

CAUSE NO. 2024-03312

FLORIDA CASTILLO, INDIVIDUALLY §
AND AS REPRESENTATIVE OF THE §
ESTATE OF YULIANA CASTILLO, §
JONATHAN CASTILLO, and OSWALDO §
CASTILLO, §

Plaintiffs,

v.

PINNACLE PROPANE, LLC and §
DANIEL DUNBAR, §

Defendants.

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

61ST JUDICIAL DISTRICT

PLAINTIFFS' FIRST AMENDED PETITION

COME NOW Plaintiffs Florida Castillo, Individually and as Representative of the Estate of Yuliana Castillo, Deceased, Jonathan Castillo, and Oswaldo Castillo (“**Plaintiffs**”), and file this First Amended Petition complaining of Defendants Pinnacle Propane, LLC (“**Pinnacle**”), R. Kirk Enterprises, LLC d/b/a R&R Fleet Services, LLC (“**R&R**”), and Daniel Dunbar (collectively, “**Defendants**”) and for cause of action would respectfully show this Honorable Court the following:

I. FACTUAL BACKGROUND

On January 8, 2024, at 1:15 p.m., Plaintiffs (and siblings) Yuliana Castillo and Jonathan Castillo were driving near the 3050 block of FM 2920 in Spring, Harris County, Texas. Yuliana was driving, and Jonathan rode in the front passenger seat. The two were in a small passenger vehicle—a Toyota Corolla. On the other side of FM 2920 was Defendant Daniel Dunbar, who was driving a Pinnacle Propane Ford F550 company truck, which had been left with Mr. Dunbar’s employer, R&R, for maintenance. According to publicly available information, R&R’s core business is “to provide trustworthy, responsive ASE Certified professionals to meet the needs and

demands of the commercial (medium to heavy duty) truck repair industry.”¹ Under information and belief, Mr. Dunbar was acting in the furtherance and direction of R&R at all times relevant herein.

As the two vehicles drew closer to each other in the vicinity, traveling opposite ways, traffic began to slow on Mr. Dunbar’s side of the road. Importantly, though traffic was slowing, other cars in Mr. Dunbar’s lane and direction of travel were able to adjust for the change in speed and slow down without causing a collision.

However, Mr. Dunbar failed to notice. Worse, Mr. Dunbar was recklessly driving at an excessive speed under the circumstances, so when he eventually attempted to stop, his truck began to skid. Mr. Dunbar could not stop and slammed into the car in front of him in the line of traffic, but the F550 Pinnacle Propane truck was moving at such a speed that the first collision did not halt the truck’s momentum. Instead, the truck carried its momentum over the median after Mr. Dunbar elected to steer to the left and onto the Plaintiffs’ side of the road, where it slammed into Plaintiffs, who had no warning before impact. The impact was so severe that Plaintiffs’ car spun counterclockwise off of the road and into an adjacent ditch. This still did not stop the Pinnacle Truck, which finally came to rest after striking a parked commercial truck and trailer on the Plaintiffs’ relative side of the road.

All Daniel Dunbar needed to do was pay attention to the traffic in front of him and adjust his speed accordingly. This is a simple maneuver for any reasonable, prudent driver, especially a professional, commercial truck licensed to transport hazardous materials like propane. Other cars on the road in front of Mr. Dunbar that day on FM 2920 were able to stop without incident. But not Mr. Dunbar—his failure to be attentive and his failure to control his speed under the

¹ <https://rrfleet.com/company.html>

circumstances was reckless, extremely dangerous given the number the cars on the busy road, which caused several collisions, including his collision with Plaintiffs.

As a result of the crash, Jonathan Castillo was severely injured, and was rushed to the hospital by ambulance when emergency services arrived on the scene. Jonathan was whipped about the cabin of his vehicle, sustaining whiplash injuries and a complete fracture of his humerus, among other injuries, for which he continues to receive treatment. However, these unfolding physical injuries pale in comparison to Jonathan's mental injuries, which are far more severe. In the midst of the crash, Yuliana sustained fatal injuries. Jonathan will have to suffer and endure the rest of his life with the memory of watching his sister die—a memory that will be inscribed upon his soul, for which one can only imagine the level of pain and despair.

Yuliana was a second-year college student at Texas A&M Kingsville, with her entire life before her, snuffed out as a result of Defendants' reckless actions. Plaintiffs' lives have been unalterably changed, and the full extent of their injuries is unknown. Plaintiffs face a long road to recovery and healing.

For these facts, Plaintiffs bring this lawsuit against Defendants according to the causes of action set forth herein.

II. DISCOVERY PLAN

Plaintiffs intend to conduct discovery under Level 2 of the Texas Rules of Civil Procedure.

III. PARTIES

Plaintiff Jonathan Castillo is an individual who resides in Texas. Jonathan Castillo was severely injured in the subject crash and witnessed his sister, Yuliana Castillo, sustain fatal injuries in the crash that ultimately killed her.

Plaintiff Yuliana Castillo is deceased, killed in the subject crash.

Plaintiff Florida Castillo is an individual who resides in Texas. Florida Castillo is the natural mother of Jonathan and Yuliana Castillo.

Plaintiff Oswaldo Castillo is an individual who resides in Texas. Oswaldo Castillo is the natural father of Jonathan and Yuliana Castillo.

Defendant Pinnacle Propane, LLC is a domestic limited liability company headquartered in Irving, Texas. Pinnacle may be served by and through its registered agent, Corporation Service Company d/b/a CSC – Lawyers Inc., 211 E. 7th Street, Suite 620, Austin, Texas 78701.

Defendant R. Kirk Enterprises, LLC d/b/a R&R Fleet Services, LLC is a domestic limited liability company headquartered in Tomball, Texas. R&R may be served at its company headquarters at 9421 FM 2920 Road, Tomball, Texas 77375.

Defendant Daniel Dunbar is an individual who resides in Texas. Daniel Dunbar may be served at his home address at 12007 Belle Court, Pinchurst, Texas 77362, or wherever he may be found.

Plaintiffs expressly invoke their rights under Rule 28 to have the true name of any party properly joined to this lawsuit substituted at a later time upon the motion of any party or of the Court. TEX. R. CIV. P. 28.

IV. VENUE AND JURISDICTION

Venue and jurisdiction are proper. Harris County is the county in which all or a substantial part of the events giving rise to this lawsuit occurred. TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1). The relief requested herein is within the jurisdictional limits of this Court. The crash occurred in Harris County limits and therefore may be brought in Harris County. *Id.* Furthermore, this case does not involve or implicate any federal question, nor is there complete diversity of the Parties. Accordingly, removal of this matter would be improper.

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V. CAUSES OF ACTION

A. NEGLIGENCE – DANIEL DUNBAR

Plaintiffs incorporate all preceding paragraphs as if set forth fully herein. At the time of the accident, Defendant R&R's employee Daniel Dunbar was operating the Pinnacle Propane Ford F550 negligently. Daniel Dunbar had a duty to exercise ordinary care and operate the vehicle in a reasonable and prudent manner. That duty was breached, and such negligence was a proximate cause of Plaintiffs' injuries.

Defendant breached its duty of reasonable care in one or more of the following ways, among others:

1. Failing to observe and follow traffic laws;
2. Failing to maintain a proper lookout
3. Failing to safely yield and adjust to forward traffic;
4. Failing to keep the vehicle under proper control;
5. Failing to properly inspect and maintain the vehicle;
6. Failing to maintain a safe speed given the road conditions;
7. Failing to operate its vehicle reasonably and prudently;
8. Failing to conform to various statutes and regulations, including the Texas Transportation Code; and
9. All other such conduct that the law deems negligent.

Each of these acts and omissions, singularly or in combination with others, constitute negligence, which was the proximate cause of this incident and the injuries sustained by Plaintiffs.

B. NEGLIGENCE PER SE – DANIEL DUNBAR

Plaintiffs incorporate all preceding paragraphs as if set forth fully herein. Daniel Dunbar's driving on the day of the incident was negligent per se because of a breach of duty imposed by the

Texas Transportation Code, which applies to all drivers utilizing Texas public roadways and especially commercial truck drivers such as Defendant. This breach of the statutory provisions below was the proximate cause of Plaintiffs' injuries.

Specifically, there was a breach of duties imposed by statutes and state law, including, but not limited to, the following:

1. **TEX. TRANS. CODE ANN. § 545.401:** Sets forth a duty not to drive a vehicle in a willful or wanton disregard for the safety of persons and property; and
2. **TEX. TRANS. CODE ANN. § 545.063:** Sets forth a duty not to drive across the dividing section or space of a highway.

Plaintiffs are within the class of individuals intended to be protected by these statutes. The statutes are ones for which tort liability may be imposed.

C. GROSS NEGLIGENCE – DANIEL DUNBAR

Plaintiffs incorporate all preceding paragraphs as if set forth fully herein. Plaintiffs will further show that the acts and/or omissions of Defendant Daniel Dunbar, as described above, when viewed objectively from Mr. Dunbar's standpoint, involve an extreme degree of risk considering the probability and magnitude of the potential harm to others. Additionally, upon information and belief, Mr. Dunbar had actual subjective awareness of the risk involved, but nevertheless proceeded in conscious indifference to the rights, safety, and/or welfare of the others, including Plaintiffs.

Defendant's actions on the day of the incident were beyond reckless and caused a catastrophic crash, which severely injured Jonathan Castillo and claimed Yuliana Castillo's young life.

As such, Plaintiffs allege that Defendant's actions and omissions constitute gross negligence as it is understood by law.

D. NEGLIGENT ENTRUSTMENT – PINNACLE PROPANE

Plaintiffs incorporate all preceding paragraphs as if set for fully herein. Defendant Pinnacle Propane owned the subject Ford F550 involved in the underlying incident. Pinnacle entrusted their truck to R&R and its employees, including Mr. Dunbar, to drive the vehicle as necessary to make repairs and maintenance on Pinnacle's F550. However, Mr. Dunbar was a reckless and/or incompetent driver, and Defendant Pinnacle knew or should have known this prior to entrusting its truck to R&R for use in the process of its maintenance and repair. Pinnacle, by entrusting its truck to a reckless and/or incompetent driver like Daniel Dunbar, Defendant was negligent. Such negligence was a substantial factor in the produce and/or proximate cause of the incident and Plaintiffs' injuries.

E. RESPONDEAT SUPERIOR, AGENCY – R&R FLEET SERVICES

Plaintiffs incorporate all preceding paragraphs as if set for fully herein. Daniel Dunbar was operating a propane truck owned by Defendant Pinnacle Propane, LLC at the time of the incident, which was entrusted to his employer, R&R, for repair and maintenance. At all times relevant herein, Mr. Dunbar, was an employee, agent and/or servant of Defendant R&R. Further, under information and belief, Mr. Dunbar was conducting work for R&R at the time of the incident. R&R was responsible for screening, hiring and scheduling Mr. Dunbar's services, which he was furthering at the time of the incident. As such, Defendant R&R is responsible for the conduct of Mr. Dunbar because of this relationship, among other acts and omissions of negligence which may be shown during the trial of this cause.

VI. WRONGFUL DEATH ACT

This cause of action is brought pursuant to Texas Civil Practice and Remedies Code § 77.001, *et. seq.* (“**The Wrongful Death Act**”). TEX. CIV. PRAC. & REM. CODE § 77.001. Plaintiffs

Florida Castillo and Oswaldo Castillo are the natural parents of Yuliana Castillo. As such, Plaintiffs Florida Castillo and Oswaldo Castillo are proper parties to bring this action, and bring suit for all allowable damages under the Wrongful Death Act.

VII. SURVIVAL ACTION – YULIANA CASTILLO

Plaintiff, Florida Castillo, as the Administratrix of the Estate of Yuliana Castillo, is the proper party to represent Yuliana Castillo in her claim for funeral expenses and for the physical pain and mental anguish she suffered prior to her death. As such, Plaintiff Florida Castillo brings suit on Yuliana Castillo’s behalf for all allowable damages under the Survival Statute.

VIII. BYSTANDER CLAIM – JONATHAN CASTILLO

Plaintiffs incorporate all preceding paragraphs as if set forth fully herein. Plaintiff Jonathan Castillo separately asserts a bystander claim against Defendants. Yuliana Castillo and Jonathan Castillo were sister and brother. Jonathan was in the passenger seat next to his sister at the time of the impact when she sustained fatal injuries. Accordingly, Jonathan Castillo is a proper party to assert a bystander claim under Texas law and is therefore entitled to recover for damages arising therefrom.

IX. DAMAGES

As a result of Defendants’ negligence and gross negligence, an innocent family has been ripped apart. As such, Plaintiffs seek the following damages as the result of the catastrophic crash:

1. Pre-death conscious physical pain and suffering;
2. Funeral and burial costs;
3. Medical expenses paid or incurred, past and future;
4. Jonathan Castillo’s disfigurement;
5. Jonathan Castillo’s physical pain and suffering, past and future;

6. Mental anguish, past and future;
7. Lost wages, past and future;
8. Loss of earning capacity in the future;
9. Loss of companionship and society; and
10. All other damages authorized by Texas law.

As set forth herein, because of the egregious nature of Defendants' actions, Plaintiffs seek punitive damages.

X. PRAYER

By reason of all the above and forgoing, and on account of the injuries suffered by Plaintiffs as a result of this incident, Plaintiffs are entitled to recover from Defendants damages, both general and special, set forth in this petition, within the jurisdictional limits of this Court. Plaintiffs seek damages in excess of **\$150,000,000**. Plaintiffs also seek pre- and post-judgment interest and any other relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

**ABRAHAM, WATKINS, NICHOLS,
AGOSTO, AZIZ & STOGNER**

/s/ Benny Agosto Jr. _____

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