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**SUPERIOR COURT OF ARIZONA**

MARICOPA COUNTY

KATHY BRUNO, Individually, as surviving spouse of MICHAEL BRUNO, and as Personal Representative of the Estate of Michael Bruno, RENEE BRUNO, Individually and as surviving daughter of Michael Bruno, ANNE BRUNO, as surviving daughter of Michael Bruno, and NINA BRUNO, as surviving mother of Michael Bruno, and DESIREE SIERRA,

*Plaintiffs*

vs.

~~MICHELIN NORTH AMERICA, INC., DISCOUNT TIRE CO., INC., LANDSTAR SYSTEM, INC.; and~~ HYUNDAI TRANSEAD, INC., ~~and JOHN and JANE DOES I-X,~~

*Defendants*

Case No: CV2013-094384

**PLAINTIFFS' FIRST AMENDED COMPLAINT**

(Tort – Motor Vehicle; Defective Product(s); Wrongful Death; Strict Liability; Negligence)

Trial by Jury Requested

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Plaintiffs KATHY BRUNO, individually, as surviving spouse of Michael Bruno, and as Personal Representative of the Estate of Michael Bruno, RENEE BRUNO, Individually and as surviving daughter of Michael Bruno, ANNE BRUNO, as surviving daughter of Michael Bruno, NINA BRUNO, as surviving mother of Michael Bruno, and DESIREE SIERRA, complaining of Defendants ~~MICHELIN NORTH AMERICA, Inc., DISCOUNT TIRE CO., INC., LANDSTAR SYSTEM, INC.;~~ and HYUNDAI TRANSLEAD, INC., ~~and JOHN and JANE DOES IT X,~~ respectfully show the Court as follows:

#### INTRODUCTION

1. On July 19, 2011, Michael Bruno drove his 2003 Chevrolet Silverado southbound along US Highway 93 in Mohave County, Arizona, when the right, front ~~Michelin LTX M/S~~ tire (~~DOT: B74N HLEX 5106~~) suffered a tread/belt separation, causing a loss of vehicular control, and resulting in the accident that makes the basis of this suit. As Mr. Bruno's vehicle exited the roadway to the right, it collided into the rear of a parked commercial tractor-trailer, registered to Landstar Capitol Corporation and operated by Landstar

System, Inc. The trailer, designed, manufactured and sold by Hyundai Translead, Inc., was equipped with an inadequate and substandard rear-protection guard.

2. Despite properly wearing his seat belt, Michael Bruno suffered fatal injuries in the accident. His wife, Kathy Bruno, properly belted right, front passenger, suffered severe and permanent injuries in the accident. His daughter, Renee Bruno, properly belted rear passenger, suffered severe and permanent injuries in the accident. The vehicle's left-rear passenger, Desiree Sierra, also properly belted, suffered severe and permanent injuries in the accident. The vehicle's right-rear passenger, Madison Pike, was uninjured in the accident.
3. In addition to suffering injuries in the accident, Kathy Bruno and Renee Bruno suffered additional emotional distress. Each was in the zone of danger, such that they faced an unreasonable risk of bodily harm and each contemporaneously witnessed the death of their family's head, Michael Bruno. Additionally, Desiree Sierra experienced additional emotional distress from being in the zone of danger and witnessing the severe injuries to her friends and Mr. Bruno's death.

4. ~~The failed tire entered the stream of commerce through a sale at Discount Tire Store AZP 35 on E. Chandler Boulevard in Phoenix, Arizona.~~
5. ~~On April 20, 2009, Defendant Discount provided service on the subject vehicle equipped at the time with the subject tire.~~

~~6. 4.~~ This action is brought to recover damages for Plaintiffs, compensating for their injuries and the wrongful death of Michael Bruno.

#### **PARTIES, JURISDICTION AND VENUE**

~~7. 5.~~ Plaintiffs incorporate by reference all prior allegations of paragraphs 1 through ~~6~~ 4, as though fully set forth herein.

~~8. 6.~~ Plaintiffs Kathy Bruno, Renee Bruno, Anne Bruno, and Nina Bruno, at all times relevant to this suit, have been residents of Maricopa County, Arizona. Kathy Bruno is the surviving spouse of Michael Bruno. Renee Bruno and Anne Bruno are the surviving daughters of Michael Bruno. Nina Bruno is the surviving mother of Michael Bruno.

~~9. 7.~~ Plaintiff Desiree Sierra, at all times relevant to this suit, has been a resident of Maricopa County, Arizona.

10. ~~Defendant Michelin North America, Inc. (hereinafter, referred to as Michelin) is a South Carolina corporation whose primary office is located in Greenville, South Carolina. Attorney Noelle Ponsetto of Yukevich Calfo & Cavanaugh is authorized to accept service on Michelin's behalf. Michelin can be served with process through counsel Noelle Ponsetto of Yukevich Calfo & Cavanaugh, located at 355 South Grand Avenue, 15<sup>th</sup> Floor, Los Angeles, California 90071.~~

11. ~~Defendant Discount Tire Co., Inc. (hereinafter, referred to as Discount) is an Arizona corporation that can be served with process through its registered agent, CT Corporation System, 2394 E. Camelback Rd., Phoenix, Arizona 85016.~~

12. 8. Defendant Landstar System, Inc. (hereinafter, referred to as Landstar) is a Florida corporation with corporate headquarters located in Jacksonville, Florida. The subject commercial vehicle, at the time of the subject accident, was registered to Landstar Capitol Corporation in Rockville, Illinois. The driver of the subject commercial vehicle, on information and belief, is employed by Landstar System, Inc. Landstar is authorized to conduct business in the State of Arizona, conducts business in Arizona, and derives

significant revenue from its activities in Arizona. Because neither Landstar System, Inc. nor Landstar Capital Corporation is registered with the Arizona Secretary of State, Defendant Landstar System, Inc. will be served with process through its registered agent in Florida, CT Corporation System, 1200 South Pine Island Road, Plantation, Florida 32224. ~~Additionally, a copy of the Summons and this Complaint will be certified mailed to Landstar System, Inc. corporate headquarters located at 13410 Sutton Park Drive, South, Jacksonville, Florida 32224 and to Landstar System, Inc. - Rockford Service Center located at 1000 Simpson Road, Rockford, Illinois 61102.~~ Landstar Ranger, Inc. has appeared in this matter, and this Amended Complaint will be served through its counsel of record, Phillip H. Stanfield with Jones, Skelton & Hochuli, P.L.C., 2901 N. Central Ave., Ste. 800, Phoenix, AZ 85012.

~~13. 9.~~ Defendant Hyundai Translead, Inc. (hereinafter, referred to as Hyundai) is a California corporation whose primary office is located in San Diego, California. Hyundai is authorized to conduct business in the State of Arizona, conducts business in Arizona, and derives significant revenue from its activities in Arizona. ~~Defendant Hyundai will be~~

~~served with process through its registered agent in Arizona, Mike Gubler, 802 S. 70<sup>th</sup> Avenue, Phoenix, AZ 85043. Hyundai Translead, Inc.. has appeared in this matter, and this Amended Complaint will be served through its counsel of record, Jack Klecan with Renaud Cook Drury Mesaros, PA, One North Central, Suite 900, Phoenix, AZ 85004.~~

~~14. — Defendants John and Jane Does I-X are corporations whose conduct, true names and identities are unknown at the present time. Plaintiffs request leave to amend this Complaint when such information is discovered.~~

~~15. 10. Defendants Michelin, Discount, Landstar, and Hyundai caused events to occur in Maricopa County, Arizona, out of which the following causes of action arise.~~

~~16. 11. Plaintiffs have incurred damages exceeding the minimal jurisdictional limits of this Court.~~

**COUNT I**  
**Strict liability – Product Liability**

~~17. 12. Plaintiffs incorporate by reference all prior allegations of paragraphs 1 through ~~16.~~ 11. of this Complaint as though fully set forth herein.~~

~~18. The failed Michelin tire was designed, manufactured, and sold by Defendant Michelin in Dothan, Alabama during the 51<sup>st</sup> week of 2006. The subject tire was in the front, right position of the subject 2003 Chevy Silverado when it delaminated on July 19, 2011, causing the accident making the basis of this suit.~~

~~19. At the time the subject tire was sold, Michelin was in the business of designing, manufacturing, marketing, and selling tires such as the subject tire. At the time the subject tire was sold, Discount was in the business of selling tires such as the subject tire.~~

~~20. At the time the subject tire left the possession of Michelin, it was defective in design and manufacture, constituting an unreasonably dangerous product. The product was dangerous to an extent beyond that which would be contemplated by the ordinary user of the product with the ordinary knowledge common to the community as to the product's characteristics. The risks of danger in the design of the subject tire outweighed any benefits of the design. The defective and unreasonably dangerous design and manufacture of the subject tire was a producing and proximate cause of the tire separation~~

~~event, the death of Michael Bruno, the injuries to Kathy Bruno, Renee Bruno, and Desiree Sierra, and the Plaintiffs' damages.~~

~~21. At the time the subject tire was sold by Michelin and/or Discount, the product was in the same condition as it was when it left the manufacturer.~~

~~22. At the time of the accident, the subject tire was in the same or substantially similar condition as when it left the control of Michelin. At the time of the accident, the subject tire was in substantially the same condition as it was at the time it was placed into the stream of commerce during its sale from Discount. No substantial material alterations were made to the subject tire.~~

~~23.~~ 13. The failed Hyundai trailer rear-protection guard was designed, manufactured, and sold by Defendant Hyundai. At the time of the subject accident, the subject Hyundai trailer was equipped with an inadequate and substandard rear-protection guard.

~~24.~~ 14. At the time the subject trailer was sold, Hyundai was in the business of designing, manufacturing, marketing, and selling trailers such as the subject trailer.

25: 15. At the time the subject trailer left the possession of Hyundai, it was defective in design and manufacture, constituting an unreasonably dangerous product. The product was dangerous to an extent beyond that which would be contemplated by the ordinary user of the product with the ordinary knowledge common to the community as to the product's characteristics. The risks of danger in the design of the subject trailer outweighed any benefits of the design. The defective and unreasonably dangerous design and manufacture of the subject trailer was a producing and proximate cause of the death of Michael Bruno, the injuries to Kathy Bruno, Renee Bruno and Desiree Sierra, and the Plaintiffs' damages.

26: 16. At the time the subject trailer was sold, the product was in the same condition as it was when it left the manufacturer. At the time of the accident, the subject trailer was in the same condition as it was when it left the manufacturer's possession. No substantial material alterations were made to the subject trailer.

**COUNT TWO**  
**(Negligence)**

~~27: 17.~~ Plaintiffs hereby incorporate by reference all prior allegations of paragraphs 1 through ~~26~~ 16 of this Complaint as though fully set forth herein.

~~28. Defendants Michelin and Discount owed Decedent and Plaintiffs a duty to use reasonable care in the design, testing, manufacture, inspection, assembly, installation, distribution, maintenance, and/or sale of the subject tire. Defendants Michelin and Discount also owed Decedent and Plaintiffs a duty to warn and instruct with respect to the safe and proper use of the subject tire. Defendants Michelin and Discount were negligent in the design, testing, manufacture, inspection, assembly, installation, distribution, maintenance and/or sale of the subject tire and in its failure to warn and instruct with respect to the safe and proper use of the subject tire. As a direct and proximate result of such negligence and carelessness, the subject tire suffered a catastrophic tread/belt detachment, proximately causing the death of Michael Bruno, the injuries to Kathy Bruno, Renee Bruno and Desiree Sierra, and the Plaintiffs' damages.~~

~~29. Defendant Discount, on April 20, 2009, provided negligent service on the subject vehicle and the subject tire by failing to identify signs of impending failure on the~~

subject tire.

~~30.~~ 18. Defendant Hyundai owed Decedent and Plaintiffs a duty to use reasonable care in the design, testing, manufacture, inspection, assembly, installation, distribution, maintenance, and/or sale of the subject trailer. Defendant Hyundai also owed Decedent and Plaintiffs a duty to warn and instruct with respect to the safe and proper use of the subject trailer. Defendant Hyundai was negligent in the design, testing, manufacture, inspection, assembly, installation, distribution, maintenance and/or sale of the subject trailer and in its failure to warn and instruct with respect to the safe and proper use of the subject trailer. As a direct and proximate result of such negligence and carelessness, the subject trailer's rear-protection guard suffered a catastrophic failure, proximately causing the death of Michael Bruno, the injuries to Kathy Bruno, Renee Bruno, and Desiree Sierra, and the Plaintiffs' damages.

~~31.~~ 19. At the time of the accident on July 19, 2011, Willard Hammond Gray worked within the course and scope of his employment with Defendant Landstar System, Inc. Prior to the accident, Mr. Gray had pulled his vehicle into a ~~natural rest~~ pull-over area

~~along adjacent to~~ US 93. Instead of parking his commercial vehicle as far from the roadway as feasibly possible, Mr. Gray parked his tractor-trailer ~~at~~ 12 feet from the roadway, eliminating any “recovery zone” for Mr. Bruno. Mr. Gray likely violated his company policy when he parked his truck ~~at~~ 15 feet from the roadway fog-line. If not, Landstar’s policies in that regard are insufficient. Mr. Gray’s and/or Landstar’s unreasonable actions proximately caused the accident at issue in this lawsuit and the resulting damages.

32. ~~Further, Mr. Gray failed to act reasonably when he performed no act to alert fellow motorists of his truck’s compromised condition. Specifically, Mr. Gray failed to follow federal guidelines when he elected not to position warning triangles at the rear of his vehicle. Moreover, Mr. Gray likely violated his company policy when he elected to take no action to warn fellow motorists of his truck’s compromised condition. If not, Landstar’s policies in that regard are insufficient. Mr. Gray’s and/or Landstar’s unreasonable actions proximately caused the accident at issue in this lawsuit and the resulting damages.~~

**COUNT THREE**  
**(Punitive Damages)**

~~—— 33. — Plaintiffs hereby incorporate by reference all prior allegations of paragraphs 1 through of this Complaint as though fully set forth herein.~~

~~—— 34. — The wrong created by Defendants Michelin, Discount, and Hyundai in failing to properly test the products at issue, placing defective products in the market, and continuing to market the products after learning of its potential for serious injury was the kind of aggravated, outrageous, malicious, or fraudulent conduct for which the law allows the imposition of exemplary damages. Defendant Michelin's, Discount's, and Hyundai's actions and/or omissions were conducted with an evil mind, such that Defendants Michelin, Discount, and Hyundai intended to injure the Decedent and/or Plaintiffs or consciously pursued a course of conduct knowing that it created a substantial risk of significant harm to others, including Plaintiffs. Defendant Michelin's and Discount's acts of omission and commission, conducted with an evil mind, were a proximate cause of the tire separation event, the death of Michael Bruno, the injuries to~~

~~Kathy Bruno, Renee Bruno and Desiree Sierra, and the Plaintiffs' damages. Defendant Hyundai's acts of omission and commission, conducted with an evil mind, were a proximate cause of the catastrophic failure of the trailer's rear protection guard, the death of Michael Bruno, the injuries to Kathy Bruno, Renee Bruno and Desiree Sierra, and the Plaintiffs' damages.~~

~~35. Defendant Landstar created a wrong in failing to identify Mr. Gray as an unsafe commercial vehicle operator. Ignoring its own policies in monitoring Mr. Gray's driving history amounted to willful blindness and was the kind of aggravated, outrageous, malicious, or fraudulent conduct for which the law allows the imposition of exemplary damages. Defendant Landstar's actions and/or omissions were conducted with an evil mind, such that Defendant Landstar intended to injure the Decedent and/or Plaintiffs or consciously pursued a course of conduct knowing that it created a substantial risk of significant harm to others, including Plaintiffs. Defendant Landstar's acts of omission and commission, conducted with an evil mind, were a proximate cause of the increased severity of the accident, the death of Michael Bruno, the injuries to Kathy Bruno,~~

**CAUSATION AND PLAINTIFFS' DAMAGES**

~~36: 20.~~ Plaintiffs hereby incorporate by reference all prior allegations of paragraphs 1 through ~~35~~ 19. of this Complaint as though fully set forth herein.

~~37: 21.~~ The damages sought by Plaintiffs in this case were directly and proximately caused by the ~~subject tire and/or~~ the subject trailer and/or the negligence and/or other misconduct alleged herein of Defendants.

~~38: 22.~~ Plaintiffs Kathy Bruno and Renee Bruno seek to recover damages for the nature, extent, and duration of their injuries, including past and future pain, discomfort, suffering, disability, disfigurement, anxiety, past and future medical expenses, and loss of enjoyment of life. Plaintiffs Kathy Bruno and Renee Bruno also seek to recover damages for the emotional distress each endured in witnessing the ultimately fatal injuries suffered by Michael Bruno.

~~39: 23.~~ For the death of Michael Bruno, Kathy Bruno, Renee Bruno, Anne Bruno, and Nina Bruno seek the following damages:

- Loss of love, affection, companionship, care, protection, and guidance since the death of Michael Bruno, and into the future;
- Pain, grief, sorrow, mental anguish, stress, shock, and mental suffering already experienced, and in reasonable probability to be experienced in the future for the loss of Michael Bruno; and
- Income and services that have already been lost as a result of the death of Michael Bruno, and in reasonable probability to be lost in the future.

~~40.~~ 24. As Personal Representative of the Estate of Michael Bruno, Kathy Bruno seeks compensation for reasonable medical, funeral, and burial expenses for Michael Bruno.

~~41.~~ 25. Plaintiff Desiree Sierra seeks to recover damages for the nature, extent, and duration of her injuries, including past and future pain, discomfort, suffering, disability, disfigurement, anxiety, past and future medical expenses, and loss of enjoyment of life. Plaintiff Desiree Sierra also seeks to recover her past and future lost income and for the

emotional distress she endured in witnessing severe injuries to her friends and Mr. Bruno's death.

42. 26. Plaintiffs seek pre-judgment and post-judgment interest at the highest rate allowed by law.

### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants ~~Michelin, Discount,~~ Landstar, and Hyundai be cited to appear and answer for their conduct, that this case be set for trial, and that Plaintiffs recover a judgment of and from the Defendants for compensatory and punitive damages in such amount as the evidence may show and the trier of fact may determine to be proper, in addition to pre-judgment interest, post-judgment interest, costs, and all other and further relief to which Plaintiffs may show themselves to be justly entitled.

DATED this 5<sup>th</sup> day of February, 2015.

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