

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

JAMES WEIDNER, SHEILA WEIDNER,
individually and as representatives of their minor son,
J.M.W., their minor daughter **M.R.W.** and their minor
son **J.T.W.**,

Plaintiffs,

v.

**YOLANDA TEBROSA-NEDINA; DOE-TEBROSA
CONJUGAL PARTNERSHIPS; ABC INSURANCE
COMPANIES, INC; MOES I-X,**

Defendants.

CIVIL NO.: 12-1940 (---)

RE: TORT ACTION FOR
PERSONAL INJURY
PURSUANT TO ARTS. 1802
AND 1803 OF THE PUERTO
RICO CIVIL CODE, 31 P. R.
Laws Ann. secs. 5141 and
5142.

JURY TRIAL DEMANDED

COMPLAINT

TO THE HONORABLE COURT:

APPEAR NOW the Plaintiffs, **JAMES WEIDNER, SHEILA WEIDNER**, individually and as representatives of their minor son, **J.M.W.**, their minor daughter **M.R.W.** and their minor son **J.T.W.** (hereinafter referred to as "Plaintiffs"), through the undersigned counsel, and hereby state, allege, and request as follows:

JURISDICTIONAL BASIS

1. Plaintiffs are citizens of, domiciled in, and reside in Puerto Rico.
2. Defendants are individuals who reside in Florida or a state other than Puerto Rico.

3. The matter in controversy exceeds the sum of SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00), exclusive of interest and costs, thus vesting jurisdiction on this Honorable Court pursuant to 28 U.S.C. § 1332.
4. Venue is proper in the District of Puerto Rico pursuant to 28 U.S.C. §1391, since the events or omissions giving rise to this claim occurred in this district and Co-Defendant **YOLANDA TEBROSA-NEDINA** has minimum contacts in Puerto Rico.

THE PARTIES

5. Plaintiff **JAMES WEIDNER** (hereinafter "Mr. Weidner"), a citizen of Puerto Rico, is the father and guardian of the minor J.M.W., who was severely hurt upon accidentally walking against a glass pane which broke upon impact on December 30, 2011, at a residence in Palmas del Mar, #11 Harbour View , in Humacao, Puerto Rico.
6. Plaintiff **SHEILA WEIDNER** (hereinafter "Mrs. Weidner"), a citizen of Puerto Rico, is the mother and guardian of the minor J.M.W., who was severely hurt upon accidentally walking against a glass pane which broke upon impact on December 30, 2011, at a residence in Palmas del Mar, #11 Harbour View , in Humacao, Puerto Rico.
7. Plaintiff **J.M.W.** (hereinafter "minor J.M.W."), a citizen of Puerto Rico, represented by his guardians **JAMES WEIDNER** and **SHEILA WEIDNER**, was severely hurt on December 30, 2011, upon accidentally walking against a glass pane which broke upon impact at a residence in Palmas del Mar, #11 Harbour View, Humacao, Puerto Rico.

8. Plaintiff **M.R.W.** (hereinafter "minor M.R.W."), a citizen of Puerto Rico, represented by her guardians **JAMES WEIDNER** and **SHEILA WEIDNER**, is J.M.W.'s sister who, at age 14, witnessed the accident on December 30, 2011 that caused her brother severe bodily harm, upon accidentally walking against a glass pane which broke upon impact at a residence in Palmas del Mar, #11 Harbour View, Humacao, Puerto Rico.
9. Plaintiff **J.T.W.** (hereinafter "minor J.T.W."), a citizen of Puerto Rico, represented by his guardians **JAMES WEIDNER** and **SHEILA WEIDNER**, is J.M.W.'s brother who, at age 9, witnessed the accident on December 30, 2011 that caused his brother severe bodily harm, upon accidentally walking against a glass pane which broke upon impact at a residence in Palmas del Mar, #11 Harbour View, Humacao, Puerto Rico.
10. Co-Defendant **YOLANDA TEBROSA-NEDINA**, a citizen of the state of Florida, is the owner of the property located at Palmas del Mar, #11 Harbour View, in Humacao, Puerto Rico, where the minor J.M.W. was severely hurt upon accidentally walking against a glass pane which broke upon impact on December 30, 2011.
11. Co-Defendant **DOE-TEBROSA CONJUGAL PARTNERSHIP** is comprised of Mrs. Tebrosa-Nedina and her spouse, which conjugal partnership received economic benefit from the income derived from the rent of the property at Palmas del Mar, #11 Harbour View, in Humacao, Puerto Rico and, as such, is jointly and severally liable to Plaintiff for the damages caused to the minor J.M.W.
12. Co-Defendants unknown joint tortfeasors **MOES I-X** are individuals or corporations fictitiously named herein, to be later replaced by their actual names,

which may become known through further discovery in this litigation, and who may be liable to Plaintiffs, in whole or in part, for the actions and/or omissions herein described, encompassing the relevant period of time, and the damages suffered by Plaintiffs.

13. Co-Defendants **ABC INSURANCE COMPANIES, INC.** are corporations with their principal place of business in a state other than Puerto Rico, which have issued one or more insurance policies for public responsibility on behalf of one or more of the Co-Defendants and/or one or more of the unidentified joint tortfeasors in this action, for the acts or omissions described herein, encompassing the relevant period of time.
14. Pursuant to 26 P.R. Laws Ann. § 2001, a direct action may be brought in the Commonwealth of Puerto Rico against a casualty or liability insurance carrier for the negligence or fault of its insured.
15. Pursuant to 26 P.R. Laws Ann. § 2003, an action against an insurer may be brought separately or may be joined with an action against its insured.

GENERAL ALLEGATIONS

16. On December 30, 2011, at the age of eleven (11), the minor J.M.W., together with his mother, brother J.T.W. and sister M.R.W, visited friends Melisa and Russell Carlson at the residence located at Palmas del Mar, #11 Harbour View, in Humacao, Puerto Rico, to enjoy an afternoon at the pool.
17. On or about December 10, 2011, Melisa and Russell Carlson rented the aforementioned property from Co-Defendant Yolanda Tebrosa-Nedina.

18. Upon making his way out onto the yard of the residence, in order to enjoy the pool, minor J.M.W. collided with the glass pane that separated the inside of the residence from the yard. The sliding glass door contiguous to the pane was closed at the time.
19. The glass pane broke into pieces upon the impact, causing the minor J.M.W. multiple severe wounds and cuts.
20. The minor J.M.W. was so severely cut because the glass on the pane was inappropriate for the location and use of such division between the outside and the inside of the residence.
21. Upon being cut by the glass, minor J.M.W. screamed loudly in pain.
22. Minor J.M.W.'s mother immediately approached him, as she was standing in the immediate vicinity to where the accident happened.
23. Mrs. Weidner found her minor son holding onto his right leg, while blood pooled all over the floor.
24. J.M.W.'s then 14-year-old sister and 9-year-old brother witnessed their brother's excruciating pain, the blood pooling on the floor and lived the havoc that broke within the previously leisurely activity.
25. Minor J.M.W. was driven to the emergency room at Ryder Hospital in Humacao by Amy Scullion, a friend and witness to the accident, in the company of his mother and Russell Carlson.
26. Upon his mother's departure with ailing J.M.W., J.T.W. remained behind with his sister, upset and crying.

27. At Ryder Hospital, minor J.M.W. withstood the excruciatingly painful process of getting his wounds cleaned up.
28. The physicians at Ryder Hospital assessed that J.M.W.'s wounds were too severe to be treated at that facility, and J.M.W. was taken by ambulance to the Medical Center in Río Piedras.
29. A number of x-rays had to be taken to ensure that there was no residual glass in minor J.M.W.'s body.
30. J.M.W. spend the night of December 30, 2011 at the hospital.
31. At approximately 4:00 pm on December 31, 2011, J.M.W. underwent multiple surgeries at the Medical Center in Río Piedras.
32. An orthopedic surgeon informed Mr. and Mrs. Weidner that J.M.W.'s patella had been fractured, that the glass had cut through the growth plate in J.M.W.'s right leg, that muscle, ligaments and tendons in J.M.W.'s right knee had been lacerated, that tendons in his right foot and two fingers in his left hand had also been lacerated and that the multiple lacerations in his hands, legs and feet had to be sutured.
33. J.M.W.'s right leg was placed in a cast that extended from his toes to his hip; his left leg was in a half cast that extended from his toes to his knee; his left arm was in a half cast from his fingertips to his elbow.
34. After the multiple surgeries, J.M.W. was transferred to the Pediatric Intensive Care Unit at the Hospital Pediátrico Universitario de Puerto Rico, where he remained for four (4) days, from December 31, 2011 until January 3, 2012.
35. J.M.W. was unable to attend school for approximately three (3) months after the accident.

36. The first six weeks of his recovery, J.M.W. remained at home in a hospital bed; the following two months, J.M.W. was still at home but able to use a wheelchair.
37. Upon returning to school approximately three months after the accident, J.M.W. continued to use a wheelchair for an additional two months, moving on to use crutches and, eventually, a cane to move about, approximately, five months after the accident.
38. After leaving the hospital and through the month of April 2012, J.M.W. kept weekly and biweekly follow-up appointments with the orthopedic surgeon that was his attending physician at the Centro Médico.
39. Minor J.M.W. underwent months of extensive physical therapy, including water therapy, having to travel to San Juan from Humacao to obtain some of this treatment.
40. In between therapy appointments, J.M.W. did, and continues to do, additional physical therapy at home.
41. J.M.W.'s right leg is smaller in circumference than his left leg because it incurred in atrophy and muscle loss as a direct result from the forced lack of use after the accident.
42. More recently, J.M.W. has been directed to take crossfit courses to increase mobility and muscle mass in his right leg.
43. In July 2012, physicians at the Duke University Medical Center in Durham, North Carolina suggested that J.M.W.'s right knee may need additional surgery in the future.

44. Additional x-rays taken in July 2012 at the Duke University Medical Center show a loose bone/calcification and extensive scar tissue in J.M.W.'s right knee.
45. Also at the Duke University Medical Center, J.M.W. was guided through a physical therapy program that he does at home in order to gain strength and muscle mass in his right leg.
46. In August 2012, J.M.W. underwent additional surgery to remove internal sutures from his right foot and left hand, areas that, up to that moment, had been very painful to him.
47. Approximately six weeks after the accident, J.M.W. began doing physical therapy, with various providers and at home. As of the date of this filing, minor J.M.W. is still undergoing physical therapy and has not yet recovered full mobility in his right knee.
48. Before the accident J.M.W. used to run as much as four (4) miles and worked out on his own doing sit-ups and push-ups (up to 125).
49. J.M.W. enjoyed most sports activity, particularly cycling and surfing.
50. More than ten (10) months after the unfortunate event, J.M.W. is barely beginning to engage again in some of his favorite activities, however with limited mobility.
51. Mr. and Mrs. Weidner, as well as J.M.W.'s two minor siblings, M.R.W. and J.T.W., have personally cared for him throughout this painful ordeal.
52. Plaintiff minor J.M.W. has suffered severe physical pain, deprivation of his mobility and social life and intense emotional pain and suffering as a direct result of Defendants' negligence, which directly caused the accident that resulted in severe wounds and cuts to him.

53. Plaintiffs Mr. and Mrs. Weidner, M.R.W. and J.T.W. have suffered intense emotional pain and suffering upon watching their minor son and brother endure severe physical pain, long-term deprivation of mobility, school and social life, and intense emotional pain and suffering as a direct result of Defendants' negligence, which directly caused the accident that resulted in severe wounds and cuts to 11-year-old J.M.W.
54. Plaintiffs Mr. and Mrs. Weidner have suffered intense emotional pain and suffering upon being advised that the full extent of J.M.W.'s physical damages is yet to be known, as he was severely wounded during his growth years and, in particular, the glass cut through the growth plate on his right knee.
55. Plaintiffs M.R.W. and J.T.W. have suffered intense emotional pain and suffering upon not being able to erase the images from what they label as a horrific experience and have expressed and continue to express concern and uncertainty regarding the wellbeing of their brother in light of his wounds and their own wellbeing upon not being able to push the images of the accident aside.
56. Plaintiffs Mr. and Mrs. Weidner have suffered intense emotional pain and suffering upon observing their other two minor children, who witnessed the accident, stress to erase the horrible images that remain with them and listening to their expressions of concern and uncertainty regarding the wellbeing of their brother in light of his wounds and their own wellbeing upon not being able to push the images of the accident aside.

**FIRST CAUSE OF ACTION FOR NEGLIGENCE UNDER
ARTICLES 1802 AND 1803 OF THE PUERTO RICO CIVIL CODE
AGAINST YOLANDA TEBROSA-NEDIDA AND MOES I-X**

57. The factual allegations contained above are incorporated by reference as if again fully set forth herein
58. Defendants, through their own acts or omissions or the acts or omissions of their employees, agents, representatives, or assignees, have caused damages to all the Plaintiffs through fault or negligence in violation of 31 L.P.R.A. §5141 and/or 31 L.P.R.A. §5142.
59. On or about December 30, 2011, the Defendants, their agents, servants and/or employees owned, operated, offered for rent and/or managed the residential property at Palmas del Mar. #11 Harbour View, Humacao, Puerto Rico.
60. On or about December 30, 2011, the Defendants, their agents, servants and/or employees were responsible for the maintenance and safety of the features of the residential property at Palmas del Mar. #11 Harbour View, Humacao, Puerto Rico, including the glass pane and door that provided access to the outside yard and swimming pool.
61. At all times herein relevant, it was the duty of Defendants, their agents, servants and/or employees to maintain the residential property at Palmas del Mar. #11 Harbour View, Humacao, Puerto Rico and its features in safe and suitable condition and in good repair.
62. At all times herein relevant, it was the duty of Defendants, their agents, servants and/or employees to provide a suitable and safe residential property for rent that

did not harbor potential injury and/or unmarked dangerous conditions to renters and/or their guests and/or invitees.

63. At all times herein relevant, it was the duty of Defendants, their agents, servants and/or employees to provide a suitable and safe area for walking to and from the outside yard and swimming pool of the residential property at Palmas del Mar, #11 Harbour View, Humacao, Puerto Rico, that did not harbor potential injury and/or unmarked dangerous conditions to renters and/or their guests and/or invitees.
64. At all times herein relevant, the Defendants, their agents, servants and/or employees failed to properly maintain the residence at Palmas del Mar, #11 Harbour View, Humacao, Puerto Rico, including the glass pane and door that led to the outside area of the residence, in a reasonably safe and suitable condition and in good repair.
65. The Defendants, their agents, servants and/or employees acted negligently, carelessly and recklessly upon failing to provide a suitable and safe glass pane providing access to the outside area of the residence at Palmas del Mar, #11 Harbour View, Humacao, Puerto Rico, that did not harbor potential injury and/or unmarked dangerous conditions to renters and/or their guests and/or invitees.
66. On or about December 30, 2011, the Defendants, their agents, servants and/or employees breached their duty to properly maintain the glass pane and door that provided access to the outside area of the residence at Palmas del Mar, #11 Harbour View, Humacao, Puerto Rico, in a reasonably safe and suitable condition and in good repair.

67. Defendants, their agents, servants and/or employees knew or should have known that the maintenance of glass panes which did not incorporate glass that would not shatter upon impact in a manner that would cause grave or severe harm was dangerous, as unsuspecting renters and/or guests and/or invitees could collide with the glass pane, break it and get severely hurt.
68. Defendants, their agents, servants and/or employees knew or should have known that grave injuries could occur to individuals who accidentally collided with a glass pane containing glass type inappropriate for its location and use, occasioning that it break.
69. As a direct and proximate result of Defendants' negligent act or omissions and/or the negligent acts or omissions of their employees, agents, or assignees, Plaintiff minor son J.M.W.'s collision with the glass pane at Palmas del Mar, #11 Harbour View, Humacao, Puerto Rico caused him severe injuries which, in turn, have caused him substantial damages in the form of intense physical and emotional pain and suffering.
70. As a direct and proximate result of Defendants' negligent act or omissions and/or the negligent acts or omissions of their employees, agents, or assignees, Plaintiffs James Weidner, Sheila Weidner, M.R.W. and J.T.W. have been caused intense pain and suffering upon having seen and continuing to see their minor son and brother endure severe physical pain, long-term deprivation of mobility, school and social life, and intense emotional pain and suffering as a direct result of Defendants' negligence.

71. As a direct and proximate result of Defendants' negligent act or omissions and/or the negligent acts or omissions of their employees, agents, or assignees, all Plaintiffs have been caused intense pain and suffering upon confronting and continuing to confront the uncertainty regarding J.M.W.'s recovery from his severe injuries.

**SECOND CAUSE OF ACTION AGAINST
THE CONJUGAL PARTNERSHIP**

72. The allegations contained above are incorporated by reference as if again fully set forth herein.
73. The activities by which the individual defendant caused Plaintiffs' damages were activities which benefitted the conjugal partnerships referred to herein as Doe-Tebrosa Conjugal Partnerships, as Plaintiffs lack information as to the actual names of such conjugal partnership .
74. As such, the Doe-Tebrosa Conjugal Partnership is jointly and severally liable to Plaintiffs for the damages caused by the Defendant Yolanda Tebrisa-Medina.

**THIRD CAUSE OF ACTION
AGAINST ABC INSURANCE COMPANIES**

75. The allegations contained above are incorporated herein by reference as if again fully set forth.
76. The insurance companies of any named or unnamed Defendants, the ABC Insurance Companies are directly liable for the fault or negligence of the insured pursuant to 26 P.R. Laws Ann. § 2001.

77. Pursuant to 26 P.R. Laws Ann. § 2003, this action is brought directly against ABC Insurance Companies, jointly with the action brought against the insured/s.

DAMAGES

78. The allegations contained above are incorporated herein by reference as if again fully set forth.
79. Plaintiff minor J.M.W. has suffered severe physical pain, deprivation of his mobility and social life and intense emotional pain and suffering as a direct result of the negligent acts and/or omissions of the Defendants, their agents, servants and/or employees', which directly caused the accident that resulted in severe wounds and cuts to him.
80. As a direct result of the negligent acts and/or omissions of the Defendants, their agents, servants and/or employees, Plaintiff minor J.M.W. suffered a fractured patella, a piece of glass cut through the growth plate in his right leg, lacerated tendons, ligaments and muscles in his right knee, lacerated tendons in his right foot and two fingers in his left hand and multiple lacerations in his hands, legs and feet that had to be sutured.
81. As a direct result of the negligent acts and/or omissions of the Defendants, their agents, servants and/or employees, Plaintiff minor J.M.W. endured multiple surgeries, a prolonged term of immobility and a prolonged absence from school, most social life and all sports activity and continues to suffer months of various modalities of physical therapy and atrophy and muscle loss in his right leg.
82. As a direct result of the negligent acts and/or omissions of the Defendants, their agents, servants and/or employees, Plaintiff minor J.M.W. faces the uncertainty of

future surgeries, the possibility of experiencing only partial recovery of his various injuries and yet to be discovered effects of the injuries upon his growth.

83. As a direct result of the negligent acts and/or omissions of the Defendants, their agents, servants and/or employees, Plaintiff minor J.M.W. experiences mental anguish, pain and suffering due to the ingoing nature of his injuries.
84. As a direct result of the acts or omissions of the Defendants, their agents, servants and/or employees, which directly caused the accident that resulted in severe wounds and cuts to J.M.W., their beloved son and brother, Plaintiffs James and Sheila Weidner, M.R.W. and J.T.W. have suffered and continue to suffer intense emotional pain and suffering upon having watched him and continuing to watch him endure severe physical pain, long-term deprivation of mobility, school sports and social life, and intense emotional pain and suffering.
85. As a direct result of the acts or omissions of the Defendants, their agents, servants and/or employees, which directly caused the accident that resulted in severe wounds and cuts to J.M.W., their beloved son and brother, all Plaintiffs have suffered and continue to suffer intense emotional pain and suffering upon being advised that the full extent of J.M.W.'s physical damages is yet to be know, as he was severely wounded during his growth years and, in particular, glass cut through the growth plate on his right knee.
86. As a direct result of the acts or omissions of the Defendants, their agents, servants and/or employees, which directly caused the accident that resulted in severe wounds and cuts to J.M.W., their much loved brother, Plaintiffs M.R.W. and J.T.W. have suffered intense emotional pain and suffering upon seeing their life at home

be dramatically altered by the need to provide care to their severely hurt brother, experiencing, thus, part of the immobility and deprivation of social life that was imposed on J.M.W. by the accident.

87. As a direct result of the acts or omissions of the Defendants, their agents, servants and/or employees, which directly caused the accident that resulted in severe wounds and cuts to J.M.W., their much loved brother, Plaintiffs M.R.W. and J.T.W. have suffered intense emotional pain and suffering upon not being able to erase the images from what they label as a horrific experience and have expressed and continue to express concern and uncertainty regarding the wellbeing of their brother in light of his wounds and their own wellbeing upon not being able to push the images of the accident aside.
88. As a direct result of the acts or omissions of the Defendants, their agents, servants and/or employees, which directly caused the accident that resulted in severe wounds and cuts to J.M.W., their beloved son, Plaintiffs James and Sheila Weidner have suffered and continue to suffer intense emotional pain and suffering upon observing their other two minor children, who witnessed the accident, stress to erase the horrible images that remain with them and listening to their expressions of concern and uncertainty regarding the wellbeing of their brother in light of his wounds and their own wellbeing upon not being able to push the images of the accident aside.
89. As a direct result of the negligence of the Defendants, their agents, servants and/or employees, which directly caused the accident that resulted in severe wounds and cuts to J.M.W., their beloved son, Plaintiffs James and Sheila Weidner have

experienced and will continue to experience past and future special damages, related but not limited to the expense incurred in past and future medical treatments, medications and therapies for J.M.W.

90. Plaintiff J.M.W.'s past, present and future damages, in the form of physical pain and suffering, have a reasonable value of no less than **ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000.00)**.
91. Plaintiff J.M.W.'s past, present and future damages, in the form of emotional pain and suffering, have a reasonable value of no less than **ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000.00)**.
92. Plaintiff James Weidner's past, present and future emotional damages have a reasonable value of not less than **SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000.00)**.
93. Plaintiff Sheila Weidner's past, present and future emotional damages have a reasonable value of not less than **SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000.00)**.
94. Plaintiff M.R.W.'s past, present and future damages, in the form of emotional pain and suffering, have a reasonable value of no less than **TWO HUNDRED THOUSAND DOLLARS (\$200,000.00)**.
95. Plaintiff J.T.W.'s past, present and future damages, in the form of emotional pain and suffering, have a reasonable value of no less than **TWO HUNDRED THOUSAND DOLLARS (\$200,000.00)**.

96. Plaintiffs James and Sheila Weidner past, present and future special damages have a reasonable value of not less than **FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00)**.

TRIAL BY JURY DEMANDED

97. Plaintiffs hereby demand trial by jury.

WHEREFORE, Plaintiff demands judgment against Defendants jointly and severally, in the amount of no less than **FOUR MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$4,800,000.00)**, as well as costs incurred, reasonable attorneys' fees, and such other and further relief as this Honorable Court may seem just and proper under the circumstances.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico this ---- day of November, 2012.

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