

CAUSE NO. 17-04-24, 142

ATREYU MUNIZ, et al.	§	IN THE DISTRICT COURT OF
	§	
Plaintiffs,	§	
	§	
V.	§	DEWITT COUNTY, TEXAS
	§	
STALLION OILFIELD SERVICES, LTD.,	§	
et al.	§	
	§	
Defendants.	§	24th JUDICIAL DISTRICT

**INTERVENOR-PLAINTIFF LLOYD ALEXANDER KULIK'S PETITION IN
INTERVENTION, REQUEST FOR DISCLOSURE AND RULE 193.7 NOTICE**

COMES NOW, Lloyd Alexander Kulik, Intervenor-Plaintiff, in the above-styled and numbered cause of action, complaining of Defendants, Stallion Oilfield Services Ltd. (previously named Stallion Oilfield Services, Ltd.), Stallion Production Services, L.P. (previously named Stallion Oilfield Services), Stallion Oilfield Holdings, Inc., and Rodney Simmons, and in support thereof would show unto this Honorable Court the following:

I. DISCOVERY CONTROL PLAN

1. Pursuant to Texas Rule of Civil Procedure 190.4 the discovery of this case is to be conducted under a Level 3 Discovery Control Plan to be agreed upon by the parties.

II. PARTIES

2. Intervenor-Plaintiff Lloyd Alexander Kulik is a resident citizen of Dewitt County, Texas.

3. Defendant Rodney Simmons is an individual resident of the State of Texas. Defendant Simmons has already appeared and answered herein.

4. Defendant Stallion Oilfield Services, Ltd. is a domestic entity authorized to do business in the State of Texas. This Defendant has already appeared and answered herein.

5. Defendant Stallion Production Services is a domestic limited partnership authorized to do business in the State of Texas. This Defendant has already appeared and answered herein.

6. Defendant Stallion Oilfield Holdings, Inc. is a domestic corporation authorized to do business in the State of Texas. This Defendant has already appeared and answered herein.

7. Defendants' Stallion Oilfield Services, Ltd., Stallion Oilfield Production, and Stallion Oilfield Holdings, Inc. will hereinafter collectively be referred to as "Stallion."

III. JURISDICTION and VENUE

8. This Court has jurisdiction in this cause since the damages to Intervenor-Plaintiff are within the jurisdictional limits of this Court.

9. All or a substantial part of the events or omissions giving rise to the claim occurred in Dewitt County, Texas. Therefore, venue is proper pursuant to §15.002(a)(1) of the Texas Civil Practice & Remedies Code.

10. Additionally, the facts show that the convenience of the parties and the witnesses and the interest of justice would be best served in Dewitt County, Texas and venue is permitted in this county pursuant to §15.002(a)(4) of the Texas Civil Practice & Remedies Code.

11. All conditions precedent have occurred.

12. Nothing Intervenor-Plaintiff did caused or contributed to this occurrence.

IV. FACTS

13. On March 30, 2017, at or about 11:30 p.m., Defendant Simmons was operating a commercial tractor-trailer for the Stallion Defendants on FM 108 in Dewitt County.

14. Intervenor-Plaintiff was operating his vehicle on FM 108 at the same time. Intervenor-Plaintiff attempted to pass Defendant Simmons on the left. While Intervenor-Plaintiff

was in the process of passing, Defendant Simmons suddenly and without warning turned left and struck the right rear of Intervenor-Plaintiff's vehicle causing it to flip and crash.

15. Intervenor-Plaintiff suffered severe and significant injuries for which he has received medical care and suffered significant damages. Intervenor-Plaintiff is a C5 quadriplegic.

**V. CAUSE OF ACTION FOR NEGLIGENCE AND GROSS NEGLIGENCE AGAINST
DEFENDANT RODNEY SIMMONS**

16. The incident made the basis of this lawsuit resulted from the improper conduct of Defendant Simmons. The conduct of this Defendant constituted negligence as that term is understood in law and such negligent conduct was a proximate cause of the occurrence, injuries and damages to Intervenor-Plaintiff made the basis of this suit. This Defendant's negligent actions or omissions included, but are not limited to, one or more of the following non-exclusive particulars:

- a. failing to control his tractor-trailer;
- b. failing to keep a proper lookout;
- c. failing to apply the brakes before striking Intervenor-Plaintiff ;
- d. failing to yield the right of way to Intervenor-Plaintiff ; and/or
- e. failing to operate his vehicle as a person of ordinary prudence would have in the same or similar circumstance.

**VI. CAUSE OF ACTION FOR NEGLIGENCE AGAINST THE STALLION
DEFENDANTS**

17. The Stallion Defendants were the owner of the tractor-trailer driven by Defendant Simmons. At all times material to this lawsuit, Defendant Simmons was an employee of these Defendants and was acting within the course and scope of his employment with these Defendants. Consequently, these Defendants are vicariously liable to Intervenor-Plaintiff for the negligent

conduct of Defendant Simmons under the theory of *respondeat superior* and pursuant to the Federal Motor Carrier Act.

18. Additionally or in the alternative, the independent conduct of the Stallion Defendants constitutes negligence as that term is known in law. Such negligent acts or omission include, but are not limited to the following:

- a. hiring and/or retaining Defendant Simmons whom it knew or should have known was a reckless or incompetent driver;
- b. entrusting a vehicle to Defendant Simmons whom it knew or should have known was reckless or incompetent driver;
- c. failing to properly train Defendant Simmons in the safe motor vehicle operation; and,
- d. failing to properly supervise Defendant Simmons's driving activities.

19. One, some, or all of the foregoing acts and/or omissions or others on the part of these Defendants constituted negligence and such negligence was a proximate cause of the occurrence and Intervenor-Plaintiff's injuries and damages.

VII. DAMAGES

20. As a result of the incident made the basis of this lawsuit described in the preceding paragraphs and the negligence of each Defendant, individually or in some combination, Intervenor-Plaintiff sustained significant injuries and damages in the past and will in reasonable probability sustain these damages in the future.

21. Intervenor-Plaintiff respectfully requests that the trier of fact determine the amount of his damages and losses that he has incurred in the past and will reasonably incur in the future, as well as the monetary value of these damages, which include, but are not limited to:

- a. Physical pain and mental anguish;
- b. Loss of earning capacity;
- c. Disfigurement;
- d. Physical impairment;

- e. Medical care expenses; and,
- f. Out-of-pocket economic losses.

22. The damages sought herein are within the jurisdictional limits of the court. Intervenor-Plaintiff seeks monetary relief over \$1,000,000.

23. Intervenor-Plaintiff seeks both prejudgment and post judgment interest as allowed by law, for all costs of court, and demands judgment for all other relief, both in law and inequity, to which Intervenor-Plaintiff may be entitled.

IX. REQUEST FOR DISCLOSURE

24. Pursuant to Rule 194, request is made that each Defendant disclose, within fifty (50) days of service of this request, the information or material described in Texas Rule of Civil Procedure 194.2 (a)-(1). Each Defendant must serve a written response to these Request for Disclosure on Intervenor-Plaintiff within fifty (50) days after the service of this request. A Defendant's failure to timely respond shall constitute an abuse of discovery pursuant to Texas Rule of Civil Procedure 215.

X. RULE 193.7 NOTICE

25. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Intervenor-Plaintiff hereby gives actual notice to each Defendant that any and all documents produced may be used against the Defendant producing the document at any pretrial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Intervenor-Plaintiff prays that each Defendant be cited in terms of law to appear and answer herein, that upon final trial and hearing hereof, that Intervenor-Plaintiff recover damages in accordance with the evidence, that Intervenor-Plaintiff recover costs of court herein expended, that Intervenor-Plaintiff recover interest to which

Intervenor-Plaintiff is justly entitled under the law, and for such other further relief, both general and special, both in law and in equity, to which Intervenor-Plaintiff may be justly entitled.

Respectfully submitted,

PERDUE & KIDD

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**ATTORNEYS FOR INTERVENOR-
PLAINTIFF**

CERTIFICATE OF SERVICE

Pursuant to Rules 21 and 21a of the Texas Rules of Civil Procedure, I have delivered copies of this document with the service of the Petition to Defendant's lead counsel of record.


Donald H. Kidd