

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

**GARY A. McCLAIN, JR.
and JENNIFER McCLAIN,**

Plaintiffs,

vs.

CASE NO.:

**CIRCUSTRIX HOLDINGS, LLC;
TRAMPOLINE ACQUISITION PARENT
HOLDINGS, LLC; and
FLYING PANDA FLORIDA, LLC
d/b/a DEFY PALM SPRINGS,**

Defendants.

COMPLAINT

Plaintiffs, GARY A. McCLAIN, JR. and JENNIFER McCLAIN, by and through their undersigned counsel, hereby sues Defendants, CIRCUSTRIX HOLDINGS, LLC; TRAMPOLINE ACQUISITION PARENT HOLDINGS, LLC, and FLYING PANDA FLORIDA, LLC, d/b/a DEFY PALM SPINGS, and alleges as follows:

GENERAL ALLEGATIONS AND PARTIES

1. This is an action for damages in excess of Fifty Thousand Dollars (\$50,000.00).
2. At all relevant times, Plaintiffs, GARY A. McCLAIN, JR. and JENNIFER McCLAIN, resides at 6449 S. West 77th Street, Gainesville, Florida in Alachua County, Florida.
3. At all relevant times, Defendant, CIRCUSTRIX HOLDINGS, LLC (hereinafter referred to as "CIRCUSTRIX") is a Delaware corporation and was doing business in the State of Florida, with its principal place of business at 86 N. University Avenue, Suite 350, Provo, Utah, 84603, with a registered agent located at Cogency Global, Inc., 850 Burton Road, Suite 201, Dover, Delaware 19904.

4. At all relevant times, Defendant, CIRCUSTRIX, owned, operated, managed and/or was in control of a business located at 964 S. Congress Ave., Palm Springs, Florida 33406, in West Palm Beach County, Florida, which operated under the name “DEFY PALM SPRING”, with Defendant holding itself out to the public as an extreme trampoline park having special skill and knowledge in the area of indoor trampolines and use of all different types of equipment for trampoline use within its facility.

5. At all relevant times, Defendant, TRAMPOLINE ACQUISITION PARENT HOLDINGS, LLC (hereinafter referred to as “TRAMPOLINE ACQUISITION”) is a Delaware corporation and was doing business in the State of Florida, with a registered agent located at Cogency Global, Inc., 850 Burton Road, Suite 201, Dover, Delaware 19904.

6. At all times relevant hereto, Defendant, FLYING PANDA FLORIDA, LLC, d/b/a DEFY PALM SPRINGS, (hereinafter referred to as “DEFY”) is a Florida corporation and was doing business in the State of Florida, with a registered agent located at Cogency Global, Inc., 115 North Calhoun Street, Suite 4, Tallahassee, Florida 32301.

7. At all relevant times, Defendant, DEFY, owned, operated, managed, and/or was in control of a business located at 964 South Congress Avenue, Palm Springs, Florida 33406, with Defendant holding itself out to the public as an extreme trampoline park having special skill and knowledge in the area of all different types of equipment for trampoline use within its facility.

FACTS GIVING RISE TO THE ACTION

8. At all relevant times, Defendants, CIRCUSTRIX HOLDINGS, LLC; TRAMPOLINE ACQUISITION PARENT HOLDINGS, LLC, and FLYING PANDA FLORIDA, LLC, d/b/a DEFY PALM SPINGS, actively advertised, marketed, and otherwise sought the business of individuals within West Palm Beach, County, Florida, including Plaintiff, GARY A. McCLAIN, JR.

9. Prior to April 26, 2022, Defendants had received multiple notifications and complaints of injuries suffered by individuals utilizing the equipment, requiring medical personnel to render treatment to injured individuals.

10. Defendants knew of this dangerous condition for a sufficient time in order to take reasonable precautions to prevent the dangerous condition but failed to do so.

11. On or about April 26, 2022, Plaintiffs were paying customers and business invitees on Defendants' premises.

12. At that time and place, while running on Defendants' equipment, Plaintiff was seriously injured, including suffering a bilateral tendon rupture.

COUNT I – NEGLIGENCE OF DEFENDANT CIRCUSTRIX HOLDINGS, LLC

13. Plaintiffs re-allege and incorporate herein all the factual allegations set forth in paragraphs 1 through 11 above.

14. On or about April 26, 2022, Plaintiff, GARY A. McCLAIN, JR., was legally upon the property of the Defendant as a business invite and as a member of the general public that was expressly or impliedly invited upon said premises for the benefit of Defendant, CIRCUSTRIX.

15. On April 26, 2022, Defendant, CIRCUSTRIX, owed a duty to business invitees, including Plaintiff, GARY A. McCLAIN, JR., to maintain its premises in a reasonably safe condition, including among other things, to use reasonable care in the ownership, operation, supervision, management, maintenance and control of the trampoline courts in its premises.

16. Additionally, Defendant, CIRCUSTRIX, owed a duty to warn business invitees of latent dangerous conditions on its premises that it was aware of, or should have been aware of with the exercise of reasonable care in the inspection, maintenance, supervision and operation of its business, including latent or potentially hidden dangers associated with the use of Defendant's

facility which Defendant was aware of or should have been aware of due to its expertise and knowledge within the trampoline park industry.

17. Defendant, CIRCUSTRIX, breached its duty to warn Plaintiff, GARY A. McCLAIN, JR., of the latent dangerous conditions existing on its premises which occurred with regularity and were therefore foreseeable.

18. On April 26, 2022, Defendant, through its agents, servants and employees, while acting within the scope and course of their agency or employment, negligently breached the duty owed to invitees in one or more of the following ways:

- (a) by failing to operate the equipment area in a reasonably safe manner;
- (b) by failing to establish appropriate procedures, rules and regulations for the employees to follow in addressing foreseeable dangerous usage of equipment by invitees;
- (c) by failing to establish appropriate safety rules and regulations for the use of equipment;
- (d) by failing to enforce the equipment manufacturer's rules and prohibitions in accordance with the equipment's instruction manuals;
- (e) by failing to establish or implement appropriate procedures to ensure that employees were trained to provide appropriate instruction and warning to invitees with regard to the safe and proper use of equipment;
- (f) by failing to supervise and/or adequately supervise and control the conduct of employees in and about enforcement of safety rules and regulations in effect;
- (g) by failing to provide an adequate number of qualified and sufficiently trained employees to properly supervise individuals utilizing the equipment;

- (h) by failing to train and educate employees in the recognition and prevention of unsafe practices with regard to the use of the equipment;
- (i) by failing to apprise invitees of safety rules and regulations before allowing them on equipment;
- (j) by failing to enforce its own safety rules and regulations;
- (k) by failing to hire qualified court monitors, referees, and/or supervisors to ensure the safety of individuals using the equipment on the premises;
- (l) by failing to properly and/or adequately train court monitors, referees, and/or supervisors in the appropriate use and inappropriate misuse of the equipment on the premises;
- (m) by allowing and authorizing numerous invitees of various ages and sizes to use the equipment at the same time;
- (n) by failing to notify and/or warn invitees of safety hazards associated with the use of the equipment;
- (o) by failing to provide adequate written, oral, or audio-visual instruction or guidance concerning the safe usage of the equipment located on the premises; and
- (p) by engaging in a negligent or unreasonable mode of business operation.

19. Defendant, CIRCUSTRIX's above referenced negligence created an unreasonably dangerous condition to invitees in its premises which was not apparent to customers, and as such created a latent danger.

20. Defendant, CIRCUSTRIX, had actual or constructive knowledge of the dangerous condition existing on its premises caused by its own acts and omissions as set forth above.

21. As a direct and proximate result of the negligent conduct of Defendant, CIRCUSTRIX, Plaintiff, GARY A. McCLAIN, JR., sustained a permanent bodily injury, suffering a bilateral tendon rupture, resulting in pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life and loss of earning capacity in the future. These injuries and losses are permanent and continuing in nature and Plaintiff, GARY A. McCLAIN, JR., will suffer the losses and impairments in the future.

22. Additionally, as a direct and proximate result of Defendant, CIRCUSTRIX's negligence, Plaintiff, GARY A. McCLAIN, JR. incurred expenses for hospitalization, medical, nursing care and treatment.

WHEREFORE, Plaintiff, GARY A. McCLAIN, JR., demands judgment against Defendant, CIRCUSTRIX, for compensatory damages, taxable costs, and such other relief as this Court may deem just and proper. Plaintiff, GARY A. McCLAIN, JR., also demands trial by jury on all issues.

**COUNT II – NEGLIGENCE OF DEFENDANT TRAMPOLINE ACQUISITION
PARENT HOLDINGS, LLC**

23. Plaintiffs re-allege and incorporate herein all the factual allegations set forth in paragraphs 1 through 22 above.

24. On or about April 26, 2022, Plaintiff, GARY A. McCLAIN, JR., was legally upon the property of the Defendant as a business invite and as a member of the general public that was expressly or impliedly invited upon said premises for the benefit of Defendant, TRAMPOLINE ACQUISITION.

25. On April 26, 2022, Defendant, TRAMPOLINE ACQUISITION, owed a duty to business invitees, including Plaintiff, GARY A. McCLAIN, JR., to maintain its premises in a reasonably safe condition, including among other things, to use reasonable care in the ownership,

operation, supervision, management, maintenance, and control of the trampoline courts in its premises.

26. Additionally, Defendant, TRAMPOLINE ACQUISITION, owed a duty to warn business invitees of latent dangerous conditions on its premises that it was aware of, or should have been aware of with the exercise of reasonable care in the inspection, maintenance, supervision and operation of its business, including latent or potentially hidden dangers associated with the use of Defendant's facility which Defendant was aware of or should have been aware of due to its expertise and knowledge within the trampoline park industry.

27. Defendant, TRAMPOLINE ACQUISITION, breached its duty to warn Plaintiff, GARY A. McCLAIN, JR., of the latent dangerous conditions existing on its premises which occurred with regularity and were therefore foreseeable.

28. On April 26, 2022, Defendant, through its agents, servants and employees, while acting within the scope and course of their agency or employment, negligently breached the duty owed to invitees in one or more of the following ways:

- (a) by failing to operate the equipment area in a reasonably safe manner;
- (b) by failing to establish appropriate procedures, rules and regulations for the employees to follow in addressing foreseeable dangerous usage of equipment by invitees;
- (c) by failing to establish appropriate safety rules and regulations for the use of equipment;
- (d) by failing to enforce the equipment manufacturer's rules and prohibitions in accordance with the equipment's instruction manuals;

- (e) by failing to establish or implement appropriate procedures to ensure that employees were trained to provide appropriate instruction and warning to invitees with regard to the safe and proper use of equipment;
- (f) by failing to supervise and/or adequately supervise and control the conduct of employees in and about enforcement of safety rules and regulations in effect;
- (g) by failing to provide an adequate number of qualified and sufficiently trained employees to properly supervise individuals utilizing the equipment;
- (h) by failing to train and educate employees in the recognition and prevention of unsafe practices with regard to the use of the equipment;
- (i) by failing to apprise invitees of safety rules and regulations before allowing them on equipment;
- (j) by failing to enforce its own safety rules and regulations;
- (k) by failing to hire qualified court monitors, referees, and/or supervisors to ensure the safety of individuals using the equipment on the premises;
- (l) by failing to properly and/or adequately train court monitors, referees, and/or supervisors in the appropriate use and inappropriate misuse of the equipment on the premises;
- (m) by allowing and authorizing numerous invitees of various ages and sizes to use the equipment at the same time;
- (n) by failing to notify and/or warn invitees of safety hazards associated with the use of the equipment;

- (o) by failing to provide adequate written, oral, or audio-visual instruction or guidance concerning the safe usage of the equipment located on the premises; and
- (p) by engaging in a negligent or unreasonable mode of business operation.

29. Defendant, TRAMPOLINE ACQUISITION's above referenced negligence created an unreasonably dangerous condition to invitees in its premises which was not apparent to customers, and as such created a latent danger.

30. Defendant, TRAMPOLINE ACQUISITION, had actual or constructive knowledge of the dangerous condition existing on its premises caused by its own acts and omissions as set forth above.

31. As a direct and proximate result of the negligent conduct of Defendant, TRAMPOLINE ACQUISITION, Plaintiff, GARY A. McCLAIN, JR., sustained a permanent bodily injury, suffering a bilateral tendon rupture, resulting in pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life and loss of earning capacity in the future. These injuries and losses are permanent and continuing in nature and Plaintiff, GARY A. McCLAIN, JR., will suffer the losses and impairments in the future.

32. Additionally, as a direct and proximate result of Defendant, TRAMPOLINE ACQUISITION's negligence, Plaintiff, GARY A. McCLAIN, JR. incurred expenses for hospitalization, medical, nursing care and treatment.

WHEREFORE, Plaintiff, GARY A. McCLAIN, JR., demands judgment against Defendant, TRAMPOLINE ACQUISITION, for compensatory damages, taxable costs, and such other relief as this Court may deem just and proper. Plaintiff, GARY A. McCLAIN, JR., also demands trial by jury on all issues.

COUNT III – NEGLIGENCE OF DEFENDANT FLYING PANDA FLORIDA, LLC
d/b/a DEFY PALM SPRINGS

33. Plaintiffs re-allege and incorporate herein all the factual allegations set forth in paragraphs 1 through 32 above.

34. On or about April 26, 2022, Plaintiff, GARY A. McCLAIN, JR., was legally upon the property of the Defendant as a business invite and as a member of the general public that was expressly or impliedly invited upon said premises for the benefit of Defendant, DEFY.

35. On April 26, 2022, Defendant, DEFY, owed a duty to business invitees, including Plaintiff, GARY A. McCLAIN, JR., to maintain its premises in a reasonably safe condition, including among other things, to use reasonable care in the ownership, operation, supervision, management, maintenance, and control of the trampoline courts in its premises.

36. Additionally, Defendant, DEFY, owed a duty to warn business invitees of latent dangerous conditions on its premises that it was aware of, or should have been aware of with the exercise of reasonable care in the inspection, maintenance, supervision and operation of its business, including latent or potentially hidden dangers associated with the use of Defendant's facility which Defendant was aware of or should have been aware of due to its expertise and knowledge within the trampoline park industry.

37. Defendant, DEFY, breached its duty to warn Plaintiff, GARY A. McCLAIN, JR., of the latent dangerous conditions existing on its premises which occurred with regularity and were therefore foreseeable.

38. On April 26, 2022, Defendant, through its agents, servants and employees, while acting within the scope and course of their agency or employment, negligently breached the duty owed to invitees in one or more of the following ways:

- (a) by failing to operate the equipment area in a reasonably safe manner;

- (b) by failing to establish appropriate procedures, rules and regulations for the employees to follow in addressing foreseeable dangerous usage of equipment by invitees;
- (c) by failing to establish appropriate safety rules and regulations for the use of equipment;
- (d) by failing to enforce the equipment manufacturer's rules and prohibitions in accordance with the equipment's instruction manuals;
- (e) by failing to establish or implement appropriate procedures to ensure that employees were trained to provide appropriate instruction and warning to invitees with regard to the safe and proper use of equipment;
- (f) by failing to supervise and/or adequately supervise and control the conduct of employees in and about enforcement of safety rules and regulations in effect;
- (g) by failing to provide an adequate number of qualified and sufficiently trained employees to properly supervise individuals utilizing the equipment;
- (h) by failing to train and educate employees in the recognition and prevention of unsafe practices with regard to the use of the equipment;
- (i) by failing to apprise invitees of safety rules and regulations before allowing them on equipment;
- (j) by failing to enforce its own safety rules and regulations;
- (k) by failing to hire qualified court monitors, referees, and/or supervisors to ensure the safety of individuals using the equipment on the premises;

- (l) by failing to properly and/or adequately train court monitors, referees, and/or supervisors in the appropriate use and inappropriate misuse of the equipment on the premises;
- (m) by allowing and authorizing numerous invitees of various ages and sizes to use the equipment at the same time;
- (n) by failing to notify and/or warn invitees of safety hazards associated with the use of the equipment;
- (o) by failing to provide adequate written, oral, or audio-visual instruction or guidance concerning the safe usage of the equipment located on the premises; and
- (p) by engaging in a negligent or unreasonable mode of business operation.

39. Defendant, DEFY's above referenced negligence created an unreasonably dangerous condition to invitees in its premises which was not apparent to customers, and as such created a latent danger.

40. Defendant, DEFY, had actual or constructive knowledge of the dangerous condition existing on its premises caused by its own acts and omissions as set forth above.

41. As a direct and proximate result of the negligent conduct of Defendant, DEFY, Plaintiff, GARY A. McCLAIN, JR., sustained a permanent bodily injury, suffering a bilateral tendon rupture, resulting in pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life and loss of earning capacity in the future. These injuries and losses are permanent and continuing in nature and Plaintiff, GARY A. McCLAIN, JR, will suffer the losses and impairments in the future.

42. Additionally, as a direct and proximate result of Defendant, DEFY's negligence, Plaintiff, GARY A. McCLAIN, JR. incurred expenses for hospitalization, medical, nursing care and treatment.

WHEREFORE, Plaintiff, GARY A. McCLAIN, JR., demands judgment against Defendant, DEFY, for compensatory damages, taxable costs, and such other relief as this Court may deem just and proper. Plaintiff, GARY A. McCLAIN, JR., also demands trial by jury on all issues.

COUNT IV – GROSS NEGLIGENCE OF DEFENDANT
CIRCUSTRIX HOLDINGS, LLC

43. Plaintiff, GARY A. McCLAIN, JR., re-alleges and incorporates herein all of the factual allegations set forth in paragraphs 1 through 42 above.

44. On April 26, 2022, Defendant, CIRCUSTRIX, through its agents, servants and/or employees, while acting within the scope and course of such agency or employment, breached a duty of care owed to the Plaintiff, GARY A. McCLAIN, JR., by willfully, wantonly and/or intentionally committing one or more of the following acts:

- (a) Failing to correct a dangerous condition that it knew to have existed based upon prior incidences;
- (b) Failing to warn Plaintiff about the above referenced dangerous condition that it knew of due to its familiarity and expertise in the trampoline park industry;
- (c) Failing to remedy a known dangerous condition that occurred with regularity and that was therefore foreseeable. Other persons have suffered the same or similar incidences and injuries at Defendant, CIRCUSTRIX,

when utilizing the equipment used by Plaintiff, GARY A. McCLAIN, JR., on the date of the subject incident;

- (d) Failing to properly and adequately train its employees in the proper methods of safety, inspections and/or warning about a dangerous condition that Defendant, CIRCUSTRIX, knew existed and that was therefore foreseeable and preventable;
- (e) Failing to train its employees to properly instruct, and supervise business invitees/participants, including Plaintiff, GARY A. McCLAIN, JR., on the equipment at Defendant, CIRCUSTRIX;
- (f) Creating a condition by its business activities and the activities of its agents, servants and/or employees, including failing to follow known company and industry safety policies and procedures evidencing a reckless disregard for the safety and well-being of its business invitees, including Plaintiff, GARY A. McCLAIN, JR.; and
- (g) By engaging in a reckless and unreasonable mode of business operation including but not limited to, failing to follow known company and industry safety policies and procedures evidencing a reckless disregard for the safety and well-being of its business invitees, including Plaintiff, GARY A. McCLAIN, JR.

45. As a direct and proximate result of the negligent conduct of Defendant, CIRCUSTRIX, Plaintiff, GARY A. McCLAIN, JR., sustained a permanent bodily injury, including suffering a bilateral tendon rupture resulting in pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life and loss of earning capacity in the future. These

injuries and losses are permanent and continuing in nature and Plaintiff, GARRY A. McCLAIN, JR., will suffer the losses and impairments in the future.

46. Additionally, as a direct and proximate result of Defendant, CIRCUSTRIX's negligence, Plaintiff, GARY A. McCLAIN, JR., incurred expenses for hospitalization, medical, nursing care and treatment.

WHEREFORE, Plaintiff, GARY A. McCLAIN, JR., demands judgment against Defendant, CIRCUSTRIX, for compensatory damages, taxable costs, and such other relief as this Court may deem just and proper. Plaintiff, GARY A. McCLAIN, JR., also demands trial by jury on all issues.

**COUNT V – GROSS NEGLIGENCE OF DEFENDANT
TRAMPOLINE ACQUISITION PARENT HOLDINGS, LLC**

47. Plaintiff, GARY A. McCLAIN, JR., re-alleges and incorporates herein all of the factual allegations set forth in paragraphs 1 through 46 above.

48. On April 26, 2022, Defendant, TRAMPOLINE ACQUISITION, through its agents, servants and/or employees, while acting within the scope and course of such agency or employment, breached a duty of care owed to the Plaintiff, GARY A. McCLAIN, JR., by willfully, wantonly and/or intentionally committing one or more of the following acts:

- (a) Failing to correct a dangerous condition that it knew to have existed based upon prior incidences;
- (b) Failing to warn Plaintiff about the above referenced dangerous condition that it knew of due to its familiarity and expertise in the trampoline park industry;
- (c) Failing to remedy a known dangerous condition that occurred with regularity and that was therefore foreseeable. Other persons have suffered

the same or similar incidences and injuries at Defendant, TRAMPOLINE ACQUISITION, when utilizing the equipment used by Plaintiff, GARY A. McCLAIN, JR., on the date of the subject incident;

- (d) Failing to properly and adequately train its employees in the proper methods of safety, inspections and/or warning about a dangerous condition that Defendant, TRAMPOLINE ACQUISITION, knew existed and that was therefore foreseeable and preventable;
- (e) Failing to train its employees to properly instruct, and supervise business invitees/participants, including Plaintiff, GARY A. McCLAIN, JR., on the equipment at Defendant, TRAMPOLINE ACQUISITION;
- (f) Creating a condition by its business activities and the activities of its agents, servants and/or employees, including failing to follow known company and industry safety policies and procedures evidencing a reckless disregard for the safety and well-being of its business invitees, including Plaintiff, GARY A. McCLAIN, JR.; and
- (g) By engaging in a reckless and unreasonable mode of business operation including but not limited to, failing to follow known company and industry safety policies and procedures evidencing a reckless disregard for the safety and well-being of its business invitees, including Plaintiff, GARY A. McCLAIN, JR.

49. As a direct and proximate result of the negligent conduct of Defendant, TRAMPOLINE ACQUISITION, Plaintiff, GARY A. McCLAIN, JR., sustained a permanent bodily injury, including suffering a bilateral tendon rupture resulting in pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life and loss of earning capacity

in the future. These injuries and losses are permanent and continuing in nature and Plaintiff, GARRY A. McCLAIN, JR., will suffer the losses and impairments in the future.

50. Additionally, as a direct and proximate result of Defendant, TRAMPOLINE ACQUISITION's negligence, Plaintiff, GARY A. McCLAIN, JR., incurred expenses for hospitalization, medical, nursing care and treatment.

WHEREFORE, Plaintiff, GARY A. McCLAIN, JR., demands judgment against Defendant, TRAMPOLINE ACQUISITION, for compensatory damages, taxable costs, and such other relief as this Court may deem just and proper. Plaintiff, GARY A. McCLAIN, JR., also demands trial by jury on all issues.

COUNT VI – GROSS NEGLIGENCE OF DEFENDANT
FLYING PANDA FLORIDA, LLC d/b/a DEFY PALM SPRINGS

51. Plaintiff, GARY A. McCLAIN, JR., re-alleges and incorporates herein all of the factual allegations set forth in paragraphs 1 through 50 above.

52. On April 26, 2022, Defendant, DEFY, through its agents, servants and/or employees, while acting within the scope and course of such agency or employment, breached a duty of care owed to the Plaintiff, GARY A. McCLAIN, JR., by willfully, wantonly and/or intentionally committing one or more of the following acts:

- (a) Failing to correct a dangerous condition that it knew to have existed based upon prior incidences;
- (b) Failing to warn Plaintiff about the above referenced dangerous condition that it knew of due to its familiarity and expertise in the trampoline park industry;
- (c) Failing to remedy a known dangerous condition that occurred with regularity and that was therefore foreseeable. Other persons have suffered

the same or similar incidences and injuries at Defendant, DEFY, when utilizing the equipment used by Plaintiff, GARY A. McCLAIN, JR., on the date of the subject incident;

- (d) Failing to properly and adequately train its employees in the proper methods of safety, inspections and/or warning about a dangerous condition that Defendant, DEFY, knew existed and that was therefore foreseeable and preventable;
- (e) Failing to train its employees to properly instruct, and supervise business invitees/participants, including Plaintiff, GARY A. McCLAIN, JR., on the equipment at Defendant, DEFY;
- (f) Creating a condition by its business activities and the activities of its agents, servants and/or employees, including failing to follow known company and industry safety policies and procedures evidencing a reckless disregard for the safety and well-being of its business invitees, including Plaintiff, GARY A. McCLAIN, JR.; and
- (g) By engaging in a reckless and unreasonable mode of business operation including but not limited to, failing to follow known company and industry safety policies and procedures evidencing a reckless disregard for the safety and well-being of its business invitees, including Plaintiff, GARY A. McCLAIN, JR.

53. As a direct and proximate result of the negligent conduct of Defendant, DEFY, Plaintiff, GARY A. McCLAIN, JR., sustained a permanent bodily injury, including suffering a bilateral tendon rupture resulting in pain and suffering, disability, mental anguish, loss of capacity for the enjoyment of life and loss of earning capacity in the future. These injuries and losses are

permanent and continuing in nature and Plaintiff, GARRY A. McCLAIN, JR., will suffer the losses and impairments in the future.

54. Additionally, as a direct and proximate result of Defendant, DEFY's negligence, Plaintiff, GARY A. McCLAIN, JR., incurred expenses for hospitalization, medical, nursing care and treatment.

WHEREFORE, Plaintiff, GARY A. McCLAIN, JR., demands judgment against Defendant, DEFY, for compensatory damages, taxable costs, and such other relief as this Court may deem just and proper. Plaintiff, GARY A. McCLAIN, JR., also demands trial by jury on all issues.

**COUNT VII – LOSS OF CONSORTIUM OF JENNIFER McCLAIN
AGAINST CIRCUSTRIX HOLDINGS, LLC**

55. Plaintiff, JENNIFER McCLAIN, realleges the allegations set forth in paragraphs 1 through 54 above and incorporates such allegations herein.

56. At all times material, Plaintiff, JENNIFER McCLAIN, was and is the wife of Plaintiff, GARY A. McCLAIN, JR.

57. As a direct and proximate result of the negligence of Defendant, CIRCUSTRIX HOLDINGS, LLC, as set forth and described above, Plaintiff, JENNIFER McCLAIN, has lost the companionship, comfort, services, and consortium of her husband, GARY A. McCLAIN, JR., and these damages are permanent and continuing in nature.

WHEREFORE, Plaintiff, JENNIFER McCLAIN, respectfully requests judgment against Defendant, CIRCUSTRIX HOLDINGS, LLC, for damages, together with the cost of suit, and such other relief as this Court may deem proper and demands a jury trial on all issues so triable.

**COUNT VIII – LOSS OF CONSORTIUM OF JENNIFER McCLAIN
AGAINST TRAMPOLINE ACQUISITION PARENT HOLDINGS, LLC**

58. Plaintiff, JENNIFER McCLAIN, realleges the allegations set forth in paragraphs 1 through 57 above and incorporates such allegations herein.

59. At all times material, Plaintiff, JENNIFER McCLAIN, was and is the wife of Plaintiff, GARY A. McCLAIN, JR.

60. As a direct and proximate result of the negligence of Defendant, TRAMPOLINE ACQUISITION PARENT HOLDINGS, LLC, as set forth and described above, Plaintiff, JENNIFER McCLAIN, has lost the companionship, comfort, services, and consortium of her husband, GARY A. McCLAIN, JR., and these damages are permanent and continuing in nature.

WHEREFORE, Plaintiff, JENNIFER McCLAIN, respectfully requests judgment against Defendant, TRAMPOLINE ACQUISITION PARENT HOLDINGS, LLC, for damages, together with the cost of suit, and such other relief as this Court may deem proper and demands a jury trial on all issues so triable.

**COUNT IX– LOSS OF CONSORTIUM OF JENNIFER McCLAIN
AGAINST FLYING PANDA FLORIDA, LLC, d/b/a DEFY PALM SPRINGS**

61. Plaintiff, JENNIFER McCLAIN, realleges the allegations set forth in paragraphs 1 through 60 above and incorporates such allegations herein.

62. At all times material, Plaintiff, JENNIFER McCLAIN, was and is the wife of Plaintiff, GARY A. McCLAIN, JR.

63. As a direct and proximate result of the negligence of Defendant, FLYING PANDA FLORIDA, LLC, d/b/a DEFY PALM SPRINGS, as set forth and described above, Plaintiff, JENNIFER McCLAIN, has lost the companionship, comfort, services, and consortium of her husband, GARY A. McCLAIN, JR., and these damages are permanent and continuing in nature.

WHEREFORE, Plaintiff, JENNIFER McCLAIN, respectfully requests judgment against Defendant, FLYING PANDA FLORIDA, LLC, d/b/a DEFY PALM SPRINGS, for damages, together with the cost of suit, and such other relief as this Court may deem proper and demands a jury trial on all issues so triable.

DEMAND FOR JURY TRIAL

The Plaintiffs demand trial by jury of all issues raised in this action.

Dated this 4th day of February, 2026.

ABBOTT LAW GROUP, P.A.

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