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12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

13 **IN AND FOR YUMA COUNTY**

14 **WARREN L. HUFFMAN, JR., as the**
15 **Personal Representative of the**
16 **ESTATE OF TIMOTHY ALLEN**
17 **HUFFMAN,**

16 and

17 **WARREN HUFFMAN, SR., a single**
18 **man,**

19 Plaintiffs,

20 v.

21 **EVANS DEDICATED**
22 **SYSTEMS, INC., a California**
23 **corporation,**

23 and

24 **JORGE ALEJANDRO ESPINOZA**

25 Defendants.

Case No.: S1400CV2013-_____
Div:

COMPLAINT

(Motor Vehicle Tort: Negligence;
Negligence per Se; Punitive Damages;
Vicarious Liability; Direct Negligence;
Strict Liability; Wrongful Death)

26 Plaintiffs Warren L. Huffman Jr. and Warren Huffman Sr. assert the following complaint
27 and names the following parties:
28

1 **OVERVIEW**

2 1. An Evans Dedicated Systems gas tank driver was using his cell phone, in
3 violation of federal regulations, to access Facebook while driving. He intentionally
4 covered the in-cab dash camera with his wallet to hide what he was doing. His resulting
5 inattention to the road caused him to collide with and kill Arizona Police Officer Timothy
6 Huffman.

7 **PARTIES**

8 2. Warren L. Huffman, Jr. is Timothy Allen Huffman’s identical twin brother and the
9 Personal Representative of his Estate. The Estate is being probated in the Yuma County
10 Superior Court because Timothy Huffman was a resident of Yuma County at the time of
11 his death.

12 3. Warren Huffman, Sr. is an adult individual who is a citizen of Forsyth, Georgia,
13 and the natural father of Timothy Allen Huffman.

14 4. Defendant, Jorge Alejandro Espinoza, is an adult individual who resides at 1468 S.
15 41st Dr., Yuma, Arizona 85364. The defendant truck driver is a citizen of the state of
16 Arizona.

17 5. Defendant, Evans Dedicated Systems, Inc. (“Evans”), is a corporation that has an
18 address located at 6001 E. Washington Blvd., Commerce, California 90040, and is a
19 trucking company whose focus is hauling gasoline and other vehicle-related chemicals.
20 Evans has its principal place of business in California. Evans, therefore, is a citizen of
21 the state of California. Troy A. Wallin of Hutchinson Steffen & Wallin LLC is registered
22 with the Federal Motor Carrier Safety Administration to receive service of process for
23 defendant, Evans Dedicated Systems, Inc., in the State of Arizona at 1425 South Higley
24 Rd., Suite 104, Higley, Arizona 85236.

25 6. At all times mentioned herein, each of the individually named Defendants acted as
26 the agent, ostensible agent, and/or servant of every other named Defendant.

27 7. Defendants caused events to occur in Yuma County, Arizona out of which the
28 claims that are the subject of this Complaint arise.

1 8. The amount in dispute exceeds the jurisdictional minimum.

2 9. Venue is proper in Yuma County, and this Court has jurisdiction.

3 **GENERAL ALLEGATIONS**

4 10. All of the foregoing allegations are re-alleged as if set forth fully herein.

5 11. On May 6, 2013, around 5:00 p.m., three Arizona Department of Public Safety
6 (“DPS”) officers were investigating an injury accident involving two vehicles at or near
7 milepost 40 in the eastbound lanes of Interstate 8 in Yuma County, Arizona.

8 12. Decedent, DPS Officer Timothy Allen Huffman was one of the investigating
9 officers and was seated in his patrol car, which was parked in the right emergency
10 shoulder for eastbound traffic, completing paperwork from the collision.

11 13. At or around the same time, Defendant Espinoza was traveling eastbound on
12 Interstate 8 in Yuma County, Arizona. Defendant Espinoza was operating an Evans
13 Dedicated Systems, Inc. semi-truck pulling an empty gasoline tank trailer.

14 14. As he approached milepost 40 on Interstate 8, Defendant Espinoza was directed to
15 change lanes by a variety of means, including, but not limited to, signals by a DPS
16 officer.

17 15. Defendant Espinoza failed to change lanes as directed and, without even
18 attempting to brake, plowed through multiple DPS patrol cars and other emergency
19 vehicles with their emergency lights flashing, including Decedent’s patrol car.

20 16. Decedent, DPS Officer Timothy Allen Huffman, died as a result of the impact
21 from the semi-truck.

22 17. At all times relevant hereto, Officer Huffman was a resident of the State of
23 Arizona and resided in Yuma County, Arizona.

24 **FIRST CAUSE OF ACTION**

25 *Negligence Claim against Defendant Jorge Alejandro Espinoza*

26 18. Plaintiffs incorporate all allegations and causes of action above into this cause of
27 action by reference.

1 19. Defendant Espinoza was negligent and reckless. He breached his duties to drive
2 the tractor trailer in a safe and reasonable manner under the circumstances and plowed
3 into a line of parked emergency vehicles that had their flashers on.

4 20. Officer Huffman was killed as a direct and proximate result of the Defendant
5 Espinoza's negligence and recklessness.

6 **SECOND CAUSE OF ACTION**

7 *Negligence per se against Defendant Jorge Alejandro Espinoza*

8 21. Plaintiffs incorporate all allegations and causes of action above into this cause of
9 action by reference.

10 22. Defendant Espinoza violated local, state and federal statutes and regulations by,
11 among other things, failing to comply with order or direction of a police officer under
12 A.R.S. § 28-622; failing to yield to emergency vehicles under A.R.S. § 28-775, and
13 traveling at speed greater than reasonable and prudent to avoid a collision under A.R.S. §
14 28-701(A). Defendant Espinoza also violated federal regulations under 49 C.F.R. §§ 350-
15 399, including, but not limited to, using a hand-held mobile telephone in violation of 49
16 C.F.R. § 392.82.

17 23. Officer Huffman died as a direct and proximate result of the defendant truck
18 driver's violations of local, state and federal statutes and regulations.

19 **THIRD CAUSE OF ACTION**

20 *Punitive Damages Claim against Defendant Jorge Alejandro Espinoza*

21 24. Plaintiffs incorporate all allegations and causes of action above into this cause of
22 action by reference.

23 25. Defendant Espinoza violated local, state and federal statutes and regulations by,
24 among other things, failing to comply with order or direction of a police officer under
25 A.R.S. § 28-622; failing to yield to emergency vehicles under A.R.S. § 28-775, and
26 traveling at speed greater than reasonable and prudent to avoid a collision under A.R.S. §
27 28-701(A). Defendant Espinoza also violated federal regulations under 49 C.F.R. §§ 350-
28

1 399, including, but not limited to, using a hand-held mobile telephone in violation of 49
2 C.F.R. § 392.82.

3 26. The violations listed in preceding paragraphs above clearly and convincingly
4 demonstrate a conscious disregard for the safety of the motoring public, thus entitling
5 Plaintiffs to punitive damages.

6 27. Defendant Espinoza's conduct was objectively and subjectively unreasonable.

7 28. Defendant Espinoza knew he was acting unreasonably or demonstrated such
8 reckless disregard for the reasonableness of his actions.

9 29. Defendant Espinoza's actions were extreme and outrageous and done with
10 conscious disregard of the knowledge that his conduct would harm Officer Huffman.

11 **FOURTH CAUSE OF ACTION**

12 *Vicarious Liability against Evans Dedicated Systems, Inc.*

13 30. Plaintiffs incorporate all allegations and causes of action above into this cause of
14 action by reference.

15 31. At all relevant times, Defendant Espinoza was Defendant Evans' agent, employee,
16 servant, and/or independent contractor and was acting within the course and scope of his
17 employment, under the direct control of the defendant trucking company.

18 32. Irrespective of the employment relationship, Defendant Evans is an interstate
19 motor carrier subject to Federal Motor Carrier Safety Administration Regulations and is,
20 therefore, responsible for the acts of its driver, Defendant Espinoza.

21 33. The tractor trailer operated by Defendant Espinoza bore Evans Dedicated Systems
22 Inc.'s United States Department of Transportation ("USDOT") No. 22106.

23 34. Accordingly, Defendant Evans is vicariously liable for Defendant Espinoza's
24 aforementioned negligence and recklessness.

25 **FIFTH CAUSE OF ACTION**

26 *Direct Negligence against Evans Dedicated Systems, Inc.*

27 35. Plaintiffs incorporate all allegations and causes of action above into this cause of
28 action by reference.

1 36. Defendant Evans had a duty to act reasonably in hiring and retaining Defendant
2 Espinoza, and to adopt and enforce policies, procedures, and rules to ensure that its
3 drivers acted safely and its tractor trailers were operated and maintained safely.

4 37. Defendant Evans breached its duties, listed in the paragraph above, directly and
5 proximately causing the death of Officer Huffman.

6 38. Defendant Evans' conduct demonstrated a conscious disregard of the known risks
7 to Decedent Officer Huffman and to the rest of the public.

8 **SIXTH CAUSE OF ACTION**

9 *Strict Liability of Defendant Evans Dedicated Systems, Inc.*

10 39. Plaintiffs incorporate all allegations and causes of action above into this cause of
11 action by reference.

12 40. Defendant Evans is the registered owner of the USDOT number 22106 displayed
13 on the truck involved in this crash and is, therefore, responsible for the acts of Defendant
14 Jorge Alejandro Espinoza.

15 **SEVENTH CAUSE OF ACTION**

16 *Wrongful Death Claim*

17 41. Plaintiffs incorporate all allegations and causes of action above into this cause of
18 action by reference.

19 42. Plaintiffs bring this cause of action under Arizona Wrongful Death Statute
20 A.R.S. § 12-611 et seq.

21 43. As a direct and proximate result of Defendants' negligence and recklessness,
22 Warren Huffman, Sr. has lost his son's care, love, affection, companionship, and
23 consortium.

24 44. As a direct and proximate result of Defendants' negligence & recklessness, the
25 Estate of Timothy Huffman has lost his care, love affection, companionship and
26 consortium.

27 **WHEREFORE**, Plaintiffs Warren Huffman, Jr., as the Personal Representative of
28 the Estate of Timothy Allen Huffman, and Warren Huffman, Sr. respectfully demands

1 and prays for the following relief: reasonable and just damages in their favor of not less
2 than the jurisdictional limit of this Court and in an amount to be proven at trial, together
3 with punitive damages; reasonable attorneys' fees and costs pursuant to A.R.S. § 12-341;
4 and such other costs and further relief as this Honorable Court deems just and proper,
5 given the circumstances.

6
7 RESPECTFULLY submitted this ____ day of December, 2013

8
9 **BYRNE & BENESCH, P.C.**

10 By: _____
11 Suzanne M. Nicholls, Esq.
12 *Attorney for Plaintiffs*