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ZIMMERMAN/QUINCY E. BOOTH

Identification Nos: 017051990; 042181999; 003952010;  
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ATTORNEY FOR PLAINTIFF

**FRANCIS CARPINELLI**  
654 East Lakefront Circle  
Galloway, NJ 08205

Plaintiffs

v.

**WP BAKERY GROUP USA**  
3 Enterprise Drive  
Shelton, CT 06484

And

**WERNER & PFLEIDERER BAKERY  
TECHNOLOGIES**  
Von-Raumer-Str. 8-18  
91550 Dinkelsbuhl  
Germany

And

**GEMINI BAKERY EQUIPMENT CO.**  
9990 Gantry Road  
Philadelphia, PA 19115

And

**FORMICA BROTHERS  
BAKERY LLC**  
2310 Arctic Ave  
Suite 2  
Atlantic City, NJ 08401

And

**SUPERIOR COURT OF NEW JERSEY  
ATLANTIC COUNTY- LAW DIVISION**

**DOCKET NO.**

**COMPLAINT and JURY TRIAL  
DEMANDED**

**GINSBURG BAKERY, INC.**

300 N Tennessee Ave  
Atlantic City, NJ 08401

And

**BAKER BOYS, LLC**

900 Mill Road  
Pleasantville, NJ 08232

And

**JOHN AND JANE DOES (1-10)**

And

**ABC CORPORATIONS (A-Z)**

Defendants

**COMPLAINT – CIVIL ACTION**

Plaintiff, Francis Carpinelli, residing at 654 East Lakefront Circle, Galloway, NJ 08205,

by way of Complaint and Jury Demand says:

1. Plaintiff, Francis Carpinelli, is an adult individual and citizen of the State of New Jersey, residing at 654 East Lakefront Circle, Galloway, NJ 08205.
2. On November 30, 2015, Francis Carpinelli suffered horrific and catastrophic injuries to his right hand due to contact with a bread making machine at his place of work, located at 900 Mill Road, Pleasantville, NJ 08232 (hereinafter referred to as the “Facility”).
3. Defendant, WP Bakery Group USA (hereinafter referred to as “WP Bakery Group”) is a corporation or other business entity organized and existing under the laws of the State of Connecticut, with its principal place of business located at 3 Enterprise Drive, Shelton, CT 06484.

4. At all times relevant hereto, Defendant, WP Bakery Group, acted by and through its respective agents, servants, workmen and employees, who were acting within the course and scope of their authority and employment.

5. At all times relevant hereto, Defendant, WP Bakery Group, purposely established significant contacts in New Jersey, and has carried out, and continues to carry out, substantial, continuous and systematic business activities in New Jersey, specifically in Atlantic County.

6. Defendant, Werner Pfleiderer Bakery Technologies (hereinafter referred to as “WP Bakery Technologies”) is a corporation or other business entity organized and existing under the laws of Germany, with its principal place of business located at von-Raumer-Str. 8-18, 91550 Dinkelsbuhl, Germany.

7. At all times relevant hereto, Defendant, WP Bakery Technologies, acted by and through its respective agents, servants, workmen and employees, who were acting within the course and scope of their authority and employment.

8. At all times relevant hereto, Defendant, WP Bakery Technologies, purposely established significant contacts in New Jersey, and has carried out, and continues to carry out, substantial, continuous and systematic business activities in New Jersey, specifically in Atlantic County.

9. For purposes of this Complaint, Defendants, WP Bakery Group and WP Bakery Technologies will be collectively referred to as the “WP Bakery” Defendants.

10. Upon information and belief, the WP Bakery Defendants designed, manufactured, produced and/or sold the bakery machine involved in the accident described herein, namely a Werner & Pfleiderer bread making machine, type TWS-HD, machine no. 252484R or 252434R. See Exhibit “A”.

11. Defendant, Gemini Bakery Equipment Co. (hereinafter referred to as “Gemini”) is a corporation or other business entity organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal place of business located at 9990 Gantry Road, Philadelphia, PA 19115.

12. At all times relevant hereto, Defendant, Gemini, acted by and through its respective agents, servants, workmen and employees, who were acting within the course and scope of their authority and employment.

13. At all times relevant hereto, Defendant, Gemini, purposely established significant contacts in New Jersey, and has carried out, and continues to carry out, substantial, continuous and systematic business activities in New Jersey, specifically in Atlantic County.

14. Upon information and belief, Defendant Gemini sold, supplied and/or distributed the bakery machine involved in the accident described herein, namely a Werner & Pfleiderer bread making machine, type TWS-HD, machine no. 252484R or 252434R. See Exhibit “A”.

15. Defendant, Formica Brothers Bakery LLC (hereinafter referred to as “Formica”) is a limited liability corporation or other business entity organized and existing under the laws of the State of New Jersey, with its principal place of business located at 2310 Arctic Ave, Suite 2, Atlantic City, NJ08401.

16. At all times relevant hereto, Defendant, Formica, acted by and through its respective agents, servants, workmen and employees, who were acting within the course and scope of their authority and employment.

17. At all times relevant hereto, Defendant, Formica, purposely established significant contacts in New Jersey, and has carried out, and continues to carry out, substantial, continuous and systematic business activities in New Jersey, specifically in Atlantic County.

18. Defendant, Ginsburg Bakery, Inc. (hereinafter referred to as “Ginsburg”) is a corporation or other business entity organized and existing under the laws of the State of New Jersey, with its principal place of business located at 300 N. Tennessee Ave, Atlantic City, NJ 08401.

19. At all times relevant hereto, Defendant, Ginsburg, acted by and through its respective agents, servants, workmen and employees, who were acting within the course and scope of their authority and employment.

20. At all times relevant hereto, Defendant, Ginsburg, purposely established significant contacts in New Jersey, and has carried out, and continues to carry out, substantial, continuous and systematic business activities in New Jersey, specifically in Atlantic County.

21. Upon information and belief, at all times relevant hereto, Defendants, Formica and Ginsburg, operated as a joint enterprise and/or joint venture wherein there was an agreement, express or implied, among the members of the joint enterprise and/or joint venture to carry out a common purpose for pecuniary interest and wherein each member of the enterprise and/or joint venture had a right of control in the direction of the enterprise.

22. As members of a joint enterprise and/or joint venture, Defendants, Formica and Ginsburg, are each liable for the negligent, grossly negligent and/or careless acts of the other member(s) of the joint enterprise and/or joint venture.

23. For purposes of this Complaint, Defendants, Formica’s and Ginsburg’s, joint enterprise and/or joint venture will be referred to as the “Formica-Ginsburg Joint Venture.”

24. Defendant, Bakery Boys, LLC (hereinafter referred to as “Baker Boys”) is a corporation or other business entity organized and existing under the laws of the State of New Jersey, with its principal place of business located at 900 Mill Road, Pleasantville, NJ 08232.

25. At all times relevant hereto, Defendant, Baker Boys, acted by and through its respective agents, servants, workmen and employees, who were acting within the course and scope of their authority and employment.

26. At all times relevant hereto, Defendant, Baker Boys, purposely established significant contacts in New Jersey, and has carried out, and continues to carry out, substantial, continuous and systematic business activities in New Jersey, specifically in Atlantic County.

27. Upon information and belief, the Formica-Ginsburg Joint Venture started, created established, owned, managed, maintained and/or operated the Facility, along with Baker Boys.

28. In the alternative, upon information and belief, Defendant Formica and/or Defendant Ginsburg started, created, established, owned, managed, maintained and/or operated the Facility and were responsible for the safety of the workers in the Facility, including Plaintiff, along with Baker Boys.

29. Defendants, John and Jane Does (1-10) are unknown individuals/estates and/or duly appointed Administrators of Defendants John and Jane Does' (1-10) Estates, should said Defendants be deceased, who were responsible for the manufacture, supply, sale, distribution, installation and/or inspection and/or maintenance of the machine involved in Plaintiff's accident. Plaintiff prays leave of court to reasonably amend this Complaint and name the true identities of Defendants, John and Jane Does (1-10) if and when their true identities and roles in the within matter are ascertained by Plaintiffs through continued investigation and/or discovery.

30. Defendants, ABC Corporations (A-Z), were and/or are various fictitious and currently unidentified partnerships, institutions, professional corporations, professional associations and/or corporations who were responsible for the manufacture, supply, sale, distribution, installation and/or inspection and/or maintenance of the machine involved in

Plaintiff's accident. Plaintiff prays leave of court to reasonably amend this Complaint and name the true identities of ABC Corporations (A-Z) if and when their true identities and roles in the within matter are ascertained by Plaintiff through continued investigation and/or discovery.

31. At all times relevant hereto, Defendants, ABC Corporations (A-Z) acted and/or failed to act by and through their employees, agents, servants and/or representatives, who were then and there acting within the course and scope of their employment.

32. A business owner must not create an unsafe condition at a work Facility.

33. A business owner must not permit an unsafe condition to continue to exist at a work Facility.

34. A business owner must take steps to prevent unsafe conditions from developing at a work Facility.

35. A business owner must not needlessly endanger its workers, employees, independent contractors and/or employees of independent contractors.

36. A business owner must correct any unsafe conditions it knows or should know about at a work Facility.

37. A business owner must perform inspections of its work Facility to discover unsafe conditions.

38. A business owner should hire competent personnel to perform inspections of its work Facility.

39. A business owner must train its workers, employees and/or workers and/or employees of independent contractors to ensure they perform their job in a safe manner.

40. A business owner that refuses or is unable to correct unsafe conditions must provide others with an appropriate notice and/or warning of the unsafe condition.

41. A business owner that refuses or is unable to correct unsafe conditions must provide others with alternate means and/or methods to perform the work.

**FACTS**

42. On November 30, 2015, Plaintiff, Francis Carpinelli was working at the Facility, using a bread making machine that cut and molded dough into small, round shapes.

43. The bread is loaded into the top of the machine through a “hopper.”

44. After being loaded into the hopper, the bread falls into the machine and is pushed by a “ram,” which takes a portion of dough from the hopper and sends it into the cutting/molding portion of the machine.

45. On November 30, 2015, Plaintiff, Francis Carpinelli, was required to remove bread remnants from the hopper and ram portions of the bread making machine.

46. The product did not come equipped with mechanical clearing at the hopper and/or ram area.

47. The product did not come with any device for clearing the subject area without the use of a worker’s hand.

48. The product did not come equipped with an interlock device for the clearing of the subject area.

49. While clearing out the hopper and ram portions of the machine, Plaintiff, Francis Carpinelli’s right, dominant hand was caught by the ram, which excruciatingly crushed his hand and fingers, ultimately requiring complete amputation of his four fingers and part of his thumb.





50. Defendants knew or should have known that the ram of the machine was inadequately guarded to protect users of the machine during the normal, foreseeable uses of the machine.

51. Defendants knew or should have known that inadequate guarding of the ram of the machine would cause severe and catastrophic injuries to end users or consumers, such as Plaintiff, Francis Carpinelli.

52. Despite knowing or having should have known that inadequate guarding of the ram of the machine would cause severe and catastrophic injuries to end users or consumers, such as Plaintiff, Francis Carpinelli, Defendants failed to cure these dangerous deficiencies and failed to do anything to protect the end user or consumer of the machine.

53. As a result of this accident, Plaintiff, Francis Carpinelli, suffered catastrophic injuries, including but not limited to transverse fractures through his entire right hand involving each digit, with displaced fracture of the tip of the right thumb, and comminuted fractures through the bases of the second and third proximal phalanxes, with fracture extending to the articular surface at the third proximal phalanx requiring complete amputation of his right four fingers and part of his thumb and revascularization, extensive necrosis requiring revision amputation surgery, all of which caused extensive and significant pain and suffering; extensive scarring; complete inability to use his right hand; mental and emotional pain and suffering; chronic physical pain, suffering and loss of life's pleasures, past, present and future; loss of earnings and wages and loss of earnings capacity, past, present and future; hospital, medical and rehabilitation expenses past, present and future, including medical equipment, supplies and other medical care and treatment; other psychological, psychiatric, and neurological injuries, the full extent of which is yet to be determined and some or all of which may be permanent in nature.

54. As a direct and proximate result of the conduct of Defendants, Plaintiff, Francis Carpinelli, has in the past required, continues to require, and may in the future require medical treatment and care, and has in the past, continues presently, and may in the future incur the cost of medicines, medical care, hospitalizations, treatment, future operations, testing, and rehabilitation in an attempt to alleviate and/or cure his condition.

55. As a direct and proximate result of the conduct of the Defendants, Plaintiff, Francis Carpinelli, has in the past, and continues to suffer pain, disfigurement, scarring, loss of independence, mental anguish, humiliation, embarrassment, fear, loss of well-being, inability to enjoy the normal pleasures of life, and restrictions on his ability to engage in normal activities and pleasures of life, and other intangible losses.

56. As a direct and proximate result of the conduct of the Defendants Plaintiff, Francis Carpinelli, has been prevented and will be prevented in the future from performing his usual duties, activities, occupations and avocations and has suffered a loss of earnings and a loss of earning capacity.

57. Defendants are strictly, jointly and severally liable for the injuries and damages alleged herein.

#### **COUNT I – STRICT LIABILITY**

**FRANCIS CARPINELLI v. WP BAKERY GROUP USA, WERNER & PFLEIDERER  
BAKERY TECHNOLOGIES, GEMINI BAKERY EQUIPMENT CO., JOHN AND JANE  
DOES (1-10) AND ABC CORPORATIONS (A-Z)**

58. Plaintiff hereby incorporates by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

59. Defendants, the WP Bakery Defendants, Gemini, John and Jane Does (1-10) and ABC Corporations (A-Z), are in the business of creating, designing, manufacturing, distributing, selling, supplying, maintaining, inspecting, installing and/or modifying bakery machines and/or equipment, including the machine involved in Plaintiff's accident.

60. Prior to November 30, 2015, Defendants, the WP Bakery Defendants, Gemini, John and Jane Does (1-10) and ABC Corporations (A-Z), created, designed, manufactured, distributed, sold, supplied, maintained, inspected, installed and/or modified the subject bakery machine involved in Plaintiff's accident.

61. The subject bakery machine involved in Plaintiff's accident was expected to, and did in fact reach users, such as Plaintiff, Francis Carpinelli, without substantial change in the condition in which it was created, designed, manufactured, distributed, sold, rented, leased, installed, maintained and/or supplied.

62. At all times relevant hereto, the subject bakery machine involved in Plaintiff's accident was used and employed for the purpose for which it was designed and manufactured, and was used in a foreseeable manner.

63. Defendants, by and through their agents, servants, workers, contractors, suppliers, distributors and employees, breached N.J.S.A. 2A: 58C-2, as follows:

- a. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was unsafe and defective;
- b. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was unreasonably dangerous;
- c. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was unsafe for all of its intended and foreseeable purposes and uses;
- d. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, in a defective condition;
- e. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that lacked all necessary safety features to protect users of said product;
- f. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was without adequate safeguards;
- g. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that lacked a safe means to transport the product;
- h. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that lacked a safe means to clear excess dough from the hopper and/or ram;
- i. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was without adequate, necessary and/or proper warning;
- j. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in

Plaintiff's accident, that was without adequate, necessary and/or proper interlocks;

- k. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that could be designed more safely;
- l. failing to provide adequate instructions to users of this product regarding the use of this product, specifically the subject bakery machine involved in Plaintiff's accident;
- m. failing to provide users of this product with warnings, instructions and/or training regarding the proper use of this product, specifically the subject bakery machine involved in Plaintiff's accident;
- n. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was without adequate, necessary and/or proper guarding to protect end users;
- o. performing inadequate testing and/or repairs to the product;
- p. negligence at law;
- q. failing to exercise reasonable care under all the circumstances;
- r. failing to follow the ANSI hierarchy of safe product design;
- s. failing to follow ANSI standards for the product;
- t. warning against a known hazard without attempting to design out or guard against the hazard; and
- u. being otherwise negligent, grossly negligent, careless, and reckless as may appear from facts that may be determined during discovery or trial.

64. As a direct and proximate result of the defective, dangerous, and unsafe condition of the subject bakery machine involved in Plaintiff's accident, Francis Carpinelli suffered severe and catastrophic injuries, endured great pain and suffering, and will suffer from the results of this accident for the rest of his life.

WHEREFORE, Plaintiff claims of Defendants, WP Bakery Group USA, Werner & Pfleiderer Bakery Technologies, Gemini Bakery Equipment Co., John and Jane Does (1-10) and ABC Corporations (A-Z), jointly and severally, separate sums of monetary damages including but not limited to compensatory damages, and punitive or exemplary damages, and brings this action to recover the same.

**COUNT II – NEGLIGENCE****FRANCIS CARPINELLI v. WP BAKERY GROUP USA, WERNER & PFLEIDERER  
BAKERY TECHNOLOGIES, GEMINI BAKERY EQUIPMENT CO., JOHN AND JANE  
DOES (1-10) AND ABC CORPORATIONS (A-Z)**

65. Plaintiff hereby incorporates by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

66. Defendants, by and through their separate and respective agents, servants, workers, contractors, designers, assemblers, manufacturers, sellers, suppliers, installers and/or distributors were careless, negligent, grossly negligent, and/or reckless in the following respects:

- a. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was unsafe and defective;
- b. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was unreasonably dangerous;
- c. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was unsafe for all of its intended and foreseeable purposes and uses;
- d. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, in a defective condition;
- e. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that lacked all necessary safety features to protect users of said product;
- f. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was without adequate safeguards;
- g. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that lacked a safe means to transport the product;
- h. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that lacked a safe means to clear excess dough from the hopper and/or ram;



- i. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was without adequate, necessary and/or proper warning;
- j. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was without adequate, necessary and/or proper interlocks;
- k. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that could be designed more safely;
- l. failing to provide adequate instructions to users of this product regarding the use of this product, specifically the subject bakery machine involved in Plaintiff's accident;
- m. failing to provide users of this product with warnings, instructions and/or training regarding the proper use of this product, specifically the subject bakery machine involved in Plaintiff's accident;
- n. creating, designing, manufacturing, distributing, installing, selling, maintaining and/or supplying a product, specifically the subject bakery machine involved in Plaintiff's accident, that was without adequate, necessary and/or proper guarding to protect end users;
- o. performing inadequate testing and/or repairs to the product;
- p. failing to perform an adequate and proper safety audit of the subject bakery machine involved in Plaintiff's accident;
- q. failing to make and/or provide necessary, adequate and/or proper modifications, recommendations, adjustments, instructions and/or warnings regarding the subject bakery machine involved in Plaintiff's accident after performing a safety audit on the subject bakery machine involved in Plaintiff's accident;
- r. negligence at law;
- s. failing to exercise reasonable care under all the circumstances;
- t. failing to follow the ANSI hierarchy of safe product design;
- u. failing to follow ANSI standards for the product;
- v. warning against a known hazard without attempting to design out or guard against the hazard; and
- w. being otherwise negligent, grossly negligent, careless, and reckless as may appear from facts that may be determined during discovery or trial.

67. As a direct and proximate result of the defective, dangerous, and unsafe condition of the subject bakery machine involved in Plaintiff's accident and/or of the negligence, gross negligence, carelessness and/or recklessness of Defendants, Plaintiff, Francis Carpinelli, suffered

severe and catastrophic injuries, endured great pain and suffering, and will suffer from the results of this accident for the rest of his life.

WHEREFORE, Plaintiff claims of Defendants, WP Bakery Group USA, Werner & Pfleiderer Bakery Technologies, Gemini Bakery Equipment Co., John and Jane Does (1-10) and ABC Corporations (A-Z), jointly and severally, separate sums of monetary damages including but not limited to compensatory damages, and punitive or exemplary damages, and brings this action to recover the same.

### **COUNT III – NEGLIGENCE**

#### **FRANCIS CARPINELLI v. FORMICA BROTHERS BAKERY LLC, GINSBURG BAKERY, INC., JOHN AND JANE DOES (1-10) AND ABC CORPORATIONS (A-Z)**

68. Plaintiff hereby incorporates by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

69. At all relevant times, Defendants undertook the supervision of the Facility and in connection therewith established plans, procedures, protocols, methods, systems, designs, training programs and/or plans for the safe performance of work in the Facility.

70. Defendants, having undertaken the inspection and supervision of the work and safety of the workers in the Facility, including Plaintiff, a business invitee, to provide a reasonably safe environment, free from unreasonable hazards, within which to perform work.

71. Defendants knew or should have known that the subject bakery machine involved in Plaintiff's accident was unsafe and presented a risk of injury or death to users of the subject bakery machine involved in Plaintiff's accident.

72. Despite knowing or having should have known that the subject bakery machine involved in Plaintiff's accident was unsafe and presented a risk of injury or death to users of the



subject bakery machine involved in Plaintiff's accident, Defendants failed to make the machine safe for use.

73. Prior to Plaintiff's accident, Defendants knew or should have known of the existence of the dangerous conditions that caused the Plaintiff's accident and severe injuries thereof.

74. The injuries, damages and losses suffered by Plaintiff, as more fully set forth above, were caused by the negligence, gross negligence, carelessness, recklessness, and other liability producing conduct of the Defendants, acting by and through their agents, servants, workers and/or employees, both generally and in the following particular respects:

- a. failing to adequately ensure the safety of the Facility;
- b. failing to provide Plaintiff, a business invitee, with a safe place in which to work;
- c. failing to adequately inspect the Facility and the bakery machinery in the Facility, including the subject bakery machine involved in Plaintiff's accident, for dangerous and hazardous conditions;
- d. failing to adequately implement any safety measures, plans, recommendations, designs, specifications, inspections and/or safety procedures;
- e. failing to adequately supervise the Facility;
- f. failing to adequately train and/or instruct the workers at the Facility, including Plaintiff;
- g. failing to ensure that the bakery machinery in the Facility, including the subject bakery machine involved in Plaintiff's accident, was safe for use by workers, including Plaintiff;
- h. failing to perform an adequate safety audit of the Facility;
- i. failing to perform an adequate safety audit of the bakery machinery in the Facility, including the subject bakery machine involved in Plaintiff's accident;
- j. failing to adequately monitor the activities of workers in the Facility, including Plaintiff;
- k. failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and/or plans;.
- l. failing to properly train and supervise its own employees and contractors' and subcontractors' employees;

- m. failing to properly train and supervise its own employees and those of the members of the joint venture;
- n. failing to hire competent employees, safety inspectors, safety auditors and/or facility inspectors and/or supervisors;
- o. failing to adopt, enact, employ and enforce proper and adequate safety equipment, programs, precautions, procedures, measures, and/or plans;
- p. failing to warn Plaintiff, a business invitee, of the peculiar, dangerous and unsafe condition then and there existing at the Facility;
- q. using unsafe and/or inadequate bakery machinery, including the subject bakery machine involved in Plaintiff's accident;
- r. failing to provide, communicate and/or retain safety audits, surveys, inspections and/or analyses regarding the subject Facility;
- s. failing to provide, communicate and/or retain safety audits, surveys, inspections and/or analyses regarding bakery machinery in the Facility, including the subject bakery machine involved in Plaintiff's accident;
- t. failing to warn Plaintiff, a business invitee, of the hazardous conditions of the subject bakery machine involved in Plaintiff's accident;
- u. failing to provide workers, including Plaintiff, with a safe way to clear excess dough from the hopper and/or ram;
- v. providing Plaintiff with a dangerous and defective bread making machine;
- w. requiring Plaintiff to work with a dangerous and defective bread making machine;
- x. providing Plaintiff with a bread making machine that was without adequate, necessary and/or proper interlocks;
- y. providing Plaintiff with a bread making machine that lacked a safe means to clear excess dough from the hopper and/or ram;
- z. failing to provide Plaintiff with training and/or instruction;
- aa. failing to provide Plaintiff with safety training and/or instruction;
- bb. exposing Plaintiff, a business invitee, to peculiar and unreasonable risks and dangers by failing to ensure that the bakery machinery in the Facility, including the subject bakery machine involved in Plaintiff's accident, was safe for use;
- cc. exposing Plaintiff, a business invitee, to peculiar and unreasonable risks and dangers by failing to ensure that Plaintiff was adequately trained and/or instructed;
- dd. failing to provide Plaintiff with safety documents;
- ee. failing to abide by applicable ANSI standards;
- ff. bypassing the interlock system on the bakery machinery in the Facility;

75. As a direct and proximate result of the negligence, gross negligence, carelessness and/or recklessness of Defendants, Plaintiff, Francis Carpinelli, suffered severe and catastrophic injuries, endured great pain and suffering, and will suffer from the results of this accident for the rest of his life.

WHEREFORE, Plaintiff claims of Defendants, Formica Brothers Bakery LLC, Ginsburg Bakery, Inc., John and Jane Does (1-10) and ABC Corporations (A-Z), jointly and severally, separate sums of monetary damages including but not limited to compensatory damages, and punitive or exemplary damages, and brings this action to recover the same.

**COUNT IV – INTENTIONAL HARM (Laidlow Claim)**

**FRANCIS CARPINELLI v. BAKER BOYS, LLC, JOHN AND JANE DOES (1-10) AND  
ABC CORPORATIONS (A-Z)**

76. Plaintiff hereby incorporates by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

77. Prior to November 30, 2015, Defendants, Baker Boys, John and Jane Does (1-10) and ABC Corporations (A-Z) knew that injuries relating to industrial machinery, including bakery machinery, constituted a leading category of workplace accidents.

78. Prior to November 30, 2015, Defendants, by and through their agents, servants, and employees, had actual and/or constructive knowledge that its employees were routinely required to remove excess dough from bakery machines, including the subject bakery machine involved in Plaintiff's accident.

79. Prior to November 30, 2015, Defendants, by and through their agents, servants, and employees, had actual and/or constructive knowledge of the extreme dangers associated with clearing excess dough from bakery machines, including the subject bakery machine involved in Plaintiff's accident.

80. Prior to November 30, 2015, Defendants had direct and specific notice and knowledge of the need to have properly trained individuals supervising its employees, the need to provide safety training and the need to enforce safety procedures in accordance with OSHA regulations, and the need to protect against the extreme dangers associated with clearing excess dough from bakery machines, including the subject bakery machine involved in Plaintiff's accident.

81. Defendant Baker Boys deliberately and systematically disregarded its prior notice when it failed to ensure properly trained individuals supervised its employees, failed to provide safety training, failed to enforce safety procedures in accordance with OSHA regulations, and failed to provide safe bakery machinery, including the subject bakery machine involved in Plaintiff's accident.

82. Mr. Carpinelli's gruesome injury was not a fact of industrial life as contemplated by the drafters of the New Jersey Workers' Compensation Laws.

83. Defendant Baker Boys knew with substantial and/or virtual certainty that serious injury like that suffered by Mr. Carpinelli would occur if its employees cleared excess dough from the hopper and/or ram of the subject bakery machine and were not protected from the hazards of the subject bakery machine.

84. Defendant Baker Boys engaged in a cost-benefit analysis and decided that it was more economically sound to place Plaintiff at substantial risk of serious injury or death than to make its Facility and the bakery machinery contained within safe.

85. The injuries and circumstances surrounding Plaintiff's injuries were not part and parcel of everyday industrial life, but were in fact plainly outside the legislative grant of immunity under N.J. Stat. Ann. § 34:15-1 *et seq.*

86. Therefore, the conduct of Defendant Baker Boys falls within the intentional wrong exception to the exclusive remedy provision of N.J. Stat. Ann § 34:15-8, and Defendant is not entitled to N.J. Stat. Ann. § 34:15-8 immunity.

87. As a direct result of the willful and wanton, careless, reckless, negligent, and grossly negligent conduct of Defendant Baker Boys, by and through its agents, servants and/or employees, Defendant Baker Boys caused Plaintiff to suffer from life-altering injuries, discussed more fully above.

88. Defendant, by and through its agents, servants, and/or employees, was careless, negligent, grossly negligent and reckless by:

- a. failing to adequately ensure the safety of the Facility;
- b. failing to provide Plaintiff, a business invitee, with a safe place in which to work;
- c. failing to adequately inspect the Facility and the bakery machinery in the Facility, including the subject bakery machine involved in Plaintiff's accident, for dangerous and hazardous conditions;
- d. failing to adequately implement any safety measures, plans, recommendations, designs, specifications, inspections and/or safety procedures;
- e. failing to adequately supervise the Facility;
- f. failing to adequately train and/or instruct the workers at the Facility, including Plaintiff;
- g. failing to ensure that the bakery machinery in the Facility, including the subject bakery machine involved in Plaintiff's accident, was safe for use by workers, including Plaintiff;
- h. failing to perform an adequate safety audit of the Facility;
- i. failing to perform an adequate safety audit of the bakery machinery in the Facility, including the subject bakery machine involved in Plaintiff's accident;
- j. failing to adequately monitor the activities of workers in the Facility, including Plaintiff;
- k. failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and/or plans;.
- l. failing to properly train and supervise its own employees and contractors' and subcontractors' employees;

- m. failing to properly train and supervise its own employees and those of the members of the joint venture;
- n. failing to hire competent employees, safety inspectors, safety auditors and/or facility inspectors and/or supervisors;
- o. failing to adopt, enact, employ and enforce proper and adequate safety equipment, programs, precautions, procedures, measures, and/or plans;
- p. failing to warn Plaintiff, a business invitee, of the peculiar, dangerous and unsafe condition then and there existing at the Facility;
- q. using unsafe and/or inadequate bakery machinery, including the subject bakery machine involved in Plaintiff's accident;
- r. failing to provide, communicate and/or retain safety audits, surveys, inspections and/or analyses regarding the subject Facility;
- s. failing to provide, communicate and/or retain safety audits, surveys, inspections and/or analyses regarding bakery machinery in the Facility, including the subject bakery machine involved in Plaintiff's accident;
- t. failing to warn Plaintiff, a business invitee, of the hazardous conditions of the subject bakery machine involved in Plaintiff's accident;
- u. failing to provide workers, including Plaintiff, with a safe way to clear excess dough from the hopper and/or ram;
- v. providing Plaintiff with a dangerous and defective bread making machine;
- w. requiring Plaintiff to work with a dangerous and defective bread making machine;
- x. providing Plaintiff with a bread making machine that was without adequate, necessary and/or proper interlocks;
- y. providing Plaintiff with a bread making machine that lacked a safe means to clear excess dough from the hopper and/or ram;
- z. failing to provide Plaintiff with training and/or instruction;
- aa. failing to provide Plaintiff with safety training and/or instruction;
- bb. exposing Plaintiff, a business invitee, to peculiar and unreasonable risks and dangers by failing to ensure that the bakery machinery in the Facility, including the subject bakery machine involved in Plaintiff's accident, was safe for use;
- cc. exposing Plaintiff, a business invitee, to peculiar and unreasonable risks and dangers by failing to ensure that Plaintiff was adequately trained and/or instructed;
- dd. failing to provide Plaintiff with safety documents;
- ee. failing to abide by applicable ANSI standards;
- ff. bypassing the interlock system on the bakery machinery in the Facility;

89. As a direct and proximate result of the negligence, gross negligence, carelessness and/or recklessness of Defendants, Plaintiff, Francis Carpinelli, suffered severe and catastrophic injuries, endured great pain and suffering, and will suffer from the results of this accident for the rest of his life.

WHEREFORE, Plaintiff claims of Defendants, Baker Boys, LLC, John and Jane Does (1-10) and ABC Corporations (A-Z), jointly and severally, separate sums of monetary damages including but not limited to compensatory damages, and punitive or exemplary damages, and brings this action to recover the same.

**JURY DEMAND**

Plaintiffs hereby demand a trial by jury as to all issues.

**DESIGNATION OF TRIAL COUNSEL**

**PLEASE TAKE NOTICE** that pursuant to R.4:25-4, Larry Bendesky, Esquire, is hereby designated as plaintiffs' trial counsel in the aforementioned litigation on behalf of the law

**DEMAND FOR ANSWERS TO UNIFORM INTERROGATORIES**

The plaintiffs hereby request that defendants answer all questions in Uniform Interrogatories Form C and C (2) as found in Appendix II of the Rules governing the Courts of the State of New Jersey within the time provided in accordance with Rule 4:17-4, *et seq.* Plaintiffs further request that all parties supply copies of any and all answers to interrogatories which they have provided to other parties to this action. Please note that this is a continuing request.

**CERTIFICATION PURSUANT TO R. 4:5-1**

I, Larry Bendesky, Esquire, hereby certify that the facts contained in the within matter are not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge or belief. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. I also certify that the facts contained in the within matter are true and correct to the best of my knowledge and belief. If any of the statements made by me are willfully false, I am subject to punishment.

Respectfully Submitted,

**SALTZ, MONGELUZZI, BARRETT & BENDESKY, P.C.**

BY:     /s/ Larry Bendesky    

LARRY BENDESKY  
ADAM J. PANTANO  
ROBERT W. ZIMMERMAN  
QUINCY E. BOOTH

*Attorneys for Plaintiff*



# **EXHIBIT “A”**

# W.P. WERNER & PFLEIDERER

Gesellschaft mit beschränkter Haftung

Stuttgart · Federal Republic of Germany

Type

Machine no.:

Works no.:

Year of construction:

Wiring diagram no.:

1125-1110

1252491 R

1995

660190900