

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

Mikeisha Fuse, Individually, and as Next Friend of her
daughter, Z.C., a minor,

CASE NO:

Plaintiff,

v.

Metro Mobility Management Group, LLC, a Florida
limited liability company; Florida Transportation
Group, LLC, d/b/a Palm Tran Connection; Palm Beach
County, a governmental entity; and The Arc of Palm
Beach County, Inc., a Florida corporation.

Defendants.

COMPLAINT

The Plaintiff, Mikeisha Fuse, in her individual capacity, and as Next Friend of her daughter, Z.C., a minor, hereby sues Defendants Metro Mobility Management Group, LLC, a Florida limited liability company; Florida Transportation Group, LLC, d/b/a Palm Tran Connection; Palm Beach County, a governmental entity; and the Arc of Palm Beach County, Inc., a Florida corporation, and states as follows:

PARITES, JURISDICTION AND VENUE

1. This is an action for damages in excess of fifteen thousand dollars, exclusive of attorneys' fees, interest and costs.
2. At all times material hereto, Plaintiff Mikeisha Fuse was and is a resident of Palm Beach County, Florida, and is otherwise *sui juris*.
3. At all times material hereto, Z.C., was and is a resident of Palm Beach County, Florida, and is a minor.

4. Z.C. was younger than 5 years old at the time of the incident that is the subject of this lawsuit.

5. At all times material hereto, Plaintiff Mikeisha Fuse was and is Z.C.'s biological mother, parent, and natural guardian.

6. Plaintiff Mikeisha Fuse brings this action as Next Friend of her minor daughter, Z.C., pursuant to 1.210(b), Florida Rule of Civil Procedure.

7. At all times material hereto, Metro Mobility Management Group, LLC ("Metro Mobility"), was and is a Florida limited liability company with its principal address and registered agent located at 230 Truck and Trailer Way, West Palm Beach, Florida.

8. At all times material hereto, Metro Mobility has and continues to provide transportation services to disabled children, such as Z.C.

9. At all times material hereto, Florida Transportation Group, LLC, d/b/a Palm Tran Connection (hereinafter "Palm Tran") was and is a Florida limited liability company with its principal address and registered agent located at 820 S.W. 2nd Ave, Suite 100, Pompano Beach, Florida.

10. At all times material hereto, Palm Tran has and continues to provide reservation services for the disabled and/or elderly individuals that request transportation services.

11. At all times material hereto, Palm Beach County was and is a state agency or subdivision located in the State of Florida. Pursuant to section 768.28, Florida Statutes, written notice of this action has been provided to Florida's Department of Financial Services and Palm Beach County's Board of County Commissioners.

12. On or before August 13, 2012, Palm Beach County entered into a contract with Metro Mobility to provide transportation services to elderly and disabled individuals in Palm Beach County, Florida.

13. At all times material hereto, The Arc of Palm Beach County, Inc. (“The Arc”), is a Florida corporation with its principal address and registered agent located at 1201 Australian Avenue, Riviera Beach, Florida.

14. At all times material hereto, The Arc has and continues to provide educational services to disabled children, such as Z.C.

15. Venue is appropriate in Palm Beach County, Florida.

16. All conditions precedent to bringing this action have been met or waived.

GENERAL ALLEGATIONS

17. At all material times hereto, Z.C. has suffered and continues to suffer from medical conditions including, but not limited to cerebral palsy, failure to thrive, epilepticus, uncontrolled seizures, mental retardation, and developmental delay. Z.C. also has a ventriculoperitoneal shunt (“VP-shunt”), and, at times, requires feeding through a gastrostomy tube (“G-tube”).

18. At all material times hereto, Z.C. was and is a medically disabled child that is helpless to render aid and/or protect herself.

19. At all material times hereto, Z.C. was entrusted to the care of Defendant Metro Mobility.

20. At all material times hereto, Z.C. was entrusted to the care of Defendant Palm Tran.

21. At all material times hereto, Z.C. was entrusted to the care of Defendant The Arc.

22. At all material times hereto, Z.C. was entrusted to the care of Defendant Palm Beach County.

23. On September 3, 2013, Z.C. was a student of Defendant The Arc.

24. Defendant The Arc through its Potentials Charters School provides services to severely disabled children, such as Z.C.

25. Before September 3, 2013, Defendant The Arc coordinated with Z.C.'s mother, Mikiesha Fuse, to have a trained chaperone accompany Z.C. to The Arc when being transported by Defendant Metro Mobility, including transport that was to take place on September 3, 2013.

26. The Arc provides a trained chaperone to disabled minors, such as Z.C., to ensure their safe transport to The Arc, and to assist, render aid, and/or render medical treatment to disabled minors, such as Z.C., in emergency medical situations.

27. Defendant Metro Mobility provides transportation services to disabled children, such as Z.C.

28. Defendant Metro Mobility has drawn numerous complaints from riders since it started its transportation services in Palm Beach County on or about August 13, 2012.

29. As of January 12, 2014, Defendant Metro Mobility has been fined at least \$2.5 million dollars for contract violations such as late-arriving and non-showing transportation, long rides, and lost drivers.

30. On or about September 3, 2013, Z.C. was transported to Defendant The Arc by Defendant Metro Mobility.

31. While being transported by Defendant Metro Mobility a passenger noticed that Z.C. was in distress.

32. That passenger alerted the Metro Mobility driver, but that driver made the decision to continue driving instead of stopping to render aid, medical treatment, and/or take any action to protect the safety, health and/or well-being of Z.C.

33. Thereafter, on that same trip, the passenger alerted the Metro Mobility driver that Z.C. had stopped breathing. The Metro Mobility driver stopped the transportation and made contact with Z.C.

34. At or about that time, instead of immediately contacting emergency medical services, the Metro Mobility driver contacted her dispatcher. The Metro Mobility driver never contacted emergency services for the benefit of Z.C.

35. Because of the Metro Mobility driver's delay in contacting emergency medical services it took emergency medical services at least 15 minutes to respond to Z.C.

36. When emergency medical services arrived the Metro Mobility driver made contact with the emergency medical personnel.

37. At or about that time, the Metro Mobility driver exclaimed that Z.C. had been non-responsive and/or not breathing for about 15 minutes prior to their arrival.

38. Upon contact with Z.C., emergency medical personnel confirmed that Z.C. was non-responsive, not breathing, and aystolic.

39. Prior to the arrival of emergency medical personnel the Metro Mobility driver took no action to protect Z.C.'s health, safety, and/or well-being, and the Metro Mobility driver to no action to render aid, render medical treatment, and/or any type of assistance that would have prevented and/or lessened the harm to Z.C.

40. On September 3, 2013, The Arc did not provide a chaperone for the transportation of Z.C., despite the fact that The Arc coordinated with and/or promised Z.C.'s mother, Mikesha Fuse, that a chaperone would be present with Z.C. to ensure her safe transport and to assist, render aid, and/or render medical treatment to Z.C., in an emergency medical situation.

41. On September 3, 2013, Z.C. was resuscitated by responding emergency medical personnel and transported to the hospital. She was discharged two weeks later. As a result of the incident of September 3, 2013, she suffered injuries including, but not limited to, brain damage.

NEGLIGENCE AGAINST METRO MOBILITY

42. Plaintiff re-alleges paragraphs 1 - 41 above, as if fully set forth herein.

43. At all material times hereto, Z.C. was and is a medically disabled child that is helpless to render aid and/or protect herself and was entrusted to the care of Defendant Metro Mobility.

44. Defendant Metro Mobility had a duty to request medical services for Z.C. within a reasonable amount of time.

45. Defendant Metro Mobility breached that duty in one or more of the following ways:

- a. By not requesting medical services for Z.C. within a reasonable amount of time.
- b. By not immediately calling for medical assistance at the time Defendant Metro Mobility knew or should have known that Z.C. was in medical distress.
- c. By not immediately calling for medical assistance at the time Defendant Metro Mobility knew or should have known that Z.C. stopped breathing.
- d. By waiting at least ten minutes to call for medical assistance after Defendant Metro Mobility knew or should have known that Z.C. was in medical distress.
- e. By waiting at least ten minutes to call for medical assistance after Defendant Metro Mobility knew or should have known that Z.C. stopped breathing.

46. Defendant Metro Mobility voluntarily undertook to transport Z.C., a disabled child, and had a duty to do so with due care.

47. Defendant Metro Mobility breached that duty in one or more of the following ways:

- a. By failing to act with reasonable care for Z.C.'s safety, well-being, and/or health.
- b. By failing to protect Z.C. from bodily harm.
- c. By discontinuing the aid and/or protection, if any, provided to Z.C.
- d. By failing to have available reasonable equipment to assist passengers, such as Z.C., in a medical emergency.
- e. By failing to assist, render aid, and/or render medical treatment to Z.C.
- f. By failing to reasonably assist, render aid, and/or render medical treatment to Z.C.
- g. By not immediately calling for medical assistance at the time Defendant Metro Mobility knew or should have known that Z.C. was in medical distress.
- h. By not immediately calling for medical assistance at the time Defendant Metro Mobility knew or should have known that Z.C. stopped breathing.
- i. By waiting at least ten minutes to call for medical assistance after Defendant Metro Mobility knew or should have known that Z.C. was in medical distress.
- j. By waiting at least ten minutes to call for medical assistance after Defendant Metro Mobility knew or should have known that Z.C. stopped breathing.

48. Defendant Metro Mobility voluntarily took charge of Z.C., a disabled child that is unable to aid and/or protect herself, and had a duty to protect and/or prevent Z.C. from any foreseeable bodily harm.

49. Defendant Metro Mobility breached that duty in one or more of the following ways:

- a. By failing to act with reasonable care for Z.C.'s safety, well-being, and/or health.
- b. By failing to protect Z.C. from bodily harm.

- c. By discontinuing the aid and/or protection, if any, provided to Z.C.
 - d. By failing to have available reasonable equipment to assist passengers, such as Z.C., in a medical emergency.
 - e. By failing to assist, render aid, and/or render medical treatment to Z.C.
 - f. By failing to reasonably assist, render aid, and/or render medical treatment to Z.C.
 - g. By not immediately calling for medical assistance at the time Defendant Metro Mobility knew or should have known that Z.C. was in medical distress.
 - h. By not immediately calling for medical assistance at the time Defendant Metro Mobility knew or should have known that Z.C. stopped breathing.
 - i. By waiting at least ten minutes to call for medical assistance after Defendant Metro Mobility knew or should have known that Z.C. was in medical distress.
 - j. By waiting at least ten minutes to call for medical assistance after Defendant Metro Mobility knew or should have known that Z.C. stopped breathing.
50. Defendant Metro Mobility had a duty to use reasonable care in the training, instruction, supervision, direction, and/or guidance of its employees and/or agents.
51. Defendant Metro Mobility breached that duty in one or more of the following ways:
- a. By failing to provide reasonable, appropriate, and/or adequate training, instruction, supervision, direction, and/or guidance to its employees on how to handle, provide aid, and/or assist in emergency medical situations.
52. Defendant Metro Mobility, Inc. is vicariously liable for the negligence of its employees and/or agents under *respondent superior*.
53. As a direct and proximate cause of Defendant Metro Mobility's negligence Z.C. suffered bodily injury, and resulting pain and suffering, disability, disfigurement, mental

anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and nursing care and treatment, and an aggravation of a pre-existing condition. The losses are either permanent or continuing in nature and Z.C. will suffer these losses in the future.

WHEREFORE, the Plaintiff, Mikeisha Fuse, as Next Friend of her daughter, Z.C., a minor, demands judgment for any and all compensatory damages allowable by law against Defendant Metro Mobility together with any and all post-judgment interest and taxable costs allowable by law.

BREACH OF FIDUCIARY DUTY AGAINST METRO MOBILITY

54. Plaintiff re-alleges paragraphs 1 - 41 above, as if fully set forth herein.

55. At all material times hereto, Z.C. was and is a medically disabled child that is helpless to render aid and/or protect herself and was entrusted to the care of Defendant Metro Mobility.

56. Defendant Metro Mobility, who had the power to control Z.C.'s access to emergency medical care, had a fiduciary duty to protect Z.C. from any foreseeable harm and to act in Z.C.'s best interests.

57. Defendant Metro Mobility breached that duty in one or more of the following ways:

- a. By failing to act with reasonable care for Z.C.'s safety, well-being, and/or health.
- b. By failing to protect Z.C. from bodily harm.
- c. By discontinuing the aid and/or protection, if any, provided to Z.C.
- d. By failing to have available reasonable equipment to assist passengers, such as Z.C., in a medical emergency.
- e. By failing to assist, render aid, and/or render medical treatment to Z.C.
- f. By failing to reasonably assist, render aid, and/or render medical treatment to Z.C.

- g. By not immediately calling for medical assistance at the time Defendant Metro Mobility knew or should have known that Z.C. was in medical distress.
- h. By not immediately calling for medical assistance at the time Defendant Metro Mobility knew or should have known that Z.C. stopped breathing.
- i. By waiting at least ten minutes to call for medical assistance after Defendant Metro Mobility knew or should have known that Z.C. was in medical distress.
- j. By waiting at least ten minutes to call for medical assistance after Defendant Metro Mobility knew or should have known that Z.C. stopped breathing.
- k. By failing to provide reasonable, appropriate, and/or adequate training, instruction, supervision, direction, and/or guidance to its employees on how to handle, provide aid, and/or assist in emergency medical situations.

58. Defendant Metro Mobility, Inc. is vicariously liable for the acts of its employees and/or agents under *respondent superior*.

59. As a direct and proximate cause of Defendant Metro Mobility's breach of its fiduciary duty Z.C. suffered bodily injury, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and nursing care and treatment, and an aggravation of a pre-existing condition. The losses are either permanent or continuing in nature and Z.C. will suffer these losses in the future.

WHEREFORE, the Plaintiff, Mikeisha Fuse, as Next Friend of her daughter, Z.C., a minor, demands judgment for any and all compensatory damages allowable by law against Defendant Metro Mobility together with any and all post-judgment interest and taxable costs allowable by law.

BREACH OF CONTRACT AGAINST METRO MOBILITY

60. Plaintiff re-alleges paragraphs 1 - 41 above, as if fully set forth herein.

61. At all times material hereto, a contract existed between Defendant Palm Beach County and Defendant Metro Mobility.

62. The contract is not in Plaintiff's possession but will be requested and/or produced by Defendant Metro Mobility through discovery.

63. The intent of the contract was to primarily and directly benefit a class of persons to which Z.C. belongs.

64. Defendant Metro Mobility breached that contract for the reasons set forth in paragraphs 17 – 41, 42 – 45, 46 – 47, 48 – 49, and 50 – 51.

65. As a direct and proximate cause of Defendant Metro Mobility's breach of contract Z.C. suffered bodily injury, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and nursing care and treatment, and an aggravation of a pre-existing condition. The losses are either permanent or continuing in nature and Z.C. will suffer these losses in the future.

WHEREFORE, the Plaintiff, Mikeisha Fuse, as Next Friend of her daughter, Z.C., a minor, demands judgment for any and all compensatory damages allowable by law against Defendant Metro Mobility together with any and all post-judgment interest and taxable costs allowable by law.

NEGLIGENCE AGAINST THE ARC

66. Plaintiff re-alleges paragraphs 1 - 41 above, as if fully set forth herein.

67. At all material times hereto, Z.C. was and is a medically disabled child that is helpless to render aid and/or protect herself and was entrusted to the care of The Arc.

68. Defendant The Arc had a duty to provide reasonable safety, supervision, and security to its students, including Z.C.

69. Defendant The Arc breached that duty in one or more of the following ways:

- a. By failing to provide adequate supervision to Z.C.
- b. By failing to provide adequate security to Z.C.
- c. By failing to provide adequate safety, protection, and/or assistance to Z.C.
- d. By failing to provide a chaperone for Z.C.
- e. By failing to provide adequate aid and/or medical treatment to Z.C.

70. Defendant The Arc voluntarily undertook to provide a trained chaperone to accompany Z.C. to The Arc to ensure her safe transport and/or to assist, render aid, and/or render medical treatment to Z.C. in an emergency medical situation, and had a duty to do so with due care.

71. Defendant The Arc breached that duty in one or more of the following ways:

- a. By failing to provide adequate supervision to Z.C.
- b. By failing to provide adequate security to Z.C.
- c. By failing to provide adequate safety, protection, and/or assistance to Z.C.
- d. By failing to provide a chaperone for Z.C.
- e. By failing to provide adequate aid and/or medical treatment to Z.C.

72. Defendant The Arc voluntarily took charge of Z.C., a disabled child that is unable to aid and/or protect herself, and had a duty to protect and/or prevent Z.C. from any foreseeable bodily harm.

73. Defendant The Arc breached that duty in one or more of the following ways:

- a. By failing to provide adequate supervision to Z.C.
- b. By failing to provide adequate security to Z.C.

- c. By failing to provide adequate safety, protection, and/or assistance to Z.C.
- d. By failing to provide a chaperone for Z.C.
- e. By failing to provide adequate aid and/or medical treatment to Z.C.

74. Defendant The Arc is vicariously liable for the negligence of its employees and/or agents under *respondent superior*.

75. As a direct and proximate cause of Defendant The Arc's negligence Z.C. suffered bodily injury, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and nursing care and treatment, and an aggravation of a pre-existing condition. The losses are either permanent or continuing in nature and Z.C. will suffer these losses in the future.

WHEREFORE, the Plaintiff, Mikeisha Fuse, as Next Friend of her daughter, Z.C., a minor, demands judgment for any and all compensatory damages allowable by law against Defendant The Arc together with any and all post-judgment interest and taxable costs allowable by law.

BREACH OF FIDUCIARY DUTY AGAINST THE ARC

76. Plaintiff's re-allege paragraphs 1 - 41 above, as if fully set forth herein.

77. At all material times hereto, Z.C. was and is a medically disabled child that is helpless to render aid and/or protect herself and was entrusted to the care of The Arc.

78. Defendant The Arc had a fiduciary duty to protect Z.C. from any foreseeable harm.

79. Defendant The Arc breached that duty in one or more of the following ways:

- a. By failing to provide adequate supervision to Z.C.
- b. By failing to provide adequate security to Z.C.
- c. By failing to provide adequate safety, protection, and/or assistance to Z.C.

- d. By failing to provide a chaperone for Z.C.
- e. By failing to provide adequate aid and/or medical treatment to Z.C.

80. Defendant The Arc is vicariously liable for the acts of its employees and/or agents under *respondent superior*.

81. As a direct and proximate cause of Defendant The Arc's breach of its fiduciary duty Z.C. suffered bodily injury, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and nursing care and treatment, and an aggravation of a pre-existing condition. The losses are either permanent or continuing in nature and Z.C. will suffer these losses in the future.

WHEREFORE, the Plaintiff, Mikeisha Fuse, as Next Friend of her daughter, Z.C., a minor, demands judgment for any and all compensatory damages allowable by law against Defendant The Arc together with any and all post-judgment interest and taxable costs allowable by law.

BREACH OF CONTRACT AGAINST THE ARC

82. Plaintiff re-alleges paragraphs 1 - 41 above, as if fully set forth herein.

83. At all times material hereto, a contract existed between Plaintiff and Defendant The Arc.

84. The contract is not in Plaintiff's possession but will be requested from and/or produced by Defendant The Arc through discovery.

85. Defendant The Arc breached that contract for the reasons set forth in paragraphs 17 - 41, 67 - 69, 70 - 71, and 72 - 73.

86. As a direct and proximate cause of Defendant The Arc's breach of contract Z.C. suffered bodily injury, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care

and nursing care and treatment, and an aggravation of a pre-existing condition. The losses are either permanent or continuing in nature and Z.C. will suffer these losses in the future.

WHEREFORE, the Plaintiff, Mikeisha Fuse, as Next Friend of her daughter, Z.C., a minor, demands judgment for any and all compensatory damages allowable by law against Defendant The Arc together with any and all post-judgment interest and taxable costs allowable by law.

NEGLIGENCE AGAINST PALM TRAN

87. Plaintiff re-alleges paragraphs 1 - 41 above, as if fully set forth herein.

88. At all material times hereto, Z.C. was and is a medically disabled child that is helpless to render aid and/or protect herself and was entrusted to the care of Defendant Palm Tran.

89. Defendant Palm Tran had a duty to request medical services for Z.C. within a reasonable amount of time.

90. Defendant Palm Tran breached that duty in one or more of the following ways:

- a. By failing to request medical services for Z.C. within a reasonable amount of time.
- b. By not immediately calling for medical assistance at the time Defendant Palm Tran knew or should have known that Z.C. was in medical distress.
- c. By not immediately calling for medical assistance at the time Defendant Palm Tran knew or should have known that Z.C. stopped breathing.
- d. By waiting at least ten minutes to call for medical assistance after Defendant Palm Tran knew or should have known that Z.C. was in medical distress.
- e. By waiting at least ten minutes to call for medical assistance after Defendant Palm Tran knew or should have known that Z.C. stopped breathing.

91. Defendant Palm Tran voluntarily undertook to provide transport dispatch and/or reservation services to disabled individuals that use Defendant Metro Mobility's transportation services, including Z.C., and had a duty to do so with due care.

92. Defendant Palm Tran breached that duty in one or more of the following ways:

- a. By failing to dispatch an adequate vehicle to transport Z.C.
- b. By failing to dispatch the correct vehicle to transport Z.C.
- c. By failing to dispatch the correct vehicle to transport the chaperone from Defendant The Arc.
- d. By failing to request medical services for Z.C. within a reasonable amount of time.
- e. By not immediately calling for medical assistance at the time Defendant Palm Tran knew or should have known that Z.C. was in medical distress.
- f. By not immediately calling for medical assistance at the time Defendant Palm Tran knew or should have known that Z.C. stopped breathing.
- g. By waiting at least ten minutes to call for medical assistance after Defendant Palm Tran knew or should have known that Z.C. was in medical distress.
- h. By waiting at least ten minutes to call for medical assistance after Defendant Palm Tran knew or should have known that Z.C. stopped breathing.

93. Defendant Palm Tran had a duty to use reasonable care in the training, instruction, supervision, direction, and/or guidance of its employees and/or agents.

94. Defendant Palm Tran breached that duty in one or more of the following ways:

- a. By failing to provide reasonable, appropriate, and/or adequate training, instruction, supervision, direction, and/or guidance to its employees and/or Metro

Mobility's employees on how to handle, provide aid, and/or assist in emergency medical situations.

95. Defendant Palm Tran is vicariously liable for the negligence of its employees and/or agents under *respondent superior* and/or *agency*.

96. At all times material hereto, Defendant Metro Mobility was the actual and/or apparent agent of Defendant Palm Tran because Palm Tran acknowledged that Metro Mobility acted for Palm Tran; Metro Mobility accepted the undertaking; and Palm Tran exercised control over Metro Mobility.

97. At all times material hereto, Defendant Metro Mobility was acting within the course and scope of its agency.

98. As a direct and proximate cause of Defendant Palm Tran's negligence Z.C. suffered bodily injury, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and nursing care and treatment, and an aggravation of a pre-existing condition. The losses are either permanent or continuing in nature and Z.C. will suffer these losses in the future.

WHEREFORE, the Plaintiff, Mikeisha Fuse, as Next Friend of her daughter, Z.C., a minor, demands judgment for any and all compensatory damages allowable by law against Defendant Palm Tran together with any and all post-judgment interest and taxable costs allowable by law.

BREACH OF FIDUCIARY DUTY AGAINST PALM TRAN, INC.

99. Plaintiff re-alleges paragraphs 1 - 41 above, as if fully set forth herein.

100. At all material times hereto, Z.C. was and is a medically disabled child that is helpless to render aid and/or protect herself and was entrusted to the care of Defendant Palm Tran.

101. Defendant Palm Tran had a fiduciary duty to protect Z.C. from any foreseeable harm.

102. Defendant Palm Tran breached that duty in one or more of the following ways:

- a. By failing to dispatch an adequate vehicle to transport Z.C.
- b. By failing to dispatch the correct vehicle to transport Z.C.
- c. By failing to dispatch the correct vehicle to transport the chaperone from Defendant The Arc.
- d. By failing to request medical services for Z.C. within a reasonable amount of time.
- e. By not immediately calling for medical assistance at the time Defendant Palm Tran knew or should have known that Z.C. was in medical distress.
- f. By not immediately calling for medical assistance at the time Defendant Palm Tran knew or should have known that Z.C. stopped breathing.
- g. By waiting at least ten minutes to call for medical assistance after Defendant Palm Tran knew or should have known that Z.C. was in medical distress.
- h. By waiting at least ten minutes to call for medical assistance after Defendant Palm Tran knew or should have known that Z.C. stopped breathing.
- i. By failing to provide reasonable, appropriate, and/or adequate training, instruction, supervision, direction, and/or guidance to its employees and/or Defendant Metro Mobility's employees on how to handle, provide aid, and/or assist in emergency medical situations.

103. Defendant Palm Tran is vicariously liable for the acts of its employees and/or agents under *respondent superior*.

104. As a direct and proximate cause of Defendant Palm Tran's breach of its fiduciary duty Z.C. suffered bodily injury, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and nursing care and treatment, and an aggravation of a pre-existing condition. The losses are either permanent or continuing in nature and Z.C. will suffer these losses in the future.

WHEREFORE, the Plaintiff, Mikeisha Fuse, as Next Friend of her daughter, Z.C., a minor, demands judgment for any and all compensatory damages allowable by law against Defendant Palm Tran together with any and all post-judgment interest and taxable costs allowable by law.

BREACH OF CONTRACT AGAINST PALM TRAN, INC.

105. Plaintiff re-alleges paragraphs 1 - 41 above, as if fully set forth herein.

106. At all times material hereto, a contract existed between Defendant Palm Beach County and Defendant Palm Tran.

107. The contract is not in Plaintiff's possession but will be requested from and/or produced by Defendant Palm Tran through discovery.

108. The intent of the contract was to primarily and directly benefit a class of persons to which Z.C. belongs.

109. Defendant Palm Tran breached that contract for the reasons set forth in paragraphs 17 - 41, 88 - 90, 91 - 92, 93 - 94, and 96 - 97.

110. As a direct and proximate cause of Defendant Palm Tran's breach of contract Z.C. suffered bodily injury, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and nursing care and treatment, and an aggravation of a pre-existing condition. The losses are either permanent or continuing in nature and Z.C. will suffer these losses in the future.

WHEREFORE, the Plaintiff, Mikeisha Fuse, as Next Friend of her daughter, Z.C., a minor, demands judgment for any and all compensatory damages allowable by law against Defendant Palm Tran together with any and all post-judgment interest and taxable costs allowable by law.

NEGLIGENCE AGAINST PALM BEACH COUNTY

111. Plaintiff re-alleges paragraphs 1 - 41 above, as if fully set forth herein.

112. At all material times hereto, Z.C. was and is a medically disabled child that is helpless to render aid and/or protect herself and was entrusted to the care of Defendant Palm Beach County.

113. Defendant Palm Beach County had a non-delegable duty to protect Z.C., a disabled minor, from foreseeable harm.

114. Defendant Palm Beach County breached that duty in one or more of the following ways:

- a. By failing to act with reasonable care for Z.C.'s safety, well-being, and/or health.
- b. By failing to protect Z.C. from bodily harm.
- c. By discontinuing the aid and/or protection, if any, provided to Z.C.
- d. By failing to have available reasonable equipment to assist passengers, such as Z.C., in a medical emergency.
- e. By failing to assist, render aid, and/or render medical treatment to Z.C.
- f. By failing to reasonably assist, render aid, and/or render medical treatment to Z.C.

115. Because Defendant Palm Beach County had a non-delegable duty to protect Z.C., a disabled minor, from foreseeable harm, Defendant Palm Beach County is liable for the negligence of Defendant Metro Mobility, Inc. as stated in paragraphs 17 – 41, 43 – 45, 46- 47, 48 – 49, and 50 – 51.

116. Because Defendant Palm Beach County had a non-delegable duty to protect Z.C., a disabled minor, from foreseeable harm, Defendant Palm Beach County is liable for negligence of Defendant Palm Tran as stated in paragraphs 17 – 41, 88 – 90, 91 – 92, 93 – 94, and 96 – 97.

117. As a direct and proximate cause of Defendant Palm Beach County's negligence Z.C. suffered bodily injury, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, and medical care and nursing care and treatment, and an aggravation of a pre-existing condition. The losses are either permanent or continuing in nature and Z.C. will suffer these losses in the future.

WHEREFORE, the Plaintiff, Mikeisha Fuse, as Next Friend of her daughter, Z.C., a minor, demands judgment for any and all compensatory damages allowable by law against Defendant Palm Beach County together with any and all post-judgment interest and taxable costs allowable by law.

LOSS OF FILIAL CONSORTIUM AGAINST ALL DEFENDANTS

118. Plaintiff, Mikeisha Fuse, re-alleges paragraphs 1 - 117 above, as if fully set forth herein.

119. Plaintiff Mikeisha Fuse's daughter, Z.C., suffered a significant injury that resulted in her permanent total disability.

120. As a result of the injuries suffered by Z.C., her mother, Mikeisha Fuse, has in the past and will in the future suffer the loss of companionship, society, love, affection, and solace of her injured daughter, Z.C.

WHEREFORE, the Plaintiff Mikeisha Fuse demands judgment for compensatory damages and costs, including pre-judgment interest on all out-of-pocket damages, against all the Defendants, and for whatever further relief this Court deems appropriate.

DEMAND FOR JURY TRIAL

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

Respectfully submitted,

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