

VS.

Defendants.

COMPLAINT FOR PERSONAL INJURIES

- COMES NOW Plaintiff, who alleges as follows:

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant *Corporation* was a corporation formed and existing under the laws of

1 the State of California. Plaintiff is further informed and believes that at all relevant
2 times herein alleged, Defendant *Corporation* was doing business extensively
3 within the County of San Diego.

4 4. Plaintiff is informed and believes that at all times herein mentioned,
5 Defendant *Corporation* was a business, form or forms unknown, formed and
6 existing under the laws of the State of California. Plaintiff is further informed and
7 believes that at all relevant times herein alleged, Defendant *Corporation* was doing
8 business extensively within the County of San Diego

9 5. Plaintiff is informed and believes that at all times herein mentioned,
10 Defendant *Individual* was an individual, residing in the County of Orange, State of
11 California.

12 6. Plaintiff is informed and believes that at all times mentioned herein,
13 Defendants *Corporation*, and/or DOES 1 through 50 operated a landscaping and/or
14 gardening business, and/or were the owners of, had an ownership interest in,
15 leased, exercised control over and/or maintained that certain *vehicle*, California
16 license number 1234567, and which was the vehicle that was involved in the
17 herein alleged incident with Plaintiff (“SUBJECT VEHICLE”).

18 7. Plaintiff is informed and believes that at all times mentioned herein,
19 Defendants *Individual* and/or DOES 51 through 100 were employees, agents or
20 contractors of Defendants *Corporation* and/or DOES 1 to 50, with duties and
21 responsibilities which included but were not limited to landscaping and gardening
22 services on behalf of, and the operation of vehicles that were owned, leased,
23 controlled and/or maintained by Defendants *Corporation* and/or DOES 1 to 50.

24 8. Plaintiff is informed and believes that at all times mentioned herein,
25 Defendant *Individual* was and is an employee, agent or contractor of Defendants
26 *Corporation* and/or DOES 1 through 50, and was operating the SUBJECT
27 VEHICLE at the time he encountered Plaintiff, in the course and scope of his
28 employment or agency for, and with the express or implied permission of,

1 Defendants *Corporation* and/or DOES 1 through 50.

2 9. Plaintiff is informed and believes that at all times mentioned herein,
3 Defendants *Individual* and/or DOES 51 through 100 were the employees, agents,
4 contractors, and/or other affiliated individuals or entities of Defendants
5 *Corporation* and/or DOES 1 through 50, and were acting within the scope and
6 purpose of such employment or agency, and with the power and authority vested in
7 them, or ratification, endorsement or approval of the conduct of the events and
8 happenings alleged herein by Defendants *Corporation* and/or DOES 1 through 50.

9 10. Plaintiff is informed and believes that at all times mentioned herein,
10 DOES 1 through 100 are legally responsible for the events and happenings alleged
11 herein, and thereby legally and proximately caused injuries and damages to
12 Plaintiff. Plaintiff is ignorant of the true names and capacities of Defendants sued
13 herein as DOES 1 through 100, inclusive, and therefore sue these Defendants by
14 such fictitious names. Plaintiff will amend this complaint to insert their true names
15 and capacities when ascertained.

16 **FIRST CAUSE OF ACTION FOR NEGLIGENCE**
17 **(AGAINST ALL DEFENDANTS)**

18 11. Plaintiff incorporates by reference each and every allegation and
19 statement contained in Paragraphs 1 through 10 above as if fully and completely
20 alleged herein.

21 12. On or about January 19, 2013, at approximately 1:30 a.m., Plaintiff
22 was driving his *vehicle* northbound on Interstate 5, passing through the Border
23 Patrol checkpoint north of Camp Pendleton.

24 13. At the same place and time, Defendant *Individual* was driving the
25 SUBJECT VEHICLE northbound on Interstate 5, in the course and scope of his
26 employment or agency, and with the express or implied permission of Defendants
27 *Corporation* and/or DOES 51 through 100.

28 14. Plaintiff is informed and believes that Defendant *Individual* is diabetic

1 and must carefully regulate and monitor his blood sugar levels to avoid insulin
2 reactions. Plaintiff is informed and believes that because of his medical condition,
3 Defendant *Individual* must carefully follow his meal plan, eating the right amount
4 of the proper food at the right time, and must test his blood for glucose several
5 times a way to properly manage his condition.

6 15. Plaintiff is informed and believes that Defendant *Individual* had failed
7 to properly monitor his blood sugar levels in the hours before the incident. Plaintiff
8 is further informed and believes that shortly before the subject collision Defendant
9 *Individual* was experiencing symptoms of hypoglycemia. Plaintiff is informed and
10 believes that Defendant *Individual* knew that it was dangerous to ignore the
11 symptoms of hypoglycemia, and further knew that if he did not treat those
12 symptoms quickly, it would lead to a serious condition that would cause him to
13 lose consciousness. Plaintiff is informed and believes that Defendant *Individual*
14 knew that it was reckless for him to continue to drive due to the danger of passing
15 out behind the wheel.

16 16. Plaintiff is informed and believes that instead of stopping to check his
17 blood sugar when he noted symptoms of hypoglycemia, Defendant *Individual*
18 continued to drive. Plaintiff is informed and believes that as *Individual* was passing
19 through the Border Patrol checkpoint, he went into diabetic shock and lost
20 consciousness. As a result, the SUBJECT VEHICLE careened into Plaintiff's lane
21 of travel, causing a collision between Plaintiff's vehicle and the SUBJECT
22 VEHICLE.

23 17. At all relevant times herein mentioned, Defendants *Individual*,
24 *Corporation* and/or DOES 1 through 100, owed a duty of care to other motorists,
25 including Plaintiff, to operate the SUBJECT VEHICLE in a safe and lawful
26 manner. This duty of care included a duty by Defendant *Individual* to regulate and
27 monitor his blood sugar levels to ensure that he would not lose consciousness
28 while driving.

1 18. On or about January 19, 2013, at about 1:35 a.m., Defendant
2 *Individual*, while acting in the course and scope of his employment or agency for,
3 and with the express or implied permission of Defendants *Corporation* and/or
4 DOES 1 through 50, negligently, recklessly, and/or carelessly, ignored the signs
5 and symptoms of hypoglycemia which he was experiencing. As a result, Defendant
6 *Individual* lost consciousness and thereby lost control of the SUBJECT VEHICLE,
7 causing it to collide violently with Plaintiff's vehicle, thereby causing severe
8 orthopedic and neurological injuries to his body, and serious psychological, mental
9 and emotional stress and trauma.

10 19. As a proximate result of the Defendants' negligence, Plaintiff was
11 hurt and injured in his health, strength, and activity, sustaining injuries to his body
12 and shock and injury to his nervous systems and person. Such injuries have
13 caused, and will continue to cause, Plaintiff to experience physical pain, mental
14 suffering, loss of enjoyment of life, physical impairment, inconvenience, anxiety,
15 and emotional distress, in a sum that will be proven at trial.

16 20. As a further proximate result of the Defendants' negligence, Plaintiff
17 has been required to, and in the future will be required to, employ health care
18 practitioners to examine, treat, and care for him. Consequently, Plaintiff has
19 incurred, and in the future will incur, medical and incidental expenses for such care
20 and services, the amounts of which will be proven at trial.

21 21. As a further proximate result of the Defendants' negligence, Plaintiff
22 has been, and will continue to be prevented from attending to his usual occupation,
23 or other occupation. Consequently, Plaintiff has incurred, and in the future will
24 incur, lost earnings and/or loss of earning capacity, the amounts of which will be
25 proven at trial.

26 **SECOND CAUSE OF ACTION FOR NEGLIGENT ENTRUSTMENT**
27 **(AS AGAINST DEFENDANTS *Corporation* and DOES 1 through 50)**

28 22. Plaintiff incorporates herein by reference each and every allegation

1 and statement contained in Paragraphs 1 through 21 above as if fully and
2 completely alleged herein.

3 23. On or about January 19, 2013, at about 1:35 a.m., Defendant
4 *Individual*, while acting in the course and scope of his employment or agency for,
5 and with the express or implied permission of Defendants *Corporation* and/or
6 DOES 1 through 50, was negligent in the operation of the SUBJECT VEHICLE.

7 24. At all relevant times herein alleged, Defendants *Corporation* and/or
8 DOES 1 through 50 were the owners, had an ownership interest in, leased,
9 exercised control over and/or maintained the SUBJECT VEHICLE for the purpose
10 of conducting its landscaping business.

11 25. At all relevant times herein alleged, Defendants *Corporation* and/or
12 DOES 1 through 50 knew, or from facts known to them should have known, or
13 from facts ascertainable through the exercise of reasonable care should have
14 known, that Defendant *Individual* was incompetent or unfit to drive Defendants'
15 vehicles, including the SUBJECT VEHICLE, due to his medical condition.

16 26. At all relevant times herein alleged, Defendants *Corporation* and/or
17 DOES 1 through 50 permitted Defendant *Individual* to operate and drive its
18 vehicles, including the SUBJECT VEHICLE, for the purpose of promoting and
19 profiting the its landscaping business, despite their knowledge, whether actual or
20 constructive, of his incompetence or unfitness to do so due to his medical
21 condition.

22 27. Defendant *Individual*'s incompetence or unfitness to operate a motor
23 proximately caused and was a substantial factor in bringing about the injuries,
24 harm and damages to Plaintiff.

25 28. As a proximate result of the Defendants' conduct, Plaintiff was hurt
26 and injured in his health, strength, and activity, sustaining injuries to his body and
27 shock and injury to his nervous systems and person. Such injuries have caused,
28 and will continue to cause, Plaintiff to experience physical pain, mental suffering,

1 loss of enjoyment of life, physical impairment, inconvenience, anxiety, and
2 emotional distress, in a sum that will be proven at trial.

3 29. As a further proximate result of the Defendants' conduct, Plaintiff has
4 been required to, and in the future will be required to, employ health care
5 practitioners to examine, treat, and care for him. Consequently, Plaintiff has
6 incurred, and in the future will incur, medical and incidental expenses for such care
7 and services, the amounts of which will be proven at trial.

8 30. As a further proximate result of the Defendants' conduct, Plaintiff has
9 been, and will continue to be, prevented from attending to his usual occupation, or
10 other occupation. Consequently, Plaintiff has incurred, and in the future will incur,
11 lost earnings and/or loss of earning capacity, the amounts of which will be proven
12 at trial.

13 **THIRD CAUSE OF ACTION FOR NEGLIGENT HIRING, SUPERVISION**

14 **AND RETENTION**

15 **(AS AGAINST DEFENDANTS *Corporation* AND DOES 1 THROUGH 50)**

16 31. Plaintiff incorporates herein by reference each and every allegation
17 and statement contained in Paragraphs 1 through 30 above as if fully and
18 completely alleged herein.

19 32. Defendants *Corporation* and/or DOES 1 through 50 had a duty to
20 exercise reasonable care in employing persons, including Defendant *Individual*, to
21 operate its vehicles, including the SUBJECT VEHICLE, in the course and scope of
22 its business.

23 33. Defendants *Corporation* and/or DOES 1 through 50 had a duty to
24 properly train and supervise the employees, agents and contractors, including
25 Defendant *Individual*, in preparation for, and during the course of, their
26 employment or agency with Defendants *Corporation* and/or DOES 1 through 50.

27 34. Defendants *Corporation* and/or DOES 1 through 50 had a duty to
28 terminate the employees, agents and contractors, including Defendant *Individual*,

1 upon discovering conduct unsuitable for their continued employment or otherwise
2 unlawful, including but not limited to a history of negligent, reckless, and/or
3 careless operation of its vehicles, and/or in the performance of their duties for the
4 landscaping business.

5 35. Plaintiff is informed and believes that at all relevant times herein
6 alleged, Defendant *Individual* was incompetent and/or unfit to perform work or
7 other activities, including operating a motor vehicle, and was likely to harm other
8 persons or property, on and before the date of the incident with Plaintiff.

9 36. Plaintiff is informed and believes that at all relevant times herein
10 alleged, Defendants *Corporation* and/or DOES 1 through 50 knew or in the
11 exercise of reasonable care should have known that Defendant *Individual* was
12 incompetent or unfit to operate a motor vehicle, and that the continued
13 employment, contract and/or retention of Defendant *Individual* would lead, and did
14 in fact lead to and create a particular risk of great bodily harm to the public,
15 including Plaintiff.

16 37. Defendants *Corporation* and/or DOES 1 through 50 breached the duty
17 of care by, among other acts and omissions, failing to properly train, investigate,
18 monitor, supervise, reprimand and/or terminate Defendant *Individual* on or before
19 the date of the incident with Plaintiff, which was a substantial factor in causing the
20 injuries, harm and damages to Plaintiff.

21 38. As a proximate result of Defendants' negligence, Plaintiff has been,
22 and continues to be, injured in his health, strength, and activity, sustaining severe
23 injury to his body, all of which have caused and continue to cause him great
24 physical pain and suffering. Plaintiff is informed and believes that the injuries he
25 sustained from the subject accident will result in permanent disability.

26 39. As a further proximate result of Defendants' negligence, Plaintiff has
27 employed, and continues to employ, physicians and other health care providers to
28 examine, treat and care for him, and did and continues to incur medical and

1 incidental expenses.

2 40. As a further proximate result of Defendants' negligence, Plaintiff has
3 suffered, and continues to suffer, a loss of earnings, and loss of earning capacity
4 from the injuries sustained in the subject collision.

5
6 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of
7 them, as follows:

8 1. For noneconomic damages relating to past and future physical
9 pain, mental suffering, loss of enjoyment of life, physical impairment, inconvenience,
10 anxiety, and emotional distress, according to proof;

11 2. For economic damages relating to past and future medical and
12 incidental expenses, according to proof;

13 3. For economic damages relating to past and future loss of earnings
14 and/or earning capacity, according to proof;

15 4. For pre-judgment interest allowable by law;

16 5. For costs of suit incurred herein; and

17 6. For such other and further relief as the Court may deem just and
18 proper.

19
20 Dated: September 26, 2014 LAW OFFICES OF ATTORNEY

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23 ATTORNEY
24 Attorneys for Plaintiff
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