

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

IN THE COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL CIRCUIT  
CIVIL ACTION NO.: 2020-CP -26-

Stephanie Morgan, Personal )  
Representative of the )  
Estate of Cecil A. Morgan, deceased, )  
 )  
Plaintiff, )

vs )

Ferguson Enterprises, Inc., Ferguson )  
Enterprises, LLC, and )  
James Tyrone Williams, )  
 )  
Defendants. )

**SUMMONS**  
**TRUCKING COLLISION**  
**(Jury Trial Demanded)**

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said Complaint on the subscriber or subscribers at his or their office at 1121 Third Avenue, Conway, SC 29526, within thirty (30) days after the service thereof; 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 relieve demanded in the Complaint.

LAW OFFICES L. MORGAN MARTIN, P.A.

s/L Morgan Martin  
L. Morgan Martin (Bar # 3667)  
Mary Ashley Martin (Bar # 68758)  
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Conway, South Carolina  
Dated: 1-17-2020

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ACTION NO.: 2020-CP -26-

Stephanie Morgan, Personal )  
Representative of the )  
Estate of Cecil A. Morgan, deceased, )  
 )  
Plaintiff, )

vs )

**COMPLAINT**

Ferguson Enterprises, Inc., Ferguson )  
Enterprises, LLC, and )  
James Tyrone Williams, )  
 )  
Defendants. )

**TRUCKING COLLISION**

**(Jury Trial Demanded)**

The Plaintiff, complaining of the Defendants, would respectfully allege and show unto this Honorable Court as follows:

1. Plaintiff Stephanie Morgan is the wife of Cecil A. Morgan, deceased and the duly appointed Personal Representative of the Estate of Cecil A. Morgan by the Horry County Probate Court.
2. Plaintiff Stephanie Morgan brings this wrongful death action pursuant to S.C. Ann. §15-51-10 and a survival action pursuant to S.C. Ann. §15-5-90.
3. Plaintiff Stephanie Morgan is a resident of Horry County, South Carolina. Decedent Cecil A. Morgan was also a resident of Horry County, South Carolina.
4. Defendants Ferguson Enterprises Inc., and/or Ferguson Enterprises, LLC is domiciled in the state of Virginia and transacts business in South Carolina with multiple locations across this State from which it distributes goods and services.

5. Defendant Ferguson Enterprises, LLC has a commercial motor vehicle ("Freightliner") registered with the United States Department of Transportation and bearing USDOT number 282018. This same USDOT number and the name Ferguson Enterprises, LLC was branded on the 2014 Freightliner that killed Decedent. This vehicle is subject to the Federal Motor Carrier Safety Act (FMCSA).

6. James Tyrone Williams (hereinafter "Defendant Williams") is a citizen and resident of Florence County and was the driver of the 2014 Freightliner that killed the Decedent.

7. This lawsuit arises from a multi-vehicle collision that occurred on US Highway 501 in Horry County, South Carolina on July 25, 2019.

8. Jurisdiction and venue are proper over the Defendants.

**FOR A FIRST CAUSE OF ACTION**  
(Wrongful Death)

9. Plaintiff realleges and reincorporates Paragraphs 1 through 8 above as if fully set forth verbatim herein.

10. That at all times relevant hereto, Defendant Williams was an employee, agent and legal representative of Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC and acting within the course and scope of his employment.

11. That at all times relevant hereto, Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC were the employer and principal of Defendant Williams.

12. That at all times relevant hereto, Defendants Ferguson Enterprises, Inc.

and/or Ferguson Enterprises, LLC exercised control over the conduct of Defendant Williams and had the right to control the time, manner and method of Defendant Williams' work.

13. That at all times relevant hereto, Defendant Williams was acting as an agent, servant or employee of Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC and was acting within the course and scope of his agency, service, or employment so as to make the Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC, liable for the acts or omissions of Defendant Williams on July 25, 2019 under the theories of *respondeat superior* and agency.

14. That on July 25, 2019, at approximately 2:20 PM Decedent was performing routine road work and repair on the southbound lane of US Highway 501 just outside of Conway in Horry County, South Carolina. Decedent was acting within his capacity as a South Carolina Department of Transportation (hereinafter SCDOT) employee, along with a co-worker. Decedent and his co-worker were working from SCDOT dump truck that was stopped and had all appropriate flashing and signal lights activated, while also wearing hardhats and reflective vests. Decedent was acting in a reasonable, prudent, and careful matter at all times pertinent hereto.

15. That two vehicles, a red in color 2012 Dodge Minivan and a white in color 2016 Toyota sedan, were stopped behind the SCDOT dump truck and portion of the roadway where the Decedent and his co-worker were working, awaiting completion of the road work/repair.

16. That at the same time Defendant Williams was also driving South on US

Highway 501 in a 2014 Freightliner owned, controlled, and directed by Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC.

17. That Defendant Williams was traveling in excess of 50 miles per hour as he proceeded past the warning signs for reduced speed due to road construction and plowed in to the two stopped vehicles. The Freightliner first struck the Toyota sedan forcing it to the right shoulder of the roadway, then struck the Dodge minivan forcing it off the left side of the roadway. Thereafter, the Freightliner plowed into and ran over Decedent and his co-worker before running off the roadway, into the woods before finally coming to a stop. Decedent and his co-worker were killed and six others were seriously injured from this collision.

18. As a result of this collision, the Decedent suffered substantial and severe multiple body traumas and subsequently died.

19. The collision, injuries, and damages described in this Complaint were the direct, foreseeable and proximate result of the negligent, careless, willful, wanton, reckless, and grossly negligent conduct of the Defendants, independently and by and through the acts and/or omissions of their agents, servants and/or employees, at the time and place above-mentioned, in the following particulars, to wit:

- a) In driving a motor vehicle in such a manner as to indicate a willful, wanton, reckless, grossly negligent, and negligent disregard for the safety of other in violation of S.C. Code Ann. §56-5-2920;
- b) In failing to operate the vehicle in a safe and reasonable manner;
- c) In failing to keep a proper lookout;

- d) In traveling too fast for conditions;
- e) In failing to maintain proper attention;
- f) In failing to operate the Freightliner within lawful and reasonable speed for the conditions at the time;
- g) In failing to operate the Freightliner in a safe and reasonable manner consistent with State, Federal, and Case Law;
- h) In failing to apply or properly apply his brakes, if any he had;
- i) In failing to maintain his brakes, if any he had;
- j) In failing to sound his horn, if any he had, or to otherwise warn of his approach;
- k) In failing to properly observe the road and traffic conditions and patterns;
- l) In failing to observe the posted warning signs and reduced speed signs and travel at a reduced, safe speed;
- m) In failing to avoid striking Decedent after he saw or should have seen Decedent in a position of danger;
- n) In driving while tired or not otherwise fully alert in reckless disregard of the rights and safety of others, especially the rights and safety of the Decedent;
- o) In operating the Freightliner in utter disregard for the safety of others;
- p) In failing to properly observe the road and traffic conditions;

- q) In failing to obey the traffic laws;
- r) In failing to exercise the degree of care that a reasonably prudent person would have exercised under the same or similar circumstances;
- s) In failing to properly maintain the Freightliner in compliance with state and federal regulations;
- t) In failing to enforce and abide by the rules and regulations regarding the operation of motor vehicles, including, but not limited to, South Carolina law and the Federal Motor Carrier Act;
- u) In negligently hiring and training its drivers;
- v) In failing to properly hire, train, investigate and supervise the operators of its Freightliners;
- w) In failing to institute, maintain and/or enforce proper policies and procedures to ensure that its employees execute their responsibilities in a reasonable fashion to protect innocent citizens such as the Decedent;
- x) In failing to ensure that its employees follow proper policies and procedures in the performance of their work and execute their responsibilities in a reasonable fashion to protect innocent citizens such as the Decedent;
- y) In failing to enforce or abide by good practices, industry standards, or applicable rules and regulations regarding vehicle maintenance

- and repairs;
- z) In failing to do a pre-trip inspection of the vehicle;
  - aa) In failing to do a pre-trip inspection that revealed non-functioning brakes;
  - bb) In failing to properly maintain and service the Freightliner, including but not limited to, its brakes;
  - cc) In putting into service a truck that was an imminent hazard because of inoperative brakes that were likely to result in serious injury or death;
  - dd) In failing to comply with the Federal Motor Carrier Safety Regulations and industry standards in that Defendant Williams was not medically qualified or fit to drive due to severe obesity, hypertension and/or obstructive sleep apnea.
  - ee) In violating Federal Motor Carrier Safety Regulation 49 CFR 392.3 in that at the time of the collision Defendant Williams operated a Commercial Motor Vehicle, and Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC required or permitted driver to operate a Commercial Motor Vehicle while the Defendant Williams' ability or alertness was so impaired, or likely to become impaired through fatigue, illness or any other cause such as severe obesity, obstructive sleep apnea and/or hypertension as to make it unsafe for Defendant Williams to begin or continue to operate the Commercial Motor Vehicle. Upon information and belief these medical conditions resulting in impaired alertness were known to Defendant



Williams and Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC for an extended period of weeks and months prior to the collision.

- ff) In such other particulars as may be determined through discovery procedures undertaken to the South Carolina Rules of Civil Procedure.

All of which combined and concurred as a direct and proximate cause of the injuries and damages sustained by Decedent herein, said acts being in violation of the statutes and laws of the State of South Carolina.

20) That as a direct and proximate result of the negligent, careless, willful, wanton, reckless, and grossly negligent acts and/or omissions of the Defendants, as set out above, Decedent's beneficiaries, as represented by Stephanie Morgan, Decedent's Personal Representative, have suffered injuries, which have caused, and in the future will cause, Decedent's beneficiaries to suffer one or more of the following elements of damage as to the wrongful death claim:

- a) Pecuniary loss including loss of income;
- b) Mental shock and suffering;
- c) Wounded feelings;
- d) Grief and sorrow including but not limited to the knowledge that Decedent suffered a traumatic and horrific death;
- e) Loss of companionship;
- f) Deprivation of use and comfort of Decedent's society, including loss of

his experience, knowledge and judgment in managing the affairs of himself and his beneficiaries; and

- g) Loss of consortium including but not limited to, loss of love, companionship, affection, society, comfort and affection.

21) That in addition, as a direct and proximate cause of the Defendants' negligent, careless, willful, wanton, reckless, and grossly negligent acts and/or omissions as set out above, Decedent suffered injuries, which caused him to suffer one or more of the following prior to his death:

- a) Physical pain; b) Disfigurement;
- c) Suffering;
- d) Mental anguish;
- e) Emotional distress; and
- f) Shock and injury to Decedent's nerves and nervous system

All of which were a direct and proximate cause of the injuries and damages sustained by the Decedent as alleged herein.

22) That due to the negligent, careless, willful, wanton, reckless, and grossly negligent acts and/or omissions of Defendants as set out above, as well as their violation of state law, and federal law and regulation, Plaintiff is entitled to recover actual and punitive damages, both jointly and severally, as determined by a jury.

**FOR A SECOND CAUSE OF ACTION**  
(Negligent Entrustment)

23) Plaintiff realleges and reincorporates Paragraphs 1 through 22 above as if

fully set forth verbatim herein.

24) That Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC knew or should have known Defendant Williams was untrained and incapable of operating his vehicle in a manner required by the Federal Motor Carrier Safety Regulations and state law.

25) That Defendants Ferguson Enterprise, Inc., and/or Ferguson Enterprise, LLC knew or should have known that Defendant Williams was inexperienced and lacked sufficient training such that he was incapable of complying with the Federal Motor Carrier Safety Regulations and state law and was therefore, a negligent and/or reckless driver.

26) That Defendants Ferguson Enterprises, Inc., and/or Ferguson Enterprises, LLC negligently and/or recklessly entrusted a commercial vehicle to Defendant Williams despite its knowledge that Defendant Williams lacked proper training and experience to operate the same.

27) That Defendants Ferguson Enterprises, Inc., and/or Ferguson Enterprises, LLC failed to comply with the Federal Motor Carrier Safety Regulations and industry standards in that Defendant Williams was not medically qualified or fit to drive due to severe obesity, hypertension and/or obstructive sleep apnea.

28) That Defendants Ferguson Enterprises, Inc., and/or Ferguson Enterprises, LLC, at the time of the collision, were in violation of Federal Motor Carrier Safety Regulation 49 CFR 392.3 in that Defendant Williams operated a Commercial Motor Vehicle, and Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC required or permitted Defendant Williams to operate a Commercial Motor Vehicle while his ability or alertness was so impaired, or likely to become impaired through fatigue, illness or any other cause such as severe obesity, obstructive sleep apnea and/or hypertension as to make it unsafe for Defendant Williams to begin or continue

to operate the Commercial Motor Vehicle. Upon information and belief these medical conditions resulting in impaired alertness were known to Defendant Williams and Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC for an extended period of weeks and months prior to the collision.

29) That Defendants Ferguson Enterprises, Inc., and/or Ferguson Enterprises, LLC negligently and/or recklessly entrusted a vehicle to Defendant Williams which it knew or reasonably should have known, was not safe and operable.

30) That Defendants Ferguson Enterprises, Inc., and/or Ferguson Enterprises, LLC negligently and/or recklessly entrusted a vehicle to Defendant Williams whom they knew or reasonably should have known was physically unhealthy and, therefore, not safe to operate their vehicle, according to federal law and industry standards.

31) That Defendants Ferguson Enterprises, Inc and/or Ferguson Enterprises, LLC entrusted a vehicle to Defendant Williams when they knew or should have known he was physically unable to adequately inspect the vehicle as required by state or federal law or regulation requiring a pre-trip inspection each day.

32) That as a direct, foreseeable, and proximate result of the negligent, careless, willful, wanton, reckless, and grossly negligent acts and/or omissions of Defendants Ferguson Enterprises, Inc., and/or Ferguson Enterprises, LLC Decedent suffered conscious pain and suffering, physical harm and injury, and endured pain and suffering, including mental distress, emotional anguish and ultimately death.

33) Decedent is entitled to judgment against Defendants Ferguson Enterprise, Inc., and/or Ferguson Enterprise, LLC for his above-described injuries and for actual and punitive

damages in an amount to be determined by the jury.

**FOR A THIRD CAUSE OF ACTION**

(Negligent Hiring, Supervision, Maintenance and Retention)

34) Plaintiff realleges and reincorporates Paragraphs 1 through 33 above as if fully set forth verbatim herein.

35) Defendants Ferguson Enterprises, Inc., and/or Ferguson Enterprises, LLC owed a duty to Decedent to exercise reasonable care in conducting its business activities, including the implementation and following of appropriate operating standards and procedures, the hiring, retention and supervision of its employees, drivers and agent, including Defendant Williams and the maintenance of its Freightliner.

36) That Defendants Ferguson Enterprises, Inc., and/or Ferguson Enterprises, LLC owed statutory and common law duties to Decedent not to negligently and/or recklessly hire, supervise and retain employees and to use safe and fit equipment such as the Freightliner.

37) That Defendants Ferguson Enterprises, Inc., and/or Ferguson Enterprises, LLC knew or should have known that Defendant Williams lacked experience and training such that he was unable to comply with the Federal Motor Carrier Safety Regulations and state laws and therefore was a negligent and/or reckless driver.

38) That Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC failed to properly maintain and service the Freightliner, including but not limited to, its brakes.

39) That Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC put into service the Freightliner, operated by Defendant Williams on July 25, 2019, that by definition should have been marked "out of service" and was an imminent hazard because of defects, including but not limited to, defective brakes, that were likely to result in serious injury

or death.

40) That Defendants Ferguson Enterprises, Inc., and/or Ferguson Enterprises, LLC failed to properly supervise and train Defendant Williams and allowed him to operate their vehicle without the most basic training in violation of the Federal Motor Carrier Safety Regulations and state law.

41) That Defendants Ferguson Enterprises, Inc., and/or Ferguson Enterprises, LLC failed to comply with the Federal Motor Carrier Safety Regulations and industry standards in that Defendant Williams was not medically qualified or fit to drive due to severe obesity, hypertension and obstructive sleep apnea.

42) That Defendants Ferguson Enterprises, Inc., and/or Ferguson Enterprises, LLC, at the time of the collision, were in violation of Federal Motor Carrier Safety Regulation 49 CFR 392.3 in that Defendant Williams operated a Commercial Motor Vehicle, and Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC required or permitted Defendant Williams to operate a Commercial Motor Vehicle while his ability or alertness was so impaired, or likely to become impaired through fatigue, illness or any other cause such as severe obesity, obstructive sleep apnea and/or hypertension as to make it unsafe for Defendant Williams to begin or continue to operate the Commercial Motor Vehicle. Upon information and belief these medical conditions resulting in impaired alertness were known to Defendant Williams and Defendants Ferguson Enterprises, Inc. and/or Ferguson Enterprises, LLC for an extended period of weeks and months prior to the collision.

43) That as a direct, foreseeable, and proximate result of the negligent, grossly negligent, reckless, willful, and wanton acts and omissions of Defendants Ferguson Enterprise, Inc., and/or Ferguson Enterprise, LLC, Decedent suffered conscious pain and suffering, physical harm and

injury, and endured pain and suffering, including mental distress emotional anguish and death.

44) Plaintiff is informed and believes that she is entitled to actual and punitive damages against Defendants Ferguson Enterprises, Inc., Ferguson Enterprises, LLC and Defendant Williams in an amount deemed just and proper by the Court and trier of fact.

**WHEREFORE**, Plaintiff prays:

- A. For judgment against the Defendants for actual and punitive damages in an amount deemed just and proper by the Court and jury;
- B. For the costs incurred in connection with this action; and
- C. For such other and further relief as this Court may deem just and proper.

LAW OFFICES OF L. MORGAN MARTIN, P.A.

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Conway, South Carolina

Dated: January \_\_, 2020