

DISTRICT COURT OF SEVILLA

CASE NO.: 710/2015

Gilberto Moguer Caballero,

Plaintiff,

vs.

Segurcaixa Adeslas, S.A de Seguros y Reaseguros,

Defendant

Plaintiff Gilberto Moguer Caballero brings forth the following causes of action and alleges the following:

1. On August 19, 2012 Plaintiff visited Parque Isla Mágica S.A., a themed waterpark located in Sevilla commonly referred to simply as Isla Mágica, with his family.
2. While walking in the area surrounding the "Fuente de la Veracruz," located within a circular zone that provides access to other installations within said theme park and acting as a refreshing fountain for guests during hot periods of the day, Plaintiff fell backwards, hitting part of the back of his head.
3. Plaintiff suffered a number of damages as a result of the fall:
 - a. Directly after the fall, Plaintiff was transported, under the advice of on-staff health professionals employed by Parque Isla Mágica who saw no external injuries but suspected internal damage, to the Hospital Virgen de Rocío in Sevilla to receive a CAT scan that returned with the following results on August 19th, 2012:
 - i. Fracture of the right base of skull and subarachnoid hemorrhaging.
 - ii. Hemorrhaging contusion at the posterobasal level of both temporal and both frontal lobes, with considerable perilesional edema in the right frontal lobe.
 - iii. Hemorrhaging focused on the front left extra axial.

- iv. Blood count imbalances and hemotympanum of right ear.
 - v. Extensive occupation of air in mastoid cells of the ear and hemotympanum in middle of right ear.
 - vi. Bubbles of underlying pneumoencephalus at the fracture and in left temporal lobe without an associated adjacent fracture.
- b. The following damages and injuries have been verified by NeuroRepair, a center for the treatment and investigation of mental and psychological disorders and pathology located in Sevilla, on the 21st and 28th of January as well as the 4th of February in the year 2014:
 - i. Loss of hearing and taste.
 - ii. Constant vertigo.
 - iii. Alterations in behavior and cognitive capacities
 - iv. Loss in capacity of attention.
 - v. Deterioration of capacity of memory, in particular short-term memory, semantic memory, and procedural memory.
 - vi. Difficulty in understanding verbal language and phonetic expression.
 - vii. Effects at the visuospatial level, visual-constructive level, and visual-motor level.
 - viii. Reduced pathological capacity for verbal reasoning and access to vocabulary.
- 4. The fall of the Plaintiff occurred as a result of the poor maintenance and design of the fountain and the area surrounding the fountain, especially the ground which is often dangerously wet and in a condition that demonstrates it is not well maintained, where the Plaintiff sustained his injuries from the fall
 - a. According to reports completed by expert architect Eduardo Pimentel de la Torre, the area of the accident is permanently wet as a consequence of the poor design of the fountain and its accompanying drainage system. Additionally, the material used to build the fountain and surround area is inadequate for the purpose this fountain and the surrounding area wish to serve. The high presence of water on the ground notably increases the slippery nature of the area surrounding the fountain, and the lack of satisfactory maintenance enhances the danger and inadequacy of said location. Furthermore, there are no physical obstacles or

notices that prohibit or limit access to this dangerous area or indicate the possibility of falling due to water on the ground.

5. Defendant is employed by Parque Isla Mágica, S.A. to provide coverage for insurance. Thus, the damages suffered by the Plaintiff are the responsibility of the Defendant.

Plaintiff brings forth the following counts and allegations supporting his course of action.

COUNT 1- NEGLIGENCE

Defendant failed to perform the duties and obligations of ensuring their client maintained the areas of the waterpark in a safe and effective manner, leading to the injuries sustained by the Plaintiff.

DAMAGES

Wherefore, the Plaintiff seeks compensatory damages in the amount of 218,782 € to cover medical expenses including costs for permanent personal damages (194,489 €), a 10% rate for economic correction (19,448 €), and a bill covering the costs of hospitalization (4,845 €).

Dated this 23rd day of March, 2015