

UNITED STATES DISTRICT COURT
for the
Northern District of Alabama

Scott Jordan and Blakely Jordan, et. al.
Plaintiff
v.
Great Escapes Pelahatchie, LP, et. al
Defendant
Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Great Escapes Pelahatchie, LP
d/b/a Jellystone Park Yogi on the Lake Pelahatchie
c/o Capital Corporate Services, Inc.
248 E. Capital Street
Suite, 840
Jackson, MS 39201

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.P. 12 (a)(2) or (3) — or 90 days in a Social Security action — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Tilden J. Haywood
Law Office of Tilden J. Haywood
344 N. Oates Street
Dothan, AL 36303
William D. Marler
Marler Clark, LLP, PS
1012 First Avenue
Suite 500
Seattle, WA 98104

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DEBRA P. HACKETT, CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4(1))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA – NORTHERN DIVISION**

SCOTT JORDAN and BLAKELY JORDAN,
individually and on behalf of their minor
child, B.H.J.

Plaintiff,

v.

GREAT ESCAPES PELA HATCHIE, LP
d/b/a JELLYSTONE PARK YOGI ON THE
LAKE PELA HATCHIE, a foreign limited
partnership,

Defendant.

RECEIVED

CIVIL DIVISION

CASE NO.:

JURY TRIAL DEMANDED

PLAINTIFFS' CIVIL ACTION COMPLAINT

AND NOW, come Plaintiffs Scott Jordan and Blakely Jordan, individually and on behalf of their minor child, B.H.J., who, by and through their counsel of record, Tilden J. Haywood of The Law Office of Tilden J. Haywood, and William D. Marler of Marler Clark, LLP PS (pending admission *pro hac vice*), alleges upon information and belief as follows:

PARTIES

1. Plaintiffs reside and are domiciled in Banks, Pike County, Alabama. Therefore, Plaintiffs are citizens of the State of Alabama.

2. Defendant Great Escapes Pelahatchie, LP, is a limited partnership organized and existing under the laws of the State of Mississippi. Citizenship of a limited partnership is determined by the citizenship of all of its partners. Upon information and belief, this limited partnership has only one partner, its general partner, Great Escapes Pelahatchie Management, LLC (GEPM). GEPM is a limited liability company organized and existing under the laws of the

State of Mississippi, with its principal place of business at 2539 S. Gessner Road, Ste. 13, Houston, Texas 77063. Upon information and belief, GEPM's sole member is Ricky L. Jenkins, who resides and is domiciled in Houston, Texas. Therefore, Defendant is a citizen of the States of Mississippi and Texas. In its ordinary course of its business, and at all times relevant to this action, Defendant owned and operated Jellystone Park Yogi on the Lake Pelahatchie, including all of its recreational water facilities and pools.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332(a) because the matter in controversy exceeds \$75,000.00, exclusive of costs, it is between citizens of different states, and because the Defendant has certain minimum contacts with the State of Alabama such that maintenance of the suit in this district does not offend traditional notions of fair play and substantial justice.

4. Venue in the United States District Court for the Middle District of Alabama is proper pursuant to 28 U.S.C. § 1391(b)(3) because the Defendant is subject to personal jurisdiction in this judicial district at the time of the commencement of the action.

GENERAL ALLEGATIONS

The 2021 *E. coli* O157 Outbreak at Jellystone Camp Park and Resort

5. The Mississippi State Department of Health (MSDH) has identified several cases of *E. coli* infections associated with use of the swimming pool and splashpad at Yogi on the Lake in Pelahatchie, Mississippi.

6. The cases identified so far have exposure dates on the weekend of July 30 through August 1, 2021. Additional exposures may have occurred through August 9, 2021.

7. MSDH calls this “an evolving situation” and they are conducting an ongoing investigation to identify any additional cases. Health officials say that those who were swimming in the pool or splashpad at Yogi on the Lake in Pelahatchie between July 30 and August 9, 2021 should monitor for symptoms of stomach cramps, diarrhea, vomiting, and fever.

***E. coli* O157 Infection and Hemolytic Uremic Syndrome**

8. *Escherichia coli* are the name of a common family of bacteria, most members of which do not cause human disease. *E. coli* O157 is a specific member of this family that can cause bloody diarrhea (hemorrhagic colitis) in humans. In the years since *E. coli* O157:H7 was first identified as a cause of diarrhea, this bacterium has established a reputation as a significant public health hazard.

9. *E. coli* O157 lives in the intestines of cattle and other ruminants. *E. coli* O157 is also notable among pathogenic bacteria for its extremely low infectious dose—that is, the number of bacteria necessary to induce infection in a person. While for most pathogenic bacteria it takes literally millions of bacterial colonies to cause illness, it is now known that fewer than 50 *E. coli* O157 bacteria can cause illness in a child. The practical import is that even a microscopic amount of exposure can trigger a devastating infection.

10. The most severe cases of the *E. coli* O157 infection occur in young children and in the elderly, presumably because the immune systems in those age populations are the most vulnerable. After a susceptible individual ingests *E. coli* O157, the bacteria attach to the inside surface of the large intestine and initiates an inflammatory reaction of the intestine. What ultimately results in the painful bloody diarrhea and abdominal cramps characteristic of the intestinal illness.

11. The mean incubation period (time from ingestion to the onset of symptoms) of *E.*

coli O157 is estimated to be two to four days (range, 1-21 days). Typically, a patient with an acute *E. coli* O157 infection presents with abdominal cramps, bloody diarrhea, and vomiting. The duration of diarrhea in children with *E. coli* O157 infections are significantly longer than that of adults.

12. *E. coli* O157 can produce a wide spectrum of disease from mild, non-bloody diarrhea, to severe bloody diarrhea accompanied by excruciating abdominal pain to life-threatening complications. In most infected individuals, the intestinal illness lasts about a week and resolves without any long-term effects. Antibiotics do not appear to aid in combating these infections, and recent medical studies suggest that antibiotics are contraindicated for their risk of provoking more serious complications. Apart from good supportive care, which should include close attention to hydration and nutrition, there is no specific therapy.

13. About 10% of individuals with *E. coli* O157 infections (mostly young children) go on to develop hemolytic uremic syndrome (HUS), a severe, potentially life-threatening complication. The essence of the syndrome is described by its three central features: destruction of red blood cells, destruction of platelets (those blood cells responsible for clotting), and acute renal failure due to the formation of micro-thrombi that occlude microscopic blood vessels that make up the filtering units within the kidneys.

14. There is no known therapy to halt the progression of HUS. The active stage of the disease usually lasts one to two weeks, during which a variety of complications are possible. HUS is a frightening illness that even in the best American medical facilities has a mortality rate of about 5%. The majority of HUS patients require transfusion of blood products and develop complications common to the critically ill.

Plaintiff B.H.J.'s Injuries

15. B.H.J. and his family went to Jellystone Park in Pelahatchie, Mississippi, from August 1 through 4, 2021.

16. B.H.J. swam in the pool and used the splash pad on those dates.

17. On August 4, 2021, B.H.J. developed chills and a fever. That evening, B.H.J. began vomiting. The next day, he developed diarrhea. His diarrhea turned bloody the following day, August 6, 2021.

18. B.H.J.'s parents immediately sought medical care at the Baptist East Medical Center Emergency Room in Montgomery, Alabama on August 6, 2021. B.H.J. was sent home to rest.

19. B.H.J.'s condition continued to deteriorate, and his parents took him Troy Regional Medical Center in Troy, Alabama in the overnight hours of August 8 to August 9, 2021. There, B.H.J. was misdiagnosed with appendicitis.

20. B.H.J. was transported via ambulance to Children's Hospital of Alabama in Birmingham, Alabama in the early morning on August 9, 2021. While in the hospital, a stool sample from B.H.J. tested positive for *E. coli* O157.

20. While hospitalized, B.H.J. developed hemolytic uremic syndrome (HUS). Because of his HUS, B.H.J. has had to endure invasive and painful medical procedures, such as insertion of a port for dialysis.

21. B.H.J. currently remains hospitalized for treatment of his HUS. As of the date of filing, he does not have an estimated date of discharge from the hospital.

CAUSES OF ACTION

NEGLIGENCE / PREMISES LIABILITY

22. Plaintiffs hereby incorporate paragraphs 1 through 21 by this reference as if each paragraph was set forth in its entirety.

23. B.H.J. and his family were at all times invitees of Defendant because they were on the premises for some purpose that materially or commercially benefitted the owner of the premises, i.e., patronage of Defendant's park.

24. Therefore, B.H.J. and his family were at all times invitees of Defendant and conducting themselves as was expected and encouraged by Defendant, including use of Defendant's facilities, water facility and pool(s) located thereon.

25. Defendant owned and operated Jellystone Park, located at 143 Campground Rd., Pelahatchie, MS 39145, at all times relevant, including controlling and operating every aspect of the recreational water facility and pool(s) located thereon. Thus, the property causing damage was in the custody of Defendant.

26. *E. coli* O157 is a harmful, potentially lethal pathogen when ingested by humans. Therefore, levels of *E. coli* O157 in the pool water high enough to allow for bacterial transmission of *E. coli* O157 via pool water at Jellystone Park was a condition on the property that created an unreasonable risk of harm to invitees, including Plaintiff B.H.J., on the premises.

27. *E. coli* O157 is not visible to the naked eye and is therefore a danger not apparent to invitees, nor would it be discovered by invitees in the exercise of ordinary care.

28. Defendant had a duty to its invitees to exercise reasonable care to provide and maintain reasonably safe premises for the uses contemplated by the invitation, and to warn invitees of known dangers, or dangers that ought to have been known, and of which the invitee was ignorant.

29. Bacterial transmission of disease, including the transmission of *E. coli* through pool water, is a well-known danger in the industry of recreational water facilities. Through appropriate monitoring of its facilities' water quality, Defendant knew or should have known that the chlorine concentration of its pool water was insufficient to effectively neutralize *E. coli* O157 bacteria in the water such that it did not pose a risk to pool patrons, including Plaintiff B.H.J.

30. Defendant unreasonably failed to exercise reasonable care in providing and maintaining a reasonably safe premises, including guarding against the known danger of *E. coli* O157 transmission via its pool water, in the following ways:

- a. Failure to properly train its aquatic facility employees, seasonal and permanent, on proper pool operation and maintenance, including chemical monitoring, usage, recording, maintenance, and fecal accident response procedures in compliance with the applicable regulations;
- b. Failure to maintain adequate records and documentation including, but not limited to, daily pool logs, ORP logs, water chemistry logs, temperature logs, test results of regular bacteriological water analysis from an independent laboratory, chemical use logs, controller print-outs, routine and preventative maintenance logs, and/or clean-up procedures, which industry standards dictate be maintained in the ordinary course of business;
- c. Failure to use appropriate systems for cleaning, maintaining, operating, monitoring, and inspecting its pools and their related filtration, circulation, and piping system components; and
- d. Failure to design and/or construct its aquatic facility's pools to ensure proper water circulation, filtration and input/output, and other standards outlined in the applicable regulations.

27. The measures delineated above, had they been properly implemented, could have prevented injury to pool patrons, including Plaintiff B.H.J.

28. Defendant's unreasonable failure to exercise reasonable care in the ways delineated above, among others, caused the recreational water in its pools to become contaminated by *E. coli* O157 on at least July 30 through August 1, 2021, and potentially

through August 9, 2021, and also allowed the contamination to persist, creating the risk of severe health consequences to patrons.

29. B.H.J.'s *E. coli* O157 infections, injuries, and damages were directly and proximately caused by bacterial transmission of *E. coli* O157 via Defendant's facilities' pool water. Therefore, Defendant is liable to Plaintiffs for B.H.J.'s injuries.

DAMAGES

30. Plaintiff has suffered general, special, incidental, and consequential damages as the direct and proximate result of the acts and omissions of the Defendant, in an amount which shall be fully proven at the time of trial. These damages include, but are not limited to: damages for general pain and suffering; damages for loss of enjoyment of life, both past and future; past medical and medical-related expenses; future medical and medical-related expenses; travel and travel-related expenses, both past and future; lost wages; emotional distress, past and future; pharmaceutical expenses, past and future; and all other ordinary, incidental, or consequential damages that would or could be reasonably anticipated to arise under the circumstances.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs prays for judgment against the Defendant as follows:

- a. Compensation for all general, special, incidental, and consequential damages suffered by the Plaintiffs as a result of the Defendant's conduct;
- b. Statutory prejudgment interest;
- c. Reasonable attorneys' fees and costs, to the fullest extent allow by law; and
- d. All such additional and further relief as this Court deems just and equitable.

JURY DEMAND

A jury is demanded for the trial of this action.

DATED: August 23, 2021

Respectfully submitted,



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