

DOCKET NO.: [DOCKET NO] : SUPERIOR COURT  
: :  
[PLAINTIFF INJURED] and :  
[PLAINTIFF SPOUSE] :  
: AT [TOWN]  
V. :  
: :  
[DEFENDANT DRIVER] and :  
[DEFENDANT TRUCKING CO] : [DATE]

**COMPLAINT**

**COUNT ONE (Negligence v. [DEFENDANT DRIVER])**

1. On or about [DATE OF ACCIDENT], shortly prior to [TIME OF ACCIDENT], the plaintiff, [PLAINTIFF INJURED], was operating a [YEAR AND MODEL] tractor trailer truck on [DESCRIPTION OF ROAD/HIGHWAY], in the Town of [TOWN], Connecticut.

2. On said date and at said time, the defendant, [DEFENDANT DRIVER] (hereinafter “[DEFENDANT DRIVER]”), was also operating a [YEAR AND MODEL] tractor trailer truck, owned by the co-defendant, [DEFENDANT TRUCKING CO] (hereinafter “[DEFENDANT TRUCKING CO]”), in a [DIRECTION] direction on [DESCRIPTION OF HIGHWAY/ROAD], in the Town of [TOWN], Connecticut.

3. At approximately [TIME OF ACCIDENT], as the plaintiff was [DESCRIPTION OF COLLISION].

4. Following the collision, the defendant’s vehicle [DESCRIPTION OF COLLISION].

5. Following the collision, the plaintiff's vehicle [DESCRIPTION OF COLLISION].

6. At all times relevant hereto, the truck being operated by the defendant [DEFENDANT DRIVER], and owned by the co-defendant [DEFENDANT TRUCKING CO], was a "commercial motor vehicle" with gross weight in excess of 26,001 pounds, as defined in Connecticut General Statute § 14-1(a)(13) and 49 C.F.R. § 383.5 and, accordingly, was subject to the Federal Motor Carrier Safety Regulations, 49 C.F.R. parts 325-399 ("FMCSR"), including those FMCSR provisions adopted by the Connecticut Department of Motor Vehicles under Connecticut State Agency Regulation § 14-163c-1.

7. At all times relevant hereto, [DEFENDANT DRIVER] was acting as an agent, servant or employee of [DEFENDANT TRUCKING CO], located at [ADDRESS OF DEFENDANT TRUCKING CO].

8. At all times relevant hereto, the defendant [DEFENDANT TRUCKING CO] was an "employer" as defined in 49 U.S.C. § 31132(3), 49 C.F.R. §§ 383.5 and/or 390.5, and was subject to FMCSR requirements.

9. At all times relevant hereto, the defendant [DEFENDANT DRIVER] was an "employee" of the defendant, [DEFENDANT TRUCKING CO], as defined in 49 U.S.C. § 31132(2), 49 C.F.R. §§ 383.5 and/or 390.5, and was subject to FMCSR requirements.

10. As a result of the collision, the plaintiff, [PLAINTIFF INJURED], was caused to sustain and suffer severe, catastrophic and life altering personal injuries as hereinafter set forth.

11. The injuries and losses sustained and suffered by the plaintiff were caused by the negligent and/or careless acts and/or omissions of the defendant [DEFENDANT DRIVER] in one or more of the following ways:

- a. IN THAT he operated his tractor trailer truck at an unreasonably slow rate of speed on a limited access divided highway under nighttime lighting conditions, without having due regard for the other traffic, width and use of highway, under the circumstances then and there existing;
- b. IN THAT he failed to stop his tractor trailer truck and remove it from the travel portion of the roadway when it became no longer capable of being operated at a reasonably safe speed, under the circumstances then and there existing;
- c. IN THAT he failed to give adequate warning to vehicles approaching him from the rear to indicate that his vehicle was not traveling at a normal highway speed;
- d. IN THAT he operated his tractor trailer truck at a speed lower than 40 miles per hour on a limited access divided highway under circumstances when it was not safe to do so, in violation of C.G.S. § 14-220;
- e. IN THAT he operated his tractor trailer truck with unsafe tires, in violation of C.G.S. § 14-98a;
- f. IN THAT he operated his tractor trailer truck recklessly, having regard for the width, traffic, and use of said highway so as to endanger the life of others, including the plaintiff, in violation of C.G.S. § 14-222;

- g. IN THAT he operated his tractor trailer truck with inoperable or insufficient rear end tail lights, in violation of C.G.S. § 14-96l;
- h. IN THAT he slowed, stopped or suddenly decreased the speed of his vehicle without first giving appropriate and continuous signal and warning to the driver of any vehicle immediately approaching from the rear, in violation of C.G.S. § 14-242(c);
- i. IN THAT he operated his tractor trailer truck while under the influence of controlled and/or illegal substances, in violation of C.G.S. § 14-227a;
- j. IN THAT he operated his tractor trailer truck on the day in question without conducting a proper inspection of the truck, in violation of 49 C.F.R. § § 390, 392, 393 and/or 396;
- k. IN THAT he failed to properly repair and maintain the truck he was operating in proper working order, in violation of 49 C.F.R. § § 390, 393 and/or 396;
- l. IN THAT he reported for duty and operated his tractor trailer truck after he had used controlled and/or illegal substances, in violation of 49 C.F.R. § § 40 *et seq.*, 382 *et seq.*, 393 and 396;
- m. IN THAT he reported for duty and operated his tractor trailer truck while he was not qualified to do so, in violation of 49 C.F.R. § 383.51 *et seq.*; and
- n. IN THAT he operated his tractor trailer truck while his ability to remain alert was impaired, in violation of 49 C.F.R. § 392.3 *et seq.*

12. As a result of the negligence and carelessness of the defendant, the plaintiff was violently thrown about the interior of the vehicle, and then, upon ejection from the vehicle, he was violently thrown upon the surface of the roadway causing him to sustain severe, catastrophic, and life altering injuries.

13. Subsequent examination and diagnostic testing revealed that the plaintiff sustained and suffered the following injuries:

1. A traumatic brain injury with accompanying closed skull fracture with subarachnoid, subdural and extradural hemorrhages in the brain;
2. A closed fracture of the zygomatic arch of the facial skeleton;
3. A non-displaced Type II dens fracture of the cervical spine;
4. A fracture of the lumbar transverse process at L3;
5. Right cephalic vein superficial thrombosis;
6. Vascular complications necessitating the introduction of IVC filters and other anticoagulation measures;
7. Tachycardia and other cardiac abnormalities;
8. Extensive lacerations and abrasions to the scalp, face and other areas of the body, including the abdomen, hands and extremities;
9. Exacerbation of post-traumatic stress disorder;
10. Chronic pain;
11. Cognitive and sensory deficits;
12. Auditory and speech deficits; and
13. Physical pain and suffering along with mental anguish.

14. Some or all of the plaintiff's injuries are of a permanent nature.

15. As a further result of the negligence and/or carelessness of the defendant, the plaintiff suffered great mental anguish and anxiety in anticipation of the impending collision.

16. As a further result of the negligence and/or carelessness of the defendant, the plaintiff has incurred bills and expenses for hospital and medical care, the services of physicians, surgeons, ambulance service, x-rays and diagnostic testing, physical and occupational therapy treatments, medicines and pharmaceutical apparatus and devices, and will incur further such expenses into the future, all to his loss and detriment.

17. As a further result of the negligence and/or carelessness of the defendant, the plaintiff was hospitalized and confined to home for a significant period of time and has been prevented, and will continue to be prevented, from engaging in his usual activities, as well as his everyday enjoyment of life, all to his future loss and detriment.

18. As a further result of the negligence and/or carelessness of the defendant, the plaintiff has been deprived of his ability to engage in his normal employment activities, thereby suffering a loss of earnings, and will continue to suffer said loss into the future, affecting his future earning capacity.

**COUNT TWO (Vicarious Liability v. [DEFENDANT TRUCKING CO])**

1-18. The plaintiff hereby incorporates paragraphs 1 through 18 of Count One as his corresponding paragraphs 1 through 18 of Count Two as if fully set forth herein.

19. At all times mentioned herein, the defendant [DEFENDANT DRIVER] was acting as an agent, servant or employee of the defendant [DEFENDANT TRUCKING CO].

20. The defendant [DEFENDANT TRUCKING CO] is vicariously liable for the negligent acts and/or omissions of the defendant [DEFENDANT DRIVER].

**COUNT THREE (Negligent Hiring and Retention v. [DEFENDANT TRUCKING CO])**

1-10. The plaintiff hereby incorporates paragraphs 1 through 10 of Count One as his corresponding paragraphs 1 through 10 of Count Three as if fully set forth herein.

11. The injuries and losses sustained by the plaintiff, [PLAINTIFF INJURED], were caused by the negligent and careless acts and/or omissions of the defendant [DEFENDANT TRUCKING CO] acting through its agents, servants or employees, in one or more of the following ways:

- a. IN THAT it hired the defendant [DEFENDANT DRIVER] without conducting an adequate investigation of his background, health condition, motor vehicle history, and suitability for the position of operator of a tractor trailer truck;
- b. IN THAT it allowed the tractor trailer truck to be operated by the defendant, [DEFENDANT DRIVER], when it knew, or should have known, that the defendant abused controlled and/or illegal substances;
- c. IN THAT it failed to perform a proper investigation of the defendant [DEFENDANT DRIVER] prior to the time of hiring, in violation of 49 C.F.R. § 391.23; and/or
- d. IN THAT it failed to conduct adequate and periodic investigations into the defendant [DEFENDANT DRIVER]'s background, health condition, motor vehicle history, and suitability for the position of operator of a tractor trailer truck after he had been hired and during the course of his employment with [DEFENDANT TRUCKING CO].

12. As a result of the negligence and carelessness of the defendant, the plaintiff was violently thrown about the interior of the vehicle, and then, upon ejection

from the vehicle, he was violently thrown upon the surface of the roadway causing him to sustain severe, catastrophic, and life altering injuries.

13. Subsequent examination revealed that the plaintiff sustained and suffered the following injuries:

1. A traumatic brain injury with accompanying closed skull fracture with subarachnoid, subdural and extradural hemorrhages in the brain;
  2. A closed fracture of the zygomatic arch of the facial skeleton;
  3. A non-displaced Type II dens fracture of the cervical spine;
  4. A fracture of the lumbar transverse process at L3;
  5. Right cephalic vein superficial thrombosis;
  6. Vascular complications necessitating the introduction of IVC filters and other anticoagulation measures;
  7. Tachycardia and other cardiac abnormalities;
  8. Extensive lacerations and abrasions to the scalp, face and other areas of the body, including the abdomen, hands and extremities;
  9. Exacerbation of post-traumatic stress disorder;
  10. Chronic pain;
  11. Cognitive and sensory deficits;
  12. Auditory and speech deficits; and
  13. Physical pain and suffering along with mental anguish.
14. Some or all of the plaintiff's injuries are of a permanent nature.

15. As a further result of the negligence and/or carelessness of the defendant, the plaintiff suffered great mental anguish and anxiety in anticipation of the impending collision.

16. As a further result of the negligence and/or carelessness of the defendant, the plaintiff has incurred bills and expenses for hospital and medical care, the services of physicians, surgeons, ambulance service, x-rays and diagnostic testing, physical and occupational therapy treatments, medicines and pharmaceutical apparatus and devices, and will incur further such expenses into the future, all to his loss and detriment.

17. As a further result of the negligence and/or carelessness of the defendant, the plaintiff was hospitalized and confined to home for a significant period of time and has been prevented, and will continue to be prevented, from engaging in his usual activities, as well as his everyday enjoyment of life, all to his future loss and detriment.

18. As a further result of the negligence and/or carelessness of the defendant, the plaintiff has been deprived of his ability to engage in his normal employment activities, thereby suffering a loss of earnings, and will continue to suffer said loss into the future, affecting his future earning capacity.

**COUNT FOUR (Negligent testing, inspection, and maintenance v. [DEFENDANT TRUCKING CO])**

1-10. The plaintiff hereby incorporates paragraphs 1 through 10 of Count One as his corresponding paragraphs 1 through 10 of Count Four as if fully set forth herein.

11. The injuries and losses sustained by the plaintiff, [PLAINTIFF INJURED], were caused by the negligent and careless acts and/or omissions of the defendant [DEFENDANT TRUCKING CO] acting through its agents, servants or employees, in one or more of the following ways:

- a. IN THAT it failed to adequately inspect the tractor trailer unit which was being operated on the date of the incident;
- b. IN THAT it failed to properly maintain the tractor trailer unit which was being operated on the date of the incident;
- c. IN THAT it allowed the subject tractor trailer unit to be operated on the date of the incident when it knew, or should have known, that the vehicles' warning mechanisms, including its taillights, were inadequate and/or defective;
- d. IN THAT it failed to test the subject tractor trailer truck on a regular and periodic basis;
- e. IN THAT it failed to perform and undertake adequate testing and training of its operators, including the defendant [DEFENDANT DRIVER], for alcohol and controlled substances, in violation of 49 C.F.R. § 382.301 *et seq.*;
- f. IN THAT it failed to properly train its operators, and allowed the defendant [DEFENDANT DRIVER] to drive a tractor trailer unit when said employee was not qualified to do so, in violation of 49 C.F.R. §§ 383, 390, 391 and/or 392;
- g. IN THAT it failed to systematically inspect, repair, maintain, and/or failed to cause to be systematically inspected, repaired and maintained, all of the tractor trailer units subject to its control, including the tractor trailer unit involved in the subject action, in violation of 49 C.F.R. §§ 390, 392, 393 and/or 396.3 *et seq.*;
- h. IN THAT it allowed a tractor trailer truck to be used when it was likely to cause an accident in violation of 49 C.F.R. § 396.7 *et seq.*;

- i. IN THAT it failed to keep adequate and proper records of the defendant [DEFENDANT DRIVER]'s driving history, in violation of 49 C.F.R. § 395.3 *et seq.*; and/or
- j. IN THAT it failed to keep adequate and proper records of the subject tractor trailer truck's maintenance history, in violation of 49 C.F.R. § 376.12 *et seq.*

12. As a result of the negligence and carelessness of the defendant, the plaintiff was violently thrown about the interior of the vehicle, and then, upon ejection from the vehicle, he was violently thrown upon the surface of the roadway causing him to sustain severe, catastrophic, and life altering injuries.

13. Subsequent examination revealed that the plaintiff sustained and suffered the following injuries:

1. A traumatic brain injury with accompanying closed skull fracture with subarachnoid, subdural and extradural hemorrhages in the brain;
2. A closed fracture of the zygomatic arch of the facial skeleton;
3. A non-displaced Type II dens fracture of the cervical spine;
4. A fracture of the lumbar transverse process at L3;
5. Right cephalic vein superficial thrombosis;
6. Vascular complications necessitating the introduction of IVC filters and other anticoagulation measures;
7. Tachycardia and other cardiac abnormalities;
8. Extensive lacerations and abrasions to the scalp, face and other areas of the body, including the abdomen, hands and extremities;
9. Exacerbation of post-traumatic stress disorder;

10. Chronic pain;
  11. Cognitive and sensory deficits;
  12. Auditory and speech deficits; and
  13. Physical pain and suffering along with mental anguish.
14. Some or all of the plaintiff's injuries are of a permanent nature.
15. As a further result of the negligence and/or carelessness of the defendant, the plaintiff suffered great mental anguish and anxiety in anticipation of the impending collision.
16. As a further result of the negligence and/or carelessness of the defendant, the plaintiff has incurred bills and expenses for hospital and medical care, the services of physicians, surgeons, ambulance service, x-rays and diagnostic testing, physical and occupational therapy treatments, medicines and pharmaceutical apparatus and devices, and will incur further such expenses into the future, all to his loss and detriment.
17. As a further result of the negligence and/or carelessness of the defendant, the plaintiff was hospitalized and confined to home for a significant period of time and has been prevented, and will continue to be prevented, from engaging in his usual activities, as well as his everyday enjoyment of life, all to his future loss and detriment.
18. As a further result of the negligence and/or carelessness of the defendant,

the plaintiff has been deprived of his ability to engage in his normal employment activities, thereby suffering a loss of earnings, and will continue to suffer said loss into the future, affecting his future earning capacity.

**COUNT FIVE (Statutory Recklessness pursuant to C.G.S. § 14-295 v. [DEFENDANT DRIVER])**

1-10. The plaintiff hereby incorporates paragraphs 1 through 10 of Count One as his corresponding paragraphs 1 through 10 of Count Five as if fully set forth herein.

11. The injuries sustained by the plaintiff were caused by the reckless misconduct of the defendant, [DEFENDANT DRIVER], in that he acted in reckless, willful, wanton and/or malicious disregard for the safety of other persons, including the plaintiff, in one or more of the following ways:

- a. IN THAT he operated his tractor trailer truck recklessly, having regard for the width, traffic, and use of said highway so as to endanger the life of others, including the plaintiff, in violation of C.G.S. § 14-222; and
- b. IN THAT he operated his tractor trailer truck while under the influence of controlled and/or illegal substances, in violation of C.G.S. § 14-227a.

12. As alleged in paragraph 11, the defendant [DEFENDANT DRIVER] deliberately and/or with reckless disregard operated a commercial motor vehicle in violation of the previously referenced statutes, and such violation was a substantial factor in causing the plaintiff's injuries.

13. As a result of the recklessness of the defendant, the plaintiff was violently thrown about the interior of the vehicle, and then, upon ejection from the vehicle, he was

violently thrown upon the surface of the roadway causing him to sustain severe, catastrophic, and life altering injuries.

14. Subsequent examination revealed that the plaintiff sustained and suffered the following injuries:

1. A traumatic brain injury with accompanying closed skull fracture with subarachnoid, subdural and extradural hemorrhages in the brain;
  2. A closed fracture of the zygomatic arch of the facial skeleton;
  3. A non-displaced Type II dens fracture of the cervical spine;
  4. A fracture of the lumbar transverse process at L3;
  5. Right cephalic vein superficial thrombosis;
  6. Vascular complications necessitating the introduction of IVC filters and other anticoagulation measures;
  7. Tachycardia and other cardiac abnormalities;
  8. Extensive lacerations and abrasions to the scalp, face and other areas of the body, including the abdomen, hands and extremities;
  9. Exacerbation of post-traumatic stress disorder;
  10. Chronic pain;
  11. Cognitive and sensory deficits;
  12. Auditory and speech deficits; and
  13. Physical pain and suffering along with mental anguish.
15. Some or all of the plaintiff's injuries are of a permanent nature.

16. As a further result of the recklessness of the defendant, the plaintiff suffered great mental anguish and anxiety in anticipation of the impending collision.

17. As a further result of the recklessness of the defendant, the plaintiff has incurred bills and expenses for hospital and medical care, the services of physicians, surgeons, ambulance service, x-rays and diagnostic testing, physical and occupational therapy treatments, medicines and pharmaceutical apparatus and devices, and will incur further such expenses into the future, all to his loss and detriment.

18. As a further result of the recklessness of the defendant, the plaintiff was hospitalized and confined to home for a significant period of time and has been prevented, and will continue to be prevented, from engaging in his usual activities, as well as his everyday enjoyment of life, all to his future loss and detriment.

19. As a further result of the recklessness of the defendant, the plaintiff has been deprived of his ability to engage in his normal employment activities, thereby suffering a loss of earnings, and will continue to suffer said loss into the future, affecting his future earning capacity.

**COUNT SIX (Common Law Recklessness v. [DEFENDANT DRIVER])**

1-10. The plaintiff hereby incorporates paragraphs 1 through 10 of Count One as his corresponding paragraphs 1 through 10 of Count Six as if fully set forth herein.

11. The injuries sustained by the plaintiff were caused by the reckless misconduct of the defendant [DEFENDANT DRIVER] in that he acted in reckless, willful,

wanton and/or malicious disregard for the safety of other persons, including the plaintiff, in one or more of the following ways:

- a. IN THAT he operated his tractor trailer truck at an unreasonably slow rate of speed on a limited access divided highway under nighttime lighting conditions, without having due regard for the other traffic, width and use of highway, under the circumstances then and there existing;
- b. IN THAT he failed to stop his tractor trailer truck and remove it from the travel portion of the roadway when it became no longer capable of being operated at a reasonably safe speed, under the circumstances then and there existing;
- c. IN THAT he failed to give adequate warning to vehicles approaching him from the rear to indicate that his vehicle was not traveling at a normal highway speed;
- d. IN THAT he operated his tractor trailer truck at a speed lower than 40 miles per hour on a limited access divided highway under circumstances when it was not safe to do so, in violation of C.G.S. § 14-220;
- e. IN THAT he operated his tractor trailer truck with unsafe tires, in violation of C.G.S. § 14-98a;
- f. IN THAT he operated his tractor trailer truck recklessly, having regard for the width, traffic, and use of said highway so as to endanger the life of others, including the plaintiff, in violation of C.G.S. § 14-222;
- g. IN THAT he operated his tractor trailer truck with inoperable or insufficient rear end tail lights, in violation of C.G.S. § 14-96l;
- h. IN THAT he slowed, stopped or suddenly decreased the speed of his vehicle without first giving appropriate and continuous signal and warning to the driver of any vehicle immediately approaching from the rear, in violation of C.G.S. § 14-242(c);

- i. IN THAT he operated his tractor trailer truck while under the influence of controlled and/or illegal substances, in violation of C.G.S. § 14-227a;
- j. IN THAT he operated his tractor trailer truck on the day in question without conducting a proper inspection of the truck, in violation of 49 C.F.R. § § 390, 392, 393 and/or 396;
- k. IN THAT he failed to properly repair and maintain the truck he was operating in proper working order, in violation of 49 C.F.R. § § 390, 393 and/or 396;
- l. IN THAT he reported for duty and operated his tractor trailer truck after he had used controlled and/or illegal substances, in violation of 49 C.F.R. § § 40 *et seq.*, 382 *et seq.*, 393 and 396;
- m. IN THAT he reported for duty and operated his tractor trailer truck while he was not qualified to do so, in violation of 49 C.F.R. § 383.51 *et seq.*; and
- n. IN THAT he operated his tractor trailer truck while his ability to remain alert was impaired, in violation of 49 C.F.R. § 392.3 *et seq.*

12. As alleged in paragraph 11, the defendant [DEFENDANT DRIVER] deliberately and/or with reckless disregard operated a commercial motor vehicle in violation of the previously referenced statutes, and such violation was a substantial factor in causing the plaintiff's injuries.

13. As a result of the recklessness of the defendant, the plaintiff was violently thrown about the interior of the vehicle, and then, upon ejection from the vehicle, he was violently thrown upon the surface of the roadway causing him to sustain severe, catastrophic, and life altering injuries.

14. Subsequent examination revealed that the plaintiff sustained and suffered the following injuries:

1. A traumatic brain injury with accompanying closed skull fracture with subarachnoid, subdural and extradural hemorrhages in the brain;
2. A closed fracture of the zygomatic arch of the facial skeleton;
3. A non-displaced Type II dens fracture of the cervical spine;
4. A fracture of the lumbar transverse process at L3;
5. Right cephalic vein superficial thrombosis;
6. Vascular complications necessitating the introduction of IVC filters and other anticoagulation measures;
7. Tachycardia and other cardiac abnormalities;
8. Extensive lacerations and abrasions to the scalp, face and other areas of the body, including the abdomen, hands and extremities;
9. Exacerbation of post-traumatic stress disorder;
10. Chronic pain;
11. Cognitive and sensory deficits;
12. Auditory and speech deficits; and
13. Physical pain and suffering along with mental anguish.

15. Some or all of the plaintiff's injuries are of a permanent nature.

16. As a further result of the recklessness of the defendant, the plaintiff suffered great mental anguish and anxiety in anticipation of the impending collision.

17. As a further result of the recklessness of the defendant, the plaintiff has incurred bills and expenses for hospital and medical care, the services of physicians, surgeons, ambulance service, x-rays and diagnostic testing, physical and occupational therapy treatments, medicines and pharmaceutical apparatus and devices, and will incur further such expenses into the future, all to his loss and detriment.

18. As a further result of the recklessness of the defendant, the plaintiff was hospitalized and confined to home for a significant period of time and has been prevented, and will continue to be prevented, from engaging in his usual activities, as well as his everyday enjoyment of life, all to his future loss and detriment.

19. As a further result of the recklessness of the defendant, the plaintiff has been deprived of his ability to engage in his normal employment activities, thereby suffering a loss of earnings, and will continue to suffer said loss into the future, affecting his future earning capacity.

**COUNT SEVEN (Recklessness v. [DEFENDANT TRUCKING CO])**

1-10. The plaintiff hereby incorporates paragraphs 1 through 10 of Count One as his corresponding paragraphs 1 through 10 of Count Seven as if fully set forth herein.

11. The injuries and losses sustained by the plaintiff, [PLAINTIFF INJURED], were caused by the recklessness of the defendant [DEFENDANT TRUCKING CO] acting through its agents, servants or employees, in one or more of the following ways:

- a. IN THAT it hired the defendant [DEFENDANT DRIVER] without conducting an adequate investigation of his background, health condition, motor vehicle history, and suitability for the position of operator of a tractor trailer truck;
- b. IN THAT it failed to conduct adequate and periodic investigations into the defendant [DEFENDANT DRIVER]'s background, health condition, motor vehicle history, and suitability for the position of operator of a tractor trailer truck after he had been hired and during the course of his employment with [DEFENDANT TRUCKING CO];
- c. IN THAT it failed to adequately inspect the tractor trailer unit which was being operated on the date of the incident;
- d. IN THAT it failed to properly maintain the tractor trailer unit which was being operated on the date of the incident;
- e. IN THAT it allowed the subject tractor trailer unit to be operated on the date of the incident when it knew, or should have known, that the vehicles' warning mechanisms, including its taillights, were inadequate and/or defective;
- f. IN THAT it allowed the tractor trailer truck to be operated by the defendant, [DEFENDANT DRIVER], when it knew, or should have known, that the defendant abused controlled and/or illegal substances;
- g. IN THAT it failed to test the subject tractor trailer truck on a regular and periodic basis;
- h. IN THAT it failed to perform and undertake adequate testing and training of its operators, including the defendant [DEFENDANT DRIVER], for alcohol and controlled substances, in violation of 49 C.F.R. § 382.301 *et seq.*;
- i. IN THAT it failed to properly train its operators, and allowed the defendant [DEFENDANT DRIVER] to drive a tractor trailer unit when said employee was not qualified to do so, in violation of 49 C.F.R. §§ 383, 390, 391 and/or 392;

- j. IN THAT it failed to perform a proper investigation of the defendant [DEFENDANT DRIVER] prior to the time of hiring, in violation of 49 C.F.R. § 391.23;
- k. IN THAT it failed to systematically inspect, repair, maintain, and/or failed to cause to be systematically inspected, repaired and maintained, all of the tractor trailer units subject to its control, including the tractor trailer unit involved in the subject action, in violation of 49 C.F.R. §§ 390, 392, 393 and/or 396.3 *et seq.*;
- l. IN THAT it allowed a tractor trailer truck to be used when it was likely to cause an accident in violation of 49 C.F.R. § 396.7 *et seq.*;
- m. IN THAT it failed to keep adequate and proper records of the defendant [DEFENDANT DRIVER]'s driving history, in violation of 49 C.F.R. § 395.3 *et seq.*; and/or
- n. IN THAT it failed to keep adequate and proper records of the subject tractor trailer truck's maintenance history, in violation of 49 C.F.R. § 376.12 *et seq.*

12. As a result of the recklessness of the defendant, the plaintiff was violently thrown about the interior of the vehicle, and then, upon ejection from the vehicle, he was violently thrown upon the surface of the roadway causing him to sustain severe, catastrophic, and life altering injuries.

13. Subsequent examination revealed that the plaintiff sustained and suffered the following injuries:

- 1. A traumatic brain injury with accompanying closed skull fracture with subarachnoid, subdural and extradural hemorrhages in the brain;
- 2. A closed fracture of the zygomatic arch of the facial skeleton;
- 3. A non-displaced Type II dens fracture of the cervical spine;

4. A fracture of the lumbar transverse process at L3;
  5. Right cephalic vein superficial thrombosis;
  6. Vascular complications necessitating the introduction of IVC filters and other anticoagulation measures;
  7. Tachycardia and other cardiac abnormalities;
  8. Extensive lacerations and abrasions to the scalp, face and other areas of the body, including the abdomen, hands and extremities;
  9. Exacerbation of post-traumatic stress disorder;
  10. Chronic pain;
  11. Cognitive and sensory deficits;
  12. Auditory and speech deficits; and
  13. Physical pain and suffering along with mental anguish.
14. Some or all of the plaintiff's injuries are of a permanent nature.
15. As a further result of the recklessness of the defendant, the plaintiff suffered great mental anguish and anxiety in anticipation of the impending collision.
16. As a further result of the recklessness of the defendant, the plaintiff has incurred bills and expenses for hospital and medical care, the services of physicians, surgeons, ambulance service, x-rays and diagnostic testing, physical and occupational therapy treatments, medicines and pharmaceutical apparatus and devices, and will incur further such expenses into the future, all to his loss and detriment.
17. As a further result of the recklessness of the defendant, the plaintiff was hospitalized and confined to home for a significant period of time and has been

prevented, and will continue to be prevented, from engaging in his usual activities, as well as his everyday enjoyment of life, all to his future loss and detriment.

18. As a further result of the recklessness of the defendant, the plaintiff has been deprived of his ability to engage in his normal employment activities, thereby suffering a loss of earnings, and will continue to suffer said loss into the future, affecting his future earning capacity.

**COUNT EIGHT (Loss of Consortium v. [DEFENDANT DRIVER])**

1-18. The plaintiff hereby incorporates paragraphs 1 through 18 of Count One as her corresponding paragraphs 1 through 18 of Count Eight as if fully set forth herein.

19-37. The plaintiff hereby incorporates paragraphs 1 through 19 of Count Five as her corresponding paragraphs 19 through 37 of Count Eight as if fully set forth herein.

38-56. The plaintiff hereby incorporates paragraphs 1 through 19 of Count Six as her corresponding paragraphs 38 through 56 of Count Eight as if fully set forth herein.

57. At all times mentioned herein, the plaintiff, [PLAINTIFF SPOUSE], was married and lawfully wed to the plaintiff, [PLAINTIFF INJURED].

58. As a result of the defendant's conduct, the plaintiff, [PLAINTIFF SPOUSE], has suffered the loss of her husband's companionship and society, care, affection, comfort, services and moral support.

59. As a further result of the defendant's conduct, the plaintiff, [PLAINTIFF SPOUSE], has been further required to provide assistance to her husband in terms of daily health needs and activities of daily living, medical care and services.

**COUNT NINE (Loss of Consortium v. [DEFENDANT TRUCKING CO])**

1-18. The plaintiff hereby incorporates paragraphs 1 through 18 of Count One as her corresponding paragraphs 1 through 18 of Count Nine as if fully set forth herein.

19-38. The plaintiff hereby incorporates paragraphs 1 through 20 of Count Two as her corresponding paragraphs 19 through 38 of Count Nine as if fully set forth herein.

39-56. The plaintiff hereby incorporates paragraphs 1 through 18 of Count Three as her corresponding paragraphs 39 through 56 of Count Nine as if fully set forth herein.

57-74. The plaintiff hereby incorporates paragraphs 1 through 18 of Count Seven as her corresponding paragraphs 57 through 74 of Count Nine as if fully set forth herein.

75. At all times mentioned herein, the plaintiff, [PLAINTIFF SPOUSE], was married and lawfully wed to the plaintiff, [PLAINTIFF INJURED].

76. As a result of the defendant's conduct, the plaintiff, [PLAINTIFF SPOUSE], has suffered the loss of her husband's companionship and society, care, affection, comfort, services and moral support.

