



4. Defendant Erb International, Inc. is a long distance trucking company regularly conducting business in Pennsylvania.

### **JURISDICTION AND VENUE**

5. Jurisdiction exists by virtue of diversity of citizenship, 28 U.S.C. § 1332. Plaintiff is a citizen of the Commonwealth of Pennsylvania. Defendants are citizens of

6. The amount in controversy exceeds seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs.

7. Venue is proper in this judicial district under 28 U.S.C. §1391(a) and (b), as it is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.

### **FACTUAL ALLEGATIONS**

8. On or about October 20, 2009, at about 6:18 p.m., Plaintiff Kristen Schlotter was the restrained driver of a Mitsubishi Eclipse, which was stopped behind several other cars in traffic in a designated construction zone on SR 222 in West Earl Township, Lancaster County, Pennsylvania. At that time, Plaintiff's car was suddenly and without warning struck from the rear by a tractor-trailer that was being operated by Defendant Van Der Eijk.

9. Defendant Van Der Eijk's negligent, careless or reckless acts or omissions were the sole cause of the accident. The collision was not due in any manner to any act or failure to act on the part of plaintiff.

10. The violent impact of Defendant Van Der Eijk truck with the rear of Kristen Schlotter's car caused a chain reaction of collisions with the cars that were stopped in front of her car.

11. On the date of the accident, the tractor trailer that was driven by Defendant Van Der Eijk was owned by Defendant Erb International, Inc.

12. Defendant Erb International, Inc. employed Defendant Van Der Eijk as its employee, agent and servant, and the authorized operator of its tractor trailer.

13. At the time of the accident, Defendant Van Der Eijk was acting within the scope of his agency and employment with Defendant Erb International, Inc.

14. Defendant Erb International, Inc. is liable for the acts of Defendant Van Der Eijk by way of vicarious liability and/or respondeat superior.

15. When the Defendants' truck collided with the Plaintiff's car, the car was shoved into the car in front of hers. Ms. Schlotter was jolted back and forth and experienced "double whiplash" injuries. The accident caused permanent injuries to her head, neck, back and spine, right shoulder, left shoulder, and left knee, as well as other injuries.

16. Diagnostic tests revealed that Ms. Schlotter suffered, *inter alia*, a broken neck in the accident. Specifically, she sustained non-displaced fractures of vertebrae C2. Medical providers also diagnosed that as a result of the accident, Ms. Schlotter suffered post concussion syndrome, depressive disorder and post traumatic stress disorder.

17. Kristen Schlotter sustained permanent injuries and both immediate and long-term pain and suffering in the accident. Her injuries include, but are not limited to: C2 fractures, cervical pain, paraspinal tenderness, thoracic pain, bilateral shoulder pain, clavicle pain, left knee pain, muscle spasms, headaches, dizziness, black-outs, tinnitus, photosensitivity, sonophobia, memory loss, decreased cognitive function, anxiety, depression, sleep difficulties.

18. At the time of the accident, Ms. Schlotter had just begun her freshman year at Millersville University. As a result of the injuries she sustained in the accident, she had to withdraw from college.

19. As a result of the accident, Kristen Schlotter suffered financial losses, including school-related losses, loss of income and loss of earning capacity.

20. As a result of the accident, Kristen Schlotter has incurred medical expenses and will continue to incur future medical expenses.

21. As a result of the accident, Kristen Schlotter has and will continue to sustain mental anguish and a loss of life's enjoyment.

**COUNT I – NEGLIGENCE –**  
**PLAINTIFF KRISTEN SCHLOTTER V. DEFENDANT GRAHAM VAN DER EIJK**

22. Plaintiff incorporates herein by reference paragraphs 1 through 21 of this Complaint.

23. Defendant Van Der Eijk owed Kristen Schlotter a duty of care with respect to the operation of his motor vehicle.

24. The collision and Kristen Schlotter's injuries and damages are directly and proximately caused by the negligence, carelessness and/or recklessness of Defendant Van Der Eijk in that he:

- (a) Operated his truck in a reckless, careless and negligent manner and at an improper, excessive rate of speed under the circumstances;
- (b) Operated his truck at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing;
- (c) Operated his truck at a speed greater than will permit the driver to bring his vehicle to a stop within the assured clear distance ahead;
- (d) Failed to operate his truck at a safe and appropriate speed when approaching a designated construction zone;
- (e) Failed to take adequate evasive maneuvers required to avoid an accident;
- (f) Failed to have his truck under proper and adequate control at the time of the accident;
- (g) Failed to bring his truck to a complete stop;
- (h) Failed to maintain a reasonable lookout for the presence of other motor vehicles on the road;
- (i) Operated his truck without due regard for the rights, safety and position of Plaintiff Kristen Schlotter in violation of statute, including, but not limited to, 75 Pa. C.S. §3714;

- (j) Failed to exercise due and proper care;
- (k) Failed to observe traffic and traffic conditions; and,
- (l) Otherwise operated his truck negligently as consequences and discovery may disclose directly and proximately causing the aforesaid collision and Plaintiff's damages.

25. As a direct and proximate result of Defendant Van Der Eijk's negligence, Kristen Schlotter has sustained numerous injuries and losses, some or all of which are permanent.

WHEREFORE, Plaintiff demands judgment in her favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), plus costs and interest.

**COUNT II – NEGLIGENCE –**  
**PLAINTIFF KRISTEN SCHLOTTER V. DEFENDANT ERB INTERNATIONAL, INC.**

26. Plaintiff incorporates herein by reference paragraphs 1 through 28 of this Complaint.

27. Erb International, Inc. negligently and carelessly entrusted Defendant Van Der Eijk with operation of the tractor-trailer involved in the accident with plaintiff, which was a proximate cause of the losses and damages plaintiff has sustained.

WHEREFORE, Plaintiff demands judgment in her favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), plus costs and interest.

**COUNT III – VICARIOUS LIABILITY –**  
**PLAINTIFF KRISTEN SCHLOTTER V. DEFENDANT ERB INTERNATIONAL, INC.**

28. Plaintiff incorporates herein by reference paragraphs 1 through 30 of this Complaint.

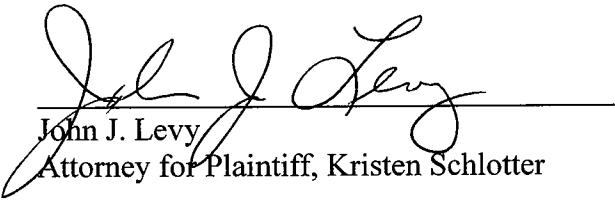
29. Because Defendant Van Der Eijk was the agent, servant, workman and/or employee of Erb International, Inc. at the time of the afore-described accident, and was acting within the scope of his duties for Erb International, Inc., Erb International, Inc. is vicariously liable for the damages and losses Defendant Van Der Eijk's negligence and carelessness proximately caused to Plaintiff.

WHEREFORE, Plaintiff demands judgment in her favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), plus costs and interest.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury.

MONTGOMERY, MCCrackEN, WALKER & RHOADS, LLP

  
\_\_\_\_\_  
John J. Levy  
Attorney for Plaintiff, Kristen Schlotter

Dated: September 16, 2011