

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

HALEY PATTON,

Plaintiff,

v.

ALTIMATE AIR, LLC and PHOENIX  
TRAMPOLINE PARK MANAGEMENT,  
LLC,

Defendants,

KYLE BERK,

Additional Defendant.

CIVIL DIVISION

No. GD 17 – 004878

**AMENDED COMPLAINT**

Filed on Behalf of:  
Plaintiff

Counsel of Record for this Party:

DAVID C. ZIMMARO, ESQUIRE  
PA I.D. #82281

**ZIMMARO LAW GROUP**

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Grant Building, Suite 720  
Pittsburgh, PA 15219

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**JURY TRIAL DEMANDED**

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

HALEY PATTON,	:	CIVIL DIVISION
	:	
Plaintiff,	:	
	:	No. GD 17 – 004878
v.	:	
	:	
ALTIMATE AIR, LLC and PHOENIX	:	
TRAMPOLINE PARK MANAGEMENT,	:	
LLC,	:	
	:	
Defendants,	:	
	:	
KYLE BERK,		
Additional Defendant.		

**NOTICE TO DEFEND**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiffs. You may lose money or property or other rights important to you. **YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

IF YOU CANNOT AFFORD A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ON AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE

The Allegheny County Bar Association  
11<sup>th</sup> Floor Koppers Building  
436 Seventh Ave.  
Pittsburgh, PA 15219  
Telephone: (412) 261-5555

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

HALEY PATTON,	:	CIVIL DIVISION
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Plaintiff,	:	
	:	No. GD 17 – 004878
v.	:	
	:	
ALTIMATE AIR, LLC and PHOENIX	:	
TRAMPOLINE PARK MANAGEMENT,	:	
LLC,	:	
	:	
Defendants,	:	
	:	
KYLE BERK,	:	
	:	
Additional Defendant.	:	

**AMENDED COMPLAINT**

Plaintiff, HALEY PATTON, by and through her attorney, DAVID C. ZIMMARO, Esquire and the law firm of ZIMMARO LAW GROUP files the within Complaint in Civil Action and in support thereof avers as follows:

1. Plaintiff, Haley Patton (hereinafter “Plaintiff”), is an adult individual who resides at 3303 Crestview Drive, North Versailles, Allegheny County, Pennsylvania 15137.
2. Defendant Altimate Air, LLC (hereinafter “Defendant Altimate Air”) is a Pennsylvania Limited Liability Company with a registered business address of 11 Parkway Center, Suite 300, Pittsburgh, Allegheny County, Pennsylvania 15220.
3. Defendant Phoenix Trampoline Park Management, LLC (hereinafter “Defendant Phoenix”) is a Tennessee Limited Liability Company with a registered address of 9111 Cross Park Drive, Suite E 275, Knoxville, Tennessee 37923-4532 registered in Pennsylvania as a foreign business with a service address of c/o Corporation Service Company.

4. Defendant Altimate Air owns and/or operates a facility known as Altimate Air Trampoline Park (hereinafter "Facility"), which is an entertainment complex and trampoline park located in the Pittsburgh Plaza East Shopping Center, 1701 Lincoln Highway, North Versailles, Allegheny County, Pennsylvania 15137.

5. Defendant Phoenix owns, operates and/or manages the Facility referenced above.

6. The Facility is a "for profit" recreational space with more than 50 connected trampolines and other activities for use by its patrons, who are primarily adolescents and teenagers.

7. On January 16, 2016 between 10:00 and 11:00 p.m., Plaintiff, who was 16 years of age, was a business invitee at the Facility.

8. On the above date and time, Plaintiff arrived at the Facility and paid a fee and was invited in to engage in the recreational activities provided, including use of the trampoline area.

9. On the above date and time, when Plaintiff entered the Facility neither she nor anyone she was with was made aware of any promotional activities or special circumstances that were taking place at the Facility.

10. Shortly after arriving at the Facility, Plaintiff began jumping in the trampoline area.

11. On the date and time aforesaid the Facility was being promoted as "teen night" and was very busy and overcrowded.

12. On the date and time aforesaid there were numerous patrons allowed to be jumping in each "trampoline square" in the trampoline area of the Facility.

13. As Plaintiff was jumping in one of the designated trampoline squares, the lights in the Facility were intentionally turned down and/or out causing her to lose her balance and fall down.

14. At the same time that Plaintiff fell, a young male patron, was jumping in the trampoline square adjacent to the Plaintiff and as a direct result of the lights being turned down and/or off, lost his bearings, inadvertently jumping into the air and coming down inside the square next to his, where Plaintiff was located.

15. When the above individual came down inside Plaintiff's square, he landed on or next to her as she was attempting to get up resulting in a fracture to her right leg.

16. After suffering the above injury, Plaintiff was taken out of the Facility on a stretcher and transported by ambulance to UPMC Monroeville/Forbes Regional Hospital.

17. On the above date and time Defendant Altimate Air and Defendant Phoenix owed a duty to the Plaintiff and to all its patron's at the Facility to operate the Facility in a reasonably, prudent and safe manner.

18. Plaintiff on the date and time aforesaid was a business invitee to which Defendant Altimate Air and Defendant Phoenix owed the highest duty of care.

19. On the date and time aforesaid, Defendant Altimate Air and/or Defendant Phoenix by their agents and/or employees intentionally turned the lights down and/or out at the above-identified Facility, while patrons were jumping in the trampoline area.

20. On the date and time aforesaid, the Facility was very busy and had an above average number of patrons therein and in the trampoline area.

### **COUNT I**

### **HALEY PATTON v. ALTIMATE AIR, LLC**

### **NEGLIGENCE**

21. Plaintiff hereby incorporates the above averments of paragraphs 1-20 as if the same were set forthwith at length.

22. The serious injuries and damages sustained by Plaintiff were a direct result of the reckless, grossly negligent, intentional, willful and careless conduct of Defendant Altimate Air, its employees, and/or agents, as more fully described as follows:

- a. turning the lights down and/or off at its Facility, while patrons, including the Plaintiff were engaged in jumping on it trampolines;
- b. failing to warn or advise the patrons, including Plaintiff, they would be turning down and/or off the lights;
- c. in allowing too many individuals simultaneously jumping in the trampoline area of the Facility;
- d. in not providing adequate supervision of patrons, particularly minors while actively engaged in the offered activities;
- e. in conducting dangerous and reckless activities such as turning down and/or off the lights at the Facility;
- f. in having unqualified employees and managers supervising patrons in activities at its Facility;
- g. failing to advise guests of the rules regarding jumping in the trampoline area;
- h. failing to instruct guests not to jump into squares occupied by other guests;
- i. failing to instruct guests to not alter another guest's jump;
- j. failing to ensure guests are aware of rules and have viewed safety videos;
- k. violating its own policies and procedures in not requiring guests to watch a safety video or review any safety rules;
- l. failing to properly monitor the trampoline area;
- m. failing to enforce its own rules related to guests jumping on the trampolines;

- n. failing to reprimand or notify guests of violating rules such as jumping in other guests' squares and altering other guests' jumps;
- o. having no or an inadequate number of staff monitoring the trampoline area;
- p. having untrained and unqualified staff monitoring the trampoline area;
- q. having insufficient lighting to allow staff to see how guests were jumping in the trampoline area; and
- r. using lighting that impaired patrons vision while jumping.

23. As a direct and proximate result of the reckless, grossly negligent, intentional, willful and careless conduct of Defendant Altimate Air, its employees, and/or agents as set forth above, Plaintiff suffered the following injuries, some of which are permanent in nature:

- a. compound fracture of her right leg;
- b. tibia fracture;
- c. fibula fracture;
- d. right leg ligament, tendon, and knee damage;
- e. right leg nerve damage;
- f. right leg numbness;
- g. right leg inflammation;
- h. on-going loss of use and impairment of her right leg.

24. As a further direct and proximate result of the aforesaid conduct of Defendant Altimate Air, its employees, and/or agents Plaintiff has been further damaged as follows:

- a. She has suffered great pain, suffering, inconvenience, embarrassment and mental anguish and will into the future;
- b. She has incurred a great sum of medical expenses;

- c. She has and will in the future be required to spend great sums of money for medical and surgical treatment, hospital care, medicines, drugs and other medical and related expenses;
- d. Ongoing loss of use and impairment; and
- e. She has been deprived of enjoying the ordinary pleasures of life, and will do so into the future.

WHEREFORE, Plaintiff Haley Patton demands judgment against Defendant Altimate Air, LLC in an amount in excess of Fifty Thousand Dollars (\$50,000.00), plus punitive damages, interest and costs.

## **COUNT II**

### **HALEY PATTON v. PHOENIX TRAMPOLINE MANAGEMENT, LLC**

#### **NEGLIGENCE**

25. Plaintiff hereby incorporates the above averments of paragraphs 1-24 as if the same were set forth with at length.

26. The serious injuries and damages sustained by Plaintiff were a direct result of the reckless, grossly negligent, intentional, willful and careless conduct of Defendant Phoenix Trampoline Management, LLC, its employees, and/or agents more fully described as follows:

- a. turning the lights down and/or off at its Facility, while patrons, including the Plaintiff were engaged in jumping on its trampolines;
- b. failing to warn or advise the patrons, including Plaintiff, they would be turning down and/or off the lights;
- c. in allowing too many individuals simultaneously jumping in the trampoline area of the Facility;
- d. in not providing adequate supervision of patrons, particularly minors while actively engaged in the offered activities;



- e. in conducting dangerous and reckless activities such as turning down and/or off the lights at the Facility;
- f. in having unqualified employees and managers supervising patrons in activities at its Facility;
- g. failing to advise guests of the rules regarding jumping in the trampoline area;
- h. failing to instruct guests not to jump into squares occupied by other guests;
- i. failing to instruct guests to not alter another guest's jump;
- j. failing to ensure guests are aware of rules and have viewed safety videos;
- k. violating its own policies and procedures in not requiring guests to watch a safety video or review any safety rules;
- l. failing to properly monitor the trampoline area;
- m. failing to enforce its own rules related to guests jumping on the trampolines;
- n. failing to reprimand or notify guests of violating rules such as jumping in other guests' squares and altering other guests' jumps;
- o. having no or an inadequate number of staff monitoring the trampoline area;
- p. having untrained and unqualified staff monitoring the trampoline area;
- q. having insufficient lighting to allow staff to see how guests were jumping in the trampoline area; and
- r. using lighting that impaired patrons vision while jumping.

27. As a direct and proximate result of the reckless, grossly negligent, intentional, willful and careless conduct of Defendant Phoenix Trampoline Management, LLC, its

employees, and/or agents as set forth above, Plaintiff suffered the following injuries, some of which are permanent in nature:

- a. compound fracture of her right leg;
- b. tibia fracture;
- c. fibula fracture;
- d. right leg ligament, tendon, and knee damage;
- e. right leg nerve damage;
- f. right leg numbness;
- g. right leg inflammation;
- h. on-going loss of use and impairment of her right leg.

28. As a further direct and proximate result of the aforesaid conduct of Defendant Phoenix Trampoline Management, LLC, its employees, and/or agents Plaintiff has been further damaged as follows:

- a. She has suffered great pain, suffering, inconvenience, embarrassment and mental anguish and will into the future;
- b. She has incurred a great sum of medical expenses;
- c. She has and will in the future be required to spend great sums of money for medical and surgical treatment, hospital care, medicines, drugs and other medical and related expenses;
- d. Ongoing loss of use and impairment; and
- e. She has been deprived of enjoying the ordinary pleasures of life, and will do so into the future.

WHEREFORE, Plaintiff Haley Patton demands judgment against Defendant Phoenix Trampoline Management, LLC, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), plus punitive damages, interest and costs.

Respectfully submitted,  
ZIMMARO LAW GROUP,

A handwritten signature in black ink, consisting of several large, overlapping loops and a trailing flourish, positioned above a horizontal line.

By:

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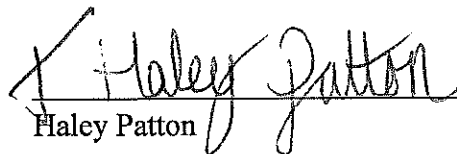
David C. Zimmaro  
*Counsel for Plaintiff*

### VERIFICATION

I, the undersigned, am the Plaintiff, Haley Patton in this matter, and I am represented by counsel. I have furnished to my counsel factual information upon which the foregoing is based. To the extent that it is based on the factual information provided to counsel, I verify that those facts are true and correct to the best of my knowledge, information and belief. However, the language is that of counsel and, to the extent that it goes beyond the factual information, which I have provided, to counsel, I have relied upon counsel in making this verification.

I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

Date: 4/27/18

  
Haley Patton

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing  
**AMENDED COMPLAINT** has been severed by first-class mail, postage prepaid on this  
27<sup>th</sup> day of April, 2018, upon the following individual(s):

Jamie L. Lenzi, Esquire  
Cipriani & Werner, P.C.  
650 Washington Road, Suite 700  
Pittsburgh, PA 15228  
*Counsel for Defendants, Altime Air, LLC and Phonex Trampoline Park Management, LLC*

Rhonda J. Sudina, Esquire  
Robb Leonard & Mulvihill  
2300 One Mellon Bank Center  
Pittsburgh, PA 15219  
*Counsel for Additional Defendant, Kyle Berk*

ZIMMARO LAW GROUP,

By: 

David C. Zimmaro  
*Counsel for Plaintiff*