

CAUSE NO. A-18-12-1772-CV

AMBER PARKER, Individually and as Next § IN THE _____ DISTRICT COURT
Friend of SHAWN PARKER, a Minor Child, §
Plaintiffs, §
§
§ OF
v. §
§
ALTITUDE ODESSA, LLC, §
Defendant. § ECTOR COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Plaintiffs in the above entitled cause complaining of Altitude Odessa, LLC, Defendant, and would respectfully show the Court as follows:

I. DISCOVERY

1.01 Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure, Plaintiffs intend to conduct discovery in this case under level 3 (Rule 190.4 Texas Rules of Civil Procedure).

II. PARTIES

2.01 Plaintiff AMBER PARKER is an individual and resides in Andrews County, Texas. Pursuant to Pursuant to TEX. CIV. PRAC. REM. CODE § 30.014, the last three digits of Plaintiff's social security number are .

2.02 Plaintiff SHAWN PARKER (Minor Shawn) is a Minor and brings his claims by and through his mother as Next Friend, Amber Parker.

2.03 Defendant ALTITUDE ODESSA, LLC (Defendant Altitude) is a domestic limited liability company that regularly conducts business in Ector County, Texas. Defendant Altitude may be served with process by and through its registered agent: Cory Martin Fabrizius, at 430 Green Meadows Circle, Springtown, Texas 76082 or wherever he may be found.

III. VENUE AND JURISDICTION

3.01 Venue is proper in Ector County, Texas, pursuant to TEX. CIV. PRAC. REM. CODE § 15.002(a)(1), because it is the county in which all or a substantial part of the events/omissions giving rise to the cause of action occurred.

3.02 The amount of the Plaintiffs' damages is substantial and well in excess of the jurisdictional minimums of this Court. Many elements of damage cannot be determined with mathematical precision. Furthermore, the determination of many of these elements of damage is peculiarly within the province of the jury. Plaintiffs do not at this time seek any certain amount of damages for any of these particular elements of damage but would instead rely upon the collective wisdom of the jury to determine an amount that would fairly compensate Plaintiffs and hold Defendant accountable for its conduct. However, in order to comply with the pleading requirements of TEX. R. CIV. P. 47(c)(5), Plaintiffs plead that they seek monetary relief of \$1,000,000. Plaintiffs also seek judgment for all other relief to which Plaintiffs are entitled.

IV. PLAINTIFFS' NARRATIVE

4.01 Defendant Altitude owns and possesses a building at 5161 E 42nd Street, Odessa, Texas 79762. Defendant Altitude operates a trampoline park under the licensed named, Altitude Trampoline Park. Defendant's trampoline park is equipped with a rock wall that is surrounded by a foam pit. Upon information and belief, the foam pit underneath the rock wall is too shallow and not equipped with a trampoline underneath the foam blocks.

4.02 On April 28, 2018, the Parker family and some friends attended Altitude Trampoline Park in Odessa, Texas to celebrate Minor Shawn's 13th birthday. Minor Shawn climbed the rock wall and jumped into the foam pit, which did not have a trampoline underneath as industry standard requires. When he landed, Minor Shawn went through the foam blocks and hit the bottom of the

pit causing two of the bones in his right leg to snap.

4.03 Defendant Altitude's negligence in maintaining a dangerous trampoline park with a shallow and improperly designed foam pit that lacked a trampoline beneath proximately caused Minor Shawn's injuries.

V. CAUSES OF ACTION

Premises Liability & Negligence

5.01 Plaintiffs seek damages for premises liability. (a) Minor Shawn was an invitee, (b) Defendant was the possessor of the premises, (c) a condition on the premises (the shallow and improperly designed foam pit) posed an unreasonable risk of harm, (d) Defendant knew or reasonably should have known of the danger, (e) Defendant breached its duty of ordinary care by failing to adequately warn of the condition and failing to make the condition reasonably safe, and (f) Defendant's breach proximately caused Minor Shawn's injuries.

5.02 Defendant's acts and omissions also constitute negligence. Defendant's negligence proximately caused Minor Shawn's injuries.

Gross Negligence

5.03 The above-mentioned acts of negligence on the part of Defendant was of such character as to make Defendant guilty of gross negligence. Defendant's acts of negligence when viewed objectively from the standpoint of Defendant involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Defendant had actual, subjective awareness of this risk, but nevertheless proceeded with conscious indifference to the rights, safety, and welfare of Plaintiffs. The gross negligence of Defendant was a proximate cause of the incident and of the injuries and damages suffered by Plaintiffs. As a result of Defendant's gross negligence, Plaintiffs seek and are entitled to an award of exemplary damages.

VI. DAMAGES

Minor Shawn

6.01 As a direct and proximate result of Defendant's negligence, Minor Shawn has suffered damages and personal injuries and, as provided by Texas law, is entitled to recover for those damages. Plaintiff has suffered damages as follows:

- a. Physical pain sustained in the past;
- b. Physical pain that, in reasonable probability, Minor Shawn will sustain in the future;
- c. Mental Anguish sustained in the past;
- d. Mental Anguish that, in reasonable probability, Minor Shawn will sustain in the future;
- e. Physical impairment sustained in the past;
- f. Physical impairment that, in reasonable probability, Minor Shawn will sustain in the future;
- g. Disfigurement sustained in the past;
- h. Disfigurement that, in reasonable probability, Minor Shawn will sustain in the future; and
- i. Medical care expenses (after the age of eighteen).

Plaintiff Amber Parker

6.02 As a direct and proximate result of Defendant's negligence, Plaintiff Amber Parker has suffered damages, and as provided by Texas law, is entitled to recover for those damages. Plaintiff has suffered damages as follows:

- a. Medical care expenses incurred for Minor Shawn in the past; and
- b. Medical care expenses for Minor Shawn that, in reasonable probability, Plaintiff will incur in the future (through the age of eighteen).

VII. PRAYER

7.01 WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully request the following:

- a. Upon final trial, compensatory and exemplary damages as set forth above be awarded to Plaintiffs against Defendant;
- b. Pre-judgment and post-judgment interest as allowed by law;
- c. Costs of court; and
- d. Such other, further and different relief to which Plaintiffs may be justly entitled.

Respectfully Submitted,

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/s/ Delaney Piercy

Delaney Piercy

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ATTORNEYS FOR PLAINTIFF

JURY DEMAND

Plaintiffs hereby respectfully demand a trial by jury in this cause and herewith pay the required fee.

/s/ Delaney Piercy

Delaney Piercy