

**Appendix 1**

**IN THE CIRCUIT COURT OF  
THE SIXTH JUDICIAL CIRCUIT  
MACON COUNTY, ILLINOIS**

\_\_\_\_\_, individually, as Special )  
Administrator, and as Personal Representative )  
of the Estate of \_\_\_\_\_, )  
Deceased, )  
Plaintiff, ) Cause No.:  
v. )  
\_\_\_\_\_)  
\_\_\_\_\_)  
Serve at: \_\_\_\_\_) )  
\_\_\_\_\_) )  
and \_\_\_\_\_) )  
\_\_\_\_\_) )  
\_\_\_\_\_) )  
Serve at: \_\_\_\_\_) )  
\_\_\_\_\_) )  
Defendants. \_\_\_\_\_) )  
\_\_\_\_\_ ) **JURY TRIAL DEMANDED**

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**VERIFIED COMPLAINT**

**COMES NOW** Plaintiff \_\_\_\_\_, individually, as Special Administrator,  
and as Personal Representative of the Estate of \_\_\_\_\_, deceased, by and through  
her attorney, Gary Burger, and for her cause of action against Defendants \_\_\_\_\_  
\_\_\_\_\_ under 740 ILCS section 180, *et seq.*, states as follows:

**ALLEGATIONS APPLICABLE TO ALL COUNTS**

1. Plaintiff [REDACTED] is a resident of Macon County, Illinois, who was married to her deceased husband [REDACTED] at the time of his death. [REDACTED] had one child at the time of his death, [REDACTED].

2. Defendant [REDACTED] is a Delaware Corporation with a principal place of business in Springfield, Illinois. Defendant [REDACTED] distributes PepsiCo beverages and other PepsiCo products throughout the State of Illinois including a distribution center located in Macon County Illinois at [REDACTED]. Defendant [REDACTED] can be served at the above address.

3. [REDACTED] is a North Carolina corporation with a principal place of business in Harrison, New York. [REDACTED] manufactures, sells, and advertises [REDACTED] beverages and other [REDACTED] products throughout the United States, and conducts a substantial amount of business throughout Illinois. [REDACTED] beverages and products are distributed by corporations and companies such as Defendant [REDACTED].

4. Defendant [REDACTED] is an Illinois individual who resides in Macon County, Illinois. At all relevant hereto, Defendant [REDACTED] was employed by Defendant [REDACTED]. Defendant [REDACTED] can be served at the above address.

5. On or about July 12, 2019, shortly after 1:20 p.m., [REDACTED] was operating his vehicle in the northbound lanes of Illinois Route 121. [REDACTED] daughter, [REDACTED], was a passenger in his vehicle.

6. On that same date and time, Defendant [REDACTED] was operating a [REDACTED] Semi-Truck owned by Defendant [REDACTED]. Defendant [REDACTED] was working for Defendant [REDACTED] at that day and time.

7. On that same date and time, Defendant [REDACTED] was traveling westbound on Spitler Park Plaza drive, after delivering [REDACTED] products to Huck's Convenient Food Store at 150 Spitler Park Drive and en route to another delivery of [REDACTED] products for Defendant [REDACTED].

8. On that same date and time, Defendant [REDACTED] crossed into the northbound lanes of Illinois Route 121 in order to turn into the southbound lane of Illinois Route 121 and drove the [REDACTED] Semi-Truck directly into the path of [REDACTED] vehicle, causing a collision between the two at about 1:24 p.m.

9. The impact of this collision was severe. On July 12, 2019, Plaintiff [REDACTED] died from the accident and was pronounced deceased at the scene.

10. The Illinois State Police cited Defendant [REDACTED] for failure to yield at the stop sign controlling his travel at the intersection of Illinois Route 121 and Spitler Park Plaza in Macon County Case Number [REDACTED].

11. A driver of a delivery truck has to: watch carefully for other drivers; stop fully at stop signs; yield to the other motorist at stop signs and not drive trucks out in front of other motorists.

**COUNT I – NEGLIGENCE – WRONGFUL DEATH AGAINST DEFENDANT**

COMES NOW Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, and pursuant to 740 ILCS 180/1, the Illinois Wrongful Death Act, states the following for her cause of action against Defendant [REDACTED]:

12. Plaintiff adopts and incorporates the Allegations Applicable to All Counts as through fully set forth herein.

13. The death of Plaintiff [REDACTED] was the direct and proximate result of the negligence and carelessness of Defendant [REDACTED] in one or more of the following respects:

- a) Defendant failed to yield the right of way;
- b) Defendant failed to keep a careful lookout;
- c) Defendant failed to reduce speed to avoid collision in violation of Section 11-601(a) of the Illinois Vehicle Code, 625 ILCS 5/1-100 *et seq.*;
- d) Defendant failed to stop, swerve, or slow his truck in a manner to avoid the collision; and
- e) Defendant failed to stop at a stop sign located at intersection of Illinois Route 121 and Spitler Park Plaza in violation of Section 11-904(b) of Illinois Vehicle Code, 625 ILCS 5/1-100 *et seq.*

14. As a direct and proximate result of the negligence and carelessness of Defendant [REDACTED] described herein, Plaintiff [REDACTED] died.

15. Plaintiff requests all damages appropriate under 740 ILCS Section 180, *et seq.*

**WHEREFORE**, Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, prays for judgment against Defendant [REDACTED] for a sum in excess of the \$50,000.00 jurisdictional minimum of this court, to fully compensate her and [REDACTED] family for the death and loss of [REDACTED] pursuant to 740 ILCS Section 180, *et seq.*, plus costs, and for any further just and proper relief.

**COUNT II – NEGLIGENCE/RESPONDEAT SUPERIOR – WRONGFUL DEATH  
AGAINST DEFENDANT [REDACTED]**

COMES NOW Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, pursuant to 740 ILCS 180/1, the Illinois Wrongful Death Act, and states the following for her cause of action against [REDACTED]:

16. Plaintiff adopts and incorporates the Allegations Applicable to All Counts as through fully set forth herein.

17. The death of Plaintiff [REDACTED] was the direct and proximate result of the negligence and carelessness of Defendant [REDACTED], acting through its employee Defendant [REDACTED], in one or more of the following respects:

- a) Defendant [REDACTED] failed to yield the right of way;
- b) Defendant [REDACTED] failed to keep a careful lookout;

- c) Defendant [REDACTED] failed to reduce speed to avoid collision in violation of Section 11-601(a) of the Illinois Vehicle Code, 625 ILCS 5/1-100 *et seq.*;
- d) Defendant [REDACTED] failed to stop, swerve, or slow his truck in a manner to avoid the collision; and
- e) Defendant [REDACTED] failed to stop at a stop sign located at intersection of Illinois Route 121 and Spitler Park Plaza in violation of Section 11-904(b) of Illinois Vehicle Code, 625 ILCS 5/1-100 *et seq.*

18. As a direct and proximate result of the negligence and carelessness of Defendant [REDACTED] through its employee Defendant [REDACTED] described herein, Plaintiff [REDACTED] died.

19. Plaintiff requests all damages appropriate under 740 ILCS Section 180, *et seq.*

**WHEREFORE**, Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, prays for judgment against Defendant [REDACTED] for a sum in excess of the \$50,000.00 jurisdictional minimum of this court, to fully compensate her and [REDACTED] family for the death and loss of [REDACTED] pursuant to 740 ILCS Section 180, *et seq.*, plus costs, and for any further just and proper relief.

**COUNT III – NEGLIGENT HIRING – WRONGFUL DEATH AGAINST  
DEFENDANT [REDACTED]**

COMES NOW Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, pursuant to 740 ILCS 180/1, the Illinois Wrongful Death Act, and states the following for her cause of action against [REDACTED]:

20. Plaintiff adopts and incorporates the Allegations Applicable to All Counts as through fully set forth herein.

21. At all relevant times, Defendant [REDACTED] held itself out to the general public as a distributor for PepsiCo beverages and other PepsiCo products.

22. At all relevant time, Defendant [REDACTED] hired commercial drivers to operate their Pepsi semi-trucks in order to distribute PepsiCo beverages and other PepsiCo products.

23. Defendant [REDACTED] was on such commercial driver hired by Defendant [REDACTED].

24. At all relevant time, Defendant [REDACTED] had a duty to conduct its business with reasonable care.

25. Defendant [REDACTED] breached its duty of reasonable care and was negligent in one or more of the following acts and/or omissions:

- a. Hired Defendant [REDACTED] to operate a Pepsi semi-truck when it knew or should have known that Defendant [REDACTED] did not have

the knowledge, training, skill or experience to operate a Pepsi semi-truck safely;

b. Hired Defendant [REDACTED] without adequate investigation of his safety and competence record.

26. As a direct and proximate result of the negligence and carelessness of Defendant [REDACTED] through its employee Defendant [REDACTED] described herein, Plaintiff [REDACTED] died.

27. Plaintiff requests all damages appropriate under 740 ILCS Section 180, *et seq.*

**WHEREFORE**, Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased prays for judgment against Defendant [REDACTED] for a sum in excess of the \$50,000.00 jurisdictional minimum of this court, to fully compensate her and [REDACTED] family for the death and loss of [REDACTED] pursuant to 740 ILCS Section 180, *et seq.*, plus costs, and for any further just and proper relief.

**COUNT IV – NEGLIGENT RETENTION – WRONGFUL DEATH AGAINST DEFENDANT [REDACTED]**

COMES NOW Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, pursuant to 740 ILCS 180/1, the Illinois Wrongful Death Act, and states the following for her cause of action against [REDACTED]:

28. Plaintiff adopts and incorporates the Allegations Applicable to All Counts as through fully set forth herein.



29. At all relevant times, Defendant [REDACTED] held itself out to the general public as a distributor for PepsiCo beverages and other PepsiCo products.

30. At all relevant time, Defendant [REDACTED] hired commercial drivers to operate their Pepsi semi-trucks in order to distribute PepsiCo beverages and other PepsiCo products.

31. Defendant [REDACTED] was on such commercial driver hired by Defendant [REDACTED].

32. At all relevant time, Defendant [REDACTED] had a duty to conduct its business with reasonable care.

33. Defendant [REDACTED] breached its duty of reasonable care and was negligent in one or more of the following acts and/or omissions:

a. Retained Defendant [REDACTED] to operate a Pepsi semi-truck when it knew or should have known that Defendant [REDACTED] did not have the knowledge training, skill or experience to operate a Pepsi semi-truck safely;

b. Retained Defendant [REDACTED] to operate a Pepsi semi-truck when it knew or should have known that Defendant [REDACTED] acted inappropriacy to customers and the public, had prior crashes, and did not operate Defendant [REDACTED] semi-truck safely;

c. Retained Defendant [REDACTED] without adequate or proper investigation and assessment of his safety and competence record after he started as an employee of Defendant.

34. As a direct and proximate result of the negligence and carelessness of Defendant [REDACTED] through its employee Defendant [REDACTED] described herein, Plaintiff [REDACTED] died.

35. Plaintiff requests all damages appropriate under 740 ILCS Section 180, *et seq.*

**WHEREFORE**, Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased prays for judgment against Defendant [REDACTED] for a sum in excess of the \$50,000.00 jurisdictional minimum of this court, to fully compensate her and [REDACTED] family for the death and loss of [REDACTED] pursuant to 740 ILCS Section 180, *et seq.*, plus costs, and for any further just and proper relief.

**COUNT V– NEGLIGENT SUPERVISION/TRAINING – WRONGFUL DEATH  
AGAINST DEFENDANT [REDACTED]**

COMES NOW Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, pursuant to 740 ILCS 180/1, the Illinois Wrongful Death Act, and states the following for her cause of action against [REDACTED]:

36. Plaintiff adopts and incorporates the Allegations Applicable to All Counts as through fully set forth herein.

37. At all relevant times, Defendant [REDACTED] held itself out to the general public as a distributor for PepsiCo beverages and other PepsiCo products.

38. At all relevant times, Defendant [REDACTED] hired commercial drivers to operate their Pepsi semi-truck in order to distribute PepsiCo beverages and other PepsiCo products.

39. Defendant [REDACTED] was one such driver hired by Defendant [REDACTED].

40. At all relevant times, Defendant [REDACTED] had a duty to conduct its business with reasonable care.

41. Defendant [REDACTED] breached its duty of reasonable care and was negligent in one or more of the following acts and/or omissions:

- a. Failed to supervise or train Defendant [REDACTED] to ensure compliance with driver duties and applicable traffic laws;
- b. Failed to supervise or train Defendant [REDACTED] to ensure that he used the same care and caution that a reasonably prudent person or semi-truck operator would have exercised under the same or substantially the same circumstances;
- c. Failed to impose sufficient employee supervision or discipline to ensure he used the same care and caution and obeyed traffic rules that a reason prudent person would use under the same or substantially similar circumstances or terminate his employment;
- d. Failed to institute reasonable driver training and/or policies to ensure compliance with safe driving practices;

e. Failed to comply with reasonable driver training or policies in existence;

f. Failure to heed warnings of Defendants employees about [REDACTED] or properly address prior traffic violations, crashed and improper conduct of [REDACTED] to better supervise, train or terminate [REDACTED] employment.

42. As a direct and proximate result of the negligence and carelessness of Defendant [REDACTED] through its employee Defendant [REDACTED] described herein, Plaintiff [REDACTED] died.

43. Plaintiff requests all damages appropriate under 740 ILCS Section 180, *et seq.*

**WHEREFORE**, Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased prays for judgment against Defendant [REDACTED] for a sum in excess of the \$50,000.00 jurisdictional minimum of this court, to fully compensate her and [REDACTED] family for the death and loss of [REDACTED] pursuant to 740 ILCS Section 180, *et seq.*, plus costs, and for any further just and proper relief.

**COUNT VI – SURVIVAL ACT CLAIM AGAINST DEFENDANT [REDACTED]**

COMES NOW Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, pursuant to 755 ILCS 5/27-6, and states the following for her cause of action against Defendant [REDACTED]:

44. Plaintiff adopts and incorporates Paragraphs 1 through 15 of her Complaint as through fully set forth herein.

45. Plaintiff was appointed the personal representative of the estate of [REDACTED], deceased, by the Circuit Court of Macon County, Illinois, and qualified for the office. Plaintiff is personal representative of the estate, and brings this action as personal representative pursuant to and as authorized by 755 ILCS 5/27-6, commonly known as the Illinois Survival Act.

46. The deceased is survived by [REDACTED], surviving spouse, and [REDACTED], minor child, the only next of kin.

47. The death of Plaintiff [REDACTED] on July 12, 2019, was the direct and proximate result of the negligence and carelessness of Defendant [REDACTED] in one or more of the following respects:

- a) Defendant failed to yield the right of way;
- b) Defendant failed to keep a careful lookout;
- c) Defendant failed to reduce speed to avoid collision in violation of Section 11-601(a) of the Illinois Vehicle Code, 625 ILCS 5/1-100 *et seq.*;
- d) Defendant failed to stop, swerve, or slow his truck in a manner to avoid the collision; and
- e) Defendant failed to stop at a stop sign located at intersection of Illinois Route 121 and Spitler Park Plaza in violation of Section 11-904(b) of Illinois Vehicle Code, 625 ILCS 5/1-100 *et seq.*

48. As a direct and proximate result of one or more of these negligent acts and omissions described herein, [REDACTED] suffered serious injuries which caused his

death on July 12, 2019, together with injuries of a personal and pecuniary nature, including but not limited to disability and disfigurement, medical expenses, lost income, and pain and suffering, and which would have permitted [REDACTED] to bring an action had he survived, and his right to bring such an action survives him.

**WHEREFORE**, Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, prays for judgment against Defendant [REDACTED] for a sum in excess of the \$50,000.00 jurisdictional minimum of this court, to fully compensate her and [REDACTED] family for the death and loss of [REDACTED] pursuant to 740 ILCS Section 180, *et seq.*, plus costs, and for any further just and proper relief.

**COUNT VII – FAMILY EXPENSE ACT – NEGLIGENCE AGAINST DEFENDANT**

[REDACTED]  
COMES NOW Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, and states the following for her cause of action against Defendant [REDACTED]:

49. Plaintiff adopts and incorporates Paragraphs 1 through 15 and 44 through 48 of her Complaint as through fully set forth herein.

50. As a direct and proximate result of one or more of these negligent acts and omissions described herein, [REDACTED] suffered serious injuries which caused his death on July 12, 2019.

51. As a result, thereof, Plaintiff, individually and as next-of-kin of [REDACTED], deceased, sustained losses in the form of medical, funeral, and burial expenses.

**WHEREFORE**, Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, prays for judgment against Defendant [REDACTED] for a sum in excess of the \$50,000.00 jurisdictional minimum of this court, to fully compensate her and [REDACTED] family for the death and loss of [REDACTED] pursuant to 750 ILCS 65/15 *seq.*, plus costs, and for any further just and proper relief.

**COUNT VIII – SURVIVAL ACT CLAIM AGAINST DEFENDANT**  
[REDACTED]

COMES NOW Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, pursuant to 755 ILCS 5/27-6, and states the following for her cause of action against Defendant [REDACTED]:

52. Plaintiff adopts and incorporates Paragraphs 1 through 51 of her Complaint as through fully set forth herein.

53. Plaintiff was appointed the personal representative of the estate of [REDACTED], deceased, by the Circuit Court of Macon County, Illinois, and qualified for the office. Plaintiff is personal representative of the estate, and brings this action as personal representative pursuant to and as authorized by 755 ILCS 5/27-6, commonly known as the Illinois Survival Act.

54. The deceased is survived by [REDACTED], surviving spouse, and [REDACTED], minor child, the only next of kin.

55. The death of Plaintiff [REDACTED] on July 12, 2019, was the direct and proximate result of the negligence and carelessness of [REDACTED] as set

forth in Counts II through V, adopted and incorporated by reference as though fully set forth herein

56. As a direct and proximate result of one or more of these negligent acts and omissions described herein, [REDACTED] suffered serious injuries which caused his death on July 12, 2019, together with injuries of a personal and pecuniary nature, including but not limited to disability and disfigurement, medical expenses, lost income, and pain and suffering, and which would have permitted [REDACTED] to bring an action had he survived, and his right to bring such an action survives him.

**WHEREFORE**, Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, prays for judgment against Defendant [REDACTED] for a sum in excess of the \$50,000.00 jurisdictional minimum of this court, to fully compensate her and [REDACTED] family for the death and loss of [REDACTED] pursuant to 740 ILCS Section 180, *et seq.*, plus costs, and for any further just and proper relief.

**COUNT IX – FAMILY EXPENSE ACT – NEGLIGENCE AGAINST DEFENDANT**

COMES NOW Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, pursuant to and states the following for her cause of action against Defendant [REDACTED]:

57. Plaintiff adopts and incorporates Paragraphs 1 through 56 of her Complaint as through fully set forth herein.



58. As a direct and proximate result of one or more of these negligent acts and omissions described herein committed by Defendant [REDACTED], [REDACTED] suffered serious injuries which caused his death on July 12, 2019.

59. As a result thereof, Plaintiff, individually and as next-of-kin of [REDACTED], deceased, sustained losses in the form of medical, funeral, and burial expenses.

**WHEREFORE**, Plaintiff [REDACTED], individually, as Special Administrator, and as Personal Representative of the Estate of [REDACTED], deceased, prays for judgment against Defendant [REDACTED] for a sum in excess of the \$50,000.00 jurisdictional minimum of this court, to fully compensate her and [REDACTED] family for the death and loss of [REDACTED] pursuant to 750 ILCS 65/15 *seq.*, plus costs, and for any further just and proper relief.

Respectfully submitted,

**BURGER LAW, LLC**

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