

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

ITDS, INC.,	:	Case No.:
1745 Dreman Avenue	:	
Cincinnati, Ohio 45223	:	Judge
	:	
Plaintiff,	:	
vs.	:	<u>COMPLAINT FOR NEGLIGENCE,</u>
	:	<u>NEGLIGENCE PER SE, VICARIOUS</u>
MCKESSON MEDICAL SURGICAL	:	<u>LIABILITY AND NEGLIGENT</u>
INC., d/b/a MCKESSON	:	<u>HIRING, RETENTION AND</u>
CORPORATION	:	<u>SUPERVISION</u>
6555 State Highway 161	:	
Irving, TX 75039	:	<u>PRAECIPE FOR SERVICE</u>
	:	
and	:	
	:	
	:	
ANDRE HEARD	:	
1343 Island Bay Drive	:	
Columbus, Ohio 43235	:	
	:	
	:	
Defendants.	:	

For its Complaint against Defendants McKesson Medical Surgical Inc., d/b/a McKesson Corporation (“McKesson”) and Andre Heard (“Heard”), hereinafter collectively referred to as “Defendants,” Plaintiff ITDS, Inc. (“ITDS”) states as follows:

INTRODUCTION

1. On March 5, 2024, a semi-truck owned and operated by Defendant McKesson and being driven by Defendant Heard failed to yield the right-of-way to a tractor trailer being operated by Plaintiff’s driver, Barry Latshaw, Jr., while attempting to merge onto Interstate-270 North. As a result, Plaintiff’s driver was unable to slow down in time to avoid colliding with the driver’s side rear of the McKesson truck, causing damage to the front passenger side of the ITDS truck.

2. As a result of the March 5, 2024 collision between the McKesson truck and the ITDS truck, ITDS incurred a financial loss of \$16,330.50 to repair the property damage sustained by the ITDS truck.

PARTIES, JURISDICTION, AND VENUE

3. Plaintiff ITDS is an Ohio Corporation with its principal place of business located in Hamilton County, Ohio.

4. Upon information and belief, Defendant McKesson is a Corporation organized under the laws of Delaware with its principal place of business in Irving, Texas. Defendant McKesson operates multiple locations across the country and globally, including in Columbus, Ohio.

5. Upon information and belief, Defendant Andre Heard is an Ohio resident.

6. This Court has personal jurisdiction over Defendants pursuant to R.C. 2307.382 as the claims stated herein arise from Defendants transacting business in this state and causing tortious injury in this state.

7. Pursuant to Rule 3(C) of the Ohio Rules of Civil Procedure, venue is proper in this Court as all or part of the claims for relief stated herein arose in Franklin County.

FACTS

8. On March 5, 2024, Defendant Heard operated a semi-truck as an employee or agent of Defendant McKesson and with McKesson's permission.

9. While attempting to merge onto Interstate-270 North near Columbus, Franklin County, Ohio, Defendant Heard failed to yield the right-of-way to an ITDS tractor trailer operated by Plaintiff's Driver, Barry Latshaw, Jr.

10. As a direct and proximate result of Defendant Heard's failure to yield the right-of-way to Latshaw, a collision occurred between the McKesson truck's driver side rear and the ITDS tractor trailer.

11. As a result of the collision caused by the negligence of McKesson's driver, Defendant Heard, the front passenger side of the ITDS truck sustained significant damage.

FIRST CAUSE OF ACTION

(Negligence as to Defendants McKesson and Heard)

12. Plaintiff restates the allegations contained in paragraphs 1 through 11 above as if fully rewritten herein.

13. Defendants McKesson and Heard had a duty to operate and maintain their truck in a safe manner and maintain control of the vehicle on the public roadways.

14. Defendants breached their duty by negligently failing to maintain their vehicle, failing to yield to the right of way, and by causing a collision with the front passenger side of Plaintiff's vehicle.

15. As a direct and proximate result of Defendants' negligence, Plaintiff sustained a loss in the amount of \$16,330.50 to repair the property damage sustained by the ITDS truck.

SECOND CAUSE OF ACTION

(Negligence *Per Se* as to Defendants McKesson and Heard)

16. Plaintiff restates the allegations contained in paragraphs 1 through 15 above as if fully rewritten herein.

17. Defendants owed a duty to Plaintiff to operate and maintain their truck in a safe and careful manner in accordance with the motor vehicle laws of Ohio and common law.

18. Contrary to the duties owed to Plaintiff, Defendants were negligent and careless in failing to yield the right of way to Plaintiff's vehicle as their truck entered the highway, in violation of R.C. 4511.44(A).

19. R.C. 4511.44(A) was intended to protect the safety of individuals in the position of Plaintiff. R.C. 4511.44(A) was also intended to prevent the exact type of injuries suffered by Plaintiff and Plaintiff's vehicle.

20. As a result of Defendants' actions, inactions and negligence *per se* in violating R.C. 4511.44(A), Plaintiff sustained a loss in the amount of \$16,330.50 to repair the property damage sustained by the ITDS truck.

THIRD CAUSE OF ACTION
(Vicarious liability as to Defendant McKesson)

21. Plaintiff restates the allegations contained in paragraphs 1 through 20 above as if fully rewritten herein.

22. On the date of the aforementioned collision, Defendant McKesson was the owner of Defendants' semi-truck and knowingly, willingly, and negligently allowed the same to be driven, operated, managed, and/or controlled by Defendant Heard when McKesson knew, or should have known, that Defendant Heard would not be able to control Defendants' semi-truck in a safe and careful manner in accordance with the motor vehicle laws of Ohio, regulations of the United States Department of Transportation, and the Common Law.

23. Defendant McKesson had actual knowledge of, or reasonably should have been aware of, Defendant Heard's propensity for dangerous motor vehicle operation prior to the accident at issue.

24. Defendant McKesson purposefully chose profits over the safety of Plaintiff's driver by continuing to allow Defendant Heard to operate Defendants' semi-truck despite this knowledge.

25. Defendant Heard was acting with the expressed and/or implied consent of Defendant McKesson.

26. At all times pertinent to this litigation, Defendant Heard was operating Defendants' semi-truck within the scope of his employment with Defendant McKesson.

27. Defendant McKesson is vicariously liable under the doctrine of *respondeat superior* for the actions and inactions of Defendant Heard, and is therefore responsible for all injuries and damages arising from Defendant Heard's negligence and occurring within the scope of his employment.

28. Defendants' actions and omissions were the direct and proximate cause of the property damage to Plaintiff's truck.

FOURTH CAUSE OF ACTION

(Negligent Hiring, Retention, and Supervision as to Defendant McKesson)

29. Plaintiff restates the allegations contained in paragraphs 1 through 28 above as if fully rewritten herein.

30. On March 5, 2024, Defendant Heard was employed by Defendant McKesson.

31. Defendant McKesson is responsible for those negligent acts performed within the scope of Defendant Heard's employment.

32. Defendant McKesson hired Defendant Heard.

33. Defendant McKesson had a duty to investigate Defendant Heard's driving record and Defendant Heard's driving ability.

34. Defendant McKesson failed to properly investigate Defendant Heard's driving record or Defendant Heard's driving ability, and made insufficient efforts to investigate whether or not Defendant Heard was a safe, fit, and competent driver.

35. Defendant McKesson knew, had reason to know, or should have known Defendant Heard was a dangerous, reckless or incompetent driver, and that he would be likely to use the vehicle provided in an unsafe manner involving unreasonable risk of physical harm.

36. Defendant McKesson knew, had reason to know, or should have known that by hiring or retaining Defendant Heard, his use of a motor vehicle would involve a risk of physical harm to others.

37. Defendant McKesson had actual knowledge of, or reasonably should have had knowledge of, Defendant Heard's propensity for dangerous motor vehicle operation prior to the accident at issue.

38. The actions and inactions of Defendants caused damage to Plaintiff's vehicle.

39. Defendant McKesson failed to supervise or otherwise monitor, train, educate or discipline Defendant Heard with respect to unsafe operation of motor vehicles, and failed to otherwise instill in him a sense of personal and professional responsibility and safety consciousness.

40. Defendant McKesson purposefully chose profits over the safety of Plaintiff's driver by continuing to allow Defendant Heard to operate Defendants' semi-truck.

41. The negligence of Defendant McKesson in hiring, retaining, and supervising Defendant Heard was a direct and proximate cause of Plaintiff's injuries as described above.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, as follows:

- A. For compensatory damages in the amount of \$16,330.50;
- B. For pre and post-judgment interests, costs and attorneys' fees incurred;
- C. Any and all other relief this Court deems just or appropriate.

Respectfully submitted,

/s/Madeline R. Pinto

Madeline R. Pinto (0101041)

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Attorney for Plaintiff

ITDS, Inc.

PRAECIPE FOR SERVICE

DIRECTIONS TO THE CLERK:

Please cause a copy of the Complaint to be mailed via certified mail, return receipt requested, to the following Defendants herein:

MCKESSON MEDICAL SURGICAL INC., d/b/a MCKESSON CORPORATION
6555 State Highway 161
Irving, TX 75039

ANDRE HEARD
1343 Island Bay Drive
Columbus, Ohio 43235