

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

**ARTHUR MILLER and
Wife, CAROL MILLER,**

Plaintiffs,

vs.

Civil Action No.: _____

Jury Demand

**THE DOLLYWOOD COMPANY,
a joint venture between
DOLLY PARTON PRODUCTIONS,
INC., AND
SILVER DOLLAR CITY, INC.**

Defendants.

COMPLAINT

Come Arthur and Carol Miller and sue the Dollywood Company, Dolly Parton Productions, Inc. and Silver Dollar City, Inc.(hereinafter referred to as "Defendants"), stating for causes of action the following:

1. Arthur and Carol Miller are citizens and residents of Booneville, Mississippi.
2. The Dollywood Company, Inc. is a joint venture between Dolly Parton Productions, Inc., a California corporation authorized to do business in the State of Tennessee, and Silver Dollar City, Inc., a Missouri corporation authorized to do business in the State of

Tennessee. The Defendants own, operate, and maintain DOLLYWOOD, an entertainment park located in Pigeon Forge, Sevier County, Tennessee.

3. This Court has full and complete jurisdiction pursuant to 28 U.S.C. Section 1332, because the parties herein have complete diversity of citizenship and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

4. Venue in this action is proper pursuant to 28 U.S.C. 1391(a), because the accident resulting in the claims asserted herein occurred in Pigeon Forge, Sevier County, Tennessee.

5. The incident which is the subject of this lawsuit occurred on or about June 29, 2000 at Dollywood while the Plaintiff, Arthur Miller, was riding on a roller coaster type ride, "Blazing Fury". The original claim was filed in Tennessee State Court, in the Circuit Court for Sevier County, Tennessee, Cause Number 2001-427-IV on June 21, 2001. The herein-referenced Tennessee State Court action was non-suited pursuant to an Agreed Order of Voluntary Dismissal filed with the Circuit Court Clerk of Sevier County on September 29, 2004.

6. In June, 2000, Arthur and Carol Miller and their children were on vacation, and on June 29, 2000, Arthur Miller and two of his children visited Defendants' amusement park.

7. While visiting the park, Arthur Miller's children wanted to ride on the Blazing Fury, a roller coaster type ride featured at Defendants' amusement park.

8. The Blazing Fury is an amusement ride which is owned, operated and maintained by the Defendants.

9. The Blazing Fury is a ride with sudden, unexpected drops and turns in the dark. Riders are unable to anticipate or brace for unexpected drops, turns or jolts which occur during the ride.

10. After buying tickets and entering Defendants' amusement park, Arthur Miller and his children rode on the Blazing Fury. During the course of the ride while in the dark, the Blazing Fury entered a tunnel and while in the dark, took an unexpected, drop which jerked Arthur Miller's neck and caused his neck to pop.

11. The Blazing Fury was the only roller coaster type ride taken by Arthur Miller's at the Defendants' amusement park. After the Blazing Fury ride had been completed, Arthur Miller complained about his neck and soon thereafter developed a headache.

12. On June 30, 2000, Arthur Miller developed severe vertigo and nausea. On July 2, 2000, after seeking treatment at a walk-in clinic on July 1, 2000, Arthur Miller laid down in the back of the family van while his daughter drove the family back to their home in Mississippi. During the return trip, Arthur Miller had severe pain in the back of his head, vertigo and nausea.

13. On July 2, 2000, Arthur Miller went to the emergency room of the North Mississippi Medical Center. He was admitted to the hospital and was subsequently diagnosed as having a right cerebellar mass and cerebellar infarction. Arthur Miller's ride on the Blazing Fury had caused him to have debilitating strokes.

14. As the owner of the premises where the Blazing Fury operated, Defendants held out to the public that they owned or controlled the Blazing Fury amusement ride and in fact owned and controlled this ride. The operation of the Blazing Fury inured to Defendants' financial benefit because patrons, such as the Plaintiffs, paid an admission fee to

enter Defendants' amusement park so that they could ride the Blazing Fury and enjoy other amusement rides at the park.

15. Defendants owned and operated the Blazing Fury ride which is a roller coaster type ride. As such, Defendants owed the highest degree of care in regard to the design, construction, maintenance, inspection and repair of the Blazing Fury ride, each of which was breached by Defendants.

16. Defendants had a duty to warn persons lawfully on the Defendants' property of the existence of dangerous conditions and failed to do so.

17. Defendants were on notice due to an independent ride inspection resulting in a "Ride Testing Report" dated June 17, 1999 that recommended modifications to the portions of the track responsible for Plaintiff's injuries. Defendants' failure to follow the direction of the independent inspection of the Blazing Fury ride resulted in Arthur Miller's injuries.

18. Defendants were negligent in that the Blazing Fury ride was designed, or negligently maintained so that unexpected drops occurred in the dark with such severity that a rider's neck and/or head could be snapped or whipped in such a way as to cause brain damage or a stroke.

19. The warnings provided by Defendants for the Blazing Fury rider were inadequate in that they did not advise riders of the possibility that such a ride could cause brain damage or a stroke.

20. Defendants failed to properly inspect and test the Blazing Fury ride to determine that it was safe for patrons and would not cause brain damage or other personal injury.

21. Defendants negligently failed to provide proper and appropriate instructions for the Blazing Fury riders with regard to personal safety.

22. In operating the Blazing Fury ride for profit and making it available to the public, Defendants impliedly warranted or represented to the public that the Blazing Fury ride was safe for the purpose for which it was designed, i.e., as an amusement ride. Defendants breached this implied warranty or representation because the Blazing Fury ride was not safe when ridden by customers such as Arthur Miller and it could and did cause brain damage.

23. The Defendants were guilty of negligence in allowing a dangerous condition to exist on their premises when they knew, or reasonably should have known, of its existence. At all times material the Defendants had actual knowledge, or in the alternative, had constructive notice, that the condition of the Blazing Fury ride needed to be improved, repaired or modified for the protection of the Defendants' patrons. Defendants were guilty of negligence in failing to modify and repair the Blazing Fury ride to provide for the safety of their patrons, or in the alternative, in failing to discontinue the use of the ride until the hazardous conditions of the ride were remedied when it was foreseeable that an injury to a patron could result from their failure to do so.

24. As joint venturers in the operation of the Blazing Fury Ride, the Defendants are liable for the negligence and breach of an implied warranty or representation of the Defendants which occurred in the course and scope of the joint venture.

25. As a result of the Defendants' acts and omissions, Plaintiff, Arthur Miller, sustained painful strokes and severe permanent injuries, incurred past and future medical expenses, sustained permanent loss of earnings and earning capacity, sustained loss of enjoyment of life, has endured and continues to endure physical pain and suffering, and has sustained permanent physical and mental impairments.

26. Plaintiff, Carol Miller, alleges that at all material times herein she was the wife of Plaintiff Arthur Miller and sues for loss of consortium, both tangible services and intangible benefits, which she and her husband enjoyed and would have enjoyed, said tangible benefits including love, affection, attention, caring and companionship, but for her husband's injuries, as a proximate result of the acts and omissions of the Defendants herein.

WHEREFORE, Plaintiff, Arthur Miller, demands judgment against each and all Defendants, jointly and severally, for compensatory damages in the amount of Ten Million Dollars (\$10,000,000.00) and Plaintiff, Carol Miller, demands judgment against each and all Defendants, jointly and severally, for compensatory damages for loss of services and consortium in the amount of Two Million Dollars (\$2,000,000.00), including, but not limited to, pre-judgment interest, post-judgment interest, court costs, discretionary costs, and such other relief as the Court deems appropriate. Plaintiffs demand a jury to try this cause.

RESPECTFULLY SUBMITTED,

s/John A. McReynolds, Jr.

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