

IN THE SUPERIOR COURT OF CLAYTON COUNTY  
STATE OF GEORGIA

FILED  
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JACQUILINE D. WILLS  
CLERK SUPERIOR COURT

QUAZITIA AISHA MARSHALL AS  
ADMINISTRATOR OF THE ESTATE OF  
JUAN ANTONIO YOURNET, DECEASED,  
AND AS NATURAL MOTHER AND  
LEGAL GUARDIAN OF TEAONNIE  
JAHNIRAH QUANAE YOURNET AND  
TY'JUAN ANTONIO YOURNET,  
MINORS,

Plaintiffs,

v.

JOHN P. PITTS, SAIA MOTOR FREIGHT  
LINE, LLC. and ZURICH AMERICAN  
INSURANCE COMPANY

Defendants.

Civil Action File No.

JURY TRIAL DEMANDED

**COMPLAINT FOR DAMAGES**

COMES NOW QUAZITIA AISHA MARSHALL as Administrator of the Estate of Juan Antonio Youynet and as the Natural Mother and Legal Guardian of Teaonnie Jahnirah Quanae Youynet and Ty'Juan Antonio Youynet, minors, by and through their counsel of record, and file this Complaint for Damages, showing this Honorable Court as follows:

1.

This is an action for personal injury and wrongful death damages arising out of a motor vehicle incident that occurred on August 20, 2012.

**PARTIES, JURISDICTION, and VENUE**

2.

QUAZITIA AISHA MARSHALL, as Administrator of the Estate of Juan Antonio Youynet, and as Natural Mother and Legal Guardian of Teaonnie Jahnirah Quanae Youynet and Ty'Juan Antonio Youynet, is a resident of the state of Georgia. She brings this claim on behalf of the Estate

of Juan Antonio Younet, deceased, and his minor children Teannonie Jahnirah Quanae Younet and Ty'Juan Antonio Younet, for personal injury and wrongful death damages sustained by the deceased as a result of a motor vehicle incident that occurred at approximately 5:00 a.m. on August 20, 2012 on Anvil Block Road, Clayton County, Georgia. Pursuant to Georgia law, Plaintiff QUAZITIA AISHA MARSHALL is the proper party to bring this action for damages.

3.

Defendant JOHN P. PITTS, ("PITTS"), is an individual who resides at 320 Brantley Road, Lot 13, Warner Robins, Houston County, Georgia. Mr. Pitts can be served with process at that address. Once served with process, Defendant PITTS will be subject to the jurisdiction and venue of this Court.

4.

Defendant SAIA MOTOR FREIGHT LINE, LLC, ("SAIA"), is a business entity organized and existing under the laws of the state of Louisiana. Its principal place of business is located at 11465 Johns Creek Parkway, Suite 400, Johns Creek, Fulton County, Georgia. Process can be served on its Registered Agent, CT Corporation System, 1201 Peachtree Street, N.E., Atlanta, GA 30361. Once its Registered Agent is served with process, Defendant SAIA is subject to the jurisdiction and venue of this Court.

5.

At all times material hereto, Defendant SAIA was an interstate motor carrier authorized to operate in the State of Georgia for profit pursuant to one or more permits to operate issued by the Interstate Commerce Commission, or by the United States Department of Transportation, or both.

6.

Defendant ZURICH AMERICAN INSURANCE COMPANY (“ZURICH AMERICAN”) is a foreign insurance corporation that provided liability insurance to Defendant SAIA on the tractor-trailer unit that was involved in the subject collision. ZURICH AMERICAN is subject to the jurisdiction of this Court as the insurer of the motor carrier that was operating the tractor-trailer in Georgia pursuant to O.C.G.A. § 40-1-112.

7.

Defendant ZURICH AMERICAN was transacting business in the State of Georgia and in Clayton County, Georgia on the date of the subject incident and is subject to the venue of this Court pursuant to O.C.G.A. § 33-4-1.

8.

Defendant ZURICH AMERICAN may be served pursuant to O.C.G.A §§ 14-2-1510 and 33-4-3 with a second original of the Complaint and Summons on its registered agent, Corporation Service Company, 40 Technology Parkway, South #300, Norcross, Gwinnett County, Georgia, 30092. Once served with process, it will be subject to the jurisdiction and venue of this Court.

### **FACTS**

9.

On August 20, 2012 at approximately 5:00 a.m., the decedent JUAN ANTONIO YOURNET was driving a 2009 Nissan Maxima eastbound on Anvil Block Road in Clayton County, Georgia.

10.

On the same date and time, Defendant PITTS was driving a tractor and pulling two

trailers leaving Defendant SAIA's terminal in Clayton County, Georgia.

11.

Without warning, and when it was unsafe to do so, Defendant PITTS pulled his tractor and trailers into Anvil Block Road blocking all lanes of eastbound travel.

12.

Without sufficient time to react or avoid the collision, the decedent JUAN ANTONIO YOURNET under rode one of the trailers and suffered catastrophic injuries which eventually led to his untimely death.

### CLAIMS

#### COUNT I NEGLIGENCE OF PITTS

13.

Plaintiff incorporates herein by reference the allegations of the previous paragraphs of this Complaint as if each were fully set forth herein in their entirety.

14.

At all times material hereto, Defendant PITTS was a professional driver with a commercial driver's license.

15.

At all times material hereto, Defendant PITTS was driving a commercial motor vehicle in interstate commerce and was subject not only to Georgia traffic laws and trucking safety regulations, but also the Federal Motor Carrier Safety Regulations.

16.

Defendant PITTS was negligent in the operation, maintenance and inspection of the tractor

and trailer he was driving in at least the following ways:

- (a) Failure to maintain control of his vehicle;
- (b) Failing to yield the right of way;
- (c) Failing to keep a proper lookout for traffic;
- (d) Violating Georgia Motor Vehicle Laws including O.C.G.A. §§ 40-6-205 (Obstructing an Intersection); 40-6-241 (Failing to Drive with Due Care); 40-6-390 (Reckless Driving); 40-6-73 (Vehicles Entering Roadway); 40-6-144 (Emerging from a Driveway) all of which constitute negligence per se;
- (e) Violation of Federal Motor Carrier Safety Regulations; including, without limitation; failing operate his tractor and trailer in a safe and reasonable manner and other FMCSR's, violations of which constitute negligence per se; and
- (f) Otherwise failing to act reasonably and prudently as a professional commercial driver should under the circumstances.

17.

As a direct and proximate result of the negligence of Defendant PITTS, the decedent JUAN ANTONIO YOURNET sustained catastrophic personal injuries which eventually led to his untimely death.

18.

Defendant PITTS is liable for all damages allowed by law for the injuries, damages, and losses sustained by Plaintiff in this case.



**COUNT II NEGLIGENCE OF SAIA MOTOR FREIGHT LINE, LLC**

19.

Plaintiff incorporates all previous paragraphs of this Complaint as if each were fully set forth herein in their entirety.

20.

At all times material hereto, Defendant PITTS was an employee or agent of Defendant SAIA, acting within the scope and course of his employment or agency.

21.

Defendant SAIA is liable for the negligent actions and omissions of Defendant PITTS pursuant to the doctrine of *respondeat superior* and the rules of agency.

22.

As an employer, Defendant SAIA was also independently negligent in hiring, training, entrusting, supervising, and retaining Defendant PITTS in connection with his operation of a commercial motor vehicle and for otherwise failing to act as a reasonable and prudent trucking company would under the same or similar circumstances.

23.

Defendant SAIA was at all relevant times a motor carrier as defined by the Federal Motor Carrier Safety Regulations and was engaged in interstate commerce. As such, Defendant SAIA was at all relevant times subject to the Federal Motor Carrier Safety Regulations.

24.

As a motor carrier, Defendant SAIA had certain duties and responsibilities as defined by the Federal Motor Carrier Safety Regulations and industry standards, including the duty to properly qualify Defendant PITTS, the duty to properly train Defendant PITTS, the duty to supervise the

hours of service of Defendant PITTS, the duty to properly inspect and maintain its vehicles, and the duty to otherwise establish and implement necessary management controls and systems for the safe operation of its commercial motor vehicles.

25.

Defendant SAIA was also independently negligent in failing to meet its duties and responsibilities under the Federal Motor Carrier Safety Regulations and industry standards.

26.

As a direct and proximate result of the negligence of Defendant SAIA, the decedent JUAN ANTONIO YOURNET sustained catastrophic personal injuries which eventually led to his untimely death.

27.

Defendant SAIA is liable for all damages allowed by law for the injuries, damages, and losses sustained by Plaintiff in this case.

**COUNT III – DIRECT ACTION AGAINST ZURICH AMERICAN INSURANCE**

**COMPANY**

28.

Plaintiff incorporates herein by reference all preceding paragraphs of this Complaint as if each were fully set forth in their entirety.

29.

Defendant ZURICH AMERICAN provided liability insurance on the tractor and trailer units that were involved in the subject motor vehicle collision.

30.

Defendant ZURICH AMERICAN agreed to provide insurance coverage to Defendant SAIA in consideration for the payment of insurance premiums.

31.

Defendant ZURICH AMERICAN was transacting business in the State of Georgia and in Clayton County, Georgia on the date of the subject incident, and at all material times hereto, and is subject to the venue of this Court pursuant to O.C.G.A. § 33-4-1.

32.

The decedent JUAN ANTONIO YOURNET, as a member of the public, injured due to a common carrier's negligence, is a third party beneficiary to that agreement. Pursuant to O.C.G.A. § 40-1-112, Defendant ZURICH AMERICAN is subject to this Direct Action.

#### **COUNT IV DAMAGES**

33.

Plaintiff incorporates the allegations of the preceding paragraphs of this Complaint as if each were set forth fully herein in their entirety.

34.

Each of the Defendants acted in a manner which either alone, or combined and concurring with the actions of the other Defendants' acts of negligence, directly and proximately caused the incident and the resulting injuries to the decedent JUAN ANTONIO YOURNET.

35.

QUAZITIA AISHA MARSHALL as the Administrator of the Estate of decedent JUAN ANTONIO YOURNET and as the Natural Mother and Legal Guardian of Teaonnie Jahnirah



Quanae Younet and Ty'Juan Antonio Younet, the surviving children of the decedent, is entitled to recover all personal injury, pain and suffering, medical and funeral bills, wrongful death damages, and all other damages permitted under law.

**COUNT V PUNITIVE DAMAGES**

36.

Plaintiff repeats, re-alleges and incorporates the allegations of the preceding paragraphs of this Complaint as if each were fully set forth herein in their entirety.

37.

Each of Defendants' acts were willful, wanton, and demonstrated that entire want of care which raises the presumption of a conscious indifference to consequences.

38.

Accordingly, Defendants are liable to Plaintiff for punitive damages to punish, penalize, and deter Defendants from similar conduct in the future.

**WHEREFORE**, Plaintiff prays that the following relief be granted:

- (a) A trial by jury;
- (b) For Summons and Complaint to issue against the Defendants;
- (c) For judgment against the Defendants, jointly and severally, to compensate Plaintiff for her pain and suffering, past, present, and future;
- (d) For judgment against the Defendants, jointly and severally, in an amount sufficient to compensate Plaintiff for the medical expenses incurred to date, as well as for medical expenses which will be incurred in the future;

- (e) For judgment against the Defendants, jointly and severally, in an amount sufficient to compensate Plaintiff for lost wages incurred, including future lost wages or ability to earn income;
- (f) For all such other economic and non-economic losses as may be shown at the hearing of this matter to the full extent allowed under law;
- (g) That Plaintiff obtains judgment against the Defendants in an amount determined to be fair and reasonable in the minds of a fair and impartial jury;
- (h) Punitive damages be recovered in an amount the jury believes to be just, fair and equitable, given the facts and issues in this case;
- (i) Court costs, discretionary costs, and prejudgment interest; and
- (j) For all such further and general relief which this Court deems just and proper.

Dated: December 19, 2012.

**FRIED ROGERS GOLDBERG LLC**



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