

2.1 Plaintiff, ROXANNA ACUNA is a resident of the State of Texas, and is the mother of N.A., a minor child, and brings suit herein in her individual capacity, and in her capacity as Next Friend of N.A., a minor child.

2.2 Plaintiff JOANNA MENDIOLA is a resident of the State of Texas and brings suit herein in her individual capacity.

2.3 Plaintiff ANTHONY MENDIOLA is a resident of the State of Texas and brings suit herein in his individual capacity.

2.4 Defendant SEA WORLD OF TEXAS, LLC is a foreign limited liability corporation doing business, engaging in business and transacting business in the state of Texas, and may be served with citation by serving its Texas registered agent for service: C T Corporation System, 1999 Bryan St., Ste 900, Dallas, Texas 75201-3140.

2.5 Defendant SEAWORLD OF TEXAS MANAGEMENT, LLC is a domestic limited liability company doing business, engaging in business and transacting business in the state of Texas, and may be served with citation by serving its Texas registered agent for service: C T Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201-3140.

2.6 Defendant SEAWORLD OF TEXAS HOLDINGS, LLC is a domestic limited liability corporation doing business, engaging in business and transacting business in the state of Texas, and may be served with citation by serving its Texas registered agent for service: C T Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201-3140.

2.7 Defendant SEAWORLD PARKS & ENTERTAINMENT, INC. D/B/A SEAWORLD PARKS, INC. is a foreign limited liability corporation doing business, engaging in business and transacting business in the state of Texas, and may be served with citation by serving its Texas registered agent for service: C T Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201-3140.

2.8. Defendant BRANDON LEE DOEGE is an individual and resident of the state of Texas and may be served with process by serving him at 1724 FM 471, Castroville, Texas 78009-2818.

III. JURISDICTION AND VENUE

3.1 Venue is proper in Bexar County, Texas pursuant to the provisions of Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code, in that all or a substantial part of the events or omissions giving rise to the claim occurred in Bexar County, Texas.

IV. FACTS

4.1 On or around October 2, 2022, Plaintiffs N.A., Joanna Mendiola and Anthony Mendiola, were attending Defendant SeaWorld San Antonio's Howl-O-Scream event, where Defendant Doege was working as a "scare character." At approximately 10:00 P.M., Defendant Doege, in the course and scope of his employment with Defendant SeaWorld, approached Plaintiffs in a threatening and offensive manner. Suddenly, violently, and without warning, Defendant Doege put his arm around N.A.'s neck and body-slammed N.A. to the ground, landing on top of him and driving his head, neck and shoulders into the concrete pavement. Plaintiff Anthony Mendiola, in fear for his grandson, tried to intervene to stop the assault. At that time, suddenly and without warning, Defendant Doege violently struck Plaintiff Anthony Mendiola in the face with such strength as to cause him to lose consciousness.

4.2 Following this violent altercation, Defendant Doege was arrested by the San Antonio Police Department and charged with assault, causing bodily injury to a child.

V. CAUSES OF ACTION AGAINST DEFENDANT SEAWORLD

5.1 At the time and on the occasion in question, Defendant SeaWorld were the operators of SeaWorld San Antonio where the incident occurred. Brandon Lee Doege was under the control of SeaWorld Defendants at all times as an employee and/or agent of Defendant SeaWorld and was acting within the course and scope of his employment. Therefore, Defendant SeaWorld are vicariously responsible for the negligence and negligence per se of Brandon Lee Doege on there of *Respondent superior*.

5.2. Plaintiff further asserts and alleges that at the time of the incident made the basis of this suit that Defendant SeaWorld were guilty of various acts and/or omissions which constituted negligence, including, but in no way limited to the following, each of which singularly or in combination with others, was a proximate cause of Plaintiffs' injuries and damages. The negligence and gross negligence include, but are not limited to the following:

1. hiring Doege who had a public history of violent criminal acts;
2. once hiring Doege, failing to properly train him;
3. once hiring Doege, failing to properly supervise him;
4. once hiring Doege, failing to properly implement appropriate policies and procedures related to parkgoer interactions;
5. once hiring Doege, failing to provide proper and/or adequate training with respect to parkgoer interactions;
6. once hiring Doege, failing to ensure the safety of others through proper training;

7. creating a danger to the public, of which it had specific knowledge, and then failing to protect the public from that danger;
8. negligently exercising control on Doege; and
9. having superior knowledge of specific risk and specific danger and failing to guard against it.

5.3. As a result of its reckless disregard for safety, Defendant SeaWorld committed acts of omission and commission which collectively and severally constituted gross negligence. This conduct includes employing Defendant Brandon Lee Doege and failing to train him adequately with full knowledge that this created a dangerous environment with an extreme degree of risk, considering the probability and magnitude of his potential to harm others.

VI. **CAUSES OF ACTION AGAINST BRANDON LEE DOEGE**

6.1 At the time and on the occasion in question, Defendant Brandon Lee Doege while operating as a “scare character” within the course and scope of his employment for Defendant SeaWorld violently assaulted the Plaintiffs. He also failed to use ordinary care by various acts and omissions each of which singularly or in combination with other, was a proximate cause of Plaintiffs’ injuries.

6.2 Each and all of the above foregoing acts of omission and/or commission, in addition to assault, constituted negligence and were the proximate cause of damages to Plaintiff and for which they now seek recovery.

6.3 Plaintiffs further assert and allege that the acts of omission and/or commission of Doege collectively and/or severely constituted gross negligence in that

this Defendant acted with conscience indifference to the rights, safety, or welfare of the Plaintiffs in operating as a “scare character” without proper training. Such conduct by Doege created an extreme degree of risk to all persons visiting SeaWorld San Antonio, which such degree of risk manifested itself on the Plaintiff. This wanton and conscious indifference constituted gross negligence and was a proximate cause of the incident that made the basis of this suit.

VII. DAMAGES

7.1 Nearly all of the elements of damages for personal injury are unliquidated and, therefore, not subject to precise computation. Plaintiffs seek to recover damages in amounts that the jury finds the evidence supports and which the jury finds to be appropriate under all of the circumstances. The amount of monetary relief claimed is in excess of one million dollars. Plaintiffs demand judgment for all other relief to which they may justly show they are entitled.

A. DAMAGES OF N.A., MINOR CHILD

7.2 As a result of the incident in question, N.A. has sustained disabling injuries, physical pain, and mental anguish. He has sustained past and future reasonable and necessary medical expenses for the care and treatment of his injuries, physical impairment, both past and future, all to her damage in an amount which has not been ascertained, but which is within the jurisdictional limits of this court.

B. DAMAGES OF ROXANNA ACUNA, INDIVIDUALLY AND AS NEXT FRIEND FOR N.A., MINOR CHILD

7.3 As a result of the incident in question, Roxanna Acuna, mother to N.A., Minor Child, has suffered damages in the past and in the future, including reasonably and necessary medical expenses for the care and treatment of her son’s injuries, for which

damages are sought in an amount far in excess of the minimal jurisdictional limits of this Court.

C. BYSTANDER DAMAGES OF JOANNA MENDIOLA

7.4. As a result of the incident in question, Joanna Mendiola seeks damages as a bystander under Texas law for the mental anguish, emotional pain, suffering and torment, both past and future, which she experienced as a result of witnessing, hearing, and perceiving the injuries and damages sustained by her family members in the incident made the basis of this litigation, for which damages are sought in an amount far in excess of the minimal jurisdictional limits of this Court.

D. DAMAGES OF ANTHONY MENDIOLA

7.5 As a result of the incident in question, Anthony Mendiola has sustained disabling injuries, physical pain, and mental anguish. He has sustained past and future reasonable and necessary medical expenses for the care and treatment of his injuries, physical impairment, both past and future, all to his damage in an amount which has not been ascertained, but which is within the jurisdictional limits of this court.

7.6 As a result of the incident in question, Anthony Mendiola additionally seeks damages as a bystander under Texas law for the mental anguish, emotional pain, suffering and torment, both past and future, which he experienced as a result of witnessing, hearing, and perceiving the injuries and damages sustained by his family member in the incident made the basis of this litigation, for which damages are sought in an amount far in excess of the minimal jurisdictional limits of this Court.

VIII. **REQUIRED DISCLOSURE NOTICE**

8.1 Pursuant to Rule 194.1, please provide the disclosures in Rule 194.2(b)(1)-(12) within 30 days of the filing dates of this Defendants' Original Answer in this cause.

Information on Defendants' testifying expert witness is sought per Rules 194.3 and 195.5 in the timelines provided.

IX.
PRE-JUDGMENT AND POST-JUDGMENT INTEREST

9.1 Plaintiffs seek pre-judgment and post-judgment interest as allowed by law.

X.
JURY DEMAND

10.1 Plaintiffs request a trial by jury for all issues of fact. A jury fee has been paid timely and properly.

XI.
PRAYER

11.1 WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants be cited to appear and answer herein, that this cause be set for trial before a jury, that Plaintiffs recover judgment of and from the Defendant for their actual damages in such amounts as the evidence may show and the jury may determine to be proper, together with pre-judgment interest, post-judgment interest, costs of suit, and such other and further relief to which they may show themselves to be justly entitled.

Respectfully submitted,

**WIGINGTON RUMLEY DUNN
& BLAIR, L.L.P.**

601 Howard St.
San Antonio, TX 78212
Telephone: (210) 487-7500
Telecopier: (210) 487-7501

/s/ Joseph M. Dunn
Joseph M. Dunn
SBN: 06245650
jdunn@wigrum.com
Ross W. Evans

SBN: 24064771
revans@wigrum.com

And

James Shaw
CARABIN SHAW, P.C.
SBN: 00784955
jshaw@carabinshaw.com
630 Broadway St
San Antonio, Texas 78215-1822
Telephone: (210) 222-2288
Telecopier: (210) 222-1480

ATTORNEYS FOR PLAINTIFFS

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Diego Quintero on behalf of Joseph Dunn

Bar No. 6245650

dquintero@wigrum.com

Envelope ID: 69058257

Status as of 10/10/2022 2:01 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Joseph MDunn		jdunn@wigrum.com	10/10/2022 12:48:15 PM	SENT
Ross Evans		revans@wigrum.com	10/10/2022 12:48:15 PM	SENT
Abigail Vazquez		avazquez@wigrum.com	10/10/2022 12:48:15 PM	SENT
Diego Quintero		dquintero@wigrum.com	10/10/2022 12:48:15 PM	SENT