



3. Defendant CURRY HEAVY HAUL, LLC (hereinafter referred to as “Defendants” or “CHH”) is a Texas Corporation and may be served through its registered agent, Justin Curry at 304 Highland Shores Rd., Highlands, Texas 77562-2208. Citation is requested at this time.

4. Defendant CURRY EXCAVATION & SITE WORK, INC. (hereinafter referred to as “Defendants” or “CESWI”) is a Texas Corporation and may be served through its registered agent, Justin Curry at 304 Highland Shores Rd., Highlands, Texas 77562-2208. Citation is requested at this time.

5. Defendant, RANDY HOLCOMBE, is an individual residing in Liberty County, Texas. RANDY HOLCOMBE may be served with process at his home at the following address: 427 County Road 685, Dayton, Texas 77535, Liberty County, or wherever he may be found. Service of said Defendant as described above can be affected by personal delivery.

**III.  
MISNOMER / MISIDENTIFICATION / ALTER EGO /  
PIERCING THE CORPORATE VEIL**

6. In the event any parties are misnamed, or are not included herein, it is plaintiff’s contention that such was a “misidentification”, “misnomer” and/or such parties are/were “alter egos” of parties named herein.

**IV.  
JURISDICTION AND VENUE**

7. This Court has jurisdiction of this matter because it is a suit for damages arising out of an auto crash that occurred in Texas.

8. Venue is proper in this county under Texas Civil Practice and Remedies Code Section 15.002(a)(3) as this is the county of the Defendants’ principal office in this state.

**V.  
FACTS**

9. On or about May 17, 2023, Melba Castro, decedent, was travelling Southbound at the 11900 block of Eagle Drive in Mont Belvieu, Chambers County, Texas when Defendant RANDY HOLCOMBE, driver/employee of Defendants, CURRY HEAVY HAUL, LLC. and/or CURRY EXCAVATION & SITE WORK, INC., who was travelling Northbound on Eagle Drive, attempted to make an inherently risky and extremely dangerous (uncontrolled / no spotter) u-turn across the entire lane of traffic (Eagle Drive) when it was clearly not safe to do so, thereby causing the crash and eventual death of Melba Castro and minor child Jealyn Castro. The extreme negligence of Defendant and their driver took the lives of Plaintiff Jacinto Castro's wife and daughter. Plaintiff J.C., a minor child, was in the back seat of Plaintiff's vehicle at the time of the incident. Plaintiffs are the surviving spouse and child of Melba Castro.

10. At the time of the crash Defendant RANDY HOLCOMBE, driver-employee, was acting in the course and scope of his employment with Defendants CURRY HEAVY HAUL, LLC and/or CURRY EXCAVATION & SITE WORK, INC. As a result of Defendants' Negligence and Gross Negligence, Plaintiff Jacinto Castro lost his wife, his companion, in addition to his daughter, and today must suffer alone due to the negligence and gross negligence of Defendants. Plaintiff J.C., a minor child lost her mother and sister, and the patriarch of their family due to the negligence and gross negligence of Defendants.

**VI.  
CAUSES OF ACTION**

11. Negligence. Defendants owed Plaintiffs several duties involving reasonable care including, but not limited to: duty to exercise care while driving a commercial motor vehicle and other general duties. Defendant RANDY HOLCOMBE, driver/employee breached these duties in ways including, but not limited to:

- a. failing to drive past vehicle moving in opposite direction (violation of Texas Transportation Code Section 545.052);
- b. failing to maintain a safe distance (wide load on left side of the center of the roadway) (violation of Texas Transportation Code Section 545.054);
- c. failing to drive roadway laned for traffic in violation of Texas Transportation Code Section 545.060;
- d. failing to make a controlled u-turn (no spotter) on roadway;
- e. failing to keep a proper lookout;
- f. driving vehicle in willful or wanton disregard for the safety of persons or property;
- g. failing to yield as a person of prudent care would have done;
- h. failing to yield the right of way;
- i. failed to take any evasive action to avoid the collision;
- j. failed to exercise the prudence that was reasonable under the circumstances;
- k. failed to operate proper warning signal and/or lighting;
- l. failing to apply the brakes to the motor vehicle in a timely and prudent manner and/or wholly failed to apply the brakes in order to avoid the collision in question;
- m. did not know the safety regulations as required by 49 C.F.R. § 392.1;
- n. failed to inspect the equipment or secure the cargo properly prior (or subsequent) to operations as required by 49 C.F.R. § 392.7, 49 C.F.R. § 392.8, 49 C.F.R. § 392.9, 49 C.F.R. § 393.40, 49 C.F.R. § 393.41, 49 C.F.R. § 393.75, 49 C.F.R. § 393.78, 49 C.F.R. § 393.80, 49 C.F.R. § 393.81; and
- o. Other acts and omissions that proximately caused Plaintiff's injuries.

12. It is upon information and belief that Defendant, CHH and CESWI among other things;

- a) negligently entrusted and allowed an unqualified driver to drive their front-liner truck;
- b) failed to exercise the prudence that was reasonable under the circumstances;
- c) failed to investigate the driver's driving record as required by 49 C.F.R. § 391.23.
- d) failed to investigate the driver's employment history as required by 49 C.F.R. § 391.23;
- e) failed to administer the driving test as required by 49 C.F.R. § 391.31;
- f) employed a driver who was not knowledgeable of the safety regulations as required by 49 C.F.R. § 392.1;
- g) failed to require the driver to observe the regulations as required by 49 C.F.R. § 390.11, and/or aided and abetted the violation in contravention of 49 C.F.R. § 390.13
- h) failed to secure the advice and aid of a medical review officer in order to determine the use by defendant's drivers of illegal drugs, stimulants, and alcohol as authorized or required by 49 C.F.R. § 391.41; 49 C.F.R. § 391.43; 49 C.F.R. § 391.45.
- i) failed to maintain the truck and/or trailer as required by 49 C.F.R. § 396.3;
- j) failed to have policy in place preventing risky maneuvers for movement of the load in question, i.e. making uncontrolled u-turns; and
- k) failed to train and/or maintain proper training driver for moving loads in excess of the legal limits.

13. These breaches proximately caused Plaintiffs' damages including, but not limited to: medical expenses, pain and suffering, inconvenience, and other personal and pecuniary harms, for which Plaintiffs sue.

14. The above referenced sections of the Texas Transportation and Federal Motor Carrier Safety Regulations were enacted by their respective Legislature to protect the safety,

health, and welfare of the public. Plaintiffs (Decedents Melba Castro and Jaelyn Castro) were members of the public, and as a result, were to be protected by said statutes.

15. Each of such acts and/or omissions, singularly or in combination with others, constituted negligence and/or negligence as a matter of law which proximately caused the crash and injuries and damages which Plaintiffs and/or their loved ones, suffered.

16. Vicarious Liability. Whenever in this petition it is alleged that the Defendants did any act or thing, it is meant that the Defendants and/or the Defendants' agents, partners, officers, servants, principals, vice principals, borrowed servants, employees or representatives did such act or thing and that at the time such act or thing was done, it was done with the authorization and/or ratification of Defendants and/or was done in the normal and routine course and scope of Defendants' officers, agents, partners, servants, principals, vice principals, borrowed servants, employees and/or representatives duty and/or capacity. Defendants CHH and/or CESWI is/are vicariously liable for the acts of their officers, agents, partners, servants, principals, vice principals, borrowed servants, employees or representatives, including but not limited to CHH's and/or CESWI's driver because of an employer-employee and/or principal/vice principal relationship, ostensible agency and/or agency by estoppel, and/or the borrowed servant doctrine.

17. Wrongful Death and Survival. Melba Castro and Jaelyn Castro, Decedents, sustained personal injuries and damages proximately caused by the negligence of the Defendants, including but not limited to, past medical expenses, past physical pain and suffering and mental anguish, and past physical impairment. Further, the negligence of the Defendants proximately caused the death of Decedents in that the stress of the injuries resulting from the incident in question, when superimposed upon their existing physical and mental condition, was a producing cause of their death. Plaintiffs, as wrongful death beneficiaries and as heirs of the Estate of Decedents, bring this wrongful death and survival action and are entitled to recover

against Defendants, jointly and severally, for all damages under Texas law. With respect to damages to the Estate of Decedents, Plaintiffs seek to recover for the physical pain and suffering and mental anguish sustained by Decedents prior to their death, their loss of enjoyment of life, as well as for all other damages which they could have recovered as Plaintiffs had they survived. In addition, this suit is brought to recover the reasonable and necessary hospital, medical and funeral expenses incurred for the treatment, care and untimely burial of Decedents. Plaintiffs seek to recover for each of their own loss of love, affection, emotional support, companionship, care, maintenance, support, and counsel they, respectively, would have received from Decedents had they lived, their loss of companionship and society that they would have received from them had they lived, and for their own mental anguish resulting from the untimely death of Melba and Jaelyn.

18. Exemplary Damages. Defendants' gross negligence, acts or omissions described above, when viewed from the standpoint of Defendants at the time of the act or omission, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Plaintiffs and others. Defendants had actual, subjective awareness of the risk involved in the above described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiffs and others.

19. Based on the facts stated herein, Plaintiffs request exemplary damages be awarded to Plaintiffs from Defendants.

20. The Plaintiffs did not cause or contribute to the collision in question, but rather the negligence and/or negligence per se, if applicable, of the Defendants proximately caused the occurrence in question.

21. By reason of the above and foregoing, the Plaintiffs have been damaged in a sum within the jurisdictional limits of this Court. The Plaintiffs also pray for their costs of Court and pre and post judgment interest as allowed by law.

## **VII.** **DAMAGES**

22. As a result of the occurrence in question, Plaintiffs sustained physical damages including but not limited to serious personal injuries, mental anguish, physical pain and suffering, impairment, disability in the past, loss of enjoyment of life and capacity to enjoy life and necessary and reasonable medical expenses. It is believed that the Plaintiffs will also suffer legally recoverable damages in the future. The Plaintiffs will respectfully request the Court and Jury to determine the amount of loss the Plaintiffs have incurred and will incur in the future not only from a financial standpoint but also in terms of good health and freedom from pain and worry. There are certain elements of damages provided by law that the Plaintiffs are entitled to have the Jury in this case consider separately to determine the sum of money for each element that will fairly and reasonably compensate the Plaintiffs for the injuries, damages and losses incurred from the date of the crash in question until the time of trial of this case, those elements of damages are as follows:

- A. The physical pain that the Plaintiffs have suffered from the date of the occurrence in question up to the time of trial and in the future;
- B. The mental anguish that the Plaintiffs have suffered from the date of the occurrence in question up to the time of trial and in the future;
- C. The amount of reasonable medical expenses necessarily incurred in the treatment of the Plaintiffs' injuries from the date of the crash in question up to the time of trial and in the future;
- D. The loss and/or reduction of earnings and/or earning capacity sustained by the Plaintiffs from the date of the occurrence in question up to the time of trial and in the future;



- E. The physical impairment which the Plaintiffs have suffered from the date of the occurrence in question up to the time of trial and in the future; and
- F. Exemplary damages.

23. The Plaintiffs have sustained various elements of damage, including those specified above, but not limited to those specified above, and the Plaintiffs herein reserve the right to plead more specifically and to show more specifically at trial all of those elements of damage.

**VIII.  
NOTICE THAT DOCUMENTS WILL BE USED**

24. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, the Plaintiffs hereby give notice that all documents produced by the Defendants will be used at any pretrial proceeding or at the trial of this case.

**IX.  
PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants be duly cited to appear and answer herein; and that upon a final trial of this cause, Plaintiffs recover jointly and severally:

- a. Judgment against Defendants (Jointly and Severally) for Plaintiffs' damages as set forth above, in an amount within the jurisdictional limits of this Court but not more than \$50,000,000.00;
- b. Interest on the judgment at the legal rate from the date of judgment;
- c. Prejudgment interest on Plaintiffs' damages as allowed by law;
- d. Costs of court; and
- e. Such other and further relief to which Plaintiffs may be entitled.

Respectfully submitted,

**THE FRANK DANIEL LAW FIRM, P.L.L.C.**

*/s/ Frank B. Daniel*

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