ROGER A. DREYER, ESQ. / SBN: 095462
DREYER, BABICH, BUCCOLA & CALLAHAM, LLP
20 Bicentennial Circle
Sacramento, CA 95826
Telephone: (916) 379-3500
Facsimile: (916) 379-3599

Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

WILLIAM A. STRANGE, individually, and as Guardian *ad Litem* for RYLAND STRANGE and JORIE STRANGE, minors; RONALD E. SIMS, as Guardian *ad Litem* for KEEGAN SIMS, a minor,

Plaintiffs,

v.

ENTERCOM SACRAMENTO, LLC, ENTERCOM COMMUNICATIONS, CORP., JOHN GEARY, STEVE WEED, ROBIN PECHOTA, LIZ DIAZ, ADAM COX, STEVE MANEY, PATRICIA SWEET, MATT CARTER and DOES 1 through 40, inclusive,

Defendants.

Case No.:

COMPLAINT FOR WRONGFUL DEATH

Plaintiffs complain against Defendants and allege:

FIRST CAUSE OF ACTION

(WRONGFUL DEATH: NEGLIGENCE)

1. The true names and capacities, whether individual, corporate, associate or otherwise of Defendants, DOES 1 through 40, are unknown to Plaintiffs, who therefore sue Defendants by such fictitious names, and Plaintiffs will amend this Complaint to show their true names and capacities when the same have been ascertained. Plaintiffs are

informed and believe and thereon allege that each of the Defendants, and DOES 1 through 40, are responsible under law in some manner — negligently, in warranty, strictly, or otherwise, for the events and happenings referred to herein. Said Defendants thereby caused injuries and damages to Plaintiffs as herein alleged.

2. Plaintiffs are now, and at all times herein mentioned were, California citizens and residents. Plaintiffs are the sole surviving heirs of Jennifer Strange, deceased. Plaintiff WILLIAM A. STRANGE is the decedent's surviving spouse. RYLAND STRANGE, JORIE STRANGE, and KEEGAN SIMS are the decedent's only children. Plaintiff RONALD E. SIMS is the natural father of minor Keegan Sims. Defendants ENTERCOM SACRAMENTO, LLC, ENTERCOM COMMUNICATIONS, CORP. and DOES 11 through 20 (hereinafter "ENTERCOM") are corporations, limited liability corporations, partnerships, and/or business entities of some other form licensed to do business, and actually doing business, in California. Defendants, JOHN GEARY, STEVE WEED, ROBIN PECHOTA, LIZ DIAZ, and DOES 21 through 30 (hereinafter "MANAGING AGENTS"), at all relevant times were employed by and officers, directors or managing agents of ENTERCOM and DOES 11 through 20. Defendants ADAM COX, STEVE MANEY, PATRICIA SWEET, MATT CARTER, and DOES 1 through 10 (hereinafter, "THE TALENT"), were at all times employees of Defendants ENTERCOM, and DOES 11 through 20, and acting in the course and scope of their employment. THE TALENT are all citizens of the State of California, and reside in Sacramento County. All of the events described herein occurred in Sacramento.

3. ENTERCOM and MANAGING AGENTS at all times owned, operated, managed, marketed and controlled a radio station identified as KDND 107.9 The End, broadcasting in the greater Sacramento area. ENTERCOM and MANAGING AGENTS at all relevant times employed THE TALENT to perform on Defendants' radio program called The Morning Rave, which was broadcast during the hours typically described as "the morning drive." The Morning Rave specialized in playing "Today's Hit Music" combined with juvenile, irreverent comedic routines.

4. Leading up to January 12, 2007, THE TALENT on The Morning Rave promoted and advertised an on-air radio contest known as "Hold your Wee for a Wii." THE TALENT solicited listeners to apply to participate in this contest. Defendants, and each of them, created, devised, orchestrated, organized, arranged and publicized each element of this contest, including marketing the contest to various sponsors and advertisers. Defendants and each of them determined the rules of the contest, the criteria for contest participants, the duration of the contest, and the contest prizes. Defendants and each of them accepted applications for the contest, and screened and selected the final contestants, including decedent Jennifer Strange.

5. The contestants, including decedent, competed for the right to receive a Nintendo Wii video gaming system that has been in high demand since its release to the public late in 2006. The decedent ardently wished to win the Nintendo Wii system for her children, and applied for the contest. The winner of the contest was selected based on which contestant could consume the most water in a three-hour period without urinating. Defendants provided the location and all facilities (including the drinking water) for the contest, which was conducted on-air and in-studio at KDND 107.9 in Sacramento.

6. At no time before the contest did the decedent sign a release of liability contractually relieving any Defendants of their duty of care in organizing and running the contest.

7. At all times, it was foreseeable to Defendants and each of them that the contestants were at risk for serious illness and/or death as the result of consuming extensive amounts of water in a relatively short period of time. At all relevant times preceding the contest, Defendants were aware that consumption of water to such an extent could result in physical injury or death. Defendants had specific knowledge of a relatively recent fraternity hazing incident in Northern California as a result of which a young man died from over-consumption of water. Defendants had specific knowledge of similar contests at other radio stations in California during which contestants required medical attention as a result of their participation. Defendants were specifically informed

before and/or during the contest that the contestants were subject to the risk of serious illness and/or death as a result of their participation.

8. Prior to commencement of the contest, Defendants and each of them failed to conduct a reasonable investigation to determine the relative health risks to prospective contest participants. Defendants negligently failed to consult with appropriate health authorities regarding the relative health risks posed by such an enterprise. Defendants negligently failed to identify specific health risks or inform contest participants, including decedent, of any such risks. Defendants negligently failed to post any health advisories for contest participants, and failed to take any steps to identify prospective participants who might be at risk of injury. Defendants negligently failed to secure any medical professional or para-professional services during the contest, even after the contestants begin feeling ill, and similarly failed to require an examination by a competent physician of each contest participant prior to commencement of the contest. Defendants individually and collectively knew or should have known of the health risks of such a contest, but took no reasonable steps to advise, warn, supervise or otherwise protect contest participants including decedent.

9. The decedent complained of feeling ill while in-studio and before claiming her second place prize on-air. Defendants negligently failed to provide any assistance, medical or otherwise, to any of the contestants, including decedent.

10. The negligence of Defendants caused the death of Jennifer Strange. Had the decedent been properly informed of the health risks associated with the contest, she would not have participated. Had medical professional or para-professional services been provided, the decedent would not have consumed the fatal doses of water, and would have had immediate access to life-saving medical care and treatment as she began to exhibit symptoms consistent with over-consumption of water.

11. Defendants and DOES 31 through 40 otherwise negligently caused or were a substantial factor in causing the death of Jennifer Strange.

///

12. As a direct result of Defendants' negligence and the death of Jennifer Strange, Plaintiffs have sustained economic damages consisting of (1) the value of lost financial and other support from the decedent, (2) the value of gifts or benefits that the decedent would have provided, (3) the value of funeral and burial expenses, and (4) the reasonable value of household services that the decedent would have provided.

13. As a direct result of Defendants' negligence, and the death of Jennifer Strange, Plaintiffs have also sustained non-economic damages consisting of loss of the decedent's love, companionship, comfort, care, assistance, protection, affection, society, and moral support.

Plaintiffs pray for judgment against Defendants for:

a. Non-economic damages in excess of the minimum jurisdictional requirements of this Court;

b. All funeral, burial and other expenses according to proof;

c. Interest to the extent allowed by law;

d. All loss of the decedent's care and support, according to proof;

e. All costs of suit; and

f. Such other and further relief as this Court may deem just and proper.

As a separate second cause of action, Plaintiffs complain against Defendants and allege:

SECOND CAUSE OF ACTION

(SURVIVOR'S ACTION: NEGLIGENCE)

14. Plaintiffs incorporate herein by reference all allegations of the first cause of action as though fully set forth.

15. Plaintiff WILLIAM A. STRANGE, as the surviving spouse of Jennifer Strange, is her Successor in Interest for purposes of bringing an action under CCP Section 377.30, *et. seq.* Plaintiff has and/or will comply with CCP Section 377.32.

16. Prior to her death, Jennifer Strange was required to and did employ physicians and surgeons to examine, treat, and care for her as a result of the injuries and

illness sustained as a result of participating in Defendants' contest. Plaintiffs and/or the decedent incurred medical and incidental expenses in connection therewith. The exact amount of such expense is unknown to Plaintiffs at this time.

17. Plaintiffs are entitled to punitive damages against Defendants and each of them. By cooperating in the orchestration, direction, promotion and marketing of the contest, THE TALENT, at all relevant times acting in the course and scope of their employment by ENTERCOM, MANAGING AGENTS and DOES 11 through 40, engaged in conduct that evidenced a willful and knowing disregard of decedent's safety, while ignoring the probable dangerous consequences of such a contest and deliberately failing to avoid those consequences, despite THE TALENTS' individual and collective awareness of the risks of such conduct. Such conduct was despicable and so vile, base or contemptible that it would be looked down upon and despised by reasonable people. Specifically, Defendants and each of them deliberately failed to undertake sufficient research or investigation to be able to recognize the onset of a medical problem relative to the consumption of vast quantities of water, despite their independent and collective knowledge that such consumption could lead to injury and death. THE TALENT admitted during the broadcast that they should have done more research once various participants, including decedent, began to report medical symptoms. Despite this admission, Defendants, and each of them, failed to act upon clear reports of medical symptoms from decedent that were consistent with the onset of hyponatremia. At no time did Defendants advise decedent to seek medical attention. At no time did Defendants advise decedent to drop out of the contest in response to her symptoms. Instead of offering to provide medical assistance after decedent reported feeling ill, THE TALENT verbally chastised and otherwise coerced her, exhorting her to remain in the contest by threatening that she would be disqualified if she "puked." THE TALENT similarly chastised other contest participants, instructing other personnel to make sure that a participant who appeared to be dead had "signed a release," and emphasizing on numerous occasions those contestants who vomited or urinated would be eliminated.

18. At all relevant times ENTERCOM, MANAGING AGENTS and DOES 11 through 40 were officers, directors or managing agents of said Defendants, empowered to exercise substantial independent authority and judgment in corporate decision capable of determining corporate policy. In that capacity, ENTERCOM, MANAGING AGENTS and DOES 11 through 40 planned, orchestrated, managed, promoted, controlled, supervised, marketed and authorized the despicable conduct of THE TALENT, and otherwise ratified, adopted or approved that conduct, both before and after it occurred. Specifically, said Defendants further ratified the following conduct and on-air comments made by THE TALENT on January 12, 2007:

a. it is possible to die from "water poisoning";

b. references to the Chico hazing incident;

c. admissions that THE TALENT should have "researched" water intoxication before conducting the contest;

d. contestants would be "out of the contest" if they vomited, which would occur "if this gets dangerous."

e. when a nurse called in to complain on-air that drinking excess water would result in illness and possible, death, THE TALENT responded "Yeah, we're aware of that," and "Yeah, they signed releases so we're not responsible so it's okay," and "if they get to the point where they have to throw up then they are out of the game before they die so that's good, right?" THE TALENT then sarcastically thanked the nurse for "looking out for us";

f. joking references to whether anyone was dying in the contestants' room;

g. joking / laughing references to "we've got a guy just about to die," and that THE TALENT should "make sure he signs a release";

h. joking / sarcastic references to bringing in a stretcher for one of the contestants;

i. joking / sarcastic references to insurance in the context of reports that contestants were feeling ill;

j. mocking references to the decedent's distended abdomen from excess water consumption, making her look pregnant, which THE TALENT declared was amusing;

k. sardonic expressions of mock sympathy with the decedent, when she complained on-air that she was feeling ill;

l. comments to the decedent that "This is what it feels like when you're drowning"; and

m. mocking comments to decedent to "get you out of your misery" by offering her a second prize of tickets to a Justin Timberlake concert.

Plaintiffs pray for judgment against Defendants for:

a. All past medical expenses incurred by the decedent, according to proof;

b. Punitive damages, according to proof;

c. Any and all other damages and/or penalties that the decedent would have been able to recover from Defendants, had she lived;

d. All prejudgment interest;

e. Costs of suit incurred herein; and

f. Such other and further relief as the Court may deem just and proper.

As a separate third cause of action, Plaintiffs complain against Defendants and allege:

THIRD CAUSE OF ACTION

(WRONGFUL DEATH: INTENTIONAL / RECKLESS CONDUCT)

19. Plaintiffs incorporate herein by reference all allegations of the first and second causes of action as though fully set forth.

///

///

20. Alternatively, if it is determined that Defendants had no legal duty of care to the decedent, Defendants acted recklessly and/or intentionally in causing the death of Jennifer Strange, based on the facts alleged herein above.

Plaintiffs pray for judgment against Defendants for:

a. Non-economic damages in excess of the minimum jurisdictional requirements of this Court;

b. All funeral, burial and other expenses according to proof;

c. Interest to the extent allowed by law;

d. All loss of the decedent's care and support, according to proof;

e. All costs of suit; and

f. Such other and further relief as this Court may deem just and proper.

As a separate fourth cause of action, Plaintiffs complain against Defendants and allege:

FOURTH CAUSE OF ACTION

(SURVIVOR'S ACTION: INTENTIONAL / RECKLESS COMNDUCT)

21. Plaintiffs incorporate herein by reference all allegations of the first, second, and third causes of action as though fully set forth.

Plaintiffs pray for judgment against Defendants for:

a. All past medical expenses incurred by the decedent, according to proof;

b. Punitive damages, according to proof;

c. Any and all other damages and/or penalties that the decedent would have been able to recover from Defendants, had she lived;

d. All prejudgment interest;

///

///

///

///

e. Costs of suit incurred herein; and

f. Such other and further relief as the Court may deem just and proper.

DATED: 1-25-07

DREYER, BABICH, BUCCOLA & CALLAHAM, LLP

By: _____
ROGER A. DREYER