

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

DAVID JARAMILLO SR and SABRINA JARAMILLO as Administrators of THE ESTATE OF MICHAEL JARAMILLO; DAVID JARAMILLO SR, Individually; SABRINA JARAMILLO, Individually; DAVID JARAMILLO SR and SABRINA JARAMILLO as Next Friends of DAVID JARAMILLO JR, a Minor; DAVID JARAMILLO SR and SABRINA JARAMILLO as Next Friends of AUGUST JARAMILLO, a Minor; and NYLA PETTIE,

Plaintiffs,

vs.

ADVENTURE LANDS OF AMERICA, INC., an Iowa Corporation; MICHAEL J. KRANTZ, an Individual; TIM HEGGER, an Individual; ZACH PEIPER, an Individual; TODD KUROVSKI, an Individual,

Defendants.

No. LACL153325

ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANTS:

THIS CASE HAS BEEN FILED IN A COUNTY THAT USES ELECTRONIC FILING. Therefore, unless the attached signature page contains a hearing date for your appearance or unless you obtain an exemption from e-filing from the court, you must file your Appearance and Answer electronically.

You must register to e-file through the Iowa Judicial Branch website at <https://www.iowacourts.state.ia.us/EFile> and obtain a login and password for the purposes of filing and viewing documents on your case and of receiving service and notices from the court.

FOR GENERAL RULES AND INFORMATION ON ELECTRONIC FILING, REFER TO THE IOWA COURT RULES CHAPTER 16 PERTAINING TO THE USE OF THE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM, ALSO AVAILABLE ON THE IOWA JUDICIAL BRANCH WEBSITE. FOR COURT RULES ON THE PROTECTION OF PERSONAL PRIVACY IN COURT FILINGS, REFER TO DIVISION VI OF THE IOWA COURT RULES CHAPTER 16.

You are notified that a Petition and Jury Demand has been filed in the office of the clerk of this court, naming you as a defendant in this action. A copy of the Petition and Jury Demand (and any documents filed with it) are attached to this notice. The names and addresses of the attorneys for the plaintiffs are:

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You must serve a motion or answer within 20 days after service of this Original Notice upon you, and within a reasonable time thereafter, file your motion or answer with the Clerk of Court for Polk County at the county courthouse in Des Moines, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the petition.

*If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at (515) 286-3394. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942). **Disability coordinators cannot provide legal advice.***

NOTE: The attorneys who are expected to represent each Defendant should be promptly advised by the Defendants of the service of this notice.

IMPORTANT: YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS

Iowa Judicial Branch

Case No. **LACL153325**
County **Polk**

Case Title **MICHAEL JARAMILLO ESTATE ET AL V ADVENTURE LANDS**

You must file your Appearance and Answer on the Iowa Judicial Branch eFile System, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless the court has excused you from filing electronically (see Iowa Court Rule 16.302).

Register for the eFile System at www.iowacourts.state.ia.us/Efile to file and view documents in your case and to receive notices from the court.

For general rules and information on electronic filing, refer to the Iowa Rules of Electronic Procedure in chapter 16 of the Iowa Court Rules at www.legis.iowa.gov/docs/ACO/CourtRulesChapter/16.pdf.

Court filings are public documents and may contain personal information that should always be kept confidential. For the rules on protecting personal information, refer to Division VI of chapter 16 of the Iowa Court Rules and to the Iowa Judicial Branch website at www.iowacourts.gov/for-the-public/representing-yourself/protect-personal-information/.

Scheduled Hearing:

If you need assistance to participate in court due to a disability, call the disability access coordinator at **(515) 286-3394**. Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). For more information, see www.iowacourts.gov/for-the-public/ada/. **Disability access coordinators cannot provide legal advice.**

Date Issued **06/30/2022 10:07:46 AM**



District Clerk of Court or/by Clerk's Designee of Polk
/s/ Christy Wagner

County

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

DAVID JARAMILLO SR and SABRINA JARAMILLO as Administrators of THE ESTATE OF MICHAEL JARAMILLO; DAVID JARAMILLO SR, Individually; SABRINA JARAMILLO, Individually; DAVID JARAMILLO SR and SABRINA JARAMILLO as Next Friends of DAVID JARAMILLO JR, a Minor; DAVID JARAMILLO SR and SABRINA JARAMILLO as Next Friends of AUGUST JARAMILLO, a Minor; and NYLA PETTIE,

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ADVENTURE LANDS OF AMERICA, INC., an Iowa Corporation; MICHAEL J. KRANTZ, an Individual; TIM HEGER, an Individual; ZACH PEIPER, an Individual; TODD KUROVSKI, an Individual,

Defendants.

No. LACL153325

PETITION and JURY DEMAND

COME NOW, Plaintiffs, David Jaramillo Sr. (“**David Sr.**”) and Sabrina Jaramillo (“**Sabrina**”) in their capacity as Administrators of the Estate of Michael Jaramillo (“**Estate of Michael**” or “**Michael**”), and David Sr. and Sabrina, individually and as next friends of their surviving children David Jaramillo Jr. (“**David Jr.**”) and August Jaramillo (“**August**”), minors, and Nyla Pettie (“**Nyla**”) (David Sr., Sabrina, Michael, David Jr., August, and Nyla collectively referred to herein as the “**Family**”), all individually, and for their Petition naming Adventure Lands of America, Inc. (“**Adventure Land**”), Michael J. Krantz, Tim Heger, Todd Kurovski, and Zach Peiper, as Defendants, allege as follows:

INTRODUCTION

1. On July 3, 2021, the Family was on an amusement ride called the Raging River at Adventure Land Park in Altoona, Iowa when their approximately 1,700-pound raft suddenly flipped trapping the entire family underwater.

2. Eleven-year-old Michael and fifteen-year-old David Jr. remained trapped underwater for more than five-minutes.

3. Rescue attempts by the injured parents who were able to escape from under the overturned raft were unsuccessful. David Sr., the father, shattered his shoulder when the raft flipped.

4. The parents repeatedly screamed “please help me my kids are dying” and prayed, as their children were trapped underwater drowning.

5. Despite the Family’s raft overturning and the parents’ screaming, Adventure Land continued to operate the ride, forcing thousands of pounds of water down the river and releasing additional rafts, as the children remained trapped underwater.

6. People in the area who heard the parents’ screams came to assist the Family and eventually rescue the two boys from underwater, including a woman in a passing by raft who jumped from her raft. Nobody from Adventure Land came to help.

7. The Family was at Adventure Land Park for the first time to celebrate David Jr.’s upcoming sixteenth birthday.

8. Adventure Land Park, located at 3200 Adventure Land Drive in Altoona, Iowa, advertised the Raging River ride as “a great way to cool off with the whole family.”

9. For years Adventure Land failed to properly maintain and repair its attractions, including the Raging River ride.

10. On July 3, 2021, Adventure Land continued to operate the Raging River ride with patrons aboard despite experiencing serious problems with rafts striking the bottom of the ride, air bladders within the rafts deflating, and mechanical equipment failures. Multiple rafts being used by Adventure Land on the Raging River ride had been pulled out of service that same day for repairs, but placed back into circulation without proper testing, including the Jaramillo's raft.

11. On July 3, 2021, the Raging River ride was staffed with three employees who had never worked on that ride prior to that day and never been trained on that ride prior to that day.

12. The Amusement Ride Safety Division for the State of Iowa investigated the incident and determined the ride "poses an imminent danger to the public health, safety, or welfare." The Amusement Ride Safety Division issued a "Safety Order" finding seventeen different safety violations by Adventure Land during its operation of the Raging River ride.

13. David Jr. turned sixteen years old while in a medically induced coma.

14. His younger brother Michael was pronounced dead later on July 4, 2021 from "freshwater drowning." At the time of his passing, Michael was an eleven-year-old boy who enjoyed playing the violin, reading the bible, loved to laugh, and most of all, enjoyed spending time with his family. Michael's parents describe him as a teddy bear. Michael was generous and kind. Michael's life was tragically cut short, and the Family now lives with the nightmare of the loss of a beloved child and brother, their lives forever altered.

PARTIES

15. Plaintiffs David Sr. and Sabrina are married individuals who reside in Cedar Rapids, Iowa. They bring this lawsuit on behalf of the Estate of Michael, as its co-

administrators, as next friends of their children David Jr. and August, and in their individual capacities.

16. Plaintiffs David Jr. and August are minor children, and at all relevant times hereto, resided with their parents and next friends David Sr. and Sabrina.

17. Michael, deceased, was a minor child, and at all relevant times hereto, resided with his parents David Sr. and Sabrina.

18. Plaintiff Nyla resided in Cedar Rapids, Iowa on July 3, 2021, the date of the incident. On that date she was over the age of majority. She brings this lawsuit in her individual capacity.

19. Adventure Land is an Iowa Corporation located in Altoona, Polk County, Iowa and is licensed to do business in the State of Iowa.

20. Michael J. Krantz, upon information and belief, at all relevant times hereto, resided in Iowa and was employed by Adventure Land as its President and CEO.

21. Tim Heger, upon information and belief, at all relevant times hereto, resided in Iowa and was employed by Adventure Land as its General Manager.

22. Todd Kurovski, upon information and belief, at all relevant times hereto, resided in Iowa and was employed by Adventure Land as its Director of Rides Maintenance.

23. Zach Peiper, upon information and belief, at all relevant times hereto, resided in Iowa and was employed by Adventure Land in a managerial position.

24. Michael J. Krantz, Tim Heger, Todd Kurovski, and Zack Peiper are officers and/or managers of Adventure Land who contributed to the July 3, 2021 incident. Adventure Land is vicariously responsible for their actions. All actions or failures to act by the stated

officers and managers occurred during their employment by Adventure Land, and within the scope of their employment.

25. The acts and omissions giving rise to this action occurred in Polk County, Iowa.

26. Venue is properly laid in this jurisdiction pursuant to Iowa Code § 616.18.

NATURE OF THE LAWSUIT

27. This is an action for damages instituted, in part, by the Estate of Michael, with Michael's parents, David Sr. and Sabrina, being authorized in the Estate proceeding, as Co-Administrators, to initiate this action on behalf of the Estate.

28. On October 22, 2021, a probate matter for the Estate of Michael was initiated in Linn County Iowa District Court, the County of his residency.

29. On October 22, 2021, David Sr. and Sabrina were duly appointed in Linn County Iowa District Court to act as Co-Administrators of the Estate of Michael.

30. On October 25, 2021, David Sr. and Sabrina were authorized in Linn County Iowa District Court as Co-Administrators of the Estate of Michael to, among other things, retain counsel and to litigate wrongful death claims on behalf of the Estate of Michael.

31. On November 30, 2021, the probate proceeding for the Estate of Michael was transferred from the Linn County Iowa District Court to the Polk County Iowa District Court, the county where Michael died, where it is now known as Case No. ESPR078944.

32. Accordingly, this proceeding is brought on behalf of the Estate of Michael for the wrongful death of Michael seeking recovery of all loss and damage for those persons or that entity so entitled, occasioned by Michael's death.

33. Separately, Plaintiffs David Sr., Sabrina, and Nyla bring this lawsuit in their individual capacities for injuries and damages sustained.

34. Separately, David Sr. and Sabrina bring this action on behalf of David Jr. and August Jaramillo, minors, as natural parents, legal guardians, and next friends, of their minor children, for injuries and damages sustained.

VENUE AND JURISDICTION

35. Venue is proper here as all Plaintiffs are making their claims arising out of circumstances and events which all occurred in Polk County.

36. The Estate of Michael has a property interest capable of protection and assertion in Polk County, Iowa.

37. The amount in dispute exceeds the statutory requirement for jurisdiction in this Court.

STATEMENT OF FACTS

ADVENTURE LAND/RAGING RIVER RIDE HISTORY

38. Adventure Land is an entity which owned and operated an amusement and water park located in Altoona, Iowa (“**Adventure Land Park**” or “**Park**”) from 1974 until its recent sale in December of 2021.

39. In 1983, Adventure Land opened the Raging River ride at the Park.

40. The Raging River ride seats up to six people in a large, circular raft designed to emulate the experience of white-water river rafting.

41. The rafts used on the Raging River ride are comprised of a fiberglass interior with an inflationary ring surrounding the fiberglass.

42. The inflationary ring is filled with eight air bladders.

43. The fiberglass interior and the inflationary ring are connected with a rope which, when properly used, is threaded through multiple metal rings on both the inflationary ring and the fiberglass interior, and then secured by knotting the rope.

44. Properly securing the fiberglass interior to the inflationary ring with a rope assists in proper placement of the eight bladders within the inflationary ring.

45. On the Raging River ride, an artificial current propels the rafts through a man-made waterway with rapids created by circulation pumps and underwater structures, including weirs.

46. The Raging River ride was originally designed and manufactured by Intamin, Inc., a non-Iowa corporation.

47. When originally designed and manufactured the rafts for the Raging River ride did not have steel plates on the bottom of the rafts.

48. As originally designed and manufactured the rafts were not intended to strike the bottom of the Raging River ride.

49. Upon information and belief, the Raging River ride was installed by Adventure Land.

50. Adventure Land modified the Raging River ride using parts that were not approved by the original manufacturer.

51. Adventure Land's modifications to the Raging River ride included, but were not limited to, replacement of the weirs with incorrect replacement parts and installation of steel plates on the bottom of the rafts.

52. Upon information and belief, Adventure Land's modifications to the construction of the Raging River ride were not approved by an engineer.

53. According to Intamin, Inc., the original manufacturer, the rafts used in the Raging River ride have a useful life of no more than ten years.

54. Upon information and belief, Adventure Land has never replaced the rafts used in the Raging River ride.

55. Upon information and belief, the rafts used by Adventure Land on the Raging River ride were more than ten years old.

56. According to Adventure Land's Director of Ride Maintenance, the Raging River ride had "computer issues" and was shut down for the entirety of 2020, except for two weeks.

57. Adventure Land determined that the ride's original control panel from the early 1980's was no longer functioning and would need to be replaced.

58. The control panel for the Raging River ride controls the release gates for the rafts, the conveyors that move the rafts during loading and unloading, the water pumps, and the emergency controls.

59. Adventure Land hired Irvine Ondrey Engineering, a non-Iowa business entity, to design and program the new control panel for the Raging River ride.

60. According to its website, Irvine Ondrey Engineering provides engineering and PLC software programming expertise to the amusement park industry.

61. The new control panel on the Raging River ride was installed by Irvine Ondrey Engineering at some point in the winter of 2020 or spring of 2021.

62. Upon information and belief, the new control panel was manufactured by Rockwell Manufacturing dba Allen Bradley.

63. Upon information and belief, Irvine Ondrey Engineering attempted to train Adventure Land managers on how to use the new control panel prior to the opening of the ride.

64. Upon information and belief, Irvine Ondrey Engineering did not train the Adventure Land employees who would be operating the Raging River ride.

65. Adventure Land's maintenance employees were not capable of programming the new PLC control panel's software.

66. All programming was done by Irvine Ondrey Engineering.

IOWA DIVISION OF LABOR INSPECTION

67. The Iowa Division of Labor Amusement Ride Safety Division (“**Amusement Ride Safety Division**”) claims that the station and trough of the Raging River ride was inspected by an Amusement Ride Safety Division inspector, Bruno Burriola, on April 12, 2021.

68. The alleged April 12, 2021 inspection was not documented by the Amusement Ride Safety Division in any way on April 12, 2021.

69. Upon information and belief, Mr. Burriola's son was employed by Adventure Land starting in 2018.

70. The Amusement Ride Safety Division claims Mr. Burriola conducted a physical inspection of the rafts of the Raging River ride on June 2, 2021.

71. The alleged June 2, 2021 inspection was not documented by the Amusement Ride Safety Division in any way on June 2, 2021.

72. The Amusement Ride Safety Division claims that Mr. Burriola conducted an inspection of the Raging River ride's newly installed control system, the operation of the ride, and visually inspected the rafts on July 2, 2021.

73. On July 2, 2021, the Amusement Ride Safety Division gave the Raging River ride a passing inspection, evidenced by a one-page Inspection Report.

74. The Inspection Report indicates an inspection date of July 2, 2021.

75. The April 12, 2021 and June 2, 2021 dates are not indicated anywhere on the July 2, 2021 Inspection Report.

76. The Amusement Ride Safety Division's Inspection Report of July 2, 2021 indicates "No Code Violations noted at this time."

77. Of note, the Amusement Ride Safety Division's Inspection Report indicates all items as "SATISFACTORY" including, in part: Pins & Bolts to Grade, Support Structures, Emergency Procedures Reviewed, Signal System, Electrical Disconnect, and Operator Training Procedures.

78. The Raging River ride required a passing inspection before Adventure Land could operate the ride with patrons on board, which it did the following day.

79. The first day the Raging River ride was open for public use with the new control panel was July 3, 2021, the day of the Family's visit to the Park.

RAGING RIVER RIDE HAS MECHANICAL AND ELECTRICAL PROBLEMS

IN THE MORNING OF JULY 3, 2021

80. Adventure Land planned to begin operating the Raging River ride on July 3, 2021, for the first time in over a year.

81. As a main attraction at the Park it was highly important to Adventure Land to have the Raging River ride operating during the Fourth of July weekend.

82. On July 3, 2021, the day that the Raging River ride opened, there were multiple equipment failures on the ride.

83. According to Adventure Land maintenance employees, at 9:00 am the Raging River ride's water pumps would not function properly due to electrical issues.

84. The water pumps are responsible for maintaining the water levels in the Raging River ride and moving the water through the ride.

85. On the morning of July 3, 2021, the water pumps were experiencing power surges that would cause the new control panel to place the ride in "safe mode," turning off the pumps.

86. Adventure Land's maintenance employees worked on the Raging River ride for hours in the morning of July 3, 2021.

87. Adventure Land, with the assistance of Irvine Ondrey Engineering, bypassed the regular electrical system for the Raging River ride on the morning of July 3, 2021.

88. Adventure Land, with the assistance of Irvine Ondrey Engineering, hooked the Raging River ride up to an alternative, external power source on the morning of July 3, 2021.

89. Brian Pastor, Irvine Ondrey Engineering's Senior PLC Programmer, instructed Adventure Land employees on how to add an external power supply to the Raging River ride on July 3, 2021 to bypass the regular electrical system.

90. The modifications made by Adventure Land and Irvine Ondrey Engineering on the morning of July 3, 2021, circumvented the Raging River ride's attempts to place itself in "safe mode."

91. Due to the mechanical and electrical issues the Raging River ride did not open to patrons until sometime between noon and 1:30 pm.

92. According to Adventure Land employees, on July 3, 2021, Adventure Land's management was aware that the Raging River ride was having "issues."

93. Adventure Land has a digital checklist that is required to be completed by maintenance employees for each ride prior to operation, which is submitted via a tablet device.

94. On July 3, 2021, the maintenance checklist was not completed for the Raging River ride.

95. The failure of maintenance employees to complete the maintenance checklist for the Raging River ride before opening the ride on July 3, 2021, was a violation of Adventure Land's own safety procedures.

96. Adventure Land's Director of Ride Maintenance, Todd Kurovski, disabled the automated maintenance record keeping system for the Raging River ride on July 3, 2021.

97. An Adventure Land maintenance employee claims he completed the checklist from memory, without documentation, even though the Raging River ride had not operated for over a year.

98. Following the incident, in a recorded interview conducted by the Iowa Division of Labor, that same employee states that on the morning of July 3, 2021, Adventure Land could not properly test the Raging River ride because the pumps were not working properly.

99. Following the incident, in a recorded interview conducted by the Iowa Division of Labor, Mr. Kurovski admits that no documentation exists to show that Adventure Land followed safety protocols on the Raging River ride on July 3, 2021.

100. Regardless of the "issues" being experienced on the Raging River ride, Adventure Land opened the ride to patrons sometime between noon and 1:30.

101. Adventure Land provided no warning to their patrons on July 3, 2021 of the mechanical and electrical problems on the Raging River ride.

ADVENTURE LAND'S THREE EMPLOYEES HAD NO PRIOR EXPERIENCE AND
INADEQUATE TRAINING ON THE RAGING RIVER RIDE.

102. On July 3, 2021, Adventure Land staffed the Raging River ride with three employees: a loading assistant, an unloading assistant, and an operator.

103. None of the three employees had ever worked on the ride prior to that day.

104. Before July 3, 2021, the ride operator, Forest Williamson, received no training on how to operate the Raging River ride.

105. Before July 3, 2021, Mr. Williamson had never operated the Raging River ride.

106. Adventure Land never trained Mr. Williamson on passenger safety for the Raging River ride.

107. Adventure Land never trained Mr. Williamson about what to do in the event of an injury on the Raging River ride.

108. Adventure Land never trained Mr. Williamson on how to evacuate the Raging River ride in the case of an emergency.

109. Following the incident, in a recorded interview conducted by the Iowa Division of Labor, Mr. Williamson indicates that he was pushing buttons too fast and triggering the automatic shutoff at times on July 3, 2021.

110. John Smith, the loading assistant, had never worked on the Raging River ride prior to July 3, 2021.

111. Adventure Land never trained Mr. Smith in relation to the Raging River ride before July 3, 2021.

112. Argenis Soriano, the unloading assistant, had never worked on the Raging River ride prior to July 3, 2021.

113. Adventure Land never trained Mr. Soriano in relation to the Raging River ride before July 3, 2021.

THE RIDE CONTINUES TO OPERATE ON JULY 3, 2021 DESPITE ADDITIONAL
SERIOUS PROBLEMS OCCURRING WITH PATRONS ON BOARD

114. After opening to patrons, the Raging River ride continued to have serious problems.

115. Throughout the afternoon of July 3, 2021, multiple patrons experienced their rafts grinding and striking the bottom of the ride.

116. When properly operating, the rafts should never strike the bottom of the ride.

117. Rafts striking the bottom of the ride creates a serious safety issue.

118. Rafts striking the bottom of the ride can result in a raft flipping.

119. Rafts striking the bottom of the ride was reported to Adventure Land on July 3, 2021, but Adventure Land took no action.

120. Around 3:00 pm on July 3, 2021, Adventure Land's Director of Ride Maintenance, Todd Kurovski, received reports of "boats being low or flat" or "leaning" at the Raging River ride.

121. Each raft used by Adventure Land on the Raging River ride contained eight air bladders stored in the bottom circular tube of the raft.

122. Upon information and belief, Cryogenic Plastics Incorporated ("CPI"), a non-Iowa entity, made the bladders and bladder repair kits used on the Raging River ride.

123. Adventure Land employees used liquid cement and Flex Seal to patch "holes" and "rips" on bladders used on the Raging River ride.

124. According to Julio Diaz, the Adventure Land maintenance employee primarily responsible for the Raging River ride, the ride had an abnormal number of problems with CPI bladders on or about July 3, 2021.

125. Multiple bladders would need to be low on air for the inflation issues to be visually noticeable on a raft.

126. On July 3, 2021, multiple CPI manufactured bladders in use on the Raging River ride failed, leading to inflation issues.

127. On July 3, 2021, raft #2 on the Raging River ride contained CPI manufactured bladders which were experiencing inflation issues. That raft was the same one on which the Jaramillo family was ultimately loaded.

128. Following the incident, in a recorded interview conducted by the Iowa Division of Labor, Mr. Kurovski states that he dispatched two Adventure Land maintenance employees to the Raging River ride in the afternoon of July 3, 2021, to address the inflation issues being reported for multiple rafts.

129. No managers were sent to investigate this serious safety issue.

130. The maintenance employees who were sent were not familiar with the Raging River ride.

131. The maintenance employees who were sent had never conducted bladder replacements on the Raging River ride.

132. The maintenance employees who were sent had never received training on how to conduct bladder replacements on the Raging River ride.

133. The maintenance employees who were sent had never received training on how to respond to rafts striking and grinding the bottom of the Raging River ride.

134. Adventure Land continued to operate the Raging River ride without informing patrons of the multiple serious problems being experienced on the ride that day.

135. Upon arrival, the maintenance employees observed at least three rafts at the Raging River ride with visual inflation issues.

136. The Adventure Land maintenance employees pulled at least three rafts out of circulation on the ride.

137. The Raging River ride continued to operate with patrons aboard while the maintenance employees attempted to repair at least three rafts.

138. Adventure Land did nothing to investigate the reason for the inflation issues at the Raging River ride.

139. Adventure Land did nothing to investigate the reason rafts were striking and grinding the bottom of the Raging River Ride.

140. Adventure Land's maintenance employees worked on replacing deflated bladders, vacuuming out water in the bladder area, and re-assembling the three rafts between approximately 3:00 p.m. to 5:00 p.m.

141. Upon information and belief, Adventure Land replaced bladders with used bladders that Adventure Land maintenance employees had attempted to repair using CPI repair kits and Flex Seal.

142. After replacing bladders inside multiple rafts, Adventure Land placed those rafts, which included raft #2, back into circulation on the Raging River ride.

143. Upon information and belief, Flex Seal was used by Adventure Land in the repair of at least two bladders for raft #2.

144. The rope connecting the fiberglass interior to the inflationary ring for raft #2 was not threaded through all of the metal rings of the raft.

145. Upon information and belief, the rope connecting the fiberglass interior to the inflationary ring for raft #2 was not properly knotted.

146. The rope connecting the fiberglass interior to the inflationary ring for raft #2 became unbound at some time after raft #2 was placed back into circulation.

147. According to Adventure Land maintenance employees, one raft remained out-of-service.

148. According to Adventure Land maintenance employees, Adventure Land ran out of bladders for replacement on July 3, 2021.

149. Following the incident, in a recorded interview conducted by the Iowa Division of Labor, an Adventure Land maintenance employee who replaced bladders on July 3, 2021 stated he would check the pressure of bladders at times by “kicking” them.

150. Adventure Land did not have policies or procedures in place as to when bladders needed to be replaced.

151. Adventure Land did not track the age of the bladders inside the rafts on the Raging River ride.

152. Adventure Land did not document maintenance and repairs to the rafts.

153. On July 3, 2021, Adventure Land did not document any maintenance done on the Raging River ride.

154. After attempting to repair the rafts, Adventure Land put them back into service on the Raging River ride at approximately 5:45 p.m.

155. Adventure Land loaded patrons into these rafts without first cycling the rafts through the ride empty.

156. Patrons continued to experience serious issues with rafts striking and grinding the bottom of the ride after Adventure Land maintenance employees put rafts back into service.

THE FAMILY VISITS ADVENTURE LAND PARK

TO CELEBRATE DAVID JR'S BIRTHDAY

157. On July 3, 2021, David Sr., Sabrina, David Jr., Michael, August, and Nyla went to Adventure Land Park to celebrate David Jr.'s sixteenth birthday.

158. This was the first time the Family had ever been to the Park.

159. In early evening of July 3, 2021, the Family got in line for the Raging River ride.

160. The Family was not notified of any of the problems that had been occurring throughout the day on the Raging River ride.

161. The Family waited in line for the Raging River ride for approximately forty-five minutes.

162. An Adventure Land employee assisted the Family into a raft.

163. The Family was placed into raft #2, which had been pulled out of service that day for repair.

164. Adventure Land provided no direction to the Family on where to sit in the raft.

165. The Adventure Land employee ensured that all seat belts were fastened.

166. The Raging River ride is designed to seat patrons in pairs, with each pair sharing a seat belt.

167. David Sr. and Sabrina shared one seatbelt, David Jr. and Michael shared a second seatbelt, and August and Nyla shared a third seatbelt, all on the same raft.

168. Following the incident, in a recorded interview conducted by the Iowa Division of Labor, Mr. Smith, the loading assistant, stated that he saw more than one raft get released at the same time around 4:00 pm on July 3, 2021.

169. Adventure Land's operating procedure requires rafts to be launched into the water separately on the Raging River ride.

170. Upon information and belief, the Family's raft was launched at the exact same time as another raft.

THE FAMILY'S HORRIFIC RIDE

171. Almost immediately after the Family's raft left the loading area, it began taking on large amounts of water.

172. Shortly after the Family's raft left the loading area it began striking the bottom of the ride.

173. After taking on water and striking the bottom the Family's raft suddenly and violently overturned.

174. After overturning, all of the members of the Family were trapped under water.

175. The raft continued down the artificial waterway upside down.

176. After being under water for a period of time, August and Nyla were able to get free from their seat belt and escape from under the raft.

177. After escaping, August and Nyla were thrown around by the rapids and separated from the overturned raft.

178. Both August and Nyla were struck in the head and suffered head injuries.

179. August and Nyla clung to the side wall of the ride attempting to avoid the pull of the rapids as their family members were still trapped under the overturned raft.

180. At some point after the raft overturned David Sr.'s shoulder became stuck between the raft and an underwater structure.

181. Underwater, with his shoulder trapped, David Sr. could see his family members drowning and struggling for their lives.

182. Drowning and facing his death, and the death of his family, David Sr. desperately exerted himself to successfully dislodge his shoulder.

183. David Sr.'s exertion caused the raft to shift so that he could take a breath.

184. The exertion badly broke multiple bones in David Sr.'s shoulder.

185. At some point, David Sr. and Sabrina were finally able to unbuckle their seat belt and escape out from under the raft.

186. The approximately 1,700-pound raft eventually came to rest upside down near the final curve of the Raging River ride.

187. For several additional minutes, Michael and David Jr. remained trapped underwater with their seatbelt buckled and unable to get free from under the raft.

188. David Sr. attempted to flip the raft with his broken shoulder to save Michael and David Jr. but was unable to do so.

RESCUE EFFORTS

189. After escaping from under the overturned raft, David Sr. and Sabrina screamed for help as two of their children were drowning.

190. Nobody from Adventure Land came to help the drowning children while they were trapped underwater.

191. Nobody from Adventure Land saw the overturned raft with the two children trapped underwater.

192. Nobody from Adventure Land heard David Sr. and Sabrina's screams for help while two of their children were trapped underwater.

193. While David Sr. and Sabrina screamed for help, the rapids of the Raging River ride kept flowing.

194. The Raging River ride continued to operate with rafts passing by the Family's overturned raft.

195. David Sr. and Sabrina screamed for help to patrons in a raft that passed their overturned raft, telling them children remained trapped underwater, still nobody from Adventure Land came to help.

196. David Sr. and Sabrina screamed to patrons in another raft that passed by, telling them children remained trapped underwater, but again, nobody from Adventure Land came to help.

197. Brianna Martens, a patron on a passing raft, jumped off her raft and swam through the rapids to help.

198. Members of a fireworks crew who were present at the Park to put on a firework's show for the Fourth of July weekend heard multiple rafts go by with patrons screaming.

199. Eventually, the fireworks crew responded to the screams from the rafts and came to assist the Family.

200. Adventure Land did not have employees observing the area where the Family's raft overturned.

201. Adventure Land did not have employees observing the area of the Raging River ride where the Family's raft came to rest upside down.

202. Adventure Land did not have video surveillance of the area where the Family's raft overturned.

203. Adventure Land did not have video surveillance of the area where the Family's raft came to rest upside down.

204. Adventure Land's operator of the Raging River ride can only see the beginning and end of the ride, leaving significant blind spots as the rafts move through the ride.

205. Adventure Land has been aware of these blind spots for years.

206. According to the original manufacturer of the Raging River ride, the operator is required to have full view of the ride at all times.

207. Upon information and belief, prior to the incident, operators of the Raging River ride had complained to Adventure Land that they were unable to see most of the Raging River ride while in operation.

208. In interviews conducted by the police on July 3, 2021, Mr. Williamson, the operator of the Raging River ride, indicated that he could not see the area where the Family's raft overturned.

209. In addition to failing to timely respond to help, Adventure Land failed to shut off the rapids for an extended period of time.

210. The rapids continued to run the entire time David Jr. and Michael were trapped under water.

211. According to a member of the fireworks crew, when he arrived at the raft David Sr. was trying to lift the raft with a severely injured shoulder while yelling “please help me my kids are dying.”

212. Upon information and belief, members of the fireworks crew attempted to flip the raft.

213. Ms. Martens, a patron from a passing raft, was able to swim under the overturned raft to remove David Jr. and Michael, one at a time, from under the raft.

214. During the removal of both children from the water, the rapids of the Raging River ride continued.

215. During the removal of both children from the water, the water level of the Raging River ride remained unchanged.

216. Ms. Martens first pulled Michael out from under the overturned raft.

217. Ms. Martens struggled with Michael’s body, but eventually was able to lift it onto the shore with the assistance of the fireworks crew.

218. Ms. Martens then pulled David Jr. out from under the overturned raft.

219. Ms. Martens and members of the fireworks crew lifted David Jr. onto the shore.

220. Bystanders, including members of the fireworks crew, attempted to administer CPR to both Michael and David Jr.

221. Both children’s faces were blue and purple when they were removed from the water of the Raging River ride.

222. Members of the fireworks crew that removed Michael and David Jr. from the Raging River ride estimate that the boys had been under water for seven to ten minutes.

223. Witnesses report that when Michael was pulled out of the water, he opened his eyes, and initially had a slight pulse, but was otherwise unresponsive.

224. Adventure Land employees did not arrive at the location of the emergency until after the bystanders responded to the screams from other rafts, ran to the location of the overturned raft, pulled Michael and David Jr. out from under the overturned raft, lifted both boys onto the shore, and attempted to administer CPR.

225. The Adventure Land unloading assistant on the Raging River ride at the time of the emergency did not speak English fluently.

226. The Adventure Land unloading assistant on the Raging River ride at the time of the emergency failed to understand what was being communicated by the patrons who were attempting to report the Family's overturned raft.

227. An Adventure Land rides manager who happened to be at the loading/unloading station for the Raging River ride at the time of the emergency failed to appreciate the seriousness of patrons attempting to report the Family's overturned raft.

228. At that time, the rides manager was distracted by a patron's complaint related to a missing stuffed animal.

229. Adventure Land's park security and Adventure Land's maintenance employees were the first Adventure Land personnel to finally arrive at the overturned raft.

230. Adventure Land's park security and Adventure Land's maintenance employees did not arrive at the overturned raft until after both Michael and David Jr. were pulled out of the water.

231. Adventure Land does not train its maintenance employees on how to respond to an emergency.

232. Adventure Land's operators, including the operator of the Raging River ride on July 3, 2021, were not trained on how to properly respond to an emergency.

233. Adventure Land's ride operator and loading/unloading assistants were not trained on how to evacuate the Raging River ride in an emergency.

234. In interviews conducted by the police on July 3, 2021, an Adventure Land employee and multiple witnesses state that the Family's raft had deflated.

EMERGENCY PERSONNEL'S DELAYED RESPONSE

235. On July 3, 2021, Adventure Land had Altoona Police Department ("APD") extra duty police officers working at the Park.

236. Upon information and belief, the APD extra duty officers at the Park only became aware that the Family's raft had flipped from the 911 dispatcher, after bystanders called 911.

237. The APD extra duty officers did not arrive at the location of the emergency until after the bystanders pulled Michael and David Jr. out from under the raft and the children were on shore.

238. On July 3, 2021, Adventure Land had Altoona Fire Department ("AFD") extra duty firefighters working at the Park.

239. Upon information and belief, the AFD extra duty firefighters at the Park only became aware that the Family's raft had flipped from the 911 dispatcher, after bystanders called 911.

240. The AFD extra duty firefighters did not arrive at the location of the emergency until after the bystanders pulled Michael and David Jr. out from under the raft and the children were on shore.

241. On July 3, 2021, Adventure Land also had its own security employees working at the Park.

242. Adventure Land's security employees did not respond to help until after the bystanders pulled Michael and David Jr. out from under the raft and the children were on shore.

243. Bystanders contacted 911 to report the emergency.

244. Upon information and belief, Adventure Land did not call 911 at any time regarding the emergency.

245. After receiving calls from bystanders, Altoona 911 dispatched ambulances, the fire department, and police to the Park.

246. When the ambulances arrived at the Park, the first responders discovered that Adventure Land had closed and locked the emergency access gate.

247. The ambulance first responders could not unlock the heavy chain securing the access gate.

248. No one from Adventure Land was present to unlock the access gate.

249. The locked access gate delayed the ambulances' response to the Family.

250. When emergency personnel arrived at the Park and requested to speak with a supervisor, Adventure Land employees could not identify a supervisor.

251. When emergency personnel arrived at the Park and requested to speak with a supervisor, Adventure Land employees did not know how to get ahold of a supervisor.

252. When emergency personnel arrived at the Park, the Adventure Land employees that greeted them were not even aware of the emergency.

253. When Adventure Land finally opened the gate to allow the emergency personnel access to the Raging River ride, emergency vehicles could not get any closer than approximately 100 yards from the Family.

254. Some emergency response vehicles could not get close to the Family because Adventure Land had directed the fireworks crew to set up the fireworks display on the emergency access road.

255. The fireworks display impeded some emergency personnel and equipment from timely reaching the Family.

256. Adventure Land forced emergency personnel to respond by running a significant distance on uneven terrain while carrying medical equipment.

257. The emergency personnel that assisted in moving Michael and David Jr. from the shoreline to the ambulances reported major difficulties in transporting them because of the rough and uneven terrain.

258. Based on the layout of the Park and the Raging River ride, it took six to ten firefighters over four minutes just to transport Michael on a stretcher into an ambulance.

259. The layout and design of the Park delayed emergency responders' access to the Raging River ride.

260. Adventure Land was on notice of these layout and design issues at the Park from a previous deadly incident at the Raging River ride where emergency first responders were delayed by the layout of the Park.

261. The widow of the employee who had died previously at the Raging River ride had requested that changes be made at the Park to provide better emergency response routes to the Raging River ride.

262. Despite its employee's death, and notice and knowledge that the layout of the Park delayed emergency response to the Raging River ride, Adventure Land failed to make any changes requested by the widow.

263. Eventually, emergency responders transported the Family to the hospital.

264. Adventure Land remained open throughout the entirety of the emergency.

265. Adventure Land covered the Family's overturned raft to prevent it from being photographed.

266. Adventure Land proceeded with its firework show on the night of July 3, 2021.

THE FAMILY SUSTAINS SERIOUS INJURIES FROM

THE INCIDENT AND MICHAEL DIES

267. Each member of the Family was physically injured when the Family's raft overturned on the Raging River ride, trapping them underwater.

268. Each member of the Family suffered severe physical and emotional injuries from the incident.

269. Each member of the Family was transported by ambulance to the hospital on July 3, 2021.

270. At 6:23 PM on July 4, 2021, despite all attempts to save his life, Michael passed away from the injuries sustained when the raft overturned and trapped him underwater.

271. On July 27, 2021, the Polk County Medical Examiner determined Michael's cause of death as "freshwater drowning."

272. Michael is the second person to be killed on the Raging River ride in the last five years.

273. The bystanders did not pull David Jr. out from underwater until after Michael had been brought to the surface.

274. Upon arrival at Blank Children's Hospital, David Jr.'s emergency physicians placed him in a medically induced coma because of his serious injuries.

275. Medical records indicate David Jr. drowned with hypoxic respiratory failure.

276. David Jr. remained in the medically induced coma at Blank Children's Hospital for weeks, which included his sixteenth birthday.

277. David Jr. stayed in the pediatric intensive care unit (PICU) from July 3rd to July 21st, 2021.

278. Once being removed from the coma, the Family was not able to inform David Jr. of Michael's death because of his extremely fragile condition.

279. Upon discharge, David Jr. was diagnosed with "unspecified effects of drowning and nonfatal submersion."

280. Upon discharge, David Jr. was diagnosed with having difficulties with an ulcer in his right eye, abnormalities in gait, a disorder affecting his speech and language, memory loss, anxiety related to intrusive memories from the ride and being trapped under the water.

281. Upon discharge, his doctors noted that David Jr. "continues to demonstrate difficulties with [cognitive] motor tasks, memory, writing, safety, and endurance."

282. Additionally, as a result of the incident on July 3rd, 2021, David Jr. suffers memory loss, has abnormalities in his gait, cognitive issues, and eye damage.

283. David Sr. sustained a fractured right scapula when the raft flipped over which required surgical repair and ongoing medical care. Witnessing the events which caused him to

lose his son and inalterably damage other family members has caused him further permanent damage and loss.

284. David Sr. also sustained a rotator cuff tear which will require surgical repair.

285. Due to his injuries, David Sr. has missed extensive amounts of work and is still unable to perform the same job functions.

286. August suffered a contusion over his right eye and abrasions on his arms and legs. He experienced the emotional distress of watching his family members being belted upside down under water and drowning.

287. Sabrina sustained physical and emotional damage and loss as a result of the ride overturning and trapping her beneath it including, but not limited to, cuts, abrasions, and some of her hair was ripped out when her head was dragged across the bottom of the ride. Following her ability to escape she watched as her sons remain underwater beneath the overturned ride, belted into a darkened space, drowning. She also helplessly watched efforts by the paramedics to revive Michael and David Jr. on the bank.

288. After Michael's funeral, Sabrina realized that she injured her thumb when the raft flipped and required additional medical treatment.

289. August received care after being transported to Iowa Blank Hospital and was discharged on July 4th, 2021.

290. Nyla suffered a contusions and abrasions on her arms and legs.

AMUSEMENT RIDE SAFETY DIVISION'S FINDINGS OF VIOLATION

291. On July 3, 2021, the Amusement Ride Safety Division was made aware of the incident at the Raging River Ride, but did not send investigators to the scene until the next day.

292. On July 4, 2021, Amusement Ride Safety Division inspectors began investigating the matter.

293. The Amusement Ride Safety Division's initial investigative findings determined that the Family's raft was one of the rafts that Adventure Land "repaired" and placed back into service on July 3, 2021.

294. The Amusement Ride Safety Division's initial investigative findings determined that the Family's raft immediately began taking on water after it left the launching area.

295. The Amusement Ride Safety Division's initial investigative findings determined that the Family's raft struck the bottom of the ride multiple times before overturning.

296. The Amusement Ride Safety Division's initial investigative findings determined that bladders in the Family's raft had partially deflated.

297. The Amusement Ride Safety Division's initial investigative findings determined that the Family was trapped underwater after the raft overturned.

298. On July 6, 2021, the Labor Commissioner of the State of Iowa issued an "Amusement Cessation Order" ("**Cessation Order**") for the Raging River ride ordering Adventure Land to cease and desist from operating the ride until the Labor Commissioner determined that the hazards of the ride had been corrected.

299. The Cessation Order recognized members of the Family were seriously injured and one died while riding on the Raging River ride.

300. The Labor Commissioner of the State of Iowa found the Raging River ride "poses an imminent danger to the public health, safety, or welfare."

301. The Cessation Order remains in place.

302. The Raging River ride remains closed.

303. Adventure Land did not appeal the July 2021 Cessation Order.

304. On November 12, 2021, at the conclusion of its investigation of the July 3, 2021 incident, the Amusement Ride Safety Division executed a “Safety Order” finding seventeen different violations by Adventure Land during its operation of the Raging River ride on July 3, 2021.

305. Each of the seventeen different infractions is a violation of the Iowa Administrative Code’s governing safety rules for amusement rides and/or American Society for Testing and Materials International (“ASTM”) standards established for amusement rides.

306. Pursuant to the Safety Order, the Raging River ride “does not comply with the established standards and may not operate until the provisions of this safety order have been met.”

307. The Amusement Ride Safety Division determined Adventure Land replaced the weirs on the Raging River ride “with incorrect replacements not manufacturer approved.”

308. The Amusement Ride Safety Division determined Adventure Land had “[n]o engineering on weir replacements.”

309. The Amusement Ride Safety Division determined that the “[w]eir detached from trough.”

310. The Amusement Ride Safety Division determined there is “concrete and weir deterioration in the trough.” The Amusement Ride Safety Division determined that Adventure Land “changed the operation of the Raging River Ride by adding weirs that were not approved by the manufacturer.”

311. The Amusement Ride Safety Division determined that Adventure Land “changed the operation of the Raging River Ride” by installing “unapproved steel plates to the bottom of the rafts.”

312. The Amusement Ride Safety Division determined that Adventure Land’s modifications of the weirs were “major modifications and require[d] multiple design and testing procedures” which were not completed.

313. The Amusement Ride Safety Division determined that Adventure Land’s failure to properly design and test its modifications to the weirs violated the standards established by Iowa, the American National Standards Institute, and the ASTM.

314. Pursuant to the Safety Order, Adventure Land must “undergo appropriate design and testing of weirs that have been added without approval from the manufacturer” prior to any future operation of the Raging River ride.

315. The Amusement Ride Safety Division determined that the bladder repairs done by Adventure Land on the rafts “did not have manufacturer approved patches.”

316. The Amusement Ride Safety Division determined that Adventure Land improperly used the product Flex Seal to repair leaks on Raging River ride rafts.

317. The Amusement Ride Safety Division determined that Adventure Land operated the Raging River ride with “inadequate air pressures in raft bladders” on July 3, 2021.

318. The Amusement Ride Safety Division found Adventure Land failed to properly test the Raging River ride rafts after making repairs.

319. Pursuant to the Safety Order, Adventure Land must obtain “manufacturer or engineer sign off” on the safety of the rafts prior to any future operation of the Raging River

ride. Pursuant to the Safety Order, Adventure Land must “replace all bladders that were repaired incorrectly” prior to any future operation of the Raging River ride.

320. The Amusement Ride Safety Division determined Adventure Land failed to properly respond to “back-to-back raft releases” on July 3, 2021.

321. The Amusement Ride Safety Division determined that the rope connecting the fiberglass interior to the inflationary tube for the Family’s raft #2 was “tied incorrectly.”

322. The Amusement Ride Safety Division determined that the “[c]onnection broke free” in relation to the rope connecting the fiberglass interior to the inflationary tube for the Family’s raft.

323. The Amusement Ride Safety Division determined that Adventure Land had a “[d]efficient evacuation plan” that was “not updated with park changes” to evacuate the Family after the July 3, 2021 incident.

324. The Amusement Ride Safety Division found that the “[e]vacuation access [was] blocked by [the] fireworks setup.”

325. Pursuant to the Safety Order, Adventure Land shall change its evacuation plan procedures to assure “safe and timely evacuation” of future patrons.

326. Pursuant to the Safety Order, Adventure Land must adopt new written evacuation plans that comply with Iowa and ASTM standards. The Amusement Ride Safety Division determined that Adventure Land failed to have required “continuous direct supervision of ride patrons during [the Raging River] ride cycle” on July 3, 2021.

327. Pursuant to the Safety Order, Adventure Land must have a “means to view patrons during the complete duration of the ride cycle.”

328. The Amusement Ride Safety Division determined Adventure Land failed to properly document repairs.

329. Pursuant to the Safety Order, Adventure Land must keep “written documentation of all repairs made daily to each ride and it shall be readily available.”

330. The Amusement Ride Safety Division determined that Adventure Land’s “[d]aily ride inspection forms” were “deficient.”

331. Pursuant to the Safety Order, Adventure Land must “use written, ride-specific daily inspection forms for all rides at the [P]ark.”

332. The Amusement Ride Safety Division determined Adventure Land had “[n]o training documented for [the] Manager on duty” at the Raging River ride on July 3, 2021.

333. The Amusement Ride Safety Division determined Adventure Land had “[n]o documentation” for training of Raging River ride maintenance employees.

334. Pursuant to the Safety Order, Adventure Land must “provide ride-specific training for all employees performing maintenance on rides.”

335. The Amusement Ride Safety Division determined Adventure Land had inadequate ride training for the operator, loading assistant, and unloading assistant at the Raging River ride on July 3, 2021.

336. The Amusement Ride Safety Division determined Adventure Land had “[i]nadequate evacuation training” for its employees at the Raging River ride on July 3, 2021.

337. Pursuant to the Safety Order, Adventure Land must “use a written, ride-specific training check list for all employees operating amusement rides.”

338. Pursuant to the Safety Order, Adventure Land must obtain “an engineer’s approval of the ride as a whole” prior to any future operation of the Raging River ride.

339. On November 14, 2022, the Amusement Ride Safety Division executed an “Amended Safety Order” finding sixteen violations by Adventure Land during its operation of the Raging River ride on July 3, 2021.

340. Notwithstanding the drowning death of a child, the Cessation Order, and the Safety Order, Adventure Land continued to advertise the Raging River ride as “a great way to cool off with the whole family” on its website.

341. Adventure Land has a long history of injuries at the Park.

342. Records from the Iowa Department of Labor reveal that since 2006 Adventure Land’s patrons have reported at least thirty-eight injuries.

343. Adventure Land traditionally uses non-disclosure and confidentiality agreements to attempt to keep injuries on its rides from public disclosure.

344. Adventure Land has a long history of being fined by the Amusement Ride Safety Division.

DAMAGES

345. Plaintiffs, except as otherwise alleged herein, have sustained loss and damage based on Defendants’ actions or failure to act, with respect to the following.

- Past and future medical expenses;
- Past and future physical and mental injuries resulting in the loss of full body and mind;
- Past and future pain and suffering;
- Bystander emotional distress;
- Parental, minors, spousal and sibling consortium loss;
- Lost earnings and future earning capacity;

- Loss of Michael's ability to accumulate an estate; and,
- Loss of interest on Michael's burial expense.

CAUSE OF ACTION ONE: NEGLIGENCE – ALL DEFENDANTS

346. Plaintiffs incorporate under each Count of this Division Paragraphs 1 through 345 of this Petition by reference as if fully set forth herein.

347. As common carriers, Defendants owed Plaintiffs the highest duty of care.

348. Alternatively, Defendants owed Plaintiffs a duty of reasonable care or greater.

349. Defendants breached their duty of care, and the conduct of Defendants was negligent, in one or more of the following acts or omissions:

- a. Failing to reasonably operate the Raging River ride;
- b. Failing to operate the Raging River ride in accordance with the Standards on Amusement Rides and Devices (“**ASTM Standards**”) adopted by Iowa;
- c. Failing to exercise reasonable care to make the Raging River ride safe;
- d. Failing to maintain the Raging River ride, including its rafts, in a reasonably safe condition;
- e. Failing to maintain the Raging River ride, including its rafts, in accordance with the ASTM Standards adopted by Iowa;
- f. Creating an unreasonable risk of danger on the Raging River ride;
- g. Failing to reasonably repair the raft on the Raging River ride;
- h. Failing to provide a safe raft;
- i. Failing to conduct reasonable inspections of the Raging River ride;
- j. Failing to conduct reasonable inspections of the Raging River ride's rafts;
- k. Failing to reasonably design the Raging River ride;

- l. Failing to reasonably update the Raging River ride;
- m. Failing to install safety equipment on the Raging River ride;
- n. Failing to adequately test the Raging River ride;
- o. Failing to close the Raging River ride despite knowledge of unreasonably dangerous conditions;
- p. Failing to monitor or keep a proper lookout for incidents on the Raging River ride;
- q. Failing to discover the existence of dangerous conditions on the Raging River ride;
- r. Failing to install a monitoring system at the Raging River ride;
- s. Failing to properly respond when Plaintiffs' raft overturned;
- t. Failing to terminate or stop the Raging River ride when Plaintiffs' raft overturned;
- u. Failing to timely stop the current of the Raging River ride when Plaintiffs' raft overturned;
- v. Failing to timely lower the water level of the Raging River ride when Plaintiffs' raft overturned;
- w. Failing to warn riders of the dangerous conditions of the Raging River ride not readily apparent;
- x. Failing to have adequate personnel at the Raging River ride;
- y. Failing to adequately train employees at the Raging River ride;
- z. Failing to adequately train managers and supervisors;
- aa. Failing to adequately supervise employees at the Raging River ride;

bb. Failing to terminate employees who are not following policies and procedures; and,

cc. Failing to provide timely emergency access to the incident on the Raging River ride.

350. Michael J. Krantz, as the President and CEO of Adventure Land, was particularly responsible to make certain that Adventure Land's rides, such as the Raging River, were properly funded for maintenance and safety purposes. That proper maintenance and safety protocols were followed. That ride manufacturer's design, installation, operation and maintenance recommendations were observed. That ride maintenance and repairs were not hastily and cheaply conducted in a sub-standard manner not recommended by a manufacturer, violative of Iowa Administrative Code requirements and unsafe, resulting in exposure to injury and damage by Adventure Land patrons.

351. Mr. Krantz was further obligated to supervise and make certain that Adventure Land's managers properly discharged their duties of oversight and enforcement of Adventure Land employees' actions to ensure safe ride maintenance and operation.

352. In addition, Mr. Krantz was obligated to act as Adventure Land's President and CEO with the care that a person in a like position would reasonably exercise under similar circumstances.

353. Defendants' negligence was a proximate cause of personal injuries to Plaintiffs, including, but not limited to, the losses and damages set forth in paragraph 345 previously.

354. Defendants' negligence was also a proximate cause of the wrongful death of Michael, including his emotional and physical pain and suffering prior to his death.

355. Defendants' conduct was sufficiently reckless, willful and wanton as to constitute legal malice in disregard for the rights and safety of Plaintiffs, caused actual damages and supports an award of punitive damages.

356. Defendants' conduct constituted a willful and wanton disregard of the rights and safety of another.

357. Punitive damages should be awarded to punish Defendants for disregarding known risks and to deter similar such conduct in the future by Defendants and others.

358. As a direct and proximate result of the fault of Defendants, Defendants' officers, agents and employees, Plaintiffs have sustained, continue to endure and will endure in the future injury and damages for which they request fair and reasonable compensation in an amount in excess of the jurisdictional threshold of this court.

WHEREFORE, Plaintiffs David Sr. and Sabrina, as Co-Administrators of the Estate of Michael and next friends of David Jr. and August, and all Plaintiffs individually, pray for judgment against the Defendants, and each of them, and demand that a monetary judgment be entered against Defendants for the injuries, losses and damages sustained by them, as set forth in paragraph 345; for an award of punitive damages in an amount to punish and deter Defendants', all as deemed fair and reasonable by the jury; for interest and costs all as provided by law, and for such other and further relief, legal or equitable, as the Court deems appropriate under the circumstances.

**CAUSE OF ACTION TWO: NEGLIGENCE PER SE –
DEFENDANT ADVENTURE LAND**

359. Plaintiffs incorporate under each Count of this Division Paragraphs 1 through 358 of this Petition by reference as if fully set forth herein.

360. Iowa Administrative Code 875.62, Safety Rules for Amusement Rides, Amusement Devices, and Concession Booths was designed and enacted specifically for the safety and protection of patrons in the State of Iowa who desired to ride amusement rides, use amusement devices, and visit concession booths.

361. Iowa Administrative Code 875.62 required Adventure Land to comply with ASTM F2291-15 and ASTM F770-15.

362. On July 2, 2021, Iowa Division of Labor Amusement Ride Inspector BJ Burriola finished his inspection of Adventure Land's Raging River ride, and determined it to be safe and compliant with Iowa's laws and regulations.

363. On July 3, 2021, Plaintiffs went to Adventure Land Park to ride amusement rides, use amusement devices, and visit concession booths.

364. On July 3, 2021, Adventure Land and its Raging River ride were in violation of the requirements set forth in Iowa Administrative Code 875.62, ASTM F2291-15, and ASTM F770-15.

365. On July 3, 2021, the Plaintiffs rode the Raging River ride at the Park, but the Plaintiffs' raft flipped over and never brought the Plaintiffs safely to the end of the ride.

366. Because Adventure Land did not have procedures in place to timely provide life-saving medical attention to Michael Jaramillo and because Adventure Land did not have emergency medical evacuation procedures in place for disruptions in the Raging River ride's

operation (as required by Iowa Administrative Code 875.62, ASTM F2291-15, and ASTM F770-15), Michael Jaramillo was killed and Michael Jaramillo's family was harmed as set forth in paragraph 345.

367. On July 6, 2021, the Iowa Division of Labor Amusement Ride Safety department inspected the Raging River ride.

368. On or about November 12, 2021, the Iowa Division of Labor issued a Safety Order that published its findings based upon its July 6, 2021 inspection.

369. The November 12, 2021 Safety Order identified 17 ways that Adventure Land and the Raging River ride was in violation of Iowa Administrative Code 875.62, ASTM F2291-15, and ASTM F770-15.

370. The Plaintiffs, as patrons of Adventure Land's amusement rides, were within the class of people Iowa Administrative Code 875.62 was intended to protect while riding on Amusement Rides in the State of Iowa.

371. Fatal injuries, non-fatal injuries, and emotional injuries sustained by passengers of amusement rides in the State of Iowa are the sort of injuries that the Iowa Administrative Code sought to prevent by enacting and requiring compliance with Iowa Administrative Code 875.62, ASTM F2291-15, and ASTM F770-15.

372. Adventure Land's decision to forgo compliance with Iowa Administrative Code 875.62, ASTM F2291-15, and ASTM F770-15 makes Adventure Land negligent per se for Plaintiffs' injuries.

373. Adventure Land had a duty to ensure the Raging River ride was safe and to ensure that compliance with Iowa's Administrative Rules occurred in order to protect ride patrons.

374. Adventure Land was negligent per se in their maintenance and operation of the Raging River ride.

375. Adventure Land's negligence per se conduct and failures are a direct and proximate cause of Plaintiffs' personal injuries, including, but not limited to, physical pain and suffering, loss of full body and mind, emotional injuries and loss of consortium, all as set forth in more detail in paragraph 345 previously.

376. Adventure Land's conduct was sufficiently reckless, willful and wanton as to constitute legal malice in disregard for the rights and safety of Plaintiffs, caused actual damages and supports an award of punitive damages.

377. Punitive damages should be awarded to punish Adventure Land for disregarding known risks and to deter similar such conduct in the future by Adventure Land and others.

378. As a direct and proximate result of the conduct of Adventure Land, Adventure Land's officers, agents and employees, Plaintiffs have sustained, continue to endure and will endure in the future injury and damages for which they request fair and reasonable compensation in an amount in excess of the jurisdictional threshold of this court.

WHEREFORE, Plaintiffs David Sr. and Sabrina, as Co-Administrators of the Estate of Michael and next friends of David Jr. and August, and all Plaintiffs individually, pray for judgment against the Defendants, and each of them, and demand that a monetary judgment be entered against Defendants for the injuries, losses and damages sustained by them, for an award of punitive damages in an amount to punish and deter Defendants, all as deemed fair and reasonable by the jury; for interest and costs all as provided by law, and for such other and further relief, legal or equitable, as the Court deems appropriate under the circumstances.

CAUSE OF ACTION THREE: RES IPSA LOQUITUR – ALL DEFENDANTS

379. Plaintiffs incorporate under each Count of this Division Paragraphs 1 through 378 of this Petition by reference as if fully set forth herein.

380. Defendants had exclusive control and management over the Raging River ride and the raft at issue.

381. The injuries suffered by Plaintiffs, including the death of Michael, are the types of injuries that would not have happened if ordinary, reasonable and prudent care had been taken by Defendants so that the Raging River ride raft would not have overturned.

382. The direct and proximate result of the conduct and failure of the Defendants caused personal injuries to Plaintiffs, including, but not limited to, physical pain and suffering, loss of full body and mind, emotional injuries and loss of consortium, as set forth in more detail in paragraph 345 previously.

383. The direct and proximate result of the conduct and failure of the Defendants, caused the wrongful death of Michael, including emotional and physical pain and suffering prior to his death.

384. Defendants' conduct was sufficiently reckless, willful and wanton as to constitute legal malice in disregard for the rights and safety of Plaintiffs, caused actual damages and supports an award of punitive damages.

385. Punitive damages should be awarded to punish Defendants for disregarding known risks and to deter similar such conduct in the future by Defendants and others.

386. As a direct and proximate result of the fault of Defendants, Defendants' agents and employees, Plaintiffs have sustained, continue to endure and will endure in the future injury and damages for which they request fair and reasonable compensation in an amount in excess of the jurisdictional threshold of this court.

WHEREFORE, Plaintiffs David Sr. and Sabrina, as Co-Administrators of the Estate of Michael and next friends of David Jr. and August, and all Plaintiffs individually, pray for judgment against the Defendants, and each of them, and demand that a monetary judgment be entered against Defendants for the injuries, losses and damages sustained by them, for an award of punitive damages in an amount to punish and deter Defendants, all as deemed fair and reasonable by the jury; for interest and costs all as provided by law, and for such other and further relief, legal or equitable, as the Court deems appropriate under the circumstances.

CAUSE OF ACTION FOUR: DEFECTIVE PRODUCT –

DEFENDANT ADVENTURE LAND

387. Plaintiffs incorporate under each Count of this Division Paragraphs 1 through 386 of this Petition by reference as if fully set forth herein.

388. Defendant Adventure Land is engaged in the business of operating an amusement and water park that includes the operation of rides which can be dangerous to the public.

389. Defendant Adventure Land's manufacturing, modifying, designing, handling, maintenance, monitoring and emergency access to the Raging River ride, including the raft at issue, was defective, which defects comprise multiple design and equipment failures on the ride, including, but not limited to, the pump and control system that controls the ride's water level, the weirs within the trough of the ride, the raft's bladders which were deflating and

improperly repaired, failure to monitor the ride for safety, failure to timely respond to incidents, and failure to provide timely emergency access to incidents.

390. Adventure Land modified and redesigned the Raging River ride and rafts in ways described in the State of Iowa's investigative report and safety orders that were defective and non-compliant with Iowa law.

391. The defective condition of Adventure Land's Raging River ride was unreasonably dangerous to the Plaintiffs.

392. The Plaintiffs used Adventure Land's product in the intended manner and without a change in its condition.

393. The Raging River ride was a proximate cause of the aforementioned injuries to the Plaintiffs and death of Michael.

394. Adventure Land's conduct of repairing, handling, maintenance, and failure to provide monitoring and emergency access to the Raging River ride, was a proximate cause of personal injuries to Plaintiffs, including, but not limited to, physical pain and suffering, loss of full body and mind, emotional injuries and loss of consortium, and a proximate cause of the wrongful death of Michael, including emotional and physical pain and suffering prior to his death, all as set forth in more detail in paragraph 345 previously.

395. Adventure Land's conduct was sufficiently reckless, willful and wanton as to constitute legal malice in disregard for the rights and safety of Plaintiffs, caused actual damages and supports an award of punitive damages.

396. Punitive damages should be awarded to punish Adventure Land for disregard of known risks and to deter similar such conduct in the future by Adventure Land and others.

397. As a direct and proximate result of the fault of Adventure Land, Adventure Land's officers, agents and employees, Plaintiffs have sustained, continue to endure and will endure in the future injury and damages for which they request fair and reasonable compensation in an amount in excess of the jurisdictional threshold of this court.

WHEREFORE, Plaintiffs David Sr. and Sabrina, as Co-Administrators of the Estate of Michael and next friends of David Jr. and August, and all Plaintiffs individually, pray for judgment against the Defendants, and each of them, and demand that a monetary judgment be entered against Defendants for the injuries, losses and damages sustained by them, for an award of punitive damages in an amount to punish and deter Defendants, all as deemed fair and reasonable by the jury; for interest and costs all as provided by law, and for such other and further relief, legal or equitable, as the Court deems appropriate under the circumstances.

CAUSE OF ACTION FIVE: PREMISES LIABILITY –

DEFENDANT ADVENTURE LAND

398. Plaintiffs incorporate under each Count of this Division Paragraphs 1 through 397 of this Petition by reference as if fully set forth herein.

399. At all times material hereto, the Park was owned and controlled by Adventure Land, including the Raging River ride.

400. Adventure Land knew, or in the exercise of reasonable care, should have known of unsafe conditions on the premises it controlled that involved unreasonable risks of injury or death and that Plaintiffs would not have realized the same.

401. Alternatively, Adventure Land created artificial hazards that involved unreasonable risks of injury or death.

402. Adventure Land either knew or in the exercise of reasonable care should have known:

- a. Plaintiffs would not discover the dangerous conditions of the Raging River ride; or
- b. Plaintiffs would not realize the dangerous conditions presented on the Raging River ride presented an unreasonable risk of injury; or
- c. Plaintiffs would be unable to protect themselves from the dangerous conditions of the Raging River ride.

403. Adventure Land was negligent in failing to protect Plaintiffs in one or more of the following ways:

- a. Failing to reasonably operate the Raging River ride;
- b. Failing to operate the Raging River ride in accordance with the ASTM Standards adopted by Iowa;
- c. Failing to exercise reasonable care to make the Raging River ride safe;
- d. Failing to maintain the Raging River ride, including its rafts, in a reasonably safe condition;
- e. Failing to maintain the Raging River ride, including its rafts, in accordance with the ASTM Standards adopted by Iowa;
- f. Creating an unreasonable risk of danger on the Raging River ride;
- g. Failing to reasonably repair the raft on the Raging River ride;
- h. Failing to use a safe raft;
- i. Failing to conduct reasonable inspections of the Raging River ride;
- j. Failing to conduct reasonable inspections of the Raging River ride's rafts;

- k. Failing to reasonably design the Raging River ride;
- l. Failing to update the Raging River ride;
- m. Failing to install safety equipment on the Raging River ride;
- n. Failing to monitor or keep a proper lookout for incidents on the Raging River ride;
- o. Failing to discover the existence of dangerous conditions on the Raging River ride;
- p. Failing to properly respond when Plaintiff's raft overturned;
- q. Failing to terminate or stop the Raging River ride when Plaintiff's raft overturned;
- r. Failing to timely stop the current of the Raging River ride when Plaintiff's raft overturned;
- s. Failing to timely lower the water level of the Raging River ride when Plaintiff's raft overturned;
- t. Failing to warn riders of the dangerous conditions of the Raging River ride;
- u. Failing to have adequate personnel at the Raging River ride; and
- v. Failing to provide timely emergency access to the incident on the Raging River ride.

404. Plaintiff's injuries, as set forth in more detail in paragraph 345 previously, including Michael's death, was a direct and proximate cause and result of one or more of the aforementioned acts or omissions of Adventure Land.

405. Adventure Land's conduct was sufficiently reckless, willful and wanton as to constitute legal malice in disregard for the rights and safety of Plaintiffs, caused actual damages and supports an award of punitive damages.

406. Adventure Land's conduct constituted a willful and wanton disregard of the rights and safety of another.

407. Punitive damages should be awarded to punish Adventure Land for disregarding known risks and to deter similar such conduct in the future by Adventure Land and others.

408. As a direct and proximate result of the fault of Adventure Land, Adventure Land's officers, agents and employees, Plaintiffs have sustained, continue to endure, and will endure in the future injury and damages for which they request fair and reasonable compensation in an amount in excess of the jurisdictional threshold of this court and which exceeds the jurisdictional requirement.

WHEREFORE, Plaintiffs David Sr. and Sabrina, as Co-Administrators of the Estate of Michael and next friends of David Jr. and August, and all Plaintiffs individually, pray for judgment against the Defendant Adventure Land, and demand that a monetary judgment be entered against Defendant Adventure Land for the injuries, losses and damages sustained by them, for an award of punitive damages in an amount to punish and deter Defendants, all as deemed fair and reasonable by the jury; for interest and costs all as provided by law, and for such other and further relief, legal or equitable, as the Court deems appropriate under the circumstances.

CAUSE OF ACTION SIX: BYSTANDER – ALL DEFENDANTS

409. Plaintiffs incorporate under each Count of this Division Paragraphs 1 through 408 of this Petition by reference as if fully set forth herein.

410. Plaintiffs David Sr. and Sabrina are the biological parents of Michael, David Jr. and August, related within the second degree of consanguinity or affinity.

411. Plaintiffs David Jr. and August are the biological brothers of Michael, and the biological children of Plaintiffs David Sr. and Sabrina, related within the second degree of consanguinity or affinity.

412. Plaintiffs were all on the raft of the Raging River ride that overturned and witnessed the entire incident.

413. Plaintiffs David Sr., Sabrina, David Jr., Michael, and August (**“Bystander Plaintiffs”**), suffered emotional distress from the direct emotional impact of the incident due to their sensory, contemporaneous observance of the incident, including watching Michael and David Jr. drowning, and their sensory, contemporaneous observance of watching all of said Plaintiffs injured in the incident.

414. The emotional distress suffered by the Bystander Plaintiffs was serious.

415. That as reasonable persons in Plaintiffs’ position, the Bystander Plaintiffs observed and believed each other suffered serious personal injuries, including injuries causing the death of Michael.

416. Bystander Plaintiffs serious emotional distress was proximately caused by the negligence and fault of Defendants.

417. Defendants' conduct was sufficiently reckless, willful and wanton as to constitute legal malice in disregard for the rights and safety of Bystander Plaintiffs, caused actual damages and supports an award of punitive damages.

418. Punitive damages should be awarded to punish Defendants for disregard of known risks and to deter similar such conduct in the future by Defendants and others.

419. As a direct and proximate result of the fault of Defendants, Defendants' officers, agents and employees, Bystander Plaintiffs have sustained, continue to endure and will endure in the future injury and damages for which they request fair and reasonable compensation in an amount in excess of the jurisdictional threshold of this court.

WHEREFORE, Plaintiffs David Sr. and Sabrina, as Co-Administrators of the Estate of Michael and next friends of David Jr. and August, and all Bystander Plaintiffs individually, pray for judgment against the Defendants, and each of them, and demand that a monetary judgment be entered against Defendants for the injuries, losses and damages sustained by them, for an award of punitive damages in an amount to punish and deter Defendants, all as deemed fair and reasonable by the jury; for interest and costs all as provided by law, and for such other and further relief, legal or equitable, as the Court deems appropriate under the circumstances.

CAUSE OF ACTION SEVEN: LOSS OF CONSORTIUM –

ALL DEFENDANTS

420. Plaintiffs incorporate under each Count of this Division Paragraphs 1 through 419 of this Petition by reference as if fully set forth herein.

421. Plaintiffs David Sr. and Sabrina are married.

422. Michael, David Jr. and August are the natural children of Plaintiffs David Sr. and Sabrina.

423. As a result of the acts and omissions of Defendants, Plaintiffs David Sr. and Sabrina, have been deprived of aid, consort, services, support, companionship, cooperation, affection, society, attention and aid between each other as spouses.

424. As a result of the acts and omissions of Defendants, Plaintiffs David Sr. and Sabrina, have sustained the loss of their son Michael, who passed away, including now being permanently deprived of his aid, services, support, companionship, cooperation, affection, society, attention and aid.

425. As a result of the acts and omissions of Defendants, Plaintiffs David Sr. and Sabrina, have sustained consortium loss of their sons David Jr. and August, who suffered injuries, including being deprived of their aid, services, support, companionship, cooperation, affection, society, attention and aid.

426. As a result of the acts and omissions of Defendants, Plaintiffs David Jr. and August, have sustained consortium loss of their brother Michael, who passed away, including being permanently deprived of his aid, services, support, companionship, cooperation, affection, society, attention and aid.

427. As a result of the acts and omissions of Defendants, Plaintiffs David Jr. and August, have sustained consortium loss of their parents David Sr. and Sabrina, who suffered injuries, including being deprived of their aid, services, support, companionship, cooperation, affection, society, attention and aid.

428. Defendants' conduct was sufficiently reckless, willful and wanton as to constitute legal malice in disregard for the rights and safety of all Plaintiffs, except Plaintiff Nyla in this Cause of Action Seven, caused actual damages and supports an award of punitive damages.

429. Punitive damages should be awarded to punish Defendants for disregard of known risks and to deter similar such conduct in the future.

WHEREFORE, Plaintiffs David Sr. and Sabrina, as Co-Administrators of the Estate of Michael and next friends of David Jr. and August, and all Bystander Plaintiffs individually, pray for judgment against the Defendants, and each of them, and demand that a monetary judgment be entered against Defendants for the injuries, losses and damages sustained by them, for an award of punitive damages in an amount to punish and deter Defendants, all as deemed fair and reasonable by the jury; for interest and costs all as provided by law, and for such other and further relief, legal or equitable, as the Court deems appropriate under the circumstances.

SUMMARY PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief against the Defendants:

1. For monetary judgment in an amount sufficient to compensate Plaintiffs for damages suffered as a result of the described incident as deemed reasonable and proper by the jury;
2. For reasonable costs and attorneys' fees incurred herein, pursuant to all applicable statutory, common law, and equitable theories;
3. For punitive damages;
4. For pre-judgment and post-judgment interest; and
5. For such other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiffs request a jury trial of all issues so triable in this action.

Dated this 30th day of June, 2022.

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¹ Both attorneys Brook L. Cunningham and Shamus T. O'Doherty will file Pro Hac Vice Applications with this Court once the petition has been received and a Polk County District Court case file number assigned.