

**UNITED STATES BANKRUPTCY COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	BANKRUPTCY CASE NO.
	§	
COUNTRY FRESH HOLDING COMPANY, INC.	§	
	§	21-30574-H1-7
	§	
Debtor	§	

AMENDED MOTION TO LIFT STAY AS TO INSURANCE ONLY

THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF YOU OBJECT TO THE GRANTING OF RELIEF FROM THE AUTOMATIC STAY, YOU SHOULD CONTACT THE MOVANT IMMEDIATELY TO TRY TO REACH AN AGREEMENT. IF YOU CANNOT REACH AN AGREEMENT, YOU MUST FILE A WRITTEN RESPONSE AND SEND A COPY TO MOVANT NOT LATER THAN OCTOBER 22, 2021 AND YOU MUST ATTEND THE HEARING.

THE COPY SENT TO THE MOVANT MUST BE DELIVERED BY HAND OR ELECTRONIC DELIVERY IF IT IS SENT LESS THAN 7 DAYS PRIOR TO THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE HEARING MAY BE AN EVIDENTIARY HEARING AND THE COURT MAY GRANT OR DENY RELIEF FROM THE STAY BASED ON THE EVIDENCE PRESENTED AT THIS HEARING.

IF A TIMELY OBJECTION IS FILED, THE COURT WILL CONDUCT A HEARING ON THIS MOTION ON OCTOBER 29, 2021, AT 10:00 A.M. BY TELEPHONE AND VIDEO CONFERENCE. CALL IN TO 832-917-1510 CONFERENCE CODE 954554, AND CONNECT TO VIDEO THROUGH GOTOMEETING.COM/JUDGEISGUR.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

The movants are **MALENE LOUIS, SAUVEUR LOUIS, SAINFOROSE BERNIER, JEANITA SOUFFRANT, LOUISE MARIE BEAUCEJOUR, BERNARD PRESUME, JUDE DOMINIQUE, and MARIE DORVILIER** and they seek to lift the automatic stay to proceed with litigation against **COUNTRY FRESH OF PENNSYLVANIA, LLC (Case No. 21-30588)**, which is pending in Philadelphia, Pennsylvania in the Philadelphia County Court of Common Pleas, under Consolidated Case No. 200600487, and in the Philadelphia County Court of Common Pleas Case No. 21020081, with Marie Dorvilier as the plaintiff, which case has not been consolidated with the other cases prior to the bankruptcy). The litigation was filed as a personal injury cases. The Debtor has insurance, which the Movants believe is with Everest National Primary and Markel American Insurance. The Movants seek the lifting of the stay to only proceed against insurance. The complaints are attached hereto as Exhibit "A," "B," "C"

and “D” and the cases are ready for trial. On information and belief, the Movants will not receive any relief from the Debtor.

WHEREFORE, premises considered, **MALENE LOUIS, SAUVEUR LOUIS, SAINFOROSE BERNIER, JEANITA SOUFFRANT, LOUISE MARIE BEAUCEJOUR, BERNARD PRESUME, JUDE DOMINIQUE and MARIE DORVILIER** pray that this motion is granted.

Respectfully submitted,

/s/ Margaret M. McClure

State Bar No. 00787997
25420 Kuykendahl, Suite B300-1043
The Woodlands, Texas 77375
(713) 659-1333
(713) 658-0334 (facsimile)
margaret@mmmccclurelaw.com

**ATTORNEY FOR MALENE LOUIS,
SAUVEUR LOUIS, SAINFOROSE
BERNIER, JEANITA SOUFFRANT,
LOUISE MARIE BEAUCEJOUR,
BERNARD PRESUME, JUDE
DOMINIQUE and MARIE DORVILIER**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed electronically to all parties in interest, on this the 1st day of October 2021.

/s/ Margaret M. McClure

MARGARET M. MCCLURE

EXHIBIT A

LAWRENCE L. RUBIN, ESQUIRE
 ATTORNEY I.D. NO.: 27135
 2033 WALNUT STREET
 PHILADELPHIA, PA 19103
 (215) 567-2300
 (215) 567-1004 (F)
 larrub@aol.com

ATTORNEY FOR PLAINTIFF

MALENE LOUIS	:	COURT OF COMMON PLEAS
221 Higbee Street	:	PHILADELPHIA COUNTY, PA
Philadelphia, PA 19120	:	
	:	
VS.	:	TERM, 2020,
	:	
	:	
FEDEX GROUND PACKAGE	:	NO.
SYSTEM, INC.	:	
1500 Market Street, Suite 41	:	
Philadelphia, PA 19102	:	
	:	
And	:	
	:	
RUBIN JOSEPH	:	
1119 Roselyn Street	:	
Philadelphia, PA 19149	:	
	:	
And	:	
	:	
COUNTRY FRESH PENNSYLVANIA, :	:	
LLC	:	
c/o CT Corporation System Philadelphia	:	
1515 Market Street, Ste. 1210	:	
Philadelphia, PA 19102	:	

CIVIL ACTION COMPLAINT
2 V NEGLIGENCE MOTOR VEHICLE ACCIDENT

Plaintiff, Malene Louis, by and through her attorney, Lawrence L. Rubin, Esquire, hereby files her Civil Action Complaint and demands damages of the Defendants, FedEx Ground Package System, Inc, Rubin Joseph and Country Fresh Pennsylvania, LLC, individually in a sum

in excess of Fifty Thousand (\$50,000.00) Dollars, plus interest, costs and delay damages upon causes of action whereof the following is a statement:

1. Plaintiffs, Malene Louis, is an adult individual currently residing at the above-captioned address.
2. Defendant, FEDEX GROUND PACKAGE SYSTEM, INC., (hereinafter “FedEx”) is, on information and belief, believed to be an entity engaged in ground delivery and lawfully doing business in the Commonwealth of Pennsylvania, County of Philadelphia, with an office for that purpose at the above-captioned address.
3. On information and belief, FedEx is believed to regularly conduct business in Philadelphia County for purposes of venue under PA RCP 1006 and PA RCP 2179.
4. At all relevant times, Defendant FedEx acted by and through its employee, servant workman and/or joint venture, Maximo Vargas, who at all times relevant hereto was acting within the course and scope of his employment and/or venture to further the business objectives of Defendant FedEx.
5. At all relevant times, Maximo Vargas was operating a 2015 Freightliner, tractor, VIN 3AKJGEDV0FSG39352, attached to which were 2 trailers, a 2013 Great Dane and 2010 Hyundai with VIN 3H3V281C2AT303277 and VIN IGRAA5610DB705637.
6. Defendant, Rubin Joseph, is an adult individual currently residing at the address captioned-above.
7. At all relevant times, Defendant, Rubin Joseph, was the owner and operator of a 2008 Ford Econoline Van, registration PA KWL 7680.
8. Defendant, Country Fresh Pennsylvania, LLC (hereinafter “Country Fresh”), is on information belief an active, for profit, Pennsylvania limited liability company, that

on information and belief regularly conducts business in Philadelphia County, PA with a business location at 2600 Richmond Rd, Hatfield, PA 19440 and a registered office for service of process at CT Corporation System Philadelphia, PA 1515 Market Street, Ste. 120, Philadelphia, PA 19102.

9. On information and belief, at all relevant times, Defendant, Rubin Joseph was the agent and/or apparent agent of Defendant Country Fresh Pennsylvania, LLC.
10. At all relevant times, the actions and/or words of Defendant, Country Fresh, created the appearance that Defendant, Rubin Joseph, was its agent, and Defendant, Country Fresh, knew or should have known that someone, including Plaintiff herein, would reasonably believe that Defendant, Rubin Joseph, was Defendant, Country Fresh's agent; and Plaintiff reasonably relied upon Defendant, Rubin Joseph's care and/or skill based on Defendant, Country Fresh's actions or words.
11. On February 9, 2019, at approximately 6:10 a.m., Plaintiff, Malane Louis was a passenger in Defendant, Rubin Joseph's Ford Econoline that he was operating and traveling on Welsh Road at the intersection of Rt. 309, Horsham Township, Montgomery County, PA to Defendant, Country Fresh Pennsylvania LLC's business premises at 2600 Richmond Rd, Hatfield, PA 19440.
12. On the same date and time as above averred and within the same intersection, the FedEx tractor trailer operated by Maximo Vargas on behalf of FedEx was standing at a dead stop, disabled, on Rt. 309 in the middle of the intersection with Welsh Road, Horsham Township, Montgomery County, PA.
13. At the aforesaid time and place, and as a result of the joint and/or several negligence of all Defendants, the Ford Econoline van owned and operated by Defendant, Rubin

Joseph, as the agent and/or apparent agent of Defendant, Country Fresh, en route to its business premises with Plaintiff Malene Louis aboard, entered into the aforesaid intersection of Welsh Road and Rt. 309, without slowing or stopping, and forcibly collided with the stationery, disabled tractor trailer, by then abandoned by Maximo Vargas, that he had been operating for the benefit of Defendant FedEx, in the middle of the intersection with Welsh Road, Horsham Township, Montgomery County, PA, resulting in serious and permanent injuries, disfigurement, aggravation of pre-existing conditions and/or serious impairment of bodily function, and other damages and losses to Plaintiff, a claim for all of which is herein made.

14. This accident resulted solely from the carelessness and/or negligence of the Defendants, jointly and/or severally, and was due in no manner whatsoever to any act or omission of the Plaintiff-passenger.

COUNT ONE – NEGLIGENCE
PLAINTIFF, MALENE LOUIS vs. DEFENDANT, FedEx

15. Plaintiff incorporates herein by reference the averments set forth in paragraphs 1 through 14, inclusive, as though the same were set forth herein at length.
16. The negligence and carelessness of Defendant, FedEx, vicariously under the doctrine of *Respondeat Superior* based upon the negligent operation of a motor-vehicle by its agent, servant workman, employee and/or joint venture, Maximo Vargas, consisted of the following:
- a. Failing to safely operate the FedEx tractor-trailer in regard to traffic on a public street, road or highway;
 - b. Failing to properly take into consideration the safety of approaching motor-vehicles;

- c. Failing to operate a tractor-trailer motor-vehicle in accordance with existing traffic conditions and traffic controls;
- d. Failing to operate a motor-vehicle under proper and adequate control;
- e. Failing to adequately warn approaching vehicles on Welsh Road of the disabled status of the tractor-trailer so that they could avoid a collision;
- f. Failing to keep a proper lookout for other, lawfully approaching motor-vehicles on the roadway;
- g. Failing to exercise due care in pre-trip inspection of the tractor-trailer to ensure that it was fit for operation on a public roadway and/or discover its defective condition that rendered it unfit for safe operation upon a public roadway;
- h. Abandoning a disabled tractor-trailer in the middle of an intersection, Welsh Road and Rt. 309, without due regard for the safety of oncoming motorists on Welsh Road;
- i. Failing to place reflectors and/or flares or warnings on Welsh Road after becoming disabled on the public roadway at the intersection of Welsh Road and Rt. 309, and/or failing to place said warnings and/or alerts on the roadway on Welsh Road sufficiently distant from the location of the disabled FedEx tractor trailer so that approaching motorists on Welsh Road had a reasonable opportunity to observe, react and take appropriate evasive measures to avoid a collision;

- j. Failing to exit from the public roadway pre accident, despite notice that the tractor-trailer had become unfit for continued safe operation upon the roadway and opportunity to do so;
- k. Failing to ensure that the exterior lighting system on the FedEx tractor and all attached trailers, including all required lights and/or lighting was mounted and/or affixed, operational and/or activated, both pre-trip and again after the said tractor-trailer became disabled within the intersection of Welsh Road and Rt. 309;
- l. Violating federal, state, industry, and/or local laws, rules, regulations, and/or standards for the safe operation of tractor-trailers on public roadways, and for applicable safety protocols to be followed when a tractor-trailer becomes disabled on a public roadway;

COUNT TWO – INDEPENDENT NEGLIGENCE
PLAINTIFF, MALENE LOUIS vs. DEFENDANT, FedEx

17. Plaintiff incorporates by reference hereto the averments in paragraphs 1 through 16, inclusive, as though the same were set forth herein at length.
18. The independent negligence of Defendant, FedEx, consisted of the following:
- a. Negligently entrusting a tractor-trailer to an otherwise fit motorist, Maximo Vargas, that was unfit for safe operation upon a public roadway;
 - b. Negligently entrusting a tractor-trailer that was fit for safe operation upon a public roadway to an unfit motorist, Maximo Vargas.

COUNT THREE – NEGLIGENCE
PLAINTIFF, MALENE LOUIS vs. DEFENDANTS, RUBIN JOSEPH AND
COUNTRY FRESH

19. Plaintiff incorporates the averments in paragraphs 1 through 18 as if fully set forth herein.

20. The negligence of Defendant, Rubin Joseph, individually and/or as the agent or apparent agent of Defendant, Country Fresh and/or vicariously, of Defendant Country Fresh, consisted of:

- a. Failing to safely operate his vehicle in regard to traffic on a public street, road or highway;
- b. Failing to properly take into consideration the safety of disabled motor-vehicles ahead;
- c. Failing to operate a motor-vehicle in accordance with prevailing traffic conditions and traffic controls;
- d. Failing to operate a motor-vehicle under proper and adequate control;
- e. Failing to keep a proper lookout for the presence and conditions of motor-vehicles on the roadway ahead;
- f. Distracted driving;
- g. Inattentive driving;
- h. Careless driving;
- i. Violation of the assured clear distance rule under 75 Pa.C.S. 3361;
- j. Failing to make timely application of the brakes;
- k. Failing to bring his motor-vehicle to a complete stop within the assured clear distance ahead;

- l. Failure to obey posted traffic signals, including without limitation warnings, alerts, flares, reflectors, law enforcements signals and/or the signals of law enforcement officers on the roadway ahead;
- m. Traveling at a speed too fast for prevailing conditions;
- n. Failing to timely observe, react and take evasive measures to avoid a vehicular collision with a disabled motorist ahead;
- o. Failure to inspect his vehicle pre-trip to ensure that it was fit for operation upon a public roadway;
- p. Violation of federal, state, local and/or industry laws, regulations, rules and/or ordinances and/or standards applicable to safe transportation of multiple passenger-workers for commercial purposes;

COUNT FOUR – INDEPENDENT NEGLIGENCE
PLAINTIFF, MALENE LOUIS vs. DEFENDANT, COUNTRY FRESH

21. Plaintiff incorporates by reference hereto the averments in paragraphs 1 through 20, inclusive, as though the same were set forth herein at length.

22. The independent negligence of Defendant, Country Fresh, consisted of the following:


- a. Negligently entrusting transportation services, for its benefit, of Plaintiff-worker, Malene Louis, to its business premises in furtherance of its business, to an agent and/or apparent agent, Defendant, Rubin Joseph, who was at all relevant times an unfit motorist; and/or
- b. Negligently entrusting transportation services, for its benefit, of Plaintiff-worker, Malene Louis, to its business premises for its benefit, to an agent and/or apparent agent, Defendant, Rubin Joseph, whose vehicle was permitted

to be utilized for the benefit of Defendant, Country Fresh, which was, at all relevant times, unfit for safe operation upon a public roadway;

23. As a result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff, Malene Louis, has or may have suffered injuries and/or aggravation of pre-existing conditions which are or may be serious and permanent, including, but not limited to, fractures of the cervical vertebra at levels T5, T6, T7 and T8, fracture of the humerus, fracture of the right arm, rib fractures, urologic dysfunction and urine retention, blurred vision, loss of consciousness, as well as other orthopedic, neurological, musculoskeletal, vascular, internal, neurocognitive, and traumatic brain injury, the full extent of which is not yet known, as well as other ills and injuries, a claim for all of which is herein made.
24. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff, Malene Louis, has been obligated to receive and undergo reasonable and necessary medical treatment, surgeries, and rehabilitative services for the injuries suffered and to incur various expenses for said treatment and services which are or may be in excess of the applicable medical policy limits.
25. As a further result of the joint and/or several negligence of the Defendants as above named in Counts I-IV, Plaintiff, Malene Louis, has been obligated to receive and undergo reasonable and necessary medical treatments, surgeries and rehabilitative services for the injuries he suffered, and to incur various expenses for said treatment and services, and he may incur various reasonable and necessary future medical expenses from the injuries sustained, and Defendants are liable for all the same.

26. As a further result of the joint and/or several negligence of the Defendants, as above averred in Counts I-IV, Plaintiff, Malene Louis, has or may suffer severe actual loss of her gross income.
27. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff, Malene Louis, has or may suffer impairment of her earning capacity and power.
28. As a further result of the joint and/or several negligence of the Defendants, as above averred in Counts I-IV, Plaintiff, Malene Louis, may hereinafter incur other financial expenses and losses which have or may exceed amounts which she may otherwise be entitled to recover.
29. As a further result of the joint and/or several negligence of the Defendants, as above averred in Counts I-IV, Plaintiff, Malene Louis, has or may have suffered physical pain, aches, mental anguish, humiliation, inconveniences and loss of enjoyment of life, scars, and/or disfigurement and she may continue to suffer same for an indefinite time in the future.
30. As a further result of the joint and/or several negligence of the Defendants, as above averred in Counts I-IV, Plaintiff, Malene Louis, has been unable to attend to her daily chores, duties and occupations and may be unable to do so for an indefinite period of time in the future.

WHEREFORE, Plaintiff, Malene Louis demands judgment, individually, jointly and/or severally against the Defendants, FedEx Ground Package System, Inc., Rubin Joseph and/or Country Fresh Pennsylvania, LLC, each in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus interest, costs and delay damages.

BY: 

Lawrence L. Rubin, Esquire
Attorney for Plaintiff

VERIFICATION

Malene Louis says that she is the Plaintiff and verifies that the facts set forth in the foregoing Complaint are true and correct to the best of her knowledge, information and belief, that this statement is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

X Malene Louis

Date: 6/3/2020

EXHIBIT B

BENN LAW, LLC
 BY: ANDREW R. BENN, ESQUIRE
 ATTORNEY I.D. NO.: 306640
 1617 JFK BLVD, SUITE 1240
 PHILADELPHIA, PA 19103
 (215) 354-6356
 (866) 941-6917 (F)
abenn@bennlegal.com

ATTORNEY FOR PLAINTIFF

Filed and Attested by the
 Clerk of Judicial Records
 28 MAY 2020 04:40 pm
 A. SILIGRINI



SAUVEUR LOUIS, and	:	COURT OF COMMON PLEAS
SAINFOROSE BERNIER h/w	:	PHILADELPHIA COUNTY, PA
494 E. Sanger Street	:	
Philadelphia, PA 19120	:	
	:	
VS.	:	MAY TERM, 2020, NO.:
	:	
	:	
FEDEX GROUND PACKAGE	:	
SYSTEM, INC.	:	
1500 Market Street, Suite 41	:	
Philadelphia, PA 19102	:	
	:	
And	:	
	:	
RUBIN JOSEPH	:	
1119 Roselyn Street	:	
Philadelphia, PA 19149	:	
	:	
And	:	
	:	
COUNTRY FRESH PENNSYLVANIA,	:	
LLC	:	
c/o CT Corporation System Philadelphia	:	
1515 Market Street, Ste. 1210	:	
Philadelphia, PA 19102	:	

CIVIL ACTION COMPLAINT
2 V NEGLIGENCE MOTOR VEHICLE ACCIDENT

Plaintiffs, Sauveur Louis and Sainforose Bernier, h/w, by and through their attorney,
 Andrew R. Benn, Esquire, hereby files their Civil Action Complaint and demands damages of

the Defendants, FedEx Ground Package System, Inc, Rubin Joseph and Country Fresh Pennsylvania, LLC, individually, jointly and severally in sums in excess of Fifty Thousand (\$50,000.00) Dollars, plus interest, costs and delay damages upon causes of action whereof the following is a statement:

1. Plaintiffs, Sauveur Louis and Sainforose Bernier, husband and wife, are adult individuals currently residing at the above-captioned address.
2. Defendant, FEDEX GROUND PACKAGE SYSTEM, INC., (hereinafter “FedEx”) is, on information and belief, believed to be an entity engaged in ground delivery and lawfully doing business in the Commonwealth of Pennsylvania, County of Philadelphia, with an office for that purpose at the above-captioned address.
3. On information and belief, FedEx is believed to regularly conduct business in Philadelphia County for purposes of venue under PA RCP 1006 and PA RCP 2179.
4. At all relevant times, Defendant FedEx acted by and through its employee, servant workman and/or joint venture, Maximo Vargas, who at all times relevant hereto was acting within the course and scope of his employment and/or venture to further the business objectives of Defendant FedEx.
5. At all relevant times, Maximo Vargas was operating a 2015 Freightliner, tractor, VIN 3AKJGEDV0FSG39352, attached to which were 2 trailers, a 2013 Great Dane and 2010 Hyundai with VIN 3H3V281C2AT303277 and VIN IGRAA5610DB705637.
6. Defendant, Rubin Joseph, is an adult individual currently residing at the address captioned-above.
7. At all relevant times, Defendant, Rubin Joseph, was the owner and operator of a certain 2008 Ford Econoline Van, registration PA KWL 7680.

8. Defendant, Country Fresh Pennsylvania, LLC (hereinafter “Country Fresh”), is on information belief an active, for profit, Pennsylvania limited liability company, that on information and belief regularly conducts business in Philadelphia County, PA with a business location at 2600 Richmond Rd, Hatfield, PA 19440 and a registered office for service of process at CT Corporation System Philadelphia, PA 1515 Market Street, Ste. 120, Philadelphia, PA 19102.
9. On information and belief, at all relevant times, Defendant, Rubin Joseph was the agent and/or apparent agent of Defendant Country Fresh Pennsylvania, LLC.
10. At all relevant times, the actions and/or words of Defendant, Country Fresh, created the appearance that Defendant, Rubin Joseph, was its agent, and Defendant, Country Fresh, knew or should have known that someone, including Plaintiffs herein, would reasonably believe that Defendant, Rubin Joseph, was Defendant, Country Fresh’s agent; and Plaintiffs reasonably relied upon Defendant, Rubin Joseph’s care and/or skill based on Defendant, Country Fresh’s actions or words.
11. On February 9, 2019, at approximately 6:10 a.m., Plaintiff-husband, Sauveur Louis was a passenger in Defendant, Rubin Joseph’s Ford Econoline that he was operating and traveling on Welsh Road at the intersection of Rt. 309, Horsham Township, Montgomery County, PA to Defendant, Country Fresh Pennsylvania LLC’s business premises at 2600 Richmond Rd, Hatfield, PA 19440.
12. On the same date and time as above averred and within the same intersection, the FedEx tractor trailer operated by Maximo Vargas on behalf of FedEx was standing at a dead stop, disabled, on Rt. 309 in the middle of the intersection with Welsh Road, Horsham Township, Montgomery County, PA.

13. At the aforesaid time and place, and as a result of the joint and/or several negligence of all Defendants, the Ford Econoline van owned and operated by Defendant, Rubin Joseph, as the agent and/or apparent agent of Defendant, Country Fresh, en route to its business premises with Plaintiff Sauveur Louis aboard, entered into the aforesaid intersection of Welsh Road and Rt. 309, without slowing or stopping, and forcibly collided with the stationery, disabled tractor trailer, by then abandoned by Maximo Vargas, that he had been operating for the benefit of Defendant FedEx, in the middle of the intersection with Welsh Road, Horsham Township, Montgomery County, PA, resulting in serious and permanent injuries, disfigurement, aggravation of pre-existing conditions and/or serious impairment of bodily function, and other damages and losses to Plaintiffs, a claim for all of which is herein made.
14. This accident resulted solely from the carelessness and/or negligence of the Defendants, jointly and/or severally, and was due in no manner whatsoever to any act or omission of the Plaintiff-passenger.

COUNT ONE – NEGLIGENCE
PLAINTIFF, SAUVEUR LOUIS vs. DEFENDANT, FedEx

15. Plaintiffs incorporate herein by reference the averments set forth in paragraphs 1 through 14, inclusive, as though the same were set forth herein at length.
16. The negligence and carelessness of Defendant, FedEx, vicariously under the doctrine of *Respondeat Superior* based upon the negligent operation of a motor-vehicle by its agent, servant workman, employee and/or joint venture, Maximo Vargas, consisted of the following:
- a. Failing to safely operate the FedEx tractor-trailer in regard to traffic on a public street, road or highway;

- b. Failing to properly take into consideration the safety of approaching motor-vehicles;
- c. Failing to operate a tractor-trailer motor-vehicle in accordance with existing traffic conditions and traffic controls;
- d. Failing to operate a motor-vehicle under proper and adequate control;
- e. Failing to adequately warn approaching vehicles on Welsh Road of the disabled status of the tractor-trailer so that they could avoid a collision;
- f. Failing to keep a proper lookout for other, lawfully approaching motor-vehicles on the roadway;
- g. Failing to exercise due care in pre-trip inspection of the tractor-trailer to ensure that it was fit for operation on a public roadway and/or discover its defective condition that rendered it unfit for safe operation upon a public roadway;
- h. Abandoning a disabled tractor-trailer in the middle of an intersection, Welsh Road and Rt. 309, without due regard for the safety of oncoming motorists on Welsh Road;
- i. Failing to place reflectors and/or flares or warnings on Welsh Road after becoming disabled on the public roadway at the intersection of Welsh Road and Rt. 309, and/or failing to place said warnings and/or alerts on the roadway on Welsh Road sufficiently distant from the location of the disabled FedEx tractor trailer so that approaching motorists on Welsh Road had a reasonable opportunity to observe, react and take appropriate evasive measures to avoid a collision;

- j. Failing to exit from the public roadway pre accident, despite notice that the tractor-trailer had become unfit for continued safe operation upon the roadway and opportunity to do so;
- k. Failing to ensure that the exterior lighting system on the FedEx tractor and all attached trailers, including all required lights and/or lighting was mounted and/or affixed, operational and/or activated, both pre-trip and again after the said tractor-trailer became disabled within the intersection of Welsh Road and Rt. 309;
- l. Violating federal, state, industry, and/or local laws, rules, regulations, and/or standards for the safe operation of tractor-trailers on public roadways, and for applicable safety protocols to be followed when a tractor-trailer becomes disabled on a public roadway;

COUNT TWO – INDEPENDENT NEGLIGENCE
PLAINTIFF, SAUVEUR LOUIS vs. DEFENDANT, FedEx

- 17. Plaintiffs incorporate by reference hereto the averments in paragraphs 1 through 16, inclusive, as though the same were set forth herein at length.
- 18. The independent negligence of Defendant, FedEx, consisted of the following:
 - a. Negligently entrusting a tractor-trailer to an otherwise fit motorist, Maximo Vargas, that was unfit for safe operation upon a public roadway;
 - b. Negligently entrusting a tractor-trailer that was fit for safe operation upon a public roadway to an unfit motorist, Maximo Vargas.

COUNT THREE – NEGLIGENCE
PLAINTIFF, SAUVEUR LOUIS vs. DEFENDANTS, RUBIN JOSEPH AND
COUNTRY FRESH

19. Plaintiffs incorporate the averments in paragraphs 1 through 18 as if fully set forth herein.
20. The negligence of Defendant, Rubin Joseph, individually and/or as the agent or apparent agent of Defendant, Country Fresh and/or vicariously, of Defendant Country Fresh, consisted of:
- a. Failing to safely operate his vehicle in regard to traffic on a public street, road or highway;
 - b. Failing to properly take into consideration the safety of disabled motor-vehicles ahead;
 - c. Failing to operate a motor-vehicle in accordance with prevailing traffic conditions and traffic controls;
 - d. Failing to operate a motor-vehicle under proper and adequate control;
 - e. Failing to keep a proper lookout for the presence and conditions of motor-vehicles on the roadway ahead;
 - f. Distracted driving;
 - g. Inattentive driving;
 - h. Careless driving;
 - i. Violation of the assured clear distance rule under 75 Pa.C.S. 3361;
 - j. Failing to make timely application of the brakes;
 - k. Failing to bring his motor-vehicle to a complete stop within the assured clear distance ahead;

- l. Failure to obey posted traffic signals, including without limitation warnings, alerts, flares, reflectors, law enforcements signals and/or the signals of law enforcement officers on the roadway ahead;
- m. Traveling at a speed too fast for prevailing conditions;
- n. Failing to timely observe, react and take evasive measures to avoid a vehicular collision with a disabled motorist ahead;
- o. Failure to inspect his vehicle pre-trip to ensure that it was fit for operation upon a public roadway;
- p. Violation of federal, state, local and/or industry laws, regulations, rules and/or ordinances and/or standards applicable to safe transportation of multiple passenger-workers for commercial purposes;

COUNT FOUR – INDEPENDENT NEGLIGENCE
PLAINTIFF, SAUVEUR LOUIS vs. DEFENDANT, COUNTRY FRESH

- 21. Plaintiffs incorporate by reference hereto the averments in paragraphs 1 through 20, inclusive, as though the same were set forth herein at length.
- 22. The independent negligence of Defendant, Country Fresh, consisted of the following:
 - a. Negligently entrusting transportation services, for its benefit, of Plaintiff-worker, Sauveur Louis, to its business premises in furtherance of its business, to an agent and/or apparent agent, Defendant, Rubin Joseph, who was at all relevant times an unfit motorist; and/or
 - b. Negligently entrusting transportation services, for its benefit, of Plaintiff-worker, Saveur Louis, to its business premises for its benefit, to an agent and/or apparent agent, Defendant, Rubin Joseph, whose vehicle was permitted

to be utilized for the benefit of Defendant, Country Fresh, which was, at all relevant times, unfit for safe operation upon a public roadway;

23. As a result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff, Sauveur Louis, has or may have suffered injuries and/or aggravation of pre-existing conditions which are or may be serious and permanent, including, but not limited to, trauma induced subarachnoid hemorrhage within in the left frontal region and the left sylvian fissure of his brain, resulting in cognitive dysfunction, avulsion fractures of the spinal cord at levels C2, C3 and C6, a left comminuted scapular fracture, left rib fractures at ribs 1, 2, and 3, right rib displaced fractures at ribs 1,2,3,4,5,6,7,8,9 and 10, flail segments, necessitating an open reduction internal fixation of the right 4th-6th rib with the implantation of surgical plate(s) and screw(s), pneumothorax, compression fractures of the spinal cord at levels T9, T8, T7, T6 and T5, pulmonary contusion, fractured medial wall of the left orbit, fractures of the medial walls of both the right and left maxillary sinuses and a non-displaced fracture of the nasal septum, penetration of foreign object into his head, skull and/or brain, traumatic injury to his bladder and urethra, leading to urologic dysfunction and urine retention, blurred vision, loss of consciousness, insertion of a foley catheter, chest tubes, intubation and ventilator support, surgical interventions that include but are not limited to, a right thoracotomy and evacuation of pneumothorax, surgical placement of a ON-Q pump and right sided chest tube, as well as other orthopedic, neurological, musculoskeletal, vascular, internal, neurocognitive, and traumatic brain injury, the full extent of which is not yet known, as well as other ills and injuries, a claim for all of which is herein made.

24. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Sauveur Louis, has been obligated to receive and undergo reasonable and necessary medical treatment, surgeries, and rehabilitative services for the injuries suffered and to incur various expenses for said treatment and services which are or may be in excess of the applicable medical policy limits.
25. As a further result of the joint and/or several negligence of the Defendants as above named in Counts I-IV, Plaintiff, Sauveur Louis, has been obligated to receive and undergo reasonable and necessary medical treatments, surgeries and rehabilitative services for the injuries he suffered, and to incur various expenses for said treatment and services, and he may incur various reasonable and necessary future medical expenses from the injuries sustained, and Defendants are liable for all the same.
26. As a further result of the joint and/or several negligence of the Defendants, as above averred in Counts I-IV, Plaintiff, Sauveur Louis, has or may suffer severe actual loss of his gross income.
27. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff, Sauveur Louis, has or may suffer impairment of his earning capacity and power.
28. As a further result of the joint and/or several negligence of the Defendants, as above averred in Counts I-IV, Plaintiff, Sauveur Louis, may hereinafter incur other financial expenses and losses which have or may exceed amounts which he may otherwise be entitled to recover.
29. As a further result of the joint and/or several negligence of the Defendants, as above averred in Counts I-IV, Plaintiff, Sauveur Louis, has or may have suffered physical

pain, aches, mental anguish, humiliation, inconveniences and loss of enjoyment of life, scars, and/or disfigurement and he may continue to suffer same for an indefinite time in the future.

30. As a further result of the joint and/or several negligence of the Defendants, as above averred in Counts I-IV, Plaintiff, Sauveur Louis, has been unable to attend to his daily chores, duties and occupations and may be unable to do so for an indefinite period of time in the future.

COUNT FIVE – LOSS OF CONSORTIUM
PLAINTIFF, SAINFOROSE BERNIER vs. ALL DEFENDANTS

31. Plaintiff, Sainforose Bernier, wife of Plaintiff, Sauveur Louis, incorporates the averments in paragraphs 1 through 30 as if fully set forth herein at length.

32. As a result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff, Sainforose Bernier, has suffered a loss of the aid, comfort, care, society, companionship, intimacy, and consortium, of Husband-Plaintiff, Sauveur Louis, a claim for which is herein made.

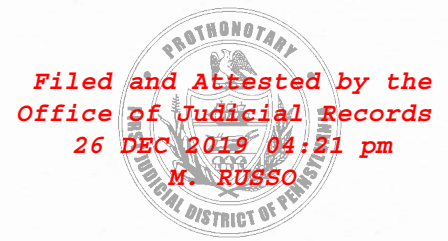
WHEREFORE, Plaintiffs, Sauveur Louis and Sainforose Bernier, h/w, each demand judgment, individually, jointly and/or severally against the Defendants, FedEx Ground Package System, Inc, Rubin Joseph and/or Country Fresh Pennsylvania, LLC, each in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus interest, costs and delay damages.

BENN LAW, LLC

BY: /s/ Andrew R. Benn, Esquire
Andrew R. Benn, Esquire
Attorney for Plaintiffs

EXHIBIT C

THE LAW OFFICE OF JARED S. ZAFRAN, LLC
By: Stephen J. Devine, Esquire
Attorney ID No: 37010
1500 Walnut Street, Suite 500
Philadelphia, PA 19102
Phone: 215-587-0038



Attorney for Plaintiffs

JEANITA SOUFFRANT
701 Marley Road
Philadelphia PA 19124

and

LOUISE MARIE BEAUCEJOUR, and
BERNARD PRESUME h/w
197 Saber Street
Philadelphia, PA 19140

and

JUDE DOMINIQUE
1707 Fairview Avenue
Willow Grove, PA 19090

Plaintiffs

vs.

FED EX GROUND PACKAGE
SYSTEM, INC.,
1500 Market Street, Suite 41
Philadelphia, PA 19102

and

RUBEN JOSEPH
1119 Roselyn Street
Philadelphia, PA 19149

and

COUNTRY FRESH PENNSYLVANIA,
LLC
c/o CT Corporation System Philadelphia
1515 Market Street, Ste. 1210
Philadelphia, PA 19102
Defendants

vs.

HALDEX BRAKE PRODUCTS CORP.

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL ACTION

FEBRUARY TERM, 2019

No.: 01780

and HALDEX HQ, :
Additional Defendants :
_____ :

FIRST AMENDED COMPLAINT¹
2V MOTOR VEHICLE

Plaintiffs, by and through their attorneys, Law Offices of Jared S. Zafran, LLC, hereby each demand judgment against Defendants, jointly and/or severally, in an amount in excess of Fifty Thousand (\$50,000) Dollars, plus interest, costs and delay damages, based upon the following:

1. Plaintiff, Jeanita Souffrant, is an adult individual currently residing at the above-captioned address.
2. Plaintiffs, Louise Marie Baeaucejour and Bernard Presume, husband and wife, are adult individuals currently residing as above captioned.
3. Plaintiff, Jude Dominique, is an adult individual who on information and belief is or may be currently residing at the above-captioned address.
4. Defendant, Ruben Joseph, is an adult individual currently residing as above captioned.
5. At all relevant times, Defendant, Ruben Joseph, whose name may be Rubin Joseph, was owner and operator of a certain 2008 Ford Econoline Van, registration PA KWL7680.
6. Defendant, FED EX GROUND PACKAGE SYSTEM, INC., (hereinafter "FED EX") is, on information and belief, believed to be an entity engaged in ground

¹ See Order docketed December 11, 2019, attached hereto as **Exhibit "A."**

delivery and lawfully doing business in the Commonwealth of Pennsylvania, County of Philadelphia, with an office for that purpose as above captioned.

7. On information and belief, FED EX is believed to regularly conduct business in Philadelphia County for purposes of venue under PA RCP 1006 and PA RCP 2179.

8. At all relevant times, Defendant FED EX acted by and through its employee, servant workman and/or joint venturer, Maximo Vargas, who at all times relevant hereto was acting within the course and scope of his employment and/or venture to further the business objectives of Defendant FED EX.

9. At all relevant times, Maximo Vargas was operating a 2015 Freightliner, tractor, registration IN 2542554, attached to which were 2 trailing semi-units registration IN P399178.

10. Defendant, Country Fresh Pennsylvania, LLC (hereinafter "Country Fresh"), is on information and belief an active, for profit, Pennsylvania limited liability company, that on information and belief regularly conducts business in Philadelphia County, PA with a business location at 2600 Richmond Rd, Hatfield, PA 19440 and a registered office for service for process at CT Corporation System Philadelphia PA 1515 Market Street, Ste. 1210, Philadelphia PA 19102.

11. On information and belief, at all relevant times, Defendant, Ruben Joseph was the agent and/or apparent agent of Defendant, Country Fresh Pennsylvania, LLC.

12. At all relevant times, the actions and/or words of Defendant, Country Fresh, created the appearance that Defendant, Ruben Joseph, was its agent, and Defendant, Country Fresh knew or should have known someone, including Plaintiffs

herein, would reasonably believe that Defendant, Ruben Joseph, was Defendant, Country Fresh's agent; and Plaintiffs reasonably upon Defendant, Ruben Joseph's care and/or skill based on Defendant, Country Fresh's actions or words.

13. On February 9, 2019, at approximately 6:10 a.m., Plaintiffs were all passengers in Defendant Ruben Joseph's Ford Econoline that he was operating and traveling on Welsh Road at the intersection of Rt. 309, Horsham Township, Montgomery County PA to Defendant, Country Fresh Pennsylvania LLC's business premises at 2600 Richmond Rd, Hatfield, PA 19440.

14. On the same date and time as above averred and within the same intersection, the FED EX tractor trailer operated by Maximo Vargas on behalf of FED EX was standing at a dead stop, disabled, on Rt. 309 in the middle of the intersection with Welsh Road, Horsham Township, Montgomery County PA.

15. At the aforesaid time and place, and as a result of the joint and/or several negligence of all Defendants, the Ford Econoline van owned and operated by Defendant Ruben Joseph as the agent and/or apparent agent of Defendant, Country Fresh en route to its business premises with Plaintiffs aboard, entered into the aforesaid intersection of Welsh Road and Rt. 309, without slowing or stopping, and forcibly collided with the stationery, disabled tractor trailer, by then abandoned by Maximo Vargas, that he had been operating for the benefit of Defendant, FED EX, in the middle of the intersection with Welsh Road, Horsham Township, Montgomery County PA resulting in serious and permanent injuries, aggravation of pre-existing conditions and/or serious impairment of bodily function, and other damages and losses to Plaintiffs, a claim for all of which is herein made.

16. This accident resulted solely from the carelessness and/or negligence of the Defendants, jointly and/or severally, and was due in no manner whatsoever to any act or omission of the Plaintiff-passengers.

COUNT ONE – NEGLIGENCE
PLAINTIFFS, JUDE DOMINIQUE, LOUISE MARIE BEAUCEJOUR and
JEANITA SOUFFRANT vs. DEFENDANT, FEDEX

17. Plaintiffs incorporate herein by reference the averments set forth in paragraphs 1 through 16, inclusive, as though the same were set forth herein at length.

18. The negligence and carelessness of Defendant, FEDEX, vicariously under the doctrine of *Respondeat Superior* based upon the negligent operation of a motor vehicle by its agent, servant workman, employee and or joint venturer, Maximo Vargas, consisted of the following:

- (a) Failing to safely operate FEDEX tractor trailer in regard to traffic on a public street, road or highway;
- (b) Failing to properly take into consideration the safety of approaching motor vehicles;
- (c) Failing to operate a tractor-trailer motor vehicle in accordance with existing traffic conditions and traffic controls;
- (d) Failing to operate a motor vehicle under proper and adequate control;
- (e) Failing to adequately warn approaching vehicles on Welsh Road of the disabled status of the tractor-trailer so that they could avoid a collision;

- (f) Failing to keep a proper lookout for other, lawfully approaching motor vehicles on the roadway;
- (g) Failing to exercise due care in pre-trip inspection of the tractor trailer to ensure that it was fit for operation on public roadway and/or discover its defective condition that rendered it unfit for safe operation upon a public roadway;
- (h) abandoning a disabled tractor-trailer in the middle of an intersection, Welsh Road and RT. 309, without due regard for the safety of oncoming motorists on Welsh Road;
- (i) Failing to place reflectors and/or flares or warnings on Welsh Road after becoming disabled on the public roadway at the intersection of Welsh Road and Rt. 309, and/or failing to place said warnings and/or alerts on the roadway on Welsh Road sufficiently distant from the location of the disabled FEDEX tractor trailer so that approaching motorists on Welsh Road had a reasonable opportunity to observe, react and take appropriate evasive measures to avoid a collision;
- (j) failing to exit from the public roadway pre-accident, despite notice that the tractor trailer had become unfit for continued safe operation upon the roadway and opportunity to do so;
- (k) failing to ensure that the exterior lighting system on the FEDEX tractor and all attached trailers, including all required lights and /or lighting was mounted and/or affixed, operational and/or activated,

both pre-trip and again after the said tractor-trailer became disabled within the intersection of Welsh Road and Rt. 309;

- (l) violating federal, state, industry and/or local laws, rules, regulations, and/or standards for the safe operation of tractor-trailers on public roadways, and for applicable safety protocols to be followed when a tractor trailer becomes disabled on a public roadway;

COUNT TWO – INDEPENDENT NEGLIGENCE

PLAINTIFFS, JUDE DOMINIQUE, LOUISE MARIE BEAUCEJOUR and
JEANITA SOUFFRANT vs. DEFENDANT, FEDEX

19. Plaintiffs incorporate by reference hereto the averments in paragraphs 1 through 18, inclusive, as though the same were set forth herein at length.
20. The independent negligence of Defendant FEDEX consisted of the following:
 - a. Negligently entrusting a tractor-trailer to an otherwise fit motorist, Maximo Vargas, that was unfit for safe operation upon a public roadway;
 - b. Negligently entrusting a tractor trailer that was fit for safe operation upon a public roadway to an unfit motorist, Maximo Vargas.

COUNT THREE – NEGLIGENCE

PLAINTIFFS, JUDE DOMINIQUE, LOUISE MARIE BEAUCEJOUR
and JEANITA SOUFFRANT vs. DEFENDANTS, RUBEN JOSEPH
AND COUNTRY FRESH PENNSYLVANIA, LLC

21. Plaintiffs incorporate the averments in paragraphs 1-20 as if fully set forth herein.

22. The negligence of Defendant, Ruben Joseph individually and/or as the agent or apparent agent of Defendant, Country Fresh, LLC and/or vicariously, of Defendant Country Fresh Pennsylvania LLC, consisted of:

- a. Failing to safely operate his vehicle in regard to traffic on a public street, road or highway;
- b. Failing to properly take into consideration the safety of disabled motor vehicles ahead;
- c. Failing to operate a motor vehicle in accordance with prevailing traffic conditions and traffic controls;
- d. Failing to operate a motor vehicle under proper and adequate control;
- e. Failing to keep a proper lookout for the presence and conditions of motor vehicles on the roadway ahead;
- f. Distracted driving;
- g. Inattentive driving;
- h. Careless driving;
- i. Violation of the assured clear distance rule under 75 Pa. C.S. 3361;
- j. Failing to make timely application of the brakes;
- k. Failing to bring his motor vehicle to a complete stop within the assured clear distance ahead;

- l. Failure to obey posted traffic signals, including without limitation warnings, alerts, flares, reflectors, law enforcements signals and/or the signals of law enforcement officers on the roadway ahead;
- m. Travelling at a speed too fast for prevailing conditions;
- n. Failing to timely observe, react and take evasive measures to avoid a vehicular collision with a disabled motorist ahead;
- o. Failure to inspect his vehicle pre-trip to ensure that it was fit for operation upon a public roadway;
- p. Violation of federal, state, local and/or industry laws, regulations, rules and/or ordinances and/or standards applicable to the safe transportation of multiple passenger- workers for commercial purposes;

COUNT FOUR – INDEPENDENT NEGLIGENCE

PLAINTIFFS, JUDE DOMINIQUE, LOUISE MARIE BEAUCEJOUR
and JEANITA SOUFFRANT vs. DEFENDANT, COUNTRY FRESH
PENNSYLVANIA, LLC

23. Plaintiffs incorporate by reference hereto the averments in paragraphs 1 through 22, inclusive, as though the same were set forth herein at length.
24. The independent negligence of Defendant, Country Fresh Pennsylvania, LLC, consisted of the following:
 - a. Negligently entrusting transportation services, for its benefit, of Plaintiff-workers to its business premises in furtherance of its business, to an agent and/or apparent agent, Ruben Joseph, who was at all relevant times an unfit motorist; and/or

- b. Negligently entrusting transportation services, for its benefit, of Plaintiff-workers to its business premises for its benefit, to an agent and/or apparent agent, Ruben Joseph, whose vehicle was permitted to be utilized for the benefit of Defendant Country Fresh Pennsylvania LLC, was at all relevant times, unfit for safe operation upon a public roadway;

25. As a result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff, Jeanita Souffrant, has or may have suffered injuries and/or aggravation of pre-existing conditions which are or may be serious and permanent, including, but not limited to, orthopedic, neurological, musculoskeletal, vascular, internal, neurocognitive, bumps, bruises, ecchymosis, loss of consciousness, traumatic brain injuries, as well as other ills and injuries, a claim for all of which is herein made.

26. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Jeanita Souffrant has been obligated to receive and undergo reasonable and necessary medical treatment and rehabilitative services for the injuries suffered and to incur various expenses for said treatment and services which are or may be in excess of the applicable medical policy limits.

27. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Jeanita Souffrant has been obligated to receive and undergo reasonable and necessary medical treatment and rehabilitative services for the injuries he suffered, and to incur various expenses for said treatment and services, and

he may incur various reasonable and necessary future medical expenses from the injuries sustained, and Defendant is liable for all the same.

28. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Jeanita Souffrant has or may suffer severe actual loss of her gross income.

29. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Jeanita Souffrant has or may suffer impairment of her earning capacity and power.

30. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Jeanita Souffrant may hereafter incur other financial expenses and losses which have or may exceed amounts which she may otherwise be entitled to recover.

31. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Jeanita Souffrant has or may suffered physical pain, aches, mental anguish, and humiliation, inconveniences and loss of enjoyment of life, scars and/or disfigurement and she may continue to suffer same for an indefinite time in the future.

32. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Jeanita Souffrant, has been unable to attend to her daily chores, duties and occupations and may be unable to do so for an indefinite period of time in the future.

33. As a result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff, Louise Marie Beacejour, has or may have

suffered injuries and/or aggravation of pre-existing conditions which are or may be serious and permanent, including, but not limited to, orthopedic, neurological, musculoskeletal, vascular, internal, neurocognitive, bumps, bruises, ecchymosis, loss of consciousness, traumatic brain injuries, as well as other ills and injuries, a claim for all of which is herein made.

34. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff, Louise Marie Beaucejour has been obligated to receive and undergo reasonable and necessary medical treatment and rehabilitative services for the injuries suffered and to incur various expenses for said treatment and services which are or may be in excess of the applicable medical policy limits.

35. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Louise Marie Beaucejour has been obligated to receive and undergo reasonable and necessary medical treatment and rehabilitative services for the injuries he suffered, and to incur various expenses for said treatment and services, and he may incur various reasonable and necessary future medical expenses from the injuries sustained, and Defendant is liable for all the same.

36. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Louise Marie Beaucejour has or may suffer severe actual loss of her gross income.

37. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Louise Marie Beaucejour has or may suffer impairment of her earning capacity and power.

38. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Louise Marie Beaucejour may hereafter incur other financial expenses and losses which have or may exceed amounts which she may otherwise be entitled to recover.

39. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Louise Marie Beaucejour has or may suffered physical pain, aches, mental anguish, and humiliation, inconveniences and loss of enjoyment of life, scars and/or disfigurement and she may continue to suffer same for an indefinite time in the future.

40. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Louise Marie Beaucejour has been unable to attend to her daily chores, duties and occupations and may be unable to do so for an indefinite period of time in the future.

41. As a result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff, Jude Dominique , has or may have suffered injuries and/or aggravation of pre-existing conditions which are or may be serious and permanent, including, but not limited to, orthopedic, neurological, musculoskeletal, vascular, internal, neurocognitive, bumps, bruises, ecchymosis, loss of consciousness, traumatic brain injuries, as well as other ills and injuries, a claim for all of which is herein made.

42. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff, Jude Dominique has been obligated to receive and undergo reasonable and necessary medical treatment and rehabilitative services for

the injuries suffered and to incur various expenses for said treatment and services which are or may be in excess of the applicable medical policy limits.

43. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Jude Dominique has been obligated to receive and undergo reasonable and necessary medical treatment and rehabilitative services for the injuries he suffered, and to incur various expenses for said treatment and services, and he may incur various reasonable and necessary future medical expenses from the injuries sustained, and Defendant is liable for all the same.

44. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Jude Dominique has or may suffer severe actual loss of his gross income.

45. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Jude Dominique has or may suffer impairment of his earning capacity and power.

46. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Jude Dominique may hereafter incur other financial expenses and losses which have or may exceed amounts which he may otherwise be entitled to recover.

47. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff Jude Dominique has or may suffered physical pain, aches, mental anguish, and humiliation, inconveniences and loss of enjoyment of life, scars and/or disfigurement and he may continue to suffer same for an indefinite time in the future.

48. As a further result of the joint and/or several negligence of the Defendants as above averred in Counts I-IV Plaintiff Jude Dominique has been unable to attend to his daily chores, duties and occupations and may be unable to do so for an indefinite period of time in the future.

COUNT FIVE –LOSS OF CONSORTIUM

PLAINTIFF, BERNARD PRESUME vs. ALL DEFENDANTS

49. Plaintiff incorporates the averments in paragraphs 1-48 as if fully set forth herein.

50. AS a result of the joints and/or several negligence of the Defendants as above averred in Counts I-IV, Plaintiff, Bernard Presume, has suffered a loss of the aid, comfort, care, society, companionship, intimacy and consortium, of Wife-Plaintiff, Louise Marie Beaucejour, a claim for which is herein made.

WHEREFORE, Plaintiffs, Jeanita Souffrant, Jude Dominique, Louise Marie Beaucejour and Bernard Presume, h/w, each demand judgment, jointly and/or severally, against Defendants, FED EX Ground Package System, Inc., Ruben Joseph, and/or Country Fresh Pennsylvania, LLC, each in an amount in excess of Fifty Thousand (\$50,000.00) Dollars plus interest, costs and delay damages.

THE LAW OFFICE OF JARED S. ZAFRAN, LLC

BY: **Stephen J. Devine, Esquire**
STEPHEN J. DEVINE, ESQUIRE
Attorney for Plaintiffs

Date: December 26, 2019

THE LAW OFFICE OF JARED S. ZAFRAN, LLC

By: Stephen J. Devine, Esquire

Attorney ID No: 37010

1500 Walnut Street, Suite 500

Philadelphia, PA 19102

Phone: 215-587-0038

Attorney for Plaintiffs

JEANITA SOUFFRANT

701 Marley Road

Philadelphia PA 19124

and

LOUISE MARIE BEAUCEJOUR, and
BERNARD PRESUME h/w

197 Saber Street

Philadelphia, PA 19140

and

JUDE DOMINIQUE

1707 Fairview Avenue

Willow Grove, PA 19090

Plaintiffs

vs.

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL ACTION

FEBRUARY TERM, 2019

No.: 01780

FED EX GROUND PACKAGE

SYSTEM, INC.,

1500 Market Street, Suite 41

Philadelphia, PA 19102

and

RUBEN JOSEPH

1119 Roselyn Street

Philadelphia, PA 19149

and

COUNTRY FRESH PENNSYLVANIA,
LLC

c/o CT Corporation System Philadelphia

1515 Market Street, Ste. 1210

Philadelphia, PA 19102

Defendants

vs.

HALDEX BRAKE PRODUCTS CORP.
and HALDEX HQ,

Additional Defendants :

CIVIL ACTION COMPLAINT – 2V MOTOR VEHICLE

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Philadelphia Bar Association
Lawyer Referral and Information Service
One Reading Center
Philadelphia, PA 19107
(215) 238-6333; TTY (215) 451-6197

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

Illeve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio, vaya en persona o llame por teléfono a la oficina cuya dirección se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

Asociación De Licenciados De Filadelfia
Servicio de Referencia E Información Legal
One Reading Center
Filadelfia, PA 19107
Teléfono: (215) 238-6333; TTY (215) 451-6197

VERIFICATION

The undersigned, Stephen J. Devine, Esquire, co-counsel for Plaintiffs, hereby states that the averments set forth in the within First Amended Complaint are true and correct to the best of his knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsifications to authorities.

/s/ Stephen J. Devine
STEPHEN J. DEVINE

Date: December 26, 2019

CERTIFICATE OF SERVICE

The undersigned, Stephen J. Devine, Esquire, co-counsel for Plaintiffs, certifies that he has forwarded a true and correct copy of Plaintiffs' First Amended Complaint by regular U.S. mail, postage prepaid and/or electronically as follows:

Leonard S. Saboto, Esquire
Hubshman, Flood, Dorn & Kolb
5165 Campus Drive, Ste. 200
Plymouth Meeting PA 19462

Email: Leonard_S_Sabato@Progressive.com

Attorney for Defendant, Ruben Joseph

Bryson F. Datt, Jr., Esquire
Burns White
Burns White Center
48 26th Street
Pittsburgh, PA 15222

Email: bfdatt@burnswhite.com

Attorney for Defendant, FEDEX GROUND PACKAGE SYSTEM, INC.

COUNTRY FRESH PENNSYLVANIA,
LLC
c/o CT Corporation System Philadelphia
1515 Market Street, Ste. 1210
Philadelphia, PA 19102

Defendant

ADDITIONAL
DEFENDANT

HALDEX BRAKE
PRODUCTS CORP

Address: 10930 N POMONA
AVE
KANSAS CITY MO
64153

Additional Defendant

ADDITIONAL
DEFENDANT

HALDEX HQ

Address: BOX 507
SE-261 24
LANDSKRONA

Additional Defendant

THE LAW OFFICE OF JARED S. ZAFRAN, LLC

BY: /s/ *Stephen J. Devine, Esquire*
STEPHEN J. DEVINE, ESQUIRE
Attorney for Plaintiffs

Date: December 26, 2019

EXHIBIT

“A”

FILED

08 NOV 2019 04:25 pm

Civil Administration

F. HEWITT

JEANITA SOUFFRANT and
LOUISE MARIE BEAUCEJOUR and
BERNARD PRESUME h/w, and
JUDE DOMINIQUE,

Plaintiffs

vs.

FEDEX PACKAGING SYSTEM, INC.,
and RUBEN JOSEPH,

Defendants

and

HALDEX BRAKE PRODUCTS CORP.
and HALDEX HQ,

Additional Defendants

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
CIVIL ACTION

FEBRUARY TERM, 2019

No.: 01780

ORDER

AND NOW, this 4th day of December, 2019, upon consideration of Plaintiffs' Motion for Leave to Amend to Add Defendant and file Amended Complaint, and any response(s) thereto, it is hereby **ORDERED** and **DECREED** that said Motion is **GRANTED**.

It is **ORDERED** that the caption is Amended to add as Country Fresh Pennsylvania, LLC as a party Defendant in the within action and that the Plaintiffs shall file their Amended Complaint within twenty (20) days of the date of this Order.

BY THE COURT:

J.

Souffrant Etal Vs Fed E-ORDER



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EXHIBIT D

Ellis M. Saull, Esquire
Attorney I.D. 16460
105 Town Center Rd. Suite One
King of Prussia, PA 19406
610-768-0222

ATTORNEY FOR PLAINTIFF

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY, PENNSYLVANIA

MARIE DORVILIER
1125 Englewood Street
Philadelphia, PA 19111
Plaintiff

FEBRUARY 2021
TERM, 2021

vs.

FEDEX GROUND PACKAGE SYSTEM, INC.
1500 Market Street, Suite 41
Philadelphia, PA 19102
Defendant

000681

And

RUBIN JOSEPH
1119 Roselyn Street
Philadelphia, PA 19149

And

COUNTRY FRESH PENNSYLVANIA, LLC
c/o CT Corporation System Philadelphia
1515 Market Street, Ste. 1210
Philadelphia, PA 19102

CIVIL ACTION COMPLAINT

2V NEGLIGENCE MOTOR VEHICLE ACCIDENT

Plaintiff, Marie Dorvilier, by and through her attorney, Ellis M. Saull, Esquire, hereby

files her Civil Action Complaint and demands damages of the Defendants, FedEx Ground Package System, Inc, Rubin Joseph and Country Fresh Pennsylvania, L.L.C., individually in a sum in excess of Fifty Thousand (\$50,000.00), plus interest, costs and delay damages upon causes of action whereof the following is a statement:

1. Plaintiff, Marie Dorvilier, is an adult individual currently residing at the above-captioned address.
2. Defendant , FEDEX GROUND PACKAGE SYSTEM, INC., (hereinafter “FED EX”) is on information and belief, believed to be an entity engaged in ground delivery and lawfully doing business in the Commonwealth of Pennsylvania, County of Philadelphia, with an office for that purpose at the above-captioned address.
3. On information and belief, Fed Ex is believed to regularly conduct business in Philadelphia County for purposes of venue under PA RCP 1006 and PA RCP 2179.
4. At all relevant times , Defendant Fed Ex acted by and through its employee, servant workman and/or joint venture, Maximo Vargas, who at all times relevant hereto was acting within the course and scope of his employment and/or venture to further the business objectives of Defendant Fed Ex.
5. At all relevant times, Maximo Vargas was operating a 2015 Freightliner, tractor, VIN3AKJGEDVOPSG39352, attached to which were 2 trailers, a 2013 Great Dane and 2010 Hyundai with VIN 3113V281C281C2A1303277 and VIN IGRAA5610DB705637.
6. Defendant Rubin Joseph is an adult individual currently residing at the address captioned above.

7. At all relevant times, Defendant, Rubin Joseph, was the owner and operator of a 2008 Ford Econoline Van, registration PA KWI 7680.
8. Defendant, Country Fresh Pennsylvania, LLC, hereinafter “Country Fresh”, is, on information and belief an active, for profit, Pennsylvania limited liability company, that regularly conducts business in Philadelphia County, PA with a business location at 2600 Richmond Road, Hatfield, PA 19440 and a registered office for service of process At CT Corporation System Philadelphia, PA 1515 Market Street, Suite 120, Philadelphia, PA 19102.
9. On information and belief, at all relevant times, Defendant, Rubin Joseph was the agent and/or apparent agent of Defendant Country Fresh Pennsylvania, LLC.
10. At all relevant times, the actions and/or words of Defendant, Country Fresh, created the appearance that Defendant, Rubin Joseph, was its agent, and Defendant Country Fresh, knew or should have known that someone, including Plaintiff herein, would reasonably believe that Defendant Rubin Joseph, was Defendant Country Fresh’s agent and Plaintiff reasonably relied upon Defendant, Rubin Joseph’s care and/or skill based on Defendant Country Fresh’s actions or words.
11. On February 9, 2019, at approximately 6:10 a.m., Plaintiff Marie Dorvilier was a passenger in Defendant, Rubin Joseph’s Ford Econoline that he was operating and traveling on Welsh Road at the intersection of Rt 309, Horsham Township, Montgomery County, PA to Defendant , Country Fresh Pennsylvania LLC’s business

12. On the same date and time as above averred and at the same intersection, the FedEx Tractor trailer operated by Maximo Vargas on behalf of FedEx was standing at a dead Stop, disabled, on Rte. 309 in the middle of the intersection with Welsh Road, Horsham Township, Montgomery County. PA.
13. At the aforesaid time and place and as a result of the joint and/or several negligence of all defendants, the Ford Econoline van owned and operated Defendant Rubin Joseph, as the agent and/or apparent agent of Defendant , Country Fresh, en route to Its business premises with Plaintiff Marie Dorvilier aboard, entered into the aforesaid intersection of Welsh Road and Route 309, without slowing or stopping, and forcibly collided with the stationery, disabled tractor trailer, by then abandoned by Maximo Vargas, that he had been operating for the benefit of Defendant Fed Ex, in the middle of the intersection with Welsh Road, Horsham Township, Montgomery county, PA, resulting in serious and permanent injuries, disfigurement, aggravation of pre-existing conditions and/or serious impairment of bodily functions, and other damages and losses to Plaintiff, a claim for which all is herein made.
14. This accident resulted solely from the carelessness and/or negligence of the Defendants, jointly and/or severally, and was due in no manner to any act or omission of the Plaintiff-passenger.

COUNT ONE NEGLIGENCE
PLAINTIFF, MARIE DORVILIER vs. DEFENDANT FED EX

15. Plaintiff incorporates by reference the averments set forth in paragraphs 1 through 14, Inclusive, as though the same were set forth herein at length.
16. The negligence and carelessness of Defendant, Fed Ex, vicariously under the doctrine of Respondeat Superior based upon the negligent operation of a motor vehicle by its agent, Servant, workman, employee and or joint venturer, Maximo Vargas, consisted of the following:
- a. Failing to safely operate the FedEx tractor-trailer in regard to traffic on a public street, road or highway;
 - b. Failing to properly take into consideration the safety of approaching motor-vehicles;
 - c. Failing to operate a tractor-trailer motor-vehicle in accordance with existing traffic conditions and traffic controls;
 - d. Failing to operate a motor-vehicle under proper and adequate control;
 - e. Failing to adequately warn approaching vehicles on Welsh Road of the disabled status of the tractor-trailer so that they could avoid a collision.
 - f. Failing to keep a proper lookout for other, lawfully approaching motor-vehicles on the roadway;
 - g. Failing to exercise due care in pre-trip inspection of the tractor-trailer to ensure that it was fit for operation on a public roadway and/or discover its defective condition that rendered it unfit for safe operation upon a public roadway;

- h. Abandoning a disabled tractor-trailer in the middle of an intersection, Welsh Road and Rt. 309, without due regard for the safety of oncoming motorists on Welsh Road;
- i. Failing to place reflectors and/or flares or warnings on Welsh Road after becoming disabled on the public roadway at the intersection of Welsh Road and Rt. 309, and/or failing to place said warnings and/or alerts on the roadway on Welsh Road sufficiently distant from the location of the disabled FedEx tractor trailer so that approaching motorists on Welsh Road had a reasonable opportunity to observe, react and take appropriate evasive measures to avoid a collision;
- j. Failing to exit from the public roadway pre accident, despite notice that the tractor-trailer had become unfit for continued safe operation upon the roadway and opportunity to do so;
- k. Failing to ensure that the exterior lighting system on the FedEx tractor and all attached trailers, including all required lights and/or lighting was mounted and/or affixed, operational and/or activated, both pre-trip and again after the said tractor-trailer became disabled within the intersection of Welsh Road and Rt. 309;
- l. Violating federal, state, industry, and/or local laws, rules, regulations, and/or standards for the safe operation of tractor-trailers on public roadways, and for applicable safety protocols to be followed when a tractor-trailer becomes disabled on a public roadway;

COUNT TWO - INDEPENDENT NEGLIGENCE
PLAINTIFF, MARIE DORVILIER vs. DEFENDANT FED EX

17. Plaintiff incorporates by reference hereto the averments in paragraphs 1 through 16,

Inclusive, as though the same were set forth herein at length.

18. The independent negligence of Defendant, Fed Ex, consisted of the following:

- a. Negligently entrusting a tractor-trailer to an otherwise fit motorist, Maximo Vargas, that was unfit for safe operation upon a public roadway;
- b. Negligently entrusting a tractor-trailer that was fit for safe operation upon a public Motorist. Maximo Vargas.

COUNT THREE – NEGLIGENCE
PLAINTIFF MARIE DORVILER vs. DEFENDANTS RUBIN JOSEPH
AND COUNTRY FRESH

19. Plaintiff incorporates the averments in paragraphs 1 through 18 as if fully set forth herein.

20. The negligence of Defendant Rubin Joseph individually and/or as the agent or apparent agent of Defendant, Country Fresh and/or vicariously, of Defendant Country Fresh, consisted of:

- a. Failing to safely operate his vehicle in regard to traffic on a public street, road or highway;
- b. Failing to properly take into consideration the safety of disabled motor vehicles ahead;
- c. Failing to operate a motor vehicle under proper and adequate control;
- d. Failing to operate a motor vehicle in accordance with prevailing traffic conditions and traffic controls:

- e. Failing to keep a proper lookout for the presence and conditions of motor vehicles on the roadway ahead:
- f. Distracted driving;
- g. Inattentive driving;
- h. Careless driving;
- i. Violation of the assured clear distance rule under 75 Pa.C.S. 3361;
- j. Failing to make timely application of the brakes;
- k. Failing to bring his motor-vehicle to a complete stop within the assured clear distance ahead;
- l. Failure to obey posted traffic signals, including without limitation warnings, alerts, flares, reflectors, law enforcement signals and/or the signals of law enforcement officers on the roadway ahead.
- m. Traveling at a speed too fast for prevailing conditions
- n. Failing to timely observe, react, and take evasive measures to avoid a vehicular collision with a disabled motorist ahead.
- o. Failure to inspect his vehicle pre-trip to ensure that it was fit for operation on a public Roadway.
- p. Violation of federal, state, local and/or industry laws, regulations, rules and/or ordinances and/or standards applicable to safe transportation of multiple passenger-workers for commercial purposes.

COUNT FOUR – INDEPENDENT NEGLIGENCE BY DEFENDANT
COUNTRY FRESH CAUSING MULTIPLE SERIOUS BODILY INJURIES TO
PLAINTIFF MARIE DORVILIER

21. Plaintiff hereby incorporate by reference paragraphs 1 through 20, as though fully set herein.

22. Defendant Country fresh was negligent, and said negligence caused grievous bodily to plaintiff Dorvilier, including the following grossly negligent actions/inactions;

a. By entrusting transportation services to and from the place of business to its agent, or apparent agent, Ruben Joseph, , as Joseph was either unfit to operate a motor vehicle in a safe fashion, and/or maintained an unsafe vehicle which he utilized to transport plaintiff Dorvilier to Country Fresh, with the knowledge and approval of Country Fresh. Such transportation placed plaintiff in jeopardy for the benefit of Super Fresh.

b. Plaintiff Dorvilier suffered the following, and possibly other injuries as a result of Country Fresh's approval and acceptance of Joseph's transportation services:

Stress fracture, right femur; Sprain of ligaments of thoracic spine; Sprain of ligaments of lumbar spine; Sprain of right wrist, right elbow; Severe abdominal pain; Acute post-traumatic headache; Radiculopathy of the cervical region; Radiculopathy of the lumbar region; Sprain of ligaments of the cervical spine; Sprain of right shoulder joint, and other severe bodily injury.

23. These injuries have caused plaintiff Dorvilier to receive and undergo reasonable and necessary medical treatment, surgeries and rehabilitative services and expenses that may or may not be covered by insurances and have and will continue to cause her grievous and consistent pain throughout her body.

24. Plaintiff Dorvilier may be permanently disabled and unable forever to enjoy the Simple joys of life without suffering persistent and grievous pain. She has been rendered Unable to attend to her daily chores, duties and occupations with no certainty that she will ever be able to do so in the future.

WHEREFORE, Plaintiff Marie Dorvilier demands judgment , individually, jointly and or severally against the Defendants, FedEx Ground Package System, Inc, Rubin Joseph and/or Country Fresh Pennsylvania LLC, each in an amount in excess of \$50,000.00, (Fifty Thousand dollars). Plus interest, costs and delay damages.



Ellis M. Saul, PA ID 16460
Attorney for Marie Dorvilier

Dated: February 8, 2021

VERIFICATION

I verify that the statements made in the forgoing Complaint are true and correct. I understand that false statements herein are made subject to the penalties of 18 Penna. C.S.A. Section 4904 relating to unsworn falsification to authorities.

DATE: February 8, 2021

A handwritten signature in cursive script, appearing to read "Marie Dorvilier", written over a horizontal line.

Marie Dorvilier