

IN THE CIRCUIT COURT FOR ORANGE COUNTY, FLORIDA

EMMA McGUINNESS and  
EDWARD McGUINNESS,

Plaintiffs,

vs.

WALT DISNEY PARKS AND RESORTS  
U.S., INC., d/b/a TYPHOON LAGOON,

Defendant.

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CASE NO.

DIVISION:

**COMPLAINT**

Plaintiffs, Emma McGuinness and Edward McGuinness, by and through their undersigned attorneys, sues defendant, Walt Disney Parks and Resorts U.S., Inc. d/b/a Typhoon Lagoon (“Disney”), and allege as follows:

**COUNT ONE**  
**(Negligence)**

1. This is an action for damages exceeding \$50,000, exclusive of interest and costs.
2. At all times material hereto, defendant, Walt Disney Parks and Resorts U.S., Inc. d/b/a Typhoon Lagoon, is and has been a Florida corporation authorized and doing business in Lake Buena Vista, Orange County, Florida.
3. In and prior to 2019, Disney owned, operated, and managed a water theme park in Lake Buena Vista known as Typhoon Lagoon. The park, which opened on June 1, 1989, is home to one of the world's largest outdoor wave pools and a variety of water-themed rides and venues.
4. One of the water rides at Typhoon Lagoon is a large, high speed, water slide known as “Humunga Kowabunga” (“The Slide”). The Slide consists of three, 214-foot, side-by-side enclosed body slides in which riders plummet down a near-vertical 5-story drop in the dark,

reaching speeds approaching 40 miles per hour. Unlike other slide rides at Typhoon Lagoon, riders of the Humunga Kowabunga use the slide without a raft or tube.

5. The Slide itself is kept wet with a film of water that cascades down from the top of The Slide to reduce friction and to cause riders to travel down The Slide at high speeds. The ride is designed and intended for riders to slide along The Slide without bouncing and without their body losing contact with The Slide itself. At the bottom of The Slide, riders slide into a pool of water to rapidly stop them. At the top of The Slide, riders are instructed to cross their legs at the ankles. Riders are not told why their ankles need to be crossed, the importance of doing so, or the risks of injury if one's ankles become uncrossed.

6. Whether ankles are crossed or not, riding down The Slide carries with it specific risks about which Disney knew or, in the exercise of reasonable care, should have known. These risks are not disclosed by Disney to its guests and were not disclosed to Ms. McGuinness. Specifically, when a rider of The Slide reached the bottom of the ride and traveled into the pool of water designed to stop further travel, the force of the water can push loose garments into a person's anatomy – an event known as a “wedgie.” Because of a woman's anatomy, the risk of a painful “wedgie” is more common and more serious than it is for a man.

7. The standing water at the bottom of The Slide, however, creates a much greater risk of injury when a rider slams into it at the end of The Slide and is brought to a quick stop. In the absence of appropriate swimwear or protective clothing, when a rider impacts the water at the end of The Slide, the forward speed of the rider can cause water to be forced inside the body. Because of their particular anatomy, and as a consequence of the type of swimwear women frequently wear, the risk of water being forced inside their body is greater than it is for men.

8. When water is forcefully pushed inside a person's body it carries the risk of injuring internal organs and causing great pain. Because of their particular anatomy, the risk of injury as a consequence of water being forced inside a woman's body is far greater than it is for a man.

9. Disney does not warn women of their increased risk of injury while using The Slide and Ms. McGuinness was not warned that she was at an increased risk of injury because of her gender or the clothes that she wore.

10. The risk of injury to a rider's genitalia and internal organs can be eliminated by using shorts or other protective clothing to act as a barrier and to prevent clothing or water from being forced inside his or her body when slammed into the pool of water at the end of The Slide. Disney does not instruct riders to wear protective clothing, does not make such protective shorts available to riders, and does not warn riders of the risk of injury if protective clothing is not worn while using The Slide.

11. The risk of injurious "wedgies," the risk of water being forced inside a rider's body, and the risk of injury as a result is lessened, but not eliminated, if a rider tightly crosses his or her legs while using The Slide. The heavier a person is, the greater the risk of injurious "wedgies" and the greater the risk of water being violently forced inside one's body.

12. In October, 2019, the McGuinness family traveled to Orlando to enjoy two weeks at Walt Disney World, in part, to celebrate Ms. McGuinness' 30<sup>th</sup> birthday. On October 14, 2019, Plaintiff, Emma McGuinness and her family were guests and business invitees at Typhoon Lagoon. While at Typhoon Lagoon, Emma McGuinness, along with her mother and young daughter, decided to ride the Humunga Kowabunga water slide.

13. At the top of The Humunga Kowabunga, Ms. McGuinness assumed the appropriate position to ride The Slide, as instructed, and then began her travel down The Slide to the pool of water some 214 feet below. She was wearing swimwear of the type depicted as Exhibit A.

14. As Ms. McGuinness neared the end of The Slide, her body lifted up, she became airborne, and she was slammed downward against The Slide – which increased the likelihood of her legs becoming uncrossed or otherwise exposing herself to injury in using The Slide.

15. The impact of The Slide and her impact into the standing water at the bottom of The Slide caused Ms. McGuinness' clothing to be painfully forced between her legs and for water to be violently forced inside her. She experienced immediate and severe pain internally and, as she stood up, blood began rushing from between her legs. She was transported to a local hospital by ambulance for medical care and treatment and eventually transported to another hospital for the repair of her gynecologic injuries by a specialist.

16. Had Ms. McGuinness been offered protective clothing to prevent water and her swimwear from being forced inside her body, she would have worn it.

17. Had Ms. McGuinness been warned by Disney that in using The Slide with the swimwear she had, there was a risk that doing so could result in her clothing being forced inside her, causing a painful wedgie and, more significantly, that in using the ride as intended and as instructed by Disney, there was a risk of injury to her genitalia and internal organs by the possibility of water being violently forced inside her, then she would not have ridden the Humunga Kowabunga.

18. Ms. McGuinness did not know of the unsafe and dangerous condition of The Slide or the substantial and significant risks attendant to using The Slide, which risks were known, or with the exercise of reasonable care, should have been known by Disney. Ms. McGuinness at all times believed The Slide to be safe for her use, with the swimwear she wore, and without the risk of sustaining the injuries described herein.

19. Disney owed a duty of reasonable care to Ms. McGuinness, a duty to operate and maintain the Humunga Kowabunga in a reasonably safe condition for use by riders such as Ms. McGuinness, and a duty to warn her and other guests of latent or concealed dangers in using The Slide which were or should have been known to Disney.

20. The Slide was unsafe and unreasonably dangerous to Ms. McGuinness and other patrons because it failed to meet the expectations of a reasonable consumer, including Ms.

McGuinness, because it failed to perform safely as an ordinary consumer would expect when used as intended or in a manner reasonably expected by Disney.

21. Defendant was negligent and breached its duties of reasonable care owed to Ms.

McGuinness by:

- a. failing to provide Ms. McGuinness and other patrons with proper protective clothing or equipment necessary to ride The Slide, and protect them from injury as described herein.
- b. failing to warn Ms. McGuinness of the inherent dangers presented to her, and to women in general, of riding The Slide as described above;
- c. failing to adequately maintain and inspect the slide to prevent patrons, including Ms. McGuinness, from becoming airborne during a descent down The Slide;
- d. creating and failing to make safe, the defective and unreasonably dangerous condition that caused Ms. McGuinness to become airborne during her descent down The Slide; and to be injured as described herein.
- e. designing, constructing, operating, and maintaining the Humunga Kowabunga so that a pool of water was used as a means of slowing a riders' speed following his or her rapid decent down The Slide.

22. As a direct and proximate result of Disney's negligence and of Ms. McGuinness using The Slide as designed, intended and reasonably foreseeable and as a result water being forced between her legs and into her body, Ms. McGuinness suffered severe and permanent bodily injury including severe vaginal lacerations, a full thickness laceration causing Plaintiff's bowel to protrude through her abdominal wall, and damage to her internal organs.

23. As a direct and proximate result of the negligence of the Defendant, Ms. McGuinness suffered bodily injury resulting in pain and suffering, scarring, mental anguish, loss of the capacity of enjoyment of life, expense of hospitalization and medical care, and loss of earnings; all of which injuries are either permanent or continuing in nature.

**COUNT TWO**  
**(Loss of Consortium)**

24. Plaintiff, Edward McGuinness, realleges paragraphs 1 through 23.

25. At the time of Ms. McGuinness' injuries described above, Edward McGuinness, was and continues to be her lawful spouse.

26. As a direct and proximate result of Disney's negligence as described above, Edward McGuinness has suffered loss of his wife's care, comfort, consortium, support and services.

WHEREFORE, plaintiffs, Emma McGuinness and Edward McGuinness, sue defendant, Walt Disney Parks and Resorts U.S. Inc. d/b/a Typhoon Lagoon, for compensatory damages and taxable costs and demand a trial by jury of all issues triable as of right by a jury.

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EXHIBIT  
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