

IN THE STATE COURT OF FULTON COUNTY  
STATE OF GEORGIA

STEVEN SLATON,	)	
	)	
Plaintiff,	)	
v.	)	
	)	
TRIMAC DRY BULK GROUP, INC. and	)	Civil Action File Number _____
CHARLES RAY PARKER and	)	
GREAT WEST CASUALTY INSURANCE	)	JURY TRIAL DEMANDED
COMPANY,	)	
	)	
Defendants.	)	
	)	
	)	

**COMPLAINT**

COMES NOW, STEVEN SLATION, by and through his counsel of record and files this Complaint against the above-named Defendants, and shows this Honorable Court the following:

1.

This is an action for personal injury damages arising out of a collision that was caused by CHARLES RAY PARKER (“Defendant PARKER”) while acting within the course of his employments for TRIMAC DRY BULK GROUP, INC. (“TRIMAC”) on April 13<sup>th</sup>, 2010.

**PARTIES, JURISDICTION, AND VENUE**

2.

Plaintiff STEVEN SLATION (hereinafter “Plaintiff” or “Plaintiff STEVEN SLATION”) is a resident of the State of Georgia.

3.

Defendant TRIMAC is a foreign corporation authorized to transact business in Georgia. At all times relevant hereto, Defendant TRIMAC was operating as either a motor common carrier or a motor contract carrier under the laws of the State of Georgia and pursuant to the Federal Motor Carrier Regulations. Defendant TRIMAC may be served with summons and process as provided by law through its registered agent, C T Corporation System, whose address is 1201 Peachtree Street NE, Fulton County, Atlanta, Georgia 30361. Defendant TRIMAC is subject to the jurisdiction and venue of this Court.

4.

Defendant PARKER is a resident of the State of Alabama and may be served with a second original of the Complaint and Summons at his residence located at 384 County Road 68, Lot 14, Clanton, AL 35046. Once served, Defendant PARKER is subject to the jurisdiction and venue of this Court.

5.

Defendant GREAT WEST CASUALTY INSURANCE COMPANY (hereinafter "Defendant GREAT WEST CASUALTY") is a foreign corporation authorized to transact business in Georgia. Defendant GREAT WEST CASUALTY may be served with summons and process as provided by law by serving its registered agent Alexander T. Galloway, III, 326 Roswell Street, Marietta, Georgia 30060. Defendant GREAT WEST CASUALTY is subject to the jurisdiction and venue of this Court.

6.

Defendant GREAT WEST CASUALTY was transacting business in the State of Georgia and in Fulton County, Georgia on the date of the incident giving rise to this

Complaint, and at all material times hereto, and is subject to the venue of this Court pursuant to O.C.G.A. § 33-4-1.

7.

Defendant GREAT WEST CASUALTY may be served pursuant to O.C.G.A §§ 9-11-4, 14-2-1510 and 33-4-3 with a second original of the Complaint and Summons through its registered agent, Alexander T. Galloway, III, 326 Roswell Street, Marietta, Georgia 30060.

8.

The provisions of 49 CFR §§ 301-339, commonly referred to as the “Federal Motor Carrier Safety Regulations” or “FMCSR” are applicable to this case.

9.

All Defendants, except Defendant GREAT WEST CASUALTY, are joint tortfeasors.

**FACTS**

10.

Plaintiff incorporates the allegations contained in all previous paragraphs.

11.

On or about April 13<sup>th</sup>, 2010, Defendant PARKER was operating a tractor-trailer eastbound on McEver Road in Hall County, Georgia.

12.

The tractor trailer at issue was owned by Defendant TRIMAC

13.

At all times material to this case, Defendant PARKER was an employee or agent of Defendant TRIMAC acting within the course and scope of his employment or agency.

14.

Defendant PARKER turned left from McEver Road into a private drive.

15.

Defendant PARKER was not able to complete his turn and clear the roadway because there was a closed gate at the entrance to the private drive. Accordingly, a portion of the trailer being hauled by Defendant PARKER remained in the roadway across lanes of travel.

16.

Plaintiff was lawfully driving westbound on McEver Road approaching where Defendant PARKER had made his left turn.

17.

Upon perceiving the trailer in the roadway, Plaintiff attempted to take evasive action but was unable to avoid hitting the trailer.

18.

As a result of the collision, STEVEN SLATON suffered very serious and permanent injuries.

**COUNT I**  
**NEGLIGENCE OF DEFENDANT PARKER**

19.

Plaintiff incorporates the allegations contained in all previous paragraphs.

20.

Defendant PARKER was negligent in that he, among other things:

- a) Made an improper left turn in a commercial vehicle when he knew or should have known that such turn could not be completed without his trailer obstructing the roadway;
- b) Improperly obstructed a roadway laned for traffic;
- c) Failed to keep a proper and diligent lookout;
- d) Failed to properly warn approaching traffic of a danger he created;
- e) Failed to yield the right of way when making a left turn;
- f) Failed to operate the tractor-trailer in accord with generally accepted safety principles and practices of the trucking industry; and
- g) Otherwise failed to operate the tractor-trailer as a reasonable and prudent professional driver under the circumstances.

21.

Defendant PARKER was also negligent *per se* in that he violated a number of laws and regulations governing his operation of a commercial motor vehicle, including:

- (a) Failing to abide by basic rules of the road;
- (b) Failing to yield while entering roadway;
- (c) Failing to exercise due care;
- (d) Illegal left turn under Georgia law;
- (e) Other failures as set out in O.C.G.A. Title 40, Chapter 6, and state trucking regulations; and
- (f) Other failures as set out in the Federal Motor Carrier Safety Regulations, as adopted by the Georgia Department of Transportation Safety Rules & Regulations, and pursuant to O.C.G.A. §§ 47-7-1 *et seq.*

22.

As a direct and proximate cause of Defendant PARKER'S negligence, STEVEN SLATON suffered catastrophic injuries.

23.

Defendant PARKER is liable to Plaintiff, STEVEN SLATON, for all recoverable damages.

**COUNT II**  
**LIABILITY OF DEFENDANT TRIMAC**

24.

Plaintiff incorporates the allegations contained in all previous paragraphs.

25.

At all times material to this case, Defendant PARKER was an employee or agent of Defendant TRIMAC acting within the course and scope of his employment or agency.

26.

Under the principles of respondeat superior, actual agency, apparent agency, and/or lease liability, Defendant TRIMAC is vicariously liable for the negligent acts and omissions of Defendant PARKER which led to the catastrophic injuries of STEVEN SLATON.

27.

Defendant TRIMAC was independently negligent in hiring, retention, training and supervision of Defendant PARKER, which negligence caused or contributed to cause the injuries of STEVEN SLATON.

28.

Defendant TRIMAC is liable to Plaintiff for all recoverable damages.

**COUNT III – PUNITIVE DAMAGES**

29.

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

30.

The actions of Defendants PARKER and TRIMAC were willful, wanton, and demonstrated that entire want of care which raises the presumption of a conscious indifference to consequences.

31.

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

**COUNT III – DIRECT ACTION AGAINST  
GREAT WEST CASUALTY**

32.

Plaintiff incorporates all preceding paragraphs as if fully set forth herein.

33.

Defendant GREAT WEST CASUALTY is subject to a direct action as the insurer for Defendant TRIMAC pursuant to Georgia law.

34.

Defendant GREAT WEST CASUALTY was the insurer of Defendant TRIMAC at the time of the subject incident and issued a liability policy to comply with the filing requirements under Georgia law for intrastate transportation.

35.

All elements necessary to sue Defendant GREAT WEST CASUALTY under the Georgia Direct Action law are met in this case.

36.

Defendant GREAT WEST CASUALTY is responsible for any judgment rendered against Defendant TRIMAC and Defendant PARKER.

WHEREFORE, Plaintiff STEVEN SLATON prays for and demands the following:

- 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 his 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 judgment against the Defendants, jointly and severally, in an amount sufficient to compensate Plaintiff for all such other economic and non-



economic loses as may be shown at the hearing of this matter to the full extent allowed under Georgia law;

- g. That Plaintiffs obtain 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 on May 6, 2010.

**FRIED ROGERS GOLDBERG LLC**

*/s/ Joseph A. Fried*

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**ATTORNEYS FOR PLAINTIFF**