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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

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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 **2. IDENTIFICATION OF DEFENDANTS**

7
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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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 **6. DAMAGES SUSTAINED**

3
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**

28
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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Hon. Richard F. McDermott

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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,)	ORDER APPROVING SETTLEMENT,
)	AND DIRECTING PAYMENT OF
Minor Children)	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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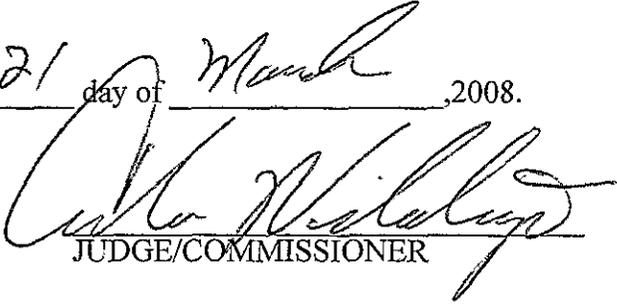
ORDER APPROVING SETTLEMENT AND
DIRECTING PAYMENT - 1

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

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


JUDGE/COMMISSIONER

Presented by:

LUVERA, BARNETT,
BRINDLEY, BENINGER & CUNNINGHAM


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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