

CAUSE NO. 18-06-08228

KAREN DRAKE JACKSON,
Plaintiff

VS.

FEDERAL EXPRESS CORPORATION,
FEDEX CORPORATION and
TECMAC, LLC,
Defendants

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IN THE DISTRICT COURT OF

MONTGOMERY COUNTY, TEXAS
Montgomery County - 410th Judicial District Court

_____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION,
RULE 194 REQUEST FOR DISCLOSURES AND RULE 193.7 NOTICE**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff KAREN DRAKE JACKSON¹ complains of Defendants FEDERAL EXPRESS CORPORATION, FEDEX CORPORATION and TECMAC LLC, and would respectfully show this Honorable Court as follows:

DISCOVERY CONTROL PLAN

1. Discovery is intended to be conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure. Once Defendants are served and answer, counsel for Plaintiff will ask the Court to enter a Discovery Control Plan pursuant to Rule 190.4.

PARTIES

2.1 Plaintiff KAREN DRAKE JACKSON is a resident of College Station, Brazos County, Texas.

2.2 Defendant FEDERAL EXPRESS CORPORATION is a foreign corporation with its national headquarters in Memphis, Tennessee. Defendant is licensed to do business in the State of Texas and actively engages in business in Texas. This case arises out of specific actions taken by Defendant in the State of Texas. Defendant

¹ At the time of her injury, Plaintiff was known as Karen Drake. Since her injury she has married and will be referred to by her married name, Karen Drake Jackson.

FEDERAL EXPRESS CORPORATION may be served with process and a copy of Plaintiff's Original Petition, Rule 194 Requests for Disclosure and Plaintiff's Rule 193.7 Notice through its agent for service of process: Ct Corporation System; 1999 Bryan Street, Suite 900; Dallas, Texas 75201.

2.3 Defendant FEDEX CORPORATION is a foreign corporation with its national headquarters in Memphis, Tennessee. Defendant is licensed to do business in the State of Texas and actively engages in business in Texas. This case arises out of specific actions taken by Defendant in the State of Texas. Defendant FEDEX may be served with process and a copy of Plaintiff's Original Petition, Rule 194 Requests for Disclosure and Plaintiff's Rule 193.7 Notice through its agent for service of process: Ct Corporation System; 1999 Bryan Street, Suite 900; Dallas, Texas 75201.

2.4 Defendant TECMAC LLC is a Texas limited liability corporation with its main office and principal place of business located in Montgomery County, Texas. Defendant may be served with process and a copy of Plaintiff's Original Petition, Rule 194 Requests for Disclosure and Plaintiff's Rule 193.7 Notice by serving its agent for service of process: Robin Strickland; 15522 Summit Park Drive, Suite 201; Montgomery, Texas 77356.

JURISDICTION AND VENUE

3.1 This case is within the jurisdiction of Texas District Courts as defined by Article V, Section 8 of the Texas Constitution. This Court has original jurisdiction as the amount in controversy is more than \$500, exclusive of interest.

3.2 Venue is proper in Montgomery County, Texas pursuant to Tex. Civ. Prac. & Rem. Code §15.002(a)(1), as this is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred. Further, venue is proper in Montgomery County against Defendant TECMAC LLC pursuant to Tex. Civ. Prac. & Rem.

Code §15.002(a)(3), as this is the county in which it maintains its principal office in Texas. Venue is also proper against Defendants FEDERAL EXPRESS CORPORATION and FEDEX CORPORATION pursuant to Tex. Civ. Prac. & Rem. Code §15.005, as this lawsuit arises out of the same occurrence and a county that is proper venue for one defendant is the proper venue for a cause of action against multiple defendants if the claims against all defendants arise out of the same occurrence.

BASIC FACTS

4.1 On August 2, 2016, Karen Drake Jackson was employed as a delivery driver by Dawne Oil Field Service (DOFS). At all relevant times DOFS had a contract with FEDERAL EXPRESS CORPORATION and/or FEDEX CORPORATION that called for DOFS to pick up and deliver packages for FEDERAL EXPRESS CORPORATION and/or FEDEX CORPORATION. While in the course and scope of her employment with DOFS, Mrs. Jackson was contacted by her dispatcher and instructed to drive to Big Little Fudge, a business owned and operated by Defendant TECMAC LLC, and pick up packages for delivery to FEDERAL EXPRESS CORPORATION and/or FEDEX CORPORATION. In response to this call, Plaintiff Jackson drove her DOFS company van to the Big Little Fudge warehouse located on Summit Park Drive in Montgomery, Texas. There, employees of Defendant TECMAC LLC, acting in the course and scope of their employment, directed Karen Drake Jackson to the location of approximately 50 brown cardboard boxes and she loaded them into her DOFS company. A few of the boxes were labeled perishable, but the overwhelming majority had no label on them. None of the boxes were labeled as containing dry ice and the employees of TECMAC, LLC did not tell Plaintiff Jackson the boxes contained dry ice. After the boxes were loaded, Karen Drake Jackson left the Big Little Fudge warehouse and began driving toward a subdivision

that was approximately 20 minutes away, where she was supposed to make three deliveries before heading to the Federal Express terminal.

4.2 At approximately 5:40 P.M. the Montgomery County Sheriff's Department dispatched an officer to 24701 Watson Road in Montgomery County to check on a white van parked by the side of the road. When he arrived, the officer found "a black female [Karen Drake Jackson] laying from the driver seat and slumped over into the passenger seat."² After attempting to open all doors but finding them locked, the officer broke the small front window on the driver's side with his baton and, with the assistance of a medic, removed Karen Drake Jackson, who was unconscious, from inside the van.

4.3 A HAZMAT team was dispatched to the scene, arrived and checked the vehicle. It was determined there was an abnormally low concentration of oxygen in the vehicle and a high concentration of carbon dioxide. Upon further inspection the HAZMAT team opened the boxes labeled "Little Big Fudge" and found 47 boxes "filled with dry ice that was melting, releasing CO₂ which displaced the oxygen and caused the medical emergency."³

4.4 Employees of Defendant TECMAC, LLC, acting in the course and scope of their employment, packed the boxes with dry ice. At no time did Defendant TECMAC, LLC, its agents, servants and/or employees ever advise Plaintiff there were 47 boxes with dry ice or alert her to the dangers posed by the dry ice and steps she needed to take to avoid those dangers.

² This quote is taken from the Montgomery County Sheriff's Office report of this incident.

³ This quote is from the City of Conroe Fire Department report of this incident.

4.5 Defendants FEDERAL EXPRESS CORPORATION and/or FEDEX CORPORATION did not promulgate any packing, shipping, warning or dry ice procedures or instructions that individuals or companies were required to take prior to shipping items with Defendants, nor did these Defendants require shippers to warn drivers of any dangers posed by the contents of their packages.

4.6 As a result of this exposure, Karen Drake Jackson was rushed to Conroe Medical Center and has remained under medical care since August 2, 2016. She suffered acute hypoxia and a convulsive type episode, and her physicians and health care providers have diagnosed her with respiratory failure, major neurocognitive disorder, depression and post-traumatic stress disorder, among other conditions.

CAUSE OF ACTION

5. Defendants were each negligent, and each Defendant's negligence proximately caused the occurrence made the basis of this lawsuit and Plaintiff's injuries and damages as described above.

DAMAGES

6.1 Plaintiff KAREN DRAKE JACKSON has incurred substantial damages as a result of the incident described above. There are certain elements of damage, provided by law, that Plaintiff is entitled to have considered separately to determine the sum of money that will fairly and reasonably compensate her for the injuries, damages, and losses she has, and will, incur. From August 2, 2016, until the time of trial of this cause, those elements of damage which should be considered separately and individually for the purpose of determining the sum of money that will fairly and reasonably compensate KAREN DRAKE JACKSON are:

- a. The physical pain that she has suffered;
- b. The mental anguish that she has suffered;
- c. The amount of reasonable medical expenses necessarily incurred in the treatment of her injuries;
- d. The loss of earning capacity she has suffered; and
- e. The damages resulting from the physical impairment she has suffered.

6.2 KAREN DRAKE JACKSON would show that in reasonable probability her injuries and damages will continue into the future. Plaintiff's future losses, from the date of trial and beyond, include:

- f. The physical pain that Plaintiff will suffer in the future;
- g. The mental anguish that Plaintiff will suffer in the future;
- h. The reasonable value of the medical expenses that will necessarily be incurred in the treatment of Plaintiff's injuries after trial;
- i. The reduction in Plaintiff's future earning capacity; and
- j. The damages resulting from the physical impairment that Plaintiff will continue to suffer in the future.

6.3 Each Defendant's negligence was a proximate cause of both the occurrence in question and Plaintiff's injuries and damages. The total of KAREN DRAKE JACKSON's damages, past and future, are within the jurisdictional limits of this Honorable Court. Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000.00.

RULE 194 REQUEST FOR DISCLOSURE

7. Pursuant to Rule 194.3(a) of the Texas Rules of Civil Procedure, each Defendant is requested to disclose, within 50 (fifty) days of service of this request, the information or material described in Rule 194.2 (a) through (l).

RULE 193.7 NOTICE

8. Pursuant to Texas Rules of Civil Procedure 193.7, this will serve as actual notice that Plaintiff intends to use produced documents against Defendants in pretrial proceedings and at trial. Accordingly, production of a document(s) in response to this Request for Disclosure authenticates the document(s) for use against Defendants in any pretrial proceeding or at trial unless a Defendant objects to the authenticity of any produced document(s) within the time limits as particularly set out in Texas Rules of Civil Procedure 193.7.

PRAYER

WHEREFORE, Plaintiff prays that citation be issued and served upon Defendants in the form and manner prescribed by law, requiring that Defendants appear and answer herein; that upon final hearing hereon, Plaintiff have judgment against Defendants, jointly and severally for total monetary relief of over \$200,000 but not more than \$1,000,000; pre-judgment interest as allowed by law; post-judgment interest; all costs of court; and all other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

LAW OFFICE OF RICHARD SCHECHTER, P.C.

BY: /S/RICHARD SCHECHTER

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