

**IN THE ELEVENTH JUDICIAL DISTRICT FOR STATE OF TENNESSEE OF
HAMILTON COUNTY CIRCUIT COURT**

SHANQUATTA BYRD, individually and as
mother and next friend of KARRIE'UN
MCGUIRE, a minor,

Plaintiff,

v.

DURHAM SCHOOL SERVICES, L.P.,
NATIONAL EXPRESS, LLC and
JOHNTHONY WALKER,

Defendants.

Civil Action File No.

JURY DEMAND

COMPLAINT

Comes now Shanquatta Byrd, individually and as mother and next friend of Karrie'un McGuire, a minor, as Plaintiff, by and through her counsel of record, and files this Complaint for personal injuries against Defendants: Durham School Services, L.P. (hereinafter "Durham"), National Express, LLC (hereinafter "NELLC") and Johnthony Walker (hereinafter "Walker") for compensatory and punitive damages, showing this Honorable Court as follows:

PARTIES, JURISDICTION, AND VENUE

1.

Plaintiff Shanquatta Byrd is the mother and natural guardian of Karrie'un McGuire, a minor child, who was injured as a result of a motor vehicle collision that occurred on November 21, 2016 on Talley Road in Chattanooga, Hamilton County, Tennessee.

2.

Plaintiff resides in Hamilton County, Tennessee and is a citizen and resident of Tennessee.

3.

Defendant Durham is a foreign corporation existing under the laws of the state of Delaware with its principal place of business at 1431 Opus Place, Suite 200 in Downers Grove, Illinois and may be served through its registered agent CT Corporation System at 800 S. Gay Street, Suite 2021, Knoxville, TN 37929.

4.

Defendant NELLC is a foreign corporation existing under the laws of the state of Delaware with its principal place of business at 4300 Weaver Parkway in Warrenville, Illinois and may be served through its registered agent CT Corporation System at 208 South LaSalle St., Suite 814, Chicago, IL 60604.

5.

Defendant Walker is a resident of Tennessee and may be served at the Hamilton County jail where he is currently incarcerated.

6.

Defendants Durham and NELLC are subject to the jurisdiction and venue of this Court.

7.

Defendant Walker is subject to the jurisdiction and venue of this Court.

8.

Venue is proper in this Court pursuant to Tennessee Code Ann. § 20-4-101, because the cause of action arose in Hamilton County, Tennessee.

9.

Jurisdiction is proper in this Court pursuant to Tennessee Code Ann. § 16-10-101.

FACTS

10.

Plaintiff incorporates herein by reference all preceding paragraphs of this Complaint as if each were fully set forth herein in their entirety.

11.

On November 21, 2016, Defendant Walker was operating a bus with Karrie'un McGuire as a passenger on Talley Road in Chattanooga, Hamilton County, Tennessee.

12.

At all times material hereto, Defendant Walker was operating a commercial motor vehicle owned by Defendant(s) Durham and NELLC and operated on behalf of Defendant(s) Durham and NELLC.

13.

Defendant Walker was driving at an excessive speed and lost control of the bus causing it to flip over.

14.

Karrie'un McGuire suffered a traumatic brain injury and multiple orthopedic injuries as a result of the incident.

COUNT I – NEGLIGENCE, GROSS NEGLIGENCE AND RECKLESSNESS OF WALKER

15.

Plaintiff incorporates herein by reference all preceding paragraphs of this Complaint as if each were fully set forth herein in their entirety.

16.

Defendant Walker was negligent, grossly negligent, reckless and negligent *per se* in the operation of the bus at issue in the following ways:

- (a) Failing to exercise due care;
- (b) Exceeding the speed limit;
- (c) Driving too fast for conditions;
- (d) Failing to maintain his lane of travel;
- (e) Violating state commercial vehicle safety regulations and Federal Motor Carrier Safety Regulations; and
- (f) Otherwise failing to operate his vehicle in a safe and prudent manner in view of the conditions that existed at the time of the incident.

17.

The incident at issue was the direct and proximate result of the negligence, gross negligence, recklessness and negligence *per se* of Defendant Walker.

18.

As a direct and proximate cause of the negligence gross negligence, recklessness and negligence *per se* of Defendant Walker, Karrie'un McGuire suffered a traumatic brain injury and other orthopedic injuries with losses including but not limited to past and future pain and suffering, disability, disfigurement, loss of enjoyment of life, past and future medical expenses and loss of earning capacity.

19.

Defendant Walker is liable to for all damages allowed by law for the injuries, damages and losses sustained by Karrie'un McGuire.

COUNT II – NEGLIGENCE, GROSS NEGLIGENCE, RECKLESSNESS OF DURHAM AND NELLC

20.

Plaintiff incorporates herein by reference all preceding paragraphs of this Complaint as if each were fully set forth herein in their entirety.

21.

At all times material hereto, Defendant Walker was an employee or agent of Defendant(s) Durham and NELLC.

22.

At all times material hereto, Defendant Walker was acting within the course and scope of his employment or agency with Defendant(s) Durham and NELLC.

23.

Defendant(s) Durham and NELLC are liable for the actions and omissions of Defendant Walker pursuant to the doctrine of *respondeat superior* or agency.

24.

At all times material hereto, Defendant Walker was operating a commercial motor vehicle as the statutory employee of Defendant(s) Durham and NELLC and Defendant(s) Durham and NELLC are responsible for Walker's acts and omissions as his statutory employer.

25.

Defendant(s) Durham and NELLC were also independently negligent, grossly negligent and reckless and negligent *per se* in the following ways:

- (a) Negligently hiring or contracting with Defendant Walker to drive the bus at issue;
- (b) Negligently training Defendant Walker;
- (c) Negligently entrusting Defendant Walker to operate a bus;

- (d) Negligently retaining Defendant Walker to drive the bus at issue;
- (e) Negligently qualifying Defendant Walker as a commercial driver;
- (f) Failing to supervise Defendant Walker;
- (g) Otherwise violating state laws and federal regulations governing motor carriers; and
- (h) Otherwise failing to act as a reasonably prudent company under the circumstances.

26.

As a direct and proximate result of the negligence, gross negligence, recklessness and negligence *per se* of Defendants Durham and NELLC, Karrie'un McGuire suffered a traumatic brain injury and other orthopedic injuries with losses including but not limited to past and future pain and suffering, disability, disfigurement, loss of enjoyment of life, past and future medical expenses and loss of earning capacity.

27.

Defendants Durham and NELLC Fedex are liable for all damages allowed by law for the injuries, damages and losses sustained by Karrie'un McGuire.

COUNT III – DAMAGES

28.

Plaintiff incorporates herein by reference all preceding paragraphs of this Complaint as if each were fully set forth herein in their entirety.

29.

Each of the Defendants acted in a manner which either alone or in combination with other Defendants' acts of negligence, gross negligence and recklessness, directly and proximately caused the collision and Karrie'un McGuire to suffer a traumatic brain injury and

other orthopedic injuries with losses including but not limited to past and future pain and suffering, disability, disfigurement, loss of enjoyment of life, past and future medical expenses and loss of earning capacity.

30.

Plaintiff is the appropriate person to bring these claims on behalf of herself and her minor child Karrie'un McGuire.

COUNT VI – PUNITIVE DAMAGES

31.

Plaintiff incorporates herein by reference all preceding paragraphs of this Complaint as if each were fully set forth herein in their entirety.

32.

Defendants' acts were willful, wanton, and demonstrated that entire want of care which raises the presumption of a conscious indifference to consequences.

33.

Accordingly, Defendants are liable to the Plaintiff for punitive damages to punish, penalize and deter Defendants from similar conduct in the future.

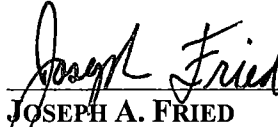
WHEREFORE, Plaintiff prays that the following relief be granted:

- (a) A trial by jury;
- (b) For Summons and Complaint to issue against each Defendant;
- (c) For judgment against each Defendant for the damages set forth herein;
- (d) For judgment against each Defendant for punitive damages as shown to be fair and appropriate at the trial of this case;

- (e) Court costs, discretionary costs, and prejudgment interest; and
- (f) For all such further and general relief which this Court deems just and proper.

Dated on December 5, 2016.

FRIED ROGERS GOLDBERG LLC



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