident of Shelby
22 County, State of Tennessee.

23 13. The true names or capacities, whether individual, corporate, associate,
24 or otherwise, of Co-Defendants DOES 1 through 50, inclusive, and each of them,
25 are not presently known to Plaintiffs, who therefore sues said Defendants by such
26 fictitious names and will ask leave of Court to amend this Complaint accordingly
27 when their true names and capacities have been ascertained. Plaintiffs are informed
28 and believe and thereon allege that each of the Defendants designated as a DOE is

1 legally responsible in some manner for the events and happenings herein referred to
2 and proximately thereby caused injury and damages to the Plaintiffs as hereinafter
3 alleged.

4 **GENERAL ALLEGATIONS**

5 14. On or around the early morning of July 13, 2011, Defendant ADAM
6 SHACKNAI battered and murdered REBECCA by:

- 7 (a) striking REBECCA on the head multiple times with a blunt instrument;
8 (b) physically restraining her;
9 (c) further restraining her by binding her legs with tape;
10 (d) gagging her;
11 (e) binding her hands behind her back with rope;
12 (f) binding her ankles together with rope;
13 (g) removing the previously placed tape from her legs;
14 (h) strangling her to the point of unconsciousness or death;
15 (i) making and placing a rope noose around her neck;
16 (j) tying the other end of the rope leading to the noose to a bed;
17 (k) carrying her to the adjacent balcony and pushing her over the railing of
18 the balcony causing her to fall and, if she was still alive at that time, to then
19 die by asphyxiation.
20 (l) removing evidence of the acts which he committed, including wiping
21 down objects he had touched in order to remove DNA and finger prints; and
22 (m) as a further ploy to cover up his wrongdoing, painted the following words
23 on the inside of door near the balcony where REBECCA was left hanging:

24 SHE SAVED HIM

25 CAN YOU SAVE HER

26 15. On the morning of July 13, 2011, REBECCA was found dead, naked,
27 bound and gagged, with a rope noose around her neck. Her cause of death was
28 asphyxiation, which was caused by either manual strangulation before she was

1 hanged, or from being hanged with a rope noose around her neck from the second
2 story deck of the Coronado vacation home at which she was staying, located at 1043
3 Ocean Boulevard, and commonly known as the "Spreckels Mansion." The Coroner
4 for the County of San Diego determined that she died on that date.

5 16. Because the only individuals who know the true facts and sequence of
6 events with absolute certainty are the decedent REBECCA and her killer, the
7 allegations made herein are made on information and belief based on the evidence
8 that has been uncovered to date. Plaintiffs intend to seek leave to amend the
9 Complaint as additional facts are developed and uncovered during the course of
10 discovery.

11 **ALLEGATIONS OF SPECIFIC ACTS**

12 17. Plaintiffs allege, based in part on the multiple abrasions, found
13 throughout her body including but not limited to her hips, right hand, right shoulder,
14 left forearm, and left hand, the presence of multiple blood drops on the second story
15 carpet near the entrance of the northwest bedroom and bathroom shower and a
16 knocked over chair within the northwest bedroom, and a scream for "HELP!" heard
17 from a neighbor of the Spreckels Mansion that DEFENDANT ADAM SHACKNAI
18 aggressively confronted REBECCA.

19 18. Further, based on the on the mud found on DECEDENT's feet and
20 four subgaleal hemorrhages on the back right side of her head, in response to the
21 aggressive confrontation from Defendant ADAM SHACKNAI, DECEDENT,
22 fearing for her safety, attempted to flee the residence. However, before DECEDENT
23 could evade her attacker, she was struck four times on the back of the head with a
24 blunt object by Defendant ADAM SHACKNAI, rendering her unconscious.

25 19. Once confronted with the reality that DECEDENT would eventually
26 regain consciousness, and thereafter probably disclose information about this
27 incident, Defendant ADAM SHACKNAI decided to murder the DECEDENT and
28 hide his involvement.

1 20. Due to the lack of markings on her body evidencing her being dragged
2 back into the house, Plaintiffs allege that Defendant ADAM SHACKNAI carried
3 the DECEDENT back into the house. Based on the facts that DECEDENT was
4 found naked and that the clothing she was wearing on that date was not found at the
5 scene of the murder, Plaintiffs allege that once inside the residence, Defendant
6 ADAM SHACKNAI stripped off her clothing.

7 21. Based on the tape residue found on DECEDENT's legs, and the fact
8 that no tape with similar adhesive was found at the scene, Plaintiffs allege that the
9 Defendant ADAM SHACKNAI first restrained DECEDENT with tape, and gagged
10 her, while he was devising and planning the rest of the scheme, and later removed
11 the tape from the scene.

12 22. Thereafter, Defendant ADAM SHACKNAI contrived an elaborate
13 scheme to murder REBECCA and conceal his involvement.

14 23. The coverup scheme involved Defendant ADAM SHACKNAI binding
15 DECEDENT's hands (behind her back) and ankles with rope he found at the
16 residence. Plaintiffs allege that based on the knots having nautical qualities and
17 ADAM being a tug boat captain with experience tying nautical knots, that ADAM
18 bound the DECEDENT. Plaintiffs further base this allegation on the fact that the
19 ropes had the same black paint residue found on DECEDENT's nipples, thus
20 implicating the person who tied the knots as the person who also pinched the
21 Decedent's nipples, and that ADAM had admitted to masturbating to pornography
22 on his cell phone that evening, the further inference being that the two instances of
23 sexual behavior are consistent with ADAM's state of mind that evening. Plaintiffs
24 further base this allegation on the fact that multiple contusions in the area subjacent
25 to the ligatures around her lower legs, a result of the strength of the binding and the
26 lack of rope fibers found on REBECCA's hands.

27 24. Defendant ADAM SHACKNAI also placed a blue t-shirt around
28 REBECCA'S neck and stuffed it in her mouth, using it as a gag to both muffle her

1 screams and cover up any marks that would suggest murder.

2 25. Based on the injuries sustained by REBECCA and the amount of
3 strength needed to create such injury, Plaintiffs allege that in the early hours of July
4 13, 2011, ADAM choked REBECCA to death. REBECCA sustained a left cricoid
5 fracture, a fracture of the left arm of the hyoid bone, and a fracture of the base of the
6 left superior horn of the thyroid cartilage, all injuries which commonly occur with
7 strangulation and is unlikely to occur with a hanging. Furthermore, Rebecca's face
8 was described as congestive, and petechiae was found on REBECCA's eyelids,
9 upper and lower palpebral conjunctivae, and her inner, upper, and lower lip mucosa,
10 periorbital regions and on the left side of her face between the eye, both her eyes fine
11 and coarse petechia above the ligature furrow, extending from the chin to the angles
12 of the mandible, which commonly occurs with strangulation, where there is no
13 complete occlusion of the vasculature, unlike in a full-suspension hanging.

14 26. Once he murdered REBECCA, Defendant ADAM SHACKNAI wrote a
15 cryptic message on the door outside the room where the murder was committed. The
16 message was painted using black paint at a height that is consistent with an
17 individual who is approximately the height of Defendant ADAM SHACKNAI. The
18 message read: "SHE SAVED HIM. CAN YOU SAVE HER."

19 27. Defendant ADAM SHACKNAI, based on black paint residue found on
20 the noose, then tightened the noose around the neck of the DECEDENT and
21 attached the rope to the base of the bed. ADAM then picked up REBECCA, then
22 threw her over the edge of the adjacent balcony.

23 28. Defendant ADAM SHACKNAI was careful to remove any evidence of
24 his involvement, including the disposal of the tape used to initially bind her lower
25 legs, and REBECCA's clothes that she was last seen publicly in on July 12, 2011.

26 29. Defendant ADAM SHACKNAI lastly set out to stage a suicide, and hide
27 his involvement, first by removing and later disposing of the various articles of
28 clothing REBECCA was last seen wearing publicly on June 12, 2011, in an effort to

1 conceal DNA evidence and evidence of having stripped REBECCA of her clothing,
2 laying out clothing matching Zahau's size including a white undershirt, black long
3 sleeve t-shirt and blue jeans in an effort to divert attention away from her last known
4 clothing in the inevitable investigation into REBECCA's death. Defendant ADAM
5 SHACKNAI then wiped down several surfaces, including but not limited to the
6 second story balcony door in an effort to remove fingerprints and DNA. Once the
7 staging was complete, the Defendant ADAM SHACKNAI fled the scene, with the
8 intent to call the police in the early morning with claims of suicide.

9 DAMAGES

10 30. As a proximate result of Defendant's acts and/or omissions, Plaintiffs
11 PARI and ROBERT ZAHAU were, and PARI still is, mentally and emotionally
12 injured and otherwise damaged by DEFENDANT'S wrongful conduct, including
13 but not limited to their loss of familial relations and REBECCA's society, comfort,
14 protection, companionship, love, affection, solace and moral support. Further,
15 PARI and ROBERT ZAHAU were dependent on REBECCA for financial support
16 and are thus entitled to pecuniary damages, which reflect the financial benefits they
17 were receiving from REBECCA at the time of her death and reasonably expected in
18 the future.

19 31. As a proximate result of Defendant's acts and/or omissions, REBECCA
20 ZAHAU suffered damage to and loss of property, according to proof.

21 32. As a proximate result of Defendant's acts and/or omissions, REBECCA
22 is entitled to recover for all damages that might have been recovered had she lived
23 pursuant to Cal. Code Civ. Proc. § 377.34.

24 33. As a further proximate result of Defendant's acts and/or omissions,
25 REBECCA ZAHAU suffered damage to and loss of property prior to her death,
26 according to proof.

27 34. In committing the acts and omissions complained of herein, Defendant
28 ADAM SHACKNAI acted with malice, oppression and deliberate and reckless

1 disregard for REBECCA's personal safety and well-being, and the rights of Plaintiff
2 PARI and ROBERT to familial relations with, and support from, REBECCA.
3 Plaintiffs are thus entitled to an award of punitive damages against Defendant
4 ADAM SHACKNAI.

5
6 **FIRST CAUSE OF ACTION**

(Wrongful Death)

7 (By Plaintiffs PARI ZAHAU and ROBERT ZAHAU, Deceased, Through His
8 Personal Representative, MARY ZAHAU-LOEHNER)

9 35. Plaintiffs re-allege and incorporate by reference herein paragraphs 1
10 through 34 of this Complaint except those allegations relating to punitive damages.

11 36. On or about July 13, 2011, Defendant ADAM SHACKNAI intentionally,
12 willfully, wantonly and maliciously caused physical harm to REBECCA by stalking,
13 attacking, choking, gagging, binding, and hanging her at the Premises.

14 37. Each of the acts alleged herein were done with a wanton, reckless
15 disregard for the rights of the DECEDENT and with the full knowledge that she
16 would die as a result of said acts.

17 38. As a result of Defendant's intentional, reckless, wanton and unlawful
18 conduct, REBECCA sustained severe and serious injury to her person, which was
19 the sole cause of her death.

20 39. By the performing the acts and/or omissions set forth above, Defendant
21 ADAM SHACKNAI wrongfully and proximately caused the death of REBECCA.

22 40. As a proximate result of Defendant ADAM SHACKNAI's wrongful
23 conduct, and the death of REBECCA, Plaintiffs PARI and ROBERT ZAHAU have
24 been injured and suffered damages resulting from the loss of comfort, society,
25 attention, services and support of her daughter, REBECCA, in an amount according
26 to proof. These Plaintiffs were also financially dependant on REBECCA and thus
27 were also damaged by the loss of financial support they were receiving from
28 REBECCA at the time of her death and reasonably expected to receive in the future.

1 person, which was the sole cause of her death.

2 49. As a further result of Defendant ADAM SHACKNAI's actions,
3 REBECCA is entitled to recover all damages that might have been recovered had
4 she lived pursuant to Cal. Code Civ. Proc. § 377.34.

5 50. The aforementioned actions of Defendant ADAM SHCKNAI were
6 willful and wanton in that Defendant demonstrated a conscious and deliberate
7 disregard of human life and dignity, rights, safety and interests of the DECEDENT
8 by stalking, attacking, choking, gagging, binding and hanging her at the Premises
9 with the full knowledge that she would die as a result of said acts.

10 51. In doing the acts herein alleged, Defendant ADAM SHACKNAI acted
11 with extreme oppression, fraud and malice, and Plaintiffs are entitled to punitive
12 and exemplary damages in an amount to be proven at the time of trial.

13 **THIRD CAUSE OF ACTION**

14 (Survival Action - Assault C.C.P. § 377.30)

15 (By Plaintiff REBECCA ZAHAU, Deceased, Through Her Personal Representative,
16 MARY ZAHAU-LOEHNER)

17 52. Plaintiffs re-allege and incorporate by reference herein paragraphs 1
18 through 51 of this Complaint.

19 53. On or about July 13, 2011, after the foregoing cause of action arose in
20 her favor, REBECCA, who would have been the Plaintiff in this action if she had
21 lived, died as the legal result of the Defendant's intentional acts.

22 54. On or about July 13, 2011, Defendant ADAM SHACKNAI intended to
23 cause or place REBECCA in apprehension of harmful and offensive contact by
24 threatening her, stalking her and attacking her at the Premises.

25 55. In committing the aforementioned acts, Defendant ADAM
26 SHACKNAI was substantially certain that his acts would cause harmful and
27 offensive contact.

28 56. As a result of Defendant ADAM SHACKNAI's acts as alleged above,
REBECCA was put in immediate apprehension of harmful or an offensive contact

1 with REBECCA's person.

2 57. At no time during the events described in the preceding paragraphs
3 above, nor at any time prior thereto, did REBECCA consent to any of Defendant
4 ADAM SHACKNAI's conduct, which eventually resulted in her death.

5 58. As a further result of Defendant ADAM SHACKNAI's actions,
6 REBECCA is entitled to recover all damages that might have been recovered had
7 she lived pursuant to Cal. Code Civ. Proc. § 377.34.

8 59. In doing the acts herein alleged, Defendant ADAM SHACKNAI acted
9 with extreme oppression, fraud and malice, and Plaintiffs are entitled to punitive
10 and exemplary damages in an amount to be proven at the time of trial.

11 **FOURTH CAUSE OF ACTION**
12 (Survival Action - Conversion, C.C.P. § 377.30)
13 (By Plaintiff REBECCA ZAHAU, Deceased, Through Her Personal Representative,
14 MARY ZAHAU-LOEHNER)

15 60. Plaintiffs re-allege and incorporate by reference herein paragraphs 1
16 through 59 of this Complaint.

17 61. Immediately prior to her murder, REBECCA owned the clothing she
18 was wearing and also owned and possessed other personal property.

19 62. By the performing the acts and/or omissions set forth above,
20 Defendant ADAM SHACKNAI intentionally and substantially interfered with
21 REBECCA's personal property taking possession and control of her clothing and
22 took and/or destroyed her other personal property according to proof prior to
23 carrying out the murder of REBECCA.

24 63. At no time during the events described in the preceding paragraphs
25 above, nor at any time prior thereto, did REBECCA consent to any of the
26 Defendant's conduct, which resulted in the unlawful taking of her clothing and
27 taking and/or destruction of her personal property prior to her murder.

28 64. As a result of Defendant's intentional, reckless, wanton and unlawful
conduct, REBECCA's clothing was taken and personal property was taken and/or

1 destroyed.

2 65. As a further result of Defendant's actions, REBECCA is entitled to
3 recover all damages that might have been recovered had she lived pursuant to Cal.
4 Code Civ. Proc. § 377.34.

5 66. In doing the acts herein alleged, Defendant ADAM SHACKNAI acted
6 with oppression, fraud and malice, and Plaintiffs are entitled to punitive and
7 exemplary damages in an amount to be proven at the time of trial.

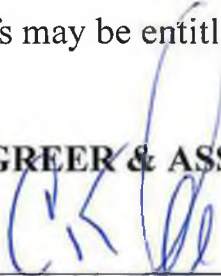
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9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs pray for judgment against Defendant ADAM
11 SHACKNAI, as follows:

- 12 1. For compensatory damages according to proof;
- 13 2. For special damages according to proof;
- 14 3. For reimbursement of funeral expenses and costs of burial;
- 15 4. For pecuniary damages according to proof;
- 16 5. For personal property according to proof;
- 17 6. For interest on all sums awarded, according to proof;
- 18 7. For punitive and exemplary damages, according to proof;
- 19 8. For costs of suit incurred herein;
- 20 9. All other relief to which Plaintiffs may be entitled under law.

21
22 DATED: March 22, 2017

23
24 **GREER & ASSOCIATES, A.P.C.**

25 
26 _____
27 C. Keith Greer, Esq.
28 Attorneys for Plaintiffs