

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT COURT

JUDITH RENOVA

Plaintiff,
v.

D-307-CV-2020-00104

D-307-CV-_____

GILLIS FARMS, INC.,

Arrieta, Manuel I.

Defendant.

**PLAINTIFF'S ORIGINAL COMPLAINT FOR
PERSONAL INJURY AND PUNITIVE DAMAGES**

Come now Plaintiff, Judith Renova, ("Renova") through counsel of record, Samuel I. Kane, and in support of her Complaint for Personal Injury and Punitive Damages states as follows:

COUNT 1. BACKGROUND AND JURIDICITION

1. Plaintiff Renova is a resident of Dona Ana County, New Mexico.
2. Upon information and belief Defendant Gillis Farms, Inc., ("Gillis Farms") is a Domestic for-profit corporation, engaged in the business of farming and producing crops in Dona Ana County, New Mexico.
3. Defendant Gillis Farms, as a corporation in New Mexico, derives substantial economic benefits from its business activities in this State.
4. Defendant Gillis Farms may be served with process by serving its registered agent, Mary Gillis, or any other authorized officers or agents therein at W. Barker Road,-1, MI S South 1-25 and Hwy 187, Arrey, NM 87930 or wherever they may be found, or as otherwise permitted by law.
5. This Court has jurisdiction as to Plaintiff Judith Renova's Complaint and venue is properly before this Court.
6. Plaintiff's Complaint asserts her right to recover damages as the result of injuries she suffered from an occurrence which happened in the county of Dona Ana , New Mexico.

COUNT II. FACTUAL ALLEGATIONS

7. Plaintiff realleges and incorporates by reference the allegations contained in Paragraphs 1-6 of this Complaint as though fully set forth herein.

8. The injuries and damages suffered by Plaintiff which are the basis for this Complaint arose from an occurrence which happened on or about June 5, 2019, in the valley of Hatch, New Mexico. At the time of this occurrence Ms. Renova was working in an onion field on a farm which was owned and operated by Defendant Gillis, while Ms. Renova was working and approximately 15 minutes before the workday was over, Ms. Renova was struck by lightning. Although the lightning storm was forecasted in the area, and several workers requested to be allowed to leave the field because of the impending rain clouds and lightning seen in the area, employees or agents of Defendant Gillis failed to allow the workers, including Ms. Renova, to leave the field and to seek shelter.

9. Plaintiff Renova continued to work at the direction of the supervisor on duty that day and was ultimately struck by lightning. Ms. Renova was knocked unconscious and remained so for approximately 10-15 minutes, Ms. Renova was given CPR by a coworker and ultimately regained consciousness.

10. Plaintiff Renova was transported by ambulance to Mountain View Regional Hospital in Las Cruces, New Mexico and then referred to the University Medical Center (“UMC”) for a higher standard of care. From there Ms. Renova was ultimately transferred to Texas Tech University Burn and Trauma Center in Lubbock, Texas where she remained for almost 2 weeks.

11. As a proximate result of Defendant’s negligence Plaintiff Renova suffered severe injuries including, but not limited to extreme pain and suffering, vision issues and hearing loss.

12. As a proximate result of Defendant’s negligence, Plaintiff Renova suffered severe injuries, which will require surgery in the future.

13. Plaintiff Judith Renova has suffered in the past, and will continue to suffer in the future, from the injuries she sustained on June 5, 2019, due to Defendant’s negligence.

COUNT III: NEGLIGENCE AND NEGLIGENCE PER SE
OF DEFENDANT GILLIS FARMS

14. Plaintiff realleges and incorporates by reference the allegations contained in Paragraphs 1-13 of this Complaint as though fully set forth herein.

15. At all times relevant to the occurrence and injuries which are the basis of this Complaint, Defendant Gillis Farms, was a Domestic for-profit corporation, engaged in the business of farming and producing crops in Dona Ana County, New Mexico.

16. At all times relevant to the occurrence and injuries which are the basis of this Complaint, Defendant Gillis Farms owed a duty of ordinary care to assure its farm was properly managed by any employees or agents who were to cultivate the farm.

17. At all times relevant to the occurrence and injuries which are the basis of this Complaint, Defendant Gillis Farms, owed a duty of ordinary care to assure that the employees or agents who were to cultivate the farm were properly hired and trained.

18. At all times relevant to the occurrence and injuries which are the basis of this Complaint, Defendant Gillis Farms, owed a duty of ordinary care to assure that the employees or agents who were hired to cultivate the farm were properly hired and trained to keep farm laborers safe while cultivating the farm.

19. At all times relevant to the occurrence and injuries which are the basis of this Complaint, Defendant Gillis Farms is also vicariously liable for the negligent actions and omissions of its employees and agents, arising within the course and scope of that employment and agency, under the doctrine of *respondent superior*.

20. Defendant Gillis Farms breached duties of ordinary care owed to Plaintiff in multiple ways including the following:

- a) Negligent failure to safely hire, train, supervise and educate their employees or agents on the safety of the farm laborers;

- b) Negligent failure to qualify and train their employees or agents on how to develop, implement and exercise an emergency action plan that would prepare farm laborers to react to and handle emergencies and/or natural disaster occurrences;
- c) Negligent failure to qualify and train their employees or agents on specific farm operations, thought and planning in order to assure emergency preparedness;
- d) Negligent failure to train and qualify their employees or agents on the safety of implementing and carrying out an emergency plan in the event of a natural disaster;
- e) Negligent failure to qualify and train their employees or agents to help identify emergency situations or natural disasters which could harm farm laborers;
- f) Negligent failure to qualify and train their employees or agents for possible emergency events, incidents and life-threatening situations which could occur in the event of a natural disaster;
- g) Negligent failure to adopt and enforce policies and procedures for emergency escape routes, shelter-in-place locations and rally points for farm laborers;
- h) Negligent failure to assure that their employees or agents were adequately trained to render first aid or CPR in an emergency situation; and
- i) Negligent failure to assure that their employees or agents were properly trained to take appropriate action in the event of a natural occurrence.

21. Defendant Gillis Farm's negligence proximately caused Plaintiff to suffer personal injuries and damages.

22. Defendant Gillis Farm's negligence proximately caused Plaintiff Renova's damages for her past and future medical expenses, pain and suffering, emotional distress and trauma, loss of enjoyment of life, impairment, disfigurement, loss of earnings and loss of household services.

23. Defendant's negligence proximately caused Plaintiff Renova's recoverable damages including, but not limited to, the following:

- a) Past and future reasonable and necessary medical expenses;
- b) Past physical and emotional pain and suffering and mental anguish;
- c) Past and future loss of enjoyment of life;
- d) Past and future loss of wages; and
- e) Past and future impairment.

COUNT V - PUNITIVES DAMAGES

24. Plaintiff realleges and incorporates by reference the allegations contained in Paragraphs 1-23 of this Complaint as though fully set forth herein.

25. Plaintiff will show that the acts and omissions of Defendant Gillis Farms were in heedless and reckless disregard for the rights and safety of Plaintiff and that they showed actual conscious indifference and conscious disregard for the rights and safety of Plaintiff so as to constitute willful, wanton, and reckless behavior and being a proximate cause of the resulting damages and injuries sustained by Plaintiff.

26. Plaintiff is entitled to an award of punitive damages for Defendant's acts and/or omissions in order to punish Defendant and deter others from acting similarly.

WHEREFORE, Plaintiff seeks judgment against Defendant sufficient to compensate her for all her injuries, damages and claims which were the direct and proximate cause of the negligence of Defendant, together with pre and post judgment interest, for the costs of prosecuting this action, for an award of punitive damages against Defendant, and for such other and further relief as this Court deems appropriate.

Respectfully Submitted:

/s/ Samuel I. Kane

Samuel I. Kane

NM Bar #21790

1018 E. Amador

Las Cruces, NM 88001

(575) 526-5263; Fax: (575) 647-5264

Sam-Kane@yahoo.com

Attorney for Plaintiff