

UNITED STATES DISTRICT COURT  
IN THE DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION

JAMES P. WIENCEK,	)	
	)	
Plaintiff,	)	9 : 1 1 - 1 2 7 - M B S
	)	
v.	)	<b>COMPLAINT</b>
	)	<b>(JURY TRIAL DEMANDED)</b>
FRIPP ISLAND RESORT, INC., THE	)	
OCEAN COURSES OF FRIPP, INC.,	)	
FRIPP ISLAND COMPANY, INC. AND	)	
THE MARINA VILLAGE OF FRIPP, INC.)	)	
	)	
Defendants.	)	

TO: FRIPP ISLAND RESORT, INC., THE OCEAN COURSES OF FRIPP, INC.,  
FRIPP ISLAND COMPANY, INC., THE MARINA VILLAGE OF FRIPP, INC.  
THE ABOVE-NAMED DEFENDANTS:

The Plaintiff would respectfully show unto the Court that:

1. The Plaintiff is a citizen and resident of the State of Ohio.
2. Upon information and belief, each of the Defendants is a corporation organized under the laws of the State of South Carolina with their principal places of business in the State of South Carolina. The Defendant Fripp Island Resort, Inc. (“FIR”) owns the subsidiary entities
3. At all times relevant to this Complaint, the Defendants owned, operated, and managed a golf course, Ocean Creek Golf Club, located at 90B Ocean Creek Boulevard, Fripp Island, South Carolina.
4. The District Court of South Carolina possesses jurisdiction over this matter pursuant to 28 U.S.C. § 1332, as the parties are completely diverse and the amount in controversy exceeds \$75,000.00.

5. Venue is appropriate in the Beaufort Division of the District Court of South Carolina pursuant to 28 U.S.C. § 1391 and Local Civil Rule 3.01 DSC because a substantial part of the events or omissions giving rise to the claim occurred within the Beaufort Division of the District of South Carolina.

6. On the afternoon of October 8, 2009, the Plaintiff was playing a round of golf at the Ocean Creek Golf Club course with his son.

7. Plaintiff had not played a round of golf at the Ocean Course or Fripp Island before October 8, 2009.

8. Upon information and belief, the Defendants failed to place any signs or other objects warning of the presence of large, wild, dangerous, and aggressive alligators at the Ocean Course.

9. During the round of golf above mentioned, and while playing the 11<sup>th</sup> hole, Plaintiff hit his golf ball near, but not in, a large and deep pond near the 11<sup>th</sup> green.

10. The bank of the pond was surrounded by long grass, and the bank itself was steep.

11. The water in the pond was dark and brackish, and the Plaintiff was unable to see under the surface of the water.

12. Without placing any part of his body over or in the pond, Plaintiff attempted to reach his ball with his right arm.

13. When Plaintiff reached his right arm towards his ball, without warning a large 10 foot long alligator sprung from the brackish and dark water and attacked Plaintiff, biting and holding Plaintiff's right arm.

14. The alligator then pulled Plaintiff into the water and attempted to initiate a roll, pulling Plaintiff underwater. Plaintiff struggled with the alligator, and the alligator tore Plaintiff's right arm off in a violent and vicious manner above the elbow.

15. Plaintiff was helped to the shore by his son and attended to by other patrons of the course.

16. The alligator swam away, having eaten Plaintiff's arm.

**FOR A FIRST CAUSE OF ACTION**  
**(Negligence)**

17. Plaintiff hereby repeats and realleges as if verbatim paragraphs 1-16.

18. Upon information and belief, and prior to October 8, 2009, residents of nearby homes had noticed the alligator's large size and aggressive behavior and had alerted the Defendants to its presence and behavior.

19. Upon information and belief, the Defendants had actual or constructive knowledge of the ongoing presence and aggressive behavior of the large alligator at the Ocean Creek Golf Club prior to the attack on the Plaintiff.

20. Upon information and belief, the Defendants failed to take reasonable action to secure the premises of the golf course and to warn its business invitees, including the Plaintiff, of the alligator's aggressive presence, size, or aggressive behavior.

21. The Defendants had a duty to take make the golf course premises reasonably safe for the Plaintiff and to warn the Plaintiff of the presence of the large, dangerous, and aggressive alligator.

22. The Defendants had a statutory duty to remove problematic alligators in accordance with the provisions of S.C. Code Ann. § 50-15-65 (1976) and S.C. Code Ann. Regs. § 123-151(B) (2009).

23. As a result of the alligator attack, the Plaintiff suffered the following injuries and damages:

- a) extensive pain, mental anguish, suffering and discomfort;
- b) disability for a period of time, past and future;
- c) money spent for medical care and treatment, past, present and future;
- d) inability to carry on normal activities;
- e) permanent injuries and partial disability;
- f) emotional trauma and distress; and,
- g) loss of enjoyment of life.

24. The injuries and damages incurred by the Plaintiff were directly and proximately caused by the Defendants' careless, negligent, grossly negligent, willful, wanton, reckless, and unlawful acts in one or more of the following particulars:

- a) in failing to properly secure the premises of the Ocean Creek Golf Course from the aggressive alligator;
- b) in failing to warn the Plaintiff of the presence of the large, aggressive alligator, when the Defendants knew or had reason to know of its size and aggressive behavior and should have anticipated the resulting harm;
- c) in failing to properly respond to resident complaints of the alligator's size and aggressive behavior;
- d) in violating the provisions of S.C. Code Ann. § 50-15-65 (1976) and S.C. Code Ann. Regs. § 123-151(B) (2009);

- e) in creating an artificial environment conducive to the growth and presence of large, aggressive alligators;
- f) in designing, building, and maintaining the 11<sup>th</sup> hole pond such that it had dark, brackish water, steep banks, and thick vegetation rendering it difficult or impossible for golf patrons to see or notice the presence of large and aggressive alligators; and,
- g) in otherwise failing to exercise the degree of care warranted by the circumstances as then and there existing, and as shall be developed by further discovery in this action.

25. The Defendants' careless, negligent, willful, wanton, reckless and unlawful acts were the direct and proximate cause of the alligator attack and resulting injuries and damages to the Plaintiff.

26. The Plaintiff is informed and believes that he is entitled to judgment against the Defendants for actual and punitive damages in an appropriate amount.

**FOR A SECOND CAUSE OF ACTION**

27. Plaintiff hereby repeats and realleges as if verbatim paragraphs 1-26.

28. Alligators are wild animals. By building, constructing, and maintaining a golf course, the Defendants created an artificial habitat for alligators that did not exist prior to the construction of the golf course, and specifically, the pond near the 11<sup>th</sup> hole. Defendants are strictly liable for the injuries and damages sustained by the Plaintiff through their construction, designing, and maintaining a golf course that created an artificial habitat that attracted large and dangerous alligators.

29. The Defendants' careless, negligent, willful, wanton, reckless and unlawful acts were the direct and proximate cause of the alligator attack and resulting injuries and damages to the Plaintiff.

30. The Plaintiff is informed and believes that he is entitled to judgment against the Defendants for actual and punitive damages in an appropriate amount.

WHEREFORE, the Plaintiff prays for judgment against the Defendants for actual and punitive damages in an appropriate amount to be determined at trial, the costs of this action, and for such other and further relief as the Court may deem just and proper.

s/ Mark D. Chappell  
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