

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

FILED

2013 MAR 19 P 12:49

LARRY ROBERT MOSS  
and MELINDA FAYE MOSS,

Plaintiffs

v.

NATIONAL ASSOCIATION OF CHRISTIAN ATHLETES,  
WORLD MISSIONS INTERNATIONAL,  
FORT BLUFF CAMP,  
BRYAN COLLEGE and  
JOHN DOES 1 - 5

Defendants.

Civil Action No. 1:13-cv-86  
JURY DEMANDED

U.S. DISTRICT COURT  
EASTERN DISTRICT OF TENN.  
BY \_\_\_\_\_ CLERK

*Mattie  
Carter*

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COMPLAINT

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COME NOW, Plaintiffs Larry Robert Moss (“Larry Moss” or “Mr. Moss”) and Melinda Faye Moss (“Melinda Moss” or “Mrs. Moss”) (collectively “Plaintiffs”) by and through their undersigned counsel and file this Complaint for monetary damages against Defendant National Association of Christian Athletes (“NACA”), Defendant World Missions International (“World Missions”), Defendant Fort Bluff Camp (“Fort Bluff”) and Bryan College (collectively “Defendants”).

I. INTRODUCTORY STATEMENT

This is a case involving catastrophic injuries and damages. The Plaintiffs are requesting damages in excess of Twenty Million Dollars (\$20,000,000.00). Plaintiff Larry Moss is suing

Defendants based upon claims of negligence, gross negligence, negligent hiring and negligent retention. Plaintiff Melinda Moss is suing Defendants for loss of consortium.

On July 4, 2012 Larry Moss was an invitee along with his church members at Fort Bluff Camp in Dayton, Tennessee. Mr. Moss was a participant on that day at an obstacle course at the Camp known as "The Crucible." At one of the Crucible stations, participants are instructed to drop from an approximately 10 - 15 foot tower in a seated position onto a mat on the ground, landing on their buttocks. Mr. Moss did exactly as instructed, dropping approximately 10 - 15 feet onto the mat below in a seated position on his buttocks.

Unbeknownst to Mr. Moss from his vantage point 10 - 15 feet above, this "mat" consisted of nothing more than an old piece of thin and rotted foam. When Mr. Moss landed on his buttocks as instructed, his spine snapped. Mr. Moss suffered a burst fracture at the L1 level of his lumbar spine and he is now a permanent paraplegic.

The Crucible is advertised as being modeled after a United States Marine Corps obstacle course of the same name. However, the obstacle course at Fort Bluff Camp has neither the safe equipment nor the trained personnel that the Marine Corps utilizes. To the contrary, the Crucible at Fort Bluff Camp was staffed by incompetent personnel. The Crucible equipment, particularly the aforementioned mat, was wholly inadequate and completely unsafe.

Mr. Moss suffered massive permanent injuries because of the Defendants' negligence, including but not limited to permanent paraplegia which will continue to confine him to a wheelchair for the rest of his life. Mr. Moss's injuries include a burst fracture at the L1 level of his spine which required a T11 to L3 fusion of his spine. Mr. Moss will never walk again. He must now manually dig feces out of his rectum with his fingers in order to defecate. He must use a catheter to urinate. He must utilize adult diapers and suppositories. He can no longer engage

in sexual relations with his wife of 15 years. He has been forced to undergo extensive hospitalization and physical therapy. He has suffered other orthopedic, neurological, psychological and psychiatric injuries, the full extent of which have yet to be determined.

Mr. Moss has in the past and will continue in the future to require medications, medical aid, medical care, treatment and rehabilitation at significant cost. He has in the past and will in the future continue to suffer agonizing aches, pains, suffering and mental anguish. He has in the past and will in the future continue to be permanently disabled from performing his normal work, playing and interacting with his children and doing the things he loved to do in life.

Mr. Moss can never be the father he wants to be and that his children deserve. He has sustained a loss in earnings and a loss of earning capacity. He has endured great pain and suffering. He has in the past and will in the future continue to suffer the loss of life's pleasures as a result of his injuries caused by the negligence of the Defendants.

Plaintiffs suffered these horrific injuries, damages and the loss of consortium as a result of Defendants' actions and/or inactions as set forth more fully herein, all of which amount to negligence, gross negligence, negligent hiring and negligent retention.

## II. PARTIES

1. Larry Robert Moss is an adult residing at 50 Jacobs Street, Chatsworth, Georgia 30705.
2. Melinda Faye Moss is Larry's wife and she is an adult residing at the same address.
3. The National Association of Christian Athletes ("NACA") is a Delaware corporation authorized to do business in the State of Tennessee. NACA is registered with the Tennessee Secretary of State as having an "assumed name" of World Missions International

(“World Missions”) whose registered agent is Vance Berger, 370 Fort Bluff Camp Road, Dayton, Tennessee 37321-6459. NACA and/or World Missions apparently do business as “Fort Bluff Camp.”

4. Bryan College is a Tennessee corporation whose registered agent for service of process is Stephen D. Livesay, 721 Bryan Drive, Dayton, Tennessee 37321-6275. Fort Bluff Camp is owned, operated and/or managed by Bryan College.

5. John Doe individual(s) and John Doe corporation(s) are those yet unidentified Parties Defendant, who are or may be liable to Plaintiffs under the allegations set forth in this Complaint.

### III. JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1332, inasmuch as there exists complete diversity of citizenship between Plaintiffs and Defendants and the amount in controversy is in excess of \$75,000.00.

7. Venue for this action properly lies in the United States District Court for the Eastern District of Tennessee pursuant to 28 U.S.C. § 1391 inasmuch as all or a substantial part of the actions, events or omissions giving rise to the claims alleged in the Complaint happened on Fort Bluff Camp’s premises located at 370 Fort Bluff Camp Road, Dayton, Tennessee 37321-6459, which is within this judicial district.

8. Defendants are subject to the personal jurisdiction and venue of this Court.

#### IV. FACTS

9. Larry Moss is a Sunday school teacher at the Eleventh Avenue Baptist Church in Dalton, Georgia. Melinda Moss is the youth choir director at the church. On or about July 3, 2012, Mr. and Mrs. Moss traveled with the youth group of the church to Fort Bluff Camp to spend the July 4<sup>th</sup> holiday. At approximately 11:00 a.m. on July 4, 2012, Mr. and Mrs. Moss and the children in the youth group were invited to participate in the Crucible obstacle course on the premises of Fort Bluff Camp.

10. Mr. Moss received instructions from 2 unknown employees of Fort Bluff Camp on how to negotiate all of the Crucible stations, and the station at the Crucible that consisted of an approximately 10 - 15 foot tall tower and a mat below. Mr. Moss was instructed to jump from the tower and to land in a seated position on the mat below. Mr. Moss did as he was instructed and broke his spine upon landing in the seated position on the mat.

11. At no time was Mr. Moss asked to sign a waiver of liability. No such waiver of liability exists.

12. NACA does business as World Missions and/or Fort Bluff Camp.

13. World Missions does business as Fort Bluff Camp.

14. Fort Bluff Camp is owned, operated and/or managed by Bryan College.

15. Defendants had a duty to ensure that all employees and/or contractors working on their premises worked safely, used adequate safety equipment and had adequate safety training.

16. As a participant at the "Crucible" obstacle course, Mr. Moss was an intended beneficiary of any contracts or agreements between Defendants concerning safety, insurance and policies.

17. As an intended beneficiary and invitee on the “Crucible” obstacle course, Mr. Moss had a reasonable expectation that he would be provided with proper equipment to safely negotiate the “Crucible” obstacle course and that it would be safe and free from hazards.

18. The “Crucible” station consisting of the tower and mat where the injury occurred (“the Crucible station”) was unsafe and completely inadequate to protect Mr. Moss from harm.

19. The Crucible station utilized a mat that was unsafe and completely inadequate to protect Mr. Moss from harm.

20. Mr. Moss was not given any fall protection equipment at the Crucible station.

21. Mr. Moss was instructed to jump from the Crucible station in a seated position onto the mat below by one or more of Defendants’ employees or contractors. Mr. Moss followed those instructions and did exactly as he was told.

22. Mr. Moss could not have known that the mat below was inadequate from the tower above.

23. Mr. Moss would not have been injured if the Crucible station had been adequately or safely designed by Defendants.

24. Mr. Moss would not have been injured if the Crucible station had been adequately or safely constructed by Defendants.

25. Mr. Moss would not have been injured if the Crucible station had been adequately inspected by Defendants.

26. Mr. Moss would not have been injured if the Crucible station had adequate matting to cushion his fall.

27. As a result of the July 4, 2012 fall, Mr. Moss suffered severe injuries of a permanent nature more fully described herein, including most significantly but not limited to a

fracture of the spine, rendering him a paraplegic for the rest of his life. Mr. Moss was 44 years old at the time of the injury. Mr. Moss endured and continues to endure great pain and suffering.

28. After the incident of July 4, 2012, Mr. Moss was transported to the Erlanger Medical Center in Chattanooga, Tennessee (“Erlanger”) where he underwent surgery and rehabilitative treatment.

29. Mr. Moss’s injuries include a burst fracture at the L1 level of his spine which required a posterior open reduction for the L1 fracture, a posterior T11 to L3 transpedicular fixation, a posterior T12-L1 decompression (including bilateral T12-L1 interlaminar laminotomies, partial facetectomies and left L1 transpedicular approach), posterior T11-12 arthrodesis and a posterior T12-L1 to L2-3 arthrodesis.

30. Mr. Moss has received rehabilitative treatment which has included upper body strengthening, core stabilization and lower body exercises to prevent contractures, atrophy, spasms and stiffness. Mr. Moss also received rehabilitation to enable him to transfer himself from his bed to a wheelchair, from his wheelchair to the toilet and from his wheelchair to the bathtub. He has also received rehabilitative treatment to learn how to perform daily living activities such as urinating via catheter, defecating through the use of his fingers and dressing and bathing himself.

31. Mr. Moss remained at Erlanger until approximately July 10, 2012. At the time he was discharged from the hospital, it was noted that he would need extensive assistance and supervision with daily living needs. He next treated extensively at the Shepherd Spinal Center in Atlanta and currently treats at the Siskin Hospital for Rehabilitation in Chattanooga three times per week.

32. Mr. Moss is a paraplegic as a result of the injuries that he sustained on July 4, 2012. Mr. Moss suffers in his lower extremities with atrophy, muscle spasms and stiffness. Mr. Moss has terrible pain in his mid to lower back, and there is constant swelling in his legs and feet.

33. Mr. Moss has suffered and continues to suffer from depression as a result of the injuries he sustained on July 4, 2012.

34. As a result of the injuries sustained on Defendants' premises, Mr. Moss suffered and continues to suffer with bowel and urinary problems requiring the use of adult diapers and catheters. He also requires medications and suppositories to promote daily bowel movements. Mr. Moss must urinate and defecate on a "schedule" where he takes time out of each day to manually dig feces out of his rectum with his fingers. Whenever Mr. and Mrs. Moss travel from home they must take their own specialized toilet seat with them, as Mr. Moss cannot use a conventional toilet seat. These bowel and urinary problems have caused Mr. Moss to suffer great embarrassment and social isolation.

35. Mr. Moss can no longer play and interact with his three children in the way that any loving father would do. He is heartbroken over his inability to be a normal father and his children have been devastated by this tragedy.

36. Mr. Moss can no longer engage in sexual relations with his wife of 15 years as the result of his injuries.

37. As a result of Defendants' negligence, Mr. Moss sustained injuries which will require constant medical care and assistance for the remainder of his life. The medical bills exceed \$211,000.00 to date.

38. The anticipated future cost for Mr. Moss' medical related treatment is at least \$5,000,000.00.

39. Mr. Moss has suffered past economic losses and will suffer future economic losses due to the negligence of Defendants.

## V. CAUSES OF ACTION

### A. NEGLIGENCE

40. Plaintiffs re-allege every foregoing paragraph as if fully set forth herein.

41. At all times relevant herein, Defendants owned, controlled and/or managed the property where the injury occurred, and undertook the design, inspection and supervision of the construction of the Crucible station, and in connection therewith established plans, rules, recommendations, designs and specifications for the construction of the Crucible station.

42. At all times relevant herein, Defendants owned, controlled and/or managed the property where the injury occurred and hired employees to instruct and supervise participants in the Crucible obstacle course.

43. At all times relevant herein, Defendants owned, controlled and/or managed the property where the injury occurred and owed a duty to those invited to negotiate the Crucible obstacle course, including Mr. Moss, to provide a reasonably safe environment free from unreasonable hazards.

44. At all times relevant herein, Defendants knew or should have known that there existed dangerous conditions at the Crucible station and that there were inadequate safety measures in place, including but not limited to a mat that was wholly inadequate to protect obstacle course participants.

45. Defendants, by and through their agents, servants, workmen and/or employees, were careless and negligent in the following:
- A. Failing to provide Mr. Moss with adequate safety equipment;
  - B. Failing to adequately inspect the Crucible station for hazardous conditions;
  - C. Failing to adequately plan and design the Crucible station;
  - D. Failing to hire competent employees and safety inspectors;
  - E. Failing to properly train their employees;
  - F. Failing to warn participants in the Crucible obstacle course, including Mr. Moss, of the dangerous and unsafe conditions on the premises;
  - G. Failing to adopt, enact, employ and enforce proper and adequate safety programs, precautions, procedures, measures and plans;
  - H. Violating and failing to comply with federal and state statutes, local ordinances, industry customs and all other rules, enactments or regulations applicable in effect, be they administrative, industry wide or otherwise pertaining to safety in relation to obstacle courses;
  - I. Failing to furnish adequate safety equipment and/or padding in conformity with the standard of care in the obstacle course industry, challenge course industry, recreational industry and/or sports industry at the time of the July 4, 2012 incident;
  - J. Failing to adopt, enact and enforce proper obstacle course rules and procedures;
  - K. Designing, constructing, supervising and furnishing an obstacle course, particularly the Crucible station, in a wholly inadequate and negligent manner;

- L. Failing to properly inspect and supervise the Crucible station;
- M. Failing to provide adequate fall protection and/or padding at the Crucible station;
- N. Failing to recognize that the fall protection and/or padding at the Crucible station was inadequate or non-existent;
- O. Failing to recognize that the inadequate fall protection/padding constituted a hazardous condition;
- P. Failing to inspect the fall protection/padding in use to ensure it was adequate;
- Q. Failing to provide adequate safety training for persons working at the Crucible;
- R. Failing to adequately supervise persons working at the Crucible; and
- S. Negligently hiring and retaining unqualified employees to work at the Crucible.

46. Due to the negligence of the Defendants, Mr. Moss suffered severe and devastating permanent injuries. He suffered a burst fracture at the L1 level of his spine resulting in complete paraplegia and requiring a posterior open reduction for the L1 fracture, a posterior T11 to L3 transpedicular fixation, a posterior T12-L1 decompression (including bilateral T12-L1 interlaminar laminotomies, partial facetectomies and left L1 transpedicular approach), posterior T11-12 arthrodesis and a posterior T12-L1 to L2-3 arthrodesis.

47. Mr. Moss is now required to wear adult diapers and utilize catheters, medications and suppositories in order to urinate and to defecate. He can no longer engage in sexual relations. He has endured extensive hospitalization and physical therapy. He has suffered other

orthopedic, neurological, psychological and psychiatric injuries, the full extent of which has yet to be determined.

48. Mr. Moss has in the past and will in the future continue to require medications, medical aid, medical care, treatment, rehabilitation, wheelchairs, home modifications, special vehicles and other accommodations. He has incurred significant medical expenses. He has in the past and will in the future continue to suffer agonizing aches, pains and mental anguish.

49. Mr. Moss has in the past and will in the future continue to be permanently disabled from performing his usual duties, occupations and avocations, all to his great loss and detriment. He has sustained a loss of earnings and a loss of future earning capacity. He has endured great pain and suffering. He has in the past and will in the future continue to suffer the loss of life's pleasures as a result of his injuries. Plaintiffs' damages greatly exceed \$75,000.00.

#### B. GROSS NEGLIGENCE

50. Plaintiffs re-allege every foregoing paragraph as if fully set forth herein.

51. Defendants' actions and/or inactions rise to the level of indifference to a significant degree of which through the exercise of reasonable care Defendants knew or should have known.

52. The actions or inactions complained of herein constitute gross negligence.

53. Plaintiffs suffered injuries and damages as a result of Defendants' gross negligence, and Plaintiffs' damages greatly exceed \$75,000.00 as to this Count.

C. NEGLIGENT HIRING AND RETENTION

54. Plaintiffs re-allege every foregoing paragraph as if fully set forth herein.

55. Defendants' actions in hiring, retaining and/or approving unqualified employees, contractors or subcontractors to design, build and/or maintain the Crucible, and specifically the Crucible Station where Mr. Moss was injured, constitutes negligent hiring and retention.

56. Defendants' negligence in hiring, retaining and/or approving unqualified employees, contractors or subcontractors who could not design, build and/or maintain the Crucible, in a reasonable or safe manner resulted in injuries and damages to Plaintiffs. Plaintiffs' damages greatly exceed \$75,000.00 as to this Count.

57. Defendants' actions in hiring, retaining and/or approving unqualified employees, contractors or subcontractors to instruct Crucible participants, and specifically instruct participants at the Crucible Station where Mr. Moss was injured, constitutes negligent hiring and retention.

58. Defendants' negligence in hiring, retaining and/or approving unqualified employees, contractors or subcontractors who could not properly instruct Crucible participants, and specifically properly instruct participants at the Crucible Station where Mr. Moss was injured, resulted in injuries and damages to Plaintiffs. Plaintiffs' damages greatly exceed \$75,000.00 as to this Count.

59. Defendants are liable to Plaintiffs due to the actions or inactions of their employees, contractors or subcontractors under the doctrine of Respondeat Superior.

D. LOSS OF CONSORTIUM

60. Plaintiffs re-allege every foregoing paragraph as if fully set forth herein.

61. At all times relevant herein, Melinda Faye Moss was and is the wife of Larry Robert Moss.

62. As a result of the actions or inactions of the Defendants complained of herein, Mrs. Moss was caused to suffer and will continue to suffer loss of consortium, loss of society, loss of affection, loss of assistance and the loss of conjugal fellowship from Mr. Moss.

63. The aforementioned injuries and damages sustained by Mrs. Moss were solely and proximately caused by the negligent actions or inactions of the Defendants. Mrs. Moss' damages greatly exceed \$75,000.00 as to this Count.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs claim in excess of \$20,000,000.00 in damages against Defendants, exclusive of interest, costs and attorney's fees for:

- A. Physical and psychological injuries caused by the wrongs complained of herein;
- B. Great physical pain and suffering, both past and future;
- C. Great mental and emotional anguish, both past and future;
- D. Medical expenses to date and which are ongoing;
- E. Future medical expenses;
- F. Inability to enjoy the normal pleasures of life, both past and future;
- G. Lost earning capacity, both past and future;
- H. Lost wages, both past and future;
- I. Disfigurement;
- J. Loss of consortium; and

K. Mr. Moss' permanent paraplegia and lifetime confinement to a wheelchair.

Plaintiffs pray that process and summons issue against each Defendant, that each Defendant be served as required by law, that that they recover their costs and fees in filing this action, and that a jury be empanelled to consider the issues raised in this Complaint and to enter a Judgment therein.

Respectfully submitted:



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ATTORNEYS FOR PLAINTIFFS

Motion for *Pro Hac Vice* admission for Mr. Delius is being filed contemporaneously herewith; Motion for *Pro Hac Vice* admission for Mr. Murray to be filed