

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ESTATE OF STANLEY MORDARSKY,
DANIEL MORDARSKY, GERMAINE
MORDARSKY
Plaintiffs,

vs.

RIVERSIDE PARK ENTERPRISES, INC., SIX
FLAGS, Inc., INTAMIN, A.G., corporations
Defendants

No. 3:04cv1453 (JBA)

COMPLAINT

September 1, 2004

FILED
2004 SEP -2 A 9:59
U.S. DISTRICT COURT
DISTRICT OF CONNECTICUT

COMES NOW PLAINTIFFS, averring and alleging as follows:

The Parties

1. Plaintiff GERMAINE MORDARSKY ("Germaine or "Plaintiff collectively") is now and at all material times hereto was a resident of the Town of Bloomfield, County of Hartford, State of Connecticut.

2. Plaintiff DANIEL MORDARSKY ("Daniel" or "Plaintiff collectively" as appropriate) is now and at all material times hereto was a resident of the City of Bakersfield, County of Kern, State of California.

3. Defendant RIVERSIDE PARK ENTERPRISES, INC., ("RPI") is domestic corporation organized under the laws of the state of Massachusetts with a principal place of business in the Town of Agawam, Massachusetts. RPI operated, managed and maintained an amusement park in the state of Massachusetts known as 'Six Flags New England.'

4. Defendant SIX FLAGS, INC., ("SFI") is corporation organized under the laws of the state of Delaware with a principal place of business in the City of Oklahoma City, State of Oklahoma. SFI owns all of the outstanding stock of RPI and, together with RPI, markets, RPI operated, managed and maintained an amusement park in the state of Massachusetts known as

‘Six Flags New England.’”

5. Defendant INTAMIN, Inc., (“IAG”) is corporation organized under the laws of the State of Maryland, with a principal place of business in the City of Glen Burnie, State of Maryland. IAG is the US domestic representative of the manufacturer of the Superman Ride of Steel, aka ‘Mega Coaster,’ installed at an amusement park in the state of Massachusetts known as ‘Six Flags New England.’”

6. Defendant Does 1-3 are believed to be the individual persons employed by the defendants at various locations who at various times had supervisory roles in the maintenance and modification of the ‘Superman – Man of Steel Rollercoaster’ located at Six Flags New England (“SFNE”) amusement park located in Agawam, Ma.

Jurisdiction and Venue

7. Subject Matter Jurisdiction of this court is based upon 28 U.S.C. §1331, in that the claims herein arise between citizens of separate states and the value of the claims exceeds \$100,000. Venue is proper in this District and since two of the plaintiffs had primary residence in this state and District, and the defendants knew and actively solicited the business of the plaintiff Germaine and Stanley using media outlets located in this State and dealt directly with individuals and groups located in this state to generate business for themselves and their respective organizations.

COUNT ONE: Wrongful Death [By Estate of Stanley Mordarsky

8. Plaintiff incorporates the allegations of paragraphs 1-6 as if fully set forth herein.

9. On or about May 1, 2004, Stanley attended the SFNE amusement park located in Agawam, MA.

10. Stanley waited in line for ride the ‘Superman’ ride. Unknown to him, RPI, SFI, IAG

and Does 1-3 had modified or permitted to be modified the ride to allow persons of larger stature to ride. In prior years Stanley would have been prohibited from riding this ride due to his larger size.

11. Modifications to this ride either directly or as authorized by IAG changed the restraint system. This change resulted in spacing in the sides of restraint system that did not previously exist. The purpose of this modification was to allow larger people to ride. Plaintiff is informed, believes and thereon alleges that it was in the financial interest of all defendants to have as many people as possible ride this popular and 'headliner ride' at SFNE so as to maximize revenue. If it became known that larger people could not ride this ride it would affect attendance at SFNE which would reduce the profits of RPI, SFI and IAG.

12. Mordarsky was admitted to the ride and placed into a train which contained the modified restraint system. At the time he was placed in the train, the restraints were further not properly seated and he was not properly restrained in the seat. The defendants RPI and SFI negligently failed to properly check the restraint system, and allowed the ride to leave the loading area with Mordarsky not properly restrained in the train.

13. During the course of the ride on May 1, 2004, at or about 1800 EDT, Mordarsky became dislodged from his seat since he was not properly restrained. He and others attempted to restrain him in his seat as the ride continued its' course. Due to the sustained positive and negative 'G' forces, Stanley was thrown from the ride at approximately sixty miles per hour.

14. During the time he was dislodged from his seat and before his final plunge to the concrete below, his hand was severed by the train as he fell from his seat, and then he died as he struck the ground below.

15. An investigation by the Department of Public Safety of the State of Massachusetts

determined that RPI and SFI was negligent in allowing Mr. Mordarsky to leave the loading area without being properly restrained and for modifying the train without properly determining the risks to larger persons from the modified restraint system.

16. As such, Stanley has been damaged by the loss of his life in amount in excess of One million dollars by the defendants jointly and severally.

COUNT TWO: Negligence [Against All Defendants]

17. Plaintiff incorporates the allegations of paragraphs 1-16 as if fully set forth herein.

18. But for the modification of the restraint system and negligent failure of the defendant RPI and SFI to ensure that all riders are properly restrained prior to the ride leaving the loading area, Stanley would not have been first injured by the loss of his hand and then killed by being thrown to the concrete below him.

19. Further negligence is shown in the failure of RPI and SFI to properly train ride operators and Does 1-3 to ensure that riders are properly restrained in the ride, and for IAG, RPI and Does 1-3 to design a restraint system that cannot be modified as to create gaps through which riders and slide and move and be thrown from the ride.

20. In 1999 on an identical ride design at a SFI park at Darien Lake, a person was thrown from their seat and SFI was held to be 100% liable in that accident arising from improper verification of the seat restraints prior to the ride leaving. Despite having actual knowledge of the risk of modifying restraints and not ensuring proper restraint of riders, RPI, SFI, IAG and DOES 1-3 permitted and or approved the modification, and failed to have in place proper training and procedures to ensure that riders left the boarding area properly restrained.

21. As a result of the negligence of the defendants Stanley has been damaged in an amount in excess of One million dollars for personal injury. Pstanley further seeks punitive damages for

the negligence of SFI having been on notice of the risk of larger patrons being ejected from this coaster and actively modifying the coaster to allow larger persons to ride without ensuring such modifications were safe. Such failure to take action after being faulted by both the State of New York and a jury was outrageous behavior given the speeds, g-forces and risks associated with high speed rides such as Superman.

COUNT THREE: BATTERY [By Stanley against RPI, SXI and Does 1-3]

22. Plaintiff incorporates the allegations of paragraphs 1-21 as if fully set forth herein.

23. Stanley consented to ride with the assumption that the Superman ride was safe and properly engineered. SXI, and RPI as a result of being a wholly owned subsidiary of SXI, were aware that heavyset patrons were at a higher risk of being injured on the Superman Ride. Yet, RPI and SXI failed to learn from the prior events and failed to properly restrain Stanley on his last ride. Stanley is informed, believes and thereon alleges that IAG was aware of the modifications made and as the designer and engineer of the ride failed to warn SFI and RPI of the risk of what they were doing and that IAG had inspected these rides as part of its' loss prevention review at some time between May 16, 1999 and May 1, 2004.

24. The actions of the defendants taken together as alleged constituted a battery upon Stanley in that he was injured and then killed the result of their joint conduct and as a result of their failures. If a reasonable person had been informed of the dangers of riding given the modifications to the ride and the importance of tight and properly fitting restraints, they would not have consented to ride nor assumed the risks of the ride

25. As a result Stanley has been damaged in an amount in excess of \$100,000, and seeks punitive damages arising from the intentional conduct of the defendants in not disclosing all risks

and causing a battery and injury and then loss of life to be inflicted on the person of Stanley

COUNT FOUR: Intentional Infliction of Emotional Distress]

26. Plaintiff incorporates the allegations of paragraphs 1-25 as if fully set forth herein.

27. Once Stanley began to come out of the seat, he was overtaken by feelings of fear and imminent personal injury. Said feelings turned to horror and fear of imminent death as he became more and more dislodged from the seat until he was flung to the ground, his hand severed and his body broken.

28. The actions heretofore mentioned leading up to Stanley's death were an intentional and wanton infliction of emotional distress by the defendants in the design, operation, maintenance and modification of the Superman ride. Any reasonable person would feel fear and terror at being first forced out of their seat and then ejected from a roller coaster at 60 mph.

29. As a further result of the events leading up to his death Stanley is and will be unable to care for his aged mother, provide her comfort in her declining years and otherwise be a good and loyal son and brother. Such would any reasonable person emotional distress and was the direct result of the events leading up to his death

30. Stanley seeks damages for the intentional infliction of emotional distress and punitive damages therefore, from all defendants.

COUNT FIVE: Negligent Infliction of Emotional Distress [against All Defendants]

31. Plaintiff incorporates the allegations of paragraphs 1-30 as if fully set forth herein.

32. Any reasonable person would know that improperly modifying the ride, failing to properly inspect the ride, failing to ensure that Stanley was properly restrained and failing to monitor the video cameras positioned to ensure each ride is properly monitored could lead to personal injury or death. In fact, signs posted at the Superman ride state that failing to follow

ride limitations and rider operator instructions can lead to personal injury or death.

33. Such failures by the defendants caused the infliction of emotional distress of the kind described in paragraphs 27 and 28, supra, and were the result of the negligence of the defendants as alleged herein.

34. Stanley seeks damages for the intentional infliction of emotional distress and punitive damages therefore, from all defendants.

COUNT SIX: Wrongful Death – [By Germaine against RPI, SXI and IAG]

35. Plaintiff Germaine incorporates the allegations of paragraphs 1-34 as if fully set forth herein.

36. Germaine was the mother of Stanley. They lived together and Germaine relied on the services and funds contributed by Stanley for the maintenance of her home and standard of living. Germaine has suffered the emotional distress of the loss of son, for whom she cared since birth during the period of his disability.

37. As a result of the conduct of the defendants named and the death of Stanley, the facts of which are heretofore alleged, Germaine has been damaged in an amount in excess of One Million dollars (\$1,000,000.00) incurred in connection with death of Stanley the result of the negligence of the defendants in the operation of the Superman ride on May 1, 2004.

COUNT SEVEN – Infliction of Emotional Distress [By Germaine against all defendants]

38. Plaintiff Daniel incorporates the allegations of paragraphs 1-34 as if fully set forth herein.

39. Germaine lost her son, Stanley, as a result of the negligence and or intentional conduct of the defendants, and each of them jointly and severally, and suffered great emotional trauma and loss having to bury her son.

40. As a result of the conduct of the defendants named and the death of Stanley, the facts of

which are heretofore alleged, Germaine has been damaged and suffered great emotional distress in an amount in excess of One Million dollars (\$1,000,000.00) incurred in connection with death of Stanley the result of the negligence of the defendants in the operation of the Superman ride on May 1, 2004.

COUNT EIGHT: Wrongful Death – [By Daniel against RPI, SXI and IAG]

41. Plaintiff Daniel incorporates the allegations of paragraphs 1-34 as if fully set forth herein.

42. Daniel was the brother of of Stanley. They were close and cared for their mother jointly as she aged despite the distance that Daniel lived away.

43. The negligent and intentional actions of the defendants on May 1, 2004, caused the death of Stanley. Daniel has been damaged by such actions which have caused the wrongful death of his brother as alleged heretofore. Daniel has been forced to leave his home in California, and come to Connecticut to care for Germaine after the death of Stanley and has lost the comfort and companionship of his only brother.

44. As a result of the conduct of the defendants named and the death of Stanley, the facts of which are heretofore alleged, Daniel has been damaged in an amount in excess of One Million dollars (\$1,000,000.00) incurred in connection with death of Stanley the result of the negligence of the defendants in the operation of the Superman ride on May 1, 2004.

COUNT NINE – Infliction of Emotional Distress [By Daniel against all defendants]

45. Plaintiff Daniel incorporates the allegations of paragraphs 1-34 as if fully set forth herein.

46. Daniel lost his brother, Stanley, as a result of the negligence and or intentional conduct of the defendants, and each of them jointly and severally, and suffered great emotional trauma and loss having to bury his brother and see the devastation of his mother at the loss of one of her sons..

47. As a result of the conduct of the defendants named and the death of Stanley, the facts of which are heretofore alleged, Daniel has been damaged and suffered great emotional distress in an amount in excess of One Million dollars (\$1,000,000.00) incurred in connection with death of Stanley the result of the negligence of the defendants in the operation of the Superman ride on May 1, 2004.

COUNT TEN: Breach of Settlement Agreement [By Germaine and Daniel against SXI and RPI]

48. Plaintiffs Daniel and Germaine incorporate the allegations of paragraphs 1-34 as if fully set forth herein.

49. Commencing shortly after May 1, 2004, and continuing through August 15, 2004, Germaine and Daniel had negotiated a settlement of their own individual claims arising from the violent death of Stanley on the Superman Ride on May 1, 2004.

50. Germaine and Daniel and RPI and SXI had negotiated a final settlement agreement the terms of which included an immediate cash payment to themselves and a ongoing structured settlement to provide ongoing cash payments. SXI and RPI prepared a settlement agreement and release covering the claims of Germaine and Daniel. Germaine and Daniel remain willing to enter into the settlement arrangement negotiated between the parties for whom they had legal authority to negotiate. SXI and RPI knew that no one had yet filed an application to administer or create an Estate for Stanley and that no one had the authority as yet to bind the estate.

51. Despite this agreement, SXI and RPI refuse to complete the settlement agreement on the terms they negotiated with Daniel and Germaine, and refuse to make any payments thereunder.

52. Such conduct by SXI and RPI is a breach of settlement agreement and said breach of

agreement has damaged Germaine and Daniel in the amount of Five Hundred Thousand dollars.

Plaintiff Demands a Trial by Jury as to all Counts on which a jury may be had.

WHEREFORE, Plaintiff prays for relief as follows:

1. For actual damages;
2. For punitive damages as may be awarded for outrageous and intentional conduct;
3. For Attorneys fees;
4. For costs of action;
5. For such other and further relief as may be appropriate.

FOR THE PLAINTIFFS,

BY: 

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