

3. Plaintiff, **Alma Gomez** is an individual and surviving mother of **S.I.G., Minor, Deceased**. She is a resident of Harris County, Texas.

4. **S.I.G., Minor, Deceased** is the (hereinafter “**S.I.G.**”) was the natural daughter of Plaintiffs and a resident of Harris County, Texas at the time of her death.

DEFENDANTS

5. Defendant, **Emamaya Business Inc. d/b/a Humble Handi Stop** (hereinafter “**Humble Handi Stop**”) is a corporation incorporated under the laws of the State of Texas and having its principal place of business in Texas and may be served with process by serving its Registered Agent Adamjee Haroon at 8010 FM 1960 E, Humble, Harris County, Texas 77346.

6. Defendant, **Gumaro Munoz Campos** (hereinafter “**Campos**”) is an adult over the age of twenty-one and a resident of Humble, Harris County, Texas and may be served with process at his place of residence at 8311 FM 1960 E, Apt #1404, Humble, Texas 77346, or where ever he may be found.

7. Defendant, **Shelley Amanda Smith**, as next of friend to minor **J.C.S.** (hereinafter “**J.C.S.**”) is a resident of Humble, Harris County, Texas and may be served with process by serving her at her residence 4018 Meadowgold LN, Humble, Texas 77346.

8. Defendant, **Donald Gene Smith, Sr.** is a resident of Humble, Harris County, Texas and may be served with process by serving him at his residence 10215 Elm Bend CT, Humble, Texas 77346.

9. Plaintiffs expressly invoke the right under Rule 28 of the Texas Rules of Civil Procedure to have the true name(s) of the parties substituted at an alternate time upon the motion of any Party or of the Court.

III. Jurisdiction and Venue

10. This Court has subject matter jurisdiction under its general jurisdiction as conferred by the Texas Constitution because Plaintiffs damages exceed the minimum jurisdictional requirements of this Court and no other court has exclusive jurisdiction over this matter.

11. Venue is proper in this cause pursuant to Tex. Civ. Prac. & Rem. § 15.002 in Harris County because the collision giving rise to the action occurred in Harris County, Texas.

IV. FACTS

12. On or about July 24, 2018, Defendant Campos, the on duty employee of the Humble Handi Stop, knowingly sold four bottles of alcoholic beverages, known as MD20/20, to then 17-year-old J.C.S.. Based upon information and belief, Defendant Campos either failed to check identification of J.C.S. as required by Texas Alcoholic Beverage Commission. J.C.S. completed the purchase without showing any identification and exited the store. J.C.S. proceeded to drink said alcoholic beverages until intoxicated. In the early morning of July 25, 2018, an intoxicated J.C.S. drove his passengers, high school friends S.I.G. and C.A.R., southbound in the 18300 block of Timber Forest Drive, Atascocita, Texas in a Black 2008 Nissan Altima. Due to the intoxication, J.C.S. was unable to stay in a single lane and traversed southeast leaving the roadway onto the raised center median hitting a tree. C.A.R. died at the scene due to injuries sustained in the collision. S.I.G. was transported via life flight to the hospital where she died as a result of the injuries sustained in the collision. Both passengers fatal injuries occurred as a result of J.C.S.'s intoxicated state that was caused by Defendants Humble Handi Stop and Campos failure to verify J.C.S.'s identification and age before selling alcoholic beverages to J.C.S.



13. S.I.G. and C.A.R. were a part of many people's lives and touched many hearts. S.I.G. had many friends and a very loving family. She enjoyed participating in high school basketball and planned on going to college. S.I.G.'s Mom, Dad and brothers suffer with her loss daily.

14. On July 25, 2018, an intoxicated J.C.S was recklessly operating a Black 2008 Nissan Altima owned by Donald Gene Smith, Sr. Donald Gene Smith, Sr. entrusted the motor vehicle to Mr. J.C.S.

V. CAUSES OF ACTION

NEGLIGENCE PER SE - DRAM SHOP LIABILITY

15. At the time in question, Defendant, Humble Handi Stop and its employee's, held a license or permit to sell alcoholic beverages from the Texas Alcoholic Beverage Commission pursuant to the Texas Alcoholic Beverage Code. Defendant Humble Handi Stop violated the Tex. Alco. Bev. Code § 2.02 when Defendant Campos sold and provided alcoholic beverages to J.C.S. when he was under the legal drinking age.

16. Defendant Humble Handi Stop is vicariously liable for the acts of its on duty employee Defendant Campos. Defendant Humble Handi Stop had a history of selling alcohol to minors in the area. Defendant Humble Handi Stop was the "go to" store for teens in the area. This was well known at Atascocita High School and the students in general. The acts of Defendant's employee which injured Plaintiffs were performed while in the scope of employment of defendant, to further defendant's business, to accomplish the objective for which the employee was hired, and within the course and scope of that employment or within the authority delegated to the employee. For this

reason, Plaintiffs invoke the doctrine of vicarious liability and seeks to hold Humble Handi Stop liable for the acts and/or omissions of its employees.

17. At all times relevant to this suit, Defendant Humble Handi Stop and its employees qualify as a “provider” under §2.03 of the Tex. Alco. Bev. Code because they sold alcoholic beverages under authority of the license permit issued by the Texas Alcoholic Beverage Commission.

18. On July 24th, 2018, Defendant Campos knowingly sold alcoholic beverages to 17-year old minor J.C.S. without first verifying his identification and age by requesting a valid driver’s license or any other identification while in the course and scope of his employment with Defendant Humble Handi Stop.

19. Defendant Campos knew that the selling and provision of alcoholic beverages to minor J.C.S. would contribute to J.C.S.’s intoxication. Defendant Campos knew or should have known that a minor consuming alcoholic beverage would pose a hazard, including the Defendant J.C.S.. As a result, Defendants, Humble Handi Stop and Campos’ actions violated Tex. Alco. Bev.Code § 2.02(c).

20. Defendants Humble Handi Stop’s and Campos’s violation of Texas Alcoholic Beverage Code § 2.02 was a proximate cause of the death, injuries and damages of Plaintiffs because J.C.S.’s intoxication caused the collision.

NEGLIGENCE

21. Defendant Humble Handi Stop and Defendant Campos failed to use ordinary care by various acts and omissions, each of which singularly or in combination with others, was a proximate cause of the intoxication of a then 17 year old minor resulting in the motor vehicle incident in question and the damages suffered by Plaintiffs, which include as follows:

- a. Failing to verify the minor J.C.S.’s age by requesting the display of a valid Texas driver’s license or identification card issued by the Texas Department of Public Safety containing

a physical description consistent with said minor's appearance Texas Alcoholic Beverage Code § 2.02;

b. By providing alcoholic beverages to a minor under the age of 18, which contributed to minor's intoxication. Texas Alcoholic Beverage Code § 2.02(c).

22. Defendant J.C.S. failed to use ordinary care by various acts and omissions, each of which singularly or in combination with others, was a proximate cause of the motor vehicle incident in question resulting in Plaintiffs damages, which include as follows:

- a. In traveling at an excessive rate of speed;
- b. Failure to keep vehicle within proper lane of traffic;
- c. Failure to obey roadway pavement markings regulating the speed and movement of traffic;
- d. Failing to keep vehicle under control;
- e. Failure to obey our State's traffic regulations;
- f. Failure to discontinue driving when not physically or mentally alert to safely continue driving; and
- g. Failure to obey to act as a person of ordinary prudence would have acted in same or similar circumstances.

23. Defendants negligence was a proximate cause of the injuries suffered by Plaintiffs.

24. Plaintiffs seek unliquidated damages in an amount that is within the jurisdictional limits of the Court.

NEGLIGENCE PER SE

25. Defendant J.C.S.'s conduct constitutes an unexcused breach of duty imposed by the traffic laws and regulations of the State of Texas. Defendant J.C.S.'s violations include, but are not limited to:

- a. Failing to operate his vehicle within his single lane of traffic violation of the Uniform Act Regulating Traffic on Highways. Tex. Trans. Code Ann. 545.060(a);
- b. Driving recklessly in violation of the Texas Transportation Code, Section 545.401;
- c. Failing to operate his vehicle in a reasonable and prudent rate of speed under the conditions and having regard for actual or potential hazards then existing in violation of the Texas Transportation Code, Section 545.351(C)(5); and S.I.G. was a member of the class of people using the roads and highways of Texas and Harris County that these laws and regulations were designed to protect.

26. Defendants Humble Handi Stop, Campos, and J.C.S.'s unexcused breach of duty imposed by these laws and regulations proximately caused the deaths of S.I.G. and C.A.R..

NEGLIGENT ENTRUSTMENT

27. At the time and on the occasion in question and immediately prior thereto, defendant Donald Gene Smith, Sr. the owner of the 2008 Nissan Altima, knew or should have known that minor Defendant JCS was an incompetent and reckless driver. Defendant Donald Gene Smith, Sr. knew that his grandson had a tendency to drink and drive. On the night in question, Defendant J.C.S. was negligently driving and his negligence proximately caused Plaintiffs injury.

GROSS NEGLIGENCE

28. Defendants, Humble Handi Stop and Campos, behavior in selling alcoholic beverages to a minor under the age of 18 constitutes a conscious disregard for an extreme degree of risk of harm, so as to entitle Plaintiffs to an award of exemplary damages, pursuant to Texas Civil Practices & Remedies Code § 41.003(3).

29. Defendant J.C.S.'s behavior in driving while intoxicated constitutes a conscious disregard for a known risk of harm, so as to entitle Plaintiffs to an award of exemplary damages, pursuant to Texas Civil Practices & Remedies Code § 41.003(3).

30. Defendant, Donald Gene Smith, Sr's act of entrusting Defendant J.C.S. the use of the motor vehicle, knowing his propensity of risky behavior, constitutes a conscious disregard for a known risk of harm, so as to entitle Plaintiffs to an award of exemplary damages, pursuant to Texas Civil Practices & Remedies Code § 41.003(3).

VI. DAMAGES

WRONGFUL DEATH

31. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein. Pursuant to Tex. Civ. Prac. & Rem. Code § 71.002(b), 71.004(b), 71.009, and 71.010, Plaintiffs are entitled to recover from Defendants the actual damages attributable to the wrongful death of S.I.G., which include:

- a) Past and future pecuniary loss;
- b) Past and future loss of companionship and society;
- c) Past and future mental anguish damages; and
- d) Loss of inheritance.

SURVIVAL ACTION

32. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein. Pursuant to Tex. Civ. Prac. & Rem. Code § 71.021, this action for the injuries and damages sustained by Decedent survives her death. This statute permits the heirs of S.I.G. to prosecute and recover damages for the claims set forth above, including

- a.) Medical expenses;
- b.) Funeral and burial expenses;
- c.) Physical pain and suffering; and
- d.) Mental anguish.

33. As a result of the negligent and grossly negligent conduct of Defendants, Plaintiffs have been deprived of their loved one, S.I.G.. Plaintiffs suffered and/or will suffer past and future

medical expenses, past and future pain and suffering, past and future mental anguish, loss of society and consortium, and loss of economic support. Plaintiffs claim for monetary relief over \$1,000,000.00, pursuant to Tex. R. Civ. P. (47)(c)(5), and in a maximum \$100,000,000.00.

REQUEST FOR DISCLOSURE

34. Plaintiffs requests that Defendants respond to the disclosure requests contained in Tex. R. Civ. P. 194.2(a)-(1).

RULE 193.7 NOTICE

35. Pursuant to Rule 193.7 of the Tex. Rul. Civ. Proc., Plaintiffs give actual notice to Defendants that any documents produced in response to written discovery will be used in pretrial proceedings and/or trial without the necessity of authenticating the documents, unless Defendants object pursuant to Rule 193.7.

PRESERVATION OF EVIDENCE

36. Plaintiffs hereby request and demand that Defendants and their agents, attorneys, and insurers preserve and maintain all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit, and the resulting damages, including but not limited to videos, photographs, audiotapes, recordings, correspondence, memoranda, files, facsimiles, email, voice mail, text messages, or cellular phone records. Failure to maintain such items will constitute “spoliation” of the evidence, may subject Defendants to sanctions, and the Court will provide the jury an instruction thereon at the trial of this case.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants be cited to appear and answer the Plaintiffs and that Plaintiffs have judgment against the Defendants for the following:

- a. Actual Damages;
- b. Exemplary Damages;
- c. Prejudgment and Post-Judgment Interest;
- d. Costs of Suit; and
- e. All other relief, in law and equity, to which Plaintiffs may be entitled.

Respectfully submitted,

THE WEBSTER LAW FIRM

/s/ Jason C. Webster

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