

CAUSE NO. _____

ABDULLAH BAIDAS

Plaintiff,

vs.

AMAZON LOGISTICS, INC., J.B. HUNT
TRANSPORT, INC. and CORY MUNSON

Defendants.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

____ JUDICIAL DISTRICT

**PLAINTIFF’S ORIGINAL PETITION, REQUEST FOR DISCLOSURE, AND
APPLICATION FOR TEMPORARY RESTRAINING ORDER AND TEMPORARY
INJUNCTION**

COMES NOW, Abdullah Baidas (“Plaintiff”), and files this Original Petition, Request for Disclosure and application for Temporary Restraining Order and Temporary Injunction against Amazon Logistics, Inc., J.B. Hunt Transport, Inc. and Cory Munson (collectively “Defendants”), and would respectfully show this Honorable Court the following:

**I.
DISCOVERY CONTROL PLAN**

Pursuant to Rules 190.1 and 190.4 of the Texas Rules of Civil Procedure, Plaintiff files this petition under a Level 3 Discovery Control Plan.

**II.
PARTIES**

Plaintiff, Abdullah Baidas, is a resident of Harris County, Texas.

Defendant, Amazon Logistics, Inc. (“Amazon”) is a foreign-for-profit corporation doing business in the State of Texas. It may be served through its registered agent: 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

Plaintiff specifically invokes the right to institute this suit against whatever entity was conducting business using the assumed or common name of “Amazon” with regard to the events

described in this Petition. Plaintiff expressly invokes his right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later time upon the motion or of the Court.

Defendant, J.B. Hunt Transport, Inc. (“J.B. Hunt”) is a foreign-for-profit corporation doing business in the State of Texas. It may be served through its registered agent: Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

Plaintiff specifically invokes the right to institute this suit against whatever entity was conducting business using the assumed or common name of “J.B. Hunt” with regard to the events described in this Petition. Plaintiff expressly invokes his right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of this party substituted at a later time upon the motion or of the Court.

Defendant, Cory Munson (“Munson”) is an individual who resides in Texas. He may be served at 254 E. Park Place Dr., Lancaster, Texas 75134, or wherever he may be found.

III. **JURISDICTION AND VENUE**

The Court has jurisdiction of the subject matter of this lawsuit and the amount in controversy is above the minimum jurisdictional limits of this Honorable Court as Plaintiff seeks aggregate monetary relief over \$1,000,000.00. Additionally, removal to federal court would be improper because this lawsuit does not involve a federal question, this lawsuit lacks diversity because Cory Munson is a Texas citizen and/or because of the forum defendant rule.

Pursuant to Texas Civil Practice and Remedies Code section 15.002(a)(1), Harris County is the proper venue because it is the county where a substantial part of the events giving rise to this case occurred. Pursuant to Texas Civil Practice Remedies Code section 15.005, because venue is proper to one defendant, it is proper as to all defendants.

IV.
FACTUAL BACKGROUND

Around 1:30 a.m. on April 10, 2020, Plaintiff Abdullah Baidas was driving southbound on the North Freeway (I-45) near Rankin Road in Houston, when he came upon disabled vehicles on the side of the road that were involved in a previous accident. Abdullah Baidas pulled over to the side of the road and got out of his vehicle to assist the individuals involved in the previous accident. Meanwhile, Cory Munson was driving a tractor-trailer, that was owned and operated by Defendants Amazon and J.B. Hunt, along the same stretch of the North Freeway. Cory Munson crashed into the vehicles that were stopped and disabled on the side of the road. As a result of the crash, Plaintiff Abdullah Baidas fell off the overpass in order to avoid being struck by the Amazon and J.B. Hunt tractor-trailer, which caused him serious injuries including, but not limited to, a double amputation of his legs.

V.
CAUSES OF ACTION AGAINST CORY MUNSON

A. NEGLIGENCE AND NEGLIGENCE PER SE

At the time and on the occasion in question, Defendant Munson committed acts and omissions, which collectively and separately constituted negligence. Defendant Munson had a duty to exercise ordinary care, meaning that degree of care that would be used by any individual of ordinary prudence under the same or similar circumstances. Defendant Munson breached that duty in one or more of the following, non-exclusive ways:

- a. In failing to operate his vehicle in obedience to traffic laws and regulations;
- b. In failing to operate his vehicle in a reasonable and prudent manner for the road, load and weather conditions;
- c. In failing to maintain a proper lookout;

- d. In failing to pay attention to the conditions of the road and/or traffic;
- e. In failing to operate the vehicle in a non-negligent manner; and
- f. In driving the vehicle in willful or wanton disregard for the safety of persons, in violation of TEX. TRANS. CODE § 545.401.

Such negligence, either singularly or in combination, proximately caused the injuries and damages to Plaintiff Abdullah Baidas.

B. GROSS NEGLIGENCE

Defendant Munson's acts and omissions, as previously described, were committed with complete and reckless disregard for, and with willful, wanton, and actual conscious indifference to, the rights, safety, and welfare of Plaintiff and the general public. The nature of Defendant Munson's acts and omissions were of such a nature as to constitute gross negligence and malice. Specifically, Defendant Munson undertook a continuous course of action in the form of conscious decisions, with subjective knowledge and awareness of the risks and hazards presented by each decision as discussed above and incorporated herein, to expose Plaintiff and others on the roadway to life threatening hazards. When viewed objectively from the standpoint of Defendant Munson at the time of their occurrence, said acts and omissions involved an extreme degree of physical risk and danger, considering the probability and the magnitude of the potential harm to others. Defendant Munson committed various acts and omissions constituting gross negligence, as outlined above. Such gross negligence was a proximate cause of the occurrence and Plaintiff's injuries and damages.

VI.
CAUSES OF ACTION AGAINST DEFENDANTS AMAZON AND J.B. HUNT

A. RESPONDEAT SUPERIOR

Plaintiff affirmatively pleads that any alleged acts or negligence of Defendant Munson were committed while he was acting in the course and scope of his employment with Defendants J.B. Hunt and/or Amazon while he was on a mission on behalf of Defendants J.B. Hunt and/or Amazon and are thus imputed to J.B. Hunt and/or Amazon under a legal theory of *respondeat superior*.

B. NEGLIGENT HIRING

Plaintiff further pleads that Defendants J.B. Hunt and/or Amazon owed Plaintiff a legal duty to protect Plaintiff from Defendant Munson's negligent driving. The Plaintiff's injuries and damages were proximately caused by J.B. Hunt and/or Amazon's breach of said duty. In particular, Defendants J.B. Hunt and/or Amazon were negligent by hiring an incompetent, unfit, or reckless driver whom they knew, or by the exercise of reasonable care should have known, to be incompetent, unfit or reckless, thereby creating an unreasonable risk of harm to others.

C. NEGLIGENT RETENTION

Plaintiff further pleads that J.B. Hunt and/or Amazon negligently retained Defendant Munson as an employee. Defendants J.B. Hunt and/or Amazon owed Plaintiff a legal duty to protect Plaintiff from their employee's negligent operation of its vehicle. Plaintiff's injuries and damages were proximately caused by Defendants J.B. Hunt and/or Amazon breach of said duty. In particular J.B. Hunt and/or Amazon were negligent in retaining their employee, Munson, an incompetent, unfit or reckless driver whom they knew, or by the exercise of reasonable care should have known, to be incompetent, unfit or reckless, thereby creating an unreasonable risk of harm to others.

D. NEGLIGENT ENTRUSTMENT

Plaintiff further pleads that Defendants J.B. Hunt and/or Amazon negligently entrusted their tractor-trailer Defendant Munson. Defendants J.B. Hunt and/or Amazon owned and/or operated the tractor-trailer vehicle involved in the incident and consented to and permitted Defendant Munson to operate the tractor-trailer at the time of the subject collision. Their employee, Munson, was an incompetent and/or reckless driver. Their employee, Munson, was negligent on the occasion in question in a manner that was reasonably foreseeable by Defendants J.B. Hunt and/or Amazon and his negligence proximately caused Plaintiff's injuries and damages.

E. GROSS NEGLIGENCE

Plaintiff alleges that all acts, conduct and omissions on the part of Defendants J.B. Hunt and/or Amazon, taken singularly or in combination, constitute gross negligence and were the proximate cause of Plaintiff's injuries and damages. Defendants J.B. Hunt and/or Amazon's acts and/or omissions, when viewed objectively from the Defendants J.B. Hunt and/or Amazon's standpoint at the time such acts and/or omissions occurred, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Defendants J.B. Hunt and/or Amazon had actual, subjective awareness of the risk, but proceeded with conscious indifference to the rights, safety and welfare of Plaintiff with an intentional state of mind. Such gross negligence was a proximate cause of the occurrence and Plaintiff's injuries and damages. Therefore, Plaintiff is entitled to punitive and/or exemplary damages.

VII. **DAMAGES**

As a result of Defendants' actions and/or inactions, Plaintiff brings this lawsuit for the following damages:

- a. Past and future and physical pain and suffering;

- b. Past and future mental anguish;
- c. Past and future medical expenses;
- d. Past and future lost wages and loss of earning capacity;
- e. Disfigurement
- f. Court costs;
- g. Exemplary damages; and
- h. Any and all other damages, both general and special, at law and in equity, to which Plaintiff may be justly entitled.

Plaintiff also seeks both prejudgment and post judgment interest as allowed by law, for all costs of court, actual damages, and all other relief, both at law and in equity, to which Plaintiff may be entitled.

VIII. **PRESERVATION OF EVIDENCE**

Plaintiff hereby requests and demands that Defendants and their agents, attorneys, and insurers preserve and maintain all evidence pertaining to any claim or defense to the incident made the basis of this lawsuit, or the damages resulting therefrom, including but not limited to photographs; videotapes; audiotapes; recordings; business records, memoranda; files; facsimiles; e-mails; voicemails; text messages; sales receipts; invoices; commission records; tax records; telephone messages; telephone calling card transactions; calendar entries; diary entries; any incident report; and any electronic image, data or information related to the referenced incident. Failure to maintain such items, including but not limited any other items previously requested and demanded to be preserved before the subject lawsuit ensued, will constitute a “spoliation” of the evidence and may subject Defendants to sanctions.

IX.

APPLICATION FOR TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF

Based on reasonable information and belief, Plaintiff asserts that the J.B. Hunt and Amazon tractor-trailer being driven by Defendant Munson and/or their agents, contractors, and independent contractors at the time of the incident, is or soon may be under the custody and control of Defendants. However, based on reasonable information and belief, Defendants will attempt to repair or modify both the tractors and trailers involved in the incident.

Plaintiff therefore requests that the Court enter an order restraining Defendants Amazon and J.B Hunt from altering, salvaging, selling, repairing or destroying any evidence from the subject tractor and trailer vehicle. Additionally, Plaintiff requests that Defendants Amazon and J.B Hunt be required to preserve and not alter and/or destroy the following items with regards to the driver operating the subject tractor: 1) the black box from the tractor; 2) drivers' log book, 3) drivers' cell phone, and 4) any drug test samples that have been obtained from the drivers of the subject tractors.

To prevent Defendants Amazon and J.B Hunt from altering, salvaging, selling, repairing, or destroying any evidence from the subject tractor, subject trailer, and its driver and in order for Plaintiff to properly investigate and pursue his claims, recover damages, and see that justice is done, this Court should require the Defendants, their agents, servants, employees, contractors, contract employees, attorneys, and those acting in concert with or in representation of said Defendants to:

- a. Refrain from altering, salvaging, selling, repairing, or destroying any evidence from the subject tractors, subject trailers, and subject drivers; and

- b. Preserve the subject tractors and subject trailers, until both items are fully inspected, and a download is performed (if possible) or in the alternative sell the tractors and trailers to Plaintiff at salvage price; and
- c. Preserve subject drivers' logbook, subject drivers' cell phones, and any drug testing samples that have been obtained from the drivers of the subject tractors.

There is no adequate remedy at law available to the Plaintiff to prevent the Defendants Amazon and J.B Hunt from altering, salvaging, selling or destroying any evidence from the subject tractor, subject trailer, and subject driver unless this Court grants immediate relief restraining such conduct. Plaintiff prays that this Court enter a Temporary Restraining Order preserving the status quo by restraining Defendants Amazon and J.B Hunt from in any way altering, salvaging, selling, repairing, or destroying any evidence from the subject tractor, subject trailer vehicle, and subject driver.

X.
REQUEST FOR HEARING

Plaintiff requests this Court to set his application for temporary restraining order for a hearing and, after hearing, issue a temporary restraining order against Defendants Amazon and J.B Hunt. Additionally, Plaintiff requests that a hearing be set on the application for a temporary injunction.

If the Defendants are permitted to change, alter, destroy or modify any evidence related to the collision, the Plaintiff in this lawsuit will lose the opportunity to inspect the evidence, and will be unable to prosecute their claim and thus will be deprived of adequate remedies at law.

The foregoing tangible and physical evidence is relevant and reasonably necessary to determine the cause of the incident made the basis of this suit, the loss of which would irreparably harm Plaintiff.

XI.
REQUEST FOR HEARING ON TEMPORARY RESTRAINING ORDER

Plaintiff further prays for this Court to set a hearing on Plaintiff's Application for Temporary Restraining Order and subsequent injunctive relief in this matter.

XII.
REQUEST FOR INSPECTION

Plaintiff also prays that this Court issue an Order permitting the Plaintiff's attorneys and investigative staff, including but not limited to, consulting experts, to have access to the subject tractor-trailer to inspect, photograph, and download the black box. Such access for the purpose of inspection, photographing and download is essential in order for Plaintiff to prepare his case and to see that justice is done.

XIII.
TRCP 193.7

Pursuant to Texas Rule of Civil Procedure 193.7, Defendants are hereby put on actual notice that any documents produced in response to written discovery will be used in pretrial proceedings and at trial and will be deemed authentic unless they make valid objections to authenticity pursuant to this rule.

XIV.
REQUEST FOR DISCLOSURE

Pursuant to Rule 194.1 *et seq.* of the Texas Rules of Civil Procedure, Plaintiff hereby requests that Defendants disclose the information or material described in Rule 194.2 within **fifty (50) days** of the service of this request at the office of the undersigned.

XV.
PREJUDGMENT INTEREST

Plaintiff seeks prejudgment interest pursuant to § 304.102 of the TEXAS FINANCE CODE.

XVI.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Plaintiff recovers damages from Defendants in accordance with the evidence; that Plaintiff recovers costs of the court herein expended; that Plaintiff recovers interest to which Plaintiff is justly entitled under the law, both prejudgment and post-judgment; that Plaintiff recovers actual damages; that Plaintiff is entitled to recover compensatory damages; that Plaintiff recovers punitive damages; and for such other further relief, both general and specific, both in law and in equity to which Plaintiff may be justly entitled.

Respectfully submitted,

**ABRAHAM, WATKINS, NICHOLS,
SORRELS, AGOSTO, AZIZ & STOGNER**

/s/ Muhammad S. Aziz

MUHAMMAD S. AZIZ

State Bar No. 24043538

KARL P. LONG

State Bar No. 24070162

ANGELINA WIKE

State Bar No. 24091852

800 Commerce Street

Houston, Texas 77002

(713) 222-7211 – Telephone

(713) 225-0827 – Facsimile
maziz@awtxlaw.com
klong@awtxlaw.com
awike@awtxlaw.com

-AND-

THE LAW OFFICES OF OMAR KHAWAJA, PLLC

/s/ Omar Khawaja _____

OMAR KHAWAJA

Texas Bar No. 24072181

omar@attorneyomar.com

Charlie C. Gustin

Texas Bar No. 24078605

charlie@attorneyomar.com

5959 West Loop South, Suite 420

Bellaire, Texas 77401

Tel. (281) 888-2339

Fax. (713) 969-4837

ATTORNEYS FOR PLAINTIFF