





## INTRODUCTION

(1) This is an action for compensation for serious, permanent, disabling personal injuries, including skull fractures and traumatic brain injury, as a result of Plaintiff, Rachel Hawes, being struck by a heavy metal part (proximity flag plate), a photograph of which is attached as **Exhibit 1**, from a roller coaster while a guest/business invitee at Defendant's Cedar Point Amusement Park in Sandusky, Ohio, on 8-15-2021. Defendant, Cedar Fair, L.P., resides in, has its principal place of business in, and regularly conducts business in, Erie County, Ohio. Plaintiffs' injuries and damages occurred and were sustained in Erie County, Ohio.

## PARTIES

(2) Plaintiff, Rachel Hawes, is an individual who was a guest/business invitee at Defendant's Amusement Park located in the City of Sandusky, Erie County, Ohio, on 8-15-2021. She resides in Swartz Creek, Michigan. She was seriously and permanently injured when struck in the head on 8-15-2021 by a part from the roller coaster, Top Thrill Dragster, while in line.

(3) Plaintiff, Slater Hawes, was and is, at all relevant times, the spouse of Rachel Hawes. He resides with his wife in Swartz Creek, Michigan.

(4) Plaintiff, Robert Edmonds, is the father of Rachel Hawes, who was in line with his daughter to ride the Top Thrill Dragster on 8-15-2021, when she was struck by a part from the coaster. He witnessed the injuries and their immediate sequela sustained by his daughter. He resides in Omaha, Nebraska.

(5) Defendant, Cedar Fair, L.P., is a Limited Partnership created under the laws of the State of Ohio, which is the owner and operator of the Cedar Point Amusement Park located in the City of Sandusky, Erie County, Ohio, where Plaintiff, Rachel Hawes, was seriously and permanently injured on 8-15-2021. This Defendant's employees and agents wrongfully caused

Plaintiffs' injuries and damages, for which it is vicariously liable, as well as for its own wrongful misconduct.

(6) Defendants, Cedar Fair L.P. and/or Doe Corporations, Partnerships, LLC Entities employed ride mechanics/agents/employees. These individual employees' job duties included the proper installation of parts, including proximity flag plates on the Top Thrill Dragster roller coaster. These individuals' job duties also included properly inspecting the Top Thrill Dragster, and to exercise reasonable care in discovering and troubleshooting problems, malfunctions, hazards, which could cause personal injury to park patrons, such as Rachel Hawes. Defendants, John/Jane Doe Individuals I-X, and/or as many as necessary/required, were also employees employed as ride mechanics whose job duties also included properly installing parts, including proximity flag plates on the Top Thrill Dragster roller coaster, inspecting the Top Thrill Dragster, and to exercise reasonable care in discovering and troubleshooting problems, malfunctions, hazards, which could cause personal injury to park patrons, such as Rachel Hawes. Alternatively, John/Jane Doe Individual Defendants are individuals who are currently unknown whose wrongful and/or negligent conduct proximately caused Plaintiffs' injuries and damages.

(7) Cedar Fair, L.P. and/or Doe Corporation, Partnership, LLC Entities employed maintenance foremen, supervisors, managers, and/or directors of rides/ride maintenance, whose job duties included the proper training of ride mechanics in the performance of their job duties and responsibilities, properly supervising ride mechanics in the performance of their job duties, including the proper installation, replacement, inspection, troubleshooting of problems, malfunctions, and hazards which could cause personal injury to park patrons, such as Rachel Hawes. These employees/agents of Cedar Fair, L.P. and/or Doe Corporation, Partnership, LLC Entities also had responsibility for implementing safety policies and procedures on behalf of

Defendants Cedar Fair, L.P. and the Doe Corporations, Partnerships, LLC Entities to protect park patrons from injury due to the negligent installation of replacement parts and negligent inspection of rides. The John/Jane Doe Individual defendants include these maintenance foremen, supervisors, managers, and/or directors of ride maintenance who are currently unknown whose wrongful and/or negligent conduct proximately caused Plaintiffs' injuries and damages.

(8) Cedar Fair, L.P. and/or Doe Corporations, Partnerships, LLC Entities employed individuals whose job duties included creating policies and procedures designed and implemented to protect park patrons, such as Rachel Hawes, from suffering severe and catastrophic personal injury due to improper installation of replacements parts, maintenance, and inspection of rides, including the Top Thrill Dragster roller coaster, and to prevent the willful destruction of evidence. All the Defendants identified in paragraphs 6, 7, and 8, including all Cedar Fair employees/agents referred therein, are collectively referred to as the "Cedar Point Defendants". Defendants, John/Jane Coe Individual Defendants, and the Coe Corporations, Partnership, LLC Entities, are third parties who engaged in/participated in the destruction of evidence.

(9) Defendants, Intamin, Ltd., and/or John/Jane Roe Individuals, and/or Roe Corporations, Partnerships, LLC Entities, negligently provided maintenance and repair instructions for the Top Thrill Dragster roller coaster. These Defendants negligently acquiesced in/approved the Cedar Point Defendants' request to modify maintenance/overhaul instructions for the Top Thrill Dragster roller coaster prior to the commencement of the 2021 season.

(10) The true names and capacities of all individuals and the business entities which may be liable to Plaintiffs are unknown to Plaintiffs, despite Plaintiffs making reasonable efforts to identify them. Therefore, Plaintiffs bring this action against Doe, Coe, Roe Corporations,

Partnerships, LLC's, or other business entities, I through X inclusive. Plaintiffs believe the Defendants designated as Doe, Coe, and Roe Corporations, Partnerships, LLC's, or business entities I through X, are responsible for Plaintiffs' injuries and damages due to their negligent and other wrongful conduct. These Defendants are responsible for the events, occurrences, and/or happenings referred to in this Complaint, and caused Plaintiffs' damages as set forth herein. Plaintiffs will seek leave of Court to substitute/insert the names of each individual and business entity, Defendants Doe, Coe, and Roe Corporations, Partnerships, LLC's, or other entity, when the same has been ascertained.

### **JURISDICTION AND VENUE**

(11) Jurisdiction is proper in this Court. Defendant, Cedar Fair, L.P., has its principal place of business in, and regularly conducts business in, Erie County, Ohio. It owns and operates the Cedar Point Amusement Park where Plaintiff, Rachel Hawes, was seriously and permanently injured, and is where the acts and admissions giving rise to Plaintiffs' claims occurred. Defendant, Intamin, Ltd., regularly conducts business in Erie County, Ohio. This Court has jurisdiction pursuant to Ohio's Long Arm Statute and Civil Rules.

(12) Venue is proper in this Court pursuant to Ohio Civil Rule 3.

### **FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

(13) On 8-15-2021, Plaintiff, Rachel Hawes, along with her husband, father, and other family members, visited the Cedar Point Amusement Park in the City of Sandusky, Erie County, Ohio.

(14) While Plaintiff, Rachel Hawes, was in line to ride the roller coaster, Top Thrill Dragster, with her father, Robert Edmonds, she was struck in the head by a part (proximity flag plate) which came off the coaster, Top Thrill Dragster, which she was in line to ride.

(15) The proximity flag plate bolts to the body of the train/cars. It is made of heavy metal. A photograph of the proximity flag plate which struck Plaintiff, Rachel Hawes, is attached to this Complaint.

(16) The proximity flag plate came off the Top Thrill Dragster roller coaster as a result of the bolts holding it in place becoming loose (backing out) and breaking, failing to hold the plate in its proper position as intended in accordance with its design because of improper installation and inspection. The bolts on the proximity flag plate became loose and broke, due to the negligence of the Cedar Point Defendants.

(17) The Cedar Point Defendants were also negligent in failing to discover that the bolt(s) were loose as a result of not properly inspecting the ride.

(18) The Cedar Point Defendants were negligent in failing to protect individuals, such as Rachel Hawes, from being injured from parts, debris, and/or objects falling from Defendant's rides, such as the Top Thrill Dragster.

(19) As a result of being struck by the proximity flag plate, Plaintiff, Rachel Hawes, sustained serious and permanent injuries, including, but not limited to:

1. Head trauma with resultant traumatic brain injury (TBI);
2. Subarachnoid hemorrhage with cerebral edema due to traumatic head injury;
3. Cerebral venous thrombosis of the sigmoid sinus;
4. Right subdural hematoma;
5. Communicating hydrocephalus with VP shunt placement; and
6. Right open skull fracture associated with cerebral laceration and contusions and resultant prolonged loss of consciousness (more than 24 hours).

(20) Plaintiff, Rachel Hawes, received treatment at the scene, and was then transported to Firelands Regional Medical Center, from which she was life flighted to St. Vincent Medical Center, Toledo, Ohio. She has also received evaluation and treatment at the

Hurley Medical Center and McLaren Neurologic Rehabilitation Institute in Flint, Michigan in addition to other facilities. She has received physical, occupational, and speech therapy. Her medical expenses exceed \$2,000,000. She will require future medical care and treatment, with a cost in excess of \$10,000,000. She will need assistance with activities of daily living for the remainder of her life.

(21) At the time of Plaintiff, Rachel Hawes', injuries, she was enrolled to attend graduate school in order to secure employment as an educator. She has suffered loss of earning capacity in the approximate sum of \$1,265,000. She is permanently disabled, and will no longer be able to work as a result of the injuries sustained from Defendant's negligence.

### **CAUSES OF ACTION**

(22) Plaintiffs reiterate all well pled material allegations in paragraphs 1-21 set forth above, and reallege and incorporate them as if fully rewritten herein.

(23) Defendants, Cedar Fair, L.P., John/Jane Doe Individuals I-X, Michael/Michelle Doe Individuals I-X, Robert/Roberta Doe Individuals I-X, and Doe Corporations, Partnerships, LLC Entities, were negligent in the following respects:

- (a) in failing to exercise reasonable care in the installation of the proximity flag plate which became detached from the Top Thrill Dragster ride, striking Plaintiff, Rachel Hawes;
- (b) in failing to exercise reasonable care in inspecting and maintaining the amusement park ride, Top Thrill Dragster;
- (c) in failing to exercise reasonable care in protecting park patrons/business invitees from debris and/or parts from amusement park rides striking them; and
- (d) such further acts of negligence as are discovered during the prosecution of this action, and/or as supported by the evidence at the trial of this cause.



(24) Defendant, Cedar Fair, L.P., Michael/Michelle Doe Individuals I-X, Robert/Roberta Doe Individuals I-X, and the Doe Corporations, Partnerships, LLC Entities, negligence, included, but was not limited to, the hiring of the individual Defendants, in training them, supervising them, and retaining them at the time of the 8-15-2021 incident which is the subject of this action.

(25) Defendant, Cedar Fair, L.P., and the Doe Corporations, Partnerships, LLC's, Entity Defendants, are the employer(s) and or principal(s) of the individual Defendants named in paragraph 24, and are vicariously liable for all the wrongful acts of its employees and/or agents, as well as their own independent acts of wrongful misconduct.

(26) Plaintiffs also bring a claim in tort against the responsible Cedar Point Defendants and any third parties, John/Jane Coe Individual Defendants and Coe Corporations, Partnerships, LLC's, for the interference with, or destruction of evidence. These Defendants received from Plaintiffs a written request to preserve all evidence, including trains and track. These Defendants dismantled, willfully destroyed/removed the return side of the Top Thrill Dragster ride, knowing of probable litigation involving Plaintiffs. The willful destruction of the return side of the track by these Defendants was to disrupt Plaintiffs' case. Plaintiffs' case has been disrupted by the inability of Plaintiffs to verify their findings through expert testing and examination, including the examination of cars on the return track. These Defendants' culpability/wrongful conduct is another cause of Plaintiffs' injuries and damages. These Defendants' wrongful conduct in destroying evidence has proximately caused Plaintiffs' damages.

(27) Defendants, Intamin, Ltd., John/Jane Roe Individuals I-X, and Roe Corporations, Partnerships, LLC Entities, negligently amended their off-season overhaul maintenance procedures for the Top Thrill Dragster (the Intamin Defendants). The Intamin Defendants

agreed to a reduced/limited overhaul/reconditioning program which eliminated a complete inspection of all trains, which would include proximity plates. As a result of the amended/reduced overhaul procedures, the car on which the proximity plate failed was not subject to a complete inspection. The car on which the proximity plate failed was not overhauled as a result of the revised maintenance/overhaul procedures. The failure to overhaul the car was a proximately cause of plaintiffs' injuries and damages.

(28) As a direct and proximate result of the wrongful conduct of all these Defendants, Plaintiff, Rachel Hawes, suffered serious personal injury, conscious pain and suffering, medical expenses, inability to be gainfully employed, mental anguish, and the loss of the ability to engage in her regular activities from which she derived pleasure in life. Plaintiff, Rachel Hawes', injuries resulting from the 8-15-2021 incident are permanent.

(29) As a direct and proximate result of Defendants' wrongful conduct, Plaintiff, Slater Hawes, as the husband of Rachel Hawes, has been, and will continue to be, deprived of the consortium, society, companionship, care, assistance, attention, protection, advice, guidance, and counsel of his wife, as well as mental anguish.

(30) Plaintiff, Robert Edmonds, witnessed his daughter, Rachel Hawes, being struck by the part which broke off the Top Thrill Dragster ride as they were waiting in line. As a direct and proximate result of the wrongful conduct of these Defendants, he has experienced fright, terror, and serious emotional distress.

(31) The wrongful conduct described herein, which directly and proximately caused the previously described injuries and damages to Plaintiffs, was not only negligent, but also reckless, willful, and wanton. The wrongful conduct, included, but was not limited to, the failure to properly install, inspect, and maintain the proximity flag plate on the Top Thrill Dragster ride,

failing to protect park guests, patrons, and business invitees from injury from parts and/or debris of any kind striking and injuring them, and failing to properly hire, retain, train, and supervise park personnel, and preserve evidence. This conduct exhibited a conscious and flagrant disregard for the rights and safety of other persons, including Plaintiffs, which wrongful conduct had a great probability of causing substantial harm. This wrongful conduct entitles Plaintiffs to an award of punitive/exemplar damages, including attorneys' fees and litigation expenses.

(32) Defendants, Cedar Fair, L.P., and/or Intamin, Ltd., the Doe, Coe, and Roe Corporations, Partnerships, LLC's, are legally responsible for all Plaintiffs' injuries and damages, whether compensatory or punitive, not only on the basis of vicarious liability, but also for their own wrongful conduct, including, but not limited to, the wrongful hiring, supervision, training, and retention of the Individual Defendants, and destruction of evidence, based upon these Defendants' own reckless, willful, and wanton misconduct.

(33) Plaintiffs' conduct did not contribute to the cause of their injuries and damages.

(34) The circumstantial evidence rule known as the doctrine of *res ipsa loquitur* recognizes that a defendant's negligence may be inferred where the physical cause of injury and attendant circumstances are such that in the light of ordinary experience the plaintiff's injury would probably not have happened if those who had management or control of the causative instrument of injury had exercised proper care. The rule applies where the agency or thing which causes the injury is in the exclusive control of the defendant or his agents, and the occurrence which produces the injury is one which in its nature does not ordinarily happen if those in charge exercise due care. *McGee v. Moxhala Park, Inc.*, (Court of Appeals of Ohio, Fifth Appellate District, Fairfield County, 1987) 1987 Ohio App. LEXIS 7502; 1987 WL 12527

(doctrine of *res ipsa loquitur* applied when a minor child was injured on an amusement park ride, “Tubs of Fun”, where the ride owners and operators had exclusive control).

(35) The Cedar Point Defendants had exclusive control of the operation, maintenance, and inspection of the Top Thrill Dragster, as well as, the hiring, supervision, training, and retention of the employees and agents who operated, inspected, and maintained the park’s ride, including the Top Thrill Dragster, and those responsible for the safety and well-being of park visitors, patrons, and business invitees.

(36) In light of ordinary experience, Plaintiff, Rachel Hawes, would not have been injured by a part becoming detached from the Top Thrill Dragster roller coaster while in line, absent the Cedar Point Defendants’ failure to exercise proper and reasonable care in the operation, inspection, and maintenance of the ride.

**WHEREFORE**, Plaintiff, Rachel Hawes, prays and requests that the Court award a judgment against Defendants to sufficiently compensate her for the damages she has suffered, including:

- (a) reasonable value of the medical services rendered;
- (b) reasonable value of future medical services;
- (c) loss of wages;
- (d) future lost wages;
- (e) lost earning potential;
- (f) physical pain suffered;
- (g) physical pain suffered in the future;
- (h) mental suffering;
- (i) future mental suffering;

- (j) loss to enjoyment of life;
- (k) pre-judgment interest;
- (l) judgment in Plaintiffs' favor based on an adverse inference or other appropriate remedy for the interference with and destruction of evidence; and
- (m) all other relief as is just and proper in the premises.

**WHEREFORE**, Plaintiff, Slater Hawes, prays and requests the Court enter judgment in his favor sufficient to compensate him for the losses he sustained.

**WHEREFORE**, Plaintiff, Robert Edmonds, prays and requests the Court enter judgment in his favor sufficient to compensate him for the losses he has sustained.

**WHEREFORE**, Plaintiffs request judgment against these Defendants for compensatory damages in a sum in excess of Twenty-Five Thousand Dollars (\$25,000), and for punitive/exemplar damages in such amount as determined by the jury, attorneys' fees, litigation expenses, and the costs of this action, and such further relief to which they may be entitled, either in law or equity.

Respectfully submitted,

/s/James L. Murray

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**JURY DEMAND**

Plaintiffs hereby demand a trial by jury in the above-styled cause of action.

/s/James L. Murray

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**INSTRUCTIONS TO THE CLERK**

Please serve the Defendants by certified mail, return receipt requested, at their respective addresses listed on the face of this Complaint, along with a copy of same.

/s/James L. Murray

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Attorneys for Plaintiffs



EXHIBIT 1