

IN THE STATE COURT OF FULTON COUNTY  
STATE OF GEORGIA

LISA SWISHER, AS ADMINISTRATOR  
OF THE ESTATE OF JUSTIN LORING  
(DECEASED), AND GUARDIAN OF NOAH  
LORING, LIAM LORING, AND LEXI  
LORING (MINORS),

DAVID DECKER, AS CO-  
ADMINISTRATOR OF THE ESTATE OF  
SARA LORING (DECEASED), AND

DONNA DECKER, AS CO-  
ADMINISTRATOR OF THE ESTATE OF  
SARA LORING (DECEASED),

PLAINTIFFS,

— *VERSUS* —

DOSTYAR GENERAL TRADING  
COMPANY, INC. (GEORGIA),

DOSTYAR GENERAL TRADING  
COMPANY, INC. (FLORIDA), D/B/A  
DOSTYAR USA,

PROGRESSIVE CASUALTY  
INSURANCE COMPANY,

JOSEPH L. CHISLUM, AND

JOHN/JANE DOES 1-10,

DEFENDANTS

CIVIL ACTION

FILE NO. \_\_\_\_\_

JURY TRIAL DEMANDED

# PLAINTIFFS' COMPLAINT FOR DAMAGES

## Nature of this Action

1. This action concerns a motor vehicle collision which occurred on July 15, 2022.
2. Plaintiffs hereby assert claims of negligence against each Defendant, directly, vicariously, or through direct action.
3. Plaintiffs assert wrongful-death claims pursuant to OCGA Title 51, Chapter 4, on behalf of all wrongful-death beneficiaries.
4. Plaintiffs demand a jury trial on all issues.

## Parties, Jurisdiction, and Venue

5. **Plaintiffs LISA SWISHER, DAVID DECKER, and DONNA DECKER (collectively, "Plaintiffs")** are citizens and residents of Illinois. Plaintiffs submit to the personal jurisdiction and venue of this Court.
6. **Plaintiff LISA SWISHER** is Guardian of Noah Loring, Liam Loring, and Lexi Loring, all of whom are minors.
7. Noah Loring, Liam Loring, and Lexi Loring are the surviving children of Justin Loring and Sara Loring. In her capacity as Guardian, Plaintiff Lisa Swisher asserts claims in this action on behalf of Noah Loring, Liam Loring, and Lexi Loring.
8. **Plaintiff LISA SWISHER** is also the Administrator of the Estate of Justin Loring.
9. **Plaintiff DAVID DECKER and Plaintiff DONNA DECKER** are Co-Administrators of the Estate of Sara Loring.

10. **Defendant DOSTYAR GENERAL TRADING COMPANY, INC. (GEORGIA) (“Dostyar GA”)** is a foreign profit corporation. Its registered agent is Corporate Creations Network, Inc. Its physical address is 2985 Gordy Parkway, 1<sup>st</sup> Floor, Marietta, GA 30006, in Cobb County. Its principal office address is 3755 Main Street, Unit 103, College Park, GA 30337, in Fulton County.
11. **Dostyar GA** is subject to the personal jurisdiction of this Court.
12. **Dostyar GA** is subject to the subject-matter jurisdiction of this Court in this case.
13. **Dostyar GA** is directly subject to venue in this Court.<sup>1</sup>
14. **Dostyar GA** has been properly served with this Complaint.

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<sup>1</sup> OCGA §§ 14-2-510 and 14-3-510 provide identical venue provisions for regular business corporations and for nonprofit corporations:

“Each domestic corporation and each foreign corporation authorized to transact business in this state shall be deemed to reside and to be subject to venue as follows: (1) In civil proceedings generally, in the county of this state where the corporation maintains its registered office . . . (3) In actions for damages because of torts, wrong, or injury done, in the county where the cause of action originated, if the corporation has an office and transacts business in that county; (4) In actions for damages because of torts, wrong, or injury done, in the county where the cause of action originated.”

These same venue provisions apply to Professional Corporations, because PCs are organized under the general “Business Corporation” provisions of the Georgia Code. *See* OCGA § 14-7-3.

These venue provisions also apply to Limited Liability Companies, *see* OCGA § 14-11-1108, and to foreign limited liability partnerships, *see* OCGA § 14-8-46.

OCGA 9-10-31 provides that, “joint tort-feasors, obligors, or promisors, or joint contractors or copartners, residing in different counties, may be subject to an action as such in the same action in any county in which one or more of the defendants reside.”

15. **Dostyar GA** has no defense to this suit based on undue delay, whether based on the statute of limitations, the statute of repose, laches, or any other similar theory.

16. At all times relevant to this Complaint, **Dostyar GA** acted as an employer or other principal of Joseph Chislom.

17. If another entity acted as the employer or other principal of Joseph Chislom during this time, that entity is on notice that, but for a mistake concerning the identity of the party, this action would have been brought against that entity.

18. **Defendant DOSTYAR GENERAL TRADING COMPANY, INC. (FLORIDA) D/B/A DOSTYAR USA (“Dostyar FL”)** is a foreign profit corporation. Its registered agent is Othel Turner. Its principal address and registered agent address is 1100 S State Rd 7, Suite 200A, Margate, FL 33068.

19. **Dostyar FL** is subject to the personal jurisdiction of this Court.

20. **Dostyar FL** is subject to the subject-matter jurisdiction of this Court in this case.

21. **Dostyar FL** is subject to venue in this Court.

22. **Dostyar FL** has been properly served with this Complaint.

23. **Dostyar FL** has no defense to this suit based on undue delay, whether based on the statute of limitations, the statute of repose, laches, or any other similar theory.

24. At all times relevant to this Complaint, **Dostyar FL** acted as an employer or other principal of Joseph Chislom.

25. If another entity acted as the employer or other principal of Joseph Chislom during this time, that entity is on notice that, but for a mistake concerning the identity of the party, this action would have been brought against that entity.

26. At all times relevant to this Complaint, **Dostyar FL** acted as the parent company of Dostyar GA.

27. If another entity acted as the parent company of Dostyar GA during this time, that entity is on notice that, but for a mistake concerning the identity of the party, this action would have been brought against that entity.

28. **Defendant PROGRESSIVE CASUALTY INSURANCE COMPANY (“Progressive”)** is a foreign insurance company. Its registered agent is CT Corporation System. Its physical address is 289 S Culver St, Lawrenceville, GA 30046, in Gwinnett County. Its principal office address is 6300 Wilson Mills Road, Mayfield Village, OH 44143.

29. **Progressive** is subject to the personal jurisdiction of this Court.

30. **Progressive** is subject to the subject-matter jurisdiction of this Court in this case.

31. **Progressive** is subject to venue in this Court because one of more of its Co-Defendants is directly subject to venue in this Court.

32. **Progressive** has been properly served with this Complaint.

33. **Progressive** has no defense to this suit based on undue delay, whether based on the statute of limitations, the statute of repose, laches, or any other similar theory.

34. At all times relevant to this Complaint, **Progressive** was the insurer of Joseph Chislom and/or Dostyar GA and/or Dostyar FL.

35. If another entity acted as the insurer of Joseph Chislom and/or Dostyar GA and/or Dostyar FL during this time, that entity is on notice that, but for a mistake concerning the identity of the party, this action would have been brought against that entity.

36. **Defendant JOSEPH L. CHISLUM (“Chislom”)** is a Georgia resident. He resides at 373 W Lake Ave NW, Atlanta, GA 30318, in Fulton County.

37. **Chislom** is subject to the personal jurisdiction of this Court.

38. **Chislom** is subject to the subject matter jurisdiction of this Court in this case.
39. **Chislom** is subject to venue in this Court.
40. **Chislom** has been properly served with this Complaint.
41. **Chislom** has no defense to this suit based on undue delay, whether based on the statute of limitations, the statute of repose, laches, or any other similar theory.
42. At all times relevant to this Complaint, **Chislom** acted as an employee or other agent of Dostyar GA and/or Dostyar FL.
43. **JOHN/JANE DOES 1-10** are those yet-unidentified natural and legal persons and/or entities who may be wholly or partly liable for the damages alleged here. Once served with process, John/Jane Does 1-10 are subject to the jurisdiction and venue of this Court.

## **Facts**

44. On the afternoon of July 15, 2022, husband and wife Justin Loring and Sara Loring, both age 40, and their children Noah Loring, age 14, Liam Loring, age 12, and Lexi Loring, age 8 (the “Lorings” or “Loring family”) were driving in their vehicle.
45. The Lorings had traveled from their home in Illinois to visit relatives who resided in Georgia.
46. The Loring family was travelling in a white 2019 Chrysler Pacifica Touring L minivan (the “minivan”). Justin was driving. Sara was in the front passenger seat. Noah, Liam, and Lexi were in the back seats.
47. On July 15, 2022, at approximately 3:13 pm, the Lorings were stopped at a red light on Three Notch Road, at its intersection with Georgia State Route 2 in Ringgold, Georgia.
48. The Loring minivan was facing south on Three Notch Road.

49. At the same time, Joseph Chislom was operating a 2021 Freightliner Cascadia 126 semi-truck (the “Cascadia”).
50. The Cascadia was travelling west on Georgia State Route 2.
51. The traffic light for the Lorings turned green, with a green left turn arrow.
52. Justin drove the Pacifica forward into the intersection, in order to make a legally permissible left turn onto Georgia State Route 2 eastbound from Three Notch Road.
53. Suddenly and without warning, the Cascadia, driven by Chislom and traveling faster than the posted speed limit, failed to stop at the red traffic light, entered the intersection of Georgia State Route 2 and Three Notch Road, and crashed into the side of the Loring Pacifica.
54. As a direct and proximate result of the collision, Justin Loring and Sara Loring were killed. Noah Loring, Liam Loring, and Lexi Loring all suffered severe physical and psychological injuries.
55. The actions of Chislom, Dostyar GA, and Dostyar FL are the proximate cause of the deaths of Justin Loring and Sara Loring.
56. The actions of Chislom, Dostyar GA, and Dostyar FL are the proximate cause of the injuries of Noah Loring, Liam Loring, and Lexi Loring.

## **Causes of Action**

### *Count 1 - Negligence*

#### *Against Chislom, Dostyar GA, and Dostyar FL*

57. Plaintiffs incorporate by reference paragraphs 1-46 of this Complaint.
58. Chislom negligently drove the Cascadia above the posted speed limit and at a speed that was too fast for conditions, in violation of OCGA 40-60-180.
59. Chislom negligently and improperly failed to obey a traffic-control device, in violation of OCGA 40-6-20.

60. Chislom negligently failed to maintain a proper lookout for the Lorings' vehicle.

61. Upon information and belief, Chislom, Dostyar GA, and Dostyar FL failed to properly inspect and maintain the Cascadia.

62. Upon information and belief, Chislom, Dostyar GA, and Dostyar FL failed to properly ensure that the Cascadia was fit for operation.

*Count 2 - Vicarious Liability  
Against Dostyar GA and Dostyar FL*

63. Plaintiffs here incorporate by reference all paragraphs of this Complaint.

64. At all times relevant to the subject collision, Chislom was acting within the course and scope of his employment for Dostyar GA and/or Dostyar FL.

65. At all times relevant to the subject collision, Chislom was operating his vehicle on behalf of Dostyar GA and/or Dostyar FL.

66. As Chislom's employer at the time of the negligence, Dostyar GA and/or Dostyar FL is/are vicariously liable for Chislom's negligence.

67. Dostyar GA and Dostyar FL are interstate or intrastate motor carriers, and pursuant to federal and state laws, are responsible for the actions of Chislom in regard to the collision under the doctrine of lease liability, agency, or apparent agency.

*Count 3 - Negligent Hiring, Retention, Training, and Supervision  
Against Dostyar GA and Dostyar FL*

68. Plaintiffs here incorporate by reference all paragraphs of this Complaint.

69. Dostyar GA and Dostyar FL were negligent in hiring Chislom.

70. Dostyar GA and Dostyar FL were negligent in retaining Chislom.



71. Dostyar GA and Dostyar FL were negligent in failing to properly train Chislom.

72. Dostyar GA and Dostyar FL were negligent in failing to properly supervise Chislom.

73. Dostyar FL, as the parent company of Dostyar GA, provides administrative direction to Dostyar GA, including but not limited to direction on driver training and vehicle inspections.

74. As the direct and proximate result of Dostyar GA and Dostyar FL's negligence as set forth herein, Dostyar GA and Dostyar FL caused or contributed to the damages as alleged in this Complaint.

*Count 4 - Wrongful Death*  
*Against Chislom, Dostyar GA, and Dostyar FL*

75. Plaintiffs here incorporate by reference all paragraphs of this Complaint.

76. As a result of Defendants' negligence, Justin Loring and Sara Loring died.

77. Plaintiffs assert wrongful-death claims pursuant to OCGA Title 51, Chapter 4, on behalf of all wrongful-death beneficiaries.

*Count 5 - Direct Action*  
*Against Progressive*

78. Plaintiffs here incorporate by reference all paragraphs of this Complaint.

79. Pursuant to OCGA 40-2-140, Progressive is subject to direct action as the insurer for Dostyar GA and/or Dostyar FL.

80. Progressive was the insurer of Dostyar GA and/or Dostyar FL at the time of the subject incident.

81. Progressive issued a liability policy to comply with the filing requirements under Georgia law for intrastate transportation.

82. Progressive, Dostyar GA, and Dostyar FL are subject to the filing requirements under OCGA 40-2-140.

83. Progressive is responsible for any judgment rendered against Dostyar GA, Dostyar FL, and/or Chislom.

### **OCGA § 13-6-11 Claims**

84. Plaintiffs here incorporate by reference all paragraphs of this Complaint.

85. Plaintiffs show and will show that Defendants have acted in bad faith in the underlying transaction.

86. Plaintiffs are thus entitled to their expenses of litigation pursuant to OCGA § 13-16-11, including reasonable attorneys fees.

### **Damages**

87. Plaintiffs here incorporate by reference all paragraphs of this Complaint.

88. As a direct and proximate result of the Defendants' conduct, Plaintiffs are entitled to recover from Defendants reasonable compensatory damages to be determined by a fair and impartial jury, including damages for the full value of the life of the decedents, damages for their conscious pain and suffering, and all damages suffered by the three minors, including all physical, emotional, and economic injuries, past and future.

### **Punitive Damages**

89. Plaintiffs here incorporate by reference all paragraphs of this Complaint.

90. Defendants' conduct was reckless, willful and wanton, and demonstrates a conscious indifference to the consequences of their actions which entitles Plaintiffs to an award of punitive damages.

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91. WHEREFORE, Plaintiffs demand a trial by jury and judgment against the Defendants as follows:

- a. compensatory damages to be determined by a fair and impartial jury;
- b. all costs of this action;
- c. expenses of litigation, including reasonable attorneys fees, pursuant to OCGA 13-6-11;
- d. punitive damages; and
- e. such other and further relief as the Court deems just and proper.

August 7, 2023

Respectfully submitted,

/s/ Lloyd N. Bell

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