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

GENERAL JURISDICTION DIVISION

CASE NO.:

MAYARA SILVA, as Personal
Representative of the Estate of VINICIUS
SANTOS,

Plaintiff,

v.

ZNR TRANSPORT, LLC, a Florida
corporation,

Defendant.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

The Plaintiff, MAYARA SILVA, as the Personal Representative of the Estate of VINICIUS SANTOS., hereby sues the Defendant, ZNR TRANSPORT, LLC, (hereinafter referred to as "ZNR"), for negligence which resulted in the death of VINICIUS SANTOS (hereinafter referred to as the "Decedent"), and in support alleges:

Jurisdictional Statement

1. This is an action for damages which exceed \$30,000.00, exclusive of interest, costs, and attorneys' fees, and is brought pursuant to the Florida Wrongful Death Act found in Florida Statute § 768.16-26 and Fla. Stat § 768.72.

2. At the time of his death the DECEDENT was a resident of Palm Beach County, Florida, and his place of death was in Osceola County, Florida.

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3. MAYARA SANTOS is the widowed wife of the DECEDENT as well as the mother and guardian of two of the Decedent's three minor children.

4. ZNR is a Florida Limited Liability Company duly authorized to do business in the state of Florida with a principal address of 10725 Eureka Road, Boca Raton, Florida 33428.

5. Venue lies within Palm Beach County, Florida, as ZNR is headquartered in Boca Raton, Florida.

6. The following are the blood relatives who have suffered a loss due to the DECEDENT's untimely death, and, as such, are the survivors and beneficiaries of a recovery for the wrongful death of Vinicius Santos.:

- a. Caio Santos, the son of Vinicius Santos,
- b. Jade Santos, the daughter of Vinicius Santos, and
- c. Caiden Holliman Santos, the son of Vinicius Santos.

7. The Estate of Vinicius Santos has incurred funeral and burial expenses, and the beneficiaries have suffered the loss of future earnings and net accumulations.

8. The DECEDENT's wife has suffered losses, including mental pain and suffering, as well as loss of consortium, parental companionship, instruction, and guidance.

9. The DECEDENT's three minor children have suffered losses, including mental pain and suffering, parental companionship, instruction, and guidance.

Factual Background

10. On the date of the DECEDENT's death, the DECEDENT worked as a courier for ZNR.

11. ZNR is a medical delivery service provider, headquartered in Boca Raton, Florida.

12. ZNR currently employs 8 to 10 drivers.

13. The DECEDENT drove the company's 2011 Honda Odyssey, which was equipped with a GPS system that the company used to monitor the DECEDENT'S whereabouts and to log his driving times.

14. ZNR would text the DECEDENT explicit instructions for each delivery of his delivery routes.

15. On April 29, 2019, the DECEDENT communicated to ZNR that he had returned from a trip to Disney World around 2 am that morning. The DECEDENT then began driving his routes around 9:40 am.

16. At approximately 2:48 pm, the DECEDENT texted his wife, MAYARA SANTOS, to inform her that he would be making trips to Wellington, Delray Beach, Broward, and Boca Raton in succession.

17. At 6:33 PM, the DECEDENT texted his wife his next series of routes, which included a return trip to Boca and successive drives to Jupiter and Broward County.

18. Following the Broward trip, the Decedent told his wife that he needed to make one final stop at the Cleveland Clinic in Weston before he could return home.

19. At 10:38 PM, the DECEDENT informed his wife that ZNR had cancelled his Cleveland Clinic run and rerouted him to Tampa.

20. At the time that ZNR was requiring that the DECEDENT travel to Tampa, and back, a nearly 7 hour roundtrip, the Decedent had already logged an excessive

amount of time that day. Prior to receiving his Tampa route instruction, the Decedent had already spent approximately 12 hours on the road that day.

21. Despite ZNR's awareness that the DECEDENT had already logged 12 hours of driving time that day, the DEFENDANT failed to relieve the DECEDENT of his driving duties, and instead required him to continue driving.

22. Demonstrating its awareness that the DECEDENT would be tired and posed a risk to himself and others on the road, ZNR sent a text to the DECEDENT advising him to pull over and take a nap if he was tired.

23. The DECEDENT sent his final text to his wife at approximately 4:11 am the following morning informing her that he was on his way home from the Tampa trip.

24. At this point, he had spent approximately 18 and half hours on the road delivering medical supplies for ZNR.

25. At approximately 5:50 am, the DECEDENT, while traveling eastbound on State Road 60, about 5 miles west of Peavine Road in Kenansville, Florida, fell asleep at the wheel, crossed into the westbound traffic lane, and collided head-on with a 2008 Honda Pilot occupied by Carlos David Estrada Sanchez and Teodulo Diaz Lopez.

26. All of the individuals were pronounced dead at the scene by the Osceola County Fire Department.

27. At the time of the accident, the DECEDENT had been on the road for approximately 20 hours and 10 minutes, all delivering medical supplies for ZNR.

28. ZNR was aware that the DECEDENT had logged an inordinate amount of driving time that day and should have relieved him of his duties rather than having him drive additional routes, which would create a danger to himself and to others.

29. Yet, ZNR allowed the DECEDENT to drive its company car, placing the Decedent and other drivers in harm's way.

30. ZNR failed to exercise its duty of reasonable care to protect the DECEDENT by intentionally and negligently allowing him to drive its vehicle, with full knowledge that he was working excessive hours and that he would be tired.

31. Moreover, ZNR was aware that the DECEDENT was functioning on minimal sleep, and despite this knowledge, gave him an additional seven hour round trip route from Broward to Tampa. ZNR's actions directly and proximately caused the DECEDENT to fall asleep at the wheel, resulting in his death.

32. Due to the actions of the Defendant, MAYARA SANTOS has been forced to hire the undersigned counsel and pay its reasonable attorneys' fees.

Count I – Wrongful Death Due to Willful Negligence –

33. The PLAINTIFF avers the allegations contained in Paragraphs 1 through 32 above, and incorporates them by reference they are fully set forth herein.

34. At all times relevant hereto, ZNR owed a duty to the DECEDENT whereby it would exercise reasonable care to protect the DECEDENT when it had a reason to know that the DECEDENT was no longer in an optimal condition to drive safely.

35. Defendant ZNR breached its duty to the DECEDENT in its instruction to the DECEDENT to remain on the road when he was no longer in an optimal condition to safely operate heavy machinery. ZNR knew that the DECEDENT had already been on the road for the entire day when it assigned him that additional seven hour round trip from Broward to Tampa.

36. ZNR, by virtue of the GPS and monitoring devices with which it equipped its vehicles, was aware of the distance that the DECEDENT had already traveled that day.

37. Defendant, by virtue of the GPS and monitoring devices with which it equipped its vehicles as well as its records of textual correspondence with the DECEDENT throughout the day, knew how much time the DECEDENT had already spent driving that day.

38. ZNR, in its awareness that the DECEDENT had returned home at 2 AM the prior morning, knew that the DECEDENT was functioning on minimal sleep.

39. ZNR knew that the Decedent was functioning on minimal sleep from the prior morning, yet still placed him on multiple shifts and ultimately rerouted him to Tampa after he had already spent 12 consecutive hours on the road.

40. As ZNR maintained a fleet of 8-10 drivers in its employ, it reasonably could have relieved the Decedent of his duties in order to more optimally ensure safe transport of its supplies.

41. ZNR exhibited its awareness that the DECEDENT would be tired, and thusly a hazard to himself and to others on the road, when it acknowledged that he may be tired.

42. ZNR had actual knowledge of the wrongfulness of its conduct and the high probability that injury would occur yet it consciously disregarded the Decedent's safety, resulting in the death of the Decedent and the deaths of two innocent drivers.

43. As a further and direct proximate result of the willful negligence of the Defendant, ZNR Transport LLC, the DECEDENT's wife and three minor children have

suffered damages, including mental pain and suffering, loss of support and services, as well as loss of consortium, parental companionship, instruction, and guidance.

WHEREFORE, the Plaintiff, MAYARA SILVA, in her capacity as Personal Representative of the Estate of VINICIUS SANTOS., asks this Court for an award of compensatory damages pursuant to the Wrongful Death Act against the Defendant, ZNR TRANSPORT, LLC., on behalf of all the survivors and the Estate of the Deceased, to the fullest extent permitted by law, and such further relief as this Honorable Court deems just and proper.

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DEMAND FOR JURY TRIAL

The Plaintiff, MAYARA SILVA, demands a trial by jury on all the issues of both Counts which are so triable.

DESIGNATION OF EMAIL ADDRESS FOR SERVICE

(Pursuant to Rule 2.516 Fla. R. Jud. Admin.)

The undersigned attorneys of The Ticktin Law Group, hereby designate the following Email Address for service in the above styled matter. Service shall be complete upon emailing to the following email address in this Designation, provided that the provisions of Rule 2.516 are followed.

Serv513@LegalBrains.com; Serv540@LegalBrains.com

SERVICE IS TO BE MADE TO EACH AND EVERY EMAIL ADDRESS LISTED IN THIS DESIGNATION AND TO NO OTHERS.

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/s/ Christopher B. Whelton

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