

**IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA**

CASE NO: 2013-CA-001562-0

WILLIAM GREGORY, as Personal
Representative of the Estate of JOSHUA
RAIM KALPHAT LOPEZ, deceased,

Plaintiff,

vs.

BASICH, INC., a Florida corporation,
MARIE LYNN HARRISON and
DEBORAH HARRISON,

Defendants.

_____ /

THIRD AMENDED COMPLAINT

Plaintiff, WILLIAM GREGORY, as Personal Representative of the Estate of JOSHUA RAIM KALPHAT LOPEZ, deceased, sues the Defendants BASICH, INC. (hereinafter "BASICH"), MARIE LYNN HARRISON, and DEBORAH HARRISON, and for a cause of action alleges as follows:

1. This is a civil action for money damages in excess of Fifteen Thousand Dollars (\$15,000.00), the jurisdictional limit of the circuit court.
2. The incident that is the subject of this Complaint occurred in Orlando, Orange County, Florida.
3. This is an action for wrongful death brought pursuant to the Florida Wrongful Death Statute § 768.16 et. seq., Florida Statutes.
4. Joshua Raim Kalphat Lopez was born on March 5, 1990.

5. Plaintiff, WILLIAM GREGORY, is the duly appointed personal representative of the Estate of Joshua Raim Kalphat Lopez. Attached as Exhibit "A" is the order appointing personal representative.
6. On the date of his death, which occurred November 10, 2012, Joshua Raim Kalphat Lopez was a resident of Seminole County, Florida.
7. On November 10, 2012, Joshua Raim Kalphat Lopez was operating his 2008 Honda motorcycle eastbound on SR 552 in the center eastbound lane approaching Hidden River Drive.
8. As Joshua Raim Kalphat Lopez approached the intersection of SR 552 and Hidden River Drive, Defendant, MARIE LYNN HARRISON, violated the right of way of Joshua Kalphat Lopez by improperly driving her 2002 Chevrolet Tracker into Joshua Raim Kalphat Lopez's lane of travel. The driving of Marie Lynn Harrison as described caused a collision between the two vehicles.
9. These acts and omissions of the Defendant, MARIE LYNN HARRISON were a proximate cause of the death of Joshua Raim Kalphat Lopez.
10. On November 10, 2012, when the vehicle collision that is the subject of this wrongful death suit occurred, the deceased, Joshua Raim Kalphat Lopez, (age 22) was an unmarried minor child under the age of twenty-five (25) years. Pursuant to Florida's Wrongful Death Statute, §768.21(4) Michelle Kalphat, Joshua's mother, and Raim Lopez, Joshua's father, are the natural parents of the deceased, Joshua Raim Kalphat Lopez. Michelle Kalphat and Raim Lopez are the sole survivors of Joshua Raim Kalphat Lopez, deceased, as defined in the Florida wrongful death statute.

11. As a direct and proximate result of the described negligence, Michelle Kalphat and Raim Lopez as surviving natural parents of deceased, Joshua Raim Kalphat Lopez, have sustained damages and losses pursuant to Florida Statute Section 768.21(1) and 768.21(4), including but not limited to mental pain and suffering, both in the past from the date of death of November 10,2012, to the time of trial, and in the future, for the remainder of their lives. The surviving parents also have sustained the lost value of support and services of Joshua Raim Kalphat Lopez, deceased.
12. As a direct and proximate result of the above described negligence, the Estate of Joshua Raim Kalphat Lopez, deceased, has sustained damages including but not limited to the following:
 - a. Medical expenses paid by the Estate and/or by the surviving parents of Joshua Raim Kalphat Lopez, deceased.
 - b. Funeral expenses paid by the Estate and/or by the surviving parents of Joshua Raim Kalphat Lopez, deceased.

COUNT I - NEGLIGENCE OF BASICH, INC.
(VICARIOUS LIABILITY)

Plaintiff, by and through her undersigned attorney, re-alleges and re-adopts the allegations from paragraphs 1-12 above, and for cause of action as to Defendant BASICH states as follows:

13. At the time of the collision that forms the factual basis for this wrongful death action, the Defendant, MARIE LYNN HARRISON, was acting within the scope

and course of a mission, activity, or task controlled by and for the economic benefit of Defendant, BASICH.

14. BASICH is vicariously liable for the acts or omissions of MARIE LYNN HARRISON, as she was in the course and scope of her employment with BASICH when the collision that resulted in the death of Joshua Kalphat Lopez occurred involving the operation of the automobile owned by MARIE HARRISON.
15. On November 10, 2012, BASICH had a routine business practice of authorizing the use of motor vehicles titled in the name of individual managers/employees working for the McDonald's restaurant franchises operated by BASICH to use these described vehicles for the economic benefit of BASICH.
16. On November 10, 2012, MARIE LYNN HARRISON had been authorized to use her personal automobile, a 2002 Chevrolet Tracker, for the economic benefits of BASICH.
17. On November 10, 2012, MARIE LYNN HARRISON, at all times material hereto, was a manager of the McDonald's franchise located at 7409 East Colonial Drive in Orlando, Florida.
18. On November 10, 2012. MARIE LYNN HARRISON, acting as a manager for BASICH, deviated from her routine commuting route toward her residence from the location of the BASICH-owned McDonald's restaurant that she managed at 7409 East Colonial Drive Orlando, Florida. Instead of taking the most direct commuting route home, MARIE LYNN HARRISON instead drove to the McDonald's restaurant store operated by BASICH that was routinely managed

by her twin sister Melanie Harrison at 10026 Curry Ford Road (near the intersection with Hidden River Drive) to perform a mission, activity or task for the economic benefit of BASICH. This mission was to deliver requested supplies from the East Colonial restaurant managed by MARIE LYNN HARRISON to the Curry Ford Store at 1006 Curry Ford Road managed by Melanie Harrison.

19. The deviation from her routine commuting route home from her location at the East Colonial store caused MARIE LYNN HARRISON to exit by driving her Chevy Tracker away from the store location at 10026 Curry Ford Road into the traveling lanes of Curry Ford Road. Specifically, MARIE LYNN HARRISON was attempting to turn into her intended direction of traffic on Curry Ford Road when she violated Joshua Kalphat-Lopez's right of way.
20. This deviation from her routine commuting route was a special errand MARIE LYNN HARRISON performed for the economic benefit of BASICH. The store at Curry Ford Road and Hidden River Drive was not on the customary and direct route home following work for MARIE LYNN HARRISON. She had not completed the burden imposed by the errand for the benefit of BASICH when the automobile/motorcycle collision occurred that caused Joshua Kalphat's death.
21. While being within the course and scope of her employment, MARIE HARRISON's negligence caused the collision between the vehicles and the death of Joshua Raim Kalphat Lopez.

WHEREFORE, Plaintiff, WILLIAM GREGORY, as personal representative of the Estate of Joshua Raim Kalphat Lopez, deceased, and on behalf of the estate of Joshua Raim Kalphat Lopez, deceased, and on behalf of Michelle Kalphat, individually as surviving natural mother

and parent of Joshua Raim Kalphat Lopez, deceased, and on behalf of Raim Lopez, individually as surviving natural father and parent of Joshua Raim Kalphat Lopez, deceased, demands judgment against Defendant, BASICH, INC., for all aforementioned damages in excess of Fifteen Thousand Dollars (\$15,000.00). A trial by jury is hereby demanded on all issues.

COUNT II- NEGLIGENCE OF MARIE LYNN HARRISON

Plaintiff re-alleges and readopts the allegations from paragraphs 1 through 12 above as if fully stated herein and as a further cause of action states as follows.

23. On or about November 10, 2012, a motor vehicle collision involving two vehicles occurred in Orange County, Florida.
24. Joshua Raim Kalphat Lopez was operating his 2008 Honda motorcycle eastbound on SR 552 in the center eastbound lane approaching Hidden River Drive.
25. As Joshua Raim Kalphat Lopez approached the intersection of SR 552 and Hidden River Drive, Defendant, MARIE LYNN HARRISON, violated Kalphat Lopez' right of way by improperly driving a 2002 Chevrolet Tracker into Joshua Raim Kalphat Lopez's lane of travel, causing an impact between the vehicles.
26. The negligence of the Defendant, MARIE LYNN HARRISON, described herein proximately caused the death of Joshua Raim Kalphat Lopez.

WHEREFORE, Plaintiff, WILLIAM GREGORY, as personal representative of the Estate of Joshua Raim Kalphat Lopez, deceased, and on behalf of the estate of Joshua Raim Kalphat Lopez, deceased, and on behalf of Michelle Kalphat, individually as surviving natural mother and parent of Joshua Raim Kalphat Lopez, deceased, and on behalf of Raim Lopez, individually as surviving natural father and parent of Joshua Raim Kalphat Lopez, deceased,

demands judgment against Defendant, MARIE LYNN HARRISON, for all aforementioned damages in excess of Fifteen Thousand Dollars (\$15,000.00). A trial by jury is hereby demanded on all issues.

COUNT III - NEGLIGENCE OF DEBORAH HARRISON

Plaintiff re-alleges and readopts the allegations from paragraphs 1 through 12 above as if fully stated herein and as a further cause of action states as follows.

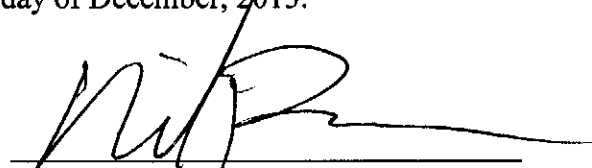
27. On or about November 10, 2012, a motor vehicle collision involving two vehicles occurred in Orange County, Florida.
28. The 2002 Chevrolet Tracker involved in the collision on November 10, 2012, was co-owned by Defendants MARIE LYNN HARRISON and DEBORAH HARRISON.
29. The negligence of the Defendant, MARIE LYNN HARRISON, described herein was a proximately caused the death of Joshua Raim Kalphat Lopez.
30. As co-owner of the vehicle being operated by MARIE LYNN HARRISON, Defendant DEBORAH HARRISON is liable for the negligence of MARIE LYNN HARRISON pursuant to the dangerous instrumentality doctrine.

WHEREFORE, Plaintiff, WILLIAM GREGORY, as personal representative of the Estate of Joshua Raim Kalphat Lopez, deceased, and on behalf of the estate of Joshua Raim Kalphat Lopez, deceased, and on behalf of Michelle Kalphat, individually as surviving natural mother and parent of Joshua Raim Kalphat Lopez, deceased, and on behalf of Raim Lopez, individually as surviving natural father and parent of Joshua Raim Kalphat Lopez, deceased, demands judgment against Defendant, DEBORAH HARRISON, for all

aforementioned damages in excess of Fifteen Thousand Dollars (\$15,000.00). A trial by jury is hereby demanded on all issues.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic transmission to Michael Romano, Esquire, mromano@romanopa.com, pappaneal@romanopa.com, Michael A. Romano, P.A., 200 E. Robinson St., Suite 1110, Orlando, Florida 32801-1962 and Scott P. Yount, Esquire, syount@garrisonyount.com, acolley@garrisonyount.com, Garrison Yount Forte Mulcahy & Lehner, LLC, 601 Bayshore Blvd., Suite 800, Tampa, FL 33606-2760, this 20th day of December, 2013.



DAVID BEERS, ESQUIRE

Florida Bar No. 0209872

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IN THE CIRCUIT COURT FOR SEMINOLE COUNTY,
FLORIDA PROBATE DIVISION

IN RE: ESTATE OF

File No. 2013-CP-36

JOSHUA RAIM
KALPHAT-LOPEZ
Deceased.

13 JAN - 9 PM 4:40
SEMINOLE CO. FLA
D.C.
CLERK OF CIRCUIT COURT

ORDER APPOINTING PERSONAL REPRESENTATIVE
(intestate - single)

On the petition of William Joseph Gregory, Jr. for administration of the estate of Joshua Raim Kalphat-Lopez, deceased, the court finding that the decedent died on November 10, 2012, and that William Joseph Gregory, Jr. is entitled to appointment as personal representative by reason of he is the step-father of the Decedent, and is qualified to be personal representative, it is

ADJUDGED that William Joseph Gregory, Jr. is appointed personal representative of the estate of the decedent, and that upon taking the prescribed oath, filing designation and acceptance of resident agent, and entering into bond in the sum of \$ ~~6000~~ bond is hereby waived, letters of administration shall be issued.

ORDERED on Jan 9, 2013.


Circuit Judge NANCY FALLEY

CERTIFIED COPY - MARYANNE MORSE
CLERK OF THE CIRCUIT COURT
SEMINOLE COUNTY, FLORIDA

BY Linda Matt DEPUTY CLERK

DATE: 1/16/13



EXHIBIT A