

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

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THOMAS C. JONES, III,

Plaintiff,

Case No.

vs.

Honorable

FEDERAL EXPRESS CORPORATION,

Defendant.

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**COMPLAINT AND JURY DEMAND**

Plaintiff Thomas C. Jones, III, by and through his attorneys, The Googasian Firm, P.C., alleges as follows:

**Nature of Action**

1. This diversity action arises from a rear-end truck accident caused by a truck owned and operated by Defendant Federal Express on Interstate 75 in Oakland County, Michigan on March 10, 2010 that caused serious harm to Plaintiff Thomas C. Jones III.

**Parties**

2. Plaintiff Thomas C. Jones, III (“Mr. Jones”) is a resident of Oak Park, Michigan in Oakland County, Michigan in this District.

3. Defendant Federal Express Corporation (“Fed Ex”) is an active foreign corporation which, upon information and belief, is headquartered in Tennessee and incorporated in Delaware.

4. Fed Ex regularly conducts business in this District.

### **Jurisdiction and Venue**

5. Defendant's negligence and Plaintiff's injuries occurred in Oakland County, Michigan in this District.

6. This Court has original jurisdiction of this matter pursuant to 28 U.S.C. § 1332.

7. Venue is proper pursuant to 28 U.S.C. § 1391.

8. The amount in controversy exceeds \$75,000 exclusive of interest and costs.

### **Common Allegations**

9. On March 10, 2010, Defendant Fed Ex was the owner of a 1997 white freightliner van with a Michigan license plate no. AC01029 (the "FedEx Truck").

10. In March 2010, Mr. Jones was gainfully employed by Wayne State University where he had worked in the office of undergraduate admissions for nearly six years and received promotions and raises.

11. In March 2010, Mr. Jones was often the first point of contact for prospective students and their families visiting Wayne State University, and he had received praise for the job he performed.

12. At the time of the accident giving rise to this action, the Fed Ex Truck was operated by Russell S. Foster ("Mr. Foster"), an employee or agent of Fed Ex.

13. Upon information and belief, Mr. Foster had been cited for poor driving and other neglects of duty prior to the accident that gives rise to this action.

14. At the time of the accident giving rise to this action, Mr. Foster was operating the Fed Ex Truck with Fed Ex's knowledge and consent.

15. On March 10, 2010, at approximately 7:20 p.m., Mr. Jones was driving north in a Chrysler Sebring on Interstate 75 near the Palace of Auburn Hills.

16. The Fed Ex Truck operated by Mr. Foster was behind Mr. Jones's vehicle.

17. While Mr. Jones was lawfully stopped for traffic, he was struck from behind by the Fed Ex Truck operated by Mr. Foster.

18. The Fed Ex Truck failed to stop and collided into the back of Mr. Jones's car, causing the accident.

19. Due to the impact of the rear-end collision, Mr. Jones's body was jerked back and forward, causing his head to hit the windshield.

20. Mr. Jones was wearing his seat belt at the time of the accident.

21. Mr. Jones received emergency medical treatment at William Beaumont Hospital in Royal Oak for treatment of head, neck and shoulder injuries.

22. As a direct and proximate result of the accident, Mr. Jones suffered serious injuries and impairment to body functions that have greatly affected his ability to lead his life, including, but not limited to, lumbar annular tears, cervical disc bulges, thoracic disc bulges, chronic headaches, chronic and severe back pain, arm numbness, ulcers, gastritis, and acute renal failure, as well as a loss of his job and loss of income.

23. Mr. Jones has been hospitalized multiple times since the accident due to injuries and other medical complications relating to the accident.

24. Mr. Jones has undergone multiple epidural and facet steroid blocks since the accident due to severe back pain relating to the accident.

**Count I**  
**Owner's Liability**

25. Plaintiff incorporates by reference the preceding allegations.

26. Defendant Fed Ex was the legal title holder and owner of the Fed Ex Truck that was operated by its employee or agent at the time of the accident.

27. Defendant Fed Ex and its employee or agent owed numerous statutory and common law duties to Mr. Jones, including, but not limited to, the duty to exercise reasonable care so as to protect the safety, health and life of Mr. Jones and others and also the duty to obey all of the rules and laws imposed by both the State of Michigan's Motor Vehicle Code and common law.

28. Fed Ex's employee or agent breached duties owed to Mr. Jones in numerous ways, including, but not limited to, by:

- a. Driving without due care and caution and in such a manner so as to endanger the Plaintiff;
- b. Driving a motor vehicle more closely than is reasonable and prudent given the speed of the vehicles, traffic, and conditions of the highway, in violation of MCL 257.643;
- c. Driving in excess of the posted speed limit and/or otherwise failing to drive his motor vehicle at a careful and prudent speed, given the traffic, surface and width of the highway, and other existing conditions, in violation of MCL 257.627;
- d. Failing to warn by sounding a horn, in violation of MCL 257.706; and,
- e. Driving in a willful or wanton disregard for the safety of other persons, including Plaintiff, in violation of MCL 257.626.

29. Pursuant to the Michigan Owner's Liability Act, Defendant Fed Ex is responsible for Mr. Jones's injuries.

30. As a direct and proximate result of the accident caused by the Fed Ex Truck operated by Fed Ex's employee or agent, Mr. Jones suffered serious injuries and impairment to body functions that have greatly affected his ability to lead his life, including, but not limited to, lumbar annular tears, cervical disc bulges, thoracic disc bulges, chronic headaches, chronic and severe back pain, arm numbness, ulcers, gastritis, and acute renal failure, as well as a loss of his job and loss of income.

31. Mr. Jones's damages include, but are not limited to, pain and suffering, emotional distress, loss of income, and loss of household services.

WHEREFORE, Plaintiff, by and through his attorneys, The Googasian Firm, P.C., respectfully requests a judgment against Defendant in an amount in excess of the \$75,000 jurisdictional limit, together with costs, interest and attorney fees.

**Count II**  
**Negligent Entrustment**

32. Plaintiff incorporates by reference the preceding allegations.

33. Defendant Fed Ex owed numerous statutory and common law duties to Mr. Jones, including, but not limited to, the duty to exercise reasonable care so as to protect the safety, health and life of Mr. Jones and others and also the duty to obey all of the rules and laws imposed by both the State of Michigan's Motor Vehicle Code and common law.

34. Defendant Fed Ex knew or should have known that its employee, Mr. Foster, was an unsafe and/or incompetent driver.

35. Defendant Fed Ex was independently negligent and breached its own duties to Plaintiff by entrusting its motor vehicle to Mr. Foster.

36. As a direct and proximate result of the accident caused by the Fed Ex Truck operated by Fed Ex's employee or agent, Mr. Jones suffered serious injuries and impairment to body functions that have greatly affected his ability to lead his life, including, but not limited to, lumbar annular tears, cervical disc bulges, thoracic disc bulges, chronic headaches, chronic and severe back pain, arm numbness, ulcers, gastritis, and acute renal failure, as well as a loss of his job and loss of income.

37. Mr. Jones's damages include, but are not limited to, pain and suffering, emotional distress, loss of income, and loss of household services.

WHEREFORE, Plaintiff, by and through his attorneys, The Googasian Firm, P.C., respectfully requests a judgment against Defendant in an amount in excess of the \$75,000 jurisdictional limit, together with costs, interest and attorney fees.

THE GOOGASIAN FIRM, P.C.

By /s/ Thomas H. Howlett  
Thomas H. Howlett (P57346)  
Attorneys for Plaintiff  
6895 Telegraph Road  
Bloomfield Hills, MI 48301-3138  
248/540-3333

Dated: March 1, 2012

**JURY DEMAND**

Plaintiff, by and through his attorneys, The Googasian Firm, P.C., hereby demands a trial by jury in the above entitled cause.

THE GOOGASIAN FIRM, P.C.

By /s/ Thomas H. Howlett

Thomas H. Howlett (P57346)

Attorneys for Plaintiff

6895 Telegraph Road

Bloomfield Hills, MI 48301-3138

248/540-3333

Dated: March 1, 2012