

IN THE SUPERIOR COURT OF CLAYTON COUNTY  
STATE OF GEORGIA

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MAY 08 2013

JACQUILINE D. WILLS  
Clerk Superior Court  
Clayton County, Georgia

KIMBERLY L. LOVE

Plaintiff,

v.

KEVIN M. JACKSON, TRIPLE CROWN  
SERVICES COMPANY, and ZURICH  
AMERICAN INSURANCE COMPANY

Defendants.

Civil Action File No.

2013CV02020-6

JURY TRIAL DEMANDED

**COMPLAINT FOR DAMAGES**

COMES NOW Plaintiff KIMBERLY L. LOVE ("LOVE") and by and through her counsel of record, files this Complaint for Damages, showing this Honorable Court as follows:

1.

This is an action for personal injury damages arising out of a motor vehicle incident that occurred on December 1, 2012 in Clayton County, Georgia.

**PARTIES, JURISDICTION, and VENUE**

2.

KIMBERLY L. LOVE is a resident of Clayton County, Georgia. She brings this claim for personal injury damages sustained as a result of a motor vehicle incident that occurred at approximately 5:15 a.m. on December 1, 2012 on Interstate 75, Clayton County, Georgia. Pursuant to Georgia law, Plaintiff KIMBERLY L. LOVE is the proper party to bring this action for damages.

3.

Defendant KEVIN M. JACKSON, ("JACKSON") is an individual who resides at 3708 Tampa Trail, Atlanta, Fulton County, Georgia. Mr. Jackson can be served with process at that

address. Once served with process, Defendant JACKSON will be subject to the jurisdiction and venue of this Court.

4.

Upon information and belief, Defendant TRIPLE CROWN SERVICES COMPANY ("TRIPLE CROWN") is a foreign business entity organized and existing under the laws of a state other than Georgia. TRIPLE CROWN operates a business for profit at 3260 Lakewood Avenue, East Point, Clayton County, Georgia. Process can be served on its registered agent, United States Corporation 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.

5.

At all times material hereto, Defendant TRIPLE CROWN was an interstate motor carrier authorized to operate in the State of Georgia for profit.

6.

Defendant ZURICH AMERICAN INSURANCE COMPANY ("ZURICH AMERICAN") is a foreign insurance corporation that provided liability insurance to Defendant TRIPLE CROWN on the tractor 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 December 1, 2012 at approximately 5:15 a.m., Plaintiff LOVE was driving her 1999 Acura Integra southbound on Interstate 75 in Clayton County, Georgia.

10.

On the same date and time, Defendant JACKSON was driving a tractor “bobtail” in front of LOVE one lane to her left.

11.

Without warning, and when it was unsafe to do so, Defendant JACKSON merged into LOVES lane striking LOVE’S car with the right rear tandem wheels of his tractor.

12.

Without sufficient time to react or avoid the collision, LOVE’s car was forced into the pavement, causing it to lose control, flip onto its roof and travel in that position for a significant distance, all while LOVE was in the car.

**CLAIMS**

**COUNT I NEGLIGENCE OF JACKSON**

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 JACKSON was a professional driver with a commercial driver's license.

15.

At all times material hereto, Defendant JACKSON 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 JACKSON was negligent in the operation 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. §§ 40-6-123 (Unsafe Lane Change); 40-6-241 (Failing to Drive with Due Care); 40-6-390 (Reckless Driving); all of which constitute negligence per se;

- (e) Violation of Federal Motor Carrier Safety Regulations; including, without limitation, failing operate his tractor 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 JACKSON, Plaintiff LOVE sustained catastrophic personal injuries.

18.

As a direct and proximate result of the negligence of Defendant JACKSON, Plaintiff LOVE has incurred and is entitled to recover special damages, including but not limited to past and future medical expenses and past and future lost income, and other miscellaneous expenses, in an amount that will be proven at trial. Plaintiff LOVE is also entitled to recover for her general damages, including past and future pain and suffering and related damages.

**COUNT II NEGLIGENCE OF TRIPLE CROWN SERVICES COMPANY**

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 JACKSON was an employee or agent of Defendant TRIPLE CROWN, acting within the scope and course of his employment or agency.

21.

Defendant TRIPLE CROWN is liable for the negligent actions and omissions of Defendant JACKSON pursuant to the doctrine of *respondeat superior* and the rules of agency.

22.

As an employer, Defendant TRIPLE CROWN was also independently negligent in hiring, training, entrusting, supervising, and retaining Defendant JACKSON 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 TRIPLE CROWN 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 TRIPLE CROWN was at all relevant times subject to the Federal Motor Carrier Safety Regulations.

24.

As a motor carrier, Defendant TRIPLE CROWN had certain duties and responsibilities as defined by the Federal Motor Carrier Safety Regulations and industry standards, including the duty to properly qualify Defendant JACKSON, the duty to properly train Defendant JACKSON, the duty to supervise the hours of service of Defendant JACKSON, 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 TRIPLE CROWN 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 TRIPLE CROWN, Plaintiff LOVE sustained catastrophic personal injuries.

27.

As a direct and proximate result of the negligence of Defendant TRIPLE CROWN, Plaintiff LOVE has incurred and is entitled to recover special damages, including but not limited to past and future medical expenses, past and future lost income, and other miscellaneous expenses, in an amount that will be proven at trial. Plaintiff LOVE is also entitled to recover for her general damages, including all past and future pain and suffering and related damages.

**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 unit that was involved in the subject motor vehicle collision.

30.

Defendant ZURICH AMERICAN agreed to provide insurance coverage to Defendant TRIPLE CROWN 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.

Plaintiff LOVE, as a member of the public, was injured due to a common carrier's negligence, and 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 PUNITIVE DAMAGES**

33.

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.

34.

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

35.

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:

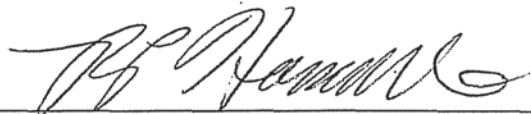
- (a) A trial by jury;
- (b) For Summons and Complaint to issue against the Defendants;



- (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 to fully compensate Plaintiff for all special and general damages suffered, past and future;
- (e) 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;
- (f) 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;
- (g) Punitive damages be recovered in an amount the jury believes to be just, fair and equitable, given the facts and issues in this case;
- (h) Court costs, discretionary costs, and prejudgment interest; and
- (i) For all such further and general relief which this Court deems just and proper.

Dated: May 6, 2013.

**FRIED ROGERS GOLDBERG LLC**



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JOSEPH A. FRIED  
GEORGIA STATE BAR NUMBER 277251  
RICHARD P. HAMILTON  
GEORGIA STATE BAR NUMBER 321274

***ATTORNEYS FOR PLAINTIFF***

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**BRUCE A. HAGEN, ATTORNEY AT LAW**

A handwritten signature in cursive script that reads "Bruce A. Hagen". The signature is written in black ink and is positioned above a horizontal line.

BRUCE A. HAGEN

GEORGIA STATE BAR NUMBER 316678

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