RESPONSE TO INTERROGATORY NO. 14: The other expenses would include car use for going to doctors, time off work for doctors appointments, etc., being incidental costs of medical care.

INTERROGATORY NO. 15: Identify all persons having knowledge or information regarding the incident which is the subject of your lawsuit.

RESPONSE TO INTERROGATORY NO. 15: In addition to Plaintiff and those previously described herein: Jason's parents, unknown people who were at the park at the time of the incident (including a woman who offered a towel whose identity is unknown), agents of the Defendant, the people who sold the product, and all persons identified in the medical records.

INTERROGATORY NO. 16: Identify all witnesses, excluding experts, you intend to call at the trial of this matter and provide a summary of all non-expert testimony.

RESPONSE TO INTERROGATORY NO. 16: This has not been determined as yet. However, the persons identified above are potential witnesses.

INTERROGATORY NO. 17: Identify all expert witnesses who will testify at the trial of this matter.

RESPONSE TO INTERROGATORY NO. 17: This has not been determined as yet.

INTERROGATORY NO. 18: Identify any written, oral and/or recorded statements regarding the incident which is the subject of your lawsuit.

RESPONSE TO INTERROGATORY NO. 18: In addition to the medical records and the documents produced, and subject to the general objection, there are none.

INTERROGATORY NO. 19: With regard to your answer to Interrogatory No. 18, please list all person(s) from whom you have solicited statement(s).

RESPONSE TO INTERROGATORY NO. 19: Subject to the qualifications set forth above and in addition to the people described above, there are none.

Respectfully submitted,

FRASIER & FRASIER

BY: _____

James E. Frasier, OBA #3108
1700 Southwest Blvd., Suite 100
P. O. Box 799
Tulsa, OK 74101
918/584-4724

CERTIFICATE OF MAILING

I hereby certify that on the 13 day of May, 1992, I mailed a true and correct copy of the foregoing instrument to:

Reuben Davis
Attorney at Law
500 Oneok Plaza
100 W. 5th St.
Tulsa, OK 74103

with proper postage thereon fully prepaid.

_____
James E. Frasier

# VERIFICATION

STATE OF OKLAHOMA )
) ss
COUNTY OF TULSA )

Randy Willis, of lawful age, being first duly sworn upon oath, deposes and states: That he is the Plaintiff named above; that he has read the above and foregoing Answers to Interrogatories, that all allegations and facts contained therein are true and correct to the best of his knowledge and belief.

Randy D. Willis

SUBSCRIBED AND SWORN to before me this 4th day of May, 1992.

Amy Radcliff
NOTARY PUBLIC

MY COMMISSION EXPIRES:
April 18, 1995

# The State of Texas

## Secretary of State

94-888064

INCLUDE REFERENCE NUMBER IN ALL CORRESPONDENCE

Statutory Filings Division
Statutory Documents
P. O. Box 12887
Austin, Texas 78711-2887
(512) 463-5560

SEPTEMBER 22, 1993

rec'd 9/24/93

mailed 9/24/93

RIVA SPORT INC.
ROBERT JACOBS, PRESIDENT
P.O. BOX 600404
SAN DIEGO , CA 92160

RE:

CRANE, RANDAL VS RIVA SPORT, INC., ET AL in the 87TH JUDICIAL DISTRICT COURT OF LIMESTONE COUNTY, TEXAS.
Cause No. 236488

Dear Sir/Madam:

Pursuant to the Laws of Texas, we forward herewith by CERTIFIED MAIL, return receipt requested, a copy of process SERVED UPON the Secretary of State of the State of Texas on SEPTEMBER 21, 1993.

JH/ST/IJS

Enclosure

CERTIFIED MAIL ~~921483017~~

PERSONALLY HANDED TO INSURANCE AGENT 9-27-93

REFER CORRESPONDENCE TO:

ROBERTS, RANDELL C.
ROBERTS & ROBERTS
118 W. FOURTH STREET
TYLER, TX 75701

Yours truly,

John Hannah Jr
Secretary of State

60

tation-General Personal Service In State

THE STATE OF TEXAS

TO: Riva Sport Inc., By Serving Its Registered Agent For Hon John Hanna Secretary Of Texas Or His Assistant Secretary Of State, Austin, Texas, Defendant, in the hereinafter styled and numbered cause:

You are commanded to appear before the 87Th District of Limestone County Texas to be held at the courthouse of said County in the City of Groesbeck, Limestone County, Texas, by filing a a written answer to the plaintiff's petition at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof, a copy of which accompanies this citation in cause number, 23,648-B , styled

RANDAL CRANE
vs.
RIVA SPORTS INC. ET AL

filed in said court, on the 31stday of August, 1993.

The name and address of the attorney for plaintiff, or the address of the plaintiff is: RANDELL C. ROBERTS 118 W. FOURTH TYLER, TEXAS 75701-4000

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

Issued and given under my hand and seal of said Court at office, this the September 8th, 1993.

ADDRESS OF CLERK
P. O. Box 230
Groesbeck, Texas 76642

MARY BUDDE, DISTRICT CLERK
Limestone County, Texas
By: Nancy Stockton, Deputy

OFFICER'S / AUTHORIZED PERSON RETURN

Came to hand on the _____ day of _____, 19_____, at _____, o'clock _____.M., and executed at (address) _____ _____ in _____ County at _____ o'clock ___.M. on the _____ day of _____, 19___, by delivering to _____ Defendant, in person. a true copy of this Citation together with the accompanying __copy(ies) of the _____ petition attached thereto and I endorse on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this _____ day of _____ 19___

Fee: $_____

_____
_____ of _____County, Texas
by _____ Deputy

RECEIVED
SECRETARY OF STATE
2:30 PM
SEP 21 1993
CITATIONS SECTION
AUSTIN TEXAS

HL

TRIPLIATE

61

82595

FILED
AT 11:10 O'CLOCK A M
AUG 31 1993
Mary D. Budde
DIST. CLERK, LIMESTONE CO. TEX.

NO. 23,648-B

| | | |
|---|---|---|
| RANDAL CRANE,<br><br>Plaintiff<br><br>V.<br><br>RIVA SPORT, INC., SKI LIMITED ENTERPRISES, INC., CHRISTOPHER BRADLEY, AND JAMES BRADLEY,<br><br>Defendants | §<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§ | IN THE<br><br>DISTRICT COURT<br><br>OF<br><br>LIMESTONE COUNTY, TEXAS<br><br>87TH JUDICIAL DISTRICT |

## PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Randal Crane, Plaintiff, complaining of Riva Sport, Inc., Ski Limited Enterprises, Inc., Christopher Bradley, and James Bradley, Defendants, and would respectfully show:

### Parties

I.

Plaintiff Randal Crane is a resident of Limestone County, Texas.

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II.

Defendant Riva Sport, Inc. is a Nevada corporation doing business in Texas as defined under TEX. CIV. PRACT. & REM. CODE § 17.044. Defendant Riva Sport, Inc., however, has failed to appoint or maintain a registered agent in Texas. Defendant Riva Sport, Inc. is therefore deemed pursuant to TEX. BUS. CORP. ACT. ANN. art. 2.11 as well as TEX. CIV. PRACT. & REM. CODE § 17.044 to have appointed the Texas Secretary of State as its agent upon whom any such process, notice, complaint, or demand may be served. Service of this process including the Citation and Petition may be made upon Defendant Riva Sport, Inc. in accordance with TEX. CIV. PRACT. & REM. CODE § 17.026 by certified mail, return receipt requested, or by otherwise delivering to and leaving with the Honorable John Hanna, Secretary of State (or with his Assistant Secretary of State, or with any clerk having charge of the Corporation Department of his office) at the office of the Secretary of State, Statutory Documents Section, P.O. Box 12887, Austin, Travis County, Texas 78711-2887 (Telephone: 512-463-5560) duplicate copies of the aforementioned documents constituting this process. Said Secretary of State is thereafter requested to immediately cause one complete copy of said documents to be forwarded by registered mail or certified mail, return receipt requested, as authorized under the TEX. REV. CIV. STAT. ANN. art. 21c to the registered home office or the principal place of business of Riva Sport, Inc. at P.O. Box 600404, San Diego, California 92160 (Telephone: 619-287-3511) to the attention of Robert Jacobs, President.

III.

Defendant Ski Limited Enterprises, Inc. is an Ohio corporation doing business in Texas as defined under TEX. CIV. PRACT. & REM. CODE § 17.044. Defendant Ski Limited Enterprises, Inc., however, has failed to appoint or maintain a registered agent in Texas. Defendant Ski Limited Enterprises, Inc. is therefore deemed pursuant to TEX. BUS. CORP. ACT. ANN. art. 2.11 as well as TEX. CIV. PRACT. & REM. CODE § 17.044 to have appointed the Texas Secretary of State as its agent upon whom any such process, notice, complaint, or demand may be served. Service of this process including the Citation and Petition may be made upon Defendant Ski Limited Enterprises, Inc. in accordance with TEX. CIV. PRACT. & REM. CODE § 17.026 by certified mail, return receipt requested, or by otherwise delivering to and leaving with the Honorable John Hanna, Secretary of State (or with his Assistant Secretary of State, or with any clerk having charge of the Corporation Department of his office) at the office of the Secretary of State, Statutory Documents Section, P.O. Box 12887, Austin, Travis County, Texas 78711-2887 (Telephone: 512-463-5560) duplicate copies of the aforementioned documents constituting this process. Said Secretary of State is thereafter requested to immediately cause one complete copy of said documents to be forwarded by registered mail or certified mail, return receipt requested, as authorized under the TEX. REV. CIV. STAT. ANN. art. 21c to the registered home office or the principal place of business of Ski Limited Enterprises, Inc. at 7825 South Avenue, Youngstown, Ohio 44512 (Telephone: 800-477-4040) to the attention of Sherry Costantino, Manager.

IV.

Defendant Christopher Bradley is a resident of Limestone County, Texas. Defendant Christopher Bradley may be served with process at Lake Limestone, Groesbeck, Limestone County, Texas 76642 (Telephone: 817-729-3895).

V.

Defendant James Bradley is a resident of Limestone County, Texas. Defendant James Bradley may be served with process at Lake Limestone, Groesbeck, Limestone County, Texas 76642 (Telephone: 817-729-3895).

Jurisdiction

VI.

Plaintiff brings suit for all damages to which he is entitled by law. Plaintiff's damages are within the jurisdictional limits of this Court.

Venue

VII.

James Bradley and Christopher Bradley are natural persons residing in Limestone County, Texas. Venue is therefore proper in Limestone County as to Defendants James Bradley and Christopher Bradley pursuant to TEX. CIV. PRACT. & REM. CODE § 15.001. Plaintiff has properly joined all Defendants and all claims in the above styled and numbered cause in Limestone County, Texas. Venue is therefore proper for all Defendants pursuant to TEX. CIV. PRACT. & REM. CODE § 15.061.

## Facts of Case

VIII.

On or about May 31, 1993, at Lake Limestone in Limestone County, Texas Plaintiff Randal Crane suffered an injury to his left eye when he was struck in the face by an Aqua Sling water balloon. This water balloon was launched from an Aqua Sling water balloon sling shot which was under the control of Defendants Christopher Bradley and James Bradley. Said Defendants' failure to use ordinary care in the use of this water balloon and sling shot was a proximate cause of this accident and Plaintiff's resulting injury.

IX.

This Aqua Sling water balloon (Model B-12) and sling shot (Competition Model: 200 YD Range) were designed, manufactured, marketed, or sold by Defendants Riva Sport, Inc. and Ski Limited Enterprises, Inc. Said Defendants were engaged in the business of selling balloons and sling shots of the models in question as an integrated or combined consumer product. This product, consisting of the balloon and sling shot, was unreasonably dangerous at the time it left said Defendants' possession because of design and well as marketing defects. Said Defendants' failure to use ordinary care in designing and marketing this product as well as the defects in this product were a proximate or a producing cause of this accident and Plaintiff's resulting injury.

## Causes of Action

X.

Plaintiff bases his causes of action in part upon negligence, breach of express and implied warranty, and strict products' liability as those terms are defined and

understood under the common law and statutes of Texas including TEX. BUS. & COM. CODE ANN. §§ 2.314 & 2.315. Plaintiff would show that the defective condition of Defendants' product, which rendered it unreasonably dangerous or unfit, as well as Defendants' conduct, as set forth herein and otherwise, were each and all a proximate or producing cause of the occurrence or injury in question and Plaintiff's damages resulting from the occurrence or injury in question. All conditions precedent to the filing of this lawsuit have been performed or have occurred.

Damages

XI.

Plaintiff has suffered damages in the past as well as in the future, for which prejudgment interest is owed. These damages include physical pain, mental anguish, loss of earnings or earning capacity, disfigurement, physical or visual impairment, and reasonable expenses for necessary medical care.

Trial by Jury

XII.

Plaintiff hereby requests a trial by jury. Plaintiff has deposited the jury fee with the clerk of this court and complied with TEX. R. CIV. P. 216.

Prayer for Relief

XIII.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for trial by jury and judgment against Defendants, jointly and severally, for all damages to which Plaintiff is entitled by law, prejudgment and postjudgment interest, costs of court, and such

other and further relief, general and special, legal and equitable, to which Plaintiff is justly entitled.

Respectfully submitted,

ROBERTS & ROBERTS

BY: _____

RANDELL C. ROBERTS
Bar No. 17016490
BRUCE L. ROBERTS
Bar No. 16998900
118 W. Fourth
Tyler, TX 75701-4000
Fax: (903) 597-1600
Ph: (903) 597-6655
Attorneys for Plaintiff

Glenn Woodard
(903) 894-3551

FILE

SEP 7 1993

AM 4:0

CLERK, DIST. CTS., LIMESTONE

NO. 23648-B

| | | |
|---|---|---|
| RANDAL P. CRANE, | § | IN THE |
| Plaintiff | § | |
| | § | DISTRICT COURT |
| V. | § | |
| | § | OF |
| RIVA SPORT, INC., ET AL., | § | LIMESTONE COUNTY, TEXAS |
| Defendants | § | |
| | § | 87TH JUDICIAL DISTRICT |

## ORDER AUTHORIZING SERVICE OF CITATIONS AND OTHER NOTICES

Pursuant to TEX. R. CIV. P. 103, this Court hereby authorizes Willie Hardy and Beth Hardy of Hardy Investigations and Security to serve all citations and other notices in the above styled and numbered cause. Said persons are further authorized to serve said citations and accompanying notices in accordance with TEX. R. CIV. P. 106 by:

(1) delivering to the Defendant, in person, a true copy of the Citation with the date of delivery endorsed thereon and a copy of the Petition attached thereto; or

(2) mailing to the Defendant by registered or certified mail, return receipt requested, a true copy of the Citation with a copy of the Petition attached thereto.

SIGNED this 7th day of September, 1993.

H. A. Hoff

PRESIDING JUDGE

APPROVED AS TO FORM
AND ENTRY REQUESTED:

ROBERTS & ROBERTS

BY: [signature]

No. 23,648-B

| | | |
|---|---|---|
| RANDAL P. CRANE | § | IN THE DISTRICT COURT OF |
| | § | |
| VS. | § | |
| | § | LIMESTONE COUNTY, TEXAS |
| RIVA SPORTS, INC., SKI LIMITED ENTERPRISES, INC., CHRISTOPHER BRADLEY AND JAMES BRADLEY | § § § | |
| | § | 87TH JUDICIAL DISTRICT |

DEFENDANT RIVA SPORTS, INC.'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Riva Sports, Inc., Defendant in the above-entitled and numbered cause, and files this Defendant's Original Answer to Plaintiff's Petition on file herein, and for such answer would show the Court the following:

I.

Defendant generally denies all of the material allegations contained in Plaintiff's Original Petition and demands strict proof thereof.

WHEREFORE, PREMISES CONSIDERED, Defendant prays Plaintiff take nothing by his suit, and that Defendant go hence and recover its costs, and for such other and further relief to which Defendant may show itself justly entitled.

Respectfully submitted,

FULBRIGHT, WINNIFORD, BICE AND MARABLE
A Professional Corporation
P. O. Box 7575
Waco, Texas 76714-7575
(817) 776-6000
(817) 776-8555/Facsimile

BY: John A. Stephens
JOHN A. STEPHENS
State Bar No. 19157500

ATTORNEYS FOR DEFENDANT,
RIVA SPORTS, INC.

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DEFENDANT DEMANDS A JURY TRIAL

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing document have been forwarded to all counsel of record in accordance with the Texas Rules of Civil Procedure on this the 8 day of Oct., 1993.

John A. Stephens

JOHN A. STEPHENS