



Georgia. Defendant Equity Group maintains a registered agent for service of process in Fulton County, Georgia, CT Corporation System, which may be served with legal process at 1201 Peachtree Street NE, Atlanta, Georgia. 30361.

5.

Defendant Norman Larue is a resident of Jamestown, Fentress County, Tennessee with a last known residence address of 550 Walking Horse Trail, Jamestown, Fentress County, Tennessee 38556, where he may be served with legal process.

6.

On February 15, 2011 at approximately 5:13 a.m., Defendant Larue was driving a tractor-trailer South on U.S. Highway 19 for the benefit of his employers, Defendants Gary Emery and Equity Group. Defendant Larue suddenly and without warning made an improper left turn directly in front of a tractor-trailer driven by William Ralph XXXX. Defendant Larue's improper left turn caused a violent collision which resulted in injuries to the Plaintiffs. The rig Defendant Larue was driving was insured by Progressive Insurance.

7.

The claims asserted by Plaintiffs against Defendants in this civil action arise out of the collision described in the preceding paragraph.

8.

Defendant Progressive Insurance is subject to the jurisdiction of this Court because it transacts business and has sufficient minimum contacts within the State of Georgia.

9.

Defendant Gary Emery is subject to the jurisdiction of this Court because he and his agent, Norman Larue, committed a tort in the State of Georgia.

10.

Defendant Equity Group is subject to the jurisdiction of this Court because it is authorized to and does transact business in the State of Georgia.

11.

Defendant Larue is subject to the jurisdiction of this Court because he committed a tort in the State of Georgia.

12.

Venue is proper in this Court with respect to Defendant Progressive Insurance pursuant to O.C.G.A. § 9-10-93, O.C.G.A. § 33-4-1, and/or O.C.G.A. § 46-7-12.

13.

Venue is proper in this Court with respect to Defendant Gary Emery because venue is proper with regard to a joint tortfeasor, Defendant Equity Group.

14.

Venue is proper in this Court with respect to Defendant Equity Group because it maintains a registered agent for service of process in Fulton County, Georgia.

15.

Venue is proper with respect to Defendant Larue because he is a joint tortfeasor with Defendant Equity Group.

### **OPERATIVE FACTS**

16.

At approximately 5:13 a.m. on February 15, 2011, Defendant Larue was driving a tractor-trailer South on U.S. Highway 19 in Camilla, Mitchell County, Georgia.

17.

Defendant Larue intended to turn the tractor-trailer into an unlit entrance to the Defendant Equity Group's facility.

18.

At about the same time, Plaintiff William Ralph XXXX was driving his truck North on U.S. Highway 19.

19.

As Plaintiff William Ralph XXXX approached the vehicle driven by Defendant Larue, Defendant Larue suddenly made an improper left turn directly in front of the XXXX vehicle.

20.

Plaintiff William Ralph XXXX was unable to avoid a collision and struck the trailer being pulled by Defendant Larue broadside causing serious injuries to both William Ralph XXXX and his son, Cody XXXX, who was riding with William Ralph XXXX.

21.

Plaintiff Cory XXXX heard the collision and went to the scene of the wreck. There he discovered that a fire had broken out.

22.

Plaintiffs Cory XXXX and Cody XXXX pulled William Ralph XXXX from the vehicle he was driving to escape the fire.

23.

Plaintiff Cory XXXX sustained burns and other injuries as a result of his effort to pull William Ralph XXXX from the fire.

24.

At the time of the subject collision, Defendant Larue was an employee of Defendant Gary Emery and was acting within the course and scope of his employment for Gary Emery.

25.

At the time of the subject collision, Defendant Larue was an employee or agent of Defendant Equity Group and was acting within his scope of employment for Defendant Equity Group.

26.

At the time of the subject collision, Defendant Equity Group had subcontracted with Gary Emery and/or Norman Larue for the transportation of goods to its facility in Camilla, Georgia.

27.

Defendant Equity Group failed to investigate and negligently selected Gary Emery and/or Norman Larue as contractors.

28.

Defendant Gary Emery is a motor common carrier for hire.

29.

Defendant Progressive Insurance provided liability insurance to Defendant Gary Emery under policy number 0451428-1 which provides coverage for the claims asserted against

Defendant Gary Emery and Norman Larue in this Complaint.

30.

As a direct and proximate result of Defendants' Gary Emery, Equity Group and Norman Larue negligence, Plaintiffs were seriously injured.

31.

Plaintiffs did nothing wrong that caused or contributed to this wreck or their injuries in any way.

32.

As a result of the subject collision, Plaintiffs suffered and continue to suffer serious and painful injuries, both physical and mental.

33.

As a result of the collision, Plaintiffs have incurred past medical expenses and will likely incur future medical expenses.

34.

Plaintiffs have also lost time from their work and labor, have sustained a loss of income, and their physical health and quality of life have been significantly impaired. Plaintiffs will likely lose time from their work and labor in the future.

### **LIABILITY OF THE DEFENDANTS**

35.

Defendant Gary Emery is liable under the doctrine of *respondeat superior* for the tortious acts and omissions of its agent and employee, Defendant Larue.

36.

Defendant Equity Group is liable under the doctrine of *respondeat superior* for the tortious acts and omissions of its agent and employee, Defendant Larue, as well as for the negligent selection of Defendants Gary Emery and/or Larue.

37.

Defendant Larue is liable for the following tortious acts and omissions, which include, but are not necessarily limited to, the following:

- (a) Violating O.C.G.A. § 40-6-73 with such violation, and others, amounting to negligence per se;
- (b) Failing to operate the tractor-trailer he was driving in a safe and prudent manner; and
- (c) Failing to keep a proper lookout for other traffic.

38.

The conduct of Defendants Gary Emery, Equity Group and Larue, individually and in concert with each other, proximately caused the collision and resulting damages.

39.

Defendant Progressive Insurance entered into a policy and contract of insurance with Defendant Gary Emery to provide liability coverage in the event of a motor vehicle accident involving Defendant Gary Emery and/or its employees and/or agents.

40.

Plaintiffs are third-party beneficiaries under said contracts or policies of insurance and

are entitled to receive payments from Defendant Progressive Insurance for the negligence of Defendants Gary Emery and Norman Larue.

**DAMAGES CLAIMED**

41.

The damages claimed by Plaintiffs were proximately caused by the tortious acts and omissions of Defendants Gary Emery, Equity Group and Norman Larue, for which they are liable jointly and severally.

42.

As a result of the above-described collision, Plaintiffs have sustained serious and painful injuries to their bodies and mind and continue to suffer mentally and physically. Plaintiffs likewise have incurred medical bills and lost income, and will continue to incur future medical bills, and lose income and benefits in the future as a result of the collision.

43.

Plaintiffs claim general damages for all elements of the mental and physical suffering they endured, endure, and will endure in the future, as defined by Georgia law and to be determined by the enlightened conscience of a fair and impartial jury.

44.

Plaintiffs claim as special damages their lost earnings, income and other benefits that they have incurred and will incur in the future because of this collision.

45.

Plaintiffs also claim as special damages their past and future medical expenses that have been incurred and will be incurred as a result of the injuries they sustained, in such amounts as the jury deems to be the reasonable value of those services.

**PRAYER FOR RELIEF**

46.

WHEREFORE Plaintiffs pray for the following relief:

- (a) That summons issue requiring the Defendants to appear as provided by law to answer this Complaint;
  - (b) That the Plaintiffs have a trial by jury;
  - (c) That Plaintiffs have and recover all damages for all losses compensable under Georgia law as set forth above;
  - (d) That all costs be cast against the Defendants; and
- For such other and further relief as the Court shall deem just and appropriate.

This 29<sup>th</sup> day of August, 2011.

*[signatures on following page]*

Respectfully submitted,

MCDONALD, CODY & COOK, LLC

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