

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI

AMY NEELEY and DAVID NEELEY,
individually and on behalf of their minor child,
J.N.,

Plaintiffs,

v.

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

Defendant.

CIVIL DIVISION

CASE NO.: 21-521

JURY TRIAL DEMANDED

PLAINTIFFS' COMPLAINT

COME NOW Plaintiffs Amy Neeley and David Neeley, individually and on behalf of their minor child, J.N., who, by and through their counsel of record, David Baria, Cosmich, Simmons & Brown, PLLC, allege upon information and belief as follows:

PARTIES

1. Plaintiffs reside and are domiciled in Jackson, Hinds County, Mississippi. Therefore, Plaintiffs are citizens of the State of Mississippi.
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 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

belief, GEPM's sole member is Ricky L. Jenkins, who is a resident of 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. Plaintiffs' cause of action arose and accrued in Hinds County, Mississippi. Therefore, jurisdiction and venue are proper in this court.

GENERAL ALLEGATIONS

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

4. 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.

5. 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.

6. 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**

7. *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.

8. *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.

9. 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.

10. 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.

11. *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.

12. 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.

13. 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 J.N.'s Injuries

14. J.N. and his family went to Jellystone Park in Pelahatchie, Mississippi, from July 30, 2021 through August 1, 2021.

15. J.N. swam in the pool and used the splash pad on Friday, July 30 and Saturday, July 31, 2021.

16. On August 2, 2021, while in Jackson, Hinds County, Mississippi, J.N. developed symptoms of gastrointestinal distress that increased in severity over the following days.

17. His parents took him to The Children's Clinic in Flowood, Mississippi on August 5, 2021.

18. A stool sample taken from J.N. tested positive for *E. coli* O157, and the local health authorities contacted his parents inquiring about potential exposures.

19. J.N. continues to recover from his illness, and is still experiencing stomach cramps and fatigue.

CAUSES OF ACTION

Count I-General Negligence/Strict Liability

20. Plaintiffs hereby incorporate paragraphs 1 through 19 by this reference as if each paragraph was set forth in its entirety.

21. 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.

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

23. *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 an unreasonably dangerous condition on the property that created an unreasonable risk of harm to persons, including Plaintiff J.N. on the premises.

24. 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 J.N.

25. Defendant unreasonably failed to exercise reasonable care to protect pool patrons, including J.N., from the known danger of *E. coli* 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.

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

27. 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 also allowed the contamination to persist, creating the risk of severe health consequences to patrons.

28. J.N.'s *E. coli* O157 infections, injuries, and damages were directly and proximately caused by bacterial transmission via Defendant's facility's pool water. Therefore, Defendant is strictly liable to Plaintiffs for J.N.'s injuries.

Count II- Premises Liability

29. Plaintiffs hereby incorporate paragraphs 1 through 28 by this reference as if each paragraph was set forth in its entirety.

30. J.N. and his family were at all times invitees of Defendants on the premises for their mutual benefit. J.N. and his family were at all times conducting themselves as was expected and encouraged by Defendants, including use of Defendant's facilities, water facility and pool(s) located thereon.

31. 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.

32. Defendant had a duty to exercise reasonable care to keep its premises reasonably safe and to warn of hidden dangers or peril not in plain and open view.

33. 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 an unreasonably dangerous

condition on the property that created an unreasonable risk of harm to persons, including Plaintiff J.N. on the premises.

34. 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 J.N.

35. Defendant unreasonably failed to exercise reasonable care to protect pool patrons, including J.N., from the known danger of *E. coli* 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.

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

37. 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, thereby creating a hazardous condition on the premises. Defendant allowed the contamination to persist, creating the risk of severe health consequences to patrons.

38. J.N.'s *E. coli* O157 infections, injuries, and damages were directly and proximately caused by bacterial transmission via Defendant's facility's pool water—a hazardous condition caused by Defendant's negligence. Therefore, Defendant is liable to Plaintiffs for J.N.'s injuries.

DAMAGES

39. 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 24, 2021

Respectfully submitted,

/s/ David Baria, MS Bar # 8646

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