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FRESNO COUNTY SUPERIOR COURT
By: M. Sanchez, Deputy

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8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF FRESNO**

10 RONNIE CRUZ by and through guardian ad
11 litem ANGELA PALMA; RON
SHACKELFORD and RUTH
12 SHACKELFORD individually and as the
successors-in-interest to and on behalf of THE
13 ESTATE OF RHONDA SHACKELFORD;
KRISTI SHAFER, individually and as the
14 successor-in-interest to and on behalf of THE
ESTATE OF JUSTIN VANMETER; SHERRY
15 GUADARRAMA individually and as the
successor-in-interest to and on behalf of THE
16 ESTATE OF SERENA GUADARRAMA

17 Plaintiffs,

18 v.

19 VALLEY SOIL AND FOREST PRODUCTS;
RICHARD WARD OH; COUNTY OF
20 FRESNO; NATHAN LYLE FINNELL; DOES
1 THROUGH 50, inclusive,

21 Defendants.

CASE No. [18CECG00360](#)

COMPLAINT

1. WRONGFUL DEATH
2. NEGLIGENCE
3. BATTERY

DEMAND FOR JURY TRIAL

1 COMES NOW Plaintiffs RONNIE CRUZ, by and through guardian ad litem and mother,
2 ANGELA PALMA; RON SHACKELFORD and RUTH SHACKELFORD individually and as
3 the successors-in-interest to and on behalf of THE ESTATE OF RHONDA SHACKELFORD;
4 KRISTI SHAFER individually and as the successor-in-interest to and on behalf of THE ESTATE
5 OF JUSTIN VANMETER; SHERRY GUADARRAMA individually and as the successor-in-
6 interest to and on behalf of THE ESTATE OF SERENA GUADARRAMA (hereinafter
7 collectively "Plaintiffs"), for causes of action against Defendants VALLEY SOIL AND FOREST
8 PRODUCTS, RICHARD WARD OH, COUNTY OF FRESNO, NATHAN LYLE FINNELL and
9 DOES 1 through 50, inclusive, who complain and allege as follows:

10 **GENERAL ALLEGATIONS**

11 1. On February 2, 2016, RHONDA SHACKELFORD, JUSTIN VANMETER AND
12 SERENA GUADARRAMA sustained fatal injuries and RONNIE CRUZ sustained catastrophic
13 injuries in a motor vehicle collision (herein after referred to collectively as "PASSENGERS"),
14 said collision to have occurred at the intersection of South Avenue and Buttonwillow Avenue, in
15 an unincorporated area of the County of Fresno. The PASSENGERS were riding in a 15-
16 passenger van (hereinafter "VAN") driven by NATHAN LYLE FINNELL (hereinafter
17 "FINNELL"). Defendant RICHARD WARD OH (hereinafter "TRUCK DRIVER") was driving
18 a semi-trailer truck (a.k.a. "18 wheeler" or "big rig") loaded with gravel, sand, rock, earth and/or
19 other construction material, with approximately 25 tons of load material alone.

20 2. The intersection of South Avenue and Buttonwillow Avenue consists of two
21 single-lane roads meeting perpendicular to one another. South Avenue has a stop sign. There are
22 no traffic control devices on Buttonwillow Avenue at the intersection of South Avenue. The
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1 intersection of South Avenue and Buttonwillow Avenue will hereinafter be referred to generally
2 as "INTERSECTION".

3 3. The VAN was traveling eastbound on South Avenue toward and across
4 Buttonwillow Avenue. TRUCK DRIVER was travelling southbound on Buttonwillow Avenue
5 towards the INTERSECTION. The VAN approached the INTERSECTION from TRUCK
6 DRIVER's right side. TRUCK DRIVER approached the INTERSECTION from the VAN's left
7 side.

8 4. The VAN proceeded into the INTERSECTION when it was broadsided ("T-
9 Boned") on the driver's side by TRUCK DRIVER's semi-trailer truck, resulting in a massive
10 collision.

11 5. RHONDA SHACKELFORD, JUSTIN VANMETER, and SERENA
12 GUADARRAMA were declared dead at the scene of the collision. RONNIE CRUZ was airlifted
13 to a nearby hospital and remains catastrophically injured, suffering from traumatic brain injury,
14 spinal injury, multiple bone fractures and internal injuries. He remains completely dependent on
15 others for every need.

16 THE PARTIES

17 **A. Plaintiffs**

18 6. RHONDA SHACKELFORD is survived by her parents RON SHACKELFORD
19 and RUTH SHACKELFORD, who are both residents of Clovis, California. THE ESTATE OF
20 RHONDA SHACKELFORD is represented by and through its successors-in-interest RON
21 SHACKELFORD and RUTH SHACKELFORD (hereinafter referred to collectively as
22 "SHACKELFORDS").

1 7. JUSTIN VANMETER is survived by his mother KRISTI SHAFER, who is a
2 resident of Fresno, California. THE ESTATE OF JUSTIN VANMETER is represented by and
3 through its successor-in-interest KRISTI SHAFER (hereinafter referred to collectively as
4 “VANMETERS”).

5 8. SERENA GUADARRAMA is survived by her mother SHERRY
6 GUADARRAMA, who is a resident of Fresno, California. THE ESTATE OF SERENA
7 GUADARRAMA is represented by and through its successor-in-interest SHERRY
8 GUADARRAMA (hereinafter collectively referred to as “GUADARRAMAS”).

9 **B. Defendants**

10 9. RICHARD WARD OH and DOES 11 through 20, inclusive, (hereinafter
11 collectively “TRUCK DRIVER”) are, and at all times relevant herein, were residents of Fresno,
12 California. TRUCK DRIVER was the driver of the semi-trailer truck that collided with the VAN.
13 At all times relevant herein, TRUCK DRIVER was an employee of VALLEY SOIL AND
14 FOREST PRODUCTS.

15 10. VALLEY SOIL AND FOREST PRODUCTS and DOES 21 through 40, inclusive
16 (hereinafter collectively “TRUCK COMPANY”), are a corporation organized and existing under
17 the laws of the State of California, with their principle place of business located at 21434 E.
18 Manning Avenue, Reedley, CA 93654. TRUCK COMPANY owned, possessed, supervised,
19 maintained, repaired and/or otherwise controlled the semi-trailer truck that was driven by TRUCK
20 DRIVER and collided with the VAN.

21 11. COUNTY OF FRESNO and DOES 1 through 10, inclusive (hereinafter
22 collectively “COUNTY”): Plaintiffs are informed and believe, and thereupon allege, that at all
23 relevant times mentioned herein, defendant COUNTY was and is a public entity, organized and
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1 existing under the laws of the State of California, and is responsible for supervising and
2 administering roads, roadways, traffic conditions, intersection, intersection controls, and all other
3 highway and roadway issues within the County of Fresno, including the INTERSECTION.

4 12. NATHAN LYLE FINNELL (hereinafter "FINNELL") was the driver of the VAN
5 when it was involved in the motor vehicle collision with TRUCK DRIVER. At all times relevant
6 herein, FINNELL was a resident of Fresno, California.

7 **C. Doe Defendants**

8 13. The true names and capacities, whether individual, plural, corporate, partnership,
9 associate, association, public entity or otherwise, of DOES 1 through 50, inclusive, are unknown
10 to Plaintiffs who, therefore, sue said defendants by such fictitious names. The full extent of the
11 facts linking such fictitiously sued defendants are unknown to Plaintiffs. Plaintiffs are informed
12 and believe, and thereupon allege, that each of the defendants designated herein as a DOE was,
13 and is, negligent, or in some other actionable manner responsible for the events and happenings
14 hereinafter referred to, and thereby negligently, or in some other actionable manner, legally and
15 proximately caused the hereinafter described injuries, deaths, harm and/or damages to Plaintiffs.
16 Plaintiffs will hereinafter seek leave of the Court to amend this Complaint to show the defendants'
17 true names and capacities after the same have been ascertained throughout the course of Plaintiff's
18 discovery.

19 14. Plaintiffs are further informed and believe, and thereon allege, that at all times
20 mentioned herein, Defendants and DOES 1 through 50, inclusive, were agents, servants,
21 employees, successors in interest, partners, and/or joint ventures of their co-defendants, and were,
22 as such, acting within the course, scope, and authority of said agency, employment, and/or
23 venture, and that each and every defendant, as aforesaid, when acting as principal, was negligent
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1 in the selection and hiring of each and every other defendant as an agent, servant, employee,
2 successor in interest, and/or joint venture.

3 **FIRST CAUSE OF ACTION**

4 **WRONGFUL DEATH**

5 **(Plaintiffs SHACKELFORDS, VANMETERS and GUADARRAMAS bring this Wrongful**
6 **Death Action against TRUCK DRIVER, TRUCK COMPANY, COUNTY, FINNELL and**
7 **DOES 1 through 50, inclusive)**

8 15. Plaintiffs re-allege and incorporate herein by reference each and every allegation
9 and statement contained in the prior paragraphs as though fully set forth herein.

10 16. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
11 herein, TRUCK DRIVER, TRUCK COMPANY, and FINNELL owed a duty of care to all other
12 motorists and their passengers, including Plaintiffs, to operate, drive, use, maintain, repair, design
13 or otherwise move their respective motor vehicles in a safe and non-negligent manner.

14 17. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
15 herein, COUNTY owed a duty of care to all motorists, roadway users, and their passengers,
16 including Plaintiffs, to own, operate, control, design, plan, engineer, maintain, inspect, repair,
17 monitor or otherwise control the INTERSECTION in a safe and non-negligent manner.

18 18. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
19 herein, TRUCK DRIVER, TRUCK COMPANY, and FINNELL so negligently, intentionally,
20 improperly and/or unreasonably drove, moved, maintained, negligently entrusted, negligently
21 supervised or otherwise operated their motor vehicle so as to cause the collision between the VAN
22 and TRUCK DRIVER, thereby proximately causing the herein described injuries, deaths, harm
23 and damages to Plaintiffs.

1 19. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
2 herein, COUNTY so negligently, improperly and unreasonably owned, operated, controlled,
3 designed, planned, engineered, maintained, inspected, repaired, modified, changed, and/or failed
4 to make the INTERSECTION safe, so as to cause the collision between the VAN and TRUCK
5 DRIVER, thereby proximately causing the herein described injuries, deaths, harm and damages
6 to Plaintiffs.

7 20. Defendants COUNTY and/or their management, administrators, designers,
8 planners, engineers, maintenance personnel, inspectors and/or employees, staff, agents and/or
9 contractors, acting within the course and scope of their duties and through negligent or wrongful
10 acts or omissions created, or allowed to be created, a dangerous condition and/or trap. The
11 installation, maintenance, repair, operation, monitoring and/or control of the INTERSECTION
12 was done negligently, inadequately and improperly and created a hazard, trap, and/or dangerous
13 condition. This also created a particular risk and trap as defendant COUNTY should have
14 installed stop signs, pavement markings, traffic signals, traffic control devices, other safety
15 equipment and devices, warnings, and warning devices, at, on, in, before, approaching or in
16 proximity to the INTERSECTION, to inform motorists of what to expect at this particular section
17 of the roadway and warn of such hazardous conditions so present. The existence of a dangerous
18 condition and/or trap at the INTERSECTION is evidenced by the multiple memorials at the
19 INTERSECTION.

20 21. As a legal, direct and proximate result of the conduct of Defendants COUNTY,
21 TRUCK DRIVER, TRUCK COMPANY and FINNELL, SHACKELFORDS, VANMETERS
22 and GUADARRAMAS have sustained damages resulting from the loss of love, affection, society,
23 service, comfort, support, right of support, expectations of future support and counseling,
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1 companionship, solace and mental support, as well as other benefits and assistance of decedents
2 RHONDA SHACKELFORD, JUSTIN VANMETER and SERENA GUADARRAMA, all to
3 their general damages in a sum in excess of the jurisdictional limits of this Court, which will be
4 shown according to proof.

5 22. As a legal, direct and proximate result of the conduct of defendants COUNTY,
6 TRUCK DRIVER, TRUCK COMPANY and FINNELL, SHACKELFORDS, VANMETERS
7 and GUADARRAMAS will be deprived of the financial support and assistance of decedents
8 RHONDA SHACKELFORD, JUSTIN VANMETER and SERENA GUADARRAMA, the exact
9 amount of such losses to be stated according to proof, but in a sum in excess of the jurisdictional
10 limits of this Court.

11 23. As a legal, direct and proximate result of the conduct of Defendants COUNTY,
12 TRUCK DRIVER, TRUCK COMPANY, and FINNELL, as aforesaid, SHACKELFORDS,
13 VANMETERS and GUADARRAMAS have incurred property, medical, funeral and burial
14 expenses in an amount to be stated according to proof, but in a sum in excess of the jurisdictional
15 limits of this Court.

16 24. As a legal, direct and proximate result of the conduct of Defendants COUNTY,
17 TRUCK DRIVER, TRUCK COMPANY, and FINNELL, decedents RHONDA
18 SHACKELFORD, JUSTIN VANMETER and SERENA GUADARRAMA, suffered lost
19 earnings, the exact amount of such losses to be stated according to proof, but in a sum in excess
20 of the jurisdictional limits of this Court.

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1 designed, planned, engineered, maintained, inspected, repaired, modified, changed, and/or failed
2 to make the INTERSECTION safe, as to cause the collision between the VAN and TRUCK
3 DRIVER, thereby actually and proximately causing the herein described injuries, deaths, harm
4 and damages to Plaintiffs.

5 31. Defendants COUNTY and/or their management, administrators, designers,
6 planners, engineers, maintenance personnel, inspectors and/or employees, staff, agents and/or
7 contractors, acting within the course and scope of their duties and through negligent or wrongful
8 acts or omissions created, or allowed to be created, a dangerous condition. The installation,
9 maintenance, repair, operation, monitoring and/or control of the INTERSECTION was done
10 negligently, inadequately and improperly and created a hazard, trap, and/or dangerous condition.
11 It also created a particular risk and trap as defendants COUNTY should have installed stop signs,
12 pavement markings, traffic signals, traffic control devices, other safety equipment and devices,
13 warnings and/or warning devices, at, on, in, before, approaching or in proximity to the
14 INTERSECTION, so as to inform motorists of what to expect at this particular section of the
15 roadway and warn of the hazardous conditions present.

16 32. On February 2, 2016, defendants TRUCK COMPANY, TRUCK DRIVER, and
17 FINNELL breached their duty by negligently entrusted, managed, maintained, repaired,
18 manufactured, designed, operated, drove, hauled, and/or otherwise moved, their respective motor
19 vehicles in such a manner as to cause the collision between the semi-trailer truck and the VAN,
20 and the resulting injuries, deaths, harm and damages to Plaintiffs.

21 33. Plaintiffs further allege that defendants TRUCK COMPANY negligently
22 entrusted the subject vehicle to TRUCK DRIVER, with full knowledge of TRUCK DRIVER's
23 history, record and past. TRUCK COMPANY was negligent in failing to take reasonable steps
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1 to determine, review, examine, investigate, and/or otherwise perform due diligence, prior to
2 entrusting their semi-trailer truck to TRUCK DRIVER.

3 34. TRUCK COMPANY knew, or should have known, that TRUCK DRIVER was
4 unfit or incompetent to drive, operate, haul or otherwise move their semi-trailer truck that struck
5 the VAN.

6 35. Had TRUCK DRIVER operated the semi-trailer truck in a non-negligent manner,
7 TRUCK DRIVER would not have collided with the VAN, and would not have killed, injured,
8 harmed or otherwise damaged Plaintiffs.

9 36. As a legal, direct and proximate result of TRUCK DRIVER, TRUCK
10 COMPANY, COUNTY, and FINNELL's negligence, RONNIE CRUZ sustained catastrophic
11 injuries, including, but not limited to, a traumatic brain injury.

12 37. As a legal, direct and proximate result of TRUCK DRIVER, TRUCK
13 COMPANY, COUNTY, and FINNELL negligence, RONNIE CRUZ has incurred injuries,
14 property damage, and expenses in an amount to be shown according to proof.

15 38. As a legal, direct and proximate result of TRUCK DRIVER, TRUCK
16 COMPANY, COUNTY, and FINNELL's negligence, plaintiff RONNIE CRUZ has suffered lost
17 earnings and/or otherwise been damaged, in an amount to be shown according to proof.

18 **THIRD CAUSE OF ACTION**

19 **BATTERY**

20 **(Plaintiff RONNIE CRUZ brings this Battery Action based on Intentional Acts against**
21 **FINNELL and DOES 41 through 50, inclusive)**

22 39. Plaintiffs re-allege and incorporate herein by reference each and every allegation
23 and statement contained in the prior paragraphs as though fully set forth herein.

1 40. On February 2, 2016, defendant FINNELL and DOES 41 through 50, inclusive,
2 intentionally, willfully, wantonly, maliciously and recklessly engaged in conduct which resulted
3 in offensive contact with PASSENGERS' persons, including, but not limited to, driving the VAN
4 into the INTERSECTION and causing the semi-trailer truck to strike, impact and collide with the
5 VAN and PASSENGERS.

6 41. At no time during the events described in the preceding paragraphs, nor at any
7 time prior thereto, did PASSENGERS consent to any of FINNELL's and DOES 41 through 50's
8 conduct or contact.

9 42. As a direct, legal and proximate result of FINNELL's and DOES 41 through 50's
10 conduct, PASSENGERS sustained serious and permanent injuries to their persons, in an amount
11 to be shown according to proof and within the jurisdiction of the Superior Court.

12 43. As a direct, legal and proximate result of FINNELL's and DOES 41 through 50's
13 conduct, RONNIE CRUZ was compelled to and did employ the services of hospitals, physicians,
14 surgeons, nurses, and the like, to care for and treat him, and did incur hospital, medical,
15 professional and incidental expenses, and RONNIE CRUZ will, by reason of his injuries, incur
16 additional like expenses for an indefinite period of time in the future, all to Plaintiff's damages in
17 a sum to be shown according to proof.

18 44. A reasonable person in PASSENGERS position and situation would have been
19 offended and harmed by the contact resulting from FINNELL's and DOES 41 through 50's
20 conduct. This conduct resulted in fatalities and catastrophic injuries which any reasonable person
21 would find and consider offensive.

22 45. Plaintiffs are informed, believe and thereon allege, that such acts directed towards
23 PASSENGERS, were malicious and belligerent, and were done with a conscious disregard for
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1 PASSENGERS' rights to be free from such tortious and criminal behavior, such as to constitute
2 oppression, fraud, or malice pursuant to *California Civil Code § 3294*, entitling Plaintiff to
3 punitive damages in an amount appropriate to punish and set an example of said defendants
4 FINNELL and DOES 41 through 50, inclusive.

5 **REQUEST FOR A JURY TRIAL**

6 46. Plaintiffs hereby request a trial by jury on all claims for relief alleged, and all
7 issues raised by this Complaint.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiffs demand judgment against Defendants, and any other
10 defendants who may be later added to this action, as follows:

11 1. For compensatory damages, including but not limited to special damages,
12 general damages, pain and suffering, lost wages, and non-economic damages in an amount
13 according to proof;

14 2. For non-economic damages suffered by Plaintiffs SHACKELFORDS,
15 VANMETERS and GUADARRAMAS, including, but not limited to loss of love, affection,
16 care, society, service, comfort, support, right to support, companionship, solace, or moral
17 support, expectations of future support and counseling, and other benefits and assistance of
18 decedents RHONDA SHACKELFORD, JUSTIN VANMETER and SERENA
19 GUADARRAMA, in an amount in excess of the jurisdictional minimum, according to proof;

20 3. For economic damages suffered by Plaintiffs RONNIE CRUZ,
21 SHACKELFORDS, VANMETERS and GUADARRAMAS, related to loss of earnings and loss
22 of financial support from decedents RHONDA SHACKELFORD, JUSTIN VANMETER and
23 SERENA GUADARRAMA and RONNIE CRUZ, according to proof;

1 4. For funeral and burial expenses suffered by Plaintiffs SHACKELFORDS,
2 VANMETERS and GUADARRAMAS, according to proof;

3 5. For hospital, medical, professional and incidental expenses suffered by Plaintiffs
4 RONNIE CRUZ, SHACKELFORDS, VANMETERS and GUADARRAMAS, according to
5 proof;

6 6. For loss of income suffered by Plaintiffs SHACKELFORDS, VANMETERS,
7 GUADARRAMAS and RONNIE CRUZ, according to proof;

8 7. For costs of suit incurred;

9 8. For prejudgment interest on all amounts claimed pursuant to Civil Code § 3287
10 and/or 3288;


11 9. For pre-trial interest, according to proof;

12 10. For punitive damages and other penalties recoverable by law, and

13 11. For such other and further relief as the Court may deem proper.

14
15 February 1, 2018

Respectfully submitted,
ASVAR LAW, P.C.

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Jonathan Perez
Attorneys for Plaintiffs