



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

JOHN PATITUCCI, )  
)  
Plaintiff, ) C.A. No.:  
)  
v. ) TRIAL BY JURY OF  
) TWELVE DEMANDED  
)  
DELAWARE PARK LLC, a Delaware )  
Limited Liability Company, individually )  
and d/b/a DELAWARE PARK RACE )  
TRACK, DELAWARE RACING )  
ASSOCIATION, a Delaware Corporation, )  
JAKE SECOR, and ALEJANDRO REYES, )  
)  
Defendants. )

**COMPLAINT**

1. The Plaintiff, John Patitucci, resides at 515 E. Orchid Road, Wildwood Crest, New Jersey 08260 and is a resident of the State of New Jersey.
2. The Defendant, Delaware Park LLC, is a Delaware Limited Liability Company and service of process can be made through its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.
3. The Defendant, Delaware Racing Association, is a Delaware company and service can be made through its registered agent.
4. The Defendant, Jake Secor, resides at or has a principal place of business at 506 Training Center Lane, Elkton, MD 21921 and at all relevant times was the servant, agent or employee of one or more Defendants.

5. The Defendant, Alejandro Reyes, resides at or has a principal place of business at 1300 North Park Road, Hollywood, Florida 33021 and at all relevant times was the servant, agent or employee of one or more Defendants.
6. Defendants, Delaware Park LLC, Delaware Park Race Track and/or Delaware Racing Association, are the owners and/or operators of a horse racing track and facility located at 777 Delaware Park Boulevard, Wilmington, DE 19804 (hereinafter the "Track.>").
7. Plaintiff is the owner of Bismark Tullio, a thoroughbred stallion, registration no. 1308626 by the Jockey Club. Bismark Tullio was sired by the thoroughbred stallion, Curlin, out of the thoroughbred mare, Awesome Fleet. (A Certificate of Foal Registration is attached as Exhibit 1).
8. Bismark Tullio was purchased by Plaintiff for \$185,000.00 on September 1, 2014. (A copy of the Buyer's Statement is attached and marked as Exhibit 2.) (Photographs of Bismark Tullio are attached collectively as Exhibit 3.)
9. On August 15, 2015, Bismark Tullio suffered a career ending injury due to the Defendants' negligence while training at the Track.
10. One or more Defendants assigned trainers, Defendants, Jake Secor and Alejandro Reyes, to train Bismark Tullio at the time of the injury.
11. On August 15, 2015, while Defendants Jake Secor and/or Alejandro Reyes were training Bismark Tullio, Bismark Tullio stepped into an unguarded corrugated metal drain pipe located immediately adjacent to the dirt ramp leading to the stable entrance of Building 19. (Photographs of the location of the unguarded drain pipe are attached collectively as Exhibit 4.)

12. In addition, the unguarded drain pipe was concealed under grass and hay posing a risk to the horses and trainers using the Track and its facilities. See Exhibit 4.

### **COUNT I**

13. Plaintiff incorporates the above allegations as if fully set forth here.

14. Defendants were negligent in that they:

- a. Failed to properly and reasonably warn the Plaintiff of latent defects at the Track, which could damage his property;
- b. Failed to provide safe and reasonable egress to and from the stables for horses being trained at the Track;
- c. Permitted the grounds to become a hazard;
- d. Failed to properly and reasonably supervise and train its employees;
- e. Failed to properly guard the hole and/or drain pipe;
- f. Failed to hire, supervise, or train competent staff, employees, agents, contractors, or any other persons undertaking such duty in competently performing services related to ground maintenance;
- g. Failed to hire, supervise, or train competent staff, employees, agents, contractors, or any other persons undertaking such duty in competently performing services related to handling and training horses;
- h. Failed to otherwise exercise reasonable care; and
- i. As otherwise will be revealed through discovery in the case.

15. Each of the aforementioned acts of negligence of the Defendants constitute the proximate cause of the incident, the injury and damage to Plaintiff's horse, Bismark Tullio, and injuries and damages to Plaintiff's property.

16. As a proximate result of the aforesaid negligence of the Defendants, Plaintiff has suffered the following damages:

- a. Bismark Tullio's injury ended its racing career;
- b. Training costs for Bismark Tullio;
- c. Medical costs for treatment of Bismark Tullio;
- d. Boarding and transportation expenses for Bismark Tullio;
- e. Anticipated race earnings of Bismark Tullio; and
- f. Decrease in potential stud fees.

WHEREFORE, Plaintiff demands judgment against Defendants for property damage and lost earnings in an amount in excess of \$525,000, plus pre and post interest and Court costs.

## **COUNT II**

17. Plaintiff repeats and incorporates the above allegations as if fully set forth here.

18. Defendant Jake Secor, was negligent in that he:

- a. Failed to properly exercise due care while training Bismark Tullio;
- b. Failed to exercise due care to safeguard Plaintiff's property;
- c. Failed to keep a proper look out for hazards that could injure or damage Bismark Tullio;
- d. Failed to otherwise exercise reasonable care; and
- e. As otherwise will be revealed through discovery in the case.

19. Each of the aforementioned acts of negligence of the Defendant, Jake Secor, constitutes the proximate cause of the incident, the injury and damage to Plaintiff's horse, Bismark Tullio, and injuries and damages to Plaintiff's property.

20. Each of the aforementioned acts of negligence of the Defendant, Jake Secor, is imputed to one or all of the corporate Defendants under the doctrine of respondeat superior.
21. As a proximate result of the aforesaid negligence of the Defendant, Jake Secor, Plaintiff has suffered the following damages:
- a. Bismark Tullio's injury ended its racing career;
  - b. Training costs for Bismark Tullio;
  - c. Medical costs for treatment of Bismark Tullio's injuries;
  - d. Boarding and transportation expenses for Bismark Tullio;
  - e. Anticipated race earnings of Bismark Tullio; and
  - f. Decrease in potential stud fees.

WHEREFORE, Plaintiff demands judgment against Defendants for property damage and lost earnings in an amount in excess of \$525,000, plus pre and post interest and Court costs.

### **COUNT III**

22. Plaintiff repeats incorporates the above allegations as if fully set forth here.
23. Defendant, Alejandro Reyes, was negligent in that he:
- a. Failed to properly exercise due care while training Bismark Tullio;
  - b. Failed to exercise due care to safeguard Plaintiff's property;
  - c. Failed to keep a proper look out for hazards that could injure or damage Bismark Tullio;
  - d. Failed to otherwise exercise reasonable care; and
  - e. As otherwise will be revealed through discovery in the case.

24. Each of the aforementioned acts of negligence of the Defendant, Alejandro Reyes, constitutes the proximate cause of the incident, the injury and damage to Plaintiff's horse, Bismark Tullio, and injuries and damages to Plaintiff's property.
25. Each of the aforementioned acts of negligence of the Defendant, Jake Secor, is imputed to one or all of the corporate Defendants under the doctrine of respondeat superior.
26. As a proximate result of the aforesaid negligence of the Defendant, Alejandro Reyes, Plaintiff has suffered the following damages:
- a. Bismark Tullio's injury ended its racing career;
  - b. Training costs for Bismark Tullio;
  - c. Medical costs for treatment of Bismark Tullio's injuries;
  - d. Boarding and transportation expenses for Bismark Tullio;
  - e. Anticipated race earnings of Bismark Tullio; and
  - f. Decrease in potential stud fees.

WHEREFORE, Plaintiff demands judgment against Defendants for property damage and lost earnings in an amount in excess of \$525,000, plus pre and post interest and Court costs.

REGER RIZZO & DARNALL LLP

/s/ ARTHUR D. KUHL, ESQUIRE

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Attorney for Plaintiff

Dated: July 18, 2017