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**ENDORSED
FILED**
San Francisco County Superior Court

JAN 14 2011

CLERK OF THE COURT
BY: DEBORAH STEPPE
Deputy Clerk

12 ATTORNEYS FOR PLAINTIFFS

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 IN AND FOR THE COUNTY OF SAN FRANCISCO

CGC-11-507332

15 NILS YANNICK LINKE (deceased) PETRA
16 LINKE, JÜRGEN SCHNEIDER-LINKE,
17 individually and as successors in interest to NILS
18 YANNICK LINKE (deceased),

19 Plaintiffs,

20 v.

21 JOSHUA CALDER, NICOLE MAIRS, JUNE
22 SOELBERG, DOES 1 through 100, inclusive

23 Defendants.

CASE NO.

**COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL**

**Negligence: Negligent Driving
Negligence: Negligence Per Se
Negligence: Negligent Entrustment
Wrongful Death
Survival Action
Punitive Damages**

Complaint Filed: n/a
Trial Date: Unassigned

24 Plaintiffs Petra Linke and Jürgen Schneider-Linke, individually and as Successors In Interest
25 to Plaintiff Nils Yannick Linke, deceased, allege:

26 1. On August 13, 2010, at approximately 10:30 p.m., plaintiff Nils Yannick Linke sustained
27 severe brain and bodily injuries when he was struck by a car while riding his bicycle southbound on
28 Masonic Avenue, just south of Turk Street, County and City of San Francisco, California. He died
from his injuries on August 13, 2010, at approximately 11:24 p.m.

29 2. Plaintiffs Petra Linke and Jürgen Schneider-Linke are, and at all times mentioned herein,
were residents of the Federal Republic of Germany, State and City of Berlin.

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF

13 NILS YANNICK LINKE (deceased) PETRA
LINKE, JÜRGEN SCHNEIDER-LINKE,
14 individually and as successors in interest to NILS
YANNICK LINKE (deceased),

15 Plaintiffs,

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21 Plaintiffs Petra Linke and Jürgen Schneider-Linke, individually and as Successors In Interest
22 to Plaintiff Nils Yannick Linke, deceased, allege:

23 1. On August 13, 2010, at approximately 10:30 p.m., plaintiff Nils Yannick Linke sustained
24 severe brain and bodily injuries when he was struck by a car while riding his bicycle southbound on
25 Masonic Avenue, just south of Turk Street, County and City of San Francisco, California. He died
26 from his injuries on August 13, 2010, at approximately 11:24 p.m.

27 2. Plaintiffs Petra Linke and Jürgen Schneider-Linke are, and at all times mentioned herein,
28 were residents of the Federal Republic of Germany, State and City of Berlin.

1 3. At all times mentioned herein, Plaintiff Nils Yannick Linke, deceased, was a resident of
2 the Federal Republic of Germany, State and City of Berlin.

3 4. At all times mentioned in this complaint, plaintiffs Petra Linke and Jüergen Schneider-
4 Linke were the biological and legal parents of plaintiff Nils Yannick Linke, deceased.

5 5. Plaintiffs Petra Linke and Jüergen Schneider-Linke are entitled to bring an action for the
6 wrongful death of plaintiff Nils Yannick Linke under Code of Civil Procedure section 377.60,
7 because they are the decedent's biological and legal parents.

8 6. Plaintiffs Petra Linke and Jüergen Schneider-Linke are the Successors In Interest to
9 plaintiff Nils Yannick Linke, deceased.

10 7. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned in this
11 complaint, defendant Joshua Calder resided, and continues to reside in the County of Alameda, City
12 of Oakland, California.

13 8. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned in this
14 complaint, defendant June Soelberg resided, and continues to reside in the County of San Mateo,
15 City of Menlo Park, California.

16 9. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned in this
17 complaint, defendant June Soelberg was the registered owner of a 1989 Mercedes 260E, California
18 license plate number 2WZF851, VIN WDBEA26D9KA909858.

19 10. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned in this
20 complaint, defendant Nicole Mairs resided, and continues to reside in the City and County of San
21 Francisco, California.

22 11. Plaintiffs are informed and believe, and thereon allege, that defendants Joshua Calder,
23 Nicole Mairs, and Does 1-100, and each of them, had the express or implied permission of
24 defendant June Soelberg and Does 1 through 100 and each of them, to possess the above-described
25 1989 Mercedes 260E.

26 12. Plaintiffs are informed and believe, and thereon allege, that on August 13, 2010 at
27 approximately 7:30 p.m., defendants Joshua Calder and Nicole Mairs went to Kokkari Restaurant at
28 200 Jackson Street in San Francisco and over the following two hour time period consumed

1 alcoholic beverages including two bottles of wine, a champagne cocktail, a beer, and two shots of
2 liquor.

3 13. Plaintiffs are informed and believe, and thereon allege, that on August 13, 2010 at
4 approximately 10 p.m., defendants Joshua Calder and Nicole Mairs left the restaurant. Defendant
5 Joshua Calder and Does 1-100, and each of them, drove the above-mentioned 1989 Mercedes 260E
6 while intoxicated.

7 14. As a direct and legal result of the conscious and deliberate disregard of the interests and
8 safety of others, carelessness, recklessness, wantonness and unlawfulness of Joshua Calder, Nicole
9 Mairs, and Does 1-100, and each of them, Plaintiff, Nils Yannick Linke was struck while he was
10 lawfully riding his bicycle southbound on Masonic Avenue, near the intersection of Turk Boulevard
11 in San Francisco, California.

12 15. Plaintiffs are informed and believe, and thereon allege, that after striking Nils Yannick
13 Linke, defendants Joshua Calder, Nicole Mairs and Does 1-100, and each of them, got out of the
14 1989 Mercedes 260E and saw the plaintiff lying in the street, convulsing and bleeding. Defendant
15 Joshua Calder moved the bicycle to the sidewalk and, along with Nicole Mairs, returned to the car
16 without rendering aid to the plaintiff. Upon returning to the above mentioned vehicle, Defendant
17 Nicole Mairs got into the driver's seat and Defendant Joshua Calder got into the passenger seat.
18 Defendants Joshua Calder, Nicole Mairs, and Does 1-100 and each of them, then fled the scene at a
19 high rate of speed, failing to contact emergency medical personnel.

20 16. Plaintiffs are informed and believe, and thereon allege, that after fleeing the scene of the
21 crime, police officers stopped the above mentioned vehicle. Police officers then performed a
22 driving under the influence investigation wherein a blood draw on Defendant Joshua Calder was
23 performed. The police determined that the blood alcohol content of defendant Joshua Calder was
24 0.10 percent over two hours after the accident, and also tested positive for cannabinoids.

25 17. The aforementioned acts of defendants Joshua Calder, Nicole Mairs and Does 1 through
26 100, and each of them, were willful and wanton in that Defendants demonstrated a conscious and
27 deliberate disregard of the rights, safety, and interests of others by knowingly and willfully
28 commencing, and thereafter continuing to consume, alcoholic beverages to the point of intoxication

1 knowing from the outset that he must thereafter operate a motor vehicle

2 18. Defendant Joshua Calder, Nicole Mairs, June Soelberg and Does 1-100 and each of them,
3 were aware of the probable dangerous consequences of driving while intoxicated and willfully and
4 deliberately failed to avoid those consequences.

5 19. Plaintiffs are ignorant of the true names and capacities of defendants sued in this
6 complaint as Does 1 through 100, and each of them, and therefore sue these defendants by such
7 fictitious names. Plaintiffs will amend this complaint to allege these defendants' true names and
8 capacities when ascertained. Plaintiffs are informed and believe, and thereon allege, that each
9 fictitiously-named defendant is negligent or otherwise responsible in some manner for the
10 occurrences alleged in this complaint, and that plaintiffs' injuries and damages were legally caused
11 by defendants' negligence or other conduct.

12 20. At all times mentioned in this complaint, defendants Does 1 through 100, and each of
13 them, were individuals or business entities, form unknown, who resided or did business in the State
14 of California.

15 21. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned in this
16 complaint, each of the defendants was the agent and employee of each of the other remaining
17 defendants, and in doing the things alleged in this complaint, was acting within the course and
18 scope of this agency and employment, and each defendant has ratified and approved the acts of its
19 agent.

20 22. Plaintiffs are informed and believe and thereon allege that each of the defendants was the
21 successor-in-interest to each of the remaining defendants and on that basis is liable for any
22 defendants' act or omission alleged in this complaint.

23 **FIRST CAUSE OF ACTION - NEGLIGENCE**

24 **(Negligent Driving – Motor Vehicle-Bicycle Collision against**

25 **Joshua Calder, Nicole Mairs and Does 1-100, and each of them)**

26 23. Plaintiffs incorporate by reference paragraphs 1 through 22 as though fully set forth
27 herein

28 24. At all times herein mentioned, Defendant, Joshua Calder, Nicole Mairs and Does 1

1 through 100, and each of them, with permission and consent, were operating a 1989 Mercedes
2 260E, owned by and registered in the name of Defendant, June Soelberg, and Does 1 through 100,
3 inclusive, with the permission and consent of the co-defendants Nicole Mairs, June Soleberg and
4 Does 1 through 100, and each of them.

5 25. At all times herein mentioned, Masonic Avenue in the vicinity of Turk Boulevard and
6 Golden Gate Avenue is, and was, a public roadway in the City and County of San Francisco, State
7 of California.

8 26. On or about the 13th day of August 2010, Plaintiff, Nils Yannick Linke, was operating a
9 bicycle in the vicinity of Masonic Avenue and Turk Boulevard, City and County of San Francisco,
10 State of California.

11 27. At the time and place aforesaid, Defendants Joshua Calder, Nicole Mairs, June Soelberg
12 and Does 1-100, and each of them, so negligently, carelessly, recklessly, wantonly, and unlawfully
13 drove, operated, maintained, conducted, controlled and entrusted said vehicle as to directly and
14 legally cause the same to collide with Plaintiff, Nils Yannick Linke, then and there, while being
15 operated by Defendant, Joshua Calder, Nicole Mairs and Does 1-100, and each of them as
16 aforesaid.

17 28. As a direct and legal result of the negligence, carelessness, recklessness, wantonness and
18 unlawfulness of Defendants Joshua Calder, Nicole Mairs and Does 1-100, and each of them, and
19 the resulting collision, as aforesaid, Plaintiff, Nils Yannick Linke, sustained severe and serious injury
20 to his person, which later caused his death.

21 29. The aforementioned acts of defendants Joshua Calder, Nicole Mairs and Does 1 through
22 100, and each of them, were willful and wanton in that the defendant demonstrated a conscious and
23 deliberate disregard of the rights, safety, and interests of others by voluntarily commencing and
24 thereafter continuing to consume alcoholic beverages to the point of intoxication knowing from the
25 outset that he must thereafter operate a motor vehicle.

26 30. As a legal result of being hit by defendants Joshua Calder, Nicole Mairs and Does 1-100
27 and each of them, Plaintiffs were required to and did employ the services of hospitals, physicians,
28 surgeons, nurses and other professional services, for Nils Yannick Linke's medical treatment and

1 incurred expenses for this and other medically-related treatment, such as emergency-medical-
2 response care and hospital care.

3 31. As a legal result of Nils Yannick Linke's death, plaintiffs Petra Linke and Jüergen
4 Schneider-Linke have incurred funeral, burial, transportation and associated expenses relating to
5 plaintiff's death.

6 32. As a direct and legal result of the defendants' wrongful acts and omissions, plaintiffs
7 Petra Linke and Jüergen Schneider-Linke have suffered the loss of their son, including the loss of
8 Nils Yannick Linke's love, companionship, comfort, affection, society, solace and moral support.

9 33. That as a further legal result of the aforesaid conduct of Defendants Joshua Calder,
10 Nicole Mairs and Does 1-100, and each of them, the aforementioned bicycle and other property
11 owned and used by plaintiff Nils Yannick Linke was damaged; and plaintiff, thereafter, was denied
12 use of said vehicle and other property, to Plaintiff's further damage; all in amounts which will be
13 shown according to proof.

14 34. Defendants Joshua Calder, Nicole Mairs, June Soelberg and Does 1 through 100, and
15 each of them, acted so wantonly, recklessly and negligently, and said acts were carried on by
16 defendants with a willful and conscious disregard of the rights or safety of others, including the
17 plaintiffs. Defendants, and each of them, were aware of the probable dangerous consequences of
18 driving while intoxicated and willfully and deliberately failed to avoid those consequences.
19 Defendants are therefore liable to plaintiffs for punitive damages. Plaintiffs hereby request such
20 damages pursuant to Civil Code section 3294.

21 35. The aforementioned acts of defendants Joshua Calder , Nicole Mairs and Does 1 through
22 100, and each of them, were willful and wanton in that the defendant demonstrated a conscious and
23 deliberate disregard of the rights, safety, and interests of others by knowingly and willfully
24 commencing, and thereafter continuing to consume, alcoholic beverages to the point of intoxication
25 knowing from the outset that he must thereafter operate a motor vehicle.

26 WHEREFORE, plaintiffs pray for judgment as set forth hereinafter.
27
28

1 **SECOND CAUSE OF ACTION – NEGLIGENCE PER SE**

2 **(Negligence Per Se – Vehicle Code §23153(a) Vehicle Code §20001(a) against Joshua**
3 **Calder, Nicole Mairs and Does 1-100, and each of them)**

4 36. Plaintiffs incorporate by reference paragraphs 1 through 35 as though fully set forth
5 herein.

6 37. At all times herein mentioned, Defendants Joshua Calder, Nicole Mairs, and Does 1
7 through 100, and each of them, with permission and consent, were operating a 1989 Mercedes
8 260E, owned by and registered in the name of Defendant, June Soelberg, and Does 1 through 100,
9 inclusive, with the permission and consent of the co-defendants Nicole Mairs, June Soelberg and
10 Does 1 through 100, and each of them.

11 38. At the time and place aforesaid, Defendants Joshua Calder, Nicole Mairs, June Soelberg
12 and Does 1-100, and each of them, so negligently, carelessly, recklessly, wantonly, and unlawfully
13 drove, operated, maintained, conducted, controlled and entrusted said vehicle as to directly and
14 legally cause the same to collide with Plaintiff, Nils Yannick Linke, then and there, while being
15 operated by Defendant, Joshua Calder, Nicole Mairs and Does 1-100, and each of them, as
16 aforesaid. After the collision, defendants Joshua Calder, Nicole Mairs and Does 1 through 100, and
17 each of them, fled from the scene of incident.

18 39. In operating the aforementioned vehicle at the time of the collision, defendants Joshua
19 Calder, Nicole Mairs and Does 1 through 100, and each of them, had a duty to follow the applicable
20 provisions of the California Vehicle Code. Specifically, defendants Joshua Calder, Nicole Mairs and
21 Does 1 through 100, and each of them, had a duty to follow the provisions of Vehicle Code section
22 23153(a) which prohibits driving under the influence of alcohol causing injury, and Vehicle Code
23 section 20001(a), which prohibits the driver of a vehicle involved in an accident resulting in an
24 injury or death to a person to flee the scene of the crime. Sections 23153(b) and 20001(a) of the
25 Vehicle Code were intended to protect a class of persons including Plaintiffs.

26 40. The purpose of the statute is designed to protect individuals involved in vehicular
27 collision, such as plaintiffs, against the kind of harm suffered by plaintiffs as a result of defendants'
28 acts and/or omissions.

1 41. At all times mentioned herein, plaintiffs were members of the class of persons that
2 Vehicle Code section 23153(a) and 20001(1) were designed to protect.

3 42. Defendants Joshua Calder, Nicole Mairs and Does 1 through 100, and each of them,
4 negligently violated Vehicle Code sections 23153(a) and 20001(a) by driving under the influence of
5 alcohol causing great bodily injury and then fleeing the scene of the accident, resulting in injuries to
6 plaintiffs.

7 43. As a legal result of being hit by defendants Joshua Calder, Nicole Mairs and Does 1-100
8 and each of them, Plaintiffs were required to and did employ the services of hospitals, physicians,
9 surgeons, nurses and other professional services, for Nils Yannick Linke's medical treatment and
10 incurred expenses for this and other medically-related treatment, such as emergency-medical-
11 response care and hospital care.

12 44. As a legal result of Nils Yannick Linke's death, plaintiffs Petra Linke and Jürgen
13 Schneider-Linke have incurred funeral, burial, transportation and associated expenses relating to
14 plaintiff's death.

15 45. That as a further legal result of the aforesaid conduct of Defendants Joshua Calder,
16 Nicole Mairs and Does 1-100, and each of them, the aforementioned bicycle and other property
17 owned and used by plaintiff Nils Yannick Linke was damaged; and plaintiff, thereafter, was denied
18 use of said vehicle and other property, to Plaintiff's further damage; all in amounts which will be
19 shown according to proof.

20 46. The aforementioned acts of defendants Joshua Calder, Nicole Mairs and Does 1 through
21 100, and each of them, were willful and wanton in that the defendant demonstrated a conscious and
22 deliberate disregard of the rights, safety, and interests of others by knowingly and willfully
23 commencing, and thereafter continuing to consume, alcoholic beverages to the point of intoxication
24 knowing from the outset that he must thereafter operate a motor vehicle.

25 47. Defendants Joshua Calder, Nicole Mairs, June Soelberg and Does 1 through 100, and
26 each of them, acted so wantonly, recklessly and negligently, and said acts were carried on by
27 defendants with a willful and conscious disregard of the rights or safety of others, including the
28 plaintiffs. Defendants, and each of them, were aware of the probable dangerous consequences of

1 driving while intoxicated and willfully and deliberately failed to avoid those consequences.
2 Defendants are therefore liable to plaintiffs for punitive damages. Plaintiffs hereby request such
3 damages pursuant to Civil Code section 3294.

4 WHEREFORE, plaintiffs pray for judgment as set forth hereinafter.

5 **THIRD CAUSE OF ACTION – NEGLIGENCE PER SE**

6 **(Negligence Per Se – Penal Code §191.5(b) against Joshua Calder, Nicole Mairs and**
7 **Does 1-100, and each of them)**

8 48. Plaintiffs incorporate by reference paragraphs 1 through 35 as though fully set forth
9 herein.

10 49. At all times herein mentioned, Defendants Joshua Calder, Nicole Mairs, and Does 1
11 through 100, and each of them, with permission and consent, were operating a 1989 Mercedes
12 260E, owned by and registered in the name of Defendant, June Soelberg, and Does 1 through 100,
13 inclusive, with the permission and consent of the co-defendants Nicole Mairs, June Soelberg and
14 Does 1 through 100, and each of them.

15 50. At the time and place aforesaid, Defendants Joshua Calder, Nicole Mairs, June Soelberg
16 and Does 1-100, and each of them, so negligently, carelessly, recklessly, wantonly, and unlawfully
17 drove, operated, maintained, conducted, controlled and entrusted said vehicle as to directly and
18 legally cause the same to collide with Plaintiff, Nils Yannick Linke, then and there, while being
19 operated by Defendants, Joshua Calder, Nicole Mairs, and Does 1-100, and each of them, as
20 aforesaid. After the collision, defendants Joshua Calder, Nicole Mairs and Does 1 through 100, and
21 each of them, fled from the scene of incident.

22 51. In operating the aforementioned vehicle at the time of the collision, defendants Joshua
23 Calder, Nicole Mairs and Does 1 through 100, and each of them, had a duty to follow the applicable
24 provisions of the California Penal Code. Specifically, defendants Joshua Calder, Nicole Mairs and
25 Does 1 through 100, and each of them, had a duty to follow the provisions of Penal Code section
26 191.5(b) which states: Vehicular manslaughter while intoxicated is the unlawful killing of a human
27 being without malice aforethought, in the driving of a vehicle, where the driving was in violation of
28 Section 23153 of the Vehicle Code, and the killing was either the proximate result of the

1 commission of an unlawful act, not amounting to a felony, but without gross negligence, or the
2 proximate result of the commission of a lawful act that might produce death, in an unlawful
3 manner, but without gross negligence. Section 191.5(b) of the Penal code was intended to protect a
4 class of persons including Plaintiffs.

5 52. The purpose of the statute is designed to protect individuals involved in vehicular
6 collision such as Plaintiffs against the kind of harm suffered by plaintiffs as a result of defendants'
7 acts and/or omission.

8 53. At all times mentioned herein, plaintiffs were members of the class of persons that Penal
9 Code Section 191.5(b) was designed to protect.

10 54. Defendants Joshua Calder, Nicole Mairs and Does 1 through 100, and each of them,
11 negligently violated Penal Code Section 191.5(b) by killing Nils Yannick Linke while driving under
12 the influence of alcohol, in violation of Vehicle Code 23153(a), and because Nils Yannick Linke's
13 death was the proximate result of the commission of the aforementioned actions of defendants.

14 55. As a legal result of being hit by defendants Joshua Calder, Nicole Mairs and Does 1-100
15 and each of them, Plaintiffs were required to, and did, employ the services of hospitals, physicians,
16 surgeons, nurses and other professional services, for Nils Yannick Linke's medical treatment and
17 incurred expenses for this and other medically-related treatment, such as emergency-medical-
18 response care and hospital care.

19 56. As a legal result of Nils Yannick Linke's death, plaintiffs Petra Linke and Jürgen
20 Schneider-Linke have incurred funeral, burial, transportation and associated expenses relating to
21 plaintiff's death.

22 57. That as a further legal result of the aforesaid conduct of Defendants Joshua Calder,
23 Nicole Mairs and Does 1-100, and each of them, the aforementioned bicycle and other property
24 owned and used by plaintiff Nils Yannick Linke was damaged; and plaintiff, thereafter, was denied
25 use of said vehicle and other property, to Plaintiff's further damage; all in amounts which will be
26 shown according to proof.

27 58. The aforementioned acts of defendants Joshua Calder, Nicole Mairs and Does 1 through
28 100, and each of them, were willful and wanton in that the defendant demonstrated a conscious and

1 deliberate disregard of the rights, safety, and interests of others by knowingly and willfully
2 commencing, and thereafter continuing to consume, alcoholic beverages to the point of intoxication
3 knowing from the outset that he must thereafter operate a motor vehicle.

4 59. Defendants Joshua Calder, Nicole Mairs, June Soelberg and Does 1 through 100, and
5 each of them, acted so wantonly, recklessly and negligently, and said acts were carried on by
6 defendants with a willful and conscious disregard of the rights or safety of others, including the
7 plaintiffs. Defendants, and each of them, were aware of the probable dangerous consequences of
8 driving while intoxicated and willfully and deliberately failed to avoid those consequences.
9 Defendants are therefore liable to plaintiffs for punitive damages. Plaintiffs hereby request such
10 damages pursuant to Civil Code section 3294.

11 WHEREFORE, plaintiffs pray for judgment as set forth hereinafter.

12 **FORTH CAUSE OF ACTION – NEGLIGENT ENTRUSTMENT**

13 **(Negligence: Negligent Entrustment against Nicole Mairs, June Soelberg and Does 1-**
14 **100, and each of them)**

15 60. Plaintiffs incorporate by reference paragraphs 1 through 47 as though fully set forth
16 herein.

17 61. At all times mentioned herein, defendants June Soelberg and Does 1 through 100, and
18 each of them, owned the 1989 Mercedes 260E that struck plaintiff Nils Yannick Linke.

19 62. At all times herein mentioned, defendants Joshua Calder, Nicole Mairs and Does 1
20 through 100, and each of them, had possession of the above mentioned vehicle with the express or
21 implied permission, consent and knowledge of defendants Nicole Mairs, June Soelberg and Does 1
22 through 100, and each of them.

23 63. Defendants Joshua Calder, Nicole Mairs and Does 1 through 100, and each of them,
24 were driving the vehicle with the permission, consent and knowledge of defendants Nicole Mairs,
25 June Soelberg and Does 1 through 100, and each of them.

26 64. At all times mentioned herein, defendants Joshua Calder, Nicole Mairs and Does 1
27 through 100, and each of them, were careless and reckless in general, and careless and reckless
28 drivers of automobiles and/or were incompetent to operate a motor vehicle in particular.

1 Defendants Nicole Mairs and June Soelberg and Does 1 through 100, and each of them, knew or
2 should have known defendants Joshua Calder, Nicole Mairs and Does 1 through 100, and each of
3 them, to be such careless and reckless persons in general and careless and reckless drivers of
4 automobiles in particular, or were incompetent to drive, and negligently permitted defendants
5 Joshua Calder, Nicole Mairs and Does 1 through 100, and each of them, to operate the 1989
6 Mercedes 260E, California license number 2WZF851, on the public roads and highways.

7 65. Defendants Nicole Mairs, June Soelberg and Does 1 through 100, and each of them,
8 knew or, in the exercise of reasonable diligence, should have known, that furnishing defendants
9 Joshua Calder, Nicole Mairs and Does 1 through 100, and each of them, with the 1989 Mercedes
10 260E under these circumstances created an unreasonable risk that the operation of the 1989
11 Mercedes 260E would endanger members of public including decedent Nils Yannick Linke.

12 66. Nevertheless, defendants Nicole Mairs and June Soelberg and Does 1 through 100, and
13 each of them, negligently and carelessly, and in reckless disregard of the safety of others, entrusted
14 the use and operation of the aforementioned vehicle to defendants Joshua Calder, Nicole Mairs and
15 Does 1 through 100, and each of them.

16 67. As a direct and legal result of the negligence, carelessness, recklessness, wantonness and
17 unlawfulness of Defendants Joshua Calder, Nicole Mairs, June Soelberg and Does 1-100, and each
18 of them, and the resulting collision, Plaintiff, Nils Yannick Linke sustained severe and serious injury
19 to his person, which later caused his death.

20 68. As a legal result of being hit by defendant Joshua Calder, Nicole Mairs and Does 1-100,
21 and each of them, Plaintiffs were required to and did employ the services of hospitals, physicians,
22 surgeons, nurses and other professional services, for Nils Yannick Linke's medical treatment and
23 incurred expenses for this and other medically-related treatment, such as emergency-medical-
24 response care and hospital care.

25 69. As a legal result of Nils Yannick Linke's death, plaintiffs Petra Linke and Jüergen
26 Schneider-Linke have incurred funeral, burial, transportation and associated expenses relating to
27 plaintiff Nils Yannick Linke's death.

28 70. As a direct and legal result of the defendants' wrongful acts and omissions, plaintiffs

1 Petra Linke and Jürgen Schneider-Linke have suffered the loss of their son, including the loss of
2 Nils Yannick Linke's love, companionship, comfort, affection, society, solace and moral support.

3 71. That as a further legal result of the aforesaid conduct of Defendants Joshua Calder,
4 Nicole Mairs, June Soelberg and Does 1-100, and each of them, the aforementioned bicycle and
5 other property owned and used by plaintiff Nils Yannick Linke was damaged; and plaintiff,
6 thereafter, was denied use of said vehicle and other property, to Plaintiff's further damage; all in
7 amounts which will be shown according to proof.

8 72. The aforementioned acts of defendants Joshua Calder, Nicole Mairs and Does 1 through
9 100, and each of them, were willful and wanton in that the defendant demonstrated a conscious and
10 deliberate disregard of the rights, safety, and interests of others by knowingly and willfully
11 commencing, and thereafter continuing to consume, alcoholic beverages to the point of intoxication
12 knowing from the outset that he must thereafter operate a motor vehicle.

13 73. Defendants Joshua Calder, Nicole Mairs, June Soelberg and Does 1 through 100, and
14 each of them, acted so wantonly, recklessly and negligently, and said acts were carried on by
15 defendants with a willful and conscious disregard of the rights or safety of others, including the
16 plaintiffs. Defendants, and each of them, were aware of the probable dangerous consequences of
17 driving while intoxicated and willfully and deliberately failed to avoid those consequences.
18 Defendants are therefore liable to plaintiffs for punitive damages. Plaintiffs hereby request such
19 damages pursuant to Civil Code section 3294.

20 WHEREFORE, plaintiffs pray for judgment as set forth hereinafter.

21 **FIFTH CAUSE OF ACTION – WRONGFUL DEATH**

22 **(Wrongful Death - Plaintiffs Petra Linke and Jürgen Schneider-Linke against defendants**
23 **Joshua Calder, Nicole Mairs, June Soelberg and Does 1-100, and each of them)**

24 74. Plaintiffs incorporate by reference paragraphs 1 through 73 as though fully set forth
25 herein.

26 75. Plaintiffs are entitled to bring this action under Code of Civil Procedure section 377.60,
27 based on the allegations in paragraphs 5 and 6, above.

28 76. On August 13, 2010, decedent Nils Yannick Linke was riding his bicycle southbound on

1 Masonic Avenue, near the intersection of Turk Boulevard. Defendants Joshua Calder, Ncole Mairs
2 and Does 1-100, and each of them, negligently drove and operated the 1989 Mercedes 260E, and
3 collided into Nils Yannick Linke on his bicycle, causing Mr. Linke to hit the windshield of the
4 Mercedes 260E before coming to rest in the street, where he lay convulsing, bleeding from the nose
5 and ears. The 1989 Mercedes 260E was owned by and registered to June Soelberg, who provided
6 defendants Joshua Calder, Nicole Mairs and Does 1-100, and each of them, with the with the
7 express or implied authorization to operate and drive the aforementioned vehicle. Defendants
8 Nicole Mairs, June Soelberg and Does 1-100, and each of them, provided defendant Joshua Calder
9 and Does 1-100, and each of them, with the express or implied authorization to operate and drive
10 the aforementioned vehicle.

11 77. At the time of the collision, defendant Joshua Calder and Does 1-100 and each of them,
12 were in violation of California Vehicle Code Sections 23153(a) and 20001(a) and Penal Code
13 191.5(b).

14 78. As a direct and legal result of the aforementioned acts conducted by defendants Joshua
15 Calder, Nicole Mairs, June Soelberg and Does 1 through 100, and each of them, Nils Yannick Linke
16 died on August 13, 2010.

17 79. As a legal result of being hit by defendant Joshua Calder and Does 1-100, plaintiffs were
18 required to and did employ the services of hospitals, physicians, surgeons, nurses and other
19 professional services, for Nils Yannick Linke's medical treatment and incurred expenses for this and
20 other medically-related treatment, such as emergency-medical-response care and hospital care.

21 80. As a legal result of Nils Yannick Linke's death, plaintiffs Petra Linke and Jürgen
22 Schneider-Linke have incurred funeral, burial, transportation and associated expenses relating to
23 plaintiff Nils Yannick Linke's death.

24 81. As a direct and legal result of the defendants' wrongful acts and omissions, plaintiffs
25 Petra Linke and Jürgen Schneider-Linke have suffered the loss of their son, including the loss of
26 Nils Yannick Linke's love, companionship, comfort, affection, society, solace and moral support.

27 82. That as a further legal result of the aforesaid conduct of Defendants Joshua Calder,
28 Nicole Mairs, June Soelberg and Does 1-100, and each of them, the aforementioned bicycle and

1 other property owned and used by plaintiff Nils Yannick Linke was damaged; and plaintiff,
2 thereafter, was denied use of said vehicle and other property, to Plaintiff's further damage; all in
3 amounts which will be shown according to proof.

4 83. The aforementioned acts of defendants Joshua Calder, Nicole Mairs and Does 1 through
5 100, and each of them, were willful and wanton in that the defendant demonstrated a conscious and
6 deliberate disregard of the rights, safety, and interests of others by knowingly and willfully
7 commencing, and thereafter continuing to consume, alcoholic beverages to the point of intoxication
8 knowing from the outset that he must thereafter operate a motor vehicle.

9 84. Defendants Joshua Calder, Nicole Mairs, June Soelberg and Does 1 through 100, and
10 each of them, acted so wantonly, recklessly and negligently, and said acts were carried on by
11 defendants with a willful and conscious disregard of the rights or safety of others, including the
12 plaintiffs. Defendants, and each of them, were aware of the probable dangerous consequences of
13 driving while intoxicated and willfully and deliberately failed to avoid those consequences.
14 Defendants are therefore liable to plaintiffs for punitive damages. Plaintiffs hereby request such
15 damages pursuant to Civil Code section 3294.

16 WHEREFORE, plaintiffs pray for judgment as set forth hereinafter.

17 **SIXTH CAUSE OF ACTION – SURVIVAL ACTION**

18 **(Survival Action – Plaintiff Nils Yannick Linke, by and through his legal representatives**
19 **and successors in interest, Petra Linke and Jüergen Schneider-Linke against defendants**
20 **Joshua Calder, Nicole Mairs, June Soelberg and Does 1-100, and each of them)**

21 85. Plaintiffs incorporate by reference paragraphs 1 through 59 as though fully set forth
22 herein.

23 86. Plaintiffs Petra Linke and Jüergen Schneider-Linke are entitled to bring this action based
24 on the allegations in paragraph 6, above, and so commence this action pursuant to CCP 377.30, on
25 behalf of Nils Yannick Linke.

26 87. On August 13, 2010, after a negligence action arose in his favor, Nils Yannick Linke, who
27 would have been a plaintiff in this action had he lived, succumbed to his injuries and died.

28 88. As a legal result of being hit by defendant, plaintiffs were required to and did employ the

1 services of hospitals, physicians, surgeons, nurses and other professional services, for Nils Yannick
2 Linke's medical treatment and incurred expenses for this and other medically-related treatment,
3 such as emergency-medical-response care and hospital care.

4 89. As a legal result of Nils Yannick Linke's death, plaintiffs Petra Linke and Jüergen
5 Schneider-Linke have incurred funeral, burial, transportation and associated expenses relating to
6 plaintiff Nils Yannick Linke's death.

7 90. That as a further legal result of the aforesaid conduct of Defendants Joshua Calder,
8 Nicole Mairs, June Soelberg and Does 1-100, and each of them, the aforementioned bicycle and
9 other property owned and used by plaintiff Nils Yannick Linke was damaged; and plaintiff,
10 thereafter, was denied use of said vehicle and other property, to Plaintiff's further damage; all in
11 amounts which will be shown according to proof.

12 91. The aforementioned acts of defendants Joshua Calder, Nicole Mairs and Does 1 through
13 100, and each of them, were willful and wanton in that the defendant demonstrated a conscious and
14 deliberate disregard of the rights, safety, and interests of others by knowingly and willfully
15 commencing, and thereafter continuing to consume, alcoholic beverages to the point of intoxication
16 knowing from the outset that he must thereafter operate a motor vehicle.

17 92. Defendants Joshua Calder, Nicole Mairs, June Soelberg and Does 1 through 100, and
18 each of them, acted so wantonly, recklessly and negligently, and said acts were carried on by
19 defendants with a willful and conscious disregard of the rights or safety of others, including the
20 plaintiffs. Defendants, and each of them, were aware of the probable dangerous consequences of
21 driving while intoxicated and willfully and deliberately failed to avoid those consequences.
22 Defendants are therefore liable to plaintiffs for punitive damages. Plaintiffs hereby request such
23 damages pursuant to Civil Code section 3294.

24 WHEREFORE, plaintiffs pray for judgment as set forth hereinafter.
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PRAYER FOR RELIEF


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WHEREFORE, plaintiffs demand a jury trial and pray for judgment as to each defendant as follows:

1. For general damages according to proof;
2. For special damages according to proof;
3. For punitive damages according to proof;
4. For interest to the extent allowable by law;
5. For costs of the suit herein; and
6. For such further relief as the Court may deem proper.

DATED: January 13, 2011

THE VEEN FIRM, P.C.

By: 
Kevin Lancaster
Attorneys for Plaintiffs

1 WILLIAM L. VEEN, NO. 043150
KEVIN LANCASTER, NO. 124753
2 JESSICA N. BIERNIER, NO. 239831
THE VEEN FIRM, P.C.
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San Francisco, CA 94120-7296
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Facsimile: (415) 771-5845
6 KL.Team@veenfirm.com

ENDORSED
FILED
San Francisco County Superior Court
JAN 14 2011
CLERK OF THE COURT
BY: DEBORAH STEPPE
Deputy Clerk

7 ATTORNEYS FOR PLAINTIFF

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF SAN FRANCISCO

CGC-11-507332

13 NILS YANNICK LINKE (deceased) PETRA
14 LINKE, JÜRGEN SCHNEIDER-LINKE,
individually and as successors in interest to NILS
15 YANNICK LINKE (deceased),

16 Plaintiffs,

17 v.

18 JOSHUA CALDER, NICOLE MAIRS, JUNE
SOELBERG, DOES 1 through 100,

19 Defendants.
20

CASE NO.

DECLARATION OF JÜRGEN
SCHNEIDER-LINKE TO COMMENCE
AN ACTION BY SUCCESSOR IN
INTEREST [C.C.P. § 377.32]

Complaint Filed: n/a
Trial Date: Unassigned

21 I, Jürgen Schneider-Linke, declare as follows:

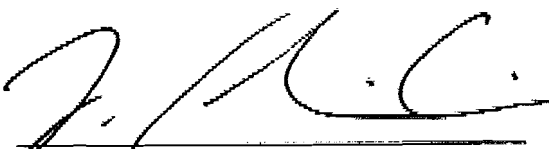
- 22 1. The decedent is Nils Yannick Linke.
23 2. Nils Yannick Linke died on August 13, 2010, in San Francisco, California.
24 3. No proceeding is now pending in California for administration of the decedent's
25 estate.
26 4. I am the decedent's successor in interest, as defined by California Code of Civil
27 Procedure, Section 377.11).
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5. No other person has a superior right to commence the decedent's action or to be substituted for the decedent in the action.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

DATED: January 12, 2011

By: 
Jürgen Schneider-Linke

STATE OF CALIFORNIA
CERTIFICATION OF VITAL RECORD

CITY AND COUNTY OF
SAN FRANCISCO

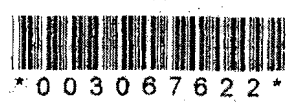
CERTIFICATE OF DEATH

3201038003537

STATE FILE NUMBER		STATE OF CALIFORNIA USE REAR PANEL ONLY / MULTIRACIAL WHITE/ASIAN OR NATURALIZATION 12-10-01-0001		LOCAL REGISTRATION NUMBER	
1. NAME OF DECEASED - FIRST (Given)		2. MIDDLE		3. LAST (Family)	
NILS		YANNICK		LINKE	
4A. ALSO KNOWN AS - Include MI (FIRST MIDDLE LAST)					
4. DATE OF BIRTH mm/dd/yyyy		5. AGE Yrs.		6. SEX	
08/09/1988		22		M	
7. BIRTH STATE/FOREIGN COUNTRY		10. SOCIAL SECURITY NUMBER		11. EVER IN U.S. ARMED FORCES?	
GERMANY		NONE		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
12. MARRIAGE STATUS (at time of Death)		13. DATE OF DEATH mm/dd/yyyy		8. HOUR (24 hour)	
NEVER MARRIED		08/13/2010		2324	
3. EDUCATION - Highest Level Degree (See instructions on back)		14. WAS DECEASED HISPANIC/LATINO/SPANISH? (Yes, see instructions on back)		15. DECEASED'S RACE - Up to 3 races may be listed (see instructions on back)	
HS GRADUATE		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		WHITE	
7. USUAL OCCUPATION - Type of work for most of life. DO NOT USE RETIRED		13. KIND OF BUSINESS OR INDUSTRY (e.g., grocery store, road construction, employment agency, etc.)		19. YEARS IN OCCUPATION	
STUDENT		EDUCATION		14	
23. DECEASED'S RESIDENCE (Street and number or location)					
BERTHELSDORFER STR 5					
21. CITY		22. COUNTY/PROVINCE		23. ZIP CODE	
BERLIN		NONE		12043	
24. YEARS IN COUNTY		25. STATE/FOREIGN COUNTRY			
22		GERMANY			
26. INFORMANT'S NAME RELATIONSHIP					
PETRA LINKE, MOTHER					
27. INFORMANT'S MAILING ADDRESS (Street and number, or rural route number, city or town, state and zip)					
DOSSESTR. 18, D-10247, BERLIN, GERMANY -					
28. NAME OF FATHER (MARRIED) - FIRST		29. MIDDLE		30. LAST (BIRTH NAME)	
JUERGEN				SCHNEIDER-LINKE	
34. BIRTH STATE		35. BIRTH STATE		36. BIRTH STATE	
GERMANY		GERMANY		GERMANY	
31. NAME OF FATHER (MARRIED) - FIRST		32. MIDDLE		33. LAST (BIRTH NAME)	
PETRA				LINKE	
37. BIRTH STATE		38. BIRTH STATE		39. BIRTH STATE	
GERMANY		GERMANY		GERMANY	
33. DEPOSITION DATE mm/dd/yyyy					
08/19/2010					
40. PLACE OF FINAL DISPOSITION					
AADEE MR. REESE ANTONIENSTR					
41. TYPE OF DISPOSITION					
CR/TR					
42. SIGNATURE OF EMBALMER					
NOT EMBALMED					
43. LICENSE NUMBER					
FD228					
45. SIGNATURE OF LOCAL REGISTRAR					
MITCHELL KATZ, MD					
47. DATE mm/dd/yyyy					
08/18/2010					
101. PLACE OF DEATH					
SAN FRANCISCO GENERAL HOSPITAL					
104. COUNTY		105. FACILITY ADDRESS OR LOCATION WHERE FOUND (Street and number, or location)		108. CITY	
SAN FRANCISCO		1001 POTRERO AVENUE		SAN FRANCISCO	
107. CAUSE OF DEATH					
IMMEDIATE CAUSE (Final disease or condition resulting in death)					
(A) PENDING					
109. DEATH REPORTED TO CORONER?					
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO					
110. DEATH REPORTED TO CORONER?					
UNK 2010-0784					
111. DEATH REPORTED TO CORONER?					
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
112. DEATH REPORTED TO CORONER?					
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO					
113. DEATH REPORTED TO CORONER?					
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO					
114. SIGNATURE AND TITLE OF CERTIFIER					
ELLEN MOFFATT MD					
115. TYPE ATTESTING PHYSICIAN'S NAME, MAILING ADDRESS, ZIP CODE					
116. LICENSE NUMBER					
117. DATE mm/dd/yyyy					
118. TYPE ATTESTING PHYSICIAN'S NAME, MAILING ADDRESS, ZIP CODE					
119. TYPE ATTESTING PHYSICIAN'S NAME, MAILING ADDRESS, ZIP CODE					
120. INJURED AT WORK?					
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK					
121. INJURY DATE mm/dd/yyyy					
122. HOUR (24 hour)					
123. PLACE OF INJURY (e.g., home, construction site, wooded area, etc.)					
124. DESCRIBE HOW INJURY OCCURRED (events which led to injury)					
125. LOCATION OF INJURY (Street and number, or location and city and zip)					
129. SIGNATURE OF CORONER/DEPUTY CORONER					
ELLEN MOFFATT MD					
130. DATE mm/dd/yyyy					
08/16/2010					
131. TYPE NAME, TITLE OF CORONER/DEPUTY CORONER					
ELLEN MOFFATT MD, ASST MEDICAL EXAMINER					
STATE REGISTRAR		FAX AUTH.#		CENSUS TRACT	
A B C D E		0100010011570049			

STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO
This is to certify that the image reproduced hereupon is a true copy of the record on file in the SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH as of the date issued.

DATE ISSUED **AUG 20 2010**



Mitchell Katz
Mitchell Katz, M.D.
Health Officer and Local Registrar

This copy is not valid unless prepared on an engraved border, displaying the date, seal and signature of the City and County Health Officer.

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

ENDORSED
FILED
San Francisco County Superior Court

JAN 14 2011

CLERK OF THE COURT
BY: DEBORAH STEPPE
Deputy Clerk

1 WILLIAM L. VEEN, NO. 043150
KEVIN LANCASTER, NO. 124753
2 JESSICA N. BIERNIER, NO. 239831
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6 KL.Team@veenfirm.com

7 ATTORNEYS FOR PLAINTIFF

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF SAN FRANCISCO

CGC-11-507332

13 NILS YANNICK LINKE (deceased) PETRA
LINKE, JÜRGEN SCHNEIDER-LINKE,
14 individually and as successors in interest to NILS
YANNICK LINKE (deceased),

15 Plaintiffs,

16 v.

17 JOSHUA CALDER, NICOLE MAIRS, JUNE
18 SOELBERG, DOES 1 through 100,

19 Defendants.
20

CASE NO.

DECLARATION OF PETRA LINKE TO
COMMENCE AN ACTION BY
SUCCESSOR IN INTEREST [C.C.P. §
377.32]

Complaint Filed: n/a
Trial Date: Unassigned

21 I, Petra Linke, declare as follows:


- 22 1. The decedent is Nils Yannick Linke.
23 2. Nils Yannick Linke died on August 13, 2010, in San Francisco, California.
24 3. No proceeding is now pending in California for administration of the decedent's
25 estate.
26 4. I am the decedent's successor in interest, as defined by California Code of Civil
27 Procedure, Section 377.11).
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5. No other person has a superior right to commence the decedent's action or to be substituted for the decedent in the action.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

DATED: January 12, 2011

By: 
Petra Linke