

M. Hochstetler and loss of consortium injuries suffered by her minor son, C.J. as a result of a motor vehicle collision that occurred on November 28, 2016 at the intersection of County Road D and SR 108 in Clinton Township, Fulton County, Ohio.

PARTIES

1. Plaintiff Nicole M. Hochstetler and her minor son C.J. are individuals and residents of the State of Ohio.
2. Defendant Republic Express Corp., d/b/a Republic Express, Inc. (“Republic Express”) is an entity that provides freight transportation services, which upon information and belief is a Texas corporation with its principal place of business in McAllen, Texas. The DOT number associated with the truck involved in the incident described herein is, per Department of Transportation records, registered to a company with the legal name Republic Express Corp., while the Traffic Crash Report completed in connection with this incident lists the vehicle owner as Republic Express, Inc.
3. Defendant Benito Manuel Garcia is an individual who upon information and belief is a resident of Mercedes, Texas, and who was driving a truck for Defendant Republic Express in the course and scope of his employment and/or agency for that company at the time of the incident described in this Complaint.

JURISDICTION AND VENUE

4. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
5. This Court has original jurisdiction over this matter under 28 U.S.C. § 1332 because Plaintiff’s citizenship is diverse from each of the Defendants and because the amount in controversy exceeds seventy-five thousand dollars (\$75,000.00).

6. Venue is proper in this Court under 28 U.S.C. § 1391(b) because the collision described herein occurred in Fulton County, Ohio, which is located in this judicial district.

FACTUAL ALLEGATIONS

7. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
8. At all relevant times, Defendant Republic Express owned a 2009 Freightliner Columbia 120, vehicle identification number 1FUJA6CK69DAC0199, USDOT number 1594464.
9. At all relevant times, Defendant Benito Manuel Garcia was acting in the course and scope of his employment or agency with Defendant Republic Express.
10. On November 28, 2016, during rainy weather, Defendant Benito Manuel Garcia was operating Defendant Republic Express's 2009 Freightliner, described above, traveling westbound on County Road D in Fulton County, Ohio, approaching the intersection with SR 108.
11. At the same time, Plaintiff Nicole M. Hochstetler was the seat-belted front-seat passenger in a 1998 Honda Civic driven by Jeremy X. Vasquez. Mr. Vasquez was traveling northbound on SR 108 in Fulton County, Ohio, approaching the intersection with County Road D.
12. At all relevant times, traffic on County Road D had a stop sign at the intersection with SR 108, while traffic on SR 108 did not have any traffic control device at that intersection.
13. Defendant Benito Manuel Garcia failed to yield the right-of-way to Mr. Vasquez and pulled Defendant Republic Express's semi-truck out in front of the oncoming Honda Civic driven by Mr. Vasquez. Mr. Vasquez was unable to stop and collided with the side of the Republic Express semi-truck.

14. The Honda Civic transporting Nicole Hochstetler sustained serious damage and was totaled, its front end completely smashed in and its windshield cracked and splintered.
15. The impact with Republic Express's semi-truck threw Nicole Hochstetler forward and she struck the dashboard and windshield when her seatbelt failed. The right side of Ms. Hochstetler's face/head smashed into the windshield, cracking it. Her body was shoved into the dashboard, and the impact jarred her left leg.
16. Ms. Hochstetler was transported by ambulance to Fulton County Health Center, bleeding and suffering from numerous serious injuries including but not limited to injuries to her head, face, neck, left shoulder, and left knee. Among these injuries, Ms. Hochstetler had severe facial lacerations and required surgery to remove glass from above her eye. She has been left with permanent facial scarring above her right eye.
17. The Ohio State Highway Patrol cited Defendant Benito Manuel Garcia with a violation of Ohio Revised Code 4511.43(A), violating the right-of-way rules at a stop sign.

FIRST CAUSE OF ACTION
(Negligent Entrustment – Republic Express)

18. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully restated herein.
19. Upon information and belief, at all times relevant hereto Defendant Benito Manuel Garcia was operating a truck owned by Defendant Republic Express as a truck driver for Republic Express.
20. On or about November 28, 2016, and at all relevant times, Mr. Garcia caused an automobile versus semi-truck collision while operating the vehicle owned by Republic Express, and while in the course and scope of his employment or agency with Republic Express.

21. Defendant Republic Express had a duty to act reasonably in investigating the work history, credentials, and fitness of Defendant Benito Manuel Garcia when entrusting its commercial motor vehicle to him.
22. Defendant Republic Express entrusted its vehicle to Defendant Benito Manuel Garcia on November 28, 2016.
23. Defendant Republic Express's entrustment of its vehicle to Defendant Benito Manuel Garcia directly and proximately caused the collision described in this Complaint.
24. Defendant Republic Express owed a duty to Plaintiff not to negligently entrust its vehicle to a negligent, reckless, incompetent, and/or dangerous driver.
25. Defendant Republic Express breached that duty of care by negligently entrusting its vehicle to Defendant Benito Manuel Garcia when Republic Express knew or reasonably should have known that Defendant Garcia was an inexperienced, incompetent, or dangerous driver.
26. As a direct and proximate result of Defendant Republic Express's negligent entrustment, Plaintiff Nicole M. Hochstetler sustained the serious and permanent personal injuries set forth in this Complaint. These injuries required medical and hospital care and caused Ms. Hochstetler to incur substantial medical and hospital care costs, along with pain and suffering, lost wages, mental anguish, and emotional distress.
27. Further, Plaintiff Nicole M. Hochstetler believes these injuries are permanent in nature and will require future medical care and future medical care costs, and that she will continue to endure great pain, suffering, mental anguish, and emotional distress.
28. Accordingly, Defendant Republic Express is liable for Plaintiff Nicole M. Hochstetler's injuries.

SECOND CAUSE OF ACTION
(Negligence Per Se – Benito Manuel Garcia)

29. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
30. Defendant Benito Manuel Garcia had a duty to exercise ordinary care and caution for the safety and welfare of other motorists, including by adhering to the laws of the State of Ohio governing motor vehicle traffic.
31. At the relevant time and place, Defendant Benito Manuel Garcia was negligent per se by failing to yield the right-of-way to the vehicle transporting Nicole Hochstetler when that vehicle was in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time Defendant Garcia was moving across or within the intersection, a violation of Ohio Revised Code 4511.43(A).
32. Plaintiff Nicole M. Hochstetler is in the class of individuals contemplated by the State legislature as the intended class to be protected by the relevant laws.
33. Defendant Benito Manuel Garcia's statutory violation directly and proximately caused Plaintiff Nicole M. Hochstetler's injuries and damages.
34. Defendant Benito Manuel Garcia is negligent per se based on this statutory violation.

THIRD CAUSE OF ACTION
(Negligence – Benito Manuel Garcia)

35. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
36. At all relevant times, Defendant Benito Manuel Garcia owed a duty to Plaintiff Nicole M. Hochstetler to use due care and caution in his operation of a commercial motor vehicle,

and was required to obey all local traffic ordinances, the statutes of Ohio, the Federal Motor Carrier Safety Regulations, and the rules of common law.

37. Defendant Benito Manuel Garcia breached his duty of care by violating Ohio's traffic laws, and by pulling out from a stop sign in front of oncoming traffic that was so close to the semi-truck he operated as to present an immediate hazard.
38. As a direct and proximate result of Defendant Benito Manuel Garcia's negligence, Plaintiff Nicole M. Hochstetler sustained the serious and permanent personal injuries set forth in this Complaint. These injuries required medical and hospital care and caused Ms. Hochstetler to incur substantial medical and hospital care costs, along with pain and suffering, lost wages, mental anguish, and emotional distress.
39. Further, Plaintiff Nicole M. Hochstetler believes these injuries are permanent in nature and will require future medical care and future medical care costs, and that she will continue to endure great pain, suffering, mental anguish, and emotional distress.

FOURTH CAUSE OF ACTION
(Loss of Consortium of Plaintiff C.J.)

40. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
41. At all relevant times, Plaintiff Nicole M. Hochstetler has been the natural parent and next friend of C.J., her minor son.
42. As a result of the Defendants' negligence, Plaintiff C.J. has been deprived of the love, affection, services, consortium, and society of his mother, Plaintiff Nicole M. Hochstetler, and the enjoyment and quality of his life and his ability to carry on the normal activities of his daily life with his mother have been impaired.

FIFTH CAUSE OF ACTION
(Vicarious Liability – Republic Express)

43. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
44. Defendant Benito Manuel Garcia was an employee, statutory employee, agent, servant, or independent contractor for Defendant Republic Express at all relevant times. Accordingly, Defendant Republic Express is vicariously liable for the negligent acts of Defendant Benito Manuel Garcia.
45. Because Defendant Benito Manuel Garcia was negligent as set forth above, and because he was at all times in the scope and course of his employment as an employee, statutory employee, agent, servant, or independent contractor for Defendant Republic Express, Defendant Republic Express is liable for Defendant Garcia's negligence under the doctrine of respondeat superior or vicarious liability.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against the Defendants on each of the above-stated claims, with the following damages to be awarded:

- A. General damages in an amount within this Court's jurisdiction that will conform to proof at the time of trial;
- B. Special damages in an amount within this Court's jurisdiction that will conform to proof at the time of trial;
- C. Loss of earnings according to proof at the time of trial;
- D. Medical expenses, past and future, according to proof at the time of trial;
- E. Past and future mental and emotional distress, according to proof at the time of trial;
- F. Attorney fees;

- G. Cost of suit incurred herein;
- H. Pre-judgment interest as provided by law; and
- I. Such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Charles E. Boyk

Charles E. Boyk

Attorney for Plaintiff

JURY DEMAND

Plaintiff demands a trial by jury on all issues triable by right.

/s/ Charles E. Boyk

Charles E. Boyk

Attorney for Plaintiff