

FILED

IN THE TWENTY-SEVENTH JUDICIAL DISTRICT
DISTRICT COURT, RENO COUNTY, KANSAS
CIVIL DIVISION

CLERK OF DISTRICT COURT
RENO COUNTY KANSAS

BY _____

GABRIEL H. PETERS, a minor, by and through
his Next Friends, Casey Leah Peters and Timothy
W. Peters, CASEY LEAH PETERS, individually,
and TIMOTHY W. PETERS, individually,

Plaintiffs,

-vs-

CHECKERED FLAG PRODUCTIONS, INC.,
a foreign corporation, NORTH AMERICAN
RACING ASSOCIATION, a foreign corporation;
THE STATE OF KANSAS, and THE CITY OF
HUTCHINSON, KANSAS,

Defendants.

Case No. 02-C-0045

JURY TRIAL DEMANDED

ATTORNEY LIEN CLAIMED

Pursuant to K.S.A. Chapter 60

PLAINTIFFS' SECOND AMENDED PETITION

Plaintiffs GABRIEL H. PETERS, a minor, by and through his Next Friends, Casey Leah Peters and Timothy W. Peters, CASEY LEAH PETERS, individually, and TIMOTHY W. PETERS, individually, for their second amended petition against the above-named defendants, allege and state as follows:

1. Plaintiff GABRIEL H. PETERS is a minor born on April 7, 1998. Mr. Peters resides with his mother, Casey Leah Peters, in Reno County, Kansas.
2. Plaintiff CASEY LEAH PETERS is an adult individual residing in Reno County, Kansas. Mrs. Peters is the natural mother and next friend of the minor plaintiff, Gabriel H. Peters.
3. Plaintiff TIMOTHY W. PETERS is an adult individual residing in Reno County, Kansas. Mr. Peters is also the natural father and next friend of the minor plaintiff, Gabriel H. Peters.

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4. Defendant CHECKERED FLAG PRODUCTIONS, INC., is a foreign corporation with its principal place of business located in the State of Texas.

5. Defendant NORTH AMERICAN RACING ASSOCIATION is a foreign business entity with its principal place of business located in the State of Missouri.

6. The Kansas State Fair Board ("State Fair Board") is an agency of defendant THE STATE OF KANSAS. The State Fair Board owns, leases, controls, and/or operates the Kansas State Fair grounds and facilities located in Hutchinson, Reno County, Kansas. Defendant THE STATE OF KANSAS is the necessary and indispensable party with the power to sue and be sued on behalf of the activities of the State Fair Board.

7. Defendant THE CITY OF HUTCHINSON, KANSAS is a municipality located in Reno County, Kansas.

8. On June 24, 2000, defendants permitted, allowed, planned, prepared, organized, promoted, sponsored and produced a "monster truck rally" at the Kansas State Fairgrounds in Reno County, Kansas. This event featured the display and operation of modified vehicles, known as "Big Foot," "Krimson Krusher" and "Team Beast," for spectators' entertainment. This event attracted several thousand individuals to the Kansas State Fairgrounds as spectators and patrons.

9. Due to their role in permitting, allowing, planning, preparing, organizing, promoting, sponsoring and producing this "monster truck rally," defendants had a duty to exercise ordinary care for the safety of the person and property of others. It was foreseeable, to defendants, that the concentration of thousands of individuals, for such an event, would pose a foreseeable risk of accident and injury, caused by automobiles colliding with patrons, if defendants failed to exercise reasonable care in providing traffic control measures. Defendants' foreseeability of accident and injury imposed a duty upon defendants to exercise ordinary care in providing traffic control measures to prevent injury to its patrons and others on or near the fairgrounds.

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10. Defendants negligently and wrongfully failed to provide adequate traffic safety, security and control measures to safeguard spectators at the event. Defendants were negligent in permitting, allowing, planning, preparing, organizing, promoting, sponsoring and producing the “monster truck rally” which resulted in a concentrated stream of traffic entering, exiting and passing the fairgrounds at a single point, with pedestrians and vehicles, without adequate traffic controls.

11. Plaintiff Timothy W. Peters took his minor son, plaintiff Gabriel H. Peters, to defendants’ “monster truck rally” at the Kansas State Fairgrounds on June 24, 2000.

12. Following the “monster truck rally,” Mr. Peters and his minor son left the arena to go to Mr. Peters’ automobile. As they departed, Mr. Peters carried his minor son east toward the public parking lot across Plum Street.

13. While Mr. Peters carried his son through the crosswalk, an unidentified driver, presumably another spectator at defendants’ event, in a white Dodge pickup recklessly exited the parking lot, turning left to go south, with excessive acceleration. At that same time, another driver who had been a spectator at defendants’ event, was driving north on Plum. This other driver, Michael E. Root, turned his head to watch the accelerating white truck pass on his left just as Mr. Root was approaching the cross walk on Plum Street.

14. Mr. Root struck Mr. Peters in the Plum Street cross walk. The impact threw Mr. Peters onto the windshield and dislodged his minor son from his arms. The minor plaintiff, Gabriel, was hurtled through the air before striking the paved road with his head. Mr. Peters was also thrown to the ground. The impact with the vehicle and the ground caused Mr. Peters and his son to suffer severe and permanent personal injuries.

15. As a result of defendants’ negligent and wrongful acts, plaintiff Gabriel H. Peters suffered severe and permanent personal injuries, including traumatic brain injury. These injuries have caused the minor plaintiff to suffer damages including medical expenses, pain, suffering,

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disability, disfigurement and mental anguish in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.00). His natural parents, Casey Leah Peters and Timothy W. Peters, assert these claims for damages individually and as next friends of their minor son, Gabriel H. Peters.

16. As a result of defendants' negligent and wrongful acts, plaintiff Timothy W. Peters suffered severe and permanent personal injuries including broken bones and lacerations. These injuries have caused Mr. Peters to suffer damages including medical expenses, loss of income, pain suffering, disability, disfigurement and mental anguish. These damages exceed Seventy-Five Thousand Dollars (\$75,000.00).

17. Derek S. Casey and Hutton & Hutton Law Firm, L.L.C., pursuant to K.S.A. 7-108, notify the parties of the pendency of an attorney's lien in this action.

WHEREFORE, plaintiffs GABRIEL H. PETERS, a minor, by and through his Next Friends, Casey Leah Peters and Timothy W. Peters, CASEY LEAH PETERS, individually, and TIMOTHY W. PETERS, individually, demand judgment of and from defendants in an amount exceeding Seventy-five Thousand Dollars (\$75,000.00), with such other and further relief as the Court may deem just and equitable.

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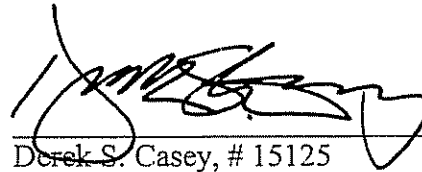
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Respectfully submitted,

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Derek S. Casey, # 15125

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Certificate of Service

I certify that on the 19th day of June, 2002, a true and correct copy of this document was delivered by first class mail, postage prepaid, to the following:

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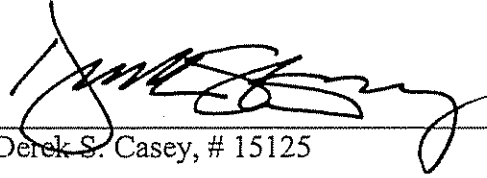
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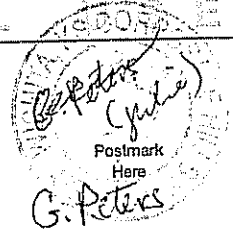
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