

Filing # 22379781 E-Filed 01/09/2015 02:34:18 PM

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR FLAGLER COUNTY, FLORIDA**

ZACHERY RESNICOFF AS PERSONAL REPERSENTATIVE OF THE ESTATE OF RICHARD MICHAEL RESNICOFF, deceased, Plaintiff, vs. LUCILLE HORTON, Defendant.	CASE NO. 2015 CA 000023
---	-------------------------

COMPLAINT

Plaintiff, ZACHERY RESNICOFF, as personal representative of the Estate of Richard Michael Resnicoff, deceased, sues Defendant, LUCILLE HORTON, and alleges the following:

JURISDICTION

1. This is an action for damages which exceed the minimal jurisdictional amount of Fifteen Thousand Dollars (\$15,000.00), excluding interest, costs and attorneys' fees.
2. At all times material to this action, Plaintiff, Zachery Resnicoff, was appointed personal representative of the Estate of Richard Michael Resnicoff, deceased. Attached hereto as Exhibit "A" are the Letters of Administration", dated February 5, 2013.
3. At all material times, Plaintiff, Zachery Resnicoff, was the son of Richard Michael Resnicoff, deceased.
4. Richard Michael Resnicoff was born October 12, 1944, and died at age 68 on January 12, 2013.

5. On the day of his death, Richard Michael Resnicoff was a resident of Flagler County, Florida.
6. Pursuant to the Florida Wrongful Death Act, the potential beneficiaries of the recover in this action and the relationship of each to the decedent are:
 - a. The Estate of Richard Michael Resnicoff
 - b. Zachery Resnicoff, D.O.B. August 1, 1972.
7. The Plaintiff, ZACHERY RESNICOFF, as personal representative of the Estate of Richard Michael Resnicoff, deceased, brings this action forward on behalf of the Estate of Richard Michael Resnicoff, and the survivors named herein and above, for all damages specified by the Florida Wrongful Death Act as provided for within the Law of the State of Florida.
8. At all times material hereto, Defendant, LUCILLE HORTON, was a resident Flagler County, Florida.
9. On January 12, 2013, defendant, LUCILLE HORTON, operated her vehicle in a manner that caused the death of Richard Michael Resnicoff, to wit: driving her vehicle on the public roadway while Richard Michael Resnicoff was perched on the trunk of her vehicle, causing him to fall off the trunk and to strike his head on the pavement.
10. Defendant, LUCILLE HORTON, was negligent or otherwise committed an intentional wrongful act that caused the death of RICHARD MICHAEL RESNICOFF.

COUNT I – WRONGFUL DEATH AS A RESULT OF NEGLIGENCE

11. Plaintiff adopts and re-alleges paragraphs 1 through 10 as if fully set forth herein and further alleges as follows:
12. Plaintiff brings this claim against Defendant for wrongful death as a result of negligence to Richard Michael Resnicoff.

13. At all times hereto, Defendant owed a duty to use reasonable care when interacting with Richard Michael Resnicoff.
14. Through her actions, Defendant was negligent and caused the death of Richard Michael Resnicoff.
15. Richard Michael Resnicoff died on January 12, 2013 as a direct and proximate result of the negligence of the Defendant. If said Defendant had not been negligent and instead acted appropriately in accordance with the prevailing standard of care of the Defendant, there would not have been any injuries or damages sustained by Richard Michael Resnicoff. Defendant's conduct caused or substantially contributed to Richard Michael Resnicoff's death.
16. As a direct and proximate result of the negligence of the Defendant, the Plaintiff, ZACHERY RESNICOFF, as personal representative of the Estate of Richard Michael Resnicoff, deceased, has incurred, or will incur in the future, medical and funeral expenses for the deceased which have or will become a charge to the Estate. Additionally, the Estate has lost prospective net accumulations of Richard Michael Resnicoff, which might reasonably have been expected but for his wrongful death. The Plaintiff, seeks to recover the above damages on behalf of the decedent's estate.
17. As a direct and proximate result of the negligence of the defendant, the statutory survivors of the decedent have suffered extreme emotional mental pain and suffering, loss of companionship, protection and services of the decedent. The Plaintiff seeks to recover the above damages on behalf of the decedent's survivors under the wrongful death act.

WHEREFORE, Plaintiff requests that this Honorable Court enter judgment for the Plaintiff ZACHERY RESNICOFF, as personal representative of the Estate of Richard Michael Resnicoff,

deceased and against Defendant, LUCILLE HORTON, for damages that exceed fifteen thousand (\$15,000) dollars plus costs and such other and further relief that the Court may find to be just and respectfully demands a trial by jury.

COUNT II – WRONGFUL DEATH AS A RESULT OF BATTERY

18. Plaintiff adopts and re-alleges paragraphs 1 through 10 as fully set forth herein and in the alternative to Count I alleges as follows:
19. Plaintiff brings this claim against Defendant LUCILLE HORTON, for wrongful death as a result of battery to RICHARD MICHAEL RESNICOFF.
20. On or about January 12, 2013, Defendant, LUCILLE HORTON, knowingly and intentionally caused contact with RICHARD MICHAEL RESNICOFF to take place. This contact caused or was a substantial contributing cause of his death.
21. RICHARD MICHAEL RESNICOFF died on or about January 12, 2013 as a direct and proximate result of the intentional acts of the Defendant. If the Defendant had not engaged in such intentional acts, there would not have been any injuries or death sustained by RICHARD MICHAEL RESNICOFF.
22. As a direct and proximate result of the intentional acts of the Defendant, the Plaintiff has incurred or will incur in the future, medical and funeral expenses for the deceased which have or will become a charge to the Estate. Additionally, the Estate has lost prospective net accumulations of RICHARD MICHAEL RESNICOFF, which might reasonably have been expected but for his wrongful death. The Plaintiff seeks to recover the above damages on behalf of the decedent's Estate.
23. As a direct and proximate result of the acts of the Defendant, survivors of the Estate have

suffered extreme emotional mental pain and suffering, loss of companionship, protection and services of the decedent. The Plaintiff seeks to recover the above damages on behalf of the decedent's survivors under the wrongful death act.

WHEREFORE, Plaintiff requests that this Honorable Court enter judgment for the Plaintiff ZACHERY RESNICOFF, as personal representative of the Estate of Richard Michael Resnicoff, deceased and against Defendant, LUCILLE HORTON, for damages that exceed fifteen thousand (\$15,000) dollars plus costs and such other and further relief that the Court may find to be just and respectfully demands a trial by jury.

Respectfully submitted this 9th day of January, 2015.

/s/John W. Zielinski
John W. Zielinski
Florida Bar No.: 527661
NEJAME LAW
189 South Orange Avenue,
Suite 1800
Orlando, Florida 32801
john@nejamelaw.com
civilservice@nejamelaw.com
(407) 245-1232
(407) 245-2980—Facsimile

EXHIBIT A

IN THE CIRCUIT COURT IN AND
FOR FLAGLER COUNTY, FLORIDA

FILE NO. 2013CP40

DIVISION: 48

IN RE: ESTATE OF
RICHARD RESNICOFF,

Deceased.

FILED IN THE OFFICE OF THE
CLERK OF CIRCUIT COURT
Flagler County, Florida
FEB 05 2013
By _____ Deputy Clerk
Paper No. _____

LETTERS OF ADMINISTRATION
(single personal representative)

TO ALL WHOM IT MAY CONCERN

WHEREAS, RICHARD RESNICOFF, a resident of Flagler County, Florida, died on January 12, 2013, owning assets in the State of Florida, and

WHEREAS, ZACK RESNICOFF has been appointed personal representative of the estate of the decedent and has performed all acts prerequisite to issuance of Letters of Administration in the estate,

NOW, THEREFORE, I, the undersigned circuit judge, declare ZACK RESNICOFF duly qualified under the laws of the State of Florida to act as personal representative of the estate of RICHARD RESNICOFF, deceased, without the necessity of posting a bond, to administer the estate according to law; to ask, demand, sue for, recover and receive the property of the decedent; to pay the debts of the decedent as far as the assets of the estate will permit and the law directs; and to make distribution of the estate according to law.

ORDERED on January 5, 2013.

C. M. Klein Smith
CIRCUIT JUDGE