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9 Attorneys for Plaintiffs  
10 **ISAIAH HARRIS, MARIA HARRIS, and**  
11 **MICHAEL HARRIS**

12 **UNITED STATES DISTRICT COURT FOR**  
13 **THE SOUTHERN DISTRICT OF CALIFORNIA**

14 ISAIAH HARRIS, a minor, by and through  
15 his guardian ad litem, MARIA CARMEN  
16 HARRIS; MARIA CARMEN HARRIS, an  
17 individual; MICHAEL JEROME HARRIS,  
18 JR., an individual,

19 Plaintiff,

20 v.

21 WALT DISNEY PARKS AND RESORTS  
22 U.S., INC., a Florida corporation; and  
23 DOES 1 through 50, inclusive,

24 Defendants.

CASE NO.: **'11CV0272 BTM WMc**

**COMPLAINT FOR:**

- (1) Negligence;
- (2) Negligent Infliction of Emotional Distress (Bystander)

**DEMAND FOR JURY TRIAL**

25 Plaintiffs ISAIAH HARRIS, a minor, by and through his guardian ad litem, MARIA  
26 CARMEN HARRIS, MARIA CARMEN HARRIS, and MICHAEL JEROME HARRIS, JR.  
27 (“Plaintiffs”), hereby demand a jury trial and against each of the Defendants alleges as  
28 follows:

**PRELIMINARY ALLEGATIONS**

**Parties**

1. Plaintiff ISAIAH HARRIS is now, and at all times mentioned herein was, a  
minor residing in the County of San Diego, State of California. Plaintiff ISAIAH HARRIS is

1 represented in this matter through his guardian ad litem and mother, MARIA CARMEN  
2 HARRIS.

3 2. Plaintiff MARIA CARMEN HARRIS is now, and at all times mentioned  
4 herein was, an individual residing in the County of San Diego, State of California.

5 3. Plaintiff MICHAEL JEROME HARRIS, JR. is now, and at all times mentioned  
6 herein is, an individual residing in the County of San Diego, State of California.

7 4. Plaintiffs are informed, believe, and on that basis allege, that Defendant WALT  
8 DISNEY PARKS AND RESORTS U.S., INC. ("Walt Disney") is, and at all times mentioned  
9 herein was, a Florida corporation with its principal place of business in Lake Buena Vista,  
10 Orange County, Florida.

11 5. The true names or capacities, whether individual, corporate, associate or  
12 otherwise, of defendants named and sued as DOES 1 through 50, inclusive, are unknown to  
13 Plaintiffs. Plaintiffs are informed, believe, and on that basis allege, that each of these  
14 fictitiously named defendants is in some way liable to Plaintiffs on the causes of action stated  
15 below. Pursuant to the California Code of Civil Procedure, §474, Plaintiffs will ask leave to  
16 amend this complaint when the true names of these fictitiously named defendants can be  
17 ascertained.

18 6. Plaintiffs are informed, believe, and on that basis allege, that at all times herein  
19 mentioned, each of the defendants sued herein was the agent and employee of each of the  
20 remaining defendants and was at all times acting within the purpose and scope of such agency  
21 and employment.

22 **Jurisdiction and Venue**

23 7. The Court has jurisdiction over the subject matter of this action pursuant to 28  
24 U.S.C. §1332(a) because Plaintiffs and Defendants are citizens of different states and the  
25 amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

26 8. Venue is proper in this judicial district under 28 U.S.C. § 1391(a).

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**FIRST CAUSE OF ACTION**

**(Negligence)**

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3 Plaintiffs, for a First Cause of Action against Defendants Walt Disney, and DOES 1  
4 through 50, allege that:

5 9. Plaintiffs further allege and hereby incorporate by reference Paragraphs 1  
6 through 8, inclusive, as though they are fully set forth herein.

7 10. On or about March 17, 2010, Plaintiffs traveled from their residence in San  
8 Diego County, California to Orlando, Florida for a family vacation at an amusement park  
9 owned, controlled, and operated by Defendant Walt Disney.

10 11. While at the amusement park, Plaintiffs stopped and ordered dinner, including  
11 nachos. The nacho cheese from the nachos spilled onto Plaintiff ISALIAH HARRIS, a four year  
12 old child. The nacho cheese was scalding hot and resulted in severe burns and trauma to  
13 Plaintiff ISALIAH HARRIS' face. A true and correct copy of a photograph taken shortly after  
14 the incident depicting the physical injuries to Plaintiff ISALIAH HARRIS is attached to this  
15 Complaint as Exhibit "A."

16 12. Defendants so negligently and carelessly, served the scalding nacho cheese that  
17 Plaintiff ISALIAH HARRIS was severely injured. There was no effort on behalf of Defendants  
18 to regulate and monitor the temperature of the nacho cheese which was being served to young  
19 children. Defendants owed a duty to Plaintiff, which Defendants breached through their failure  
20 to use reasonable care when serving food to their guests.

21 13. As a direct and proximate result of the negligence of Defendants, Plaintiff  
22 ISALIAH HARRIS suffered severe burns to his face, medical expenses, future medical  
23 expenses, permanent scarring, pain and suffering, and general damages in an amount to be  
24 proven at trial.

25 14. As a further direct and proximate result of the negligence of Defendants,  
26 Plaintiff ISALIAH HARRIS suffered the following serious emotional distress and damages:  
27 suffering, anguish, fright, horror, nervousness, grief, anxiety, worry, and shock.  
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1 15. Furthermore, the conduct of Defendants set forth above, which resulted in  
2 injury to Plaintiff ISALIAH HARRIS, was outrageous, and was performed with malice, and/or  
3 oppression, as defined by California Civil Code §3294, and in willful and wanton disregard of  
4 the rights and safety of Plaintiff ISALIAH HARRIS and others.

5 16. Defendants should be punished and deterred from such conduct in the future.  
6 Defendants knew or should have known that guests, especially children such as Plaintiff  
7 ISALIAH HARRIS, would be injured and that there was a high probability of harm.

8 17. Based on Defendants acts of malice and oppression, Plaintiffs are entitled to  
9 punitive damages in an amount sufficient to punish or make an example of Defendants.

10 **SECOND CAUSE OF ACTION**

11 **(Negligent Infliction of Emotional Distress – Bystander)**

12 Plaintiffs, for a Second Cause of Action against Defendants Walt Disney, and DOES 1  
13 through 50, allege that:

14 18. Plaintiffs reallege Paragraphs 1 through 17 of the Complaint above and  
15 incorporate them herein by reference as if fully set forth herein.

16 19. On or about March 17, 2010, Plaintiffs MARIA CARMEN HARRIS and  
17 MICHAEL JEROME HARRIS, JR.'s son, Plaintiff ISALIAH HARRIS was severely burned on  
18 his face by scalding nacho cheese negligently and carelessly provided to Plaintiffs by  
19 Defendants.

20 20. Plaintiffs MARIA CARMEN HARRIS and MICHAEL JEROME HARRIS, JR.  
21 were present during the burning incident of their son and directly observed his pain and  
22 suffering as it occurred.

23 21. At the time of Defendants negligent and careless injury-producing conduct set  
24 forth above, Plaintiffs were aware that the conduct was causing injury to Plaintiff ISALIAH  
25 HARRIS because ISALIAH HARRIS was in severe pain as exhibited by his immediate injuries,  
26 crying and screaming.

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1 22. As a direct and proximate result of witnessing the injury to Plaintiff ISIAIAH  
2 HARRIS, caused by Defendants' negligent and careless conduct, Plaintiffs MARIA CARMEN  
3 HARRIS and MICHAEL JEROME HARRIS, JR. sustained the following serious emotional  
4 distress and damages: suffering, anguish, fright, horror, nervousness, grief, anxiety, worry, and  
5 shock.

6 **PRAYER**

7 **WHEREFORE,** Plaintiffs pray for judgment as follows on each cause of action  
8 against Defendants WALT DISNEY PARKS AND RESORTS U.S., INC. AND DOES 1  
9 THROUGH 50:

- 10 1. For special damages in an amount to be proven at trial;
- 11 2. For general damages in an amount to be proven at trial;
- 12 3. For punitive damages in an amount to be proven at trial;
- 13 3. For interest thereon at the rate of ten percent (10%) per annum;
- 14 4. For costs of suit incurred herein; and
- 15 5. For such other and further relief as this Court deems just and proper.

16 DATED: February 1, 2011

**CAHILL & ASSOCIATES**

17 By: 

18 SEAN T. CAHILL  
19 TODD C. SAMUELS  
20 Attorneys for Plaintiffs  
21 **ISIAIAH HARRIS, MARIA CARMEN  
HARRIS, and MICHAEL JEROME  
HARRIS, JR.**

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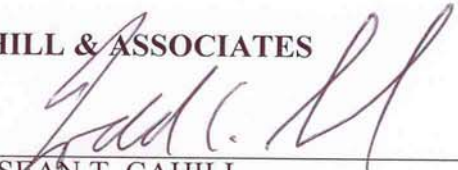
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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial on all issues so triable.

DATED: February 1, 2011

**CAHILL & ASSOCIATES**  
By:   
SEAN T. CAHILL  
TODD C. SAMUELS  
Attorneys for Plaintiffs  
**ISAIAH HARRIS, MARIA CARMEN  
HARRIS, and MICHAEL JEROME  
HARRIS, JR.**

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Isaiah Harris, a minor, by and through his guardian ad litem, Maria Harris, et al.

(b) County of Residence of First Listed Plaintiff San Diego (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Sean T. Cahill, Esq. / Todd C. Samuels, Esq. (Tel: 619-419-0152) Cahill & Associates, 624 Broadway, Ste 501, San Diego, CA 92101

DEFENDANTS

Walt Disney Parks and Resorts U.S., Inc., et al.

County of Residence of First Listed Defendant Orange (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

'11CV0272 BTM WMc

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 main columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Real Property, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from another district (specify), 6 Multidistrict Litigation, 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. Section 1332(a)

Brief description of cause: Negligence

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 200,000.00 +

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 01/25/2011 SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature of Todd C. Samuels

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE