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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES CENTRAL DISTRICT**

CARLA GATLIN and SUSAN
YBARRA-TELIAS, Individually and as
Successors-In-Interest of decedent Baylee
Ybarra Gatlin,

Plaintiffs,

v.

DO LAB INC.; MULTIDISCIPLINARY
ASSOCIATION FOR PSYCHEDELIC
STUDIES, INC., a.k.a. MAPS, INC.;
ZENDO PROJECT, a business entity form
unknown; RGX MEDICAL, business entity
form unknown; RICHARD GOTTLIEB, an
individual; and Does 1 through 20, inclusive,

Defendants.

CASE NO. BC706951

**THIRD AMENDED COMPLAINT FOR
DAMAGES:**

**1. WRONGFUL DEATH;
2. SURVIVAL ACTION FOR
FRAUD/FALSE PROMISE;
3. SURVIVAL ACTION FOR
NEGLIGENT MISREPRESENTATION;
4. SURVIVAL ACTION FOR
NEGLIGENT SUPERVISION/HIRING**

AND DEMAND FOR JURY TRIAL

Assigned Dept.: 72
Honorable Ruth A. Kwan

Trial date: Not yet set
Original Complaint filed: May 21, 2018

Plaintiffs allege as follows:

1 1. Plaintiffs seek damages for the death of their cherished 20 year old daughter,
2 Baylee Ybarra Gatlin, who died on May 28, 2017, as result of defendants' wrongful conduct at a
3 multi-day music and arts festival operated, controlled and managed by defendants, and each of
4 them. By operating, managing and controlling this festival, known as Lightning in a Bottle,
5 "LiB", defendants, and each of them, and their directors and officers, assumed a duty of care to
6 the festival attendees and represented to the public and festival attendees that this would be a
7 safe event wherein highly qualified personnel would be on-site to respond to life-threatening
8 emergencies, including but not limited to dehydration, injuries, overexposure, medical
9 complications and drug and alcohol consumption related life threatening emergencies. Instead
10 of arranging for qualified competent personnel to oversee, control manage, and assess and triage
11 all festival attendees in need, defendants, and each of them, arranged for so called "harm
12 reduction" entities to provide non-medical care for festival attendees suffering from adverse
13 consequences of dehydration, overexposure, and/or drug use. Instead of controlling their festival
14 in accordance with the laws, and seeking to prevent the use of illegal drugs, defendants and each
15 of them, and their officers and directors advised attendees that they would be taken care of, that
16 there were both medical and harm reduction facilities available; that attendees would be kept
17 safe. These defendant entities essentially provided a "sanctuary tent" devoid of qualified,
18 experienced festival personnel, staffed by volunteers, for festival attendees suffering from a "bad
19 trip." The defendants' conduct, and each of them and their officers and directors, created a
20 hidden deathtrap for festival attendees who required safety, proper medical assessment and
21 triage. Defendants, and each of them, and their directors and officers' false promises and
22 representations, made in reckless disregard for and in violation of all LiB plans submitted to the
23 County of Monterey for the 2017 festival, provided nothing but a place for the reliant attendees
24 to die without safety precautions, proper medical treatment and triage.

25 2. When faced with festival attendee Baylee Ybarra Gatlin who presented with life
26 threatening symptoms (incoherence, dribbling upon herself, looping conversations,
27 uncontrollable shaking, vomiting, incontinence of bowels and bladder, foaming at the mouth and
28 spiking temperature), defendants, and each of them, who knew or should have known that Ms.
Gatlin was in need of emergent care, directed her to a "harm reduction" tent and held her there
for approximately six hours, at the conclusion of which, defendants apparently finally
determined that they should call for an ambulance to evacuate Ms. Gatlin to a hospital. As a
result of defendants' conduct, Baylee Ybarra Gatlin, who was only 20 years old at the time of

1 her death, suffered severe respiratory distress and cardiac arrest while being transported by
2 ambulance from the festival to a hospital. She died from multi-organ failure, hyperthermia
3 (overheating,) dehydration and its sequelae. Had there been a prompt, timely and proper
4 assessment and triage as per the plans submitted by defendants, and each of them, to the County
5 of Monterey, which assessment they knew should have included qualified medical personnel,
6 Baylee Ybarra Gatlin would not have died. Had defendants' and each of them, and their officers
7 and directors, abided by their promises to safeguard the attendees, making safety their highest
8 priority, decedent would not have died. Instead the defendants, and each of them, deviated from
9 their plans submitted to the County of Monterey, and in direct contradiction to those plans and
10 their festival advertisements and promises to keep all attendees safe, they caused the harm to
11 plaintiffs and loss of life of Baylee Ybarra Gatlin.

11 **THE PARTIES**

12 3. Plaintiff CARLA GATLIN (hereinafter GATLIN) is, and at all relevant times
13 was, a resident of the County of Ventura, State of California. Plaintiff was the mother and
14 parent of Baylee Ybarra Gatlin, deceased (hereinafter Baylee Gatlin or decedent), and she brings
15 this complaint both as an individual and as successor in interest pursuant to Code of Civil
16 Procedure section 377.30 as to the causes of action of decedent's estate. As an heir of decedent,
17 plaintiff GATLIN is entitled to, and hereby does, bring a wrongful death action.

18 4. Plaintiff SUSAN YBARRA TELIAS (hereinafter YBARRA TELIAS) is, and at
19 all relevant times was, a resident of the County of Ventura, State of California. Plaintiff was the
20 natural mother and parent of decedent, and she brings this complaint both as an individual and as
21 successor in interest pursuant to Code of Civil Procedure section 377.30 as to the causes of
22 action of decedent's estate. As an heir of decedent, plaintiff YBARRA TELIAS is entitled to,
23 and hereby does, bring a wrongful death action.

24 5. Defendant DO LAB INC. (hereinafter DO LAB) is, and at all relevant times was,
25 a California corporation with its principal place of business located at 1024 Santee Street, Suite
26 600, Los Angeles, California, with its corporate officers and directors comprised of a family of
27 three brothers, Jesse Fleming, Josh Fleming, and Jason Fleming. At all relevant times, DO LAB
28 was doing business as an event producer, promoter, and manager in various California counties,
including, but not limited to, the County of Los Angeles, State of California, and was the event
producer, promoter and manager of LiB in 2017 at the time of decedent's attendance at the
festival.

1 6. Defendant MULTIDISCIPLINARY ASSOCIATION FOR PSYCHEDELIC
2 STUDIES, INC., a.k.a. MAPS, INC. (hereinafter MAPS) is, and at all relevant times was, a
3 foreign non-profit corporation incorporated in the State of Florida, and licensed to conduct and
4 do business in the State of California, with its principal place of business located at 1115
5 Mission Street, Santa Cruz, California. At all relevant times, MAPS was doing business in the
6 field of psychedelic harm reduction services at music festivals and concerts, including at LiB in
7 2017 at the time of decedent's attendance at the festival and provided, managed and operated the
8 sanctuary tent where Baylee Gatlin spent the majority of her final hours on this earth.

9 7. The ZENDO PROJECT (hereinafter ZENDO) is, and at all relevant times was, an
10 agent, subsidiary, service provider and affiliated entity with and/or under the direct supervision
11 of MAPS, with ZENDO's principal place of business also at 1115 Mission Street, Santa Cruz,
12 California. At all relevant times, MAPS' ZENDO Project was doing business in the field of
13 psychedelic harm reduction services at music festivals and concerts including at LiB in 2017 at
14 the time of decedent's attendance at the festival and provided, managed and operated the
15 sanctuary tent where Baylee Gatlin spent the majority of her final hours on this earth.

16 8. Defendant RGX MEDICAL (hereinafter RGX) is, and at all relevant times was, a
17 business entity form unknown and is not licensed in the state as a corporation or limited liability
18 company, but lists its principal business address at 635 West Dryden Street, Glendale,
19 California. At all relevant times, RGX was doing business in the field of music festival and
20 concert safety including medical and first aid, and operated first aid stations for the safety of
21 festival goers at LiB, including Baylee Ybarra Gatlin. RGX was listed on the LiB Special Event
22 Medical Plan as providing these services at the 2017 LiB Festival.

23 9. Defendant RICHARD GOTTLIEB (hereinafter GOTTLIEB) is, and at all
24 relevant times was, an individual residing in Los Angeles County, at 1050 East Cypress Avenue,
25 Burbank, California, and the principal in charge of defendant RGX, who was also listed as the
26 Medical Coordinator of the event.

27 10. The word "defendants" as used herein refers collectively to defendants DO LAB,
28 MAPS who operated, controlled, and managed the Zendo Project; RGX, GOTTLIEB; their
directors and officers, and Does 1 through 20, inclusive.

 11. The true names and capacities of DOES 1 through 20, inclusive, whether
individual, association, corporation, or otherwise, are unknown to plaintiffs at this time and leave
of court will be asked to amend this pleading by inserting the true names and capacities when

1 they have been ascertained. Plaintiffs are informed and believe, and thereon allege, that the
2 defendants designated as DOES 1 through 20, inclusive, were in some manner or means
3 intentionally, negligently, contractually, strictly or otherwise, responsible for the liability, loss,
4 and damages sustained by the plaintiffs, and each of them.

5 12. At all times herein mentioned, each of the defendants and those sued herein as
6 DOES 1 through 20 was the agent and employee of each of the remaining defendants and was at
7 all times acting within the course and scope of such agency and employment with the full
8 knowledge, consent, authority, ratification and/or permission of each of the remaining
9 defendants.

10 **JURISDICTION, VENUE AND STANDING**

11 13. The Superior Court of the County of Los Angeles, State of California, has
12 jurisdiction over this action pursuant to California Constitution Article VI, section 10, which
13 grants the Superior Court original jurisdiction in all cases except those given by statute to other
14 trial courts. This Court has jurisdiction over this action pursuant to the Code of Civil Procedure
15 section 410.10, et seq. Plaintiffs are California residents. Defendant DO LAB is a California
16 corporation. GOTTLIEB is a California resident. All defendants have purposefully availed
17 themselves of the benefits of doing business in California. They have derived and continue to
18 derive substantial revenues from transactions occurring in California.

19 14. Venue is proper in the Los Angeles County Superior Court pursuant to the Code
20 of Civil Procedure section 395(a), because some of the defendants reside in this judicial district.
21 Furthermore, some of the wrongful acts described in the below paragraphs took place in Los
22 Angeles County.

23 15. Decedent had no issue (offspring). In addition, decedent had no spouse. As her
24 only legal parents and heirs, GATLIN and YBARRA-TELIAS have sole standing to bring a
25 wrongful death action under Code of Civil Procedure section 377.60.

26 16. GATLIN and YBARRA TELIAS also have sole standing to bring a survival
27 action as they are decedent's sole legal parents and heirs and no other person has a right to bring
28 a survival action.

GENERAL ALLEGATIONS

17 17. DO LAB is a for profit entity that creates, organizes, constructs, promotes,
18 produces, manages and operates various music and arts festivals. For approximately the last four
19 years, DO LAB has put on an event known as Lightning in a Bottle (hereinafter LiB), an

1 electronic lights, art and music festival at Lake San Antonio, an isolated rural area of Monterey
2 County. The 2017 LiB was scheduled to take place over five days (May 24 to 29). Attendants
3 typically do not come and go during this event, rather, they are encouraged by DO LAB to camp
4 at the event. Campgrounds are provided for tent and RV camping onsite. DO LAB
5 acknowledged that event attendees would engage in alcohol and drug consumption during the
6 event.

7 18. The LiB event site essentially becomes a mini-city during the festival. In order to
8 put on this event, each year DO LAB had to obtain a permit from Monterey County. Monterey
9 County granted DO LAB this permit for 2017 after DO LAB completed an extensive application
10 process wherein DO LAB was required to develop and submit various plans including the
11 following: Site Development Plan; Parking and Traffic Plan; Communications Plan; Sanitation
12 Plan; Camping Plan; Medical Plan; Security Plan; Dialed Access Plan; Animal Control Plan;
13 Recycling Plan and Sound Mitigation Plan. These plans were important to ensure public and
14 attendee safety given that DO LAB would be constructing, running, managing, controlling and
15 operating a quasi mini-city during this 2017 LiB event. Upon receipt of this permit, DO LAB
16 legally occupied and controlled the property at the event site during the event, and agreed to
17 assume liability and hold the County of Monterey harmless for the injuries and death of
18 attendees.

19 19. Developing, instituting and executing a proper medical plan was vitally important
20 for this 2017 LiB event and the safety of the attendees due to a combination of factors as
21 follows:

- 22 • The 2017 Lib event site was in an isolated area, approximately one hour's drive from the
23 nearest hospital, down windy one and two lane country roads, with miles of shoreline at a
24 lake in an area of California that begins to experience hot temperatures well before May.
- 25 • there was to be a high volume of attendees, in this mini city who had to be fed, hydrated,
26 and public order maintained;
- 27 • the exposure to the elements including typical high day time temperatures while persons
28 were dancing and walking from venue to venue in the heat. (In its Special Event Medical
Plan, DO LAB specifically identifies "dehydration" as a medical issue they have had to
deal with in the past);
- the history of the event where numerous attendees have required medical care, many of

1 which were due to being under the influence of a controlled substance.

- 2 • the open acknowledgment by DO LAB, MAPS, RGX, and DOES 1-6 that many of its
3 attendees would be under the influence of alcohol and/or drugs.

4 20. In its Special Event Medical Plan, Monterey County required DO LAB to comply
5 with the following: "Plan to identify the need for a medical response and process to get medical
6 care for the patient: All event staff are trained on radio communications and how to identify
7 possible health related issues. All first aid related calls have UTV and first aid personnel
8 dispatched to scene. Ambulances will be staged to ensure rapid access to all areas of event side.
9 Fast response and rapid transport is our highest priority." A critical necessity for this event was a
10 plan that would ensure that attendees who needed a higher level of care would be identified and
11 immediately transported to a hospital for this needed higher level of care.

12 21. In the Special Event Medical Plan completed and submitted by DO LAB, RGX,
13 and Gottlieb, DO LAB, RGX, Gottlieb and their officers and directors represented that they
14 would provide the following trained and certified and licensed staffing and medical
15 equipment/supplies: Two separate first aid/medical stations each equipped with an on-Site on-
16 call physician, 2 RNs/Paramedics, 4 EMTs in addition to full BLS supplies, oxygen, c-spine
equipment, etc.; and two separate response vehicles staffed with 2 RNs/Paramedics/EMTs and
equipped with full BLS supplies, oxygen, c spine equipment, etc.

17 22. In order to obtain the event permit from Monterey County and as part of the
18 required Special Event Medical Plan, DO LAB was required to hire an On-Site Medical
19 Coordinator who would have de facto command of all medical issues at the 2017 LiB event. DO
20 LAB selected and chose a registered nurse, and security guard GOTTLIEB, the founder and
21 apparent owner of RGX. GOTTLIEB's self-described medical model was also "based on the
22 principals of harm reduction with a focus on reducing unnecessary arrests and hospitalizations as
23 well as closely collaborating with other harm reduction agencies such as THE ZENDO
PROJECT, Dancesafe and The Drug Policy Alliance."

24 23. DO LAB knew many of its 2017 LiB event attendees would be under the
25 influence of drugs. In its advertised promotional materials for the event, DO LAB stated, and
26 represented and promised as follows:

27 "LiB is a drug free event. That's the law of the land. But we know that despite
28 this, people will choose to use drugs, just as they do in larger society. Harm reduction is a set of

1 practical strategies where the goal is reducing the negative consequences of drug use. We want
2 to keep people alive, happy and out of the medical tent, so we work with several partner
3 organizations to make sure our attendees stay safe and informed.”

4 24. Knowing that many of its 2017 LiB event attendees would be consuming drugs,
5 DO LAB also arranged for MAPS with its Zendo Project to attend and work the event in which
6 they would allegedly provide guidance, knowledge and a safe space for event attendees under
7 the influence of drugs. MAPS advertised themselves and the Zendo Project as providing “a
8 supportive environment and specialized care designed to transform difficult psychedelic
9 experiences into valuable learning opportunities, and even potentially offer healing and growth .
.. (which) reduces the number of drug related hospitalizations and arrests.”

10 25. It should be noted that DO LAB, MAPS and its Zendo Project are not licensed
11 healthcare providers themselves; do not render professional medical services. Neither MAPS
12 nor DO LAB are healthcare providers, as defined by the laws. See in general *Business and*
13 *Professions Code sections, 500 et seq., 6146; Health and Safety Code, 1200 and following; Civil*
14 *Code 3333.1 and 3333.2.* The Medical Injury Compensation Reform Act of 1975, or MICRA,
15 applies only to actions for injuries against healthcare providers for professional negligence.
16 MICRA does not apply to intentional torts –fraud, false promise, intentional misrepresentation,
17 in any event. [Gottlieb is an R.N., but RGX is not a licensed physician’s group nor is it licensed
as a business entity with the California Secretary of State.]

18 26. In its “2017 Arrival Guide” given to attendees of the 2017 LiB event, DO LAB
19 stated the following:

20 “Where to go for Assistance

21 Have a question? Need medical attention? Want to talk with
22 somebody about your experience?

23 LiB has many resources to support a healthy and happy journey. . .

24 MEDICAL - Harm reduction and medical services are available at
25 two locations. One near the Woogie, and the other near Thunder
26 Station. In an emergency, find someone with a radio and medical
27 attention can come to you.

28 MAPS ZENDO PROJECT - If you’re having a difficult
experience, drug-related or not, you can find a safe space at the
Zendo Project. Located next to the medical tents.”

1 27. DO LAB represented to its potential customers and attendees of the 2017 LiB
2 event that this would be a safe event where attendees would have access to both medical
3 personnel and “harm reduction” personnel should attendees require these services.

4 28. Baylee Gatlin and her friends reviewed defendants’ promotional materials,
5 advertisements and promises for the 2017 LiB event and decedent purchased her ticket from DO
6 LAB, as ordered on EventBrite on January 3, 2017. EventBrite was the ticket agent selected by
7 DO LAB. She reviewed the aforementioned 2017 Arrival Guide, and the website
8 representations and materials and the Thrive Guide, and reviewed those representations outlined
9 in the paragraphs herein, and those specifically at paras. 22, 23, 24, 26-27, 61-69. She relied on
10 DO LAB’s representation that this would be a safe event where there would be medical services
11 if the need arose; where people would look out for one another; where Do Lab worked closely
12 with law enforcement, and medical personnel. She relied on MAPS representations and
13 promises made to her regarding harm reduction and she relied on the representations made by
14 RGX/Gottlieb that there would be enough trained, medical personnel and medical services and
15 products, and transport available. Baylee Gatlin arrived at LiB on or about May 25, 2017, ready
16 to enjoy a festival in a safe environment.

17 29. During the evening of May 27, 2017, Baylee Gatlin began exhibiting strange
18 symptoms, swaying and looping her conversations. She became incoherent and could not
19 consume water. Her legs shook uncontrollably. Due to these symptoms, she was taken by
20 friends to one of the festivals medical/first aid stations at approximately 7 p.m. Her friends,
21 believing she had consumed drugs, were directed by “personnel” in the RGX/GOTTLIEB
22 medical/first aid station to take her to the tent staffed by MAPS and ZENDO for care. This
23 occurred without any proper medical assessment by personnel at the medical/first aid station.

24 30. While in the MAPS’ ZENDO Project tent, Ms. Gatlin’s above symptoms
25 continued and worsened. She suffered from full body convulsions. She lost control of her
26 bowels and bladder. She repeatedly vomited. Her pupils were dilated. She was foaming at the
27 mouth. Her temperature peaked upwards to 105 degrees. Throughout all of this, the unqualified
28 personnel in the MAPS’ ZENDO tent kept her out of the “medical tent”; failed to contact
qualified medical personnel or arrange for medical transport. The unqualified personnel in the
MAPS’ ZENDO tent responded to her symptoms by placing blankets on her.

 31. Baylee Gatlin was left in the MAPS/ZENDO tent for approximately six hours in
dire need of urgent medical attention which she was denied. Finally, an ambulance was called

1 early the next morning at 1:07 a.m. on May 28, 2017. She was not actually loaded into an
2 ambulance until sometime thereafter. At 2:01 a.m., she went into cardiac arrest while being
3 transported to the hospital. The ambulance did not arrive at the hospital until 2:11 a.m. She was
4 pronounced dead at 3:42 a.m.

5 32. Baylee Gatlin died from multi organ failure, hyperthermia (overheating),
6 dehydration and its sequelae. Had there been a timely and proper assessment and triage by
7 qualified medical personnel, Baylee Gatlin would not have died. Had the defendants and each of
8 them abided by their own plans which were submitted to the County to obtain their permit, and
9 ensured the safety of the attendees instead of operating in complete and total reckless disregard
10 of those plans, industry standards; and common sense; Baylee Ybarra Gatlin would not have
11 died on May 28, 2017.

12 33. Decedent was only twenty years old when she attended the LiB Festival which
13 began on May 24, 2017 and ran through May 29, 2017, at Lake San Antonio, in Monterey
14 County. She died at the Twin Cities Community Hospital in San Luis Obispo County, California
15 in the early morning hours of May 28, 2017 after suffering multi organ failure, which as
16 indicated by the autopsy report was "hours long"-(approximately six or more) due in part to
17 hyperthermia, and dehydration, also "hours long", (six or more). Hospital records indicate that
18 Baylee Ybarra Gatlin, suffered cardiac arrest, cause unspecified; disseminated intravascular
19 coagulation; hemorrhage from sites in respiratory passages, unspecified kidney failure and fever,
20 and hyperkalemia; among other fatal diagnoses.

21 34. Baylee Ybarra Gatlin's death was a preventable harm but for the actions,
22 inactions, failures and blatant disregard for her safety and well-being on the part of defendants
23 and each of them.

24 35. By the time emergency medical services were actually called and an ambulance
25 arrived at the festival location, Baylee Gatlin had a temperature of 105 degrees and a heart rate
26 of 170. She was in acute cardiac arrest upon hospital arrival and in respiratory
27 distress/depression when AMR first responders arrived at the festival for transport.

28 36. Baylee Gatlin's blood tests were positive for Lysergic Acid Diethylamide (LSD)
use, but mere LSD ingestion does not cause the multi organ failure (hours long) and
hyperthermia, and dehydration, also "hours long"; nor does it cause or contribute to cardiac
arrest, cause unspecified; disseminated intravascular coagulation; hemorrhage from sites in
respiratory passages, unspecified kidney failure and fever, or hyperkalemia, all which

1 proximately caused and resulted in Baylee Gatlin's death. Baylee Gatlin was so near death and
2 dehydrated after hours and hours, by the time first responders were called to LiB, to the point
3 that no urine samples could be obtained for hospital testing.

4 37. Weather for the Lake San Antonio area was hot, dry and in the low 90=s for the
5 first few days of the Festival, in May 2017, where Baylee Gatlin was camping out in a tent;
6 dancing and sweating, walking from camp to musical and art venues and from exhibit to exhibit
7 and venue to venue. Walking was the only way to get around the camp at the lakeshore's edge,
8 which contained many, many acres. [The lake itself has 60 miles of shore line and the
recreational grounds are 5,500 acres].

9 38. At approximately 7 p.m., on May 27, 2017, Ms. Gatlin was seen at the Thunder
10 Stage, talking to herself, swaying and looping her conversations. She could not consume water,
11 and kept dribbling it on herself, her legs were shaking, she could not speak to her friends, nor
12 form coherent sentences, and she was taken to the RGX medical tent, managed, staffed, overseen
13 and approved of and sanctioned by DO LAB, its directors and officers and personnel; RGX
14 Medical and Richard Gottlieb. From that tent, she was directed by RGX, and Richard Gottlieb
15 or his agents, employees or assigned personnel, and DOES 1-5, or their agents, employees,
16 volunteers, consultants to the psychedelic harm reduction Zendo Project tent operated by
17 defendants MAPS, their officers and directors. Plaintiffs are informed and believe and based
18 thereon allege that Baylee Ybarra Gatlin was not assessed, attended to, appropriately medically
19 evaluated nor where her vital signs taken, or monitored by RGX, Gottlieb, MAPS or the DO
20 LAB, despite her apparent and emergent exhibition of signs of extreme physical distress, nor
were there any policies, regulations, procedures or training in place to handle this situation at
LiB.

21 39. While in the MAPS' Zendo Project tent, Ms. Gatlin was uncontrollably shaking and
22 moving and jerking her legs as if engaged in an exorcism and no medical emergency care was
23 called.

24 40. While in the MAPS' Zendo Project tent, Ms. Gatlin lost control of her bowels and
defecated and urinated on herself. Still no medical emergency care was called.

25 41. While in the MAPS' Zendo tent, her temperature climbed, she vomited into a
26 bucket numerous times, and her pupils were dilated. She could not walk on her own or summon
27 her own help, and was in the precursor stages to respiratory distress, cardiac arrest, and organ
28 failure. During the entire six hours of hell she endured, not one of the defendants nor their

1 directors and officers, nor agents did anything at all to assist her despite having the duty to do so,
2 despite their promises and having the duty to comply with the festival event plan and ensure the
3 safety of festival goers; despite promoting this festival as a "safe" festival with "harm reduction"
4 facilities, and ensuring in the special event plan, "a fast and rapid transport" for participant safety
5 which was purportedly their highest priority. The defendants, and each of them, and their
6 officers and directors never intended and in fact did not keep their promises.

7 42. In reality, this festival and those involved, which includes defendants and each of
8 them, only seek profit. The defendants and each of them failed miserably in addressing
9 foreseeable risks to festival goers, like Baylee Gatlin.

10 43. The festival website states MAPS Zendo project "If you're having a difficult
11 experience, whether drug related or not, you can visit the Zendo Project. Volunteers will help
12 provide a safe space until you are ready to rejoin the festival."

13 44. There is no evidence that there where mobile first aid stations, or on call
14 physicians or trained paramedics or EMTs or that Ms. Gatlin was given any treatment at all until
15 a call went out for EMS services from AMR transport at 1:07 a.m. on May 28, 2017. By then it
16 was too late for Baylee Ybarra Gatlin. In fact, she was in the beginning and middle and end
17 stages of decline while in the MAPS/ZENDO tent for the aforementioned approximate six hour
18 period, unmonitored by medical personnel, who went unsummoned; under the purported "eyes"
19 of untrained and incapable volunteer peers acting as "sitters" who could not handle this medical
20 emergency or any one for that matter; as they were sorely lacking in training, policies, and
21 protocols.

22 45. The DO LAB expected between 10,000 to 20,000 participants or festival goers a
23 day, which at tickets starting at several hundred dollars and up to \$2,850.00 for an uber package
24 camping experience, translates to a significant amount of profit.

25 46. LiB was a five-day electronic lights, dance music festival organized,
26 constructed, engineered, directed, produced, constructed, maintained, controlled, advertised,
27 promoted, managed and operated by DO LAB pursuant to a contract with the County of
28 Monterey, that was sanctioned and permitted by the County. Electronic dance music festivals
like LiB, are also known as "raves".

47. Defendants, and each of them, including the Doe defendants so named herein had
actual knowledge and knew, or had constructive notice and should have known that festival
goers required adequate supplies of bottled water and hydration stations to prevent dehydration

1 and its effects on bodily functions, organs and the ability of a person to utilize their motor and
2 neurological skills. It was a camping festival for five days at a remote location near a lake, which
3 water was not fit for human consumption. Defendants knew or should have known participants
4 could not "pack in" five days of water for hydration.

5 48. DO LAB, RGX MEDICAL, RICHARD GOTTLIEB, and MAPS and their
6 officers and directors, all know that in past years at this very festival there had been numerous
7 incidents involving harms to patrons and festival goers and incidents infringing on the safety of
8 festival goers involving dehydration, heat, delirium and illicit drugs.

9 • For example in 2014, there were over 950 persons requiring medical care
10 at the LiB festival at the same location. This is roughly eight patients per hour
11 throughout all of the days of the event. While most of these were minor injuries like
12 sunburn, insect bites, there were incidents where medical and LiB staffers attended to
13 those who were dehydrated; and suffering from infections, with seven people being
14 transported to the hospital and one cardiac incident requiring helicopter transport.
15 According to DO LAB's after action report out of 15,000 individuals, and 950 incidents,
16 2% of the incidents related to drugs or alcohol. There were seven ground transports and 1
17 medi-vac via air transport.

18 • In 2015, in an after action report by a Commander of the Monterey
19 County Sheriff's Department, over 25,000 people attended the LiB festival. With three
20 arrests made, one for narcotics; and three medical calls that came to the attention of the
21 sheriff's department-with the biggest challenge per Commander Moses, being "medical
22 calls for under the influence of a controlled substance". The private on-site medical
23 company RGX, and its Medical Director for the event, Gottlieb, were the event medical
24 authority; and it was a problem per the Commander, as to the delegation of where an
25 individual under the influence, experiencing delirium should go-transport via ambulance,
26 or on-site medical? This "problem" detailed in the after action report authored by the
27 Sheriff's Commander also provided defendants and each of them with advance
28 knowledge of situations like the one involving Baylee Gatlin and put them on notice that
adequate plans needed to be made for the prompt and proper evaluation of physical
issues to ensure the protection of patrons, and to prevent debilitation, or liability would
likely follow.

• In 2017, the year of Ms. Gatlin's death, there were two standby

1 ambulances at the event, each day of its operation. There were no helicopters or medi-vac
2 units standing by to transport via air, as per the medical event plan as executed by DO
3 LAB, GOTTLIEB and/or RGX. There were 1700 contacts requiring some type of
4 intervention, or first aid-again including dehydration. 9 individuals, one of which was
5 Ms. Gatlin required transport via ambulance. There were no medi-vac or LifeFlight
6 helicopter services provided at the event in 2017, despite the location being 38.4 miles
7 from the nearest hospital emergency room or 50 minutes by car.

8 49. Defendants, and each of them, including Does 1 through 20, had a duty to ensure
9 that there were adequate restrictions in place and enforced as well as an adequate number of
10 properly trained security and emergency medical services available at LiB for the protection of
11 all attendees; including Baylee Ybarra Gatlin. However, defendants were not checking patrons
12 and purposefully allowed illegal drugs to be brought into the LiB festival. In addition,
13 defendants, and each of them, supplied grossly inadequate medical services, personnel and
14 equipment, failed to provide a triage system that would assess the emergent need for medical
15 care so patrons could be transported at the earliest opportunity; provided only two medical tents
16 at a venue that spanned a remote a location with attendees in excess of 20,000 over five days-it
17 was like a city. Additionally defendant DO LAB permitted, allowed, and advocated for the
18 MAPS/Zendo Project with its tent of blankets and cots, so patrons could AVOID medical
19 treatment and security interaction, looked “after” by volunteers who themselves were sometimes
20 under the influence.

21 50. Moreover, defendants DO LAB knowingly oversold the event and created an
22 atmosphere that was over attended, overcrowded, and dangerous. The reason for these
23 deficiencies was simple: less on-site security personnel and less on-site emergency medical
24 services providers reduced the production costs that would be incurred by the event promoter,
25 defendants DO LAB and increased profit margins significantly when oversold. Simply put,
26 defendants, and each of them, including Does 1 through 20, put profits and/or revenue ahead of
27 the safety of the attendees, including Baylee Gatlin, and knowingly, intentionally, recklessly and
28 carelessly allowed for, and helped create, a condition that was dangerous to the health, safety
and well-being of the attendees.

51. MAPS represented that it had trained “sitters” in the Zendo tents. When Ms. Gatlin
arrived at MAPS, these allegedly trained “sitters” as advertised by DO LAB and MAPS, whose

1 names are identified as Tal G. and Siri G, and Sasha. [Last names of these sitters have been
2 redacted for purposes of this pleading]. Tal was also a “guardian/log keeper”. The sitters noted
3 the decedent’s impairments as alleged in paragraph 70 on a form entitled “Guest report” to be
4 completed by a sitter. It was these “sitters” Zendo/MAPS represented were “trained” and were in
5 “direct communication” with a medic-if an attendee need so required. Despite noting the obvious
6 signs of physical impairment in decedent, and specifically stating that they were told decedent
7 took something other than LSD, one of the “sitters” actually wrote it down, those persons
8 utilized by MAPS/Zendo as sitters were clearly untrained, unqualified and/or negligently
9 supervised by MAPS, Sara Gael Giron, and remaining officers and directors, supervisors and
shift leads, Ryan Beauregard, Ryan Hoffman and Stephen Bagley.

10 52. Plaintiffs are informed and believe and thereon allege that despite having MAPS
11 shift supervisors, and leads present throughout the night and the early morning when Baylee was
12 deteriorating and dying, decedent although clearly suffering from impairment(s), was left in the
13 MAPS tent while sitters, named above, held her hand, put blankets on her (despite decedent
14 running a fever, vomiting and being unable to hold down water); all the while becoming more
15 and more dehydrated over the course of six hours. The sitters sat there while she lay dying and
did nothing. If anyone was told, they did nothing.

16 53. Plaintiffs are informed and believe and thereon allege that these sitters were
17 compensated by MAPS, their officers and directors and DO LAB, Inc., their officers and
18 directors with wristband access passes for the festival and its entirety as well as with early access
19 so as to obtain training materials and policies. In other words, they could work as a sitter for free
20 access. Plaintiffs are also informed and believe and thereon allege that some sitters were under
the influence of alcohol or drugs while actually working in the MAPS/Zendo tent.

21 54. DO LAB and its officers and directors, including but not limited to Jason Fleming,
22 Josh Fleming and Jesse Fleming, with authority to speak on behalf of the corporation, had actual
23 knowledge of the vendors they were hiring for LiB 2017. They had these vendors at past LiB
24 festivals. DO LAB and its officers and directors secured and contracted with vendors for services
25 at this festival. They contracted with RGX/Gottlieb, who was to operate the medical services,
26 first aid tent(s) and act as Medical Coordinator. He billed \$12,000.00 for his services. DO LAB
27 designated RGX/Gottlieb as its medical coordinator, because Do Lab is not a licensed healthcare
28 provider, and it was RGX/Gottlieb, with Do Lab’s direct knowledge, who managed, and
controlled and arranged for individuals as staff in order to comply with the event medical plan

1 with which Do Lab and its officers and directors had to comply. MAPS was to operate and
2 manage and control and supervise those individuals hired as its “sitters”. DO LAB knew MAPS
3 had “sitters” that it hired which sitters were not qualified medical licensees. All defendants who
4 promoted, operated and controlled this 2017 LiB Festival, including Do Lab and entities hired as
5 vendors, including but not limited to MAPS and RGX and Gottlieb, and their officers and
6 directors, failed to ensure that they had qualified coherent individuals to keep attendees safe.

7 55. RGX/Gottlieb, and its employees, in the Thunder Medical station, Michelle P,
8 Kellen H., and Karen S. were on site at this festival. Michelle is purportedly an R.N.; Kellen H.,
9 a shift lead; R.N. assistant, and Karen, trained in first aid, was on “triage duty”. Michelle is
10 listed as a station volunteer along with an EMT/ and M.D., with no indication that any medical
11 doctor evaluated, treated, or assessed decedent at LiB. Again at the time of this pleading, there
12 has been no indication that any R.N., shift lead, first aid or EMT or any individual with any
13 licensed medical training had decedent evaluated by an M.D. Plaintiffs are informed and believe
14 and thereon allege, that at the very least, the above named individuals “saw” decedent while she
15 was in the MAPS/ Zendo tent, but whether they medically assessed, treated or took vitals
16 depends on their varying version of events.

17 56. Plaintiffs are informed and believe and thereon allege that individuals, like
18 decedent, 20 years of age, do not suffer from organ failure, respiratory or cardiac failure,
19 dehydration or its sequelae in a matter of minutes, and that there was ample time to have
20 decedent obtain adequate treatment and care so as to have prevented her death, which
21 RGX/Gottlieb, MAPS, DO LAB and its inadequately trained, inadequately hired and
22 inadequately supervised employees failed to do.

23 57. The above-mentioned and hereinafter alleged acts, omissions, breach of duty, and
24 conduct of defendants, and each of them, including Does 1 through 20, proximately and legally
25 caused the injuries and damages sustained by plaintiffs, as alleged herein.

26 58. As a further, sole, direct and proximate result of the breach of their duty and
27 conduct of defendants, and each of them, including Does 1 through 20, plaintiffs have incurred
28 medical, burial and funeral expenses for their Decedent, Baylee Gatlin, according to proof.
Plaintiffs allege they are entitled to prejudgment interest pursuant to the Code of Civil Procedure
section 3288 from the date of the injury, up to and including, the date of judgment, according to
proof.

///

1 **FIRST CAUSE OF ACTION - WRONGFUL DEATH**

2 ***(All Plaintiffs Against All Defendants Including Does 1-20)***

3
4 59. Plaintiffs hereby restate, re allege, and incorporate by reference each of the
5 paragraphs in this complaint as though fully set forth herein.

6 60. Plaintiffs allege wrongful death of Baylee Gatlin and bring this claim for relief
7 based on the negligence, including but not limited to general negligence and premises liability,
8 negligent hiring/supervision/retention, and/or wrongful acts, and reckless disregard of
9 defendants, their directors and officers, and each of them, including Does 1-20.

10 61. Plaintiffs bring this action pursuant to Code of Civil Procedure section 377.60(a)
11 as the heirs of decedent Baylee Gatlin who died without issue on May 28, 2017.

12 62. Plaintiffs allege that defendants and each of them, including Does 1-20, were
13 negligent and their negligence was a proximate cause of Gatlin's death. As detailed in the
14 preceding paragraphs, defendants, and each of them, including Does 1-20, had a duty to provide
15 safe event venue, including, but not limited to, providing a proper medical plan and system so
16 that festival attendees such as Baylee Gatlin could be properly assessed and medically
17 transported should the need arise. As detailed in the paragraphs in the complaint, defendants,
18 and each of them, and their directors and officers, including Does 1 20, failed to provide and
19 execute such a proper plan and system. As a direct and proximate cause of this failure, Baylee
20 Gatlin did not receive timely medical care which ultimately caused her death.

21 63. As a further direct and proximate result of these acts, omissions or failures to act
22 and decedent's death, plaintiffs will be deprived permanently of the love, care, affection, society,
23 comfort, moral support, protection and companionship of their only daughter Baylee Gatlin, and
24 plaintiffs have sustained, and will continue to sustain, damages to be ascertained according to
25 proof at trial.

26 **SECOND CAUSE OF ACTION - SURVIVAL ACTION – FRAUD/FALSE PROMISE**

27 ***(All Plaintiffs Against Defendants DO LAB, MAPS and Does 1-20 Only)***

28 64. Plaintiffs hereby restate, re allege, and incorporate by reference each of the
paragraphs in the complaint as though fully set forth herein.

65. Plaintiffs bring this action as parents and successors in interest to decedent Baylee

1 Gatlin, pursuant to Code of Civil Procedure, section 377.30

2 66. Prior to the death of decedent on May 28, 2017, a cause of action for fraud arose
3 which was in decedent's favor as against defendants, and each of them, including Does 1-20, and
4 had she survived, Baylee Gatlin would have been a plaintiff in that action.

5
6 *(As to Defendants Generally)*

7 67. Generally, plaintiffs allege that defendants, and each of them, including Does 1-
8 20, are liable for fraud/false promise by way of the following: **(Element #1)** defendants, and
9 each of them, including Does 1-20, made various misrepresentations to Baylee Gatlin consisting
10 of representations that the 2017 LiB event would be a safe event where attendees would have
11 access to both medical personnel and "harm reduction" personnel should attendees require these
12 services for the purpose of keeping attendees safe; **(Element #2)** defendants, and each of them,
13 including Does 1-20, knew that this representation was false; **(Element #3)** defendants, and each
14 of them, including Does 1-20, intended to defraud Baylee Gatlin in that they intended that she
15 rely on this representation; **(Element #4)** Baylee Gatlin reasonably relied on these
16 representations; and **(Element #5)** Baylee Gatlin was harmed as a result.

17 68. A cause of action based in fraud may arise from conduct that is designed to
18 mislead, and not only from verbal or written statements." (*Tenet Healthsystem Desert, Inc. v.*
19 *Blue Cross of California* (2016) 245 Cal.App.4th 821, 839 [199 Cal.Rptr.3d 901].) False
20 promise" is also known as "promissory fraud" (see *Ward v. Wells Fargo Home Mortgage Inc.*,
21 2015 U.S. Dist. LEXIS 49128, * 22), If a claim of fraud is based upon failure to disclose, and
22 "the duty to disclose arises from the making of representations that were misleading or false,
23 then those allegations should be described." The allegations contained in the first amended
24 complaint satisfy the purposes of the specificity requirement and furnish the defendants with
25 certain definite fraudulent statements and promises made.

26
27 *(As to DO LAB)*

28 69. **Element #1:** Generally, DO LAB made various misrepresentations to Baylee
Gatlin consisting of representations that the 2017 LiB event would be a safe event where
attendees would have access to both medical personnel and "harm reduction" personnel should

1 attendees require these services for the purpose of keeping attendees safe. While DO LAB did
2 not represent a fail-safe plan or a specific medical plan, it is axiomatic that the representation
3 was that such personnel were qualified, otherwise, the representation would be meaningless. DO
4 LAB also represented to festival attendees such as Baylee Gatlin that these services would be
5 there for attendees under the influence of narcotics, and in fact, expected many of attendees to
6 indeed be under the influence and in need of such services. It was not represented to Baylee
7 Gatlin as to what was really present at the 2017 LiB event, which was a medical tent in name
8 only consisting of unqualified people masquerading as medical personnel and a “harm
9 reduction” tent that warehoused attendees in dire medical need as opposed to a system that
10 triaged attendees so that care and medical transport could be timely provided. These
11 representations contained in the promotional materials and website were jointly made by DO
12 LAB, MAPS and RGX/GOTTLIEB as DO LAB sought input from MAPS and
13 RGX/GOTTLIEB and then implemented this input into these representations. These
14 representations were the result of a collaboration by DO LAB, MAPS and RGX/GOTTLIEB.

15 70. DO LABS’ representations included the following statements in its promotional
16 materials for the 2017 LiB event:

17 “LiB is a drug free event. That’s the law of the land. But we
18 know that despite this, people will choose to use drugs, just as they
19 do in larger society. Harm reduction is a set of practical strategies
20 where the goal is reducing the negative consequences of drug use.
21 We want to keep people alive, happy and out of the medical tent,
22 so we work with several partner organizations to make sure our
23 attendees stay safe and informed.”

24 71. In its “2017 Arrival Guide” given to attendees of the 2017 LiB event, DO LAB
25 stated the following:

26 “Where to go for Assistance Have a question? Need medical
27 attention? Want to talk with somebody about your experience?

28 LiB has many resources to support a healthy and happy
journey. . .

MEDICAL - Harm reduction and medical services are available at
two locations. One near the Woogie, and the other near Thunder
Station. In an emergency, find someone with a radio and medical

1 attention can come to you.

2 MAPS ZENDO PROJECT - If you're having a difficult
3 experience, drug-related or not, you can find a safe space at the
4 Zendo Project. Located next to the medical tents."

5 72. The LiB Thrive Guide published by DO LAB on its website, for all attendees to
6 view and review, and stated in pertinent part as follows:

7 Law Enforcement

8 LIB takes place on public land. We work closely with local
9 authorities to provide a safe and healthy atmosphere for
10 everyone. Even though LIB is in a remote environment it's
11 important to remember federal, state, and local laws remain
12 in effect.

13 Respect Others & Their Journey

14 LIB is intended to be a safe space where people can openly
15 express themselves free of judgements[sic] and societal
16 pressures. That freedom comes with the responsibility to
17 respect each other's beliefs, belongings, and personal
18 space.

19 Practice Good Citizenship

20 Take Care of Yourself

21 Practicing personal self-care and responsibility is the most
22 impactful action any LIB'er can do. Listen to your body,
23 know your limits, be present, and allow yourself to enjoy
24 every bit of the experience. Savor the celebration, rather
25 than race to the finish line.

26 Look Out For One Another

27 We are a community and look out for the safety and well
28 being of one another. Together we create the special
environment at LIB, and the best way to enjoy it is to
practice personal responsibility.

Remember this while enjoying your time at LIB:

Always be aware of yourself, your surroundings, and your

1 belongings.

2 Make new friends and be alert to the actions of those you
3 meet.

4 Use and trust your instincts.

5 Lead by example. Demonstrate LIB's values and behavior
6 to new LIBers.

7 73. **Element #2:** DO LAB knew that the above representations were false. The
8 representation that there would be a team of personnel looking out for attendees' safety was a
9 façade. In reality, the medical tent and harm reduction tent were in name only consisting of
10 unqualified people masquerading as medical and harm reduction personnel who simply
11 warehoused attendees in dire medical need as opposed to a system that triaged attendees so that
12 care and medical transport could be timely provided. The medical and harm reduction personnel
13 were simply fellow party/event attendees who were there for the party/event as evident by their
14 sole compensation being a free ticket to the party/event. This falsity of DO LABS representation
15 is supported by the facts in the below paragraph.

16 74. Instead of hiring or contracting with a medical doctor to serve as its medical
17 coordinator for the subject event, DO LAB hired or contracted with RGX/GOTTLIEB. DO LAB
18 knew that GOTTLIEB was not qualified to serve as the medical coordinator. GOTTLIEB is a
19 registered nurse and security guard. GOTTLIEB's self-described medical model was "based on
20 the principals of harm reduction with a focus on reducing unnecessary arrests and
21 hospitalizations as well as closely collaborating with other harm reduction agencies such as the
22 Zendo Project, Dancesafe and The Drug Policy Alliance." DO LAB and RGX/GOTTLIEB
23 failed to provide any training, instruction or procedures for individual employees and contractors
24 working for them as to how to identify, assess, triage, respond to and care for festival attendees'
25 life-threatening conditions or injuries so as to timely arrange for higher level of care and
26 transport. DO LAB and RGX/GOTTLIEB failed to train or instruct these individual employees
27 and contractors to properly monitor and document an attendant's vital signs such as temperature,
28 blood pressure, etc. DO LAB and RGX/GOTTLIEB failed to properly equip these individual
employees and contractors with adequate medical devices that could register an attendant's vital
signs such as a thermometer. DO LAB and RGX/GOTTLIEB failed to adequately staff its
"team" with enough individual employees and contractors as the RGX/GOTTLIEB "team" was

1 vastly outnumbered by the attendant's in the medical and Zendo tents. DO LAB and
2 RGX/GOTTLIEB failed to arrange for a doctor to be present or on call. DO LAB and
3 RGX/GOTTLIEB failed to arrange for enough emergency medical transport teams/ambulances
4 or the option of life flights (helicopters) in light of the high number of festival attendees, the
5 distance to the nearest hospital, and the history of medical events at past festivals. DO LAB and
6 RGX/GOTTLIEB staffed the "team" with persons whose sole compensation was free attendance
7 to the party (Lib 2017 event) which presumably would lead to a disorganized, unprepared and
8 possibly under the influence team. Essentially, DO LAB willingly and knowingly created a
9 system where an attendee in dire need of medical evaluation/triage/transport would instead be
warehoused in the Zendo "harm reduction" tent.

10 75. **Element #3:** DO LAB intended to defraud Baylee Gatlin in that they intended
11 that she rely on these representations. This is evident by the fact that DO LAB made these
12 representations in the above cited promotional materials. Promotional materials by their nature
13 are to induce a consumer to purchase a product or service. Here, the promotional materials were
14 created to induce people such as Baylee Gatlin to buy a ticket to the event. The representation
15 was that if attendees encountered medical issues such as dehydration or an adverse reaction
16 experience from drug consumption, there would be a safe space and safe support system for
17 them consisting of both medical personnel and "harm reduction" personnel. "[F]raudulent intent
is an issue for the trier of fact to decide." (*Beckwith v. Dahl* (2012) 205 Cal.App.4th 1039, 1061.)

18 76. **Element #4:** Baylee Gatlin did indeed review these representations and
19 justifiably relied on them. On January 3, 2017, decedent Baylee Ybarra Gatlin purchased her
20 2017 Lightning in a Bottle Festival ticket. She had attended LiB 2016 and was excited to attend
21 the 2017 festival, so much so that purchased her ticket five months in advance. From January
22 2017 until the date she left for Monterey County and 2017 LiB, she researched LiB 2017,
23 reading all the material she could find published by DO LAB, its directors and officers,
24 including but not limited to Jesse Fleming, Josh Fleming, and Jason Fleming, and MAPS, its
25 directors and officers, and RGX/Gottlieb, and its directors and officers, (all with authority to
26 speak on behalf of their corporate entities and or businesses) concerning the festival, what it was
27 about, its services, vendors, artists, camping sites and how to get there. Via her browser history,
28 she also visited the LiB Festival website well over 42 times; as well as site visits specifically to
harm-reduction materials published by DO LAB, and its officers and directors, Jesse Fleming,
Josh Fleming, and Jason Fleming, and by MAPS, and its officers and directors. Before going to

1 the 2017 Festival, she researched and reviewed information provided directly by defendants DO
2 LAB, RGX/Gottlieb and MAPS. A small example of her site visits include:

3	5/11/17	Welcome to the LiB Experiences Club
4	5/15/17	Every LIB 2017 Ticket Explained - Lightning in a Bottle
5	5/16/17	Introverts Guide to LIB - Lightning in a Bottle 5/16/17
6	5/15/17	Your LIB Fun Map of 2017 - Lightning in a Bottle
7	5/21/17	http://lightninginabottle.org/harm-reduction/
8	5/22/17	LIB Thrive Guide - READ ME! - Lightning in a Bottle

9
10 77. After researching these very websites and promotional materials, representations
11 and false promises, Ms. Baylee Ybarra Gatlin, thinking she could rely on the published
12 representations of defendants and each of them, regarding safety, a safe and healthy
13 environment, and the partnership or “work” with local authorities, and that the festival promoter
14 DO LAB, its officers and directors, and those permitted to offer services at the festival,
15 GOTTLIEB/RGX and MAPS and those entities’ officers and directors would provide the
16 services she would need throughout the duration of the multi day festival, relying on their very
17 representations they would be adequate and available to her. Based upon her research, she went
18 to the festival.

19 78. **Element #5:** Baylee Gatlin was harmed as a result. When she presented at the
20 medical tent she was warehoused in the Zendo “harm reduction” tent for approximately six
21 hours where she was allegedly monitored by unqualified personnel who sat on their hands as her
22 condition deteriorated eventually leading to her death. The harm is evident by the following:
23 Baylee Gatlin being placed in the Zendo “harm reduction” tent when she presented to the RGX
24 medical tent in her then current condition; the failure to adequately monitor Baylee Gatlin during
25 her approximate six hours in the Zendo “harm reduction” tent as evidenced by a lack of
26 documented vital sign checks during this time; the failure to summon more advanced care or
27 arranging for timely transport for such care despite her deteriorating condition consisting of full
28 body convulsions, losing control of her bowels and bladder, vomiting, dilated pupils, foaming at
the mouth, incoherence, her inability to consume water, and her high temperature peaking at 105
degrees; the warehousing of Baylee Gatlin in the Zendo “harm reduction” tent for approximately
six hours where she was attended to by persons even less qualified than those staffing the

1 “medical tent”; the allowing or placing blankets on Baylee Gatlin while she was literally cooking
2 to death; failing to arrange for enough emergency medical transport teams/ambulances or the
3 option of life flights (helicopters) in light of the high number of festival attendees, the distance to
4 the nearest hospital, and the history of medical events at past festivals; the staffing of the “team”
5 with persons whose sole compensation was free attendance to the party (Lib 2017 event) which
6 presumably would lead to a disorganized, unprepared and possibly under the influence team; and
7 finally Baylee Gatlin’s death from multi organ failure, hyperthermia (overheating), dehydration
8 and its sequelae.

9 *(As to MAPS)*

10
11 79. **Element #1:** MAPS made various misrepresentations to Baylee Gatlin consisting
12 of representations that they would help her if she was adverse reaction to drugs and would
13 arrange for medical help if medical attention was indeed needed. This is evident from the
14 MAPS’ website and the DO LAB “harm reduction” link to MAPS which stated/included the
15 following:

- 16 - MAPS advertised themselves and the Zendo Project as
17 providing “a supportive environment and specialized care
18 designed to transform difficult psychedelic experiences into
19 valuable learning opportunities, and even potentially offer
20 healing and growth . . . (which) reduces the number of drug
21 related hospitalizations and arrests.”
- 22 - “The Zendo Project by MAPS will also have an area at the
23 festival for people to retreat to if they are having a bad
24 trip.....They provide on site psychedelic safe spaces at music
25 festivals, complete with trained “sitters” ready to talk you
26 through a difficult experience.”
- 27 - “In the event the trip is more than psychological and medical
28 attention is needed, the Zendo project volunteers have direct
communication with medic[al] to arrange the proper help.”
[sic]

80. **Element #2:** MAPS knew the above representations were false. MAPS knew its

1 “sitters” were not trained nor qualified to determine if “more than psychological and medical
2 attention is needed” and did not “have direct communication with medic[al] to arrange the
3 proper help.” The harm reduction personnel were simply fellow party/event attendees who were
4 there for the party/event as evident by their sole compensation being a free ticket to the
5 party/event. MAPS did not give these persons the tools or the information to determine if an
6 attendee did indeed need medical attention or to communicate with medical to arrange for proper
7 help. This falsity of MAPS’ representations are supported by the facts in the below paragraph.

8 81. MAPS knew these representations were untrue based on its knowledge that it
9 failed to provide any training, instruction or procedures for individual employees and contractors
10 so that they would have the ability to identify, assess, triage, respond to and care for festival
11 attendees’ life-threatening conditions or injuries so as to timely arrange for actual medical care, a
12 higher level of care and/or transport; its failure to train or instruct these individual employees
13 and contractors to properly monitor and document an attendant’s vital signs such as temperature,
14 blood pressure, etc.; its failure to properly equip these individual employees and contractors with
15 adequate medical devices that could register an attendant’s vital signs such as a thermometer;
16 staffing the “sitters” with persons whose sole compensation was free attendance to the party (Lib
17 2017 event) which presumably would lead to a disorganized, unprepared and possibly under the
18 influence team of “sitters”. Lastly, MAPS knew or should have known that it’s “sitters” would
19 be unfit or incompetent as their sole compensation was free attendance to the party (Lib 2017
20 event) which presumably would lead to a disorganized, unprepared and possibly under the
21 influence team of “sitters”.

22 82. **Element #3:** MAPS intended to defraud Baylee Gatlin in that it intended that she
23 rely on these representations. This is evident by the fact that MAPS made these representations
24 in its website that promotes itself and its involvement with the 2017 LiB event. Promotional
25 materials by their nature are to induce a consumer to use its services. Here, the promotional
26 materials were created to induce people such as Baylee Gatlin to use MAPS’ services. The
27 representation was that if attendees consumed drugs or were suffering from some type of
28 psychological harm, there would be a safe space and safe support system for them consisting
“harm reduction” personnel who could help them, or in the alternative, get them to medical help.
As evidenced by its website, MAPS has a prodrug agenda along with a desire to “reduce the
number of drug related hospitalizations.” MAPS had an agenda for the MAPS personnel to
attend to people under the influence in need of help versus medical personnel in a hospital.

1 “[F]raudulent intent is an issue for the trier of fact to decide.” (Beckwith v. Dahl (2012) 205
2 Cal.App.4th 1039, 1061.)

3 83. **Element #4:** Baylee Gatlin did indeed review these representations and justifiably
4 relied on them. Baylee Gatlin researched the concept and principles of harm reduction for LiB
5 2017 placed on the web explaining 2017 LiB by MAPS and DO LAB. On January 3, 2017,
6 decedent Baylee Ybarra Gatlin purchased her 2017 Lightning in a Bottle Festival ticket. She had
7 attended LiB 2016 and was excited to attend the 2017 festival, so much so that purchased her
8 ticket five months in advance. From January 2017 until the date she left for Monterey County
9 and 2017 LiB, she researched LiB 2017, reading all the material she could find published by DO
10 LAB, its directors and officers, including but not limited to Jesse Fleming, Josh Fleming, and
11 Jason Fleming, and MAPS, its directors and officers, and RGX/Gottlieb, and its directors and
12 officers, (all with authority to speak on behalf of their corporate entities and or businesses)
13 concerning the festival, what it was about, its services, vendors, artists, camping sites and how to
14 get there. Via her browser history, she also visited the LiB Festival website well over 42 times;
15 as well as site visits specifically to harm-reduction materials published by DO LAB, and its
16 officers and directors, Jesse Fleming, Josh Fleming, and Jason Fleming, and by MAPS, and its
17 officers and directors. Before going to the 2017 Festival, she researched and reviewed
18 information provided directly by defendants DO LAB, RGX/Gottlieb and MAPS. A small
19 example of her site visits include:

18	5/11/17	Welcome to the LiB Experiences Club
19	5/15/17	Every LIB 2017 Ticket Explained - Lightning in a Bottle
20	5/16/17	Introverts Guide to LIB - Lightning in a Bottle 5/16/17
21	5/15/17	Your LIB Fun Map of 2017 - Lightning in a Bottle
22	5/21/17	http://lightninginabottle.org/harm-reduction/
23	5/22/17	LIB Thrive Guide - READ ME! - Lightning in a Bottle

24 84. **Element #5:** Baylee Gatlin was harmed as a result. This is evident by the
25 following: Baylee Gatlin being placed in the Zendo “harm reduction” tent when she presented to
26 the RGX medical tent in her then current condition; the failure to adequately monitor Baylee
27 Gatlin during her approximate six hours in the Zendo “harm reduction” tent as evidenced by a
28 lack of documented vital sign checks during this time; the failure to summon more advanced

1 care or arranging for timely transport for such care despite her deteriorating condition consisting
2 of full body convulsions, losing control of her bowels and bladder, vomiting, dilated pupils,
3 foaming at the mouth, incoherence, her inability to consume water, and her high temperature
4 peaking at 105 degrees; the warehousing of Baylee Gatlin in the Zendo “harm reduction” tent for
5 approximately six hours where she was attended to by persons even less qualified than those
6 staffing the “medical tent”; the allowing or placing blankets on Baylee Gatlin while she was
7 literally cooking to death; failing to arrange for enough emergency medical transport
8 teams/ambulances or the option of life flights (helicopters) in light of the high number of festival
9 attendees, the distance to the nearest hospital, and the history of medical events at past festivals;
10 the staffing of the “team” with persons whose sole compensation was free attendance to the party
11 (Lib 2017 event) which presumably would lead to a disorganized, unprepared and possibly under
12 the influence team; and finally Baylee Gatlin’s death from multi organ failure, hyperthermia
13 (overheating), dehydration and its sequelae.

14
15 *(As to Defendants Generally)*

16 85. Plaintiffs further allege that defendants and each of them acted with malice,
17 oppression and fraud in reckless disregard of the value of life of their daughter, Baylee Ybarra
18 Gatlin; as stated in this pleading, including but not limited to conduct as follows in direct
19 contradiction to their promises, promotions and advertisements to attendees and the public, to
20 keep in place a proper medical plan and system so that festival attendees such as Baylee Gatlin
21 could be properly assessed and transported for medical care should the need arise, defendants
22 wilfully did not do so. Defendants and each of them authorized, ratified or had advance
23 knowledge on the part of their officers, directors, and managing agents and each of them, that
24 this failure to protect patrons as advertised and published in their documents would recklessly
25 endanger lives, including decedent’s life. Instead the defendants did the following:

26 -Defendants intentionally ignored Ms. Gatlin’s deteriorating condition for
27 approximately six hours, while she was unable to care for herself; vomiting into a bucket,
28 becoming incontinent of bowel and bladder and running an escalating fever of 105 degrees;
acted in reckless disregard, with malice, oppression and fraud.

-Defendants intentionally covered Baylee Ybarra Gatlin with blankets-and called
no one who was qualified to attend to decedent’s emergent needs;

1 -Defendants intentionally ignored their obligations and their own plans and
2 promises to festival attendees, and common sense and have Ms. Gatlin evaluated by qualified
3 personnel;

4 -Defendants intentionally ignored the dangers of heat, exhaustion; overexposure,
5 crowds, and their inability to control their tent cities at this event.

6 -Defendants intentionally made false and fraudulent promises intending decedent
7 rely upon them, promising that she was in good hands at this festival, inducing that reliance to
8 her detriment.

9 86. This conduct of defendants and each of them goes well beyond negligence, and is
10 reckless disregard for human life; and conduct so despicable and reprehensible so as to constitute
11 malice, fraud and/or oppression. Defendants and each of them acted willfully in knowing
12 disregard for the safety of Baylee Ybarra Gatlin. Defendants and each of them failed to train and
13 insure compliance to protect attendees.

14 87. As a further direct and proximate result of these intentional acts, false promises;
15 misrepresentations, and omissions in reckless disregard to the rights of plaintiffs and decedent,
16 plaintiffs will be deprived permanently of the love, care, affection, society, comfort, moral
17 support, protection and companionship of their only daughter Baylee Gatlin, and plaintiffs have
18 sustained damages and seek punitive damages in an amount to punish the wrongdoers,
19 defendants, their officers and directors, and each of them, to be determined at the time of trial.

20 **THIRD CAUSE OF ACTION - SURVIVAL ACTION – NEGLIGENT**
21 **MISREPRESENTATION**

22 *(All Plaintiffs Against Defendants DO LAB, MAPS and Does 1-20 Only)*

23 88. Plaintiffs hereby restate, re allege, and incorporate by reference each of the
24 paragraphs in the complaint as though fully set forth herein.

25 89. Plaintiffs bring this action as parents and successors in interest to decedent Baylee
26 Gatlin, pursuant to Code of Civil Procedure, section 377.30

27 90. Prior to the death of decedent on May 28, 2017, a cause of action for fraud arose
28 which was in decedent's favor as against defendants, and each of them, including Does 1-20, and
had she survived, Baylee Gatlin would have been a plaintiff in that action.

91. This cause of action is plead in the alternative to the false promise cause of

1 action. The only difference between the two causes of action is that instead of the defendants
2 knowing that their representations were false, a negligent misrepresentation only requires that
3 the defendants had no reasonable grounds for believing the representation was true, even if the
4 defendants honestly believed the representation was true. As such, plaintiffs allege that
5 defendants, and each of them, including Does 1-20, had no reasonable grounds for believing the
6 representations specified in the Second Cause of Action even if said defendants honestly
7 believed these representations to be true.

8 **FOURTH CAUSE OF ACTION - SURVIVAL ACTION – NEGLIGENCE HIRING,**
9 **SUPERVISION AND RETENTION**

10 *(All Plaintiffs Against All Defendants Including Does 1-20)*

11 92. Plaintiffs hereby restate, re allege, and incorporate by reference each of the
12 paragraphs in the complaint as though fully set forth herein.

13 93. Plaintiffs bring this action as parents and successors in interest to decedent Baylee
14 Gatlin, pursuant to Code of Civil Procedure, section 377.30

15 94. Prior to the death of decedent on May 28, 2017, a cause of action for negligent
16 hiring/supervision/retention arose which was in decedent's favor as against defendants, and each
17 of them, including Does 1-20, and had she survived, Baylee Gatlin would have been a plaintiff in
18 that action.

19
20 *(As to All Defendants Generally, Including Does 1-20)*

21
22 95. Generally, plaintiffs allege that defendants, and each of them, including Does 1-
23 20, are liable for negligent hiring, supervision and retention by way of the following: (**Element**
24 **#1**) defendants, and each of them, including Does 1-20, hired and/ contracted with certain
25 employees and/or independent contractors to identify, assess, triage, respond to and care for
26 festival attendees' life-threatening conditions or injuries so as to timely arrange for higher level
27 of care and transport; (**Element #2**) these hired employees and/or independent contractors were
28 unfit or incompetent to perform these tasks; (**Element #3**) defendants, and each of them,
including Does 1-20, knew or should have known that these employees and/or independent

1 contractors were or became unfit or incompetent to perform these tasks and that this unfitness or
2 incompetence created a particular risk, such as death, to others; **(Element #4)** these hired
3 employees' and/or contractors' unfitness or incompetence harmed plaintiffs and Baylee Gatlin;
4 and **(Element #5)** the negligence of defendants, and each of them, including Does 1-20, in
5 hiring, supervising and/or retaining these employees and/or independent contractors was a
6 substantial factor in causing plaintiffs' and Baylee Gatlin's harm.

7 *(As to DO LAB)*
8

9 96. Element #1: DO LAB and its officers and directors hired and/or contracted with
10 certain employees and/or independent contractors to identify, assess, triage, respond to and care
11 for festival attendees' life-threatening conditions or injuries so as to timely arrange for higher
12 level of care and transport. The purported purpose of this was so that the event attendees would
13 be kept safe. Specifically, DO LAB hired and/or contracted with RGX, GOTTLIEB and MAPS
14 to perform these tasks. RGX and GOTTLIEB were hired and/or contracted to operate the
15 medical services, first aid tent(s) and act as Medical Coordinator. RGX and GOTTLIEB billed
16 \$12,000.00 plus expenses to DO LAB for these services. DO LAB designated
17 RGX/GOTTLIEB as its medical coordinator, because DO LAB is not a licensed healthcare
18 provider, and it was RGX/GOTTLIEB, with DO LAB's direct knowledge, who managed, and
19 controlled and arranged for individuals as staff in order to comply with the Monterey County
20 event medical plan with which DO LAB and its officers and directors had to comply. DO LAB
21 hired and/or contracted with MAPS to operate a "harm reduction" tent which was to purportedly
22 provide assistance, care and a safe space for festival attendees who encountering "difficult
23 experiences," including but not limited to ones that were drug related. This "harm reduction"
24 tent was purportedly to provide "a supportive environment and specialized care designed to
25 transform difficult psychedelic experiences into valuable learning opportunities, and even
26 potentially offer healing and growth . . . (which) reduces the number of drug related
27 hospitalizations and arrests." MAPS billed \$5,000.00 plus expenses to DO LAB for these
28 services. DO LAB also hired and/or contracted with employees and/or independent contractors
to work under RGX/GOTTLIEB and MAPS. These employees and/or independent contractors
were compensated directly by DO LAB by way of free passes to the multi day subject festival
event. The individual employees and/or independent contractors hired, contracted, and/or

utilized by DO LAB include, but is not limited to the following people/entities and positions: RGX itself; DO LAB'S Medical Coordinator GOTTLIEB; RGX medical volunteer Michelle P. ; RGX medical volunteer Kellen H.; RGX medical volunteer Karen S.; MAPS itself; MAPS' director of harm reduction and supervisor of the Zendo Project Sara Gael Giron; MAPS supervisor Ryan Beauregard; MAPS shift lead Ryan Hoffman; MAPS shift lead Stephan Bagely; MAPS sitter and guardian log keeper Tal G.; MAPS sitter Siri G; and MAPS sitter Sasha.

97. **Element #2:** RGX/GOTTLIEB was clearly unfit or incompetent to perform the tasks identified in the preceding paragraph. In order to obtain the event permit from Monterey County and as part of the required Special Event Medical Plan, DO LAB was required to hire an On-Site Medical Coordinator who would have de facto command of all medical issues at the 2017 LiB event. Instead of hiring or contracting with a medical doctor to serve as its medical coordinator for the subject event, DO LAB hired or contracted with RGX/GOTTLIEB who was simply not qualified to serve as the medical coordinator. GOTTLIEB and DO LAB have muddled the waters as whether or not GOTTLIEB is an independent contractor or an employee. GOTTLIEB claims he is an employee of DO LAB and DO LAB claims he was an independent contractor despite evidence to the contrary. In its Responses to Requests for Admission, Set One, DO LAB denied that GOTTLIEB was an employee of DO LAB from May 27, 2017 through May 29, 2017, at the time of the LiB Festival 2017. In contrast, in his responses to Requests for Admission, Set One, GOTTLIEB dba RGX Medical denied that he was an independent contractor of DO LAB, instead asserting that he was an employee during the LiB Festival 2017. GOTTLIEB repeated this assertion at his deposition. GOTTLIEB also admitted that he received no W-2 from DO LAB for the tax year of 2017. However, DO LAB's Director of Human Resources wrote a letter on June 22, 2018, after this litigation was filed, stating that GOTTLIEB was a "current contracted employee."

98. There are many facts that support the claim that **GOTTLIEB** was unfit and that DO LAB did not do anything to ascertain whether or not he was qualified. DO LAB'S officers and directors, knew or should have known GOTTLIEB was not qualified to be its Medical Coordinator or operate this festival "medical" tent as they either had the personal knowledge of his lack of qualifications and deliberately chose their untrained medical coordinator should have done a better job of vetting him. First, DO LAB failed to provide GOTTLIEB or anyone a Medical Coordinator "job description" or provide any "specific requirements" for Medical Coordinator. Second, he was not a physician. Rather, he was a security guard and a registered

1 nurse who was less than two years out of nursing school at the time of the subject event. At the
2 time of subject event, his nursing experience was limited to four months of working at Ketamine
3 infusion clinic which consisted of assisting an anesthesiologist in delivering IV infusions of
4 ketamine, a class 3 drug, similar in structure to PCP. Third, GOTTLIEB carried no professional
5 liability insurance and no business license whatsoever at the time of the subject event. Fourth,
6 Monterey County officials incorrectly inferred or assumed that GOTTLIEB was an actual doctor
7 as DO LAB had designated him as their medical coordinator, and GOTTLIEB and DO LAB did
8 nothing to correct this misunderstanding. (At the deposition of the Monterey County Sheriff's
9 employee in charge of the 2017 LiB event, the employee testified that he assumed GOTTLIEB
10 was a doctor and had called GOTTLIEB a doctor since DO LAB listed GOTTLIEB as their
11 medical coordinator. The deposition was the first time he learned that GOTTLIEB was not an
12 actual doctor.) Fifth, the medical doctor that GOTTLIEB had promised would be present at the
13 medical tent that saw Baylee Gatlin never actually came to the 2017 LiB event. In the Special
14 Event Medical Plan submitted to Monterey County, DO LAB and GOTTLIEB specified that
15 there would a physician on-site and on-call for the medical tent that eventually saw Baylee
16 Gatlin. No physician staffed the medical tent Baylee Gatlin reported to and none was ever
17 contacted regarding decedent. In short, DO LAB represented that there would be an actual
18 physician at the medical tent that saw Baylee Gatlin to help people, where in actuality, it was
19 GOTTLIEB, a registered nurse less than two years out of nursing school. Sixth, GOTTLIEB's
20 self-described medical model was not focused on recognizing people who need advanced care
21 and arranging for transport for such care, but rather was one "based on the principals of harm
22 reduction with a focus on reducing unnecessary arrests and hospitalizations as well as closely
23 collaborating with other harm reduction agencies such as THE ZENDO PROJECT, Dancesafe
24 and The Drug Policy Alliance." Seventh, GOTTLIEB was unfit as, prior to and during the 2017
25 LiB event, he failed to provide any training, instruction or procedures for individual employees
26 and contractors working under him as to how to identify, assess, triage, respond to and care for
27 festival attendees' life-threatening conditions or injuries so as to timely arrange for higher level
28 of care and transport. GOTTLIEB was unfit as, prior to and during the 2017 LiB event, he failed
to train or instruct these individual employees and contractors to properly monitor and document
an attendant's vital signs such as temperature, blood pressure, etc. GOTTLIEB was unfit as,
prior to and during the 2017 LiB event, he failed to properly equip these individual employees
and contractors with adequate medical devices that could register an attendant's vital signs such

1 as a thermometer. GOTTLIEB was unfit as, prior to and during the 2017 LiB event, he failed to
2 adequately staff its "team" with enough individual employees and contractors as the
3 RGX/GOTTLIEB "team" was vastly outnumbered by the attendant's in the medical and Zendo
4 tents.

5 99. There are many facts that support the claim that **the individuals hired by or**
6 **contracted by DO LAB to staff the medical tent** were unfit. DO LAB did not vet these
7 individuals and did not provide them with the tools and information they would need to help
8 concert goers in critical need. First, the hiring and selection process was limited to an online
9 application. Second DO LAB failed to provide any training, instruction or procedures for
10 individual employees and contractors working them as to how to identify, assess, triage, respond
11 to and care for festival attendees' life-threatening conditions or injuries so as to timely arrange
12 for higher level of care and transport. Third, DO LAB and failed to train or instruct these
13 individual employees and contractors to properly monitor and document an attendant's vital
14 signs such as temperature, blood pressure, etc. Fourth, DO LAB failed to properly equip these
15 individual employees and contractors with adequate medical devices that could register an
16 attendant's vital signs such as a thermometer. Fifth, DO LAB failed to adequately staff the
17 medical team with enough individual employees and contractors as the medical team was vastly
18 outnumbered by the attendant's in the medical tents. Sixth, DO LAB and failed to arrange for a
19 doctor to actually be present or on call despite representing to Monterey County that there would
20 be two such physicians present, one for each medical tent.

21 100. There are many facts that support the claim that **DO LAB'S independent**
22 **contractor MAPS and the individuals who worked under both MAPS and DO LAB in the**
23 **Zendo tent** (all were compensated by DO LAB with free admission and/or other compensation)
24 were unfit. First, these employees and/or independent contractors did not have the training,
25 knowledge or experience to identify, assess, triage, respond to and care for festival attendees'
26 life-threatening conditions or injuries so as to timely arrange for higher level of care and
27 transport. MAPS' managers/supervisors Sara Gael Giron and Ryan Beauregard were unfit or
28 incompetent as evidenced by their failure to train or instruct these individual employees and
contractors to properly monitor and document an attendant's vital signs such as temperature,
blood pressure, etc. Second, MAPS' managers/supervisors Sara Gael Giron and Ryan
Beauregard failed to properly equip these individual employees and contractors with adequate
medical devices that could register an attendant's vital signs such as a thermometer.

1 101. **Element #3:** DO LAB knew or should have known that these employees and/or
2 independent contractors, including GOTTLIEB and MAPS, were or became unfit or incompetent
3 to perform these tasks and that this unfitness or incompetence created a particular risk, such as
4 death, to others. This is addressed in the preceding paragraphs and the following sentences. DO
5 LAB knew or should have known the critical life and death importance of having a qualified
6 Medical Coordinator and medical team based on the event's history, expected attendance and
remoteness.

7 102. DO LAB knew or should have known that **RGX/GOTTLIEB** was unfit or
8 incompetent to perform its role based on the following: First, DO LAB failed to provide
9 GOTTLIEB or anyone a Medical Coordinator "job description" or provide any "specific
10 requirements" for Medical Coordinator. Second, he was not a physician. Rather, he was a
11 security guard and a registered nurse who was less than two years out of nursing school at the
12 time of the subject event. At the time of subject event, his nursing experience was limited to
13 four months of working at Ketamine infusion clinic which consisted of assisting an
14 anesthesiologist in delivering IV infusions of Ketamine, a class 3 drug, similar in structure to
15 PCP. Third, GOTTLIEB carried no professional liability insurance and no business license
16 whatsoever at the time of the subject event. Fourth, Monterey County officials incorrectly
17 inferred or assumed that GOTTLIEB was an actual doctor as DO LAB had designated him as
18 their medical coordinator, and GOTTLIEB and DO LAB did nothing to correct this
19 misunderstanding. (At the deposition of the Monterey County Sheriff's employee in charge of
20 the 0217 LiB event, the employee testified that he assumed GOTTLIEB was a doctor and had
21 called GOTTLIEB a doctor since DO LAB listed GOTTLIEB as their medical coordinator. The
22 deposition was the first time he learned that GOTTLIEB was not an actual doctor.) Fifth, the
23 medical doctor that GOTTLIEB had promised would be present at the medical tent that saw
24 Baylee Gatlin never actually came to the 2017 LiB event. In the Special Event Medical Plan
25 submitted to Monterey County, DO LAB and GOTTLIEB specified that there would a physician
26 on-site and on-call for the medical tent that eventually saw Baylee Gatlin. No physician staffed
27 the medical tent Baylee Gatlin reported to and none was ever contacted regarding decedent. In
28 short, DO LAB represented that there would be an actual physician at the medical tent that saw
Baylee Gatlin to help people, where in actuality, it was GOTTLIEB, a registered nurse less than
two years out of nursing school. Sixth, GOTTLIEB's self-described medical model was not
focused on recognizing people who need advanced care and arranging for transport for such

1 care, but rather was one "based on the principals of harm reduction with a focus on reducing
2 unnecessary arrests and hospitalizations as well as closely collaborating with other harm
3 reduction agencies such as THE ZENDO PROJECT, Dancesafe and The Drug Policy Alliance."
4 Seventh, GOTTLIEB was unfit as, prior to and during the 2017 LiB event, he failed to provide
5 any training, instruction or procedures for individual employees and contractors working under
6 him as to how to identify, assess, triage, respond to and care for festival attendees' life-
7 threatening conditions or injuries so as to timely arrange for higher level of care and transport.
8 GOTTLIEB was unfit as, prior to and during the 2017 LiB event, he failed to train or instruct
9 these individual employees and contractors to properly monitor and document an attendant's
10 vital signs such as temperature, blood pressure, etc. GOTTLIEB was unfit as, prior to and
11 during the 2017 LiB event, he failed to properly equip these individual employees and
12 contractors with adequate medical devices that could register an attendant's vital signs such as a
13 thermometer. GOTTLIEB was unfit as, prior to and during the 2017 LiB event, he failed to
14 adequately staff its "team" with enough individual employees and contractors as the
15 RGX/GOTTLIEB "team" was vastly outnumbered by the attendant's in the medical and Zendo
16 tents.

17 103. DO LAB knew or should have known that **the individuals hired by or**
18 **contracted by DO LAB to staff the medical tent** were unfit or incompetent to perform their
19 roles based on the following: DO LAB did not vet these individuals and did not provide them
20 with the tools and information they would need to help concert goers in critical need. First, the
21 hiring and selection process was limited to an online application. Second DO LAB failed to
22 provide any training, instruction or procedures for individual employees and contractors working
23 them as to how to identify, assess, triage, respond to and care for festival attendees' life-
24 threatening conditions or injuries so as to timely arrange for higher level of care and transport.
25 Third, DO LAB and failed to train or instruct these individual employees and contractors to
26 properly monitor and document an attendant's vital signs such as temperature, blood pressure,
27 etc. Fourth, DO LAB failed to properly equip these individual employees and contractors with
28 adequate medical devices that could register an attendant's vital signs such as a thermometer.
Fifth, DO LAB failed to adequately staff the medical team with enough individual employees
and contractors as the medical team was vastly outnumbered by the attendant's in the medical
tents. Sixth, DO LAB and failed to arrange for a doctor to actually be present or on call for the
medical tent that saw Baylee Gatlin despite representing to Monterey County that there would be

1 two such physicians present, one for each medical tent.

2 104. DO LAB knew or should have known that **DO LAB'S independent contractor**
3 **MAPS and the individuals who worked under both MAPS and DO LAB in the Zendo tent**
4 were unfit or incompetent to perform its role based on, but not limited to, the following: one of
5 MAPS' goal was to reduce the number of drug related hospitalizations as opposed to identifying
6 attendees who need advanced care and transport for such advanced care; MAPS would staff its
7 "harm reduction" tents with persons who were not required to have a medical background nor
8 trained to identify and triage persons with life threatening symptoms; MAPS would staff its
9 "harm reduction" tents with persons whose sole compensation was free attendance to the party
10 (Lib 2017 event) which presumably would lead to a disorganized, unprepared and possibly under
11 the influence persons staffing the "harm reduction" tents; and MAPS would staff these "harm
12 reduction" tents with no access to instruments to measure or timely record vital signs.

13 105. **Element #4:** These hired employees' and/or contractors' unfitness or
14 incompetence harmed plaintiffs and Baylee Gatlin. This is addressed in the above two
15 paragraphs and is evidenced by Baylee Gatlin being sent to the Zendo "harm reduction" tent in
16 the first place when she presented to the medical tent, Baylee Gatlin being warehoused in the
17 Zendo "harm reduction" tent for approximately six hour with deteriorating conditions, not being
18 timely assessed with life threatening conditions, not timely receiving a medical transport for a
19 higher and more critical level of care, and ultimately dying in the ambulance on the way to the
20 hospital from multi organ failure, hyperthermia (overheating), dehydration and its sequelae.

21 106. **Element #5:** DO LAB's hiring, supervising and/or retaining these employees
22 and/or independent contractors was a substantial factor in causing plaintiffs' and Baylee Gatlin's
23 harm. This is addressed in the above three paragraphs and is evidenced by Baylee Gatlin being
24 sent to the Zendo "harm reduction" tent in the first place when she presented to the medical tent,
25 Bayle Gatlin being warehoused in the Zendo "harm reduction" tent for approximately six hour
26 with deteriorating conditions, not being timely assessed with life threatening conditions, not
27 timely receiving a medical transport for a higher and more critical level of care, and ultimately
28 dying in the ambulance on the way to the hospital from multi organ failure, hyperthermia
(overheating), dehydration and its sequelae. Simply put, Baylee Gatlin would not have suffered
to the extent she did and would not have died had she been properly assessed, triaged, monitored
and timely transported to a higher level of care.

(As to MAPS)

1
2 107. **Element #1:** MAPS and its officers and directors hired and/or contracted with
3 certain employees and/or independent contractors to staff its Zendo “harm reduction” tent at the
4 2017 Lib event with managers and “sitters.” The purpose of this was to provide “harm
5 reduction” to attendees and presumably keep them safe. The employees and/or independent
6 contractors hired and/or contracted by MAPS to staff its Zendo “harm reduction” tent at the 2017
7 Lib event included, but is not limited to the following people and positions: MAPS’ director of
8 harm reduction and supervisor of the Zendo Project, Sara Gael Giron; MAPS supervisor Ryan
9 Beauregard; MAPS shift lead Ryan Hoffman; MAPS shift lead Stephan Bagely; MAPS sitter
and guardian log keeper Tal G.; MAPS sitter Siri G; and MAPS sitter Sasha.

10 108. **Element #2:** The employees and/ or independent contractors hired or contracted
11 by MAPS were unfit or incompetent to perform the tasks identified in the preceding paragraph.
12 These employees and/or independent contractors did not have the training, knowledge or
13 experience to identify, assess, triage, respond to and care for festival attendees’ life-threatening
14 conditions or injuries so as to timely arrange for higher level of care and transport. MAPS’
15 managers/supervisors Sara Gael Giron and Ryan Beauregard were unfit or incompetent as
16 evidenced by their failure to train or instruct these individual employees and contractors to
17 properly monitor and document an attendant’s vital signs such as temperature, blood pressure,
18 etc. MAPS’ managers/supervisors Sara Gael Giron and Ryan Beauregard failed to properly
19 equip these individual employees and contractors with adequate medical devices that could
20 register an attendant’s vital signs such as a thermometer. The MAPS employees and/or
21 contractors unfitness and incompetence was also evident by their handling of Baylee Gatlin as
22 evidenced by, but not limited to, the following: failing to adequately monitor Baylee Gatlin
23 during her approximate six hours in the Zendo “harm reduction” tent as evidenced by a lack of
24 documented vital sign checks during this time; failing to summon more advanced care or
25 arranging for timely transport for such care despite her deteriorating condition consisting of full
26 body convulsions, losing control of her bowels and bladder, vomiting, dilated pupils, foaming at
27 the mouth, incoherence, her inability to consume water, and her high temperature peaking at 105
28 degrees; warehousing Baylee Gatlin in the Zendo “harm reduction” tent for approximately six
hours where she was attended to by persons even less qualified than those staffing the “medical
tent”; allowing or placing blankets on Baylee Gatlin while she was literally cooking to death;
primarily staffing the Zendo “harm reduction” tent with persons whose sole compensation was

1 free attendance to the party (Lib 2017 event) which presumably would lead to a disorganized,
2 unprepared and possibly under the influence team of individuals; and finally Baylee Gatlin's
3 death from multi organ failure, hyperthermia (overheating), dehydration and its sequelae. The
4 "sitters" were not paid professionals, but rather, were there for the party/event. This is evident
5 by the fact that their sole compensation was free attendance to the party (Lib 2017 event).

6 109. **Element #3:** MAPS knew or should have known that these employees and/or
7 independent contractors were or became unfit or incompetent to perform these tasks and that this
8 unfitness or incompetence created a particular risk, such as death, to others. This is addressed in
9 the preceding paragraph. MAPS knew or should have known the critical life and death
10 importance of having employees and/or contractors who had the ability to identify, assess, triage,
11 respond to and care for festival attendees' life-threatening conditions or injuries so as to timely
12 arrange for actual medical care, a higher level of care and/or transport. MAPS knew or should
13 have known that managers/supervisors Sara Gael Giron and Ryan Beauregard were unfit or
14 incompetent as evidenced by the following: their failure to provide any training, instruction or
15 procedures for individual employees and contractors so that they would have the ability to
16 identify, assess, triage, respond to and care for festival attendees' life-threatening conditions or
17 injuries so as to timely arrange for actual medical care, a higher level of care and/or transport;
18 their failure to train or instruct these individual employees and contractors to properly monitor
19 and document an attendant's vital signs such as temperature, blood pressure, etc.; their failure to
20 properly equip these individual employees and contractors with adequate medical devices that
21 could register an attendant's vital signs such as a thermometer; staffing the "sitters" with persons
22 whose sole compensation was free attendance to the party (Lib 2017 event) which presumably
23 would lead to a disorganized, unprepared and possibly under the influence team of "sitters".
24 Lastly, MAPS knew or should have known that it's "sitters" would be unfit or incompetent as
25 their sole compensation was free attendance to the party (Lib 2017 event) which presumably
26 would lead to a disorganized, unprepared and possibly under the influence team of "sitters".

27 110. **Element #4:** These hired employees' and/or contractors' unfitness or
28 incompetence harmed plaintiffs and Baylee Gatlin. This is addressed in the above two
paragraphs and is evidenced by Baylee Gatlin being warehoused in the Zendo "harm reduction"
tent for approximately six hour with deteriorating conditions, not being timely assessed with life
threatening conditions, not timely receiving a medical transport for a higher and more critical
level of care, and ultimately dying in the ambulance on the way to the hospital from multi organ

1 failure, hyperthermia (overheating), dehydration and its sequelae.

2 111. **Element #5:** MAP's hiring, supervising and/or retaining these employees and/or
3 independent contractors was a substantial factor in causing plaintiffs' and Baylee Gatlin's harm.
4 This is addressed in the above three paragraphs and is evidenced by Baylee Gatlin being
5 warehoused in the Zendo "harm reduction" tent for approximately six hour with deteriorating
6 conditions, not being timely assessed with life threatening conditions, not timely receiving a
7 medical transport for a higher and more critical level of care, and ultimately dying in the
8 ambulance on the way to the hospital from multi organ failure, hyperthermia (overheating),
9 dehydration and its sequelae. Simply put, Baylee Gatlin would not have suffered to the extent
10 she did and would not have died had she been properly assessed, triaged, monitored and timely
11 transported to a higher level of care.

12 *(As to RGX/GOTTLEIB)*

13 112. **Element #1:** RGX/GOTTLEIB hired and/or contracted with certain employees
14 and/or independent contractors to identify, assess, triage, respond to and care for festival
15 attendees' life-threatening conditions or injuries so as to timely arrange for higher level of care
16 and transport. The purpose of this was so that the event attendees would be kept safe. These
17 employees and/or independent contractors were compensated by way of free passes to the multi
18 day subject festival event. The employees and/or independent contractors hired and/or
19 contracted by RGX/GOTTLEIB included, but is not limited to the following people and
20 positions: RGX medical volunteer Michelle P.; RGX medical volunteer Kellen H.; RGX medical
21 volunteer Karen S.; MAPS itself; MAPS' director of harm reduction and supervisor of the Zendo
22 Project Sara Gael Giron; MAPS supervisor Ryan Beauregard; MAPS shift lead Ryan Hoffman;
23 MAPS shift lead Stephan Bagely; MAPS sitter and guardian log keeper Tal G.; MAPS sitter Siri
24 G; and MAPS sitter Sasha.

24 113. **Element #2:** The employees and/ or independent contractors hired or contracted
25 by RGX/GOTTLEIB were unfit or incompetent to perform the tasks identified in the preceding
26 paragraph. These employees and/or independent contractors were not medical doctors nor
27 trained nor qualified to perform the tasks identified in the preceding paragraph. They were not
28 paid professionals, but rather, were there for the party/event. This is evident by the fact that their
sole compensation was free attendance to the party (Lib 2017 event). RGX/GOTTLEIB did not

1 vet these individuals and did not provide them with the tools and information they would need to
2 help concert goers in critical need. Their unfitness and incompetence is further evidenced by,
3 but not limited to, the following facts. First, the hiring and selection process was limited to an
4 online application. Second RGX/GOTTLIEB failed to provide any training, instruction or
5 procedures for individual employees and contractors working them as to how to identify, assess,
6 triage, respond to and care for festival attendees' life-threatening conditions or injuries so as to
7 timely arrange for higher level of care and transport. Third, RGX/GOTTLIEB and failed to
8 train or instruct these individual employees and contractors to properly monitor and document an
9 attendant's vital signs such as temperature, blood pressure, etc. Fourth, RGX/GOTTLIEB failed
10 to properly equip these individual employees and contractors with adequate medical devices that
11 could register an attendant's vital signs such as a thermometer. Fifth, RGX/GOTTLIEB failed
12 to adequately staff the medical team with enough individual employees and contractors as the
13 medical team was vastly outnumbered by the attendant's in the medical tents. Sixth,
14 RGX/GOTTLIEB and failed to arrange for a doctor to actually be present or on call for the
15 medical tent that saw Baylee Gatlin despite representing to Monterey County that there would be
16 two such physicians present, one for each medical tent.

15 114. **Element #3:** RGX/GOTTLIEB knew or should have known that these employees
16 and/or independent contractors were or became unfit or incompetent to perform these tasks and
17 that this unfitness or incompetence created a particular risk, such as death, to others. This is
18 addressed in the preceding paragraph. RGX/GOTTLIEB knew or should have known the
19 critical life and death importance of having qualified people on the medical team based on the
20 event's history, RGX/GOTTLIEB's involvement in past events; expected attendance and
21 remoteness.

21 115. **Element #4:** These hired employees' and/or contractors' unfitness or
22 incompetence harmed plaintiffs and Baylee Gatlin. This is addressed in the above two
23 paragraphs and is evidenced by Baylee Gatlin being sent to the Zendo "harm reduction" tent in
24 the first place when she presented to the medical tent, Baylee Gatlin being warehoused in the
25 Zendo "harm reduction" tent for approximately six hour with deteriorating conditions, not being
26 timely assessed with life threatening conditions, not timely receiving a medical transport for a
27 higher and more critical level of care, and ultimately dying in the ambulance on the way to the
28 hospital from multi organ failure, hyperthermia (overheating), dehydration and its sequelae.

116. **Element #5:** RGX/GOTTLIEB's hiring, supervising and/or retaining these

employees and/or independent contractors was a substantial factor in causing plaintiffs' and Baylee Gatlin's harm. This is addressed in the above three paragraphs and is evidenced by Baylee Gatlin being sent to the Zendo "harm reduction" tent in the first place when she presented to the medical tent, Bayle Gatlin being warehoused in the Zendo "harm reduction" tent for approximately six hour with deteriorating conditions, not being timely assessed with life threatening conditions, not timely receiving a medical transport for a higher and more critical level of care, and ultimately dying in the ambulance on the way to the hospital from multi organ failure, hyperthermia (overheating), dehydration and its sequelae. Simply put, Baylee Gatlin would not have suffered to the extent she did and would not have died had she been properly assessed, triaged, monitored and timely transported to a higher level of care.

(As to All Defendants Including Does 1-20)

117. Plaintiffs further allege that defendants and each of them acted with malice, oppression and fraud in reckless disregard of the value of life of their daughter, Baylee Ybarra Gatlin; as stated in this pleading, including but not limited to their negligent hiring/supervision/retention. This conduct, as described in detail in the above paragraphs, rises to the level of gross negligence. Defendants and each of them authorized, ratified or had advance knowledge on the part of their officers, directors, and managing agents.

WHEREFORE, plaintiffs pray for damages against defendants, and each of them, as follows as to each cause of action:

1. First Cause of Action - Wrongful Death - All Plaintiffs Against All Defendants:

- a. For general (non-economic) damages according to proof at the time of trial;
- b. For special (economic) damages according to proof at the time of trial;
- c. For past and future loss of love, companionship, care, assistance, comfort, affection, society, solace, moral support, loss of training and guidance, and protection according to proof at the time of trial;
- d. For past and future loss of services according to proof at the time of trial;
- e. For prejudgment interest as permitted by law;
- f. For costs incurred herein;
- g. For such other and further relief as the court may deem just and proper.

1 **2. Second Cause of Action - Survival Action (Fraud/False Promise) - All Plaintiffs**
2 **Against Defendants DO LAB, MAPS and Does 1-20 Only:**

- 3 a. For general (non-economic) damages according to proof at the time of trial;
4 b. For special (economic) damages according to proof at the time of trial;
5 c. For exemplary damages for conduct amounting to malice, fraud and/or oppression;
6 d. For prejudgment interest as permitted by law;
7 e. For costs incurred herein;
8 f. For such other and further relief as the court may deem just and proper.

9 **3. Third Cause of Action - Survival Action (Fraud/Negligent Misrepresentation) - All**
10 **Plaintiffs Against Defendants DO LAB, MAPS and Does 1-20 Only:**

- 11 a. For general (non-economic) damages according to proof at the time of trial;
12 b. For special (economic) damages according to proof at the time of trial;
13 c. For prejudgment interest as permitted by law;
14 d. For costs incurred herein;
15 e. For such other and further relief as the court may deem just and proper.

16 **4. Fourth Cause of Action - Survival Action (Negligent Hiring/Supervision/Retention)**
17 **- All Plaintiffs Against All Defendants:**

- 18 a. For general (non-economic) damages according to proof at the time of trial;
19 b. For special (economic) damages according to proof at the time of trial;
20 c. For exemplary damages for conduct amounting to malice, fraud and/or oppression (with
21 the understanding that such damages will only be allowed against defendant GOTTLIEB should
22 the Court allow it following a noticed C.C.P. § 425.13 hearing);
23 d. For prejudgment interest as permitted by law;
24 e. For costs incurred herein;
25 f. For such other and further relief as the court may deem just and proper.


26 Dated: September 23, 2019.

LAW OFFICES OF MARK R. PACHOWICZ

27 By: /S/ Jennie Hendrickson
28 **MARK R. PACHOWICZ**
JENNIE HENDRICKSON
Attorneys for Plaintiff
SUSAN YBARRA-TELIAZ

1 Dated: September 23, 2019.

**LOWTHORP, RICHARDS, McMILLAN,
MILLER & TEMPLEMAN
A PROFESSIONAL CORPORATION**

2
3
4 By: 
JOHN H. HOWARD
BRETT C. TEMPLEMAN
Attorneys for Plaintiff
CARLA GATLIN

5
6
7 **DEMAND FOR JURY TRIAL**

8 Plaintiffs herein demand a trial by jury for all causes of action so triable.

9 Dated: September 23, 2019.

LAW OFFICES OF MARK R. PACHOWICZ

10 /S/ Jennie Hendrickson
11 By: _____
12 MARK R. PACHOWICZ
JENNIE HENDRICKSON
Attorneys for Plaintiff
13 SUSAN YBARRA-TELIAZ

14
15 Dated: September 23, 2019.

**LOWTHORP, RICHARDS, McMILLAN,
MILLER & TEMPLEMAN
A PROFESSIONAL CORPORATION**

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18 By: 
19 JOHN H. HOWARD
BRETT C. TEMPLEMAN
Attorneys for Plaintiff CARLA GATLIN
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25
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28

PROOF OF SERVICE
C.C.P. §1013A(3), Revised 5/1/88

STATE OF CALIFORNIA)
)
COUNTY OF VENTURA) ss.

I am employed in the County of Ventura, State of California. I am over the age of 18 and not a party to the action; my business address is 300 East Esplanade Drive, Suite 850, Oxnard, CA 93036.

On the date shown below, I served upon the interested party(ies) in this action the following described document(s):

SUMMONS AND THIRD AMENDED COMPLAINT FOR DAMAGES: 1. WRONGFUL DEATH; 2. SURVIVAL ACTION FOR FRAUD/FALSE PROMISE; 3. SURVIVAL ACTION FOR NEGLIGENT MISREPRESENTATION; 4. SURVIVAL ACTION FOR NEGLIGENT SUPERVISION/HIRING AND DEMAND FOR JURY TRIAL

☒ X

MAIL: by placing a true copy thereof enclosed in a sealed envelope(s), addressed as set forth below. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Oxnard, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐

PERSONAL DELIVERY: by delivering a true copy thereof by hand to the person or office, as indicated, at the address(es) set forth below.

☐

FAX: by transmitting a true copy thereof by telecopier to the person or office, as indicated, at the address(es) and telecopier number set forth below pursuant to Rule 2008 of the California Rules of Court. The telephone number of the sending facsimile machine is (805) 983-1967. A transmission report was properly issued by the sending machine and is attached hereto.

☐

OVERNIGHT DELIVERY: by causing a true copy thereof to be delivered by an overnight courier or by overnight mail to the person or office, as indicated, at the address(es) set forth below.

☐

EMAIL: by causing a true copy thereof to be emailed to the person or office, as indicated, at the email address(es) set forth below.

PLEASE SEE ATTACHED MAILING LIST.

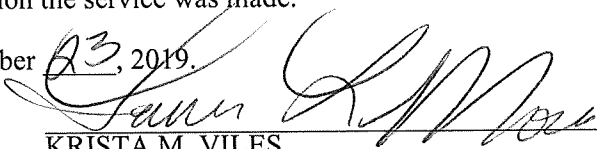
☒ X

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

☐

FEDERAL: I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on September 23, 2019.


KRISTA M. VILES
ELIZABETH A. YANCEY
TAMARA L. MOORE
Declarant

MAILING LIST

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