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Water park fun can mask hazards

Water parks can make for refreshing family fun on a hot summer day. After all, who doesn't love the thrill of speeding down a twisting slide and making that huge splash into the cool water at the end? That's why approximately 85 million people visited the nation's 1,300 water parks in 2015.

But in addition to being a huge source of summer fun, water parks can be a place of danger. While most visitors head to the parking lot at the end of the day wet and tired but intact, the lack of national safety oversight, the slipshod design and construction (and spotty inspection) of some park attractions, and the inconsistent enforcement of local and state safety codes inevitably mean that some visitors could get hurt or even killed. In fact, the U.S. Consumer Product Safety Commission estimates that more than 4,200 people are taken to emergency rooms each year for scrapes, concussions, broken limbs, spinal injuries and other serious injuries sustained at water parks each year.

Some visitors have even died from water park mishaps. So if you or a loved one is injured at a water park, it's important to speak with an attorney to see what kinds of rights you might have. Depending on the situation, you might be able to hold the park's operators (or the designer or builder of the ride) accountable.

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Take the case of Caleb Schwab, a 10-year-old boy who was killed at Schlitterbahn Waterpark in Kansas City last summer while riding the "Verruckt" (the German word for "insane"). On this particular attraction, which the park advertised as the world's tallest water slide, riders sit in multi-person rafts and experience what the park boasts is a "jaw dropping" 17-story drop — taller than the Statue of Liberty or Niagara Falls — at speeds of up to 70 miles per hour before being blasted back up a second hill and dropped another 50 feet into a pool.

While specific details are sketchy, some observers say Caleb was

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Prenups can be challenged if terms aren't fair

Most people who are getting divorced assume that if they agreed to a prenuptial agreement before they got married they're going to be stuck with its terms.

That's generally the case, which is why if you're being asked by your betrothed to sign a prenup, it's a good idea to consult with a lawyer of your own

beforehand and to make sure you speak to a *family law* attorney instead of a generalist who's dabbling in divorce law.

Still, contrary to general belief prenups are not necessarily bulletproof. In fact, depending on the circumstances and where you live, a divorce court judge may be willing to toss a prenup aside if the terms are legitimately unfair.

That means if you're the person seeking the prenup, it's important to consult with a family lawyer to help draft it.

Take, for example, a case from Michigan. Two days before Christine and Earl Allard's 1993 wedding, they entered into a prenup under which they each retained sole ownership of all real estate, personal property and "intangible" property they owned prior to the marriage. The prenup also said that if they ever got divorced, all property acquired during the marriage would be split 50-50, but there were significant exceptions to that provision. In addition, they agreed to discharge any claim to alimony, support or any other types of rights "incident to" the marriage or divorce.

Earl filed for divorce in 2010. When the case was pending in court, he asked for a ruling declaring that the prenup governed every possible issue in the divorce except custody, parenting time and child support.

Christine opposed this motion, arguing that the terms of the prenup were "unconscionable," because after 20 years of marriage it operated to deprive her of any real part of the marital estate. In other words, the terms were so unfair and one-sided as to "shock the conscience of the court." Because of that, she argued, the contract should be voided and their marital estate should be divided fairly, or subject to what's known as "equitable distribution."

The divorce judge ruled in Earl's favor, deciding that the prenup wasn't unconscionable, and, more importantly, that Christine had waived the right to equitable distribution under state law by agreeing to a clear, unambiguous prenuptial agreement.

But the Michigan Court of Appeals reversed the decision. Specifically, the court ruled that a court always has the power to engage in equitable distribution if circumstances are extreme enough to justify it.

A case out of Virginia also shows that courts may disregard blatantly unfair prenups.

In that case, Mark McKoy of Norfolk, who was a wealthy residential real estate investor, struck up a relationship with a Spanish-speaking woman in the Dominican Republic. Eventually the woman, Glenys, became pregnant with Mark's child and the two made plans to marry.

But before the marriage, Mark sent Glenys — who had an 8th-grade education, spoke limited English and whose sole work experience was selling lottery tickets — a prenup stating that Mark's assets had been fully disclosed to her and that she was waiving the right to any future disclosure of assets. The prenup also deprived her of the right to share in any property he brought into the marriage or any property he acquired during the marriage. It further stripped her of the right to alimony, maintenance or spousal support. Glenys signed the agreement before moving to the U.S. to marry Mark.

After six years of marriage, Mark filed for divorce and asked the court for exclusive possession and use of the marital home and denial of spousal support to Glenys.

The judge ruled against him, deciding that even though Glenys signed the agreement voluntarily, there was such a gross disparity in bargaining power that the prenup shouldn't be enforced. Now Glenys will have the opportunity to seek both spousal support and an equitable division of property.

Water parks offer summer fun, but hazards lurk

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ejected from his seat, possibly due to faulty harness straps, and an anonymous witness said he was decapitated in the accident. The ride had been reengineered midway through construction when sandbags flew off during early tests, and after it opened riders had complained of shoulder straps breaking, forcing riders to grip handles with their legs to hold on. One of the park's owners also apparently admitted that he and the designer based their design calculations on roller coasters, which don't necessarily translate well to water slides. What's more, state regulators hadn't inspected the park since 2012, two years before the ride opened.

Caleb's family ultimately sued the park's Texas-based owner and the manufacturer of the raft. The case settled out of court for a confidential amount, but the family still may seek to hold other parties responsible, including the designer of the ride.

Another recent case involves a man who visited Sahara Sam's Oasis Indoor and Outdoor Water Park in New Jersey in 2010. The visitor, Roy Steinberg, fell off a simulated surfboard on the park's "FlowRider" attraction. When he fell, he struck his head on the bottom of the pool, causing a spinal cord injury that left him a partial paraplegic. When he sought to hold the park responsible, a trial court threw out his case because before entering the park Steinberg had apparently signed a liability waiver absolving the park of responsibility for any harm he might suffer as a result of its negligence.

But the New Jersey Supreme Court overturned the decision. According to the court, the park had committed "gross negligence" by failing to post updated safety instruction signs provided by the manufacturer that if followed might have prevented the injury. Further, patrons who sign a liability waiver are only waiving claims for "ordinary" negligence, not "gross" negligence, the court said.

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This provides an important lesson that even if you sign a waiver when you visit a water park, it's still worth talking to a lawyer.

Water parks without exotic, over-the-top attractions like Verruckt and FlowRider pose risks too. For example, while the water in most pools at water parks is shallower than three feet, there is still a risk of harm, particularly for weak swimmers or children. The risk is heightened in wave pools, where someone can be knocked over and suffer a concussion or even drown.

None of this is to suggest that you shouldn't be taking your family to a water park on a hot summer day. But you should know the risks and be ready to assess for yourself whether a particular feature seems safe for you or your kids. You might also want to look into who inspects the park and how frequently. If you do suffer an injury at a water park and you suspect it's related to park operation and design, absolutely talk to an attorney to find out how you can best proceed.

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Don't let the end of a home-equity line of credit sneak up on you

The terms of home-equity lines of credit, or HELOCs, typically come due 10 years in, at a time at which many homeowners are unprepared for the fact that their monthly payments are about to go up significantly and sometimes double.

HELOCs are secured by a mortgage, require only interest payments and can be used to consolidate debt, fund major expenses, etc. But after the initial 10-year period the principal becomes due. At that point, homeowners can choose to pay off the balance, refinance it into a first or second mortgage or make monthly payments of principal and interest, typically for a 20-year term.

Homeowners who are unprepared may wind up defaulting, prompting the bank to take legal action to collect the balance or to begin the foreclosure process.

It is best to consider your options up to a year in advance of the end of a HELOC's terms. For those with negative equity, it may be difficult to refinance. But the lender will be able to walk a homeowner through the options available, including a mortgage modification.

For homeowners planning to refinance the loan or to take out another, shopping for rates sooner rather than later can give banks time to compete, offering more attractive rates to get the business.

Employers take note: 'Hostile environment' claims can be costly

A "hostile" work environment is one where an employee is constantly confronted with offensive behavior by co-workers or supervisors. This can include sexually charged or bigoted comments and jokes, repeated requests to engage in sexual activity, taunting, or insulting personal comments. An employer that doesn't properly investigate workers' complaints of a hostile environment, or that investigates but fails to take proper action in response, can face discrimination and sexual harassment claims, as Kansas City, Missouri recently found out.

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In that case, LaDonna Nunley, an African-American woman who had worked as a chemist for Kansas City's water department for 24 years, claimed that a co-worker had engaged in a pervasive pattern of offensive speech directed toward her, including comments referencing genitalia and comments comparing President Barack Obama to a bowel movement. She said she reported the comments to supervisors but they failed to discipline the co-worker.

Ultimately Nunley, who also claimed that she was passed over for promotions in favor of less qualified, younger white workers, brought age, sex and race discrimination claims against the city along with a claim of hostile work environment.

The case went to trial. The jury ruled against her on the discrimination claims but did find that she was subjected to a hostile work environment. As a result, it awarded her a significant amount to compensate her for the harm she suffered and even more in what are called "punitive" damages — extra money designed to punish a person or an organization for especially bad behavior.