

**The Estate of Alejandro Desafios  
v.  
Storm Chase, LLC**

**2024 IDAHO HIGH SCHOOL  
MOCK TRIAL CASE**





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## **ACKNOWLEDGEMENTS**

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The Law Related Education Program thanks the Iowa Mock Trial Program and John Wheeler for their original development of this case and the Pennsylvania Mock Trial Program and Paul Kaufman and Jonathan Grode for their adaptation. We also thank Idaho's Mock Trial Case Committee, including Hon. Jessica Lorello, Kale Gans, Zachary Jones, and Adam Triplett for updating the case for Idaho, and Greg Dickison and Jessica Kuehn for reviewing the case.

## **DISCLAIMER**

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This case is a work of fiction. The names, characters, businesses, organizations, places, events, and incidents herein are (mostly) the product of the authors' very vivid imaginations.

## **VERSION CHANGES**

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### **VERSION 1.0**

Version 1.0, dated November 15, 2023, does not include any changes.

### **FINAL**

The final version of the 2024 case, dated January 22, 2024 includes the changes outlined in Appendix A.

## **STIPULATIONS**

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- 1) This case has been bifurcated. The amount of damages, if necessary, will be addressed in a subsequent trial. With respect to the elements of wrongful death as set forth in Jury Instruction No. 9, the parties stipulate that, if the plaintiff proves the defendant was negligent and that such negligence was the proximate cause of the death, the plaintiff suffered a loss of comfort, society, companionship, and support for purposes of element 3 of Jury Instruction No. 9.



- 2) The jurisdiction and venue for this case have been previously established and are proper.
- 3) All parties agreed to the jury instructions.
- 4) All exhibits included in the case materials are authentic and accurate representations of the items they depict, and the proper chain of custody with regard to the exhibits has been maintained. All parties must use the proper procedures for admitting exhibits into evidence, and all exhibits are subject to objection, except as to their authenticity.
- 5) All witnesses made the statements attributed to them in their own witness statements.
- 6) Any instances where a witness is referred to with gender specific language is inadvertent. All witnesses may be played by any student.
- 7) The dates of witness statements are not relevant and therefore not included. No challenges based on the dates of the witness statements will be entertained.
- 8) The signatures and signature representations (items marked with /s/) on documents included in these case materials are authentic. No challenges based on the authenticity of signed documents will be considered.
- 9) Witness statements were taken after the alleged incident but before trial. Each witness was given an opportunity to update or amend their statement before trial, and no changes were made.
- 10) In any instance where actual statutes differ from any law utilized in the mock trial case, teams must rely on the law as written in the case materials.
- 11) If a particular exhibit includes more than one page, all the pages are part of the same exhibit and teams may not try to exclude any information from the exhibit based on the exhibit occupying more than one page.
- 12) It is anticipated that the trial time will not permit use of all exhibits provided. Each party should select and use only those exhibits that best support and illustrate that party's theory of the case.



- 13) The Medical Examiner determined the official cause of the death of Alejandro Desafios to be accidental drowning. Alejandro Desafios was pronounced dead by the treating physician, Dr. Lindsay Rogers, on Monday, October 25, 2022 at 3:26 p.m.
- 14) Alejandro Desafios signed the Storm Chase Assumption of Risk, Waiver of Liability and Indemnity Agreement on Saturday, October 23, 2022.
- 15) The parties attempted to mediate this matter and failed to reach agreement. Subsequently, both have agreed to waive arbitration and proceed to trial.
- 16) The decedent, Alejandro Desafios, was male. This does not affect the gender of the witnesses involved nor does it have an impact on the relationships between the decedent and the witnesses.
- 17) The plaintiff's Administrator, Beatrice Desafios, will not be present during the liability trial, and plaintiff will not have a party representative at counsel table.
- 18) Exhibit 1 is a copy of the Storm Chase flyer for the Lizard Butte event. It was obtained by plaintiff in discovery from the files of Storm Chase LLC.
- 19) Exhibit 2 is a copy of a waiver identical to that electronically signed and initialed in each blank space by Alejandro Desafios. It was produced in discovery by Storm Chase LLC.
- 20) Alejandro Desafios was of sound mind and body at the time he electronically signed and initialed a document identical to Exhibit 2.
- 21) Exhibit 3 is a copy of the Storm Chase Pledge signed by all registered Storm Chase participants on the day of the event. This copy is identical to that completed and signed by Alejandro Desafios on the day of the Lizard's Butte event and was produced in discovery from the files of Storm Chase LLC.
- 22) Exhibit 4 is a map of the Lizard's Butte competition route, including the obstacles present on the course on the day of the event. It was produced in discovery from the files of Storm Chase LLC.



- 23) No photo of Abandon Ship exactly as it was at Lizard's Butte exists. Exhibit 5 is a picture selected by Tori Damon as described in lines 153-165 of Damon's statement. It may be used by either party to show the approximate appearance of Abandon Ship.
- 24) Exhibit 6 are accurate depictions of signs posted by Storm Chase LLC at the Lizard's Butte event. These photos were retrieved from various social media sites by D.J. Hatchet. Each individual identified as a witness in this trial who was present at the Lizard's Butte event on October 23, 2022 saw each of these signs.
- 25) Exhibits 7 and 8 are articles written by D.J. Hatchet and published on Dr. Danger's Sports Xtreme, a website operated by Dr. Danger Sports Xtreme LLP. It was obtained by the parties jointly from that website.
- 26) Exhibit 9 is a record obtained in discovery from Storm Chase LLC. It was created by Storm Chase medical staffers under the direction of Dr. Lindsay Rogers on the day of the Lizard's Butte event.
- 27) Exhibit 10 is emails obtained in discovery from the personal email account of Dr. Lindsay Rogers. An identical copy of these emails was retrieved in discovery from files of Storm Chase LLC from the account of Chris Tempesto. Emails were exchanged on October 24, 2022.



# COMPLAINT

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IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO AND FOR THE COUNTY OF CANYON

BEATRICE DESAFIOS	)	
	)	
	)	Plaintiff ) Case No. IDMT2024
	)	
v.	)	
	)	COMPLAINT AND DEMAND
STORM CHASE, LLC.	)	FOR JURY TRIAL
	)	
_____	)	Defendant )

COMES NOW Beatrice Desafios (“Plaintiff”), by and through her counsel of record, Jem Trotter, and alleges and states as follows:

**JURISDICTION AND VENUE**

- 1) Alejandro Desafios (“Decedent”) died on or about October 25, 2022, in Canyon County, Idaho.
- 2) At the time of his death, Decedent was a resident of Canyon County, Idaho.
- 3) Plaintiff is the mother of the Decedent and is the sole heir for purposes of bringing a wrongful death claim under Idaho Code.
- 4) Defendant Storm Chase, LLC (“Defendant”), is a limited liability company organized in the State of Hawaii.
- 5) Upon information and belief, at all times relevant hereto, Defendant was permitted to do business in Idaho and did so on at least the relevant occasion.
- 6) Venue is proper in Canyon County, Idaho, pursuant to Idaho Code because the cause of action arose in Canyon County.
- 7) Personal jurisdiction is appropriate over the Defendant as it is licensed to do business in the State of Idaho or has subjected itself to the jurisdiction of the State of Idaho by acts





which confer jurisdiction as set forth in Idaho Code or any other applicable statute or law.

- 8) This Court has jurisdiction over the subject matter of this case as this Court is a court of original jurisdiction in all cases and proceedings pursuant to Idaho Code.
- 9) For purposes of assignment of this case, the amount in controversy exceeds \$10,000.00.

### GENERAL ALLEGATIONS

- 10) Defendant solely owned and operated an Obstacle Course Race in Canyon County, Idaho, on or about October 23, 2022 (the “Event”).
- 11) Defendant was fully aware of the safety concerns, and other matters which were part of Event and, in fact, collected data and statistics regarding injuries on various event elements. Defendant was aware of its duty of care and failed to exercise that duty.
- 12) Defendant oversold the Event, permitting more individuals to participate than the course could safely handle.
- 13) Defendant failed to ensure that unregistered participants or spectators were not able to access the course with registered participants.
- 14) On numerous occasions before and during the event Defendant had knowledge of violations of safety protocols such as understaffing, overcrowding, and other dangerous conditions and took no ameliorative acts.
- 15) On numerous occasions before and during the event, Defendant was made aware of the deficiencies of its safety protocols but chose to move forward with the Event anyway with those deficient and dangerous conditions in place.
- 16) Defendant failed to adequately supervise participants to ensure that they were starting the race at designated times.
- 17) Defendant designed the course at issue in this claim and had direct knowledge of the nature and type of danger the course presented.



- 18) Specifically, Defendant failed to design the course in a manner that could accommodate the number of participants it allowed to register for the Event. This resulted in too many participants, and participants were unable to run the course in the intended manner.
- 19) Defendant failed to prevent unauthorized individuals from entering the course, resulting in overcrowding and dangerous conditions.
- 20) The overcrowding and understaffing of the Event created conditions where participants were required to wait for long periods of time in conditions that created hazards for the participants.
- 21) Decedent was present on the day of October 23, 2022, for the Event.
- 22) At one of the Event's obstacles, the "Abandon Ship," participants were required to climb a twenty (20) foot wall with cargo netting and ropes and, at the top of the platform, jump into a deep pool of mud and swim out to the other side.
- 23) Defendant designed "Abandon Ship" to have a pool of muddy water which was so deep, it was over the competitors' heads.
- 24) Because Defendant permitted the Event to become overcrowded, the top of the platform at the "Abandon Ship" obstacle became congested with participants.
- 25) Decedent jumped off the platform at his designated time into the deep pit of muddy water.
- 26) As a result of Defendant's failure to properly supervise the platform at issue, other participants began jumping off the platform before Decedent could clear the pit.
- 27) Participants continued to jump into the pit before Decedent had gotten clear of the area in question.
- 28) Although Defendant was alerted that Decedent had not emerged from the pit, it failed to take any action to stop other participants from continuing to jump into the pit.
- 29) Although Defendant was alerted that Decedent had not emerged from the pit, it failed to immediately take action to rescue him.

- 30) Without rescue, Decedent was left in the water, during which time he ceased breathing.
- 31) Despite the fact that Decedent had stopped breathing, Defendant and others in its employ or acting as its agents failed to act promptly or properly to resuscitate Decedent.
- 32) Participants jumping into the pit, as a result of Defendant's failure to properly supervise the event, was the direct and proximate result of negligence, gross negligence, or recklessness of Defendant.

**COUNT I**  
**WRONGFUL DEATH**

- 33) The preceding paragraphs are hereby incorporated herein as if restated in their entirety.
- 34) Defendant was negligent at the time and place above mentioned in at least one or more of the following particulars:
  - 35) In failing to properly monitor occupancy of the course;
  - 36) In allowing unregistered persons to participate;
  - 37) In failing to maintain and properly train a sufficient staff to provide for the safety of those participating in the event;
  - 38) In failing to supervise the event which involved known danger;
  - 39) In failing to design reasonable safety features;
  - 40) In failing to notify and fully train participants of procedures and processes; and
  - 41) In failing to render prompt, effective, and timely emergency assistance.
- 42) Defendant knew or in the exercise of reasonable care should have known that Decedent and others present at the event would not know that the conditions of the event posed an unreasonable risk of injury, and that Decedent would be unable to protect himself from this condition.
- 43) Defendant was negligent in failing to prevent the creation of such conditions, in failing to warn Decedent of the conditions, and in failing to enforce its own rules and policies to prevent such conditions.



- 44) Such negligence and carelessness on the part of Defendant was the sole, direct, actual and proximate cause of the Decedent's death.
- 45) Defendant's conduct was reckless as defined under Idaho Code and, consequently, Plaintiff is entitled to recover in excess of the cap on non-economic damages under Idaho Code in effect at the time of the incident (\$430,740.03).
- 46) As a result of Decedent's death, Plaintiff has suffered a loss of comfort, society, companionship, and support and, accordingly, is entitled to damages in excess of \$10,000.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues so triable and makes such demand in accordance with the Idaho Rules of Civil Procedure.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for a judgment against Defendant as follows:

- 1) Damages for Plaintiff's loss of Decedent's comfort, society, companionship, and support;
- 2) Attorney fees and costs as provided for by Idaho Law; and
- 3) For such other relief as this Court deems just and equitable.

Presented in open Court this 22<sup>nd</sup> day of June, 2023.

Jem Trotter  
\_\_\_\_\_  
Jem Trotter  
Attorney for Plaintiff



# ANSWER

---

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF  
THE STATE OF IDAHO AND FOR THE COUNTY OF CANYON**

BEATRICE DESAFIOS	)	
	)	
Plaintiff	)	Case No. IDMT2024
	)	
v.	)	
	)	
STORM CHASE, LLC.	)	ANSWER
	)	
<u>Defendant</u>	)	

COMES NOW Storm Chase, LLC (“Defendant”), by and through its counsel of record, Bronwyn James, and answers Beatrice Desafios (“Plaintiff) as follows:

**I.**

Defendant denies each and every allegation of the Complaint not herein expressly and specifically admitted.

**II.**

With respect to the allegations contained in Paragraphs 1, 4, 5, 10, 21, 22, 23, and 25 of Plaintiff’s Complaint, Defendant admits the same.

**III.**

With respect to the allegations contained in Paragraphs 27 and 28 of Plaintiff’s Complaint, Defendant denies the same.

**IV.**

With respect to the allegations contained in Paragraphs 2, and 3 of Plaintiff’s Complaint, Defendant states it is without sufficient information to form a belief about the truth of the allegations to allow it to admit or deny the allegations.

**V.**

With respect to the allegations contained in Paragraphs 11, 12, 13, 14, 15, 16, 18, 19, 20, 24, 26, 29, 30, 31, 32, 34, 35, 36, 37, 38, and 39 of Plaintiff’s Complaint, the allegations are



denied as calling for a legal conclusion to which no response is required and Defendant, therefore, denies the same.

#### VI.

With respect to the allegations contained in Paragraphs 6, 7, 8, and 9 of Plaintiff's Complaint, Defendant admits only that jurisdiction and venue are proper in the District Court of the Third Judicial District in and for the County of Canyon.

#### VII.

With respect to the allegations contained in Paragraph 17 of Plaintiff's Complaint, Defendant admits only that Defendant designed the course at issue.

#### AFFIRMATIVE DEFENSES

- 1) Alejandro Desafios ("Decedent") signed a waiver to participate in the Event acknowledging and accepting any and all risk associated with any injury that resulted during his participation in the event.
- 2) Decedent knew or should have known that the Event was a physical, athletic activity designed for those who were in peak physical condition.
- 3) Decedent knew or should have known that participating in the Event if he was not physically able to do so could lead to physical injury up to and including death.
- 4) Decedent was aware of the conditions of the course and assumed the risk of ultimate injury and death.
- 5) Decedent voluntarily placed himself in a position of risk, assuming all risk, which is a complete bar to recovery.
- 6) Decedent was aware of and voluntarily assumed the risk of the activity by knowingly and voluntarily signing a waiver, which is a complete bar to Plaintiff's recovery.

#### JURY DEMAND

Defendant demands a trial by jury on all issues so triable and makes such demand in accordance with the Idaho Rules of Civil Procedure.



**PRAYER FOR RELIEF**

WHEREFORE, Defendant prays that Plaintiff take nothing by her Complaint, that the same be dismissed, and that Defendant be awarded its costs of suit and attorney fees, including, but not limited to, fees pursuant to Idaho Code or The Idaho Rules of Civil Procedure and such other and further relief as the Court deems just.

Presented in open Court this 13<sup>th</sup> day of July, 2023.

Bronwyn James

Bronwyn James

Attorney for Defendant

## PLAINTIFF WITNESSES

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### TORI DAMON, STORM CHASE PARTICIPANT

1 My name is Tori Damon. I am 36 years old, and I was raised in Winnipeg, though my  
2 family wintered on Tortola, in the British Virgin Islands. I attended McGill University in  
3 Montreal, which is basically the Yale of Canada, and later I moved out West and earned a  
4 master's degree in Corporate Communications from the University of Oregon. I own and  
5 run, and serve as CEO of TD Island LLC (TDI), a niche marketing and public relations firm  
6 in Boise, Idaho, providing a full-service, turnkey operation: web designers, graphic artists,  
7 social media experts, and public relations specialists, plus one attorney versed in the  
8 intersection of the law of U.S. and Commonwealth nations. Alejandro Desafios – or Big Al  
9 as I called him – was a big guy, with a big heart, and a big personality. He was one of our  
10 top public relations experts; we hired him from Xenopharma, where he was a crisis  
11 management professional. TDI only has 20 employees, and we consider them all family.  
12 Losing Big Al was crushing.

13 TDI's job is to connect our clients and to make sure they enjoy working together. That's  
14 how we do business internally, too: I create an enjoyable workplace, laid back and creative.  
15 We participate as a team in lots of extracurricular activities – softball, bowling, dodgeball,  
16 trivia nights, etc. Big Al was by far our most competitive team-member. I think it was  
17 something in the water at Xenopharma – they're extremely competitive – or maybe crisis  
18 management is just highly adrenalized. Whatever it was, he would brag about his wins, his  
19 times, his weights and reps. You get the idea. He didn't mean anything by it, but our  
20 corporate culture was more "play for the fun of it," and Big Al thought the fun was  
21 winning. It was a bit much. But Big Al was also a team player: always the first to help  
22 someone down or hurting. Although I would schedule TDI for a variety of events, I  
23 especially loved outdoor activities because that contributes to happiness on more than one  
24 level.



25 That's why I was intrigued when we were contacted by Storm Chase. Like everyone  
26 else, I knew about extreme obstacle events and had seen snippets of mud races on the Web.  
27 Storm Chase was planning an event like that deep in Canyon County at Lizard's Butte. They  
28 were lining up corporate sponsors and offering group discounts for company-sponsored  
29 teams. COVID had hit us hard – after all, our business requires travel – so we were in no  
30 position to sponsor. But a presence at events like that, with hard-charging executives from  
31 all over the Pacific Northwest can be a real boon. Sponsoring the Zombiepocalypse in 2019  
32 helped us create a six-figure client relationship with Salus LLC, and when they were bought  
33 by Pop-Cap, we brokered Pop-Cap's exclusive right to sell energy drinks at all Carnival and  
34 Princess Cruises ports in British Columbia, Alaska, and the British Virgin Islands. That deal  
35 made us! Of course, looking weak to competitive executives is not helpful: Big Al and I both  
36 knew a strong time in the race would help make us "winners" in their eyes.

37 None of us had ever participated in a mud run, and the Storm Chase run was longer  
38 than most: 12 full miles. It looked like a challenge, but the event website encouraged  
39 costuming, so I figured it would be fun, too. To get psyched, we watched some clips of  
40 Spartan Race on TV and videos of Tough Mudder, and it was clear this was going to be a  
41 whole new level of challenge. Our team was fitter than most, but even so, we would have to  
42 train a little differently.

43 Since the event was around Halloween – and because it's fun! – we decided to go in  
44 costumes. We had just lost the fall soccer title to Xenopharma, and Big Al suggested we  
45 dress up as bog turtles to get even. I don't know what that's about; I guess they have some  
46 kind of history with them? But, that's what we went with – Team Bog Turtle. We didn't go  
47 crazy, just put on body paint with "Save the Bog Turtles" written in white on top of our  
48 green shells. We knew better than to weigh ourselves down too much. We certainly stood  
49 out, but we were hardly the weirdest or most elaborate costume! And our costumes were  
50 certainly better than Xenopharma's - they wore custom Nike rugby jerseys. Lame! Classic  
51 Xeno, substituting money for creativity.

52 We knew we would have to sign some sort of waiver. It's a basic fact of life – if you want  
53 to do anything fun, you've got to sign a waiver. Download a video game – sign a waiver. Go  
54 on a cruise – sign a waiver. Jump out of an airplane – sign the waiver. Usually, it's  
55 automatic: click or sign your name on the dotted line. This one was a little more  
56 complicated: it was electronic, part of the online registration. We all scanned the document  
57 but did not read it closely – at least I know that I didn't. They can't really expect anyone to  
58 read these things, can they?

59 A week before the event, I heard that the Storm Chase was sold out. I think it helped  
60 that the stars were coming out – Lance Pekus from American Ninja Warrior, Mike Gabler  
61 from Survivor and Joel Strasser and Garrett Smith from the Amazing Race. I was even  
62 happier to hear that they were selling spectator tickets: more eyeballs on the team, more  
63 folks to meet at the after-parties. I had another couple hundred business cards printed. Big  
64 Al was excited, too. He said, "a win here is a PR bump that would take me months to get  
65 otherwise." He wasn't wrong, but I reminded him that it was about the fun and bonding.

66 The race lived up to the waiver, though! As I said, from YouTube, we knew that there  
67 was some danger involved. The event site really played that up, though: signage was  
68 everywhere at the start of the course with Caution and Danger warnings. There was even  
69 one with a skull and crossbones with the words "Danger" and "Obsta-Kill Course" written  
70 on it. Everyone took their selfies there, but nobody took the possibility of death seriously. It  
71 was just in good fun, right?

72 The event opened at 8:30 in the morning, but teams had staggered start times, with  
73 groups leaving every 15-20 minutes starting at 9:00. Our team was meant to start a little after  
74 10am, so we were up at dawn to tailgate and schmooze. There were five of us: me, Big Al,  
75 Katie, Reed, and Jenny. I'm not a bad hand on the skillet, so I whipped up some eggs and  
76 bacon, and Big Al had been a bartender during college, so he was mixing some liquid  
77 courage. Each of us had probably had a couple by the time we got to registration, but my  
78 attention was on the tabasco eggs, so some might have had more or fewer. Nobody was

79 intoxicated or impaired, as far as I could tell, and I've been with these people a lot. We're  
80 like family after all!

81 When we arrived at the site, we checked in, participated in a "pledge ceremony" that felt  
82 more like a cult initiation than a race briefing, and were given bibs with race ID numbers as  
83 well as one RFID tag for our team leader to track our time. We gave that to Big Al, of course.  
84 Then our race IDs were written in black Sharpie on our foreheads, heightening the  
85 merriment.

86 We got to the start line a few minutes late, but the Storm Chase monitor for groups  
87 starting at our time slot, a hippie named Izzy, allowed us to join. The rest of our time group  
88 was not happy; they had to wait for us to get there. After that, I felt like we had a target on  
89 our backs. As a group, we moved up a hill to the first obstacle, a basic climbing wall  
90 approximately 12-15 feet tall with a sheer drop into a mud pit on the other side. It was an  
91 easy one, but it got juices flowing: we were covered in filth and ready for a good time! At  
92 the back end of the pit, there was Izzy again, reading off a cue card about the do's and  
93 don'ts of the course. Like one final reminder before we entered the real hell that was this  
94 competition. Izzy was supposed to keep an eye on us, but I rarely noticed Izzy at all during  
95 the race. We were moving too fast and whenever we were at an obstacle, Izzy was off taking  
96 a smoke break or something. No one gave us any useful information about how things  
97 would work, and there definitely was no mention of this "flag system" I know Storm Chase  
98 is saying existed. The "instructions" were just theatre, really.

99 Most of the obstacles were pretty typical: you run through them, over them, or under  
100 them. But some took much more time to figure out, or teamwork to surmount. Those  
101 couldn't be finished quickly. Crowds tended to back up at these, milling around while  
102 waiting for those ahead to finish, getting cold and tightening up. That seemed like an  
103 obvious, pretty avoidable problem... Storm Chase could have built doubles for those  
104 obstacles, or not had them at all. They've done this before, right? Instead, the backups got  
105 everyone agitated and impatient.

106 Even stranger, a mile or two in, I started noticing participants without race bibs. Others  
107 had different colored Sharpie numbers on their faces or different letter and number  
108 combinations – as if they had done it themselves. I wanted to say something to Izzy about it  
109 but couldn't afford to waste time looking for someone who was supposed to be looking out  
110 for me. Still, it seemed like there were more than a few people crashing the party! To some  
111 extent, that's inevitable: Lizard's Butte is an open area. But I was surprised that the race staff  
112 didn't pull those people off the course, because there had to be dozens, maybe even  
113 hundreds of "extra" participants on the course just that we saw during our small-time  
114 window. And ten or fifteen extra people on an obstacle can really change the experience,  
115 adding chaos and crowding, and not for the better!

116 In the online registration, we were all told that this was not a race and that teamwork  
117 was more important than speed! We were also told that there was no requirement to  
118 complete all of the obstacles; that we could skip any obstacle and take a time penalty. But  
119 the vibe was different on the course: there were official-looking monitors in Storm Chase  
120 shirts at each obstacle, screaming like drill sergeants for everyone to go through all of the  
121 obstacles; there was a giant leaderboard showing the top times; and anyone skipping a  
122 hurdle got an earful from spectators, other competitors, and even sometimes event officials.  
123 I know they were creating excitement, but there were racers who were bloody, muddy, and  
124 confused. Some definitely could have used a break. At one point, even Big Al looked like he  
125 wanted to go around one of the electric fence obstacles, but the shouting from the crowd  
126 and a Storm Chase staffer led him (and therefore all of us) back to the obstacle anyway. You  
127 could just tell he was bullied into it.

128 Lots of the obstacles involved water or mud, which never really warmed up. In fact, the  
129 third or fourth obstacle on the course was a dunk in an ice bath, I guess to brutalize anyone  
130 not frozen by the mud jump already? And it was early on, so no one felt good skipping it.  
131 After that, whatever patience participants had evaporated – there was a ton of pushing,  
132 shoving, and grumbling at later obstacles. Worse, everyone seemed to get caught up in the  
133 silly "need for speed" – even though the only prize for being fast was being put on a big

134 board and having a photo on the Storm Chase webpage. It was probably inevitable that  
135 folks who chose this kind of “fun” would get whipped up into a competitive feeding frenzy,  
136 but Storm Chase made sure of it.

137 There were medical service tents set up in a few places, and there were a couple places  
138 to get a drink of water or sit and recover. But for the length of the course, I often felt like I  
139 needed more hydration. And from what I saw, the medics in the tents were busy! Lots of  
140 bumps, scrapes, and bruises, but I noticed one person with a gashed leg, another with blood  
141 streaming from a broken nose, and one who looked like he had a broken arm. In all, the med  
142 tents looked overworked. There were also golf carts and ATVs lined up to take the more  
143 serious cases to ambulances in the parking lot.

144 By about 90 minutes in, the whole team was dragging. Honestly, I was a little concerned.  
145 We all got jolted in the Electric Storm, Katie more than once! Jenny messed up her ankle on  
146 the descent of the Mudslide, and Big Al had taken a thump to the head on the Cyclone. Plus,  
147 we each must have sucked down a gallon of mud. Big Al was struggling more than most.  
148 He staggered a couple times, and once when he got up, he started running in the wrong  
149 direction. I figured maybe he was dehydrated or still feeling the Bloody Mary’s or  
150 something, so I asked him at one point if he wanted to bail or have the team crash out for a  
151 few extra minutes at one of the water tents that were all around the course. He would have  
152 none of it; Big Al never gives up, that’s just the type of person he is. Was.

153 We hit the Abandon Ship sometime not too long after noon. The front end was pretty  
154 basic: a 20-foot wall with cargo netting and ropes to climb. Big Al struggled with the climb,  
155 which was not like him, but the event had been going on for hours by this point, so the nets  
156 and ropes were slick with mud, and only Katie got up at the usual pace. While some of the  
157 stronger climbers around us were helping others, in the spirit of the event, as Katie helped  
158 Big Al, others were loudly grumbling and even cutting the line. At the top of the obstacle  
159 was a relatively narrow platform to wait on. Then each runner walks out onto another mud-  
160 slick piece of wood, fashioned as a kind of plank on a pirate’s ship, and jumps the 20 to 25  
161 feet back down into a deep pool of mud and has to pull themselves out or swim out to the

162 other side, maybe 20 yards away. I wasn't stopping for pictures that day, but afterward, Big  
163 Al's lawyers asked me to look at a bunch of similar obstacles from other races, and I picked  
164 one that was either the Abandon Ship or one just like it, except that the top was open,  
165 without those guard rails, and Abandon Ship sure felt taller than that!

166 When we finally reached the top of Abandon Ship as a team, it was really congested:  
167 people were everywhere, and more were climbing up all the time. It was like a scene out of  
168 the Walking Dead, and worse, there was no sense of organization... no waiting line, or  
169 indication of whose turn it was to go next, or even when it might be safe to jump. There was  
170 only one event monitor at the top, and she was waiving a red flag, but no one knew what  
171 that meant, or no one was listening, or both. She was also shouting at folks, waving her  
172 hand with some kind of walkie-talkie, but I couldn't even hear her over the crowd and  
173 Dropkick Murphy's Shipping Up to Boston blasting on repeat. There was no controlling the  
174 crowd at this point. And the super-competitive teams were not even pretending; they just  
175 muscled to the front and jumped whenever they felt like it. I would like to say Team TDI  
176 did better, but Jenny and Reed did all anyone of us could do: they just went and jumped at  
177 the first available moment. I saw them paddle to the far side of the pit and climb the cargo  
178 netting out of the pool. They waved back to Big Al, Katie, and I at the top of the platform.  
179 Big Al was waiting for a few others in the pit to swim to safety. People kept slamming into  
180 him, and he was off-balance from it. He shoved one or two others back. Then he jumped in  
181 himself, with Katie close behind. Right after they landed, the Xenopharma team that started  
182 20 minutes behind us blasted up the cargo netting and – without even looking – all jumped  
183 in together from the same spot, five at once. I don't know if they saw Al and were trying to  
184 spook him or were jerks. Or both. I don't know if Storm Chase can even punish that  
185 behavior, but it didn't matter: the monitor had her back to the water and didn't see what  
186 happened.

187 Katie reached the end of the pool after about 20 or 30 seconds, about the same time as  
188 Team Xeno, but I never saw Big Al surface. I was getting shoved to the front of the plank,  
189 but just before I jumped in, I saw Reed yelling to the lifeguard at the pit side. It looked to me

190 like Reed was screaming Alejandro's name and pointing back toward the mud pit. I started  
191 shouting too, But some of the dopes at the top of the platform thought I was just cheering so  
192 they started cheering, too, and jumping in en masse. Of course, Izzy – who was supposed to  
193 be our monitor with a walkie talkie to call for help – was nowhere to be seen.

194 It must have been a minute or more since Big Al jumped, and he had still not surfaced.  
195 Finally, between my efforts at the top and Reed's on the ground, the platform monitor and  
196 the lifeguards started moving, but the monitor couldn't get runners to stop jumping.  
197 Eventually, she was able to get the monitor at the base of the wall to stop others from  
198 climbing up, and that helped. A lifeguard by the pit was blowing a whistle trying to get  
199 everyone out of the muddy water. I raced down a ladder to the side of the mud pit and met  
200 up with Jenny, Reed and Katie. They were as freaked out as I was.

201 Finally, one of the lifeguards – the name "Devin" was written in Sharpie on their shirt –  
202 came over to ask if anyone was missing. I was gobsmacked: it felt like minutes had passed,  
203 but Devin had no clue what was actually going on. I know that time speeds up in these  
204 situations, so it could have been a little less time than I thought, but every second counts. At  
205 last, after explaining quickly again, we were able to get Devin to do something!

206 Devin dove in, then surfaced, then dove and surfaced again a few more times before  
207 they finally brought Big Al up. But when Devin dragged Big Al to the shore, Al was not  
208 breathing! Devin started CPR, and a few seconds later, some other medics drove up in a golf  
209 cart. They applied electric shock paddles from a portable unit. It took three times shocking  
210 him before they finally got a pulse. Then an ambulance appeared, they loaded Al onto it,  
211 and sped off.

212 The whole process seemed to take forever, at least five minutes before they applied the  
213 shocks. But time is hard to judge; when I first saw the diver bring Al to the surface, I really  
214 lost it. I've never cried so hard. I've had loved ones in my life die, but never with me  
215 watching!

216 We went to the ER and waited. I'm sure that since they were overcrowded and  
217 understaffed, and since none of us was actually related to Al, they couldn't give us any  
218 updates. I later read in the paper that it was almost a record day at the ER – all because of  
219 the Storm Chase obstacle race. Well after midnight, someone came out and told us that  
220 while the medics were able to normalize Al's heart and he was breathing on a ventilator, Al  
221 was brain dead. His family made the decision to remove him from life support the next  
222 morning.

223 Looking back, what upsets me is the failures of the event organizers. Their website  
224 indicated that they've been holding extreme obstacle races since 2013, but they seemed  
225 overwhelmed and totally unprepared. It was chaos, and Al is dead because of it. We knew  
226 there were risks, but we counted on Storm Chase to do their best to keep us safe, not to  
227 throw more than 2,000 people at an extreme obstacle course, hold their breath, and hope  
228 that everything would turn out OK. If only Al could have held his a little longer.



**DR. LINDSEY ROGERS, E.R. DOCTOR & CHASE MEDICAL PERSONNEL**

1 My name is Lindsay Rogers, and I was an on-call attending physician in West Valley  
2 Medical Center on October 23, 2022 as well as the Medical Race Coordinator contracted by  
3 Storm Chase for the Lizard Butte race. My full-time job is as an Attending Physician in the  
4 Emergency Room Operations at St. Luke’s Regional Medical Center in Nampa, and I  
5 “moonlight” – or work per diem, for cash – at other ERs. Medical School debt is no joke. I  
6 attended Idaho State University as an undergraduate, graduating with a B.S. in Pre-Med in  
7 2010. I commenced my medical studies at the University of Washington. I did my rotation in  
8 Emergency Medicine at UW Medical Center in 2014, and after I graduated in 2017, I  
9 completed a residency in Emergency Medicine at the University of Washington before  
10 returning home to take my current position in January 2021.

11 Look, I am going to go into detail here, but the bottom line is that this Storm Chase was  
12 the mud race equivalent of the Fyre Festival—only without the steady hand of Ja Rule to  
13 guide it. On paper, Storm Chase sounded great, sounded like all of the right stuff was in  
14 place – but in reality, it was a disaster. A bamboozle. A scam. Poorly organized from the top  
15 down. And no amount of paid-off influencers, techy registration processes, or life-affirming  
16 slogans is going to change the fact that you cannot put on a race like this without making  
17 safety – and not profit – your ultimate top priority. The warning signs were there for  
18 months, and the event execution was even worse. It was like they were using a piece of  
19 tissue paper to catch a baby falling from a burning building and hoping it would work out.  
20 You guessed it – it did not. Storm Chase promised me a ton of money if I didn’t testify here  
21 today. Well—loans be darned. I need a clear conscience.

22 Also before I get too far into it, I should clear the air on my past. I’m human, okay? And  
23 I own my mistakes and am a better person as a result of it. You may have noticed it took me  
24 four and a half years to complete a three-year residency program. Well, that’s because I was  
25 convicted in 2018 of Driving Under the Influence. Worse, the intoxication was oxycodone,  
26 an opioid painkiller to which I had become addicted. I knew that the Prescription Drug  
27 Management Program would notice if I was prescribing to myself, so I just stole the pills

28 and doctored the pharmacy logs at the hospital. Believe me when I tell you that was my  
29 rock bottom.

30 But I was fortunate: King County has a Drug Court program that gives addicts a  
31 pathway out of the criminal justice system. It was the hardest thing I've ever done, harder  
32 by far even than the MCAT or Gross Human Anatomy. But after working with the judge,  
33 probation officer, a support group, and a personal Vipassana meditation guru—shoutout to  
34 Raz at the Moonlit Lotus Center!—I have been clean for four and a half years. And I fulfilled  
35 my sentence performing community service at understaffed community health centers. I  
36 have filed a petition to restore my civil rights, but I still cannot vote or own a firearm or  
37 serve on a jury.

38 In February 2022, I was asked by the ER Director at St. Luke's, Dr. Steve Eckley, to  
39 attend a meeting between the organizers of an extreme obstacle course race and the County  
40 Recreation department, which would have to approve the race. Eck knows that I was a  
41 competitive triathlete in college, and I still run, bike, and swim, just not competitively. I was  
42 asked to join as a sort-of de facto subject matter expert.

43 Chris Tempesto attended the first meeting. Ugh. Not impressed. Big vision with little  
44 substance. Chris paid lip service to their primary concern being safety, and that they would  
45 take all measures necessary to put together a safe, fun, and challenging event. Sure, the  
46 words were right, but the tone seemed off to me, like Tempesto was just going through the  
47 same pitch as always, not like safety was actually that important. Tempesto even objected  
48 that there was no need to have an ER doc at a "friendly business meeting," as though I was  
49 an impediment to the rubber stamp Storm Chase expected. I was a little put off, but things  
50 calmed down when Devin Cody, the Storm Chase Director of Competitor Safety, got  
51 involved. Cody reminded Tempesto that there had been a near-death after a previous race,  
52 so our concern was reasonable.

53 I asked a lot of questions about the nature of the obstacles placed on the course. I had  
54 mistakenly believed that this would be a wholesome, bucolic nature challenge – kind of like  
55 a cross-country race on steroids. Just quads, glutes and butterfly nets, you know? Wrong. I

56 was shocked--and it takes a lot to shock me--when I heard about some of the barriers and  
57 challenges planned. They talked about live low-voltage electrical wires, freezing cold water,  
58 difficult climbs and tricky descents, mud, barrels, fire pits, a highwire walk over wild  
59 walrus and wombat-infested waters, a mid-race all-you-can-eat fettucine buffet station, and  
60 other diabolical tortures. The obstacles were packed tightly, but the course was still going to  
61 be 10 to 12 miles, which is a substantial distance even for a country run. Cody admitted that  
62 we should expect an increase in ER visits during the weekend of the event, which could  
63 include severe lacerations, concussive injuries, electrical burns, mild hypothermia, broken  
64 bones, or acute bloating and debilitating indigestion from all that pasta. They reported that  
65 their races might draw as many as 1000 participants and that we could expect 5-15  
66 significant cases and perhaps a couple dozen cases requiring observation or diagnostic  
67 efforts.

68 I thought that number was low, but Cody explained that most of the participants with  
69 contusions, lacerations, sprains and strains, or dehydration would be treated by the on-site  
70 medical staff. The original plan called for a single medical tent located in an area close to the  
71 start/finish line, with monitors equipped with walkie-talkies and golf carts throughout the  
72 course to attend to injuries. I suggested that in addition to the primary medical tent, they  
73 might consider a series of triage tents in strategic locations – preferably close to those  
74 obstacles that in the past have generated the most injuries. I mean duh—any lay person  
75 could guess which obstacles might generate the most problems – clearly anything featuring  
76 live electrical wires, fire, water, or long drops would be the most dangerous. I demanded  
77 they consider tents near some of those.

78 Tempesto pushed back, noting that there were also ambulances available in the parking  
79 lot that could be summoned in the case of extreme emergencies. To me, that proved Storm  
80 Chase’s bad faith: the course was a ten-plus mile loop, so the ambulance could have to go as  
81 far as three to five miles. At highway speeds, that’s not very long, but on dirt trails, with  
82 crowds of runners all over the place and obstacles filling several of the open paths? The

83 ambulance would be lucky to make 20 mph. Or 10. So it was obvious that the event would  
84 need emergency personnel closer to the obstacles, especially the bad ones.

85 The Recreation Commissioner agreed with me and backed me up. Then, Cody and  
86 Tempesto stepped into the hallway to discuss things. You could hear Tempesto getting  
87 upset, and Cody had to practically shout over him. Eventually, they came back in, and Cody  
88 explained that Storm Chase could accommodate most of the suggestions. Tempesto just sat  
89 there brooding with a Luciferian look in his eye. He was staring daggers at me while  
90 stabbing his fingers, like stubby pitchforks, into a cell phone—possibly texting someone?

91 I also urged the Storm Chase crew to hire additional EMTs and lifeguards. I did not  
92 believe that their original plan had sufficient emergency staffing. While they welcomed my  
93 suggestion for triage tents on the course, they assured me that they would have sufficient  
94 safety personnel available in accordance with the minimum health and safety guidelines  
95 and their past experiences. I desperately tried to push the point, but around that time, the  
96 County's Director of Tourism came by and made a big deal of how excited the County was  
97 to be welcoming Storm Chase and the thousands of participants and tourists and the dollars  
98 it represented. After that display, the Recreation Commissioner said she was sure the  
99 staffing levels were ok. I'll bet whatever texts Tempesto was sending saved Storm Chase  
100 thousands from not having to pay the necessary safety personnel. Speaking of Tempesto, he  
101 concluded the meeting with some snark aimed in my direction: "See you later, Dr.  
102 Worrywart!" Ugh. What a "professional".

103 When the meeting concluded, I kept digging. I wanted to make sure that our hospital  
104 staff would be prepared for that weekend, but I also felt an obligation to contribute to the  
105 overall safety of the event. If I could suggest some ways to modify a few of the most  
106 dangerous obstacles, I would be doing all of the participants a huge favor. Did we need the  
107 fire pits? Did we have to have the pasta buffet? Must we stockpile walrus and wombats? I  
108 don't know. Call me a Cassandra, but I take my responsibilities seriously. I reviewed other  
109 similar races with comparable obstacles and contacted colleagues at ERs close to where  
110 these events had already taken place.

111 In mid-October, while the event course was under construction at Lizard's Butte, I was  
112 invited to do a walk-through of the course and view the preparations for emergency  
113 medical service on-site. I was coming off an eighteen-hour shift, but I saw some of the Storm  
114 Chase "training" for EMTs, Lifeguards, and other safety and security personnel. From what  
115 I could tell, it was just a bunch of coffee and donuts, people standing around looking busy,  
116 and "y'all know what you're doing" talk. I saw more of an emphasis on handing out  
117 branded merchandise than on site planning. There wasn't even a sign-in sheet, much less  
118 credentials being checked. That's a huge issue: EMTs all register with the state, but there  
119 isn't a statewide database of lifeguards or individuals who take an advanced first aid class,  
120 so people can claim to have the training and not, or have out of date training. The oddest bit  
121 was that as I was leaving and planning to lodge a complaint with the County, Tempesto  
122 stops me and hires me on the spot to serve as the medical coordinator for the event. They  
123 really must have been shorter on staff than they wanted to admit. He didn't even ask for my  
124 resume or a reference.

125 Yes, I was under contract, but \$1000 wasn't going to change my opinion that the course  
126 was unduly dangerous. In my opinion the obstacles themselves were well-constructed, but  
127 they posed tremendous threats to physical health. I could only imagine that adding a huge  
128 crowd of people and spectators to this course along with tons of mud could turn this  
129 quixotic, dangerous fool's errand into a full-blown eschatological catastrophe. I voiced my  
130 concerns once again to Devin Cody, this time via email. Cody assured me that Storm Chase  
131 had everything under control, that this kind of thing was "old hat" for them, and that I was  
132 being a kill-joy and should stick to the Neosporin and leave the course to the people from  
133 Storm Chase. My biggest concern was the Abandon Ship obstacle. The depth of the water,  
134 the amount of mud, the relatively small landing area, the ominous piratical theme, and the  
135 risk for falls from a narrow jumping spot... none of it looked safe to me. None of it!

136 I was on call in the St. Luke's ER on Saturday, October 23, 2022 and at the race all day. I  
137 was super nervous. I tried to relax and get grounded but I couldn't--even the mantra that  
138 Raz gave me wasn't helping at all. To be honest, I was very worried something serious was

139 going to happen. None of my concerns had been addressed, and I thought that Storm Chase  
140 was just being too casual for something so big. Just crossing your fingers and wishing for  
141 the best is a recipe for disaster. During what can only be described as a pep talk to the staff  
142 before the participants arrived, Chris was pacing around, jabbing a trekking pole into the  
143 air, bellowing that, “neither snow, nor rain, nor heat, nor gloom of night stays these  
144 participants from the swift completion of their appointed rounds.” Chris went so far as to  
145 confess that if the event was postponed or delayed, “it would spell financial ruin for the  
146 company,” and that we needed to “make this happen at all costs”. But the wildest thing was  
147 the tone of it wasn’t down at all; it was like an infernal pep talk, with Chris giving another  
148 crazed rah-rah about encouraging the participants, right after saying this really troubling  
149 stuff. He ended by channeling Pacino from Any Given Sunday—saying, and I quote: “when  
150 we add up all those gallons of mud, that’s gonna make the freaking difference between  
151 WINNING and LOSING, between LIVING AND DYING!!!!” Chris looked possessed. I may  
152 have injured myself from rolling my eyes so hard.

153       Around 12:30pm, I got the radio call. Code Blue, Code Blue! There was an unconscious  
154 participant on the Abandon Ship Obstacle. The scene was complete bedlam—it looked like  
155 Bosch’s painting of hell, except with way more mud. No one seemed to be taking charge,  
156 and despite talking a big game, Cody was like a deer in headlights, doing chest  
157 compressions with wide eyes rather than taking command and getting assistance from  
158 others. I didn’t see any rescue breaths, either. There was a time when we trained untrained  
159 people not to do them, but a professional or trained personnel should be doing two breaths  
160 for every 30 compressions. Mind-blowingly, behind Cody, participants were still doing the  
161 obstacle! People were tumbling into the pit like the condemned souls in Dante’s Inferno; it  
162 might as well have been the River Styx with all that mud, Spandex, and alfredo sauce  
163 bubbling over. While Cody kept doing CPR, I set up the automatic external defibrillator  
164 (AED), and we shocked the victim (who I found out later was Al Desafios). BLAMMO!  
165 Nothing. BLAMMO! Nothing again. Cody restarted compressions, and we cycled twice  
166 more before a normal cardiac rhythm could be established. Of course, Desafios remained

167 unconscious. An ambulance had arrived while we were resuscitating, and I accompanied  
168 Desafios to the ER.

169 Alejandro Desafios was admitted to St. Luke's on a priority-emergency basis by  
170 ambulance. A priority-emergency admission occurs when the EMTs conclude that the  
171 patient is in such extreme condition that they are admitted right away, often met at the  
172 hospital doors by a team of doctors and nurses.

173 As most laypeople know, the "rule of three" governs the human body: a healthy adult  
174 human can typically go three weeks without food, three days without water, or three  
175 minutes without oxygen before there is a high risk of death or permanent injury. That's not  
176 entirely accurate medically, and there are tons of factors that impact on any person's  
177 response to deprivation, but it's still a good rule of thumb, especially as to oxygen: an  
178 individual who is without oxygen for three minutes or more is likely to suffer significant,  
179 permanent physiological damage.

180 Mr. Desafios was moved as swiftly as possible to the Intensive Care Unit, where my  
181 colleagues and I put him on a ventilator and cardiac monitoring. Testing that evening  
182 showed no brain function. He did not regain consciousness. I later learned that his family  
183 made the difficult but inevitable decision to remove him from mechanical life support.

184 Two factors likely contributed to Mr. Desafios drowning. First, Mr. Desafios may have  
185 been struck by another, falling participant. Such a blow would have landed with  
186 considerable force, which could have further disoriented him or knocked the wind out of  
187 him. Regardless, once he opened his mouth – involuntarily – and inhaled water, rather than  
188 air, he would have been rendered helpless almost immediately. Second, Mr. Desafios's  
189 breath-holding ability may also have been reduced by cold-shock response, which can  
190 happen anytime someone's head is submerged in cold water. (I estimate that the water  
191 temperature at that obstacle on that day to be around 50 degrees Fahrenheit.) Cold shock  
192 causes a sudden release of adrenaline and an increase in heart rate, which can reduce an  
193 average breath-hold time of one minute to just 15 seconds. (The cold literally takes one's  
194 breath away.) Accordingly, even if Mr. Desafios just became disoriented and began



195 swimming in the wrong direction – in water muddy enough that one cannot see the light,  
196 “up” and “down” can lose meaning – he may have run out of air. That’s entirely natural: at  
197 some point, the body overrides the brain, panics, and attempts to inhale. It fills the lungs  
198 with viscous, muddy water, and the countdown begins. After three minutes, brain cells  
199 begin dying rapidly. For a couple of minutes, resuscitation and recovery are still possible,  
200 often with limited permanent damage.

201 That brings us to the on-site response. I cannot comment definitively on the response  
202 time since I was not there. However, from the physiological damage, it is virtually certain  
203 that Mr. Desafios was not receiving oxygen to his brain for more than three minutes. He  
204 may have been underwater that entire time: there were traces of murky water in his  
205 windpipe. Or he may have been rescued after, say two minutes and thirty seconds, then had  
206 to be dragged to shore before resuscitation could begin. But as I said, three minutes is when  
207 damage starts. It would be very unusual to see this level of damage after only three minutes.  
208 Medically speaking, it is much more likely that Mr. Desafios was starved of oxygen for four  
209 minutes or more before the resuscitation started.

210 My experiences on October 23, 2022 have led me to conclude that extreme adventure  
211 races pose a grotesque and under-recognized threat to the 1.5 million individuals who  
212 engage in these races each year. I have become a passionate advocate for victims, and I am  
213 currently serving as a paid expert witness in another civil trial. I also have a small side  
214 hustle that educates the world about the dangers of adventure racing. My profile name is  
215 Unadventurous, M.D., and you can find me at hashtag #unadventurous on Facebook,  
216 YouTube, and all the other socials, including the ‘gram, the ‘Tok, the ‘Snaps. And sure, I get  
217 a few clicks here and there, and I guess make some extra cash, but that’s pocket change to  
218 me. This is primarily about activism and helping the community—not the money.

219 Even if you don’t follow all of the details of how runner safety was seriously  
220 compromised at the event, the data speaks for itself. On Saturday, October 23, 2022, our ER  
221 treated 39 patients between 7 a.m. and 10 p.m. Of those, 31 were runners in the Storm Chase  
222 race. Starting mid-morning, the hospital had a steady flow of Storm Chasers, some arriving



223 by ambulance, others by private vehicle. The ER was swamped. One runner had a heart  
224 attack. Approximately a half dozen experienced significant orthopedic injuries, including a  
225 couple of displaced fractures. A dozen or more neurological patients were evaluated for  
226 concussion, at least one of whom checked out against medical orders recommending  
227 admission overnight. The list goes on: an awful laceration from someone who freaked out  
228 while snagged in barbed wire; several drug-related issues, mostly related to amphetamine,  
229 steroid, or painkiller use; and multiple cases of hypothermia. One had to have an impacted  
230 walrus tooth surgically extracted from his buttock—which is even more painful than it  
231 sounds.

232 Another patient developed seizure-like activity and permanent psychopathology after  
233 eating a plate of expired fettucine. We aren't entirely sure what happened here, but right  
234 after he slurped down his last mud-drenched noodle, the patient started complaining of  
235 stomach pain and mental confusion. He then went through an acute uncontrollable  
236 logorrhea phase and wouldn't stop shouting: "The wombats are coming! The wombats are  
237 coming!" After treatment in the emergency department, the patient still suffered bouts of  
238 depersonalization, word salad, intermittent debilitating triskaidekaphobia, recurring  
239 Cotard's Delusion, permanent Paris Syndrome, night sweats, day sweats, Alien Hand  
240 Syndrome, Diogenes Syndrome, and Clinical Lycanthropy. Six months after intensive  
241 psychiatric interventions and 24/7 care, the patient still thinks he is Napoleon Bonaparte—  
242 and due to recurrent fits of Stendhal Syndrome, he may never enter an art museum again.

243 As one might expect, several of the most severe injuries occurred in the last obstacles,  
244 when runners were cold and tired. One patient received 13 electrical shocks during the final  
245 obstacle. She reported that the first two disoriented her, and she just wandered insensate  
246 into the others until finally a staffer shut down the current and got her out. She was  
247 admitted overnight with multiple second-degree burns. And those are just the ones we saw  
248 at the ER; I later saw the EMT logs for the competition, and they reflect a flotilla of soft  
249 tissue injuries, smaller lacerations, syncope (fainting, often from exertion), and additional  
250 concussion checks.

251        Look: people ultimately are going to do what they want to do. In a perfect world we  
252 would obviously shut down these extreme races. But if sanity is not going to prevail,  
253 medicine has to: medical and safety professionals must be involved in the planning and  
254 implementation processes of these events, and Emergency Rooms should be prepared for a  
255 line out the door of the unnecessarily injured – anything short of that is grotesquely  
256 negligent.

**D.J. HATCHET, OBSTACLE COURSE AFFICIONADO**

1 My name is D.J. Hatchet. I am 49 years old. I currently reside in Eagle, Idaho but travel  
2 frequently for my work. I am a former traveling circus and rides inspector for the Idaho  
3 Department of Parks, but I currently serve as the Executive Director of the National Obstacle  
4 Racing Association (NORA), an organization I founded. I publish a magazine, *Obscure*  
5 *Sports Quarterly*, edit an *Extreme Sports* website, and review extreme sporting events and  
6 blog about them on *Dr. Danger's Sportz Xtreme*. I even tried to start my own course series,  
7 the *Beast Mode Medley of Mud*, but given the economics of the sport, I was not able to  
8 continue.

9 Actually, it's a funny story. When *Beast Mode* was first getting off the ground, Chris  
10 Tempesto gave an interview that absolutely trashed our initial course. I wrote a response for  
11 the site, but in retrospect, Chris was totally right! My history-inspired courses were far more  
12 creative than *Storm Chase's*, but the obstacles were a bit "lame" and "pointless," as Chris  
13 wrote. Even so, I think there was a market for historic-recreation obstacle courses, and I  
14 think Chris's takedown had a lot to do with the business's failure. Every cloud has a silver  
15 lining, though: *Dr. Danger* was really impressed with my passion and writing, and *Doc*  
16 hired me to write instead! It wasn't much money – and still isn't – but it keeps me in the  
17 game. Wherever you obstacle race in the U.S. of A., you'll see my tiny house parked by the  
18 course, and I personally cover each innovation. Serious obstacle runners pay to read my  
19 reviews of the new courses and products available, and *Sportz Extreme* receives a number  
20 of sponsorships from companies engaged in the obstacle racing and home obstacle racing  
21 industry, most of which I disclose to my readers.

22 My work in extreme obstacle racing has also led to other useful income streams. I  
23 consult with the founders of *Tough Mudder* and *Spartan Race* to advise them on some of  
24 the obstacle and course designs. I am compensated modestly; I'm not an engineer, just  
25 someone who lives and breathes obstacle racing and writes about it for a not-too-bad living.  
26 And my readers know that I'm giving them the inside scoop, even if I might be less  
27 objective about courses I helped design. I also serve as an Event Director for *Warrior Dash*

28 events several times per year. Although Warrior Dash courses are shorter – hence, “dash” –  
29 they are also extreme obstacle courses, and as an Event Director, I’m responsible for their  
30 organization, staffing, and administration. I offered those services to Storm Chase about a  
31 half a dozen times over the past few years as well, but I was turned down flat each time.  
32 You would think Chris would owe me one or two. I am the zeitgeist here.

33 NORA aims to bring obstacle race organizers together, to unify health and safety  
34 protocols and ensure consistency in design. The reception has been lukewarm, but rarely  
35 hostile. Chris Tempesto is the exception. Most of the organizations understand that if we are  
36 to effectively grow the sport, we need both national standards and rules and national  
37 representation in lobbying, but Tempesto has outright refused every overture, often in the  
38 most vicious terms, way beyond professional. Serves Chris right to need us now, eh?  
39 Anyway, I really do think I am the foremost expert in the administration of extreme racing  
40 from both an organization, competition, and safety perspective. I was recently asked by  
41 Boise State University to serve as a subject-matter expert for their Sports Administration  
42 major. I am also working on a few book chapters with the renowned Professor of Sports  
43 Law, Dr. Sophia Otero.

44 I won’t bore you with the long history of Frenchman Georges Herbert in the early 20th  
45 century or about the use of obstacle courses for military training or even the emergence of  
46 parkour as a way of keeping fit and having fun. It’s fascinating, but I’m paid by the hour.  
47 Each of the Big 3 races – Tough Mudder, Warrior Dash, and the Spartan Race – offer  
48 something slightly different to participants: Tough Mudder plays up teamwork,  
49 camaraderie and the joy of simply finishing the race; Spartan Race increased the challenge  
50 and added a timing element; and Warrior Dash is designed as a shorter, less strenuous  
51 exercise. Dozens of organizations arose to sponsor events, and the idea of crawling through  
52 freezing mud, under barbed wire and scaling walls for fun and sport went from fringe to  
53 mainstream. That explosion of interest also generated big sponsors: shoe companies, sports  
54 drink, energy drink and sports apparel. Even Wheaties, the venerable “Breakfast of  
55 Champions”, lends its name to various events.

56 Storm Chase jumped onto the scene in 2013 and was one of the few mid-tier providers –  
57 national, but not the Big 3 – to have survived. What Chris figured out that the rest of us  
58 could not was the obstacles. Chris’s obstacles are among the most creative in the business,  
59 and Storm Chase has a reputation for being innovative and daring. Fire pits, anyone? Of  
60 course, without a national governing body for the sport to create standards for safety,  
61 construction, participation, etc., the envelope can be pushed too far, and “fun and exciting”  
62 can become “dangerously ill-conceived” very quickly. Incorporating live animals into an  
63 obstacle is just asking for trouble, even if it is just a wombat. Companies like Spartan Race or  
64 Tough Mudder have an established reputation and clientele; Storm Chase has to push the  
65 limits to be noticed at all. Spartan Race and Tough Mudder are household names that could  
66 count on clients coming back year after year and had cash reserves to ride out the pandemic  
67 years. Smaller players like Storm Chase had to make bigger splashes, sooner.

68 So I was hardly surprised when I toured the Lizard’s Butte course on Wednesday,  
69 October 20, a few days before the event. The location was ideal for obstacle racing, and the  
70 course followed a lot of normal industry practices. But Storm Chase was doing its  
71 “extreme!” thing, and it looked to me like Chris had packed too many obstacles into the  
72 course. This presents two main issues. First, the sheer number of obstacles and the energy  
73 required by participants to complete them leads to exhaustion. That’s the high that most of  
74 them are seeking, but the running segments between obstacles allow participants to recover  
75 and refocus. Too many obstacles over a short distance means less recovery, which can be  
76 disastrous. Obstacle racing requires intense focus, and if that focus slips, even for a second,  
77 serious injuries can result.

78 Second, each obstacle is an opportunity for course congestion. Participants bunch up at  
79 obstacles while waiting their turns. Usually, event participants are patient and helpful, but  
80 with enough congestion at any obstacle, or if congestion happens obstacle after obstacle,  
81 frustration kicks in. Once contestants start breaking the rules or stop queuing up, you get  
82 chaos. And while obstacle races rely on the perception of chaos, real chaos can be lethal.  
83 Each obstacle is designed for a specific “flow” and number of participants. Add even 10% or

84 20% to that or have some participants shoving others off the carefully-designed rest spaces  
85 and you have a recipe for disaster. That's why courses are closed to non-registered  
86 participants and start times should be strictly staggered... you can't let the obstacles  
87 overload. That's bad news.

88 The one thing that surprised me was the number of medical tents in closer proximity to  
89 the more dangerous obstacles. Chris usually doesn't like to shell out for extra EMTs, even  
90 though they cost less than \$20 an hour! Like all mid-tier providers who can't move the  
91 merch of a Spartan Race or Warrior Dash, Storm Chase has a razor-thin profit margin. So  
92 they tend to understaff – both in the triage tents and on the course. The Lizard's Butte  
93 course looked better, at least on Wednesday: there were ATVs and golf carts available for  
94 more than a skeleton crew, so perhaps Storm Chase was increasing the number of roving  
95 course monitors.

96 Storm Chase was also hyping the appearance of some popular Idaho based reality  
97 television stars at the event. Celebrity drives attendance, always. That's good for the event  
98 and great for the sport. My concern, however, was the lack of well-defined racer/spectator  
99 areas. Although there were a few roped-off sections for spectators, for the most part the  
100 course was as open as the Nevada desert--observers could freely roam everywhere. That  
101 adds to the chaos, creating additional pressure on course monitors and safety personnel. It  
102 also creates the risk of non-participants hopping in mid-race, which is doubly bad. Not only  
103 does it increase congestion, but those people have no "buy in" to the race, so they might not  
104 care about race officials' directions and won't have passed through any screening for  
105 intoxication. I noted this for blogging later, but I didn't talk to Chris or anyone else about it.  
106 After all, they ought to know, and I was there for Dr. Danger, not as a paid consultant. The  
107 next morning, I left for a Spartan Race in Las Vegas and thought nothing more of it.

108 When I heard about the death of Alejandro Desafios, I came back to Lizard's Butte to  
109 find out what happened. As the Executive Director of NORA, I have an obligation to  
110 oversee course safety investigations. I parked the tiny home outside a Denny's and used the  
111 free Wi-Fi to search social media and local news for participants I could interview, witnesses

112 to the tragic drowning, and video of the event. That's what both safety inspectors and  
113 journalists do! I outline my findings here. I should note that the plaintiff in the case also  
114 paid me \$5,000 to investigate Alejandro's death and also gave me another \$5,000 to testify  
115 on their behalf. Every little bit helps even though this is not a lot by most expert standards.

116 The obstacle in question, Abandon Ship, requires participants to plunge some 20 feet  
117 from a platform into a deep pool of frigid, muddy water and then swim 40 to 50 feet to a  
118 cargo net to climb and exit the pool. There were no lane dividers to organize jumpers, no  
119 system to warn those climbing up to the platform that it was already overcrowded, no  
120 system in place where someone below at the pool (such as a lifeguard) would signal to the  
121 top that it was safe for the next person to jump. (Even municipal swimming pools know that  
122 is an absolute necessity!). The organizers must have known that this obstacle was becoming  
123 a real safety issue, and yet they did nothing to rectify the situation. Quite frankly, the  
124 obstacle on which the victim died was an accident waiting to happen. They did have this  
125 red flag, green flag system, but they never informed the participants that this was part of the  
126 safety protocol.

127 In talking with participants at the race, they described a scene of mass chaos. The  
128 obstacle was overcrowded – to the extent that many were jumping into the pool simply to  
129 avoid the crush on the platform or getting knocked off of it. I found one video on Instagram  
130 by a local company, Xenopharma, that shows their team completing Abandon Ship. The  
131 video has been un-posted, but it showed one event staffer stationed at the top of the  
132 platform – and that staffer appeared either completely overwhelmed or completely  
133 inattentive. People were jumping off the obstacle or getting pushed off the platform  
134 seemingly willy-nilly; only the Xenopharma team – identifiable by their sharp, matching  
135 jerseys – and a couple of others appeared to be able to navigate it in an orderly fashion.  
136 Other spectators I spoke with witnessed at least a dozen or more instances where a lifeguard  
137 had to rescue a participant from the mud pit.

138 A review of social media postings during the event shows that the crowd seemed to be  
139 overwhelming. While there were the normal gleeful selfies – covered in mud joyfully

140 completing the final obstacle – there were also quite a few grumbings about course  
141 congestion, wait times at various obstacles, lack of instructions, and overall mayhem. I  
142 know that Chris and other Storm Chase staff monitor social media closely. It makes me  
143 wonder whether they removed certain safety features in order to improve crowd flow  
144 during the day.

145 Listen: with enough people participating in these type of events, the likelihood of injury  
146 is almost unavoidable. But while participants understand that there are risks involved, there  
147 is a clear expectation that basic safety precautions will be followed. Extreme obstacle race  
148 organizers require participants to sign waivers protecting the sponsors from lawsuits over  
149 injuries caused during the event. We all understand that you can waive some things, but not  
150 to the point of gross neglect.

151 Costumes can add to the feeling of fun and camaraderie at these kind of races. But there  
152 is a downside to this kind of marketing. When the casual observer sees someone has  
153 completed an obstacle race in a dog costume, they think, “Well if they can do it dressed that  
154 way, I sure can do it as well.” And then injuries occur. These are serious courses designed  
155 for an elite level of fitness; that’s why American Ninja Warrior is on TV!

156 Over the past five or ten years, in person and in print, I have offered some  
157 recommendations to Chris about the improvement of the course and the Abandon Ship  
158 obstacle specifically. In general, I believe that Storm Chase course can be improved with  
159 some instructions on how to tackle some of the obstacles, either from signs or from event  
160 staff. We all know Chris has a budget for signs; maybe some of them could have actual  
161 information instead of faux-scary slogans! Yes, the team problem-solving aspect is a critical  
162 part of the race, but some injuries will occur simply because of cluelessness.

163 Also, again, staffing. There were simply not enough staff, volunteers and medical  
164 personnel throughout the course. All of the people I interviewed stated that training was  
165 minimal and rushed. There was reference material available for each obstacle, but none of  
166 the staff I spoke with knew where to get it or who to ask other than Chris, and they were  
167 way too busy for something like safety. Storm Chase also references how much money they



168 spend on training safety employees. But it doesn't matter how much money they spend if  
169 they fail to apply military-grade risk management to what the company markets as a  
170 military-style obstacle course. Boot camp doesn't start with fresh troops being driven into a  
171 death-defying obstacle course. Soldiers go through weeks or months of buildup and  
172 monitoring, under expert observation. The training is programmed to the minute, and their  
173 emergency response plans are well thought out, practiced, and proven. By comparison, an  
174 event like Storm Chase is a free-for-all, with EMTs scattered like breadcrumbs.

175 The safety design for the obstacle on which the death occurred, Abandon Ship, isn't a  
176 plan. It's hope: throw a bunch of people into the water, from height, off a short ledge, and  
177 have some lifeguards in the vicinity and an AED on a golf cart somewhere. Of course, it is  
178 impossible to eliminate the inherent risk of drowning on an obstacle like this. But properly  
179 designed operating procedures could limit the risk of the other problems the obstacle  
180 routinely encounters: too many jumpers at once, collisions between participants in midair or  
181 in the water, lifeguards getting distracted by disorganized crowds, a participant drowning  
182 without being seen.

183 How would I reform Abandon Ship? I'd shut down the whole thing entirely. Deep,  
184 murky, cold water above your head is a terrible risk, and it can't be effectively managed. If I  
185 couldn't shut the whole thing down, then at least I would put into place the same protocols  
186 that are followed at water parks with clear-water and ten-year-olds – one person in the pool,  
187 one person out. And for Pete's sake, putting an obstacle like this toward the end of the  
188 course is just reckless madness: participants have less energy reserves; they're more likely to  
189 bunch up, causing collisions; and if things have not gone perfectly – not that Chris would  
190 ever accept that things at Storm Chase would be less than perfect! – they are frustrated,  
191 making it more likely they overwhelm the staff and just do what they please.

192 For an obstacle this size, I would require 6-8 dive personnel – two to three separate  
193 teams composed of a diver, a backup, a dive tender, and a dive master – rotating frequently  
194 to prevent fatigue and inattention. When Alejandro Desafios died, there was only one diver  
195 and one other lifeguard on hand. And certainly, the response to a missing person potentially

196 underwater has to be immediate and aggressive. You only have seconds, maybe a minute, to  
197 find that person. It's better to have a false alarm and stop the obstacle than to have someone  
198 lying at the bottom for a long time. So there is no delay, no questioning. Someone says, "my  
199 partner didn't come up," they clear the event and the divers go in. Sure, this has downsides,  
200 too: you back up the participants at the closed obstacle, which can cause future problems.  
201 But anyone more concerned with a slowdown than human life is a monster in my book.

202 Storm Chase failed to employ the recommendations found in the United States  
203 Lifesaving Association Manual and the American Red Cross Lifeguarding Manual, which  
204 emphasize the need for constant vigilance by lifeguards, particularly during times of high  
205 activity. Storm Chase's ineffective crowd control resulted in a disorganized environment,  
206 and over the course of a day, you cannot count on one or two lifeguards to be able to keep  
207 up with demand.

208 By the standards of the U.S. Lifesaving Association Manual, such a high volume at the  
209 Abandon Ship obstacle should have triggered a "special operation mode," requiring extra  
210 lifeguarding resources or the closure of the obstacle. Storm Chase put safety personnel and  
211 other employees under extraordinary pressure and increased the likelihood that they would  
212 fail to respond adequately to a report of a missing person. Those conditions made it  
213 impossible to carry out a rescue within the two-minute period required by industry-  
214 standard lifesaving manuals.

215 In the event of a missing-person report in reduced visibility, the U.S. Lifesaving  
216 Association Manual requires immediate surface dives by lifeguards "spaced in a line close  
217 enough to see, or touch, each other while on the bottom." The Red Cross Lifeguarding  
218 Manual recommends that they be equipped with masks and fins.

219 On October 23, the diver conducted the search for Alejandro alone while other rescue  
220 personnel stood on the shore with no additional masks or fins in sight. So one person had to  
221 cover the entire pool. And only a strong diver could have covered the deepest part of the  
222 pit; no one had a SCUBA tank at all.

223       When a person signs up for a race, they have a reasonable expectation of safety: there  
224 will be a safe, approved course; lifeguards and other safety personnel will cover that course;  
225 and obstacles have been designed by qualified engineers, constructed by competent builders  
226 and tested by the sponsoring organization. Storm Chase at Lizard's Butte had none of that.  
227 While the death of Alejandro Desafios is a tragedy, given the pattern and practice of Storm  
228 Chase, it could not have been unexpected. Storm Chase knew the risks and took them  
229 anyway.

## DEFENSE WITNESSES

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### CHRIS TEMPESTO, FOUNDER, STORM CHASE, DEFENDANT

1 Hi, I'm Chris Tempesto. That used to just be my stage name, but I legally changed it.  
2 Everyone just calls me "Storm" anyway. I am 37 years old and reside on Kauai, in Hawaii.  
3 As a child, I was a competitive skateboarder and parkour athlete, and while I was in college  
4 at the University of Southern California, I worked on the side as a coordinator and action  
5 sequence designer on several movies. Now I apply the same skills that gave you Casino  
6 Royale or the Assassin's Creed movie to literally giving you an experience like Assassin's  
7 Creed as the founder and CEO of Storm Chase LLC. Storm Chase offers extreme physical  
8 and mental challenges to participants looking to upgrade their lives. Over our nearly decade  
9 of existence, we have conceived, designed and operated more than 150 challenges in more  
10 than a dozen states. Most are smaller-scale, with twelve to twenty moderate obstacles on a  
11 short course of a few miles, but several times a year, we do a longer, blowout event. But  
12 regardless of whether participants compete in our small events or in a blowout, Storm  
13 Chase events showcase my creative, punishing obstacle design. Simply put? We do it  
14 bigger, better, and stronger. When runners finish a Storm Chase, they know it was a Storm  
15 chase.

16 As a parkour celebrity and content creator, I was often invited to mud runs and stuff.  
17 Seemed to me like a bunch of Navy SEAL wannabes, with no creativity or charm. But these  
18 runners clearly were paying for the privilege, and that got me thinking, "Why not? What if  
19 someone who really understood obstacles made the course?" In 2011, I had just started an  
20 Executive MBA program at the University of Hawaii, where I'd moved from SoCal to work  
21 on an Adam Sandler movie, and so I devoted my MBA to researching this business model.

22 According to what I learned, Obstacle Course Racing (OCR) was among the fastest  
23 growing sports in the world: the first races attracted only a few hundred hearty souls, but  
24 now it's common to get thousands of people for a one-day event and more than ten  
25 thousand for a weekend festival. It looked like an obvious opportunity to me, and I have  
26 been proven right: since 2010, more than 5 million people have participated in some sort of

27 OCR event. OCR is now big business: combined, the various organizers gross more than  
28 \$300 million annually through registration fees and corporate sponsorships from shoe  
29 companies, fitness gear purveyors, to health food and nutrition franchises. Tough Mudder  
30 even partners with Wheaties, the “Breakfast of Champions,” for cryin’ out loud!

31 Putting beer at the end of the course and encouraging costumes may make it seem  
32 casual, but let’s remember that there is mud (and lots of it – close to 700,000 gallons of mud  
33 at each event) and freezing water and dozens of climbing, crawling, swinging, pulling  
34 obstacles, and some featuring fire and electricity. This is not a casual commitment.

35 I opened Storm Chase the day after I graduated. Despite my best efforts to apply what I  
36 learned, Storm Chase has never been as large or successful as some of the biggest races –  
37 Spartan, Warrior, or Tough Mudder. But we are big enough to be firmly profitable in the  
38 second tier, and we keep trying to move up. Even when the pandemic forced us to cancel  
39 the 2021 season, I just put that time into making 2022 bigger, better, and more exciting than  
40 any of our previous events. One of my marketing consultants was from the Middle of  
41 Nowhere Idaho, and she was sure it was a great place to hold one of our events. I could not  
42 have been more right agreeing with her!

43 Again, Storm Chase is not a race. We do time teams, but that is just for bragging rights  
44 and excitement. Everyone loves a leader board and the top teams do deserve recognition!  
45 But really, finishing is its own reward and the best realistic outcome for most participants:  
46 you are there for the experience, not the time on the clock. In fact, it’s best if you take your  
47 time. You will slip, you will fall, you will probably get some scrapes and bruises for your  
48 efforts and you will definitely have sore muscles. You may or may not be able to do all of  
49 the obstacles, but that’s ok. Enjoy the satisfaction of finishing all dirty and muddy, and then  
50 take photos, swap stories, and share a few beers. We tell our participants that everywhere:  
51 on the website, in the waiver, and in a pledge on the day of the competition. It’s supposed to  
52 be fun!

53 Of course, it also has to be a business. Site fees for an OCR can run up to \$50,000.  
54 Insurance costs another \$25,000 or so. We budget approximately \$200,000 on construction of

55 obstacles and clean up. On top of that, we incur the expenses of fire and rescue, police and  
56 safety, entertainment, freebies – all told, a Storm Chase can cost up to \$450,000 or more to  
57 put on, by the time you’ve cleaned up the land after the event. I sometimes question my  
58 sanity and think “wouldn’t it be easier to put together a different style race?” But that  
59 would make us lose what is special to our race and what differentiates us from all of the  
60 copycat competitions. There is risk inherent in this line of work, but like our participants,  
61 I’m willing to take it. And so are our runners, who typically pay \$200 or more to compete.

62 We take safety very seriously. That’s not just lip service; we have Safety First signs all  
63 around our office. Each participating group is given a “launch time,” so we do not  
64 experience overcrowding. In fact, we have a volunteer – maybe a retired athlete, an ex-  
65 military individual, or a retired policeperson or firefighter – go with each group. All of the  
66 observers are given Storm Chaser walkie-talkies to report any unusual team behavior,  
67 especially if – as sometimes happens - teams get caught up in the moment and become a bit  
68 aggressive. Spending energy on safety is good business: if someone died on our watch and  
69 it was our fault, it would be disastrous, like bankruptcy bad. That and the human stuff is  
70 why we take so much precaution and take the time to educate our participants.

71 Once we have a site picked out, we have to select the specific obstacles that will work in  
72 a particular setting. Our obstacles include heights up to 40 or 50 feet, climbing walls, cargo  
73 nets, steep inclines, water obstacles with depths over one’s head, leaps from height into  
74 water, and elements of both fire and electricity. There is no doubt that our challenges can be  
75 dangerous – but so can crossing the street or riding one of those annoying e-scooters  
76 (speaking of which, is it really that hard to walk a few blocks?). We advertise our race with  
77 these elements, we brief all competitors on these elements, and we require each participant  
78 to complete a waiver as part of the electronic registration process. At check-in, we verify  
79 verbally the waiver conditions and make each participant sign a pledge. We clearly set out  
80 the dangers involved.

81 The standard waiver reads in part, “I acknowledge that Storm Chase is an extreme test  
82 of my physical and mental limits that carries with it inherent risks of physical injury,

83 inherent risks that cannot be eliminated completely without changing the challenging  
84 nature of the Storm Chase event regardless of the care and precautions taken by Storm  
85 Chase.” The waiver goes on to release Storm Chase “from any claims, actions, suits,  
86 demands, losses and other liabilities in relation to any death, physical or mental injury ...  
87 resulting from the inherent risks of the Storm Chase event or the ordinary negligence of  
88 Storm Chase.” Some have referred to this as a “Death Waiver.” And we’ve played this up in  
89 a good-natured way – with signage along the course reminding Storm Chasers “Remember  
90 You Signed a Death Waiver!” and “Yep, You Signed Up for This Torture.” But in reality, we  
91 have taken every precaution possible to ensure the health and well-being of our  
92 participants. The whole idea is to make it feel extreme, not to actually risk anyone’s life.

93 Statistically, the number of seriously hurt OCR participants is small, despite having  
94 hundreds of thousands of annual participants. Our common injuries are non-lethal. Skiing is  
95 much scarier: out of every million people who ski each year, 54 die. But just as downhill  
96 skiers go to steep hills, people who do OCR want there to be some challenge, and that  
97 challenge means risk. Most of the deaths associated with OCRs, or any extreme sport for  
98 that matter, are from a medical condition that the participant did not even know they had in  
99 the first place. People drop dead running marathons too, but no one wants to cancel  
100 jogging!

101 Even so, all of us knew that if we were in business for long enough, someone would  
102 eventually die. Our job was to do what we could. And we did! Our obstacle designs are  
103 approved by structural engineers, then built by certified general contractors. Each obstacle is  
104 vetted for safety and security and has a designated Storm Chase team monitoring the  
105 location. We include fall prevention systems on many of our taller obstacles. We weight-test  
106 each obstacle to make sure that it can hold the projected number of participants at a time,  
107 and a few days before each event, we even send out our interns to test the course. We laugh  
108 that if they come back alive, it’s safe enough! On top of all of that, we hire teams of  
109 lifeguards to monitor all water crossings over 4 feet in depth and station experienced  
110 medical professionals throughout our course so that they can quickly react to any

111 emergency. Of course, a lot of that is required by state and local law, and by our insurance,  
112 but we'd probably do it anyway in the interest of safety!

113 We focus our attention on the most common injuries – scrapes, cuts, burns, pulled  
114 muscles, etc. – while keeping an eye on the more serious ones. For example, the most  
115 common emergency associated with any endurance sport is a heart attack. We have had that  
116 happen several times over the years, but our rescue personnel typically treat it for a few  
117 minutes, and we get victims to the hospital. In a lot of ways, they're lucky that our courses  
118 stressed their hearts so much; had they collapsed jogging in a neighborhood or in the woods  
119 alone, they likely would have died. Another danger that many people overlook is heat  
120 exhaustion. We encourage participants to drink as much water as possible, and they should  
121 never skip a water station along the course.

122 Now let me address the Lizard's Butte race specifically and what I know of the situation  
123 involving Alejandro Desafios. The situation with Alejandro Desafios is very unfortunate,  
124 both for his family and for our event. His was the first fatality in the 10 plus year history of  
125 our company.

126 We called the first Storm Chase in Idaho a World Championship, but in reality, that was  
127 a marketing ploy: anyone was allowed to sign up. We pulled out all the stops on our  
128 marketing campaign, starting as soon as we had identified a date and site, and we offered  
129 inducements to businesses to sponsor and/or to field teams. We worked with Skip Kenyon,  
130 the agent for John Lande of American Ninja Warrior and Christina Thompson of the Great  
131 Race, to draw crowds and create buzz. We also offered them the chance to run the course,  
132 but they both declined.

133 We really didn't know what to expect, but we were pleasantly surprised by both the  
134 turnout and the support of the community. Our showcase events are limited to 2,500 active  
135 participants and we managed to sell out this one – frankly, that was a good thing because  
136 we needed the money. We also sold spectator tickets for 1,500 spectators. That was an  
137 unusually large number for us, but everyone was so psyched to be at such a big event that  
138 we didn't want to turn anyone away. I mean, in a backwater state like Idaho, something this



139 big is going to draw a big crowd. I mean, there really can't be much else going on around  
140 there, right? Anyway, I am not aware of any non-registered, unofficial participant out on the  
141 course, but we definitely had a full house!

142 Storm Chase is a small company, so I am involved in every aspect of event preparation,  
143 especially for our showcases. But I also am the face of the company, so I have to be out  
144 finding and negotiating site contracts, not taking every meeting. I attended the first meeting  
145 of health and safety officials and then delegated the future discussions to our Director of  
146 Competitor Safety, Devin Cody. I remember meeting Dr. Lindsay Rogers at the first meeting  
147 and received reports from Devin on subsequent meetings. Dr. Rogers impressed me as a  
148 very dedicated professional, maybe even a bit too professional... like, does the ER doc really  
149 need to be part of deciding if trip hazards are painted neon orange or neon yellow? It was  
150 totally over the top. Still, I was impressed by Dr. Rogers' level of commitment to the event.  
151 That's why I made the quick decision to hire the good doctor for event day. I like Dr.  
152 Rogers. I even wrote a note after the event applauding their quick thinking and offering a  
153 bonus for a job well done. But really, Dr. Rogers was superfluous in planning: at no point  
154 have we ever made a health and safety decision based on financial considerations or cost.  
155 Social media is our best friend, but it means that if someone is seriously hurt, the world  
156 knows about it. Any negative press could doom the business, unless of course looking  
157 riskier actually attracted the adrenaline junkies, I guess.

158 Our team selected several of past participants favorite obstacles to implement on the  
159 Idaho course: Electrical Storm, Ice Storm, Fire Storm, Blizzard, Cyclone, Tsunami, Mudslide,  
160 and Abandon Ship, among others. We established a registration area, a VIP area for high-  
161 performing participants to meet John and Christina, and worked out details of  
162 transportation to and from the parking areas, including for emergency vehicles. All of this  
163 information was available on the registration website, which also included detailed  
164 descriptions of the obstacles selected for a venue (to allow for training and preparation) and  
165 our waiver, which is provided in advance so that all participants can read it carefully. Our

166 records indicate that Alejandro Desafios and his team did complete both waivers, and  
167 initialed in all the right places.

168 Just like all of our events, the Idaho race employed a staggered start system to avoid  
169 congestion and an on-site safety pledge at the check-in process to remind all participants of  
170 the hazards that lie ahead. Our records indicate that Alejandro's team was scheduled to start  
171 at 10:20 a.m. but that they did not arrive at the start until 10:35 a.m. We hold start times for  
172 no longer than twenty minutes before we allow wait-list substitutes to fill. Alejandro's team  
173 just made it in time. Their assigned volunteer observer was Izzy Cameron, one of the older  
174 ones on staff but a good person and big fan.

175 The first obstacle on our course is always a relatively low wall and mud-drop, after  
176 which participants receive a scripted course briefing from the monitor to remind them of the  
177 rules of the course, describe the various obstacles, and, of course, to remind participants that  
178 there are only smalltime penalties for skipping an obstacle. There are also signs posted  
179 along the course reminding participants that they can opt out of any obstacle for a time  
180 penalty. Storm Chase is not a real race, and everyone knows that. The monitor also conducts  
181 some group bonding activities – cheers and chants – before they all head off.

182 The obstacles along the course were fully staffed both with Storm Chase Event  
183 Specialists and, where necessary, with lifeguards and other health, safety, and medical  
184 personnel. We had medical triage tents set up in strategic locations along the course and  
185 roving crews of medically trained Storm Chase team members on ATVs and adapted golf  
186 carts. Ambulances are available on call from the main parking area to transport any severely  
187 injured participants to local care centers.

188 Each of the medical personnel were issued 2 sets of walkie-talkies, one dedicated solely  
189 to on-going medical issues. The volunteer observers only had the non-medical one. My staff  
190 and I monitor these communications throughout the event. Obviously, at the beginning of  
191 the day things can be a little chaotic and communications can be pretty inconsistent and  
192 incoherent early in the race. But everything was running mostly smoothly by noon.

193 The day of the event, Saturday, October 23, was cool and crisp – a perfect day for a  
194 Storm Chase. I did an early morning walk through of the course, and we held a quick team  
195 meeting to go over some of the basics and to remind everyone of safety and  
196 communications protocols. I gave one of my most impassioned pep talks ever, and the staff  
197 was fired up. I told them to get out there and get the competitors just as psyched as they  
198 were! The crowd was big , and loud, and there were bizarre costumes galore. People really  
199 seemed to be getting into the Storm Chase spirit!

200 I do remember a call from Devin Cody, but I can't say I recall every call. Our walkie-  
201 talkies are alive with chatter; that's why we have them! I think Devin is slightly  
202 misremembering what I said, though. I told Devin we should not shut down Abandon Ship  
203 entirely, like, for the day. That would be silly; there was just a backlog from staggered start  
204 groups not getting off right on time. That happens! I would never have told Devin or any  
205 course monitor how to run the obstacle from minute to minute. If Devin or the ground  
206 monitor wanted to Red Flag the loading area to relieve congestion, that's always something  
207 they can do. The Man in the Arena and all that.

208 At the time that the tragedy with Alejandro Desafios took place, I was in the VIP tent,  
209 finishing a round of interviews with local media. Devin, who was taking a shift on the  
210 Abandon Ship obstacle, alerted me of the Alejandro situation as soon as it occurred. I  
211 jumped on an ATV and headed over. Our medical and safety staff seemed to have things  
212 under control. Abandon Ship was not far from the medical tent, so we were lucky; Dr.  
213 Rogers was able to arrive so quickly that Alejandro had a steady pulse when he was rushed  
214 to the ER. Afterwards, Devin fully briefed me, advising on how well our safety protocols  
215 had worked. That's why I told the local paper that the Desafios situation showed what a  
216 safe company Storm Chase is! It was only later that I learned that Alejandro Desafios was  
217 brain dead.

218 At the end of each event, we meet as a team to debrief. Our data shows that relatively  
219 few injuries occur on Abandon Ship, it's not even in the top ten for the incidence of injuries.  
220 Still, given the tragedy, we have taken steps to modify the obstacle in future events. It is a

221 coincidence that some of the modifications implemented appear in DJ Hatchet's report. As  
222 far as I'm concerned, Hatchet is a money-grubbing, self-aggrandizing hack. And, no DJ, I  
223 am definitely not giving you a job or joining your NORA. I have an M.B.A.; I know a  
224 marketing scheme when I see one.

225 Alejandro's death was a tragic accident, but it was just that – an accident. We did  
226 everything we could. It's impossible to remove risk entirely from these events. That's why  
227 we have participants sign a waiver. The whole point of Storm Chase is to challenge – to  
228 really test participants. Injuries are a natural part of physical endeavors. Some will struggle,  
229 some will fail. That's how we learn, that's how we grow. Of course, our thoughts and  
230 prayers are with his family.

**DEVIN CODY, DIRECTOR OF COMPETITOR SAFETY, STORM CHASE**

1 My name is Devin Cody. I am 53 years old. I am employed by Storm Chase as the on-site  
2 Director of Competitor Safety (DOCS). I am a trained EMT and a qualified Rescue Diver. I  
3 have been employed by Storm Chase for a little over 2 years. Prior to that time, I was a  
4 Lifeguard and Lifeguard Instructor for the State of California's Baywatch program for over  
5 two decades. I know, I know; you're thinking, "Baywatch? Isn't that just a TV show?" Well  
6 let me tell you, Baywatch is real, and we are real-deal lifeguards. We take our jobs seriously.  
7 I'm serious! There's actually a saying in the beach lifesaving 'biz--Remember the Thirteen  
8 S's: Surf, sun, shore, Spandex, slow-motion sprints, shrimp scampi sautéing on scalding  
9 sand, and saving strangers. Get it? That's why we do what we do. Anyway, I was eligible to  
10 retire with full pension at age 50. That's when I began seeking other options. I had  
11 participated in a number of Obstacle Race Courses and offered my services to Chris "Storm"  
12 Tempesto.

13 At each event organized by Storm Chase, there are lead coordinators in construction,  
14 health and safety, traffic management, and public relations. All of us report to the Race  
15 Director, who coordinates the overall experience. There is a lot of travel involved and very  
16 long hours leading up to and during race event weekends. In a typical week, I am involved  
17 in wrapping up a recently completed event, planning for an upcoming event, and meeting  
18 with local representatives at future sites and just overall making sure our team is extra well-  
19 prepared for events.

20 At a typical event, we advertise for and hire local EMT professionals, lifeguards, and  
21 other health and safety workers to staff obstacles and the on-course Triage Tents, to roam  
22 throughout as on-course monitors, and to stand-by to transport emergency patients to local  
23 medical facilities. In total, an event with 3,000 participants will require more than 50 health  
24 and safety staff, twice what our insurance agent suggested. This year, at my suggestion, we  
25 even added Dr. Rogers for the Lizard's Butte event to provide a new level of coordination  
26 with the local Emergency Rooms, just in case. I am glad we did. Otherwise, Alejandro  
27 would not have made it to the hospital alive.

28       Once Storm Chase has identified a site for a future event, I meet with local health and  
29 safety authorities to prepare them for what to expect. At this point, many of the locations  
30 have experienced a Storm Chase or a similar event, but in new locations, the meetings can  
31 be more extensive to get everyone up to speed. This was the first Storm Chase in Idaho.

32       Starting in May of 2022, I met with staff from the local hospital, medical facilities, and  
33 the sheriff's department, as well as local firefighters and EMT services for the event planned  
34 in October, 2022. At the initial meeting Chris was there to introduce the event and key  
35 personnel, but after that, I was the "primary." We met 5 or 6 times in the months prior to the  
36 event and had 2 additional meetings during the week before the Lizard's Butte event. Dr.  
37 Rogers, who served as our onsite medical coordinator, was present at most of the meetings  
38 and offered some insight and suggestions for course set-up, injury prevention, and protocols  
39 for handling emergency situations. Everyone at Storm Chase found Dr. Rogers to be  
40 extremely helpful, if not a bit pompous and frankly, a little odd. And some people gave  
41 Rogers a hard time for being a little too cautious and worried, but it was clear we were all  
42 just joking around. I mean, Dr. Rogers kept calling me "Hasslehoff," while running around  
43 in slow motion, but I didn't take it personally. I'm a serious person!

44       But if I am being honest, it was D.J. Hachett nosing around that gave me the biggest  
45 anxieties. D.J. could not set up their own race, and that ridiculous idea of an OCR  
46 administrative body was failing miserably. I think D.J. applied for my job like seven or eight  
47 times before I got the gig. I mean, who would put that person in charge? Chris only even  
48 allowed D.J. around because the business was in danger of failing, so we needed the press.  
49 To me, that was like inviting the crab into the shrimp bucket.

50       A Storm Chase course is designed with safety as our top priority. Engineering and  
51 construction is outside of my area of expertise, but I am sure that we hired only the best  
52 engineers. We site our triage and medical tents in common areas to be able to service  
53 multiple obstacles, with attention paid to those obstacles with the higher incidence of injury.  
54 Each obstacle is staffed by at least one event supervisor. Lifeguards and certified water  
55 rescue personnel are available at each water obstacle of 4 feet depth or greater. Medical

56 ATVs and golf carts rove the course frequently monitoring participant progress. All health  
57 and safety personnel are in complete communication with one another on a dedicated  
58 comm link. Health and safety personnel carry two comm devices – one monitors the general  
59 chatter of the race – so that we all know what’s going on – the second is a dedicated med  
60 link so that we can communicate with one another and summon additional medical  
61 assistance if needed without fighting for airspace with the general race monitor population.

62 We’re pretty obsessive about data collection when it comes to health and safety on the  
63 course. Even for the most minor injuries, we collect information on which obstacle (if any)  
64 an injury occurred, the time of the incident, the nature of the injury, the treatment received  
65 as well as basic demographic info on the injured competitor and their issued race ID. We  
66 also use the RFID technology to help keep track. Rarely do we need to send anyone to the  
67 ER.

68 We use this data to improve the overall race experience for participants. We have been  
69 able to adapt obstacles to make them safer or change them because our competitors aren’t  
70 enjoying them as much. As an event management team, we meet after each event to hash  
71 through the various aspects of the experience. Health and safety is just one component to  
72 consider when contemplating alterations to an obstacle. Clearly, if an obstacle is rated low in  
73 user surveys and has received a number of health and safety concerns, then we will actively  
74 look for ways to modify the experience. To my knowledge, Storm Chase has never  
75 completely gotten rid of an obstacle. Rather, we work together to tweak Chris’ excellent  
76 designs.

77 We strive to provide a safe and challenging experience for all participants, but you have  
78 to recognize that different participants bring different backgrounds, skills, and preparation  
79 to these events. Some are very experienced OCR participants who have trained extensively  
80 for a race. They need to be challenged in order to keep them coming back and to ensure an  
81 enjoyable experience. Other participants, however, may be on their first OCR event and we  
82 cannot ensure (nor require) that they have spent time preparing specifically for this activity.  
83 These newbies may struggle a bit on some of the more challenging obstacles. We recognize

84 that and make sure that all involved know that skipping an obstacle is always an option.  
85 Some races require participants to do some sort of physical “penalty” for skipping an  
86 obstacle—burpees, or kettlebell pistol squats, or weighted bent-over-backwards lobster rolls,  
87 you name it. But we at Storm Chase allow and encourage anyone who feels in any way  
88 inadequate to the challenge to simply go around and take a small-time penalty. There are no  
89 real repercussions, and there is no shame in opting out of an obstacle on the course.  
90 Seriously!

91 Often it is not the obstacles that are the challenges, it’s other competitors or sometimes  
92 even the individual competitor themselves. And even though we strictly forbid any alcohol on  
93 premises, some folks take it upon themselves to “pre-game” a bit. You know, drink some  
94 booze before the event. Now personally, the pre-gaming ritual never made sense to me. I  
95 mean seriously—why? Isn’t raw, unfiltered reality enough to tickle your adrenal glands?  
96 Isn’t life exciting enough on its own? Isn’t there enough dopamine to be found out there in  
97 the wild... out on the beach... running with the wind in your hair, clutching your boogie  
98 board, the smell of scampi in the air? But whatever. We can’t control every single variable  
99 here. All I care about is that people go in clear-eyed, understanding the nature of the event,  
100 using their brains on the course and leaving their egos at the start line. I know that can be  
101 hard to remember during an adrenaline-fueled event, but we as a Health and Safety staff  
102 take every opportunity to remind participants to take it slow and use their heads on the  
103 course. I know that the other Storm Chase course monitors and event supervisors do so as  
104 well. We even have volunteer observers track the groups as they progress throughout the  
105 course.

106 By far the most challenging obstacles along any course, both for participants and for  
107 health and safety personnel, are the water features. The entire course presents a huge  
108 challenge, but something about water makes people panic more. Even the most seasoned  
109 triathlete experiences a moment of dread hitting the water. SPLASH!--and then the fear sets  
110 in. I think people sometimes just underestimate what it’s going to be like. Or they feel that  
111 the best way to overcome a fear is to just gut through it. That may work for some, but in my



112 opinion, most participants should try not to get sucked into the race hype of being the most  
113 extreme or the toughest.

114 Saturday, October 23, started off so wonderfully. It was a beautiful day. The mud was  
115 perfect—not too viscous, not too runny. The voltages were dialed in. The flame pits looked  
116 great. Even the wombats and walruses were getting along! All obstacles were fully staffed.  
117 Event supervisors were stationed at each obstacle, with lifeguards at all obstacles featuring  
118 water at a depth of greater than 4 feet. The lifeguards are always equipped with dive gear at  
119 the 2 obstacles featuring deeper, muddier/murkier water. This includes the Abandon Ship  
120 obstacle. All health and safety personnel rotate through the course in shifts. Since there were  
121 4 certified rescue divers on the course at this particular event, we took turns moving  
122 between the 2 deeper water obstacles and giving one another breaks. (Though a “break” for  
123 me usually consists of either checking in with the various triage tent personnel or taking an  
124 ATV out along the course to get a feel for that day’s challenges.)

125 I first visited the Abandon Ship around 10:30 or 11:00, in response to a call on the  
126 Medical comms. I immediately noticed that there was a huge number of people on the  
127 obstacle. Apparently there had been a group or two that arrived late, and there was a pack  
128 of people. One of them had gotten knocked off the top ledge and had been kicked on the  
129 way down by another participant. That is a serious problem: even minor head injuries can  
130 lead to disorientation, and disorientation and water do not mix. It looked to me like the  
131 monitor at the bottom of the obstacle was overwhelmed by the rush, and I made a quick call  
132 to see if Chris wanted to shut down the obstacle. Chris responded that that would mess up  
133 the teams’ times, that we should ride it out. I was surprised, but Chris is the boss, so I pulled  
134 the monitor aside and told her to get more serious, use a sterner voice with people. Of  
135 course, she was all of eighteen or nineteen, so I don’t know if she had a sterner voice, but it  
136 must have worked out, because when I drove by again around 11:30, everything was back  
137 to normal. Either that or Chris was right and it was just a glut of people that passed.

138 I relieved the previous diver at Abandon Ship for a full shift at a little after noon. She  
139 reported that there had been no major incidents during the previous shift, but she noticed

140 that the obstacle seemed to be getting congested at the top of the platform. I guess we were a  
141 bit out of practice on the staggered starts if backups kept happening. In addition, I know,  
142 sadly, that a few of the spectators decided to join the race. With an event space that big,  
143 trespass does occur. I did my best to kick them off the course and call security, but once  
144 participants are covered in mud, it is hard to tell who is who. I radioed up to the obstacle  
145 monitors to see what the deal was with so many people, but I received no reply. With the  
146 music blaring and with all of the participants gathered around, I understand that it may be  
147 hard to either hear the radio squawk or get time enough to respond. It did not appear to me,  
148 as a veteran of these events, that the situation was trending out of the ordinary range, but in  
149 hindsight, it was a bit of bedlam, especially at the top of the Abandon Ship jump spot. Folks  
150 were exiting normally, though, and the monitors had a clear way to signal participants:  
151 monitors are given two flags – one red and one green. A red flag at the bottom signals to the  
152 monitor at the top not to allow the next participant to leap into the water, and a red flag at  
153 the top means participants should stop. Green means “go,” Red means “stop”: it’s pretty  
154 intuitive! For the most part, the green flag stays up. It is not the same one-at-a-time process  
155 as you see at water parks, where the next person is not allowed until the previous  
156 diver/slider is completely out of the zone. It’s more fluid than that, so more participants  
157 complete the obstacle. I mean sure, one-at-a-time might be safer, but you’d hardly get any  
158 teams to the finish line at that rate!

159 Not long into my shift, I observed a further increase in the rate of participants leaping  
160 from the platform into the pool. Sometimes these events can go in waves: a period of  
161 congestion, followed by relative calm. Timed starts are our biggest safety advantage, and we  
162 keep the cohorts small on purpose.

163 In an instant, it got crazy. I saw the red flag signal go up, but people kept jumping.  
164 Jumping here, jumping there, jumping everywhere. And I know it was that bog turtle team  
165 based on their shirts. There was one person in particular, who I now know was Alejandro  
166 Desafios, who was definitely in the fray. I watched him shove people out of the way, throw  
167 a few elbows, kick a few shins. I honestly could not tell if he was a calming influence, like a

168 beach bar bouncer defusing a brawl, or an aggressive one, like a rabid hermit crab pinching  
169 his way out of a crowded tent. But regardless, things were dicey. It did not seem like  
170 Desafios had control of himself at the jump stop, after pushing through people he made his  
171 way to the front. Then he jumped, and out of nowhere, an entire team who was in the  
172 trailing group bombarded up the wall and leapt into the water... while it was still red  
173 flagged.

174 It pains me to recall what happened next. I lost sight of Alejandro. I was trying to police  
175 the jumpers from the ground when a participant came to inform me that a teammate was  
176 missing. My heart sank. It was a bog turtle team member, and I instantly feared the worst.

177 I take any report of a missing participant very seriously. I asked a few questions in order  
178 to determine whether the missing racer was still in the water or had exited the obstacle in a  
179 different location. The person I was speaking with, Tori Damon, was screaming at me  
180 incoherently. Before shutting down an obstacle, I needed to ensure that there was in fact a  
181 danger present. Otherwise more people just pile up, creating a danger. I radioed to the  
182 monitor at the top to halt any additional participants from leaping and fired off a warning  
183 call to Chris and the HQ tent. I tried to organize the people standing by the side of the  
184 swimming hole and asked them to account for all team members. Once it became clear to  
185 me that there was indeed a participant missing and that it was very likely that he was still in  
186 the water, I initiated an evacuation of the pool. I radioed to the nearest triage tent to send  
187 additional rescue personnel and Dr. Rogers, just in case.

188 At the same time, I was pulling on the rest of my dive gear and prepared to enter the  
189 water. This was the real deal; every second counted. I instinctively relied on my Baywatch  
190 training and time felt like it slowed down. So I do not know for sure how much time had  
191 elapsed since the participant entered the water. I do know that from the time I was notified  
192 until the time I entered the water, no more than 2-3 minutes had passed.

193 I dove in. The visibility in the pool was not good. It is, after all, a freezing mud pit.  
194 Peering into the mud was like trying to look through a Fudgesicle. I dove below with a  
195 flashlight to pick up any signs of a person tangled or floating underneath. It took three dives

196 before I finally located the victim. He was not tangled in anything, but he was unconscious.  
197 I was able to bring him to the surface and drag him to the side. Other medical personnel and  
198 I initiated CPR, without any response. On the third administration of the AED (automatic  
199 external defibrillator) by Dr. Rogers, we were finally able to get a heartbeat. We carefully  
200 strapped Mr. Desafios into the ambulance, and he was transported to the local ER. He did  
201 not look good, but he was alive.

202 In a previous event, I had a similar situation. I was able to locate the participant and get  
203 her to the surface more quickly. She survived and recovered. The key is quick action. The  
204 water is murky enough so that you can't necessarily locate someone in distress right away.  
205 Getting into the water quickly is important, but so is clearing the area. You can't have  
206 people falling on you and thrashing up the mud, creating a situation where you might have  
207 to rescue the rescuer!

208 This type of medical incident could have occurred anywhere on the course. I'm  
209 confident that my medical crew and all of our health and safety personnel acted as  
210 expeditiously as possible and according to protocol. This was a real tragedy, but we did  
211 everything we could to save him. As a company, Storm Chase spends thousands of dollars  
212 each year on safety training. The company also spends more than \$4 million in external  
213 event safety costs. This was the first fatality in our 10-year history – that's more than 50  
214 events and more than 50,000 participants. That's an amazing record really. Seriously  
215 amazing!

216 Since this tragedy, we have taken steps to improve the Abandon Ship obstacle and  
217 others. In the revised design, participants now climb up to the platform in single-file lanes  
218 separated by handrails. Up top, there are places for event supervisors to stand, sectioned off  
219 by two-by-fours. You can see something like what Abandon Ship looks like now in Exhibit  
220 5, except that those rails were not there at Lizard's Butte, and Abandon Ship is taller than  
221 that obstacle. Each event supervisor is responsible for two lanes and actively directs jumpers  
222 on either side of his or her position. In the pool below, there's a one-to-one ratio of lanes to  
223 lifeguards. Before allowing each participant to jump, the event supervisor on the platform

224 communicates with the lifeguard below to make sure that the previous jumper has  
225 resurfaced and cleared the lane. We had to do this not because of what happened to  
226 Alejandro, but because the team from Xenopharma ignored our guard's red flag. We also  
227 have at least one diver, in full gear, ready to hit the water at moment's notice. Course-wide,  
228 safety personnel and event supervisors now receive "obstacle cards" detailing actions they  
229 should take during an emergency. Before each event, all Storm Chase staff run through real  
230 time drills to ensure that they understand their roles. We also have implemented a standard  
231 construction plan for obstacle frames.

232       People think they know about Baywatch from the TV shows. But what matters most to  
233 the beach lifeguard is saving strangers—that's the twelfth and thirteenth S! The inherent,  
234 unavoidable problem of lifesaving is how to deal with losing people, because you will... to a  
235 heart attack or the surf or a collision... people engaged in physical activity sometimes die. I  
236 will fight to my last breath for the ones we can save, but that's the hardest thing: sometimes  
237 there is nothing you can do.

**IZZY CAMERON, OBSTACLE COURSE AFFICIONADO**

1 My name is Izzy Cameron. I was a four-letter athlete in high school, having played  
2 lacrosse, soccer, basketball, and track. Before retiring, I was a sports therapist. I have a  
3 degree in literature from the University of Idaho, so my ability was more based on  
4 experience. But, really, after getting your first job in the field, no one cares about your  
5 credentials. The best part about my job was that I worked with the most important muscle  
6 in the body: the mind. I can fix them. It is a gift and frankly, I was famous for it. But it starts  
7 with reading people. Seeing the fear enter their eyes or stare of unrelenting ambition, as I  
8 did for nearly forty years serving as an athletic trainer and sports therapist for high school  
9 and college teams and individual competitors. I was even contracted for some races or  
10 games by individual professionals to help them physically but also to get them psyched up.  
11 Since I do love sports, Storm Chase and the entire uprise of the obstacle sports world had  
12 me intrigued. Blame it on the internet, but when you are retired the internet becomes a  
13 rabbit hole of intrigue. I spent hours and hours watching all of the old events on YouTube.

14 When I learned that the Storm Chase was coming to Idaho, you know I was going to be  
15 there. And when the call for volunteers came, I was one of the first to sign up. Like I said, I  
16 had a ton of time on my hands and wanted to be part of the action. I wanted to feel the  
17 energy of a crowd and the determination to tackle extremely hard obstacles. Plus, I wanted  
18 to get a chance to meet John Lande and Christina Thompson. When I was assigned the role  
19 of team monitor, I was excited and while I knew just observing would be a bit of a physical  
20 challenge given the length of the course, I was as ready as many of the participants. The role  
21 of the monitor is simple. The Storm Chasers were released onto the course in cohorts based  
22 on start times that were about 40 minutes apart. I was assigned the 10:20am cohort. That  
23 morning, we reported at 8am for a long training session on the safety protocols, ten minutes  
24 or more, and we were given a script to read to the participants after the first warm-up  
25 obstacle. I was also supposed to keep an eye out for aggressive and unsafe behavior as well  
26 as unauthorized participants. I felt totally prepared for my job. Storm Chase did a great job  
27 there.

28 Look, Storm Chase is a stressful event that elicits a short term “fight or flight” response.  
29 This response starts in the brain, which starts a cascade of events that play a role in  
30 completing the event: increased adrenaline, increased heart rate, increased breathing rate,  
31 increased oxygenation and blood flow to the muscles and brain, changes in  
32 neurotransmitters, and shutting down non-essential processes like digestion. Every good  
33 sport does, and I’ve seen it in every high-level athlete I’ve ever treated. In short, it’s scary,  
34 but it’s a rush. I do not recommend anyone mixing stuff like alcohol with sport. I know it is  
35 a rule for Storm Chase as well – it says it right there in middle of the pledge.

36 It’s so true that you don’t run an event like Storm Chase alone. You run it with everyone  
37 on that course... well, at least the ones in your cohort. There’s a wonderful atmosphere of  
38 “we’re all in this together” that’s unique to this kind of race. Camaraderie among  
39 participants is part of the event – it is actually a big goal and one of the benefits. Shared  
40 experience can really lead to great friendships and relationships. The overall experience of  
41 the race is something I feel that everyone should do at some point. You realize that you and  
42 your body can go farther and achieve more than you ever thought possible. You get to look  
43 at your blisters and bruises at the end of the event and think what it took to achieve the  
44 finish.

45 So for this particular event, I was aware that every participant had to sign a waiver, but  
46 they also had to fill out a pledge of sorts going over some of the values I just described.  
47 There are risks involved in any kind of race, from a 5K to a marathon, so when it comes to a  
48 mud race involving elements like fire, barbed wire, climbing big things, being exposed to ice  
49 cold and mud, you’ve got to use your head. The most important thing in an event like this is  
50 to stay safe and only do those challenges that you feel comfortable with. At Storm Chase,  
51 anyone can just go around an obstacle for a small-time penalty. There are signs posted along  
52 the course with this message. Course monitors, like me, at each obstacle remind participants  
53 constantly as well. But here’s something to consider: when people get in race mode, some  
54 still make wise decisions and consider their self-preservation, but others don’t make very  
55 good decisions at all. Participants often face instant, game-time choices while in the throes of



56 an adrenaline rush. Or they feel compelled to complete an obstacle either through peer  
57 pressure, ego, or goading from others. And there were a lot of others there, not just on the  
58 teams but among the spectators. Even the race staff was there to encourage participants to  
59 do their very best, to push themselves so they would have a good experience and be proud  
60 later. That's what Storm Chase is all about: pride of accomplishment. For some people,  
61 skipping obstacles might feel like "less than" the full experience, so some people might have  
62 thought staff was pressing them. No way! Staff just wanted the runners to be all they could  
63 be, and we stood behind them pushing their own limits.

64 It's not only overt pressure to complete all obstacles that drives a participant to make  
65 bad choices. Sometimes pressure comes in a subtle way. Teammates can pressure, just  
66 thinking they are being supportive ("just give it a try" or "you can't win if you don't play").  
67 Internal pressures include both a sense of not wanting to let the team down (despite the fact  
68 that there is no timer, no scorecard, no judgments) and a desire to perform at a comparable  
69 level (or better) than the rest of your team.

70 After the training and Chris's speech, I was ready to run through a wall, but my  
71 morning cohort was not leaving until after 10, so I sat in the warming tent, drinking coffee.  
72 Worse, all of the teams were there right at 10:20am except for the bog turtle team. They were  
73 nowhere to be found. I radioed to the organizers and they said they had just arrived at the  
74 registration area. One of the volunteers told me that a few of the team members appeared to  
75 be a bit "off" and that I should keep a close eye on them. The rest of the cohort didn't like  
76 them because everyone was freezing and wanted to get going. They had to get to my station  
77 by 10:40 or I would have to disqualify them. I can tell you that the rest of the cohort were  
78 not happy to be waiting for them. Right when I was about to call it, they showed up.  
79 Technically, I may have even let them start a minute or two after 10:40, but what does one  
80 minute matter?

81 Right from the jump, we were behind schedule. I could tell the bog turtle team in  
82 particular was not paying attention when I went over the safety protocols. They seemed far  
83 more interested in getting running than respecting the event. I chalked it up to event jitters,



84 but I had equally convinced myself that it was due to alcohol consumption. Who drinks  
85 light beer at 9 AM? Then again, none of the teams seemed to want to listen to me much, and  
86 I was flying through instructions so we would not get disqualified and I'd lose my chance to  
87 see the whole course up close. Alejandro Desafios in particular was a bit of a joker. He kept  
88 talking over me and making comments about my ability to keep up given my age. What a  
89 jerk..

90 From what I saw of Alejandro and his team, I noticed both external and internal  
91 pressures mounting. It was like they were on a mission to get the best time, and Alejandro  
92 was clearly their leader. He was motivating the rest of the team the entire time. I also saw at  
93 least one instance where one of the team members reminded another that they could "just  
94 skip it," but Alejandro yelled at them that they needed to "get it done". It was all a bit  
95 intense. I had to pull Alejandro aside at one point and remind him that the skip obstacle  
96 option is not something to be ashamed of. Along with an evident desire to "not let the team  
97 down," I observed a fierce sense of competition among Alejandro and at least a few of his  
98 teammates. I even had a quick one on one with another one of his team members that asked  
99 if she skipped an obstacle would the entire team be time penalized.

100 I witnessed each member of their team get zapped by electrical wires hanging over a  
101 mud pit in the Electric Storm obstacle. I witnessed one member of the team suffer pretty bad  
102 rope burns, I noticed a rather nasty ankle injury on the Mudslide, and I saw Alejandro fall  
103 from a rotating monkey bar-type contraption called the Cyclone, suffering a blow to his  
104 head that left him dazed. But each time, the entire team continued. Under normal  
105 circumstances, any of those injuries could have ended the race. But I think there might have  
106 been a little too much pride involved. They kept on muttering about the other team from  
107 Xylophone or something and needing to be at the top of the leader board. I probably should  
108 have intervened more, but I was caught up in the excitement. I also had a little too much  
109 coffee that morning, so I needed to step away a time or two when we passed a port-a-potty  
110 on the course. What can I say? When you gotta go, you gotta go.

111 There was also mounting pressure from individuals and groups coming up from behind  
112 because we got such a late start. They were egging my cohort to either quickly complete an  
113 obstacle, go around, or get out of the way. There was one group in the 11am cohort that was  
114 particularly aggressive – a team from a local company called Xenon. I could see now why my  
115 bog turtle team hated them so much. Smug and condescending is not a great look –  
116 regardless of circumstance. You could tell they were gunning for the time award, or  
117 bragging rights, or they were just a bunch of alpha jerks! Alejandro's group was not the  
118 fastest on the course, nor the slowest – they had no chance of winning. But in every event,  
119 there are always those gung-ho groups that just add to the chaos. There also seemed to be a  
120 lot of people on the course. I'm not sure what the final participant tally was, but the course  
121 did seem a bit congested – adding to the pressure. I did not look carefully enough to notice  
122 whether every participant had a race bib and number.

123 By the time we got to the Abandon Ship obstacle around 12:30, the course was really  
124 packed. I think the proximity of the finish line had something to do with that. I got the sense  
125 that by that point in the course, most everyone had had enough abuse and just wanted to be  
126 done and get to the celebration at the end of the course.

127 Where once others might stop and lend a hand to strugglers, now with only a few  
128 obstacles remaining, there was a lot of pushing and shoving to get to the wall of cargo nets,  
129 and then over, around, and through slower participants to get to the top. The course  
130 monitor stationed at the base of the wall was trying her best to have teams and individuals  
131 proceed in an orderly fashion, but as in all things, once one person jumps the line, others  
132 quickly follow. I did notice that the monitor used her radio to call for some assistance, but I  
133 didn't stick around to see if any additional help arrived.

134 As my teams made their way up the wall to the platform, I moved to a vantage point  
135 beside the pool of mud. From there, I could see that the platform at the top was  
136 overcrowded. The obstacle staff threw up the red flag that was meant to make the  
137 participants stop and wait for the area to be clear, but Alejandro was not having it, you  
138 could see it in his eyes. His aura screamed red. He was pushing people out of the way, and

139 eventually just jumped in with a couple of his other teammates. I couldn't tell if he could see  
140 the red flag or not, because the girl holding it was pretty short, and there were a lot of  
141 people up there, but I know we discussed the red flags in my speech at the start. I may have  
142 read fast, but I read every word! Anyway, it wasn't that big of a platform to begin with,  
143 with two or three dozen people up there at one time, it was jam-packed, and clearly there  
144 was a problem. The problem seemed pretty obvious to me: the number of climbers reaching  
145 the platform exceeded the number of jumpers into the pool. They either needed to increase  
146 the rate of jumpers – not the safest option – or decrease the number of wall climbers  
147 temporarily until the logjam cleared – which was attempted in good faith, but in vain. The  
148 monitors had the red flags up, but no one was listening. That's one of the troubles with  
149 Millennials and GenZ, you know: no respect for authority. But what made the situation go  
150 from bad to impossible was the team from Xeno. They went right up the cargo nets – like  
151 spiders, that group! – against the red flag at the bottom and just jumped in – all of them – all  
152 at once against the red flag at the top. It was dumb, aggressive, and really unwarranted  
153 given the circumstance.

154       There were two lifeguards stationed at either side of the pool. One was busy helping a  
155 struggling swimmer to shore after the mass of humanity plummeted into the icy cold water.  
156 I do remember one of the other bog turtle teammates yelling that Alejandro was still in the  
157 mud pit and had not come out. They were really in the face of one of the lifeguards yelling  
158 and screaming. I thought the lifeguard acted in a calm and collected manner, very steady,  
159 carefully listening to what was said. They quickly had participants by the side of the pool do  
160 an inventory to see if anyone was missing. They finally got the area cleared of jumpers. It  
161 couldn't have taken more than 45 seconds, maybe a minute at the most. I was impressed  
162 with their professionalism, given the sheer number of people. Once the pit was cleared, the  
163 first lifeguard put on their mask and dove in to start the search. The search process was  
164 hindered by a number of participants who tried to help. I could tell that they were getting in  
165 the way, and heard the lifeguard yell something like, "I'm a trained diver, back off, I need  
166 space."

167       When they had to make their third dive below the surface, I knew that the outcome  
168 could not be good. At that point, Alejandro had to have been in the water at least a couple of  
169 minutes, maybe more. When the diver finally brought him up from below, dragging him to  
170 the side of the pit, it was a sickening sight. Emergency medical help had been called from  
171 the nearby tent, and they arrived shortly thereafter. Together they performed CPR and  
172 zapped Alejandro 2 or 3 times with the shock paddles before getting a pulse. I came over to  
173 help as well and as much as I could. I heard on the news that he died the next day in the ER.

174       From my vantage point as a Storm Chase observer, it appeared to me that the event  
175 organizers did everything possible to provide a safe – but exciting! – challenge to  
176 competitors. I know it ended badly, but I call it like I see it. If Alejandro was paying  
177 attention to the red flag and reading the situation correctly, he would have waited. He never  
178 would have jumped. He would still be alive. Whether it was his overzealousness, him  
179 wanting his team to win even though he had no shot, or just plain old adrenaline driven by  
180 the chasing teams, he made a bad decision.

181       While there was some congestion on the course and injuries did occur, the medical staff  
182 provided prompt and effective treatment and the event supervisors were informative and  
183 helpful. The event was well organized. That's what I told Chris afterward, when Chris  
184 asked about what had happened, how this could have gone down: there were a lot of  
185 people, but his team acted right. That probably wasn't 100% true; as I said, there were way  
186 too many people on that obstacle, and there were teams pushing and stuff. The obstacle  
187 monitor looked to be about 16, 17 years old maybe... fine for a Sunday at the community  
188 pool, but no way gonna keep control over dozens of fired-up 20- and 30-somethings. In any  
189 case, Chris was smart enough to figure out how to fix things later; in the moment, I could  
190 tell that it was what Chris needed to hear. As I said, I'm good at that.

191       Even so, I think a person makes their choices. Ya buy your ticket, ya take your chances, I  
192 say. With the advent of televised races and shows like American Ninja Warrior, there are a  
193 lot of stay-at-home weekend warriors who are inspired to try their hands at obstacle  
194 courses. But many do not understand the extreme challenges that they will face. Race

195 organizers do what they can, but runners in these races should also be fully prepared –  
196 that’s on them. Someone with a pre-existing health condition or without proper physical  
197 training, for example, should not jump right in. I’ve been in events before where I would  
198 have been worried for my own safety, not because of my lack of competence or training but  
199 because of the incompetence and risk-taking of others. Race organizers cannot stop all of  
200 that.

201       Bad things sometimes happen to good people. That’s the way of the world. This was a  
202 good race. Participants seemed to have a good time. It’s truly unfortunate that this tragedy  
203 casts a pall over this event and over the sport in general.

## EXHIBITS

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These case materials include the following exhibits.

- 1) Flyer for Competition
- 2) Storm Chase Waiver
- 3) Storm Chase Pledge
- 4) Map of Storm Chase Event at Lizard's Butte
- 5) Photo of Abandon Ship Obstacle
- 6) Photos of Obstacle Course Signage
- 7) Blog Entry of D.J. Hatchet
- 8) Blog Excerpts of D.J. Hatchet
- 9) On-Course Medical Tent Treatment Log Summary
- 10) Email exchange between Tempesto and Rodgers

# EXHIBIT 1: STORM CHASE FLYER



The flyer features a central graphic of a blue and white swirling storm. To the right of the storm, the text 'STORM CHASE' is written in yellow. Below the storm, the tagline 'ONLY THE WEAK TAKE COVER' is written in blue. To the right of the storm, three lines of bold yellow text with black outlines read: 'THE GLORIOUS!', 'MOST SURPRISING!', and 'MOST CHALLENGING!'. Below this, a thick yellow banner with black text reads 'MOST DANGEROUS OBSTACLE COURSE IN THE WEST'. The event details are listed in blue text: 'Lizard's Butte Idaho', 'October 23, 2022', and 'Gates Open at 7:30 AM'. At the bottom left, another thick yellow banner with black text reads 'WORLD CHAMPIONSHIP BE THERE IF YOU DARE!'. At the bottom right, there is a yellow warning sign with a black exclamation mark inside a triangle, and a yellow rectangular box below it with the text 'ENTER AT OWN RISK' in black.

**STORM CHASE**

ONLY THE WEAK TAKE COVER

**THE GLORIOUS!  
MOST SURPRISING!  
MOST CHALLENGING!**

**MOST DANGEROUS OBSTACLE COURSE IN THE WEST**

Lizard's Butte Idaho  
October 23, 2022  
Gates Open at 7:30 AM

**WORLD CHAMPIONSHIP  
BE THERE IF YOU DARE!**

**ENTER AT OWN RISK**

## EXHIBIT 2: STORM CHASE WAIVER

### *Storm Chase LLC*

#### ASSUMPTION OF RISK, WAIVER OF LIABILITY, AND INDEMNITY AGREEMENT

Lizard's Butte, 2022

***PARTICIPANTS: READ THIS DOCUMENT CAREFULLY BEFORE SIGNING ELECTRONICALLY. THIS DOCUMENT HAS LEGAL CONSEQUENCES AND WILL AFFECT YOUR LEGAL RIGHTS AND WILL ELIMINATE YOUR ABILITY TO BRING FUTURE LEGAL ACTIONS. YOU CANNOT PARTICIPATE IN THE COMPETITION WITHOUT EXECUTING THIS AGREEMENT***

#### **Parties**

**Released Parties** include STORM CHASE LLC and its directors, officers, employees, agents, contractors, insurers, spectators, co-participants, equipment suppliers, and volunteers; LIZARD'S BUTTE and its directors, officers, employees, agents, contractors, insurers, equipment suppliers, and volunteers; all STORM CHASE LLC event sponsors, organizers, promoters, directors, officials, property owners, and advertisers; governmental bodies and/or municipal agencies whose property and/or personnel are used; and any or all parent, subsidiary or affiliate companies, licensees, officers, directors, partners, board members, supervisors, insurers, agents, equipment suppliers, and representatives of any of the foregoing.

**Releasing Parties** include the participants as well as participant's spouse, children, parents, guardians, heirs, next of kin, and any legal or personal representatives, executors, administrators, successors and assigns, or anyone else who might claim or sue on participant's behalf.

Initial Assumption of Inherent Risks  
Storm Chase event (hereafter referred to as the **SC Event**) is meant to be an extreme test of toughness, strength, stamina, camaraderie, and mental grit that takes place in one day. It is not a race against other contestants, but rather a competition with oneself and the Course. The object is to complete the Course. Venues are part of the challenge and usually involve

hostile environments that might include extreme heat or cold, snow, fire, mud, extreme challenges in elevation, and water. Some of the activities include runs, military style obstacles, going through pipes, traversing cargo nets, climbing walls, encountering electric voltage, swimming in cold water, throwing or carrying or getting hit with heavy objects, and traversing muddy areas. In summation, the SC Event is a hazardous activity that presents the ultimate physical and mental challenges to participants.

I acknowledge that the SC Event is an extreme test of my physical and mental limits that carries with it inherent risks of physical injury.

**Inherent risks** are risks that cannot be eliminated completely (without changing the challenging nature of the SC event) regardless of the care and precautions taken by **Storm Chase LLC (hereafter used when referring to the corporate entity and protected parties)**. I also understand that these hazards may be magnified due to the fact that the SC Event is often conducted under what may be extreme conditions and circumstances.

I understand and acknowledge that the **inherent risks** include, but are not limited to: 1) contact or collision with persons or objects (e.g., collision with spectators or course personnel), contact with other participants, contact or collision with motor vehicles or machinery, and contact with natural or man-made fixed objects; 2) encounter with obstacles (e.g., natural or man-made water, road and surface hazards, close proximity and/or contact with thick smoke and open flames, barbed wire, pipes, and electric shocks); 3) equipment related hazards (e.g., broken, defective or inadequate competition equipment, unexpected equipment failure, imperfect course conditions); 4) weather-related hazards (e.g., extreme heat, extreme cold, humidity, ice, rain, fog); 5) inadequate or negligent first aid and/or emergency measures; 6) judgement and/or behavior-related problems (e.g., erratic or inappropriate co-participant or spectator behavior, erratic or inappropriate behavior by the participant,



errors in judgment by personnel working the event; and 7) natural hazards (e.g., uneven terrain, rock falls, lightning strikes, earthquakes, wildfire attacks, contact with poisonous plants, marine life and/or ticks). I further understand and acknowledge that any of these risks and others, not specifically names, may cause injury or injuries that may be categorized as minor, serious, or catastrophic. **Minor injuries** are common and include, but are not limited to: scrapes, bruises, strains, muscle tension and soreness, nausea, cuts, sunburns, abrasions, grazes, lacerations, and contusions. **Serious injuries** are less common, but do sometimes occur. They include, but are not limited to property loss or damage, broken bones, fractures, torn or strained ligaments and tendons, concussions, exposure, dehydration, heat exhaustion and other heat-related illnesses, mental stress or exhaustion, infection, vomiting, dislocations, hyperthermia, anemia, electrolyte imbalance, loss of consciousness, syncope, dizziness, fainting, seizures, electric shock and/or injury, and neurological disorders/pain. **Catastrophic injuries** are rare; however, we feel that our participants should be aware of the possibility. These injuries can include, but are not limited to, permanent disabilities, stroke, single or multiple organ failure or dysfunction, physical damage to organs, spinal injuries, paralysis, heart attack, heart failure, blood cell disorder, brain swelling, and even death. I further understand and acknowledge that the SC Event may contain obstacles with electrically charged wiring and fencing. During this event I may be exposed to such electrically charged live wiring. I understand and acknowledge that exposure to such electrically charged objects may directly cause or contribute to bodily injury. These injuries may be serious and permanent. The injuries include, but are not limited to: skin irritation, electrical burns, muscle spasm, muscle contraction, single or multiple organ failure, eye injuries including cataracts and temporary or permanent blindness, cardiac arrest, heart attack, disruption of normal cardiac rhythm, bleeding, muscular swelling, decreased blood flow to extremities, loss of consciousness,

coma, seizure, spinal cord injury, fracture, injury to ligaments, paralysis, stroke, muscle weakness, neurological disorder, tingling sensations, infection, muscle breakdown or destruction, depression, anxiety, aggressive behavior, ulcer, pneumonia, sepsis, and even death.

I also understand that it is my responsibility to consult with my personal physician prior to participating in the SC Event to ensure that such participation will not pose any unusual risks to my health and well-being.

I understand that it is my responsibility to inspect the Course, facilities, equipment, and areas to be used, and if I believe or become aware that any are unsafe or pose unreasonable risks, I agree to immediately notify appropriate personnel. By participating in the event, I am acknowledging that I have found the course, facilities, equipment and areas to be used to be safe and acceptable for participation. I accept full and sole responsibility for the condition and adequacy of my equipment.

**I understand fully the inherent risks participating in the SC Event and assert that I am willingly and voluntarily participating in the event. I have read the preceding paragraphs and acknowledge that 1) I know the nature of the SC Event; 2) I understand the demands of this activity relative to my physical condition; and 3) I appreciate the potential impact of the types of injuries that may result from the SC Event. I hereby assert that I knowingly assume all of the inherent risks of the activity and will take full responsibility for any and all damages, liabilities, losses, or expenses that I may incur as a result of participating in the SC Event.**

**Initial Waiver of Liability for ORDINARY NEGLIGENCE:** In consideration of being permitted to participate in the SC event, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged. **I (on behalf of the Releasing Parties) hereby forever waive, release, covenant not to sue, and discharge Storm Chase LLC and the other Released Parties**

**from any and all claims resulting from the INHERENT RISKS of the SC Event or the ORDINARY NEGLIGENCE of Storm Chase LLC (or other Released Parties) that I may have arising out of my participation in the SC Event.**

This agreement applies to 1) personal injury (including death) from incidents or illnesses arising from the SC Event participation, which includes injury during course inspection, observation, practice runs, the event, medical treatment, Burn Zones and while on the premises (including but not limited to base area, stands, sidewalks, parking areas, sponsor promotions, restrooms, first-aid tents, and dressing facilities); and 2) any and all claims resulting from damage to, loss of, or theft of property.

**Initial Indemnification Agreement:**

Inconsideration of being permitted to participate in the SC Event and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **I hereby agree to hold harmless, defend, and indemnify Storm Chase LLC (and other Released Parties) from and against: 1) Any and all claims made by me (or any Releasing Party) arising from injury or loss due to my participation in the SC Event; and 2) Against any and all claims of co-participants, rescuers, and others arising from my conduct in the course of my participation in the SC Event.** For the purposes hereof, "claims" includes all actions and causes of action, claims, demands, losses, costs, expenses and damages, including legal fees and related expenses. This indemnity shall survive the expiration or sooner termination of the SC Event.

**Initial Other Agreements**

**Venue and Jurisdiction:** I understand that if Mediation and Arbitration prove unsuccessful and legal action is brought, the appropriate state trial court for the state in which the SC Event is held has sole and exclusive jurisdiction and that only the substantive laws of the State in which the SC Event is held shall apply.

**Severability:** I understand and agree that this Assumption of Risk, Waiver of Liability, and

Indemnification Agreement is intended to be **as broad and inclusive as is permitted** by the state in which the SC Event is held and that if any provision shall be found to be unlawful, void, or for any reason unenforceable, then **that provision shall be severed from the Agreement and does not affect the validity and enforceability of any remaining provisions.**

**Integration:** I affirm that this agreement supersedes any and all previous oral or written promises or agreements. I understand that **this is the entire Agreement** between me and Storm Chase LLC and **cannot be modified or changed** in any way by representations or statements by any agent or employee of Storm Chase LLC. This agreement may only be amended by a written document duly executed by all parties.

**Mediation and Arbitration:** In the event of a legal issue, **I agree to engage in good faith efforts to mediate** any dispute that may arise. Any agreement reached will be formalized by a written contractual agreement at that time. Should the issue not be resolved by mediation, I agree that all disputes, controversies, or claims arising out of my participation in the SC Event **shall be submitted to binding arbitration** in accordance with the applicable rules of the American Arbitration Association then in effect. The cost of such action shall be shared equally by the parties.

**Class Actions:** I agree that any arbitration, mediation or legal action shall proceed solely on an individual basis without the right for any claims to be arbitrated on a class action basis or on bases involving claims brought in a purported representative capacity on behalf of others. Claims may not be joined or consolidated unless agreed to in writing by all parties.

**Initial Agreements for the Protection of Participants**

- I represent and warrant that I am **in good health** and in proper physical condition to safely participate in the SC Event. I certify that I have **no known or knowable physical or mental conditions** that would affect my ability to safely participate in the SC event, or that would result in my

participation creating a risk of danger to myself or others.

- I represent and warrant that I am in full command of my faculties and am not under the influence of alcohol or drugs.
- I agree not to participate in a SC Event while under the influence of alcohol and/or drugs.
- I acknowledge that Storm Chase LLC recommends and **encourages each client to get medical clearance** from his/her personal physician prior to participation.
- I assert that **I have not been advised or cautioned against participating** by a medical practitioner.
- I understand that it is my responsibility to continuously **monitor my own physical and mental condition during the Course**, and I agree to withdraw immediately and notify appropriate personnel if at any point my continued participation would create a risk of danger to myself or to others.
- I represent and warrant that I am covered by **medical insurance**.
- In the event of an injury to me that renders me unconscious or incapable of making a medical decision. **I authorize appropriate Storm Chase LLC personnel and emergency medical personnel at the event to make emergency medical decisions** on my behalf (including, but not limited to CPR and AED).
- I authorize Storm Chase LLC to **secure emergency medical care or transportation** (i.e., EMS) when deemed necessary by Storm Chase LLC.
- I agree to **assume all costs** of emergency and medical care and transportation.
- I acknowledge that Storm Chase LLC has instituted its rules for the protection of the participant and co-participants. **I agree to familiarize myself with those rules and follow them** throughout the event. I also recognize the authority of Storm Chase

LLC to halt my participation (and, if necessary, have me removed from the premises) if my participation, conduct, or presence endangers myself or my co-participants.

**Entry and Participation Agreements:**

**Rules:** I agree to become familiar with and abide by all written and/or posted rules of Storm Chase LLC, as well as all written and/or posted rules of the Venue. I further agree to comply with all directions, instructions and decisions of Storm Chase LLC and Venue personnel. I further agree not to challenge these rules, directions, or decisions on any basis at any time.

**Emergency Delay or Cancellation:** I acknowledge that Storm Chase LLC at its sole discretion may delay, modify or cancel the SC Event if conditions or natural or man-made emergencies make administering the event unreasonably difficult or unsafe. I agree that “emergency” is defined to mean any event beyond the control of Storm Chase LLC, including, but not limited to: high wind, extreme rain or hail, hurricane, tornado, earthquake, flood, acts of terrorism, fire, threatened or actual strike labor difficulty or work stoppage, insurrection, war, public disaster, and unavoidable casualty. In the event of a delay, modification or cancellation of the SC Event as described in this paragraph, I understand that I will not be entitled to a refund of my entry fee or any other event costs incurred in connection with the SC Event.

**Govern Participation:** I understand that Storm Chase LLC has the authority to issue instructions or directions relating to the manner of my safe participation in the Course or Related Activities and the authority to halt my participation in the Course of Related Activities at any time they deem it necessary to protect the safety of participants, spectators, and personnel; and/or promote fairness and the spirit of Storm Chase LLC.

**Removal from Course:** I understand that Storm Chase LLC and Venue personnel may immediately **cause** anyone who disobeys any rules, directions, instructions, decisions, or laws, or whose behavior endangers the safety or negatively affects a person, facility, or

property of any type or kind, **to be removed from the Course.**

**Fee Refunds:** In understand that all fees and associated costs (including optional product purchases, spectator tickets and donations), paid in registration for this SC Event are not refundable for any reason under any circumstances, including but not limited to injury, a scheduling conflict, and/or event cancellation.

**Military:** I understand that active duty or deployed military participants may be entitled to a refund on a case-by-case basis upon providing sufficient, official documentation regarding the deployment that conflicts with participating in the event.

**Attitude and Behavior:** I also agree to exhibit appropriate behavior at all times; demonstrate respect for all people, equipment, and facilities; and participate with a cooperative and positive attitude.

**Alcohol & Drugs:** I certify that I am not, and on the date of the SC Event will not be, under the influence of alcohol or any non-prescription drugs that would in any way impair my ability to safely participate in the SC Event. I further understand that the consumption of any alcohol and any illicit or illegal drugs or substances during the event is strictly prohibited. Storm Chase LLC will only allow responsible consumption of alcohol after the SC Event. The consumption of any illicit or illegal drugs or substances before, during, and after the SC Event is strictly prohibited. I agree to take full responsibility for any alcohol consumption at the Event.

**Specific Rules:** I specifically acknowledge and agree to abide by the following rules: 1) no urination or defecation is permitted outside of designated areas; 2) no wheeled conveyances or pets are allowed in the Course at any time; 3) no clothing, props or equipment that pose an unnecessary risk to participants, spectators or personnel are permitted; and 4) obey civil and criminal laws including traffic laws.

**Photography:** I understand that any and all photographs, motion pictures, recordings,

and/or likenesses of me captured during the SC Event by Storm Chase LLC, its affiliated entities or contractors, and/or media become the sole property of Storm Chase LLC. I grant the right, permission and authority to Storm Chase LLC and its designees to use my name and any such photographs, motion pictures, recordings, and/or likenesses for any legitimate purpose, including but not limited to promoting, advertising, and marketing activities. I further understand that Storm Chase LLC and its designees have the full right to sell and/or profit from the commercial use of such photographs, motion pictures, recordings and/or likenesses.

**Majority Age:** I affirm that I have reached majority age (or will have reached that age by the date of the SC Event. Majority age is 18 in all states except Alabama (age 19), Missouri (age 19), Nebraska (age 19), Mississippi (age 21).

**Acknowledgement of Understanding: I have read this Assumption of Risk, Waiver of Liability, and Indemnification Agreement and fully understand its terms. I understand that I am giving up substantial rights. Including my right to sue. I further acknowledge that I am freely and voluntarily signing the agreement and participating in the SC Event, and intend my signature to be a complete and unconditional release of all liability due to ORDINARY NEGLIGENCE of Storm Chase LLC (and other Released Parties) or the INHERENT RISKS of the activity, to the greatest extent allowed by law in the State in which the SC Event is held.**

**Signature of Participant:**

**Print Name:**

**Date:**

**FOR STORM CHASE USE ONLY:**

**Received by:**

**Date:**

**STORM CHASE ID#**

## EXHIBIT 3: STORM CHASE PLEDGE

### **Storm Chase Pledge**

**Hello fellow Storm Chaser! We are looking forward to you joining us in this epic obstacle course to test your mind, body, and agility. Before we begin, please read the pledge below, and sign at the bottom of the page. Here at Storm Chase, we want our Participants to test themselves while still maintaining the values listed below.**

**As a Storm Chaser Challenger, I pledge to:**

- EMBRACE THIS CHALLENGE OF PHYSICAL ENDURANCE AND MENTAL BRAVERY.
- I, ALONG WITH MY TEAM, WILL UPHOLD THE VALUES OF STORM CHASE LLC, THROUGH THE USE OF INTEGRITY AND TEAMWORK.
- I UNDERSTAND THAT THIS IS NOT A RACE, BUT A PERSONAL CHALLENGE TO OVERCOME OBSTACLES PUT IN MY WAY.
- I WILL NOT WHINE, I WILL NOT BECOME ANGRY OR AGGRESSIVE, I WILL NOT QUIT, I WILL NOT LET MY FELLOW STORM CHASERS DOWN.
- I WILL NOT BE SHOCKED BY THE ELECTRIC SHOCKS, I WILL REMAIN COOL WHILE IN ICE, AND I WILL BATHE IN THE MUD LIKE IT IS A DAY AT THE SPA.
- BY SIGNING THIS PLEDGE, I AGREE TO PROCEED AT MY OWN RISK. ALL RISKS ARE ASSUMED BY ME, THE PARTICIPANT.

**Participant Signature:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**EMERGENCY CONTACT:**

**Name:** \_\_\_\_\_

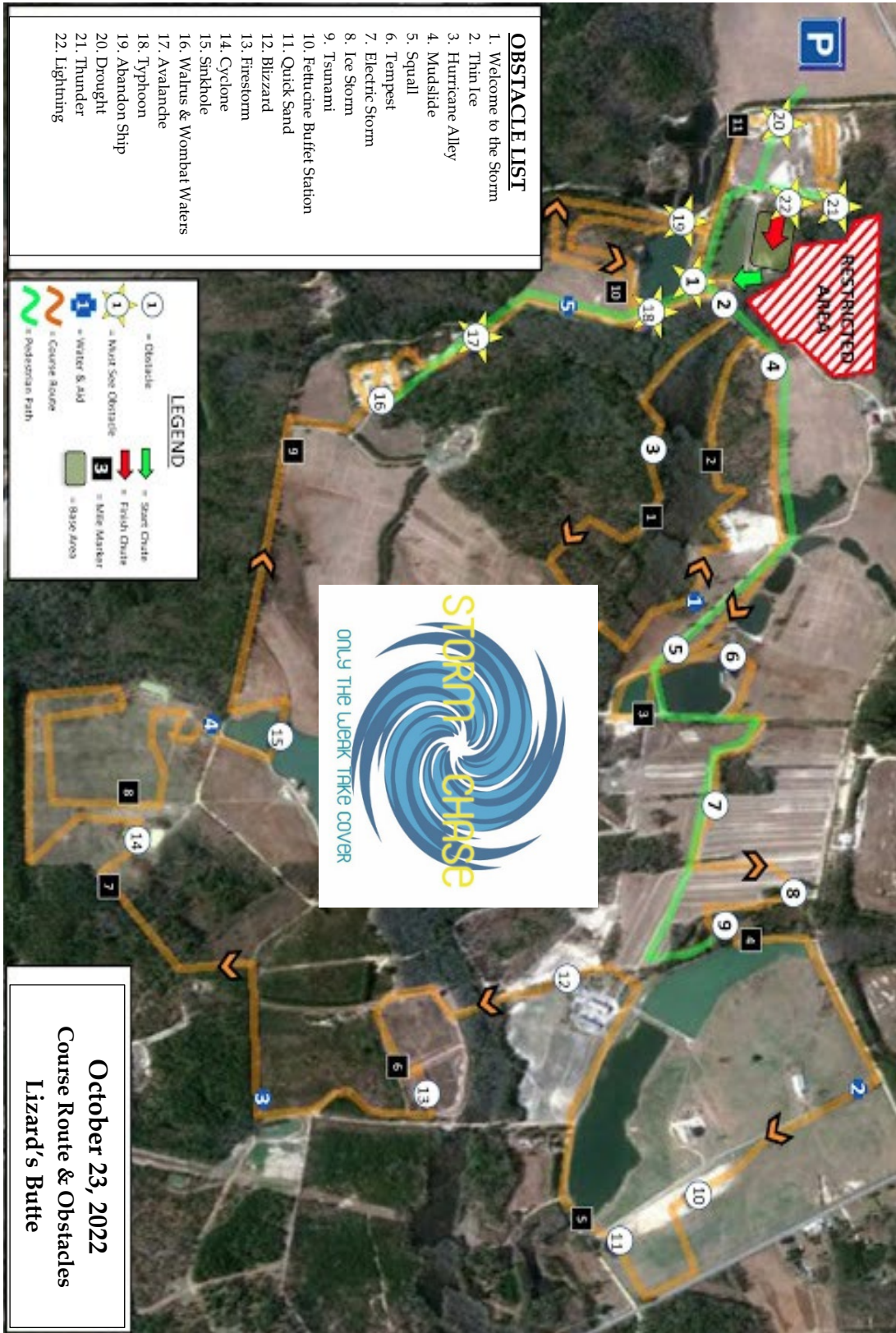
**Phone Number:** \_\_\_\_\_

**Relationship to Participant:** \_\_\_\_\_





**EXHIBIT 4: MAP OF STORM CHASE EVENT**



## EXHIBIT 5: PHOTO OF ABANDON SHIP OBSTACLE

Note: This photo is illustrative and similar to that used on 10/23/2022.





**EXHIBIT 6: PHOTOS OF OBSTACLE COURSE SIGNAGE**









## EXHIBIT 7: BLOG ENTRY OF D.J. HATCHET

# Dr. Danger's Sportz Xtreme Costs, Pros & Cons of Obstacle Course Races

As a fitness professional, I'm always excited when races and events draw crowds. Anything that gets people up and moving is generally considered a good thing. But there are risks that arise when sports go from zero to 60 in a matter of months – an exponentially exploding industry opens up itself, and its participants, to problems.

### Understanding Obstacle Course Racing (OCR)

Given the dynamic growth of the OCR industry, it's a little tricky to positively define OCRs. In general, they're exactly what they sound like: Races, during which participants come across, and overcome, specific obstacles (for example, crawling through mud pits, climbing over walls, or jumping over fire).

OCRs are held all over the country, typically in large, open parks or outdoor spaces where the racing companies have room to build their obstacles. Races vary in length and time, but most range from a 5k to half-marathon distance (roughly 3 to 13 miles), and most can be completed within one to four hours. They typically take more time to complete than a standard road or trail race because it takes participants longer to overcome the course's obstacles.

Because of the boom in participation, you can expect several hundred to several thousand participants at any given OCR event. And because many of these races are designed to encourage teamwork, there are usually options to join either as an individual or as a team. Sometimes races even offer discounts to those registering as part of a team. If a typical race entry ranges in price from \$60 to \$200, team registrations might receive a 5% to 10% discount for each person registering as part of the team.

### Advantages of OCRs

There's a lot to be said for obstacle course racing, and I see no reason most interested parties shouldn't try one out. These are many of the reasons I'm an overall proponent of the sport:

1. **Enhance Cardiovascular Fitness.** Obstacle course races are races typically ranging in length from 1 to 13 miles, depending on the event. Participants must train to be able to walk or run the full distance of the course.
2. **Encourage Strength and Flexibility Training.** Unlike traditional road races, where you simply travel the distance of the course powered by your heart, lungs, and legs, OCRs introduce difficult obstacles that require additional training. To be able to effectively climb over a 10-foot wall, you must develop upper body strength. To be able to climb up a 30-foot rope, you must develop full-body strength and coordination. To be able to climb through some obstacles, you must develop greater flexibility. All-in-all, OCRs require greater total-body fitness than your standard race.
3. **Challenge Mental Toughness.** It's one thing to run for three miles – but it's another thing entirely to run, jump, and crawl a total of three miles. For individuals looking for a new challenge, or those wanting to test the boundaries of their body and mind, OCR racing is a great place to start.
4. **Encourage Teamwork.** Most OCR courses are designed for promoting teamwork. In other words, there may be some obstacles you can't get through without a little help – you may need others to help you crawl up a 30-foot cargo net, or to help you out of a mud pit. The industry as a whole is community-focused, with a desire to help participants achieve and feel accomplished.
5. **Draw More People to Fitness.** Because there's a focus on teamwork, and because many OCR races seem novel, more people are drawn to the sport. Any time people sign up and train for events is a step in the right direction for overall community health.
6. **Options for Every Level.** Whether you're a total beginner or an elite athlete, there are obstacle course races perfect for your experience level. For instance, women can sign up for the Pretty Muddy OCR – an un-timed race that's perfect for anyone just starting out, or as a fun race for the more competitive athlete.



Likewise, those who want to earn a living running OCRs can sign up for the Spartan Race, where it's not uncommon for top competitors to be supported by sponsors as they race for generous prize purses from the racing company.

## Disadvantages of OCRs

Unfortunately, not everything about the OCR industry is good. When any industry experiences a boom, there's an inevitable bust that may take place before the industry normalizes.

### 1. Too Many Races

First, the industry has been saturated with hopeful entrepreneurs starting races with the goal of becoming the "next big thing." But putting together big events isn't cheap – you have to have the space, the insurance, the online presence, the obstacles, the staff, and the marketing to draw competitors in. According to *Obscure Sports Quarterly*, a typical obstacle course race costs between \$130,000 and \$420,000 – that's serious cash. Some entrepreneurs are realizing their work isn't generating the rewards they predicted, and are being forced to close their doors.

I actually experienced this myself. A few years ago I was signed up to take place in a 5k obstacle course race. Several weeks prior to the event, I received an email stating that the company had filed for bankruptcy and no further races would be held. There was no recourse for those who signed up and spent money on the event. Luckily, another race company stepped in and took it over, so those who signed up were still able to compete.

### 2. Poor Regulation

As a whole, the OCR industry has grown too fast for regulations to keep up. In fact, the industry is largely unregulated. This means there aren't standards for staffing, obstacle type, obstacle safety, or even course length.

There are three main problems with the lack of regulation:

1. **Companies Can Implement Obstacles Without Standardized Safety Testing.** Almost any company can come in, open up shop, and create whatever obstacles they want without any real guarantee that they're safe or reasonable. In fact, many companies start up with the hopes of making bigger, better, wilder obstacles to draw participants, but there's no way for participants to be sure they're safe.
2. **Course Safety Can Be Compromised With Crowds.** The number of participants and the lack of regulation can lead to otherwise safe obstacles becoming unsafe. Take, for instance, the drowning death of Avishek Sengupta in a 2013 Tough Mudder race. While a wrongful death suit is still pending in court against the racing company, the speculation is that there were too many people on the course that day, which made normal regulation of the obstacles more difficult to maintain. Without standardized regulation for how to handle crowded courses, this type of tragedy is more likely to take place.
3. **Professionalism as a Sport Is Difficult Without Standards & Regulations.** For individuals who want to seriously compete in the sport, the lack of regulation prevents the industry from seeming professional. Compare it to any other sport – running, for instance – and you know there are standards to follow. A marathon is a marathon, no matter where you run it. A 5k is a 5k, no matter where you run it. There are records to break, rules to follow, and governing bodies to make sure athletes are participating appropriately. However, the OCR industry is all over the place when it comes to standards and regulations. For instance, there are no standardized obstacles or race distances, and there's not a governing body to enforce athlete drug testing.
4. **There is No National Governing Body for These Types of Races.**

There is an association trying to increase the regulation in the industry – the National Obstacle Racing Association (NORA) – but the only way this group will see success is if it's widely accepted by the racing companies already ruling the industry. The jury's still out on this matter, and only time will tell.

## Deciding to Race

Generally, there's no reason you shouldn't decide to race in an OCR – but you *should* understand the risks involved and take steps to minimize your own risk.

### 1. Train Appropriately

Don't sign up for a race and then show up on race day completely unprepared. Racing companies want you to be successful and free from injury, so follow their suggestions for training and nutrition. In general, give yourself a minimum of one month to prepare, and incorporate strength and flexibility training into your workout regimen.

### 2. Ask Questions

If you're in doubt about what you should do to prepare for a race, don't hesitate to communicate your questions to the racing company. If they're slow to answer, or don't seem equipped to answer your specific questions, you may want to consider canceling your registration and signing up for a different event. You may also want to seek out a trainer or coach to help you prep for your event. A trainer can walk you through specific exercises that will mimic the type of work you'll need to do during the event.

### 3. Practice Defensive Racing

When you arrive to a race course on race day, understand that you're in charge of your own safety. It's reasonable to assume a course management team has created safe obstacles, but you shouldn't assume that they're being managed or monitored appropriately. Think of your racing as "defensive racing," much like defensive driving. Keep an eye on what's happening around you, and never feel pressured to attempt an obstacle that seems unsafe.

## Final Word

The obstacle course racing industry has a lot going for it: It's fun, exciting, and widely available. But just because OCRs look pretty on paper, it doesn't mean the reality is perfect. In the words of water safety, "Look before you leap" (both literally and figuratively) into OCR events, and always be your own safety advocate. For instance, if an obstacle seems too crowded to safely attempt, consider waiting for it to open up, or simply skip it altogether. Most OCRs companies offer alternative exercise suggestions for individuals who can't (or don't want to) complete a particular obstacle.

Likewise, if race course personnel aren't helping manage the flow of the event, or if safety personnel seem distracted, don't be afraid to ask them to step up their game. No one wants a day of fun competition to turn into a life-altering tragedy – it's reasonable to expect race personnel to be proactive and engaged in protecting the safety of participants.

## EXHIBIT 8: BLOG EXCERPTS OF D.J. HATCHET

### Dr. Danger's Sportz Xtreme

#### Obstacle Review – April 2019 (Camp Kikiwaka, Maine)



**Storm Chase – Abandon Ship:** You climb up an incline to a platform about 20 or so feet above a water pit. Your job is to jump into the water. This is a "free for all" kind of thing where people just kind of mill about on the platform until they got the nerve to take the plunge. They do station someone up on the platform who occasionally does a countdown in order to move those thinking too long about the plunge to jump. The key for me is to jump as quickly after getting onto the platform as I can. Obviously, don't push your way to the front, but if you're at all afraid of heights you want to spend as little time thinking about this as possible. It's not a bad obstacle unless it's really crowded. The platform isn't all that worrisome, but you definitely want to make sure you're safe with the spot in the water you choose. The last thing you want to do is jump on someone else. So the lesson about not dawdling applies to those people in the water as well...get swimming towards the exit as soon as you come up. Don't try to tread water unless you absolutely have to - you'll definitely be unhappy if someone else jumps on you.

### Dr. Danger's Sportz Xtreme

#### Excerpt from "*Sometimes You Just Need a Little Push*"

#### June 26, 2019 – Storm Chase – South Carolina



I ended up talking with a young married couple who were doing their first OCR together (short aside - my wife would NEVER run a course with me). The guy was a pretty big dude who was a gunner in the military, and his wife was a petite, but fit housewife/mother. It was clear that they were having a good time, but that it wasn't exactly a walk in the park. I would pass them on occasion, and they would pass me at other times. One of the places where we crossed paths was at Abandon Ship.

I climbed up to get to the platform and found the young couple at the top. The wife was in obvious distress, and wanted nothing to do with jumping from the platform. I told her it would be okay, and that it really was just a quick step off into the pool waiting below. The water would be cold, we all knew, but it was plenty deep enough to ensure she wouldn't hit bottom. And, if she had problems with swimming, there were folks down there that could help her. None of these things were the problem, though...rather, she was afraid of the height. Every effort to provide rational reasons why she would be okay were rebuffed because she wasn't acting rationally at the time (fear causes this, I know). The husband was gently trying to cajole her into jumping, but wasn't having much luck. Understanding that

this wasn't my fight, I did what we could - I jumped off to, hopefully, show her that she'd be okay. I swam to the other side, got out, gave a quick look, and ran off without giving it much more thought. She was either going to jump, be pushed, or skip the obstacle, and I'd no doubt hear about whatever happened when they passed me again, which, eventually they did. I asked how it had gone, and she told us that her husband ended up having to push her in - and she was NOT happy about that. I asked if it was as bad as she thought it would be, fully expecting her to say "not really", but she actually said that it was every bit as bad as she expected.

As I reflected on this, I realized that my own strengths is that I don't seem to overthink the obstacles that come my way. It's easy to stand on the lip of Tough Mudder's Arctic Enema, knowing how cold it will be, and freeze up at the prospect of even trying it. It's very easy to stand on a platform 20 feet above the water and think about how scary it is to fall, and that realization makes you stand and stare at the water below. In every case, the more time you spend thinking about the possible consequences, the more likely you are to give into the fear that holds you back. After all, if we're honest, it's not like we're standing on the platform thinking about the positive outcomes...we spend way too much of our time thinking of all of the scary things that could happen.

I had a similar experience when I was younger. My friends and I had gone to an overhang at the oceanfront near where we lived. It was about the same height, but required a jump into the water below. I successfully jumped a few times, but, the final time I was standing on the cusp I started thinking about how stupid it was to jump into the ocean from that distance and how I might hit the rocks on the way down. I froze for what seemed like minutes, but eventually jumped. It was the most liberating fall, because I realized that those things weren't really what was holding me back. I was holding myself back by overthinking the situation. So now, whenever I'm approaching Arctic Enema or Abandon Ship, I consciously decide to jump in as quickly as I can. Ironically, it's the easiest way to not freeze when confronted with a dumpster full of ice-water.

## EXHIBIT 9: ON-COURSE MEDICAL TENT TREATMENT LOG SUMMARY

### STORM CHASE Lizard's Butte Event October 23, 2022

Medical Tent data is sorted by obstacle, injury, number of affected participants by type of injury, and total number injured.

#### Medical Tent #1

Obstacle	Type of Injury	# of Injuries by Type	Total by Obstacle
Thin Ice	Frostbite	4	23
	Sub-zero contusions/bruising	12	
	Shock	3	
	Hypothermia	4	
Hurricane Alley	Wind chill	7	30
	Slip and fall	8	
	Eye injury caused by debris in eye	15	
Mudslide	Mud inhalation	12	18
	Infected scrapes	2	
	Sprained ankles	3	
	Concussion	1	
Squall	Hypothermia	1	6
	Exposure	5	
Tempest	Slip and fall	2	13
	Sprained ankle	8	
	Concussion	3	
Electric Storm	Electrocution	1	6
	Electric burns	4	
	Singed eyebrows	1	
<b>TOTAL INJURIES IN MEDICAL TENT #1</b>			<b>96</b>

#### Medical Tent #2

Obstacle	Type of Injury	# of Injuries by Type	Total by Obstacle
Ice Storm	Frostbite	8	11
	Hypothermia	1	
	Migrane headache	2	
Fettucine Buffet Station	Severe bloating	32	98
	Minor indigestion	56	
	Major indigestion requiring Loperamide	3	



Obstacle	Type of Injury	# of Injuries by Type	Total by Obstacle
	Food poisoning	5	
	Food allergy	1	
	Dissociative breakdown	1	
Quick Sand	Knee injury	12	49
	Sprained ankles	24	
	Sand inhalation	13	
<b>TOTAL INJURIES IN MEDICAL TENT #2</b>			<b>158</b>

**Medical Tent #3**

Obstacle	Type of Injury	# of Injuries by Type	Total by Obstacle
Blizzard	Frostbite	18	54
	Hypothermia	15	
	Exposure	21	
Fire Storm	First degree burns	17	28
	Second degree burns	10	
	Third degree burns	1	
<b>TOTAL INJURIES IN MEDICAL TENT #3</b>			<b>82</b>

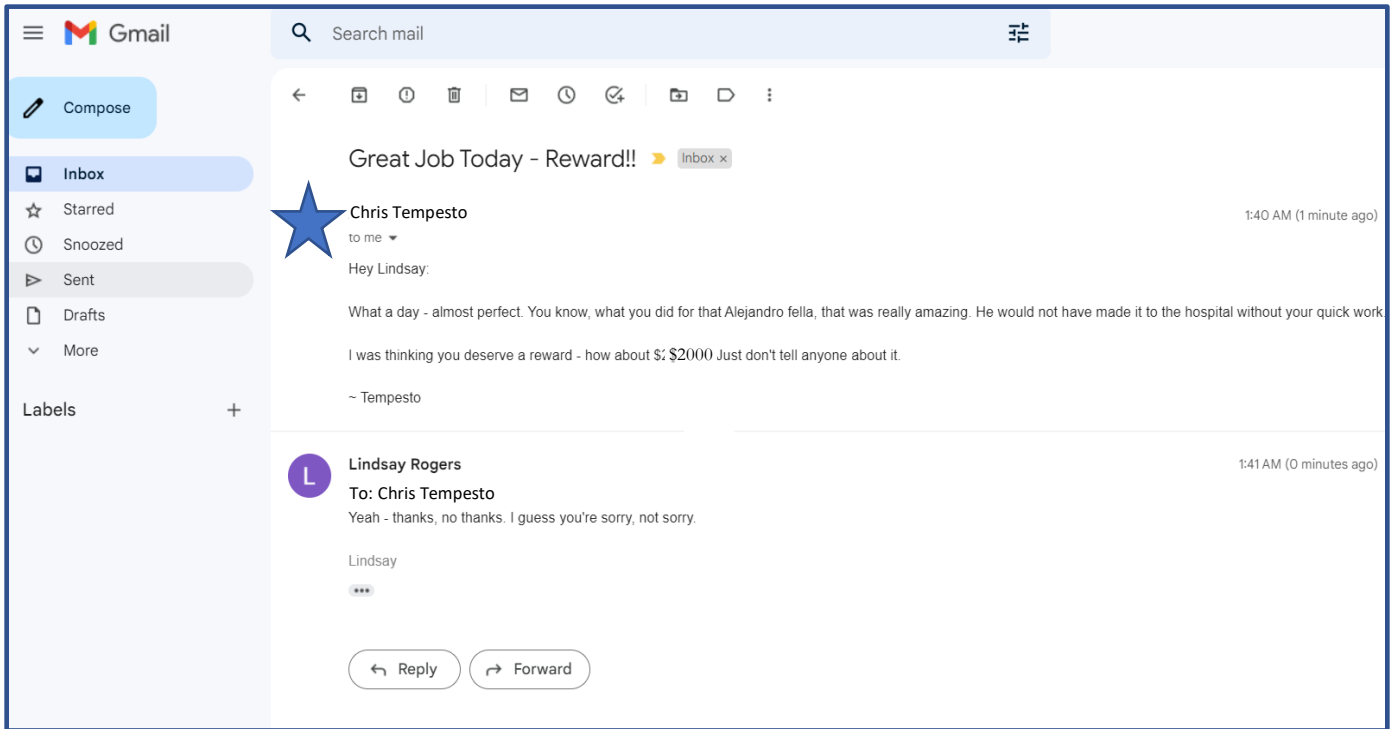
**Medical Tent #4**

Obstacle	Type of Injury	# of Injuries by Type	Total by Obstacle
Cyclone	Exposure	2	21
	Knee injuries	4	
	Sprained ankle	14	
	Corneal distortion from contact lens issue	1	
Sinkhole	Knee injuries	7	19
	Sprained ankles	9	
	Concussion	3	
Wild Walrus & Wombat Infested Waters	Minor animal bites	19	50
	Severe animal bites	4	
	Rabies	1	
	Walrus flipper bludgeoning	6	
	Minor tusk injury	12	
	Tusk piece removal	1	
	Highwire rope burn	7	
<b>TOTAL INJURIES IN MEDICAL TENT #4</b>			<b>90</b>

**Medical Tent #5**

<b>Obstacle</b>	<b>Type of Injury</b>	<b># of Injuries by Type</b>	<b>Total by Obstacle</b>
Avalanche	Severe contusion	29	39
	Broken bones	5	
	Sprained ankles	4	
	Concussion	1	
Abandon Ship	Contusion	2	10
	Sprained ankles	1	
	Water intake	4	
	Head injuries	2	
	Drowning (A. Desafios)	1	
Drought	Dehydration	12	19
	Fainting	7	
Thunder	Severe tinnitus	15	17
	Ruptured eardrum	1	
	Sprained ankle	1	
Lightening	Electrocution	2	8
	Electric burns	6	
<b>TOTAL INJURIES IN MEDICAL TENT #5</b>			<b>93</b>

# EXHIBIT 10: EMAIL EXCHANGE BETWEEN TEMPESTO & ROGERS



# JURY INSTRUCTIONS

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## INSTRUCTION NO. 1

These instructions explain the duties of jurors and define the law that applies to this case. It is the jury's duty to determine the facts, to apply the law set forth in these instructions to those facts, and in this way to decide the case. The jury's decision should be based upon a rational and objective assessment of the evidence. It should not be based on sympathy or prejudice.

## INSTRUCTION NO. 2

In determining the facts, the jury may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits admitted into evidence, and any stipulated or admitted facts. While the arguments and remarks of the attorneys may help the jury understand the evidence and apply the instructions, what they say is not evidence. If an attorney's argument or remark has no basis in the evidence, the jury should disregard it.

The production of evidence in court is governed by rule of law. At times during the trial, the judge may have sustained an objection to a question without permitting the witness to answer it, or to an offered exhibit without receiving it into evidence. Some evidence may have been admitted for a limited purpose. If so, the judge called your attention to this when the evidence was admitted. Remember that whenever evidence was admitted for a limited purpose, the jury must not consider such evidence for any purpose other than the limited purpose for which it was admitted – the judge's rulings are legal matters and are solely the judge's responsibility. The jury must not speculate as to the reason for any objection which was made, or the judge's ruling thereon, and in reaching its decision the jury may not consider such a question or exhibit or speculate as to what the answer or exhibit would have shown. Remember, a question is not evidence and should be considered only as it gives meaning to the answer.

The law does not require the jury to believe all of the evidence admitted in the course of the trial. As the sole judge of the facts, the jury must determine what evidence to believe and what weight to attach to it. In so doing, the jury brings to this courtroom all of the experience and background of the jurors' lives. There is no magical formula for evaluating testimony. In their everyday affairs, the jurors must determine for themselves whom they believe, what they believe and how much weight they attach to what they are told. The considerations the jurors use in making the more important decisions in their everyday dealings are the same considerations they should apply in their deliberations in this case.

### **INSTRUCTION NO. 3**

The plaintiff has the burden of proof and must prove all elements of the claim by a preponderance of the evidence. The defendant has the burden of proof and must prove all elements of the affirmative defense of waiver. When the judge says that a party has the burden of proof on an element of the claim, or uses the expression "if you find" or "if you decide," it means you must be persuaded that the proposition is more probably true than not true.

### **INSTRUCTION NO. 4**

In this case the parties have stipulated or agreed that the amount of damages that should be awarded, if any, will be the subject of a separate trial.

### **INSTRUCTION NO. 5**

Evidence may be either direct or circumstantial. Direct evidence is evidence that directly proves a fact. Circumstantial evidence is evidence that indirectly proves the fact, by proving one or more facts from which the fact at issue may be inferred.

The law makes no distinction between direct and circumstantial evidence as to the degree of proof required; each is accepted as a reasonable method of proof, and each is respected for such convincing force as it may carry.

## **INSTRUCTION NO. 6**

It was the duty of the defendant, before and at the time of the occurrence, to use ordinary care for the safety of the plaintiff.

## **INSTRUCTION NO. 7**

When I use the word "negligence" in these instructions, I mean the failure to use ordinary care in the management of one's property or person. The words "ordinary care" mean the care a reasonably careful person would use under circumstances similar to those shown by the evidence. Negligence may thus consist of the failure to do something which a reasonably careful person would do, or the doing of something a reasonably careful person would not do, under circumstances similar to those shown by the evidence.

## **INSTRUCTION NO. 8**

When I use the expression "proximate cause," I mean a cause that, in natural or probable sequence, produced the injury, the loss or the damage complained of. It need not be the only cause. It is sufficient if it is a substantial factor in bringing about the injury, loss or damage. It is not a proximate cause if the injury, loss or damage likely would have occurred anyway.

There may be one or more proximate causes of an injury. When the negligent conduct of two or more persons or entities contributes concurrently as substantial factors in bringing about an injury, the conduct of each may be a proximate cause of the injury regardless of the extent to which each contributes to the injury.

## **INSTRUCTION NO. 9**

For plaintiff's claim for wrongful death, the plaintiff has the burden of proof on each of the following propositions:

- 1) The defendant was negligent.
- 2) The negligence of the defendant was a proximate cause of Alejandro Desafios' death.
- 3) Alejandro Desafios' death was a proximate cause of loss of comfort, society, companionship, and support for plaintiff.

You will be asked the following question on the jury verdict form:

Was the defendant negligent, and if so, was the negligence a proximate cause of the injuries to the plaintiff?

If you find from your consideration of all the evidence that each of these propositions has been proved, you should answer this question "Yes." However, if you find that any of these propositions has not been proved, then the plaintiff has not met the burden of proof required and you should answer this question "No."

## **INSTRUCTION NO. 10**

In this case, the plaintiff has asserted that defendant's conduct was reckless. To show recklessness, the plaintiff has the burden of proof on each of the following propositions:

- 1) The defendant made a conscious choice as to the defendant's course of conduct,
- 2) The defendant made this choice under circumstances in which the defendant knew or should have known that such conduct both:
  - a) Creates an unreasonable risk of harm to another, and
  - b) Involves a high probability that such harm will actually result.

You will be asked the following question on the jury verdict form:

Was the defendant's conduct reckless?

If you find from your consideration of all the evidence that each of these propositions has been proved, you should answer this question "Yes." However, if you find that any of these propositions has not been proved, then the plaintiff has not met the burden of proof required and you should answer this question "No."

## INSTRUCTION NO. 11

In this case, the defendant has asserted the affirmative defense of waiver. On this affirmative defense, the defendant has the burden of proof on each of the following propositions:

- 1) Alejandro Desafios signed a waiver form knowingly and voluntarily.
- 2) The waiver form disclosed that death could result from engaging in the activities.
- 3) By signing the waiver form, Alejandro Desafios voluntarily assumed the risk of death disclosed by the waiver form.

You will be asked the following question on the jury verdict form:

Did Alejandro Desafios assume the risk of death by signing the waiver form?

If you find from your consideration of all the evidence that each of these propositions has been proved, you should answer this question “Yes.” However, if you find that any of these propositions has not been proved, then the defendant has not met the burden of proof required and you should answer this question “No.”



## APPENDIX A: CASE QUESTIONS

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Pages updated: 1 – 4 (edit to Stipulation 1 pushes the rest of the stipulations to other pages), 10, 47, 69, 88

Q: On page 88 Lindsay Rogers responded to Chris but it reads Jonathan. Is that correct?

A: *Page 88 has been changed to only mention Chris in the response. Jonathan has been removed from the email.*

Q: The Plaintiff is not mentioned at any point by any witness in the case. How is it possible to prove damages with witness testimony without venturing into unfair extrapolation territory?

A: *Stipulation 1 has been changed to read: "This case has been bifurcated. The amount of damages, if necessary, will be addressed in a subsequent trial. With respect to the elements of wrongful death as set forth in Jury Instruction No. 9, the parties stipulate that, if the plaintiff proves the defendant was negligent and that such negligence was the proximate cause of the death, the plaintiff suffered a loss of comfort, society, companionship, and support for purposes of element three of Jury Instruction No. 9."*

Q: On page 10 it says Complaint and Demand for Jury Trial. Should this read Answer and Counter Complaint?

A: *Page 10 has been changed to read "Answer".*

Q: On page 10, section II, mentions #8. #8 is also mentioned in section VI. Why is it mentioned in both places?

A: *The first reference to #8 in Section II has been deleted.*

Q: Page 69 includes two references to Penn's Peak and 2021. Should those references be changed?

A: *Those references have been changed to Lizard's Butte and 2022.*

Q: Is there a typo on page 47, lines 184 through 186?

A: *The word "the" was removed from line 185 between the words "trained" and "Storm".*

Q: Why was the Xena Form not included in the case materials?

A: *"Xenopharma" is the name of a company where Plaintiff worked, which is sponsoring one of the competing teams. References to "Xeno" or "Xenopharma" are referring to that company and team. The case materials are correct as written.*

Q: Why are there no photos or blueprints of the "abandon ship"?

A: *See lines 162-165 of Damon's statement for an explanation why the photo in the record was "either the Abandon Ship or just like it." The case materials are correct as written.*

Q: Was the abandon ship dismantled?

A: *This question is beyond the scope of the issues in this case. The case materials are correct as written.*

Q: The decedent had an assigned time in the allegations, but that time is not mentioned in witness statements. Should that be added?

A: *Devin Cody's statement addresses whether the Plaintiff jumped "at his designated time", as he alleges. Cody alleged he "saw the red flag signal go up," and he saw Plaintiff's team, and "in particular Plaintiff," jumping off. The case materials are correct as written.*

Q: Are Jury Instructions No. 9 and 10 intended for parties to litigate mens rea or an alternate theory?

A: *The case materials are correct as written. Refer to paragraph 45 of the Complaint for more information.*