

FOR COURT USE ONLY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state, number, and address):

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Pro Per - Not an attorney
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TELEPHONE NO: 386-4019

FAX NO. (Optional):

E-MAIL ADDRESS (Optional):

ATTORNEY FOR (Name): Pro Per

NAME OF COURT: Superior Court of California, County of El Dorado

STREET ADDRESS: 3321 Cameron Park Drive

MAILING ADDRESS:

CITY AND ZIP CODE: Cameron Park, CA 95682

BRANCH NAME:

PLAINTIFF: Mark Bixby

DEFENDANT: Marty DePaoli, Allison DePaoli and

EL DORADO CO. SUPERIOR CT.

FILED AUG 12 2003

BY *Jane L. Behelean*
Deputy

DOES 1 TO 50

COMPLAINT—Personal Injury, Property Damage, Wrongful Death

AMENDED (Number):

Type (check all that apply):

MOTOR VEHICLE OTHER (specify):

Property Damage Wrongful Death

Personal Injury Other Damages (specify):

Jurisdiction (check all that apply):

ACTION IS A LIMITED CIVIL CASE

Amount demanded does not exceed \$10,000

exceeds \$10,000, but does not exceed \$25,000

ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)

ACTION IS RECLASSIFIED by this amended complaint

from limited to unlimited

from unlimited to limited

CASE NUMBER:

PC 20030449

1. PLAINTIFF (name): Mark Bixby

alleges causes of action against DEFENDANT (name): Marty DePaoli, Allison DePaoli and Does 1 to 50

2. This pleading, including attachments and exhibits, consists of the following number of pages: 5

3. Each plaintiff named above is a competent adult

a. except plaintiff (name):

(1) a corporation qualified to do business in California

(2) an unincorporated entity (describe):

(3) a public entity (describe):

(4) a minor an adult

(a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed

(b) other (specify):

(5) other (specify):

b. except plaintiff (name):

(1) a corporation qualified to do business in California

(2) an unincorporated entity (describe):

(3) a public entity (describe):

(4) a minor an adult

(a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed

(b) other (specify):

(5) other (specify):

Information about additional plaintiffs who are not competent adults is shown in Complaint Attachment 3.

P6

4. Plaintiff (*name*):
is doing business under the fictitious name (*specify*):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

- a. **except** defendant (*name*):
 - (1) a business organization, form unknown
 - (2) a corporation
 - (3) an unincorporated entity (*describe*):
 - (4) a public entity (*describe*):
 - (5) other (*specify*):

- c. **except** defendant (*name*):
 - (1) a business organization, form unknown
 - (2) a corporation
 - (3) an unincorporated entity (*describe*):
 - (4) a public entity (*describe*):
 - (5) other (*specify*):

- b. **except** defendant (*name*):
 - (1) a business organization, form unknown
 - (2) a corporation
 - (3) an unincorporated entity (*describe*):
 - (4) a public entity (*describe*):
 - (5) other (*specify*):

- d. **except** defendant (*name*):
 - (1) a business organization, form unknown
 - (2) a corporation
 - (3) an unincorporated entity (*describe*):
 - (4) a public entity (*describe*):
 - (5) other (*specify*):

Information about additional defendants who are not natural persons is contained in Complaint —Attachment 5.

6. The true names and capacities of defendants sued as Does are unknown to plaintiff.

7. Defendants who are joined pursuant to Code of Civil Procedure section 382 are (*names*):

8. This court is the proper court because

- a. at least one defendant now resides in its jurisdictional area.
- b. the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
- c. injury to person or damage to personal property occurred in its jurisdictional area.
- d. other (*specify*):

9. Plaintiff is required to comply with a claims statute. **and**
a. plaintiff has complied with applicable claims statutes. **or**
b. plaintiff is excused from complying because (*specify*):

SHORT TITLE:
Bixby v. DePaoli et. al

CASE NUMBER:

10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more*)
- a. Motor Vehicle
 - b. General Negligence
 - c. Intentional Tort
 - d. Products Liability
 - e. Premises Liability
 - f. Other (*specify*):
11. Plaintiff has suffered
- a. wage loss
 - b. loss of use of property
 - c. hospital and medical expenses
 - d. general damage
 - e. property damage
 - f. loss of earning capacity
 - g. other damage (*specify*):
12. The damages claimed for wrongful death and the relationships of plaintiff to the deceased are
- a. listed in Complaint —Attachment 12.
 - b. as follows:
13. The relief sought in this complaint is within the jurisdiction of this court.
14. **PLAINTIFF PRAYS** for judgment for costs of suit; for such relief as is fair, just, and equitable; and for
- a. (1) compensatory damages
 - (2) punitive damages
- The amount of damages is (*you must check (1) in cases for personal injury or wrongful death*):
- (1) according to proof
 - (2) in the amount of: \$
15. The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):

Date: 8/11/2003

Mark Bixby, In Pro Per Plaintiff

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:

Bixby v. DePaoli et. al

CASE NUMBER:

First

(number)

CAUSE OF ACTION-General Negligence

Page

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ATTACHMENT TO Complaint Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN- 1. Plaintiff (name): Mark Bixby

alleges that defendant (name): Marty DePaoli, Allison DePaoli and

Does 1 to 50

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): 8/12/02

at (place): 31 Guadelupe Drive, El Dorado Hills, CA 95672

(description of reasons for liability):

The defendants owned and maintained the property discribed above. Plaintiff was hired to do some construction work at the property. The defendants negligantly maintained the property and allowed potholes to be present on property that was to be leveled by defendants. As a result, plaintiff stepped into a pothole and injured his left knee.

2nd
(number)

CAUSE OF ACTION--Premises Liability

Page 5

ATTACHMENT TO Complaint Cross - Complaint

(Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff (name): Mark Bixby
 alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.
 On (date): 8/12/02 plaintiff was injured on the following premises in the following
 fashion (description of premises and circumstances of injury):
 The defendants owned and maintained the property discribed above. Plaintiff was hired to do some
 construction work at the property. The defendants negligantly maintained the property and allowed
 potholes to be present on property that was to be leveled by defendants. As a result, plaintiff
 stepped into a pothole and injured his left knee.

Prem.L-2. **Count One--Negligence** The defendants who negligently owned, maintained, managed and operated
 the described premises were (names): Marty DePaoli, Allison DePaoli

Does 1 to 10

Prem.L-3. **Count Two--Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully
 or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were
 (names): Marty DePaoli, Allison DePaoli

Does 11 to 20

Plaintiff, a recreational user, was an invited guest a paying guest.

Prem.L- 4. **Count Three--Dangerous Condition of Public Property** The defendants who owned public property
 on which a dangerous condition existed were (names):

Does _____ to _____

- a. The defendant public entity had actual constructive notice of the existence of the
 dangerous condition in sufficient time prior to the injury to have corrected it.
- b. The condition was created by employees of the defendant public entity.

Prem.L-5. a. **Allegations about Other Defendants** The defendants who were the agents and employees of the
 other defendants and acted within the scope of the agency were (names):Marty DePaoli, Allison

Does 21 to 40

- b. The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are
 described in attachment Prem.L-5.b as follows (names): Does 41 to 50