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FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING
2015 OCT 2 PM 3 25
STEPHAN HARRIS, CLERK
CASPER

Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

TIMOTHY FOYE and JEAN FOYE,
husband and wife,

Plaintiffs,

vs.

DAIMLER TRUCKS NORTH AMERICA
LLC; DETROIT DIESEL
CORPORATION; and JOHN DOES I-V,

Defendants.

Civil No.

15cv170-S

**COMPLAINT & DEMAND FOR
JURY TRIAL**

Plaintiffs Timothy and Jean Foye, through their attorneys Tyson E. Logan, Grant H. Lawson, and Michael F. Lutz of The Spence Law Firm, LLC, bring this Complaint against Defendants:

I. PARTIES

1. This case arose on or about October 4, 2013 when Plaintiff Timothy Foye was seriously and permanently injured by carbon monoxide (CO) gas emitted from his tractor-trailer while working as a long-haul trucker.

2 Summons issued

2. The tractor-trailer that Mr. Foye was driving on or about October 4, 2013 (hereinafter “the Truck”):
 - a. was a 2007 Freightliner Century Class;
 - b. was powered by a Detroit Diesel Series 60 engine;
 - c. was assigned Vehicle Identification Number 1FUJBBCK77PZ20581; and
 - d. on or about October 4, 2013 carried Arizona license plate number AE29707.
3. Mr. Foye and Plaintiff Jean Foye are, and at all relevant times were, lawfully married as husband and wife.
4. Mr. and Mrs. Foye are, and at all relevant times were, Utah citizens residing in Washington County, Utah.
5. Defendant Daimler Trucks North America LLC f/k/a Freightliner Corporation (“Daimler”) is a Delaware limited liability company whose principal place of business is in Oregon. Daimler does business in the State of Wyoming.
6. On information and belief, Defendant Daimler designed, tested, and/or manufactured the Truck and some components of the Truck’s exhaust system, which poisoned Mr. Foye, and/or failed to adequately warn of defects in the Truck and its components and systems.
7. Defendant Detroit Diesel Corporation (“Detroit Diesel”) is a Delaware corporation whose principal place of business is in Michigan. Detroit Diesel does business in the State of Wyoming.
8. Detroit Diesel is a subsidiary of Daimler.

9. On information and belief, Defendant Detroit Diesel designed, tested, and/or manufactured the engine and other components of the exhaust system, which poisoned Mr. Foye, and/or failed to adequately warn of defects in those components and systems.

10. Defendants John Does I-V are business entities or individuals who designed, tested, and/or manufactured the Truck, engine, and/or exhaust system that poisoned Mr. Foye; and/or failed to adequately warn about defects in the Truck and its components and system.

11. The true identities of John Doe Defendants are currently unknown and not reasonably discoverable by Mr. and Mrs. Foye.

12. Defendants are vicariously liable for the acts of their officers, directors, managers, employees, agents, and servants undertaken within the scope of their duties.

II. JURISDICTION AND VENUE

13. Plaintiffs incorporate by reference all other allegations in this Complaint.

14. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because the parties are citizens of different states and the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interest and costs.

15. This Court has personal jurisdiction because the facts and circumstances giving rise to Mr. and Mrs. Foye's causes of action arose in Converse County, Wyoming and Defendants have sufficient contacts with Wyoming.

16. Defendants maintain continuous and systematic contacts with the State of Wyoming: Defendants sell vehicles and component parts that they manufacture in Wyoming through local and national vehicle dealers doing business in the State of Wyoming; Defendants license certified dealerships and repair shops in Wyoming and

provide standards and training for those dealerships and repair shops in Wyoming; and defendants purposefully market and sells their vehicles through distributors in Wyoming.

17. Defendants have purposefully availed themselves of the privileges and benefits of conducting business in Wyoming

18. This Court is the proper venue pursuant to 28 U.S.C. § 1391 because a substantial part of the events and omissions giving rise to the claims occurred in Wyoming.

III. FACTS COMMON TO ALL CAUSES OF ACTION

19. Plaintiffs incorporate by reference all other allegations in this Complaint.

20. Detroit Diesel designed, tested, assembled, and/or manufactured the engine and components of the exhaust system in such a manner that they were unreasonably dangerous to truck drivers due to their propensity to fail and emit CO.

21. Detroit Diesel failed to adequately warn truck drivers of this danger, either directly or through intermediaries.

22. Daimler designed, tested, assembled, and/or manufactured the Truck, including components of the exhaust system, in such a manner that they were unreasonably dangerous to truck drivers due to their propensity to fail and emit CO.

23. Daimler failed to adequately warn truck drivers of this danger, either directly or through intermediaries.

24. John Does I through V designed, tested, assembled, and/or manufactured the Truck and/or its component parts in such a manner that they were unreasonably dangerous to truck drivers due to their propensity to fail and emit CO.

25. John Does I through V failed to adequately warn truck drivers of this danger, either directly or through intermediaries.

26. The foreseeable risks of harm posed by Defendants' products could have been reduced or avoided by adoption of reasonable alternative designs.

27. The danger posed by Defendants' products was concealed, not common knowledge, and not reasonably apparent to an ordinarily careful truck driver.

28. On or about October 4, 2013, and in the weeks prior to that date, Kodiak Fresh Produce, LLC ("Kodiak") employed Mr. Foye as a long-haul truck driver.

29. Mr. Foye did not misuse the Truck, engine, exhaust system, or any other component parts.

30. Mr. Foye used the Truck, engine, exhaust system, and other component parts in a manner reasonably foreseeable to Defendants.

31. Defendants' improper or inadequate design, testing, assembly, manufacture, and warnings directly, proximately, and foreseeably caused Mr. Foye's injuries and damages described below.

32. For several weeks during the fall of 2013 Mr. Foye drove the Truck six days a week. During this time, Mr. Foye slept in the Truck.

33. During this time, the Truck was exposing Mr. Foye to CO.

34. CO is a colorless, odorless gas.

35. Mr. Foye experienced headaches and nausea due to low-level, chronic CO exposure during the weeks prior to October 4, 2013.

36. Mr. Foye did notice that the cab of the Truck frequently was filled with exhaust fumes.

37. However, Mr. Foye neither knew, nor reasonably should have known, that he was being exposed to CO.

38. On October 4, 2013, Mr. Foye was driving the Truck through Converse County, Wyoming.

39. As a result of a snowstorm, the highway was closed.

40. Mr. Foye parked the Truck at the Orin Junction Rest Area near Orin in Converse County, Wyoming.

41. Due to the cold weather, Mr. Foye had to run the Truck's engine to power the bunk heater so that he would not freeze.

42. The Truck engine generated CO, which was leaked from the exhaust system and entered the Truck's cab, poisoning Mr. Foye.

43. Mr. Foye suffered acute CO exposure. He became disoriented, dizzy, nauseous, and incoherent.

44. Mr. Foye called Mrs. Foye, who realized that something was severely wrong with her husband. She told him to call 911.

45. Mr. Foye called 911. The dispatcher told him to turn off his engine, leave the Truck, and wait for help at the rest stop.

46. Mr. Foye followed the dispatcher's instructions.

47. EMS arrived and transported Mr. Foye to the Converse County Medical Center by ambulance.

48. Prior to being poisoned by CO, Mr. Foye was a hard-working wage earner.

49. Prior to being poisoned by CO, Mr. Foye was physically strong and active.

50. Prior to being poisoned by CO, Mr. Foye was a skilled handyman who remodeled homes, did tiling, electrical work, plumbing, dry walling, and roofing.

51. Prior to being poisoned by CO, Mr. Foye was friendly, outgoing, and supportive to Mrs. Foye.

52. After being poisoned by CO, all this changed. Mr. Foye is now incapable of working or helping his wife around the home, and even has difficulty with such simple tasks as walking without passing out or losing his balance and carrying on a conversation.

53. As a result of the CO poisoning Mr. Foye is completely and permanently disabled — he is unable to drive or perform any other work. Mr. Foye's injuries and damages, which were caused by his CO poisoning and were the foreseeable consequence of Defendants' negligence, include but are not limited to:

- a. Permanent brain injury;
- b. Cognitive deficits and physical disability, including but not limited to problems with attention, processing, following simple directions, memory, and difficulty formulating ideas and logical thoughts, finding words and completing sentences (these cognitive deficits interfere with his ability to do basic tasks like carry on a conversation or watch a TV show);
- c. Serious cardiac condition;
- d. Loss of balance and equilibrium;
- e. Severe migraine headaches, and sensitivity to noise and light;
- f. Double vision;
- g. Hearing deficits and tinnitus;
- h. Depression and sleep disorder, anxiety, and panic attacks;
- i. Loss of libido; and
- j. Other serious and permanent injury.

54. Sometime after Mr. Foye's acute poisoning, on or about October 16, 2013, the Truck was inspected at the Boss Shop in Laramie, Wyoming.

55. The Boss Shop noted that "the whole right hand side of the motor is covered in soot," that the exhaust manifold and bottom of the turbo were cracked, and that there were other leaks in the exhaust system.

56. As a direct, proximate, and foreseeable result Defendants' defective and unreasonably dangerous product(s) and/or negligent acts and omissions, Mr. and Mrs. Foye have suffered damages including but not limited to:

- a. Past and future physical pain and suffering in an amount to be proven at trial;
- b. Past and future emotional pain and suffering in an amount to be proven at trial;
- c. Past and future loss of enjoyment of life in an amount to be proven at trial;
- d. Past and future disability in and amount to be proven at trial;
- e. Past and future loss of wages, income, and earning capacity in an amount to be proven at trial;
- f. Other past and future pecuniary loss in an amount to be proven at trial;
- g. Past and future medical and related expenses in an amount to be proven at trial;
- h. Loss of past and future consortium including the loss of Mr. Foye's services, society, companionship, affection, love, advice, guidance, and/or sexual relations; and
- i. All allowable costs, expenses, and fees associated with this litigation.

57. Mr. and Mrs. Foye reserve the right, if justified by the evidence obtained during discovery, to assert a claim for punitive damages.

IV. FIRST CAUSE OF ACTION — STRICT PRODUCTS LIABILITY

58. Plaintiffs incorporate by reference all other allegations in this Complaint.

59. Defendants were engaged in the business of designing, testing, assembling, manufacturing, and selling the Truck and its component parts that caused Mr. Foye's CO exposure and resulting injuries.

60. The Truck and its component parts were in a defective condition unreasonably dangerous to the Truck's driver when sold.

61. The Truck was intended to, and did, reach Mr. Foye without a substantial change in its condition, or if its condition deteriorated, such deterioration was foreseeable and a result of a preexisting defect inherent in the Truck and/or its component parts.

62. The Truck physically harmed Mr. Foye by poisoning him with CO.

63. The poisoning was a direct, proximate, and foreseeable result of the defective condition of the Truck and its component parts.

64. Defendants had a duty to warn the Truck's buyer, owner, and/or drivers, directly and/or through intermediaries, that the Truck was in a defective condition unreasonably dangerous to the drivers.

65. Defendants' duty to warn continued even after the Truck was sold.

66. Defendants failed to warn the Truck's buyer, owner, and/or drivers, either directly and/or through intermediaries, that the Truck was in a defective condition unreasonably dangerous to the drivers.

67. Defendants failed to adequately instruct tractor-trailer mechanics, inspectors, technicians, repairpersons, and/or drivers in how to detect and remedy the latent dangers in their products.

68. Defendants are strictly liable for Mr. Foye's damages proximately caused by the defects in the Truck and its component parts, regardless of their fault.

V. SECOND CAUSE OF ACTION — NEGLIGENCE

69. Plaintiffs incorporate by reference all other allegations in this Complaint.

70. Defendants had a duty not to expose truck drivers to a foreseeable and unreasonable danger of CO poisoning.

71. Defendants breached this duty by acts and omissions including:

- a. negligent design of the Truck and its component parts;
- b. negligent testing of the Truck and its component parts;
- c. negligent manufacturing of the Truck and its component parts;
- d. negligent assembly of the Truck and its component parts;
- e. negligent failure to warn about defects in the design and manufacture of the Truck and its component parts; and/or
- f. negligent failure to adequately instruct tractor-trailer mechanics, inspectors, technicians, repairpersons, and/or drivers in how to detect and remedy the latent dangers in their products.

72. Defendants did not exercise the care required of reasonably careful product designers, testers, manufacturers, assemblers, and sellers.

73. As a proximate result of Defendants' negligent acts and omissions, Mr. Foye was exposed to CO and suffered severe injuries and damages.

VI. THIRD CAUSE OF ACTION — LOSS OF SPOUSAL CONSORTIUM

74. Plaintiffs incorporate by reference all other allegations in this Complaint.

75. As a direct and proximate result of the Defendants' negligent acts and omissions,

Mr. Foye cannot adequately perform his duties as Mrs. Foye's husband, such as:

- a. Providing household services and upkeep of their home; and
- b. Providing emotional support including: society, companionship, affection, love, advice, guidance, and physical intimacy.

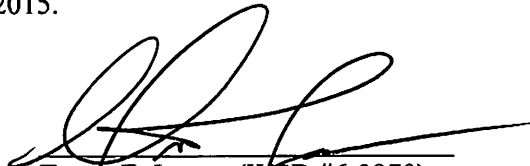
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VII. PRAYER FOR RELIEF

Mr. and Mrs. Foye respectfully request that the Court enter judgment in their favor and against the Defendants in an amount supported by the allegations of this Complaint and the evidence at trial, as follows:

1. Judgment against Defendants for general damages in an amount consistent with the allegations contained herein and to be proven at trial;
2. Judgment against Defendants for special damages in an amount consistent with the allegations contained herein and to be proven at trial; and
3. Judgment for costs, interests, and such other and further relief as this Court deems just and equitable.

DATED this ^{2nd} 3rd day of October, 2015.



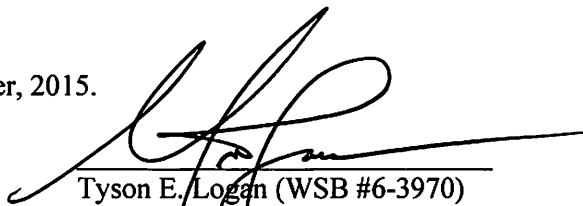
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Attorneys for the Plaintiffs

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38 Mr. and Mrs. Foye demand a jury trial to resolve this matter, and submit the requisite fee herewith.

DATED this ^{2nd} 5th day of October, 2015.



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Attorneys for the Plaintiffs

15CV170-5

JS 44 (Rev. 12/12)

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.)

<p>I. (a) PLAINTIFFS Timothy Foye and Jean Foye</p> <p>(b) County of Residence of First Listed Plaintiff <u>Washington County, UT</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Tysen E. Logan, Grant H. Lawson, Michael F. Lutz, The Spence Law Firm; PO Box 548, 15 S. Jackson St., Jackson, WY 83001; P: (307) 733-7290, F: (307) 733--5248</p>	<p>DEFENDANTS Daimler Trucks North America LLC; Detroit Diesel Corporation; and John Does I-V</p> <p>County of Residence of First Listed Defendant <u>Multnomah County, OR</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td>PTF</td> <td>DEF</td> <td></td> <td>PTF</td> <td>DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input checked="" type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

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

<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input checked="" type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
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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 (specify) 6 Multidistrict Litigation

VI. CAUSE OF ACTION

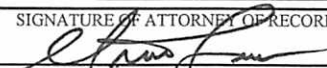
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332

Brief description of cause:
Driver of truck was poisoned by carbon monoxide due to defective exhaust system.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 75,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 10/02/2015 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # 600 AMOUNT 4000 APPLYING IFP _____ JUDGE SWS MAG. JUDGE _____

1528

Local Rule 73.1(b)

CONSENT TO TRIAL BEFORE UNITED STATES MAGISTRATE

(b) Conduct of Trials and Disposition of Civil Cases Upon Consent of the Parties [28 U.S.C. 636(c)].

(1) Consent. The Magistrate Judge located in Cheyenne, Wyoming, or such other magistrate judge as may be designated by the Court, may conduct any or all proceedings in any civil case which is filed in this Court, including the conduct of a jury or non-jury trial, and may order the entry of final judgment, in accordance with 28 U.S.C. 636(c). In the course of conducting such proceedings upon consent of the parties, such magistrate judge may hear and determine any and all pretrial and post-trial motions which are filed by the parties, including case dispositive motions.

(2) Notice to Parties. The Clerk of Court shall notify the parties in all civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of final judgment. Notice shall be handed to or mailed to the plaintiff or his representative at the time an action is filed. Notice shall be representative at the time an action is filed. Notice shall be attached to copies of the complaint and summons to be served on defendants. Additional Notice may be furnished to the parties at later stages of the proceedings and may be included with pretrial notices and instructions.

(3) Consent Form. It is not necessary for one consent form to be executed by all the parties; each party may separately sign a consent form and file it individually with the Clerk of Court. Each party shall serve a copy of the executed consent form on all other parties at the time of filing. In the event one or more of the parties fail to file a consent form, the matter shall proceed before a district judge, unless leave of court to proceed before a magistrate judge is first obtained. No consent form will be made available, nor will its contents be made known to any judge or magistrate judge, unless all parties made known to any judge or magistrate judge, unless all parties have consented to reference to a magistrate judge.

(4) After Consent Form Executed. After the consent form has been executed and filed, the Clerk of Court shall transmit it to the trial judge to whom the case has been assigned for order of referral of the case to a magistrate judge. Thereafter, a magistrate judge shall have the authority to conduct any and all proceedings to which the parties have consented and to direct the Clerk of Court to enter a final judgment in the same manner as if a district judge had presided, provided consent for such action has been given.

November 30, 1996

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

Case Number _____

Plaintiff(s)

VS

Defendant(s)

STIPULATION OF CONSENT TO TRIAL
BEFORE UNITED STATES MAGISTRATE JUDGE
ENTRY OF FINAL JUDGMENT BY UNITED STATES MAGISTRATE
AND CONSENT TO APPEAL TO UNITED STATES COURT OF APPEALS

The undersigned parties, by and through their attorneys, are fully aware of the right to trial of the captioned proceeding before a Judge of the United States District Court for this District and do hereby specifically waive trial before the District Judge and consent to (jury/non-jury) trial before a United States Magistrate Judge and specifically authorize entry of final judgment by the United States Magistrate Judge, pursuant to 28 U.S.C. 636(c), Fed.R.Civ.P. 73 and U.S.D.C.L.R. 73.1(b)(1).

Plaintiff(s)

Defendant(s)

Dated this _____ day of _____, _____.