

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**NICOLE HINSON, Individually and as  
Next Friend of C.H., a Minor; and  
CAMERON HINSON, Texas residents,**

**Plaintiffs**

**v.**

**DOREL JUVENILE GROUP, INC., a  
Massachusetts corporation**

**Defendant.**

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**Cause No.** \_\_\_\_\_

**Jury Demand**

**PLAINTIFFS' ORIGINAL COMPLAINT**

Plaintiffs file this Original Complaint and would show the Court as follows:

**PARTIES**

1. Plaintiff Nicole Hinson, individually and as Next Friend of C.H., a minor, is a resident of Longview, Texas and lives within the Eastern District of Texas.

2. Plaintiff Cameron Hinson is a resident of Hallsville, Texas and lives within the Eastern District of Texas.

3. Defendant, Dorel Juvenile Group, Inc. is a Massachusetts corporation with its home office located at 25 Forbes Blvd, Ste. 4, Foxboro, MA 02035. Service of process on this Defendant can be completed by serving its registered agent, Corporation Service Company, 84 State Street, Boston, MA 02109.

**JURISDICTION AND VENUE**

4. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) because this controversy is between citizens of different states. In addition, the amount in controversy is in excess of \$75,000.00 U.S.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a)(2) because a substantial part of the events or omissions giving rise to the claims alleged herein occurred in this judicial district. In addition, the property at issue is located in this judicial district.

### **BACKGROUND FACTS**

6. Plaintiff, C.H. is a three year old child who was born on July 11, 2011. Nicole Hinson and Cameron Hinson are C.H.'s mother and father.

7. Mr. and Mrs. Hinson purchased a Safety 1<sup>st</sup> Summit car seat Model #BC057-NOR forward facing car seat for use with C.H. before the subject occurrence.

8. On May 15, 2013, the Hinson family was traveling in their family vehicle with C.H. buckled into the subject car seat position behind the front passenger seat. Cameron Hinson was driving and Nicole Hinson was seated in the front passenger seat. A Chevrolet Suburban crossed the center line and impacted the Hinson vehicle on Highway 80 near CR 3639 near Big Sandy, Texas. Mr. & Mrs. Hinson received injuries but they were not life threatening. Mrs. Hinson was treated and released that same day as the accident. Cameron Hinson required hospitalization for less than a week and has recovered.

9. C.H. received a spinal cord injury at the T11-T12 level without radiographic abnormality or a SCIWORA injury. C.H. will never walk under his own power again based on current medical science and treatment modalities.

### **NEGLIGENCE CAUSE OF ACTION**

10. Plaintiffs repeat and re-allege, as if fully set forth herein, each and every allegation contained in the above paragraphs and further alleges:

11. Dorel Juvenile Group, Inc. was negligent in marketing the subject car seat for use with children C.H.'s age given the medical risks presented in a severe frontal collision. Dorel

Juvenile Group, Inc. was also negligent in failing to adequately warn consumers and customers of the risks posed to young children positioned in a forward facing car seat as opposed to a rear-facing car seat.

12. Dorel negligent acts and omissions alleged herein were a proximate cause of the incident made the basis of this lawsuit and Plaintiffs' injuries and damages.

#### **MARKETING DEFECT/FAILURE TO WARN**

13. Plaintiffs adopt each paragraph set forth above as if fully set forth here.

14. The subject car seat was defectively marketed because Defendant knew or should have known of a potential risk of enhanced and serious injury to very young children resulting from being positioned in the subject forward facing car seat but marketed the car seat without any adequate warning of the danger or providing any instructions for its safe use in light of this danger. The risk of harm associated with the subject car seat arises from its intended or reasonably anticipated use. Defendant actually knew or could have reasonable foreseen the risk of harm at the time the car seat was marketed and sold, and the absence of any adequate warnings or instructions rendered the car seat unreasonably dangerous to the Hinson family.

15. The marketing defect(s) in the subject car seat was a producing cause of the damages alleged herein.

#### **GROSS NEGLIGENCE CAUSE OF ACTION**

16. Plaintiffs repeat and re-allege, as if fully set forth herein, each and every allegation contained in the above paragraphs and further allege:

17. Defendant's conduct complained of above constitutes gross negligence. Defendant's conduct, when viewed objectively from the standpoint of the actor at the time of its

occurrence, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others.

18. Further, Defendant, by and through its employees and agents, had actual, subjective awareness of the risk but proceeded with conscious indifference to the rights, safety, or welfare of others.

### **DAMAGES**

19. As a result of the allegations complained of above, Plaintiff C.H., a minor, has suffered catastrophic injuries rendering him partially paralyzed. Plaintiff C.H. has suffered physical pain and suffering, mental anguish, disfigurement, loss of earning capacity, physical impairment, loss of consortium, pecuniary loss, and incurred medical expenses. Plaintiff Cayden Hinson suffered each of these elements of damages in the past and likely will continue to suffer such damages in the future.

20. As a result of the allegations complained of above, Plaintiffs Cameron and Nicole Hinson suffered serious mental anguish associated with the serious injuries suffered by their young son. Moreover, these plaintiffs have incurred medical expenses associated with C.H.'s injuries. These plaintiffs have suffered each of these elements of damages in the past and likely will continue to suffer such damages in the future.

21. As a result of the gross negligence alleged herein, exemplary damages are recoverable as defined by Texas Civil Practice and Remedies Code Chapter 41. Plaintiffs have satisfied each element required to obtain exemplary damages. Plaintiffs pray that the Court award exemplary damages.

22. Plaintiffs pray for the maximum allowable pre-judgment and post-judgment interest on any damages awarded and pray to recover all court costs associated with this action

**JURY DEMAND**

23. Plaintiffs request a jury be empanelled to determine the factual disputes in this matter.

**PRAYER**

24. Plaintiffs pray that upon a trial of this matter, they receive a final judgment for all the damages, costs, and interest alleged herein.

/s/Jeffrey T. Embry  
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ATTORNEYS FOR PLAINTIFF

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

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

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

DEFENDANTS

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)

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

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 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)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Lists various legal categories and sub-categories with checkboxes.

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

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

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

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## 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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six 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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- 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.