

Marshall Circuit Court

STATE OF INDIANA
COUNTY OF MARSHALL

IN THE MARSHALL SUPERIOR COURT
2018 TERM

KRISTA DESPOT, By Her Mother
and Natural Guardian,
KRISTA DESPOT, and
KRISTA DESPOT, Individually,
Plaintiffs,

Cause NO. 50D01-1812-CT-_____
50C01-1812-CT-000056

v.

TYLOR PERRY and
NATIONAL CONSTRUCTION
RENTALS, INC. d/b/a
NATIONAL RENT-A-FENCE CO.,
Defendants.

JURY TRIAL DEMANDED

COMPLAINT

Comes now the Plaintiff, Krista Despot ("Krista") by her mother and natural guardian, Amber Despot ("Amber"), and Amber Despot, individually, by counsel, Cassandra Hine, and for their Complaint against Defendants, Tylor Perry and National Construction Rentals, Inc., d/b/a National Rent-a-Fence Co., allege and state as follows:

PARTIES

1. At all relevant times, Krista and Amber have been residents of the State of Indiana, residing in the Town of Winamac in Pulaski County, Indiana.
2. At all relevant times, upon information and belief, Defendant Tylor Perry ("Perry") has been a resident of the State of Indiana, residing in the Town of Camby, in Marion County, Indiana.
3. At all relevant times, upon information and belief, Defendant National Construction Rentals, Inc., d/b/a National Rent-a-Fence ("NCR"), was a foreign corporation authorized to do business in the State of Indiana with its principal offices located in Mission Hills, California, with its local operations center located in Marion County, Indiana.
4. At all relevant times, Amber was the mother and natural guardian of Krista.

FACTS

5. On December 5, 2018, at approximately 9:00 a.m., Krista was a passenger in a school bus being driven by Cheryl Warner that was traveling northbound on U.S. Highway 31 just north of the town of Argos in Marshall County, Indiana, when the bus stopped at a railroad crossing in accordance with Indiana law.

6. At or about that same time and place, Defendant Perry was operating a 2016 Freightliner straight truck, owned by Defendant NCR, northbound on U.S. Highway 31 and directly behind the school bus.

7. After stopping and confirming there was no train approaching, the driver of the school bus began to move forward when the bus was suddenly and without warning struck from behind by the truck being driven by Defendant Perry.

8. Upon information and belief, at the time of the crash, Defendant Perry was operating the truck in the course and scope of his employment with Defendant NCR.

9. At all relevant times, the school bus on which Krista was riding had the right-of-way and was legally traveling in the proper lane.

10. Perry operated his vehicle in a careless and negligent manner, driving his vehicle directly into the back of the school bus on which Krista was riding.

11. As a result of the crash, Krista sustained serious physical and psychological injuries.

12. Perry was careless and negligent in the operation of his vehicle in at least one or more of the following ways:

- A. He failed to obey the traffic stop-arm on the bus;
- B. He failed to yield the right of way to the school bus;
- C. He failed to keep a proper lookout for other vehicles on the roadway;

D. He failed to notice the school bus stopped at the railroad crossing directly in front of him;

E. He failed to keep a safe and proper distance between his vehicle and the school bus;

F. He failed to maintain control of his vehicle so as to avoid a collision with the school bus directly in front of him.

13. Perry, as a driver on the public roadways, had a duty to his fellow drivers on U.S. Highway 31 to take reasonable care while driving on the highway.

14. Perry breached the duty to take reasonable care, causing the collision with the school bus.

15. Perry's careless and negligent operation of his vehicle was the direct and proximate cause of the collision.

16. As a direct and proximate result of the carelessness and negligence of Perry on December 5, 2018, Krista sustained injuries, including but not limited to the following:

- A. Physical and mental injuries, some of which may be permanent;
- B. Medical and hospital expenses of an as yet determined amount;
- C. Possible future medical and hospital expenses of an as yet determined amount;
- D. Lost wages and an impairment to their earning capacities; and,
- E. Pain and suffering, which they will likely incur in the future.

17. As a direct and proximate result of the negligence and/or recklessness of Defendant Perry, Amber has lost the love, care, affection, and services of Krista, and has thereby incurred damages.

WHEREFORE, Krista and Amber pray for judgment against Defendant Tyler Perry in an amount which will fully and fairly compensate them for their damages; for attorney's fees; for the cost of this action; and for all other relief just and proper in the premises.

VICARIOUS LIABILITY

1. Krista and Amber incorporate by reference as if fully set forth herein the material allegations contained in rhetorical paragraphs 1 through 17 of this Complaint.

2. Defendant National Construction Rentals, Inc. d/b/a National Rent-a-Fence, Co. is vicariously liable for the negligence of Defendant Tylor Perry.

WHEREFORE, Krista and Amber pray for judgment against the Defendant, National Construction Rentals, Inc., d/b/a National Rent-a-Fence Co. in an amount which will fully and fairly compensate them for their damages; for attorney's fees; for the cost of this action; and for all other relief just and proper in the premises.

JURY TRIAL DEMAND

Comes now the Plaintiffs Krista Despot and Amber Despot, by counsel, and hereby demand that this matter be tried to a jury.

I certify that on 12/21/18,
a copy of the foregoing was served
upon each party or attorney of record
by e-filing, first class mail with sufficient
first class postage affixed, by
hand delivery, or fax.

Cassandra Hine
Cassandra Hine

Respectfully submitted,

LAW OFFICE OF CASSANDRA HINE, P.C.

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