

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE FOURTH JUDICIAL CIRCUIT
COUNTY OF CHESTERFIELD)	
)	
Richard M. Thomas,)	
)	
Plaintiff,)	
)	
v.)	
)	
New Prime, Inc., Gregory Tyrone)	
Hamilton, and Cynthia Dixon,)	
)	
Defendants.)	

**SUMMONS
(Jury Trial Demanded)**

TO: THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED AND REQUIRED to Answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer thereto on the subscribers at their office located at 291 East Bay Street, Floor 2, Charleston, South Carolina 29401, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the plaintiff in this action will apply to the Court for the relief sought therein.

[signature page to follow]

Respectfully submitted,

YARBOROUGH APPLGATE LLC

s/ David B. Yarborough, Jr.

David B. Yarborough, Jr.

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ATTORNEYS FOR THE PLAINTIFF

May 31, 2024

Charleston, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE FOURTH JUDICIAL CIRCUIT
COUNTY OF CHESTERFIELD)	
)	
Richard M. Thomas,)	
)	
Plaintiff,)	
)	
v.)	COMPLAINT
)	(Jury Trial Demanded)
)	
New Prime, Inc., Gregory Tyrone)	
Hamilton, and Cynthia Dixon,)	
)	
Defendants.)	

The Plaintiff, Richard M. Thomas, by and through his undersigned attorneys, complains of the Defendants, jointly and severally, would allege and show the Court the following:

PARTIES, JURISDICTION, AND VENUE

1. This is a civil action for damages arising out of a motor vehicle collision that occurred in Chesterfield County, South Carolina, on March 1, 2024.
2. The Plaintiff, Richard M. Thomas, is a citizen and resident of Chesterfield County, South Carolina.
3. Upon information and belief, Defendant Gregory Hamilton (“Defendant Hamilton”) is a citizen and resident of Texas.
4. Upon information and belief, Defendant New Prime, Inc. (“Defendant Prime”) is incorporated pursuant to the laws of Nebraska, has its principal place of business in Missouri, and was actively engaged in business within Chesterfield County, South Carolina, at the time of and in connection with the subject motor-vehicle collision.
5. Upon information and belief, Defendant Cynthia Dixon (“Defendant Dixon”) is a citizen and resident of Chesterfield County, South Carolina.

6. The Court has jurisdiction over the parties and the subject matter, and the venue is proper in Chesterfield County.

FACTS

7. The subject incident occurred on SC-9 on March 1, 2024, in Cheraw, South Carolina, at approximately 11:40 p.m.

8. Plaintiff was a passenger in the 2021 Nissan being operated by Defendant Dixon.

9. Upon information and belief, the 2021 Nissan was owned by Defendant Dixon.

10. At or around the same time, Defendant Hamilton was driving a 2022 Freightliner with a trailer attached Eastbound on SC-9.

11. Upon information and belief, the 2022 Freightliner and attached trailer were owned by Defendant Prime.

12. Defendant Hamilton turned left in front of the vehicle being operated by Defendant Dixon, causing Defendant Dixon to strike the trailer attached to Defendant Hamilton's Freightliner.

13. As a direct and proximate result of the collision, Plaintiff sustained serious and permanent personal injuries, which required a lengthy hospitalization and extensive medical treatment that is continuing.

14. At the time of the subject collision, Defendant Hamilton was operating the truck in the course and scope of his employment and as a permissive user with Defendant Prime.

15. Upon information and belief, Defendant Hamilton refused his post-accident drug test, which under the FMCSRs is treated the same as a positive drug test.

**FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANT HAMILTON AND NEW
PRIME, INC.**
**(Negligence, Gross Negligence, Recklessness, Negligence *Per Se*, *Respondeat Superior*,
Vicarious Liability)**

16. Plaintiff re-alleges and reincorporates the preceding paragraphs as if fully set forth herein verbatim.

17. Defendant Hamilton owed a duty to the Plaintiff to operate his vehicle in a safe and reasonable manner and in accordance with state and federal law.

18. Defendant Hamilton breached his duty to use due care or even slight care in operating his vehicle, and he was negligent, negligent *per se*, grossly negligent, reckless, willful, and wanton in numerous particulars, including but not limited to:

- a. failing to yield the right of way;
- b. failing to maintain proper control of his vehicle;
- c. failing to keep a proper lookout;
- d. driving while inattentive and distracted;
- e. failing to use the degree of care and skill that a reasonable person would have used under the same or similar circumstances;
- f. acting in violation of applicable state and federal statutes and regulations;
- g. acting in violation of industry standards;
- h. driving while impaired; and
- i. such other and further acts and omissions as discovery may reveal, and the evidence at trial may show.

19. Defendant Prime is vicariously liable for all acts and omissions of Defendant Hamilton pursuant to the doctrine of *respondeat superior*.

20. As a direct and proximate cause of the negligence, recklessness, and carelessness of Defendants, Plaintiff has suffered excruciatingly painful injuries and damages including, but not limited to, physical and psychological pain, physical and mental suffering, emotional distress, permanent injury, loss of enjoyment of life, loss wages, and impairment of health. Further, he has sustained and will continue to sustain expenses for past and future medical treatment.

21. Due to the reckless, negligent, and careless acts of Defendants, Plaintiff is entitled to recover actual and punitive damages as determined by a jury.

FOR A SECOND CAUSE OF ACTION
(Negligent Training/Retention/Supervision as to Defendant New Prime, Inc.)

22. Plaintiff re-alleges and reincorporates herein by reference each and every allegation contained in the previous paragraphs as though fully set forth herein.

23. Defendant New Prime, Inc., was negligent, negligent *per se*, reckless, willful, and wanton in failing to train and supervise Defendant Hamilton properly, in that Defendant Prime permitted Hamilton, who was within their control, to operate the truck with knowledge that Hamilton posed a danger to the public, including Plaintiff, in operating the vehicle.

24. Defendant Prime's acts and omissions in training, and supervising Defendant Hamilton were the direct and proximate cause of the collision.

25. As a direct and proximate result of the acts and omissions of Defendant, Plaintiff suffered excruciatingly painful injuries and damages including, but not limited to, physical and psychological pain, physical and mental suffering, emotional distress, permanent injury, loss of enjoyment of life, and impairment of health.

26. Plaintiff is entitled to an award of all actual, consequential, and incidental damages against Defendants Prime and Hamilton.

27. Plaintiff is also entitled to an award of punitive damages against Defendants Prime and Hamilton

28. Plaintiff is also entitled to an award of prejudgment interest against Defendants Prime and Hamilton.

FOR A THIRD CAUSE OF ACTION
(Negligence as to Defendant Cynthia Dixon)

29. Plaintiff re-alleges and reincorporates herein by reference each and every allegation contained in the previous paragraphs as though fully set forth herein.

30. Defendant Dixon had a duty to exercise reasonable care while operating the 2021 Nissan and had a duty to operate the vehicle in a safe manner in compliance with the statutory and common laws of South Carolina.

31. Defendant Dixon breached the duty owed to her passenger, Richard M. Thomas, by failing to apply her brakes in time to avoid the collision.

32. Defendant Dixon's breach was approximate cause of the damages and injuries claimed herein.

33. Plaintiff is entitled to an award of all actual damages against Defendant Dixon

WHEREFORE, Plaintiff prays for a judgment against the Defendants, jointly and severally, for actual damages against all Defendants and also for punitive damages against the Prime and Hamilton Defendants in an amount to be determined by the jury, and for the costs of this action, and for such other and further relief as the Court deems just and proper.

[signature page to follow]

Respectfully submitted,

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