

# ***JONES KELLEHER LLP***

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**In Re:            Elisabeth Scotland  
                         Fenway Park Elevator Shaft Incident of May 16, 2014**

This afternoon this firm filed the attached complaint on behalf of Elisabeth Scotland.

We have had several requests for the Commonwealth of Massachusetts Department of Public Safety Inspector's Elevator Incident Report, a copy of which, without exhibits, is attached.

We ask you to continue to respect the privacy of the Scotland family as Elisabeth continues to make progress in her recovery.

Patrick T. Jones, Esq.  
Jones Kelleher LLP

COPY

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT

ELISABETH A. SCOTLAND  
Plaintiff

v.

FENWAY SPORTS GROUP, L.P. and  
OTIS ELEVATOR COMPANY  
Defendants

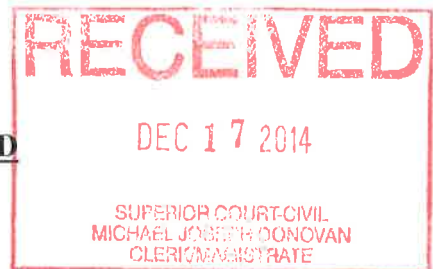
CIVIL ACTION

NO.:

14-3949 D

COMPLAINT AND JURY DEMAND

Introduction



On the evening of May 16, 2014, Elisabeth A. Scotland (“Scotland”) was a guest at Fenway Park attending a Boston Red Sox-Detroit Tigers Major League Baseball game. As she attempted to leave the park after the game, Scotland suffered traumatic brain injury, multiple facial fractures, dental damage, and fractures to her mid and lower spine when, while waiting for the elevator on the fourth floor level near the Gate B entrance to the park, she encountered a hazardous, defective and unsafe elevator hoistway door, which was inadequately secured at the bottom of the door panel. As Scotland waited with her father and sister for the elevator car to arrive at the fourth floor, she came in casual contact with the closed elevator hoistway door. Unknown to Scotland, the door was inadequately secured at the bottom. The door panel moved into the shaft, causing Scotland to lose her balance and fall into and down the elevator shaft two stories, landing on top of the elevator car located at the second floor level of the ballpark.

The elevator door did not open in a normal horizontal sliding motion. It improperly hinged at the top, the bottom moved inward without warning, like a dog door, into the shaft, exposing a fall hazard. Scotland did not step into an open elevator shaft. Her casual contact was

not met with resistance, and her momentum caused her to lose balance in the direction of the open shaft. The elevator door was inadequately installed, improperly maintained as required by applicable contracts, common law, codes, industry standards, rule, and regulations, and exposed Scotland to a fall hazard that should never occur.

Emergency responders, including police, fire and ambulance, responded to the scene. Fire personnel found the fourth floor hoistway door to be unsecured at the bottom and noted that the door had not been forced open. By looking down the shaft, they observed Scotland to be unconscious and on top of the elevator car at the second floor level. Boston Fire personnel and Boston EMS paramedics accessed Scotland through the elevator roof emergency escape hatch. She was secured and removed on a scoop stretcher through the hatch and transported by ambulance to the hospital.

Scotland was hospitalized for approximately six weeks. She remains under the care of numerous medical specialists undergoing extensive treatment and rehabilitation. Scotland was in excellent physical and mental health prior to the fall. She suffered severe, permanent, and disabling injuries as a result of the fall.

This is an action against defendants for negligence in the ownership, operation, installation, inspection, service, maintenance and control of premises, including but not limited to the hoistway door of the elevator on the fourth floor, located near the Gate B entrance to Fenway Park. Defendants carelessly and negligently failed to properly install, inspect, service and maintain the hoistway door of the elevator allowing for the bottom of the door to become free to swing open without any appreciable force against it, in violation of applicable contracts, common law, codes, industry standards, rules, and regulations. The defendants' negligence caused the hoistway door to swing open like a dog door when the elevator car was two stories

below. This caused Scotland to fall approximately 25 feet down the elevator shaft and to land on top of the elevator car.

Defendants were negligent in the ownership, operation, installation, inspection, service, maintenance, and control of the elevator, all of which proximately caused Scotland, then a 21 year old graduate of Boston University School of Management, *magna cum laude*, in great physical and mental shape and scheduled to begin employment with Price Waterhouse Coopers, LLP in July 2014, severe, permanent and disabling injuries.

### Parties

1. Plaintiff Elisabeth A. Scotland (“Scotland”) is an individual who at all times relevant hereto was a resident of Allston, County of Suffolk, Commonwealth of Massachusetts. She presently resides in Brigantine, New Jersey with her parents.
2. Defendant Fenway Sports Group, L.P. (“FSG”) is a Delaware corporation with a principal place of business located in Boston, County of Suffolk, Commonwealth of Massachusetts. FSG at all relevant times hereto conducted business in Massachusetts and derived substantial revenue therefrom. FSG is the parent company of the Boston Red Sox.
3. Defendant Otis Elevator Company (“Otis”) is a Delaware corporation registered with the Massachusetts Secretary of State Corporations Division with a registered agent in Boston, County of Suffolk, Commonwealth of Massachusetts. Otis at all relevant times hereto conducted business in Massachusetts and derived substantial revenue therefrom.

### Facts

4. On May 16, 2014, FSG was responsible for the ownership, operation, inspection, maintenance, and control of Fenway Park and the premises located at 4 Yawkey Way, Boston, Suffolk County, Commonwealth of Massachusetts, including the elevator located near the Gate B entrance to Fenway Park.
5. On May 16, 2014, FSG was responsible for maintaining its premises, including the elevator located near the Gate B entrance to Fenway Park, in a reasonably safe condition for its guests, including Scotland.
6. On May 16, 2014, Otis was responsible for the inspection, service and maintenance of the elevator located near the Gate B entrance to Fenway Park.
7. On May 16, 2014, Otis was responsible for maintaining, servicing and inspecting the elevator located near the Gate B entrance to Fenway Park in a reasonably safe condition and in

accordance with all applicable contracts, laws, codes, industry standards, rules and regulations.

8. On May 16, 2014, Scotland graduated from Boston University School of Management, *magna cum laude*. Her parents, family and friends attended her graduation ceremony.
9. On the evening of May 16, 2014, Scotland was lawfully on the premises at Fenway Park, as a ticketed fan of the Boston Red Sox.
10. On the evening of May 16, 2014, Scotland attended the Boston Red Sox-Detroit Tigers Major League Baseball game at Fenway Park with her parents, family and friends.
11. After the game ended, at approximately 11:15 p.m., Scotland, along with her father John, her sister Sarah, and two brothers-in-law, Andrew Phillips and Eric Somershoe, were leaving the game.
12. Scotland, Sarah and John proceeded to the area outside the elevator near the Gate B entrance of Fenway Park, and they waited for the elevator to arrive at the fourth floor, where they were located.
13. As they waited for the elevator to arrive, in the area outside the elevator, Scotland backed up and came in casual contact with the closed elevator hoistway door, the door hinged open, exposing a fall hazard as the bottom of the door panel swung into the shaft, causing Scotland to fall down the shaft, and then the door swung back toward a closed position.
14. Sarah, who was standing and facing her sister, saw Scotland and then the bottom of the door came loose, and Scotland disappeared. The elevator door did not open horizontally, sliding in the traditional sense. Scotland did not walk into an open shaft of the elevator.
15. Scotland fell down two stories and landed on top of the elevator car which was stopped at the second floor level of Fenway Park.
16. As Scotland waited for the elevator with the hoistway door closed, she had no expectation, warning or concern that the door would hinge open in the manner it did.
17. On May 16, 2014, the hoistway door of the elevator located at the fourth floor level near the Gate B entrance to Fenway Park required "safety retainers" and "gibs" to retain the door panel in position and prevent it from displacing when exposed to a very large force.
18. On May 16, 2014, the hoistway door of the elevator located at the fourth floor level near the Gate B entrance to Fenway Park did not have appropriately and sufficiently adjusted and maintained safety retainers and gibbs in place to retain the door panel in position and prevent it from displacing.
19. On May 16, 2014, the hoistway door of the elevator located at the fourth floor level near the Gate B entrance to Fenway Park did not have appropriate and sufficient engagement of its

safety retainers and gibs in place to retain the door panel in position and prevent it from displacing.

20. On May 16, 2014, the hoistway door of the elevator located at the fourth floor level near the Gate B entrance to Fenway Park was improperly installed in violation of all applicable contracts, laws, codes, industry standards, rules and regulations.
21. On May 16, 2014, the hoistway door of the elevator had insufficient engagement of its gibs and safety retainers, which allowed for the hoistway door to hinge open on the fourth floor when there was no elevator car present at that floor level, in violation of all applicable contracts, laws, codes, industry standards, rules and regulations.
22. On May 16, 2014, the hoistway door of the elevator had insufficient engagement of its gibs and safety retainers, which allowed for the hoistway door to hinge open on the fourth floor when there was less than the code required force applied against it, in violation of all applicable contracts, laws, codes, industry standards, rules and regulations.
23. On May 16, 2014, Defendants FSG and Otis were responsible for ensuring that the elevator doors of the elevators at Fenway Park, including the elevator located at the fourth floor level near the Gate B entrance to Fenway Park, were properly installed, serviced, inspected, maintained, and in good working order, in accordance with all applicable contracts, laws, codes, industry standards, rules and regulations.
24. On May 16, 2014, Defendants FSG and Otis were responsible for the negligent ownership, inspection, installation, service, operation, maintenance, and control of the elevator located near the Gate B entrance to Fenway Park allowing for the hoistway door to hinge open, without warning, on the fourth floor when there was no elevator car present at that floor level in violation of all applicable contracts, laws, codes, industry standards, rules and regulations.
25. On May 16, 2014, Defendants FSG and Otis were responsible for the negligent ownership, inspection, installation, service, operation, maintenance, and control of the elevator located near the Gate B entrance to Fenway Park allowing for the hoistway door to hinge open, without warning, on the fourth floor when there was less than the code required force applied against it, in violation of all applicable contracts, laws, codes, industry standards, rules and regulations.
26. On May 16, 2014, due to the negligence of the defendants in their ownership, inspection, installation, service, operation, maintenance, and control of the elevator located near the Gate B entrance to Fenway Park, Scotland fell two stories down the elevator shaft.
27. As a direct and proximate result of the fall, Scotland suffered severe, permanent, and disabling personal injuries, including but not limited to: traumatic brain injury, multiple facial fractures, multiple vertebral fractures, dental fractures and damage, gastric distention in the upper abdomen, lung contusions, temporal lobe contusions, and diffuse axonal injury.
28. On May 16, 2014, emergency personnel from the Boston Police, Boston Fire, Boston EMS,

and Fenway Park Security were immediately notified and responded to the scene.

29. Boston Fire and Boston EMS extricated Scotland through the roof hatch of the elevator car and transported her to Beth Israel Deaconess Medical Center.
30. At Beth Israel, Scotland was diagnosed with the following: right frontal subarachnoid hemorrhage; right lateral intraventricular hemorrhage; right medial, lateral and posterior maxillary sinus fractures; right zygomatic bone fracture; multiple mandibular fractures; 5 broken teeth; one lost tooth; left apical pneumothorax; right transverse process fractures of the T10, T11, T12, L1, L2 and L4 vertebrae with displacement of the L1 transverse process fracture; gastric distention in upper abdomen; lung contusions; temporal lobe contusions; and diffuse axonal injury.
31. Scotland was hospitalized in-patient for approximately six weeks, including two weeks at Beth Israel Deaconess Hospital and four weeks at Spaulding Rehabilitation Hospital.
32. While hospitalized, Scotland required extensive diagnostic testing, medical care, cognitive testing, and extensive ongoing medical treatment, including surgery involving, without limitation, open reduction and internal fixation of comminuted fractures through the bilateral mandibular body with a plate along the buccal surface and multiple screws. Her hospital course was complicated by respiratory failure requiring tracheotomy, which is a surgically created hole through the front of Scotland's neck and into her windpipe (trachea), and dysphagia requiring placement of a PEG tube, which is a safe and effective way to provide food, liquids and medications directly into her stomach.
33. While hospitalized, Scotland underwent daily care, including, without limitation, physical therapy, occupational therapy, cognitive therapy, speech therapy, orthopedic care, neurological care, neuropsychological care, neuro-ophthalmological care, oral and maxillofacial surgical care, pharmacological care, and pain management.
34. Upon discharge from the hospitals, Scotland returned to her parents' home in New Jersey where she has continued to rehabilitate from her injuries and trauma.
35. Since returning home, Scotland has required continued, extensive, and ongoing medical treatment and care, as well as extensive physical, occupational, speech and cognitive therapy with treatments that have been continuing and ongoing.
36. Scotland, as a direct and proximate result of the fall, has incurred medical expenses well in excess of \$250,000. She has suffered lost income and diminishment in her earning capacity having been unable to begin work at Price Waterhouse Coopers, LLP where she was hired to start in July, 2014. She has suffered great pain of body and mind, has suffered significant deterioration in her physical and mental well-being, and has been prevented from engaging in

her usual activities. Scotland will continue to incur medical expenses, lost wages, and a diminished earning capacity, will continue to suffer physical and mental impairment and disability, and will continue to suffer these damages in the future, and for the rest of her life.

**Count I**  
**Negligence**

***(Elisabeth A. Scotland v. Fenway Sports Group, L.P.)***

37. Plaintiff Elisabeth A. Scotland repeats and incorporates by reference herein paragraph 1 through 36.
38. Plaintiff Elisabeth A. Scotland's loss and damage was proximately caused by the negligence of the defendant, Fenway Sports Group, L.P.

**Count II**  
**Negligence**

***(Elisabeth A. Scotland v. Otis Elevator Company)***

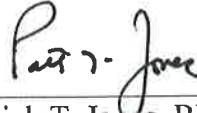
39. Plaintiff Elisabeth A. Scotland repeats and incorporates by reference herein paragraphs 1 through 38.
40. Plaintiff Elisabeth A. Scotland's loss and damage was proximately caused by the negligence of the defendant, Otis Elevator Company.

WHEREFORE, Plaintiff Elisabeth A. Scotland demands judgment against the defendants, Fenway Sports Group, L.P. and Otis Elevator Company, in an amount sufficient to compensate her for her loss and damages, including interest, costs, and any other relief the Court deems just.

**PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES RAISED IN THIS COMPLAINT.**



Elisabeth A. Scotland,  
By her attorneys,



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Dated: 12-17-14



**Commonwealth of Massachusetts**  
**Department of Public Safety**  
INSPECTOR'S ELEVATOR INCIDENT REPORT

**NOTE: This form is to be filed by DPS Elevator Inspector only.**

<b>Elevator Owner:</b>	Boston Red Sox Baseball Club	<b>Elevator ID #</b>	1-P-11757
<b>Elevator Location Name and Address:</b>	Fenway Park 24 Yawkey Way Boston, MA 02215	<b>Location of incident:</b>	Gate B Elevator
		<b>Certificate expiration date:</b>	5/7/2014
<b>Elevator Owner/Contact Name:</b>	David Friedman	<b>Date of incident:</b>	5/16/2014
<b>Elevator Owner Phone #:</b>	617-266-6147	<b>Time of incident:</b>	11:52 PM
<b>Elevator Owner E-mail:</b>	dfriedman@redsox.com		
<b>Elevator Company name:</b>	OTIS Elevator Service		
<b>Date of first report to DPS:</b>	5/17/2014	<b>Time of first report to DPS:</b>	12:01 AM
<b>How was owner notified of the incident?</b>	On Scene		
<b>Name of DPS Inspector filing report:</b>	Supervisor Edward N. Sandell	<b>Inspector phone #:</b>	617-680-8544
<b>How was Inspector notified of the incident?</b>	Call from MEMA Dispatch	<b>Time Inspector arrived at incident:</b>	12:36 AM 5/17/2014
<b>Was the elevator taken out of service at the time of the incident?</b> X Yes <input type="checkbox"/> No	<b>Has the elevator been put back into service?</b> X Yes    No	<b>If yes, on what date was the elevator put back in service and who authorized its reactivation?</b> 8/27/2014    Edward N Sandell Supervisor	

**WITNESS INFORMATION**

WITNESSES	NAME OF WITNESSES OR PERSONS PRESENT	ADDRESS	PHONE
	Matthew Gould	3 Court Jester Washington Cross, PA 18977	908-892-3143
	Andrew Phillips	1214 Angora Dr. Yeadon, PA 19050	215-913-7166
	Bardia Shah-Rais		310-245-5587
	Sarah Jeane Scotland		609-742-1332
	Eric Somershoe		619-335-8054

**ACCIDENT/VICTIM INFORMATION**

<b>INJURED 1</b>	Name of injured:	Telephone Number: UNK	Sex: <input checked="" type="checkbox"/> Female <input type="checkbox"/> Male
	DOB:	Street Address:	City/State/Zip Code
	Was there an on-scene medical provider? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	If yes, on-scene medical provider's name and telephone #: BFD and BEMS      BFD 617-343-3550    BEMS 617-343-2367	
	Hospitalized? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Nature of injury: trauma to face and upper body. Transported to Beth Israel Deaconess Medical Center.	

At 12:01 AM on Saturday, May 17, 2014, the Massachusetts Emergency Management Agency (MEMA) Dispatch, on behalf of the Department of Public Safety (DPS), was contacted by Boston Fire Alarm for the purposes of DPS on-call notifications. At 12:01 AM on Saturday, May 17, 2014 I was contacted by Andre Beliveau from MEMA Communications and given the following information:

At 11:52 PM at Fenway Park, Boston Fire Department (BFD) and Boston Emergency Medical Services (EMS) were responding at Fenway Park Gate B with a 22 year-old female who fell from the roof deck down into the hoistway and landed on top of the elevator car. The report indicated that EMS members were with the victim who was unconscious and BFD members were attempting to extricate the victim.

I verified the elevator State ID number for this unit as # 1-P-11757. (See Exhibit #13 Photo #2) According to the DPS database it was inspected on February 7, 2014, and was given a 90-day work order for three minor code violations (Exhibit #12). Re-inspection was scheduled for June 24, 2014. I also verified this information in the DPS database (Exhibit #13 Photo #58).

Upon receiving the information from MEMA Dispatch, I immediately contacted the BFD and informed them I was en route.

At 12:36 AM I arrived on scene and observed that the first and second floor landings were protected by Boston Police Department (BPD) crime scene tape and were secured by BPD personnel. (See Exhibit #5 Photo #5).

At 12:37 AM I was met by Boston Police Sergeant Detective Richard Daley from the Homicide Unit and Boston Police Lieutenant Michael Conley from District D-4. OTIS Elevator Mechanics Joe McGrath (McGrath) and Tim Fagerberg (Fagerberg) were also on scene standing by. Also present was Ms. Mary Choi, (Choi) OTIS Elevator Company Service Manager, who informed me that OTIS Elevator currently holds the elevator service contract for Fenway Park. Choi stated that OTIS Elevator acquired the contract as of April 1, 2014.

At 12:40 AM I was escorted by Lieutenant Conley to the top (4<sup>th</sup>) floor landing of the elevator. On the way up to the top floor I observed the third floor landing doors were also protected by BPD crime scene tape and were secured with an orange safety rope. The elevator doors were damaged and hanging off the door hanger track. I was informed by Detective Daley that BFD had caused this damage when they attempted to extricate the victim from here, and then temporarily secured the doors for safety until I arrived. Upon arrival at the fourth floor, I observed the area was secured with BPD crime scene tape and was guarded by Boston Police personnel. I observed the top floor fast speed door hanging on the door track and the bottom of the door was off the landing sill and pushed into the hoistway. The door interlock was still engaged and secure. The door gibb and fire stop were visible on the bottom of the door. There were visible scrapes on the door bucks and dents on the landing doors. (Exhibit #16, 17 and 18)

At this time I was informed by Detective Daley that according to witness statements made to BPD detectives, a group of family members was seen traveling towards the elevator at the top landing (4<sup>th</sup>) floor. The group

consisted of \_\_\_\_\_ (victim), Sarah Jeane Scotland (S.J. Scotland), Andrew Phillips (Phillips), Eric Somershoe (Somershoe), and John Scotland (J. Scotland).

Detective Daley told me that, according to the witness statements made by Mr. Matthew Gould and taken by Detective Matthew Tierney, Mr. Gould observed the group "horse playing" as they reached the area in front of the elevator. He said they were grabbing each other and "pushing and shoving each other". She went in front of the older guy and heard a "boom". He then discovered that she had fallen into the elevator shaft. (Exhibit #11)

Based on those accounts, it appeared that the victim came into contact with the top floor high speed hoistway door. (Please note these doors are 2 speed side slide doors.) As an apparent result of that contact, the high speed landing door came out of the landing sill door track and swung into the hoistway. The door hanger rollers and upthrusts at the top of the door kept the door from coming off the door hanger track and falling into the hoistway. When the bottom of the door swung into the hoistway, the victim fell into the hoistway and landed onto the elevator car top approximately 30 feet below. The elevator car was at the second floor at the time of impact.

Detective Daley informed me that immediately after the victim fell, a witness identified as Mr. Bardia Shah Rais (Rais) called 911 and reported the accident.

While controlling access to the scene, I worked with Officer Mike Griffin from the Crime Scene Unit to document the scene by taking photographs and gathering contact information. All photographs taken by the crime scene unit are located in Exhibit #5. All photographs taken by me are included in Exhibit #13.

Once Boston Police detectives had finished on scene, Boston Police Lieutenant Detective Michael Conley released the scene to me at 1:28 AM.

Based upon my observations and witness statements, the damage to the third floor doors was done entirely by the BFD and had not been caused in any way by the accident. (See Exhibit #5 Photo #23). I verified this by speaking to the BPD detectives on scene. I then informed OTIS Elevator Mechanics McGrath and Fagerberg that they had my authorization to repair the damage to these doors on the third floor only.

In the interest of immediate safety concerns, after documenting the condition of the top floor doors and noting that the fast speed door was intact with the fire stop and door gibb still attached, I then directed McGrath and Fagerberg to secure the top floor fast speed door by putting it back into the track with the use of a small pry bar for the specific reason of making the door and area safe for the immediate future. Once back in the door track I left the top floor landing under the supervision and control of a Boston Police officer who stood by the door so no one would enter the area while we went to the second floor where the machine room was located to continue my assessment of the condition of the elevator.

Upon arrival at the second floor I found the elevator level with the floor with the doors open and observed the mainline disconnect in the machine room was turned off.

Due to the previously mentioned damage done to the third floor landing doors by the BFD's attempt to extricate the victim from that entry point, the elevator was not able to run. Access to the top floor landing doors from the car top or hoistway side was therefore not possible.

I then authorized Choi, the OTIS Supervisor, to have a repair team come in and repair the third floor doors only, so the car could run to allow them to safely secure the top floor doors. I further instructed Choi that the car would remain shut down, locked out and tagged out of service until further notice pending the investigation. I then told OTIS Mechanic Joe McGrath that he could remove the seal I had earlier placed on the disconnect and turn the elevator on in order to repair the third floor doors and secure the fourth floor doors, as we discussed

earlier. However, I made it clear that once those repairs were finished, they were to turn the power off and replace it with an OTIS lockout tag and lock, and the elevator must remain off until further notice.

On Wednesday May 28, 2014, DPS Chief of Inspections-Elevator, Walter Zalenski, and I went with OTIS Elevator Mechanics Joe McGrath and Tim Fagerberg to conduct a re-inspection of the elevator State ID # 1-P-11757, including the top floor doors which were inaccessible the night of the accident. We photographed the top floor doors from the hoistway side and noted that both the fire stop and gibb were badly bent but still present on the door. I observed that the top floor fast speed landing door was hanging on the door hanger track but it was still secured to the door frame with bolts as instructed on the night of the accident. The door safety retainer was missing on the leading roller and turned down on the following roller. The upthrusts were installed and adjusted properly on both hanger rollers. I observed the top floor entrance frame and face of the landing doors from the landing side and took note of and photographed the visible damage to both the door frame and doors. The door frame and doors showed visible evidence of repeated contact. (Exhibits #13 Photos # 35, 36, 37 and 38)

We then moved to the bottom floor of the elevator to view the first floor front landing and elevator pit. The pit is accessed via the rear opening, which is partially obstructed by an ice machine and not used for travel. Upon entering the pit, I observed visible damage to the bottom front landing door gibbs. The gibbs were present but bent and showed signs of forced contact from the landing side. (Exhibit #13 Photo #43) We then moved to the bottom front landing entrance. I observed the bottom front entrance frame and face of the landing doors from the landing side and took note of and photographed the visible damage to both the door frame and doors. This damage is consistent with the damage on the top landing and again shows visible evidence of repeated contact. (Exhibit #13 Photos # 33, 39, and 57) According to Don Gardiner, the facilities manager for Fenway, this elevator is the only unit that services the area where the concessions stand and roof seats are located on the right field roof deck. The vendors and employees utilize it daily to set up the concessions stand on the roof before every game.

I was informed by Choi that OTIS Elevator had dispatched teams on Saturday, May 17, 2014, to inspect all landing doors on every other elevator at Fenway Park. These inspections were done by OTIS Elevator at their own request. It was reported to the Department by Choi that they found no issues with any other doors on the other units. The DPS also dispatched three inspectors to Fenway and verified the information by inspecting the hoistway doors on all units as well:

On Thursday, June 19, 2014, I called OTIS Mechanic Tom Powers (Powers) to discuss a pre-arranged meeting set up for Friday, June 20, 2014, at Fenway to allow all interested parties supervised access to the elevator. During that conversation, Powers informed me that on Sunday, May 18, 2014, he was ordered by his superiors to gain access to the unit and escort OTIS attorneys onto the car top and grant them access to the fourth floor doors as part of their investigation. He accessed the machine room, removed the OTIS lock out, energized the unit, and rode with the attorneys on the car top up to the fourth floor, allowing them access to the doors. He also said he added an OTIS door tool to the back side of the doors to augment the safety of the doors because he did not like the way the repair team secured the doors. I submitted a full situation report to Chief Zalenski regarding this account from Powers (attached as Exhibit #14).

On June 20, 2014, Chief Zalenski and I attended a pre-arranged meeting at the scene of the accident. This meeting was scheduled to allow the attorneys and all interested parties to make their observations and gather information under our direct supervision. A complete list of all parties including their affiliation to the case who attended this meeting was documented and added to the file. (Attached as Exhibit #3)

## Maintenance Records

During the investigation, the Department requested the service records/ maintenance logs for all units at Fenway Park from both Schindler Elevator and OTIS Elevator.

In response to this request, Schindler sent two years of service and repair history records for this unit and all others located at Fenway Park. OTIS sent all maintenance and service logs they had documented from April 1, 2014 until the day of the accident. Schindler's contract began on September 9, 1988 and ended on March 31, 2014 and the OTIS contract began April 1, 2014. (OTIS records are attached at Exhibit #10. Schindler's log of this specific unit is attached at Exhibit #9, and Schindler's logs for all other units are attached as Exhibit #16.)

I reviewed the Schindler service records for this unit, 1-P-11757, which represent the last two years of their contract ending March 31, 2014. The following items are taken verbatim from the logs provided to DPS:

- On May 26, 2012, the elevator was not responsive and the customer cycled the mainline and reset micro processor. Car ran normally when power was restored.
- On June 21, 2012, fourth floor doors guides are broken off. The mechanic replaced broken Gibbs on the third and fourth floor doors.
- On November 19, 2012, out of service fourth floor. Mechanic found main line turned off. The mechanic turned on the mainline ran car repeatedly, no problems. Observed check for proper operation OK.
- On October 13, 2013, out of service stuck level four doors off roller kicked in. Mechanic found car at fourth floor with doors open. Gibb broken off fast speed door main line off replace gibb put two on and ran elevator multiple runs found checked operation OK.
- On October 18, 2013, out of service broken gibb on fourth floor. The door was hit and broke the Gibbs. Car ran into door when pushed into hatch. Tried to repair but no parts. Door knocked off track.
- On October 19, 2013, the mechanic repaired the door operator and fourth floor doors.
- On October 21, 2013, repaired fourth floor hoist way doors fixed track, Gibbs and door hangers.
- On November 6, 2013, out of service not responding to calls, mechanic found car not responding he adjusted the fourth floor hangar rollers to allow doors to close freely and not bind at full open.
- On November 7, 2013, worked on car gate and door operator and fourth floor hatch door dragging.
- On November 18, 2013, car out of service ground level, mechanic found car at fourth floor hatch doors not fully closed, fast door hangar roller.
- On January 4, 2014, out of service stuck on the fourth floor, fourth floor door off track. Doors knocked off track on the fourth floor landing, the mechanic repaired the landing doors and the interlock assembly.
- On January 7, 2014, out of service, the mechanic found mainline off not getting locks found second, third and fourth floor door locks critical adjustments and lube/clean all observe operation.

Thus, the service logs from Schindler Elevator document multiple occasions where the fourth floor doors had been damaged or malfunctioned and were then repaired. The last one noted was on January 4, 2014, which was

completed one month before the unit was inspected by DPS. Schindler Elevator's records do not show any other documented door-related issues with the unit after January 15, 2014.

The Schindler service logs for the other units located at Fenway Park show only one other instance on elevator # 7 on May 23, 2012 where the mechanic found the door gibb sheared off and needed to replace it. See Exhibit #16. Other service calls noted an instance on April 11, 2012 where a person was trapped in an elevator that was shut down but upon arrival the mechanic notes in the log that the passenger was out on arrival. See Exhibit #16. On August 17, 2012, a unit was found to be on inspection operation when the mechanic arrived. And on November 19, 2012, the mechanic found the main line disconnect shut off when he arrived on another unit. See Exhibit #16.

According to the maintenance logs obtained from OTIS Elevator, OTIS Mechanic Tom Royce (Royce) notes in the log that as part of his routine maintenance he is tasked with seeking out and documenting any code issues with the unit and its operation. Mechanic Tom Royce did not document any issues or problems of any type regarding the elevator or its operation on either of his two scheduled visits on April 1, 2014 or May 1, 2014. See Exhibit #10.

### Interviews

On June 18, 2014, I interviewed Mr. Murat Emanuel (Emanuel), the Fenway employee assigned to operate this specific elevator while in use on the night of the incident. Emanuel stated that he was assigned to operate the elevator and started his shift at 5:40 PM. He continually ran the elevator all night until the accident happened. Just prior to the accident, Emanuel got into the elevator at the bottom floor and was traveling from the bottom floor to the top floor stopping at each floor with a janitor in the car. Immediately before impact the car was level at the second floor on its way to the third floor. The doors had just closed and the car had not yet moved. When the impact happened he immediately tried to reopen the doors; it took some time for the doors to reopen and he immediately called for help thinking someone had fallen onto the elevator top. When the doors reopened the paramedics and park personnel were waiting outside on the second floor. Emanuel also stated that during the entire time he operated the elevator that night, there were no problems with the unit. It is noted that this unit was operated by Emanuel with the unit on automatic operation as a convenience to the public. The unit was not on attendant service and Emanuel did not need an operator's license.

According to the witness statement made to BPD Detective William Parlon on the night of the incident, Mr. Matthew Gould (Gould) stated that he was standing near the elevator at the time of the accident behind a group of people including the victim, and observed the group "horse playing". Gould stated that members of the group "were grabbing each other and pushing and shoving each other and the victim went in front of the older guy" and Gould then heard a "boom." He then discovered the victim had fallen into the elevator shaft. See Exhibit #2. (The audio recordings of witness statements taken by the BPD are also attached at Exhibit #1.)

On Wednesday, June 25, 2014, at 3:00 PM, I interviewed witness Bardia Shah-Rais (Rais). Rais stated immediately before the accident he was approaching the elevator on his way to the staircase when he witnessed "a group of four people pushing against the elevator and goofing around". Rais stated "I thought it was a bunch of college kids goofing around and pushing against the door". Rais then stated "the door then had pushed in, a gap appeared and the victim had fallen. Everyone was upset and yelling." Rais immediately called 911 and reported that the victim had fallen down the shaft. He also stated he did not ride the elevator at all when he was there that evening.

On July 3, 2014, I, along with Elevator Supervisor George Ramian, interviewed Mr. Donald Gardiner (Gardiner) the Facilities Superintendent at Fenway. I noted that the maintenance logs given to DPS by Schindler showed that on at least one occasion "the customer cycled the main line disconnect and reset the micro processor". and asked Gardiner who at Fenway had done that. Gardiner denied any knowledge of who it could

have been, and he denied ever repairing anything on this elevator. Gardiner is not a licensed elevator mechanic and therefore is not legally authorized to perform any elevator repairs or to access an elevator machine room. See M.G.L. c. 143, §§ 71B, 71D. However, during this investigation, information was found on the internet regarding an entrapment that occurred on another elevator at Fenway Park on August 3, 2013, when two individuals were trapped inside an elevator that apparently had shut down. Attached to this news story were several pictures taken during their rescue. One of the pictures shows Gardiner standing on the elevator car top helping the two trapped individuals get out of the elevator. See Exhibit #17. On or about Monday, August 5, 2013, Inspector Tom Conway went to Fenway Park to investigate the entrapment and interviewed Gardiner. In that interview, Gardiner admitted to using a Drop Key to open the hoistway doors of the shutdown elevator that night and rescued the trapped individuals with ladders. This was done without a licensed elevator mechanic onsite, which is required. At that time Inspector Conway confiscated the Drop Key and a 3502 Fireman's service key from Gardiner and issued a verbal warning regarding performing elevator related tasks without possessing an elevator mechanic's license issued by the Department of Public Safety. (A drop key is a tool used only by a licensed elevator mechanic to perform work on an elevator once the elevator is under that licensed mechanic's control. A 3502 Fireman's service key is issued only to licensed elevator mechanics and firemen to operate an elevator on fireman's service operation and reset the elevator when fireman's service is activated.) See Exhibit #18.

On August 7, 2014, I interviewed family members of the victim beginning with Somershoe, one of the victim's brothers-in-law. Somershoe recollected that the victim "was standing in front of the elevator with her back to it when she jumped up onto her father's back to give him a hug and slipped off." Somershoe noted that the victim "was a lot shorter than her father," and when she let go she "kind of fell backwards towards the elevator door." The doors swayed open from the bottom. He did not see her fall but saw her sister's reaction and ran towards the elevator.

I then interviewed Phillips, another of the victim's brothers-in-law. He stated that he turned around and walked on the bridge towards the elevator and witnessed J. Scotland, S.J. Scotland and the victim giving each other a hug while waiting for the elevator. In the process of giving each other a hug the victim came into contact with the elevator door, the door swung open off the bottom track and opened "like a doggy door." They were standing directly in front of the elevator door.

I also interviewed S.J. Scotland, the victim's sister, and she recollected that the victim had her backside to the elevator when she, S.J. Scotland, and her father, J. Scotland, had their arms around each other. The victim moved back towards the elevator and then ended up bumping the door with her lower back at the bottom left corner of the elevator door. The door "popped" into the shaft and quickly swung back shut and the victim disappeared from sight.

Last, I also interviewed J. Scotland, the victim's father. He recollected that the victim was giving him a hug from the side or backside and then let him go. He heard S.J. Scotland scream and the victim disappeared from sight. He stated that he saw "the door shut at the bottom."

On October 17, 2014, I interviewed Mr. Tristan Lowe (Lowe), the Aramark employee who was working on the fourth level on the roof deck as a premium bartender the night of the accident. Lowe stated that he arrived at the park right after 4:00 PM and received his assignment to work at the location on the fourth floor roof deck area adjacent to the elevator tending a portable bar for the event. After receiving his assignment he set up a portable bar and transported it to the location on the fourth level and set it up for service. Lowe used the elevator to transport the portable bar to the fourth floor and stated that as far as he observed it was operating normally. During his shift that evening Lowe stated while observing the elevator operate numerous times, he did not observe any problems with the operation of the elevator. Lowe stated that he did not observe anyone striking or coming into contact with specifically the fourth floor landing doors as well as any landing doors on this elevator at all during the time he was there that evening or at any time before that night.



## CONCLUSION

Looking at the fourth floor doors, the damage to the fire retainer along with the visible wear mark on the door gibb insert shows a wear pattern suggesting that for some period of time before the incident the landing doors were operating properly. According to code requirement of 0.25 inch, under code compliant conditions each door panel shall be able to withstand a force of 2500 N (newtons) or 560 lbf (foot pounds) applied on the landing side at right angles over an area of 4 x 4 inches. There shall be no appreciable permanent displacement or deformation of any parts of the entrance assembly resulting from this test. See ASME A17.1 – 2004, section 2.11.11.6 *Bottom Guides*. In addition to a bottom guide (gibb), this door also has a hoistway door safety retainer installed on the bottom of the door. Under normal conditions each door panel shall be able to withstand a force of 5000 N or 1125 lbf in the direction of the hoistway applied at right angles over an area of 12 x 12 inches at the approximate center of the panel. See ASME A17.1-2004, section 2.11.11.8 *Hoistway door safety retainers*. The construction of this door was in code compliance, which required both.

After reviewing all available evidence, materials and statements, it appears that immediately before the accident, the victim was facing away from the door and jumped up and hugged her father from behind. When she let go of him, her body moved in a downwards motion towards the landing door and came into contact with it. The door failed when the force of that contact was applied to the door at approximately a 45 degree angle. The exact amount of force that was actually exerted or the exact angle on the door when it failed is unknown. However, given the evidence regarding the circumstances leading up to the accident, it is highly unlikely that the victim's fall applied more than 5000 N or 1125 lbf of force against the door. Moreover, the maintenance logs show that this specific door was knocked off the track on more than one occasion and repaired. As shown by the maintenance logs, the gibbs, for example, were replaced three (3) times from June 21, 2012 to October 21, 2013, and the fourth floor doors were also repaired on January 4, 2014. The repeated need to repair damage to the fourth floor doors indicates a history of damage that lead to their failure multiple times before the date of the accident. Therefore, although the elevator doors at the time of the accident had passed inspection as of February 7, 2014 (only other minor, non-door related violations were found), the integrity of the doors had likely become compromised by damage similar to what it had experienced repeatedly before, at some point between February 7, 2014 and the date of the accident, making it vulnerable to fail upon application of less than 5000 N or 1125 lbf of force on May 17, 2014.

### Exhibit list

- Exhibit # 1 audio recordings from family members taken by BPD Detectives.
- Exhibit # 2 certified transcript of audio statements of family members(Exhibit # 1).
- Exhibit # 3 list of meeting attendance 5/20/14.
- Exhibit # 4 CD disk of photograph log and photographs taken by BPD crime scene detectives.
- Exhibit # 5 printed copy of photographs and log from Exhibit # 4.
- Exhibit # 6 CD disk of video footage taken by BPD crime scene detectives.
- Exhibit # 7 Audio interview statement from Murat Emanuel.
- Exhibit # 8 Audio interview from Bardia-Shah Rais
- Exhibit # 9 Schindler Elevator maintenance and service logs.
- Exhibit # 10 OTIS Elevator maintenance and service logs.
- Exhibit # 11 BPD Detective statements and police report.
- Exhibit # 12 Inspector's report dated February 7, 2014.
- Exhibit # 13 DPS photographs.
- Exhibit # 14 Situation Report re: May 18, 2014 activity at Fenway.
- Exhibit # 15 Audio interview statement from Don Gardiner.
- Exhibit # 16 Schindler Elevator maintenance and service logs all other elevators at Fenway Park.
- Exhibit # 17 Fox Sports report online regarding August 3, 2013 with photo.

- Exhibit # 18 Email to Chief Zalenski from Inspector Conway.

This report respectfully submitted on November 24, 2014.

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