

IN THE CIRCUIT COURT FOR THE
NINTH JUDICIAL CIRCUIT IN AND
FOR ORANGE COUNTY, FLORIDA

LEANNE DEACON,
and JUNE DEACON,

CASE NO.: 09-CA-4051
DIV. NO.: 39

Plaintiffs,

vs.

WALT DISNEY WORLD CO.,
a Florida Corporation,

Defendant.

FILED IN OFFICE
OF THE CLERK
OF THE CIRCUIT COURT
IN ORANGE COUNTY
FLORIDA
SEP 11 11 13 27
4382

COMPLAINT FOR DAMAGES FOR PERSONAL INJURIES

COMES NOW Plaintiffs, LEANNE DEACON and JUNE DEACON and file their COMPLAINT against the Defendant, WALT DISNEY WORLD CO., a Florida Corporation, and allege as follows:

GENERAL ALLEGATIONS

1. These are actions for damages in excess of Fifteen Thousand (\$15,000.00) Dollars.
2. At all times herein mentioned, the Defendant Walt Disney World Co., was a Florida Corporation doing business in Orange County, Florida. Defendant, Walt Disney World Co., has its principal place of business in, and resides in, Orange County, Florida.
3. Defendant, WALT DISNEY WORLD, CO. is the assignee of patents issued for technology developed for use in the Tower of Terror Attraction at Disney World.
4. The events giving rise to this cause of action occurred on or about July 12, 2005, on the Tower of Terror Attraction at Disney-MGM Studios located in Orange County, Florida..
5. At all times herein mentioned, the Defendant, Walt Disney World Co., and its related corporations, and each of them, were engaged in a joint venture and common enterprise and acting within the scope of, and in pursuance of, the joint venture and common enterprise.

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6. At all times herein mentioned, the Defendant, Walt Disney World, Co., was the owner and operator of Disney-MGM Studios, an amusement theme park in Orange County, Florida.
7. On or about July 12, 2005, Plaintiff's LEANNE DEACON, was a business invitee with her mother JUNE DEACON as business invitees of the Defendant, Walt Disney World Co., when they LEANNE DEACON and her mother JUNE DEACON entered into this Defendant's property located in Orange County, Florida. At the theme park, Defendant made available to its business invitees, including the Plaintiffs herein, an amusement attraction known as Tower of Terror.
8. The Tower of Terror attraction at Disney World contains an elevator which carries passengers up and down between floors of a "hotel".
9. On or about July 12, 2005, the Plaintiff LEANNE DEACON was invited by the Defendant, Walt Disney World Co., to said Tower of Terror Attraction, and engaged to do so.
10. "This property" refers to the Disney-MGM Studios where this incident occurred and, in particular, the Tower of Terror Attraction.
11. At all times herein mentioned, Defendant, Walt Disney World, Co., was the owner and operator of this property.
12. At all times herein mentioned, Defendant, Walt Disney World, Co., was the lessor of this property.
13. At all times herein mentioned, the persons acting as managers and maintainers of this property, where this accident occurred, were doing so with the knowledge, permission and consent of the Defendant, Walt Disney World, Co., and other unknown defendants.
14. At all times herein mentioned, the persons acting as managers, maintainers and lessors of this property were the agents, servants and employees of, and acting within course and scope of said agency, and employed by the Defendant, Walt Disney World Co., and other unknown defendants.

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COUNT I
AGAINST DEFENDANT FOR PREMISES LIABILITY

PLAINTIFF LEANNE DEACON ALLEGES:

15. The allegations of paragraphs 1 through 14 are re-alleged as though fully set forth herein.
16. At said time and place, Defendant proximately caused damages to said Plaintiff, LEANNE DEACON, by negligently, wantonly, recklessly, tortuously, and unlawfully:
 - [a] Entrusting, permitting, managing, maintaining, servicing, repairing, inspecting, testing, controlling and operating this property;
 - [b] Designing, constructing and owning this property;
 - [c] Instructing others regarding this property and its use, maintenance, care and operation;
 - [d] Failing to warn, instruct, advise, protect and guard users regarding this property; and
 - [e] Conducting themselves with reference to this property and to Plaintiff, LEANNE DEACON; so as to cause this property to be in a dangerous, defective, hazardous and unsafe condition, and a concealed trap, and to proximately cause injury and damages to Plaintiff, LEANNE DEACON as a result of her riding on the Tower of Terror Attraction at Disney-MGM Studios.
17. As a proximate result thereof, this Plaintiff LEANNE DEACON sustained permanent bodily injuries, and has had and, in the future, will have pain, suffering, worry and anxiety, all to Plaintiff's general damages in an amount within the jurisdiction of the Court, and according to proof.
18. As a proximate result thereof, the Plaintiffs incurred and, in future, will incur medical and related expenses, all to Plaintiffs' damage in such amount as will be proven at trial.
19. As a proximate result thereof, these Plaintiffs have and, in the future, will have lost earning capacity, all to Plaintiffs' damage in such amount as will be proven at trial.

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20. As a proximate result thereof, Plaintiffs have lost the use of and interest on the money owed to Plaintiffs as permitted by law:
- a. On the general damages
 - b. On the medical expenses incurred to judgement.
 - c. On the loss of earnings to judgement.

WHEREFORE, the Plaintiff, LEANNE DEACON, demands judgment against the Defendant for damages in excess of \$15,000.00, costs of this action, and for such other relief as is sought herein.

COUNT II

AGAINST DEFENDANT FOR NEGLIGENCE

PLAINTIFF LEANNE DEACON ALLEGES:

21. The allegations of paragraphs 1 through 14 and 17 through 20, are re-alleged as though fully set forth herein.
22. At said time and place, Defendant, proximately caused damages to said Plaintiff, LEANNE DEACON, in that they negligently, wantonly, recklessly, tortuously, and unlawfully:
- a. designed, processed, constructed, manufactured, assembled, prepared, selected materials and parts, represented to test and inspect, managed, maintained, repaired, serviced, sold, advertised, distributed, owned and operated the Tower of Terror attraction and its components parts;
 - b. instructed others regarding Tower of Terror attraction and its components parts, and its use, maintenance, care and operation;
 - c. failed to warn, instruct, advise, educate, and train its users regarding the Tower of Terror attraction and its component parts, and its use, maintenance, care and operation;
 - d. failed to provide an adequate restraint system, failed to advise that the elevator portion of the attraction had the potential to cause serious injury and damage to riders, failed to properly communicate to riders of the needs to keep their neck and back and head straight, and deceived Plaintiff, LEANNE DEACON by refusing to advise her of the extreme dynamics of the elevator portion of the Attraction; and

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- e. conducted themselves with reference to the Tower of Terror attraction and its components parts and to Plaintiff, LEANNE DEACON; so as to proximately cause the Plaintiff LEANNE DEACON to suffer injury and damages, as a result of riding the elevator portion of the Tower of Terror Attraction.

WHEREFORE, the Plaintiff, LEANNE DEACON demands judgment against the Defendant for damages in excess of \$15,000.00, costs of this action, and for such other relief as is sought herein.

COUNT III
AGAINST DEFENDANT FOR STRICT PRODUCTS LIABILITY

PLAINTIFF, LEANNE DEACON ALLEGES:

- 23. The allegations of paragraphs 1 through 14 and 17 through 20 are re-alleged as though fully set forth herein.
- 24. The elevator portion of the Tower of Terror Attraction was designed and built by Walt Disney Imagineering, Inc., a subsidiary of The Walt Disney Company that was in business of designing amusement park rides and was responsible for the research, development and construction of the Tower of Terror and its component parts. The Walt Disney Company is also the parent corporation of Defendant, Walt Disney World Co.
- 25. After the Tower of Terror Attraction was designed and built by Walt Disney Imagineering, Inc., that corporation merged into the Defendant, Walt Disney World Co. As a result of the merger, any liability that Walt Disney Imagineering, Inc., had for its role in the design of the Tower of Terror attraction and its components parts, and its research, construction, and development of the said attraction has been assumed by Defendant, Walt Disney World Co.
- 26. After it was designed, developed and built by Walt Disney World Co.'s predecessor by merger, Walt Disney Imagineering Inc., Walt Disney World Co., had to approve the ride and accept it. Defendant, Walt Disney World Co., had the ultimate buy-off on the ride. It was up to Defendant, Walt Disney World Co., whether it wanted to the accept the ride. When said Defendant signed off on the ride and accepted the Defendant, Walt Disney World Co., had the responsibility for the operation of the ride. Ultimately, Defendant, Walt Disney World Co., accepted the ride as its own.

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27. The Tower of Terror Attraction contained an elevator which transported guests from one level of the Attraction to the other. The elevator portion of the Tower of Terror Attraction was designed and constructed using elevator components to operate as an elevator.
28. The elevator portion of the Tower of Terror Attraction was not a structural improvement to the building in which it was housed but, rather, it functioned as an elevator for use within the building. The elevator portion of the Tower of Terror attraction is referred to herein as "this product".
29. Defendant Walt Disney World Co.:
 - a. Designed, processed, developed, manufactured, constructed, and assembled this product and, represented to inspect and test it, and instruct, advise and warn concerning its use, maintenance and repair;
 - b. Sold, advertised, leased, licensed, bailed, distributed and franchised this product, and was in the chain of distribution for this product;
 - c. This product had latent and patent defects and was defective. These defects included but were not limited to unexpected and unsafe ride dynamics that had the potential to cause serious injuries to unsuspected riders such as the Plaintiff, a failure to warn regarding the risk of serious injury for riding the attraction, and inadequate restraints.
 - e. These defects existed when this product left the possession of the Defendant; and
 - f. Each defect in this product was a proximate cause of injury and damage to Plaintiff, LEANNE DEACON, as a result of her riding on the elevator portion of the Tower of Terror Attraction.

WHEREFORE, the Plaintiff, LEANNE DEACON, demands judgment against the Defendant for damages in excess of \$15,000.00, costs of this action, and for such other relief as is sought herein.

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COUNT IV
AGAINST DEFENDANT FOR
COMMON CARRIER LIABILITY BASED UPON OPERATION OF AN
ELEVATOR:

PLAINTIFF LEANNE DEACON ALLEGES:

30. The allegation of paragraphs 1 through 29 are re-alleged as though fully set forth herein.
31. At all times herein mentioned Defendant operated the elevator portion of the Tower of Terror Attraction for the transport, use and enjoyment of their paying customers, business invitees and patrons.
32. As an operator of an elevator, the Defendant was acting as a common carrier, and, as such, owed to their paying customers, business invitees and patrons, including but not limited to the Plaintiff, LEANNE DEACON, the highest degree of care and vigilance of a very cautious person. In their capacity as a common carrier, the Defendant was required to do all human care, vigilance and foresight which it reasonably could do under the circumstances to avoid harm to their passengers, including the Plaintiff, LEANNE DEACON.
33. As a common carrier the Defendant was required to use the highest care in constructing, servicing, inspecting and maintaining their equipment for transporting passengers.
34. As a common carrier the Defendant was required to adopt commonly accepted safety designs and devices in the equipment, which they used for transporting passengers, including the Plaintiff, LEANNE DEACON.
35. At all times herein mentioned the Defendant, acting as a common carrier, was required to use reasonable skill to provide everything necessary for safe transportation, in view of the transportation used in the practical operation of the business.
36. At the time and place of this incident, Plaintiff LEANNE DEACON was injured by Defendant's conduct while she was a passenger on the Defendant's elevator in that the sudden and unexpected movements of the elevator caused the injuries. Defendant did not exercise the highest degree of care toward their passengers, including Plaintiff.
37. At said time and place Defendant proximately caused damages, losses, and harm to Plaintiff by breaching the highest duty of care they owed to Plaintiff, as a direct and proximate result of which, Plaintiff, suffered serious injuries and damages.

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WHEREFORE, the Plaintiff, LEANNE DEACON, demands judgment against the Defendant for damages in excess of \$15,000.00, costs of this action, and for such other relief as is sought herein.

COUNT V
AGAINST DEFENDANT FOR NEGLIGENT
INFLICTION OF EMOTIONAL DISTRESS

PLAINTIFF, JUNE DEACON ALLEGES:

38. Plaintiff refers to and incorporates Counts I through IV as if fully set forth herein.
39. At all times here and mentioned, Plaintiff, JUNE DEACON was the mother of LEANNE DEACON.
40. At the time of this incident, Plaintiff, JUNE DEACON was a passenger in the Tower of Terror attraction sitting next to her daughter LEANNE DEACON.
41. At set time and place, Plaintiff, JUNE DEACON was a passenger on the Tower of Terror attraction sitting next to her daughter, LEANNE DEACON.
42. At set time and place, Plaintiff, JUNE DEACON was within the zone of danger that her daughter, LEANNE DEACON was exposed to and witnessed her daughter receive injuries on the ride.
43. As a proximate result of witnessing her daughter receiving injuries, this Plaintiff, JUNE DEACON sustained serious emotional distress and other damages in an amount within the jurisdiction of the Court and according to proof.

WHEREFORE, the Plaintiff JUNE DEACON demands judgment against the Defendant for damages in excess of \$15,000.00, costs of this action, and for such other relief as is sought herein.

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COUNT VI
AGAINST THE DEFENDANT FOR LOSS OF
FILIAL CONSORTIUM

PLAINTIFF, JUNE DEACON ALLEGES:

- 44. Plaintiff refers to and incorporates by reference of Counts I through IV, as if fully set forth herein.
- 45. At all times herein mentioned, Plaintiff, JUNE DEACON and Plaintiff, LEANNE DEACON were mother and daughter.
- 46. At the time of this incident, Plaintiff, LEANNE DEACON was a minor.
- 47. As a result of the disabling damages sustained by Plaintiff, LEANNE DEACON, this Plaintiff, JUNE DEACON has suffered a loss of filial consortium in an amount within the jurisdiction of this Court, and according to proof.

WHEREFORE, the Plaintiff JUNE DEACON demands judgment against the Defendant for damages in excess of \$15,000.00, costs of this action, and for such other relief as is sought herein.

RELIEF DEMAND

AS TO COUNTS, I-IV, Plaintiff, LEANNE DEACON demands the following relief:

- 1. Costs of suit;
- 2. General Damages for pain and suffering, disability and mental anguish in an amount within the jurisdiction of the Court, and according to proof;
- 3. Special damages for loss of earnings capacity, medical, hospital, nursing care and treatment, according to proof; and
- 4. Prejudgment interest according to proof.
- 5. Such other and further relief as this Court deems proper.

AS TO COUNT V, Plaintiff, JUNE DEACON demands the following relief:

- 1. Costs of suit;
- 2. General damages for emotional distress and other mental and emotional injuries in an amount within the jurisdiction of the Court, and according to proof;

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3. Prejudgment according to proof,
4. Such other and further relief as this Court deems proper.

AS TO COUNT VI, Plaintiff, JUNE DEACON demands the following relief:

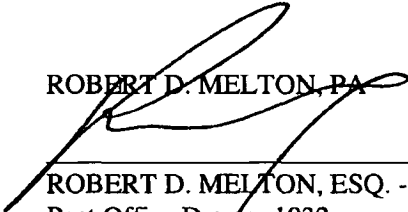
1. Costs of suit,
2. General damages got loss of filial consortium in an amount within the jurisdiction of the Court, and according to proof;
3. Prejudgment according to proof,
4. Such other and further relief as this Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial, as guaranteed by the Constitution of the United States and of the Constitution of the State of Florida.

DATED this 11th day of February, 2009.

ROBERT D. MELTON, PA


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