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KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA.

GLENN S. HALL

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

MARK STENBERG, deceased, by and  
through the *Personal Representative* of  
his Estate, KAREN ANDERSON,

Plaintiff,

vs.

KIRTLEY-COLE ASSOCIATES,  
LLC, d/b/a Kirtley-Cole Associates,  
a Washington Corporation; and  
UNKNOWN JOHN DOES,

Defendants

Cause No.:

07 - 2 - 20725 - 2 SEA

COMPLAINT FOR WRONGFUL DEATH  
AND DAMAGES

COMES NOW the plaintiff and alleges as follows:

**1. IDENTIFICATION OF PLAINTIFFS**

1.1 MARK L. STENBERG was born on June 11, 1966. Mr. Stenberg was a resident of Kent, in King County, Washington at the time of he was fatally injured on December 30, 2005.

1.2 KAREN ANDERSON, the mother of Mark Stenberg, has been duly appointed personal representative of the estate of MARK STENBERG, deceased, in Pierce County under cause number 06-4-00145-4. As such, she is authorized to bring claims on behalf of the Estate

ORIGINAL

COMPLAINT - 1

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1 and its statutory beneficiaries of the wrongful death and survival claims arising out of Mr.  
2 Stenberg's death.

3  
4 1.3 MARK STENBERG left four minor dependent sons: Tommy Lee Stenberg,  
5 Mickey Webb Stenberg, Jonathan Michael Stenberg and Mason Mark Stenberg.

6  
7 **2. IDENTIFICATION OF DEFENDANTS**

8 2.1 Upon information and belief, plaintiffs allege that defendant KIRTLEY-COLE  
9 ASSOCIATES, LLC, is a Washington corporation doing business as Kirtley-Cole Associates  
10 in King County Washington.

11  
12 2.2 Upon information and belief, plaintiffs allege that defendant KIRTLEY-COLE  
13 ASSOCIATES, was the general contractor at the commercial building construction site where  
14 Mark Stenberg was fatally injured located at 34700 11th Avenue S.W., Federal Way,  
15 Washington.

16  
17 2.3 Mark Stenberg was employed by B & K Builders & Crane Service at the times  
18 complained about. B & K Builders & Crane Service was a subcontractor hired and invited  
19 upon the premises controlled by Kirtley-Cole to perform work on its behalf.

20  
21 2.4 Upon information and belief, plaintiff alleges there may be other local persons,  
22 managers, partnerships or corporations having responsibility or liability in connection with the  
23 claim of damages in this case whose true identity is unknown to these plaintiffs and who are  
24 referred to herein as JOHN DOES. Upon further investigation and disclosure by the defendants  
25 herein, these pleadings may be amended to reflect such individuals.

26  
27 **3. JURISDICTION AND VENUE**

28  
29 3.1 Upon information and belief, this Court has jurisdiction as the wrongful death  
30 which gave rise to plaintiff's damages occurred in King County, Washington.

31 3.2 Venue is proper in King County.  
32

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COMPLAINT - 2.

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#### 4. NATURE OF OCCURRENCE

4.1 Defendant Kirtley-Cole was the possessor of the site located at 34700 11th Avenue S.W., Federal Way, Washington where construction work was to be performed. Defendant Kirtley-Cole also was the general contractor for any work performed at that site.

4.2 Defendant Kirtley-Cole hired and invited subcontractor B & K Builders & Crane Service and their employees, including Mark Stenberg, to come upon the Kirtley-Cole site to perform work.

4.3 Defendant Kirtley-Cole retained and/or exercised actual control and safety over the site and work performed, including that performed on its behalf by B&K Builders.

4.4 Defendant Kirtley-Cole knew, or in the exercise of reasonable care, should have known of the dangerous conditions on the premises and unsafe or unlawful practices which placed plaintiff and others at risk of harm.

4.5 On or about December 30, 2005, at approximately 8:30 a.m., Mark Stenberg was one of seven workers requested to assist in raising a framed wall weighing in excess of 1,900 pounds. As determined by the investigating government agencies, the equipment, practices and procedures used were inadequate and unsafe, resulting in the wall falling and fatally injuring Mr. Stenberg.

#### 5. LIABILITY

5.1 Defendant Kirtley-Cole failed to adequately and properly hire, train, supervise, protect, provide proper equipment, warn and/or safeguard the area and work practices, exposing Mark Stenberg and others to dangerous and potentially fatal injuries while performing the invited work upon the defendant's site.

5.2 As a result, Defendant Kirtley-Cole was at fault and negligent, careless, willful, wanton, reckless, dangerous and/or its unsafe practices, equipment, premises or control, raise

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1 an inference of negligence and fault.

2  
3 **6. DAMAGES SUSTAINED**

4 6.1 Mark Stenberg suffered fatal injuries and loss of enjoyment of life, pain,  
5 disability, mental and physical suffering before death and damages in an amount now unknown  
6 but to be proven at the time of trial.

7  
8 6.2 The family of Mark Stenberg suffered loss of relationship, consortium,  
9 enjoyment of life, emotional trauma, and damages in an amount now unknown but to be proven  
10 at the time of trial.

11  
12 6.3 Wrongful Death Damages: Plaintiffs hereby claim all economic, exemplary,  
13 pecuniary, proprietary, non-economic and all other damages which are just under the  
14 circumstances, and to which they are entitled under the constitution, common or statutory law.  
15 See e.g. RCW 4.20 et seq.

16  
17 6.4 - Survival Damages: Plaintiffs hereby claim all economic, exemplary, pecuniary,  
18 property, non-economic and other damages, which are just under the circumstances, and to  
19 which they are entitled under the constitution, common or statutory law. See e.g. RCW  
20 4.20.046 and 4.20.060.

21  
22 6.5 Tommy L. Stenberg, Mickey W. Stenberg, Jonathan M. Stenberg, and Mason  
23 M. Stenberg, the surviving children of the decedent, Mark Stenberg, have, as a direct result of  
24 the fatal injuries sustained, suffered damages and loss of relationship and consortium, all to  
25 their damage, the extent of which is unknown but will be proven at the time of trial.

26  
27 **7. EXPENSES INCURRED & CLAIMED**

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29 7.1 Loss of Earnings: As a direct and proximate result of the decedent's death,  
30 decedent's estate has sustained a loss of earnings, past and future, as well as other damages  
31 associated with the economic contribution of the decedent which would have been made had  
32

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1 he not died, in an amount now unknown but to be proven at the time of trial.

2 7.2 Treatment: Plaintiffs, as a further direct and proximate result of the occurrence,  
3  
4 have incurred reasonable and necessary expenses for care and treatment, both past and future,  
5 for physicians, hospitalizations and other care as a result of the injuries sustained.

6 7.3 Out-of-Pocket: As a direct and proximate result of the Defendant's actions as  
7  
8 alleged herein, out-of-pocket expenses have been incurred, including but not limited to funeral  
9 and burial in an amount now unknown but to be proven at the time of trial.

10 7.4 Miscellaneous: The Plaintiffs will incur, or have already incurred, additional  
11  
12 out-of-pocket expenses associated with the injuries and damages, the exact extent of which are  
13 unknown but will be proven at the time of trial.


14 7.5 Plaintiffs further claim prejudgment interest on all amounts, including medical  
15  
16 expenses, wage loss or other sums at a rate to be fixed by the Court.

17 7.6 Plaintiffs claim all compensatory and exemplary damages as allowed by law,  
18  
19 whether derived by constitution, statutes or the common law.

20 WHEREFORE, Plaintiff prays for Judgment against Defendant in such amount as will  
21  
22 be proven at the time of trial, together with such other and further relief as seems just and  
23 proper in the premises.

24 Dated this 22nd day of June, 2007.

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26 BRINDLEY, BENINGER & CUNNINGHAM

27   
28  
29 PAUL N. LUVERA, WSBA 849  
30 DAVID M. BENINGER, WSBA 18432  
31 ANDREW HOYAL, WSBA 21349  
32 Attorneys for Plaintiffs

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KING COUNTY  
SUPERIOR COURT CLERK  
KENT, WA

Hon. Richard F. McDermott

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

IN RE SETTLEMENT OF:

Cause No.: 07-2-20725-2 KNT

Tommy Lee Stenberg, Mickey Webb  
Stenberg, Jonathan Michael Stenberg  
and Mason Mark Stenberg,

Minor Children

ORDER APPROVING SETTLEMENT,  
AND DIRECTING PAYMENT OF  
SETTLEMENT PROCEEDS

This matter comes before the Court upon a Petition for Order Approving Settlement pursuant to SPR 98.16W, and the Court having considered the Report of the Settlement Guardian ad Litem and having considered the files and records herein; it is hereby ORDERED:

1. The settlement of plaintiff's claims against Kirtley Cole in the amount of \$600,000.00 is reasonable and APPROVED. A copy of this order may be provided to those defendants and their insurers. Payment, if not previously made, should be paid within seven (7) days from the date of this order to Luvera Law Firm, to be held in an interest bearing non-IOLTA trust pending further orders of this Court on a general trust for the minor beneficiaries and other disbursements;

2. The SGAL fees in the amount of \$1,431.04 are approved and payment by the defendant's insurer shall be made to Luvera Law firm, in trust, or directly to the SGAL.

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ORDER APPROVING SETTLEMENT AND  
DIRECTING PAYMENT - 1

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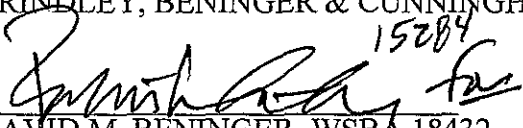
1           3.       The PR or settlement guardian ad litem is authorized to execute a standard  
2 release and other settlement related documents deemed appropriate to effectuate the settlement  
3 as approved.

4  
5           DONE IN OPEN COURT this 21 day of March, 2008.

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JUDGE/COMMISSIONER

Presented by:

LUVERA, BARNETT,  
BRINDLEY, BENINGER & CUNNINGHAM

15284  
  
DAVID M. BENINGER, WSBA 18432  
Attorney for Petitioners

Approved as to form:

  
JAMES M. ASCHER, WSBA 21225  
Settlement Guardian ad Litem

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ORDER APPROVING SETTLEMENT AND  
DIRECTING PAYMENT - 2

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