

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

Kendra Goers

MAYELIN MENDOZA, as personal representative  
of SILVIO MENDOZA, deceased.

Plaintiffs,

Cause No.: D-202-CV-2012-02714

v.

ROGER LAFLAMME, DST INDUSTRIES INC.,  
NOYADE ROMERO-VALDEZ, ISABEL PALACIO-MEDINA, and  
FRED LOYA INSURANCE COMPANY.

Defendants.

**COMPLAINT TO RECOVER COMPENSATORY AND PUNITIVE DAMAGES  
FOR PERSONAL INJURIES AND WRONGFUL DEATH**

Plaintiff, Mayelin Mendoza, as personal representative of Silvio Mendoza, by and through counsel of record, Law Office of Matthew Vance, P.C. (Matthew Vance) and Rios Law Firm (Linda Rios) and for her Complaint states as follows:

**I. JURISDICTION AND VENUE**

1. Plaintiff is a resident of Bernalillo County, State of New Mexico. Plaintiff Mayelin Mendoza was appointed as personal representative of Silvio Mendoza for the purposes of the Wrongful Death Act §41-2-3, NMSA (1978), in D-202-CV-2011-12232.

2. Defendant Roger Laflamme, on information and belief, is a resident of Bellville, Michigan.

3. Defendant DST Industries is a foreign corporation with its principle place of business in Romulus, Michigan.

4. Defendant Noyade Romero-Valdez, on information and belief, is a resident of Bernalillo County, New Mexico.

5. Defendant Isabel Palacio-Medina, on information and belief, is a resident of Bernalillo County, New Mexico.

6. Defendant Fred Loya Insurance Company (hereafter “Defendant Fred Loya”) is an insurer as defined under the laws of the State of New Mexico and conducts business within Bernalillo County, State of New Mexico. Defendant Fred Loya is named as a party herein pursuant to the holding in *Martinez v. Reid*, 2002-NMSC-015 (2003).

7. At all times material hereto, Defendant Fred Loya insured Defendant Noyade Romero-Valdez and Defendant Isabel Palacio-Medina under a policy of automobile liability insurance.

8. The vehicle crash which gives rise to Plaintiff’s claims hereunder occurred in the County of Bernalillo, State of New Mexico.

9. This Court has jurisdiction over the parties and the subject matter of this action.

10. Venue is proper in this Court.

## **II. FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

11. Plaintiff incorporates by reference the previous paragraphs as though fully set forth herein.

12. Plaintiff’s claims arise out of a vehicle crash which occurred at about 6:52 p.m., November 5, 2011, in the area of Eastbound Interstate 40 near mile marker 137 in Bernalillo County, New Mexico.

13. At the time of the crash weather and road conditions were dry and clear.

14. Silvio Mendoza was a passenger in a vehicle driven by Noyade Romero-Valdez, which vehicle was owned by Isabel Palacio-Medina.

15. At the times material hereto, Noyade Romero-Valdez, originally operating his vehicle in a westbound direction on Interstate 40, executed a U-turn and entered the lanes of eastbound Interstate 40 in the area of mile marker 137.

16. Defendant Roger Laflamme was operating a tractor-trailer owned or provided to him by DST Industries Inc., and was traveling eastbound on Interstate 40 in a relative position behind the vehicle driven by Noyade Romero-Valdez and occupied by Silvio Mendoza.

17. The actions or inactions of Defendant Noyade Romero-Valdez and Defendant Roger Laflamme individually or together combined to cause a vehicle crash and an impact or impacts with the vehicle occupied by Silvio Mendoza.

18. The vehicle operated by Roger Laflamme rear-ended and smashed in the vehicle occupied by Silvio Mendoza.

19. Silvio Mendoza and another occupants of the vehicle suffered great personal injuries and died as a result of the crash and their injuries.

20. As a proximate result of the subject crash, Silvio Mendoza suffered personal injuries and damages including, but not limited to, compensatory damages pursuant to the Wrongful Death Act.

### **III. NEGLIGENCE (Defendant Roger Laflamme)**

21. Plaintiff incorporates by reference the previous paragraphs as though fully set forth herein.

22. Defendant Roger Laflamme was driving a vehicle on Interstate 40 at the time of the crash.

23. At all time material hereto, Defendant Roger Laflamme owed a duty to Silvio Mendoza, as well as other motorists, to exercise reasonable care in the operation of the motor vehicle which he was operating.

24. Defendant Roger Laflamme failed to exercise reasonable care under the circumstances in the manner or method of his driving, which resulted in the vehicle crash.

25. As a direct and proximate result Defendant Roger Laflamme's breach of the duty owed to Plaintiff and others, Defendant Roger Laflamme caused, in whole or in part, the crash which resulted in damages to Plaintiff, including but not limited to compensatory damages pursuant to the Wrongful Death Act.

#### **IV. NEGLIGENCE PER SE (Defendant Roger Laflamme)**

26. Plaintiff incorporates by reference the previous paragraphs as though fully set forth herein.

27. Defendant Roger Laflamme owed a duty to follow local and federal law while operating his tractor-trailer.

28. By acts, errors and omission in his driving or in regard to the maintenance or servicing of the tractor-trailer he was driving, at all times material hereto, Defendant Roger Laflamme violated numerous county, state and federal laws. Defendant Roger Laflamme's violations include but are not limited to;

- a) Failure to maintain a proper lookout,
- b) Driver inattention,
- c) Following too closely, and
- d) Driving in a careless manner.

29. Defendant Roger Laflamme violated the aforementioned applicable traffic laws and generally drove in a negligent manner.

30. As a direct and proximate result Defendant Roger Laflamme's violation of the aforementioned legal duties, Defendant Roger Laflamme caused, in whole or in part, the vehicle crash which resulted in damages to and the death of Silvio Mendoza, including but not limited to compensatory damages pursuant to the Wrongful Death Act.

#### **V. NEGLIGENT HIRING, TRAINING, SUPERVISION AND RETENTION**

31. Plaintiff incorporates by reference the previous paragraphs as though fully set forth herein.

32. Defendant DST Industries Inc., was negligent in hiring, contracting of, training, supervision and retention of Defendant Roger Laflamme.

33. Defendant DST Industries Inc.'s negligence includes but it not limited to:

- a. Inadequate screening of Defendant Roger Laflamme as a perspective employee or independent contractor;
- b. Inadequate management, training, and enforcement of policies regarding vehicle operation and maintenance;
- c. Placement or retention of Defendant Roger Laflamme as a vehicle or tractor-trailer operator; and/or
- d. Inadequate supervision of Defendant Roger Laflamme.

34. As a proximate result of Defendant DST Industries Inc.'s negligence in hiring, contracting with, training, supervision and retention of Defendant Roger Laflamme, Plaintiff died and suffered other damages pursuant to the Wrongful Death Act.

## **VI. RESPONDEAT SUPERIOR**

35. Plaintiff incorporates by reference the previous paragraphs as though fully set forth herein.

36. Defendant Roger Laflamme, at all times material hereto, was an employee, contractor or agent of Defendant DST Industries Inc.

37. Roger Laflamme, at all times material hereto, was acting within the course and scope of his employment with DST Industries Inc., was working under the control of Defendant and in furtherance of the legitimate business activities of Defendant.

38. Defendant DST Industries Inc., is liable for the actions or inactions of Roger Laflamme under the doctrine of Respondeat superior.

39. Any act or omission of an employee or contractor of a Defendant corporation acting within the course and scope of his employment is an act or omission of the corporation.

40. Defendant DST Industries Inc., approved or authorized or ratified the negligent conduct of Roger Laflamme.

## **VII. NEGLIGENCE (DST Industries Inc.)**

41. Plaintiff incorporates by reference the previous paragraphs as though fully set forth herein.

42. Defendant DST Industries Inc., owned or leased or otherwise had a possessory interest in the vehicle (VIN 1FTYA96W2WVA30774) driven by Roger Laflamme at the time of the subject vehicle crash.

43. As owner, leasor, or possessor of the vehicle, Defendant DST Industries Inc., owed a duty of ordinary care and/or pursuant to local, state or federal law, to maintain and ensure the careful operation of the vehicle.

44. Defendant breached its duty of ordinary care and/or its duty pursuant to local, state, or federal law.

45. As a proximate result of Defendant DST Industries Inc.'s negligence in its obligations of ownership, possessory interest, and maintenance, Plaintiff died and suffered damages pursuant to the Wrongful Death Act.

#### **VIII. NEGLIGENT ENTRUSTMENT (DST Industries Inc.)**

46. Plaintiff incorporates by reference the previous paragraphs as though fully set forth herein.

47. Defendant DST Industries Inc., entrusted a motor vehicle to Defendant Roger Laflamme on or about November 5, 2011.

48. At all times material hereto, Defendant DST Industries Inc., owed a duty to Silvio Mendoza, as well as others, to exercise reasonable care in the operation or entrustment of a vehicle to Defendant Roger Laflamme.

49. At the time Defendant Roger Laflamme was entrusted with the vehicle, Defendant DST Industries Inc., knew or should have known that Defendant Roger Laflamme was:

- a) a poor or unskilled driver;
- b) a careless or inattentive driver;
- c) had been in multiple accidents before; and/or
- d) was otherwise and unfit driver.

50. Defendant DST Industries Inc., failed to exercise reasonable care under the circumstances, which resulted in the vehicle crash and death of Silvio Mendoza.

51. The harm caused to Silvio Mendoza and others was foreseeable.

52. As a direct and proximate result Defendant DST Industries Inc.'s breach of the duty owed to Silvio Mendoza, Defendant Roger Laflamme caused the crash which resulted in injuries to and the death of Silvio Mendoza.

**IX. NEGLIGENCE (Defendant Noyade Romero-Valdez)**

53. Plaintiff incorporates by reference the previous paragraphs as though fully set forth herein.

54. Defendant Noyade Romero-Valdez was driving a vehicle on a designated roadway in Bernalillo County at the time of the vehicle crash.

55. At all time material hereto, Defendant Noyade Romero-Valdez owed a duty to his passenger Silvio Mendoza, as well as other motorists, to exercise reasonable care in the operation of the motor vehicle which he was operating.

56. Defendant Noyade Romero-Valdez failed to exercise reasonable care under the circumstances in the manner or method of his driving, which resulted in the vehicle crash.

57. As a direct and proximate result Defendant Noyade Romero-Valdez's violation of the aforementioned legal duties, Defendant Noyade Romero-Valdez caused, in whole or in part, the vehicle crash which resulted in damages to and death to Silvio Mendoza, including but not limited to compensatory damages pursuant to the Wrongful Death Act.

**X. NEGLIGENCE PER SE (Defendant Noyade Romero-Valdez)**

58. Plaintiff incorporates by reference the previous paragraphs as though fully set forth herein.

59. Defendant Noyade Romero-Valdez owed a duty to follow the law while operating a motor vehicle.

60. By acts, errors and omission in his driving at all times material hereto, Defendant Noyade Romero-Valdez violated numerous county and state ordinances and laws. Defendant Noyade Romero-Valdez's violations include but are not limited to;

- a) Failure to maintain a proper lookout,
- b) Driver inattention,
- c) Illegal U-turn, and
- d) Driving in a careless manner.

61. Defendant Noyade Romero-Valdez violated the aforementioned applicable traffic laws and generally drove in a negligent manner.

62. As a direct and proximate result Defendant Noyade Romero-Valdez's violation of the aforementioned legal duties, Defendant Noyade Romero-Valdez caused, in whole or in part, the vehicle crash which resulted in damages to and death of Silvio Mendoza, including but not limited to compensatory damages pursuant to the Wrongful Death Act.

**XI. NEGLIGENT ENTRUSTMENT ( Defendant Isabel Palacio-Medina)**

63. Plaintiff incorporates by reference the previous paragraphs as though fully set forth herein.

64. Defendant Isabel Palacio-Medina, entrusted a motor vehicle to Defendant Noyade Romero-Valdez on or about November 5, 2011.

65. At all times material hereto, Defendant Isabel Palacio-Medina, owed a duty to Silvio Mendoza, as well as others, to exercise reasonable care in the operation or entrustment of a vehicle to Defendant Noyade Romero-Valdez.

66. At the time Defendant Noyade Romero-Valdez was entrusted with the vehicle, Isabel Palacio-Medina knew or should have known that Defendant Noyade Romero-Valdez was:

- a) a poor or unskilled driver;
- b) a careless or inattentive driver;
- c) had been in multiple accidents before; and/or
- d) was otherwise and unfit driver.

67. Defendant Isabel Palacio-Medina, failed to exercise reasonable care under the circumstances, which resulted in the car crash.

68. The harm caused to Silvio Mendoza and others was foreseeable.

69. As a direct and proximate result Defendant Isabel Palacio-Medina's breach of the duty owed to Silvio Mendoza, Defendant Noyade Romero-Valdez caused the crash which resulted in injuries to and the death of Silvio Mendoza.

WHEREFORE Plaintiff respectfully request relief from the Court as follows:

1. For Judgment of the Court against Defendants in an amount sufficient to compensate Plaintiff pursuant to the Wrongful Death Act for the injuries and damages suffered in and as a result of the vehicle crash complained of herein.

2. For an award of pre-judgment interest on all sums determined to be due Plaintiff from date of the Complaint until paid in full.
3. For all of Plaintiff's costs incurred herein to be reimbursed by Defendants.
4. For all such other and additional relief as the Court may deem appropriate in these circumstances.

Respectfully submitted,

Law Office of Matthew Vance, P.C.

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-AND-

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