

Appendix D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

WALTER P. VARGO, JR.) CASE NO. _____
 4865 Shanks Phalanx Rd.)
 Southington, OH 44470-9534)
 Plaintiff) JUDGE _____
)
 vs.)
)
 D & M TOURS INC.)
 117 East 7th Street)
 Patterson, NJ 07524)
)
 and)
)
 JOSE ROMAN)
 PO Box 1082)
 71 Hopper St., Floor 1)
 Patterson, NJ 07544)
)
 and)
)
 FEDEX, INC.)
 c/o C.T. CORP)
 1300 East Ninth St.)
 Cleveland, OH 44114)
)
)
 and)
)
 WILLIAM A. STAUFFER)
 125 Fieldstone Dr.)
 Carlisle, PA 17015)
)
)
 and)
)
 SARAH MORRISON, Administrator)
 Ohio Bureau of Workers' Compensation)
 242 Federal Plaza, W., Suite 200)
 Youngstown, OH 44503-1206)
)
 and)
)

L.T. HARNETT TRUCKING, INC.)
c/o DAVID L. HARNETT)
Its Statutory Agent)
7431 State Route 7)
Kinsman, OH 44428)
)
Defendants)

NATURE OF THE ACTION

1. This is a negligence action for damages against drivers and owners of motor vehicles stemming from a collision with plaintiff's tanker trailer on vehicle Interstate Route 78, in Saucon Township, Northampton County, Pennsylvania, on June 7, 2016.

JURISDICTION AND VENUE

2. The matter in controversy is in excess of the sum of \$75,000, exclusive of interest and costs, and pursuant to 28 U.S.C. §1332(a)(1), it is brought by Plaintiff, WALTER P. VARGO, JR., a citizen of Southington, Trumbull County, Ohio, against Defendant D & M TOURS, INC., a business in New Jersey; JOSE ROMAN, a citizen of New Jersey; FEDEX, INC., a company doing business in Youngstown, Mahoning County, Ohio; WILLIAM A. STAUFFER, a citizen of Pennsylvania; SARAH MORRISON, Administrator of Ohio Bureau of Workers' Compensation with a Regional Office in Youngstown, Mahoning County, Ohio; and L.T. HARNETT TRUCKING, INC., a company doing business in Kinsman, Trumbull County, Ohio.

3. Pursuant to 28 U.S.C. §1391, venue for this action lies in the United States District Court for the Northern District of Ohio, the district where Defendant FEDEX, INC., and Defendant L.T. HARNETT are doing business; the district where Defendant SARAH MORRISON, Administrator of Ohio Bureau of Workers' Compensation, has a Regional Office that administered a companion workers' compensation claim for Plaintiff; and the district where

Plaintiff resides and where he received the bulk of his treatment, including surgery, from his injuries in this accident, and where his medical providers are located.

PARTIES

4. Plaintiff WALTER P. VARGO, JR., is an individual residing in Southington, Trumbull County, Ohio, and at all times relevant herein he was employed by Defendant L. T. HARNETT TRUCKING, INC., and was injured in the course of and out of that employment.

5. Defendant D & M TOURS, INC., is a corporation engaged in the school busing business, and is organized in the state of New Jersey.

6. Defendant JOSE ROMAN is an individual residing in Patterson, New Jersey, and at all relevant times herein, he was employed as a bus driver by Defendant D & M TOURS, INC., and he was acting on behalf of this employer and in furtherance of its business.

7. Defendant FEDEX, INC., is a corporation engaged in the package delivery business in Youngstown, Mahoning County, Ohio, and is organized under the laws of the State of Delaware.

8. Defendant WILLIAM A. STAUFFER is an individual residing in Carlisle Pennsylvania, and at all relevant times herein he was employed as a truck driver for Defendant FEDEX, INC, and was acting on behalf of this employer and in furtherance of its business.

9. Defendant SARAH MORRISON is the Administrator of the Ohio Bureau of Workers' Compensation that has a Regional Office in Youngstown, Mahoning County, Ohio, that administered to Plaintiff's companion Worker's Compensation claim (No. 16-822703) and has paid Plaintiff considerable sums for treatment and care, including wage loss compensation, all stemming from his injuries in the accident that is the subject of this lawsuit; and thus, has an interest in this case.

10. Defendant L.T. HARNETT TRUCKING, INC., is a corporation engaged in the trucking business in Kinsman, Trumbull County, Ohio, is organized under the laws of the State of Ohio; was the owner of the tanker trailer driven by Plaintiff; has paid Plaintiff for directly wage loss compensation and has incurred other expenses related to Plaintiff's Ohio Workers' Compensation Claim, No. 16-8 to 2703; and thus, has an interest in this case.

COUNT I - NEGLIGENCE

11. Plaintiff incorporates by reference the allegations contained in paragraphs one (1) through ten (10) of the Complaint.

12. On or about June 7, 2016, Plaintiff was employed by Defendant L.T. HARNETT TRUCKING, INC., and was driving a tanker trailer owned by this defendant westbound on I-78 in Lower Saucon Township, Northampton County, Pennsylvania, when Plaintiff was hit and driven off the roadway by the tractor-trailer driven by Defendant WILLIAM A. STAUFFER, and owned by Defendant FEDEX, INC., who may have been trying to avoid a school bus driven by Defendant JOSE ROMAN, and owned by of Defendant D & M TOURS, INC., who was abruptly slowing down and changing lanes.

13. As a direct and proximate result of the negligence of Defendants JOSE ROMAN and D & M TOURS, INC., and the negligence of WILLIAM A. STAUFFER and FEDEX INC., Plaintiff received serious personal injuries, some or all of which are permanent; has suffered physical pain and mental distress; has suffered a permanent diminished capacity to enjoy life; has sustained a diminished earning capacity; has incurred medical bills for treatment and care, and will continue to do so in the future; and will be compelled to hire additional services.

COUNT II – AGENCY

14. Plaintiff incorporates by reference the allegations contained in paragraphs one (1) through thirteen (13) of the Complaint.

15. Plaintiff is informed and believes that Defendant JOSE ROMAN was, at the time of the accident, an agent and/or employee of Defendant D & M TOURS, INC., acting within the scope and course of his employment.

16. As a proximate result of Defendant D & M TOURS, INC., agency/employment relations with Defendant JOSE ROMAN, Plaintiff has suffered permanent injuries and has incurred medical expenses in excess of \$75,000.

COUNT III – AGENCY

17. Plaintiff incorporates by reference the allegations contained in paragraphs one (1) through sixteen (16) of the Complaint.

18. Plaintiff is informed and believes that Defendant WILLIAM A. STAUFFER was, at the time of the accident, an agent and/or employee of Defendant FEDEX, INC., acting within the scope and course of his employment.

19. As a proximate result of Defendant FEDEX, INC., agency/employment relations with Defendant JOSE ROMAN, Plaintiff has suffered permanent injuries and has incurred medical expenses in excess of \$75,000.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants JOSE ROMAN, D & M TOURS, INC., WILLIAM A. STAUFFER, and FEDEX INC., jointly and/or severally, in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) to compensate him for his injuries; prays that Defendant SARAH MORRISON Administrator of Ohio Bureau

of Workers' Compensation and Defendant L. T. HARNETT TRUCKING, INC., appear and assert their interests in the outcome of this case; Plaintiff prays for payment of his costs, prejudgment interest, and such other and further relief as the court deems just and proper.

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY.

Respectfully submitted,

/s/ Irene K. Makridis

Irene K. Makridis (#16760, Ohio)
Counsel for Plaintiff
155 S. Park Ave., Suite 160
Warren, Ohio 44481
Tel.: 330-394-1587
Fax: 330-394-3070
office@makridislaw.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

WALTER P. VARGO, JR.

(b) County of Residence of First Listed Plaintiff Trumbull

(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

D & M TOURS, INC.; JOSE ROMAN; FEDEX INC.; WILLIAM A. STAUFFER; SARAH MORRISON, ADMINISTRATOR OHIO BWC; and L.T. HARNETT TRUCKING, INC.

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Irene K. Makridis, Makridis Law Firm, LLC, 155 S. Park Ave., Suite 160, Warren, Ohio 44481, Tel. 330-394-1587; Fax 330-394-3070, office@makridislaw.com

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	PTF	DEF	Citizen of Another State	PTF	DEF
	<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1			<input type="checkbox"/> 4
					<input checked="" type="checkbox"/> 4

Incorporated or Principal Place of Business In This State

Incorporated and Principal Place of Business In Another State

Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 864 SSID Title XVI	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 865 RSI (405(g))	
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
FEDERAL TAX SUITS				
		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 896 Arbitration
		<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
IMMIGRATION				
		<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 950 Constitutionality of State Statutes
		<input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C.A. §1332(a)(1); 28 U.S.C. §1391

Brief description of cause:

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C.A. §1332(a)(1); 28 U.S.C. §1391

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only).

1. General Civil
2. Administrative Review/Social Security
3. Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE: _____

CASE NUMBER: _____

II. **RELATED OR REFILED CASES.** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action: is RELATED to another PENDING civil case is a REFILED case was PREVIOUSLY REMANDED

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

COUNTY:

Corporation For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

COUNTY: Trumbull, Mahoning

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

COUNTY:

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION

AKRON
CLEVELAND
YOUNGSTOWN

(Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)
(Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)
(Counties: Columbiana, Mahoning and Trumbull)

WESTERN DIVISION

TOLEDO

(Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.

Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.

PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.