



**COMPLAINT**

Plaintiffs, the Estate of \_\_\_\_\_, by and through \_\_\_\_\_ as Personal Representative, \_\_\_\_\_, mother of the decedent, \_\_\_\_\_ and \_\_\_\_\_, as Mother and Next Friend of \_\_\_\_\_, surviving minor child of \_\_\_\_\_, by and through their attorneys, Laura G. Zois, Ronald V. Miller, Jr. and Miller & Zois, LLC, bring suit against Defendants, \_\_\_\_\_ (hereinafter "Defendant \_\_\_\_\_"), \_\_\_\_\_ (hereinafter "Defendant \_\_\_\_\_") and \_\_\_\_\_ (hereinafter "Defendant \_\_\_\_\_"), and state as follows:

**VENUE AND JURISDICTION**

1. The accident took place in Prince George's County, Maryland.
2. The Estate of \_\_\_\_\_, was opened by his brother and Personal Representative of the Estate, \_\_\_\_\_, with the Prince George's County Registrar of Wills, Estate No. \_\_\_\_\_.
3. Plaintiff \_\_\_\_\_ is the mother of the decedent, \_\_\_\_\_, and is a resident of \_\_\_\_\_ in Prince George's County, Maryland.
4. Plaintiff \_\_\_\_\_ is the minor daughter of the decedent, \_\_\_\_\_, and suit has been brought on her behalf by and through her mother, \_\_\_\_\_, as Mother and Next Best Friend of \_\_\_\_\_, and they are residents of Washington, DC.
5. Plaintiffs \_\_\_\_\_ and \_\_\_\_\_ are primary beneficiaries in this action for wrongful death claims pursuant to §3-904(a) of the Courts and Judicial Proceedings Article.

6. The claim for Plaintiff, The Estate of \_\_\_\_\_, has been brought by his brother and Personal Representative of the Estate, \_\_\_\_\_, pursuant to §7-401 of the Estates and Trusts Article. The Estate of \_\_\_\_\_ has been opened with the Prince George's County Registrar of Wills, Estate No. \_\_\_\_\_.

7. Defendant \_\_\_\_\_ is a resident of Baltimore County, Maryland.

8. Defendant \_\_\_\_\_ is a corporation that regularly conducts business in the State of Maryland.

9. Defendant \_\_\_\_\_ is a corporation that regularly conducts business in the State of Maryland.

#### **FACTS OF THE ACCIDENT**

The Plaintiffs incorporate herein by reference all preceding paragraphs.

10. On August 13, 2007, at approximately 1:30 p.m., the Decedent, \_\_\_\_\_, was lawfully operating his motorcycle on the favored roadway, traveling northbound on Route 301 approaching its intersection with Missouri Avenue.

11. Defendant \_\_\_\_\_ was operating a 2005 Freightliner Truck, traveling westbound on Missouri Avenue, the unfavored roadway.

12. Defendant \_\_\_\_\_ failed to yield to \_\_\_\_\_ and his right-of-way when Defendant \_\_\_\_\_ entered the intersection of Missouri Avenue and Route 301.

13. \_\_\_\_\_ took evasive action to avoid a collision with Defendant \_\_\_\_\_, however, \_\_\_\_\_ was unable to avoid crashing into the rear of the truck operated by Defendant \_\_\_\_\_.

14. Defendant \_\_\_\_\_ fled the scene of the accident and was later arrested.

15. \_\_\_\_\_ was taken by ambulance to Southern Maryland Hospital, and pronounced dead at approximately 3:30 p.m.

16. \_\_\_\_\_ suffered from pre-impact fright and conscious pain and suffering as a result of the accident.

17. \_\_\_\_\_, at the time of his death, was survived by his minor child, \_\_\_\_\_, and his mother, \_\_\_\_\_, among other immediate family members.

### **COUNT I – WRONGFUL DEATH**

The Plaintiffs incorporate herein by reference all preceding paragraphs.

18. Defendant \_\_\_\_\_ owed \_\_\_\_\_ a duty to use reasonable care in operating and controlling his vehicle.

19. Defendant \_\_\_\_\_ failed to use reasonable care in operating his vehicle when he failed to yield the right-of-way to \_\_\_\_\_, and taking his right-of-way by entering the intersection from the unfavored road onto the favored road when it was unsafe to do so.

20. Defendant \_\_\_\_\_ caused the collision between \_\_\_\_\_'s vehicle and his vehicle, and breached his duties owed to \_\_\_\_\_.

21. As a direct and proximate result of Defendant \_\_\_\_\_'s negligence and breach of duties owed to \_\_\_\_\_, \_\_\_\_\_ sustained fatal bodily injuries, was admitted to Southern Maryland Hospital at approximately 2:23 p.m. and was pronounced dead at 3:30 p.m.

22. As a direct and proximate result of Defendant \_\_\_\_\_'s negligence in causing the death of \_\_\_\_\_, Plaintiffs \_\_\_\_\_ and \_\_\_\_\_ have sustained pecuniary loss, economic damages and loss, mental anguish, emotional pain and suffering, loss of society, loss of companionship, loss of comfort, loss of protection, loss of parental care, loss

of advice, loss of counsel, loss of training, loss of guidance, loss of education and loss of filial care.

23. This Complaint was timely filed within three years of the death of \_\_\_\_\_ pursuant to §3-904 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland.

WHEREFORE, Plaintiffs, \_\_\_\_\_, mother of \_\_\_\_\_, and \_\_\_\_\_, by \_\_\_\_\_, as Mother and Next Friend of \_\_\_\_\_, demand judgment against the Defendants for their wrongful death claims, jointly and severally pursuant to §3-904(c), in the amount of FIVE MILLION DOLLARS (\$5,000,000.00) in economic and non-economic damages, compensatory damages, plus costs, pre-judgment interest and post-judgment interest.

### **COUNT II – SURVIVAL ACTION**

The Plaintiffs incorporate herein by reference all preceding paragraphs.

24. Defendant \_\_\_\_\_ owed \_\_\_\_\_ a duty to use reasonable care in operating and controlling his vehicle.

25. Defendant \_\_\_\_\_ breached his duty owed to \_\_\_\_\_ when he failed to use reasonable care in operating his vehicle when he failed to yield the right-of-way to \_\_\_\_\_ and took his right-of-way by entering the intersection from the unfavored road onto the favored road when it was unsafe to do so.

26. Defendant \_\_\_\_\_ caused the collision between \_\_\_\_\_'s vehicle and his vehicle, and breached his duties owed to \_\_\_\_\_.

27. As a direct and proximate result of Defendant \_\_\_\_\_'s breach of duties owed to \_\_\_\_\_, \_\_\_\_\_ suffered from pre-impact fright and conscious pain and

suffering until he was pronounced dead at 3:30 p.m. at Southern Maryland Hospital, approximately two hours after the accident.

28. As a direct and proximate result of Defendant \_\_\_\_\_'s breach of duty owed to \_\_\_\_\_, the Estate or \_\_\_\_\_ has incurred funeral expenses and medical bills.

29. Plaintiffs bring a survival action pursuant to §7-401 of the Estates and Trusts Article for the aforementioned expenses, conscious pain and suffering and pre-impact fright suffered by \_\_\_\_\_.

WHEREFORE, Plaintiff, Estate of \_\_\_\_\_, by \_\_\_\_\_ as personal representative of the Estate of \_\_\_\_\_, demands judgment against the Defendants, jointly and severally, in the amount of FIVE MILLION DOLLARS (\$5,000,000.00) in economic and non-economic damages, compensatory damages, plus costs, pre-judgment interest and post-judgment interest.

### **COUNT III - NEGLIGENCE**

The Plaintiffs incorporate herein by reference all preceding paragraphs.

30. Defendant \_\_\_\_\_ had a duty to act reasonably and use due care while driving. Defendant \_\_\_\_\_ had a duty to pay attention to pedestrians, to pay attention to traffic, to maintain a proper lookout, to obey traffic control devices, to obey the laws and rules of the State of Maryland, to maintain proper speed for the conditions, to reduce speed to avoid an accident and to control his vehicle to avoid a collision.

31. Defendant \_\_\_\_\_ breached that duty of due care by failing to pay proper attention to the roadway, pedestrians and traffic, failing to maintain a proper lookout, failing to obey the traffic control device, failing to obey the laws and rules of the State of Maryland, failing to maintain proper speed for the conditions, failing to reduce speed to avoid an accident, failing to

maintain a proper distance between vehicles and failing to control his vehicle in order to avoid a collision.

32. As a direct result of the automobile collision and the negligence of Defendant \_\_\_\_\_, \_\_\_\_\_ suffered conscious pain and suffering, sustained fatal bodily injuries, was admitted to Southern Maryland Hospital at approximately 2:23 p.m., and pronounced dead at 3:30 p.m.

33. As a direct result of the automobile collision and the negligence of Defendant \_\_\_\_\_, the Plaintiffs have suffered conscious pain and suffering, incurred medical expenses, funeral expenses and other damages.

34. All of the above damages were directly and proximately caused by the aforementioned negligence of Defendant \_\_\_\_\_, and were incurred without contributory negligence or assumption of the risk on the part of the decedent, \_\_\_\_\_, or an opportunity for \_\_\_\_\_ to avoid the accident.

WHEREFORE, Plaintiff, Estate of \_\_\_\_\_, by \_\_\_\_\_ as personal representative of the Estate of \_\_\_\_\_, demands judgment against Defendant \_\_\_\_\_ in the amount of FIVE MILLION DOLLARS (\$5,000,000.00) in economic and non-economic damages, compensatory damages, plus costs, pre-judgment interest and post-judgment interest.

**COUNT IV - RESPONDEAT SUPERIOR**

The Plaintiffs incorporate herein by reference all preceding paragraphs.

35. At all times relevant hereto, Defendant \_\_\_\_\_ was employed by, and was an agent, servant and/or employee of Defendant \_\_\_\_\_, Defendant \_\_\_\_\_.

36. The above-described acts of Defendant \_\_\_\_\_ were committed within the scope of his employment with Defendant \_\_\_\_\_, and/or \_\_\_\_\_.

Defendant \_\_\_\_\_, in that they were committed while on duty and in furtherance of Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_.

37. As Defendant \_\_\_\_\_'s employer, Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_ are responsible for all of the negligent acts committed by Defendant \_\_\_\_\_ within the scope of his employment.

WHEREFORE, Plaintiffs demand judgment against Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_, jointly and severally, in the amount of FIVE MILLION DOLLARS (\$5,000,000.00), plus costs, pre-judgment interest and post-judgment interest.

**COUNT V - NEGLIENT ENTRUSTMENT**

The Plaintiffs incorporate herein by reference all preceding paragraphs.

38. Defendant \_\_\_\_\_ was employed by Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_.

39. The aforementioned acts described herein were committed within the scope of his employment with Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_, and Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_ are responsible for those acts performed within the scope of Defendant \_\_\_\_\_'s employment.

40. Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_ supplied and arranged for the use of equipment to Defendant \_\_\_\_\_.

41. Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_ hired Defendant \_\_\_\_\_ as a truck driver. Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_ had a duty to investigate Defendant \_\_\_\_\_'s driving record and driving history.

42. Defendant \_\_\_\_\_, \_\_\_\_\_ and/or Defendant \_\_\_\_\_ failed to properly investigate Defendant \_\_\_\_\_'s driving history and made insufficient efforts to investigate whether or not Defendant \_\_\_\_\_ was a safe, fit and competent driver.

43. Defendant \_\_\_\_\_, \_\_\_\_\_ and/or Defendant \_\_\_\_\_ knew, had reason to know or should have known, that Defendant \_\_\_\_\_ had a record of dangerous, reckless and incompetent driving and that he would be likely to use the equipment provided in a manner involving unreasonable risk of physical harm.

44. Defendant \_\_\_\_\_, \_\_\_\_\_ and/or Defendant \_\_\_\_\_ knew, had reason to know or should have known, that by contracting with Defendant \_\_\_\_\_, his use of a truck could involve the risk of physical harm to others.

45. The Decedent, \_\_\_\_\_, was a member of a foreseeable class of persons who would be at risk of suffering physical harm as a result of Defendant \_\_\_\_\_'s operation of a truck.

46. The negligence of Defendant \_\_\_\_\_, \_\_\_\_\_ and/or Defendant \_\_\_\_\_ in entrusting the equipment to Defendant \_\_\_\_\_ concurrently and proximately caused injury to the Plaintiffs.

WHEREFORE, the Plaintiffs demand judgment against Defendant \_\_\_\_\_, \_\_\_\_\_ and/or Defendant \_\_\_\_\_, jointly and severally, in the amount of FIVE MILLION DOLLARS (\$5,000,000.00), plus costs, pre-judgment interest and post-judgment interest.

#### **COUNT VI - NEGLIENT HIRING AND RETENTION**

The Plaintiffs incorporate herein by reference all preceding paragraphs.

47. Defendant \_\_\_\_\_ was employed by Defendant \_\_\_\_\_, \_\_\_\_\_ and/or Defendant \_\_\_\_\_.

48. The aforementioned acts described herein were committed within the scope of his employment with Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_

49. Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_ are responsible for those negligent acts performed within the scope of Defendant \_\_\_\_\_'s employment.

50. Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_ hired Defendant \_\_\_\_\_ as a truck driver.

51. Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_ had a duty to investigate Defendant \_\_\_\_\_'s driving record and driving history.

52. Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_ failed to properly investigate Defendant \_\_\_\_\_'s driving history, and made insufficient efforts to investigate whether or not Defendant \_\_\_\_\_ was a safe, fit and competent driver.

53. Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_ knew, had reason to know or should have known, that Defendant \_\_\_\_\_ had a record of dangerous, reckless and incompetent driving, and he would be likely to use the equipment provided in an unsafe manner involving unreasonable risk of physical harm.

54. Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_ knew, had reason to know or should have known, that by contracting with Defendant \_\_\_\_\_, his use of a truck could involve the risk of physical harm to others. The acts and omissions of Defendant \_\_\_\_\_ and/or Defendant \_\_\_\_\_ caused the Plaintiffs' injuries.

55. The negligence of Defendant \_\_\_\_\_, and/or Defendant \_\_\_\_\_ in hiring and/or retaining Defendant \_\_\_\_\_ was a proximate cause of the Plaintiffs' injuries.

WHEREFORE, the Plaintiffs demand judgment against Defendant \_\_\_\_\_, and/or Defendant \_\_\_\_\_ in the amount of FIVE MILLION DOLLARS (\$5,000,000.00), plus costs, pre-judgment interest and post-judgment interest.

Respectfully submitted,

**MILLER & ZOIS, LLC**

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**PLAINTIFF'S REQUEST FOR JURY TRIAL**

The Plaintiffs, The Estate of \_\_\_\_\_ by \_\_\_\_\_, Personal Representative, \_\_\_\_\_, Individually, \_\_\_\_\_ and \_\_\_\_\_, as Mother and Next Friend of \_\_\_\_\_, pursuant to Maryland Rule 2-325, pray a trial by jury on all issues.

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Laura G. Zois (ZO3111)