

I.

DISCOVERY CONTROL PLAN

Pursuant to Rule 190.3 of the Texas Rules of Civil Procedure, Plaintiffs designate this case as a Level III discovery control plan.

II.

REQUEST FOR DISCLOSURE

Pursuant to Rules 190.3 and 194 of the Texas Rules of Civil Procedure, Plaintiffs request Defendants to disclose within fifty (50) days of service of this request the information and material described in Rule 194.2 of the Texas Rules of Civil Procedure. Plaintiffs specifically request the responding party to produce responsive documents at the undersigned law offices.

III.

PARTIES

1. Plaintiffs reside in Tarrant County, Texas.
2. Defendant RYDER INTEGRATED LOGISTICS, INC. is a foreign corporation and is licensed to do business in the State of Texas. Counsel for Defendant has agreed to accept service of process.
3. Defendant DUSTIN POOL is a resident of Collin County, Texas. It is anticipated that counsel for Defendant will accept service of process.

IV.

VENUE AND JURISDICTION

4. Venue in this case is proper pursuant to § 15.002(a)(1) of the Texas Civil Practice and Remedies Code because the accident that forms the basis of this lawsuit occurred in Tarrant

County, Texas, and because one or more of the parties to this incident reside in Tarrant County, Texas.

5. This Court has subject matter jurisdiction over this case, because the amount in controversy for the exclusive of costs and interest is within the jurisdictional limits of this Court. Plaintiffs seeks monetary relief over \$1,000,000.

V.

FACTS

6. In the early morning of April 12, 2015, a Ryder Systems tractor truck slammed into close to ten vehicles and several pedestrians on the shoulder of IH-30, killing five and injuring a dozen. Among those injured were Plaintiffs Elyssa Alba and her son, Artemio "A.J." Cardoza, Jr.

7. Plaintiff Elyssa "Ely" Alba was driving her Chevrolet Silverado pick-up truck in westbound direction on Interstate 30 in Fort Worth, Tarrant County, Texas. Alba and her mother, Cheryl Banda, were following her fiancée Veronica "Ronnie" Gonzalez who was driving a Chevrolet Camaro. Alba and Gonzalez had just celebrated an engagement party in Dallas, and were traveling back to Fort Worth in separate vehicles.

8. In Gonzalez's vehicle was Alba's son, Artemio "A.J." Cardoza, Jr., who was a rear seat passenger in the Camaro. A young boy also related to Ronnie Gonzalez was also a rear-seat passenger. In the front passenger seat was Clarissa Banda, Elyssa Alba's sister, who like Ronnie was subsequently killed in the accident.

9. Distant up the road, they had observed the wreckage of a BMW. It is unknown to Plaintiffs how that first collision occurred. The ten-car pile-up occurred near the Oakland Boulevard crossing of IH-30. That stretch of interstate highway has four east bound and four

westbound lanes. In addition, IH-30 has a retaining wall on the left side, and an improved shoulder, or what some call an “emergency lane.”

10. Gonzalez and Alba safely executed lane changes, and slowed their vehicles to a stop on the right shoulder of the interstate. Gonzalez’s Camaro was in front of Alba’s pick-up. In front of Gonzalez’s vehicle was yet another Silverado pick-up. It was a red truck, and it too had been parked on the shoulder. According to media accounts, it was operated by decedent Mary Hernandez, or someone traveling with her. All three vehicles were lined up along the shoulder, and parked.

11. In addition, a jeep and several other vehicles had also been parked somewhere on the shoulder.

12. Elyssa Alba’s son, Artemio Cardoza, Jr. was a passenger in the vehicle.

13. When her truck came to a stop, Elyssa began to exit to see what help could be provided for the passengers in the BMW.

14. While she was stepping out of her vehicle onto the shoulder, a Ryder owned truck driven by Ryder employee Dustin Pool suddenly and without warning crashed into Elyssa and her truck. It is believed that Elyssa was violently thrown under her own vehicle upon impact.

15. After slamming into Elyssa’s truck, it smashed into the Camaro, and several remaining vehicles. The Ryder tractor then caught fire, and flames engulfed more than one of the crushed, and entangled vehicles from this chain reaction tragedy.

VI.

CAUSES OF ACTIONS AGAINST DEFENDANT DUSTIN POOL

16. Plaintiffs would show this Court that the negligent acts and omissions of Defendant Dustin Poole and statutory violations, as set out herein, separately and collectively,

were a direct and proximate cause of the incident in question and the resulting injuries and damages sustained by Plaintiffs.

17. The violations, negligent acts and omissions are, among others, as follows:
 - a. Defendant failed to keep the proper lookout as required pursuant to §545.052(1) of the Tex. Trans. Code Ann.;
 - b. Defendant failed to turn his vehicle to the left or right in order to avoid the collision in question;
 - c. Defendant failed to control the speed of the vehicle he was operating in compliance with §545.351(b)(1) and §545.351(b)(2) of the Tex. Trans. Code Ann.; and
 - d. Defendant failed to maintain an assured distance between his vehicle and Plaintiff's vehicle in violation of Section 545.062(a) of the Tex. Trans. Code Ann.

18. The above identified statutory violations constitute negligence *per se*.

VII.

RYDER INTEGRATED LOGISTICS, INC. RESPONDEAT SUPERIOR

19. Plaintiffs reallege and incorporate all previously stated facts for this cause of action as if stated verbatim pursuant to Rule 58 of the Texas Rules of Civil Procedure. Defendant Ryder Integrated Logistics, Inc. is liable for the acts that its employee, Dustin Poole, committed while he was in the course and scope of his employment for Ryder Integrated Logistics, Inc. Under the doctrine of *respondeat superior* Defendant Integrated Logistics, Inc. is vicariously liable for Dustin Poole's reckless and negligent conduct.

20. Defendant Ryder Integrated Logistics, Inc. is further liable to Plaintiff for negligence *per se* for violating Section 542.302 of the Transportation Code by requiring or permitting Dustin Poole to operate a truck in a manner that violated Texas law.

VIII.

NEGLIGENT HIRING AND TRAINING

21. While multiple passenger motorists managed to avoid the BMW wreckage and come safely to a standstill on the shoulder, Pool's Ryder truck—which was traveling much further behind these vehicles—failed to do so.

22. Rather than slow his vehicle to a stop, or move to the left, Pool made a sudden and erratic right hand lane change.

23. This unexplained, impulsive, and reflexive act is a product of a failure to hire and train its drivers in proper evasive maneuvers when approaching collisions.

IX.

DAMAGES OF ELYSSA ALBA

24. As a result of the incident described herein, Plaintiff Elyssa Alba incurred reasonable and necessary medical expenses and, in all reasonable probability, such medical expenses will continue in the future.

25. Elyssa Alba sustained serious injuries as a result of the incident made the basis of this lawsuit. She was placed in a medically induced coma, and has been in out of consciousness since the accident only days ago.

26. One of her legs was amputated. She sustained a closed-head injury. She has a broken hip, a broken jaw, and one more fractures to her arm. It is expected that she will be hospitalized for more than a month.

27. She sustained internal injuries, bruises, and lacerations. She will require specialized and long term rehabilitation care and services, long term medical care and services,

long term personal assistance with activities of daily living, and adaptive mechanized mobility equipment.

28. Elyssa Alba has suffered disfigurement in the past as a result of the incident and, in all reasonable probability, such disfigurement will continue in the future.

29. Elyssa Alba has experienced physical impairment and physical incapacity in the past as a result of the incident and, in all reasonable probability, will sustain physical impairment or physical incapacity in the future.

30. Elyssa Alba has experienced physical pain and suffering in the past as a result of her physical injuries, and in all reasonable probability, will sustain physical pain and suffering in the future as a result of her physical injuries.

31. Elyssa Alba has suffered lost wages and/or lost earning capacity in the past as a result of the incident and, in all reasonable probability, such lost earning capacity will continue in the future.

32. As a result of the above, Plaintiff seeks damages within the jurisdictional limits of this Court.

X.

DAMAGES OF ARTEMIO CARDOZA, JR.

33. As a result of the incident described herein, Plaintiff Artemio Cardoza, Jr. incurred reasonable and necessary medical expenses and, in all reasonable probability, such medical expenses will continue in the future.

34. Artemio Cardoza, Jr. has experienced physical impairment in the past as a result of the incident and, in all reasonable probability, will sustain physical impairment in the future.

35. Artemio Cardoza, Jr. has experienced physical pain and suffering in the past as a result of his physical injuries, and in all reasonable probability, will sustain physical pain and suffering in the future as a result of his physical injuries.

36. Artemio Cardoza, Jr. has experienced physical pain and suffering in the past as a result of his physical injuries, and in all reasonable probability, will sustain physical pain and suffering in the future as a result of her physical injuries.

37. Artemio Cardoza, Jr. has experienced mental anguish in the past and in all reasonable probability, will sustain mental anguish in the future.

38. Due to the severity of Elyssa Alba's injuries, minor Plaintiff Artemio Cardoza, Jr. has suffered the loss of support and the mental, physical, and emotional love, care, support, comfort, companionship, society, guidance, advice, and counsel of his mother which will continue for the balance of the minor Plaintiff Artemio Cardoza, Jr.'s life. Minor Plaintiff Artemio Cardoza, Jr. seeks a judgment against Defendants, jointly and severally, for his injuries and damages none of which would have been incurred but for the conduct of Defendants.

XI.

DAMAGES OF ISABELA CARDOZA

39. Isabela Cardoza was not present at the accident, but due to the severity of Elyssa Alba's injuries and as a result of the incident described herein, the 12-year-old has experienced mental anguish in the past and in all reasonable probability, will sustain mental anguish in the future.

40. Due to the severity of Elyssa Alba's injuries, minor Plaintiff Isabela Cardoza has suffered the loss of support and the mental, physical, and emotional love, care, support, comfort, companionship, society, guidance, advice, and counsel of his mother which will continue for the

balance of the minor Plaintiff Isaela Cardoza's life. Minor Plaintiff Isaela Cardoza seeks a judgment against Defendants, jointly and severally, for his injuries and damages none of which would have been incurred but for the conduct of Defendants.

XII.

**CLAIM FOR PREJUDGMENT AND
POST-JUDGMENT INTEREST**

41. Plaintiffs claim all lawful pre-judgment and post-judgment interest on the damages suffered.

XIII.

JURY DEMAND

42. Plaintiffs request that a jury be convened to try the factual issues in this cause.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited to appear and answer herein and upon final hearing of this cause, Plaintiff have judgment against Defendants, jointly and severally, for damages described herein, for costs of suit, interest from the date of the incident and for such other relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

HENLEY & HENLEY, P.C.

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