

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

MARK JACOBS and LINDA JACOBS,	)	
individually and as parents and next-friends of	)	
BRIDY JACOBS, a minor,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No.: 12 CV 2373
	)	
LANDSCAPE STRUCTURES, INC., a	)	
Minnesota corporation,	)	
	)	
Defendants.	)	
	)	

**COMPLAINT**

NOW COMES the Plaintiffs, MARK JACOBS and LINDA JACOBS, individually and as parents and next-friend of BRIDY JACOBS, a minor, complaining against Defendant, LANDSCAPE STRUCTURES, INC., a Minnesota corporation, pleading hypothetically and in the alternative, states as follows:

**GENERAL ALLEGATIONS**

**Jury Demand**

1. Plaintiffs hereby demand a 12 person jury trial.

**Parties**

2. Plaintiffs, MARK JACOBS and LINDA JACOBS, are the parents and next-friends of BRIDY JACOBS, a minor.
3. On June 10, 2011, and at all times relevant herein, Plaintiffs, MARK JACOBS and LINDA JACOBS, along with their daughter, BRIDY JACOBS, were residents of the City of Chicago, Cook County, Illinois.

4. Defendant, LANDSCAPE STRUCTURES, INC., is a corporation existing by and under the laws of the State of Minnesota, with its principal place of business located in Delano, Minnesota.

5. On and before June 10, 2011, and at all times relevant herein, Defendant, LANDSCAPE STRUCTURES, INC., was doing business throughout the State of Illinois, including in the City of Chicago, Illinois.

#### **Jurisdiction and Venue**

6. Jurisdiction over this matter is predicated upon 28 U.S.C. § 1332, based on diversity of citizenship.

7. The amount in controversy in this matter exceeds \$75,000.00.

8. Venue of this action is predicated upon 28 U.S.C. § 1391. Defendant is subject to *in personam* jurisdiction of this Court, and venue is proper herein, by virtue of the fact that Defendant did and/or is doing business within the State of Illinois, including in the City of Chicago, Illinois.

#### **Facts**

9. On June 10, 2011, and at all times relevant herein, Defendant, LANDSCAPE STRUCTURES, INC., was engaged in the business of designing, manufacturing, testing, marketing, distributing, assembling, installing, and/or selling of various playground equipment, including slides and gliders throughout the United States, including the State of Illinois.

10. On and before June 10, 2011, and at all times relevant herein, Defendant, LANDSCAPE STRUCTURES, INC., designed, manufactured, marketed, distributed, and/or sold playground equipment under the brand name “Evos.”

11. On and before June 10, 2011, and at all times relevant herein, Defendant, LANDSCAPE STRUCTURES, INC., was placing playground equipment, including slides and gliders, into the stream of commerce.

12. At all times relevant herein, Defendant, LANDSCAPE STRUCTURES, INC., designed, manufactured, tested, marketed, distributed, assembled, installed, and/or sold a certain slide/glider identified as the “Evos Slalom Glider,” model number 156456 and/or 172627.

13. The “Evos Slalom Glider” was marketed to the public as being a “thrilling ride that promotes balance and coordination.”

14. The “Evos Slalom Glider” was marketed to the public, stating “[k]ids use their hands and legs to hold on for added control.”

15. The “Evos Slalom Glider” lacked sides and/or rails on its chute.

16. The “Evos Slalom Glider” lacked a transition platform on the top of the slide/glider.

17. The “Evos Slalom Glider” had a maximum fall height of 75”.

18. The “Evos Slalom Glider” had no posted warnings of the hazards inherent in the slide/glider.

19. The “Evos Slalom Glider” created a risk of falls when moving from the ladder to the slide and while descending the chute.

20. The only instruction regarding the use of the “Evos Slalom Glider” was a sticker on the ladder of said slide/glider with an illustration demonstrating the proper use.

21. The proper use demonstrated in said illustration showed a child straddling said slide with one leg over each side of the slide, with the child placing his hands behind him.

22. No other instruction regarding the use of the “Evos Slalom Glider” was provided.

23. At some time prior to June 10, 2011, an “Evos Slalom Glider” was purchased by the City of Chicago and/or the Chicago Park District in Chicago, Illinois.

24. At some time prior to June 10, 2011, an “Evos Slalom Glider” was installed at the Sauganash Park in Chicago, Illinois.

25. On and before June 10, 2011, and at all times relevant herein, Sauganash Park was a public park located at 5861 N. Kostner Ave. in Chicago, Illinois.

26. On June 10, 2011, BRIDY JACOBS, was at Sauganash Park with her parents, MARK JACOBS and LINDA JACOBS.

27. On June 10, 2011, BRIDY JACOBS, was with her parents in the playground area of Sauganash Park.

28. On June 10, 2011, BRIDY JACOBS, attempted to use the “Evos Slalom Glider” on said premises.

29. On June 10, 2011, BRIDY JACOBS, was using the “Evos Slalom Glider” in a manner consistent with its intended use.

30. While traveling down the slide/glider, BRIDY JACOBS fell to the ground below.

31. On February 16, 2012, said “Evos Slalom Glider” was voluntarily recalled due to the risk of falls in the use of said product.

**COUNT I**  
***(Jacobs and Jacobs v. Landscape Structures, Inc. – Products Liability/Strict Liability)***

1-31. Plaintiffs repeat and reallege paragraphs 1 through 31, above, and incorporate by reference as paragraphs 1 through 31 of Count I, as though fully stated herein.

32. At all times relevant herein, Defendant, LANDSCAPE STRUCTURES, INC., designed, manufactured, tested, distributed, assembled, installed, and/or sold the “Evos Slalom

Glider,” model number 156456 and/or 172627, in the color green, at Sauganash Park in Chicago, Illinois.

33. On June 10, 2011, and at all times relevant herein, Defendant, LANDSCAPE STRUCTURES, INC., had a duty to design, manufacture, test, market, distribute, assemble, install, and/or sell the “Evos Slalom Glider” so that it was neither defective, nor was unreasonably dangerous when put its intended use.

34. At the time the “Evos Slalom Glider” left the possession of the Defendant, LANDSCAPE STRUCTURES, INC., and at the time it entered the stream of commerce, the “Evos Slalom Glider” was in an unreasonably dangerous and/or defective condition in one or more of the following ways:

- a. Created an unreasonable risk of falls for its users when used in the manner for which it was intended;
- b. Failed to contain adequate and sufficient warnings regarding the risk of falls to its users when used in the manner for which it was intended;
- c. Failed to contain adequate and sufficient instruction to its users regarding the safe use;
- d. Was defectively designed in such a manner that it exposed its users to an unreasonable risk of falls when used in the manner for which it was intended;
- e. Was defectively designed in such a manner that it failed to incorporate adequate safety features, including without limitation a transition platform, sides along the chute, and/or rails along the chute, to minimize the risk of injury to its users when used in the manner for which it was intended;
- f. Was manufactured in such a manner that it failed to incorporate adequate safety features, including without limitation a transition platform, sides along the chute, and/or rails along the chute, to minimize the risk of injury to its users when used in the manner for which it was intended;
- g. Failed to provide its users with adequate and sufficient notices of the dangerous propensities of the product; and/or
- h. Failed to consider and implement safer alternatives to the product.

35. On June 10, 2011, while using said “Evos Slalom Glider,” BRIDY JACOBS suffered a fall and sustained injuries, including a supracondylar fracture to her left arm.

36. Said injuries were a direct and proximate result of one or more of the foregoing unreasonably dangerous and/or defective conditions of the “Evos Slalom Glider.”

37. As a further direct and proximate result of the aforesaid unreasonably dangerous and/or defective conditions, BRIDY JACOBS, was caused to experience physical pain, mental suffering, emotional distress, disability, disfigurement, a loss of a normal life, all of which conditions and injuries are permanent in nature.

WHEREFORE, Plaintiffs, MARK JACOBS and LINDA JACOBS, as parents and next-friends of BRIDY JACOBS, a minor, pray for judgment against Defendant, LANDSCAPE STRUCTURES, INC., in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), plus costs of bringing this action, with interest, and for any further relief this Court deems appropriate and just.

## **COUNT II**

### ***(Jacobs and Jacobs v. Landscape Structures, Inc. – Product Liability/Negligence)***

1-31. Plaintiffs repeat and reallege paragraphs 1 through 31, above, and incorporate by reference as paragraphs 1 through 31 of Count II, as though fully stated herein.

32. At all times relevant herein, Defendant, LANDSCAPE STRUCTURES, INC., designed, manufactured, tested, distributed, assembled, installed, and/or sold the “Evos Slalom Glider,” model number 156456 and/or 172627, in the color green, at Sauganash Park in Chicago, Illinois.

33. At all times relevant herein, Defendant, LANDSCAPE STRUCTURES, INC., was responsible for the marketing and/or advertising of said “Evos Slalom Glider.”

34. At all times relevant herein, Defendant, LANDSCAPE STRUCTURES, INC., had a duty to design, manufacture, test, distribute, assemble, install, and/or sell the “Evos Slalom Glider” in a condition that was reasonably safe for its intended use.

35. At all times relevant herein, Defendant, LANDSCAPE STRUCTURES, INC., had a duty to use reasonable care in its design, manufacture, testing, distribution, assembly, installation, and/or sale of the “Evos Slalom Glider,” so as to prevent injuries to its users.

36. Notwithstanding said duties, Defendant, LANDSCAPE STRUCTURES, INC., committed one or more of the following acts and/or omissions:

- a. Designed said “Evos Slalom Glider” in such a manner as to create an unreasonable risks of falls by its users when used in the manner intended;
- b. Manufactured said “Evos Slalom Glider” in such a manner as to create an unreasonable risk of falls by its users when used in the manner intended;
- c. Assembled and/or installed said “Evos Slalom Glider” in such a manner as to create an unreasonable risk of falls by its users when used in the manner intended;
- d. Distributed said “Evos Slalom Glider” when it knew or should have known of the increased risks of falls associated with its use;
- e. Sold said “Evos Slalom Glider” when it knew or should have known of the increased risks of falls associated with its use;
- f. Marketed said “Evos Slalom Glider” when it knew or should have known of the increased risks of falls associated with its use;
- g. Failed to incorporate adequate and sufficient safety features into the design of said “Evos Slalom Glider” to minimize the risk of falls associated with its use;
- h. Failed to manufacture said “Evos Slalom Glider” with adequate and sufficient safety features to minimize the risk of falls associated with its use;
- i. Failed to assemble and/or install said “Evos Slalom Glider” with adequate and sufficient safety features to minimize the risk of falls associated with its use;
- j. Failed to design said “Evos Slalom Glider” with sides along its chute;
- k. Failed to manufacture said “Evos Slalom Glider” with sides along its chute;

- l. Failed to assemble and/or install said “Evos Slalom Glider” with sides along its chute;
- m. Failed to design said “Evos Slalom Glider” with a transition platform;
- n. Failed to manufacture said “Evos Slalom Glider” with a transition platform;
- o. Failed to assemble and/or install said “Evos Slalom Glider” with a transition platform;
- p. Failed to adequately test said “Evos Slalom Glider” to discover and/or investigate the risks of injury to its users when used in the manner intended;
- q. Failed to adequately assess the safety hazards inherent in said “Evos Slalom Glider;”
- r. Failed to adequately and sufficiently warn users of the “Evos Slalom Glider” of the increased risk of falls associated with its use;
- s. Failed to provide adequate and sufficient notice to the users of said “Evos Slalom Glider” of the increased risk of falls associated with its use;
- t. Failed to provide adequate and sufficient instruction to the users of said “Evos Slalom Glider” of the proper use of said product;
- u. Failed to consider safer alternatives to the “Evos Slalom Glider;”
- v. Failed to utilize safe alternatives to the “Evos Slalom Glider;” and/or
- w. Failed to incorporate safety features into the “Evos Slalom Glider” when the costs of such safety features was minimal.

38. On June 10, 2011, while using said “Evos Slalom Glider,” BRIDY JACOBS suffered a fall and sustained injuries, including a supracondylar fracture to her left arm.

39. Said injuries were a direct and proximate result of one or more of the foregoing acts and/or omissions of Defendant, LANDSCAPE STRUCTURES, INC.

40. As a further direct and proximate result of one or more of the foregoing acts and/or omissions, BRIDY JACOBS, was caused to experience physical pain, mental suffering,



emotional distress, disability, disfigurement, a loss of a normal life, all of which conditions and injuries are permanent in nature.

WHEREFORE, Plaintiffs, MARK JACOBS and LINDA JACOBS, as parents and next-friends of BRIDY JACOBS, a minor, pray for judgment against Defendant, LANDSCAPE STRUCTURES, INC., in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), plus costs of bringing this action, with interest, and for any further relief this Court deems appropriate and just.

**COUNT III**

***(Jacobs and Jacobs v. Landscape Structures, Inc. – Family Medical Expense Act)***

1-31. Plaintiffs repeat and reallege paragraphs 1 through 31, above, and incorporate by reference as paragraphs 1 through 31 of Count III, as though fully stated herein.

32-37. Plaintiffs repeat and realleges paragraphs 32-37 of Count I, above, and incorporate by reference as paragraphs 32 through 37 of Count III, as though fully stated herein.

38-45. Plaintiffs repeat and realleges paragraphs 32 through 40 of Count II, above, and incorporate by reference as paragraphs 38 through 45 of Count III, as though fully stated herein.

46. By reason of said unreasonably dangerous and/or defective conditions and/or said acts and/or omissions of Defendant, LANDSCAPE STRUCTURES, INC., BRIDY JACOBS sustained injuries and incurred medical expenses for which her parents, Plaintiffs, MARK JACOBS and LINDA JACOBS are obligated to pay under 750 ILCS 65/15, *et seq.*, commonly referred to as the Family Expense Act.

WHEREFORE, Plaintiffs, MARK JACOBS and LINDA JACOBS, individually, pray for judgment against Defendant, LANDSCAPE STRUCTURES, INC., for an amount in

excess of Seventy-Five Thousand Dollars (\$75,000.00), plus costs of bringing this action, with interest, and for any further relief this Court deems appropriate and just.

Respectfully Submitted,  
ROMANUCCI & BLANDIN, LLC

By:                   /s/ Michael E. Holden                    
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