

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

Joseph "Trip" William Hamilton, III )

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

Plaintiff(s) )

2014-CP - 10 - 0724

vs. )

C&K NUCO, LLC d/b/a Expedited Freightways,  
James David Stewart, d/b/a Affiliate Trucking, and  
Arnold Bradford Williams,

Defendant(s) )

Submitted By: Nicholas J. Clekis

SC Bar #: 6522

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Other:

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NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- [X] JURY TRIAL demanded in complaint. [ ] NON-JURY TRIAL demanded in complaint.
[ ] This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
[ ] This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
[ ] This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: [ ] Constructions (100), [ ] Debt Collection (110), [ ] Employment (120), [ ] General (130), [ ] Breach of Contract (140), [ ] Other (199)
Torts - Professional Malpractice: [ ] Dental Malpractice (200), [ ] Legal Malpractice (210), [ ] Medical Malpractice (220), Previous Notice of Intent Case # 20 -CP- -, [ ] Notice/ File Med Mal (230), [ ] Other (299)
Torts - Personal Injury: [ ] Assault/Slander/Libel (300), [ ] Conversion (310), [X] Motor Vehicle Accident (320), [ ] Premises Liability (330), [ ] Products Liability (340), [X] Personal Injury (350), [ ] Wrongful Death (360), [ ] Other (399)
Real Property: [ ] Claim & Delivery (400), [ ] Condemnation (410), [ ] Foreclosure (420), [ ] Mechanic's Lien (430), [ ] Partition (440), [ ] Possession (450), [ ] Building Code Violation (460), [ ] Other (499)
Inmate Petitions: [ ] PCR (500), [ ] Mandamus (520), [ ] Habeas Corpus (530), [ ] Other (599)
Administrative Law/Relief: [ ] Reinstate Drv. License (800), [ ] Judicial Review (810), [ ] Relief (820), [ ] Permanent Injunction (830), [ ] Forfeiture-Petition (840), [ ] Forfeiture-Consent Order (850), [ ] Other (899)
Judgments/Settlements: [ ] Death Settlement (700), [ ] Foreign Judgment (710), [ ] Magistrate's Judgment (720), [ ] Minor Settlement (730), [ ] Transcript Judgment (740), [ ] Lis Pendens (750), [ ] Transfer of Structured Settlement Payment Rights Application (760), [ ] Confession of Judgment (770), [ ] Petition for Workers Compensation Settlement Approval (780), [ ] Other (799)
Appeals: [ ] Arbitration (900), [ ] Magistrate-Civil (910), [ ] Magistrate-Criminal (920), [ ] Municipal (930), [ ] Probate Court (940), [ ] SCDOT (950), [ ] Worker's Comp (960), [ ] Zoning Board (970), [ ] Public Service Comm. (990), [ ] Employment Security Comm (991), [ ] Other (999)
Special/Complex /Other: [ ] Environmental (600), [ ] Automobile Arb. (610), [ ] Medical (620), [ ] Other (699), [ ] Pharmaceuticals (630), [ ] Unfair Trade Practices (640), [ ] Out-of State Depositions (650), [ ] Motion to Quash Subpoena in an Out-of-County Action (660), [ ] Sexual-Predator (510)

Submitting Party Signature:

[Handwritten Signature]

Date: February 3, 2014

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT  
CASE NO: 2014-CP: 10-0724

JOSEPH "TRIP" WILLIAM )  
HAMILTON, III, )  
 )  
Plaintiff, )

vs. )

C&K NUCO, LLC d/b/a )  
EXPEDITED FREIGHTWAYS, )  
JAMES DAVID STEWART, )  
d/b/a AFFILIATE TRUCKING, )  
and ARNOLD BRADFORD )  
WILLIAMS, )  
 )  
Defendants. )

**SUMMONS**  
(Jury Trial Demanded)  
-Negligence  
-Gross Negligence  
-Negligent Entrustment

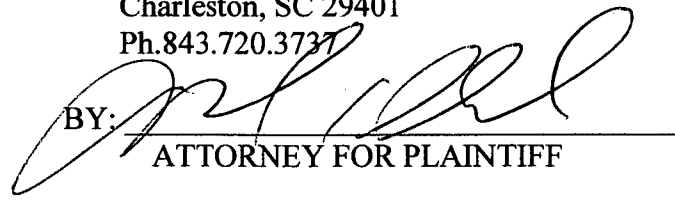
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2014 FEB -5 AM 10:36  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint  
Herein served upon you, and to serve a copy of your Answer to said Complaint upon the  
Subscriber hereunder within thirty (30) days from the date of service, exclusive of the date  
of service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff  
in this action will apply to this Court for the relief prayed for in the attached Complaint,  
including the rendering of a default judgment against you.

SIGNED at Charleston, South Carolina, this 4<sup>th</sup> day of February, 2014

CLEKIS LAW FIRM, PA  
Nicholas J. Clekis  
171 Church Street, Suite 160  
Charleston, SC 29401  
Ph.843.720.3737

BY:   
ATTORNEY FOR PLAINTIFF

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS  
THE NINTH JUDICIAL CIRCUIT  
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JOSEPH "TRIP" WILLIAM )  
HAMILTON, III, )  
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Plaintiff, )

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C&K NUCO, LLC d/b/a )  
EXPEDITED FREIGHTWAYS, )  
JAMES DAVID STEWART, )  
d/b/a AFFILIATE TRUCKING, )  
and ARNOLD BRADFORD )  
WILLIAMS, )  
 )  
Defendants. )

**COMPLAINT AND DEMAND**  
**FOR JURY TRIAL**

- Negligence
- Gross Negligence
- Negligent Entrustment

JULIE J. ARMSTRONG  
CLERK OF COURT

2014 FEB -5 AM 10:36

FILED

The Plaintiff, complaining of the Defendant herein, alleges as follows:

**PARTIES**

1. That the Plaintiff is a citizen and resident of the County of Charleston, State of South Carolina and is domiciled therein.
2. Upon information and belief, Defendant C&K NUCO, LLC, doing business as Expedited Freightways, (hereinafter "Defendant C&K") is a limited liability company organized under the laws of a state other than South Carolina, with its principal place of business in Chesapeake, Virginia. Defendant C&K is a motor carrier authorized to transport people or property in interstate commerce, including within the state of South Carolina, and operates under the authority of the U.S. Department of Transportation ("USDOT") under USDOT Number

1784536 and the Federal Motor Carrier Safety Administration (“FMCSA”) under Motor Carrier Number MC-572868.

3. Defendant C&K was the employer of Arnold Bradford Williams (hereinafter “Defendant Williams”), and/or allowed and permitted Defendant Williams to operate a commercial motor vehicle under its authority, and is responsible for the actions of Defendant Williams.
4. Upon information and belief, Defendant James David Stewart, d/b/a Affiliate Trucking (“Stewart” or “Stewart d/b/a Affiliate Trucking”) is a citizen and resident of Berkeley County, State of South Carolina, and is domiciled therein. At all relevant times herein, Defendant Stewart was the owner of the commercial motor vehicle involved in this cause of action, profited from Defendant Williams’ use of his commercial motor vehicle, and was a motor carrier doing business as Affiliate Trucking and bearing USDOT Number 1897587 and Motor Carrier Number MC-744497 at all relevant times herein.
5. Defendant Stewart is also the employer of Defendant Williams and/or allowed and permitted Defendant Williams to operate a commercial motor vehicle under his/its ownership. Defendant Stewart is also responsible for the actions of Defendant Williams.
6. Upon information and belief, Defendant Williams is a citizen and resident of Dillon County, State of South Carolina and is domiciled therein. Defendant Williams was operating a commercial motor vehicle in the course and scope of his employment with the Defendant C&K and/or Defendant Stewart as set forth

herein.

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over the parties to this action pursuant to Article V of the South Carolina Constitution, as well as S.C. Code Ann. §§ 36-2-802 and 36-2-803 (Law Co-op 1976).
8. Venue in this action is proper pursuant to S.C. Code Ann. § 15-7-30, given that both the events underlying this cause of action, and the Plaintiff's domicile are in Charleston County. .

### **FACTUAL BACKGROUND**

9. At approximately 12:00 p.m. on January 28, 2013, there was heavy traffic in the eastbound lanes of I-526 that was at a standstill. The weather was clear, the roads were dry and there were no obstructions to visibility.
10. At the above date and time, Plaintiff Joseph William Hamilton, III ("Trip Hamilton") was a driver of a vehicle that was lawfully stopped on I-526 in the eastbound lane around or near the US-52 or Rivers Avenue exit due to traffic. His vehicle was the last in a row of five stopped vehicles in the right hand lane of I-526 eastbound.
11. Traveling at an excess rate of speed, Defendant Williams came upon the stopped traffic on I-526 while driving the commercial motor vehicle owned by Defendant Stewart, and lost control of the commercial vehicle, failed to stop, and directly collided with Mr. Hamilton's vehicle.
12. Defendant Williams' commercial motor vehicle struck Mr. Hamilton's vehicle at

a high rate of speed, propelling Mr. Hamilton's vehicle to the left into the concrete barrier and guardrail in the median of I-526.

13. As a result of the force and collision, Mr. Hamilton was immediately knocked unconscious due to head trauma. His nose was broken and he received several deep and severe lacerations to his face.
14. Defendant Williams' commercial vehicle continued to plow through more cars, causing widespread damage and crushing and killing a young woman as she lawfully waited in traffic.
15. Shortly after the collision, Defendant Williams was seen removing alcoholic beverage containers from his vehicle and throwing them over the side of the elevated highway.
16. The police charged Defendant Williams with reckless homicide as a result of this accident.
17. Williams continued to operate a commercial motor carrier after posting bail for his reckless homicide charge, and was arrested again on or about April 6, 2013 in Conyers, Georgia for driving under the influence.
18. Federal regulators have since banned Defendant Williams from operating a commercial vehicle in interstate commerce effective May of 2013. The US-Department of Transportation's Federal Motor Carrier Safety Administration has since declared Defendant Williams an imminent hazard to public safety.
19. Plaintiff Hamilton was injured and damaged as a result of the joint and concurring negligence, carelessness, and recklessness or gross negligence of the Defendants

in one or more of the following particulars:

**FOR A FIRST CAUSE OF ACTION**  
**(Negligence/Gross Negligence—All Defendants)**

- a. In failing to apply the brakes of the vehicle and/or maintain them in proper working condition;
- b. In failing to steer or take other evasive action so as to avoid the collision;
- c. In failing to keep a proper lookout;
- d. In failing to yield as required by law;
- e. In operating the vehicle at a high and excessive rate of speed for the circumstances;
- f. In failing to observe the conditions of traffic;
- g. In failing to follow the proper procedures for safe commercial vehicle operations;
- h. In drinking alcoholic beverages, either prior to, or while operating a commercial vehicle;
- i. In failing to take proper precautions to avoid the collision that resulted; and;
- j. In failing to exercise that degree of care that a reasonably prudent person would have exercised under the same or similar circumstances. .

All of which were the direct and proximate cause of the injuries and damages suffered and to be suffered by Mr. Hamilton, said acts being in violation of the Code of Laws of the State of South Carolina.

20. Defendants C&K and Stewart were negligent, willful, wanton, careless and reckless at the time and place of the above mentioned collision in the following particulars, to-wit,

- a. in failing to properly equip and maintain the commercial vehicle in a safe and reasonable condition and/or allowing the vehicle to be operated by a driver who was incapable of safely doing so under the circumstances;
- b. in failing to exercise that degree of care that a reasonably prudent person would have exercised under the same or similar circumstances.

All of which were the direct and proximate cause of the injuries and damages suffered and to be suffered by Mr. Hamilton, said acts being in violation of the Code of Laws of the State of South Carolina.

21. Plaintiff Hamilton was also injured and damaged as a result of the joint and concurring negligent entrustment, carelessness, and recklessness or gross negligence of the Defendant C&K and Defendant Stewart in one or more of the following particulars:

**FOR A SECOND CAUSE OF ACTION**

**( Negligent Entrustment—Defendant C&K and Defendant Stewart)**

- a. in having actual and/or constructive knowledge of Defendat Williams' driving record prior to this accident, including citations against Williams for having open containers of alcohol while driving and speeding.
- b. in continuing to allow Defendant Williams to operate under their employment and use their commercial carrier despite having constructive



and/or actual knowledge of Defendant Williams' infractions.

All of which were also the direct and proximate cause of the injuries and damages suffered by Mr. Hamilton, said acts being in violation of the Code of Laws of the State of South Carolina.

22. At the time of this accident, Mr. Hamilton was an aspiring stage actor. He was active in the local theater, and he was only twenty-two (22) years old.
23. The negligence, gross negligence, recklessness, willfulness, and wantonness of Defendants was a direct and proximate cause of the catastrophic collision involving the vehicle of Mr. Hamilton and resulted in his serious bodily injuries, such injuries being of a severe and debilitating nature and resulting in conscious pain and suffering, mental anguish, and loss and enjoyment of life, and property damage.

#### **PRAYER FOR RELIEF**

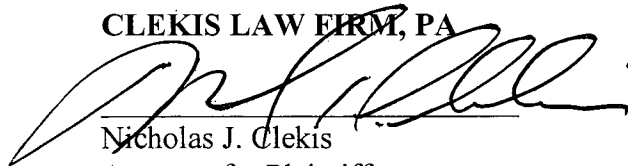
**WHEREFORE**, Plaintiff prays for judgment against the Defendants for such sums as will fully, fairly, and justly compensate the Plaintiff, on each of the above-referenced claims as follows:

1. Awarding compensatory damages for past and future damages, including but not limited to pain and suffering for all personal injuries, loss of enjoyment of life, and healthcare costs, together with interests and costs;
2. For any other causes of action and/or claims as may be compensable under local law and/or statutes as may apply under the laws of South Carolina in

- the jurisdiction and venue in which this case will be held for trial;
3. Punitive and/or exemplary damages for the wanton, willful, reckless acts of the Defendants, and each of them, who demonstrated a complete disregard and reckless indifference for the safety and welfare of the general public and to the Plaintiff in an amount sufficient to punish the Defendants and deter future similar conduct;
  4. Awarding Plaintiff reasonable attorney's fees;
  5. Awarding Plaintiff the costs of these proceedings; and
  6. Such other and further relief that this Court deems just and proper.

Respectfully Submitted,

**CLEKIS LAW FIRM, PA**



Nicholas J. Clekis  
Attorney for Plaintiff  
171 Church Street, Suite 160  
Charleston, SC 29401  
(843) 720-3737

At Charleston, South Carolina  
this 27 day of January, 2014.