

IN THE CIRCUIT COURT OF MARYLAND
FOR WORCESTER COUNTY

CHRISTINE FRY
&
DANIEL FRY h/w

Plaintiffs

v.

JOLLY ROGER RIDES, INC

Defendant

Case No. 23-C-08-000313 OT

* * * * *

AMENDED COMPLAINT

Plaintiffs, Christine Fry and Daniel Fry, husband and wife, by their undersigned attorneys, hereby files this Amended Complaint against Defendant Jolly Roger Rides, Inc., and in support thereof states as follows:

NATURE OF THE ACTION

1. Plaintiffs bring this action as a result of Defendant's negligent management, supervision and operation of its amusement park located on the boardwalk pier in Ocean City, Maryland. As a result of Defendant's negligence, and through no negligence or fault of her own, Ms. Fry was struck in the head while at Defendant's park and, as a result, suffered severe and potentially permanent injuries

2. Ms. Fry brings the instant action under a theory of negligence, and Mr. Fry brings a corresponding action for loss of consortium.

THE PARTIES

3. At all relevant times, Plaintiffs were and are husband and wife, and were and are residents of Anne Arundel County, Maryland.

4. At all relevant times, Defendant was and is a Maryland Corporation, with its principle place of business in Ocean City, Maryland. Defendant owns and operates the amusement park at which Ms. Fry was injured.

FACTS

5. On August 4, 2007, between 8:00 and 8:30 p.m., Plaintiffs, along with their two children, were walking in the Jolly Roger Amusement Pier as invitees.

6. As Plaintiffs were walking, a basketball used in a Long Range Basketball Shot game deflected off the game apparatus and struck Ms. Fry, who was walking with her back to the apparatus, on the top of the head.

7. The game apparatus was not equipped with any safety devices or other means of protecting non-participants or other passers-by from potential injury, nor were any warnings posted indicating that the gaming apparatus could pose a potential hazard.

8. After Ms. Fry was struck, Mr. Fry approached the game attendant, who refused to identify himself.

9. At Plaintiffs' insistence, the unidentified attendant summoned George Richie, who identified himself as the Games Manager.

10. Plaintiffs related the occurrence to Mr. Richie, and the events were confirmed by an unidentified patron who had been waiting to participate in the event. Mr. Richie provided Plaintiffs with phone numbers for the park.

11. Immediately thereafter, Ms. Fry began suffering severe head and neck pain. Ms. Fry promptly sought medical treatment, and was diagnosed with a severe cervical spine injury that also aggravated a pre-existing spinal condition.

12. After the injury, Ms. Fry's symptoms had become progressively worse and she initially sought non-surgical treatment for the injury. However, due to the nature of the damage to the cervical spine, those treatments were unsuccessful, and Ms. Fry was forced to undergo surgery to attempt to repair the damage done by the blow to her head.

13. On March 13, 2008, Ms. Fry underwent surgery to repair the injury sustained at the Jolly Roger Amusement Pier. Due to the location of the injury, the necessary surgery required the placement of cadaver bone to essentially create a new neck for Ms. Fry. As such, Ms. Fry's neck has little or no range of motion, and does not function normally as she is unable to look up, unable to look down, and unable to look behind herself.

14. Ms. Fry has great difficulty performing personal tasks such as buttoning her clothes and washing and blow drying her hair. She also has great difficulty performing daily responsibilities such as preparing meals, housekeeping, laundry, childcare and pet care.

15. Due to Ms. Fry's injury, she is unable to sit for substantial lengths of time making it impossible for her to travel or even sit through her children's recreational activities. This condition has rendered her dependent on others as she requires assistance with simple activities such as driving, shopping and reaching.

16. Since the date of the injury and prior to the resulting surgery, Ms. Fry attempted to continue to fulfill her personal and professional responsibilities. However, in September 2008, she was forced to resign from her position as Assistant Project Manager for a large construction company giving up a successful career that provided her potential for personal and professional growth, as well as financial stability for her family.

17. Although Ms. Fry's surgery was deemed successful, the unavoidable side effects to this type of surgery are muscle and nerve damage, which cannot be repaired or even alleviated by

physical therapy. This damage causes Ms. Fry severe daily stiffness and debilitating migraines seriously impairing her ability to function.

18. On December 14, 2008, Ms. Fry was forced to file for Social Security Disability Benefits because she continues to be unable to contribute to her family's financial situation, and the medical costs incurred as a result of the injury has created a financial burden for her and her family.

Count I – Plaintiff Christine Fry -- Negligence

19. Plaintiffs hereby reallege and incorporate by reference the allegations set forth above in Paragraphs 1 through 18 as though fully set forth and repeated herein.

20. Ms. Fry was a business invitee at Defendant's amusement park. As such, Defendant owed a duty of care to Ms. Fry to ensure that its premises were safe.

21. Defendant negligently operated and maintained the gaming apparatus at issue by, *inter alia*, failing to ensure that adequate safety measures were in place to protect passers-by, failing to provide adequate warnings as to the hazard posed by the apparatus, and by failing to operate and supervise the apparatus in a manner that ensured the safety of park guests.

22. Defendant was or should have been aware of the hazards posed by its maintenance and operation of the apparatus, and failed to take any steps to correct the dangerous conditions posed thereby.

23. Solely as a result of Defendant's negligence, and through no negligence or fault of her own, Ms. Fry was struck about the head and suffered a severe cervical spine injury. Ms. Fry has suffered, and continues to suffer significant damages as a result of this injury.

WHEREFORE, Plaintiff Christine Fry demands judgment against Defendant Jolly Roger Rides, Inc., in the amount of \$650,000.00, plus interests and costs, and any other damages this Court may deem just and appropriate.

Count II – Loss of Consortium

24. Plaintiffs hereby reallege and incorporate by reference the allegations set forth above in paragraphs 1 through 23 as though fully set forth and repeated herein.

25. Plaintiffs Daniel Fry and Christine Fry are and were at times material to this action husband and wife.

26. As a result of the injuries sustained by Ms. Fry, which were caused solely by Defendant's negligence, Mr. and Ms. Fry's marital relationship has sustained injury.

27. As a result of her injuries, Ms. Fry has been unable to perform her usual household duties with regularity, has been unable to fully participate in the rearing of the couple's children, and has been unable to assist or participate in the couple's general social obligations.

WHEREFORE, Plaintiffs Christine and Daniel Fry, as husband and wife, demand judgment against Defendant Jolly Roger Rides, Inc., in the amount of \$75,000, plus interests and costs, together with any other damages this Court may deem just and appropriate.

Count III - Defamation

28. Plaintiffs hereby reallege and incorporate by reference the allegations set forth above in paragraphs 1 through 27 as though fully set forth and repeated herein.

29. Ms. Fry was a business invitee at Defendant's amusement park when and through no negligence or fault of her own, Ms. Fry was struck about the head and suffered a severe cervical spine injury.

30. On or about June 9, 2008, in its Answers to Plaintiffs' Interrogatories and in an effort to redirect Defendant's liability for the accident, Defendant states that Plaintiff appeared intoxicated the evening of the accident and described her as smelling of alcohol. Defendant continues further in his Answers to Plaintiff's Interrogatories that Ms. Fry returned the following night, appeared intoxicated, cursed at Defendant's employees, attempted to steal items from a game booth, and had to be removed from the games park by a police officer.

31. During his deposition on September 29, 2008, in continuation of Defendant's effort to redirect Defendant's liability for the accident, Defendant's representative, George Ritchie, stated that Plaintiff appeared intoxicated the evening of the accident and described her as smelling of alcohol. Mr. Ritchie continued further with statements that Ms. Fry returned the following night, appeared intoxicated, cursed at Defendant's employees and attempted to steal items from a game booth. Mr. Ritchie also states that Ms. Fry had to be removed from the games park by a police officer who threatened to arrest her for public intoxication.

32. These statements were defamatory in tending to injure Plaintiff as a respectable citizen, wife and mother, and further impugning her to be an alcoholic, a thief and an unrespectable citizen without regard for the law.

33. Defendant's representative, George Ritchie, knowingly made the aforementioned false and defamatory statements about Ms. Fry.

34. In the alternative, Defendant's representative, George Ritchie, negligently made the aforementioned false and defamatory statements about Ms. Fry.

35. The testimony of Defendant's representative, George Ritchie, made public his false and defamatory statements to Ms. Fry, Ms. Fry's family and Ms. Fry's attorneys, who reasonably understood these statements to be defamatory.

36. Defendant's representative, George Ritchie, acted with knowledge of the falsity of his statements and with intent to harm Ms. Fry as to make her appear negligent for the accident that was the sole cause of Defendant's negligence.

37. As a result of the false and defamatory statements made by Defendant's representative, George Ritchie, the character and reputation of Ms. Fry as a respectable citizen, wife and mother, were harmed, and her standing in her community were impaired, and she suffered mental anguish and personal humiliation.

38. As a direct and proximate result of the false and defamatory statements made by Defendant's representative, Ms. Fry continues to sustain mental anguish, personal humiliation, and stress that create physical impairments such as severe migraines and depression.

WHEREFORE, Plaintiff, Christine Fry, demands judgment against Defendant Jolly Roger Rides, Inc., in the amount of \$100,000, in compensatory damages and \$200,000 in punitive damages, plus interests and costs, together with any other damages this Court may deem just and appropriate.

Count IV - Intentional Infliction of Emotional Distress

39. Plaintiffs hereby reallege and incorporate by reference the allegations set forth above in paragraphs 1 through 37 as though fully set forth and repeated herein.

40. Ms. Fry was a business invitee at Defendant's amusement park when and through no negligence or fault of her own, Ms. Fry was struck about the head and suffered a severe cervical spine injury.

41. On or about June 9, 2008, in its Answers to Plaintiffs' Interrogatories and in an effort to redirect Defendant's liability for the accident, Defendant states that Plaintiff appeared intoxicated the evening of the accident and described her as smelling of alcohol. Defendant continues further

in his Answers to Plaintiff's Interrogatories that Ms. Fry returned the following night, appeared intoxicated, cursed at Defendant's employees, attempted to steal items from a game booth, and had to be removed from the games park by a police officer.

42. During his deposition on September 29, 2008, in continuation of Defendant's effort to redirect Defendant's liability for the accident, Defendant's representative, George Ritchie, stated that Plaintiff appeared intoxicated the evening of the accident and described her as smelling of alcohol. Mr. Ritchie continued further with statements that Ms. Fry returned the following night, appeared intoxicated, cursed at Defendant's employees and attempted to steal items from a game booth. Mr. Ritchie also states that Ms. Fry had to be removed from the games park by a police officer who threatened to arrest her for public intoxication.

43. The conduct of Defendant and Defendant's representative, George Ritchie, was intentional, reckless, and in a deliberate disregard of a high degree of probability that emotional distress would result to Ms. Fry.

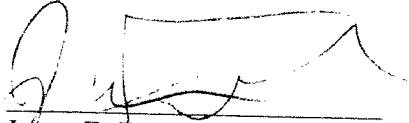
44. The aforementioned conduct by Defendant and Defendant's representative was extreme and outrageous and beyond the bounds of decency in society.

45. The conduct of Defendant and Defendant's representative, George Ritchie, was malicious, willful and intentional.

46. As a result of the aforesaid conduct and actions, Fry has suffered, and will continue to suffer, severe and extreme emotional distress.

WHEREFORE, Plaintiff, Christine Fry, demands judgment against Defendant Jolly Roger Rides, Inc., in the amount of \$100,000, in compensatory damages and \$200,000 in punitive damages, plus interests and costs, together with any other damages this Court may deem just and appropriate.

Respectfully submitted,




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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of December, 2008, a copy of the foregoing Amended Complaint with red-lined version attached was served on the following counsel of record:

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