

**IN THE CIRCUIT COURT
FIFTEENTH JUDICIAL CIRCUIT
LEE COUNTY, ILLINOIS**

Terry Jakel,)
Special Administrator of the Estate of)
Keith Jakel, Deceased,)
Terry Jakel, and)
Vincent Jakel,)
)
Plaintiff,)

Case No. _____

-vs-)

Roger D. Miller,)
Lotz Trucking, Inc.,)
)
Defendants.)

COMPLAINT

COMES NOW, the plaintiff, Terry Jakel, Special Administrator of the Estate of Keith Jakel, deceased, by and through his attorney, Steven C. Giacoletto Law Office, P.C., and for his cause of action against the defendants, Roger D. Miller and Lotz Trucking, Inc., alleges as follows:

FACTS COMMON TO ALL COUNTS

1. That on March 28, 2012, the plaintiff, Terry Jakel, was duly appointed by order of the Circuit Court for the Third Judicial Circuit, Madison County, Illinois, as special administrator of

the Estate of Keith A. Jakel, deceased, for the purpose of prosecuting this lawsuit and that said Order of the Court is attached hereto marked Exhibit "A" and incorporated herein by reference.

2. That at the time of his death on March 20, 2012, Keith Jakel was a resident of the County of Madison, State of Illinois.

3. That at all times relevant herein, Terry Jakel and Vincent Jakel, brother and father of the deceased, are residents of the County of Madison, State of Illinois, and the primary and only beneficiaries of the Estate of Keith Jakel.

4. That at all times relevant herein, Roger D. Miller was a resident of the County of LaSalle, State of Illinois.

5. That at all times relevant herein, Lotz Trucking, Inc. was an Illinois corporation with its primary location and office being in the County of LaSalle, State of Illinois.

6. That on or about March 20, 2012, Keith Jakel was lawfully conducting maintenance on and related to the roadway on U.S. Interstate 39 at or near mile marker 81 in the County of Lee and the State of Illinois.

7. That on the above date and place, Roger D. Miller was operating a 1985 Volvo Truck Tractor with a trailer attached and did strike Keith Jakel, thereby causing the bodily injuries and death of plaintiff's decedent.

8. That at all times relevant herein, Roger D. Miller owed a duty to Keith Jakel to use reasonable care in operating and controlling his motor vehicle at the aforementioned date and place.

9. That at the aforementioned date and place, Roger D. Miller breached his duty to Keith Jakel by committing one or more of the following acts of negligence or omission which directly and proximately caused the accident and subsequent death of Keith Jakel, to wit:

- a. Failed to reduce speed to avoid an accident in violation of Illinois state statutes;
- b. Improper lane usage in violation of Illinois state statutes;
- c. Failed to proceed with due caution when changing lanes after having entered a construction zone in violation of Illinois state statutes;
- d. Failed to keep his motor vehicle in the appropriate lane of traffic in violation of Illinois state statutes;
- e. Failed to keep a proper lookout for the plaintiff's decedent;
- f. Failed to yield the right of way to the plaintiff's decedent.

COUNT I

(Roger D. Miller - Negligence - Wrongful Death Act)

10. That as a direct and proximate result of one or more of the foregoing acts of negligence or omissions on the part of Roger D. Miller, Keith Jakel was fatally injured, the decedent's surviving family have been deprived of the love, care, and support of their son and brother as a result of said accident and herewith claims such as damages arising now and into the future.

11. That plaintiff brings this action as such administrator pursuant to, and as authorized by 740 ILCS 180/1 and pursuant to 740 ILCS 180/1 et seq. (Wrongful Death Act).

WHEREFORE, the plaintiff, Terry Jakel, prays judgment against the defendant, Roger D. Miller, in a sum of money in excess of Fifty Thousand Dollars (\$50,000.00), plus his costs of this suit incurred herein.

COUNT II

(Roger D. Miller - Negligence - Survivorship Act)

12. That as a direct and proximate result of one or more of the foregoing acts of negligence or omissions on the part of the defendant, Roger D. Miller, Keith Jakel was fatally injured, experienced severe pain and suffering, incurred expenses for funeral expenses, and loss of future income as a result of said accident and herewith claims such as damages arising now and into the future.

13. That plaintiff brings this action as such administrator pursuant to, and as authorized by 755 ILCS 5/27-6 and pursuant to 755 ILCS 5/27-6 et. seq. (Survivorship Act), on behalf of decedent's brother, Keith Jakel, and father, Vincent Jakel.

WHEREFORE, the plaintiff, Terry Jakel, prays judgment against the defendant, Roger D. Miller, in a sum of money in excess of Fifty Thousand Dollars (\$50,000.00), plus his costs of this suit incurred herein.

COUNT III

(Lotz Trucking, Inc. - Respondent Superior - Wrongful Death Act)

14. That at all times relevant herein, Roger D. Miller was employed by, was an agent of, or was an employee of Defendant, Lotz Trucking.

15. That the above described acts and omissions of Roger D. Miller were committed within the scope of his employment with Lotz Trucking in that they were committed while on duty and in furtherance of Lotz Trucking.

16. That as the employer of Roger D. Miller, Lotz Trucking is responsible for all of the negligent acts and omissions committed by its said employee with the scope of his employment.

17. That plaintiff brings this action as such administrator pursuant to, and as authorized by 740 ILCS 180/1 and pursuant to 740 ILCS 180/1 et seq. (Wrongful Death Act).

WHEREFORE, the plaintiff, Terry Jakel, prays judgment against the defendant, Lotz Trucking, Inc., in a sum of money in excess of Fifty Thousand Dollars (\$50,000.00), plus his costs of this suit incurred herein.

COUNT IV

(Lotz Trucking, Inc. - Respondent Superior – Survivorship Act)

18. That at all times relevant herein, Roger D. Miller was employed by, was an agent of, or was an employee of Defendant, Lotz Trucking.

19. That the above described acts and omissions of Roger D. Miller were committed within the scope of his employment with Lotz Trucking in that they were committed while on duty and in furtherance of Lotz Trucking.

20. That as the employer of Roger D. Miller, Lotz Trucking is responsible for all of the negligent acts and omissions committed by its said employee with the scope of his employment.

21. That plaintiff brings this action as such administrator pursuant to, and as authorized by

755 ILCS 5/27-6 and pursuant to 755 ILCS 5/27-6 et seq. (Survivorship Act), on behalf of decedent's brother, Keith Jakel, and father, Vincent Jakel.

WHEREFORE, the plaintiff, Terry Jakel, prays judgment against the defendant, Lotz Trucking, Inc., in a sum of money in excess of Fifty Thousand Dollars (\$50,000.00), plus his costs of this suit incurred herein.

COUNT V

(Lotz Trucking, Inc. – Negligent Entrustment)

22. That at all times relevant herein, Roger D. Miller was employed by, was an agent of, or was an employee of Defendant, Lotz Trucking.

23. That the above described acts and omissions of Roger D. Miller were committed within the scope of his employment with Lotz Trucking in that they were committed while on duty and in furtherance of Lotz Trucking.

24. That as the employer of Roger D. Miller, Lotz Trucking is responsible for all of the negligent acts and omissions committed by its said employee with the scope of his employment.

25. That Lotz Trucking supplied and arranged for use of equipment to Roger D. Miller.

26. That Lotz Trucking hired Roger D. Miller as a truck driver and that it had a duty to investigate the driving record or history of Roger D. Miller.

27. That Lotz Trucking failed to properly investigate Roger D. Miller's driving record or history and made insufficient efforts to investigate whether he was a safe, fit, and competent driver.

Case No.:

Page 6 of 10

28. That Lotz Trucking knew, had reason to know, or should have known, that Roger D. Miller has an unsafe driving record or history, or is an unsafe or incompetent driver that would likely use the equipment relating to his hiring in a manner involving unreasonable risk of physical harm.

29. That Lotz Trucking had reasons to know or should have known that by contracting with Roger D. Miller, his use of a truck could involve the risk of physical harm to others.

30. That Keith Jakel was a member of a foreseeable class of persons who would be at risk of suffering physical harm as a result of Roger D. Miller's operation of a semi truck tractor and trailer.

31. That Lotz Trucking, by entrusting equipment to Roger D. Miller, directly and proximately caused the death of Keith Jakel.

WHEREFORE, the plaintiff, Terry Jakel, prays judgment against the defendant, Lotz Trucking, Inc., in a sum of money in excess of Fifty Thousand Dollars (\$50,000.00), plus his costs of this suit incurred herein.

COUNT VI

(Lotz Trucking, Inc. – Negligent Hiring and Retention)

32. That at all times relevant herein, Roger D. Miller was employed by, was an agent of, or was an employee of Defendant, Lotz Trucking.

33. That the above described acts and omissions of Roger D. Miller were committed within the scope of his employment with Lotz Trucking in that they were committed while on duty and in furtherance of Lotz Trucking.

34. That as the employer of Roger D. Miller, Lotz Trucking is responsible for all of the negligent acts and omissions committed by its said employee with the scope of his employment.

35. That Lotz Trucking supplied and arranged for use of equipment to Roger D. Miller.

36. That Lotz Trucking hired Roger D. Miller as a truck driver and that it had a duty to investigate the driving record or history of Roger D. Miller.

37. That Lotz Trucking failed to properly investigate Roger D. Miller's driving record or history and made insufficient efforts to investigate whether he was a safe, fit, and competent driver.

38. That Lotz Trucking knew, had reason to know, or should have known, that Roger D. Miller has an unsafe driving record or history, or is an unsafe or incompetent driver that would likely use the equipment relating to his hiring in a manner involving unreasonable risk of physical harm.

39. That Lotz Trucking had reasons to know or should have known that by contracting with Roger D. Miller, his use of a truck could involve the risk of physical harm to others.

40. That the negligence of Lotz Trucking in hiring and/or retaining Roger D. Miller directly and proximately caused the death of Keith Jakel.

WHEREFORE, the plaintiff, Terry Jakel, prays judgment against the defendant, Lotz Trucking, Inc., in a sum of money in excess of Fifty Thousand Dollars (\$50,000.00), plus his costs of this suit incurred herein.

Terry Jakel, Special Administrator
of the Estate of Keith Jakel

By _____
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