

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

KEVIN PENROD, Individually, and as )	Case No.:
Parent and Next Friend of )	
GRACE PENROD, a Minor Child, )	
)	
Plaintiffs, )	<b>COMPLAINT</b>
)	
vs. )	
)	
DAVID and LISA PALADINO, )	
Individually and as Parents and Next )	
Friends of ZECHARIAH PALADINO, )	
a Minor Child, ZECHARIAH PALADINO, )	
LANDMARK MANAGEMENT GROUP, )	
INC. and PALADINO RELATED )	
COMPANIES, LLC. )	
)	
Defendants. )	

**COUNT I**

**PARTIES AND JURISDICTION**

1. Kevin Penrod resides in Omaha, Douglas County, Nebraska, and is the natural parent of Grace Penrod, a minor child.
2. Grace Penrod is the minor child of Kevin Penrod and resides in Omaha, Douglas County, Nebraska.
3. David and Lisa Paladino reside in Omaha, Douglas County, Nebraska, and are the natural parents of Zechariah Paladino, a minor child.
4. Zechariah Paladino at all times relevant herein was age 17, is the minor child of David and Lisa Paladino and resides in Omaha, Douglas County, Nebraska.
5. David Paladino has ownership in and/or is an officer of Landmark Management Group, Inc. and Paladino Related Companies, L.L.C. , registered Nebraska entities with a primary place of business in Omaha, Douglas County, Nebraska.
6. David and Lisa Paladino, Landmark Management Group, Inc. and/or Paladino Related Companies, L.L.C., were at all time relevant herein the owners in control of a 2013 Chongqing Huansong Industries UTV (utility terrain vehicle), hereinafter referred to as the UTV.
7. David and Lisa Paladino own a lake home on Sun Valley Lake, located at 3217 Windmill Rd, Ellston, Ringgold County, Iowa.
8. At all times relevant herein, Defendant Zechariah Paladino was operating the UTV with the consent of the UTV's owner(s).

## SAFETY RULES

9. Definitions: **Iowa Code §321I.1 (17b.)** states the operator of an off-road utility vehicle is subject to provisions governing the operation of all-terrain vehicles in section 321.234A.

10. A person shall not drive or operate an all-terrain vehicle at a rate of speed greater than reasonable under all existing circumstances (**Iowa Code §321I.14**).

11. A person shall not drive or operate an all-terrain vehicle in a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto (**Iowa Code §321I.14**).

12. The owner and operator of an all-terrain vehicle are liable for any injury or damage occasioned by the negligent operation of the all-terrain vehicle. The owner of an all-terrain vehicle shall be liable for any such injury or damage only if the owner was the operator of the all-terrain vehicle at the time the injury or damage occurred or if the operator had the owner's consent to operate the all-terrain vehicle at the time the injury or damage occurred. 2004 Acts, ch 1132, §62 (**Iowa Code §321I.19**).

## THE CRASH

13. On June 3, 2017, Zechariah Paladino and a number of friends, all minors, were at the Paladino's lake home on Sun Valley Lake in Ellston, Ringgold County, Iowa.

14. David and Lisa Paladino, personally, and David Paladino, in his capacity as an officer and agent of Landmark Management Group, Inc. and/or Paladino Related Companies, L.L.C., allowed Zechariah Paladino to take the UTV onto the roadway with his minor friends as passengers.

15. Grace Penrod was a restrained backseat passenger in the UTV operated by Zechariah Paladino.

16. Zechariah Paladino lost control of the UTV, causing it to roll over onto its passenger side landing on Grace Penrod, causing her to suffer injuries.

17. Zechariah Paladino caused the crash, and the harms and losses described below, by negligently choosing to ignore the following safety rules:

17.1 That Zechariah Paladino operated the UTV at an unreasonable and unsafe speed in violation of **Iowa Code §321I.14**.

17.2. That Zechariah Paladino operated the UTV in a careless, reckless, and negligent manner in violation of **Iowa Code §321I.14**.

## COUNT II

18. Plaintiffs re-allege paragraphs 1-17 as if set forth fully herein.

19. That David and Lisa Paladino allowed Zechariah Paladino to take the UTV onto the roadway with his minor friends, and in doing so are liable for plaintiffs' harms and losses per 2004 Acts, ch 1132, §62 (**Iowa Code §321I.19**).

## COUNT III

20. Plaintiffs re-allege paragraphs 1-19 as if set forth fully herein.

21. Landmark Management Group, Inc., and/or Paladino Related Companies, L.L.C. by and through their officer and agent, David Paladino, allowed Zechariah Paladino to take the UTV onto the roadway with his minor friends, and in doing so are liable for plaintiffs' harms and losses per 2004 Acts, ch 1132, §62 (**Iowa Code §321I.19**).

## COUNT IV

22. Plaintiffs re-allege paragraphs 1-21 as if set forth fully herein.

23. David and Lisa Paladino allowed Zechariah Paladino to take the UTV onto the roadway with his minor friends.

24. David and Lisa Paladino allowed Zechariah Paladino to take the UTV onto the roadway with his minor friends when they knew or should have known that he was inexperienced in operating a UTV under such circumstances.

25. That the wreck was foreseeable under the circumstances.

26. David and Lisa Paladino are liable under the doctrine of negligent entrustment.

27. David and Lisa Paladino are liable for the plaintiffs' harms and losses due to the negligent entrustment of the UTV to Zechariah Paladino, a minor child.

## COUNT V

28. Plaintiffs re-allege paragraphs 1-27 as if set forth fully herein.

29. Landmark Management Group, Inc., and Paladino Related Companies, L.L.C. by and through their officer and agent, David Paladino, allowed Zechariah Paladino to take the UTV onto the roadway with his minor friends.

30. Landmark Management Group, Inc. and Paladino Related Companies, L.L.C. by and through their officer and agent, David Paladino, allowed Zechariah Paladino to take the UTV onto the roadway with his minor friends when he knew or should have known that he was inexperienced in operating a UTV under such circumstances.

31 That the wreck was foreseeable under the circumstances.

32. Landmark Management Group, Inc. and Paladino Related Companies, L.L.C. by and through their officer and agent, David Paladino, are liable under the doctrine of negligent entrustment.

33. Landmark Management Group, Inc. and Paladino Related Companies, L.L.C. by and through their officer and agent, David Paladino, are liable for plaintiffs' harms and losses due to the negligent entrustment of the UTV to Zechariah Paladino, a minor child.

### **HARMS AND LOSSES**

34. As a direct result of the negligence of the Defendants as set forth above, Grace Penrod suffered injuries to her person, which include, but are not limited to: head/brain trauma/TBI; C1 fracture and spinal injuries; a complete left ear avulsion; right temporal bone fracture; right ear lacerations; jaw/mandible fracture with residual lockjaw and TMJ dysfunction; teeth displacement; deep lacerations/puncture wounds to right ankle and knee; extensive road rash, lacerations, abrasions and contusions about the head, face and body with residual scarring; scarring about left thigh from skin graft harvested for the left ear; left C6 brachial plexus injury; post-concussive syndrome; vision issues; sleep disturbance; depression, anxiety and PTSD.

35. As a direct result of the negligence of the Defendants as set forth above, Grace Penrod has experienced physical pain, emotional suffering, humiliation, grief, anxiety, worry, stress, and loss of enjoyment of life.

36. As a direct result of the negligence of the Defendants as set forth above, Grace Penrod has required medical treatment, surgical procedures, therapies and medication, resulting in medical expenses in excess of \$396,000.00 thus far.

37. As a result of the negligence of the Defendants as set forth above, Grace Penrod has suffered and will continue to suffer a loss of wages, as well as a diminution of her future earning capacity.

38. As a direct result of the negligence of the Defendants as set forth above, the injuries sustained by Grace Penrod are permanent, serious, and disfiguring.

39. As a direct result of the negligence of the Defendants as set forth above, Grace Penrod will require medical treatment, surgical procedures, therapies and medications throughout the remainder of her life.

40. As a direct result of the negligence of the Defendants as set forth above, Grace Penrod is likely to experience physical pain, emotional suffering, humiliation, grief, anxiety, worry, stress, and loss of enjoyment of life in the future.

41. Kevin Penrod, as parent of Grace Penrod, is the responsible party for medical bills incurred to-date totaling in excess of \$396,000.00. Medical charges will continue to be incurred with Grace Penrod's ongoing treatment, for which he will be responsible.

WHEREFORE, the Plaintiffs demand judgment against the Defendants in an amount to be determined, plus costs, prejudgment interest, post judgment interest, and any other costs this Court deems appropriate.

DATED this 30<sup>th</sup> day of August, 2018.

KEVIN PENROD, Individually, and as  
Parent and Next Friend of  
GRACE PENROD, a Minor Child, Plaintiffs

By: \_\_\_\_\_

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