

CAUSE NO. 2021CI23299

CHANCE JONES, individually and §
as representative of the ESTATE OF §
D.I.T.J., deceased minor; §
DELIA JONES, individually and as the §
next friend of J.D.J, a minor; and §
MARY KATE WALLS, §
individually and as next friend of §
G.M.J., a minor, §
Intervenors, §
v. §
FLYIN' DIESEL PERFORMANCE & §
OFFROAD, L.L.C., JORDAN FORD, §
LTD, ROSS M. DUNAGAN, Individually §
and d/b/a AIRPORT RACE WARS 2, §
MICHAEL GONZALES, FERNANDO §
GARZA, and GENUINE PARTS §
COMPANY d/b/a NAPA AUTO PARTS §
Defendants. §

IN THE 45th JUDICIAL DISTRICT

COURT OF

BEXAR COUNTY, TEXAS

ABEL & KARLA MARTINEZ, JR., §
INDIVIDUALLY and as Husband and §
Wife, and as the Natural Parents and §
Representatives of the ESTATE OF §
SANTIAGO MARTINEZ, Deceased §
And §
FRANCISCO GERARDO RECIO §
PALACIOS, Individually and o/b/o THE §
ESTATE OF REBECCA CEDILLO, §
Deceased, and Their Surviving Natural §
Children §
Plaintiffs, §
v. §
FLYIN' DIESEL PERFORMANCE & §
OFFROAD, L.L.C., JORDAN FORD, §
LTD, ROSS M. DUNAGAN, Individually §
and d/b/a AIRPORT RACE WARS 2, §
MICHAEL GONZALES, FERNANDO §

IN THE 45th JUDICIAL DISTRICT

COURT OF

GARZA, PROGRESSIVE COUNTY §
MUTUAL INSURANCE COMPANY, §
and GENUINE PARTS COMPANY d/b/a §
NAPA AUTO PARTS §
Defendants. § **BEXAR COUNTY, TEXAS**

**INTERVENORS' ORIGINAL PETITION IN INTERVENTION
AND REQUIRED DISCLOSURES**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Intervenor, CHANCE JONES, individually and as the representative of the ESTATE OF D.I.T, deceased minor, DELIA JONES, individually and as the next friend of J.D.J., a minor, and MARY KATE WALLS, individually and as next friend of G.M.J., a minor, complaining of Defendants, FLYIN' DIESEL PERFORMANCE & OFFROAD, L.L.C., JORDAN FORD, LTD, ROSS DUNAGAN, Individually and doing business as AIRPORT RACE WARS 2, MICHAEL GONZALEZ, FERNANDO GARZA, and GENUINE PARTS COMPANY doing business as NAPA AUTO PARTS, and for cause of action would respectfully show the Court the following:

DISCOVERY PLAN

1. Intervenor intend to conduct discovery under Level 3 of the *Texas Rule of Civil Procedure* 190.4 Discovery Control Plan.

RULE 47 CLAIM FOR RELIEF

2. Intervenor pleads, for the purposes of complying with Rule 47 only, that they seek monetary relief of more than \$1,000,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorneys' fees. The amount of the Intervenor's damages is

substantial and well in excess of the jurisdictional minimums of this Court. Many elements of damage cannot be determined with mathematical precision. Furthermore, the determination of many of these elements of damage is peculiarly within the province of the jury. Intervenors do not at this time seek any certain amount of damages for any particular element of damage but would instead rely upon the collective wisdom of the jury to determine an amount that would fairly and reasonably compensate Intervenors. Intervenors reserve the right to amend this response to state an amount higher or lower or to ask the jury for a different amount that is supported by the evidence presented at trial. Intervenors also seek judgment for all other relief to which Intervenors are entitled.

PARTIES

3. Intervenor Chance Jones is an individual residing in Williamson County, Texas. He was severely injured in the crash and is the father of all the minor children injured. He brings claims for his personal injuries, his wrongful death claim for the death of his beloved son, D.I.T.J., and on behalf of the estate of D.I.T.J.

4. Intervenor Delia Jones is an individual residing in Williamson County, Texas. She is the mother of the deceased minor child, D.I.T.J. She brings an individual wrongful death claim for the death of her beloved son D.I.T.J. Ms. Jones is also the mother of minor Intervenor J.D.J., who was injured in the crash, and she brings both her individual claim for the medical expenses J.D.J. has and will incur until his 18th birthday and brings as “next friend” the claims of minor Intervenor, J.D.J. for his personal injuries from the crash.

5. Intervenor Mary Kate Walls is an individual residing in Williamson County, Texas. She was severely injured in the crash and is the mother of minor Intervenor, G.M.J., who was

injured in the crash. She brings her individual claims for her personal injuries and for the medical expenses G.M.J. has and will incur until her 18th birthday and brings as “next friend” the claims of minor Intervenor, G.M.J. for her personal injuries from the crash.

6. Defendant Flying Diesel Performance & Offroad, L.L.C. (referred to herein as FDP), is a Texas limited liability company, with its headquarters in Kerrville, Kerr County, Texas. Defendant FDP can be served through its registered agent, Ross M. Dunagan, at 2000 Airport Loop, Kerrville, TX 78028, or wherever he may be found. Citation for service of process is requested at this time.

7. Defendant Ross M. Dunagan is an individual who resides in Kerr County, Texas. Defendant Dunagan can be served at his regular place of business, Flying Diesel Performance & Offroad, LLC, located at 1994 Airport Loop, Kerrville, TX 78028 or at his residence, located at 1142 Lower Turtle Creek Rd., Unit R, Kerrville, TX 78028-8005. Citation for service of process is requested at this time.

8. Defendant Ross M. Dunagan d/b/a Airport Race Wars 2 is a sole proprietorship doing business in Texas that can be served at its regular place of business, 2000 Airport Loop, Kerrville, TX 78028 or wherever he may be found. Citation for service of process is requested at this time.

9. Defendant Michael Gonzales is an individual who resides in Tarrant County, Texas. He may be served at his residential address, which is located in Fort Worth, Texas, but otherwise unknown at this time, or wherever he may be found. Mr. Gonzales operated the vehicle involved in the crash at the time of the occurrence. Citation for service of process is requested at this time.

10. Defendant Fernando Garza is an individual who resides in Tarrant County, Texas. He may be served at his residential address, which is located in Fort Worth, Texas, but otherwise unknown at this time, or wherever he may be found. Mr. Garza owns the vehicle involved in the occurrence in question. Citation for service of process is requested at this time.

11. Defendant Jordan Ford, LTD, is a company doing business in Texas that may be served with notice of this lawsuit by and through its registered agent for service, Mike Trompeter, or designated agent or employee authorized to accept service on his behalf, at 13010 IH-35 North, San Antonio, Texas 78233, or wherever he may be found. Citation for service of process is requested at this time.

12. Defendant Genuine Auto Parts Company d/b/a Napa Auto Parts is a company doing business in Texas that may be served with notice of this lawsuit by and through its registered agent for service, C T Corporation System, at 1999 Bryan Street, Suite 900, Dallas, Texas 75201. Citation for service of process is requested at this time.

JURISDICTION AND VENUE

13. Jurisdiction is proper in this Court because the amount in controversy is within the jurisdictional limits of the Court pursuant to Article V, Section 8 of the Texas Constitution and Section 24.007 of the Texas Government Code. Venue is proper in Bexar County, Texas pursuant to Section 15.002(a)(3) of the Texas Civil Practice & Remedies Code, as it is a county in which a Defendant in this action maintains a principal office in this state. All parties are individual residents of Texas. Further venue is proper as to the Intervenor, according to Section 15.003(a) of the Texas Civil Practice & Remedies Code, as their intervention is proper under the Texas Rules of Civil Procedure, maintaining venue as to the Intervenor in this county does not unfairly prejudice any

other party to the suit, Intervenor has an essential need to have their claims tried in this case and county, which is fair and convenient for all parties to the suit.

14. This Court has personal jurisdiction over the parties. All the parties are either individual residents of the State of Texas, have a principal place of business in Texas, have sufficient minimum contacts with the State of Texas, and/or have purposefully availed themselves of the laws and markets of the State of Texas so as to not offend traditional notions of fair play and substantial justice.

15. Defendant NAPA Auto Parts engages in and transacts business in the State of Texas and maintains sufficient minimum contacts with the State of Texas. It was in the course of Defendant NAPA Auto Parts' business that it was in the State of Texas and participated in and/or sponsored Airport Race Wars 2, where this incident occurred. The Intervenor's causes of actions are connected with, or related to, or lie in the wake of Defendant NAPA Auto Parts' business activities in Texas. Defendant NAPA Auto Parts and its employees acting in the course and scope of their employment, committed torts subject to jurisdiction under the Texas Long-arm Statute by engaging in dangerous and unsafe conduct in Texas, which endangered the public and were a cause of the Plaintiff's injuries, as further set forth herein.

BASIS OF INTERVENTION

16. As with the Plaintiffs, Intervenor attended the Airport Race Wars 2 event they expected to provide a safe "family friendly" day on October 23, 2021, when a race vehicle lost control, leaving the racecourse through an unbarricaded area, and crashing into the area designated for spectators where Intervenor Chance Jones, his girlfriend, and their children were watching the race. The Defendants named above, also named as Defendants in this incident by the Plaintiffs,

are directly responsible for the catastrophic injuries to the Intervenor herein and the death of minor intervenor DIT.

17. The resolution of Intervenor's claims will have a material and substantial impact on the Intervenor's rights and ability to obtain their rights to compensation for their damages. Therefore, they have a legal and justiciable interest in this case. That interest is justiciable, as they could have brought all or part of the claims in their own names. Rather than complicate the case, intervention under the facts greatly serves judicial efficiency and economy as the same torts caused multiple injuries and it would be inefficient and potentially inequitably inconsistent to try these matters separately. Therefore, Intervenor has the legal and equitable right to freely intervene.

FACTUAL BACKGROUND

18. In the afternoon October 23rd, 2021, Chance Jones and Katie Walls took their three children to attend an event advertised as "family friendly fun," Race Wars 2. The family brought with them a red pop-up canopy to shield themselves from the rays of the Texas sun and some chairs to sit in and watch. Like many other spectators, they brought a grill and were cooking some food for their group as they watched cars races together throughout the day from the area designated by organizers as the viewing area.

19. Chance could smell the grill going and he was going to get some of the sausages that had just finished cooking, when a friend yelled to run. Chance already holding his three month old daughter, reached for his four year old son, grabbing him by the collar, and tossed his two youngest children out of the way, but he was unable to avoid the 1990 Mustang barreling down on him, his family, and his friends. Katie was not far from Chance and saw him rescuing the two youngest. She could also see six-year-old DIT who was running towards her for safety, but she

had no time to react as she watched the Mustang run over him just moments before running into her.

20. The Mustang, driven by Defendant Michael Gonzales, and believed to be owned by a currently unidentified individual, crashed through the crowd of spectators, striking Chance, his girlfriend Katie, minor Intervenor DIT, another child, and another woman. The Mustang demolished the canopy that the Intervenor were under, and slammed into adjacent vehicles, coming to a stop.



21. Race Wars 2 was an event promoted, organized, and run by Defendant FDP. The event was billed as a “no prep” drag race. In a normal, or prepped, drag race, the race surface is treated with a traction compound that acts as an adhesive bonding rubber to the concrete surface

and making the surface sticky. No prep races are meant to mimic street racing conditions and often have a “grudge racing” mentality. Drivers are known, given the slicker surface, to lose control in no-prep races, but many drivers also tend to “pedal through” loss of traction to stay in the race. Racers and those familiar with no-prep drag racing refer to the “never-lift mentality” that racers often have in these races. This means that they do not let up on the gas when they lose traction but keep the pedal down to try and stay in the race.

22. Based on information and belief, Defendant established cones as a caution area warning, and several feet closer to the track established water-filled roadway barriers. Since no spectator stands were provided, FDP permitted and encouraged spectators to set up in a “tailgate style” behind the barricades and cones, which Intervenors’ group did.



23. Spectators can be seen on the opposite side of the racetrack, behind the barriers, in the photo above, which shows the Mustang going out of control and angling toward the crowd. Unfortunately, event organizers, including Defendant FDP failed to continue the barrier system to the finish line and past it. Defendant Gonzales, after losing control of his car, continued off the track through an area where the barricades had not been placed at or just after the finish line. As a

result, Defendant Gonzales's car crashed into families watching the race, including Chance Jones, Katie Walls, and their children.

24. As a result of the collision, Chance, Katie, JDJ, and GMJ suffered severe personal injuries and DIT was killed.

NEGLIGENCE OF DEFENDANTS FDP, DUNAGAN, and
DUNAGAN d/b/a AIRPORT RACE WARS 2

25. At the time and on the occasion in question, Defendants FDP, Dunagan, and Dunagan d/b/a Airport Race Wars 2 failed to use ordinary care by various acts and omissions, including the following, each of which singularly or in combination with others, was a proximate cause of the occurrence in question:

- (a) In failing to provide a safe location for spectators, who are business invitees, to observe the event;
- (b) By failing to submit safety plans for the event to a qualified safety expert;
- (c) By failing to establish proper safety measures, including adequate barriers, to protect spectators;
- (d) By failing to install proper barricades extending through and past the finish line (i.e., the "big end"), where it is reasonable to expect vehicles to still be travelling at a high rate of speed;
- (e) By allowing and encouraging spectators to set up in an unsafe area;
- (f) In failing to provide proper crowd control;
- (g) By failing inspect the track for hazards to participants and spectators;
- (h) By failing to ensure that the race vehicles were in good working order;

- (i) In failing to properly screen the contestants and vehicles;
- (j) In failing to enforce any and all safety plans;
- (k) By failing to follow established safety practices; and
- (l) any other acts of negligence revealed as discovery progresses.

26. As a result of the failures and acts described above, Defendants were negligent and such negligence was a proximate and producing cause of the occurrence in question and the resulting injuries and damages set forth herein.

NEGLIGENCE OF DEFENDANT GONZALES

27. At the time and on the occasion in question, Defendant Gonzales failed to use ordinary care by various acts and omissions, including the following, each of which singularly or in combination with others, was a proximate cause of the occurrence in question:

- (a) by failing to control his rate of speed;
- (b) by failing to keep a proper lookout;
- (c) by failing to make a timely application of his brakes;
- (d) by failing to control his vehicle;
- (e) by making an unsafe movement;
- (f) by failing to take proper evasive action; and
- (g) any other acts of negligence revealed as discovery progresses.

28. By failing to operate his vehicle as described above, Defendant violated one or more safety rules, which amount to negligence, and such negligence was a proximate and producing cause of the occurrence in question and the resulting injuries and damages.

NEGLIGENCE AND NEGLIGENT ENTRUSTMENT OF FERNANDO GARZA

29. Intervenors allege that Defendant FERNANDO GARZA gave an improperly maintained vehicle to driver, Defendant MICHAEL GONZALES, and further, Defendant GARZA failed to adequately train and/or verify the experience and capabilities of Defendant GONZALES. Further, Intervenors contend that Defendant GONZALES was a reckless, incompetent, or impaired/intoxicated driver, which was known to Defendant FERNANDO GARZA. As a direct and proximate result of these acts and/or omissions of negligence, Intervenors were caused to suffer the severe injuries set forth below.

**NEGLIGENCE OF DEFENDANT JORDAN FORD, LTD and
GENUINE PARTS COMPANY d/b/a NAPA AUTO PARTS**

30. At the time and on the occasion in question, Defendants JORDAN FORD, LTD and GENUINE PARTS COMPANY d/b/a NAPA AUTO PARTS failed to use ordinary care by various acts and omissions, including the following, each of which singularly or in combination with others, was a proximate cause of the occurrence in question:

- (a) In failing to properly vet the sponsored activity for safety;
- (b) Failing to protect the invitees with traffic barriers;
- (c) Failing to adequately screen the contestants;
- (d) Failing to ensure the vehicles were in proper working order;
- (e) Failing to provide proper security; and
- (f) All other acts of negligence and/or omissions revealed as discovery progresses and to be proven at the time of trial.

31. As a result of the failures and acts described above, Defendants were negligent and such negligence was a proximate and producing cause of the occurrence in question and the resulting injuries and damages set forth herein.

32. Further based on information and belief, Intervenor contend that Defendants JORDAN FORD and NAPA AUTO PARTS were engaged in a Joint Venture with Defendants FDP, ROSS DUNAGAN, and/or ROSS DUNAGAN d/b/a AIRPORT RACE WARS 2. Intervenor contend that Defendants JORDAN FORD and NAPA AUTO PARTS had an agreement with Defendants FDP, ROSS DUNAGAN, and/or ROSS DUNAGAN d/b/a AIRPORT RACE WARS 2, and that the agreement had or created (1) a community of interest in the venture, (2) an agreement to share profits and losses and (3) a mutual right of control or management of the venture.

33. Alternatively, Intervenor contend that Defendants JORDAN FORD and NAPA AUTO PARTS were engaged in a Joint Enterprise with Defendants FDP, ROSS DUNAGAN, and/or ROSS DUNAGAN d/b/a AIRPORT RACE WARS 2. Intervenor contend that Defendants JORDAN FORD and NAPA AUTO PARTS had (1) an agreement with Defendants FDP, ROSS DUNAGAN, and/or ROSS DUNAGAN d/b/a AIRPORT RACE WARS 2, (2) a common purpose to be carried out by the group, (3) a community of pecuniary interest in that purpose, among the members, and (4) an equal right to a voice in the direction of the enterprise, which gives an equal right of control.

34. Under the theorie of joint enterprise and joint venture, each party thereto is considered an agent of the other and thereby each is held responsible for the negligent acts of the other.

INTERVENORS' DAMAGES

35. Intervenor Chance Jones is seeking to recover from Defendants the following damages for his personal injuries:

- (a) Physical pain sustained in the past;
- (b) Physical pain that, in reasonable probability, Intervenor will sustain in the future;
- (c) Mental anguish sustained in the past;
- (d) Mental anguish that, in reasonable probability, Intervenor will sustain in the future;
- (e) Physical impairment sustained in the past;
- (f) Physical impairment that, in reasonable probability, Intervenor will sustain in the future;
- (g) Disfigurement sustained in the past;
- (h) Disfigurement that, in reasonable probability, Intervenor will sustain in the future;
- (i) Loss of wage-earning capacity sustained in the past;
- (j) Loss of wage-earning capacity that, in reasonable probability, Intervenor will sustain in the future;
- (k) Medical care expenses sustained in the past; and
- (l) Medical care expenses that, in reasonable probability, Intervenor will require in the future.

36. As a direct and proximate result of Defendants' conduct, Intervenor Chance Jones and Delia Jones have suffered damages for the wrongful death of DIT as follows:

- (a) Loss of companionship and society sustained in the past and which will reasonably be sustained in the future;

- (b) Mental anguish sustained in the past and which will reasonably be sustained in the future;

37. Intervenor Mary Kate Walls is seeking to recover from Defendants the following damages for her personal injuries:

- (a) Physical pain sustained in the past;
- (b) Physical pain that, in reasonable probability, Intervenor will sustain in the future;
- (c) Mental anguish sustained in the past;
- (d) Mental anguish that, in reasonable probability, Intervenor will sustain in the future;
- (e) Physical impairment sustained in the past;
- (f) Physical impairment that, in reasonable probability, Intervenor will sustain in the future;
- (g) Disfigurement sustained in the past;
- (h) Disfigurement that, in reasonable probability, Intervenor will sustain in the future;
- (i) Loss of wage-earning capacity sustained in the past;
- (j) Loss of wage-earning capacity that, in reasonable probability, Intervenor will sustain in the future;
- (k) Medical care expenses sustained in the past;
- (l) Medical care expenses that, in reasonable probability, Intervenor will require in the future;
- (m) Medical care expenses Intervenor Walls sustained in the past for the medical care of GMJ in the past; and
- (n) Medical care expenses that, in reasonable probability, Intervenor Walls will sustain in the future for the medical care of GMJ, until GMJ's 18th birthday.

38. Intervenor Mary Kate Walls, as next friend of GMJ, is seeking to recover from Defendants the following damages for GMJ's personal injuries:

- (a) Physical pain GMJ sustained in the past;
- (b) Physical pain that, in reasonable probability, GMJ will sustain in the future;
- (c) Mental anguish GMJ sustained in the past;
- (d) Mental anguish that, in reasonable probability, GMJ will sustain in the future;
- (e) Physical impairment GMJ sustained in the past;
- (f) Physical impairment that, in reasonable probability, GMJ will sustain in the future;
- (g) Disfigurement GMJ sustained in the past;
- (h) Disfigurement that, in reasonable probability, GMJ will sustain in the future;
- (i) Loss of wage-earning capacity that, in reasonable probability, GMJ will sustain in the future; and
- (j) Medical care expenses that, in reasonable probability, GMJ will require after her 18th birthday.

39. Intervenor Delia Jones is seeking to recover from Defendants the following damages for the medical treatment to her son, JDJ, for which she is responsible:

- (a) Medical care expenses Intervenor Delia Jones sustained in the past for the medical care of JDJ in the past; and
- (b) Medical care expenses that, in reasonable probability, Intervenor Delia Jones will sustain in the future for the medical care of JDJ, until JDJ's 18th birthday

40. Intervenor Delia Jones, as next friend of JDJ, is seeking to recover from Defendants the following damages for JDJ's personal injuries:

- (k) Physical pain JDJ sustained in the past;

- (l) Physical pain that, in reasonable probability, JDJ will sustain in the future;
- (m) Mental anguish JDJ sustained in the past;
- (n) Mental anguish that, in reasonable probability, JDJ will sustain in the future;
- (o) Physical impairment JDJ sustained in the past;
- (p) Physical impairment that, in reasonable probability, JDJ will sustain in the future;
- (q) Disfigurement JDJ sustained in the past;
- (r) Disfigurement that, in reasonable probability, JDJ will sustain in the future;
- (s) Loss of wage-earning capacity that, in reasonable probability, JDJ will sustain in the future; and
- (t) Medical care expenses that, in reasonable probability, JDJ will require after her 18th birthday.

Bystander Damages

41. Intervenors Chance Jones, Katie Walls, JDJ, and GMJ were each at the scene of this incident and contemporaneously witnessed injuries to a closely related victim, including each other and DIT, and therefore, have and will suffer mental anguish damages in the past and future.

Survival Damages

42. Intervenor Chance Jones as the representative of the Estate of DIT brings this action pursuant to Section 71.021 of the Texas Civil Practice and Remedies Code, commonly referred to as the “Survival Statute.” Intervenor Chance Jones would show that DIT had a knowledge of his impending death and was likely not killed instantly in the incident in question. The following damages survived to his estate, for which Intervenor Chance Jones as the representative of the Estate of DIT seeks recovery:

- a. Physical pain and mental anguish;
- b. Medical Expenses, if any; and
- c. Funeral and burial expenses.

GROSS NEGLIGENCE AND EXEMPLARY DAMAGES

43. The above-mentioned acts of negligence on the part of Defendants were of such character as to make Defendants guilty of gross negligence. Defendants' acts of negligence when viewed objectively from the standpoint of Defendants, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others. Defendants had actual, subjective awareness of this risk, but nevertheless proceeded with conscious indifference to the rights, safety, and welfare of Intervenors. The gross negligence of Defendants was a proximate cause of the collision and of the damages suffered by Intervenors. As a result of Defendants' gross negligence, Intervenors seek and are entitled to an award of exemplary damages.

REQUIRED DISCLOSURES

44. Pursuant to Rule 194, you must make initial disclosures of the information or material described in Rule 194.2 of the Texas Rules of Civil Procedure, within thirty (30) days after filing of the first answer or general appearance, unless different time is set by the parties' agreement or court order.

NOTICE UNDER RULE 193.7 OF TRCP

45. Intervenors hereby give all parties notice that any and all documents and things produced by any Defendant may be used at any pre-trial and/or trial without the necessity of authenticating the same.

**INTERVENORS JOIN IN PLAINTIFFS' REQUEST FOR A TEMPORARY
INJUNCTION AND DEMAND FOR DEFENDANTS TO PRESERVE EVIDENCE**

46. Intervenor join in the Plaintiffs' requests for the preservation of evidence, found in Part XIX of the Plaintiff's Original Petition and in the request for a temporary injunction found in Part XVIII of the Plaintiff's Original Petition.

PRIVILEGE LOG REQUEST

47. If Defendants seek to exclude from discovery any information, documents or tangible things sought by claiming that material or information otherwise responsive to this written discovery is privileged, accept this as Intervenor request for a privilege log that generally identifies and/or describes the withheld information, documents, or tangible things pursuant to the TEXAS RULES OF CIVIL PROCEDURE.

JURY DEMAND

48. Intervenor demand a jury trial and tenders the appropriate fee with this petition.

PRAYER

49. By reason of the above and foregoing, Intervenor have been damaged in a sum within the jurisdictional limits of this Court.

50. WHEREFORE, Intervenor pray that Defendants be duly cited to appear and answer herein; and that upon final trial of this cause, Intervenor recover:

1. Judgment against Defendants for Intervenor's damages as set forth above;
2. interest on said judgment at the legal rate from the date of the judgment;
3. pre-judgment interest on Intervenor's damages as allowed by law;
4. costs of court; and

5. such other and further relief to which Intervenor may be entitled.

Respectfully submitted,

/s/ Jonathon C. Clark

Jonathon (Jon) C. Clark

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