

I. DISCOVERY CONTROL PLAN LEVEL

1. Plaintiffs intend to conduct discovery under Level 3 of Texas Rule of Civil Procedure.

II. PARTIES AND SERVICE

2. Plaintiff, SHERRY REYNOLDS, is an individual who is a resident of Comanche County, Texas. The last three digits of the Plaintiff's driver's license number are 371.

3. Plaintiff, M. BRANDON REYNOLDS, is an individual who is a resident of Comanche County, Texas. The last three digits of the Plaintiff's driver's license number are 741.

4. Plaintiff, KAITLIN REYNOLDS, is an individual who is a resident of Comanche County, Texas. The last three digits of the Plaintiff's driver's license number are 749.

5. Defendant **PYRO SHOWS OF TEXAS, INC.** is a corporation formed pursuant to the laws of the State of Texas that may be served by serving its registered agent Micheal Stanley, 6601 Nine Mile Azle Road, Fort Worth, Texas 76135.

6. Defendant **PYRO SHOWS, INC.** is a foreign corporation registered to do business in the State of Texas that may be served by serving its registered agent Roger Disspayne, 5230 Teal Way, Baytown, Texas 77523.

7. **CZECH INTERNATIONAL TRADING LIMITED**, hereinafter "Czech International" is a foreign company headquartered in Liuyang City, Hunan Province, China. The acts of Czech International constitute "business" in the State of Texas thereby establishing personal jurisdiction under CPRC §17.041 (and as defined by §17.042). Further, Czech International committed tortious acts in whole or in part in the State of Texas as specifically alleged in this Petition. Consequently, Czech International may be served pursuant to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (the 'Hague Convention') by delivering the Petition,

Citation, and a Request for Service to the Central Authority for the People's Republic of China, the Ministry of Justice for the Attention of Foreign Process Section at the following address:

The Ministry of Justice
Department of Judicial Assistance and Foreign Affairs
Division of Judicial Assistance
10, Chaoyangmen Nandajie
ChaoyangDistrict
Beijing 100020
People's Republic of China

Furthermore, service is requested under the laws of the State of Texas, and the Texas Secretary of State shall immediately mail a certified copy of this Petition and citation to Czech International at the above address.

8. **JIANGXI LIDU FIREWORKS GROUP CO., LTD.**, hereinafter "Lidu Group" is a foreign company headquartered in Lidu Town, Jinxian County, China. The acts of Lidu Group constitute "business" in the State of Texas thereby establishing personal jurisdiction under CPRC §17.041 (and as defined by §17.042). Further, Lidu Group committed tortious acts in whole or in part in the State of Texas as specifically alleged in this Petition. Consequently, Lidu Group may be served pursuant to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (the 'Hague Convention') by delivering the Petition, Citation, and a Request for Service to the Central Authority for the People's Republic of China, the Ministry of Justice for the Attention of Foreign Process Section at the following address:

The Ministry of Justice
Department of Judicial Assistance and Foreign Affairs
Division of Judicial Assistance
10, Chaoyangmen Nandajie
ChaoyangDistrict
Beijing 100020
People's Republic of China

Furthermore, service is requested under the laws of the State of Texas, and the Texas Secretary of State shall immediately mail a certified copy of this Petition and citation to Lidu Group at the above address.

9. **JIANGXI PROVINCE LIDU FIREWORKS CORPORATION, LTD.**, hereinafter “Lidu Corporation” is a foreign company headquartered in No. 2, Lidu Avenue, Lidu Town, Jinxian, Jiangxi, China, 331725. The acts of Lidu Corporation constitute “business” in the State of Texas thereby establishing personal jurisdiction under CPRC §17.041 (and as defined by §17.042). Further, Lidu Corporation committed tortious acts in whole or in part in the State of Texas as specifically alleged in this Petition. Consequently, Lidu Corporation may be served pursuant to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (the ‘Hague Convention’) by delivering the Petition, Citation, and a Request for Service to the Central Authority for the People’s Republic of China, the Ministry of Justice for the Attention of Foreign Process Section at the following address:

The Ministry of Justice
Department of Judicial Assistance and Foreign Affairs
Division of Judicial Assistance
10, Chaoyangmen Nandajie
ChaoyangDistrict
Beijing 100020
People’s Republic of China

Furthermore, service is requested under the laws of the State of Texas, and the Texas Secretary of State shall immediately mail a certified copy of this Petition and citation to Lidu Corporation at the above address.

10. **ICON PYROTECHNIC INTERNATIONAL CO., LTD.**, hereinafter “ICON” is a foreign company headquartered in 20C Woodbury Court 10 Parkvale Drive Discovery Bay Hong Kong China. The acts of ICON constitute “business” in the State of Texas thereby

establishing personal jurisdiction under CPRC §17.041 (and as defined by §17.042). Further, ICON committed tortious acts in whole or in part in the State of Texas as specifically alleged in this Petition. Consequently, ICON may be served pursuant to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (the ‘Hague Convention’) by delivering the Petition, Citation, and a Request for Service to the Central Authority for Hong Kong, the Chief Secretary of Administration at the following address:

Chief Secretary of Administration
 Hong Kong Special Administrative Region Government
 Room 321, 3/F, East Wing
 Central Government Offices
 2 Tim Mei Avenue
 Admiralty
 Hong Kong, China

Furthermore, service is requested under the laws of the State of Texas, and the Texas Secretary of State shall immediately mail a certified copy of this Petition and citation to ICON at the above address.

11. **ORIENTAL FIREWORKS CO., LTD**, hereinafter “Oriental Fireworks” is a foreign company headquartered in 83 Guizhai East Road, Liuyang, Hunan, China. The acts of Oriental Fireworks constitute “business” in the State of Texas thereby establishing personal jurisdiction under CPRC §17.041 (and as defined by §17.042). Further, Oriental Fireworks committed tortious acts in whole or in part in the State of Texas as specifically alleged in this Petition. Consequently, Oriental Fireworks may be served pursuant to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (the ‘Hague Convention’) by delivering the Petition, Citation, and a Request for Service to the Central Authority for the People’s Republic of China, the Ministry of Justice for the Attention of Foreign Process Section at the following address:

The Ministry of Justice
Department of Judicial Assistance and Foreign Affairs
Division of Judicial Assistance
10, Chaoyangmen Nandajie
Chaoyang District
Beijing 100020
People's Republic of China

Furthermore, service is requested under the laws of the State of Texas, and the Texas Secretary of State shall immediately mail a certified copy of this Petition and citation to Oriental Fireworks at the above address.

12. **GLORIOUS COMPANY**, hereinafter “Glorious” is a foreign company headquartered in 22/F, Winbase Centre, 208 Queens Road, Central, Hong Kong, China. The acts of Glorious constitute “business” in the State of Texas thereby establishing personal jurisdiction under CPRC §17.041 (and as defined by §17.042). Further, Glorious committed tortious acts in whole or in part in the State of Texas as specifically alleged in this Petition. Consequently, Glorious may be served pursuant to the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (the ‘Hague Convention’) by delivering the Petition, Citation, and a Request for Service to the Central Authority for Hong Kong, the Chief Secretary of Administration at the following address:

Chief Secretary of Administration
Hong Kong Special Administrative Region Government
Room 321, 3/F, East Wing
Central Government Offices
2 Tim Mei Avenue
Admiralty
Hong Kong, China

Furthermore, service is requested under the laws of the State of Texas, and the Texas Secretary of State shall immediately mail a certified copy of this Petition and citation to Glorious at the above address.

III. JURISDICTION AND VENUE

13. The subject matter in controversy is within the jurisdictional limits of this court. Plaintiff seeks monetary relief over \$1,000,000.00.

14. This court has jurisdiction over Defendants because said Defendants purposefully availed themselves of the privilege of conducting activities in the state of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendants, and the assumption of jurisdiction over Defendants will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.

15. Plaintiff would show that Defendants had continuous and systematic contacts with the state of Texas sufficient to establish general jurisdiction over said Defendants.

16. Venue in Tarrant County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because this county was the county of residence of Pyro Shows of Texas, Inc., Defendant herein, at the time the cause of action accrued. Further, this county is the county of the principal office of Pyro Shows of Texas, Inc., Defendant herein.

IV. FACTS

17. Defendants, **CZECH INTERNATIONAL TRADING, JIANGXI LIDU FIREWORKS GROUP CO., LTD., JIANGXI PROVINCE LIDU FIREWORKS CORPORATION, LTD., ICON PYROTECHNIC INTERNATIONAL CO., LTD., ORIENTAL FIREWORKS CO., LTD, and GLORIOUS COMPANY**, hereinafter collectively referred to as “Fireworks Defendants” at all times relevant hereto and at the time of Plaintiff’s injury, has been engaged in the business of designing, manufacturing, selling and packaging fireworks for sale and for use by members of the general public. The Fireworks Defendants placed their products in question into the stream of commerce by selling the product

to Pyro Shows of Texas, Inc. and Pyro Shows, Inc. for its use in the business of selling and distributing fireworks and fireworks shows.

18. Pyro Shows of Texas, Inc. and Pyro Shows, Inc., hereinafter collectively referred to as “Pyro Shows” sold and distributed the products to the Kiwanis Club of Comanche, Texas. Russell Reynolds was a member of the Kiwanis Club of Comanche, Texas and was involved in the Kiwanis Club Fourth of July fireworks show to be held on July 4, 2014 in Comanche, Texas.

19. While preparing the fireworks show on July 3, 2014, there was an early, unexpected ignition of the fireworks which led to subsequent ignitions, explosions, and fire. Russell Reynolds was present helping to prepare for the show and was wrongfully killed due to the early, unexpected ignition, explosions, and fire.

20. When the Products from the Fireworks Defendants and the Pyro Shows Defendants were sold, the Products were in the same condition as they were in at the time Russell C. Reynolds was injured and wrongfully killed thereby, and on that date, the Products were in the same condition as when they were originally manufactured and placed into the stream of commerce by Defendants. The Products were unreasonably dangerous and/or defective when they left the hands of the Defendants, in that they were manufactured and placed into the stream of commerce without *without proper safety mechanisms and without proper warnings* that would have prevented Plaintiff’s injury.

FIRST CAUSE OF ACTION

STRICT LLIABILITY IN TORT

STRICT LIABILITY OF PYRO SHOWS DEFENDANTS

21. The allegations contained within paragraphs 1 through 20 of this Complaint are incorporated into Plaintiffs’ First Cause of Action by this reference.

22. While engaged in the sale of the fireworks, ignition, and launching products, Defendant Pyro Shows sold fireworks, ignition, and launching products and other like products, to consumers within the stream of commerce. Defendant Pyro Shows intended and expected that the fireworks, ignition, and launching products, so introduced and passed on in the course of trade would ultimately reach a consumer or user in the condition in which it was originally sold.

23. Plaintiffs also allege that the products in question were defective and unsafe for the intended purposes at the time the products left the control of Defendant Pyro Shows and at the time it was sold in that it failed in its design to prevent early and unexpected ignition and explosions. As such, the products were unreasonably dangerous.

24. Plaintiffs therefore invoke the doctrine of strict liability in Section 402A, Restatement of the Law of Torts, 2d, and as adopted by the Supreme Court of Texas. Further, in this connection, Plaintiffs would show the court that the actions of Pyro Shows were a producing cause of the injuries and damages set forth below.

25. The Pyro Shows Defendants are liable for the wrongful death of Russell Reynolds and harm caused to Plaintiffs because:

A. Pyro Shows exercised substantial control over the content of the warning or instruction that accompanied the fireworks, ignition, and launching products; the warnings or instructions were inadequate; and the wrongful death of Russell Reynolds and Plaintiffs' harm resulted from the inadequacy of the warning or instruction.

B. The manufacturer of the fireworks, ignition, and launching products is not subject to the jurisdiction of the court.

STRICT LIABILITY OF FIREWORKS DEFENDANTS

26. The allegations contained within paragraphs 1 through 25 of this Complaint are incorporated by this reference as if fully stated herein.

27. Defendants are strictly liable in tort to Plaintiffs in that:

(a) Defendants placed the fireworks and ignition products on the market.

- (b) At the time the Fireworks and ignition products left Defendants' possession, they were defectively designed in that it failed to perform as safely as an ordinary consumer would expect when used in a manner either intended by Defendants or reasonably foreseeable by Defendants.
- (c) At the time the Fireworks and ignition products left Defendants' possession, it was defective in that they were not accompanied by sufficient warnings to inform the product's user of any risk of harm not readily recognizable by the user while using the product in a reasonably foreseeable manner.
- (d) The above-described defects made the Fireworks and ignition products unreasonably dangerous for the intended use in that the defects created a risk of harm beyond that which would be contemplated by the ordinary foreseeable user, or for any use Defendants could have reasonably foreseen.

28. That the wrongful death of Russell Reynolds and the damages and injuries sustained by Plaintiffs were the direct and proximate result of the defective design and/or manufacture of the Fireworks and ignition products, and that the Fireworks and ignition products was not accompanied by sufficient warnings as described above, that said defects were present when the Fireworks and ignition products were designed, manufactured, tested, assembled, packaged, labeled, exported and sold and/or distributed by Defendants, which defects Russell Reynolds was unaware of at any time prior to sustaining the injuries referenced above and was at no time warned by Defendants.

SECOND CAUSE OF ACTION

FIREWORKS DEFENDANTS NEGLIGENT FAILURE TO USE REASONABLE CARE TO SEE THAT GOODS ARE SAFE FOR INTENDED USE

29. The allegations contained within paragraphs 1 through 28 are incorporated into Plaintiffs' Second Cause of Action by this reference.

30. Defendants manufactured, supplied, sold, exported and distributed the Fireworks and ignition products.

31. Defendants failed to use reasonable care to see that the Fireworks and ignition products were safe for the use for which they were manufactured, supplied, sold and distributed, in that the Fireworks and ignition products Defendants manufactured, supplied, sold, exported and distributed malfunctioned, namely, igniting early and unexpectedly, and causing the wrongful death of Russell Reynolds.

32. That this failure to use reasonable care to see that the Fireworks and ignition products were safe for the use for which they manufactured, supplied, sold, exported and distributed was a proximate cause of the wrongful death of Russell Reynolds and the damages to the Plaintiffs.

THIRD CAUSE OF ACTION

ALL DEFENDANTS' NEGLIGENT FAILURE TO WARN

33. The allegations contained within paragraphs 1 through 32 are incorporated into Plaintiffs' Third Cause of Action by this reference.

34. Defendants manufactured, supplied, sold, exported and distributed the Fireworks and ignition products.

35. Defendants knew or had reason to know that the Fireworks and ignition products were or were likely to be dangerous when put to the use for which it was manufactured, supplied, sold, exported and distributed.

36. Defendants knew or had reason to know that those for whose use the Fireworks and ignition products was manufactured, supplied, sold, exported and distributed would not realize this danger.

37. Defendants failed to provide reasonably foreseeable users of the product with adequate warning of the dangers.

38. This failure to warn of the danger of the Fireworks and ignition products was a proximate cause of the wrongful death of Russell Reynolds and the damage to the Plaintiffs.

FOURTH CAUSE OF ACTION

FIREWORKS DEFENDANTS'
BREACH OF IMPLIED WARRANTY FOR A PARTICULAR PURPOSE

39. The allegations contained within paragraphs 1 through 38 are incorporated in Plaintiffs' Fourth Cause of Action by this reference.

40. When the Fireworks and ignition products were manufactured and sold by Defendants, Defendants knew or had reason to know the Fireworks and ignition products would be purchased for igniting as part of a fireworks display, and would be used for that particular purpose.

41. Defendants impliedly warranted users of the Fireworks and ignition products, including Russell Reynolds, that the Fireworks and ignition products would be fit for a particular purpose, namely for ignition as part of a fireworks display.

42. That when the Fireworks and ignition products were sold to its users, Russell Reynolds was relying on the superior skill and judgment of Defendants to select and furnish material suitable for that particular purpose and Defendants had reason to know of this reliance.

43. Defendants breached the implied warranty of fitness for a particular purpose by providing fireworks and ignition products that were not fit for the intended purposes in that the material Defendants supplied malfunctioned, namely, igniting early and unexpectedly, causing the wrongful death of Russell Reynolds. The Plaintiffs suffered damage as a direct and proximate result of Defendants' breach.

FIFTH CAUSE OF ACTION

MAGNUSON MOSS ACT

44. The allegations contained within paragraphs 1 through 43 are incorporated into Plaintiffs' Fifth Cause of Action by this reference.

45. The breach of express warranties and implied warranties by Defendants are in violation of the Magnuson Moss Act as set forth at 15 U.S.C. Section 2301 et seq. (1994).

46. Defendants failed to comply with their obligations under their implied warranties.

47. Russell Reynolds was wrongfully killed and the Plaintiffs suffered damage as a direct and proximate result of Defendants' violation of the Magnuson Moss Act.

SIXTH CAUSE OF ACTION

LOSS OF CONSORTIUM

48. The allegations contained within paragraphs 1 through 47 are incorporated into Plaintiffs' Sixth Cause of Action by this reference.

49. That, as a result of the death of Russell Reynolds which was proximately caused by the Fireworks and ignition products, Sherry Reynolds has lost the care, comfort, society, companionship and affection of her spouse, Russell Reynolds. The death of Russell Reynolds has caused permanent losses and Sherry Reynolds will continue to suffer these losses into the future.

50. Sherry Reynolds' loss of consortium was proximately caused by the actions of Defendants.

SEVENTH CAUSE OF ACTION

WRONGFUL DEATH

51. The allegations contained within paragraphs 1 through 50 are incorporated into Plaintiffs' Seventh Cause of Action by this reference.

52. This claim for damages resulting from the wrongful death of Russell Reynolds, hereinafter called "the decedent" is brought by his surviving spouse Sherry Reynolds, his surviving child M. Brandon Reynolds, his surviving child Kaitlin Reynolds, and by the personal representative of the estate Sherry Reynolds pursuant to Texas Civil Practice and Remedies Code, 71.001 et. seq. This claim is based upon the facts and legal theories more fully set out hereinabove.

53. At the time of death, the decedent was in reasonably good health with a normal life expectancy.

54. The decedent was a loving and dutiful husband and provided reasonable services to his wife. Decedent also provided his wife with joy, happiness and anticipation of all the pleasures that a husband can provide as well as the anticipation of care, counsel, advice, nurture, guidance and affection both to and for his wife in the future.

55. As a result of the wrongful death of Russell Reynolds, Sherry Reynolds has suffered damages in the past, including pecuniary loss, termination of the spousal relationship and mental anguish, and in reasonable probability, she will continue to suffer damages in the future as a direct result of the wrongful death of name, in an amount within the jurisdictional limits of the court.

56. The decedent was a loving and dutiful parent and provided reasonable services to his children M. Brandon Reynolds and Kaitlin Reynolds. Decedent also provided his children with support, both emotional and financial, education and training, happiness and anticipation of all the pleasures and strengths that a parent can provide to his children, as well as the care, counsel, advice, nurture, guidance and affection both to and for the children in the future.

EIGHTH CAUSE OF ACTION

**SURVIVAL CLAIM FOR PERSONAL INJURIES
TO RUSSELL REYNOLDS**

57. The allegations contained within paragraphs 1 through 56 are incorporated into Plaintiffs' Eighth Cause of Action by this reference

58. This claim for damages resulting from the death of Russell Reynolds, hereinafter called "the decedent" is brought by his surviving spouse Sherry Reynolds, his surviving child M. Brandon Reynolds, his surviving child Kaitlin Reynolds, and by the personal representative of the estate Sherry Reynolds. This claim is based upon the facts and legal theories more fully set out hereinabove.

59. Any person required to be a named Plaintiff in this lawsuit to collect damages under Section 71.021., Texas Civil Practice and Remedies Code, is a named Plaintiff. Plaintiffs bring this survival action pursuant to Texas Civil Practice and Remedies Code, Section 71.021, because of personal injuries suffered by the decedent, which resulted in his death, based upon the facts and legal theories more fully set out above.

60. Plaintiffs seek damages for the conscious pain and suffering and mental anguish that the decedent suffered prior to death and for the reasonable and necessary medical, funeral and burial expenses which were reasonably incurred because of such wrongful death. Plaintiffs seek damages within the jurisdictional limits of the court.

NINTH CAUSE OF ACTION

PUNITIVE OR EXEMPLARY DAMAGES

61. The allegations contained within paragraphs 1 through 60 are incorporated into Plaintiffs' Ninth Cause of Action by this reference.

62. The Defendants' actions and omissions described hereinabove showed complete indifference to or a conscious disregard for the safety of others.

63. Further, the Defendants' actions and omissions showed complete indifference to or a conscious disregard for the safety of others.

64. As a result, Plaintiffs are entitled to additional damages in a sum which the trier of fact determines will serve to punish Defendants and to deter Defendants and others from like conduct.

DAMAGES AND PRAYER

As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiffs were caused to suffer the wrongful death of Russell Reynolds, other damages, and have incurred the following damages:

- A. Reasonable funeral care and expenses in the past.
- B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
- C. Physical pain and suffering in the past;
- D. Physical pain and suffering in the future;
- E. Physical impairment in the past;
- F. The wrongful death of Russell Reynolds;
- G. Loss of earnings in the past;
- H. Loss of earning capacity which will, in all probability, be incurred in the future;
- I. Loss of Consortium in the past, including damages to the family relationship, loss of care, comfort, solace, companionship, protection, services, and/or physical relations;
- J. Loss of Consortium in the future including damages to the family relationship, loss of care, comfort, solace, companionship, protection, services, and/or physical relations;
- K. Loss of Household Services in the past;

- L. Loss of Household Services in the future;
- M. Mental anguish in the past;
- N. Mental anguish in the future; and,
- O. Exemplary Damages.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully pray that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiffs against Defendants for damages in an amount within the jurisdictional limits of the Court; exemplary damages, excluding interest, and as allowed by Sec. 41.008, Chapter 41, Texas Civil Practice and Remedies Code; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

DEMAND FOR TRIAL BY JURY

Plaintiffs hereby demand a trial by jury on all issues to which they are so entitled.

Respectfully submitted,

BAILEY & GALYEN
1300 Summit Avenue, Suite 650
Fort Worth, TX 76102
(817) 276-6000 - Office
(817) 276-6010 – Facsimile
swert@galyen.com - Email



By: _____

Scott Wert
Texas State Bar No.: 00794835

ATTORNEYS FOR PLAINTIFF