

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

TRIAL COURT OF THE COMMONWEALTH
SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO. 2184CV02246-F

_____)
 KARSON BETHAY and HOLLY BETHAY,)
 Individually and as the Parents and Next Friends of)
 SAVANNAH BETHAY and KARSON BETHAY, JR.,)
 and MATTHEW PARSON and CHRISTI PARSON,)
 Individually and Next Friends of BRONSON PARSON)
 And OLIVIA PARSON,)
 Plaintiffs,)
)
 v.)
)
 KONE, INC. and JOHN DOE,)
 Defendants.)
 _____)

11/9/2021 e-filed KG

FIRST AMENDED COMPLAINT AND JURY CLAIM

A. The Action

1. This is a civil action wherein the plaintiffs assert claims of negligence against Kone, Inc. and John Doe to compensate them for the serious bodily injuries they and their minor children sustained on September 26, 2021, when an escalator malfunctioned and failed at the Back Bay transportation terminal in Boston, Massachusetts. Such injuries include multiple fractures and trauma of the upper and lower extremities; extensive and deep lacerations to the face and head; and other serious injuries.

B. The Parties

- 2. The plaintiff, Karson Bethay, resides at 1200 Papworth Avenue in Metairie, Louisiana.
- 3. The plaintiff, Holly Bethay, resides at 1200 Papworth Avenue in Metairie, Louisiana.
- 4. The plaintiffs, Karson and Holly Bethay, are the parents of Savannah Bethay and Karson Bethay, Jr. and bring this action individually and as the parents and next friends of their minor children.
- 5. The plaintiff, Matthew Parson, resides at 344 Melody Avenue in Metairie, Louisiana.
- 6. The plaintiff, Christi Parson, resides at 344 Melody Avenue in Metairie, Louisiana.

7 The plaintiffs, Matthew and Christi Parson, are the parents of Bronson Parson and Olivia Parson and bring this action individually and as the parents and next friends of their minor children.

8. The defendant, Kone, Inc., is a corporation organized and existing under the laws of the State of Delaware having its principal place of business at One Kone Court in Moline, Illinois. The defendant regularly conducts and transacts its business within this Commonwealth; derives substantial economic benefit from such business; maintains a local office in Massachusetts; and has designated Corporation Service Company, 84 State Street, Boston, County of Suffolk, Massachusetts as its Registered Agent to conduct its business in this Commonwealth.

9. The defendant, John Doe, is a person or business entity located in this Commonwealth whose identity has yet to be ascertained and/or an entity which the plaintiffs are unable to pursue for negligence at this time by statute.

C. General Allegations Applicable to All Counts

10. On September 26, 2021, the Massachusetts Bay Transportation Authority owned, operated, and/or controlled an escalator located at the intermodal passenger station on Dartmouth Street in Boston, Massachusetts known as Back Bay Station.

11. On September 26, 2021, the plaintiffs and their children were lawfully utilizing the escalator, in the exercise of due care, to ascend from the underground train platform to street-level at Back Bay Station when the escalator malfunctioned and failed causing the stairs of the escalator to rapidly slide backwards and downward toward the train platform.

12. On September 26, 2021, and at all relevant times, the defendant, Kone, Inc., its parents, subsidiaries, divisions, and related entities, was responsible and contractually bound to service, inspect, test and maintain the escalator in a safe condition and in compliance with all applicable codes, accepted industry standards and practices.

13. On and before September 26, 2021, the defendant, Kone, Inc., its parents, subsidiaries, divisions, and related entities, failed to maintain the escalator in a safe condition and in compliance with the applicable codes, accepted industry standards and practices. As direct result of these failures, the plaintiffs were caused to sustain serious bodily injury, including multiple fractures, deep and extensive lacerations on the face, head and body and other personal injuries. These injuries required inpatient treatment at Massachusetts General Hospital, subsequent surgical treatment and will require medical treatment in the future.

D. Claims

COUNT I – KARSON BETHAY and HOLLY BETHAY, Individually and as Parents of SAVANNAH BETHAY and KARSON BETHAY, JR. v. KONE, INC. and JOHN DOE - - NEGLIGENCE; PERSONAL INJURIES

14. The plaintiffs repeat and reallege all the allegations set forth in the preceding paragraphs one through thirteen of this Complaint with like force and effect as if fully repeated herein.

15. On September 26, 2021, and at all relevant times, the defendants, Kone, Inc. and John Doe, were negligent and careless with respect to the inspection, testing, servicing, safety, maintenance and repair of the escalator the plaintiffs and their family were utilizing when the escalator malfunctioned and failed.

16. Such negligence includes, but not specifically limited to:

- a. the failure to adequately inspect, test, maintain and service the motor used to move the steps of the subject escalator;
- b. the failure to inspect, test, maintain the only brake equipped on the subject escalator to prevent the escalator from sliding backwards and downward toward the train platform in the event of a malfunction of the escalator.
- c. failure to equip or retrofit a secondary or redundant brake on the subject escalator in the event of a primary brake failure, despite two previous failures of the braking systems on escalators located within the Back Bay Station resulting in serious bodily injury, specifically February 16, 1996 and June 18, 2011; and
- d. such other acts of negligence and carelessness that may be addressed through pretrial discovery and counsel's ongoing investigation into the facts, circumstances and cause of the escalator's malfunction and failure on September 26, 2021.

17. As a direct and proximate result of the negligence and carelessness of the defendants, Kone, Inc. and John Doe, the plaintiffs and their children were caused to suffer severe personal injuries, including multiple fractures, extensive lacerations, scarring and disfigurement; suffer a loss of function; incur substantial expense for medical, therapeutic and rehabilitative care, treatment, and attendance; sustain a loss of wages and an impairment of earning capacity; suffer great pain of body and anguish of mind; and were otherwise injured.

COUNT II – MATTHEW PARSON and CHRISTI PARSON, Individually and as
Parents of BRONSON PARSON and OLIVIA PARSON v. KONE, INC.
and JOHN DOE - - NEGLIGENCE; PERSONAL INJURIES

18. The plaintiffs repeat and reallege all the allegations set forth in the preceding paragraphs one through thirteen of this Complaint with like force and effect as if fully repeated herein.

19. On September 26, 2021, and at all relevant times, the defendants, Kone, Inc. and John Doe, were negligent and careless with respect to the inspection, testing, servicing, safety, maintenance and repair of the escalator the plaintiffs and their family were utilizing when the escalator malfunctioned and failed.

20. Such negligence includes, but not specifically limited to:

- a. the failure to adequately inspect, test, maintain and service the motor used to move the subject escalator;
- b. the failure to inspect, test, maintain the only brake equipped on the subject escalator to prevent the escalator from sliding backwards and downward toward the train platform in the event of a malfunction of the escalator;
- c. failure to equip or retrofit a secondary or redundant brake on the subject escalator in the event of a primary brake failure, despite two previous failures of the braking systems on escalators located within the Back Bay Station resulting in serious bodily injury, specifically February 16, 1996 and June 18, 2011; and
- d. such other acts of negligence and carelessness that may be addressed through pretrial discovery and counsel's ongoing investigation into the facts, circumstances and cause of the escalator's malfunction and failure on September 26, 2021.

21. As a direct and proximate result of the negligence and carelessness of the defendants, Kone, Inc. and John Doe, the plaintiffs and their children were caused to suffer severe personal injuries, including multiple fractures, extensive lacerations, scarring and disfigurement; suffer a loss of function; incur substantial expense for medical, therapeutic and rehabilitative care, treatment, and attendance; sustain a loss of wages and an impairment of earning capacity; suffer great pain of body and anguish of mind; and were otherwise injured.

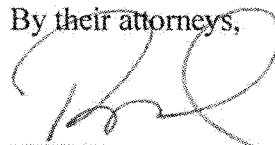
E. Relief

22. WHEREFORE, the plaintiffs demand judgment against the defendants, Kone, Inc. and John Doe, in the amount of their damages together with interest, costs and as this Honorable Court may otherwise deem just as to Count I and II of this Complaint.

JURY CLAIM

THE PLAINTIFFS CLAIM A TRIAL BY JURY
ON ALL ISSUES SO TRIABLE RAISED BY THIS COMPLAINT

The Plaintiffs
By their attorneys,



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