

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

LOWELL STATON,

CASE NO: 3:17-CV-306-J-25PDB

Plaintiff,

v.

ELITE AUTO LOGISTICS, INC., LARRY D.
WATSON, JERRY BARRIS, JR., and LAKEISHA
BARRIS

Defendants.

AMENDED COMPLAINT

COMES NOW, the Plaintiff, Lowell Staton, and files this lawsuit against Defendants Elite Auto Logistics, Inc., Larry D. Watson, Jerry Barris, Jr., and Lakeisha Barris, and alleges as follows:

JURISDICTION, PARTIES, AND VENUE

1. This is an action for damages in excess of fifteen thousand dollars.
2. At all times material hereto, Plaintiff, Lowell Staton, was a resident of Duval County, Florida.
3. At all times material hereto, Defendant, Elite Auto Logistics, Inc., was and is a foreign corporation with an address located at 5906 Wilton Street, Pearland, Texas.
4. Defendant, Elite Auto Logistics, Inc. ("Elite Auto") is subject to jurisdiction in the State of Florida because it: (1) operated, conducted, engaged in, or carried on business in Florida; (2) committed a tortious act in Florida; (3) caused injury to persons or property in

Florida at or about the time that it was engaged in solicitation, services, or activities within Florida, at or about the time products or materials it manufactured were used or consumed within Florida in the ordinary course of commerce, trade, or use; or (4) engaged in substantial and not isolated activity within Florida.

5. At all times material hereto, Defendant, Larry D. Watson, was and is a resident of Harris County, Texas.

6. Defendant, Larry Watson, is subject to jurisdiction in the State of Florida because he: (1) operated, conducted, engaged in, or carried on business in Florida; (2) committed a tortious act in Florida; (3) caused injury to persons or property in Florida at or about the time that he was engaged in solicitation, services, or activities within Florida, at or about the time products or materials he manufactured were used or consumed within Florida in the ordinary course of commerce, trade, or use; or (4) engaged in substantial and not isolated activity within Florida.

7. At all times material hereto, Defendant, Larry D. Watson, was an employee of Elite Auto Logistics, Inc. and acting within the course and scope of his employment.

8. At all times material hereto, Defendant, Jerry Barris, Jr., was and is a resident of Clay County, Florida.

9. At all times material hereto, Defendant, Lakeisha Barris, Jr., was and is a resident of Duval County, Florida.

10. Venue is proper in Duval County, Florida.

GENERAL ALLEGATIONS

11. On or about February 2, 2015, the Defendant, Larry Watson, drove his tractor trailer on I-295, Jacksonville, Duval County, Florida.

12. At or about that time, the Defendant, Jerry Barris, Jr., was driving a motor vehicle owned by Defendant, Lakeisha Barris, and was traveling on I-295, Jacksonville, Duval County, Florida.

13. At or about that time, Defendant, Jerry Barris, Jr.'s, motor vehicle stopped functioning properly causing traffic to stop behind him.

14. At or about that time, Plaintiff, Lowell Staton, who was travelling behind Defendant, Jerry Barris, Jr., stopped for traffic on I-295, Jacksonville, Duval County, Florida.

15. At or about that time, the Defendant, Larry Watson, who was travelling behind both Plaintiff Lowell Staton and Defendant Jerry Barris, Jr., failed to stop in time for traffic that had stopped on I-295, Jacksonville, Duval County, Florida.

16. The Defendant, Larry Watson's, failure to stop caused a chain reaction crash that ultimately resulted in Plaintiff, Lowell Staton's, motor vehicle being struck by another motor vehicle.

17. At the time of the collision, Plaintiff, Lowell Staton, was wearing his seatbelt and did nothing to contribute to the collision.

18. As a result of the Defendant, Larry Watson's, failure to stop, he was cited (Citation No. A3GR1WE) by Florida Highway Patrol for Careless Driving in violation of Florida Statute § 316.1925(1).

19. On or about April 22, 2015, Defendant, Larry Watson, pled no contest to Careless Driving and was fined \$164.00.

20. As a result of the Defendant, Larry Watson's, negligence, the Plaintiff, Lowell Staton, suffered damages, including, but not limited to, an injury to his cervical spine that required multi-level disc surgery.

COUNT I – NEGLIGENCE AGAINST LARRY D. WATSON

21. The Plaintiff incorporates by reference paragraphs 1 – 20, above.

22. Defendant, Larry D. Watson, had a duty to operate his motor vehicle in a careful, safe, prudent, and reasonable manner.

23. Defendant, Larry D. Watson, violated that duty by failing to stop in time for traffic.

24. As a result, Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, the Plaintiff demands judgment for any and all compensatory damages and/or punitive damages allowable by law against the Defendant, Larry D. Watson, together with any and all post-judgment interest and taxable costs allowable by law.

COUNT II – VICARIOUS LIABILITY AGAINST ELITE AUTO LOGISTICS, INC.

25. Plaintiff incorporates by reference paragraphs 1 – 20, above.

26. At all times material hereto, the Defendant, Larry D. Watson, was employed by Elite Auto Logistics, Inc. and was acting the course and scope of his employment and/or operated his motor vehicle with knowledge and/or implied and/or express consent of its owner, Elite Auto Logistics, Inc.

27. Defendant, Elite Auto Logistics, Inc., is vicariously liable for the negligence of its employee, Defendant, Larry D. Watson, under a doctrine of *respondeat superior*.

28. Defendant, Elite Auto Logistics, Inc., is vicariously liable for the negligence of the Defendant, Larry D. Watson, as the owner of the motor vehicle that the Defendant, Larry D. Watson, drove at the time of the collision.

29. As a result, Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, the Plaintiff demands judgment for any and all compensatory damages and/or punitive damages allowable by law against the Defendant, Elite Auto Logistics, Inc., together with any and all post-judgment interest and taxable costs allowable by law.

COUNT III – NEGLIGENT HIRING AGAINST ELITE AUTO LOGISTICS, INC.

30. Plaintiff incorporates by reference paragraphs 1 – 20, above.

31. Defendant, Elite Auto Logistics, Inc., had a duty to make an appropriate investigation of Defendant. Larry D. Watson, prior to hiring but failed to do so.

32. An appropriate investigation would have revealed that the Defendant, Larry D. Watson, was unsuitable for the particular duty he was tasked with performing or for employment in general.

33. It was unreasonable for Defendant, Elite Auto Logistics, Inc. to hire Defendant, Larry D. Watson, in light of the information it knew or should have known.

34. As a result, Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, the Plaintiff demands judgment for any and all compensatory damages and/or punitive damages allowable by law against the Defendant, Elite Auto Logistics, Inc., together with any and all post-judgment interest and taxable costs allowable by law.

COUNT IV – NEGLIGENT RETENTION AGAINST ELITE AUTO LOGISTICS, INC.

35. Plaintiff incorporates by reference paragraphs 1 – 20, above.

36. Defendant, Larry D. Watson, engaged in or showed the propensity to engage in conduct that was dangerous to others; to wit, unsafe driving.

37. Defendant, Elite Auto, had actual and/or constructive knowledge that Defendant, Larry D. Watson, acted or in all probability would act in manner dangerous to others; to wit, unsafe driving.

38. The Defendant, Elite Auto Logistics, Inc., as the employer had the ability to control Defendant, Larry D. Watson, to the extent that it could have substantially reduced the probability of harm to others, such as the Plaintiff, Lowell Staton.

39. The Plaintiff, Lowell Staton, was in fact injured by an act of Defendant, Larry D. Watson; to wit, unsafe driving.

40. The act, unsafe driving, could have been reasonably been anticipated by Defendant, Elite Auto Logistics, Inc., and which, by exercising due diligence and authority over the Defendant, Larry D. Watson, the Defendant, Elite Auto Logistics, Inc., might have reasonably prevented the act.

41. As a result, Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, the Plaintiff demands judgment for any and all compensatory damages and/or punitive damages allowable by law against the Defendant, Elite Auto Logistics, Inc., together with any and all post-judgment interest and taxable costs allowable by law.

COUNT V – NEGLIGENCE AGAINST JERRY BARRIS, JR.

42. Plaintiff incorporates by reference paragraphs 1 – 20, above.

43. Defendant, Jerry Barris, Jr., had a duty to operate his motor vehicle in a careful, safe, prudent, and reasonable manner.

44. Defendant, Jerry, Barris, Jr. violated that duty by stopping his motor vehicle on the roadway.

45. As a result, Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, the Plaintiff demands judgment for any and all compensatory damages and/or punitive damages allowable by law against the Defendant, Jerry Barris, Jr., together with any and all post-judgment interest and taxable costs allowable by law.

COUNT VI – VICARIOUS LIABILITY AGAINST LAKEISHA BARRIS

46. Plaintiff incorporates by reference paragraphs 1 – 20, 42 – 45, above.

47. At all times material hereto, Defendant, Lakeisha Barris, was the owner of the motor vehicle that Defendant, Jerry Barris, Jr., drove at the time of the motor vehicle crash.

48. At all times material hereto, Defendant, Jerry Barris, Jr, operated Defendant, Lakeisha Barris's, motor vehicle with her knowledge and/or implied and/or express consent.

49. The Defendant, Lakeisha Barris, is vicariously liable for the negligence of Defendant Jerry Barris, Jr.

50. As a result, Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn

money, and aggravation of a previously existing condition. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, the Plaintiff demands judgment for any and all compensatory damages and/or punitive damages allowable by law against the Defendant, Lakeisha Barris, together with any and all post-judgment interest and taxable costs allowable by law.

COUNT VII – NEGLIGENCE AGAINST LAKEISHA BARRIS

51. Plaintiff incorporates by reference paragraphs 1 – 20, 42 – 45, above.

52. The Defendant, Lakeisha Barris, had a duty to maintain her motor vehicle in a reasonably safe condition.

53. The Defendant, Lakeisha Barris, violated that duty by failing to maintain her motor vehicle in manner that would have prevented it from stopping and/or stalling during operation.

54. As a result, Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, the Plaintiff demands judgment for any and all compensatory damages and/or punitive damages allowable by law against the Defendant, Lakeisha Barris, together with any and all post-judgment interest and taxable costs allowable by law.

DEMAND FOR JURY TRIAL

The Plaintiff demands a jury trial on all issues so triable as a matter of right.

Respectfully submitted,

/s Adam J. Langino ,Esq. _____
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CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2017 I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically.

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By: /s Adam J. Langino, Esq.
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