

IN THE CIRCUIT COURT, EIGHTH
JUDICIAL CIRCUIT, IN AND FOR
ALACHUA COUNTY, FLORIDA

MARGIE DEWIT and
BERNARD DEWIT,

Plaintiffs,

CASE NO.:

DIVISION:

vs.

UNITED PARCEL SERVICE, INC.,
a foreign corporation,

Defendant.

COMPLAINT

COME NOW, the Plaintiffs, MARGIE and BERNARD DEWIT, and sue the Defendant, UNITED PARCEL SERVICE, INC. ("UPS"), and allege:

JURISDICTIONAL & FACTUAL BACKGROUND

1. This is an action for damages which exceed \$15,000.00.
2. At all times material hereto, Plaintiffs, Margie and Bernard deWit, (a married couple) were residents of the State of Michigan.
3. At all times material hereto, Defendant, UPS, was and is a foreign corporation with its principal place of business in Atlanta, Georgia. Defendant, UPS, owned and maintained a certain tractor-trailer unit which was being operated by its employee, TERRY G. STONE, and this employee was acting within the course and scope of his employment at the time of the incident which is the subject of this Complaint. Moreover, the operation of the tractor-trailer unit by the UPS employee, TERRY G. STONE, was done with the

knowledge, permission and consent, both expressed and implied, of Defendant, UPS. While defendant, UPS, is a foreign corporation, it transacts business in the State of Florida including in Alachua County and pursuant to Florida Statute 48.193(b), this Court has long arm jurisdiction over defendant, UPS, which, through its agents, servants and employees, committed a tortious act within this state described below.

COUNT I – NEGLIGENCE CLAIM OF MARGIE DEWIT

4. That on or about January 29, 2012, Plaintiffs, Margie and Bernard deWit, were traveling southbound on Interstate 75 in Alachua County. Plaintiff, Bernard deWit, was a restrained driver operating a 2002 Oldsmobile Bravada while plaintiff, Margie deWit, was a passenger.

5. As Mr. and Mrs. deWit were traversing Interstate 75 over an area known as Payne's Prairie, there were unknown environmental conditions of heavy smoke and fog which resulted in Bernard deWit having little to no visibility. Prior to encountering the smoke/fog, Bernard deWit was traveling in the middle lane of Interstate 75 which in this area consisted of 3 southbound lanes and 3 north bound lanes with a divided median. Due to the visibility, Bernard deWit slowed his vehicle and attempted to pull his vehicle onto what he thought was the shoulder of the road and came to a complete stop.

6. Margie deWit, a passenger in the vehicle was sleeping at the time Bernard deWit encountered the smoke/fog. Bernard deWit woke up his wife as he determined a reasonable course of action was to exit the vehicle to determine his whereabouts and placement on the road side. As Bernard and Margie deWit were beginning to discuss the

best course of action and while Margie deWit unrestrained, the UPS tractor-trailer driven by employee, Terry G. Stone, rear-ended the deWit vehicle. The aforesaid UPS tractor-trailer was also being operated in the southbound lanes of travel and was being operated negligently and carelessly in that the UPS driver did not respond reasonably to the environmental conditions, did not sufficiently reduce his speed given the environmental conditions or take other precautions to avoid encountering individuals, objects or vehicles which were obscured given the absence of visibility. As a result of the negligence of the UPS driver, the UPS tractor-trailer struck the 2002 Oldsmobile Bravada occupied by Margie deWit.

7. As a direct and proximate result of the negligence of the Defendant, UPS, Plaintiff, Margie deWit, suffered bodily injury and resulting pain and suffering, disability, disfigurement, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care treatment, loss of earnings and loss of the ability to earn money in the future. Said injuries and losses are permanent in nature and Plaintiff, Margie deWit, will suffer such losses and impairment in the future.

COUNT II – LOSS OF CONSORTIUM CLAIM OF BERNARD DEWIT

8. Plaintiff, Bernard deWit, incorporates herein paragraphs 1 - 3 above.

9. As a direct and proximate result of the negligence described in Count I above, plaintiff, Bernard deWit, has incurred medical and hospital expenses for the treatment and care of his wife, Margie deWit, and has in the past and will continue in the future to suffer the loss of his wife's services, companionship and consortium. In addition, Bernard deWit,

has lost his own past earnings and anticipates loss of future earnings in order to provide hands on care and treatment needed by his wife given the devastating nature of her own injuries.

COUNT III – NEGLIGENCE CLAIM OF BERNARD DEWIT

10. Plaintiff, Bernard deWit, incorporates herein paragraphs 1 – 3 above.

11. That on or about January 29, 2012, Plaintiffs, Margie and Bernard deWit, were traveling southbound on Interstate 75 in Alachua County. Plaintiff, Bernard deWit, was a restrained driver operating a 2002 Oldsmobile Bravada while plaintiff, Margie deWit, was a passenger.

12. As Mr. and Mrs. deWit were traversing Interstate 75 over an area known as Payne's Prairie, there were unknown environmental conditions of heavy smoke and fog which resulted in Bernard deWit having little to no visibility. Prior to encountering the smoke/fog, Bernard deWit was traveling in the middle lane of Interstate 75 which in this area consisted of 3 southbound lanes and 3 north bound lanes with a divided median. Due to the visibility, Bernard deWit slowed his vehicle and attempted to pull his vehicle onto what he thought was the shoulder of the road and came to a complete stop.

13. Margie deWit, a passenger in the vehicle was sleeping at the time Bernard deWit encountered the smoke/fog. Bernard deWit woke up his wife as he determined a reasonable course of action was to exit the vehicle to determine his whereabouts and placement on the road side. As Bernard and Margie deWit were beginning to discuss the best course of action and while Margie deWit unrestrained, the UPS tractor-trailer driven

by employee, Terry G. Stone, rear-ended the deWit vehicle. The aforesaid UPS tractor-trailer was also being operated in the southbound lanes of travel and was being operated negligently and carelessly in that the UPS driver did not respond reasonably to the environmental conditions, did not sufficiently reduce his speed given the environmental conditions or take other precautions to avoid encountering individuals, objects or vehicles which were obscured given the absence of visibility. As a result of the negligence of the UPS driver, the UPS tractor-trailer struck the 2002 Oldsmobile Bravada occupied by Margie deWit.

14. As a direct and proximate result of the negligence of the Defendant, UPS, Plaintiff, Bernard deWit, suffered bodily injury and resulting pain and suffering, disability, disfigurement, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care treatment, loss of earnings and loss of the ability to earn money in the future. Said injuries and losses are permanent in nature and Plaintiff, Bernard deWit, will suffer such losses and impairment in the future.

COUNT IV - LOSS OF CONSORTIUM CLAIM OF MARGIE DEWIT

15. Plaintiff, Margie deWit, incorporates herein paragraphs 1 – 3 and 10 – 14 above.

16. As a direct and proximate result of the negligence described in Count I above, plaintiff, Margie deWit, has suffered in the past and will continue to suffer in the future the loss of her husband's services, companionship and consortium.

WHEREFORE, Plaintiffs, MARGIE and BERNARD DEWIT, demand judgment against the Defendant together with costs of this action and request a trial by jury.

DATED this 19th day of January 2016.

CARTER & DRYLIE, P.A.



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