

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENNESSEE

FREDRICK CHUBBS, as Administrator of  
THE ESTATE OF LARRY CHUBBS,

Plaintiff,

vs.

TAG MANUFACTURING, INC., a  
a Tennessee Corporation,

Defendant.

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) JURY DEMAND  
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) No. 13C1025  
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COMPLAINT FOR WRONGFUL DEATH

Comes the Plaintiff, Fredrick Chubbs, Administrator of the Estate of Larry Chubbs, by and through counsel, and sues the Defendant, TAG Manufacturing, Inc., a Tennessee corporation, for compensatory and exemplary damages in the wrongful death of Larry Chubbs as the direct and proximate result of the negligence of the Defendant. For cause of action, the Plaintiff avers as follows:

1. Larry Chubbs, a resident of Hamilton County, Tennessee, died on May 7, 2012. Plaintiff Fredrick Chubbs has been appointed by the Chancery Court of Hamilton County, Tennessee as Administrator *ad litem* of the Estate of Larry Chubbs and files this action in his capacity as Administrator.

2. Defendant TAG Manufacturing, Inc. (herein, "TAG"), is a "for profit" corporation chartered and existing under the laws of the State of Tennessee and having its principal office in Hamilton County, Tennessee.

3. In its workforce, TAG utilizes workers and personnel obtained from an employment service, Advantage Personnel Consultants, Inc. ("Advantage"). On May 7, 2012, Larry Chubbs was

working through Advantage on assignment at the TAG manufacturing facility at 6989 Discovery Drive in Hamilton County, Tennessee. At that time Chubb had been working for TAG for approximately six months and was assigned by TAG to the company's Paint Department.

4. At its manufacturing plant on Discovery Drive, TAG fabricates and manufactures heavy parts and attachments for equipment used in construction, industrial and agricultural work. One of the final steps in the fabrication of its products involves the removal of rust and scale from such parts prior to their being painted. This process is accomplished through the use of a Wheelabrator Autoblast Descaling Machine, a large piece of equipment referred to by TAG workers and personnel as the "Big Blaster." At all times material to this action, the Big Blaster was owned and maintained by the Defendant. It was a part of Larry Chubbs' job to operate the Big Blaster.

5. The Big Blaster is a huge machine, approximately 150 feet in length. It consists of five major sections, to wit: the Loading Area, Entrance Vestibule, Blast Cabinet, Exit Vestibule and the Blow Off Area. The part being finished is loaded on a steel pallet, then the part and the pallet pass on powered rollers through the Blast Cabinet where the part is bombarded with steel shot to remove rust and scale.

6. Upon exiting the Blast Cabinet, the part and the pallet pass into the Blow Off Area where the operator walks out on a steel bar grating floor and uses an air hose to blow off any excess shot and grit that has accumulated. The operator then off loads the part from the Blow Off Area using a lifting strap and a 5-ton overhead crane.

7. The floor of the Blow Off Area consists of a series of rectangular steel bar grating panels placed end to end between the powered rollers. The excess shot dropping from the part falls into a hopper beneath the steel bar grating where it is funneled into a 9-inch screw auger system at

the bottom of the hopper. The auger system collects and returns the reclaimed shot from the Blow Off Area to the Blast Cabinet.

8. On May 7, 2012, Larry Chubbs was working on the second shift at TAG and was operating the Big Blaster as a worker at the Defendant's plant on Discovery Drive in Hamilton County, Tennessee. At a time between the hours of 8:30 PM and 9:00 PM, Mr. Chubbs was working alone on the grated metal platform in the Blow Off Area of the Big Blaster. He had no co-worker.

9. As he walked onto the steel bar grating platform, a section of the grating gave way, and Chubbs fell through the opening and into the hopper beneath the floor of the Blow Off Area. When the platform gave way causing Mr. Chubbs to fall into the hopper, his legs became caught in the rotating auger system. Chubbs attempted unsuccessfully to free himself from the mechanism, but his feet and legs were being pulled and crushed by the 9-inch diameter steel auger. As he was pulled into the slowly rotating auger, his legs were ground up and amputated up to his torso. Larry Chubbs died from loss of blood.

10. As the result of the above-described incident, Larry Chubbs sustained massive and catastrophic injuries that resulted in his death.

11. As the owner and operator of the facility, TAG had a duty to exercise reasonable care with regard to invitees on its premises, including Larry Chubbs as well as other workers and employees at its plant. The duty includes the responsibility to remove or warn against hidden dangerous conditions on the premises of which TAG was aware or should have been aware through the exercise of reasonable diligence.

12. TAG's conduct as set forth herein falls below the aforesaid standard of care and constitutes a breach of the duty to exercise reasonable care.

dropping Larry Chubbs into the open hopper where his legs were caught by the turning auger. He was catastrophically injured and died.

19. TAG failed to warn Larry Chubbs that the steel bar grating panels had not been secured, did not fit properly, and could shift and give way.

20. TAG knew or should have known that the flooring in the Blow Off Area was in an unsafe condition and that it was reasonably foreseeable that a panel would give way and cause the operator to fall into the hopper with catastrophic results.

21. Tag failed to regularly inspect the steel grating floor panels in the Big Blaster Blow Off Area.

22. The actual cause of Larry Chubbs' fatal injury was the grating giving way. The grating panel gave way due to being inadequately secured and not being properly sized for the opening.

23. At the time and place of the injuries and death of Larry Chubbs, TAG was operating and managing its plant in violation of statutes of the State of Tennessee, to wit: the Occupational Safety and Health Act of 1972, including the following:

T.C.A. §50-3-105(1):           Employers are required to furnish employees with conditions of employment and a place of employment free from recognized hazards that are likely to cause death or serious injury or harm to its employees.

TAG's violation of the statute constitutes a breach of its duty to exercise reasonable care.

24. In addition to regulatory and statutory violations, including that set forth above, TAG was guilty of the following acts of negligence:

- a) Failure to properly install, inspect and maintain the bar grating floor panels;
- b) Failure to repair and replace damaged bar grating floor panels;
- c) Failure to secure the bar grating floor panels throughout the Blow Off Area;
- d) Failure to provide fall protection along the east end of the Blow Off Area platform;
- e) Failure to ensure that the bar grating panels fit properly;

- f) Failure to ensure that the bar grating panels were secured to their support system;
- g) Failure to ensure that the bar grating floor panels were of adequate size to prevent them from being accidentally dislodged
- h) Failure to provide personnel or other fail-safe means to shut down the auger in the event of an emergency.

Each of the foregoing acts of negligence is a breach of the standard of reasonable care owed to an invitee and was a proximate cause of the injuries and death of Larry Chubbs.

25. TAG's negligence and breach of its duty to exercise reasonable care in the installation, maintenance and inspection of its equipment proximately caused the injury and untimely death of Larry Chubbs.

26. Any one of the aforesaid statutory violations or other acts of negligence, either alone or in combination with each other, constituted a direct and proximate cause of the injuries and death of Larry Chubbs.

27. As an actual and proximate result of TAG's negligence and failure to exercise reasonable care with regard to invitees on its premises, Larry Chubbs sustained catastrophic injuries, including but not limited to the crushing mutilation and traumatic amputation of his lower extremities, resulting in his death.

28. TAG's disregard of proper safeguards in installing, maintaining and inspecting a dangerous and potentially lethal piece of machinery was willful, wanton and reckless and constitutes a gross disregard for the safety of invitees on its premises.

29. As a direct and proximate result of the negligence of the Defendant, Larry Chubbs sustained massive injuries. Said injuries caused him great pain, suffering and mental anguish and resulted in his death.

30. As the owner and operator of the business, TAG owed a duty to maintain the premises in a condition that was safe for business invitees, including Larry Chubbs.

31. At the time of his death, Larry Chubbs was 54 years of age, was able-bodied and in good health, and he possessed the earning capacity to provide many future years of a fruitful and productive life.

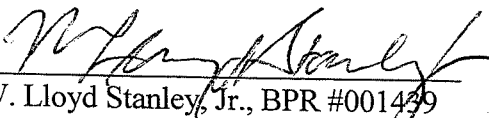
WHEREFORE, Plaintiff Fredrick Chubbs, as Administrator of the Estate of Larry Chubbs, sues the Defendant, TAG Manufacturing, Inc., for compensatory and exemplary damages in the wrongful death of Larry Chubbs, including compensation for the pain, suffering and mental anguish suffered by Larry Chubbs; funeral and burial expenses; and the pecuniary value of the Decedent's life. The Plaintiff sues for exemplary damages due to the willful and wanton conduct of the Defendant in failing to correct a latent or hidden dangerous condition or to warn Larry Chubbs of the hazard posed by condition. The Plaintiff requests damages in the total amount of \$3,000,000.00.

The Plaintiff requests that a jury try the cause.

Respectfully submitted,

LAW OFFICES OF LLOYD STANLEY

By:

  
W. Lloyd Stanley, Jr., BPR #001499

Attorney for Plaintiff

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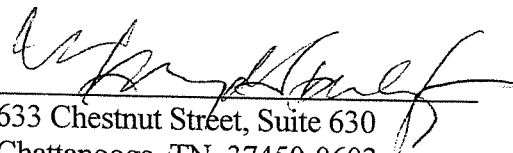
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**COST BOND**

I hereby acknowledge and bind myself for the prosecution of this action and payment of all non-discretionary costs in this Court which may at any time be adjudged against the Plaintiff in the event said Plaintiff shall not pay the same.

Witness my hand this 3<sup>RD</sup> day of May, 2013.

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